



CITY COUNCIL

May 19, 2014

A regular meeting of the City of Petoskey City Council was held in the City Hall City Council Chambers, Petoskey, Michigan, on Monday, May 19, 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 Director of Public Safety John Calabrese.

Resolution No. 18775
Approve Consent Agenda Items

Following introduction of the consent agenda for this meeting of May 19, 2014, City Councilmember Dittmar moved that, seconded by City Councilmember Marshall adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the May 5, 2014 regular-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 May 5 for contract and vendor claims at \$697,300.20, intergovernmental claims at \$285,504.62, and the May 8 payroll at \$171,415.70, for a total of \$1,154,220.52 be and is hereby acknowledged.

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 Fred Liederbach, 414 Jackson Street, thanking City staff for letter to the Governor in regards to keeping bump-outs on sidewalk near the Mitchell Street bridge that has been agreed to by the MDOT.

Hear City Manager Updates

The City Manager reported on the Jarman Spur Railroad purchase; that Public Safety's ladder truck was repaired; that the State amended plan to the Mitchell Street bridge keeping the pedestrian bump outs and that after Memorial Day work will begin on the south side of the bridge. The City Manager also reported on the potential commission of a Hemingway statue that Bob Dau would donate and fund; reviewed location of statue and the likeness that would mimic a Walloon Lake picture of him at age 16; with no official discussion at tonight's meeting, but potentially at a future meeting.

City Councilmembers commented that the statue was an interesting idea; how it would tie in with DMB art plan; discussed the statue and possible location; if any other statues are being discussed; and that it may take away from green space. This matter will be discussed at a future meeting.

Resolution No. 18776 – Adopt Ord. 744
Creating B-2B Mixed Use
Corridor District

The City Manager reviewed that this was a third reading of a proposed ordinance creating a mixed use corridor district and designate certain properties south of downtown along the rail corridor as having a B-2B zoning designation. The B-2B district is designed to accommodate the existing form and composition of structures south of Petoskey's downtown which differed significantly from the B-2 Central Business District. Recognizing that this area may redevelop, the B-2B district would encourage a dense redevelopment pattern with a wide range of allowable uses. The proposed ordinance was amended at Council's direction, removing the possibility of new drive-thru businesses within the proposed B-2B corridor.

At the recommendation of the Planning Commission, City Council has considered four separate ordinances creating two new transitional zoning districts, and rezoning four separate areas near downtown. At their May 5, 2014 meeting City Council:

- 1) Adopted an ordinance creating a B-2A zoning district and re-zoning certain areas primarily north of Bay Street near the Central Business District to B-2A.
- 2) Adopted an ordinance rezoning certain residential structures south of downtown and along the rail corridor to R-M2, residential multi-family.
- 3) Voted against a proposed re-zoning of certain properties owned by Family Video to B-2, Central Business District, and requested that staff prepare a possible ordinance for re-zoning this area B-2A. The City Attorney has advised that this process will require the Planning Commission to hold an additional public hearing for this proposed change.
- 4) Directed that the proposed ordinance creating the B-2B zoning district be amended to remove drive-thru operations as a special condition use within this district. Council similarly debated whether warehousing should be kept in the proposed ordinance as an allowable special condition use within the B-2B district, but ultimately, on a 3 to 2 vote, elected to keep warehousing and wholesale establishments within the proposed language of §3002.

The proposed B-2B 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.

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 the following Master Plan Goals and Objectives:

- Guide development and redevelopment in a manner that will maintain high quality living and working environments for current and future residents.
- Encourage continued rehabilitation and revitalization of existing commercial areas and neighborhoods.
- Ensure any infill development or redevelopment is compatible with and enhances existing residential areas

The City Manager also reviewed features with drive thrus removed and noted the City Planner was in attendance for additional questions.

City Councilmembers commented that there would be smaller setbacks and how that would blend in; discussed requirements; and concerns on effects on residential neighborhoods.

Mayor Fraser asked for public comment and there were no comments.

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

ORDINANCE NO. 744

AN ORDINANCE CREATING ARTICLE XXX, B-2B MIXED USE CORRIDOR DISTRICT, OF THE CITY OF PETOSKEY ZONING ORDINANCE, APPENDIX A TO THE PETOSKEY CODE OF ORDINANCES AND AMENDING THE ZONING DISTRICT MAP OF THE CITY OF PETOSKEY AS SET FORTH IN ORDINANCE NO. 451 TO REZONE SPECIFIC PROPERTIES TO THE B-2B MIXED USE CORRIDOR ZONING DISTRICT. (See Code of Ordinance book for full ordinance.)

