



CITY COUNCIL

November 7, 2016

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, November 7, 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: Kate Marshall, City Councilmember
John Murphy, City Councilmember
Grant Dittmar, City Councilmember
Jeremy Wills, City Councilmember (Mayor Protem)

Absent: William Fraser, Mayor

Also in attendance were City Manager Robert Straebel, Clerk-Treasurer Alan Terry and Downtown Director Becky Goodman.

Resolution No. 19007
Approve Consent Agenda Items

Following introduction of the consent agenda for this meeting of November 7, 2016, 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 October 17, 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 October 17 for contract and vendor claims at \$1,628,977.47, intergovernmental claims at \$1,086,300, and the October 20 and November 3 payrolls at \$371,149.13, for a total of \$3,086,426.60 be and is hereby acknowledged.

Said resolution was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills (4)

NAYS: None (0)

Hear Public Comment

to meetings if elected.

Mayor Protem Wills asked for public comments and David Clink, Resort Township, commented that he was a District 6 County Commissioner candidate and will come

Hear City Manager Updates

The City Manager reviewed that Allen Hansen, Director of Parks and Recreation, announced that he will be retiring in March 2017 and that the hiring process and interviews will start in January; and that the City received a Michigan Association of Planning award for the Bear River Valley Recreation project.

The City Manager reviewed revisions to the policy and

Approve Gift and Donation
Acceptance Policy

that at the October 17 meeting there were Council comments regarding the City Council's ability to revoke or overturn a decision made by the City Manager

according to Section V. There was also discussion from City Council on whether the policy was to be specifically for public art donations or generally for all donations to the City. The City Manager recommended a more encompassing policy to address a myriad of donation scenarios. The City Manager reviewed that City Council can veto City Manager's decision for gifts or donations under \$10,000 in value.

City Councilmembers valued the comprehensive plan; inquired if labor donation is a monetary value similar to the Garden Club; and discussed what would be approved by the City Manager vs City Council.

City Councilmember Dittmar moved that, seconded by City Councilmember Murphy adoption of the following Gift and Donation Acceptance Policy:

I. Purpose and Policy

The purpose of this policy is to establish a process for acceptance and documentation of donations/gifts made to the City including the installation, long-term maintenance and operation of donated elements to the City which, as determined by the Petoskey City Council or City Manager, will enhance the quality of life in the community. The policy provides guidance when individuals, community groups and businesses wish to make donations or gifts to the City.

Guidelines/Standards for Accepting Gifts or Donations established by this policy will apply to all donations or gifts made after the effective date of this policy. The policy may be amended or repealed, in whole or in part, by the Petoskey City Council.

II. Definitions

"Gift or Donation"- For the purpose of this policy, the terms gift or donation shall be synonymous and hereafter shall be referred to as donations. Donations are any tangible or intangible asset, in whatever condition, the City is prepared to accept pursuant to the policy set forth herein and administrative guidelines promulgated pursuant to this policy. All donations or gifts shall become the sole property of the City unless determined otherwise by the City Council. The City has no duty to return any donation. All donations are irrevocable and otherwise final upon receipt by the City. City Council has the final authority to relocate, remove or dispose of any donation at any time, with or without notice to the Donor.

"Donor" means an individual or legal entity making a donation to the City.

III. Consistency with City Interests

Donations may only be accepted when they have a purpose consistent with the goals and objectives of the City and are in the best interest of Petoskey. The City must always consider the public trust and comply with all applicable laws when accepting donations.

IV. Guidelines/Standards for Accepting Donations

Donations shall be accepted only if they have a valid use to the City.

Donations intended to either become incorporated into City parks as well as donations of equipment, vehicles, or facilities intended to supplement those of the City often

involve considerations of aesthetics, costs, and compatibility whose features shall be evaluated using the following criteria:

