



CITY COUNCIL

September 18, 2017

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, September 18, 2017. 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  
Izzy Lyman, City Councilmember  
Grant Dittmar, City Councilmember  
Jeremy Wills, City Councilmember

Absent: None

Also in attendance were City Manager Robert Straebel, Clerk-Treasurer Alan Terry, Director of Public Works Michael Robbins, Downtown Director Becky Goodman and City Attorney James Murray.

Hear Renewable Energy Presentation

On July 17, 2017 City Council directed staff to schedule a presentation on renewable energy by Mr. Jason Hayes, Director of Environmental Policy for the Mackinac Center for Public Policy. Mr. Hayes gave a brief presentation on renewable energy, cost, reliability and security; reviewed that there are tax credits for renewable energy that are scheduled to end; that providers cannot build coal due to emission regulations; and that natural gas is next best option for reliable energy.

Mayor Murphy asked for public comments and heard from a citizen that disputed the speaker and Mackinac Center's partisanship; that renewable energy should not only be affordable, reliable, abundant, but also clean; that a sound source for decision making is the National Academy of Sciences; that there are disadvantages in fracking for natural gas; that free market doesn't address the cost of pollution; that the presentation was useful; that there needs to be the ability to store renewable energy; that fracking has occurred for 60 years; that fracking uses a tremendous amount of water and that water is gone at the end of the process; heard from those that renewable sources should be sought out; that coal is gone and should look to long-term future with stability; and heard from those that care where energy comes from.

Mr. Hayes responded to comments and reviewed the importance of affordable energy.

Resolution No. 19094  
Approve Consent Agenda Items

Following introduction of the consent agenda for this meeting of September 18, 2017, City Councilmember Dittmar moved that, seconded by City Councilmember Wills adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the August 17, 2017 special joint session and August 21, 2017 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 August 21 for contract and vendor claims at \$10,571,864.17, intergovernmental claims at \$4,868,552.31, and the August 24 and September 7 payrolls at \$412,078.60, for a total of \$15,852,495.08 be and is hereby acknowledged.

Said resolution was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)

NAYS: None (0)

Hear Public Comment

Mayor Murphy asked for public comments and heard from Rose Fitzgerald, 514 Elizabeth Street, concerning Harbor Hall and that surrounding neighbors should have a public comment period regarding project; Derick Shiels, 1331 Atkins Road, commended City staff on controlling invasive swallow wart and that it is working; Noah Marshall-Rashid, 414 Grove Street, commented that there are better effects from Facebook than print; Jeff Grantham, 801 Baxter Street, commented on how his comments at a previous meeting were reported in the minutes; George Ramey, Alanson, thanked staff for completion of Emmet Street and that improvements look great.

Hear City Manager Updates

The City Manager reported that the Employee Handbook is currently being reviewed by the unions for input; that a meeting is scheduled for next week with Petoskey Plastics to discuss crosswalks and loading zones at Bay and Petoskey Streets and that Council will review designs at a future meeting; that there have been discussions with Petoskey Harbor Springs Community Foundation representatives about possible grant funding in the development of a sustainability plan and that the Foundation is working with the Mott Foundation on submitting an RFP for a clean/energy/sustainability grant; that Emmet Street improvements is substantially completed with tree planting to occur in October and undergrounding of overhead utility lines is ongoing and thanked area residents for their patience during the project; that the Mitchell Street railing replacement should be completed by end of this week; that there is a free, public presentation at City Hall from 6:00 P.M. to 8:00 P.M., Tuesday, October 17 concerning oak wilt disease; that the Bear River East Lift Station work is scheduled to resume mid-to-late October; that MDOT is conducting soil borings in the area in preparation for the 2019 MDOT US-31 project; and that the City Manager was requesting Council's permission to take a vacation from October 5-13.

City Councilmembers inquired if a possible crowdfunding grant could be used to fund a sustainability study and the option to share costs with other communities. The City Manager responded that he would look into the suggested opportunities.

Mayor Murphy asked for public comments and heard a comment that sustainability goes beyond renewable energy.

Resolution No. 19095  
Confirm Appointment

Mayor Murphy reviewed that City Council consider a possible reappointment to the Planning Commission. City Councilmember Marshall moved that, seconded by City Councilmember Lyman adoption of the following

resolution:

BE IT RESOLVED that the City Council does and hereby approves the reappointment of Eric Yetter, 840 Lindell Street, for a three-year term ending August 2020.

Said resolution was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)

NAYS: None (0)

Discuss 2018-2023 Capital  
Improvements Plan

The City Manager reviewed that copies of the proposed 2018-2023 CIP were distributed to City Council and Planning Commission in advance of this meeting. The Plan was unanimously accepted and recommended for City Council approval by the Planning Commission on August 17, 2017. The City Manager reviewed the addition of Marina electrical upgrade project scheduled for 2018; reviewed 2018 projects in detail; and that if approved, projects will be included within the 2018 proposed annual City budget.

