



CITY COUNCIL

March 3, 2025

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, March 3, 2025. This meeting was called to order at 6:00 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: John Murphy, Mayor
Tina DeMoore, City Councilmember
Derek Shiels, City Councilmember
Joe Nachtrab, City Councilmember
Lindsey Walker, City Councilmember

Absent: None

Also in attendance were City Manager Shane Horn, City Clerk Sarah Bek, Public Safety Director Adrian Karr, Downtown Manager Amy Tweeten and approximately 32 members of the public.

Hear Public Safety Awards Presentation

Director Karr presented ten awards to recipients for commendable service throughout the community including public safety citation, public safety commendation, unit citation, letter of commendation and Chief and Mayor awards. Mayor Murphy thanked the Public Safety Department for their service.

Hear Public Safety 2024 Annual Report Presentation

Public Safety Director Adrian Karr gave a brief presentation concerning the department's 2024 annual report and statistics; reviewed ordinance enforcement by Code Enforcement Officer; reviewed programs and community engagement; reviewed detectives position; reviewed School Resource Officers Carlson and Donovan and their success at the Petoskey Public Schools; reviewed training efforts and new vehicle exhaust removal system; recognized Lt. Troxel and PSO Haalck for their 25 years of service with the department; and recognized Gina Ellenberger on her outstanding efforts preparing the awards, annual report and presentation.

Councilmembers thanked Director Karr for the presentation and for celebrating honors and achievements; inquired on the reason for increased calls compared to previous years; heard comments on inspections and if property inspections included IPMC and if all were exterior inspections; thanked the Director for his sincere message and modeling and encouraging others to have a respectful voice; and inquired on incidents in Ward 3, specifically the increase in Bay Harbor and if occurrences involve gem cars.

Director Karr responded that the department has several new officers who are active; that IPMC inspections are all exterior and if have to go inside then Emmet County is contacted; that lieutenants make sure officers are patrolling all areas of the City including Bay Harbor by interacting with the public, making traffic stops and community engagement which is evaluated during a performance review; that activities in Bay Harbor includes gem car incidents and included in calls for service; and that CCE is getting a new system this year which will require a citation and provide a report.

Approve Consent Agenda

Councilmembers had questions on annual tree planting program and requested to pull off consent agenda.

Councilmember Walker moved that, seconded by Councilmember DeMoore approval of the following consent agenda items:

- City Council does and hereby confirms that the draft minutes of the February 17, 2025 regular session and closed session City Council meetings be and are hereby approved;
- Receipt of a report from the City Manager concerning all checks that had been issued since February 17, 2025 for contract and vendor claims at \$2,270,785.12, intergovernmental claims at \$80,885.01 and the February 27, 2025 payroll at \$260,829.20 for a total of \$2,612,499.33 be and is hereby acknowledged; and

Said motion carried and was approved by the following vote:

AYES: DeMoore, Shiels, Nachtrab, Walker, Murphy (5)

NAYS: None (0)

Authorize Annual Tree Planting Contract – Resolution No. 25-22

Councilmembers heard a concern that the ability to extend or adjust the contract by the unit prices bid was not included in the resolution; inquired what role the 2020 Tree Assessment and Management Plan had in this program and if it was still being utilized for maintenance and care; if there would be consideration for viewsheds, but that trees planted will mainly be in rights-of-way; requested that the bid form with species and quantity be included in the future; and inquired if there is history of changing landscaping vendors every year.

The City Manager responded that the resolution could be amended if Council desired; that 55 of the 75 trees will go toward Howard Street reconstruction project; and that typically tree vendors do not change.

Councilmember Walker moved that, seconded by Councilmember Shiels adoption of the following resolution including adding language with the ability to extend or adjust the contract by the unit prices bid:

WHEREAS, the City of Petoskey City Council hereby recognizes the importance of a healthy tree canopy and capturing the benefits of a forestry program; and

WHEREAS, the City of Petoskey has an established forestry program that focuses on resiliency and diversity among tree species; and

WHEREAS, the City of Petoskey believes in the long term benefits of trees including stormwater management, healthy parks, reduction in greenhouse gases and energy usage, and improved air quality:

NOW, THEREFORE, BE IT RESOLVED, that the City of Petoskey City Council does and hereby authorizes approval of the annual tree contract to David Hoffman Landscaping and Nursery, Inc., Petoskey, for \$36,975.00 to plant a variety of 75 street and park trees with the ability to extend or adjust the contract by the unit prices bid; and

BE IT FURTHER RESOLVED that the City of Petoskey City Council hereby authorizes the City Manager, or his designee, to serve as the City of Petoskey's representative for the annual tree planting program.

