



CITY COUNCIL

June 7, 2021

A regular meeting of the City of Petoskey City Council was held from virtual locations on Monday, June 7, 2021. 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, Petoskey, Emmet County, MI
Kate Marshall, City Councilmember, Petoskey, Emmet County, MI
Derek Shiels, City Councilmember, Harbor Springs, Emmet County, MI
Brian Wagner, City Councilmember, Petoskey, Emmet County, MI
Lindsey Walker, City Councilmember, Petoskey, Emmet County, MI

Absent: None

Also in attendance were City Manager Rob Straebel, Clerk-Treasurer Alan Terry, City Planner Amy Tweeten, Public Safety Director Matthew Breed, City Attorney's James Murray and Matt Cross and Administrative Assistant Lisa Denoyer.

Support Carbon Dividend Act – Resolution No. 19545

Ron Marshall, member of the Citizens Climate Lobby, gave a brief presentation on the Energy Innovation and Carbon Dividend Act H.R. 2307 and was asking City Council for their support.

City Councilmembers inquired on the political climate in Washington D.C. concerning this matter; inquired if large companies were in support of the Act; inquired on Representative Bergman's position; heard from those that are part of some groups in favor of the Act and if there were any procedures prohibiting Council involvement; inquired if the support resolution would be adverse to what is being discussed; and commented that there are several competing bills.

Mr. Marshall responded that there is support in Washington D.C. for this Act and Representative Bergmann serves on a bipartisan board.

The City Manager responded that there is no written policy on City Councilmembers being involved in matters relative to current issue reviewing this matter.

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

Resolution urging the United States Congress to enact the Energy Innovation and Carbon Dividend Act of 2021 (H.R.2307)

WHEREAS, an Intergovernmental Panel on Climate Change issued a special report on the impacts of global warming of 1.5°C above pre-industrial levels in October 2018 warning that global warming is likely to reach 1.5°C between 2030 and 2052 if it continues to increase at the current rate; and

WHEREAS, the United Nations climate science body said in a monumental climate report that we have only until 2030 to make massive and unprecedented changes to global energy infrastructure to limit global warming to moderate levels; and

WHEREAS, the United States government released its Fourth Annual Climate Assessment in November 2018 reporting that the impacts of climate change are already being felt in communities across the country, and that more frequent and intense extreme weather and climate-related events, as well as changes in average climate conditions, are expected to continue to damage infrastructure, ecosystems, and social systems that provide essential benefits to communities; and

WHEREAS, conservative estimates by the world's climate scientists state that, to achieve climate stabilization and avoid cataclysmic climate change, emissions of greenhouse gases (GHGs) must be brought to 80-95% below 1990 levels by 2050; and

WHEREAS, presently the environmental, health, and social costs of carbon emissions are not included in prices paid for fossil fuels, but rather these externalized costs are borne directly and indirectly by all Americans and global citizens; and

WHEREAS, the Intergovernmental Panel on Climate Change issued a special report on the impacts of global warming of 1.5°C above pre-industrial levels in October 2018 stating that explicit carbon prices remain a necessary condition of ambitious climate policies; and

WHEREAS, to begin to correct this market failure, Congress can enact the Energy Innovation and Carbon Dividend Act of 2021 (H.R.2307) to assess a national carbon fee on fossil fuels based on the amount of CO₂ the fuel will emit when burned and allocate the collected proceeds to all U.S. households in equal per capita shares in the form of a monthly dividend; and

WHEREAS, for efficient administration, the fossil fuels fee can be applied once, as far upstream in the economy as practical, or at the port of entry into the United States; and

WHEREAS, as stated in the Energy Innovation and Carbon Dividend Act of 2021 (H.R. 2307), a national revenue neutral carbon fee starting at a relatively low rate of \$15 per ton of CO₂ equivalent emissions and resulting in equal charges per ton of CO₂ equivalent emissions potential in each type of fuel or greenhouse gas should be assessed to begin to lower what are now dangerously high CO₂ emissions. The yearly increase in carbon fees, including other greenhouse gases, shall be at least \$10 per ton of CO₂ equivalent each year, with the provision that the annual increase will be \$15 per ton of CO₂ equivalent if statutory goals are not met; and

