

**Beverly Hills  
Regular Village Council Meeting  
Tuesday, November 6, 2018**

**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 October 16, 2018.
2. Review and file **bills** recapped as of Monday, October 29, 2018.
3. Approval of **payment** to Johnson Thermal Temp for Public Safety hot water tank installation.
4. Set **Public Hearing** date of December 4, 2018 for amendments to Chapter 22, Section 22.24.

Business Agenda

1. Review and consider request for funding for **Eagle Scout Project** by Josh Ziegele.
2. Review and consider **awarding bid** for 2018-19 Buckthorn Eradication Project.
3. Public hearing to receive comments on special land use request by Woodside Athletic Club, 22440 W Thirteen Mile Road.
4. Review and consider **approval of** special land use request by Woodside Athletic Club, 22440 W Thirteen Mile Road.
5. Review and consider **Traffic Control** Orders #042-SS-18 and #258-NP-18.
6. Review and consider **resolution** to adopt the Oakland County Hazard Mitigation Plan

Public comments

**Manager's report**

Council comments

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

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

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

Absent: Member: Mueller

Also Present: Village Manager and Clerk, Wilson  
Village Attorney, Ryan  
Finance Director, McCarthy

President Mooney called the regular Council meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road. The Pledge of Allegiance was led by Scouts from Troop 1024, and recited by those in attendance.

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

Motion by Delaney, second by Oen to move Consent Agenda Item #1: Review and consider approval of minutes of a regular Council meeting held October 2, 2018 to Business Item #4.

Motion passed.

Motion by Oen, second by Peddie to approve the agenda as amended.

Motion passed.

#### **COMMUNITY ANNOUNCEMENTS**

Honorable Representative Sander Levin (MI-9th) spoke, thanking the Village for years of support and encouraged them to provide continued support for bi-partisan politics.

Walter Briggs, Reedmere, thanked Levin for his guidance and friendship over many years. Levin served as mentor to Briggs, and guided him in civility, respect, and bi-partisanship.

Mooney recognized Levin years of service and wished him the best in his retirement.

Scout Luke DaSilva, Locherbie, reported that the supplies had been delivered, and the gazebo renovation project will begin October 20, 2018.

Josh Ziegele, Troop 1024, presented his plan to create a Butterfly Garden in Beverly Park for his Eagle Scout project. The garden would be approximately 15x15 feet. He would have planting assistance from fellow Troop members, and hopes to secure donations from nearby nurseries and the Village Council.

#### **PUBLIC COMMENTS**

None.

## **CONSENT AGENDA**

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

1. Review and file bills recapped as of Monday, October 15, 2018.
2. Set public hearing date of November 20, 2018 to receive comments on the Program Year 2019 Community Development Block Grant application.

Roll Call Vote:

Motion passed (6-0)

## **BUSINESS AGENDA**

### **PRESENTATION, REVIEW, AND FILE OF JUNE 30, 2018 AUDIT BY PLANTE AND MORAN**

Council members are in receipt of the audited financial statements of the Village of Beverly Hills for the fiscal year ended June 30, 2018. Auditor Martin Olejnik stated that Plante & Moran has given its unmodified audit opinion on the Village's financial statements, which means that Beverly Hills' accounting records are correct and are presented in accordance with accounting standards mandated by the State. Rumzei Abdallah will review the graphs that highlight information in the financial statements. They will follow up with a discussion of the Management Letter.

Olejnik highlighted that the Village General Fund is in a strong position. The Village pension fund is over 80% funded, and the OPEB is over 40% funded; the state average is 20%.

Abdallah highlighted key points of the financial statements. He referred to a graph illustrating General Fund Revenue and the sources of that revenue. The biggest sources of revenue for the General Fund continue to be State Shared Revenue and Property Tax revenue and fees. A subsequent graph demonstrated an increase in taxable value and State Equalized Value (SEV) in the last four years. Looking forward, it is expected that taxable values will continue to experience small or moderate increases. In monitoring this revenue source, the Village needs to keep in mind that the future taxable value increases will be limited to the lesser of 5% or inflation; so even if home sales do increase at a faster rate, the property tax revenue will be held to this lower amount. State-shared revenue is starting to show some modest increases. During the economic downturn, the Village resized its operations to fit the new lower revenue structure. The revenue improvements brought the Village into a structurally balanced budget; however, the long-term fiscal sustainability will be dependent on the ability to hold cost increases (driven significantly by the cost of pension, retiree health care and current employee health care) within the limits of expected revenue increases, which are predicted to be at or below the rate of inflation.

A graph of General Fund Expenditures by major category illustrated that nearly half the expenses relate to people costs. The second largest expenditures category is the collection and disposal of rubbish. The other expenses are consistent with previous years. A graph depicting fund balances relative to the minimum target shows that the Village is above the recommended minimum of 20% of the next year's general fund expenditures. He discussed a graph showing progress on long-term debt obligations; the majority being due to water and sewage.

Olejnik discussed the letter addressed to the Village Council. The first section contains required communication on the audit process. Section two discusses the audit process in general. There were no issues discovered during the audit and no disagreements with management. Section three contains general recommendations from Plante & Moran based on the results of the audit. There were no significant deficiencies in the audit. The items noted were related to controls over reconciliations and general ledgers.

In November 2010, a Charter Amendment was passed to increase the maximum authorized charter limit from 11.0000 mills to 12.9184 mills, effective July 1, 2011 for 10 years. The mills were split as follows: 9.900 for public safety, 2.100 for general administration, and .9184 for library. This 10 year amendment runs through July 1, 2021, at which point the limit is set to revert to 11.0000 mills. If the Village has not already done so, they Village should begin planning for the maximum reverting to 11.0000 mills, absent another amendment.

The third section of the letter includes legislative and informational items occurring in the State. In June 2015, the GASB issued new standards addressing accounting and financial reporting by state and local governments for post-employment benefits other than pensions (OPEB, Other Post-Employment Benefits). GASB Statement No. 75, Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions, addresses accounting and reporting by employer governments that provide OPEB benefits to their employees. For fiscal years beginning on or after January 1, 2015, the threshold for obtaining a federal awards audit will increase from the current threshold of \$500,000 of annual federal spending to \$750,000. There will also be significant changes to the criteria for qualifying as a low-risk auditee and a reduction in the number of major programs required to be tested for some clients. The Village has historically been below the threshold. However, from time to time, depending upon the level of federal spending, the Village may still be subject to an audit requirement even at the new higher \$750,000 threshold.

Olejnik commended the Village for its record keeping and thanked Village staff for their assistance during the audit process. Mooney thanked Olejnik and Abdallah for presenting the audit report. He recognized the Village staff for a job well done.

Motion by Oen, second by Peddie, to receive and file the June 2018 audit as conducted and submitted by Plante & Moran.

Motion passed.

#### **REVIEW AND CONSIDER LIABILITY AND PROPERTY INSURANCE RENEWAL**

On the agenda for Council to review and consider is the renewal of the Village's Liability Insurance Policy. This policy renews on November 1, 2018. The terms of this policy are the same as the current policy: A self-insured retention of \$75,000 for liability and, for vehicle and physical damage a self-insured retention of \$15,000 per vehicle and \$30,000 per occurrence. The liability limit is \$10,000,000 with various other limits listed on page 3. There is new coverage related to data breach and privacy liability that is detailed on page 4. There is also a stop loss policy that would limit all liability in any village fiscal year to \$150,000. The cost for retaining this stop loss policy is \$4,353.



The total cost for the liability policy for one year is \$130,480. This is a slight increase of our premium for last year of \$123,150. Our carrier, Michigan Municipal Risk Management Authority (MMRMA) is also requesting a contribution to our loss retention fund of \$40,000 upon renewal. The total premium and retention fund contribution is \$174,833. Upon renewal, the Village will be eligible for a disbursement through MMRMA. Our disbursement for this year is \$85,057. Our retention fund balance as of June 30th was more than \$200,000. Contributing the recommended \$40,000 to the retention fund will leave this fund in a solid position. Administration recommends that the Village retain the disbursement amount to use for other Village expenses. Village Administration has reviewed the liability insurance renewal and recommends approval at this time.

Motion by Oen, second by Nunez, be it resolved that the Beverly Hills Village Council approve and authorize the Village Manager to sign the Michigan Municipal Risk Management Authority Liability and Property Insurance renewal effective November 1, 2018 through November 1, 2019 in the amount of \$174,833.00. Funds for these expenditures are available in accounts 101.248.910.00, 205.345.910.00, 205.346.910.00, 592.540.910.00.

Roll Call Vote:  
Motion passed (6-0)

#### **REVIEW AND CONSIDER REQUEST BY MICHIGAN GROWLER CO. TO EXTEND BUSINESS HOURS**

The Village is in receipt of a request from Michigan Beer Growler to extend their operating hours by one hour each day. As set forth in their request, their revised hours of operation if approved would be as follows: Monday: 3PM – 9 PM; Tuesday – Thursday: 11 AM – 9 PM; Friday – Saturday: 11 AM – 10 PM; Sunday: Noon – 6 PM.

The current operation hours were established as part of an agreement with the Village for approval of their Tavern and Specially Designated Merchant (SDM) licenses with the Liquor Control Commission in 2014. A similar request to extend operating hours was made and denied in 2015. Public Safety has reviewed their records for any issues relating to the operation of this establishment and none were found.

Owner Jane Condit spoke explaining that the request was driven by the customers, the majority being Beverly Hills residents.

Council congratulated Condit on the success of the business, thanked her for being a good neighbor, and expressed support of the extension.

Motion by Oen, second by Abboud, be it resolved that the Beverly Hills Village Council approves the revised hours of operation for Michigan Growler Co., to be Monday: 3pm – 9pm; Tuesday - Thursday: 11 am – 9 pm; Friday – Saturday: 11 am – 10 pm; Sunday: Noon – 6 pm.

Motion passed.

**REVIEW AND CONSIDER APPROVAL OF MINUTES OF A REGULAR COUNCIL MEETING HELD SEPTEMBER 18, 2018.**

There are two corrections to the Council minutes from a meeting held September 18, 2018.

Motion by Delaney, second by Peddie, that the Village of Beverly Hills Council approve the changes as follows; Pg 2 – The minutes should reflect that Sara Bresnahan was appointed to the Birmingham Area Cable Board as opposed to reappointed. Pg 4 – There was no motion or second to set the Public Hearing date of November 6, 2018 for Special land use request at 22440 W. Thirteen Mile Rd. This meeting was set by council without objection.

Motion passed.

Motion by Delaney, second by Oen, that the Village of Beverly Hills Council approves the minutes from a regular Council meeting held September 18, 2018 as amended.

Motion passed.

**PUBLIC COMMENTS**

None.

**MANAGER'S REPORT**

**Letter from resident** - Sarkis Soultanian, Sunset. Sometime in May 11-18, 2018, at approximately 2:00 a.m., a severe wind and rain incident triggered a defective brick wall about 4-5 feet high to fall onto my property. This wall was owned by the Beverly Manor located on the north side of their property at 19710 13 mile road in Beverly Hills Michigan. This wall was over 200-230 feet that toppled onto my property. A remaining section of wall is still standing and propped up with a board. This wall fragment is a hazard to the community and should be removed. Because of the fact it was constructed with the rest of the wall one has to assume that it is also defective. An act of god such as a rain storm and wind doesn't usually blow down a brick wall unless the wall is substandard. No trees or shrubs were damaged in the area due to this weather event. The wall ruined a few evergreen trees and left a mess of debris of uncleaned up brick and mortar fragments. It's been about 2-3 months now and the Beverly Manor continues to clean up their property planting new shrubs and landscaping while they have neglected ours. We would like someone to come out and evaluate the remaining wall and decide its fate as well as determine how much compensation we are due for the damage that was done to our property. We would like the remaining debris field removed and the obvious damaged cedar trees trimmed by a professional to save them and the small shrubs that were crushed and still on the ground replaced.

**Road Commission Construction Projects** – As you are aware, the Road Commission is currently engaged in construction projects on 14 Mile between Greenfield and Southfield and Southfield Rd. between 12 Mile and 13 Mile. There is a perceived lack of communication and coordination of these RCOC projects with the Village and other local governments. Representatives from the Road Commission did reach out and admit that there were some oversights in the outreach process with some of these fall projects. There is a need for them to expand their oversight to include local trash haulers as these construction projects have a major impact on their operations. This

suggestion was well received. The construction schedule for RCOC was significantly disrupted by the recent labor stoppage/lockout. They have had to bring many projects back on line in a short period of time as well as schedule a significant number of projects to be completed in the limited remaining construction season. Administration is confident these oversights were a one-time occurrence.

**Former Albanian Church Site** – Village Administration is in receipt of conceptual plans for a residential development on the site of the former Albanian Church on the south side of 13 Mile. Planning and Zoning Administrator Saur and LSL Planning are working with the applicants on their initial submission and suggested revisions for compliance with Village Zoning Codes. It is possible that a compliant submittal will be in hand in November for referral to the Planning Commission.

**Consumers Energy Gas Line Replacement** – Consumers Energy has completed the permit process for their gas main replacement program at 14 Mile and Evergreen. The Village has been informed that this project will begin around November 1st. The Village is coordinating the logistics of the lane closures related to this project with the adjoining Home Owners Associations, Birmingham Public Schools and the Department of Public Safety. A separate project, smaller in scope will occur around the intersection of Saxon and Beaconsfield on or around October 22. Consumers also has plans for a gas line replacement project on 14 Mile near the water tower. They have been advised to coordinate any plans for this project with the Road Commission due to ongoing road work on 14 Mile.

**Thirteen Mile Sidewalk Estimate** – Village Administration has received a cost estimate the installation of a sidewalk along 13 Mile that would connect the existing sidewalk at Groves High School to the intersection of 13 Mile and Lahser, and further to the subdivision of North Georgetown at Old Stage. A copy of the estimate was provided for review and direction of Council. As you will note, the cost is quite high at just over \$1.1 million, with over half of that cost for a pedestrian bridge over a river crossing.

## **COUNCIL COMMENTS**

Mooney reminded residents to vote November 6, 2018, and expressed his support for the four incumbent members of Council.

Abboud thanked Mooney for his support. He reported updates from the MML, SEMCOG, and SOCMA.

Delaney thanked Mooney for his support. He reported that the Joint Senior Services Commission had their first meeting and are excited for the progress they will make.

Oen thanked Mooney for his support.

Peddie reported the Baldwin Library Board of Directors would be at a December meeting to provide an update.

Motion by Abboud, second by Oen, to adjourn the meeting at 9:05 p.m.

Motion passed.

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

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

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

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

TO THE PRESIDENT & MEMBERS OF THE VILLAGE COUNCIL. THE FOLLOWING IS A LIST OF  
EXPENDITURES FOR APPROVAL. ACCOUNTS PAYABLE RUN FROM 10/16/2018 THROUGH 10/29/2018.

ACCOUNT TOTALS:

101	GENERAL FUND	\$64,831.03
202	MAJOR ROAD FUND	\$16,690.08
203	LOCAL STREET FUND	\$16,602.03
205	PUBLIC SAFETY DEPARTMENT FUND	\$193,456.84
592	WATER & SEWER FUND	\$10,362.45
701	TRUST & AGENCY FUND	\$4,328.40
	TOTAL	<u>\$306,270.83</u>
	MANUAL CHECKS- COMERICA	\$0.00
	MANUAL CHECKS- INDEPENDENT	\$6,662.58
	ACCOUNTS PAYABLE	<u>\$306,270.83</u>
	GRAND TOTAL	<u>\$312,933.41</u>

Check Date	Bank	Check	Vendor	Vendor Name	Invoice Vendor	Amount
Bank COM COMERICA						
10/29/2018	COM	79255	58787	ABEL ELECTRONICS	ABEL ELECTRONICS	85.00
10/29/2018	COM	79256	59381	ALEXANDER BUILDING COMPAALEXANDER BUILDING COMPA		1,250.00
10/29/2018	COM	79257	51160	ALLIANCE MOBILE HEALTH	ALLIANCE MOBILE HEALTH	290.00
10/29/2018	COM	79258	59378	AMERICAN STANDARD ROOFINAMERICAN STANDARD ROOFIN		100.00
10/29/2018	COM	79259	59651	ANDREW NELSON	ANDREW NELSON	1,250.00
10/29/2018	COM	79260	31164	APOLLO FIRE APPARATUS	APOLLO FIRE APPARATUS	858.65
10/29/2018	COM	79261	53284	APPLIED IMAGING	APPLIED IMAGING	31.73
10/29/2018	COM	79262	51802	ARROW OFFICE SUPPLY CO.	ARROW OFFICE SUPPLY CO.	197.23
10/29/2018	COM	79263	59932	AYESHA GAGGINO	AYESHA GAGGINO	100.00
10/29/2018	COM	79264	32748	BEIER HOWLETT,P.C.	BEIER HOWLETT,P.C.	1,285.20
10/29/2018	COM	79265	59921	BERKLEY APPLIANCE	BERKLEY APPLIANCE	366.08
10/29/2018	COM	79266	51409	BEVERLY HILLS ACE	BEVERLY HILLS ACE	58.02
10/29/2018	COM	79267	59916	BLACK & VEATCH	BLACK & VEATCH	300.00
10/29/2018	COM	79268	30861	BLUE CARE NETWORK	BLUE CARE NETWORK	34,711.63
10/29/2018	COM	79269	52071	BLUE CROSS BLUE SHIELD	BLUE CROSS BLUE SHIELD	36,315.42
10/29/2018	COM	79270	53417	BLUELINE IRRIGATION	BLUELINE IRRIGATION	175.00
10/29/2018	COM	79271	59627	BRANDON FLUEGEL	BRANDON FLUEGEL	1,200.00
10/29/2018	COM	79272	49980	C&G PUBLISHING	C&G PUBLISHING	190.00
10/29/2018	COM	79273	58959	CADILLAC ASPHALT, LLC	CADILLAC ASPHALT, LLC	692.30
10/29/2018	COM	79274	03700	CARRIER & GABLE	CARRIER & GABLE	1,899.00
10/29/2018	COM	79275	58597	CATHY WHITE	CATHY WHITE	140.70
10/29/2018	COM	79276	59469	CEDAR WORKS INC.	CEDAR WORKS INC.	200.00
10/29/2018	COM	79277	59347	CINTAS CORPORATION #31	CINTAS CORPORATION #31	68.70
10/29/2018	COM	79278	50392	CITY OF BIRMINGHAM	CITY OF BIRMINGHAM	1,500.00
10/29/2018	COM	79279	31925	COALITION OF PUBLIC SAFE	COALITION OF PUBLIC SAFE	21,330.62
10/29/2018	COM	79280	31987	COLMAN-WOLF SANITARY	COLMAN-WOLF SANITARY	487.50
10/29/2018	COM	79281	51439	COMCAST	COMCAST	119.10
10/29/2018	COM	79282	04500	COMEAU EQUIPMENT CO INC.	COMEAU EQUIPMENT CO INC.	26,767.76
10/29/2018	COM	79283	50826	CONSUMERS ENERGY	CONSUMERS ENERGY	650.15
10/29/2018	COM	79284	59924	CYNTHIA WEINTRAUB	CYNTHIA WEINTRAUB	100.00
10/29/2018	COM	79285	59925	DEBORAH KENT	DEBORAH KENT	200.00
10/29/2018	COM	79286	59697	DETROIT ELEVATOR COMPANY	DETROIT ELEVATOR COMPANY	760.00
10/29/2018	COM	79287	59914	ERIC CONRAD	ERIC CONRAD	400.00
10/29/2018	COM	79288	30685	ERIC KOENIG	ERIC KOENIG	1,050.00
10/29/2018	COM	79289	31228	EXXONMOBIL	EXXONMOBIL	276.38
10/29/2018	COM	79290	59919	FRANK WOODY	FRANK WOODY	200.00
10/29/2018	COM	79291	59913	GAZEBOS	GAZEBOS	3,423.20
10/29/2018	COM	79292	59918	GEORGIALEE BREEN	GEORGIALEE BREEN	100.00
10/29/2018	COM	79293	58747	GOVERNMENT LEASING & FIN	GOVERNMENT LEASING & FIN	90,125.19
10/29/2018	COM	79294	53489	GREAT AMERICA FINANCIAL	GREAT AMERICA FINANCIAL	600.00
10/29/2018	COM	79295	59613	GREGORY MACKENZIE	GREGORY MACKENZIE	100.00
10/29/2018	COM	79296	53583	GUARDIAN	GUARDIAN	6,281.28
10/29/2018	COM	79297	49646	GUNNERS METERS & PARTS I	GUNNERS METERS & PARTS I	65.00
10/29/2018	COM	79298	59327	HANSONS WINDOWS	HANSONS WINDOWS	200.00
10/29/2018	COM	79299	59716	HOME DEPOT USA INC	HOME DEPOT USA INC	100.00
10/29/2018	COM	79300	08500	HUBBELL ROTH & CLARK INC	HUBBELL ROTH & CLARK INC	11,483.41
10/29/2018	COM	79301	59301	HUGH CONNOLLY	HUGH CONNOLLY	100.00
10/29/2018	COM	79302	59319	HUNT CONSTRUCTION	HUNT CONSTRUCTION	200.00
10/29/2018	COM	79303	59010	HUNT SIGN COMPANY	HUNT SIGN COMPANY	344.00
10/29/2018	COM	79304	59915	ITEC ENTERPRISES LLC	ITEC ENTERPRISES LLC	900.00
10/29/2018	COM	79305	59839	J.C. EHRlich	J.C. EHRlich	45.00
10/29/2018	COM	79306	39070	J.H. HART URBAN FORESTRY	J.H. HART URBAN FORESTRY	918.00
10/29/2018	COM	79307	59926	JACQUELINE VENIER	JACQUELINE VENIER	100.00
10/29/2018	COM	79308	59423	JAMES HEALY	JAMES HEALY	325.00
10/29/2018	COM	79309	59324	JCR SUPPLY, INC.	JCR SUPPLY, INC.	420.00
10/29/2018	COM	79310	30521	JOHN MILLIRON	JOHN MILLIRON	1,050.00
10/29/2018	COM	79311	59582	JOHNSON THERMOL-TEMP INC	JOHNSON THERMOL-TEMP INC	3,524.50
10/29/2018	COM	79312	59930	JONATHON DEWINDT	JONATHON DEWINDT	100.00
10/29/2018	COM	79313	59858	JUSTIN RACKLIN	JUSTIN RACKLIN	60.00
10/29/2018	COM	79314	59920	KAREN MACDONALD	KAREN MACDONALD	100.00
10/29/2018	COM	79315	59352	KARRIE MARSH	KARRIE MARSH	1,506.00
10/29/2018	COM	79316	59928	LAURA BERKAW	LAURA BERKAW	100.00
10/29/2018	COM	79317	59929	LISA HAMILTON	LISA HAMILTON	200.00
10/29/2018	COM	79318	59927	LOUISE AFFELD	LOUISE AFFELD	200.00
10/29/2018	COM	79319	49491	MAINS LANDSCAPE SUPPLY	MAINS LANDSCAPE SUPPLY	176.70
10/29/2018	COM	79320	59116	MARGARET A.S. BEKE	MARGARET A.S. BEKE	99.67
10/29/2018	COM	79321	59912	MATTHEW & JESSICA GARAVA	MATTHEW & JESSICA GARAVA	476.37
10/29/2018	COM	79322	31794	MICHAEL MILES	MICHAEL MILES	1,050.00
10/29/2018	COM	79323	59799	MICHAEL MINEWISER	MICHAEL MINEWISER	100.00
10/29/2018	COM	79324	59477	MILWIN BUILDING	MILWIN BUILDING	1,000.00
10/29/2018	COM	79325	51461	MUNICIPAL WEB SERVICES	MUNICIPAL WEB SERVICES	814.00
10/29/2018	COM	79326	51182	NELSON BROTHERS SEWER &	NELSON BROTHERS SEWER &	903.00
10/29/2018	COM	79327	51799	NYE UNIFORM EAST	NYE UNIFORM EAST	247.00
10/29/2018	COM	79328	51540	O'REILLY AUTO PARTS	O'REILLY AUTO PARTS	69.48
10/29/2018	COM	79329	59917	OAKES ROOFING	OAKES ROOFING	300.00
10/29/2018	COM	79330	59922	OAKLAND COMMUNITY COLLEGE	OAKLAND COMMUNITY COLLEGE	220.00
10/29/2018	COM	79331	50830	OAKLAND COUNTY TREASURE	OAKLAND COUNTY TREASURE	6,156.56
10/29/2018	COM	79332	58818	OAKLAND COUNTY WATER	OAKLAND COUNTY WATER	3,014.93

10/26/2018 09:23 AM  
User: KARRIE  
DB: Beverly Hills

## CHECK REGISTER FOR VILLAGE OF BEVERLY HILLS

Page: 2/2

CHECK DATE FROM 10/29/2018 - 10/29/2018

Check Date	Bank	Check	Vendor	Vendor Name	Invoice Vendor	Amount
10/29/2018	COM	79333	49769	OFFICE EXPRESS	OFFICE EXPRESS	127.27
10/29/2018	COM	79334	59622	PARAGON LABORATORIES	PARAGON LABORATORIES	200.00
10/29/2018	COM	79335	59422	RENEWAL BY ANDERSON	RENEWAL BY ANDERSON	200.00
10/29/2018	COM	79336	16100	ROAD COMMISSION FOR OAKI	ROAD COMMISSION FOR OAKI	1,391.15
10/29/2018	COM	79337	58867	ROSEMARY BAYER	ROSEMARY BAYER	200.00
10/29/2018	COM	79338	59931	RYAN SHAW	RYAN SHAW	100.00
10/29/2018	COM	79339	16500	S.O.C.R.R.A.	S.O.C.R.R.A.	28,575.00
10/29/2018	COM	79340	59750	SMOLYANOV HOME IMPROVEME	SMOLYANOV HOME IMPROVEME	300.00
10/29/2018	COM	79341	51356	SOUTHFIELD MUFFLER & BRA	SOUTHFIELD MUFFLER & BRA	612.77
10/29/2018	COM	79342	58608	TRESNAK	TRESNAK	500.00
10/29/2018	COM	79343	59601	UNITED BUILDING SERVICE	UNITED BUILDING SERVICE	100.00
10/29/2018	COM	79344	50767	VERIZON WIRELESS	VERIZON WIRELESS	31.79
10/29/2018	COM	79345	38205	VERIZON WIRELESS MESSAGI	VERIZON WIRELESS MESSAGI	455.22
10/29/2018	COM	79346	53572	WOW! BUSINESS	WOW! BUSINESS	573.17

## COM TOTALS:

Total of 92 Checks:	306,270.83
Less 0 Void Checks:	0.00
Total of 92 Disbursements:	306,270.83

10/26/2018 11:55 AM  
User: KARRIE  
DB: Beverly Hills

CHECK REGISTER FOR VILLAGE OF BEVERLY HILLS

Page: 1/1

CHECK DATE FROM 10/02/2018 - 10/29/2018

Check Date	Bank	Check	Vendor	Vendor Name	Invoice Vendor	Amount
Bank IND INDEPENDENT BANK						
10/17/2018	IND	1065	59475	SHEILA MCCARTHY		149.90
10/24/2018	IND	1066	59636	COSTCO WHOLESALE		3,198.00
10/24/2018	IND	1067	50074	JUDY SIMA		300.00
10/24/2018	IND	1068	59923	GORDON RUSS		450.00
10/24/2018	IND	1069	50396	KEITH BROWN		300.00
10/25/2018	IND	1070	50719	MARKET FRESH		1,335.00
10/26/2018	IND	1071	34101	DUNKIN DONUTS		629.68
10/26/2018	IND	1072	59637	MICHELLE MCKINNEY		300.00

IND TOTALS:

Total of 8 Checks:	6,662.58
Less 0 Void Checks:	0.00
Total of 8 Disbursements:	6,662.58



# MEMO

To: Chris Wilson, Village Manager  
Sheila McCarthy, Finance Director  
Village Council

From: Howard Shock, Deputy Director

Re: Johnson Thermol-Temp Inc. Invoice CO-101

Date: October 15, 2018

## **Background**

In September, administration reported that the hot water tank in the Public Safety Building had failed. It became necessary for Public Safety to contact Johnson Thermol-Temp Inc., located at 58540 VanDyke Suite 5, Washington, MI. for an emergency repair to the hot water tank. They were able to inspect the unit and determine the fire eye control needed to be replaced. It was estimated the cost of the repair would be \$2000.00. Johnson Thermal-Temp indicated that significant parts for the unit were no longer available. The hot water tank is 30 years old and investing \$2000.00 in this repair would not prevent future failures. The decision was made to purchase a new more energy efficient hot water tank. Johnson Thermol-Temp completed the removal and installation of a new hot water tank. The project took a little more than a week to complete.

