

REGULAR MEETING OF THE RIVERVIEW CITY COUNCIL
CITY OF RIVERVIEW, WAYNE COUNTY, MICHIGAN
HELD ON MONDAY, APRIL 1, 2019 A.D.
IN THE COUNCIL CHAMBERS OF
THE PETER ROTTEVEEL MUNICIPAL BUILDING
14100 CIVIC PARK DRIVE, RIVERVIEW, MICHIGAN 48193-7689

The meeting was called to order at 7:36 p.m.

Presiding: Mayor Swift

Present: Councilmembers Coffey, Towle, Elmer Trombley, James Trombley, Workman

Excused: Councilmember Blanchette (Personal Business)

Also Present: City Manager Drysdale, City Clerk Hutchison, Police Chief Rosebohm, Fire Chief Lammers, Human Resources Director Mayerich, Finance/Purchasing Director McMahon, Information and Technology Director Harper, Department of Public Works Director Webb, Interim Golf Course Operations Manager Kettler, Charles E. Raines Company City Engineer Sabak, Cornerstone Environmental Group Sr. Project Manager Wintheiser and Project Manager Bowyer, City Attorney Pentiuik

The **Pledge of Allegiance** was led by Councilmember Elmer Trombley.

The **Invocation** was given by Councilmember Towle.

AWARDS AND PRESENTATIONS AND PROCLAMATIONS:

None.

MINUTES:

Motion by Councilmember Coffey, seconded by Councilmember Elmer Trombley, that the **Minutes** of the Regular Meeting of **March 18, 2019**, and the condensed version for publication, be **Approved**. Carried unanimously.

PUBLIC HEARINGS:

None.

PUBLIC COMMENTS:

At this time, the Mayor asked if anyone wished to address the City Council.

ORGANIZATIONAL BUSINESS:

None.

CONSENT AGENDA:

Motion by Councilmember Coffey, seconded by Councilmember James Trombley, that the Consent Agenda be Approved as follows:

- Authorize the Preparation of Plans and Specifications, Solicit **Cooperative Bids**, and Perform Contract Administration, Inspection and Testing by Charles E. Raines Company for the **2019 Pavement Joint and Crack Sealing Program** in the total amount of **\$22,880.00**.
- Reject All Bids and Authorize Re-solicitation of Bids for **Parts and Labor Heavy Equipment**.
- Authorized Solicitation of Bids for one (1) **Replacement Excavator**.
- Authorize Solicitation of Bids for One (1) **Replacement Bulldozer**.
- Authorize Solicitation of Bids for **Cell 7 Phase 4 Construction**.
- Authorize Solicitation of Bids for **2019 Gas Collection Control System (GCCS) Construction**.
- Approve **Special Events** Application from Forest Elementary School for **Forest Family Fun Run** using city property on May 10, 2019.
- Approve Budget Amendment as follows:
A.

Description	Account Number	Current Appropriation	Amended Appropriation	Amendment or Change
2018/19 Public Works / Building Maintenance				
Defibrillators - Public Works	101-441-976.212	\$ 2,000.00	\$ 0.00	\$ (2,000.00)
Public Works Operating Supplies	101-441-740.000	\$ 11,085.00	\$ 13,085.00	\$ 2,000.00
Defibrillators - Building Maintenance	101-442-976.212	\$ 2,000.00	\$ 0.00	\$ (2,000.00)
Building Maintenance Operating Supplies	101-442-740.000	\$ 18,000.00	\$ 20,000.00	\$ 2,000.00

JUSTIFICATION: To decrease the Defibrillator line items in both the Public Works and Building Maintenance Funds, as defibrillators were supplied by the Police Department, and increase the Operating Supply line items in both the Public Works and Building Maintenance Funds, as both of these funds have been depleted by painting projects at the DPW, City Hall, Fire Hall, and Library.

RESOLUTIONS:

None.

ADMINISTRATION:

Motion by Councilmember Coffey, seconded by Councilmember Workman, that the **Bid Award**, Execution of **Agreements**, Authorization for **Solicitation of Finance Options** for Purchase of a **Bulldozer**, and the Acceptance of **Trade-in Offer** for CAT D7E LGP **2011 Bulldozer** in the Amount of **\$63,000.00** with **AIS Construction Equipment** Corporation of New Hudson, Michigan, for a total purchase amount of **\$336,000.00**, be Approved.

