



CITY COUNCIL

October 6, 2014

A regular meeting of the City of Petoskey City Council was held in the City Hall City Council Chambers, Petoskey, Michigan, on Monday, October 6, 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 Acting City Manager Alan Terry, City Planner Amy Tweeten, Administrative Assistant Sarah Bek and City Attorney James Murray.

Resolution No. 18815 – Urgent Need Grant Public Hearing & Approval

The Acting City Manager reviewed that the City submitted an application to the Michigan Economic Development Corporation (MEDC) last August for possible reimbursement of expenses incurred during the extreme cold of last winter. The funds would be provided through the State's Urgent Need Infrastructure Grant program, which is eligible to areas of the Upper Peninsula and Northern Lower Peninsula. The City's grant request covers the repair of seven water main breaks that occurred between March 23, 2014 and April 18, 2014 totaling \$120,319. The City would provide a 20% match of \$24,064, thereby requesting a grant amount of \$96,255.

The MEDC announced on September 10, 2014 that the City will move forward in the grant process to the Part 2 Application. This process is much like the process followed for the feasibility grant of Sunset Square recently approved by Council. The first step is to hold a public hearing on the grant application and Jan Kellogg from the Northern Lakes Economic Alliance was present to provide necessary information and answer questions.

The grant requires the local unit of government's approval of a Community Development Plan for purposes of the CBDG process, which acts as a shortened version of the City's Master Plan. The enclosed Plan was prepared by NLEA staff, reviewed by the City Planner and per Amy Tweeten's review, the information is in-line with the City's Master Plan and includes some updated statistics.

The grant also requires the appointment of an individual to execute necessary grant documents as well as an Environmental Review Officer. An environmental review is not required for a feasibility study, so the only duty of the Officer is to sign a form stating the project is exempt. The resolution would appoint the Interim City Manager as the authorized individual to sign all documents.

Ms. Kellogg gave a brief presentation on the grant program, objectives and funds.

The Mayor opened the public hearing and there were no public comments. The public hearing closed at 7:08 P.M.

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

WHEREAS the City of Petoskey is the applicant for funding from the Michigan Economic Development Corporation (MEDC) under the Michigan Community Development Block Grant (CDBG) program. The grant will be used to help fund the "Petoskey Water Main Urgent Need Repairs Project"; and

WHEREAS the application request is for \$96,255 from the CDBG program, with \$24,064 local match; and

WHEREAS the proposed project is consistent with the "City of Petoskey's Comprehensive Plan", which serves as Petoskey's local community development plan for this project, as described in the Part 2 Application; and

WHEREAS this proposed project is of such nature that:

- a) A serious threat to the health and/or safety of citizens exists as described in the application and is considered to be an emergency situation
- b) Immediate action is necessary; any delay will intensify the situation; and this threat is supported by an appropriate authority other than the City of Petoskey
- c) The situation was not brought on by poor maintenance or neglect
- d) There are no other federal, State or local resources available to alleviate this threat; and

NOW THEREFORE, BE IT RESOLVED that the Petoskey City Council hereby authorizes the submittal of a Michigan CDBG Application for the "Petoskey Water Main Urgent Need Repairs Project"; and

BE IT FURTHER RESOLVED that Alan Terry, Petoskey's Acting City Manager, is hereby authorized to sign the CDBG Part 2 Application and all attachments associated with this project; and

BE IT FURTHER RESOLVED that at the time signatures are required, the person holding the office of Petoskey's City Manager (including Acting City Manager), is hereby authorized to sign the CDBG Grant Agreement and all amendments and the CDBG Grant Payment Requests associated with this project.

City Councilmember Wills also moved that, seconded by City Councilmember Marshall to approve the City of Petoskey CDBG Community Development Plan, as presented, to serve as the "Community Development Plan" for purposes of applying for Community Development Block Grant funding from the Michigan Economic Development Corporation and to appoint Alan Terry, Acting City Manager, as the Certifying Officer and Environmental Review Officer for the environmental assessment required in conjunction with the "Petoskey Water Main Urgent Need Repairs" project. Funding for this project is being sought through a Community Development Block Grant from the Michigan Economic Development Corporation.

