



CITY COUNCIL

March 18, 2019

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, March 18, 2019. 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
Kate Marshall, City Councilmember
Suzanne Shumway, City Councilmember
Grant Dittmar, City Councilmember
Lindsey Walker, City Councilmember

Absent: None

Also in attendance were City Manager Robert Straebel, Clerk-Treasurer Alan Terry, Public Safety Director Matthew Breed, Public Works Director Michael Robbins, Parks and Recreation Director Kendall Klingelsmith and Downtown Director Becky Goodman.

Hear Department of Public Safety Honor's Board Presentation

The Department of Public Safety Honor's Board recently authorized awards to Officers, Emmet EMS staff and citizens for meritorious service. Director Breed presented awards to the recipients for commendable service throughout the community including lifesaving awards, certificate of merit, Public Safety commendation and citizen awards.

Hear MPPA Presentation on Power Supply & Renewables

Patrick Bowland, Michigan Public Power Agency CEO and General Manager, gave a brief presentation concerning power supply and renewables as requested by City Council. Mr. Bowland reviewed the history and makeup of the agency and that it consists of smaller municipal memberships; that MPPA is a project based agency which means a member chooses to participate in projects or services that are applicable to their needs; provided an update on public power and benefits of joint action; reviewed renewable supply as part of a decarbonization plan which entails energy efficiency and conservation and a renewable resource plan; explained that MPPA can work with the City on a renewable resource plan that would include specifications, percentage target levels, portfolio management, affordability and reliability; discussed the difference between capacity vs energy and the State and Federal standards that are required; reported on wind power challenges and that 10 Michigan counties have developed restrictive wind ordinances; and further reviewed that communities' power supply portfolio must include 15% renewables by 2021 as mandated by the State and Federal governments.

City Councilmembers inquired if there were additional mandates forthcoming; clarification on Advanced Metering Infrastructure (AMI); inquiries about the volunteer green pricing rate and what type of renewable resource was serving that supply; inquired on DTE replacing net metering and heard concerns with covering distribution rates; inquired if other communities have set strategies; and inquired if there were any zoning issues within Emmet County.

Mr. Bowland responded that he is unaware of any new mandates coming and that he believes the State is satisfied with current activities; that AMI is two-way meter technology and allows the utility to analyze usage, peak power demands, etc. of customers; that voluntary green pricing rate is sourced primarily by wind and solar; referenced that early renewable resources that came online in 2008-2010 were landfill gas projects; that landfill gas projects are still around, and agency agreements all end in 2025 and won't renew; that Lansing and Traverse City have developed and set strategies; and that he is unaware of any zoning challenges in Emmet County.

Mayor Murphy asked for public comments and heard an inquiry on what strategies worked to develop wind projects in communities that were successful and what actual costs are between different sources of energy.

Mr. Bowland responded that all community stakeholders should be involved noting the advantages for everyone; and reviewed various costs for wind, solar, gas and coal.

City Councilmembers concurred to further discuss the potential of developing a plan and strategies at a future meeting.

Hear Sexual Assault Awareness Month Proclamation

Mayor Murphy reviewed that the Women's Resource Center of Northern Michigan requested to declare April 2019 to be Sexual Assault Awareness Month. Mayor Murphy reviewed that the proclamation would recognize April as "Sexual Assault Awareness Month in Petoskey" and emphasize the City's commitment to this important issue. Mayor Murphy then read the following:

WHEREAS, sexual assault affects women, children and men of all racial, cultural and economic backgrounds; and

WHEREAS, in addition to the immediate physical and emotional costs, sexual assault may also have associated consequences of post-traumatic stress disorder, substance abuse, depression, homelessness, eating disorders and suicide; and

WHEREAS, sexual assault can be devastating for not only the survivor, but also for the family and friends of the survivor; and

