



## CITY COUNCIL

July 6, 2020

A regular meeting of the City of Petoskey City Council was held from virtual locations on Monday, July 6, 2020. 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  
Brian Wagner, City Councilmember  
Lindsey Walker, City Councilmember

Absent: None

Also in attendance were City Manager Rob Straebel, Clerk-Treasurer Alan Terry, City Planner Amy Tweeten, City Attorney James Murray and Executive Assistant Sarah Bek.

### **Conduct Public Hearing on Rental Rehabilitation Grant for 414 & 418 Waukazoo Avenue**

The City Manager reviewed that in 2014, the City was awarded Community Development Block Grant (CDBG) funding through the Michigan State Housing Development Authority (MSHDA) Rental Rehabilitation Program for the renovation of seven rental units at 414 and 418 Waukazoo Avenue; that in 2016 MSHDA CDBG staff were reallocated to the Michigan Economic Development Corporation (MEDC); that the unit renovations were completed and the grant monitoring review and site inspection completed on September 28, 2016 by MEDC staff; and that in late May 2020, City staff was notified that to close out the Rental Rehabilitation Grant (MSC-2014-6474-HO) with MEDC, a public hearing was required.

City Councilmembers inquired if the grant was completed on time per grant requirements and if it was for core downtown residential. The City Manager responded that the grant was completed per grant specifications.

Mayor Murphy opened up the public hearing at 7:05 P.M. and there were no comments.

The public hearing closed at 7:06 P.M.

### **Consent Agenda - Resolution No. 19424**

Following introduction of the consent agenda for this meeting of July 6, 2020, City Councilmember Marshall moved that, seconded by City Councilmember Wagner adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the June 15, 2020 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 June 15, 2020 for contract and vendor claims at \$793,179.67, intergovernmental claims at \$14,264.89, and the June 25 payroll at \$219,679.35, for a total of \$1,027,123.91 be and is hereby acknowledged.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

**Hear Public Comment**

Mayor Murphy asked for public comments and Derek Shiels, 1221 Hazelton Avenue, commented that virtual meetings using the Zoom platform have been beneficial and hoped they remain for the future and that it was difficult to find Ward and City Convention information on the website.

**Hear City Manager Updates**

The City Manager reviewed Planning Commission updates; that the DMB discussed a Brownfield Plan for a proposed hotel and to fund a parking structure at the Saville lot and consensus of board members (7-0) was the DMB is “interested in supporting the concept or some similar concept and suggests developer move forward with it”; reported that staff and MEDC representatives met with representatives from the Michigan Maple Block Company over potential redevelopment of their building and land located on Standish Avenue; that the Parks and Recreation Commission will discuss a proposal to designate a part of the Emmet Street right-of-way located between US-31 and Mitchell Street as official park lands at 7:00 P.M., July 13; that the Emmet County Brownfield Redevelopment Authority (ECBRA) requested initial information and a summary presentation regarding the proposed Brownfield Plan for the hotel and Saville Lot parking structure; that City Council will discuss the Action 381 Brownfield Plan on July 20 and possibly August 3; that Clerk-Treasurer Terry completed review of 16 medical marijuana facility applications approving all applications to be part of the random drawing to take place this month and was asking Council to schedule a special meeting for 6:00 P.M., July 20 prior to the regular scheduled meeting; that a Baird and Associates representative will present initial shoreline findings at the July 20 City Council meeting for Magnus Park, Solanus Beach, playground area near the promenade and Bayfront Park East; and reviewed dates and locations for the Ward and City Conventions.

City Councilmembers inquired if the DMB actually voted on something for the potential hotel development and if there was any additional information or redevelopment plans for the Michigan Maple Block property.

The City Manager responded that there was a motion and support by a 7-0 vote that the DMB showed interest in supporting the concept or some similar concept and suggested developer move forward with it and that there weren't any solidified plans for the Michigan Maple Block property on Standish Avenue.

