



CITY COUNCIL

March 21, 2016

A regular meeting of the City of Petoskey City Council was held in the City Hall Main Floor Lobby, Petoskey, Michigan, on Monday, March 21, 2016. 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 Robert Straebel, Clerk-Treasurer Alan Terry, City Planner Amy Tweeten, Director of Parks and Recreation Allen Hansen and City Attorney James Murray.

Resolution No. 18953
Approve Consent Agenda Items

Following introduction of the consent agenda for this meeting of March 21, 2016, 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 March 7, 2016 regular-session City Council meeting be and are hereby approved; and

BE IT RESOLVED that receipt by the City Council of a report concerning all checks that had been issued since March 7 for contract and vendor claims at \$896,123.58, intergovernmental claims at \$8,004.39, and the March 10 payroll at \$180,982.94, for a total of \$1,085,110.91 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 there were no comments.

Hear City Manager Updates

The City Manager gave an update on the NPDES permit; that marina improvements would begin early spring; that staking of streets will begin this week to prepare for sidewalks and street improvements; that the Elks Lot repaving project will begin next month; that the US 131 water tower painting project will begin in May; that there will be an MPPA presentation at the April 18 Council meeting; that City Hall elevator repairs are expected to be completed by April 8; that the 2015 Public Safety annual activity report will be delivered to Council by the end of the week and published on the City's website; that winter parking regulations end April 1; and that small yard waste and brush chipping begins in April.

Resolution No. 18954 – Deny
Brownfield TIF for Great Lakes Center
for the Arts & Bay Harbor Village Co.

The City Manager reviewed that on February 1, 2016 representatives from the Great Lakes Center for the Arts and Bay Harbor Village proposed a conceptual plan for a Brownfield TIF to fund portions of the future regional arts center along with infrastructure associated with residential and commercial development in Bay Harbor Village. City Council took no formal action at that meeting. The City Manager reviewed changes to the Brownfield TIF Plan; that the approval process must go through the Emmet County Brownfield Redevelopment Authority, Emmet County Board of Commissioners and City Council; reviewed project summary; reviewed environmental and non-environmental eligible activities; maximum eligible costs; total financial impact on the City; and optional funding considerations.

Jill O'Neill, representative with the Great Lakes Center for the Arts gave a brief presentation and reviewed that the center will provide all types of activities; that 1/3 of revenue will be from ticket sales and 2/3 from donor support and endowments; and that TIF dollars will free up donor revenue for other costs.

Denny Brya, General Manager of Bay Harbor Company, reviewed residential and commercial development and that there has been no new development in the Village Phase II area of Bay Harbor since 2000.

Mac McClelland, from Otwell Mawby, reviewed the proposed TIF Plan; that the plan will reimburse developers for environmental and non-environmental costs; plan will help incentivize development of eligible properties; that there is no risk for City in regards to any loan repayment or captured taxes; and that infrastructure improvements will hopefully spur residential and commercial development.

City Councilmembers inquired if area was ready for residential and commercial development; discussed developers' costs; struggles with viability of additional commercial businesses in Bay Harbor; that the proposed projects are for the greater good of the community; and noted that Bay Harbor pays a lot of taxes to the City.

Mayor Fraser asked for public comments and heard from those in favor of approving the plan; inquiries on event prices and if there was adequate parking during events; heard from a Bay Harbor resident who reviewed values in development; that this \$45 million project investment should occur in Petoskey; that NLEA has been working with Bay Harbor for numerous years to bring project forward; concerns that Bay Harbor does not have blight and TIF should not occur; and Bay Harbor provides a lot of tax revenue to the City and approval of the plan would show developers the City supports these type of projects.

City Councilmembers further inquired if the Art Center would still occur without TIF; why MEDC does not support projects outside of downtown; concerns that it would not look good if the TIF plan was approved with the City facing cuts and a new public safety millage proposal in August; that inflationary increases in taxable value are not totally realized due to Headlee roll back of City millage; and that it is difficult to look in the future to what may be achieved by foregoing tax revenue for the next 30 years.

