

Regular City Council Meeting

March 25, 2019

Agenda

7:30 p.m. **Call to Order**
Pledge of Allegiance
Roll Call
Approval of Minutes: March 11, 2019
Approval of Bills: None
Approval of Agenda
Consent Agenda
1. LUNgevity Foundation 5K Walk/Run
2. Board of Ethics appointment – Craig Wilsher

Proclamation

Public Comment

Discussion- Downtown

I. New Business

1. Aqua Guard Bar and Filter Screen Rebuild
2. First Reading of Wireless Facilities in Public Rights-of-Way Ordinance
3. Resolution Establishing Standards for Wireless Facilities and Other Infrastructure Installations in Public Rights-of-Way

II. Budget

III. Manager's Report

IV. Public Comment

V. Council Comments

VI. Adjournment

Please see reverse side for rules of conduct for public comment at City Council meetings

City of South Lyon
Regular City Council Meeting
March 11, 2019

Mayor Pelchat called the meeting to order at 7:30 p.m.
Mayor Pelchat led those present in the Pledge of Allegiance.

Present: Mayor Pelchat, Councilmembers Kennedy, Kivell, Kurtzweil, Parisien, Richards and Walton
Also Present: City Manager Zelenak, Chief Sovik, Attorney Wilhelm, Chief Vogel and Clerk/Treasurer Deaton

MINUTES

Councilmember Kennedy stated on page 3 it should state he had spent some time with Ron Beason and Evelyn regarding the research on that.

CM 3-1-19 MOTION TO APPROVE MINUTES

Motion by Kivell, supported by Parisien
Motion to approve the minutes as amended

VOTE: MOTION CARRIED UNANIMOUSLY

BILLS

CM 3-2-19 MOTION TO APPROVE THE BILLS

Motion by Kennedy, supported by Kivell
Motion to approve the bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

ATTORNEY BILLS

CM 3-3-19 MOTION TO APPROVE THE ATTORNEY BILLS AS PRESENTED

Motion by Parisien, supported by Walton
Motion to approve the attorney bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

AGENDA

CM 3-4-19 MOTION TO APPROVE THE AGENDA

Motion by Parisien, supported by Kivell
Motion to approve the agenda as presented

VOTE: MOTION CARRIED UNANIMOUSLY

CONSENT AGENDA

Councilmember Walton stated the Pint-Sized Marathon is sponsored by Footprint Fitness, where she is a member at large, therefore she would like that removed from the consent agenda and added to the regular agenda under new business so she doesn't have to partake in the conversation.

3-11-19

CM 3-5-19 MOTION TO REMOVE THE PINT-SIZED MARATHON FROM THE CONSENT AGENDA

Motion by Walton, supported by Parisien

Motion to remove the Pint-Sized Marathon and add to New Business

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

Josie Kearns of 329 Lyon Blvd and from the Cultural Arts Commission stated the opening reception for the Quilt and Fiber Art Show is this Friday from 7:00 p.m. to 9:00 p.m. There is needlepoint, children's work, cross stitching and many other things. It is going to be an amazing event, there are 55 pieces, and there are 26 applicants this time. It will be fabulous and she hopes everyone will attend.

DOWNTOWN

Mr. Donohue stated he was in Washington last week meeting with all 14 Michigan reps and their strategy was to keep the tools we need for economic development and other programs that are very important. Mr. Donohue stated they had great discussions and they have fact sheets and supporting information representing the programs we would like to use here in South Lyon. The 4 days he was there all expenses was paid for by the Michigan Downtown Association. As a public employee, he couldn't do any lobbying, but for the private organization, they can push strongly.

Mr. Donohue stated he spoke with the owner of 125/127/131 E Lake, Mr. Rowe and he is signing the contract to get the painting job done by the end of May. We want to congratulate him. Mr. Donohue stated the Spring Ladies Night Out will be in May, details will follow soon. He further stated there is a new City-wide event schedule promotional piece that will debut at the end of April. He further stated there will be a new brochure piece by himself and the City Manager.

Councilmember Parisien asked if he had an update on 110 Detroit. Mr. Donohue stated there were conversations the last 2 weeks. Attorney Wilhelm stated someone requested a viewing of it but he doesn't have any details. Councilmember Parisien stated it is in a beautiful location and she asked if they could keep her updated. Mr. Donohue stated the owner would like some closure and he will keep Council up to date. Councilmember Kivell asked who would like closure, is there a clock running for us to impose ourselves on them. Mr. Donohue stated of the 5 buildings, that seems to be the most active. The owner seems interested in closure. He further stated they have a fairly good offer on the table, but they are currently waiting but he isn't aware of why. Councilmember Kivell stated we hope someone is interested in the value of the architecture but he hopes we aren't having this same conversation a year from now.

NEW BUSINESS

1. Budget Amendments

Councilmember Kivell stated he isn't seeing an explanation why the changes are taking place. He would like to see where the numbers were pulled from. Bookkeeper Lori Mosier stated the numbers were the audited numbers. We are amending the revenues to match the audit. She stated Councilmember Kurtzweil mentioned that in Water and Sewer we went with net position, but Paul requested we go back to fund balance, which is why it shows a large number and what that is spendable cash that doesn't include restricted assets. If the net position is all the cash balances, restricted and otherwise, including

Closure/parker

infrastructure and otherwise, we don't want people to think the larger number is our cash balance. Councilmember Kivell stated it is good to know what cash we can use freely, but it is also good to know where our restricted position is so we know how much money is sitting there. Councilmember Richards asked if the figures are written in stone going into our budget meetings. Ms. Mosier stated these are for the current fiscal year, and it will give us a better estimate by doing the adjustments this year. Ms. Mosier gives us a more accurate number to go with for our fund balance, it will show us where we are at the beginning of the new year. Councilmember Kivell asked what was the reason for going back to the fund balance. City Manager Zelenak stated he thinks it is important for people to see the net cash position instead of looking at all assets including infrastructure. We want to show what is available to purchase or make improvements, but it is important to show restricted funds and we can do that in the future. Councilmember Kurtzweil stated an additional reason and wisdom in what Paul did is because when you calculate the numbers based on net assets, the value of the assets can vary in the period they are evaluated, the assets themselves can increase or decrease themselves depending on if it is good or bad economic times. Whereas the cash balance is what you have available at the time, so the cash balance is more stable when you reflect it as a cash value rather than a net asset.

CM 3-6-19 MOTION TO APPROVE BUDGET AMENDMENTS

Motion to approve by Kivell, supported by Kennedy

Motion to approve budget amendments as amended

VOTE:

MOTION CARRIED UNANIMOUSLY

2. Board of Ethics Recommendation on Councilmember Richards

Mayor Pelchat stated the Board of Ethics has met to discuss the October 31, 2018 incident involving Councilmember Richards and the Board of Ethics has issued a list of facts and findings that is included within your packet along with other items pertaining to the issues.

Councilmember Parisien stated she wanted to read into the record the report the Board of Ethics provided. It will be public information in the next couple of weeks and she wanted to read some of the key facts. She stated she wants everyone to know that the Board of Ethics is the second neutral party that met and analyzed that Councilmember Richards behavior was inappropriate. The Board met on February 19th and found that based on the foregoing the Board recommends that Councilmember Richards violated Section 2-73 of the Ethics Ordinance and express their disapproval for his conduct toward Councilmember Parisien and censure him for such conduct that undermines the respect for all Councilmembers, City Council and the City's administration and the City as a local governmental body and discourage him from such behavior in the future. The Board further said with this being said, they don't have the power to make the disciplinary recommendation, but the Board needs to send a message to the Council that they believe this was an egregious violation of the ethics ordinance and Council needs to take into consideration the time and effort they put into this conclusion.

Councilmember Kivell stated he has prepared a resolution that accomplishes that.

Councilmember Kennedy stated to begin, he would like to recognize the efforts of the South Lyon Board of Ethics and its Chair Members Suzanne Muscat and Angela Baker and Chairman Don Beagle. He appreciates the diligence and professionalism they displayed in their review of this issue; in establishing their findings; and in formulating their recommendation. Thank you for your help.

Councilmember Kennedy then read a prewritten statement to Councilmember Richards.

Since becoming a City Council member, your behavior, both in words and actions, has brought disgrace to this council and tarnished the reputation of this city and its residents. He believes the Board of Ethics accurately described the most recent event when they said your behavior has been an “egregious violation of the ethics ordinance.” He further stated to date it has cost the City well over \$12,000 to address the consequences of your actions here as well as those from January of 2018. To put that in perspective, \$12,000 is one-half of the estimated cost to repair the parking area at the historical village. If, for some reason, the City lacks the funds to address that item in next year’s budget, he will ask that you explain to Larry, Linda and the other members of the Historical Society that the City had to spend the money addressing the issues you have caused instead of fixing the parking lot. Your behavior has consequences. For someone who claims to want to help this city, your actions have certainly not done that. Sitting on this side of the table requires that you behave in a professional and responsible manner and it is far different than just addressing the council from the microphone out in the audience. He stated he hopes you will learn the difference, because the city cannot afford to continue paying to address your mistakes. The city, and its residents, deserve far better from you than they have received to date.

Councilmember Kurtzweil stated she wants to thank everyone that chatted with her on this matter. Ms. Kurtzweil spent the last 3-1/2 months examining all the information provided on this situation and found errors in the facts and findings and questions the credibility of the complaining witness. In her examination of the court proceedings, she found no reference to the layout of Ms. Parisien’s home. According to the to the South Lyon police report there was no evidence of weapons, which Ms. Parisien stated in her report. Ms. Kurtzweil stated that Ms. Parisien outright lied on the police report about evidence of a weapon at Councilmember Richards’ home. Ms. Kurtzweil also stated that the stories about Ryan Lare were untrue. Ms. Kurtzweil brought up a specific case from Oakland County about charges that were dismissed due to lies on the PPO application. She will enter this document into the record. Councilmember Parisien replied to Councilmember Kurtzweil’s comments. Ms. Parisien stated she is deeply offended by Councilmember Kurtzweil’s comments regarding her character and what was said about her by Councilmember Richards. Councilmember Parisien expressed her thanks to the Board of Ethics members for all the time and effort they put into this issue.

Councilmember Kivell read the language for the censure which will be included with these minutes.

Councilmember Kurtzweil asked if Councilmember Parisien will get a vote. Mayor Pelchat asked the City Attorney, Tim Wilhelm, for his opinion. Attorney Wilhelm stated an issue of bias has been brought up but it is not specifically called out under conflict of interest in the Charter, rather the process and procedure and does not feel that it disqualifies Ms. Parisien. The Charter (Section 4.6) does indicate the Councilmember may not vote on an issue relating to their conduct. Ms. Parisien did offer to recuse herself. In this situation, Councilmember Richards would not be able to vote. Councilmember Kurtzweil feels there is a conflict of interest and would prefer her not to vote. Councilmember Parisien feels it is her duty as a council member to vote on this issue. City Attorney Wilhelm sees no direct conflict of interest and it would be the discretion of Councilmember Parisien to vote or not vote, as she sees fit.

CM 3-7-19 MOTION TO CENSURE COUNCILMEMBER RICHARDS

Motion to approve by Parisien, supported by Kivell

Motion to follow the recommendation by the Board of Ethics and censure Councilmember Richards

ROLL CALL VOTE:

Kurtzweil - Yes

Walton - Yes

Kennedy - Yes

Kivell - Yes

Parisien – Recuse

Pelchat – Yes

VOTE:

MOTION PASSED

3. Road Closure - Pint Sized Marathon

Stephanie Rife, director of the Pint-Sized Marathon, said the race will follow the same route as the past three years. Councilmember Parisien said she has run this race with her family in the past and will do so this year and the group should keep up the good work. City Manager Zelenak said while the city cannot prevent others from being in the park during the race day the city can keep others from using the facility while the event is going on. Police Chief Sovik believes there is no conflict for this year's race day.

Motion by Parisien, supported by Kivell

Motion to approve road closure of Dorothy Street between Pontiac Trail and McMunn, McMunn between Dorothy and McHattie, McHattie between McMunn and Washington, Washington between McHattie and the Rail Trail on May 4, 2019 between 11:30 a.m. and 2:00 p.m.; and to approve the use of the Witch's Hat Depot, McHattie Park, and Rail Trails for the Pint-Sized Marathon.

CM 3-8-19 MOTION TO APPROVE THE PINT-SIZED MARATHON

VOTE:

MOTION PASSED

Councilmember Walton abstained due to conflict of interest.

BUDGET

City Manager Zelenak confirmed that there will be a City Council Budget Workshop on Thursday, April 4, 2019 starting at 6 pm.

MANAGER'S REPORT

City Manager Zelenak said final budget numbers, revenues and expenditures will be provided to City Council the week before the meeting. The agenda will include all departments and council members will be able to ask questions. If there are questions before the meeting, people can be prepared to answer during the meeting. Budget and Agenda should be distributed the week before the meeting. March Board of Review has convened to hear appeals to 2019 Property Tax Values. The inflation rate for this year was 2.4%. Meetings will take place March 5, 11, 13. Councilmember Walton questioned the date of the Budget Workshop. She has a conflict with April 4. Councilmember Parisien said she is unable to attend the April 4 Budget Workshop.

Councilmember Walton questioned the City-Wide Garage Sales being the first weekend in May.

Previously, she had asked for them to be the third weekend in May due to previous bad weather at the beginning of May. City Clerk Deaton said it is difficult to choose a weekend in May due to conflicts and there is no way to predict the weather.

PUBLIC COMMENT

Ryan Lare 716 Grand Court says he supports the censure against Councilmember Richards based on his behavior, but he also called Councilmember Parisien a liar based on statements she made on her police report.

COUNCIL COMMENTS

Councilmember Richards commented on the censure he received. He accepts the decision and he apologized to the city council and the public for the mess he has put everyone through. He admitted to the three main counts of the charges and admits that what he did was wrong. He would like everyone to move on with a fair and open mind.

Councilmember Richards commented that service workers are concentrating on five blocks around the city working on the new cable service, the housing units on McHattie Street are coming along, and both sides of Dixboro Road have construction barrels in preparation for the widening and paving of Dixboro. Councilmember Richards also commented on the new swimming pools that are going into Brookdale Plaza. A British Recreation firm is handling this construction.

Councilmember Kennedy stated he wants to let everyone know that Active Faith will have their Strike Out Hunger Event at the Pinz Bowling Center on Sunday, March 24 from 1-3 pm. So, get your team together and come on down for some fun, food and prizes and support Active Faith's Food Pantry and programs! You can get the all the details on their website or their Facebook Page "*Active Faith Community Services of South Lyon*."

He stated he would also like to recognize those businesses from our community that have made donations to help make this event a success. This includes Perfect Floors, Martin's Hardware, Cook Automotive, Grande Trunke Home, the Lyon Book Den and Peter's True Value just to name a few.

He then recognized Fire Chief Vogel and members of the South Lyon Fire Department for their efforts in successfully obtaining two different grants. The first grant came from the Michigan Municipal Risk Management Authority to purchase a new Thermal Imaging Camera to aid in identifying the location of the fire and finding individuals in a building. He further stated the second grant was awarded by the State of Michigan and Home Depot for 216 Smoke Detectors and 36 Carbon Monoxide Alarms. The SLFD will have a Smoke Detector Blitz in the near future. If you are in need of a Smoke Detector please contact the South Lyon Fire Department at 248.437.2616. A detector will be provided to you at no charge. The units will be delivered by members of the South Lyon Fire Department who will also install and test the units. If you have a fresh 9v Alkaline Battery available, please provide it to the firefighter... otherwise one will be provided for you.

Also, if your Smoke Detectors / Carbon Monoxide Alarms are in working order, now is a good time to replace the batteries and check their operation. Make a note to do this each year when Daylight Saving Time begins and also when it ends. And finally, as a reminder, all smoke detectors that are over 10 years old should be replaced.

Councilmember Walton thanked the DPW workers for getting us through this horrible winter—they did a fantastic job.

Councilmember Parisien reminded Councilmember Richards that there is still a PPO in place and he must abide by ruling of the court. We are moving on but Councilmember Richards needs to be cognizant of his

behavior. Councilmember Parisien gave her thanks to the City Council, the Board of Ethics, and the citizens of South Lyon who supported her through this ordeal.

Councilmember Kurtzweil commented that Ms. Parisien does not have a lot of support in the community and she is the victim of trash talk, not a sexual assault, and other members of the council have been subject to trash talk.

Councilmember Kurtzweil encouraged everyone to attend the Cultural Arts Quilt Show on Friday. Many quilts will be on display. Thank you to Fire Chief Vogel for getting the grants for fire safety devices. Please support Active Faith and their upcoming Strike Out Hunger event on March 24.

Councilmember Kivell stated he is happy we are at the conclusion of this situation and hopes that we can move forward and get out of this negative light and build the community that we want here in South Lyon.

Mayor Dan Pelchat thanked students at Kent Lake and Sayre Elementary who sent thank you notes after his recent talk on Social Studies at their schools. Also, congratulations to the South Lyon Unified Hockey team who went on to win the Lakes Valley Conference Championship this year.

ADJOURNMENT

CM 3-9-19 MOTION TO ADJOURN

Motion by Kurtzweil, supported by Walton

Motion to adjourn meeting at 8:40 pm.

VOTE: MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Mayor Dan Pelchat

City Clerk Lisa Deaton

Regular City Council Meeting

March 25, 2019

Agenda

7:30 p.m.

Call to Order

Pledge of Allegiance

Roll Call

Approval of Minutes: March 11, 2019

— Steve/Rose

Approval of Bills: None

Approval of Agenda

Steve/Rose

Consent Agenda

1. LUNgevity Foundation 5K Walk/Run

2. Board of Ethics appointment – Craig Wilsher

Rose/CAK

Proclamation

April Child abuse

4/2019

Steve/Rose

Public Comment

NONE

Discussion- Downtown

I. New Business

1. Aqua Guard Bar and Filter Screen Rebuild

— Steve/Glenn

2. First Reading of Wireless Facilities in Public Rights-of-Way Ordinance

all.

3. Resolution Establishing Standards for Wireless Facilities and Other Infrastructure Installations in Public Rights-of-Way

Glenn/Rose

all

II. Budget

III. Manager's Report

IV. Public Comment

V. Council Comments

VI. Adjournment

9:03 — Rose/Steve

Please see reverse side for rules of conduct for public comment at City Council meetings

Resolution For Council Censure

At a regular meeting of the City of South Lyon, Michigan, held at the City Hall on Monday March 11, 2019;

The following resolution was offered by member Parisien, and supported by member Kivell.

Whereas the City of South Lyon is governed by the City Charter adopted October 5, 1970, as amended and;

Whereas the Charter, as amended, provides for 6 City Council members to be elected for four year terms and the Mayor to be elected for two year terms and;

Whereas city elections take place in odd numbered years for half the council and the Mayor and;

Whereas at the election held November 7, 2017 Carl Richards won election to City Council, and on November 13, 2017 took the oath of office and was seated as a member of the South Lyon City Council and;

Whereas the City Council, at their November 26, 2018 meeting, requested the City's Board of Ethics to conduct an investigation to determine if a violation of the City's Ethics Ordinance by Councilman Carl Richards had occurred during an incident that took place on October 31, 2018 at a local business and;

Whereas the City's Board of Ethics unanimously voted a violation of Sec. 2-73 (a) had occurred by conduct in Councilman Richards private life that was unbecoming of an elected official and not above reproach and;

Whereas the City's Board of Ethics unanimously voted a violation of Sec. 2-73 (b) had occurred by Councilman Richards' conduct which has undermined respect for city officials and employees and for the city as a public body and;

Whereas the City Council agrees with the conclusions drawn by the Board of Ethics and agrees with their recommendation;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of South Lyon proclaims censure on Councilman Carl Richards.

FILED Received for Filing Oakland County Clerk 12/5/2018 8:30 AM

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

RENEE SWAIN,

Plaintiff,

Case No. 17-158765-CZ
Hon. Phyllis C. McMillen

v

MICHAEL MORSE, et al.,

Defendants.

OPINION AND ORDER

At a session of Court
Held in Pontiac, Michigan
On

DEC 05 2018

This matter is before the Court on Defendant Michael Morse's "Second Corrected Motion to Dismiss Plaintiff's Verified Complaint or, in the Alternative to Hold Plaintiff and Her Counsel in Contempt of Court and for Sanctions".

I. FACTS AND PROCEEDINGS

Plaintiff alleges that on April 6, 2017, while she and Defendant Morse ("Defendant") were in the process of taking a "selfie" photo together, Defendant grabbed her left breast and asked, "is this better?" Plaintiff filed the instant lawsuit on May 15, 2017. The claims against Defendant are battery and sexual assault; negligent and intentional infliction of emotional distress; civil conspiracy; and negligence/gross negligence/wanton and willful misconduct. Previously, the Court granted Defendant's

EXHIBIT B

motion for summary disposition as to the claims for negligent and intentional infliction of emotional distress, civil conspiracy, and negligence.

Defendant moves for dismissal and other sanctions on the grounds that Plaintiff and her counsel included false allegations in the Verified Complaint and that Plaintiff gave false testimony during her deposition. Defendant argues that Plaintiff's Verified Complaint is full of falsehoods, as revealed during her deposition when Plaintiff admitted she had no evidence to support many of the allegations and in some cases, admitted the allegations were untrue. Defendant also argues that Plaintiff committed perjury during her deposition when asked about her financial situation, specifically when she denied that her friend "Ken" deposited money into her checking account on a regular basis.

Plaintiff testified that in approximately 2014 she became a "new friend" of a man, "Ken". In late 2014, Plaintiff began receiving money from Ken, which she described as a "gift". She testified that Ken "help[ed]" her, would "buy [her] things", and would "give [her] extra money", but she denied that there was regular income from him. She testified the small amount of income she had received ended in 2016.

