



**CITY OF YPSILANTI
CITY COUNCIL MEETING
October 19, 2021 @ 6:00 PM
[Zoom Meeting](#)
One South Huron, Ypsilanti, MI 48197**

Revised 10-19-2021

Page

I. CALL TO ORDER

II. ROLL CALL

III. AGENDA APPROVAL

IV. WORK SESSION - 6:00 PM -7:00 PM

- A. Ann Arbor Area Transportation Authority - The Future of Transportation

V. PUBLIC COMMENT (3 MINUTES)

VI. INTRODUCTIONS OF NEW EMPLOYEES - ADDED

- A. Human Resources Director - DuJuan Fisher
B. Communications Manager - Thomas Koch

VII. PRESENTATIONS

- 4** A. Proclamation for Breast Cancer Awareness Month
[Proclamation](#)

VIII. CONSENT AGENDA

- 5** A. Resolution No. 2021-217, approving the Consent Agenda.
[2021-217 - Pdf](#)

- 6 - 14** B. Resolution No. 2021-, approving the minutes of October 5, 2021.
[2021-218 - Pdf](#)

- 15 - 17** C. Resolution No. 2021-, approving appointment to boards and commissions
[2021-219 - Pdf](#)

IX. RESOLUTIONS/MOTIONS/DISCUSSIONS

- 18 - 20** A. Resolution No. 2021-220, approving employee healthcare for Fiscal Year 2021-2022.
[2021-220 - Pdf](#)

- 21 - 24** B. Resolution No. 2021-221, approving and adopting the Opt out Option for the medical benefit coverage year 01/01/2022 through 12/31/2022.
[2021-221 - Pdf](#)
- 25 - 48** C. Resolution No. 2021-222, approving payment of \$63,970.53 to attorney Scott Berthold for services rendered.
[2021-222 - Pdf](#)
- 49 - 59** D. Resolution No. 2021-223, approving a memorandum of understanding with the Shelter Association of Washtenaw County for the operations of a warming center at Freighthouse.
[2021-223 - Pdf](#)
- 60 - 65** E. Resolution No. 2021-224, approving the proposal titled 'the Cross Street Bridge Replacement Study'.
[2021-224 - Pdf](#)
- 66 - 68** F. Resolution No. 2021-225, approving the extension of the 2021 sidewalk café permits.
[2021-225 - Pdf](#)
- 69 - 96** G. Resolution No. 2021-226, approving the 2021 Employee Compensation Study.
[2021-226 - Pdf](#)
- 97 - 112** H. Resolution No. 2021-227, approving a 3% salary increase for the City Manager and City Clerk.
[2021-227 - Pdf](#)
- 113 - 114** I. Resolution No. 2021-228, supporting the approval of the PERA Bill by the Michigan Legislature.
[2021-228 - Pdf](#)
- 115 - 116** J. Resolution No. 2021-229, urging the Washtenaw County Board of Commissioners to provide free calls for those incarcerated at Washtenaw County Jail.
[2021-229 - Pdf](#)
- 117 - 118** K. Resolution No. 2021-230, providing funding for an expungement program for those with marijuana convictions.
[2021-230 - Pdf](#)
- 119** L. Resolution No. 2021-231, removing Commissioner Precious Turman from the Police Advisory Commission.
[2021-231 - Pdf](#)
- 120 - 121** M. Resolution No. 2021-232, extending the Penn Dam Public Engagement Committee until completion of its stated mission.
[2021-232 - Pdf](#)

X. BOARD AND COMMISSION - LIAISON REPORTS

1. Police Advisory Commission.
2. Human Relations Commission.
3. Arts Commission.
4. Parks and Recreation Commission.
5. Sustainability Commission.
6. Historic District Commission.
7. Planning Commission.
8. Zoning Board of Appeals

XI. LIAISON REPORTS

1. SEMCOG Update
2. Washtenaw Area Transportation Study
3. Urban County
4. Ypsilanti Downtown Development Authority
5. Friends of Rutherford Pool

XII. COUNCIL PROPOSED BUSINESS

XIII. COMMUNICATIONS FROM THE MAYOR

XIV. COMMUNICATIONS FROM THE CITY MANAGER

XV. COMMUNICATIONS

XVI. ADJOURNMENT

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- A. Resolution No. 2021-233, adjourning the City Council Meeting.
[2021-233 - Pdf](#)
- B. Please click [here](#) to access the City Council Contact Form. This form can be used to submit any comments/concerns you might have about this agenda.

PROCLAMATION

Breast Cancer Awareness Month

WHEREAS, while considerable progress has been made in the fight against breast cancer, it remains the most common newly diagnosed cancer and second-leading cause of cancer deaths among Michigan women; and,

WHEREAS, in 2019, 9,000 new cases and 1,387 deaths of breast cancer were reported for women; and,

WHEREAS, in Michigan, an estimate of 8,940 of new cases of breast cancer will be diagnosed in 2021, and an estimate of 1,420 of women will die of the disease; and,

WHEREAS, certain factors put some women at a higher risk than others, including age, personal or family history of breast cancer, specific genetic mutations, dense breast tissue, starting menstruation at a young age, never giving birth or having first pregnancy after age 30; and,

WHEREAS, breast cancer mortality is nearly 40 percent higher for Black women than white women, as Black women are often diagnosed at later stages when treatments are limited and costly, and the prognosis is poor; and,

WHEREAS, breast cancer is the most common cancer diagnosed and the leading cause of cancer death in Hispanic/Latina women; and,

WHEREAS, through research and advocacy, advances have been made in the fight against breast cancer including an increased rate of early detection and a 98 percent five-year survival rate for localized breast cancer; and,

WHEREAS, October is Breast Cancer Awareness Month, an annual campaign to increase awareness about this disease and to raise funds for research into its cause, prevention, diagnosis, treatment, and ultimately finding a cure; and,

WHEREAS, during this month, we should reaffirm our commitment to supporting breast cancer research and to educating all citizens about its risk factors, detection, and treatment, as well as the importance of regular screenings, as early detection increases the effectiveness of available treatments; and

WHEREAS, as we display pink ribbons and wear pink clothing to raise awareness, we also recognize more than 3.8 million breast cancer survivors, those currently battling the disease, and their families and friends who are a tireless source of love and encouragement. We commend the efforts of our medical professionals and researchers working to find a cure for this deadly disease, and we honor the lives lost to breast cancer;

NOW, THEREFORE, I, LOIS ALLEN-RICHARDSON, MAYOR of the City of Ypsilanti hereby proclaim October 2021 as Breast Cancer Awareness Month in the City of Ypsilanti.

Given under my hand and seal of the
City of Ypsilanti October 19, 2021.

Lois Allen-Richardson, Mayor



Resolution No. 2021-217
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the following items be approved:

1. **Resolution No. 2021-218, approving the minutes of October 5, 2021.**
2. **Resolution No. 2021-219, approving appointments to Boards and Commissions**

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this
19 day of October 2021

#Resolution No. 2021-217



Resolution No. 2021-218
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the minutes of October 5, 2021 be approved.

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this
19 day of October 2021

#Resolution No. 2021-218



MINUTES

REGULAR COUNCIL Meeting

7:00 PM - Tuesday, October 5, 2021
Council Chambers

The REGULAR COUNCIL of the City of Ypsilanti was called to order on Tuesday, October 5, 2021, at 7:00 PM, in the Council Chambers, with the following members present:

PRESENT: Mayor Lois Richardson (Washtenaw County, City of Ypsilanti), Council Member Steven Wilcoxon (Washtenaw County, City of Ypsilanti), Mayor Pro-Tem Nicole Brown (Washtenaw County, City of Ypsilanti), Council Member Anthony Morgan (Washtenaw County, City of Ypsilanti), Council Member Annie Somerville (Washtenaw County, City of Ypsilanti), and Mr. Brian Jones-Chance (Washtenaw County, City of Ypsilanti)

ABSENT: Council Member Jennifer Symanns

1 CALL TO ORDER

The meeting was called to order at 7:01 PM

2 ROLL CALL

Council Member Steve Wilcoxon moved, seconded by Council Member Annie Somerville to excuse the absence of Council Member Jennifer Symanns. On a voice vote the motion carried.

3 AGENDA APPROVAL

Council Member Annie Somerville moved, seconded by Council Member Steve Wilcoxon to approve the agenda as written. On a voice vote the motion carried.

4 PUBLIC COMMENT (3 MINUTES)

3 members from the public spoke.

5 CONSENT AGENDA

- a) Resolution No. 2021-209, approving the Consent Agenda.

Council Member Steven Wilcoxon moved, seconded by Council Member Annie Somerville, to approve Resolution No. 2021-209.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the following items be approved:

1. **Resolution No. 2021-210, approving the minutes of September 21, 2021.**
2. **Resolution No. 2021-211, approving Ordinance 1383, an ordinance to amend Chapter 78, Parks and Public Property of the Ypsilanti City Code of Ordinances. (Second Reading)**

RESULT:	CARRIED.
MOVER:	Council Member Steven Wilcoxon
SECONDER:	Council Member Annie Somerville
AYES:	Steven Wilcoxon, Nicole Brown, Lois Richardson, Anthony Morgan, Annie Somerville, and Brian Jones-Chance
ABSENT:	Jennifer Symanns

- b) Resolution No. 2021-210, approving the minutes of September 21, 2021.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the minutes of September 21, 2021 be approved.

- c) Resolution No. 2021-211, approving Ordinance 1383, an ordinance to amend Chapter 78, Parks and Public Property of the Ypsilanti City Code of Ordinances. (Second Reading)

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City has an interest in protecting the health, safety, and welfare of the community; and

WHEREAS, the City has an adopted Non-Discrimination Ordinance that reflects the policy goals of the City; and

WHEREAS, the Parks and Recreation Commission has recommended the City Council adopt the proposed ordinance changes;

NOW THEREFORE BE IT RESOLVED THAT the Ypsilanti City Council approve the ordinance entitled Chapter 78 Administrative Update 2021 on Second and Final Reading.

6 RESOLUTIONS/MOTIONS/DISCUSSIONS

- a) Resolution No. 2021-212, supporting the passage of SB 0358 of 2021, a bill to repeal the act preempting local regulation.

Council Member Steven Wilcoxon moved, seconded by Council Member Annie Somerville, to approve Resolution No. 2021-212.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the Ypsilanti Sustainability Commission passed a resolution urging City Council to use its resources, such as the city's lobbyist, to advocate for Senate Bill 0358 of 2021; and

WHEREAS, Senate Bill 0358 would repeal Act 389 of 2016 that prohibited the restriction and regulation of auxiliary containers by local governments; and

WHEREAS, plastics bags and other containers have a seriously negative impact on the environment and natural resources, effecting rivers, oceans, forests, lakes, and wildlife; and

WHEREAS, microplastics collect in huge ocean garbage patches, the largest of which is referred to as the Great Pacific Garbage patch, which at one time was the size of Texas; and

WHEREAS, as plastics enter the food chain, they can be threatening to human health; and

WHEREAS, in single stream recycling systems plastic bags may become entangled in the machinery, often leading to breakdowns; and

WHEREAS, plastics have the potential to clog sewer systems, further propagating the potential for flooding; and

WHEREAS, as plastics enter landfills, they are either burned or buried, costing local jurisdictions thousands of dollars a year.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Ypsilanti implores the Michigan State Senate and House to pass SB 0358, and for the Governor to sign the Bill into Law and allow local governments to create ordinances to prohibit their use.

BE IT FURTHER RESOLVED that the City Council direct the City Clerk to forward this resolution to Governor Whitmer, the Michigan State House, The Michigan Senate, the Washtenaw County Board of Commissioners, and the City's Lobbyist Kirk Profit.

RESULT:	CARRIED.
MOVER:	Council Member Steven Wilcoxon

SECONDER:	Council Member Annie Somerville
AYES:	Steven Wilcoxon, Nicole Brown, Lois Richardson, Anthony Morgan, Annie Somerville, and Brian Jones-Chance
ABSENT:	Jennifer Symanns

- b) Resolution No. 2021-213, approving the request to waive park rental fees for the 2021 YpsiGlow event in the amount of \$2,420.

Council Member Steven Wilcoxon moved, seconded by Council Member Annie Somerville, to amend the resolution and remove the donation of \$1,500.

RESULT:	CARRIED.
MOVER:	Council Member Steven Wilcoxon
SECONDER:	Council Member Annie Somerville
AYES:	Steven Wilcoxon, Nicole Brown, Anthony Morgan, and Annie Somerville
NAYS:	Lois Richardson and Brian Jones-Chance
ABSENT:	Jennifer Symanns

Council Member Anthony Morgan moved, seconded by Council Member Brian Jones-Chance, to approve Resolution No. 2021-2013 As Amended.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Whereas, the City of Ypsilanti adopted a Special Events Policy, and pursuant to the policy, the City may co-sponsor an event if it is of general interest to the public and advances the City's public image; and

Whereas, this year ypsiGLOW will take place Friday, October 29th in Riverside Park and various additional locations throughout the City; and

Whereas, ypsiGLOW's event organizer is requesting that the City waive fees for the 2021 event and consider a donation; and

WHEREAS, City Council agrees that waiving the fees for the 2021 ypsiGLOW event would be in the general interest of the public and advance the City's public image;

Now therefore be it resolved that the Ypsilanti City Council approves the request to waive park rental fees for the 2021 ypsiGLOW event in the amount of \$2,420.

RESULT:	CARRIED.
MOVER:	Council Member Anthony Morgan
SECONDER:	Council Member Brian Jones-Chance
AYES:	Steven Wilcoxon, Nicole Brown, Lois Richardson, Anthony Morgan, Annie Somerville, and Brian Jones-Chance
ABSENT:	Jennifer Symanns

- c) Resolution No. 2021-214, approving the request to be a sponsor of the 2021 Christmas Celebration in the amount of \$10,443.74.

Council Member Anthony Morgan moved, seconded by Council Member Brian Jones-Chance, to approve Resolution No. 2021-214.

Mr. Brian Jones-Chance moved to table Resolution No. 2021-214 until November 2nd. Without a second, the motion dies.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Whereas, the City of Ypsilanti adopted a Special Events Policy, and pursuant to the policy, the City may co-sponsor an event if it is of general interest to the public and advances the City's public image; and

Whereas, this year the Christmas Celebration will take place Saturdays December 4th through 18th in Riverside Park; and

Whereas, the Christmas Celebration event organizer is requesting that the City be a co-sponsor of the 2021 concert series; and

WHEREAS, City Council agrees that becoming a co-sponsor of the 2021 Christmas Celebration would be in the general interest of the public and advance the City's public image;

Now therefore be it resolved that the Ypsilanti City Council approves the request to be a sponsor of the 2021 Christmas Celebration in the amount of \$10,443.74.

RESULT:	DEFEATED.
MOVER:	Council Member Anthony Morgan
SECONDER:	Council Member Brian Jones-Chance
AYES:	
NAYS:	Steven Wilcoxen, Nicole Brown, Lois Richardson, Anthony Morgan, Annie Somerville, and Brian Jones-Chance
ABSENT:	Jennifer Symanns

- d) Resolution No. 2021-215, approving an options agreement with Renovare Development, LLC to develop 220 N. Park.

Council Member Steven Wilcoxen moved, seconded by Council Member Annie Somerville, to amend Resolution No. 2021-215 by adding reasonable approval of City Council to assignment of development.

RESULT:	CARRIED.
MOVER:	Council Member Steven Wilcoxen
SECONDER:	Council Member Annie Somerville
AYES:	Steven Wilcoxen, Nicole Brown, Lois Richardson, Anthony Morgan, Annie Somerville, and Brian Jones-Chance
ABSENT:	Jennifer Symanns

Council Member Brian Jones-Chance moved, seconded by Council Member Anthony Morgan, to approve Resolution No. 2021-215 As Amended

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Whereas, The City of Ypsilanti owns the 220 N. Park property and is in the process of working with Renovare Development redevelop the site; and

Whereas, Public Engagement Sessions happened on the conceptual site plan in June 2021; and

WHEREAS, the Ypsilanti City Council approved the development concept proposed by Renovare Development and directed staff to enter into negotiations with the developer in July 2021.

Now therefore be it resolved that the Ypsilanti City Council approves the Options Agreement with Renovare Development LLC and authorizes the City Manager to sign the agreement.

RESULT:	CARRIED.
MOVER:	Council Member Brian Jones-Chance
SECONDER:	Council Member Anthony Morgan
AYES:	Steven Wilcoxon, Nicole Brown, Lois Richardson, Anthony Morgan, Annie Somerville, and Brian Jones-Chance
ABSENT:	Jennifer Symanns

7 BOARD AND COMMISSION - COMMUNICATIONS

- a) Ypsilanti Police Advisory Commission
- A resolution urging City Council to:
 - Urge the proper Washtenaw County authorities to develop a policy for free calls from individuals in Washtenaw County.
 - To establish a city policy to aid and assist individuals with their criminal record expungements
 - To develop a city policy concerning open records for the hiring of prospective police officers for the city of Ypsilanti.
 - A resolution requesting the removal of Commissioner Precious Turman from the Police Advisory Commission.

8 BOARD AND COMMISSION - LIAISON REPORTS

1. Police Advisory Commission. **None**
2. Human Relations Commission. **None**
3. Arts Commission. **None**
4. Parks and Recreation Commission. **None**
5. Sustainability Commission. **Meeting next week**
6. Historic District Commission. **None**
7. Planning Commission. **Meet on 20th**
8. Zoning Board of Appeals **None**

9 LIAISON REPORTS

1. SEMCOG Update **None**
2. Washtenaw Area Transportation Study **None**
3. Urban County **Meet on 6th**
4. Ypsilanti Downtown Development Authority **Meet on 20th**
5. Friends of Rutherford Pool - **Council Member Wilcoxon stated that last Friday he helped hang a donor plaque. He stated there was an issue with the installation of the floor. The company resolved to replace the flooring at their own expense. He discussed issues with the MOU between the City and the Friends group with the board chair/**

10 COUNCIL PROPOSED BUSINESS

Brown

- **None**

Wilcoxon

- **Stated he provided residents a progress report regarding tree trimming.**
- **He stated that he attended MML Conference which was very enjoyable with great information.**
- **Stated the Penn Dam Committee Town Hall meeting has been postponed until early November.**

Morgan

- **Stated he will be presenting a ceremonial check, along with the City Manager, to Ypsilanti Community Schools.**
- **Thanked George Hagenauer for his thoughtful research on the 220 Park Development and Desirae Simmons for her work on the Sustainability Commission.**
- **Stated he looks forward to discussion regarding redistricting.**
- **He asked for feedback on investigation of criminal activity.**

Brian Jones-Chance

- **Stated he would like more robust reporting from the Police Department regarding criminal activity.**

Somerville

- **Moved to nominate Brian Merlo to the Parks and Recs Commission. Mayor Pro-Tem Brown supported.**
- **Asked about the process on dedicating a bench in Prospect Park for Former Council Member Murdock and Grace Sweeny.**
- **Asked for a work session regarding speeding in the city. She added the city should investigate purchasing snowplow equipment that can manage yearly speed bumps.**
- **Stated that Parkridge Park will be receiving funds from the state to redevelop the softball field.**

- Asked for a presentation regarding plans for the American Rescue Plan Funds.

11 COMMUNICATIONS FROM THE MAYOR

- Thanked John Lawrence for the Jazz Festival and made special mention of the proclamation dedicated to him.
- Stated she has received calls from residents regarding ordinance enforcement. She expressed that people are supposed to go to Council when they have issues and asked to hire an ombudsman to staff.
- Asked if an inspector allowed to go into backyards if a gate is closed.

12 COMMUNICATIONS FROM THE CITY MANAGER

- Stated the Human Resources Manager Jones is retiring and has interviews in place for her replacement.
- Stated an offer has been made for a Communications Director, which was accepted.
- Stated staff held interviews for a social worker and an offer was made, however, it was not accepted. She has begun strategizing how best to manage the position.

13 COMMUNICATIONS

- October 19, 2021 City Council Meeting - 6:00 pm Work session with AAATA

14 ADJOURNMENT

- Resolution No. 2021-216, adjourning the City Council Meeting.

Council Member Anthon Morgan Moved, seconded by Mr. Brian Jones- Chance to adjourned the meeting at 8:42 PM. On a voice vote the motion carried.

