

Traverse City Downtown Development Authority (Zoom) Meeting

January 15, 2021

10:00 am

The Downtown Development Authority Meeting Will Not Be Held At the Governmental Center. The Downtown Development Authority Meeting Will Be Conducted Remotely Via Zoom Webinar Quick Highlights for Viewing and Participating (Finer Details Below)

The Downtown Development Authority Meeting will be broadcast live on Cable Channel 191 and streamed at:

<https://www.tacm.tv/govtvnow.asp>

Anyone wishing to give public comment will need to call in and wait in a "virtual waiting room" where their microphones will be muted until they are called upon:

Dial: 312-626-6799

Meeting ID: 857 2037 1897

Participant ID: # (yes just #)

Posted and Published



The DDA recognizes the importance of not bringing people together unnecessarily in an effort to stop the spread of COVID-19. The Governmental Center has been closed to walk-in traffic and will be closed for DDA meetings for the foreseeable future. Members of the DDA will not be present in the Governmental Center for official DDA meetings.

For the foreseeable future, the DDA does not intend to convene other committees of the DDA unless there is critical action to be taken; meetings that do not need to be held will not be held. The meeting is being conducted remotely to assist in stopping the spread of COVID-19. Individuals with disabilities may participate in the meeting by calling-in to the number as though they were going to be giving public comments as outlined below or by calling the TDD#. Individual members of the DDA may be contacted via email. Member email addresses can be found at the DDA website: dda.downtowntc.com

DDA meetings will continue to be broadcast live on Cable Channel 191 and will be streamed live at: <https://www.tacm.tv/govtvnow.asp>.

For members of the DDA and key staff, their name will appear on screen when they are speaking. For individuals who may wish to give public comment, the method for providing public comment during these remote-participation meetings is to call: 312-626-6799 and enter the Meeting and Participant ID.

Callers wishing to give public comment may call in before the meeting starts and wait in a "virtual waiting room." Going forward, these instructions will be included in every published agenda of the DDA. Those calling in will be able to hear the audio of the DDA meeting, yet their microphone will be muted.

When the DDA accepts public comment, in the order calls were received, the meeting facilitator will identify the caller by the last four digits of their telephone number and ask them if they would like to make a comment. While not required, but so we do not have to go through an unnecessarily long list of callers, we ask, if possible, that those who do not wish to give public comment refrain from calling in and instead listen to the meeting online at: <https://www.tacm.tv/govtvnow.asp> or on Cable Channel 191.

The DDA CEO has been designated to coordinate compliance with the non-discrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the DDA Office

The City of Traverse City and Downtown Development Authority are committed to a dialog that is constructive, respectful and civil. We ask that all individuals interacting verbally or in writing with board members honor these values.

Downtown Development Authority:
c/o Jean Derenzy, CEO
(231) 922-2050
Web: www.downtowntc.com
303 East State Street, Suite C
Traverse City, MI 49684

Welcome to the Traverse City Downtown Development Authority meeting!

Agenda

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1. CALL TO ORDER

2. ROLL CALL

3. OPENING PUBLIC COMMENT

4. CONSENT CALENDAR

The purpose of the consent calendar is to expedite business by grouping non-controversial items together to be dealt with by one DDA Board motion without discussion. Any member of the DDA Board, staff or the public may ask that any item on the consent calendar be removed therefrom and placed elsewhere on the agenda for individual consideration by the DDA Board; and such requests will be automatically respected. If an item is not removed from the consent calendar, the action noted in parentheses on the agenda is approved by a single DDA Board action adopting the consent calendar.

- | | | |
|----|---|------------|
| A. | Consideration of minutes for the Regular Meeting of December 18, 2020 (approval recommended) December 18, 2020 Downtown Development Authority Regular Meeting Minutes - PDF | 7 - 11 |
| B. | Consideration of approving Financial Reports and disbursements for DDA, TIF 97, Old Town TIF, Parking, and Arts Commission for December 2020 (approval recommended) DDA, TIF 97 and Old Town TIF Financials December 2020 TC Arts Commission Financials December 2020 TC Parking Services Financials December 2020 | 13 - 21 |
| C. | Consideration of minutes for the Finance Committee (approval recommended) December 8, 2020 Finance Committee December Meeting Minutes - PDF | 23 |
| D. | Consideration of approval of CivicSmart Parking Meter Purchase (Parking Subcommittee recommends approval) Smart Parking Meter Recommendation Memo - PDF Smart Parking Meter Bid Comparison - PDF | 25 - 29 |

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| | Parking Rate By Zone Downtown Map - PDF | |
| E. | Credit Card Processing - Auto Parking Fund (approval recommended) | 31 - 32 |
| | Credit Card Processing CEO Report - PDF | |
| F. | Consideration of waiving 2021/22 participation fees for Destination Downtown (approval recommended) | 33 |
| | Destination Downtown Memo - PDF | |
| 5. | ITEMS REMOVED FROM CONSENT CALENDAR | |
| 6. | CEO REPORT | |
| A. | Recommendation to Hire Legal Counsel (approval recommended: Derenzy, Schneider, Constantin, and Lewis) | 35 - 130 |
| | Legal Services CEO Report - PDF | |
| | RFP Responses (Combined) - PDF | |
| B. | Surface Parking Lots Infill Development (approval recommended) | 131 - 133 |
| | Infill Development CEO Report - PDF | |
| C. | Project Updates | 135 - 137 |
| | Project Updates CEO Report - PDF | |
| 7. | STAFF REPORTS | |
| A. | Downtown Experience Coordinator (Viox) | 139 - 140 |
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| 8. | BOARD MEMBER REPORTS | |
| A. | Update on DDA Board Appointments (Mayor Curruthers) | |
| B. | Arts Commission (McCallum) | 141 |
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| | Lower Boardman Update Memo - PDF | |
| 9. | CLOSED SESSION FOR POSSIBLE PROPERTY PURCHASE MCL 15.268(D) | |
| 10. | RECEIVE AND FILE | |
| A. | Community Development Director (McCain) | 145 - 148 |
| | Community Development Update January - PDF | |
| | DDA Parking Mailer - PDF | |
| B. | Transportation Mobility Director (VanNess) | 149 - |

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| | Staff Report Parking Services January - PDF | 155 |
| | Parking Rate By Zone Downtown - PDF | |
| | Parking Rate By Zone Munson - PDF | |
| | Parking Rate By Zone NMC - PDF | |
| C. | Lower Boardman Leadership Team December 2020 Minutes | 157 - |
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| D. | Arts Commission December 2020 Minutes | 161 - |
| | December Arts Commission Minutes - PDF | 163 |
| E. | Parking Subcommittee December 2020 Minutes | 165 - |
| | Parking Subcommittee - 03 Dec 2020 - Minutes - PDF | 166 |
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| 11. | CLOSING PUBLIC COMMENT | |
| <hr/> | | |
| 12. | ADJOURNMENT | |



**Minutes of the
Downtown Development Authority for the City of Traverse City
Regular Meeting
Friday, December 18, 2020**

A regular meeting of the Downtown Development Authority of the City of Traverse City was called to order at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan, at 8 a.m.

The following Board Members were in attendance: Mayor Jim Carruthers, Board Vice Chair Gabe Schneider, Board Member Steve Nance, Board Member Peter Kirkwood, Board Secretary Stephen Constantin, Board Treasurer Scott Hardy, Commissioner Debbie Hershey, Board Member T. Michael Jackson, Board Chair Leah Bagdon-McCallum, Board Member Jeff Joubran, and Board Member Richard Lewis

The following Board Members were absent: None

Chairperson Bagdon-McCallum presided at the meeting.

(a) **CALL TO ORDER**

(b) **ROLL CALL**

(c) **OPENING PUBLIC COMMENT**

(1)

No public comment made.

(d) **CONSENT CALENDAR**

The purpose of the consent calendar is to expedite business by grouping non-controversial items together to be dealt with by one DDA Board motion without discussion. Any member of the DDA Board, staff or the public may ask that any item on the consent calendar be removed therefrom and placed elsewhere on the agenda for individual consideration by the DDA Board; and such requests will be automatically respected. If an item is not removed from the consent calendar, the action noted in parentheses on the agenda is approved by a single DDA Board action adopting the consent calendar.

(1) Approval of minutes for the Regular Meeting of November 20, 2020

- (2) Approval of Financial Reports and disbursements for DDA, TIF 97, Old Town TIF, Parking Services, and Arts Commission for November 2020
- (3) Approval of Finance Committee Minutes
- (4) Approval of Governance Committee Minutes
- (5) Approval of Amendment to Parking Lot N License Agreement
Motion to approve the agenda with the amendments of adding the consideration of moving this monthly meeting and removing Closed Session.

Moved by T. Michael Jackson, Seconded by Leah Bagdon-McCallum

Yes: Jim Carruthers, Gabe Schneider, Steve Nance, Peter Kirkwood, Stephen Constantin, Scott Hardy, Debbie Hershey, T. Michael Jackson, Leah Bagdon-McCallum, Jeff Joubran, and Richard Lewis

Absent: None

CARRIED. 11-0-0 on a recorded vote

Motion to approve the consent calendar as presented.

Moved by Leah Bagdon-McCallum, Seconded by Jeff Joubran

Yes: Jim Carruthers, Gabe Schneider, Steve Nance, Peter Kirkwood, Stephen Constantin, Scott Hardy, Debbie Hershey, T. Michael Jackson, Leah Bagdon-McCallum, Jeff Joubran, and Richard Lewis

Absent: None

CARRIED. 11-0-0 on a recorded vote

(e) **ITEMS REMOVED FROM CONSENT CALENDAR**

(f) **COMMITTEE BUSINESS AND RECOMMENDATIONS**

(1) Finance Committee
CIP 2020/2021

- Schneider | Expressed that the Finance Committee was careful to maintain a fund balance for all suggested CIP recommendations. Regarding projects like stormwater, indicated that there are projects in partnership with entities like the City, so not the full amount of the entire projects are represented.
- Jackson | Respectfully asked that we consider calling it the City/Rotary Square and inquired about the merger of TCF & Huntington Banks on the impact of that project.
- Carruthers | Requested all documents come in at more readable formats and asked about what "low hanging fruit" were in the CIP. Asked about the amount dedicated toward stormwater and confirming that all MDOT project timelines match up with our project timelines. Suggested for some of our collaborative projects, that we should do outreach for collaboration with our regional partners.

- Lewis | Reminded the Board that, with the volume of great projects, the board will have to make tough decisions on prioritization and suggested that some strategic planning meetings will be happening in the future.
- Hardy | Recommends that we do not prioritize projects that we do not have a clear solution for like work force housing.

Motion that the DDA Board approve the 2021/2022 CIP as presented and recommended to the City Planning Commission and City Commission for consideration.

Moved by Richard Lewis, Seconded by Peter Kirkwood

Yes: Peter Kirkwood, Richard Lewis, Jim Carruthers, Gabe Schneider, Steve Nance, Stephen Constantin, Scott Hardy, Debbie Hershey, T. Michael Jackson, Leah Bagdon-McCallum, and Jeff Joubran

Absent: None

CARRIED. 11-0-0 on a recorded vote

(g) **CEO REPORT**

(1) Winter Parklets

- Kirkwood | Inquired if these were modular and if these parklets were open to the public. He also asked who would be the owner of these parklets. Brought up the City's permitting issues of businesses for similar structures.
- Constantin | Asked if the bumpouts would be enough room or a good location for these suggested structures.
- Carruthers | Asked about the locations to see if the side streets were considered for this and about power perhaps drawing from the TCLP poles.
- Jackson | Inquired about signage and the uniform look of the design of each of these parklets.
- Hardy | Asked about the use of these at the Farmers Market.
- Schneider | Requested a business plan before the Board approves this.

(h) **NEW BUSINESS**

(1) Emergency Declaration - Remote Meetings

- Schneider | Provided an update on current state legislature regarding Emergency Declarations.
- Carruthers | Informed the Board that the City Commission approved a similar motion at their most recent meeting for the safety of the public and the community.
- Tribble-Laucht (City Attorney) | Regarding the current legislation at the State level, indicated that she was comfortable moving forward with the motion and would add things to future agendas if need be, based on future legislation.

Motion that the DDA Board continue to meet remotely, consistent with the intent and

time frame stated in the Declaration of Local Emergency for the City Commission.

Moved by T. Michael Jackson, Seconded by Jeff Joubran

Yes: T. Michael Jackson, Jeff Joubran, Jim Carruthers, Gabe Schneider, Steve Nance, Peter Kirkwood, Stephen Constantin, Scott Hardy, Debbie Hershey, Leah Bagdon-McCallum, and Richard Lewis

Absent: None

CARRIED. 11-0-0 on a recorded vote

(2) Consideration of Moving the Time of this Monthly Meeting

- Bagdon-McCallum | Indicated that with the evolving makeup of the Board, that the original intent of this meeting time may have expired. Indicated this motion was brought up regarding a request of accessibility from the public and the Board.
- Kirkwood | Seconded Bagdon-McCallum's comments.
- Carruthers | Reminded the Board that meeting times were chosen not only for the Board's needs, but for the public's and that changing the meeting time could be complicated for some. Also suggested that we review staff considerations and monthly scheduling in regards to use of space when meetings can go back in person.
- Jackson | Suggested we wait until January to approve this motion to allow time for public feedback.
- Schneider | Reminded the Board that this is a fairly procedural vote.
- Joubran | As the only retailer on the Board, provided the perspective that this time change would work with us.
- Hardy | Expressed support of this motion to help with recruitment of new member's of the Board.
- Hershey | Indicated that the future composition of the Board can be improved with this motion.

Motion that, effective January 2021, the DDA Board of Directors move its meeting time from 8am to 10am on the same day.

Moved by Leah Bagdon-McCallum, Seconded by Peter Kirkwood

Yes: Jim Carruthers, Gabe Schneider, Steve Nance, Peter Kirkwood, Stephen Constantin, Scott Hardy, Debbie Hershey, T. Michael Jackson, Leah Bagdon-McCallum, Jeff Joubran, and Richard Lewis

Absent: None

CARRIED. 11-0-0 on a recorded vote

(i) STAFF REPORTS

(1) Transportation Mobility Director (VanNess)

- Schneider | Recommended that some coordination between the Parking Subcommittee and the Finance Subcommittee take a look at the impact of the COVID-19 pandemic and the decline of the revenue of the Parking Fund. Suggested of projected parking financials in future staff reports.
- Lewis | Indicated that the Parking Subcommittee would be the best subcommittee to review the Parking financials.

(2) COO Report - Memo (Burkholder)

(j) **RECEIVE AND FILE**

- (1) Board Member Reports
- (2) Staff Reports
- (3) Arts Commission November 2020 Minutes
- (4) DTCA November 2020 Minutes
- (5) Lower Boardman November 2020 Minutes
- (6) Social Media November Report

(k) **CLOSING PUBLIC COMMENT**

- (1) No public comment made.

(l) **ADJOURNMENT**

- (1) Motion to adjourn at 9:37 AM.

Moved by Leah Bagdon-McCallum, Seconded by Debbie Hershey

Yes: Jim Carruthers, Gabe Schneider, Steve Nance, Peter Kirkwood, Stephen Constantin, Scott Hardy, Debbie Hershey, T. Michael Jackson, Leah Bagdon-McCallum, Jeff Joubran, and Richard Lewis

Absent: None

CARRIED. 11-0-0 on a recorded vote

Jean Derenzy, Traverse City DDA
CEO

4:00 PM

01/11/21

Accrual Basis

Downtown Development Authority

Balance Sheet

As of December 31, 2020

| | Dec 31, 20 |
|---------------------------------|---------------------|
| ASSETS | |
| Current Assets | |
| Checking/Savings | |
| Fifth Third Checking - 3112 | 2,554,011.50 |
| Fifth Third Savings - 6740 | 202,467.31 |
| Petty Cash | 548.19 |
| Total Checking/Savings | 2,757,027.00 |
| Accounts Receivable | |
| Accounts Receivable | 235,061.37 |
| Total Accounts Receivable | 235,061.37 |
| Other Current Assets | |
| Due From APS | 2,122.82 |
| Due From Arts Council | 352.00 |
| Due From DTCA | 1,220.51 |
| Payroll Advance | 2,001.86 |
| Total Other Current Assets | 5,697.19 |
| Total Current Assets | 2,997,785.56 |
| Other Assets | |
| Due From Other Funds | 51,790.00 |
| Pre-Paid Expense | 6,920.00 |
| Total Other Assets | 58,710.00 |
| TOTAL ASSETS | 3,056,495.56 |
| LIABILITIES & EQUITY | |
| Liabilities | |
| Current Liabilities | |
| Accounts Payable | |
| Accounts Payable | 7,954.00 |
| Total Accounts Payable | 7,954.00 |
| Credit Cards | |
| First National - 8689 | -1,226.46 |
| First National - 8870 | 70.00 |
| Total Credit Cards | -1,156.46 |
| Other Current Liabilities | |
| Accrued Payroll Liabilities | 2,025.55 |
| Accrued Salaries | 14,169.22 |
| Buy Local Give Local Campaign | 1,000.00 |
| Deferred Income | 2,000,000.00 |
| Deposits Payable | |
| Double Up Food Bucks | -2,679.39 |
| EBT Bridge Card | -2,751.84 |
| NCF Reimbursements | 346.00 |
| Prescriptions for Health | 2,300.64 |
| Project Fresh | 7,835.00 |
| Senior Project Fresh | -10,081.00 |
| Deposits Payable - Other | 2,782.43 |
| Total Deposits Payable | -2,248.16 |
| Direct Deposit Liabilities | -66.96 |
| Due to Other Funds | 385,993.65 |
| GRANTS | |
| EGLE -- Cornwell Development | 10,914.29 |
| Heathy Drinking Culture Grant | -9,956.25 |
| Lower Boardman | -27,500.00 |
| Tech Incubator Fund | 40,625.00 |

4:00 PM

01/11/21

Accrual Basis

Downtown Development Authority

Balance Sheet

As of December 31, 2020

| | <u>Dec 31, 20</u> |
|---------------------------------|---------------------|
| Total GRANTS | 14,083.04 |
| Payroll Liabilities | |
| 457k Payable | -3,564.36 |
| Health Insurance Payable | 2,655.80 |
| Life Insurance Payable | 2,968.32 |
| State Income Tax Payable | 1,987.36 |
| State Unemployment Tax Payable | -707.66 |
| Total Payroll Liabilities | 3,339.46 |
| Total Other Current Liabilities | 2,418,295.80 |
| Total Current Liabilities | 2,425,093.34 |
| Total Liabilities | 2,425,093.34 |
| Equity | |
| Opening Bal Equity | 107,606.27 |
| Retained Earnings | 632,875.61 |
| Net Income | -109,079.66 |
| Total Equity | 631,402.22 |
| TOTAL LIABILITIES & EQUITY | <u>3,056,495.56</u> |

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01/11/21

Accrual Basis

DDA - TIF97
Balance Sheet
 As of December 31, 2020

| | <u>Dec 31, 20</u> |
|---------------------------------------|----------------------------|
| ASSETS | |
| Current Assets | |
| Checking/Savings | |
| Fifth Third Checking - 8026 | 5,003,619.21 |
| Total Checking/Savings | 5,003,619.21 |
| Accounts Receivable | |
| Accounts Receivable | 431,213.79 |
| Total Accounts Receivable | 431,213.79 |
| Total Current Assets | 5,434,833.00 |
| Other Assets | |
| Due From Other Funds | 292,933.23 |
| Total Other Assets | 292,933.23 |
| TOTAL ASSETS | <u>5,727,766.23</u> |
| LIABILITIES & EQUITY | |
| Liabilities | |
| Current Liabilities | |
| Accounts Payable | |
| Accounts Payable | 0.04 |
| Total Accounts Payable | 0.04 |
| Other Current Liabilities | |
| Deferred Revenue | 672,248.19 |
| Due To Other Funds | 48,290.00 |
| Total Other Current Liabilities | 720,538.19 |
| Total Current Liabilities | 720,538.23 |
| Total Liabilities | 720,538.23 |
| Equity | |
| Opening Bal Equity | -21,200.00 |
| Retained Earnings | 2,995,400.29 |
| Net Income | 2,033,027.71 |
| Total Equity | 5,007,228.00 |
| TOTAL LIABILITIES & EQUITY | <u>5,727,766.23</u> |

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01/11/21

Accrual Basis

**DDA Old Town TIF
Balance Sheet
As of December 31, 2020**

| | Dec 31, 20 |
|---------------------------------------|-------------------|
| ASSETS | |
| Current Assets | |
| Checking/Savings | |
| Fifth Third Checking - 0650 | 499,104.46 |
| Total Checking/Savings | 499,104.46 |
| Total Current Assets | 499,104.46 |
| Other Assets | |
| Due From Other Funds | 93,060.42 |
| Total Other Assets | 93,060.42 |
| TOTAL ASSETS | 592,164.88 |
| LIABILITIES & EQUITY | |
| Liabilities | |
| Current Liabilities | |
| Other Current Liabilities | |
| Due To Other Funds | 3,500.00 |
| Total Other Current Liabilities | 3,500.00 |
| Total Current Liabilities | 3,500.00 |
| Total Liabilities | 3,500.00 |
| Equity | |
| Retained Earnings | 219,377.21 |
| Net Income | 369,287.67 |
| Total Equity | 588,664.88 |
| TOTAL LIABILITIES & EQUITY | 592,164.88 |

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REVENUE AND EXPENDITURE REPORT FOR TRAVERSE CITY

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PERIOD ENDING 12/31/2020

| GL NUMBER | DESCRIPTION | 2020-21 AMENDED BUDGET | ACTIVITY FOR MONTH 12/31/20 | YTD BALANCE 12/31/2020 | ENCUMBERED YEAR-TO-DATE | UNENCUMBERED BALANCE | % BDGT USED |
|---|-------------------------------|---------------------------|-----------------------------------|---------------------------|----------------------------|-------------------------|----------------|
| Fund 282 - PUBLIC ARTS COMMISSION FUND | | | | | | | |
| Revenues | | | | | | | |
| Dept 000 - NON-DEPARTMENTAL | | | | | | | |
| 282-000-664.000 | INTEREST & DIVIDEND EARNINGS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 282-000-674.000 | CONTRIBUTIONS-PUBLIC SOURCES | 30,000.00 | 0.00 | 0.00 | 0.00 | 30,000.00 | 0.00 |
| 282-000-675.000 | CONTRIBUTIONS-PRIVATE SOURCES | 10,500.00 | 0.00 | 0.00 | 0.00 | 10,500.00 | 0.00 |
| 282-000-677.000 | REIMBURSEMENTS | 0.00 | 0.00 | 14,895.00 | 0.00 | (14,895.00) | 100.00 |
| 282-000-695.000 | TRANSFERS IN | 35,000.00 | 0.00 | 0.00 | 0.00 | 35,000.00 | 0.00 |
| 282-000-699.000 | PRIOR YEARS' SURPLUS | 37,700.00 | 0.00 | 0.00 | 0.00 | 37,700.00 | 0.00 |
| Total Dept 000 - NON-DEPARTMENTAL | | 113,200.00 | 0.00 | 14,895.00 | 0.00 | 98,305.00 | 13.16 |
| TOTAL REVENUES | | 113,200.00 | 0.00 | 14,895.00 | 0.00 | 98,305.00 | 13.16 |
| Expenditures | | | | | | | |
| Dept 282 - PUBLIC ARTS COMMISSION | | | | | | | |
| 282-282-727.000 | OFFICE SUPPLIES | 2,200.00 | 0.00 | 0.00 | 0.00 | 2,200.00 | 0.00 |
| 282-282-801.000 | PROFESSIONAL AND CONTRACTUAL | 19,000.00 | 0.00 | 1,578.83 | 20,209.50 | (2,788.33) | 114.68 |
| 282-282-900.000 | PRINTING AND PUBLISHING | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 282-282-930.000 | REPAIRS AND MAINTENANCE | 20,000.00 | 0.00 | 0.00 | 0.00 | 20,000.00 | 0.00 |
| 282-282-970.000 | CAPITAL OUTLAY | 72,000.00 | 0.00 | 0.00 | 0.00 | 72,000.00 | 0.00 |
| 282-282-988.000 | UNALLOCATED FUNDS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Dept 282 - PUBLIC ARTS COMMISSION | | 113,200.00 | 0.00 | 1,578.83 | 20,209.50 | 91,411.67 | 19.25 |
| TOTAL EXPENDITURES | | 113,200.00 | 0.00 | 1,578.83 | 20,209.50 | 91,411.67 | 19.25 |
| Fund 282 - PUBLIC ARTS COMMISSION FUND: | | | | | | | |
| TOTAL REVENUES | | 113,200.00 | 0.00 | 14,895.00 | 0.00 | 98,305.00 | 13.16 |
| TOTAL EXPENDITURES | | 113,200.00 | 0.00 | 1,578.83 | 20,209.50 | 91,411.67 | 19.25 |
| NET OF REVENUES & EXPENDITURES | | 0.00 | 0.00 | 13,316.17 | (20,209.50) | 6,893.33 | 100.00 |

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REVENUE AND EXPENDITURE REPORT FOR TRAVERSE CITY

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PERIOD ENDING 12/31/2020

| GL NUMBER | DESCRIPTION | 2020-21 AMENDED BUDGET | ACTIVITY FOR MONTH 12/31/20 | YTD BALANCE 12/31/2020 | ENCUMBERED YEAR-TO-DATE | UNENCUMBERED BALANCE | % BDGT USED |
|--|-------------------------------|---------------------------|-----------------------------------|---------------------------|----------------------------|-------------------------|----------------|
| Fund 585 - AUTOMOBILE PARKING SYSTEM FUND | | | | | | | |
| Revenues | | | | | | | |
| Dept 000 - NON-DEPARTMENTAL | | | | | | | |
| 585-000-451.073 | RAMSDELL GATE FEES | 0.00 | 0.00 | 67.50 | 0.00 | (67.50) | 100.00 |
| 585-000-502.000 | FEDERAL GRANTS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-651.000 | PARKING DECK PROCEEDS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-652.000 | PARKING FEES-COIN | 800,000.00 | 47,948.92 | 681,905.96 | 0.00 | 118,094.04 | 85.24 |
| 585-000-653.000 | PERMITS-SURFACE LOTS | 150,000.00 | 21,456.00 | 69,306.00 | 0.00 | 80,694.00 | 46.20 |
| 585-000-653.005 | PERMITS-PARKING DECK | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-653.007 | PERMITS - NEIGHBORHOOD | 0.00 | 0.00 | 1,160.00 | 0.00 | (1,160.00) | 100.00 |
| 585-000-653.010 | DESTINATION DOWNTOWN | 200.00 | 0.00 | 0.00 | 0.00 | 200.00 | 0.00 |
| 585-000-656.010 | PARKING FINES | 50,000.00 | 2,831.50 | 89,345.53 | 0.00 | (39,345.53) | 178.69 |
| 585-000-656.020 | PARKING FINES-AIRPORT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-656.030 | PARKING FINES-COLLEGE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-664.000 | INTEREST & DIVIDEND EARNINGS | 40,000.00 | 0.00 | 19,538.24 | 0.00 | 20,461.76 | 48.85 |
| 585-000-668.000 | RENTS AND ROYALTIES | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-673.000 | SALE OF FIXED ASSETS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-674.000 | CONTRIBUTIONS-PUBLIC SOURCES | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-675.000 | CONTRIBUTIONS-PRIVATE SOURCES | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-677.000 | REIMBURSEMENTS | 0.00 | 93.80 | 1,217.04 | 0.00 | (1,217.04) | 100.00 |
| 585-000-683.000 | RECOVERY OF BAD DEBTS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-686.000 | MISCELLANEOUS INCOME | 0.00 | 0.00 | 878.06 | 0.00 | (878.06) | 100.00 |
| 585-000-687.000 | REFUNDS AND REBATES | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-694.000 | OTHER INCOME | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-000-699.000 | PRIOR YEARS' SURPLUS | 1,455,500.00 | 0.00 | 0.00 | 0.00 | 1,455,500.00 | 0.00 |
| Total Dept 000 - NON-DEPARTMENTAL | | 2,495,700.00 | 72,330.22 | 863,418.33 | 0.00 | 1,632,281.67 | 34.60 |
| Dept 585 - AUTOMOBILE PARKING SYSTEM | | | | | | | |
| 585-585-653.005 | PERMITS-PARKING DECK | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Dept 585 - AUTOMOBILE PARKING SYSTEM | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Dept 586 - HARDY DECK | | | | | | | |
| 585-586-651.000 | PARKING DECK PROCEEDS | 100,000.00 | 907.00 | 94,065.45 | 0.00 | 5,934.55 | 94.07 |
| 585-586-653.000 | PERMITS-SURFACE LOTS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-586-653.005 | PERMITS-PARKING DECK | 175,000.00 | 14,814.00 | 60,027.00 | 0.00 | 114,973.00 | 34.30 |
| 585-586-668.000 | RENTS AND ROYALTIES | 26,300.00 | 918.00 | 14,736.00 | 0.00 | 11,564.00 | 56.03 |
| 585-586-677.000 | REIMBURSEMENTS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-586-686.000 | MISCELLANEOUS INCOME | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-586-687.000 | REFUNDS AND REBATES | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Dept 586 - HARDY DECK | | 301,300.00 | 16,639.00 | 168,828.45 | 0.00 | 132,471.55 | 56.03 |
| Dept 587 - OLD TOWN DECK | | | | | | | |
| 585-587-651.000 | PARKING DECK PROCEEDS | 25,000.00 | 0.00 | 28,130.25 | 0.00 | (3,130.25) | 112.52 |
| 585-587-653.005 | PERMITS-PARKING DECK | 325,000.00 | 4,032.00 | 218,268.00 | 0.00 | 106,732.00 | 67.16 |
| 585-587-677.000 | REIMBURSEMENTS | 0.00 | 0.00 | 15.00 | 0.00 | (15.00) | 100.00 |
| 585-587-686.000 | MISCELLANEOUS INCOME | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-587-694.000 | OTHER INCOME | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Dept 587 - OLD TOWN DECK | | 350,000.00 | 4,032.00 | 246,413.25 | 0.00 | 103,586.75 | 70.40 |

