

Regular City Council Meeting

February 26, 2018

Agenda

7:30 p.m. **Call to Order**
 Pledge of Allegiance
 Roll Call
 Approval of Minutes: February 12, 2018
 Approval of Bills: None
 Approval of Agenda
 Public Comment

I. Old Business –

1. Discussion – Downtown
2. GFL USA Amendment and Extension of Solid Waste Contract
3. Ethics Ordinance Amendment- First Reading
4. Review proposed Fund Balance Policy
5. Council Meeting Conduct

II. New Business-

1. Resignations- Frank Fogarty from Zoning Board of Appeals, and Cheryl Wickham from the DDA Board
2. Re-appointments of board and commission members:
 - a. Board of Review for 3-year term- Frank Fogarty
 - b. Planning Commission reappointments for 3-year term: Jason Rose, Scott Lanam, Wayne Chubb
 - c. Cultural Arts Commission- 3- year term- Josie Kerns
 - d. Zoning Board of Appeals- 3- year term- Ron Morelli
 - e. Parks and Recreation Commission 3- year terms- Rose Peruski and Erica Wilson
 - f. Historical Commission 3- year term- Norm Somers
3. Reappointments and appointment to DDA
 - a. Reappoint for 4-year term- Gene Carrol and Marsha Calus
 - b. Appoint for 4-year term- Mark Childs
4. Zoning Ordinance Amendment to reduce the number of members- First Reading
5. National Main Street Conference in Kansas City, MO, March 25-28th- Attendance approval for Econ Dev & DDA Director
6. Capital Improvement Plan
7. Memorial plaque for Wilber Beckstine
8. Cemetery Commission
9. Review of Planning Commission

III. Budget

IV. Manager's Report

V. Council Comments-

VI. Adjournment

CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
February 12, 2018

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; Kivell, Kennedy, Kurtzweil, Parisien, Richards and Walton
Also present: Chief Collins, Attorney Wilhelm, Department Head Boven, Fire Chief Vogel and Clerk Deaton

MINUTES- January 18, 2018, January 20, 2018 and January 22nd 2018

1-18-18

Councilmember Kennedy stated on page 3 the sentence should be inserted. Councilmember Parisien stated "she just said she could schedule around it." He then stated on the last paragraph the word profitably should be changed to profitability. He further stated, on page 4 the second sentence should say help them separate their wants from their needs. The next sentence should be objective not subjective. Lastly, further down on that page the personal should be changed to personnel. Councilmember Kivell stated on page 2 the words, then you might have if you're on the spot answering. He stated on page 4, the word that should be inserted that you may blur the line. Councilmember Parisien, stated on page 7 the last paragraph the word them needs to be changed to us. Councilmember Kurtzweil stated on page 2, paragraph 4, the questioning went on and she said "but if we are asking people to leave and it is their choice given that they have a right to be here, but if they choose to leave, is that a violation of the OMA."

CM 2-1-18 MOTION TO APPROVE THE MINUTES AS AMENDED

Motion by Kivell, supported by Parisien

Motion to approve the minutes of January 18, 2018 as amended

VOTE: MOTION CARRIED UNANIMOUSLY

1-20-18

CM 2-2-18 MOTION TO APPROVE THE MINUTES AS PRESENTED

Motion by Kivell, supported by Kennedy

Motion to approve the minutes of January 20, 2018 as presented

VOTE: MOTION CARRIED UNANIMOUSLY

1-22-18

Councilmember Kennedy stated he would like to include Councilmember Richards apology as part of the packet, that was beneficial so nothing was lost in the transcription. He then stated on page 14 the last paragraph instead of the words of the interview, it should say of last Thursday and the words He stated should be added to the next sentence.

CM 2-3-18 MOTION TO APPROVE THE MINUTES AS AMENDED

Motion by Kivell, supported by Parisien

Motion to approve the minutes of January 22, 2018 as amended

VOTE: MOTION CARRIED UNANIMOUSLY

2-12-18

BILLSCM 2-4-18 MOTION TO APPROVE THE BILLS

Motion by Parisien, supported by Kivell

Motion to approve the bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

AGENDA

Attorney Wilhelm stated he is asking to add a closed session pursuant to 8(h) of the open meetings act to consider and discuss written Attorney-Client privilege communication which is exempt from disclosure under Section 13 1(g) of the Freedom of Information Act relating to legal matters raised in the letter submitted to his office in connection with the January 18, 2018 Council meeting. Councilmember Kurtzweil stated she has 2 issues with this. She stated the letter that was forwarded to Council and to the City Attorney's office has been made public and there is no litigation. The Open Meetings Act stated there must be litigation. She further stated she believes there is a conflict of interest for the Johnson Rosati law firm in anything else further in this matter, because Mr. Johnson was at that meeting. She further stated if anything happens to City Council regarding litigation, whether or not it survives, the City could have a case against Johnson Rosati for malpractice. She stated in the back of her mind she is wondering if the City Attorney wants to go into closed session to protect Council or his own firm. Attorney Wilhelm stated he is not aware that the letter has been made public, whether it has or not, it doesn't matter, he has written an Attorney-client privilege communication which provides a basis for entering into a closed session, litigation isn't necessary. He further stated he doesn't agree there is a conflict of interest, and his firm is capable of giving objective legal advice to Council however if Council wants to entertain that, it is your option. Councilmember Kurtzweil stated she will not waive any conflicts of interests.

Chief Collins stated he would like item #1 removed under New Business and he will reinsert that on the agenda for February 26th due to a potential legal issue that has arisen.

CM 2-5-18 MOTION TO APPROVE AGENDA AS AMENDED

Motion by Kivell, supported by Parisien

Motion to approve agenda adding a closed session after Council Comments

ROLL CALL VOTE:

Walton- No

Richards- No

Kurtzweil- No

Parisien- Yes

Kivell- Yes

Kennedy- Yes

Pelchat- Yes

MOTION FAILED

Attorney Wilhelm stated the motion failed because it was not approved by a super majority. He further stated there should be another motion to approve the removal of the agenda item.

CM 2-6-18 MOTION TO APROVE AGENDA AS AMENDED

Motion by Kivell, supported by Parisien

Motion to approve agenda as amended

VOTE:

MOTION CARRIED UNANIMOUSLY

INTRODUCTION OF UTILITY & PUBLIC WORKS SUPERINTENDENT

Chief Collins introduced Mike Boven, the new Utility and Public Works Superintendent. He stated today was his first day on the job, and he received his MBA from Aspen University, his undergrad degree from Olivet Nazarene University. He holds a class A wastewater license, which we are required to hold a class B license to run our wastewater plant, he also holds other licenses such as S1, D1 and F3 for water. He stated his last position was East Michigan Area Manager and was responsible for 37 wastewater projects. Councilmember Kurtzweil stated he has some of the best workers in DPW and Water, they are very dedicated and hard working. Department Head Boven stated he has met most people today, and he has a lot of goals and plans for himself and the City. Chief Collins stated he went for coffee hour this morning with the seniors at Colonial Acres. He further stated his top priority is getting any and all outstanding budgets. Councilmember Kurtzweil asked what is his background with budgets. Department Head Boven stated he was responsible for 1.7 million in projects, there was budgeting on the corporate side as well as working on the capital budgets. He further stated he has had extensive background with budgeting.

PUBLIC COMMENT

Joyce Clohosey of 954 Oxford read a letter that was sent to the City Attorney on February 16, 2018. She stated the letter was sent to Mr. Johnson of Johnson Rosati. The letter read stated in the interview for Council she was asked by Councilmember Carl Richards if she recently had a baby. Openly suggesting that being a mother would conflict with her availability to serve on Council. She then stated she had no issues with availability and failed to see what this had to do with her serving on Council. Ms. Clohosey was never asked about her degrees or experience. Following this discussion, the Council voted 4-2 to appoint one of the two males that were interviewing. She further read, Ms. Clohosey ran for a seat in the last November Election and she was the next highest vote getter. Mr. Kennedy did not even run as a candidate. She stated it is clear that but for Mr. Richards discriminately asking her those questions, and based on Council comments, she would have received at a minimum 3 yes votes from Council. It is clear that but for a sex discrimination she would have been elected for the Council seat. The fact Mr. Richards felt so comfortable clearly inappropriate questions of her client in an interview for a paid position is very troubling. The fact no one on Council called him out on his questions and the Mayor only laughed. The fact that a voting process took place without any consideration of his comments could affect the process. Therefore, this reflects the City hasn't demonstrated they understand the inappropriateness of their actions and demonstrates they need at a minimum, serious training and advice on legal issues. She and her husband are property owners in the City, they are raising their children in the City. They own multiple properties, she volunteers her time. The fact Council focused on her being a mother, then selecting a male candidate that didn't even participate in the November Election. She further read, it is insulting and discouraging to all women in the City that may want to take a leadership role in this community. This is indicative from the widespread press attention this has garnered, this has put the City in a bad light. To ensure the City takes this issue seriously, her client is filing a complaint based on sex and family status discretion with the Michigan Dept of Civil Rights. She would like the Council as a whole to apologize to her and to the community at large, not only for the actions of Councilmember Richards, but also because of the failure of the other members of Council to appropriately address the incident. Furthermore, she is requesting Council to undergo discrimination training so they are educated about the law and the potential liability the Council creates for the City when they act and speak in a discriminatory manner. She stated her attorney never received a response from the City Attorney.

Charles Duty of 40 Hillcrest Road Northville Michigan, and a former city resident. He stated it is ironic 50 years ago today, Dr. Martin Luther King Jr was demanding economic and human equal rights for all Americans of all backgrounds. He stands before Council as someone that has experienced discrimination, he has stood long and hard for all people. It is strange to stand before City Council discussing 2 very important issues. One is the discriminatory, dehumanizing questions asked to Joyce Clohosey. The time is up, the time is now. You must own this sad error and put something in place a plan to ensure that no one ever again suffers at the hands of public service. You have to say your sorry, you have to have training and make sure this doesn't happen again. Councilmembers must refrain from personal attacks on citizens, citizens are your employers. You were elected to serve all and you should. He further stated a reminder came to him that said the last line in the oath for lawyers is "I will in all other respects conduct myself personally and professionally in conformity with the high standards of conduct imposed on members of the bar as conditions of the privilege to practice law in this state." He further stated he would like to discuss item #3 on the agenda tonight. He stated Council should have an open mind and listening ears for all comments that come before you. Refrain from calling residents liar, refrain from silencing anyone. This should be an open democracy. He stated he remembers some of the Councilmembers when they were campaigning and they said there would be transparency. He then quoted Hellen Keller "many persons have a wrong idea of what constitutes true happiness, it is not attained through self-gratification, but through fidelity to a worthy purpose."

Ryan Lare of 716 Grand Court stated he is here on behalf of Rose and Joyce. He stated he is a long-standing member of this community. He loves this town and we have a lot of church going families, and many hard-working women in this town. He further stated the questions were inappropriate. Not to mention the disgusting comments that were made by Councilmember Parisien regarding inappropriate relationships between a Councilmember and a person in the audience. He understands people interpret it different ways, but no one on Council has to reveal who their friends are. He stated Dan is best friends with William Powell, John Galeas was friends with Kivell and Wedell. Mr. Lare stated only the women were asked those questions. He is asking Council to apologize to Joyce and the community. He stated Joyce was hurt and embarrassed for the questions that were asked of her. There is no right or wrong, she answered the way she felt it was and to get mad at Rose for not disclosing she is friends with Joyce is fine. She doesn't have to, she can have friends anywhere she wants. He again told Council they should apologize to Joyce and the citizens for calling her a liar at least 3 times.

Julia Pulver 6710 Buckland Avenue in West Bloomfield. She stated she is running for State Senate which includes South Lyon. She stated she is here to support Joyce. She is also a mother and has 4 kids and if she can handle running for State Senate, someone running for a part time City Council position shouldn't have any problems. She further stated it is sad to have to be here, but she hopes Council will do the right thing.

Julie Paquet of 5688 9 Mile in Lyon Township stated she feels the questions that were asked of Joyce was inappropriate. Instead of asking her of her qualifications, she was asked about having a child. The question itself showed a lack of training, it showed a lack of judgement. She further stated the Mayor laughing showed a lack of judgement and a lack of leadership. She doesn't think this needs to be said, but the fact that someone today is being asked that question as a follow up to her answer that she is available and can do the job is unbelievable.

Vanessa Torres of 763 Norchester stated she is here in support of Joyce. She stated she did not grow up in South Lyon and it is rare she hears news of this area from family and friends that are out of town. It is

sad and incredibly disappointing that this news article came up on her social media feed, this is the one that grabs the most attention and her friends ask isn't this the town you live in. She further stated we talk to kids about teachable moments and standing up for people and doing the right thing when it doesn't seem popular or easy. She then stated Council has the opportunity to lead by example by accepting responsibility for not conducting themselves professionally. She hopes Council will reflect on the request for additional training. That isn't a punishment, but a way for improvement and a way to move forward.

Jennifer Salvatore of 304 E Lake and she is Joyce's attorney and a civil rights attorney with offices in Northville and Chicago. She specializes in women's right and gender equity work. She has lived in South Lyon for 14 years, she is raising kids here and running a business as well. She further stated she heard about this from a friend of hers in Pittsburgh. She was really disappointed and she is happy to serve as attorney pro bono for Joyce, her goal is for Council to be educated. She stated she believes some Councilmembers get it. This issue could be litigated, as well as litigated in Federal Court, this is a constitutional violation. Instead Joyce chose to file a complaint with the Michigan Department of Civil Rights. She stated this needs to be addressed and she hopes they get a response. This issue should be taken seriously and learned from so there is no further liability the City subjects itself to, and so women in this community feel comfortable taking on leadership role so they know they are valued equally to men.

OLD BUSINESS

1. Discussion- Downtown

Mr. Donohue stated the DDA Board retreat is February 15th. He stated he gave Council a list of accomplishments. He further stated they are working on the building improvements downtown. He stated the Planning Commission approved the design for 115 and 117 Lake Street. He stated the contractor has already started on the Lake Street Tavern building. The awnings will be removed and the windows will be replaced. He stated people will begin to believe change is here when they start seeing the changes being done. Mr. Donohue stated we have taken our first steps with the buildings that need maintenance. He stated they will be meeting face to face with each owner and that will start the clock. He stated they will be meeting with the owner of 110 Detroit later this week. He further stated we are excited about where we are going, 2018 will be a great year and we will be looking at a program to recognize successful and creative business owners each month. He stated we will also have the banners in, and the Bonner buildings will be for sale by the end of February. He further stated there will be more improvements for the Farmers Market and exciting new retail. More promotions on marketing as well. Mr. Donohue stated the banner will be up for the first event this year which will be for Ladies Night Out in May. Councilmember Kivell stated he hopes it is something spectacular so everyone understands the value of that. Mr. Donohue stated they are working on policies and guidelines for the banners. Councilmember Richards asked if he believes the City is interested in buying 113 Lafayette. Mr. Donohue stated the private sector needs to buy those buildings, an estimate for the repairs and improvements for the Artcraft building a minimum of \$250,000 and the City budget doesn't have that money. Councilmember Richards asked how will the City enforce the new owner to spend that much money. Mr. Donohue stated his job will be to work with the new owner and we will enforce our ordinances.

2. Proposed restrictive covenant for 128 S Lafayette

Councilmember Kurtzweil asked if the letter of assurance came in yet. Attorney Wilhelm stated we didn't get what he expected to get. They provided an environmental indemnity agreement which was

different than what the assurance letter that was presented earlier. He further stated there are things he needs additional time and the City's consultants ASTI to go through and make sure the concepts and procedures that Amoco is asking for, he wants to deal with our consultant to see what impact that has and come back with a recommendation to see if we try to revise the document before bringing it back to Council.

CM 2-7-18 MOTION TO POSTPONE REQUEST UNTIL FIRST MEETING IN JUNE

Motion by Parisien, supported by Kivell

Motion to postpone Arcadis request for approval of the restricted covenant until the first meeting in June

VOTE: MOTION CARRIED UNANIMOUSLY

3. Consider additional public comment and public comment procedures at City Council meetings

Councilmember Parisien asked what communities were looked at. Attorney Wilhelm stated he recommends this be postponed until Council has all the information to look through.

CM 2-8-18 MOTION TO POSTPONE UNTIL THE NEXT MEETING

Motion by Kivell, supported by Parisien

Motion to postpone until February 26th meeting

VOTE: MOTION CARRIED UNANIMOUSLY

OLD BUSINESS

1. Appointment for the Board of Review- Removed from agenda
2. Traffic Control Order 18-01

Chief Collins stated a Councilmember brought to his attention on McMunn where the Rail Trail crosses, south of the tube mill. There is potentially a dangerous situation when trucks are backing out. He further stated there are appropriate crosswalks signs for the tube mill and there are some advanced signs north and south of the tube mill crosswalk, so to improve safety, all that is required is for the DPW to install the designated crosswalk signs at the rail trail and to paint the appropriate markings.

CM 2-9-18 MOTION TO APPROVE TRAFFIC CONTROL ORDER 18-01

Motion by Walton, supported by Richards

Motion to approve traffic control order 18-01 for the signs and crosswalk painting to be done

VOTE: MOTION CARRIED UNANIMOUSLY

3. Direction to bookkeeper regarding vacation time bank

Chief Collins stated this involves vacation time banks and a change that was made to the personal manual. Between the time this was first worked on and when the policy was changed, he accrued an additional 200 hours of vacation time which should be included in his frozen vacation bank so he isn't forced to use many hours of vacation time before his August anniversary date. He is asking Council to direct the City Bookkeeper to clarify that it should be 651 hours in his frozen time bank instead of the 251 hours.

Councilmember Kurtzweil stated she wants to make sure she understands this, as of August 1st chief had already accumulated the additional hours. Chief Collins stated on August 4th he accrued an additional 200

hours. He stated the resolution was passed in September, the problem was, no one went back and changed the personnel manual to August 1, 2017. Councilmember Kurtzweil stated we may need to change the resolution. She then asked how many other employees are affected by this. Chief Collins stated he is the only one. Attorney Wilhelm stated it was an oversight that this wasn't changed in the personal manual. Councilmember Kivell asked if it was the expectation that we wanted this to go into effect as of August 1st. Attorney Wilhelm stated when this was presented at the 2nd meeting in July, he believes the intent was to make this policy effective at the next convenient date which would have been August 1st. Councilmember Kivell stated our City Manager has been missing a lot of time, and asked if this was a factor of this not being attended to in a timely matter. Attorney Wilhelm stated he recalls there was a lot of push about reducing the number of days employees can carry over and we created the frozen back. It took a period of time to have this all arranged and drafted the way we wanted it. He doesn't think it was due to any absences, it was more due to tweaking the language and getting the language the way Council wanted it. Councilmember Kivell stated this is no fault of the Chief's so the way he sees it is we have to eat this one. Mayor Pelchat stated he agrees, is it ideal, probably not. Councilmember Richards stated Chief Collins is very dedicated but if we can't come to an agreement, would you be interested in taking a payout. He further stated a lot of men never take time off, a lot of men are workaholics. He asked if he wanted the time off, or if he would take a buyout. Councilmember Kurtzweil stated she is a workaholic herself and she spent a lot of time on this issue. In her mind the vacation time accrued was prior to the resolution. She is inclined to go ahead and approve this.

CM 2-10-18 MOTION TO DIRECT CITY BOOKKEEPER TO ENTER ADDITIONAL 200 HOURS INTO ACCRUED FROZEN ANNUAL LEAVE

Motion by Kurtzweil, supported by Walton

Motion to direct the City bookkeeper to enter an additional 200 hours accrued by Chief Collins on or before August 4th and prior to Council's adoption of the resolution amending the City employee personal manual to limit the accumulation of annual leave by city employees and clarified provisions and payment of the same to ensure Chief Collins total accrued hours as frozen effective tonight of a total of 651 hours

VOTE:

MOTION CARRIED UNANIMOUSLY

4. DDA & Economic Development Director- Salary

Councilmember Parisien stated Council praises him often. She further stated they see what he has done in the community and we see everything he has done in the downtown and our downtown is flourishing, and it is because of him. She stated this is very much deserved. Councilmember Kivell stated he is glad we can rectify this problem. The process that got us here was a cheap shot and completely inappropriate and he hopes he understands Council doesn't feel the same way he was abused in his evaluation. He then stated Council is solidly in his corner. Councilmember Parisien asked if this will be retroactive. Chief Collins stated that wasn't his intent, there could be some legal issues with that. Councilmember Kurtzweil stated her comment is that she doesn't want to get in the business of giving raises to City employees. She further stated that is a City Manager responsibility and Chief Collins has a lot of freedom to run the City as you see fit. She stated she doesn't want to get near any employment issues with City employees, she doesn't feel Council has any authority to partake in. She further stated the two employees are stellar employees, with fabulous work ethics, but she feels this is an Interim City Manager issue. She then stated she has not seen the reviews, she isn't privy to their personal evaluations, that isn't her role or function, so she won't vote for this, not because they don't deserve it. Chief Collins stated the City Charter does give the City Manager the ability to give raises, but it states within budget. These two

positions are not currently budgeted at that salary. He further stated although with respect to Mr. Donohue the range is there. There could be a budget amendment necessary for one or both of these which is why he is seeking Council's approval. Councilmember Kurtzweil asked if the budget will have to be amended. Chief Collins stated because we have gone with some vacant positions, we may not have to. Councilmember Walton stated this seems like a human resource person would deal with this. Attorney Wilhelm stated the City doesn't have a dedicated human resource person, so it will fall under the City Manager. He further stated he believes Chief Collins is seeking to ensure Council approves. Councilmember Kurtzweil stated she doesn't agree with that because there was a new Fire Chief hired, as well as the new Superintendent for Water and DPW and that salary was negotiated with Councils involvement. Chief Collins stated the City Attorney is correct, it would be a more comfortable decision for a City Manager to make, versus an Interim City Manager.

CM 2-11-18 MOTION TO DIRECT INTERIM CITY MANAGER TO INCREASE RATE OF PAY FOR DDA DIRECTOR

Motion by Parisien, supported by Kennedy

Motion to direct the Interim City Manager to increase rate of pay for the Economic Downtown Director Bob Donohue to \$69,564.00 effective February 14, 2018

VOTE:

MOTION CARRIED- 1 OPPOSED

5. Salary increase for City Bookkeeper

Councilmember Kivell asked what is the typical process for reviews of what the wage structure is. Chief Collins stated he is not aware of any annual employee evaluation. He further stated they have annual evaluations at the Police Department, but they are subject to collective bargaining agreements. Councilmember Kivell stated City Hall has a number of non-union employees, and they work very hard to make the City run smoothly, the idea of people being cherry picked for an embellishment to their wage, without some kind of structured mechanism to guide this, he doesn't want this to be a popularity contest, they should be able to appeal to their superior to get a raise on a structured time stamped environment. He would like there to be a more structured process, other than someone doing more than their job description. Chief Collins stated some of the reasons for this is in the absence of the City Manager and the structure of the current budget document preparation, we will be putting another significant function on the City Bookkeeper in addition to her accounting duties, her human resource duties and benefit coordination duties. Councilmember Kivell stated his comments are not directed towards Lori, but it is the structure this is being conducted. Chief Collins stated he would suggest at some point there should be a study of jobs and functions at City Hall to analyze work load, then have a wage and salary study done that would set appropriate wage levels. Councilmember Kivell stated we are currently in the process of losing an employee, and we have already lost another employee because there are other communities that are financially rewarding them. He stated he doesn't want to see that continue on, we have lost some really good people, he wants them to have some way they can at least be heartened that there is a process to see if their wage is appropriate.

Councilmember Parisien stated the agenda note states we are giving her a raise for having more responsibilities with the budget, but the next item is for a proposal to have a consultant to come in and provide budget preparation assistance for Lori and the City Manager for somewhere between \$12,000 and \$15,000. She stated if we are having Lori do the budget, why would we hire an outside 3rd party. She stated that is fiscally irresponsible. She doesn't see the reason to have both. Chief Collins stated the consultants he spoke with quoted between \$13,000 to \$15,000 for them to do the total budget job. He is

hoping to keep the cost in the \$7,000 range. The scenario he is recommending is using Plante Moran on an hourly as needed basis. Councilmember Parisien stated the overall issue is if we are giving the raise to the bookkeeper, she doesn't think we need to have a 3rd party come in. It is City funds going to two different places for the same thing. Councilmember Kennedy stated Plante Moran will bring much more expertise than what Lori brings. She is going to do a lot of the footwork, and Plante Moran will be providing the review of it from a CPA standpoint.

Chief Collins stated their expertise is beyond any City Manager or City Bookkeeper. He stated they will be coming to public presentations and the budget workshops explaining the process and the final budget document. Councilmember Parisien stated if the City Manager is back before then, we will have a City Manager, an Interim City Manager, the City Bookkeeper and Plante Moran all working on the budget. The budget is important, but there are other things we could be spending these funds on instead of throwing it all at the budget. She stated she doesn't want to utilize too many of our resources on one thing. Councilmember Kurtzweil asked if the bookkeepers title will be changing. Chief Collins stated he didn't plan on doing so. She stated she thinks for anyone to give someone a raise without a basis for giving that raise, beckons back to the days of sitting around the coffee table and decided who got what. There is nothing professional about what is happening here tonight. It isn't the raise, and she isn't saying they don't deserve it, but it is the process. It is unprofessional.

Councilmember Kurtzweil stated another comment she wants to say deals with other employees leaving, we need to get used to it. She stated she has stacks of employment agreements of people that are moving and changing jobs. That is the way it will be in this economy. She stated we will give employees a fair raise and benefits, and she will not feel guilty for people who are taking advantage of a good labor market. She then stated this is the way it will be. Councilmember Kivell stated everyone in business knows it costs way less to keep employees than to keep switching employees over and over again. Councilmember Kennedy asked when the last raise was given to the bookkeeper. Chief Collins stated it was in July and it was 3%.

CM 2-12-18 MOTION TO APPROVE THE WAGE INCREASE OF THE CITY BOOKKEEPER TO \$62,412.00

Motion by Kennedy, supported by Kivell

Motion to approve the raise for the City Bookkeeper to \$62,412.00

ROLL CALL VOTE:

Kivell-yes

Kennedy- yes

Parisien- yes

Walton-Yes

Kurtzweil-no

Richards-yes

Pelchat-yes

MOTION PASSED

6. Budget preparation consultant

Chief Collins stated he consulted with Jim Graham, Vettraino Consulting, as well as Plante Moran. He stated it is his recommendation to approve the agreement with Plante Moran, option #1. The main reason being is they are most familiar with our systems, our budget and personnel already. He believes we can get a viable budget in place with their assistance. Councilmember Richards asked if Mr. Graham and Mr.

Vettraino will be coming to Council to speak. Chief Collins stated Mr. Graham's proposal was much more limited. Councilmember Kivell stated his cost point was significantly lower as well. Mayor Pelchat stated Mr. Graham was more interested in offering assistance with a 3-5-year plan while he is still consulting with South Lyon Community Schools. Councilmember Kivell stated that is all we are asking for. Ultimately the City Manager will be responsible for the budget, but we need someone in place to assist with this now. He further stated we know Plante Moran is very familiar with our budget and could help us direct our focus to things that may have been overlooked in the past. This isn't a comment on Plante Moran. He further stated to have Plante Moran to do a full budget for us when Lori is capable of doing a lot of the footwork it seems Mr. Graham's ability and understanding of how budgets work, he would be able to gleam quickly where we need assistance.