WHEREAS, the Energy Innovation and Carbon Dividend Act of 2021 (H.R.2307) specifies that, in order to protect low and middle income citizens from the economic impact of rising prices due to the carbon fee, equal monthly per person dividend payments shall be made to all American households (one-half payment per child under 19 years old) each month from the fossil fuel fees collected. The total value of all monthly dividend payments shall represent 100% of the net carbon fees collected per month; and

WHEREAS, the Energy Innovation and Carbon Dividend Act of 2021 (H.R.2307) encourages market-driven innovation of clean energy technologies and market efficiencies which will reduce harmful pollution and leave a healthier, more stable, and more prosperous nation for future generations; and

WHEREAS, the Energy Innovation and Carbon Dividend Act of 2021 (H.R.2307) will lead to a decrease in America's CO₂ emissions of 30 percent in five years relative to a 2005 baseline, based on the Columbia University report, and will preserve national employment; and

WHEREAS, border adjustments - carbon content-based levies on products imported from countries without comparable carbon pricing, and refunds to our exporters of carbon fees paid - can maintain the competitiveness of U.S. businesses in global markets; and

WHEREAS, a national carbon fee can be implemented quickly and efficiently and will respond to the urgency of the climate crisis because the federal government already has in place mechanisms, such as the Internal Revenue Service, needed to implement and enforce the fee, and already collects fees from fossil fuel producers and importers; and

WHEREAS, a national revenue neutral carbon fee would make the United States a leader in mitigating climate change and in the clean energy technologies of the 21st century and would provide incentive to other countries to enact similar carbon fees, reducing global CO2 emissions without the need for complex international agreements:

NOW, THEREFORE, BE IT RESOLVED, that the City of Petoskey, Michigan, urges the United States Congress to enact without delay the **Energy Innovation and Carbon Dividend Act of 2021 (H.R.2307)**; and

BE IT FURTHER RESOLVED, that the City Manager or City Clerk, no later than 30 days after passage of this Resolution, shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each U.S. Senator and Representative from the State of Michigan in the Congress of the United States, and to nearby city and county governments urging that they pass similar resolutions.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Consent Agenda - Resolution No. 19546

Following introduction of the consent agenda for this meeting of June 7, 2021, City Councilmember Shiels 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 May 17, 2021 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 17, 2021 for contract and vendor claims at \$594,813.23, intergovernmental claims at \$402.37, and the May 27 payroll at \$212,335.85, for a total of \$807,551.45 be and is hereby acknowledged.

Said resolution was adopted by the following vote:

AYES: Marshall, Shiels, Wagner, 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 at a previous meeting there was an inquiry as to the current enrollment for the Voluntary Green Pricing Program and reviewed to-date the number of participants per classification including nonprofit (4), commercial (21), industrial (1), residential (195) for a total of 221 participants; reviewed infrastructure resurfacing project updates; that the Little Traverse Bay Band of Odawa Indians recently approved \$6,000 for the schematic drawings on the West Connector Trail along US-31 which will reduce the overall costs of design and engineering for Resort Township, Emmet County and the City and thanked the tribe for their continued support; that the City is collaborating with the Great Lakes and St. Lawrence Cities Initiative and the National Fish and Wildlife Foundation on National Coastal Resiliency Funding for coastal communities along Lake Michigan developing measures to mitigate coastal erosion issues; that the City received approval from MDOT to install 29 collapsible bollards on US-31 along the curve of Eppler Road to better delineate motorist and bicyclist lanes improving safety; reviewed that the Emmet County Local Emergency Order ends June 30, 2021 which allowed for public meetings to be held virtually and that City Council concurred to begin in-person meetings in July with the first meeting being July 19 and staff was looking for direction on whether or not City Council would like to continue to offer virtual meetings for board and commission meetings and that staff is researching audio and video solutions to setup the Council Chambers with up-to-date technology and have received three quotes ranging from \$22,000 - \$58,000; that a lifeboat from the steamer J.B. John was recently restored by Lon Callaway and Tom Olson and is now on display at Bayfront Park; and that an 80' clear span pedestrian bridge was delivered to the River Road Sports Complex this morning and will be assembled and set this week with staff anticipating the bridge open to the public no later than July 4.

