

SPECIAL MEETING OF THE COUNCIL
OF THE
CITY OF DEARBORN

March 3, 2022

The Council convened at 7:06 P.M., President of the Council Michael Sareini presiding. Present at roll call were Councilmembers Abraham, Alsawafy, Byrnes, Hammoud, Herrick, Paris and President of the Council Sareini; Absent: none. A quorum being present, the Council was declared in session.

DATE : March 2, 2022
TO : City Clerk
FROM : City Council
SUBJECT : Special Meeting of the City
Council

Please be advised that a Special Meeting of the City Council has been called by Council President Sareini and Councilman Paris to be held on Thursday March 3, 2022 at 7:00 p.m., in Conference Room 1D, at the Dearborn Administrative Center, 16901 Michigan Ave., Dearborn, Michigan, for the following purpose:

1. To consider and take action on the FOIA Appeal submitted by Julie D. Higgins, and
2. To consider and take action on the Michigan Homeowner Assistance Fund (MIHAF) program to provide financial assistance to eligible homeowners, and
3. To consider other items of business that may properly come before the Council in relation to this matter.

S// Michael Sareini
Council President

S// Ken Paris
Councilman

By Sareini supported by Hammoud.

03-135-22. WHEREAS: On February 18, 2022, City Council received an e-mail communication from Julie Higgins appealing the City's denial of a Freedom of Information Request ("FOIA") that she submitted for a police officer's body camera video, and

WHEREAS: On April 25, 2019, Ms. Higgins was employed as a civilian employee of the Dearborn Police Department. She has since retired. Ms. Higgins is a person with a disability and is authorized to park in disability parking spaces. On that date, she drove to the Dearborn Administrative Center and intended to park in the designated disability parking spaces near the west doors. When she arrived, two parking spaces closest to the west entrance were occupied by a city vehicle because a city locksmith had been assigned the job of repairing the latch on the west doors. The locksmith used those spaces to have quick access to his tools. Ms. Higgins became upset with the locksmith's use of the disability parking spaces and called 911 for assistance, and

WHEREAS: Following the incident, the police department conducted an internal investigation to review the actions of the two police officers and the two civilian city employees. The investigation concluded that officers had acted appropriately but determined that Ms. Higgins had violated city policy by using profanity toward the dispatcher, and

WHEREAS: Since 2019, Ms. Higgins has submitted several FOIA requests for police department records pertaining to the incident, including for body camera video. She was provided with the body cam video for Cpl. Grzegorek, who had also responded to the scene. Ms. Higgins also sought Capt. Belloli's body camera video. She alleges that officers told her that Capt. Belloli's body camera video would be preserved and could be obtained by submitting a FOIA request. As it turns out, Capt. Belloli was not required to activate his body camera. The police department's body camera policy does not require that the camera be activated during interactions with city employees, which is the case with this incident, and

WHEREAS: Ms. Higgins indicates that Cpl. Wade (now Sgt. Wade), who was serving as the police department's FOIA officer, told her that he had preserved the video pursuant to her request. But Sgt. Wade was unable to locate any body camera video of the incident for Capt. Belloli, nor has Cpl. King, the current FOIA officer. Officers did locate a video taken by Capt. Belloli's body camera later that day that was tagged and preserved when a citizen filed a complaint about the interaction with police officers. But no video of Ms. Higgins' parking lot incident from Capt. Belloli's body camera has ever been located, and

WHEREAS: On January 11, 2022, the FOIA Coordinator sent a letter to Ms. Higgins denying the FOIA request because the requested record, Capt. Belloli's body cam video, does not exist. As required by MCL 15.235 (5) (b), the letter certified that the requested record does not exist, and

WHEREAS: Pursuant to MCL 15.240, upon receiving an appeal, the City Council shall either (1) reverse the denial, (2) issue a written notice to the requester upholding the denial, or (3) reverse the denial in part and issue a written notice to the requestor upholding the denial in part. In this case, the requested record does not exist and the city has certified that fact to Ms. Higgins. The city cannot produce a record that does not exist. Accordingly, the Legal Department respectfully requests that the City Council uphold the denial of Ms. Higgins' December 21, 2021 FOIA request; therefore be it

RESOLVED: Council cannot produce a record that does not exist; be it further

RESOLVED: Council hereby issues a written notice to Ms. Higgins upholding the denial.

The resolution was unanimously adopted.

By Abraham supported by Alsawafy.

