



CITY COUNCIL

June 16, 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 16, 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, Director of Public Safety John Calabrese and City Attorney James Murray.

Resolution No. 18785
Approve Consent Agenda Items

Following introduction of the consent agenda for this meeting of June 16, 2014, 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 confirms that the draft minutes of the June 2, 2014 regular-session and June 10, 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 June 2 for contract and vendor claims at \$819,650.99, intergovernmental claims at \$42,136.60, and the June 5 payroll at \$229,012.10, for a total of \$1,090,799.69 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 Ed Karman, owner of County Emmet Celtic Shop, who read aloud a statement from the Downtown Petoskey

Merchants Group concerning matters presented to the Downtown Management Board. The statement covered areas concerning DMB term limits; parking; and other miscellaneous items including trolley information and additional events. Mr. Karman presented a petition of signatures to change DMB term limits to two or four year term limits for members

City Councilmembers inquired on group's main request; if the existing DDA would be affected; and how DDA appointments were made. Mr. Karman indicated that the group's main request was for Council to consider changing DMB term limits to two, four year term limits that are retroactive.

The City Manager reviewed that the Mayor or with Council's consent ultimately appoints members to the DMB and DDA boards. Mayor Fraser reviewed that this matter may be discussed at a future City Council planning session.

Hear City Manager Updates

The City Manager reported that Arlington Avenue and US 31/Mitchell Street paving would occur next week; that the last traffic light at realigned Connable Avenue would be installed this week; that the detour is anticipated to be completed by July 4; and that the Jennings Avenue project would begin next week. The City Manager also reported that the Mercer Group was selected by Council to assist in the new City Manager search; that staff received a request from Don Johnson, Fletch's, concerning vacating Pleasant Street west of McDowell and that request would be on the next Council agenda. The City Manager also reviewed two future MDOT projects in 2015 which will include widening the road near Bay Harbor and reconstructing the road from Mitchell Street to MacDonald Drive in 2018.

City Councilmembers inquired what MDOT was solving by widening the road; how the number of lanes were determined; if the linear park protected along railroad property was now going to be used as part of the widening of the road toward MacDonald Drive; heard opposition to four lanes towards Bay View; and requested more information about the proposed plans. The City Manager indicated that it may be more effective in communication with MDOT for Council to consider a Resolution about the widening.

Resolution No. 18786 – Adopt Ordinance 747 Repealing & Replacing Ch. 12 Entitled Miscellaneous Offenses

The City Manager reviewed that this was the third 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.

At its May 19, 2014 City Council meeting, Council conducted a first reading of the proposed ordinance and a second reading at the June 2, 2014 meeting. During the June 2 meeting there were questions about several specific sections of the proposed ordinance including 12-3 Fortunetelling. This section is not proposed for revision, but was the subject of discussion as to whether it is still needed. As discussed, this provision exists in many municipal codes in order to prevent fraudulent activity that is known to frequently occur with fortunetelling. It is staff's opinion that this code section is needed in order to prevent fraud.

12-11 Playing Games in public spaces. Council discussed the reasonableness of this section, particularly as it pertains to activities within public parks. This section needs to be read in its entirety. As proposed, it would apply to games "or other violent or rough exercises...in any public street or sidewalk, public park" or other public space. It is not a violation under this provision to simply play a game or throw a Frisbee in a public park. In order to be a violation, this type of activity would have to be done "in the vicinity of pedestrians or motor vehicles" in a manner that is likely to cause a collision or strike other persons, or obstruct traffic. Due to the concerns raised by City Council, several options for amending the proposed language were included with the agenda memo for consideration.

City Councilmembers discussed the four different options pertaining to Section 12-11 Playing Games in Public Places and indicated a preference for option three which would include the language "It shall be unlawful for any person to engage in an activity that may cause personal injury in any public street or sidewalk or other public place..." and strike "public park"; concurred that Section 12-3 Fortunetelling remain as part of the ordinance; heard comments that not only does the ordinance increase efficiency, but that it improves how the community is being served; inquiries on whether Section 12-16 Borrowing from Students was still needed; and if changes in drug issues due to ordinance would cause additional staff and time constraints for the Department of Public Safety.

The Director of Public Safety reviewed Section 12-16 Borrowing from Students and that issues refer to property rather than money; that it deals with schools, but also covered by larceny ordinance; and that the section is unchanged as are all dealing with schools. The Director of Public Safety also reported that there would not be additional constraints to the department.

The City Attorney indicated that he would review violations and administer prosecution, and that there would be the possibility to plea to civil infraction with an associated fine.

