



CITY COUNCIL

August 5, 2019

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, August 5, 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, Executive Assistant Sarah Bek, City Planner Amy Tweeten, Public Works Director Michael Robbins, Downtown Director Becky Goodman and City Attorney James Murray.

Consent Agenda - Resolution No. 19317

Following introduction of the consent agenda for this meeting of August 5, 2019, City Councilmember Dittmar moved that, seconded by City Councilmember Marshall adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the July 15, 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 July 15, for contract and vendor claims at \$2,110,163.79, intergovernmental claims at \$537,037.71, and the July 25 payroll at \$228,092.45, for a total of \$2,875,293.95 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 were no comments.

Hear City Manager Updates

The City Manager reported that Executive Assistant Sarah Bek was accepted into the MML 16/50 Program which is a women's leadership program empowering women in municipal management roles and congratulated her on acceptance into the program; that staff has been working with MPPA representatives regarding a potential solar array project at the City landfill and that MPPA recommended working with NTH Consultants; that staff has been working with Groundworks Center representatives on a possible rooftop solar project for both City Hall and the Lake Street Fire Station and initial cost estimates for City Hall is \$140,000 and \$156,000 for Fire Station; that the initial kick-off meeting to explore alternative designs for the Lake Street Dam is scheduled for August 21 at City Hall with a 3:00 P.M. and 7:00 P.M. session and is being funded by a \$50,494 grant from the Great Lakes Fishery Trust in partnership with Tip of the Mitt Watershed Council; that a portion of the City's coastline on Bayfront Park has eroded because of high water levels and that the City is seeking at least three bids from qualified contractors to complete project before further erosion occurs; that by a 5-3 vote, the Planning Commission did not approve the preliminary PUD zoning change for 200 East Lake Street at the July 25 Planning Commission meeting and that height of the proposed hotel and lack of first floor retail/commercial space on Lake and Petoskey Streets were main concerns for some members; that it is unknown if the developer will revise the plans for further discussion at the Planning Commission level; that at the City Manager's request, staff will be meeting with Mr. Berg tomorrow; that ZBA will consider an extension of a reasonable accommodation granted to Harbor Hall at their meeting tomorrow night; reviewed construction updates on Lewis Street and US-31 highway; and that the Washington Street sidewalk project was moving along with an anticipated completion by the week of August 12.

City Councilmembers inquired on what "fatal flaw" is in regards to the solar array projects; heard an inquiry if staff was still working with Ric Evans on solar projects; that the Washington Street sidewalk will be a benefit for school children; and inquired if Mr. Berg requested the meeting with staff.

The City Manager responded that NTH consultants assess the site from a "fatal flaw" perspective which looks at land orientation, if there is enough electricity, transmission lines, etc. and is somewhat of a "deal breaker" study to determine if solar project can be executed; that Ric Evans is still a partner in the project; and that he had called Mr. Berg concerning a meeting on 200 East Lake Street.

Hear Presentation Concerning Darling Lot Redevelopment Concepts

The City Manager reviewed that at its March 4 meeting, City Council authorized staff to move forward with a predevelopment assistance program offered by the Michigan Municipal League (MML) for the Darling Parking Lot, which became an identified priority redevelopment site through the Redevelopment Ready Communities process. Through MML, the Mission North team was selected as the consultant on the project. The City Manager further reviewed that the public provided feedback from the focus groups specifically to preserve or enhance parking, interest in housing and developments have to be within 40-foot height restrictions.

Rob Bacigalupi, Mission North representative, gave a brief presentation on the project; reviewed that the goal is to develop the lot by a private developer; RFQ's will be sent out after a market study is completed; reviewed team members involved in the project; that public engagement meetings were held along with stakeholder surveys; that public feedback indicated that design preferences be more traditional and include green infrastructure; reviewed use preferences such as a grocery store, movie theatre, breakfast restaurant, office space; reviewed pros and cons of parking design and mechanism to pay for parking such as TIF; reviewed 2017 Walker Parking Study report and proposed structure; that a valet service and parking lift station may be a good concept; reviewed communities that have parking lift stations; reviewed three concepts and the number of spaces each concept would provide; that concept one will hold 184 cars; that concept two has 143 spaces, no ramps, less parking, but more private development space; and that concept three will provide 153 spaces with parking underground, no lifts, conventional ramped parking and two full floors of private development.

City Councilmembers inquired on how many spaces would be provided if there was no lift in the first concept; heard an inquiry on how long it takes to retrieve cars specifically during rush hour with a lift; if number of parking spaces included the multifamily housing component; if there is only enough space for second or third residences; that workforce housing is not brownstones or condos; if the project in Alpena was completed as part of the RRC program; inquiries on where MEDC funds come from; heard concerns that there is not much parking space gain since all factors haven't been looked into yet; that a commercial component is a positive attribute; heard from those in favor of a valet service vs. a lift; that DMB is working on a potential parking structure at the County lot and recently increased parking fees for future parking needs; inquired on where the respondents were from during focus groups; that future development is part of the City's Master Plan and in the Downtown Design Guidelines; and that Council has ultimate authority on moving forward with project.