Specifically, during her deposition on January 5, 2018 Plaintiff gave the following testimony in response to questioning by defense counsel:

Q. Am I correct that he was providing you with \$10,000 a month regular income, beginning February/March 2015?

A. No. No.

Q. Are you sure about that?

A. I'm positive.

Q. Uh-huh. He didn't—

A. He might have spent that on the things he bought me.

Q. No. Did he – do you have a bank account at Dearborn Federal Credit?

A. I do.

Q. Okay. Did he transfer funds in the amount of \$10,000 a month into that bank account?

A. No. No, he did not. He did – he might have done that in the beginning for the furniture that I have, but that wasn't a regular basis thing, no.

Q. Well, for how many months did he deposit money into your –

A. I think maybe three.

Q. So, you're denying that Ken [] deposited \$10,000 a month into a bank account of yours beginning in March or February 2015?

A. I'm not denying that he did it maybe for three months, but after that, I – yes, I am denying that. That's not correct. I don't know what he – he did not – [Plaintiff's dep., pp. 82-83].

Defendant obtained Plaintiff's bank records pursuant to a subpoena. The records reveal that Plaintiff received \$10,000 per month from Ken from February 2, 2015 through May of 2016. She also received several additional payments in 2015 – in the amounts of \$20,000; \$4,000; \$22,000; and \$15,000. Beginning in May of 2016, the payments were reduced; with Plaintiff receiving \$5,000 per month. Plaintiff testified that the last deposit Ken made into her bank account was "the end of 2016." (Plaintiff's dep., p. 86). In reality, her bank records reveal that the monthly payments did not stop in 2016, they stopped in May of 2017. Further, there was a \$3,500 deposit from Ken in November of 2017, just a few weeks before her deposition. In total, the deposits from Ken amounted to \$291,500.00.¹

¹ Defendant also asserts that Ken paid for the lease on Plaintiff's Cadillac CTS in 2015 (which lease ended in March of 2018) and paid her rent in 2015, as well as \$20,000 in medical bills.

II. ANALYSIS

It is well-established that a trial court has inherent authority to impose sanctions on the basis of the misconduct of a party or an attorney. *Persichini v William Beaumont Hosp*, 238 Mich App 626, 639; 607 NW2d 100 (1999). Sanctions may include dismissal of the lawsuit. *Cummings v Wayne Co*, 210 Mich App 249, 252-253; 533 NW2d 13 (1995). The Court explained:

The authority to dismiss a lawsuit for misconduct is a creature of the “clean hands doctrine”... rooted in a court’s fundamental interest in protecting its own integrity and that of the judicial process...

The “clean hands doctrine” applies not only for the protection of the parties but also for the protection of the court. Tampering with the administration of justice ... is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society. [*Id.* at 252 (citations omitted)].

Severe sanctions such as default have been upheld on appeal where “[t]he record revealed “defendant’s deliberate noncompliance with court rules and a discovery order in addition to what the trial court evidently viewed as an attempt to mislead the court and disrupt the progression of the lawsuit. The trial court recognized that such manipulation of the legal process is deserving of severe sanction.” *Kalamazoo Oil Co v Boerman*, 242 Mich App 75, 89; 618 NW2d 66 (2000).

Sanctions are also permitted under the Court rules. MCR 2.302 (“General Rules Governing Discovery”) provides the following:

(E) Supplementation of Responses.

(1) Duty to Supplement. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement the response to include information acquired later, *except as follows*:

...

(b) A party is under a duty seasonably to amend a prior response if the party obtains information on the basis of which the party knows that

(i) *the response was incorrect when made*; or

(ii) *the response, though correct when made, is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.*

(c) A duty to supplement responses may be imposed by order of the court, agreement of the parties, or at any time before trial through new requests for supplementation of prior responses.

(2) Failure to Supplement. If the court finds, by way of motion or otherwise, that a party has not seasonably supplemented responses as required by this subrule the court may enter an order as is just, including an order providing the sanctions stated in MCR 2.313(B), and, in particular, MCR 2.313(B)(2)(b). [emphasis added]

MCR 2.313(B)(2) in turn provides:

Sanctions by Court in Which Action Is Pending. If a party or an officer, director, or managing agent of a party, or a person designated under MCR 2.306(B)(5) or 2.307(A)(1) to testify on behalf of a party, fails to obey an order to provide or permit discovery, including an order entered under subrule (A) of this rule or under MCR 2.311, the court in which the action is pending may order such sanctions as are just, including, but not limited to the following:

(a) an order that the matters regarding which the order was entered or other designated facts may be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(b) an order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing designated matters into evidence;

(c) *an order striking pleadings or parts of pleadings, staying further proceedings until the order is obeyed, dismissing the action or proceeding or a part of it, or rendering a judgment by default against the disobedient party....* [emphasis added]

In *Traxler v Ford Motor Co*, 227 Mich App 276; 576 NW2d 398 (1998), the Court of Appeals affirmed the trial court's imposition of sanctions pursuant to MCR 2.302(E). In that case, the plaintiffs filed a products liability lawsuit against Ford after their two-month old daughter was injured when the driver's seat of their car moved rearward during a rear-end collision and struck the child's head. Ford objected to

plaintiffs' discovery requests for more than two years, and after numerous motions to compel, the trial court ordered Ford to respond. Ford produced 62 boxes of documents. Based on their contents, the court found that Ford had "blatantly lied about those documents and about the information in them". The trial court entered a default judgment against the defendant for discovery abuses, finding that Ford had "lied" and was guilty of "an outrageous fraud". Even though Ford had not violated a discovery order or refused to respond, sanctions were appropriate under MCR 2.302(E), which imposes a duty to amend a prior response. Because Ford's discovery responses had consisted of lies or fraud, it had a duty to seasonably supplement its responses. *Id.* at 281. Also see *LaCourse v Gupta*, 181 Mich App 293; 448 NW2d 827 (1989) (affirming trial court's decision to strike plaintiff's expert pursuant to MCR 2.302(E)(2) for failure to supplement discovery responses).

The court rules allow a court to impose sanctions without first issuing an order to compel. MCR 2.504(B)(1) states, "If a party fails to comply with these rules or a court order, upon motion by an opposing party, or sua sponte, the court may enter a default against the noncomplying party or a dismissal of the noncomplying party's action or claims." In *Bellok v Koths*, 163 Mich App 780; 415 NW2d 18 (1987), the Court of Appeals affirmed the trial court's dismissal of the lawsuit as a sanction for "obstruction of discovery" including "lengthy, protracted delays and denials of discovery". The Court noted that even if dismissal was not allowed under MCR 2.313(B)(2) because there was no failure to comply with a court order, the trial court had authority to dismiss the case under other rules, including MCR 2.504(B)(1). Also see *LaCourse*, 181 Mich App at 296

(noting that a court has authority to impose sanctions under MCR 2.504(B)(1) without first having to issue an order to compel).

Here, Plaintiff made false statements in her deposition, which is far more egregious than simply delaying discovery or failing to answer interrogatories. As stated by another judge in this circuit:

The failure to pursue blatant perjury rapidly leads to the deterioration of the rule of law and the administration of justice and undermines our form of self-government. To assume that perjury is a fact of life that cannot or should not be vindicated in the courts of law only exacerbates the situation and leads to the disillusionment of those who do not engage in such conduct. If litigants understand that they can blatantly lie under oath (even when extrinsic evidence clearly proves the falsity of the statements), we only degrade the rule of law – a First Principle of our republic.

Lies under oath lead to violating court orders; broken court orders lead to more serious crimes. Contemnors are simply emboldened to lie with impunity and to violate the orders of the court without consequence.

Moreover, the courts are the people's instruments of justice. To make a mockery of the sacred role of the court is to undermine the very core of our system of republican self-government. [Opinion Editorial by Judge Michael Warren, Oakland County Circuit Court, February 7, 2008]

Faced with the facts presented, the Court concludes that Plaintiff lied under oath. There is no indication that her answers were mere mistakes or that she misunderstood the questions. She apparently just wanted to hide the truth, which was detrimental to her case and potentially embarrassing. Even giving Plaintiff the benefit of the doubt, she was informed months ago (as early as February 2018 when Defendant filed the motion to dismiss) that the statements she gave were "incorrect". Thus, she had a duty to amend or supplement her responses, and her failure to do so violated the court rules.

The false statements were material to the case. Evidence "showing that a person is experiencing a shortage of funds that appears to be novel or contrary to what one would

expect is typically felt by such a person” is admissible to show motive. *Smith v Mich Basic Prop Ins Ass’n*, 441 Mich 181, 194; 490 NW2d 864 (1992). Defendant has argued from the beginning that Plaintiff and her counsel fabricated the story in order to file this “sham” lawsuit. According to Defendant, Plaintiff’s counsel filed this lawsuit to seek publicity and to harass Defendant. The questions about Plaintiff’s finances were aimed at discovering an improper motive for her to pursue this lawsuit. Plaintiff was asked about monthly deposits to her bank account which were being reduced or stopped altogether shortly before this lawsuit was filed.² At her deposition, Plaintiff hid the fact that for 27 months she had been receiving monthly deposits into her bank account from Ken, and that these payments were being reduced and about to end.³ It is clear that Plaintiff’s responses were “incorrect” and she had a duty to amend or supplement them. MCR 2.302(E)(1)(b).

Given the seriousness of Plaintiff’s misconduct, the Court finds that the appropriate sanction is dismissal of the action. The Court acknowledges the harshness of the sanction, but when balanced against the gravity of Plaintiff’s misconduct, it is appropriate. Here, like the offending party in *Traxler*, Plaintiff “blatantly lied”, and any lesser sanction would be insufficient to remedy the damage. See *Traxler*, 227 Mich App at 286-287. Plaintiff’s lies were an attempt to manipulate the legal process, *Kalamazoo Oil*, 242 Mich App at 89, and tamper with the administration of justice, *Cummings*, 210

² The payments stopped the same month this lawsuit was filed – May of 2017.

³ Defendant also points out that Plaintiff *knew* the payments were being reduced and about to end, although she denied that in her deposition. Ken testified Plaintiff was well aware that the payments would be reduced from \$10,000 to \$5,000 and that they would end in May of 2017. (Ken dep., p. 21). Also, Plaintiff’s testimony that she worked over 300 hours for Enzo’s Catering in 2017 was contradicted by the owner of Enzo’s, who submitted an affidavit stating she worked for a total of about 25 hours.

Mich App at 252. This Court has a “fundamental interest in protecting its own integrity and that of the judicial process”. 210 Mich App at 252.

The Court also notes that Plaintiff was afforded due process. *Cummings*, 210 Mich App at 253. She had notice, as this motion was filed in February of 2018 – more than nine months ago. She also had an opportunity to be heard, as the parties have briefed the issues extensively and presented oral argument to the Court.

WHEREFORE, IT IS HEREBY ORDERED that the motion to dismiss is GRANTED. The Verified Complaint is dismissed in its entirety.

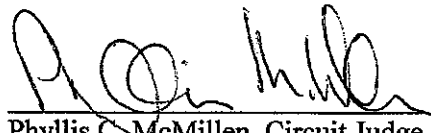
IT IS FURTHER ORDERED that Defendant’s other pending motions for sanctions are denied. Having dismissed the case as a sanction, the Court finds it unnecessary to assess additional sanctions against Plaintiff or her counsel.

IT IS FURTHER ORDERED that Plaintiff’s motion to compel is denied as moot.

IT IS FURTHER ORDERED that Plaintiff’s emergency motion for sanctions is DENIED, because the Court finds that sanctions against Defendant and his counsel are not warranted.

This Order resolves the last pending claim and closes the case.

IT IS SO ORDERED.


Phyllis C. McMillen, Circuit Judge

MEMORANDUM

TO: CITY COUNCIL
FROM: MAGGIE KURTZWEIL, MAYOR PRO TEM
SUBJECT: FIRST AMENDMENT
DATE: 2/19/19
BC:

In order to better understand protected speech, to avoid serious hurdles in prohibiting First Amendment speech, and to prevent overreaching by the City of South Lyon in chilling otherwise lawful speech, this memorandum is provided as a supplement to those materials that may be provided for review and consideration as to First Amendment analysis.

A. Issue

Whether a governmental entity can prohibit the speech of a private citizen where the speech is not a category of unprotected speech, the speech is not obscene, the speech did not incite violence nor was the speech a "fighting word," and the speech was spoken with no children present.

B. Facts

In this matter, a male person was visiting South Lyon Cycle for the purpose of paying on his account for repairs/maintenance to his bicycle. The man engaged in conversation with one of the business owners at the counter. The business person asked the man, who was also a city councilman, "about the state of the City of South Lyon." (Written Statement of Mark Childs, dated 11/1/18) (the terms "man" and "councilman" are used interchangeably). The man, on the other hand, asked the business owner, how "things were on the DDA?" (Police Interview with Carl Richards, created on 11/2/18, pg 5 of 7). The two appeared to be conversing about "things" including city council. (Austin White, PPO Transcript, pgs 6-7.) At some point in the conversation, the man began talking about a female councilperson. (Austin White, PPO Transcript, pg 8.) Austin White, an employee of South Lyon Cycle, admits that he was "half listening" to the conversation (PPO Transcript, pg 8).

The employee perked up and continued listening to the conversation including some "opinions" expressed by the man as to certain features of the councilwomen's home. (PPO Transcript, pg 9). Next, the employee heard the man state in part: "she says she's an attorney for Duggan downtown, but really I think she's a topless dancer at a gay bar." (PPO Transcript, pg 9). This statement was also confirmed by the testimony of the man. (PPO Transcript, pg 79). The PPO and supporting documents prior to the hearing were based, in part, on the words: "topless dancer at a gay bar." It is noted that another sexual reference appears to have been made regarding the councilwoman between the man and a friend but never communicated to the councilwoman until the PPO hearing. That additional reference was not the basis of the criminal complaint nor the filing of the PPO because the councilwoman was unaware that the comment had been made.

There is no issue of fact that the man was not participating in any official function with the City of South Lyon at the time the remarks were made, but rather he was a customer in a commercial business paying on an account. Further, there are no allegations that the councilman spoke uncomplimentary about the councilwoman around any city employees or on city property. Although the councilman made the unpleasant remarks in a public setting, he was clearly on private property and not city property. Further, there were no children present when the remarks were made. At no time were any of the remarks made face-to-face with the councilwomen and they were relayed to her by the employee of the business.

C. The First Amendment

Originally, the First Amendment applied only to laws passed by Congress. However, in *Gitlow v. New York*, 268 U.S. 652 (1925), the Court extended First Amendment protection to the states. Through the due process clause of the Fourteenth Amendment the Court broadened First Amendment protection to the states. The First Amendment applies to political subdivisions of the state. *Santa Fe Independent School Dist v Doe*, 530 US 290, 301 (2000). The Michigan courts may consider federal case law when ruling on the protections of the First Amendment under the state's constitution. *Thomas M Cooley Law Sch v Doe 1*, 300 Mich App 245, 256 (2013). The City of South Lyon and its political governing entities, such as its various commissions, are subject to First Amendment scrutiny.

a. Protected and Unprotected Speech

Some speech is not afforded First Amendment protection. Examples of speech that are unprotected by the First Amendment include perjury; public employee speech made while performing an *official duty* is not protected by the First Amendment with an exception for those who speak the truth while testifying and whistleblowers; obscenity is not protected; threats to incite violence or imminent lawless action are generally not protected; child pornography is unprotected; restrictions are permitted on the limits of free speech in public schools; and the publishing or collecting national security information is protected speech, however, the government abandoned its efforts to prohibit publication of nuclear information in *The Progressive* in 1979 (see *United States of America v. Progressive, Inc., et al*, 467 F Supp. 990 (W.D. Wis. 1979)).

To begin, a good analysis of First Amendment speech should include a discussion as to whether the speech is unprotected speech. For example, profanity can be regulated by government if the speech is fighting words or a "true threat." In *Watts v United States*, 394 US 705 (1969) Mr. Watts (Watts) stated during a public gathering that if he was inducted into the Army and made to carry a rifle "the first man I want to get in my sights is L. B. J." Watts was charged and convicted of knowing and willfully making a threat against the President of the US under 18 USC 871(a). On appeal to the Washington DC District the court affirmed Watt's conviction and the Supreme Court reversed. (See attached exhibit 1). The Supreme Court stated in part: "For we must interpret the language Congress chose 'against the background of a profound national commitment to the principle that debate on public issues should be *uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials...*The language in the political arena, like the language in the labor disputes, see *Linn v United Plant Guard Workers of America*, 383 US 53, 58 (1966), is often vituperative, abusive, and inexact. We agree with petitioner that his only offense here was a 'kind of very crude offensive method of stating a political opposition to the President.'" Id at 708 (citations

omitted) (emphasis supplied). Even though Watts appeared to make a threat to injure or kill a sitting president, the *context* in which his words were spoken were not deemed to be a “threat” which would require suppression of speech. “What is a threat must be distinguished from what is constitutionally protected speech.” *Id* at 707.

On the other hand, in *People v Lenio*, unpublished per curiam decision of the Court of Appeals, issued on February 14, 2019 (Docket No: 339945), the Court affirmed the jury conviction of the defendant of malicious use of service provided by a telecommunications service provider, MCL 750e. The defendant sent Twitter communications to a person which stated in part:

1. My religion says it's cool to shoot jewish people in the head with guns;
2. Lets just say I am more full of #hate and #rage than I have ever been....;
3. ...its okay to go on shooting sprees so long as one only targets sub human jewish filth....;
4. ...I want a job operating #gasChambers....

“A state can also regulate speech that constitutes a ‘true threat.’ ” *Id* at pg 4 (relying on *Virginia v Black*, 538 US 343, 359 (2003)). “ ‘True threats’ are statements ‘where the speaker means to communicate a serious expression of an *intent to commit an act of unlawful violence* to a particular individual or group of individuals.’ ” *Id* (quoting *Black* at 359) (emphasis supplied).

In the present matter, Austin White testified that the man came into South Lyon Cycle to pay on an account and converse about a number of things, including city council, as he always did. (PPO Transcript pgs 7-8). No doubt the comments made by the man were related to political speech as he was expressing his obvious opinions of the councilwomen in a “vituperative, abusive, and inexact” manner. There are no facts to support any conclusion that the unpleasant words spoken about the councilwoman were made in any other capacity other than as a private citizen expressing possible dislike for an elected official, as we all do from time to time.

There is no evidence in the transcripts or the underlying documents that the speech spoken by the man contained any “threat” or were “fighting words.” The *Watts* opinion sufficiently details a good discussion as to whether words spoken rise to a “threat.” In this present matter, they do not. The man’s remark “a topless dancer at a gay bar” is an unflattering statement about a possible employment choice. Nothing in the man’s statement relates to any comment about her sexuality but rather is a tasteless remark about what she may do for a living other than be a lawyer for Duggan. There is nothing in the comment that rises to a “true threat” as the man made no expression at all of any intent to “commit an act of unlawful violence” towards her. *Lenio*, *supra*.

b. George Carlin, Indecent and Obscene

Broadcasting has some of the most limited First Amendment protections because this communication invades the privacy of the home and the broadcast may be accessible to children. See *FCC v Pacifica Foundation*, 438 US 726 (1978). *Pacifica* is illustrative in this case for several reasons. The FCC entered an order of admonishment to a radio station for a certain broadcast that published George Carlin’s “Filthy Words” monologue which dealt with sex and filthy words. Like Carlin’s remarks, the remarks made by the present man are “unquestionably ‘speech’ within the First Amendment,” and the councilwoman’s objections to the speech are based on the content of the speech. The councilman potentially could be disciplined, in part, for the content of his speech.

The *Pacifica* Court ruled that the FCC did have authority to regulate otherwise protected free speech because the seven dirty words and Carlin's ensuing 12-minute monologue was made in the middle of the afternoon on a broadcast that was heard by a child. A parent filed a complaint with the FCC complaining of the content of the broadcast. The *Pacifica* Court did state that the Carlin monologue "would be protected in other contexts." Id at 746 (emphasis supplied). "Some uses of even the most offensive words are unquestionably protected." Id (relying on *Hess v Indiana*, 414 US 105 (1973)). In this present matter, the objectionable words were not made in front of any children and South Lyon Cycle was "wide open" except for the man and the two adult employees when the remarks were made. (Austin White, PPO Transcript, pg 7). Parenthetically, the *Pacifica* case does include in an appendix to the opinion the text of the Carlin monologue and its contents are not even close to anything said by the man. As to the monologue, the Court in *Pacifica* did acknowledge that the matter to regulate the radio broadcast was related to its content being indecent not obscene. Id at 729. Note that the six words spoken by the councilman (topless dancer at a gay bar) do not appear as any of Carlin's filthy words in his indecent monologue. The appendix containing the monologue has not been attached to this memorandum in order to save paper.

Michigan too has provided some guidance on insulting language and First Amendment protection. Michigan had a criminal statute that read: "Any person who shall use any indecent, immoral, obscene, vulgar or insulting language in the presence or hearing of any *woman* or child shall be guilty of a misdemeanor." This statute was ruled unconstitutionally vague. In *People v. Boomer*, 250 Mich App 534 (2002) a canoeist fell into the water and uttered profanities. A county sheriff heard the commotion and cited the man for violation of the statute. The Michigan Court of Appeals reversed mostly on grounds that the statute was void for vagueness.

The Court stated in part:

Here, it would be difficult to conceive of a statute that would be more vague than MCL 750.337. There is no restrictive language whatsoever contained in the statute that would limit or guide a prosecution for indecent, immoral, obscene, vulgar or insulting language. Allowing a prosecution where one utters "insulting" language could possibly subject a vast percentage of the populace to a misdemeanor conviction.

Id. at 540 (attached as exhibit 2) (emphasis supplied).