City Councilmember Wills then moved that, seconded by City Councilmember Marshall to adopt the ordinance with Section 12-11 changes including the language "It shall be unlawful for any person to engage in an activity that may cause personal injury in any public street or sidewalk or other public place..." and strike "public park".

ORDINANCE NO. 747

AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 12, MISCELLANEOUS OFFENSES AND PROVISIONS, OF THE ORDINANCES OF THE CITY OF PETOSKEY (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)

Mayor Fraser asked for public comments and heard a comment that Section 12-16 was an over reach to criminalizing asking to borrow an item. The City Attorney indicated that the process would be that an officer would find violation, would have to be supported by the City Attorney and ultimately a court.

Resolution No. 18787 Adopt Ordinance
748 - Amending Section 1600
Schedule Limiting Height, Bulk Density
& Area by Zoning District

The City Manager reviewed that this was a second 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.

City Councilmembers inquired if there was a maximum lot coverage percentage for various zoning districts that weren't included in the chart; and inquiries on footnotes in chart with no reference. The City Manager responded that there was no maximum lot coverage provision for various sections and that only B2-A and B2-B were changing; and that the footnotes referred to subsections, and were not part of the new changes.

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

ORDINANCE NO. 748

AN ORDINANCE TO AMEND PORTIONS OF SECTION 1600, SCHEDULE LIMITING HEIGHT, BULK, DENSITY AND AREA BY ZONING DISTRICT

The City of Petoskey ordains:

1. Article XVI of the Zoning Ordinance Section 1600 of the City of Petoskey shall be amended to read as follows:

**ARTICLE XVI - SCHEDULE OF REGULATIONS
SEC. 1600. SCHEDULE LIMITING HEIGHT, BULK, DENSITY AND AREA BY ZONING DISTRICT**

| ZONING DISTRICT | Min. Lot Size Per Unit | | Max. Height of Structure | | Minimum Yard Setbacks (Per lot in Feet) | | | Max. Lot Coverage (All Buildings) |
|----------------------------|------------------------|--------------|--------------------------|---------|---|--------------------------|---------------------|-----------------------------------|
| | Area in Sq. Ft. | Width in Ft. | In Stories | In Feet | Front | Side Yards Side (one) | Side (total of two) | |
| R-1 SINGLE FAMILY | 8,400 (a) | 70 (a) | 2.5 | 25 | 25 (b) | 10 (c) | 20 | 30% |
| R-2 SINGLE FAMILY | 7,200 (a) | 60 (a) | 2.5 | 25 | 25 (b) | 5 (c) | 15 | 30% |
| R-3 SINGLE FAMILY | 6,000 (d) | 50 | 2.5 | 25 | 25 (b) | 5 (c) | 15 | 30% |
| RM-1 MULTIFAMILY | (e) | (e) | 2 | 25 | 50 (f) | 10 (f) | 20 (f) | 25% |
| RM-2 MULTIFAMILY | (e) | (e) | 3 | 33 | 25 (f) | 10 (f) | 20 (f) | 30% |
| B-1 LOCAL BUSINESS | | | 2 | 25 | 20 (b,g) | (h,g) | (h,g) | |
| B-2 CENTRAL BUSINESS | | | 3 | 40 | 0 (p) | 0 | 0 | |
| B-2A TRANSITIONAL BUSINESS | | | 3 | 33 | 0 (q) | 5 | 10 | |
| B-2B MIXED USE CORRIDOR | | | 3 | 33 | 5 (g) | 5 | 10 | |
| B-3 GENERAL BUSINESS | | | 2 | 25 | 20 (b,g) | (h,g) | (h,g) | |
| B-3a RESORT COMMERCIAL | | 150 | 2 | 25 | 50 (f) | 20 (g) | 40 (g) | |
| B-3b BUSINESS INDUSTRIAL | | (o) | 2 | 25 | 15 (m) | 10 | 30 | |
| O-S OFFICE SERVICE | | | 3 | 30 | 20 (g) | (h,g) | (h,g) | |
| I-1 LIGHT INDUSTRIAL | | | 2 | 25 | 30 (f) | 20 (g,j) | 40 (g,j) | (l,g,k) |
| I-2 GENERAL INDUSTRIAL | | | 3 | 35 | 50 (f) | 30 (g,i) | 60 (g,i) | (l,g,k) |

2. Sec. 1600. Notes to Schedule shall be amended to add:

(q) In the B-2A Transitional Business and B-2B Mixed Use Districts, the maximum front-yard setback is the average of the front setbacks of the buildings on adjacent lots or 15 feet, whichever is less.

3. This Ordinance shall take effect fifteen (15) days following its enactment and shall be published once within seven (7) days after its enactment as provided by Charter.

Said ordinance was adopted by the following vote:

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

Resolution No. 18788 City Ward and Convention Schedule and Dates

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.

