



**CITY OF HART
407 S. STATE ST.
HART, MI 49420
COUNCIL PROCEEDINGS
MARCH 10, 2019, 7:30 P.M.
MINUTES - APPROVED**

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

ABSENT:

OTHERS PRESENT: Energy Department Superintendent – Mike Schiller, BioPure Superintendent – Paul Cutter, Police Chief – Juan Salazar, DPW Superintendent – Brad Whitney, City Manager – Lynne Ladner, and Deputy City Clerk - Cheri Eisenlohr.

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.

AGENDA:

- Mr. Hegedus made a motion to approve the agenda, supported by Mr. La Fever, the motion carried.
 - Ayes: 7 Nays: 0 Absent: 0

MINUTES:

- Ms. Platt made a motion to approve the minutes of February 25, 2020, meeting, supported by Ms. Burillo, the motion carried.
 - Ayes: 7 Nays: 0 Absent: 0

PUBLIC COMMENTS, CORRESPONDENCE, EVENTS, PRESENTATIONS:

- Mr. Sadler will address the ORV resolution when it is brought before the Council.

DEPARTMENT REPORTS:

- Police Chief, Juan Salazar:
 - "The department recently partnered with Rite Aid to become an official drug disposal site for old and unused medication. Through a grant, Rite Aid has donated a drug drop off container to the department. The container has been installed within the lobby of the department. If anyone has any old and unused medication and are looking for a safe way of disposing of the medication, we encourage them to use this container."
 - "On Wednesday, February 19th, St. Skipski began instructing the T.E.A.M. program (Teaching, Educating And Mentoring) to the Hart Middle School 5th-grade students. T.E.A.M. is a school-based law-related education program taught by specially trained officers. Unlawful and youthful risk-taking behavior is addressed in this program, with lessons on the laws and consequences that commonly affect students. The Hart Police Department has been teaching the T.E.A.M. program to the 5th-grade students at HMS for the past 12 years. Both students and teachers have found the program to be rewarding in every aspect and continue to show their support for the program".
- Energy Dept. Superintendent, Mike Schiller:
 - Poles are being replaced on State St., Frontier, and Charter will need to move their lines.
 - The Lake Project: the remain transmission lines are now down.
 - Annual testing will soon be taking place on trucks.
 - An arborist from Oceana Conservation District has stated that the trees planted downtown are not the right kind of trees for the area as they want to grow to be 60' tall. There are grants available to purchase different trees. Mr. Whitney reminded the Council that along

with replacing trees, the sidewalks would need to be replaced as they would be damaged, removing the existing trees.

- The current trees are a variety of Locust and were planted in 1986.
- There is a large variety of trees species that could be planted.
- The recent thaw has caused a lot of water to run through the waste-gates at the dam.
- Custom Tree is half-way done with the tree removal at John Gurney Park.
- BioPure Superintendent, Paul Cutter:
 - Seneca Foods is open to a tour on March 24. An email will be sent out with further information.
- DPW Superintendent, Brad Whitney:
 - Spring work is commencing.
 - Gravel roads are still too wet to grade.
 - Cold patching is being done.
 - Work on the wells, a leak on the water tower was repaired.
 - The old DPW building has been removed, and the ground leveled off. Fencing options are being discussed at this time.
 - Trees are being trimmed.
 - Street sweeping will be started soon.

BILLS, CLAIMS, & PAYROLL:

- Bills: \$248,384.07 Payroll: \$56,089.05 Grand Total: \$304,473.12
 - Mr. Splane made a motion to approve, supported by Ms. Platt, the motion carried.
 - Ayes: 7 Nays: 0 Absent: 0

ACTION ITEMS:

Ms. Ladner addressed the following Action Items:

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

**Ordinance No. 2020-01
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.

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- 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:

- j. 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.
- k. ORVs shall travel single file, except when passing or being passed by another ORV.
- l. All ORVs operating shall display a lighted headlight and taillight when equipped.
- m. 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.
- n. A person under the age of 12 shall not operate an ORV on a street.
- o. 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.
- p. All operators must, upon demand by a law enforcement officer, present either an ORV safety certificate or driver's license.
- q. 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.
- r. A child less than 16 years of age shall not operate a 3-wheeled ORV or ATV.
- s. 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.
- t. 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.
- u. 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.
- v. 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.
- w. 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.
- x. An ORV shall be equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- y. 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.

- z. 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).
- aa. An ORV shall not be operated upon any portion of a freeway.
- bb. 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.

- cc. 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.
- dd. 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.
- ee. 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.
- ff. 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: Burillo, Frontiera, Hegedus, LaPorte, La Fever, Platt and Splane
 NAYS: Members: 0

ABSENT: Members: 0

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. 2020-01 of the City of Hart, Michigan, was introduced and passed at a regular meeting of the City Council, held on March 10, 2020, by an affirmative vote of the majority of the City Council members.

Date: March 10, 2020

 Cheryl Rabe, Clerk

Date: March 10, 2020

 Ron LaPorte, Mayor

First Reading: February 25, 2020
Second Reading: March 11, 2020
Publication: March 19, 2020
Effective Date: Ten days after publication

Discussion:

- Mr. Sadler stated that he had talked to the City of Ludington and said that Ludington hadn't had any issues with allowing ORV.
- Sheriff Mast stated that many other communities had passed the ordinance. He neither supports nor opposes the ordinance.
- Mr. Cutter asked about insurance and was told that Michigan is a no-fault state.
- Mr. Frontiera was concerned about the noise factor – sections of the ordinance address the noise factor.
- Mr. Splane wanted to make sure that the ordinance could be rescinded and was assured that it could be.

