



CITY COUNCIL

August 3, 2020

A regular meeting of the City of Petoskey City Council was held from virtual locations on Monday, August 3, 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, Public Safety Director Matt Breed and Executive Assistant Sarah Bek.

Consent Agenda - Resolution No. 19432

Following introduction of the consent agenda for this meeting of August 3, 2020, City Councilmember Wagner 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 20, 2020 special and 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 July 20, 2020 for contract and vendor claims at \$2,125,742.91, intergovernmental claims at \$700,669.71, and the July 23 payroll at \$236,527.65, for a total of \$3,062,940.27 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 there were no public comments.

Hear City Manager Updates

The City Manager reported that the developers of the Bay and Howard street hotel development delayed the introduction of the Brownfield 381 Action Plan and project managers need an additional 30 days or so to finalize cost estimates for the draft Action Plan; that all public safety officers have completed implicit bias and de-escalation of violence training over the last several weeks; that a grant application has been submitted to reimburse the City for payroll costs for all public safety employees for the months of April and May and the grant monies are made available through the Coronavirus Aid, Relief and Economic Security (CARES) Act; that the City also submitted a request to the Michigan Department of Treasury for \$1,000 to be paid to each qualifying employee of the Public Safety Department for first responders who have performed hazardous duty related to COVID-19 and the program is funded under the CARES Act; that Ocean Capital LLC was the first company drawn for a medical marijuana provisioning center license at 215 West Mitchell Street and were directed to proceed with the Special Use Permit process through the Planning Commission and due to the proximity of the locations, only the first applicant is eligible to proceed at this time; reviewed infrastructure improvement updates including Kalamazoo Avenue project, Rush Street repaving, Jackson Street improvements, requests for bids for the Bear River Bridge project and pickleball court updates; that staff has been working on the 2021-2026 Capital Improvement Plan which will be introduced to the Planning Commission on August 20; reminded those that haven't voted by mail in the August Primary, that the polls will be open tomorrow from 7:00 A.M. to 8:00 P.M. at the Grand Unity Events Center; and reminded citizens that with COVID-19 cases increasing in Emmet County and northern lower Michigan, it is critical that everyone continues to follow the CDC guidelines and utilize face masks and socially distance from others.

City Councilmembers commented on the positive impact moving forward with projects while being fiscally responsible during a pandemic and heard from those that liked the COVID-19 yard signs placed around the community.

Approve Board Appointments – Resolution 19433-19434

Mayor Murphy reviewed that City Council consider the following reappointments.

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

BE IT RESOLVED that the City Council does and hereby approves the reappointment of Betony Braddock, 622 Elizabeth Street, to the Planning Commission for a three-year term ending August 2023.

Said resolution was adopted by the following vote:

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

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

BE IT RESOLVED that the City Council does and hereby approves the reappointment of Lori Pall, 603 East Lake Street, to the Zoning Board of Appeals for a three-year term ending April 2023.

Said resolution was adopted by the following vote:

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

Councilmembers inquired if there are issues with having a married couple on both the ZBA and Planning Commission and discussed potential influence on boards that effect each other.

Park Land Designation Emmet Street ROW Between Mitchell Street & US-31 Highway – Resolution No. 19435

The City Manager reviewed that staff developed a resolution and provided City Council with a survey of Emmet Street right-of-way between Mitchell Street and US-31 Highway to be considered as official park land; that the City Attorney provided a legal opinion indicating that the Michigan Land Division Act does not provide for the repurposing of platted streets for other uses that are inconsistent with their dedicated intent; reviewed that a formal park land designation for the Emmet Street right-of-way would run contrary to language in the original plat and is not legally recommended based upon existing law from the City Attorney; and that staff does not recommend Council to support passage of the resolution.

The City Attorney briefly summarized the legal opinion and agreed that this would not be an appropriate use and that a park isn't the same as an alleyway.

City Councilmembers commented on cases that the City Attorney office cited and heard from those that disagreed with findings; that streets and alleys are not the same compared from back then and now, but rather were public ways; that if the City Attorney was asked to find a way to make the designation, the response may have been different; inquired if any of the existing designated parklands were done correctly; and heard from those who agree with staff and legal counsel that it is not a good idea to designate the right-of-way as park land.