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

## **Recommendation**

Administration recommends approving payment to Johnson Thermol-Temp Inc., located at 58540 VanDyke Suite 5, Washington, MI. for Invoice CO-101, for a total of \$9,250.00. Funds for this expenditure are available for this in account #205-345-934.00.

## **Suggested Resolution**

Be it resolved that the Village of Beverly Hills Council authorize the payment of Invoice CO-101 from Johnson Thermol-Temp Inc. in the amount of \$9,250.00. Funds are available for this purchase in account #205-345-934.00.

Johnson Thermol-Temp Inc.

58540 Van Dyke

Suite 5

Washington, MI 48094

Invoice

Date	Invoice #
10/1/2018	CO-101

Bill To


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



P.O. No.	Terms	Due Date	Project
		10/1/2018	

Description	Qty	Rate	Amount
Installation of one hot water tank. Built ramps to get the new hot water tank into the building due to the heavy weight. Removed the old hot water tank by cutting it up into pieces. Cut and re-piped the supply and return lines. Needed to switch the circulation pump and boiler drain. Moved and re-piped the gas lines. Rewired the unit and the circulation pump to bring it up to code. After the replacement hot water tank was installed, checked the operation and it was working well. Hours for three men for October 1, 2018, October 2, 2018 and October 3, 2018.	1	9,250.00	9,250.00
100 Gallon Hot Water Tank	41.5		0.00
20' of 1-1/4" Copper Pipe	1	0.00	0.00
5' of 2" Copper Pipe	1	0.00	0.00
10' of 3/4" Copper Pipe	1	0.00	0.00
5' of 3/4" Black Pipe	1	0.00	0.00
2" Copper 90	2	0.00	0.00
1-1/4" Copper 90	4	0.00	0.00
3/4" Copper 90	3	0.00	0.00
1" Brass Gas Valve	1	0.00	0.00
<b>Total</b>			\$9,250.00
<b>Payments/Credits</b>			\$0.00
<b>Balance Due</b>			\$9,250.00

Finance charges of 1.5% monthly will be assessed to accounts over 30 days

BEVERLY HILLS  
PUBLIC SAFETY DEPT.  
APPROVED FOR PAYMENT  
BY   
ACCT. # 205345934

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

## MEMO

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

From: Erin Saur, Planning & Zoning Administrator

Date: November 1, 2018

Re: Set public hearing date for amendments to Chapter 22, Section 22.24

At the meeting held April 17, 2018 Council requested the Planning Commission review and make a recommendation of modifications to Section 22.24 Area, Height, Bulk, and Placement Regulations to establish maximum lot coverage in Single Family Residential Zone Districts.

The subcommittee of Planning Commission and Administration reviewed existing conditions in the Village and existing ordinance regulations to create lot coverage by buildings that would work to protect existing conditions and promote positive redevelopment in the Village. On October 24, 2018 the Planning Commission held a public hearing and made a recommendation to approve changes to Section 22.24 to add lot coverage percentages for Single Family Residential Zone Districts.

A first reading and public hearing date of December 4, 2018 is recommended.

ees

## MEMO

To: Chris Wilson, Village Manager  
Members of Village Council

From: Elizabeth Lyons

Re: Proposed Eagle Scout Project

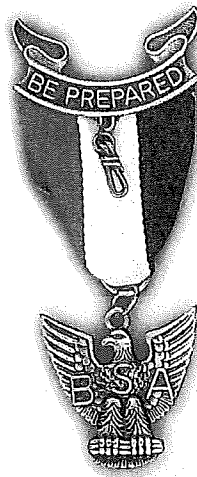
Date: October 29, 2018

At the September 20, 2018 Parks & Recreation Board meeting, Boy Scout, Josh Ziegele, presented his idea for an Eagle Scout project at Beverly Park. His plan is to create a Butterfly Garden, the garden would be approximately 15x15 feet. He would have planting assistance from fellow Troop members, and hopes to secure donations from nearby nurseries. The Board was in favor of this project. He hopes to secure \$500 in funding from the Village.

The Parks & Recreation Board unanimously recommended Council's approval of the proposed project.

### **Recommended Resolution**

That the Village of Beverly Hills Council authorizes Josh Ziegele to create and plant a butterfly garden in Beverly Park for his Eagle Scout project. Also that the Village provide the necessary financial contributions not to exceed \$500.



## Eagle Scout Service Project Proposal



BOY SCOUTS OF AMERICA®

Eagle Scout candidate's full legal name Joshua William Ziegele

Eagle Scout Service Project Name Beverly Park Butterfly Garden

### Eagle Scout Requirement 5

While a Life Scout, plan, develop, and give leadership to others in a service project helpful to any religious institution, any school, or your community. (The project must benefit an organization other than Boy Scouting.) The project proposal must be approved by the organization benefiting from the effort, your unit leader and unit committee, and the council or district before you start. You must use the *Eagle Scout Service Project Workbook*, No. 512-927, in meeting this requirement.

# Instructions for Preparing Your Proposal

---

## Meeting the Five Tests of an Acceptable Eagle Scout Service Project

Your proposal must be prepared first. It is an overview, but also the beginnings of planning. It must show your unit leader, unit committee, and council or district that your project can meet the following tests.

1. ***It provides sufficient opportunity to meet the Eagle Scout service project requirement.*** You must show that planning, development, and leadership will take place; and how the three factors will benefit a religious institution, a school, or your community.
2. ***It appears to be feasible.*** You must show the project is realistic for you to carry out.
3. ***Safety issues will be addressed.*** You must show you have an understanding of what must be done to guard against injury, and what will be done if someone gets hurt.
4. ***Action steps for further detailed planning are included.*** You must make a list of the key steps you will take to make sure your plan will have enough details so it can be carried out successfully.
5. ***You are on the right track with a reasonable chance for a positive experience.***

When completing your proposal you only need enough detail to show a reviewer that you can meet the tests above. If showing that you meet the tests requires a lengthy and complicated proposal, your project might be more complex than necessary. Remember, the proposal is only the *beginnings* of planning. Most of your planning will come with the next step, preparation of your project plan.

If your project does not require materials or supplies, etc., simply mark those spaces "not applicable." As a reminder, do not begin any work, or raise any money, or obtain any materials, until your project proposal has been approved.

**Consider also, that if you submit your proposal too close to your 18<sup>th</sup> birthday, it may not be approved in time to finish planning and executing the project.**

## Working with Your Project Beneficiary

On the last two pages of this workbook there is an information sheet called, "Navigating the Eagle Scout Service Project." This is for you to print and give to the religious institution, school, or community that will benefit from your efforts. You should do this as part of your first meeting with your beneficiary and use the sheet to help explain how the Eagle Scout service project works. Be sure to read it carefully so you can explain what it says.

"Navigating the Eagle Scout Service Project" will help you communicate a number of things to your beneficiary. For example, it provides thanks and congratulations for accepting the project; and it gives some background, discusses the requirements, and points out the responsibilities connected with approving your project proposal. It also explains that the beneficiary has the right to review, and also to require changes in your project plan.

Again, be sure to read carefully "Navigating the Eagle Scout Service Project" so you will have a full understanding of the role of your beneficiary.

## Next Step: Your Project Plan

Once your proposal is approved, you are ***strongly encouraged*** to prepare your project plan using the form in this workbook. Doing so increases the likelihood your project will be approved at your Eagle Scout board of review. As you begin preparing it, you should meet with a project coach. Check with the person who handled the approval of your project proposal to learn how coaches are designated in your community.

Your designated coach can help you avoid the common pitfalls associated with Eagle Scout service projects and be a big part of your success. You may also want to talk to your unit leader. There may be adults in your troop who are experts in conducting the kind of project you are planning. It's ok for you to work with them as well. The more coaching you get, the better your results will be.

## Beginning Work on Your Project

Once your proposal has been fully approved and you have finished your project planning, only then, may you begin work on your project.

## Contact Information

Eagle Scout candidates should know who is involved, but contact information may be more important to unit leaders and others in case they want to talk to one another. While it is recognized that not all the information will be needed for every project, Scouts are expected to provide as much as reasonably possible. Approval representatives must understand, however, that doing so is not part of the service project requirement.

### Eagle Scout Candidate

Name: Joshua William Ziegele		Birth date: 6/24/2004	
Email address: Jzig04@gmail.com		BSA PID number*: 125064854	
Address: 31761 Waltham Ct.	City: Beverly Hills	State: MI	Zip: 48025
Preferred telephone(s): 248-835-3879		Life board of review date: 1/24/18	

\*BSA PID No., found on the BSA membership card

### Current Unit Information

Check one: <input checked="" type="checkbox"/> Troop <input type="checkbox"/> Team <input type="checkbox"/> Crew <input type="checkbox"/> Ship	Unit Number: 1024
Name of District: North Star	Name of Council: Great Lakes

### Unit Leader Check one: ☒ Scoutmaster ☐ Varsity Coach ☐ Crew Advisor ☐ Skipper

Name: Michael Ziegele	Preferred telephone(s): 248-894-1251		
Address: 31761 Waltham Ct.	City: Beverly Hills	State: MI	Zip: 48025
Email address: Mziegele@yahoo.com			

### Unit Committee Chair

Name: Jim Lamphere	Preferred telephone(s): 586-291-1502		
Address: 17127 Beechwood	City: Beverly Hills	State: MI	Zip: 48025
Email address: jimsuelamphere@sbcglobal.net			

### Unit Advancement Coordinator (If your unit has one)

Name: Don Brown	Preferred telephone(s): 248-390-3667		
Address: 32240 Robinhood	City: Beverly Hills	State: MI	Zip: 48025
Email address: db_6753@yahoo.com			

### Project Beneficiary (Name of religious institution, school, or community)

Name: Village of Beverly Hills - Parks and Rec Board	Preferred telephone(s): 248-646-6404		
Address: 18500 W 13 Mile road	City: Beverly Hills	State: MI	Zip: 48025
Email address: villageofbeverlyhills.com			

### Project Beneficiary Representative (Name of contact person for the project beneficiary)

Name: Janice Hausman	Preferred telephone(s): 248-647-1238		
Address: 31820 Mayfair Lane	City: Beverly Hills	State: MI	Zip: 48025
Email address: Hausmanhouse@gmail.com			

### Your Council Service Center

Contact name: Debra Edwards	Preferred telephone(s): 313-897-1965		
Address: 1776 W Warren Ave	City: Detroit	State: MI	Zip: 48025-2215

### Council or District Project Approval Representative

(Your unit leader, unit advancement coordinator, or council or district advancement chair may help you learn who this will be.)

Name: Michael Morin	Preferred telephone(s):		
Address: 26100 American drive	City: Southfield	State: MI	Zip: 48025
Email address: Mmorin@yaffle.com			

### Project Coach (Your council or district project approval representative may help you learn who this will be.)

Name: Tom Straith	Preferred telephone(s): 248-755-9213		
Address: 3092 middlebelt Road	City: West Bloomfield	State: MI	Zip: 48025
Email address: Tom@staith.us			

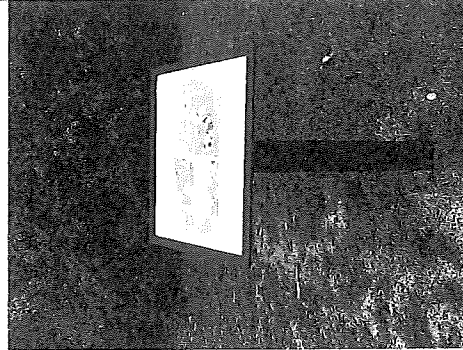
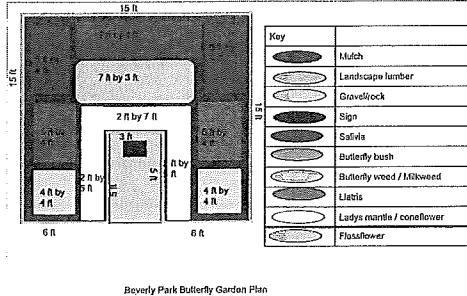
## Project Description and Benefit

Briefly describe your project.

My project is creating, designing and installing a butterfly garden at Beverly Park in Beverly Hills, Michigan. The butterfly garden will have various host and food plants for butterflies along with a sign showing the life cycle of a butterfly and describing the plants in the garden. The area will have a landscape lumber boarder, installed plants, mulch and a rock path.

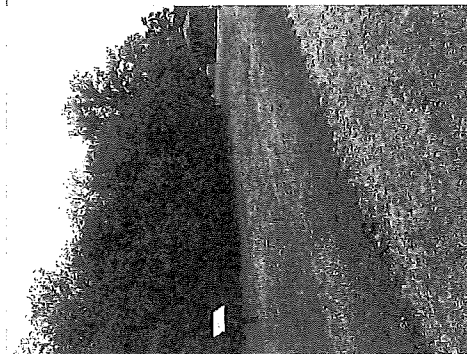
Attach sketches or "before" photographs if these will help others visualize the project.

Please click below to add images (JPEG, JPG, BMP, GIF, TIF, PNG, etc.)



Design of The Garden

Type of sign



Where the garden will go

Tell how your project will be helpful to the beneficiary. Why is it needed?

This project will improve the park by creating a learning zone about the life cycle of a butterfly and improving the attractiveness of the park.

When do you plan to begin carrying out your project? October 20th, 2018

When do you think your project will be completed? November 10th, 2018

## Giving Leadership

Approximately how many people will be needed to help on your project? 10 people

Where will you recruit them (unit members, friends, neighbors, family, others)? Explain:

I will recruit my family and Troop 1024 unit members to help with the project.

What do you think will be most difficult about leading them?

I think controlling what to do when and keeping everyone focused will be the most difficult.



**Materials**

*Materials are things that become part of the finished project, such as lumber, nails, and paint.*

What types of materials, if any, will you need? You do not need a detailed list or exact quantities, but you must show you have a reasonable idea of what is required. For example, for lumber, include basic dimensions such as 2 x 4 or 4 x 4.

Landscape lumber 8 ft x 2 x 2 , gravel ~ 20 bags , mulch ~ 2 yards, butterfly plants ~ 2 yards, Landscape spikes ~ 16 , Sign 4 x 4 post , and fertilizer

**Supplies**

*Supplies are things you use up, such as food and refreshments, gasoline, masking tape, tarps, safety supplies, and garbage bags.*

What kinds of supplies, if any, will you need? You do not need a detailed list or exact quantities, but you must show you have a reasonable idea of what is required.

Food, drinks, and snacks for helpers. Work gloves, safety glasses, and tarps

## Tools

*Include tools, and also equipment, that will be borrowed, rented, or purchased.*

What tools or equipment, if any, will you need? You do not need a detailed list, but you must show you have a reasonable idea of what is required.

Tape measure, hand saw, hammer, level, shovels, wheel barrels, and a post hole digger.

## Other Needs

*Items that don't fit the above categories; for example, parking or postage, or services such as printing or pouring concrete, etc.*

What other needs do you think you might encounter?

Mixing and pouring concrete for sign post.

## Permits and Permissions

*Note that property owners should obtain and pay for permits.*

Will permissions or permits (such as building permits) be required for your project? Who will obtain them? How long will it take?

Approval is needed from The Village of Beverly Hills Council. A Village Parks and Recreation board member representative will submit the request to be added to an upcoming meeting agenda and I will present the project for approval at a Council meeting.

## Preliminary Cost Estimate

*You do not need exact costs yet. Reviewers will just want to see if you can reasonably expect to raise enough money to cover an initial estimate of expenses. Include the value of donated material, supplies, tools, and other items. It is not necessary to include the value of tools or other items that will be loaned at no cost. Note that if your project requires a fundraising application, you do not need to submit it with your proposal.*

Enter estimated expenses below: (Include sales tax if applicable)		<b>Fundraising:</b> Explain how you will raise the money to pay for the total costs. If you intend to seek donations of actual materials, supplies, etc., then explain how you plan to do that, too.
Materials:	\$450.00	I plan to seek approval from the Village of Beverly Hills Parks and Rec board for funding to cover \$500 dollars and seek donations from friends and family.
Supplies:	\$50.00	
Tools:	\$0.00	
Other:	\$50.00	
<b>Total costs:</b>	<b>\$550.00</b>	

## Project Phases

Think of your project in terms of phases, and list what they might be. The first may be to prepare your project plan. Other phases might include fundraising, preparation, execution, and reporting. You may have as many phases as you want, but it is not necessary to become overly complicated; brief, one line descriptions are sufficient.

1.	develop project plan and schematic of garden
2.	get approvals (council and parks and rec board)
3.	schedule a work day with appropriate amount of volunteers
4.	Get materials, tools, and supplies
5.	Sign people in to collect service hour time
6.	Dig out area for garden and sign
7.	install landscape lumber
8.	install plants
9.	install sign

10.	Install mulch and gravel
11.	Sign people out and give food
12.	take pictures of final project report
13.	report completion of project to parks and rec board and eagle scout coordinator

## Logistics

Check with your council service center to determine if a Tour and Activity Plan is required.

How will you handle transportation of materials, supplies, tools, and helpers? Will you need a Tour and Activity Plan? We will use a car and a wheel barrel to transport materials, supplies, and helpers. We will have an activity plan to help guide the helpers. We will have a licensed driver over 18 transporting the materials and people.

## Safety Issues

The Guide to Safe Scouting is an important resource in considering safety issues.

Describe the hazards and safety concerns you and your helpers should be aware of.

The hazards include splinters, cuts, bee stings, and dropping something. We will have a first aid kit available to treat minor injuries. If there is a very serious accident that cannot be handled by a first aid kit we will drive to Beaumont or call 911.

## Project Planning

You do not have to list every step, but it must be enough to show you have a reasonable idea of how to prepare your plan.

List some action steps you will take to prepare your project plan. For example "Complete a more detailed set of drawings."

- Get all tools, materials, and supplies
- create a more detailed drawing
- Get the correct measurements

## Candidate's Promise\*

Sign below before you seek the other approvals for your proposal.

On my honor as a Scout, I have read this entire workbook, including the "Message to Scouts and Parents or Guardians" on page 5. I promise to be the leader of this project, and to do my best to carry it out for the maximum benefit to the religious institution, school, or community I have chosen as beneficiary.

Signed Josh Ziegele

Date 10/14/18

\*Remember: Do not begin any work on your project, or raise any money, or obtain any materials, until your project proposal has been approved.

## Unit Leader Approval\*

I have reviewed this proposal and discussed it with the candidate. I believe it provides impact worthy of an Eagle Scout service project, and will involve planning, development, and leadership. I am comfortable the Scout understands what to do, and how to lead the effort. I will see that the project is monitored, and that adults or others present will not overshadow him.

Signed Michael Ziegele

Date 10/14/18

Name (Printed) Michael Ziegele

## Unit Committee Approval\*

This Eagle Scout candidate is a Life Scout, and registered in our unit. I have reviewed this proposal, I am comfortable the project is feasible, and I will do everything I can to see that our unit measures up to the level of support we have agreed to provide (if any). I certify that I have been authorized by our unit committee to provide its approval for this proposal.

Signed JAMES K. LAMPHIERE

Date OCT 14, 2018

Name (Printed) JAMES LAMPHIERE

## Beneficiary Approval\*

This service project will provide significant benefit, and we will do all we can to see it through. We realize funding on our part is not required, but we have informed the Scout of the financial support (if any) that we have agreed to. We understand any fund raising he conducts will be in our name and that funds left over will come to us if we are allowed to accept them. We will provide receipts to donors as required.

Our Eagle candidate has provided us a copy of "Navigating the Eagle Scout Service Project, Information for Project Beneficiaries."

☒ Yes ☐ No

Signed Janice Hausman

Date 10/14/18

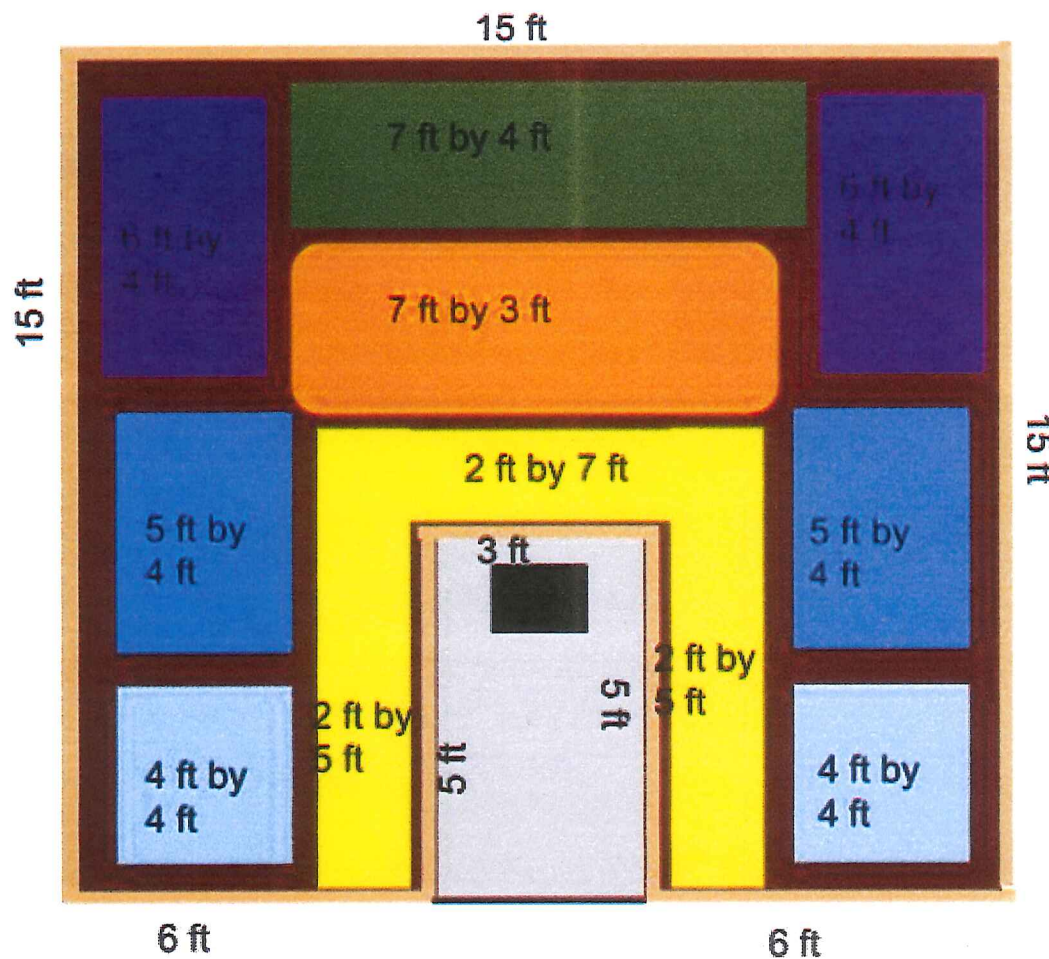
Name (Printed) Janice Hausman

Signed

Date

Name (Printed)

\*While it makes sense to obtain approvals in the order they appear, there shall be no required sequence for the order of obtaining those approvals marked with an asterisk (\*). Council or district approval, however, must come after the others.



Key	
	Mulch
	Landscape lumber
	Gravel/rock
	Sign
	Salivia
	Butterfly bush
	Butterfly weed / Milkweed
	Liatris
	Ladys mantle / coneflower
	Flossflower

Beverly Park Butterfly Garden Plan





# **Memo**

To: Chris Wilson, Village Manager

From: Thomas Meszler, Director of Public Services

Date: November 1, 2018

Re: Bid Recommendation for Invasive Species Eradication

## **Background**

The Village received bids on Sept. 19, 2018 at 2:00PM for Invasive Species Eradication. The Village received four bids for this project ranging from a high bid of \$70,925.00 to a low bid of \$34,999.00 submitted by NCS (Natural Community Services). The bid tabulation is attached. I have reviewed this proposal and they have complied with all the requirements for the project set forth by the Village bid proposal.

NCS submitted references, which have been checked and good recommendations were received from other municipalities they have completed work for.

This bid was reviewed by the Parks and Recreation Board and they agreed with the recommendation, with the request that Triclopyr be used as the treatment chemical.

## **Recommendation**

Administration recommends that the Village of Beverly Hills award this project to the low bidder, NCS, for the 2019 Invasive Species Eradication.

## **Suggested Resolution**

Be it resolved that the Beverly Hills Village Council award the 2019 Invasive Species Eradication to NCS for the amount of \$34,999.00.

THM/klm

attachments

**VILLAGE OF BEVERLY HILLS  
BID TABULATION**

**PROJECT: Invasive Species Eradication**

**DATE BIDS OPENED: Wednesday, Sept. 19, 2018 2:00 p.m.**

Company Name	Zone A – Initial Cut	Zone B – Initial Cut	Zone A – Maint. Year 1	Zone A – Maint. Year 2	Zone B – Maint. Year 1	Zone B – Maint. Year 2	MDEQ ANC Permit	TOTAL PROJECT COST
Cardno Inc	\$35,250.00	\$15,300.00	\$7,200.00	\$4,500.00	\$4,700.00	\$3,600.00	\$375.00	\$70,925.00
Cardno Inc Alt.	\$8,800.00	\$9,200.00	\$11,500.00	\$7,500.00	\$7,800.00	\$5,300.00	\$375.00	\$60,505.00
NCS	\$13,994.00	\$6,481.00	\$5,000.00	\$5,000.00	\$2,000.00	\$2,000.00	\$975.00	34,999.00
Davey	\$19,343.98	\$11,061.33	\$5,981.24	\$7,421.36	\$4,108.17	\$3,935.36	\$75.00	\$51,946.38



**VILLAGE OF BEVERLY HILLS  
INVITATION TO BID**

**Bid ID:** Invasive Species Eradication 2019

**Issue Date:** September 6, 2018

**Submit Bid To:** Chris Wilson  
Village of Beverly Hills  
18500 W. 13 Mile Road  
Beverly Hills, MI 48025

**Purpose:** The purpose of this Invitation to Bid is to solicit bids from responsive and responsible bidders to provide service for the control of invasive species at Beverly Park, Village of Beverly Hills.

**Special Instructions:** It is recommended that all bidders review the site before submitting a proposal.

**Deadline for Submissions:** 10:00 a.m., Friday, September 28, 2018  
Late bids and unsigned bids will be rejected.

**Please Direct All  
Inquiries To:** Chris Wilson  
248-646-6404  
[cwilson@villagebeverlyhills.com](mailto:cwilson@villagebeverlyhills.com)

**This ITB is Comprised Of:**

Part 1 – General Guidelines and Information  
Part 2 – Detailed Specifications  
Part 3 – Bid Forms

**Response Checklist:**

Signed Affidavit – Completed Bid  
Submit original bid  
Label the bid with RFP ID

## **Part 1 – General Guidelines and Information**

### **1. Introduction Scope:**

The Village of Beverly Hills invites and will accept bids for the service outlined in Part 2 Detailed Specifications. Results of this process are intended to award the contract.

### **2. Note to Bidders:**

Bidders are reminded to carefully examine the bid and specifications upon receipt. Any questions concerning this Bid must be submitted in writing by mail, or email at least FIVE WORKING DAYS prior to bid opening. Requests submitted after that time WILL NOT be considered. (See cover page for contact person).

In the event that it becomes necessary to provide additional clarifying data or information, or to revise any part of this RFP, revision / amendments and or supplements will be provided to all potential bidders. The Village of Beverly Hills has the sole authority to formulate modifications of this specification.

Reminder – All bidders should make a minimum of one site visit to the project site before submitting a bid.

### **3. Project / Contract administration:**

The Village of Beverly Hills will administer the contract with the successful vendor and will oversee field operations and coordinate work with successful vendor.

