



CITY COUNCIL

June 2, 2014

A regular meeting of the City of Petoskey City Council was held in the City Hall City Council Chambers, Petoskey, Michigan, on Monday, June 2, 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, Director of Public Safety John Calabrese and Downtown Director Becky Goodman.

Resolution No. 18784
Approve Consent Agenda Items

Following introduction of the consent agenda for this meeting of June 2, 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 May 19, 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 19 for contract and vendor claims at \$409,072.15, intergovernmental claims at \$3,842.78, and the May 22 payroll at \$178,566.36, for a total of \$591,481.29 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 Dorothy Jackson, 206 Arlington Avenue, inquiring on the Arlington Avenue project timeline. The City

Manager reviewed project and that it is anticipated to be complete by Labor Day with storm water, sewer and water lines underground to be completed first and also a non-motorized trail.

Hear City Manager Updates

The City Manager reported that the Director of Public Safety and City Manager met with the News Review regarding personal property tax elimination if ballot question passes in November and reviewed new law with several methods of creating reimbursement. The City Manager also reviewed the MSHDA rental rehabilitation program; that the program aids in loans for improving rental properties; and is in city areas proximate to the downtown area.

The City Manager also reported that the major work on US-31 will be completed by July 4 with minor work in the fall such as sealing the bridge; and that the Madison light was removed.

Second Reading of a Proposed Ordinance to Repeal & Replace Ch. 12 Entitled Miscellaneous Offenses

The City Manager reviewed that this was the second 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.

The City Manager also reviewed that with the proposed ordinance it would be easier to issue citations; eliminates some outdated and no longer enforceable offenses under state law; and Sections 136, 137 and 138 needed to be removed due to conflict with state law per the City Attorney.

City Councilmembers reviewed various sections for clarifications; that a community member should be on the ordinance review committee; opposed to more record keeping like finger printing and records that follow a person for their entire life and affecting possible employment; discussed fortune telling and play ball; inquiries on how 93 days would make life better for someone since it differs case by case; and if there were any alternative options to look into.

City Councilmembers deferred action until the next meeting on June 16.

Mayor Fraser asked for public comments and heard an inquiry on the difference between civil infractions and misdemeanors; that more information on fortune telling would be informative for the public; and if fortune telling would be allowed if it was part of an event.

Ward and City Convention
Location Discussion

The City Manager reviewed that as required by City Charter provisions, Council was being asked to approve schedule times and designate locations for conducting annual Ward and City Conventions. The City Manager recommended that the four Ward Conventions be scheduled simultaneously for 8:00 P.M., Monday, July 28, and that the City Convention be called for 8:00 P.M., Wednesday, July 30.

Ward Conventions would be conducted at the City Hall Council Chambers (First Ward), High School Media Center (Second Ward), Lincoln Media Center (Third Ward), and Spitler Administration Building Board Room (Fourth Ward). The City Convention would convene at the North Central Michigan College Conference Center.

City Councilmembers inquired if Ward Convention locations could be changed; and the City Manager reviewed that it is beneficial to keep Ward Conventions located within each ward. City Councilmembers asked that the City Manager look into North Central Michigan College for Ward 2 vs. high school due to past issues, and that all other ward locations were fine.

The City Clerk informed City Council that as part of the new state election law, Ward and City Conventions will need to be conducted two weeks earlier in future years.

The City Manager will research alternate locations for Ward 2 and bring back options to the next meeting on June 16.

First Reading of a Proposed Ordinance
Amending Section 1600 Schedule
Limiting Height, Bulk Density & Area
by Zoning District

The City Manager reviewed that this was a first reading of a proposed ordinance that would amend Section 1600 Schedule Limiting Height, Bulk, Density and Area by zoning district. Article XVI, Section 1600 of the zoning ordinance provides a summary of all zoning district height bulk, and density regulations. At its May 5 and 19 meetings, City Council created two new zoning districts: B-2A Transitional Business District and the B-2B Mixed-Use Corridor District. This proposed ordinance does not make any policy changes to these newly adopted code sections, but would amend Section 1600 to incorporate and reference the new regulations of the B-2A and B-2B Districts into the summary table.

There were no City Council or public comments. City Council will consider a second reading at the June 16 meeting.

City Saleable Parcels Discussion

The City Manager next reviewed a list of City owned parcels that could potentially be sold because they are not Integral to either City operations or otherwise designated as parkland under the City Charter. Although most of these properties are listed for informational purposes pending Council direction to staff, one property, located along the Wheelway near 1200 Bay View Road has already received interest from a neighboring property owner and may come before City Council for consideration of a possible sale at a forthcoming meeting.

As part of the City Council's recent discussions regarding the City's long-term financial condition, City Council requested additional information about excess City property that could potentially be sold. This list, prepared by staff, only includes properties not designed as City parkland, although some of these properties may require title research and may have individual political considerations associated with their potential sale.

Properties.

Grand Avenue: Located near the Winter Sports Park, the City owns property that extends past the west side of Grand Avenue that could potentially be sold and/or developed as two separate lots. The property is part of Winter Sports Park parcels, but is outside of area formally designed as parkland (see Exhibit 5). Public utilities in this area may be expensive for a potential purchaser as water pressures in this area are low, and there is no mainline sanitary sewer to the end of Grand Avenue. In addition, there is piece of property 50' x 280' that extends between Rose Street and Winter Sports Park lane that could be sold either to a neighboring property owner or as a separate lot.

