



CITY COUNCIL

June 3, 2019

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, June 3, 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, Parks and Recreation Director Kendall Klingelsmith and Downtown Director Becky Goodman.

Consent Agenda - Resolution No. 19301

Following introduction of the consent agenda for this meeting of June 3, 2019, 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 confirms that the draft minutes of the May 20, 2019 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 May 20, for contract and vendor claims at \$303,469.33 intergovernmental claims at \$7,839.25, and the May 30 payroll at \$206,033.18, for a total of \$517,341.76 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 there was a comment concerning invasive species work and that there are knotweed issues in Petoskey; that there has been some treatment performed but the City needs much more work and should prioritize; that everyone spreads the knotweed through movement; and heard a comment from Wild Flowers Nursery owner concerning a need to dispose of sod at a City facility.

Hear City Manager Updates

The City Manager reported that in 2018 the State passed the Small Wireless Communication Facilities Deployment Act (Act 365) to increase investment in wireless networks and that a resolution and pole attachment agreement with proposed fees will be brought forward to City Council in the coming weeks; that MERS changed the rate of return and wage inflation assumptions and the 2018 Annual Actuarial Valuation Report will be available by the end of June;

that there is a public open house to receive feedback concerning the Darling Lot from 7:00-8:30 P.M., Thursday, June 6 in the Community Room; that staff is working with the LCC on a transfer of a redevelopment liquor license for the former Twisted Olive restaurant and that this type of license can be transferred to a new owner at the same location that the original license was issued and that the new restaurant Beacon Bistro has requested this transfer of license; that he met with Ric Evans, an energy specialist from the Groundworks Center, and Noah Marshall-Rashid to tour two sites for possible solar array projects and that the City landfill off of River and Howard Roads and the rooftop at City Hall and possibly the Lake Street Fire Station have great potential for a medium-sized solar array project; that he was asking for permission to miss the October 21, 2019 City Council meeting to attend the International City Manager's Association (ICMA) annual conference in Nashville; that staff is working on a renewal to the five-year recycling contract and that it will be on the next agenda; that the Great Lakes are at or approaching historic high water levels and have had minor electrical issues at the marina as a result of the high water levels and to better prepare for future changes in water levels, the Parks and Recreation Director has been in discussions with the DNR Waterways Commission on any possible grant funding to look into the feasibility of incorporating a flotation dock design at the marina; reported on dates and times of the Parks and Recreation Commission picnics; that 5:30 P.M., Friday, June 7, there is a ribbon cutting ceremony for the downtown bathrooms; that all US-31 southbound traffic is back on the highway with a small section of the Lake Street/US-31 intersection to be completed this week; that crews are installing a 10' wide expansion of the Little Traverse Wheelway from the pedestrian tunnel going east towards the retaining wall; and that over 450 adults and children attended the annual Public Safety Open House.

City Councilmembers concurred to look further into expansion of local solar projects.

Planning Commission Appointment – Resolution No. 19302

Mayor Murphy reviewed that City Council consider possible appointment to the Planning Commission.

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 Robert Kronberg, 422 Grove Street, to the Planning Commission to fill a vacated term ending August 2021.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Tax Increment Finance Authority Board Appointment – Resolution No. 19303

Mayor Murphy reviewed that City Council consider possible appointment to the Tax Increment Finance Authority Board.

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

BE IT RESOLVED that the City Council does and hereby approves the appointment of Joseph Keedy, 504 Liberty Street, to the Tax Increment Finance Authority Board for a four-year term ending April 2023.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Adopt Ordinance 771 Concerning Fireworks – Resolution No. 19304

The City Manager reviewed that this was the second discussion of the proposed ordinance and that at the last Council meeting there was a question as to whether the City could regulate the type of fireworks allowed within the community. The City Manager further reported that cities cannot regulate the type of fireworks allowed in their jurisdictions; that State regulations govern the type of consumer and commercial fireworks allowed; and sky lanterns, which the City prohibited, are not considered a firework; and that the City amended the International Fire Code to prohibit sky lanterns in the community.

City Councilmembers inquired on the difference between commercial and consumer grade fireworks and the City Manager responded that he would investigate.