1. The donation will not be in conflict with any provision of the law and shall not be in conflict with comprehensive plans, recreation plans and park design.
2. The donation will not add to the City's workload unless it provides a net benefit to the City.
3. The donation places no restrictions on the City, unless agreed to by the City Council.
4. All donations or gifts shall become the sole property of the City unless determined otherwise by the City Council in writing. The City has no duty to return any donation as all donations are irrevocable and otherwise final upon receipt by the City. City Council has the final authority to relocate, remove or dispose of any donation at any time, with or without notice to the Donor.
5. All donations will receive recognition appropriate to the level and nature of the donation as determined by the City Council. For those of a capital nature, that may be in the form of signage, plaques, markings, or other means the City should deem appropriate. Regardless of the recognition strategy selected, the intent shall be to appropriately honor the donor for their contribution to the community. To ensure uniformity of appearance and good taste on any recognition, the language of such plaques shall also be approved by the City Council. Donation acknowledgments and memorial plaques shall be made of bronze and be of the highest quality, life and durability. In cases where bronze plaques are not feasible, other alternative types may be considered. The appearance of traditional commercial advertising shall be avoided.
6. The City and community have an interest in ensuring the best appearance and aesthetic quality of public lands and facilities. Donations shall reflect the character and be consistent with the intended surroundings and complement the aesthetics of the proposed site.
7. Since donated elements and their associated recognition become City property, the community has an interest in ensuring that all elements remain in good repair and are maintained appropriately. In addition, Petoskey has an interest in ensuring that the short and long-term repair costs are reasonable and that repair parts and materials be readily available. So too, elements must be of a quality to insure a long life, be resistant to weather, wear and tear, and acts of vandalism.
8. The proposed donation cannot substantially interfere with the intended current or future use of the land or facility where it is being proposed to be located. Preference will be given to donations that are unique in nature, have historical or cultural relevance and have the ability to attract visitors to the community.
9. The City also has an interest in knowing in advance the full cost which may be associated with a donation, namely those costs that relate to the installation, maintenance and operation during the donation's expected life cycle. The costs to install, operate, repair, and/or maintain a mechanical and/or electric system proposed for use in conjunction with a donation shall be identified prior to acceptance by the City Council.
10. When considering donations to City parks or City-owned property such as but not limited to statues, memorials, benches or public art pieces which may affect its immediate surroundings, the City Council may request (but is not required to) review

by the Petoskey Planning Commission, DMB and/or Parks and Recreation Commission. These boards shall make a recommendation to City Council on whether to approve, approve with conditions or reject the acceptance of a donation.

The City Council may then hold a Public Hearing for such purpose to invite comment from the community with respect to, but not limited to, such issues as: impact on view sheds; safety concerns; potential for noise generation; compatibility with the aesthetic features of parks or park plans or public lands in general.

11. Monetary donations approved by City Council will be deposited to the fund in which the intended use of the donation is to be achieved. This money shall be placed into a restricted fund in the Department's budget responsible to achieve such intended use.
12. The City Council shall not approve any donation that may meet one or more of the following criteria:
 - A. Be offensive or of morally questionable material;
 - B. Donations that are connected with a restriction that entails special considerations or favors beyond any other resident, donating or non-donating;
 - C. Any other concern, real or perceived, that may result in the loss of reputation, appearance of impropriety, or other negative impact on the City from accepting the donation or gift.

V. City Manager Authority to Approve Donations

The City Manager shall be authorized to accept or reject offers of donated money, equipment and in-kind-donations to City Departments or to the City in general up to \$10,000 per donation. Donated money will be expended for general purposes within the department or specified purposes, if agreed upon with the donor, as one-time supplements to the department's operating budget. Donations of equipment will be considered based upon program outcomes, department goals and needs. Each donation will be evaluated for usefulness and potential replacement costs.

When approving donations with a value of less than \$10,000, the City Manager shall base his/her decision upon the Guidelines/Standards in Section IV.

VI. Procedures for Making and Accepting Gifts

The City Council shall have the full and final authority to approve or deny all donation proposals including those made by the City Manager. Prior to submitting a Donation Application Form (Attachment A), the donor or donor's representatives shall contact the City Manager's Office to discuss a proposed donation. Such pre-application meeting shall assist both the prospective donor and the City in determining whether a donation will meet the criteria contained in this policy. If a donation appears to be in accordance with this policy, the donor or donor's representative will then submit a Donation Application Form and meet with City Staff members to determine the specific nature of the donation, proposed location, and yearly maintenance and operational costs for review and processing. The written proposal, including a Staff report, will be sent to City Council for its decision.

City Staff or City Council may request additional information including, but not limited to: scaled drawings; artist's renditions; or other documents to better illustrate the exact nature of the donation. The City may choose to consult with other agencies or organizations in the review process. The City Council may also send any proposal to

the appropriate City board or committee for review with subsequent recommendation to City Council.