Brian Camiller of Plante Moran stated he was on the audit team for the City from 1999-2013, so he has a history with the City and Lori. He stated he changed departments and now leads a group called Governmental Accounting Professionals. He stated they do City side accounting with 17 workers and for many different communities. He has faith that Lori could do 99.9% of the role. He further stated their team can be a sounding board, and they can come to Council to facilitate conversations. He further stated Council can approve option 1 and he may do nothing, unless needed. He stated the other option is for them to take it over and do the entire thing. Mr. Camiller stated he is sure the other two consultants would have been fine, but he is happy to help and his level of involvement is up to the City. Councilmember Kennedy stated a potential advantage with the Plante Moran approach, is with the schedule we laid out and with what we want to get accomplished, we are already behind. Using a larger organization can provide additional resources to put us back on schedule if that becomes necessary. He remembers last year when the budget was prepared at the eleventh hour with changes along with negotiations and how much revenue would be. Mr. Camiller stated according to the City's charter and many of his clients, the City isn't behind schedule. Your Charter states you have to approve your budget by the last meeting in May, which is plenty of time with what Lori has already done to still have work sessions, the review process and getting the draft and revisions done. He sees no reason why that isn't attainable. Councilmember Parisien clarified if we go with their proposal, we are authorizing our Interim City Manager to utilize them when they need them, will it be a Council decision or Interim City Manager decision. Chief Collins stated with Council's approval of utilization of Plante Moran he will work with Lori on the current budget spreadsheets we have, but if we come up with questions or something's outside of their area of expertise, they will call Brian or someone other than him for help needed at any given time. Councilmember Parisien asked if the City has done this before. Chief Collins stated he doesn't believe so.

Councilmember Kurtzweil stated she is an advocate at this time for looking at the services of Plante Moran. We don't have to do this for the next 5 years but she has studied the budget for two years and her opinion is it's a mess. She further stated she would like to sit with someone with expertise in this field for not only putting the budget together but for analyzing data. It is protocol if you are looking at funding and how you are going to fund the repairs for the water and sewer if tap in fees are in decline. She doesn't know if anyone has thought of that. She further stated we need to look at rate structure, water usage rates and looking at enterprise funds and how to build up the sufficient amount of funds. Councilmember Kurtzweil stated there are some serious systemic problems with this budget. She stated she brought it to Council's attention that the City wasn't charging the correct mill to service the bond debt for sewer and water. She further stated she has spent the last couple of years digging in the budget. We don't have a planning document because this City doesn't plan like that. She looked at a budget that was a deficit spending budget, that is unacceptable. She will not lay blame on anyone, she is only here to

solve the problem. She wants to work with someone that has the credentials in budgeting and city planning and see if that makes a difference. All she is hearing tonight is let's keep doing the same thing we have been doing for the last 10 years and let's all think we will get a different result. Unless you understand the problems in the budget, nothing will change. You may get the budget on time, but budgeting is more about how you are budgeting for the City's future. She further stated she will make a strong budget we need Plante Moran's services. She then asked if we are only working with them on the budget or a 3-year plan. Mr. Camiller stated he works at the direction of the City so he will do whatever is asked. He stated he would like to sit down and speak with Councilmember Kurtzweil on her ideas. Councilmember Kurtzweil stated we sit and talk about where we want the City to go, but we need to make a plan for that. She would like a 3-year plan as part of the agreement with Plante Moran.

Councilmember Kivell stated Mr. Bohrer stated during the audit that the doom and gloom that is being portrayed is not necessary, we are not in the stakes that some people are portraying the City. He likes the idea of a 3-year budget as well. The idea to structure something more long term makes more sense. Councilmember Kennedy stated to reiterate what other councilmembers have said, is the timing is right on this with the new Superintendent for wastewater and DPW and piggybacking on some of the conversations he had with them, looking at 5-year asset management plan so you are looking down the road so you have some idea how much that will cost. It sets the stage to do that effectively. Councilmember Richards asked if this contract is for 4 or 6 months, but he doesn't see where it is stated anywhere in the agreement. He thinks that is lacking, he thinks we should be able to get buy with just using them for 6 months. He thinks Jim Graham could do this, he worked on the School's budget for many years. We are losing money, it should be noted whatever we do, it should be noted 4-6 months, not a year. Attorney Wilhelm stated if Council is inclined to go with Plante Moran he noticed there is a provision to indemnify Plante Moran and that is something he would like changed. Councilmember Parisien stated she would like this reviewed by our City Attorney before we approve this.

2-12-18 MOTION TO AUTHORIZE THE INTERIM CITY MANAGER TO EXECUTE THE PROPOSED CONSULTING AGREEMENT WITH PLANTE MORAN- OPTION 1 FOR BUDGET CONSULTING SERVICES CONTINGENT ON CITY ATTORNEY REVIEWING THE CONTRACT

Motion by Kurtzweil, supported by Walton

Motion to authorize the Interim City Manager to execute the proposed consulting agreement with Plante Moran, PLLC- option 1 for budget consulting services

VOTE: MOTION CARRIED- 1 OPPOSED

7. Sealed bid award- Variable Frequency Drive Project High Service Pumps 3 & 4 (water treatment plant)

Councilmember Kennedy stated this is a budgeted item and is a required part while the water tower is offline being painted. He further stated we need to have this installed to maintain pressure while the water tower is offline. Besides the fact the instrumentation actually prolongs the life of the equipment installed at the water plant. He stated originally the painting of the water tower was part of this, but that will be in the next years budget. Councilmember Richards stated this isn't clear to him. He stated pumps 3 & 4, are they the well houses. Mr. Beason stated they are not, these are high service pumps. He further stated this will establish the pressure while the water tower is offline. Department Head Boven stated the speed of the pumps may only be needed at half speed, and if we do so, that will save the City money by saving on the electric bill as well as water. He stated he experienced this recently at the Village of Parma. This is a pretty common thing, two things, not wasting water and saving on electrical cost because it is at

a more efficient rate. Councilmember Kivell asked if this is real time software. Department Head Boven stated it is based on the pressure, you set it for 50 pounds and it will maintain that at a certain rate, but if it drops, it will ramp up the speed. Councilmember Richards stated he has seen the pressure go down. What if something like that happens? Department Head Boven stated you would do a boil water advisory and get the system back up and running. There is a potential it can happen, you take precaution against those things but nothing is fool proof.

CM 2-13-18 MOTION TO AWARD THE VARIABLE FREQUENCY DRIVE PROJECT TO DF BEST COMPANY FOR \$54,500, AS SPECIFIED AND AUTHORIZE CONSTRUCTION ENGINEERING COSTS FOR HRC NOT TO EXCEED \$5,450.00

Motion by Kivell, supported by Kurtzweil

Motion to award the variable frequency drive project to DF Best Company for \$54,500 as specified and authorize construction engineering costs for HRC not to exceed \$5,450.00

VOTE: MOTION CARRIED UNANIMOUSLY

8. Roof repair- 464 S Lafayette (City rental property)

Chief Collins stated Council asked for bids for a roof repair on the rental house, but it was not done previously. He stated he directed DPW Foreman to get the bids and there is some cost benefit analysis as well so Council can decide if they want to repair the house and or garage roof and if it is cost effective to remain in the rental business. Councilmember Kennedy stated this particular house, they want \$9,000 to replace the roof, and that is assuming the wood underneath is sound. If the wood is not sound, that will need to be replaced and that could be anywhere from \$100 to \$1,000. He stated there is a \$1,000 electrical repair that is necessary as well. He stated the question is do we want to continue maintaining this home or possibly using the money for other things such as the roof on the police department. We are not charging a high amount of rent for this home. He further stated he is not inclined to support this, he thinks we should get out of the rental business. He then stated the additional services we provide is shoveling the driveway, cut the lawn, even though we would do the lawn cutting anyway.

Councilmember Parisien stated we need to figure out what we want to do with this property. We need to discuss this with Parks and Recreation as well, she is not inclined to approve this as of right now. Councilmember Kivell stated the lawn mowing would be happening anyway, as well as the driveway being plowed because we need access to the garage. He stated this is a one-time occurrence, this roof will be good for 20 years. He is hoping Parks and Recreation can raise the funding to transition this to their master plan, but in the meantime, this generates money annually. Although we will incur a cost right now, we haven't had many costly repairs on this house.

Councilmember Richards stated he agrees with Glenn. He has been in this house. The tenant has been very good and not caused any problems. If he was going to move out he doesn't see why the City doesn't raise the rent. He then stated it is a fabulous location, it could be a sleeper asset for the City in the future. If the City ever has guests or a group of people and we want to put them up for a time, if we don't have a renter we could do that. He stated the idea of tearing the house down is appalling to him.

Councilmember Walton asked for a copy of the lease agreement and it is literally one page. If we are going to stay in the rental property business we need to have this reviewed, this is not a proper lease agreement. Councilmember Kennedy stated if we are renting this for \$900 a month, to find something else similar, it is approximately \$1,700. He agrees, if we are going to be in the rental business then we

should be compensated appropriately. Councilmember Walton stated for \$900 a month, you could rent a mobile home in the local trailer park. Councilmember Kivell stated he has no issues reevaluating the price point. He looks forward to that house being torn down, but we shouldn't do so until we have enough funds to follow through with the Parks and Recreation master plan. Councilmember Kennedy asked if the DPW got bids for repairing the roof, or just replacing the roof. Superintendent Boven stated he spoke with Ron at the DPW and he emphasized the roof is beyond repair.

Mayor Pelchat stated the question comes down to how much money are we will to put in versus how much money we will get back on it. Councilmember Parisien asked what the Parks and Recreation plan on doing with it. Mayor Pelchat stated it is February and he can't imagine the roof is getting any better. In good faith to the renter, we need to get this taken care of.

CM 2-14-18 MOTION TO REPAIR

Motion by Kivell, supported by Walton

Motion to authorize roof repairs by McCarter Construction for \$8,871 for the rental

VOTE:

MOTION CARRIED – 1 OPPOSED

BUDGET

Councilmember Kurtzweil stated the only thing she wants to mention the Safe Routes to School program has been cancelled. Chief Collins stated that was at the time of the memo, but it may be salvageable. Councilmember Kurtzweil asked if it will be salvageable at the original cost. Chief Collins stated he will be meeting with our engineers, Lyon Township, South Lyon Schools and we will reevaluate our original decision. Chief Collins stated June 8th was a very important date for a draw down on some grant funds. Since it didn't happen by that time, we could have been on the hook for the entire amount. We will be talking later this week because the act of rebidding which will utilize some funds, may satisfy the time constraint. Chief Collins stated that is what the representatives of MDOT suggested. Councilmember Kurtzweil asked what will happen if the bids come back higher. Chief Collins stated if the bids come in within 10% of the engineering estimates the communities are still on the hook for spending the extra funds. Our portion is the lower portion of the 3 parties involved. We do have the option if the bid comes in higher we can withdraw without penalty. Councilmember Kivell stated the 10% would obligate us to an additional \$7,000.

MANAGER'S REPORT

Chief Collins stated that he and Mr. Donohue participated in the meeting regarding the 5 properties that are concerning in the City. Immediate progress was made with 110 Detroit, they are meeting with the property owner later this week. He further stated he participated in the conference call with representatives of MDOT and the other participants, we are trying to get this project going again without putting the funds for South Lyon at risk.

Chief Collins stated the snow emergency went smoothly, and the DPW did a great job cleaning the snow off the streets pretty quickly. He then stated he dropped off a dozen donuts and thanked the DPW guys for their hard work. He further stated the Police Department did have to write 47 tickets for people not removing their car off the streets. He stated they don't like to write tickets, but it is important that the cars are removed so the streets can be cleared.

Councilmember Kurtzweil stated she heard South Lyon Recreation may be leaving the City and the City rental building. Chief Collins stated he has heard they were going to vacate the building, but haven't

heard anything definite. He further stated that may be a good building for the Cultural Arts Commission to have their shows. Councilmember Kurtzweil stated she agrees but maybe we can find out when they will be vacating and for Council to consider using the building for the Cultural Arts Commission. Chief Collins stated he will check with them regarding their intentions of leaving.

Councilmember Richards stated the Safe Routes to School is a political train wreck. We committed to fund a matching fund of \$150,000. We didn't have to put it in all at once. He then asked Chief Collins how much we have in escrow. Chief Collins stated he believes the City may have extended some funds for the stop light improvements done at Marjorie Ann and Pontiac Trail. He further stated the remaining obligation would be the \$77,000 for City projects. Councilmember Richards stated it went forward slowly, then stalled 2 years ago. He is glad the traffic signal went in. He then asked if we are stuck paying this or can we walk away. Chief Collins stated we are still free to walk away from the grant funds and the project, which is what the meeting later in the week will be about. Councilmember Richards thanked Chief Collins for the work he has been doing with the weekly reports, great job.

COUNCIL COMMENTS

Councilmember Kennedy stated he has had the opportunity to speak with most of the employees of the City, including a 6-hour tour and conversation at the wastewater treatment plant. He also met with the DPW, Fire and Police Departments and administrative offices as well. He stated the City is very fortunate to have the extremely knowledgeable, experienced and dedicated employees that provide services that residents have come to expect. He found several examples of asset care best practices where equipment is carefully monitored to schedule repairs and minimize risk of failure to the City. Sometimes that meant coordinating with other cities so mobile equipment could be taken out of service for repairs while having backup equipment from the other municipality if needed. He observed crews that were scheduled assignments the previous day so they could begin their day instead of waiting for job assignments. He also observed numerous examples where employees have designed and built equipment for use rather than purchasing it, thereby saving the City money. Many of these folks work behind the scenes and often don't get the recognition they truly deserve. He encourages all the City residents to acknowledge the efforts of these folks when they see them. A wave to a police officer, or snow plow driver, or finally an email or phone call to the department head recognizing someone's efforts would go a long way to let them know we appreciate their efforts. He further stated he hopes all of Council will meet with all the departments to do so, in order to better understand the challenges they face as a department, in turn we will face as a City.

Councilmember Richards stated he is thankful for all the services the City provides such as the ambulance, fire and police department because of the extreme snowfall we have had.

Councilmember Walton stated she wants to thank everyone that came out tonight to speak during public comment. She further stated it takes a great deal of courage for anyone to do so. She hopes the City will take some of their advice, there are always teaching moments. She stated she wanted to thank the DPW for the great job they did with the snow plowing. Councilmember Walton then congratulated Martins Hardware for their 50 years in business. She further stated Mickey's dairy twist is open again as well. Councilmember Walton stated she had lunch at the Good Day Café and they were really busy and it is a great place. She then encouraged everyone to go out and enjoy our town.

Councilmember Kurtzweil thanked everyone that came out and supported Joyce, and she includes herself. Their voices were heard by her and she hopes their voices were heard by the others that needed to listen and change. What she heard tonight that was most interesting and pulled at her heart strings were from Mr. Duty. She stated he spoke of understanding discrimination. It is important for people to hear how discrimination can affect people's lives. His comments were timely, and moving and she thanked him for sharing a part of his life that was painful. She stated he came to the microphone with strength and courage. She then thanked Joyce Clohosey for the work she is doing even though this is hard for her, in her own way, she is moving the City forward with positive change. She commends Joyce. She further stated you never know when these situations happen to you, but sometimes you are put in a position in your life because that is where you are supposed to be. She stated obviously you are supposed to be here and she will take the advantage to learn from her and her lawyer.

Councilmember Kurtzweil reminded everyone that Tuesday is Fat Tuesday and the South Lyon Bakery is the best place to get a paczki and there will definitely be a line out the door. They are the best. Councilmember Kurtzweil stated Wednesday is Ash Wednesday and she likes to stop at Lake Street Tavern because they have the best French onion soup. She then stated on Thursday the South Lyon Hotel has a new menu and on the first Thursday of the month it includes perogies, kielbasa and last week they were sold out within an hour. She stated on Friday St. Joes will be having their fish fry and they do have the largest fish fry in the area. She further stated you will see many people from our community at the fish fry. She then invited everyone to go to the South Lyon Hotel and finish off the week with a great movie. Councilmember Kurtzweil stated there is no reason to leave downtown South Lyon you can enjoy the season in our great town.

Councilmember Parisien stated Parks and Recreation has a vacancy if anyone is interested in participating. She highly recommends them. She then thanked the DPW, Police and Fire for the great job they have been doing with all the snow. She stated she wanted to send her thoughts and prayers to the family of Tanner Bryan. He was a young man with deep roots in South Lyon and his loss is felt by many people.

Councilmember Kivell thanked Marilyn Smith for her decades of operating her business in the our downtown. He stated she was always ready to put in her 2 cents and he appreciates that. He then stated he heard KV Sports will be relocating there and he hopes that works out well. He then thanked Joan Ciarelli and Megan Blaha for their efforts and service as well as wishing them well. They are leaving City Hall and he wishes them the best. Councilmember Kivell thanked the DPW and all of our employees, everyone has stepped up with our compromising circumstances.

Mayor Pelchat stated he would also like to thank Joan Ciarelli and Megan Blaha for their commitment to the City and he wished them the best on their future endeavors. Mayor Pelchat stated the DPW did a great job this weekend with all the snow. He also thanked everyone that removed their cars from the streets, it must be very difficult for the workers to plow the streets on 12-hour shifts trying to get around cars that are parked in the road. He then stated he was supposed to be with the 2nd grade students of Brummer on Friday, but is hoping to speak with them tomorrow. Mayor Pelchat stated on a final note, to Ms. Clohosey and her representative he is standing by his statement during the last meeting.

ADJOURNMENT

CM 2-15-18 MOTION TO ADJOURN

Motion by Kivell, supported by Parisien
Motion to adjourn meeting at 10:15 p.m.

VOTE: MOTION CARRIED UNANIMOUSLY

Respectfully submitted

Mayor Dan Pelchat

Clerk Lisa Deaton

DRAFT

AGENDA NOTE

Old Business Item # 2

MEETING DATE: February 26, 2018

PERSON PLACING ITEM ON AGENDA: Per 1/8/18 Council motion

AGENDA TOPIC: GFL USA Amendment and Extension of Solid Waste Contract

EXPLANATION OF TOPIC: On January 8, 2018 the City Council authorized staff to pursue a four-year extension of and amendments to the City's Solid Waste Contract with GFL on terms consistent with the GFL's proposal and the discussion at the January 8th Council meeting.

Pursuant to Council direction, the parties have review and revised the document and provided comments on the Amendment and Extension of the current Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement between the City of South Lyon and GFL Environmental USA Inc, which has a term which expires June 30, 2018. The proposed Amendment and Extension is presented for Council approval.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Proposed Amendment and Extension of Solid Waste Contract with GFL
- Excerpt of 1/8/18 minutes
- 1/8/18 Agenda Note
- GFL proposal 1/4/18
- RRRASOC Memo dated October 19, 2017
- Current Solid Waste Contract

POSSIBLE COURSES OF ACTION: Approve/Reject/Postpone/No action

RECOMMENDATION: Approve the Amendment and Extension

SUGGESTED MOTION: Motion to approve the Amendment and Extension of the Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement between the City of South Lyon and GFL Environmental USA Inc and authorize the Mayor and Clerk to sign same

Amendment and Extension
of the
City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

This Amendment and Extension is made and entered into by and between the City of South Lyon (the "City"), 335 S. Warren Street, South Lyon, MI 48178, and GFL Environmental USA Inc. ("GFL"), 6200 Elmridge, Sterling Heights, MI 48313.

WHEREAS, on February 29, 2008, the City of South Lyon ("City") and Duncan Disposal Systems, Inc. ("Duncan") entered into a Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement (the "Agreement") with a five-year term beginning on July 1, 2008 and expiring June 30, 2013, which was extended on March 12, 2013, by mutual agreement for an additional five-year term beginning July 1, 2013 and expiring on June 30, 2018; and

WHEREAS, Rizzo Environmental Services, Inc. (RES) acquired the operating assets of Duncan in July 2016; and

WHEREAS, on August 8, 2016, after having been advised of RES's acquisition of Duncan's operating assets and related transactions involving RES and GFL Environmental USA Inc., the City approved a Consent and Waiver of Assignment of the Agreement from Duncan to RES; and

WHEREAS, GFL Environmental USA Inc. closed a stock purchase of RES on September 30, 2016; and

WHEREAS, the City was apprised of the stock purchase by GFL Environmental USA Inc. on November 28, 2016; and

WHEREAS, in a letter dated September 26, 2017, GFL Environmental USA Inc. proposed an extension of and amendments to the Agreement, and it provided a subsequent letter dated January 4, 2018 outlining its proposed amendments and extension; and

WHEREAS, the City reviewed GFL's proposed extension and amendments and on January 8, 2018, authorized the City administration to pursue a four-year extension and amendments of the Agreement consistent with the terms outlined in GFL's proposal and discussed during the January 8, 2018 City Council meeting and subject to City Council review and approval;

WHEREAS, the parties desire to extend the term of the Agreement, acknowledge that GFL is the Contractor under the Agreement, and amend the provisions for future extensions, annual price adjustments, and recycling collection and carts;

NOW, THEREFORE, the City and GFL agree as follows:

1. The introductory first paragraph identifying the parties to the Agreement is amended to read as follows:

THIS AGREEMENT, is made and entered into this _____, 2018, by and between the City of South Lyon, 335 S. Warren, South Lyon, MI 48178, hereinafter called "THE CITY", and GFL Environmental USA Inc., with offices located at 6200 Elmridge, Sterling Heights, MI 48313, (hereinafter called "Contractor").

2. Sections 3.A – C of the Agreement are amended to read as follows:

- A. **Four (4) Year Term:** The term of the Agreement, as amended and extended, shall be for four (4) years, with one (1) four-year extension option. The term of the Agreement, as amended and extended, shall begin July 1, 2018 and expire June 30, 2022.
- B. **Contractor's Extension Options:** The Contractor may request one (1) four-year extension of the Agreement if written notice of such requests are received by THE CITY by six (6) months prior to current expiration date. Granting requests for contract extensions shall be at the sole discretion of THE CITY and shall not be contestable or appealed. If THE CITY agrees to accept the Contractor's request for an extension, such extension shall be approved at least three (3) months prior to the current expiration date.
- C. **THE CITY Retains Right to Extend and Postpone Agreement Termination Date:** THE CITY may renew the Agreement for one (1) four-year term (extension) under the conditions set forth in the contract. THE CITY shall give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract.

3. Section 5.K of the Agreement is amended to read as follows:

Contact Persons for Legal Notices: The Contractor identifies Michael Fleming, of GFL Environmental USA Inc., with offices located at 6200 Elmridge, Sterling Heights, MI 48313, who shall be designated to receive all notices and communications on behalf of the contracting parties with regard to the Agreement. Written notice required to be provided to THE CITY pursuant to this Agreement shall be provided the City of South Lyon, c/o City Manager, 335 S. Warren, South Lyon, MI 48178.

4. Attachment A (General Provisions), Section 1.1 of the Agreement is amended to read as follows:

1.1 Term

The term of the Contract, as amended and extended, is for four (4) years commencing on July 1, 2018, and ending June 30, 2022. THE CITY may renew the Contract for one (1) four-year term (extension) under the conditions set forth in the Contract. THE CITY shall give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract.

5. Attachment A (General Provisions), Section 1.9 of the Agreement is amended to read as follows:

1.9 Contract Price Adjustments

The contract price schedule shall be reviewed and revised in June of each contract year and extension period, if any, in accordance with the most recent full calendar year annual percentage change in the reference annual Consumer Price Index escalator, and the contract price shall be established for the next contract year beginning on July 1, following the June evaluation, except, however, that the price adjustment shall not exceed two (2) percent or be less than zero (0) percent. No other changes in contract prices are permitted, except as authorized by this agreement.

The reference Consumer Price Index shall be the Consumer Price Index - All Urban Consumers for the Detroit-Ann Arbor-Flint area (all items), base period: 1982-84=100, as published by the Bureau of Labor Statistics, U.S. Department of Labor.

In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the CPI, another equally authoritative measure of change in the purchasing power of the U. S. dollar as may be then available shall be substituted.

6. Attachment B (Contractor's Service Specifications), Section 2.1.8 of the Agreement is amended to read as follows:

2.1.8 RECYCLING COLLECTION

As part of the solid waste unit price and not as a separate pay item, included as part of weekly regular curbside pick-ups, the Contractor shall separately pick up on the same day as the regularly scheduled refuse collection required by this Contract, recyclable materials set-out as per the specifications identified by the City in Attachment D and as indicated MRF Services Agreement between RRRASOC and the City. Recyclable materials shall be delivered to the RRRASOC Materials Recovery Facility at 20000 W. Eight Mile Road, Southfield, MI 48075 in accordance the MRF Services Agreement.

Recyclable materials shall be placed in 18-gallon recycling bin or the 64-gallon recycling cart as set forth below. The Contractor will be responsible for replacing any bins or carts damaged by the Contractor within twenty-four (24) hours at no cost to the City. The Contractor will provide the City with an additional inventory of replacement bins billable at its cost, upon request by the City. Replacement bins shall billable to the City only if 2,000 or more households have been provided recycling carts.

Homeowners will have the option of selecting a 64-gallon recycling cart upon direct request to the Contractor, who will provide a telephone number and website page for such requests, or continuing to use the 18-gallon recycling bins. The Contractor will service homes with recycling carts or

bins as part of the regular collection route without additional cost to the City or homeowner. The Contractor will provide up to 2,000 households with recycling carts, delivered to requesting homeowners, at no cost to the City or homeowners. The Contractor will report to the City and RRRASOC annually prior to June 1st, the number of homeowners that have requested carts. Delivered carts in excess 2,000 will be charged to the City each June for the excess carts delivered in the prior year at a rate of \$75.00 per cart.

7. Attachment C.2 (Contractor's Compensation) of the Agreement will be amended to read as follows:

2. Contractor's Base Price Rate Schedule for collection, transportation, and disposal (solid waste unit price as of July 1, 2018):

- (a) Residential Units (\$/year – total including refuse, yard waste and recycling):

Single-Family Units: \$142.32

Multi-Family / Discount Eligible Units: \$124.92

8. All of the terms, conditions, and provisions of the Agreement, including Attachments, not modified by or in conflict with this Amendment and Extension shall remain in full force and effect.
9. This Amendment and Extension constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes any prior understandings, agreements, or representations by or among the parties, written or oral, to the extent they relate, in anyway, to the subject matter hereof.
10. This Amendment and Extension is governed by and will be construed in accordance with the laws of the State of Michigan.

Acknowledged and agreed:

GFL Environmental USA Inc.