Mayor Murphy asked for public comments and heard that this is a losing situation if overturned due to costs, time, etc. and if other possibilities had been considered such as a floating easement. Mayor Murphy also read aloud a letter from an individual opposing designation.

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

WHEREAS, in 1981 the City of Petoskey designated twelve properties within the City as Public Park Lands per Resolution 14305; and

WHEREAS, the Emmet Street right-of-way between Mitchell Street and US-31 Highway has been historically used as a location for peaceful protests within the community; and

WHEREAS, the City of Petoskey has witnessed an upsurge of peaceful protests recently on such issues as police brutality, racial injustice and climate change; and

WHEREAS, per the City Charter Section 1.4 Powers Regarding Property states, *“The City shall have the power to acquire, use, and dispose of property for any lawful purpose by any means, however, all public grounds used for park purposes shall be inalienable and in no event shall the city council sell, lease, encumber, trade or divert to another public use any public park grounds without first securing the approval of a majority of the voters of the City voting on the question in any general or special election.”*; and

WHEREAS, the Petoskey City Council desires to designate the Emmet Street right-of-way as official Public Park Lands to be used for protesting purposes now and into the foreseeable future; and

WHEREAS, the City has completed survey work on the Emmet Street right-of-way to specifically describe the area being designated as Public Park Lands and has included a survey map as Exhibit A to this resolution:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby authorizes that the Emmet Street right-of way between Mitchell Street and US-31 Highway (Exhibit A) is now designated as Public Park Lands.

Said motion was adopted by the following vote:

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

NAYS: Wagner (1)

Adopt Ordinance 779 Establishing a Compensation Commission – Resolution No. 19436

The City Manager reviewed that this was a second discussion of the proposed ordinance that would establish a Local Officer's Compensation Commission to determine salaries of locally elected officials and that staff has received two applications from residents interested in serving.

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

COMPENSATION COMMISSION

AN ORDINANCE TO CREATE A COMPENSATION COMMISSION IN CITY OF PETOSKEY

THE CITY OF PETOSKEY ORDAINS

Chapter 2, Article VII, Sections 2-115 through 2-119 of the Petoskey Code of Ordinances is hereby enacted as follows:

Sec. 2-115. Establishment; Principal Duty.

There is hereby established a Local Officers Compensation Commission. The principal duty of the Commission is to determine the salaries of all locally elected officials.

Sec. 2-116. Members; Appointment; Confirmation.

The Local Officers Compensation Commission shall consist of five members who are registered electors of the City. Such members shall be appointed by the Mayor and shall be subject to confirmation by a majority of the members elected and serving on Council.

Sec. 2-117. Terms of Office.

The terms of office of members of the Local Officers Compensation Commission shall be five years, except that the members first appointed shall each be individually appointed to the following terms: one for one year, one for two years, one for three years, one for four years and one for five years. The first members shall be appointed within thirty days after the effective date of this chapter. Thereafter, the members shall be appointed before October 1 of the year in which the vacancy occurs. When vacancies occur during the term, the appointment shall be for the unexpired term.

Sec. 2-118. Eligibility of Members.

No member or employee of the legislative, judicial or executive branch of any level of government, or member of the immediate family of such member or employee, shall be eligible to be a member of the Local Officers Compensation Commission.

Sec. 2-119. General Duties.

After the Local Officers Compensation Commission has been appointed and qualified according to law, it shall perform the duties imposed upon it by subsection 5(c) of Act No. 279 of the Public Acts of 1909, as amended.

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, Wagner, Walker, Murphy (5)

NAYS: None (0)

Hear Public Safety Presentation

The Public Safety Director reviewed that on May 25, 2020 the actions of Minneapolis Police Officer Derek Chauvin caused the death of George Floyd; that these heinous actions by Officer Chauvin have produced a ripple effect across the country prompting communities to look at their own police departments; gave a brief overview of operations, training and policies of the Petoskey Department of Public Safety as requested by Councilmember Shumway; and reviewed less lethal weapons, use of force reporting, the process for filing a complaint against an officer, crowd control practices and training.

City Councilmembers commented on the City of Livonia's dashboard and practices; that a lot of hard work happens behind the scenes and are thankful for the Public Safety Department; and inquired on what is being done to decriminalize those with mental health issues.