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REVENUE AND EXPENDITURE REPORT FOR TRAVERSE CITY

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PERIOD ENDING 12/31/2020

| GL NUMBER | DESCRIPTION | 2020-21 AMENDED BUDGET | ACTIVITY FOR MONTH 12/31/20 | YTD BALANCE 12/31/2020 | ENCUMBERED YEAR-TO-DATE | UNENCUMBERED BALANCE | % BDGT USED |
|--|------------------------------|---------------------------|-----------------------------------|---------------------------|----------------------------|-------------------------|----------------|
| Fund 585 - AUTOMOBILE PARKING SYSTEM FUND | | | | | | | |
| Revenues | | | | | | | |
| TOTAL REVENUES | | 3,147,000.00 | 93,001.22 | 1,278,660.03 | 0.00 | 1,868,339.97 | 40.63 |
| Expenditures | | | | | | | |
| Dept 585 - AUTOMOBILE PARKING SYSTEM | | | | | | | |
| 585-585-702.000 | SALARIES AND WAGES | 17,800.00 | 225.73 | 1,139.08 | 0.00 | 16,660.92 | 6.40 |
| 585-585-704.000 | EMPLOYEE OVERTIME | 0.00 | 0.00 | 3.25 | 0.00 | (3.25) | 100.00 |
| 585-585-714.000 | HEALTH SAVINGS ACCT EXPENSE | 0.00 | (0.59) | 31.51 | 0.00 | (31.51) | 100.00 |
| 585-585-715.000 | EMPLOYER'S SOCIAL SECURITY | 1,400.00 | 16.77 | 84.24 | 0.00 | 1,315.76 | 6.02 |
| 585-585-716.000 | EMPLOYEE HEALTH INSURANCE | 200.00 | 10.65 | 63.88 | 0.00 | 136.12 | 31.94 |
| 585-585-717.000 | EMPLOYEE LIFE/DISABILITY INS | 100.00 | 2.60 | 15.64 | 0.00 | 84.36 | 15.64 |
| 585-585-718.000 | RETIREMENT FUND CONTRIBUTION | 200.00 | 0.00 | 85.38 | 0.00 | 114.62 | 42.69 |
| 585-585-719.000 | RETIRES HOSPITALIZATION INS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-585-720.000 | UNEMPLOYMENT COMPENSATION | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-585-721.000 | WORKERS COMPENSATION INS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-585-727.000 | OFFICE SUPPLIES | 6,000.00 | 236.00 | 1,715.90 | 0.00 | 4,284.10 | 28.60 |
| 585-585-740.000 | OPERATION SUPPLIES | 37,000.00 | 360.14 | 15,677.23 | 17,384.69 | 3,938.08 | 89.36 |
| 585-585-801.000 | PROFESSIONAL AND CONTRACTUAL | 1,232,500.00 | 11,364.51 | 340,184.16 | 749,605.36 | 142,710.48 | 88.42 |
| 585-585-810.000 | COLLECTION COSTS | 2,000.00 | 40.32 | 40.32 | 0.00 | 1,959.68 | 2.02 |
| 585-585-850.000 | COMMUNICATIONS | 25,000.00 | 1,201.21 | 7,052.40 | 68,240.00 | (50,292.40) | 301.17 |
| 585-585-854.000 | CITY FEE | 169,200.00 | 0.00 | 0.00 | 0.00 | 169,200.00 | 0.00 |
| 585-585-860.000 | TRANSPORTATION | 5,000.00 | 0.00 | 751.08 | 0.00 | 4,248.92 | 15.02 |
| 585-585-862.000 | PROFESSIONAL DEVELOPMENT | 8,000.00 | 0.00 | 0.00 | 0.00 | 8,000.00 | 0.00 |
| 585-585-863.000 | TRAINING | 2,000.00 | 0.00 | 0.00 | 0.00 | 2,000.00 | 0.00 |
| 585-585-880.000 | COMMUNITY PROMOTION | 66,000.00 | 0.00 | 8,719.50 | 0.00 | 57,280.50 | 13.21 |
| 585-585-900.000 | PRINTING AND PUBLISHING | 14,000.00 | 167.88 | 2,641.84 | 0.00 | 11,358.16 | 18.87 |
| 585-585-910.000 | INSURANCE AND BONDS | 9,000.00 | 0.00 | 5,022.20 | 0.00 | 3,977.80 | 55.80 |
| 585-585-920.000 | PUBLIC UTILITIES | 20,000.00 | 682.27 | 4,806.39 | 0.00 | 15,193.61 | 24.03 |
| 585-585-930.000 | REPAIRS AND MAINTENANCE | 121,000.00 | 0.00 | 23,159.55 | 2,197.53 | 95,642.92 | 20.96 |
| 585-585-930.005 | RAMSDELL GATE REPAIR & MAINT | 1,000.00 | 0.00 | 848.00 | 0.00 | 152.00 | 84.80 |
| 585-585-940.000 | RENTAL EXPENSE | 90,000.00 | 2,240.00 | 35,979.54 | 0.00 | 54,020.46 | 39.98 |
| 585-585-956.000 | MISCELLANEOUS | 600.00 | 460.95 | 6,561.28 | 0.00 | (5,961.28) | 1,093.55 |
| 585-585-959.000 | DEPRECIATION EXPENSE | 135,000.00 | 0.00 | 0.00 | 0.00 | 135,000.00 | 0.00 |
| 585-585-964.000 | TRANSFERS OUT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-585-977.000 | EQUIPMENT | 149,000.00 | 0.00 | 2,013.12 | 2,513.00 | 144,473.88 | 3.04 |
| 585-585-988.000 | UNALLOCATED FUNDS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Dept 585 - AUTOMOBILE PARKING SYSTEM | | 2,112,000.00 | 17,008.44 | 456,595.49 | 839,940.58 | 815,463.93 | 61.39 |
| Dept 586 - HARDY DECK | | | | | | | |
| 585-586-727.000 | OFFICE SUPPLIES | 1,000.00 | 0.00 | 0.00 | 0.00 | 1,000.00 | 0.00 |
| 585-586-740.000 | OPERATION SUPPLIES | 9,000.00 | 516.88 | 8,480.07 | 2,681.37 | (2,161.44) | 124.02 |
| 585-586-801.000 | PROFESSIONAL AND CONTRACTUAL | 89,000.00 | 1,700.60 | 33,354.97 | 19,590.00 | 36,055.03 | 59.49 |
| 585-586-850.000 | COMMUNICATIONS | 3,500.00 | 0.00 | 1,280.00 | 0.00 | 2,220.00 | 36.57 |
| 585-586-900.000 | PRINTING AND PUBLISHING | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-586-910.000 | INSURANCE AND BONDS | 7,000.00 | 0.00 | 2,712.60 | 0.00 | 4,287.40 | 38.75 |
| 585-586-920.000 | PUBLIC UTILITIES | 55,000.00 | 2,964.36 | 12,918.99 | 0.00 | 42,081.01 | 23.49 |
| 585-586-930.000 | REPAIRS AND MAINTENANCE | 117,000.00 | 3,846.23 | 46,384.46 | 36,075.63 | 34,539.91 | 70.48 |
| 585-586-940.000 | RENTAL EXPENSE | 13,000.00 | 0.00 | 0.00 | 0.00 | 13,000.00 | 0.00 |
| 585-586-956.000 | MISCELLANEOUS | 10,000.00 | 0.00 | 0.00 | 0.00 | 10,000.00 | 0.00 |
| 585-586-959.000 | DEPRECIATION EXPENSE | 220,000.00 | 0.00 | 0.00 | 0.00 | 220,000.00 | 0.00 |
| 585-586-977.000 | EQUIPMENT | 5,000.00 | 0.00 | 0.00 | (228.80) | 5,228.80 | (4.58) |
| Total Dept 586 - HARDY DECK | | 529,500.00 | 9,028.07 | 105,131.09 | 58,118.20 | 366,250.71 | 30.83 |

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REVENUE AND EXPENDITURE REPORT FOR TRAVERSE CITY

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PERIOD ENDING 12/31/2020

| GL NUMBER | DESCRIPTION | 2020-21 AMENDED BUDGET | ACTIVITY FOR MONTH 12/31/20 | YTD BALANCE 12/31/2020 | ENCUMBERED YEAR-TO-DATE | UNENCUMBERED BALANCE | % BDGT USED |
|--|------------------------------|---------------------------|-----------------------------------|---------------------------|----------------------------|-------------------------|----------------|
| Fund 585 - AUTOMOBILE PARKING SYSTEM FUND | | | | | | | |
| Expenditures | | | | | | | |
| Dept 587 - OLD TOWN DECK | | | | | | | |
| 585-587-727.000 | OFFICE SUPPLIES | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-587-740.000 | OPERATION SUPPLIES | 8,000.00 | 96.59 | 1,364.40 | 2,922.10 | 3,713.50 | 53.58 |
| 585-587-801.000 | PROFESSIONAL AND CONTRACTUAL | 69,500.00 | 570.00 | 10,580.04 | 15,450.00 | 43,469.96 | 37.45 |
| 585-587-850.000 | COMMUNICATIONS | 6,000.00 | 0.00 | 1,853.53 | 0.00 | 4,146.47 | 30.89 |
| 585-587-863.000 | TRAINING | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-587-900.000 | PRINTING AND PUBLISHING | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-587-910.000 | INSURANCE AND BONDS | 6,000.00 | 0.00 | 2,420.72 | 0.00 | 3,579.28 | 40.35 |
| 585-587-920.000 | PUBLIC UTILITIES | 50,000.00 | 2,773.93 | 11,504.22 | 0.00 | 38,495.78 | 23.01 |
| 585-587-930.000 | REPAIRS AND MAINTENANCE | 167,000.00 | 553.62 | 13,007.42 | 14,333.36 | 139,659.22 | 16.37 |
| 585-587-940.000 | RENTAL EXPENSE | 13,000.00 | 0.00 | 0.00 | 0.00 | 13,000.00 | 0.00 |
| 585-587-956.000 | MISCELLANEOUS | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 585-587-959.000 | DEPRECIATION EXPENSE | 181,000.00 | 0.00 | 0.00 | 0.00 | 181,000.00 | 0.00 |
| 585-587-977.000 | EQUIPMENT | 5,000.00 | 0.00 | 0.00 | 0.00 | 5,000.00 | 0.00 |
| Total Dept 587 - OLD TOWN DECK | | 505,500.00 | 3,994.14 | 40,730.33 | 32,705.46 | 432,064.21 | 14.53 |
| TOTAL EXPENDITURES | | 3,147,000.00 | 30,030.65 | 602,456.91 | 930,764.24 | 1,613,778.85 | 48.72 |
| Fund 585 - AUTOMOBILE PARKING SYSTEM FUND: | | | | | | | |
| TOTAL REVENUES | | 3,147,000.00 | 93,001.22 | 1,278,660.03 | 0.00 | 1,868,339.97 | 40.63 |
| TOTAL EXPENDITURES | | 3,147,000.00 | 30,030.65 | 602,456.91 | 930,764.24 | 1,613,778.85 | 48.72 |
| NET OF REVENUES & EXPENDITURES | | 0.00 | 62,970.57 | 676,203.12 | (930,764.24) | 254,561.12 | 100.00 |

Minutes
Traverse City Downtown Development Authority
Finance Committee
9:30am
December 8, 2020
Virtual Zoom Meeting

Scott Hardy called the meeting to order at 9:30am

Present: Scott Hardy, Debbie Hershey, Steve Constantin, Richard Lewis, Gabe Schneider

Absent: None

Attendees: Jean Derenzy, Harry Burkholder

Opening Public Comment: None

Review of 2021/2022 CIP Projects

2020/2021 Budget

Derenzy provided a review of the updated CIP Projects as well as revenue projections for TIF 97 and Old Town TIF. Constantin noted the rather large and unknown costs associated the enhanced pedestrian crossings CIP at Grandview Parkway. Hardy noted that these costs might already be assumed in MDOT's budget/project and we may be obligated to uphold such costs. Derenzy noted she will talk with Tim Lodge and MDOT regarding the details of that project. Derenzy noted the updated CIP plan will be on the December 18th DDA agenda.

MOVED by Lewis seconded by Schneider to approve the CIP with amendment to the full DDA Board for consideration and approval the the December 18, 2020 DDA meeting. **APPROVED unanimously.**

Closed Session

MOVED by Schneider and seconded by Lewis to move into Closed Session. **APPROVED unanimously.**

Calendar for 2021/2022 Budget: Derenzy will provide for the October meeting.

Back from closed session at 11:13

Other Business: None.

Closing Public Comment: None

MOVED by Lewis and seconded by Hardy to adjourn meeting. **APPROVED unanimously.**

Meeting adjourned at 10:17

Scott Hardy, Chair



Memorandum

To: Jean Derenzy, DDA
From: Nicole VanNess, Transportation Mobility Director
Date: January 8, 2021
Re: Smart Parking Meter Purchase

The Parking Subcommittee reviewed the advantages and disadvantages of single space vs multi-space meters in order to provide feedback for the evaluation committee to consider when reviewing the proposals. Their discussions focused on the overall customer convenience attributes offered by single space meters. Having a meter at each space eliminates any confusion for the public and visitors on where to pay; reduces the amount of walking to find a pay station; reduces lines formed when multiple parkers are attempting to pay at the same time; and provides upfront information specific to the space (hour limits, rates, etc.).

With this information, the Evaluation Committee focused on the single space vendors in order to provide a better solution for the end user. There were four vendors that submitted single space meter bids. One of the bidders was removed from consideration as their solution did not include hardware and was solely solution (application) based. The three remaining proposals were evaluated on meeting the core requirements, technological requirements, demonstrating timeline for deliverables along with other criteria for project management and implementation. Their meter mechanism hardware is similar with some having additional fees for EMV (chip-card) or near-field communication (NFC) capabilities. Their back-office software varied in complexity and capabilities of information that could be provided, but all provided the minimum requirements. Additional discussion included the vendor's supplemental proposals for multi-space meters and real-time technologies. The Evaluation Committee acknowledged the benefit of partnering with a vendor to include additional products of multi-space or sensors in order to gain better service by having one provider.

Staff completed reference checks for the vendors and the majority of the feedback was positive. Some references shared frustration and dissatisfaction with service and hidden fees. Many of the references shared points of consideration for the implementation process. These discussions included fees related to credit card processing, and one has used historical data to determine that credit card processing is 25-30% of meter revenues.

There are 1120 single space meters actively being used in the field. The initial phase will consist of replacing 292 meters in the premium zone or core downtown streets. This zone includes the majority of storefront retail spaces which are highly valued for customer convenience. The

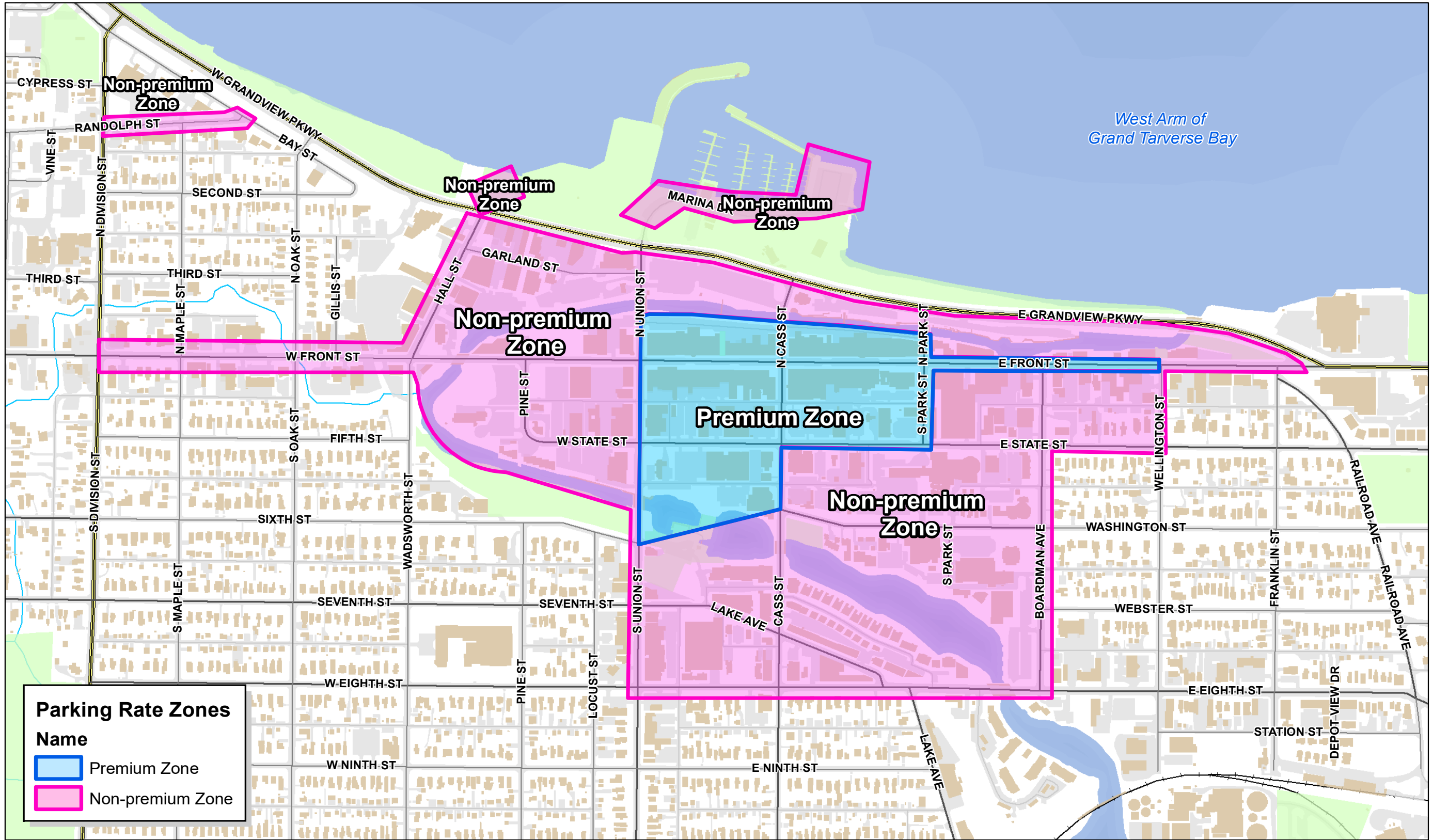
replacement with smart parking meters will allow for payment by credit card which includes an integration with Parkmobile to display paid time on meter. The only outstanding item is the meter housing and if they can be reused or need to be retrofitted. The estimated capital purchase of this replacement is \$99,974 with annual fees of \$19,602 for software and communications.

There is an added value section that includes smartcard purchase and pricing for sensors. Smart cards are reusable/rechargeable cards that may be used by those who have frequent business downtown. The user will add a value to the card for use at the meters. The user will insert the card to start parking and again to end their parking session. The user is only charged for the time used. The estimated cost to add this solution with 200 smartcards is \$5,075. The addition of sensors will provide usage data that can reflect real-time occupancy, including real-time usage in the Parkmobile application. This information would allow for automated reporting and greatly reduce staff time to capture occupancy counts and compile for reporting. Sensors also communicate directly with the meter mechanism to prevent overtime parking and zero out transactions. These features aid with space turnover. There are 78 spaces in the 100 and 200 blocks of East Front. Including the sensors at the time of the meter replacement allows us to begin capturing data on two of the most utilized blocks downtown. The estimated capital purchase of this equipment is \$18,523 with annual fees of \$3,240 for software and communications.

Credit card processing fees have been based on historical information captured by Parkmobile and Digital IRIS pay station transactions. We will not know the actual credit card use until the meters are installed and use data is captured. An estimate of 17,400 credit card transactions per month was used to calculate credit card processing fees of \$48,000 per year. The actual credit card processing fees may be more or less. Credit card processing fees will be reviewed separately from this item.

RECOMMENDATION: The Parking Subcommittee recommends the DDA enter into a contract with CivicSmart in an amount more or less of \$123,572 for the purchase, installation and training of smart parking meters, smart cards and sensors; and a service order in an amount of \$23,022 for monthly recurring software and communication fees to be renewed annually for life of equipment.

| SMART PARKING METER RFP BID RESULTS | | | | | | | |
|---|---|----------------|--------------|------------|---------------|-------------|---------------|
| | | Civic Smart | | IPS | | POM | |
| Quantity | Description | Per Meter Cost | Total | Per Meter | Total | Per Meter | Total |
| Capitial Costs | | | | | | | |
| 292 | Single Space Smart Meter | \$ 275.00 | \$ 80,300.00 | \$ 540.00 | \$ 157,680.00 | \$ 740.00 | \$ 216,080.00 |
| 292 | Field Installation | \$ 25.00 | \$ 7,300.00 | \$ 21.00 | \$ 6,132.00 | \$ - | \$ - |
| 292 | Estimated Freight* | \$ 27.00 | \$ 7,884.00 | \$ 17.50 | \$ 5,110.00 | \$ - | \$ - |
| 1 | Training | \$ 3,000.00 | \$ 3,000.00 | \$ - | \$ - | \$ - | \$ - |
| 5 | Recommended spare parts* | \$ 298.00 | \$ 1,490.00 | \$ 800.00 | \$ 4,000.00 | \$ 1,608.00 | \$ 8,040.00 |
| | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| | Capital Subtotal | \$ | 99,974.00 | \$ | 172,922.00 | \$ | 224,120.00 |
| | | | | | | | |
| Monthly Costs | | | | | | | |
| 297 | Wireless Communications, Software Fees, Device Fees | \$ 5.50 | \$ 1,633.50 | \$ 6.25 | \$ 1,856.25 | \$ 5.00 | \$ 1,485.00 |
| 17400 | Credit Card Gateway Fees (Vendor)* | \$ 0.06 | \$ 1,044.00 | \$ 0.13 | \$ 2,262.00 | \$ 0.08 | \$ 1,392.00 |
| 17400 | Credit Card Fees (Merchant Services billed separate by Bank)* | \$ 0.17 | \$ 2,958.00 | \$ 0.22 | \$ 3,828.00 | \$ 0.22 | \$ 3,828.00 |
| 1 | Integration Fees | \$ - | \$ - | \$ 800.00 | \$ 800.00 | \$ - | \$ - |
| | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| | Monthly Subtotal (+Estimate*) | \$ | 5,635.50 | \$ | 8,746.25 | \$ | 6,705.00 |
| | | | | | | | |
| Warranty Costs | | | | | | | |
| 292 | Extended Warranty Fees | \$ - | \$ - | \$ 42.50 | \$ 12,410.00 | \$ 50.00 | \$ 14,600.00 |
| | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| | Warranty Subtotal | \$ | - | \$ | 12,410.00 | \$ | 14,600.00 |
| | | | | | | | |
| Additional Costs | | | | | | | |
| 292 | Housing Replacement | \$ - | \$ - | \$ 235.00 | \$ 68,620.00 | \$ 200.00 | \$ 58,400.00 |
| | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| | Additional Expense Subtotal | \$ | - | \$ | 68,620.00 | \$ | 58,400.00 |
| | Meter Replacement Total (Capital + Additional) | \$ | 99,974.00 | \$ | 241,542.00 | \$ | 282,520.00 |
| | Meter Replacement Annual Total (Monthly + Warranty) | \$ | 67,626.00 | \$ | 117,365.00 | \$ | 95,060.00 |
| | | | | | | | |
| Quantity | Description | Per Sensor | Total | Per Sensor | Total | Per Sensor | Total |
| Value Added Capital | | | | | | | |
| 83 | Sensors | \$ 125.00 | \$ 10,375.00 | \$ 295.00 | \$ 24,485.00 | \$ - | \$ - |
| 6 | Gateway Devices* | \$ 400.00 | \$ 2,400.00 | \$ - | \$ - | \$ - | \$ - |
| 78 | Sensor Installation | \$ 39.00 | \$ 3,042.00 | \$ 21.00 | \$ 1,638.00 | \$ - | \$ - |
| 6 | Gateway Installation | \$ 100.00 | \$ 600.00 | \$ - | \$ - | \$ - | \$ - |
| 78 | Estimated Freight* | \$ 27.00 | \$ 2,106.00 | \$ 17.50 | \$ 1,365.00 | \$ - | \$ - |
| | Training | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| | Value Added Capitial Subtotal | \$ | 18,523.00 | \$ | 27,488.00 | \$ | - |
| | | | | | | | |
| Value Added Monthly Costs | | | | | | | |
| 83 | Wireless Communications, Software Fees, Device Fees | \$ 3.00 | \$ 249.00 | \$ 6.50 | \$ 539.50 | \$ - | \$ - |
| 6 | Gateway Fees* | \$ 6.00 | \$ 36.00 | | \$ - | \$ - | \$ - |
| | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| | Value Added Monthly Subtotal (+Estimate) | \$ | 285.00 | \$ | 6,474.00 | \$ | - |
| | | | | | | | |
| Value Added Meter (Requested after bid) | | | | | | | |
| 1 | Smart Card Reader | \$ 75.00 | \$ 75.00 | | | | |
| 200 | Smart Cards | \$ 17.00 | \$ 3,400.00 | | | | |
| 1 | Software - Gem Club Loader | \$ 1,500.00 | \$ 1,500.00 | | | | |
| 1 | Estimated Freight* | \$ 100.00 | \$ 100.00 | | | | |
| | Value Added Meter Subtotal | \$ | 5,075.00 | | | | |
| | | | | | | | |
| | Value Added Capital Total | \$ | 18,523.00 | \$ | 27,488.00 | \$ | - |
| | Value Added Annual Total (Monthly) | \$ | 3,420.00 | \$ | 77,688.00 | \$ | - |
| | Value Added Meter | \$ | 5,075.00 | | | | |
| | | | | | | | |
| | Meter + Sensor + SmartCard Purchase | \$ | 123,572.00 | \$ | 269,030.00 | \$ | 282,520.00 |
| | Meter + Sensor Annual Fees (Vendor) | \$ | 23,022.00 | \$ | 28,749.00 | | 17,820.00 |
| | Annual Credit Card Fees (Payment Processor + Bank) | \$ | 48,024.00 | \$ | 73,080.00 | \$ | 62,640.00 |



Parking Rate by Zones



This map is based on digital databases from the City of Traverse City. Traverse City cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties expressed or implied.



Downtown Development Authority
Parking Services



Not to scale
12/18/2020 GWS



Memorandum

To: Jean Derenzy, DDA
 From: Nicole VanNess, Transportation Mobility Director
 Date: January 11, 2021
 Re: Smart Parking Meter Credit Card Fees

The smart parking meter installation will result in additional credit card processing. I have been reviewing historical credit card information in order to provide an estimate of the additional credit card fees we can anticipate incurring once the new meters are installed. We will not know the actual credit card use until the meters are installed and use data is captured, and we should expect credit card expenses to increase year-over-year as parkers transition from coin to credit.

