

COUNCIL MEETING – MARCH 9, 2020
7:00 P.M.

A regular meeting of the Council for the City of Grosse Pointe Park was held on Monday, March 9, 2020, and opened with the Pledge of Allegiance to the Flag.

The following were present: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluitt, and Mayor Denner

Also present: Nick Sizeland, City Manager, Jane M. Blahut, Finance Director/Clerk, and Jake Howlett, Interim City Attorney

CITY ATTORNEY

Mayor Denner presented Jake Howlett of Bodman as the Interim City Attorney. The Bodman Law Firm has proposed a transition from Dennis Levasseur as City Attorney to Jake Howlett. The proposed transition will be on the agenda for March 16, 2020.

MINUTES – FEBRUARY 10, 2020

Mayor Denner presented to Council for consideration the minutes of February 10, 2020.

Councilmember Read stated on page 30 under Marina, third line from the bottom should include the word “these” to the sentence.

Councilmember Read requested public comments be added to the Public Comment section in the minutes.

COMMUNITY INVOLVEMENT:

Resident asked Council to consider community involvement for the new playscape at Patterson Park.

MARINA:

Resident expressed concern about the Marina budget.

ROCKET FIBER:

Resident commented on the permit requirements for Rocket Fiber right-of-way.

Councilmember Robson stated the Personnel Committee topic should be under New/Old Business.

City Attorney Howlett stated the Open Meetings Act does not require that level of detailed public comment.

Motion by Councilmember Read, supported by Councilmember Robson, to approve the minutes with the noted corrections.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluitt, and Mayor Denner

NAYS: None

DOWNTOWN DEVELOPMENT AUTHORITY APPOINTMENT

Mayor Denner presented to Council for consideration the appointment of Benjamin Wixson to the Downtown Development Authority for a 4-year term.

Motion by Mayor Denner, supported by Councilmember Robson, to appoint Benjamin Wixson to the Downtown Development Authority for a 4-year term.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluitt, and Mayor Denner

NAYS: None

TAX INCREMENT FINANCE AUTHORITY APPOINTMENT

Mayor Denner presented to Council for consideration the appointment of John Hughes to the Tax Increment Finance Authority for a 4-year term. Mr. Hughes is both a resident and a landlord.

Councilmember Read stated the amended TIFA Development Plan should be adopted prior to any business dealing with TIFA.

Mayor Denner stated these are separate issues.

Councilmember Read inquired if the TIFA Development Plan establishes the number of members.

City Attorney Howlett stated the statute requires between 7-13 members.

City Attorney Howlett stated the Council approves the Development Plan and the By-laws. He noted By-laws are not required by the statute.

Mayor Denner stated there are currently 9 members.

Councilmember Grano stated there is important business the TIFA needs to address, John Hughes should be appointed to the Board this evening.

Mayor Denner stated by appointing John Hughes to the Board, it would increase the number to 10.

Motion by Councilmember Read, supported by Councilmember Fluitt to table the appointment of John Hughes to the TIFA Board.

AYES: Councilmembers Relan, Read, and Fluitt

NAYS: Councilmembers Grano, Hodges, Robson, and Mayor Denner

The motion to table the appointment failed.

Motion by Mayor Denner, supported by Councilmember Grano, to appoint John Hughes to the Tax Increment Finance Authority for a 4-year term.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluitt, and Mayor Denner

NAYS: None

MANAGER'S REPORT

City Manager Sizeland presented a report summarizing work ongoing in the city.

- Dog Park
- Marina
- Coronavirus
- Outreach event scheduled for March 26th at City Hall at 5:00 pm.
- Assistant to the City Manager
- DTE Gas Main Replacement
- Council Rules and Procedures
- DPW Facility Update/Capital Improvement City Hall
- Census 2020
- Smart Cone
- Peg Fees
- Master Plan and Recreation Plan
- Budget

TAX INCREMENT FINANCE AUTHORITY BY-LAWS

Mayor Denner presented to Council for consideration adoption of the Tax Increment Finance Authority By-laws as presented.

Several Councilmembers requested amendments to the proposed By-laws.

The amended TIFA By-laws are as follow:

NORTHWEST TAX INCREMENT FINANCE AUTHORITY OF THE CITY OF GROSSE POINTE PARK GROSSE POINTE PARK, MICHIGAN AMENDED AND RESTATED BY-LAWS

ARTICLE I: PURPOSE

Section I. Statement of Purpose

A. Purpose:

The purpose of the Northwest Tax Increment Finance Authority of the City of Grosse Pointe Park ("TIFA"), established in 1986, is to act in accordance with what is now Part 3, Act 57 of 2018, the

Recodified Tax Increment Financing Act, MCL §175.4101 *et seq.* (the “Act”) as such statute may from time to time be amended; including, particularly, to correct and prevent deterioration in the TIFA District; to increase property tax valuation; to encourage renovation or reuse of vacant or unsightly property; to create and implement development plans in the TIFA District; to promote the economic growth of the City of Grosse Pointe Park; and to encourage the expansion of commercial and other contributing enterprises in the TIFA District. The TIFA supplies the funding and the public and private sector leadership to provide for the future success and viability of the TIFA District.

B. Powers of the TIFA:

The Northwest Tax Increment Finance Authority of the City of Grosse Pointe Park (“TIFA”) may:

- a. Prepare an analysis of economic changes taking place in the City of Grosse Pointe Park and its environs as those changes relate to urban deterioration in the Development Area.
- b. Study and analyze the impact of growth upon the TIFA District.
- c. Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the TIFA, aids in the revitalization and growth of the Development Area.
- d. Plan, propose, and implement an improvement to a public facility within the Development Area to comply with the barrier free design requirements of the state construction code promulgated under the Stille–DeRossett-Hale single state construction code. MCL §175.1501 *et. seq.*
- e. Develop long-range plans, in cooperation with the Planning Commission of the City of Grosse Pointe Park which is chiefly responsible for planning in the City, designed to halt the deterioration of the property values and to promote the economic growth of the TIFA District, and take such steps as may be necessary to implement the plans to the fullest extent possible.
- f. Implement any plan of development in the TIFA Development Area necessary to achieve the purposes of Part 3 of Act 57 of 2018, in accordance with the powers of the TIFA as granted by Part 3 of Act 57 of 2018.
- g. Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.
- h. Acquire by purchase or otherwise, on terms and conditions and in a manner the TIFA considers proper, own, convey, demolish, relocate, rehabilitate, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests therein which the TIFA determines is reasonably necessary to

achieve the purposes of Part 3 of Act 57 of 2018, and to grant or acquire licenses, easements, and options with respect thereto.

- i. Improve land, prepare sites for buildings, including the demolition of existing structures, and construct, reconstruct, rehabilitate, restore, and preserve, equip, improve, maintain, repair, and operate any building, including any type of housing, and any necessary or desirable appurtenances to that property within the TIFA District for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.
- j. Fix, charge, and collect fees, rents, and charges for the use of any building or property under its control, or a facility in the building or on the property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the TIFA.
- k. Lease any building or property under its control or any part of a building or property.
- l. Accept grants and donations of property, labor, or other things of value from a public or private source.
- m. Acquire and construct public facilities.
- n. Incur costs in connection with the performance of its authorized functions, including, but not limited to, administrative costs, and architects, engineers, legal, and accounting fees.

C. Goals:

- a. Improve communication and processes between the City and businesses and other institutions.
- b. Increase awareness of TIFA District through, among other things, the support of programming on Kercheval and Charlevoix such as the “After 6” and Winterfest events.
- c. Improve the physical and visual appearance of the TIFA District through various enhancements within the TIFA District which include continued entranceway improvements, softening the appearance of the commercial areas, improving vehicular and pedestrian circulation to reduce conflicts, addressing parking needs in the TIFA District and, whenever possible, in adjacent residential areas, compliant acting retail and office use by expanding compatible development including civic related programs to strengthen the TIFA Development Area, encourage renovation or reuse of vacant or unsightly property and/or conditioned improvements of facades.
- d. Improve the efficiency and effectiveness of the operating board, staff, and volunteers.

- e. To nurture community pride in and support of the TIFA District and the City.
- f. To promote the TIFA District through marketing, public relations, and communications strategies.
- g. To establish a coordinated effort among various organizations and agencies to support the revitalization of the TIFA District.
- h. To promote economic growth and increase property values in the TIFA District and to eliminate the causes of deterioration.
- i. To enhance the image of the TIFA District.
- j. To expand and diversify the mix of profit and non-profit enterprises and ownership thereof in the TIFA District.
- k. To strengthen residential development and renovation.
- l. To maintain and increase private sector investment and expansion.
- m. To encourage business excellence and quality in merchandise, services, and building appearance.
- n. To create a business district that is unique, diverse, friendly, comfortable, active, urban, cutting edge, accessible, creative, and cultural.

D. Goals Will be Achieved Through Long Term Commitment to Following Areas:

- o. Design.
- p. Economic restructuring.
- q. Promotions.
- r. Organization.
- s. Financial Planning.

E. Funding Procedures:

Requests for project funding must be submitted to the TIFA Board.

ARTICLE II: OFFICES

Section I. Offices

The TIFA may have such offices as the TIFA Board of Directors may determine or the affairs of the TIFA may require from time to time.

ARTICLE III: BOARD OF DIRECTORS

Section I. General Powers of Board of Directors

The affairs of the TIFA shall be managed by its Board of Directors.