**CITY OF HART
COUNTY OF OCEANA
STATE OF MICHIGAN
RESOLUTION 2020 -20
Authorization of Golf Carts on City Streets**

WHEREAS, Public Act 491 of 2014 amended Public Act 300 of 1949, commonly known as the Michigan Vehicle Code, being MCL 257.1 through MCL 257.923; and,

WHEREAS, Public Act 491 of 2014 created a new section to the Michigan Vehicle Code which allows for the limited and regulated use of Golf Carts on public streets and highways which is found at MCL 257.657a; and,

WHEREAS, under the amended Michigan Vehicle Code, local units of government may allow for the limited and regulated use of Golf Carts on their streets and highways under the terms and conditions specified in MCL 257.657a via the adoption of a Resolution; and,

WHEREAS, the City of Hart desires to allow for the limited use of Golf Carts on its streets and highways as permitted and regulated by MCL 257.657a; and,

NOW THEREFORE BE IT RESOLVED: that under the conditions contained in Michigan Vehicle Code, as amended, being MCL 257.657a, the City of Hart does hereby allow for the use of Golf Carts on the streets and highways of the City of Hart which conform to the requirements of Public Act 491 of 2014; and,

NOW THEREFORE BE IT FURTHER RESOLVED: the City of Hart reserves the right to rescind this Resolution if, in the future, it is determined that the limited and regulated use of Golf Carts on the City's streets and highways has become a safety hazard or is deemed to be a nuisance.

Moved by Mr. Splane, supported by Ms. Platt, and thereafter adopted at the regular City of Hart City Council meeting on March 10, 2020.

Ayes: 7 Nays: 0 Absent: 0

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

**CITY OF HART
RESOLUTION 2020-21
CONVEYANCE OF ASSETS AND PROPERTY OF HART MAIN STREET PROGRAM TO THE CITY
OF HART**

WHEREAS, on May 10, 2016, the City Council adopted a resolution (Resolution No. 16-27) to ratify an amendment to the Bylaws of the Hart Main Street Board (the "Bylaws") to provide that, upon dissolution of the Hart Main Street Program, all assets, and real and personal property, are to revert back to the City of Hart; and

WHEREAS, by prior action of the Hart City Council, the City ended participation in the Main Street Program and dissolved the Hart Main Street Board;

NOW, THEREFORE, BE IT RESOLVED,

That in accordance with the Bylaws and City Council Resolution No. 16-27, and as a result of the dissolution of the Main Street Program and the Hart Main Street Board:

(a) All assets, and real and personal property held by or in the name of the Hart Main Street Program shall revert back to the City of Hart and all such assets are hereby accepted by the City of Hart and declared to be property of the City of Hart; and

(b) The City Manager is hereby authorized and directed to take any and all actions as are deemed necessary to effect the conveyance and transfer of such assets to the City including, but not limited to, entering into necessary agreements and/or executing necessary documents or certificates with respect to the transfer and conveyance of such assets to the City.

Moved by Ms. Platt and seconded by Mr. Frontiera and thereafter adopted by the Hart City Council at a regularly scheduled Council meeting held on Tuesday, March 10, 2020 at 7:30 p.m.

Ayes 7 Nays 0 Absent 0

STATE OF MICHIGAN)

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COUNTY OF OCEANA)

I, the undersigned, the duly qualified and elected Clerk of the City of Hart, Oceana County, Michigan, do hereby certify that the foregoing is a true and complete copy of the resolution enacted by the Hart City Council at a regular meeting held on the 10th day of March, 2020, the original of which is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this 10th day of March 2020.

Cheryl Rabe, City Clerk

SPECIAL EVENTS PERMITS:

- None

DISCUSSION ITEMS:

- None

CITY ATTORNEY'S REPORT:

- No report was given/provided.

CITY MANAGER'S REPORT:


- Ms. Ladner has sent out the Demo Permit for review and is requesting letters of support from the business community to support the demo of the old Walker's restaurant building.
- Trust Fund Grant application is due by midnight on April 1; a public hearing will be held at the next meeting; letters of support are being sought.
- An email was sent out at the end of February advising the Council of the hiring of Nichole Steel for the directorship of the HEART program; she starts on Monday, March 17, 2020.
- Save the Date calendar invites were sent out regarding the Redevelopment Ready ceremony to be held on May 8th, at 3:00 pm, a "meet and greet" for Nichole, and the HEART program will be held in conjunction.
- In June, the MPPA is starting to hold their board meetings at different sites – the Junes meeting will be Sebewaing. They will be doing system tours.
- Splane – traffic order on Griswold, do we need to put up no parking signs as the control order is in place? No more are needed at this time. County services created a secondary parking lot that alleviated the street side parking.

COMMUNICATIONS FROM THE MAYOR AND COUNCIL:

- Vicki Platt thanked Tractor Supply for her invite to their grand opening.

There being no further business to come before the Council, the meeting adjourned at 8:22 p.m., upon motion by Mr. Hegedus and supported by Mr. Splane. The next regularly scheduled meeting will be on March 24, 2020, at 7:30 p.m.

Respectfully Submitted



Deputy City Clerk