Credit card processing fees are comprised of hourly parking transactions for the Old Town Parking Garage and Hardy Parking Garage; hourly parking transactions from 29 multi-space pay stations; online transactions for citations and permits; and in-office for all parking transactions. We do not pay any credit card fees on Parkmobile transactions. Parkmobile app users pay a per transaction convenience fee for this service, and Parkmobile retains this fee in lieu of a contract fee. Recent credit cards fees:

2018/19 \$94,573.33

2019/20 \$81,557.06

Credit card usage has continued to increase year-over-year. 2019-20 was on target to have increased usage prior to the pandemic, but did not increase due to reduced transactions from between March and June. The information below compared to coin collections supports the increase of users transitioning from coin/cash payments to credit card use.

| | 2015-16* | 2016-17 | 2017-18 | 2018-19 | 2019-20** |
|---------------------|----------|---------|---------|---------|-----------|
| Parkmobile | 57,320 | 77,876 | 134,979 | 208,682 | 198,130 |
| Digital IRIS | 12,042 | 148,526 | 180,144 | 197,823 | 178,058 |
| Total | 69,362 | 226,402 | 315,123 | 406,505 | 376,188 |

*Pay station quantity increased from 13 to 26

**Pay station quantity increased from 26 to 29

In order provide an estimate on new credit card processing fees, I used historical credit card capture information. The new meters will be installed in the premium zone where they are likely to see regular use due to store front proximity. A single meter could have up to 5 transactions a day during the 313 enforceable days per year. An estimate of 17,400 credit card transactions per month was used. This is based on each meter processing between 2-3 transactions per day.

CivicSmart has a relationship with credit card processor Hartland. Hartland has identified the low per transaction tickets that are processed in the parking industry, and worked with Visa and MasterCard directly to negotiate reduced interchange rates. These rates are as low as Visa at 1.5% + \$0.05 per transaction (reduced from 5% + \$0.22) and MasterCard at 2% + \$0.02 per transaction (reduced from 5% + \$0.22). I have used their estimate to calculate credit card processing fees of \$0.23 per transaction. This calculation is based on a \$2.50 transaction of which \$0.06 interchange fee and \$0.17 vendor/merchant service bank fee. The estimate of 17,400 transactions a month would result in processing fees of \$48,024 per year. The actual credit card processing fees may be more or less. Total credit card expenses can be complicated as there are bank fees, gateway fees, interchange fees and more. The biggest unknown is the interchange fees and choosing the wrong processor could result in negative transactions given that the total ticket amount is so low. One of the Smart Meter RFP references, estimates that credit card fees are 25-30% of each transaction. For this reason, Hartland's agreement with Visa and MasterCard will provide savings. The City of Birmingham uses Hartland for their single space credit card processing. Prior to selecting Hartland, Birmingham reviewed and compared information provided from other processors, and have confirmed they have benefitted from using them.

Lastly, the CivicSmart meters are capable of charging different per hour rates based on payment methods. Next month, the Parking Subcommittee will review whether or not to recommend a separate hourly rate for credit cards.

RECOMMENDATION: The DDA Board recommend the City Commission move forward with an agreement with Hartland to provide credit card processing services for the Auto Parking System subject to content approval by the City Attorney and City Treasurer.



Memorandum

To: Jean Derenzy, DDA CEO
From: Nicole VanNess, Transportation Mobility Director
Date: January 8, 2021
Re: Destination Downtown Waive Participation Fees

Destination Downtown Agreement

The pandemic of 2020 has reduced BATA's overall ridership and our Destination Downtown participants. Since March, the program has one dedicated user each week with up to three additional infrequent riders who have collectively accounted for 149 trips. This year's usage has declined to 12% compared to last year. While we are not seeing a steady increase, having a free transportation option is going to be an integral part of getting employees downtown and back in businesses as we continue to navigate the pandemic.

The Destination Downtown Agreement is set to auto-renew from March 1, 2021-February 28, 2022 unless terminated by February 1, 2021. We plan to continue with this agreement, and will allocate Auto Parking Funds for Destination Downtown and the Bayline in our upcoming budget planning. I will be working with our Community Development Director to increase marketing and communication efforts to promote this solution to employers and employees within the DDA District.

Destination Downtown Participation Fees

Participation fees are up to \$100 per business and \$5 per employee pass. It may take time for individuals to feel comfortable utilizing public transit, and we do not want to deter anyone from having access to transportation at this time. This program offering is an important component in our managed parking system. Given the low ridership, we would like to encourage the continued use by current participants in the coming year and waive employer participation fees for new participants.

RECOMMENDED MOTION: The DDA Board waive Destination Downtown Participation Fees for 2021/2022.



Downtown Development Authority
303 E. State Street
Traverse City, MI 49684
jean@downtowntc.com
231-922-2050

Memorandum

To: DDA Board

From: Jean Derenzy, DDA CEO
Gabe Schneider, Chair
Steve Constantin, Treasurer
Richard Lewis, Chair of Governance

Date: January 8, 2021

Re: Hiring Legal Counsel

Last November the DDA issued a Request for Proposal (RFP) for general legal council. We received proposals (included for your review and information) from the following firms:

- Olson, Bzdok and Howard
- Sondee, Racine and Doren
- North Coast Legal

A review team consisting of Richard Lewis (Governance Committee Chair), Gabe Schneider (DDA Chair), Steve Constantin (DDA Board Member), and Jean Derenzy (DDA CEO) evaluated each proposal and then interviewed each prospective firm on January 5th.

After careful consideration, the review team is recommending the DDA hire Olson, Bzdok and Howard as its general counsel. Olson, Bzdok and Howard have a long and extensive history working with municipalities and DDA's throughout Michigan. In addition, they have in-depth experience with real estate development, tax increment financing (TIF), grant and contracts.

The firm's team that will work most closely with the DDA include Scott Howard, Lydia Barbash-Riley and Ross Hammersley, with Mr. Howard serving as the primary attorney. Fees for Mr. Howard and Mr. Hammersley are \$185/hr. Fees for Ms. Barbash-Riley are \$165/hr. Mr. Howard has been asked to attend our meeting to answer any questions Board members may have.

A formal contract will be brought back to the DDA Board for approval at your February Meeting.

Should the Board approve to hire Olson, Bzdok and Howard, I will begin working with the firm on several DDA initiatives *before* the DDA Board formally approves the contract in February. These costs will not exceed \$2,000.

RECOMMENDATION

That the DDA Board of Directors hire Olson, Bzdok and Howard for legal counsel. Furthermore, that the DDA CEO present a contract for such legal services to the DDA Board at their February meeting.

NORTH COAST L E G A L

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November 19, 2020

Sent via electronic mail

Jean Derenzy, CEO
Traverse City, DDA
303 State Street
Traverse City, MI 49684
jean@downtowntc.com

Re: Proposal to Provide Legal Services to the DDA

Dear Ms. Derenzy:

I am excited to submit this proposal on behalf of North Coast Legal, PLC, for your consideration. North Coast Legal is a local boutique law firm representing clients throughout the State of Michigan. Our portfolio of clients and relevant experience makes our firm an ideal partner for the DDA to assist with legal matters.

Attached please find the curricula vitae/resumes of partners H. Douglas Shepherd, IV and Michael C. Naughton. In addition, writing samples have been included to illustrate the firm's successes and work product.

1. Legal Experience

Michael Naughton has successfully argued at the United States Supreme Court and the Michigan Supreme Court. As recently as this year, Michael successfully challenged the State of Michigan's recall law and, in a unanimous opinion, the Michigan

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Supreme Court agreed with Michael's position, reversed the Court of Appeals and effectively modified the interpretation of the statute.

Michael has represented public officials in municipal matters in the City of Detroit. He successfully represented the former Mayor of the City of Detroit in a case involving the admissibility of text messages in federal civil litigation. Based upon Michael's motion to dismiss, the Eastern District of Michigan dismissed the Plaintiff's case in a 102-page opinion. The dismissal was upheld by the Sixth Circuit Court of Appeals. *Flagg v. City of Detroit*, 715 F. 3d 165 (6th Cir. 2013).

Michael has served multiple business organizations in Traverse City. When Michael served on the Grand Traverse Economic Development Corporation he led an effort to update the bylaws of the organization. He was a board member of TCNewTech and he assisted the organization with corporate governance, 501(c)(3) compliance, and negotiation of agreements. Michael was an original board member of 20Fathoms. In his role on this board, Michael assisted 20Fathoms with lease agreements, development grants (specifically a USDA grant), and corporate governance.

Michael was elected president of the Grand Traverse Antrim Leelanau Bar Association. During his term, he worked with Traverse City as well as circuit judges and 13th Circuit Court staff to host the Michigan Supreme Court's hearing of oral arguments. During his tenure, membership grew dramatically and the budget experienced a

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surplus. The Michigan Supreme Court heard an oral argument at Traverse City Central High School. Michael and City Attorney Lauren Tribble Laucht presented an opening introduction to students and members of the public about the role and function of the Supreme Court before the Court took the stage.

Doug Shepherd is a nationally recognized creditors' rights attorney with almost twenty years of experience representing local, regional and national financial institutions. Doug has assisted his lending clients with managing their default, delinquent and debt portfolio, providing value driven solutions utilizing technology, communication and uncompromised ethics as the pillars of this niche practice. Doug's practice includes providing best practice solutions to their collection needs, litigation, judgment collection, foreclosure, forbearance/workout arrangements, creditor's side bankruptcy, and regulatory compliance.

In addition to his financial institutional clients, Doug has also represented individual and business clients with real estate transactions, contractual negotiations/drafting and corporate formation/governance.

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North Coast Legal References (Clients and Business Contacts) for the DDA:

Christopher Milliron
Chief Lending Officer
TBA Credit Union
chris@tbacu.com

Andrew Kempf
CEO
4Front Credit Union
akempf@4frontcu.com

Stephen Ezell
Owner
Memberbox
stephen@memberbox.com

Marvin Jensen
Owner
Talon Group Title Agency
mjensen@talongrouptitle.biz

Additional character or business references are available upon request.

2. Organization, Size, Structure and Areas of Practice

North Coast Legal has two lawyers and a paralegal. The DDA will have direct lines of communication with the attorneys handling all matters. Part of the firm's success is built upon the relationships we foster directly with our clients. When our clients call the firm, they speak directly to the attorney handling their matter. There is no middle management or associates that work will be outsourced to. Although we expect to grow over the course of the next few years, DDA matters will be handled by a partner at North Coast Legal.

Collectively, Michael and Doug provide almost 40 years of high-profile litigation experience and corporate transactional knowledge. This breadth of experience provides more value to clients as we provide multi-dimensional areas of practice.

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3. Attorney Qualifications

Both Doug and Michael are eminently qualified to assist the DDA with any legal issues. We are both licensed to practice law in the State of Michigan. North Coast Legal has appeared in both federal and Michigan courts on behalf of our clients. In fact, Michael was selected by Chief Judge Robert Jonker of the federal Western District of Michigan to serve on a panel to select the next magistrate judge in the region.

Doug and Michael are proud of the firm being integrated in the Traverse City community. As business owners who moved from metro-Detroit to build our business in Traverse City, North Coast Legal has vested interests in the growth and development of its clients as well as downtown Traverse City. North Coast Legal relies on Doug and Michael's shared experiences as entrepreneurs to provide cost-effective solutions to clients.

4. Compensation

North Coast Legal bills clients on one tenth (0.10) hourly basis. We use electronic billing software to track the time worked and send invoices to clients. Typically, the hourly rate is \$250.00 per hour. However, North Coast Legal would agree to a reduced rate of \$175.00 per hour for work performed on behalf of the DDA.



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Conclusion

If we are granted the honor of providing legal services to the DDA, our approach to recurring client referrals is simple: each new file is an opportunity to earn the next. This approach has served us well and allowed us to maintain several repeat client relationships over a decade old, with some approaching two decades. Despite many collective years of experience, Michael and Doug plan to be around for many more years serving our clients.

Thank you very much for your consideration. The team at North Coast Legal looks forward to the opportunity to discuss further how we can help the DDA with the important work it does to grow and develop the Traverse City community. We would be eager to answer any questions you may have so please do not hesitate to contact us to discuss.

Respectfully,

NORTH COAST
L E G A L



Michael C. Naughton

NORTH COAST
L E G A L

Michael C. Naughton
Curriculum Vitae

MICHAEL C. NAUGHTON

800 Cottageview Drive, Suite 1080, Traverse City, MI 49686

(231) 409-8248

mike@thenorthcoastlegal.com

EXPERIENCE

NORTH COAST LEGAL, PLC, Traverse City, MI

2017-Present

Co-Owner/Attorney

- Represent corporations and individuals in civil and criminal litigation in federal and Michigan courts
- Selected by Chief Judge Robert Jonker to serve on the Western District of Michigan's Magistrate Judge Selection Panel
- Successfully represent clients in civil, administrative, and appellate matters before the Michigan Supreme Court and the Michigan Court of Appeals
- Draft, review and negotiate contracts on behalf of private medical practices regarding to office leases, employee compensation, partnership agreements, and corporate governance
- Consult with businesses to assist with contract negotiations, lease agreements and employment matters
- Author of the Institute for Continuing Legal Education on jury instructions for crimes involving an electronic transaction device

LAW OFFICES OF MICHAEL C. NAUGHTON, PLLC, Traverse City, MI

2014-2017

Owner

- Consultant for the Michigan Indigent Defense Commission, a state agency tasked with reform of the criminal defense system
- Responsible for the largest region in Michigan, comprised of the Upper Peninsula as well the northern Lower Peninsula
- Worked with county commissioners, county administrators, judges and attorneys on compliance with the Michigan Indigent Defense Act
- Collaborated on developing and implementing minimum standards for criminal defense attorneys to comply with the Michigan Indigent Defense Act
- Conducted training sessions with attorneys on securely accessing discovery data, the use of cloud-based tools, and efficiently sorting and searching through electronic materials

THOMAS & NAUGHTON, P.C. (Of counsel, O'Reilly Rancilio, P.C.), Detroit, MI

2005-2014

Partner

- Developed and oversaw the implementation of legal policies and compliance regulations for a Tier 1 automotive supplier
- Appointed on multiple federal "mega cases" by the Sixth Circuit Court of Appeals, including *United States v. Kwame Kilpatrick*; *United States v. David Stone, et al*; *United States v. Scott Sutherland, et al*; and *United States v. Aref Nagi, et al*.
- Oversaw budget allocations, tracked expenditures, implemented cost-saving measures, maintained documentation and ensured spending was aligned with partnership's bottom line
- Represented a large multinational bank in a \$125M fraud claim involving millions of pages of discovery
- Represented clients in municipal litigation. *Flagg v. City of Detroit*, 715 F. 3d 165 (6th Cir. 2013)
- Successfully argued at the United States Supreme Court. See *Nagi v. United States*, 134 S. Ct. 2288 (2014). Judgment was vacated and the case was remanded to the Sixth Circuit Court of Appeals.

COMMUNITY GROUPS

TCNEWTECH, Traverse City, MI

2015-2020

Officer and Board Member

- Early member of TCNewTech, a community organization that provides a forum for entrepreneurs and community members to network and present on their technology-based businesses.
- Assist the President of TCNewTech with presentations, meet with prospective speakers from across the country, and provide legal consultation as the organization grows.
- As a member of the fiber subcommittee, meet with Traverse City Commissioners, members of Traverse City Light & Power, attend TCL&P board meetings, and engage in educational efforts in the community about the benefits of high-speed fiber internet.
- Monthly speaker on privacy and security issues in an effort to educate the community about strategies on securing personal and professional data.
- Created the 501(c)(3) corporate structure of TCNewTech, drafted bylaws, strategized on the composition of TCNewTech monthly meetings and created a mechanism for paid memberships.
- Served as the chairperson of a Traverse City Smartzone Exploration Committee which met with executives from the Michigan Economic Development Corporation regarding possible Smartzone scenarios for Traverse City.
- Collaborated on the long-term strategic development of a startup incubator in Traverse City which would ultimately become 20 Fathoms.

GRAND TRAVERSE COUNTY ECONOMIC DEVELOPMENT CORPORATION

2017-2019

Treasurer

- Restructured the bylaws of the Grand Traverse Economic Development Corporation.
- Organized a one-day conference for companies across the Grand Traverse region to learn about and compete for federal defense contracts.
 - Invited and hosted decision makers from the Department of Defense.
 - Invited faculty from NMC and Michigan Technological University to attend and interface with federal decision makers.
- Initiated dialogue with Michigan Technological University and serve as a member of the Michigan Technological University Exploratory Committee.
 - Established relationships with faculty and staff at Michigan Technological University to explore opportunities for MTU to further engage and invest in the Grand Traverse region.

EDUCATION

UNIVERSITY OF DETROIT MERCY, Detroit, MI

- ***Juris Doctor*** - 2007
 - Scholarship Recipient
 - Member, Moot Court National Team
 - Member, Dean's Tutorial Society

UNIVERSITY OF SAN DIEGO SCHOOL OF LAW, Study Abroad in Moscow, Russia - 2005

- Studied Russian Law and East-West Trade Law in Moscow and St. Petersburg

WAYNE STATE UNIVERSITY, Detroit, MI (1997-2002)

- ***Bachelor of Arts***, English, *cum laude* – 2002

HONORS AND SERVICE

- **President**, Grand Traverse Antrim Leelanau Bar Association, 2018-2019
 - Worked with the City of Traverse City to bring the Michigan Supreme Court to hear oral argument in Traverse City on October 16, 2019
- **Board Member**, Western District of Michigan Magistrate Selection Panel, 2019
- **Top 100 Criminal Defense Lawyers**, America's Top 100
- **Superlawyer**, 2020, **Rising Star**, *Superlawyers* magazine for the years 2013-2019
- **Executive Board Member**, Utopia Foundation, 2015-Present
- **Board Member**, 20Fathoms, 2017-2019
- **Member**, Cherryland Electrical Cooperative *Emerging Leaders Program*, 2018
- **40 under 40**, *Traverse City Business News*, 2017
- **Board of Governors**, Criminal Defense Attorneys of Michigan, 2015-2018
 - Chairperson, Technology Committee
- **Pro Bono Volunteer**, Third Level Legal Services, 2015-Present

PUBLICATIONS AND PRESENTATIONS

- Conducted live press conferences, television interviews and radio interviews pertaining to representation of recall campaign in Traverse City. National media outlets picked up and broadcast the interviews
- Conducted live, on the air interviews broadcast across Michigan on National Public Radio regarding the growing Traverse City economy
- **Keynote Speaker**, Traverse City Economic Club (May 2019)
- **The Impact of New Data Protection Laws on Local Businesses**, (Traverse City Business News, September 2018)
- **Law Firms Under Cyber-Seige**, Master Lawyers Section State Bar of Michigan (Spring 2018)
- **Modern Law Practice**, Woman Lawyers Association, (April 2018)
- **Update and Fundraising for 20 Fathoms**, Front Street Irregulars (May 2018)
- **Update on Traverse City Smartzone**, Front Street Irregulars (January 2018)
- **How to Stay Out of Legal Trouble**, Startology presentation (October 2017)
- **Practicing Smarter to Save Time and Money**, Michigan Assigned Appellate Attorney Service (November 2016)
- **MIDC Compliance and the Upper Peninsula**, State Bar of Michigan (October 2016)
- **Update on MIDC**, Circuit and District Court Judges for SCAO Region III & IV (October 2016)
- Frequent guest on The Ron Jolly Show, WTCM AM 580, to speak on the air concerning issues involving technology and the law
- **Stored Communications Act and Entrepreneurs**, TCNewTech (October 2015)
- In studio interview, **Managing E-Discovery Costs**, ICLE (July 2015)
- **Electronic Discovery and the Canada Evidence Act**, Upper Canada Legal Institute
- Featured in "New Technology, Traditional Legal Tests" in Canadian Lawyer, a national legal publication.
- Live on-air interview on Detroit ABC affiliate WXYZ as an expert on the Target credit card breach (December 2013)
- **Buttressing Your Investigation with Cell Phone Data**, Institute for Criminal Justice Education, Auburn University, Alabama (September 2013)
- **Seeing is Believing: Presenting Electronic Evidence to a Jury**, Upper Michigan Legal Institute (May 2013)
- **ESI as a Teaching Tool for Juries**, Michigan Young Lawyers Section (June 2013)
- **Opening the Large Paper Case in the Digital Age**, CJA Panel Attorneys Seminar (September 2012)
- FBA Panel Discussion with Judge Robert Cleland, Judge David Lawson, Daniel Lemisch, Chief of the Criminal Division (U.S. Attorney's Office, Detroit), FBI Special Agent Matthew Zentz and Joseph Richotte on ESI and federal criminal practice (May 2012)
- In studio interview, **Criminal Defense Series: Trial Strategy and Tactics**, ICLE (June 2012)

H. Douglas Shepherd, IV
Curriculum Vitae

H. DOUGLAS SHEPHERD, IV

800 Cottageview Drive, Suite 1080, Traverse City, MI 49686

(231) 421-7076

doug@thenorthcoastlegal.com

EXPERIENCE

NORTH COAST LEGAL, PLC, *Traverse City, Michigan*

2013-Present

Attorney/Managing Member/Founder

- Advise creditor clients regarding collection matters, including foreclosure, judgments and bankruptcy
- Assist creditor clients with matters related to real estate owned
- Provide guidance to creditor clients related to Mortgage Modification requirements and procedures
- General practice related to real estate, corporate and business transactions

BRANDT, FISHER, ALWARD, & PEZZETTI, P.C., *Traverse City, Michigan*

2002-2013

Attorney

- Analyze and document commercial loan transactions
- Draft bank file review opinions
- Advise creditor clients regarding collection matters, with an emphasis on commercial loan relationships and loan workout
- Manage an extensive default loss mitigation caseload.
- Created and implemented a streamlined, automated, and more efficient procedure to process a large volume of foreclosures, with an emphasis on Foreclosure by Advertisement

MURPHY, BRENTON, AND SPAGNUOLO, *East Lansing, Michigan*

2001

Law Clerk

- Conducted legal research and drafted informational memoranda. Prepared and organized trial exhibits for a commercial litigation matter which ended in a successful 1.4 million dollar verdict

SCOTT & ASSOCIATES LAW FIRM, *Lansing, Michigan*

2000-2001

Law Clerk

- Conducted legal research, interviewed witnesses, attended court hearings and trials, drafted motions and other legal memorandum at a general practice law firm

CREDITOR'S RIGHTS PROFICIENCIES, EXPERIENCE AND SKILLS

Complex Commercial Collection
Consumer Collection
Forbearance Agreements
Loan Modification
Loan Workouts
Judicial Foreclosures
Complex Non-Judicial Foreclosures
High Volume Non-Judicial
Foreclosures
Bankruptcy
Bank Loan Reviews
Bank Loan Documentation

Assignment of Rents Enforcement
Post Judgment Collection
Loan Modification
Appointment of Receiver
Post-Foreclosure Deficiency
Collection
Claim and Delivery
REO Transactions
Loan Sales
Title Claims
Curative Title Actions
Landlord/Tenant and Eviction

COMMUNITY GROUPS

- **Former Member, Board of Directors** – Grand Traverse Bay YMCA
- **Past President, Board of Directors**, Albion College Alumni Association
- Assistant Varsity Softball Coach, Traverse City St. Francis High School
- General Manager, Traverse City Waves Ball Club, Inc., Youth Baseball and Softball Travel Organization

PUBLICATIONS, PAPERS AND PRESENTATIONS

- Authored an article published in the Spring 2007 edition of the Michigan Land Title Association's "The Title Examiner" regarding amendments to the Foreclosure by Advertisement Statute related to the Abandonment procedure.
- Authored an article published in the Spring 2010 edition of the Michigan Land Title Association's "The Title Examiner" regarding new requirements of the Foreclosure by Advertisement Statute related to required Mortgage Modification procedure prior to foreclosure.
- Authored an informational handout for clients regarding "How to Choose the Form of Your New Business".
- Regularly present to clients on a variety of loss mitigation topics, including mortgage foreclosure, mortgage modification, forbearance agreements, collection litigation procedures, landlord tenant/evictions and loan documentation.

SERVICES PROVIDED

Foreclosure

Non-judicial (Foreclosure by Advertisement)
Pre-Foreclosure Requirement Compliance
Judicial Foreclosure
Residential, Commercial, Vacant and Mobile/Manufactured Homes

Foreclosure

"Cash for Keys"
Forbearance and Loan Modification Agreements

Bankruptcy (Creditor Only)

Comprehensive Bankruptcy
Services in all Chapters

Collections

Claim and Delivery
Unsecured claims
Automobile loans
Post judgment collection practice

Real Estate

REO Services
Land Use
Construction Lien Law
Condominium Law

Litigation

Post Foreclosure Deficiency
Complaint for Access
Appointment of Receiver
Mortgage priority, reformation and equitable claims
Construction Lien Litigation

Eviction

Post Foreclosure
Landlord Tenant
Non-owner occupied Post
Foreclosure Compliance

Other Bank Services

Loan documentation
Loan Reviews, Audits and Due Diligence

Loss Mitigation

Quit Claim Deeds in Lieu of

Title Claims/Resolution

WRITING SAMPLE 1

The Impact of Europe and California's New Data Protection Laws on
Northern Michigan

Traverse City Business News, September, 2018



*In Issue 2018 September, Law/Insurance/Accounting
- By Michael Naughton*

The Impact Of Europe And California's New Data Protection Laws On Northern Michigan

In the course of business, no matter the size or type, companies acquire and store personal customer data. Recently enacted laws in the U.S. and the European Union will have an impact on the storage and use of these data. These new laws have a global reach and the penalties for violations are designed to be severe. Last March, the European Union enacted the General Data Protection Regulation (GDPR). California recently followed suit with the California Consumer Privacy Act (CCPR), which goes into effect in 2020. Both laws impose penalties on businesses for failure to protect the privacy of personal data provided to businesses by individuals.

For the EU, Individual Consent is Key

The European Union is an economic behemoth, boasting the second largest economy in the world with a population of roughly 500 million people. In an attempt to protect EU citizens' personal data from privacy and data breaches, the EU enacted the GDPR, which imposes a wide-ranging definition of personal data, including basic identifying information including name, address, web data, like location, IP address, stored cookies and RFID tags, health and genetic data, biometric data, ethnicity, political opinions and sexual orientation.

The GDPR mandates that businesses receive customer consent prior to processing or storing customer data. The request for consent must explain the purposes and basis for processing personal information, identify who receives personal data, state how long personal data will

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be stored, explain the right to access, rectify or erase personal information as well as the right to object to data processing. EU consumers have the right to withdraw consent, which requires a business to respond and act upon the request in a reasonable time frame.

The GDPR requires companies to notify a customer or client of a breach within 72 hours of discovery. Data breaches are an increasingly common occurrence; the GDPR requires companies to not only take steps to protect the personal data being stored but to sound the alarm in the event of a data breach.

Additionally, the GDPR gives consumers the right to request their data to be deleted. When that occurs, companies must remove all traces of the consumer's data from its systems as well as other third party repositories where the data may have been shared or stored.

New California Law Embraces Data Protection

California enacted a law that bears a striking resemblance to the GDPR. The California Consumer Privacy Act (CCPA) was quickly introduced into the California legislature this past June and was signed by Gov. Jerry Brown that same month. California's economy is large – estimated to be the fifth largest in the world. With 40 million people, it is likely that local businesses are coming into contact with consumers in California.

The CCPA provides California consumers four basic rights relating to their personal information:

1. A resident in California has the right to know what personal information a business has collected about them, where it was sourced from, what the data is being used for and whether it is being disclosed or sold to third parties.
2. California residents have the right to opt out of permitting a business to sell their personal information to third parties. Additionally, consumers under the age of 16 have the right to have their personal information not be sold without their, or their parent's, opt-in.
3. There is the right to have a business delete personal information. Under this provision, a consumer may request a business remove personal information from its storage.
4. A California resident has the right to receive equal service and pricing from a business, even if that resident exercised their privacy

rights under the CCPA. In effect, this protects California residents from discrimination.

Less is More With Personal Data

Both laws mandate the importance of taking steps to protect data collected from consumers. As a starting point for compliance, businesses should review what personal data is collected from individuals. In this review, make sure data is processed for authorized purposes; do not collect personal data just for the sake of having it or because it could be useful in the future.

Next, businesses should create a privacy policy that outlines disclosures on how data is used. The privacy policy should detail all types of data collected, how the data is being used, how a user can delete the data and objections a consumer may make on the use of their data. The privacy policy should be reviewed and updated every 12 months to ensure the policy is up to date.