City Councilmembers mentioned a dog park and the possibility of moving the project forward; that the CIP could be more advertised on the City's website; that there should be more time for review; and inquiries when future street improvements may occur on Elizabeth Street.

City Councilmembers deferred action on the proposed CIP and will further discuss at the next regular scheduled meeting.

Resolution No. 19096 - Approve  
Purchase of Snow Blower Units

The Director of Public Works reviewed that the current contract for sidewalk snow removal expired with the passing of the 2016-2017 winter season; that sidewalk snow blowing is typically bid every three years with a three-year option to extend if City staff and the contractor mutually agree; and that only one bid was received from S&S Welding, Petoskey, which was twice as much than previously bid.

The Director of Public Works further reviewed the proposed proposal and that staff reviewed six years of histories relative to hourly rates and hours of sidewalk clearing and concluded that performing this service in-house has financial savings; that the City would purchase four snow blowing tractor units at a cost of \$25,183 each which will be funded through Motor Pool reserves; that seasonal as-needed operators would be hired to operate the four blower units; that in the past the City was segmented into three snow clearing districts with each district assigned a snow blowing unit, but staff determined that by adding a fourth district, sidewalk clearing could be reduced to approximately 7-9 hours per district; that staff determined equipment specifications and notified three northern Michigan area businesses that could provide specialized equipment; and that City staff determined that the General Street Fund would be billed equipment rental for the snow blowers to reimburse the Motor Pool Fund and provide for future replacements during the course of the year, in case of unexpected equipment failure.

City Councilmembers inquired if this in-house service will help reduce ice accumulation and the Director responded that it won't be any different than previous years, but may help some.

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

WHEREAS, the City of Petoskey's current contract for snow removal from nearly 44 miles of public sidewalks and pathways throughout the City, exclusive of the downtown area, has expired with the passing of the 2016-2017 season; and

WHEREAS, sidewalk snow blowing is typically bid every three years with a three-year option to extend if City staff and the contractor mutually agree; and

WHEREAS, through past bids and one contract extension, the current contractor has provided sidewalk snow blowing services for the past nine years, with hourly costs remaining relatively stable for each blower unit from \$60 to \$70 per hour; and

WHEREAS, the City advertised and provided 10 potential bidders with performance specifications on June 22, which again sought a three-year commitment with an option for a three-year renewal, for removing snow within four districts; and

WHEREAS, the City received one bid, setting an hourly rate of \$130 for each of the four required snow blowing units; and

WHEREAS, based on receiving only one bid that is double the current hourly rate, City staff reviewed six years of histories relative to hourly rates and hours of sidewalk clearing to determine the financial impact; and

WHEREAS, City staff looked at the economics of performing this service in-house and concluded that there would be substantial savings that could keep costs in line with previous years; and

WHEREAS, City staff received three quotes for proposed equipment from Northern Michigan businesses; and

WHEREAS, City staff recommends purchasing four snow blowing tractor units from Ginop Sales, Inc., Alanson, at a cost of \$25,183 each, for a total cost of \$100,732 which will be funded through Motor Pool reserves:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby authorizes the City Manager or his designee to purchase four sidewalk snow blower units from Ginop Sales, Inc., Alanson, in the amount of \$25,183, for a total cost of \$100,732 to perform sidewalk snow blowing services in-house; and

BE IT FURTHER RESOLVED, that City Council authorizes the City Manager or his designee the ability to purchase replacement equipment during the course of the year, due to unexpected equipment failure.

Said resolution was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)

NAYS: None (0)

Resolution No. 19097 – Approve Digger-Derrick Electric Truck Purchase

The Director of Public Works reviewed that the 2017 annual budget included \$220,000 for the replacement of a digger-derrick truck that is used by the Electric Division. Primary use for this heavy-duty type boom truck is for setting pad-mount type transformers, installing utility poles, hoisting electrical equipment and when called upon assisting water/wastewater operations with pulling and setting large pump units from lift-stations. This proposed unit would replace an aging 1996 digger-derrick truck that has operated for nearly 5,500 hours.

The Director further reviewed that staff searched the market for a “demonstration model” or a “stock built” type unit, essentially a cookie cutter, one size fits all type derrick truck that would meet the City’s needs; that two distributors were contacted that supply the Michigan market with digger-derrick truck units and each submitted information and pricing pertinent to a “stock-built” unit; that staff reviewed specifications as submitted and determined either unit would be suitable for the application as required by the City; and that there will be no additional work needed to be performed on equipment.

City Councilmember Wills moved that, seconded by City Councilmember Lyman to authorize the purchase of a digger-derrick truck unit from Terex Utilities Inc., Watertown, South Dakota, at a cost not to exceed \$189,987.

