THE VILLAGE OF DEXTER
CITY CHARTER COMMISSION
MINUTES OF THE WEDNESDAY, MARCH 19, 2014 MEETING

A. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:30PM by Chairman Hansen at the Copeland Board Room located at 7714 Ann Arbor Street in Dexter, Michigan.

B. ROLL CALL: Jack Donaldson, John Hansen, Matt Kowalski, Phil Mekas, Mary-Ellen Miller, Thom Phillips, Michael Raatz, and James Smith. Excused absences Phil Arbour.

Also present: Courtney Nicholls, Assistant Village Manager and Carol Jones, Village Clerk, Tom Ryan, Charter Attorney, Scott Morrison and Shawn Keough, Village President.

C. APPROVAL OF THE AGENDA

Motion James Smith; support Jack Donaldson to approve the agenda.
Unanimous voice vote approval with Arbour absent.

D. APPROVAL OF THE MINUTES

1. Regular Meeting – March 12, 2014

   Motion James Smith; support Michael Raatz to approve the minutes with the following corrections:
   Page 2, #2 Discussion of Special Assessments – change eliminate Sections 3-10 change to eliminate Sections 3 through 10.
   Page 9, Section 14 replace general law with state law.
   Unanimous voice vote approval with Arbour absent.

E. PREARRANGED PARTICIPATION

Tom Ryan, Attorney for the Charter Process

F. PUBLIC HEARINGS

Scheduled for March 22, 2014 at 2:00 p.m. at the Dexter District Library

G. CHARTER CONSTRUCTION – SECOND READINGS

Staff Update Memo

1. Discussion of: Purchases, Sales, Contracts and Leases

Motion James Smith; support Jack Donaldson to approve the second reading of the Purchases, Sales, Contracts and Leases Section.
Unanimous voice vote approval as amended with Arbour absent.

2. Discussion of: Utilities, Franchises and Permits

Motion Jack Donaldson; support Matt Kowalski to approve the second reading of the Utilities, Franchises and Permits Section.
Unanimous voice vote approval of Utilities, Franchises and permits Section with Arbour absent.

H. CHARTER CONSTRUCTION – FIRST READING

1. Discussion of: Miscellaneous

Motion Phil Mekas; support Jack Donaldson to approve the first reading of Sections 1 Through 13 of Miscellaneous.

Section 1 LIABILITY OF CITY; PROCEDURE FOR FILING CLAIM

The city shall have all the governmental immunities from claims for damages for injury to persons or property as may be permitted by state law. The procedures in regard to filing of claims and disposition of the same shall be as permitted by state law.

Section 2 RECORDS

All records of the city shall be made available to the general public in compliance with the Freedom of Information Act and shall be kept in city offices except when required for official reasons or for purpose of safe keeping to be elsewhere.

Section 3 ESTOPPEL AGAINST CITY

No estoppel may be created against the city.

Section 4 PROCESSES AGAINST CITY

All processes against the city shall run against the city in the corporate name thereof, and may be served by delivering a true copy to the mayor or city clerk.

Section 5 TRUSTS FOR MUNICIPAL PURPOSES

All trusts established for any municipal purpose shall be used and contained in accordance with the terms of such trust subject to the cy pres doctrine. The council may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purposes, except in cases where the cy pres doctrine shall apply.

Section 6 QUORUM GENERALLY

Except as provided otherwise in this charter, a quorum of any board or commission created by and pursuant to this charter shall be a majority of the members of such board or commission in office at the time, but not less than two (2) members.

Section 7 SATURDAYS, SUNDAYS OR CITY HOLIDAYS

Whenever the date fixed by this charter for the doing or completion of any act falls on a Saturday, Sunday or city holiday, such act shall be done or completed on the next succeeding day that is not a Saturday, Sunday or city holiday.

Section 8 CHAPTER, SECTION AND SUBSECTION HEADINGS OF CHARTER

The chapter, section and subsection headings used in this charter are for convenience only, and shall not be considered as part of the charter.