By: _____

Name: _____

Title: _____

Date: _____

City of South Lyon

By: _____
Daniel L. Pelchat, Mayor

Date: _____

By: _____
Lisa Deaton, Clerk

Date: _____

5. Discussion regarding GFL contract and request decision regarding extension or bid process

Attorney Wilhelm stated we have Mike Csapo from RRRASOC and Sam Caramagno from GFL. He stated GFL is asking if we want to extend the contract or go out for bid. He stated the contract is currently good through June 30, 2018. Mike Csapo from RRRASOC stated he helps the City secure and manage solid waste. He stated you currently have a contract that expires in June of this year. It typically takes 6-7 months for the bid process. Mr. Csapo further stated the context should be 3 questions, is it allowable, are you comfortable with current services, and what is being proposed competitively. He stated routinely they go through dozens of communities and get an average on the expenditures for refuse collection. He stated every year he has done this; South Lyon has been near the bottom of the list. The City has a very good program performance and a good contract. He stated when GFL took over, they have continued to maintain the contract cost, as well as the good service. He further stated GFL is offering an extended contract with options of enhancing with new practices. He further stated if the contract is extended for 4 years, there is an option for the residents to opt in for a recycling cart, if a shorter extension there would be a limited number of people that could opt in without cost to the City. Another change in the proposal is to limit the increase in cost based on the CPI. He further stated it limits the exposure to a higher cost. He looked at the pricing and recent bids and he would be shocked if the City could get a lower bid. Councilmember Richards stated he thinks it is a good idea to continue with this contract but he thinks a 64-gallon cart for recycling is too much for residents. Mr. Csapo stated he begs to differ, he found most people in a 4-5 people household can fill up a 64-gallon cart, but if they want to stick with the 18-gallon bin, they can. This isn't an obligation. Councilmember Richards stated we should give them the option to pay for it, why charge the whole community for the option of having a 64-gallon cart. Mayor Pelchat stated it is an option for the resident. Mr. Csapo stated the primary cost of the rate change is there will be a 3% raise in CPI. He further stated our current price is under market primarily because the City had a great deal with Duncan and they gave the city pricing below what anyone else would give. Mayor Pelchat stated he thinks this is a good option, it will encourage recycling and the problem with the buckets is when the wind picks up some of the recycling ends up blowing around and a lot of it ends up in the garbage. Mr. Csapo stated we tend to see a 40-60% increase in recycling with the carts. Councilmember Kivell stated when he got involved with this, Duncan was already the provider, and they had a contract that included things other providers weren't offering such as anything being put out they will pick up, such as appliances and such. He stated he is grateful GFL carried that over to their contract. Mr. Csapo stated there will be no change in the services, but it will cap the price increases and add the option of the recycling cart. Councilmember Kivell stated at the onset when he got involved, tipping fees were supposed to go through the roof, and everyone was going to be paying a lot of money for trash hauling, and capacity must have been enhanced by allowing dumps to grow, we dodged a bullet. We could have been suffering by enormous amounts if that hadn't taken place. He further stated he likes the idea of the 2% escalator being the maximum.

Councilmember Kurtzweil stated a lot of the bins don't fit inside the garages of the homes that were built 15-20 years ago, and most have homeowner associations that have rules that they cannot be left outside so there is a growing contention with the size of the containers that are being provided to our community.

Councilmember Kurtzweil stated in respect to cost containment and having a sweetheart deal with Duncan, she thinks the Duncan family was very astute at business practices and they were locally located, and their trucks didn't have to travel too far, and a lot of their workers were in this area. She stated GFL has the same opportunity to move closer to this area and cut their costs. She is hesitant to let that comment go, without commenting that GFL should look at incurring cost constraints that would be favorable to the communities they serve and move a little closer. There is plenty of space that could be rented so they wouldn't have to travel their trucks too far and they would save some money. Mr. Csapo

stated that is a business decision and he doesn't think GFL will do that for a contract for 3700 units. He further stated the pricing that is before Council remains one of the lowest in the RRRASOC communities.

Sam Caramagno of GFL stated the size of the 64-gallon cart footprint is basically the same as the bin, but it is taller. Councilmember Walton asked if the contract they are asking for is for a 3 or 4-year contract. Mr. Caramagno stated they are asking for a 4-year contract, but they were asked to also propose a 3-year contract. Mr. Csapo stated the cost for the 3-year contract is slightly higher than the 4-year contract. The costs difference basically is a .40 cent increase versus a .50 cent increase. He stated in either case, the pricing is at or below average and it keeps the City of South Lyon overall cost at the bottom of cost compared to other communities. Councilmember Richards stated it is good they provide the service for people to drop off old paint and batteries. Councilmember Parisien stated she is comfortable with the 4-year agreement.

CM 1-13-18 MOTION TO AUTHORIZE THE CITY TO PURSUE THE 4-YEAR EXTENSION OF SOLID WASTE CONTRACT WITH GFL USA

Motion by Kivell, supported by Parisien

Motion to authorize the City to pursue the 4-year extension of Solid Waste contract with GFL USA

VOTE:

MOTION CARRIED UNANIMOUSLY

6. Evidentiary blood draw agreement with Huron Valley Ambulance

Attorney Wilhelm stated we had an earlier agreement and we didn't know how it would go, therefore we put an expiration date on it. They are continuing the arrangement and some slight changes were made. There is a small price adjustment. It is a service we like and the relationship is working well. Chief Collins stated the reason for the agreement is the HVA comes to the Police Department to do blood draws for instances when a suspect refuses a breath test for driving under the influence or search warrant issues for a case of operating under the influence of drugs. He stated it saves them a lot of time and it is very convenient so the officer doesn't have to transfer the suspect to a hospital for the blood draw. He stated HVA asked for an increase of \$15.00 per draw. He further stated it is a very low number of blood draws. Councilmember Kivell asked if this affects the chain of control for the sample being conducted at the PD instead of the hospital. Chief Collins stated that is not affected, the blood sample is sealed back in the box the kit came in and submitted back to the Police Department. Councilmember Parisien asked if we are reimbursed by the individual for the blood draw cost. Chief Collins stated we are not, unless there is a crash involved. Councilmember Parisien stated it seems we should be reimbursed from the person that refuses the breath test. Councilmember Richards asked if someone from the police department personally supervises the blood draw. Chief Collins stated the arresting officer witnesses the blood draw.

CM 1-14-18 MOTION TO APPROVE THE EVIDENTIARY BLOOD DRAW AGREEMENT BETWEEN THE CITY OF SOUTH LYON AND HVA

Motion by Richards, supported by Kivell

Motion to approve the evidentiary blood draw agreement between the City of South Lyon and HVA and authorize the Mayor and Clerk to execute the agreement on behalf of the City

VOTE:

MOTION CARRIED UNANIMOUSLY

7. Liquor Licensing Ordinance

AGENDA NOTE

MEETING DATE: January 8, 2018

PERSON PLACING ITEM ON AGENDA: On request of GFL

AGENDA TOPIC: GFL USA Request for Extension of Solid Waste Contract

EXPLANATION OF TOPIC: The existing City of South Lyon Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement is dated March 12, 2013, and it was originally between the City and Duncan Disposal. The City approved the Consent and Waiver of Assignment of the Contract from Duncan to GFL USA in August 2016.

The current Contract with GFL (per the assignment) has a 5-year term and expires June 30, 2018. (Section 3(A)).

The City has a right to extend and postpone contract termination for one (1) three-year term which is essentially a right to extend the contract for an additional 3-year term. (Section 3(C)). To exercise this right, "[t]he City must give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract." (Section 3(C)).

The Contractor can request a 3-year extension of the Contract. (Section 3(B)). To do so, it must provide written notice of the request to the City 6 months prior to the expiration date. The decision to grant the extension is in the City's sole discretion, and if accepted, the approval must occur at least 3 months prior to the expiration date.

Attachment A to the Contract, Section 1.9 contains the price adjustment provision, and Mr. Csapo's memo accurately summarizes it. It provides for annual price adjustments in June of each year of the Contract with the new prices taking effect on July 1. The prices are adjusted by the CPI with a maximum of 3% increase.

GFL USA is proposing a 4-year contract extension which would expire June 30, 2022. Note, the existing Contract provides an option to both the Contractor and the City to extend for a 3-year term. The proposal is referred to as an extension of the current contract but it requests a 4-year term among other proposals. Thus, it is unclear if the proposal is a request for extension as provided for under the current Contract or a proposal for an amended or new contract. The impact of this distinction may affect how the proposal is handled. If it treated as a proposal for a new contract, it might trigger purchasing / bidding requirements under the City Code and purchasing ordinance and charter. Alternatively, it could be viewed as a combined request for extension and amendment including the 4-year term vs. 3-year term.

There was no price adjustment implemented in June 2017. The current solid waste fee per the City fee schedule on the website (adopted Oct 2016) shows single family residential at \$34.38/quarter or \$137.52/year. Mr. Csapo's analysis of the price increase (ie, 3.5% increase proposed for July 1, 2018) appears to be based on the rates in place as of October 2016 with no price adjustment in 2017 which may explain why the requested 3.5% price increase exceeds the Contract provision limiting annual price adjustment to CPI and a maximum of 3% per year. GFL is proposing to limit this to 2% per year under the extension.

There may be a benefit to both parties in matching the term of the City's Solid Waste Contract with 6 other communities. This may be the real purpose of the proposal for a 4-year term vs the 3-year term.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- RRRASOC Memo dated October 19, 2017
- Current Solid Waste Contract

POSSIBLE COURSES OF ACTION:

- Authorize parties to pursue contract extension
- Put the Contract out for bid
- No action
- postpone

RECOMMENDATION:

Pursue extension of GFL contract extension proposal and not put the contract out for bids.

SUGGESTED MOTION:
Contract with GFL USA

Motion to authorize the City to pursue an extension of the Solid Waste



January 4, 2018

Lynne Ladner
City Manager
City of South Lyon
335 S. Warren
South Lyon, MI 48178

Dear Lynne,

Thank you for the time to discuss and the opportunity to meet regarding extension possibilities for the City of South Lyon.

As per our discussion, please see the proposal below.

1. Extend current contract until 6/30/2021 (3 years)
2. \$0.55/per unit increase on rate effective 7/1/2018
3. Continue current trash, recycle and yard waste services at like terms with the exception of:
 - 2% annual cap and 0% floor
 - South Lyon would be eligible for an opt-in 64 gallon recycle cart for up to 1,000 residential homes. Residents will own carts at end of 36 months.
 - Delivered carts above the 1,000 included in the unit rate will be billed in June for the year before at \$75.00 each.

Let me know when a good time would be to meet regarding the above opportunities. Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Caramagno".

Sam Caramagno
District Manager
GFL Environmental USA Inc.

CC: Mike Csapo
Timothy Wilhelm





Resource Recovery & Recycling Authority of Southwest Oakland County

20000 W. 8 Mile Rd
Southfield, MI 48076-8708

Office: 248.208.2270

Fax: 248.208.2273

www.RRRASOC.org

THE RECYCLING AUTHORITY
Since 1989

To: Lynne Ladner, City Manager, South Lyon
From: Mike Csapo, General Manager
Date: October 19, 2017

Re: **GFL USA Contract Extension Proposal**

As you are aware, the City's contract with GFL USA for curbside solid waste service expires on June 30, 2018. GFL USA has proposed a contract extension under the following terms:

1. Extend the current contract until June 30, 2022.
2. Set the annual rates beginning July 1, 2018 at \$142.32 for single-family homes and \$124.92 for serviced multi-family homes.
3. Continue to adjust the rates annually based on the CPI but lower the current cap from 3% to 2%, with a floor of 0%.
4. Allow homeowners to "opt-in" to receive a 64-gallon recycling cart at no cost to the homeowner or the City.

I have the following comments on each of the preceding terms:

1. The extension proposal would align the City's contract term with six of the other RRRASOC communities, which may provide an opportunity for a joint bid in the future.
2. The proposed rate is a 3.5% increase, which constitutes a market adjustment from the existing rate that was largely result of contracting with nearby Duncan Disposal. Also, prices in the industry have generally been trending up in the last several months.

The new single-family rate of \$142.32 compares to a RRRASOC area median of \$150.60 and an average of \$148.26. GLF USA provides (or proposes to provide) similar services to the RRRASOC communities of Milford, Milford Township, and Walled Lake for \$139.20, \$150.60, and \$148.59, respectively. The next page shows a price comparison across all RRRASOC communities.

3. Under the current contract, annual price increases are tied to the CPI, with a cap of 3% and no floor. The proposal reduces the cap to 2% and introduces a floor of 0%, which reduces the City's overall exposure to price increases while creating greater price predictability.

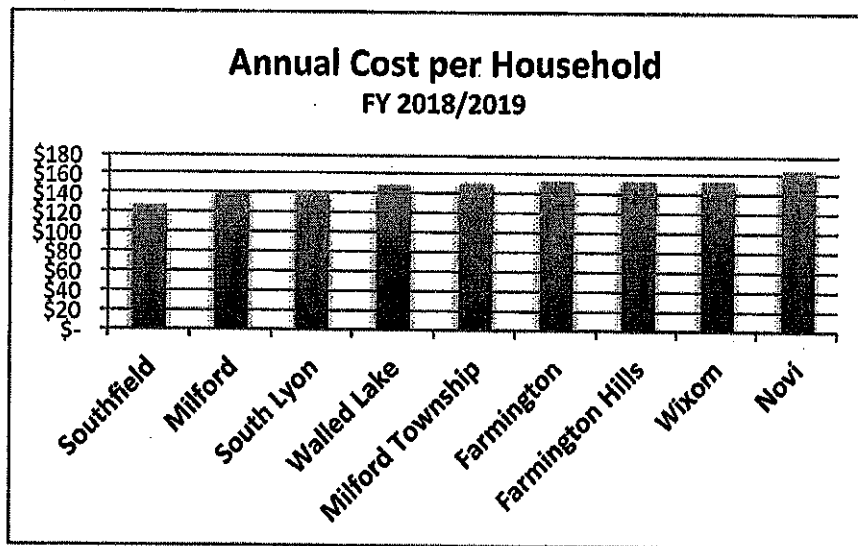
RRRASOC Member Communities

Farmington + Farmington Hills + Milford + Milford Township
Novi + South Lyon + Southfield + Walled Lake + Wixom

4. The proposal allows homeowners to continue to use their existing 18-gallon recycling bin or "opt-in" to receive a 64-gallon recycling cart at no cost to the homeowner or the City. The use of recycling carts is considered a best practice in the recycling industry and the deployment of recycling carts has been the trend over the past several years. The use of carts is typically associated with an increase in recycling due to the increased capacity and convenience of the carts, which have wheels and lids.

Overall, the proposal would continue the existing service while adding cart recycling. The contract price would remain competitive, with future increases limited to no more than 2% annually. If the City is receiving a level of service that meets its expectations, the proposal merits consideration.

Please let me know if you have any questions.



City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

THIS AGREEMENT, is made and entered into this March 12, 2013, by and between the City of South Lyon, 335 S. Warren, South Lyon, MI 48178, hereinafter called "THE CITY", and Duncan Disposal Systems, Inc., a corporation registered in the State of Michigan, with offices located at P.O. Box 727, South Lyon, Michigan 48178, (hereinafter called "Contractor").

WITNESSETH:

WHEREAS, THE CITY, through cooperation with the Resource Recovery and Recycling Authority of Southwest Oakland County (RRRASOC), 20000 W. Eight Mile Rd., Southfield, MI 48075, requested proposals from qualified companies interested in performing solid waste, yard waste and recycling collection and disposal services for THE CITY and;

WHEREAS, the proposal of the Contractor was received and determined by THE CITY to be the most responsive proposal received at the best services value for the estimated costs and;

WHEREAS, representatives of THE CITY and the Contractor met to negotiate the detailed terms of this agreement contained herein and;

WHEREAS, THE CITY and the Contractor entered into a Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement (the Agreement) effective July 1, 2008 and;

WHEREAS, the Agreement may be extended by mutual agreement and;

WHEREAS, the parties have agreed to extend the Agreement for a period of five (5) years on the terms and conditions as set forth herein and;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, the parties agree as follows:

1. **GENERAL PROVISIONS:** The general provisions this contract shall be in accordance with Attachment A: "General Provisions" (Incorporated herein to this agreement).
2. **CONTRACTOR'S OBLIGATIONS:** The services to be provided by the Contractor are detailed in Attachment B: "Contractors Service Specifications" (Incorporated herein to this agreement).
3. **TERM / TERMINATION OF THE CONTRACT**
 - A. **Five (5) Year Term:** The term of this services contract shall be for five (5) years, with one (1), three-year extension option. The initial contract term shall begin July 1, 2013 and expire June 30, 2018.
 - B. **Contractor's Extension Options:** The Contractor may request one (1) three-year contract extension if written notice of such requests are received by THE CITY by six (6) months prior to current expiration date. Granting requests for contract extensions shall be at the sole discretion of THE CITY and shall not be contestable or appealed. If THE CITY agrees to accept the Contractor's request for an extension, such extension shall be approved at least three (3) months prior to the current expiration date.
 - C. **THE CITY Retains Right to Extend and Postpone Contract Termination Date:** THE CITY may renew the Contract for one (1) three-year term (extension) under the conditions set forth in the contract. THE CITY shall give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

- D. **Additional Extension by Mutual Agreement:** Upon mutual agreement of both parties, the Contract may be extended by the terms referenced above.
- E. **THE CITY Termination of the Contract Services:** THE CITY may, after giving Contractor and the surety one hundred and eighty (180) days written notice and to the extent permitted by laws and regulations, terminate the contract. THE CITY may, after giving Contractor and the surety seven (7) days written notice and to the extent permitted by laws and regulations, terminate the contract if the Contractor:
1. **Fails to Perform** the required work as specified in this Agreement as determined by THE CITY, and fails to correct the deficiency within thirty (30) days after receiving written notice from THE CITY.
 2. **Materially Violates Any Law or Regulation** of any municipal, local, state or federal laws, rules, regulations, ordinances and specifications, in performance of this Contract.
 3. **Files for Bankruptcy or Insolvency.** If Contractor commences a voluntary case under any chapter of the Bankruptcy Code (Title II, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;
 4. **If a petition is filed against Contractor** under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under other federal or state law in effect at the time relating to bankruptcy or insolvency.
 5. **Assigns this Contract** or any portion thereof in violation of Section 5.H.
- F. **Contractor Termination of the Contract Services:** Contractor may stop service or terminate the contract if, through no act or fault of the Contractor, THE CITY Solid Waste Program is suspended for a period of more than ninety days by THE CITY. Under this circumstance, the Contractor may, upon seven (7) day's written notice to THE CITY, terminate the Agreement and recover from THE CITY payment for completed services.

In the event that Contractor terminates the contract pursuant to the above conditions, Contractor understands and agrees that Contractor's sole remedy shall be recovery from THE CITY of payment for completed services and understands and agrees that any consequential damages and any claimed damages resulting from loss of future profits are hereby waived.

In the event that the contract is terminated pursuant to this provision and THE CITY subsequently resumes the Solid Waste Program, the Agreement may be reinstated upon mutual agreement.

4. COMPENSATION

- A. **Monthly Invoices:** The Contractor shall submit monthly invoice statements for payments for services rendered, said statements to be submitted to THE CITY.
- B. **Service Components:** Monthly invoices shall be in a form as specified in Attachment C "Contractor's Compensation" (incorporated herein to this agreement).
- C. **Payment for Services:** THE CITY shall pay the Contractor for services rendered as invoiced within 30 days upon receipt of the invoice and upon successful completion of all services required, including, but not limited to, the Monthly Service Report as specified in Attachment B.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

- D. **Taxes:** The Contractor shall pay all Federal, State, and local taxes including, but not limited to, property taxes, sales taxes, social security taxes, income taxes, and fees, which may be chargeable against the labor, material, equipment, real estate or any other items necessary in the performance of this contract, except for: (1) additional fees that are imposed upon the Contractor by Federal or State legislation enacted following the Effective Date, and (2) exceptions otherwise noted.

5. LEGAL AND INSURANCE REQUIREMENTS

- A. **Responsibility for Waste:** Ownership of acceptable waste shall transfer to the Contractor at the time that it is loaded into the Contractor's collection vehicles.
- B. **Indemnification:** To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless THE CITY and its officials, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees, which THE CITY may suffer or for which it may be held liable, arising out of or resulting from the Contractor's or its agent's or employee's actions or negligent actions or omissions in the performance of this contract.

This indemnification shall survive the expiration or termination of this contract. By entering this contract, the parties do not waive any immunity provided by law.

- C. **Pollution Liability:** To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless THE CITY and its officials, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees, which THE CITY may suffer or for which it may be held liable, arising out of or resulting from the death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations or orders resulting from Contractor's collection of waste.

This indemnification shall survive the expiration or termination of this contract. By entering this contract, the parties do not waive any immunity provided by law.

- D. **Independent Contractor:** The Contractor shall be deemed an independent contractor, and not an employee of THE CITY. Any and all employees, members or associates of the Contractor or other persons, while engaged in the work or services required to be performed by the Contractor, shall not be considered employees of THE CITY. Any and all claims that might arise on behalf of employees of Contractor or other persons as a consequence of any act or omission on the part of said employees of Contractor shall in no way be the obligation or responsibility of THE CITY. Contractor fully understands all consequences, financial and legal, of the status of an independent contractor.

- E. **Contractor Performance Bond:** The Contractor will be required to furnish financial assurance to compensate THE CITY for losses that may be incurred in the event Contractor fails to faithfully perform Contractor's obligations under this Contract. Said financial assurance shall be equal to one fourth of the amount of the annual total contract price and shall take the form of a corporate surety bond, letter of credit, or other financial assurance deemed acceptable by THE CITY. Said financial assurance shall be renewed annually and stay in effect throughout the contract period. The bond shall be with a surety licensed and permitted to do business in the State of Michigan and in a form acceptable to THE CITY.

Annual contract price, for purposes of this performance bond, shall be based on estimates derived by THE CITY for the first year and actual contract payments for subsequent years.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

- F. **Insurance Requirements:** The Contractor shall submit a Certificate of Insurance prior to the execution of a contract meeting the minimum limits of liabilities as outlined. All insurance carriers must be acceptable to THE CITY and licensed in the State of Michigan.

A new certificate of Insurance shall be provided to THE CITY each year at the time of policy renewal. The Vendor shall not allow for any lapse of insurance coverage in the amounts shown below. Failure of the Vendor to maintain the required insurance shall be grounds for contract cancellation.

1. **Workers' Compensation Insurance:** The Contractor shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
2. **Commercial General Liability Insurance:** The Contractor shall procure and maintain during the life of the blanket purchase order, Commercial General Liability Insurance on an "Occurrence Basis" and motor vehicle insurance with limits of liability not less than \$1,000,000.00 (one million dollars) per occurrence, Personal Injury, Bodily Injury, and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations Liability; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable. Additionally, the Contractor shall procure and maintain Umbrella Coverage of not less than \$1,000,000.00 (one million dollars).
3. **Additional Insured:** Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be Additional Insureds: "THE CITY, all elected and appointed officials, all employees and volunteers." This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage is primary, contributing or excess.
4. **Cancellation Notice:** Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following. "It is understood and agreed that Sixty (60) days Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to the City of South Lyon, 335 S. Warren, South Lyon, MI 48178."

If any of the above coverages expire during the term of the contract, the Contractor shall deliver renewal certificates and/or policies to THE CITY at least ten (10) days prior to the expiration date.

- G. **Non-Discrimination:** Contractor agrees that Contractor shall not discriminate against any employee, applicant for employment or other person, supplier, or contractor because of race, color, religion, sex, marital status, national origin, disability or public assistance.
- H. **Assignment and Subcontracting:** The Contractor shall not delegate or assign the Agreement, or any part thereof, to an unaffiliated entity, nor shall the Contractor sub-contract this Agreement or any part thereof without the prior written approval of THE CITY, which shall not be unreasonably withheld.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

The Contractor may not assign any parts of this Agreement via sale, merger or acquisition of the Contractor's company without the prior written approval of THE CITY, which shall not be unreasonably withheld.

I. Compliance with All Laws, Rules, Regulations and Licensing Requirements:

The Contractor shall comply with all municipal, county, state and federal laws, regulations, ordinances and specifications.

J. Liquidated Damages: THE CITY and Contractor agree, in addition to any other remedies available to THE CITY, THE CITY may imposed the amounts specified below as liquidated damages for failure of the Contractor to fulfill its obligations as determined by THE CITY. THE CITY shall have authority to deduct the amounts specified herein from payments due the Contractor.

1. Failure to clean up spilled refuse:
\$25 for each incident.
2. Failure to clean vehicle, conveyances, containers, docks, yards, shops, and other equipment as provided in the specifications:
\$50 for each incident.
3. Failure to complete all routine pickups by 6:00 p.m. on the scheduled day or failure to complete all routine pickups on major roads by 5:00 p.m. on the scheduled day:
\$100.00 for each incident.
4. Failure to collect solid waste, recyclables, and yard waste within 36 hours after notification of a complaint or by the end of the following regular business day:
\$100.00 for each incident.
5. Failure to maintain vehicle in operable condition and acceptable appearance after inspection and notice by THE CITY:
\$500.00 for each incident.

The liquidated damages provided for herein are not considered as penalties and were not calculated in contemplation or anticipation that the Contractor would default. In the event the Contractor does default or otherwise abandon the project, THE CITY reserves the right to collect from the Contractor or its surety, in addition to the liquidated damages, the actual damages incurred by THE CITY as a result of the default or abandonment.

The assessment of liquidated damages shall be determined by THE CITY and deductions made from the payment each month to the Contractor. The decision of THE CITY in the matter will be binding. The Contractor may at their option initiate the dispute resolution process included in this service agreement.

- K. Contact Persons for Legal Notices:** The Contractor identifies Tom Duncan, Owner, of Duncan Disposal Systems, Inc. at P.O. Box 727, South Lyon, MI 48178, who shall be designated to receive all notices and communications on behalf of the contracting parties with regard to the contract. Written notice required to be provided to THE CITY pursuant to this Agreement shall be provided the City of South Lyon, c/o City Manager, 335 S. Warren, South Lyon, MI 48178.
- L. Performance:** Contractor shall see that all work done pursuant to this Agreement is accomplished with work forces and equipment which are adequate to insure the satisfactory transportation of said materials at all times. Either Party may be excused from performance under this agreement by reason of an event defined herein as Force Majeure which is outside of the Party's control and cannot be avoided by the exercise of due care.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

- M. **Conflict of Interest:** Neither the Contractor nor its employees neither presently have, nor shall acquire interest, direct or indirect, in the contract in any manner forbidden by law. No CITY official shall be directly or indirectly interested in this contract.
- N. **Severability:** This Agreement is subject to the laws of the United States of America, the State of Michigan, and the Ordinances of the City of South Lyon. In the event that any provision of this Agreement shall be held to be contrary to law or Ordinance by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided, such provision or provisions shall be voided. All other terms and conditions of the Agreement shall continue in full force and effect. The voided provision or provisions may be renegotiated at the written request of either party to this Agreement.
- O. **Governing Law:** This Agreement shall be deemed to be a contract made in the State of Michigan and shall be interpreted and construed in all respects in accordance with the laws of the State of Michigan applicable to contracts wholly to be performed therein.
- P. **Modification:** Any alterations, variations, modifications or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, signed by the authorized representatives of THE CITY and Contractor and attached to this Agreement.
- Q. **Representation:** THE CITY and the Contractor each represent to the other that, by their respective execution of this Agreement they have obtained all necessary consents and approvals required for their respective execution and performance thereof.
- R. **Integration:** The Parties agree that the entire Agreement between the Parties is contained herein and that this Agreement, including any and all exhibits attached hereto, supersede all oral agreements and negotiations between the Parties relating to the subject matter hereof, as well as any previous agreements between the Contractor and THE CITY or either of them relating to the subject matter hereof.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

EXECUTION

In Witness whereof, the Parties hereto set their hands.

By the duly elected or appointed representatives of **THE CITY**:

Mayor

Date

By the duly appointed representatives of the **CONTRACTOR**.

The Contractor acknowledges by his/her signature on this document that the Contractor has received a copy of this contract and is in full agreement with the terms as imposed upon the Contractor by this Agreement and that the Contractor will comply with those terms and conditions.

[Signature]

RANDALL DUNCAN
Name

3/12/13
Date

[Signature]

C SCOTT DUNCAN
Witness

3/12/13
Date

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

Attachment A

GENERAL PROVISIONS

1.1 Term

The term of this contract is for five (5) years commencing on July 1, 2013, and ending June 30, 2018. THE CITY may renew the Contract for one (1) three-year term (extension) under the conditions set forth in the Contract. THE CITY shall give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract.

1.2 Customer Communications and Complaint Handling Procedure

The Contractor must designate a Manager to supervise all work and operations to be performed under this contract. Said manager shall have substantial experience in the management and operation of refuse collection and recycling systems for a similar size service area.

The Contractor shall have at least one (1) full-time Field Supervisor, exclusive to and approved by THE CITY. The Field Supervisor shall familiarize himself with all service stops under contract. The Field Supervisor shall make a daily check with THE CITY to assure pick-up as scheduled.