### **4. Acceptance:**

Bid shall remain fixed and valid for acceptance for sixty (60) days starting on the due date of the bid.

The Village of Beverly Hills reserves the right to accept any part of this bid deemed to be in the best interest of the Village. The Village also retains the right to accept or reject any or all bids.

#### 5. Pricing:

The price quoted shall include all labor, materials, equipment and other costs necessary to fully complete the services in accordance with specifications of this request for bid.

All prices, costs, and conditions outlined in the bid shall remain fixed.

#### 6. Invoicing and Payment:

As this is a long term project – All invoices shall contain complete and accurate information. Contractor shall submit separate monthly invoices for services rendered. All invoices shall be sent to Chris Wilson c/o Village of Beverly Hills (see address on cover page). All invoices will be reviewed and field confirmation of invoiced work will occur before invoice is paid. If work is not confirmed, contractor will be requested to make a site visit with the Village to review the invoice and provide clarification in the field. At no instance shall the bidder invoice the Village for more than is authorized by the Village on the accepted bid. Lack of site knowledge will not be considered an acceptable reason for invoice overages.

Miscellaneous service charges are not allowed to help Contractor pay various fluctuating current and future costs including, but not limited to, costs directly or indirectly related to the environment, energy issues, fuel charges, service and delivery of goods and services, in addition to other miscellaneous costs incurred to that which may be incurred in the future by the Contractor.

The Village's normal payment terms are net 30 days.

State Sales Tax / Federal Excise Tax: Bids should not include Michigan Sales Tax as the Village of Beverly Hills is exempt from such tax. The Village of Beverly Hills sales tax ID number is 38-6032091.

#### 7. Award:

The bids will be analyzed and awarded on a basis as set forth hereinafter. The Village will award the bid to the responsive and responsible bidder whose bid is most advantageous to the Village. In determining the most advantageous bid, the Village will consider criteria such as, but not limited to, cost, bidder's past performance and / or service reputation, and service capability, quality of the bidder's staff or services, customer satisfaction, extent to which the bidder's staff or services meet the Village's needs, bidder's past relationship with the Village, total long-term cost to the Village and any other relevant criteria listed elsewhere in this solicitation. The Village may opt to establish alternate selection criteria to protect its best interest or meet performance or operational standards.

#### 8. Additions to Contract:

The Village reserves the right to add new items and locations at a price conforming to other items on the contract. The procedure for such additions shall be as follows:

The Village will send the Contractor a letter requesting pricing for the item(s) to be added. The Contractor, within three working days, should respond in writing and include the bid identification (located on cover page); contract period and the price for each item or service to be provided. Upon receipt, the Village shall issue a Change Order adding the service or product(s) to the Contract. The Village reserves the right to accept or reject prices and obtain bids on the open market for these add-ons.

The Village of Beverly Hills reserves the right to reduce the scope of services during the term of the contract.

#### 9. Termination of Contract:

If for any reason the successful contractor fails to fulfill the requirements of the contract for providing the specified services, the Village shall have the right to cancel the contract at any time and negotiate for the services with another contractor.

#### 10. Contracting Assignment:

This contract and any part thereof shall not be subcontracted or assigned to another Contractor without prior written permission of the Village.

The Contractor shall be directly responsible for any subcontractor's performance and work quality when used by the Contractor to carry out the scope of the job. Subcontractors must abide by all terms and conditions under the Contract.

#### 11. Permits, Licenses:

The Contractor selected under the bid shall be required to obtain the necessary permits and licenses prior to performing any work under this contract. The Contractor will be required to demonstrate valid possession of appropriate required licenses and will keep them in effect for the term of the contract.

#### 12. Insurance:

The successful vendor is required to submit to the Village of Beverly Hills a Certificate of Insurance prior to performing any work under this contract. Certificate is required prior to issuance of accepted contract.

#### 13. Satisfactory Work:

Any work found to be in any way defective or unsatisfactory shall be corrected by the Contractor at its own expense at the order of the Village. The Village also reserves the right to contract out services not satisfactorily completed and to

purchase substitute services elsewhere. The Village reserves the right to charge the Contractor with any or all costs incurred or retain / deduct the amount of such costs from any monies due or which may become due under this contract.

#### 14. Proven Experience / Qualifications:

Bidder must provide information with their bid that will certify that they are experienced with or meet the requirements of the specifications to be eligible for the contract award.

#### DEFINITIONS

1. SPECIFICATIONS: The specifications in this request are the minimum acceptable. When specific terms and procedures are used, they are used to establish a design, type of process, quality, functional capability of performance level desired.

2. DEVIATIONS AND EXCEPTIONS: Deviations and exceptions from terms, conditions, or specifications shall be described fully, on the vendor's letterhead, signed, and attached to the bid. In the absence of such statement, the bid shall be accepted as in strict compliance with all terms, conditions, and specifications and vendor shall be held liable for injury resulting from any deviation.

3. QUALITY: Unless otherwise indicated in the request, all material shall be first quality.

4. ACCEPTANCE – REJECTION: Village of Beverly Hills reserves the right to accept or reject any or all bids, to waive any technicality in any bid submitted and to accept any part of a bid as deemed to be in the best interest of the Village. Submission of a proposal constitutes the making of an offer to contract and gives the Village an option valid for 60 days after the date of submission to the Village.

5. METHOD OF AWARD / ACCEPTANCE: Award shall be made to the most appropriate Contractor based on aforementioned terms and conditions. Written

notice of award to the contractor mailed or delivered to the address shown on the bid will be considered sufficient notice of acceptance of bid.

6. MATERIAL SAFETY DATA SHEET: If any items brought to site is a hazardous chemical as defined under 29 CFR 1910.1200, provide one (1) copy of the Material Safety Data Sheet for each item prior to bringing item to the site.

7. WARRANTY: Unless specifically expressed otherwise in writing, goods and services provided will be warranted to be of quality for one year after service is performed or product is applied.

8. CANCELLATION: Village of Beverly Hills reserves the right to terminate any Agreement due to non-appropriation of funds or failure of performance by the Contractor. This paragraph shall not relieve the Village of its responsibility to pay for services or goods provided to the Village prior to the effective date of termination.

## **Part 2 – Detailed Specifications**

### **Village of Beverly Hills Beverly Park Invasive Species Eradication 2019**

1. Location: Parcels 24-02-402-001, 002 and 003, Beverly Hills, Michigan, Oakland County. See location map and aerial photos attached.
2. Summary of project: The wooded area within Beverly Park has slowly been invaded with woody invasive species mainly consisting of Common Buckthorn (*Rhamnus cathartica*). The purpose of this project is to eradicate woody invasive species and herbaceous invasive species from the wooded areas, depicted on the attached map, through methods described in the scope of services below. There is a sound establishment of native understory so work completed should explore options to avoid damage to the existing desirable native species.
3. Scope of Services:
  - This is a four-year invasive species control project. Two separate zones (Season 1 and Season 2) for initial cut and a two-year maintenance program after the initial cut in both zones. This will include three foliar treatments throughout the entire zone in year 1 then two foliar treatments through the entire zone in year 2.
  - At the optimal time to ensure protection of spring ephemerals and other native vegetation, contractor will perform an herbicide application to re-sprouts, seedlings and small specimens of Buckthorn. This herbicide application will be made with Glyphosate or other herbicide as deemed appropriate to eradicate invasive species and reduce damage to desirable species.
  - The use of equipment for herbicide application may include the use of ATV assisted application, backpack sprayers, and other means appropriate.
  - Downed trees and large branches that may impede herbicide application operations can be cut and stacked on site or cut and dropped to the ground to allow equipment access.



- The Village of Beverly Hills will be notified at least 48 hours prior to this herbicide application being made. Upon this 48 hour notification the herbicide label and MSDS sheets for the herbicide being used will be provided to the Village.
- All persons applying herbicides will be certified and licensed to apply herbicides by the state of Michigan.
- All herbicide application activities will be conducted in a way to protect existing desirable native species. It is expected that the entire wooded area will have treatment in two consecutive years.
- A report will be provided to the Village of Beverly Hills on the scope of work performed after each treatment to include location and size area of treatment, target species, types of herbicides used, quantity of herbicide used, application method used, any field issues, and expected timeline of effective impact.
- An end of treatment season report will indicate all work performed during the treatment year, estimated area treated, and overall effect of treatment. The report will also include anticipated scope of work for the following treatment season based on end of treatment year results, treatment area, projected costs for next treatment season, any additional work considerations and costs. Anticipated costs for next treatment season should be listed as a "not to exceed" cost and provided prior to end of treatment year. This cost may decrease based on treatment needs but will not be exceeded.
- A Michigan Department of Environmental Quality Aquatic Nuisance Control permit will be required due to the presence of wetland in the work zones.

#### 4. Timeline of services:

- December 2018 – January 2019 – Herbicide control of invasive woody shrubs and herbaceous species
- End of treatment 2019 – Summary of control efforts for 2019 and proposed scope of work for 2020 control and anticipated costs
- December 2019 – January 2020 – Herbicide control of invasive woody shrubs and herbaceous species
- End of treatment 2020 – Summary of control efforts for 2020 and proposed scope of work for 2021 control and anticipated costs

\* Any modifications to this schedule require prior approval from the Village.

5. Completion Date: Project will be complete at the year end of 2021. However, based on control efforts and any remaining populations, the contract may be extended. Any extension would be submitted in writing and signed by the Village of Beverly Hills and contractor.

6. Site Contact Person(s):

7. Description of Site: The brush consists primarily of buckthorn and is variously scattered and clumped across the site. The topography of the woodland area is rolling although grades should not affect the performance of machinery.

8. Pre-Bid Site Review: All parties should view the site at least one time prior to submitting a proposal. Site visit will be confirmed at the Beverly Hills Village Office listed above.

9. Review of Submittals: The following items must be submitted for bids to be considered.

- Signature Affidavit
- Price Proposal
- Reference data sheet

### AFFIDAVIT OF NON COLLUSION

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, holding the title and position of \_\_\_\_\_ at the firm \_\_\_\_\_, affirm that I am authorized to speak on behalf of the company, board directors and owners in setting the price on the bid or proposal. I understand that any misstatements in the following information will be treated as fraudulent concealment of true facts on the submission of the bid or proposal.

I hereby swear and depose that the following statements are true and factual to the best of my knowledge:

1. The bid/proposal is genuine and not made on the behalf of any other person, company or client.
2. The price of the bid/proposal was determined independent of outside consultation and was not influenced by other companies, clients or contractors.
3. No companies, clients or contractors have been solicited to propose a fake bid/proposal for comparative purposes.
4. No companies, clients or contractors have been solicited to refrain from bidding or to submit any form of noncompetitive bidding.
5. The price of the bid/proposal has not been disclosed to any client, company or contractor, and will not be disclosed until the formal date on

\_\_\_\_\_  
AFFIANT

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
(Notary Public),

\_\_\_\_\_ County.

My commission expires \_\_\_\_\_ 20 \_\_\_\_\_

### PRICE PROPOSAL

Task	Cost
Zone A – Initial Cut	
Zone B – Initial Cut	
Zone A - Maintenance Year 1	
Zone A – Maintenance Year 2	
Zone B - Maintenance Year 1	
Zone B – Maintenance Year 2	
MDEQ ANC Permit	
Total project cost	

Submitted by:

Representative's Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

Company Phone: \_\_\_\_\_

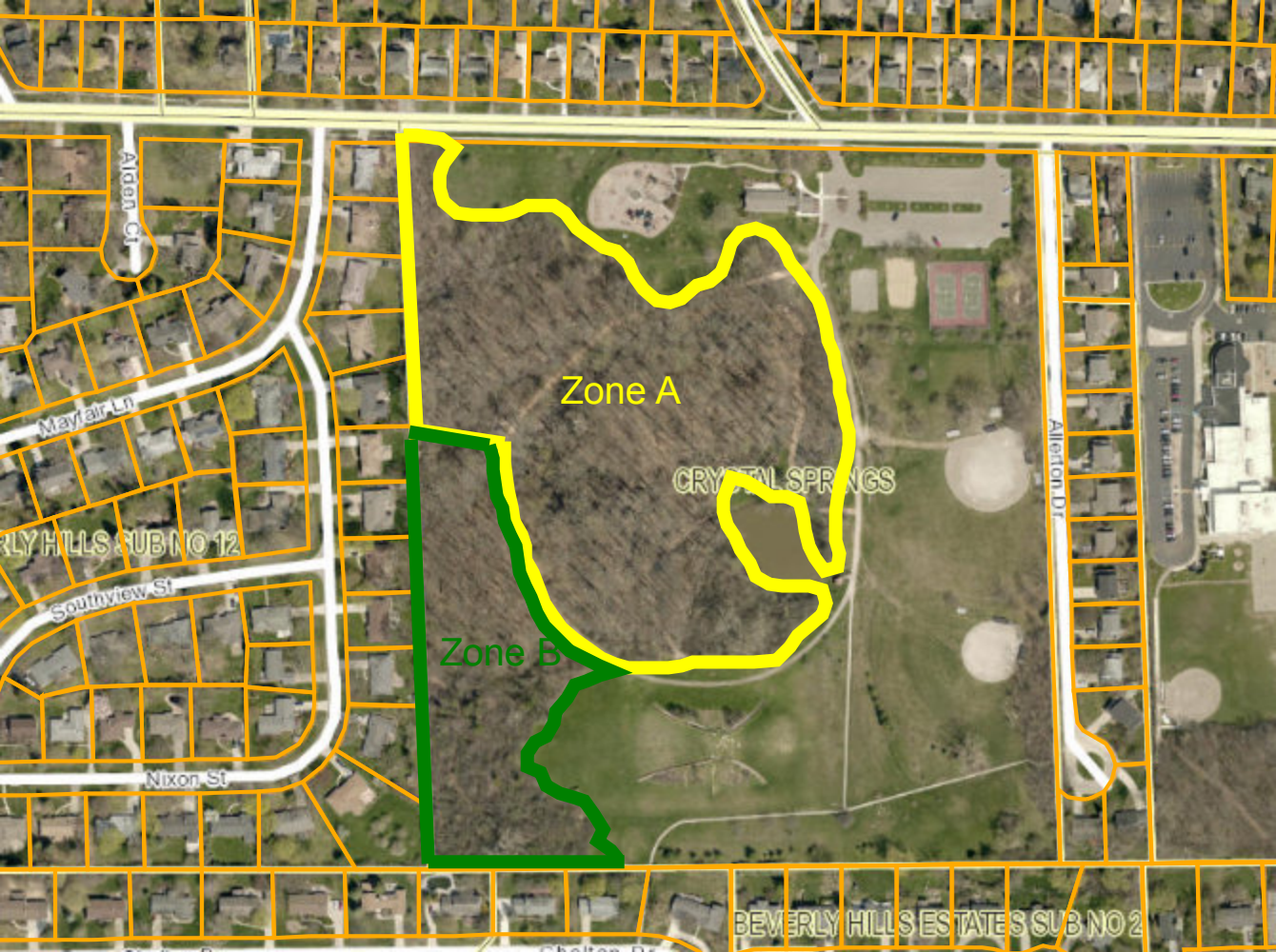
Company email: \_\_\_\_\_

Date: \_\_\_\_\_

Phone 248-646-6404  
Fax 248-646-3703  
Page 13 of 13

Please provide three professional references for whom you have completed invasive species eradication.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



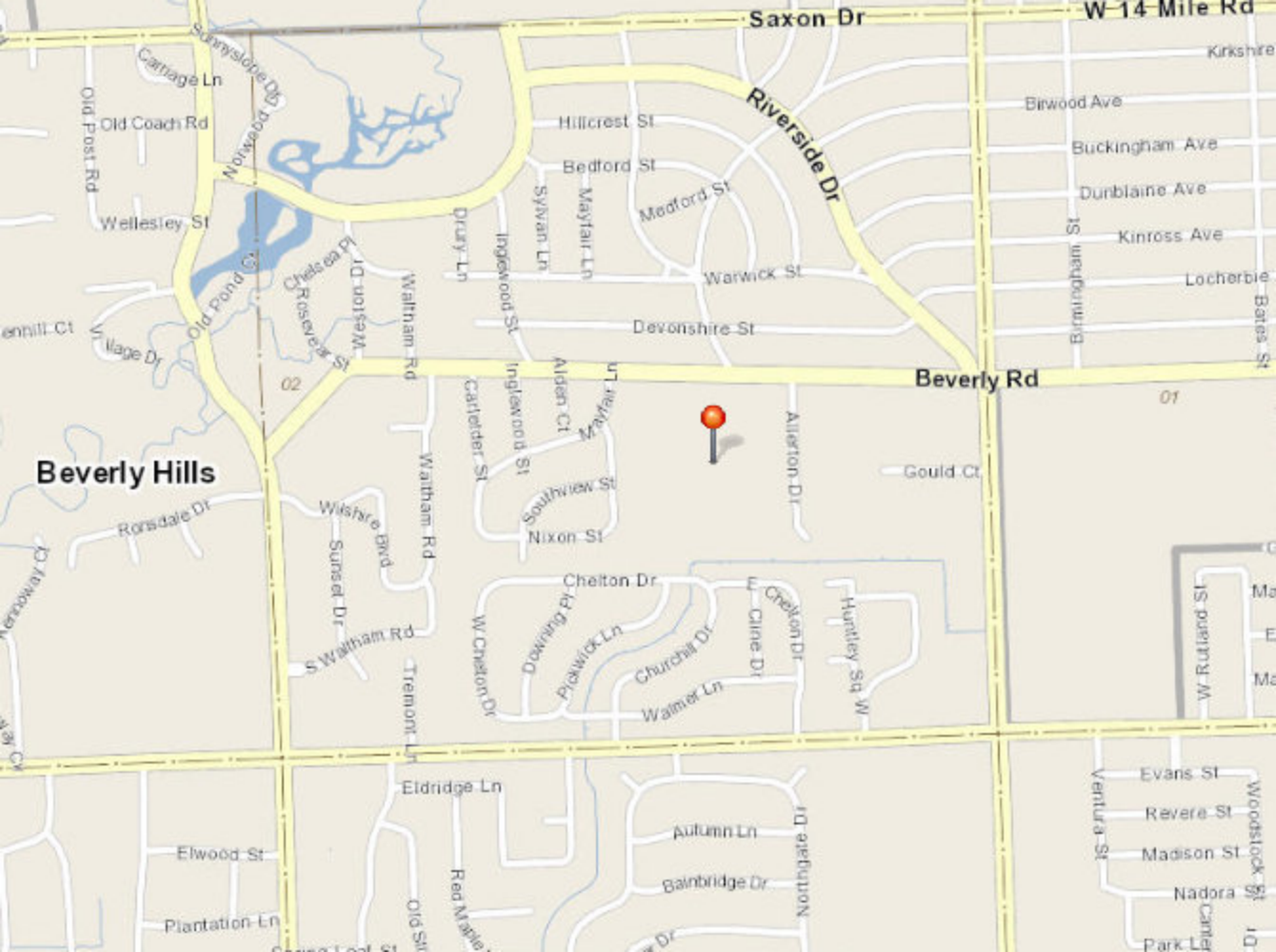
Zone A

CRYSTAL SPRINGS

Zone B

BEVERLY HILLS SUB NO 12

BEVERLY HILLS ESTATES SUB NO 2



**Beverly Hills**



## ITB- Invasive Species Eradication 2019 FOR: Village of BEVERLY HILLS

### Contents

Overview .....	1
Submittal Requirements .....	2
1. Completed and Signed Bid Form .....	2
2. Work Plan and Estimated Scheduling.....	2
3. References.....	3
4. Qualifications.....	4
5. License & Insurance Certificates .....	6
6. Attachment B & Other RFP Signatory Documents .....	8

### Overview

NCS is an ecological restoration firm from the metro Detroit area, licensed and Insured in MI, and said policy covers items of the proposed invasive species control contract. Natural Community Services is an equal opportunity employer (EEO) and a woman-owned small business (WBE). Our environmental assessment, planning, design, and ecological restoration philosophy approaches ecosystem and land manager concerns by:

- Incorporating Best Management Practices for preventing spread of invasive species
- Acknowledging the intrinsic value of biodiversity by using conservation-based work plans
- Strategizing cost-efficient restoration actions
- Controlling Invasive Species and re-introducing native species for maximum biodiversity.
- Native Landscape and Habitat Planning and Design for maximum wildlife, recreational, and visual appeal.



## Submittal Requirements

### 1. Completed and Signed Bid Form

No exceptions are taken as the NCS proposed work plan follows the specifications in the ITB document. NCS does propose controlling herbaceous invasive exotic plants such as garlic mustard, and cost estimates this as an additional line item in the following pricing on Beverly Hills RFP bid form.

### 2. Work Plan and Estimated Scheduling.

In a four-year invasive species control project. Two separate zones (Season 1 and Season 2) for initial cut and a two-year maintenance program after the initial cut in both zones, according to the bid form. NCS will provide additional estimates to control herbaceous invasive species as needed.

- This will include three foliar treatments throughout, the entire zone in year 1 then two foliar treatments through the entire zone in year 2.
- At the optimal time to ensure protection of spring ephemerals and other native vegetation, contractor will perform an herbicide application to re-sprouts, seedlings and small specimens of Buckthorn. This herbicide application will be made with Glyphosate or other herbicide as deemed appropriate to eradicate invasive species and reduce damage to desirable species.
- The use of equipment for herbicide application may include the use of ATV assisted application, backpack sprayers, and other means appropriate.

NCS Proposes the following specific methods to ensure high rates of control for each phase of work, progressing towards eradication.

- **Cut Stump:** NCS will cut the woody stem using hand operated power equipment or hand tools within three (3) inches of ground level and apply herbicide to the cut surface of each stump greater than .25" in diameter. For safety and effective herbicide application, stumps must be cut as level as possible. All herbicide treatments would be with a sponge applicator (or similar device) to ensure no damage to adjacent non-target vegetation or soil. Shrubs shall be felled so they do not block any trails or roads. Sparse populations of shrubs may be left where they fall, as long as they are in a safe position and cut brush does not interfere with herbicide application to the stumps nor with significant areas of native plant growth. In moderate density populations brush shall be scattered. Dense infestations of brush and shall be piled appropriately per information below.
- **Piling Brush:** Piling brush in a logical manner is integral to facilitating chipping, ensure public safety, and allow follow up treatments in work zones. NCS would cut brush/branches/logs and place basal ends facing, but 3 feet off of parking lots. We would loosely pack into piles in accessible up to 15 feet tall by 10 feet in diameter. A UTV would be utilized to pull material to piling area from woods. Piles shall be densely packed to minimize size and maximize the ability to chip the piles in winter.
- **Chipping:** NCS would stage a chipper in parking lot, and chip into our dump trailer. Work areas would be coned off and would only be done in winter to avoid pedestrian impacts, and lot would be cleaned off with backpack blower each PM.
- **Stump herbicide Application Requirements:** The required herbicide is Aquaneat® or a similar wetland-approved herbicide with glyphosate or Triclopyr as the active ingredient. Stump treatments shall be at full strength.
- Growing season foliar resprout treatments would be by UTV tank or backpack sprayer, using 5% Garlon3a.
- Stay on schedule, according to park prioritization in RFP, as follows in Gantt chart:

 = Task Time Frame

 = Closeout Task

Task		2019		
		Jan	Feb	Mar
Kickoff Meeting, Prepare Schedule				
Final planning & mobilization				
Field Work				
	Site 1			
	Site 2			
	Site 3			
	Quality control/restoration			
Invoicing				
Project Reports				

### 3. References

NCS has controlled invasive species for many municipal clients in Southeast Michigan, including woody and herbaceous services for Farmington Hills, Independence Township, Oakland Township, Royal Oak, Macomb County, and the DNR.

#### Client References

- **Macomb County Department of Planning and Economic Development**

Nicholson Nature Center Hydro-axing, Wetlands Planning and Restoration

Contact: Gerry Santoro (586)469-6443 [gerard.santoro@macombgov.com](mailto:gerard.santoro@macombgov.com)

- **Michigan Nature Association**

Newnan Preserve & Saginaw Wetlands, Invasive shrub mowing

Contact: Andy Bacon (586)469-6443 [abacon@michigannature.org](mailto:abacon@michigannature.org)

- **Friends of Detroit River**

Woody vegetation thinning with hydro-ax

Contact: Sam Lovall, Director [slovall@gmail.com](mailto:slovall@gmail.com) (734) 288-3889

- **City of Novi**

Phragmites Management

Contact: Rick Meader Landscape Architect t: 248.735.5621

*John, I have been there work done, but  
please worked for them for 3 years + have good job*

- **Royal Oak Nature Society/City of Royal Oak, MI**

3500 N. Marais, Royal Oak, MI 48073

Ecological Restoration, including rain garden installation and invasive species control

Contact: Don Drife, President: (248) 528-0479, [joyceanddon@comcast.net](mailto:joyceanddon@comcast.net)

*by ring it*

- **Michigan Department of Natural Resources**

P.O. Box 30028 Lansing, MI 48909

x Natural areas inventories and assessment, resource mapping, Invasive species control

Contact: Robert Clancy, Ecological Restoration Specialist (517) 241-2055 *WRONG #*

- **West Bloomfield Township**

Walnut Lake Rd., West Bloomfield, MI

x Environmental Ordinance Assessments, Bioswale designs, Ecological Restorations

Contact: John Roda, [jroda@wbtownship.org](mailto:jroda@wbtownship.org) (248) 451-4829

- **Oakland Township**

4393 Collins Road, Rochester Michigan 48306

Invasive species mapping and control

Contact: Dr. Ben Vanderweide or Jamie Moore, [jmoore@oaklandtownship.org](mailto:jmoore@oaklandtownship.org) (248) 218-6951

*2/651-7810*

- **City of Farmington Hills**

Native Landscape Design, Project Planning, and Management

*Good recommendation - still working for them*

x Contact: Ashlie Smith, Bill Wright, Bryan Farmer, Ashlie Smith, 248.477.1135, [asmith@fhgov.com](mailto:asmith@fhgov.com)

- **Independence Twp., MI**

6483 Waldon Center Dr. Clarkston, MI 48346

x Ecosystem survey, DEQ Permitting, GIS, planning, design, invasive species assessment/mapping and control

Contact: Dave McKee, Linda Richardson, DPW Manager: (248)240-2986, [dmckee@indetwp.com](mailto:dmckee@indetwp.com)

*2/625-8222*



## 4. Qualifications

NCS has demonstrated capability to perform the work specified. We have municipal herbaceous and woody invasive species control experience, as well as other large scale woody/biomass control projects. We have experience in strategizing methods for proper assessment of natural areas in a timely fashion, and have the ability to present findings effectively orally and in writing. NCS is a diversified ecological restoration firm with demonstrated experience in working effectively with communities to resolve issues and develop invasive species control programs which meet state regulations and exceed functional expectations.

### Staff Capacity

#### John DeLisle, PWS, CNSP, TSP

##### Principal Ecologist

Mr. DeLisle is a green infrastructure designer, wetland scientist and terrestrial ecologist with over 15 years of experience in assessment, bioswale and habitat restoration design, bioretention, invasive species management, SESC and permitting projects for residential, commercial, agricultural, and government clients. John is dedicated to restoring the diversity, vitality, integrity, and beauty of our clients' land and water resources. John manages a staff educated and experienced in planning, installing and maintaining native ecosystems, and well-versed in the range of native plants suitable to these natural habitats. John facilitates ecological survey, design and site management methods proven to ameliorate disturbed soils, hydrology, wildlife, and vegetation, while establishing indigenous plants adapted to restoring pre-settlement conditions. John has managed rare plants and animals, and their habitats, for 20 years

**Project Experience:** John is the principal ecologist of NCS, has participated in many ecological survey and GIS projects, including 4 for GLRI-funded projects. He led the planning and implementation of a SEMCOG and Macomb County (MI) Metro Parkway green infrastructure program, and is currently leading planning services for nature trail design-build for Farmington Hills.