Said motion carried and was approved by the following vote:

AYES: DeMoore, Shiels, Nachtrab, Walker, Murphy (5)

NAYS: None (0)

Hear Public Comment

Mayor Murphy asked for public comments and there were no comments.

Hear City Manager Report

The City Manager recognized staff March birthdays and work anniversaries; reviewed Board of Review dates and other upcoming public meetings; reviewed Winter Sports Park master planning process and that a meeting is scheduled March 13 for neighborhood input from property owners within 300 feet of Winter Sports Park and proposed dates are scheduled for March 17-April 1 for a community survey and a community engagement meeting for mid-May to the first week of June with proper notification to citizens.

Councilmembers had some concern on the length of survey only being 16 days and spring break occurring during that time period; heard from those requesting to extend survey closing date to allow more time for people to offer opinion; inquired who would be evaluating survey responses and requested to track expenses; and discussed survey length and suggested a 30-day period and let City staff decide dates.

The City Manager responded that Beckett and Raeder and the consultant helping with millage campaign are helping with the process and that input from residents within 300 feet are being notified because they could potentially be mostly impacted by lighting, noise, events and increased traffic.

Adopt Ordinance 799 Repealing and Replacing Chapter 8, Article VII Open Air Food and Beverage Services Regulating Sidewalk Dining and Dining Decks – Resolution No. 25-23

The City Manager reviewed that this was a second reading of proposed ordinance; that based on Council discussion at the February 17 meeting regarding limiting deck numbers, staff discussed with City Attorney and reviewed three options for Section 8-217(b) including a maximum of five decks as introduced, a maximum of eight decks or Council setting a different maximum prior to adoption.

Councilmembers inquired if the dining deck cap could be set by resolution; heard from those that feel there is good criteria for decks in the ordinance and want businesses to have flexibility and not be too limited; heard from those interested in setting maximum at five as introduced since it is the first time implementing ordinance and under the number of decks from last year; discussed the reasoning behind allowing both sidewalk dining and dining decks and heard from those in favor of having sidewalk availability; heard from those in favor of not having a cap since there are restrictions in place for location of decks; inquired on the number of people interested and qualified in installing a dining deck; commented that downtown is vibrant and the impact of dining decks is unknown; that unlimited sidewalk dining is regulated by aesthetics and ADA compliance; heard from those that feel downtown needs to remain a walkable community.

City staff responded that cap increase could be set by resolution, but the City Attorney's opinion was to keep regulation in ordinance especially based on applicant's investment of deck; that there were only two decks in 2024 and historically had been three decks; that a few businesses expressed interest, but unknown if will move forward due to investment; that geographic restrictions were discussed and ordinance pertains to the CBD; that a preferred cap approach could be to start smaller and expand as needed; that sidewalk dining and dining decks are regulated as a balance of uses in downtown which provide vibrancy, but still protects commercial core; that the DMB felt there was enough space for a business to have both dining options; and that there are currently two dining decks next to each other.

Councilmember Walker moved that, seconded by Councilmember Nachtrab adoption of the following ordinance:

ORDINANCE NO. 799

ORDINANCE AMENDING CHAPTER 8, ARTICLE VII OF THE CODE OF ORDINANCES, "OPEN AIR FOOD AND BEVERAGE SERVICES"

THE CITY OF PETOSKEY ORDAINS:

Chapter 8, Article VII of the Code of Ordinances, entitled "Open Air Food and Beverages," is repealed in its entirety and replaced with the following text:

DIVISION 1. - GENERALLY

Sec. 8-200. – Violation and penalty.

It shall be a municipal civil infraction to violate this article.