A best practice is to adopt a policy of data minimalization, storing personal data required for a specified time for a stated purpose. The data should be destroyed if it is no longer needed for the intended purpose or is outside the expressed duration. Holding on to personal data without an intended purpose may create liabilities for businesses and, in the event of a breach, erode the confidence of consumers whose data was accessed.

Personal data carry new risks for northern Michigan companies. As businesses from our community continue to expand to the global market, proactive steps to protect personal data will help comply with the changing landscape of the law. Most importantly, steps taken now to transparently collect and store personal data will help companies earn the trust of consumers across the world.

Michael Naughton is an attorney and partner at North Coast Legal, PLC. Michael is currently the president of the GTLA Bar Association and serves as the treasurer of the Grand Traverse County Economic Development Corp.; is on the board of the 20 Fathoms incubator; and is an officer of TCNewTech.



Comments

WRITING SAMPLE 2

Law Firms Under Cyber-Siege

The Mentor, Spring 2018

The Mentor

THE NEWSLETTER OF THE STATE BAR OF MICHIGAN'S
MASTER LAWYERS SECTION



"The voice of trust through experience."

Spring 2018

Message from the Chair

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A big thank you to the 1,528 members who participated in our recent survey! The results contain a wealth of information that will provide a useful road map in setting key priorities and activities for the next few years. As the MLS council members begin digesting the survey responses, I have asked them for their thoughts and ideas on the following: (1) What was the most surprising thing you saw in the results? (2) Was there anything in the survey results that needs immediate action? (3) What did we learn about communications, program interests, topics of future programs/articles, and logistics (format, location, etc.)? Finally, is there anything we are doing that we should stop doing?



Ronald D. Keefe, Chair

The survey results contain a treasure trove of ideas for future programs and activities, but I was struck by the responses concerning members' interests in law and non-law related volunteer opportunities in retirement. And, not surprisingly, many are already engaged in a broad range of public service work. We are indeed an active and generous section!

Finally, the survey asked the following question: "As an experienced lawyer, what words of wisdom would you share with a new lawyer?" The responses to this question were overwhelming, and I have asked the council members to think about how best to use the "words of wisdom" so that they are shared widely (*Bar Journal* article, letter to YLS, social media, etc.).

In my last column, I wrote that we are just getting started in finding ways to apply our experience to better serve the public. That is no longer the case. This survey is a game changer, and we are well on our way to becoming a more active Master Lawyers Section.

Law Firms Under Cyber-Siege

By Michael C. Naughton

Hackers target law firms to access confidential information

Law firms are increasingly the targets of hackers; the news is replete with examples of firms' confidential material being exposed.

In a recent hack in Panama City, over 11.5 million documents were exposed from Mossack Fonseca, a law firm in Panama. To put that in perspective, the 2013 N.S.A. leak by Edward Snowden involved at least 1.5 million documents. The "Panama Papers" breach is one of the largest leaks in history and its impact was felt around the globe, uncovering the offshore accounts of 140 politicians and public officials.

In 2016, hackers were arrested and indicted for hacking into several prominent U.S.-based international law firms with offices in New York. According to the Department of Justice, the hackers allegedly targeted at least seven law firms and other entities in an effort to unlawfully obtain valuable confidential and proprietary information.

There is no 100 percent foolproof mechanism to protect organizations from intrusions. However, lawyers must be more cognizant of the security measures in place within their practices in order to better protect their clients and their own information.

The CIA-triad (confidentiality, integrity and availability) serves as a conceptual framework for computer and information security, commonly referred to as InfoSec.

The genesis of the triad can be traced to 1975. At that time, security specialists recognized three categories of threats to information: unauthorized information release (confidentiality), unauthorized information modification (integrity), and unauthorized denial of use (availability).

The term CIA-triad first appeared in 1989 in the Johnson Space Center-NASA Information Security Plan. In the ensuing years, adoption of the CIA-triad

theoretical model grew among information security practitioners.

Organizations are confronted by threats to their information security daily. These threats occur from within and outside of the organization. Outside risks include those from malicious parties looking to steal data, intellectual property, and user credentials. Malicious parties may also compromise software or data quality and introduce deleterious code into systems causing them to fail. Additionally, careless behavior by employees, customers, and partners may also cause systems' vulnerabilities. According to research conducted in prominent information security journals, "InfoSec incidents can damage an organization's reputation and financial health."

There is hope for organizations seeking to protect information and data. InfoSec security practitioners seek to prevent, prepare, detect and respond to InfoSec incidents. Ensuring 100 percent prevention of information security events is impossible. However, those organizations that contemplate and construct InfoSec strategies and internal policies are better equipped to prevent InfoSec events and respond when they occur.

Legal practices, as organizations that maintain sensitive data, must be mindful of security threats. The ABA Model Rules of Professional Conduct set forth the duties and responsibilities expected of lawyers. These include providing competent representation that requires legal knowledge, skill thoroughness, and preparation. The Model Rules also highlight the duty of a lawyer to not reveal information related to the representation of a client without client consent and should make reasonable efforts to prevent inadvertent/unauthorized disclosure of or access to information related to the representation of a client. Lastly, the Model Rules state that a lawyer shall store clients' property, in connection with a representation, separate from the lawyer's own property.

ABA Formal Opinion 477R, published in 2017, confronted the transmission of information over the

internet related to the representation of a client. In the Opinion, the committee recognized the sophistication of InfoSec threats and noted that some forms of electronic communication may be vulnerable. Pointing to Model Rule 1.6(c), the committee cited the following “reasonable efforts” determination factors:

- The sensitivity of the information;
- The likelihood of disclosure if additional safeguards are not employed;
- The cost of employing additional safeguards;
- The difficulty of implementing the safeguards; and
- The extent to which the safeguards adversely affect the lawyer’s ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use).

Consistent with this analysis, it was found that “particularly strong protective measures, like encryption, are warranted in some circumstances.” Considering InfoSec and protecting client information, the opinion offered seven considerations for lawyers:

1. Understand the nature of the threat.
2. Understand how client confidential information is transmitted and where it is stored.
3. Understand and use reasonable electronic security measures.
4. Determine how electronic communications about clients matters should be protected.
5. Label client confidential information.
6. Train lawyers and nonlawyer assistants in technology and information security.
7. Conduct due diligence on vendors providing communication technology.

Accordingly, legal practices ranging from solo practitioners to multi-national firms are mandated to maintain the confidentiality, integrity, and availability of information related to the representation of clients. Lawyers must take appropriate steps to identify and defend against InfoSec events. The CIA-triad and the ABA Model Rules of Professional Conduct provide models that can assist legal practitioners to consider the implications of InfoSec events and tactics to use within their businesses to mitigate problems.

Confidentiality

To maintain client confidentiality, a lawyer should understand and apply security measures to protect client information and communications. There are myriad tools including Virtual Private Networks (VPN), adoption of a password manager that utilizes unique and complex passwords changed periodically, utilization of firewalls and antivirus software on devices holding client information and maintenance of hardware by applying security patches to software.

Attorneys should learn about and apply encryption on devices. When an item (such as a device, folder or file) is encrypted, it is digitally transformed into an inaccessible format that can only be accessed once unlocked. Lawyers should encrypt devices that contain confidential information, such as smart phones, tablets, laptops, and desktop computers. Encryption should also be used for the transmission of materials via email.

Lawyers should take stock of the data in their possession and mark confidential client communications as “privileged and confidential.” Such disclaimers can be affixed to emails, letterheads, and other communication methods to alert third parties that the information in the communication is intended to be confidential.

Integrity

The integrity of data refers to the protection of information from cyber criminals or external interference during transmission and reception with some common tracking methods, so data cannot be tampered without the system catching the threat.

In order to maintain the integrity of client data, lawyers should fully understand how client confidential information is transmitted and where data is stored. Lawyers should determine whether files are stored on a local computer, a shared network, or on a cloud platform and evaluate the security measures in place, including authentication, unique and complex passwords, and encryption.

Lawyers should be careful with how they communicate with clients. To maintain integrity of communications and information transmitted between parties, lawyers should warn the client about inherent risks in sending and receiving communications on devices or accounts that may be accessible to a third party.

Availability

Lawyers will want to ensure that client confidential materials are available, but only to those people or entities authorized to have access. Availability is the ability to ensure timely and reliable access to and use of information.

Lawyers will want to ensure their storage mechanisms have robust security in place but also permit access for the lawyer or third party with authorization to access. Access to such data should be limited and monitored to ensure data is not inappropriately accessed.

Many organizations and law firms employ cloud-based solutions for storage of client materials. Lawyers will want to conduct due diligence on the use of third-party vendors providing cloud solutions. When considering vendors, it is important to consider reference checks and review vendor credentials and security policies, consider the vendor's hiring practices, implement confidentiality agreements, consider the vendor's conflicts check system to filter for adversity, and what legal forum or legal relief is available for violations of the agreement.

Conclusion

Now, more than ever, lawyers and the confidential materials held by them are at risk, and attorneys must

be vigilant. Hackers are increasingly attacking law firms seeking to obtain confidential and proprietary information. However, despite best efforts, no defensive mechanism is completely foolproof to prevent the leak of confidential materials but measures can be taken to decrease the risk. Regardless of the size of the legal practice, lawyers must be knowledgeable about strategies available to better safeguard confidential client materials. The CIA-triad framework, together with the Model Rules of Professional Conduct, provide conceptual frameworks for lawyers to prevent, prepare, detect and respond to attacks on confidential materials. Failure to do so not only puts clients in peril, but also may be a violation of a lawyer's ethical duties.

About the author

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Michael C. Naughton



WRITING SAMPLE 3

Brief on Appeal to the Michigan Supreme Court

Sondra Hardy v. Jocelyn Benson and Sally Williams

December 23, 2019

STATE OF MICHIGAN
IN THE SUPREME COURT
Appeal from the Michigan Court of Appeals
SHAPIRO, P.J., M.J. CAVANAUGH, and CAMERON J.J.

SONDRA HARDY,

Appellant,

Supreme Court No.

Court of Appeals No. 351694

-v-

JOCELYN BENSON, in her official capacity as
Michigan Secretary of State; and
SALLY WILLIAMS, in her official capacity as
Director of the Michigan Bureau of Elections.

Defendant-Appellees.

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APPELLANT'S APPLICATION
FOR LEAVE TO APPEAL

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INTRODUCTION

The Michigan Constitution reserves to the people the right to recall elected officials. Appellant, who is a sponsor of a petition to recall Michigan State House Representative Larry Inman, collected then submitted to the Secretary of State Bureau of Elections 3,359 petition pages containing 13,559 signatures -- exceeding the 12,201 minimum. The Bureau invalidated them all because the circulated petition header contained two typographical errors -- both indubitably of no substantive consequence. On appeal, a majority of the Court of Appeals' panel perfunctorily upheld the Bureau's decision.

Neither typographical error affected "the reasons for the recall," which must not be "different than" the reasons approved by the Board of State Canvassers. MCL 168.961(2)(c). As Justice Shapiro noted in dissent, "no one has even articulated how the language of the circulated petitions could be construed as presenting a different reason for the sought recall than were presented in the pre-approved form." (Appx. 2a) This Honorable Court should grant leave and reverse the lower tribunals' contrary conclusion.

The Board and Court of Appeals reflexively relied on *Stand Up for Democracy v Secretary of State*, 492 Mich 588; 822 NW2d 159 (2012). As interpreted and applied by the lower tribunals, *Stand Up for Democracy* requires a citizen-led petition effort in Michigan, including recall, to comply with a standard of technical perfection. The holding in *Stand Up for Democracy* imposes no such standard; judicial *dicta* in that case suggests actual (not substantial) compliance with statutory prerequisites is required. The Bureau and lower court extended that *dicta* to the point that any petition error becomes a fatal defect -- a standard not mandated by the case.

Moreover, *Stand Up for Democracy* has no application to a recall petition, which is protected by a notably different constitutional provision than the initiative petition effort at issue

in that case. Michigan courts have long held that the constitutional provision for recall explicitly restricts the authority of the administrative and judicial tribunals to interfere with the political process. There is no basis to conclude that *Stand Up for Democracy* impacted, let alone abandoned, this precedent so strongly rooted in our constitution. This Honorable Court should grant leave to correct the lower tribunals' misinterpretation and misapplication of the case and thereby restore to the people their constitutionally protected powers.

Appellant requests that this Honorable Court expedite review of this case in order to satisfy the statutory requirements to proceed with petition signature validation and a recall primary by March 10, 2020. MCL 168.963; MCL 168.970a *et seq.* See *Scott v Director of Elections*, S Ct No 143878 (October 20, 2011) (appellate review in election cases, in that case a recall election, should be expedited).

STATEMENT OF JURISDICTION

On Friday, November 29, 2019, Appellees issued an order invalidating all 13,859 signatures on the petition to recall Rep. Larry Inman. On Monday, December 2, 2019, Appellant filed with the Court of Appeals an Emergency Verified Complaint Seeking Mandamus and a Temporary Restraining Order. Mandamus was sought against a state actor, to wit, Appellees Secretary and Director of the Bureau of Elections. The Court of Appeals had jurisdiction pursuant to MCL 600.4401 (mandamus against state officials), MCR 7.203(C)(2) (mandamus against a state officer), and MCR 7.206(B) (original actions for mandamus). On Friday, December 20, 2019, the Court of Appeals issued an order with a majority denying Appellant's Complaint. This Honorable Court has discretionary jurisdiction to review decisions by the Court of Appeals pursuant to MCR 7.303(B)(1). As this is a matter involving election issues (specifically recall elections and petition disputes), Appellant respectfully requests expedited review pursuant to MCR 7.213(C)(4) and *Scott, supra.*

**JUDGMENT APPEALED FROM, RELIEF SOUGHT
AND CONCISE ALLEGATIONS OF ERROR**

This is an appeal of the Court of Appeals’ denial of an original action for a writ of mandamus sought by Appellant against Defendants Secretary of State (“Secretary”) and the Director of the Michigan Bureau of Elections (“Bureau”) (collectively “Defendants”).

The crux of the dispute turns on whether a petition to recall a member of the House of Representatives is wholly invalid due to a typographical discrepancy between the text approved by the Board of State Canvassers and text on the petition circulated in the representative’s district. Defendants determined that none of the 13,859 signatures on the circulated petitions are valid due to the typographical error.

There is no provision in the Michigan constitution, recall statute, or applicable case law that supports Defendants’ conclusion that a typographical error in the recall header as presented in this case requires invalidation of the entire recall petition.

The Court of Appeals, however, effectively now imposes the doctrine of strict compliance on petitions for recall. To support its position, the majority relied solely upon *dicta* in this Honorable Court’s opinion in *Stand Up for Democracy v. Secretary of State*, 492 Mich. 588; 822 NW2d 159 (2012), for the proposition that the “absence of any statutory language permitting substantial compliance indicates that the signed petitions must strictly comply with and not differ from the petition language approved by the Board of State Canvassers.” (Appx. 1a). The dissenting opinion bluntly disagreed with the majority when it stated “[i]n the absence of an applicable statutory ground to find the recall petition insufficient, there was a clear legal duty to approve the petition.” (Appx. 2a).

The issue has significant public interest, the case is brought against officers of the state, and the case involves a legal principle of major significance to our state’s jurisprudence. MCR

7.305(B)(2), (3). In addition, the Court of Appeals' decision is clearly erroneous and will cause material injustice. MCR 7.305(B)(5)(a). This Honorable Court should reverse the Court of Appeals decision and order the Bureau to approve the petition and proceed with signature validation.

STATEMENT OF FACTS

On November 6, 2018, Representative Larry Inman was re-elected State Representative for Michigan's 104th District, encompassing all of Grand Traverse County. His term of office began on January 1, 2019.

On May 14, 2019,¹ Mr. Inman was charged by way of a federal indictment in the Western District of Michigan (Case Number 1:19-CR-00117-RJJ, United States v. Larry Charles Inman). To wit, Mr. Inman was charged with Attempted Extortion Under Color of Official Right (a violation of 18 U.S.C. § 1951); Solicitation of a Bribe (a violation of 18 U.S.C. § 666(1)(B)); and False Statement to the FBI (a violation of 18 U.S.C. § 1001(a)(2)).

On June 18, Mr. Inman filed a Notice of Intent to Present Evidence of Defendant's Diminished Cognitive Ability as a Result of the Use of Prescription Pain Medication as a part of his defense in that criminal matter. In this filing, Mr. Inman stated that he sought to "present expert testimony and related evidence of diminished cognitive ability bearing on the issue of whether or not defendant had the requisite mental state required" for the charged offenses.

Concomitantly, Mr. Inman missed over 80 votes in the House of Representatives between the date the federal indictment was unsealed and the date Appellant's submitted petition to recall Rep. Inman to the Board of State Canvassers ("Board").

On July 19, the recall sponsors, who is an Appellant in this proceeding, filed a printed recall petition with the Board against Rep. Inman. The header on the printed recall petition stated as follows:

Since Larry Inman was indicted on three felony counts on May 14, 2019: Attempted Extortion Under Color of Official Right (Count 1); Solicitation of a Bribe (Count 2); and False Statement to the FBI (Count 3), Inman has filed notice asserting a diminished capacity defense and missed over 80 votes in the Michigan House of Representatives.

¹ All relevant dates are in 2019 unless stated otherwise.

(Appx. 3a)

Exhibits supporting each of the stated reasons for the recall petition were also provided.

On July 25, the Bureau provided notice pursuant to MCL 168.951a(4) of a meeting of the Board to consider the legal sufficiency of the state recall reasons. Prior to the hearing, counsel for both Rep. Inman and the recall sponsors provided briefs to the Board supporting their respective positions.

On August 1, the Board held its hearing. After hearing argument from counsel for the recall sponsors as well as for Rep. Inman, the Board unanimously approved a motion to determine that the petition sufficiently stated factually and clearly each reason for the recall of Rep. Inman.

On August 12, counsel for Rep. Inman filed a Claim of Appeal to the Court of Appeals (Docket Number 350173). That appeal remains pending still. In the case of an appeal, a recall petition may not be circulated “until a determination if each reason is factual and of sufficient clarity is made by the court of appeals or until 40 days after the date of the appeal, whichever is sooner.” MCL 168.951a(6). The petition sponsors could not begin circulating the petitions until about September 23.

In early September, representatives of the recall campaign contacted a printer to print copies of recall petitions to circulate. There was no original copy of the petition as submitted to the Board because the original was submitted to the Board. A .pdf copy of the submitted and approved petition was sent to the printer. Subsequently, the original printer informed representatives of the recall campaign that it could not fulfill the print order due to font sizes differentiating from specifications required for petitions, given the .pdf format of the copy. The campaign then made arrangements with a local printer to retype the approved language onto a

blank recall petition in order to receive printed petitions in time for the first day of circulation after the statutory 40-day wait period following Inman's appeal of the Board's decision -- *i.e.*, before September 23, 2019.

Representatives of the recall campaign reviewed the petitions but failed to notice the printed petition was missing a word (*Right*) and contained a misspelled word (*diminished*). The reprinted recall petition stated as follows:

Since Larry Inman was indicted on three felony counts on May 14, 2019: Attempted Extortion Under Color of Official (Count 1); Solicitation of a Bribe (Count 2); and False Statement to the FBI (Count 3), Inman has filed notice asserting a diminished capacity and missed over 80 votes in the Michigan House of Representatives.

(See Appx. 5a)

The imperfect petitions went into circulation. Several weeks into the campaign, the misspelled word was brought to the campaign's attention. Confident that the misspelled word did not change the meaning or substance of the petition, and given the limited statutory period to collect signatures, petition circulation continued.

On November 22, 2019, the recall sponsors submitted to Bureau 3,559 petition sheets for the recall of Rep. Inman containing 13,859 signatures. (Appendix 6a).

The omission of the word *Right* was not identified until November 26, when a reporter pointed it out to the recall campaign manager. Appellant is not aware of any person who signed the petition who was aware of nor confused by the typographical errors, and neither the Bureau nor the Court of Appeals suggested the typos may have created confusion, mislead signors, or resulted in any prejudice to Rep. Inman or others.

On November 29, the Bureau submitted its seven-day notice, pursuant to MCL 168.961(3), and found all petition signatures invalid. (See Appx. 6a). The Bureau stated its decision was:

because the reasons for recall printed in the heading of the circulated petition sheets are different from the reasons for recall that the Board of State Canvassers (Board) approved as factual and sufficiently clear to enable Representative Inman and the voters to identify the course of conduct that prompted the recall attempt.

The Bureau relied exclusively on MCL 168.961(2)(c) and *Stand up for Democracy v. Secretary of State*, 492 Mich. 588 (2012), in finding the form of all submitted petitions to be improper. Specifically, the Bureau highlighted the text stating “[t]he reasons for recall are different than those determined under section 951a by the board of state canvassers.”

On December 2 — Appellant filed an expedited verified complaint for mandamus and temporary restraining order. On December 16, the Michigan Attorney General filed responsive pleadings on behalf of the Defendants-Appellees. On December 18, 2019 Appellant filed a reply brief and the American Civil Liberties Union of Michigan filed an amicus brief in support of the Appellant’s position.

On December 20, the Court of Appeals, in a two-to-one opinion, denied the complaint for mandamus relief. In a compressed opinion and order, the Court of Appeals majority relied exclusively on *Stand Up for Democracy* to hold that “the signed petitions must strictly comply with and not differ from the petition language approved by the Board of State Canvassers.” (Appx. 1a). The dissent concluded the Bureau lacked legal authority to reject the recall petitions under MCL 168.961(2)(c) because its position that a typographical error renders the recall petitions insufficient is not supported by the statutory language. (*Id.*)

Appellant files this Emergency Application for Leave to Appeal praying that this Honorable Court will reverse the decision of the Michigan Court of Appeals and order the

Bureau of Elections to validate the petition signatures and proceed forthwith through the statutory recall process.

ARGUMENT

I. The Court of Appeals' Requirement of Total Perfection in the Language in a Recall Petition is Unsupported by Michigan Law

"The will of the people ... is the only legitimate foundation of any government, and to protect its free expression should be our first object."

-- Thomas Jefferson to Benjamin Waring, 1801.

Article 2, Section 8 of the 1963 Michigan Constitution states:

Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. *The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.* (Emphasis added).

In 1979, the Michigan Attorney General, reciting comments from the 1963 constitutional convention, encouraged adding the final sentence regarding the sufficiency of any statement or reasons as a political question, stating:

The requiring of signatures, the burden that is placed upon the proponents of a recall movement, to recall an officer and call an election for that purpose, the burden of getting the signatures and getting people to sign for this purpose has proved to be a very adequate deterrent to any vexations or spurious recall movements. So I would therefore urge that the present amendment be put into the constitution as a declaration of policy, which is the judicial interpretation of this state at the present time.

Mich. Attorney General Opinion No 369, Sept. 4, 1979. (Citation omitted). The Attorney General further affirmed the power held by the people of the State of Michigan to determine the grounds for a recall.

Const 1963, art 2, § 8, delegates the people's power to the legislature for the purpose of enacting laws to provide for the recall of elected officials. The effect of this delegation is merely to establish the procedure which must be followed to

effectuate such recall. The people have, through the last sentence in art 2, § 8, retained the power to determine the sufficiency of the reasons or the grounds for the recall.

Id. (Citation omitted).

Notwithstanding the lower court's decision in the instant matter, there exists no precedent nor any policy supporting application of a standard of total perfection to a recall petition, absent some allegation of substantive import or clear statutory obligation to the contrary. In fact, policy militates against the requirement of "meticulous and technically detailed statements" in recall petitions. Three years after the Attorney General opinion discussed above, an article in the Wayne Law Review warned against the instant scenario in 1982, stating:

[Q]uite often laymen are required to draft recall petitions. To require technical detail in the statement of charges would be too burdensome and could defeat the purpose of the recall statute. The Michigan constitution reserves the power of recall to the people. Courts should not, and generally do not, interfere with this basic right. To require meticulous and technically detailed statements of the charges in recall petitions would in effect thrust the courts into reviewing every recall petition, thereby usurping the power of the People.

Berry, Local Government Law, 28 Wayne L Rev 979, 984 (1982). There is no basis in the constitution, no requirement in the recall statute, nor precedent in common law, that supports the "meticulous and technically detailed" analysis that was applied to the recall petition by the lower tribunals.

The Michigan Court of Appeals, in *Mastin v Oakland Co Election Comm*, remarked on the strengthening of Article 2, Section 8 by stating that "the reasons for a recall shall be a political question, so that the courts cannot set aside a recall on the grounds that the reasons for it are in some way inadequate. Thus, recall review by the courts should be very, very limited." 128 Mich App 789, 793; 341 NW2d 797(1983) (quoting convention comment). Similarly, the court in *In re Wayne County Election Committee*, held that judicial and administrative review of a

recall petition “is clearly limited to a determination of whether a sufficiently clear statement is present” and that “doubt as to clarity should be resolved in favor of the proponents of the recall.” 150 Mich App 427, 438; 388 NW2d 707 (1986) *See also Hooker v. Moore*, 326 Mich App 552; 928 NW2d 287 (2018) (“An assessment of the accuracy or truthfulness of a factual assertion is an inquiry into the sufficiency of the reason stated in support of recall; our Constitution plainly reserves that assessment to the electors, and the Legislature could not in any event remove that right from them.”).

Courts have described a “lenient” and “very lenient” review of the clarity of recall petitions. In *Dimas v. Macomb Co Election Comm*, the Court held:

[t]he standard of review for clarity of recall petitions has been described as both ‘lenient,’ and ‘very lenient.’ Thus, recall review by the courts should be very, very limited. A meticulous and detailed statement of the charges against an officeholder is not required. It is sufficient if an officeholder is apprised of the course of conduct in office that is the basis of the recall drive, so that a defense can be mounted regarding that conduct. Where the clarity of the reasons stated in the petition is a close question, doubt should be resolved in favor of the individual formulating the petition.

248 Mich App 624, 627-28; 639 NW2d 850 (2001). Although the *Dimas* Court was not evaluating a recall petition that had been circulated and signed by more than the constitutional minimum number of voters, its analysis is persuasive on the leniency afforded the people of the State of Michigan.

Courts have consistently rejected a standard of meticulousness or perfection when it comes to the statement of reasons for recall, so long as the officer and public can identify the transaction and know the charges. See *Donigan v Oakland County Election Comm.*, 279 Mich App 80, 83; 775 NW2d 209 (2001) ; *Schmidt v Genesee County Clerk*, 127 Mich App 694, 699; 339 NW2d 526 (1983)(noting that recall petitions are often drafted by lay people, and cautioning

that requiring meticulousness may complicate recall, defeating the purpose of recall and interfering with the basis right to recall).

As noted by Judge Shapiro in his dissenting opinion, the majority below's reliance on *Stand Up for Democracy* is misplaced as applied to the issue here. *Stand up for Democracy* pertained to MCL 168.482(2), which provided that a referendum heading "shall be ... printed in capital letters in 14-point boldfaced type[.]" Judge Shapiro points out:

Because the Legislature's use of the word "shall" indicates a mandatory directive, the Supreme Court held that the doctrine of substantial compliance did not apply to MCL 168.482(2). In this case, however, plaintiffs are not arguing that they substantially complied with the statutory requirements; they maintain that they *actually* complied because the reasons for the recall in the circulated petition are the same ones approved by the Board of Canvassers.

(Appx. at 2a, emphasis from original, citations removed).

To further support this point, in footnote 1, Judge Shapiro further elucidated the inapplicability of *Stand up for Democracy* by stating:

Notably, MCL 168.952a provides that "[a] person may print his or her own recall petitions if those petitions comply substantially with the form prescribed by the secretary of state and the requirements of section 544c(2)" That refers to the technical requirements of a petition, e.g., type size, and so is not dispositive of the issue before us. However, *it makes the majority's conclusion even more difficult to accept.*

(Appx. at 2a, fn 1, emphasis added.)

As Judge Shapiro correctly noted, *Stand up for Democracy* is inapplicable because the issue here is the sufficiency of a *recall* petition, not the sufficiency of a *referendum* petition. The sufficiency of reasons for recall is expressly declared in the Michigan Constitution to be a political -- not a judicial -- question; the constitutional provision providing for referendum contains no such limitation. In *Wallace v Tripp*, this Court held:

The general rule appears to be that absent specific constitutional or statutory requirements, the sufficiency of reasons in a recall petition is for the

determination of the electorate rather than the courts.... Michigan's Constitution and statute require a clear statement of reasons for recall based upon an act or acts in the course of conduct in office of the officer whose recall is sought. Beyond this, the Constitution reserves the power of recall to the people. The basic power is held by the people in both our nation and our State. Our State Constitution as presently drawn places much confidence in the proper functioning of an intelligent and informed electorate. The recall provision is illustrative of that confidence.

