

**Beverly Hills  
Regular Village Council Meeting  
Tuesday, June 4, 2019**

**Municipal Building  
18500 W. 13 Mile Rd.  
7:30 p.m.**

## **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 May 21, 2019.
2. Review and file [bills](#) recapped as of Tuesday, May 28, 2019.
3. Set [public hearing date](#) to receive comments on Chapter 22, Section 22.08.280 of the Municipal Code of the Village of Beverly Hills for Tuesday, July 2, 2019.

Business Agenda

1. Review and consider [Resolution](#) celebrating the 100<sup>th</sup> Anniversary of Michigan's ratification of the 19<sup>th</sup> Amendment of the United States Constitution, giving women the right to vote.
2. Public hearing on proposed ordinances amending Chapter 22, Sections 22.08.290, 22.08.130, 22.08.300, 22.04, 22.08.370, 22.14, and 22.16 of the Municipal Code of the Village of Beverly Hills.
3. First Reading of [proposed ordinance](#) amending Chapter 22, Sections 22.08.290, 22.08.130, 22.08.300 of the Municipal Code of the Village of Beverly Hills.
4. First Reading of [proposed ordinance](#) amending Chapter 22, Sections 22.04, 22.08.370, 22.14, and 22.16 of the Municipal Code of the Village of Beverly Hills.
5. Review and consider [Resolution](#) approving the Village of Beverly Hills Sewer System Operation and Maintenance Agreement with Oakland County.
6. Review and consider [Resolution](#) authorizing Oakland County to share Beverly Hills' GIS data with other governmental agencies.
7. Review and consider Fiscal Year 2018-2019 [Budget Amendment](#).
8. Review and consider MERS [Application](#) for Additional Service Credit Purchase.
9. [Second announcement](#) of various board/commission vacancies.

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 phone, 18500 W. Thirteen Mile Beverly Hills, MI 48025 (248) 646-6404.

Present: President Peddie; President Pro-Tem Abboud; Members: George, Hrydziusko, Mooney, Nunez, and Mueller

Absent: None

Also Present: Village Manager, Wilson  
Village Clerk / Assistant Manager, Rutkowski  
Village Attorney, Ryan

Peddie 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 Mooney, second by Mueller, to approve the agenda.

Motion passed.

### **COMMUNITY ANNOUNCEMENTS**

None.

### **PUBLIC COMMENTS**

Karen Daykin, Buckingham, expressed her concerns related to the plan review and permit process for residential construction.

Mike Yamada, Old Post Road, asked that the Council reconsider passing the tree ordinance.

### **CONSENT AGENDA**

Motion by Mooney, second by Nunez, to approve the consent agenda as published.

1. Review and consider approval of minutes of a regular Council meeting held May 7, 2019.
2. Review and file bills recapped as of Thursday, May 16, 2019.
3. Review and consider resolution appointing SOCRRA representative and alternate for Fiscal Year 2019/2020.
4. Review and consider resolution appointing SOCWA representative and alternate for Fiscal Year 2019/2020.

Roll Call Vote:

Motion passed (7-0)

### **BUSINESS AGENDA**

#### **PROCLAMATION RECOGNIZING JUNE 7, 2019 AS NATIONAL GUN VIOLENCE AWARENESS DAY**

This proclamation declares the first Friday in June to be National Gun Violence Awareness Day in the Village of Beverly Hills to honor and remember all victims and survivors of gun violence and to declare that we as a country must do more to reduce gun violence.

**WHEREAS**, every day, more than 100 Americans are killed by gun violence and on average there are nearly 13,000 gun homicides every year;

**WHEREAS**, Americans are 25 times more likely to be killed with guns than people in other high-income countries;

**WHEREAS**, protecting public safety in the communities they serve is an elected body's highest responsibility;

**WHEREAS**, support for the Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from people with dangerous histories;

**WHEREAS**, mayors and law enforcement officers know their communities best, are the most familiar with local criminal activity and how to address it, and are best positioned to understand how to keep their citizens safe;

**WHEREAS**, in January 2013, Hadiya Pendleton, a teenager who marched in President Obama's second inaugural parade and was tragically shot and killed just weeks later, should be now celebrating her 22<sup>nd</sup> birthday;

**WHEREAS**, to help honor Hadiya – and the 100 Americans whose lives are cut short and the countless survivors who are injured by shootings every day – a national coalition of organizations has designated June 7, 2019, the first Friday in June, as the 5th National Gun Violence Awareness Day;

**WHEREAS**, the idea was inspired by a group of Hadiya's friends, who asked their classmates to commemorate her life by wearing orange; they chose this color because hunters wear orange to announce themselves to other hunters when out in the woods and orange is a color that symbolizes the value of human life;

**WHEREAS**, anyone can join this campaign by pledging to Wear Orange on June 7th, the first Friday in June in 2019, to help raise awareness about gun violence;

**WHEREAS**, by wearing orange on June 7, 2019 Americans will raise awareness about gun violence and honor the lives of gun violence victims and survivors; and

**WHEREAS**, we renew our commitment to reduce gun violence and pledge to do all we can to keep firearms out of the wrong hands and encourage responsible gun ownership to help keep our children safe.

**NOW, THEREFORE**, I, Lee Peddie, Council President of the Village of Beverly Hills, do hereby proclaim the first Friday in June, June 7, 2019, to be National Gun Violence Awareness Day. I encourage all residents to support their local communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

Several members of Moms Demand Action were present in support of this proclamation.

Moms Demand Action representative Juliet Henschel and member Joyce Peralta thanked Council for all their support and encouraged Council and residents to wear orange on Friday, June 7, 2019.

Senator Rosemary Bayer, Dunblaine stated how proud she was to live in a community that recognizes the importance of this proclamation and continues to work for gun safety.

Motion by Peddie, second by Hrydziuszko, be it resolved that the Council for the Village of Beverly Hills adopts and signs the proclamation as read.

Motion passed.

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

### **FIRST ANNOUNCEMENT OF VARIOUS BOARD/COMMISSION VACANCIES**

The following is a list of board members whose terms expire on June 30, 2019. All the members have been notified of their term expiration and those listed below wish to be considered for reappointment. Those in parenthesis do not wish to be reappointed. It was noted that Council agreed in November of 2008 to make these vacancies open to the public as well as the currently seated member.

#### **Parks & Recreation Board**

Irene Davis

#### **Planning Commission**

Benjamin Wilensky

Robert Stempien

Patrick Westerlund

#### **Zoning Board**

Reanen Maxwell

Vacancy (William Donnelly)

Vacancy (Ashley Lepidi)

All terms are for three years beginning July 1, 2019 and expiring June 30, 2022. All interested and eligible residents of Beverly Hills are encouraged to apply. The deadline for applications is Friday, June 7, 2019. Applications are available on the Village's website or at the Village office.

This constitutes the first announcement of the vacancies with appointments scheduled to take place at the June 18th regular Village Council meeting.

### **PUBLIC COMMENTS**

None.

### **MANAGER'S REPORT**

**Park Buckthorn Removal Update** – Saturday, May 11th saw some significant progress made toward the eventual removal of the buckthorn debris. Many local volunteers showed up and worked very hard under less than ideal conditions to clear, stack and chip a significant amount of debris. An area on the north end of the project area is being cleared to allow for a first round of tree planting later this month. Village Administration is also working to clear some drains that appear to be plugged that will hopefully allow this area to dry out as soon as possible. The park rangers continue to work to move and stack debris. Village Administration met with NCS on the project site this week to examine the progress to date and plan for the remainder of the season. NCS will be back on site in late June with a significant amount of labor to hand carry debris to be chipped. The current wet conditions inhibit the collection of cut material in a significant portion of the project area at this time. Nevertheless, we will continue to collect the debris from the areas we can. Chipped material that can be used will be placed along the path. Some of the larger felled logs will also be used to line the foot paths. There has been a lot of work put into this project to date. I anticipate that the cleanup progress will accelerate as the conditions improve. Again, thank you to all the volunteers for your effort.

**Village Healthcare Renewal** – Village Administration met with the insurance agent for the Village's health care policies for the upcoming year. For the plan year 2020 (August 1, 2019 – July 31, 2020) the Village's overall health care costs will increase by 0.07%. In the budget for FY 2020 the Village anticipated an increase of 5.0% for health care premiums. Over the last three (3)

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years, the Village's overall health care costs have increase by an average -0.68%. Village Administration has worked closely with our agent, IBEX Insurance Agency to consistently monitor and evaluate our plans and to offer a plan that provides affordable and comprehensive coverage for our employees in a cost-effective way. The Village has been able to maintain our level of coverage to our employees and retirees and has remained compliant with the maximums for health care costs established by Public Act 152.

**14 Mile Paving Project** – The poor weather conditions did prohibit the completion of the 14 Mile Paving Project west of Lahser Rd. Traffic Control will remain in place for most of this week. The contractor is working on the completion of paving and is working final adjustments for manholes and catch basins. The Village would like to thank the residents for their patience and cooperation during this process.

**Office Closed** – Village Offices will be closed on Monday, May 27th in observance of Memorial Day. Trash collection will be delayed one day that week.

**Street Sweeping** – Street sweeping will take place on Thursday, May 23<sup>rd</sup> and Friday, May 24<sup>th</sup>.

### **COUNCIL COMMENTS**

George thanked residents for attending meetings and speaking about their concerns. All topics brought to Council are given consideration and take time to resolve.

Hrydziuszko thanked all the residents for coming and working at the Beverly Park Clean Up Day.

Mueller reported that the contract with NCS is only for the removal of buckthorn, and the Village remains responsible for any other plant or tree removal.

Nunez supports the need for a tree ordinance and would like to see tree planting requirements as well.

Mooney thanked all the residents, Council members, and Park Rangers for their efforts at the Park Clean Up Day.

Abboud thanked veterans for their service and encouraged them to reach out and utilize all services offered to them.

Motion by Mooney, second by Mueller, to adjourn the meeting at 8:20 pm.

Motion passed.

**Lee Peddie**  
**Council President**

**Kristin Rutkowski**  
**Village Clerk**

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

TO PRESIDENT PEDDIE & MEMBERS OF THE VILLAGE COUNCIL. THE FOLLOWING IS A LIST OF  
EXPENDITURES FOR APPROVAL. ACCOUNTS PAYABLE RUN FROM 5/16/2019 THROUGH 5/28/2019.

ACCOUNT TOTALS:

101	GENERAL FUND	\$48,087.18
202	MAJOR ROAD FUND	\$6,765.77
203	LOCAL STREET FUND	\$11,308.63
205	PUBLIC SAFETY DEPARTMENT FUND	\$46,580.88
592	WATER/SEWER OPERATION FUND	\$6,378.35
701	TRUST & AGENCY FUND	\$100.00
	TOTAL	<u>\$119,220.81</u>
	MANUAL CHECKS- COMERICA	\$0.00
	MANUAL CHECKS- INDEPENDENT	\$4,210.00
	ACCOUNTS PAYABLE	<u>\$119,220.81</u>
	GRAND TOTAL	<u>\$123,430.81</u>

05/24/2019 08:47 AM  
User: KARRIE  
DB: Beverly Hills

## CHECK REGISTER FOR VILLAGE OF BEVERLY HILLS

Page: 1/1

CHECK DATE FROM 05/28/2019 - 05/28/2019

Check Date	Bank	Check	Vendor	Vendor Name	Invoice Vendor	Amount
Bank COM COMERICA						
05/28/2019	COM	80282	51160	ALLIANCE MOBILE HEALTH	ALLIANCE MOBILE HEALTH	145.00
05/28/2019	COM	80283	51160	ALLIANCE MOBILE HEALTH	ALLIANCE MOBILE HEALTH	145.00
05/28/2019	COM	80284	51629	ALLIANCE OF ROUGE COMMUN	ALLIANCE OF ROUGE COMMUN	3,489.00
05/28/2019	COM	80285	60041	ALLIED FIRE SALES & SERV	ALLIED FIRE SALES & SERV	1,663.75
05/28/2019	COM	80286	51802	ARROW OFFICE SUPPLY CO.	ARROW OFFICE SUPPLY CO.	61.13
05/28/2019	COM	80287	30920	BELLE TIRE	BELLE TIRE	259.53
05/28/2019	COM	80288	51409	BEVERLY HILLS ACE	BEVERLY HILLS ACE	12.99
05/28/2019	COM	80289	52071	BLUE CROSS BLUE SHIELD	BLUE CROSS BLUE SHIELD	36,619.41
05/28/2019	COM	80290	59347	CINTAS CORPORATION #31	CINTAS CORPORATION #31	31.01
05/28/2019	COM	80291	30909	CMP DISTRIBUTORS	CMP DISTRIBUTORS	2,070.00
05/28/2019	COM	80292	31987	COLMAN-WOLF SANITARY	COLMAN-WOLF SANITARY	496.20
05/28/2019	COM	80293	04500	COMEAU EQUIPMENT CO INC.	COMEAU EQUIPMENT CO INC.	28,271.98
05/28/2019	COM	80294	59697	DETROIT ELEVATOR COMPANY	DETROIT ELEVATOR COMPANY	196.00
05/28/2019	COM	80295	31228	EXXONMOBIL	EXXONMOBIL	3,753.07
05/28/2019	COM	80296	53489	GREAT AMERICA FINANCIAL	GREAT AMERICA FINANCIAL	600.00
05/28/2019	COM	80297	59839	J.C. EHRLICH	J.C. EHRLICH	47.00
05/28/2019	COM	80298	39070	J.H. HART URBAN FORESTRY	J.H. HART URBAN FORESTRY	1,129.00
05/28/2019	COM	80299	59324	JCR SUPPLY, INC.	JCR SUPPLY, INC.	133.95
05/28/2019	COM	80300	49751	KEVIN CONWAY	KEVIN CONWAY	144.00
05/28/2019	COM	80301	59165	MARINE CITY NURSERY	MARINE CITY NURSERY	3,000.00
05/28/2019	COM	80302	52030	MICHIGAN GRAPHICS & AWAF	MICHIGAN GRAPHICS & AWAF	471.00
05/28/2019	COM	80303	51408	MICRO CENTER A/R	MICRO CENTER A/R	105.82
05/28/2019	COM	80304	51540	O'REILLY AUTO PARTS	O'REILLY AUTO PARTS	6.49
05/28/2019	COM	80305	59735	OAKLAND COMMUNITY COLLEGE	OAKLAND COMMUNITY COLLEGE	1,140.00
05/28/2019	COM	80306	50830	OAKLAND COUNTY TREASURER	OAKLAND COUNTY TREASURER	999.14
05/28/2019	COM	80307	60028	PHOENIX SAFETY OUTFITTER	PHOENIX SAFETY OUTFITTER	460.97
05/28/2019	COM	80308	60028	PHOENIX SAFETY OUTFITTER	PHOENIX SAFETY OUTFITTER	2,440.00
05/28/2019	COM	80309	15800	RATHCO SAFETY SUPPLY	RATHCO SAFETY SUPPLY	74.82
05/28/2019	COM	80310	16500	S.O.C.R.R.A.	S.O.C.R.R.A.	28,575.00
05/28/2019	COM	80311	60042	SUTPHEN CORPORATION	SUTPHEN CORPORATION	2,679.55