The *Boomer* Court concluded that the criminal statute reached constitutionally protected speech and the court voided the statute on grounds that it violated the due process protections of the Fourteenth Amendment.

Similarly, in *People in Barton*, 253 Mich App 601 (2002), the Court ruled that a local ordinance was unconstitutional and it reversed defendant's conviction. In *Barton*, the defendant was "overheard" calling restaurant patrons as "spics." The defendant was charged with violating a local ordinance which provided that "no person shall engage in any indecent, insulting, immoral or obscene conduct in *any public place.*" Id at 602 (emphasis supplied). The defendant argued, in part, that the ordinance did not provide proper notice of the meaning of the term "insulting" and thus enforcement under the ordinance was arbitrary and inconsistent. Id at 605. The Court ruled that the ordinance was unconstitutionally vague as applied to the defendant. As stated by the Court:

The term “insulting” with regard to prohibited conduct did not give adequate forewarning that the challenged conduct—referencing a person by a racial slur—may rise to the level of “fighting words” that can be proscribed constitutionally.

Id at 607.

Likewise, the city’s Ethic Ordinance could also face similar challenges.

Nor do the comments of the man meet the standard of obscenity as that term has been defined by the Supreme Court in **Miller v. California**, 413 U.S. 15 (1973). Furthermore, it is noted that being a topless dancer or a stripper, thus “in a state of nudity” which is nonobscene nude dancing, may be a form of expression falling within the outer limits of protection by the First Amendment. *Jott, Inc v Clinton Charter Twp*, 224 Mich App 513 (1997). As stated by the Court in *Jott* at 526:

Nonobscene, erotic entertainment, such as topless dancing, is a form of protected expression under the First Amendment, but enjoys less protection than other forms of First Amendment expression, such as political speech. *Barnes v Glen Theatre, Inc*, 501 US 560, 565-566; 111 S Ct 2456; 115 L Ed 2d 504 (1991); *Woodall v El Paso*, 49 F3d 1120, 1122 (CA 5, 1995); *Christy v Ann Arbor*, 824 F2d 489, 492 (CA 6, 1987).

Thus, it is difficult to understand how the man can be held liable for *speech* regarding topless dancers when the very nature of the profession “is a form of protected expression” itself!

c. Parody

Parodies are protected by the First Amendment. In *Hustler Magazine v Falwell*, 484 US 46 (1988) Jerry Falwell, a minister and political commentator, filed suit against the magazine in an attempt to recover damages arising from the publication of a “parody” which portrayed the minister as having engaged in a “drunken incestuous rendezvous with his mother in an outhouse.” Id at 46. “The freedom to speak one’s mind is not only an aspect of individual liberty—and thus a good unto itself—but also is essential to the common quest for truth and the vitality of society as a whole.” Id at 50-51 (citation omitted). Quoting *Baumgartner v United States*, 322 US 665, 322 (1944) the *Falwell* Court stated: “[o]ne of the prerogatives of American citizenship is the right to criticize public men and measures.” Additionally, “[s]uch criticism, inevitably, will not always be reasoned or moderate; public figures as well as public officials will be subject to ‘vehement, caustic, and sometimes unpleasantly sharp attacks.’” Id at 51 (citation omitted).

Even false statements can at times be protected by the First Amendment. It may be argued by the councilwomen that she is not a “topless dancer,” or “a stripper,” (Written Statement of Mark Childs dated 11/1/18) and that the statements of the man are false and not complimentary to her reputation. However, false statements are “inevitable in free debate.” *Falwell* at 52 (citation omitted). Even when a speaker or a writer have feelings of hatred in their speech as to a public figure, their expression may be protected by the First Amendment, although their motives may come into play for purposes of defamation, libel or slander, i.e., tort liability. Id at 53.

Although the councilman did testify that his remarks were akin to a Rodney Dangerfield joke in that they were so preposterous that no-one would believe them (PPO Transcript, pgs 78-79) (see also *Falwell*, at 46 where the lower court found that the parody “was not reasonably believable”) his comments do not rise to the level of a parody. However, the *Falwell* case provides a good discussion

on First Amendment issues (attached as exhibit 3). Further, any determination that the councilman's speech was outrageous has an "inherent subjectiveness about it which would allow a jury to impose liability on the basis of the jurors' tastes or views, or perhaps on the basis of their dislike of a particular expression." *Id* at 55. "Speech does not lose its protected character ... simply because it may embarrass others or coerce them into action. ... And, as we stated in *FCC v Pacifica Foundation*, 438 US 726 (1978):

The fact that society may find speech offensive is not a sufficient reason for suppressing it. *Indeed, if it is the speaker's opinion that gives offense, that consequence is a reason for according it constitution protection.*

Supra, *Falwell* at 55-56 (citations omitted) (emphasis supplied).

d. "F*** the Draft"

One of the most cited cases on First Amendment protected speech is *Cohen v California*, 403 US 15 (1971). Paul Cohen was convicted in Los Angeles Municipal Court of violating a California criminal statute because he was wearing in the courthouse a jacket that bore the words: F*** the Draft. He was convicted because it was deemed that wearing a jacket with the questionable words might "disturb the peace" or provoke others into acts of violence. The Supreme Court reversed.

The Court stated in part:

How is one to distinguish this from any other offensive word? *Surely, the State has no right to cleanse public debate to the point where it is grammatically palatable to the most squeamish among us.* Yet no readily ascertainable general principle exists for stopping short of that result were we to affirm the judgment below. *For, while the particular four-letter word being litigated here is perhaps more distasteful than most others of its genre, it is nevertheless often true that one man's vulgarity is another's lyric.* Indeed, we think it is largely because governmental officials cannot make principle distinctions in this area that the Constitution leaves matter of taste and style so largely to the individual.

Id at 25 (attached as exhibit 4) (emphasis supplied).

In the present matter, there are no facts to conclude that the words spoken by the man incited any violence, provoked others into acts of violence or entered into the privacy of the councilwoman's home. In fact, the PPO hearing clearly indicated that the councilwoman learned of the remarks, not from a text from the man, but from an eavesdropping employee at South Lyon Cycle.

e. Thoughts

A clear protection of First Amendment rights was Madonna's comments at the women's march in Washington DC 2017. **"I have thought an awful lot about blowing up the White House" although highly offensive and repulsive, was not seen as a threat or call for violence.** The issue related to whether in the context in which the words were spoken, did a threat to peace or security appear to be present. As stated in *Watts*, *supra*, a focus on the contexts in which the comments were made is required before determining that the speech is prohibited. Moreover, it is highly unlikely that "thoughts" without any express intention to follow up on those "thoughts" can

be censored by government. “Whatever label is given to the evidence presented, however, we conclude that Dawson's First Amendment rights were violated by the admission of the Aryan Brotherhood evidence in this case, because the evidence proved nothing more than Dawson's *abstract beliefs*.” *Dawson v Delaware*, 503 U.S. 159, 167 (1992). (emphasis supplied). “[T]he government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” *Texas v. Johnson*, 491 U. S. 397, 414 (1989).

In the present matter, the councilwoman testified that she was uncomfortable about the fact that the man was “thinking” about her in a “sexual manner.” (PPO Transcript, pg 53). First, there was no testimony at the PPO hearing that the man was “thinking” about the councilwoman; it is doubtful that the councilwoman is telepathic. “Freedom of speech, freedom of the press, and freedom of religion all have a double aspect – freedom of thought and freedom of action. *Freedom to think is absolute of its own nature; the most tyrannical government is powerless to control the inward workings of the mind.*” *Jones v Opelika*, 316 US 584, 618 (1942) (emphasis supplied) (Justice Murphy, dissenting). Second, it is difficult to believe that the man can be held liable for “thoughts” the councilwoman allegedly believes that he had of her.

f. Defamation

It appears that a remedy the councilwoman may have against the man is a civil complaint for slander. However, she is an elected official and the standard is high for elected officials and public figures. Also, the man’s testimony that his comments amounted to a “bad joke” clearly indicated that he had no actual malice towards her. *Falwell*, supra.

There is no doubt that the councilman was expressing his opinion of the councilwoman when he made his insulting remarks. Opinions are protected by the First Amendment.

g. Illinois state legislator 2018

Just after Thanksgiving 2018, Illinois state legislator, Stephanie Kifowit was debating a bill that would increase monetary awards to families of veterans who died during an outbreak of Legionnaires’ disease in the state. Kifowit verbally attacked state representative Peter Breen and said the following:

I would like to make him a broth of Legionella and pump it into the water system of his loved ones so that they can be infected they can be mistreated they can sit and suffer by getting aspirin instead of being properly treated and ultimately die.

(see attached exhibit 5) (emphasis supplied)

Representative Breen has 2 adopted sons; one is 2 years old and the other is 2 months old. This death wish for an infant was deemed protected by the First Amendment and Ms. Kifowit was not brought before the state board of ethics. The context in which the words were spoken did not give rise to a belief that Kifowit had the ability to carry out her death wish, and she did apologize.

D. Conclusion

This discussion highlights some of the more prominent First Amendment cases and an analysis of the case law to some of the facts of this matter. Hopefully, the reader will gain greater

appreciation for our constitutional rights and the limits on the sovereign state from restricting, prohibiting, or chilling speech under both the state and federal constitutions. First Amendment issues are highly factual and must be analyzed within the **context** of which the speech was made. Further, any fact finder must be sure not to import their own subjective opinions into First Amendment issues because they have “no right to cleanse public debate to the point where it is grammatically palatable to the most squeamish among us.” *Cohen*, supra at 25. First Amendment analysis is not easy and most people get it wrong because they are tied to the emotions the spoken words have elicited, or the hate that the spoken words have spawn. However, the First Amendment does not protect speech that we find pleasing, complimentary or even slightly challenging. The First Amendment protects speech we do find insulting, offensive, derogatory, or hateful.

Rules and regulations that chill free speech unsettles First Amendment speakers. Whenever government interposes itself into the market place of speech and begins to determine what speech is permitted and what speech is not, even arguably lawful speech can be deterred because of the unwelcome challenge of violation of a statute or an ordinance. Once government begins to censor discourse as to its elected officials it becomes an untrustworthy defender of the rights of its citizens.

As Supreme Court Justice Louis Brandeis stated in his famous concurrence in *Whitney v. California*, 274 US 357, 376-377 (1927) (emphasis supplied):

To justify suppression of free speech, there must be reasonable ground to fear that serious evil will result if free speech is practiced. There must be reasonable ground to believe that the danger apprehended is imminent. There must be reasonable ground to believe that the evil to be prevented is a serious one... If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, *the remedy to be applied is more speech, not enforced silence*...Such, in my opinion, is the command of the Constitution. It is therefore always open to Americans to challenge a law abridging free speech and assembly by showing that there was no emergency justifying it.

President Obama also was quoted as saying that more speech is the remedy for hateful speech. In this matter, Brandeis’ statement that the remedy to speech that is false and evil is “more speech” not less speech. The public has come forth in this discussion with their opinions and they have rightfully applied more speech in expressing their discontent with the remarks of the man, rather than enforcing his silence. The wisdom of Brandeis is clearly at play today in our community as people speak out, both good and bad, with respect to the councilwomen and the councilman.

More speech, not enforced silence.

This memorandum was not solicited by any party to this matter and has been provided solely as an academic analysis of a First Amendment issue. I am a very strong, strong advocate of the First Amendment. This memorandum expresses my interpretation of the law regarding the First Amendment and the speech in question. My conclusions are my opinions and my opinions only.

The End

AGENDA NOTE

Consent Agenda: Item # /

MEETING DATE: March 25, 2019

PERSON PLACING ITEM ON AGENDA: Police Chief

AGENDA TOPIC: LUNgevity Foundation 5K Walk/Run

EXPLANATION OF TOPIC: The applicant is seeking approval to conduct the LUNgevity Foundation 5K Walk/Run on Saturday, May 18, 2019. The event would start in McHattie Park at 9:00 a.m., follow the Rail Trail to/from Volunteer Park and end in McHattie Park by 12:00 pm. The applicant has also requested use of the Pavilion in McHattie Park, with set-up starting at 7:30 a.m. No road closures are necessary, however, the applicant has requested an officer to assist with the crossing at Nine Mile Road.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: Application, Insurance Certificate, Hold Harmless Agreement

POSSIBLE COURSES OF ACTION: Approve/Do Not Approve the use of city facilities for the event.

RECOMMENDATION: Approve the use of city facilities.

SUGGESTED MOTION: Motion by _____, supported by _____ to approve the use of the Rail Trail for the LUNgevity Foundation 5K Walk/Run from 9:00 a.m. to 12:00 p.m. on Saturday, May 18, 2019, and to approve the use of McHattie Park and the Pavilion starting at 7:30 a.m.

03/25/19



SOUTH LYON POLICE DEPARTMENT

219 Whipple

South Lyon, Michigan 48178

Ph: (248)437-1773 / Fax: (248)437-0459

Lloyd T. Collins

Chief of Police

PARADE / DEMONSTRATION/EVENT APPLICATION

Date Application Submitted: _____

Requested Date of Event: 5/18/19

Applicant / Contact's Name: DAVID ELKINS

PH #: [REDACTED]

Applicant Address: [REDACTED] Hidden Creek Dr. South Lyon, MI 48178

Name of Event(s): Breathe Deep South Lyon

Business / Organizations Name (If Applicable): Longevity Foundation

Bus. Ph#: 312-407-6100

Bus. Address: 228 S. Wabash Ave St 700 Chicago IL 60644

President /CEO (Responsible for Event): Marin Sorgi

Direct Ph#: 240-454-0971

Development Director

Event START Time: 9 a.m. / p.m.

Event END Time: 12 a.m. (p.m.)

Approximate Number of PERSONS: 150 Organization Names: Longevity Foundation

Approximate Number of VEHICLES: 75 Types of Vehicles: _____

Approximate Number of ANIMALS: _____ SPECIFIC Animals: dog friendly

Amount of space to be maintained between and /all units in Parade: _____

Route to be traveled (Include Street Names and Turning Directions) or area to be utilized:

From McHaffie Pavilion, west on trail through McMunn onto path
past tube plant, turn left on path at water treatment plant from trail.
Continuing on path behind Hidden Creek through Princeton (Volunteer
Crossing guard) Continuing on path passing CMS+ Across
9 mile, (Police crossing guard) to the end of VolWalker park and back.

Applicant's SIGNATURE

Responsible Party's SIGNATURE

APPROVED [☒]

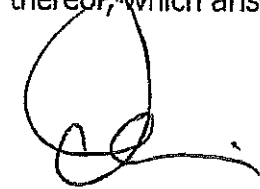
DENIED [☐]

Chief Christopher J. Sisk

HOLD HARMLESS

To the fullest extent permitted by law the David Elkins
(Name of Applicant/Organization)

agrees to defend, pay on behalf of, indemnify, and hold harmless the City of South Lyon, its elected and appointed officials, employees and volunteers, and others working on behalf of the City of South Lyon against any and all claims, demands, suits, or loss, including all costs connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the City of South Lyon by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, which arises out of, or is in any way connected or associated with this event.



Signature

3/5/19
Date



LUNGE-1

OP ID: JB

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/06/2019

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).

PRODUCER
S. Wolf and Associates, Inc.
2338 W. Morse
Chicago, IL 60645
Poly Kosyla

773-754-0849

CONTACT

NAME:

PHONE
(A/C, No, Ext): 773-754-0849FAX
(A/C, No):

E-MAIL

ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: Wesco Insurance Company

INSURER B: Hartford

INSURER C: QBE Insurance

INSURER D:

INSURER E:

INSURER F:

INSURED
Lungevity Foundation
Barbara Netter
228 S. Wabash - Suite 700
Chicago, IL 60604

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 SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	WPP1595388	03/01/2019	03/01/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 Emp Ben. \$ 1,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		WPP1595388	03/01/2019	03/01/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		WUM1595399	03/01/2019	03/01/2020	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) <input type="checkbox"/> Y/H If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	83 WEC BV5230	05/20/2018	05/20/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Accident/Volunteer		PHH500019	10/01/2018	10/01/2019	Excess Med 25,000

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

CERTIFICATE HOLDER

CANCELLATION

City of South Lyon
335 South Warren
South Lyon, MI 48390

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

NOTEPAD:HOLDER CODE
INSURED'S NAME Lungevity FoundationLUNGE-1
OP ID: JBPAGE 2
Date 03/06/2019

The City of South Lyon, all elected and appointed officials, all employees and volunteers, all board, commissions, and/or authorities and board members, including employees and volunteers thereof is an additional insured with respects to General Liability when required by written contract or agreement, but solely with respect to that organizations liability arising out of the named insured's operations or premises owned by the named insured.

It is understood and agreed by naming the City of South Lyon as additional insured, coverage afforded is considered to be primary and any other insurance the City of South Lyon may have in effect shall be considered secondary and/or excess.

It is understood and agreed that thirty (30) days, ten (10) days for non-payment of premium, advance written notice of cancellation, non-renewal, reduction, and/or material change shall be sent to: Mr. Paul Zelenak, City Manager, City of South Lyon, 335 S. Warren Street, South Lyon, MI 48178-1317.

Event: Breathe Deep South Lyon @ McHattie Park on May 18, 2019 from 6am-2pm

AGENDA NOTE

Consent Agenda 2

MEETING DATE: March 25, 2019

PERSON PLACING ITEM ON AGENDA: City Manager

AGENDA TOPIC: Board of Ethics Appointee

EXPLANATION OF TOPIC: We have received a candidate questionnaire from Craig Wilsher a resident of the City who wants to be more active in the community and requested to be placed on the Board of Ethics.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: City Candidate Questionnaire

POSSIBLE COURSES OF ACTION: Appoint or not appoint Craig Wilsher to the Board of Ethics.

RECOMMENDATION: Approve Mayor Dan Pelchat's nomination to appoint Craig Wilsher to the Board of Ethics.

SUGGESTED MOTION: Motion by _____, supported by _____ to approve Mayor Dan Pelchat's nomination for appointment to the Board of Ethics.



CANDIDATE QUESTIONNAIRE

The City of South Lyon wishes to thank you for your interest in serving as a Volunteer Citizen Representative on a Board, Commission or Committee. Your Candidate Questionnaire will be kept on file and entered for consideration for posted openings on any Board, Commission or Committee that you expressed an interest in for a period of two years. Please feel free to submit an updated Candidate Questionnaire to the City Clerk at any time.

Please be advised that the information contained in this Questionnaire is not confidential, and will be reviewed by the Mayor, City Council and other appropriate personnel as vacancies or openings occur on the various Boards, Commissions and Committees. This Candidate Questionnaire may also be included in any City Council Meeting Packet which is published and made available for public inspection in print and on the Internet. Your address, phone numbers and email will not be published, even in the Meeting Packet.

Please be advised that even though you may submit an application to serve on a Board, Commission or Committee, it does not guarantee that you will be appointed to that Board, Commission or Committee.

BOARDS/COMMISSIONS/COMMITTEES ON WHICH YOU WANT TO SERVE (please check up to five applicable boxes; see attachment for descriptions):

Appointed by Mayor-Confirmed by City Council

- ☐ Planning Commission
- ☐ Zoning Board of Appeals
- ☐ Cable Commission
- ☐ Cultural Arts Commission
- ☐ Historical Commission
- ☐ Parks and Recreation Commission
- ☐ Downtown Development Authority
- ☐ Housing Commission
- ☒ Board of Ethics

RECEIVED

DEC 27 2018

CITY OF SOUTH LYON
OFFICE OF TREASURER

RECEIVED

DEC 27 2018

CITY OF SOUTH LYON
OFFICE OF TREASURER



NAME Craig Wilsher CITY OF SOUTH LYON RESIDENT FOR 17 YEARS

ADDRESS [REDACTED] South Lyon, MI ZIP 48178

PHONE (home) [REDACTED] PHONE (business or cell) [REDACTED]

EMAIL [REDACTED]

OCCUPATION: Deputy Police Chief

ARE YOU A CITIZEN OF THE UNITED STATES? ☒ YES ☐ NO
IS ANY MEMBER OF YOUR FAMILY ON ANOTHER BOARD OR COMMISSION? ☐ YES ☒ NO
IF SO, WHO?

INTERESTS/REASONS/QUALIFICATIONS: (Resume may be attached)
I wish to become more active in my community. Please see resume.

BOARDS/COMMISSIONS/COMMITTEES ON WHICH YOU HAVE SERVED (LIST MUNICIPALITIES AND DATES):
Public Safety Educational Committee, Canton - 2014 - Present.

ELECTIVE OFFICES THAT YOU HAVE HELD:
None

OTHER ORGANIZATIONS: (Ex. Homeowners Association, Volunteer Groups, PTA, etc...)
St. Catherine's of Siena Athletic Committee, REPS Youth Mentoring, and
South Lyon Youth Basketball Coach

ADDITIONAL INFORMATION:

Signature Date

CRIMINAL JUSTICE PROFESSIONAL

Accomplished and dedicated law enforcement executive with 24 years of criminal justice experience in urban and suburban communities. Valued and consistently recognized for excellence in the conveyance of law enforcement, supervision, policy, and public and community relations. Highly developed supervision and administration skills through education, teaching, training and application.

Employs a professional situational and courageous leadership style with a focus on building trust among all stakeholders to uphold the mission, values and vision of the Canton Police Department.

CAREER HISTORY**CANTON POLICE DEPARTMENT**

Canton, MI | June 1998 – Present

Deputy Police Chief (January 2017 – Present)

Special Services Lieutenant (January 2014 - January 2017) | Patrol Lieutenant (August 2013 – January 2014)

Police Sergeant (November 2008 – August 2013) | Police Officer (June 1998 – August 2008)

Deputy Police Chief

Responsible for supervision and directing the vision, mission, values of the organization.

