



**CITY OF HART
407 S. STATE ST.
HART, MI 49420
COUNCIL PROCEEDINGS
FEBRUARY 25, 2019, 7:30 P.M.
MINUTES - APPROVED**

PRESENT: Mayor Ron LaPorte, Councilors: Joe Frontiera, Jason La Fever, Vicki Platt, and Steve Hegedus

ABSENT: Rob Splane

OTHERS PRESENT: Energy Department Superintendent – Mike Schiller, BioPure Superintendent – Paul Cutter, Police Chief – Juan Salazar, City Manager – Lynne Ladner, City Attorney – Mark VanAllsburg, and Deputy City Clerk - Cheri Eisenlohr. See attached list for others in attendance.

Mayor LaPorte called the meeting to order at 7:30 p.m., following the roll call, the Mayor lead the Council in the pledge of allegiance.

INTERVIEWS FOR COUNCIL VACANCY:

- Ms. Ladner advised the Council that Mr. Evans removed himself from the running due to personal reasons. Catalina Burillo is in attendance, Katie Anderson was to phone in for the interview, but due to a technical glitch, the call was dropped, Ms. Ladner read over the highlights of Ms. Anderson's application and questionnaire. Ms. Burillo gave an overview of herself and her qualifications.
 - Mr. Platt made a motion to appoint Ms. Burillo to the Council, supported by Mr. Hegedus.
 - Ayes: 4 Nays: 1 (Frontiera) Absent: 1
 - The motion carried, and Ms. Burillo was sworn in and took her seat with others.

AGENDA:

- Mr. La Fever made a motion to approve the agenda, supported by Ms. Platt, the motion carried.
 - Ayes: 6 Nays: 0 Absent: 1

MINUTES:

- Mr. Hegedus made a motion to approve the minutes of February 11, 2020, meeting, supported by Mr. Frontiera, the motion carried.
 - Ayes: 6 Nays: 0 Absent: 1

PUBLIC COMMENTS, CORRESPONDENCE, EVENTS, PRESENTATIONS:

- Public Hearing: Sale of Public Land undivided interest in Lot 7 portion of parcel #64-020-209-005-00
 - The public hearing was opened at 7:46 pm. Ms. Bechtel confirmed her offer to the City of \$5000.00 to purchase the land.
 - Mr. Sadler asked how this sale would affect the disposition of the rest of the property and was told that it would not be an issue.
 - Mr. Richard Raffaelli stated that this would a benefit to the community to allow the Bechtel's to make the purchase.
 - The public hearing was closed at 7:55 pm.
- Discussion regarding bidding practices – George Sadler
 - Mr. Sadler asked about the bidding process that the City uses. The Mayor stated that he would be provided with a hard copy of the policy.

DEPARTMENT REPORTS:

- Police Chief, Juan Salazar:

- "On Thursday, January 16th, and Friday, January 17th, the department held its annual department training at the Riemer Regional Public Safety Training Center of West Shore Community College; the training consists of defensive tactics, CPR/First Aid/AED, Bleeding control, Firearms lecture, scenario-based training, and a Taser update. It has been extremely beneficial to be able to utilize the training center to conduct our yearly training. The center has all the equipment needed to conduct the training, and we are able to use the center at no charge. I would like to thank West Shore community College for allowing our department to hold our yearly training at its facility."
- Energy Dept. Superintendent, Mike Schiller:
 - Broken wires were repaired for two services.
 - Undergrounding is taking place on Harrison.
 - Lake Road voltages have been increased.
 - Services were upgraded to 12 houses near Courtland St.
 - The department is working on lighting upgrades to LED.
 - Lincoln Street had an outage that has been repaired.
 - Assistance was given at the BioPure on a project.
 - Welcome to Ms. Burillo for joining the Council.
- BioPure Superintendent, Paul Cutter:
 - La Docsa is due payment on the blowers and is on the payables list for tonight. One old blower has been removed so far; cement has been poured. Additional parts had to be ordered for complete installation and should arrive in 3 weeks. The blowers will hopefully be operational by the end of April.
- DPW Superintendent, Brad Whitney: Absent

BILLS, CLAIMS, & PAYROLL:

- Bills: \$668,854.57 Payroll: \$56,294.02 Grand Total: \$725,148.59
 - Mr. Hegedus made a motion to approve, supported by Mr. La Fever, the motion carried.
 - Ayes: 6 Nays: 0 Absent: 1
 - Ms. Ladner did point out that this will be the last year to pay the Oceana County Road Commission for salt/sand as the City will use the MiDeal.com that allows cities to purchase together to acquire a better rate. A Quonset hut is being considered to house the salt/sand mixture. It would be set where the old waterworks building was just removed.