## COM TOTALS:

Total of 30 Checks:	119,220.81
Less 0 Void Checks:	0.00
Total of 30 Disbursements:	119,220.81

05/24/2019 08:47 AM  
User: KARRIE  
DB: Beverly Hills

CHECK REGISTER FOR VILLAGE OF BEVERLY HILLS  
CHECK DATE FROM 05/16/2019 - 05/28/2019

Page: 1/1

Check Date	Bank	Check	Vendor	Vendor Name	Invoice Vendor	Amount
Bank IND INDEPENDENT BANK						
05/17/2019	IND	1084	53316	LANG'S ON-SITE SERVICES		230.00
05/17/2019	IND	1085	59742	RANGERS FLORAL GARDEN		160.00
05/17/2019	IND	1086	30899	RENTAL WORLD		795.00
05/17/2019	IND	1087	60012	OAKLAND COUNTY PARKS		575.00
05/20/2019	IND	1088	60039	DUCK DUCK DONKEY		450.00
05/20/2019	IND	1089	59402	CALUM MACNEIL		100.00
05/20/2019	IND	1090	51484	MARC BOURASSA		200.00
05/20/2019	IND	1091	58807	NEIL SAUTER		500.00
05/20/2019	IND	1092	59405	KATHY TARNOW		25.00
05/20/2019	IND	1093	52115	THE GRATITUDE STEEL DRUM		900.00
05/20/2019	IND	1094	60040	VR MOBILE GAME TRAILER		275.00

IND TOTALS:

Total of 11 Checks:	4,210.00
Less 0 Void Checks:	0.00
Total of 11 Disbursements:	4,210.00



To: Honorable President Peddie;  
Village Council Members;  
Village Manager, Wilson

From: Planning & Zoning Administrator, LaPere

Re: Proposed amendment to Chapter 22, Section 22.08.280 Nuisance Activities

Date: May 30, 2019

In 2017 the Village adopted an ordinance amending Chapter 22, Section 22.08.280 Nuisance Activities, to add subsection B, item 3 Fences which regulates fencing surrounding construction sites. At that time, the decision was to require a four (4) foot fence for the duration of time in which an open hole or excavation was accessible on the project site.

Since enacting the ordinance, the Village has had compliance concerns regarding the time such fencing is installed as well as the general security of the fencing. Language is printed on the building and demolition permits noting the requirement, as well as communicated verbally, to ensure contractors are aware of the regulations. Administration has reviewed other community's regulations relative to construction fencing and suggests modifying the language to require higher fencing, a longer duration, and specific details regarding gates and accessibility.

Administration has drafted a proposed update to reference Building Department rules per Council and Planning Commission discussion on this matter. Administration has drafted those Construction Site Maintenance Requirements along with detailed submittal guidelines for demolition permits. In addition to these formalized requirements, administration has reviewed its internal processes and we will be conducting a site visit to confirm installation of fencing prior to issuing the permit for demolition or construction.

Upon conducting the public hearing at the May 22<sup>nd</sup> meeting, Planning Commission made a recommendation to Council to adopt the proposed changes to the ordinance to reference those newly adopted rules for construction site maintenance.

A first reading and public hearing date of July 2, 2019 is recommended.

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## RESOLUTION

### **CELEBRATING THE 100<sup>TH</sup> ANNIVERSARY OF MICHIGAN'S RATIFICATION OF THE NINETEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION, GIVING WOMEN THE RIGHT TO VOTE**

WHEREAS, women of every race, class, and ethnic background across America have made historic contributions to the growth and strength of the United States in countless recorded and unrecorded ways;

WHEREAS, the women of this nation initiated the most significant women's movement in history – the need for women's suffrage;

WHEREAS, despite the strong opposition, the inspiration and determination of women nationwide brought about the extraordinary accomplishment – the right for women to vote;

WHEREAS, on June 10, 1919, Michigan women cast their vote when Michigan voters ratified the 19<sup>th</sup> Amendments to the U.S. Constitution;

WHEREAS, the State of Michigan was the second state in the nation to ratify the 19<sup>th</sup> Amendment, giving women the right to vote;

WHEREAS, on August 26, 1920, voters across the nation secured the right for women to vote when the 19<sup>th</sup> Amendment to the Constitution of the United States was ratified, empowering American women and declaring for the first time that they, like men, deserve all the rights and responsibilities of citizenship stating, “. . . the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex”; and

WHEREAS, August 26, 2020 will mark the 100<sup>th</sup> anniversary of the passage of the National Suffrage Amendment, the 19<sup>th</sup> Amendment to the U.S. Constitution, guaranteeing women the right to vote.

NOW, THEREFORE, BE IT RESOLVED that the Village of Beverly Hills remembers and celebrates the historic women who fought for the right to vote and recognizes the courage and inspiration of these bold women to change the course of history.

BE IT FURTHER RESOLVED that the Village of Beverly Hills will fly the 19<sup>th</sup> Amendment Victory Flag June 10, 2019 through June 14, 2019 to commemorate the State of Michigan ratifying the 19<sup>th</sup> Amendment and again on August 24, 2020 through August 28, 2020 to commemorate the ratification of the 19<sup>th</sup> Amendment to the Constitution of the United States.



**To:** Honorable President Peddie;  
Village Council Members;  
Village Manager, Wilson

**From:** Planning & Zoning Administrator, LaPere

**Re:** Proposed language amending Chapter 22, Sections 22.08.290 and 22.08.130, and Section 22.08.300

**Date:** May 30, 2019

**Section 22.08.290 Minimum Distance Between Residential Buildings and Section 22.08.130 Minimum Separation**

Administration is aware of two sections with conflicting requirements for the minimum distance between buildings on adjacent properties, Sections 22.08.090 and 22.08.130. Upon reviewing the file of the various amendments to the Zoning Ordinance, Section 22.08.090 is the original language in place dictating spacing between residences tied to the minimum setback requirements of the Zone District. Section 22.08.130 was drafted and adopted by Council in response to concerns about spacing between homes during Zoning Ordinance updates that occurred in 2007. There was no reference to the existing language in the discussion recorded in the meeting minutes, therefore Administration is assuming that it was an oversight to create additional language in a separate section.

In addition, the language in Section 22.08.130 conflicts with setback requirements and effectively imposes greater setback standards than the adopted minimums of 22.24. Furthermore, strict interpretation of the language "...within 15 feet of any structure..." could result in significant nonconformity throughout the Zone Districts identified in that section as our ordinance definition of structures includes items such as play equipment or fencing. Based on discussion at the meeting when the language was drafted, it does not appear the intent was to prohibit a residence where the abutting property may have a swing set or fence less than 15 feet away. Given those concerns, Administration is proposing to eliminate Section 22.08.130 and update Section 22.08.090.

Per the discussion at the Planning Commission meeting held March 27, 2019, minutes attached, Administration has drafted modifications to the existing language of 22.08.090 to maintain the 15 foot separation between residential buildings in R-2A and R-2B Zone Districts and retain the separation linked to the minimum setbacks for all other single family residential districts. A review of Zoning Board of Appeals cases since adoption of Section 22.08.130 revealed over 60% of the requests for a variance from that section were in Zone District R-3. The changes proposed will eliminate a significant amount of nonconformity in that Zone District. Additionally,

providing all the regulations for minimum separation in one section provides ease for reader and the proposed language clarifies separation is between residential buildings.

### **Section 22.08.300 Procedures and Standards for Principal Uses Permitted Subject to Special Conditions**

Section 22.08.300 Procedures and Standards for Principal Uses Permitted Subject to Special Conditions of Chapter 22 describes the procedure for notification, including the applicable deadlines, for Special Land Use requests. Statutory language of this section of the Michigan Zoning Enabling Act (MZEA) was last updated in 2008 and the notification deadlines in our ordinance no longer match those requirements. The notifications are being sent in accordance with state regulations, however it is important that our ordinance language is correct to ensure clarity and consistency. Additionally, the text should be updated to reflect “Planning Commission”. Administration drafted updates to that language to the applicable subsections.

### **Planning Commission Public Hearing and Recommendation**

The Planning Commission held a public hearing and made a recommendation that Village Council adopt all the proposed amendments at their meeting held April 24, 2019 (minutes attached). Procedurally, the Village Council must also hold a public hearing, and first and second readings prior to adoption. Upon adoption by Council, the language will take effect 20 days after publication.

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attachments

VILLAGE OF BEVERLY HILLS  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE VILLAGE MUNICIPAL CODE,  
CHAPTER 22, ZONING ORDINANCE, FOR THE VILLAGE OF BEVERLY HILLS.

The Village of Beverly Hills Ordains:

Section 1.01. That Section 22.08 of Chapter 22 is hereby amended to read as follows:

**SECTION 22.08, GENERAL PROVISIONS**

**22.08.300 PROCEDURES AND STANDARDS FOR PRINCIPAL USES PERMITTED  
SUBJECT TO SPECIAL CONDITIONS.**

c. Procedure of Notice. Upon receipt of an application for a permitted principal use permitted subject to special approval, one notice of a public hearing shall be published in the newspaper of general circulation in the Village; said notice shall be sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed, within three hundred feet (300') of the boundary of the property in question, and to the occupants of all structures within three hundred feet (300'), except that the notice shall be given not less than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:...

d. Planning Commission Hearing and Review: Special land use approval shall not be granted until a public hearing has also been held by the Planning Commission, in accordance with procedures described in Section 22.08.300 (b) and (c) above. The Planning Commission shall make a recommendation with comments on the special land use to Village Council.

j. Modification After Approval. After any special land use approval is granted, any subsequent modifications to the site not in accordance with the approved site plan, any change of use, any increase in the intensity of the use, or any change in any of the conditions of approval, including by way of example but not limitation, any additions to a principal building or any expansion of off-street parking, shall require a new special land use approval pursuant to the provisions set forth in 22.08.300. Notwithstanding the foregoing, the Village Council, after a favorable recommendation from the Planning Commission, may waive any of the requirements of Section 22.08.300 with respect to any modifications for which all of the following conditions apply:...

Section 2.01.

That Section 22.08.090 of Chapter 22 is hereby amended to read as follows:

**SECTION 22.08.090 MINIMUM DISTANCE BETWEEN RESIDENTIAL BUILDINGS**

22.08.090 MINIMUM DISTANCE BETWEEN RESIDENTIAL BUILDINGS. In Single Family Residential Zone Districts R-A, R-1, R-1A, R-2, and R-3 the minimum required distance between residential buildings on two (2) lots which abut each other along a common side lot line shall be not less than the sum of the two (2) required minimum side setbacks of either of the lots; provided, however, that when the lot to which the ordinance is being applied is less than sixty feet (60') in width, the minimum required distance between such residential buildings may be reduced by six inches (6") for every foot that the lot is less than sixty feet (60') in width. In Single Family Residential Zone Districts R-2A and R-2B the minimum required distance between residential buildings on two (2) lots which abut each other along a common side lot line shall not be less than fifteen (15) feet.

Section 3.01. SEVERABILITY. If any section, clause or provision of this Ordinance shall be declared to be inconsistent with the Constitution and laws of the State of Michigan and voided by any court of competent jurisdiction, said section, clause or provision declared to be unconstitutional and void shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force.

Section 4.01. SAVING CLAUSE. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law when they were commenced.

Section 5.01. REPEALER. Any Ordinance conflicting with this Ordinance be and the same is hereby repealed.

Section 6.01. EFFECTIVE DATE. A public hearing having been held by the Planning Commission on April 24, 2019, and the Village Council on June 4, 2019, the provision of this Ordinance shall become effective 20 days following its publication in The Eccentric, a newspaper circulated within said Village.

Made and passed by the Village Council of the Village of Beverly Hills this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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LEE PEDDIE, Village President

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KRISTIN RUTKOWSKI, Village Clerk

I, Kristin Rutkowski, being the duly appointed and qualified Clerk of the Village of Beverly Hills, Oakland County, Michigan, do hereby certify and declare that the foregoing is a true and correct copy of an Ordinance adopted by the Village Council of the Village of Beverly Hills at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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KRISTIN RUTKOWSKI, Village Clerk

**EXCERPT OF REGULAR PLANNING COMMISSION MEETING MINUTES – MARCH 27, 2019 –  
PAGE 1**

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

Absent: Members: Drummond and Ruprich

Also Present: Village Manager, Wilson  
Planning Consultant, Borden  
Council Liaison, Hrydziusko

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.

**REVIEW AND DISCUSS DRAFT LANGUAGE TO ELIMINATE SECTION 22.08.130 WHICH CONFLICTS WITH SECTION 22.08.090**

Administration is aware of two sections with conflicting requirements for the minimum distance between buildings on adjacent properties, Sections 22.08.090 and 22.08.130. Upon reviewing the file of the various amendments to the Zoning Ordinance, Section 22.08.090 is the original language in place dictating spacing between residences tied to the minimum setback requirements of the Zone District. Section 22.08.130 was drafted and adopted by Council in response to concerns about spacing between homes during Zoning Ordinance updates that occurred in 2007. There was no reference to the existing language in the discussion recorded in the meeting minutes, therefore Administration is assuming that it was an oversight to create additional language.

In addition, the language in Section 22.08.130 conflicts with setback requirements and effectively imposes greater setback standards than the adopted minimums of 22.24. Furthermore, strict interpretation of the language "...within 15 feet of any structure..." could result in significant nonconformity throughout the Zone Districts identified in that section as our ordinance defines a structure as "Anything constructed or erected, the use of which requires location on the ground or attachments to something having location on the ground." Section 22.04 Definitions further defines accessory structures and gives examples as children's playhouse or play equipment. Based on discussion at the meeting when the language was drafted, it does not appear the intent was to prohibit a residence where the abutting property may have a swing set less than 15 feet away, therefore Administration is proposing to eliminate Section 22.08.130 and keep the existing language of 22.08.090 as it meets the needs of protecting public safety and welfare.

The Commission discussed the spacing requirements of R-2B, R-2A and R-3 Zone Districts and whether maintaining the 15 foot spacing between residential buildings was appropriate in the R-2B and R-2A districts. Administration was instructed to draft language per discussion and to schedule a public hearing for the meeting to be held April 24, 2019.

Procedurally, the Planning Commission must hold a public hearing prior to making a recommendation to Village Council. The Village Council must also hold a public hearing, and first and second readings prior to adoption. Upon adoption by Council, the language will take effect 20 days after publication.

A copy of the draft is available for review in the Village office.