Carried unanimously.

Motion by Councilmember Elmer Trombley, seconded by Councilmember Workman, that a **Public Hearing** be Called for the Purpose of Considering the **Transfer** of Program **Year 2018** Community Development Block Grant (**CDBG**) Program income funds to **Park Playground Equipment** for a project in either **Memorial Park** or **Vreeland Park** (East of Quarry Road).

Carried unanimously.

ORDINANCES:

Motion by Councilmember James Trombley, seconded by Councilmember Coffey, that the Clerk be Authorized to give the **Second Reading**, by title only, and Adoption of Proposed **Ordinance No. 709**, Amending the Riverview Code of Ordinances by the Repeal and **Re-adoption Section 38-1**, Expanding the **Definition of Smoking** to include **Vaping** and **Marijuana** as being **Prohibited**.

Carried unanimously.

PROPOSED ORDINANCE NO. 709

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE CITY OF RIVERVIEW BY THE REPEAL AND RE-ADOPTION OF SECTION 38-1, "SMOKING AND VAPING PROHIBITED" OF ARTICLE I "IN GENERAL" IN CHAPTER 38 "OFFENSES AND MISCELLANEOUS PROVISIONS" TO EXPAND THE DEFINITION OF SMOKING TO INCLUDE VAPING AND MARIJUANA AS BEING PROHIBITED

THE CITY OF RIVERVIEW ORDAINS:

ARTICLE I. Amendment. That Section 38-1 titled "Prohibited Smoking" of Chapter 38, Article I "In General" is hereby repealed and readopted to hereafter read as follows:

CHAPTER 38 OFFENSES AND MISCELLANEOUS PROVISIONS
ARTICLE I. IN GENERAL

Section 38-1. Smoking and Vaping Prohibited.

(a) Definitions.

- (1) "Smoking or Vaping" means possessing a cigarette, e-cigarette, cigar, pipe or similar apparatus that contains tobacco, marijuana, cannabis or any other product that is lighted or burning; lighting a cigarette, e-cigarette, cigar, pipe or similar apparatus that contains tobacco, marijuana or cannabis or any other burning product that is contained in a pipe, cigar, cigarette, e-cigarette, or similar apparatus.
- (2) "City Building" means any building or structure owned, managed, operated, and/or leased by the City of Riverview.

(b) Smoking prohibited locations.

- (1) A person shall not smoke, vape, or use tobacco, marijuana or cannabis products on any city-

owned property or in any city owned building or facility, including, but not limited to, any park, outdoor athletic or recreational complex, trail, pathway, cemetery, or on any public property unless specific areas are designated as allowed by resolution regarding tobacco only.

- (2) A person shall not smoke, vape, or use tobacco, marijuana or cannabis products in any city owned parking lots when used for community events unless specific areas are designated as allowed by resolution regarding tobacco only.

(c) Signs.

Signs may be posted where smoking and the use of tobacco, marijuana or cannabis products are prohibited, but the absence of posted signs does not invalidate this ordinance.

(d) Violations and penalties.

A person who violates or fails to comply with this Section shall be subject to any one or more of the following:

- (1) Being asked to stop smoking or using the tobacco product;
- (2) Being asked to leave the premises;
- (3) Being responsible for a civil infraction punishable by a fine of \$100 plus court costs for the first offense, \$200.00 plus court costs for the second offense, and \$300.00 plus court costs for any violation thereafter.

ARTICLE II. Penalty: A person violating this ordinance shall be punished in accordance with Section 1-8 of the Code of Ordinances of the City of Riverview, unless a different penalty is expressly provided in this ordinance.

ARTICLE III. Severability: Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any Court of competent jurisdiction or by any agency having authority to do so for any reason whatsoever, such holding shall be construed and limited to such word, sentence, phrase or any portion of the Ordinance held to be invalid and shall not be construed as affecting the validity of any remaining words, sentence, phrases or portions of the Ordinance.

ARTICLE IV. Conflicting Ordinances: All prior existing ordinances adopted by the City of Riverview inconsistent or in conflict with the provisions of this Ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

ARTICLE V. Codification; Scrivener's Errors:

- (a). Article I of this Ordinance shall be codified, and all other sections shall not be codified.
- (b). The sections, divisions and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the Code codifier.
- (c). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

ARTICLE VI. Reading and Publication: This Ordinance shall be given a first reading on March 18, 2019 shall be given a second reading on April 1, 2019, shall be adopted on April 1, 2019 and shall be published and become effective upon publication. The Clerk shall publish a summary of this ordinance and include in the publication notice that a true copy of the Ordinance can be inspected or obtained at the Clerk's office.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Riverview this April 1, 2019.

