



**CITY OF HART
407 S. STATE ST.
HART, MI 49420
COUNCIL PROCEEDINGS
April 12th, 2022
MINUTES – Approved**

PRESENT: Mayor Vicki Platt, Councilors: Catalina Burillo, Jim Evans, Dean Hodges, Amanda Klotz, and Kris Trygstad

ABSENT: Fred Rybarz

OTHERS PRESENT: City Manager – Rob Splane, City Clerk – Karla Swihart, BioPure Superintendent – Paul Cutter, Energy Superintendent – Mike Schiller, Hart Police Chief – Juan Salazar, H.E.A.R.T Director Nicole Kleiner, Craig Hardy, Amy Trudell, and Bill Volpp

Mayor Platt called the meeting to order; following the roll call, the mayor led the Council in the pledge of allegiance.

APPROVAL OF AGENDA:

- C. Burillo motioned to approve the agenda and was supported by J. Evans
 - Ayes: 6 Nays: 0 Absent: 1

PUBLIC COMMENTS: County Commissioner Craig Hardy from District 3, wanted to speak about the ARPA funds that the County received, to apply for the Grant just go to our website Oceana.Gov.Mi/ARP that will pull up the form needed to be filled out.

CORRESPONDENCE, EVENTS, PRESENTATIONS:

- Hart Area Fire Department Annual Budget communication
- MMEA Spring General Membership Meeting will be held at Fredrick Meijer Gardens on May 20th. City Manger Splane will be attending, and this is also offered to Planning Commission Members as well as Council which are encouraged to attend.

CONSENT AGENDA:

- Approval of minutes from March 22nd, 2022.
- Bills, Claims, Payroll
- Reports of Boards, Commissions, and Committees
- Department Reports – Police/BioPure/Public Works/Energy/C&E Dvlp
 - C. Burillo motioned to approve Consent Agenda supported by J. Evans
 - Ayes: 6 Nays: 0 Absent: 1

ACTION ITEMS:

- Resolution 2022-16 Michigan Department of Transportation Performance Resolution 2207B
This Performance Resolution (Resolution) is required by the Michigan Department of Transportation for purposes of issuing to a Municipality an “Individual Permit for Use of State Highway Right of Way”. And/or an “Annual Application and Permit for Miscellaneous Operations within State Highway Right of Way”.
RESOLVED WHEREAS, the City of Hart hereinafter referred to as the “MUNICIPALITY,” periodically applies to the Michigan Department of Transportation, hereinafter referred to as the “DEPARTMENT,” for permits, referred to as “PERMIT,” to construct, operate, use and/or maintain utilities or other facilities, or to conduct other activities, on, over, and under State Highway Right of Way at various location within and adjacent to its corporate limits.
NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the MUNICIPALITY agrees that:
 1. Each party to this Resolution shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Resolution, as provided by law. This Resolution is not intended to increase either party’s liability for, or immunity from, tort claims, nor shall it be

interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.

2. If any of the work performed for the MUNICIPALITY is performed by a contractor, the MUNICIPALITY shall require its contractor to hold harmless, indemnify and defend in litigation, the State of Michigan, the DEPARTMENT and their agents and employee's, against any claims for damages to the public or private property and for injuries to person arising out of the performance of the work, except for claims that result from the sole negligence or willful acts of the DEPARTMENT, until the contractor achieves final acceptance of the MUNICIPALITY Failure of the MUNICIPALITY to require its contractor to indemnify the DEPARTMENT, as set forth above, shall be considered a breach of its duties to the DEPARTMENT.
3. Any work performed for the MUNICIPALITY by a contractor or subcontractor will be solely as a contractor for the MUNICIPALITY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the MUNICIPALITY, or their subcontractors or any other person not a party to the PERMIT without the DEPARTMENT'S specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the MUNICIPALITY.
4. The MUNICIPALITY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by the way of limitation, a judgment for money damages.
5. The MUNICIPALITY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or maintenance of the MUNICIPALITY'S facilities according to a PERMIT issued by the DEPARTMENT.
6. With respect to any activities authorized by a PERMIT, when the MUNICIPALITY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.
7. The incorporation by the DEPARTMENT of this Resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.
8. This Resolution shall continue in force from this date until cancelled by the MUNICIPALITY or the DEPARTMENT with no less than thirty (30) days prior written notice provided to the other party. It will not be cancelled or otherwise terminated by the MUNICIPALITY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the MUNICIPALITY.

