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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division Staff

DATE: May 9, 2023

RE: **MEMO REGARDING THE RESOLUTION ON CELL PHONE TOWERS IN SCHOOLS**

On May 8, 2023, the Public Health & Safety Committee assigned the Legislative Policy Division (LPD) to review the resolution that City Council passed on April 25, 2023, entitled “Resolution On Cell Phone Towers Information.” LPD drafted the following memo reviewing the resolution.

Council Member Mary Waters drafted the initial resolution in response to community members who expressed concern that the installation of cell phone towers on public school property presented a potential health hazard to children attending Detroit Public Schools Community District (DPSCD) schools. Member Waters then asked LPD to review the resolution prior to introducing it at the Public Health & Safety Committee. LPD made minor changes to the resolution, and the revised version was ultimately passed at formal session on April 25, 2023.

On May 8, 2023, Member Waters stated during the Public Health & Safety Committee meeting that community members have been critical of the resolution, particularly the changes suggested by LPD. Below is a summary of those changes.

Emphasizing DPSCD’s Responsibility to Protect Students

The Preamble of the Detroit City Charter states that “[t]he City shall provide for the public peace, health and safety of persons and property within its jurisdictional limits” and that the Charter “affirms our

commitment to the development and welfare of our youth.” Therefore, the resolution was proper because the City Council has an obligation to protect the health and safety of children who reside in Detroit.

However, City Council is not the only entity responsible for the health and safety of schoolchildren. DPSCD, which is governed by a Board of Education, is responsible for the operation and management of the City’s public schools, including school property. Therefore, LPD added language to the resolution to emphasize DPSCD’s responsibility to ensure that changes to school property do not have negative health effects on students.

The Charter Prohibits City Council from Issuing a Directive to the Health Department

The initial draft of the resolution also stated that “City Council *directs* the Detroit Health Department to study the number of Detroit children who are regularly in close proximity to mobile phone towers in the City of Detroit.” LPD replaced the word “**directs**” with “**urges**” due to limitations on City Council’s authority pursuant to the Charter.

Section 5-101 of the City Charter states that “[t]he Mayor is the chief executive of the City and, as provided by this Charter, has control of and is accountable for the executive branch of city government.” The Health Department is part of the City’s executive branch under the authority of the Mayor. Section 4-113 of the Charter states:

“... the City Council or its members shall deal with city officers and employees who are subject to the direction and supervision of the Mayor solely through the Mayor, and neither City Council or its members shall give orders to such officer or employee, either publicly or privately.”

Therefore, the Charter prohibits City Council from directing the Health Department to conduct a health study.

Conclusion

The changes that LPD made to the resolution were 1) emphasizing DPSCD’s responsibility to ensure that changes to school property do not cause negative health effects; and 2) “urging “the Health Department to conduct a study as opposed to “directing” the Health Department to conduct a study. LPD maintains that these changes were proper and advisable. If City Council wishes to revise the resolution, LPD will continue to provide guidance as necessary.

Please contact our office if you need anything further.