**Approve Board Appointments – Resolution 19425**

Mayor Murphy reviewed that City Council consider the following reappointment to the Tax Increment Financing Authority Board.

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

BE IT RESOLVED that the City Council does and hereby approves the reappointment of Linda Bade, 4984 Wildwinds Drive, to the TIFA Board for a four-year term ending April 2024.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

**Affirm & Accept Air Easement Appraisal for the Bay and Howard Street Hotel Development – Resolution No. 19426**

The City Manager reviewed that Councilmembers concurred to undertake an air rights appraisal on a 20' wide area above the Saville Lot and adjacent to the west side of a proposed hotel at the intersection of Bay and Howard Streets; that the \$7,000 cost for the appraisal was paid for by hotel developers; that the value of the 5,520 square foot air easement is calculated at \$57,000 using the sales comparison approach; that the Saville Lot could be developed into a three-story commercial building with a maximum footprint of 20,700 square feet; that the appraiser used five properties to calculate value of the easement area; that the appraisal states the reasonable rate for the Saville Lot is \$13 per square foot which is then discounted 20% because the intended use of the easement area is to remain vacant; and that if Council is interested in moving forward with sale of air easement, a motion could be made to direct the City Manager and City Attorney to develop a formal agreement for sale of the air easement.

City Councilmembers reviewed some of the assumptions in the appraisal; heard from those that feel the property is undervalued at \$200,000; that Councilmembers make decisions that affect future Councils all the time and see moving forward in the process; heard from those in favor of the project including the air easement and that decisions should be added to the entire package; and inquired on who would pay for additional studies if needed as part of the project.

The City Manager responded that typically the developers pay for any additional studies needed as related to their project.

Barry Polzin, representative for developers, reviewed that the appraisal is satisfactory, but that the developers would like to see City Council accept the appraisal and their commitment to sell air easement.

City Councilmembers commented that the proposed hotel is a good project, but heard from those that have concerns with the appraisal; and heard from those in support of moving forward at this point in the project if staff is also comfortable.

City Councilmember Walker moved that, seconded by Councilmember Wagner affirmation and acceptance of the appraisal and support for concept of granting an air easement.

Said motion was adopted by the following vote:

AYES: Shumway, Wagner, Walker, Murphy (4)

NAYS: Marshall (1)

**Second Reading & Adoption of PILOT Ordinance No. 778 for Lofts at Lumber Square – Resolution No. 19427**

The City Manager reviewed that at the June 15 meeting, Councilmembers directed staff to place the proposed Payment in Lieu of Taxes (PILOT) ordinance for the proposed Lofts at Lumber Square on the next regular scheduled agenda and that Council could approve proposed ordinance.

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

**ORDINANCE NO. 778  
TAX EXEMPTION ORDINANCE**

An Ordinance to provide for a service charge in lieu of taxes for a housing project for low and moderate income persons and families to be financed with a federally-aided Mortgage Loan 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 Lofts at Lumber Square."

**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 low and moderate income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City of Petoskey is authorized by this 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 this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low and moderate income persons and families 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 real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City of Petoskey acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation under the LIHTC Program by the Michigan State Housing Development Authority, to construct, own, and operate a housing project identified as Lofts at Lumber Square on certain property located at 900 Emmet Street in the City of Petoskey to serve low and moderate income persons and families, and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes.

**SECTION 3.      Definitions.**

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

- A. Authority means the Michigan State Housing Development Authority.
- B. Annual Shelter Rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.
- C. Housing Project means Lofts at Lumber Square, located at 900 Emmet Street, Petoskey, MI 49770.
- D. LIHTC Program means the Low Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.
- E. Low and Moderate Income Persons and Families means persons and families eligible to move into the Housing Project assisted by a Mortgage Loan.
- F. Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of the Housing Project, and secured by a mortgage on the Housing Project.
- G. Sponsor means Lofts at Lumber Square Limited Dividend Housing Association LLC.
- H. Utilities means charges for gas, electric, water, sanitary sewer furnished to the occupants that are paid by the Housing Project.

