

**AGENDA**

Roll Call/Call to order

Pledge of Allegiance

Amendments to Agenda/Approve Agenda

Community Announcements

Public Comments on items not on the published agenda

Consent Agenda

1. Review and consider approval of [minutes](#) of a regular Council meeting held September 18, 2018.
2. Review and file [bills](#) recapped as of Monday, October 1, 2018.
3. Refer [request](#) from Detroit Country Day, 22305 W. 13 Mile Road, for site plan and special land use approval to the Planning Commission for review and recommendation.
4. Approve [payment](#) to Canfield Equipment Service for Police Vehicle Update
5. Approval of [payment](#) to Johnson Thermal Temp for Public Safety cooling system repair

Business Agenda

1. Review and consider subcommittee's [recommendation](#) to fill the vacancy on the Birmingham Area Cable Board.
2. Review and consider awarding [contract](#) for the 2018 Road Improvement Program
3. Review and consider [approval](#) of Concurrence Form for request for Declaration Ruling on Lead and Copper Rules.
4. Set Public Hearing [date](#) of November 6, 2018 to receive comments on special land use request by Woodside Athletic Club, 22440 W Thirteen Mile Road

Public comments

Manager's report

Council comments

The Village of Beverly Hills will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting, to individuals with disabilities attending the meeting upon three working days' notice to the Village.

Individuals with disabilities requiring auxiliary aids or services should contact the Village by writing or calling Chris Wilson, 18500 W. Thirteen Mile, Beverly Hills, MI 48025 (248) 646-6404.

Present: President Mooney; President Pro-Tem Peddie; Members: Abboud, Delaney, Mueller, Nunez, and Oen

Absent: None

Also Present: Village Manager and Clerk, Wilson  
Village Attorney, Ryan  
Public Safety Director, Torongeau

President Mooney called the regular Council meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road. The Pledge of Allegiance was recited by those in attendance.

#### **AMENDMENTS TO AGENDA/APPROVE AGENDA**

Motion by Oen, second by Mueller to approve the agenda.

Motion passed.

#### **COMMUNITY ANNOUNCEMENTS**

Bill Galvin, Farmington, Candidate for Oakland County Commissioner of the 14<sup>th</sup> District, spoke about his history of practicing non-partisan community minded government in various roles he has served in the community.

#### **PUBLIC COMMENTS**

Candice Cardenas, Kennoway Circle, expressed her concern about the safety risks posed by a lack of sidewalks along 13 Mile between Kennoway Circle and Groves High School.

Mooney advised her Administration would follow up with her.

Rachael Hrydziusko, Evergreen, thanked Council for the installation of the crosswalk across Beverly Road to reach Beverly Park.

#### **CONSENT AGENDA**

Motion by Oen, second by Peddie, be it resolved that the Council for the Village of Beverly Hills approve the consent agenda.

1. Review and consider approval of minutes of a regular Council meeting held September 4, 2018.
2. Review and file bills recapped as of Monday, September 17, 2018.
3. Review and consider request from Our lady Queen of Martyrs to install banner at the northwest corner of Dunblaine and Southfield.
4. Review and consider request from Our Lady Queen of Martyrs to use Village streets and sidewalks for their Oktoberfest 5K Race rescheduled for October 6, 2018.

Roll Call Vote:

Motion passed (7-0)

**BUSINESS AGENDA**

**ANNOUNCEMENT OF A VACANCY ON THE BIRMINGHAM AREA CABLE BOARD**

A vacancy exists on the Birmingham Area Cable Board with a term expiration date of June 30, 2020. The Cable Board meets at 7:45 a.m. on the third Wednesday of each month in the Village Council Chamber. They advise the Village Council as to all matters related to Cable Television. The Board monitors performance of the franchisee and compliance with the franchise agreement and acts as liaison between residents and the franchisee.

Applications will be accepted until the vacancy is filled.

**SECOND READING AND POSSIBLE ADOPTION OF AN ORDINANCE AMENDING CHAPTER 5 §5.03 AND §5.04; CHAPTER 14 §14.30 AND CHAPTER 42 §42.02, 42.03, 42.04, 42.07(6), 42.12, 42.18 AND 42.20 REGARDING PENALTIES IN THE MUNICIPAL CODE**

Tom Ryan explained that previously Zoning Violations had been de-criminalized, and this revised language will classify the violations a civil infractions.

A copy of the ordinance is available at the Village office.

Motion by Oen, second by Nunez, to adopt Ordinance #363 amending;

Chapter 5 Streets, Alleys And Sidewalks, Sections 5.03 – Water Damage Into Street; and 5.04 Debris In Streets, Penalties; Chapter 14 Dogs and Other Animals, Section 14.30 Penalties; and Chapter 42 Offenses Against Public Peace, Safety and Morals, Sections 42.02 – Bonfires; 42.03 - Hitchhiking, 42.04 – Expectorating; 42.12 – Games In Streets; 42. 18 – Depositing Of Snow, Ice or Slush; and 42.20 – Noise Control, Penalties.

Roll Call Vote:

Motion passed (7-0)

This ordinance shall become effective 20 days following publication in the Eagle newspaper.

**REVIEW AND CONSIDER AGREEMENT BETWEEN THE VILLAGE OF BEVERLY HILLS AND NYHART REGARDING THE OTHER POST-EMPLOYMENT BENEFITS (OPEB) TRUST**

This proposal is for an evaluation of annual OPEB contributions (retiree health care contributions) made by the Village of Beverly Hills to the OPEB trust by The Howard E. Nyhart Company, Inc. Administration believes it is important to have an evaluation done at this time to determine the level of contributions going forward so the liability is satisfied but also so the Village does not over contribute to the retiree health care fund.

OPEB Report (Other Post-Employment Benefits/Retiree Health Care) – As part of the audit process, the Village received an updated OPEB report from Nyhart as of June 30, 2018. This report significantly lowered our projected net OPEB liabilities from \$8,775,084 as of June 30, 2017 to projected net OPEB liabilities of \$3,436,777 as of June 30, 2018. These calculations were based

upon an expected rate of return of 6.00% for FYE 2017 and a higher revised expected rate of return of 7.75% for FYE 2018.

The result of the higher revised expected rate of return, as well as lower than expected annual increases in health care premiums, have increased our OPEB funding ratio from 41.2% to 66.9%. Based upon the revised valuation, it is Nyhart's opinion that the Village is at risk of contributing too much to the MERS retiree health care fund if contributions are not lowered. Due to the decreased liability, it is important that we have a better understanding as to what our retiree health care contributions should be in the future. This proposal will guide us in understanding what level of contributions is appropriate in future years. Administration has reviewed this report and recommends accepting and approving the proposal from Nyhart.

Ryan confirmed that this was considered a professional service and therefore did not need to be put out for bids.

Delaney summarized an email submitted by resident Peter Webster, who encouraged diligence in verifying that the company manages the monies well.

Motion by Delaney, second by Oen, be it resolved that the Beverly Hills Village Council approve and authorize the Village Manager to sign and execute "The Howard E. Nyhart Company, Inc. Service Agreement" in the amount of \$4,000 to provide consulting services regarding projected OPEB Trust assets, benefit payments and actuarially determined contributions.

Roll Call Vote:  
Motion passed (7-0)

## **PUBLIC COMMENTS**

None.

## **MANAGER'S REPORT**

**Consumers Gas Projects** – Consumers has completed the gas line replacement project at 13 Mile and Lahser. That intersection was reopened for all traffic lanes as of September 12th. Consumers has received permits for two other similar projects at Saxon and Beaconsfield and Kirkshire and Madison. A temporary blockage of Saxon may be required for that project. Village Administration is working on another permit request for a gas main replacement project at the intersection of 14 Mile and Evergreen. This project will require a closure of one lane of traffic through this intersection for a period of 7-10 days. Obviously, this will cause some traffic problems. Village Administration has scheduled a meeting with the homeowners association immediately west of Evergreen to discuss the options for potential lane closures and detours. We will also be coordinating this with Birmingham Schools.

**Traffic Study** – The Village is in receipt of the traffic study that was commissioned at the request of the homeowners association west of the intersection of 14 Mile and Evergreen. There have been concerns from the residents in this area regarding cut through traffic trying to avoid the intersection. Per the results of the traffic study there is justification for limiting turns off of 14 Mile

and Evergreen onto these local streets. There are also various options for how this can be accomplished. Village Administration will be meeting with HOA representatives to discuss the various options and their preferred resolution. The HOA has also indicated a desire to discuss a possible Special Assessment District (SAD) for the installation of sidewalks within the subdivision.

**Lead and Copper Rules Revisions** – The Great Lakes Water Authority, Detroit Water and Sewer Department and the Oakland County Water Resources Commissioner have filed a Request for a Declaratory Ruling with the MDEQ challenging the validity of various sections of recent changes to the Lead and Copper Rules. These entities have identified more than two dozen statutory and legal defects in the proposed rule changes that they feel need to be addressed. SOCWA, at its most recent regular meeting approved a Concurrence Form with the plaintiff's findings to be submitted with the Request for a Declaratory Ruling. SOCWA has requested that all its member communities do the same. Ryan will review this request to deem whether it is appropriate to bring before Council for your review and consideration.

**Hydrant Replacement** – The Village is embarking on hydrant replacement program that will replace nineteen (19) different hydrants throughout the Village. All these hydrants are in good working order but were installed prior to 1930. Accordingly, it is becoming increasingly difficult to acquire parts for these hydrants in the event of a failure. It is necessary to shut the water off to a particular section of water main to replace the hydrants. The Village will be notifying any affected residences of an upcoming water shut off and any potential boil water requirements.

**Water Testing** – The Village has completed residential water testing as required by the DEQ. A total of 148 homes were submitted, The DEQ required the submission of 60 samples. All homes tested in June 2018 will be retested in December 2018. Any resident who wishes to have their water tested during the December 2018 testing can contact the Village and their water can be tested at no cost to them.

**Results of Litigation Regarding the November Ballot Proposal** - Ryan reported that August 14, 2018 was the State mandated deadline to file any ballot proposals for the November 2018 election. The Parks Millage language was signed by the Governor on July 25, 2018 and mailed by the Village Clerk on July 31, 2018. On August 27, 2018, Oakland County informed Administration that the ballot language for the Village was not received and therefore could not be placed on the November ballot. In a signed affidavit the clerk attests that the language was signed and mailed via the US Postal Service on July 31, 2018. On August 31, 2018 the County maintained they were unable to locate the mail and took the position that the envelope was not received.

Ryan went before Judge Anderson in the Oakland County Court, and the request was denied. Therefore, the proposal will not be on the November 2018 ballot.

## **COUNCIL COMMENTS**

Mueller invited residents to attend the Read in the Park Event, Saturday September 22 from 1-4 pm. More information about the event is located on the Village website.

Abboud reported the Zoning Board of Appeals approved variances for several new homes being built.

The Planning Commission continues to work with representatives from the Southfield and 13 Mile Plaza on their new sign. They also have a sub-committee formed to explore ramifications of the upcoming recreational marijuana laws.

Delaney reported Birmingham Next had a successful Octoberfest event at Beverly Park.

Oen expressed his continued prayers for DPW Team Supervisor Marty Collins, who was recently hospitalized.

Peddie reminded residents to be mindful of what goes into their recycling bins, and advised them to look on the SOCRRA website if they are not sure.

Motion by Oen, second by Abboud, to adjourn the meeting at 8:18 p.m.

Motion passed.

**John Mooney**  
**Council President**

**Chris Wilson**  
**Village Clerk**

**Elizabeth M. Lyons**  
**Recording Secretary**

THESE MINUTES ARE NOT OFFICIAL. THEY HAVE NOT BEEN APPROVED BY THE VILLAGE COUNCIL.

TO THE PRESIDENT & MEMBERS OF THE VILLAGE COUNCIL. THE FOLLOWING IS A LIST OF  
EXPENDITURES FOR APPROVAL. ACCOUNTS PAYABLE RUN FROM 9/17/2018 THROUGH 10/1/2018.

ACCOUNT TOTALS:

101	GENERAL FUND	\$211,292.65
202	MAJOR ROAD FUND	\$137,108.75
203	LOCAL STREET FUND	\$17,167.46
205	PUBLIC SAFETY DEPARTMENT FUND	\$77,407.77
592	WATER & SEWER FUND	\$139,380.79
701	TRUST & AGENCY FUND	\$3,300.00
	TOTAL	<u>\$585,657.42</u>
	MANUAL CHECKS- COMERICA	\$0.00
	MANUAL CHECKS- INDEPENDENT	\$93.75
	ACCOUNTS PAYABLE	<u>\$585,657.42</u>
	GRAND TOTAL	<u>\$585,751.17</u>