City Councilmember Dittmar moved that, seconded by Mayor Fraser adoption of the following resolution including Bay Harbor Village Company, LLC:

WHEREAS, the Michigan Brownfield Redevelopment Financing Act, Act 381, P.A. 1996 as amended, authorizes municipalities to create a brownfield redevelopment authority to promote the revitalization, redevelopment, and reuse of contaminated, blighted, functionally obsolete or historically designated property through tax increment financing of eligible environmental and/or non-environmental activities with an approved Brownfield Plan; and

WHEREAS, the Emmet County Board of Commissioners established the Emmet County Brownfield Redevelopment Authority in January 1999 under the procedures under Act 381; and

WHEREAS, a Brownfield Plan for the Great Lakes Center for the Arts has been prepared that outlines the qualifications, costs, impacts, and incentives for the project for reimbursement of eligible activities from Brownfield Tax Increment Financing revenues with the adoption of the Brownfield Plan; and

WHEREAS, Act 381 requires the concurrence of the local unit of government in which the Brownfield Plan project is located for Brownfield Plans under County Brownfield Redevelopment Authorities, and the Great Lakes Center for the Arts Brownfield Project is located in the City of Petoskey; and

WHEREAS, subsequent to the City Council's concurrence, the Emmet County Brownfield Redevelopment Authority will consider the Brownfield Plan for the Great Lakes Center for the Arts and provide a recommendation to the Emmet County Board of Commissioners; and

WHEREAS, subsequent to the City Council's concurrence, the Emmet County Board of Commissioners will set and notice a public hearing for April 14, 2016 and will consider the Great Lakes Center for the Arts Brownfield Plan at their regular meeting on April 14, 2016:

NOW THEREFORE BE IT RESOLVED, that pursuant to the Brownfield Redevelopment Financing Act, Act 381 of the Public Acts of 1996, as amended, being MCL 125.2651, *et seq*, the City of Petoskey City Council hereby concurs with the Brownfield Plan for the Great Lakes Center for the Arts.

Said resolution was denied by the following vote:

AYES: Dittmar, Fraser (2)

NAYS: Marshall, Murphy, Wills (3)

Resolution No. 18955 - Adopt Ord. 754 that Amending Ch. 18 Concerning Streets, Sidewalks and Other Public Places The City Planner reviewed that the City Council recently approved a Non-Motorized Facilities Plan established goals and strategies to enhance the walk-ability of Petoskey. One of the strategies is to address ADA compliance issues wherever possible. The plan goal is to have a minimum of 5 foot sidewalks in residential areas and 6 feet in commercial areas.

Chapter 18 provides allowances for use of the public right-of-way by adjacent businesses, which are primarily in the downtown area. As there are other permanent items within the 8-10' of downtown sidewalks (trees, light poles, parking meters), the proposed amendments are to ensure that these allowances do not reduce the required pedestrian zone below five (5) feet (or 48" if approved) and maintain a minimum vertical clearance of 80". The Planning Commission reviewed the proposed amendments to Sec 18-2 and recommended their approval, with the exception that there was a correction to the distance from the building that the vertical clearance must be met, which is twelve (12) inches.

Staff also added language regarding clearance for outdoor dining, however based on input from the Downtown Design Committee, the required clearance for outdoor dining furnishings and barriers has been reduced from five (5) feet to four (4) feet to make the pedestrian zone requirement consistent for all furnishings placed in the public right-of-way. In addition, based on Council questions from the first reading of the proposed ordinance, Figure 1 was modified to indicate the vertical clearance must be met twelve (12) inches from the building face. The amendments to

Section 18-4 were recommended by staff to change the violation from the current reference to Section 1-6 of the Ordinance to a municipal civil infraction.

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

ORDINANCE NO. 754

AN ORDINANCE TO AMEND CHAPTER 18 OF THE PETOSKEY CODE OF ORDINANCES ENTITLED STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE 1, SECTIONS 18-2 AND 18-4

The City of Petoskey ordains:

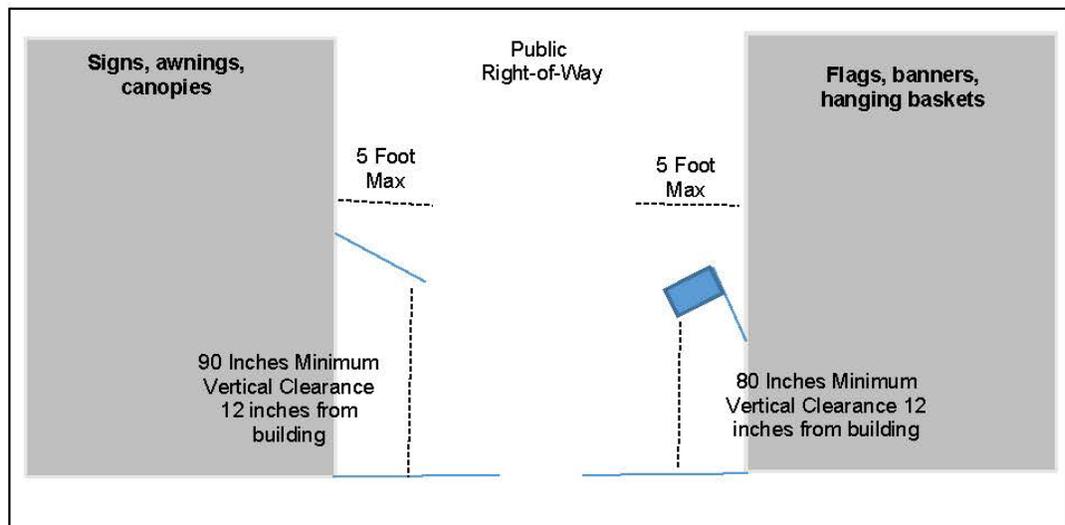
1. Chapter 18, Article I, Sections 18-2 and 18-4 of the Petoskey Code of Ordinances is hereby repealed and replaced by the following:

ARTICLE I IN GENERAL

Sec. 18-2 Street furniture and outdoor dining furnishings.

- (a) Street furniture, such as benches for public use and plant containers, may be placed on a public sidewalk by a merchant owning or controlling a building in an area no more than 30 inches from a building face without city permission; provided that no nuisance or unreasonable hazard is created and an unobstructed passageway for pedestrians of five feet (60 inches) remains. The pedestrian passageway may be reduced to four feet (48 inches) for a distance not to exceed five (5) feet upon review and approval of the City.
- (b) Food service establishments shall be required to provide an unobstructed passageway for pedestrians of four feet (48 inches) beyond dining furnishings or barriers to receive an outdoor dining license.
- (c) A minimum vertical clearance of eighty (80) inches (6 feet, 8 inches) from sidewalk grade must be met for all wall mounted banners, flags, baskets or other items that protrude more than twelve (12) inches into the right-of-way. Permanent installations such as signs, awnings, mansards, canopies, or marquees over the public sidewalk may not project more than five (5) feet from the building to which they are attached and must be a minimum of ninety (90) inches (seven feet, six inches) higher than the sidewalk grade (see Figure 1).

Figure 1



Sec. 18-4 Violation; penalty

- (a) Any person, including the occupant or owner of a building violating any of the provisions of this article shall be deemed responsible for a municipal civil infraction, subject to payment of a civil fine pursuant to the City of Petoskey Municipal Civil Infraction Ordinance, as amended, plus costs and other sanctions, for each violation (as authorized by Section 24 of Act 184 of the Public Acts of Michigan of 1943, as amended, the City of Petoskey Municipal Civil Infraction Ordinance, and other applicable laws).
 - (b) Repeat offenses under this article shall be subject to increased fines, as provided by the City of Petoskey Municipal Civil Infraction Ordinance, as amended from time to time.
 - (c) Each day on which any violation of this article occurs or continues constitutes a separate offense, subject to separate sanctions. The paying of a fine or sanctions under this article shall not exempt the offender from meeting the requirements of this article.
 - (d) A violation of this article is deemed to be a nuisance, per se. In addition to any remedies available at law, the city may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this article.
2. **Conflicting Standards.**
If any of the standards set forth in this amendment conflict with any other standards of previous or further ordinances or amendments, the stricter standards shall apply.
3. **Repeal; Savings Clause.**
All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.
4. **Severability.**
The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.
5. **Effect.**
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. 18956 – Authorize Grant Application Submission for Downtown Greenway Corridor – South Segment

The City Manager reviewed that staff and its consultant Beckett and Raeder, Inc., are preparing a Michigan Department of Natural Resources Trust Fund Grant application for the development of a non-motorized trail within the Downtown Greenway Corridor – South Segment based on conceptual drawings approved by Council on March 7, 2016. The 2013-2017 Parks and Recreation Master Plan also specifically identifies the development of this non-motorized trail within the Downtown Greenway Corridor. The grant submission deadline is April 1.

The City Manager reviewed the description of the project extending between Mitchell Street and Emmet Street; project costs including grant submission for \$300,000 and a local match of \$206,400; and that in-kind work from City staff will be included.

City Councilmembers discussed landscaping.

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

WHEREAS, the City of Petoskey desires to enhance recreational and non-motorized trail opportunities within its Downtown Greenway Corridor specifically the Downtown Greenway Corridor – South Segment lying between Mitchell Streets and Emmet Street and would provide connection to the Central Business District, Pennsylvania Park and the North Segment of the Corridor; and

WHEREAS, this Downtown Greenway Corridor – South Segment would include a lighted universally accessible non-motorized trail, landscaping, trailhead, signage and site amenities at an estimated project cost of \$506,400; and

WHEREAS, the Downtown Greenway Corridor - South Segment contributes to the goals and objectives identified in the 2013-2017 City of Petoskey's Parks and Recreation Master Plan, outlining the need and the desire to develop this linear park system; and

WHEREAS, the State of Michigan Department of Natural Resources is accepting applications for funding assistance through the Michigan Natural Resources Trust Fund for park development projects contributing to the goals and objectives identified within the municipality's approved Parks and Recreation Master Plan; and