Title and/or Name:

- City Manager
- City Clerk/Treasurer

- Deputy City Clerk/Treasurer
- Hart Energy Superintendent
- Hart DPW Superintendent
- Hart BioPure Superintendent
 - J. Evans motioned to approve Resolution 2022-16 and supported by A. Klotz
 - Ayes: 6 Nays: 0 Absent: 1

DISCUSSION ITEMS:

- Special Events Permit – Hart Sparks
- 2019 Marijuana Ordinance review

CITY OF HART COUNTY OF OCEANA, MICHIGAN At a regular meeting of the City Council of the City of Hart, held at the City Hall, 407 State Street, within the City, on the 8th day of October, 2019, at 7:30 p.m. PRESENT: Members: LaPorte, Frontiera, Hegedus, Martin, Platt and Splane ABSENT: Members: La Fever The following preamble and ordinance were offered by Member Hegedus and supported by Member Ms. Platt: ORDINANCE NO. 19-03 AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF HART BY DELETING THE PROVISIONS OF ORDINANCE NO. 18-06 AND ORDINANCE NO. 18-07 AND REPLACING THOSE PROVISIONS WITH THE FOLLOWING PROVISIONS WHICH SHALL NOW COMPRISE ALL OF CHAPTER 818 TO PART 8 – THE BUSINESS REGULATION AND TAXATION CODE, TITLE II THE CITY OF HART ORDAINS: Section 1. Repeal of Ordinances 18-06 and 18-07. Ordinances 18-06 and 18-07, intended to create Chapter 818 “Prohibition of Marihuana Establishments” and to add to the City ordinances prohibitions on sale and consumption of marihuana in public places, and to amend Part 10, Title VI, Chapter 1068 “Prohibitions on Sale and Consumption of Marihuana in Public Places” are hereby repealed and replaced in their entirety by the following provisions, which shall be included in Part 8 Business Regulation and Taxation Code. The provisions shall comprise Chapter 818 and shall read in their entirety as follows: CHAPTER 818 REGULATION OF MARIHUANA BUSINESSES, SALE, POSSESSION AND CONSUMPTION 818.01 Prohibition on Recreational Marihuana Establishments. Any and all types of a “marihuana establishment,” as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act, are completely prohibited in the City and may not be established or operated in any zoning district, by any means, including by way of a variance. The City of Hart has determined that the licensing of marihuana facilities or establishments within the City should not be permitted for policy reasons, including public safety, law enforcement concerns and the limited amount of appropriately zoned space for certain of these facilities and establishments. Pursuant to this ordinance, the City specifically prohibits, and does not in any way authorize, the issuance of licenses authorizing State-licensed marihuana facilities or establishments to locate and operate within the City. This prohibition shall also include all marihuana establishment licenses and activities established by rules promulgated under the Initiated Law 1 or associated statutes. The Zoning Board of Appeals shall not have jurisdiction to consider a use variance that would allow the licensing or operation of a marihuana establishment. 818.02 Medical Marihuana Facilities Prohibited. Public Act 281 of 2016 provided for State licensing of certain defined marihuana facilities, including growers, processors, provisioning centers, safety compliance facilities and secure transporters (“marihuana facilities”). Section 205 of Act 281 provides that a marihuana facility shall not operate in a municipality unless the municipality has adopted an ordinance that authorizes that type of facility. Pursuant to this ordinance, the City specifically prohibits, and does not in any way authorize, the issuance of licenses authorizing State-licensed marihuana facilities or establishments to locate and operate within the City. This prohibition shall also include all marihuana establishment licenses and activities established by rules promulgated under the Initiated Law 1 or associated statutes. The Zoning Board of Appeals shall not have jurisdiction to consider a use variance that would allow the licensing or operation of a marihuana facility, and unless this ordinance is amended, nothing in the ordinances of the City of Hart shall be construed as satisfying the requirement in Section MCL 333.27205(1)(a), which requires that prior to issuance of a license, a copy of the local ordinance authorizing a marihuana facility be submitted to the State of Michigan. 818.03 Medical Marihuana Rights Not Affected.