#### Relevant Highlights

- ✓ Habitat Restoration Design
- ✓ Assessment, design of wetlands
- ✓ Biological surveys for plants and animals
- ✓ Shoreline assessment and bioengineering
- ✓ Expert botanist

**Years of Experience:** 17

**Years with NCS:** 9

#### Education

M.S.; University of Michigan; Environmental Science; 2008

B.S.; Michigan State University, Natural Resources; 1999

#### Registrations

- Natural Shoreline Professional
- Professional Wetlands Scientist

### Derek Updegrove, CERPIT

#### Habitat Designer

Derek is a designer and ecologist responsible for promotion and development of NCS' stream restoration practice, green infrastructure & wildlife habitat design, and invasive species planning. Derek holds a B.S. in conservation ecology from U-M's SNRE program, along with education in landscape architecture. His project experience is varied, but focused on assessment, design, management, and restoration of natural resources including permitting, wildlife biology, and invasive plants, including GIS, concept drawings, client care, EDRR species & plan writing.

#### Project Experience

Derek has led management plan surveys, composition, GIS and implementation for bioengineering, green infrastructure and wildlife management projects and restorations in interlobate and lakeplain communities for Cities of Novi, Royal Oak, Wayne County, Beverly Hills County, and 6 Rivers Land Conservancy. Derek also has designed wildlife habitat structures, conservation seed mixes, and composed CAD planting layouts for numerous private clients.

#### Project Experience

- Composes plans and schedules for wildlife habitat restoration projects
- Schedules and supervises staff
- Surveyed native ecosystem for invasion of non-native plant species.

### Patrick Duffy, SAF

#### Forester & GM

Mr. Duffy is a forester and team leader with 9 years of experience in ecology, wildlife survey, forestry, soil science, GIS and management. Patrick creates project plans that reduce workload by creating and executing project management processes to develop staff efficiencies. Establishes Key Performance Indicators and QA/QC deliverables for work planners. Communicates and negotiates management strategies with cooperators and internal managers through organizational and cultural processes. Coalesces cross-functional teams by streamlining information distribution and analysis. Patrick has been managing invasive plants for almost a decade

#### Project Experience

- Composes plans and schedules for invasive species and restoration projects
- Schedules and supervises staff
- Surveys ecosystem for invasion of exotic species.

#### Relevant Highlights

- ✓ Habitat quality assessment
- ✓ Project planning
- ✓ Biological survey experience
- ✓ Equipment Operator

**Years of Experience:** 4

**Years with NCS:** 3

#### Education

B.S. Ecology; University of Michigan, 2015

#### Registrations/

#### Certifications/Training

- Certified Applicator
- Wetland professional in training

#### Relevant Highlights

- ✓ Habitat quality assessment
- ✓ Project planning
- ✓ Biological survey experience
- ✓ Wildlife ecology and organismal biology research

**Years of Experience:** 9

**Years with NCS:** 1

#### Education

M.S. Forestry; Purdue University 2018

B.S. Env. Science, Education; University of Michigan: 2014

#### Registrations/

#### Certifications/Training

- SAF, DNR TSP



John & Liz DeLisle

Principal Ecologist and Owner

Natural Community Services

naturalcommunityservices.com



Cell:

248.672.7611

Email:

info@naturalcommunityservices.com

## 5. License & Insurance Certificates

### Pesticide Business License

PI-079C(REV.9/28/17)

Michigan Department of Agriculture & Rural Development  
**Pesticide and Plant Pest Management Division**  
**Pesticide Application Business License**

**License No:** 630333

**Issue Date:** 02/01/2018

**Expiration:** 12/31/2018

**Issued To:**

NATURAL COMMUNITY SERVICES, LLC

6410 UPPER STRAITS BLVD  
WEST BLOOMFIELD, MI 48324-

5, 6

**Mailing Address:**

NATURAL COMMUNITY SERVICES, LLC

6410 UPPER STRAITS BLVD  
WEST BLOOMFIELD, MI 48324-

This license is issued in accordance with the provisions of Act 451, Part 83, PA of 1994, as amended & is only valid for the establishment, address, & categories listed above. Categories with an (\*) are RESTRICTED (see back). This license is not transferable.



PAB


JAMIE CLOVER ADAMS

Director of Agriculture  
& Rural Development

**CERTIFICATE OF LIABILITY INSURANCE**
 DATE (MM/DD/YYYY)  
 7/6/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b>  Insureon (BIN Insurance Holdings LLC.) 30 N. LaSalle, 25th Floor, Chicago, IL 60602		<b>CONTACT NAME:</b> PHONE (A/C No. Ext): (800) 888-1994 FAX (A/C No.): 877-826-9067 E-MAIL ADDRESS:															
<b>INSURED</b> Natural Community Services 6410 Upper straight blvd, West Bloomfield, MI, 48324		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Liberty Mutual Insurance Company</td> <td>23043</td> </tr> <tr> <td>INSURER B: Liberty Mutual Insurance Company</td> <td>23043</td> </tr> <tr> <td>INSURER C: Liberty Mutual Insurance Company</td> <td>23043</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Liberty Mutual Insurance Company	23043	INSURER B: Liberty Mutual Insurance Company	23043	INSURER C: Liberty Mutual Insurance Company	23043	INSURER D:		INSURER E:		INSURER F:	
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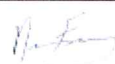
**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INFO	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:		BL858975877	7/6/2018	7/6/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> HIRED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Yes N/A		XN358975877	7/6/2018	7/6/2019
C	Professional Liability (Errors and Omissions)		BL858975877	7/6/2018	7/6/2019	Occurrence/Aggregate \$100,000 / \$100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**CERTIFICATE HOLDER****CANCELLATION**

INSURED'S COPY	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

John & Liz DeLisle

*Principal Ecologist and Owner*

**Natural Community Services**

naturalcommunityservices.com



Cell:

248.672.7611

Email:

info@naturalcommunityservices.com

## **6. Attachment B & Other RFP Signatory Documents**

Please see bid form documents

AFFIDAVIT OF NON COLLUSION

STATE OF Michigan  
COUNTY OF Oakland

I, Liz DeLisle, holding the title and position of  
CEO & Owner at the firm Natural Community Services affirm that I am  
authorized to speak on behalf of the company, board directors and owners in  
setting the price on the bid or proposal. I understand that any misstatements in  
the following information will be treated as fraudulent concealment of true facts  
on the submission of the bid or proposal.

I hereby swear and depose that the following statements are true and factual to  
the best of my knowledge:

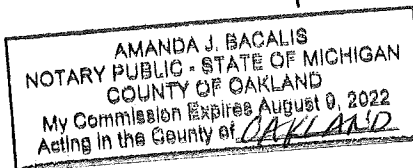
1. The bid/proposal is genuine and not made on the behalf of any other person,  
company or client.
2. The price of the bid/proposal was determined independent of outside  
consultation and was not influenced by other companies, clients or  
contractors.
3. No companies, clients or contractors have been solicited to propose a fake  
bid/proposal for comparative purposes.
4. No companies, clients or contractors have been solicited to refrain from  
bidding or to submit any form of noncompetitive bidding.
5. The price of the bid/proposal has not been disclosed to any client, company or  
contractor, and will not be disclosed until the formal date on

Liz DeLisle  
AFFIANT

Subscribed and sworn to before me this 24<sup>th</sup> day of September 2018

Amanda J. Bacalis  
(Notary Public),

OAKLAND County.



My commission expires 8/9/22 20 22



### PRICE PROPOSAL

Task	Cost
Zone A – Initial Cut	\$13,994.00
Zone B – Initial Cut	\$6,481.00
Zone A - Maintenance Year 1	5000
Zone A – Maintenance Year 2	5,000
Zone B - Maintenance Year 1	2000
Zone B – Maintenance Year 2	2000
MDEQ ANC Permit	975
Total project cost	34,999.00
Option amounts for herb. invasives A/B	1500 annually

Submitted by:

Representative's Name: Liz & John DeLisle

Company Name: Natural Community Services LLC

Company Address: 6410 Upper Straits Blvd. West Bloomfield, MI 48324

Company Phone: 248-672-7611

Company email: info@naturalcommunityservices.com

Date: 9-21-18

Phone 248-646-6404  
Fax 248-646-3703  
Page 13 of 13

Please provide three professional references for whom you have completed invasive species eradication.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

## MEMO

TO: Honorable President Mooney; Village Council  
Chris Wilson, Village Manager  
From: Erin E. Saur, Planning & Zoning Administrator  
Date: October 30, 2018  
Re: Request from Woodside Athletic Club, 22440 W 13 Mile Rd, for Special Land Use and Site Plan Approval for improvements to the existing site

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

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

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

The applicant has submitted revised plans which show they met the requirement for dumpster maintenance.

Regarding the fencing standard, the applicant contends the fencing should be considered “athletic field” fencing which is permitted to be as high as seven (7) feet. The proposed fence will be six (6) feet in height and enclose the interior walkway that connects the tennis courts and proposed sports court. This is in addition to the approved ten (10) foot fencing around the existing tennis courts. Village Council will need to determine whether this fencing should be regulated as athletic field fencing, in which case the proposed fencing is compliant. Otherwise, the applicant will need a variance as the property is zoned Single Family Residential which limits front yard fencing to three (3) feet in height.

For all projects that require site plan approval, Village Ordinance, Section 22.08.140 Sidewalks or Bikeways, requires a sidewalk to be installed along the perimeter of the lot that abuts a major, intermediate, or collector street. Administration met with the applicant to discuss this requirement and potential options to assist in the efforts to connect the sidewalks in this area. The applicant is proposing to install a partial sidewalk to connect pedestrians from the western subdivision and to connect across 13 Mile Road for members who utilize the parking lot at Detroit Country Day School (the two organizations have a shared parking agreement). The applicant has proactively petitioned the Zoning Board of Appeals for a variance from full compliance to request approval of the proposed partial sidewalk as they believe there are practical difficulties unique to their site that would limit their ability to fully comply with that standard. That case will be heard on Tuesday, November 13<sup>th</sup> at 7:30 pm in the Southfield Township Office.

Procedurally, the site plan and the special land use are separate approvals but both are required for the project to proceed. The special land use requires a public hearing to be held, which is scheduled for Tuesday, November 6<sup>th</sup>. Council may choose to take action on the special land use request and postpone action on the site plan pending Zoning Board of Appeals decision on the variance request. Alternatively, Council may consider approval of the site plan contingent upon the applicant being granted a variance for the partial sidewalk compliance. Any action should also include Council's determination of how to regulate the proposed six (6) foot fencing.

Attached is the revised site plan, review letter from safeBuilt Studio (formerly LSL Planning), and minutes from the September 26, 2018 Planning Commission meeting.

ees

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

Absent: Member: Ruprich

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

**PUBLIC HEARING FOR SPECIAL LAND USE APPROVAL FOR MODIFICATIONS AT  
WOODSIDE ATHLETIC CLUB, 22440 W. 13 MILE ROAD**

Borden reviewed the request for special land use and site plan review (plans dated 8/31/18) for improvements to the Woodside Athletic Club, which is located at 22440 W. 13 Mile Road. The subject site and surrounding properties are within the R-1 zoning district, which permits private and social clubs with special land use approval.

The proposed project entails removal of the existing “kiddie” pool and construction of a new one, new outdoor seating/eating spaces, improved pedestrian connections, a new playground area, a new sport court (in place of an existing paddle ball court) with fencing and new landscaping. The project also appears to necessitate site grading, which will be subject to review/approval of a detailed grading plan by the Director of Public Services and Village Engineer.

Eric Phillips and Dave Lutz, Board Members at Woodside, explained that all proposed changes would be within the Club property lines and increase accessibility, safety, and usability.

Ostrowski opened the public hearing at 8:12 pm.

The following residents spoke in favor of the Woodside renovations, citing need for increased accessibility, usage, and safety at the club.

Bill Harvey, Old Stage Road  
Philip Troutman, Bradford  
Forest Wall, Metamora  
Jason Kollman, Wilshire  
Sara Locricckio, Georgetown  
Katie Bates, Shagbark  
Brian Petersen, Sleepy Hollow Ln  
Brad Mann

Residents Amy Kleinlein, Riverbank, and Holly Hudson Hatt, Riverbank, supported the project because it would require sidewalk installation along 13 Mile Road.

The following residents spoke in opposition, expressing concerns about safety for their homes, encroachment onto their private property, and noise.

Darcy Salman, Old Stage Road

Steve Paul, Old Stage Road  
Carol Paul, Old Stage Road

Ostrowski closed the public hearing at 8:35 pm.

**REVIEW AND CONSIDER RECOMMENDATIONS FOR SPECIAL LAND USE AND  
SITE PLAN APPROVAL FOR WOODSIDE ATHLETIC CLUB, 22440 W 13 MILE ROAD**

Boden reviewed that Woodside is a well-established club in the Village and is one of the long-standing non-residential uses providing valuable services to the residents. The principal use of the property as an athletic club is generally compatible with the primarily residential nature of the Village, surrounding properties, especially given the wooded area between the site and surrounding residences.

The proposed project entails removal of the existing “kiddie” pool and construction of a new one, new outdoor seating/eating spaces, improved pedestrian connections, a new playground area, a new sport court (in place of an existing paddle ball court) with fencing and new landscaping. The project also appears to necessitate site grading, which will be subject to review/approval of a detailed grading plan by the Director of Public Services and Village Engineer.

Aside from the playground area, the proposed project includes improvements to the already developed portions of the site and is expected to remain compatible with adjacent uses and zoning.

The club has a lengthy history, dating back to 1965 (per Village records). Over time approvals and variances were granted allowing the development essentially as it exists today. Past approvals included conditions to protect surrounding residential uses, including a 100-foot buffer from the westerly lot line preventing structures, preservation of a 16-foot landscape buffer along the west side lot line and hours of operation (a 10PM close time).

Given the nature of the project and retention of existing landscaping screening, the proposal is not expected to hinder development or impair the value of surrounding properties. The height of proposed sport court fencing (10') requires Planning Commission approval under Section 22.08.150(E).

The proposed sport court has the potential to generate additional noise and light. While the existing landscape buffer will help to mitigate these impacts, the applicant must provide the hours of operation, as well as an indication of whether the court will be lit. The plans note that it will not be lit.

As previously noted, past approvals restrict development within the westerly 100 feet of the site. The nearest improvements/structures proposed are the playground area and reconfigured kiddie pool, both of which meet or exceed this condition.

The proposed sport court is approximately 20 feet from 13 Mile right-of-way line and, by definition is located in the front open space. Although Section 22.08.100 prohibits accessory structures within the front open space, the location was granted by the ZBA in 1975. The proposed sport court provides the same location and dimensions as a previously approved and constructed paddle

ball court. Since the project entails improvements to an existing approved structure, a variance is not needed.

No changes are proposed to the existing parking lot design. A note on Sheet C-102 states that 77 spaces are provided, including 3 barrier free spaces. Given the total number of spaces provided, current standards require 1 additional barrier free space. Additionally, the parking requirement for athletic clubs is based on occupancy/patrons and employee count. It is requested the applicant provide a more detailed calculation to ensure current parking requirements are met. Furthermore, a condition of the ZBA approval from 1975 required the club to provide 91 paved parking spaces. The applicant must explain the current parking deficiency from this conditional approval.

There is a public sidewalk along 13 Mile west of the site, but not along the site's frontage; although there is a crosswalk across 13 Mile connecting the site to the Detroit Country Day property (despite the lack of sidewalks on either side of the road). Section 22.08.410 requires the installation a public sidewalk for all projects requiring site plan review. As such, the applicant must revise the plan to incorporate the required sidewalk. The applicant must confer with the Director of Public Services to determine the appropriate location and design. The site also provides several internal walkways, including new connections between the building, tennis courts and proposed sport court.

The landscaping plan proposes to preserve the vast majority of the existing landscaping on-site; three Arborvitae are to be removed just east of the building. Additionally, a number of new plantings (trees and decorative grasses/groundcover) will be provided between the parking lot and pool complex, as well as between the building and tennis courts. The plan and table of plantings do not entirely match with respect to quantities for Arborvitae, Endless Summer Hydrangea, Ornamental Maiden Grass and Vinca Groundcover. These discrepancies must be corrected.

The submittal does not identify any existing or proposed lighting. If exterior lighting is proposed, details must be provided in accordance with Section 22.09.050. Furthermore, the Commission may wish to request details of any existing site lighting to ensure compliance with current standards.

The site currently provides a waste receptacle in the southwest corner of the site. The receptacle does not comply with current Ordinance standards for location (in a front yard where rear or side is allowed), enclosure (none provided where a 3-sided enclosure with a gate is required) or base pad (none provided where reinforced concrete is required). It would be preferred the applicant bring the waste receptacle into compliance with Section 22.09.040(h) as part of this project. However, this may prove difficult due to the prohibition on structures within 100 feet of the west side lot line.

The submittal does not identify any proposed signage associated with this project. If new or modified signage is proposed, a separate application must be submitted for the Commission's consideration.

The project includes several portions of new fencing, most notably around the sport court. The proposed sport court fencing is 10 feet in height to match the existing fencing around the tennis courts. Section 22.08.150(E) requires Planning Commission authorization for fencing taller than 7 feet that encloses an institutional playground, athletic field or similar use.

Per memo from Tom Meszler, Director of Public Services., after a review of the proposed plans he reported none of the proposed improvements fall within the 100 year flood plain. Silt fence installation is required along the northside of the property through the area to be disturbed. Sidewalk installation is required along the frontage of the property. Catch basins are shown but there is no indication of where they outlet and the proposed storm pipe outfall needs to be reduced to 6" at outlet.

Dave Lutz, NTH Consultants spoke, explaining that the construction of sidewalk creates an undue financial hardship, based on their estimations it would increase the cost of the project at least an additional \$50,000 to \$75,000.

Westerlund inquired about the asphalt on the existing basketball site, and the materials being used under the playground equipment. The landscape designer explained that the leftover curb and asphalt would be left outside of the fence to help avoid total overgrowth. The playground would have artificial turf only underneath it, set within the existing lawn.

Grinnan suggested the dumpster be relocated to the east side of the property. However, due to accessibility needs by the collection trucks, the current location is the only feasible option.

When discussing parking, Phillips explained that membership is limited to 410 families in their bylaws. On average there are 50-150 families using the facility at any given time, and the Club has an overflow parking agreement with Detroit Country Day for use of their lot.

All of the Commission members agreed that sidewalk installation was imperative for the safety of the families who walk to the club from surrounding neighborhoods or offsite parking. Better foot traffic accessibility creates less need for on-site or off-site parking.

It was also recommended the Club contact Public Safety for increased checks and patrols of the parking lot after hours to deter trespassing.

Motion by Westerlund, second by Stempien, that the Village of Beverly Hills Planning Commission recommends Council approve the Woodside Athletic Club request for special land use and is subject to site plan approval.

Roll Call Vote:  
Motion passed (7-0)

Motion by Drummond, second by Westerlund, that the Village of Beverly Hills Planning Commission recommends Council approve the Woodside Athletic Club site plan, with the conditions of the seasonal dumpster not being emptied before 8:00 am, sidewalks added along the 13 Mile Road frontage of property, 10 foot high tennis court fencing is approved and the 6 foot fencing on sheet C-105 be compliant with the fence ordinance, subject to Village engineering approval and special land use approval.

Roll Call Vote:  
Motion passed (7-0)



# Memo

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

From: Thomas Meszler, Director of Public Services

Date: October 25, 2018

Re: Attached Traffic Control Order #042-SS-18 & #258-NP-18

Both of the attached Traffic Control Orders have been in effect for 90 days. It is recommended that they now be approved by Council and made permanent.

Traffic Control Order 042-SS-18 calls for the placement of a stop sign on northbound Madison at Birwood making this a three-way stop intersection. There existed a stop sign for eastbound and westbound Birwood. Several residents reported issues at this intersection because Madison traffic did not stop for traffic leaving the stop on eastbound and westbound Birwood. This Traffic Control Order resolves this issue by making the intersection a three-way stop.

Traffic Control Order 285-NP-18 places no parking signs on Sheridan between Madoline and Elizabeth in the curve. Vehicles parked along this curve of Sheridan created sight distance issues for both northbound and southbound traffic. Posting no parking signs has resolved this issue.

## **Recommended Resolution**

That the Village Council approves both Traffic Control Orders #042-SS-18 and #258-NP-18. Be it resolved that the Beverly Hills Village Council approves Traffic Control Order #042-SS-18 to install a stop sign on northbound Madison at Birwood and #258-NP-18 to install a no parking sign on Sheridan between Madoline and Elizabeth in the curve.

THM/klm

attachments

VILLAGE OF BEVERLY HILLS  
18500 WEST THIRTEEN MILE ROAD  
BEVERLY HILLS, MI 48025

TRAFFIC CONTROL ORDER

Order No: 042-SS-18

Date of Filing: \_\_\_\_\_

In accordance with Ordinance 41.01 as amended, we have made an investigation of traffic conditions at the intersection of Birwood & Madison.

and as a result of said investigation, do hereby direct:

That a stop sign be erected on north bound Madison at Birwood making it a 3 way stop.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The following Traffic Control Order(s) is/are hereby rescinded \_\_\_\_\_

\_\_\_\_\_

This order shall expire 90 days from the date of filing except that upon its approval by the \_\_\_\_\_

Village Council, it shall not so expire.

(Legislative Body)

Traffic Engineer

  
\_\_\_\_\_  
Thomas Meszler

Date of Filing with Village Clerk

\_\_\_\_\_

Received for Filing (Date) \_\_\_\_\_

Village Clerk \_\_\_\_\_

Ellen E. Marshall

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Legislative Body)

VILLAGE OF BEVERLY HILLS  
18500 WEST THIRTEEN MILE ROAD  
BEVERLY HILLS, MI 48025

TRAFFIC CONTROL ORDER

Order No: 258-NP-18

Date of Filing: \_\_\_\_\_

In accordance with Ordinance 41.01 as amended, we have made an investigation of traffic conditions on Sheridan between Madoline and Elizabeth.

and as a result of said investigation, do hereby direct:

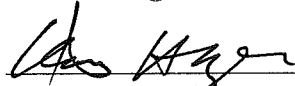
Parking is prohibited at the following locations when signs giving notice of the same are erected.

Both sides of Sheridan between Madoline and Elizabeth due to sight distance concerns in the curve between Madoline and Elizabeth.

The following Traffic Control Order(s) is/are hereby rescinded \_\_\_\_\_.

This order shall expire 90 days from the date of filing except that upon its approval by the \_\_\_\_\_  
Village Council, it shall not so expire.  
(Legislative Body)

Traffic Engineer

  
\_\_\_\_\_  
Thomas Meszler

Date of Filing with Village Clerk

\_\_\_\_\_

Received for Filing (Date) \_\_\_\_\_

Village Clerk \_\_\_\_\_  
Ellen E. Marshall

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Legislative Body)

**RESOLUTION  
TO ADOPT THE OAKLAND COUNTY  
HAZARD MITIGATION PLAN**

WHEREAS, the mission of the Village of Beverly Hills includes the charge to protect the health, safety, and general welfare of the people of the Village of Beverly Hills; and

WHEREAS, the Village of Beverly Hills, Michigan is subject to flooding, tornadoes, winter storms, and other natural, technological, and human hazards; and

WHEREAS, the Oakland County Homeland Security Division and the Oakland County Local Emergency Planning Committee, comprised of representatives from the County, municipalities, and stakeholder organizations, have prepared a recommended Hazard Mitigation Plan that reviews the options to protect people and reduce damage from these hazards; and

WHEREAS, the Village of Beverly Hills has participated in the planning process for development of this Plan, providing information specific to local hazard priorities, encouraging public participation, identifying desired hazard mitigation strategies, and reviewing the draft Plan; and

WHEREAS, the Oakland County Homeland Security Division (HSD), with the Oakland County Local Emergency Planning Committee (LEPC), has developed the OAKLAND COUNTY HAZARD MITIGATION PLAN (the "Plan") as an official document of the County and establishing a County Hazard Mitigation Coordinating Committee, pursuant to the Disaster Mitigation Act of 2000 (PL-106-390) and associated regulations (44 CFR 210.6); and

WHEREAS, the Plan has been widely circulated for review by the County's residents, municipal officials, and state, federal, and local review agencies and has been revised to reflect their concerns; and

NOW THEREFORE BE IT RESOLVED by the Beverly Hills Village Council that:

1. The Oakland County Hazard Mitigation Plan is hereby adopted as an official plan of the Village of Beverly Hills.
2. The Director of Public Safety is charged with supervising the implementation of the Plan's recommendations, as they pertain to the Village of Beverly Hills and within the funding limitations as provided by the Beverly Hills Village Council or other sources.

Passed by the Beverly Hills Village Council on November 6, 2018.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Vote:

Yes \_\_\_\_\_

No \_\_\_\_\_

## Table of Contents

<b>2.6 Village of Beverly Hills</b>	<b>1</b>
<b>2.6.1 Community Profile and Description</b>	<b>2</b>
<b>2.6.2 Hazards</b>	<b>3</b>
<b>2.6.3 Mitigation Strategies and Actions</b>	<b>7</b>
<b>2.6.3.1 New Mitigation Actions</b>	<b>8</b>
<b>2.6.3.1.1 Erity Dam</b>	<b>11</b>
<b>2.6.3.1.2 Additional Culverts</b>	<b>12</b>
<b>2.6.3.2 Ongoing Mitigation Actions</b>	<b>13</b>
<b>2.6.3.2.1 Provide Additional Training and Equipment</b>	<b>14</b>
<b>2.6.3.2.2 Implement Funding From Fire Grant to Upgrade Existing Generators</b>	<b>15</b>
<b>2.6.3.2.3 Implement Funding from Fire Grant To Purchase New Fire Pumping Engine</b>	<b>16</b>
<b>2.6.3.2.4 Provide Continuous Training for Hazmat Emergencies</b>	<b>17</b>
<b>2.6.3.2.5 Work to Coordinate Efforts with Local Utility Companies</b>	<b>18</b>
<b>2.6.3.3 Completed Mitigation Actions</b>	<b>19</b>
<b>2.6.3.3.1 Schedule Regular Inspections of the City's Sewer System</b>	<b>20</b>
<b>2.6.3.3.2 Implement Funding from Fire Grant to Purchase New Ladder Fire Truck</b>	<b>21</b>

## 2.6 Village of Beverly Hills

Published 11/6/2017 16:11 by Leah Kahn

### 2017 Hazard Mitigation Plan Update: Representative(s) and Point(s) of Contact

Name	Title/Position	Phone Number	E-mail	Role in Mitigation Plan Development
Richard Torongeau	PS Director	(248) 540-3405	rtorongeau@beverlyhillspolice.com	
Howard Shock		248-540-3410	hshock@beverlyhillspolice.com	
Chad Trussler		248-540-3416	ctrussler@beverlyhillspolice.com	

#### 2017 Plan Participation and Involvement

Mr. Shock and Mr. Trussler attended the Hazard Mitigation Plan Stakeholder Meeting on 10/24/17.

## 2.6.1 Community Profile and Description

*Published 7/25/2017 17:59 by Kim Pleva-Berka*

The Village of Beverly Hills is a suburb of Detroit located in the Southfield Township. It is the most populous village in the state of Michigan. As of the 2016 U.S. Census Population and Housing Unit Estimates, the population is 10,470. The Village of Beverly Hills has a total area of 4.02 square miles.

## 2.6.2 Hazards

*Published 10/26/2017 13:40 by Leah Kahn*

Winter weather and its effect on the community's roads, most notably Southfield and Fourteen Mile Roads, is a top hazard in the Village. These roads are also the daily route for large numbers of trucks carrying hazardous materials. The need exists for up-to-date hazmat equipment as well as continued training. Fog may also contribute to severe accidents.

The Village may be impacted by extreme cold. There are not enough facilities to serve as warming shelters. The cold can also impact infrastructure (such as water mains).

Similarly, the Village may be impacted by extreme heat. There are not enough facilities to serve as cooling shelters.

The area where the Rouge River intersects the Village, primarily west of Greenfield Road and south of Village Drive, has a history of flooding. Other areas of riverine flood concern include where the Rouge River intersects with 13 Mile Road, Evergreen Road, and the small culverts near Hillview.

Flooding may also lead to the Erity Dam or Rosevelt Dam failing.

The threat of tornadoes and the community's ability to respond to them is an area of concern. High winds may impact many trees and structures causing damage. Specifically, the Village is concerned about power failure, water supply contamination, and structural damage from a tornado.