Check Date	Bank	Check	Vendor	Vendor Name	Invoice Vendor	Amount
Bank COM COMERICA						
10/01/2018	COM	79088	59344	4-EVER-WATER	4-EVER-WATER	300.00
10/01/2018	COM	79089	50949	ADVANCED LIGHTING AND SC	ADVANCED LIGHTING AND SC	95.00
10/01/2018	COM	79090	53536	AERO FILTER, INC.	AERO FILTER, INC.	165.00
10/01/2018	COM	79091	59894	AIMEE ALLOR	AIMEE ALLOR	100.00
10/01/2018	COM	79092	51160	ALLIANCE MOBILE HEALTH	ALLIANCE MOBILE HEALTH	290.00
10/01/2018	COM	79093	53284	APPLIED IMAGING	APPLIED IMAGING	37.18
10/01/2018	COM	79094	51802	ARROW OFFICE SUPPLY CO.	ARROW OFFICE SUPPLY CO.	127.23
10/01/2018	COM	79095	30920	BELLE TIRE	BELLE TIRE	169.50
10/01/2018	COM	79096	58967	BELSON OUTDOORS, INC.	BELSON OUTDOORS, INC.	503.47
10/01/2018	COM	79097	58906	BENJAMIN MCKINNEY	BENJAMIN MCKINNEY	100.00
10/01/2018	COM	79098	51409	BEVERLY HILLS ACE	BEVERLY HILLS ACE	72.15
10/01/2018	COM	79099	34063	BIRMINGHAM AREA CABLE BC	BIRMINGHAM AREA CABLE BC	100,000.00
10/01/2018	COM	79100	52071	BLUE CROSS BLUE SHIELD	BLUE CROSS BLUE SHIELD	37,792.50
10/01/2018	COM	79101	59757	BRIAN TULLEY	BRIAN TULLEY	100.00
10/01/2018	COM	79102	49980	C&G PUBLISHING	C&G PUBLISHING	72.00
10/01/2018	COM	79103	58959	CADILLAC ASPHALT, LLC	CADILLAC ASPHALT, LLC	1,502.92
10/01/2018	COM	79104	59779	CANFIELD EQUIPMENT SERVI	CANFIELD EQUIPMENT SERVI	10,970.55
10/01/2018	COM	79105	59887	CAPTIVATING HOMES	CAPTIVATING HOMES	1,000.00
10/01/2018	COM	79106	58597	CATHY WHITE	CATHY WHITE	128.04
10/01/2018	COM	79107	50634	CHARLES W. JACKSON	CHARLES W. JACKSON	300.00
10/01/2018	COM	79108	59891	CHERYL KAECHLE	CHERYL KAECHLE	100.00
10/01/2018	COM	79109	59347	CINTAS CORPORATION #31	CINTAS CORPORATION #31	22.90
10/01/2018	COM	79110	31925	COALITION OF PUBLIC SAFE	COALITION OF PUBLIC SAFE	21,330.62
10/01/2018	COM	79111	04500	COMEAU EQUIPMENT CO INC.	COMEAU EQUIPMENT CO INC.	21,282.97
10/01/2018	COM	79112	50826	CONSUMERS ENERGY	CONSUMERS ENERGY	99.84
10/01/2018	COM	79113	59890	DONELLE BURATTO	DONELLE BURATTO	100.00
10/01/2018	COM	79114	59897	ERIN LAPERE	ERIN LAPERE	156.96
10/01/2018	COM	79115	31228	EXXONMOBIL	EXXONMOBIL	336.68
10/01/2018	COM	79116	59721	FEDEX OFFICE	FEDEX OFFICE	178.40
10/01/2018	COM	79117	59470	FOREMAN CONSTRUCTION	FOREMAN CONSTRUCTION	2,671.00
10/01/2018	COM	79118	58795	G&M ENTERPRISES, LTD.	G&M ENTERPRISES, LTD.	3,482.00
10/01/2018	COM	79119	53489	GREAT AMERICA FINANCIAL	GREAT AMERICA FINANCIAL	600.00
10/01/2018	COM	79120	59899	GREAT LAKES CONTRACTING	GREAT LAKES CONTRACTING	145,557.65
10/01/2018	COM	79121	59613	GREGORY MACKENZIE	GREGORY MACKENZIE	100.00
10/01/2018	COM	79122	39070	J.H. HART URBAN FORESTRY	J.H. HART URBAN FORESTRY	1,215.00
10/01/2018	COM	79123	59423	JAMES HEALY	JAMES HEALY	450.00
10/01/2018	COM	79124	59893	JENNIFER MOORE	JENNIFER MOORE	300.00
10/01/2018	COM	79125	59583	JOANNA MCKINNEY	JOANNA MCKINNEY	300.00
10/01/2018	COM	79126	51186	JOHN MOONEY	JOHN MOONEY	55.16
10/01/2018	COM	79127	59582	JOHNSON THERMOL-TEMP INC	JOHNSON THERMOL-TEMP INC	8,713.00
10/01/2018	COM	79128	59656	JRC SUPPLY, INC.	JRC SUPPLY, INC.	85.96
10/01/2018	COM	79129	59185	JULIE HAND	JULIE HAND	100.00
10/01/2018	COM	79130	59656	JRC SUPPLY, INC.	JRC SUPPLY, INC.	85.96
10/01/2018	COM	79131	59185	JULIE HAND	JULIE HAND	100.00
10/01/2018	COM	79132	49491	MAINS LANDSCAPE SUPPLY	MAINS LANDSCAPE SUPPLY	251.88
10/01/2018	COM	79133	59896	MAYA RICHARDSON	MAYA RICHARDSON	100.00
10/01/2018	COM	79134	59614	MICHIGAN MUNICIPAL LEAGU	MICHIGAN MUNICIPAL LEAGU	135.36
10/01/2018	COM	79135	51408	MICRO CENTER A/R	MICRO CENTER A/R	720.92
10/01/2018	COM	79136	51461	MUNICIPAL WEB SERVICES	MUNICIPAL WEB SERVICES	467.00
10/01/2018	COM	79137	59112	NEXT	NEXT	605.00
10/01/2018	COM	79138	59533	NYHART	NYHART	4,000.00
10/01/2018	COM	79139	59482	NYLU VELLANKI	NYLU VELLANKI	200.00
10/01/2018	COM	79140	51540	O'REILLY AUTO PARTS	O'REILLY AUTO PARTS	99.93
10/01/2018	COM	79141	59735	OAKLAND COMMUNITY COLLEGE	OAKLAND COMMUNITY COLLEGE	750.00
10/01/2018	COM	79142	50830	OAKLAND COUNTY TREASURER	OAKLAND COUNTY TREASURER	135,975.79
10/01/2018	COM	79143	53298	OCCUPATIONAL HEALTH CENT	OCCUPATIONAL HEALTH CENT	192.00
10/01/2018	COM	79144	49769	OFFICE EXPRESS	OFFICE EXPRESS	277.99
10/01/2018	COM	79145	59888	PARK PLACE BUILDING CO.	PARK PLACE BUILDING CO.	700.00
10/01/2018	COM	79146	50502	PITNEY BOWES CREDIT CORE	PITNEY BOWES CREDIT CORE	180.00
10/01/2018	COM	79147	50261	R.S. CONTRACTING INC.	R.S. CONTRACTING INC.	13,500.00
10/01/2018	COM	79148	16100	ROAD COMMISSION FOR OAKI	ROAD COMMISSION FOR OAKI	2,774.16
10/01/2018	COM	79149	59898	ROBERT STEMPIEN	ROBERT STEMPIEN	596.30
10/01/2018	COM	79150	16500	S.O.C.R.R.A.	S.O.C.R.R.A.	28,575.00
10/01/2018	COM	79151	59282	SAFEBUILT INC.	SAFEBUILT INC.	28,433.50
10/01/2018	COM	79152	59892	SANDRA CIBULAS	SANDRA CIBULAS	300.00
10/01/2018	COM	79153	59503	SMITH'S WATERPROOFING	SMITH'S WATERPROOFING	200.00
10/01/2018	COM	79154	51356	SOUTHFIELD MUFFLER & BRA	SOUTHFIELD MUFFLER & BRA	1,572.28
10/01/2018	COM	79155	59889	SUSAN FEZZEY	SUSAN FEZZEY	200.00
10/01/2018	COM	79156	59275	SUSAN WAUN	SUSAN WAUN	200.00
10/01/2018	COM	79157	59900	SUZANNE CORY	SUZANNE CORY	850.00
10/01/2018	COM	79158	52123	TECHRADIUM, INC.	TECHRADIUM, INC.	60.00
10/01/2018	COM	79159	59895	THOMAS JORDAN	THOMAS JORDAN	300.00
10/01/2018	COM	79160	53495	TROY STEWART	TROY STEWART	100.00
10/01/2018	COM	79161	50767	VERIZON WIRELESS	VERIZON WIRELESS	29.27
10/01/2018	COM	79162	38205	VERIZON WIRELESS MESSAGI	VERIZON WIRELESS MESSAGI	474.81
10/01/2018	COM	79163	59357	WALLSIDE WINDOWS	WALLSIDE WINDOWS	200.00
10/01/2018	COM	79164	59659	WECHSLER CONSTRUCTION	WECHSLER CONSTRUCTION	500.00
10/01/2018	COM	79165	53572	WOW! BUSINESS	WOW! BUSINESS	572.55

09/27/2018 02:24 PM  
User: KARRIE  
DB: Beverly Hills

CHECK REGISTER FOR VILLAGE OF BEVERLY HILLS

Page: 2/2

CHECK DATE FROM 10/01/2018 - 10/01/2018

Check Date	Bank	Check	Vendor	Vendor Name	Invoice Vendor	Amount
10/01/2018	COM	79166	59356	YES HOME SERVICES	YES HOME SERVICES	500.00

COM TOTALS:

Total of 79 Checks:	585,843.38
Less 2 Void Checks:	185.96
Total of 77 Disbursements:	585,657.42

09/27/2018 02:26 PM  
User: KARRIE  
DB: Beverly Hills

CHECK REGISTER FOR VILLAGE OF BEVERLY HILLS  
CHECK DATE FROM 09/27/2018 - 10/01/2018

Page: 1/1

Check Date	Bank	Check	Vendor	Vendor Name	Invoice Vendor	Amount
Bank IND INDEPENDENT BANK						
09/27/2018	IND	1064	30899	RENTAL WORLD		93.75
IND TOTALS:						
Total of 1 Checks:						93.75
Less 0 Void Checks:						0.00
Total of 1 Disbursements:						93.75

## MEMO

To: Honorable President Mooney; Village Council  
Chris Wilson, Village Manager

From: Erin Saur, Planning & Zoning Administrator

Date: September 25, 2018

Re: Proposed playground and sports court at Detroit Country Day Middle School

Detroit Country Day School has submitted plans to modify the previously approved Middle School site plan to add a play structure and sports court to the grounds. The property is zoned R-1 and schools are allowed as a special use in that district. Per Section 22.14.030 f., private school related accessory uses and accessory structures, such as: auditoriums, athletic and recreational facilities, and similar uses are required to obtain approval and each use or structure shall be subject to a separate special approval. The project requires site plan review and special land use approval. Per Village Ordinance, Council must first refer the proposal to the Planning Commission for a public hearing and recommendation after which Council will have the opportunity to review and consider approval of the proposal.

The plans submitted detail a playground to be located south of the existing softball diamond and a sport court south of the emergency access road on the western side of the middle school building expansion.

### **Suggested Motion**

Village Council refers plans submitted by Detroit Country Day School to the Planning Commission for public hearing and recommendation on a proposed site plan and special land use.

ees



## Beverly Hills Department of Public Safety

# Memo

To: Village Finance Director Sheila McCarthy

From: Deputy Director Howard Shock

Date: September 27, 2018

Re: Patrol Vehicle Equipment

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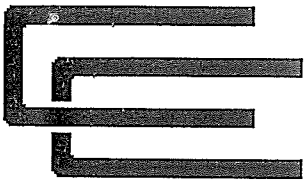
### Background:

The Village Council approved the purchase of a 2018 Chevy Tahoe to be used by the Public Safety Department's Patrol Division. The vehicle replaced a 2013 Chevy Tahoe which reached the end of its use as recommended by the Michigan Municipal Risk Management Authority. Concurrent with this new vehicle purchase comes the transfer of specialized equipment from the old to the new vehicle.

The Public Safety Department sought proposals from Cynergy Wireless and Canfield Equipment Service to transfer the equipment from the 2013 Chevy to the 2018 Chevy. Some equipment needed to be replaced due to wear and the newer 2018 body style. Both companies were competitive in their bid process. It is the staff recommendation that Village Council award the service agreement to Canfield Equipment Service, Inc.

### Suggested Motion:

Be it resolved that the Beverly Hills Village Council awards the contract for the equipment transfer and upgrade of the 2018 Chevy Tahoe to Canfield Equipment Service. Including payment on invoice #263944 in the amount of \$10,006.53 and invoice #264007 in the amount of \$399.02 for the repair and replacement of equipment in patrol vehicle 305. Funding for the purchase is available in Police Vehicle Equipment Purchases, Account 205-900-980.02.



**CANFIELD  
EQUIPMENT  
SERVICE, INC.**

21533 Mound Road, Warren, MI 48091  
Phone: 586.757.2020 Fax: 586.757.2294

**INVOICE**

INVOICE No.	263944
DATE	09/06/18
WORK ORDER	129235

BILL TO: 5403400  
Beverly Hills Public Safety  
18600 Thirteen Mile Road

Beverly Hills MI 48025  
PHONE: 248-540-3410

SHIP TO:  
Beverly Hills Public Safety  
18600 Thirteen Mile Road

Beverly Hills MI 48025  
CONTACT: Sgt. Danielson

PO No.	SALES REP	WRITTEN BY	POOL No.	TERMS
	K ENGBLOM	KE		N30
VEHICLE ID. No.	MAKE	MODEL	YEAR	FO No.
1GNSKDEC2JR386650	CHEV	TAHOE	2018	

PART No.	DESCRIPTION	QTY	QTY	PRICE	EXTENSION
		ORD	SHIP		

Furnish and install the following equipment into a  
2018/19 Tahoe PPV #307

**Sound Off Signal**

1 Vehicle Specific Headlight/Taillight Flasher  
\*Installed to manufacture specs  
\$101.36

**Whelen**

1 ION Series LED Red  
1 ION Series LED Blue  
2 ION Grommets  
\*Mounted on the bottom of the hatch  
\$215.20

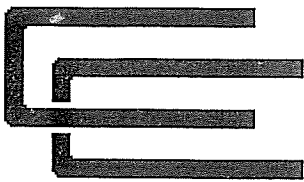
**Whelen**

1 Liberty Lens Kit with Two LR11 Alley Lights LED  
\$311.21

**Havis**

1 12" Angled Series Console  
1 Vehicle Specific Base

\*\*\* CONTINUED NEXT PAGE \*\*\*

CANFIELD  
EQUIPMENT  
SERVICE, INC.

INVOICE

INVOICE No.	263944
DATE	09/06/18
WORK ORDER	129235

21533 Mound Road, Warren, MI 48091  
Phone: 586.757.2020 Fax: 586.757.2294

BILL TO: 5403400  
Beverly Hills Public Safety  
18600 Thirteen Mile Road

Beverly Hills MI 48025  
PHONE: 248-540-3410

SHIP TO:  
Beverly Hills Public Safety  
18600 Thirteen Mile Road

Beverly Hills MI 48025  
CONTACT: Sgt. Danielson

PO No.	SALES REP	WRITTEN BY	POOL No.	TERMS
	K ENGBLOM	KE		N30
VEHICLE ID. No.	MAKE	MODEL	YEAR	FO No.
1GNSKDEC2JR386650	CHEV	TAHOE	2018	

PART No.	DESCRIPTION	QTY	QTY	PRICE	EXTENSION
		ORD	SHIP		

\$432.08

Havis

1 Console Accessory Package  
\*Includes Arm-Rest, Dual Cup Holders, Mic Clip Brackets and Magnetic Mic Clips  
\$300.77

Havis

1 TouchScreen Display with Keyboard and Mount  
\*Installed to manufacture specs  
CSP

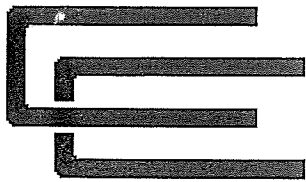
Laguna

1 Rear Seat with Cargo Barrier and Ready Buckle System  
\$1,221.40

Panorama

1 MiMo Sharkee Mult-Band Antenna  
\*800Mhz for Two-Way Radio  
\*MiMo Cell and WIFI for Modem  
\*GPS for Modem  
\$427.65

\*\*\* CONTINUED NEXT PAGE \*\*\*

CANFIELD  
EQUIPMENT  
SERVICE, INC.

