



## Legislation Text

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Communication from Councilmember Kunselman Regarding Questions Pertaining to November 16 Agenda Items

Mr. Fraser and Mr. Postema,

I have the following questions regarding items on the agenda for the November 16, 2009 council meeting:

### PH-1 A2D2 Design Guidelines

What is the state enabling legislation that allows for a community to enforce mandatory compliance with community adopted design guidelines (also known as “design standards”)?

What is the case history for legal challenges to mandatory compliance with community adopted design guidelines? Specifically, has a community legally defended in a Michigan Court withholding a certificate of occupancy for violating a community adopted design guideline for a building permitted, constructed, and compliant under the State Building code enforced by the municipality?

### DS-6 Contracts for West Park Improvements

Are funds from the voter approved Park Millage being used for this project? If so:

Are any funds from the Park Millage being directed to the 1% for Art Fund? If so:

Please provide the voter approved Park Millage language that authorizes said funds to be directed to public art. If such language is not explicit, then, please provide a written legal opinion that substantiates the Administration’s position that voter approved Park Millage funds can be directed to other uses such as public art by Council majority approval.

If such is the opinion, is it legally defensible for the City to adopt a 1% for the Homeless program using the same rationale?

Are funds from the Stormwater Fund, a utility enterprise fund, being directed to the 1% for Art Fund?

If so:

Please provide a written legal opinion that substantiates the Administration’s position that utility enterprise funds, including loans from the State, can be directed to public art by Council majority approval. If such is the opinion, is it legally defensible for the City to adopt a 1% for the Homeless program using the same rationale?

Thank you for accommodating my questions and I look forward to your thorough response.

Sincerely,

Stephen Kunselman,  
Ward 3 Councilmember