Said ordinance was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18777 – Adopt Ord. 745
Replacing Article II Entitled “Construction
of Language & Definitions”

The City Manager reviewed that this was the second reading of a proposed ordinance that would repeal and replace Article II of the zoning ordinance entitled “Construction of Language and Definitions.” As part of the continuing updates to the zoning ordinance, the Planning Commission began to review a revised definitions section in late 2011. The purpose of the review was to evaluate whether current definitions were understandable and to add definitions that would help overall ordinance understanding and interpretation, particularly for the districts where form and architectural standards have been added. In addition, the new section removes or amends any definitions that had currently included regulatory standards, not just definitional terminology, that is inappropriate for a definitions section.

The revised section has many more definitions than the current ordinance (18 pages vs. 11 pages) in order to provide clarity to specific zoning questions that can arise. Other community ordinances as well as a publication by the American Planning Association were consulted for definition language.

Revised Section 200 and 201:

Section 200 is simply a section to clarify the use of language throughout the ordinance. There are only minor changes to this section.

Some definitions were modified as recommended by the City Attorney, particularly those that need to reference state statute, which may preempt local regulations. Other notable changes include:

A change to Section 201 requested by City Council is a modification of the definition for hotel, which has resulted in the following definition:

Hotel: Any building, structure or part thereof, including a Dwelling Unit, which is used primarily for paid public lodging on a transient basis. For purposes of this definition, the word transient means occupancy for less than thirty (30) consecutive days.

Resulting from the discussion of street classifications, the following definitions are recommended and will be incorporated into future changes to the Master Plan and zoning districts:

Street, Collector: A street that serves as a link between local and minor arterial streets (e.g., Howard Street, Kalamazoo Avenue, Lake Street, and Jennings Avenue).

Street, Local: A street that primarily accesses individual properties and homes (e.g. Morgan Street, Grove Street, Summit Street, and Lockwood Avenue).

Street, Minor Arterial: A street with primary function to move traffic between principal arterials and local streets and between major parts of the city such as neighborhoods, employment and shopping. It also provides important roadway links into the city and to major activity areas and are considered secondary gateways (e.g., East Mitchell Street, Emmet Street, Sheridan Street, and Atkins Street).

Street, Principal Arterial: A road that generally carries long distance, through-travel and provides access to important traffic generators, such as employment centers and shopping areas. It is an important route through the city and is also a primary entrance or gateway from outlying areas (e.g., US 31 and US 131).

The City Manager reviewed that the hotel definition was revised to help regulate vacation rentals; reviewed various definitions; and indicated that the highlighted definitions were new items.

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

ORDINANCE 745

AN ORDINANCE TO REPEAL AND REPLACE ARTICLE II OF THE CITY OF PETOSKEY ZONING ORDINANCE ENTITLED “CONSTRUCTION OF LANGUAGE AND DEFINITIONS”. (See Code of Ordinance book for full ordinance.)

Said ordinance was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18778 – Adopt Ord. 746
Repeal & Replace Ch. 6 Regulating
Hotels & Bed & Breakfast establishments

The City Manager next reviewed that this was a second reading of a proposed ordinance that would repeal and replace Chapter 6 regulating Hotels and Bed and Breakfast establishments. The issue of vacation rental properties was discussed at both regularly scheduled City Council meetings in January 2014. Included in these discussions was the possible regulation of existing vacation rental properties, as well as zoning restrictions that could be implemented to restrict the location of future vacation rentals.

Prior to hearing a proposed ordinance, Council requested input from the Planning Commission on possible geographic restrictions by zoning district on vacation rental properties. The Planning Commission recommended that vacation rentals be limited to commercial zoning districts where hotels are currently allowed.

This recommendation would be implemented by a proposed revision to the Zoning Ordinance definition of a hotel to encompass all structures used for transient lodging for thirty (30) days or less.

At its January 20, 2014 meeting, City Council also directed staff to prepare regulations that would require vacation rental properties to be inspected in a similar fashion to Bed and Breakfast establishments. Chapter 6 currently requires Bed and Breakfast establishments only to be inspected on an annual basis, and currently sets out general safety requirements that predate the adoption of the International Property Maintenance Code (IPMC) by the City of Petoskey.