ACTION ITEMS:

Ms. Ladner addressed the following Action Items:

Memo

To: Mayor and Council
 From: Lynne Ladner
 Date: 02/21/2020
 Re: Res 2020-14 Rescind Resolution 2020-11

At the last council meeting, when resolution 2020-11 was brought before the Council, Mr. Sadler commented that he thought that the project had been awarded previously. To which I replied that the previous resolution had failed. The next day following the meeting, I reviewed the minutes from the January 14 meeting when resolution 2020-04 was considered and realized that I had made a significant mistake. Resolution 2020-04 authorizing the removal of the marked trees at John Gurney Park and waiving the bidding did, in fact, pass with 3 affirmative votes, 2 negative votes, and 2 members absent and awarded the project to Dubois Tree and Land Management. My mistake stemmed from confusion

on my part related to the required number of votes for an action to take place. As I am sure you are all aware, but at times it trips me up, resolutions only require a simple majority vote (in the case of the January meeting with 5 members present a majority was 3 but when 6 members or a full council is present a majority is 4 votes). Ordinances, however, always no matter how many members are present, require a minimum of a 4 member affirmative vote for approval.

Believing that resolution 2020-04 had failed, I requested that Mike re-bid and advertise the project as the trees still need to be removed. This resulted in the receipt of two bids and resolution 2020-11 being brought before the Council at the February 11 meeting, where the project was then awarded a second time but at a lower amount to Custom Tree Service with a vote of 4 affirmative votes, 1 negative vote and 1 absent member. Following the meeting, it was brought to my attention that several people were certain that the project had, in fact, been awarded previously. On Wednesday, I began looking into the issue, and after reviewing the minutes from January 14 and the vote tally sheet from January 14, I realized the significant mistake. I contacted the City Attorney, but he was out of the office for the week and did not return until Monday this week. We spoke on February 17th about the issue, and after explaining the situation, Mark advised that the project had been legally and properly awarded at the January 14th meeting, that while it was not a necessity if I could reach out to Dubois Tree and Land Management and ascertain if they would be willing to complete the project for the amount bid by Custom Tree Service, then the City would benefit from a lower cost for the project but would be working with the company that had been legally awarded the bid first. Dubois has been contacted and has agreed to perform the services for the lower cost of \$12,350 for this project. CA Mark advised that the Council need to take action at the February 25th meeting to rescind resolution 2020-11 as the project has been previously awarded and amend the contract price for resolution 2020-04.

I sincerely apologize for this very messy mistake that I have made. It is not the quality of work that I expect of myself and not the quality of the work that the Council should expect of me. It is important to note that the trees that have been marked at JGP are large, diseased, dead, in some cases hollow and present a liability for the city if they are not removed as we are aware of the issues and if they were to in anyway injure or cause damage to person or property because the City had not dealt with them to maintain the safety of the area it is unlikely that our insurance would cover the incident. It is my recommendation that the Council adopts Resolution 2020-14 rescinding Resolution 2020-11.
Lynne

RESOLUTION 2020-14
City Council
City of Hart, Michigan
Oceana County

RESCIND RESOLUTIONS 2020-04 AND 2020-11

WHEREAS, a mistake has been acknowledged by the City Manager regarding the project to remove diseased and dead trees in John Gurney Park; and

WHEREAS, after confirming with the City Attorney it has been verified that the contract for the removal of the trees was properly and lawfully awarded in Resolution 2020-04 and lawfully awarded a second time in Resolution 2020-11; and

WHEREAS the City cannot award the same project twice and is bound to correct such improper awarding proceedings;

THEREFORE, BE IT RESOLVED, that the City of Hart rescinds Resolutions 2020-04 and 2020-11.

Moved by Ms. Platt, supported by Mr. La Fever, and thereafter adopted at the regular City of Hart City Council meeting on February 25, 2020.

Ayes: 5

Nays: 1 (Frontiera)

Absent: 1

I hereby certify this to be a true and correct copy of the document on file with the office of the City of Hart Clerk.