WHEREAS, no one person, organization, agency or community can eliminate sexual assault on their own, but we can work together to educate our entire population about what can be done to prevent sexual assault, support victims/survivors and their significant others and increase support for agencies providing services to victims/survivors; and

WHEREAS, Sexual Assault Awareness Month provides an excellent opportunity for citizens to learn more about preventing sexual violence before it can start and to show support for the numerous organizations and individuals who provide critical advocacy, services and assistance to sexual assault survivors; and

WHEREAS, the City of Petoskey strongly supports the efforts of national, state, and local partners, and of every citizen, to actively engage in public and private efforts to prevent sexual violence. It's time for all of us to start conversations, take appropriate action and support one another to create a safer environment for all:

NOW, THEREFORE BE IT RESOLVED, that I, John Murphy, Mayor of the City of Petoskey, support efforts to eliminate sexual assault and hereby declare April 2019 to be in our city

SEXUAL ASSAULT AWARENESS MONTH

Consent Agenda - Resolution No. 19278

Following introduction of the consent agenda for this meeting of March 18, 2019, 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 March 4, 2019 regular session City Council meetings 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 4, for contract and vendor claims at \$1,266,377.18 intergovernmental claims at \$64,198.59, and the March 7 payroll at \$201,320.88, for a total of \$1,531,896.65 be and is hereby acknowledged.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Hear Public Comment

Mayor Murphy asked for public comments and heard a comment concerning traffic flow due to detour and that left turns from Emmet Street onto Mitchell Street are difficult; inquiries on use of low flow toilets and that it causes issues with sewer mains and citizens should be aware of its effects to communities in areas with little use; and heard concerns that if medical or recreational marijuana is allowed it could cause additional policing and the difficulty to add additional duties that may be required of the Public Safety Department, and that Council should be cautious moving forward with discussions.

Hear City Manager Updates

The City Manager reported that the Planning Commission will begin discussions at the March 21 meeting regarding medical marijuana and hear a presentation on initial conceptual plan for 200 East Lake Street; that costs increased for marina electrical improvements in order to meet new code and that additional costs will be funded through the Marina Fund; that the northbound US-31 detour started today as a result of the highway reconstruction and realignment project; that Teamster union negotiations begin March 20; that the State recently approved the option for local municipalities to change firework regulations and asked Council if they would like to consider changes; and that winter parking regulations end April 1.

City Councilmembers concurred to discuss firework regulations at a future meeting.

Mayor Murphy asked for public comments and heard an inquiry if boats will be monitored at the marina for electrical use and if a sign could be installed at the corner of Division and US-31 concerning the detour.

The City Manager responded that the City has equipment to monitor boaters and referred signage inquiry to Bear Creek Township since the location is in that jurisdiction.

DMB Appointment – Resolution No. 19279

Mayor Murphy reviewed that City Council consider a possible appointment to the Downtown Management Board.

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 approves the appointment of Brittany McNeil, 121 Division Street, to the Downtown Management Board to fill a vacated term ending December 1, 2020.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

ZBA Appointment – Resolution No. 19280

Mayor Murphy reviewed that City Council consider a possible reappointment to the Zoning Board of Appeals.

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

BE IT RESOLVED that the City Council does and hereby approves the reappointment of Ben Crockett, 1043 Curtis Avenue, to the Zoning Board of Appeals for a three-year term ending April 2022.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Adopt Ordinance 767 Harbor Village Apartments PILOT – Resolution No. 19281

The City Manager reviewed that this was a second reading of an ordinance for Harbor Village Apartments on Crestview Drive which includes three separate buildings under the current ownership of Stratford Group LTD and current owner, Ken Werth, is proposing to sell the three buildings to his son, Stephen Werth (JPS Petoskey LDHA LP) and is asking Council to consider approving a Payment in Lieu of Taxes (PILOT) program for all buildings.

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

An Ordinance to provide for a service charge in lieu of taxes for an existing multiple family dwelling project for low- and moderate-income persons and families financed with a federally-aided and/or Authority-aided Mortgage Loan or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, *et seq*) (the “Act”).