Power outages caused by trees and branches downed by high winds are a major concern for the Village.

The potential for a hazmat accident(s) related to a natural gas pipeline along Fourteen Mile Road which is also of concern.

The Village may be impacted by ice storms because the ice affects power and other utilities like water mains.

The Village has been impacted by thunderstorms, which can cause damage to structures, trees, and utilities.

It is possible for an active shooter situation at any one of the Village police office buildings, or one of the schools (there are 2 junior high schools and 2 high schools)

Specific areas of concern for various hazards include:

- Natural gas pipeline along Greenfield Rd. (From 13 Mile to 14 Mile Rd).
- Natural gas pipeline above ground relief station on Saxon
- Natural gas pipeline above ground station on Lahser Rd.
- Electrical substation on Southfield Rd.
- Two water towers on 14 Mile Rd.
- Metering Pit on Beverly Rd. near Greenfield.
- Metering Pit on Greenfield Rd. near 13 Mile Rd.
- Rouge River, Erity Dam on Evergreen near Old Pond
- Rouge River Dam near Rosevear
- Rouge River Culverts; Hillview, Riverview, Georgetown, 13 Mile Rd, and Lahser Rd.
- 2 Bridges on Evergreen Rd. 1 on 13 Mile Rd.
- Douglas Evans under ground water retention and treatment facility. 10,000 gallons of liquid chlorine stored underground.
- 500 gallons of liquid chlorine stored at 2 schools with swimming pools.
- Hazardous material is transported along 14 Mile, Southfield Rd, Lahser and Greenfield. Designated trucking route.
- Above ground sewer pipeline traveling over rouge river tributary near Hillside.
- Communication towers attached to water towers. Communication tower near Groves High School. Communication tower behind Public Safety Building.
- BP gas station on 13 Mile Rd. and Southfield Rd.

**Please fill out the form to submit a New Hazard Description. Be sure to click "Submit" at the bottom of the form. All hazards can be described on this single form. If you have any problems accessing this form on this webpage, please use this link instead: [New Hazard Description Form](#)**

**By refreshing this webpage, a new form will appear. Upon submitting the form, you will receive an e-mail of your submission for your records. For assistance, please contact Daiko Abe at (208) 390-2021 or e-mail [daiko.abe@i-s-consulting.com](mailto:daiko.abe@i-s-consulting.com).**



## 2.6.3 Mitigation Strategies and Actions

*Published 6/23/2017 12:03 by Daiko Abe*

### *Mitigation Strategies - 2005*

1. Provide additional training and equipment to better prepare the public safety departments in responding to hazardous materials accidents.
  - Hazard(s) Addressed: Hazmat Incidents – Transportation
  - Progress: ONGOING
2. Schedule regular inspections of the City's sewer system.
  - Hazard(s) Addressed: Flooding – Riverine (particularly the Rouge River west of Evergreen and south of Village Drive)
  - Progress: COMPLETED

### *Mitigation Strategies 2012*

1. Implement funding from fire grant to upgrade existing generators in the fire hall and police stations to provide power to entire buildings.
  - Hazard(s) Addressed: Infrastructure Failure – Electrical Systems, High Winds and Tornadoes, Winter Hazards
2. Implement funding from fire grant to purchase a new fire pumping engine.
  - Hazard(s) Addressed: Fire - Structural
3. Provide continuous training for hazmat emergencies.
  - Hazard(s) Addressed: Hazmat Incidents – Fixed Site, Hazmat Incidents – Transportation, Petroleum and Natural Gas Pipeline Accidents
4. Implement funding from fire grant to purchase a new ladder fire truck.
  - Hazard(s) Addressed: Fire - Structural
5. Work to coordinate efforts with local utility companies to communicate the areas where tree clearing is necessary or planned and to repair downed power lines.
  - Hazard(s) Addressed: Infrastructure Failure – Electrical Systems, High Winds and Tornadoes, Winter Hazards

### 2.6.3.1 New Mitigation Actions

*Published 9/22/2017 16:13 by Leah Kahn*

Please fill out the form to submit a New Mitigation Action/Project. Be sure to click "Submit" at the bottom of the form. Multiple projects can be submitted by refreshing this webpage. If you have any problems accessing this form on this webpage, please use this link instead: [New Mitigation Form](#)

By refreshing this webpage, a new form will appear. Upon submitting the form, you will receive an e-mail of your submission for your records. For assistance, please contact Daiko Abe at (208) 390-2021 or e-mail [daiko.abe@i-s-consulting.com](mailto:daiko.abe@i-s-consulting.com).

### 2.6.3.1.1 Ertly Dam

Published 1/3/2018 13:51 by Nathaniel Marlette

1.	<b>Mitigate the Ertly Dam located near Evergreen Road and Old Pond Ct. The dam is currently being replaced in 2017. Modify culverts to increase water flow capacity.</b>	
Year Initiated	2017	
Applicable Jurisdiction	Village of Beverly Hills	
Lead Agency/ Organization	Beverly Hills Public Safety	
Supporting Agencies/ Organizations	OarTac, Birmingham, Oak Park, Berkley, Huntington Woods	
Applicable Goal(s)	<ul style="list-style-type: none"> <li>• Protection of public health and safety and prevention and reduction of loss of life and injury.</li> <li>• Improve and support public and private organizational response capabilities.</li> <li>• Prevention and reduction of damage to public and private property and infrastructure.</li> <li>• Protection of critical assets, including, but not limited to: hospitals, nursing homes, and schools.</li> <li>• Increasing awareness, education and preparedness of public, business, non-profit, government, etc. about hazards.</li> <li>• Encourage personal responsibility.</li> </ul>	
Potential Funding Source	Internal (Local/County) Funds, State and Federal Grants	
Estimated Cost	High (greater than \$100,000)	
Benefits (Loss Avoided)	Preserve life and mitigate casualties, and protect infrastructure	
Projected Completion Date	Long Term (to be completed in greater than 5 years)	
Actual Completion Date	TBD	
Priority	High	
Status	2017	Initiated
	2018	
	2019	
	2020	
	2021	
Applicable Hazards	Extreme Cold, Extreme Heat, Fog, Hail, High Winds/Severe Winds, Ice and/or Sleet Storms, Flood (Riverine), Flood (Shoreline Flooding and Erosion), Flood (Urban/Flash Flooding), Thunderstorms (Lightning), Tornadoes, Winter Storm and Blizzards, Criminal Acts: Arson, Criminal Acts: Mass Shootings/Active Assailant, Criminal Acts: Vandalism, Dam Failure, Gas/Oil Shortages or Supply Disruption, Infrastructure Failure: Communication System Failure Incident, Infrastructure Failure: Electrical System Failure Incident, Infrastructure Failure: Sewer System Failure Incident, Infrastructure Failure: Storm Water System Failure Incident, Infrastructure Failure: Transportation (Bridges, Roads, Overpasses), Infrastructure System Failure Incident, Infrastructure Failure: Water System Failure Incident, Invasive Species, Petroleum and Natural Gas Pipeline Accidents, Structural Fire, Transportation Accidents: Air, Transportation Accidents: Highway, Civil Disturbances, Terrorism and Sabotage, Weapons of Mass Destruction, Pandemic/Epidemic	

### 2.6.3.1.2 Additional Culverts

Published 1/3/2018 13:53 by Nathaniel Marlette

2.	Increase the size of culverts where needed in the Village, including but not limited to Hillview, Riverview, and Georgetown.	
Year Initiated	2017	
Applicable Jurisdiction	Village of Beverly Hills	
Lead Agency/ Organization	Beverly Hills Public Safety	
Supporting Agencies/ Organizations		
Applicable Goal(s)	<ul style="list-style-type: none"> <li>• Protection of public health and safety and prevention and reduction of loss of life and injury.</li> <li>• Prevention and reduction of damage to public and private property and infrastructure.</li> </ul>	
Potential Funding Source	Internal (Local/County) Funds, State and Federal Grants	
Estimated Cost	High (greater than \$100,000)	
Benefits (Loss Avoided)	Protect infrastructure	
Projected Completion Date	Long Term (to be completed in greater than 5 years)	
Actual Completion Date	TBD	
Priority	High	
Status	2017	Initiated
	2018	
	2019	
	2020	
	2021	
Applicable Hazards	Flood (Urban/Flash Flooding)	

2.6.3.2 Ongoing Mitigation Actions

Published 6/23/2017 09:40 by Daiko Abe

### 2.6.3.2.1 Provide Additional Training and Equipment

Published 1/3/2018 13:55 by Nathaniel Marlette

1.	<b>Provide additional training and equipment to better prepare the public safety departments in responding to hazardous materials incidents.</b>	
Year Initiated	2005	
Applicable Jurisdiction	Village of Beverly Hills	
Lead Agency/ Organization	Beverly Hills Public Safety	
Supporting Agencies/ Organizations		
Applicable Goal(s)	<ul style="list-style-type: none"> <li>Improve and support public and private organizational response capabilities.</li> </ul>	
Potential Funding Source	Internal (Local/County) Funds, State and Federal Grants	
Estimated Cost	Medium (\$10,000 to \$100,000)	
Benefits (Loss Avoided)	Preserve life and mitigate casualties	
Projected Completion Date	Ongoing	
Actual Completion Date	TBD	
Priority	High	
Status	2017	Ongoing. Annual trainings.
	2018	
	2019	
	2020	
	2021	
Applicable Hazards	Hazardous Materials Incidents: Transportation Incident	

## 2.6.3.2.2 Implement Funding From Fire Grant to Upgrade Existing Generators

Published 1/3/2018 13:56 by Nathaniel Mariette

2.	<b>Implement funding from fire grant to upgrade existing generators in the fire hall and police stations to provide power to entire buildings.</b>	
Year Initiated	2012	
Applicable Jurisdiction	Village of Beverly Hills	
Lead Agency/ Organization	Beverly Hills Public Safety	
Supporting Agencies/ Organizations		
Applicable Goal(s)	<ul style="list-style-type: none"> <li>Protection of critical assets, including, but not limited to: hospitals, nursing homes, and schools.</li> </ul>	
Potential Funding Source	Internal (Local/County) Funds, State and Federal Grants	
Estimated Cost	High (greater than \$100,000)	
Benefits (Loss Avoided)	Continuity of operations	
Projected Completion Date	Short Term (to be completed in 1 to 5 years)	
Actual Completion Date	TBD	
Priority	High	
Status	2017	Ongoing
	2018	
	2019	
	2020	
	2021	
Applicable Hazards	High Winds/Severe Winds, Tornadoes, Winter Storm and Blizzards, Infrastructure Failure: Electrical System Failure Incident	

### 2.6.3.2.3 Implement Funding from Fire Grant To Purchase New Fire Pumping Engine

Published 1/3/2018 13:57 by Nathaniel Marlette

<b>3.</b>		<b>Implement funding from fire grant to purchase a new fire pumping engine.</b>
Year Initiated		2012
Applicable Jurisdiction		Village of Beverly Hills
Lead Agency/ Organization		Beverly Hills Public Safety
Supporting Agencies/ Organizations		
Applicable Goal(s)		<ul style="list-style-type: none"> <li>Improve and support public and private organizational response capabilities.</li> </ul>
Potential Funding Source		Grants
Estimated Cost		High (greater than \$100,000)
Benefits (Loss Avoided)		Enhance capabilities
Projected Completion Date		Short Term (to be completed in 1 to 5 years)
Actual Completion Date		TBD
Priority		Low
Status	2017	Ongoing. In the process of purchasing two fire engines.
	2018	
	2019	
	2020	
	2021	
Applicable Hazards		Structural Fire



#### 2.6.3.2.4 Provide Continuous Training for Hazmat Emergencies

Published 1/3/2018 13:58 by Nathaniel Marlette

<b>4.</b>	<b>Provide continuous training for hazmat emergencies.</b>	
Year Initiated	2012	
Applicable Jurisdiction	Village of Beverly Hills	
Lead Agency/ Organization	Beverly Hills Public Safety	
Supporting Agencies/ Organizations		
Applicable Goal(s)	<ul style="list-style-type: none"> <li>Improve and support public and private organizational response capabilities.</li> </ul>	
Potential Funding Source	Internal (Local/County) Funds, State and Federal Grants	
Estimated Cost	Medium (\$10,000 to \$100,000)	
Benefits (Loss Avoided)	Enhance training	
Projected Completion Date	Ongoing	
Actual Completion Date	TBD	
Priority	High	
Status	2017	Ongoing. Mutual aid agreement with Oakland County.
	2018	
	2019	
	2020	
	2021	
Applicable Hazards	Hazardous Materials Incidents: Fixed Site, Hazardous Materials Incidents: Transportation Incident, Petroleum and Natural Gas Pipeline Accidents	

### 2.6.3.2.5 Work to Coordinate Efforts with Local Utility Companies

Published 1/3/2018 13:59 by Nathaniel Marlette

5.	<b>Work to coordinate efforts with local utility companies to communicate the areas where tree clearing is necessary or planned and to repair downed power lines.</b>	
Year Initiated	2012	
Applicable Jurisdiction	Village of Beverly Hills	
Lead Agency/ Organization	Beverly Hills Public Safety	
Supporting Agencies/ Organizations		
Applicable Goal(s)	<ul style="list-style-type: none"> <li>Prevention and reduction of damage to public and private property and infrastructure.</li> </ul>	
Potential Funding Source	Internal (Local/County) Funds, State and Federal Grants	
Estimated Cost	Medium (\$10,000 to \$100,000)	
Benefits (Loss Avoided)	Protect infrastructure	
Projected Completion Date	Ongoing	
Actual Completion Date	TBD	
Priority	High	
Status	2017	Ongoing
	2018	
	2019	
	2020	
	2021	
Applicable Hazards	High Winds/Severe Winds, Tornadoes, Winter Storm and Blizzards, Infrastructure Failure: Electrical System Failure Incident	

### 2.6.3.3 Completed Mitigation Actions

*Published 6/23/2017 09:40 by Daiko Abe*

### 2.6.3.3.1 Schedule Regular Inspections of the City's Sewer System

Published 1/3/2018 14:01 by Nathaniel Marlette

1.	Schedule regular inspections of the City's sewer system.	
Year Initiated		
Applicable Jurisdiction	Village of Beverly Hills	
Lead Agency/ Organization		
Supporting Agencies/ Organizations		
Applicable Goal(s)	<ul style="list-style-type: none"><li>• Prevention and reduction of damage to public and private property and infrastructure.</li></ul>	
Potential Funding Source		
Estimated Cost	Medium (\$10,000 to \$100,000)	
Benefits (Loss Avoided)		
Projected Completion Date	N/A	
Actual Completion Date	2005	
Priority	High	
Applicable Hazards	Riverine Flooding	

## 2.6.3.3.2 Implement Funding from Fire Grant to Purchase New Ladder Fire Truck

Published 1/3/2018 14:02 by Nathaniel Marlette

<b>2.</b>	<b>Implement funding from fire grant to purchase a new ladder fire truck.</b>	
Year Initiated	2012	
Applicable Jurisdiction	Village of Beverly Hills	
Lead Agency/ Organization		
Supporting Agencies/ Organizations		
Applicable Goal(s)	<ul style="list-style-type: none"><li>Improve and support public and private organizational response capabilities.</li></ul>	
Potential Funding Source		
Estimated Cost	High (greater than \$100,000)	
Benefits (Loss Avoided)		
Projected Completion Date	N/A	
Actual Completion Date	2017	
Priority	Low	
Applicable Hazards	Structural Fire	

**VILLAGE MANAGER'S REPORT**  
**CHRIS D. WILSON**  
**NOVEMBER 2, 2018**

**Organizational Meeting** – The Village Council will have a special meeting on Tuesday, November 13<sup>th</sup> at 7:30 p.m. for the purpose of swearing in the four (4) members elected on November 6<sup>th</sup> to their terms. In addition, the new Council will select a President and President Pro-Tem for the upcoming two-year term.

**Village Water Testing** -- As you know, water testing was first conducted in June of 2018, all of the homes tested then will be tested again in December. In addition to the 148 homes tested, anyone who has called since then to have their water tested will also be added to the list. At this time, we plan to test the water at a total of 166 homes in December.

Calls will be made by staff the last two weeks in November to schedule dates to drop off and pick up sample containers in December. The schedule will be as follows:

Drop Off Date	Pick Up Date
Wed., Dec. 5 <sup>th</sup>	Thurs., Dec. 6 <sup>th</sup>
Wed., Dec. 12 <sup>th</sup>	Thurs., Dec. 13 <sup>th</sup>
Wed., Dec. 19 <sup>th</sup>	Thurs., Dec. 20 <sup>th</sup>

Samples are taken to Paragon Laboratories on the Friday following each pick-up date. Results are typically emailed to the Director of Public Services within 10 days. Results are then mailed to the resident within the week.

**14 Mile and Evergreen Gas Line Replacement** – Consumers Energy will begin working on a gas line replacement project at the intersection of 14 Mile and Evergreen on Wednesday, November 7<sup>th</sup>. The Village was able to work with Consumers to modify the lane closures so that traffic will be maintained northbound on Evergreen to westbound 14 Mile throughout the duration of the project. Eastbound 14 Mile and southbound Evergreen/Cranbrook traffic will be detoured before the intersection. The Village has reached out the neighboring HOA's and Birmingham Public Schools to coordinate this disruption to traffic.

**Village of Beverly Hills  
Regular Council Meeting  
Tuesday, November 6, 2018**

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

**INFORMATION ITEMS**

- a. Beverly Hills Department of Public Safety Activity Report for the period October 12 – November 1, 2018.
- b. Quarterly Village financial report for period ending September 30, 2018.
- c. Letter from Beverly Hills Lions Club regarding 2018 White Cane Week.
- d. Oakland County Commissioner Dwyer's November 2018 Report.
- e. Michigan Municipal League Publication on the Legal Defense Fund.
- f. Minutes from Parks and Recreation Board dated September 20, 2018.
- g. Minutes from Zoning Board of Appeals dated October 8, 2018.

# **Beverly Hills Public Safety Activity Report**

**October 11<sup>th</sup> – November 1<sup>st</sup>, 2018**

- The Public Safety Department is currently looking for applicants for Public Safety Officer. Please visit our website, [www.beverlyhillspolice.com](http://www.beverlyhillspolice.com) to see if you qualify.
- Officers participated in the Halloween Hoot. It was a great success! Public Safety did not receive any calls for service involving the Hoot.
- Residents are reminded not to provide personal information to callers who solicit money or information. Never agree to send money under the threat of arrest or imprisonment to those callers. Contact Public Safety if you do, 248 540 3400.
- Residents are discouraged from placing outgoing mail in their mailbox especially if it contains personal information or checks.

## **Here are some tips to make your home fire safe:**

- Install smoke alarms on every level of the home and inside every sleeping area.
- Check the alarm by pushing the test button every month.
- Never smoke in bed. Keep lighters and cigarettes away from children.
- Never leave candles unattended.
- Have fireplaces, chimneys, and both wood and coal stoves inspected annually by a professional and cleaned if necessary.
- Never leave a fire in the fireplace unattended.
- Use caution when using space heaters. Never leave them unattended.
- Never overload electrical outlets. Plug only one heat-producing appliance into an outlet at time.
- Major appliances should not be plugged in using extension cords and plug strips. Plug appliances directly into the wall receptacle.
- Keep clothes and other items three feet away from your gas water heater that can ignite items when the water heater comes on.
- Clean the dryer lint screen after each load as lint is extremely flammable.
- Have a fire extinguisher in the home and know how to use it.
- Develop and practice a home fire escape plan that the entire family knows that includes two ways out of every room.
- Make sure all doors and windows leading outside open easily and are free of clutter.
- Make sure you close doors behind you as you escape a fire.

## **PUBLIC SAFETY OPERATIONS**

- 338 Calls for Service.
- 27 Arrests.
- 192 Tickets issued.
- Motor Carrier Enforcement.
- 5 Walk in PBTs.
- 13 Prescription pill drop offs.
- Home vacation checks.



- Car Seat checks and presentation at Our Lady Queen of Martyrs.
- Gun Permit.
- 7 Prisoner transports to and from the Birmingham Police Department.
- Crossing Guard on Beverly.
- 3 Animal complaint on 13 Mile Rd.
- Alarm on Smallwood.
- 7 Medicals on 13 Mile Rd.
- 8 Traffic Accidents on 13 Mile Rd.
- 2 Traffic Accidents on 14 Mile Rd.
- Medical on 14 Mile Rd.
- Traffic Accident on Evergreen.
- 2 Suspicious Persons complaints on 13 Mile Rd.
- 4 Alarms on 14 Mile Rd.
- 2 Traffic Accidents on Lahser.
- Traffic Accident on Greenfield.
- Traffic Accident on Beverly.
- Down Wires on 13 Mile Rd.
- 4 Motorist Assists on 13 Mile Rd.
- 3 Vehicle Lockouts on 13 Mile Rd.
- 2 Traffic Accidents on Southfield.
- Alarm on Southfield.
- Alarm on Beverly.
- 2 Alarms on 13 Mile Rd.
- Medical on Spruce Ln.
- Embezzlement on 13 Mile Rd.
- Motorist Assist on Southfield.
- Suspicious Circumstance complaint on Kinross.
- Alarm on Charrington Ct.
- Alarm on Charrington Ct.
- Fire Alarm on Beverly.
- Traffic Accident on Beverly.
- Larceny on Southfield Rd.
- Officers stopped a vehicle on Beverly for a traffic violation. The driver was operating on a suspended license and was wanted on several warrants. The driver was arrested without incident.
- Animal complaint on Birmingham.
- Medical on Mayfair.
- Animal complaint on Bassett Ct.
- Odor Investigation on Orchard Pl.
- Alarm on Valley Oaks.
- Officers stopped a vehicle on Southfield for a traffic violation. The driver was suspected of operating while intoxicated. The driver was arrested without incident.
- Suspicious Persons complaint on Pierce.
- Suspicious Persons complaint on Nixon.

- Officers took custody of an individual who had been arrested by Berkley Police on a Beverly Hills Warrant. The individual was arrested without incident.
- Civil Dispute on Huntley Sq.
- Citizen Assist on King Richard Ct.
- Officers stopped a vehicle on 14 Mile for a traffic violation. The driver was operating on a suspended license and was wanted on several warrants. The driver was arrested without incident.
- Family Trouble on Birwood.
- 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.
- Suspicious Vehicle complaint on Greenfield.
- Ordinance Violation on Kirkshire.
- Officers stopped a vehicle on Pierce for a traffic violation. The driver was operating on a suspended license. The driver was arrested without incident.
- Carbon Monoxide Alarm on Kinross.
- Officers stopped a vehicle on 13 Mile for a traffic violation. The driver was operating on a suspended license and was wanted on two warrants. The driver was arrested without incident.
- Animal complaint on Lahser.
- Suspicious Persons complaint on Evergreen.
- Assist Royal Oak Police with a traffic accident on Greenfield.
- Suspicious Persons complaint on Sunset.
- Alarm on Chelton.
- Medical on King Richard Ct.
- Vehicle Lockout on Hillview.
- Assist the water department on Village Drive.
- Property Damage on Saxon.
- Noise complaint on 13 Mile Rd.
- Officers stopped a vehicle on 13 Mile for a traffic violation. The driver was operating on a suspended license and had several warrants for her arrest. The driver was arrested without incident.
- Traffic complaint on Lost Hollow.
- Lift Assist on Fox Run.
- Medical on Buckingham.
- Suspicious Persons complaint on Crossbow.
- Alarm on Greenfield.
- Medical on Arlington
- Medical on Village Drive.
- Medical on Reedmere.
- Officers responded to a business on 13 Mile for a retail fraud complaint. A customer was suspected of shoplifting. Officers verified the complaint and the customer was arrested without incident.
- Vehicle Lockout on Kirkshire.
- Parking complaint on Southfield.
- Animal complaint on Eastlady.
- Larceny complaint on Huntley Sq. N.
- Alarm on Beverly Ct.

- Fraud complaint on Southfield.
- Alarm on Buckingham.
- Medical on Kinross.
- Welfare Check on Beechwood.
- Animal complaint on 13 Mile Rd.
- Odor Investigation on 14 Mile Rd.
- Down Wire complaint on Kennoway Cir.
- Officers stopped a vehicle for a traffic violation on Southfield. The driver was operating on a suspended license and a warrant for his arrest. The driver was arrested without incident.
- Traffic Accident on Bates.
- Assist Southfield Police with a Suspicious Person complaint on 13 Mile.
- Suspicious Vehicle on Evergreen.
- Suspicious Persons on Riverbank.
- Alarm on Kennoway.
- Lift Assist on Amherst.
- Traffic complaint on 14 Mile Rd.
- 2 Traffic complaints on 13 Mile Rd.
- Suspicious Vehicle on Beverly.
- Down Wires on Beechwood.
- Officers stopped a vehicle on Lahser for a traffic violation. The driver was operating on a suspended license and a warrant for her arrest. The driver was arrested without incident.
- Suspicious Vehicle complaint on Kinross.
- Juvenile complaint on Churchill.
- Suspicious Persons complaint on 14 Mile Rd.
- Officers stopped a vehicle on Lahser for a traffic violation. The driver was operating on a suspended license. The driver was arrested without incident.
- Traffic complaint on Lahser.
- Assist Royal Oak Fire Department on 13 Mile Rd.
- Alarm on Pickwick.
- Suspicious Vehicle on Huntley Sq.
- Fraud complaint on 14 Mile Rd.
- Welfare Check on Sheridan.
- Lost Property complaint on 13 Mile Rd.
- Alarm on Meadow.
- Assist Royal Oak Police on Greenfield with a traffic accident.
- Suspicious Persons complaint on Riverbank.
- Suspicious Circumstance complaint on Pickwick.
- Suspicious Persons complaint on E. Rutland.
- Officers stopped a vehicle for a traffic violation on Lahser. The driver was operating on a suspended license. The driver was arrested without incident.
- Parking complaint on Birwood.
- Officers stopped a vehicle on Southfield for a traffic violation. The driver was operating on a suspended license and had warrants for her arrest. The driver was in possession of marijuana without a medical card. The driver was arrested without incident.

- Officers stopped a vehicle on Beverly for a traffic violation. The driver was operating on a suspended license. The driver was arrested without incident.
- Suspicious Persons complaint on Bellvine Trail.
- Citizen Assist on Kirkshire.
- Larceny complaint on Southfield Rd.
- Alarm on Lahser.
- Officers stopped a vehicle on Southfield for a traffic violation. The driver was operating on a suspended license and had several warrants for his arrest. The driver was arrested without incident.
- Traffic complaint on Lahser.
- Citizen Assist on Marlin Ct.
- Medical on Kinross.
- Medical on Saxon.
- Motorist Assist on Tremont.
- Medical on Beechwood.
- Officers stopped a vehicle on 13 Mile for a traffic violation. The driver was operating on a suspended license and a warrant for his arrest. The driver was arrested without incident.
- Officers stopped a vehicle on 13 Mile for a traffic violation. The driver was operating without a license. The driver was arrested without incident.
- Officers stopped a vehicle on Pierce for a traffic violation. The driver was suspected of operating while intoxicated. The driver was arrested without incident.
- Welfare Check on Dunblaine.
- Alarm on Beechwood.
- Medical on Huntley Sq. W.
- Animal complaint on Evergreen.
- Civil Matter on 13 Mile Rd.
- Officers stopped a vehicle on 13 Mile for a traffic violation. The driver was operating on a suspended license and had a warrant for his arrest. The driver was arrested without incident.
- Medical on Charrington.
- Traffic Accident on Sheridan.
- Alarm on Waltham Ct.
- Alarm on Riverside.
- Animal complaint on Eastlady.
- Suspicious Persons complaint on Southfield.
- Larceny on Hampton.
- Medical on Dover.
- Officers stopped a vehicle on 14 Mile for a traffic violation. The driver was suspected of operating while intoxicated. The driver was arrested without incident.
- Traffic Accident on Birwood
- While investigating a traffic accident on Birwood officer's investigation revealed a driver had a warrant for his arrest. The driver was arrested without incident.
- Suspicious Circumstance complaint on Southfield.
- Officers stopped a vehicle on Southfield for a traffic violation. The driver was operating on a suspended license and had multiple warrants for his arrest. The driver was arrested without incident.