- Establish department goals, long-term strategic plans, objectives, directives, regulations, and procedures based upon the needs of Canton Township and the Police Department
- Continually monitor and evaluate the effectiveness and responsiveness of the Police Department
- Upholding and ensuring adherence of accreditation as *CALEA Accreditation Manager*
- Planning, coordination and award review for *Police Department Awards Committee*
- Responsible for effective delivery of police services to the community
- Budget preparation and implementation
- Active participation in community events
- Plan, organize, administer, review and evaluate the work of sworn and non-sworn staff
- Prioritize and allocate available resources for the organization
- Responsible for the oversight of police functions including community-oriented policing, patrol crime prevention, investigations, traffic enforcement and school services

Special Services Lieutenant

Responsible for the supervision, implementation, direction and maintenance of department standards within multiple administrative positions.

- Budgeted, supervised and provided direction of the *Detective Bureau* and *Ordinance Enforcement Unit*
- Created and disseminated information to the media as *Public Information Officer*
- Maintained and ensured adherence of accreditation as *CALEA Accreditation Manager*
- *Law Enforcement Information Network Terminal Agency Coordinator (L.E.I.N./T.A.C.)*
- Planned, coordinated and reviewed awards for *Police Department Awards Committee*
- Supervised and directed *Evidence Technician Unit*
- Worked collaboratively with Human Resources on the recruiting, interviewing and hiring of civilians, dispatchers, police officers and ordinance officers
- Reviewed and assessed competency of new police and dispatch recruits through Field Training Officers and Communication Training Officers
- Assessed, approved and implemented training based on the department needs
- Coordinated special events with multiple Canton Township departments
- Co-chaired *Canton Response to Hate Crime Coalition (CRHCC)*
- Supervised *School Resource Officers* and coordinated with school district administrators to resolve public safety issues related to school operations

Patrol Lieutenant

Responsible for the development and supervision of sergeants, officers and dispatchers.

- Supervised, budgeted, and purchased equipment and training for *Teaching, Educating and Mentoring (T.E.A.M.) Unit*, the *Bicycle Unit*, and the *Explorer Unit*
- Obtained proficiency in the application and implementation of the *CompStat* process

Police Sergeant

Responsible for the development and supervision of police officers and dispatchers. Assumed the responsibilities of Police Lieutenant as needed.

- Budgeted, purchased supplies, and ensured training and performance standards were met for *Canine Unit*
- Coordinated and assigned teaching responsibilities for *T.E.A.M.*
- Budgeted, purchased equipment, managed lab resources and training for the *Evidence Technician Unit*
- Budgeted, supervised, and directed case management for the *Detective Bureau*
- Processed forfeiture forms, coordinated with the Wayne County Prosecutor's Office, defense attorneys and owners of seized property

Police Officer

Provided for public safety by maintaining order, responding to emergencies, and protecting the community.

Successfully completed voluntary assignments in the following units:

- *Fire Investigation Team*
- *Field Training Officer*
- *Rapid Response Unit*
- *Evidence Technician Unit*
- *Detective Bureau*
- *Bicycle/Maintenance Officer*
- *Teaching, Educating and Mentoring (T.E.A.M.) Instructor*
- *Drug Awareness Resistance Education (D.A.R.E.) Instructor*

SCHOOLCRAFT COLLEGE

Livonia, MI | August 2017 – Present

Adjunct Instructor – Criminal Justice

Responsible for instruction, course preparation, developing instructional materials, grading and assessment, and professional responsibilities as a member of the faculty.

FERRIS STATE UNIVERSITY

Big Rapids, MI | September 2015 – Present

Adjunct Instructor – Criminal Justice

Responsible for instruction, course preparation, developing instructional materials, grading and assessment, and professional responsibilities as a member of the faculty.

DETROIT POLICE DEPARTMENT

Detroit, MI | June 1996 - June 1998

Police Officer, 2nd Precinct

Experienced in all levels of police activity including patrol operations, intelligence collection, investigative research, and promoting positive community relations.

WAYNE COUNTY SHERIFF'S OFFICE

Detroit, MI | November 1994 - June 1996

Non-Sworn Police Officer, Jail Division II

Responsible for jail security, intelligence collection, inmate supervision and investigations. Member of the *Cell Extraction Team*.

EDUCATION

<i>FBI National Academy, Graduate Certificate in Criminal Justice</i> FBI/UNIVERSITY of VIRGINIA, Quantico, VA	September 2016
<i>Master of Science in Technology Studies, Graduate Certificate in Homeland Security</i> EASTERN MICHIGAN UNIVERSITY, Ypsilanti, MI	April 2013
<i>Police Staff and Command</i> EASTERN MICHIGAN UNIVERSITY, Ypsilanti, MI	November 2010
<i>Master of Science in Business Administration, Graduate Certificate in Criminal Justice Leadership</i> MADONNA UNIVERSITY, Livonia, MI	May 2004
<i>Bachelor of Arts, Sociology</i> WAYNE STATE UNIVERSITY, Detroit, MI	July 1998
<i>Associates Degree, General Studies</i> SCHOOLCRAFT COLLEGE, Livonia, MI	December 1993

CIVIC POSITIONS

<i>PB&J Outreach, Volunteer</i>	Present
<i>South Lyon Recreation Authority, Youth Coach</i>	2015
<i>Saint Catherine of Siena Academy, Chairman of the Athletic Support Committee</i>	2014-2015
<i>REPS Youth Mentoring (Non-profit), Board Member & Advisor</i>	2014-2015

PROFESSIONAL AFFILIATIONS

<i>Michigan Association of Chiefs of Police, Member</i>	Present
<i>Southeastern Michigan Associate of Chiefs of Police, Member</i>	Present
<i>FBI – Law Enforcement Executive Development Association, Member</i>	Former
<i>FBI National Academy Association, Member</i>	Present
<i>International Association of Chiefs of Police, Member</i>	Present



Mayor

Daniel L. Pelchat

Council Members

Mary Parisien

Glenn Kivell

Rose Walton

Margaret J. Kurtzweil

Stephen Kennedy

Carl Richards

City Manager

Paul Zelenak

Clerk/Treasurer

Lisa Deaton

335 S Warren

South Lyon, MI 48178

Phone: 248-437-1735

Fax: 248-486-0049

www.southlyonmi.org

CITY OF SOUTH LYON

PROCLAMATION

Child Abuse Prevention and Awareness Month

WHEREAS, abuse and neglect are suffered by children in our communities, regardless of age, race, gender, or economic situation;

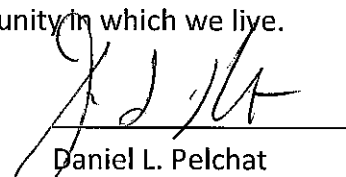
WHEREAS, one in 10 children will be sexually abused before the age of 18;

WHEREAS, this reported maltreatment is only a portion of the overall problem threatening our children, for so many cases go unreported, and today's technology has brought with it a new and dangerous form of child endangerment—the online predator;

WHEREAS, the devastating consequences of physical and emotional abuse of our children affects the community as a whole and finding solutions needs to be attended to by the community as a whole;

WHEREAS, **CARE House of Oakland County** works to break the cycle of child abuse and neglect; provides a protective circle of light and hope for a better life; advocates for the safety and protection of children; and partners with community organizations and agencies to offer programs and services aimed at preventing child abuse.

NOW, THEREFORE, BE IT RESOLVED, that I, Daniel L. Pelchat, Mayor of South Lyon, County of Oakland, State of Michigan, do hereby proclaim April 2019 as **Child Abuse Prevention and Awareness Month** in the City of South Lyon, and call on all citizens, community agencies, organizations, and businesses to increase their participation in efforts to prevent the abuse of our children, thereby strengthening and protecting the community in which we live.



Daniel L. Pelchat
Mayor South Lyon



40 YEARS OF HELPING CHILDREN.

CARE HOUSE OF OAKLAND COUNTY

44765 Woodward Ave.
Pontiac, MI 48341

(248) 332-7173

www.carehouse.org

Board of Directors

Marla Feldman
Chair

S. Eliot Weiner
Vice Chair

Donald R. Kegley, Jr.
Treasurer

Murry Pierce
Secretary

Denise Abrash
Kathy Abrash

Jeanne Asmaro
Diane K. Bert, PhD

Nikki Braddock

Melody Bryant

David Charlip

Christopher Corden

Vincent Giovanni

Elise Guidos

Susan Ivanovic, MD

Capt. Michael Johnson

Lisa MacDonald

Renee McLeod

Frederick Morsches

Lisa A. Payne

Maryclare Pulte

Hon. Henry Saad

Gabrielle L. Sims

Amber Stack

Shannon Striebich

Stacy Sturgill

Kathleen Trott

Cathy Weissenborn

Barbara Whittaker

Blythe Spitsbergen
Executive Director

March 1, 2019

Lisa Deaton
City of South Lyon
335 S. Warren St.
South Lyon, MI 48178

Dear Lisa:

I am writing on behalf of CARE House of Oakland County to ask the City of South Lyon to join other Oakland County municipalities by declaring April as Child Abuse Prevention Awareness Month. This is an excellent opportunity for your community to demonstrate its support in ending child abuse and to support the numerous victims who are among us.

CARE House of Oakland County, as you may know, has been working tirelessly to end this crime through our prevention, intervention, and therapy programs for child victims and their families.

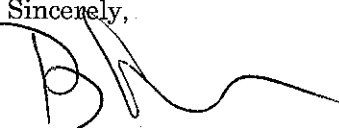
In addition, CARE House of Oakland County plants pinwheel gardens in the month of April as part of our effort to bring awareness to the accomplishments that have been made, and the work that still needs to be done. Will you join us by planting a pinwheel garden in your own community? Pinwheels for Prevention is all about celebrating childhood, and recognizing that every kid deserves one that is free from abuse.

We would be honored if you would sponsor an official proclamation which would recognize the month of April as Child Abuse Prevention and Awareness Month; read your proclamation to your supporters at your municipality's April meeting; and plant a Pinwheels for Prevention garden. Share a photo or two of your planting posted to our CARE House Facebook page!

We would also be pleased to attend your meeting in-person to share information and answer questions. A sample proclamation and information on the pinwheel garden are attached.

If you have any questions, please contact our Director of Community Education, Billie Ragland at 248.333.4937 or bragland@carehouse.org. Thank you for consideration of this special request that impacts all of our children.

Sincerely,


Blythe Spitsbergen
Executive Director



40 YEARS OF HELPING CHILDREN.

**CARE HOUSE
OF OAKLAND
COUNTY**

Celebrate
**CHILD ABUSE
PREVENTION
MONTH**



plant a
**PINWHEEL
GARDEN**

Why? Because pinwheels are fun! They represent a carefree childhood, and that's what we want every kid to have. Your kit includes 25 pinwheels to display during Child Abuse Prevention Month in April.

launch
your own
**PINWHEEL
PINUP
PROGRAM**

Our community loves to give back, so get your customers involved in Pinwheels for Prevention. Your kit includes either 25, 50 or 100 pinups. Your customer can donate for our cause and sign their name (minimum \$1 donation).

become a
**PINWHEEL
FOR
PREVENTION
SPONSOR**

Get your name out there! Each of our 200 Pinwheels for Prevention gardens throughout Oakland County includes your logo. And you get your very own Pinwheel Garden kit too.

learn to
**BREAK THE
CYCLE**

Want to learn more about protecting our children from abuse? Our team can visit your school or business, or even a group of your friends and fellow parents. You'll learn the 5 steps to protecting our kids.



Pinwheels for
PREVENTION®

**Prevent Child Abuse
Michigan**

Pinwheels for Prevention is all about Celebrating Childhood and Recognizing that every kid deserves one that is free from abuse.

WE NEED YOU. www.carehouse.org or call 248.332.7173

– VISION STATEMENT –

CARE House will impact the safety of every child in Oakland County through prevention, intervention and treatment.

INTERVENTION and TREATMENT

3,438
hours of
therapy

We co-ordinate and facilitate forensic interviews in a safe environment for children to disclose abuse, with trauma focused therapy for child victims and any non-perpetrating family members.

EARLY HEAD START

5,413
hours of
parent
education

Family Educators make weekly home visits to low-income and at-risk families with infants and toddlers. Parents and kids learn how to communicate better and increase empathy. Families benefit from each of these programs – learning new skills and tools to raise happy, healthy kids.

PREVENTION

7,678
individuals
trained in
abuse
prevention

Education for children and adults about how to break the cycle of abuse. By educating ourselves, we gain the power to collectively stop abuse in its tracks.

CASA

2,064
hours of
advocacy
for foster
children

Volunteer Court Appointed Special Advocates provide children in foster care with much needed consistency and stability. Guidance and support, both in and out of court proceedings, can make a critical difference until the child leaves the system.

Our SEEDS OF HOPE TOUR

is our way of welcoming you and teaching you about the children we help in Oakland County.



**Pinwheels for
PREVENTION®**

**Prevent Child Abuse
Michigan**

Upcoming dates

Tuesday, February 12 @ noon
Tuesday, March 12 @ noon
Saturday, March 23 @ 11am
Tuesday, April 9 @ noon
Wednesday, April 10 @ 6pm

Pinwheels for Prevention is all about Celebrating Childhood and Recognizing that every kid deserves one that is free from abuse.

We need you. www.carehouse.org or call 248.332.7173

Can't make it during that time?
Contact us and we'll set something up that works for you!
To schedule a tour, visit www.carehouse.org/tour, or contact Chad Ozias at 248.333.4936, or cozias@carehouse.org

AGENDA NOTE

New Business: Item # /

MEETING DATE: March 25, 2019

PERSON PLACING ITEM ON AGENDA: City Manager Paul Zelenak

AGENDA TOPIC: Aqua Guard Bar and Filter Screen Rebuild

EXPLANATION OF TOPIC: Wastewater Department is requesting to recondition/rebuild the existing Aqua Guard Bar and Filter Screen. This bar screen automatically removes a wide range of floating and suspended solids from influent wastewater. It provides both fine and coarse screening to protect pumps and all downstream processes. This screen has been in continuous operation for 16 years. The chain has stretched and rakes have been breaking. This has led to excessive wear on the elements causing holes in the screen, reducing the effectiveness of the bar screen to remove debris.

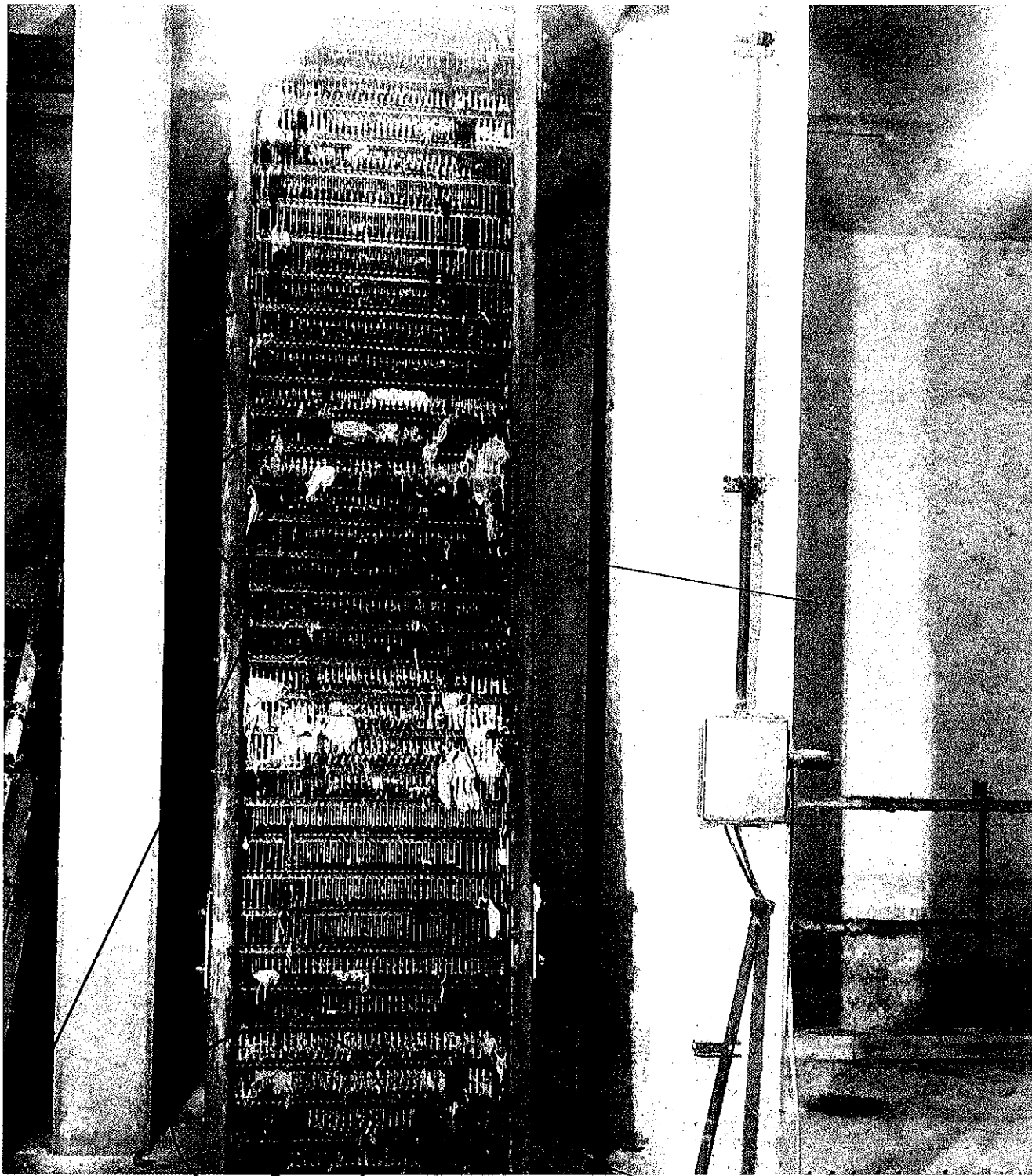
MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: Quote Attached. Pictures. This is Proprietary equipment provided by Parkson Corp.

POSSIBLE COURSES OF ACTION: Approve/deny the purchase.

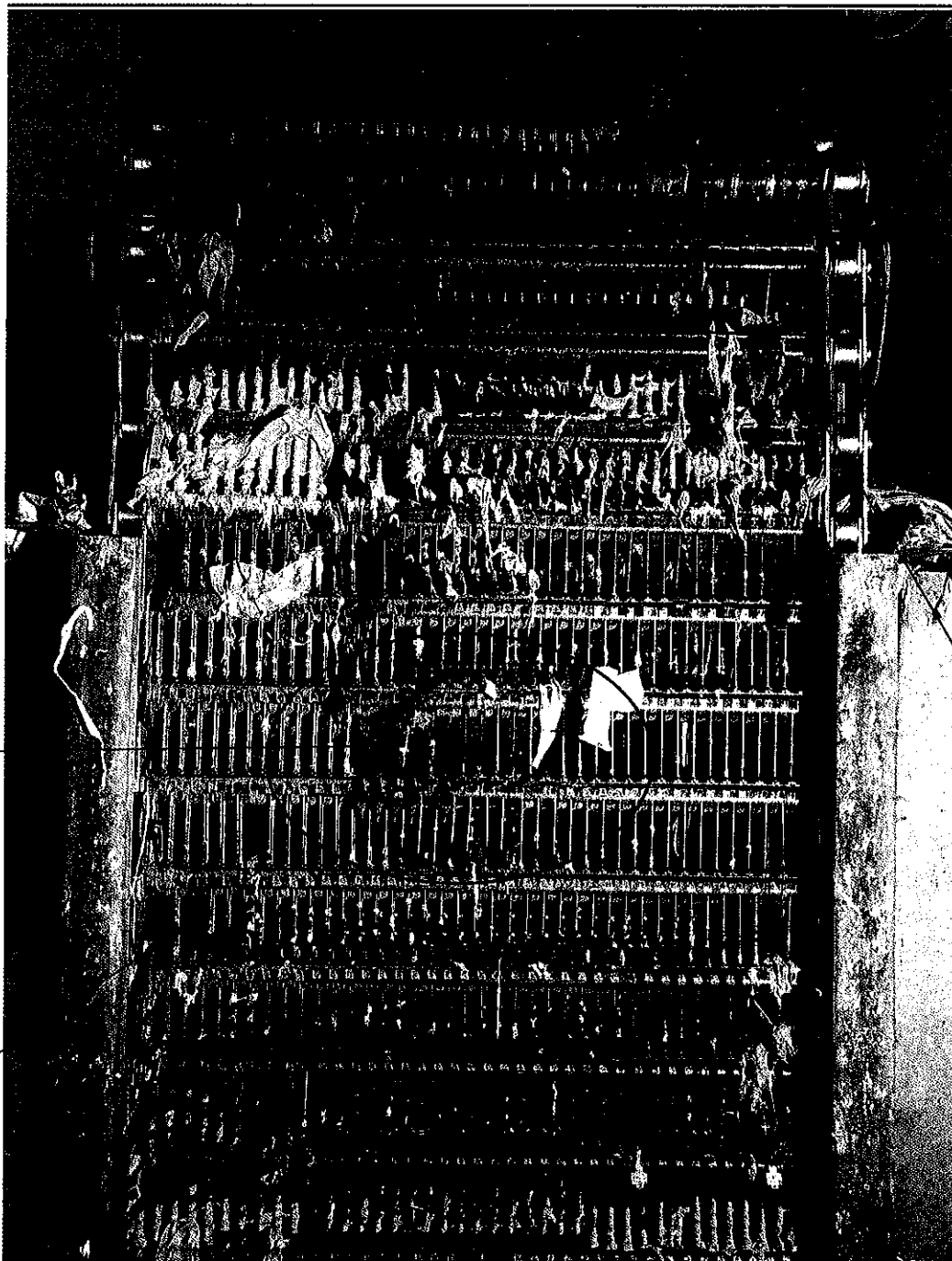
RECOMMENDATION: This item is not part of the current fiscal year budget. Due to the present condition and the criticality of this piece of equipment, it is recommended to repair this as soon as possible.