THE CITY OF PETOSKEY ORDAINS:

SECTION 1. This Ordinance shall be known and cited as the “City of Petoskey Tax Exemption Ordinance for JPS Petoskey LDHA LP”.

SECTION 2. Preamble

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low to moderate income and to encourage the development of such housing by providing for a service charge in lieu of ad valorem property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCLA Section 125.1401 *et seq.*, MSA Section 116.114(1) *et. seq.*) (the “Act”). The City of Petoskey is authorized by said Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under the Act at any amount it chooses not to exceed the taxes that would be paid but for the Act.

It is further acknowledged that such housing for persons of low and moderate income is a public necessity, and as the City of Petoskey will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The City of Petoskey acknowledges that JPS Petoskey Limited Dividend Housing Association Limited Partnership, a Michigan Limited Partnership (the "Sponsor") has offered, subject to receipt of a Low Income Housing Tax Credit Reservation from the Michigan State Housing Development Authority, to erect, rehabilitate, own and/or operate a housing development identified as Harbor Village Apartments – Parcel No.: 51-19-07-100-015, Harbor Village Senior Citizen I Apartments – Parcel No.: 51-19-07-100-016 and Harbor Village Senior Citizen II Apartments – Parcel No.: 51-19-07-100-017 (the "Housing Development") on certain property located at 1301, 1309, 1317, 1325, 1401 & 1501 Crestview Drive, respectively, in the City of Petoskey to serve persons of low and moderate income and that the Sponsor has offered to pay the City of Petoskey on account of this housing development an annual service charge for public services in lieu of all taxes.

SECTION 3. Definitions

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, being Public Act of 346 of 1966 of the State of Michigan, as amended, except as follows:

- a) Act means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.
- b) Annual Shelter Rent means the total collections benefiting the Housing Development during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, less overage paid to Rural Development, exclusive of Utilities.
- c) Authority means the Michigan State Housing Development Authority, a public body, corporate and politic of the State of Michigan.
- d) Rural Development means the United States Department of Agriculture-Rural Development through the Rural Rental Housing Program under Section 515 of the federal Housing Act of 1949, as amended.
- e) Housing Development means a development which contains a significant element of housing for persons of low and moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines improves the quality of the development as it relates to housing for persons of low and moderate income.
- f) Low- and Moderate-Income Persons means persons and families eligible to move into a Housing Development assisted by the Authority and/or Rural Development.
- g) Mortgage Loan means a loan made, transferred, to be made or to be transferred by Rural Development and/or the Authority to the Sponsor for the acquisition, construction, rehabilitation and/or permanent financing of the Housing Development.
- h) Sponsor means person(s) or entity(ies), which have applied or will apply to Rural Development and/or the Authority for a Mortgage Loan or reservation of Low Income Housing Tax Credits to finance a Housing Development.
- i) Utilities means, gas, water, sanitary sewer service and/or electrical service, which are paid by the Housing Development.

SECTION 4. Class of Housing Development

It is determined that the class of Housing Development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be that portion of a development which is for low- and moderate-income persons and which is financed or assisted pursuant to the Act. It is further determined that Harbor Village Apartments, Harbor Village Senior Citizen I Apartments and Harbor Village Senior Citizen II Apartments are of this class and solely for the benefit of Low and Moderate Persons as defined herein.

SECTION 5. Establishment of Annual Service Charge

The Housing Development identified as Harbor Village Apartments, Harbor Village Senior Citizen I Apartments and Harbor Village Senior Citizen II Apartments and the property on which they are constructed shall be exempt from all ad valorem property taxes from and after the transfer of the Housing Development to the Sponsor. The City of Petoskey acknowledging that the Sponsor, Rural Development and the Authority have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Ordinance and the qualification of the Housing Development for exemption from all ad valorem property taxes and a Payment In Lieu Of Taxes (PILOT) as established in this Ordinance, and in consideration of the Sponsors offer, subject to receipt of a Low Income Housing Credit Reservation from the Authority or a Mortgage Loan from Rural Development, to rehabilitate, own and operate the Housing Development, the City agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. The annual service charge shall be equal to 12.79% of the Annual Shelter Rents, as defined in this Ordinance, actually collected by the Housing Development during each operating year.