The Contractor shall make a local telephone number available to receive all service complaints, which shall be logged. At its discretion, the CITY may designate a CITY department or agency and a telephone number to receive all service complaints, which shall be logged. The Field Supervisor shall arrange to pick up or receive such complaints every day for immediate action. The Field Supervisor will have until the end of the day to resolve complaints, with a maximum time limit of 36 hours or the end of the following regular business day. The complaint resolution action will be logged the next day or before. Any complaint not closed out during the required period will be noted and reviewed by THE CITY, or its designee, to determine if liquidated damages are appropriate.

The Contractor shall ensure that the Field Supervisor is equipped with a cellular telephone by which THE CITY may contact the Field Supervisor during business hours regarding, but limited to, complaints and special pickups.

1.3 Service Standards

The Contractor shall provide complete service for all routes each day as scheduled. The Contractor shall not commence collection in residential areas prior to 7:00 a.m. and shall be completed by 6:00 p.m. Collection on major roadways shall be completed by 5:00 p.m. All collections shall be made as quietly as possible. Unnecessarily noisy trucks or equipment are prohibited.

The Contractor shall pick-up all blown, littered, and broken materials occurring at the point of collection resulting from its collection and hauling operations. Each vehicle shall be equipped with a broom, shovel, and suitable absorbent material for use in cleaning up any spilled debris or material from city streets, sidewalks, or residential property when said spillage is caused by the Contractor. Care shall be taken to prevent damage to property, including lawns, shrubs, and other plants.

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THE CITY shall cooperate in requiring residents to provide and maintain suitable containers. The Contractor shall exercise care in the handling of containers, making certain that containers are emptied completely. The Contractor must replace containers in an erect position with the lids replaced thereon, or adjacent thereto. In the event the Contractor damages a resident's container(s), the Contractor shall be responsible to replace said container(s) with one of equivalent value at the Contractor's expense and within forty-eight (48) hours, excluding weekends.

Adverse weather shall not be considered reason for not providing services unless approved by THE CITY, which shall be not be unreasonably withheld. When adverse weather conditions exist, the contractor shall notify THE CITY if the continuation of service jeopardizes the safety of employees.

The Contractor shall assign a qualified person or persons to be in charge of its performance of this Contract, and shall advise THE CITY of such persons in advance and when changes occur.

All persons employed by the Contractor shall be competent, skilled, and qualified in the performance of the work to which they are assigned. All personnel shall maintain a courteous and respectful attitude towards the public at all times. The Contractor shall furnish employees with uniforms, which shall always be as neat and clean as circumstances permit. The Contractor shall inform THE CITY of all employee training programs related to customer relations, services, and safety issues.

At no time shall the Contractor's employees solicit, request or receive gratuities of any kind. The Contractor shall direct its employees to avoid loud/or profane language at all times during the performance of their duties. Any employee of the Contractor who engages in misconduct or is incompetent or negligent in the proper performance of their duties or is dishonest, disorderly, intoxicated or discourteous, shall be subject to discharge by the Contractor.

THE CITY may request the dismissal or removal of any employee of the Contractor who violates the provisions hereto, or who is wantonly negligent or discourteous in the performance of their duties.

1.3.1 Field Rules and Regulations

The Contractor, in performing services under the contract, shall abide by the following rules and regulations and such other rules and regulations as THE CITY may promulgate from time to time.

1. All refuse spilled by the Contractor, or any spilled refuse caused by wind, animals, etc., shall be picked up by the Contractor in the course of its regularly scheduled pick-up.
2. Employees must be courteous. Disorderly workers shall be removed when so ordered by THE CITY.
3. Containers must be put back in approximately the place from where they were picked up.
4. Container lids shall be replaced on containers or must be neatly placed next to containers and not scattered.
5. Rough handling of containers will not be tolerated. Damaged containers shall be replaced or repaired by Contractor at the Contractor's expense.

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6. Collection crews will neither consume controlled substances nor drink alcoholic beverages nor accept remuneration of any kind from residents while performing services under this contract. Violation of this rule shall be cause for dismissal of the employee when requested by THE CITY.

7. THE CITY expressly reserves the right to make additional reasonable rules and regulations by which the Contractor shall abide.

1.4 DETERMINATION OF RESIDENTIAL UNITS SERVICED

For the purposes of responding to this proposal, the number of residential units expected to be provided with curbside collection services for solid waste, recycling, and yard waste is as indicated in Section 1.1.3 and Appendix B of the Request for Proposals issued by RRRASOC on February 28, 2007, including addenda, unless otherwise specified and agreed to by both the Contractor and THE CITY. THE CITY shall provide the Contractor with a list of identifying the addresses of the homes to be serviced upon request.

For billing purposes prior to the initiation of service, the selected contractor and THE CITY will jointly complete and agree on a total unit count for each service type and for each route day. Route days shall be determined by mutual agreement between THE CITY and the Contractor.

At the time such a unit count becomes documented, the number of residential units serviced for billing purposes shall be updated monthly by 1) adding the number of occupancy permits for residential structures with single-family, two-family, three-family and four family residences per structure requiring curbside refuse service as issued by the Building Department of The CITY; and 2) deleting the number of complete demolition permits for residential structures with single-family, two-family, three-family and four family residences issued by that Building Department; or in a manner deem acceptable by the Contractor and THE CITY.

1.5 COLLECTION AND DISPOSAL OF SOLID WASTE ON SUNDAY

The collection and disposal of solid waste on Sundays shall not be allowed unless otherwise approved by THE CITY. The Contractor shall not utilize Sundays as a designated collection day in the Schedule of Operations.

1.6 HOLIDAYS

The Contractor shall honor only the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. The Contractor shall provide THE CITY with the following year's collection schedule by August of the current year. THE CITY shall be responsible for publicizing any changes in collection schedules due to observance of the above holidays.

1.7 VEHICLES AND EQUIPMENT

The Contractor shall provide adequate and sufficient garages, shops, and yards to provide all-weather year round operation and to adequately clean and maintain vehicles and equipment. All vehicles, equipment and facilities used by the Contractor shall be kept and maintained in sanitary condition, in good repair, and free of visual defects, such as but not limited to, rust or body damage. Vehicles, equipment and facilities shall be subject to inspection for safety, sanitation, repair, and appearance, and subject to approval or rejection THE CITY at any time. Employees driving Contractor's vehicles shall have a valid operator's license of the State of Michigan and shall meet state and federal requirements concerning commercial licensing.

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The Contractor shall not use THE CITY's name or other words implying ownership on stationery, vehicles or equipment, except for a sign on vehicles designating that the Contractor is an official Contractor.

All vehicles and equipment used in collection and transportation of solid waste, recyclables, and yard waste within THE CITY shall be of sufficient size, capacity, and number to adequately and efficiently collect solid waste, recyclables, and yard waste in accordance with the terms of this contract, including under special or unique circumstances.

1.8 LIQUIDATED DAMAGES

THE CITY shall notify the Contractor for each violation of the contract reported to THE CITY. It shall be the duty of the Contractor to take proper action to remedy the cause of the complaint within thirty-six (36) hours after notification. Failure to remedy the cause of the complaint within the specified time period shall constitute a breach of this contract. For the purpose of computing damages under the provisions of this section, it is agreed that THE CITY shall have authority to deduct from payments due the Contractor, the following amount as liquidated damages:

1. Failure to clean up spilled refuse:
\$25 for each incident.
2. Failure to clean vehicle, conveyances, containers, docks, yards, shops, and other equipment as provided in the specifications:
\$50 for each incident.
3. Failure to complete all routine pickups by 6:00 p.m. on the scheduled day or failure to complete all routine pickups on major roads by 5:00 p.m. on the scheduled day:
\$100.00 for each incident with each late pickup as a separate incident.
4. Failure to collect solid waste, recyclables, and yard waste within 36 hours after notification of a complaint or by the end of the following regular business day:
\$100.00 for each incident.
5. Failure to maintain vehicle in operable condition and acceptable appearance after inspection and notice by THE CITY:
\$500.00 for each incident.

The liquidated damages provided for herein are not considered as penalties and were not calculated in contemplation or anticipation that the Contractor would default. Liquidated damages shall not be initiated for violations that occur due to events beyond the Contractor's control. In the event the Contractor does default or otherwise abandon the project, THE CITY reserves the right to collect from the Contractor or its surety, in addition to the liquidated damages, the actual damages incurred by THE CITY as a result of the default or abandonment.

The assessment of liquidated damages shall be determined by THE CITY and deductions made from the payment each month to the Contractor. The decision of THE CITY in the matter will be binding. The Contractor may at their option initiate the dispute resolution process included in this service agreement.

1.9 CONTRACT PRICE ADJUSTMENTS

The contract price schedule shall be reviewed and revised in June of each contract year and extension period, if any, in accordance with the most recent full calendar year annual percentage increase or decrease in the reference annual Consumer Price Index escalator, and the contract

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price shall be established for the next contract year beginning on July 1, following the June evaluation, except, however, that the price adjustment shall not exceed three (3) percent. No other changes in contract prices are permitted, except as authorized by this agreement.

The reference Consumer Price Index shall be the Consumer Price Index - All Urban Consumers for the Detroit-Ann Arbor-Flint area (all items), base period: 1982-84=100, as published by the Bureau of Labor Statistics, U.S. Department of Labor.

In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the CPI, another equally authoritative measure of change in the purchasing power of the U. S. dollar as may be then available shall be substituted.

1.10 BASIS AND METHOD OF PAYMENT

The Contractor shall be paid for services rendered under the terms of the Contract, within a reasonable time (normally 30 days) after completion of the work at month end, and receipt and approval by THE CITY of the itemized billing, the fees earned the previous month. The amount remitted to the Contractor by THE CITY shall be the number of units serviced times the rate agreed upon in the Contract for each unit.

1.11 DISPOSAL OF SOLID WASTE AND OTHER MATERIALS

THE CITY specifically reserves the right to direct the yard waste and recyclables collected under these provisions to a specific state approved disposal facility or, if appropriate, to an approved collection site, recycling facility or compost facility, upon agreement by the Contractor, which shall not be unreasonably withheld. THE CITY retains the right to terminate the contract, on ninety (90) days written notice, if the Contractor does not comply with the direction of yard waste or recyclables as set forth. Should THE CITY exercise its right to direct material to specific facilities, THE CITY shall pay the disposal fees directly to such facilities, unless otherwise specified. The Contractor shall be entitled compensation for services in accordance with the Contractor's response to the RFP issued by RRRASOC on February 28, 2007, including addenda.

1.12 ACCESS

The Contractor will not be required to pick up waste if a road becomes impassable and prohibits access to a residential unit from any direction on a roadway. The Contractor, however, will be required to notify THE CITY of this occurrence and will be required to pick up waste at the nearest public roadway or at a point of closure.

The Contractor may be required to pick up waste in an alternate vehicle under circumstances that prohibit the standard collection vehicle from access to a residential unit.

1.13 PRIVATE DRIVEWAYS

The Contractor shall not be required to enter private driveways. However, certain private roads may be considered access roads for purposes of this Agreement.

1.14 ROUTES AND SERVICED ADDRESSES

THE CITY shall provide an accurate address list identifying the homes to be serviced by the Contractor, upon request.

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1.15 HAULING

All solid waste hauled by the Contractor shall be contained, tied, or enclosed so that leaking, spilling, or blowing are prevented.

1.16 STORMS AND OTHER DISASTERS

In case of an unusual storm or other disaster, THE CITY may, at its discretion, grant the Contractor reasonable variance from regular schedules and routes. As soon as practicable after such storm or disaster, the Contractor shall advise THE CITY of the estimated time required before regular schedules and routes can be resumed.

1.17 ADDITIONAL SERVICE

THE CITY shall not be responsible to the Contractor for any additional services that fall outside the scope of this Agreement which are provided by the Contractor without the request of THE CITY. The Contractor shall not charge any residents for services provided under the terms of the contract, unless otherwise specified by the Agreement.

1.18 INFRASTRUCTURE RENOVATION/STREETS BLOCKED BY CONSTRUCTION

Periodically major renovation is necessary to maintain the infrastructure within THE CITY. This includes such activities as replacing gas, water and sewer lines, surfacing or resurfacing streets, and replacing wiring for telephone, electricity, or cable television.

If THE CITY or designee is notified in advance of these activities, the Contractor will be notified. However, it is not uncommon for work to be initiated without prior notification. Alternate sanitation service must be provided during this period of disruption. No additional fees shall be payable for services provided under these conditions.

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Attachment B

CONTRACTOR'S SERVICE SPECIFICATIONS

2.1 Residential Collection Services

The Contractor shall be required to maintain a high level of solid waste, recycling, and yard waste collection and disposal services. Refuse shall be collected from all containers presently in use and in all forms presently used. The Contractor shall collect, transport and dispose all refuse, rubbish, debris, recyclables, and yard waste which the resident may desire to have removed weekly. The Contractor shall collect, transport and dispose all material residents properly place at the curb, unless otherwise specified herein. Residents shall be provided with written instructions and/or explanations by the Contractor when the Contractor deems an item or items to be improperly prepared or unsuitable for curbside collection.

2.1.1 Residential Refuse Collection

The Contractor shall operate a curbside refuse collection, transportation, and disposal system, which shall result in the removal of all solid waste from all designated residential units and its being transported for disposal to an appropriate solid waste disposal facility, in accordance with all municipal, county, state and federal laws, ordinances, and regulations.

Residential units are comprised of housing that is located in single-family neighborhoods or streets. These include duplex and triplex type multi-family housing and units. An account of the current number and location of these units has been included in the RFP issued February 28, 2007, including addenda.

Refuse means all animal and vegetable food waste and all waste which normally results from the operation of a household, except body waste and yard waste, including but not limited to rubbish, metal cans, papers, cardboard, glass jars, bottles, wood, logs, ashes, sod, dirt, rocks, cement, bricks, small household appliances, furniture, plastics and any other household refuse small enough for one person to handle and no more than sixty (60) pounds.

Residents will place refuse in refuse bags, or watertight containers of substantial construction with tight fitting lids and lifting handles and not to exceed 35 gallons in size. Refuse placed in cardboard containers and plastic or paper bags shall be considered part of the refuse and shall be collected as part of residential solid waste collection. Total weight of a single container and its contents shall not exceed sixty (60) pounds. Some articles cannot be conveniently placed in containers. Such articles, if within the weight and size limitations, must be handled individually by the Contractor. No single piece of refuse must be collected if it weighs more than sixty (60) pounds, except bulky items as hereinafter set forth.

The Contractor shall exercise reasonable care and diligence in handling containers. THE CITY will cooperate in requiring homeowners to provide and maintain suitable containers, and the Contractor must exercise due care in preventing damage to containers, thereto, and shall return all containers to an upright position with the lids replaced thereon or adjacent thereto. In the event the Contractor damages a container(s), the Contractor shall be responsible for replacing said container(s) with one of equivalent value at Contractor's expense within forty-eight (48) hours (excluding Saturdays and Sundays).

THE CITY reserves the right to impose a bag/can limit on the housing units to be serviced and implement a variable rate, bag/tag, or Pay-As-You-Throw system. Should such a system be implemented, the Contractor would only pick up bags, containers or other household items that are within the bag/can limit or are properly tagged. THE CITY will give the Contractor ninety (90) days notice before implementing such a system.

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A written monthly tonnage report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the daily and monthly volume of deliveries made to the disposal facility by the Contractor on behalf of THE CITY. Further, THE CITY retains the right to require the use of specific reporting means at any time during the contract, without additional cost to THE CITY.

2.1.2 Residential Bulky Waste

As part of the solid waste unit price and not as a separate pay item, the Contractor shall pick up as part of the refuse pick-up and shall deposit in the same truck or separate trucks if necessary all bulky items including but not limited to fixtures and furniture, storm doors and windows, tubs, toilets, sinks, carpets and pads, railroad ties, and fence posts or fences not exceeding 3' x 4' in dimension, and small quantities of building debris resulting from repair or remodeling personally done by the home occupant which have been placed at the curb.

The Contractor shall not be required to collect engines, transmissions or rear axles, or bulky items resulting from the home occupant's personal repair or remodeling that exceed five feet (5') in length. The Contractor will not be required to pick up junk cars, large parts of cars, demolition materials or other material resulting from the repair or construction of buildings except as otherwise provided herein.

2.1.3 Residential White Goods

As part of the solid waste unit price and not as a separate pay item, the Contractor shall collect recyclable metal bulky items including, but not limited to household appliances such as stoves, refrigerators, freezers, washers, dryers, water heaters, water softeners and water tanks in a separate truck. Such items shall be recycled whenever feasible. Generally these household metal bulky items may also include small metal sheds, swimming pools, garage doors, fenders, hoods of cars, etc. This collection is required to be made on the same day as scheduled refuse collection.

The Contractor shall be responsible for complying with all applicable laws concerning the disposal or recycling of air conditioning and refrigeration equipment, including but not limited to the provisions of the Clean Air Act which prohibits the venting of refrigerants into the atmosphere. It shall be the Contractor's responsibilities to haul material and to insure that freon-containing material that are not tagged are delivered to a designated facility for proper removal. Residents shall not be required to ensure that freon or other such refrigerants are removed prior to collection.

A written monthly report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the tonnage of this material that is recycled and the scrap metal recycling facility to which it was delivered.

2.1.4 Handicap/Back-Door Pickup

There may be residential units on the collection routes that are occupied by individuals who have been determined by THE CITY to be unable to move refuse and yard debris to the curb. These locations will require back-door service by the Contractor as part of the regularly scheduled refuse collection. The Contractor will be required to bring the containers to the curb and will be encouraged, but not be required, to return the container to the back door. The Contractor and THE CITY will mutually agree upon the eligibility, price, and frequency of such service.

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2.1.5 Multi-Family Solid Waste and Recycling Collection

THE CITY provides solid waste and recycling collection services to certain multi-family complexes located within THE CITY. Such services are generally considered individual stops but may be subject to a discounted price based on the waste generation characteristics of such households. Such locations shall be identified by THE CITY.

2.1.6 Christmas Trees

Christmas trees placed out at any time may be collected as part of the regular refuse collection, unless otherwise prohibited by law.

2.1.7 Yard Waste/Lawn Debris Collection

As part of the solid waste unit price and included as part of weekly regular curbside pick-ups, the Contractor shall separately pick up unlimited, separated yard waste and lawn debris as part of the regularly scheduled collection required by this Contract. The period of collection shall be from the Monday of the first full week of April through the Friday of the last full week of November, unless otherwise specified by mutual agreement between the Contractor and THE CITY. The Contractor will provide, upon request of THE CITY, additional yard waste/ lawn debris collection, provided the Contractor has access to a compost site that is open and accepting material. The rate for this additional service shall be as specified in Attachment C.

All yard waste and lawn debris shall be transported for disposal to an appropriate compost site, in accordance with all municipal, county, state and federal laws, ordinances, and regulations, and under no circumstances to a landfill or disposal facility, unless otherwise specified herein and permitted by law. A written monthly report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the daily and monthly volume of deliveries made to the facility by the Contractor on behalf of THE CITY.

Acceptable yard waste and lawn debris shall include grass clippings, weeds, leaves, small twigs, prunings, shrub clippings, garden waste materials and fruit; old potting soil, Halloween pumpkins, dirt incidental to minor plantings or edging of lawns; brush, branches, tree trimmings, shrub clippings tied and bundled with biodegradable string or twine; and small shrubs and bushes with dirt removed from root systems; or any other material defined by law as "yard clippings".

Acceptable yard waste and lawn debris shall include so called "woody" or "hard" yard waste as long as it is properly prepared. The Contractor will not be required to pick up tree branches or logs greater than three inches (3") in diameter, longer than four feet (4') in length, tied or secured with string or twine in bundles larger than eighteen inches (18") in diameter, or weighing in excess of sixty (60) pounds. Such material shall be collected as part of regular refuse collection unless otherwise prohibited by law.

The yard debris will be bundled as required, placed in large capacity kraft / paper bags or placed loose in cans with a "yard waste recycling" or "compost" sticker provided by THE CITY on opposite sides of the container.

Brush, branches, tree trimmings, shrub clippings tied and bundled and set out for collection at other than the designated yard waste/lawn debris collection season shall be collected as part of the regular refuse collection, unless otherwise prohibited by law.

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2.1.8 Recycling Collection

As part of the solid waste unit price and included as part of weekly regular curbside pick-ups, the Contractor shall separately pick up on the same day as the regularly scheduled refuse collection required by this Contract, recyclable materials set-out as per the specifications identified by THE CITY, as specified in the MSA.

The recyclable materials shall be collected in single stream fashion using the existing curbside bin system.

All recyclable material shall be transported to and tipped at no cost to the Contractor at the RRRASOC Material Recovery Facility, located at 20000 W. Eight Mile Rd., Southfield, MI 48075. A written monthly report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the weekly and monthly volume of deliveries made to the facility by the Contractor on behalf of THE CITY. Further, THE CITY retains the right to require the use of specific reporting means at any time during the contract, without additional cost to THE CITY.

2.2 Other Municipal Solid Waste Services

THE CITY may request other Municipal Solid Waste Services including, but not limited to, solid waste container service at municipal buildings and facilities, clean-up assistance, and DPW debris transport and disposal. Such services shall be billed in accordance with the fee schedule included in Attachment C and included in the monthly invoice submitted to THE CITY.

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Attachment C

CONTRACTOR'S COMPENSATION

1. **Form of Invoice:** The monthly invoice submitted by the Contractor must contain the following information.
 - (a) **Fee for Units Serviced:** Provide an Itemization of the total number of units serviced, the type of service provided, the unit price for that service as modified by any applicable price escalation factor as provided for in this agreement and the extension of that unit price multiplied by the number of units serviced.
 - (b) **Subtotal for Invoice:** Sum a total of any Itemization in 1(a) above.
 - (c) **Deducts:** Subtract and deductions allowed for Liquidated Damages (See Section 5-J, Liquidated Damages).
 - (d) **Final Amount Due:** Sum the total of charges and deductions that is to be paid by THE CITY to the Contractor.
2. **Contractor's Base Price Rate Schedule for collection, transportation, and disposal (solid waste unit price as of July 1, 2013):**
 - (a) Residential Units (\$/year):

	Single-Family Units		Multi-Family Units	
Refuse	\$	84.60	\$	67.68
Yard Waste	\$	28.44	\$	28.44
Recycling	\$	20.88	\$	20.88
Total	\$	133.92	\$	117.00

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(b) Other Services

Municipal Solid Waste Containers (with Disposal Costs Included), Special Services, and Recycling Containers.

Solid Waste Containers	Price effective FY 2013/14
96 Gallon Cart, cost per pull (hauling & disposal)	3.96
96 Gallon Cart, rental cost/month	
2 CY Dumpster, cost per pull (hauling & disposal)	\$ 12.18
2 CY Dumpster, rental cost/month	Included
4 CY Dumpster, cost per pull (hauling & disposal)	\$ 17.05
4 CY Dumpster, rental cost/month	included
6 CY Dumpster, cost per pull (hauling & disposal)	\$ 21.93
6 CY Dumpster, rental cost/month	Included
8 CY Dumpster, cost per pull (hauling & disposal)	\$ 26.79
8 CY Dumpster, rental cost/month	Included
10 CY Roll-off, cost per pull (hauling & disposal)	\$ 184.76
10 CY Roll-off, rental cost/month	\$ 52.79
30 CY Roll-off, cost per pull (hauling & disposal)	\$ 263.94
30 CY Roll-off, rental cost/month	\$ 79.18
40 CY Roll-off cost per pull (hauling & disposal)	\$ 369.51
40 CY Roll-off, rental cost/month	\$ 105.57

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Recycling Containers	Price
96 Gallon Cart, cost per pull (hauling only)	\$ 3.96
96 Gallon Cart, rental cost/month	Included
2 CY Dumpster, cost per pull (hauling only)	\$ 12.18
2 CY Dumpster, rental cost/month	included
4 CY Dumpster, cost per pull (hauling only)	\$ 17.05
4 CY Dumpster, rental cost/month	included
6 CY Dumpster, cost per pull (hauling only)	\$ 21.93
6 CY Dumpster, rental cost/month	included
8 CY Dumpster, cost per pull (hauling only)	\$ 26.79
8 CY Dumpster, rental cost/month	included
10 CY Roll-off, cost per pull (hauling only)	\$ 105.57
10 CY Roll-off, rental cost/month	\$ 52.79
30 CY Roll-off, cost per pull (hauling only)	\$ 158.36
30 CY Roll-off, rental cost/month	\$ 79.18
40 CY Roll-off cost per pull (hauling only)	\$ 205.87
40 CY Roll-off, rental cost/month	\$ 105.57

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Special Services and Disposal	Price
Pickup Truck and Crew, \$/hour	\$ 79.18
Stake Truck and Crew, \$/hour	\$ 131.97
Dump Truck and Crew, \$/hour	\$ 158.36
Rear Load Compacting Truck & Crew, \$/hour	\$ 158.36
Front Load Compacting Truck & Crew, \$/hour	\$ 184.76
Roll-off Truck and Crew, \$/hour	\$ 158.36
"Log Grabber" Truck and Crew, \$/hour	na
Skid Steer w/Grapple Bucket & Crew, \$/hour	na
Front-End Loader and Crew, \$/hour	na
DPW Debris Disposal ⁽²⁾ , \$/ton	na
Leaf Vacuum Program Leaf Disposal, \$/ton	na
C & D Debris Disposal, \$/ton	na

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Attachment D

RECYCLABLE MATERIALS SPECIFICATIONS

COMMINGLED CONTAINERS consist of the following, loose, uncompacted, and commingled, placed in bins or carts:

- Glass, transparent and translucent food and beverage bottles and jars. Paper labels are acceptable as are rings and lids on glass containers.
- Tin/Steel cans, tin plated, food and beverage containers, all sizes; paper labels are acceptable.
- Aluminum used beverage containers and foil clean of food.
- All plastic bottles.
- Plastic Household Tubs/Containers #1, 2 and 4-7 which Includes plastic yogurt and margarine tubs, frozen concentrated juice containers, Folgers coffee 'cans,' freezer microwave trays, berry boxes (#1) including attached lids, salad/carryout boxes (#1). Clean and free of residue, No #3.
- Agricultural Plant Trays and Pots; clean, free of residue and soil.
- Household scrap metal that will fit in the recycling bin.
- Multi-coated/plastic-coated paper beverage cartons: Including milk and juice cartons (Aseptic).
- Bulky HDPE is defined as large HDPE items (buckets, crates, toys, trays, furniture, bins, barrels etc.), no larger than 2' x 2'. This category is often referred to as "Injection HDPE".

COMMINGLED FIBER consist of the following, loose, and commingled

- ONP - old newspapers and advertisement inserts, loose or placed in Kraft (brown) paper bags. Old newspaper that contains incidental moisture from rain on collection days is acceptable. Soaked paper or yellowed newsprint is unacceptable.
- OMG - old magazines containing glossy coated paper, including catalogues, glossy fillers or mailers, loose or placed in Kraft (brown) paper bags, with the exception of wet material or material that was once wet.
- OCC - old corrugated containers (cardboard) that are flattened and either cut down or folded to size no more than 2 by 2 feet and that have liners of Kraft, jute, or test liner. Staples and tape with water soluble glues do not have to be removed. OCC can be damp but not soaked. Wax-coated and oriental old corrugated containers are not acceptable.
- Kraft (brown) paper bags - all sizes of loose, bundled or bagged Kraft paper grocery sacks.