Clarion Avenue: Parcel 52-19-07-201-028 is approximately 156 x 130 but includes steep terrain that is zoned R-2. Note that this parcel appears separate from an old roadway that further to the south that connected Winfield Avenue to Clarion Avenue.

Washington Street: Parcel 52-19-06-402-041, located at 209 Washington Street, is approximately 50' x 160' in size. This parcel was the former location of the City's election building. City staff is exploring whether an RFP process could be used to solicit market rate housing development on this lot and one located at 915 Petoskey Street as a means to encourage more middle class, owner occupied housing in the Emmet Street neighborhood.

US-31/Bay View Road: When the City acquired the abandoned rail corridor in 2004 it assumed an existing long-term lease established by the State of Michigan with Puffs for a small rail storage structure and parking area. Typically, the State places a twenty-year moratorium on the sale of rail property acquired from the State. As a result, when the property was sold in 1997 to North Coast Land Development LLC, and subsequently improved as part of a lease to Boyne USA for a retail operation, the City approved a twenty year lease that expires in 2017 for the portion of the rail corridor property that was part of the original lease between the State and Puff's Home Center. This dollar a year lease requires North Coast to maintain the property in a good condition.

Boyne USA is now interested in acquiring the retail property from North Coast and wishes to either extend the rail corridor/Wheelway lease, which comprises a significant portion of available parking on the site, or purchase the property outright. City staff has been working with North Coast on possible improvements in the area that would better separate the Wheelway from the Boyne parking lot and improve sight lines near the Boyne driveway onto US-31. These improvements would be paid for by North Coast as part of a possible acquisition of the parking lot and storage building.

The City Manager reviewed possible City involvement in selling two parcels and developing it with middle income housing, and reviewed rail road right-of-way property use by Boyne Country Sports.

Mayor Fraser asked for public comments and heard an inquiry if any of these parcels were available for parking along rail corridor; and why the City purchased these parcels. The City Manager reviewed that the parcels were purchased, but that there was no need for them now.

City Manager Search Discussion The City Manager reviewed the summary of proposals from executive search firms interested in assisting the City with the placement of a new City Manager. The City received proposals from seven reputable search firms, each with varying levels of experience conducting searches in Michigan. Several of the firms indicated that they could be available on June 10 to answer questions and review their proposals in further detail. The City Manager reviewed the possible process and timeline of proposals.

City Councilmembers concurred and recommended that Colin Baenzinger & Associates, Mercer Group, MML and Vorhees Associates, LLC be interviewed on June 10 at a special City Council meeting, and appoint search firm at that meeting or the June 16 meeting. Councilmembers also indicated that the guarantee of Mercer Group and MML be looked into.

Earnest Hemingway Statue Discussion The City Manager reviewed that at its May 19, 2014 City Council meeting, the City Manager discussed a proposal from Robert Dau, a long-time Bay View resident, who is interested in commissioning a statue of Earnest Hemingway that would be donated to the City as part of the City Manager updates.

Dau, who previously helped fund the Chief Petosega statue near the Perry Hotel, has worked with representatives from the Little Traverse Historical Society as well as local members of the Hemingway family to identify a picture of Hemingway carrying a backpack as an appropriate image on which a Hemingway statue would be based.

Consistent with conceptual plans that were previously developed for Pennsylvania Park and included in the Parks Master Plan, City staff identified an area between Bay Street and East Lake Street where a Welcome Plaza and sidewalk connecting the nearby public parking lot to the Park Avenue sidewalk was envisioned. Although just in its beginning stages, a Hemingway statue in downtown Petoskey would be consistent with the initial direction of the Downtown Public Art Plan which will likely focus on art that is historically appropriate for the character of the downtown area.

Dau has agreed to pay for the commissioning and construction of the Hemingway statue, currently estimated at approximately \$70,000. The City would likely be responsible for the cost of the pedestal on which the statue would be placed, as well as the plaza area.

Because of the length of time necessary to commission and construct a statue of this type, the Petoskey Harbor Springs Area Community Foundation has tentatively agreed to hold the funds necessary for the statue's construction. The City Manager asked for discussion of this proposal from Council, with the understanding that a formal resolution could be brought to Council at a subsequent meeting.

There were some Councilmember comments opposed to having the statue in Pennsylvania Park or a plaza near the Downtown Office; heard from those in favor of leaving open space; and discussed other possible locations such as the waterfront.

The City Manager reviewed other possible sites near the railway and depot building downtown.

City Councilmembers further discussed the northerly end of Pennsylvania Park as a possible location and if a large plaza would be necessary. Councilmembers appeared in agreement on location.

Mayor Fraser asked for public comments and heard that Knox Gallery, Harbor Springs, has an Earnest Hemingway statue coming to Harbor Springs, reviewed value of art and that the gallery has made many donations; heard from those in favor of not placing statue in green space and preserving that area; and that Nike has a new Petoskey Stone shoe.

Hear Council Comments Mayor Fraser asked for Council comments and heard from City Councilmember Murphy that he is concerned with trees that are not in good shape around the community.

There being no further business to come before the City Council, this June 2, 2014, meeting of the City Council adjourned at 8:55 P.M.

W.J. Fraser, Mayor

Alan Terry, City Clerk-Treasurer