



## CITY COUNCIL

May 1, 2023

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, May 1, 2023. 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: John Murphy, Mayor  
Tina DeMoore, City Councilmember  
Derek Shiels, City Councilmember  
Brian Wagner, City Councilmember  
Lindsey Walker, City Councilmember

Absent: None

Also in attendance were City Manager Shane Horn and City Clerk Sarah Bek.

### **Hear Arbor Day Proclamation**

Mayor Murphy read the following proclamation:

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal:

NOW, THEREFORE, I, John Murphy, Mayor of the City of Petoskey, do hereby proclaim May 1, 2023 as Arbor Day in the City of Petoskey. I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands; and

FURTHER, I urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

Mayor Murphy reviewed that an Arbor Day celebration with activities is scheduled for May 13 from 1pm-4pm at the Winter Sports Park and thanked the League of Women Voters for their efforts and involvement in organizing the event.

### **Hear District Library Presentation**

District Library Director Val Meyerson made a brief presentation concerning the Petoskey District Library and reviewed 2022 statistics and operations; that overall patronage increased; reviewed outreach programs and partnerships including homebound delivery service and partnering with the Emmet County jail; reviewed grant monies received; reviewed that the website was recently revamped; reviewed early 2023 projects including the success of The Americans and Holocaust Exhibit, the upcoming Speak for Yourself, a ride for equity event; reviewed the student trustee program; and that staff is in the process of preparing bid specifications to replace the library front entry due to concrete and masonry issues.

Councilmembers thanked Ms. Meyerson for her efforts over the years on enhancing the library with more programs inclusive of many groups; that the library is a welcoming environment with competent staff; and expressed that Ms. Meyerson is an exemplary leader at the Library and in the community through Rotary.

### **Consent Agenda - Resolution No. 23-32**

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

BE IT RESOLVED that City Council does and hereby confirms that the draft minutes of the April 17, 2023 regular session City Council meetings be and are hereby approved as amended; and

BE IT RESOLVED that receipt by City Council of a report concerning all checks that had been issued since April 17, 2023 for contract and vendor claims at \$490,041.29, intergovernmental claims at \$0 and the April 27 payroll at \$224,480.40, for a total of \$714,521.69 be and is hereby acknowledged.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

### **Hear Public Comment**

Mayor Murphy asked for public comments and heard concerns with the Little Traverse Wheelway and that it has been three years since it failed; that the wheelway is a transportation facility; that there is no safe route between Petoskey and Bay Harbor; and expressed a passionate plea for City Council and staff to do more and provide temporary measures and ask MDOT to find a solution.

Councilmembers concurred that safety is a high priority; discussed temporary measures such as installing bollards further towards East Park; heard from those in favor of contacting MDOT officials and legislators; and that further discussion on alternative routes on highway should be revisited and focus discussion on safety.

The City Manager reported that MDOT indicated they could double-stripe shoulder, that safety is a concern and that the City needs to continue to partner with MDOT and other stakeholders on a solution.

Mayor Murphy will work with the City Manager on drafting a letter to legislators.

### **Hear City Manager Updates**

The City Manager recognized staff with May birthdays and work anniversaries; reviewed that Arbor Day Celebration and activities are scheduled May 13 at the Winter Sports Park; provided project updates on Lofts at Lumber Square, Michigan Maple Block, City Park Grill rental rehab, former JC Penney building and 316-318 East Lake Street OPRA; that the Mitchell Street entrance and gateway to downtown project was complete and thanked Public Works Director and other City crews on their efforts with the successful project; and that the City received the electric vehicle (EV) charging stations.

Councilmembers inquired on the conceptual plan for the former JC Penney building; inquired on the City Park Grill rental rehab outreach notification process; that unsolicited compliments had been received on the downtown entryway improvements; and that some heard concerns on opening up the viewsheds to downtown exposing the three vacant, blighted properties at the entrance to downtown.

The City Manager responded that the former JC Penney building will have condos, retail on the first floor which has yet to be determined, façade improvements and parking self-contained below; and that since the City Park Grill project has CDBG funding through the State, notifications are required to go out that this type of project is occurring to a historical structure and is part of the State's analysis on moving forward and the State administers the notification process which ends on May 3.

