



CITY COUNCIL

August 19, 2019

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, August 19, 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, Downtown Director Becky Goodman and City Attorney James Murray.

Hear Farmers Market Proclamation

Mayor Murphy read the following proclamation concerning Farmers Markets:

WHEREAS City of Petoskey farmers and ranchers provide citizens with access to healthful, locally, and regionally produced foods through farmers markets, which are expanding and evolving to accommodate the demand for a diverse array of agricultural products; and

WHEREAS farmers markets and other agricultural direct marketing outlets provide infrastructure to assist in the distribution of farm and value-added products, thereby contributing approximately \$9 billion each year to the U.S. economy; and

WHEREAS farmers markets serve as significant outlets by which small-to-medium, new and beginning, and veteran agricultural producers market agricultural products, generating revenue that supports the sustainability of family farms and the revitalization of rural communities nationwide; and

WHEREAS the City of Petoskey Mayor recognizes the importance of expanding agricultural marketing opportunities that assist and encourage the next generation of farmers and ranchers; generate farm income to help stimulate business development and job creation; build community connections through rural and urban linkages:

NOW, THEREFORE, to further awareness of farmers markets' contributions to City of Petoskey life, I, Mayor John Murphy, do hereby proclaim the week of August 4-10, 2019, as City of Petoskey Farmers Market Week, in conjunction with the observance of National Farmers Market Week. I call upon Petoskey citizens to celebrate farmers markets with appropriate observance and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of August 2019, the two-hundred forty-third year of the Independence of the United States of America.

Consent Agenda - Resolution No. 19318

Following introduction of the consent agenda for this meeting of August 19, 2019, City Councilmember Marshall 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 August 5, 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 August 5, for contract and vendor claims at \$2,072,717.72, intergovernmental claims at \$782,660.49, and the August 8 payroll at \$232,558.59, for a total of \$3,087,936.80 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 on 200 East Lake Street and that a few days after the Planning Commission meeting the City Planner and he met with owner Bob Berg regarding the next steps and discussed alternative design options that may garner support from the Planning Commission and that Mr. Berg stated he was unwilling to revise the development plans at this time; that the master plan update kick-off community engagement meeting is September 5 from 6:30 P.M. to 9:00 P.M. at the North Central Michigan College Library Conference Room; that the ZBA approved a one-year extension of a reasonable accommodation granted to Harbor Hall to allow up to 9 individuals to reside in a single housekeeping unit within the 400-foot buffer requirement; that there have been various delays in the powder coating and fabrication of the stair tower for Sunset Park anticipating that installation will start in late September and be substantially completed this fall; that the CIP 2020-2025 was recommended by the Planning Commission for Council review and approval; that the Lake Street Dam initial public meetings to explore alternative designs for the dam is scheduled for August 21 at 3:00 P.M. and 7:00 P.M. at City Hall; that a permit to address the eroded area on Bayfront Park has been approved by EGLE representatives and staff will be meeting with contractors for installing rip rap on the affected area; that according to the City Manager's contract, City Council is to complete a performance evaluation each year and the last one was performed in September 2018 and reviewed evaluation process and deadlines; that the new sidewalk on the south side of Washington Street from Howard to Petoskey Street is completed which will enhance pedestrian access to Washington Park; and that the City has been working with a tree trimming company in removing many small trees and shrubs along the bluff to open up the public view sheds of Little Traverse Bay.

City Councilmembers inquired on the intention of erosion work and if it would be restored back to what it was before or stabilized; heard concerns on 200 East Lake Street and that what occurred at the Planning Commission wasn't represented accurately by the Petoskey News-Review; and that three Commissioners had concerns with height and that there are serious compromises that need to be addressed rather than just not liking brownstones.

The City Manager responded that the erosion area will be stabilized with rip rap and that some Commissioners had issues with brownstones, but could live with the height and that it is in the very early stages of development process.

The City Attorney provided a brief update on the Odawa litigation and that a motion was granted by the State of Michigan and denied the Tribe's claims; that there is not a pending case; and that the Tribe has 30 days to appeal.