**REVIEW AND DISCUSS DRAFT LANGUAGE TO MODIFY SECTION 22.08.300 TO REFLECT STATUTORY REQUIREMENTS FOR NOTIFICATION OF PUBLIC HEARINGS AND UPDATE REFERENCES OF “PLANNING BOARD” TO “PLANNING COMMISSION”**

Section 22.08.300 Procedures and Standards for Principal Uses Permitted Subject to Special Conditions of Chapter 22 describes the procedure for notification, including the applicable deadlines, for Special Land Use requests. This section of the MZEA was last updated in 2008 and notification deadlines in our ordinance do not match statutory requirements. Administration noted that notifications are being sent in accordance with state regulations, however it is important that ordinance language is correct to ensure clarity and consistency. Additionally, the text should be updated to reflect “Planning Commission”.

The Commission agreed to the proposed changes and instructed Administration to schedule a public hearing for the meeting to be held April 24, 2019.

Procedurally, the Planning Commission must hold a public hearing prior to making a recommendation to Village Council. The Village Council must also hold a public hearing, and first and second readings prior to adoption. Upon adoption by Council, the language will take effect 20 days after publication.

A copy of the draft is available for review in the Village office.

**PUBLIC COMMENTS**

Cynthia Nagel, Kirkshire, supports the proposed ordinance updates.

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

Absent: Member: Grinnan

Also Present: Planning and Zoning Administrator, LaPere  
Planning Consultant, Borden  
Council Liaison, Hrydziusko

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.

**PUBLIC HEARING FOR DRAFT LANGUAGE AMENDING CHAPTER 22, SECTIONS 22.08.130, 22.08.090, 22.08.300, 22.04, 22.08.370, 22.14, AND 22.16 OF THE VILLAGE MUNICIPAL CODE**

Ostrowski opened the public hearing at 7:40 p.m.

No one wished to be heard, therefore Ostrowski closed the public hearing at 7:40 p.m.

**REVIEW AND CONSIDER RECOMMENDATION ON LANGUAGE AMENDING CHAPTER 22, TO ELIMINATE SECTION 22.08.130 AND TO MODIFY SECTION 22.08.090**

Administration is aware of two sections with conflicting requirements for the minimum distance between buildings on adjacent properties, Sections 22.08.090 and 22.08.130. Upon reviewing the file of the various amendments to the Zoning Ordinance, Section 22.08.090 is the original language in place dictating spacing between residences tied to the minimum setback requirements of the Zone District. Section 22.08.130 was drafted and adopted by Council in response to concerns about spacing between homes during Zoning Ordinance updates that occurred in 2007. There was no reference to the existing language in the discussion recorded in the meeting minutes, therefore Administration is assuming that it was an oversight to create additional language.

In addition, the language in Section 22.08.130 conflicts with setback requirements and effectively imposes greater setback standards than the adopted minimums of 22.24. Furthermore, strict interpretation of the language “...within 15 feet of any structure...” could result in significant nonconformity throughout the Zone Districts identified in that section as our ordinance defines a structure as “Anything constructed or erected, the use of which requires location on the ground or attachments to something having location on the ground.” Section 22.04 Definitions further defines accessory structures and gives examples as children’s playhouse or play equipment. Based on discussion at the meeting when the language was drafted, it does not appear the intent was to prohibit a residence where the abutting property may have a swing set or fence less than 15 feet away, therefore Administration is proposing to eliminate Section 22.08.130.

Per the discussion at the Planning Commission meeting held March 27, 2019, administration has drafted modifications to the existing language of 22.08.090 to maintain the 15 foot separation between residential buildings in R-2A and R-2B Zone Districts and kept the separation linked to the minimum setbacks for all other single family residential districts. A review of Zoning Board

of Appeals cases since adoption of Section 22.08.130 revealed over 60% of the requests for a variance from that section were in Zone District R-3. The changes proposed will eliminate a significant amount of nonconformity in that Zone District and including all the regulations for minimum separation in one section provides ease for reader. Additionally, the proposed language clarifies separation is between residential buildings.

Westerlund expressed concern relative to language that reduces the separation on smaller lots and how those requirements might impact setbacks in the R-3 Zone District. Borden explained that the allowance for the reduction potentially occurs in a non-conforming lot in larger lot districts, but the setback requirements would still apply. Westerlund requested the Schedule Regulation Chart be updated to reflect changes.

Motion by Westerlund, second by Drummond, that the Planning Commission recommends Village Council adopt an ordinance to amend language of Chapter 22, Section 22.08.090 Minimum Distance Between Residential Buildings to update the language for clarity and reduce existing nonconformity and to eliminate Section 22.08.130 Minimum Separation, with changes to the schedule of regulations.

Roll Call Vote:  
Motion passed (8-0)

**REVIEW AND CONSIDER RECOMMENDATION ON LANGUAGE AMENDING CHAPTER 22, SECTION 22.08.300 TO REFLECT STATUTORY REQUIREMENTS FOR NOTIFICATION OF PUBLIC HEARINGS AND UPDATE REFERENCES OF “PLANNING BOARD” TO “PLANNING COMMISSION”**

Section 22.08.300 Procedures and Standards for Principal Uses Permitted Subject to Special Conditions of Chapter 22 describes the procedure for notification, including the applicable deadlines, for Special Land Use requests. This section of the MZEA was last updated in 2008 and notification deadlines in our ordinance do not match statutory requirements. While the notifications are being sent in accordance with state regulations, it is important that our ordinance language is correct to ensure clarity and consistency. Additionally, the text should be updated to reflect “Planning Commission”.

Upon discussion by the Commission, Borden clarified the state regulations for the notification area.

Motion by Borowski, second by Ruprich, that the Planning Commission recommends Village Council adopt an ordinance to amend language of Chapter 22, Section 22.08.300 Procedures and Standards for Principal Uses Permitted Subject to Special Conditions to update the notification deadlines pursuant to the statutory requirements outlined in the Michigan Zoning Enabling Act and modify references of Planning Board to Planning Commission within that section.

Roll call vote:  
Motion passed (8-0)



**To:** Honorable President Peddie;  
Village Council Members;  
Village Manager, Wilson

**From:** Planning & Zoning Administrator, LaPere

**Re:** Proposed updates to Chapter 22, Sections 22.04, 22.08.370, 22.14, and 22.16

**Date:** May 30, 2019

**Section 22.04 Definitions, Section 22.08.370 Group Daycare Homes and Child Care Centers, Section 22.14.030 Permitted Uses After Special Approval, and Section 22.16.030 Permitted Uses After Special Approval**

Administration has identified the sections of the Zoning Ordinance that regulate in-home adult foster care and in-home childcare facilities were last updated in 1991. The Michigan Zoning Enabling Act (MZEA) section regulating adult foster care and in-home child care facilities has been updated multiple times since 1991 and we need to ensure our language matches state regulations. Pursuant to the discussion at the joint Council and Planning Commission meeting in February and the motion made at the subsequent Council meeting, Administration has drafted updates to those sections.

The MZEA Section 125.3206 Residential use of property; adult foster care facilities; family or group child care homes specifically states that "...a state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones..." and the exclusion of the adult group home and group child care homes in Single Family Residential Zone Districts is contrary to that provision and must be corrected. The MZEA does allow for group child care homes to be issued a special use permit in a city or village which allows for protections to ensure the operation of such use will not negatively impact character of the surrounding neighborhood.

The MZEA and the Village's Zoning Ordinance combine regulatory language regarding adult foster care facilities and child care homes. There is a need to update various sections of the Zoning Ordinance to properly address the changes to the MZEA. Specifically, Section 22.04, Section 22.08.370, Section 22.14, and Section 22.16 all require amendments and attached is draft ordinance language detailing the proposed updates.

**Planning Commission Public Hearing and Recommendation**

The Planning Commission had discussion on these proposed amendments at their meeting held March 27<sup>th</sup> and held a public hearing and made a recommendation to adopt the amendments at

their April 24<sup>th</sup> meeting, minutes attached.

Procedurally, the Village Council must also hold a public hearing, and first and second readings prior to adoption. Upon adoption by Council, the language will take effect 20 days after publication. A public hearing has been scheduled and noticed for the June 4<sup>th</sup> Council meeting.

eel

attachments

VILLAGE OF BEVERLY HILLS  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE VILLAGE MUNICIPAL CODE,  
CHAPTER 22, ZONING ORDINANCE, FOR THE VILLAGE OF BEVERLY HILLS.

The Village of Beverly Hills Ordains:

Section 1.01. That Section 22.04 of Chapter 22 is hereby amended to read as follows:

**SECTION 22.04 DEFINITIONS**

Adult Foster Care Facility: A facility for the care of adults, eighteen (18) years of age and older, as licensed and regulated by the State under Michigan Public Act 218 of 1979, and rules promulgated by the State Department of Social Services. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, or a residential center for persons released from or assigned to a correctional facility. Such organizations shall be defined as follows:

- a. Adult Foster Care Family Home: a private home with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
- b. Adult Foster Care Small Group Home: a private home with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.
- c. Adult Foster Care Large Group Home: a private home with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.
- d. No Change

Child Care Facility: A facility for the care of children under eighteen (18) years of age, as licensed and regulated by the State under Michigan Public Act 116 of 1973 and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

- a. Child Care Center: A facility, other than a private residence, receiving more than six pre-school or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a

facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day.

The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

- b. Foster Family Home: A private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian.
- c. Foster Family Group Home: A private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian
- d. Family Day Care Home: A private home in which up to six (6) minor children are received for care and supervision for periods of less than 24 hours a day, except children related to the caregiver by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.
- e. Group Day Care Home: A private home in which more than six but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to the caregiver. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

#### Section 2.01.

That Section 22.08.370 of Chapter 22 is hereby amended to read as follows:

#### **SECTION 22.08.370 GROUP DAY CARE HOMES AND CHILD CARE CENTERS**

- a. Licensing: In accordance with applicable state laws, facilities shall be registered with or licensed by the appropriate state government departments and shall be required to be in continuing compliance with the standards outlined for such facilities.
- b. Outdoor Play Area: For each person cared for in a facility there shall be provided and maintained a minimum of one hundred fifty (150) square feet of usable outdoor recreational area. The outdoor recreational play area shall be suitably fenced and screened from abutting residentially zoned or used land in accordance with SECTION 22.08.150. Outdoor recreational areas shall not be located in the front yard.
- c. Location: No state licensed facility shall be located within fifteen hundred (1500) feet of another State licensed care facility regardless of community boundaries. Child care centers shall have at least one property line abutting a major thoroughfare, intermediate thoroughfare or collector street.

d. Off-Street Parking: Off-street parking shall be provided for any employees who are not residents of the home. Whenever off-street parking areas are adjacent to land used or zoned for residential purposes, a wall or landscaped screen shall be provided along the sides of the parking area adjacent to such residential land or use in accordance with SECTION 22.08.160. An on-site drive shall be provided for drop offs/loading. This drive shall be arranged to allow maneuvers without affecting traffic flow on the street.

e. Compliance with Zoning Ordinance: The proposed site and building shall be in full compliance with all yard and bulk regulations (including setback, lot size, and lot width regulations) for the district in which it is located. Child care centers shall have a minimum side yard setback of at least twenty-five (25) feet.

### Section 3.01.

That Section 22.14.030 of Chapter 22 is hereby amended to read as follows:

### **SECTION 22.14.030 PERMITTED USES AFTER SPECIAL APPROVAL.**

The following uses may be permitted in RA, R-1, R-1A, R-2, R-2A, R-2B and R-3 zoning districts, subject to the conditions imposed in SECTION 22.08.300 and subject further to the approval of the Village Council: {Ord. 326, 10-27-07}

a. No Change

b. No Change

c. No Change

d. No Change

e. Private schools operated on a non-profit basis.

f. Non-profit private school related accessory uses and accessory structures, such as: auditoriums, athletic and recreational facilities, and similar uses. Each use or structure shall be subject to a separate special approval.

g. Group day care homes.

h. Public off-street parking in connection with item (a) through (g) above and provided said parking area is improved and maintained in accordance with SECTION 22.28. {Ord. 252, 5-12-91}

### Section 4.01.

That Section 22.16 of Chapter 22 is hereby amended to add:

### **22.16.020 PERMITTED PRINCIPAL USES**

In the R-M district, no uses shall be permitted unless otherwise provided in this section, except the following:

- a. No Change
- b. Family Day Care Homes.
- c. Accessory Uses including:
  - 1. Private parking.
  - 2. Private swimming pool and private recreational facilities.
  - 3. Greenbelt - See Section 22.24.
  - 4. Home occupations.

#### Section 5.01.

That Section 22.16.030 of Chapter 22 is hereby amended to read as follows:

#### **SECTION 22.16.030 PERMITTED USES AFTER SPECIAL APPROVAL**

The following uses may be permitted in the R-M zoning district subject to the conditions imposed in Section 22.08.300 and subject further to the approval of the Village Council:

- a. No Change
- b. No Change
- c. No Change
- d. Group day care homes.
- e. Child care centers, pre-schools, and nursery schools.
- f. Nursing homes and convalescent centers.
- g. Use of a six (6) foot high obscuring masonry wall in lieu of a greenbelt. See SECTION 22.24., footnote (h).

Section 6.01. SEVERABILITY. If any section, clause or provision of this Ordinance shall be declared to be inconsistent with the Constitution and laws of the State of Michigan and voided by any court of competent jurisdiction, said section, clause or provision declared to be unconstitutional and void shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force.

Section 7.01. SAVING CLAUSE. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law when they were commenced.

Section 8.01. REPEALER. Any Ordinance conflicting with this Ordinance be and the same is hereby repealed.

Section 9.01. EFFECTIVE DATE. A public hearing having been held by the Planning Commission on April 24, 2019, and the Village Council on June 4, 2019, the provision of this

Ordinance shall become effective 20 days following its publication in The Eccentric, a newspaper circulated within said Village.

Made and passed by the Village Council of the Village of Beverly Hills this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
LEE PEDDIE, Village President

\_\_\_\_\_  
KRISTIN RUTKOWSKI, Village Clerk

I, Kristin Rutkowski, being the duly appointed and qualified Clerk of the Village of Beverly Hills, Oakland County, Michigan, do hereby certify and declare that the foregoing is a true and correct copy of an Ordinance adopted by the Village Council of the Village of Beverly Hills at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
KRISTIN RUTKOWSKI, Village Clerk

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

Absent: Member: Grinnan

Also Present: Planning and Zoning Administrator, LaPere  
Planning Consultant, Borden  
Council Liaison, Hrydziuszek

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.

**PUBLIC HEARING FOR DRAFT LANGUAGE AMENDING CHAPTER 22, SECTIONS 22.08.130, 22.08.090, 22.08.300, 22.04, 22.08.370, 22.14, AND 22.16 OF THE VILLAGE MUNICIPAL CODE**

Ostrowski opened the public hearing at 7:40 p.m.

No one wished to be heard, therefore Ostrowski closed the public hearing at 7:40 p.m.