**SECTION 4. Class of Housing Projects.**

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low and Moderate Income Persons and Families that are financed with a Mortgage Loan. It is further determined that Lofts at Lumber Square is of this class.

**SECTION 5. Establishment of Annual Service Charge.**

The housing project identified as Lofts at Lumber Square and the property on which it will be located shall not be exempt from all *ad valorem* property taxes until such time when the project is built, a certificate of occupancy is obtained, all requirements for MSHDA funding has been approved and Lofts at Lumber Square is ready to accept low-income tenants. The City of Petoskey acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing project for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's offer to construct, own, and operate the housing project, the City of Petoskey agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to 10% of the Annual Shelter Rents collected by the housing project during each operating year.

**SECTION 6. 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 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 7. Limitation on the Payment of Annual Service Charge.**

Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the Housing Project that is tax exempt but which is occupied by other than low or moderate income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the Housing Project if the Housing Project were not tax exempt.

**SECTION 8. Payment of Service Charge.**

The annual service charge in lieu of taxes as determined under this 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 prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before April 30 of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq*).

**SECTION 9. Duration.**

This Ordinance shall remain in effect and shall not terminate so long as a the Mortgage Loan remains outstanding and unpaid or the Housing Project remains subject to income and rent restrictions under the LIHTC Program; provided the Housing project construction 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 this 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 or parts of 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 become effective fourteen (14) days following its enactment and shall be published once within seven (7) days after its enactment as provided by the Charter.

Said ordinance was adopted by the following vote:

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

**Approve City Attorney to Draft Ballot Language for Mayor & Councilmember Term Lengths – Resolution No. 19428**

The City Clerk-Treasurer reviewed that Councilmembers discussed a possible Charter amendment that would potentially change the term of office for elected officials; reviewed possible options including increasing the term of office for both Mayor and Councilmember positions; Mayor and Council terms being staggered so the Mayoral election switches between the two groups of elections for Ward positions; terms be established so no single elected office occurs only in odd numbered years while another occurs only in even numbered years; reviewed survey results of similar sized communities term lengths; reviewed option 1 increasing Mayor term from 1 year to 2 years and increase Council term from 2 years to 3 years; reviewed option 2 increasing Mayor term from 1 year to 2 years and increase Council term from 2 years to 4 years; and reviewed process and deadlines for ballot language.

City Councilmembers commented on both options and concurred that Ward positions should be staggered amongst both even and odd year election cycles.

City Councilmember Marshall moved that, seconded by City Councilmember Shumway to have the City Attorney provide ballot language that revise City Charter provisions establishing a two year term for Mayor and a three year term for Councilmembers.

Said motion was adopted by the following vote:

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

**Hear Odawa Lawsuit Update**

The City Attorney gave a brief update on the Odawa lawsuit as requested by City Council; reviewed that the City and other defendants prevailed in the trial court and the Tribe appealed and the City also filed a cross-appeal; that the Tribe's appeal is still in the briefing stage; and reviewed filing dates and deadlines for future arguments.

**Council Comments**

Mayor Murphy asked for Council comments and Councilmember Wagner thanked service workers and reminded citizens to wear masks out of respect for others in the community. Councilmember Shumway echoed Councilmember Wagner's comments and inquired if McLaren Northern Michigan was accepting expired prescriptions, needles, etc. as part of a drop-off program. Councilmember Marshall commented that it was a very relaxing July 4 holiday. Mayor Murphy encouraged citizens to participate in Ward and City Conventions next week and that masks will be required.

There being no further business to come before the City Council, this July 6, 2020, meeting of the City Council adjourned at 8:25 P.M.

John Murphy, Mayor

Alan Terry, Clerk-Treasurer