358 Mich 668, 680; 101 NW2d 312 (1960).

Nothing in *Stand Up for Democracy*, either expressly or implicitly, abrogates this long-standing precedent applicable to review of the sufficiency of recall petitions. Moreover, in that case a majority of this Court found actual compliance with the applicable statute. Therefore, its discussion related to whether the standard for a referendum petition should be either substantial or strict compliance was mere *dicta*. There was no contemplation whatsoever that the case would impose new, broad sweeping application of a standard of strict compliance to all petitions, including recall petitions.

Regardless of whether a recall petition is subject to an actual or substantial compliance standard, the Appellant's petition does comply both actually and strictly with the statute because recall reasons are the same as those approved by the Board, only the text (or words or language) is slightly and immaterially different -- and the State has no legal authority to reject all the 13,859 petition signatures on the basis of a non-substantive typographical error.

II. The Court of Appeals and the Bureau Failed to State What, if Any, Reasons Were Made Different by the Typographical Error

Although the Court of Appeals was silent on the issue, the Bureau's analysis conflates two different concepts: reasons and text. The Bureau made no mention of what specific listed *reasons* are different or how they are different. Instead, the Bureau's analysis began and ended with whether the verbatim *text* is different. The Court of Appeals adopted this reasoning.

Both lower tribunals asserted that the “use of the word ‘shall’ and the absence of any statutory language permitting substantial compliance” suggests that the words for recall as stated on the petition must be identical to the language approved by the Board. The dissenting opinion addressed this point, stating:

the use of ‘shall’ in MCL 168.961(2)(c) is rather unremarkable and really has no bearing on the issue before us. It is undisputed that if any of the circumstances listed in MCL 168.961(c) is present that the filing official ‘shall not’ count the signatures. The question here, however, is whether one of those grounds, MCL 168.961(2)(c), is satisfied. For the reasons I discussed, I conclude that defendants did not have legal authority to reject the recall petition under MCL 168.961(2)(c) because its position that a typographical error renders a petition insufficient is not supported by the statutory language.

(See Appx. 2a).

Human error is unavoidable. This Honorable Court has affirmed this regarding typographical errors in legislation. In *LeRoux v Secretary of State*, 465 Mich 594 (2002), the Court found non-substantive clerical errors, including omitted words and typographical errors, which may be ascertained from legislation and do not mislead, are not fatal to passage of legislation and may be corrected administratively. *See also Common Council of Jackson v. Harrington*, 160 Mich 550, 554 (1910) (“It must be presumed that the legislature intended to act in accordance with the plain mandate of the Constitution, and we have no doubt it did so, and that the omission of the word ‘or’ is a mere clerical or typographical error, which should of right be corrected by interpretation.”) (Citation omitted).

Appellant concedes the two typographical errors. However, in order for a recall petition to be improper, the *reasons for recall* must be different -- not strictly the precise text. In this case, the *reasons* in the petition approved by the Board are the same *reasons* that are in circulated petition, though a single word was omitted, and a word was misspelled. Neither typographical error is of substantive consequence.

To illustrate this distinction, the components of the sentence may be broken apart. Mr. Inman is the subject of the sentence in the headings of both versions of the petitions. Mr. Inman's actions (filing of a notice of diminished capacity and missing votes) are the reasons for recall in both. The time frame of these actions are *since Mr. Inman was indicted* in both. The three federal charges against Mr. Inman are identical in both. That Inman was charged with *Attempted Extortion Under Color of Official Right (Count 1)* or *Attempted Extortion Under Color of Official (Count 1)* is of no consequence or import and does not change or alter the *reasons* for the recall. In fact, had the word *Right* had been omitted from Inman's actual federal indication, it is difficult to see that such omission would be actionable. *See United States v Mills*, 366 F2d 512, 514 (6th Cir. 1966) (typographical error in indictment not actionable absent harm: "A variance is not to be regarded as material where it is not of a character which could have mislead [*sic*] the defendant at the trial, or where it involves no element of surprise prejudicial to the efforts of the defendant to prepare his defense; or where it does not affect substantial rights. Whether or not a variance is prejudicial is a judgment that must be made on the facts of each case.") (Internal quotations and citations omitted); *see also United States v Lake*, 985 F2d 265, 271 (6th Cir. 1993).

Strict compliance would mandate that in order to be proper, the *reasons* for recall must not be different from those approved by the Board. A corollary is that if the *reasons* for a recall are *not* different, despite a typographical error, then MCL 168.961(2)(c) is not violated.

Even if this Honorable Court finds that the reason encompasses the totality of the heading statement, including the recitation of the federal charges, nothing in MCL 168.961 authorizes the Bureau to invalidate signatures or an entire petition on the basis of typographical error.

Had the legislature intended that the *language* approved by the Board must be precisely replicated in the circulated petition, it may have said so. Instead, it provided that the recall *reasons* must not be different. The typographical errors in the circulated petition do not change the reasons for the recall or result in different reasons than those approved by the Board.

Neither the Court of Appeals nor the Bureau found that the omission of the word *Right* changed the reasons for the recall or resulted in different reasons. It merely found that the words were not precisely identical in both. This, alone, is insufficient to invalidate a recall petition under Michigan law.

III. To Affirm the Court of Appeals Decision Would Render Michigan a State That Recognizes the Constitutional Right to Recall in Name Only

The lower tribunals' analysis in this matter leads to absurd results. Consider, for example, language approved by the State Board of Canvassers in a hypothetical example was "Mr. Smith does not go to church." On its face, this language could be considered by the State Board of Canvassers as factual and sufficiently clear. Subsequently, a recall petition header with signatures stated, "Mr. Smith does not go church", or "Mr. Smith does not go to chuch" was used to collect signatures. In these examples, the *reason* for recall is not different. It is merely a typographical error. Alternatively, had the petition header stated "Mr. Smith does go to church", "Mr. Smith does not go", or "Mr. Smith does not go to Catholic Church", then clearly the *reasons* for recall are entirely different. To be sure, MCL 168.961(2) mandates that the Bureau should find such language improper. The instant matter is most similar to the first set of scenarios.

Similarly, the Court of Appeals decision signifies the corrosion for all Michigan citizens to exercise their constitutional right to recall an individual with the privilege of holding public office. Consider if in the instant matter each of the 13,559 recall petitions were blank and the

headers were handwritten, which is lawful under MCL 168.951a(1)(c) (providing that “the reason for the recall may be typewritten,” thus implying it may also be handwritten). Under the Bureau’s analysis, if any handwritten recall petition had a typographical error or handwriting irregularity anywhere in the header, all the signatures of that petition must be invalidated. The time spent by the volunteers to collect the signatures for that sheet as well as the efforts by citizens to sign and include their information would be entirely meaningless. Under such a draconian framework it is impossible to see how a county-wide recall requiring over ten thousand signatures can attain perfection, much less a state-wide recall requiring hundreds of thousands of signatures and volumes of petitions. The lower tribunals’ holding opens the door to limitless litigation on the details of every petition sheet collected.

Last, the hyper-technical analysis adopted below culminates in an improper and insurmountable obstacle for the millions of citizens of the State of Michigan in rural and urban communities who may not have access to resources to mount a recall. Effectively, the decisions below create a bureaucratic morass that would impose unreasonable omnipotent vigilance and perfection in order to have a successful recall petition. It cannot seriously be contemplated that the framers of the 1963 Michigan Constitution envisioned such a Rube Goldberg labyrinth for Michigan citizens when drafting Article 2, Section 8.

IV. Mandamus Was Appropriate in this Matter

“Mandamus is the appropriate remedy for a party seeking to compel action by election officials.” *Citizens Protecting Michigan’s Constitution v. Secretary of State*, 280 Mich App 273, 283; 761 NW2d 210, aff’d 482 Mich 960; 755 NW2d 157 (2008). Defendants’ failure to find the recall petitions to be proper under MCL 168.961(2) has deprived Appellant, as well as all of the recall petition signatories, their right to proceed with this recall and to express their will enshrined in Article 2, Section 8 of the Michigan Constitution of 1963.

The State officers against whom this mandamus action is sought (Secretary and Director of the Bureau) have a non-discretionary, clear legal duty to perform pursuant to MCL 168.961 and MCL 168.963. Appellant has no other adequate remedy.

V. Immediate Relief is Necessary to Ensure Orderly Administration of this Recall.

Under MCR 3.310(B)(1)(a), a Court may issue an ex parte temporary restraining order if it clearly appears from the specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss or damage will result from the delay required to effect notice or from the risk that notice will itself precipitate adverse action before an order can be issued.

The effect of the Bureau's seven-day notice was to terminate the recall effort. Irreparable injury, loss and damage will result from a delay due to the time frame to engage in a recall primary and recall election.

The Bureau stated in closing in its seven-day letter, "[s]hould you wish to challenge this determination in court, please be advised that the deadline to certify the contents of the ballot for the March 10, 2020 election elapses on January 10, 2020, and that ballot printing will commence on or about that date." (Appx. 9a)

The Bureau further noted that, prior to certifying the contents of the ballot, it must validate the petition signatures, as provided in MCL 168.963(1), with an opportunity Rep. Inman to challenge signatures under MCL 168.961a, and for recall the sponsors to rehabilitate signatures. (Appx. 6a)

This Honorable Court's schedule may necessitate delay in reaching a decision in this matter beyond the Bureau's January 10, 2020 deadline. Appellant has done everything within her power to expeditiously bring this issue on appeal to the Court of Appeals and this Honorable Court. For this important constitutional matter to properly be addressed, the orderly

administration of the recall following affirmative relief from the Honorable Court may be extended beyond the Bureau's January 10, 2020, deadline.

RELIEF REQUESTED

Wherefore, Appellant respectfully request that this Honorable Court GRANT her application for leave to appeal and reverse the Court of Appeals and provide the following relief:

- a. Assert jurisdiction over this case;
- b. Enter an immediate writ of mandamus requiring Defendants to declare that the recall petition is in the proper form under MCL 168.961(2); and
- c. Direct the Bureau to immediately commence determining the validity and genuineness of signatures submitted on the recall petition.

Respectfully Submitted,

/s/
Michael C. Naughton (P70856)
NORTH COAST LEGAL, PLC
Attorney for Appellant
800 Cottageview Drive, Suite 1080
Traverse City, MI 49684
(231) 421-7076
mike@thenorthcoastlegal.com

Dated: December 23, 2019

WRITING SAMPLE 4

Presentation – Introduction of the Michigan Supreme Court to
Traverse City Central High School

October 17, 2019





Chief Justice Bridget Mary McCormack

Term: 2012 - 2021



Justice Stephen J. Markman

Term: 1999 – 2020*



Justice Brian K. Zahra

Term: 2011 - 2022



Justice
Elizabeth T.
Clement

Term: 2018 - 2026



Justice David F. Viviano

Term: 2013 - 2024

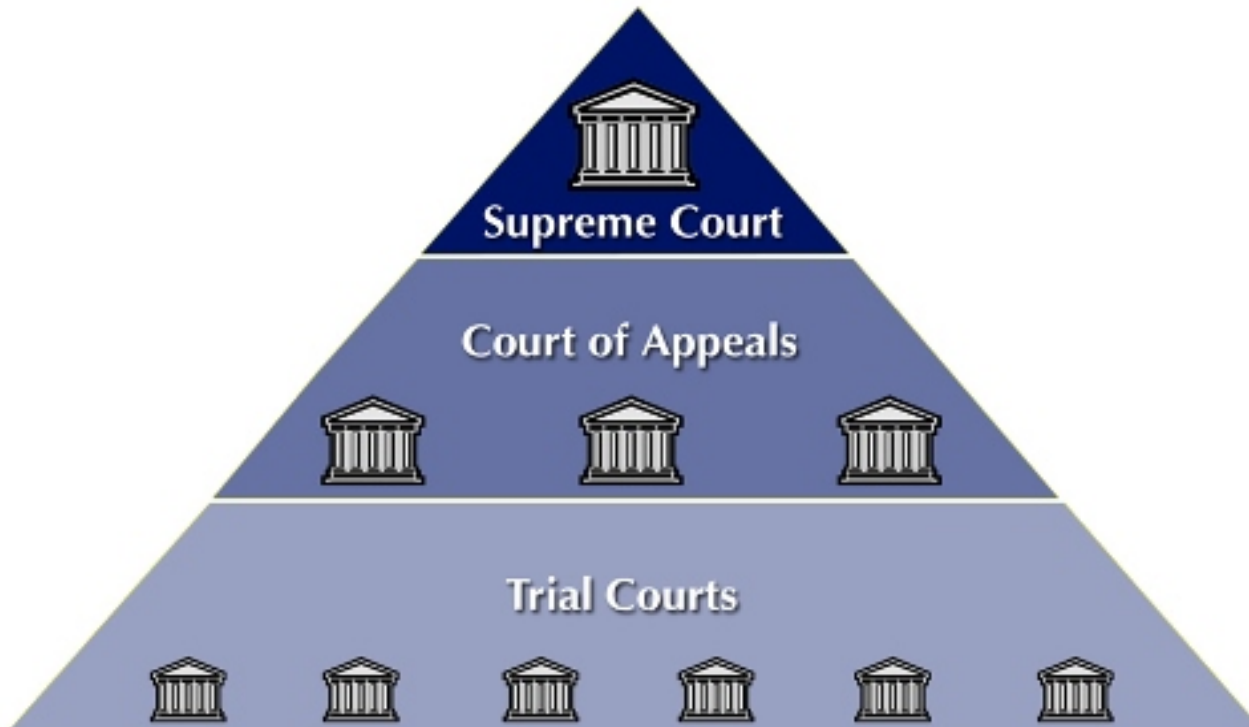


Justice Megan
K. Cavanagh
Term: 2018 -
2026



Justice Richard Bernstein

Term: 2015 - 2023



Role of Michigan Supreme Court

- Highest court in the state of Michigan
- Seven justices
- Court is located in Lansing
- Justices elected to 8-year terms

About the Supreme Court

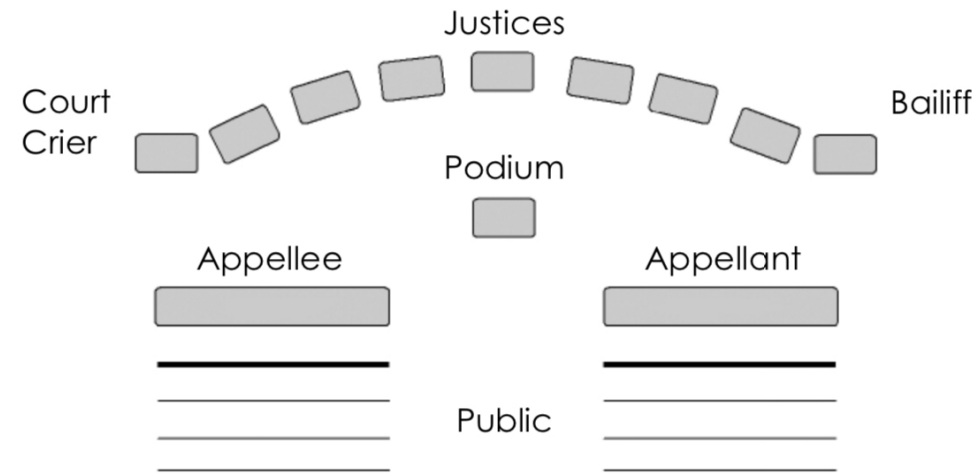
- Created by the Michigan Constitution of 1835
- Decisions determined by a majority of the entire court
- Court of last resort
- Hears cases at its discretion
- Receives about 2,000 applications for leave per year
- Less than 10% of cases granted
- Court hears oral arguments in about 100 cases



Oral Arguments

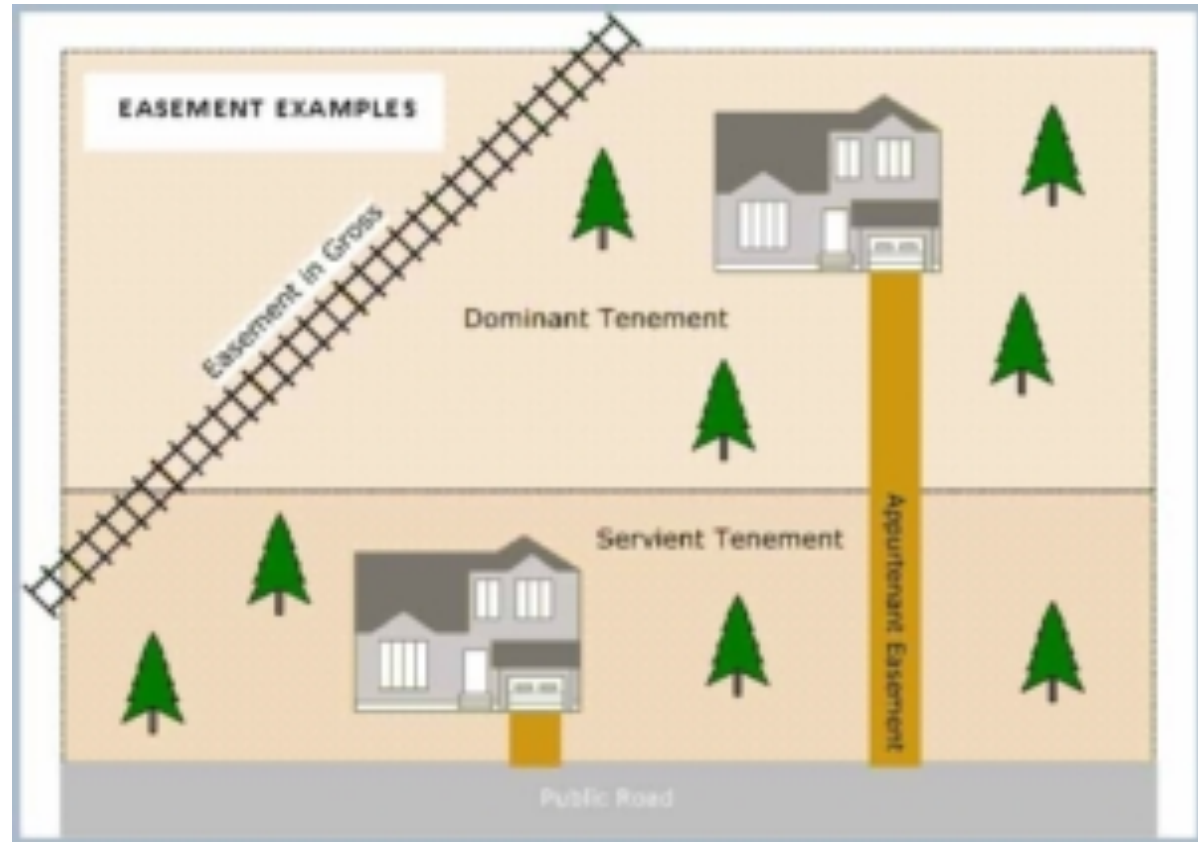
- Only time attorneys have to speak directly to justices
- Appellant – party attempting to persuade the Supreme Court that the Court of Appeals decision was wrong — speaks first and can reserve time for rebuttal (speak last)
- Appellee — party attempting to persuade the Supreme Court that the Court of Appeals decision was correct.
- Arguments are timed with lights on podium
- No clients at table. No witnesses called to testify. No objections from other party. Each side gets a turn to speak uninterrupted.

Courtroom Layout



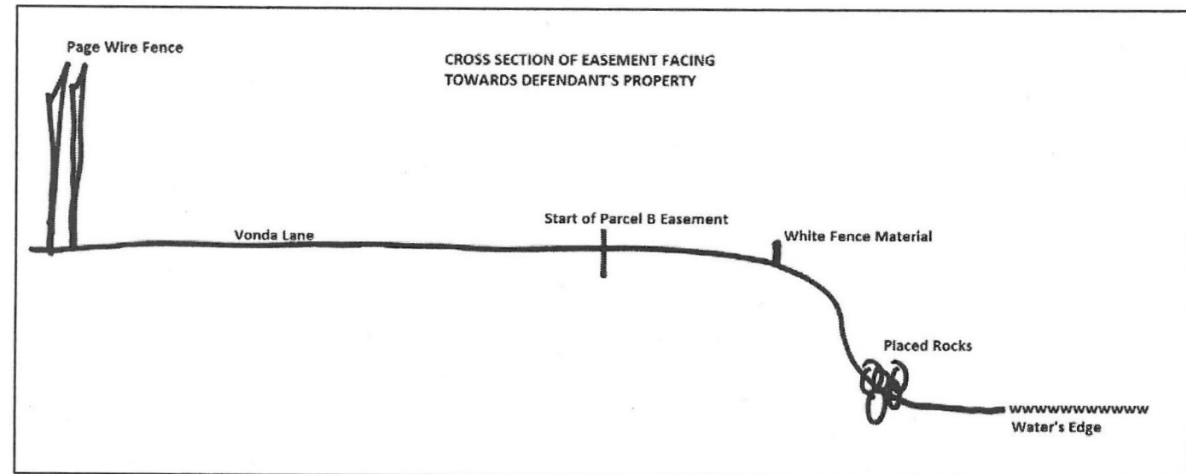
Maniaci v Diroff

An “Easement” is a right or interest in the land of another.



Maniaci v Diroff

Plaintiff has an appurtenant non-recreational easement for ingress and egress access to and from Secord Lake across Parcel B, which is owned by Defendant.



Maniaci v Diroff

- The easement may also be used for the temporary mooring and launching of watercraft, including by boat trailer, but may not be used for non-temporary mooring, docks, and/or wharfs.
- Routine maintenance is Defendants' responsibility, but any party damaging the surface by use of the easement was "responsible for restoring the Easement to its pre-damaged state."



Maniaci v Diroff

- Plaintiff's argument is that the easement allows him to change the grade and slope of the easement at the water's edge so that it can be used as a boat launch.
- Defendant argues that the easement was never intended to be used as a boat launch to be accessible with a boat trailer.



Maniaci v Diroff

Important Issues

- The law recognizes that an easement holder's rights are paramount to those of the owner of the land, but the use of an easement is strictly confined to the express purposes set out in the document creating the easement.
- It is well-established that an easement holder cannot make improvements to the servient estate if the improvements are unnecessary for the effective use and enjoyment of the easement or they would create an unreasonable burden on the servient estate.

Questions?



OLSON, BZDOK & HOWARD



November 20, 2020

Traverse City DDA
Attn: Jean Derenzy, CEO
303 State Street
Traverse City, MI 49684

Via Hand Delivery

Re: Response to Request for Proposals—DDA Attorney Legal Service

Dear Ms. Derenzy and Members of the Traverse City Downtown Development Authority:

OLSON, BZDOK & HOWARD, P.C. (OBH) thanks you for the opportunity to respond to the request for qualifications and proposals for a firm to provide municipal legal services to the DDA. Our lawyers serve as legal counsel to a number of municipalities and local governmental entities, non-profit boards, LLCs, and corporations throughout northern Michigan, and have done so for over 45 years. We are also downtown business owners and members of the DDA. As you will see in the accompanying submission, we believe that we are uniquely suited to serve the DDA's legal needs.

As such, please see the enclosed Response to Request for Proposals for DDA Attorney Legal Services. Also included is some background information on our firm and a list of Representative Clients. We hope that the information we have submitted here gives you a sense of who we are and how we work. Again, thank you very much for the opportunity to submit this RFQ response. If we are selected, our firm will ably perform the services requested with dedication and diligence.

We would very much appreciate an opportunity to discuss how we could serve you and to answer any questions you may have regarding our firm, our practice, and/or our proposal. In the meantime, if you need any supplemental information at all, please feel free to contact us at (231) 946-0044 or at the email addresses below. Thanks again.

Sincerely,

Ross Hammersley
ross@envlaw.com

Scott W. Howard
scott@envlaw.com

Lydia Barbash-Riley
lydia@envlaw.com



1. Legal Experience: The OBH team has over 45 years of combined experience advising municipalities. We have represented local governments throughout Michigan, including counties, cities, villages, and townships. Our attorneys have extensive litigation and transactional experience rivaling that of larger downstate firms. We have represented clients at all levels of the state and federal courts, and administrative tribunals. Our attorneys have a track record of positive results in litigation that reaches from agency and tribal courts up to the highest appellate bodies, including the Michigan Supreme Court, U.S. Court of Appeals for the Sixth and Seventh Circuits, and U.S. Supreme Court.

OBH represents a number of communities with DDAs in Northern Michigan, including the City of Charlevoix DDA, the Village of Elk Rapids DDA, City of Ludington DDA, the City of Frankfort DDA, and the Village of Sutton's Bay DDA. In each of these instances, we provide advice and counsel to the municipality's DDA on an as needed basis. We have also worked directly with other DDAs on specific brownfield redevelopment projects, including advising the Boyne City DDA and Charlevoix County on TIF options for major redevelopment projects, and we have worked extensively with the Traverse City DDA on brownfield redevelopment projects through our representation of the Grand Traverse County Brownfield Redevelopment Authority.

In the course of our firm's long history representing numerous municipal entities and DDAs, the attorneys on our team have gained extensive experience relevant to the matters the DDA is likely to encounter, including:

- All aspects of Tax-Increment Financing Districts and Brownfield redevelopment projects, including structuring agreements to limit liability of local governments and streamline the development process in partnership with public and private development interests;
- Preparing purchase agreements, deeds, and other contracts necessary for the purchase of real property, including property with known or suspected environmental contamination;
- Drafting leases, licenses, covenants, deed restrictions, or other agreements pertaining to property use matters;
- Advising municipal entities on real property or landlord-tenant issues that often arise;
- Public purchasing and contracting including assistance with drafting requests for qualifications and requests for proposals, drafting contracts for engineering services, and drafting contracts for purchasing goods, materials, and maintenance services, etc.;

- Counseling local governments on managing growth and controlling sprawl, including density, transportation, and new urbanism issues;
- Governmental ethics, including conflicts of interest issues;
- Employment disputes and internal personnel matters for local governmental entities, including contract review, negotiations, suspensions, and terminations; and
- Drafting complicated transactional agreements, including inter-local government agreements, agreements under the Urban Cooperation Act, Act 425 agreements, redevelopment agreements between multiple jurisdictions and private developers, and agreements/formation documents for the multi-jurisdictional entities including (but not limited to) the Grand Traverse Region Next Michigan Corporation; and
- Attendance at meetings and board governance, including rules of parliamentary procedure and Open Meetings Act and Freedom of Information Act compliance.

The following is a list of client contact information:

Lindsey Dotson – Lindsey J. Dotson, Executive Director, Charlevoix Main Street DDA
 City of Charlevoix
 210 State Street, Charlevoix, MI 49720
 (231)547-3257 lindseyd@charlevoixmi.gov

Chris Forsyth – Deputy County Administrator, Grand Traverse County
 400 Boardman Ave.
 Traverse City, MI 49684
 (231) 922-4780 cforsyth@grandtraverse.org

Josh Mills – City Superintendent, City of Frankfort
 412 Main Street
 Frankfort, MI 49635
 (231) 352-7117 jmills@cofrankfort.net

Bill Cooper – Village Manager, Village of Elk Rapids
 P.O. Box 398
 Elk Rapids, MI 49629
 (231) 264-9274 vllg398@elkrapids.org

Rob Larrea – Village Manager, Village of Suttons Bay
 420 Front Street
 Suttons Bay, MI 49682
 (231)-271-3051 manager@suttonsbayvillage.org

2. Organization, Size, Structure, and Areas of Practice: Olson, Bzdok & Howard started in 1972 with a dedication to serving local governments, community groups, small businesses, and individuals with innovative legal strategies for protecting their communities, their environment, and their quality of life. While our firm is widely known for our work in environmental law, we are indeed a full-service law firm with expertise in a wide range of issues facing our diverse clientele.

We are proposing a team approach to legal services for the DDA. It is our experience that such a team approach provides high quality legal advice with efficient and timely responses to our client's needs. Scott Howard would serve as the DDA's primary point of contact, and Scott would delegate tasks according to individual attorney experience and the desires of the DDA. Partner Ross Hammersley and attorney Lydia Barbash-Riley would be assigned to handle DDA matters as appropriate based on their experience and schedule. Scott, Ross, and Lydia would attend DDA meetings as needed for the projects that they would work on. The advantages of a local office along with the breadth of subject matter experience and expertise brought to bear by OBH, makes us confident that we can meet the DDA's legal needs in the most efficient manner and with the highest possible quality.

