

City of Hart, Michigan
CITY COUNCIL AGENDA
September 28, 2021, 7:30 PM
407 State St. – Council Chamber
NOTICE OF PUBLIC MEETING
REGULAR COUNCIL MEETING

**THIS NOTICE IS GIVEN AND PUBLISHED PURSUANT TO
MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
EMERGENCY ORDER UNDER MCL 333.2253 – GATHERING LIMITATIONS AND MASK
ORDER OF June 1, 2021 AND PA 228 OF 2020 AMENDMENT TO SECTION 3 OF PA 267 OF 1976
OPEN MEETINGS ACT**

1. Call to Order
2. Roll Call – Burillo, Evans, Hodges, Rybarz Jr., Trygstad, Platt
3. Pledge of Allegiance
4. Approval of Agenda
5. Public Comments – **Public comment on any matter that is not included on the agenda for a public hearing by the Council. We ask that you please limit your comments to 3 minutes**
 - a. Correspondence, Events, Presentations
 - i. Accept resignation of councilor Powers per city manager written communication.
 - b. PUBLIC HEARING – Sale of Public Property 808 S. State St.
6. Consent Agenda:
 - a. Approval of Minutes from September 14, 2021 Council meeting.
 - b. Bills, Claims, Payroll
 - c. Reports of Boards, Commissions, and Committees
 - d. Department Reports – Police/BioPure/Public Works/Energy/C&E Dvlp.
7. Action Items
 - a) Resolution 2021 – 68 Accept Professional Services Agreement from Prien and Newhof to provide engineering for Griswold to BioPure forcemain project and authorize City Manager to sign related documents
 - b) Resolution 2021 – 69 Authorize City Manager and City Treasurer as signers on Shelby State Bank Certificate of Deposit Account
 - c) Resolution 2021 – 70 Approve sale of City owned parcel 64-020-739-001-30 or 808 S. State Street and authorize city manager to sign related documents
 - d) Resolution 2021 – 71 Approve MPPA Power Purchase Commitment
8. Discussion Items
 - a. Jason LaFever interest in serving on the Hart Rec Board
 - b. Council vacancy appointment
9. City Manager Report
10. Communications from the Mayor and Council
 - a. Board position affirmation
11. Adjournment –

Access is provided through the Michigan Relay Service for individuals with speech or hearing impairments. <https://hamiltonrelay.com/michigan/index.html>

Rob Splane

From: Rob Splane
Sent: Tuesday, September 21, 2021 6:50 PM
To: Vicki Platt; Catalina Burillo; Dean Hodges; Fred Rybarz Jr; Jim Evans; Kris Trygstad
Cc: James Evans; Scott E. Dwyer
Subject: City Council resignation

Mayor Platt and council,

I am writing to communicate the resignation of Mike Powers from city council. Mike met with me yesterday to discuss some anticipated upcoming medical issues and asked that the council accept his verbal resignation. He still plans to serve the city in his current roles on the Power Board and on the Board of Review but indicated that he will no longer have the time to focus on council activity.

We can discuss our search options for replacement at next week's council meeting and should plan to make the appointment to fill the open council seat at the October 12th meeting.

Feel free to reach out to me with any questions or concerns.

Respectfully,

~Rob Splane
City Manager
City of Hart
586.596.0005.cell
231.873.3546.office
www.cityofhart.org





**CITY OF HART
407 S. STATE ST.
HART, MI 49420
COUNCIL PROCEEDINGS
September 14th, 2021
MINUTES – Draft**

PRESENT: Mayor Vicki Platt, Councilors: Catalina Burillo, Dean Hodges, Mike Powers, and Fred Rybarz

ABSENT: Jim Evans, Kris Trygstad

OTHERS PRESENT: City Manager – Rob Splane, City Clerk – Karla Swihart, Energy Superintendent – Michael Schiller, DPW Superintendent - Brad Whitney, Police Chief – Juan Salazar, Bill Volpp, Richard Huntington, and Sharon Hallack

Mayor Platt called the meeting to order; following the roll call, the mayor led the Council in the pledge of allegiance.

APPROVAL OF AGENDA: F. Rybarz motioned to approve the agenda and was supported by C. Burillo

- Ayes: 5 Nays: 0 Absent: 2

PUBLIC COMMENTS: Richard Huntington, Thank you to Paul Cutter for researching 425 zones and DDA money that was out there but, it sounds like it was spent on Comfort drive road. The last concert that was at the commons was rescheduled three times. We got down there thought it started at seven, but it was changed to 6 pm. No one was there, so I talked to the lady at the ice creams shop and found out it was moved to the Historic District. We were still able to catch the very end, but it would have been nice to have the change posted somewhere other than on the internet. Still interested in a lot at the Creeks, and so are several others. The amendment to the original master deed said the City could sell these lots, so not sure why The City needs a lawyer involved when it states in the Master Deed the lots can be sold.

CORRESPONDENCE, EVENTS, PRESENTATIONS:

CONSENT AGENDA:

- Approval of Amended minutes from August 24th, 2021
- Bills, Claims, Payroll
- Reports of Boards, Commissions, and Committees
- Department Reports – Police/BioPure/Public Works/Energy/C&E Dvlp
 - C. Burillo motioned to approve Consent Agenda supported by M. Powers
 - Ayes: 5 Nays: 0 Absent: 2

ACTION ITEMS:

- Resolution 2021-67 Accept purchase price of Historic District Building and authorize City Manager to sign related purchase documentation.

The City of Hart owns the Hart Historic District ("DISTRICT") consisting of native and relocated historic buildings; collections; and the City leases the District to the Hart Historic Preservation Group to operate and maintain the premises and the Robert Mudget (Ludington, Mi) owns the Bob Mudget Woodshop situated on property adjacent to the District at Union and Lincoln Street and Bob Mudget was a longtime contributor to the success of the District and worked tirelessly in the Woodshop crafting numerous amenities for the District. The Woodshop property will be a valuable addition to the District. Therefore, to secure the benefits of efficient self-government and to promote and protect our common interests and welfare, the Hart City Council hereby declares.