INVOICE

INVOICE No.	263944
DATE	09/06/18
WORK ORDER	129235

21533 Mound Road, Warren, MI 48091  
Phone: 586.757.2020 Fax: 586.757.2294

BILL TO: 5403400  
Beverly Hills Public Safety  
18600 Thirteen Mile Road

Beverly Hills MI 48025  
PHONE: 248-540-3410

SHIP TO:  
Beverly Hills Public Safety  
18600 Thirteen Mile Road

Beverly Hills MI 48025  
CONTACT: Sgt. Danielson

PO No.	SALES REP	WRITTEN BY	POOL No.	TERMS
	K ENGBLOM	KE		N30
VEHICLE ID. No.	MAKE	MODEL	YEAR	FO No.
1GNSKDEC2JR386650	CHEV	TAHOE	2018	

PART No.	DESCRIPTION	QTY	QTY	PRICE	EXTENSION
		ORD	SHIP		

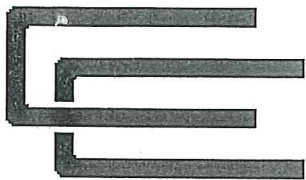
Havis  
1 Universal Storage Box for Utility Vehicles  
\*Installed behind the cargo partition  
\$566.06

Canfield  
2 3" White LED Dome Lights  
\*Mounted in the prisoner compartment  
\$88.27

Canfield  
1 Shop Supplies/Power Distribution/Radar Brackets and Labor  
\$4,491.03

Whelen  
1 SA315P  
1 SAK9  
Federal Signal  
1 Rumbler-3  
Unity  
1 5547-0012

\*\*\* CONTINUED NEXT PAGE \*\*\*

CANFIELD  
EQUIPMENT  
SERVICE, INC.

21533 Mound Road, Warren, MI 48091  
Phone: 586.757.2020 Fax: 586.757.2294

BILL TO: 5403400  
Beverly Hills Public Safety  
18600 Thirteen Mile Road

Beverly Hills MI 48025  
PHONE: 248-540-3410

INVOICE

INVOICE No.	263944
DATE	09/06/18
WORK ORDER	129235

SHIP TO:  
Beverly Hills Public Safety  
18600 Thirteen Mile Road

Beverly Hills MI 48025  
CONTACT: Sgt. Danielson

PO No.	SALES REP	WRITTEN BY	POOL No.	TERMS
	K ENGBLOM	KE		N30
VEHICLE ID. No.	MAKE	MODEL	YEAR	FO No.
1GNSKDEC2JR386650	CHEV	TAHOE	2018	

PART No.	DESCRIPTION	QTY	QTY	PRICE	EXTENSION
		ORD	SHIP		

Tesco

1 45794

Canfield

1 ETHERNET-25

1 PV-717-06-SF

1 CBW-8382

\$841.50

Canfield

1 Labor to remove all emergency equipment out of the retired vehicle  
\*Save all usable equipment for reinstallation on new vehicle  
\$760.00

Canfield

1 Labor to remove graphics from the retired vehicle  
\$250.00

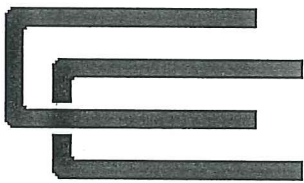


BEVERLY HILLS  
PUBLIC SAFETY DEPT.  
APPROVED FOR PAYMENT  
BY   
ACCT. # 205 900 980.00

VISIT OUR WEBSITE!! [www.canfieldequipment.com](http://www.canfieldequipment.com)

Received By: \_\_\_\_\_

SALE AMT	10006.53
SALES TAX	0.00
FREIGHT	0.00
TOTAL	10006.53



CANFIELD  
EQUIPMENT  
SERVICE, INC.

21533 Mound Road, Warren, MI 48091  
Phone: 586.757.2020 Fax: 586.757.2294

BILL TO: 5403400  
Beverly Hills Public Safety  
18600 Thirteen Mile Road

Beverly Hills MI 48025  
PHONE: 248-540-3410

INVOICE

INVOICE No.	264007
DATE	09/10/18
WORK ORDER	129233A

SHIP TO:  
Beverly Hills Public Safety  
18600 Thirteen Mile Road

Beverly Hills MI 48025  
CONTACT: Sgt. Danielson

PO No.	SALES REP	WRITTEN BY	POOL No.	TERMS
	K ENGBLOM	KE		N30
VEHICLE ID. No.	MAKE	MODEL	YEAR	FO No.
1GNSKDEC9JR386211	CHEV	TAHOE	2018	

PART No.	DESCRIPTION	QTY ORD	QTY SHIP	PRICE	EXTENSION
----------	-------------	------------	-------------	-------	-----------

Furnish and install the following equipment into a  
2018/19 Tahoe PPV #305 Slick Top

WHELEN

2 W-I3JC LED TRIO ION  
\$273.84

HAVIS

1 HS-CG-X CHARGE GUARD  
1 CBW-8382 TRAY COOLING FAN  
\$109.35

PANORAMA

1 PA-AFM835 800 MHZ ANTENNA  
\$15.83



205-900-980.00  
BEVERLY HILLS  
PUBLIC SAFETY DEPT.  
APPROVED FOR PAYMENT  
BY   
ACCT. # 205345852

VISIT OUR WEBSITE!! [www.canfieldequipment.com](http://www.canfieldequipment.com)

Received By: \_\_\_\_\_

SALE AMT	399.02
SALES TAX	0.00
FREIGHT	0.00
TOTAL	399.02

# MEMO

To: Chris Wilson, Village Manager  
Village Council

From: Sheila McCarthy, Finance Director

Re: Johnson Thermol-Temp Inc. Invoice

Date: September 27, 2018

## **Background**

At the February 20, 2018 Council meeting, administration reported that after a full inspection, the heating and cooling system in the Public Safety Building posed a risk of failure or need of costly service updates.

On September 13 and 14, 2018, it became necessary for Public Safety to contact Johnson Thermol-Temp Inc., located at 58540 VanDyke, Washington, MI, for an emergency repair to the cooling system. They were able to inspect, locate, and repair the leak.

Per Village Charter Chapter 8, Section 8.7; The Council shall have the authority to make emergency appropriations from general fund surpluses to meet urgent and immediate needs at any time during the budget year within outlined Charter limits. This invoice falls within those guidelines.

## **Recommendation**

Administration recommends approving payment to Johnson Thermol-Temp Inc., located at 58540 VanDyke, Washington, MI, for Invoice S5A8J5-9, for a total of \$8,438.00. Funds for this expenditure are available for this in account #205-345-934.00

## **Suggested Resolution**

Be it resolved that the Village of Beverly Hills Council authorize the payment of Invoice S5A8J5-9 from Johnson Thermol-Temp Inc. in the amount of \$8,438.00. Funds are available for this purchase in account #205-345-934.00.

eml

Johnson Thermol-Temp Inc.

58540 Van Dyke

Suite 5

Washington, MI 48094

# Invoice

Date	Invoice #
9/13/2018	S5A8J5-9

Bill To
Beverly Hills Department of Public Safety 18600 Thirteen Mile Rd. Beverly Hills, MI 48025

P.O. No.	Terms	Due Date	Project
		9/13/2018	

Description	Qty	Rate	Amount
Service Call	1	110.00	110.00
Hours for Three Men for 09/13/18 and 09/14/18	19.5	110.00	2,145.00
No Cool: Inspected the system and found that the unit leaked out oil and freon in a hole on the 3/8" oil pressure gauge. Replaced the oil pressure sensor and lines. Checked all of the joints on the entire system for any more leaks. Recharged the unit with R-22. Checked the system's operation and it was working well after the repairs.			
Bottles Nitrogen	2	55.00	110.00
Bottle of Leak Tester	1	25.00	25.00
Gallon of Oil	1	48.00	48.00
Lbs. of R-22	80	75.00	6,000.00
<p>BEVERLY HILLS PUBLIC SAFETY DEPT. APPROVED FOR PAYMENT BY <u>[Signature]</u> ACCT. # <u>205345934.00</u></p>			

<b>Total</b>		\$8,438.00
Finance charges of 1.5% monthly will be assessed to accounts over 30 days		
<b>Payments/Credits</b>		\$0.00
<b>Balance Due</b>		\$8,438.00

Phone #	Fax #
586-781-9095	586-781-5150

## MEMO

To: Council Members Delaney, Abboud, and Peddie

From: Elizabeth Lyons, Administrative Support

Re: Birmingham Area Cable Board Vacancy

Date: September 27, 2018

This memo is to inform you that you have been appointed as the subcommittee to make a recommendation to fill the vacancy on the Birmingham Area Cable Board. The expiration of this term is June 30, 2020.

Your committee will be meeting at The Village Council Room, at 7:15 p.m., prior to the Council meeting.

We have received one application; Sara Bresnahan. The applicant has been notified of the subcommittee meeting.

eml

# **Memo**

To: Chris Wilson, Village Manager

From: Thomas Meszler, Director of Public Services

Date: September 27, 2018

Re: Bid Recommendation for 2018 Road Improvement Program (14 Mile Rd. from west of Lahser to west Village limits)

## **Background**

The Village received bids for reconstruction of 14 Mile Rd. from west of Lahser to the west Village limits on Sept. 20, 2018 at 11:00AM (bid tabulation is attached). The bid also included work, identified as Division 2 in the bid, in Westwood Commons Sub with Westwood Commons paying the Village for the work performed in the subdivision. There were three bidders for this project ranging from a high bid of \$371,655.35 to a low bid of \$339,180.50 for all work (14 Mile reconstruction and Westwood Commons). After the bids were taken Westwood Commons Board decided not to utilize the bids submitted to the Village and to do the work themselves leaving the low bid cost to the Village for 14 Mile Rd. reconstruction at \$301,055.50. This bid was submitted by Asphalt Specialist, Inc. who have done work in the Village before and are an approved contractor with the Village. After talking to the Contractor, it was agreed that the project would be started in the Spring of 2019 considering the lateness of the season and possibility that the job may not get finished if started this fall.

## **Recommendation**

Administration recommends that Village of Beverly Hills award this project to Asphalt Specialist, Inc.

## **Suggested Resolution**

Be it resolved that the Beverly Hills Village Council award the 2018 Road Improvement Program to Asphalt Specialist, Inc. for the reconstruction of 14 Mile Rd. from west of Lahser to the west Village limits in the amount of \$301,055.50 and authorize the Village Manager to sign the contracts.

THM/klm

attachments

BID TABULATION  
2018 ROAD IMPROVEMENTS PROGRAM  
VILLAGE OF BEVERLY HILLS  
OAKLAND COUNTY

Bids Due: Thursday, September 20, 2018 at 11:00 a.m.  
HRC Job # 20180073

**Asphalt Specialists, Inc.**  
1780 Highwood  
Pontiac, MI | (248) 334-4570

**Cadillac Asphalt, LLC**  
39255 Country Club Drive  
Farmington Hills, MI | (248) 620-7955

**Pro-Line Asphalt Paving Corp.**  
11797 29 Mile Road  
Washington, MI | (586)752-7730

Item	Quantity	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
<b>DIVISION NO 1 - OPTION NO. 2 (SPRING 2018 CONSTRUCTION)</b>							
1. Mobilization	Lump Sum	\$15,000.00	\$15,000.00	\$27,900.00	\$27,900.00	\$12,500.00	\$12,500.00
2. Color Audio-Video Route Survey'	Lump Sum	\$2,500.00	\$2,500.00	\$2,385.00	\$2,385.00	\$2,000.00	\$2,000.00
3. HMA Surface Rem	5,993 syd	\$5.00	\$29,965.00	\$9.00	\$53,937.00	\$3.30	\$19,776.90
4. Station Grading , Mod	1.9 sta	\$10,000.00	\$19,000.00	\$1,300.00	\$2,470.00	\$11,000.00	\$20,900.00
5. HMA. 4E10	825 ton	\$125.00	\$103,125.00	\$115.00	\$94,875.00	\$100.00	\$82,500.00
6. HMA. 5E10	495 ton	\$140.00	\$69,300.00	\$133.00	\$65,835.00	\$117.00	\$57,915.00
7. Butt Joint	371 1ft	\$4.00	\$1,484.00	\$14.00	\$5,194.00	\$12.00	\$4,452.00
8. Underdrain, 6-inch, Special	866 1ft	\$14.00	\$12,124.00	\$24.00	\$20,784.00	\$20.00	\$17,320.00
9. Sewer tap, 6 inch	4 ea	\$50.00	\$200.00	\$50.00	\$200.00	\$300.00	\$1,200.00
10. Structure, Adjust (As Needed)	7 ea	\$400.00	\$2,800.00	\$1,000.00	\$7,000.00	\$650.00	\$4,550.00
11. Sanitary Structure, Adjust (As Needed)	2 ea	\$400.00	\$800.00	\$1,400.00	\$2,800.00	\$850.00	\$1,700.00
12. Subgrade Undercutting, Type II, Special (As Needed)	185 cyd	\$25.00	\$4,625.00	\$19.00	\$3,515.00	\$50.00	\$9,250.00
13. 1" x 3" Crushed Concrete, Special (As Needed)	100 ton	\$30.00	\$3,000.00	\$25.00	\$2,500.00	\$50.00	\$5,000.00
14. Large Aperture Geogrid (As Needed)	550 syd	\$5.00	\$2,750.00	\$9.00	\$4,950.00	\$6.00	\$3,300.00
15. 21AA Aggregate, Special (As Needed)	75 ton	\$30.00	\$2,250.00	\$25.00	\$1,875.00	\$50.00	\$3,750.00
16. Pavt Mrkg, Waterborne, 4 inch, Yellow	1,520 1ft	\$0.75	\$1,140.00	\$0.35	\$532.00	\$0.35	\$532.00
17. Pavt Mrkg, Waterborne, 2nd Application, 4 inch, Yellow	1,520 1ft	\$0.75	\$1,140.00	\$0.22	\$334.40	\$0.25	\$380.00
18. Pavt Mrkg, Waterborne, 4 inch, White	3,235 1ft	\$0.75	\$2,426.25	\$0.35	\$1,132.25	\$0.35	\$1,132.25
19. Pavt Mrkg, Waterborne, 2nd Application, 4 inch, White	3,235 1ft	\$0.75	\$2,426.25	\$0.22	\$711.70	\$0.25	\$808.75
20. Maintenance Gravel (As Needed)	200 ton	\$5.00	\$1,000.00	\$25.00	\$5,000.00	\$35.00	\$7,000.00
21. Site Restoration	Lump Sum	\$5,000.00	\$5,000.00	\$1,500.00	\$1,500.00	\$5,000.00	\$5,000.00
22. Soil Erosion and Sedimentation Control	Lump Sum	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
23. Maintaining Traffic	Lump Sum	\$6,000.00	\$6,000.00	\$4,000.00	\$4,000.00	\$35,000.00	\$35,000.00
24. Observation Crew Days		\$700.00	\$10,500.00	\$700.00	\$9,800.00	\$700.00	\$17,500.00