Said resolutions were adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18816
Approve Consent Agenda Items

Following introduction of the consent agenda for this meeting of October 6, 2014, City Councilmember Dittmar moved that, seconded by City Councilmember Murphy adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the September 12 and 13, 2014 special-session, September 15, 2014 regular-session and October 1, 2014 special-session City Council meeting be and are hereby approved;

BE IT FURTHER RESOLVED that receipt by the City Council of a report concerning all checks that had been issued since September 15 for contract and vendor claims at \$3,280,118.81, intergovernmental claims at \$1,380,422.75, and the September 25 payroll at \$170,758.84, for a total of \$4,831,300.40 be and is hereby acknowledged; and

BE IT FURTHER RESOLVED that the City Council does and hereby authorizes to contract with CSM, Hudsonville, to provide janitorial services for the Department of Public Works and Wastewater Treatment Plant buildings for a two year contract period at a cost of \$35,310.22

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 there were no comments.

Hear City Manager Updates

The Acting City Manager reported that electrical lines on Arlington Avenue were still being moved from overhead to underground; that MDOT continues to work on US-31 southbound on culverts in advance of next year's proposed project; and that the elevated storage tank on US-131 near CCE was isolated for internal cleaning.

City Councilmembers commented that the landscape looked great on the new corridor along Arlington and that the new paved trail is very nice.

Resolution No. 18817-18818 - Decline
City Manager Contract & Reopen Search

The Acting City Manager reviewed that City Council offered the position of City Manager to William Reynolds, Pensacola, Florida, contingent on the approval of an employment contract and a background search. The City's consultant was in contact with Mr. Reynolds relative to these two items, along with the City Attorney. Council had the opportunity to further deliberate or take action on matters regarding the position of City Manager.

The City Attorney provided information on the City's Charter concerning the position and contract, employment contract details and that Mr. Reynolds had approved the contract.

City Councilmembers discussed that negotiations are not easy; that the process is lengthy and had been done fairly; that there was a unanimous vote to offer Mr. Reynolds the position prior to negotiations; inquiries if there was anything unusual in the contract; and that this process is one of the hardest jobs as Councilmembers and the right candidate needs to fit in the Petoskey community.

Mayor Fraser asked for public comments and heard inquiries on retirement contributions; that the pool of candidates were good; that the employee contract is similar and reasonable compared to previous contracts; and that Mr. Reynolds has a nice educational background.

City Councilmember Marshall was impressed with Mr. Reynolds' credentials and interview and then moved to accept the employee contract and move forward with the process. Mr. Dittmar supported the motion.

Said motion was not adopted by the following vote:

AYES: Marshall, Dittmar (2)

NAYS: Murphy, Wills, Fraser (3)

City Councilmembers inquired on how to pursue the next step; and the City Attorney reviewed that it was unknown, but that it was highly likely that the consultant, The Mercer Group, could open a new search.

City Councilmember Wills moved that, seconded by City Councilmember Murphy to reopen the search for the City Manager position.

Mayor Fraser asked for public comments and heard comments that it was an interesting course to take; it may be unclear what other manager candidates who may apply which could be problematic; if the \$20,000 fee would grow larger; curious as to what happened not approving a standard contract after initially having a unanimous vote for the desired candidate; that it is smart not to hire candidate if there is not support from the entire Council; and that there was a lack of public discussion and no negative discussion until this evening.

Said motion was adopted by the following vote:

AYES: Murphy, Wills, Fraser (3)

NAYS: Marshall, Dittmar (2)

The Acting City Manager reviewed that the Penn Plaza, First Reading of a Proposed Ordinance 101 Lewis Street, is located on a parcel that has Amending Zoning Map – 101 Lewis St. two different zoning districts, which was discovered (Penn Plaza) to B-2A Transitional District during the rezoning of properties from the B-2 Central Business to the B-2A Transitional Business District. The south portion of the subject property with the building is zoned B-2A, but the portion of the parcel that lies north of what would be the middle of the former Rose Street right-of-way is zoned P-R Park Reserve.