Section II. Number, Tenure, and Qualifications

The TIFA Board of Directors shall consist of eleven (11) members appointed by the Mayor, subject to approval of the City Council. The members shall be appointed for a term of four years until the member’s successor is appointed. Of the members first appointed, an equal number of the members shall be appointed for one year, an equal number for two years, an equal number for three years, and an equal number for four years, as near as is practicable. At least a majority of the members shall be persons who have an interest in property located in the TIFA District. At least one of the members shall be a resident of the TIFA District, if the district has one hundred or more persons residing within it. Thereafter, each member shall serve for a term of four years.

Section III. Selection of Board Members

The Mayor, with the approval of the City Council, shall appoint the members of the TIFA Board. Subsequent Board Members shall be appointed in the same manner as the original appointments at the expiration of each member’s term of office. All terms shall be effective January 1.

In case of a vacancy prior to the end of a term, the new appointee shall serve until the end of the current vacancy.

~~The TIFA Board of Directors may then assist the Mayor in determining the best candidates for positions on the TIFA Board of Directors through a recruitment selection process that considers the needs of the TIFA Board of Directors, needs of the TIFA, and review of applicants.~~ A person so appointed by the Mayor shall be declared a voting member of the TIFA Board of Directors upon approval by the City Council and taking the constitutional oath of office.

Councilmember Fluitt recommended more diversity on the Board.

Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

Section IV. Chairperson and the Vice Chairperson

The Chairperson and Vice Chairperson of the TIFA Board shall be elected by the TIFA Board of Directors.

Section V. Expiration of Term; Continuation in Offices; Reappointment; Filling Vacancies

A Board Member whose term of office has expired shall continue to hold office until his or her successor has been appointed. If a vacancy is created by the death, resignation, or removal of a Board Member, a successor shall be appointed by the Mayor for the unexpired term only without the need for City Council approval.

Section VI. Removal

Pursuant to notice and after having been given an opportunity to be heard, a member of the Board may be removed for cause by the City Council. Removal of a member is subject to review by the Wayne County Circuit Court.

Section VII. Disclosure of Interests

A Board Member who has a direct financial interest in any matter before the TIFA Board of Directors shall disclose his or her interest prior to the TIFA Board of Directors taking any action with respect to the matter, which disclosure shall become a part of the record of the TIFA Board of Directors' official proceedings. Board Members shall be subject to the provisions of MCL §15.321, *et. seq.* (Conflict of Interest as to Contracts), MCL §15.341, *et. seq.* (Standards of Conduct and Ethics), and any applicable provisions of the City's Charter and Code of Ordinances.

Section VIII. Regular Meetings

Regular meetings of the TIFA Board of Directors shall be held at such time and place, as the Board shall from time to time determine subject to the approval of the City Council. The Chairperson shall determine the specific time and day of each month that regular meetings shall be held based on the availability of Board Members. All meetings of the TIFA Board shall be open to the public and shall be conducted in compliance with the Open Meetings Act (MCL §15.261 *et. seq.*).

Section IX. Special Meetings

Special meetings of the TIFA Board of Directors may be called by or at the request of the City Council, the Board Chairperson, the Director, or any three (3) TIFA Board Members. The person or persons authorized to call special meetings of the TIFA Board of Directors may fix any place within the City as the place for holding any special meeting.

Section X. Informational Meetings

Each year, the TIFA Board shall hold not fewer than two (2) informational meetings. Notice of an informational meeting shall be posted on the City's website not less than 14 days before the date of the informational meeting. Not less than 14 days before the informational meeting, the TIFA Board shall mail notice of the informational meeting to the governing body of each taxing jurisdiction levying taxes that are subject to capture by the TIFA. As an alternative to mailing notice of the informational meeting, the TIFA Board may notify the clerk of the governing body of each taxing jurisdiction levying taxes that are subject to capture by the TIFA by electronic mail. Informational meetings may be held in conjunction with other public meetings of the TIFA Board of Directors or the City Council.

Section XI. Notice of Meetings

Except as otherwise provided by law, all meetings of the TIFA Board of Directors shall be preceded by public notice in accordance with the Open Meetings Act, as amended.

Section XII. Quorum and Voting

A majority of the members of the TIFA Board of Directors then in office shall constitute a quorum for the transaction of business. In the event that effective membership is reduced because of Disclosure of Interests (Article III, Section VII), a majority of the remaining members of the TIFA Board of Directors shall constitute a quorum for the transaction of business.

The vote of a majority of members present at a meeting at which a quorum is present shall constitute the action of the TIFA Board of Directors unless the vote of a larger number is required by statute or elsewhere in these rules.

Section XIII. Public Meetings

The meetings of the TIFA Board of Directors shall be open to the public and the TIFA Board of Directors may adopt rules consistent with the Open Meetings Act governing its procedures and the holding of meetings subject to the approval of City Council.

Section XIV. Compensation of Members

Members of the TIFA Board of Directors shall serve without compensation, but shall be reimbursed for actual and necessary expenses, subject to authorization by a vote of two-thirds of the majority of the Board Members.

Section XV. Minutes of all Meetings

The minutes of any meeting of the TIFA Board of Directors will be mailed to all members of the TIFA Board of Directors for their review five calendar days prior to the next regularly scheduled meeting and shall be posted on the City's website. Minutes of the proceedings of regular or special meetings shall be prepared at the request of and provided to any member of the TIFA Board of Directors or the City Council. Minutes of closed meetings shall be maintained in conformity with and shall be subject to the provisions of the Open Meetings Act (MCL §15.261 *et. seq.*).

ARTICLE IV: TIFA DIRECTOR

Section I. TIFA Director

The TIFA Board of Directors may employ a Director ("TIFA Director") subject to the approval of the governing body. A Board Member shall not be eligible to hold the position of Director. If no TIFA Director is appointed or serving, the City Manager shall fulfill all the duties of the TIFA Director.

Section II. Election and Term of Office

The Director shall serve at the pleasure of the TIFA Board of Directors.

Section III. Oath and Bond

Before entering upon the duties of the officer, the TIFA Director shall take and subscribe to the constitutional oath of office and furnish a bond by posting a bond in the penal sum determined in a resolution established by TIFA Board of Directors, payable to the TIFA for the use and benefit of the TIFA, approved by the TIFA Board, and filed with the City Clerk. The premium on the bond shall be considered an operating expense of the TIFA, payable from funds available to the TIFA for expenses of operation.

Section IV. The TIFA Director's Role

The TIFA Director shall, subject to the approval of the Board of Directors, supervise, and be responsible for the preparation of plans and the performance of the functions of the TIFA in the

manner authorized by the Act. The Director shall attend all meetings of the TIFA Board of Directors, and shall render to the TIFA Board of Directors and to the City Council, a regular report covering the activities and financial condition of the TIFA.

Before entering upon the duties of his or her office, the Director shall take and subscribe to the constitutional oath.

Section V. Legal Counsel.

Legal counsel shall advise the TIFA Board of Directors in the proper performance of its duties.

ARTICLE V: CONTRACTS, CHECKS, DEPOSITS, AND FUNDS

Section I. Contracts

The TIFA Board of Directors shall approve all contracts entered into by the TIFA.

Section II. Checks, Drafts, etc.

All orders for the payment of money, notes, or other evidences of indebtedness shall be signed by the Director and forwarded on to the Finance Director of the City of Grosse Pointe Park for signature and for the issuance of payment.

Section III. Deposits

All funds of the TIFA shall immediately be deposited into the appropriate fund or account to the credit of the TIFA in such banks, trust companies, or other depositories as the Finance Director of the City of Grosse Pointe Park may select.

Section IV. Gifts

The TIFA Board of Directors may accept, on behalf of the TIFA, any contribution, gift, bequest, or device for the general purposes or for any special purpose of the TIFA. The Director shall inform the City of Grosse Pointe Park in writing of the receipt of such gifts.

Section V. Budget

The Director and the Board shall prepare and submit for the approval of the TIFA Board a budget for the operation of the TIFA for the ensuing year. The TIFA Board of Directors shall set goals and objectives annually in April to develop and approve a budget for the fiscal year beginning the first day of July. The TIFA Board of Directors shall submit an annual budget to the City Council by the end of April for inclusion in the annual budget presentation to City Council for City approval. The budget shall be adopted by the TIFA Board after approval by the City Council.

ARTICLE VI: BOOKS AND RECORDS

The TIFA shall keep correct and complete books and records of account, shall also keep minutes of the proceedings of the TIFA Board of Directors, and shall keep at the principal office a record giving the names and addresses of the Board Members. All books and records of the Authority shall be open to the public at all times.

The Director shall provide the Treasurer, TIFA Board of Directors, and City Council with regular financial reports of the activities of the revenues received and expenditures made by the TIFA.

ARTICLE VII: FISCAL YEAR

The fiscal year of the TIFA shall begin on the first day of July and end the last day of June each year.

ARTICLE VIII: REPORTING

Section I.