**Donation Application Form
Attachment A**

Thank you for your interest in donating to the City of Petoskey. Your gift or donation will be considered by the Petoskey City Council after this form is filled out and a Staff report is completed. All donations shall become the sole property of the City and the City has no duty to return the donations. All donations are also subject to the Gift and Donation Acceptance Policy adopted by the City.

1. Name, Address and Phone Number of Donor: _____

2. Description of Gift or Donation: _____

3. Value of the Gift or Donation (market value): \$_____

4. What is the intended purpose or use for this gift or donation? _____

5. If applicable, what are the yearly maintenance and operational costs associated with this gift or donation? \$_____

6. Do you have or are you currently seeking to establish a contractual relationship with the City of Petoskey? If so, please disclose the nature of the contractual relationship:

Signature and Title of Donor Date

Internal City of Petoskey Use Only

Date application was received: _____

This application is: Accepted by the City of Petoskey on _____
Rejected by the City of Petoskey on _____

City Manager Signature Date

Said motion was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills (4)

NAYS: None

Resolution No. 19008
Report about 2017 Annual Budget:
Schedule Public Hearing

The City Manager reported that, as required of City Charter provisions, and as part of the City's routine, yearly process, the City Council had been presented with the City's proposed 2017 Annual Budget as part of November 7 meeting-agenda materials, that totaled \$34,589,100 in proposed operating and capital expenditures; and that, except to acknowledge its receipt, no action concerning the proposed budget now would be required of the City Council, but that, in addition to the City Manager's summary of the proposal, the City Council could begin discussions on the proposed budget.

The City Manager also reported that, as the first step in the budget-preparation process, the City Council was being asked to acknowledge receipt of the budget proposal and to adopt a proposed resolution that would schedule a November 21 public hearing to receive comments concerning the proposed budget and property-tax-millage rates that would be recommended as part of the proposed budget; and that the City Council could schedule the public hearing for any date that it chose, but that November 21 was suggested.

The City Manager provided an overview of the budget and that there are no new taxes or utility rate increases; reviewed capital outlay items; that Emmet Street reconstruction plans will be reviewed at a future meeting before bids are requested; discussed funding of non-motorized trail maintenance and that crowd funding was used on State non-motorized trail; reviewed financial challenges; and reviewed fund by fund highlights of projects, fund balances and operating revenue and expenses.

City Councilmembers inquired about the tree trimming around waterfront; and the City Manager responded that a forester advised the City that trimming was needed.

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

WHEREAS, as required by City Charter provisions, the City Manager has presented for the City Council's consideration the City's recommended budget for fiscal 2017; and

WHEREAS, City Charter provisions also require that a public hearing be conducted to receive comments concerning the proposed annual budget; and

WHEREAS, this proposed budget includes certain recommendations by the City Manager concerning the amounts of property-tax millage to be levied to partially finance City operations, programs, services, and projects during 2017; and

WHEREAS, the Michigan Truth-in-Taxation Act requires that public hearings be conducted to receive comments concerning proposed property-tax-millage rates, if such rates result in increased tax revenues, when compared with those of the previous year:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby schedules a public hearing for 7:00 P.M., Monday, November 21, 2016, at the City Hall, to receive comments concerning the City's proposed 2017 Annual Budget and property-tax-millage rates that will be recommended to be levied during 2017 as part of the proposed budget.

Said resolution was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills (4)

NAYS: None

Resolution No. 19009 - Approve
MMERS Retirement Plan Changes for
Union & Non-union Staff

The City Manager reviewed that the City provides retirement benefits through the Michigan Municipal Employees' Retirement System (MMERS), which has four separate divisions; General Nonunion, DPW Teamsters union, Public Safety Officers union and Public Safety Lieutenants union. MMERS announced last year they were making changes to the actuarial assumptions used in determining required contributions to the defined benefit retirement programs. The new assumptions significantly increase the City's required contributions and as a result the City and staff have made changes to the General Nonunion, Public Safety Lieutenants FOPLC Union and DPW Teamsters Union retirement plans. Retirement plans for Public Safety Officers FOPLC will be further addressed next year as the current collective bargaining agreements both expire on December 31, 2017.

The City Manager reviewed that the General Nonunion employees and DPW Teamster's unionized employees defined benefit plans provisions will be reduced from a B-4 (2.5% multiplier) plan to a B-3 (2.25% multiplier) plan for active employees. All new employees, for those two divisions, along with the Public Safety Lieutenants unionized division, will belong to a defined contribution plan. These retirement plan revisions will help minimize the effects of the changes being implemented by MMERS. The plan revisions are scheduled to take effect on January 1, 2017.