Cheri Eisenlohr,
Deputy City Clerk

**RESOLUTION 2020-14A
City Council
City of Hart, Michigan
Oceana County**

ACCEPTS THE BIDS AND AWARDS THE PROJECT FOR THE REMOVAL OF MARKED TREES IN JOHN GURNEY PARK

WHEREAS, through a proper and legal bidding process the City of Hart received two bids for the removal and complete clean up of the marked trees at John Gurney park; and
WHEREAS, the two bids received were Custom Tree Service in the amount of \$12,350, and Dubois Tree and Land Management in the amount of \$16,900 and

THEREFORE, BE IT RESOLVED THAT THE HART CITY COUNCIL:

Accepts the bids for the removal of marked trees in John Gurney park and awards the project to Custom Tree Service for full clean-up in the amount of \$12,350.00

Moved by LaPorte, supported by Burillo, and thereafter adopted at the regular City of Hart City Council meeting on February 25, 2020.

Ayes: 4 Nays: 2 (Hegedus, La Fever) Absent: 1

I hereby certify this to be a true and correct copy of the document on file with the office of the City of Hart Clerk.



Cheri Eisenlohr,
Deputy City Clerk

Memo
To: Mayor and Council
From: Lynne Ladner
Date: 02/21/2020
Re: Res. 2020-15 Adopt Internal Financial Policies

As part of the FY 2018 and FY 2019 Financial Audits for the City, it was identified as deficiencies the fact that the City had not adopted financial policies related to Capital Assets, Fraud Risk Management, Disaster

Recovery, ACH and Electronic Funds Transactions and Fund Balance for the General Fund. As part of the corrective action plan, the Department of Treasury requested that I submit copies of the City's adopted policies for these areas.

I was able to get sample policies from the City's Auditor, which I then tailored to the City of Hart, provide a draft sample to the City Council and the City Attorney for review. Having received requests from the Council for changes, input regarding the minimums and maximums for the fund balance policy and having made the requested clarifications and tweaks requested by the City Attorney before you are the final draft policies for adoption. The polices that you are being asked to adopt are:

Fraud		Risk	Management		Policy
Automated	Clearing	House/Electronic	Funds Transfer	(ACH/EFT)	Policy
Capital		Asset	Management		Policy
Disaster			Recovery		Plan
Fund Balance for the General Fund Policy					

It is my recommendation that you adopt Resolution 2020-15 adoption financial policies related to Fraud Risk Management, ACH/Electronic Funds Transfer, Capital Asset Management, Disaster Recovery, and the Fund Balance for the General Fund.

Lynne

RESOLUTION 2020-15
City Council
City of Hart, Michigan
Oceana County

ADOPTING POLICIES RELATED TO FRAUD RISK MANAGEMENT, ACH AND ELECTRONIC TRANSACTIONS, CAPITAL ASSET MANAGEMENT, DISASTER RECOVERY AND FUND BALANCE POLICY FOR GENERAL FUND

WHEREAS, the City of Hart is a home rule city governed by the laws and regulations of the Michigan Home Rule City Act; and

WHEREAS, the Department of Treasury has required that the City adopt certain policies identified in the FY 2018 and FY 2019 audits as deficiencies due to a lack of formal adoption; and

WHEREAS, Maner Costerian the City's auditing firm provided sample policies and the City Attorney has reviewed the policies to ensure that they meet the City's needs while complying with the requirements of generally accepted accounting standards

NOW THEREFORE BE IT RESOLVED THAT THE HART CITY COUNCIL:

Adopts the attached Fraud Risk Management Policy, ACH and Electronic Transactions Policy, Capital Asset Management Policy, Disaster Recovery Policy and Fund Balance Policy for the General Fund

Moved by Mr. Frontiera, supported by Ms. Platt, and thereafter adopted by the Hart City Council at a regular meeting held on Tuesday, February 25, 2020.

Ayes: 6 Nays: 0 Absent: 1

I hereby certify this to be a true and correct copy of the document on file with the office of the City of Hart Clerk.