The Park Reserve District was created in 1997 and the former railroad corridor properties were rezoned to this district to address MDOT's concern that the City would acquire the right-of-way and then sell it for development. The Park Reserve District is restricted to uses consistent with a public park. The portion of the subject property shown to be in the Park Reserve District currently holds green space and parking that is available to the public after business hours through a license agreement, but it is not publicly owned and was not a part of the property acquired from MDOT.

As this property was wrongly zoned Park Reserve, the property owner, Mr. Stroup, requested a map amendment that would put the entire parcel in the B-2A Transitional Business District.

At its September 18 meeting, the Planning Commission held a public hearing on the request. While there were several members of the public in opposition to the property rezoning, the Commission considered the reasons behind the creation of the Park Reserve District and the legality of zoning a privately-held piece of property for public park purposes and ultimately recommended to City Council that the property rezoning be approved.

The City Planner gave a brief presentation and information on the districts, views of the property, rezoning petition and action by the Planning Commission.

In response to Council comments, Mr. Stroup does have the property for sale; that this amendment would correct an error due to inappropriate zoning; that the new landscaping along the greenway corridor is not on the property; that restrictions would include B-2A district regulations; and that any development on half of the site would require onsite parking.

Mayor Fraser asked for public comments and heard an inquiry if this was simply a mistake or if the owner knew parcel was zoned Park Reserve; and if private property includes all parking and would be eliminated.

The City Attorney commented that Mr. Stroup believed it was an administrative error. The Acting City Manager also reviewed that owner owns parking, but is open to the public after 5:00 P.M.

Mayor Fraser reported that this was a first reading of the proposed ordinance and that no action would be taken until the next regular meeting.

Resolution No. 18819
Approve Master Plan Distribution

The City Planner reviewed that as required by the Planning Enabling Act (P.A. 33 of 2008, as amended, M.C.L 125.3801 *et seq.*), the Planning Commission completed its five-year update of the 2009 Master Plan.

As there was updated Census data available, the Commission decided to have the newer data incorporated, and reviewed the plan for other necessary updates such as completed projects, other necessary numerical changes and updates or new information relevant to the document (e.g. water production, public safety calls, street and sidewalk miles). There were no significant changes to the goals and objectives developed as part of the major update that occurred in 2009, which involved significant public involvement.

At its August 21, 2014 meeting, the Commission reviewed the draft, made some additional updates and recommended the plan to City Council for its review and authorization to distribute to neighboring municipalities, the Northwest Regional Planning Commission, utilities and railroad companies required by the Act. Once distributed, these entities have 43 days to comment on the plan before a public hearing would be scheduled by the Planning Commission.

The Commission also offered to hold a joint meeting with Council to discuss the updates.

City Councilmembers inquired if the exhibits would be distributed with the plan; how the Parks and Recreation Plan interfaces with this plan; if Parks and Recreation Plan could be reviewed before going to the Parks Commission; and what the process was for approving the Parks and Recreation Plan if it was thru Council or Charter.

In response to Council comments, the City Planner indicated that exhibits would also be distributed; that the Master Plan references the Parks and Recreation Plan. The Acting City Manager indicated that he would obtain information on the approval process for the Parks and Recreation Master Plan and provide it to Council.

Mayor Fraser asked for public comments and heard an inquiry of Council if they had received a copy of the Master Plan prior to tonight's meeting, which they had.

City Councilmembers concurred that it could be productive to have a joint meeting with Planning Commission to review this plan.