Based on Council’s direction, staff is recommending an amendment to Chapter 6 that would formally incorporate hotels into the regulations of this Chapter and update the safety standards to reference the IPMC and International Fire Code (IFC). It is important to note that in practice these amendments should represent only a minor change for large commercial hotels in that they will be required to be licensed, but that hotel inspections are already being done on an annual basis by Public Safety personnel under provisions of the International Fire Code.

Licensing and inspection of vacation rental properties would also fall under the proposed regulations in Chapter 6 if the definition of a hotel is revised to include all structures providing public lodging on a transient basis for thirty (30) days or less. Regulating vacation rentals in the same way as hotels and bed and breakfast establishments will help ensure basic safety standards are being met in properties that are being rented for short durations where persons may be less familiar with their surroundings and methods of egress in case of an emergency. Additionally, based on Council discussions, a prominent posting of basic noise, parking and trash disposal regulations would be required within all unstaffed “hotels”.

City Councilmembers inquired if existing bed and breakfasts would be grandfathered in, and if they would be required to be licensed including inspections.

Mayor Fraser asked for public comments and heard an inquiry on how long existing businesses have to comply with any codes; if this ordinance will restrict vacation homes; and inquiries on why they should be restricted.

The City Manager reviewed that establishments would have to comply with same codes as currently in effect for IPMC.

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

ORDINANCE 746

AN ORDINANCE TO REPEAL AND REPLACE CHAPTER VI OF ARTICLE II ENTITLED BED AND BREAKFAST OPERATIONS OF THE CITY OF PETOSKEY CODIFIED ORDINANCES. (See Code of Ordinance book for full ordinance.)

Said ordinance was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18779 – Approve
Emmet County Curbside
Recycling Agreement

The City Manager reviewed that Council consider a resolution that would authorize a five year extension of the existing agreement with Emmet County for curbside recycling services. Elisa Seltzer from the Emmet County Department of Public Works presented an overview of the agreement as well as general overview of recycling services within Petoskey. The proposed five year agreement would obligate the City to pay 42.47 per household per month for recycling services with an annual increase of up to 2.5%.

The City funds residential curbside recycling, as well as other programs such as brush and yard waste pickup and spring clean-up, via a solid waste millage. The City originally entered into an agreement with Emmet county for curbside recycling services in 2004. Under the terms of the agreement, which will lapse on October 1, 2014, a renewal of this contract is required every five years. This same recycling agreement is used with local units of government throughout Emmet County. It should be noted that Emmet County has consistently held costs below contract projection. For example, in 2014, by contract Emmet County could charge up to \$2.53 per household, but is only charging \$2.41 because of lower operating costs and higher offsetting revenues from recycled materials.

The City Manager reviewed that the City pays for recycling services through tax millage.

Elisa Seltzer made a presentation on the County recycling program and reported that 127 businesses participate in Petoskey, with 80% overall participation in recycling.

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

WHEREAS, the County of Emmet, on behalf of Townships, Villages, and Cities within the County, has accepted responsibilities for administering most aspects of solid-waste collection and disposal programs within the County; and

WHEREAS, for ten years the County has provided curbside recycling services for Townships, Villages, and Cities within the County; and

WHEREAS, the County staff has requested a five year extension of an agreement that outlines responsibilities of the County and the City for the program to collect and dispose of recyclables; and

WHEREAS, costs associated with curbside recycling were approved as part of the City's 2014 Annual Budget and are offset revenues from the City's Solid Waste millage:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby authorizes the City's continued participation in this curbside recycling and disposal program as operated by the County of Emmet; and

BE IT FURTHER RESOLVED that the City Council does and hereby authorizes renewing this intergovernmental agreement between the City and the County for a period of five years.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18780 – First Reading
of Proposed Ordinance to Repeal &
Replace Ch. 12 Misc. Offenses

The City Manager reviewed that this was the first reading of a proposed ordinance that would repeal and replace Chapter 12, Miscellaneous Offenses and Provisions. Most portions of this chapter were authored in the early 1970's, and as a result of changes in both State and case law many provisions are outdated, and in some cases simply unneeded. Public Safety personnel, along with the City Attorney, developed the proposed ordinance to better align local ordinances with State law and improve the efficiency of the Public Safety Department.