Award Contract to Parkson in the amount of \$88,950.00

SUGGESTED MOTION: Motion by _____, supported by _____ to approve



Holes in the screen elements



Holes in the screen elements and missing rakes (top right corner)



Missing Rakes



Manual Bar Screen



Quotation

NUMBER: B02011193

DATE: 3/13/19

TO: South Lyon WWTP

REF.: Project Name: South Lyon WWTP
Project Location: South Lyon, MI
Original Serial #: 20040102
Rebuild #: B02011193
Specification Sec.: N/A

Attn: Ron Beason
Tel: 248-207-0776
Fax:
E-Mail: rbeasonsouthlyon.com

Parkson Corporation proposes the reconditioning of your existing Aqua Guard® Continuous Self-Cleaning Bar/Filter Screen and is pleased to provide this **Rebuild/Retrofit Quotation** for the following:

ITEM 1 AQUA GUARD SELF-CLEANING BAR/FILTER SCREEN

Existing Units: 1
Unit #: 20040102
Model: AG-MN-A

1.A Existing Equipment:

Description

Screen Width: 2-10.5"
Solids Discharge Height: 23'
[as measured from the bottom of the channel to the discharge point]
Screen Angle: 85 °
Screen Opening: 6 mm
Application / Industry: Municipal

Materials of Construction

Elements: high impact polycarbonate alloy
Frame: 304 SS
Conveyor Chain: 304/410
Filter Element Shafts: 304 SS
Side Plate: high impact phenolic



1.B The following parts are recommended for replacement on one (1) unit:

200401	B02011193
South Lyon	
AG-MN-T(85), 2'10.5" x 23'-0 DH, 6MM	
<u>Item Description</u>	<u>Quantity</u>
Rotating Brush	1
Upper Guide Rails, AS/OH	2
Upper Guide Rails Mounting Spacers	6
Guide Rails, AS/OH, 10ft only	2
Lower Guide Rails	2
Lower Guide Rail Mtg. Spacers	4
Filler Plates	2
Discharge Pan Seal	1
Side Seals, Rubber	2
Flange Bearing, Brush	2
Pillow Block, Take-up	2
Flange Bearing, Drive shaft	1
Bushing, Drive Shaft	1
Bushing, Brush	1
Sprocket, Brush	1
Sprocket, Drive shaft	1
#40 Chain with Master Link	1
Chain Tightener	1
Nameplates & Labels Set	1
<u>Screen Assembly</u>	
Side Plates	332
Spacer Washers	332
Chain Link Assembly	332
Filter Shafts, Solid, 304ss	166
Elements, 6mm	6640
Snap Rings	332
<u>Front Seal Brush Set</u>	
Brush 2 x 28-1/4	1
Brush 3 x 28-1/4	1

ITEM 2 OFFERINGS - PURCHASE PRICE



2.A Parkson Certified On-site Rebuild with OEM Parts & Technicians (Per Unit)
.....\$88,915.00 USD

1. To ensure work site safety, customer/owner is responsible for thoroughly cleaning, pressure washing, disinfecting the unit.
2. All parts listed in [1B] above.
3. Parts will be shipped F.O.B. Factory, freight included to jobsite.
4. Removal and reinstallation of the unit in the channel is excluded.
5. Work performed by Parkson authorized field technicians, who will test run equipment at completion of rebuild.
6. Taxes excluded.

Rebuild / Start-Up Assistance - Included

Parkson will furnish one certified crew as required to rebuild unit, provide start-up and operator training. Dates of service to be scheduled upon receipt of Buyer's written request.

Additional start-up service can be purchased for \$1,000 per day plus travel and living expenses.

ITEM 3 OPTIONS FOR EXISTING UNITS(S) ONLY

1. Add/Deduct..... \$ USD

ITEM 4 SCHEDULE, VALIDITY, PAYMENT TERMS

4.A Schedule

- ☒ Submittal Phase not required on this project.
- ☒ Parts availability: Seventeen (17) weeks following receipt of acceptable written Purchase Order. The Parkson Project Manager will coordinate shipment of the unit to and from the factory with the customer for factory rebuilds.
- ☒ Field/on-site rebuild will be accomplished within 4 weeks after parts are delivered to customer, but in no event later than 90 days.
- ☒ Rebuild must be completed within 90 days after parts arrive on-site.

4.B Validity:

1. ☒ Price is valid for thirty (30) calendar days from Quotation date, for shipment of Equipment within the timetable stated above.

4.C Payment Terms:

1. ☒ 90% net 30 days upon shipment of parts or unit (if factory option) to site, 10% upon rebuild completion, not to exceed 90 days after shipment of parts should rebuild be delayed by other than Parkson. Payment terms for parts only without any factory labor or field service is 100% net 30 days from shipment.



ITEM 5 WARRANTY, DRAWINGS & MANUALS

5.A Mechanical Warranty:

1. As defined in Section XVI on the attached Standard Conditions of Sale, Parkson offers a one (1) year mechanical warranty for all new parts installed on the Aqua Guard screen by a) factory certified rebuild, b) on-site certified rebuild, or c) on-site supervised, certified rebuild.
2. Installation labor of parts or parts not ordered as part of a rebuild package have a 90-day warranty.

5.B Drawings and Installation, Operation and Maintenance (IO&M) Manuals:

- | | |
|------------------------|--------------|
| 1. Approval Drawings: | Not required |
| 2. Certified Drawings: | Not required |
| 3. IO&M Manuals: | Not required |

TERMS AND CONDITIONS:

This Quotation is governed by and subject to Parkson's Standard Conditions of Sale, which are incorporated by reference and accessible at: <http://www.parkson.com/files/documents/AFM-terms.pdf>.

PATENTS:

The Equipment and/or process quoted herein may operate under one or more U.S. patents. The Purchase Price includes a one-time royalty payment (if any), which provides the Buyer with immunity to operate the Equipment specified in the Quotation under any applicable patents.

CLARIFICATIONS AND EXCEPTIONS:

Section _____:

AGENDA NOTE

New Business # 2

MEETING DATE: March 25, 2019

PERSON PLACING ITEM ON AGENDA: City Attorney

AGENDA TOPIC: First Reading of Wireless Facilities in Public Rights-of-Way Ordinance

EXPLANATION OF TOPIC: Recently adopted Federal and State legislation generally require local municipalities to approve requests to install antennas and related wireless facilities, utility poles and other support structures within the public rights-of-way subject to some exceptions and limitations. The Federal and State laws regarding these wireless facilities are complicated, and they are inconsistent with one another.

We recommend adopting an ordinance to regulate various aspects of these wireless facilities that will be constructed and/or installed in the City's rights-of-way. The proposed ordinance also attempts to reconcile the differences between the Federal and State laws. Generally, the ordinance proposes to regulate wireless facilities in the public rights-of-way in the same manner as other infrastructure within the right-of-way which will require applications for permits, required submissions with applications, compliance with safety protection standards and aesthetic, spacing and underground standards, and other permit terms and conditions similar to METRO Act permits. There are also fee requirements, annual payments depending on the type and height of the wireless facility or supporting structure, and bonding requirements.

The Federal and State law also impose time deadlines, or "shot-clocks," requiring the City to approve or deny an application.

The ordinance also addresses issues relating to collocation of wireless facilities and to use of existing poles or structures versus replacing or installing new ones.

Because of the timing, there is also a proposed Resolution to Establish Standards for Wireless Facilities and Other Infrastructure Installations in Public Rights-of-way which can be adopted prior to the April 14, 2019 deadline.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Wireless Facilities in Public Rights-of-Way Ordinance

POSSIBLE COURSES OF ACTION: Approve/Deny/No Action/Postpone

RECOMMENDATION: Approve first reading

SUGGESTED MOTION: Motion by _____ and supported by _____ to approve the first reading of the Wireless Facilities in Public Rights-of-Way Ordinance amending Chapter 87 of the City of South Lyon Code of Ordinances to reorganize existing sections 87-1 through 87-21 as Article I, and to add Article II, Sections 87-51 through 87-68.

ORDINANCE NO. __-19

**CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN**

AN ORDINANCE TO AMEND THE CITY OF SOUTH LYON CODE OF ORDINANCES, CHAPTER 87 – TELECOMMUNICATIONS TO REORGANIZE EXISTING SECTIONS 87-1 THROUGH 87-21 TO CREATE ARTICLE I – RIGHTS-OF-WAY OVERSIGHT, AND TO ADD A NEW ARTICLE II – WIRELESS FACILITIES IN RIGHTS-OF-WAY, TO ESTABLISH REQUIREMENTS, STANDARDS, AND REGULATIONS FOR ACCESS TO AND USE OF PUBLIC RIGHTS-OF-WAY FOR WIRELESS FACILITIES THAT ARE NOT TELECOMMUNICATION FACILITIES UNDER ARTICLE I OF CHAPTER 87.

THE CITY OF SOUTH LYON ORDAINS:

PART I. Amendment of Chapter 87 to Reorganize Existing Sections 87-1 Through 87-21 to Create Article I – Rights-of-Way Oversight. Chapter 87 – Telecommunications, of the Code of Ordinances of the City of South Lyon, is hereby amended to reorganize Sections 87-1 through 87-21 to create a new “Article I – Rights-of-Way Oversight” which shall include existing Sections 87-1 through 87-21 unchanged.

PART II. Amendment of Chapter 87 to Add a New Article II – Wireless Facilities in Rights-of-Way. Chapter 87 – Telecommunications, of the Code of Ordinances of the City of South Lyon, is hereby amended to add Article a new Article II – Wireless Facilities in Rights-of-Way, to read as follows:

ARTICLE II. – WIRELESS FACILITIES IN RIGHTS-OF-WAY

Sec. 87-51. – Purpose.

This article is adopted in response to new and differing State and Federal regulations, including Michigan Public Act No. 365 of 2018 (MCL 460.1301 – 460.1339), 47 USC 1455, Rules adopted by the Federal Communications Commission (FCC) as 47 CFR 1.40001 (now 47 CFR 1.6100) and 47 CFR 1.6001 – 1.6003, and the FCC’s Declaratory Ruling and Third Report and Order in FCC 18-133, that infringe on the city’s constitutional and proprietary rights and interests in its public right-of-way and the reasonable control thereof under Article VII, Section 29 of the Michigan Constitution of 1963, the city charter, and other applicable laws, which would allow the city to require public right-of-way users to obtain a franchise or permit from the city. Without waiving those city rights, this article is adopted for the purpose of complying with those State and Federal regulations by providing for and regulating access to and ongoing use of, public rights-of-way for wireless facilities that are not considered to be telecommunications facilities covered by the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) (“Act”), and permits applied for and issued under that Act and article I of this chapter.

Sec. 87-52. – Definitions.

As used in this article, the following words and phrases shall have the indicated meanings:

Applicant means a wireless provider that applies for a permit or approval for wireless facilities, a wireless support structure, or utility pole in a public right-of-way.

Collocation or collocate means to place, replace, modify, mount, or install wireless facilities on or adjacent to a wireless support structure or utility pole, but does not include make-ready work or the installation of a new wireless support structure or utility pole.

Eligible facilities request means a request for modification of a lawfully existing wireless tower or lawfully existing wireless base station in a public right-of-way that involves collocation, removal, or replacement of wireless facilities that will not substantially change the physical dimensions of the wireless tower or based station support structure, with wireless tower, wireless base station, and substantial change defined in Section 87-59.

Micro wireless facility means a small wireless that is not more than 24 inches in length, 15 inches in width, and 12 inches in height that does not have an exterior antenna more than 11 inches in length.

Public right-of-way means the area on, above, or below a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses, whether owned or controlled by, or under the jurisdiction of, the city or county, state, or federal government but does not include a private right-of-way, limited access highway, land owned or controlled by a railroad, and railroad infrastructure.

Small wireless facility means a wireless facility that meets each of the following requirements:

- (a) Each antenna is enclosed or would fit within an enclosure of not more than 6 cubic feet in volume.
- (b) All other wireless facilities associated with all antennas at a single location are not more than 28 cubic feet in volume, with electric meters, telecommunications demarcation boxes, grounding equipment, power transfer and cut-off switches, vertical cable runs, and concealment elements required by the city excluded from that calculation.

Utility pole means a pole or similar structure other than a wireless support structure, that is or may be fully or partially used for cable or wireline communications, electric distribution, lighting, traffic control, signage if the pole is at least 15 feet in height above ground level, or a similar function, or that is designed to support small wireless facilities.

Wireless facility or facilities means equipment and components at a fixed location that enables or facilitates the provision of wireless services, including antennas, transmitters, receivers, coaxial or fiber-optic cable, equipment shelters or cabinets, power supplies, comparable equipment, and miscellaneous hardware, but excluding structures or improvements on, under,

or within which the equipment is collocated, telecommunication facilities as defined in section 87-3, and a wireline backhaul facility.

Wireless provider means a person or entity that provides wireless services and a person or entity that builds or wireless facilities or support structures for a disclosed provider of wireless services.

Wireless service means a wireless communication service that is permitted or authorized by the Federal Communications Commission, which includes but is broader than personal wireless services as defined in 47 USC § 332.

Wireless service provider means a person or entity that provides wireless services.

Wireless support structure means a freestanding structure designed to support or capable of supporting small wireless facilities, but does not include a utility pole.

Sec. 87-53. - Required permits and approvals to be applied for and complied with.

(a) Wireless facilities, wireless support structures, and utility poles shall not be installed, used, operated, or maintained in a public right-of-way without complying with the applicable regulations in this article and first obtaining and thereafter complying with the terms and conditions of all of the following permits or approvals to be applied for from the indicated city department or division:

(1) A Right-of-Way Permit from the Department of Public Works to be applied for, reviewed, and issued or denied under Article II of Chapter 82 of the Code and the standards and regulations in this article.

(2) Required building, electrical, and other construction code permits from the Building Department to be applied for, reviewed, and issued or denied under Article II of Chapter 18 of the Code.

(3) Any approvals or permits required through the Department of Planning and Zoning to be applied for, reviewed, and issued or denied under the Zoning Ordinance in Chapter 102 of the Code.

(b) A permit or approval shall not be required and fees or rates shall not be payable for:

(1) Replacement of a small wireless facility with a small wireless facility that is not larger or heavier and complies with applicable codes.

(2) Routine maintenance of small wireless facilities, wireless support structures, or utility poles.

(3) The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.

(c) Any construction code and Zoning Ordinance permits or approvals for wireless facilities, wireless support structures, or utility poles shall be conditioned on the issuance of and compliance with the Right-of-Way construction or engineering permit and permit conditions for those facilities, support structures, or utility poles.

(d) The time period for the city to act on a wireless provider permit or approval application for wireless facilities, support structures, or utility poles under this article shall not commence until the city has complete applications for all of the required city permit or approvals listed in subsection (a) for those wireless facilities, support structures, and utility poles.

(e) In addition to city permits and approvals, any required permits from other governmental entities that also have an ownership, control, or jurisdictional interest in the public right-of-way must be obtained prior to construction, and thereafter complied with. Obtaining a permit for wireless facilities, wireless support structures, or utility poles from another governmental entity who share the public right-of-way with the city does not relieve a wireless provider from the need to comply with the standards in this article and the city reserves the right to require that a Right-of-Way Permit under this article and Article II in Chapter 82 of the Code be applied for, obtained, and complied with.

(f) To the extent applicable and allowed under existing franchises, permits, and applicable law, the permit requirements under this article shall apply to all new installations in the public right-of-way by electric and gas public utilities, incumbent or competitive local exchange carriers, fiber providers, and cable television video services providers.

Sec. 87-54. - Types of wireless facilities and applicable standards.

(a) The following types of wireless facilities, support structures, and utility poles in the public right-of-way are addressed and subject to the application, review, and other standards and regulations in the indicated section of this article:

- (1) Section 87-58 for collocation of a small wireless facility on an existing wireless support structure or utility pole.
- (2) Section 87-59 for collocation of a small wireless facility on a new or replacement wireless support structure or utility pole.
- (3) Section 87-60 for eligible facilities requests.
- (4) Section 87-61 for collocation of wireless facilities other than small wireless facilities and eligible facilities requests.
- (5) Section 87-62 for replacement and new wireless support structures or utility poles not involving small wireless facilities or eligible facilities requests.

(b) An application for a permit or approval required under this article shall conspicuously identify the type of wireless facilities proposed and the ordinance section(s), as listed in subsection (a), the applicant believes to be applicable.

Sec. 87-55. - Permit applications for Right-of-Way Construction or Engineering Permit.

(a) Applications for a Right-of-Way Permit under Article II of Chapter 82 of the Code and the standards and regulations in this article shall be filed with the Department of Public Works and shall include plans for the proposed wireless facilities, wireless support structures, and utility poles in a quantity, form, size, and scale required by the City's applicable Engineering Design Standards and applicable ordinances, with the Department of Public Works allowed to waive or relax a standard to the extent it is not applicable or necessary for review of the application. The plans shall include a cover sheet with the project name, wireless provider applicant name and contact information, a general location map and sheet index, and detailed scaled location and elevation drawings for each site for which the permit is requested that show, describe, and include the following:

- (1) The sides and specific locations on named streets, with geographic information system (GIS) coordinates.
- (2) The location and edges of the public right-of-way and portion used for vehicular travel, and the location and dimensions of existing above-ground structures, utilities, sidewalks, driveways, buildings, signs, traffic lights and signs, poles, curbs, buildings, utility cabinets, utility pole guy wires, shelters, benches, storm drains, wireless support structures, utility poles, other improvements, and trees within 75 feet of the proposed location.
- (3) Existing below ground structures including but not limited to water, sanitary sewer, storm sewer, electric, gas, cable, communication lines, and conduit.
- (4) Information necessary to demonstrate compliance with the public, utility, and traffic safety and protection standards in section 87-56.
- (5) Information necessary to demonstrate compliance with the aesthetic, spacing, and undergrounding standards in section 87-57.
- (6) Information necessary to demonstrate compliance with the applicable standards for the type of wireless facilities, support structure, or utility poles for which approval is requested under sections 87-58 through 87-62.

(b) In addition to Identification of the type of proposed wireless facility and applicable ordinance section as required in section 87-54(b) and the plans described in subsection (a), applications shall include:

- (1) Certified documentation that each proposed wireless support structure or utility pole can structurally accommodate the proposed wireless facilities and documentation of its ability to accommodate the proposed and any future wireless facilities.
- (2) Manufacturer, model number, height, width, depth, weight, and volume in cubic feet of all proposed wireless facilities individually and collectively, specifically

including the total cubic feet of each antenna and the total cubic feet of all other wireless facilities.

(3) The identity of the wireless provider applying for the permit and the owners of and wireless providers that will use the wireless facilities, wireless support structures, and utility poles for which the permit is requested, and for each of those entities the following:

- (i) Legal and any assumed names, and resident agent name, if any.
- (ii) Local, mailing, and registered office addresses.
- (iii) Name, title, and authority of signatory for that entity.
- (iv) Contact person name, address, phone numbers and email address.

(4) Documentation that the owner of the proposed wireless facilities, wireless support structures, and utility poles has approved what is disclosed in the plans for the requested permit.

(5) A written certification by the applicant that the wireless facilities for which the permit is requested will be operational within one (1) year after permit issuance.

(6) A certificate of compliance with FCC rules related to radio frequency emissions from the proposed wireless facilities.

(7) Copies of any required permits from other governmental entities that also have an ownership, control, or jurisdictional interest in the public right-of-way or documentation that those permits have been properly applied for.

(8) Documentation of the date when complete applications for construction code permits and any required Zoning Ordinance permits or approvals were or will be made.

(9) Identification of contractors who will be working in the public right-of-way and contact persons and information for those contractors.

(10) A construction schedule indicating the period of time for the work from commencement to completion and restoration of all public right-of-way disturbed by the work.

(11) A traffic control plan for when work is being performed in the public right-of-way.

(12) Photo simulations of existing and proposed conditions.

(13) A video recording of the location showing the staging and work areas where construction machinery will be driven or positioned off the traveled roadway.

(14) Documentation of the applicant's ability to provide any required bond under section 87-65.

(15) Payment of any application, review, or processing fee established by resolution of the city council under section 87-66.

(16) For applications that would involve exceeding the height limits under Public Act No. 365 of 2018, to the height limits allowed by 47 CFR 16.001 - 16.003, a statement of whether the applicant agrees to pay the annual recurring fees recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133.

(c) An application may be for up to 20 collocations by the applicant of substantially similar small wireless facilities for placement on similar types of wireless support structures or utility poles.

Sec. 87-56. - Public, utility, traffic, and pedestrian safety protection standards.

(a) Wireless facilities, wireless support structures, utility poles, and any related equipment shall be designed, installed, used, and maintained in compliance with the following standards that are intended to avoid material interference with the safe operation of traffic equipment, sight lines and clear vision areas, Americans with Disabilities Act (ADA) compliance regarding pedestrian access or movement, and the maintenance and full unobstructed use of public utility and drainage infrastructure:

(1) Shall have a separation distance of at least five (5) feet from a sidewalk and the back of a curb, or if there is no curb, from the edge of the improved public right-of-way improved used for motor vehicle travel.

(2) Shall have a separation distance of at least five (5) feet from the edge of any driveway and not be positioned to obstruct the ability to view traffic on the road from a vehicle exiting a driveway.

(3) Shall be located outside the corner clearance area under the Zoning Ordinance and comply with any other traffic safety clear vision standard under any city or other governmental ordinance, code, standard, rule, or regulation.

(4) Shall not cause a physical or visual obstruction or safety hazard to pedestrian or vehicular traffic.