SECTION 6. Limitation on the Annual Service Charge.

Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the Housing Development which is tax exempt and which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the Housing Development if the Housing Development were not tax exempt. The term "low-income persons or families" as used herein shall be the same meaning as found in Section 15(a)(7) of the Act.

SECTION 7. Contractual Effect of Ordinance.

Notwithstanding the provisions of section 15(a)(5) of the Act, to the contrary, a contract between the City of Petoskey and the Sponsor, with the Authority and Rural Development as third-party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

SECTION 8. Payment of Service Charge.

The service charge in lieu of taxes as determined under the Ordinance shall be payable in the same manner as general property taxes are payable to the City of Petoskey and distributed to the several units levying the general property tax in the same proportion as provided with the general property tax in the previous calendar year. The annual payment for each operating year will be paid on or before September 1st of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MLC 211.1 et seq).

SECTION 9. Duration

This Ordinance shall remain in effect and shall not terminate so long as the Mortgage Loan remains outstanding and unpaid or the Housing Development remains subject to income and rent restrictions under Section 42 of the Internal Revenue Code of 1986, as amended; provided, that rehabilitation of the Housing Development commences within twenty-four (24) months from the effective date of this Ordinance.

SECTION 10. Severability

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect the validity of the Ordinance as a whole or any section or provision of this Ordinance other than the section or provision so declared to be unconstitutional or invalid.

SECTION 11. Inconsistent Ordinances

All ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

SECTION 12. Effective Date

This Ordinance shall take effect fourteen (14) 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, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Adopt Ordinance 768 Replacing Section 21-39(2) Concerning Overnight On-Street Parking Regulations – Resolution No. 19282

The City Manager reviewed that this was a second reading of a proposed ordinance that would include the B-2A District as an area that needs to be free from on-street parking between the hours of 3:00 A.M. and 5:00 A.M., Sundays through Saturdays, annually, from December 1 to April 1 for snow removal purposes.

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

AN ORDINANCE TO REPLACE SECTION 21-39 (2)

The City of Petoskey ordains:

1. **Section 21-39 (2) of the Petoskey Code of Ordinances is hereby terminated in its entirety and replaced with the following:**

Downtown exception. The provisions in this section shall not apply to public streets within the B-2 Central Business District or the B-2A Transitional Business District. Within these two zoning districts (B-2 and B-2A), no motor vehicle shall be parked on any public street between the hours of 3:00 A.M. and 5:00 A.M., Sundays through Saturdays, annually, from December 1 to the following April 1.

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, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Authorize Sunset Park Stair Tower Contract – Resolution No. 19283

The City Manager reviewed that as directed by City Council after the last meeting, staff further researched and recommended proceeding with the stainless steel stair tower as specified; that alternate bids were reviewed that included galvanized stair treads; that after conferring with the architects, staff agreed stainless is a better product for the long term; and that Beckett and Raeder reviewed references provided by Sajdak Contractor, Prudenville, Michigan, and found positive performance reports on past projects.

City Councilmember Marshall moved that, seconded by City Councilmember Walker to authorize contracting with Sajdak Contractor, Prudenville, Michigan, for construction and replacement of the Sunset Park stair tower in the amount of \$ 489,000.

Said motion was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Hear Public Safety 2018 Annual Report Presentation

Public Safety Director Matthew Breed gave a brief presentation concerning the department's 2018 annual statistics, programs and community engagement. Mr. Breed reviewed the annual report and answered questions.