Approves a "Purchase Agreement for Sale of Real Property" with Robert Mudget for City acquisition of the Bob Mudget Woodshop and property at the cost of \$4,000.00. The City of Hart agrees to also cover closing fees in the amount of \$544.00, plus a \$100.00 reimbursement to City employee Russ Robbins for out-of-pocket deposit costs.

Authorizes and directs the City Manager to sign all closing-related documents on behalf of the City of Hart.

- F. Rybarz motioned to approve Resolution 2021-67 and supported by C. Burillo
 - Ayes: 5 Nays: 0 Absent: 2

DISCUSSION ITEMS: Sale of Fire Department building – for review only – Public Hearing Sept. 28th

- Prince and Monton PLC drafted up a letter I would like to present to The Hart Fire Department to look over and discuss at their meeting on September 23rd along with the proposed agreement on the sale of the property at 808 S. State St. Hart Mi, Which is where the Fire Department is currently located.

CITY MANAGER'S REPORT:

- City Manager R. Splane gave a copy of the Manager's report to all Council members to review.
- The audit started September 13th – Clerk, Treasurer, and deputies are "all hands on deck."
- Paul Cutter, Prein & Newhof, Baker Tilly, and I met with industry partners to discuss their current output to BioPure. We discussed a brief history on the plant, recent expenditures to increase efficiency, historic loading from our industry, and future planning. We asked that they endorse our seeking of state and federal grant money to help cover the costs of large capital improvement projects coming in the next several years. Our hope was to offer transparency to our processes and to build trust in our public/private partnership.
- As we approach additional infrastructure projects, we will include other public/private partnerships to help facilitate support from our local residents and business communities. Written support is an easy way to show buy-in. It will help us to proceed with applying for grants to assist our tax and ratepayers with Electric, Streets, Internet, Recreation, and other infrastructure improvements. (It takes a community)
- John Gurney Park – Labor Day weekend excitement follow-up.
- Additional Parking for downtown.
- City Council visioning and workshop sessions – Possible dates: Evans and Burillo like Sept 28th – Oct 26th and Nov 9th.

IMMEDIATE GOALS:

- Establish a plan to spur development of the "the Creeks" to begin to provide new housing options.
 - Dozens of hours were spent working on this by HEART director. (On September 1st, this was made the HEART Board of Director's top priority.)
 - 21 buildings planned (53 units) – 1091 sqft basement +/- 1160 sqft main floor
 - 9 lots allowing-single-family dwellings
 - Potential proposal to Creek's subdivision association:
 - Sell 21 building "Sites" at \$10,000 each, allowing the buyer to choose a site and develop on the site to listed square footage and elevation, but not necessarily duplexes, tri, or quad. Option to build on a crawl space will help to spur development.
 - List remaining 7 lots for single-family dwellings through a realtor at market rate with building adhering only to Master Deed specifications.
- Tackle the issues of blight and code enforcement.
 - Working with Code Enforcement officers to implement change starting with most blighted properties – "3 strike approach."
 - Walker property – Prior to applying taxpayer money, would the council allow an RFP to see what potential investors may propose with scoring based on capital reinvestment, economics.
- Review options to plan for sustainable infrastructure maintenance in coming years.
 - Sewer and water in progress – Awaiting Electric Study.

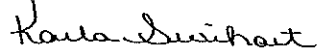
COMMUNICATIONS FROM THE MAYOR AND COUNCIL:

- Are you allowed to live in a camper on the street? "No," not allowed to live permanently within the City. C. Burillo is also concerned someone is living in their car she sees parked around town. Chief Salazar will look into it.
- Board position discussion and affirmation.
Current appointments, Which council member is on which board.
Mayor Platt will discuss with Council Members before the next meeting and confirm which member sits on what board.

ADJOURN:

- There being no further business to come before the Council, the meeting adjourned at 8:16 pm upon a motion by C. Burillo and supported by F. Rybarz. The next regularly scheduled meeting will be on September 28th, 2021, at 7:30 pm.

Respectfully Submitted

A handwritten signature in cursive script that reads "Karla Swihart".

Karla Swihart , City Clerk



City of Hart Police Department

407 State Street

Ph. (231)873-2488 Fax (231)873-0100

Hart, MI 49420-1259

Juan Salazar, Chief

TO: City of Hart Mayor, City Council, and City Manager
FROM: Juan Salazar, Chief of Police
DATE: September 28th, 2021

RECENT EVENTS

From Thursday, September 9th, 2021, through Wednesday, September 22nd, 2021, the Hart Police Department received 90 complaints ranging from Property Damage Crashes, Found Property, Assist to Other Agencies, Medical Assists, Larcenies, Traffic Hazards, Animal Complaints, Suspicious Situations, Fraud Complaints, Mental Health Complaints, Alarms, Assault & Batteries, Well-Being Checks, Disturbances, Domestic Assaults, Vehicle Violations and Disorderly Conducts.

On Sunday, September 11th, 2021, the Hart Police Department was dispatched to the 100 block of State Street referencing a 14-year-old Juvenile who was causing a disturbance in the area. The juvenile was noted removing American flags erected downtown, damaging Hart Post Office property, and attempting to urinate in front of the officer. The juvenile was eventually talked down by the officer and turned over to his parents. A report will be submitted to the Oceana County Prosecutor's Office for his review.

On Tuesday, September 14th, 2021, the Hart Police Department was dispatched to the 300 block of Courtland Street regarding a 41-year-old Hart man who was allegedly attempting to hang himself with a ratchet strap in his garage. Officers arrived on scene, as the man was walking away from the home. During the investigation, the man showed an active/valid warrant for his arrest out of the Hart Police Department for Jostling. The man was also intoxicated at the time of the contact. The man was arrested and lodged at the Oceana County Jail.