3. Attorney Qualifications: The firm generally, and Scott, Ross, and, Lydia specifically, specializes in local government and municipal law, real estate, redevelopment, contracts and transactions, grant implementation and compliance, and Tax Increment Financing. We are dedicated to providing municipalities, governmental bodies, and other civic organizations in our local community with strategies to intelligently, efficiently, and sustainably achieve their objectives and serve their constituents. In particular, Scott, Ross, and Lydia have extensive experience in the areas sought in the RFP:

- *Michigan Municipalities, Authorities, and similar tax- exempt organizations* – Scott has served as legal counsel for the Grand Traverse County Brownfield Authority since 1999. The Grand Traverse County BRA is recognized as one of the most successful brownfield programs within the State of Michigan, and OBH has provided the BRA with legal advice since its inception. The firm also helped the County create the Next Michigan Corporation, and has assisted with the creation and implementation of the County Land Bank. Scott and Ross also represent several municipalities within the region including the City of Charlevoix and its DDA, the City of Ludington and its DDA, the City of Frankfort and its DDA, and the Village of Elk Rapids and its DDA. Finally, Scott, Ross and Lydia represent a number of non-profit tax-exempt organizations like the Grand Traverse Regional Land Conservancy, the Leelanau Conservancy, and TART Trails.
- *Real-estate development* – The firm has been extensively involved in several real estate development projects, including the redevelopment of Building 50 and the redevelopment of the historic state hospital campus. Scott, Ross, and Lydia regularly represent private individuals, companies, and municipal entities in complex real estate transactions and developments. They have been involved in a number of innovative approaches to community development, including work with the Brownfield Authority in the Eighth Street corridor. Recently, as an example, the firm has been working with the City of Charlevoix to create a deed restriction program to provide year-round residential housing for persons working within the City.

- *Tax increment financing* – The firm has worked extensively with a variety of TIF programs, and is very familiar with the requirements for DDA TIF capture and expenditures, as well as brownfield redevelopment tax capture. This includes items such as eligibility for capture, development agreements, capital improvement plans, and eligible expenses for developer reimbursements through the programs. The firm is also familiar with other areas of the Tax Increment Financing Act, such as corridor improvement authorities and neighborhood improvement authorities.
- *Bond financing* – Because bond financing is a specialized area of the law, our clients typically rely on outside bond counsel for the issuance of bonds. That said, Scott, Ross and Lydia have been involved in assisting bond counsel a number of times in the past, and has assisted municipal clients with implementing bond requirements for particular projects. They are familiar with the principles and requirements of bond financing, and often advises municipal clients about when bonding makes senses and when to get bond counsel involved in a project.
- *Grants and contracts* – Grants and contracts are a staple of the work that OBH does for its clients. Scott, Ross, and Lydia have drafted numerous development agreements for the use of TIF in a particular project; have reviewed purchase agreements and transactional documents for hundreds of transactions; have assisted with the development and implementation of conditions for millions of dollars in grant funds, as well as compliance with grant requirements for expenditure of funds; and have reviewed or drafted countless contracts for municipal, non-profit, and individual clients.



Scott Howard—Primary Attorney

Scott Howard is a senior partner of OBH with over 20 years of experience in municipal law, brownfield redevelopment, and tax increment financing. He has worked extensively for Grand Traverse County, including serving as legal counsel for the Brownfield Redevelopment Authority, the Board of Public Works, the Land Bank Authority, the Economic Development Corporation, the Drain Commissioner, and on a number of special projects. Scott's representative clients also include the City of Charlevoix, the Village of Elk Rapids, the Village of Sutton's Bay, Garfield Township, and Resort Township.

Scott's resume is **Attachment 1** for your review.



Ross Hammersley

Ross A. Hammersley, a partner with OBH, has advised municipalities throughout northern Michigan for over ten years on a variety of issues and in a large number of forums, including in litigation, mediation, public meetings, and contractual negotiations. Ross is currently the principal municipal attorney for the City of Ludington, the City of Frankfort, and the Village of Northport, as well as the Grand Traverse County Economic Development Corporation, while also assisting with representation of Garfield Township, the Grand Traverse County Land Bank Authority, the Grand Traverse County Board of Public Works, the Village of Empire, the Village of Elk Rapids, and others;

Ross's resume is **Attachment 2** for your review.

Ross is a member of the governing Council of the Environmental Law Section of the Michigan State Bar (where he also serves as Vice-Chair of the Great Lakes and Inland Waters Committee), a member of the Michigan Association of Municipal Attorneys, and of both the Public Corporation and Governing Law Section of the Michigan State Bar. Ross was appointed by the City Commission of Traverse City to a seat on the Board of Directors of the City's municipal utility, Traverse City Light and Power, in 2016 for a six-year term, and is also currently a Board Member and Vice President on the Executive Committee of TART Trails. Ross graduated cum laude from the Michigan State University College of Law in 2006, where he served as the Editor-in-Chief of the Michigan State Law Review, and he has published articles in the Michigan Bar Journal, the Michigan Real Property Review, and the State Bar Environmental Law Journal.



Lydia Barbash-Riley

Lydia Barbash-Riley is an associate attorney with Olson, Bzdok & Howard. Lydia came to OBH after beginning her career in the Michigan office of a large national law firm. She currently represents public interest clients in proceedings before the Michigan Public Service Commission and in other environmental and land use transactional and litigation matters, and also has experience counseling municipal and private clients regarding environmental due

diligence and Brownfield redevelopment. Lydia serves as the assistant City Attorney for the City of Ludington as well as assisting with representation of the City of Charlevoix, Grand Traverse County Brownfield Redevelopment Authority and Land Bank Authority, Garfield Township, and the Village of Elk Rapids. Lydia is a member of the governing Council of the Environmental Law Section of the Michigan State Bar and serves on the Board of Directors of Congregation Beth Shalom in Traverse City. Lydia graduated cum laude from the Indiana University Maurer School of Law in 2016, and also concurrently earned a Master of Public Affairs with a concentration in Environmental Policy and Natural Resource Management from the Indiana University School of Public and Environmental Affairs. Lydia's resume is **Attachment 3** for your review.

4. Compensation: OBH typically bills its municipal clients on an hourly basis at a discounted municipal rate. Scott and Ross are \$185/hour (reduced from a standard rate of \$275/hour), and Lydia is \$165.00 per hour. We do have some clients who prefer a flat fee arraignment, and we would be happy to discuss a flat fee or hybrid hourly-rate and flat fee arraignment.

Scott W. Howard

OLSON, BZDOK & HOWARD, P.C.

420 East Front Street – Traverse City, MI 49686

Telephone: (231) 946-0044; fax 946-4807; email scott@envlaw.com

CURRENT EXPERIENCE

Olson, Bzdok & Howard, P.C., Traverse City, MI

Principal Attorney, March 2003 to present;

Associate Attorney, September 1999 to March 2003

President of firm working for local governments, community groups and individuals with an emphasis in municipal, environmental, conservation and land use law. Represented clients in transactional matters, administrative hearings, district and circuit court proceedings, and in the appellate courts. Representative clients include Grand Traverse County Board of Public Works, the Grand Traverse Brownfield Redevelopment Authority, the City of Charlevoix, the Village of Elk Rapids, Resort Township, Garfield Township, the Grand Traverse Regional Land Conservancy, the Minervini Group, the Saugatuck Dunes Coastal Alliance and TART Trials. For more information on the firm, go to www.envlaw.com.

Northwestern Michigan College, Traverse City, MI

Adjunct Professor, January 2004 to May 2004

Professor of legal research and writing for NMC's legal assistant program. Instructed a class of 12 students. Responsible for class instruction, materials and assignments.

Michigan Supreme Court, Lansing, MI

Law Clerk to Justice Michael F. Cavanagh, 1997 to 1999

Researched and reviewed proposed majority and dissenting opinions; gave recommendations regarding the proposed opinions. Drafted bench briefs. Analyzed applications for leave to appeal for meritorious legal issues. Trained new interns.

EDUCATION

Wayne State University, Detroit, MI

J.D., Cum Laude, 1997. Admitted to the Michigan Bar, November 1997

Honors: *Order of the Coif*; Bronze Key Award for academic achievement

Activities: *The Michigan International Lawyer* - Assistant Editor

Environmental Law Society - Governing Board Member

Students Helping Students READ

Michigan State University, East Lansing, MI

B.A., International Relations, 1992

PUBLICATIONS

James M. Olson and Scott W. Howard, *Brownfield Redevelopment: Keeping an Eye on the Public Interest*, PLANNING AND ZONING NEWS, April 2000, at 14.

Scott W. Howard, *Terrorism, Aliens, and Due Process*, MICH. INT'L LAW., Spring 1996, at 19.

Scott W. Howard, Limited Development Through Environmental Thresholds, *Building Sustainable Communities Regional Cooperation Series*, (The Global Cities Project, No. R207, 1993).

**PROFESSIONAL
PRESENTATIONS**

Scott W. Howard, Coordinate Growth and Transportation, *Building Sustainable Communities Regional Cooperation Series*, (The Global Cities Project, No. R208, 1993).

Shades of Grey: A Conservation Easement Stewardship Conundrum (Land Trust Alliance Advanced Legal Topics, February 2014).

Ask an Attorney Program (Heart of the Lakes Center for Land Conservation Policy “Advancing Conservancy Excellence” Program, February 2009 - December 2010).

Industrial Wind Energy Forum Panelist (Benzie Conservation District, December 2010).

Mineral and gas rights effect on conservation easements: Tips for minimizing damage and traps to avoid (Conservation Defense Network, June 2008).

Leftover Environmental Liabilities – What’s Not Covered by Your Prospective Purchaser Agreement (National Brownfields Conference Legal Symposium, May 2008).

Mineral Rights and Land Conservation in the Midwest Online Training (Land Trust Alliance, March 2008).

Mineral Rights & Land Conservation in the Midwest (Midwest Land Conservation Conference, March 2008).

Conservation Easement Best Practices Panel Discussion (Heart of the Lakes Center for Land Conservation Policy Third Annual Member Summit, December 2007).

Forests With Handrails? The ADA and Land Preservation (Land Trust Rally, October 2007).

Brownfield Redevelopment Panel Project Discussion (Michigan Brownfield Conference, July 2005).

Conservation Easements and Estate Planning (Southwest Michigan Land Conservancy, June 2005).

**COMMUNITY
INVOLVEMENT**

Past Board President, TART Trails

Past Board Member of Norte Youth Cycling Board of Directors

Past member of the Grand Traverse County Solid Waste Planning Authority

Member of the State Bar of Michigan, the Environmental Law, the Real Property and the Appellate Law Sections.

Member of the American Bar Association and the Grand Traverse-Leelanau-Antrim Bar Association.

Ross A. Hammersley
OLSON, BZDOK & HOWARD, P.C.
420 East Front Street – Traverse City, MI 49686
Telephone: (231) 946-0044; fax 946-4807; ross@envlaw.com

**CURRENT
EXPERIENCE**

Olson, Bzdok & Howard, P.C., Traverse City, MI
Partner, 2015 to present
Associate Attorney, Sept. 2009 to January 2015
Specializing in municipal, land use and real estate, and environmental law, and representing clients in public meetings, before state agencies, in litigation and dispute resolution matters, as well as in transactional work. Representative clients include the City of Frankfort, Grand Traverse County Economic Development Corporation, Grand Traverse County Brownfield Redevelopment Authority, Garfield Township, Acme Township, The Minervini Group, and the Neahtawanta Resort Association. Licensed to practice in all state and federal courts of Michigan.
For more information on the firm, go to www.envlaw.com

**PREVIOUS
EXPERIENCE**

Frank, Haron, Weiner & Navarro, P.L.C., Troy, MI
Associate Attorney, March 2007 to August 2009
Practiced with boutique litigation firm focusing on real estate transactions, property tax disputes, commercial and general civil litigation at state and federal levels.

Michigan Economic Development Corporation, Lansing, MI
Brownfield Policy Intern, June-August 2005
Conducted legislative analysis and provided summaries of pending and recently enacted regulations impacting Brownfield redevelopment projects and community development block grants. Also assessed the efficacy of tax-increment financing and single-business tax credit policies as applied to redevelopment of Brownfield sites throughout Michigan.

EDUCATION

Michigan State University College of Law, East Lansing, MI
J.D., Cum Laude, May 2006
Editor-in-Chief, MICHIGAN STATE LAW REVIEW (2005-06)

University of Michigan, School of Natural Resources & Environment
B.S., May 1998

PUBLICATIONS

Local Government Regulation of Large-Scale Hydraulic Fracturing Activities and Uses, co-authored with K. Redman, Michigan Bar Journal, June 2014.

Going Local: How the Property Assessed Clean Energy Act and Feed-In-Tariffs Could Decentralize Michigan's Energy Grid, Co-Authored with K. Sundt, Michigan Environmental Law Journal, April 2011.

Where will the Water Go? A Snapshot of Recent Changes in Michigan Water Law, Co-Authored with C. Bzdok, Michigan Real Property Review, December 2006.

**COMMUNITY
INVOLVEMENT**

Council Member, State Bar of Michigan Environmental Law Section (ELS)

Co-Chair, ELS Great Lakes & Inland Waters Committee

Executive Board Member, TART Trails, Inc.

Board Member, Traverse City Light & Power

Volunteer Attorney, Legal Aid Clinic (Traverse City)

Environmental Advisory Committee Member, City of Huntington Woods (2007-2009)

Lydia Barbash-Riley
OLSON, BZDOK & HOWARD, P.C.
420 E Front Street, Traverse City, MI 49686 – (231) 946-0044 – Lydia@envlaw.com
Admitted to Bar of Michigan

EXPERIENCE

Olson, Bzdok & Howard, P.C., Traverse City, MI July 2017 – Present
Associate Attorney

- Represent environmental and ratepayer advocates in Michigan Public Service Commission proceedings
- Advise and represent public interest and municipal entities on energy and climate, environmental, land use, and Indian law matters in transactional and litigation contexts
- Draft and review court filings, legal opinion memoranda, development agreements, and real estate documents

Barnes & Thornburg LLP, Grand Rapids, MI September 2016 – July 2017
Associate Attorney

- Counseled clients on compliance with state and federal pollution control, energy efficiency, and resource management laws
- Provided transactional due diligence and environmental risk mitigation legal services
- Conducted research and brief writing for state and federal environmental, construction, and product liability litigation

Barnes & Thornburg LLP, Indianapolis, IN May – July 2014, May – August 2015
Summer Associate

- Researched and developed client-directed and internal memoranda advising on environmental permitting, enforcement defense, and litigation

Conservation Law Center, Bloomington, IN August 2013 – April 2014
Student Intern

- Supported litigation under the Administrative Procedure Act, the Endangered Species Act, and the National Environmental Policy Act
- Conducted research and analysis on Clean Water Act issues

National Oceanic and Atmospheric Administration, Washington, DC June – August 2013
Intern – Office of General Counsel International Section

- Assisted with a multi-year project commissioned by the Bureau of Ocean Energy Management including research, writing, and editing for a legislative gap analysis report and contributing to a searchable database of domestic and international laws affecting Underwater Cultural Heritage on the Outer Continental Shelf
- Researched and drafted a NEPA Environmental Assessment and National Historic Preservation Act Section 106 Programmatic Agreement for interagency management of a newly identified shipwreck with NOAA attorneys and scientists

U.S. Peace Corps, Dominican Republic March 2010 – May 2012
Community Environmental Development Promoter; National Coordinator for Living Museums in the Sea

- Collaborated with four Dominican government agencies, the United States Agency for International Development, Indiana University, and local community stakeholders to develop and execute marine ecotourism projects
- Implemented environmentally sustainable cash-crop reforestation projects with three farming cooperatives

EDUCATION

Indiana University, Maurer School of Law & School of Public and Environmental Affairs, Bloomington, IN
J.D. *cum laude*/M.P.A in Environmental Policy & Natural Resource Management, May 2016
Honors: Highest Grade in Torts (Fall 2012), Introduction to Environmental Law (Fall 2013), Seminar in Globalization (Fall 2013), and Toxic Substances & Hazardous Wastes (Spring 2014)
Activities: Indiana Journal of Global Legal Studies - Editor-in-Chief; Research Assistant for Professor Robert Fischman; Graduate Teaching Assistant for Environmental Economics

University of Wisconsin-Madison, Madison, WI
B.A., Major: Political Science, May 2007 – Honors in the Liberal Arts, Dean's List

AN INTRODUCTION TO
OLSON, BZDOK & HOWARD, P.C.
A Professional Corporation

420 East Front Street
Traverse City, Michigan 49686
Telephone: (231) 946-0044
Fax: (231) 946-4807
www.envlaw.com

LAWYERS FOR THE COMMUNITY AND THE ENVIRONMENT

OLSON, BZDOK & HOWARD serves individuals, community groups, and local governments with innovative legal strategies for protecting their communities, their environment, and their quality of life. Our firm has proudly been providing legal services to northern Michigan since 1972. We enjoy long-standing relationships with our clients, and share with them a belief that the law can be a tool for creating positive change and finding practical solutions to complex problems.

AREAS OF PRACTICE

Environmental Law

Environmental Law is our heritage at OLSON, BZDOK & HOWARD. James Olson was the Chair of the first Michigan Environmental Law Conference and is the author of the book, *Michigan Environmental Law*. Our firm has been involved in some of the major environmental cases of the last three decades in Michigan, a tradition that continues today. We have appeared as the attorneys of record in several cases before the Michigan Supreme Court. We have also worked on high-profile environmental cases across the state, from the western end of the Upper Peninsula to Detroit. Our cases have appeared in the *New York Times*, *Washington Post*, *Chicago Tribune*, *Detroit News*, *Detroit Free Press*, and many other newspapers, and on national public radio. We are actively involved in teaching and writing environmental law.

Zoning and Land Use

Our zoning and land use practice focuses on assisting local governments with pro-active legal mechanisms for managing growth and combating sprawl. We work with our municipal clients on strategies for such issues as farmland protection, historic preservation, natural features ordinances, and new urbanism. We also assist community groups in defending their interests before local planning and supervisory boards. We have represented clients in all phases of zoning and land use litigation, including recent successes in the Michigan Supreme Court and Michigan Court of Appeals. The firm's attorneys have been recognized as experts in the fields of zoning, land use and environmental law. Mr. Olson was recognized as one of Michigan's top attorneys in the area of zoning and land use by Michigan Super Lawyers Magazine in 2008.

Community and Charitable Organizations

We have extensive experience representing community and non-profit organizations, locally and statewide. We have formed or represented over 150 non-profit organizations, including some of the most successful conservation organizations in the country like the Grand Traverse Regional Land Conservancy and the Leelanau Conservancy. Other entities we have worked with include the Michigan Environmental Council, Michigan Land Use Institute, Land Information Access Association, Farmers' Legal Action Group, and Friends of the Crystal River. We have advised charities on issues related to corporate governance and the unique rule and regulations for non-profit organizations, as well as employment, contracts, and other general corporate legal matters.

Business Law

Our firm has experience advising local businesses on a variety of matters, including formation and corporate governance, as well as contractual and employment issues and other general business law.

Real Estate

We have experience with all sides and sizes of real estate transactions. We also have considerable experience in real property litigation, including real estate disputes, adverse possession and prescriptive easement cases, riparian rights issues, and road matters.

Trial Work

We have represented clients at all levels of the state, federal, and administrative courts. Our attorneys have a track record of positive results in litigation that reaches from agency and tribal courts up to the highest appellate bodies, including the Michigan Supreme Court, U.S. Court of Appeals for the Sixth and Seventh Circuits, and U.S. Supreme Court. The firm's attorneys have a combined litigation experience of more than 80 years and more than 40 reported decisions.

Municipal Law

In the Municipal Law area, we have represented local governments throughout Michigan, including counties, cities, villages, and townships. From drafting ordinances to defending takings claims or participating in complex multi-party litigation, our firm is fully equipped to provide assistance and guidance to municipalities in the areas of real property, environmental protection and regulation, land use, zoning, access to government issues, and general municipal law.

In addition, municipalities are often eager to facilitate the cleanup of contaminated properties within their jurisdiction — often called brownfields — to increase their tax base and further their economic development. Our firm has the expertise to select the most effective tools to facilitate financing, limit liability, and streamline the development process in partnership with public and private development interests.

THE PEOPLE OF OLSON, BZDOK & HOWARD

Attorneys

JAMES M. OLSON, the firm's senior partner, has over 45 years of experience in Environmental, Land Use, Municipal, and Real Estate Law. A graduate of Detroit College of Law, he also earned a Master of Law Degree from the University of Michigan Law School. Jim has lectured at the Michigan Department of Natural Resources Leadership Institute, and at numerous professional associations, universities, and other organizations in the United States, Canada, and Brazil. He has written and published several books, one on Michigan Environmental Law, and numerous articles on environmental and land use subjects.

CHRISTOPHER M. BZDOK, partner with the firm, specializes in environmental, municipal, zoning and real estate law. He is also an Adjunct Professor of Law at Michigan State University College of Law where he teaches Environmental Law and Water Law. He is also the former Mayor of Traverse City, and a member of the Grand Traverse County Board of Public Works. Chris received a Bachelor of Science with high honors from the University of Michigan, is a *cum laude* graduate of Wayne State University Law School, and studied biology and freshwater chemistry at the graduate level at Wayne State. Chris is a member of the Governing Council of the State Bar of Michigan's Environmental Law Section, the Committee on Zoning and Land Use, and the Water Law Committee. He is a Michigan State Bar Foundation Fellow, a distinction given less than 5% of attorneys in Michigan.

SCOTT W. HOWARD, partner with the firm, specializes in municipal, tax, conservation and real estate law; zoning; brownfield redevelopment; and appellate work. He has also taught legal research and writing as an Adjunct Professor at Northwestern Michigan College. Scott is a graduate of the James Madison College at Michigan State University, and a *cum laude* graduate of Wayne State University Law School. He is a member of the Order of the Coif, an honorary society recognizing outstanding academic achievement in the study of law. Before joining Olson, Bzdok & Howard, Scott spent two years clerking for Honorable Michael F. Cavanagh, Justice of the Michigan Supreme Court. Scott has published in the areas of brownfield redevelopment, regional planning and international law.

ROSS A. HAMMERSLEY, partner with the firm, specializes in environmental, real estate, municipal and land use law. He is a *cum laude* graduate of the Michigan State University College of Law where he served as Editor-in-Chief of the Michigan State Law Review from 2005 to 2006. Prior to joining Olson, Bzdok & Howard, Ross practiced general civil litigation with Frank, Haron, Weiner and Navarro, PLC, with specialties in real estate and municipal law, administrative law, and fraud prevention and whistleblower protection under the federal False Claims Act. Ross has published in the areas of torts, water law and environmental conservation.

REBECCA L. MILLICAN, associate with the firm, spent much of the early years of her career working on behalf of a small non-profit conservation group in litigation against large, well-funded adversaries, developing an affinity for fighting on the side of the underdog in cases with broad impact, particularly environmental matters. That mindset brought Rebecca to Olson, Bzdok & Howard in the summer of 2016 from Chicago, where she had also practiced commercial litigation as well as maritime and international law. She has spoken at law schools around the country on international law

governing whaling and cetacean conservation. During law school, she was a judicial extern for the Hon. Ricardo Martinez, US District Court for the Western District of Washington.

LYDIA BARBASH-RILEY, associate attorney with the firm, specializes in environmental, energy, and Indian law. She represents public interest clients in proceedings before the Michigan Public Service Commission and in other environmental and land use litigation matters. Lydia also has experience counseling municipal and private clients regarding environmental due diligence and brownfield redevelopment. Lydia received her J.D. *cum laude* from the Indiana University Maurer School of Law in Bloomington, where she was the editor-in-chief of the Indiana Journal of Global Legal Studies. During law school, she gained experience working to protect natural and cultural resources in the public and non-profit sectors as a legal intern with the National Oceanic and Atmospheric Administration and the Conservation Law Center. Lydia also earned a Master of Public Affairs in Environmental Policy and Natural Resource Management from Indiana University's School of Public and Environmental Affairs and a B.A. in political science with honors in the liberal arts from the University of Wisconsin-Madison. Prior to law school, Lydia was a Community Environmental Development Promoter in the Dominican Republic with the U.S. Peace Corps.

ABBIE HAWLEY, associate attorney with the firm, specializes in environmental and natural resources law, land conservation, lake associations, real property, and estate planning. Abbie also assists on municipal matters and is currently serving as a City Commissioner for the City of East Jordan. Abbie started her career clerking for the 46th Circuit Court in Otsego, Kalkaska, and Crawford counties. Most recently Abbie was the Director of Conservation Programs for a local land conservancy, focusing on land acquisition, the stewardship of preserves and conservation easements, and protection of water quality. Abbie holds a Bachelor of Arts from the University of Michigan where she was a James B. Angell Scholar. She received her law degree from Michigan State University College of Law, where she was a Dean Charles H. King Scholar and earned a place in the highly competitive trial practice institute. She was an associate editor for the International Law Journal and has written several notes about environmental matters, including Pipeline 5 and Tribal gathering rights in National Parks.

WILLIAM RASTETTER, of counsel to the firm, has over 45 years of experience in Indian Law, Civil Rights Law, and Federal Litigation. Bill spent two years as Litigation Director with Michigan Indian Legal Services, and has been Tribal Attorney for the Grand Traverse Band of Ottawa and Chippewa Indians since 1982. He received a Bachelor of Arts degree from Michigan State University and was an honors graduate of Indiana University School of Law at Bloomington. Bill clerked for two years for Judge Wilbur F. Pell, Jr., United States Court of Appeals for the Seventh Circuit, Chicago, Illinois. Later, he was named a Reginald Heber Smith Community Lawyer Fellow, and served as Litigation Director of the Legal Services Program in Fort Wayne, Indiana, where he successfully litigated several landmark civil rights cases.

TRACY JANE (TJ) ANDREWS, of counsel to the firm, specializes in environmental and energy law, providing legal services to the firm's energy clients. She also serves as legal counsel to The Watershed Center Grand Traverse Bay. TJ brings 15 years of experience working on behalf of public interest clients to protect the environment and natural resources. Before moving to Traverse City, TJ worked in Texas for the Lower Colorado River Authority, the National Wildlife Federation, the Parks & Wildlife Department, and the Environmental & Natural Resources Department of the Attorney

General's Office. She was an associate with Olson, Bzdok & Howard from 2004 to 2008, and then a civil environmental litigator in the Judge Advocate General Corps of the United States Air Force in Washington, DC. She worked abroad before attending the University of Texas School of Law, where she graduated with honors. TJ is a member of the State Bars of Texas and Michigan. She serves as President of the Traverse Area Women Lawyers Association (a committee of the Grand Traverse-Leelanau-Antrim Bar Association).

Professional Staff

Our professional staff supports all aspects of our legal work. Colleen Mulligan, Kimberly Flynn, Karla Gerds and Breanna Thomas provide litigation support, file management, and other assistance to our clients. Colleen Mulligan also serves as our firm's business manager. All these staff members work closely with our attorneys to provide the most economical and cost-effective delivery of legal services we can give. Through the use of technology and personnel, we are able to bring the power of a large metropolitan law firm at substantially lower cost to our clients.

How Can We Serve You?

We value the professional and personal relationships that we have developed with our clients. If you would like further information about our firm, please contact us or visit our web site at www.envlaw.com.

OLSON, BZDOK & HOWARD, P.C.

2020 HOURLY RATES

| Attorney | Standard Rates | Discounted Rates |
|--|-----------------------|-------------------------|
| Jim, Chris, Scott, Ross, Rebecca, Bill, TJ | \$275.00 | \$185.00 |
| Lydia, Abbie | \$225.00 | \$165.00 |
| Legal Assistant/Law Clerk | \$75.00 | \$50.00 |

SONDEE
RACINE & DOREN PLC
ATTORNEYS

MAURICE A. BORDEN
JEFFREY L. JOCKS
KARRIE A. ZEITS

RONALD W. SONDEE, OF COUNSEL
JOHN P. RACINE, JR., OF COUNSEL
W. PETER DOREN, OF COUNSEL

310 WEST FRONT STREET
SUITE 300
TRAVERSE CITY, MICHIGAN 49684
TEL (231) 947-0400
FAX (231) 947-0748
www.sondeeracine.com

November 20, 2020

Via Hand Delivery

and email at:

jean@downtowntc.com

Mr. Jean Derenzy, CEO
Traverse City DDA
303 State Street
Traverse City, MI 49684

Re: Traverse City Downtown Development Authority – DDA Attorney Legal
Services Proposal

Dear Ms. Derenzy:

Thank you for forwarding a Request for Proposals for DDA Attorney Legal Service (RFP) to Sondee, Racine & Doren, PLC. Sondee, Racine and Doren, PLC (the Firm) is pleased to submit a proposal to provide general legal counsel services to the Traverse City Downtown Development Authority (DDA).