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- Junk mail - all dry, loose or bagged bulk mail consisting of paper or cardboard. All unopened junk mail and envelopes with window are acceptable.
- High-grade paper - all dry, loose or bagged white and colored ledger and copier paper, note pad paper (no backing), loose leaf fillers, computer paper (continuous-form perforated white bond or green-bar paper).
- Boxboard - all non-corrugated cardboard, commonly used in dry food and cereal boxes, shoe boxes, and other similar packaging. Boxboard with wax or plastic coating and boxboard that has been contaminated by food is not acceptable.
- Telephone Books

Maximum allowable contamination rate: 6%

DELIVERY RULES AND REGULATIONS

- Residents and businesses shall discard containers' contents and rinse the containers. They are encouraged to discard, labels, caps, and rings; but there is no requirement for these to be removed from Recyclable Materials.
- Materials delivered will contain all of the commingled items listed for each category and in proportions that can be reasonably expected from a municipal curbside collection, recycling program.
- Recyclables, particularly non-fiber items, will not be delivered in bags unless specifically allowed or directed above.
- Operators of rear-dumping vehicles will be required to sweep clean all materials from the empty compartment before proceeding to the next tipping area.
- Loads will be considered non-conforming to Facility Delivery Standards if:
 1. They are found to be contaminated with Hazardous or Infectious Waste.
 2. A load contains more than the maximum allowable contamination of materials that are not acceptable as Recyclables, but are not Hazardous or Infectious Waste.

AGENDA NOTE

Old Business Item # **23**

MEETING DATE: February 26, 2018

PERSON PLACING ITEM ON AGENDA: Postponed from 1/22/18

AGENDA TOPIC: Ethics Ordinance Amendment – First Reading

EXPLANATION OF TOPIC: In the Ethics Investigation Report prepared by Melvin Muskovitz, Esq. of Dykema, he indicated he would make separate recommendations amendments and revisions to the City's ethics policies and procedures. The attached redline showing revisions to the City's ethics ordinance is presented for Council consideration and action.

During the January 22, 2018 Council meeting questions were raised regarding the existing provisions pertaining to political activities (Section 2-76). The proposed ordinance contains revisions which restrict City employees from engaging in political activity during work hours or using city property and requiring that they comply with the Political Activities by Public Employees Act, Public Act 169 of 1976, MCL 15.401 et seq., as amended. City elected officials are prohibited from soliciting city employees during work hours or using city property and shall comply with the Michigan Campaign Finance Act, Public Act 388 of 1976, MCL 169.201 et seq., as amended.

Note, if adopted, the ordinance requires that all City Officials, including elected and appointed officials, and employees file disclosure statement, copy provided, within 20 days of the effective date.

Also, the ordinance maintains the Board of Ethics, which should be populated so that it is functioning if and when a matter to be referred to it arises.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Redline revised ethics ordinance
- Clean version of existing ethics ordinance (Sections 2-71 through 2-79)

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

RECOMMENDATION:

SUGGESTED MOTION: Motion to approve the first reading of ordinance amending City's ethics ordinance

ORDINANCE NO. __-18

CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE CITY OF SOUTH LYON CODE OF
ORDINANCES, CHAPTER 2, - ADMINISTRATION, ARTICLE III -
OFFICERS AND EMPLOYEES, DIVISION 2 - CODE OF ETHICS.

THE CITY OF SOUTH LYON ORDAINS:

PART I. Amendment of Code of Ethics Ordinance. Chapter 2 - Administration, Article III - Officers and Employees, Division 2 - Code of Ethics, of the Code of Ordinances of the City of South Lyon, is hereby amended to read in its entirety as follows:

DIVISION 2. - CODE OF ETHICS

Sec. 2-71. - Definitions.

City official means a person elected, appointed or otherwise serving in any capacity with the city in any position established by the City Charter or by city ordinance, other than as an employee.
Compensation means money, property, or anything of value or benefit.

Employee means a person hired by the city, whether on a full-time, part-time, temporary or irregular basis.

Financial interest means any of the following: (a) receipt of, entitlement to, or promise of compensation; (b) an ownership interest in real or personal property (c) status as a partner, member, employee, consultant, contractor or agent of or for a partnership or any other unincorporated entity; (d) status as a beneficiary or trustee in or of a trust; (e) status as a director, officer, employee, consultant, contractor or agent of or for a corporation; and (f) legal or beneficial ownership of 5% or more of the total outstanding stock of a corporation. A city official and employee shall be deemed to have a financial interest if a relative of any official or employee has a financial interest.

Gift means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, travel, lodging, personal items, and honoraria for speaking engagements.

Relative means a city official or employee, his or her spouse, domestic partner, sibling, parents, grandparents, children, or step-children.

Official duty or official action means a decision, recommendation, approval, disapproval or other action or failure to act by a city official or city employee.

Sec. 2-72. - Declaration of policy.

The proper operation of democratic government requires that elected and appointed public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure;

that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals there is hereby established a code of ethics for all ~~elected or appointed~~ city officials and employees, ~~whether elected or appointed, paid or unpaid.~~ The purpose of this code is to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials and employees of ~~private~~ financial ~~or other~~ interest in matters affecting or involving the city. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best interests of the City of South Lyon.

Sec. 2-~~72~~73. - Responsibilities of public office ~~and employment.~~

Public

(a) City officials and employees are agents of public purpose and hold office or employment for the benefit of the public. They are bound to uphold the Constitution of the United States and the constitution of this state and to carry out impartially the laws of the nation, state, and municipality and thus to foster respect for all government. They are bound to observe in the performance of their official acts duties and actions the highest standards of morality and to discharge faithfully the duties of their office or employment regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

(b) All city officials and employees shall safeguard public confidence by being honest, fair and respectful of all persons with whom they have contact, and in the performance of their official duties, and by avoiding conduct which may tend to undermine respect for city officials and employees and for the city as a public body.

Sec. 2-~~73~~74. - Dedicated service.

(a) ~~All~~ City officials and employees of the municipality should be loyal to the ~~political~~ objectives expressed by the electorate and the programs developed to attain those objectives. ~~Appointive officials and employees should adhere to the rules of~~ conduct and/or work and performance established as the standard for their positions ~~by the appropriate authority.~~

(b) ~~Officials~~ City officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

Sec. 2-~~74~~75. - Fair and equal treatment.

(a) *Interest in appointments.* Canvassing of members of the council, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the council.

(b) *Use of public property.* No city official or employee shall request or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.

(c) *Obligations to citizens.* No city official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

Sec. 2-7576. - Conflict of interest.

(a) No ~~councilman or other~~ city official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial ~~or other personal interest~~, (as defined in Section 2-71), direct or indirect, which is incompatible with the proper discharge of his or her official duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties. ~~Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association.~~

(b) ~~Specific~~ Examples of conflicts of interest are enumerated below for the guidance of officials and employees:

(1) *Incompatible employment or service.* No ~~councilman or other~~ city official or employee shall engage in or accept private employment or render services ~~for private interest in any capacity including, but not limited to as a consultant, contractor or agent, to an individual or entity~~ when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his official duties.

(2) *Disclosure of confidential information.* No ~~councilman or other~~ city official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the city. Nor shall he or she use such information to advance the financial ~~or other private~~ interest of himself or herself or others, including relatives.

(3) *Gifts and favors.* No ~~councilman or other~~ city official or employee shall accept any valuable gift, ~~whether (as defined in the form of service, loan, thing, or promise, Section 2-71)~~, from any person, firm who, or corporation entity which, to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee:

a.

- (i) Accept any gift, favor, or thing of value that may tend to influence him or her in the discharge of his or her duties; or
- b.
- (ii) Grant in the discharge of his or her duties any improper favor, service, or thing of value.

Any individual, institution, corporation, organization or service club wishing to bestow a gift, grant, or service to the City of South Lyon or any of its component departments shall make a request for such bestowal at a regularly scheduled meeting of the city council.

(4) *Representing private interest before city agencies or courts. No councilman or other official or employee whose salary is paid*

- (i) Except as provided for in whole or in part by the below, no city official or employee shall appear on behalf of private interests before any agency of the city. He No city official or employee shall not represent private interests in any action or proceeding against the interests of the city in any litigation to which the city is a party.
- (ii) A councilman city official may appear before city agencies on behalf of constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations. However, no councilman city official or other official or employee shall accept a retainer or compensation that is contingent upon a specific action by a city agency.

(5) *Contracts with the city. Any councilman*

- (i) Except as provided in Sections 3 and 3a of Act 317 of 1968 (Contracts of Public Servants With Public Entities), a city official and a city employee shall not be a party, directly or indirectly, to any contract between himself or herself and the city.
- (ii) Except as provided in Section 3 of Act 317 of 1968, a city official and a city employee shall not directly or indirectly solicit any contract (a) between the city and him or herself, (b) between the city and any firm, meaning a co-partnership or other unincorporated association, of which he or she is a partner, member, or employee, (c) between the city and any private corporation in which he or she is a stockholder owning more than 1% of the total outstanding stock of any class if the stock is not listed on a stock exchange, or stock with a present total market value in excess of \$25,000.00 if the stock is listed on a stock exchange or of which he or she is a director, officer or employee, or (d) between the city and any trust in which he or she is a trustee or beneficiary.
- (iii) In regard to a contract described in subsection (b)(5)(ii)(a-d) above, a city official and a city employee shall not do either of the following: (a) take any part in the negotiations for such a contract or the renegotiation or amendment of the contract, or in the approval of the contract, or (b) represent either party in the transaction.

~~(6) official or employee who~~ Official duties; Official actions.

(i) With respect to matters not involving a contract covered by Subsection (b)(5) above, a city official shall not vote on or participate in discussions on a matter before the city council which involves an entity, property or an issue in which the official has a substantial or controlling financial interest, or if the official has a financial interest in the outcome of the matter before city council. For example, an official should not discuss or vote on whether or not to (a) condemn, sell, grant a variance, or otherwise affect property, (b) waive a fee or grant a license, or (c) approve legislation, with respect to an entity, property or with respect to an issue in which the official has a financial interest.

(ii) A city employee shall not make a recommendation, take any action or make any decision on any matter within the scope of his/her official duties with respect to which he has a financial interest.

(7) Personal Opinions. No city official or employee of the city shall represent his or her personal opinion as that of the city.

(8) Business Transactions. No city official or employee shall engage in any business entity, transaction, or contract with the city, or in the sale of real estate, materials, supplies, or services to the city, shall make known to the proper or transaction in which he or she or a relative may directly or indirectly benefit financially because of his or her official position or because of receipt of confidential information which he or she has obtained by reason of such position or authority such interest in any matter on which he may be called to act in his official capacity. He,

(9) Preferential Treatment. No city official or employee shall use, or attempt to use, his or her official position to secure, request or grant any compensation, privilege, exemption, advantage, or treatment for himself, herself, or others, beyond that which is available to every other citizen. No city official or employee shall influence or attempt to influence the hiring by the city of a relative of a city official or employee.

(10) City Official's Own Conduct. No city official shall vote on any questions involving the official's own conduct including those of recusal and discipline.

(c) Board and Committee Members. It is recognized that various boards and committees are part of the plan of government for the city. As such, it is further recognized that by virtue of the various requirements for board membership, a member may be placed in the position of participating in a decision that may directly or indirectly affect his or her financial interest. Therefore, those members of the various boards and committees in the city, as they may be established from time to time, shall refrain from voting upon or otherwise participating in the transaction any discussion, voting or taking any action with

respect to a matter that may, directly or the making of such contract indirectly, affect his or sale, her financial interest.

A councilman or other official or employee shall not be deemed interested in any contract or purchase or sale of land or other thing of value unless such contract or sale is approved, awarded, entered into, or authorized by him in his official capacity.

(d) Subsequent conflict of interest. No city official or employee shall acquire any financial interest in or accept any employment with or render any services in any capacity including, but not limited to, as a consultant, contractor or agent, with any entity which, or person who either, (1) has entered into a contract with the city, or (2) was the subject of a matter voted on by the city council (for example, as described in subsection (b)(6)(i) above), within one (1) year of the officer's or employee's participation in any manner in considering, recommending or voting on the approval or disapproval of said contract or matter.

(e) Duty to Disclose Financial Interest.

(1) City Official. When a matter before the city council involves an entity, property or issue in which a city official has a financial interest, or if a city official has a financial interest in the outcome of a matter before the council, the official shall disclose the full nature and extent of his or her financial interest on the appropriate record of the city prior to discussion or action thereon and shall refrain from participating in any discussion, voting or action thereon, except as allowed under PA 317 of 1968.

(2) City Employee. When a city employee has a financial interest in a matter involving the employee's official duties or in which the employee would be taking an official action, the employee shall disclose the nature and extent of his or her financial interest to the city manager and shall refrain from participating in any discussion or action thereon.

(3) Board Member. When a member of any city board, commission or committee has a financial interest in a matter before the board, commission or committee on which the member sits, the member shall disclose the nature and extent of such interest on the record of the board, commission or committee.

(f) Referral to Board of Ethics. If a city official, city employee or member of a board, commission or committee fails to disclose a financial interest, or who has a conflict of interest, as defined herein, in any matter before the city, and who discloses that conflict on the appropriate records but who refuses to refrain from discussion, deliberation or voting thereon, except as allowed by law, the matter under consideration shall be immediately referred to the board of ethics for a final determination as to the conflict in question and whether the official, employee or board member must refrain from discussion, deliberation, action or voting thereon.

(g) Required Disclosure Statement. Within twenty (20) days of the effective date of this Ordinance, and thereafter, after the election of a city official, and the hiring or appointment of a city employee, or after any change in the facts set forth in the city official's or employee's previously filed disclosure statement, each city official and

employee shall file with the city clerk an affidavit and disclosure statement. The city clerk shall provide each city official or employee with the required affidavit and disclosure statement form immediately upon his or her election, employment or appointment.

Sec. 2-77

~~(6) Disclosure of interest in legislation. A councilman who has a financial or other private interest in any legislation shall disclose on the records of the council or other appropriate authority the nature and extent of such interest. This provision shall not apply if the councilman disqualifies himself from voting.~~

~~Any other official or employee who has a financial or other private interest, and who participates in discussion with or gives an official opinion to the council, shall disclose on the records of the council or other appropriate authority the nature and extent of such interest.~~

Sec. 2-76. - Political activity.

~~(a) No appointive official or employee in the administrative service shall use the prestige of his position in behalf of any political party.~~

~~(b) No appointive official or employee in the administrative service shall orally, by letter, or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription or contribution to any political party; nor shall he be a party of such solicitation by others. Such appointed officials and employees shall not take an active part in political campaigns for candidates.~~

~~(c) No official or employee, whether elected or appointed, shall promise an appointment to any municipal position as a reward for any political activity.~~

(a) City employees are prohibited from engaging in campaign activities using city property or engaging in such activity during working hours and shall comply with the Political Activities by Public Employees Act, Public Act 169 of 1976, MCL 15.401 et seq., as amended.

(b) Elected city officials are prohibited from soliciting city employees to work on political campaign activities using city property or during working hours and shall comply with the Michigan Campaign Finance Act, Public Act 388 of 1976, MCL 169.201 et seq., as amended.

(c) City officials and employees shall not use any city time or property for their own political benefit or for the political benefit of any other person seeking elective office, provided that the foregoing shall not prohibit the use of property or facilities available to the general public on an equal basis for due consideration paid.

Sec. 2-7778. - Board of ethics.

(a) A board of ethics is hereby established by the City of South Lyon consisting of five members from the general public who are not personally subject to this code of ethics.

The members shall be appointed by and serve at the pleasure of the council. They shall serve four-year staggered terms. Three members of the board shall constitute a quorum and the affirmative vote of the majority of those present shall be necessary for any action. Members may not nominate an alternate or representative to cast votes on any matter coming to the attention of the board. Members of the board shall serve without salary but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(b) The powers and duties of the board shall be as follows:

(1) To recommend from time to time such orders, rules, regulations, and changes as it deems necessary and proper to supplement, administer and implement or amend the provisions of the code of ethics, which recommendations, when approved by the council shall become part of this code of ethics.

(2) To investigate and render advisory opinions to city employees and ~~appointed~~ officials or their appointing authorities with respect to any matter or transaction in which said employees and officials are involved concerning the applicability of this code of ethics. The board may publish such advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the employee who may request such an opinion.

(3) To investigate any alleged violation of the code by a city employee or ~~elected or appointed~~ official where the appointing authority for the employee or ~~appointed or elected~~ official involved in the alleged violation shall request the board to make such investigation. A written report of the results of the board's investigation shall be made to the appointing authority and the employee or ~~appointed or elected~~ official involved.

(4) To investigate an alleged violation of the code of ethics upon the written request of the council, or the city manager and to submit a written report to the requesting official and the employee or ~~appointed or elected~~ official involved.

(5) To conduct informal hearings prior to rendering an opinion or report in any particular matter whenever the board deems it appropriate for a hearing to be held or whenever a city employee or official who may be substantially affected by the opinion or report in the matter requests a hearing. Such hearing may be held by the board itself or by a hearing officer designated by the chairman of the board, whichever the ~~chairman~~chair deems appropriate in any particular instance. The ~~chairman~~chair may designate as a hearing officer any member of the board. Whenever a hearing is conducted by a hearing officer instead of the board itself, the hearing officer must submit a written report of the hearing to the board.

(6) An opinion or report of the board rendered under subsections (b)(2), (3) and (4) of this section may be utilized as a basis for any administrative action appropriate under the circumstances.

(7) The board of ethics is not empowered to take direct administrative action but, rather, its function shall be solely advisory and investigatory as provided for herein.

Sec. 2-~~78~~79. - Sanctions.

Violations of any provisions of this code should raise conscientious questions for the ~~councilman~~ or other city official or employee concerned as to whether voluntary resignation or other action is indicated to promote the best interests of the city. Violation may constitute a cause for suspension, removal from office or employment, or other disciplinary action.

Secs. 2-7980—2-~~100~~101. - Reserved.

PART II. 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 III. 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 IV. 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.

PART V. 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 _____, 2018.

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 _____, 2018.

Lisa Deaton, City Clerk

Adopted:
Published:
Effective:

DIVISION 2. - CODE OF ETHICS**Sec. 2-71. - Declaration of policy.**

The proper operation of democratic government requires that elected and appointed public officials and employees be independent, impartial, responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals there is hereby established a code of ethics for all elected or appointed officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials and employees of private financial or other interest in matters affecting the city. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best interests of the City of South Lyon.

(Code 1988, § 1.115)

Sec. 2-72. - Responsibilities of public office.

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the constitution of this state and to carry out impartially the laws of the nation, state, and municipality and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

(Code 1988, § 1.116)

Sec. 2-73. - Dedicated service.

- (a) All officials and employees of the municipality should be loyal to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.
- (b) Officials and employees should not exceed their authority or breach the law or ask others

to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(Code 1988, § 1.117)

Sec. 2-74. - Fair and equal treatment.

- (a) Interest in appointments. Canvassing of members of the council, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the council.
- (b) Use of public property. No official or employee shall request or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.
- (c) Obligations to citizens. No official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

(Code 1988, § 1.118)

Sec. 2-75. - Conflict of Interest.

- (a) No councilman or other official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or would tend to impair his independence of judgment or action in the performance of his official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association.
- (b) Specific conflicts of interest are enumerated below for the guidance of officials and employees:
 - (1) Incompatible employment. No councilman or other official or employee shall engage in or accept private employment or render services for private interest when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties.
 - (2) Disclosure of confidential information. No councilman or other official or employee shall, without proper legal authorization, disclose confidential information concerning

the property, government, or affairs of the city. Nor shall he use such information to advance the financial or other private interest of himself or others.

- (3) Gifts and favors. No councilman or other official or employee shall accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee.

- a. Accept any gift, favor, or thing of value that may tend to influence him in the discharge of his duties; or
- b. Grant in the discharge of his duties any improper favor, service, or thing of value.

Any individual, institution, corporation, organization or service club wishing to bestow a gift, grant, or service to the City of South Lyon or any of its component departments shall make a request for such bestowal at a regularly scheduled meeting of the city council.

- (4) Representing private interest before city agencies or courts. No councilman or other official or employee whose salary is paid in whole or in part by the city shall appear in behalf of private interests before any agency of the city. He shall not represent private interests in any action or proceeding against the interests of the city in any litigation to which the city is a party.

A councilman may appear before city agencies on behalf of constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations. However, no councilman or other official or employee shall accept a retainer or compensation that is contingent upon a specific action by a city agency.

- (5) Contracts with the city. Any councilman or other official or employee who has a substantial or controlling financial interest in any business entity, transaction, or contract with the city, or in the sale of real estate, materials, supplies, or services to the city, shall make known to the proper authority such interest in any matter on which he may be called to act in his official capacity. He shall refrain from voting upon or otherwise participating in the transaction or the making of such contract or sale.

A councilman or other official or employee shall not be deemed interested in any contract or purchase or sale of land or other thing of value unless such contract or sale is approved, awarded, entered into, or authorized by him in his official capacity.

- (6) Disclosure of interest in legislation. A councilman who has a financial or other private interest in any legislation shall disclose on the records of the council or other appropriate authority the nature and extent of such interest. This provision shall not apply if the councilman disqualifies himself from voting.

Any other official or employee who has a financial or other private interest, and who participates in discussion with or gives an official opinion to the council, shall disclose on the records of the council or other appropriate authority the nature and extent of such interest.

(Code 1988, § 1.119)

Sec. 2-76. - Political activity.

- (a) No appointive official or employee in the administrative service shall use the prestige of his position in behalf of any political party.
- (b) No appointive official or employee in the administrative service shall orally, by letter, or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription or contribution to any political party; nor shall he be a party of such solicitation by others. Such appointed officials and employees shall not take an active part in political campaigns for candidates.
- (c) No official or employee, whether elected or appointed, shall promise an appointment to any municipal position as a reward for any political activity.

(Code 1988, § 1.120)

Sec. 2-77. - Board of ethics.

- (a) A board of ethics is hereby established by the City of South Lyon consisting of five members from the general public who are not personally subject to this code of ethics. The members shall be appointed by and serve at the pleasure of the council. They shall serve four-year staggered terms. Three members of the board shall constitute a quorum and the affirmative vote of the majority of those present shall be necessary for any action. Members may not nominate an alternate or representative to cast votes on any matter coming to the attention of the board. Members of the board shall serve without salary but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.
- (b) The powers and duties of the board shall be as follows:

- (1) To recommend from time to time such orders, rules, regulations, and changes as it deems necessary and proper to supplement, administer and implement or amend the provisions of the code of ethics, which recommendations, when approved by the council shall become part of this code of ethics.
- (2) To investigate and render advisory opinions to city employees and appointed officials or their appointing authorities with respect to any matter or transaction in which said employees and officials are involved concerning the applicability of this code of ethics. The board may publish such advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the employee who may request such an opinion.
- (3) To investigate any alleged violation of the code by a city employee or elected or appointed official where the appointing authority for the employee or appointed or elected official involved in the alleged violation shall request the board to make such investigation. A written report of the results of the board's investigation shall be made to the appointing authority and the employee or appointed or elected official involved.
- (4) To investigate an alleged violation of the code of ethics upon the written request of the council, or the city manager and to submit a written report to the requesting official and the employee or appointed or elected official involved.
- (5) To conduct informal hearings prior to rendering an opinion or report in any particular matter whenever the board deems it appropriate for a hearing to be held or whenever a city employee who may be substantially affected by the opinion or report in the matter requests a hearing. Such hearing may be held by the board itself or by a hearing officer designated by the chairman of the board, whichever the chairman deems appropriate in any particular instance. The chairman may designate as a hearing officer any member of the board. Whenever a hearing is conducted by a hearing officer instead of the board itself, the hearing officer must submit a written report of the hearing to the board.
- (6) An opinion or report of the board rendered under subsections (b)(2), (3) and (4) of this section may be utilized as a basis for any administrative action appropriate under the circumstances.
- (7) The board of ethics is not empowered to take direct administrative action but, rather, its function shall be solely advisory and investigatory as provided for herein.

(Code 1988, § 1.121)

Sec. 2-78. - Sanctions.

Violations of any provisions of this code should raise conscientious questions for the councilman or other official or employee concerned as to whether voluntary resignation or other action is indicated to promote the best interests of the city. Violation may constitute a cause for suspension, removal from office or employment, or other disciplinary action.

(Code 1988, § 1.122)

Secs. 2-79—2-100. - Reserved.

AGENDA NOTE

Old Business: Item # 4

MEETING DATE: February 26, 2018

PERSON PLACING ITEM ON AGENDA: City Manager

AGENDA TOPIC: Review proposed Fund Balance policy

EXPLANATION OF TOPIC: This item was postponed by Council at a previous meeting to the February 26, 2018 meeting. As part of the budgeting process to better identify the financial goals of the Council it has been discussed by the Council in the past of identifying a baseline for unrestricted assets in the General Fund otherwise known as Fund Balance. After reviewing policies from several other Michigan communities and counties a draft policy is attached. The council will need to provide input on page 3 under the section titles **Minimum/Maximum Unrestricted Fund Balance**. Attached are copies of the policies that I reviewed in drafting this document.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: Draft policy, policy examples from: City of Bridgeman, Midland County, City of Grand Blanc, City of East Tawas and Grand Haven Charter Township.

POSSIBLE COURSES OF ACTION: Review and edit to meet Council financial objectives, Review and reject, Reject

RECOMMENDATION: Review and edit to meet Council financial objectives.

SUGGESTED MOTION: N/A

CITY OF SOUTH LYON
FUND BALANCE POLICY
REVISION PAGE
Original, January 8, 2018

Printed editions of this document are not guaranteed to be current. For the current edition of the Fund Balance Policy, please refer to the City of South Lyon website at www.southlyonmi.org

CITY OF SOUTH LYON

FUND BALANCE POLICY

Purpose

To establish an appropriate level of fund balance in the General Fund, define the components of fund balance, and direct officials in the methods to be used for increasing or decreasing fund balance when trends indicate fund balance will fall outside the minimum/maximum levels.

Policy

Fund balance is created from excess revenues over expenditures. It is a fund's net assets, mostly made up of cash and investments and, unless otherwise restricted, available for spending. GASB Statement 54 distinguishes that fund balances be classified based on the relative strength of the constraints that control the purposes for which specified amounts can be spent. Beginning with the most restrictive constraints, fund balance amounts will be reported in the following five components of fund balance, namely:

1. **Nonspendable Fund Balance.** This portion of fund balance is *nonspendable* because of its form, for example inventory and non-financial assets, or because of legal or contractual requirements.
2. **Restricted Fund Balance.** This portion of fund balance is *restricted* due to external limitations placed on the use of the funds. The restriction typically comes from outside the local government as a condition of the revenue source.
3. **Committed Fund Balance.** Fund balance is *committed* if a limitation is set in place by formal action of the City Council prior to the end of the fiscal year. The limitation is set in place by formal action of the City Council prior to the end of the fiscal year. The limitation remains binding until the City Council takes formal action to remove it.
4. **Assigned Fund Balance.** Fund balance may be *assigned* to reflect the intended use of the resource. The assignment of funds may come from the City Council or from a designee of the City Council, for example the City Administrator. Less formality is needed to impose, remove, or modify a constraint reflected in *Assigned Fund Balance*. No funds other than the General Fund may have Unassigned Fund Balance, therefore any amounts remaining in excess of Nonspendable, Restricted, or Committed funds in funds other than the General Fund will automatically be reported as *Assigned Fund Balance*. If any portion of

existing fund balance will be used to eliminate a projected deficit in the subsequent year's budget, this amount will also be categorized in *Assigned Fund Balance*.

5. **Unassigned Fund Balance.** The General Fund, and no other governmental fund, may have resources that cannot be classified in one of the four categories described above. Only the General Fund can report a surplus, an Unassigned Fund Balance.

