



## CITY COUNCIL

April 21, 2014

A regular meeting of the City of Petoskey City Council was held in the City Hall City Council Chambers, Petoskey, Michigan, on Monday, April 21, 2014. This meeting was called to order at 7:00 P.M.; then, after a recitation of the Pledge of Allegiance to the Flag of the United States of America, a roll call then determined that the following were

Present: William Fraser, Mayor  
Kate Marshall, City Councilmember  
John Murphy, City Councilmember  
Grant Dittmar, City Councilmember  
Jeremy Wills, City Councilmember

Absent: None

Also in attendance were City Manager Dan Ralley, City Clerk-Treasurer Alan Terry, City Planner Amy Tweeten and Downtown Director Becky Goodman.

Resolution No. 18760  
Approve Consent Agenda Items

Following introduction of the consent agenda for this meeting of April 21, 2014, City Councilmember Dittmar moved that, seconded by City Councilmember Wills adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the March 17, 2014 regular-session and March 24, 2014 special-session City Council meeting be and are hereby approved; and

BE IT FURTHER RESOLVED that receipt by the City Council of a report concerning all checks that had been issued since March 17 for contract and vendor claims at \$1,191,592.23, intergovernmental claims at \$43,406.77, and the March 27 and April 10 payrolls at \$343,946.14, for a total of \$1,578,945.14 be and is hereby acknowledged.

Resolution No. 18761-62  
Confirm Appointments

Mayor Fraser then reviewed that City Council consider appointments to the Board of Review and Zoning Board of Appeals.

City Councilmember Marshall moved that, seconded by City Councilmember Murphy, adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby approves the appointment of William Meengs, Jr., to the Board of Review to fill the vacant full time appointment:

BE IT FURTHER RESOLVED that the City Council does and hereby approves the appointment of Joel Wurster, 909 Spruce Street, to the Board of Review, as the alternate for a three-year term ending April 2017.

Said resolution was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills, Fraser (5)  
NAYS: None (0)

Council discussed the appointment process for individuals to City Boards and Commissions that may provide representation through the wards and discussed ways to inform the public of openings.

City Councilmember Marshall moved that, seconded by City Councilmember Dittmar, adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby approves the appointment of Michael Karr, 608 East Mitchell Street, and Lori Pall, 603 East Lake Street, to the Zoning Board of Appeals both for three-year terms ending April 2017.

Said resolution was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills, Fraser (5)

NAYS: None (0)

Hear Public Comment

Mayor Fraser asked for public comments and heard from Bill Atkins, 904 Michigan Street, that a formalized process should be in place for appointing individuals to Boards and Commissions that indicate expected time commitments and prior notification to Council of openings. George Ramey, Little Traverse Township, commented that Council could inform the audience of candidate information.

Hear City Manager Updates

The City Manager reported that the US-31 project is progressing on schedule and that the detour is expected to be in place until Memorial Day. The City Manager also reviewed a letter received from MDOT regarding the Mitchell Street bridge railing.

City Councilmembers discussed MDOT's response letter to the Mitchell Street bridge railings and is disappointed with the response and MDOT's emphasis on cars vs. pedestrians; of the need for a place of refuge; and discussed issues for pedestrian traffic. The Mayor indicated that he would contact State Representatives Walker and Foster regarding this matter.

City Councilmember Murphy motioned, supported by City Councilmember Dittmar to send a letter to the Governor from the City Council regarding the bridge. Said motion was unanimously approved as submitted.

Mayor Fraser asked for public comments and heard comments opposed to MDOT's response and that it is not acceptable; that pedestrian safety is a priority; that an accident could happen with passing vehicles that have a protruding object; and that two years ago this matter was discussed and if there is a delay would cost substantial dollars.

In other updates the City Manager noted that Arlington Avenue work has begun; and that the run water notice is still active due to continuing freeze-ups.

First Reading of Rezoning Ordinances  
B-2A Transitional Business District, B2-B  
Mixed Use Corridor District, RM-2  
Multiple Family Zoning District & B-2  
Central Business District

The City Planner gave an overview of the proposed zoning changes which would create two new zoning districts and rezone four separate areas, all proximate to downtown Petoskey. The Planning Commission recommended each of these proposed changes to Council. Discussions about the proposed zoning changes originated with new development on Howard Street north of Bay Street that began in 2010. In response to public comment as part of that development, the Commission further discussed the appropriateness of the Central Business District zoning standards for the block of Howard Street north of Bay Street.

In these discussions, it was recognized that there are other areas south of Petoskey's traditional downtown that also have a different form and composition than the majority of the CBD.

The area south of downtown along the rail corridor is likely to redevelop in the future, and the Commission recommended that zoning encourage a wide mix of uses and that the area allow for a compact development form that will enhance adjacent residential neighborhoods through the establishment of a new B-2B zoning district.