Section 9 AMENDMENT OF CHARTER

This charter may be amended at any time in the manner provided by statute. Should two (2) or more amendments adopted at the same election have conflicting provisions, the one (1) receiving the largest affirmative vote shall prevail as to those provisions.

Section 10 SEVERABILITY OF CHARTER PROVISIONS

Should any provision or section, or portion thereof, of this charter be held by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this charter as a whole or of any remaining portion of such provision or section, it being hereby declared to be the intent of the charter commission, and of the electors who voted thereon, that such unconstitutionality or illegality shall not affect the validity of any other part of this charter.

Section 11 DEFINITIONS - GENERALLY

Except as otherwise specifically provided or indicated by the context or is further extended and defined:

(a) All words used in this charter indicating the present tense shall not be limited to the time of the adoption of this charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.

(b) The singular number shall include the plural, the plural number shall include the singular.

(c) The word "person" may extend and be applied to an individual, partnership, corporation, association, other legal entities, or a combination of them.

(d) The word "printed" and "printing" shall include reproductions by printing, engraving, stencil duplicating, lithographing or any similar reproduction method.

(e) Except in reference to signatures, the words "written" and "in writing" shall include printing and typewriting and any other currently acceptable similar method.

(f) The word "officer" shall include the mayor and other members of the council and administrative officers.

(g) The word "employee" shall mean those persons not holding elective or appointive office, one who is generally subordinate to the officer and performs only those duties specifically assigned by a contract, department head, or other governmental body.

(h) The word estoppel shall mean "as being estopped or prevented from denying or asserting something, on the ground that to do so contradicts what has already been admitted or denied, either explicitly in words or implicitly by actions."

(i) The word "default" shall include being delinquent in payment of taxes or municipal utility charges for more than thirty (30) days unless the default is being tested in a court or tribunal.

(j) The word "statute" shall denote the Public Acts of the State of Michigan and any amendments thereto in effect at the time the provision of the charter containing the word "statute" is to be applied.

(k) All references to specific Public Acts of the State of Michigan shall be to such acts as are in effect at the time the reference to such act is to be applied.

(l) The words "state law" shall denote the statutes of the State of Michigan and the applicable common law.

(m) All reference to section numbers shall refer to section numbers of this charter.

(n) The word "city" shall mean the City of Dexter.

(o) The word "council" shall mean the council of the City of Dexter.

(p) The words "public utility" shall include all common carriers in the public streets; water; sewage disposal; electric light and power; gas; telephone and telegraph lines and systems; cable television; garbage and refuse collection and disposal and reduction plants; and such other and different enterprises as the council may determine or designate.

(q) For the purpose of this charter, the offense of "misconduct in office" includes doing a wrongful act, doing a lawful act in a wrongful manner, and failure to perform an act required by the duties of the office or by rule established by the city council.

(r) "Public record" means any writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the

time it is created. Public record does not include computer software. A Public record is subject to the Freedom of Information Act.

(s) The word "family" shall include: spouse, child, grandchild, father, mother, grandmother, grandfather, sister, half-sister, brother, half-brother and spouse of any of them, and all such relationships arising from adoption, or as recognized by state law.

(t) The term "member of the council" shall mean all elected or appointed members of the council.

(u) The word "situs" shall mean where the property is treated as being located for legal purposes.

(v) The word "cy pres" shall mean "as near as possible" or "as near as may be."

(w) "Department Head" shall include any Police Chief, any Fire Chief, any Public Safety Director, any DPW Superintendent, any WWTP Superintendent, any Planning and Zoning Administrator, and the head of any other department established by the council.

Section 12 DEFINITION OF PUBLICATION AND MAILING OF NOTICES

Unless as otherwise required by law, the requirement contained in this Charter for the publishing or publication of notices, ordinances or proceedings of city council or other city boards, commissions or authorities, shall be met by publishing (a) at least once in a newspaper published in the English language for news of general character, with general circulation at regular intervals in the city for at least one (1) year immediately prior to the publication of the notice (b) by posting in at least three (3) conspicuous places within the city, or (c) by posting on the City's web site, cable site and/or the internet. Prima facie evidence of such publication shall be in the form of an affidavit of the printer or publisher of the newspaper, or his or her foreman or principal clerk attached to a copy of the notice.