The Firm has a long history and association with the DDA. W. Peter Doren was the City Attorney at the time the DDA was formed, was instrumental in the formation of the DDA, and represented the DDA as general counsel up until his retirement as the City Attorney. Thereafter, I represented the DDA through my tenure as the City Attorney and have provided representation of the DDA occasionally thereafter. I also had the opportunity to practice with Charles B. Judson, a long time DDA Board member, for several years and through that experience remained current with the issues facing the DDA.

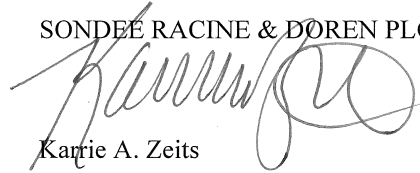
As I believe I expressed at the time I was engaged to provide general counsel services to the DDA upon my employment as the City Attorney, I greatly admire the DDA and the work that the DDA has done and continues to do to enhance our community and businesses and ensure Traverse City's status as a world class location for residents, business owners, and visitors. When I look back at the projects I have assisted the DDA with over my career such as the development agreement for the Old Town Parking Deck, I am gratified by my small contribution to the important work of the DDA. I would very much appreciate the opportunity to assist in the mission of the DDA again.

Mr. Jean Derenzy, CEO
November 20, 2020
Page 2

Thank you for your time and consideration.

Sincerely,

SONDEE RACINE & DOREN PLC

A handwritten signature in black ink, appearing to read 'Karrie A. Zeits', is written over the printed name.

Karrie A. Zeits

KAZ:alr

Encs: Two (2) copies of the qualifications and proposal



MAURICE A. BORDEN
JEFFREY L. JOCKS
KARRIE A. ZEITS

RONALD W. SONDEE, OF COUNSEL
JOHN P. RACINE, JR., OF COUNSEL
W. PETER DOREN, OF COUNSEL

310 WEST FRONT STREET
SUITE 300
TRAVERSE CITY, MICHIGAN 49684
TEL (231) 947-0400
FAX (231) 947-0748
www.sondeeracine.com

QUALIFICATIONS AND PROPOSAL FOR DDA ATTORNEY LEGAL SERVICES

The following sets forth the Firm's Response to the RFP and demonstrates the Firm's qualifications to provide competent and cost-effective legal services to the DDA.

Legal Experience and Areas of Practice:

For over 30 years, Sondee, Racine & Doren, PLC has maintained an extensive civil law practice throughout northern Michigan, with emphasis in the areas of municipal, employment, labor, real estate, business, estate planning and probate law, commercial and business litigation, insurance defense litigation, insurance coverage, appellate practice, mediation and arbitration. The firm's clients include individuals, large and small businesses, cities, counties, townships, villages, libraries, airports, public and private schools, medical care providers, utilities, banks, insurance companies, and public transit authorities.

Municipal Law:

Sondee, Racine & Doren, PLC's municipal experience as general counsel to local governmental entities is unusually broad, including representation of a road commission, a city, two airports, (one an authority and one a commission formed under an intergovernmental agreement), district, county and township libraries, townships, villages, a recreational authority, a municipal utility, and transit authorities. This range of responsibility allows us to remain current in municipal areas such as governmental immunity, intergovernmental agreements, civil rights, police powers, emergency services, constitutional rights, Open Meetings Act and Freedom of Information Act, zoning, public contracting, utilities, charter amendment and revision, ordinance drafting and enforcement, environmental concerns, employment matters, real estate transactions, municipal finance, public contracting and civil litigation, including transportation claims.

Other Development Authority Related Experience:

The Firm's attorneys have extensive experience representing Authorities, including the DDA. We have represented the DDA in relation to tax increment financing, grants and contracts, and real estate development projects. The Firm has coordinated with separate bond counsel and advisors in relation to several DDA projects, including the Hardy Parking Deck and other DDA projects.

Size and Structure of Firm:

Sondee, Racine & Doren, PLC has three partners and three of counsel attorneys with two support staff members located in the City of Traverse City, Michigan.

Attorney Qualifications. The following are attorney profiles for the attorneys who will be handling legal services for the DDA detailing their experience in municipal law. It is proposed that Karrie A. Zeits will be the primary attorney providing legal services to the DDA. Mr. Jocks, Mr. Borden, and other members of the Firm will be involved as needed, appropriate, and approved by the DDA.

- **Karrie A. Zeits, Esq.:** Ms. Zeits is a governmental law attorney with 20 years of experience working for municipalities and other governmental agencies in Northern Michigan. She received her Juris Doctorate from Willamette University College of Law in 1999. Ms. Zeits is a member in good standing of the State Bar of Michigan. Ms. Zeits has served as the City Attorney for the City of Traverse City, Deputy City Attorney for the City of Traverse City, and the Acting City Attorney for the City of Traverse City. She also has served as general counsel for the DDA. She is currently general counsel for the Northwestern Regional Airport Commission, Grand Traverse County Road Commission, the City of Traverse City and Charter Township of Garfield Recreational Authority, Village of Beulah, the Traverse Area District Library, Peaine Township, Comins Township, Mentor Township, Peaine Township, Blair Township, and the Frankfort City County Airport Authority. Currently, on a daily basis, Mrs. Zeits advises municipalities, government officials, and employees on general administrative and governance issues, policies, and laws, and in matters related to contract negotiations, public works, contracting and purchasing, the Freedom of Information Act, Open Meetings Act, ordinance enforcement, intergovernmental agreements, leases, real estate, and board governance, including ethical standards, conflict issues, and Robert's Rules of Order. She also counsels her clients on issues related to zoning and real estate transactions. She litigates on behalf of her clients in civil court and administrative tribunals, including the Michigan Tax Tribunal. Ms. Zeits is a past Chair of the Government Law Section of the Michigan State Bar Association. Approximately 85% of Ms. Zeits' practice is devoted to service of local governments and authorities.

Ms. Zeits' resume is attached.

- **Jeffrey L. Jocks Esq.:** Mr. Jocks has practiced law in Traverse City since 2004. He represents individuals, municipalities, non-profit organizations, and business entities throughout the State of Michigan. He has tried and argued matters in United States District Court, Michigan appellate and trial courts, Michigan administrative hearings, and before local municipalities. Mr. Jocks assists his municipal clients with a wide range of matters including zoning ordinances, utilities, sewer, water, medical marihuana, health insurance, Open Meetings Act, and Freedom of Information Act. He regularly advises and litigates on real property matters including residential and commercial sales, property taxes, easements, riparian use and boundary disputes, oil and gas matters, zoning, and nuisance disputes. His environmental practice involves water law, wetlands, concentrated animal feeding operations (cafos), and groundwater and soil contamination. Mr. Jocks proudly drafts unique estate plans, wills and trusts for clients, and handles probate court matters that include probating estates, will and trust disputes, guardianships, and conservatorships.

Mr. Jocks' resume is attached.

- **Maurice “Mike” Borden Esq.:** Maurice “Mike” Borden provides legal services to individuals, businesses, municipalities, property and casualty insurers and third-party claim administrators. He has represented municipalities in insurance and indemnity matters and contract litigation. Mr. Borden has also provided research and analysis on various federal and state laws, including HIPAA, Michigan’s smoking ban and use of electronic cigarettes. He represented Bay Area Transportation Authority in motor vehicle injury litigation, FOIA request and response review and lawsuits relating to wheelchair securement. Mr. Borden has successfully represented municipalities in appeals, including labor arbitration, property tax and unemployment insurance compensation appeals. Insurance coverage analysis and litigation are areas in which Mr. Borden has extensive experience. He provides insurance coverage analyses on issues involving personal lines, commercial lines and excess policies, and represents litigants in insurance coverage disputes, including ERISA claims.

Mr. Borden’s resume is attached.

Current Municipal Client References.

Northwestern Regional Airport Commission
Kevin C. Klein, Airport Director
727 Fly Don’t Drive
Traverse City, MI 49686
(231) 947-2250

Traverse Area District Library
Michele Howard, Library Director
610 Woodmere Ave
Traverse City, MI 49686
(231)932-8527

Village of Beulah
Dan Smith, Village President
7228 Commercial Street
P.O. Box 326
Beulah MI 49617
(231) 882-4451

Compensation:

| | |
|---------------------------------------|----------|
| Hourly rate for ALL Services Provided | \$180.00 |
|---------------------------------------|----------|

List of all other expenses charged outside of the above fee:

| | |
|------------------------------------|-------------------------------------|
| Copies - B&W and color | \$.10 per copy |
| Postage | \$ Actual USPS, UPS, or FedEx rates |
| Faxes | \$.25 per page |
| Court filing fees and other out of | |

Pocket costs
Mileage for DDA related business

\$ Actual fee
\$ Current Federal Mileage Rate for any travel
outside of Grand Traverse County

The Firm's billing rates and charges for all clients are usually revised annually, but the Firm reserves the right to revise those rates at other times during the course of its representation, with thirty (30) days advance notice to the DDA. Following any such revision, the new hourly rates will be applied to the DDA's file. The DDA will be billed in one-tenth-hour increments.

Itemized bills will be mailed for all legal services that are rendered on a monthly basis. The DDA is invited at any time to inquire about our charges or the costs that we incur on the DDA's behalf, which we will answer consistent with the Michigan Rules of Professional Conduct (MRPC) 1.5(b). The Firm prepares its statement on the assumption that payment will be received within thirty (30) days of receipt of its invoice.

We are hopeful that you will receive our proposal positively. If you have any follow-up questions regarding any of the information contained within this proposal, or if you would like any supplemental materials or details regarding any of the items contained herein, please feel free to contact Karrie A. Zeits at (231) 947-0400.

Ms. Karrie A. Zeits
310 W. Front Street, Suite 300
Traverse City, Michigan 49684
(231)947-400
kzeits@sondeeracine.com

MEMBERSHIPS:

State Bar of Michigan - Admitted 2000
Government Law Section
Board Member - June, 2011 through present
Secretary/Treasurer – June 2015 through 2016
Chairperson – June 2017 through 2018
Michigan Association of Municipal Attorneys
Grand Traverse-Leelanau-Antrim Bar Association
Board of Governors - 2002 - 2005
Secretary - 2003 - 2005
Women Lawyers Association
President - 2003-2004

LEGAL EXPERIENCE:

Member

Sondee, Racine & Doren, PLC, Traverse City, Michigan, August 1, 2017 through present.

- Represent various public corporation clients as general and special counsel.
- Represent clients at the Michigan Tax Tribunal.
- Represent private entity clients in all stages of litigation.
- Provide advice and counsel on a variety of legal issues, specializing in local governmental law issues, including land use and zoning, real and personal property tax, and the Freedom of Information Act and the Open Meetings Act.

Shareholder

Smith Haughey Rice & Roegge, Traverse City Michigan, November 2011 through July 2017.

- Represent various public corporation clients as general and special counsel.
- Represent clients at the Michigan Tax Tribunal.
- Represent private entity clients in all stages of litigation.
- Provide advice and counsel on a variety of legal issues, specializing in local governmental law issues, including land use and zoning, real and personal property tax, and the Freedom of Information Act and the Open Meetings Act.

City Attorney

City of Traverse City, Traverse City, Michigan. September 2007 through August 2011.

- Chief legal advisor to the City Commission, City Manager and all of the City's officers and employees in matters relating to their offices and official duties.
- Advised, counseled and represented the Downtown Development Authority, the Garfield Township and City of Traverse City Recreational Authority, the Grand Traverse Commons Joint Planning Commission, and Traverse City Light & Power on an as-needed basis.
- Provided all legal services, including employment and labor relations, for the City, City Commission, City Manager and City officers and employees.
- Advised and provided counsel for the City Commission, City Manager, City Boards and Commissions, and all City Departments regarding relevant laws and policies, including the Freedom of Information Act and the Open Meetings Act.
- Drafted, or reviewed drafts, of Charter amendments, ordinances, policies, resolutions, agreements, legal opinions, deeds, leases, contracts, pleadings and other legal documents.
- Represented the City in all matters involving civil litigation and administrative tribunals, and prosecute violations of the Traverse City Code.

- Negotiated, or assisted in the negotiation of, contracts, including labor contracts, and real estate transactions.
- Represented the City at meetings of the City Commission and other boards and commissions meetings.
- Supervised and managed the Department of the City Attorney.
- General Counsel for the Traverse City Downtown Development Authority.
- General Counsel for the City of Traverse City and Charter Township of Garfield Recreational Authority.
- Special Michigan Tax Tribunal Counsel for the Charter Township of Garfield.

Deputy City Attorney

City of Traverse City, Traverse City, Michigan. August 2000 through September 2007.

- Reviewed and drafted ordinances and amendments to ordinances, including the Sign Ordinance, Land Division Ordinance, Property Maintenance Code, Joint Planning Commission Ordinance, and Traffic Code.
- Drafted and reviewed charter provisions and amendments thereto.
- Reviewed and drafted policies and procedures, including the Freedom of Information Act Policy, Health Insurance and Portability and Accountability Act Privacy Policy, and Banner Policy.
- Prosecuted ordinance violations.
- Represented the City of Traverse City in District Court, Circuit Court, the Court of Appeals, and United States Bankruptcy Courts in all aspects of litigation.
- Represented the City of Traverse City at the Michigan Tax Tribunal, other administrative tribunals, and state agencies.
- Drafted, negotiated, and reviewed contracts and other legal documents for the City of Traverse City and Downtown Development Authority with developers, contractors, and governmental agencies.
- Provided advice and opinions to the Traverse City City Commission, Manager, and staff.
- Provided advice and opinions to the Traverse City Downtown Development Authority.
- Attended City Commission meetings and meetings of other boards and commissions.
- Prepared and presented educational seminars to commissioners and staff.

Associate Attorney

Sondee, Racine & Doren, PLC, Traverse City, Michigan. August 2000 through September 2007.
Primary Practice Areas: Municipal, Zoning, Land Use, Real Estate, Tax Appeals, Environmental, General Civil Litigation and Mediation.

- Represented clients in all stages of the land use process.
- Represented clients in all stages of litigation.
- Represented clients at the Michigan Tax Tribunal.
- Provided advice on a variety of legal issues, including land use, zoning, labor and employment, contracts, and environmental.
- Researched and drafted arbitration briefs and pleadings.
- Reviewed, drafted, and negotiated contracts, development agreements, real estate documents, and other legal documents.
- Researched and drafted legal memoranda.
- Conducted and participated in facilitative mediation.

Judicial Law Clerk

Honorable Paul J. Clulo, Circuit Court Judge for the County of Midland, Michigan. August 1999 through August 2000.

- Researched and drafted opinions.
- Researched and wrote legal memoranda.
- Reviewed, analyzed, and summarized motions and pleadings.

Law Clerk

Oregon Department of Justice, Commercial and Environmental Litigation Unit, Salem, Oregon.
May 1997 through December 1998.

- Researched and wrote legal memoranda.
- Researched and wrote motions and supporting memoranda of law.
- Investigated and prepared complaints and answers.
- Conducted discovery.

OTHER EXPERIENCE:

Adjunct Professor - Legal Research and Writing. September 2002 through January 2004.
Northwestern Michigan College, Traverse City, Michigan.
Certified Mediator - 2001.

LEGAL EDUCATION:

Willamette University College of Law, Salem, Oregon.
Juris Doctorate, August 1999.

University of Detroit Mercy School of Law, Detroit, Michigan.
1999 Spring Semester Guest Student.

UNDERGRADUATE EDUCATION:

Albion College, Albion, Michigan.
Bachelor of Arts in Political Science, May 1995.

PUBLISHED WORK:

www.TheFirstAmendment.gov, Michigan Legal Briefs Vol 54, Issue 3 (June 2002).

JEFFREY L. JOCKS

EDUCATION

Michigan State University College of Law
Juris Doctor, *Summa Cum Laude*
G.P.A. 3.97/4.00

East Lansing, Michigan
May 2004

Michigan State University
Bachelor of Science in Packaging

East Lansing, Michigan
December 1997

EXPERIENCE

Sondee, Racine & Doren, PLC

Traverse City, MI

Partner- January 2017- Present

Specializing in municipal, contracts, real property, and estates and probate.
Representing municipal and private clients in litigation and transactional work including representation in State and Federal Court litigation and appeals, public meetings, and administrative hearings.

Olson, Bzdok & Howard, P.C.

Traverse City, MI

Associate- November 2004- December 2010; *Partner* – January 2011 – December 2016

Specializing in municipal, contracts, real property, and estates and probate.
Representing municipal and private clients in litigation and transactional work including representation in State and Federal Court litigation and appeals, public meetings, and administrative hearings.

Michigan State Law Review

East Lansing, Michigan

Managing Editor of Student Articles – 2003 – 2004.

Develop, organize and evaluate the Law Review Write-on Competition.
Organize Law Review Student Note Process and assist Associate Editors in the process.
Editorial and Management duties as member of Managing Editor Board.

United States Attorney's Office, Western District of Michigan

Grand Rapids, Michigan

Law Clerk

May 2003-August 2003

Drafted court documents and wrote memos regarding legal issues.
Appeared before United States Magistrate Judge on behalf of the United States of America.

Michigan Attorney General-Consumer Protection Division

Lansing, Michigan

Student Extern

May 2002-August 2002

Researched legal issues as requested by attorneys in office.
Wrote amicus brief draft and memos regarding researched topics.

Resume of Maurice A. “Mike” Borden

Member, Sondee, Racine & Doren, PLC

November 2005 – Present Traverse City, Michigan

I provide legal services to individuals, businesses, municipalities and property and casualty insurers. My practice areas include business and commercial litigation, non-compete agreements, non-disclosure agreements, insurance coverage analysis, contract drafting and litigation, settlement agreements and releases, Michigan no-fault insurance claims, construction accidents, indemnity agreement drafting, analysis and litigation, premises liability defense, insurance coverage litigation, construction defect cases, transportation liability defense, products liability defense, uninsured and underinsured motorists claims, trust disputes, commercial and residential leases, landlord-tenant disputes, premises liability and general liability claims.

I have represented employers in disputes involving enforcement of non-compete agreements, non-disclosure agreements, breach of contract claims, health insurance contract, fraud and conversion claims, wrongful termination claims, sales commission claim, labor arbitration appeal, unemployment insurance compensation appeals, and have provided support to human resources personnel in revising a summary plan description for employee benefits.

Insurance coverage analysis and litigation are areas in which I have extensive experience. I provide insurance coverage analyses on issues involving personal lines, commercial lines and excess policies, and I represent litigants in insurance coverage disputes, including ERISA claims. Appeals is another area in which I have practiced extensively. In addition to appeals in the trial matters I am involved in, I handle appeals for insurers and other attorneys. I have successfully represented clients in appeals to the Circuit Court, Michigan Tax Tribunal, Michigan Court of Appeals, Michigan Supreme Court and the United States Sixth Circuit Court of Appeals.

Managing Attorney, Staff Counsel Office, Harleysville Insurance

March 1997 – October 2005 Traverse City, Michigan

I defended businesses and individuals insured by Harleysville Insurance in lawsuits throughout Michigan. I represented Harleysville Insurance in first-party lawsuits, including insurance coverage litigation, no-fault claims, property and subrogation claims, and UM/UIM claims. I served as designated counsel for insurance coverage analysis and opinions for the company's Midwest Claims Service Center. I also provided legal support for commercial and personal lines underwriting personnel.

Shareholder, Litigation, Insurance Coverage and Appellate Attorney

Harvey, Kruse, Westen & Milan, P.C.

October 1985 – February 1997 Troy, Michigan

My practice consisted primarily of insurance defense, products liability and insurance coverage litigation at the trial and appellate court levels. I served as the firm's primary appellate specialist. I was one of three attorneys who served as designated insurance coverage counsel for a large property and casualty insurance company.

Research Attorney

Michigan Court of Appeals, Prehearing Division

1982 – 1984 Grand Rapids, Michigan

As a Research Attorney with the Michigan Court of Appeals, I was responsible for reviewing appeal briefs and court files, researching issues and preparing reports for the Judges addressing the issues and law and making a recommendation as to the ruling on each issue.

Volunteer Experience

Treasurer Elect, Traverse City Track Club

I am the incoming Treasurer for the Traverse City Track Club, a 501(c)(3) non-profit organization. The Track Club's mission is to make the pure, simple enjoyment of running and walking available to everyone. The Track Club provides grants, scholarships and work group gifts which have reached over \$1.5 million. I serve on the Charitable Gifts Committee and Bylaws Committee.

Past President, National Cherry Festival Board of Governors

1995 - present

I have served as a volunteer ambassador for the National Cherry Festival in Traverse City, Michigan since 1995. The festival's mission is to celebrate and promote cherries, community involvement, and the Grand Traverse Region. Since its inception in 1926, the National Cherry Festival has grown to be one of the top festivals in the nation. From September 2008 through September 2015, I served on the Board of Governors which is charged with governance of the organization. The board is responsible for establishing objectives for the organization, developing strategies and policies designed to achieve those objectives, reviewing and approving the budget, and hiring and supervising the executive director. I served as President of the Board of Governors from September 2012 to September 2013.

President, Treasurer, Board of Governors

Grand Traverse Leelanau Antrim Bar Association
Jul 2002 – Jun 2006

The bar association is a nonprofit organization of lawyers in northwestern lower Michigan. The bar association's mission is to maintain the highest professional standards and competence among attorneys, to promote collegiality and camaraderie among attorneys, to improve the administration of justice, and to provide law-related service and education to its members and the public. I served as Treasurer of the association from 2002 to 2004. From 2005-2006, I served as President.



Downtown Development Authority
303 E. State Street
Traverse City, MI 49684
jean@downtowntc.com
231-922-2050

Memorandum

To: DDA Board

From: Jean Derenzy, DDA CEO

Date: January 8, 2021

Re: Infill Development

At their December 21st meeting, the City Council approved a motion that directs the City Manager to prepare a Request for Proposals (RFP) for infill development on three downtown surface parking lots:

Lot O

At the corner of Cass and State, adjacent to the Omelette Shoppe



Lot T

At the corner of Grandview Parkway and Union, adjacent to the Farmers Market



Lot X
Off Hall Street, adjacent to the Fish Weir



Over the next few months, city staff will be working to develop the RFP for the infill development sites and it is expected to be brought back to the City Commission (prior to releasing it) by April 2, 2021. This new infill development initiative helps to meet several of the goals and priorities of the city, including providing for more diverse (and affordable) housing, creating greater density, and making investments that support new opportunities for economic development.

As you are aware, the City Commission ultimately owns and makes decisions on surface parking in the Downtown (note: TC Light and Power owns Lot X). However, this decision will have a significant impact on the DDA - in regards to both future infrastructure needs/projects as well as dedicated staff time and focus.

To be clear, the impact of this decision isn't necessarily incongruent with the goals and objectives of the DDA. For example, providing affordable housing within the Downtown is one of the key priorities of the DDA. In fact, we are working with the city to redevelop Lot G into an affordable housing development. On the other hand, this decision does impact how we plan for and move forward with plans for the Lower Boardman River, Farmers Market and a third parking structure - all substantial infrastructure pieces that require thoughtful planning, coordination and funding.

Given the significant impact this initiative will have for the Downtown, as well as the work and focus of the DDA, it is important for the Board to consider and weigh-in on this infill development effort. I have outlined (below) several positions in-favor of this infill development initiative. However, your thoughts and considerations are encouraged and welcomed.

Parking

These three parking lots make up roughly 18% of the total surface parking lots in Downtown (222 parking spaces). As identified in the TIF 97 and Old Town Plans, the DDA should support efforts to eliminate surface parking lots with infill development while "stacking cars" in large strategically-placed parking structures.

Better Land Use

In general, surface parking lots prove to be an inefficient use of key downtown parcels. Most surface parking lots are empty after 4:00 – in effect creating “dead-zones” that discourage pedestrian activity, increase vehicular speeds and suppress retail. Infill development would activate these vacant parcels, creating mixed use developments that support new retail activity, add density and contribute to the year-round vibrancy of downtown. Look no further than the difference in feel and character of Front Street and State Street (State Street has just under 20 surface parking lots between Pine and Boardman).

This understanding and need for density in the Downtown is identified in the City’s Master Plan.

Taxable Revenue and Taxable Value

New infill development will significantly increase the taxable revenue of these three parcels. In addition, they will help to increase the taxable value of adjacent properties.

Workforce Housing

These three infill developments will bring much needed workforce housing to Downtown Traverse City. In addition, it will compliment our on-going efforts to develop workforce housing in Lot G.

People

New housing will bring additional people living downtown. These new residents will provide the year-round client base for all our downtown restaurants and merchants.

Recommendation

That the DDA Board supports the city’s effort to redevelop surface parking lots T, O and Z with infill development. Furthermore, that DDA staff work with the City to help support the goals and objectives of the DDA, including but not limited to increased density, workforce housing, communications with Downtown businesses and creating a mix of uses that contributes to the vibrancy and sense-of-place of Downtown.



Downtown Development Authority
303 E. State Street
Traverse City, MI 49684
jean@downtowntc.com
231-922-2050

Memorandum

To: Downtown Development Authority Board
From: Jean Derenzy, DDA CEO
Date: January 11, 2021
Subject: Project Updates

Private Investment

Two major downtown development projects will be opening their doors later this month. Should any board member wish to have a tour of these buildings, please let DDA staff know and the owners are happy to accommodate.

- 4-Front Credit Union (on the corner of Front and Pine) have plans to open by the end of the month. In addition offices for the credit union, the building will include two commercial businesses, one restaurant and a new physical therapy business (no definitive timeline has been identified for the additional commercial businesses at this time).
- Green-Leaf Trust anticipates having their certificate of occupancy by January 28th in the Old City Hall Building. This building on the corner of State and Cass has undergone significant renovations but retained much of its historical character. It will be nice to have a vibrant historic building on this important corner of downtown.

309 Pine Street: Jeff Smoke continues to work on bringing a mixed-use development to this parcel, directly behind the new 4-Front Credit Union Building. This development will include 94 rental apartment units. I hope to have a more detailed report on this project for your February board meeting.

Hall Street: The Innovo Development Company has purchased 125 and 145 Hall Street (between the BATA building and the Candle Factory), with plans to construct a rental housing complex. The City Planning Commission will be considering this development at their February meeting. Innovo recently constructed the Breakwater development on Garland Street.

In other parts of Downtown, work continues on the new Honor State Bank building on East Front Street and the upper floors of the Hannah Lay Building. I will be bringing a consideration of cost-sharing for a snow-melt system in front of the Honor State Bank Building to the board at your February meeting.

Business News

New Business Opening: Brasserie Amie is now open at 160 E. Front Street (in the former Franklin space). The new restaurant is open for curbside delivery but plans to be open for brunch and dinner once current COVID restrictions are rescinded. I am very excited to see this prominent corner building reactivated.

Congratulations for 80 years in Business: Last Friday, WTCM/Midwestern Broadcasting celebrated 80 years in business. The accomplishments of Midwestern Broadcasting, and especially WTCM, go well beyond the media and news industry. If you have a chance, please send an email or a note to Ross Biederman and Chris Warren for keeping northern Michigan well informed and entertained all these years and for their continued investment in our great Downtown.

DDA Projects

E-Scooter: The DDA has recently received inquiry's and had conversations with a handful of micro-mobility providers who are eager to bring e-scooters to Traverse City this summer. DDA staff is working with city staff to develop an e-scooter ordinance that would provide a sound regulatory framework for such a service. This may include implementing a "pilot program" with a micro-mobility provider to see how the program works for Traverse City.

Tree Management Plan: Our work with the Davey Group, to develop a tree management plan for the Downtown kicked off this week.





Memorandum

To: DDA Board
From: Nick Viox
Re: Downtown Experience Coordinator Update
Date: January 11, 2021

Online Farmers Market

The online Farmers Market launched on January 2nd with our first pickup on January 9th. For our first week we had 117 orders totalling \$4,550.48 going to our local farmers. There are currently 20 producers selling online and the number of producers and variety of products continue to grow as they familiarize themselves with the online platform for the winter season.

I would like to acknowledge the hard work of the SEEDS staff who made this online market possible and the graciousness of the online markets host, The Workshop Brewing Company, who has offered a safe and warm space for the pickup of these orders.

We plan on adding on more features to the online market such as subscription services and gift cards. We believe that these winter months are a great time for data gathering on the online farmers market to see how not only this market can grow in the summer, but continue into next winter.