- (1) Annually, on a form and in the manner prescribed by the Michigan Department of Treasury, the TIFA shall submit to the City Council, the governing body of a taxing unit levying taxes subject to capture by the TIFA, and the Michigan Department of Treasury a report on the status of the tax increment financing account. However, the TIFA may submit by electronic means a report described in this Section to the City Council and the governing body of a taxing unit levying taxes subject to capture by the TIFA. The report shall include all of the following:
 - (a) The name of the TIFA.
 - (b) The date the TIFA was formed, the date the tax increment financing plan is set to expire or terminate, and whether the tax increment financing plan expired during the immediately preceding fiscal year.
 - (c) The date the TIFA began capturing tax increment revenues.
 - (d) The current base year taxable value of the TIFA District.
 - (e) The unencumbered fund balance for the immediately preceding fiscal year.
 - (f) The encumbered fund balance for the immediately preceding fiscal year.
 - (g) The amount and source of revenue in the account, including the amount of revenue from each taxing jurisdiction.
 - (h) The amount in any bond reserve account.
 - (i) The amount and purpose of expenditures from the account.
 - (j) The amount of principal and interest on any outstanding bonded indebtedness.
 - (k) The initial assessed value retained by the TIFA by property tax classification.
 - (l) The captured assessed value retained by the TIFA by property tax classification.
 - (m) The tax increment revenues received for the immediately preceding fiscal year.
 - (n) Whether the TIFA amended its Development Plan or its tax increment financing plan within the immediately preceding fiscal year and if the TIFA amended either plan, a link to the current development plan or tax increment financing plan that was amended.
 - (o) Any additional information the City or the Michigan Department of Treasury considers necessary.

- (2) The report described in Section 1 above, shall be filed with the Michigan Department of Treasury at the same time as the annual financial report is filed with the Michigan Department of Treasury under Section 4 of the Uniform Budgeting and Accounting Act, MCL §141.424.

ARTICLE IX: AMENDMENTS TO BY-LAWS

These by-laws may be altered, amended, or repealed, and new by-laws may be adopted by a majority of the members appointed and serving if written notice is given of intention to alter, amend, or repeal or to adopt new by-laws at such meeting. The full nature of the bylaw change shall be included in the notice. Adoption of bylaw changes shall require affirmative votes by six members of the TIFA Board of Directors and subsequent approval by the City Council.

ARTICLE X: POLITICAL CAMPAIGN ACTIVITY

The TIFA shall not expend funds of the TIFA or otherwise contribute to the advocacy of any political candidate or ballot question.

ARTICLE XI: PARLIAMENTARY AUTHORITY

The rules contained in the current edition of Robert’s Rules of Order Newly Revised shall govern the TIFA Board of Directors in all cases to which they are applicable and in which they are not inconsistent with these by-laws and any special rules of order the TIFA Board of Directors may adopt.

Adopted by the TIFA on March 4, 2020

Adopted by the City of Grosse Pointe Park on March 9, 2020

Motion by Mayor Denner, supported by Councilmember Robson, to approve the TIFA By-laws as presented.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluitt, and Mayor Denner

NAYS: None

TIFA CITY OF GROSSE POINTE PARK NORTHWEST TAX INCREMENT FINANCE AUTHORITY WAYNE COUNTY, MICHIGAN

RULES REGARDING HOLDING OF MEETINGS

Mayor Denner presented to Council for consideration the TIFA procedures regarding holding of meetings. The procedures are as follows:

1. Meetings of the board (“Board”) of the City of Grosse Pointe Park (the “City”) Northwest Tax Increment Finance Authority (“TIFA”) shall be subject to the Open Meetings Act, 1967 PA 267, and any applicable rules governing City Council meetings, as the same may

be amended from time to time (the “Open Meetings Act”), and shall be open to the public, except for closed sessions held in accordance with the Open Meetings Act.

2. For regular meetings of the TIFA, there shall be posted within ten (10) days after the first meeting of the Board in each fiscal year a public notice stating the dates, times and places of its regular meetings for such fiscal year, and the date, time and place of its first regular meeting for the following fiscal year. Regular meetings may be cancelled or rescheduled by the Board.
3. Special meetings may be called by or at the request of the City Council, the Chairperson elected by the Board (Chairperson), any director of the TIFA employed by the Board (the “Director”), or by any three (3) members of the Board.
4. The Director shall cause public notice of any regular or special meeting, including any rescheduled regular meeting or adjourned or recessed meeting, to be posted in the manner and at the times prescribed by the Open Meetings Act, and public notices shall contain the information required by such Act.
5. A majority of the members of the Board then in office constitutes a quorum for the transaction for the transaction of business. If less than a majority of the members are present at a meeting, a majority of the members present may adjourn the meeting, subject to the public notice requirements of the Open Meetings Act. A vote of a majority of members then in office at a meeting at which a quorum is present constitutes the action of the Board, unless the vote of a larger number is required by applicable law.
6. The Board may appoint or employ and fix the compensation of a secretary, who shall have such duties as set forth in the Recodified Tax Increment Financing Act, 2018 PA 57 (the “TIFA Act”), as the same may be amended from time to time, including keeping a record of the TIFA’s proceedings. In the absence of the appointment or employment of a secretary by the Board, such duties shall be performed by the Director.
7. Each fiscal year, the Board shall hold not fewer than two (2) informational meetings as required by Section 910 of the TIFA Act. MCL §125.4901 *et seq.* Informational meetings shall be for the purpose of informing the public of the goals and direction of the TIFA, including projects to be undertaken in the coming year, and are not for the purpose of voting on policy, budgets or other operational matters. Notice of an informational meeting shall be posted on the City’s or TIFA’s website not less than fourteen (14) days before the date of the informational meeting. Not less than fourteen (14) days before the informational meeting, the Board shall mail notice of the informational meeting to the governing body of each taxing jurisdiction levying taxes that are subject to capture by the TIFA under the TIFA Act. As an alternative to mailing notice of the informational meeting, the Board may notify the clerk of the governing body of each taxing jurisdiction levying taxes that are subject to capture by the TIFA under the TIFA Act by electronic mail. The informational meetings may be held in conjunction with other public meetings of the TIFA or the City Council.

8. These rules shall be effective upon their adoption by the Board and the approval of the City Council of the City, and may be amended by the vote of not less than a majority of the members of the Board then in office, subject to the approval of the City Council.

Adopted by the Board of the Northwest Tax Increment Finance Authority of the City of Grosse Pointe Park on March 4, 2020.

Approved by the Grosse Pointe Park City Council and effective on March 9, 2020.

Motion by Mayor Denner, supported by Councilmember Relan, to approve the TIFA procedures as presented.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluit, and Mayor Denner

NAYS: None

MARINA RESOLUTION

Mayor Denner presented to Council for consideration a resolution that would supersede the resolution that was adopted last month pertaining to the Marina Fund.

The resolution reads as follows:

WHEREAS, due to extensive and unexpected repairs, as a result of record high water levels in Lake St. Clair, and

WHEREAS, such repairs required the use of the marina available cash reserves, and

WHEREAS, such use resulted in the requirement to transfer funds from the City's General Fund to complete the necessary repairs in a proper manner, and

WHEREAS, wages/fringes have been reduced and will be absorbed by the Parks and Recreation Department through General Operating Fund, and

WHEREAS, well holders have been notified in September, 2019, calendar year 2020 rates have been increased by 5% over the prior year, and

NOW THEREFORE BE IT RESOLVED, in response to the additional funds required, the Councilmembers hereby authorize the transfer of \$100,000 from the General Fund to the Marina Fund

Mayor Robert Denner

PROJECTED AMENDED BUDGET MARINA F/Y 6-30-20

ACTUAL BUDGET ACTIVITY	PROJECTED AMENDED
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	<u>6-30-19</u>	<u>BUDGET 6-30-20</u>
REVENUES:		
Boat slip	\$ 279,138	\$ 293,000
EXPENDITURES:		
Salaries/Fringes	\$ 214,391	\$ 125,800
Operating supplies	7,668	8,000
Small tools/equipment	5,240	6,000
Auditor	592	600
Printing/publishing	616	600
Electricity	8,205	8,200
Water charge	9,270	9,000
Finger Piers	55,230	55,200
Weed control	3,362	3,000
Liability Insurance	15,000	15,000
Project cost	4,356	5,000
Marina DEQ Lease	19,032	20,000
Depreciation	7,107	8,000
OPEB Expense	8,548	10,000
Boatwell refund	<u>8,255</u>	<u>10,000</u>
	366,872	284,400
UNRESTRICTED		
FUND DEFICIT:	\$ (71,049)	
TRANSFER IN		
		100,000
UNRESTRICTED		
SURPLUS:	(71,049)	\$ 37,551
	=====	=====

Motion by Mayor Denner, supported by Councilmember Read, to approve the Marina resolution and F/Y 2020 projected budget as presented.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluitt, and Mayor Denner

NAYS: None

**CITY OF GROSSE POINTE PARK
Ordinance No. 215**

Mayor Denner presented to Council for consideration adoption of Ordinance No. 215.

The ordinance reads as follows:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GROSSE POINTE PARK BY AMENDING SECTION 6.18(a) OF CHAPTER 6 AND SECTION 17.18 OF CHAPTER 17 TO THE CODE OF THE CITY OF GROSSE POINTE PARK.

THE CITY OF GROSSE POINTE PARK ORDAINS:

Section 1. Section 6.18(a) of Chapter 6 of the Code of the City of Grosse Pointe Park is amended to read as follows:

Sec. 6.18. Licensing of Dogs.

- (a) No person shall keep or harbor any dog four (4) months old or older within the City without first obtaining a license for such dog from the Public Safety Department (including paying any fee prescribed by the Public Safety Department). Licenses shall be issued by the Public Safety Department and must be renewed on a yearly basis from the date of original issuance. No license shall be issued for any dog six (6) months old or older unless satisfactory evidence of rabies immunization for such dog is presented with the application for such license. Evidence of vaccination within twelve (12) months of the date of application shall be deemed satisfactory evidence of immunization. Upon issuance of a dog license, the Public Safety Department shall provide a metal tag to be attached to the collar of the licensed dog.