**REVIEW AND CONSIDER RECOMMENDATION ON LANGUAGE AMENDING CHAPTER 22, SECTIONS 22.04, 22.08.370, 22.14, AND 22.16 TO REFLECT STATUTORY LANGUAGE REGULATING ADULT FOSTER CARE AND CHILDCARE FACILITIES**

Administration noted the sections of the Zoning Ordinance that regulate in-home adult foster care and in-home childcare facilities were last updated in 1991. The Michigan Zoning Enabling Act (MZEA) section regulating adult foster care and in-home child care facilities have been updated multiple times since 1991 and the MZEA Section 125.3206 Residential use of property; adult foster care facilities; family or group child care homes specifically states that "...a state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones..." and the exclusion of the adult group home and group child care homes in Single Family Residential Zone Districts is contrary to that provision and must be corrected. The MZEA does allow for group child care homes to be issued a special use permit in a city or village which allows for protections to ensure the operation of such use will not negatively impact character of the surrounding neighborhood.

The MZEA, and subsequently the Village's Zoning Ordinance, combines regulatory language regarding adult foster care facilities and child care homes. There is a need to update various sections of the Zoning Ordinance to properly address the changes to the MZEA. Specifically, Section 22.04, Section 22.08.370, Section 22.14, and Section 22.16 all require amendments.

Motion by Borowski, second by Westerlund, that the Planning Commission recommends Village Council adopt an ordinance to amend language of Chapter 22, Section 22.04 Definitions, Section 22.08.370 Foster Family Group Home and Child Care Centers, Section 22.14 R-A, R-1, R-1A, R-2, R-2A, R-2B, and R-3 Single Family Residential Districts, and Section 22.16 Multiple Family Residential District to update the language

pursuant to the statutory requirements outlined in the Michigan Zoning Enabling Act for adult foster care and child care facilities.

Roll call vote:

Motion passed (8-0)

**EXCERPT OF REGULAR PLANNING COMMISSION MEETING MINUTES – MARCH 27, 2019 –  
PAGE 1**

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

Absent: Members: Drummond and Ruprich

Also Present: Village Manager, Wilson  
Planning Consultant, Borden  
Council Liaison, Hrydziusko

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.

**REVIEW AND DISCUSS DRAFT LANGUAGE TO MODIFY SECTIONS 22.04, 22.08.370, 22.14, AND 22.16 TO REFLECT STATUTORY LANGUAGE REGULATING ADULT FOSTER CARE AND CHILDCARE FACILITIES**

The sections of the Zoning Ordinance that regulate in-home adult foster care and in-home childcare facilities were last updated in 1991. The Michigan Zoning Enabling Act (MZEA) section regulating adult foster care and in-home child care facilities have been updated multiple times since 1991 and Administration has prepared modifications to the language that matches state regulations.

The MZEA Section 125.3206 Residential use of property; adult foster care facilities; family or group child care homes specifically states that "...a state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones..." and the exclusion of the adult group home and group child care homes in Single Family Residential Zone Districts is contrary to that provision and must be corrected. The MZEA does allow for group child care homes to be issued a special use permit in a city or village which allows for protections to ensure the operation of such use will not negatively impact character of the surrounding neighborhood.

The MZEA, and subsequently the Village's Zoning Ordinance, combines regulatory language regarding adult foster care facilities and child care homes. There is a need to update various sections of the Zoning Ordinance to properly address the changes to the MZEA. Specifically, Section 22.04, Section 22.08.370, Section 22.14, and Section 22.16 all require updates.

The Commission agreed to the proposed changes and instructed Administration to schedule a public hearing for the meeting to be held April 24, 2019.

Procedurally, the Planning Commission must hold a public hearing prior to making a recommendation to Village Council. The Village Council must also hold a public hearing, and first and second readings prior to adoption. Upon adoption by Council, the language will take effect 20 days after publication.

A copy of the draft is available for review in the Village office.

**PUBLIC COMMENTS**

**EXCERPT OF REGULAR PLANNING COMMISSION MEETING MINUTES – MARCH 27, 2019 –  
PAGE 2**

Cynthia Nagel, Kirkshire, supports the proposed ordinance updates.

# Memorandum

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**To:** Honorable Lee Peddie, Village President; Village Council; Tom Meszler, Public Services Director; Tom Ryan, Village Attorney

**From:** Chris D. Wilson, Village Manager

**CC:** Kristin Rutkowski, Village Clerk/Assistant Village Manager

**Date:** 5/30/2019

**Re:** Sewer System Operation and Maintenance Agreement.

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The Oakland County Water Resources Commissioner (WRC) has been reviewing the existing Operation and Maintenance (O&M) Agreements with municipalities for whom they provide O&M services. WRC provides such services for the Village of Beverly Hills. The existing O&M agreement between the Village and WRC was last ratified in 1995. For reference, the Village normally budgets around \$200,000 annually in the Water and Sewer Fund for expenses related to this contract. These costs do not include the operation of the retention basin at the Douglas Evans Nature Preserve.

Legal Services for Oakland County has drafted a revised O&M Agreement and provided same to the Village for our review. Village Administration has met with WRC staff to review the terms of the revised agreement and operations and financial status of our current arrangement. Village Administration is content with current operations and feels the proposed contract correctly states the responsibilities of the Village and WRC. The agreement could only be modified in the future by a resolution of the Village Council. A similar contract revision for O&M of the Village's water system will be forthcoming.

Village Attorney Ryan has reviewed the proposed contract and found it to be in order. Clerk Rutkowski has drafted the attached resolution for your review and consideration. If there are no objections, I recommend approval of the attached resolution.



**RESOLUTION**  
**APPROVING THE VILLAGE OF BEVERLY HILLS SEWER SYSTEM OPERATION AND**  
**MAINTENANCE AGREEMENT WITH OAKLAND COUNTY**

WHEREAS, the Village owns a sewer system that is further described in Exhibit A, which is known as the Village of Beverly Hills Sewer System, and as it may be expanded or altered from time to time (the "System");

WHEREAS, the Village desires to engage the County to operate and maintain the System on behalf of the Village on a non-profit basis and in accordance with the terms and conditions set forth in this Agreement;

WHEREAS, the County, by and through the Office of the Oakland County Water Resources Commissioner ("WRC"), has qualified personnel capable of providing sewer operations and maintenance services;

WHEREAS, the Michigan Constitution of 1963, Article 7, § 28, and the Urban Cooperation Act of 1967, being MCL 124.501, *et seq.* ("Act 7"), authorizes a political subdivision to exercise jointly with any other political subdivision any power, privilege or authority which such political subdivisions share in common with which each might exercise separately; and

WHEREAS, pursuant to resolutions adopted by their respective legislative bodies, the Parties each have been authorized to execute this Agreement for the Services according to the terms and conditions of this Agreement.

NOW, THEREFORE, BE IT RESOLVED, in consideration of these premises and the mutual promises, representations, and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the County and the Village mutually agree on the attached Operation and Maintenance agreement.

**VILLAGE OF BEVERLY HILLS**  
**SEWER SYSTEM**

**OPERATION AND MAINTENANCE AGREEMENT**

**THIS AGREEMENT** is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the COUNTY OF OAKLAND, a Michigan constitutional corporation ("County"), whose address is 1200 N. Telegraph, Pontiac, Michigan 48341 and the VILLAGE OF BEVERLY HILLS, a Michigan municipal corporation, whose address is 18500 West Thirteen Mile Road, Beverly Hills, Michigan 48025 ("Village"). In this Agreement, either the County and/or the Village may also be referred to individually as a "Party" or jointly as "Parties."

**Recitals:**

**WHEREAS**, the Village owns a sewer system that is further described in **Exhibit A**, which is known as the Village of Beverly Hills Sewer System, and as it may be expanded or altered from time to time (the "System"); and,

**WHEREAS**, the Village desires to engage the County to operate and maintain the System on behalf of the Village on a non-profit basis and in accordance with the terms and conditions set forth in this Agreement; and,

**WHEREAS**, the County, by and through the Office of the Oakland County Water Resources Commissioner ("WRC"), has qualified personnel capable of providing sewer operations and maintenance services; and,

**WHEREAS**, the Michigan Constitution of 1963, Article 7, § 28, and the Urban Cooperation Act of 1967, being MCL 124.501, *et seq.* (the "Act 7"), authorizes a political subdivision to exercise jointly with any other political subdivision any power, privilege or authority which such political subdivisions share in common with which each might exercise separately; and,

**WHEREAS**, pursuant to resolutions adopted by their respective legislative bodies, the Parties each have been authorized to execute this Agreement for the Services according to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of these premises and the mutual promises, representations, and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the County and the Village mutually agree as follows:

#### **Article I. Statement of Authority and Purpose.**

- 1.1 Authority. Pursuant to Act 7 of 1967, and any other applicable laws of the State of Michigan, the County and the Village enter into this Agreement to establish terms and conditions for the operation and maintenance of the System. Each Party agrees to take all actions reasonably necessary to effectuate the objectives set forth in this Agreement.
- 1.2 Purpose. The purpose of this Agreement is to authorize the County to operate and maintain the System on behalf of the Village on a non-profit basis and in accordance with the Services detailed in **Exhibit B** attached hereto. In exchange for the Services, the County shall be reimbursed for its Costs and Overhead from the Revenue collected and deposited in the System Enterprise Fund maintained by the County on behalf of and for the benefit of the Village.

#### **Article II. Definitions.**

In addition to the above defined terms (i.e. "County", "Village", "WRC", "Party" and "Parties") and any terms defined in other sections of this Agreement (e.g., "Services"), the Parties agree that the following words and expressions, whether used in the singular or plural, possessive or non-possessive, and/or either within or without quotation marks, shall be defined and interpreted as follows:

- 2.1 "Agreement" shall mean each of the various provisions and parts of this document, including all attached Exhibits and any amendments thereto, as may be executed and approved by the Parties.
- 2.2 "Cost(s)" shall be defined as the labor, including statutory and customary fringe benefits, overtime, material and supplies, power and utility services, building/facility and vehicle/equipment rental and subcontractor services devoted to the Services as defined in this Agreement.
- 2.3 "Contractor" shall be defined as an independent contractor engaged by the County to perform the Services and responsibilities necessary to carry out the objectives under this Agreement.
- 2.4 "County Agent" or "County Agents" shall be defined as any and all Oakland County elected officials, appointed officials, directors, board members, commissioners, authorities, other boards, committees, commissions, employees, managers, departments, divisions, volunteers, agents, representatives, and/or any such persons' successors or predecessors (whether such persons act or acted in their personal representative or official capacities), and/or any persons acting by, through, under, or in concert with any of them, excluding the Village and/or any Village Agents, as defined herein.

- 2.5 "WRC Personnel" as used in this Agreement shall be defined as a specific subset of, and included as part of the larger group of County Agents as defined above, and assigned by the County to work in the Office of the Oakland County Water Resources Commissioner as shown in the County budget and/or personnel records of the County.
- 2.6 "Village Agent" or "Village Agents" shall be defined to include any and all Village officers, elected officials, appointed officials, directors, board members, council members, authorities, boards, committees, commissions, employees, managers, departments, divisions, volunteers, agents, representatives, consultants, and/or any such persons' successors or predecessors (whether such persons act or acted in their personal, representative, or official capacities), and/or any persons acting by, through, under, or in concert with any of them, excluding the County and/or any County Agents, as defined herein.
- 2.7 "Claim(s)" shall be defined to include any and all alleged claims, complaints, demands for relief or damages, lawsuits, and causes of action, whether in law or equity, tort, contract, or otherwise, by third parties, arising out of the ownership, operation, maintenance of the System, but does not include claims between the Parties.
- 2.8 "Overhead" shall be defined to include the following: all allocation of the labor cost, including statutory and customary fringe benefits, of personnel responsible for administering this contract or supervising the work performed in connection with this Agreement; an allocation of expenses of the WRC; and an allocation of indirect costs of Oakland County charged to the WRC for the use of buildings and facilities and for support services, such as (but not limited to) legal, personnel, accounting, computer support, and insurance/risk management. The Overhead expense allocations and methodology are set forth in **Exhibit C**.
- 2.9 "Service Charge" shall be defined as the quarterly fee charged to the City for the operations and maintenance of the system. The fee is reviewed on an annual basis and modified from time to time as mutually agreed upon.
- 2.10 "Revenue" shall be defined as the funds derived from the service charge.
- 2.11 "State" shall be defined as the "State of Michigan," a sovereign governmental entity of the United States, and also shall include within its definition any and all departments or agencies of State government.
- 2.12 "System Enterprise Fund" shall be defined as the account for the System established and maintained by the County on behalf of the Village.

### **Article III. County Responsibilities; WRC Operation and Maintenance Services.**

- 3.1 Services. The County agrees to perform the operation and maintenance services for the System (all of the following being referred to in this Agreement as the "WRC Services" or "Services") as set forth in **Exhibit B** attached to this Agreement.
- (a) The Services to be provided by the County to the Village under this Agreement shall be performed by the County's "WRC Personnel" and/or Contractor. The County will maintain and designate a sufficient number of County Agents and

WRC Personnel, having sufficient qualifications, in order to carry out and provide the Services under and in accordance with this Agreement. However, the County will give due consideration to any input received from the Village concerning the number and charges of Contractors and WRC Personnel assigned to provide Services for the System.

- (b) The County shall be responsible for furnishing all WRC Personnel and Contractors with all job instructions, job descriptions and job specifications and shall in all circumstances control, supervise, train or direct all WRC Personnel in the performance of any and all Services under this Agreement. The County shall remain the sole and exclusive employer of all County Agents and WRC Personnel.
  - (c) This Agreement is neither intended, nor shall it be interpreted, to create, change, or otherwise affect or control, in any manner any employment right, privilege, benefit, or any other term or condition of employment, of any kind or nature whatsoever, in, upon, or for any County Agent or WRC Personnel. Except as expressly provided for under the terms of this Agreement and/or laws of this State, no County Agent or WRC Personnel, while such person is currently and/or actively employed by the County shall be employed or utilized to perform any other services by or for the Village during the term of this Agreement. This section shall not prohibit the Village from employing any person who was a former County Agent but is no longer employed in that capacity by the County.
- 3.2 System Capital Replacement Expenditures. Except in cases of emergencies, the County shall not expend funds from the System Enterprise Fund for capital replacement or improvement projects in excess of \$5,000 without prior approval from the Village.
- 3.3 Establish Reserves. The County may establish a reserve for system emergencies, system replacement, or other purposes with the consent of the Village.
- 3.4 Independent Contractor. At all times and for all purposes under the terms of this Agreement, the County and/or any and all County Agents' legal status and relationship to the Village shall be that of an Independent Contractor.
- 3.5 Insurance - County. The County will endeavor to obtain and to maintain for the duration of this Agreement the following insurance coverages with insurance companies licensed to do business in the State of Michigan, but only if such insurance coverage is commercially available. It is understood and agreed, that all costs, including the premium, self-insured retention or deductible, shall be included as a System Cost:
- (a) Professional Liability or Errors and Omissions with limits of \$10,000,000 per occurrence and \$15,000,000 aggregate.
  - (b) Commercial General Liability with limits of \$10,000,000 per occurrence and \$15,000,000 aggregate.
  - (c) Certificates of Insurance.
    - i. So long as the Village maintains current on its annual premium for the coverage outlined herein, it shall be a Named Insured under the policy.