On Wednesday, September 15th, 2021, the Hart Police Department was dispatched to the 300 block of Johnson Street referencing an Assault & Battery. A 16-year-old Shelby woman assaulted a 17-year-old Mears man, by striking the man with a closed fist in the face and scratching the man, due to the man speaking to another woman. A report will be submitted to the Oceana County Prosecutor's Office for his review.

On Thursday, September 16th, 2021, the Hart Police Department was dispatched to the 200 block of Hart Street referencing a Mental Health Complaint. A 16-year-old Hart woman made several threats via email of wanting to harm herself. The woman was located and interviewed in front of her guardian. The woman denied wanting to harm herself at the time and was turned over to her guardian without incident.

On Friday, September 17th, 2021, the Hart Police Department was dispatched to the 60 block of North Plum Street regarding a Domestic Assault. A 23-year-old Hart man had thrown bag of food at a 62-year-old Hart woman, striking the woman. The man was arrested and lodged at the Oceana County Jail.

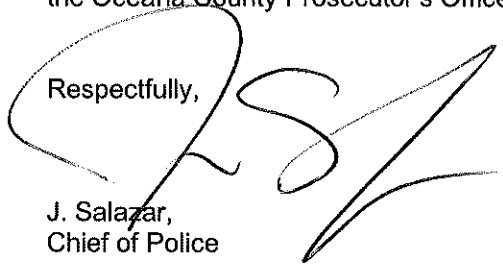
On Saturday, September 18th, 2021, the Hart Police Department was dispatched to the 2000 block of Comfort Drive referencing a Disturbance/Malicious Destruction of Property. A 38-year-old Grand Rapids man was refusing to leave the property. The man had also caused minor damages within his room he was renting. When interviewing the man, the man was noted to be highly intoxicated. The man eventually left the building with a friend. A report will be submitted to the Oceana County Prosecutor's Office for his review for Malicious Destruction of Property.

On Monday, September 20th, 2021, the Hart Police Department received information of a suspected intoxicated driver in the 4000 block of Polk Road. The driver, a 49-year-old Ludington man, was causing a disturbance within a local business. The man's vehicle was later located, and a traffic stop was initiated. The man was arrested and lodged at the Oceana County Jail for Operating a Motor Vehicle While Intoxicated (Alcohol) and Driving While License Revoked.

On Tuesday, September 21st, 2021, the Hart Police Department was dispatched to the 2000 block of Comfort Drive referencing a Disturbance, two (2) individuals fighting within the parking lot of a local business. A 22-year-old Hesperia Man and 37-year-Walkerville man were noted by a store employee in a physical altercation in the parking lot of the store. The men explained the confrontation was in reference to a mutual woman they both new. A report will be submitted to the Oceana County Prosecutor's Office for Disorderly Conduct.

Respectfully,

J. Salazar,
Chief of Police

A large, stylized handwritten signature in black ink, appearing to be 'J. Salazar', is written over the typed name and title.

RESOLUTION 2021 - 68
City Council
City of Hart, Michigan
Oceana County

**Accept engineering services proposal for BioPure forcemain project and
authorize City Manager as signer on MEDC grant documents**

WHEREAS, as part of the City of Hart has been awarded a \$810,000 grant by the Michigan Economic Development Corporation to assist the city in the replacement of the aging wastewater forcemain from the Griswold lift station to the BioPure treatment facility; and

WHEREAS, it is necessary for the City to obtain a qualified engineering entity to properly oversee the design and construction of this critical infrastructure; and

WHEREAS; Prien and Newhof, has helped the city to successfully apply for the grant and is the most highly qualified entity to support the city through this project; and

WHEREAS, in order to secure the benefits of efficient self-government and to promote and protect our common interests and welfare, the City Council hereby declares:

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL

Accepts the proposal for engineering services from Prien and Newhof not to exceed \$129,600 to provide professional engineering services to complete the forcemain replacement from the Griswold lift station to the BioPure plant. Council authorizes the City Manger to sign and execute said agreement.

Moved by _____, supported by _____, and thereafter adopted by the Hart City Council at a regularly scheduled meeting held on September 28, 2021.

Ayes: ____ Nays: ____ Absent: ____

Professional Services Agreement

This Professional Services Agreement is made this 5th day of August, 2021 (“Agreement”) by and between Prein & Newhof, Inc. (“P&N”), of 4910 Stariha Drive, Muskegon, MI 49441, and City of Hart (“Client”), of 407 State Street, Hart, MI 49420.

WHEREAS Client intends to:

Professional Engineering Services, Forcemain from Griswold Lift Station to BioPure plant

NOW THEREFORE, for and in consideration of the terms and conditions contained herein, the parties agree as follows:

ARTICLE 1 – DESIGNATED REPRESENTATIVES

Client and P&N each designate the following individuals as their representatives with respect to the Project.

For Client

For P&N

Name: Mr. Robert Splane
Title: City Manager
Phone Number: 231-873-3475
Facsimile Number: _____
E-Mail Address: rsplane@cityofhart.org

Name: Barbara Marczak, P.E.
Title: Team Leader
Phone Number: 6231-798-0101
Facsimile Number: 616-364-6955
E-Mail Address: bmarczak@preinnewhof.com

ARTICLE 2 – GENERAL CONDITIONS

This Agreement consists of this Professional Services Agreement and the following documents which by this reference are incorporated into and made a part of this Agreement.