In the case in which the charter requires the mailing or posting of notices around the city or on the internet, the affidavit of the officer or employee responsible for such mailing or posting, that such notice was mailed or posted shall be prima facie evidence of such mailing or posting.

Section 13 VESTED RIGHTS

After the effective date of this charter, the city shall be vested with all the property, moneys, contracts, rights, credits, effects and the records, files, books and papers belonging to the Village of Dexter. No right or liability, either in favor or against the village, existing at the time of this charter becomes effective and no suit or prosecution of any character shall in any manner be affected by any change, resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the village shall be the debts and liabilities of the city and all fines and penalties imposed at the time of such change shall be collected.

Unanimous voice vote approval with Arbour absent.

2. Discussion of: Transition

Motion James Smith; support Jack Donaldson to approve the first reading of Sections 1 through 15 of Transition.

Motion Mary-Ellen Miller; support Michael Raatz that in the transition year, city council member's candidates shall run for a one or three year term, the city mayor candidates shall run for a three year term, and following this election the rotation of terms begins.
Ayes: 6
Nays: 2
Absent: Arbour
Motion carries 6 to 2.

Motion Mary-Ellen Miller; support Phil Mekas to call for a reconsideration of the previous motion.
Ayes: 7
Nays: 1
Absent: Arbour
Motion carries 7 to 1.

Re-vote on the original motion *that in the transition year, city council member's candidates shall run for a one or three year term, the city mayor candidates shall run for a three year term, and following this election the rotation of terms begins.*
Ayes: 0
Nays: 8
Absent: Arbour
Motion fails.

TRANSITION (Draft Language Based on Caro Charter Chapter 16)

Section 1 PURPOSE

The purpose of this chapter is to inaugurate the government of the City of Dexter under this charter and to provide for the transition from the Village of Dexter. It shall constitute a part of this charter only to the extent and for the time required to accomplish this end.

Section 2 ELECTION TO ADOPT

This charter shall be submitted to a vote of the registered electors of the territory comprising the proposed City of Dexter, as described in Section (Powers of the City) of this charter, at an election to be scheduled by resolution of the Charter Commission, subsequent to the approval of this charter by the Governor, to be held between the hours of 7 a.m. and 8 p.m. local time. All provisions for the submission of the question of adopting this charter at such election shall be made in the manner provided by law. The Charter Commission shall conduct the election, provided that the Charter Commission may delegate such responsibilities, as it deems proper to the village clerk and other local officials.

Section 3 FORM OF BALLOT

The form of the ballot for the submission of this charter shall be as follows: Instructions: A mark in the square before the word "Yes" is in favor of the proposed charter, and a mark in the square before the word "No" is against the proposed charter. Shall the proposed Charter for the City of Dexter, drafted by the Charter Commission elected on November 4, 2014 be adopted?

_____ Yes _____ No

Section 4 EFFECTIVE DATE OF CHARTER

If the voters approve adoption of this charter, then two (2) printed copies thereof, with the vote for and against duly certified by the Board of Canvassers, within thirty (30) days after the vote is taken, shall be filed by the Village Clerk with the Secretary of State and a like number with the Washtenaw County Clerk. On the date the aforementioned filings have been accomplished, this charter shall be effective for all purposes.

Section 5 FIRST ELECTION

An election to elect the first city mayor and city council shall be held on the same date as the election at which the charter is submitted for adoption as provided in 16.2 of this charter.