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

AN ORDINANCE TO AMEND CHAPTER 10 OF THE PETOSKEY CODE OF ORDINANCES, FIRE PREVENTION AND CONTROL, REGARDING FIREWORKS IN THE CITY OF PETOSKEY

The City of Petoskey ordains:

SECTION 10-19 is hereby repealed in its entirety and replaced with the following provision 10-19:

Sec. 10-19. - Fireworks.

- (a) The term "firework" or "fireworks" means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects, as defined by the Michigan Fireworks Safety Act, Act 256 of 2011, as amended by Act 635 of 2018.
- (b) The sale, discharge, storage, transportation and distribution of fireworks in the City of Petoskey shall be governed by the Michigan Fireworks Safety Act; Act 256 of 2011, as amended by Act 635 of 2018.
- (c) The use of low impact fireworks, as defined in the Michigan Fireworks Safety Act of 2011, as amended by Act 635 of 2018, (ground and hand held sparking devices) will be permitted year-round.
- (d) Use of Consumer fireworks, as defined in the Michigan Fireworks Safety Act, in the City of Petoskey is limited to and contingent on the following:
 - (1) Fireworks shall not be sold to a minor.
 - (2) No person under the age of 18 years shall buy, purchase, acquire or obtain any fireworks, as defined herein, within the city.
 - (3) No person under the age of 18 years shall use, possess, explode or cause to explode any fireworks unless under the presence of an adult, as defined herein, within the city.
 - (4) No person shall discharge, ignite, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.
 - (5) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission.
 - (6) The ignition, discharge, or use of consumer fireworks shall be limited to the following days after 11:00 A.M.:
 - (a) December 31 until 1 A.M. on January 1.
 - (b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 P.M. on each of those days.
 - (c) June 29 to July 4 until 11:45 P.M. on each of those days.
 - (d) July 5, if that date is a Friday or Saturday, until 11:45 P.M.

(e) The Saturday and Sunday immediately preceding Labor Day until 11:45 P.M. on each of those days.

- (e) Upon application in writing to the City of Petoskey by any association or group of individuals for the public display of fireworks, the Director of Public Safety may grant permission for such display, subject to such conditions as the Director of Public Safety or his designee may impose to properly safeguard the public, both as to persons and property; and subject to the provisions of the Michigan Fireworks Safety Act, Act 256 of 2011, section 28.466.
- (f) Persons who violate a provision of this Code or fail to comply with any of the requirements thereof, shall be guilty of a municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Ordinance No. 674, being the City of Petoskey's Municipal Civil Infraction Ordinance, as amended, and shall be subject to any other relief that may be imposed by a court for such conduct, which shall also be considered a nuisance per se. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

All other provisions of the Code of Ordinances not specifically amended shall remain in full force and effect.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby revised as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

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.

All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

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.

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)

Hear 2018 Action Plan Status Report

The City Manager reviewed that at the May 20 City Council meeting he would bring forward a status report of the 2018 Action Plan that City Council approved on July 16, 2018. The City Manager reviewed each goal and its strategies; that some strategies have been accomplished or significant progress is currently underway; and was asking how City Council wanted to proceed whether to do nothing, update the current 2018 Action Plan this summer or fall, or schedule a 2020 update with a facilitator.

City Councilmembers discussed timing of the process and concurred to conduct a special meeting after summer to discuss action plan.

Approve Grant for Solanus Mission Beach Improvements – Resolution No. 19305

The Parks and Recreation Director reviewed that staff along with Beckett and Raeder is preparing a planning grant application for proposed improvements to the Solanus Mission Beach area. The Director further reviewed that the planning grant application will cover up to 50% for feasibility studies, community engagement and other planning partners; that the Coastal Healthy Habitat, Waters and Communities is an opportunity through the Michigan Coastal Management Program that focuses on protecting coastal native vegetation, wildlife, water quality, erosion control while improving connections to the coast for public use and enjoyment; reviewed partners in the planning process; reviewed project costs; that the Parks and Recreation Commission held a public meeting on January 14 to receive public comments; and that the Parks and Recreation Commission adopted a resolution on May 13 supporting the project and requested City Council support the submission of the grant application.