- Please click [here](#) to access the City Council Contact Form. This form can be used to submit any comments/concerns you might have about this agenda.



Resolution No. 2021-219
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT, the following residents be appointed to the City of Ypsilanti Boards and Commissions as indicated below:

NAME
EXPIRATION

Brian Merlos
7/1/2024
New Member
1014 N Congress
Ypsilanti, MI 48197

BOARD

Parks and Recreation Commission

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this 19 day of October 2021

#Resolution No. 2021-219

Citizen Advisory Boards and Commissions Participation Resume

The people of Ypsilanti are involved in their City government and are an important part of the community's achievements. Individuals interested in receiving more information in regards to serving on an advisory board or commission are invited to contact the City Clerk's Office at 734-483-1100. Alternatively, citizens who would like to participate can submit their information in the form below.

Qualifications

Must be a resident/business owner in the city for at least two years. Or Council must determine your expertise is essential and not available in an applicant that meets the qualifications above. Must be eligible to vote in the state if not applying for youth membership.

Name	Brian Merlos
Email Address	[REDACTED]
Address	[REDACTED]
City	Ypsilanti
State	Michigan
Zip Code	48197
Phone Number	[REDACTED]
Number of Years in the Community	2
Ward You Live In	2
Education	Bachelor's Degree - University of Michigan
Occupation	Chief of Staff
Employer	State Senator Erika Geiss
Are you applying for youth membership?	No
Are you registered to vote in the City of Ypsilanti?	Yes

I would like to be considered and could devote sufficient time to serve on the following board or commission:

Parks and Recreation Commission

Party Affiliation

Field not completed.

Field not completed.

Why are you interested in serving on these boards/commissions?

To expand access and improve quality of parks and recreation in the community. To support local initiatives that help people get outside for both structured and unstructured activities. Parks are an incredible place for kids of all ages to be themselves and to encourage everyone to take advantage of the great opportunities in Ypsilanti.

Work/volunteer experience related to the board or commission:

-2.5 years as Community Organizer for the National Audubon Society
-Hockey program manager at Clark Park in Detroit
-Master Rain Gardener certification from Washtenaw County

I understand that appointment to a City of Ypsilanti board or commission requires regular attendance at board meetings.

Yes

I hereby certify that all of the information above is true.

Yes

Email not displaying correctly? [View it in your browser.](#)



REQUEST FOR LEGISLATION

TO: Mayor and City Council
FROM: Kim Jones
DATE: October 19, 2021
SUBJECT: Current Health Care Plans for Employees and Retirees

DESCRIPTION:

Current Health Care Plans for Employees and Retirees

SUMMARY:

The City currently provides active employee and retiree health care benefit plans. The City is proposing the following plans for active employees:

BCBS Community Blue PPO – The City self-funds the first \$4,000/\$8,000 of this plan and the prescription coverage is self-funded by the City, through EHIM who administers the program. Employees pay a co-pay on each prescription. The out of pocket maximum for each employee is paid by the City. This option is only available to members of the IAFF as per their collective bargaining agreement.

BCBS Simply Blue PPO 3000 – This is a high deductible (\$3,000/\$6,000) plan and the City contributes to an H.S.A. depending on collective bargaining agreement.

BCN HMO H.S.A. – This is a high deductible (\$3,000/\$6,000) plan and the City contributes to an H.S.A. (\$2,000/\$4,000) regardless of collective bargaining agreement.

The retirees are covered by several different plans, depending on the collective bargaining agreement that the employee retired with, or Medicare eligibility. Retirees under age 65 and those not entitled to Medicare Part B are covered by a BCBS plan, with the prescription plan self-funded by the City. Depending on the retiree's plan, they may pay prescription copays, and some up front out of pocket deductibles. Retirees over age 65 that are eligible for Medicare Parts A & B are enrolled in a fully insured BCBS Medicare Advantage plan.

Recommended Action: Approval

Attachments: Resolution

CITY MANAGER APPROVAL: _____ COUNCIL AGENDA DATE: _____

CITY MANAGER COMMENTS: _____

FISCAL SERVICES DIRECTOR APPROVAL: _____



Resolution No. 2021-220
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Whereas, the Council of the City of Ypsilanti deems it to be in the best interest of the City to continue to keep health care costs in line with our budget; and

Whereas, the current Blue Cross Blue Shield and Blue Care Network Plans will continue to keep health care costs in line with our budget while still offering additional benefits to the active employees and retirees that are eligible to participate.

NOW THEREFORE BE IT RESOLVED THAT, the Council of the City of Ypsilanti approve a one-year contract from January 1, 2022, to December 31, 2022, to offer the following Blue Cross Blue Shield and Blue Care Network benefit plans to all eligible participating employees and retirees: Community Blue PPO, Simply Blue PPO 3000, BCN HMO H.S.A., and Medicare Advantage.

FURTHER THAT, the Council of the City of Ypsilanti approves a one-year contract with EHIM to administer the self-funded WRAP and prescription portions of the BCBS Community Blue PPO program, and coordinate all benefits and costs with Blue Cross Blue Shield of Michigan.

OFFERED BY: _____

SECONDED BY: _____

YES:

NO:

ABSENT:

VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this 19 day of October 2021

#Resolution No. 2021-220



REQUEST FOR LEGISLATION

TO: Mayor and City Council
FROM: Frances McMullan
DATE: October 19, 2021
SUBJECT: Discussion on PA 152 of 2011 Healthcare Cost Contributions for 2022

DESCRIPTION:

Discussion on PA 152 of 2011 Healthcare Cost Contributions for 2022

SUMMARY:

Each year, the City is required to comply with the Michigan Public Act 152 of 2011, as amended, in regard to employer paid health care benefits for employees. The "Act" provides the City with three options to comply with the law.

Option #1 – Take no action and comply with the Hard Cap Limits established by the state.

Option #2 – By majority vote, approve a 20% cost sharing by the employees.

Option #3 - By 2/3 vote of Council, elect the Opt Out Option and exempt itself from the requirements of the Act.

Option #1 would cost the City approximately \$1,407,995 and the employees approximately \$299,463 annually.

Option #2 would cost the City approximately \$1,365,966 and the employees approximately \$341,492 annually.

Option #3 would cost the City approximately \$1,562,298 and the employees approximately \$145,160 annually.

Administration recommends Option #3 to Opt Out, thereby exempting itself from the requirements of the Act. This recommendation is due to the use of "Illustrative Rates" whereby the cost for retiree healthcare is not included in the calculation of the total cost for active employees. (Please see attachment regarding *Shelby Township v Command Officers Association of Michigan*.) Administration is recommending a 15% cost sharing by the employees of the illustrative rates which will keep the City within its budget allocation and at the same time not heavily burdening City employees.

Compared to last year, the City's total premium went down significantly due to the overall good health of our employees. By opting out, both the City and City employees will benefit from this decreased cost.

In our effort to attract new employees, the City has changed the effective date of benefits to Date of Hire instead of the first of the month following hire.

Recommended Action: Adopt the Opt Out Option as the City's choice of compliance with PA 152 of 2011, as amended, for 2022.

Attachments: Resolution, Funding Options, *Shelby Township v Command Officers Association of Michigan* Article

CITY MANAGER APPROVAL: _____ COUNCIL AGENDA DATE: _____

CITY MANAGER COMMENTS: _____

FISCAL SERVICES DIRECTOR APPROVAL: _____



Resolution No. 2021-221
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Whereas, the City Council of the City of Ypsilanti deems it necessary to comply with the State of Michigan 2011 Public Act 152, as amended; and

Whereas, the Act contains three options for complying with the requirements of the Act as follows:

1. **Hard Cap Option, limits employer's total annual health care costs for employees based on coverage levels**
2. **80%/20% Option, limits employer's share of total health care costs to not more than 80%, requires annual majority vote**
3. **Opt Out Option, the City may exempt itself from the requirements of the Act by an annual 2/3 vote; and**

Whereas, the City Council has decided to adopt the Opt Out Option as its choice of compliance under the Act;

NOW THEREFORE BE IT RESOLVED THAT, the Council of the City of Ypsilanti elects to comply with 2011 Public Act 152, by approving and adopting the Opt Out Option for the medical benefit plan coverage year 01/01/2022 through 12/31/2022.

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this 19 day of October 2021

#Resolution No. 2021-221



Michigan Supreme Court Affirms Michigan Court of Appeals Decision in Case Regarding PA 152, Shelby Township v Command Officers Association of Michigan

November 9th, 2017

On November 1, 2017, the Michigan Supreme Court affirmed the December 15, 2015 Court of Appeals' judgment, which had affirmed the decision of the Michigan Employment Relations Commission (MERC) in the matter of *Shelby Township v Command Officers of Michigan*, 29 MPER ¶ 38 (2014). Among the issues that were decided: (1) whether the calculation and/or allocation of payments for medical benefit plan costs among represented employees under Michigan Public Act 152 of 2011 (PA 152) is a mandatory subject of bargaining pursuant to the Public Employee Relations Act, MCL §§ 423.201, *et seq.* ("PERA"), and (2) whether PA 152, alone or in conjunction with PERA, precludes a public employer's use of illustrative [insurance](#) rates (that include retiree [health insurance](#) costs) when calculating employer and employee contributions toward the cost of [health insurance](#) under PA 152.

This decision affirms the MERC ruling that, even though the employer's choice under PA 152 between the 80/20, hard cap, or opt-out options is not a mandatory subject of bargaining, once that choice is made, the public employer has a duty to bargain about the calculation of the Union members' premium shares, and how the total employee contributions are to be allocated between bargaining units.

Furthermore, the Supreme Court decision affirms that the public employer is prohibited from using blended [insurance rates](#) that include both active and retiree health insurance costs when calculating employer and employee contributions toward the cost of health insurance under PA 152. With respect to the bundled insurance rates, the Court of Appeals held: "[W]e conclude that MERC did not err as a matter of law when it determined that the Township could not use a rate for its employees' premiums that included benefits for retired employees. The definition of 'medical benefit plan' specifically excludes benefits to retired employees. The bundled rate used in this case included retirees' costs."



REQUEST FOR LEGISLATION

TO: Mayor and City Council
FROM: John Barr
DATE: October 19, 2021
SUBJECT: Payment of attorney bill

DESCRIPTION:

Payment of attorney bill

SUMMARY:

Attorney Scott Berthold was hired May 25, 2021 to assist the City in the defense and prosecution of the Déjà vu federal and state law suits. Attorney Berthold is a nationally recognized expert and author in adult business cases and constitutional law. He worked on and directed the cases for the City as lead counsel, pursuant to a retainer agreement, up to September 28, 2021. His work included analysis of the case, recommendations of defense in the federal case and strategy in the state case.

The bill for services exceeds the financial limit of the City Manager and accordingly Council approval is needed for the payment of the attorney bill.

A resolution to approve payment of the attorney bill in the amount of \$63,970.53 is attached.

ATTACHMENTS: Proposed Resolution

RECOMMENDED ACTION: Approval of Resolution to authorize payment

CITY MANAGER APPROVAL: _____ COUNCIL AGENDA DATE: _____

CITY MANAGER COMMENTS: _____

FISCAL SERVICES DIRECTOR APPROVAL: _____



Resolution No. 2021-222
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Payment of the bill of attorney Scott Berthold in the amount of \$63,970.53 is approved for attorney services from May 25, 2021 to September 28, 2021.

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this 19 day of October 2021

#Resolution No. 2021-222



Law Office of Scott D. Bergthold, P.L.L.C.

Scott D. Bergthold
sbergthold@sdblawnfirm.com

Bryan A. Dykes
bdykes@sdblawnfirm.com

Robert T. Noland
rnoland@sdblawnfirm.com

May 25, 2021

John Barr
City Attorney
Barr, Anhut & Associates, P.C.
105 Pearl Street
Ypsilanti, MI 48197

**RE: *Ypsilanti Art Theatre Corp. et al. v. City of Ypsilanti, et al.*,
E.D. Mich. Case No. 5:21-cv-10982**

Dear Mr. Barr,

This letter of Agreement confirms the retention of the Law Office of Scott D. Bergthold, P.L.L.C., a Tennessee professional limited liability company ("Firm"), to provide services to the City of Ypsilanti ("City") regarding the above lawsuit and related City ordinances, including ordinances governing adult regulated uses. The Firm's attorneys will provide services to the City subject to the direction and supervision of the City Attorney. This agreement is predicated upon the City's belief that the Firm is particularly qualified to provide such services and that the services are professional and noncompetitive in nature. Our agreement therefore is as follows:

SCOPE OF SERVICES

The firm will provide services related to *Ypsilanti Art Theatre Corp. et al. v. City of Ypsilanti, et al.*, E.D. Mich. Case No. 5:21-cv-10982, and the City's regulations pertaining to adult regulated uses. The services may include, but are not limited to, ordinance analysis, research, consultation, drafting motions and memoranda, and oral argument.

It is agreed that the Firm reserves the right to represent existing or new clients, except that the Firm shall not represent any other client that would present a conflict with the Firm's duties to the City under this agreement. It is agreed that the Firm does not guarantee any priority in servicing requests for assistance, but will perform its obligations in good faith and with due diligence.

It is further agreed and understood that the Firm does not serve in the capacity of general counsel on behalf of the City or any division thereof and acceptance of this engagement does not involve representation of, or consultation with, the City or any division or agent thereof in any

2290 Ogletree Avenue, Suite 106 • Chattanooga, TN 37421
Phone: 423.899.3025 • www.sdblawnfirm.com

lawsuit other than those specified above and involving the subject matters set forth herein. It is agreed that since the result of any lawsuit is subject to the vagaries and risks inherent in judicial review, the Firm makes no promises or representations concerning the outcome of any lawsuit.

COMPENSATION AND METHOD OF PAYMENT

The City agrees to pay the Firm two hundred fifty dollars per hour (\$250/hr.) for services related to the Scope of Services set forth above. In discharging its responsibilities hereunder, it may be necessary for the Firm to incur costs and expenses for various items such as legal research, travel, and delivery services. These items will be charged at the cost to the Firm and shall be separately itemized on our statements. The firm does not charge for long distance telephone calls, faxes, or photocopies less than 100 pages.

The City will make periodic payments to the Firm upon submission of an invoice in a manner approved by the City Attorney. The Firm's invoices will be forwarded directly to the City Attorney on a monthly basis. Invoices will reflect charges for reimbursement of actual expenses noted above.

REPORTS, INFORMATION, AND CONFIDENTIALITY

The Firm, at such times and in such form as the City Attorney may require, shall furnish the City Attorney such reports as may be requested pertaining to the services undertaken per this Agreement. The Firm shall retain all financial and administrative records for a period of three years after the expiration or termination of this Agreement, and shall permit the City Attorney or any of his representatives access to such records.

The Firm and its agents and employees will keep and retain any and all information, reports, and records generated under this Agreement in confidence, regarding all such matters as subject to all applicable privileges provided by law, and will neither use such information nor disclose such information to anyone without the permission of the City.

MICHIGAN LAW TO GOVERN

In the performance of services under this Agreement, the Firm shall comply with all applicable statutes and laws of the State of Michigan. The law of the State of Michigan shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

TERM AND TERMINATION

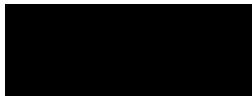
The term of this Agreement shall commence on the day executed by the last executing party and will continue for two years thereafter. Either party may terminate this Agreement at any time by giving notice in writing to the other party. If this Agreement is terminated by the City other than for default by the Firm, the Firm will be paid for services performed and expenses incurred up to the date of termination.

May 25, 2021
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If you have any questions concerning this letter of Agreement, please feel free to call me at 423-899-3025. Otherwise, please sign the original below and return a copy to me for my file. I look forward to working with you on behalf of the City.

Sincerely,

SCOTT D. BERGTHOLD, P.L.L.C.



Scott D. Bergthold

I have read the foregoing letter of Agreement and accept its terms on behalf of the City.

By: 

Name: FRANCES McMULLAN

Title: YPSILANTI CITY MANAGER

Date: June 2, 2021



Law Office of Scott D. Bergthold, P.L.L.C.

2290 Ogletree Ave., Suite 106
Chattanooga, TN 37421
(423) 899-3025
Taxpayer ID / EIN: 86-1036392

John Barr
City of Ypsilanti
Barr, Anhut & Associates, P.C.
105 Pearl Street
Ypsilanti, MI 48197

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Invoice # 56392

Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

Adult Oriented Business Litigation

Professional Services:

		Rate	Hours	
06/01/2021	T1 Conference call with E. Palacios; Review correspondence from J. Barr; Research file; Draft strategy correspondence to all co-counsel.	250.00	2.10	525.00
06/02/2021	T1 Review correspondence from J. Barr.	250.00	0.10	25.00
06/03/2021	T1 Review zoning ordinance; Review Deja Vu information; Prepare for conference call; Conference call with J. Barr, E. Palacios, and L. Stewart; Obtain approval of strategy.	250.00	2.00	500.00
06/04/2021	T1 Organize Deja Vu information.	250.00	0.30	75.00
06/04/2021	T2 Discuss project and next steps relative to responding to federal suit.	250.00	0.20	50.00
06/06/2021	T1 Review correspondence from E. Palacios and reply to same.	250.00	0.10	25.00
06/07/2021	T1 Review historical Deja Vu files from E. Palacios; Call to J. Meyers; Begin drafting letter re: loss of nonconforming use (NCFU).	250.00	2.40	600.00
06/08/2021	T1 Review file; Conference call with J. Meyers; Review City of Warren case; Draft correspondence to J. Barr, E. Palacios, and L. Stewart.	250.00	1.50	375.00

City of Ypsilanti

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
06/08/2021	T2 Review correspondence and historical documents re: Deja Vu.	250.00	0.40	100.00
06/09/2021	T1 Review map and additional historical files from J. Meyers; Draft series of questions to J. Meyers; Follow-up call to same; Conference call with J. Meyers and F. Daniels; Draft correspondence to co-counsel.	250.00	4.00	1,000.00
06/10/2021	T1 Review additional files from J. Meyers; Transmit correspondence to co-counsel; Continue drafting letter re: loss of nonconforming uses; Review schematics and permit actions to determine grounds for conclusion; Conference call with J. Meyers; Review and revise letter and transmit to all co-counsel; Draft correspondence to J. Meyers and review response from same; Conference call with J. Barr; Conference call with J. Meyers.	250.00	5.10	1,275.00
06/11/2021	T1 Review correspondence from L. Stewart; Draft response to same; Review correspondence from E. Palacios and J. Barr; Discussion with J. Meyer; Draft correspondence to all counsel re: motion for judgment on the pleadings option; Review zoning data from J. Meyers; Draft correspondence to E. Palacios; Draft correspondence to J. Meyers; Review follow-up from E. Palacios.	250.00	1.40	350.00
06/14/2021	T1 Review and revise letter; Review multitude of photographs taken by fire marshal and sent by J. Meyers; Draft correspondence to all counsel with updated letter; Review correspondence from E. Palacios; Research prior briefings re: loss of nonconforming use and transmit to E. Palacios; Research appeal process under community development code; Review correspondence from E. Palacios and reply to same.	250.00	1.70	425.00
06/16/2021	T1 Review correspondence from J. Barr; Review correspondence from L. Stewart; Analyze options re: injunction action.	250.00	1.10	275.00

City of Ypsilanti

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
06/17/2021	T1 Draft correspondence to J. Barr and co-counsel; Research Michigan PHV procedures; Set deadlines for various tasks.	250.00	0.60	150.00
06/17/2021	T3 Review materials in preparation for filing a complaint against Deja Vu; Review DV's complaint against the City; Read Dec. 2019 letter from Joe Meyers to DV; Read Nov. 2019 letter concerning walkthrough of DV; Read through composite history of dealings with DV since 1989 to identify original floor plans as compared to new, unlawful construction and proposed extension of the nonconforming use.	250.00	1.90	475.00
06/18/2021	T1 Attention to PHV application.	250.00	0.10	25.00
06/18/2021	T2 Discussion re: zoning ordinance and case strategy options.	250.00	0.20	50.00
06/18/2021	T3 Draft caption of complaint; Research what zoning district Deja Vu is currently in; Review current zoning map of Ypsilanti; Review zoning regulations for Center district; Draft facts of how Deja Vu initially operated in the City; Draft facts concerning MIC's ownership of the property; Describe DV's former operation as a nonconforming use; Continue drafting complaint.	250.00	6.30	1,575.00
06/21/2021	T1 Edit letter for J. Meyers re: nonconforming use.	250.00	0.20	50.00
06/21/2021	T2 Address strategy for city level administrative matters, state enforcement action, and federal case; Work on drafting motion to dismiss on Younger abstention grounds; Review local rules re: motions requirements and formatting; Work on preparing caption and other elements that correspond to local practice; Work on revising prior Younger briefing for use in Sixth Circuit.	250.00	3.00	750.00