- (d) **Non-Exclusivity and Limitations of Insurance Coverage.** It is understood by the Village, that the insurance coverages set forth herein and obtained and maintained by the County is not exclusive to this Agreement. Meaning, that the County may purchase and maintain the insurance coverages to insure the County (its respective elected officials, officers, employees, and agents) against such Claims arising from the County Services provided under this Agreement, as well as similar Services the County provides to other municipal public corporations. As such, the Village, along with other participating municipal corporations, will share in the cost of the insurance premium paid by the County. To this end, the County agrees to reasonably allocate the premium paid for the insurance to the various water and sewer systems operated and maintained by the County, including the Village's System, and provide reasonable justification for the allocation of said cost to the Village. In addition, it is understood and agreed, that the purchase of insurance and payment of the premium (as a System Cost), does not guarantee insurance coverage for any Claim. All policies set forth herein are subject to the terms, conditions, and limitations set forth in the insurance policies. As such, uninsured Claims shall be and remain a System Cost. Moreover, insured Claims arising from the County's Services to a municipal water and sewer system, other than the Village's System, may limit or possibly eliminate coverage of a Claim arising from the County's Services under this Agreement. In the event of such an occurrence, it is understood that an otherwise insured Claim that is in excess of any valid and collectible insurance rights/policies, shall be and remain a System Cost.

3.6 **Permit Assistance.** The County will assist the Village in the procurement of all permits, guarantees, warranties, easements, licenses, and other similar approvals and consents necessary to operate and maintain the System received by or granted to the Village as the owner of the System.

3.7 **Disbursing Funds.** Upon request from the Village for the disbursement of funds from the System Enterprise Fund, the County shall promptly disburse funds to the Village in the amount and manner requested, provided that the balance remaining in the System Enterprise Fund is adequate for the operation and maintenance of the System.

#### **Article IV. Village's Responsibilities.**

4.1 **Ordinance – Enforcement.** The Village is responsible for enforcement of the Village's ordinances and regulations. The Village has adopted or shall hereafter adopt one or more ordinances regulating or prohibiting the discharge of fats, oils and grease, or industrial waste to the System, including those pertaining to user pretreatment standards; and, the billing and collection of Costs related thereto.

4.2 **Major Repairs of the System.** The Village is responsible for major repairs of the System, which are determined on a case-by-case basis by the County as capital replacement, repairs or maintenance valued at \$5,000 or more per occurrence. The Village has the option of directing the County to perform this work on behalf of the Village, utilizing WRC Personnel or a Contractor, or administering this work independent of this Agreement.

Major repairs of the System performed by the County pursuant to this Agreement will be invoiced to the Village separately and in addition to the quarterly service charge.

- 4.3 Permits - Village. The Village will be responsible for procuring, and in accordance with their respective terms, all permits, guarantees, warranties, easements, licenses, and other similar approvals and consents necessary to operate and maintain the System received by or granted to the Village as the owner of the System.
- 4.4 Village - Insurance.
- (a) It shall be the responsibility of the Village to determine and obtain real and personal property insurance with limits that the Village, in its discretion, deems necessary and appropriate for the System and components of the System.
  - (b) It shall be the responsibility of the Village to determine and obtain General Liability Insurance or self-insurance to protect against the Village's liabilities and exposures set forth in Article VI.
- 4.5 Property Access. The Village will be responsible for and will secure the right of access necessary for WRC Personnel or Contractors to perform the Services under this Agreement. The Village will be responsible for all costs or Claims associated with securing rights of access.
- 4.6 Compliance with State and Federal Law and Regulations. The Village will be and remain responsible for Costs associated with compliance with all federal, state, and local laws, ordinances, regulations, and requirements in any manner affecting any work or performance of this Agreement or with any Village duty or obligation under any applicable state or federal laws and/or regulations.
- 4.7 System Ownership. Notwithstanding any other term or condition in this Agreement, no provision in this Agreement is intended, nor shall it be construed, as constituting a divestiture or forfeiture of the Village's absolute ownership of and authority over the System.

## **Article V. Compensation for Services.**

- 5.1 Compensation from System Revenue. The County's Costs and Overhead incurred for the Services shall be compensated from the Revenue from the System. In the event that the Costs and Overhead exceed the Revenue in any one year, then any deficiency may be recovered by adjusting the Service Charge or from the general fund of the City. In the event that annual Costs and Overhead are less than the annual Revenue, then upon the sole discretion and direction of the City, future Service Charges may be adjusted to balance the account.
- 5.2 County Services Performed Non-Profit Basis. The Village acknowledges and agrees that the County will assist the Village in the operations and maintenance of the System on a non-profit basis for the benefit of the users of the system and therefore the County is without funds to finance, operate and maintain the System except for the Revenue derived from the System users. Therefore, it is understood and agreed that in no event shall the County or its general fund be charged with or liable for the cost of operating,

maintaining, repairing, replacing, or administering the System. All Costs and Overhead associated with the Services under this Agreement will be the responsibility of the Village.

**Article VI. Standard of Care; Warranty Waiver; Consequential Damages; Liability; and PA 222 Liability.**

- 6.1 Standard of Care; Waiver of Warranty and Consequential Damages. The County will perform the Services under this Agreement in accordance with the standard of care and diligence normally provided by other professional firms providing similar Services. However, the County makes no warranty, express or implied, with respect to any Services provided. SPECIFICALLY, NO WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY IS MADE OR IMPLIED BY THE COUNTY WITH RESPECT TO SERVICES PROVIDED UNDER THIS AGREEMENT. NOTWITHSTANDING ANY PROVISION CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL THE COUNTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER UNDER CONTRACT, TORT OR OTHERWISE.
- 6.2 Liability for Claims. Except as otherwise provided in this Agreement, it is understood that each Party shall be responsible for any Claims made against that Party and for the acts or omissions of its respective employees or Village/County Agents. With respect to Claims that arise from the performance of this Agreement, each Party shall seek its own legal representation and bear the costs associated with such representation including attorney fees. Except as otherwise provided in this Agreement, neither Party shall have any right under any legal principle to be indemnified by the other Party or any of its employees or Agents in connection with any Claim. This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty or immunity of the Parties. Nothing in this Agreement shall be construed as a waiver of the privileges and immunities as provided by law afforded to the Parties. The Parties expressly reserve all privileges and immunities as provided by law.
- 6.3 PA 222 Liability for Third-Party Claims Caused by Defects or Infiltration and Inflow of System. To the extent permitted by law, the Village agrees to pay any and all Claims, including the defense of and claims asserted against the County, for sewage disposal system events as defined in Section 16 of Act 170 or the Public Acts of 1964, as amended (by Public Act 222 of the Public Acts of 2001), MCL 691.1416, arising from design or construction defects, or from the infiltration and/or inflow of stormwater to the System.
- 6.4 Force Majeure; System Malfunction; Misuse or Vandalism of System. The Village will be responsible for damage and liability to the System or components thereof caused by flood, fire, Acts of God or other force majeure, civil disturbance, Acts of War, terrorism or misuse of property. In addition, the Village will be responsible for all Claims, damages and liability caused by design and/or construction defects, malfunction or failure of the System or any component thereof, sewer breaks, and vandalism provided the same is not directly caused by the acts or omissions of County Agents.
- 6.5 No Third Party Beneficiary. This Agreement does not create any rights or benefits to parties other than the Village and the County.

## **Article VII. Cooperation and Communication; Dispute Resolution.**

- 7.1 Cooperation. The County agrees to ensure that all County Agents fully cooperate with the Village and Village Agents in the performance of all Services under this Agreement. The Village agrees to ensure that Village Agents cooperate with WRC Personnel in the performance of the Services under this Agreement.
- 7.2 Communication. There shall be an open and direct line of communication established and maintained between the Parties in order to promote the handling of both routine and emergency situations in a timely and cooperative manner according to the circumstances as they exist or become known. Each Party will designate one or more liaisons for such purposes, and will notify the other Party of such designee(s). The liaisons shall also be used for purposes of communicating and coordinating specific needs, plans, instructions, issues, concerns and other matters relating to the System or Services.
- 7.3 Dispute Resolution. The Parties agree that any and all claims alleging a breach of this Agreement, or with respect to the Services provided under this Agreement, shall first be submitted to an alternative dispute resolution process. Such an alternative dispute resolution process may include, but is not limited to, facilitation, binding arbitration, or non-binding arbitration. The Parties shall agree upon the form and procedures for the agreed upon alternative dispute resolution process. If the matter is not resolved through an alternative dispute resolution process, or if the Parties cannot agree upon the form and procedures for the alternative dispute resolution process, the Parties may seek legal recourse in a court of competent jurisdiction. For claims requiring immediate relief to prevent irreparable harm, either Party may seek relief directly from a court of competent jurisdiction without submitting the matter to the alternative dispute resolution process.

## **Article VIII. Term; and Termination.**

- 8.1 Term. The Parties agree that the term of this Agreement shall begin on the Effective Date of this Agreement. This Agreement shall be effective for an initial term of ten (10) years from the effective date, and shall be automatically extended for additional ten (10) year terms, unless terminated as provided herein, or otherwise agreed to in writing by the Parties.
- 8.2 Termination. Notwithstanding any other term or provision in any other section of this Agreement, either Party, upon a minimum of One Hundred and Eighty (180) calendar days written notice to the other Party, may terminate this Agreement for any reason, including convenience, without incurring any penalty, expense, or liability to the other Party. The effective date for any such termination shall be clearly stated in the notice.
- 8.3 Survival of Certain Terms and Conditions Following Termination or Expiration of Agreement. The Parties agree that record-keeping and audit requirements, any payment obligations to the other Party, and/or any other related obligations provided for in this Agreement with regard to any acts, occurrences, events, transactions, or Claim(s) either occurring or having their basis in any events or transactions that occurred during the term of this Agreement, shall survive the termination or expiration of this Agreement.

- 8.4 Cooperation Following Termination of Agreement. In the event the Agreement is terminated as provided herein, the Parties agree to cooperate in all respects and assist in the wind down from the County's operation and maintenance of the System. The Village will be responsible for all Costs and Overhead incurred by the County through the date of termination, including the Costs and Overhead incurred by the County during the termination notice period referenced above to wind down and end the County's involvement in the provision of the Services.

**Article IX. Agreement Approval; Effective Date; and Amendments; Changes to Scope of Services.**

- 9.1 Agreement Approval; Amendments; and Effective Date. Except as otherwise provided herein, this Agreement, and/or any subsequent amendments thereto, shall not become effective prior to the approval by resolutions of both the Village and the County. The Effective Date of this Agreement, and any amendments hereto, shall be the date as reflected in the opening paragraph of this Agreement.
- 9.2 Amendment to Scope of Services. During the term of this Agreement, the Scope of Services attached hereto as Exhibit B, may be amended by the WRC and approved by resolution of the Village during the term of this Agreement without requiring a resolution from the County Board of Commissioners.

**Article X. General Provisions.**

- 10.1 Governing Law. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. The language of all parts of this Agreement is intended to and, in all cases, shall be construed as a whole according to its fair meaning, and not construed strictly for or against any party. As used in this Agreement, the singular or plural number, possessive or non-possessive shall be deemed to include the other whenever the context so suggests or requires.
- 10.2 Reservation of Rights; Governmental Function. This Agreement does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties. In addition, the Parties maintain that the obligations set forth in this Agreement will be in the exercise or discharge of a governmental function.
- 10.3 Severability. If any provision of this Agreement or the application to any person or circumstance is, to any extent, judicially determined to be invalid or unenforceable, the remainder of the Agreement, or the application of the provision of persons or circumstances other than those as to which it is invalid or unenforceable, is not affected and is enforceable, provided the invalid provision does not substantially alter the Agreement or make execution impractical.
- 10.4 Binding Contract; Assignment; and Amendments. This Agreement will be binding upon and for the benefit of the Parties hereto and their respective successors and assigns, subject to any assignment requiring the prior written consent of the non-assigning Party by an amendment to this Agreement signed by all Parties, and the assignee binding the assignee to the terms and provisions of this Agreement.

- 10.5 Captions. The section headings or titles and/or all section numbers contained in this Agreement are intended for the convenience of the reader and not intended to have any substantive meaning and are not to be interpreted as part of this Agreement.
- 10.6 Notices. Except as otherwise expressly provided for herein, any and all correspondence, invoices, and/or any other written notices required, permitted or provided for under this Agreement to be delivered to the following:

COUNTY OF OAKLAND:

OAKLAND COUNTY WATER  
RESOURCES COMMISSIONER  
1 Public Works Drive  
Waterford, Michigan 48328

VILLAGE OF BEVERLY HILLS:  
VILLAGE ADMINISTRATOR  
18500 West Thirteen Mile Road  
Beverly Hills, Michigan 48025

- 10.7 Notice Delivery. Except with respect to notices of termination, all correspondence and written notices shall be considered delivered to a Party as of the date that such notice is deposited with sufficient postage with the U.S. Postal Service. Notices of termination shall be personally delivered or sent by certified mail, return receipt requested, and shall be considered delivered to a party on the date of receipt as represented by the return receipt or by a proof of personal service.
- 10.8 Entire Agreement. This Agreement sets forth the entire agreement between the County and the Village and fully supersedes any and all prior agreements or understandings between them in any way related to the subject matter hereof. It is further understood and agreed that the terms and conditions herein are contractual and are not a mere recital and that there are no other agreements, understandings, contracts, or representations between the County and the Village in any way related to the subject matter hereof, except as expressly stated herein. This Agreement shall not be changed or supplemented orally and may be amended only as otherwise provided herein.
- 10.9 Recitals. The recitals shall be considered an integral part of the Agreement.

**IN WITNESS WHEREOF**, this Agreement is executed by the Parties on the date hereafter set forth in the opening paragraph of this Agreement.