Cheri Eisenlohr, Deputy Clerk

Memo

To: Mayor and Council
From: Lynne Ladner
Date: 02/21/2020
Re: Res. 2020-16 Adopt Bylaws for HEART

On February 13th, the appointed board held the first meeting of the Hart Economic and Redevelopment Team. During that organizational meeting, the board reviewed the attached bylaws drafted by the City Attorney and adopted for recommendation to the City Council the Bylaws for Hart Economic and Redevelopment Team. As a sub-organization of the City, the final step in their organizational bylaws is adoption by the City Council.

It is my recommendation that the Council adopts Resolution 2020-16 adopting the Bylaws for Hart Economic and Redevelopment Team.

Lynne

RESOLUTION 2020-16
City Council
City of Hart, Michigan
Oceana County

ADOPT BYLAWS FOR THE HART ECONOMIC AND REDEVELOPMENT TEAM

WHEREAS, The Hart Economic and Redevelopment Team (HEART) board held their first official meeting to organize and adopt bylaws on February 13, 2020, and

WHEREAS, they reviewed and adopted for recommendation to the City Council the attached bylaws drafted for the new organization by the City Attorney; and

WHEREAS, as an organization of the City the final step in the adoption process is action by the City Council;

THEREFORE, BE IT RESOLVED, that the City of Hart adopts accepts the recommendation of the HEART board and adopts the Bylaws of Hart Economic and Redevelopment Team.

Moved by Mr. Hegedus, supported by Ms. Platt, and thereafter adopted at the regular City of Hart City Council meeting on February 25, 2020.

Ayes: 5 Nays: 1 (La Fever) Absent: 1

I hereby certify this to be a true and correct copy of the document on file with the office of the

City of Hart Clerk.



Cheri Eisenlohr,
Deputy City Clerk

Memo

To: Mayor and Council
 From: Lynne Ladner
 Date: 02/21/2020
 Re: Res. 2020-17 Authorize sale of public land

In the Fall of 2019, the City acquired 227 E Main St. with the intention of working to redevelop the property. The property includes ownership of all of Lot 5 and Lot 6 and an undivided 1/2 interest in Lot 7 and the east 6 feet of Lot 4, Block 9, City of Hart, Oceana County, Michigan, Section 17, Town 15 North, Range 17 West. The undivided 1/2 interest in Lot 7 is shared with Austin and Brooke Bechtel, who have expressed an interest in purchasing from the City the remaining 1/2 interest in Lot 7.

At the February 11th Council meeting, after Mrs. Bechtel addressed the Council with her request, the Council directed the City Manager to work with Mrs. Bechtel and to take the necessary steps to hold a public hearing on the possible sale of public land. I met with Brooke, and though unfortunately, other items took priority over my continued communication with her over the past two weeks, I was able during that meeting to explain what steps I was going to take to develop a price to recommend to the Council to consider.

The attached spreadsheet shows a breakdown of the costs associated with the City's acquisition of 227 E Main St and the associated lots. This includes the purchase cost, survey cost, all of the environmental assessments and filings, the legal fees, the delinquent utility bills that the city wrote off, and the delinquent property taxes that the City paid as part of the purchase. This brought the total acquisition cost to \$81,233.40. I then calculated the square footage of the property that the city obtained in the purchase, which came to 21,780 sq. ft with a cost of \$3.73/sq. ft to acquire, 1/2 of the sq. ft of lot 7 is 4,356 sq. ft. so if I were to use the square footage of what our half interest in the lot would break down to times the cost/sq. ft to acquire, it could be calculated to say that the City has invested \$16,247.88 in acquiring the 1/2 undivided interest in Lot 7.

While considering the amount that the City has invested in acquiring this property, it is also important to recognize other factors that should be considered in setting a pricing recommendation for the City's interest in Lot 7. Lot 7 is undeveloped and has previously not had permanent structures built on it. Additionally, in the course of completing the environmental assessment for the purchase, which covers all the property, not just the portion of Lot 7, the only issues with contamination existed associated with Lot 7. Based upon these to items, the goal of the council to return property to a productive state which is the purpose of redevelopment it is my recommendation to the Council that they sell the City's 1/2 undivided interest in Lot 7, Block 9, City of Hart, Oceana County, Michigan, Section 17, Town 15 North, Range 17 West for a price between \$10,000 and \$12,000 and that the Council entertain doing the sale as a land contract sale.