In looking at areas south of downtown, it was recognized that the existing zoning districts should be modified to better reflect the existing or desired character of certain areas. These areas include the block bounded by Elizabeth Street, Michigan Street, US-31 and Mitchell Streets where the Commission recommended residential zoning standards (RM-2) rather than the existing Office Service zoning standards for areas that are residential in character. A similar recommendation is being made for nine residential parcels located between Grove, Petoskey, Emmet and Rush Streets that are currently zoned B-3 General Business that are recommended to change to RM-2 to better reflect their existing character.

Finally, the Planning Commission recommended an enlargement of the Central Business District to encompass property owned by Family Video that serve as the entrance to downtown Petoskey. The rezoning of these properties from B-1 Local Business and O-S Office Service to B-2 Central Business District is proposed to ensure that the redevelopment of this area has the same development standards as the remainder of the CBD, including zero lot-line constructions and a minimum of a two story building. This area is already part of the downtown area parking exempt district.

### **New Zoning Districts and Proposed Re-Zoning:**

#### **Central Business District to Transitional Business District (B2-A)**

This new zoning district, B-2A Transitional Business, is proposed for properties north of Bay Street and five properties north of Michigan Street that are currently within the B-2 Central Business District.

These properties generally have a different form than rest of the Central Business District, with residential structures and larger setbacks. The changes to the B-2 District regulations in 2013 made several of the buildings in these areas non-conforming. The new district would allow the same uses as the CBD, but without the restrictions that new construction must be two stories, first floor has to be commercial and the zero-lot line front setback requirement.

The stated intent of the new district is “to complement the historic urban core of the Central Business District, while providing a transition area to adjacent neighborhoods. The district has a less intensive development pattern than the Central Business District, but with a similar mix of uses to maintain and promote a pedestrian-friendly environment.” In recommending the new zoning district, the Planning Commission considered the goals and future land use map of the City Master Plan and determined that the proposed amendments will enable redevelopment that will help the community reach these goals, as well as decrease the number of non-conforming properties.

#### **B3 General Business and I1 Light Industrial to B2-B Mixed Use Corridor (B-2B)**

The proposed mixed-use corridor includes properties south of the Central Business District that run along the Downtown Greenway Corridor and Emmet Street that are currently zoned B-3 General Business. This area is seen as a potential redevelopment area in the coming years, and the goal of creating a new zoning district is to highlight the connection to downtown through the greenway corridor, encouraging a wide mix of uses with an urban development form that will then allow for a compact, accessible neighborhood to enhance adjacent residential neighborhoods.

The intent of the Mixed Use Corridor is to “provide a transition between the historic urban core of the Central Business District and the historic commercial district along the Emmet Street corridor. The district allows a wide mix of uses to maintain and promote a neighborhood that can meet the daily needs of its residents in walking proximity.”

This proposed change is reflected in the Future Land Use Map of the City Master Plan which shows the area as Neighborhood Mixed Use and is consistent with several Master Plan goals and objectives.

## **Other Proposed Zoning Changes**

### **Office Service and General Business to Multiple Family (RM-2)**

The properties bounded by Elizabeth Street, Michigan Street and Emmet Street, as well as 9 properties on Petoskey, Fulton and Washington are all currently residential structures and residential uses. The adjacent properties are zoned Multiple Family and the rezoning of these properties to RM-2 is to encourage the revitalization of this area for residential purposes, not to encourage redevelopment or re-use for commercial purposes. Existing structures are a mix of single and multi-family, providing a range of housing choice within walking distance to the downtown.

This proposed change is reflected in the Future Land Use Map of the City Master Plan which shows the area as mixed residential, is consistent with the Master Plan goals and objectives, and will not create non-conforming uses.

### **Office Service and Local Business to Central Business District**

The properties fronting the 100 Block of East Mitchell serve as the entrance to downtown Petoskey and the rezoning of these properties to B-2 Central Business District is proposed to ensure that the redevelopment of this area has the same development standards as the remainder of the CBD, including zero lot-line construction and a minimum of a two story building.

The stated intent of the Central Business District is to “protect and enhance the vibrant pedestrian-oriented shopping and service environment of historic downtown Petoskey. The physical building form and land uses are regulated to reflect the urban character of the historic commercial center of the community and to perpetuate the pedestrian-oriented business district by requiring street level commercial uses and permitting a mix of upper floor uses.”

The proposed changes are consistent with the Master Plan goals of maintaining and enhancing downtown Petoskey as the regional economic and cultural center of the community and promoting economic development that protects and enhances the community’s natural, historic, social and cultural resources. The Downtown Management Board has also discussed the importance of this block to drawing people into downtown.