- P&N Standard Terms and Conditions for Professional Services
- P&N Proposal dated, August 5, 2021
- P&N Standard Rate Schedule
- P&N Supplemental Terms and Conditions
- Other:

ARTICLE 3 – ENGINEERING SERVICES PROVIDED UNDER THIS AGREEMENT:

Client hereby requests, and P&N hereby agrees to provide, the following services:

- P&N Scope of Services per Proposal dated, August 5, 2021

Scope of Services defined as follows:

ARTICLE 4 – COMPENSATION:

- Lump Sum for Services Described in Article 3 above - \$.
Additional services to be billed per P&N’s Standard Rate Schedule in effect on the date the additional service are performed.
- Hourly Billing Rates plus Reimbursable Expenses per P&N’s Standard Rate Schedule in effect on the date services are performed.
- Other: \$129,600. Maximum not to exceed for scope proposed.

ARTICLE 5 – ADDITIONAL TERMS (If any)

NONE

This Agreement constitutes the entire Agreement between P&N and Client and supersedes all prior written or oral understandings. This Agreement may not be altered, modified or amended, except in writing properly executed by authorized representatives of P&N and Client.

Accepted for:

Accepted for:

Prein&Newhof, Inc.

City of Hart

By: Jason Washler

By: _____

Printed Name: Jason M. Washler, P.E.

Printed Name: _____

Title: Vice-President

Title: _____

Date: _____

Date: _____

Standard Terms & Conditions

- A. General** - As used in this Prein&Newhof Standard Terms and Conditions for Professional Services (hereinafter "Terms and Conditions"), unless the context otherwise indicates: the term "Agreement" means the Professional Services Agreement inclusive of all documents incorporated by reference including but not limited to this P&N Standard Terms and Conditions for Professional Services; the term "Engineer" refers to Prein & Newhof, Inc.; and the term "Client" refers to the other party to the Professional Services Agreement.

These Terms and Conditions shall be governed in all respects by the laws of the United States of America and by the laws of the State of Michigan.

- B. Standard of Care** - The standard of care for all professional and related services performed or furnished by Engineer under the Agreement will be the care and skill ordinarily used by members of Engineer's profession of ordinary learning, judgment or skill practicing under the same or similar circumstances in the same or similar community, at the time the services are provided.
- C. Disclaimer of Warranties** - Engineer makes no warranties, expressed or implied, under the Agreement or otherwise.
- D. Construction/Field Observation** - If Client elects to have Engineer provide construction/field observation, client understands that construction/field observation is conducted to reduce, not eliminate the risk of problems arising during construction, and that provision of the service does not create a warranty or guarantee of any type. In all cases, the contractors, subcontractors, and/or any other persons performing any of the construction work, shall retain responsibility for the quality and completeness of the construction work and for adhering to the plans, specifications and other contract documents.
- E. Construction Means and Methods** - Engineer shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for any safety precautions and programs in connection with the construction work, for the acts or omissions of the Contractor, Subcontractors, or any other persons performing any of the construction work, or for the failure of any of them to carry out the construction work in accordance with the plans, specifications or other contract documents.
- F. Opinions of Probable Costs** - Client acknowledges that Engineer has no control over market or contracting conditions and that Engineer's opinions of costs are based on experience, judgment, and information available at a specific period of time. Client agrees that Engineer makes no guarantees or warranties, express or implied, that costs will not vary from such opinions.
- G. Client Responsibilities**
1. Client shall provide all criteria, Client Standards, and full information as to the requirements necessary for Engineer to provide the professional services. Client shall designate in writing a person with authority to act on Client's behalf on all matters related to the Engineer's services. Client shall assume all responsibility for interpretation of contract documents and construction observation/field observation during times when Engineer has not been contracted to provide such services and shall waive any and all claims against Engineer that may be connected thereto.
 2. In the event the project site is not owned by the Client, the Client must obtain all necessary permission for Engineer to enter and conduct investigations on the project site. It is assumed that the Client possesses all necessary permits and licenses required for conducting the scope of services. Access negotiations may be performed at additional costs. Engineer will take reasonable precaution to minimize damage to land and structures with field equipment. Client assumes responsibility for all costs associated with protection and restoration of project site to conditions existing prior to Engineer's performance of services.
 3. The Client, on behalf of all owners of the subject project site, hereby grants permission to the Engineer to utilize a small unmanned aerial system (sUAS) for purposes of aerial mapping data acquisition. The Client is responsible to provide required notifications to the property owners of the subject project site and affected properties where the sUAS services will be performed. The Engineer will operate the sUAS in accordance with applicable State and Federal Laws.

H. Hazardous or Contaminated Materials/Conditions

1. Client will advise Engineer, in writing and prior to the commencement of its services, of all known or suspected Hazardous or Contaminated Materials/Conditions present at the site.
2. Engineer and Client agree that the discovery of unknown or unconfirmed Hazardous or Contaminated Materials/Conditions constitutes a changed condition that may require Engineer to renegotiate the scope of or terminate its services. Engineer and Client also agree that the discovery of said Materials/Conditions may make it necessary for Engineer to take immediate measures to protect health, safety, and welfare of those performing Engineer's services. Client agrees to compensate Engineer for any costs incident to the discovery of said Materials/Conditions.