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

WHEREAS, the City of Petoskey adopted the current City Master Plan entitled "Blueprint Petoskey" in 2009 and;

WHEREAS, the Michigan Planning Enabling Act P.A. 33 of 2008 requires a master plan to be reviewed and updated after five years and approved by the governing body for redistribution and;

WHEREAS, the City of Petoskey Planning Commission has completed its five-year review and update to the Master Plan and has passed on the plan for City Council's review and distribution:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby authorizes the distribution of the five-year update to the City of Petoskey Master Plan pursuant to the Michigan Planning Enabling Act P.A. 33 of 2008, as amended, MCL 125.3845.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18820 - Reconfirm
Endorsement of Passport Grant for
Lighted Tennis Complex

The Acting City Manager reviewed that at its March 17, 2014 meeting, City Council authorized the submission of a Michigan Recreation Passport grant application for \$45,000 to the Michigan Department of Natural Resources for the \$255,000 renovation of the six lighted tennis courts located at the City/School Recreation Complex, 1500 Hill Street. Grants management staff requested that a second resolution be submitted confirming the City's commitment to provide \$210,000 in project match.

The revised resolution recognizes the City as the local unit of government providing the matching revenue. The City in turn will pursue the various individual sources of funding that will make up the match for the grant. The City will not go forward with the project or accept the grant if funding from the outside sources is not received.

The school district will be providing a minimum of \$67,500 toward the project and has indicated a future commitment to the project if the athletic bond proposal on the ball for November passes. The balance of the \$255,000 project would utilize the \$45,000 grant, a revenue sharing grant, Frey Foundation grant of \$2,500 and Community Courts fundraising dollars, if fundraising efforts continue.

City Councilmembers inquired if this grant would be affected by the millage; what happens if millage does not pass; and if the \$210,00 is City funds.

In response to Council concerns, the Acting City Manager reviewed that the grant would be affected positively by the millage; that if millage does pass then the school district would be able to provide additional funds, if necessary; and that the \$210,000 would not come from City funds.

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

WHEREAS, the City of Petoskey desires to renovate a 42 year old Lighted Tennis Court Complex at the Petoskey High School/Middle School Complex which is operated and maintained jointly by the City of Petoskey and the Public Schools of Petoskey, located at 1500 Hill Street, Petoskey, Michigan and;

WHEREAS, the tennis complex renovation would include replacement of six paved courts, one 1/2 court practice area and fencing, upgrading the underground wiring and refurbishing of the existing light poles, relocating a drinking fountain and site signage and adding handicap van parking stalls, and;

WHEREAS, this renovation of the Six Lighted Courts is identified as a priority project listed in the City of Petoskey's 2014-2018 Capital Plan and;

WHEREAS, the State of Michigan's Department of Natural Resources is accepting applications for funding assistance through the "Recreation Passport Grant Program" and renovating an existing recreational facility is eligible for funding and;

WHEREAS, the City of Petoskey Parks and Recreation Commission supports the Renovation of the Six Lighted Tennis Courts and the Public Schools of Petoskey have indicated their support and will share in the local match requirement, the Petoskey Parks and Recreation Commission recommends that the Petoskey City Council resolve to sponsor this Michigan Natural Resources – Recreation Passport Grant Application and commit to undertake this project, if awarded and commit to the project match and authorize the City Manager or his designee to serve as the City's representative for this project and;

WHEREAS, the City Council concurs with the recommendation by the Parks and Recreation Commission for a submittal of an application to the Michigan Recreational Passport Program for the Renovation of Six Lighted Tennis Courts, Petoskey High/Middle School Recreational Complex and;

WHEREAS, the City Council, in cooperation with the Public Schools of Petoskey and local fundraising efforts will commit to providing the local match of \$210,000 which is 82.4% of the proposed renovation cost for a total project cost of \$255,000;

NOW, THEREFORE, BE IT RESOLVED, that the City of Petoskey City Council hereby reconfirms the endorsement of the 2014 Michigan Recreation Passport Grant application for renovation of the Lighted Tennis Court Complex for \$45,000 in grant funding and confirms that the City of Petoskey will commit to providing the project match of \$210,000 and further requests the Michigan Department of Natural Resources grant management staff consider and recommend this application for approval.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18821
Accept Special Assessment
Report; Schedule Hearing

The Acting City Manager next reported that at its September 16, 2014, meeting, the City's Downtown Management Board reviewed its proposed budget for downtown-area programs and services for 2015 and asked that the City Council: (1) Levy a special assessment

against all eligible, non-residential properties within the Management Board's jurisdictional territory, the proceeds from which would be used to finance costs of such programs and services; and (2) Set the amount for the proposed special assessment based upon assessment-levy amounts that were used in 2014. The City Manager also reported that the Management Board's budget proposal would be included within the City's recommended 2015 Annual Budget, but City Code provisions required that the special-assessment process be done annually by City Council.