Section 2. Section 17.18 of Chapter 17 of the Code of the City of Grosse Pointe Park is amended to read as follows:

Sec. 17.18. Dogs.

- (a) Prohibition. No dogs shall be permitted within either park unless permitted under Section 17.18 (b), below:
- (b) Exceptions.
 - 1. Dogs shall be permitted within the confines of an off-leash dog park at Patterson Park under rules and regulations promulgated by the Parks and Recreation Department and the City Manager.
 - 2. Dogs, on a leash not exceeding six feet in length, may be walked to and from boats docked at the marina located at Windmill Pointe Park. All such dogs shall be under control at all times and confined to said boats and the immediately surrounding area.
 - 3. Service dogs, on a leash not exceeding six feet in length, for the legally blind. All such dogs shall be under control at all times in compliance with the rules

and regulations promulgated by the Parks and Recreation Department and the City Manager.

4. Owners who have received a license from the Parks and Recreation Department to walk their dogs at either park during the following time periods: from January 1 until Memorial Day on weekends only during park hours; from Memorial Day through Labor Day on weekends prior to 9:30 a.m.; and after Labor Day weekend until December 31 only during park hours. License holders shall comply with the rules and regulations promulgated by the Parks and Recreation Department and the City Manager.
5. Dogs under the control of federal, state, or local law enforcement and/or government agencies or departments.
6. Waterfowl control dogs as permitted under the rules and regulations promulgated by the Parks and Recreation Department and the City Manager.

Motion by Councilmember Grano, supported by Councilmember Robson, to adopt Ordinance No. 215 as presented.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluit, and Mayor Denner

NAYS: None

CITY OF GROSSE POINTE PARK Ordinance No. 216

Mayor Denner presented to Council for consideration adoption of Ordinance No. 216 as presented.

The Ordinance reads as follows:

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF
GROSSE POINTE PARK BY REVISING AND AMENDING
CHAPTER 23, ARTICLE II, OF THE CODE OF THE CITY
OF GROSSE POINTE PARK TO ADD DIV. 6, SECTIONS 23-
114 THROUGH 23-123 – STORMWATER DISCHARGE
CONTROL**

THE CITY OF GROSSE POINTE PARK ORDAINS:

Section 1. Chapter 23 of Article II of the Code of the City of Grosse Pointe Park is amended to add Division 6, Sections 23-114 through 23-123, entitled “Stormwater Discharge Control,” as follows:

Division 6. Stormwater Discharge Control

Sec. 23-114. Purpose.

- (a) The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Grosse Pointe Park through the regulation of stormwater and non-stormwater discharges to the municipal separate storm sewer system to the maximum extent practicable as required by federal and state law.
- (b) This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.
- (c) The objectives of this ordinance are:
- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system by any user.
 - (2) To prohibit illicit connections and illicit discharges to the municipal separate storm sewer system.
 - (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.
- (d) This ordinance shall apply to all water entering the municipal separate storm sewer system generated on any developed and/or undeveloped lands unless explicitly exempted by the Director of the Department of Public Service.
- (e) The City of Grosse Pointe Park shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the City may be delegated in writing by the City Manager to persons or entities acting in the beneficial interest of or in the employ of the City. Except as otherwise provided herein, the Director of the Department of Public Service shall, acting under the supervision of the City Manager, administer, implement and enforce the provisions of this ordinance.
- (f) The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Sec. 23-115. Definitions.

The following words and phrases, when used in this ordinance, shall have the following meaning ascribed to them:

Authority. The word “authority” shall mean the Director of the Department of Public Service or his/her designee.

Best management practices (BMPs). The words “best management practices (BMPs)” shall mean those schedules of activities, prohibitions or practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or separate stormwater conveyance systems. BMPs also include treatment devices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The words “Clean Water Act” shall mean the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq., as amended, and the applicable regulations promulgated thereunder.

Illicit connection. The words “illicit connection” shall mean a physical connection to the municipal separate storm sewer system that conveys or may convey illicit discharges into the system and/or is not authorized or permitted by the City; or any drain or conveyance connected from a commercial or industrial land use to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by the authority.

Illicit discharge. The words “illicit discharge” shall mean any discharge (or seepage) to the municipal separate storm sewer system that is not composed entirely of stormwater except discharges pursuant to a NPDES permit or as otherwise exempted by Section 23-116(b)(4) of this ordinance.

Municipal separate storm sewer system (MS4). The words “municipal separate storm sewer system (MS4)” shall mean those facilities located within the City and owned or controlled by the City or the county drain commissioner or the county board of road commissioners or the Michigan Department of Transportation by which stormwater may be collected and conveyed to the waters of this state, including any streets or roads with drainage systems, inlets, curbs, gutters, storm pipes and retention, detention or infiltration basins, which are not part of the publicly-owned sanitary sewage collection system.

National Pollutant Discharge Elimination System (NPDES). The words “national pollutant discharge elimination system (NPDES)” shall mean a permit issued by the federal Environmental Protection Agency or a state under authority delegated pursuant to the Clean Water Act that authorizes the discharge of pollutants to waters of the United States.

Non-stormwater discharge. The words “non-stormwater discharge” shall mean any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater.

Stormwater. The word “stormwater” shall mean any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Stormwater pollution prevention plan (SWPPP). The words “stormwater pollution prevention plan (SWPPP) shall mean a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Sec. 23-116. Prohibition of illicit discharges.

(a) No person shall discharge or cause to be discharged into the municipal separate storm sewer system or watercourses any materials, including any pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

(b) The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this ordinance, provided that they do not result in a violation of State of Michigan water quality standards:

a. Water line flushing.

b. Landscape irrigation runoff.

- c. Diverted stream flows.
- d. Rising groundwaters.
- e. Uncontaminated groundwater seepage into storm sewers.
- f. Uncontaminated pumped ground water (except for groundwater cleanups not specifically authorized by NPDES permits).
- g. Discharges from potable water sources if authorized by the director of public service.
- h. Foundation drains.
- i. Air conditioning condensation.
- j. Irrigation waters.
- k. Springs.
- l. Water from crawl space pumps.
- m. Foundation and footing drains and basement sump pumps.
- n. Lawn watering runoff.
- o. Waters not containing soaps or detergents from noncommercial car washing.
- p. Flows from riparian habitats and wetlands.
- q. Dechlorinated swimming pool waters (less than one ppm chlorine) if authorized by the director of public service.
- r. Residual street wash waters.
- s. Uncontaminated industrial wastes if authorized under an NPDES permit and authorized by the director of public service.
- t. Flows from firefighting and fire training activities.
- u. Any other water source not containing pollutants if authorized by the director of public service.

(2) Discharges specified in writing by the City as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge but requires a verbal notification to the Director of the Department of Public Service prior to the time of the test.

(4) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered

under the authority of the federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval of the Director of the Department of Public Service has been granted for any discharge to the municipal separate storm sewer system.

Sec. 23-117. Prohibition of illicit connections.

- (a) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (c) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Sec. 23-118. Suspension of discharges to municipal separate storm sewer system.

- (a) Suspension due to illicit discharges in emergency situations. The City may, without prior notice, suspend municipal separate storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of the public, or to the municipal separate storm sewer system or waters of the United States. If the person fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize the damage to the MS4 or waters of the United States, or to minimize danger to the public.
- (b) Termination due to detection of illicit discharge. Any person discharging to the municipal separate storm sewer system in violation of this ordinance may have their municipal separate storm sewer system access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its access to the MS4. The violator may petition the authority for reconsideration and hearing.
- (c) A person who reinstates a municipal separate storm sewer system access to premises terminated pursuant to this ordinance without the prior approval of the City shall be guilty of a misdemeanor punishable as provided by section 1-8(a) of this Code.

Sec. 23-119. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to the allowing of the discharges to the municipal separate storm sewer system.

Sec. 23-120. Access to facilities.

- (a) The City shall be permitted to enter and inspect premises subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a

discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City.

(b) Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(c) The City shall have the right to set up on any premises such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of the facility's stormwater discharge.

(d) The City has the right to require any discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated timely to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the owner at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the owner.

(f) Unreasonable delays in allowing the City access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is an operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(g) If the City has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 23-121 Requirements to prevent, control, and reduce stormwater pollutants by the use of best management practices.

(a) The City may impose requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the MS4, or waters of the United States.

(b) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal separate storm sewer system or watercourses through the use of structural and/or non-structural BMPs.

(c) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(d) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this ordinance. The BMPs shall be part of a stormwater pollution

prevention plan (SWPPP) as necessary for compliance with the requirements of the NPDES permit.

(e) New development and redevelopment projects that disturb one (1) or more acres, including projects less than one (1) acre that are part of a larger common plan of development or sale, and that discharge into the MS4, shall provide BMPs capable to treat the first one inch of runoff from the entire site such that the discharge does not exceed a concentration of Total Suspended Solids of 80 milligrams per liter (mg/l). The owner shall ensure long-term operation, maintenance, repair, and replacement of all necessary BMPs in perpetuity.

Sec. 23-122. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4 or waters of this state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City within three business days of the phone notice. If the discharge or prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 23-123. Sanctions for violation.

(a) Except as provided by Sec. 23-118(c), and notwithstanding any other provision of the City's laws, ordinances, and regulations to the contrary, a person who violates any provision of this ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the authority under this ordinance) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$500 per day for each infraction and not more than \$5,000 per day for each infraction, plus costs and other sanctions.

(b) Increased fines may be imposed for repeat offenses. As used in this ordinance, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this ordinance (i) committed by a person within any 12-month period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this ordinance shall be as follows:

(1) The fine for any offense that is a first repeat offense shall be not less than \$2,000, plus costs.