City Councilmembers inquired if there would be any more accrued expenses and the City Attorney responded that there would not be any more expenses unless an appeal occurs or additional filings.

Hear Presentation Concerning Darling Lot Redevelopment Concepts

The City Manager reviewed that at its August 5 meeting, City Council heard a presentation from Rob Bacigalupi, Mission North, on three concepts for the Darling Lot; that City Council raised concerns about the mechanized parking and number of parking spaces resulting in the three concepts; that the concepts were posted at City Hall, on the City website and links on social media for additional public input; and three public comments were received.

Megan Olds, Mission North, gave a brief presentation on the three concepts; reviewed engagement themes; reviewed car lift and stacking system; that only an estimate of parking needs for potential residential development can be provided since it is at conceptual stage; that based on the experience of Traverse City for this type of walkable multiple family development, each unit would need one parking space; that if one assumes each unit to be 1,250 square feet, potentially Concept 1 could have up to 35 residential units, Concept 2 – 37 residential units, Concept 3 – 34 residential units and 5,500 square feet of commercial space; that this level of analysis for unit numbers and demand has yet to be completed, pending Council concept selection; reviewed estimated total spaces with and without lift system and estimated net gain or loss of spaces; and that parking is needed for downtown as determined from the engagement sessions.

City Councilmembers inquired what the concepts would look like without the lift system; inquired on cost of lift system; how long it takes for customers to get car during rush hour; concerned that this is a big city solution and not for communities the size of Petoskey; that there is an interest to include low-income and workforce housing; heard from those not in favor of car lift system; heard from those that opposed Concepts 1 and 2; heard from those in favor of gathering more information on Concept 3 and the old Walker Parking garage; that cost is prohibitive for all concepts; and thanked consultants for their diligence, but that developing the Darling Lot is cost prohibitive and shouldn't be developed.

Ms. Olds responded that if the car system was removed it changes the overall design such as lower net gain, but higher other uses such as commercial or residential; that during peak times it is a two-minute process to retrieve car; that a lift system is used in downtown Charleston, South Carolina, which is a mid-size community; reviewed conceptual costs; that with Council guidance, the team can build a pro-forma; and that there was still time left to complete the final step of work.

The City Manager reviewed that a City Council goal is to increase sustainable measures and green infrastructure and recommended that Council look at the Walker design with a solar array project and develop a "green parking garage."

City Councilmembers inquired on the cost of the Walker Parking garage; cost of solar; and inquired if the cost included public and private partnership and Brownfield possibilities.

Mayor Murphy asked for public comments and heard a comment that the car lift system is a novel idea; that the lift provides future flexibility and shouldn't be written off; that the lift is more cost effective and progressive; and that housing should be highly considered when discussing concepts.

City Councilmembers commented that lifts are more effective in multiple story buildings and concurred to have the consultants provide more information at the next meeting on parts of Concept 3, Walker Parking study and including a possible solar component.

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

The City Manager reviewed that at the August 5 meeting, City Council discussed the B-3 General Business District and Planned Unit Development zoning district; that Council also discussed whether to include the B-3B Business Industrial zoning district as well as including the I-1 Light Industrial and the I-2 General Industrial zoning districts; that Council directed staff to develop maps showing both a 1,000-foot and 500-foot buffer from K-12 schools; and that Council give direction to staff on allowable zoning districts and buffers.

City Councilmembers were in favor of the 1,000-foot buffer from schools; heard from those in favor of clustering businesses all in one location; that provisioning centers shouldn't be allowed in the CBD or residential districts; discussed possibility of eliminating the 500-foot buffer between centers, but then the number of businesses will have to be limited; that there is merit to having buffers and separation between businesses to serve neighborhood areas similar to party stores; heard from those opposed to allowing medical marijuana provisioning centers; heard from those opposed to clustering all in one location; discussed the number of businesses that could be allowed; heard from those in support of allowing in B-3B districts, but not I-1 and I-2; and heard an inquiry if some PUDs could be allowed but not all.