**Subtotal Amoun of Base Bid (Option No. 2)**

\$301,055.50

\$321,730.35

\$315,966.90

**ALTERNATE NO. 1**

1. HMA, 4C, MOD	825 ton	\$120.00	\$99,000.00	\$130.00	\$107,250.00	\$110.00	\$90,750.00
2. HMA, 3C, MOD	495 ton	\$135.00	\$66,825.00	\$112.00	\$55,440.00	\$140.00	\$69,300.00

BID TABULATION  
2018 ROAD IMPROVEMENTS PROGRAM  
VILLAGE OF BEVERLY HILLS  
OAKLAND COUNTY

Bids Due: Thursday, September 20, 2018 at 11:00 a.m.  
HRC Job # 20180073

**Asphalt Specialists, Inc.**  
1780 Highwood  
Pontiac, MI | (248) 334-4570

**Cadillac Asphalt, LLC**  
39255 Country Club Drive  
Farmington Hills, MI | (248) 620-7955

**Pro-Line Asphalt Paving Corp.**  
11797 29 Mile Road  
Washington, MI | (586)752-7730

Item	Quantity	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
<b>DIVISION NO. 2 - WESTWOOD COMMONS</b>							
<b>OPTION NO. 2 (SPRING 2018 CONSTRUCTION)</b>							
1. Mobilization	Lump Sum	\$2,000.00	\$2,000.00	\$9,125.00	\$9,125.00	\$2,500.00	\$2,500.00
2. Color Audio-Video Route Survey	Lump Sum	\$1,500.00	\$1,500.00	\$500.00	\$500.00	\$2,000.00	\$2,000.00
3. HMA Surface Rem	160 syd	\$25.00	\$4,000.00	\$20.00	\$3,200.00	\$20.00	\$3,200.00
4. Curb and Gutter, Rem	156 ft	\$10.00	\$1,560.00	\$25.00	\$3,900.00	\$20.00	\$3,120.00
5. Driveway Opening, Conc.Det M	61 ft	\$40.00	\$2,440.00	\$30.00	\$1,830.00	\$35.00	\$2,135.00
6. Curb and Gutter, Det F2	95 ft	\$40.00	\$3,800.00	\$25.00	\$2,375.00	\$30.00	\$2,850.00
7. Dr. Structure Adj.	7 ea	\$600.00	\$4,200.00	\$1,000.00	\$7,000.00	\$750.00	\$5,250.00
8. Dr. Structur Reconst	1 ea	\$1,000.00	\$1,000.00	\$2,500.00	\$2,500.00	\$1,500.00	\$1,500.00
9. Dr. Structure Cover, EJ 5000 Type MI	1 ea	\$550.00	\$550.00	\$900.00	\$900.00	\$900.00	\$900.00
10. Aggregate, 21AA, Special (As Needed)	65 ton	\$35.00	\$2,275.00	\$25.00	\$1,625.00	\$60.00	\$3,900.00
11. HMA, 1100T	20 ton	\$150.00	\$3,000.00	\$225.00	\$4,500.00 *	\$350.00	\$7,000.00
12. HMA, 1100L	20 ton	\$150.00	\$3,000.00	\$178.00	\$3,560.00 *	\$300.00	\$6,000.00
13. Butt Joint	40 1ft	\$20.00	\$800.00	\$14.00	\$560.00	\$30.00	\$1,200.00
14. Site Restoration	Lump Sum	\$1,500.00	\$1,500.00	\$500.00	\$500.00	\$5,000.00	\$5,000.00
15. Soil Erosion and Sedimentation Control	Lump Sum	\$500.00	\$500.00	\$2,000.00	\$2,000.00	\$2,500.00	\$2,500.00
16. Maintaining Traffic	Lump Sum	\$2,500.00	\$2,500.00	\$2,000.00	\$2,000.00	\$10,000.00	\$10,000.00
17. Observation Crew Days		\$700.00	\$3,500.00	\$700.00	\$3,850.00	\$700.00	\$7,000.00
<b>Subtotal - Division No. 2 - Option No. 2</b>			\$38,125.00		\$49,925.00 *		\$66,055.00 *
<b>TOTAL AMOUNT OF BID</b>			\$339,180.50		\$371,655.35 *		\$382,021.90 *

# Memorandum

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**To:** Honorable President Mooney; Village Council  
**From:** Chris D. Wilson, Village Manager  
**CC:** Tom Ryan, Village Attorney; Tom Meszler, Public Services Director  
**Date:** 9/28/2018  
**Re:** MDEQ Lead and Copper Rule Revisions

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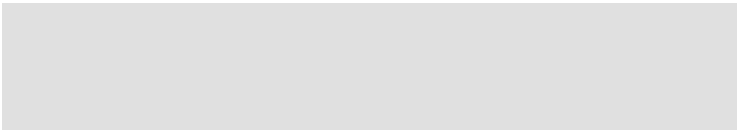
The Great Lakes Water Authority (GLWA), the Detroit Water and Sewerage Department (DWSD) and the Oakland County Water Resources Commissioner (WRC) have filed a Request for Declaratory Ruling with the Michigan Department of Environmental Quality (MDEQ) to challenge the validity of the MDEQ's Lead and Copper Rules. A copy of the Request for Declaratory Ruling is attached. The request is quite thorough and identifies almost 30 statutory and legal defects in the MDEQ's revised Lead and Copper Rules.

GLWA requested all first and second tier customers submit a Concurrence Form to the MDEQ by the end of September. At their meeting of September 12<sup>th</sup>, the SOCWA Board approved a similar Concurrence Form. SOCWA has requested that all member communities and Bloomfield Hills and Bloomfield Township also separately approve their own Concurrence Form.

I have asked Mr. Ryan to review this request and comment on its appropriateness for Village consideration. Mr. Ryan has reviewed the Request and recommended that it be placed before the Council for consideration and that the Concurrence Form be approved. Village Administration has also reviewed this Request and discussed the matter with SOCWA officials and recommends approval.

The Village, SOCWA, WRC, and the GLWA are all committed to Lead and Copper rules that protect the public water supply. However, we do not feel that the revisions passed by the MDEQ are compliant with current state statutes and will not, as written, serve this purpose. We are hopeful that MDEQ will work with local communities and water suppliers on Lead and Copper Rules that are legally enforceable and serve the greater public good.

**Suggested Motion: "That the Village of Beverly Hills Council approve and authorizes the Village Manager to sign the Concurrence Form relative to the Request for Declaratory Ruling filed by the Great Lakes Water Authority, the Detroit Water and Sewerage Department and the Oakland County Water Resources Commissioner."**



**CONCURRENCE WITH  
PETITIONERS' REQUEST FOR DECLARATORY RULING  
Re: MDEQ's Lead and Copper Rules**

NAME OF GOVERNMENTAL ENTITY	STREET ADDRESS		
CITY	STATE	ZIP CODE	TELEPHONE NO. (    )    -
E-MAIL ADDRESS			
<p>On June 14, 2018, the MDEQ filed the MDEQ Lead and Copper Rules ("LCRs") with the Secretary of State.</p> <p>On August 13, 2018, the Great Lakes Water Authority, Detroit Water and Sewerage Department and the Oakland County Water Resource Commissioner (the "Petitioners") timely filed their Request for Declaratory Ruling, pursuant to 2003 MR 2, R 324.81. The Petitioners challenged the validity of the LCRs, asserting that the LCRs exceed the scope of the MDEQ's authority under state law and are arbitrary and capricious.</p> <p>The above stated governmental entity has reviewed the Petitioners' Request for Declaratory Relief and incorporates it by reference and concurs in its Relief Requested.</p>			
<p><b>Indicate below whether the request relates to a Statute, Administrative Rule, or an Order administered by the Department.</b></p> <p><input type="checkbox"/> Part            of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101 <i>et seq.</i></p> <p><input type="checkbox"/> Part            of the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 <i>et seq.</i></p> <p><input type="checkbox"/> Other statute:</p> <p><input checked="" type="checkbox"/> <b>Administrative Rule, R 325.10102-.11606 Title: Supplying Water to the Public (Lead and Copper Rules)</b></p> <p><input type="checkbox"/> Order No.            ; Title</p>			
<p><b>Please state the specific question or request to be addressed:</b> The above stated governmental entity concurs in the Petitioners' request that:</p> <p>(1) the MDEQ issue a declaratory ruling finding that key provisions of the LCRs exceed the MDEQ's authority under the Michigan Safe Drinking Water Act ("MSDWA"), and are arbitrary and capricious, and</p> <p>(2) the MDEQ issue a declaratory ruling finding that the rulemaking record for the LCRs, Regulatory Impact Statement and Cost Benefit Analysis are incomplete, deficient and fail to provide the necessary legal support and foundation for the LCRs.</p>			
<p>Please state the actual <i>uncontested facts</i>, including your status as an interested person or your standing to request a declaratory ruling:</p> <p>Like the Petitioners, the above stated governmental entity is a supplier of water, as defined under the MSDWA, and thus has a direct interest in the scope and applicability of the LCRs and has standing to challenge the validity of the LCRs. As described in the Petitioners' Request for Declaratory Ruling, the LCRs impose a myriad of new and additional regulatory, technical and cost burdens on suppliers of water.</p> <p>As such, the above stated governmental entity incorporates by reference the statements and allegations made in the Request for Declaratory Relief. Further, the above stated governmental entity concurs in the Petitioners' Relief Requested in the Request for Declaratory Ruling.</p>			
(Additional pages, maps, drawings, etc., may be attached)			
TITLE IF SIGNING FOR THE GOVERNMENTAL ENTITY	NAME OF GOVERNMENTAL ENTITY		
SIGNATURE	DATE		

Submit this Concurrence with Petitioners' Request for Declaratory Ruling and attachments to:

EXECUTIVE DIVISION  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
525 WEST ALLEGAN STREET  
LANSING, MI 48933

**STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY**

Petitioners:

Great Lakes Water Authority ("GLWA"), Detroit Water and Sewerage Department ("DWSD"), and Jim Nash in his capacity as Oakland County Water Resources Commissioner and as County Agent for the County of Oakland ("Oakland Water Resources Commissioner")

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**REQUEST FOR DECLARATORY RULING**

Petitioners DWSD and GLWA, by and through their attorneys Miller, Canfield, Paddock and Stone, PLC, and Petitioner Oakland Water Resources Commissioner, by and through their counsel Dickinson Wright PLLC, (collectively "Petitioners") submit this Request for Declaratory Ruling to the Michigan Department of Environmental Quality ("MDEQ" or the "Department") pursuant to Sections 63 and 64 of the Michigan Administrative Procedures Act ("APA"), MCL 24.263 and MCL 24.264, and Administrative Rules R 792.10301 and R 324.81.<sup>1</sup> As set forth herein, Petitioners challenge the validity of the MDEQ Lead and Copper Rules ("LCRs")<sup>2</sup> which were filed with the Secretary of State on June 14, 2018. Petitioners assert that the LCRs exceed the scope of the MDEQ's authority under state law and are arbitrary and capricious.

In support of the Request, Petitioners state the following:

**Petitioners**

1. Petitioner Great Lakes Water Authority ("GLWA") is an authority established pursuant to Act 233, Michigan Public Acts of 1955, as amended and a wholesale water supply provider to over 127

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<sup>1</sup> In accordance with Section 64 of the APA, before challenging the validity or applicability of a rule in circuit court, a petitioner/ plaintiff must first request the agency that promulgated the rule for a declaratory ruling. MCL 24.264. Section 63 of the APA and the rules cited above identify the criteria for seeking a declaratory ruling from the MDEQ. The relevant APA sections and rule citations are set forth in the attached **Addendum**.

<sup>2</sup> The LCR amends the MDEQ "Supplying Water to the Public" Rules, specifically R 325.10102, R 325.10105, R 325.10108, R 325.10401a, R 325.10405, R 325.10410, R 325.10413, R 325.10420, R 325.10604f, R 325.10710a, R 325.10710b, R 325.10710d, R 325.11506, R 325.11604, and R 325.11606 of the Michigan Administrative Code.

governmental entities in Southeast Michigan. By license through the Detroit Water and Sewerage Department, GLWA is also a water supply provider to all of Detroit's retail customers. GLWA's main office is located at 735 Randolph St., Suite 1900, Detroit, MI 48226 GLWA, sue.mccormick@glwater.org.

2. Petitioner Detroit Water and Sewerage Department ("DWSD") is a public utility that provides drinking water and sewerage services for customers in the City of Detroit. DWSD's service area has an estimated 2,700 miles of water mains serving a population of approximately 680,000, of which over 35 percent have incomes below the U.S. federal poverty line. Detroit has an estimated 125,000 lead service lines (LSLs), aged water and sewer pipe networks, and high incidences of water and sewer line breaks. DWSD's main office is located at 735 Randolph St., Suite 506, Detroit, Michigan 48226-2830, browngary@detroitmi.gov.

3. Petitioner Jim Nash in his capacity as Oakland County Water Resources Commissioner and as County Agent for the County of Oakland is the elected official in Oakland County responsible for planning, developing, and maintaining designated surface water drainage systems in Oakland County, providing operations and maintenance to both water and sewer customers in more than fifteen Oakland County communities. Oakland County's service area in the City of Pontiac has 304 miles of water main serving a population of approximately, 59,792, of which more than 34.4 percent have incomes below the U.S. federal poverty line. Pontiac has a high percentage of lead service lines, has aged water and sewer infrastructure, and high incidents of water main breaks. The office of the Oakland County Water Resources Commissioner is located at One Public Works Drive, Building 95 West, Waterford, MI 48238, wrc@oakgov.com.