City of Ypsilanti

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
06/21/2021	T3 Detail Ypsilanti's zoning regulations that resulted in DV becoming a nonconforming use; Define Adult regulated uses in complaint and all the types of businesses that adult regulated uses are defined to include; Research Ypsilanti's regulations of nonconforming uses into Class A and Class B nonconforming uses; Describe Ypsilanti's regulations of Class A and Class B nonconforming uses in complaint; Describe circumstances in which Class B nonconforming uses are extinguished.	250.00	5.20	1,300.00
06/22/2021	T1 Work on motion to dismiss federal suit based on Younger abstention; Work on state court suit seeking declaration that Deja Vu has lost its lawful nonconforming use status.	250.00	3.10	775.00
06/22/2021	T2 Review recent Sixth Circuit decision re: Younger abstention; Work on drafting legal discussion of test prescribed by Younger and subsequent cases; Work on drafting application of Younger test to facts relative to Deja Vu; Review relevant cases concerning the timeframe for evaluating whether state civil enforcement proceeding is ongoing for purpose of Younger abstention.	250.00	3.80	950.00
06/22/2021	T3 Draft allegations re: Deja Vu's floor plan in complaint; Draft description of inspection occurring in March 2019 leading up to a Stop Work Order; Organize historical documents and materials by chronology; Describe plumbing and electrical permits DV obtained; Detail letter the City sent to DV informing it that it lost its nonconforming status; Draft facts re: fire that broke out at the property; Analyze files and develop allegations that the repairs undertaken at DV exceeded 100 percent of its SEV.	250.00	7.00	1,750.00
06/23/2021	T1 Work on zoning enforcement action letter; Correspondence with J. Meyers; Work on zoning text amendment; Research search warrant issue; Continue working on state and federal suits.	250.00	4.70	1,175.00

City of Ypsilanti

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
06/23/2021	T2 Continue working on Younger abstention dismissal motion; Work on argument section to preempt response arguments against applicability of Younger abstention; Review draft complaint for nuisance abatement and injunction; Work on rough draft of factual background section for applying Younger; Consider strategy issues relative new lawsuit, staff letter, and scope of enforcing zoning ordinance; Continue work on legal discussion supporting dismissal motion.	250.00	4.20	1,050.00
06/23/2021	T3 Break down motion to dismiss into a motion a brief; Add more details into facts section concerning acts DV took to extinguish its nonconforming use in state complaint; Describe International Amusement Ltd.'s application; Draft count 1 of complaint requesting declaratory relief.	250.00	5.80	1,450.00
06/24/2021	T1 Review correspondence from E. Palacios; Research case law; Draft correspondence to all counsel; Conference call with E. Palacios.	250.00	4.30	1,075.00
06/24/2021	T2 Review cases where Sixth Circuit did and did not grant dismissals on Younger abstention grounds; Identify authority showing that ongoing civil enforcement action is proper case for invoking Younger abstention; Work on discuss showing that City's efforts to enforce zoning ordinance are ongoing; Identify case authority and zoning ordinance citations relative to important state interests in enforcing zoning regulations; Work on discussion that Deja Vu can raise constitutional issues in defense in state court proceeding.	250.00	4.80	1,200.00

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
06/24/2021	T3 Research cases on nuisance and nuisance per se arising from zoning violations; Review City's special use permitting of Adult Regulated uses; Consider strategy of suing DV before the code is amended to remove SUP of Adult Regulated uses; Research cases on standing issue; Read S&G News Inc. v. City of Southgate; Read Northcrest Theater Inc. v. City of Rochester Hills; Read other cases on standing to sue under similar circumstances; Draft memo on cases holding that plaintiff's lacked standing to object to the regulations of a zone the plaintiff was not in.	250.00	6.10	1,525.00
06/25/2021	T1 Review and revise federal court motion to dismiss and brief in support; Transmit to L. Stewart with instructions.	250.00	3.00	750.00
06/25/2021	T2 Review sample staff memo provided relative to prior zoning amendment; Review online agenda for sample zoning amendment ordinance and memo; Review adult regulated use provisions and work on draft amendment to use table re: same; Work on drafting staff memo for draft zoning amendment; Transmit draft memo and ordinance with notes.	250.00	2.80	700.00
06/26/2021	T1 Continue working on letter to Deja Vu and state court complaint.	250.00	0.40	100.00
06/27/2021	T1 Work on zoning enforcement action, including all legal and factual grounds for loss of nonconforming use status; Continue preparing for state court and federal court motions.	250.00	1.30	325.00
06/28/2021	T1 Draft correspondence to J. Meyers, E. Palacios, L. Stewart; Work on legal arguments and documentation supporting enforcement action; Work on state court complaint.	250.00	4.60	1,150.00

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
06/28/2021	T3 Adjust staff review memo on text amendment to Section 122-512 to include robust purpose section and secondary effects evidence; Draft amendment to Section 122-512 adding in purpose section and secondary effects evidence; Adjust Section 122-512 to remove references to SUP for adult regulated uses; Remove reference to Article V Section 10 in draft amendment to ordinance.	250.00	6.00	1,500.00
06/29/2021	T1 Review correspondence from J. Meyers and reply to same; Review correspondence from L. Stewart; Review and revise notice for J. Meyers; Review and revise staff report and draft ordinance amendment; Review and revise state court complaint; Review and revise federal court motion to dismiss; Correspondence with staff and co-counsel.	250.00	4.50	1,125.00
06/30/2021	T1 Review and revise draft with tracked changes and send to E. Palacios; Attach all exhibits A-F; Extensive correspondence back and forth with J. Meyers and E. Palacios re: building permit info and filing of state suit.	250.00	2.40	600.00
07/01/2021	T1 Review correspondence from E. Palacios; Review and revise updated documents; Conference call with E. Palacios; Discussion with J. Meyers; Review correspondence from same.	250.00	1.00	250.00
07/02/2021	T1 Review correspondence from E. Palacios and reply to same; Review and revise motion to dismiss and brief; Compile state court lawsuit as Exhibit 1; Review correspondence from L. Stewart and reply to same; Input all updated citations in motion and brief and transmit to L. Stewart; Conference call with L. Stewart; Draft correspondence to all co-counsel; Calendar deadline; Review correspondence to opposing counsel; Update documents.	250.00	3.40	850.00

City of Ypsilanti

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
07/06/2021	T1 Review correspondence from M. Hoffer and L. Stewart; Draft response to L. Stewart; Work on ordinance to amend zoning text; Review and revise MTD and Brief to file in federal court.	250.00	2.70	675.00
07/06/2021	T2 Work on preparing zoning text amendments relating to adult use definitions; Revise draft ordinance; Revise and expand draft staff report to address additional text amendments; Draft correspondence re: same.	250.00	3.00	750.00
07/06/2021	T3 Work on organizing code amendment to 122-512.	250.00	0.20	50.00
07/07/2021	T1 Review and revise zoning text amendment; Review GIS and aerial maps; Draft correspondence to J. Barr, E. Palacios, L. Stewart, and J. Meyers.	250.00	1.20	300.00
07/07/2021	T2 Analyze text amendments concerning measurement methods for adult regulated use buffers; Work on drafting changes to staff review memo and draft ordinance for adjusting the like-use buffer measurement method; Review mapping information and adjust measurement method provisions relating to buffer for adult regulated uses from residential zones, places for minors, and religious institutions.	250.00	2.20	550.00
07/08/2021	T1 Review correspondence from J. Meyers and reply to same.	250.00	0.10	25.00
07/12/2021	T1 Review correspondence from E. Palacios.	250.00	0.10	25.00
07/14/2021	T1 Review correspondence from E. Palacios and J. Barr.	250.00	0.10	25.00
07/18/2021	T1 Prepare for plan commission hearing.	250.00	0.10	25.00
07/19/2021	T1 Review correspondence from L. Stewart and reply to same.	250.00	0.10	25.00

City of Ypsilanti

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
07/20/2021	T1 Review correspondence from M. Hoffer and L. Stewart; Review follow-up correspondence re: Deja Vu's motion; Discussion with J. Meyers re: Plan Commission meeting.	250.00	0.20	50.00
07/21/2021	T1 Follow-up re: secondary effects record; Review and transmit secondary effects documentation to J. Meyers for inclusion in Planning Commission hearing record; Prepare for Planning Commission hearing via Zoom; Make secondary effects presentation to Planning Commission; Answer questions from commissioners and public.	250.00	1.70	425.00
07/21/2021	T2 Work on compiling secondary effects cases and studies cited in draft zoning text amendment; Work on index and assist with uploading materials to transmit to client representative.	250.00	1.40	350.00
07/27/2021	T1 Review NEF from federal court re: response to motion to dismiss.	250.00	0.10	25.00
07/28/2021	T1 Review correspondence re: reply brief deadline and page limit; Work on aspects of reply brief.	250.00	1.30	325.00
07/28/2021	T2 Review correspondence re: pending motion to dismiss and hearing date; Review court rules re: reply brief deadline and page limits; Review calendar and consider deadline timeframe; Draft correspondence re: possible extension scenarios.	250.00	1.60	400.00
07/28/2021	T3 Review Deja vu's arguments in response to motion to dismiss federal complaint for Younger abstention; Review City's state court complaint to compare to Deja Vu's characterization of it.	250.00	0.60	150.00
07/29/2021	T1 Correspondence with J. Meyers re: zoning text amendment, schedule for Plan Commission, and City Council timeline; Review correspondence from L. Stewart; Draft response to same.	250.00	0.90	225.00

City of Ypsilanti

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
07/30/2021	T2 Review correspondence and draft email to co-counsel; Review response; Review court rules; Prepare stipulated order for extension of reply brief deadline; Transmit draft document to counsel for signature permission; Review court e-filing information relative to submitting proposed stipulation and order.	250.00	1.40	350.00
08/02/2021	T1 Review correspondence from M. Hoffer.	250.00	0.10	25.00
08/02/2021	T2 Draft correspondence seeking consent of opposing counsel for stipulation and order; Follow-up phone call; Use ECF system to submit stipulated order; Draft email to send copy of same to counsel.	250.00	0.40	100.00
08/09/2021	T1 Draft correspondence to J. Meyers; Review correspondence from E. Palacios re: Deja Vu State Court Action motion to dismiss.	250.00	0.10	25.00
08/10/2021	T1 Draft correspondence to J. Meyers.	250.00	0.10	25.00
08/10/2021	T2 Address pro hac vice issue; Update calendar re: hearing.	250.00	0.20	50.00
08/10/2021	T3 Attention re: timing to reply in support of motion to dismiss; Read and review plaintiff's response and brief in opposition to defendants' motion to dismiss; Review Deja Vu's motion for summary disposition.	250.00	1.50	375.00
08/11/2021	T1 Call to E. Palacios; Discussion with J. Meyers; Annotate response to federal court motion to dismiss; Conference call with E. Palacios re: state court action; Calendar deadline for response to motion for summary disposition.	250.00	2.10	525.00
08/13/2021	T1 Send correspondence re reply brief due 8/17/21; Review correspondence re: temporary admission.	250.00	0.10	25.00

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
08/13/2021	T2 Work on drafting pro hac vice materials; Review court rules and state bar guidance; Draft motion for temporary admission per available sample documents; Draft Berghold affidavit in support of motion for temporary admission; Work on registering with Michigan State Bar for online registration and document upload; Draft correspondence and transmit draft documents to local counsel.	250.00	2.40	600.00
08/13/2021	T3 Draft argument headings for each section of reply brief in outline format; Draft preliminary statement; Draft summary of argument that the state court action triggers abstention; Respond to Deja Vu's arguments that Younger abstention does not apply because Deja Vu brings first amendment claims.	250.00	5.20	1,300.00
08/15/2021	T3 Research and write response to Deja Vu's contention that the state court action is not coercive; Summarize each count of state court complaint to show how the state court action is coercive; Distinguish Executive Art Studio from the state court enforcement action; Draft argument showing that Deja Vu's argument that it is not possible for it to violate the City's laws fails because Deja Vu has already violated the City's laws.	250.00	5.00	1,250.00
08/16/2021	T1 Review and suggest edits to draft reply brief in support of motion to dismiss.	250.00	0.40	100.00
08/16/2021	T2 Review Deja Vu's response brief on City's motion to dismiss; Work on revising and expanding Section I, parts A and B of reply argument; Review draft reply argument in section II; Review and revise preliminary discussion; Correspondence with co-counsel re: draft arguments.	250.00	2.90	725.00

City of Ypsilanti

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
08/16/2021	T3 Draft response to Deja Vu's claim that the City brought the state court action in bad faith; Detail that the City did not issue it a decision on its permit application; Show that claim fails because the City brought the state court action with an expectation of obtaining relief; Draft discussion of Doe v. Kentucky; Draft discussion of Cullen v. Fliegner.	250.00	7.40	1,850.00
08/17/2021	T1 Draft correspondence re: reply brief; Follow-up re: preparation for September 8 hearing in state court; Prepare PowerPoint presentation for City Council meeting; Work on reply brief in support of federal court motion to dismiss; Discussion with J. Meyers; Log in as panelist for City Council meeting; Wait for police funding and paraphernalia ordinance discussions to conclude; Make presentation to City Council on adult regulated use amendments to Zoning Ordinance; Continue reviewing and revising reply brief in support of motion to dismiss federal complaint under Younger abstention doctrine; Edit, PDF, and file same shortly before midnight.	250.00	8.10	2,025.00
08/17/2021	T2 Proofread and revise draft reply brief; Develop argument that Younger abstention does apply because state court enforcement proceeding is judicial in nature; Discuss meeting presentation plans; Work on preparing powerpoint presentation for city council meeting; Update and revise slides relative to draft ordinance provisions and governing judicial circuit; Draft correspondence and transmit slides for review.	250.00	3.70	925.00
08/17/2021	T3 Incorporate annotations into brief; Shorten Section I of reply brief; Distinguish the other cases Deja Vu cites, including Show-World, Guillemard-Gionorio, and Lewellen v. Raff; Review changes to reply brief with B. Dykes; Edit full draft of federal court dispositive motion reply brief to make it more concise.	250.00	4.50	1,125.00

City of Ypsilanti

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Invoice # 56392

Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
08/18/2021	T1 Review and execute affidavit and motion; Correspondence with E. Palacios; Research MCR 8.126; Draft detailed correspondence with attachments to E. Palacios.	250.00	0.90	225.00
08/18/2021	T2 Review status of documents supporting motion; Prepare copy of same for S. Bergthold to review and execute.	250.00	0.20	50.00
08/19/2021	T1 Review correspondence and documents from E. Palacios; Review and revise same; Draft correspondence to E. Palacios and transmit documents.	250.00	0.40	100.00
08/20/2021	T3 Draft outline of response to Motion for summary disposition; Review Jarrett-Cooper v. United Airlines; Read cases construing MCL 125.3407; Draft portion of argument that DV's illegal use of the property subjected it to nuisance abatement; Begin drafting argument that the City's claims are ripe because DV's use of the property is illegal.	250.00	4.40	1,100.00
08/24/2021	T1 Work on motion; Draft correspondence to E. Palacios and review response from same; Draft reply.	250.00	0.20	50.00
08/25/2021	T1 Review correspondence from E. Palacios; Draft correspondence to same.	250.00	0.20	50.00
08/26/2021	T1 Follow-up correspondence with E. Palacios; Reply to same.	250.00	0.10	25.00
08/26/2021	T2 Review correspondence re: pro hac vice matters; Draft correspondence to local counsel and transmit executed affidavit and certificate of good standing; Request copy of motion to submit to state bar with pro hac vice fee.	250.00	0.50	125.00

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Invoice # 56392

Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
08/27/2021	T2 Finalize and upload pro hac vice paperwork to Michigan State Bar; Complete online registration and pay required fee; Download receipt and transmit materials to local counsel for filing; Study motion for summary disposition and identify facts needed to support response; Review court rules identify limits on strategy options due to proximity to hearing date; Work on outline of response brief arguments opposing Deja Vu's motion for summary disposition; Outline topics for J. Meyers affidavit to file with response brief; Draft correspondence re: same.	250.00	4.30	1,075.00
08/27/2021	T3 Research cases on MCR 2.116(c)(6); Draft preliminary statement of response to MSD summarizing the City's claims and showing that none of the claims are pending in the federal court; Draft argument that MCR 2.116(C) does not apply because summary disposition under that provision is only appropriate when the claims are identical; Research cases on ripeness of nuisance claims.	250.00	6.70	1,675.00
08/28/2021	T1 Review correspondence with several attached affidavits for City's response to Deja Vu's motion for summary disposition.	250.00	0.50	125.00
08/28/2021	T3 Draft affidavit for Joe Meyers to authenticate the City's Exhibits D, E, F, and G; Draft affidavit for City planner Andy Aamodt to discuss Aamodt's walkthrough of Deja Vu on November 11, 2019.	250.00	3.80	950.00
08/29/2021	T1 Follow-up re: pending motions in state court case.	250.00	0.90	225.00
08/29/2021	T3 Draft affidavit for John Roe to authenticate City Exhibit C and cover Roe's observations at Deja Vu in March 2019; Draft affidavit for Nathan Voght to authenticate Exhibit A and cover Deja Vu's covered floor plan; Begin facts section of response to MSD.	250.00	3.80	950.00

City of Ypsilanti

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Invoice # 56392

Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
08/30/2021	T1 Review Section II of brief correspondence; Prepare for state court hearing; Comprehensive work on 18-page brief in response to Deja Vu's motion to dismiss.	250.00	8.00	2,000.00
08/30/2021	T3 Draft section arguing that Deja Vu's illegal adult regulated use in the Center Zoning district is an abatable nuisance; Show that Deja Vu uses its building for an adult regulated use because its building is configured for its adult regulated use; Distinguish Taylor Novelty & Toy v. City of Taylor; Review Michigan Chiropractic Council and incorporate into brief for rule on ripeness; Incorporate discussion of City of Huntington Woods to show that the City's claims are ripe.	250.00	7.70	1,925.00
08/31/2021	T1 Continue working on all arguments in dispositive motion brief; Work on Exhibits D-1, D-2, D-3, E-1; Send draft affidavit and attachments to J. Meyer at 3:15 a.m. for his review and execution.	250.00	8.60	2,150.00
09/01/2021	T1 Review correspondence from K. Scott and reply to same; Draft correspondence re: statement of facts; Review and revise statement of facts and transmit for inclusion in brief; Conference call with co-counsel; Review correspondence from J. Meyers and reply to same.	250.00	2.10	525.00

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
09/01/2021	T2 Review correspondence draft affidavit; Work on suggested revisions; Discussion with local counsel and review feedback re: finalizing Meyers affidavit; Review draft and work on revising preliminary statement; Revise and adjust citations for statement of relevant facts; Work on argument section I showing how Deja Vu lost its nonconforming use status and that City is entitled to judgment that club renovations are unlawful; Review draft arguments opposing Deja Vu's request for summary disposition; Compile arguments and transmit draft brief for local counsel review; Discussions with K. Scott re: argument revisions; Work on incorporating proposed edits and clarifying discussion of site plans and related applications; Discussion with local counsel before filing of response and exhibits.	250.00	10.50	2,625.00
09/01/2021	T3 Modify affidavit of Joe Meyers to authenticate all of the City's exhibits; Draft statement of relevant facts based on Meyers affidavit; Review Maple BPA, Inc. and use for preemption section; Draft argument that the ordinance is not preempted because it is consistent with MCL 125.3407; Revise full draft and submit to Miller Canfield for review; Review K. Scott's redline version of draft; Revise draft discussion of preemption based on edits from K. Scott; Review full draft and prepare for filing.	250.00	7.30	1,825.00
09/07/2021	T1 Review correspondence from L. Stewart and reply to same; Review docket check for order; Review follow-up correspondence from L. Stewart and reply to same.	250.00	0.20	50.00
09/08/2021	T1 Prepare for hearing in Washtenaw County Circuit Court; Review Deja Vu's reply brief in support of motion for summary disposition; Take notes and prepare responses to same; Outline arguments; Wait for case to be called; Present arguments on motion for summary disposition.	250.00	5.00	1,250.00