3. Client acknowledges that Engineer cannot guarantee that contaminants do not exist at a project site. Similarly, a site which is in fact unaffected by contaminants at the time of Engineer's surface or subsurface exploration may later, due to natural phenomena or human intervention, become contaminated. The Client waives any claim against Engineer, and agrees to defend, indemnify and hold Engineer harmless from any claims or liability for injury or loss in the event that Engineer does not detect the presence of contaminants through techniques commonly employed.
 4. The Client recognizes that although Engineer is required by the nature of the services to have an understanding of the laws pertaining to environmental issues, Engineer cannot offer legal advice to the Client. Engineer urges that the Client seek legal assistance from a qualified attorney when such assistance is required. Furthermore, the Client is cautioned to not construe or assume that any representations made by Engineer in written or conversational settings constitute a legal representation of environmental law or practice.
 5. Unless otherwise agreed to in writing, the scope of services does not include the analysis, characterization or disposal of wastes generated during investigation procedures. Should such wastes be generated during this investigation, the Client will contract directly with a qualified waste hauler and disposal facility.
- I. Underground Utilities** – To the extent that the Engineer, in performing its services, may impact underground utilities, Engineer shall make a reasonable effort to contact the owners of identified underground utilities that may be affected by the services for which Engineer has been contracted, including contacting the appropriate underground utility locating entities and reviewing utility drawings provided by others. Engineer will take reasonable precautions to avoid damage or injury to **underground** utilities and other underground structures. Client agrees to hold Engineer harmless for any damages to below ground utilities and structures not brought to Engineers attention and/or accurately shown or described on documents provided to Engineer.
- J. Insurance**
1. Engineer will maintain insurance for professional liability, general liability, worker's compensation, auto liability, and property damage in the amounts deemed appropriate by Engineer. Client will maintain insurance for general liability, worker's compensation, auto liability, and property damage in the amounts deemed appropriate by Client. Upon request, Client and Engineer shall each deliver certificates of insurance to the other evidencing their coverages.
 2. Client shall require Contractors to purchase and maintain commercial general liability insurance and other insurance as specified in project contract documents. Client shall cause Engineer, Engineer's consultants, employees, and agents to be listed as additional insureds with respect to any Client or Contractor insurances related to projects for which Engineer provides services. Client agrees and must have Contractors agree to have their insurers endorse these policies to reflect that, in the event of payment of any loss or damages, subrogation rights under these Terms and Conditions are hereby waived by the insurer with respect to claims against Engineer.
- K. Limitation of Liability** - The total liability, in the aggregate, of Engineer and Engineer's officers, directors, partners, employees, agents, and consultants, whether jointly, severally or individually, to Client and anyone claiming by, through, or under Client, for any and all injuries, losses, damages and expenses, whatsoever, arising out of, resulting from, or in any way related to the Project or the Agreement, including but not limited to the performance of services under the Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract or warranty, expressed or implied, of Engineer or Engineer's officers, directors, partners, employees, agents, consultants, or any of them, shall not exceed the amount of the compensation paid to Engineer under this Agreement, or the sum of fifty thousand dollars and no cents (\$50,000.00), whichever is less. Recoverable damages shall be limited to those that are direct damages. Engineer shall not be responsible for or held liable for special, indirect or consequential losses or damages, including but not limited to loss of use of equipment or facility, and loss of profits or revenue.

Client acknowledges that Engineer is a corporation and agrees that any claim made by Client arising out of any act or omission of any director, officer, or employee of Engineer, in the execution or performance of the Agreement, shall be made against Engineer and not against such director, officer, or employee.

L. Documents and Data

1. All documents prepared or furnished by Engineer under the Agreement are Engineer's instruments of service, and are and shall remain the property of Engineer.
2. Hard copies of any documents provided by Engineer shall control over documents furnished in electronic format. Client recognizes that data provided in electronic format can be corrupted or modified by the Client or others, unintentionally or otherwise. Consequently, the use of any data, conclusions or information obtained or derived from electronic media provided by Engineer will be at the Client's sole risk and without any liability, risk or legal exposure to Engineer, its employees, officers or consultants.

3. Any extrapolations, conclusions or assumptions derived by the Client or others from the data provided to the Client, either in hard copy or electronic format, will be at the Client's sole risk and full legal responsibility.
- M. Differing Site Conditions** - Client recognizes that actual site conditions may vary from the assumed site conditions or test locations used by Engineer as the basis of its design. Consequently, Engineer does not guarantee or warrant that actual site conditions will not vary from those used as the basis of Engineer's design, interpretations and recommendations. Engineer is not responsible for any costs or delays attributable to differing site conditions. .
- N. Terms of Payment** - Unless alternate terms are included in the Agreement, Client will be invoiced on a monthly basis until the completion of the Project. All monthly invoices are payable within 30 days of the date of the invoice. Should full payment of any invoice not be received within 30 days, the amount due shall bear a service charge of 1.5 percent per month or 18 percent per year plus the cost of collection, including reasonable attorney's fees. If Client has any objections to any invoice submitted by Engineer, Client must so advise Engineer in writing within fourteen (14) days of receipt of the invoice. Unless otherwise agreed, Engineer shall invoice Client based on hourly billing rates and direct costs current at the time of service performance. Outside costs such as, but not limited to, equipment, meals, lodging, fees, and subconsultants shall be actual costs plus 10 percent. In addition to any other remedies Engineer may have, Engineer shall have the absolute right to cease performing any services in the event payment has not been made on a current basis.
- O. Termination** - Either party may terminate services, either in part or in whole, by providing 10 calendar days written notice thereof to the other party. In such an event, Client shall pay Engineer for all services performed prior to receipt of such notice of termination, including reimbursable expenses, and for any shut-down costs incurred. Shut-down costs may, at Engineer's discretion, include expenses incurred for completion of analysis and records necessary to document Engineer's files and to protect its professional reputation.
- P. Severability and Waiver of Provisions** - Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Client and P&N, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of the Agreement.
- Q. Dispute Resolution** - If a dispute arises between the parties relating to the Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:
1. Prior to commencing a lawsuit, the parties must attempt mediation to resolve any dispute. The parties will jointly appoint a mutually acceptable person not affiliated with either of the parties to act as mediator. If the parties are unable to agree on the mediator within twenty (20) calendar days, they shall seek assistance in such regard from the Circuit Court of the State and County wherein the Project is located, who shall appoint a mediator. Each party shall be responsible for paying all costs and expenses incurred by it, but shall split equally the fees and expenses of the mediator. The mediation shall proceed in accordance with the procedures established by the mediator.
 2. The parties shall pursue mediation in good faith and in a timely manner. In the event the mediation does not result in resolution of the dispute within thirty (30) calendar days, then, upon seven (7) calendar days' written notice to the other party, either party may pursue any other available remedy.
 3. In the event of any litigation arising from the Agreement, including without limitation any action to enforce or interpret any terms or conditions or performance of services under the Agreement, Engineer and Client agree that such action will be brought in the District or Circuit Court for the County of Kent, State of Michigan (or, if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in the U.S. District Court for the Western District of Michigan), and the parties hereby submit to the exclusive jurisdiction of said court.
- R. Force Majeure** - Engineer shall not be liable for any loss or damage due to failure or delay in rendering any services called for under the Agreement resulting from any cause beyond Engineer's reasonable control.
- S. Assignment** - Neither party shall assign its rights, interests or obligations under this Agreement without the express written consent of the other party.
- T. Modification** - The Agreement may not be modified except in writing signed by the party against whom a modification is sought to be enforced.
- U. Survival** - All express representations, indemnifications, or limitations of liability included in the Agreement shall survive its completion or termination for any reason.
- V. Third-Party Beneficiary** - Client and Engineer agree that it is not intended that any provision of this Agreement establishes a third party beneficiary giving or allowing any claim or right of action whatsoever by a third party.