Sec. 8-201. – Definitions.

“Dining Deck” means a deck, patio, or similar structure placed in the public right-of-way (such as a sidewalk, street, or parking space) for use in connection with an Open Air Food and Beverage Service.

“Outdoor” means outside of a completely enclosed building.

“Open Air Food and Beverage Service” means an outdoor dining area or outdoor café, with or without a Dining Deck, located on public property or within the public right-of-way.

Secs. 8-202—8-214. – Reserved.

DIVISION 2. – LICENSE

Sec. 8-215. – License required.

No person shall operate an Open Air Food and Beverage Service without first obtaining a Sidewalk Dining License or a Dining Deck License under this Chapter.

Sec. 8-216. – License fees and requirements.

(a) *Annual fee.* The annual fee for open air food and beverage service for sidewalk dining and dining deck licenses shall be established from time to time by City Council resolution. Fees will not be prorated for partial years of operation. “Annual” means a calendar year.

(b) *Requirements for all Open Air Food and Beverage Services.*

1. A license shall not be granted to any operation that is not associated with an operating food or beverage business.
2. All food and beverages shall be prepared within the licensee establishment unless approved by the City council as part of a special event.
3. Open air food and beverage areas, sidewalk dining, and dining decks may be installed/opened starting May 15 and must be removed/closed by October 31, unless earlier removal is required due to weather conditions at the discretion of the City Manager.
4. Umbrellas, if used, must be made of canvas, free of logos, and comply with horizontal and vertical clearance requirements in the Design Guidelines for Downtown Petoskey Sidewalk and Dining Deck Furnishings.
5. The licensee is responsible for maintaining the outdoor dining area, including litter control, sweeping, and snow and ice removal. The sidewalk and public property must remain clean and free of substances that could cause damage or pose a risk of injury to pedestrians.
6. Dining decks and outdoor furnishings used by licensees in 2024 have a one-year grace period to meet the requirements of the Design Guidelines for Downtown Petoskey Sidewalk and Dining Deck Furnishings. Full compliance with ordinance standards is required beginning in the 2026 outdoor dining season.

(c) *Requirements for Sidewalk Dining licensees*

1. Sidewalk dining licenses must comply with Section 18-2(b) of the Code of Ordinances regarding the location of street furniture, clear pedestrian passage, and vertical clearance.
2. Furnishings must adhere to the Design Guidelines for Downtown Petoskey Sidewalk and Dining Deck Furnishings.

(d) *Requirements for Dining Deck licensees*

1. Dining decks must be installed in accordance with City construction standards, ensuring barrier-free access, storm-water management, and utility clearances. Dining decks must also adhere to the Design Guidelines for Downtown Petoskey Sidewalk and Dining Deck Furnishings regarding materials, colors, and design.
2. Dining decks are limited to one parking space per storefront and must fit within the interior lines of the parking space closest to the storefront. City staff may adjust this requirement for adjacent storefront decks to optimize parking.
3. Dining deck floors must be made of composite materials or stained wood, and the railings must be wrought iron, aluminum, steel, or cable systems that are Downtown Petoskey Green or Black.
4. Lighting is limited to tabletop down-lit fixtures or ambient lighting along railings.
5. Dining decks must have reflective material on the outside edge of the deck facing oncoming vehicle traffic, as approved by the City.
6. All elements of the dining deck must comply with applicable codes, including building and fire codes.
7. Dining decks must be in service at least ten hours a day, six days a week, from Memorial Day through Labor Day, absent exceptional circumstances.

Sec. 8-217. – Eligibility; number of licenses; application.