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

WHEREAS, the City is a participating governmental unit in the Michigan Municipal Employees' Retirement System (MMERS) pension plan document of 1996; and

WHEREAS, in accordance with pension provisions of a renewed collective bargaining agreement with certain unionized employees within the City's Department of Public Works and Public Safety Lieutenants require changes to the City's current MMERS plan; and

WHEREAS, certain pension provisions for Nonunion City employees with the recommendation of the City Manager also require changes to the City's current MMERS plan:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby elects to change current Michigan Municipal Employees' Retirement System (MMERS) benefits for Department of Public Works unionized personnel, referred to as City of Petoskey (2402), Division 01 – General Teamsters, effective January 1, 2017 for all current employees, the defined benefit plan multiplier from a B-4 (2.50%) to a B-3 (2.25%), with the final average compensation frozen for the B-4 plan and a new final average compensation for the B-3, plan based on the date of retirement; and

BE IT FURTHER RESOLVED that the City of Petoskey City Council does and hereby elects to change current Michigan Municipal Employees' Retirement System (MMERS) benefits for Department of Public Works unionized personnel, referred to as City of Petoskey (2402), Division 01 – General Teamsters, for all new employees hired on or after January 1, 2017 to be included in a defined contribution plan with the City contributing 3% and up to an additional 2% match of the employee contribution for a total maximum City contribution of 5%, with additional terms as set forth in the plan adoption agreement; and

BE IT FURTHER RESOLVED that the City of Petoskey City Council does and hereby elects to change current Michigan Municipal Employees' Retirement System (MMERS) benefits for Nonunion personnel, referred to as City of Petoskey (2402), Division 10 – General Nonunion, effective January 1, 2017 for all current employees, to change the

defined benefit plan multiplier from a B-4 (2.50%) to a B-3 (2.25%), with the final average compensation frozen for the B-4 plan and a new final average compensation for the B-3, plan based on the date of retirement; and

BE IT FURTHER RESOLVED that the City of Petoskey City Council does and hereby elects to change current Michigan Municipal Employees' Retirement System (MMERS) benefits for Nonunion personnel, referred to as City of Petoskey (2402), Division 10 – General Nonunion, for all new employees hired on or after January 1, 2017 to be included in a defined contribution plan with the City contributing 3% and up to an additional 2% match of the employee contribution for a total maximum City contribution of 5%, with additional terms as set forth in the plan adoption agreement;

BE IT FURTHER RESOLVED that the City of Petoskey City Council does and hereby elects to change current Michigan Municipal Employees' Retirement System (MMERS) benefits for Public Safety Lieutenants Union, referred to as City of Petoskey (2402), Division 11 – Public Safety Lieutenant's Union, for all new employees hired on or after January 1, 2017 to be included in a defined contribution plan with the City contributing 3% and up to an additional 2% match of the employee contribution for a total maximum City contribution of 5%, with additional terms as set forth in the plan adoption agreement; and

BE IT FURTHER RESOLVED that the City of Petoskey City Council does and hereby authorizes the City Manager and Director of Finance to prepare and sign all necessary documents with MMERS to establish a defined contribution plan with MMERS for Divisions 01, 10 and 11 and to make changes as set forth above to the existing defined benefit plans for Divisions 01 and 10 and as set forth in the individual adoption agreements.

Said resolution was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills (4)

NAYS: None (0)

Discuss Labor Attorney Appointment The City Manager reviewed that in the summer of 2016, the City's Labor Attorney Dick Dinon started his own law firm, Dinon Law PLLC, and was previously employed by Plunkett and Cooney. Mr. Dinon assists in collective bargaining agreements and has been giving legal counsel to the City for the past 8-9 years regarding labor relations and other employment matters. According to Section 5.4 City Attorney of the City Charter, "The City Council shall appoint the City Attorney who shall serve as the chief legal advisor to the City Council, the City Manager, and all departments and agencies of the City." The City Manager recommended that it would be best to have City Council approve a resolution for Mr. Dinon's legal services associated with labor and employment matters since he no longer works for Plunkett & Cooney.

The City Manager noted that Jim Murray would continue to serve as the City Attorney, while Mr. Dinon will only serve in the capacity of the City's official Labor Counsel. As addressed in the Labor Engagement Letter dated October 26, 2016, the hourly rate for Mr. Dinon has not changed and remains at \$175 per hour. Either party can terminate the agreement at any time by notifying the other in writing.