COUNTY OF OAKLAND

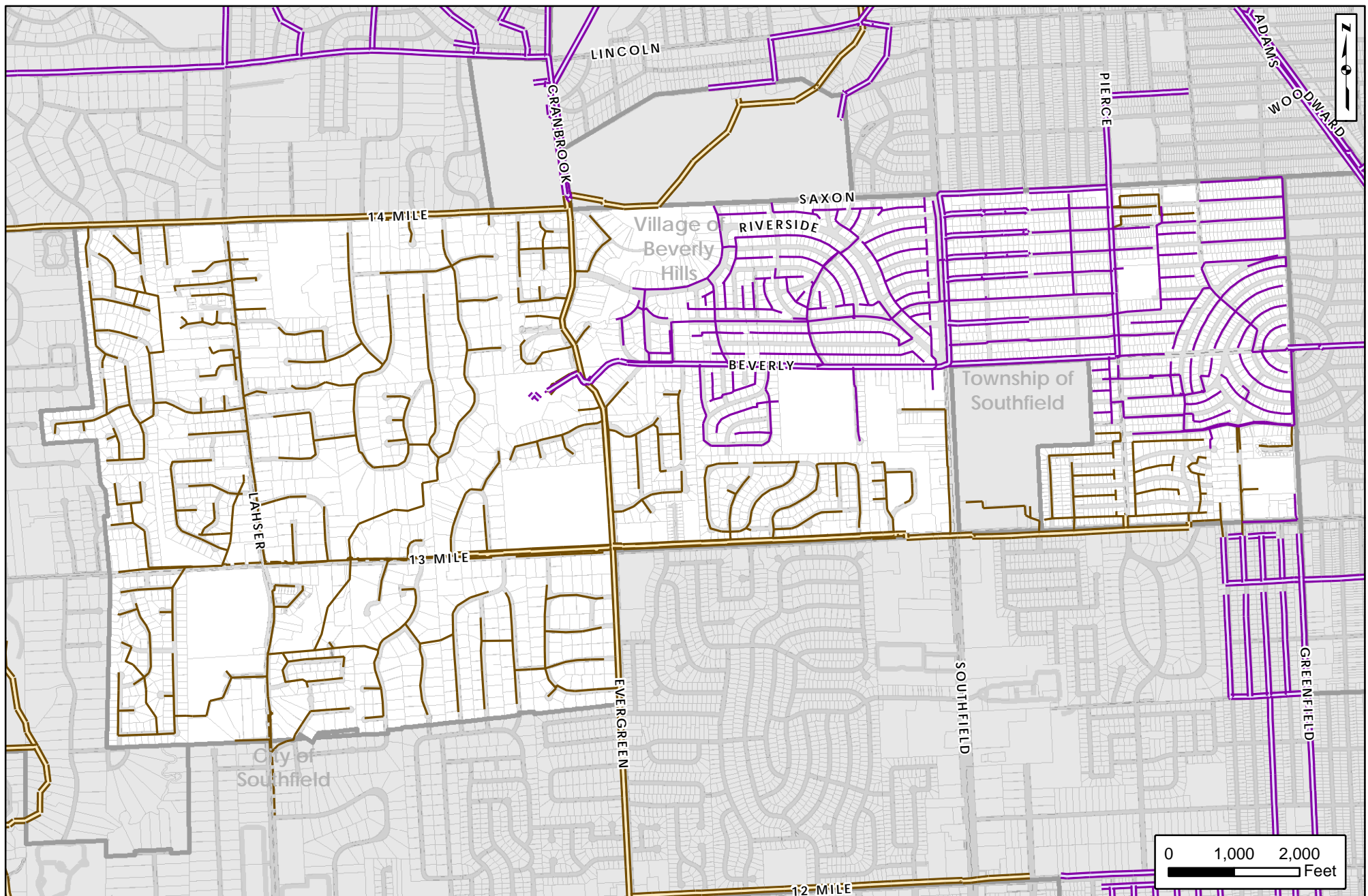
By: \_\_\_\_\_  
David T. Woodward, Chairperson  
Oakland County Board of Commissioners

VILLAGE OF BEVERLY HILLS

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

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

DRAFT



One Public Works Drive  
Building 95 West  
Waterford, Michigan  
48328-1907

#### DISCLAIMER:

The information displayed in this map is compiled from recorded deeds, plats, tax maps, surveys and other public records. Although this information is intended to accurately reflect public information, it is not a legally recorded map or survey and is not intended to be used as one. Users should consult primary/original information sources where appropriate.

## Exhibit A Village of Beverly Hills Sanitary and Combined Main

#### Legend

- EFSDS Interceptor (Not part of Contract)
- Beverly Hills Gravity Sanitary Main
- Beverly Hills Non-Gravity Sanitary Main
- Interceptor Drains (Not part of Contract)
- Beverly Hills Combined Gravity Main

**Exhibit B**  
**Scope of Services**  
**Sewer System Operation and Maintenance**

The County agrees to perform the following operation and maintenance services of the Beverly Hills Sewer System ("System") (all of the following being referred as the "WRC Services" or "Services") on behalf of the Village:

1. Operation and maintenance of the System, including all System gravity sewers, force mains, manholes, meters, pump stations and all other facilities, equipment and appurtenances that are part of the System. The sewer service lead from the public sewer system to the building including the sewer lead connection at the public sewer system is the responsibility of the property owner and will not be maintained by the WRC as it is not part of the System.
2. Perform routine repairs and replacements of the System (any repair or replacement less than \$5,000). Repairs or replacements costing \$5,000 or more are considered a major repair of the System, covered in section 4.2 of the Agreement.
3. Respond to requests from the Village for maintenance, inspections and repairs, both emergency and routine.
4. Establish, maintain, manage, and administer a System Enterprise Fund. Revenue collected by the County shall be deposited and maintained in the System Enterprise Fund. On a quarterly basis, the County shall determine the costs and overhead incurred during said quarter in performing the Services under this Contract and deduct such amount from the System Enterprise Fund as payment for such Services.
5. Keep all necessary records and books of account pertaining to its dealings with the users of the System within the Village and the System Enterprise Fund, and make same available to the Village upon request.
6. Comply with applicable laws and governmental accounting standards in the keeping, management, administration, use and auditing of the System Enterprise Fund. Upon request of the Village, provide Village a quarterly accounting statement, a quarterly operation and maintenance activity report and annual report for the Village's review in accordance with the County's fiscal year. Upon request, allow the Village or Village agents to audit the System Enterprise Fund accounts, books and statements, and provide Village with supporting documentation and copies of such materials if requested.
7. The County will provide, maintain and monitor a Supervisory Control and Data Acquisition System (SCADA) to provide alarms on System facilities operated and maintained by the County.
8. The County will provide a 24-hour, 7-day per week dispatch center to receive alarms from the Supervisory Control and Data Acquisition (SCADA) system and any other reports of System emergencies, and will dispatch emergency service crews to respond to such alarms and reports.
9. All Services provided by the County under this Contract will be performed in accordance with all applicable County, State and Federal permits and regulations, all applicable State and Federal laws and all applicable Village ordinances.
10. The County shall establish, provide and implement sewer system operation and maintenance-related programs, studies, reports, testing, sampling, inspections and

surveys as directed by the Village in accordance with Village, State, and Federal mandates.

11. The County will, replace or repair existing components of the System, excluding private sewer leads, which are identified by the County or Village to be in need of repair or replacement. Upon completion of such repairs and replacements, if the System has been altered in any material way the County will provide to the Village as-builts and update the GIS infrastructure mapping and database as directed by the Village. Unless otherwise agreed in writing by the Parties, the County's obligation to repair or replace shall be limited to the fund balance contained in the System Enterprise Fund.
12. The County will maintain, and update as necessary, Geographic Information System (GIS) infrastructure mapping and database of the System. The County also will provide Village hard copies and digital copies of the mapping, and updates as requested, in a manner compatible with Village's GIS system, and will provide interconnectivity between the Village and County GIS systems when in place. The County will update the GIS mapping and database of the System upon being provided as-builts or other information from the Village identifying corrections and/or modifications of the System and upon the County performing Services that result in modifications of the System. The Village is responsible for providing accurate "as-built" information.
16. MISS DIG. The County will conduct MISS DIG operations, in accordance with Public Act 53 of the Public Acts of 1974, as amended, (MCLA 460.701 *et seq.*) on behalf of the Village as they pertain to the operations and maintenance of the Sewer System.
17. PA 222 Notification. In the event that either the Village or the County receives notice from a user of the Sewer System of a possible claim and such notice is governed by the provisions of Public Act 222 of 2001, then the party receiving the notice agrees to: (i) provide the potential claimant with the information required by Act 222, (ii) notify the other party to this Agreement of the potential claim, and (iii) fully comply with the requirements of Act 222.
18. In the event that System repairs or replacement is deemed attributable to outside parties, (i.e. Contractor damage or customer negligence), consistent with applicable Village ordinances, the WRC will bill the responsible party at the Village's direction. If any portion or the entire bill is deemed uncollectible, the uncollected amount will be charged directly to the System Enterprise Fund.

## **Exhibit C**

### **OVERHEAD EXPENSE**

WRC Overhead charges are expenses not included in the direct hourly system labor and equipment costs. Overhead is allocated to all the systems that WRC services. Overhead expense includes, but is not limited to:

#### **Billing Services Unit**

Labor, equipment, payment processing, bill preparation, postage and other related costs necessary to provide customer service for the communities WRC operates and maintains.

#### **Safety Program**

Labor, equipment and training needed to meet or exceed all required safety standards.

#### **Training**

Training and certification costs for field and engineering staff required to keep them up-to-date on industry standards and innovations.

#### **WRC Administration**

Labor, equipment and training required to oversee the daily WRC operations. This includes Permitting, Mapping, GIS, Asset Management and Miss Dig.

#### **Building Use and Maintenance**

Use of the various WRC buildings (includes Water Maintenance, Pump Maintenance, Billing Services and Public Works buildings) and labor equipment, insurance, utilities, supplies and other related costs needed to operate and maintain such buildings.

#### **Miscellaneous Supplies**

Supplies which are not inventoried and not purchased for a specific system are allocated to the benefiting systems. This category includes uniforms, gloves, boots and repair parts.

#### **Oakland County Support**

Various Oakland County departments support the staff and work performed at WRC. These departments include Human Resources, Purchasing, Info Tech and Fiscal Services. The portion of their costs which is charged to WRC is then allocated to the funds operated by this division.

**Water Resource Commissioner**  
**Water and Sewer System Operating Agreements**  
**Insurance Coverage**

Insurer: Argonaut Insurance Company  
Coverage: General Liability and Public Official Liability-Occurrence Form  
(Stand-alone policy and limits from County's current Excess Program)  
Term: May 1, 2018 to May 1, 2019

**PROPOSAL**

Limits: General Liability-\$10,000,000 occurrence / \$15,000,000 aggregate (includes Failure to Supply and waiver of subsidence exclusion)

Public Officials Liability-\$10,000,000 occurrence / \$15,000,000 aggregate (including Professional Liability)

Self-Insured Retention: \$250,000

# Memorandum

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**To:** Honorable Lee Peddie, Village President; Village Council; Tom Meszler,  
Public Services Director; Erin LaPere, Planning and Zoning Administrator

**From:** Chris D. Wilson, Village Manager

**CC:** Kristin Rutkowski, Village Clerk/Assistant Village Manager

**Date:** 5/30/2019

**Re:** Sharing of GIS Data

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As part of our cooperative agreements with the Oakland County Water Resources' Commissioners Office and various Oakland County Agencies, Oakland County either creates or is possession of GIS and other data relative to public infrastructure in the Village of Beverly Hills. Emergency Management Services, Asset Management, Utility Operation and other vital functions of County government services and services of other local governmental agencies depends in part on the availability and accuracy of this information. In order that this information be able to be shared and communicated with other governmental agencies Oakland County is requesting that local governments pass a resolution allowing such sharing of data. Such a resolution has been prepared by Clerk Rutkowski for Council's review and consideration. Village Administration has reviewed this resolution and has discussed with representatives of Oakland County on the need for such a resolution. Without objection from Council, I recommend approval of the attached Resolution Authorizing Oakland County to Share Beverly Hills' GIS Data with Other Governmental Agencies.



**RESOLUTION**  
**AUTHORIZING OAKLAND COUNTY TO SHARE BEVERLY HILLS' GIS DATA**  
**WITH OTHER GOVERNMENTAL AGENCIES**

At a regular meeting of the Beverly Hills Village Council, Oakland County, Michigan held on the 4<sup>th</sup> day of June, 2019.

PRESENT:

ABSENT:

The following resolution was offered by \_\_\_\_\_ and seconded by \_\_\_\_\_:

**WHEREAS**, sharing data with other regional and governmental agencies improves the ability to coordinate with such agencies during emergency situations, understand the criticality of a municipality's assets, coordinate construction and other maintenance activities, as well as participate in comprehensive approaches to utility asset management;

**WHEREAS**, the County of Oakland has participated, and continues to participate, in numerous data-sharing agreements with state and federal agencies, including the Michigan Department of Environmental Quality and the United States Environmental Protection Agency;

**WHEREAS**, the Village of Beverly Hills believes it would benefit from such data sharing through financial savings, improved asset management procedures and improved levels of service; and

**WHEREAS**, the Village of Beverly Hills, in the interest of convenience and efficiency, desires the County to include Beverly Hills' infrastructure assets in the County's data-sharing program by granting data-sharing authorization to the County.

**NOW, THEREFORE, BE IT RESOLVED** that the Village of Beverly Hills authorizes the County, by this resolution, upon notice to the Village by Oakland County, to enter into agreements with other governmental agencies on behalf of the municipality and share such infrastructure data with regional, state and/or federal agencies that incorporates the Village's GIS data.

**BE IT FURTHER RESOLVED** that an executed copy of said resolution by the Clerk shall be forwarded to the Oakland County Water Resources Commissioner, located at One Public Works Drive, Waterford, Michigan 48328 to the attention of the Senior Attorney.

**RESOLUTION DECLARED ADOPTED.****YEAS:****NAYS:****ABSTENTIONS:**

**STATE OF MICHIGAN     )**  
**)ss**  
**COUNTY OF OAKLAND    )**

I hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the Village of Beverly Hills, Oakland County, Michigan, on the \_\_\_\_ day of \_\_\_\_\_, 2019, the original of which is on file in my office.

I further certify that notice of the meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, as amended.

**IN WITNESS WHEREOF**, I have hereunto affixed by official signature this \_\_\_\_ day of \_\_\_\_\_, 2019.

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**Kristin Rutkowski, Clerk**

# Memorandum

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**To:** Honorable President Peddie; Village Council  
**CC:** Chris D. Wilson, Village Manager; Tom Ryan, Village Attorney; Peggy Linkswiler, Treasurer  
**From:** Sheila McCarthy, Finance Director  
**Date:** 5/30/2019  
**Re:** FY 2018-2019 Budget Amendments

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Attached are proposed FY 2018-2019 Village of Beverly Hills Budget Amendments.

There are General Fund amendments relating to adjusting revenue and expenses to more accurately reflect projected actuals for FY19. Total adjustments are approximately an increase in net revenue of \$19k.

In Major Roads there are amendments for increased monies received from the State of Michigan, and expense adjustments decreasing street construction, repair and maintenance sealing joints and crack, salt and sand, and winter labor.

In Local Roads there are amendments for increased monies received from the State of Michigan, and expense adjustments for gravel sand and slag, sealing road joints and crack and winter labor and equipment.

In Public Safety there are amendments to adjust various revenue line items as well as align various expenditures such as salaries and benefits, repairs and maintenance, vehicle expense and other to more accurately reflect projected actuals for FY19.

In the Capital Fund there is an amendment to adjust engineering and repair cost which will not occur until FY20.