Lynne

RESOLUTION 2020-17

City Council
City of Hart, Michigan
Oceana County

AUTHORIZE THE SALE OF PUBLIC LAND IDENTIFIED AS ½ UNDIVIDED INTEREST IN LOT 7, BLOCK 9, CITY OF HART, OCEANA COUNTY, MICHIGAN SECTION 17, TOWN 15 NORTH

WHEREAS, the acquired 227 E Main Street (parcel number 64-020-209-005-00) for the purpose of redevelopment; and

WHEREAS, a ½ undivided interest in Lot 7, Block 9, City of Hart, Oceana County, Michigan Section 17, Town 15 North; was part of that purchase and the adjacent property owners who own the remaining ½ undivided interest in Lot 7 have expressed an interest in purchasing the City's interest enhance their business by providing ownership of off-street parking for their customers rather than a shared interest in the parking property; and

WHEREAS the City recognizes that the sale if the City's interest in this lot furthers the goal of seeing this area redeveloped by taking the first step to redevelop the Lot 7 portion of their purchase;

THEREFORE, BE IT RESOLVED, that the City of Hart authorizes the sale of the ½ interest in Lot 7, Block 9, City of Hart, Oceana County, Michigan Section 17, Town 15 North to Austin and Brooke Bechtel for \$5000.00

Moved by Mr. Frontiera, supported by Mr. La Fever, and thereafter adopted at the regular City of Hart City Council meeting on February 25, 2020.

Ayes: 6 Nays: 0 Absent: 1

I hereby certify this to be a true and correct copy of the document on file with the office of the City of Hart Clerk.



Cheri Eisenlohr,
Deputy City Clerk

Memo

To: Mayor and Council

From: Lynne Ladner

Date: 02/21/2020

Re: Res. 2020-18 Authorize application for Michigan Rural Community Demolition Grant

In the Fall of 2019, the City acquired 227 E Main St. with the intention of working to redevelop the property. The property includes ownership of all of Lot 5 and Lot 6 and an undivided 1/2 interest in Lot 7 and the east 6 feet of Lot 4, Block 9, City of Hart, Oceana County, Michigan, Section 17, Town 15 North, Range 17 West. This property contains the former Walker's restaurant, which though a fixture in the history of the City the structure is in a significantly dilapidated and blighted state. During the week of February 17th, the State Land Bank Authority announced the appropriation of \$250,000 in their annual budget to continue the Michigan Rural Community Demolition Grant program. The grant program provides funding to assist rural communities with projects that meet the criteria of vacant and abandoned blighted commercial or residential structures; I believe that the restaurant building on the 227 E Main property is a good project site and I believe that an application to this program by the City of Hart would

score very well and have a high chance of being funded. If Hart were to receive this grant, it would provide a significant opportunity to essentially leapfrog the 227 E Main parcel several steps ahead on the redevelopment path and make the parcel even more desirable to people interested in building and owning a multi-use property in the downtown area.

I am asking the Council for authorization to take the necessary steps to complete and submit the grant application for the Michigan Rural Communities Demolition Grant 2020 by March 13, 2020, including developing a detailed budget estimate, project timeframes collect letters of support, and all other necessary or recommended documentation as outlined in the grant application requirements as can be seen in the attached State Land Bank document.

It is my recommendation that the Council adopts Resolution 2020-18 authorizing the City Manager to complete and submit an application for the Michigan Rural Community Demolition Grant.

Lynne

RESOLUTION 2020-18
City Council
City of Hart, Michigan
Oceana County

AUTHORIZE THE CITY MANAGER TO COMPLETE AND SUBMIT AN APPLICATION FOR THE MICHIGAN RURAL COMMUNITY DEMOLITION GRANT

WHEREAS, The City acquired 227 E Main Street (parcel number 64-020-209-005-00) for the purpose of redevelopment and the former Walker’s restaurant structure is significantly dilapidated and blighted; and

WHEREAS, State Land Bank Authority announced the appropriation of \$250,000 in their annual budget to continue the Michigan Rural Community Demolition Grant program and if Hart were to receive this grant it will provide a significant opportunity to leapfrog the 227 E Main parcel several steps ahead on the redevelopment path and make the parcel even more desirable to people interested in building and owning a multi-use property in the downtown area; and

WHEREAS the City recognizes that seeking to partner with organizations such as the State Land Bank and the MEDC through the RRC program will allow for a larger pool of resources to assist with the redevelopment of this property.