Mayor Murphy asked for public comments and heard a comment that the initial goal with the Darling Lot was to increase parking, but now there is an additional meaning other than parking; that parking rates increased with no public conversation about additional infrastructure, so Council should be cautious; and heard inquiries on why this type of plan doesn't get approved by Planning Commission.

The City Manager responded that the project could go to Planning Commission for review and feedback, but that it is a conceptual plan at this point.

City Councilmembers inquired on how much revenue will be generated with the increased spaces; heard concerns that the project is an expensive proposition without gaining a lot; heard from those that want more information and further discussion before seeking public feedback; heard an inquiry if there were certain MEDC deadlines since using grant monies; heard from those in favor of the public process; and inquired if the City had to participate in a certain number of projects since RRC certified.

Mr. Bacigalupi responded that MEDC follows the State's fiscal year which is the end of September, but will ask if it can be extended.

The City Manager responded that the City doesn't have to participate in a certain number of projects, but that the Economic Development Strategy should be updated annually. The Downtown Director also commented that the Darling Lot brings in approximately \$20,000 in revenue with a lot of permit spaces at the old rates, but habits could change with newly implemented rates.

City Councilmembers will discuss matter at the next regular scheduled meeting.

First Reading of a Proposed Ordinance Amending the Zoning Ordinance Allowing Medical Marihuana Provisioning Facilities

The City Manager reviewed that at the July 18 special meeting, by a 7-2 vote, the Planning Commission recommended to City Council to consider a proposed zoning ordinance for medical marihuana provisioning centers. As proposed, the ordinance would allow provisioning centers as a special condition use in the B-3 General Business District and Planned Unit Development (PUD) Districts. The City Manager further reviewed that the ordinance includes a 1,000-foot buffer from K-12 public and private schools; includes a separation of at least 500 feet between provisioning centers; that the Planning Commission also recommended that if City Council wanted to consider other locations that the B-3B Business Industrial District is most appropriate; that the Planning Commission determined that provisioning centers will generate significant vehicle turnover and should be located along commercial corridors at sites that provide sufficient parking and safe access; that the Planning Commission strongly recommended that Council give ample opportunity for public comment and education while soliciting additional public input; that on July 30 he was contacted by Joe Blachy regarding a potential "protest petition" opposing medical marijuana provisioning centers in the community; reviewed State legislation allowing a petition to initiate or prohibit recreational marijuana, but there is no such petition clause in the medical marijuana State legislation; and that Chapter 7 of the City Charter does allow for either a referendum petition that would repeal all or some of an adopted ordinance or an initiative petition that states the ordinance it would enact.

City Councilmembers commented that Planning Commission was tasked to research signage, hours of operation and zoning locations; heard from those in favor of reducing the 1,000-foot buffer from K-12 schools; reviewed comparisons to Corner Grocer and other liquor stores that are close to schools; that medical marijuana will likely include a recreational component in the future; heard an inquiry on why there is a 500-foot buffer between facilities; heard from those in favor of clustering facilities for easier enforcement; that there is a reduction in crime due to required security plans and 24/7 surveillance; that parking needs to be abundant due to traffic; heard an inquiry if the City or owner regulates parking; heard from those in favor of B-3B district and Light Industrial district on Standish Avenue beyond Emmet Street; inquired if the PUD location on Water Street could be removed since located in residential area; that if PUD owners aren't interested in allowing this type of facility, then Council may be interested in other zoning locations; heard an inquiry that this was a first reading, but if there were changes then there will be an additional first reading; and heard from those in favor of a smaller buffer such as 500-feet from schools and include other zoning districts such as B-3B and General and Light Industrial districts to eliminate land grab and real estate issues.