Nothing in this Chapter shall limit any privileges, rights, immunities, or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq. 818.04 Transportation and Other Rights not Affected. This section shall not limit or supersede any privileges, rights, immunities or defenses of a person to transport marihuana into or through the City to the extent such right is protected by the Michigan Regulation and Taxation of Marihuana Act or other state laws, nor does it supersede rights and obligations with respect to the transfer and consumption of marihuana on private property to the extent authorized by the person who owns, occupies or operates such property, as provided in and authorized by the Act. This ordinance does not supersede rights and obligations with respect to the use of marihuana for medical purposes as provided by any law of the State of Michigan allowing for or regulating marihuana for medical use. 818.05 Use or Possession of Marihuana on City Property is Prohibited. No person shall possess, use, be impaired by or distribute marihuana on City property. 818.06 Prohibition on Sale and Consumption of Marihuana in Public Places. In conformance with Sections 4.1(e) and 6.2(b) of the Michigan Regulation and Taxation of Marihuana Act, the sale, possession, or consumption of marihuana in any form, the smoking of marihuana, and the sale or display of marihuana accessories, as defined by the Act, is prohibited in any public place within the boundaries of the City. 818.07 Municipal Civil Infraction. Any person who violates any of the provisions of this Chapter 818 shall be responsible for a municipal civil infraction punishable by a civil fine of \$500, plus court-imposed costs. 818.08 Automatic Expiration of Ordinance. Unless confirmed, extended, or revised within three (3) years of the effective date of this ordinance, the provisions contained in Sections 818.01 through 818.07 shall expire and be of no further force and effect within the City, as if they had never been adopted. No action shall be required for this expiration to be effective. Section 2. Conflict and Repeal. All ordinances or parts of ordinances in conflict with this ordinance are repealed. Section 3. Publication; Effective Date. This ordinance shall become effective ten (10) days after its publication or ten (10) days after publication of a summary of its provisions in a local newspaper of general circulation in the City of Hart. ORDINANCE DECLARED ADOPTED. _____ Ron LaPorte, Mayor Dated: October 8, 2019. _____ Cheryl Rabe, City Clerk City of Hart CERTIFICATION I, the undersigned duly appointed City Clerk of the City of Hart, Oceana County, Michigan, do hereby certify that the above ordinance, or a summary thereof, was published in the Oceana’s Herald-Journal, a newspaper of general circulation in the City, on September 19, 2019, and that such ordinance was entered with the Ordinance Book of the City on October 8, 2019. Dated: October 8, 2019. _____ Cheryl Rabe, City Clerk City of Hart 02633463 1 4 CITY OF HART, OCEANA COUNTY, MICHIGAN Councilmember Hegedus, supported by Councilmember Platt, moved the adoption of the ordinance. Ayes: 6 Nays: 0 Absent:1 First reading: September 24, 2019, Second reading: October 8, 2019 Ordinance becomes effective: _October 19, 2019

- A. Klotz motioned to review Ordinance No. 19-03 in two (2) years and supported by K. Trygstad.
 - Ayes: 6 Nays: 0 Absent: 1