City Councilmembers commented on the speed limit change and process along US-31; that the City would need to contact MDOT requesting to perform and have Michigan State Police do a speed survey and will bring information back to City Council for review; inquired if there were additional measures that could be implemented to increase safety; and inquired if the \$6,000 tribal donation was solicited or freely offered.

The City Manager responded that there are not many options, but the immediate concern was addressing the Eppler Road intersection and bollards and repainting of fog line addresses these issues and that City staff reached out to the tribe for any potential monies.

Approve Board and Commission Appointment – Resolution No. 19547

Mayor Murphy reviewed that City Council consider the following appointment.

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 appointment of Diana Harrold, 428 Beech Street, to the TIFA Board to fill a vacated term ending August 2023.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Discuss Housing North Deed Restriction Program

The City Manager reviewed that City Council heard a presentation at its May 3 meeting by Steve Schnell and Yarrow Brown on a deed restriction program in the City of Charlevoix administered by Housing North; that City Council discussed creating a voluntary deed restriction program since there is not currently a funding mechanism to acquire deed restrictions in Petoskey; that the City Attorney understands the housing shortage, but had concerns with why the City needed to be involved with the program; that the City would be a “third-party beneficiary” regarding enforcement and currently the City has no ordinance regulating such instruments; that the City Attorney is concerned about the request for the City to indemnify Housing North; and that the City Attorney suggested another approach for City Council to consider a resolution of support for the voluntary deed restriction program and if a fully-

funded deed restriction program develops, it would likely be administered through public or public-private entity and agreements could be discussed at that time.

The City Attorney reviewed that the City should be careful to assume duty to enforce and that the program could cause requests to lower taxable values through the Michigan Tax Tribunal.

City Councilmembers commented that the City does not have the second home issue that Vail, Colorado experienced with their program; that the program may not fit with what the City is trying to address and accomplish with the housing crisis; and a majority were in agreement to support a resolution in support of a voluntary deed restriction.

Approve Funding a Housing Ready Program Director – Resolution No. 19548

The City Manager reviewed that at the May 17 meeting, a majority of Councilmembers directed staff to work with Housing North representatives on a contract to partially fund a full-time regional housing coordinator for roughly 2 ½ years; reviewed proposed contract; that Housing North is seeking funding from other governmental agencies and reviewed agency commitments and not many seem in favor of supporting this position; that City of Harbor Springs has committed to funding for three years; that request from Emmet County was withdrawn and the County is holding their housing planning meeting in August and hopes to develop their strategy for addressing housing issues at that time; that funding a housing coordinator is consistent with Goal Six of the City's Action Plan to "promote affordable/workforce housing within the community"; and that staff's recommendation is that the City could support a regional approach, but not support majority funding.

City Councilmembers discussed process; heard concerns on having other entities involved; inquired on the duration of the agreement; and heard from those in favor of funding the position and the City leading the way on this initiative.

City Councilmember Walker moved that, seconded by City Councilmember Wagner to approve a contractual agreement between Housing North and the City of Petoskey to partially fund a full-time housing coordinator position, contingent upon solidifying full funding with area governmental entities and upon review and approval of an agreement by the City Manager and City Attorney.

Said motion was adopted by the following vote:

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

NAYS: Marshall (1)

Approve FOPLC 2021-2023 Contract for Public Safety Officers – Resolution No. 19549

The City Manager reviewed that after months of discussions with the Fraternal Order of Police Labor Council (FOPLC) Public Safety Officer's Division, staff and union representatives negotiated a tentative agreement on the expired union contract and reviewed proposed changes to the new contract.