The undersigned hereby certifies that the foregoing is a true and accurate copy of the ordinance adopted by the City Council of the City of Riverview at a regular meeting held on April 1, 2019.

Cynthia M. Hutchison, City Clerk

Motion by Councilmember James Trombley, seconded by Councilmember Coffey, that Proposed Ordinance No. 709 be Adopted.

Carried unanimously.

Motion by Councilmember James Trombley, seconded by Councilmember Coffey, that the Clerk be Authorized to give the **Second Reading**, by title only, and **Adoption** of Proposed **Ordinance No. 710**, Amending the Riverview Code of Ordinances by the Repeal and **Re-adoption** of Section **38-380, Possession or Use of Tobacco, Vapor or Alternative Nicotine Products by Minors** and the **addition** of **Section 38-381**, regarding **Prohibiting the Sale of Tobacco, Vapor or Alternative Nicotine Products to Minors**.

Carried unanimously.

PROPOSED ORDINANCE NO. 710

AN ORDINANCE TO AMEND CHAPTER 38 OF THE RIVERVIEW CODE OF ORDINANCES, "OFFENSES AND MISCELLANEOUS PROVISIONS", BY THE REPEAL AND RE-ADOPTION OF SECTION 38-380 "POSSESSION OR USE OF TOBACCO, VAPOR PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS", OF ARTICLE IX, "MINORS", DIVISION 1 "GENERALLY", TO INCLUDE E-CIGARETTES AND VAPING TO THE CONDUCT PROHIBITED BY MINORS; AND BY THE ADDITION OF SECTION 38-381 "SALE OF TOBACCO PRODUCTS, VAPOR PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE" TO ARTICLE IX, "MINORS", DIVISION 1 "GENERALLY", TO PROHIBIT SAME

THE CITY OF RIVERVIEW ORDAINS:

ARTICLE I. Adoption: That Section 38-380, Tobacco, is hereby repealed and readopted, and Section 38-381, Sale of tobacco products, vapor products or alternative nicotine products to persons under 18 years of age, is hereby added to hereafter read as follows:

CHAPTER 38 OFFENSES AND MISCELLANEOUS PROVISIONS ARTICLE IX. MINORS DIVISION 1 GENERALLY

Section 38-380. - Possession or use of tobacco, vapor products or alternative nicotine products.

(a) Definitions. As used in this section, the following definitions shall apply:

Chewing tobacco means loose tobacco or a flat, compressed cake of tobacco which is inserted into the mouth to be chewed or sucked.

Vapor product or alternative nicotine products means a noncombustible product containing nicotine or not that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means regardless of shape or size, that can be used to produce vapor from nicotine or not in a solution or other form. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form than is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include a product regulated as a drug or device by the United States Food and Drug Administration ("FDA") under subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 USC 351 to 360FFF-7.

Tobacco snuff means shredded, powdered or pulverized tobacco which may be inhaled through the nostrils, chewed or placed against the gums.

City Building means any building or structure owned, managed, operated, and/or leased by the City of Riverview.

Educational Facilities mean a building, facility, or structure and other real estate owned, leased, or otherwise controlled by a public school district, a private school, any building used for instruction of enrolled students, including but not limited to any day-care center, nursery school,

public or private school, college, university, medical school, law school, or career and technical education school.

Health Facilities mean places that provide health care. They include hospitals, clinics, outpatient care centers, specialized care centers.