4. Each Petitioner is a "*supplier of water*" as defined by the Michigan Safe Drinking Water Act ("MSDWA"), MCL 325.1001 *et seq.*, and subject to the LCRs. As defined by the MSDWA, a "*supplier of water*" is: "a person who owns or operates a public water supply, and includes a water hauler." MCL

325.1002 (t). In turn, a “*public water supply*” is defined, in pertinent part, as: “a waterworks system that provides water for drinking or household purposes to persons other than the supplier of the water....” MCL 325.1002(p). Lastly, a “*waterworks system*” is: “a system of pipes and structures through which water is obtained and distributed, including but not limited to wells and well structures, intakes and cribs, pumping stations, treatment plants, storage tanks, pipelines and appurtenances, or a combination thereof, actually used or intended for use for the purpose of furnishing water for drinking or household purposes.” MCL 325.1002(x).

5. As suppliers of water, Petitioners have a direct interest in the scope and applicability of the LCRs. As described below, the LCRs impose myriad new and additional regulatory, technical and cost burdens on Petitioners. As such, Petitioners have standing to challenge the validity of the LCRs.

### **Background**

6. In March, 2017, the MDEQ submitted a Request for Rulemaking to the Office of Regulatory Reinvention to amend the lead and copper provisions of the state’s existing Supplying Water to the Public Rules. Up to this point, the MDEQ’s lead and copper drinking water regulations, enacted under the MSDWA, substantially tracked and incorporated the requirements of the federal Lead and Copper Rule, 40 CFR 141.80-.91, promulgated by the U. S. Environmental Protection Agency (“U.S. EPA” or “the Agency”) under the federal Safe Drinking Water Act, 42 USC 300f *et seq.*<sup>3</sup> The MDEQ’s proposed rule changes were intended to impose additional requirements on state drinking water suppliers beyond those imposed by the federal rule.

7. The MDEQ formed a stakeholder group and held stakeholder meetings from July through November, 2017. Draft LCRs were published in January, 2018. As required by Section 45 of the APA, MCL

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<sup>3</sup> U.S. EPA has granted Michigan primacy to implement the federal SDWA and federal Lead and Copper Rule.

24.245, and Executive Order 2011-5, the MDEQ prepared a Regulatory Impact Statement and Cost-Benefit Analysis ("RIS") to, among other things, compare the LCRs to parallel federal and state regulations, determine whether the LCRs conflict with existing law, identify the behavior to be altered and the harm to be addressed by the LCRs, identify the impacts of the LCRs on businesses, groups and individuals, discuss possible alternatives to the LCRs, and estimate the costs imposed by the LCRs (a cost-benefit analysis). Hence, one of the main purposes of the RIS is to inform the public and decision-makers regarding the impact of the LCRs.

8. A public comment period for the LCRs was held from February 8, 2018 through March 21, 2018, and a public hearing was held in Lansing on March 1, 2018. Petitioners were part of a "Coalition" of water suppliers and municipal associations that provided comments. **Attachment A.** Petitioner DWSD also provided comments individually. **Attachment B.** As noted below, the MDEQ largely rejected the Petitioners' legal, technical and substantive comments and concerns regarding the LCRs. The LCRs were provided to the Joint Committee on Administrative Rules (JCAR) in May, 2018 and, after several additional changes, the rulemaking process was completed and the LCRs became final on June 14, 2018.

#### **Statutory and Substantive Legal Defects of the LCR**

9. During the stakeholder process and public comment period, Petitioners identified significant substantive defects and statutory and constitutional conflicts with the LCRs. Petitioners repeatedly requested that the MDEQ respond to these legal issues, but the department chose not to do so, leaving most of the Petitioners' concerns unaddressed. As a consequence, the rulemaking record for the LCRs is incomplete, deficient, and fails to provide the necessary legal support and foundation for the LCRs. As such, the MDEQ has exceeded its statutory and constitutional authority in promulgating the LCRs.

10. The LCRs impose new obligations on water suppliers without duly considering the legal, scientific and technical support for such unfunded mandates. Without limitation, these obligations include:

- a. removing privately owned lead service lines using public monies, R 325.10604f(5)(c) and (6)(e);
- b. with limited exceptions, removing all lead service lines within 20 years even where existing lines fall below lead action levels, R 325.10604f(6)(b);
- c. accessing private property to complete a distribution system materials inventory, R 325.11604(c);
- d. reducing the lead action level from 15 parts per billion (“ppb”) to 12 ppb triggering additional regulatory actions, R325.10604f(1)(c), (e), and (f), and R325.10604f(4) and R325.10604f(5);
- e. requiring sequential sampling in addition to first flush sampling for water suppliers with lead service lines, R325.10710a(2)(b);
- f. anticipating partial lead service line replacements in emergencies without defining an emergency, R325.10604f(6)(e)(iv); and
- g. creating and providing support for local Drinking Water Advisory Councils, R325.10410(7).

11. As discussed herein, the LCRs exceed the scope of the MDEQ's rulemaking authority under the MSDWA in several key ways. To begin with, the LCRs require municipal water suppliers to pay the cost of removing and replacing private lead service lines with the consent of the owner **at the supplier's cost.** 325.10604f(5)(c) and (6)(e).] The MSDWA simply does not authorize the MDEQ to shift the financial burden of removing private lead lines from property owners to municipal providers and their ratepayers who did not install and do not own the lines. Yet, this is precisely what the LCRs require. The MDEQ cannot, through adopting rules, redefine the statutorily defined term “waterworks system” to expand the system's scope to include private lines which are not legally part of the system.

12. The inability and lack of authority to access private property is also a significant impediment to municipal water suppliers' compliance with the LCRs. The municipality does not have a legal right to trespass on private property without an easement or specific authority from the property owner. By way of example, City of Detroit local ordinance specifically states "whenever any repairs are necessary to any service connection between **the lot line and the water main**, the board of water commissioners shall immediately cause the same to be repaired without cost to the property owner or person responsible." Detroit City Code Sec. 56-2-4. The portion of the service line from the lot line to the residence is the **property owner's responsibility and expense**. Based upon Detroit's experience to date, obtaining permission from the actual owner of a home has been a daunting task. Nearly 50% of Detroit's housing stock is rental property and in the majority of circumstances, rental property managers are the only entity with which the City or the tenants have contact. Neither the tenant nor the property manager has legal authority to grant the municipality the right to replace the lead service line. (At least one municipal water supplier sought guidance from the MDEQ on how to handle situations where the property owner would not allow access or could not be located. MDEQ's potential "solutions" include: obtaining warrants to gain access to private land, shutting off water service until owner consents and/or refusing to connect lead line to new main. Each of these "solutions" completely ignores the fact that a family renting the home may be fully supportive of the lead service line replacement, but is at the mercy of a reluctant or elusive property owner.)

13. The issue of access to comply with the LCRs encompasses more than just the lead line replacement; first, inventory requirements and the sampling protocols are necessary under the LCRs. Petitioner Oakland County Water Resources Commissioner has found that home owners will need assistance with performing the sampling. Many home owners, if willing to assist, do not have the ability and

knowledge to take a water sample that can actually be used. Then, the even more intrusive lead line replacement work begins. Petitioner DWSD has already experienced the lack of cooperation by home owners in its pilot program for lead line replacement on just one street in Detroit. Countless hours, numerous requests and manpower have been expended to gain access to homes, but many home owners, to no avail, still refuse. Home owners simply do not want to be bothered with having to take time away from work and other obligations to attend to municipal projects. Municipal water suppliers are faced with the reality that compliance with the LCRs depends on decisions by these home owners over which the suppliers have no control.

14. The LCRs also mandate that a city with a population over 50,000 establish and provide support for a Water Advisory Council. R325.10410(7). There is no authority in the MSDWA empowering the MDEQ to require water suppliers to create such councils. A water supplier may independently decide to create and consult an advisory board or council, but that is a choice to be made by the municipal supplier and not a mandate imposed by state law.

15. Although not clearly stated in either the LCRs or its accompanying RIS, it is presumed that the overarching public health purpose of the LCRs is to lower blood lead levels in children and adults. The LCRs lower the lead action level from 15 ppb to 12 ppb. R325.10604f(1)(c). Lowering the action level then triggers a number of regulatory responses and actions on the part of water suppliers. R325.10604f(4) and R325.10604f(5). Yet, the MDEQ offers no technical rationale for how lowering the action level will contribute in any meaningful way to reducing blood lead levels amongst the general public and specifically in children because the rule does not in any way address the primary source for lead poisoning in children, which is lead paint. **Attachment A**, *Petitioners' Comments on the RIS*, (pp. 4-5).

16. An action level of 15 ppb is a “technology-based” requirement selected by the U.S. EPA as being representative of effective corrosion control treatment. *Lead and Copper Rule Revisions White Paper, EPA, p. 11 (October 2016)*. To establish a meaningful health-based benchmark, U.S. EPA currently is developing up-to-date scientific modeling of the relationship between lead levels in drinking water and blood lead levels – particularly for sensitive life stages such as formula-fed infants and children under age 6. *White Paper, p. 12*. The Agency has not yet completed its peer reviewed modelling analysis, but intends to do so as it considers revisions to the federal Lead and Copper Rule. In addition to modelling, U.S. EPA also will consider field data and studies provided by water suppliers on the relationship of blood lead levels and drinking water. The MDEQ thus has taken the federal action level developed to address the effectiveness of corrosion control measures and misapplied it to lead service line replacement. As such, the MDEQ’s lowering of the lead action level without the results of U.S. EPA’s rigorous analysis is arbitrary and capricious.

17. The LCRs require water suppliers to now conduct sequential sampling in addition to first draw sampling. R325.10710a(2)(b). As Petitioners indicated to the MDEQ, compliance with the lead action level should be determined by first draw samples. First draw samples are reflective of both recent exposure of the water to household plumbing and service line. If that first draw sample comes back above the action level, an investigation should begin. Sequential sampling should be used only as part of an investigation in response to elevated levels. These samples should not be used for compliance with the action level, nor should they be used to trigger any system-wide lead service line replacement. The purpose of sequential sampling is to determine the source of the elevated lead level, which will then drive decisions about mitigation of the source. Also, by requiring sequential sampling, the MDEQ has created an otherwise avoidable potential conflict with the U.S. EPA Lead and Copper Rule which continues to require first draw

sampling (U.S. EPA presently is seeking input on sampling protocols and might require an entirely different approach to sequential sampling).

18. The LCRs even require water suppliers in compliance with the lead action level and corrosion control requirements to replace, on average, 5% of their lead service lines per year, not to exceed 20 years for total line replacements unless an alternative schedule has been approved by the MDEQ. R 325.10604f(6)(b). Petitioners maintained that line replacement should not be subject to an arbitrary 20 year timeline, but should be implemented through a water supplier's asset management plan that also accounts for numerous other infrastructure objectives sought by the state. **Attachment A**, *Introduction and Petitioners' Comments to RIS, Question 4*, (pp. 4-5). The purpose of Michigan's on-going pilot asset management project is to find more holistic approaches that align the multiple public health and safety needs water suppliers are required by law to achieve. An asset management approach will allow state and local governments to implement a lead reduction program that is both protective of public health and within a level of resources that does not compromise other public health protections. It will also ensure that local governments have the ability to continue investing in needed drinking water, sanitary sewer, and stormwater infrastructure improvements thereby avoiding an entirely different set of public health problems and unintended consequences. For instance, in Southeast Michigan's old drinking water infrastructure, a significant number of breaks occur annually; if left unaddressed each break is an opportunity for backflow or microbes in the soil to enter the drinking water supply. See the 21<sup>st</sup> Century Infrastructure Report regarding the benefits of asset management programs.<sup>4</sup>

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<sup>4</sup> Petitioner DWSD's asset management plan provides for \$37 Million in improvements system wide annually. DWSD has issued over 400 work orders to address leaks and main breaks since January 2018 on the public side of the system. (There have been another 600 work orders issued that turned out to be leaks on the customer's private side of the line.) Replacement of 5% of Detroit's 125,000 service lines in one year would cost an estimated \$42 Million – far exceeding the entire amount allocated to its asset management plan and leaving nothing to address  
*Continued on next page.*

19. The ban on partial service line replacement is uniquely arbitrary and capricious, as a myriad of operational and functional issues may necessitate partial replacement of a service line, to minimize both lead particle release risk and to enhance customer safety. The ban also prevents municipal water suppliers from providing clean, potable water to customers. Water main breaks happen unexpectedly at any time during the day or night. The operational goal is to repair the break safely and as expeditiously as possible, to restore water service, and minimize damage to public and private property; and disturbing lead service lines on unplanned basis will likely cause an increase in lead particulate into the system. While the LCRs provide exceptions for emergency situations, there is no clarity about the process or protocols for declaring an emergency as required in the new rules. The MDEQ advised at least one municipality that it may have to submit a written explanation as "what constitutes an emergency" to the MDEQ for their consideration. Yet, the ban on partial replacements is in effect *now*. Additionally, services can either be individual pipes serving individual properties, or the utility may discover a lead "pigtail" – a multi-pronged service connection that can manifold several properties into a singular connection to a water main. When these are discovered, they must be removed in accordance with the LCRs. However, if one of the properties served by this pigtail denies access to the water supplier to perform a full lead service line replacement, the utility is in a conundrum wherein it cannot replace or reconnect the services to *all* lines connected to the pigtail because that would constitute a partial replacement. Yet another example is when another utility or a construction project unrelated to municipal water supplier activities damages a lead service line. The section of the line disturbed can and should be repaired as quickly as possible. But the obvious question becomes is this now a banned partial line replacement? Coordination and planning to do a full lead service

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other public health issues like main breaks – issues best understood by local health officials - and forcing dramatic increases in water rates, exacerbating the affordability and collection challenges with which DWSD and its customers are already grappling.

line replacement demands prior proper planning so as to not unduly negatively affect the customer during the replacement. The myriad of activities that happen in the street both by the water supplier and others necessitates having the operational flexibility to safely and carefully and prudently perform partial lead service replacements. The LCRs fail to take into account any of these considerations.