(a) Candidates for Mayor and for City Council who shall be duly registered electors of the territory comprising the proposed City of Dexter and who shall have been residents of the territory comprising the proposed City of Dexter for one (1) year immediately prior to the election shall file petitions signed by not less than fifteen (15) registered electors or more than twenty-five (25) registered electors of the territory comprising the proposed City of Dexter and filed with the Village Clerk by 4:00 p.m. Local Time, on the Tuesday which is the fifteen (15) weeks prior to the election date. The Village Clerk shall publish notice of the last day and time of filing of petitions, which notice shall be published in the Sun Times. Such petitions shall be in the form designated by statute for the use in nominations for nonpartisan office. The manner of approval of nominating petitions and of those who qualify to sign shall be as outlined in this proposed Charter and shall be administered by the Township Clerk or other election officials as appropriate.

(b) The mayoral candidate receiving the highest number of votes shall have a term beginning at 12:01 a.m. on the date this charter becomes effective and ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2015.

(c) The three (3) council candidates receiving the three (3) highest numbers of votes shall have terms beginning at 12:01 a.m. on the date this charter becomes effective and ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2017.

(d) The three (3) council candidates receiving the three (3) next highest numbers of votes shall have terms beginning at 12:01 a.m. on the date this charter becomes effective and ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2015.

Section 6 SUBSEQUENT ELECTIONS

Henceforth, the elections for the city mayor and city council shall be held as set forth in Section (Elections) of this charter.

Section 7 ADMINISTRATIVE OFFICERS AND EMPLOYEES

(a) Nothing in this charter except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are village officers or employees at the time of its adoption.

(b) Except as specifically provided by this charter, if at the time this charter takes full effect a village administrative officer or employee holds an office or position which is or can be abolished by or under this charter, he or she shall continue in such office or position until the taking effect of some specific provision under this charter directing that he or she vacate the office or position.

(c) An employee holding a village position at the time this charter takes full effect, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in Section (Administrative Services) of this charter.

Section 8 TRANSFER OF PROPERTY AND RECORDS

All property, records and equipment of any department, office or agency of the Village of Dexter existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties.

Section 9 COUNCIL MEETINGS

The first meeting of the council shall be held on either the second or fourth Monday of the month following the effective date of the charter. The council shall meet at 7:30 p.m. at the Dexter Senior Center, 7720 Ann Arbor Street, Dexter, Michigan 48130, for the following purposes:

(a) The adoption of ordinances and resolutions including those for appropriations necessary to affect the transition of government under this charter and to maintain effective city government during that transition and;

(b) To conduct any other council business as may come before it.

Section 10 TEMPORARY ORDINANCES

In adopting ordinances as provided in Section (City Council), the council shall follow the procedures prescribed in Chapter VIII, except that at its first meeting or any meeting held within sixty (60) days thereafter, the council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective city government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner

prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon its adoption, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the ninety-first (91st) day following the date on which it was adopted, renewed or otherwise continued except by adoption in the manner prescribed in Chapter VIII for ordinances of the kind concerned. No ordinance shall be operative until published by the city.

Section 11 COUNCIL ACTION

In all cases involving the transition to the city government from that in existence prior to adoption of this charter, which are not covered by this Article, the council shall supply necessary details and procedures and may adopt such rules, regulations, and ordinances as may be required therefore.

Section 12 INITIAL EXPENSES

Initial expenses of the city shall be paid by the city subject to an interim financial budget adopted by resolution of City Council. There shall be an audit of this interim fiscal period in accordance with the provisions of Section (Financial Management) of this charter.

Section 13 MAYOR AND COUNCIL SALARIES

Initial salaries for the Mayor and City Council shall be set at the rates in effect for the Village President and Trustees at the time of the Charter's adoption.

Section 14 PENDING MATTERS

All rights, claims, actions, orders, contracts and legal administrative proceedings of the Village of Dexter shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

Section 15 VESTED RIGHTS AND LIABILITIES

After the effective date of this charter, the city and all its agencies shall be vested with all property, moneys, contracts, rights, credits, effects, and the records, files, books and papers, belonging to the Village of Dexter under and by virtue of the General Law Village Act. No right or liability, contract, lease, or franchise, either in favor of or against the village, existing at the time this charter became effective, and no suit or prosecution of any character shall be affected in any manner by any change resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All taxes, debts, and liabilities due to the village from any person, and all fines and penalties, imposed and existing at the time of such change, shall be collected by the city. All trusts established for any municipal purpose shall be continued in accordance with the terms thereof, subject to the cy pres doctrine.