THEREFORE, BE IT RESOLVED, that the City of Hart authorizes the City Manager to complete and submit an application for the Michigan Rural Community Demolition Grant.

Moved by Ms. Burillo, supported by Mr. La Fever, and thereafter adopted at the regular City of Hart City Council meeting on February 25, 2020.

Ayes: 6 Nays: 0 Absent: 1

I hereby certify this to be a true and correct copy of the document on file with the office of the City of Hart Clerk.



Cheri Eisenlohr,
Deputy City Clerk

Memo
 To: Mayor and Council
 From: Lynne Ladner
 Date: 02/21/2020
 Re: Res. 2020-19 Adopt Traffic Control Order #315

The DPW Department received correspondence from a resident concerned with the increase in traffic at the intersection of Mason Ave and Hilltop Dr about the lack of traffic control devices to provide for the safety and welfare of travelers. Brad brought this concern to Chief Salazar, and after a drive-by verification, it was determined that the intersection was in need of a traffic control device.

Chief Salazar is recommending that a stop sign be erected on the North / West corner of the intersection of Mason Ave and Hilltop Dr. to avoid any collisions of a vehicle(s) failing to stop for oncoming traffic and has written that recommendation into a traffic control order.

It is my recommendation that the Council adopts Resolution 2020-19 Adopting Traffic Control Order #315, which will erect a stop sign on the North / West corner of the intersection of Mason Ave and Hilltop Dr.

Lynne

RESOLUTION 2020-19
City Council
City of Hart, Michigan
Oceana County

**ADOPT TRAFFIC CONTROL ORDER #315 TO ERECT A STOP SIGN ON THE NORTH/WEST
 CORNER OF THE INTERSECTION OF MASON AVENUE AND HILLTOP DRIVE**

WHEREAS, The City of Hart Police Department have reviewed the road width, and traffic patterns on Mason Avenue and Hilltop Drive, and

WHEREAS, the recent construction has highlighted the lack of traffic control signage at the intersection of Mason Avenue and Hilltop Drive and

WHEREAS, to avoid any collisions of vehicle(s) failing to stop for oncoming traffic

THEREFORE, BE IT RESOLVED, that the City of Hart adopts Traffic Control Order #315 Erecting a Stop Sign on the North / West corner of the intersection of Mason Avenue and Hilltop Drive.

Moved by Ms. Platt, supported by Mr. La Fever, and thereafter adopted at the regular City of Hart City Council meeting on February 25, 2020.

Ayes: 6 Nays: 0 Absent: 1

I hereby certify this to be a true and correct copy of the document on file with the office of the City of Hart Clerk.



Cheri Eisenlohr,
 Deputy City Clerk

Memo

To: Mayor and Council
 From: Lynne Ladner
 Date: 02/21/2020
 Re: First reading Ordinance authorizing and regulating off-road vehicles and golf carts on city streets.

Early this fall, it was presented to the Council the question as to whether the City would entertain the idea of authorizing ORVs and golf carts on city streets. At the time, the Council felt that it was a question that they would like to receive public input on, so they have referred the matter to the Planning Commission.

The Planning Commission at their January 2020 meeting held a public hearing and a subsequent discussion on the issue. There was input from the public both in person and submitted in writing. As this was not an issue that could be addressed through zoning, the board voted to submit the draft ordinance and accompanying resolution to the Council with no recommendation.

Before the Council, this evening for first reading is the ordinance that would authorize and regulate the operation of off-road vehicles on city streets. At this point, the council can amend the ordinance as presented, accept the ordinance as presented and direct the City Manager to place it on the next agenda for 2nd reading or chose to take no more action

Lynne

**CITY OF HART
 COUNTY OF OCEANA
 STATE OF MICHIGAN**

Ordinance No. _____

ORV ORDINANCE

AN ORDINANCE AUTHORIZING AND REGULATING THE OPERATION OF OFF-ROAD VEHICLES (ORVs) ON CITY STREETS, , OCEANA COUNTY, MICHIGAN, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND FOR THE DISTRIBUTION OF FINES AND COSTS RESULTING FROM THOSE PENALTIES PURSUANT TO 2009 PA 175, MCL 324.81131.