03-136-22. WHEREAS: MHSDA has created a federally funded program under its Michigan Homeowner Assistance Fund (MIHAF) Program, and

WHEREAS: The MIHAF program was established to mitigate financial hardships associated with the coronavirus pandemic by providing funds to eligible entities, the Provider(s) as described herein, for the purpose of preventing homeowner mortgage delinquencies, defaults, foreclosures, loss of utilities or home energy services, and displacements of qualified homeowners ("Homeowners") experiencing financial hardship after January 21, 2020, through qualified expenses related to mortgages and housing, for the benefit of those Homeowners, and

WHEREAS: Provider is mortgage-loan servicer, mortgage holder, County Treasurer, land contract vendor, condominium association, or provider of public utilities, to whom one or more debts are owed that are eligible as Qualified Expenses under the MIHAF, and

WHEREAS: If a mortgage-loan servicer or mortgage-holder, Provider is a State, Federal, or national bank regulated by the Federal Reserve, a national bank or federally chartered bank regulated by the Office of the Comptroller of the Currency (OCC), a state bank regulated by the Federal Deposit Insurance Corporation (FDIC), a state or federal chartered credit union regulated by the National Credit Union Administration (NCUA), a state-chartered bank, credit union, or mortgage servicing organization regulated by the Michigan Department of Insurance and Financial Services (DIFS), or a governmental agency, that own the mortgage servicing rights of mortgage loans and services certain mortgage loans for borrowers who may be eligible to participate in the MIHAF program, and

WHEREAS: If a County Treasurer, Provider is the office of the duly designated receipt of real-property taxes for a county of the State of Michigan, with statutory powers of collection and foreclosure pursuant to the General Property Tax Act, Act 206 of 189, and

WHEREAS: If land-contract vendor, Provider is the vendor of an enforceable land contract governing real property located within the State of Michigan, and possessing legitimate powers of forfeiture and/or foreclosure pursuant to Michigan law, and

WHEREAS: If a condominium association, Provider is a legally recognized entity with authority to administer a condominium project located within the State of Michigan, and possessing a power of foreclosure pursuant to the Michigan Condominium Act, Act 59 of 1978, and

WHEREAS: If a provider of public utilities, Provider is an entity that provides electric, gas, home energy, water, internet service, or related goods and services to one or more residential properties within the State of Michigan, possessing a power to discontinue such services in the event of non-payment by the affected residents, and

WHEREAS: The above-defined Provider is able to document their authority to conduct business within the State of Michigan; where Provider is a company, Provider is able to provide a certified copy of Articles of Incorporation/Organization and certificate of Good Standing from the State of Michigan, or comparable verification of legitimate organization, upon request by MSHDA; where Provider is a County Treasurer, Provider is able to provide confirmation of same on County letterhead; where Provider is a land-contract vendor, Provider is able to provide confirmation that Provider is the person or entity eligible to receive payment under the terms of the land contract. If Provider is a non-Michigan business entity, Provider must upon request provide a certified copy of Articles of Incorporation/Organization filed in the State of Michigan, together with a Certificate of Authority to transact business in Michigan, and

WHEREAS: Provider desires to participate in the MIHAF Program, and

WHEREAS: Provider understands that participation in the MIHAF Program is voluntary and is distinct from Provider's participation in any other local, state, or federal foreclosure prevention, eviction prevention, or utility-access preservation programs, and

WHEREAS: Provider and MSHDA desire to enter into this Agreement to set forth certain premises and mutual covenants; therefore be it

RESOLVED: MSHDA and Provider agree as follows:

1. Application Process - Homeowners will access the MIHAF Program through an online MIHAF application, or through a secure phone link, using systems established or designated by MSHDA. Provider understands that it will not be involved in determining eligibility for MIHAF Program, and that MSHDA shall make eligibility determinations according to its sole interpretation of MIHAF program guidelines.
2. Selection/Qualification of Borrowers - MSHDA shall be responsible for the selection/qualification of Homeowners to receive MIHAF Program funding. Provider may refer potentially eligible borrowers to MSHDA, and Provider is encouraged but not required to market the MIHAF Program. MSHDA shall make marketing materials available to Provider including web graphics and brochures in pdf format. Providers may refer Homeowners to MIHAF's website at www.michigan.gov/mihaf or MIHAF customer service at 844-756-4423 to apply or for MIHAF Program information.
3. Point of Contact - MSHDA shall provide a list of key contacts to Provider. Provider agrees to provide a primary and secondary point of contact, and electronic funds transfer information to MSHDA to facilitate communication and transfer of program funds (Exhibit A) and shall provide accessible contacts to MIHAF Program eligible Homeowners to address Provider's participation in the MIHAF Program and the administration of MIHAF payments as to Homeowner 's accounts with Provider.
4. ACH Payments - Provider shall promptly provide ACH transmission information to MSHDA, as described in Exhibit A. Provider agrees that all MIHAF payments will be made via ACH.