(5) Shall comply with any setback, separation, or isolation distance requirement from existing or planned public utilities and lawful structures in the public right-of-way under any city ordinance, code, or design standards.

(6) The lowest part of wireless facilities shall be located at a height that is at least ten (10') feet above existing grade or higher as necessary to not pose a hazard or obstruction to persons or vehicles and to provide sufficient separation distance from power lines and similar facilities.

(7) Wireless support structures and utility poles shall not have more collocated wireless facilities than the structure or pole is designed and constructed to safely accommodate as documented by a certified structural analysis.

(8) Construction and traffic control during construction shall be in accordance with the Michigan Manual of Uniform Traffic Control Devices, Michigan Vehicle Code, and the directives of the city public safety department.

(9) Shall not interfere or prevent compliance with ADA standards regarding pedestrian access and movement.

(10) Shall comply with all conditions of any required permits from other governmental entities.

(b) To provide compliance with one or more of the standards in subsection (a), the city may require that a proposed collocation involving a new or replacement utility pole be moved by up to 75 feet for collocation on a designated existing wireless support structure or utility pole or to a designated location for the new or replacement utility pole. The applicant may request a waiver of this requirement by demonstrating in writing that the applicant cannot secure the right to comply with the city's requirement on reasonable terms and conditions and that compliance imposes unreasonable technical problems or significant additional costs.

(c) An applicant may request a waiver or modification of one or more of the standards in subsection (a) by demonstrating in writing that compliance will prevent a disclosed wireless service provider that would be using the proposed wireless facilities, support structure, or utility pole, from providing personal wireless services in violation of 47 USC § 332.

Sec. 87-57. - Aesthetic, spacing, and undergrounding standards.

(a) Wireless facilities, wireless support structures, utility poles, and any related equipment shall be designed, installed, used, and maintained in compliance with the following standards that are intended to conceal such facilities, structures, and poles to the extent technically feasible in an effort to avoid or remedy the tangible and intangible public harm of installations in the public right-of-way that are unsightly, out-of-character with the surrounding area, or could result in the direct or indirect removal of trees and other aesthetically desirable features and appearances:

(1) Shall be strictly limited to the location and what is shown on the approved plans.

(2) Wireless facilities shall be treated and colored to be visually compatible with the wireless support structure or utility pole they are collocated on or associated with by painting or other coating. For existing wood utility poles, a finish color of conduit that is zinc, aluminum, or stainless steel is considered visually compatible.

(3) Wireless facilities shall be compatible in scale and proportion to the structure or pole upon which they are to be attached, using the smallest and least intrusive technology available, with the diameter of top mounted antennas to not exceed twice the diameter of the top of the structure or pole.

- (4) Antennas shall be top mounted and aligned with the centerline of wireless support structures or utility poles, or side mounted with the vertical centerline of the antenna parallel with the support structure or utility pole.
- (5) All cables and wires shall be placed in conduit or otherwise properly secured and concealed on the wireless support structure or utility pole.
- (6) No more than three (3) antennas may be collocated on a utility pole and only if that number of antennas can be designed and accommodated in a manner that complies with all requirements of this section.
- (7) Existing trees in the public right-of-way shall not be removed or trimmed to facilitate the installation, use, or maintenance of wireless facilities.
- (8) Wireless facilities, support structures, and utility poles shall not be located within the drip line (critical root zone) of an existing tree in or adjoining the public right-of-way.
- (9) Ground mounted wireless facilities, including equipment cabinets and enclosures, shall be located as close as legal and technically feasible to the wireless support structure or utility pole they are associated with.
- (10) Ground mounted wireless facilities, including equipment cabinets and enclosures, shall be concealed to the extent technically feasible by matching color and materials to existing above-ground structures, landscaping, and placement to take advantage of concealment provided by the proposed structure or pole, existing landscaping, or above-ground improvements.
- (11) Wireless facilities shall not project more than two (2) feet from any side of the utility pole or wireless support structure upon which they are collocated.
- (12) Wireless facilities shall not be illuminated unless required by law or integral to a concealment design such as appearance as or on a street light pole.
- (13) New and replacement utility poles shall be located in alignment with existing utility poles on either side.
- (14) New and replacement utility poles shall be located equidistance from existing utility poles on either side.
- (15) New and replacement utility poles shall be made of the same material and have the same visual appearance as the existing utility poles on either side. If those existing utility poles are different, the new or replacement pole shall be metal or fiber if either existing pole is of that material and shall otherwise be the same material as the newer of the existing poles.
- (16) Unless a greater height is approved under this article as required by state or federal law, wireless support structures and utility poles shall not be taller than the existing utility poles on either side.

(17) In a public right-of-way abutting residentially used or zoned property, new wireless facilities, wireless support structures, and utility poles shall only be located in line with a side lot line.

(18) New wireless facilities shall not be collocated on an existing wireless support structure or utility pole that is directly in front of an existing residential dwelling or that is along the frontage of a property containing a building of historic significance under federal, state, or other laws.

(19) New wireless facilities, wireless support structures, and utility poles shall not be located in front of an existing residential or commercial structure.

(20) In a public right-of-way abutting residentially used or zoned property, wireless facilities that require a cooling system shall use a passive system, or if a motorized system is technologically required, shall use a system and fan with the lowest available noise level.

(21) Except for a label containing the name and emergency contact telephone number for the wireless provider responsible for the wireless facilities and wireless support structure or utility pole, information that identifies them and their location, and any information required to be displayed by state or federal law, no signage shall be allowed, with all manufacturer decals that are not needed for safety reasons to be removed or painted over.

(22) Regardless of the number of antennas that are collocated on a utility pole or wireless support structure, the other wireless facilities associated with those antennas shall not exceed 28 cubic feet in volume.

(23) Collocations on and replacement or new utility poles or wireless support structures in a public right-of-way that has been specifically designated or identified by ordinance or city council resolution for a program of improvement, redevelopment, beautification, regulation, or other planning goals, shall be subject to city review and approval of the design, appearance, and method and height of attachment to assure consistency, compatibility, and uniformity with the standards, objectives, installations and streetscape appearance planned for that public right-of-way under the program.

(b) To provide compliance with one or more of the standards in subsection (a), the city may require that a proposed collocation involving a new or replacement utility pole be moved by up to 75 feet for collocation on a designated existing wireless support structure or utility pole or to a designated location for the new or replacement utility pole. The applicant may request a waiver of this requirement by demonstrating in writing that the applicant cannot secure the right to comply with the city's requirement on reasonable terms and conditions and that compliance imposes unreasonable technical problems or significant additional costs.

(c) Above ground wireless facilities and support structures and utility poles shall not be allowed in an area designated by the city council solely for underground or buried cable and utility facilities if all of the following apply:

(1) The city has required all cable and utility facilities, other than city, street light, and traffic signal poles and attachments, to be placed underground by a date that is not less than 90 days before the submission of the application.

(2) The city does not prohibit the replacement of city poles by a wireless provider in the designated area.

(d) An applicant may request a waiver or modification of one or more of the standards in subsections (a) and (c) by demonstrating in writing that compliance will prevent a disclosed wireless service provider that would be using the proposed wireless facilities, support structure, or utility pole, from providing personal wireless services in violation of 47 USC § 332.

(e) To the extent applicable and allowed under existing franchises, permits, and applicable law, the permit requirements under this article shall apply to all new installations in the public right-of-way by electric and gas public utilities, incumbent or competitive local exchange carriers, fiber providers, and cable television video services providers.

Sec. 87-57. - Collocation of small wireless facilities on existing structures and poles.

(a) This section applies to the collocation of small wireless facilities on existing wireless support structures or utility poles.

(b) For collocations where the applicant wants the annual rate limited to what is allowed by MCL 460.1313, wireless facilities shall not extend more than five (5) feet above the height of the wireless support structure or utility pole they are collocated on.

(c) If the applicant has agreed to pay the annual recurring fee recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133, subject to compliance with subsection (b), the collocation shall not result in a height that exceeds the greater of the following overall heights of the structure or pole and collocated wireless facilities:

(1) 50 feet.

(2) A height that is 10% more than the height of the existing structure or pole.

(3) A height that is 10% more than the height of immediately adjacent wireless support structures or utility poles in the public right-of-way.

(d) Subject to the possible time adjustments in MCL 460.1315 and 47 CFR 1.6003 that are included in the Shot Clock Appendix to this article, the city shall approve or deny an application for a permit under this section within 60 days of all applications for the requested facilities being submitted and complete.

(e) A permit application under this section may only be denied for reasons listed in section 87-63(b).

Sec. 87-59. - Collocation of small wireless facilities on replacement/new structures and poles.

(a) This section applies to the collocation of small wireless facilities on new or replacement wireless support structures or utility poles.

(b) For collocations where the applicant wants the annual rate limited to what is allowed by MCL 460.1313, wireless facilities shall not extend more than five (5) feet above the height of the wireless support structure or utility pole and the new or replacement wireless support structure or utility pole used for collocation shall not exceed 40 feet in height above ground level.

(c) If the applicant has agreed to pay the annual recurring fee recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133, the collocation shall not result in a height that exceeds the greater of the following overall heights of the new or replacement structure or pole and collocated wireless facilities:

(1) 50 feet.

(2) For a replacement structure or pole, a height that is 10% more than the height of the structure or pole being replaced.

(3) A height that is 10% more than the height of immediately adjacent wireless support structures or utility poles in the public right-of-way.

(d) Subject to the possible time adjustments in MCL 460.1315 and 47 CFR 1.6003 that are included in the Shot Clock Appendix to this article, the city shall approve or deny an application for a permit under this section within 90 days of all applications for the requested facilities being submitted and complete.

(e) A permit application under this section may only be denied for reasons listed in section 87-63(b).

Sec. 87-60. - Eligible facilities requests.

(a) This section applies to eligible facilities requests as defined in section 87-52.

(b) For purposes of this section:

(1) Wireless tower means a structure in a public right-of-way, the sole or primary purpose of which is to support antennas and associated wireless equipment for the provision of wireless services.

(2) Wireless base station means equipment or a structure (other than a wireless tower), that at the time of the application supports or houses wireless facilities at a fixed location that enables wireless service between user equipment and a communications network.

(c) An eligible facilities request application shall include the documents, plans, specifications, and statements necessary to establish that:

- (1) The wireless tower or base station is existing.
- (2) The wireless tower or base station to be modified is in compliance with all applicable city, state, and other local zoning, siting, and regulatory reviews, permits, and approvals.
- (3) Modification is limited to collocation, removal or replacement of wireless equipment.
- (4) There will be no "substantial change" to the wireless tower or base station.

(d) For purposes of this section substantial change means any of the following:

- (1) Increasing the height over the height approved as of February 22, 2012, by more than 10% or more than 10 feet, whichever is greater.
- (2) Adding wireless facilities that would protrude from the edge of the structure by more than six (6) feet.
- (3) The installation of new ground equipment cabinets if there are no pre-existing ground cabinets.
- (4) If there are existing ground equipment cabinets, the installation of ground cabinets that are 10% larger in height or overall volume than the existing cabinets.
- (5) Excavation or deployment outside the perimeter of the area occupied by the wireless tower or base station and existing wireless facilities.
- (6) A modification that does not comply with prior approval conditions for the wireless support structure or base station unless the noncompliance is limited to a modification that would not be a substantial change under the above standards in subsections (1) through (5).
- (7) A modification that would defeat or be incompatible or inconsistent with existing elements of a wireless tower or base station designed to conceal or minimize its appearance as a wireless tower or base station.

(e) Subject to the possible time adjustments under 47 CFR 1.6100 that is included in the Shot Clock Appendix to this article, the city shall approve or deny an application for a permit under this section within 60 days of all applications for the requested facilities being submitted and complete.

Sec. 87-61. - Collocation of wireless facilities other than small wireless facilities and eligible facilities requests.

(a) This section applies to the collocation of wireless facilities that are not described in sections 87-58, 87-59, or 87-60.

(b) Collocations shall comply with all standards in sections 87-56 and 87-57.

(c) For collocations where the applicant wants the annual rate limited to what is allowed by MCL 460.1313, wireless facilities shall not extend more than five (5) feet above the height of the wireless support structure or utility pole they are collocated on.

(d) If the applicant has agreed to pay the annual recurring fee recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133, subject to compliance with subsection (c) and the applicant's demonstration that a disclosed wireless provider will be prohibited from providing personal wireless services without the increased height, the collocation shall not result in a height that exceeds the greater of the following overall heights of the structure or pole and collocated wireless facilities:

(1) 50 feet.

(2) A height that is 10% more than the height of the existing structure or pole.

(3) A height that is 10% more than the height of immediately adjacent wireless support structures or utility poles in the public right-of-way.

(e) Subject to the possible time adjustments in MCL 460.1315 and 47 CFR 1.6003 that are included in the Shot Clock Appendix to this article, the city shall approve or deny an application for a permit under this section within 90 days of all applications for the requested facilities being submitted and complete.

Sec. 87-62. - Replacement and new wireless support structures and utility poles not involving small wireless facilities or eligible facilities requests.

(a) This section applies to the new and replacement wireless support structures and utility poles not involving collocation of wireless facilities under sections 87-58, 87-59, or 87-60.

(b) Wireless support structures and utility poles shall comply with all standards in sections 87-56 and 87-57.

(c) For wireless support structures and utility poles where the applicant wants the annual rate limited to what is allowed by MCL 460.1313, the height shall not exceed 40 feet above ground level and wireless facilities shall not extend more than five (5) feet above the height of the wireless support structure or utility pole.

(d) If the applicant has agreed to pay the annual recurring fee recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133, subject to the applicant's demonstration that a disclosed wireless provider will be prohibited from providing personal wireless services without a height greater than in subsection (c), the wireless support structure or utility pole may be increased to a height that does not exceed the greater of the following overall heights of the structure or pole and collocated wireless facilities:

(1) 50 feet.

(2) A height that is 10% more than the height of the existing structure or pole.

(3) A height that is 10% more than the height of immediately adjacent wireless support structures or utility poles in the public right-of-way.

(e) For new and replacement wireless support structures and utility poles under this section, the city may specify and require relocation from what is proposed to a new location in the same general public right-of-way area based on any standard listed in sections 87-56, 87-57, or permit conditions listed in section 87-64(e).

(f) Subject to the possible time adjustments in MCL 460.1315 and 47 CFR 1.6003 that are included in the Shot Clock Appendix to this article, the city shall approve or deny an application for a permit under this section within 150 days of all applications for the requested facilities being submitted and complete.

Sec. 87-63. - Review and decisions on permit applications.

(a) Within the time allowed for approval or denial of a permit application, the city shall issue a written notice to the applicant that either denies the requested permit for specified reasons with citations to sections of this article or applicable codes or provides notice that the application has been approved and the requirement for the permit to be issued.

(b) An application under sections 87-58 and 87-59 for wireless facilities, support structures, or utility poles described in and complying with those sections may only be denied if the facilities, structures, or poles would do one or more of the following:

- (1) Materially interfere with the safe operation of traffic control equipment.
- (2) Materially interfere with sight lines or clear zones for transportation or pedestrians.
- (3) Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.
- (4) Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of the city.
- (5) With respect to drainage infrastructure under the jurisdiction of the city or other governmental entity, either of the following:
 - (i) Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.
 - (ii) Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the Drain Code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.
- (6) Fail to comply with the one or more spacing standards in sections 87-56 and 87-57 that do not prevent a wireless provider from serving any location.

(7) Fail to comply with applicable codes.

(8) Fail to comply with the aesthetic, spacing, or undergrounding standards in section 87-57 in a historic, downtown, or residential district unless such compliance is demonstrated by the applicant to prohibit use of the wireless service provider's technology.

(9) Fail to meet the aesthetic, spacing, and undergrounding standards in section 87-57 unless such compliance is demonstrated by the applicant to prohibit the provision of personal wireless services.

(c) If an application is denied, the applicant may attempt to cure the reasons for denial by submitting a revised application with amended or supplemental information within 30 days of the denial without payment of an additional application fee. The city shall approve or deny the revised application within 30 days, limiting its review to the reasons for denial, and provide notice of that decision as provided in subsection (a).

(d) Before issuance of a permit, any bond required by section 87-65 shall be provided and the annual fee established by Resolution of the city council for the approved wireless facilities under section 87-66 shall be paid.

Sec. 87-64. - Permit terms and conditions.

(a) Repair. Every Right-of-Way Permit issued under Article II in Chapter 82 of the Code and this article shall be considered to include a condition that all wireless providers using the wireless facilities, support structures, or utility poles are responsible for repairing all damage to the public right-of-way caused by the activities of one or more of those providers while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing wireless facilities, wireless support structures, or utility poles, and to restore the public right-of-way to the condition that existed prior to the damage. If the wireless providers fail to perform the repairs and restoration within 60 days of the city's written notice to do so, the city may perform the repairs and restoration, with the wireless providers responsible for paying the city its reasonable and documented costs within 30 days of the city's invoice or billing for those costs.

(b) Electricity. Every Right-of-Way Permit issued under Article II in Chapter 82 of the Code and this article shall be considered to include a condition that all wireless providers using the wireless facilities, support structures, or utility poles shall be responsible for arranging and paying for all electricity used for the wireless facilities.

(c) Indemnification. Every Right-of-Way Permit issued under Article II in Chapter 82 of the Code and this article shall be considered to include a condition that all wireless providers using the wireless facilities, support structures, or utility poles shall defend, indemnify, and hold harmless the city and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant, wireless providers using the facilities, structures, or poles, and their contractors, subcontractors, and the

officers, employees, or agents of any of these. This obligation does not apply to any liabilities or losses due to or caused by the sole negligence of the city or its officers, agents, or employees.

(d) Insurance. Every Right-of-Way Permit issued under Article II in Chapter 82 of the Code and this article shall be considered to include a condition that all wireless providers using the wireless facilities, support structures, or utility poles obtain insurance naming the city and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees in amounts required by the city. A wireless provider may meet all or a portion of the city's insurance coverage and limit requirements by self-insurance. To the extent it self-insures, a wireless provider is not required to name additional insureds under this section. To the extent a wireless provider elects to self-insure, the wireless provider shall provide to the city evidence demonstrating, to the city's satisfaction, the wireless provider's financial ability to meet the city's insurance coverage and limit requirements.

(e) Every Right-of-Way Permit issued under Article II in Chapter 82 of the Code and this article shall be considered to include the following conditions which are based on the substantive terms and conditions of the current unilateral form of permit approved by the Michigan Public Service Commission for use under the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Act No. 48 of the Public Acts of 2002, as amended:

(1) No Burden on Public Right-of-Way. Permittee, its contractors, subcontractors, and the wireless facilities, structures, and poles shall not unduly burden or interfere with the present or future use of any of the Public Right-of-Way. The Wireless facilities, structures, and poles shall be installed and maintained so as to not endanger or injure persons or property in or about the Public Right-of-Way. If City reasonably determines that any portion of the wireless facilities, structures, and poles constitutes an undue burden or interference, due to changed circumstances, Permittee, at its expense, shall modify the wireless facilities, structures, and poles or take such other actions as City may determine is in the public interest to remove or alleviate the burden, and Permittee shall do so within a reasonable time period. City shall attempt to require all occupants of a pole or conduit whose wireless facilities, structures, and poles are a burden to remove or alleviate the burden concurrently.

(2) No Priority. This Permit does not establish any priority of use of the Public Right-of-Way by Permittee over any present or future permit holder or parties having agreements with City or franchises for such use. In the event of any dispute as to the priority of use of the Public Right-of-Way, the first priority shall be to the public generally, the second priority to City, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other permit, agreement or franchise holders, as determined by City in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

(3) Marking. Permittee shall mark the Wireless facilities, structures, and poles in compliance with applicable federal and state law requirements, with each location at which Wireless facilities, structures, and poles are located to have a

written sign that is readable from ground level that at a minimum states Permittee's name and a toll-free telephone number to call for assistance, and if Wireless facilities, structures, and poles are underground, a statement that there is buried equipment at the site.

(4) Installation and Maintenance. The construction and installation of the wireless facilities, structures, and poles shall be performed pursuant to plans approved by City, and together with the maintenance of the wireless facilities, structures, and poles, shall be done in a clean, good, and workmanlike manner. Permittee shall install and maintain the wireless facilities, structures, and poles in a reasonably safe condition, free from workmanship and product defects. Permittee may perform maintenance on the wireless facilities, structures, and poles without prior approval of City, provided that Permittee shall obtain any and all permits required by City in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by City.

(5) Coordination. Permittee shall coordinate its construction and all other work in the Public Right-of-Way with any City programs or projects Permittee was notified of in the City's review comments on construction permit application.

(6) Compliance with Laws. Permittee shall comply with all governmental laws, statutes, ordinances, rules, resolutions, tariffs, administrative orders, certificates, permits, orders, regulations, and other legal requirements regarding the construction, installation, use, and maintenance of its wireless facilities, structures, and poles, whether federal, state or local, now in force or which hereafter may be promulgated or become effective. Permittee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.

(7) Street Vacation. If City vacates or consents to the vacation of Public Right-of-Way within its jurisdiction, and such vacation necessitates the removal and relocation of wireless facilities, structures, and poles in the vacated Public Right-of-Way, Permittee does, as a condition of this Permit, consent to the vacation and remove its Wireless facilities, structures, and poles at its cost and expense when and within the reasonable time ordered by City or a court of competent jurisdiction. If Permittee fails to satisfy this obligation, City may take all reasonable actions it deems necessary to secure timely completion of the required work.

(8) Relocation. If City requests Permittee to relocate, protect, support, disconnect, or remove its wireless facilities, structures, and poles because of street or utility work, or other public projects, Permittee shall relocate, protect, support, disconnect, or remove its wireless facilities, structures, and poles, at its cost and expense, including where necessary to such alternate location as City and Permittee mutually agree, applying reasonable engineering standards. The work shall be completed within a reasonable time period. If Permittee fails to satisfy this obligation, City may take all reasonable actions it deems necessary to secure timely completion of the required work.