THE CITY OF HART ORDAINS:

Section 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- a. "Direct Supervision" means the direct visual observation of the operator with the unaided or normally correct eye, where the observer is able to come to the immediate aid of the operator.
- b. "Driver's License" means any driving privileges, license, temporary instruction permit or temporary license issued under the laws of any state, territory or possession of the United States, Indian country as defined in 18 USC 1151, the District of Columbia, and the Dominion of Canada pertaining to the licensing of persons to operate motor vehicles.
- c. "Maintained Portion" means that portion of road, improved, designated, and/or ordinarily used for vehicular traffic, including the gravel shoulder or paved shoulder of the road.
- d. "Operate" means to ride in or on and be in actual physical control of the operation of an ORV/ATV.
- e. "Operator" means a person who operates or is in actual physical control of the operation of an ORV/ATV.
- f. "ORV" or, unless the context implies a different meaning, A vehicle means a motor-driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. A multitrack or multiwheel drive vehicle, a motorcycle or related 2-wheel vehicle, a vehicle with 4 or more wheels, a golf cart, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation may be an ORV. An ATV is an ORV. "ORV" or "vehicle" does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a

utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft. An "ORV" does not include a three-wheeler, dune buggy, or a sandrail.

- "
- g. "Safety Certificate" means a certificate issued pursuant to 1994 PA 451, as amended, MCL 324.1129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
 - h. "Street" means a city major street or city local street as described in section 9 of 1951 PA 51, MCL 247.659, or a segment thereof.
 - i. "City" means the City of Hart.

Section 2. Operation of ORVs on City Streets. An individual may operate an ORV on all streets located within the City provided that the ORV is operated only with the flow of traffic, on the far right of the maintained portion, of the road, subject to the following regulations:

- a. A person shall not operate an ORV at a speed greater than 25 miles per hour, or a lower posted ORV speed limit or in a manner that interferes with traffic on the road or street.
- b. ORVs shall travel single file, except when passing or being passed by another ORV.
- c. All ORVs operating shall display a lighted headlight and taillight when equipped.
- d. Unless a person possesses a driver's license, a person shall not operate an ORV on a road or street if the ORV is registered as a motor vehicle under the Michigan Vehicle Code and the ORV is either more than 65 inches wide or has three wheels.
- e. A person under the age of 12 shall not operate an ORV on a street.
- f. A person under the age of 18 shall not operate an ORV on a road or street unless the person is in possession of a valid driver's license or is under the direct supervision of a parent or guardian and the person has in his or her possession an ORV safety certificate issued by Michigan or another state or province of Canada.
- g. All operators must, upon demand by a law enforcement officer, present either an ORV safety certificate or driver's license.
- h. An owner or person in control or charge of an ORV shall not allow an ORV to be operated by an individual who is incompetent to operate a vehicle because of a mental or physical disability.
- i. A child less than 16 years of age shall not operate a 3-wheeled ORV or ATV.
- j. A person shall not operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner having undue regard for conditions.
- k. A person shall not operate or ride on an ORV unless they are wearing on their head a helmet and protective eyewear approved by the United States Department of Transportation. This section does not apply if the ORV is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.
- l. A person shall not operate an ORV during the hours of 1/2 hour before sunset and 1/2 hour after sunrise without a working brake light that is brighter than the taillight.
- m. All ORVs shall conform to the noise emission levels established by the United States Environmental Protection Agency under the Noise Control Act of 1972, 42 USC 4901 to 4918.
- n. No person who is an operator or passenger on an ORV shall transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken.
- o. An ORV shall be equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- p. An ORV shall otherwise be operated in full compliance with all applicable provisions of state law, including, but not limited to, Part 811 of the Natural Resources and Environmental Protection Act, MCL 324.81101, et seq.
- q. An ORV shall not be operated upon any portion of a state highway unless specifically authorized by the Michigan Department of Transportation pursuant to MCL 324.81131(6) and (7).
- r. An ORV shall not be operated upon any portion of a freeway.

- s. The operation of three-wheels, dune buggies, and/or sandrails on roads or streets within the City is prohibited under this Ordinance.

Section 3. Careless or Reckless Operation. In a court action in this state where competent evidence demonstrates that a vehicle permitted to be operated on a street or highway pursuant to the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, is involved in a collision with an ORV, the operator of the ORV involved in the collision shall be considered prima facie negligent.

Section 4. Operation of ORV by Child. A parent or guardian of a child less than 16 years of age shall not permit or allow the child to violate any provision of this Ordinance.