At its June 2, 2014 meeting, Council asked the City Manager to find an alternative location for the Ward 2 Convention due to issues in the past. The City Manager recommended that Ward 2 meet at the North Central Michigan College Library Conference Center.

Ward Conventions would be conducted at the City Hall Council Chambers (First Ward), North Central Michigan College Library Conference 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 Councilmember Wills moved that, seconded by City Councilmember Marshall adoption of the following resolution:

WHEREAS, in accordance with provisions of the City Charter, the City Council must establish dates and places for annual Ward Conventions and the annual City Convention:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby calls the annual 2014 Ward Conventions to be held at 8:00 P.M., Monday, July 28, at the City Hall Council Chambers for the First Ward, North Central Michigan College Library Conference Center for the Second Ward, Lincoln School Media Center for the Third Ward, and Spitler Administration Building Board Room for the Fourth Ward; and

BE IT FURTHER RESOLVED that the City Council does and hereby calls the annual 2014 City Convention to be conducted at 8:00 P.M., Wednesday, July 30, at the North Central Michigan College Conference Center.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18789 – Approve Sale of City Property – 1200 Bay View Ave.

The City Manager next reviewed that at the June 2, 2014 Council meeting, staff presented a list of potentially excess city owned properties to City Council. The City received an offer to purchase one of the potentially

excess properties abutting 1200 Bay View Avenue. The resolution would authorize the sale of the property at a price not less than \$8.26 per square foot, or \$88,076.38 and require certain improvements be completed to the Wheelway as a condition of the sale. The property in question has not been designated as parkland under Section 1.4 of the City's Charter.

The City of Petoskey acquired the abandoned railroad corridor that is now the Wheelway from the State of Michigan in 1992. As is standard practice, the State placed a twenty year restriction on the sale of any portion of abandoned railroad property acquired from the State. Additionally, as part of this purchase, the City assumed an existing lease between Puff's Home Center and the State of Michigan for the use of the land near 1200 Bay View Avenue containing approximately 16 parking spaces as well as an old rail storage building.

In 1997, as part of the purchase of the 1200 Bay View Avenue property by North Coast Land Development, City Council approved a resolution clarifying the terms of the existing lease and extending its term until 2017. At the time of this 1997 lease extension, which was in part requested to satisfy lenders involved with the purchase of Puff's Home Center building, the City was unable to sell the property in question due to the twenty year State restriction on the sale of abandoned rail property.

North Coast Land Development is currently in discussions with Boyne USA about the possible sale of the 1200 Bay View Avenue building. As part of this purchase, Boyne indicated a desire to either extend the term of the current \$1 per year lease, or to explore the purchase of the property now that the twenty-year State restriction on the sale of the property is expiring. In light of City Council's recent discussion of the City's long-term finances, and the related Council request to review all potentially excess City owned property, and due to the historical lease of this property and its size and configuration, City staff engaged North Coast in discussions about the possible sale of property currently leased to North Coast and occupied by Boyne USA.

Although the railroad corridor in the vicinity of 1200 Bay View Avenue is nearly 35 feet wide, the Wheelway utilizes only about sixteen feet of the width of this corridor. In 1994 the State required the purchase of the abandoned rail corridor to be done en masse, without regard to individual parcels or the City's future needs with regard to the Wheelway.

More recently, City staff expressed some concerns to the 1200 Bay View Avenue property owner about visibility restrictions near the curve of the Wheelway as it approaches US-31. As part of a review, staff identified measures that could improve the safety of non-motorized vehicles on the Wheelway in this area, including separating the Wheelway from the front overhang of cars parked in the North Coast/Boyne Country Sports parking lot.

Accordingly, Boyne and North Coast are developing a plan to install a five foot wide tree lined planting bed that would better separate the Wheelway from parked cars in Boyne's parking lot. Additionally, a small seating area would be developed near the junction between Wheelway traffic and Downtown Greenway non-motorized traffic that will be encouraged to continue along US-31 to the MacDonald Drive traffic light in order to cross the highway.

North Coast and Boyne have agreed upon a purchase price of \$8.26 per square foot, or \$88,076.38 plus the cost of improving and realigning the Wheelway and related landscaping improvements. This price was arrived at by examining the average square foot land value of comparable commercial properties within Petoskey as identified by the City Assessor.

City Councilmembers inquired if the revenues from the sale would go to the General Fund; what will be done to increase safety for bicyclists and pedestrians; what the total width of the right-of-way was; and when the transaction would occur. The City Manager responded that plans had not been finalized, but proposed parking stalls would be removed and green space to open up a visual triangle for bicyclists; and that North Coast and Boyne were waiting on the approved resolution from Council to move forward and that the City Attorney would prepare necessary documents.