**Adopt Code of Ethics Ordinance – Resolution No. 23-33**

The City Manager reviewed that this was the second discussion of the draft Ethics Ordinance and Council could consider adoption.

Councilmembers heard a comment on Section 26-8(a) in regards to when there is a concern about an ethical matter regarding the City Manager, that the person with the concern could go directly to the City Attorney for an opinion and not through the City Manager, and that the language was discussed with the City Attorney and there were no concerns with this process.

Councilmember Wagner moved that, seconded by Councilmember Shiels adoption of the following ordinance:

**ORDINANCE NO. 788**

**ETHICS ORDINANCE**

**AN ORDINANCE TO CREATE A CODE OF ETHICS APPLICABLE TO EVERY CITY EMPLOYEE AND OFFICIAL**

**THE CITY OF PETOSKEY ORDAINS**

Chapter 26, Sections 26-1 through 26-11 of the Petoskey Code of Ordinances is hereby enacted as follows:

**Chapter 26  
Ethics**

**Section 26-1. Intent and Purpose.**

(A) It is the policy of the city to uphold, promote and demand the highest standards of ethics from all its employees and officials, whether elected, appointed or hired. City officers and employees (public servants) shall maintain the highest standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties; avoid any improprieties in their roles as public servants including the appearance of impropriety; and never use their city position or powers for improper personal gain.

(B) It is further the intent of this chapter that a public servant, regardless of whether specifically prohibited by this chapter, shall avoid any action, which might result in or create the appearance of:

- (1) Using public office or employment for private gain personal or monetary;
- (2) Giving improper preferential treatment to any person or organization;
- (3) Impeding government efficiency or economy;
- (4) A lack of independence or impartiality of action;
- (5) Making a government decision outside of official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the city.

(C) It is not the intent of this chapter to in any way limit the right or ability of any public servant to exercise his or her discretion in making legitimate policy decisions which are within their discretion so long as the action does not provide a special benefit to that person, relieve the public servant of a particular duty, or treat that person differently than other similarly situated city residents.

### **Section 26-2. Definitions.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*BUSINESS.* A business entity includes, but is not limited to, any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, limited liability company, or any legal entity organized for profit.

*CITY.* The City of Petoskey, a Michigan municipal corporation.

*CITY PURPOSE.* A purpose directly related to a city employee or city official's role or responsibility as an employee or official of the city.

*COMPENSATION.* Payment in any form for real or personal property or services of any kind.

*CONFIDENTIAL INFORMATION.* Any information, oral or written, which comes to the attention of, or is available to, the public servants only because of his or her position with the city and is not a matter of public record.

*ELECTED OFFICER.* Any person who is elected at a general or special election to any public office of the city and any person appointed to fill a vacancy in any office.

*INTEREST.* Any right, title or share in something, either personal, financial, legal or equitable, which is owned, held or controlled, in whole or in part, directly or indirectly, by a public servant.

*PUBLIC SERVANT.* Every individual elected, appointed, hired, or otherwise selected to an office, position, committee, board, task force or similar multi-member body with the city, or any subdivision thereof, whether the individual is paid or unpaid and any person elected or appointed to any public body of the city.

*PUBLIC BODY.* The City Council, and any board, authority, commission, committee, department, office or other agency of the city, and including the city.

*QUESTION THE EMPLOYMENT STATUS.* Imply, infer, suggest, or otherwise state that an employee should be dismissed from employment with the city.

### **Section 26-3. Fair and Equal Treatment.**

No public servant shall request, use or permit the use of any consideration, treatment, advantage or favor beyond that which is the general practice to grant or make available to the public at large.

All public servants shall treat all citizens of the city with courtesy, impartiality, fairness, and equality under the law. In addition, no elected official may appoint, suspend, remove, direct, or otherwise interfere with any city employee under the control of the City Manager unless authorized to do so by Charter, law, or personnel rules adopted in accordance with the City Charter.

Except for the purpose of inquiry as permitted by City Charter Section 4.9, elected officials shall deal with city employees under the control of the City Manager solely through the City Manager.

#### **Section 26-4. Prohibited Conduct.**

The following shall constitute violations of this chapter.

(A) *General prohibition against conflict of interest.* In order to avoid impropriety, or an appearance of conflict of interest, no current public servant should be involved in any activity that might be seen as conflicting with the conduct of official city business or as adverse to the interests of the city. Even the appearance of the following prohibited conduct alone may be sufficient to constitute a violation of this ethics chapter.