Section 5. Enforcement.

- a. A violation of this Ordinance is a municipal civil infraction, and a person responsible for a civil infraction under this Ordinance shall pay a fine of not less than \$175.00 nor more than \$500.00 plus costs and actual reasonable attorney fees incurred by the City in enforcing this Ordinance. In addition, the Court may order the defendant to pay the cost of repairing any damage to the environment, a road, street or public property damaged as a result of the violation.
- b. Officers, deputies, members, and/or agents of the City of Hart Police Department are authorized to enforce this Ordinance and to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in Court.
- c. The City Treasurer shall deposit fines and costs collected under this Ordinance under the applicable provisions of the Revised Judicature Act, MCL 600.8379, into a fund designated as the ORV Fund.
- d. The City Treasurer shall appropriate revenue in the ORV Fund as follows:
 - i. Fifty percent to the City of Hart Department of Public Works and Streets for repairing damage to streets and the environment that may have been caused by ORVs, and for posting signs indicating ORV speed limits or indicating whether streets are open or closed to the operation of ORVs.
 - ii. Fifty percent to the City of Hart Police Department for ORV enforcement and training.

Section 6. Master Map. The City shall maintain a master map that conspicuously indicates those roads, streets and highways and parts or sections thereof where the operation of ORVs is permitted and prohibited pursuant to this Ordinance. The City shall make such master map available to the public. Nothing in this section requires the City to bear the costs or expenses associated with distributing copies of the map to the public.

Section 7. Severability. If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance, which shall be given effect without the invalid portion or application.

Section 8. Effective Date. This Ordinance shall take effect and be in force upon the expiration of 10 days of the date when the notice of adoption of this Ordinance is published in a newspaper of general circulation with the City. This Ordinance and any attached documents shall be codified, edited for typos and grammatical errors, and enumerated in accordance with the codification procedure of the City.

AYES: Members: _____.

NAYS: Members: _____.

ABSENT: Members: _____.

ORDINANCE DECLARED ADOPTED.

We, Cheryl Rabe, City of Hart Clerk, and Ron LaPorte, City of Hart Mayor, do hereby certify that the above and foregoing Ordinance, known as Ordinance No. _____ of the City of Hart, Michigan, was introduced and passed at a regular meeting of the City Council, held on _____, 2020, by an affirmative vote of the majority of the City Council members.

Date: _____, 2020 _____
Cheryl Rabe, Clerk

Date: _____, 2020 _____
Ron LaPorte, Mayor

- No action was taken at this time, as this is the first reading of the ordinance.

SPECIAL EVENTS PERMITS:

- None

DISCUSSION ITEMS:

- None

CITY ATTORNEY'S REPORT:

- No report was given.

CITY MANAGER'S REPORT:

- Ms. Ladner was in communication with the staff at USDA Rural Development in their community facilities program; they are interested in assisting the City with providing the loan and additional grant funding for the City portion of the Veterans Park and Pointe Park and the soil erosion improvement needed at the dam. The next step would be for Prein and Newhof to obtain cost estimates and to choose an entity for bond counsel. The City has used Miller Canfield in the past but can now use Mika Meyers. The Council decided to use Mika Meyers.

CLOSED SESSION:

- Mcl 15.268 Sec. 8 (h) To consider material exempt from discussion or disclosure by state or federal statute discussion regarding the City Attorney's written legal opinion concerning tolling agreement.
 - The closed session was entered at 9:08 pm by a motion made by Ms. Platt, supported by Mr. La Fever, all ayes, the motion carried.
 - Council returned to open session at 9:27 pm by a motion made by Ms. Platt, supported by Mr. La Fever, all ayes, the motion carried.
 - Ms. Platt made a motion to approve suspending the tolling agreement and no other action to be taken at this time, supported by Mr. La Fever.
 - Ayes: 5 Nays: 1 (Frontiera) Absent: 1

COMMUNICATIONS FROM THE MAYOR AND COUNCIL:

- Mr. Frontiera stressed the need to follow the City's bidding policy.

There being no further business to come before the Council, the meeting adjourned at 9:28 p.m., upon motion by Mr. Frontiera and supported by Ms. Platt. The next regularly scheduled meeting will be on March 10, 2020, at 7:30 pm.

Respectfully Submitted

Cheri Esentabz

Deputy City Clerk