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

		Rate	Hours	
09/08/2021	T2 Review Deja Vu's reply brief; Correspondence re: follow-up on temporary admission.	250.00	0.40	100.00
09/09/2021	T1 Conference call with L. Stewart; Follow-up re PHV order from court.	250.00	0.40	100.00
09/10/2021	T1 Review proposed order staying state court case.	250.00	0.10	25.00
09/13/2021	T1 Review correspondence from K. Scott re: proposed order; Review document and draft reply to same; Review proposed revisions; Make edits and transmit back to K. Scott.	250.00	0.40	100.00
09/17/2021	T1 Discussion with J. Barr; Draft correspondence to same; Review reply from same.	250.00	0.30	75.00
09/21/2021	T1 Review correspondence from K. Scott and M. Hoffer; Review order and corrected order.			no charge
09/21/2021	T2 Assist with preparing notice of withdrawal.			no charge
09/21/2021	T3 Research standard for withdrawal of attorney; Review PHV in Michigan and determine whether a different standard applies for withdrawal of an attorney that appears by PHV; Draft motion to withdraw from federal case; Draft notice of withdrawal from state court case.			no charge
09/28/2021	T2 Review correspondence from local counsel staff; Forward sample withdrawal notice for and assist with preparing same; Discussion re: motion to withdraw in federal court.			no charge
09/28/2021	T3 Modify motion to withdraw from federal court and notice of withdrawal in state court; Determine whether S. Bergthold is authorized to file motion for withdrawal in state court.			no charge
	For professional services rendered	254.20		63,550.00
	<u>Total No Charge Hours</u>	1.90		

City of Ypsilanti

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Adult Oriented Business Litigation
Ypsilanti Art Theatre v. City of Ypsilanti
E.D. Mich. Case No. 5:21-cv-10982

Expenses:

06/30/2021	Westlaw Research -- June 2021.	65.76
06/30/2021	Black and White Photocopies -- printing for June 2021 - 4 pages @ \$0.05 per page.	0.20
06/30/2021	Color Photocopies -- printing for June 2021 - 5 pages @ \$0.15 per page.	0.75
07/08/2021	PACER -- April -June 2021 fees.	12.80
07/31/2021	Black and White Photocopies -- July 2021 - 55 pages @ \$0.05 per page.	2.75
07/31/2021	Westlaw Research -- July 2021.	13.57
08/19/2021	Certificate of Good Standing -- for PHV motion.	50.00
08/26/2021	Postage -- Federal Express to and from TN Appellate Court for COGS needed for PHV admission.	56.81
08/27/2021	Filing Fee -- Michigan State Bar pro hac vice filing fee.	135.00
08/31/2021	Westlaw Research -- August 2021.	53.54
08/31/2021	Black and White Photocopies -- printing August 2021 - 587 pages @ \$0.05 per page.	29.35
	Total Expenses	420.53
	Total amount of this bill	63,970.53
	Balance Due	<u>\$63,970.53</u>



REQUEST FOR LEGISLATION

TO: Mayor and City Council
FROM: Christopher Jacobs
DATE:
SUBJECT: Shelter Association of Washtenaw County Memorandum of Understanding

DESCRIPTION:

Shelter Association of Washtenaw County Memorandum of Understanding

SUMMARY:

On August 17, City Council approved a budget amendment to support a daytime warming center from November 2021-March 2022. The following MOU has been drafted for your consideration to define the roles and responsibilities of both organizations in this new endeavor.

RECOMMENDED ACTION: Approval

ATTACHMENTS: Mémorandum of Understanding

CITY MANAGER APPROVAL: _____ COUNCIL AGENDA DATE: _____

CITY MANAGER COMMENTS: _____

FISCAL SERVICES DIRECTOR APPROVAL: _____



Resolution No. 2021-223
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City seeks to provide a daytime cold weather warming center location for those in need as well as ancillary support services such as food and transportation; and

WHEREAS, the City owns the Freighthouse, an historic building located at 100 Market Street, Ypsilanti, mi 48197 and desires to use the Freighthouse for a daytime warming center; and

WHEREAS, Shelter Association of Washtenaw County (SAWC) specializes in providing warming centers and temporary shelter and connections to services in a safe and caring environment and works with the community to allocate the necessary resources to meet the needs of people who are experiencing homelessness and is willing to work with the City in providing warming center services for the City, and

WHEREAS, the City is interested in working with SAWC for SAWC to provide staffing to support a daytime warming center at the Freighthouse Monday-Thursday from 8am-6pm; and

WHEREAS, SAWC has provided a quote of \$51,800 to provide Freighthouse warming center services and the City of Ypsilanti is agreeable to pay SAWC to support this cost;

NOW THEREFORE BE IT RESOLVED THAT the Ypsilanti City Council approves the Memorandum of Understanding as provided.

OFFERED BY: _____

SECONDED BY: _____

YES:

NO:

ABSENT:

VOTE:

#Resolution No. 2021-223

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this
19 day of October 2021

#Resolution No. 2021-223

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF YPSILANTI AND
SHELTER ASSOCIATION OF WASHTENAW COUNTY FOR THE OPERATION OF
THE DAYTIME WARMING CENTER AT THE FREIGHTHOUSE**

This Memorandum of Understanding ("MOU") is entered into on this 19th day of October 2021, by the City of Ypsilanti, a Michigan Home Rule City located at 1 South Huron Street, Ypsilanti, MI 48197 (hereinafter "City") and Shelter Association of Washtenaw County, a non-profit located at 312 W Huron St, Ann Arbor, MI 48103 (hereinafter "SAWC").

Purpose

WHEREAS, the City seeks to provide a daytime cold weather warming center location for those in need as well as ancillary support services such as food and transportation; and

WHEREAS, the City owns the Freighthouse, an historic building located at 100 Market Street, Ypsilanti, MI 48197 and desires to use the Freighthouse for a daytime warming center; and

WHEREAS, SAWC specializes in providing warming centers and temporary shelter and connections to services in a safe and caring environment and works with the community to allocate the necessary resources to meet the needs of people who are experiencing homelessness and is willing to work with the City in providing warming center services for the City, and

WHEREAS, the City is interested in working with SAWC for SAWC to provide staffing to support a daytime warming center at the Freighthouse Monday-Thursday from 8am-6pm; and

WHEREAS, SAWC has provided a quote of \$51,800 to provide Freighthouse warming center services and the City of Ypsilanti is agreeable to pay SAWC to support this cost;

NOW, THEREFORE, in consideration of the foregoing and in consideration of the agreements of the Parties hereto, the City and SAWC mutually agree as follows:

Agreement

This MOU (contract, agreement) constitutes the entire agreement between the parties with respect to the subject matter expressed in this MOU. This MOU will not be modified or amended without the consent of each party hereto, which consent must be evidenced by an instrument in writing executed by each party or by their respective successors or permitted assigns.

As the service provider for the daytime warming center at the Ypsilanti Freighthouse, SAWC agrees to:

1. Provide ~~two full time trained~~adequately trained and qualified staff ~~ing along with ongoing volunteer and management support~~ Monday-Thursday between 8am-6pm starting on November 8~~1~~, 2021 through March 21, 2022.
2. Provide case management services to participants in the warming center program.

3. Provide all supplies used in normal operation of the daytime warming center.
4. SAWC will indemnify, defend, and hold City harmless from any and all liability arising out of or in any way related to SAWC performance of services.
5. Provide 1\$ million liability insurance for the SAWC operation of the warming center and name the City of Ypsilanti as additional primary insured.
6. Provide transportation in the form of bus tokens to and from the Delonis Overnight Shelter or through the Shelter's company van.
7. Provide daily lunch for up to 30 persons.
8. Provide variety of programming brokered by day shelter staff and volunteers.
9. Follow and enforce the rules of the Freighthouse Building Policies and Regulations as listed in Exhibit A.
10. SAWC will use its best efforts to protect and preserve the physical structure and all fixtures and equipment of the Freighthouse at all times.
11. SAWC is an independent contractor and responsible for its own employees and for all withholdings for all employees, payment of state or federal unemployment compensation contributions, worker's compensation, and all benefits paid to SAWC employees.

The parties agree:

12. The parties understand and agree that either party may terminate this MOU at any time with 15 days' notice. In such event SAWC will be compensated for work already completed.
13. This MOU is to be performed in Washtenaw County, Michigan, and all legal venue shall exclusively lie therein.
14. The parties agree that time is of the essence in the performance of this MOU by SAWC.
15. Each provision of this MOU shall be separately enforceable and in the event that a court of competent jurisdiction determines or adjudges that any provision of this MOU is invalid or illegal, such decision shall not affect the rest of the MOU which shall remain in full force and effect.
16. This MOU shall be governed by and construed in accordance with the laws of Michigan.
17. Independent Contractor. The relationship of SAWC to the CITY is and shall continue to be that of an independent contractor and no liability or benefits such as worker's compensation, pension rights, or other rights or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to either party as a result of the performance of this MOU.
18. Waiver of Liability. SAWC hereby waives any claim against the CITY and agrees not to hold the CITY liable for any personal injury or damage incurred by it, its employees or associates on this project which is not held by a court of competent jurisdiction to be directly attributable to the sole and/or gross negligence or malicious intentional conduct of any employee of the CITY acting within the scope of their employment. It further agrees to hold the CITY harmless from any such claim by its employees or associates.

19. For the purpose of the hold harmless indemnity and insurance provisions contained in this MOU, the term "CITY" shall be deemed to include the City of Ypsilanti and all other associated, affiliated, allied or subsidiary entities, or commissions, officers, agents, representatives and employees.

20. The following Indemnification Agreement shall be, and is hereby, a provision of the MUO and shall be endorsed on the reverse sides of all certificates of insurance:

"SAWC agrees to protect, defend, indemnity and hold the CITY and its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this Agreement and/or the performance hereof. Without limiting the generality of the foregoing, any and all such claims, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copy right (or application for any thereof) or any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. SAWC further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent."

21. Insurance. SAWC prior to commencing work shall provide at his own cost and expense insurance to the CITY in insurance companies licensed and/or approved in the State of Michigan, which insurance shall be evidenced by certificates and/or policies as determined by the CITY. All policies and certificates of insurance shall be approved by the Department of City Manager of the CITY prior to the inception of any work.

Each certificate or policy shall require that, thirty days prior to cancellation or material change in the policies, notice thereof shall be given to the CITY by registered mail, return receipt requested, for all of the following stated insurance policies. All such notices shall name SAWC and identify the contract number.

All property losses shall be made payable to and adjusted with the CITY.

In order to determine financial strength and reputation of insurance carriers, all companies providing the coverages required shall be licensed or approved by the Insurance Bureau of the State in which the work is performed and shall have a financial rating not lower than XI and a policyholder's service rating no lower than B+ as listed in A.M. Best's Key Rating Guide, current edition. Certificates of insurance shall note A.M. Best's Rating. Companies with ratings lower than B+:XI will be acceptable only upon written consent of the CITY.

All policies and certificates of insurance of SAWC shall contain the following clauses:

The clause "other insurance provision" in a policy in which the CITY is named as an insured, shall not apply to the CITY.

The insurance companies issuing the policy or policies shall have no recourse against the CITY (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, SAWC.

The CITY (at its option) shall be listed as an Additional Named Insured on the following insurance coverages provided by SAWC.

YES ____	NO ____	1)	Comprehensive General Liability
YES ____	NO ____	2)	Automobile Liability

SAWC shall maintain at its own expense during the term of this Contract the following insurance:

Worker's Compensation insurance with Michigan statutory limits and employers' liability insurance with minimum limits of \$500,000 each accident.

General Liability insurance with a minimum limit of liability per occurrence of \$1 Million Combined Single Limit (Bodily Injury/Property Damage), with no aggregate.

This insurance shall indicate on the Certificate of Insurance the following coverages:

- (a) Independent Contractor and Subcontractors
- (b) Broad Form Contractual
- (c) Broad Form Liability Endorsement

Automobile Liability insurance with minimum limits of liability, per occurrence, of \$1 Million Combined Single Limit (Bodily Injury/Property Damage) unless otherwise indicated in the "Special Conditions" of the Contract specifications.

This insurance shall include for bodily injury and property damage the following coverages:

- (a) Owned automobiles
- (b) Hired automobiles
- (c) Non-owned automobiles

Protective Liability Insurance: Owners and Contractors. SAWC shall provide the original and duplicate policy of insurance to the City Manager. This insurance contract shall name the CITY as the insured and remain in effect until the contract is accepted by the CITY.

The insurance shall provide minimum limits of liability per occurrence of \$500,000. Combined Single Limit. Said insurance shall provide that the term "Owner" or CITY

shall be deemed to include all authorities, boards, bureaus, commissions, divisions, departments, districts and offices of the CITY and the individual members, employees and agents thereof in their official capacities.

Disability Benefits: SAWC shall provide proof of compliance with the Disability Benefits Law. (If applicable).

If any of the Property and Casualty insurance requirements are not complied with at their renewal dates, payments to SAWC will be withheld until those requirements have been met, or at the option of the CITY the CITY may pay the Renewal Premium and withhold such payments from any monies due SAWC.

In the event that claims in excess of the insured amounts provided herein, are filed by reason of any operations under the Contract, the amount of excess of such claims, or any portion thereof, may be withheld from payment due or to become due SAWC until such time as SAWC shall furnish such additional security covering such claims as may be determined by the CITY.

If at any time any of the foregoing policies shall be or become unsatisfactory to the CITY to form or substance, or if a company insuring any such policy shall be or become unsatisfactory to the CITY, SAWC shall upon notice to that effect from the CITY promptly obtain a new policy, submit the same to the City Manager for approval and submit a certificate thereof as herein provided. Upon failure of SAWC to furnish, deliver and maintain such insurance as above provided, this Contract, at the election of the CITY may be forthwith declared suspended, discontinued or terminated. Failure of SAWC to take out and/or maintain or the taking out and/or maintenance of any required insurance, shall not relieve SAWC from any liability under the Contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of SAWC concerning indemnification.

Certificate of Insurance; required language. The Certificate of Insurance obtained by SAWC shall contain the following language: "The City of Ypsilanti, Michigan, its elected officials, officers, employees, boards, commission, authorities, voluntary associations, and any other units operating under the jurisdiction of the City and within appointment of its operating budget, including the City of Ypsilanti, are named as additional insured, and such coverage shall be considered to be the primary coverage rather than any policies and insurance or self insurance retention owned or maintained by the City of Ypsilanti."

22. Conflict of Interest. SAWC covenants that SAWC (individually, or if a corporation, trust, limited liability company or partnership, "the entity") nor any officer, principal, partner, agent or employee of the entity has any interest nor shall they acquire any interest, directly or indirectly, which would conflict in the manner or degree of performance with the Contract. Further that if any such conflict of interest develops and exists during the term of the

contract that SAWC shall, within 7 days of the existence of such conflict of interest, notify the CITY in writing of the existence and nature of the said conflict of interest.

23. Contingent Fees. SAWC warrants it has not employed or retained any company or person other than bonafide employees working solely for SAWC, to solicit or secure this MOU, and that it has not paid or agreed to pay any company, or person, other than a bonafide employee working solely for SAWC, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award of making this MOU. For breach or violation of this warranty, the CITY shall have the right to annul the MOU without liability or, at its discretion, to deduct from the fees due SAWC, or otherwise, recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

24. SAWC further agrees to perform this MOU in accord with all federal, state and local laws and will not discriminate against, or give preferential treatment to, any person on the basis of race, sex, sexual orientation, color, national origin, religion, handicap status, heights, weight, marital status, or other criteria which is not relevant to the particular job.

25. Non-Discrimination. SAWC further agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, disability as set forth in the American's With Disability Act, Michigan PWDA, age, height, weight, or marital status (except insofar as it relates to a bonafide or occupational qualification reasonably necessary to the normal operation of the business). Breach of this provision may be regarded as material breach of the Agreement.

And further, SAWC agrees that it will not discriminate against any employee or applicant for employment with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of actual or perceived race, color, religion, national origin, immigration status, sex, sexual orientation, gender identity, gender expression, age, marital status, disability status, familial status, educational association, source of income, height or weight that is unrelated to the individual's ability to perform the duties of a particular job or position and breach of the covenant may be regarded a material breach of this Contract.

26. SAWC further agrees that it will, in all subcontracts relating to the performance of the work under this MOU, provide in its subcontracts that the Subcontractor will not discriminate against any employee or applicant for employment, to be employed in the performance of such Contract, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of actual or perceived race, color, religion, national origin, immigration status, sex, sexual orientation, gender identity, gender expression, age, marital status, disability status, familial status, educational association, source of income, height or weight that is unrelated to the individual's ability to perform the duties of a particular job or position, and that breach of the covenant may be regarded as material breach of this MOU.

27. Living Wage.

A. (1) Living Wages shall be paid according to the Ypsilanti Living Wage Ordinance, as provided in Chapter 2, Article VI, Division 4 of the Code of Ordinances for the City of Ypsilanti (The Ordinance); and

(2) Suitable notices shall be posted in the work place; and

(3) Evidence of compliance including payroll records shall be provided to the Ypsilanti Personnel Department within 10 days of written request from the Ypsilanti Personnel Department.

B. In the event of violation of the provisions of The Ordinance or this contract this contract may be modified or terminated to comply with the provisions of The Ordinance, including withholding of moneys in amount equal to Living Wages not paid in accordance with The Ordinance and the City may also take action to recover the amount of the contract provided to any person found to have violated The ordinance.

C. Any employee shall have a separate cause of action to enforce the provisions of this contract and The Ordinance and any rights conferred under The Ordinance, in law and or equity, and any court of competent jurisdiction upon proper proof and the prevailing of the employee in such action, shall award actual damages, wage restitution, interest and actual attorney fees.

D. The City shall have the right to enforce this MOU and The Ordinance in law or equity by court process including specific performance.

28. Iran Economic Sanctions Act 517 of 2013. Pursuant to the Iran Economic Sanctions act, MCL 129.211, before accepting any bid or proposal, or entering into any contract for goods or services with any prospective Provider, the Provider must first certify that it is not an "Iran Linked Business" as defined by that law."

29. Not in Default to City. SAWC hereby certifies that SAWC is not in default to the CITY, and that there are no unpaid taxes, real or personal, owed to the CITY by SAWC, and SAWC has no other unfulfilled obligations to the CITY and is in compliance with all Ypsilanti City codes and ordinances. The parties understand that a breach of this provision is a material breach of the contract.

30. In accordance with PA 517 of 2012, CONTRACTOR must certify that CONTRACTOR is not an Iran linked business, as set forth in the act. Signing this addendum is such certification.

31. This MOU and its attachments, and this Addendum, are the sole Contract and Agreement between the parties. Any changes, additions or deletions shall not be effective or actionable unless they are in writing signed by the parties.

The City agrees :

32. City will pay SAWC \$51,800 for the services described above on a monthly basis as invoiced.

33. City will provide keys and make the Freighthouse available to the SAWC and provide its staff keys and training on the operation and building policies and regulation that govern activity at the facility. All keys shall be numbered and be returned to the City at the termination or expiration of this agreement. SAWC shall pay City the sum of \$100 each for any keys not returned within 15 days of the expiration or termination of this agreement.

34. The City will make tables, chairs, and other amenities on site at the Frieighthouse available to SAWC for the operation of the daytime warming center

35. The City will provide twice weekly cleaning services to help ensure a sanitary environment at the Freighthouse.

36. The City will provide for the utility costs associated with operation of the warming center at the Freighthouse.

37. The City will seek to work with SAWC in good faith to ameliorate any disputes, issues, or challenges unforeseen with regard to the operation of the daytime warming center at the Freighthouse.

38. Term. This agreement is valid from November 1, 2021 to April 1, 2022 years. An electronic signature obtained via docusign or an electronic copy of a physical signature may be accepted in lieu of original signatures.

39. This MOU has been duly authorized, executed and delivered by the parties hereto and constitutes a legal, valid, and binding obligation of such parties, enforceable in accordance with its terms. Each individual's signatory hereto represents and warrants that the signatory is duly authorized to execute the MOU on behalf of the signatory's principal. This MOU may only be amended by a written amended signed by the parties and their legal representatives.