Because Nonspendable and Restricted fund balance are not available for spending due to external enforceable conditions, this fund balance policy is focused on the appropriate level of General Fund Unrestricted fund balances, which are those classified as Committed, Assigned, and Unassigned.

Financial flexibility, provided by adequate fund balance, is needed to cushion the impact of unanticipated emergencies and revenue shortfalls. These include loss of major taxpayers, loss of state revenue sharing, infrastructure emergencies and other economic distresses that serve to impair the City's ability to deliver essential community services. Without this cushion taxpayers would be subject to millage increases, cuts in services, and/or deferred investment in and maintenance of infrastructure.

Minimum/Maximum Unrestricted Fund Balance

Minimum Unrestricted fund balance shall be the sum of the top two taxpayers' total annual City tax or ____% of General Fund revenue, whichever is higher.

Maximum Unrestricted fund balance shall be 100%.

The minimum/maximum range will be determined each year and reported as part of the fiscal budget.

Remedy for Maintaining Minimum Fund Balance Range

When fund balance approaches its minimum threshold the following measures, in priority order, shall be used to build up fund balance:

1. Cut or delay pay-as-you-go capital improvements from the CIP (Capital Improvement Plan).
2. Cut general operating expenses.
3. Increase rates and charges funding specific services to make them self-sufficient where possible.
4. Increase millage.

Remedy for Addressing Maximum Fund Balance Range

When fund balance approaches its maximum threshold the following measures, in priority order, shall be used to reduce fund balance:

1. Fully fund the Employee Defined Benefit pension, if not already at full funding.
2. Pre-fund or accelerate capital improvements in the CIP by transferring funds to the Capital Improvement budgets.
3. Move up the debt schedule for existing bond payments to lower the City's debt burden.
4. Reduce millage.

Lynne Ladner

From: Bill Cargo <BCargo@ght.org>
Sent: Tuesday, December 12, 2017 3:20 PM
To: Lynne Ladner
Subject: RE: Fund Balance policy

Please see below ... the final paragraph directly addresses your question.

5.16 FUND BALANCE CLASSIFICATION POLICY

5.16a PURPOSE

To disclose the fund balance classification policies and procedures, including disclosure of what constitutes the “highest level of decision-making authority” and the “formal action” that is required to be taken to establish, modify, and/or rescind a fund balance commitment; disclose the body or official authorized to assign amounts to a specific purpose; disclose the policy on determining which category of fund balance is considered to have been spent first when expenditures are incurred for purposes for which multiple classifications of fund balance are available; and to disclose the minimum fund balance policy.

5.16b POLICY

Fund balance is only reported in governmental funds and is created from revenues in excess of expenditures. It is the balance of assets in excess of liabilities, unless otherwise restricted, available for spending. Following are the five components of fund balance:

1. **Nonspendable Fund Balance** – This portion of fund balance is nonspendable because of the related asset’s form. The assets are either (a) not in a spendable form (e.g. prepaids, inventory, long term receivables) or (b) legally or contractually required to be maintained intact (e.g. corpus of an endowment).
2. **Restricted Fund Balance** – This portion of fund balance is restricted due to limitations placed on the use of the related assets. Restrictions have been placed on the use of the related assets either (a) externally by creditors (e.g., debt covenants), grantor, contributors, or laws or regulations of other governments; or (b) through enabling legislation or constitutional provisions. The limitations on the use of the related assets in this component of fund balance are legally enforceable.
3. **Committed Fund Balance** – This portion of fund balance is committed due to limitations placed on the use of related assets by formal action of the Township Board, which is considered the “highest level of decision-making authority” (e.g., motion, resolution, or ordinance). The limitations remain binding until the Township Board takes formal action to remove applicable limitations. This balance also incorporates contractual obligations to the extent that the existing assets have been specifically committed for use in satisfying contractual requirements
4. **Assigned Fund Balance** – This portion of fund balance is assigned to reflect the intended use of the related assets. This includes amounts that are intended to be used for specific purposes, but do not meet the stricter definitions of restricted or committed. The intent of funds may come from the Township Board or from the Superintendent (or his/her designee) after consultation with the Clerk and Treasurer. Less formality is needed to impose, remove, or modify a constraint reflected in assigned fund balance. Assigned fund balance also includes any residual amounts in governmental funds other than the General Fund. No governmental funds other than the General Fund may have unassigned fund balance, therefore any amounts remaining in excess of non-spendable, restricted, or committed fund balance in a governmental fund other than the General Fund will automatically be reported as assigned fund balance. If

any portion of existing fund balance will be used to eliminate a projected deficit in the subsequent year's budget, this amount will also be categorized as assigned fund balance.

5. Unassigned Fund Balance – Unassigned fund balance represents the residual amount in the general fund, or any deficits in other governmental funds. Only the General Fund can report a surplus, and unassigned fund balance.

When expenditures are incurred for purposes for which multiple classifications of fund balance are available, fund balance is considered to have been spent in the following order:

- a. Restricted Fund Balance
- b. Committed Fund Balance
- c. Assigned Fund Balance
- d. Unassigned Fund Balance

The Superintendent (or his/her designee), after consultation with the Clerk and Treasurer, shall designate the estimated fund balance in any government fund among the five fund balance components within the annual Budget Resolution. This designation shall be by percent (%) and estimated dollar amount. (The Committed Fund Balance component may only be designated by formal action of the Township Board.)

It is Grand Haven Charter Township's policy to maintain within the Assigned and unassigned components of the General Fund fund balance a minimum of 25% of General Fund expenditures and transfers out for cash flow and emergency purposes.

-----Original Message-----

From: managementforum@listserv.mml.org [mailto:managementforum@listserv.mml.org]

Sent: Tuesday, December 12, 2017 3:05 PM

To: managementforum@listserv.mml.org

Subject: Fund Balance policy

This message was sent by Lynne Ladner ladner@southlyonmi.org

Greetings all,

I am wondering if there are any communities out there that have adopted a policy/resolution setting a minimum general fund balance?

If you have an example that would be greatly appreciated.

Lynne Ladner
City Manager
City of South Lyon, MI
P: 248-437-1735

Post your message to the list by sending it to MANAGEMENTFORUM@listserv.mml.org.

To contact the list owner, send your message to
MANAGEMENTFORUM-list-owner@listserv.mml.org.

Michigan Municipal League 1675 Green Road Ann Arbor, MI 48105-2530 USA

CITY OF EAST TAWAS
FUND BALANCE POLICY
ADOPTED BY EAST TAWAS CITY COUNCIL
MAY 2, 2011

Purpose

To establish an appropriate level of fund balance in the General Fund, define the components of fund balance, and direct officials in the methods to be used for increasing or decreasing fund balance when trends indicate fund balance will fall outside the minimum/maximum levels in compliance with Government Accounting Standards Board (GASB) Statement No. 54.

Policy

Fund balance is created from excess revenues over expenditures. It is a fund's net assets, mostly made up of cash and investments and, unless otherwise restricted, available for spending. There are five components of fund balance:

1. **Nonspendable Fund Balance.** This portion of fund balance is *nonspendable* because of its form, for example inventory and non-financial assets, or because of legal or contractual requirements.
2. **Restricted Fund Balance.** This portion of fund balance is *restricted* due to external limitations placed on the use of the funds. The restriction typically comes from outside the local government as a condition of the revenue source.
3. **Committed Fund Balance.** Fund balance is *committed* if a limitation is set in place by formal action of the City Council prior to the end of the fiscal year. The limitation remains binding until the City Council takes formal action to remove it.
4. **Assigned Fund Balance.** Fund balance may be *assigned* to reflect the intended use of the resource. The assignment of funds may come from the City Council or from a designee of the City Council, for example the City Manager or Clerk/Treasurer. Less formality is needed to impose, remove, or modify a constraint reflected in *Assigned Fund Balance*. No funds other than the General Fund may have Unassigned Fund Balance, therefore any amounts remaining in excess of Nonspendable, Restricted, or Committed funds in funds other than the General Fund will automatically be reported as *Assigned Fund Balance*. If any portion of existing fund balance will be used to eliminate a projected deficit in the subsequent year's budget, this amount will also be categorized as *Assigned Fund Balance*.
5. **Unassigned Fund Balance.** The General Fund, and no other governmental fund, may have resources that cannot be classified in one of the four categories described above. Only the General Fund can report a surplus, an *Unassigned Fund Balance*.

Because Nonspendable and Restricted fund balance are not available for spending due to external enforceable conditions this fund balance policy is focused on the appropriate level of General Fund Unrestricted fund balances, those classified as Committed, Assigned, and Unassigned.

Financial flexibility, provided by adequate fund balance, is needed to cushion the impact of unanticipated emergencies and revenue shortfalls. These include loss of major taxpayers, loss of state revenue sharing, infrastructure emergencies and other economic distresses that serve to impair the City's ability to deliver essential community services. Without this cushion taxpayers would be subject to millage increases, cuts in services, and/or deferred investment in and maintenance of infrastructure. The City Manager and Clerk/Treasurer are authorized to assign fund balance in support of Council goals.

Fund Balance "Spending" Prioritization

As required by GASB 54, the City Council hereby establishes that the City's policy shall be that when multiple classifications are available and appropriate for particular expenditures, the most restrictive category of Fund Balance will be used first working toward unassigned fund balance. Relative restrictiveness of Fund Balance shall proceed from most to least in order of the five classifications listed in this policy, from one to five above.

Minimum/Maximum Unrestricted Fund Balance

~~Minimum Unrestricted fund balance shall be 25% of General Fund revenue.~~

Maximum Unrestricted fund balance shall be the sum of the minimum, plus an infrastructure emergency reserve of \$500,000 plus an operating reserve of 15% of General Fund expenditures.

The minimum/maximum range will be determined each year and reported as part of the fiscal year budget.

Remedy for Maintaining Minimum/Maximum Fund Balance Range

When fund balance approaches its minimum threshold the following measures, in priority order, shall be used to build up fund balance:

1. Cut or delay pay-as-you-go capital improvements from the CIP.
2. Cut general operating expenses.
3. Increase rates and charges funding specific services to make them self-sufficient where possible.
4. Increase millage.

When fund balance approaches its maximum threshold the following measures, in priority order, shall be used to reduce fund balance:

1. Pre-fund or accelerate capital improvements in the CIP by transferring funds to the Capital Improvement budgets.
2. Move up the debt schedule for existing bond payments to lower the City's debt burden.
3. Reduce millage.

City of Grand Blanc

Fund Balance Policy

Purpose

The purpose of this policy is to specify the size and composition of the City's desired fund balance and to identify certain requirements for classifying fund balance in accordance with GASB Statement No. 54. It is essential that the City maintain adequate levels of unreserved fund balance to mitigate risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures and similar circumstances. The fund balance also provides cash flow liquidity for the City's general operations and working capital for community development and improvement projects.

Policy

Fund balance is created from excess revenues over expenditures. It is a fund's net assets, mostly made up of cash and investments and, unless otherwise restricted, available for investment spending such as real estate or may be used for interfund loans. There are five components of fund balance, namely:

1. **Nonspendable Fund Balance.** This portion of fund balance is *nonspendable* because of its form, for example inventory and non-financial assets, or because of legal or contractual requirements.
2. **Restricted Fund Balance.** This portion of fund balance is *restricted* due to external limitations placed on the use of the funds. The restriction typically comes from outside the local government as a condition of the revenue source.
3. **Committed Fund Balance.** Fund balance is *committed* if a limitation is set in place by formal action of the City Council prior to the end of the fiscal year. The limitation remains binding until the City Council takes formal action to remove it.
4. **Assigned Fund Balance.** Fund balance may be *assigned* to reflect the intended use of the resource. The assignment of funds may come from the City Council or from a designee of the City Council. Less formality is needed to impose, remove, or modify a constraint reflected in *Assigned Fund Balance*. No funds other than the General Fund may have Unassigned Fund Balance, therefore any amounts remaining in excess of Nonspendable, Restricted, or Committed funds in funds other than the General Fund will automatically be reported as *Assigned Fund Balance*. If any portion of existing fund balance will be used to eliminate a projected deficit in the subsequent year's budget, this amount will also be categorized as *Assigned Fund Balance*.
5. **Unassigned Fund Balance.** The General Fund, and no other governmental fund, may have resources that cannot be classified in one of the four categories described above. Only the General Fund can report a surplus, an *Unassigned Fund Balance*.

Because Nonspendable and Restricted fund balances are not available for spending due to external enforceable conditions, this fund balance policy is focused on the appropriate level of General Fund Unrestricted fund balances, those classified as Committed, Assigned and Unassigned.

Proceeds of any real estate sales must be returned to fund balance to be recorded in the fund income statement (this could be a net against the general fund expenditure should the sale occur during the year of a deficit budget).

Utilization of Fund Balance

The policy regarding fund balance shall be that when multiple classifications are available and appropriate for particular expenditures, fund balance will be utilized first from the most restrictive category working toward unassigned fund balance. Relative "restrictiveness" of fund balance shall proceed from the most to least in order of the five classifications listed in this policy, from one to five above.

Minimum Fund Balance

For the General Fund, the budget shall be prepared and activities managed to result in an ending unassigned fund balance of at least 50% of the average of the past three (3) fiscal year general fund expenses, except in the case of emergency or financial distress. Circumstances of emergency or financial distress shall be reported to the City Council at the earliest practical time.

When fund balance approaches its minimum threshold the following measures, in priority order, shall be used to build up fund balance:

1. Cut or delay pay-as-you-go capital improvements.
2. Cut general operating expenses.
3. Increase rates and charges funding specific services to make them self-sufficient where possible.
4. Increase millage.

Maximum Fund Balance

In the event that Unassigned Fund Balance exceeds the maximum of 100% of the general fund expenses, the excess may be utilized for a one-time millage reduction utilizing the excess within the fund in which it was generated. In order to minimize the long term effect of such use, the excess shall be appropriated to fund one time expenditures or expenses which do not result in reoccurring operating costs, or other one-time costs including the establishment or increase in legitimate reservations or designations of fund balance.

Other Provisions

Maintenance. In the event the unassigned general fund balance is so calculated to be less than the policy anticipates, the City shall plan to adjust the budget resources in the subsequent fiscal years to restore the balance. Except in extraordinary circumstances, unassigned fund balance should not be used to fund any portion of the ongoing and routine year-to-year operating expenditures of the

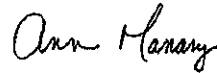
City. It should be used to primarily insure adequate assigned balances, to respond to unforeseen emergencies, to provide cash flow and overall financial stability.

Administrative Responsibilities. The Finance Director shall be responsible for monitoring and reporting the City's various assignments. The City Manager is directed to make recommendations to the Finance Committee of the City Council on use of the unassigned funds both as an element of the annual budget submission and from time to time throughout the year as needs may arise.

Annual Report. The Finance Director shall annually submit a report to the Finance Committee of the City Council outlining the status of the City's various components of the fund balance. This report shall be submitted within thirty days of receipt of the annual financial audit. The Finance Director shall also provide status reports at other times to the Finance Committee or the City Council as may be requested.

May 9, 2012

ADOPTED
Midland County Board
Of Commissioners
Date: September 6, 2016


Attested:

Number: 301
Section: 301.12
Subject: FUND BALANCE POLICY

County Clerk and
Clerk of the Board of Commissioners

1. Purpose: The Board of Commissioners recognizes that the maintenance of a fund balance is essential to the preservation of the financial integrity of the County and is fiscally advantageous for both the County and the taxpayer. This policy establishes goals and provides guidance concerning the desired level of fund balance maintained by the County to mitigate financial risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures, and similar circumstances.
2. Authority: The Midland County Board of Commissioners.
3. Application: This policy applies to the General Fund.
4. Responsibility: The Administrator/Controller shall be responsible for implementation and administration of this policy.
5. Definitions:
 - .. Fund balance is a measurement of available financial resources and it the difference between total assets and total liabilities in each fund.

GASB Statement 54 distinguishes that fund balances be classified based on the relative strength of the constraints that control the purposes for which specified amounts can be spent. Beginning with the most restrictive constraints, fund balance amounts will be reported in the following categories:

- 5.1 Non-spendable fund balance-amounts that are not in a spendable form (e.g., inventory) or are legally or contractually required to be maintained intact (e.g., prepaid expenses or long term advances).
- 5.2 Restricted fund balance-amounts that can be spent only for the specific purposes stipulated by external parties either constitutionally or through enabling legislation (e.g., debt covenants, grants or donations).
- 5.3 Committed fund balances-amounts that can be used only for the specific purposes determined by a formal action of the Board of Commissioners. Commitments may be changed or lifted only by referring to the formal action that imposed the constraint originally (e.g., the Board of Commissioners commitment in connection with future construction projects).

- 5.4 Assigned fund balance-amounts intended to be used by the government for specific purposes. Intent can be expressed by the Board of Commissioners or by a designee to whom the governing body delegates the authority. In governmental funds other than the General Fund, assigned fund balance, represents the amount that is not restricted or committed. This indicates that resources in other governmental funds are, at a minimum, intended to be used for the purpose of that fund.
- 5.4.1 The Board of Commissioners has determined that any residual fund balance that is not designed as non-spendable, restricted, or committed to be assigned for future budget periods.
- 5.5 Unassigned fund balance-includes all amounts not contained in other classifications and is the residual classification of the General Fund only. Unassigned amounts are available for any legal purpose.
6. Order of expenditure of funds: When multiple categories of fund balance are available for expenditure (e.g., project is being funded partly by a grant, and funds set aside by the Board of Commissioners), the County will start with the most restricted category and spend those funds first before moving to the next category of available funds.
7. Target fund balance: It is the goal of the Board of Commissioners to maintain a total fund balance (all categories) in the General Fund, at fiscal year-end of not less than 30% of the annual operating expenditures in the General Fund.
8. Minimum Fund Balance: The County will maintain a minimum fund balance in the General Fund, in assigned category of 8.33% (or the equivalent of one month) of the subsequent year's adopted General Fund budgeted expenditures and transfers out, to protect against cash flow shortfalls related to timing of projected revenue receipts and to maintain a budget stabilization commitment. If the assigned fund balance at fiscal year-end falls below 8.33%, the Administrator/Controller shall develop a restoration plan to achieve and maintain the minimum required amount.
9. Special Revenue Funds that receive contributions from the General Fund shall be analyzed each year end by the Administrator/Controller and any excess fund balance shall be restored to the General Fund.

End

CITY OF BRIDGMAN
FUND BALANCE POLICY
REVISION PAGE
Original, January 16, 2017

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CITY OF BRIDGMAN

FUND BALANCE POLICY

Purpose

To establish an appropriate level of fund balance in the General Fund, define the components of fund balance, and direct officials in the methods to be used for increasing or decreasing fund balance when trends indicate fund balance will fall outside the minimum/maximum levels.

Policy

Fund balance is created from excess revenues over expenditures. It is a fund's net assets, mostly made up of cash and investments and, unless otherwise restricted, available for spending. There are five components of fund balance, namely:

1. **Nonspendable Fund Balance.** This portion of fund balance is *nonspendable* because of its form, for example inventory and non-financial assets, or because of legal or contractual requirements.
2. **Restricted Fund Balance.** This portion of fund balance is *restricted* due to external limitations placed on the use of the funds. The restriction typically comes from outside the local government as a condition of the revenue source.
3. **Committed Fund Balance.** Fund balance is *committed* if a limitation is set in place by formal action of the City Council prior to the end of the fiscal year. The limitation is set in place by formal action of the City Council prior to the end of the fiscal year. The limitation remains binding until the City Council takes formal action to remove it.
4. **Assigned Fund Balance.** Fund balance may be *assigned* to reflect the intended use of the resource. The assignment of funds may come from the City Council or from a designee of the City Council, for example the City Administrator. Less formality is needed to impose, remove, or modify a constraint reflected in *Assigned Fund Balance*. No funds other than the General Fund may have Unassigned Fund Balance, therefore any amounts remaining in excess of Nonspendable, Restricted, or Committed funds in funds other than the General Fund will automatically be reported as *Assigned Fund Balance*. If any portion of existing fund balance will be used to eliminate a projected deficit in the subsequent year's budget, this amount will also be categorized in *Assigned Fund Balance*.

5. **Unassigned Fund Balance.** The General Fund, and no other governmental fund, may have resources that cannot be classified in one of the four categories described above. Only the General Fund can report a surplus, an Unassigned Fund Balance.

Because Nonspendable and Restricted fund balance are not available for spending due to external enforceable conditions, this fund balance policy is focused on the appropriate level of General Fund Unrestricted fund balances, which are those classified as Committed, Assigned, and Unassigned.

Financial flexibility, provided by adequate fund balance, is needed to cushion the impact of unanticipated emergencies and revenue shortfalls. These include loss of major taxpayers, loss of state revenue sharing, infrastructure emergencies and other economic distresses that serve to impair the City's ability to deliver essential community services. Without this cushion taxpayers would be subject to millage increases, cuts in services, and/or deferred investment in and maintenance of infrastructure.

Minimum/Maximum Unrestricted Fund Balance

Minimum Unrestricted fund balance shall be the sum of the top two taxpayers' total annual City tax or 40% of General Fund revenue, whichever is higher.

Maximum Unrestricted fund balance shall be 100%.

The minimum/maximum range will be determined each year and reported as part of the fiscal budget.

Remedy for Maintaining Minimum Fund Balance Range

When fund balance approaches its minimum threshold the following measures, in priority order, shall be used to build up fund balance:

1. Cut or delay pay-as-you-go capital improvements from the CIP (Capital Improvement Plan).
2. Cut general operating expenses.
3. Increase rates and charges funding specific services to make them self-sufficient where possible.
4. Increase millage.

Remedy for Addressing Maximum Fund Balance Range

When fund balance approaches its maximum threshold the following measures, in priority order, shall be used to reduce fund balance:

1. Fully fund the Employee Defined Benefit pension, if not already at full funding.
2. Pre-fund or accelerate capital improvements in the CIP by transferring funds to the Capital Improvement budgets.
3. Move up the debt schedule for existing bond payments to lower the City's debt burden.
4. Reduce millage.

AGENDA NOTE

MEETING DATE: February 12, 2018

PERSON PLACING ITEM ON AGENDA: Postponed from 1/22/18

AGENDA TOPIC: Council Meeting Conduct

EXPLANATION OF TOPIC: At the January 22, 2018 meeting, Council considered rules relating to Council meeting conduct including public comment. Council separated consideration of public comment rules by postponing that matter to February 12, 2018, and postponing consideration of rules pertaining to Council conduct to June 25, 2018. The following is a brief summary of concepts for consideration in deciding on any rules for public comment during Council meetings. Numerous samples of meeting rules and procedures have been provided.

Number of Public Comment Periods. With respect to rules on audience comment during public meetings, there is no uniformity among communities on this issue. Some communities provide one public comment period at the beginning of the meeting while others provide two periods – one at the beginning and one near the end. Some communities make clear that the call to the public periods are for non-agenda items, and some allow audience participation on agenda items while the governing body is considering the agenda items, or alternatively, stating that audience participation is only during the public comment periods. The public does not have a right to address the Council during its consideration of and deliberation on a particular matter. But, the City of South Lyon has, as past practice, allowed audience participation during Council consideration of specific agenda items as well as non-agenda comments during public comment. Council may want to clarify the purposes and permitted topics for the public comment periods, and as appropriate, clarify whether audience participation during agenda items is permitted and under what circumstances.

Number of Times an Individual May Speak. This concept varies from community to community, but several specify that an individual may not speak more than once on a topic until everyone wishing to speak has had an opportunity to do so.

Time Limits. As to time limits on public comment, some communities do not expressly limit the time an individual may speak during public comment, but many do and those limits typically range from 2-5 minutes, and some allow for a longer time (e.g. 10 minutes) for a group presentation. The use of audio or video by an individual during public comment may be a factor in a time limitation, but depending whether the request is made in advance, it may be a presentation rather than a public comment. In some instances, the rules make clear that the chair or governing body can suspend the time limit on public comment. Council may want to decide whether to set time limits (recommended) and, if so, specify who determines whether the time limits will be extended, or suspended, and, if so, by what procedure and under what circumstances. For example, a group may be permitted more time than an individual with the understanding that having a representative of a group may avoid duplicative comments, and others use a more subjective discretionary standard of "for good cause" which is essentially a discretionary standard.

Individual Must Be Recognized Before Addressing Council. Many communities specify that an individual must be recognized by the Chair before addressing the governing body, but there are some that do not address the concept. Related to this procedure is a requirement that audience members direct their comments to the Chair rather than to specific Council Members or staff.

Individuals Must Identify Themselves and Provide Address or Residency Information. Many rules and procedures relating to public or audience comment require that the person provide his or her name and address either verbally or in writing. It appears that this requirement may be to assist in identifying the speaker and whether he or she is a resident of the community. One community allowed an individual wishing not to verbally state their address to place it on a sign-in sheet, while another requires only the person's name and a statement whether she is or is not a resident. Note, the City cannot require an individual to provide her name and/or address as a condition of attending the meeting, but the City is allowed to ask for or require it when addressing the Council. If this latter is made a requirement, it would be a best practice to have this rule or requirement in writing and made public so anyone attending a meeting is or can be aware of it. Some communities include the rules regarding audience comment on the agenda.

Advance Sign-up. Some communities require advance sign-up for public comment. This may be a procedure used in communities that have a lot of audience participation in an attempt to control the duration of a meeting. This is not recommended for South Lyon.

Interaction Between Audience and Council. Some communities' rules are more formal and restrict immediate interaction between an audience member and the Council and staff while others provide for limited interaction and response, and others do not address the concept. South Lyon has, by past practice, utilized the public comment to receive comments and questions and have not allowed Council Members or staff to respond until later in the meeting. Council may wish to consider how it wants to address this concept.

Decorum, Behavior and Conduct. Many of the rules and procedures for communities require that audience members addressing the Council through the Chair be respectful and courteous, and some delve into restrictions on speaking beyond the time limits, speaking out of order, personal attacks, vulgarities, slanderous statements, and consequences for such conduct or for being disorderly or disrupting the meeting which can range from being ruled out of order, being restricted from speaking further, or being removed in the event the person breaches the peace.

Public Comment Distinguished from Comment during Public Hearing. It should be noted that the public comment or call to the public inviting audience members to make comments or ask questions is distinguished from comments made during a public hearing. A public hearing is held in a different portion of the meeting and may use a different format depending on the matter. Also, the topic of a public hearing will be known and comments would pertain to that matter, while general public comment may touch on any topic or question relevant to the City or of public interest.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Agenda Note 1/22/18 – Council Meeting Conduct
- Council Resolution Setting Procedures for Council Deliberations (1/23/06)

POSSIBLE COURSES OF ACTION:

RECOMMENDATION: Address the various concepts for rules on audience or public comment and direct staff / attorney / subcommittee to prepare proposed Council rules and procedures consistent with the discussion and for subsequent Council review and approval

SUGGESTED MOTION: Motion to direct _____ to prepare proposed Council rules and procedures for audience and public comment based on Council discussion for presentation at the Council meeting on _____, 2018

AGENDA NOTE

New Business: Item # 5

MEETING DATE: January 22, 2018

PERSON PLACING ITEM ON AGENDA: Councilmember Parisien

AGENDA TOPIC: Council Meeting Conduct

EXPLANATION OF TOPIC: The objective of this agenda item is to provide an efficient way for Council members and citizens to conduct themselves during council meetings in the spirit of making the meetings more productive.