- Downtown street scape planning and tree removal
 April 7th, 2022
 RE: Tree trimming and tree removal – Downtown business district
 Mayor Platt and distinguished council members,
 As the weather continues to improve, we are planning summer tree trimming along State Street and Main Street in our core business area. Per our previous discussions, the trees that currently occupy sidewalk space downtown are not appropriate for their current use and require trimming every other year.
 The TIFA board continues to plan for a street scape project that will include public input and require council approval. The City is working to align the street scape project with sidewalk and street work, including the replacement of water service lines per State mandate.
 Due to the trees needing trimming this year, it would be an efficiency measure to begin some tree removal to parallel the trimming. I would propose that the City Council authorize the removal of up to 50% of the trees

along State Street from Lincoln to State Street and on State Street from Hart to Courtland. There are currently 50 trees in this area. Any tree to be cut down would require permission from the adjacent business/property owner. This will continue to build the Cities relationship with our business community, while helping the City to prepare for the Street Scape Project and envision new greenspace with that project. Many business owners have indicated their desire to remove the trees to allow for better visibility of their business/signage while removing the presence of debris that falls from the trees throughout the season.

Positive benefits of this will include expanded sidewalk space for public gathering, labor savings, and an opportunity to see areas as a "blank slate" for Street Scape visioning. Due to the nature of the trees being planted in the sidewalk full removal would be difficult. Pulling the trees would certainly damage the sidewalk and stump grinding would be difficult or impossible in some locations. As a potential opportunity, community members who are involved in a new art initiative named. The H-Art Project, would welcome this as an opportunity to create some art from the remaining stumps. They envision repurposing them as stools, pub height tables, checker boards, and other artful expressions.

- TIFA – Review planning activities and public response to restated plan, With the new TIFA plan approved the TIFA board got push back only from the OCCOA, which the TIFA board is willing to work with and encouraged them to present a plan in order to reduce the amount of capture and bring to the May meeting.

Top Projects for TIFA is the CERES Property, and the Walkers Property which they are supporting the match needed for Grants they will be receiving to help renovate these property's.

CITY MANAGER'S REPORT:

- City Manager R. Splane gave copy of manager's report to City Council
- City Halls closed on Thursday April 14th,2022 for maintenance and Friday April 15th,2022 for Good Friday Holiday
- Budget work is in progress, City Council will be given a full review of the proposed 2023 City budget with ample opportunity for discussion on May 10th. A Public Hearing on the budget will take place on May 24th with budget adoption by Council on June 14th.
- City Union Contract Negotiations will be Wednesday April 20th, 2022
- Hart Hills Bike Race Saturday – Adult races start and end at Hart Pizza at 10am, more information can be found at harthills.com
- Hart/ Silver Lake Easter Egg Hunt Saturday at Fair grounds line-up start 11:30am.
- Earth Day celebration at Fairgrounds 9am-1pm during the Oceana Conservation District Tree Sale
- Wigton Street construction in full swing, so far going as planned.
- Roads and sidewalks being surveyed. Summer sidewalk replacement and road patch work will be bid in May.
- Tree trimming north of State Street Bridge and along Russell Creek/ Chippewa Creek to take place in tandem with new City tree planting around our waterways.
- Corazon is a 10- week-old Australian Shepard rescue dog from Oceana County Animal Shelter. Little Cora would like to help stimulate community spirit as a City of Hart Mascot. The Australian Shepard is a breed of working dog developed in the United States in the 19th century. Welcome Cora!!

COMMUNICATIONS FROM THE MAYOR AND COUNCIL:

- Mayor Platt and City Manager Splane are going to the MRD (Michigan Rural Development) meeting, along with, Nicole who wrote a grant and City of Hart was in the top 10. So, we are working hard on trying to get the Tinman to Hart.

ADJOURN:

- There being no further business to come before the Council, the meeting adjourned at 8:30pm upon a motion by C. Burillo and supported by K. Trygstad. The next regularly scheduled meeting will be on April 26th, 2022, at 7:30 pm.

Respectfully Submitted

Karla Swihart

Karla Swihart, City Clerk