City of Ypsilanti

Shelter Association of Washtenaw County

By: _____

By: _____

Lois Richardson, Mayor of the City of
Ypsilanti

Daniel Kelly, Executive Director

Date: _____

Date: _____

By: _____

Andrew Hellenga, Clerk of the City of
Ypsilanti

Date: _____



REQUEST FOR LEGISLATION

TO: Mayor and City Council
FROM: Bonnie Wessler
DATE: October 19, 2021
SUBJECT: Cross Street Bridge Replacement Study

DESCRIPTION:

Cross Street Bridge Replacement Study

SUMMARY:

Recent bridge inspections have revealed the Cross Street Bridge to be in need of replacement. Generally speaking, when the design of a roadway or bridge is straightforward, the construction process begins with preliminary engineering, then proceeds to design engineering and then construction with construction engineering. However, in this case, we are proceeding with this replacement study first, as the west bank of the river has shifted and the City's complete streets ordinance both dictate that this not be a one-for-one replacement.

The City has not been able to firmly identify a funding source for the anticipated \$7,000,000+ cost of replacement. Many funding options, such as grants or state and federal cost-sharing arrangements, require that a robust timeline be developed for the replacement process, including the design, permitting, and construction processes. This replacement study also helps us remove uncertainty and variation in any replacement timeline.

As part of this study, OHM will perform topographic survey; perform a high-level investigation into potential threatened and endangered species in the area and associated timelines, permits, and processes; prepare a road alignment; prepare a hydraulic model; prepare a high-level cost estimate of bridge replacement; and prepare a high-level road/bridge alignment plan with elevation and profile.

This cost was included in the capital improvements plan and was initially budgeted at \$60,000. The cost of the replacement study is proposed as \$62,300.

RECOMMENDED ACTION: Approval.

ATTACHMENTS: Proposal.

CITY MANAGER APPROVAL: _____ COUNCIL AGENDA DATE: _____

CITY MANAGER COMMENTS: _____

FISCAL SERVICES DIRECTOR APPROVAL: _____



Resolution No. 2021-224
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the Cross Street Bridge has been identified as being in need of replacement; and

WHEREAS, due to the level of complexity involved in such a replacement and its funding, pre-planning is required; and

WHEREAS, the information supplied in such a study will help to ensure a smooth replacement process;

NOW THEREFORE BE IT RESOLVED that the Ypsilanti City Council approve the proposal entitled "Cross Street Bridge Replacement Study," with a cost of \$62,300,

THAT, the cost for the design engineering for this project be expended from account # 202-7-9078-818-00; and

THAT the Mayor and City Clerk are authorized to sign this proposal, subject to review and approval by the City Attorney; and

THAT the City Manager is authorized to sign any change orders that may be needed to complete the project, subject to review and approval by the City Attorney.

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this 19 day of October 2021

#Resolution No. 2021-224



October 8, 2021

Mr. Ron Akers, AICP
DPS Director
City of Ypsilanti
14 W Forest Avenue
Ypsilanti, MI 48197

RE: Cost Proposal for:
Cross Street Bridge Replacement Study

Dear Mr. Akers:

OHM Advisors (OHM) is submitting this proposal for engineering services as requested on the above mentioned project. The proposal includes services to provide a study of the Cross Street bridge for replacement options.

We have prepared and attached a Scope of Services (Exhibit A).

We appreciate the ability to assist you with this project and look forward to working with you once again. If you have any questions or require additional information, please contact me at (734) 466-4454.

Sincerely,
OHM Advisors


Kimberly O'Rear
Structures Group Manager

OHM Advisors
34000 PLYMOUTH ROAD
LIVONIA, MICHIGAN 48150

T 734.522.6711
F 734.522.6427

OHM-Advisors.com



EXHIBIT A

Cost Proposal for: Cross Street Bridge Replacement Study

General Project Description

Cross Street over the Huron River is a three span bridge in poor condition. The existing deck and beams are in poor condition and the substructure units are beginning to deteriorate and are not well aligned with the waterway. Applications for replacement of this structure have been submitted to the MDOT Local Bridge program, however due to the extensive cost of the replacement, funding has not been allocated. To better understand the best replacement structure, a study of the area to determine the best fit length and width bridge in conjunction with the Tridge and environmental concerns is suggested.

Scope of Services

The following OHM services are included for the structure study:

- ▶ Detailed topographic survey of the area including Cross Street and the Huron River. The survey will be used to aid in the study of the road and bridge geometrics and the hydraulic analysis of the Huron River.
- ▶ Investigation of Federal and State threatened and endangered species in the area. This will likely include plants, mussels, and fish. Services provided will be to outline and advise on the recommended timeline, planning, and potential costs the City can expect to navigate the environmental process for this site.
- ▶ Prepare an alignment for the roadway.
- ▶ Investigate the length, width, and location of the proposed structure accounting for hydraulics, the Tridge, local businesses, parks, etc.
- ▶ Provide a HECRAS hydraulic model.
- ▶ Prepare a single plan sheet with plan view, elevation view, proposed profile, and cross section of the bridge.
- ▶ Prepare a high-level cost estimate of the bridge replacement based on the refined proposed bridge.
- ▶ Begin utility investigation.

Assumptions

- ▶ Project is through the study phase only and additional work toward bridge replacement design will be part of a separate project.
- ▶ Geotechnical investigation is not needed for this phase and has not been included.

Exclusions

- ▶ Right of way acquisition.

Deliverables

The deliverables are to consist of a Type, Size and Location plans sheet, an engineer's estimate and a brief report of findings.

Schedule

Should this project be authorized by November 30, 2021, the report will be delivered to the City by June 30, 2022.

COVID-19 Disclaimer

As we submit this proposal, the world is in the midst of the Covid-19 health crises, and we believe there is an increased risk for potential schedule impacts. The Time Schedule is based on operating in a normal environment. Our team, like the City of Ypsilanti, is adjusting our workflow logistics and our teams are working remotely in an effective manner. However, be aware that schedule impacts from elements such as field services delays, required



resource agencies, and key staff illness that neither OHM Advisors nor the City of Ypsilanti have control over are more likely in the current environment. We will communicate proactively, clearly identify project issues as they arise, and work with the City's staff to develop a plan to deal with unforeseen issues.

Fee

This work will be invoiced monthly on an hourly basis in accordance with the continuing services agreement between OHM and the City. Invoices will be sent monthly as work is performed.

We submit an **HOURLY, NOT TO EXCEED FEE** of \$62,300 for this project.



REQUEST FOR LEGISLATION

TO: Mayor and City Council
FROM: Christopher Jacobs
DATE: October 19, 2021
SUBJECT: Sidewalk Café Extension Request

DESCRIPTION:

Sidewalk Café Extension Request

SUMMARY:

Last year City Council voted to approve extending sidewalk café permits from November 2020-May-2021 to help accommodate businesses with sidewalk cafes and winter igloos due to the COVID-19 pandemic. This year, the DDA has been approached once again to advocate for extending sidewalk café permits similarly. The following resolution will temporarily allow extension of sidewalk café permits beyond November 1, 2021 to May 1, 2022

Since restaurants have reopened from the height of the COVID-19 pandemic there has been a steep increase in the number and size of outdoor dining areas in backlots, alleys, sidewalks, and utilizing the street closures. Although the street closures have expired as of October 15, 2021, staff is still fielding requests about what is needed to continue outdoor dining in these other areas permitted under the sidewalk café permit. This is regulated by ordinance "§94-193 Sidewalk Cafes" and allows for this use until November 1, 2021. The attached resolution is needed to continue allowing for these outdoor dining options beyond October in areas except for the street. Currently, only one restaurant is seeking to offer outdoor dining options under the sidewalk café permit beyond October and plans to use heat and ventilation in outdoor dining igloos. Others have expressed interest but have concerns about the cost per square ft. to build such enclosures and keep patrons comfortable throughout a sometimes-harsh Michigan winter. Many cities across the country and in our own state have allowed for outdoor dining beyond the traditional seasons because of the pandemic. The DDA has considered this request at its Operations and Finance Committee and voted to recommend approval to City Council

CITY MANAGER APPROVAL: _____ COUNCIL AGENDA DATE: _____

CITY MANAGER COMMENTS: _____

FISCAL SERVICES DIRECTOR APPROVAL: _____



Resolution No. 2021-225
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, The City of Ypsilanti seeks to implement policies that protect the public health and provide for economic prosperity despite the challenging climate for business due to the COVID-19 pandemic; and

WHEREAS, outdoor dining is recognized as a valuable economic development opportunity that consumers have strongly preferred locally since June 2020 over indoor dining options; and

WHEREAS, the sidewalk café permits issued in 2021 and regulated by ordinance in the City of Ypsilanti will expire in November unless otherwise extended by resolution; and

NOW THEREFORE BE IT RESOLVED THAT the Ypsilanti City Council approves extending the 2021 sidewalk café permits to allow restaurants to continue outdoor dining options for patrons until May 2022 once the new application window for 2022 is set to begin.

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this 19 day of October 2021

#Resolution No. 2021-225



REQUEST FOR LEGISLATION

TO: Mayor and City Council
FROM: Frances McMullan
DATE: October 19, 2021
SUBJECT: 2021 Compensation Study, Cost of Living Increases and Merit Increases

DESCRIPTION:

2021 Compensation Study, Cost of Living Increases and Merit Increases

SUMMARY:

Historically, City Council has voted to approve across the board cost-of-living adjustments for all non-union employees as part of the budget process. Typically, the percentage of the cost-of-living adjustment mirrors that of the other collective bargaining agreements. During the 2021 budget sessions and the annual review process for the City Manager and the City Clerk, City Council directed staff to develop and present a plan to Council that would include across the board pay increase as well as merit-based increases for non-union employees. Attached you will find the 2021 Compensation Study power point presentation as well as the report provided by Kevin Welch. This study and the compensation model included in it was based on Department Heads but will be used moving forward for all non-union employees.

During each annual budget session, the City Manager and Finance Director/Treasurer will determine how much money would be available in the budget for merit-based increases as well as cost-of-living adjustments for non-union employees. City Council would approve or deny this request in whole or in part based on the City's financial position.

Justification for a Merit-Based Increase

- As non-union employees have goals and objectives set by their Department Director, having a merit-based increase system in place could be used to reward accomplishing those goals and objectives by the pre-determined deadline. These goals and objectives would be set annually, and a review of accomplishments would be completed during the non-union employee's annual performance evaluation.

- Merit-based increases will provide useful data to show Council all that has been accomplished during the year by non-union employees.
- This tool will also attract new non-union employees to the City when they can see a path to increased earning potential.

ATTACHMENTS: Resolution; 2021 Compensation Study Report; 2021 Compensation Study Power Point Presentation

RECOMMENDED ACTION: Approve resolution and accept 2021 Compensation Study presentation and report.

CITY MANAGER APPROVAL: _____ COUNCIL AGENDA DATE: _____

CITY MANAGER COMMENTS: _____

FISCAL SERVICES DIRECTOR APPROVAL: _____



Resolution No. 2021-226
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, during the 2021 budget sessions and the annual review process for the City Manager and City Clerk, City Council instructed staff to develop a process for pay increases for non-union employees that were merit-based as well as across the board cost-of-living increases; and

WHEREAS, the City contracted with Kevin Welch to complete a 2021 Compensation Study and to create a merit-based as well as across the board cost-of-living step increase model; and

WHEREAS, the model created was based on Department Head positions but will be used for all non-union employees going forward; and

WHEREAS, the City Manager and the Finance Director/Treasurer will determine and present to City Council an amount set annually to be used for merit-based increases and cost-of-living adjustments; and

WHEREAS, City Council will approve or deny these increases annually in whole or in part based on the City's financial position.

NOW, THEREFORE, be it resolved that the Ypsilanti City Council approves and accepts the 2021 Compensation Study and the non-union merit-based and cost-of-living step increase model.

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this 19 day of October 2021

#Resolution No. 2021-226



Prepared by Kevin Welch



Page 72 of 122

Executive Summary

The City of Ypsilanti enlisted the assistance of Kevin Welch to prepare a new compensation plan for its non-union, management level employees (See Table 1). The new compensation plan will include two separate components. Component #1 will be an ***Across-the-Board*** type of increase, where all employees in this group receive the same percentage increase. This increase could also be referred to as a *Cost-of-Living* increase. Component #2 will be a ***Pay for Performance*** increase. The ***Pay for Performance*** increase will be earned by each employee, on an individual basis. The amount earned by each employee will be determined by the employee's individual performance in his or her job. The difference in this new plan from previous years is that the employee's annual increase will, in part, be tied to individual performance.

Why Should the City Consider a Pay for Performance Plan?

While applying an annual across the board increase is an easy way to compensate employees, it is not necessarily an equitable way to reward employees who perform better than others does not necessarily help the City meet its own goals and objectives. Therefore, there are significant benefits to the City and its employees by instituting a properly implemented and maintained ***Pay for Performance*** system.

According to the SHRM, 2008 (Society for Human Resource Managers),

"The Goals for the Pay-for-Performance System

A compensation system should influence employees to make personal decisions that are congruent with the organization's needs. Generally, this goal can be broken down into three parts:

- ***Motivate people to join the organization.***
- ***Motivate employees to perform at the top of their skill set.***
- ***Motivate employees to stay."***

Table 1 – Positions Surveyed

City Manager	Director of Economic Development
HR Manager	Community Dev/DDA
City Clerk	Police Chief
DPW Director	Police Social Worker
Fire Chief	Communication Manager
Finance Director/Treasurer	Parking/Project Manager

Methodology

The City's current policy on wage increases for this group of employees has been to provide an ***Across-the-Board*** increase when the budget allows. The City recently provided an increase of 2.5% to this group of employees. The City Manager conducts periodic performance reviews that have not specifically resulted in an increase in wages. The City Manager's performance review is conducted by the City Council.

To begin this project, a virtual meeting was held with the Human Resource Manager and the City Manager to review the scope of the study and to determine outcomes. The two main outcomes were determined as follows:

1. Develop a two-part pay scale to include an ***Across-the-Board*** increase AND a ***Pay For Performance*** component.
2. Conduct an external compensation survey to help assess how Ypsilanti's compensation compares to the relevant market.

The initial preparation work included a review of Ypsilanti's relevant job descriptions, salary structure and determining the comparable communities to use for the purpose of comparing compensation data. The selection of comparable communities was based upon proximity to the City of Ypsilanti, Taxable values, General Fund budget size, service levels as well as the size of the workforce. The HR Manager sent an initial email to each municipality requesting their participation with follow-up emails and phone calls conducted by Kevin Welch.

The survey was sent to the selected comparable communities and included a summary of the relevant job descriptions for the positions. The communities were asked to compare the selected position information provided and asked to select the position in their organization that best fits those of the City. Of the communities contacted, ten responded to the survey. Additional data resources were reviewed to obtain additional relevant compensation information. This included accessing data from the Michigan Municipal League, the Conference of Western Wayne as well as other public and private resources.

Table 2 – Returned Surveys

City of Ypsilanti	City of Westland
City of Mt Pleasant	City of Jackson
City of Adrian	City of Trenton
Ypsilanti Township	City of Lincoln Park
Pittsfield Township	City of Saline
City of Ferndale (from MML)	City of Eastpointe (from MML)

Sample Survey Page

City of Ypsilanti Compensation Survey

Please return to Kevin Welch, 3221 Monument Drive, Ann Arbor Mi 48108 or kwelch6@gmail.com.

Thank you in advance! We would appreciate your response by July 12, 2021.

Entity Name:	Contact Name:
Phone:	Email:

Please respond to the following survey questions. Insert the title of your community's comparable position, if different. If a specific position or benefit is not relevant to your organization, please insert N/A.

#1) Position Name: City Manager

(Insert relevant job title if different than above)

City Manager

This is a professional administrative position responsible for supervising the administration of city government. The City Manager exercises supervision directly or indirectly through subordinates overall all municipal employees. Reporting to City Council, the City Manager operates under the broad policy guidelines set forth by the aforementioned public body.

2021 Annual Salary: \$		2022 Annual Salary: \$	
Low Range: \$	Mid-Range \$	High Range\$	
Number of years incumbent has been in this position:		With organization:	
Does employee receive other compensation? (indicate those that apply)	Overtime Yes/No	Longevity \$	
Holiday pay \$	Certification pay \$	Car allowance \$	
Other:	Other:	Other:	

What is the minimum education/experience requirement for this position?

Is there any other relevant information we should know about this position?

Summary of Compensation Comparison & Results

An organization's compensation structure may **Lag the Market**, **Meet the Market** or **Lead the Market**, either by design or simply by accident. Where an organization's compensation compares to the market is an important aspect to know and to use as a reference when making short term and long-term decisions and setting goals. It also contributes to an overall goal in recruitment, retention and employee development.

Relying on the data received from the comparable communities for the City's positions indicates that in general Ypsilanti's compensation falls slightly below most of the calculated averages found in Table 3, with specific position details outlined later in this report. Table 3 displays the 2021 & 2022 compensation by Ypsilanti as well as the average of the other comparable municipalities.

Overall, the City's compensation reflects approximately a 4.3% lower wage than other municipalities when considering all positions in total. Individually, the variance ranges with an approximate 2% higher in one position to nearly 40% lower in another position as compared to the other municipalities. Only two Ypsilanti positions reflect a higher wage than the average and, in both cases, additional duties have been assigned to the Ypsilanti employees that can account for the higher wage. See Table 3 for specific data by position.

Table 3 – Summary Compensation Data

Table 3 reflects Ypsilanti's compensation, Community Averages and Ypsilanti's comparison to the averages. For example, the City Manager's 2021 compensation of \$111,975 is 4.9% lower than the average as compared to \$117,488. While the City of Ypsilanti has already approved its 2022 wage for these positions, most of the comparable communities have not done so at the time of this report. In part, that decision is most likely a timing issue that differs from Ypsilanti's process.

	Ypsilanti's Salary Variance over Averages	Community Averages	Ypsilanti's Approved Salary	
	2021	2021	2021	2022
City Manager	-4.9%	\$ 117,488	\$ 111,975	\$ 114,774
HR Manager	-39.6%	\$ 81,866	\$ 58,654	\$ 60,127
City Clerk	2.2%	\$ 79,796	\$ 81,553	\$ 83,519
DPW Director	-21.2%	\$ 98,109	\$ 80,977	\$ 83,000
Fire Chief	-11.1%	\$ 101,359	\$ 91,227	\$ 93,506
Finance Director/Treasurer	-6.4%	\$ 102,350	\$ 96,187	\$ 98,592
Director of Econ Dev	0.5%	\$ 86,786	\$ 87,188	\$ 88,516
Com Dev/DDA	-10.5%	\$ 78,777	\$ 71,259	\$ 72,344
Police Chief	-15.3%	\$ 110,095	\$ 95,527	\$ 98,939
Police Social Worker	N/A	N/A	\$ 65,000	N/A
Communication Manager	-7.6%	\$ 53,786	\$ 50,000	N/A
Parking/Project Mgr	N/A	N/A	\$ 61,501	\$ 63,039
Variance	-4.3%			

N/A - None of the comparable municipalities reported positions similar to Ypsilanti's Police Social Worker or Parking/Project Manager.

Limitations/Considerations/Use of Survey Data

When considering if the compensation paid by the City is either high or low as compared to other employers or if Ypsilanti Lags, Meets or Leads the market, it is appropriate to not only consider base wages, but also to recognize the employee's cost of benefits such as health care and other benefits. This is often referred to as **Total Compensation**, which was not a component of the survey.

While the survey data shows that Ypsilanti's overall non-union managers' wages fall slightly lower than the average of the comparable, the City should also recognize that wages and position descriptions differ from employer to employer and positions with higher or lower levels of responsibility can account for the differences. There is also a difference in the level of responsibility, experience, other assigned duties and other factors that contribute to these differences for each position. Lastly, each community differs in other factors that can also account for compensation differences. These include the number of support staff, crime, population growth or decline and other services. It is important to keep this in mind when comparing salaries among communities.

While it is typical for positions to differ at some level, asking the comparable communities to compare their position(s) allows for better comparisons and accuracy. Obviously, not every community employs the same positions as the City of Ypsilanti. A job analysis or classification study was not conducted as part of project.