Mayor Murphy asked for public comments and heard a comment on invasive species and that it will be a continued issue, but nothing severe; that improvements in that area are good for native plants; that there are high water levels in that area so why would the City invest in any improvements; and that the City should move forward in treating invasive species.

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

WHEREAS, the City of Petoskey desires to improve Solanus Mission Beach area; and

WHEREAS, the undeveloped portion of Solanus Mission Beach is not accessible to the public and is in need of passive recreational opportunities; and

WHEREAS, the Solanus Mission Beach contributes to the goals and objectives identified in the 2018-2022 City of Petoskey's Parks and Recreation Master Plan, outlining the need and the desire to improve water accessibility; and

WHEREAS, funding is available from the U.S. Department of Commerce through the Coastal Management Program; and

WHEREAS, request that the City Council consider committing up to 50% local match, that being \$10,000, toward the planning grant which are estimated at \$20,000; and

WHEREAS, the City of Petoskey Parks and Recreation Commission supports the submission of the planning grant through the Coastal Management Program to improve access to the Solanus Mission Beach area and commit to undertake this project, if funded, and commit to the project match and authorize Robert Straebel, City Manager, or his designee to serve as the City's representative for this project:

NOW, THEREFORE, BE IT RESOLVED, that the City of Petoskey City Council hereby authorizes Robert Straebel, City Manager, or his designee to serve as the City's representative for this project, authorize the submission of the application and request that Coastal Management grant program consider approval for planning of Solanus Mission Beach improvement project and provide grant funding in the amount of \$20,000.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Approve Project Agreement Concerning Iron Belle Bear River Bridge – Resolution No. 19306

The Parks and Recreation Director reviewed that the State recently approved funding through the Department of Natural Resources Trust Fund to the City Iron Belle Trail Bear River Bridge project in the amount of \$83,000 which is 50% of the total cost. The Director further reviewed that the City will contribute a 50% match of \$83,000 for a total project cost of \$166,000; that the bridge will connect the North Country Trail on the east side of the Bear River at North Central Michigan College and the west side at the River Road Sports Complex; reviewed bridge specifications; that there has been extensive fundraising efforts being made by the North Country Trail Association and the City that will be used as matching funds; and that there is currently \$42,500 raised.

Mayor Murphy asked for public comments and heard a comment that this is a great project and the entire matching cost is covered by outside sources.

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

WHEREAS, the City of Petoskey City Council desires to enhance recreational and non-motorized trail opportunities within its Iron Belle Trail Bear River Bridge; and

WHEREAS, this Iron Belle Trail Bear River Bridge project would include an accessible bridge, boardwalk, and site work at an estimated project cost of \$166,000; and

WHEREAS, the Iron Belle Trail Bear River Bridge contributes to the goals and objectives identified in the 2013-2017 and 2018-2022 City of Petoskey's Parks and Recreation Master Plan, outlining the need and the desire to develop this linear park system; and

WHEREAS, the State of Michigan Department of Natural Resources has recommended the City of Petoskey's Iron Belle Trail Bear River Bridge project for funding assistance through the Michigan Natural Resources Trust Fund for park development projects contributing to the goals and objectives identified within the municipality's approved Parks and Recreation Master Plan; and

WHEREAS, the City of Petoskey has funds budgeted to commit up to 50% local match, that being \$83,000, toward these improvements which are estimated at \$166,000:

NOW, THEREFORE, BE IT RESOLVED, the City of Petoskey City Council does hereby accept the terms of the Agreement as received from the Michigan Department of Natural Resources, and that the City of Petoskey does hereby specifically agree, but not by way of limitation, to authorize the City Manager, or his designee, to serve as the City of Petoskey's representative for the project.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Council Comments

Mayor Murphy asked for Council comments and City Councilmember Marshall commented that the City has an ordinance on plantings within the greenbelt and inquired on how plantings were determined. Mayor Murphy reported that the Little Traverse Bay Crop Walk is 9:00 A.M., this Saturday and that he has been in contact with Senator Schmidt and Representative Chatfield concerning short-term rentals.

There being no further business to come before the City Council, this June 3, 2019, meeting of the City Council adjourned at 8:15 P.M.

John Murphy, Mayor

Alan Terry, Clerk-Treasurer