(2) The fine for any offense that is a second repeat offense, or any subsequent repeat offense shall be not less than \$5,000, plus costs.

(c) Subject to the minimum fine amounts specified in Sections 23-123(b), above, the following factors shall be considered by a court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this ordinance: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and

economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.

(d) Notwithstanding any other provision of the City's laws, ordinances, and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations (directing alleged violators to appear in district court) and/or notices (directing alleged violators to appear at the City's Municipal Violations Bureau, as applicable) for violations of this ordinance: the City manager, the director of public services, and any police officer.

(e) Except as otherwise provided by this ordinance, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or, pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.

(f) Any person who (1) at the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this ordinance, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the authority under this ordinance; or (2) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this ordinance, or in any other correspondence or communication, written or oral, with the authority regarding matters regulated by this ordinance; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this ordinance; or (4) commits any other act that is punishable under state law by imprisonment for more than 90 days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

(g) The authority is authorized, after giving reasonable notice and opportunity for compliance,
(1) to correct any violation of this ordinance or damage or impairment to the stormwater drainage system caused by a discharge, and
(2) to bill the person causing the violation or discharge for the costs of the work to be reimbursed.

The costs reimbursable under this ordinance shall be in addition to fees, amounts or other costs and expenses required to be paid to the City under other sections of this ordinance.

Motion by Councilmember Grano, supported by Councilmember Read, to adopt Ordinance No. 216 as presented.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluitt, and Mayor Denner

NAYS: None

ORDINANCE NO. 217

CITY OF GROSSE POINTE PARK
Ordinance No. 217

AN ORDINANCE TO AMEND THE CITY OF GROSSE POINTE PARK CODE OF ORDINANCES BY AMENDING CHAPTER 23 TO ADD ARTICLE III, SECTIONS 23-124 THROUGH 23-132-SMALL CELL WIRELESS FACILITIES AN ORDINANCE REGARDING THE REGULATION OF SMALL WIRELESS FACILITIES WITHIN THE CITY UNDER THE SMALL WIRELESS COMMUNICATIONS FACILITIES DEPLOYMENT ACT, ACT 365 OF 2018, AS AMENDED.

THE CITY OF GROSSE POINTE PARK ORDAINS:

Section 1. Chapter 23 of the Code of the City of Grosse Pointe Park is amended to add Article III, Sections 23-124 through 23-132 – Small Cell Wireless Facilities that reads as follows:

ARTICLE III.

Small Cell Wireless Facilities

Sec. 23-124. Definitions.

The following definitions apply to this ordinance. To the extent there are any inconsistencies, the more specific definitions provided in this ordinance control over the definitions provided in elsewhere in the City’s Code of Ordinances.

Act. The word “act” shall mean the Small Wireless Communications Facilities Deployment Act, Act 365 of 2018.

Authorization. The word “authorization” shall mean permission from the City to do work in the public way or to maintain facilities in the public way and includes but is not limited to a franchise, a license, a permit, a letter, construction drawing approval. Multiple authorizations may be required for certain activities.

Collocate. The word “collocate” shall mean to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. Colocate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

Contractor. The word “contractor” shall mean and includes any of the following licensed entities performing work on an owner's behalf: contractor; subcontractor; or any employee or agent of a contractor, subcontractor, or owner.

Department. The word “department” shall mean the City’s Department of Public Works.

Emergency. The word “emergency” shall mean a condition that poses a clear and immediate danger to life or health, or a significant loss of property, or requires immediate repair to restore service to a group of users of such service.

Emergency work. The word “emergency work” shall mean the replacement or repair of damage to active facilities, including main lines and services, where all 811 dig requirements are met.

Excavate. The word “excavate” shall mean without limitation any cutting, digging, grading, tunneling, boring, or other alteration of the surface or subsurface material or earth in the public way.

Facilities. The word “facilities” shall mean poles, pipes, culverts, conduits, ducts, cables, wires, fiber, amplifiers, pedestals, antennas, transmission or receiving equipment, other electronic equipment, electrical conductors, manholes, appliances, signs, pavement structures, irrigation systems, landscaping, monument signs, monument mailboxes and any other similar equipment, for public or private use.

Owner. The word “owner” shall mean any property owner, company owner, or any entity by which work within the right-of-way has been ordered, or any entity on behalf of which any work within the right-of-way is caused to be performed, or any agent thereof.

Person. The word “person” shall mean an individual, association, firm, partnership, limited liability company, joint venture, corporation, government, utility, or other organized entity able to contract for the activities described in this ordinance, whether for profit or not for profit. The term does not include the city.

Public right-of-way. The words “public right-of way” shall mean the area on, below, or above a public roadway, highway, street, alley, easement or waterway. The term “public right-of-way” does not include a federal, state, or private right-of-way.

Small cell wireless facility. The words “small cell wireless facility” shall mean a wireless facility that meets both of the following requirements:

- a. Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than 6 cubic feet.
- b. All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

User. The word “user” shall mean a person that proposes to place facilities in the public way, places such facilities, or owns or maintains such facilities. The term includes but is not limited to licensees and franchisees.

Utility pole. The words “utility pole” shall mean a pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that meets the height requirements in section 13(5) of the Act and is designed to support small cell wireless facilities. Utility pole does not include a sign pole less than 15 feet in height above ground.

Wireless facility. The words “wireless facility” shall mean equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include (i) the structure or improvements on, under, or within which the equipment is collocated, (ii) a wireline backhaul facility, or (iii) coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

Wireless provider. The words “wireless provider” shall mean a wireless infrastructure provider or a wireless services provider. Wireless provider does not include an investor-owned utility whose rates are regulated by the Michigan Public Service Commission ("MPSC").

Wireless services. The words “wireless services” shall mean any services, provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile location.

Wireless services provider. The words “wireless services provider” shall mean a person that provides wireless services.

Wireless support structure. The words “wireless support structure” shall mean a freestanding structure designed to support, or capable of supporting, small cell wireless facilities. Wireless support structure does not include a utility pole.

Sec. 23-125. General Requirements.

- (a) No wireless providers shall occupy, wholly or in part, the streets, alleys, or public rights-of-way within the geographical boundaries of the City without first receiving a franchise and consent and permit for that purpose.
- (b) No wireless providers shall attach, alter, or modify a City-owned pole or wireless support structure without entering into a license agreement with the City.
- (c) The City may establish appropriate requirements for new franchises, licenses, and ordinance requirements consistent with state and federal law, and may modify the requirements of this ordinance from time to time to reflect changes in the industry. The City further retains the right to make any modifications based on court rules, injunctions, or statutory amendments addressing the federal and state law mandates requiring the City to provide this process under its current regulations. The City further reserves any constitutional or statutory challenges it may have under federal and state law to the process mandated, despite its efforts to comply such changes in the law.

- (d) Notwithstanding any other provisions of this ordinance to the contrary, a wireless provider shall at all times comply with all laws and regulations of the state and federal government or any administrative agencies thereof. Provided, however, if any such state or federal law or regulation shall require a wireless provider to perform any service, or shall permit a provider to perform any service, or shall prohibit a wireless provider from performing any service, in conflict with the terms of this ordinance or resulting franchise or of any law or regulation of the City, then as soon as possible following knowledge thereof, a wireless provider shall notify the City of the point of conflict believed to exist between such regulation or law and the laws or regulations of the City or any applicable franchise.
- (e) Subject to this ordinance, wireless providers may occupy and use the public right-of-way to collocate small cell wireless facilities to provide wireless services upon, along, over and under the public right-of-way in the city such that such collocations do not inhibit other utility installations within the public right-of-way.
- (f) The city retains its right to impose fees and compensation consistent with federal and state law.
- (g) Wireless providers shall pay taxes for telecommunications services that are subject to taxation.
- (h) Use of the public right-of-way is allowed only to the extent the City itself possesses such rights.
- (i) Wireless providers shall obtain approvals legally necessary to use the public right-of-way from owners, other than the City, of property interests in the public right-of-way or adjacent to the roadway system located within the City. To the extent any wireless provider obtains approval through a statutory authorization, as opposed to review and approval by the City, the wireless provider's placement or location of any small cell wireless facility, wireless facility, and utility pole within the City's public right-of-way shall comply the general and specific design and location requirements of this ordinance.
- (j) No wireless provider shall have the exclusive right or privilege to occupy or use the public right-of-way for delivery of wireless services or any other purpose.
- (k) The City reserves all rights to use the public right-of-way for any purpose not prohibited by law, including the provision of wireless services, and all rights to grant authorizations to any other person(s), including any wireless provider, to use the public right-of-way.
- (l) Wireless providers shall have no right, title, or interest in the public right-of-way, and any franchise, consent, permit, or license provided by the City provides not right, title or interest to occupy any space outside of the public right-of-way or any private property not owned by the City.