- Alarm on Robinhood.
- Fire Alarm on Lahser.
- Fire Alarm on Embassy.
- Officers were called to an address on 13 Mile on the report of a shoplifting complaint. Subsequent investigation revealed the customer took merchandise without paying. The customer was arrested without incident.
- Neighbor Trouble on Dunblaine.
- Citizen Assist on Kirkshire.
- 2 Medicals on Glenhill.
- Officers stopped a vehicle on Lahser for a traffic violation. The driver was operating on a suspended license and a warrant for her arrest. The driver was arrested without incident.
- Medical on Birwood.
- Alarm on Southfield.
- Suspicious Circumstance complaint on Lahser.
- Animal complaint on Saxon.
- Odor Investigation on 13 Mile Rd.
- Larceny complaint on Eastlady.
- Alarm on Dunblaine.
- Suspicious Vehicle on Devonshire.
- Suspicious Persons complaint on Beverly.
- Officers stopped a vehicle for a traffic violation on Lahser. The driver was operating on a suspended license. The driver was arrested without incident.
- Fire Alarm on Southfield.
- Lift Assist on Glenhill.
- Noise complaint on 13 Mile Rd.
- Citizen Assist on Fox Run.
- 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.

- **INVESTIGATIONS BUREAU**

- CFS Closed and Reviewed – 366.
- Reviewed 58 case reports for a disposition.
- Followed up and reviewed cases, of which 12 were closed.
- 29 Cases were assigned.
- 18 Reports written on current cases.
- 18 Current active investigations.
- 8 Current pending investigations.
- Assisted road patrol with patrol functions.
- Attended Juvenile Court.
- School Threat investigation - MSP hotline, snapchat picture of student w/gun.
- SLO Baller attended 2 Groves football game.
- SLO Baller attended Fire Safety at Greenfield School.
- SLO Baller attended the SLO monthly meeting.
- DB Issued Careless Driving Ticket.

- Wrote and executed 1 search warrant on a residential home/student w/gun picture.
- Wrote and executed 2 search warrants on cell phones.
- Interviewed two suspects in pending cases.
- Sent two blood kits for OWI investigations.
- Sgt Van Horn attended Evidence Tech School-Oakland County.
- Sgt Van Horn attended 2 days of Fire Officer School.
- 2 OCAPA warrants for separate criminal cases.
- 2 BYH Referrals sent to BYA.
- Assisted road patrol with patrol functions.
- Assisted with 2 Fire/Smoke runs, Groves HS and 31333 Southfield.
- Attended School Resource meeting at Troy Training Center.
- Conducted 1 interview related to criminal case.
- Sent drugs to OCSD crime lab for exam related to 2 criminal case.
- Received 1 cell phone dump from OCSD Computer Crime Lab.
- Went to MSP audio/video analysis related to 1 criminal case.
- Sgt Van Horn attended 2 days of Fire Officer School.
- Attended CLEMIS training at station for logs.

#### **FIRE PREVENTION BUREAU**

- Assist Oak Park Public Safety with a house fire.
- Assist Bloomfield Hills with fire inspections at Cranbrook.
- Fire Inspections conducted in Beverly Hills.
- Review progress report on fire truck build and work with vendor to finalize production.
- Host Fire Company Officer School for supervisors. Six fire departments participated.
- Fire Governance Conference.
- Officers involved in Rescue Intervention Training.
- School Liaison Officer Baller conducted fire safety at Beverly Elementary.
- School Liaison Officer Baller conducted fire safety at Our Lady Queen of Martyrs school.
- Mutual Aid Box Alarm Truck Ops training at OCC Crest, Auburn Hills.

## MEMO

To: Chris Wilson, Village Manager  
Members of Village Council

From: Sheila McCarthy, Finance Director

Subject: Cash and Investment Summary as of 9/30/18  
Revenue and Expenditure Report for the 3 months ended 9/30/18

Date: November 1, 2018

Presented is the *Cash and Investment Summary* which includes all cash accounts and CD's as of September 30, 2018 for all funds.

Also presented is the *Revenue and Expenditure Report* which includes revenue and expenditures for the General Fund, Major Road Fund, Local Street Fund, Public Safety Department, Library Fund and Water/Sewer Operation Fund for the 3 months ended September 30, 2018. The *Revenue and Expenditure Report* does not include prepaid and accrual adjustments that are reflected in the year end audited financial statements. Actual compared to budget financial results are continually monitored and budget amendments will be presented for approval in subsequent meetings as necessary.

FROM 06/30/2018 TO 09/30/2018

FUND: 101 202 203 205 265 268 285 290 295 301 392 393 401 402 404 408 592 593 701 703 732 806 814 815 900 901

CASH AND INVESTMENT ACCOUNTS

Fund	Description	Beginning Balance 06/30/2018	Total Debits	Total Credits	Ending Balance 09/30/2018
101	GENERAL FUND	1,796,442.40	3,126,688.24	1,950,708.24	2,972,422.40
202	MAJOR ROAD FUND	228,549.85	367,607.76	223,369.65	372,787.96
203	LOCAL STREET FUND	433,529.47	359,601.85	163,237.18	629,894.14
205	PUBLIC SAFETY DEPARTMENT	300,260.14	5,121,441.89	1,062,337.03	4,359,365.00
265	DRUG LAW ENFORCEMENT FUND	51,743.67	2,743.73	0.00	54,487.40
268	LIBRARY	5,044.88	464,810.44	0.00	469,855.32
285	RETIREE HEALTH CARE FUND	228,477.71	12,009.02	4,014.96	236,471.77
290	VACATION RESERVE FUND	78,063.85	29,442.58	12,304.54	95,201.89
295	SICK PAY FUND	166,260.87	13,449.82	13,286.89	166,423.80
392	COMBINED SEWER OVERFLOW FUND	18,145.97	103.67	0.00	18,249.64
401	CAPITAL PROJECTS FUND	310,949.43	101,831.99	50,425.82	362,355.60
408	SPECIAL PARK MILLAGE FUND	6,637.07	37.91	0.00	6,674.98
592	WATER/SEWER OPERATION FUND	(286,449.11)	1,550,161.58	1,319,493.45	(55,780.98)
701	TRUST & AGENCY FUND	47,520.43	283,673.73	305,890.73	25,303.43
703	TAX COLLECTIONS FUND	2,617.53	7,154,325.93	7,154,325.93	2,617.53
732	PUBLIC SAFETY RETIREMENT FUND	77.20	0.44	0.00	77.64
814	STAFFORD SAD	(51,255.68)	61,661.33	51,255.68	(40,850.03)
815	HUMMELL/CORYELL SAD	53,849.16	115.07	0.00	53,964.23
	TOTAL - ALL FUNDS	3,390,464.84	18,649,706.98	12,310,650.10	9,729,521.72



User: SHEILA

DB: Beverly Hills

PERIOD ENDING 09/30/2018

GL NUMBER	DESCRIPTION	YTD BALANCE		2018-19
		NORMAL	(ABNORMAL)	ORIGINAL BUDGET
09/30/2018				
Fund 101 - GENERAL FUND				
Net - Dept 000-FUND REVENUE		1,964,177.33		3,312,494.00
Net - Dept 101-VILLAGE COUNCIL		(9,453.30)		(41,417.00)
Net - Dept 171-VILLAGE MANAGER/CLERK		(63,339.29)		(320,973.00)
Net - Dept 215-VILLAGE FINANCE		(65,987.49)		(270,639.00)
Net - Dept 248-GENERAL ADMINISTRATION		(161,934.15)		(561,443.00)
Net - Dept 265-BUILDING & GROUNDS MAINTENANCE		(9,573.42)		(53,144.00)
Net - Dept 371-BUILDING, PLAN, ZONING DEPT		(115,332.19)		(446,631.00)
Net - Dept 440-PUBLIC SERVICES		(212,424.42)		(1,009,163.00)
Net - Dept 747-COMMUNITY ACTION PROGRAMS		(55,197.69)		(112,091.00)
Net - Dept 751-PARKS & RECREATION		(706.73)		(57,875.00)
Net - Dept 900-CAPITAL EXPENDITURES		0.00		(69,715.00)
Net - Dept 965-TRANSFER TO OTHER FUNDS		(350,000.00)		(350,000.00)
Fund 101 - GENERAL FUND:				
TOTAL REVENUES		1,964,177.33		3,312,494.00
TOTAL EXPENDITURES		1,043,948.68		3,293,091.00
NET OF REVENUES & EXPENDITURES		920,228.65		19,403.00
Fund 202 - MAJOR ROAD FUND				
Net - Dept 000-FUND REVENUE		118,752.19		674,714.00
Net - Dept 451-CONSTRUCTION		(13,985.63)		(410,000.00)
Net - Dept 463-ROUTINE MAINTENANCE		(28,105.94)		(135,381.00)
Net - Dept 474-TRAFFIC SERVICES		(20,481.33)		(68,262.00)
Net - Dept 478-WINTER MAINTENANCE		0.00		(107,320.00)
Net - Dept 482-GENERAL ADMINISTRATION & ENG		(3,300.00)		(7,500.00)
Net - Dept 905-PRINCIPAL PAYMENTS		(137,114.22)		0.00
Fund 202 - MAJOR ROAD FUND:				
TOTAL REVENUES		118,752.19		674,714.00
TOTAL EXPENDITURES		202,987.12		728,463.00
NET OF REVENUES & EXPENDITURES		(84,234.93)		(53,749.00)
Fund 203 - LOCAL STREET FUND				
Net - Dept 000-FUND REVENUE		234,497.71		502,116.00
Net - Dept 463-ROUTINE MAINTENANCE		(86,736.38)		(344,780.00)
Net - Dept 474-TRAFFIC SERVICES		(6,635.64)		(18,830.00)
Net - Dept 478-WINTER MAINTENANCE		0.00		(45,800.00)
Net - Dept 482-GENERAL ADMINISTRATION & ENG		0.00		(3,631.00)

User: SHEILA

DB: Beverly Hills

PERIOD ENDING 09/30/2018

GL NUMBER	DESCRIPTION	YTD BALANCE		2018-19
		09/30/2018		ORIGINAL
		NORMAL	(ABNORMAL)	BUDGET
Fund 203 - LOCAL STREET FUND				
Fund 203 - LOCAL STREET FUND:				
TOTAL REVENUES		234,497.71		502,116.00
TOTAL EXPENDITURES		93,372.02		413,041.00
NET OF REVENUES & EXPENDITURES		141,125.69		89,075.00
Fund 205 - PUBLIC SAFETY DEPARTMENT				
Net - Dept 000-FUND REVENUE		5,097,746.40		5,509,307.00
Net - Dept 345-PUBLIC SAFETY DEPARTMENT		(1,105,854.67)		(5,034,321.00)
Net - Dept 346-SCHOOL LIAISON OFFICER		(20,929.77)		(155,636.00)
Net - Dept 900-CAPITAL EXPENDITURES		(11,025.52)		(310,986.00)
Fund 205 - PUBLIC SAFETY DEPARTMENT:				
TOTAL REVENUES		5,097,746.40		5,509,307.00
TOTAL EXPENDITURES		1,137,809.96		5,500,943.00
NET OF REVENUES & EXPENDITURES		3,959,936.44		8,364.00
Fund 268 - LIBRARY				
Net - Dept 000-FUND REVENUE		464,638.17		489,952.00
Net - Dept 790-LIBRARY		0.00		(489,952.00)
Fund 268 - LIBRARY:				
TOTAL REVENUES		464,638.17		489,952.00
TOTAL EXPENDITURES		0.00		489,952.00
NET OF REVENUES & EXPENDITURES		464,638.17		0.00
Fund 592 - WATER/SEWER OPERATION FUND				
Net - Dept 000-FUND REVENUE		499,126.99		4,955,730.00
Net - Dept 536-DIRECT CHARGES		(568,094.37)		(2,997,128.00)
Net - Dept 537-CAPITAL OUTLAY		0.00		(3,500.00)
Net - Dept 540-OFFICE/ADMINISTRATION CHARGES		(47,170.03)		(212,000.00)
Net - Dept 543-REPAIR & MAINTENANCE		(253,494.26)		(1,088,298.00)
Net - Dept 550-OTHER EXPENSES		(2,583.35)		(31,160.00)
Net - Dept 559-DEPRECIATION EXPENSE		(139,164.00)		(653,000.00)
Fund 592 - WATER/SEWER OPERATION FUND:				
TOTAL REVENUES		499,126.99		4,955,730.00
TOTAL EXPENDITURES		1,010,506.01		4,985,086.00
NET OF REVENUES & EXPENDITURES		(511,379.02)		(29,356.00)
TOTAL REVENUES - ALL FUNDS				
TOTAL EXPENDITURES - ALL FUNDS				
NET OF REVENUES & EXPENDITURES				



## BEVERLY HILLS LIONS CLUB

Beverly Hills, Michigan 48025



October 23, 2018

Mr. Chris Wilson  
Beverly Hills Village Manager  
18500 W. 13 Mile Road  
Beverly Hills, MI 48025

Re: Lions Club Candy Cane Collection

Dear Mr. Wilson,

The season for giving is again upon us and the period from November 21, 2018 to December 24, 2018 has been designated "Candy Cane Collection" for the Beverly Hills Lions Club. Your local Lions are once again requesting your approval to conduct a fund solicitation drive in Beverly Hills during this period. We will be soliciting primarily at the Corners Shopping Center and Market Fresh.

We respectfully request that the following notice be placed by your organization on the display sign outside of the Village Offices, provided there is no conflict.

### **Support Lions Candy Cane Collection November 21, to December 24**

The funds raised during this drive will be used primarily to support activities and organizations related to sight and hearing impaired individuals. The Leader Dog School for the Blind, in Rochester, Michigan, is our primary beneficiary. The Lions Club of Beverly Hills gladly supports many activities within the Village as well such as the Halloween Hoot, the Memorial Day Fun Run and the High School Senior Scholarship Award.

Respectfully yours,

  
Dennis D. Albers, Event Co-Chair  
Beverly Hills Lions Club Candy Cane Collection  
4055 Country Club Drive  
Bloomfield Hills, MI 48301  
248-203-9860

**Monthly Messenger from Commissioner Bill Dwyer**  
*Serving the Cities of Farmington, Farmington Hills, the  
Township of Southfield, and the Villages of Beverly Hills,  
Bingham Farms, Franklin*



**County Budget:**

The Oakland County Board of Commissioners unanimously approved the triennial County budget resolution for fiscal years 2019 through 2021. Adoption of the FY 2019 balanced budget was the result of an extensive, collaborative and bi-partisan effort to fund county-wide programs and services for Oakland County residents and businesses. The 2019 budget continues to invest in our communities for roads, provides assistance to the children in the County who need it most, and ensures that Oakland County runs in an efficient and responsible manner. The bipartisan, unanimous vote was the result of a budget agreement that included:

- \$500,000 investment towards a partnership with United Way of Southeastern Michigan and Oakland Schools to improve access to school breakfast for county students. Better nutrition will support better academic performance for our future leaders.
- Funds to cover the cost of printing up to 100% of ballots for registered voters as recommended by the bipartisan Ad Hoc Committee on Election Infrastructure after their review of ballot shortage issues during the 2018 primary election in August.
- \$50,000 for anti-bullying programming in partnership with Oakland Schools.
- \$50,000 towards partnership with Oakland Hope to provide food, clothing and household goods for low-income Oakland County residents.
- \$25,000 as requested by the Oakland County Clerk for a voter education initiative aimed at minimizing ballot spoilage in advance of the next federal primary election.
- \$10,000 for adult literacy programs through the Oakland Literacy Council.

Other highlights of the budget include an increase of \$10.2 million in property tax revenue from 2018, which is an indication of healthy property values in Oakland County. The plan invests in the County's employees, providing a two percent salary increase, and its technology, which will result in improved customer service for residents and increased efficiency in local government.

The general fund budgets for fiscals 2019, 2020 and 2021 are \$466,382,128; \$467,444,492 and \$476,224,907, respectively. The total budget funds for those years are \$893,513,720; \$893,953,685 and \$901,630,539, respectively. Live video of the full board meetings can be viewed by visiting [www.oakgov.com/boc](http://www.oakgov.com/boc) and clicking on "Watch the Board." Full details of the Oakland County budget and all County financial operations are available on the Fiscal Services website at [www.oakgov.com/fiscal](http://www.oakgov.com/fiscal).

### **Community:**

An exciting and unique opportunity for high students in Southeast Michigan is happening on November 28, 2018 at Suburban Collection Showplace in Novi! MiCareer Quest Southeast is an innovative, hands-on career exploration experience for high school students, along with their teachers and counselors. Students attending will learn about today's hottest jobs from working professionals in the fields of Advanced Manufacturing, Construction, Health Sciences and Information Technology. Over 10,000 students will be participating in MiCareer Quest 2018.

This unique experience will expose students to a broad range of exciting and rewarding career opportunities to prepare them for their future. Students will have the ability to engage one-on-one with working professionals in a variety of fields; touch, feel and work with actual workplace equipment, tools and technology; connect classroom learning with real-world jobs and their requirements; and discover engaging workplace opportunities that include internships, job shadowing and much more. Working professionals in these fields will be available to answer students' questions, help with demonstrations, and focus on career awareness and opportunities.

**VOTE ON TUESDAY, NOVEMBER 6, 2018**

## Top 13 Legal Cases Consequential to Michigan Municipalities

Mr. Chris D. Wilson  
Village Manager  
Beverly Hills  
18500 W. Thirteen Mile Rd.  
Beverly Hills, MI 48025-5267

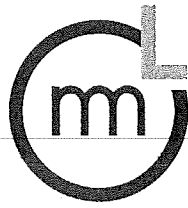
Nearly 85 percent of League members are also members of the Michigan Municipal League Legal Defense Fund (LDF). This booklet is intended to help your council/commission make a connection between the dues it pays to the LDF and the work the LDF performs. It highlights the 13 most consequential cases the LDF has been involved with since 2011.

The LDF provides support and assistance to member municipalities and their attorneys, in cases where the issues have a broad impact on both the municipality involved in the case and on other municipalities in the state.

Please share this publication with your council.

We love where you live.





michigan municipal league

The Legal Defense Fund

# **Top 13 Legal Cases Consequential to Michigan Municipalities**

The Legal Defense Fund was formed in 1983 through the efforts of the Board of Directors of the Michigan Association of Municipal Attorneys, including John J. Rae, former city attorney of Midland, working with the former MML general counsel William L. Steude, and the Michigan Municipal League Board of Trustees.

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Commissioner, Lapeer; President,  
Michigan Municipal League



Welcome to the second sequel of the Michigan Municipal League's Legal Defense Fund (LDF) publication on the most significant cases recently addressed by the Fund.

*The Top 25 Cases /25 Years of Excellence!* was published in 2008 in celebration of the 25th anniversary of the League's LDF. The LDF was formed in 1983 as an advocacy program for Michigan's municipalities in the state and federal appellate courts. The LDF provides support and assistance to member municipalities and their attorneys in cases in which the issues have a broad impact on both the municipality involved and on other municipalities throughout the state.

The form of assistance is generally through the preparation and filing of an amicus curiae brief. The amicus briefs are filed on behalf of the Michigan Municipal League in the appellate courts, financed in whole or in part by the LDF. On occasion, the LDF also supports municipalities in administrative agencies. Most cases stem from requests from LDF member communities. And most cases in recent years have been joint efforts—with co-amicus participation by several groups, including: the Michigan Townships Association, the Government Law Section (formerly Public Corporation Law Section) of the State Bar of Michigan, the Michigan Association of Counties, the MML Liability and Property Pool, and the Michigan Association of School Boards. Correspondingly, the LDF often joins amicus briefs of these associations, especially the Michigan Townships Association.

The Top 25 Cases were selected as the most significant cases in which the LDF had participated from 1983 through 2008. Our second publication, *A Summary of 13 Recent Cases*, prepared by Sue A. Jeffers, the League's former Associate General Counsel, highlighted significant cases from 2008-2011. This third installment picks up from where we left off. Thirteen new cases have been selected for this sequel.

These cases represent a broad range of issues—from campaign financing to the regulation of billboards; from “dark store” undervaluation issues to home rule authority related to blighted properties and municipal ordinance authority. The involvement of the LDF in each of the cases has provided a means by which the municipal voice is heard in the courts. Kim Cekola, Research Specialist and Editor, prepared this document. Amicus counsel for the cases assisted in editing our summaries. Additionally, Carter Fisher, during his legal internship, assisted with the write up of *Taxpayers for Michigan Constitutional Government v State of Michigan*. Member communities of the LDF are located throughout Michigan and are of a broad range of population. Exemplifying this, please see the map on page \_ of the communities and populations.

Again, we are proud to provide this booklet. The Michigan Municipal League's Legal Defense Fund continues to be a significant benefit for member municipalities by advocating their interests in the state and federal judicial systems.

**William C. Mathewson**  
**General Counsel**  
**Michigan Municipal League**  
**July 2018**

We love  
where you live.



# CONTENTS

## Preface

Home Rule—Municipal Authority in Michigan .....	6
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## The Cases

Home Rule Authority – Prevailing Wage Ordinances .....	8
Home Rule Authority – Property Maintenance Enforcement .....	9
Nuisance Abatement/Demolition of Unsafe Structures .....	10
Zoning – Billboards .....	11
Zoning – Medical Marihuana .....	12
Zoning – Shooting Ranges .....	13
Gun Control/Open Carry .....	14
Boundary Adjustment – Annexation and 425 Agreements .....	15
Governmental Immunity .....	16
Tax Assessing – Dark Stores .....	17
Tax Exemption – Nonprofit Charitable Institution .....	19
The Headlee Amendment and Revenue Sharing .....	20
Election Law – Local Ballot Proposals/“Gag Order” .....	21
Case Locations .....	23

# HOME RULE

## Municipal Authority in Michigan

In the 1800s, local government authority and self-determination was a topic of national discussion. The leading proponent of restricting local authority was John Dillon, a justice of the Iowa Supreme Court, federal Court of Appeals judge, and law professor. What became known as “Dillon’s Rule” states that local governments only have the powers that are expressly granted to them by the Legislature. In Michigan, the leading advocate of the philosophy opposed to Dillon’s Rule was Michigan Supreme Court Justice Thomas M. Cooley. He established the “Cooley Doctrine”—local units had an inherent right to self-determination.

Michigan was the eighth state in the nation to adopt the principles of home rule. Our 1908 Constitution gave the electors of each city and village the ability to frame and adopt a charter and “pass all laws and ordinances relating to its municipal concerns, subject to the constitution and general laws of this state.” As noted by the Constitutional Convention of 1907, “each municipality is the best judge of its local needs and the best able to provide for its local necessities.” Following adoption of the 1908 Constitution, the Legislature enacted the Home Rule City Act, PA 279 of 1909 and the Home Rule Village Act, PA 278 of 1909. Both enabled municipalities to adopt and amend their own charters for the purpose of exercising municipal powers and managing their own affairs, and to adopt laws and ordinances related to their particular municipality’s needs.

In 1963, Michigan citizens approved a new Constitution which strengthened local control by stating, Comments from the 1963 Constitutional Convention indicate that local units of government would be given a broad framework by which to operate, “a new section intended to direct the courts to give a liberal or broad construction to statutes and constitutional provisions concerning all local governments.”

“ The provisions of this constitution and law concerning counties, townships, cities, and villages shall be liberally construed in their favor.”

— Michigan Constitution, Article VII, Section 34

Despite the apparent strength of local control, the Constitution provides no guarantee to the right of local self-government. Article VII, Section 22 specifically states that, “Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government subject to the Constitution and law [emphasis added].” As a result, there is nothing to prevent the Legislature from exercising its powers of control over local government.

### Dillon’s Rule

Local governing bodies have only those powers:

- Which are expressly granted by the state Legislature,
- That are fairly or necessarily implied from expressly granted powers, and
- Which are essential and indispensable.

### Dillon vs Cooley

Does the government have the authority to act?

Cooley: Local governments have inherent power.

Dillon: All power derives from the state and as delegated power the powers must find support in the enabling actions, charter, constitution, or act.

Some states embraced Cooley, whereas the majority followed Dillon.



“ Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government subject to the Constitution and law.”

— Michigan Constitution, Article VII, Section 22

## Erosion of Home Rule

Over the years, there have been a number of changes affecting the ability of local units to govern without interference. Both statutory and constitutional measures have been passed, including mandated collective bargaining and compulsory arbitration of police and fire labor disputes; the prohibition of residency requirements for municipal employees; and the prohibition of ordinances regulating mobile homes, firearms, obscene materials, and school site plans.

Constitutional changes, such as the adoption of the Headlee amendment in 1978 and Proposal A in 1994, have affected finance and revenue administration while statutory changes have impacted local property tax bases. Local authority received a setback in 2006, in *City of Taylor v Detroit Edison* where the Supreme Court reiterated its previous opinion that, “local governments have no inherent jurisdiction to make laws or adopt regulations of government; they are governments of enumerated powers, acting by a delegated authority; so that while the state legislature may exercise such powers of government...as are not expressly or impliedly prohibited, the local authorities can exercise those only which are expressly or impliedly conferred.”

However, that same year in *GE Property & Casualty v Detroit Edison*, the Court of Appeals stated, including quotes from two decisions of the Michigan Supreme Court, that “home rule cities enjoy not only those powers specifically granted, but they may also exercise all powers not expressly denied” and that the Michigan Constitution maintains a system of municipal governance that includes a “general grant of rights and powers, subject only to certain enumerated restrictions instead of the earlier method of granting enumerated rights and powers definitely specified.” These decisions indicate that Michigan’s courts are apt to be flexible in balancing authority of local governments with that of the state, depending on the facts of the case.

With this backdrop of municipal home rule in Michigan, this publication will begin with the recent, and fundamentally important, decision of the Supreme Court in *Associated Builders and Contractors v City of Lansing*.

## Home Rule City Act:

### MCL 117.3 Mandatory charter provisions

Each city charter shall provide for:  
(j) The public peace and health and for the safety of persons and property.

## Home Rule Village Act:

### MCL 78.23 Village charter; mandatory provisions

Each village charter shall provide for:  
(f) The public peace and health, and for the safety of persons and property.

## General Law Village Act:

MCL 67.1 General powers of council  
The council of a village subject to this act may enact ordinances relating to 1 or more of the following:

(c) To abate nuisances and preserve the public health.

(z) To adopt other ordinances and make other regulations for the safety and good government of the village and the general welfare of its inhabitants that are not inconsistent with the general laws of this state.

## Fourth Class City Act:

### MCL 91.1 General powers

(2) The council may enact ordinances and make regulations, consistent with the laws and constitution of the state as they may consider necessary for the safety, order, and good government of the city and the general welfare of the inhabitants of the city.

# HOME RULE AUTHORITY – PREVAILING WAGE ORDINANCES

*Associated Builders and Contractors v City of Lansing*

The City of Lansing enacted an ordinance requiring contractors working on city construction projects to pay their employees a prevailing wage. Associated Builders and Contractors, a trade association, sued the city claiming that the ordinance was unconstitutional on the basis that municipalities do not have the authority to adopt ordinances regulating the wages paid by third parties, even where the work is done on municipal contracts paid for with municipal funds. The trial court determined that the city did not have the authority to enact the ordinance despite the city's "compelling arguments," and found in favor of Associated Builders. However, the Court of Appeals reversed the trial court finding, based on the changes in Michigan's 1963 Constitution and case law since 1923.

The 1963 Constitution granted broad authority to municipal governments to govern their own affairs. The Home Rule City Act likewise recognizes the broad power of municipalities to govern their affairs. The city of Lansing's ordinance is carefully limited to apply only to city contracts, and only to contractors "employed directly on the site of work" in Lansing. Lansing's ordinance does not apply to State contracts—the two work alongside one another and do not conflict. The State prevailing wage statute (repealed in June 2018) regulates only wages paid on State contracts.

## Why did our LDF get involved?

The case presented significant issues affecting the home rule authority of cities and villages.

## What action did the LDF take?

The LDF filed an amicus brief with the Michigan Supreme Court.