RESOLUTION 2021-69
Hart City Council
City of Hart, Michigan

***Designate City Manager and City Treasurer as authorized signers on
Shelby State Bank Certificate of Deposit***

WHEREAS; City of Hart has an existing Certificate of Deposit with Shelby State Bank; and

WHEREAS; the renewal documents require an authorized signer to maintain the deposit and renew as necessary; and

WHEREAS; the city manager and city clerk/treasurer are the generally accepted individuals as authorized signers; and

WHEREAS: the Shelby State Bank which the City holds it's investment requires formal action designating any new account signers;

NOW THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL

Designates the City Manager Robert Splane, and City Treasurer as authorized signers on the Shelby State Bank Certificate of Deposit.

Moved by _____, supported by _____ and thereafter adopted by the Hart City Council at a regular council meeting held on September 28, 2021.

Ayes: ____ Nays: ____ Absent: ____

RESOLUTION 2021 - 70
City Council
City of Hart, Michigan
Oceana County

Authorize sale of city owned real estate property

WHEREAS, the City of Hart has partnered with neighboring communities to establish and maintain the Hart Area Fire Department; and

WHEREAS, The Hart Area Fire Administrative Board has asked that they assum ownership of the physical land on which the fire barn currently resides to proceed with capital improvement plans to enhance and expand the current facility; and

WHEREAS, it is in the best interest of the City to support the transaction to ensure the continued safety of city and area community members, while continuing to promote local efforts of goodwill; and

WHEREAS, in order to secure the benefits of efficient self-government and to promote and protect our common interests and welfare, the City Council hereby declares:

NOW THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL

*Authorizes the sale of Parcel No 64-020-739-001-30 known as physical street address:
808 South State Street Hart, MI 49420 for the consideration of \$1.00 and allows
Honorable Mayor Platt and City Clerk Karla Swihart to sign and execute the Quit Claim
Deed attached.*

Moved by _____, supported by _____, and thereafter adopted by the Hart City Council at a regularly scheduled meeting held on September 28, 2021.

Ayes: ____ Nays: ____ Absent: ____

PRINCE & MONTON, PLC

ATTORNEYS AT LAW

James R. Prince
Brian J. Monton

127 State Street, Hart, Michigan 49420
Telephone (231) 873-3892 • Facsimile (231) 873-2798
Email: info@princeandmonton.com

August 30, 2021

Rob Splane
City Manager
City of Hart
407 State Street
Hart, Michigan 49420

RE: Deed to Fire Department of Parcel No. 64-020-739-001-30

Dear Rob:

Per our conference in my office on Wednesday, August 25, 2021, please find enclosed a proposed quit claim deed conveying the premises located at the address commonly known as 808 South State Street, Hart, Michigan, to the Hart Area Fire Administrative Board and a Property Transfer Affidavit.

As requested, the deed contains a right of reentry provision, which provides that if the property ever ceases to be used for fire department purposes, the City shall have the right to reenter the premises and the property will revert to the City. This provision is not automatic as it requires the City to exercise its right of reentry.

Section 4.10(k) of the City of Hart Charter requires that a conveyance of City owned property be approved by an affirmative vote of two-thirds (2/3) of the members of the City Council after a public hearing. The public hearing must be noticed by publication in the Oceana Herald Journal not less than four (4) days prior to the public hearing. Once the conveyance is approved, the deed must be signed by Mayor Platt and Clerk Swihart and then recorded at the Oceana County Register of Deeds office. The Property Transfer Affidavit must be signed by an authorized member of the fire department and then filed with the Assessor.

Please let me know if you have any questions or concerns. Thank you for your consideration on this matter.

Sincerely,



Brian J. Monton

QUIT CLAIM DEED

THIS INDENTURE, Made this ____ day of _____, 2021,

WITNESSETH, that the **City of Hart**, a Michigan municipal corporation, of 407 S. State Street, Hart, Michigan 49420 ("Grantor"),

for the sum of \$1.00 and other valuable consideration-----

CONVEYS AND QUIT CLAIMS TO the **Hart Area Fire Administrative Board**, of 808 S. State Street, Hart, Michigan 49420 ("Grantee"),

in and to the following described lands and premises situated in the City of Hart, County of Oceana, and State of Michigan, viz:

The South 132 feet of Lot 1, Block 39, Plat D of Wigton Second Addition to the City of Hart, Oceana County, Michigan.

Parcel No. 64-020-739-001-30

Subject to easements, restrictions, reservations, and rights-of-way of record. Grantor conveys the premises described above to Grantee to be used for fire department purposes only and provided that, when the premises are no longer used for fire department purposes, the Grantor or its successors shall have the right to re-enter the premises and terminate Grantee's estate.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act, as amended (the "Act").