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

WHEREAS, in 1992 the City acquired from the Michigan Department of Transportation certain properties that had been used as part of the former Chesapeake & Ohio Railroad Company's "Charlevoix Branch" rail line; and

WHEREAS, the State of Michigan placed a twenty year restriction on the sale the abandoned rail property acquired by the City of Petoskey; and

WHEREAS, as a condition of the sale of these properties, the State of Michigan required the City to assume all leases associated with these properties that had been in effect at the time of the sale; and

WHEREAS, as a result of this condition of that sale, the City honored all provisions of the lease that had been issued to Puff's of Petoskey for former railroad properties near Bay View Avenue; and

WHEREAS, in 1997 as part of a the sale of the 1200 Bay View Avenue to North Coast Land Development, LLC the City Council agreed to extend the existing lease for a 20 year long term for the lease and re-assign it to North Coast in order to promote private redevelopment of the former Puff's facility without interfering with the City's continued use of the property; and

WHEREAS, the twenty year restriction on the alienation of former railroad land acquired from the State of Michigan has now expired; and

WHEREAS, the City Council requested information about City owned properties that are possibly excess because they are not utilized for a municipal purpose or designated as parkland; and

WHEREAS, North Coast has made a fair market offer for the land and building subject to the existing lease; and

WHEREAS, North Coast has further agreed to bear the cost of Wheelway improvements that will improve the safety of non-motorized users of the trail:

NOW, THEREFORE, BE IT RESOLVED that the City Council does and hereby directs the City Attorney to prepare all necessary documents to execute the sale of the leased former railroad property located at 1200 Bay View Avenue for a price of not less than \$8.26 per square foot and grants the Mayor and City Clerk authority to execute all necessary and reasonable documents for the sale of this property which will include improvements as a condition of the sale, performed at North Coast's or other purchaser's expense, and to the City Manager's satisfaction, to the Wheelway in order to improve the safety of non-motorized Wheelway users.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18790 – Traffic Order
Confirmation Arlington Avenue &
MacDonald Drive

The City Manager reviewed that as part of the conceptual design of the Downtown Greenway Corridor and the reconstruction of Arlington Avenue, the City studied the intersection of MacDonald Drive and Arlington Avenue and determined that a four way stop would improve the safety of motorists, pedestrians and non-motorized vehicles. A temporary traffic order issued by the Director of Public Safety has led to the installation of stop signs on Arlington Avenue at MacDonald Drive.

Historically east-west traffic on Arlington Avenue at MacDonald Drive has not stopped. North-south traffic on MacDonald Drive coming off of the highway has a stop sign at this intersection, as does traffic coming out of the Wellness Pavilion. Although not signed to do so, drivers unfamiliar with this intersection frequently stop on Arlington Avenue, anticipating that it is a four way stop given its proximity to the traffic light and US-31.

With the construction of the Wellness Pavilion in 2011, as well as this summer's construction of non-motorized Downtown Greenway Trail that will cross MacDonald Drive just north of the intersection at Arlington, a sufficient traffic volume exists to justify making this intersection a four way stop. Additionally, during the winter of 2013/14 a committee of Bay View residents requested that the intersection become a four way stop in order to slow traffic into Bay View and encourage as many cars as possible to use the traffic light on US-31 at MacDonald Drive.

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

WHEREAS, the City's Department of Public Safety staff, working with the City's traffic engineering consultant, has recommended temporary traffic control devices on Arlington Avenue at the intersection of Arlington Avenue and MacDonald Drive; and

WHEREAS, that investigation by the Department of Public Safety staff and consultant has determined that there would be justification to permanently upgrade the Arlington Avenue and MacDonald Drive intersection from a two way stop intersection to a four way stop intersection; and

WHEREAS, in conjunction with improvements along Arlington Avenue and the Downtown Greenway Corridor a four way stop intersection at Arlington Avenue and MacDonald Drive will improve the safety of vehicles, pedestrians and non-motorized vehicles in the area; and

WHEREAS, the Director of Public Safety has requested that the City Manager recommend that the City Council confirm a traffic order that would call for the designation of stops at east and west bound Arlington Avenue at MacDonald Drive:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby confirms the Department of Public Safety Traffic Order that would designate Arlington Avenue and MacDonald Drive a four way stop intersection; and

BE IT FURTHER RESOVLED that the City Manager be and is hereby directed to arrange for necessary signs to be permanently installed at these intersections

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Hear Council Comments

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

There being no further business to come before the City Council, this June 16, 2014, meeting of the City Council adjourned at 8:30 P.M.

W.J. Fraser, Mayor

Alan Terry, City Clerk-Treasurer