Section 16 VILLAGE ORDINANCES, RESOLUTIONS, ORDERS AND REGULATIONS

All village ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or the ordinances or resolutions adopted pursuant thereto.

Unanimous voice vote approval with Arbour absent.

Motion Phil Mekas; support James Smith to waive the second reading of the Sections on Miscellaneous and Transition to allow for a complete charter at the Public Hearing. Unanimous voice vote approval with Arbour absent.

I. OTHER ITEMS AS REQUESTED BY COMMISSIONERS

Public Hearing to be conducted with an introduction, process of developing a charter, and listen to the public. Handouts to be provided on process and charter chapters.

Review of meeting at the Cedars with 6 commissioners and 32 Cedar residents. There were virtually no questions asked about the charter by the questions were about cityhood.

Discussion on Commissioner Arbour's proposal:
Motion John Hansen; support Phil Mekas to amend the draft charter to provide for a two (2) year term rather than a four (4) year term for the city mayor.
Ayes: 0
Nays: 8
Absent: Arbour
Motion fails

Discussion on Commissioner Smith's proposal:
Motion James Smith; support Jack Donaldson to revise the wording in Section 12.1 under Elections to read as follows:
A current member of City Council is eligible to run for Mayor only if their current term expires during the year a Mayor is to be elected or if they irrevocably resign their Council position at least seven (7) days prior to the deadline for filing nominating petitions for Mayor. Said resignation shall be absolute and in writing, but shall not take effect until the end of the first Council meeting following the election. Following receipt of said resignation, the City Clerk shall plan to show three four-year terms and one tow-year term for the City Council on the ballot for the next regular City election. If the election does not fill all the open positions, filling of vacancies shall be done as stated in Section 2.06 (9c).
Motion James Smith; support Jack Donaldson to table the motion.
Unanimous voice vote approval with Arbour absent.

J. AGENDA PREPARATION FOR THE NEXT MEETING

Next meeting:

- Charter Review
- Legal Opinion(s)
- Parking Lot assignments

- New unfunded liabilities – Phil Mekas
- Power subtractions – exceptions
- State of City Message by Mayor – James Smith
- Statement of Ethics – Phil Arbour
- Nepotism – James Smith
- Catch all category/Glossary – covered
- Stray items on mandatory ordinance list
- Compensation for commissions
- Emergency expenditure
- MCL – eliminating enumeration and reference to state law

Review of Public Hearing

K. NON-ARRANGED PARTICIPATION

None

L. ADJOURNMENT

Motion James Smith; support Phil Mekas to adjourn at 8:36 PM.
Unanimous voice vote approval with Arbour absent.

Respectfully submitted,

Carol J. Jones
Clerk, Village of Dexter

Approved for Filing:_____

VILLAGE OF DEXTER

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MEMO

To: **City Charter Commission**
From: **Courtney Nicholls, Assistant Village Manager**
Date: **March 21, 2014**
Re: **Updates**

The Commission has completed the review of the charter chapters. The focus now shifts to reviewing the document and making final changes before submitting it to the Attorney General for review. The agenda for March 26, 2014 structures the review into items generated from the March 22 public hearing, comments from the Village Attorney and items remaining in the "parking lot" which were set aside during the review process for further consideration at the final reading. Attached are the several documents related to these "parking lot" items:

- Document presented last week from Commissioner Smith regarding requiring a Council Member to resign to run for Mayor and nepotism
- Document presented last week from Commissioner Arbour regarding conflict of interest
- Language from Commissioner Mekas regarding the creation of new unfunded liabilities

President Keough expressed an interest in making sure that residents have enough time to review the draft charter before it is finalized and sent to the state. One idea he raised is mailing the draft charter to each residence. The approximate cost of this is $4,000. Council will be discussing this expenditure at their meeting on Monday, March 24. This could necessitate pushing the timeline back a bit to accommodate additional public comment, however it would remove any claim from the residents that they were not given time to review the document before it was finalized.