This instrument is exempt by reason of MCLA 207.505(a) from County Transfer Tax imposed under MCLA 207.501 et seq., as amended.

This instrument is exempt by reason of MCLA 207.526(a) from Michigan State Transfer Tax imposed under MCLA 207.521 et seq., as amended.

Signed on date first above written.

City of Hart:

Vicki Platt, Mayor

Karla Swihart, Clerk

STATE OF MICHIGAN)
)SS.
COUNTY OF OCEANA)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2021, by the City of Hart Mayor, Vicki Platt and Clerk, Karla Swihart

_____, Notary Public
Oceana County, Michigan
My Commission Expires: _____
Acting in the County of Oceana

PROPERTY TAX IDENTIFICATION NO. 64-020-739-001-30

This Deed is being prepared without the benefit of a title search and without the issuance of title insurance, and the description has been provided by Grantor/Grantee and has not been further investigated.

DRAFTED BY:
Brian J. Monton (P70837)
Prince & Monton, PLC
Attorney at Law
127 State Street
Hart, Michigan 49420

Property Transfer Affidavit

This form is issued under authority of P.A. 415 of 1994. Filing is mandatory.

This form must be filed whenever real estate or some types of personal property are transferred (even if you are not recording a deed). **The completed Affidavit must be filed by the new owner with the assessor for the city or township where the property is located within 45 days of the transfer.** The information on this form is NOT CONFIDENTIAL.

1. Street Address of Property		2. County Oceana	3. Date of Transfer (or land contract signed)
4. Location of Real Estate (Check appropriate field and enter name in the space below.) <input checked="" type="checkbox"/> City <input type="checkbox"/> Township <input type="checkbox"/> Village Hart		5. Purchase Price of Real Estate 1.00	
7. Property Identification Number (PIN). If you don't have a PIN, attach legal description. PIN. This number ranges from 10 to 25 digits. It usually includes hyphens and sometimes includes letters. It is on the property tax bill and on the assessment notice. 64-020-739-001-30		6. Seller's (Transferor) Name City of Hart, a Michigan Municipal Corporation	
		8. Buyer's (Transferee) Name and Mailing Address Hart Area Fire Administrative Board 808 S. State Street, Hart, MI 49420	
		9. Buyer's (Transferee) Telephone Number	

Items 10 - 15 are optional. However, by completing them you may avoid further correspondence.

10. Type of Transfer. **Transfers** include, but are not limited to, deeds, land contracts, transfers involving trusts or wills, certain long-term leases and business interest. See page 2 for list.
 Land Contract Lease Deed Other (specify) _____

11. Was property purchased from a financial institution? 12. Is the transfer between related persons?
 Yes No Yes No

13. Amount of Down Payment

14. If you financed the purchase, did you pay market rate of interest?
 Yes No

15. Amount Financed (Borrowed)

EXEMPTIONS

Certain types of transfers are exempt from uncapping. If you believe this transfer is exempt, indicate below the type of exemption you are claiming. If you claim an exemption, your assessor may request more information to support your claim.

- Transfer from one spouse to the other spouse
- Change in ownership solely to exclude or include a spouse
- Transfer between certain family members *(see page 2)
- Transfer of that portion of a property subject to a life lease or life estate (until the life lease or life estate expires)
- Transfer between certain family members of that portion of a property after the expiration or termination of a life estate or life lease retained by transferor ** (see page 2)
- Transfer to effect the foreclosure or forfeiture of real property
- Transfer by redemption from a tax sale
- Transfer into a trust where the settlor or the settlor's spouse conveys property to the trust and is also the sole beneficiary of the trust
- Transfer resulting from a court order unless the order specifies a monetary payment
- Transfer creating or ending a joint tenancy if at least one person is an original owner of the property (or his/her spouse)
- Transfer to establish or release a security interest (collateral)
- Transfer of real estate through normal public trading of stock
- Transfer between entities under common control or among members of an affiliated group
- Transfer resulting from transactions that qualify as a tax-free reorganization under Section 368 of the Internal Revenue Code.
- Transfer of qualified agricultural property when the property remains qualified agricultural property and affidavit has been filed.
- Transfer of qualified forest property when the property remains qualified forest property and affidavit has been filed.
- Transfer of land with qualified conservation easement (land only - not improvements)
- Other, specify: _____

CERTIFICATION

I certify that the information above is true and complete to the best of my knowledge.

Printed Name		
Signature		Date
Name and title, if signer is other than the owner	Daytime Phone Number	E-mail Address

HART AREA FIRE DEPARTMENT

HART, MICHIGAN 49420

Serving Townships of Weare, Golden, Hart and Hart City

Hart Area Fire Administrative Board
808 S. State St.
P.O. Box 125
Hart, Michigan 49420

July 26, 2021

Rob Splane
City Manager
Hart City Council

Dear Mr. Splane and City Council,

At the July 22, 2021, meeting of the Hart Area Fire Administrative Board we discussed ownership of the fire barn. What prompted this discussion is the condition of the parking lot. It needs major repairs which is a very expensive project. We would also like to add overhead doors to the rear of the building and sometime soon put an addition to the south side of the building on property which the Fire Board owns. The siding on the north side of has holes rusted through and needs to be replaced. The cost of these projects could exceed a quarter of a million dollars. There was concern about investing that kind of money in a building that we do not own.

As we understand the building was built with a grant and some additional funds supplied by the Fire Board on property owned by the City. At this time, we would like to request that the City turn ownership of this property over to the Fire Board so that we may proceed with the necessary projects. I have enclosed a copy of our July 22, 2021, minutes. In that meeting a motion was made requesting the City turn ownership of the property over to the Fire Board. Please feel free to contact me with any questions you may have. (231)742-1136

Sincerely,



Gary Beggs, Chairman, Hart Area Fire Administrative Board

HART AREA FIRE
ADMINISTRATIVE BOARD

Meeting Minutes- July 22 ,2021

The Hart Area Fire Administrative Board Meeting was called to order by Chairman Gary Beggs at 7:00PM. Others present for the meeting were, Mike Powers, Jerry Schaner, Dale Stevenson, Jake Whelpley, Chief Fuehring and undersigned.