These proposed FY 2018-2019 Budget Amendments have been reviewed by Village Administration and are recommended for approval.

**Recommended Resolution**

Be it resolved that the Village of Beverly Hills Council authorizes Village Administration to transfer or adjust monies reserved in the General, Major Roads, Local Roads, Public Safety and Capital funds as reflected in the May 30, 2019 memorandum from Finance Director, Sheila McCarthy.

Village of Beverly Hills  
Budget Amendments Recommended to be Approved at the June 4th, 2019 Council Meeting  
FY 2019

a/c	Fund	Account Description	Budget before Amendments	Amendment	Revised Budget	Budget Justification
205-000-631.00	Public Safety	PS Overtime Reimbursement	10,000	(4,000)	6,000	Adj to expected year end balance
205-000-632.00	Public Safety	School Liaison Officer - Birmingham	90,000	20,000	110,000	Additional deferred carryover from FY18
205-000-656.00	Public Safety	District Court Fees and Fines	60,000	25,000	85,000	Amount received greater than expected
205-000-673.00	Public Safety	Sale of Assets	-	17,199	17,199	Proceeds of (2) 2013 Tahoes sold
205-345-710.00	Public Safety	Overtime	115,000	(115,000)	-	Due to cooperation with Command employees and administration, Public Safety was able to keep overtime to a minimum.
205-345-710.02	Public Safety	Overtime - Joint Training	30,000	(5,000)	25,000	
205-345-710.03	Public Safety	Overtime - Reimbursed	10,000	(7,000)	3,000	
205-345-710.10	Public Safety	Overtime - Officer	-	36,000	34,000	
205-345-710.12	Public Safety	Overtime - Supervisor	-	60,000	56,000	
205-345-710.14	Public Safety	Overtime - Standby	-	9,000	9,000	
205-345-702.00	Public Safety	Salaries & Wages	1,805,135	(20,000)	1,785,135	Reduce to expected fiscal year expenditure
205-345-711.00	Public Safety	Court Time	15,000	(5,000)	10,000	Reduce to expected fiscal year expenditure
205-345-714.00	Public Safety	Holiday Pay	87,299	10,000	97,299	Increased manpower for holidays on increased wages
205-345-716.00	Public Safety	Health Insurance Active	287,085	(7,500)	279,585	Reduce to expected fiscal year expenditure, increase lower than budgeted
205-345-717.00	Public Safety	Life and Disability	10,771	5,000	15,771	Increase due to addition of Hartford Long Term Disability for Public Safety
205-345-718.00	Public Safety	Defined Contribution	105,697	(20,000)	85,697	Decrease due to terminated employees/open positions
205-345-721.00	Public Safety	Workers Compensation	40,000	(5,000)	35,000	Decrease in rates for FY19
205-345-722.00	Public Safety	Retiree Health	400,000	5,836	405,836	Add smaller invoices paid by the Village
205-345-722.02	Public Safety	Employer Health Savings Account	29,146	(5,000)	24,146	Decrease to anticipated balance, 3% on base pay only for FY19
205-345-831.00	Public Safety	Misc Professional Fees	7,610	(5,000)	2,610	Expenses reclassified
205-345-815.00	Public Safety	Oakland County Computer	35,407	(7,500)	27,907	Decrease to anticipated balance
205-345-861.00	Public Safety	Vehicle Expense	70,000	25,000	95,000	Actual is greater than budgeted due to repair costs associated with aging fleet of Public Safety vehicles. Most of the expense was generated by two 2015 Tahoe's and a 1999 Freightliner fire truck. The fire truck is going to be replaced in June of 2019 and a request to replace the 2015 Tahoe's will be generated after the end of this budget year.
205-345-932.00	Public Safety	Repair & Maintenance Computer	20,000	(5,000)	15,000	Decrease to anticipated balance
205-345-934.00	Public Safety	Repair & Maintenance Building/Grounds	25,290	35,000	60,290	Add for Johnson Thermol including hot water tank, Air Conditioner, Thermostats on AHV units, frequency drive and new motor on air handler, boiler repairs re outdoor condenser unit, other various repairs to Public Safety Building
205-345-956.00	Public Safety	Miscellaneous	11,985	(5,000)	6,985	Adjust to anticipated actuals at year end
205-345-959.00	Public Safety	Criminal Justice Training	20,000	(5,000)	15,000	Adjust to anticipated actuals at year end
205-900-980.02	Public Safety	Capital - Vehicle Purchases	50,000	(50,000)	-	Vehicle Purchases will be made in FY20
401-905-938.02	Capital	Eng & Repair Cost	40,000	(40,000)	-	Scheduled to be started in FY20
101-000-477.00	General	Building Permits - Village	22,000	8,000	30,000	Adjust to actuals
101-000-477.50	General	Building Permits - Safebuilt	200,000	20,000	220,000	Adjust to expected level at year end
101-000-629.00	General	Platting & Rezoning Fee	2,000	4,000	6,000	Adjust to actuals
101-000-674.00	General	Cable TV Franchise Fee	200,000	(55,000)	145,000	Adjust to expected level at year end
101-248-718.00	General	Defined Contribution	29,346	10,000	39,346	Adjust to actuals
101-248-722.00	General	Retiree Health	122,343	(5,000)	117,343	Reduce to Estimated Actuals
101-371-806.00	General	Building Inspector Fees	260,000	(10,000)	250,000	Reduce to Estimated Actuals
101-440-702.00	General	Salaries & Wages	68,764	(5,000)	63,764	Reduced T. Meszler Expenses
101-440-778.03	General	R & M Park	20,000	(5,000)	15,000	Reduce to Estimated Actuals
101-440-814.01	General	Christmas Tree Chipping	10,000	6,000	16,000	Adjust to actuals incurred
101-440-943.00	General	Engineering - Road Assessment	23,000	(13,000)	10,000	Total will not be incurred
101-751-778.03	General	R & M Park	15,000	(5,000)	10,000	Adjust to expected level at year end
101-751-778.04	General	Buckthorn Eradication	41,875	(10,000)	31,875	Adjust to expected level at year end

Village of Beverly Hills

Budget Amendments Recommended to be Approved at the June 4th, 2019 Council Meeting

FY 2019

a/c	Fund	Account Description	Budget before Amendments	Amendment	Revised Budget	Budget Justification
101-900-977.02	General	Capital - Computers	7,500	(5,000)	2,500	Will not be incurred in FY19
					-	
202-000-546.00	Major	State Gas & Weight Tax	607,091	25,000	632,091	Additional monies received from State of Michigan
202-000-556.50	Major	Matching Fund Revenue	-	31,597	31,597	Additional matching fund revenue recd from Oakland County
202-451-810.10	Major	Street Construction	75,000	(35,000)	40,000	Reduced to expected expenditure level
202-463-938.00	Major	R & M Sealing Joints & Crack	15,000	(15,000)	-	Will not be incurred in FY19
202-478-776.03	Major	Salt and Sand	40,000	(10,000)	30,000	Reduced to level incurred
202-478-818.01	Major	Winter Labor	6,120	16,000	22,120	Adjust to level incurred,
					-	
203-000-546.00	Local	State Gas & Weight Tax	292,836	15,000	307,836	Additional monies received from State of Michigan
203-463-776.01	Local	Gravel Sand & Slag	4,000	9,000	13,000	Adjust to expenditure level
203-463-938.01	Local	Sealing Road Joints & Crack	15,000	(15,000)	-	Will not be incurred in FY19
203-478-818.01	Local	Winter Labor	3,000	4,000	7,000	Adjust to expenditure level
203-478-942.01	Local	Winter Equipment Rental	40,800	4,000	44,800	Adjust to expenditure level
					-	
					-	
					-	
					-	
					-	
					-	

# Memorandum

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**To:** Honorable Lee Peddie, Village President; Village Council; Richard Torongeau, Public Safety Director; Peggy Linkswiler, Human Resources Coordinator

**From:** Chris D. Wilson, Village Manager

**CC:** Kristin Rutkowski, Village Clerk/Asst. Manager

**Date:** 5/30/2019

**Re:** MERS Service Credit Purchase – Kevin Kowalik

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Public Safety Sergeant Kevin Kowalik has petitioned the Municipal Employees Retirement System (MERS) about purchasing additional service credit relative to his defined benefit program. Sgt. Kowalik is eligible for this purchase due in part to his employment with the City of Harper Woods prior to becoming employed by the Village. Sgt. Kowalik has forgone his time and participation in that DB program and is eligible, at his own cost, to purchase service credit equal to his length of employment in Harper Woods. After his hiring in 2013, then PSO Kowalik did purchase additional service credit of fifty-four (54) months. This service credit purchase would be for a period of forty-eight (48) months. This would exhaust all of the prior service credit that Mr. Kowalik would be able to purchase. This serviced credit purchase time is not eligible to count towards vesting. Sgt. Kowalik is not yet vested and would not be vested until 2022. He has been advised of this stipulation. I have met with Sgt. Kowalik to discuss the terms of this service credit and the costs and risks to him and I am confident that he understands the risks involved and is making an informed decision.

The cost to Sgt. Kowalik for this service credit purchase is \$94,097.00. There is no cost to the Village. Were Mr. Kowalik to separate from the Village before he was vested and eligible for a retirement benefit in the future he would be entitled to a refund of these funds, without interest. I have reviewed the attached resolution for your review and consideration and if there are no objections from Council I recommend approval.



**RESOLUTION**  
**AUTHORIZING SERGEANT KEVIN KOWALIK TO MAKE A SERVICE**  
**CREDIT PURCHASE FROM MERS**

WHEREAS, Village of Beverly Hills employees are participants of the Michigan Employees' Retirement System (MERS);

WHEREAS, with the approval of the employer and the local government body, participants of MERS can purchase additional service credit to help meet an early retirement eligibility provision or to increase their pension benefit; and

WHEREAS, Public Safety Sergeant Kevin Kowalik has requested and is eligible to purchase additional service credit relative to his defined benefit program in the amount of \$94,097.00 at no cost to the Village.

NOW, THEREFORE, BE IT RESOLVED that the Village Council of Beverly Hills, Oakland County, Michigan, hereby authorizes Sergeant Kowalik to make a service credit purchase from MERS in the amount of \$94,097.00.

## Application for Additional Service Credit Purchase

### Section 1: Service Credit Purchase Cost Estimate

With the approval of the employer and the local governing body, participants can purchase additional service credit to help meet an early retirement eligibility provision or to increase their pension benefit. Unlike MERS-to-MERS or Act 88 time, purchased service credit generally cannot be used to reach vesting.

**This estimate is only valid for two months after June 1, 2019, the effective date of this calculation.**

The cost to purchase service credit for each individual is based on many factors. Below is the information that MERS used to prepare this estimate. Please review the following information for accuracy. If any is incorrect, this estimate may not be correct.

#### Participant Information

**Kevin Kowalik**

Date of Birth:

Age:

Spouse's Date of Birth:

FAC as of calculation date: \$89,943.94

#### Service Credit

Earned service credit as of calculation date: 13 years, 9 months

Vesting Only Service:

Other Governmental Service used for 4 years, 6 months

Eligibility (MERS or Act 88):

Type of Credited Service to be Purchased: Generic

Amount of additional service requested: 4 years, 0 months

#### Employer Information

**Beverly Hills, Vlg of**

6321 / 02

#### Benefit Program

Benefit B-4 (80% max)

Benefit F55 (With 10 Years of Service)

Early Reduced (.5%) at Age 50 with 25 Years or Age 55 with 15 Years

Benefit D2

Benefit FAC-2 (2 Year Final Average Compensation)

DROP+ Program - 4% Reduction

10 Year Vesting

25 Years & Out

E2 1% Comp COLA for future retirees (06/01/2013)

Defined Benefit Normal Retirement Age - 60

#### Benefit Impact

	Earliest Eligibility Retirement Date	Retirement Age	Projected FAC	X	Service Credit	X	Benefit Multiplier	=	Annual Benefit
Before Proposed Purchase	3/1/2026	47 years 6 months	\$115,316.54		20 years 6 months		2.5%		\$59,099.76
After Proposed Purchase	3/1/2022	43 years 6 months	\$99,526.60		20 years 6 months		2.5%		\$51,007.44

**Estimated Cost of This Service Credit Purchase: \$94,097.00**

The total cost is due in full at the time of purchase and may be paid by either the participant or employer. You may be eligible to transfer assets from other accounts to make a payment for the purchase, such as: 457 Deferred Compensation Plans; 401 plans; 403(b) plans; and some IRAs (traditional and SIMPLE). To initiate this transfer complete the form *Certification of Qualified Fund Rollover to MERS* (form number F-38). Send signed, approved Application for Additional Service Credit to MERS prior to sending any payment.

## Section 2: Calculation Assumptions

### 1. Projected Earliest Eligible Retirement Date

This date is calculated using the participant's date of birth, the amount of service credit reported by the employer, and other service credit that we have on record (such as MERS-to-MERS or Act 88 time). If any of this data is incomplete or inaccurate this can affect the cost estimate. If the participant chooses to retire on a different date, it may increase/decrease the actual cost.

### 2. Projected Final Average Compensation (FAC)

Future increases in the FAC are assumed to be a 3.75% annual increase. This calculation is dependent on the wages reported by the employer to MERS. If the actual increases end up being different than the assumption, it may increase/decrease the actual cost.

### 3. Projected Service Credit

It is assumed the participant will continue to work until the earliest date for unreduced retirement benefits unless a specific termination date is shown. Any deviation from the earliest eligibility date may increase/decrease the actual cost.

### 4. Benefit Program

The current benefit plan provisions are used to calculate the cost of purchasing service credit. If the participant transfers into a different division and is eligible for a benefit plan with different provisions, then the cost may differ from the initial calculation. Likewise costs may differ if the municipality adopts different benefits in the future for any participant that has purchased service credit. These changes will be reflected in the actuarial valuation required to adopt any benefit increase.

### 5. Investment Assumption

The current investment return assumption for service credit purchase is 6.75%.

### 6. Mortality Rate

Assumptions are made on the life expectancies of the participant and their surviving spouse, using tables generated by actuarial professionals.

## Section 3: Certification and Authorization

### PARTICIPANT CERTIFICATION

I certify the above information is correct and accurate. If this is a purchase of qualifying "other governmental" service, I certify the service has not and will not be recognized for the purposes of obtaining or increasing a pension under another defined benefit retirement plan.

\_\_\_\_\_  
Participant Signature

\_\_\_\_\_  
Date

### GOVERNING BODY RESOLUTION

By Resolution of its Governing Body, at its meeting on \_\_\_\_\_, as provided by the MERS Plan Document, and in accordance with the employer's policy, the employer hereby authorizes the participant named above to make a service credit purchase from MERS as described above. The employer understands this is an estimated cost, calculated using actuarial assumptions approved by the Retirement Board. Any difference between the assumptions and actuarial experience will affect the true cost of the additional service to the employer. The calculation assumptions are outlined above and the employer understands and agrees it is accountable for any difference between estimated and actual costs.