20. As noted elsewhere, the LCRs reduce the lead action level from 15 ppb to 12 ppb, which triggers a water supplier's obligation to apply corrosion control treatment to its waterworks system. R325.10604f(4). The most common and cost-effective form of corrosion control treatment is through addition of orthophosphate. If waterworks systems that exceed 12 ppb but do not exceed 15 ppb choose to add orthophosphate for corrosion control, this may have the undesirable outcome of increasing phosphorus levels in Michigan's waterways. Downstream regulated NPDES permitted wastewater treatment plants, such as GLWA's Water Resource Recovery Facility, would then have an added burden to remove phosphorus being added by upstream water systems and bear the additional costs, or risk exceeding their phosphorus discharge limits or TMDLs at downstream regulated MS4 communities. This is a significant potential environmental consequence of the LCR that has not been sufficiently studied or addressed by the MDEQ. *Petitioners' Comments to RIS, Question 1 (pp. 1-2).*

#### **RIS Deficiencies**

21. The APA now requires that state departments prepare and include with a notice of rulemaking a regulatory impact statement. MCL 24.245(3). The statement must contain specific information and analysis pertaining to the proposed rules, including comparing the rules to federal and state counterparts, identifying the harms avoided by and the benefits of the rules, estimating the costs associated with implementation of and compliance with the rules, and identifying alternatives to the rules. Executive Order 2011-5

supplements the APA by requiring departments to complete a cost-benefit analysis for all proposed rules. *Exec. Order, Art V.1 (p. 5)*.

22. The MDEQ completed the RIS for the draft LCRs in January 2018. **Attachment C**. This RIS is required to provide the scientific, technical and legal foundation for the proposed rules. If the assumptions articulated in the RIS are flawed, then the LCRs themselves are flawed. The Petitioners submitted a detailed critique of the RIS on March 20, 2018. Despite identifying numerous inadequacies and flaws with the RIS, the MDEQ made no effort to address Petitioners' comments or to revise the RIS.

23. One of the most important analyses required as part of the RIS is to estimate any increase or decrease in costs to local governmental units as a result of the LCRs. **Attachment C, RIS, Question 11**. The MDEQ estimated that the overall cost for lead service line replacement under the draft LCRs would be \$499 Million over 20 years. As noted by Petitioners, the MDEQ's cost estimate was based on several fundamentally flawed assumptions. **Attachment A, Petitioners' Comments to RIS, Question 11 (pp. 11-12)**. After making adjustments for these flawed assumptions, but accepting the MDEQ's assertion that it would cost approximately \$5,000 per line to replace existing lead service lines, Petitioners demonstrated that the overall line replacement costs associated with the draft LCRs was closer to **\$2.5 Billion** over 20 years (Petitioner DWSD estimates its costs alone would be \$438 to \$625 Million for lead service line replacement). This far exceeds the MDEQ cost estimate of \$499 Million, and borders on being punitive. This is particularly true given that neither the draft nor the final LCRs provide any source of funding to cover lead line replacement, and both place the entire burden on the water suppliers and their customers. The MDEQ offered no response to Petitioners' cost assessment and made no meaningful effort to revise the rules to address the excessive costs associated with complying with the LCRs. If the RIS is wrong then how

can the MDEQ move forward with the LCRs under the APA where both the water suppliers and the public have grossly misleading information about the LCRs' impact?

24. Also, the RIS required the MDEQ to compare the LCRs to "parallel federal rules or standards;" indicate if the LCRs were required by state law or federal mandate; indicate if the LCRs exceeded a federal standard and if yes describe why it was necessary that the proposed LCRs exceed federal law; and specify the costs and benefits arising out of the deviation from federal law. **Attachment C, RIS, Question 1.** The MDEQ did not address this requirement. The Department acknowledged that there is a federal Lead and Copper Rule but then failed to: 1) identify if the proposed MDEQ revisions to the LCRs are required by state law or federal mandate; 2) describe why it is necessary for the MDEQ to exceed the regulatory standards of the federal Lead and Copper Rule; and 3) specify the costs and benefits associated with deviating from the federal Lead and Copper Rule.

25. In December 2017, the U.S. EPA sent letters to state drinking water agencies inviting them to participate in the Agency's rulemaking process to update and revise the existing federal Lead and Copper Rule. This rulemaking demonstrated U.S. EPA's commitment to assume responsibility for, and take a leadership role in, identifying how the rule can be improved to better protect human health. The MDEQ failed to articulate why it is necessary for the State of Michigan to act before the federal government on this issue rather than participate in and contribute to federal efforts to revise the existing federal Rule. A revised federal rule will apply standards applicable not only to Michigan communities but communities across the country. Also, the federal Rule will be based on scientific and technical expertise possessed by the U.S. EPA but lacking at the state level. Moreover, it will reflect input and the experiences of many more stakeholders than involved in the MDEQ process thereby resulting in a more-informed and effective rule. **Attachment A, Petitioners' Comments to RIS, Question 1 (pp. 1-2).**

26. The MDEQ furthermore fails to specify the costs and benefits likely to occur if the state takes action that deviates from U.S. EPA's efforts to revise the federal Lead and Copper Rule. The MDEQ asserts that the modified federal Rule "will contain many of the same provisions," as the MDEQ's LCRs, but offers no support for this conclusion. As water suppliers, Petitioners are concerned that the revised federal Lead and Copper Rule may vary significantly from the now final MDEQ LCRs, resulting in needless confusion and inconsistency, and imposing substantial unintended costs on water suppliers and their customers. By way of example, the U.S. EPA could recommend an action level at odds with the MDEQ 12 ppb level. Finally, the MDEQ was required to provide a robust cost/benefit analysis in response to this Question but failed to do so. **Attachment A**, *Petitioners' Comments to RIS, Question 1 (pp. 1-2)*.

27. The RIS also required MDEQ to compare the proposed LCRs to standards in similarly situated states, and if the LCRs included requirements exceeding standards in those states, explain why and specify the costs and benefits arising from the deviation. **Attachment C**, *RIS, Question 2*. The intent of this Question is to require MDEQ to justify actions that go beyond other states' regulatory requirements, and thereby impose different and/or additional burdens on regulated entities within the State of Michigan. The MDEQ asserted that other states have adopted the federal Lead and Copper Rule and have not varied from it in substantive ways. Once again, the MDEQ did not identify any costs or benefits associated with exceeding the standard of similarly situated states on this issue. The fact that the MDEQ's LCRs impose burdens on water suppliers above and beyond what is presently required by other states certainly will result in increased costs for the suppliers and their customers. The MDEQ did not respond to Petitioners' concerns and offered no substantive or independently verifiable justification for imposing such additional costs and burdens. **Attachment A**, *Petitioners' Comments to RIS, Question 2 (pp. 3)*.

28. Further, the RIS required the MDEQ to identify “laws, rules, and other legal requirements” that may duplicate, overlap, or conflict with the proposed LCRs. This included describing how the LCRs have been coordinated with other comparable federal, state, and local laws, and efforts undertaken to avoid or minimize duplication. **Attachment C**, *RIS, Question 3*. In response, the MDEQ tersely asserted “No other rules or legal requirements pertain.” The MDEQ’s response was an obvious non-response to the Question.

29. The MDEQ ignored the potential duplication, overlap and conflict the state LCRs have with the existing federal Lead and Copper Rule, or might have with any revisions to the federal Lead and Copper Rule. Also, Petitioners are not aware of (and the RIS does not identify) any effort on MDEQ’s part to coordinate the development of the its LCRs with the U.S. EPA, or to avoid duplication. In addition, the MDEQ response did not consider the adverse impact the LCRs would have on water suppliers’ asset management plans (i.e.; “other legal requirement”). These plans are intended to ensure that local governments have the ability to continue investing in needed drinking water, sanitary sewer, and stormwater infrastructure improvements given available financial resources. The LCRs would prioritize virtually all available funds for lead service line replacement, thereby depriving water suppliers of funds to address other pressing public health issues, such as replacing 100 year old mains at risk of rupture. **Attachment A**, *Petitioners’ Comments to RIS, Question 3 (pp. 3-4)*.

30. Moreover, in its comments on the LCRs and RIS, and during the stakeholder meetings and rulemaking process, Petitioners expressed significant concerns about the validity of the LCRs’ requirement that local governments pay for the replacement of privately-owned lead lines, R 325.10604f(5)(c) and (6)(e), given certain provisions of the Michigan Constitution. See **Attachment A**, *Legal Memorandum*. Similar comments were raised during the MDEQ’s LCR Public Hearing on March 1, 2018. **Attachment D**,

*Hearing Transcript*. (pp. 22, 57, 63). Yet, MDEQ failed to address any of the constitutional provisions raised by Petitioners. For example:

- a. The MDEQ failed to address whether the LCRs violate Article VII, Section 26, of the Michigan Constitution, which prohibits municipalities from loaning their credit for any private purpose and thus, could arguably prohibit municipal water suppliers from appropriating public money for a lead service line replacement directly for the benefit of private owners. Petitioners neither own nor installed the portion of the service lines which fall outside the Petitioners' right of way on private property. Article VII, Section 26 arguably prohibits local governments from using municipal fee revenue (i.e., public money) to cover the costs of replacing private lead service lines.
- b. The MDEQ did not address whether the LCRs violate Article IV, Section 30, of Michigan's Constitution, which requires two-thirds of the Michigan Legislature to approve the use of public money for private purposes (i.e., for the benefit of private lead line replacement). Nor did the MDEQ provide any legal authority showing that two-thirds of the Michigan Legislature had approved the use of public money for the rules' purposes.
- c. The MDEQ did not address whether the LCRs violate Article IX, Sections 25 and 29, of the Headlee Amendment to the Michigan Constitution, which prohibit the state from imposing new or expanded requirements upon municipalities without full state funding. Section 25 and 29 could prohibit MDEQ from imposing upon local governments a new mandate to remove and replace lead service lines unless it also ensures that the state has provided adequate funding for removal and replacement. This is a critical issue especially since replacement of lead service lines on private property alone could easily exceed **\$2.5 Billion**. **Attachment A**, *Petitioners' Comments to RIS, Question 11* (pp. 11-12).
- d. Finally, the MDEQ did not address whether the LCRs violate Article IX, Section 31, of the Michigan Constitution, which prohibits municipalities from assessing an unlawful tax upon its citizens without voter approval. The Michigan Supreme Court concluded in *Bolt v City of Lansing*, 459 Mich 152 (1998) that a municipal fee is an unlawful tax under Section 31 if it is not regulatory, proportional and voluntary. Petitioners raised concerns that because the LCRs require municipalities and their ratepayers to pay for the replacement of privately-owned lead lines, it will necessarily require them to spread the costs of that replacement across all ratepayers by including the costs in future rate assessments. Petitioners worried that ratepayers would challenge increased rates by filing lawsuits alleging that their payment of lead line replacement costs through their rates violates Section 31 because the rate is not proportional to the costs of service they each receive (i.e., these ratepayers are paying for the lead line

replacements that benefit other ratepayers, not for replacements that particularly benefit each of them directly). In the rulemaking record, the MDEQ failed to explain how the LCRs do not ultimately lead to a violation of *Bolt* and Section 31 of the Headlee Amendment.

31. Despite Petitioners' warning that a key provision of the LCRs could conflict with the Michigan Constitution, **the MDEQ failed to address a single constitutional concern** as part of the rulemaking record. It is as if these concerns simply do not exist. But ignoring them does not alleviate the significant legal and financial risk that scores of municipalities will bear by implementing the LCRs and by financing the replacement of privately-owned lead lines. Municipal water suppliers who follow the LCRs (many of whom are already cash-strapped) will incur substantial expense, first to implement the LCRs, and then to defend the LCRs' requirements if faced with a challenge to the LCRs' constitutionality. These municipalities will lose millions of dollars (in sunk replacement costs, in legal fees and in possible damages) if the LCRs and the municipal rates imposed to finance the improvements mandated by the LCRs are later found to be unconstitutional by the courts. These risks are absolutely unnecessary.

32. The RIS also required the MDEQ to describe how the proposed LCRs would protect public health, safety, and welfare while promoting a regulatory environment that is the "least burdensome alternative." **Attachment C, RIS, Question 6.** In response to this Question, the MDEQ asserted that removing lead service lines is the most effective way to remove lead exposure in drinking water. This is true only if the lead service line has been identified as the source of lead in drinking water – but this isn't always the case. As written, the LCRs fail to allow water suppliers, local health departments and other agencies to work collaboratively to pinpoint sources of lead exposure in waterworks systems - which may be attributed to other sources like indoor lead plumbing and fixtures. Consequently, lead service line removal may **not** be the most effective technique to eliminate lead exposure. Also, during the stakeholder process, Petitioners repeatedly expressed technical, scientific and legal concerns with the burdens imposed by the LCRs.

These concerns were placed in the “parking lot” by the MDEQ but given no further consideration during the rulemaking process. Petitioners restated these parking lot issues in their comments to the RIS, but once again the MDEQ failed to provide any substantive responses to the concerns. (Two of the parking lot issues in particular have already presented serious implementation challenges for municipal water suppliers, i.e.; issues of property access and partial line replacement, both of which are discussed in the text above. The LCRs provide no meaningful guidance on these issues.) **Attachment A, Petitioners’ Comments to RIS, Question 6 (pp. 6-7).**

33. The RIS required MDEQ to estimate the primary and direct benefits and any secondary or indirect benefits of the LCRs. **Attachment C, RIS, Question 29.** In its response, the MDEQ cites and relies exclusively on a 2016 Ecology Center Report (the “Report”), **but this reliance is misplaced.** As Petitioners pointed out, the Report unequivocally states that: “[w]e note that this research began in 2013 before Flint’s water-related lead exposures, and the scope of the work is state-wide. The impacts here are calculated using state-wide elevated blood lead levels in 2014, and associated costs of education, crime, health care, and lifetime earnings in 2014, so these calculations reflect little of the costs associated with Flint’s water contamination. Instead, these **figures indicate the baseline costs and economic impacts of lead exposure in Michigan, largely associated with lead paint.**” *Ecology Center Report, p. 5* (emphasis added); cited in **Attachment A, Petitioners’ Comments to RIS, Question 29 (pp. 18-19),**

34. In comments to the RIS, Petitioners speculated that the MDEQ’s purpose in citing the Report’s cost figures might be to suggest that these costs represent the quantified value of the benefits referenced by the MDEQ in support of the draft LCRs - but this is an inference without merit. The Report makes clear that the quoted costs reflect the impacts of lead exposure from lead paint. *Ecology Center Report, p. 30* (“A discussion of lead in water contamination is beyond the scope of this report.”). The Report actually supports

a recommendation Petitioners repeatedly made, i.e.; that a more effective rule would evaluate the multiple pathways contributing to lead exposures and use this as the yard stick for allocating resources to reduce overall risk. Lastly, the MDEQ provides only generic “benefit” declarations (e.g.; reducing exposure to lead, protecting public health, creating jobs), making no effort to articulate any specific benefits, or quantify the value of any benefits. **Attachment A**, *Petitioners’ Comments to RIS, Question 29 (pp. 18-19)*.