(B) *Disclosure of confidential information and/or benefitting from confidential information.* No public servant shall disclose or use any confidential, privileged, or proprietary information gained by reason of his or her position for a purpose which is for other than a city purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request.

(C) *Improper use of city personnel and property.* No public servant shall employ or use any person under his or her official control or direction for the personal benefit, gain or profit of the public servant or other. No public servant shall use city-owned vehicles, equipment, materials, money or property for personal or private convenience or personal gain. Nothing herein shall prohibit the use of city equipment or motor vehicles by public servants in accordance with written policies established by the City Council, City Manager or city department head concerned, nor shall this chapter be deemed to prohibit private use of surplus city property legally disposed of by the city or its departments in compliance with established procedures.

(D) *Beneficial interest in business transaction or participation in a contract.* No public servant shall participate or benefit from (monetarily or personally) in his or her capacity as a public servant in the making of a contract in which he or she has a financial interest, direct or indirect, or perform in regard to a contract some function which requires the exercise of discretion on behalf of the city. No public servant shall participate in contracts, loans, grants, rate-fixing or issuing permits involving a business in which he or she has a substantial interest. However, this provision shall not apply in the following circumstances:

(1) Contracting with the city where:

- (a) The contract is awarded pursuant to sealed bids;
- (b) The public servant is not involved directly or indirectly or otherwise refrains from participation in the decision on the award of the contract; and
- (c) The City Council, after reviewing the circumstances, determines the award of the contract would be in the best interest of the city.

(2) Where the interest of the public servant in the business involves the holding of less than 1% of the securities in a publicly traded business or less than 5% of privately or closely held business and where the public servant will not have any involvement in the transaction on behalf of the contracting business.

(E) *Engaging in certain private employment.* No city employee or public servant shall engage in or accept private employment or render services for any private interest when the employment or service is incompatible with the proper discharge of official duties or would tend to impair independence or judgment or action in the performance of official duties.

(F) *Acceptance or solicitation of compensation, gifts, favors, rewards or gratuity.* No public servant may, directly or indirectly, give or receive, or agree to give or receive, any compensation, gift, favor, reward, or gratuity for a matter connected with or related to the public servant's services with the city which would tend to influence the manner in which the public servant performs his or her official duties, except this prohibition shall not apply to:

- (1) Attendance of a public servant at a hosted meal when provided in conjunction with a meeting directly related to the conduct of city business or where official attendance by the city official as a city representative is required or in the best interest of the city;
- (2) An award publicly presented in recognition of public service presented to the public servant; or
- (3) Any gift valued at \$100 or less, which cannot reasonably be presumed to influence the judgment of the public servant.

(G) *Improper use of position.* No public servant shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use his or her position to secure special privileges or exceptions for himself, herself, or for the benefit, gain or profits of any other persons. No public servant shall represent his or her individual opinions as those of the city.

#### **Section 26-5. Matter Regarding Disclosure of Conflicts of Interest, Actual and Potential.**

The following disclosure requirements are established to avoid both actual and potential conflict between the private self-interests and the public interest of public servants.

(A) *Self-interest.* No public servant, either on his or her behalf or on behalf of any other person, shall have an interest in any business transaction with any public body of the city, unless the person shall first make full public disclosure of the nature of the interest.

(B) *Disclosure and disqualification.* Whenever the performance of official duties shall require a public servant to deliberate and vote on any matter involving his or her financial or personal interest, that person shall publicly disclose the nature and extent of the interest. The remaining members of the public body of which that public servant is a member shall then discuss and vote on whether to (i) disqualify the public servant from participating in deliberations or voting on the matter or (ii) request an opinion from the City Attorney pursuant to Section 26-8(A) before voting on disqualification.

(C) *Dual employment.* No public servant shall engage in employment with, or render services for, any person or entity, which has business transactions with any public body of the city, without first making full public disclosure of the nature and extent of the employment or services.

(D) *Dual representation.* A public servant shall make full public disclosure of business involving the city when attempting to use his or her official position to secure special privileges or exemptions for self or others.