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

#### MERS Use Only

Payment Received:	Participant Payment:
Service Credit:	ER Payment:
Signed:	



**To:** Honorable Council President Peddie; Members of Village Council  
Chris Wilson, Village Manager

**From:** Kristin Rutkowski, Village Clerk/Assistant Village Manager

**Subject:** Second Announcement of Various Board/Commission Vacancies

**Date:** May 28, 2019

The following is a list of board members whose terms expire on June 30, 2019. All of the members have been notified of their term expiration and those listed below wish to be considered for reappointment. The names in parenthesis are not seeking reappointment.

Council agreed in November of 2008 to make these vacancies open to the public as well as the currently seated member.

**Parks & Recreation**

Irene Davis

**Zoning Board of Appeals**

Reanen Maxwell

Vacancy (William Donnelly)

Vacancy (Ashley Lepidi)

**Planning Commission**

Patrick Westerlund

Benjamin Wilensky

Robert Stempien

All terms are for three years beginning July 1, 2019 and expiring June 30, 2022. All interested and eligible residents of Beverly Hills are encouraged to apply. The deadline for applications is Friday, June 7, 2019. Applications are available on the Village's website or at the Village office.

This constitutes the second announcement of the vacancies with appointments scheduled to take place at the June 18<sup>th</sup> regular Village Council meeting.

**VILLAGE MANAGER'S REPORT**  
**CHRIS D. WILSON**  
**MAY 31, 2019**

**14 Mile Paving Project** – The paving portion of the 14 Mile Rd. project west of Lahser has been completed. The contracting is only needing to finish the striping and pavement markings to be able to reopen this route to normal traffic. Unfortunately, rain has prevented this work from being completed to date. Once the striping and some shoulder work is completed traffic control will be removed and the road returned to regular traffic. The Village has examined the pavement work and we are satisfied with the quality of the paving.

**Drainage District Petition** – The Village has received a petition from a group of residents in the neighborhoods around 14 Mile, Birwood and Kirkshire between Greenfield and Madison. There are 83 homes in this district. Village Administration is in the process of confirming the addresses and signatures in this area. The petition is for the Village to investigate a solution to storm water drainage primarily along the side and rear yards of homes in this area. Village Administration will work with our engineers to develop a solution to this issue and develop a cost estimate that would be used for a Special Assessment District to assess the costs for this to the residents in the area. Once those costs are known the petitioners can determine if it is in their best interest to go forward with such a project. If so, they will need to submit another petition to establish a Special Assessment District for the project for Council's review and consideration.

**Annual Water Testing** – The Village will be performing annual water testing this year in compliance with regulation from the Department of Environment, Great Lakes and Energy (EGLE). EGLE is the new name for the former Michigan Department of Environmental Quality (MDEQ). The annual testing requirements have changed for all communities. As a result of these changes, the Village will be required to take a minimum of thirty (30) samples from residential homes this year. In addition, many of the sampling protocols have changed from prior years, particularly for sites identified as Tier I sites. Further, the criteria for classification as a Tier I site has also changed, resulting in far fewer Tier I sites in the Village. Village Administration will be in direct contact with all of our Tier I sites to include them in our test results. Anyone interested in being included in the sampling pool for this years tests can contact the Village and they will be tested at no charge.

**Riverside Dr. Petition** – Village Administration is in receipt of a petition from residents along Riverside Drive to perform a traffic study to analyze traffic and speed conditions on Riverside and also to examine the treatment of removal of the yellow center lines that were placed on Riverside when the road was last repaved. Village Administration will be working with the Traffic Improvement Authority (TIA) on a traffic study for this area. We are also procuring costs for the removal of the striping along Riverside.

**Parking Issues** – The Village was made aware of a number of students from Groves that were parking along Elwood Street and crossing 13 Mile in the morning and afternoon to attend school. The number of cars parking in this area had become excessive and the Village had further concerns about the number of pedestrians crossing 13 Mile. Village Administration has issued a temporary Traffic Control Order (TCO) and erected no parking signs along Elwood. These signs can be removed at the end of the school year. The Public Safety Department worked with Groves officials to get the word out to students regarding the parking regulation changes. This has been an issue in past years around this time. School policy does not provide parking passes to Sophomores. As these students become of driving age they begin driving themselves to school without a proper place to park. We will continue to work with the school and monitor the situation.

**Music in the Park** – On Friday, June 7<sup>th</sup> at 7:00 PM there will be a free concert in Beverly Park. Bob Mervak will be performing jazz and easy listening music. This free and family friendly event is being sponsored by the Parks and Recreation Board.

# **Beverly Hills Public Safety Activity Report**

**May 16-30, 2019**

- 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.
- Warm weather brings out motorcycles and bicyclist. Look twice and save a life.
- Remember to always lock your cars and house doors.
- Do not leave valuables inside your car. Do not leave your keys in your car. Let's cut down the opportunity for crime in our neighborhoods.
- The Memorial Day parade and ceremony were a success with no reported incidents.
- Here is a poem written by Charles M Province, US Army, the Patton Society, and copy written 1970:

## **It is the soldier....**

It is the soldier, not the reporter, who has given us freedom of the press.

It is the soldier, not the poet, who has given us freedom of speech.

It is the soldier, not the campus organizer, who has given us the right to demonstrate.

It is the soldier, not the lawyer, who has given us the right to a fair trial.

It is the soldier, not the pastor, who has given us the right to worship

It is the soldier, not the politician, who has given us the right to vote

It is the soldier, who salutes the flag, serves under the flag, and whose coffin is draped with the flag, who gives the protester the right to burn the flag.....

We hope everyone has a great Memorial Day weekend and remembers the soldiers that are the reason we celebrate this holiday.

- Remember Drunk Driving is 100 % preventable.

## **CALLS FOR SERVICE**

- 278 Calls for Service.
- 14 Arrests.
- 144 Tickets issued.
- 13 Walk in PBT's.
- 8 Prescription pill drop offs.
- Vacation checks.
- 1 Prisoner transports to and from the Birmingham Police Department.
- Walk in Gun Permits issued.
- 7 Traffic Accidents on 13 Mile Rd.
- 7 Medicals on 13 Mile Rd.

- Vehicle Lockout on 13 Mile Rd.
- 2 Noise complaints on 13 Mile Rd.
- Welfare Check on 13 Mile Rd.
- Larceny on 13 Mile Rd.
- Assist Berkley Police with a hit and run accident on 13 Mile Rd.
- Assist Franklin-Bingham Police with a road rage incident on 13 Mile Rd.
- Traffic Investigation on 13 Mile. PPO served.
- Odor Investigation on 13 Mile Rd.
- Assist Southfield Police with a disorderly person complaint on 13 Mile Rd.
- Assist Road Commission on 13 Mile Rd.
- Assist Southfield Police with a juvenile complaint on 13 Mile Rd.
- Crossing Guard on 13 Mile Rd.
- Motorist Assist on 13 Mile Rd.
- 2 Animal complaints on 13 Mile Rd.
- Suspicious Vehicle on 13 Mile Rd.
- Reckless Driver on 13 Mile Rd.
- Reckless Driving complaint on 14 Mile Rd.
- 2 Alarms on 14 Mile Rd.
- Juvenile complaint on 14 Mile Rd.
- 5 Traffic complaints on 14 Mile Rd.
- Traffic Accident on Evergreen.
- 2 Suspicious Person complaints on Southfield
- 5 Traffic Accidents on Southfield.
- Animal complaint on Southfield.
- Fraud on Southfield.
- 2 Medicals on Southfield.
- Traffic Investigation on Southfield.
- Vehicle Lockout on Southfield.
- 2 Traffic Accidents on Greenfield.
- 2 Traffic Accidents on Lahser.
- Suspicious Persons on Lahser.
- Animal complaint on Lahser.
- Suspicious Vehicle on Evergreen.
- Medical on Beverly
- Traffic Accident on Beverly.
- Suspicious Circumstances on E. Valley Woods.
- Traffic complaint on N. Nottingham.
- Solicitor complaint on Westlady.
- Animal complaint on Buckingham.
- Suspicious Persons on Riverside.
- Officers stopped a vehicle for a traffic violation on Greenfield. The driver was operating on a suspended license. The driver was arrested without incident.
- Animal complaint on Dunblaine.
- Neighbor Trouble on Birwood.

- Noise complaint on Hillcrest.
- Medical on Vernon.
- Alarm on Pickwick.
- Traffic complaint on Friartuck.
- Traffic complaint on Pierce.
- Abandon Auto on Nottingham.
- Citizen Assist on Riverside.
- Alarm on Beverly.
- Assist Franklin-Bingham Fire Department.
- Traffic complaint on Norchester.
- Suspicious Persons on Chelton.
- Peace Officer on Huntley Sq. E.
- Vehicle Lockout on Huntley Sq. E.
- Solicitor complaint on Norchester.
- Welfare Check on Walmer.
- 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.
- Abandon Auto on Nottingham.
- Alarm on Old Stage.
- Medical on Village Pines.
- Fraud on Kinross.
- 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.
- Alarm on Warwick
- Suspicious Persons on Wilshire.
- Suspicious Circumstance on Waltham Ct.
- Medical on Chelton.
- Suspicious Persons complaint on Bellvine Trail.
- Officers stopped a vehicle on 13 Mile 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.
- Medical on Birwood.
- Suspicious Persons on Wellesley
- Officers stopped a vehicle on 13 Mile for a traffic violation. The driver had a warrant for his arrest. The driver was arrested without incident.
- Officers stopped a vehicle on Evergreen for a traffic violation. The driver was operating on a suspended license. The driver was arrested without incident.
- Suspicious Persons on Wetherby.
- Traffic complaint on Elwood.
- Alarm on Orchard Pl.
- Welfare Check on W. Rutland.
- Suspicious Persons on Pierce.
- Medical on Auburn.
- Lift Assist on McKenzie.

- Officers stopped a vehicle on 13 Mile for a traffic violation. The driver was operating without a license. The driver was arrested without incident.
- Suspicious Persons on Saxon.
- Larceny on S. Waltham.
- Alarm on Reedmere.
- Larceny on Wellesley.
- Larceny on Lincoln Hills Ct.
- Damage to Property on Old Coach.
- Family Trouble on Metamora.
- Alarm on Old Post.
- Larceny on Hampstead.
- Traffic Accident on Birwood.
- Motorist Assist on Birwood.
- Suspicious Persons on E. Rutland.
- Larceny on Wilshire.
- Citizen Assist on Buckingham.
- Road Hazard on Stellamar.
- Road Hazard on Locherbie.
- Family Trouble on Bassett Ct.
- Animal complaint on Birwood.
- Hang Up 911 on King Richard Ct.
- Alarm on Ronsdale.
- Suspicious Persons on Bedford.
- Lift Assist on Kennoway.
- Solicitor complaint on Birwood.
- Family Trouble on Lincoln Hills Ct.
- Domestic Assault on Norchester.
- Medical on Huntley Sq. E.
- Medical on Rosevear.
- Larceny on Riverview.
- Suspicious Circumstance complaint on Foxboro Way.
- Officers responded to a disabled vehicle on Old Coach. The driver was suspected of operating while intoxicated. The driver was arrested without incident.
- Officers stopped a vehicle on 13 Mile for a traffic violation. The driver was suspected of operating while intoxicated. The driver was arrested without incident.
- Alarm on Orchard Way.
- Assist Farmington Hills Fire Department on Robinhood.
- Larceny on Old Post.
- Fraud on Arlington.
- Larceny on Beverly.
- Officers responded to an address on 13 Mile for a shoplifting complaint. Subsequent investigation revealed enough cause to arrest the suspect. The individual was arrested without incident.
- 2 Alarms on Amherst.

- Suspicious Circumstance complaint on Valley Oaks.
- Suspicious Persons on S. Waltham.
- Suspicious Vehicle on Wilshire.
- Officers responded to a domestic assault on Beechwood. Subsequent investigation revealed an assault had taken place. One individual was arrested without incident.
- Officers stopped a vehicle on Southfield for a traffic violation. The driver was operating on a suspended license. The driver was arrested without incident.
- Fire Alarm on Kinross.
- Solicitor complaint on Kirkshire.
- Found Property on Eastlady.
- Suspicious Circumstance on Chelsea.
- Medical on Smallwood.
- Parking complaint on Birwood.
- Medical on Riverside.
- Citizen Assist on Beverly.
- Medical on Huntley Sq. E.
- Alarm on Warwick.
- Alarm on Kennoway.
- Suspicious Persons on Hillview Ln.
- Medical on Huntley Sq. W.
- 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.
- 2 Family Trouble complaints on Buckingham.
- Citizen Assist on Plantation.
- Alarm on Charrington.
- Found Property on Eastlady.
- Welfare Check on Butternut.
- Welfare Check on East Valley woods.
- Assist Oak Park Public Safety with a commercial fire.
- Suspicious Persons on Smallwood.
- Welfare Check on Wetherby.
- Lift Assist on Plantation.
- Natural Gas Leak on Huntley Sq. N.
- Medical on Hampton.
- 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.

### **INVESTIGATIONS**

- 294 CFS Closed and Reviewed.
- Reviewed 49 case reports for a disposition.
- Followed up and reviewed cases, of which 26 were closed.

- 17 Cases were assigned.
- 15 Reports written on current cases.
- 21 Current active investigations.
- 07 Current pending investigations.
- LFA complaints 14 placed reports, 2-3 others didn't want report.
- UDAA (stolen car) w/keys from LFA (larceny from an auto) suspects.
- OT assignment in response to LFA and Village put out email advising residents.
- FTD investigated and resulted in BYA referral.
- Larceny of purse TJ Maxx investigation.
- Follow up and close out suspicious circumstance complaint at Cambridge.
- Sent 2 Domestic Assaults to Village Prosecutor.
- Investigated Berkshire school complaint.
- Follow up on complaint at Beverly Elementary.
- OWI II Warrant received.
- Pre-Trial OWI III at 46<sup>th</sup> District Court.
- Search Warrant on cell phone.
- Warrant request from APA on Possession of Ecstasy.
- Performed Shift Supervisor for two 12-hour shifts.
- Assisted patrol on family trouble complaint.
- SLO Attended Groves Prom/San Marino Club Troy.
- SLO Attended Senior BBQ/Senior skip day in Franklin Park.
- Memorial Day Parade detail.
- SLO conducted safety talk for Groves Football Tech. class.

### **FIRE PREVENTION**

- Attend Fire Staff and Command.
- Record Fire and EMS training.
- Awarded \$10,850.00 training grant.
- Chair Fire Governance committee meeting.
- Fire alarm plan review.
- Assist Huntington Woods with house fire investigation.
- Conduct EMS C/E credit review for licensure renewal.
- Memorial Day Parade detail.
- Attend South Oakland Fire Association meeting.
- Verified threading for new apparatus adapters hydrant and hose adapters.