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

WHEREAS, certain Department of Public Safety Officers unionized staff members are represented by the Fraternal Order of Police Labor Council (FOPLC); and

WHEREAS, City and bargaining unit representatives negotiated provisions of a proposed agreement for the Public Safety Officers Division; and

WHEREAS, the City Manager now has reported that an agreement has been reached with the FOPLC Public Safety Officers Division for the period of January 1, 2021– December 31, 2023:

NOW, THEREFORE, BE IT RESOLVED that the City Manager and Public Safety Director are hereby directed to execute on behalf of the City an employment agreement with the Department of Public Safety Officers Division who are represented by the Fraternal Order of Police Labor Council.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Approve MERS Defined Contribution Plan Adoption Agreement for Public Safety Officer's – Resolution No. 19550

The City Manager reviewed that per the previously approved FOPLC 2021-2023 contract covering Public Safety Officers calls for a defined contribution retirement plan for new hires; that the plan provides for the City to contribute an amount equal to 5% of the employee's wage, employees may contribute up to 5% which the City will match for a total employer contribution of 10%; that the City's contribution to the plan will vest with the employee over a four-year period; and that MERS requires a revised Defined Contribution Plan Adoption Agreement to establish the plan and plan provisions which mirror those in the nonunion and Teamsters defined contribution plans approved in 2016.

City Councilmember Shiels moved that, seconded by City Councilmember Walker 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 within the City's Department of Public Safety Officers require 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 establish with the Michigan Municipal Employees' Retirement System (MMERS) a defined contribution plan for the Department of Public Safety, Public Safety Officers hired on or after May 1, 2021. As a result, the current Division 20, B-2 defined benefit plan will be closed to new hires; and

BE IT FURTHER RESOLVED that the defined contribution plan will provide for the City to contribute 5% and up to an additional 5% match of the optional employee's contribution for a total maximum employer contribution of 10%. Employees will vest at a rate of 25% per year and will be 100% vested following four years, with additional terms as set forth in the plan adoption agreement; 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 all necessary documents with MMERS establishing the defined contribution plan.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Accept Waterways Grant Agreement for Marina Fuel Storage Tanks – Resolution No. 19551

The City Manager reviewed that the City has been recommended to receive a matching grant in the amount of \$125,000 from the State of Michigan Waterways Commission for removal and replacement of the Marina fuel storage tanks; that the estimated total cost of the project is \$250,000; reviewed fuel needs and demands from gas to diesel; and that the project will commence once the Marina is closed for the season.

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

"RESOLVED, that the City of Petoskey, Michigan, accepts the terms of the Agreement as received from the Michigan Department of Natural Resources, and that the City agrees, but not by way of limitation, as follows:

1. To appropriate the sum of One Hundred Twenty-five Thousand dollars (\$125,000.00) to match the One Hundred Twenty-five Thousand dollar (\$125,000.00) State grant authorized by the Michigan Department of Natural Resources.

2. To maintain satisfactory financial accounts, documents, and records, and to make them available to the Michigan Department of Natural Resources for auditing at reasonable times.

3. To construct the facilities and provide the funds, services, and materials as may be necessary to satisfy the terms of the Agreement.

4. To ensure that all premises, buildings, and equipment related procedures comply with all applicable State and Federal regulations.

5. To establish and appoint the Parks and Recreation Director to regulate the use of the facilities constructed under this Agreement to assure the use thereof by the public on equal and reasonable terms.

6. To enforce all State statutes and local ordinances pertaining to marine safety and to enforce statutes of the State of Michigan within the confines of the City pertaining to the licensing of watercraft. Watercraft not fully complying with the laws of the State of Michigan relative to licensing shall not be permitted to use the facility until full compliance with those laws has been made.

7. To comply with all terms of the Agreement, including all terms not specifically set forth in the foregoing portions of this Resolution."

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Establish 2021 Tax Millage Rates – Resolution No. 19552

The Clerk-Treasurer reviewed the proposed 2021 millage rates and tax revenue; that City Council approved the 2021 Annual Budget at their December 7, 2020 meeting which included a provision for property-tax millage rates to remain the same as in 2020 with no increase due to any unknown effects of the pandemic; that City Council was now being asked to formally establish the millage rates necessary to provide the budgeted property-tax revenue approved in the 2021 Annual Budget for the General Fund, Library Fund and Right-of-Way Fund; reviewed total millage rates; taxable values and State's inflation rate and that the City is required to roll back millage rates due to the Headlee Amendment; and reviewed property tax revenues that will be collected from each levy including general operating, solid waste, library and right-of-way.