5. Information Sharing/Written Authorization - MSHDA shall be responsible for procuring written authorization from each Homeowner to share information with Provider. A copy of the signed authorization will be provided to Provider through secured e-mail or web portal. Provider agrees to communicate information about the resolution of the assisted Homeowner's deficiency or default including suspension or termination of foreclosure or forfeiture proceedings, or other resolution options, to MSHDA. MSHDA and Provider agree to use a defined automated and secure process to submit borrowers to Provider for workout consideration.

6. Transmission of Non-Public Personal Information - All communication that includes a Homeowner's Nonpublic Personal Information (as defined below) between MSHDA and Provider shall be sent through encrypted e-mail, secure loan portal or other similar secure electronic delivery system. MSHDA and Provider agree that they will maintain or implement appropriate measures designed to (a) ensure the security and confidentiality of any Nonpublic Personal information it received from the other party, (b) protect against any anticipated threats or hazards to the security or integrity of such information, (c) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to the subject of such information, (d) ensure the proper disposal of all Nonpublic Personal Information received from the other party upon the termination of the Agreement for any reason, unless the information is required to be retained for legal or regulatory record retention purposes, (e) treat the Nonpublic Personal Information with at least the same degree of care that it uses to protect its own confidential and proprietary information of a similar nature but with no less than a reasonable degree of care, and (f) implement or utilize appropriate technological safeguards that are at least in compliance with the Gramm-Leach Bliley Act and generally recognized industry standards.

"Nonpublic Personal Information" means any information received from or provided by the other party which pertains to or identifies an individual, such as name, postal address, e-mail or IP address, facsimile or phone number, mother's maiden name, social security or identification number, transactional, employment, financial data, medical or health records, personal, gender, political profile, account, and password information.

7. Homeowner Assistance - Once a Homeowner is accepted to the MIHAF Program, Provider shall not initiate foreclosure, forfeiture, nor collections, and if the Homeowner is already in the foreclosure, forfeiture, or collections process, shall not continue such process during the term of assistance. In the case of utility assistance, utility service shall be restored. Where a Homeowner's obligations to Provider exceed the maximum assistance that the MIHAF Program will pay on Homeowner's behalf, the MIHAF Program may still pay such benefits for the benefit of the Homeowner, but any agreement addressing the remaining deficiency will be strictly between Provider and Homeowner; neither MSHDA nor the MIHAF Program shall have any further obligation as to such a deficiency, nor shall MSHDA participate in the resolution of, nor be a party to, any agreement resolving such a deficiency. Providers are encouraged but not required to consider mechanisms for addressing such a deficiency that will delay the risk of additional default, such as amortizing the deficiency into future payments due from Homeowner.

MSHDA and Provider agree that all MIHAF Program Homeowner assistance options will be conducted in accordance with the MIHAF program descriptions and requirements detailed in the respective program term sheet(s), which are attached as Exhibit B and incorporated herein. Although Homeowner may be eligible for more than one type of relief under the MIHAF Program, Homeowner may only receive such relief one time, and once per home address: there shall be no duplication of relief within the MIHAF program, or between the MIHAF program and any other federal assistance programs. Provider recognizes that the MIHAF program is a federal program administered by the U.S. Treasury, may be subject to program guideline changes issued after the date of this agreement, and agrees to abide by the terms of subsequent or superseding federal guidance.

Provider agrees the program guidelines may be amended by MSHDA from time to time. Provider has reviewed the program term sheet and agrees to comply with all Program guidelines as outlined by MSHDA. MSHDA will notify the primary contact provided by Provider of any program amendments and/or changes. Provider is responsible to obtain any required investor and mortgage insurer approval.