City Councilmembers discussed hiring an attorney for Labor Counsel and inquired if it could be discussed in closed session.

Mayor Fraser asked for public comments and heard an inquiry why Council would go into closed session to discuss this matter.

The City Manager responded that he will review if it is appropriate to go into closed session to discuss the matter at a future meeting.

Resolution No. 19010
Confirm Special Assessment
Roll; Schedule Hearing

The City Manager next reported that, following City Code provisions that regulated the City's special-assessment procedure, the City Council on October 17 conducted a public hearing and received comments concerning a September 27 report by the City Manager that had recommended the levy of special assessments against eligible, non-residential properties within the Downtown Management Board's territory to offset costs of programs and services that would be provided by the Downtown Management Board during 2017. Such revenues and expenditures have been included within the City's proposed 2017 Annual Budget.

Following the October 17 public hearing, the City Council, again in accordance with City Code special-assessment procedures, conditionally approved the proposed programs and services and their costs as they had been presented, established boundaries of the special-assessment district, and requested that an assessment roll be prepared by the City staff and presented to the City Council for its review at the November 7 City Council meeting.

The City Manager reported that the City Council had been provided a proposed special-assessment roll based upon the Downtown Management Board's September 20 recommendation that the same special-assessment formula that had been used last year for financing downtown-area programs and services again be used, with \$0.16 being the amount that would be assessed per square foot of useable, first-floor, non-residential building area; \$0.04 being charged useable, non-residential area on floors other than the first floor; and vacant, unimproved lots being charged \$0.05 per square foot for lot area. To meet City Code requirements, the City Council was being asked to adopt a proposed resolution that would confirm the City Council's acceptance of the roll, order that the roll be placed on file at the City Hall for inspection, and schedule a public hearing for 7:00 P.M., Monday, November 21, to receive comments concerning this proposed special assessment.

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

WHEREAS, at its regular meeting of October 3, 2016, the City Council reviewed a report by the City Manager dated September 27, 2016, as required of City Code provisions, that listed programs and services that had been proposed to be provided to property owners and tenants within the Downtown Management Board's territory along with a proposed assessment formula that could be implemented to finance such programs and services during 2017; and

WHEREAS, following that review, the City Council on October 3, 2016, scheduled a public hearing for October 17, 2016, to receive comments concerning proposed programs and services as intended to be provided by the Downtown Management Board, as well as costs that had been estimated by the Downtown Management Board for providing such programs and services; and

WHEREAS, City Council, on October 17, 2016, approved proposed programs and services as recommended by the Downtown Management Board at their September 20, 2016 meeting and costs as estimated by the Management Board to be assessed eligible property owners within the boundaries of the proposed assessment district at the same rate as last year that are coterminous to those of the Management Board's territory; and

WHEREAS, in addition to approving proposed downtown-area programs and services and costs of such programs and services, the City Council directed the City staff to prepare a special-assessment roll in accordance with the City Council's approval of

recommended programs and services and costs of such programs and services for presentation to the City Council at its meeting of November 7, 2016; and

WHEREAS, in response to the City Council's direction, and in accordance with City Code provisions that regulate special-assessment procedures, the City staff has provided a proposed special-assessment roll:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby accepts the assessment roll as prepared by the City staff and as presented to the City Council; and

BE IT FURTHER RESOLVED that the City Council does and hereby orders that said special-assessment roll be placed on file with the City staff and made available for inspection by the public; and

BE IT FURTHER RESOLVED that the City Council does and hereby schedules a public hearing for 7:00 P.M., Monday, November 21, 2016, to receive comments concerning this proposed special-assessment roll; and

BE IT FURTHER RESOLVED that the City Council does and hereby directs the City staff to publish a notice of the November 21, 2016, public hearing and notify potentially-affected property owners of said public hearing as required by City Code provisions that regulate the City's special-assessment procedures.

Said resolution was adopted by the following vote:

AYES: Marshall, Murphy, Dittmar, Wills (4)

NAYS: None (0)

Hear Council Comments

Mayor Protem Wills asked for Council comments and there were no comments.

There being no further business to come before the City Council, this November 7, 2016, meeting of the City Council adjourned at 8:40 P.M.

W.J. Fraser, Mayor

Alan Terry, City Clerk-Treasurer