- (a) *Eligibility.* Any operating food or beverage business in the City may apply for a Sidewalk Dining License. A Dining Deck License is available only to full-service restaurants where at least 50% of sales come from food served through wait service.
- (b) *Number of licenses.* The City may issue an unlimited number of Sidewalk Dining Licenses. The City may issue a maximum of five total Dining Deck Licenses on a first-come, first-served basis, subject to this Chapter. Dining Deck Licenses may be renewed pursuant to Section 8-221.
- (c) *Application requirements.* Applicants for licenses must complete an application on a form furnished by the City and submit the applications and required information detailed below to the City Clerk. Review will not begin until an application is complete. The application must include the following:
 1. An application fee in an amount set from time to time by City Council.
 2. A site development plan that depicts the applicant's entire property and adjacent properties and streets within 25 feet on a map at a scale showing detail sufficient for adequate review, but in no case on a page less than 8 ½" x 11" nor larger than 11" x 17". The plan shall identify the location and clearances of all proposed and existing streetscape fixtures, including streetlights, parking meters, planters, landscaping, railings, tables, chairs, umbrellas, hydrants, ingress, and egress.
 3. Details regarding proposed fixtures (materials, colors, style). The applicant must confirm that the proposed fixtures comply with the Downtown Outdoor Dining Furnishings Design Guidelines.
 4. A description of the barrier anchoring systems, which must be approved and inspected by the City prior to installation. Any damage to public sidewalk or street resulting from system installation shall be repaired at cost of applicant.
 5. A certificate of liability insurance with a minimum coverage of \$1 million per occurrence, naming the City of Petoskey as an additional insured. If the establishment holds a liquor license, a liquor liability policy must also name the City as an additional insured. All certificates or policies must include a provision for at least ten days' written notice to the City Manager before cancellation.

Sec. 8-218. – City review and determination.

The City shall review the applications and supporting documents and determine whether to issue or deny a license based upon the size of any encroachment onto a public sidewalk or other public property. In the event a license is requested for use of a public sidewalk or other public property, the

City shall, in its sole discretion, determine the maximum amount of right-of-way or property which may be utilized for open air food and beverage operations. Other factors to be reviewed by the City in connection with a license application shall include considerations of pedestrian safety, cleanliness of the proposed operations (number and location of trash receptacles), the effect a proposed operation may have upon the entries and exits of the building to which it is subordinate, and the design of furnishings. An application will not be considered by the City if the applicant is in default to the City for any unpaid fines, fees and/or taxes, or any outstanding violations.

Sec. 8-219. – Denial or Revocation.

- (a) A license application may be denied, and licenses may be revoked or suspended by the City Manager at any time, for any of the following causes:
 - 1. Fraud, misrepresentation or any false statement made in the application process.
 - 2. Fraud, misrepresentation or any false statement made in the operation of the open air dining.
 - 3. Any violation of this article or other ordinance of the City.
 - 4. Any violation received under a previous license.
 - 5. Conducting a business in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, morals, safety, or welfare of the public.
 - 6. Failure or inability of an applicant to meet and satisfy the requirements and provisions of this article and every other ordinance of the City.
- (b) Before denying, suspending, or revoking a license, the City will provide the licensee with written notice (by personal delivery or first-class mail to the address on the license application) and an opportunity to be heard. Upon revocation of a license, all furnishings and fixtures must be removed from public property within 48 hours.

Sec. 8-220. – Appeals.

Any person whose permit is revoked or suspended, or any person whose license application is denied, shall have the right to a hearing before the City Council, provided a written request is filed with the City Clerk within ten days following the delivery or mailing of the notice of revocation, suspension, or denial. No person shall operate an open air food and beverage service during any time after a license has been suspended, revoked, or cancelled.

Sec.8-221. – Renewals.

The renewal period for a Dining Deck License will be available to existing licensees before new applications are accepted. Each renewal period will be December 1 of the current license year to January 31 of the following calendar year. Renewal applications must follow the application process set forth in Section 8-217.

Sec. 8-222. – Transfer prohibited.

No license issued under the provisions of this article or any other ordinance of the City shall be transferable.

Sec. 8-223. – Severability.

If any clause, sentence, paragraph or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgement shall have been rendered.

Sec. 8-224. – Enactment and Effective Date.

This Chapter is hereby determined by the City Council to be immediately necessary for the interest of the City. Consistent with City Charter Sec. 6.3, the effective date of this Chapter shall not be less than fourteen (14) days after enactment nor before publication thereof as required by City Charter Sec. 6.7.

Adopted, enacted and ordained by the City of Petoskey City Council this 3rd day of March, 2025.