(9) Public Emergency. City shall have the right to sever, disrupt, dig-up or otherwise destroy wireless facilities, structures, and poles of Permittee if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, City shall attempt to provide notice to Permittee. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, and similar events. Permittee shall be responsible for repair at its cost and expense of any of its wireless facilities, structures, and poles damaged pursuant to any such action taken by City.

(10) Miss Dig. If eligible to join, Permittee shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 174 of the Public Acts of 2013, as amended, MCL § 460.721et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.

(11) Underground Relocation. If Permittee has its wireless facilities on poles of a utility or telecommunications provider and such utility or telecommunications provider relocates its system underground, this Permit shall terminate as to any such pole that is no longer used except by Permittee for its wireless facilities. Permittee shall remove any such pole described in this subsection at its cost and expense within a reasonable time period specified by the City in a written notice. If Permittee fails to satisfy this obligation, City may take all reasonable actions it deems necessary to secure timely completion of the required work.

(12) Identification. All personnel of Permittee and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing Permittee's name, their name and photograph. Permittee shall account for all identification cards at all times. Every service vehicle of Permittee and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with Permittee's name and telephone number.

(f) Compliance with permit conditions is required, with a violation of permit conditions being a violation of this article.

Sec. 87-65. - Bond.

A bond may be required to be posted prior to issuance of a Right-of-Way Permit under Article II in Chapter 82 of the Code and this article in an amount not exceeding \$1,000.00 for each wireless facility at a location to provide for removal of abandoned or improperly maintained facilities, repair and restore the public right-of-way, and recoup rates or fees that have not been paid within 12 months of when they were due. The city may not require the bond to be cash unless the wireless provider has failed to obtain or maintain a required bond in a form other than cash or the surety has defaulted or failed to perform on a bond given on behalf of the wireless provider.

Sec. 87-66. - Fees.

Application, review, inspection, and recurring annual rates or fees shall be payable to the city in amounts established by city council resolution.

Sec. 87-67. - Shot Clock Appendix.

The attached Shot Clock Appendix containing MCL 460.1315, 47 CFR 1.6003, and 47 CFR 1.40001 is part of this article.

Sec. 87-68. - Violations.

A violation of any section in this article or permit condition shall be a municipal civil infraction. Nothing in this section shall be construed to limit the remedies available to the city under a permit or otherwise by law for such violations.

PART III. Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City of South Lyon Code of Ordinances shall remain in full force and effect, amended only as specified above.

PART IV. Savings Clause. The amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance.

PART V. Severability. Should any division, section, subsection, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART VI. Effective Date; Publication. This Ordinance shall take effect upon the later of ten (10) days after adoption or upon publication thereof as provided by the Charter of the City of South Lyon.

Made, passed and adopted by the South Lyon City Council this ____ day of _____, 2019.

Daniel L. Pelchat, Mayor

Lisa Deaton, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the South Lyon City Council held on the _____ day of _____, 2019.

Lisa Deaton, City Clerk

Adopted:
Published:
Effective:

SHOT CLOCK APPENDIX
TO
WIRELESS FACILITIES IN RIGHT-OF-WAY ORDINANCE

As provided in Section 87-67, this Shot Clock Appendix is a part of Article II, Wireless Facilities in Right-of-Way, in Chapter 87, Telecommunications, of the City Code, and contains the state statute and federal regulations referred to in Sections 87-58, 87-59, 87-60, 87-61 and 87-62 of the Code. "Shot Clock" is a reference to a time deadline established by law for action on a permit request.

SHOT CLOCK PROVISIONS FROM MCL 460.1315.

[Subsections (2)(a)-(c), (f), (g), and (i)-(o), and (3) - (8) are not shot clock provisions and are omitted.]

- (1) This section applies to activities of a wireless provider within the public right-of-way.
- (2) Except as otherwise provided in subsection (5), an authority may require a permit to collocate a small cell wireless facility or install, modify, or replace a utility pole on which a small cell wireless facility will be collocated if the permit is of general applicability. The processing of an application for such a permit is subject to all of the following:
 - (d) Within 25 days after receiving an application, an authority shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall clearly and specifically delineate all missing documents or information. The notice tolls the running of the time for approving or denying an application under subdivision (h).
 - (e) The running of time period tolled under subdivision (d) resumes when the applicant makes a supplemental submission in response to the authority's notice of incompleteness. If a supplemental submission is inadequate, the authority shall notify the applicant in writing not later than 10 days after receiving the supplemental submission that the supplemental submission did not provide the information identified in the original notice delineating missing documents or information. The time period may be tolled in the case of second or subsequent notices under the procedures identified in subdivision (d). Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - (h) The authority shall approve or deny the application and notify the applicant in writing within the following period of time after the application is received:
 - (i) For an application for the collocation of small cell wireless facilities on a utility pole, 60 days, subject to the following adjustments:
 - (A) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.
 - (B) Add 15 days if, before the otherwise applicable 60-day or 75-day time period under this subparagraph elapses, the authority notifies the

applicant in writing that an extension is needed and the reasons for the extension.

(ii) For an application for a new or replacement utility pole that meets the height requirements of section 13(5)(a) and associated small cell facility, 90 days, subject to the following adjustments:

(A) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.

(B) Add 15 days if, before the otherwise applicable 90-day or 105-day time period under this subparagraph elapses, the authority notifies the applicant in writing that an extension is needed and the reasons for the extension.

If the authority fails to comply with this subdivision, the completed application is considered to be approved subject to the condition that the applicant provide the authority not less than 7 days' advance written notice that the applicant will be proceeding with the work pursuant to this automatic approval.

47 CFR 1.6003 REASONABLE PERIODS OF TIME TO ACT ON SITING APPLICATIONS.

(a) Timely action required. A siting authority that fails to act on a siting application on or before the shot clock date for the application, as defined in paragraph (e) of this section, is presumed not to have acted within a reasonable period of time.

(b) Shot clock period. The shot clock period for a siting application is the sum of—

(1) The number of days of the presumptively reasonable period of time for the pertinent type of application, pursuant to paragraph (c) of this section; plus

(2) The number of days of the tolling period, if any, pursuant to paragraph (d) of this section.

(c) Presumptively reasonable periods of time—

(1) Review periods for individual applications. The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments in the categories set forth in paragraphs (c)(1)(i) through (iv) of this section:

(i) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.

(ii) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.

(iii) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.

- (iv) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.
- (2) Batching.
 - (i) If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (c)(1)(i) or (iii) of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.
 - (ii) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (c)(1)(i) of this section and deployments that fall within paragraph (c)(1)(iii) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.
 - (iii) Siting authorities may not refuse to accept applications under paragraphs (c)(2)(i) and (ii) of this section.
- (d) Tolling period. Unless a written agreement between the applicant and the siting authority provides otherwise, the tolling period for an application (if any) is as set forth in paragraphs (d)(1) through (3) of this section.
 - (1) For an initial application to deploy Small Wireless Facilities, if the siting authority notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.
 - (2) For all other initial applications, the tolling period shall be the number of days from—
 - (i) The day after the date when the siting authority notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until
 - (ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;
 - (iii) But only if the notice pursuant to paragraph (d)(2)(i) of this section is effectuated on or before the 30th day after the date when the application was submitted; or
 - (3) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from—

- (i) The day after the date when the siting authority notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the siting authority's original request under paragraph (d)(1) or (2) of this section; until
 - (ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;
 - (iii) But only if the notice pursuant to paragraph (d)(3)(i) of this section is effectuated on or before the 10th day after the date when the applicant makes a supplemental submission in response to the siting authority's request under paragraph (d)(1) or (2) of this section.
- (e) Shot clock date. The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified pursuant to paragraph (b) of this section and including any pre-application period asserted by the siting authority; provided, that if the date calculated in this manner is a "holiday" as defined in § 1.4(e)(1) or a legal holiday within the relevant State or local jurisdiction, the shot clock date is the next business day after such date. The term "business day" means any day as defined in § 1.4(e)(2) and any day that is not a legal holiday as defined by the State or local jurisdiction.

SHOT CLOCK PROVISIONS FROM 47 CFR 1.6100

[Subsections (a) and (b) are not shot clock provisions and are omitted.]

(c) Review of applications. A State or local government may not deny and shall approve any eligible facilities request for modification of an eligible support structure that does not substantially change the physical dimensions of such structure.

(1) Documentation requirement for review. When an applicant asserts in writing that a request for modification is covered by this section, a State or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of this section. A State or local government may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.

(2) Timeframe for review. Within 60 days of the date on which an applicant submits a request seeking approval under this section, the State or local government shall approve the application unless it determines that the application is not covered by this section.

(3) Tolling of the timeframe for review. The 60-day period begins to run when the application is filed, and may be tolled only by mutual agreement or in cases where the

reviewing State or local government determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.

(i) To toll the timeframe for incompleteness, the reviewing State or local government must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to documents or information meeting the standard under paragraph (c)(1) of this section.

(ii) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the State or local government's notice of incompleteness.

(iii) Following a supplemental submission, the State or local government will have 10 days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this paragraph (c)(3). Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

(4) Failure to act. In the event the reviewing State or local government fails to approve or deny a request seeking approval under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

AGENDA NOTE

New Business # 3

MEETING DATE: March 25, 2019

PERSON PLACING ITEM ON AGENDA: City Attorney

AGENDA TOPIC: Resolution Establishing Standards for Wireless Facilities and Other Infrastructure Installations in Public Rights-of-Way

EXPLANATION OF TOPIC: The proposed resolution is to adopt standards for wireless facilities and other infrastructure installation in the public rights-of-way within the City. The resolution adopts and establishes the aesthetic, spacing and underground standards from Section 87-57 of the Wireless Facilities in Public Rights-of-Way ordinance to ensure the City has such standards prior to April 14, 2019.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Resolution

POSSIBLE COURSES OF ACTION: Approve/Deny/No Action/Postpone

RECOMMENDATION: Approve the resolution

SUGGESTED MOTION: Motion by _____ and supported by _____ to approve the Resolution Establishing Standards for Wireless Facilities and Other Infrastructure Installations in Public Rights-of-Way as presented.

RESOLUTION NO. ____-19

**CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN**

**A RESOLUTION ESTABLISHING STANDARDS FOR
WIRELESS FACILITIES AND OTHER INFRASTRUCTURE
INSTALLATIONS IN THE PUBLIC RIGHTS-OF-WAY**

WHEREAS, in its Declaratory Ruling and Third Report and Order in FCC 18-133, regarding the removal of regulatory barriers to the deployment of small wireless facilities, the Federal Communications Commission (FCC) recognized the right of municipalities to establish aesthetic, spacing, and undergrounding requirements for such deployments provided they are reasonable, no more burdensome than those applied to other types of infrastructure deployments, objective, and published in advance.

WHEREAS, based on the language in the FCC Declaratory Ruling and Third Report and Order in FCC 18-133 and date of its publication in the Federal Register, the requirement for publication in advance could mean prior to April 14, 2019, rather than prior to being applied to a proposed deployment of small wireless facilities.

WHEREAS, the City Council has approved a first reading of a Wireless Facilities in Right-of-Way Ordinance which includes aesthetic, spacing, and undergrounding standards.

WHEREAS, under the regular meeting schedule, the introduced Wireless Facilities in Right-of-Way Ordinance will not be presented for second reading, adopted, and published prior to April 14, 2019.

WHEREAS, to avail itself of the right recognized by the FCC and considering the possible deadline for doing so as recited in this Resolution prior to adoption and publication of the introduced Wireless Facilities in Right-of-Way Ordinance, the City Council has determined to establish and provide for publication of the aesthetic, spacing, and undergrounding standards contained in that Ordinance by adoption of this Resolution.

IT IS THEREFORE RESOLVED that the following aesthetic, spacing, and undergrounding standards from Section 87-57 of the introduced Wireless Facilities in Right-of-Way Ordinance are hereby adopted and established, with words and phrases used in these standards having the same meanings as defined in that introduced Ordinance:

Wireless facilities, wireless support structures, utility poles, and any related equipment shall be designed, installed, used, and maintained in compliance with the following standards that are intended to conceal such facilities, structures, and poles to the extent technically feasible in an effort to avoid or remedy the tangible and intangible public harm of installations in the public right-of-way that are unsightly, out-of-character with the surrounding area, or could result in the direct or indirect removal of trees and other aesthetically desirable features and appearances:

- (1) Shall be strictly limited to the location and what is shown on the approved plans.

- (2) Wireless facilities shall be treated and colored to be visually compatible with the wireless support structure or utility pole they are collocated on or associated with by painting or other coating. For existing wood utility poles, a finish color of conduit that is zinc, aluminum, or stainless steel is considered visually compatible.
- (3) Wireless facilities shall be compatible in scale and proportion to the structure or pole upon which they are to be attached, using the smallest and least intrusive technology available, with the diameter of top mounted antennas to not exceed twice the diameter of the top of the structure or pole.
- (4) Antennas shall be top mounted and aligned with the centerline of wireless support structures or utility poles, or side mounted with the vertical centerline of the antenna parallel with the support structure or utility pole.
- (5) All cables and wires shall be placed in conduit or otherwise properly secured and concealed on the wireless support structure or utility pole.
- (6) No more than three (3) antennas may be collocated on a utility pole and only if that number of antennas can be designed and accommodated in a manner that complies with all requirements of these standards.
- (7) Existing trees in the public right-of-way shall not be removed or trimmed to facilitate the installation, use, or maintenance of wireless facilities.
- (8) Wireless facilities, support structures, and utility poles shall not be located within the drip line (critical root zone) of an existing tree in or adjoining the public right-of-way.
- (9) Ground mounted wireless facilities, including equipment cabinets and enclosures, shall be located as close as legal and technically feasible to the wireless support structure or utility pole they are associated with.
- (10) Ground mounted wireless facilities, including equipment cabinets and enclosures, shall be concealed to the extent technically feasible by matching color and materials to existing above-ground structures, landscaping, and placement to take advantage of concealment provided by the proposed structure or pole, existing landscaping, or above-ground improvements.
- (11) Wireless facilities shall not project more than two (2) feet from any side of the utility pole or wireless support structure upon which they are collocated.
- (12) Wireless facilities shall not be illuminated unless required by law or integral to a concealment design such as appearance as or on a street light pole.
- (13) New and replacement utility poles shall be located in alignment with existing utility poles on either side.
- (14) New and replacement utility poles shall be located equidistance from existing utility poles on either side.
- (15) New and replacement utility poles shall be made of the same material and have the same visual appearance as the existing utility poles on either side. If those existing utility poles are

different, the new or replacement pole shall be metal or fiber if either existing pole is of that material and shall otherwise be the same material as the newer of the existing poles.

(16) Unless a greater height is required by state or federal law, wireless support structures and utility poles shall not be taller than the existing utility poles on either side.

(17) In a public right-of-way abutting residentially used or zoned property, new wireless facilities, wireless support structures, and utility poles shall only be located in line with a side lot line.

(18) New wireless facilities shall not be collocated on an existing wireless support structure or utility pole that is directly in front of an existing residential dwelling or that is along the frontage of a property containing a building of historic significance under federal, state, or other laws.

(19) New wireless facilities, wireless support structures, and utility poles shall not be located in front of an existing residential or commercial structure.

(20) In a public right-of-way abutting residentially used or zoned property, wireless facilities that require a cooling system shall use a passive system, or if a motorized system is technologically required, shall use a system and fan with the lowest available noise level.

(21) Except for a label containing the name and emergency contact telephone number for the wireless provider responsible for the wireless facilities and wireless support structure or utility pole, information that identifies them and their location, and any information required to be displayed by state or federal law, no signage shall be allowed, with all manufacturer decals that are not needed for safety reasons to be removed or painted over.

(22) Regardless of the number of antennas that are collocated on a utility pole or wireless support structure, the other wireless facilities associated with those antennas shall not exceed 28 cubic feet in volume.

(23) Collocations on and replacement or new utility poles or wireless support structures in a public right-of-way that has been specifically designated or identified by ordinance or City Council resolution for a program of improvement, redevelopment, beautification, regulation, or other planning goals, shall be subject to City review and approval of the design, appearance, and method and height of attachment to assure consistency, compatibility, and uniformity with the standards, objectives, installations and streetscape appearance planned for that public right-of-way under the program.

(24) To provide compliance with one or more of the above standards, the City may require that a proposed collocation involving a new or replacement utility pole be moved by up to 75 feet for collocation on a designated existing wireless support structure or utility pole or to a designated location for the new or replacement utility pole. The applicant may request a waiver of this requirement by demonstrating in writing that the applicant cannot secure the right to comply with the city's requirement on reasonable terms and conditions and that compliance imposes unreasonable technical problems or significant additional costs.

(25) Above ground wireless facilities and support structures and utility poles shall not be allowed in an area designated by the City Council solely for underground or buried cable and utility facilities if all of the following apply:

(a) The City has required all cable and utility facilities, other than City, street light, and traffic signal poles and attachments, to be placed underground by a date that is not less than 90 days before the submission of the application.

(b) The City does not prohibit the replacement of City poles by a wireless provider in the designated area.

IT IS FURTHER RESOLVED that a waiver or modification of one or more of the standards established by this Resolution may be requested by demonstrating in writing that compliance will prevent a disclosed wireless service provider that would be using the proposed wireless facilities, support structure, or utility pole, from providing personal wireless services in violation of 47 USC § 332.

IT IS FURTHER RESOLVED that to the extent applicable and allowed under existing franchises, permits, and applicable law, these standards shall also apply to all new installations in the public right-of-way by electric and gas public utilities, incumbent or competitive local exchange carriers, fiber providers, and cable television video services providers.

IT IS FURTHER RESOLVED that these standards shall be in effect from the date of publication through the effective date of an Ordinance that contains aesthetic, spacing, and undergrounding standards.

IT IS FURTHER RESOLVED that this Resolution shall be published by the Clerk on or before April 13, 2019, in the same manner and locations as Ordinances are published.

At a regular meeting of the City of South Lyon City Council, a motion was made by Council Member _____, supported by Council Member _____, to adopt the above resolution.

Ayes:
Nays:
Absent:

RESOLUTION DECLARED [ADOPTED/FAILED].

CERTIFICATION

I certify that this resolution was duly adopted by the City Council of the City of South Lyon on _____, 2019.

Lisa Deaton
City Clerk
South Lyon

MEMO



Date: March 21, 2019
To: City Council
From: Paul C. Zelenak, Manager
Re: City Update

Budget Meeting: Reminder that we have our budget meeting scheduled for Thursday, April 4th at 6pm. You will be receiving a copy of the proposed budget next week. We will be bringing in dinner for all of you so we can have a working dinner meeting. Please contact me if you have any questions after your review of the 2019-2020 budget.

Water and Sewer Improvements: We are working with HRC to outline improvements that are needed in the Water and Sewer plants. We will have a proposal for you at our next City Council Meeting which will describe a portion of an overall CIP for water/sewer

Police and Fire Equipment: I have received a request from the Police and Fire Departments to purchase workout equipment for their respective departments. This equipment would replace outdated equipment with new updated exercise equipment. They would like to use unexpended funds from their Equipment Miscellaneous Fund to purchase the equipment. I will be bringing back a request for you at a future City Council meeting regarding this purchase.

Election Information: Information will be published in the near future regarding our upcoming elections and petition availability for the nomination of candidates for Mayor and Council. The election will be held on the Tuesday, November 5, 2019.

Time Off: I will be off on Friday March 29th thru Tuesday April 2nd. If you need to contact me please contact me on my cell phone.

Liquor License: We are expecting to receive information within the next few days from the Corner Café regarding obtaining our last quota liquor license. We will be reviewing the information and making a recommendation to Council on their request. Council will need to determine whether you will require as part of the granting of the liquor license, that the improvements be made to the leased space prior to granting the license. Or if you allow them to make the improvements after granting the license.

Thomasville Site Condominium: This project received final planned development site plan approval at the Planning Commission held on March 14th. This will be coming before City Council at your next meeting.