It would behoove the City of South Lyon to adopt a rule in which Council members are permitted to speak to each topic on the agenda for three minutes. After every member on Council has had an opportunity to speak then a Council-member may speak a second time to the matter for an additional three minutes. Any additional time must be approved by the Mayor. The benefits of this system would provide all members with the ability to speak and keep their comments direct and to the point, encouraging thoughtful and productive dialog. Further benefits would prevent the unnecessary wasting of time and City resources, making the meetings more efficient and keeping everyone focused on the topic at hand. Further, implementing such a rule would not pose a constitutional violation of one's speech, but merely advocate for more direct comments and less aimless remarks.

If the Clerk is agreeable, she may keep the time or it may be appropriate for the Mayor to do so.

Also, this rule could be implemented for public comment too for the same reasons. Further, we could open up public comment again at the end of the meeting to allow citizens/residents who have sat through the duration of the meeting a second chance to voice questions, concerns or comments.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: Page 8 of Rules of Procedure for the City Council, City of Troy, Michigan and Pages 11 & 12 of Ann Arbor City Council Rules 2016-17.

POSSIBLE COURSES OF ACTION: Approve/Do Not Approve Time Limits and additional Public Comment.

RECOMMENDATION: Approve the Time Limits and additional Public Comment.

SUGGESTED MOTION: Motion by _____, supported by
_____ to

22. ABSENCES AT COUNCIL MEETINGS

- A. Council members who are unable to attend a Council meeting and desire an excused absence shall notify the Mayor, City Manager, City Attorney or City Clerk of their absence in writing prior to the meeting and indicate the reason for the absence. The reason shall be entered in the proceedings of the Council at the time of each absence.
- B. In the event of an absence of a Council member at a meeting, the City Manager is directed to supply such absent Council member with information about any special meetings that may have been scheduled.

23. SUSPEND RULES

The Rules of Procedure may be waived by a simple majority.

24. COUNCIL DISCUSSION

No member of Council shall speak a second time on any item under discussion until all other members desiring to speak on that item have been heard. No member of Council shall be allowed to speak for more than five (5) minutes at a time.

25. AGENDA ITEMS SUBMITTED BY COUNCIL MEMBERS

Mayor and Council Members submitting an agenda item that calls for a vote shall send the item to the City Manager in a timely manner in writing. Staff professional opinion may be written to accompany the item. Rule 17 would govern, limiting any presentations to 15 minutes.

26. VIDEO AND AUDIO PRESENTATIONS

Video and Audio Presentations may not be submitted for presentation at a Council meeting unless submitted to the Troy City Clerk by noon on the day of the meeting. Inappropriate material will be prohibited.

27. CONTINUED AGENDA ITEMS NOT CONSIDERED BEFORE 12:00 AM

Any item on the Council agenda that has not been discussed by 12:00 AM of the morning following the beginning of the meeting shall be continued to the next regular meeting as a Carryover Item, unless City Council takes action to the contrary.

28. VIOLATIONS

The City Clerk shall be responsible for reporting violations of time limitations or speaking sequence to the Chair.

29. WIRE COMMUNICATIONS BY AND TO COUNCIL MEMBERS DURING ANY MEETING OF COUNCIL

All communications are subject to the Michigan Open Meetings Act, therefore members of the City Council shall not engage in any form of wire communication, as defined by U.S. Code Title 18, Part I, Chapter 119, Section 2510, during any meeting of the Council.

Members of Audience Addressing Council

Upon the request of a member of the Council, a member of the audience shall be permitted to address the Council at a time other than during public commentary, unless a majority of members of Council object.

Disorderly Conduct at Meetings

The Chair may call to order any person who engages in personal attacks, (which are unrelated to Council Business) who uses obscene or grossly indecent language, who speaks longer than the allotted time, who disrupts the proceedings or who otherwise violates the rules of this Council. Failure to come to order may result in the microphone being shut off, the forfeiture of any remaining speaking time, or, at the request of the Chair, expulsion from the meeting.

Furthermore, if a speaker or a member of the public does not follow applicable rules during a Council meeting, disturbs the peace at a Council meeting or endangers the safety of the Council or the public at a council meeting, that individual may also have further restrictions placed upon them as necessary, including forfeiture of their right to speak at or right to attend future Council meetings. Such actions are to be determined by Council and shall be consistent with the Michigan Open Meetings Act.

RULE 8 - Voting

In all cases where a vote is taken, the Chair shall decide that result. A roll call vote shall be called upon the request of any member of the Council. The roll call voting order shall rotate around the council table with the Mayor voting in the rotation.

RULE 9 - Nominations or Appointments to Boards, Commissions or Committees

Nominations or appointments to boards, commissions, or committees, which require the confirmation or approval of Council, shall not be confirmed or approved before the next regular meeting of the Council except with the consent of 8 of the members of the Council. When required by ordinance or otherwise deemed in the best interest of the City, the Charter residency requirement for nomination or appointment of an individual to a board, commission or committee is waived by a resolution concurred in by not less than seven members of Council.

RULE 10 - Council Conduct of Discussion and Debate

[A] No member shall speak until recognized for that purpose by the Chair.

[B] The member shall confine comments to the question at hand and avoid personal attack.

[C] A member shall not speak more than two times on a given question. Three minutes the first time, three minutes the second time, except with the concurring vote of 3/4 of the members present. A motion to call the previous question (call for cloture) is in order after thirty (30) minutes of discussion on the question. Upon a motion to call the previous question, all discussion is ended, provided that each member who has not yet held the floor will have an opportunity to do so. A motion to call the previous question shall require a concurring vote of 3/4 of the members present.

[D] Electronic communication during Council meetings shall pertain only to City matters.

[11] During Council meetings, members shall not send private electronic communication to persons other than City Staff; provided however, that members may send draft motions, resolutions, and amendments to the City Clerk who will forward them to members of Council. Members shall not respond to member-distributed draft language via electronic communication. All draft language sent by electronic communication during Council meetings shall be read into the record prior to discussion by Council. Members will not send publicly-accessible electronic communications (e.g. Twitter and FaceBook posts) during meetings.

[12] Electronic communication sent and received by a member during a Council meeting shall be included in the minutes of such meeting, provided that the minutes shall not include electronic communication received by a member that clearly does not relate to the subject matter of the meeting.

[13] A member shall not use their personal mobile devices to answer phone calls or send electronic communications, including text messages, while seated at the Council table. Members who have a need to attend to personal business shall step away from the Council table to do so.

RULE 11 - Resolutions and Motions to Be Made In Writing

Every resolution and ordinance shall be in writing. Resolution titles shall, unless impractical or required by law, be twenty (20) words or less and describe in plain language the subject matter thereof. When any motion has been made and seconded, it shall be stated by the Chair and shall not be withdrawn thereafter except by consent of the majority of the members of the Council present.

RULE 12 - Motion to Lay on the Table

A motion to table shall only be in order "when something else of immediate urgency has arisen or when something else needs to be addressed before consideration of the pending question is resumed" (RROR Newly Revised in Brief, p. 119) and the name of the person making the motion and the rationale for tabling should appear in the minutes.

RULE 13 - Consideration of Questions

When a question has been taken, it shall be in order for any member voting with the prevailing side to move a reconsideration thereof at the same or the next regular meeting; but, no question shall a second time be reconsidered.

Agenda items – Introduction, Referral, and Approval

Sample Rules of Procedure

A. Regular and special meetings

All meetings of the city/village council will be held in compliance with state statutes, including the Open Meetings Act, 1976 PA 267 as amended, and with these rules.

1. Regular meetings

Regular meetings of the city/village council will be held on _____ of each month beginning at _____ p.m. at the city/village office unless otherwise rescheduled by resolution of the council. Council meetings shall conclude no later than _____ p.m., subject to extension by the council.

2. Special meetings

A special meeting shall be called by the clerk upon the written request of the mayor/president or any three members of the council on at least 24 hours' written notice to each member of the council served personally or left at the councilmember's usual place of residence. Special meeting notices shall state the purpose of the meeting. No official action shall be transacted at any special meeting of the council unless the item has been stated in the notice of such meeting.

3. Posting requirements for regular and special meetings

- a. Within 10 days after the first meeting of the council following the election, a public notice stating the dates, times and places of the regular monthly council meetings will be posted at the city/village offices.
[Villages without a principal office must post in the county clerk's office.]

- b. For a rescheduled regular or a special meeting of the council, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting at the city/village office.
[Villages without a principal office must post in the county clerk's office.]

- c. The notice described above is not required for a meeting of the council in emergency session in the event of a severe and imminent threat to the health, safety or welfare of the public when two-thirds of the members of the council determine that delay would be detrimental to the village's efforts in responding to the threat.

[The Michigan Open Meetings Act requires that copies of the notice of public meetings be provided by first-class mail upon request and payment of a reasonable yearly fee for the costs of printing and postage. Section d. could be added here to indicate the fee determined by the council for these costs.]

4. Minutes of regular and special meetings

The clerk shall attend the council meetings and record all the proceedings and resolutions of the council in accordance with [Section 64.5 of the General Law Village Act of 1895 as amended and] the Open Meetings Act. In the absence of the clerk, the council may appoint one of its own members or another person to temporarily perform the clerk's duties.

Within 15 days of a council meeting a synopsis showing the substance of each separate decision of the council or the entirety of the council proceedings shall be prepared by the clerk and shall indicate the vote of the councilmembers. After the mayor/president approves this document, it shall be published in a newspaper of general circulation in the city/village or posted in three public places in the city/village.

A copy of the minutes of each regular or special council meeting shall be available for public inspection at the village offices during regular business hours.

5. Study sessions

Upon the call of the mayor/president or the council and with appropriate notice to the councilmembers and to the public, the council may convene a work session devoted exclusively to the exchange of information relating to municipal affairs. No votes shall be taken on any matters under discussion nor shall any councilmember enter into a formal commitment with another member regarding a vote to be taken subsequently.

B. Conduct of meetings

1. Meetings to be public

All regular and special meetings of the council shall be open to the public, and citizens shall have a reasonable opportunity to be heard in accordance with such rules and regulations as the council may determine, except that the meetings may be closed to the public and the media in accordance with the Open Meetings Act.

All official meetings of the council and its committees shall be open to the media, freely subject to recording by radio, television and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

2. Agenda preparation

An agenda for each regular council meeting shall be prepared by the mayor/president with the following order of business:

- a. Call to order and roll call of council

- b. Public hearings on ordinances under consideration
- c. Brief public comment on agenda items
- d. Approval of consent agenda
- e. Approval of regular agenda
- f. Approval of council minutes
- g. Submission of bills
- h. Communications to the council
- i. Reports from council committees
- j. Reports from officers as scheduled, e.g. manager, attorney, etc.
- k. Unfinished business
- l. New business
- m. Announcements
- n. Adjournment

Any councilmember shall have the right to add items to the regular agenda before it is approved.

3. Consent agenda

A consent agenda may be used to allow the council to act on numerous administrative or noncontroversial items at one time. Included on this agenda can be noncontroversial matters such as approval of minutes, payment of bills, approval of recognition resolutions, etc. Upon request by any member of the council, an item shall be removed from the consent agenda and placed on the regular agenda for discussion.

4. Agenda distribution

[This section should explain when and how councilmembers will receive their agendas.]

5. Quorum

A majority of the entire elected or appointed and sworn members of the council shall constitute a quorum for the transaction of business at all council meetings. In the absence of a quorum, a lesser number may adjourn any meeting to a later time or date with appropriate public notice.

6. Attendance at council meetings

Election to the city/village council is a privilege freely sought by the nominee. It carries with it the responsibility to participate in council activities and represent the residents of the city/village. Attendance at council meetings is critical to fulfilling this responsibility. A general law village council is empowered by Section 65.5 of the General Law Village Act as amended to adjourn a meeting if a quorum is not present and compel attendance in a manner prescribed by its ordinance.

The council may excuse absences for cause. If a councilmember has more than three unexcused successive absences for regular or special council meetings, the council may enact a resolution of reprimand. In the event that the member's absences continue for more than three additional successive regular or special meetings of the council, the council may enact a resolution of censure or request the councilmember's resignation or both.

7. Presiding officer

The presiding officer shall be responsible for enforcing these rules of procedure and for enforcing orderly conduct at meetings. The mayor/president is ordinarily the presiding officer. The council shall appoint one of its members mayor/president pro tempore, who shall preside in the absence of the president. In the absence of both the mayor/president and the mayor/president pro tempore, the member present who has the longest consecutive service on the council shall preside.

8. Disorderly conduct

The mayor/president may call to order any person who is being disorderly by speaking out of order or otherwise disrupting the proceedings, failing to be germane, speaking longer than the allotted time or speaking vulgarities. Such person shall be seated until the chair determines whether the person is in order.

If the person so engaged in presentation is called out of order, he or she shall not be permitted to continue to speak at the same meeting except by special leave of the council. If the person shall continue to be disorderly and disrupt the meeting, the chair may order the sergeant at arms to remove the person from the meeting. No person shall be removed from a public meeting except for an actual breach of the peace committed at the meeting.

[It is suggested that there be an ordinance governing disruption of public meetings, prepared with advice of the municipal attorney and the municipal liability insurance carrier on the risks, limits and force allowed to eject members. This ordinance should stipulate the procedure to be followed and the resource to be used for the sergeant-at-arms function, e.g. local police, county sheriff, etc. By planning in advance how to handle attempted disruptions, you can keep the meeting in order.]

C. Closed meetings

1. Purpose

Closed meetings may be held only for the reasons authorized in the Open Meetings Act, which are the following:

- a. To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member or individual agent when the named person requests a closed meeting.
- b. For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement when either negotiating party requests a closed hearing.
- c. To consider the purchase or lease of real

property up to the time an option to purchase or lease that real property is obtained.

- d. To consult with the municipal attorney or another attorney regarding trial or settlement strategy in connection with specific pending litigation, but only when an open meeting would have a detrimental financial effect on the litigating or settlement position of the council.
- e. To review the specific contents of an application for employment or appointment to a public office when a candidate requests that the application remain confidential. However, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting.
- f. To consider material exempt from discussion or disclosure by state or federal statute.

2. Calling closed meetings

At a regular or special meeting, the councilmembers, elected or appointed and serving, by a two-thirds roll call vote may call a closed session under the conditions outlined in Section C.1 of the Open Meetings Act. The roll call vote and purpose(s) for calling the closed meeting shall be entered into the minutes of the public part of the meeting at which the vote is taken.

3. Minutes of closed meetings

A separate set of minutes shall be taken by the clerk or the designated secretary of the council at the closed session. These minutes will be retained by the clerk, shall not be available to the public, and shall only be disclosed if required by a civil action, as authorized by the Michigan Open Meetings Act. These minutes may be destroyed one year and one day after approval of the minutes of the regular meeting at which the closed session was approved.

D. Discussion and voting

1. Rules of parliamentary procedure

The rules of parliamentary practice as contained in the latest edition of [Robert's Rules of Order or an alternative source of procedural rules] shall govern the council in all cases to which they are applicable, provided that they are not in conflict with these rules, city/village ordinances or applicable state statutes. The mayor/president may appoint a parliamentarian.

The chair shall preserve order and decorum and may speak to points of order in preference to other council-members. The chair shall decide all questions arising under this parliamentary authority, subject to appeal and reversal by a majority of the councilmembers present.

Any member may appeal to the council a ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state the reason for the appeal and the presiding officer may briefly state the ruling. There shall be no debate on the appeal and no other member shall participate in the discussion. The question shall be, "Shall the decision of the chair be sustained?" If the majority of the members present vote "aye," the ruling of the chair is sustained; otherwise it is overruled.

2. Conduct of discussion

During the council discussion and debate, no member shall speak until recognized for that purpose by the chair. After such recognition, the member shall confine discussion to the question at hand and to its merits and shall not be interrupted except by a point of order or privilege raised by another member. Speakers should address their remarks to the chair, maintain a courteous tone and avoid interjecting a personal note into debate.

No member shall speak more than once on the same question unless every member desiring to speak to that question shall have had the opportunity to do so.

The chair, at his or her discretion and subject to the appeal process mentioned in Section D.1., may permit any person to address the council during its deliberations.

3. Ordinances and resolutions

No ordinance, except an appropriation ordinance, an ordinance adopting or embodying an administrative or governmental code or an ordinance adopting a code of ordinances, shall relate to more than one subject, and that subject shall be clearly stated in its title.

A vote on all ordinances and resolutions shall be taken by a roll call vote and entered in the minutes unless it is a unanimous vote. If the vote is unanimous, it shall be necessary only to so state in the minutes, unless a roll call vote is required by law or by council rules.

4. Roll call

In all roll call votes, the names of the members of the council shall be called in alphabetical order. [Names may be called with all names in alphabetical order or alphabetical order with the president voting last or the council may select another system.]

5. Duty to vote

Election to a deliberative body carries with it the obligation to vote. Councilmembers present at a council meeting shall vote on every matter before the body, unless otherwise excused or prohibited from voting by law. A councilmember who is present and abstains or does not respond to a roll call vote shall be counted as voting with the prevailing side and shall be so recorded, unless otherwise excused or prohibited by law from voting.

Conflict of interest, as defined by law, shall be the sole reason for a member to abstain from voting. The opinion of the city/village attorney shall be binding on the council with respect to the existence of a conflict of interest. A vote may be tabled, if necessary, to obtain the opinion of the city/village attorney.

The right to vote is limited to the members of council present at the time the vote is taken. Voting by proxy or by telephone is not permitted.

All votes must be held and determined in public; no secret ballots are permitted.

6. Results of voting

In all cases where a vote is taken, the chair shall declare the result.

It shall be in order for any councilmember voting in the majority to move for a reconsideration of the vote on any question at that meeting or at the next succeeding meeting of the council. When a motion to reconsider fails, it cannot be renewed.

E. Citizen participation

1. General

Each regular council meeting agenda shall provide for reserved time for audience participation.

If requested by a member of the council, the presiding officer shall have discretion to allow a member of the audience to speak at times other than reserved time for audience participation.

2. Length of presentation

Any person who addresses the council during a council meeting or public hearing shall be limited to _____ minutes in length per individual presentation. The clerk will maintain the official time and notify the speakers when their time is up.

3. Addressing the council

When a person addresses the council, he or she shall state his or her name and home address. Remarks should be confined to the question at hand and addressed to the chair in a courteous tone. No person shall have the right to speak more than once on any particular subject until all other persons wishing to be heard on that subject have had the opportunity to speak.

F. Miscellaneous

1. Adoption and amendment of rules of procedure

These rules of procedure of the council will be placed on the agenda of the first meeting of the council following the seating of the newly elected councilmembers for review and adoption. A copy of the rules adopted shall be distributed to each councilmember.

The council may alter or amend its rules at any time by a vote of a majority of its members after notice has been given of the proposed alteration or amendment.

2. Suspension of rules

The rules of the council may be suspended for a specified portion of a meeting by an affirmative vote of two-thirds of the members present except that council actions shall conform to state statutes and to the Michigan and the United States Constitutions.

3. Bid awards

Bids will be awarded by the council during regular or special meetings. A bid award may be made at a special meeting of council if that action is announced in the notice of the special meeting.

4. Committees

a. Standing and special committees of council

The city/village shall have the following standing committees:

[Committees should be listed by name and with a definition of their purposes and scopes.]

Committee members will be appointed by the mayor/president. They shall be members of the council. The mayor/president shall fill any committee vacancies. The committee member shall serve for a term of one year and may be re-appointed.

Special committees may be established for a specific period of time by the mayor/president or by a resolution of the council which specifies the task of the special committee and the date of its dissolution.

b. Citizen task forces

Citizen task forces may be established by a resolution of the council which specifies the task to be accomplished and the date of its dissolution. Members of such committees will be appointed by the mayor/president, subject to approval by a majority vote of the council and must be residents of the city/village. Vacancies will be filled by majority vote of the council in the same way appointments are made.

5. Authorization for contacting the city/village attorney

The following officials (by title) are authorized to contact the city/village attorney regarding municipal matters:

RULES OF THE CITY COUNCIL

Review February 4, 2015

A. REGULAR AND SPECIAL MEETINGS

All meetings of the City Council will be held in compliance with state statutes, including the **Open Meetings Act**, Public Act 267 of 1976 as amended, and with these rules.

1. Regular Meetings

Regular meetings of the City Council will be held on the 1st and 3rd Monday of each month beginning at 7:00 PM at the Council Chamber at 311 S. Main, Chelsea, Michigan, or such other location as may be noticed in accordance with Section 3, hereafter.

2. Special Meetings

A special meeting shall be called by the City Clerk upon the written request of the Mayor or any three members of the Council on at least 24 hours written notice to each member of the Council served personally or left at the council member's usual place of residence. No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting.

3. Posting Requirements for Regular and Special Meetings

- A. After the first meeting of the Council following the November election a public notice stating the dates, times, and places of the regular council meetings will be posted at the City Offices.
- B. For a rescheduled regular or a special meeting of the council, a public notice stating the date, time and place of the meeting shall be posted at least 18 hours before the meeting at the City Offices.
- C. However, such notice, as described above, is not required for a meeting of the Council in emergency session in the event of a widespread natural disaster or a severe and imminent threat to health, safety or welfare of the public where two-thirds of the members of the Council determine that delay would be detrimental to the City's efforts in responding to the threat.

4. Minutes of Regular and Special Meetings

- A. In accordance with Section 6.7 of the Charter of the City of Chelsea, a journal in the English language, of the proceedings of

each meeting shall be kept by the clerk, and shall be signed by the presiding officer and clerk of the meeting.

- B. A copy of the minutes of each regular or special Council meeting shall be available for public inspection at the City Offices during regular business hours after the minutes are signed by the Clerk.

5. Study Sessions

A study session may be called under the same requirements as a Special Meeting. A study session shall be a meeting held pursuant to the Michigan Open Meetings Act. An agenda will be provided on all items to be discussed and shall serve as the official minutes of the study session. The purpose of the study session is to allow detailed consideration and discussion of agenda items. No further business shall be conducted nor shall motions be made at a study session. Discussion on agenda items may proceed in absence of a quorum.

B. CONDUCT OF MEETINGS

1. Meetings to the Public

All regular and special meetings of the City Council shall be open to the public, and citizens shall have a reasonable opportunity to be heard in accordance with such rules and regulations as the Council may determine.

2. Agenda Participation

An agenda for each regular council meeting shall be prepared by the City Manager with the assistance of the City Clerk with the following order of business:

- a. Call to Order
- b. Pledge of Allegiance
- c. Approval of Consent Agenda Items
- d. Approval of Regular Agenda
- e. Citizen Agenda Items
- f. Public Comments
- g. Awards, Presentations & Proclamations
- h. Public Hearings
- i. Council Business
- j. Council Reports
- k. Closed Session
- l. Adjournment

Council members shall have the right to add items to the regular agenda before it is approved. However, Council members are encouraged to contact the City Manager before the meeting with items they would like added to the agenda. The addition of any item, by council or staff, that includes an expenditure of funds that is not in the approved fiscal year or that may put the City in an adverse financial situation, may be presented for discussion, but approval may be delayed until the next regular council meeting.

3. Consent Agenda

Council may use a consent agenda to allow the Council to act on numerous administrative or non-controversial items at one time. Items that could be included on this agenda include non-controversial matters such as approval of minutes, payment of bills, approval of recognition resolutions, etc. Any member of Council may request that an item be removed from the consent agenda and placed on the regular agenda for discussion.

4. Agenda Distribution

The Clerk or his/her designee shall distribute Council Agendas to the following:

Mayor and Council Members
Department Heads
Washtenaw Now

5. Quorum

Four members of the Council shall constitute a quorum for the transaction of business at all Council Meetings. In the absence of a quorum, a lesser number may adjourn any meeting to a later time or date with appropriate public notice.

6. Presiding Officer

The presiding officer shall be responsible for enforcing these rules of procedure and for enforcing orderly conduct at meetings (and may appoint a sergeant at arms). The Mayor is ordinarily the presiding officer. The City Council shall appoint one of its members Mayor pro tempore, who shall preside in the absence of the Mayor. In the absence of both the Mayor and Mayor pro tem, the Council shall appoint one of its members to preside.

7. Sergeant at Arms

The City Police are appointed the sergeant at arms for all City Council meetings.

C. CLOSED MEETINGS

1. Purpose

Closed meetings shall be held only for the reasons provided in the Open Meetings Act, which are the following:

- A. To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member, or individual agent when the named person requests a closed meeting.**
- B. For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement when either negotiating party requests a closed hearing.**
- C. To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.**
- D. To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only when an open meeting would have a detrimental financial effect on the litigation or settlement position of the Council.**
- E. To review the specific contents of an application for employment or appointment to a public office when a candidate requests that the application remain confidential. However, all interviews by a public body for employment or appointment to office shall be held in an open meeting.**
- F. To consider material exempt from discussion or disclosure by state or federal statute.**

1. Calling Closed Meetings

A two-thirds roll call vote of the Council members elected or appointed and serving shall be required, except under Sections A and B above. The roll call vote and purpose or purposes for calling the closed meeting shall be entered into the minutes of the meeting at which the vote is taken.

2. Minutes of Closed Meetings

A separate set of minutes shall be taken by the Clerk or the designated Secretary of the Council at the Closed Session. These minutes will be retained by the Clerk, shall not be available to the public, and shall only be disclosed if required by a civil action. These minutes may be destroyed

one year and one day after approval of the minutes of the regular meeting at which the closed session was approved.

D. DISCUSSION AND VOTING

1. Rules of Parliamentary Procedure

The rules of parliamentary practice as contained in the latest edition of **Roberts Rules of Order** shall govern the Council in all cases to which they are applicable, provided that they are not in conflict with these rules, the ordinances of the City of Chelsea or State Statutes applicable to the City of Chelsea. **Roberts Rules of Order** are not applicable to motions to reconsider the votes or to actions on administrative proceedings where the City council acts as a quasi-judicial body, such as, a Board of Appeals or variance appeals.

The Chair shall decide all questions arising under this parliamentary authority and shall be subject to appeal, which shall be determined by a majority of the council members present. The Chair shall preserve order and decorum and may speak to points of order in preference to other council members.

During the Council discussion and debate, no member shall speak until recognized for that purpose by the Chair. After such recognition, the member shall confine discussion to the question at hand and to its merits and shall not be interrupted except by a point of order raised by another member. Speakers should address their remarks to the chair, maintain a courteous tone, and avoid interjecting a personal note into the debate.

No member shall speak more than once on the same question unless every member desiring to speak to that question shall have had the opportunity to do so. The Chair, at his or her discretion and subject to the appeal process mentioned in the preceding section, may permit any person to address the council during its deliberations. Persons invited by a council member to be present and to address the Council during its deliberations are not required to obtain the permission of the Chair. All other persons desiring to address the Council during its deliberations on a specific item, must request of the chair the privilege to address the Council on that item before or during the audience participation section of the agenda.

2. Conduct of Discussion – Rules of Engagement

Rules of Engagement are the protocol for the City Council interactions and communications with the prescribed individuals and categories of people with whom they direct, interact with, and serve.

These rules are not intended to discourage free discussion and communication with the City Council or individual members thereof. Rather they establish a code of decorum intended to facilitate and enhance the effectiveness of those communications, and to ensure that the policies and directives of the City Council are carried out timely, accurately and efficiently.

Guiding Principles of Communication

The City Council shall adhere to high levels of professionalism and ethical standards, both individually and as a Council, in all its communications and interactions both formal and informal within their official capacities. These communications will be guided by the following general principles:

The City Council commits to treat all individuals who appear before them or do business with or on behalf of the City with respect, courtesy, honesty and integrity.

The City Council shall strictly adhere to and abide by the requirements of the Michigan Open Meetings Laws and strive for complete transparency and accountability in its decision making and conduct of day-to-day City business.

Direction and decision-making by the City Council shall occur as a council. Individual members of the Council shall not attempt to exercise independent authority over the City Manager, City Attorney, director, official or employee thereof.