Absent from the meeting was Clancy Aerts and Mike Potter.

Motion was made by Doran and supported by Schaner to approve the agenda as presented. Voice Vote, all Yes. Motion carried.

There were audience comments.

Motion was made by Whelpley and supported by Doran to approve the minutes of the June 24, 2021 meeting as presented. Voice vote. All yes. Motion carried.

Treasurer report indicated a total of \$3,317.30 in bills for approval. Treasurer explained the bills that were listed. Handout was presented to the board listed bills and listed amounts in the Boards accounts. Motion was made by Stevenson to pay the bills which was supported by Doran. Roll Call Vote, All Yes Motion Carried.

Treasurer advised the budget for the 2020/2021 year will need one amendment to move \$1,200.00 from Radio Purchase and Maintenance to Truck Maintenance. Motion was made by Powers and supported by Schaner to move \$1,200.00 from Radio Purchase to Truck Maintenance. Roll call vote, All yes, Motion carried.

Chief advised the board the calls for the month of July have been down in numbers but had three serious accident calls in 11 days.

Under old business Treasurer advised Huntington Bank did not have a credit card that would fit our needs for a commercial account. It was suggested we open a separate checking account and use debit cards for that account. A separate account was opened with Huntington Bank for the debit cards and an initial balance of \$4,000.00.

Under new business the status of the fire station being on property owned by the City of Hart.

Discussion on the history of the property and who insured the property as it is now and if this happened would the City of Hart need to still have insurance. Also if the building was no longer used by the Fire Board it would revert back to the City of Hart. Final language would have to be worked out between all parties concerned.

A motion was made by Doran and seconded by Whelpley to request the City of Hart to release the Hart Fire Station and property to the Hart Area Fire Administrative Board.

Roll Call Vote 6 yes and 1 no. Motion carried.

Motion to adjourn the meeting by Stevenson and supported by Powers.

Meeting adjourned at 7:30PM

Respectfully Submitted,


Daniel Leimback, Sec/Treasurer

RESOLUTION 2021 - 71
City Council
City of Hart, Michigan
Oceana County

Authorization of MPPA Power Purchase Commitment
Authorization

WHEREAS, the City of Hart is a member of the Michigan Public Power Authority, and

WHEREAS, the City relies on the expertise of the staff at MPPA to analyze and identify the City's annual future purchased power requirements; and

WHEREAS, by establishing future capacity purchasing, the City is able to purchase power at a rate which is anticipated to be lower than what the open market rate would be if future authorization agreements were not completed; and

WHEREAS, in order to secure the benefits of efficient self-government and to promote and protect our common interests and welfare, the City Council hereby declares:

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL

Accepts the recommendation of the MPPA; and

Authorizes entering into the power purchase commitment authorization for planning year 2025 through 2028 with a maximum commitment of \$78,000

Moved by _____, supported by _____, and thereafter adopted by the Hart City Council at a regularly scheduled meeting held on September 28, 2021.

Ayes: ___ Nays: ___ Absent: ___



September 13, 2021

Subject: Power Purchase Commitment Authorization

The City of Hart Hydro Electric ("Hart") through its Member Authorized Representative, hereby authorizes a Capacity purchase by Michigan Public Power Agency ("MPPA") on behalf of Hart at the following Quantity, Term, Delivery Location and not to exceed price levels. The Capacity purchase, if executed by MPPA, will be a Power Purchase Commitment ("PPC") under the Energy Services Agreement between MPPA and Hart. The Capacity being procured with this Authorization is part of a portfolio of resources used to meet resource adequacy requirements under Michigan Public Act 341 and the planning reserve requirements of the Midcontinent Independent System Operator ("MISO"). MPPA's Board of Commissioners must approve the transaction(s) prior to execution. MPPA will not execute transactions under this PPC Authorization after 12/31/2021.

Planning Year	Up to Capacity per Month (kW)	Maximum Authorized Weighted Average Purchase Price (per kW Month)	Maximum Total \$ for Planning Year	% of Forecasted MISO Capacity Requirement	Delivery Location
PY 25/26	500	\$5.00	\$30,000	4.7%	LRZ 7
PY 26/27	400	\$5.00	\$24,000	3.7%	LRZ 7
PY 27/28	400	\$5.00	\$24,000	3.7%	LRZ 7

The transactions outlined above account for the identified percentages of Hart's forecasted MISO capacity requirements in the applicable forward planning years. The total of all purchases represents a maximum commitment of \$78,000.

Member Authorized Representative:

Signature

Printed

Date

Current Appointments:

Name	
Fred Rybarz Jr Mayor Pro-Tem(Appointed/V. Platt) Parks and Recreation Lake Board Cemetary Board	HEART
Catalina Burillo (Appointed/Martin) Parks and Recreation Historic District Powerboard (Alternate)	Indicated schedule conflict
Dean Hodges (Elected) HEART Powerboard Zoning Board of Appeals Lake Board	
Jim Evans (Elected) Library Cemetary Board Board of Review Property Taxes - Mayoral Designee	
Kris Trygstad (Appointed/B. Platt) Finance/Personnel Committee HEART	Replaced by Rybarz
Vicki Platt (Mayor - Elected) All Committees/Boards/Commissions	
Mike Powers (Appointed/Splane June 2021) Power Board Planning Commission Finance/Personnel Committee	Also Board of Review R. Splane was on Planning commission R. Splane was on Finance/Personnel Committee

Outstanding appointments needed: 1 BioPure (Water and Wastewater Board)