Said ordinance carried and was approved by the following vote:

AYES: DeMoore, Shiels, Nachtrab, Walker, Murphy (5)

NAYS: None (0)

Approve Fire Protection Agreement with Little Traverse Bay Bands of Odawa Indians – Resolution No. 25-24

The Public Safety Director reviewed that discussions have been ongoing with Little Traverse Bay Bands (LTBB) of Odawa Indians regarding fire protection for tribal parcels within the City; that Mackinaw City and Harbor Springs have similar agreements for fire protection; and that there are currently four parcels owned by LTBB including a vacant lot, residential, community building and administration offices.

Councilmembers inquired on the basis for annual readiness fee; inquired if the parcels are in decent condition and up to code; and inquired if LTBB is undergoing an agreement with Bear Creek and Resort Townships for other services.

The Public Safety Director responded that the fee is based on LTBB not paying taxes and is similar to other regional agreements; that all parcels are well-maintained and agreement allows the department to be invited in to give potential maintenance and fire protection; and LTBB is working with Townships on joint funding for an aerial fire truck.

Councilmember DeMoore moved that, seconded by Councilmember Shiels adoption of the following resolution:

WHEREAS, the Little Traverse Bay Bands of Odawa Indians (“LTBB” or “Tribe”) is a Federally recognized Indian tribe that is the beneficial owner of land parcels that are held in trust for the Tribe by the United States of America within the City limits of the City of Petoskey; and

WHEREAS, LTBB parcels are exempt from property taxes as a matter of Federal law; and

WHEREAS, these parcels are located within the boundaries of the City of Petoskey, in which the City provides fire protection to the residents, businesses and property; and

WHEREAS, LTBB agrees to pay the City of Petoskey a flat annual fire protection readiness fee of \$2,100.00 with an additional \$800.00 per run after the first two runs per year; and

WHEREAS, the City’s Public Safety Department, local Fire Authority, or any responding fire department under any mutual aid agreement shall have the same authority to issue orders necessary to protect life and property when fighting fires upon these parcels within the City; and

WHEREAS, the City’s Public Safety Department may provide courtesy inspections at LTBB’s request of the structures on the LTBB property and advise LTBB of any violations; and

WHEREAS, the initial term of this agreement shall be for a period of five years ending on December 31, 2030 and may be renewed for successive terms by mutual agreement of the parties:

NOW, THEREFORE BE IT RESOLVED that the City of Petoskey City Council hereby authorizes the City Manager to execute the Fire Protection Services Agreement between the Little Traverse Bay Bands of Odawa Indians and the City of Petoskey.

Said motion carried and was approved by the following vote:

AYES: DeMoore, Shiels, Nachtrab, Walker, Murphy (5)

NAYS: None (0)

Council Comments

Mayor Murphy asked for Council comments and Councilmember Shiels thanked Tip of the Mitt Watershed Council on webinar concerning use of road salt on winter roads and the impact on fresh water resources, which Petoskey values and that communities can do things to be proactive and will forward webinar link to City Manager to share with staff and Council. Councilmember DeMoore inquired if legal counsel reviews agenda packet every time it is issued and is interested in having legal counsel look at all agenda memos and resolutions and if there was support by rest of City Council.

Authorize to Adjourn to Closed Session – Resolution No. 25-25

Councilmember Walker moved that, seconded by Councilmember Shiels adoption of the following resolution:

WHEREAS, the City Manager has requested that the City Council adjourn to a closed session, to consider material exempt from discussion or disclosure by statute pursuant to MCL 15.268(1)(h), specifically identified as an attorney-client privileged written legal opinion, at the City Council's regular meeting of March 3, 2025:

NOW, THEREFORE, BE IT RESOLVED that the City Council does and hereby authorizes to adjourn to a closed session, to consider material exempt from discussion or disclosure by statute.

Said motion carried and was approved by the following vote:

AYES: DeMoore, Shiels, Nachtrab, Walker, Murphy (5)

NAYS: None (0)

Adjourned to closed session at 7:43pm.

Reconvened into open session at 8:30pm.

There being no further business to come before the City Council, this March 3, 2025, meeting of the City Council adjourned at 8:30pm.

John Murphy, Mayor

Sarah Bek, City Clerk