The City Manager further reported that the City Council was being asked to adopt a proposed resolution, a draft of which was included with the report, that would: confirm that costs of proposed downtown-area programs and services would be offset by special-assessment revenues; designate the special-assessment district; approve the recommended special-assessment formula; and schedule an October 20 public hearing to receive comments concerning the proposed programs and services.

The City Manager also reported that a second public hearing to receive comments concerning the proposed special-assessment roll was tentatively scheduled for the November 17, 2014, City Council meeting.

In response to Council comments, the Acting City Manager reviewed that non-profits will be assessed including Crooked Tree Arts Center which has not been billed in the past. The Downtown Director also reviewed that vacant buildings could not be assessed a higher rate, except for possibly where blight is involved.

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

WHEREAS, the City Council in 1994 appointed members of the City's Downtown Development Authority Board as a "Downtown Management Board" under provisions of Act 120 of the Public Acts of Michigan of 1961, as amended by Act 146 of 1992; and

WHEREAS, at its September 16, 2014, meeting, the Downtown Management Board discussed the need to continue to provide certain programs and services that are believed to be beneficial to the City's principal shopping area; and

WHEREAS, the Downtown Management Board has developed a recommended formula by which properties within the Board's district could be specially assessed as a means of obtaining revenues to offset costs of the Board's proposed programs and services for the year 2015; and

WHEREAS, the City Council has reviewed a report dated September 29, 2014, by the City Manager that lists those proposed programs and services as recommended by the Downtown Management Board and the proposed roll that would spread special assessments against properties within the Management Board's district:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby determines that a portion of the expense of these proposed programs and services shall be defrayed by special assessments upon those properties especially benefited; and

BE IT FURTHER RESOLVED that the nature of these proposed programs and services shall include such activities as special events, economic enhancement, beautification, marketing and promotions, and administration for costs estimated at \$133,650; that all portions of such costs shall be paid by special assessments, without a general obligation of the City; that such special-assessment revenues shall be collected in a single-installment payment; and that such assessments shall be levied in a district with boundaries that are to be coterminous to those of the Downtown Management Board's jurisdictional territory; and

BE IT FURTHER RESOLVED that the City Council does and hereby sets forth the basis of this special assessment by use of a formula that has been recommended by the Downtown Management Board to set the amount for the proposed special assessment based upon the recommended 2014 formula and that has been calculated by the City staff based upon square footage of useable, non-residential building area and vacant properties, which the City Council has determined to be the most equitable to the greatest number of property owners concerned; and

BE IT FURTHER RESOLVED that the City Council does and hereby schedules a public hearing for 7:00 P.M., Monday, October 20, 2014, to receive comments concerning these proposed programs and services; and

BE IT FURTHER RESOLVED that the City Council does and hereby directs the City staff to notify all property owners within the proposed assessment district of potential property assessments and the October 20, 2014, public hearing to receive comments concerning these proposed programs and services.

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 heard from City Councilmember Wills that the assessment process is drawn out and confusing and that he has received input from constituents regarding IPMC and when building permits may be necessary from the County for doing renovations. City Councilmember Marshall commented that she was disappointed that Mr. Reynolds was not hired and felt Council was not entirely open regarding the hiring process and Council didn't serve the City well.

There being no further business to come before the City Council, this October 6, 2014, meeting of the City Council adjourned at 8:15 P.M.

W.J. Fraser, Mayor

Alan Terry, City Clerk-Treasurer