#### **Section 26-6. Public Disclosure, Contents.**

Whenever a public disclosure is required by this chapter, it may be made orally on the record at a meeting of the public body involved, or in a writing filed with the Clerk, in both of which cases it shall be made a part of the record of a regular City Council meeting, and in either event shall include:

- (A) The identity of all persons involved in the interest; and

(B) The source and amount of income derived from the interest that may be considered as resulting from employment, investment or gift. The person required to file a disclosure statement in accordance with the provisions of this chapter must verify, in writing, under penalty of perjury, the information in the statement is true and complete as far as he or she knows.

#### **Section 26-7. Disclosure of Campaign Contributions.**

Every elected officer and candidate for elected office must comply with all campaign contribution reporting obligations imposed by Michigan law.

#### **Section 26-8. Request for Opinion from the City Attorney.**

(A) Any elected official may request the City Attorney provide an advisory opinion interpreting the effect or application of this chapter generally, or on questions directly relating to the propriety of their conduct, or the conduct of another elected official, in a particular situation. Such requests must be made through the City Manager who will obtain the opinion from the City Attorney.

(B) Any other public servant may request, with the approval of the City Manager, that the City Attorney provide an advisory opinion interpreting the effect or application of this chapter generally, or on questions directly relating to the propriety of their conduct in a particular situation.

#### **Section 26-9. Delivery of Copies of Ethics Code to Public Servants.**

The Clerk shall deliver a copy of this chapter to each public servant as soon as practicable after the enactment of this chapter, and to each new public servant at the time of employment or taking office. The Clerk shall require that each person sign and return an acknowledgment of receipt of a copy of this chapter.

#### **Section 26-10. Conflict and Severability Clause.**

All ordinances, resolutions and orders or part thereof in conflict with the provisions of this Chapter are to the extent of such conflict hereby repealed, and each section of this Chapter and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this Chapter.

#### **Section 26-11. 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.

Said ordinance was adopted by the following vote:

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

NAYS: None (0)

#### **Approve Residents to File Protest to Board of Review by Letter – Resolution No. 23-34**

The City Manager reviewed that MCL 211.30(8) allows the City to adopt a resolution to allow a resident taxpayer to file a protest before the Board of Review by letter; that the contracted Assessor is reviewing documentation and requested this document; that the State does an audit of all units and Emmet County jurisdictions are due this year; and documentation and policies are required to be in place prior to the upcoming audit.

Councilmember DeMoore moved that, seconded by Councilmember Walker to adopt the following resolution:

WHEREAS, MCL 211.30(8) allows the City of Petoskey to adopt a resolution to allow a resident taxpayer to file his or her protest before the Board of Review by letter; and

WHEREAS, the City of Petoskey desires to ease the burden on taxpayers, the assessor, and the Board of Review; and

WHEREAS, said resolution will ensure that all taxpayers have an equal opportunity to be heard by the Board of Review; and

WHEREAS, MCL 211.30(8) specifically states:

*MCL 211.30(8): The governing body of the township or city may authorize, by adoption of an ordinance or resolution, a resident taxpayer to file his or her protest before the board of review by letter without a personal appearance by the taxpayer or his or her agent. If that ordinance or resolution is adopted, the township or city shall include a statement notifying taxpayers of this option in each assessment notice under section 24c and on each notice or publication of the meeting of the board of review.*

NOW THEREFORE, BE IT RESOLVED, that the City of Petoskey City Council, in Emmet County, State of Michigan, according to the provisions of MCL 211.30(8) of the General Property Tax Act, directs that the Board of Review shall receive letters of protest regarding assessments from resident taxpayers starting on the Tuesday following the first Monday in March until it adjourns from the public hearings for which it meets to hear such protests.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

**Adopt Personal Property Canvass Policy – Resolution No. 23-35**

The City Manager reviewed that MCL 211.10d(9) requires that the Assessor must have direct supervision of the assessment roll and the State Tax Commission adopted a policy regarding “Supervising Preparation of the Assessment Roll”; that the policy requires the Assessor to conduct a personal property canvass; and that in order to ensure accurate assessments, the City is required to establish a policy regarding the inspection/canvassing of personal property.