As part of this review process, in 2013 the City revoked §12-2 regulating Begging because the provisions were determined to be in conflict with constitutional protections on free speech. In addition, City staff identified existing provisions such as those governing abandoned refrigerators (§12-17), model glue (§12-178 -184) and tampering with drinking fountains (§12-48) as issues that are better handled under other City ordinances.

There are also significant changes proposed for Chapter 12 Article IX regulating controlled substances. State law does not regulate drug paraphernalia, and consequently many local municipalities in Michigan regulate these items under local ordinances in order to restrict their local sale. Provisions of Article IX also assist local law enforcement restrict the sale of increasingly popular items such as synthetic marijuana. Finally, §12-144 regulating replica or facsimile firearms is proposed as a new code section intended to give law enforcement additional tools to address persons who may be engaged in criminal activity who brandish a replica firearm.

Public Safety personnel believe that many of the proposed changes will help the efficiency of the Public Safety's operations. For example, by changing many of our often used ordinances to 93 day misdemeanors, from the current 90 day misdemeanor standard, the City will better align with State law and also have more flexibility in how cases and incidents are handled.

The 93 day misdemeanor crimes standard will allow officers to make arrests based on probable cause, as opposed to a 90 day misdemeanor, where an arrest can only be made if the crime is committed in the officer's presence. Additionally, with the proposed changes, officers will be able to either make an arrest or issue an appearance ticket on cases where previously we would have had to request an arrest warrant from the county prosecutor or City Attorney.

By changing these crimes to 93 day misdemeanors, and by adding some new misdemeanor ordinances to Chapter 12, the City will have the ability to charge some crimes, such as possession of marijuana, through the City Attorney's office. Right now the City has to prosecute these cases through the Emmet County Prosecutor, as there is no corresponding city ordinance. Some of these cases are more appropriately handled by the City Attorney, and this will streamline paperwork and time spent on the investigation.

City Councilmembers inquired if innocent play in parks could be regulated; inquiries on probable cause; and if there were any big issues with gambling.

The Director of Public Safety reviewed that common sense should be used for those times when activity does get out of hand in the parks.

The City Attorney reviewed probable cause definition in part and requirement the Officer wouldn't have to actually see the incident to make arrest as required by current ordinance.

City Council will consider a second reading and possible action on this ordinance at the June 2, 2014 City Council meeting.

Resolution No. 18781 – Establish
2014 Tax Millage Rates

The City Manager reviewed the proposed 2014 millage rates and tax revenue. City Council approved the 2014 annual budget at their December 2, 2013, meeting that included a provision for property-tax millage rates to remain the same as in 2013. The City Council is now being asked to formally establish the millage rates necessary to provide the budgeted property-tax revenue approved in the 2014 Annual Budget for the General Fund, Library Fund and Right-of-Way Fund.

Millage rates are authorized by State law, City Charter, and voter approval. The total of all four City millages is 19 mills, with the City Charter setting the general-operating millage at ten mills and the right-of-way millage at five mills. State law allows up to two mills for solid-waste programs and one mill for library purposes, and a second mill with voter approval, with all rates subject to rollback by the "Headlee Amendment".

The 2014 Annual Budget estimated property-tax revenues based on the same millage rates established several years ago and an increased taxable value projected at 1.0% higher than 2013, or \$450,244,962. The actual taxable value for 2014 has now been set at \$453,605,211, or 1.8% higher than 2013, for a difference of \$8,148,225. The 2014 taxable value amount includes \$1,519,000 in smaller personal property parcels that are eligible for exemption under a new law that exempts personal property parcels with a taxable value of less than \$40,000. However, the owner is required to formally submit a form stating the parcel is exempt to the City Assessor's Office.

The \$1,519,000 in personal property taxable value for smaller parcels has been removed from tax revenue projections, as these parcels are expected to be exempted, either prior to tax bills being issued or through subsequent appeals to the Board of Review. The City did provide information included with the annual personal property tax statements sent to business owners regarding the new exemption.

Property tax revenue budgeted for 2014 includes \$3,235,000 for the General Fund, consisting of \$3,041,100 for general-operating purposes and \$193,900 for solid-waste programs, which will now total \$3,048,000 and \$194,300, respectively. The Library Fund budgeted amount of \$732,800 will now total \$734,400 for the combined voter-approved and Council-approved millage rates. The Right-of-Way Fund budgeted tax revenues of \$1,529,500 will now total \$1,532,900.

