

Reply to Common Council File No. 081432
From DOA-Budget and Management Division

February 18, 2009

Ref: 09007

Common Council File Number 081432 is a resolution allowing for the transfer of \$55,403.90 from the 2009 Common Council Contingent Fund to the Remission of Taxes Fund., as part of a settlement of back taxes of property formerly owned by Tower Automotive Inc. This settlement includes the Trustee for the now-bankrupt Tower Automotive paying the city a total of \$276,695.78 for Tower's 2004 personal property taxes and real estate taxes, and would cancel taxes that were assessed against the Tower property for 2005 and 2006. Tower never paid the city for its tax liability in years 2004, 2005, and 2006, and the City Attorney's Office indicates that the company's bankruptcy removes its requirement to pay its creditors. The City Attorney's Office indicates that since Tower filed for bankruptcy in early 2005, the city cannot enforce any collection of taxes, and that the city's claims are classified as "unsecured", putting the city as a low priority for repayment under bankruptcy laws. In addition, since Tower shut down operations in 2005, the City Attorney's Office adds that pursuing a claim against the company for taxes in 2005 and 2006 would not be worth the additional cost of further legal proceedings.

The Remission of Taxes Fund has a budget of \$1,000,000 for 2009, \$886,897.33 of that amount was designated for previous remissions in Files 081054 and 081055, and a remissions related payment of \$66,350 to the Treasurer's Office has further depleted the account to \$89,210.65 as of February 2009. Using the Remission of Taxes Fund's current budget to pay for this cancellation of taxes would require repeated requests of the Common Council Contingent Fund for regular remissions via decision from the Board of Review throughout the rest of 2009. The Common Council Contingent Fund is to be used for one-time, unusual expenditures, and using it for a settlement for Tower Automotive Inc.'s back taxes is an appropriate use of the fund.

RECOMMENDATION: ADOPT FILE NUMBER 081432



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JM:dmr

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