Notes from Jim Smith on PARKING LOT ITEMS and ELECTIONS 3/19/2014

For Parking Lot: [submitted on 2/19/2014]

Suggestion that we review and discuss the following Sec 5.2 from the Caro charter (page 9) for possible inclusion in the Administrative Services part of our charter.

Section 5.2 HOLDING OF APPOINTIVE OFFICE OR EMPLOYMENT BY RELATIVE OF ELECTIVE OR ADMINISTRATIVE OFFICER

Unless the council shall by majority vote record as part of its official proceedings, a determination that the best interests of the city shall be served, family members of any elective or administrative officer are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed. This section shall in no way disqualify such family members who are bona fide appointive officers or employees of the city at the time of the election or appointment of said official.

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For 3/19/2014 meeting: Review of Commissioner Arbour's proposal to change the Mayor's term from four years to two years.

Arbour:
"I propose that we move to a two (2) year term for the mayor and retain the four (4) year term for council members."

Reason (see packet for full text):

This change will permit

1) Each council member to have a shot at the mayors' position every four years. The current system only permits one half of the council members (those elected in off mayoral election years) to challenge for the mayor position without jeopardizing their current position. This must have some value because so many of the charters we have looked at have followed this term of office pattern. See above.
2) We want to keep the council and mayor working together. If a slate of candidates wins voter approval in the off mayoral election cycle and have differing views than the legacy majority which includes the mayor there will be conflict, and changing elegancies possibly leaving the mayor with a minority position.

Smith comments:

1. Currently, every four years when the Village President is up for election there is the opportunity for up to three Council Trustees to run for President with no risk. There is no risk because they would only have to vacate their council position if they are elected President, if not, they continue on the council for the final two years of their term.

2. The proposal to change the Mayor for a 4-year term to a 2-year term does not eliminate the issue. Instead it means this would be an issue every two years rather than every four years.

3. In our Feb. 19, 2014 meeting packet, on page 27 a section from the Charter of Portage, Michigan was included in response to a request from Commissioner Arbour for "a review of possible language that would require a Councilperson interesting in running for Mayor to resign from Council".

4. In my comments distributed on Feb. 19, 2014 I included a copy of the language from the Portage charter and suggested revised wording for the Commission to consider as shown below.

2/19/2014: Review of language provided in packet regarding: **the need for a councilperson interested in running for Mayor to resign from council**, as requested by Arbour.

Sec 12.1 Regular City Elections [Portgage MI charter]

(c) A member of City Council whose term will not expire at the Mayoral election will not be eligible to run for Mayor unless such member of Council shall irrevocably resign his Council position before the deadline for filing nominating petitions for Mayor. Said resignations shall be absolute but shall not take effect until the day after the City election. Should one or more members of Council resign from office to run for Mayor, then their vacancies shall be filled for terms of two years by those persons receiving either the fourth, fifth, or sixth highest number of votes for Council member in the City elections.

Revised wording by Smith:

A current member of City Council is eligible to run for Mayor only if their current term expires during the year a Mayor is to be elected or if they irrevocably resign their Council position at least seven (7) days prior to the deadline for filing nominating petitions for Mayor. Said resignation shall be absolute and in writing, but shall not take effect until the end of the first Council meeting following the election. Following receipt of said resignation, the City Clerk shall plan to show three four-year terms and one two-year term for City Council on the ballot for the next regular City election. If the election does not fill all the open positions, filling of vacancies shall be done as stated in Section 2.06 (c).

I suggest such resignation to take effect "at the end of the first Council meeting following the election" because current Council members take office at the second meeting following the date of the November election. For example, in 2012 the election was on Nov. 6th and new members of Council took the oath of office at the second Council Meeting of the month on Nov. 26th.

I suggest that the inclusion of content on this issue be placed in the article on City Council, currently Article 2, under Section 2.02 (a) Eligibility.