Approve MDNR Grant Applicant for Pickleball Courts – Resolution No. 19284

The Parks and Recreation Director reviewed that the City is preparing a Michigan Department of Natural Resources (MDNR) Recreation Passport Grant application for the development of two pickleball courts at Riverbend Park. The Director reviewed that the City and Little Traverse Bay Pickleball Association have been fundraising and planning this project; that approximately \$90,000 has been raised through grant writing and fundraising efforts; that the City publicly bid the project and that the low bid of \$168,000 for two courts was substantially more than what could be afforded to build the courts; that there are still some small funding opportunities to pursue, but that there is not enough to build two courts without greater funding; and that the Parks and Recreation Commission supported the project and requested Council to support the grant submission for \$125,000 in funding, commit to the project match not to exceed \$100,000 and authorize staff to proceed with the project.

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

WHEREAS, the City of Petoskey Parks and Recreation Commission desires to enhance recreational and opportunities within its park system; and

WHEREAS, improvements at Riverbend Park would include two accessible pickleball courts, sidewalks and site work at an estimated project cost of \$225,000; and

WHEREAS, the Riverbend Pickleball Courts contributes to the goals and objectives identified in the 2018-2022 City of Petoskey's Parks and Recreation Master Plan, and also the Capital Improvement Plan outlining the need and the desire to develop this within our park system; and

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

WHEREAS, the Parks and Recreation Commission, at its January 14, 2019 meeting, adopted a formal resolution in support of the project and requested that City Council adopt a resolution in support of the submission of the prepared grant application to the Michigan Department of Natural Resources Recreation Passport Grant for \$125,000 in funding, commit to the project match not to exceed \$100,000 and authorize Robert Straebel, City Manager, or his designee as the City's representative for the project; and

WHEREAS, further request that the City Council consider committing up to 44% local match, that being \$100,000, toward these improvements which are estimated at \$225,000:

NOW, THEREFORE, BE IT RESOLVED, that the City of Petoskey Parks and Recreation Commission, acting as appointed officials, request that the City of Petoskey City Council adopt a resolution to authorize Robert Straebel, City Manager, or his designee to serve as the City's representative for this project and authorize the submission of the application through the Recreation Passport Grant Program application and provide grant funding in the amount of \$125,000.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Approve Purchase of Liability and Property Insurance Coverage – Resolution No. 19285

The Director of Finance reviewed that the City currently received liability and property insurance service through Peterson McGregor with coverage provided by Trident and Argonaut Insurance Companies and that Municipal Underwriters of West MI, Inc., who is the area representative for The Michigan Township Participating Plan (PAR), along with the MML-Meadowbrook Insurance, requested an opportunity to present a proposal to the City for liability and property insurance. The Director further reviewed that the City switched carriers in 2010 to Cadillac Insurance (now Peterson McGregor) from MML where the City had been for 21 years; that proposals were again obtained in 2016 when the City's insurance remained with Peterson McGregor; that the current policy expires March 31; that proposals were received from all three carriers and staff reviewed and compared coverages; and that the low bid was provided by The Michigan Municipal Underwriters of MI (PAR Plan) and was determined to meet the City's needs.

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

WHEREAS, as the City of Petoskey requested and received proposals for liability and property coverage, with coverage to begin on April 1, 2019; and

WHEREAS, the proposals were reviewed and determined to meet the City's insurance needs with the low amount being provided by Municipal Underwriters of West MI, Inc.:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby authorizes obtaining liability and property insurance from Municipal Underwriters of West MI with coverage provided through The Michigan Township Participating Plan and totaling \$111,630 for 2019.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Council Comments

Mayor Murphy reminded City Council that there is no meeting scheduled for the first Monday in April.

There being no further business to come before the City Council, this March 18, 2019, meeting of the City Council adjourned at 9:17 P.M.

John Murphy, Mayor

Alan Terry, Clerk-Treasurer