## What was the outcome?

The Ingham County Circuit ruled in favor of Associated Builders and Contractors, but that decision was reversed by the Michigan Court of Appeals, which upheld the right of the city to pass such an ordinance. The Michigan Supreme Court affirmed the Court of Appeals' result on the basis that the 1963 Constitution grants to cities and villages the authority to enact ordinances relating to municipal concerns, including those regulating wages paid to third-party employees working on municipal construction contracts.

## What are the implications for local governments?

The decision is considered to be highly significant and favorable with respect to the scope of home rule powers in Michigan. The Michigan Supreme Court provided an answer to one of the most important questions concerning the authority of Michigan's cities and villages. In its unanimous decision, the Court underscored the significance of language in the 1963 Constitution related to local government home rule powers. While the decision is important in upholding the city of Lansing's prevailing wage ordinance, the impact should far exceed this one ordinance. There will no doubt be future cases, with different facts, that will offer the Court other opportunities to interpret the proper relationship between Michigan's local governments and the State. Until then, the powerful and insightful language of this Court in this decision should go a long way in supporting the authority of local government officials to make choices about the nature and extent of their local governments services, on behalf of the citizens who elected them.

## Who prepared the amicus brief?

Clifford W. Taylor, Paul D. Hudson, and James D. Boufides (Miller Canfield)

*Associated Builders and Contractors v City of Lansing*,  
880 N.W.2d 765 (2016)



# HOME RULE AUTHORITY – PROPERTY MAINTENANCE ENFORCEMENT

*Shoemaker v City of Howell*

The City of Howell has an ordinance requiring landowners to maintain the land between the sidewalk and the street (known as a curb strip, curb lawn, or berm) and within the city's **right-of-way**. The ordinance requires landowners to keep the area free and clear of any weeds, tall grasses, or other types of plants that are hazardous to health. The city manager, or his/her representative, is authorized to serve written or verbal notice upon the land owner to comply with the provisions of the ordinance. A violation of the ordinance is a **municipal civil infraction**.

The city started reconstruction of the street where Shoemaker lived. Prior to the street renovation, Shoemaker maintained both the sidewalk and the right-of-way area between the sidewalk and the edge of the road abutting his home and property. After renovation, he refused to maintain the area because the city had removed a tree and grass he planted. The city planted new trees and grass in the area, but Shoemaker asserted that it was more difficult to maintain the curb strip.

For a period of 16 months, the city requested Shoemaker maintain this area. Initially Shoemaker complied; however, as he continued to be cited for municipal civil infraction violations, he refused to maintain the area altogether. Consequently, the city had a contractor mow the area then billed Shoemaker for the cost. Shoemaker argued that the city failed to notify him about the ways in which he could challenge those charges. He then filed suit against the city in federal district court alleging violations of **procedural due process** and **substantive due process**.

In his procedural due process claim, Shoemaker alleged that the ordinance imposed fines, costs, and penalties without giving him the opportunity for a hearing. As to the substantive due process claim, Shoemaker alleged that the ordinance imposed a duty upon a citizen to maintain city-owned property without pay and additionally, that the city had no power under law to impose such a duty. Though the city argued that there were adequate procedural protections in the ordinance, the federal district court found that the ordinance did not include a method for a citizen to seek a hearing. As to the issue of substantive due process, the court declared that the city's ordinance was unconstitutional because the city imposed costs on citizens to abate a nuisance on public, city-owned property.

## Why did our LDF get involved?

The federal district court's decision invalidating parts of a city's health, safety, and sanitation ordinance is a cause of great concern to municipalities. Similar ordinances exist throughout the state of Michigan as appropriate exercises of municipal authority to protect the health, safety, and welfare of residents. Requiring additional processes to abate nuisances would constitute a significant burden on the municipality. If not maintained, the unkempt properties would have a detrimental impact on municipal efforts to encourage traffic safety, enhance aesthetics, and to abate or prevent potential nuisances and improve property values.

**Right-of-way easement:** property owners own the land to the middle of the street and municipalities have permission to use the land for highway purposes.

**Municipal civil infraction:** A civil infraction is a violation of the law less serious than a misdemeanor. A municipal civil infraction is a civil infraction involving a violation of a municipal ordinance.

**Procedural Due Process:** requires government officials to follow fair procedures before depriving a person of life, liberty, or property.

**Substantive Due Process:** prohibits government officials from infringing on fundamental constitutional liberties.

## What action did the LDF take?

The LDF filed an amicus brief with the federal Court of Appeals, joined by the Michigan Municipal League's Property & Liability Pool, the Michigan Townships Association, and the Michigan Public Corporation Law Section of the State Bar.

## What was the outcome?

The Sixth Circuit Court of Appeals reversed the district court and found the purpose of the city's ordinance to advance traffic safety, sanitation, animal and rodent control, protection of property values, aesthetics, and public health, safety, and welfare to be legitimate.

Regarding procedural due process, the court found that the city provided Shoemaker with multiple notifications of the ordinance violation, alerted him of the charges against him, and notified him of the avenues available to challenge those charges. Regarding substantive due process, Shoemaker claimed the city owned the land and could not require him to maintain it. However, under Michigan law, the property owner owns the land to the middle of the street and a municipality has an easement, or right-of-way. The court ruled that Shoemaker did have an interest in the property and the city merely possessed a right-of-way for public use.

## What are the implications for local governments?

Michigan municipalities continue to have the authority to require property owners to maintain those portions of the right-of-way which abut their properties—the curb strip, between the sidewalk and curb/edge of the road—be it mowing the grass during the summer, or removing snow and ice from the sidewalk in the winter.

## Who prepared the amicus brief?

Julie O'Connor (O'Connor, DeGrazia, Tamm & O'Connor, P.C.)

*Shoemaker v City of Howell*, 795 F.3d 553 (2015)

# NUISANCE ABATEMENT/ DEMOLITION OF UNSAFE STRUCTURES

*Bonner v City of Brighton*

This case involves three structures—two former residential homes and one barn/garage—that sat unoccupied and generally unmaintained in the city of Brighton for over 30 years. In January 2009, the city's building and code enforcement officer informed the owners of these properties, through a written notice, that the three structures were "unsafe" and in violation of the city's ordinance. In addition, the property owners were informed that the building official had determined that it was unreasonable to repair these structures consistent with the standard set forth in the ordinance (an "unreasonable-to-repair presumption"—where the cost of the repairs exceed the value of the property). Consequently, the property owners were ordered to demolish the structures within 60 days of the date of the building official's letter.

Instead of demolishing the houses, the property owners filed suit against the city, alleging procedural and **substantive due process** violations. Brighton also filed suit, seeking **injunctive relief** to compel demolition of the houses.

The two suits were consolidated and two subsequent trial court decisions were appealed—one reaching the Michigan Supreme Court with regard to the property owners' procedural and substantive due process claims.

## Why did our LDF get involved?

The Brighton ordinance addresses unsafe structures, and ample evidence supported the assertion that abandoned houses and other unsafe structures had reached epidemic proportions nationwide. More than just unsightly blight, these abandoned buildings result in increased crime, a severe strain on municipal resources, and a threat to public health, safety, and welfare. If the Court of Appeals decision had been allowed to stand, it would have prevented municipalities from effectively and efficiently protecting the public from the danger of unsafe and abandoned structures.

## What action did the LDF take?

The LDF filed an amicus brief with the Michigan Supreme Court.

**Procedural Due Process:** requires government officials to follow fair procedures before depriving a person of life, liberty, or property.

**Substantive Due Process:** prohibits government officials from infringing on fundamental constitutional liberties.

**Injunctive Relief:** a judge's order to a person to do or refrain from doing a particular thing.

## What was the outcome?

The Michigan Supreme Court found in favor of the city. It held that the city's ordinance does not deprive a property owner of substantive due process because the ordinance is reasonably related to the city's legitimate interest in promoting the health, safety, and welfare of its citizens. Furthermore, the ordinance is not an arbitrary and unreasonable restriction on a property owner's use of his or her property because there are circumstances under which the presumption may be overcome and repairs permitted. In addition, the Court held that the city's existing demolition procedures provide property owners with procedural due process.

## What are the implications for local governments?

This case upholds a far-reaching remedy as part of a municipality's legitimate interest in removing structures that are unsafe or present a health hazard, in the interest of protecting the health, safety, and welfare of its citizens. Nuisance ordinances regulating unsafe structures are related to a permissible regulatory objective. Municipalities and their attorneys should review their dangerous building ordinances and all ordinances related to building and enforcement procedures in terms of scope and needs of the community.

## Who prepared the amicus brief?

Mary Massaron and Josephine A. DeLorenzo  
(Plunkett Cooney)

*Bonner v City of Brighton*, 298 Mich App 693 (2015)



# ZONING – BILLBOARDS

*International Outdoor, Inc v City of Livonia*

Shortly after the City of Livonia incorporated in 1950, city leaders drafted the city's first zoning ordinance. Among other things, that original ordinance contained an outright ban on billboards, along with a grandfather clause protecting billboards already in existence. The last of those billboards came down in 1986, and Livonia has been billboard-free ever since. This is unusual in the metro Detroit area: a 36-square-mile billboard-free zone crossed by two busy interstate highways—I-96 and I-275. While there are no billboards in Livonia, there are more than 50 billboards in the roughly two-mile wide zone just outside Livonia's borders. International Outdoor, an outdoor advertising company, applied to the City of Livonia for a permit to erect a digital billboard at a site adjacent to I-96. The city denied the request pursuant to its 1952 ordinance banning billboards. International Outdoor applied for a variance and was denied.

International Outdoor filed suit against the city, claiming the city used prohibited **exclusionary zoning** to keep billboards out. The protection against certain exclusionary zoning practices, however, were developed to counteract the use of zoning laws designed to keep low to moderate income housing within certain areas. No Michigan court had ever applied the concept of prohibited exclusionary zoning to billboards. Rather, the amended zoning law's protection against exclusionary zoning practices were applied to protect necessary uses within a municipality where there is a "demonstrated need." It was not contemplated that billboards would be considered protected under restrictions against exclusionary zoning or that billboards were a demonstrated need in a community.

The Michigan Zoning Enabling Act (MZEA) establishes the framework for a local government to create a comprehensive zoning plan to promote the public health, safety, and welfare of the community. The Home Rule City Act provides for "licensing, regulating, restricting, and limiting the number of locations of billboards within the city," and the courts have stated that home rule cities have broad powers with respect to billboards. The challenged ordinance here did allow billboards—provided they were in existence at the time the restriction was enacted for on-site signs.

**Exclusionary zoning:** using zoning ordinances to exclude certain types of land uses in a community.

## Why did the LDF get involved?

This case represents a fundamental question relating to a city's power to regulate billboards

as authorized by the Michigan Constitution, the Home Rule City Act, and promoting the health, safety, and welfare of a community through zoning.

## What action did the LDF take?

The LDF, Scenic Michigan, the Michigan Townships Association, and the Public Corporation of Law Section of the State Bar of Michigan filed a joint amicus brief with the Court of Appeals in support of Livonia in the case.

## What was the outcome?

The Court of Appeals affirmed the trial court's decision finding in favor of the city. International Outdoor appealed the decision to the Michigan Supreme Court. On April 4, 2017, the Michigan Supreme Court denied International Outdoors' request to appeal.

## What are the implications for local governments?

The Court of Appeals' decision is unpublished. This means that the decision cannot be used as precedent in other cases. However, it is a major victory for Michigan communities and their ability to regulate and ban billboards. On April 4, 2017, the Michigan Supreme Court denied International Outdoors' request to appeal.

International Outdoor also filed cases against the cities of Roseville and Harper Woods; the Court of Appeals also found in favor of the cities—in 2014 and 2016, respectively.

## Who prepared the amicus brief?

Andrew J. Mulder and Vincent L. Duckworth  
(Cunningham Dalman, P.C.)

*International Outdoor v City of Livonia*, 500 Mich. 959; 892 N.W. 2d 359; (2017).

# ZONING – MEDICAL MARIHUANA

*Ter Beek v City of Wyoming*

The Michigan Medical Marihuana Act (MMMA), passed in 2008 by voter initiative, allows certain protections under state law for the medical use of marihuana. Section 4(a) protects registered qualifying patients from penalties for specified medical marihuana use. In 2010, the City of Wyoming amended its zoning code by adding: “Uses not expressly permitted...are prohibited in all districts. Uses that are contrary to federal law, state law, or local ordinance are prohibited.” The federal Controlled Substances Act (CSA) classifies marijuana as a Schedule I controlled substance and largely prohibits its manufacture, distribution, or possession. By prohibiting all uses that are illegal at the federal level, the city’s ordinance incorporated the CSA’s prohibitions relating to marijuana and associated land uses.

John Ter Beek, a registered “qualifying patient” under the MMMA, desired to exercise his rights to grow, possess, and use medical marihuana in his home. Ter Beek brought a case against the city claiming that its ordinance prohibited the exercise of medical marihuana rights, punished such use, and was **pre-empted** by the MMMA. The trial court rejected Ter Beek’s challenge to the ordinance, finding that section 4(a) of MMMA is preempted by the CSA. The Michigan Court of Appeals reversed, and found in favor of Ter Beek. The Court of Appeals stated that the CSA does not preempt section 4(a) of the MMMA, finding instead that section 4(a) preempts the city’s ordinance because the ordinance directly conflicts with the MMMA.

## Why did our LDF get involved?

Michigan law gives local governments broad authority over land use. In areas where the Legislature wanted to limit local zoning authority, it made explicit exemptions (e.g. airports, and oil and gas wells). Yet a similar exemption was not made for qualified medical marijuana patients to use land in violation of zoning ordinances. If the Legislature intended, it could have provided for it like it did for a variety of other specially protected land uses. Municipalities are entrusted with the responsibility of providing basic and necessary community caretaking services. They should be able to respond to the desires of their citizens and regulate activities that protect the health, safety, and welfare of the community.

## What action did the LDF take?

The LDF filed an amicus brief with the Michigan Supreme Court.

**Marihuana:** The spelling, with an “h,” was chosen for the Marihuana Tax Act of 1937. Michigan’s adopted definition of marihuana in the Public Health Code uses the federal spelling.

**Pre-emption:** when a state law supersedes, or has precedence over, a local law.

## What was the outcome?

The Michigan Supreme Court affirmed the judgment of the Court of Appeals. The Court found that Wyoming’s ordinance directly conflicted with the state statute (MMMA) and was invalid. The ordinance did not conflict with the MMMA because it generally pertained to marijuana, but rather because it penalized registered qualifying patients for engaging in MMMA-compliant use. Note, however, in a footnote the Court stated: “[c]ontrary to the city’s concern, this outcome does not ‘create a situation in the State of Michigan where a person, caregiver, or a group of caregivers would be able to operate with no local regulation of their cultivation and distribution of marijuana.’”

## What are the implications for local governments?

Cities with the same ordinance provision as the city of Wyoming had to change their ordinances. While the Michigan Supreme Court ruled against the city of Wyoming, it did say that this ruling does not necessarily mean that municipalities can’t regulate medical marihuana at all. In fact, municipalities have passed ordinances regulating medical marihuana uses—as home occupations for example, or requiring local licenses.

## Who prepared the amicus brief?

Andrew J. Mulder and Vincent L. Duckworth  
(Cunningham Dalman P.C.)

*Ter Beek v City of Wyoming*, 495 Mich 1 (2014)

# ZONING – SHOOTING RANGES

*Addison Township v Barnhart*

In 1993, the defendant requested to build a shooting range on his 80-acre property which was in an agricultural zone. Addison Township approved the request because “it was agreed that only defendant and his family would use the shooting range.” But the defendant began conducting firearm lessons and charged at least one person a fee. He also used the range for testing firearms for various companies and for deputy sheriffs’ training. The defendant thus allowed not just his family, but the ‘public’ to use the shooting range. In 2005, the township issued the defendant a misdemeanor citation for operating the shooting range without a zoning compliance permit.

The shooting range, which at the start was for a recreational purpose, changed to a business purpose. The township zoning ordinance requires a permit before constructing, altering, or repairing any structure; a permit is also required to change the use of land or the use of any building. Barnhart was given a permit for land in an agriculture zone; he changed the use over time to business use by charging for shooting lessons.

Barnhart argued that Michigan’s Sport Shooting Range Act (SSRA) protected him against the township’s ordinance so long as the shooting range complied with portions of the Act. The intent of the Act, passed on July 5, 1994, was to supply some protection to the recreational activity of shooting ranges against noise complaints by neighbors and/or regarding danger from stray bullets. The SSRA defines a “sport shooting range” as “an area designed and operated for the use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.”

To receive the protection of the SSRA, Barnhart’s shooting range would have to have been legally in existence on July 5, 1994 as a “sport shooting range,” (not a range for non-sporting activities), and comply with existing zoning regulations, as well as with “generally accepted operation practices.” According to testimony, none of these conditions were complied with. The Court of Appeals ruled in favor of the township and found that the defendant’s shooting range did not meet the requirements of the SSRA. The Court found that because the defendant’s operation of a shooting range was in part for business/commercial purposes, the SSRA did not shield the defendant from compliance with local zoning regulations.

**Pre-emption:** when a state law supersedes, or has precedence over, a local law.

## Why did our LDF get involved?

Local jurisdictions should be able to regulate the location of shooting ranges within their boundaries as part of their home rule authority to protect the health, safety, and welfare of their citizens.

## What action did the LDF take?

At the request of the Michigan Supreme Court, the LDF and Michigan Townships Association filed a joint amicus brief.

## What was the outcome?

The Michigan Supreme Court reversed the Court of Appeals and found in favor of the property owner. The Court stated that a shooting range may meet the statutory definition of a ‘sport shooting range’ despite the fact that the owner of the shooting range makes a profit. The status of the use of the shooting range doesn’t matter because the shooting range is legislated under a state law and only the state law applies to it, thus pre-empting local ordinances.

## What are the implications for local governments?

Shooting ranges may be protected from the reach of local zoning ordinances if they are in part used as sport shooting ranges even if they are also used commercially.

## Who prepared the amicus brief?

John H. Bauckham (Bauckman, Sparks, Lohrstorfer, Thall, & Seeber, P.C.)

*Addison Township v Barnhart*, 845 N.W. 2d 88 (2014) 495 Mich. 90

# GUN CONTROL/OPEN CARRY

*Capital Area District Library v Michigan Open Carry, Inc.*

Michigan law prohibits gun owners from bringing guns into schools, child care centers, sports arenas, churches, certain entertainment facilities, hospitals, and colleges. But, there is no statute prohibiting bringing weapons into public libraries. Capital Area District Library (CADL) is a district library established under the District Library Enabling Act (DLEA) and a district library agreement executed by the City of Lansing and Ingham County. Under the DLEA, the operating board has the authority to adopt bylaws and regulations—it essentially operates as an independent public body. CADL's operating board adopted a code of conduct that contains the following weapons policy: "All weapons are banned from Library premises to the fullest extent permitted by law."

Michigan Open Carry (MOC) is a nonprofit corporation whose objectives are to "educate and desensitize the public and members of the law enforcement community about the legality of the open carry of a handgun in public." One method MOC uses to accomplish these purposes is to hold "informal gatherings in public places throughout the state while [openly carrying] our handguns." On multiple occasions between December 2010 and February 2011, individual members of MOC openly carried firearms (pistols and a shotgun) in CADL's downtown Lansing branch. Some library patrons and employees were disturbed by the presence of exposed firearms.

CADL believed that Michigan law permitted it to prohibit the open carrying of firearms on its premises. Accordingly, when a person openly carried a handgun on CADL's premises, one of CADL's security guards asked the person to leave. Generally, persons complied with a security guard's request. If the person did not comply with the request, a security guard would stay near the person until he or she left the library. In this instance, CADL's employees called the Lansing police when a person openly carrying a firearm entered the library.

However, the Lansing police refused to remove the person without a court order. CADL filed suit, asking the court to establish the validity of its weapons policy and permitting it to enforce the policy. CADL won at the lower court but MOC appealed the ruling. The Court of Appeals ruled in favor of MOC, finding that the CADL does not have the right to enact or enforce a policy banning all weapons from its premises.

**Pre-emption:** when a state law supersedes, or has precedence over, a local law.

## Why did our LDF get involved?

The LDF filed an amicus brief in a similar case in 2003. The City of Ferndale's ordinance banning weapons at city hall was found to be pre-empted by state law. We believed the decision was in error—this case had the potential of improving the result for local concerns. CADL's policy relating to weapons in its buildings should be one of purely local concern and responsibility.

## What action did our LDF take?

The LDF filed an amicus brief with the Michigan Supreme Court joined by the Michigan Association of Chiefs of Police.

## What was the outcome?

The Michigan Supreme Court denied CADL's appeal; so, the Court of Appeals decision that the field of firearms regulation is pre-empted by state law is final.

## What are the implications for local governments?

Local units of government were already prevented from adopting policies regarding the regulation of firearms under a series of state laws. District libraries were not included in this statute, however. As it stands, individuals can carry weapons in district libraries openly.

## Who prepared the amicus brief?

Thomas Schultz (Johnson, Rosati, Schultz & Joppich)

*Capital Area District Library v Michigan Open Carry*,  
839 N.W.2d 198 (2013)

# BOUNDARY ADJUSTMENT – ANNEXATION AND 425 AGREEMENTS

*Clam Lake Township v Dept of Licensing/State Boundary Commission, Teridee LLC, and City of Cadillac*

For more than seven years, TeriDee, LLC attempted to spur economic growth in Wexford County by developing its property located near highways M-55 and US-131. Desiring services the City of Cadillac could offer, such as water and sewer, it twice petitioned for annexation of its property in Clam Lake Township to the city, which would allow for development of the property. The proposed annexation would have facilitated a commercial development project that would create an estimated 850 to 1,000 jobs. The township opposed such development and appealed a decision of the State Boundary Commission (SBC) to approve the annexation.

Clam Lake previously refused to rezone the property to allow for commercial development, and its citizens voted against an Act 425 Agreement between the township and the city. In 2011, TeriDee filed an annexation petition to transfer the property into the city. Clam Lake immediately entered into an Act 425 Agreement with Haring Township in an attempt to block the annexation, which the SBC determined to be invalid (it denied the annexation petition for other reasons, however).

Two years later, after hearing that TeriDee would be filing a new annexation petition, Clam Lake and Haring townships drew up another Act 425 Agreement. The timing of the agreement and circumstances surrounding its approval, along with a series of emails between the townships' officials, indicated that the Act 425 Agreement was a ploy intended to divest the SBC of jurisdiction.

After receiving more than 2,000 pages of documents and conducting a public hearing, the SBC voted that the Act 425 Agreement was, once again, a sham that did not deprive the SBC of jurisdiction over the annexation petition. The SBC approved TeriDee's annexation request after reviewing the evidence and determining that the request satisfied the statutory criteria. The township then appealed to circuit court, which affirmed the SBC's decision. The township further appealed to the Court of Appeals (which denied hearing), and then to the Michigan Supreme Court.

## Why did the LDF get involved?

Annexation will allow for economic development of the property and bring needed revenue and revitalization. The actions of the townships are contrary to the concept of PA 425, and improperly undercut the authority of the SBC.

**Annexation:** The process of bringing land from one jurisdiction to another by petition or resolution.

**Act 425 agreement:** The conditional transfer of land from one unit of government to another for an economic development project that envisions the sharing of taxes and revenue. The land included in an Act 425 agreement that is in effect cannot be annexed.

## What action did the LDF take?

At the request of the Michigan Supreme Court, the LDF filed an amicus brief.

## What was the outcome?

The Michigan Supreme Court concluded that the SBC does not have authority to determine the validity of a 425 agreement beyond ensuring such an agreement is in effect.

## What are the implications for local governments?

The Michigan Supreme Court's ruling overruled Casco Township v State Boundary Commission, a 2000 decision of the Michigan Court of Appeals which had concluded that the SBC did have authority to determine the validity of 425 Agreements. Unless addressed legislatively, this decision will likely result in the increased use of 425 Agreements between townships to defeat legitimate annexation efforts. Cities and villages commonly provide water and sewer services to businesses—services deemed valuable in the development of their properties. This decision stymies annexation as a tool for cities and villages in their commitment to economic growth.

## Who prepared the amicus brief?

Jeffrey Sluggett and Crystal Morgan  
(Bloom Sluggett Morgan, P.C.)

*Clam Lake Township v Dept. of Licensing*, 902 N.W.2d 293 (2017) 500 Mich. 362



# GOVERNMENTAL IMMUNITY

*Luckett v Southeast Macomb Sanitary District*

On March 12, 2008, 14-year old William Luckett went snowmobiling, traveling at 45-50 mph, on Lake St. Clair at 8:30 p.m. He struck the pier, and the impact caused a cervical fracture that resulted in quadriplegia. His parents filed a lawsuit against the Southeast Macomb Sanitary District (SMSD) and employee Rick Kittell alleging **gross negligence**, and supervisor Patrick O'Connell for failing to properly train/supervise Kittell in his duties.

The lights on the pier had a photocell/solar panel and automatically turned on at dusk and automatically shut off in the morning. As part of his duties, Kittell was required to go to the pier and check the lights once per shift. On the day before the accident, Kittell entered in the log book that all the lights were on. On the day of the accident, another employee noted at 12 a.m. in the log book that all the lights were on. When it was again his shift, Kittell entered in the log book that all lights were on at 8:11 p.m.

The trial judge ruled that the evidence did not show that Kittell engaged in conduct so reckless as to amount to gross negligence, as required by the Governmental Tort Liability Act. There was no evidence of willful disregard of safety measures or of disregard for substantial risks. Instead, his actions were consistent with the duties he was required to perform. Luckett then appealed to the Court of Appeals. The Court of Appeals affirmed the trial court dismissal as to O'Connell, but reversed as to Kittell, finding that there was a question as to whether his actions amounted to gross negligence. The SMSD appealed to the Michigan Supreme Court.

## Why did our LDF get involved?

**Governmental immunity** is a significant issue and one on which all governments should want clarification. In this case, the analysis of the Court of Appeals of the “**proximate cause**” of the accident was incorrect, which led it to decide that there was a question as to whether Kittell’s conduct was “the proximate cause” of Luckett’s injury. The Court misapplied the interpretation of proximate cause from an earlier case.

## What action did the LDF take?

The LDF filed an amicus brief to the Michigan Supreme Court joined by the Michigan Townships Association and the Public Corporation Law Section of the State Bar of Michigan.

**Governmental immunity:** a governmental agency is immune from tort liability if it is engaged in the exercise or discharge of a governmental function.

**Proximate cause:** the primary cause of an injury without which the injury would not have occurred.

**Gross negligence:** conduct so reckless as to demonstrate a substantial lack of concern for whether injury results.

## What was the outcome?

The Michigan Supreme Court found in favor of the SMSD, and stated that the only evidence concerning the illumination of the pier lights was Kittell’s log where he recorded that they were all lit approximately 20 minutes prior to the accident. Luckett’s evidence all concerned the status of the lights following the accident. There was no evidence that Kittell was grossly negligent, that is, that he engaged in “conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.” The Court went on to state that there was no evidence that Kittell’s acts or omissions were the proximate cause of Luckett’s injuries.

## What are the implications for local governments?

Municipalities can still rely on the immunity statute that exempts them from liability unless there is gross negligence and the governmental employee was the “sole” cause of the accident. In this case, snowmobiling in the dark at high speed could have been a contributing factor to the accident.

## Who prepared the amicus brief?

Rosalind Rochkind (Garan Lucow Miller P.C.)