Commissioner Arbour

Language taken from section VII of the model city charter.

I agree that we need an ethics board as a point of enforcement, but if the rules are known there will few in any infractions. I do not think we need an elaborate apparatus at this point and would strongly consider it the responsibility of the council to determine if this board is a standing committee of the council or a subcommittee. They should build the ordinance to follow the guidelines outlined in senate bill 576 (see second attachment) I think the last sentence of section B below is also important to let all concerned (elected officials, appointed and hired staff, and the voting public) know that we take this seriously.

Section 7.01. Conflicts of Interest; Board of Ethics.

(a) Conflicts of Interest.

The use of public office for private gain or the appearance of private gain is prohibited. The city council shall implement this prohibition by ordinance, the terms of which shall include, but not be limited to:

--- Acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public;

--- The acceptance of gifts and other things of value;

--- Acting in a private capacity on matters dealt with as a public official;

--- The use of confidential information; and

--- Appearances by city officials before council or other city agencies on behalf of private interests.

This ordinance shall include a statement of purpose and shall provide for reasonable public disclosure of finances by officials with major decision-making authority over monetary expenditures and contractual and regulatory matters and, insofar as permissible under state law, shall provide for fines and imprisonment for violations.

(b) Board of Ethics. The city council shall, by ordinance, establish an independent board of ethics to administer and enforce the conflict of interest and financial disclosure ordinances. No member of the board may hold elective or appointed office under the city or any other government or hold any political party office. Insofar as possible under state law, the city council shall authorize the board to issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint from officials or citizens, subpoena witnesses and documents, refer cases for prosecution, impose administrative fines, and to hire independent counsel. The city council shall appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it and to provide annual training and education of city officials and employees, including candidates for public office, regarding the ethics code.

Removal of independent board and add to council's policing duties.

b) Board of Ethics. The city council shall institute a board of ethics to administer and enforce the conflict of interest and financial disclosure ordinances. Insofar as possible under state law, the city council shall authorize the board to issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint from officials or citizens, subpoena witnesses and documents, refer cases for prosecution, impose administrative fines, and to hire independent counsel. The city council shall appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it and to provide annual training and education of city officials and employees, including candidates for public office, regarding the ethics code.

In October of 2013 the Michigan Senate passed the following bill and handed it off to the House for consideration.

SENATE BILL No. 576

October 2, 2013, Introduced by Senators SCHUITMAKER and JONES and referred to the
Committee on Reform Restructuring and Reinventing.

A bill to establish supplemental conflict of interest standards for members of regulatory bodies in the department of licensing and regulatory affairs; to require disclosure of certain interests; to provide grounds for removal of members of regulatory bodies; to provide a process for raising and determining possible conflicts of interest; and to provide for voiding certain actions taken in violation of this act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1.

(1) This act shall be known and may be cited as the "regulatory boards and commissions ethics act".

(2) As used in this act:

(a) "Board" means a board, commission, or committee in the Department that has authority in regulatory actions concerning private individuals or entities.

(b) "Department" means the department of licensing and regulatory affairs.

(c) "Immediate family member" means a grandparent, parent, parent-in-law, stepparent, sibling, spouse, child, or stepchild.

Sec. 2. In addition to any other standard of conduct or disclosure requirement that may apply to a member or designated alternate member of a board, each member or designated alternate shall comply with the standards set forth in this act.

Sec. 3.

(1) A board member shall do all of the following:

(a) Disclose to the board and the director of the department any pecuniary, contractual, business, employment, or personal interest that the board member may have in a contract, grant, loan, or regulatory matter before the board. Disclosure is also required if an immediate family member of a board member is a director, officer, direct or indirect shareholder, or employee of an entity under consideration for a contract, grant, or loan or is the subject of a regulatory action before the board. However, this subdivision does not require disclosure of a 2% or smaller interest in a publicly traded company.

(b) Refrain from participating in any discussion, directly or indirectly, with other board members regarding a matter before the board if the board member has a direct or indirect interest described in subdivision (a).