WATER

- DAILY OUTSIDE REPAIRS
- DAILY LAB
- BACKWASHED IRON FILTERS
- METER REPAIRS
- FINAL METER READS
- PEERLESS REINSTALLED HIGH SERVICE #4 (OUT FOR REPAIR)
- INPUTTED RESULTS FOR WQP

WASTEWATER

- DAILY INSIDE ROUNDS
- DAILY LAB
- INSTALLING NEW DRAIN LINES IN BASEMENT
- CLEANED ROTATING DRUM THICKNERS
- SAMPLED FOR MERCURY
- COL ACRES HAD A COMMUNICATION FAILURE. HAD TO REBOOT SYSTEM
- REPLACE AIR LINE AND INSTALLED AIR DRIER ON UV SYSTEM
- DECANTING

Police Department

- | | |
|-------------------------|-----|
| • Calls for Service | 307 |
| • Liquor Inspections | 4 |
| • School Checks | 39 |
| • Property Checks | 105 |
| • Church Checks | 11 |
| • Community Contacts | 8 |
| • Traffic Citations | 16 |
| • Traffic Warnings | 67 |
| • Miscellaneous Arrests | 4 |
| • Citizen Assists | 19 |

Economic Development & DDA Report for the Week of March 18-22, 2019

- **Finalized the FY 19/20 DDA Budget.** Now waiting on latest TIF revenue estimate from Oakland County Equalization to be received after the Board of Review period at the end of March.
- **Continued Discussions with owner of the Corner Caffè at 101 S. Lafayette re: Wine Bar Liquor license:** Information regarding building plan revisions for code improvements, fire safety improvements and permit requirements. Significant progress has been made. The owners, architect and interior designers are now redesigning the entire interior. Glazy Days will leave the rear space at the end of March. They have relocated to the former Lakeland Printing space on S. Pontiac Trail, near Mickey's Ice Cream. They have expanded will have 4 times the space. A win win for all. Rhonda Bifano hopes to be on the April 8 City Council Meeting Agenda if all materials have been reviewed by City Staff with enough time prior to the agenda packet deadline for City Council.
- **Continued discussions with staff and potential purchasers of downtown properties:** Former Draft Street Bar & Grille at 106 S. Lafayette and 110 Detroit Streets. Several discussions over the past few weeks with potential purchasers. 135 E. Lake Street (RCA/Stone Bldg.) and 111 N. Lafayette (Art Craft/Green Bldg.) have both been sold. Closings are expected in the next 30 days. I met with both of the new owners this past week to discuss their plans to totally restore the historic architecture. Restoration of the facades will be based upon historic photos for accuracy. Financing and any potential Local, County, State and federal incentives were discussed by the owner of 135 East Lake Street. Next step will be to discuss financial incentive programs with the City manager and then schedule a predevelopment conference at City hall with all relative City Departments/Staff and the new owner, with his architect and contractors. Permits are expected to be pulled for 111 N. Lafayette within 45 days and work is planned to be completed by the end of September. 135 East Lake Street rehabilitation is planned to be completed by November. 111 N. Lafayette will be retail on the first floor with a completely new rehabilitated apartment on the second floor. 135 East Lake Street will be retail or restaurant on the first floor with offices above. Plans also include the installation of an elevator.
- **Continued Development of Potential Partnership & Sponsorship Opportunities** for Farmers Market, DDA & Community Programs & Projects. Pursuing sponsorships for the 2019 Mkt. Season (26 Saturday, May – October)
- **Facilitated and participated in 3 different meetings and held follow up discussions with potential mixed use and housing developers.** All potential sites within the City and the DDA were reviewed and visited and discussion centered upon development potential consistent with the City's current Master Plan. Follow meetings were held with a real estate agent regarding three of the sites.
- **Transmitted a copy of the City's DDA TIF Plans to the State Dept. of Treasury** as required by the new DDA and TIF law, Public Act 57 of 2018.

Building Department

PERMITS ISSUED

Building - 25

Electrical - 1

Mechanical - 6

Plumbing - 27

INSPECTIONS COMPLETED

Building - 25

Electrical - 11

Mechanical - 15

Plumbing - 23

Southridge Condos will be finishing up the plumbing project in the next two (2) weeks.

5 out of the 7 new single family dwellings have been picked up by the contractor and will be breaking ground within the next couple of weeks in The Knolls.

03/19/19 - It was reported that someone could be staying at 335 Second St without water. Recent years the water has been turned on in the spring and turned off in the fall. Damaged pipes have been observed at location by the Water Dept. I had a contact number from 2017 of a Rick Turner. He stated that his mother (listed homeowner) passed away ten years ago and that nobody is living in the home. He lives in Commerce and his sister lives in Walled Lake. They both have been working on the home on and off for almost two years to sell it this summer. I advised him that the Water Dept. would like to do an inspection of the meter and pipes this spring before turning the water on. He agreed. I received a complaint of large pot-holes near the entrance of Southridge Condominiums. Checking the area, I observed large holes that dropped 5-6". South of the entrance by a manhole the asphalt had collapsed 13" down. I made contact with RTI Property Management. They stated repairs for the roadway will start tomorrow.

03/20/19- I received a complaint from DPW that 920 Oxford had moved large piles of leaves into the street. There is no pick up this time of year and the leaves can plug up the storm drains. I spoke to the homeowner and issued a Red Tag warning. She was advised that leaves had to be removed as soon as possible. BS&A update completed on office computer.

03/21/19 - I received a complaint from DPW of a pile of leaves in the roadway in front of 670 W Crest. I spoke to the homeowner and issued a Red Tag warning. Complaint called in of 5 vehicles in the driveway for years at 421 Ada. Also a tarp has been on the roof of the home for an extended period of time. There was no answer at the home; photographs were taken of the area. Assisted by SLPD, four of the vehicles have expired license plates, one plate was reported as replaced. All of the vehicles register someplace other than 421 Ada. I will take a Red Tag warning and copies of Blight, Open Storage yard and Junk Vehicle ordinances to the home the first of next week.

**City of South Lyon
Planning Commission
Regular Meeting Minutes
March 14, 2019**

Approved: _____

The meeting was called to order by Chairman, Scott Lanam at 7:00 p.m.

Roll Call: Scott Lanam, Chair
Keith Bradley, Vice Chair
Steve Mosier, Commissioner
Erin Kopkowski, Commissioner
Jason Rose, Commissioner

Absent: Michael Joseph, Commissioner
Wayne Chubb, Commissioner

Also in attendance: Kelly McIntyre – CIB Planning
Tim Wilhelm – City Attorney

Motion to excuse Commissioner Joseph and Chubb
Motion by Bradley, Second by Kopkowski

Voice Vote: Ayes: Unanimous
Nays: None

Motion Approved

Motion to approve Agenda
Motion by Mosier, Second by Rose

Voice Vote: Ayes: Unanimous
Nays: None

Motion Approved

**Motion to approve the Minutes for November 8, 2018, as amended
Motion by Bradley, Second by Mosier**

Voice Vote: Ayes: Unanimous
Nays: None

Motion Approved

Public Comments: None

Public Hearings: None

Tabled Items: None

New Business:

**1. Thomasville Site Condominium, Final Planned Development Site Plan
Review**

Kelly McIntyre, CIB Planning, begins by explaining that this is the Final Planned Development Site Plan for 50 units on 11.63 acres. She states that as part of the Planned Development, this property was rezoned from RM1, Multiple Family Residential to PD, Plan Development. This has already gone through Council and it had its second reading November 12, 2018. Council then, on November 26, 2018, approved the preliminary PD Site Plan. The PD has a 4 -process, the first step was a public hearing, review of the preliminary Site Plan and a recommended motion to Council for the rezoning of the property and the Site Plan. For step 2 the review goes the City Council for rezoning and preliminary site plan approval. We are on step three; the Planning Commission reviews and makes a final recommendation to Council on the Final PD Site Plan

He started to review area and bulk regulations and to highlight items.

McIntyre states, for lot area, they have provided an average of 5,000 square feet, ranging from 4,200 square feet to 8,500 square feet. She states that the Planning Commission's previous review made a recommendation to allow a minimum of 4,200 square feet and they have now increased that to 5,000 square feet.

The lot width was waived during our preliminary Site Plan approval. The preliminary Site Plan show a density of 5.2 unit per acres and the Planning Commission made a recommendation of 4.3 units per acre (it was a miss calculation). It was approved by Council and now the 5.2 units per acre is less dense then what Planning Commission initially waived.

The Minimum floor area and front yard setback are all in compliance. The Planning Commission recommended approval of the side yard setbacks be approved the rear yard setback are each noted on the plans. The lots that do not meet 30 feet are noted.

The plan is in compliance with building height and for lot coverage. The maximin lot coverage allowed is 25% (for buildings) and they currently have 18% overall. McIntyre goes on to explain that when they look at lot coverage in Planned Developments, they do not look at individual lots, rather the entire property a whole. She adds that this was reviewed and recommended for approval by the Planning Commission at the preliminary Site Plan review.

This final plan matches the preliminary site plan that was submitted to the Planning Commission. It shows the open space in the northwest corner, the 5 foot sidewalks throughout the development, a 2 foot grass strip between the back of the curb and the sidewalk (which was requested, with irrigation in order to maintain as lawn).

She stated for decks and patios, there was a concern at City Council level about setbacks and lot coverage, so the developer has put the deck/patio footprint maximum on the plans and this is (12" x 25"). With the exception of 3 lots, #20, #22 and #32 (they are a little bit less) and noted on the site plan sheets.

McIntyre goes on to say that the Fire Department and Police Department requested an installation of a paved gate emergency access entrance to 11 Mile, this is on the plan and has been done. The final landscape plan looks good, they are providing canopy trees, and there are spruce trees serving as a buffer for the railroad track. They also have the one street tree per unit and the majority of their trees exceed the ordinance requirement for the minimum size.

She goes on to address the fencing and buffer, stating that this property is adjacent to Colonial Acres, and a condition during the preliminary PD Site Plan approval was that the applicant provide a six foot white vinyl privacy fence along the property line and that it will be installed prior to construction. During the Council level, it was suggested that the developer go and meet with Colonial Acres, which they did and Colonial Acres was pleased with the proposed fence and it was made as part of the proposal.

She states that they also asked for trees along the one side of the fence. Typically, the City asks for a 10 foot landscape buffer made up of evergreens. However, they are providing 5 foot Junipers and 5 foot Arborvitaes. McIntyre asks the Commission to determine if the intent of the 10 foot buffer is met through the combination of the fence and the trees.

Commissioner Bradley questions if we know what the growth time is for the chosen type of trees. McIntyre states, she would have to find out.

McIntyre goes on to discuss the housing elevations, stating that the Commission wanted more variety, wanted to see something more current, etc. Since that time, the applicant has provided 4 different façades and floor plans so that different materials can be used and they have brought with them, all the materials that they are proposing to use.

Commissioner Bradley questions if there were wording to prevent the same house from being built next to the same house. McIntyre states that the anti-monotony rule is written in the plan development agreement.

McIntyre goes on to explain that the Master Deed documents were submitted with the previous property owner. They will need to be updated with the current owner and the current information to the City and approved administratively by the City Attorney, Wilhelm.

The Plan Development that we have here is the draft agreement, and this should be finalized before construction begins, and again this can be submitted to the City and be approved administratively.

McIntyre states that CIB did have a bit of an issue, they felt that they could have more of a decorative style when it comes to street lighting, and stated that they would like to see a different light fixture with the specs, and a new photometric plan.

Also, there is an entry sign, the landscape around it is nice, but we need the materials of construction for the sign. And this can be submitted and approved administratively.

She advises that the Commission has been provided with soil erosion permit and the road commission of Oakland County, right of way road permits.

Based on all this, McIntyre states, that they have made a recommendation that the Planning Commission recommend approval to City Council for the Final Plan Development Site Plan based on the following recommendations:

1. That the Planning Commissions determination that the proposed trees along Colonial Acres property, meets the intent of a 10 foot landscape buffer.
2. The submission of materials and construction details for the development entry sign be submitted for review and approval.
3. Submission of decorative street lighting fixtures details and accompanying photometric plan be submitted for administrative review and approval.
4. Signed and approved and recorded plan development agreement.
5. The submission updated and approval of the Condominium Documents or Master Deeds.
6. And then any other applicable departments as mentioned, getting the soil erosion permit and the road commission.

Attorney Wilhelm states that the owner of the property has changed since last time the Commission saw this. We were given a letter indicating Mr. Cavalier is authorized to represent the property owner. Also, this was processed to almost final conclusion in 2016. One of the issues was a cross access easement to Heritage Blvd, so in the Plan Development Agreement, it requires the owner of this property to do their half of that through a Declaration of Easement. This will allow Colonial Acres to complete that they would do something similar; enter in to an agreement where they could address the cost and maintenance issue if they wanted to.

Chair Lanam asks if the change of ownership mean anything that they have so far. Wilhelm states that this and the change in 2016 of the number of units (from 60 to 50) should be looked for. He will be watching for them, McIntyre will be watching for them and the Commission should do the same.

The question was asked if with the change of ownership, this means that the applicant has changed. Wilhelm states, that technically, yes. However, maybe the applicant can help explain. He states that the owner has authorized Mr. Cavalier to appear and request land use approval in the form of Plan Development from the city.

Cavalier states that on page LS-1, there is a detailed sheet for the entrance sign, with materials and elevation.

Wilhelm questions McIntyre if she has details of what all the material boards are. McIntyre states that they will catalog everything, take photos, and advised that they do keep them through the construction to compare to the actual structures.

Wilhelm addresses the Commission regarding some definite concerns from Council. Which include, lot coverage, patio/deck size, style of elevation on the unit that can be placed on it based on the square footage.

Commissioner Kopkowski questions why the Commission spent an entire meeting on deciding we want 25% lot coverage and now it's being said that because it's a planned development that you just take an average of the estimate, there is a reason why we pick 25%. What's to prevent everyone from wanting a PD and doing whatever they want? McIntyre goes on to explain that it has to be developed as a Planned Development, not straight zoning. This is a PD there is room to allow for things to be different. There is flexibility and we look at it as an entire package.

Wilhelm states that there is another development that was a PD where the details of decks included in setbacks and lot coverage was not included and there was an attempt to try and get in to these details to avoid having to come back and ask for variances.

Kopkowski asks McIntyre to review the Deck/Patio requirement that was discussed earlier in the night. Reviewing the details of lot size, deck size and building foot print. Kopkowski questions how the 35% rule applies here and the 25% do not. McIntyre states that this is what Council asked to see, so we provided this so that they can see this in comparison to straight zoning. McIntyre confirms that Council has seen this in much iteration. Wilhelm confirms that they have spent three or four meetings on this.

Commissioner Rose states that he was formerly an employee of Pulte Homes, and he does indirectly work for through other contractors and he wouldn't want that to become a conflict of interest either currently or retrospect fully in the future. Attorney Wilhelm states that he will look it up in the bylaws. The Commissioners discuss and agree that if Rose is not comfortable voting, he shouldn't have to.

Kopkowski states that she will be voting no on this, as she does not have enough information at the time that she came on board, meaning the history (mid-project) she feels she doesn't have a grasp on this to make an educated decision. Wilhelm compares this to the Knolls development, he states that in the Knolls, the City agreed to do smaller lot sizes in exchange for much more open space for the development to enjoy.

As for the conflict of interest, Wilhelm states, according to bylaws November 13, 2014, Article 5, Section 2, if there is a question of a conflict of interest, the question should be put before the commission, and this shall be determined by a majority vote of the remaining members of the commission. Wilhelm did state that he does not see a conflict of interest. Kopkowski and Rose both agree that in lieu of other things that have happened in the city, it is sad, but this is the way it is.

Motion made that there may be a conflict of interest for Commissioner Rose with the past and current relationships with Pulte and the potential for future relationships.

Motion by Bradley, Second by Kopkowski

Voice Vote: Ayes: Unanimous
Nays: None

Motion Approved

Lorenzo Cavalier, 30078 Schoenherr, Warren, Michigan 48088

Cavalier states that the applicant is still the same; property owner is not from when we were in front of you for the first time. He states that he represented the project from stage one and will through the completion of the entitlement process.

Chair Lanam questions Wilhelm if this will make a difference. Wilhelm states that the property owner is the most important and they have given Mr. Cavalier authorization to be here. Lanam asks if when the final plan comes through, will their name will be added to it? Wilhelm states that we have a record through the Planning Commission packet and through the Planning Department. We are aware that it has changed ownership.

Motion to recommend to City Council the approval of the final PD Site Plan for Thomasville Site Condominium, conditioned upon the following:

- 1. That the Planning Commissions determination that the proposed trees along Colonial Acres property, meets the intent of a 10 foot landscape buffer.**
- 2. Submission of decorative street lighting fixtures details and accompanying photometric plan be submitted for administrative review and approval.**
- 3. Signed and approved and recorded plan development agreement.**
- 4. The submission updated and approval of the Condominium Documents or Master Deeds.**
- 5. And then any other applicable departments as mentioned, getting the soil erosion permit and the road commission.**

Motion by Bradley, Second by Mosier

Voice Vote: Ayes: Three
Naves: One

Roll Call –

**Kopkowski – No
Lanam - Yes
Mosier – Yes
Bradley – Yes**

Motion Approved

2. Planning Commission Meeting Calendar for 2019

**January 10, 17
February 14, 28
March 14, 28
April 11, 25
May 9, 23
June 13, 27
July 11, 25
August 8, 22
September 12, 26
October 10, 24
November 14
December 12**

Motion to approve the proposed Planning Commission Calendar for 2019, as amended.

Motion by Bradley, Second by Kopkowski

**Voice Vote: Ayes: Unanimous
Nays: None**

Motion Approved

Planning Consultant Report

McIntyre advises that in the office this week we received plans for the Stryker property. They are proposing apartment units. This has been sent to the engineers, also having a traffic study done. It is being reviewed and is due back in a couple of weeks.

Commissioner Mosier questions if there has been anything new with Alexanders. McIntyre states that there has not. Rose brings up the development at Dixboro and 10 Mile, Bob Langdon, he states that he does work directly for them. McIntyre adds that they will have to come to Planning with a Final Site Plan. Commissioner Mosier asks about Lyon's Square. McIntyre states that is more with Code Enforcement. Chair Lanam asks about their occupancy. McIntyre states that they have informed Lyon's Square that they have reached the capacity that was established so that they will move ahead for the façade improvements. Lanam questions what the City's next move is. McIntyre states that the Code Enforcement Officer will be working with the City on this.

Adjournment

Approval to Adjourn

Motion by Bradley, Second by Rose

Voice Vote: Ayes: Unanimous

Nays: None

Motion Approved – Meeting Adjourned

Scott Lanam, Chairman

Judy Pieper, Recording Secretary

Steve Mosier, Secretary

DRAFT



South Lyon Area Youth Assistance 2019 Youth Recognition Program

Dear School/Community Member,

South Lyon Area Youth Assistance is planning its 20th Annual Youth Recognition Program on **Monday, May 20, 2019, for youth in grades 6-12 in the South Lyon School District**. We invite you to nominate students for this recognition.

Nominees will be selected on the basis of a commitment to volunteer services performed within the past year. While there is no minimum number of hours of service required, we want to recognize consistency and quality of service which demonstrates a sincere desire to contribute. Volunteer work performed to fulfill other requirements should not be considered, nor would students performing paid or mandated services be eligible. Some examples of voluntary service would include church or temple projects, agency or hospital service, or self-initiated volunteer efforts. Any individual or organization is eligible to submit nominations.

SLAYA will receive nominations for consideration through **Tuesday, April 16, 2019**. The students and nominators will be sent an invitation to attend the Youth Recognition Program. Attached you will find the nomination form on which you may recommend deserving students. Thank you for helping us to make this program a success. If you need additional information, please don't hesitate to call us at 248-573-8189.

Sincerely,

Al Credit II

Al Credit II
Chairperson
Youth Recognition

Mark Hiller

Mark Hiller
Co-Chairperson
Youth Recognition

South Lyon Area Youth Assistance

2019 Youth Recognition Nomination Form

Student:

Nominator:

School:

Position:

Grade:

Address:

Parent(s):

City & Zip:

Address:

Phone Number:

City & Zip:

Nominator Email:

Phone Number:

Email:

Please include a summary describing why the nominated student should receive recognition. What volunteer service did they perform?

Please describe the factors that made their service exceptional.

Please complete this form and return it by Tuesday, April 16, 2019 to:

South Lyon Area Youth Assistance

1000 N. Lafayette

South Lyon, MI 48178

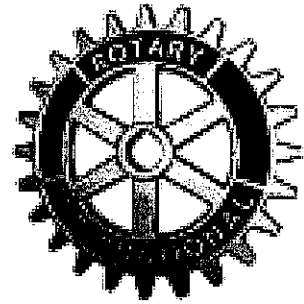
(248) 573-8189 Main

(248) 486-4067 Fax

or email slayasecretary@gmail.com



**South Lyon Area Youth Assistance
2019 Youth Recognition Program
Senior Scholarship**



Dear School/Community Member,

South Lyon Area Youth Assistance is planning its 20th Annual Youth Recognition Program on **Monday, May 20, 2019, for youth in grades 6-12 in the South Lyon School District.**

We will again be awarding two scholarships for the "Julie Berz Outstanding Youth Volunteer" to exceptional youth who will be continuing to college or trade school. We are also excited to continue our partnership with the Lyon Area Rotary Club, who will also be awarding two "Lyon Area Rotary Scholarships."

The awards from both organizations are reserved for **graduating seniors** who have exhibited exceptional leadership and character within the area of community service and volunteerism. Please nominate students whose volunteer service is exceptional in quality, degree, or scope. Scholarship recipients will be selected on the basis of a commitment to volunteer services performed within the past year. While there is no minimum number of hours of service required, we want to recognize consistency and quality of service which demonstrates a sincere desire to contribute. Volunteer work performed to fulfill other requirements should not be considered, nor would students performing paid or mandated services be eligible. If you nominate a student for either the Julie Berz Scholarship or the Lyon Area Rotary Scholarship, you **do not** need to also nominate them for a Youth Recognition Award (**Please note that there is a separate nomination form for the Youth Recognition Award**).

SLAYA will receive nominations for consideration through **Tuesday, April 16, 2019**. The students and nominators will be sent an invitation to attend the Youth Recognition Program. Attached you will find the nomination form on which you may recommend deserving students. Thank you for helping us to make this program a success. If you need additional information, please don't hesitate to call us at 248-573-8189.

Sincerely,

Al Credit II

Al Credit II
Chairperson
Youth Recognition

Mark Hiller

Mark Hiller
Co-Chair
Youth Recognition

South Lyon Area Youth Assistance

2019 Julie Berz and Lyon Area Rotary Scholarships Nomination Form

Student:

Nominator:

School:

Position:

Grade:

Address:

Parent(s):

City & Zip:

Address:

Phone Number:

City & Zip:

Nominator Email:

Phone Number:

Email:

Please include a summary describing why the nominated student should receive a scholarship. What volunteer service did they perform?
Please describe the factors that made their service exceptional.

*All scholarship nominees will be recognized at the Youth Recognition Event.

*Family members of the SLAYA Board of Directors or year-round staff are not eligible for either scholarship.

Please complete this form and return it by Tuesday, April 16, 2019 to:

South Lyon Area Youth Assistance

1000 N. Lafayette

South Lyon, MI 48178

(248) 573-8189 Main

(248) 486-4067 Fax

or email slayasecretary@gmail.com