The survey data was utilized as a comparison to the proposed Step Increase Table. The averages, high and low wages paid to comparable community positions fall fairly close to the Step 1 and Step 10 of the new Ypsilanti pay scale as shown below. There were some exceptions where a community's salary fell well below or much higher than the new Ypsilanti's scale. In those cases, there were characteristics that accounted for the difference.

Since survey data is based upon a point in time, the City should consider updating this information in the future. A good rule of thumb would be every five years, sooner or later if market or budget conditions change.

Step Increase Table

The purpose of a Step Increase Table is to have a clearly communicated way to maintain salaries on a long-term basis, while being able to make short term adjustments and to stay current with the market.

The desired Step Increase Table for Ypsilanti includes a possible annual increase in wages, based upon a potential **Across the Board** increase, AND a possible **Pay for Performance** component. Using the word possible is important for a few reasons. Any raise is first dependent on the City's budget and its desire and ability to fund such an expense. The City Council would make this decision as part of its annual budget process. Secondly, while the budget may include a raise in a particular year, the second component of the Pay Increase Table, the Pay for Performance step increases are not an automatic increase for an employee and rather based 100% on the employee meeting his or her goals and objectives set by the City in advance.

The following is an example of how the table could be implemented in the year 2022-2023. The increase in wages used is only a representation and not a suggestion for an actual increase. Each step represents a total combined increase of 5%, which is made up of a combination of an **across-the-board** increase and a **pay for performance** increase. The City would need to annually determine, both the **across-the-board** increase and the **pay for**

performance increase that is available to employees. Once the increases are decided, the step increase table can be updated and published. The City may also decide, for budgetary reasons, that no increase can be warranted.

Across the Board Increase of 2.5% And Pay for Performance Increase of 2.5%	5.00%									
2021-2022 Wage										
	Step 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7	STEP 8	STEP 9	Step 10
City Manager	\$104,103	\$109,309	\$114,774	\$120,513	\$126,538	\$132,865	\$139,509	\$146,484	\$153,808	\$161,499
HR Manager	\$57,264	\$60,127	\$63,133	\$66,290	\$69,605	\$73,085	\$76,739	\$80,576	\$84,605	\$88,835
City Clerk	\$75,754	\$79,542	\$83,519	\$87,695	\$92,080	\$96,684	\$101,518	\$106,594	\$111,923	\$117,520
DPW Director	\$75,283	\$79,048	\$83,000	\$87,150	\$91,508	\$96,083	\$100,887	\$105,931	\$111,228	\$116,789
Fire Chief	\$84,813	\$89,053	\$93,506	\$98,181	\$103,090	\$108,245	\$113,657	\$119,340	\$125,307	\$131,572
Finance Director/Treasurer	\$89,426	\$93,897	\$98,592	\$103,522	\$108,698	\$114,133	\$119,839	\$125,831	\$132,123	\$138,729
Director of Econ Dev	\$66,052	\$69,355	\$72,822	\$76,463	\$80,287	\$84,301	\$88,516	\$92,942	\$97,589	\$102,468
Com Dev/DDA	\$62,493	\$65,618	\$68,899	\$72,344	\$75,961	\$79,759	\$83,747	\$87,935	\$92,331	\$96,948
Police Chief	\$66,966	\$70,314	\$73,830	\$77,521	\$81,397	\$85,467	\$89,741	\$94,228	\$98,939	\$103,886
Police Social Worker	\$61,905	\$65,000	\$68,250	\$71,663	\$75,246	\$79,008	\$82,958	\$87,106	\$91,462	\$96,035
Communication Manager	\$47,619	\$50,000	\$52,500	\$55,125	\$57,881	\$60,775	\$63,814	\$67,005	\$70,355	\$73,873
Parking/Project Mgr	\$54,455	\$57,178	\$60,037	\$63,039	\$66,191	\$69,500	\$72,976	\$76,624	\$80,456	\$84,478

Current employees are placed in the applicable step column that is represented by his/her years of service in the current position along with the employee's approved 2021-2022 salary as indicated in orange. The cells in blue reflect a sample 5% increase in year 2022-2023. This increase is made up of an **across-the-board** increase of 2.5% as well as a 2.5% **pay for performance** increase. The two components can be separated for communication purposes. In theory, an employee in a position could move a step each year, assuming performance goals have been met. As an example, the City Manager's salary for 2021-2022 is currently \$114,774. Assuming the city approved a possible 2-part increase of 5% for 2022-2023, the City Manager's salary could increase to \$120,513 in 2023. This assumes the City approves a 2.5% **Across the Board** Increase and a 2.5% **Pay for Performance** increase of 2.5% and the City Manager meets the performance goals set by the City.



Considerations/Limitations of Pay for Performance

- The **Pay for Performance** percentage that is available to employees needs to be noteworthy to the employee. While the amount would be determined each year, it should be set at an amount that is at least the same or higher than the **Across-the-Board** amount. This is important for a number of reasons, including that it serves as a motivation for the employees.
- It is important to recognize that compensation is just one component of employee motivation. Other management practices also play a role, such as leadership, employee recognition, autonomy, opportunities for growth as well as other factors.
- The use and publication of the table should include a written implementation and usage policy that reflects how and when the steps will be objectively implemented and an acknowledgment that any increase (if at all) is subject to the approval of the City Manager and City Council. It should be clearly communicated that there is no guarantee or expectation for the City to provide a raise each year. For example, the City may need to

freeze wages due to budget or financial conditions or an employee may not have earned all or part of the pay for performance increase.

- Should the City determine that additional compensation is justified above the proposed pay scales and for reasons such as changes to market conditions, the table will need to be adjusted accordingly. The City may move an incumbent employee more than one step at a time due to an increase in responsibilities, educational achievements or other justified reasons. As an example, the HR Manager's wage falls well below some of the comparable and is in part due to a pending educational achievement. Once this employee achieves these credentials, the table may need to be updated to maintain market comparability.
- When hiring external candidates, the City may need to consider compensation that does not necessarily fit within a specific step. For example, the City could hire an individual with extensive credentials that could justify compensation at the higher end of the scale. Alternately, the City may consider hiring an individual who may lack some of the basic education and or experience and therefore the compensation may fall below the starting step.
- While the City currently has a selected compensation range (Low, Mid & High), most of the incumbent wages already fall above those ranges and therefore should be updated. The newly developed step increase table can be used to set those ranges each time the table is updated. This information is also helpful during recruitment activities.

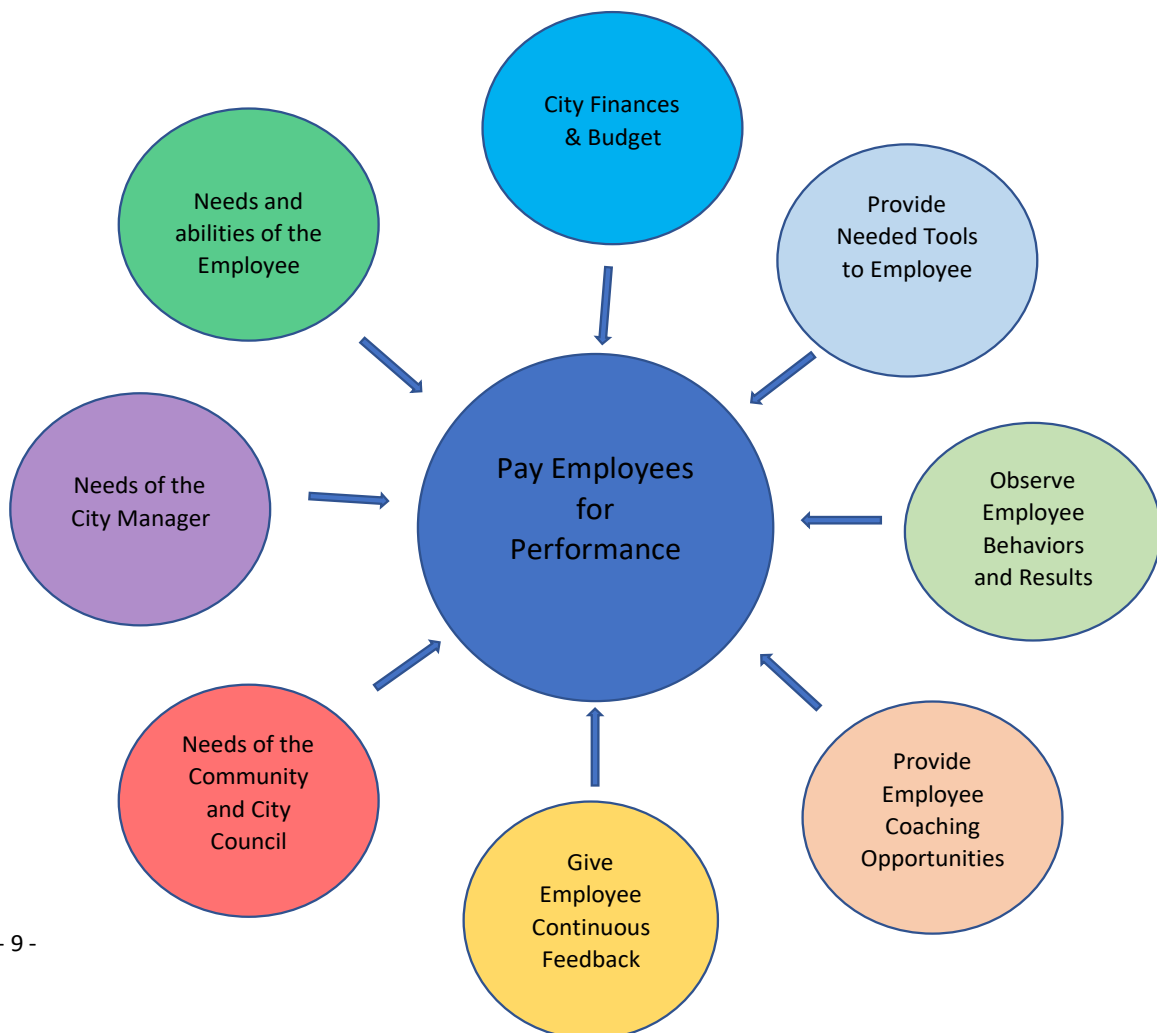
Performance Management

While an update to the current performance evaluation forms and process was not a component of this study, it is important to have an effective system to assess employee performance, especially when tying wage increases to the employees' performance.

The city must be able to communicate what is expected of the employee in a way that can then be measured and in order to base wage increases on the employee's performance. Criteria used to decide if an employee warrants the step increase must be measurable and must also be attainable.

Should the City implement the step increase program, the performance evaluation process must be conducted in a consistent and non-discriminatory manner, must be fair and objective and goals must be attainable, and results must be measurable. The City should review the tools it currently uses and adjust where necessary. Whatever tool is used the City Attorney/Labor Attorney should review the final procedure.

As an overall picture of what is necessary for this plan to be effective, the following diagram is relevant. Each of the surrounding supporting elements are important to the success of this program.



Implementation

If the concept of a two-part compensation plan is approved, the City will need to take specific actions to implement the process, including:



- Development of a written pay for performance policy including the step increase table, and
- Selection/development of a performance evaluation tool for each position, and
- Conduct employee meetings to go over the program and scheduling of performance periods and goals, and
- An annual determination of the step increase amount along with an update to the table to reflect the increase amount that each employee may achieve. Since the concept of pay for performance will be new to these employees, a phase in period will be needed. For example, the City Manager could conduct an initial performance review and goal setting with the employees in January of 2022. In July of 2022, a second review meeting and assessment can be conducted to determine how well the employees have performed and then set new goals for the next 12 months. At that point, the City's budget will have been adopted and a possible wage increase determined and then tied to the employee's performance results. Again, a wage increase may not always be possible due to budget concerns, but the annual performance appraisal needs to be conducted independent of a wage increase or not. This needs to be part of the policy and communicated to the employees in advance.
- An annual review of the overall success of the pay for performance program and determination of any possible changes needed.

Consultant Qualifications

Kevin Welch's experience in Public Sector Management and Human Resources spans a period of over 30 years, having held the positions of City Manager, Human Resource Director and Risk Manager. Kevin also worked as a Risk Control Consultant on behalf of the Michigan Municipal League's Liability and Worker's Compensation insurance programs, assisting municipalities throughout the State of Michigan. He also worked in the private sector as a Human Resource Insurance Specialist, assisting automotive dealerships and their HR practices throughout the United States.

Kevin holds a B.S. in Management from Wayne State University and a Master of Public Administration from Eastern Michigan University. Kevin held an ICMA Credentialed City Manager while working in that field.

During Kevin's career, he has conducted numerous compensation and benefit studies for his employers. These included studies for union, non-union and managerial employees. His career also includes extensive experience in all areas of Human Resources. His most recent engagement was for Ypsilanti Township.

Kevin's experience also includes over ten years teaching experience, focusing on General Management, Compensation, Recruitment, Performance Management, General Human Resources Courses and Project Management. The teaching experience includes Eastern Michigan University and Baker College Online.

Position Comparison Data

The following information provides a summary of the position data received from each comparable community. This information can be used and considered to determine the comparison of wages and indicates why some positions comparable differ in salaries. Ypsilanti's salary figures reflect 2021 and 2022 figures. A comparison of educational and experience requirements shows Ypsilanti's requirements are typically the same as the other municipalities.

City Manager

The current City Manager's 2021 annual salary is \$111,975 and held this position for 2 years and has been employed by the City for 14 years. The 2022 salary is \$114,774.

The average comparable compensation for 2021 is \$117,488. The average comparable position has approximately 5 years of experience as a City Manager or similar position. In some cases, the comparable positions also had economic development responsibilities as well and also had the support of an Assistant City Manager.

The incumbent has performed many of the responsibilities in an acting/interim position prior to holding the actual position.

Based upon the data received, it is not uncommon for a City Manager to receive a car allowance and an advanced educational award in addition to the annual salary.

HR Manager

The current HR Manager's 2021 annual salary is \$58,654 and has held this position for less than 1 year and has been employed by the City for 19 years. The 2022 salary is \$ 60,127.

The average comparable compensation for 2021 is \$81,866. The average comparable position has approximately 6 years of experience as a HR Manager or similar position. The difference in compensation is partly due to the City's willingness to allow the incumbent to earn a degree while serving in the position. The incumbent has performed many of the responsibilities in an acting position prior to holding the actual position.

City Clerk

The current City Clerk's 2021 annual salary is \$81,553 and he held this position for less than 2 years and has been employed by the City for 7 years. The 2022 salary is \$83,519.

The average comparable compensation for 2021 is \$79,796. The average comparable position has approximately 7 years of experience as a City Clerk or similar position.

DPW Director

The current DPW Director's 2021 annual salary is \$80,977 and has held this position for 2 years and has been employed by the City for 2 years. The 2022 salary is \$83,000.

The average comparable compensation for 2021 is \$98,109. The average comparable position has approximately 6 years of experience as a DPW Director or similar position. The difference in compensation is partly due to additional responsibilities for some of the other comparable positions, including the responsibility of utilities and building services.

Fire Chief

The current Fire Chief's 2021 annual salary is \$91,227 and has held this position for 2 years and has been employed by the City for 35 years. The 2022 salary is \$93,506.

The average comparable compensation for 2021 is \$101,359. The average comparable position has approximately 6 years of experience as a Fire Chief or similar position. It is not uncommon for significant additional stipends and allowances for this type of position, which appear to be similar to those paid under a labor agreement. Some comparable communities also have the support of a Deputy Fire Chief position.

Finance Director/Treasurer

The current Finance Director/Treasurer's 2021 annual salary is \$96,187 and has held this position for 2 years and has been employed by the City for 6 years. The 2022 salary is \$98,592

The average comparable compensation for 2021 is \$102,350. The average comparable position has approximately 11 years of experience as a Finance Director/Treasurer or similar position. While Ypsilanti's compensation is lower than the average, it is also noteworthy that some of the other comparable positions do not include treasurer responsibilities or were compensated outside of a designated pay scale. Some positions were elected positions.

Director of Economic Development

The current Director of Economic Development's 2021 annual salary is \$87,188 and has held this position for less than 1 years and has been employed by the City for 19 years. The 2022 salary is \$88,516.

The average comparable compensation for 2021 is \$86,786. The average comparable position has approximately 5 years of experience as a Director of Economic Development or similar position. This position varies among the comparable communities, with some reporting no responsibility of Building Services or some having direct DDA responsibilities.

Community Development Manager/DDA Director

The current Community Development Manager's 2021 annual salary is \$71,259 and has held this position for 3 years and has been employed by the City for 3 years. The 2022 salary is \$72,344.

The average comparable compensation for 2021 is \$78,777. The average comparable position has approximately 6 years of experience as a Community Development Manager or similar position. Some of the comparable positions hold additional responsibilities, such as planning and zoning and do not have DDA responsibilities.

Police Chief

The current Police Chief's 2021 annual salary is \$95,527 and has held this position for 8 years and has been employed by the City for 8 years. The 2022 salary is \$98,939.

The average comparable compensation for 2021 is \$110,095. The average comparable position has approximately 6 years of experience as a Police Chief or similar position. It is not uncommon for significant additional stipends and allowances for this type of position, which appear to be similar to those paid under a labor agreement. Some differences in other comparable positions included operational control of police and fire operations and the presence of a deputy Police Chief position.

Police Social Worker

The current 2021 annual salary for this position is \$65,000. This is a new position and has not been filled at the time of this report. Comparable communities did not report a similar position and therefore comparable data was reviewed from various sites. For example, the City of Lansing recently posted a similar position \$47,721 - \$66,852 a year. This provided some validity to the City's annual salary. The City may wish to designate a range so that it is prepared to compensate a candidate who may hold varied education and experience. Differences in compensation can be the result of education levels, number of years of experience and type of license.

Communication Manager

The current 2021 annual salary for this position is \$50,000. This is a new position and has not been filled at the time of this report. Only one municipality reported a similar position along with the MML data for one other municipality. However, based upon advertised positions, this type of position could range from \$46,000 to \$54,000 based upon the City's job description. Differences include level of education and experience as well as familiarity with modern media resources.

Parking/Project Manager

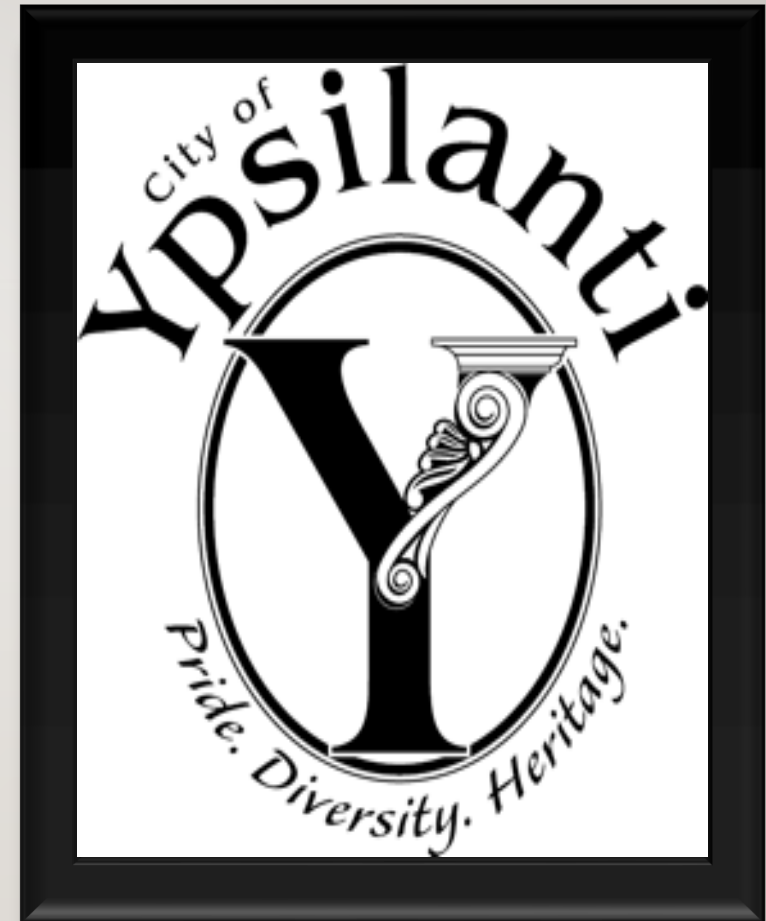
The current Parking/Project Manager's 2021 annual salary is \$61,501 and she has held this position for 2 years and has been employed by the City for 12 years. The 2022 salary is \$63,039.