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

WHEREAS, as required by City Charter provisions, the City Manager on November 2, 2020 presented to the City Council the City's proposed annual budget for the 2021 fiscal year; and

WHEREAS, as also required by City Charter provisions, the City Council on November 16, 2020, conducted a public hearing to receive comments concerning the proposed budget, including rates of property-tax millages that had been estimated for levies during 2021; and

WHEREAS, following its review of the proposed 2021 Annual Budget, and after conducting a public hearing to receive comments concerning the proposed budget and estimated tax levies, the City Council on December 7, 2020, approved the 2021 Annual Budget:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby directs that there shall be raised through a general tax upon the taxable real and personal property within the City during the next summer tax levy for the year commencing January 1, 2021, millages in the amount of 7.3639 for general operating purposes, 0.4890 for solid-waste purposes, 1.7410 for library purposes, and 3.7920 for right-of-way purposes; and, when collected, proceeds from such levy are hereby appropriated to the General Fund, Library Fund, and Right-of-Way Fund; and

BE IT FURTHER RESOLVED that the total aggregated amount of all such authorized millages shall total 13.3859 mills; and

BE IT FURTHER RESOLVED that these various millages so ordered to be levied shall be certified by the City Clerk-Treasurer to the City Assessor and shall be levied and collected upon the taxable value of all taxable property within the City.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Recess to Closed Session – Resolution No. 19553

City Council was being asked to adopt a resolution that would recess to a closed session pursuant to Section 8(d) and 8(h) of the Michigan Open Meetings Act, to consider the purchase of property and consider material exempt from disclosure.

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

WHEREAS, the City Manager has requested that the City Council recess to a closed session, pursuant to Section 8(d) and 8(h) of the Michigan Open Meetings Act, to consider the purchase of property and consider material exempt from disclosure, at the City Council's regular meeting of June 7, 2021:

NOW, THEREFORE, BE IT RESOLVED that the City Council does and hereby authorizes to recess to a closed session, to consider the purchase of property and consider material exempt from disclosure.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Recessed into closed session at 9:30 P.M. and reconvened into open session at 10:20 P.M.

Discuss Emmet Street Right-of-Way Vacation Request

The City Manager reviewed that the City received a request on May 14 from Lyle Peck, attorney working for Petoskey Grand LLC, to vacate a portion of the Emmet Street right-of-way at the intersection of Mitchell Street and US-31; reviewed legal requirements and regulations that would allow the City to vacate or discontinue any street or portion thereof; that Mr. Peck requested that an approximate .20 acre area of Emmet Street right-of-way be vacated “to enhance the redevelopment potential of the ‘pit’ which remains a blighted scar of the city’s gateway entrance over 15 years”; that without an approved development plan in place for 200 East Lake Street at this time, there is no valid reason for City Council to vacate the Emmet Street right-of-way; that vacation consideration should occur in conjunction with development plans for the site and needs to be studied comprehensively and not in a piecemeal approach; and that staff recommended that City Council not proceed forward with the street vacation

request as it would not be necessary for the health, welfare, comfort and safety of the people of the municipality per Act 288 of 1967.

Mayor Murphy asked for City Council and public comments and there were none.

Council Comments

Mayor Murphy asked for City Council comments and City Councilmember Marshall asked if Harbor Hall purchased the Gruler property, which staff confirmed they did. City Councilmember Wagner thanked City staff for their cooperation with coordinating July 4 festivities. City Councilmember Walker asked if the City Assessor is a full-time employee or a contracted employee, which the City Manager confirmed contracted. Mayor Murphy thanked Councilmember Wagner and the Fireworks Committee for efforts as the Co-Chair on Petoskey's July 4 celebration, and thanked Councilmember Shiels for his passion on housing.

There being no further business to come before the City Council, this June 7, 2021, meeting of the City Council adjourned at 10:30 P.M.

John Murphy, Mayor

Alan Terry, Clerk-Treasurer