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

WHEREAS, MCL 211.10d(9), requires that the assessor must have direct supervision of the assessment roll and the State Tax Commission has adopted a policy regarding “Supervising Preparation of the Assessment Roll”; and

WHEREAS, Specifically, item 8(h) requires the assessor to conduct a personal property canvass; and

WHEREAS, in order to ensure accurate assessments, the City of Petoskey is required to establish a policy regarding the inspection (canvassing) of personal property; and

WHEREAS, the personal property roll for the City will be maintained in accordance with the Personal Property Canvass Policy; and

WHEREAS, identification of personal property (personal property canvass) and personal property parcel maintenance is incorporated in to the policy:



NOW THEREFORE, BE IT RESOLVED, that the City of Petoskey City Council hereby adopts the Personal Property Canvass Policy as required by the State Tax Commission.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

**Adopt Property Tax Exemption Application Policy – Resolution No. 23-36**

The City Manager reviewed that the State Tax Commission requires a Property Tax Exemption Application Policy as part of the annual assessing audit and the Assessor requested this policy as part of the current audit.

Mayor Murphy asked for public comments and heard a comment if Council really wanted to hear personal property exemptions especially due to the economic depression.

Councilmembers inquired if there were any issues found and if these policies needed to be corrected.

The City Manager responded that these requests by the Assessor are based on State guidelines and part of the audit process that occurs every five years.

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

WHEREAS, the State Tax Commission requires a Property Tax Exemption Application Policy as part of the annual assessing audit; and

WHEREAS, the policy also incorporates the Property Tax Exemption Application and Audit Procedures for granting or removal of real property exemptions; and

WHEREAS, an application for property tax exemption must be completed to be considered for a real or personal property tax exemption; and

WHEREAS, articles of incorporation, by laws, proof of ownership and statement from the Internal Revenue Service (IRS) indicating status must be provided with the application; and

WHEREAS, the City Assessor will verify ownership, occupancy, use and may require reapplication at any time and at a minimum, every five years, each previously qualified application must be refiled along with the above listed documents:

NOW THEREFORE, BE IT RESOLVED, that the City of Petoskey City Council hereby adopts the Property Tax Exemption Application Policy as required by the State Tax Commission.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

**Approve 2023 Ward and City Conventions – Resolution No. 23-37**

The City Manager reviewed that as required by City Charter provisions, the City is required to conduct annual Ward and City Conventions; that in summer 2022, Council requested if conventions could be scheduled for an earlier date; that scheduling conventions earlier than mid-July as in previous years would not cause a conflict with any Charter provision or applicable Michigan statute; and that staff proposed to reserve the same locations used last year.

Councilmembers discussed the possibility of increased political signs if convention dates are moved to an earlier date; that mid-July is difficult timing for citizen outreach; discussed potential dates and concurred to schedule Ward Conventions for June 19 and City Convention for June 21 at the same locations as last year and provide flexibility to staff to choose alternate dates and locations if there are availability issues and to reschedule the June 19 Council meeting to June 26.

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

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

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby calls the annual 2023 Ward Conventions to be held at 8:00 P.M., June 19, 2023, at the Petoskey Middle School Cafeteria for the First Ward, Ottawa Elementary Gym/Cafeteria for the Second Ward, Lincoln Elementary Gym/Cafeteria for the Third Ward and Sheridan Elementary Cafeteria for the Fourth Ward; and

BE IT FURTHER RESOLVED that the City Council does and hereby calls the annual 2023 City Convention to be conducted at 8:00 P.M., June 21, 2023, at the City Hall Council Chambers.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

### **Council Comments**

Mayor Murphy asked for Council comments and Councilmember Walker is looking forward to Arbor Day celebration and encourages others to visit Tree City USA cities. Councilmember Wagner thanked the many volunteers and organizations that help clean-up around the community. Councilmember Shiels commented on the ongoing deer issues in Ward 2. Councilmember DeMoore asked if there was any interest to participate in a tour of recreational properties with her and staff; commented that today is Law Day and this year's theme is Cornerstones of Democracy: Civics, Civility and Collaboration and encourages everyone to embrace those concepts; and reviewed that the Emmet Charlevoix Bar Association presented the Liberty Bell Award to Jeana Russey. Mayor Murphy expressed the need for 10-12 volunteers on May 25 around 9am to help the Parks and Recreation staff with Pennsylvania Park plantings.

There being no further business to come before the City Council, this May 1, 2023, meeting of the City Council adjourned at 8:38 P.M.

John Murphy, Mayor

Sarah Bek, City Clerk