This is a unique position that has combined two different types of positions that would normally not be combined. There was only one other comparable position, which did not include some of the same responsibilities as Ypsilanti's. Therefore, the data collected should not be used as a valid comparison.

CITY OF YPSILANTI

COMPENSATION STUDY

OCTOBER 19, 2021



PURPOSE OF COMPENSATION STUDY

- Focus on Non-Union Management Level Employees
- Conduct Market Comparison
- Develop New Two-Part Compensation Plan
 - Across the Board Increase
 - Performance Based Increase

MANAGEMENT POSITIONS

City Manager

City Clerk

City Finance Director / Treasurer

Human Resource Manager

DPW Director

Fire Chief

Police Chief

Director of Economic Development

Communication Manager

Community Dev/DDA Director

Parking/Project Manager

Police Social Worker

CURRENT COMPENSATION STRATEGY

- Most positions have a designated salary range.
 - Some need to be updated
- Wage increases approved through budget process and City Council
- Across the Board increases affording all employees the same percentage increase
 - Merit Based not included
 - 2.5% in 2021/2022

SALARY SURVEY

City of Ypsilanti	City of Westland
City of Mt Pleasant	City of Jackson
City of Adrian	City of Trenton
Ypsilanti Township	City of Lincoln Park
Pittsfield Township	City of Saline
City of Ferndale (from MML)	City of Eastpointe (from MML)

- Ten Municipalities Responded to Survey
 - Included salary and other forms of compensation
 - Benefit info not included
- Michigan Municipal League Salary Database Utilized

SURVEY RESULTS

Survey Results - Current Salary

	Ypsilanti's Salary Variance over Averages	Community Averages	Ypsilanti's Approved Salary	
	2021	2021	2021	2022
City Manager	-4.9%	\$ 117,488	\$ 111,975	\$ 114,774
HR Manager	-39.6%	\$ 81,866	\$ 58,654	\$ 60,127
City Clerk	2.2%	\$ 79,796	\$ 81,553	\$ 83,519
DPW Director	-21.2%	\$ 98,109	\$ 80,977	\$ 83,000
Fire Chief	-11.1%	\$ 101,359	\$ 91,227	\$ 93,506
Finance Director/Treasurer	-6.4%	\$ 102,350	\$ 96,187	\$ 98,592
Director of Econ Dev	0.5%	\$ 86,786	\$ 87,188	\$ 88,516
Com Dev/DDA	-10.5%	\$ 78,777	\$ 71,259	\$ 72,344
Police Chief	-15.3%	\$ 110,095	\$ 95,527	\$ 98,939
Police Social Worker	N/A	N/A	\$ 65,000	N/A
Communication Manager	-7.6%	\$ 53,786	\$ 50,000	N/A
Parking/Project Mgr	N/A	N/A	\$ 61,501	\$ 63,039
Variance	-4.3%			

- Overall City of Ypsilanti's wages are 4.3% lower than average
 - Positions differ in responsibility
 - Individual position wages range from 2.2% higher to 39.6% lower.

Example to read table: Ypsilanti's City Manager is paid 4.9% lower than average of other communities.

SURVEY CONSIDERATIONS

- Utilize Data as a reference point for future salary decisions, promotions and recruitment efforts.
- Positions in comparable communities differ by responsibility.
- Some differences in wage comparison are not significant and others can be explained. For example, the difference in the DPW Director compensation can be partly due to additional responsibilities for some of the other comparable positions, including the responsibility of utilities and building services.

	Ypsilanti's Salary Variance over Averages	Community Averages	Ypsilanti's Approved Salary	
DPW Director	-21.2%	\$ 98,109	\$ 80,977	\$ 83,000

NEW PERFORMANCE/MERIT BASED WAGE SCALE

- Performance Based Annual Increase
 - In addition to a possible across the board increase
- Increase tied to current performance review
- Contingent to budget and City Council approval
- Annual goals set by City Manager
 - City Council sets City Manager goals

Across the Board Increase of 2.5% And Pay for Performance Increase of 2.5%	5.00%									
2021-2022 Wage										
	Step 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7	STEP 8	STEP 9	Step 10
City Manager	\$104,103	\$109,309	\$114,774	\$120,513	\$126,538	\$132,865	\$139,509	\$146,484	\$153,808	\$161,499
HR Manager	\$57,264	\$60,127	\$63,133	\$66,290	\$69,605	\$73,085	\$76,739	\$80,576	\$84,605	\$88,835
City Clerk	\$75,754	\$79,542	\$83,519	\$87,695	\$92,080	\$96,684	\$101,518	\$106,594	\$111,923	\$117,520
DPW Director	\$75,283	\$79,048	\$83,000	\$87,150	\$91,508	\$96,083	\$100,887	\$105,931	\$111,228	\$116,789
Fire Chief	\$84,813	\$89,053	\$93,506	\$98,181	\$103,090	\$108,245	\$113,657	\$119,340	\$125,307	\$131,572
Finance Director/Treasurer	\$89,426	\$93,897	\$98,592	\$103,522	\$108,698	\$114,133	\$119,839	\$125,831	\$132,123	\$138,729
Director of Econ Dev	\$66,052	\$69,355	\$72,822	\$76,463	\$80,287	\$84,301	\$88,516	\$92,942	\$97,589	\$102,468
Com Dev/DDA	\$62,493	\$65,618	\$68,899	\$72,344	\$75,961	\$79,759	\$83,747	\$87,935	\$92,331	\$96,948
Police Chief	\$66,966	\$70,314	\$73,830	\$77,521	\$81,397	\$85,467	\$89,741	\$94,228	\$98,939	\$103,886
Police Social Worker	\$61,905	\$65,000	\$68,250	\$71,663	\$75,246	\$79,008	\$82,958	\$87,106	\$91,462	\$96,035
Communication Manager	\$47,619	\$50,000	\$52,500	\$55,125	\$57,881	\$60,775	\$63,814	\$67,005	\$70,355	\$73,873
Parking/Project Mgr	\$54,455	\$57,178	\$60,037	\$63,039	\$66,191	\$69,500	\$72,976	\$76,624	\$80,456	\$84,478

Across the Board Increase of 2.5% And Pay for Performance Increase of 2.5%

5.00%

2021-2022 Wage

	Step 1	STEP 2	STEP 3	STEP 4
City Manager	\$104,103	\$109,309	\$114,774	\$120,513
HR Manager	\$57,264	\$60,127	\$63,133	\$66,290
City Clerk	\$75,754	\$79,542	\$83,519	\$87,695
DPW Director	\$75,283	\$79,048	\$83,000	\$87,150
Fire Chief	\$84,813	\$89,053	\$93,506	\$98,181
Finance Director/Treasurer	\$89,426	\$93,897	\$98,592	\$103,522
Director of Econ Dev	\$66,052	\$69,355	\$72,822	\$76,463
Com Dev/DDA	\$62,493	\$65,618	\$68,899	\$72,344
Police Chief	\$66,966	\$70,314	\$73,830	\$77,521
Police Social Worker	\$61,905	\$65,000	\$68,250	\$71,663
Communication Manager	\$47,619	\$50,000	\$52,500	\$55,125
Parking/Project Mgr	\$54,455	\$57,178	\$60,037	\$63,039

Example: Currently, the City Manager's salary is \$114,774. In 2022/2023, assuming a 2.5% across the board & 2.5% merit increase is approved, the City Manager's salary could increase to \$120,513.

***Percentage increase used as an example only.

NEXT STEPS

- Possible survey-based adjustments
 - Additional data and review needed
- Approval of two-part compensation structure for future increases
 - Annual increase subject to budget and City Council approval
 - Across the board
 - Merit based
- Adapt current performance review process/documents



Resolution No. 2021-227

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City Council has evaluated both the City Manager and City Clerk for their performance; and

WHEREAS, both employees were rated highly in their performance reviews; and

WHEREAS, both employees' salary will increase by 3%.

NOW THEREFORE, BE IT RESOLVED that the City Council approve the above salary increases effective retroactively to the date of employee evaluations

OFFERED BY: _____

SECONDED BY: _____

YES:

NO:

ABSENT:

VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this day of

#Resolution No. 2021-227

21.22

Salary Increase	2.50%	3%
Annual Increase	4,959.14	5,950.96
Other Benefits affected by Salary	453.76	544.51
Total Budget Impact	<u>5,412.90</u>	<u>6,495.48</u>

Projected budget impact for a 2.5% or 3% Increase for City
Manager and City Clerk Salaries



CITY MANAGER PERFORMANCE EVALUATION 2020 **Tabulation Summary**

Evaluation Instructions

This evaluation is an annual critical look at the performance of the City Manager. This is also an introspective look at the relationship between the City Council and the City Manager; a communication and an opportunity on the part of the City Council to align expectations. It is an opportunity to re-establish the goals and objectives for the City of Ypsilanti. **It should be a positive exchange and learning process for both parties.**

Responsibilities

To provide an accurate evaluation, it is recommended that City Council members keep personal notations on a regular basis so as to be able to refresh individual memories at the time the annual evaluation process begins. These personal notations should not be shared with other members of the City Council. In order to meet the objectives of a fair and unbiased evaluation it is important to have evaluations from all members.

Forms and Process

The following evaluation will consist of several categories for which the City Manager is responsible or has regular involvement. A five-point assessment scale is provided in order to provide a numerical value to each question and/or category. A score of 1 would be unsatisfactory while a score of 5 would be exceptional. If you feel that you do not have enough information in which to rate a particular category, you may leave it blank and it will not be included as part of the tabulations.

The Mayor and each member of Council will receive a blank evaluation form. Evaluations should be signed and completed independently. The City Manager will also be provided a blank evaluation form in order to complete a self-evaluation, which will be given to the Mayor or Council member designee for inclusion in the Council evaluation tabulation. Comments in the comment area should be used to support numerical point assessments.

All evaluations will be submitted to the Mayor or Council member designee for tabulation. After tabulation, a meeting will be set for an oral evaluation based on written evaluations. This meeting may be a closed session at the request of the City Manager. It is hoped that a positive free flowing oral discussion will provide the City Manager with the direction of the City Council for the future.

The Mayor or Council member designee will provide a Tabulation Summary to the City Manager and each member of the City Council prior to the oral evaluation meeting. The Tabulation Summary will include the combined scores of the board as well as the City Manager's self-evaluation scores. Additionally, there will be a summary of notations, listed by question categories, or City Council comments. After the oral evaluation, the Tabulation Summary, subject to changes by the Council at the evaluation, will be kept as a permanent record. The individual evaluations themselves will be destroyed.

There are no perfect evaluations but this should be a thoughtful, sensitive, positive, and effective attempt to move forward the needs of the City of Ypsilanti.

CITY OF YPSILANTI CITY MANAGER EVALUATION

RATING:

- 5 = Outstanding Performance
- 4 = Good Performance
- 3 = Satisfactory Performance
- 2 = Needs strengthening
- 1 = Unsatisfactory

Fiscal Management	RATING				
	5	4	3	2	1
	Council / Manager				
1. Plans and prepares the annual budget with the input of the Mayor and the City Council with documentation and full explanation of the annual budget.	4.4 / 3				
2. Administers the adopted budget within the framework of the approved revenues and expenditures. Prepares and presents to the City Council appropriate budgetary transfers, as necessary.	4.4 / 4				
3. Plans and provides for a system of reports, as requested, for the City Council to evaluate expenses and revenues.	4 / 3				
4. Analyzes financial condition of the city and proposes to City Council short-term and long-range plans with the necessary information especially as it relates to bonding or borrowing of funds.	4.3 / 3				
5. Plans for, organizes, and supervises the most economical utilizations of staffing, materials, and equipment for City services.	4.1 / 4				
6. Plans and provides for future economic growth in relationship to projected revenues and expenditures.	4.3 / 3				
COMMENTS/SUGGESTIONS: Council / Manager					
Manager McMullan has done incredibly well within the confines of a difficult financial situation in the City. She is thoughtful and considers feedback and suggestions when given.					
The budget cycle of early 2020 posed exceptional challenges due to Covid outbreak. Frances had incorporated council’s goals into the departmental and overall budget. When council came back wanting the budget balanced, Frances voiced her opinion justifying the previous budget but challenged staff to dig deeper and came back with a budget that addressed the re-evaluation of council. This willingness to consider another look at the budget may seem, on one level, like just doing her job of following council direction, but illustrates a deep commitment to the city.					
[H]ighly satisfied, goes above and beyond[.]					
Intergovernmental Relationships	RATING				
	5	4	3	2	1

	Council / Manager
1. Maintains awareness of developments and plans in other jurisdictions, which may impact the City.	4 / 3
2. Effectively communicates with other governmental entities or outside parties, which the City may be involved with or become involved while maintaining a professional image of self and the City.	4.1 / 4
3. Attends and relays appropriate information from current intergovernmental agreement meetings to the City Council.	3.9 / 4
4. Willingness to participate with other governmental entities in potential resource or equipment sharing as appropriate.	4.2 / 4

COMMENTS/SUGGESTIONS: Council / Manager

I had the pleasure of attending and A2Zero meeting with Frances. I know she is very involved with MML. I believe she keeps abreast of the developments in the surrounding townships and at the county level. Her communication with the county regarding PPE early in the Covid pandemic illustrated commitment to work with that agency.

[V]ery much represents the city well in our intergovernmental affairs[.]

Relationship with the Public	RATING				
	5	4	3	2	1
	Council / Manager				
1. Establishes and maintains an image of the City of Ypsilanti to the community that represents service, enthusiasm, and professionalism.	4.6 / 5				
2. Establishes and maintains a liaison with private organizations, service groups or individuals involved in areas of concern that relate to the service or activities of the City.	3.9 / 4				
3. Participates in city-sponsored community activities and affairs in an effort to build strong, positive community relationships.	4.1 / 4				

COMMENTS/SUGGESTIONS: Council / Manager

Based on comments received from the public.

Manager McMullan is well-known throughout the City and connects well with residents. I have heard great comments from friends who work in service groups in the city about their interactions with Frances. I've seen Frances out in the city engaging at various events.

There have been a few citizens who have complained at council meetings and to me personally about getting "nowhere" with the city manager. These individuals state that they do not feel heard. sometimes, the issues are long standing and have significant underlying legal points. Thus, their perspective may be colored by the input from the city attorney to not engage.

[H]ighly visible in the community, appreciate it[.]

Management of Employees	RATING				
	5	4	3	2	1
	Council / Manager				

	Council / Manager
1. Develops and executes consistent, fair, and fiscally sound personnel procedures and practices.	4.1 / 4
2. Plans, organizes, and maintains appropriate training and development of staff to maximize performance.	4 / 4
3. Maintains contact and professional interaction with employees at all levels of the organization.	4.2 / 4
4. Periodically reviews and reorganizes staffing levels, staff duties, and/or staff responsibilities to take full advantage of the staff's competencies.	4 / 4
5. Supervises overall operations of the city and insists on competent and efficient performance from staff.	4.4 / 4
COMMENTS/SUGGESTIONS: Council / Manager Manager McMullan stays connected to the inner workings of the departments and employees that she supervises. She speaks highly of her employees and supports their endeavors. I have received positive feedback regarding her leadership. In my time on council, I have witnessed two city managers. Frances inherited significant staff frustration and had to deal with filling recently vacated positions due to the previous manager. There was some restructuring for efficiency. It is telling that our financial director chose to return and work under Frances. My sense from interacting with department head is that after the transition, they seem satisfied for the most part. I hear nothing but good things from staff.	
Relationship with City Council	RATING
	5 4 3 2 1 Council / Manager
1. Maintains effective communication, both verbal and written, with the City Council and provides information needed for City Council in a timely manner.	3.9 / 4
2. Maintains a system of regular and timely reporting to the City Council of current City plans and activities.	4.4 / 3
3. Provides for clear presentations to the City Council in the most concise, clear and comprehensive manner possible.	4.3 / 3
4. Provides the City Council with all perspectives of an issue and provides a recommendation and reason to support that recommendation.	3.7 / 3
5. Maintains availability to City Council and communicates as a liaison between the City Council and city staff.	4.4 / 4
COMMENTS/SUGGESTIONS: Council / Manager Manager McMullan is present and available to Council. She fields calls and questions in a timely manner, sharing pertinent information as needed. Her communication is clear and professional. Always available to answer questions or address issues which I appreciate.	

I appreciate that Frances has included much more information in her verbal reports and in the CIL's forwarded to council. This is invaluable to council to have these periodic updates. I have had great conversations with Frances in times of crisis. Information is presented in straight forward way. I would enjoy having more frequent conversations, which is partly on me to initiate.

[G]reat relationship, very approachable[.]

Leadership & Professionalism	RATING				
	5	4	3	2	1
	Council	/	Manager		
1. Administers the city in accordance with Michigan statutes and the ordinances, rules, regulations, and policies adopted by the City Council.	4.3 / 4				
2. Seeks and supports professional improvement through pertinent seminars and conferences, etc. in order to maintain current knowledge of developments in city management and municipal government.	4.6 / 5				
3. Demonstrates a willingness to adapt and work cooperatively with others.	4.8 / 5				
4. Demonstrates the ability to reach timely decisions and initiate action.	4.3 / 4				
COMMENTS/SUGGESTIONS: Council / Manager Appreciate CM McMullen’s involvement with the MML and her visibility as a leader in Michigan. I think I have given positive examples of each of these in my previous comments. The inherited north Huron alley questions whether the city enforces ordinances. Again, this is long standing and influenced by legal counsel. There was an incident with noise complaints that seemed to stretch the ordinance enforcement and special permitting. The citizen was told the event was in compliance when the responding officer clearly did not understand the ordinance or have the equipment to determine compliance.					

OTHER COMMENTS THAT MAY BE RELEVANT TO THIS EVALUATION: Council / Manager

Manager McMullan's leadership has been invaluable to the City. She has stepped up and lead us through some difficult situations in her short time as CM. I have consistently been told that the morale of City employees has significantly increased under her leadership. I look forward to the continued successes with Frances' leadership executing the day to day activities within City Hall.

Overall, I think Frances does a very good job, especially considering the circumstances in which she was appointed, the strains of a pandemic, and emotional rancor in the city with the resignation of the previous mayor. There are points I may disagree on, but I respect Frances' professional attitude, willingness to work with council, and her commitment to the city.