*Luckett v Southeast Macomb Sanitary District*,  
861 N.W.2d 284 (2015)

# TAX ASSESSING – DARK STORES

*Menard, Inc. v City of Escanaba*

Across Michigan, retailers such as Meijer, Lowe's, Target, Kohl's, Menards, IKEA, Wal-Mart, and Home Depot argue that the market value of their operating store should be based on the sales of similar sized "comparable" properties that are vacant and abandoned and may not even be located in Michigan. The stores also place deed restrictions on the vacated buildings that greatly limit what can go in the buildings once they are empty and become dark. These Big Box stores convinced the Michigan Tax Tribunal to give them special treatment as it pertains to the market value of their property. Prior to the dark store theory, Michigan Big Box stores were assessed at an average of \$55 per square foot. Here's where they are now compared to states where various Big Box stores are located:

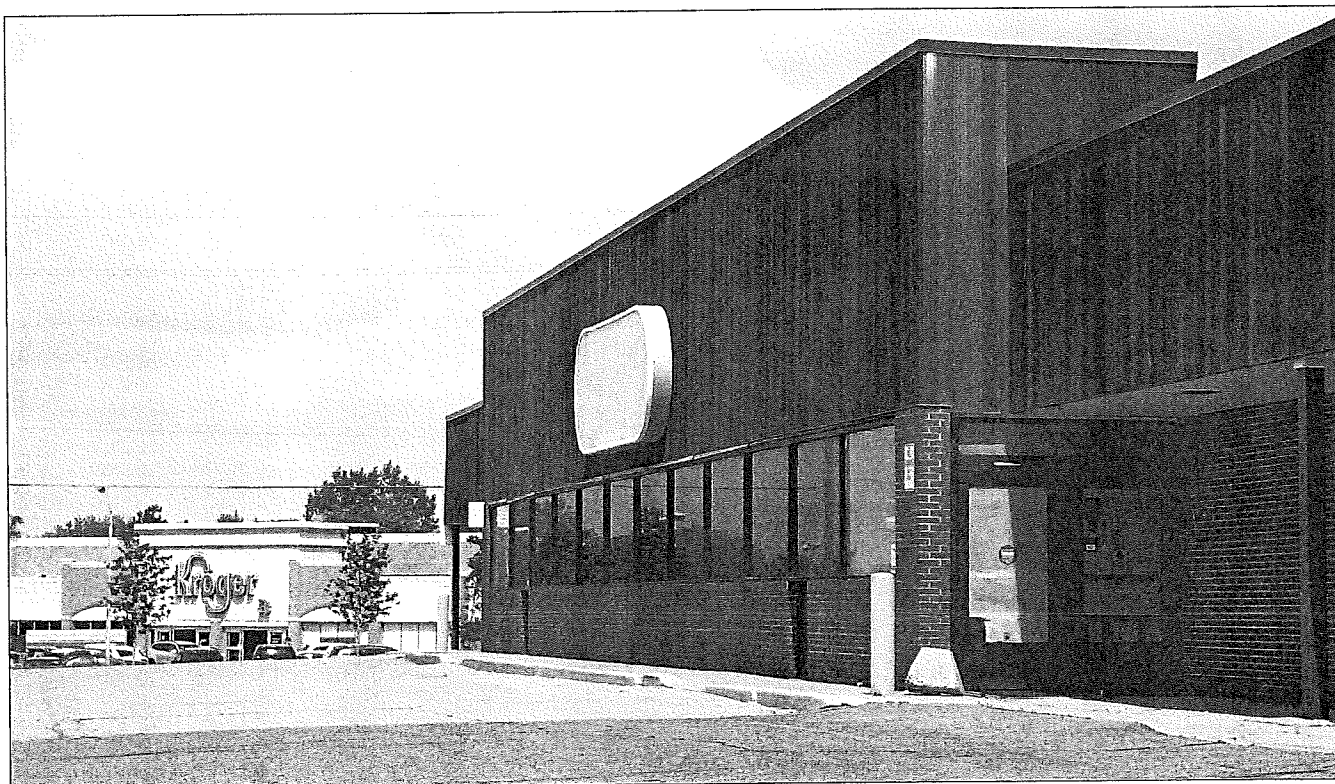
- In Michigan, Lowes stores are assessed at \$22.10 per square foot. In Lowes home state of North Carolina, the same stores are valued at \$79.08 per square foot.
- In Michigan, Menards and Target are valued at \$24.97 per square foot. In Menards' home state of Wisconsin, the same stores are valued at \$61.23 per square foot.

**Dark store:** a tax loophole scheme used by Big Box retailers to lower the amount they pay in property taxes.

In this case, Menard appealed its 2012, 2013, and 2014 property tax assessments by the city of Escanaba. The Michigan Tax Tribunal (MTT) reduced the true cash value assessments for the three years roughly from \$7.8 to \$8.2 million for each tax year to roughly \$3.3 to \$3.6 million for each tax year. The city appealed the decision to the Court of Appeals. The Court of Appeals determined that because over half of Menard's appraiser's sales comparables were deed-restricted, for which no adjustments were made to the sale prices for the deed restrictions, the Tribunal's valuation was an error of law not supported by competent, material, and substantial evidence.

## Why did our LDF get involved?

Most communities welcome having Big Box retailers such as Lowe's and Home Depot nearby. But they don't expect those stores to then ask to be taxed at artificially low rates. The decision of the Tribunal is precedential to itself, and if allowed to stand will



# TAX ASSESSING – DARK STORES CONTINUED

*Menard, Inc. v City of Escanaba*

impact subsequent decisions of the Tribunal and communities across the state. The result of this case could have put the state's entire property tax base at risk.

## What action did the LDF take?

The LDF, joined by the Michigan Townships Association (MTA), the Michigan Association of Counties (MAC), the Michigan Association of School Boards (MASB), the Michigan School Business Officials (MSBO), and the Michigan Assessors Association (MAA), filed an amicus brief with the Court of Appeals.

## What was the outcome?

The Court of Appeals rejected the Michigan Tax Tribunal's decision in favor of Menard and found in favor of the city. The Court sent the case back to the Tribunal, ordering it to take evidence on the market effect of the deed restrictions, and directing that if the sales comparables cannot be reliably adjusted as if they were sold for the same highest and best use as the Menard's store, then the comparables should not be used and the Tribunal should consider the cost approach to value.

Menard filed an Application for Leave to Appeal to the Michigan Supreme Court, which the city opposed. On February 1, 2017, the Michigan Supreme Court entered an order for oral argument on the application (known as a "MOAA"—mini oral argument on the application). The order required the parties to file supplemental briefs and the oral arguments were heard on October 12, 2017.

On October 20, 2017, the Michigan Supreme Court declined to take the matter up and denied the Application for Leave to Appeal. Essentially, the Court issued a ruling that Big Box stores can no longer use the "dark stores" property valuation method, which allowed them to escape paying millions in local property taxes.

The case is now back before the Tax Tribunal, as directed by the Court of Appeals, for consideration of the effect of the deed restrictions on sales comparables and utilization of the cost approach.

Additionally, because of the precedent-setting potential, complexity, and huge cost of defending its assessments by the city, the Michigan Municipal League, MTA, MAC, and MASB are supporting the city's request for each of their member units of government to offer financial support.

## What are the implications for local governments?

Overall, this is a huge win for local government and its ability to fairly tax all property owners. In its order, the Supreme Court denied Menard's application for leave to appeal. Through the denial, the Court essentially rejected Menard's claims that the Court of Appeals exceeded its permissible scope of review, that the cost approach amounts to a value-in-use standard and should not be used to value real property for tax purposes, and that it is permissible to utilize deed restricted properties to value non-deed restricted properties. The Court's decision upholds the May 26, 2016, published opinion of the Court of Appeals which found the Michigan Tax Tribunal (MTT) committed an error of law when the MTT rejected the cost approach and then utilized a sales comparison approach without accounting "for the effect on the market of deed restrictions" on the sales comparables. Ultimately, since the case is on remand to the MTT, there is at least one more chapter to be written and that result may be appealed yet again to the Supreme Court.

## Who prepared the amicus brief?

Stephanie Simon Morita (Johnson Rosati Schultz & Joppich, P.C.)

*Menard, Inc. v City of Escanaba*, 315 Mich App 512 (2016) and 501 Mich 899 (2017)



# TAX EXEMPTION – NONPROFIT CHARITABLE INSTITUTION

*Trinity Health-Warde Lab, LLC v Charter Township of Pittsfield*

Warde Lab is a for-profit medical laboratory that performs clinical laboratory testing. Although Warde Lab is owned by a nonprofit, Trinity Health Michigan, the lab itself is not a nonprofit charitable institution. Trinity appoints the lab's board of directors, who manage its business and affairs. Trinity created the lab for the purposes of acquiring, owning, and operating the lab's real property—a 57,000-square foot building used solely as a medical laboratory.

Warde Lab filed a motion with the Michigan Tax Tribunal claiming that because Trinity has complete corporate control over the lab, it should be deemed a charitable institution, thus exempting it from taxation. The township responded that, as a for-profit entity, it does not meet the requirements for a charitable institution, and therefore the lab's property is not eligible for tax-exempt status.

The Tribunal found that Warde Lab and the nonprofit Trinity Health are “essentially the same entity,” entitling Warde Lab to the nonprofit charitable institution exemption even though itself it is not a nonprofit charitable institution.

## Why did our LDF get involved?

Municipalities have an interest in the proper construction and application of the property tax law, both procedural and substantive. Cities and townships are the assessing units which administer the property tax through the actions of assessors and the local boards of review and as the respondents in most property tax appeals. This case could cause serious negative consequences to municipal property tax administration, tax revenues, and to the public services provided therefrom. The general understanding of assessors throughout the state in the performance of their property tax assessing function has been that the property tax exemptions for charitable, educational, and scientific institutions were not available to for-profit entities. The purpose of a for-profit corporation is to make a profit to distribute or otherwise benefit the shareholders—this is in direct opposition to the purpose of a nonprofit institution with its sole motive to carry out its cause, whether it be educational, scientific, or charitable. Promotion of these nonprofit causes by provision of property tax exemptions is a worthy intent of the legislation; such an exemption should not be extended to for-profit entities.

## What action did the LDF take?

The LDF joined the Michigan Townships Association in filing an amicus brief with the Court of Appeals.

## What was the outcome?

The Court of Appeals reversed the Michigan Tax Tribunal and ruled in favor of the township. It concluded that a for-profit entity owned by a charitable institution is not exempt from real property taxes. A Supreme Court Order was issued stating that the parties stipulated to dismissal of the case and the Court accordingly dismissed the application for leave to appeal. The dismissal is good news, as it leaves unaltered the favorable Court of Appeals published decision.

## What are the implications for local governments?

This is a very important ruling for municipalities since property taxes make up the bulk of the revenue they use to provide services to their residents. Our hope is that it will put a stop to the practice of nonprofit charitable entities, setting up wholly owned for-profit entities to own real estate or other property, and still claim a property tax exemption.

The LDF also filed an amicus brief in three similar cases. In *SBC v Kentwood*, *Baruch v Tittabawassee Township*, and *Chelsea Health and Wellness v Dexter*, the plaintiffs sought charitable tax-exempt status. *Baruch* was decided on June 28, 2017 and *Chelsea* on October 12, 2017—both against the municipalities, which may open the door to more “nonprofits” seeking charitable tax exemptions in this manner.

## Who prepared the amicus brief?

Robert Thall (Bauckham, Sparks, Thall, Seeber & Kaufman P.C.).

*Trinity Health-Warde Lab v Charter Township of Pittsfield*, 904 N.W.2d 599 (2017)

# TAX SPENDING SHIFTS — HEADLEE AMENDMENT AND REVENUE SHARING

*Taxpayers for Michigan Constitutional Government v State of Michigan*

The Headlee Amendment to the state constitution governs revenue sharing between the state of Michigan and local governments. The amendment limits the ability of local governments to raise taxes while ensuring that local governments get the financial support that they need from the state. Among other things, Headlee dictates that the state **must** allocate 48.97% of its funding to local governments and that the state **may not** mandate programs for local governments to implement without providing funding for those programs.

The plaintiffs' brief deals with three areas:

1) whether the state can count monies, spent to meet its funding guarantee to schools under Proposal A, toward meeting the 48.97% funding threshold for local governments under section 30 of Headlee; 2) whether monies expended to fund charter schools can be credited to the state to satisfy its funding obligation under section 30; and 3) whether monies paid to local governments to meet state funding obligations under section 29 of Headlee are properly credited to the state regarding section 30.

Plaintiffs assert, in regard to each of the three areas above, that the state has counted spending that does not fall under Headlee in its yearly calculations related to determining required revenue sharing.

A group of taxpayers and a taxpayers' advocacy organization, Taxpayers for Michigan Constitutional Government, have sued the state for the past shortfalls in Headlee funding and to ensure that the state provides adequate funding following Headlee guidelines going forward. This effort was coordinated by Professor John Mogk of the Wayne State Law School. John Philo and others at the Sugar Law Center are representing the plaintiffs.

## Why did the LDF get involved?

Revenue sharing represents a substantial portion of local budgets for vital services like police and fire departments. The consistent reduction has led to shortfalls in the budgets of local governments and contributed to state-mandated receiverships. Further, local governments have had to make difficult decisions due to budget restraints and have had to cut down on a wide range of services. Studies demonstrate that the next economic downturn will push even more Michigan municipalities into fiscal distress and/or bankruptcy if revenue sharing from the state does not increase to its proper level.

## What action did the LDF take?

The Michigan Municipal League and its LDF commissioned a study to illustrate the impact of the state's inequitable revenue sharing on local communities, and to highlight how crucial local services such as fire, police, and sewage treatment have been hurt by a lack of funding from the state. Further, the LDF submitted an amicus brief joined by the Michigan Townships Association, the Michigan Association of Counties and the Government Law Section of the State Bar of Michigan.

## What was the outcome?

To date, the Court of Appeals has rejected some of the procedural arguments brought by the State and the case is going forward.

## What are the implications for local governments?

Without a return to the legally established funding mechanism, municipalities will have to cut back on critical services, raise taxes, or both. One major goal of the suit is to ensure that local governments get much-needed funding from the state and are able to attain a measure of fiscal stability, even in the event of an economic downturn.

## Who prepared the amicus brief?

Dennis R. Pollard (Secrest Wardle)

*Taxpayers for Michigan Constitutional Government, Steve Duchane, Randall Blum, and Sara Kandel v State of Michigan, Dept of Technology, Management and Budget, and the Michigan Office of the Auditor General (Michigan Court of Appeals, Case No. 334663)*

# ELECTION LAW – LOCAL BALLOT PROPOSALS/“GAG ORDER”

*Robert Taylor, Mayor of Roseville, et al v Ruth Johnson and the State of Michigan et al*

Michigan's Legislature amended a campaign finance bill in order to prevent local public officials from using public resources to communicate with their constituents regarding ballot measures in the 60 days leading up to an election. The language was added to the bill at the last minute and passed in the middle of the night without a public hearing. The State asserted that the purpose of the added language was “to prohibit communications that are plain attempts to influence voters to vote in a particular way without using words like “vote for” or “support.” The Legislature passed the Act notwithstanding that such a prohibition already existed—in the Campaign Finance Act.

The new law (PA 269 of 2016), prohibited local officials or local government employees from using public resources to communicate with voters within 60 days of an election by giving them factual information about a ballot proposal through radio, television, mass mailing, or prerecorded telephone messages in the two months before an election. Thus, local government officials were limited in their ability to inform the electorate in a factual, non-partisan, unbiased manner on complex issues that are pending on the ballot. The public officials seeking to explain a ballot

question—those in the best position to provide factual information and explanations to voters—were banned from doing so.

## Why did the LDF get involved?

The Act placed an immediate “gag order” on local government entities with issues on the March 8, 2016 ballot, restricting their abilities to inform citizens about local ballot proposals. This impacted more than 100 cities, villages, townships, school districts, counties, and other entities that had ballot questions before the voters in the March election.

## What action did the LDF take?

The LDF filed a co-amicus brief, joined by the Michigan Association of Counties, the Michigan Townships Association, and the Conference of Western Wayne, in U.S. district court.



# ELECTION LAW – LOCAL BALLOT PROPOSALS/“GAG ORDER” CONTINUED

*Robert Taylor, Mayor of Roseville, et al v Ruth Johnson and the State of Michigan et al*

## What was the outcome?

After granting a Preliminary Injunction preventing enforcement of the new section finding that the Plaintiffs’ had a strong likelihood of prevailing on the claim that the Act was unconstitutional, the United States District Court Judge accepted an agreement between the Secretary of State’s office and local governments and school groups, permanently stopping Secretary of State Ruth Johnson from enforcing PA 269.

## What are the implications for local governments?

While the provisions of PA 269 may not be enforced by the State, the restrictions that were already in place within the Michigan Campaign Finance Act remain and must be adhered to in conveying information regarding local ballot proposals. As an additional cautionary note, municipalities should assume that the proponents of PA 269 will be especially focused on the conduct of local ballot elections and information distribution going forward.

## Dos and Don’ts

Generally, public officials can issue communications to voters using public dollars if the communications contain factual information regarding the election, the proposal, and what impact either its passage or defeat will have on the public body. Moreover, the prohibition on using public monies to support or defeat a ballot proposal does not prevent certain high-level officers and employees from expressing their opinions. For example, nothing prevents a city council member or city manager from standing up at a public meeting and telling the gathering that, in his or her opinion, the city needs to ask for a millage increase and the voters need to support it.

Although there are opportunities to carefully use public time and money to further educate the electorate on a proposal, public employees and officials should also keep the following additional guidelines in mind:

1. Non-policy making staff may not take “official” time (i.e., time away from their regular jobs) to participate in campaign committee activities, as this would constitute an inappropriate expenditure of public funds. Nothing would restrict the ability of these individuals to work in any way on the campaign on their own time.
2. The public body may provide information to individuals and/or a campaign committee which is publicly available in the same manner as it would provide information to anyone else requesting the information.
3. The campaign committees may meet at public facilities only to the extent that and on the same terms as any other group could use the same facilities. If the public body incurs any expense in providing meeting space to the committee, the committee must reimburse the public for that expense.
4. The public body should not place links to campaign-related websites on its website.

In a nutshell: public officials can generally issue communications to voters using public dollars if the communications contain factual information regarding the election, the proposal, and what impact either its passage or defeat will have on the public body.

## Who prepared the amicus brief?

Gary Gordon and Jason Hanselman  
(Dykema Gossett PLLC)

*Taylor et al v Johnson et al*, No. 5:2016cv10256 -  
Document 27 (E.D. Mich. 2016)

## CASE LOCATIONS





## **PARKS & RECREATION BOARD MEETING MINUTES – SEPTEMBER 20, 2018 - PAGE 1**

Present: Chairperson Borgon; Vice-Chair Goodrich; Members: Davis, Hausman, Kondak, Ruprich, and Schmitt

Absent: None

Also Present: Village Clerk, Wilson  
Council Liaison, Phil Mueller

Chairperson Borgon called the meeting of the Parks and Recreation Board to order at 6:30 p.m. in the Village of Beverly Hills at Beverly Park.

### **APPROVE MINUTES OF A REGULAR PARKS & RECREATION BOARD MEETING HELD AUGUST 16, 2018**

Motion by Hausman, second by Schmitt, that the minutes of the Parks & Recreation Board meeting held on August 16, 2018 be approved.

Motion passed.

Kondak arrived at 6:35 pm  
Ruprich arrived at 6:37 pm.

### **PUBLIC COMMENTS**

Janet Mooney, Devonshire, thanked the Parks and Recreation Board for all of their hard work.

Josh Ziegele, Troop 1024, presented his plan to create a Butterfly Garden in Beverly Park for his Eagle Scout project. The garden would be approximately 15x15 feet, with input from the Board on the best location in the Park. He would have planting assistance from fellow Troop members, and hopes to secure donations from nearby nurseries. The Board was in favor of this project.

Moved by Hausman, seconded by Borgon, that the Beverly Hills Parks & Recreation Board recommends Village Council approval of the request from Josh Ziegele to create and plant a butterfly garden in Beverly Park.

Motion passed.

### **RECAP OF MOVIE IN THE PARK**

The annual Movie in the Park was held Thursday, August 23<sup>rd</sup> in Beverly Park. The event was well attended. The food truck and Kona Ice were busy, and reported that they were pleased with their sales numbers. Ruprich recommended the Board consider moving the date for the 2019 Event, so it does not conflict with other nearby outdoor movie events.

### **REVIEW PLANS FOR READ IN THE PARK**

Borgon reported each author is planned to speak and read for approximately 45 minutes. Chairs will be delivered on Friday and picked up Sunday. The football team will assist the day of with moving the picnic tables out of the pavilion and setting up folding chairs. They will remove the chairs and return the picnic tables to the pavilion following the event. Book Beat will be selling

the authors books at the event. Baldwin Library will be selling tickets for their upcoming fundraiser.

### **HALLOWEEN HOOT**

Trish Oen, Hoot Coordinator, updated the Board on her progress including the list of past and potential donors she planned to contact. In 2017 there were 22 booths along the trail path, at this time 11 tables have been confirmed. She will continue to work with administration to coordinate donations and the purchase of candy. A magician, a storyteller, and Creepy Clyde will be at the pavilion. Cider and doughnuts will be served.

### **LIAISON COMMENTS**

Mueller reported that August 14, 2018 was the State mandated deadline to file any ballot proposals for the November 2018 election. The Parks Millage language was signed by the Governor on July 25, 2018 and mailed by the Village Clerk on July 31, 2018. On August 27, 2018, Oakland County informed Administration that the ballot language for the Village was not received and therefore could not be placed on the November ballot. In a signed affidavit the clerk attests that the language was signed and mailed via the US Postal Service on July 31, 2018. On August 31, 2018 the County maintained they were unable to locate the mail and took the position that the envelope was not received. Village Attorney Tom Ryan went before Judge Anderson in the Oakland County Court, and the request was denied. Therefore, the proposal will not be on the November 2018 ballot.

### **ADMINISTRATION COMMENTS**

#### **Buckthorn Eradication**

At their August 21, 2018 meeting Council approved Administration to go out for bids to begin Buckthorn eradication at Beverly Park. The bid was posted on August 31, 2018. Bid openings are scheduled for September 28, 2018.

#### **Grant**

Official notification that the Village will be the recipient of at least \$1,500 from the DTE Grant application that was submitted earlier this summer. This grant will provide funds to help purchase and plant trees after buckthorn eradication begins next year. A copy of the formal notification has been provided. This money is available until May 31, 2019. The Board will need to determine how this funding is used.

#### **Pavilion Rental Fees**

At their September 4, 2018 meeting the Council voted on a \$15 increase in the park opener fee from \$25 to \$40. The additional amount would be paid by the renter as a pass through to the park opener.

#### **Plant in the Park**

An email was received by a resident who would like to plant two 5.5 feet tall pine trees at the Park. Then Board will need to determine tree placement.

### **BOARD COMMENTS**

All the members of the Board expressed their sympathies on the passing of longtime Parks Board member and Park advocate Pat Greening.

Goodrich would like to see headway made on the creation of a Beverly Hills Park logo.

Borgon reviewed the Park events calendar for the 2019 Parks season.

Moved by Borgon, seconded by Davis, that the Beverly Hills Parks & Recreation Board sets the following dates for the 2019 Park season; Tree Planting Day April 27, Movie in the Park August 15; Board meeting canceled August 15, Read in the Park September 21, and Halloween Hoot October 26. Winter Family Fun Day will continue to be a pop up event.

Motion passed.

The meeting was adjourned at 7:30 p.m.



**Present:** Chairperson Raeder; Members: Crawford, Crossen, Donnelly, Gatowski, Mitchell, and Tillman; Alternate: Jawad

**Absent:** Vice-Chairperson Maxwell; Member: Lepidi; Alternate: Gennari

**Also Present:** Planning and Zoning Administrator, Erin Saur  
Council Liaison, Rock Abboud

Zoning Board Chairperson Raeder called the regular Zoning Board of Appeals meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

**REVIEW AND CONSIDER APPROVAL OF MINUTES OF A REGULAR ZONING BOARD MEETING HELD SEPTEMBER 10, 2018**

Crawford requested that Page 5, Paragraph 2, that the word “stripping” be changed to “striping”.

Motion by Tillman, second by Mitchell, that the minutes of a regular Zoning Board of Appeals meeting held September 10, 2018 be approved as amended.

Motion passed.

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

None.

Raeder explained the responsibilities of the Zoning Board of Appeals and outlined the statutory requirements for demonstrating a practical difficulty for a petitioner to be granted a dimensional variance.

**CASE NO. 1355**

**Petitioner:** Steve Ramaekers, Main Street Design Build, 555 S Old Woodward Ave, Birmingham, MI 48009 for Brian and Rita Date

**Property:** 16257 Birwood Ave

**Village Ordinance: 22.24.010 (a) Front Open Space** All Residential Zone Districts require front open space to be not less than the average front open space of existing homes within 200 feet on the same side of the street.

**22.24 Schedule of Regulations** Residential Zone District R-3 requires side open space not less than 5 feet on side one and 5 feet on side other

**Deviation Requested:** To build an addition on the first story of an existing home that will be 39.44 feet from the front lot line where the average front open space is 43.83 feet and 3.8 feet from the side lot line.

Saur explained the property is zoned R-3, Single Family Residential. Village Ordinance, Chapter 22, Section 22.24.010 (a) Front Open Space requires front open space to be not less than the average front open space of existing homes within 200 feet on the same side of the street. Additionally, Section 22.24 Schedule of Regulations requires minimum open space of 5 feet from

side one and 5 feet from side other. The petitioner is proposing to add a first floor addition that will be 39.44 feet from the front lot line where the average open space is calculated at 43.83 feet and will be 3.8 feet from the east, side lot line. The existing house is nonconforming due to the side encroachment. Per Section 22.30.040, any alteration or addition to a nonconforming structure must be in compliance with the current Village Ordinance.

The petitioner was granted a variance from the front open space requirements at the meeting held August 13, 2018, Case Number 1349. At that time, the petitioner proposed a bay window style addition to the living room which did not expand the existing side open space encroachment. The variance was granted for front open space of 40.83 feet which is consistent with the two neighboring homes, both of which have a front open space of 40.42 feet. The square footage of the approved addition is approximately 20 square feet and projects just over 2 feet from the existing home.

The expanded addition as proposed for Case 1355 is for a 13 foot by 4.79 foot expansion of the first floor of the home for a total square footage of 62.27 square feet. The proposed front open space will be 39.44 feet from the front property line as the addition will project just under 5 feet from the existing home. This is a significant increase in the overall size of addition, requires a greater variance from the front open space regulations, and requires an additional variance from the side open space regulations.

The Zoning Board of Appeals is obligated to grant the least variance possible to provide relief given unique circumstances of the property which render strict adherence to the Zoning Ordinance to be unreasonably burdensome. The petitioner must demonstrate why the previously granted variance is no longer sufficient to provide relief.

Provided to the Board was a copy of the petition form, letter from petitioner, site plan, front averaging data, and elevations. The minutes from the August 13, 2018 Zoning Board of Appeals meeting and a copy of the site plan and elevations from the approved proposal were also provided.

Ramaekers explained that despite the average open space of 43.83 feet, the other homes on the street extend farther past the front of the Dates' home. Their request averages out to the difference between the neighboring homes. The previously proposed open porch extends farther than the newly proposed addition.

Brain and Rita Dates, owners of the property, are 40+ year residents and they are looking to expand for more space to entertain their growing family. After the previous variance was granted and they began to draft plans, they realized the new window did not allow for the increase in space they required. They noted the conditions of a narrow lot and grading for drainage in the rear still limit their ability to construct in another location.

The Board suggested that the addition be limited to 40 feet from the front lot line, consistent with the neighboring homes.

Motion by Crossen, second by Gatowski, that the Zoning Board of Appeals grants a variance from the requirements of Section 22.24.010 (a) and Section 22.24 to allow the petitioners to build a first floor addition on to an existing home that will be no closer than 40 feet from front lot line and no closer than 3.8 feet to the east, side lot line due to practical difficulties of a narrow lot and rear property grading for drainage, on the condition that no

permit be issued for Case No. 1349.

Roll Call Vote:  
Motion passed (8-0).

**PUBLIC COMMENTS**

None.

**LIAISON COMMENTS**

Abboud reported the Planning Commission approved the signs for KFC and the Southfield Plaza.

**ADMINISTRATION COMMENTS**

Saur reported case number 1352 was withdrawn. Planning Commission continues to work on accessory buildings, structures, and uses, and lot coverage ordinances. Due to Veterans Day holiday and a scheduled Council meeting, the November meeting will be held on Tuesday, November 13<sup>th</sup> at the Southfield Township offices.

**ZONING BOARD COMMENTS**

None.

Motion by Crawford, second by Tillman, to adjourn the meeting at 8:10 pm.

Motion passed.

**Charles Raeder**  
**Chairperson**

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

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

THESE MINUTES ARE NOT OFFICIAL. THEY HAVE NOT BEEN APPROVED BY THE ZONING BOARD OF APPEALS.