- (b) *Possession or use in public and other designates places prohibited.* A person under 18 years of age shall not possess or smoke cigarettes or cigars, or possess or chew, suck, or inhale chewing tobacco or tobacco snuff, or possess or use tobacco in any other form, or possess or smoke vapor product or alternative nicotine products on a public highway, street, alley, park, or other lands used for public purposes, in a public place of business or amusement, in any city building, educational facilities, or health facilities.
- (c) *Penalty.* A person who violates subsection (b) of this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each offense. If the court determines it is appropriate, eligible juveniles may be referred to a diversion program. Pursuant to a probation order, the court may require a person who violates subsection (b) of this section to participate in a health promotion and risk reduction assessment program, if available. A probationer who is ordered to participate in a health promotion and risk reduction assessment program under this section is responsible for the cost of participating in the program. In addition, a person who violates this section is subject to the following:
- (1) For the first violation the court may order the person to do one of the following:
 - a. Perform not more than 16 hours of community service.
 - b. Participate in a health promotion and risk reduction program, as described in this subsection.
 - (2) For a second violation, in addition to participation in a health promotion risk reduction program, the court may order the person to perform not more than 32 hours of community service.
 - (3) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 48 hours of community service.
- (d) *Exemptions.* Subsection (b) does not apply to a minor participating in any of the following:
- (1) An undercover operation in which the minor purchases or receives a tobacco product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.
 - (2) An undercover operation in which the minor purchases or receives a tobacco product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.
 - (3) Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a substance abuse coordinating agency as defined in section 6103 of the public health code, 1978 PA 368, MCL 333.6103, and with the prior approval of the state police or a local police agency.
 - (4) To the handling or transportation of a tobacco product by a minor under the terms of that minor's employment.

Section 38-381. - Sale of tobacco products, vapor products or alternative nicotine products to persons under 18 years of age.

- (a) A person shall not sell, give or furnish any cigarette, cigar, chewing tobacco, tobacco snuff or tobacco in any form or vapor products or alternative nicotine products to a person under 18 years of age. A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each offense.

- (b) A person who sells tobacco products or vapor products or alternative nicotine products at retail shall post a sign as required by section 1 of Public Act No. 31 of 1915 (MCL 722.641), furnished by the state department of public health, that includes the following statement:

The purchase of tobacco products or vapor products or alternative nicotine products by a minor under 18 years of age and the provision of tobacco products or vapor products or alternative nicotine products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties.

- (c) It is an affirmative defense to a charge pursuant to subsection (b) of this section that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of cigarettes, cigars, chewing tobacco, tobacco snuff, and other tobacco products, vapor products or alternative nicotine products to persons under 18 years of age, and that the defendant enforced and continues to enforce the policy. A defendant which proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, upon the court and the city attorney. The notice shall be served not less than 14 days before the date set for trial.
- (d) A city attorney who proposes to offer testimony to rebut the affirmative defense described in subsection (c) of this section shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than seven days before the date set for trial and shall contain the name and address of each rebuttal witness.

ARTICLE II. Penalty: A person violating this ordinance shall be punished in accordance with Section 1-8 of the Code of Ordinances of the City of Riverview, unless a different penalty is expressly provided in this ordinance.

ARTICLE III. Severability: Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any Court of competent jurisdiction or by any agency having authority to do so for any reason whatsoever, such holding shall be construed and limited to such word, sentence, phrase or any portion of the Ordinance held to be invalid and shall not be construed as affecting the validity of any remaining words, sentence, phrases or portions of the Ordinance.

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ADOPTED, APPROVED AND PASSED by the City Council of the City of Riverview this 1st day of April, 2019.

The undersigned hereby certifies that the foregoing is a true and accurate copy of the ordinance adopted by the City Council of the City of Riverview at a regular meeting held on April 1, 2019.

Cynthia M. Hutchison, City Clerk

Motion by Councilmember James Trombley, seconded by Councilmember Elmer Trombley, that Proposed Ordinance No. 710 be Adopted.

Carried unanimously.

OTHER BUSINESS:

None.

CLOSED SESSION:

Motion by Councilmember James Trombley, seconded by Councilmember Coffey, to Recess into Closed Session for the Purpose of Discussing **Pending Litigation**.

Carried unanimously.

Meeting recessed at 7:54 p.m.

Meeting reconvened at 8:45 p.m.

Roll Call: Mayor Swift, Councilmembers Coffey, Towle, Elmer Trombley, James Trombley, Workman

Motion by Council Elmer Trombley, seconded by Councilmember Workman, to Concur with the Recommendation of the City Attorney regarding the **Operating Engineers 324 Pension Litigation** as set forth in the minutes of the Closed Session this evening.

Carried unanimously.

ADJOURNMENT:

Motion by Councilmember Elmer Trombley, seconded by Councilmember Coffey, that the meeting be adjourned.

Carried unanimously.

Meeting adjourned at 8:45 p.m.

Andrew M. Swift, Mayor

Cynthia M. Hutchison, City Clerk