- (m) Wireless providers use of the public right-of-way shall not divest the City of any interest in the public right-of-way.
- (n) The City does not warrant its legal interest in the public right-of-way.
- (o) Nothing in this section shall be deemed or construed to stop or limit the City from exercising any regulatory, police, governmental, or legislative function pursuant to applicable law, which powers include, but are not limited to, the authority to enact regulations, ordinances, rules, and orders not prohibited by state or federal law that affect the public right-of-way or a wireless provider's use of the public right-of-way.
- (p) The terms of this section do not permit the wireless provider to operate a cable system or to provide cable service, as those terms are defined by Section 602 of the Cable Communications Policy Act of 1984, as amended (47 USC §522), or install any wires or facilities that are required to be permitted under the METRO Act, Public Act 48 of 2002, MCL §484.310.
- (q) This ordinance only permits the wireless provider, upon obtaining required approvals and permits, to place its small cell wireless facilities in those portions of the public right-of-way approved by the city.
- (r) Under no circumstances shall any wireless provider be permitted to place small cell wireless facilities on any building that is on the National Register of Historic Places, pursuant to 47 CFR § 1.1307(a)(4).
- (s) Collocation of small cell wireless facilities shall commence within six months of permit issuance and shall be activated for use no later than one year from the permit issuance date. Failure to commence collocation within six months of permit issuance shall void said permit. A small cell wireless facility not activated within one year of permit issuance shall be considered abandoned and shall be removed from the public right-of-way at the wireless provider's sole expense.
- (t) A wireless provider shall notify the City in writing of the location and date that any wireless facility located in the city whose use will be discontinued. If the use of the facility is discontinued for 180 days without notice from the owner/operator or the owner of the property or other information indicates that the facility is not in use, the City may declare the facility abandoned. The City will provide notice and provide the wireless provider an opportunity to show cause before the City Manager as to why the wireless facility should not be removed. Following determination of the City Manager, the City may take the necessary steps to remove the facilities from the City's right-of-way.

Sec. 23-126. Permit Required.

- (a) *Permit Requirement.* Except as otherwise provided in the Act, a wireless services provider seeking to use public rights-of-way in the City for its small cell wireless facilities shall apply for and obtain a permit pursuant to this ordinance.

(b) *Limitations on Facilities in Application.* No more than 20 small cell wireless facilities may be included in a single permit application.

(c) *Application.* A wireless provider shall apply for a permit on an application form made available by the City Clerk. A wireless provider shall file one copy of the application with the City Clerk, one copy with the City manager, one copy with the Department, and one copy with the City Attorney. Applications shall be complete and include all required information. An application is not considered complete until all required materials have been submitted and accepted by the City. At a minimum, the applications shall require submission of the following:

- a. Applicant contact information, including an address, phone contact, twenty-four-hour emergency contact information, e-mail address, and any applicable license numbers;
- b. Applicant's contractor and subcontractor information, including the names, addresses, phone contact, e-mail addresses, emergency contact numbers, and name of the supervisor(s) assigned to any facility project of all contractors or subcontractors that will work within the City's rights-of-way under a permit;
- c. Number of wireless facilities that will be deployed;
- d. The scope of the deployment, including whether the deployment is modification of a current facility or utility pole, collocation on an existing pole or structure, or installation of a new or replacement structure or pole;
- e. GIS maps and coordinates detailing locations for each proposed attachment and related facilities associated with each attachment;
- f. A coverage map showing the projected coverage areas of existing and proposed small cell wireless facilities;
- g. Site plan at a scale not smaller than one-inch equals twenty feet with dimensions showing the following:
 - i. Proposed location within the right-of-way including nearest cross street intersection;
 - ii. Parcel identification number and property ownership for parcels located within 75 feet of the proposed facility;
 - iii. Height of the proposed facility;
 - iv. The distance of the proposed facilities and the nearest property line, roadways, rights-of-way, and utilities within the rights-of-way; and
 - v. Any other proposed improvements that are part of the deployment;

- h. An application fee as established by the City Council;
- i. Executed franchise, license and consent agreement for access to and use of the City's rights-of-way;
- j. Specification sheets for all attachments and equipment that will be located within the City, including the dimensional size of the small cell wireless facility and all other wireless equipment;
- k. Attachment drawings and demonstrations of each type of installation, including photograph simulations showing collocations, new or replacement poles, and concealment and design characteristics satisfying this ordinance;
- l. Pole loading analysis if being collocated on a City pole or structure;
- m. Attestation that the small cell wireless facilities will be operational for use by a wireless services provider within one (1) year after the permit issuance date;
- n. Work plan describing the location of the proposed work, the work to be performed, the limits of disturbance to the public right-of-way and the method and materials to be used;
- o. Landscape plans for ground-mounted facilities, if applicable;
- p. Site/structure remediation plans for restoring the public right-of-way after removal of the wireless facilities;
- q. Certificate of compliance with FCC radio frequency emission regulations;
- r. For all new poles, replacement poles, and wireless structures, demonstration of compliance with ANSI/TIA 222-G-2 standards;
- s. For all new poles, replacement poles, and wireless support structures, a certification by the wireless provider and a structural analysis sealed by a licensed engineer attesting that the towers and structures will accommodate collocation of additional antennas, including the extent of such collocation space;
- t. For all new poles, replacement poles, and wireless support structures, a statement from a licensed engineer why no current existing towers or structures are adequate to provide the services planned with the wireless facility;
- u. An inventory of any existing and approved small cell wireless facilities, poles, and wireless support structures that are within the jurisdiction of the City;

- v. Copy of all other permits related to the deployment, including any applicable METRO Act application and permit;
 - w. For deployments in downtown or residential districts, documentation of compliance with design and location requirements;
 - x. Documentation showing adequate insurance, including the City named as an additional insured;
 - y. A performance bond meeting the requirements of this Article; and
 - z. Any additional information requested by the City.
- (d) *Confidential information.* If a wireless provider claims that any portion of the information submitted by it as part of its application contains trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act (MCL §15.231 *et seq.*), the wireless provider shall prominently so indicate on the application.
- (e) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time nonrefundable application fee in the amount as established by City Council.
- (f) *Permit Approval Process.* Permit applications shall comply with the following process.
- a. *Pre-Meeting.* Prior to submission of an application, a wireless provider shall meet with the City to discuss the application process, a wireless provider's intended deployment, and the requirements of this ordinance.
 - b. *Submission.* After the pre-meeting is conducted, the wireless provider may file the application, including all required documents, fees and information.
 - c. *Initial Review for Completeness.* Submitted applications will first be reviewed for completeness to ensure that all required information is included. If an application is deemed incomplete, the City will provide written notice to the wireless provider which clearly delineates all missing documents or information. Any applicable statutory review times will be tolled from the time the City notifies the wireless provider that the application is incomplete until a supplemental submission is received.
 - d. *Review by City Staff.* Once an application is deemed complete, it will be reviewed by the City Manager, the Department of Public Works, the City Building Official, the Chairperson of the Downtown Development Authority, the City Attorney and any other designees of the City Manager.
 - e. *Post-application Meeting.* If review by the City raises any issues or concerns, meetings with the wireless provider and relevant members of the City staff may be requested.

- f. *Final Approval.* Upon the conclusion of the City's review, the City Council will review the application and any recommendations from the City Manager. If the City Council is satisfied that all the requirements of this ordinance are satisfied, it will approve the application. The wireless provider is requested to attend this meeting.
- g. *Issuance of Permit.* Once an application is approved by the City Council, the Department of Public Works shall issue a permit granting wireless provider access to and use of the public rights-of-way.
- h. *Notice of Completion.* Wireless provider will notify the City within 48 hours after completing the work allowed by the permit.
- i. *Final Inspection.* Within 30 days after receiving notice that the wireless provider has completed the work under the permit, the City will inspect the wireless provider's facilities and make a written report as to the satisfaction of the permit, the City Code, any applicable agreements and state and federal law.

(g) *Timeline for Review.* Applications will be processed consistent with the following timelines:

- a. *Collocation Requests.* Applications requesting to collocate small cell wireless facilities on poles located within the public right-of-way will be approved or denied within 60 days after the date the application is submitted, subject to the following:
 - i. The City will determine whether the application is complete within 25 days after the application is submitted. The City will provide written notice to the wireless provider if the application is deemed incomplete and a supplemental response is required.
 - ii. If a supplemental response is required, the City's deadline for approving or denying the application will be tolled by however many days it takes for the wireless provider to submit a supplemental response to the City after receiving notice that the wireless provider's application was incomplete. The City will notify the wireless provider whether the application remains incomplete within 10 days of receiving a supplemental response. If more than one supplemental response is required, the deadline for approving or denying the application will continue to be tolled by the number of days between the City providing notice to the wireless provider and the City receiving a supplemental submission.
 - iii. The City may add 15 days to the deadline for approving or denying the application if another wireless provider also submitted an application within 7 days of the date of the submission of the application in question.

- iv. The City may extend the deadline for approving or denying the application by an additional 15 days if the City notifies the wireless provider in writing that an extension is needed and the reasons for the extension.
 - v. If the City denies a completed application, it will provide written notice explaining the reason for denial. The wireless provider may cure the identified deficiencies and resubmit its application within 30 days after the denial without paying an additional fee. The City will approve or deny the revised application within 30 days after receiving the revised application.
 - vi. The deadline for approving or denying the application may be extended by mutual agreement between the City and the wireless provider.
- b. *Requests to Install a New or Replacement Utility Pole.* Applications requesting to install a new or replacement utility pole and associated small cell wireless facility within the public right of way will be approved or denied within 90 days after the date the application is submitted. The City will determine whether the application is complete, deny the application, and review and consider a revised application as provided for collocation requests.
- c. *Requests to Install Facilities Outside the ROW, New or Replacement Wireless Support Structures Within the ROW or to Modify Wireless Support Structures.* Applications to install or modify small cell wireless facilities outside of the public right-of-way, application to install new or replacement wireless support structures within the public right-of-way, and applications to install or modify wireless support structures to be used for small cell wireless facilities will be approved or denied within 90 days after the date the application is submitted, subject to the following:
- i. The City will determine whether the application is complete within 30 days after the application is submitted. The City will provide written notice to the wireless provider if the application is deemed incomplete and a supplemental response is required.
 - ii. If a supplemental response is required, the City's deadline for approving or denying the application will be tolled by however many days it takes for the wireless provider to submit a supplemental response to the City after receiving notice that the wireless provider's application was incomplete. The City will notify the wireless provider whether the application remains incomplete within 10 days of receiving a supplemental response. If more than one supplemental response is required, the deadline for approving or denying the application will continue to be tolled by the number

of days between the City providing notice to the wireless provider and the City receiving a supplemental submission.