Communication By and Between Council Members

The City Council holds itself to the highest standards of honesty and integrity and commits to abide by both the spirit and the letter of the Chelsea City Code of Ethics (Employee Handbook, Section 2). The City Council recognizes that the actions of one City Council member can affect the reputation and integrity of the City Council as a whole. If a City Council member suspects a violation of City Council policy or applicable law by another City Council member, s/he shall bring the matter to the

attention of the City Council member and the City Council, and work to resolve the matter expeditiously.

If an interpersonal conflict or problem develops amongst individual members of the City Council, initially, such members shall work with only the people involved and strive to settle the conflict or problem in a constructive manner.

Full disclosure and communication amongst City Council members is necessary to enable the City Council to work together to advance the interest of Chelsea City citizens, taxpayers, and government. To insure that all City Council members are informed, the City Council commits to promptly communicate with one another concerning issues affecting the integrity, interests, and/or operation of Chelsea City government.

Citizen trust in government is critically important, and the City Council recognizes that a key to building and maintaining that trust is to place a high value on respecting other City Council members and those with whom the City Council works and serves. To that end, the City Council agrees to communicate openly with one another, to take others' concerns seriously, to work together as a team, and to make an effort not just to listen but to try to understand the points of views of others.

Members of the City Council must represent unconflicted loyalty and accountability to the interests of all citizens of Chelsea City. City Council members will respect and support the legitimacy and authority of all City Council decisions, regardless of any City Council member's personal position on a matter.

Compliance by Council Members - Disciplinary Measures

This policy is intended to encourage and promote the highest standards of ethical conduct and behavior by members of the Chelsea City Council and the Council has the right to enforce its rules and expect ethical and honorable conduct from its members.

The Chelsea City Council has the right to enforce its rules. The action can include, but not limited to, removing a member from the Council Chambers, censure, and holding a trial.

3. Ordinances and Resolutions

A vote on all ordinances and resolutions shall be taken by a roll call vote and entered into the minutes unless it is a unanimous vote. If the vote is unanimous, it shall be necessary only to so state in the minutes.

4. Roll Call and Abstention

In all roll call votes, the names of the members of the Council shall be called.

No member of the Council shall vote on any question in which he or she has a direct or indirect financial interest other than the common public interest or on any question concerning his own conduct. On all other questions, each member who is present shall vote when his or her name is called unless excused by the unanimous consent of the remaining members present.

5. Results of Voting

In all cases where a vote is taken, the Chair shall declare the results.

It shall be in order for any council member voting in the majority to move for a reconsideration of the vote on any question at that meeting or at the next succeeding meeting of the council, except in the case of tie votes, when any member may move for reconsideration. When a motion to reconsider fails, it cannot be renewed.

E. CITIZEN PARTICIPATION

1. General

Each Council meeting agenda shall provide for reserved time for audience participation, if requested, in addition to an opportunity for general audience participation.

2. Reserved Time Participation

Any person or group wishing to make an oral communication to the Council and notifying the City Clerk or Manager not later than 3:00 p.m. on the day of a council meeting will be granted up to five minutes reserved time. A group may reserve time without indicating any specific speaker.

The presiding officer shall have discretion to allow a member of the audience to speak, if requested by a member of the Council.

3. Length of Presentation

All presentations before the City Council shall be limited to five minutes in length per individual presentation. The Clerk will maintain the official time and notify the speakers when their time is up.

4. Addressing the Council

Persons addressing the City Council should state their name and home address. They should confine discussion to the question at hand and to its merits. Speakers should address their remarks to the chair, maintain a courteous tone, and avoid interjecting a personal note into the debate. No person shall have the right to speak more than once on any particular subject until all other persons wishing to be heard on that subject have had the opportunity to speak.

5. Non-reserved Audience Participation

Any person who wishes to speak and who did not reserve time may speak at this point on the agenda. All rules of conduct still apply.

6. Public Hearing

The provisions in paragraph 2 above shall not apply to declared public hearings, during which members of the audience may address the Council upon the subject of the public hearing.

F. MISCELLANEOUS

1. Adoption and Amendment of Rules and Procedure

The rules of procedure of the City Council will be reviewed and adopted at the first meeting of the Council following the seating of the Council members elected in November. A copy of the rules adopted shall be distributed to each council member.

2. Suspension of Rules

The rules of the City Council may be suspended for a specific portion of a meeting by a majority of the members present except that council actions shall conform to state statutes and to the Michigan and the United States Constitution.

3. Bid Award and Bid Openings

Bid openings will take place as advertised in the request for bids. A recommendation will be made to the City Council from the City Manager, City Department Head and/or the City Consultant following the reviewing of the bids.

Bids will be awarded by the City Council during regular meetings. A bid award may be made at a special meeting of council if that action is announced in the notice of the special meeting.

AGENDA

BOARD OF THE CHARTER TOWNSHIP OF WEST BLOOMFIELD BUDGET MEETING

Monday, December 4, 2017, 6:00 P.M.



4550 Walnut Lake Road
West Bloomfield, MI 48323
Telephone: (248) 451-4848

Website: www.wbtownship.org

Debbie Binder
Township Clerk

BOARDROOM

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. PUBLIC COMMENT *(non-agenda related items - 2 minutes per speaker)*
6. APPROVAL of Proclamation, in Memoriam, Honoring the Life of Morris Margulies, West Bloomfield Real Estate Developer
7. BUDGET PRESENTATION 48th District Court
8. BUDGET ITEMS
 - A. Presentation and Review of Pension
 - B. Review of Retiree Health Care
 - C. Review of Grant Funds
9. PUBLIC HEARING regarding Proposed 2018 Budget
 - A. 2018 Budget
 - B. General Appropriations Act
 - C. Special Appropriations Act
10. APPROVAL of 2017 Projected Budget as the 2017 Amended Budget

11. CONSENT AGENDA

- A. Approval of Minutes – Regular Meeting – Monday, November 20, 2017
- B. Approval of **Introduction** of Ordinance No. C-754-B, Marihuana Enterprises, Businesses, and Facilities, an Ordinance to Amend the Code of Ordinances, Chapter 2, Administration, Article VII, Moratoriums, Division 1, Marihuana Enterprises Businesses, and Facilities, Section 2-303, to Extend the Moratorium on Medical Marihuana Enterprises, Businesses, and Facilities

12. PUBLIC COMMENT *(non-agenda related items - 2 minutes per speaker)*

13. ADJOURNMENT

MEETING GUIDELINES AND RULES

1. Adhere to the most recently published Roberts Rules of Order. **Be recognized by the Chair before speaking.** Rudeness shall not be tolerated. Speak to agenda issues only – except during Public Comment. Motions should be made before discussion of the topic. (This does NOT apply to appeals.) The Clerk will ask individuals to speak into the microphone if needed.
 2. Public Comment on non-related agenda items will be heard at the beginning or the end of the meeting with a 2-minute time limit per person. A member of the public (one person) may speak during one of the Public Comment periods only. Both Public Comment agenda items are reserved for the public.
 3. Individuals speaking at any publicly held meeting, including township board meetings, and board and commission meetings, shall be required to state their name and indicate whether they are a resident or non-resident. Speakers are not required to provide their address. (Adopted by Township Board on 10/1/2012)
 4. Do not interrupt the public or another Board member when they are speaking.
 5. When a Public Hearing is in process, it is only for the public. Board members shall not speak until after the hearing is closed. Once the hearing is closed, comments from the public shall no longer be accepted. The procedure for a Public Hearing will be:
 - a. The Department Head will state the purpose and necessity for the Public Hearing.
 - b. The Chair will open the Public Hearing.
 - c. The Public will state their question, comments and/or concerns. The Department Head involved in the Public Hearing will record their questions, comments and/or concerns and provide responses to the questions after all members of the Public are permitted to speak.
 - d. The Chair will close the Public Hearing.
 - e. Township Board Members will be permitted to speak once regarding the Public Hearing, if needed, after the close of the Public Hearing.
 6. The consent agenda is intended to expedite routine Township Board business items. Elected Officials may remove an item from the Consent Agenda for the purpose of obtaining clarification, discussion and/or opposition. Consent agenda items are not to be removed for accolades, personal comments or other personal reasons.
 7. Hold all comments to 2 minutes (including Board members). Audience members may speak once per issue. Board members may speak no more than twice per issue.
 8. Large groups shall appoint two or three representatives to present their pro or con position to the Board during their agenda item. (This does not apply to SADS)
 9. Chairperson or his/her designee shall use a timer to keep meeting flowing.
 10. Lengthy presentations should be held to a total of 30 minutes and scheduled through the Clerk.
 11. Appeals from Commissions and Boards to the Township Board shall be limited to 15 minute explanations.
 12. Cellular phones and pagers must be turned off during meetings.
 13. Closed Sessions from visiting attorneys shall be held after the Regular meeting.
 14. After a final vote on a motion, no further comments will be taken from anyone.
 15. No new agenda item will commence after 10:00 P.M.
 16. Any changes will be at the discretion of the Chair.
 17. Board Members will not consume food at the Board table.
 18. The Chair will maintain order according to the rules at all times. The Chair will call to order any member of the board who does not wait to be recognized or who otherwise does not follow the rules. The Chair may call a recess to regain order.
- The Township of West Bloomfield will provide necessary, reasonable auxiliary aids and services upon proper notification to the Township Clerk or the Development Services Director at 4550 Walnut Lake Road, West Bloomfield, MI 48325-0130 / (248) 451-4800 or TDD (248) 451-4899. Such services provided include:
- Hearing impaired sound system & receivers – [notify one (1) day prior to meeting of interest]
 - Signers for the hearing impaired – [provide two (2) weeks advance notice]

- Government
 - Agendas & Minutes
 - Boards & Commissions
 - City Council
 - City Council Agenda Item Request
 - City Council Feedback Form
 - City Council Meeting Inquiry/Input Form
 - City Council Meeting Rules of Procedure
 - City Council Meeting Video
 - Code of Ordinances
 - Zoning Ordinance
 - City Charter
 - City, Village, and Township Revenue Sharing Program
 - Links of Interest
 - Meeting Dates

City Council Meeting Rules of Procedure

Brighton City Council Meeting Rules of Procedure
Officially adopted by the Brighton City Council on August 7, 2008

INTRODUCTION:

It is the purpose of these City Council Meeting and Call to the Public Rules of Procedure to encourage public participation in an orderly manner which gives everyone a reasonable opportunity to present his or her point of view for consideration by the City Council. The public is invited to speak on issues before the City Council during scheduled public hearings and during the call to the public. Items on the agenda or other topics can be addressed during call to the public. The call to the public is not for the purpose of conducting a debate between the City Council and citizens. Citizen's questions will be answered immediately in the call to the public in which the question is asked if they can be answered immediately. If a question cannot be answered immediately/quickly, then the City Council will defer answering the question until later in the City Council Meeting after the call to the public or to a future City Council meeting.

Individuals may request that an item be placed on the City Council agenda by submitting the request in writing or on a City Council Agenda Item Request Form. The request will be submitted to the City Council for consideration. Individuals may also request that an item be placed on the agenda by contacting a member of the City Council or by speaking to the item during the call to the public at a regularly scheduled City Council meeting.

If your presentation concerns a specific complaint or suggestion, you may find it more convenient and may receive faster service if you call the appropriate City Department during regular business hours. If you have contacted the Department and for some reason results were not satisfactory, please call the Department Director or the City Manager's office. A time limit is established to be sure that everyone has an opportunity to speak and that presentations do not become repetitious. While the City Council wishes to give everyone an opportunity to express his or her point of view, it is neither necessary nor advisable for every member of a group to address the City Council. In those cases where a group is in attendance, it is suggested that one or two spokespersons be selected. The City Council attempts to make informed decisions based on all the information available rather than simply based upon the number of people who offer the same information or arguments.

RULES OF PROCEDURE

1. The Council will conduct two (2) calls to the public, one at the beginning of the meeting and one at the end of the meeting. On both occasions, the public will be able to speak on items that are or are not on the agenda.
2. An individual shall not address the City Council without first having been recognized by the Mayor.
3. Upon being recognized, the individual should proceed to the front of the room to use the microphone and state his or her full name (providing an accurate spelling), residential address, and the topic to be discussed.
4. Speakers shall be limited to a presentation of five minutes unless such period of time is extended by a vote of the City Council.
5. An individual will not be given an opportunity to speak a second time on the same issue until all others wishing to make a presentation on the subject have had an opportunity to do so.
6. Sign in sheets will be used at the discretion of the Mayor. If a sign in sheet is being utilized, members of the public wishing to speak must complete their name, address and the topic or agenda item, which they intend to speak on. Sign in sheets will be available near the agenda box. Sign in sheets must be given to the Clerk prior to the first call to the public.
7. When a person(s) becomes unruly as determined by the Mayor in the role as the Chairperson of the City Council Meeting, the Mayor may declare said person(s) in the audience to be out of order and if necessary, may rule that the individual(s) has forfeited the opportunity to speak further. A person(s) may be excluded from the meeting for breach of the peace committed at the meeting. Clapping and cheering are inappropriate.
8. These Rules of Procedure are intended to supplement Robert's Rules of Order which have been adopted by the City Council. Where inconsistencies or conflict may exist between these Rules of Procedure and Robert's Rules of Order, these Rules of Procedure shall prevail.

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CITY COUNCIL MEETING AGENDA
City Council Chambers, Lower Level – 7:00 P.M.
611 E. Grand River, Howell, MI 48843

Visit the City of Howell website at www.cityofhowell.org

Monday, January 8, 2018

**COUNCIL -
MANAGER
GOVERNMENT**

Council members and
other officials normally
in attendance:

1. Dennis L. Perkins
City Attorney
2. Jan Lobur
Council Member
3. Andrew Yost,
Council Member
4. Michael Mulvahill
Council Member
5. Shea Charles
City Manager
6. Nick Proctor,
Mayor
7. Jane Cartwright
City Clerk
8. Scott Niblock
Council Member
9. Bob Ellis,
Council Member
8. Steven L. Manor
Mayor Pro Tem

SEATING:

Above list arranged
according to seating
order; left to right.

1. Regular Meeting Called to Order
2. Pledge of Allegiance (all stand)
3. Approve Minutes – Regular Meeting held December 18, 2017
4. Citizens' Comments (items not on agenda)
5. Reports by Council Members Serving on Commissions
6. Council Correspondence:
7. Discussion/Approval – 2018 Agreement for Collection of Summer School Property Taxes
8. Award Bids/Purchases:
 - A. GPS/GIS Data Collector Unit, Leica Geosystems, \$12,878.20
 - B. DPS Complex, Envision Construction Services, \$282,900
9. Approve payment of bills ending 01/08/2018 in the amount of \$641,464.04 and payroll to cover the period ending 01/20/2018
10. City Manager's Report:
 - A. Schedule Annual Goals/Objectives Retreat
11. Old Business
12. New Business
13. Adjournment

*Visitors are cordially invited to attend all meetings of the Council.
If you wish to address the Council, you will be recognized by the Mayor.
Please refer to the printed guidelines on the back of the agenda.*

January 8, 2018

Public Comment Guidelines

Members of the public are permitted to address a meeting of Council upon recognition by the Mayor. Each person shall begin by stating their name and address and shall be permitted to speak once on each agenda item for three (3) minutes. Agenda item 4 allows for Citizens' Comments on any non-agenda item. Where the Agenda provides Public Hearing comment, each person addressing the Council shall be limited to five (5) minutes regarding the specific agenda Public Hearing item. The Mayor may allow additional time at his/her discretion.

All remarks shall be addressed to the Council as a body, and not to any member. No person, other than members of the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Council. No questions shall be asked the Council Members, except through the Mayor. Any person making personal, impertinent or slanderous remarks, or who shall become boisterous, while addressing the Council, may be requested to leave the lectern.

Interested parties, or their authorized representatives, may address the Council by written communication in regard to any matter concerning the City's business or over which the Council has control at anytime by direct mail or by addressing the City Clerk, and copies will be distributed to Council Members.

City of Southgate

COUNCIL RULES AND PROCEDURES

1. Meetings shall open with Pledge of Allegiance.
2. The order of roll call shall be rotated.
3. Matters referred to an ad hoc (impromptu or informal) committee shall appear on the next meeting's agenda unless otherwise specified.
4. Officials shall be referred to by their respective titles.
5. Only persons recognized by the Chair shall be noted in the minutes.
6. Individuals and organizations acknowledged by the Chair under Persons In The Audience – Scheduled and Unscheduled, may address the City Council one time only at the same meeting and will be afforded a two (2) minute time limit. The time limit may be extended at the discretion of the Chair.
7. Persons addressing the Council will maintain a proper decorum in the Council Chambers. The use of vulgar, obscene, threatening or otherwise inappropriate language or gestures shall result in a verbal warning and/or ejection from the Council Chambers at the discretion of the Chair.
8. The deadline for matters (including communications) to appear on the agenda shall be Thursday at 4:00 P.M. prior to the Council meeting. This shall also apply to Council members. Those people desiring to be placed on the agenda shall state in writing their reasons and the subject matter to be presented.
9. All communications requiring Council action shall be listed and read under "Communications A"; all others shall be listed under "Communications B" and read only if required.
10. All Council members shall receive copies of all communications with the tentative agenda. The agenda shall be available to the members on the Friday prior to the regular meeting.
11. Meetings are to be conducted according to rules of Parliamentary Procedure, as outlined in "Parliamentary Procedure at a Glance" by O. Garfield Jones.
12. All Council members are to be notified of any commission/committee meetings.
13. The City Attorney shall act as Parliamentarian and Sergeant-At-Arms to the Council.
14. To reconsider a motion, the following procedure applies:
 - a) Only a Council member who voted with the prevailing side may bring a motion to reconsider, but the motion to reconsider may be seconded by any Council member.
 - b) A motion to reconsider must either be made at the same meeting as the motion sought to be reconsidered, or, if the City Clerk is notified within seventy-two (72) hours after said meeting, the motion to reconsider shall be placed on the agenda for the next scheduled Council meeting.
 - c) If a majority of the Council votes in favor of the motion to reconsider, the motion sought to be reconsidered shall then be independently voted upon by the Council.

d) Motions shall not be reconsidered twice.

15. Changing a vote:

a) Any individual Council member may change his or her vote up to the time the vote is

announced. After that he or she can make the change only with the permission of the Council. If no Council member objects, the change may be made. If an objection is raised, a motion may be made to allow the change, which motion is undebatable. A majority vote is necessary to adopt the motion and allow the change.

b) A motion to allow a Council member to change his or her vote must be made either at the same meeting as the vote sought to be changed, or, if the City Clerk is notified within seventy- two (72) hours of said meeting. The motion to allow a vote to be changed shall be placed on the agenda of the next scheduled Council meeting.

16. Emergency Expenditures:

a) Whenever an emergency expenditure is required, the matter shall first be referred to the Finance Director for pertinent information and written recommendation as to where the money

b) When other matters requiring emergency polling of the Council result, an attempt will be made to contact all members within a six-hour time frame. After the six-hour time frame, the results will be finalized. The results will be provided to Council members as soon as possible afterwards.

17. Ordinances:

a) All ordinances which amend classifications of land (rezoning) and are recommended for approval by the Plan Commission after a public hearing, shall be forwarded to the next appropriate regular meeting of the Council for the first reading. A workshop session will be scheduled prior to the regular meeting in order to address specific Council questions.

b) All other proposed ordinances, including zoning ordinance amendments, shall be placed on a workshop agenda for consideration by Council, prior to the first reading at a regular Council meeting.

c) In the event the City Administrator deems a proposed ordinance requires immediate attention, the proposed ordinance may be placed on the next Council agenda for consideration by the Council.

d) Ordinances shall be introduced at one meeting and adopted at the following meeting. In the event the Council deems it necessary to immediately adopt an ordinance, the ordinance may be introduced and adopted at the same meeting.

e) If practical, ordinances shall be read once in their entirety. Otherwise, ordinances may be read by title only.

18. At any time during the effective period of these "Rules of Procedure", the Council may amend such rules and regulations by a majority vote.

Revised: December 3, 2003

Albion City Council

Rules of Procedure

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RULE 1. AUTHORITY

(a) All City Council meetings shall operate in accordance with the State Constitution, the Open Meetings Act, the Home Rule City Act, the City Charter and all other pertinent laws.

(b) All regular and special meetings of the City Council shall be open to the public and the rules of order of the City Council shall provide that the citizens shall have reasonable opportunity to be heard, except as otherwise provided by law. [Section 5.6g]

(c) These rules of order provide the common rules and procedures for deliberation and debate to provide for constructive and democratic meetings. These rules are to help, not hinder, the business of the City Council and are adopted to expedite and facilitate the transaction of the business of the City Council in an orderly fashion. The failure to strictly observe any such rules shall not affect the jurisdiction of, or invalidate any action taken by, the City Council.

(d) The following words or phrases shall have the following meanings:

Administration means the City Manager or his or her designees.

City Council or Council means the Mayor and six (6) Council Members.

Council Member or member are used interchangeably and means members of the City Council.

Dates - whenever a date used in these rules for the doing or completion of an act falls on a Saturday, Sunday or holiday, such act shall be done or completed on the next succeeding day which is not a Saturday, Sunday or holiday.

Decision means a determination action, vote or disposition upon a motion, proposal, recommendation, resolution, order, ordinance or measure on which a vote by City Council has occurred.

Meeting means the convening of a public body (the City Council) at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy.

Procedural matters means votes upon motions having no other purpose than to adjourn, to receive and file, to refer a matter, to approve the minutes or accept or decline an invitation may be taken by a voice vote and the chair shall announce the result of the voting. Upon any such matter, a majority of the quorum present shall be sufficient to carry such a motion, unless the Charter or other rule shall specifically require a greater majority in any such matter.

Unanimous means that all the members of the City Council are present and have voted the same way. In case of a vacancy on the City Council, the word "unanimous" shall apply to the remaining members of the City Council and the minutes of the meeting shall indicate that a vacancy exists.

(e) On all matters of procedure not addressed in these rules, the Council shall refer to the most current edition of *Robert's Rules of Order*, for guidance in developing procedures for the conduct of meetings and shall not be inconsistent with the standing rules and order of the Council and not contrary to the Albion City Charter or any existing laws of the State of Michigan.

RULE 2. OATH OF OFFICE; DUTIES ASSUMED; MAYOR PRO TEM APPOINTED

(a) On the first Monday in December following their election, newly elected members of City Council shall take the oath of office and assume the duties of their office. [Section 5.3] See Appendix B for *Sine Die* procedure.

(b) On the first Monday in December after each City general election, the City Council shall appoint one of its elected members to serve as Mayor Pro Tem. [Section 5.5]

RULE 3. REGULAR AND SPECIAL MEETINGS; STANDING COMMITTEES

(a) Regular meetings: Regular meetings of the City Council shall be held each month on the days prescribed by resolution beginning at 7:00 p.m. Each calendar year there shall be posted within 10 days after the first meeting of the Council a public notice stating the dates, times and places of the regular meetings. If there is a change in the schedule of regular meetings, a notice shall be posted within 3 days after the meeting at which the change is made listing the new dates, times and places of the regular meetings. [*Open Meetings Act*; [Section 5.6]

- (b) Special meetings: (*City Charter 5.6*) Special meetings of the council shall be held at the regular meeting place of the council or at an alternate meeting place when notice of such alternate meeting place is posted at the main entrance to the city hall during such meeting. Special meetings shall be called by the clerk on the written request of the mayor, or of any two (2) members of the council. If the capacity of the council Chambers is deemed insufficient to hold the audience that wishes to attend the council meeting, council may decide to move the meeting to a larger venue.

At least eighteen 18 hours written notice shall be given designating the time and purpose of a special meeting. Such notice shall be given personally by the clerk to each member of the council or written notice may be left at their usual place of residence or business by the clerk or by someone designated by him. A copy of such notice shall also be delivered at the place of business of each newspaper printed and published in the city, but this requirement shall not be jurisdictional to the holding of any such meeting.

(c) Study Sessions: In addition to regular and special meetings, the Council may hold study sessions from time to time for deliberating towards a decision on any matter or to adopt a motion. All other decisions as a result of deliberations during study sessions shall be made only at a subsequent regular or special meeting. The study sessions shall be open to the public and shall comply with the posting requirements of Act 267, Michigan Public Acts for 1976, as may be amended. For the purpose of posting only, the study sessions shall be considered as special meetings.

(d) Closed Meetings/Executive Sessions - In accordance with the Open Meetings Act, MCL 15.268, the council may meet in a closed session only for one or more of the permitted purposes:

- (1) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing.
- (2) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing
- (3) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.
- (4) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the city.
- (5) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, all interviews by the city for employment or appointment to a public office shall be held in an open meeting pursuant to the Open Meetings Act.

- (6) To consider material exempt from discussion or disclosure by state or federal statute.

(e) Standing committees: In accordance with [Section 5.6(b)] of the City Charter, there shall be no standing committees of the City Council. This does not, however, prohibit the designation of three (3) or less Council Members working together, without compensation, to gather information and/or research a specific subject and to report back to the full City Council at a later date.

RULE 4. QUORUM

At any regular or special meeting, four (4) members of the City Council shall be a quorum for the transaction of business. In the absence of a quorum, any number of members less than a quorum may adjourn any regular or special meeting. [5.6(h)] Regular meetings that have been adjourned due to a lack of a quorum shall have the agenda material carried over to the next regular meeting unless a special meeting is scheduled prior to that time to deal with those items. Special meetings adjourned due to a lack of quorum shall be rescheduled to a date determined by the authority who called for the meeting. Notices shall be posted in accordance with state law.

RULE 5. CONDUCT OF MEETINGS

(a) Chair: The Mayor, or in the Mayor's absence, the Mayor Pro Tem, shall be the chair and preside over the meetings. If both the Mayor and Mayor Pro Tem are absent, the City Clerk shall call the City Council to order and call the roll. If a quorum is present, the Council shall elect, by a majority of those members present, a temporary chair to act until the Mayor or the Mayor Pro Tem appear.

(b) Preservation of order: The Chair shall conduct the meeting, arrange the seating, preserve decorum, and decide all questions of order and the interpretation of these rules. Appeals of such interpretation may be made by any Council Member present. The City Attorney normally shall be the advisor of the chair on any point of order or procedure under these rules. While the Chair is putting any questions or while the roll is being called by the Clerk/Treasurer, no Council Member shall leave their seat or entertain private discourse. When a Council Member is speaking, said Council Member shall not be unduly interrupted. The Chair shall, at all times, preserve order and decorum. The Chair may call upon the Director of Public Safety or any other Public Safety Officer in attendance at meetings of the Council to perform such duties as directed by the Chair in preserving order and decorum.

(c) Council Members: When a Council Member is about to speak, said member shall respectfully address the Mayor only. When two or more Council Members wish to speak at the same time, the Mayor shall name the Council Member who is first to speak. The Council Member seeks recognition by raising their hand. The Council Member shall confine their speech to the question under debate and avoid personalities. Personal comments about or attacks upon other Council Members and/or City Staff members are prohibited. No Council Member shall speak more than twice on any question until every other Councilperson has had an opportunity to speak at least once on the subject under debate. No Council Member shall speak for more than ten minutes at any time without leave from the Council by a majority vote of the members present.

5.c.1 Call Member to Order: If any Council Member, in speaking or otherwise, transgresses the rules of the Council, the Mayor shall, or any Council Member may, call said Council Member to order. The question of order shall be decided by the Mayor, without debate, subject to appeal.

5.c.2 Preserving Order: While the Mayor is putting any questions or while the roll is being called by the Clerk/Treasurer, no Council Member shall leave his/her seat or entertain private discourse. When a Council Member is speaking, said Council Member shall not be unduly interrupted.