City Councilmembers discussed Emmet Street crossing for pedestrians and the width difficulty; where a drive thru may be allowed; and discussed history of the Family Video site and how the new ordinances may affect that location. The Planner noted that B-2A does not allow drive thrus and B-2B allows drive thrus with special conditions; and Councilmembers discussed possibility to prohibit drive thrus. Councilmembers further discussed various aspects of the proposed ordinances.

Mayor Fraser asked for public comments and heard an inquiry on DDA boundaries and if there were any changes; and what the change in design guidelines would be for the new zoning areas.

City Council will consider a second reading and possible action on these four ordinances at the May 5, 2014 City Council meeting.

#### **Resolution No. 18763 - Approve Local Revenue Sharing Board Application for In Car Video System**

The City Manager next reviewed that the Local Revenue Sharing Board was accepting applications for governmental purposes. City staff requested authorization to submit an application for the needed replacement of six in-car audio and video recording systems currently used in each of the marked police vehicles in the amount of \$25,000.

These systems are widely used by law enforcement to help deter abuses by officers, limit frivolous complaints and lawsuits against officers and help build and restore confidence in the fairness of police departments. The existing video recording system is outdated and failing and repairs and equipment replacement have become expensive.

City Councilmember Wills moved that, seconded by City Councilmember Marshall adoption of the following resolution:

WHEREAS, the Petoskey Department of Public Safety wishes to apply for \$25,000 in funding from the Local Revenue Sharing Board for the needed replacement of six in-car audio and video recording systems currently used in each of the marked police vehicles:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council hereby endorses and authorizes the submission of the Proposal Summary the needed replacement of six in-car audio and video recording systems currently used in each of the marked police vehicles and requests that the Local Revenue Sharing Board consider funding for this project.

Said resolution was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills, Fraser (5)

NAYS: None (0)

Resolution No. 18764 - Approve  
MDOT Contract for Utility Work between  
Liberty & Mitchell St. Bridge on US-31

2014 US-31/West Mitchell Street project.

The City Manager next reviewed the proposed contract with MDOT in the amount of \$21,000 for the replacement of sanitary sewer infrastructure between Liberty Street and the Mitchell Street bridge on US-31. This work would be performed on the City's behalf by MDOT as part of the

In 2014, MDOT is undertaking a variety of different improvements along the stretch of US-31 between East Mitchell Street and the US-31/131 intersection. As part of the project MDOT will be realigning a portion of Connable Avenue near Mitchell Street to create a "T" intersection along with the replacement of underground sewer and water infrastructure in vicinity of the re-aligned intersection. The City previously entered into a contract, authorized by City Council in September 2013, for \$112,600 for utility and roadway work in the vicinity of this realigned intersection.

Not originally included in the project, due to a lack of funding, was the reconstruction of US-31 between Liberty Street and the Mitchell Street bridge. In December 2013 the State Legislature announced additional road funding, including \$400,000 for this stretch of roadway on US-31. The City has both water and sanitary sewer infrastructure within this stretch of highway that is failing and in need of replacement. Under MDOT's Municipal Utility Policy it has agreed to bear the cost of the waterline replacement in this two block segment since the age of this infrastructure could jeopardize the roadway if it failed. However, consistent with the Municipal Utility Policy, MDOT is unable to pay for the sanitary sewer work that is estimated to cost \$21,000.

The partnership with MDOT on the West Mitchell Street project has helped to reduce the City's costs and also helped to ensure that there is coordination between the roadway reconstruction and the utility replacement. The political allocation of additional funding in late 2013 resulted in an extremely short timeline for the design of the Liberty Street to the Mitchell Street bridge segment of US-31. In addition, the early start date of construction, necessary to minimize traffic disruptions, has resulted in the formal contract for this work coming to the City after the start of construction.

City Councilmember Murphy moved that, seconded by City Councilmember Dittmar adoption of the following resolution:

WHEREAS, the City Council, by Resolution on September 23, 2014, authorized a contract with MDOT for utility replacement and roadway work near the intersection of Connable and US-31 as part of access management and roadway improvements on US-31 in Petoskey; and

WHEREAS, MDOT received additional roadway repair funding in December 2013 that will now allow for the reconstruction of US-31 between Liberty Street and the Mitchell Street Bridge; and

WHEREAS, MDOT's Municipal Utility Policy permits MDOT to cover costs associated with waterlines that may jeopardize a State roadway, but does not permit MDOT to pay for costs associated with the replacement of sanitary sewer mains; and

WHEREAS, MDOT has agreed to administer and oversee the contract for utility replacements in this segment in order to ensure coordination with other construction work being performed in the area:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Petoskey does and hereby authorizes the execution of MDOT Contract Number 14-5171 in the amount of \$21,000; and

BE IT FURTHER RESOLVED that the Mayor and City Treasurer be hereby authorized to execute such documents.