(c) Abstain from voting on any motion or resolution relating to a matter in which the board member has a direct or indirect interest described in subdivision (a).

(d) Use state resources, property, and funds under the board member's official care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

(2) A board member shall refrain from all of the following:

(a) Divulging to an unauthorized person any confidential information acquired in the course of the member's service on the board before the time prescribed or authorized for release to the public.

(b) Representing his or her personal opinion as that of the board or the department.

(c) Soliciting or accepting a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization other than this state that could reasonably be expected to influence the manner in which the board member performs official duties.

(d) Engaging in a business transaction in which the board member may profit from his or her official position or authority as a board member or benefit financially from confidential information that the board member obtained or may obtain incident to the board membership.

(e) Rendering services for a private or public interest if that service is incompatible or in conflict with the discharge of the board member's official duties.

(f) Participating in negotiating or executing contracts, making loans, granting subsidies, fixing rates, issuing permits or certificates, or other regulation or supervision relating to a business entity in which the board member or an immediate family member of the board member has a pecuniary or personal interest, other than a 2% or smaller interest in a publicly traded company.

Sec. 4. A contract, grant, or loan that a board enters into with or awards to a board member or an immediate family member of a board member with an interest in the matter is adopted in violation of conflict of interest standards and is voidable at the option of the department unless the affected board member complies with all of the following:

(a) Except as expressly permitted by applicable law, the affected board member has abstained from participating in the discussion or vote on the matter.

(b) The affected board member promptly disclosed the pecuniary, contractual, business, employment, or personal interest in the contract, grant, or loan in the manner required by this act and other applicable law.

Sec. 5.

(1) A board member who fails to disclose an interest described in section 3(1)(a) is subject to immediate removal from the board by the governor.

(2) A person who has reason to believe that a board member has failed to disclose an interest described in section 3(1)(a) or has an interest that is not required to be disclosed but that would have a tendency to affect the ability of the member to render an impartial decision on a matter may request, not later than 1 year after the board takes any action on the matter, that the board consider the issue of a conflict of interest as to that matter. The board members who are not the subject of the potential conflict of interest shall investigate the matter and decide the issue of whether or not the board member has an undisclosed interest described in section 3(1)(a) or has another conflict of interest sufficient to raise a reasonable doubt as to whether the board member could render an impartial decision.

(3) If a board determines that a member has an undisclosed conflict of interest in violation of section 3(1)(a), the member is subject to immediate removal by the governor. If a board determines under subsection (2) that the board member has another interest that is sufficient to raise a reasonable doubt as to whether the board member could render an impartial decision, any action the board took regarding the matter in which the board member with a conflict of interest participated is void unless affirmed by a majority of the board. The board shall reconsider the action without the participation of the board member who was found to have a conflict of interest.

Sec. 6. This act is intended to supplement existing ethics laws, and if there is a conflict, the following laws prevail:

(a) Section 10 of article IV of the state constitution 1963.

(b) 1978 PA 566, MCL 15.181 to 15.185.

(c) 1968 PA 318, MCL 15.301 to 15.310.

(d) 1968 PA 317, MCL 15.321 to 15.330.

e) 1973 PA 196, MCL 15.341 to 15.348.

Working language for forbidding pensions – Commissioner Mekas

Section 2.05 Prohibitions:

(d) Entering into new obligations on behalf of the City to provide defined benefit plans, pensions, or defined benefit retiree health care plans for the City Council, the mayor, the city manager, officers of the city, appointed employees, union employees, or any other person working and being compensated by the City.

I feel there needs to be a mention someplace that the City Council can and should establish a defined contribution plan, commonly referred to as a 401k or 403b plan, and that this prohibition does not affect that. My thought being to make the language as clear and understandable to anyone reading it and not everyone understands what defined benefit and defined contribution plan means.

If you think there should be a specific mention of providing a defined compensation plan I would suggest adding a sentence to the end of Section 2.04 Compensation; Expenses...

"The City Council shall provide for its employees a qualified defined contribution plan and at its discretion may provide for a matching contribution."