- iii. The deadline for approving or denying the application may be extended by mutual agreement between the City and the wireless provider.

d. *Requests to Install New Wireless Support Structures Outside of the ROW.* Applications to install or construct new wireless support structures outside of the public right-of-way to be used for small cell wireless facilities will be approved or denied within 150 days after the date the application is submitted, subject to the following:

- i. The City will determine whether the application is complete within 30 days after the application is submitted. The City will provide written notice to the wireless provider if the application is deemed incomplete and a supplemental response is required.
- ii. If a supplemental response is required, the City's deadline for approving or denying the application will be tolled by however many days it takes for the wireless provider to submit a supplemental response to the City after receiving notice that the wireless provider's application was incomplete. The City will notify the wireless provider whether the application remains incomplete within 10 days of receiving a supplemental response. If more than one supplemental response is required, the deadline for approving or denying the application will continue to be tolled by the number of days between the City providing notice to the wireless provider and the City receiving a supplemental submission.
- iii. The deadline for approving or denying the application may be extended by mutual agreement between the City and the wireless provider.

(h) *Standards for Review of Application.* The City may grant or deny the location and installation of any small wireless facility, pole, or wireless support structure prior to installation, if installation would:

- a. Materially interfere with the safe operation of traffic control equipment.
- b. Materially interfere with sight lines or clear zones for transportation or pedestrians.
- c. Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.

- d. Materially interfere with or endanger the use of City bike paths, walkways, parks, or recreational areas used by City residents.
- e. Materially interfere with maintenance or full unobstructed use of the City's public utility infrastructure.
- f. Materially interfere with maintenance or full unobstructed use of the City's drainage infrastructure as it was originally designed, or not be located a reasonable distance from the drainage infrastructure to ensure maintenance.
- g. Fail to comply with spacing requirements as set forth in this ordinance.
- h. Fail to comply with applicable codes.
- i. Fail to comply with design and concealment requirements as set forth in this ordinance.

Sec. 23-127. General Design and Location Requirements.

Small cell wireless facilities, related equipment and accessories, poles and wireless support structures shall comply with the following design and concealment standards:

- (a) *Compatible Design.* All small cell wireless facilities and related equipment must use materials, colors, textures, and screening so as to be aesthetically and architecturally compatible with the surrounding environment, including:
 - (1) Be compatible in design to match existing street lights, traffic control devices, poles, infrastructure, outside furniture, garbage receptacles, and adjacent buildings.
 - (2) Be aesthetically pleasing.
 - (3) Be the similar in color to existing architecture and adjacent infrastructure.
- (b) *Lighting.* Facilities shall not be artificially lighted. If lighting is required, the lighting fixtures and installation must cause the least disturbance to surrounding properties and shall otherwise comply with Section 15.2 of Chapter 15 of the City's Code of Ordinances.
- (c) *Collocation.* Unless physically or technically infeasible, all wireless facilities shall be constructed to accommodate two or more users. Any wireless provider must openly allow another provider to collocate upon its wireless facility under rates and conditions that are acceptable within the industry to promote collocation. Collocation of small cell wireless facilities is strongly encouraged.

- (d) *Ancillary Facility Equipment.* All other wireless equipment with the facility shall be designed and painted to satisfy this section. The equipment will be required by the City to be located underground in any locations where the equipment will be visible from adjacent roadways and lots and public electrical utility lines are already placed underground. Where underground placement of equipment is not required or would impair service, aboveground placement is permitted upon the City's approval. Ground-mounted equipment shall comply with the following requirements:
- (1) All equipment shall be completely concealed from view within an enclosed cabinet. Cabinets must be compatible in color and design to match existing infrastructure and architecture.
 - (2) So as not to impede or impair public safety or the legal use of the public right-of-way by the traveling public, in no case shall ground-mounted equipment be located closer than two feet from the public right-of-way, edge line, face of curb, sidewalk, bike lane or shared-use path.
 - (3) Ground-mounted equipment shall be located a minimum of 12 feet from any permanent object or existing lawful encroachment in the public right-of-way to allow for access.
 - (4) Ground-mounted equipment must be secured to a concrete foundation or slab with a breakaway design in the event of collisions.
 - (5) Ground-mounted equipment must either be screened with plant material that is consistent with the characteristics of the surrounding area, be integrated into the base of an existing utility pole, wireless support structure or other infrastructure, or be otherwise camouflaged so as to be aesthetically and architecturally compatible with surrounding environment, without detracting from the streetscape. The City and the wireless provider shall agree on mutually acceptable design criteria prior to any above ground deployment.
- (e) *Separation Distances.* New utility poles and ground-mounted equipment shall be installed at least 300 feet from any existing or proposed utility pole or ground-mounted equipment. Any wireless provider desiring to install poles less than 300 feet apart shall demonstrate to the City's satisfaction that the wireless provider could not serve a location without the desired placement.
- (f) *Marking and Signage.* No small cell wireless facility, utility pole, wireless support structure or any portion thereof shall have any signage except as expressly permitted by this ordinance or as required by state or federal law. Aerial portions of small cell wireless facilities shall be marked with a marker which shall state wireless provider's name and provide a toll-free number to call for assistance. Underground portions of small cell wireless facilities shall have a stake or other appropriate above ground markers with wireless provider's name and a toll-free number indicating that there is buried equipment below. Any marking required by this section shall not be used for

advertising purposes and shall not exceed 1 square foot in area unless approved by the City.

Sec. 23-128. Design and Location Requirements for Deployments on Existing Poles.

Small cell wireless facilities installed on existing utility, street light, traffic signal poles, or wireless support structures located in residential and downtown districts shall comply with the following design and concealment standards:

- (a) The maximum pole height shall be 40 feet.
- (b) They shall be aesthetically pleasing, similar in design to existing infrastructure and architecture, consistent with the local character of the area and shall not detract from the streetscape.
- (c) To the extent practicable, all accessory cables and equipment shall be installed underground.
 - (1) If any equipment cannot be installed underground, then it shall be installed at the base of the pole and concealed with skirting compatible in design and color to the pole.
- (d) Antenna shall be installed within the pole and not visible. If any antenna cannot be installed within the pole and made not visible, then it shall extend vertically from the pole or be flush-mounted to the side of the pole and shall be designed to be an architecturally compatible extension of the pole. The diameter of the antenna shall be consistent with the diameter of the pole, not including other appurtenances or extensions from the pole, or the base to which the pole is mounted. The antenna shall not extend more than ten feet above the top of the pole.

Sec. 23-129. Design and Location Requirements for Deployments Requiring New Poles.

Small cell wireless facilities requiring the installation of a new pole or wireless support structure in residential, historic, and downtown districts shall comply with the following design and concealment standards:

- (a) If possible, poles and wireless support structures shall be designed to accommodate small cell wireless facilities for multiple wireless services providers.
- (b) Poles shall be located a minimum of 15 feet from any tree, measured to the tree-trunk center. Additionally, 80 percent of the root protection zone shall remain undisturbed. The root protection zone shall either be a six-foot radius around the tree or a one-foot radius for every inch of tree diameter at breast height, whichever is greater. This minimum separation shall not apply for a new pole that replaces an existing pole, where the new pole is installed in the same place as, or immediate vicinity of, the existing pole.

- (c) Poles shall be designed pursuant to City standards or the applicable utility's standard, and function as street light poles, utility poles, or traffic signal poles in consultation with the City or the applicable utility and shall be incorporated into the applicable utility or signaling system.
- (d) Poles shall comply with the following height regulations:
 - (1) In residential districts, poles shall not exceed 33 feet in height from ground level.
 - (2) In downtown districts, poles shall not exceed 10% of an adjacent building or exceed 40 feet in height from ground level, whichever is less.
 - (3) In all other districts, poles shall not exceed 40 feet in height from ground level.
- (e) Poles shall be designed and installed with materials and appearance consistent with existing poles in the adjacent public way, unless materials and appearance are prescribed by other ordinance, law, or City requirements. Poles shall be aesthetically pleasing, consistent with the local character of the area and shall not detract from the streetscape.
- (f) Antenna shall be installed within the pole and not visible. If any antenna cannot be installed within the pole and made not visible, then it shall extend vertically from the pole or be flush-mounted to the side of the pole and shall be designed to be an architecturally compatible extension of the pole. The diameter of the antenna shall be consistent with the diameter of the pole, not including other appurtenances or extensions from the pole, or the base to which the pole is mounted. The antenna shall not extend more than five feet above the top of the pole.
- (g) To the extent practicable, all accessory cables and equipment shall be installed within the pole or placed underground as required by this ordinance.

Sec. 23-130. Insurance and Bonding Requirements.