Mayor Murphy asked for public comments and heard from those against medical marijuana provisioning centers and encouraged City Council to opt-out; reviewed statistics from Colorado and other communities after medical marijuana facilities were opened; that residential and commercial real estate will negatively affect community; that this type of business will change the character of Petoskey; reminded Council to keep in mind recreational marijuana when considering allowing medical marijuana provisioning centers; that buffer zones from schools should be increased for alcohol establishments as well; that expansion has been great except for Harbor Hall and vape shops; that friendly competition is good and locations could be close together; that these businesses will attract a new segment of visitors; heard comments that there is no harm with the 1,000-foot buffer from schools and encouraged Council to keep the 1,000-foot buffer; that the real issue is Big Pharma; inquired if Council had talked to PUD owners or tenants to include them in permitted areas; that if allowed throughout the 4th Ward then facilities will be closer to recreation facilities; reviewed that by allowing these facilities it doesn't align with the Charter language of "public safety"; heard from those that think the ordinance is self-serving to some Councilmembers; reviewed statistics and opioid overdoses; that the Petoskey News-Review article titled "pot" was a negative connotation from the beginning; commended Council for considering in such a conservative area; that medical marijuana is pharmaceutical; that medical marijuana was voted in by the people of Michigan; that parking circulation wasn't flushed out in Planning Commission process; that B-3 areas frontage and residential behind can't handle volume of traffic; that Council should specify square footage and parking spaces for transparency; that industrial districts should be avoided since there is hope to eventually develop into residential areas; heard from PUD property owners and investors that are in favor of qualified applicants; that there have been roadblocks for better developments, but Council is bending over backwards for medical marijuana provisioning centers; commended Councilmember Dittmar for surveying constituents; that Council is acting on a personal level and not at as a whole and what is best for the community; reviewed history of cannabis plant to now; that real estate is extremely high in potential districts; heard an inquiry if licenses would be transferable; that transparency needs to happen for the public; heard a recommendation to score applicants vs. a lottery; that these facilities will be an investment to the City by job creation and other factors; that kids push boundaries and are curious, so additional buffer is a good thing; inquiries if NCMC qualifies as a buffer zone; heard concerns with allowing on Standish near skate park; inquiries if a medical marijuana facility was established if it would preclude from ever having a school open in same area; and heard from those that encouraged City Council to deliberate wisely and think about community as a whole.

City Councilmembers further discussed that 1,000-foot buffer is a consideration if decriminalized at federal level; heard from those that still want to see additional maps with a 500-foot buffer from K-12 schools; and that City Council is to create policy and allowing medical marijuana provisioning centers is systemic and economic development for the community.

City Council will conduct an additional reading of the proposed ordinance at the next regular scheduled meeting.

First Reading of a Proposed Ordinance Amending Chapter 8 Creating a New Article IX – Medical Marihuana Facilities

The City Manager reviewed that along with the medical marijuana zoning ordinance, the City needs to adopt a licensing ordinance regarding medical marijuana provisioning centers. The City Manager further reviewed that Planning Commission didn't specifically weigh in on ordinance since it is outside their purview; reviewed the purpose of the ordinance; that all future provisioning centers must abide by all zoning requirements and other applicable building, construction and other codes at time of issuance; that City Council will need to establish the non-refundable initial application fee as well as the yearly license renewal fee for a permit; reviewed lottery process and that a lottery will be held to randomly select the applicants who are prequalified by the State of Michigan for conditional authorization and to establish a waiting list for future conditional authorizations; that City Council will need to determine the number of provisioning centers allowed in the community; that hours of operation including receiving shipments must occur between the hours of 9:00 A.M. to 9:00 P.M. and that the City Clerk is granted the power to implement and administer the permit application process.

City Councilmembers discussed the lottery process and heard comments that a lottery system may not be the best practice; inquired about parking requirements and that City Council should approve prior to going to Planning Commission; heard inquiries if there were other selection models where no lawsuits occurred; discussed number of provisioning centers with a possibility of 3 or 4; heard inquiries on signage regulations; and discussed licensing fees and if they have to be quantified.

The City Attorney responded to avoid lawsuits that a lottery system is a better way to select applicants; reviewed the application process; and that the sign ordinance is already in place and the City can't regulate content.

The City Manager responded that there is standard uniformity with parking requirements and special condition uses which would apply to provisioning centers; that communities that deviated from lottery had more issues; and that the City can charge up to a \$5,000 non-refundable fee for application and up to a \$5,000 fee for the initial license and for a yearly renewal license, but that he would bring back more information regarding fees at the next meeting.

Mayor Murphy asked for public comments and heard comments that a lottery system will be contentious and a merit system would be better; that there are marijuana real estate sharks; heard an inquiry on how long applicant has to fulfill license; that transferable licenses are not in the communities interest; heard an inquiry on what the revenue stream is and what the financial benefit to the City is beyond licensing; that Michigan voters voted to decriminalize medical marijuana, but not for allowing provisioning centers; that the City needs to retain control for economic development; and heard a comment that sales tax and excise tax is prorated between all recreation facilities, but not medical marijuana facilities.

Council Comments

Mayor Murphy asked for Council comments and Councilmember Walker reported that she attended an Enbridge meeting and would also be attending a national Great Lakes meeting in Traverse City.

There being no further business to come before the City Council, this August 5, 2019, meeting of the City Council adjourned at 10:17 P.M.

John Murphy, Mayor

Sarah Bek, Recording Clerk