8. MIHAF Program Approval - Upon notification by MSHDA that a Homeowner has been conditionally approved for MI HAF, Provider agrees to promptly accept or deny each Homeowner's participation in the MI HAF Program. Provider agrees that denial shall be only for good cause such as pending litigation, potential fraud, bankruptcy restrictions, and foreclosure status or if denied by investor or mortgage insurer for good cause.
9. MIHAF Program - Provider agrees to provide timely communication of Homeowner 's deficiency status to the MSHDA, including sufficient information to identify that the correct deficiency matched to the correct Homeowner, and the amount owed. Provider agrees to apply MI HAF funds towards principal, interest, taxes, and insurance (collectively PITI). MSHDA agrees Provider may apply such funds towards attorney's fees, late charges and NSF fees, property inspection fees, escrow shortage and/or delinquent property taxes, one year of standard homeowner 's insurance if forced place insurance has been invoked, and other fees and expenses if they are deemed an advance on Program funds towards delinquent property taxes.
10. Timing - Provider acknowledges that it is responsible for timely application of MIHAF Program funds. Provider shall hold the Homeowner harmless if payments are not applied timely. Provider agrees that it will timely provide MSHDA with written reports documenting application of MIHAF Program funds or alternatively to provide MSHDA an exception report for any funds that could not be applied. All remaining delinquencies identified after MIHAF funding must be resolved between Homeowner and Provider. The period of performance for MIHAF Program awards begins on the date hereof and ends on September 30, 2026, unless otherwise extended by U.S. Treasury. Provider shall not be eligible to receive MIHAF Program funds after such period of performance ends.

11. Repayment of Funds - Where the Homeowner has an ongoing obligation to the Provider that will continue after application of program funds to the deficiency, such as with an ongoing mortgage loan, MSHDA agrees that Provider will not be required to repay amounts applied to a borrower's loan if that borrower is later determined to be ineligible. If the Provider is eligible to retain excess funds and overages, those may be retained by Provider and applied for the benefit of the Homeowner 's ongoing obligation. Provider may be required by MSHDA to demonstrate how retained excess funds will be applied for the benefit of the homeowner, in such format as MSHDA shall require. If Provider is not eligible to retain and apply excess assistance due to the lack of an ongoing obligation or shall otherwise fail to apply Grant funds to the Homeowner 's housing delinquencies, such unapplied funds are the property of MSHDA and shall be promptly returned to Grantor within thirty (30) days of determination of excess funding, but in any event shall not be paid directly to the Homeowner.
12. Homeowner Actions/Fraud - Provider agrees to promptly notify MSHDA in writing of any ongoing legal action against a Homeowner, including fraud-related activities.
13. Cessation of Mortgage Payments - MSHDA agrees it will promptly provide notice before it ceases payment of MIHAF Program funds to allow Provider time to evaluate the Homeowner for other loss mitigation options.
14. MIHAF Program Eligibility - Provider agrees that it is not authorized or empowered to determine and/or communicate to the Homeowner eligibility for MI HA F Program funds. MSHDA agrees that it is not authorized or empowered to determine and/or communicate to the Homeowner eligibility for foreclosure, forfeiture, or shut-off prevention programs of Provider. MSHDA retains sole authority for its MI HAF Program eligibility determination and communication to the Homeowner and Provider. Provider will communicate with Homeowner and MSH DA regarding modification and other Provider-driven approvals.
15. Provider Legal Compliance Obligations - Provider recognizes and accepts that the MIHAF Program is a federally funded grant program and acknowledges that failure to abide by MIHAF Program terms may result in recapture of grant funds or other sanctions.

Provider will comply with local, state, and federal laws pertaining to discrimination , including, but not limited to: the Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations; Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) and implementing regulations; Title VIII of the Civil Rights Act of 1968 (as amended by the Fair Housing Amendments Act of 1988) and implementing regulations; the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations; Title II of the Americans with Disabilities Act (42 U.S.C. 12101, et seq); the Elliott-Larsen Civil Rights Act; and the Michigan Persons With Disabilities Civil Rights Act.

16. Termination - Participation in the MIHAF Program is voluntary, and either Provider or Homeowner may terminate their respective participation agreement without cause, with 30 days written notice, unless or until MIHAF Program funds have been paid to Provider by MSHDA and accepted by Provider for the benefit of the Homeowner. Either party may terminate immediately upon material breach from the other party; in event of such termination, Provider shall accept and apply payments as agreed on behalf of a Homeowner already approved prior to the immediate termination, or shall return applicable assistance funds to MSHDA, at Provider's discretion.

The resolution was unanimously adopted.

There being no further business, upon a motion duly made, seconded and adopted, the Council then adjourned at 7:45 P.M.

APPROVED:

President of the Council

ATTESTED:

City Clerk