- (a) *Insurance.* The wireless provider shall furnish proof of insurance in an amount and form satisfactory to the City, naming the City as an additional insured. Such insurance shall cover a period of not less than the term of this permit and shall provide that it cannot be cancelled without thirty (30) days advance written notice to the City.
- (b) *Bonding.* Before any work under a permit issued pursuant to this ordinance may commence, a wireless provider shall furnish to the City a performance bond in the form of an irrevocable bank letter of credit form or surety bond form approved by City, in the amount of \$1,000.00 per small cell wireless facility included in the application for a permit, to provide for the reasonable costs of removal of abandoned or improperly maintained small cell wireless facilities, to repair the ROW or to recoup unpaid rates or fees.

Sec. 23-131. Assignment; Speculation.

- (a) *Assignment; Transfer.* No permit may be transferred or assigned by a wireless provider without the City's express written permission until the construction and installation of all permitted small cell wireless facilities is completed. After completion of such construction, wireless provider must provide notice to the City no later than thirty (30) days after any assignment or transfer, provided that the transferee or assignee:
- (1) Is qualified to perform under the terms of this ordinance, the permit issued by the City and any applicable agreement with the City, and shall be subject to the obligations set forth in the same;
 - (2) Supplies the City with all relevant information required by this ordinance, the permit issued by the City and any applicable agreement with the City; and
 - (3) Complies with any updated insurance and bond requirements deemed reasonably necessary by the City.
- (b) *Speculation.* Any permit obtained pursuant to this ordinance shall not be held for speculative purposes.

Sec. 23-132. Revocation of Permit; Removal.

- (a) *Revocation of Permit.* A permit to install small cell wireless facilities issued pursuant to this ordinance shall be revoked upon the occurrence of any of the following events:
- (1) The wireless provider does not commence construction of the permitted small cell wireless facilities six (6) months after the date of issuance;
 - (2) The permitted small cell wireless facilities are not operational within one (1) year after the date of issuance;
 - (3) The wireless provider or the permitted small cell wireless facilities violate the terms or conditions of this Ordinance, any applicable agreement with the City, any permit issued by the City, applicable codes or any relevant provision of state or federal law, and such violations are not corrected within thirty (30) days after receiving written notice from the City;
 - (4) After the permitted small cell wireless facilities become operational, the wireless provider discontinues the use of the small cell wireless facilities for a period of one hundred and eighty (180) consecutive days;
 - (5) The wireless provider fails to renew the permit, or the permit otherwise expires by its own terms; or
 - (6) The wireless provider voluntarily requests that a permit be terminated.

These deadlines may be extended only with express written permission from the City. If small cell wireless facilities, utility poles or wireless support structures are installed prior to the revocation

of a permit, the wireless provider shall comply with the procedures for removal in the following Section.

(b) Removal of Facilities; Restoration.

- (1) A wireless provider shall remove all small cell wireless facilities, utility poles and wireless support structures, and shall restore the public right-of-way to its preinstallation condition within forty-five (45) days after receiving written notice from the City that a permit issued pursuant to this ordinance has been revoked.
- (2) If the wireless provider does not complete removal and restoration within forty-five (45) days after receiving such notice, the City shall have the right, but not the obligation, to complete the removal and restoration and assess the costs and expenses against the wireless provider, including, without limitation, any administrative costs.
- (3) If the City exercises its right to effectuate removal and restoration, the wireless provider shall pay to the City the costs and expenses incurred by the City in performing any removal work and any storage of the wireless provider's property after removal (including any portion of the small cell wireless facilities) within fifteen (15) business days of the date of a written demand for this payment from the City. The City may, in its discretion, obtain reimbursement for the above by making a claim under the wireless provider's performance bond. After the City receives the reimbursement payment from the wireless provider for the removal work performed by the City, the City shall promptly return to the wireless provider the property belonging to the wireless provider and removed by the City pursuant to this Section at no liability to the City. If the City does not receive the reimbursement payment from the wireless provider within such fifteen (15) business days, or if City does not elect to remove such items at the City's cost after the wireless provider's failure to so remove prior to forty-five (45) days subsequent to the issuance of notice pursuant to this Section, any items of the wireless provider's property, including without limitation the small cell wireless facilities, remaining on or about the public right-of-way or stored by the City after the City's removal thereof may, at the City's option, be deemed abandoned and the City may dispose of such property in any manner allowed by law, and in accordance with any legal rights of persons other than the City who own utility poles located in the public right-of-way and used by the wireless provider. Alternatively, the City may elect to take title to such abandoned property, regardless of whether the City is provided an instrument satisfactory to the City transferring to the City the ownership of such property.
- (4) The deadline for removal and restoration may be extended only with express written Permission from the City.

Motion by Councilmember Grano, supported by Councilmember Read, to adopt Ordinance No. 217 as presented.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluitt, and Mayor Denner

NAYS: None

PUBLIC SAFETY ANNUAL REPORT

Public Safety Director Poloni presented the 2019 annual report and stated index and non-index crimes are up from 329 to 379. He noted 2018 was a low point and 2019 was also below the five year average. There were 36 vehicles that were spray painted in one evening and that is a reason the number increased so significantly. There were 9,325 calls for service, 462 responses to fires and 279 EMT medic calls.

There were also five public safety officers who retired in 2019.

Mayor Denner and Councilmembers expressed their appreciation for the public safety department.

Councilmember Grano recommended statistics be provided from the 90's to reflect the reduction in crimes.

Councilmember Fluitt inquired if the City has an emergency plan in place for the Coronavirus.

Director Poloni receives daily updates.

FINANCE REPORT – FEBRUARY, 2020

Councilmember for Finance Hodges presented to Mayor Denner and Council for consideration the invoices exceeding \$5,000 for the month of February, 2020 as presented.

<u>Vendor</u>	<u>Description</u>	<u>Payment</u>
Bodman	Pros. Atty. & retainer fee	\$ 10,000
Build Safe	Building Inspector-January	9,600
Great Lakes Water	Water usage – December	116,554
Green for Life	Recycling for February	18,756
Green for Life	Rubbish for February	48,484
Bumier Mechanical	½ dep. for heater, WPP bond	32,250
Art Tucker	lead service replacement	8,500
Great Lakes Water	Waste water – January	151,000
GP Clinton Refuse	Refuse disposal – Dec & Jan	14,202
Santoro, Inc.	Plow for truck	6,147
Department of Transportation	Kercheval to Mack – grant	16,738

Councilmember Hodges stated funds are available within the budget.

Motion by Councilmember Hodges, supported by Councilmember Read, to approve the invoices exceeding \$5,000 for the month of February, 2020, as presented in accordance with Section 2.249 of the Charter.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluitt, and Mayor Denner

NAYS: None

COMMITTEE REPORTS

Beautification Commission:

Councilmember Relan presented a brief overview of the Beautification Committee meeting that was held on Wednesday, March 4th. Topics of discussion were the following:

- Tree sale
- Plant exchange
- Tree City USA Award
- Wild life habitat at Patterson Park
- Sterling community
- Next meeting scheduled for April 15th

Ordinance Review Commission:

Councilmember Grano stated the Ordinance Review Committee met on February 24th. Topics of discussion were Ordinances No. 215, 216, and 217.

Councilmember Grano noted the next meeting is scheduled for March 30th at 6:00 pm to discuss the Ethics Ordinance to have it available for the April Council Meeting. If the draft ordinance is not ready for consideration, the meeting will be canceled.

CLOSED DOOR SESSION

Mayor Denner stated at the last meeting a motion was made to hold a closed-door session for the purpose of discussing the issue of the City Attorney. Since that time a temporary transition has been made therefore the closed-door session is not necessary.

Motion by Mayor Denner, supported by Councilmember Read, to not go into closed door session.

AYES: Councilmembers Grano, Relan, Read, Hodges, Robson, and Fluitt, and Mayor Denner

NAYS: None

NEW/OLD BUSINESS

Councilmember Fluitt stated the LGBTQ was not included in the Elliott-Larson Act of 1976 and she would like Grosse Pointe Park to be a leader to ~~support fair and equal rights to all.~~ **Support the proposed expansion for the Michigan Legislature.**

Mayor Denner stated this issue is not appropriate for this body, it is a State wide issue and expressed he does not expect to have a position on this issue. The City could set its own rules in an ordinance.

Marina:

Councilmember Read stated a priority is to bring the marina up to speed.

Councilmember Relan stated the bulk of residents want the marina to open.

Plow damage:

Councilmember Relan stated residents have expressed concern about their lawn being damaged from the sidewalk plows.

Sidewalk:

Councilmember Robson stated the sidewalks are in bad shape and encouraged the sidewalk program be implemented again.

Art Center:

Councilmember Fluitt read aloud a statement regarding the Art Center **stating she cannot support the project due to a lack of publicly available information.**

Mayor Denner stated the Urban Renewal Initiative Foundation is in the process of preparing a press release to answer questions the residents may have.

Trombly School:

Councilmember Hodges inquired if it makes sense to reconvene the Ad-hoc Committee for the school.

PUBLIC COMMENT

Art Center:

Resident stated the analogy of the planned Art Center and expressed concern regarding operation and maintenance costs.

Resident stated foundations that contribute significant capital in a project usually will have control of the project and the Council should be careful not to create animosity with the donors.

Resident stated the Art Center would be an asset to the community.

LGBTQ:

Multiple residents expressed support for the Mayor to endorse the expansion of the Elliott-Larson Act.

One resident expressed his view that the City should focus on local issues rather than state level initiatives.

Several residents expressed support for LGBTQ rights being added to the State's Elliott Larson Act.

Sidewalk:

Resident stated the sidewalks are in disrepair.

Dog Park:

Residents stated their opinion that the best location for a dog park would be near the storm water pump station and putting greens at Patterson Park.

With no further business the meeting adjourned at 10:05 pm.