35. The RIS required the MDEQ to identify the sources it relied on in compiling the RIS, including the methodology used to determine impacts of and a cost benefit for the proposed LCRs. **Attachment C**, *RIS, Question 32*. In response, the MDEQ provided a list of documents/reports it relied on to prepare the RIS, but failed to provide any analysis or description of methodology used to determine the impact of the draft LCRs or the cost-benefit analysis. Consequently, as Petitioners pointed out, the relevancy of the cited documents/reports to the development of the LCRs is ambiguous at best (and, as pointed out above, the Report explicitly does **not** support the LCRs). Also, Petitioners identified two reports missing from the MDEQ’s list that should have been reviewed and considered in development of the RIS and the LCRs, those being the Child Lead Poisoning Elimination Board report, **“A Roadmap to Eliminating Child Lead Exposure”**; and the Infrastructure Commission’s **“21<sup>st</sup> Century Infrastructure Commission Report.”** **Attachment A**, *Petitioners’ Comments to RIS, Question 32 (pp. 19-21)*. As with all other comments on the RIS made by Petitioners, the MDEQ never responded or otherwise revised the RIS in consideration of the comments.

36. The RIS required MDEQ to identify any reasonable alternatives to the proposed LCRs. **Attachment C**, *RIS, Question 33*. The MDEQ declared no reasonable alternatives existed. In commenting on the RIS, Petitioners provided a list of provisions that would constitute the foundation of an alternative,

more protective and cost effective lead abatement rule. **Attachment A**, *Petitioners' Comments to RIS, Question 33 (pp. 21)*. The MDEQ offered no response to or critique of Petitioners' suggestions.

37. Petitioners raised additional comments and concerns with the RIS (e.g.; including, without limitation, comments on Questions 4, 5, 9, 10, 12, 13, 14, 15, 26, 27, 28, 30, 31, 35) that are not repeated here but require a response from the MDEQ.

38. This RIS (including the cost-benefit analysis) is intended to provide the scientific, technical and legal foundation for the LCRs. Yet, for the reasons articulated by Petitioners, the LCRs' RIS fails to do so and falls far short of providing a sound foundation for the rules. As a consequence, the LCRs are invalid, and arbitrary and capricious.

### Relief Requested

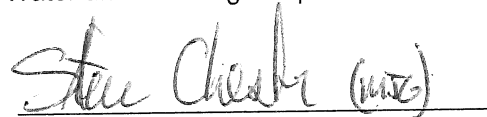
WHEREFORE, Petitioners respectfully request:

- A. That the MDEQ issue a declaratory ruling finding that key provisions of the LCRs exceed the MDEQ's authority under the Michigan Safe Drinking Water Act, and are arbitrary and capricious; and
- B. That the MDEQ issue a declaratory ruling finding that the rulemaking record for the LCRs, including the RIS, is incomplete, deficient, and fails to provide the necessary legal support and foundation for the rules;
- C. That the MDEQ discontinue implementation of the LCRs and re-engage Petitioners and other stakeholders to develop alternative lead and copper rules and a regulatory impact statement that are legally valid and provide an accurate analysis and assessment of the regulatory impacts, costs and benefits associated with the rules; and
- D. That Petitioners shall have such further relief as is warranted and equitable.

Miller, Canfield, Paddock and Stone, P.L.C.  
Attorneys for Petitioners Great Lakes Water Authority and  
Detroit Water and Sewerage Department

DATED: August 13, 2018

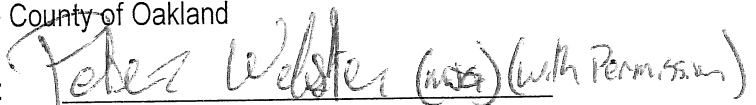
By:



Steven Chester, Esq.  
Scott Eldridge, Esq.

Dickinson Wright PLLC  
Attorneys for Petitioner Jim Nash as Oakland County  
Water Resources Commissioner and as County Agent for  
the County of Oakland

By:



Peter H. Webster, Esq.

# MEMO

To: Honorable President Mooney; Village Council  
Chris Wilson, Village Manager

From: Erin Saur, Planning & Zoning Administrator

Date: September 27, 2018

Re: Proposed renovations to Woodside Athletic Club, 22440 W Thirteen Mile Road

Woodside Athletic Club, 22440 W Thirteen Mile Road, has submitted a proposal for site plan review and special land use approval. The proposed changes include a new play structure north of the existing pool, relocating the existing kiddie pool, improvements to the patio and outside grill area including landscaping and ADA upgrades, and a new court on the east side of the property. The property is zoned R-1, Single Family Residential and as a private club the use is permitted by special land use approval. Per Section 22.08.300 j, any modifications to a site plan after approval requires a new special land use approval.

The Planning Commission held a public hearing on Wednesday, September 26, 2018 regarding the special land use in accordance with Section 22.08.300. At that meeting they recommended approval of the special land use contingent upon approval of the site plan. The Planning Commission also recommended approval of the site plan with the following conditions:

- Temporary dumpster be emptied no earlier than 8:00 am,
- Fence south of walkway on sheet C-105 be modified to a compliant fence, and
- Sidewalk be installed along 13 Mile frontage per Section 22.08.410.

For all projects that require site plan approval, Village Ordinance requires a sidewalk to be installed along the perimeter of the lot that abuts a major, intermediate, or collector street. The site plan, as submitted, does not include the installation of sidewalk. The Planning Commission recommended that requirement be met for site plan approval; however they noted there is opportunity for the applicant to explore options with Administration and Village Council to assist in the efforts to connect the sidewalk in this area. Alternatively, the applicant could seek a variance from the Zoning Board of Appeals if they believe there are practical difficulties unique to their site that would limit their ability to comply with that standard.

Procedurally, the site plan and the special land use are separate approvals but both are required for the project to proceed. The special land use requires a public hearing to be held. The first available date for a public hearing is November 6, 2018 for the Village Council to receive comments on the special land use request from Woodside Athletic Club.

## **Suggested Motion**

Village Council sets a public hearing date of Tuesday, November 6, 2018 to receive comments on the special land use request submitted by Woodside Athletic Club, 22440 W Thirteen Mile Road.

ees

**VILLAGE MANAGER'S REPORT**  
**CHRIS D. WILSON**  
**SEPTEMBER 28, 2018**

**FY 2017-18 Audit** – As a reminder, the auditors will be present at the meeting of October 16<sup>th</sup> for a formal presentation of the Villages audit for Fiscal Year 2017-18. Village Administration has been meeting with the auditors for the last few weeks to prepare for formal report and presentation.

**Fire Apparatus** – An update on the two new fire trucks: The mini-pumper is in the construction phase. Alexis has sent the Village some photos of the progress to date. I have included a couple of photos for your review. Photos are also available on-line at [www.alexisfire.com/in-progress-trucks/](http://www.alexisfire.com/in-progress-trucks/). Completion and delivery for this vehicle is scheduled for late November. Prior to delivery, Public Safety staff will make a visit to the factory for a final inspection with the manufacturer to make sure all equipment meets specifications and functions properly.

The larger pumper truck is in the final modifications stage. Public Safety Administration sent some final minor modifications to Sutphen at the end of September. The chassis for this vehicle is scheduled for delivery in October. Completion and delivery of this vehicle is scheduled for late January.

**Buckthorn Eradication Bid Opening** – The Village had a bid opening for our buckthorn eradication bids on Friday, September 28<sup>th</sup> at 10:00. Bids were not opened in time to allow for consideration of a recommended bid to be placed on this agenda. Village Administration is in the process of reviewing the submitted bids and I will update Council and the Parks and Recreation Board.

**Clerk Position** – The Village has been taking applications for the position of Village Clerk throughout the month of September. I am in the process of reviewing these applications and will be scheduling interviews with qualified applicants next week. As the Village Charter requires the Clerk position to be appointed by the Council I will be coordinating and consulting with the Personnel Committee throughout this process.





**Village of Beverly Hills  
Regular Council Meeting  
Tuesday, October 2, 2018**

**Municipal Building  
18500 W. Thirteen Mile Rd.  
7:30 p.m.**

**INFORMATION ITEMS**

- a. Beverly Hills Department of Public Safety Activity Report for the period September 13–September 27, 2018.
- b. Minutes from Planning Commission date August 22, 2018.

# **Beverly Hills Public Safety Activity Report**

**September 13<sup>th</sup> – 27<sup>th</sup>, 2018**

- The Public Safety Department is currently looking for applicants for Public Safety Officer. Please visit our website, [www.beverlyhillspolice.com](http://www.beverlyhillspolice.com) to see if you qualify.
- Please, be advised there are several scams in the area again. Some are as simple as someone coming to the house and fixing your roof. Or someone promising to paint your garage. Do not give them money in advance have them give you references and names first. Check them out before you give them money. It is difficult to convince the prosecutor to give us a warrant on a criminal matter when you voluntarily gave money to someone you don't know. Scams happen over the phone with people calling to say they are with the Government and they want you to post bond for a family member. Please, when in doubt call the Public Safety Department before you give money to anyone. The scammers are very smooth and often prey on the elderly. If you know of an elderly person who lives in your neighborhood and may be a victim of a scam please call us. Some elderly people are very embarrassed and will not tell anyone of the scam. However, they may tell you.
- Beverly Hills Public Safety reminds everyone we do have a safe zone to exchange merchandise here at the parking lot which is monitored 24/7 days a week. You can even go inside and ask the Sgt who can help with the exchange.
- PSO Moore is available to ensure child safety seats are properly installed in your car.

## **PUBLIC SAFETY OPERATIONS**

- 226 Calls for Service.
- 14 Arrests.
- 158 Tickets issued.
- Motor Carrier Enforcement.
- 1 Walk in PBTs.
- 6 Prescription pill drop offs.
- Vacation checks.
- Car Seat checks and presentation at Our Lady Queen of Martyrs.
- Gun Permit.
- 5 Prisoner transports to and from the Birmingham Police Department.
- Crossing Guard on Beverly
- Suspicious Persons complaint on 13 Mile Rd.
- 4 Motorist Assists on 13 Mile Rd.
- Medical on 14 Mile Rd.
- 2 Medicals on 13 Mile Rd.
- 2 Suspicious Persons complaints on Southfield Rd.
- Vehicle Lockout on Southfield Rd.
- Citizen Assist on Southfield.
- Noise complaint on 13 Mile Rd.
- Suspicious Persons complaint on 13 Mile Rd.
- Crossing Guard on Beverly Rd.

- Traffic Accident on Southfield.
- Traffic Accident on Greenfield.
- 3 Traffic Accidents on 13 Mile Rd.
- Traffic Accident on Lahser.
- Suspicious Vehicle complaint on 14 Mile Rd.
- Alarm on Evergreen.
- Down Wires on 13 Mile Rd.
- Family Trouble on Sheridan.
- Reckless Driving complaint on Southfield.
- Citizen Assist on Beechwood.
- Suspicious Persons complaint on Dunblaine.
- Motorist Assist on Kirkshire.
- Accident on Beverly.
- Officers stopped a vehicle on Greenfield for defective equipment. Officers suspected the driver was operating while intoxicated. The driver was found in possession of marijuana without a medical card. The driver was arrested without incident.
- Fire Alarm on Waltham.
- Welfare Check on Kinross.
- Fraud on Riverside.
- Officers met Southfield Police to pick up an individual held on a Beverly Hills Warrant. The individual was arrested without incident.
- Suspicious Persons on Georgetown.
- Traffic complaint on Eastlady.
- Traffic Accident on Locherbie.
- Traffic complaint on Buckingham.
- Traffic complaint on Wetherby.
- Odor Investigation on Pickwick.
- Animal complaint on Sunset.
- Suspicious Persons complaint on Southfield.
- Civil Matter on Sheridan.
- Alarm on Lost Hollow.
- Medical on Dover.
- Officers stopped a vehicle on 13 Mile for a traffic violation. The driver was operating on a suspended license. The driver was arrested without incident.
- Hang Up 911 on Robinhood.
- Suspicious Vehicle on Foxboro Way.
- Suspicious Persons on Lahser.
- Assist Berkley Police searching for a missing person.
- Medical on Inglewood.
- Alarm on Lahser.
- Damage to Property on Saxon.
- Damage to Property on 13 Mile Rd.
- Civil Dispute on Southfield Rd.
- Medical on Kinross.

- Alarm on Village.
- Medical on Beverly Ct.
- Medical on Madoline.
- Suspicious Persons complaint on Riverside.
- Officers received a complaint of an intoxicated driver. Officers located the driver on Southfield Road. The driver was suspected of operating while intoxicated. The driver was arrested without incident.
- Assist Royal Oak Police with a traffic accident on Greenfield.
- Larceny complaint on 13 Mile Rd.
- Fraud complaint on Robinhood
- Suspicious Persons complaint on Riverside.
- Traffic complaint on Riverside.
- Medical on Corsaut Lane.
- Alarm on Coryell.
- Alarm on Crimson Crossing Ct.
- Assist Birmingham Police with an Alarm.
- Suspicious Persons complaint on Kirkshire.
- Motorist Assist on Lahser.
- Suspicious Persons complaint on Orchard Way.
- Alarm on Orchard Way.
- Suspicious Persons complaint on Riverside.
- Alarm on Hampstead Ct.
- Welfare Check on Wentworth.
- Officers stopped a vehicle on Pierce for a traffic violation. The driver was suspected of operating while intoxicated. The driver was arrested for open toxicants and carry a concealed weapon without a permit. He was arrested without incident.
- Officers stopped a vehicle for a traffic violation on Evergreen. The driver was operating on a suspended license. The driver was arrested without incident.
- Officers stopped a vehicle for a traffic violation on Evergreen. The driver was operating on a suspended license. The driver was arrested without incident.
- Citizen Assist on Blossom.
- Motorist Assist on Southfield.
- Motorist Assist on Riverview.
- Traffic Accident on Lahser.
- Motorist Assist on 13 Mile Rd.
- Car Seat Check.
- Traffic Investigation on Southfield.
- Juvenile complaint on 13 Mile Rd.
- Officers stopped a vehicle on Southfield for a traffic violation. The driver was operating on a suspended license. The driver was in possession of marijuana without a medical card. The driver was arrested without incident.
- Medical on Evergreen.
- Animal complaint on 13 Mile Rd.
- Animal complaint on Camelot.