Traverse City Restaurant Week

After a feedback survey conducted in December 2020, it was determined that we should do some slight modifications to Restaurant Week. 2021 Restaurant Week will be two weeks and will span February 21 - March 6. The price tiers of \$25 and \$35 will remain and many restaurants may be offering to-go options regardless of any current orders from the State, but that will not be a requirement to participate. Applications are due by January 22nd.

Downtown Chili Cook Off, Art Fair Series & Additional Events Review

As we start a new year, the DTCA is working hard to ensure that we continue to have events that support our business and our community. Favorites like the Downtown Chili Cook Off and our Art Fair Series are currently being reviewed by the DTCA Board to see how we can modify the events to provide a sense of normalcy.

The DTCA will be creating a subcommittee to not only review some of our traditional events, but help brainstorm new events that can become traditions for our evolving and growing community. We look forward to presenting those to the DDA in the coming months.

303 E. State Street, Suite C
Traverse City MI, 39684
(231) 922-2050
@downtowntc.com



303 E. State Street
Traverse City, MI 49684
katy@downtowntc.com
231-922-2050

Memorandum

To: Downtown Development Authority Board of Directors

From: Harry Burkholder, DDA COO
Katy McCain, Community Development Director
Leah McCallum

For Meeting Date: January 15, 2021

Memo Date: January 8, 2021

SUBJECT: Arts Commission Memo

Art on the TART

We have extended the deadline for the Tenth Street Trailhead RFQ to January 31, 2021, in order to receive as many qualified artists as possible. An updated project timeline is as follows:

January 31, 2021: Application Deadline

February 8, 2021: Art Panel review artists' qualifications and select up to (3) finalists

February 22, 2021: Finalists submit concept art and maquette

March 1, 2021: Art Selection Panel selects an artist

March 17, 2021: Artist and artwork considered by Arts Commission

March-June 2021: Art Fabrication

July 2021: Preparation and installation

August 2021: Exhibit opening

Mural Project

The Arts Commission Mural Subcommittee met and has identified multiple building facades along Union Street that would work well for the project. The project aims to engage smaller scale muralists, especially women and people of color.



Downtown Development Authority
303 E. State Street
Traverse City, MI 49684
harry@downtowntc.com
231-922-2050

MEMORANDUM

To: DDA Board

From: Harry Burkholder, DDA COO
Pete Kirkwood

Date: January 11 2021

SUBJECT: Review and Status of the Unified Planning Process

Last month, after several productive meetings, the Zoning Subcommittee completed their zoning recommendations for the river corridor, including specific recommendations to the draft Riparian Buffer Ordinance. As a reminder, the city planning commission has been working on a separate but parallel effort to develop a Riparian Buffer Ordinance – incorporating many of the comments and recommendations of the zoning subcommittee throughout the process. To be clear, the planning commission has not taken formal action on the Riparian Zoning Ordinance yet.

Given the interconnection and complexity of the river corridor, the lengthy subcommittee work, current efforts to study and determine stabilization options for the channel wall and with the end of year upon them, the Leadership Team decided to use the December meeting to review what they have accomplished, where they are in the process and discuss/map-out their next steps heading into 2021.

With Bob's (Smith Group) help, a "summary-to-date" of the project process and findings was reviewed and discussed. It was formatted according to the outline of the Unified Plan, but also communicates where the Leadership Team had been. A fair amount of information on the results of the public input process were included in the summary, as this (along with the core values) should help the Leadership Team determine key decisions moving forward.

To briefly review, these are the topics that the Leadership Team has spent a good deal of time analyzing and discussing over the last 18 months.

1. The results of public engagement have been summarized and reviewed.
2. Based on the public input, an Action Plan was developed and discussed, debated and refined by the Leadership Team.

3. Following the discussion of the Action Plan, two subcommittees were formed and developed:

- a) A recommendation on the draft Riparian Buffer Ordinance, and documentation of other policy level recommendations (changes to zoning ordinances, regulatory ordinances, etc.)
- b) A set of draft plans for physical improvements of the river corridor.

Moving forward into 2021, here are the topics that the Leadership Team will pursue over the next half year.

| | |
|---------------|--|
| December 2020 | Review summary of work to date and work plan for 2021 |
| January 2021 | Review and take action on Riparian Buffer Ordinance recommendation; get an update on the preliminary findings of the Boardman Wall Stabilization project |
| February 2021 | Review findings of the Boardman Wall Stabilization project and discuss implications for the future of the 100/200 block |
| March 2021 | Discuss process for establishing project and policy priorities and gaining public input |
| April 2021 | Discuss preliminary budget estimates, potential funding sources, and physical plan refinements |
| May 2021 | Review public engagement strategy and potential schedule |
| June 2021 | Prepare for public engagement |

If COVID recovery lags, we could use the additional time to review the draft report, and/or discuss future management structures for implementing projects and maintaining the river corridor.



303 E. State Street
Traverse City, MI 49684
katy@downtowntc.com
231-922-2050

Memorandum

To: Downtown Development Authority Board of Directors

From: Katy McCain, DDA Director of Community Development

Date: January 8, 2021

Re: Community Development Update

Relief Fund

The first round of grant applications ended on Monday, January 4, at 5 p.m. Over 50 Downtown businesses applied—showing the urgent need for financial support for our Downtown community. \$55,000 will be awarded this first round, with funds being dispersed as early as the end of next week. We hope to offer at least two more grant cycles. Our team (including Venture North) is hard at work soliciting funds from private donors and foundations that see the impact of thriving and healthy Downtowns as something that aligns with their philanthropic mission.

Parking Management System Communications Plan

A postcard identifying the 2021 parking changes went out to every city residence (over 6k cards) on December 22, 2020. Changes have also been highlighted weekly in our DDA social media posts. Nicole and I are working closely to identify any confusing, and/or “hot-button” issues regarding the parking changes within the community. We will work closely to answer those questions and concerns, as well as, address them in our weekly social media posts. A copy of the postcard is included in the packet.

Annual Report

Currently putting together the 2020 DDA Annual Report. This year’s report will include information on how the Downtown Development Authority, as well as our Downtown businesses, responded to the COVID pandemic in order to keep doors open and our community safe. I hope to present the report at the February board meeting.

Social Media

Our social media has been more effectively managed to bring more visibility to our downtown businesses. See attached social media reports to see how our pages are performing.

IMPORTANT REMINDER FOR 2021 DOWNTOWN PARKING CHANGES

Please visit parking.downtowntc.com for more information.





THESE PARKING CHANGES GO INTO EFFECT JANUARY 1, 2021

- **Parking rate increases and changes**
- **New meter rate zones (Zones 1 & 2)**
Rate maps available at parking.downtowntc.com
- **Affordable alternatives**
 - The Bayline
 - Destination Downtown
 - Surface Lots
- **Changes to handicap parking protocol**
Visit parking.downtowntc.com/services/handicap to learn more
- **No longer offering same day discount for parking meter violations (Effective as of 12/01)**

For all up-to-date parking information
please visit parking.downtowntc.com



Memorandum

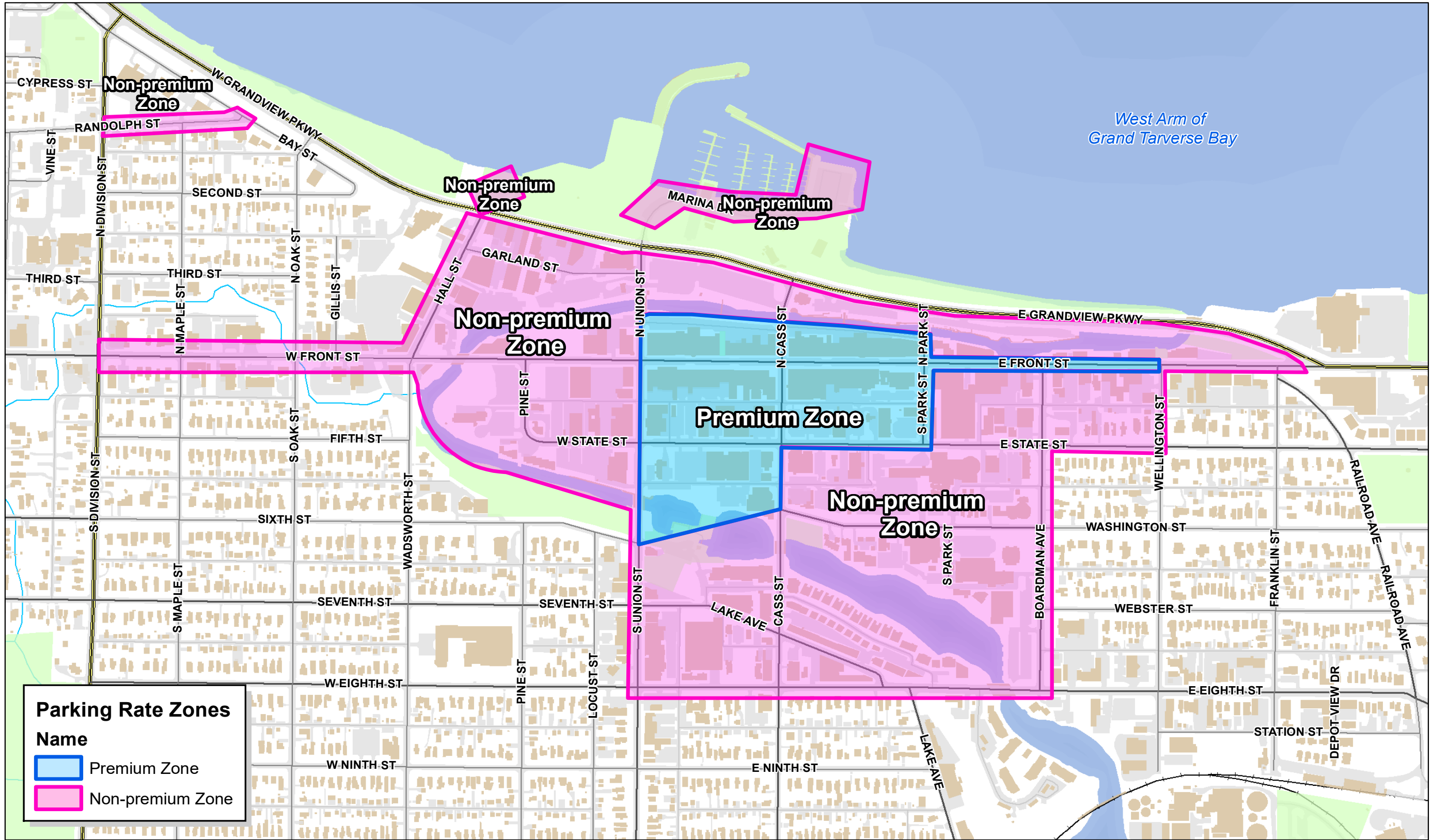
To: Jean Derenzy, DDA CEO
From: Nicole VanNess, Transportation Mobility Director
Date: January 11, 2021
Re: Staff Report: Parking Services – January 2021

Bus Shelter

The last shelter has been installed at the corner of Lake/Cass. As a reminder, in October 2019, we partnered with BATA to share the cost of purchasing six bus shelters. The other shelter locations include: 1) Eighth Street between Wellington and Boardman, 2) corner W Front and Maple, 3) corner E State and Park, 4) corner E Front and Wellington, and 5) replace existing shelter on W Front near parking lot E.

2021 Parking Rate Increases

Staff worked diligently to reprogram 1120 single space meters in two days. Remote programming was used to increase the rates in the parking lots at the pay stations, the parking garages and through the mobile application. Parking rates are now by zone. All premium and non-premium maps are included. As a reminder, the peak-hour rate was not implemented at the parking garages. The next rate increase is planned for May 1, 2021, but will depend on utilization



Parking Rate by Zones

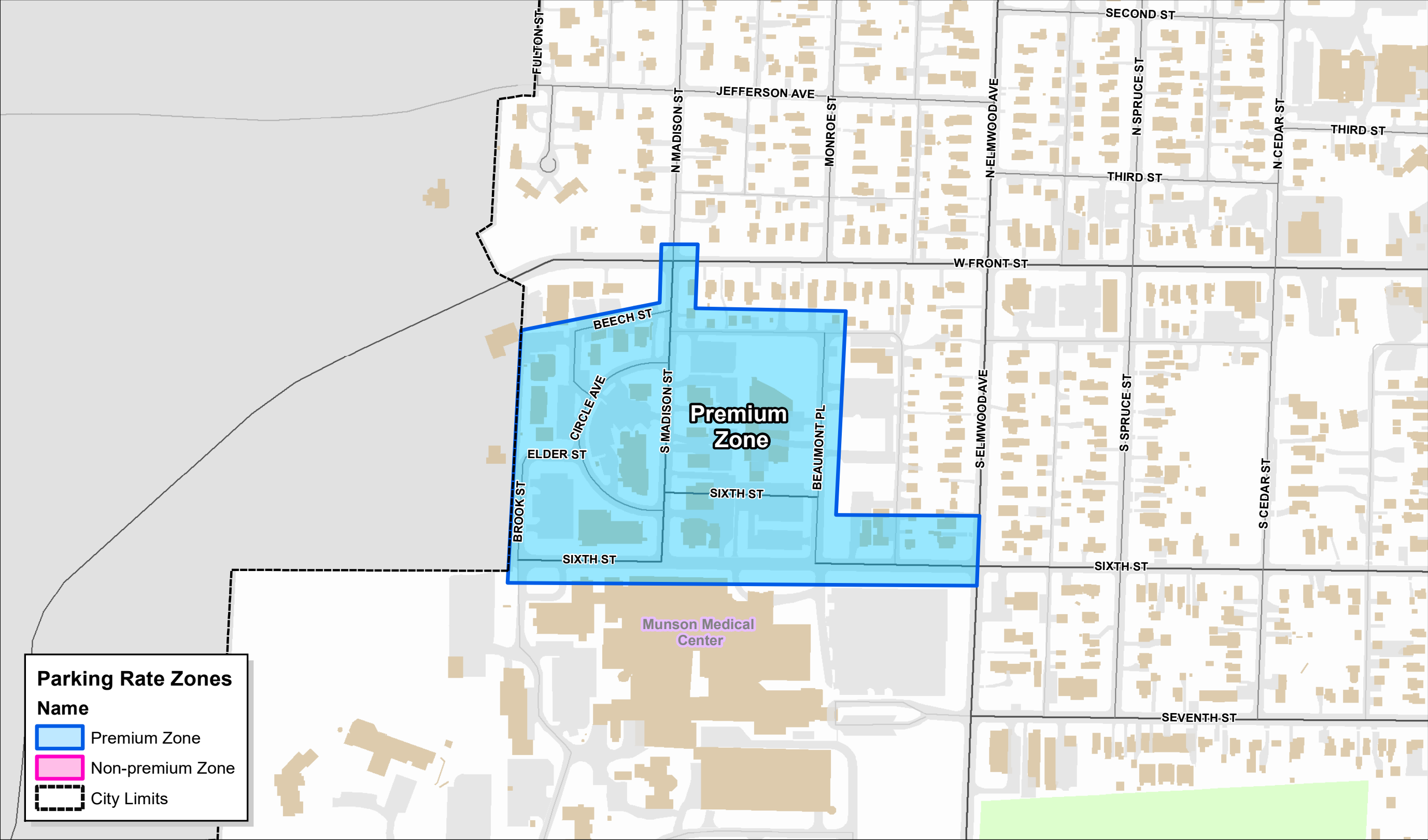


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Downtown Development Authority
Parking Services





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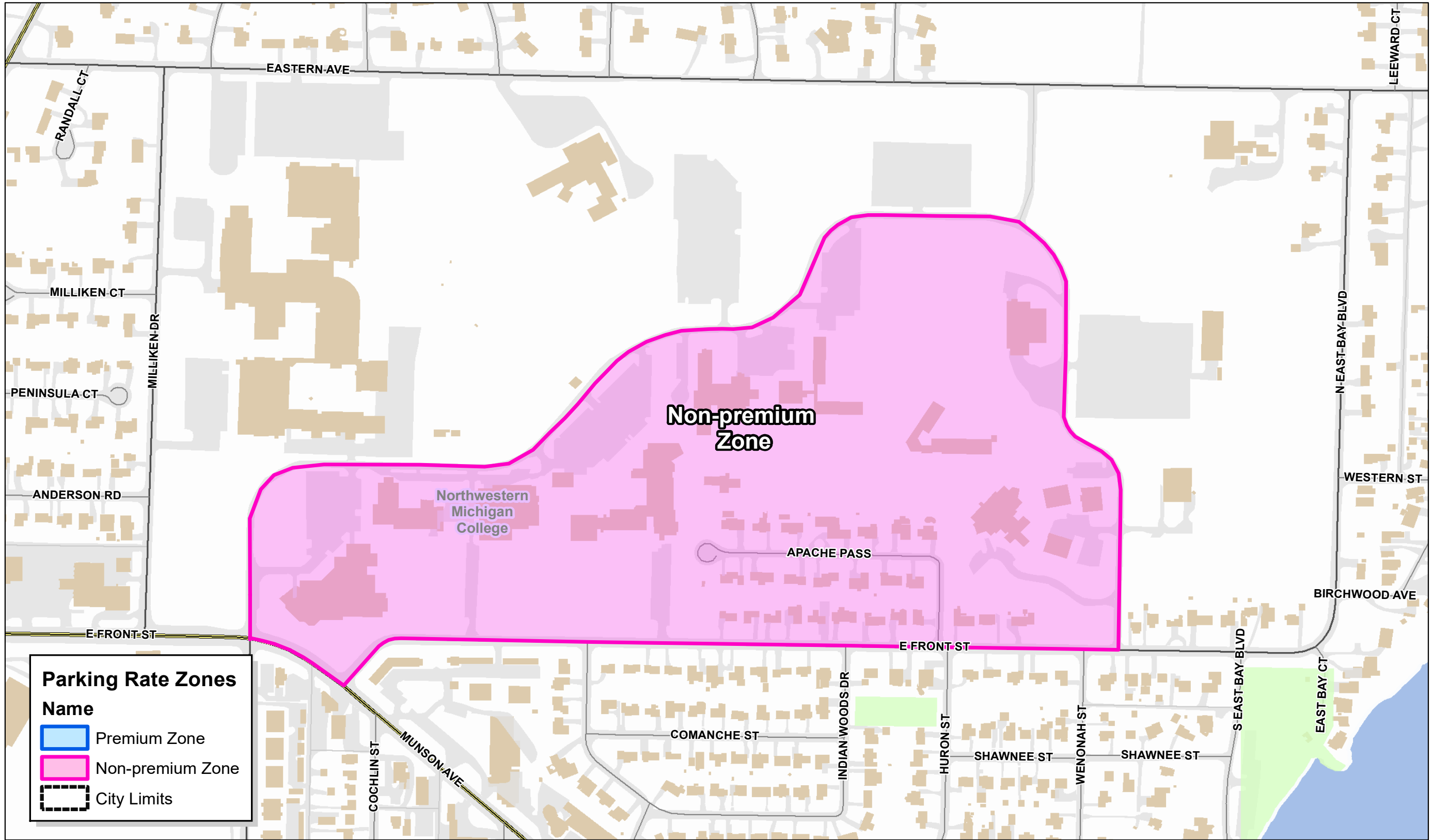
Parking Rate by Zones - Munson



Downtown Development Authority
Parking Services



Not to scale
11/24/2020 GWS



Parking Rate by Zones - Munson



This map is based on digital databases from the City of Traverse City. Traverse City cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties expressed or implied.
Document Path: G:\GIS\GIS Reports\CDAParkingServices\ParkingRatebyZoneMap.mxd



Downtown Development Authority
Parking Services



**Minutes of the
Lower Boardman Leadership Team
Regular Meeting
Wednesday, December 16, 2020**

A regular meeting of the Lower Boardman Leadership Team was called to order via ZOOM on Wednesday, December 16th.

The following members were in attendance: Jennifer Jay (Co-Chair), Elise Crafts, Christine Crissman, Jean Derenzy, Deni Scrudato, Frank Dituri, Russ Soyering, Tim Werner, Michael Vickery, Sammie Dyal, and Brett Fessell (Co-Chair).

The following Members were absent: Pete Kirkwood, Rick Korndorfer

Co-Chairpersons Fessell and Jay presided at the meeting.

(a) **CALL TO ORDER, ATTENDANCE, ANNOUNCEMENTS**

- (1) Meeting called to order at 5:31 by Chairperson, Jay

(b) **PUBLIC COMMENT**

- (1) Mitch Treadwell: Would like to see the process keep moving forward
Rick Buckhalter: Concerned about FrishPass
Rick Brown: Glad the Leadership Team is addressing stormwater

(c) **APPROVAL OF MINUTES FOR November 18, 2020**

- (1) Meeting Minutes
Approval of November 2020 minutes.

Moved by Soyering, Seconded by Crafts

Yes: Elise Crafts, Christine Crissman, Jean Derenzy, Deni Scrudato, Frank Dituri, Russ Soyering, Tim Werner, Michael Vickery, Sammie Dyal, Jennifer Jay, and Brett Fessell.

Absent: Pete Kirkwood, Rick Korndorfer

CARRIED 11-0.

(e) **PROJECT UPDATE**

(1) Fessell and Dituri provided a FishPass update

(2) Bob Doyle provided project review

- Leadership discussed what we have accomplished to date
- Leadership discussed what the Leadership needs to accomplish in the first half of 2021.
- Ms. Jay noted that for the next meeting, each member should submit their comments on the riparian buffer ordinance no later than January 15th. DDA staff and Smith Group will update the community through media outlets on the process and update the website, Smith Group will develop and be ready to discuss interactive (remote and in-person) engagement tools, the DDA will write up a executive summary on the different between the Leadership Team and City Planning Commission in regards to the Riparian Buffer Ordinance, and that Smith Group will develop contingency plans for civic engagement in relation to possible COVID futures.
- Ms. Scrudato noted that we need to provide a better and more visible link to the project on the city's web page
- The next meeting will be held on Thursday (rather than Wednesday) January 21, 2020.

(h) **PUBLIC COMMENT**

(1) General

- Thomas White encouraged the Leadership Team to engage the public where they are (instead of having the public come to the leadership team)
- Steve Largent mentioned a thank you for the meeting and process
- Mitch Treadwell mentioned a thank you for the meeting
- Rick Buckhalter

(i) **ADJOURNMENT**

(1) Meeting was adjourned at 7:52pm

Moved by Fessel, Seconded by Scrudato

Yes: Elise Crafts, Christine Crissman, Jean Derenzy, Deni Scrudato, Frank Dituri, Russ Soyering, Tim Werner, Michael Vickery, Sammie Dyal, Jennifer Jay, and Brett Fessell.

Absent: Pete Kirkwood, Rick Korndorfer **Carried 11- 0**





**Minutes of the
Arts Commission for the City of Traverse City
Regular Meeting
Wednesday, December 16, 2020**

A regular meeting of the Arts Commission of the City of Traverse City was called to order at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan, at 3:30 p.m.

The following Commissioners were in attendance: Commissioner Ashlea Walter, Commissioner Charlotte Smith, Commissioner Chelsie Niemi, Commissioner Roger Amundsen, and Board Chair Leah Bagdon-McCallum

The following Commissioners were absent: Commissioner Megan Kelto and Commissioner Matt Ross

Chairperson Smith presided at the meeting.

(a) **CALL TO ORDER, ATTENDANCE, ANNOUNCEMENTS**

(1)

Meeting called to order by Chairperson Smith at 3:35pm

(b) **PUBLIC COMMENT**

(1)

Susan Odgers- Human Rights Commission Chair. HRC has three priorities: 1) Homelessness 2) Criminal Justice Reform 3) Antiracism

Looking for HRC to collaborate more with the Arts Commission. Looking to work diversity into art. HRC is concerned about racist statues in TC. Encouraging continued collaboration and exchange of ideas.

(c) **APPROVAL OF MINUTES**

(1)

(d) **PROJECT UPDATE**

(1) Art on the TART Update (McCain)

- Smith looking to set up an e-blast list
- McCain states we have not seen RFQ's yet but they should be coming in

- Discussion of another blast to go out closer to the holidays
- List of artists...contact them directly

(e) **FINANCIALS**

(1)

(f) **OLD BUSINESS**

(1)

None

(g) **NEW BUSINESS**

(1) Mural Subcommittee Presentation/Findings (Smith)

- Mural project plan "livens up" Union Street
- A few different ideas tossed around
- Play off of word "Union" for mural series
 - Call for mural series of 10-20 spots
 - Small squares paired with artists
 - Emphasis on diversity
- Rough budget being put together
- Commissioner Niemi states stipend should be fair to cover travel, time, art and focus on Michigan artists with mural experience
- Use of free standing panels explained by Commissioner Walter
- Burkholder speaks on behalf of the DDA saying we would like one of the murals to be on a larger scale than 5x5
 - Chairperson Smith said it was based more of of a pedestrian POV vs car as of now
- Burkholder said we can start reaching out to the business owners asking if we can put the murals on their buildings

(2) Other Business

- Selection Committee Verification
- Subcommittee Update (will send list out)
- Donate Button on Website
- Add masterplan discussion to January meeting

(h) **PUBLIC COMMENT**

(1) General

Susan Odgers: Human Rights Commission would like someone from Arts Commission to speak at their next meeting on January 11th.

(2) Commissioners

- Commissioner Walter: Update from Rec Authority. Botanical Gardens getting new Children's Garden complete with a Colantha the cow sculpture.

No ETA on the completion.

- Commissioner McCullum: Looking forward to serve on the Arts Commission
- Chairperson Smith thanks Susan Odgers for commenting

(i) **ADJOURNMENT**

(1) Adjourned at 4:16 pm

Moved by Chelsie Niemi, Seconded by Leah Bagdon-McCallum

Yes: Ashlea Walter, Charlotte Smith, Chelsie Niemi, and Leah Bagdon-McCallum

Absent: Megan Kelto and Matt Ross

CARRIED. 4-0-2 on a recorded vote

Charlotte Smith, Chairperson



**Minutes of the
Parking Subcommittee for the Downtown Development Authority
Regular Meeting
Thursday, December 3, 2020**

A regular meeting of the Traverse City Parking Subcommittee of the City of Traverse City was called to order at the 2nd Floor Committee Room, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan, at 11 a.m.

The following Members were in attendance: Board Treasurer Scott Hardy, Commissioner Rick Brown, Commissioner Debbie Hershey, Board Secretary Stephen Constantin, Board Member T. Michael Jackson, Committee Member Todd Knaus, and Board Member Richard Lewis

The following Members were absent: None

Chairperson Hardy presided at the meeting.

(a) **CALL TO ORDER**

The meeting was called to order at 11:01 AM.

(b) **ROLL CALL**

(c) **CONSIDERATION OF MINUTES**

- (1) Approval of the minutes of the October 1, 2020 meeting.
Consideration of approving the minutes of the October 1, 2020 meeting.

Moved by Debbie Hershey, Seconded by T. Michael Jackson

Yes: Scott Hardy, Rick Brown, Debbie Hershey, Stephen Constantin, T. Michael Jackson, Todd Knaus, and Richard Lewis

Absent: None

CARRIED. 7-0-0 on a recorded vote

(d) **OLD BUSINESS**

- (1) Rate Increases for 2021

(e) **NEW BUSINESS**

(1) Smart Parking Meter RFP

Discussion from Subcommittee:

- Hardy provided an overview to the subcommittee of his initial review: level of technology, pay stations vs single space, equipment to fit existing infrastructure. The need to find a balance for all users.
- Knaus would prefer a single use device especially during a pandemic so not everyone is touching the same screen also some will find multi-space on-street aggravating to wait 10 minutes.
- Jackson commented with visitors, single space is much more convenient. Would like to see characteristics of how long in the space and use a case based approach.
- Hardy inquired about information on when office workers would return to downtown.
- Jackson asked that we look into the airport contract since they are moving to an authority.

(f) **RECEIVE AND FILE**

(1) The Post and Courier Article - November 28, 2020

(g) **PUBLIC COMMENT**

(h) **ADJOURNMENT**

- (1)** The meeting was adjourned at 11:42 AM.
Motion to adjourn the meeting.

Moved by T. Michael Jackson, Seconded by Debbie Hershey

Yes: Scott Hardy, Rick Brown, Debbie Hershey, Stephen Constantin, T. Michael Jackson, Todd Knaus, and Richard Lewis

Absent: None

CARRIED. 7-0-0 on a recorded vote

Scott Hardy, Chairperson