The City Planner responded that a PUD is spot zoned and is its own zoning district; that during the Special Condition Use process Planning Commission will be able to determine if there is an adequate amount of parking; and that allowing in a PUD will have to be generated from the property owner.

City Councilmembers concurred to include a 1,000-foot buffer from K-12 public and private schools; a 500-foot buffer between provisioning centers; allowing in the B-3, B-3B and PUD zoning districts; and allowing three provisioning centers in the community.

Mayor Murphy asked for public comments and heard an inquiry that a certain property on Standish Avenue fell within the buffer zone while discussing with Planning Commission, but not now and encouraged Councilmembers to include I districts; commended the City Planner and City Attorney for work in this process; heard from those in favor of preventing the cannabis corner and that the recommended ordinance changes are responsible and will avoid this issue; heard a suggestion that only one applicant should be able to apply per location; heard from those against medical marijuana and those initiating citizens against provisioning centers through a potential petition or referendum; that Council is not representing what constituents voted for; cautioned Council allowing businesses in the entrance and exit of town; that by allowing provisioning centers marijuana is more available and that there is more exposure to youth, and that future generations should be protected; heard an inquiry on statistics and the number of medical marijuana card holders and why this hasn't been discussed prior to now since it was approved in 2008; that medical marijuana is a forerunner for recreational marijuana; heard concerns that by allowing provisioning centers then an increase in criminal activity will occur; that the community's image will change if medical marijuana businesses are allowed; thanked Councilmember Dittmar for polling constituents which shows his integrity; that Harbor Watch has senior citizen residents; that there is an addiction problem in the community; encouraged City Council to be good listeners; heard an inquiry if there would be another first reading on proposed ordinances; heard concerns regarding youth and public safety; heard a review on Grand Rapids' regulations; that the 2008 election didn't allow provisioning centers; and that if people want provisioning centers then it should go on a ballot for voters to decide.

City Councilmembers commented that it is the rights of people to do a referendum; that a regional center won't happen; agreed that marijuana is not good for youth along with alcohol, cigarettes or prescription drugs; that adults have the right to use similar projects such as alcohol and tobacco; that elected officials are to enact laws and policies; that there was a clear majority to allow marijuana based on 2018 election results; and heard from those in favor of civility working towards a better community.

City Councilmember Dittmar motioned that there are public safety concerns and moved to postpone discussion indefinitely.

The motion died due to a lack of support.

City Councilmembers further commented that discussions are based on legal framework; that City Council is only considering medical marijuana provisioning centers; that Councilmember Dittmar's survey was completed on his own, not Council as a whole; that Council has opted-out of recreational marijuana at this time; heard from those in support of marijuana; that marijuana is here to stay and the need is for good parenting and better education.

City Council will conduct a first reading of the proposed zoning ordinance at the next regular scheduled meeting.

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

The City Manager reviewed that at the August 5, 2019 Council meeting, City Council discussed a licensing ordinance that will need to be adopted with the proposed zoning ordinance for medical marijuana provisioning centers as well as the application fee and license/renewal fee per resolution. The City Manager further reviewed that Council discussed allowing 3-4 provisioning centers in yet to be determined zoning districts; that Council inquired about any potential State revenues from an excise tax on medical marijuana facilities; reviewed potential revenues and excise taxes; and reviewed that applicants will be selected through a lottery process.

The City Attorney reviewed sections 8-327 and 8-329 in the proposed ordinance concerning the lottery and that it will be conducted at a public City Council meeting for transparency; that only one application, per applicant, per location is allowed; and that the goal is to not have the City be in a unique problem and to avoid stacking.

City Councilmembers commented that Council should be the ones to implement process; heard an inquiry if a special tax could be on a certain type of business; and heard inquiries if there will be an additional first reading.

Mayor Murphy asked for public comments and heard a comment encouraging Council to add language to not allow stacking applications; that typically the fee is non-refundable; that site plan review is a real process; that applications should be prequalified with LARA; heard a comment in regards to transferring licenses and that applicants shouldn't be allowed to flip business for profit; heard from those opposed to a lottery system; thanked Council for deliberation; heard an inquiry if applicants can apply at multiple locations; heard from those opposed to the ordinance; heard an inquiry on transfers and questioned if they were allowed; and that allowing 3 locations is arbitrary and not based on demand.