Director Breed reviewed mental health issues in the industry and that there are no monies budgeted to address these ongoing larger issues.

Mayor Murphy asked for public comments and heard an inquiry if officer complaints are available for the public to review online; if there have been any issues with body cams; and heard from those thanking the Public Safety Department for their efforts.

Approve Support of Economic Stimulus Investments in Water Restoration Priorities for Great Lake Coastal Communities – Resolution No. 19437

The City Manager reviewed Great Lakes Communities in concert with MML, are working together to organize support for a federal stimulus package to assist communities in mitigating impacts to our coastlines as a result of high water levels in the Great Lakes and that the support may assist the City of Petoskey in funding critical shoreline improvements that have occurred along our coastlines.

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

WHEREAS, the Covid-19 pandemic has negatively impacted the economy of the City of Petoskey, with additional expenses and ongoing diminished revenues to state and municipal governments likely to further constrain public services, prolong economic damage, and slow full recovery; and

WHEREAS, economists, business leaders and elected officials recognize the need for continued economic stimulus efforts to create jobs, generate long-term economic activity and accelerate the pace of recovery, particularly in hard-hit cities; and

WHEREAS, with nearly one-third of U.S. and Canadian economic activity centered in the Great Lakes region, its economic recovery can fuel the larger, national economic recovery; and

WHEREAS, the Great Lakes states have identified more than \$12 billion in priority water infrastructure projects that are awaiting funding and are ready for implementation in 2020, including at least 39 projects in U.S. coastal communities that require \$465 million; and

WHEREAS, coastal communities across the Great Lakes region are heavily impacted by erosion, flooding and other effects from high lake levels and extreme weather events; and

WHEREAS, Great Lakes water levels are at all-time highs and are predicted to persist until the region experiences dry conditions for up to several years; and

WHEREAS, climate change is projected to bring more frequent severe storm events that will compound impacts from high water levels, with 100-year storm events already happening every 20 years, on average; and

WHEREAS, coastal communities in the U.S. and Canada have experienced more than \$500 million in damages over the past year and the U.S. members of the Great Lakes and St. Lawrence Cities Initiative have identified 14 projects requiring approximately \$62 million to repair damage from, and build resilience to, coastal erosion, flooding and other impacts from high lake levels and climate change; and

WHEREAS, investments in resilience, mitigation and ecosystem restoration are estimated to return more than \$6.00 for every \$1.00 spent and create 39 jobs per \$1 million spent, and historically, every dollar spent on flood risk management by the Army Corps of Engineers has prevented nearly \$10 in damages; and

WHEREAS, the investments outlined above respond to well-documented needs, enjoy broad support and can be administered quickly through existing programs and swiftly generate job growth and new economic activity in our city and others across the eight-state Great Lakes region:

NOW, THEREFORE, BE IT RESOLVED, the City of Petoskey joins with more than 100 mayors and other municipal leaders convened by the Great Lakes and St. Lawrence Cities Initiative to call for continued action to protect 20 percent of the world's fresh surface water and the drinking water source for 40 million people; and

BE IT RESOLVED, the City urges its U.S. Senators and Congressional representatives to support additional economic stimulus efforts focused on water resource priorities, including:

- \$20 billion over the next two years for the Clean Water and Drinking Water State Revolving Funds and other water infrastructure programs; and
- \$500 million for federal programs that enable states and local communities to safeguard coastal resources and mitigate future damage from erosion, flooding and severe storm events, including the Army Corps of Engineers Ecosystem Restoration authority; FEMA's Building Resilient Infrastructure and Communities and Flood Hazard Mitigation programs; and the National Coastal Resilience Fund and Resiliency and Habitat Grant Program.

BE IT FURTHER RESOLVED, the citizens of Petoskey appreciate the federal support provided so far to respond to the COVID-19 pandemic and urge further action to ensure a quick and complete economic recovery while addressing urgent needs to rebuild our water infrastructure and protect our coastal areas.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Council Comments

Mayor Murphy asked for Council comments and Councilmember Marshall and Mayor Murphy reminded citizens to vote tomorrow in the August Primary.

There being no further business to come before the City Council, this August 3, 2020, meeting of the City Council adjourned at 8:37 P.M.

John Murphy, Mayor

Alan Terry, Clerk-Treasurer