A schedule of property tax revenue that will be collected for each fund based on millage rates included in the approved 2014 Annual Budget at the taxable value now established for this year less exempt small personal property parcels of \$452,086,211.

City Councilmembers discussed lost revenues since 2010.

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

WHEREAS, as required by City Charter provisions, the City Manager on November 4, 2013, presented to the City Council the City's proposed annual budget for the 2014 fiscal year; and

WHEREAS, as also required by City Charter provisions, the City Council on November 18, 2013, conducted a public hearing to receive comments concerning the proposed budget, including rates of property-tax millages that had been estimated for levies during 2014; and

WHEREAS, following its review of the proposed 2014 Annual Budget, and after conducting a public hearing to receive comments concerning the proposed budget and estimated tax levies, the City Council on December 2, 2013, approved the 2014 Annual Budget:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby directs that there shall be raised through a general tax upon the taxable real and personal property within the City during the next summer tax levy for the year commencing January 1, 2014, millages in the amount of 7.6707 for general operating purposes, 0.4890 for solid-waste purposes, 1.8141 for library purposes, and 3.8580 for right-of-way purposes; and, when collected, proceeds from such levy are hereby appropriated to the General Fund, Library Fund, and Right-of-Way Fund; and

BE IT FURTHER RESOLVED that the total aggregated amount of all such authorized millages shall total 13.8318 mills; and

BE IT FURTHER RESOLVED that these various millages so ordered to be levied shall be certified by the City Clerk-Treasurer to the City Assessor and shall be levied and collected upon the taxable value of all taxable property within the City.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18782
Fifth Annual Smart Commute
Emmet Proclamation

The City Manager next reviewed the fifth annual Smart Commute Emmet, June 2-6, 2014. The week is intended to provide opportunities and incentives to consider alternative methods of getting to work and school, such as walking, biking or taking the bus.

Last year's event engaged more than 590 participants, had 50 teams and 6 individuals compete in the Commuter Cup Challenge, a friendly workplace competition to encourage coworkers to try an alternate commuting method. Again this year, smart commuters will receive free breakfasts at sponsoring businesses Monday through Thursday with the Commuter Cup Challenge Awards Ceremony to be held Friday at noon in Pennsylvania Park. A drawing for fabulous prizes from sponsors will be held at that time.

Smart Commute Emmet was designed with input and collaboration by over twenty private, public and community organizations and administered by the Top of Michigan Trails Council.

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

WHEREAS, the week of June 2-6, 2014 shall be known as “Smart Commute Emmet” and is a week-long event to promote transportation modes other than single person driven vehicles, including biking, walking, carpooling and the use of public transportation; and

WHEREAS, the event has grown in its first four years to engage more than 590 participants in 2013; and

WHEREAS, this year’s event will include free smart commuter breakfasts, a commuter cup challenge for businesses to challenge their employees to smart commute, a smart-commute prize drawing, a bike maintenance class, a smart commute expo where tips on smart commuting are provided, and an awards ceremony; and

WHEREAS, the City of Petoskey has adopted a City Master Plan that addresses the need of creating a balanced and diversified transportation network; and

WHEREAS, the City of Petoskey has miles of bicycle and pedestrian friendly infrastructure, has constructed and maintained sidewalks and non-motorized paths, and has installed bicycle parking at various locations; and

WHEREAS, the City of Petoskey supports and encourages walking, biking and public transportation as healthy and efficient transportation options.

NOW THEREFORE BE IT RESOLVED, that the Petoskey City Council does hereby declare June 2-6, 2014 as:

THE FIFTH ANNUAL SMART COMMUTE EMMET

And urges the citizens of the City of Petoskey to show their support of alternative transportation by participating in Smart Commute Emmet.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18783
Adjourn to Closed Session

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

Manager.

City Councilmember Wills then moved that, seconded by City Councilmember Marshall 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 May 19, 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 8:18 P.M.

Council reconvened at 9:10 P.M.

City Councilmember Marshall then moved that, seconded by City Councilmember Wills to accept the City Manager's resignation.

Said motion was adopted by the following vote:

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

NAYS: None (0)

There being no further business to come before the City Council, this May 19, 2014, meeting of the City Council adjourned at 9:15 P.M.

W.J. Fraser, Mayor

Alan Terry, City Clerk-Treasurer