WHEREAS, the City of Petoskey Parks and Recreation Commission supports the development of the Downtown Greenway Corridor - South Segment and recommends that the Petoskey City Council resolve to sponsor a Michigan Natural Resources Trust Fund Application for this project and commit to undertake this project, if funded, and commit to the project match and authorize Robert Straebel, City Manager, or his designee to serve as the City's representative for this project; and

WHEREAS, the City Council concurs with the recommendation made by the Parks and Recreation Commission for a submittal of an application to the Michigan Natural Resources Trust Fund Board for the Downtown Greenway Corridor - South Segment Non-motorized trail improvements; and

WHEREAS, the City Council will commit up to 40.75% of the local match that being \$206,400, toward these improvements in cash and/or force account:

NOW, THEREFORE, BE IT RESOLVED, that the City of Petoskey City Council does and hereby confirms its intent to make application to the Michigan Natural Resources Trust Fund Board for improvements within the Downtown Greenway Corridor - South Segment; and

BE IT FURTHER RESOLVED that the City Council does and hereby confirms its intent to authorize the City Manager or his designee to serve as the City's representative for this project, authorize the submission of the application to the Michigan Department of Natural Resources Trust Fund Board for the Downtown Greenway Corridor - South Segment project in the amount of \$300,000 and further resolves to make available its grant financial obligation amount of \$206,400 (40.75%) for a total project cost of \$506,400 during the 2017-2018 fiscal year.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18957 – Authorize Motor Pool Plow Truck Purchase

The City Manager reviewed that the City's 2016 Annual Budget included \$240,000 for the purchase of a heavy-duty 4x4 truck with chassis to accommodate a salt spreader unit; underbody scraper blade and front-mounted plow hitch to replace a 2000 4x4 heavy-duty truck with approximately 60,000 miles/6,400 hours that is equipped with a similar type salt spreader box, blade and plow attachments. The existing ruck will be retired and sold at auction.

City staff reviewed specifications as provided by the Mi-Deal State of Michigan Purchasing Contract and determined the v-box salt spreader unit; underbody scraper blade and front mounted plow hitch as available through the program, would be suitable for the specified application. Detailed specifications were also prepared by DPW staff for a heavy duty 4x4 truck cab and chassis that would accommodate such equipment as provided through Mi-Deal.

City Councilmembers discussed salt and sand usage.

City Councilmember Murphy moved that, seconded by City Councilmember Marshall to authorize contracting with Truck and Trailer Specialties, Boyne Falls, through the Mi-Deal Program for the purchase and installation of plow attachments and salt spreader components, for the amount of \$67,794 and authorize purchase from Grand Traverse Diesel Service, Inc., Traverse City, for a heavy duty 4x4 truck cab and chassis for the amount of \$158,198, for a combined cost of the truck chassis and specified equipment totals \$225,992.

Said motion was adopted by the following vote:

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

NAYS: None (0)

Hear Little Traverse Bay Band of Odawa Indians vs. Governor Snyder Jurisdiction Litigation Update

The City Attorney gave a brief update on the Little Traverse Bay Band of Odawa Indians against Governor Rick Snyder concerning the jurisdictional litigation. A summary was enclosed from David Otis, Plunkett Cooney Attorney, regarding the litigation. The City

Attorney reviewed the history; that all parties requesting intervention were approved; that the discovery is to be filed; and that the trial should take place in 2018.

Hear Council Comments

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

Resolution No. 18958 Adjourn to Closed Session

City Council was being asked to adopt a resolution that would adjourn to a closed session pursuant to Section 8(c) of the Michigan Open Meetings Act to consider negotiations of a collective bargaining agreement and

8(h) to consider written communications protected by the attorney-client privilege and exempt from disclosure under Section 13(1)(g) of the Freedom of Information Act.

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

WHEREAS, the City Manager has requested that the City Council adjourn to a closed session, pursuant to Section 8(c) of the Michigan Open Meetings Act, to consider negotiations of a collective bargaining agreement and 8(h) to consider written communications protected by the attorney-client privilege and exempt from disclosure under Section 13(1)(g) of the Freedom of Information Act, following the conclusion of routine business at the City Council's regular meeting of March 21, 2016:

NOW, THEREFORE, BE IT RESOLVED that the City Council does and hereby authorizes to adjourn to a closed session, to consider negotiations of a collected bargaining agreement and written communications protected by the attorney-client privilege and exempt from disclosure.

Said resolution 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 March 21, 2016, meeting of the City Council adjourned at 8:35 P.M.

W.J. Fraser, Mayor

Alan Terry, City Clerk-Treasurer