Signature

Date

Highlights of City Manager McMullan:

2019

- 3/8/2019 - Hired as Interim City Manager
- 4/2/2019 – Hired as City Manager
- 4/5/2019 – Hired Ken Hobbs as Fire Chief
- 4/8/2019 – Recruited and rehired Rheagan Basabica as Fiscal Services Director
- 4/19/2019 – While under tight time constraints provided leadership to complete budget process in record time and receive the Certificate for Budget Preparation from GFOA
- 4/19/2019 – Provided leadership in budget process and was awarded Certificate of Achievement for Excellence in Financial Reporting
- 7/2019 - Moved Fiscal Services from 3rd floor to 4th floor to allow Building and Planning to operate on the 4th floor for greater efficiency in services
- 7/12/2019 – Settled POAM Labor Contract
- 7/24/2019 - Hired DPS Director Ron Akers
- 9/9/2019 - Created Parking/Project Manager position in DPS and promoted internally
- 9/9/2019 – Created Parking Services Division and established Parking account. Provided leadership for the installation of new Parking kiosks across the City to help regulate parking turnover and provide needed revenues for parking improvements
- 10/14/2019 - Promoted Payroll Administrator to Interim HR Manager and established a professional progression plan for future promotion
- 10/18/2019 – Transitioned IT services from Washtenaw County IT Services, a goal of city council from two previous city managers
- 10/2019 – Worked with Dewpoint and staff to create a comprehensive capital improvement planning for technology
- Ongoing participation in intergovernmental discussions and decisions regarding the I-94 bridge project
- Ongoing participation in discussions surrounding additional parking in Depot Town

2020

- 1/21/2020 - At the direction of city council, formed a Freighthouse Transition Committee to assist in transition of operations and provide direction for long-term use of the facility as a community space
- 2/28/2020 - Settled IAFF Labor Contract. Contract had expired June 30, 2017, and was outstanding due to inability to reach an agreement regarding health care
- 3/2020 – City assumed full responsibilities of Freighthouse operations. Since assuming responsibility of the Freighthouse we have been cash positive and instituted a Community Events Policy
- 3/2020- Developed comprehensive policies for COVID-19 precautions at City Hall, Department of Public Services, Fire Station, and Police Station and provided leadership to support working remotely and meeting virtually
- 5/5/2020 - At the approval of city council, led by Councilmembers Brown and Somerville, coordinated the partnership with EMU’s Office of Engagement and city staff to provide COVID

care packages consisting of masks, sanitizer, disinfectant, toilet paper and paper towels to the community

- 6/23/2020 - Hired (2) part-time Day Coordinators for Freighthouse events
- 7/6/2020 - Contracted with Truliant to provide and require Diversity, Equity and Inclusion training for City employees
- FY 19/2020 - Switched from Michigan Planners to VTC for health care services. Health care premiums were reduced compared to years prior to 2019/2020 by an average of 7.14% and a realized health care savings of approximately \$250,000, with better plans for employees
- Requested and secured 30k funding from Washtenaw County to support Parkridge Community Center, Senior Center, and Rutherford Pool.
- Completed the YCS Student Art Banner Project
- Directed allocation of CDBG funds to improve Parkridge Park
- Oversaw grant for renovations at the Rutherford Pool
- Oversaw staff in the grant administration and approval of public engagement sessions and contractor around the removal and restoration of the Peninsular Dam
- Participation in discussion resulting in Senior Center obtaining 501(c)(3) non-profit status



CITY CLERK PERFORMANCE EVALUATION 2020 Tabulation Summary

Evaluation Instructions

This evaluation is an annual critical look at the performance of the City Clerk. This is also an introspective look at the relationship between the City Council and the City Clerk; a communication and an opportunity on the part of the City Council to align expectations. It is an opportunity to re-establish the goals and objectives for the City of Ypsilanti. **It should be a positive exchange and learning process for both parties.**

Responsibilities

To provide an accurate evaluation, it is recommended that City Council members keep personal notations on a regular basis so as to be able to refresh individual memories at the time the annual evaluation process begins. These personal notations should not be shared with other members of the City Council. In order to meet the objectives of a fair and unbiased evaluation it is important to have evaluations from all members.

Forms and Process

The following evaluation will consist of several categories for which the City Clerk is responsible or has regular involvement. A five-point assessment scale is provided in order to provide a numerical value to each question and/or category. A score of 1 would be unsatisfactory while a score of 5 would be exceptional. If you feel that you do not have enough information in which to rate a particular category, you may leave it blank and it will not be included as part of the tabulations.

The Mayor and each member of Council will receive a blank evaluation form. Evaluations should be signed and completed independently. The City Clerk will also be provided a blank evaluation form in order to complete a self-evaluation, which will be given to the Mayor or Council member designee for inclusion in the Council evaluation tabulation. Comments in the comment area should be used to support numerical point assessments.

All evaluations will be submitted to the Mayor or Council member designee for tabulation. After tabulation, a meeting will be set for an oral evaluation based on written evaluations. This meeting may be a closed session at the request of the City Clerk. It is hoped that a positive free flowing oral discussion will provide the City Clerk with the direction of the City Council for the future.

The Mayor or Council member designee will provide a Tabulation Summary to the City Clerk and each member of the City Council prior to the oral evaluation meeting. The Tabulation Summary will include the combined scores of the board as well as the City Clerk's self-evaluation scores. Additionally, there will be a summary of notations, listed by question categories, or City Council comments. After the oral evaluation, the Tabulation Summary, subject to changes by the Council at the evaluation, will be kept as a permanent record. The individual evaluations themselves will be destroyed.

There are no perfect evaluations but this should be a thoughtful, sensitive, positive, and effective attempt to move forward the needs of the City of Ypsilanti.

CITY OF YPSILANTI CITY CLERK EVALUATION

RATING:

- 5 = Outstanding Performance
- 4 = Good Performance
- 3 = Satisfactory Performance
- 2 = Needs strengthening
- 1 = Unsatisfactory

	RATING				
	5	4	3	2	1
CLERK OFFICE DUTIES/RECORDS MANAGEMENT	Council / Clerk				
1. Attends all regular and special meetings of City Council and successfully provides accurate official minutes of the proceedings.	5				5
2. Packets for City Council meetings are timely, complete and contain all necessary materials for meetings.	4.6				4
3. Ensures for proper staffing/administration of the City's various boards and commissions meetings for minute taking and record keeping as required.	4.9				4
4. Publishes all City notices and ordinances as required by law.	5				5
5. Properly maintains custody of City documents and records and effectively manages for retrieval, access, and use, as appropriate.	4.4				3
6. Maintains and handles information and records in a way to convey the message that the affairs of the City of Ypsilanti are open to public scrutiny.	4.7				4
COMMENTS/SUGGESTIONS: Council / Clerk Andrew does an excellent job with these clerk duties. Clerk Hellenga manages these processes extremely well. He has taken previous feedback (even regarding issues prior to his tenure as CC) and made the necessary adjustments to address the need. Always does a great job! Andrew does a great job of staffing meetings and providing materials to council. I know council packets can be a struggle due to last minute additions beyond Andrew's control. He alerts council as quickly as possible and does so with professionalism and courtesy[.] [G]oes above and beyond, even during the pandemic. I am currently in [the] process of reorganizing City Documents to make documents more easily accessible to staff. Prior to COVID my goal was to provide Council meeting packets two Monday's prior to a meeting. Unfortunately, I am currently only able to provide meeting materials either the Thursday or Friday prior					

to a meeting. It would be helpful for Council to approve a policy that would dictate a hard packet publishing date, and a directive for late materials to be submitted.

ELECTIONS MANAGEMENT	RATING				
	5	4	3	2	1
	Council / Clerk				
1. Effectively oversees administration of all procedures related to elections held in the City of Ypsilanti as required by State law and City Charter.	4.9 / 4				
2. Exhibits knowledge of principles and practices of pertinent election law and executes accordingly.	4.9 / 4				
COMMENTS/SUGGESTIONS: Council / Clerk Received an outstanding report from county. The last election was a great example of his ability and leadership in this area. It was executed flawlessly and Council received much positive feedback about it. Clerk Hellenga has implemented necessary changes that created the opportunity for such an easy process. Meets emerging needs in a timely manner. This recent election posed newfound challenges for safety at polls. Andrew was well prepared for safety and staffing for in person voting. He was proactive in getting drop boxes stationed for the convenience of absentee voting. I am only aware of one potential at a single polling place (odd statements by a worker) which Andrew appears to have addressed immediately. [A]bove and beyond the call of duty[.] Election Law is constantly changing, sometimes without knowledge of how exactly elections are administered. Funding is an issue and without the grant the city received during this past General Election it would have been impossible to effectively carryout the election. I would like to pressure the state to provide funding based upon registered voters of a jurisdiction.					

RELATIONSHIP WITH THE PUBLIC	RATING				
	5	4	3	2	1
	Council / Clerk				
1. Establishes and maintains an image of the City of Ypsilanti to the community that represents service, integrity, and professionalism by handling affairs of the office in a fair and impartial manner.	4.9 / 4				
2. Properly delivers service to customers by providing accurate information and maximizing access to municipal government in an efficient, timely, and courteous manner.	4.9 / 4				
3. Consistently delivers a high level of customer service to the public that is pleasant and positive with a willingness to go above and beyond.	5 / 4				
COMMENTS/SUGGESTIONS: Council / Clerk Knows how to pleasantly and straightforwardly deal with the public.					

Nothing but positive feedback about Clerk Hellenga, always. It has been received via email and also during public comment in City Council meetings. The community feels seen and heard when interacting with our Clerk.

I appreciate Clerk Hellenga and his staff's level of courtesy towards to public. I know it's now always easy.

My observations of Andrew interacting with the public comes from council meetings, in which he is always courteous and professional. The couple [of] times I have seen him interact with the public in city hall, he, again, was polite and informative. I have had more occasion to see his staff interact with public on the first floor. They are patient and informative with citizens. I take this to be from the example or environment fostered by Andrew in the office.

I have worked in customer service for nearly 26 years, and my staff [and I] always strive to treat people politely, and express information to individuals in a kind manner. However, we are human and can succumb to constant badgering. One of my goals is to provide customer service training for public facing staff. That training should include some type of de-escalation. I requested information from the Chief and was provided an article, which has been helpful. However, the fact is everyday we provide information people do not want to hear, or [we are] unable to provide the remedy they seek. We respond as professionally as possible, however, when treated less than human it is not always easy.

MANAGEMENT OF STAFF	RATING				
	5	4	3	2	1
	Council		/ Clerk		
1. Manages staff effectively and ensures a high level of integrity and honesty in performance of work duties.	4.6		/ 4		
2. Plans, organizes, and maintains appropriate training and development of staff to maximize performance and ensure compliance with appropriates laws, ordinances, policies, and procedures, etc.	4.4		/ 3		
3. Periodically reviews and reorganizes staffing levels, staff duties, and/or staff responsibilities to take full advantage of the staff's competencies.	4.3		/ 3		
4. Maintains professional interaction with employees at all levels of the organization.	4.9		/ 4		

COMMENTS/SUGGESTIONS: Council / Clerk

Things appear to run very smoothly within the Clerk's office.

Seems to be able to adapt and pivot with staffing challenges are presented.

Again, limited exposure to the staff suggests a collegial environment. Staff appear to be well informed and able to perform their functions in the office and during meetings I have attended.

When first appointed to this position I had difficulty in delegating to staff. I have improved, but it is a skill I am constantly trying to hone. I believe whole heartedly that accomplishments of staff are theirs and failures are mine. However, I am very excited with the team I have and believe that we will continuously improve at all functions of the Clerk Department.

RELATIONSHIP WITH CITY COUNCIL	RATING				
	5	4	3	2	1
	Council		/ Clerk		
1. Maintains effective communication, both verbal and written, with the City Council and provides information needed for City Council in a timely manner.	4.9 / 4				
2. Supports and executes the actions of the City Council using the City Charter and applicable laws and procedures as a guide.	4.9 / 4				
3. Maintains availability to City Council and communicates as a liaison between the City Council and the Clerk’s Office.	5 / 4				
COMMENTS/SUGGESTIONS: Council / Clerk					
Does a very good job communicating with me as a Councilmember and as mayor. No complaints.					
Clerk Hellenga is dependable and very knowledgeable. Any task that I have asked of him is completed effectively and with quick turnaround. I have never heard him complain. He is always pleasant and respectful, communicating with Council in accordance to set rules and expectations.					
Very communicative.					
Andrew works well with council. He is eager to provide the correct information. When there is any ambiguity, he will do the leg work before presenting the answer, ensuring accurate information is relayed.					
Very professional, unbiased.					
I make myself available to City Council, staff, and the public as much as possible. I answer emails throughout my time away from the office, except when the information is only available at City Hall.					
LEADERSHIP & PROFESSIONALISM	RATING				
	5	4	3	2	1
	Council		/ Clerk		
1. Seeks and supports professional improvement through pertinent training, seminars, and conferences, etc. in order to maintain current knowledge of developments affecting the practice of local government and elections management.	4.5 / 3				
2. Explores and utilizes best practices in management and technology to ensure efficient and effective operations in execution of duties.	4.8 / 3				
3. Demonstrates a willingness to adapt and work cooperatively with others.	4.7 / 5				
4. Consistently makes service to the City a priority over personal interests.	4.9 / 5				
COMMENTS/SUGGESTIONS: Council / Clerk					
Extremely conscientious.					
Very professional.					
Andrew has done a great job with technology to stream the meetings and to master Zoom meetings since we have been meeting remotely. There have been a couple glitches but I attribute them to the technology itself (having seen far worse happen in my own meetings with IT professionals).					

Clerk Hellenga does a masterful job of Stanford professional and interacting with citizens and Council.

I attend all required training of Clerk's, although I would like to afford more time for conferences. Unfortunately, given the nature of my work it is not always a possibility.

I feel that I am able to work with any personality type, and while I might not always see eye to eye with the person, I try and understand their perspective.

OTHER COMMENTS THAT MAY BE RELEVANT TO THIS EVALUATION: Council / Clerk

We are lucky to have Clerk Hellenga. He is truly an asset to the City.

I appreciate your hard work and commitment to the city!

I think Andrew does a fantastic job of keeping the balls in the air. He and his staff have always responded in a friendly manor with accurate information. My only issue is that there are sometimes typos in the council packets. These do not hinder the understanding of the text, but do show lack of thorough proof reading. This is a minor issue that is easily addressed.

I care very deeply about this City and its residents, and I am honored to provide the services of the Clerk Department. I am always open to criticism, and I encourage Council to contact me at anytime if they feel the department can be more effective.

City Clerk's Office Accomplishments

- Successful administration of the 2020 Election Cycle during a pandemic.
- Acquired a grant to assist in the financing the 2020 Election Cycle and purchase supplies to use for future elections.
- Participated in both a general audit and risk limiting audit of the 2020 Election Cycle.
- Maintenance of the Administration Hearings Bureau lien program. Capturing revenue created through special assessments of filed liens.
- Created iPad usage policy for the City devices provided to Council.
- Updated Board and Commission appointment policy because of the changes to the City Charter.
- Created a process for reappointment to boards and commission.
- Oversaw the implementation of the new technology for live streaming
- Completed codification of the City Code in 2020.
- In the process of completing the codification of City Code for 2021.
- Transitioned the City to all virtual meetings in accordance with state statute.
- Provide notary services for the city.
- Accepted and reviewed applications for marijuana facilities.
- Assisted council members in the development of resolutions for council approval.
- Completed all requested proclamations.



Resolution No. 2021-228
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, Public Act 336 of 1947, is an act to prohibit strikes by certain public employees; to provide review from disciplinary action with respect thereto; to provide for the mediation of grievances and the holding of elections; to declare and protect the rights and privileges of public employees; to require certain provision in collective bargaining agreements; to prescribe means of enforcement and penalties for the violation of the provision of this act; and

WHEREAS, changes to this act would acknowledge that there are times when termination is the most appropriate response to egregious conduct of a public safety employee; and

WHEREAS, egregious conduct can lead to risks of liability, an inability to successfully prosecute cases in which the employee is involved, endanger the careers of colleagues, and put colleagues at risk; and

WHEREAS, if legislation is introduced and enacted, it would assist in the hiring of police officers of character matching the mission of the City of Ypsilanti, and

WHEREAS, it would not only protect the public from hiring officers that have been terminated from other jurisdictions for egregious conduct, it would also protect the officers serving this community, and the integrity of the Ypsilanti Police Department.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Ypsilanti strongly encourages the Michigan Legislature to move steadfast in reforming Public Act 336 of 1947 and for the Governor to sign it into law.

#Resolution No. 2021-228

BE IT FURTHER RESOLVED, that City Council Direct the City Clerk to forward this resolution to the Michigan House, Michigan Senate, Governor Whitmer, the Washtenaw County Board of Commissioners, and Kirk Profit, the City Lobbyist.

OFFERED BY: _____

SECONDED BY: _____

YES:

NO:

ABSENT:

VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this 19 day of October 2021

#Resolution No. 2021-228



Resolution No. 2021-229
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the correctional telecom sector is a business that annually generates \$1.4 billion in revenue; and

WHEREAS, the price of phone calls from correctional facilities are being driven higher; and

WHEREAS, African Americans and Latinx make up 32% of the total US population, while accounting for 56% of those incarcerated; and

WHEREAS, the high cost of phone calls for correctional facilities only increases the wealth gap between minority groups and white individuals; and

WHEREAS, connecting with loved ones while incarcerated reduces the rates of recidivism.

NOW THEREFORE BY IT RESOLVED; that the City Council of the City of Ypsilanti strongly urge Washtenaw County to provide those incarcerated with access to free telephone access and provide an environment of support from family and friends while incarcerated.

BE IT FURTHER RESOLVED, that City Council direct the City Clerk to provide this resolution to the Washtenaw County Board of Commissioners.

OFFERED BY: _____

SECONDED BY: _____

YES:

NO:

ABSENT:

VOTE:

#Resolution No. 2021-229

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this
19 day of October 2021

#Resolution No. 2021-229



Resolution No. 2021-230
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, Chapter 7 Section 7-5(2) of the City of Ypsilanti City Code, provides that \$1,000 for each marijuana facility application will be used to promote social equity to negatively impacted communities by promoting advocacy around criminal justice issues related to marihuana prohibition; and

WHEREAS, the City of Ypsilanti has accumulated \$25,000 in revenue earmarked for this purpose; and

WHEREAS, the Ypsilanti Police Advisory Commission, through passage of Resolution No. 2021-001, has requested the City of Ypsilanti develop a policy in assisting with criminal record expungement; and

WHEREAS, someone with marihuana conviction may apply for expungement; and

WHEREAS, The Washtenaw County Prosecutors Office has been assisting individuals seeking to expunge their records; and

WHEREAS, the City of Ypsilanti would like to aid this program through financial contribution.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Ypsilanti direct the City Attorney to draft an agreement between the City of Ypsilanti and the Washtenaw County Prosecutors Office to provide funding for expungement specific to charges as a result of marijuana prohibition.

BE IT FURTHER RESOLVED, that the City of Ypsilanti provide \$_____ to aid this program.

OFFERED BY: _____

#Resolution No. 2021-230

SECONDED BY: _____

YES:

NO:

ABSENT:

VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this
19 day of October 2021

#Resolution No. 2021-230



Resolution No. 2021-231
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS; the Police Advisory Commission passed Resolution No. 2021-002 recommending the removal of Commissioner Turman; and

WHEREAS; the recommendation was based on lack of attendance at commission meetings; and

WHEREAS; City Council realizes the importance of board and commission members to be present for efficient function of each public body.

NO THEREFORE BE IT RESOLVED, that the City Council of the City of Ypsilanti removes Commissioner Precious Turman from the Police Advisory Commission, and directs the City Clerk to notify Commissioner Turman and Police Advisory Commission of the dismissal.

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this 19 day of October 2021

#Resolution No. 2021-231



REQUEST FOR LEGISLATION

TO: Mayor and City Council
FROM: Christopher Jacobs
DATE: October 19, 2021
SUBJECT: Pen Dam Public Engagement Ad-Hoc Committee

DESCRIPTION:

Pen Dam Public Engagement Ad-Hoc Committee

SUMMARY:

In May 2019, City Council voted to move forward with removal of the Peninsular Dam on the Huron River. On May 18, 2021, City Council voted to establish an Ad-Hoc Committee purposed for public engagement on the project and meeting the commitments set forth in the Michigan Department of Natural Resources Fisheries Habitat Grant program. The City has taken great strides with the engagement plan and is in the final stages of the contract with our facilitator. We have held 3 public engagement workshops with specific constituent groups to ensure this engagement process is inclusive of stakeholders from within and beyond the city borders. Only a large townhall style meeting and final report remain as items left to be completed at this stage.

Resolution No. 2021-108 establishing the committee requires the terms of the engagement committee to be reviewed in October 2021 and extended by decision of council.

CITY MANAGER APPROVAL: _____ COUNCIL AGENDA DATE: _____

CITY MANAGER COMMENTS: _____

FISCAL SERVICES DIRECTOR APPROVAL: _____



Resolution No. 2021-232
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, Resolution #2021-108 establishing the Peninsular Dam Public Engagement Ad Hoc Committee requires the terms of the engagement committee to be reviewed in October 2021 and extended by decision of council; and

WHEREAS, City Council must either reaffirm the Committee to continue its work, or determine if its mission has been completed and dissolve the Committee.

NOW THEREFORE BE IT RESOLVED BY THE CITY OF YPSILANTI THAT, the City Council of the City of Ypsilanti:

- 1. Reaffirm the Committee to continue its work.**
- 2. Determine the Committee has satisfactorily completed its mission and dissolve the Committee.**

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this
19 day of October 2021

#Resolution No. 2021-232



Resolution No. 2021-233
October 19, 2021

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the City Council Meeting be adjourned, on call, by the Mayor or three (3) members of Council.

OFFERED BY: _____

SECONDED BY: _____

YES: NO: ABSENT: VOTE:

This resolution is adopted by the Council of the City of Ypsilanti and approved by the Mayor this
19 day of October 2021

#Resolution No. 2021-233