Said resolution was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills, Fraser (5)  
NAYS: None (0)

Resolution No. 18765 - Approve  
4<sup>th</sup> Amendment to the Krause Road  
Tower Agreement

The City Manager next reviewed the amendment with New Cingular Wireless PCS aka AT&T for the Krause Road Tower lease. The City owns approximately 5.5 acres of land in Bear Creek Township on Krause Road that, in 1997, was leased to the CCE pursuant to a 30-year lease agreement (10 year term with two 10 year options to renew). CCE sub-leased the property to Trillium Cellular Corporation, dba Cellular One of Traverse City, (now managed by New Cingular Wireless PCS aka AT&T) pursuant to a certain Tower lease.

Under this tower lease, Trillium Cellular constructed a 300-foot tower and leased space on the tower for \$1.00 per year, and turned over ownership of the tower to CCE. In 2009 the City agreed to assume ownership of the tower from CCE in exchange for collecting the entire rent generated by leases on this tower.

In September 2010 the City renegotiated New Cingular Wireless' lease (2<sup>nd</sup> Amendment) for the Krause Road tower as part of equipment upgrades related to the 3G data service improvements in exchange for an increase in the monthly rent to \$1,200. In 2013, City Council approved a lease amendment proposed by New Cingular in order to further upgrade antennas on the tower as part of AT&T 4G LTE service improvements and agreed to an increase in monthly rent of \$2,000 as part of these upgrades.

New Cingular requested a fourth lease amendment in order to replace the six existing antennas with six antennas that can be remotely adjusted and is proposing a \$10,000 one time payment in exchange for this lease amendment.

City Councilmember Marshall moved that, seconded by City Councilmember Wills adoption of the following resolution:

WHEREAS, the City Council, by Resolution 17167 of October 20, 1997, authorized the leasing of a 5.5-acre, City-owned parcel on property that fronts Krause Road in Bear Creek Township to the CCE for installation of a communications tower by a third party that would house certain equipment that was necessary for the CCE's operation; and

WHEREAS, provisions of the lease agreement between the City and CCE permit the CCE, with the City's concurrence, to sublease space on the communications tower; and

WHEREAS, in 2009 the City assumed ownership of the communications tower from CCE in exchange for the full amount of lease payments for the tower; and

WHEREAS, the New Cingular Wireless PCS, LLC has requested an amendment to their lease on the tower in order to install equipment necessary for service improvements; and

WHEREAS, New Cingular Wireless PCS, LLC has agreed to a one time payment of \$10,000 in exchange for this lease amendment:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Petoskey does and hereby authorizes the execution of a fourth amendment to the tower lease and assignment of rights agreement; and

BE IT FURTHER RESOLVED that the City Manager be hereby authorized to execute such documents.

Said resolution was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills, Fraser (5)

NAYS: None (0)

Continued Long-term City  
Finances Discussion

The City Manager reviewed that on March 24, 2014 Council met in special session to discuss long-term City finances. As part of that discussion Council requested a sample community survey in order to better determine if surveying Petoskey residents would be beneficial in identifying preferred options for addressing the City's long-term finances including possible revenue options.

The City Manager reviewed survey information provided by Cobalt Community Research for possible use by Petoskey.

City Councilmembers inquired if this broad a scope was necessary; that the examples given may not be applicable to Petoskey; costs incurred for the surveys; concerns with surveys and informative responses and if they will really help with the process.

Mayor Fraser asked for public comments and heard from those opposed to the surveys; that surveys are too lengthy; reviewed example questions; concerns with Headlee Amendment; and concerns that revenues continue to slowly increase and need to live within them.

Mayor Fraser commented that City staff has done considerable cost cutting measures especially in the General Fund; recognizes where short fall is coming from; and in favor of a Public Safety millage.

Hear Council Comments

Mayor Fraser asked for Council comments and there were no comments.

Resolution No. 18766  
Adjourn to Closed Session

Manager.

The City Manager reviewed the proposed resolution that would authorize adjournment to a closed session under Section 8(a) of the Michigan Open Meetings Act, to discuss personnel issues at the request of the City

City Councilmember Marshall then moved that, seconded by City Councilmember Murphy adoption of the following resolution:

WHEREAS, the City Manager has requested that the City Council adjourn to a closed session, pursuant to Section 8(a) of the Michigan Open Meetings Act, to discuss personnel issues, following the conclusion of routine business at the City Council's regular meeting of April 21, 2014:

NOW, THEREFORE, BE IT RESOLVED that the City Council does and hereby authorizes to adjourn to a closed session, to discuss personnel issues.

Said resolution was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills, Fraser (5)

NAYS: None (0)

Adjourned to closed session at 9:40 P.M.

There being no further business to come before the City Council, this April 21, 2014, meeting of the City Council adjourned at 9:55 P.M.

W.J. Fraser, Mayor

Alan Terry, City Clerk-Treasurer