The City Manager responded that information on transfers will be clarified at the next meeting.

City Council will conduct a first reading of the proposed licensing ordinance at the next regular scheduled meeting.

Discussion on Medical Marijuana Provisioning Center Fees

The City Manager reviewed that as part of establishing medical marijuana provisioning centers for the community, City Council will be asked to adopt two fees per resolution for an initial application fee and an annual license/renewal fee. The City Manager reviewed that no action is needed at this point, but that the resolution should be approved at the same meeting whereby the zoning and licensing ordinances are approved; that per the State statute, the City could establish an annual fee of up to \$5,000 for the application fee and up to \$5,000 for the license/renewal fee to defray administrative and enforcement costs incurred by the City; that it is estimated that the City would most likely incur costs in excess of \$5,000 for each phase; reviewed tasks of each staff member who would be part of the process; that staff recommended \$5,000 for the application fee and \$5,000 for license/renewal fee; and that potentially there could be annual discussions concerning fee schedule every year after process is in place.

City Councilmembers were in agreeance of charging \$5,000 for application fee and \$5,000 for license/renewal fee.

Approve MERS Retirement Plan Employee Contribution Changes for Public Safety Officers – Resolution No. 19319

The City Manager reviewed that the City received the arbitrator's decision on the Public Safety Officer's collective bargaining agreement following an arbitration hearing held on April 18, 2019. The City Manager reviewed the changes including wage increases at 2% in 2018 and 2019 and 1% in 2020; retirement benefits to remain the same except officers covered by the MERS B-4 defined benefit plan will increase employee contributions to 4% as of August 1, 2019 and 4.5% as of January 1, 2020 (currently 3%); and that the Public Safety Officer's union had not ratified the collective bargaining agreement as of August 15, 2019.

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

WHEREAS, the City is a participating governmental unit in the Michigan Municipal Employees' Retirement System (MMERS) pension plan document of 1996; and

WHEREAS, in accordance with pension provisions of a renewed collective bargaining agreement with certain unionized employees for the City's Public Safety Officers requires changes to the City's current MMERS plan:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby elects to change current Michigan Municipal Employees' Retirement System (MMERS) benefits for Department of Public Safety unionized personnel, referred to as City of Petoskey (2402), Division 02 – Public Safety Officers Union, a defined benefit plan with employees contributing 4% beginning August 1, 2019 and 4.5% beginning January 1, 2020 as set forth in the plan adoption agreements for 2019 and 2020; and

BE IT FURTHER RESOLVED that the City of Petoskey City Council does and hereby authorizes the City Manager and Director of Finance to prepare and sign the Defined Benefit Plan Adoption Agreements with MMERS for Division 02 to make changes as set forth above to the existing defined benefit plan.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)
NAYS: None (0)

Name Municipal League Annual Meeting Representatives – Resolution No. 19320

The City Manager reported that at the request of the Michigan Municipal League, the City Council was being asked to adopt a proposed resolution that would confirm the City Council's appointment of an official voting representative and an alternate representative, one of whom would be seated at the annual business meeting of the Municipal League that would be conducted September 25, in conjunction with the League's 2019 Convention September 25-27, which will be in Detroit.

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

BE IT RESOLVED that the City of Petoskey City Council does and hereby selects John Murphy as the City's voting representative for the annual business meeting of the Michigan Municipal League that has been scheduled for Wednesday, September 25, 2019, in Detroit; and

BE IT FURTHER RESOVLED that the City Council does and hereby selects Lindsey Walker as the City's alternate representative to serve in the absence of the voting representative at said annual meeting.

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 Councilmember Marshall expressed that she received a comment from a visitor that Petoskey is a beautiful community to be able to live in.

There being no further business to come before the City Council, this August 19, 2019, meeting of the City Council adjourned at 10:00 P.M.

John Murphy, Mayor

Sarah Bek, Recording Clerk