- Lift Assist on Wentworth.
- Ordinance Violation on Arlington
- Odor Investigation on Evergreen.
- Noise complaint on Norwood.
- Suspicious Vehicle complaint on E. Bellvine Trail.
- Officers stopped a vehicle for a traffic violation on Lahser. The driver was operating on a suspended license and had several warrants for his arrest. The driver was arrested without incident.
- Civil Matter on Buckingham.
- Officers stopped a vehicle on Southfield for a traffic violation. The driver was operating on a suspended license and had a warrant for her arrest. The driver was arrested without incident.
- Animal complaint on E. Bellvine Trail.
- Animal complaint on Southfield.
- Odor Investigation on Buckingham.
- Suspicious Vehicle complaint on Hillcrest.
- Traffic complaint on Lahser.
- Civil Matter on Kirkshire.
- Suspicious Persons complaint on Wentworth.
- Alarm on Sheridan.
- Suspicious Circumstance complaint on 13 Mile Rd.
- Officers stopped a vehicle on 14 Mile for a traffic violation. The driver was operating on a suspended license. The driver was arrested without incident.
- Suspicious Circumstance complaint on Riverside.
- Medical on Wilshire.
- Traffic Accident on Faircrest.
- Alarm on Warwick.
- Parking complaint on 13 Mile Rd.
- Medical on Kinross.
- Suspicious Circumstance complaint on Nixon.
- Solicitor complaint on Cobblestone.
- Solicitor complaint on Old Coach.
- Officers responded to a hit and run accident on Pierce. Officers located the driver and suspected he was operating while intoxicated. The driver was arrested without incident.
- Suspicious Persons complaint on Birwood.
- Medical on Kinross.
- Alarm on Georgetown.
- Vehicle Impound on 13 Mile Rd.
- Motorist Assist on Southfield.
- Found Property on 14 Mile Rd.
- Officers stopped a vehicle on Greenfield for a traffic violation. The driver was operating on a suspended license and had a warrant for her arrest. The driver was operating on a suspended license.
- Road hazard on 13 Mile Rd.

- Officers stopped a vehicle on Southfield for a traffic violation. The driver was operating on a suspended license. The driver was arrested without incident.
- Alarm on Kennoway Ct.

### **INVESTIGATIONS BUREAU**

- Reviewed 226 Cases.
- Provide event security for Groves dance and football game.
- Fire Training at Crest-MABIS.
- CCW warrant received.
- Hazmat training completed.
- Dealing with mental disorders training completed.
- Liaison attended Groves football.
- Liaison attended Groves dance.
- Liaison investigate MIP at Groves dance.
- Liaison attended BYA meeting.
- OWI warrant received.
- 2 interviews with fraud victims.
- OWI arraignment.
- Cell phone search warrant for PWID.
- OWI blood back-ticket issued.
- 2 court transports

### **FIRE PREVENTION BUREAU**

- Monthly MABAS meeting
- 10 officers went through MABAS fire training at Oakland Community College Crest Center with Huntington Woods and Berkley.
- HazMat Awareness Training.
- Assist Bloomfield Hills with fire inspections.
- Meet with Oakland County Health to receive medication.
- Scheduling and developing training. Prepare for Company Officer training
- Review 26 reports.
- ICS 400 training.
- Mental Illness training for the department.
- Sgt. Ginther and Lt. Trussler attend and completed ICS-400 (Expanded Incidents) FEMA training at OCSD.
- Complete HAZMAT Awareness training.
- Provide Department with Police training on responding to calls involving people with mental illness.

Present: Chairperson Ostrowski; Vice-Chairperson Westerlund; Members: Borowski, Drummond, Grinnan, Ruprich, Stempien, and Wilensky

Absent: Member: Copeland

Also Present: Planning and Zoning Administrator, Saur  
Planning Consultant, Borden  
Council Liaison, Abboud

Chairperson Ostrowski called the regular Planning Commission meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

**AMENDMENTS TO AGENDA/APPROVE AGENDA**

Motion by Westerlund, second by Stempien, to amend the agenda removing item 10. Subcommittee updates ii. Recreational Marijuana and then approve the agenda as amended.

Motion passed.

**REVIEW AND CONSIDER APPROVAL OF REGULAR PLANNING COMMISSION MINUTES OF MEETING HELD JULY 25, 2018**

Motion by Westerlund, second by Drummond, to amend the minutes; Page 2, Paragraph 2; the first sentence of the paragraph should read "...cost and land PROPOSAL..." Also Page 4, First sentence should read "...and Mike DUL..." and then approve the minutes of the regular Planning Commission meeting held July 25, 2018 as amended.

Motion passed.

**PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

None.

**ADOPT PLANNING COMMISSION BYLAWS**

Motion by Browski, second by Westerlund to approve and file the Planning Commission bylaws as submitted.

Motion passed.

**REVIEW AND CONSIDER APPROVAL OF MODIFICATIONS TO THE EXISTING GROUND SIGN AT THE SHOPPING CENTER AT 31215 THROUGH 31255 SOUTHFIELD ROAD**

LSL Planning has reviewed the submittal requesting a refurbished collective ground sign for the shopping center at 31215-31255 Southfield Road. The existing sign is nonconforming for multiple reasons; sign area (80 square feet provided versus 30 square feet allowed), sign height (13'-3" provided versus 8' allowed), internal illumination (100% versus 30% allowed), excess colors and lettering types (3 colors and 2 lettering types allowed), and not within a landscaped area (within the parking lot versus a 200-square foot landscaped area). The total project includes: clean-up and painting of the sign cabinet and poles, replacement of old wiring and lamps inside

the cabinet, facing the sign base with a stone to match the building (sign base is currently wood), and new sign faces within the same total sign area.

Based upon Paragraph 5 of Section 22.32.120 Nonconforming Signs, the sign clean-up/painting and wiring replacement are allowed as “normal maintenance” and “changing of electrical wiring and electrical devices,” respectively. Additionally, the proposal to add stone around the base of the sign complies with Paragraph 5 of Section 22.32.095.

The total area (80 square feet) will remain the same though the actual number of tenants with advertising will increase from 5 to 7. The proposal essentially entails a division of the middle two sign faces, which currently run the full width of the sign and advertise 1 tenant each. These 2 sign faces are proposed to be split into 2 signs each, resulting in the net increase of 2 tenant sign spaces. Paragraph 3 of Section 22.32.120 allows the “changing of surface sign space to a lesser or equal area.” LSL is of the opinion that the proposal meets this standard as the total area remains the same and 2 of the larger sign faces will be changed to a lesser area. The proposal brings the number of colors into compliance with current standards and provides a unified look for the entire shopping center. The dark bronze background will also reduce the amount of internal illumination visible through the text. While this change does not fully conform, it does bring the sign closer to compliance with current standards.

Ruprich confirmed that the sign would be internally lit with white letters.

Julie Strong, Property Manager for the plaza, explained that the sign would be internally lit with an opaque background as external lighting would not be bright enough to illuminate it sufficiently. The background would be an opaque vinyl that allows for the light to shine through the white letters. She further explained that after reviewing a variety of options there was no option to place the sign elsewhere without creating greater complications. Landscaping also posed some complications; there is no available water, and the asphalt creates barriers for most vegetation.

Borden reiterated that the sign meets all the requirements for allowable maintenance on a non-conforming sign. He also reviewed the lack of options for placement of the sign elsewhere on the property. He explained that per the ordinance, the work being done on the sign is within the parameters of “normal maintenance”, and the only part that needs approval is the sign face change.

Strong agrees and reiterated the owner are not going to move the sign from its current location, but would like to improve the sign and area around it as much as is allowable within the ordinance.

The Commission agreed they would like to see a change in illumination and landscaping.

Motion by Wilensky, second by Westerlund, to postpone discussion, per applicant request, pending the submission of revised plans.

Motion passed.

**REVIEW AND CONSIDER APPROVAL OF FAÇADE IMPROVEMENTS AT 15616 THIRTEEN MILE ROAD, KFC**

Borden submitted his review of the revised building elevations as submitted by KFC for façade alterations and internal remodeling for the existing restaurant at 15616 W. 13 Mile Road.

The request entails removal of the striped awnings around the building, removal of the pyramid feature atop the building, the addition of new red awnings and red and white painting around the building. Drive-in/through restaurants are allowed in the B District with special land use approval. For the purposes of the Zoning Ordinance, the proposal entails only alterations to the building façade, so there is no change in use or operation of the site. Furthermore, since the request is only for exterior façade alterations, a full site plan review is not required and Planning Commission has the final review and approval authority.

Borden outlined his review as follows: The applicant must present color samples to the Commission for their consideration. In our opinion, the revised elevations are an improvement from the original submittal and more consistent with the intent and purpose of the Village's design regulations. The proposed wall sign/panel should be reduced in size and the front-center window should remain uncovered. Any action on the proposed façade alterations should clearly indicate that the signage depicted is not included in the review/decision.

Derrick Haselhuhn, KFC, explained that the franchise is being rebranded for an updated look. The revised plans reduce the front stencil. The building footprint would remain as is, and the red and blue light bars along the top of the building would be removed. Ostrowski confirmed that as long as the external lighting is angled towards the building it will not cause any issues.

Extensive conversation was had regarding whether the proposed panel and covering of the front window was considered a façade or part of the sign application. The Commission agreed that the front of the building could be painted within the façade alterations, however the panel and any design on it would be considered under the sign application.

Motion by Drummond, second by Ruprich, that Planning Commission approve the façade of the KFC, with the exception of the panel which will be removed from the scope and the building will be painted red consistent with the red used through the plans. The panel will be discussed related to the sign application.

Roll Call Vote:

Drummond	yes
Grinnan	no
Ostrowski	yes
Ruprich	yes
Stempien	no
Westerlund	yes
Wilensky	no
Borowski	yes
Motion passed (5-3)	

**REVIEW AND CONSIDER APPROVAL OF NEW SIGNAGE AT 15616 THIRTEEN MILE ROAD, KENTUCKY FRIED CHICKEN (KFC)**

Borden submitted his review of the application requesting new wall signs for the KFC restaurant at 15616 W. 13 Mile Road. The proposal has been reviewed for compliance with the requirements of the Village Zoning Ordinance. If the application is approved by the Commission, the applicant must obtain a permit prior to installation.

Borden outlined his review as related to compliance with Sections 22.32.095 and 22.32.110, which provide regulations for wall signs. Wall sign is permitted to be 30 SF maximum, they are requesting 156 SF. The permitted area (ground) coverage is 30 SF max, the applicant is requesting 89.12 SF. The height requirement is 8' above grade (min.) the applicant is proposing more than 11'. Related to illumination requirements, the wall sign is in compliance; the applicant must provide fixture details. The current ground sign is an existing non-conformity. The applicant must confirm that the reader board text will match one of the two fonts proposed.

Borowski contended that only the face of the Colonel should be considered the sign.

Consideration was given related to the classification of the large front panel as either a sign, or part of the building façade. It was determined that if the large front panel were painted in a solid red (as opposed to the red and white striped as proposed) it would be part of the façade and not the sign.

Motion by Stempien, second by Drummond, that discussion on the sign be postponed to give the applicant the opportunity to submit a request for a variance before the Zoning Board of Appeals.

Roll Call Vote:  
Motion passed (8-0)

Motion by Stempien, second by Drummond, that the existing ground sign be approved as submitted, requiring the changeable letters to be black.

Roll Call Vote:  
Motion passed (8-0)

**REVIEW DRAFT LANGUAGE AMENDING SECTION 22.08.100 ACCESSORY BUILDINGS, STRUCTURES, AND USES**

Saur reviewed the proposed changes, these included new specifications related to mechanical units, and regulations for detached accessory buildings.

Mechanical units (i.e. a/c condensers or generators) may be placed in the side open space provided they:

- i. shall be located at least five (5) feet from adjoining lot lines;
- ii. shall be located not more than five (5) feet from the principal building;
- iii. shall be screened with dense shrubs maintained at a height not less than one (1) foot

- above the height of the unit; and
- iv. shall limit noise in excess of sixty-five (65) decibels (dB(A)) at the nearest property line.
- j. Detached accessory buildings containing one hundred twenty (120) square feet of ground floor area or more shall be required to obtain a Zoning Compliance Permit prior to construction or installation. Such buildings shall provide a foundation or rat wall and must be compatible with the principal building in terms of style, design, material and/or color(s).

Saur clarified that a Zoning Compliance Permit is not considered a Building Permit, but ensures that the resident is aware of the Ordinances and are compliant.

The Commission agreed that a rat wall was not necessary in all instances and the guidelines should be broken down on the permit. They also requested that the language be reviewed by the Fire Marshall to ensure compliance with all state fire codes.

The complete draft is available in the Village office.

#### **SUBCOMMITTEE UPDATES**

At the Village of Beverly Hills Council meeting held February 20, 2018, the Council voted on directives for the Planning Commission to establish subcommittees on several topics and report back to the Council at designated future meeting dates on their findings.

##### **A. Lot coverage**

Stempien and Westerlund shared a presentation of photos of homes in various neighborhoods across the Village and surrounding cities with examples of side setback changes depending on the zone or build. The median lot coverage percentages in the Village range from 8.7% to 20% depending on the zone and density. In further research, all surrounding communities have lot coverage ordinances.

#### **PUBLIC COMMENTS**

Kay Michaels, Kirkshire; Cynthia Nagel, Kirkshire; and Racheal Hrydziusko, Evergreen; spoke in support of the progress on lot coverage review, but continue to have concerns about the impact current building projects will have on the Village.

#### **LIAISON COMMENTS**

Abboud announced the Zoning Board of Appeals will be training at the September meeting. Village Clerk Ellen Marshall is retiring at the end of August 2018.

#### **ADMINISTRATION COMMENTS**

Saur thanked Ellen Marshall for her 23 years of service to the Village.

#### **COMMISSIONERS COMMENTS**

Stempien would like to see sign regulations taken out of the Zoning Ordinance.

Westerlund expressed his sadness over the passing of Pat Greening and appreciation for all she

and her husband Don did for the community.

Motion by Borowski, second by Ruprich, to adjourn the meeting at 10:53 p.m.

Motion passed.

**George Ostrowski**  
**Planning Commission**  
**Chairperson**

**Chris Wilson**  
**Village Clerk**

**Elizabeth M. Lyons**  
**Recording Secretary**

THESE MINUTES ARE NOT OFFICIAL. THEY HAVE NOT BEEN APPROVED BY THE PLANNING COMMISSION.