Said motion was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)

NAYS: None (0)

Resolution No. 19098 – Approve  
Charter Franchise Agreement for Uniform  
Video Services in the City

The City Manager reviewed that in August of 2007 Council passed a resolution establishing a 10-year franchise for Charter Communications. The franchise will be expiring in September of 2017. The franchise was required per Public Act 480, the "Uniform Media Services Local Franchise Act," a provision requiring cable/television service providers to obtain franchises from municipalities within which the service providers operate. Charter Communications is filing for another 10-year franchise under the terms and conditions of the uniform agreement established by the State of Michigan.

The City Manager also reviewed that at the time of passage of the 2007 franchise, City Council selected to set the franchise fee percentage at 0% of gross revenues generated from Charter customers in the City; that any franchise fee percentage that is collected by the City from Charter will typically be passed along to the Charter customers; that City Council has the option of setting the franchise fee percentage anywhere from 0%-5% with payments submitted to the City on a quarterly basis; and that estimated annual revenues that may be generated are about \$10,000 for every 1%.

Mayor Murphy asked for public comments and heard that 0% should be established; that Council should be ambitious and charge 5% since it subsidizes Charter; and heard from those that feel 2% is fair.

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

WHEREAS, Public Act 480 of 2006 (the Uniform Video Services Local Franchise Act, hereafter the "Act") requires video service providers to obtain a franchise from a municipality by means of a Uniform Video Service Local Franchise Agreement ("Uniform Franchise"); and

WHEREAS, the Michigan Public Service Commission ("MPSC") on January 30, 2007 issued an order ("Order") that provided a Uniform Franchise form; and

WHEREAS, the City of Petoskey ("Municipality") wishes to authorize the approval of a video service franchise with CC VIII Operating, LLC d/b/a Charter Communications ("Charter Communications") with certain fees pursuant to the Act; and

WHEREAS, Municipality also wishes to memorialize the franchise fees being paid by Charter Communications under its existing franchise agreement on the effective date of the agreement; and

WHEREAS, Municipality does not intend that by approving a Uniform Franchise that it shall be waiving rights, nor does it understand that the Act or the MPSC Order so requires; and

WHEREAS, by entering into this new franchise agreement, any previous agreements shall be replaced and/or terminated:

NOW, THEREFORE, BE IT HEREBY RESOLVED, that Municipality authorizes the approval of a video service franchise with Charter Communications (a video service provider) and establishes video service provider fees as set forth below and pursuant to the process established by the Act, which allows video service providers to obtain a franchise from Municipality by means of a Uniform Franchise; and

BE IT FURTHER RESOLVED that it is hereby memorialized that under its existing franchise agreement with Municipality, on the effective date of the Act, Charter Communications was paying Municipality a franchise fee of 0% of gross revenues; and

BE IT FURTHER RESOLVED that pursuant to its authority under the Act, the Municipality hereby authorizes the approval of the Uniform Video Service Local Franchise Agreement submitted to the Municipality by Charter Communications with an annual video service provider fee, sometimes called a franchise fee, of 2% of gross revenues in Section VI.A.ii of such Agreement, which fee is hereby established in accordance with the Act for video service providers; and

BE IT FURTHER RESOLVED that the approval of Charter Communication's Uniform Video Service Local Franchise Agreement and the signature of representatives of Municipality on it shall not be construed or understood to be a waiver by Municipality of its police powers; rights it may possess under, or authority it may possess under, the Act, Michigan law, the Michigan constitution, or federal law; or its right to challenge or modify a Uniform Franchise if the Act in whole or in part is amended by the legislature or overturned by the courts; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed in accordance with this Resolution to sign two copies of the Charter Communications Uniform Local Franchise Agreement on page 9 and on page 2 of Attachment 1 thereof, and Municipality's Clerk is authorized and directed to retain one copy and to send fully signed copies to the following:

Charter Communications  
Attn: Legal Department  
12405 Powerscourt Drive  
St. Louis, Missouri 63131

Mr. Don Gladwell, Manager, State Government Affairs  
Charter Communications  
359 US 41 East  
Negaunee, MI 49866

BE IT FINALLY RESOLVED that the Manager, Municipality's Clerk, Municipality's Attorney, Municipality's Special Counsel and other of Municipality's officials are hereby authorized and directed to take all actions necessary to place the Charter Communications Uniform Local Franchise Agreement into effect in accordance with this resolution.

Said resolution was adopted by the following vote:

AYES: Marshall, Wills, Murphy (3)

NAYS: Dittmar, Lyman (2)

Hear Council Comments

Mayor Murphy asked for Council comments and Councilmember Wills commented that Emmet Street improvements look great; and Mayor Murphy commended Public Works staff on their work during Emmet Street project.

Resolution No. 19099  
Recess to Closed Session

City Council was being asked to adopt a resolution that would recess to a closed session pursuant to Section 8(a) of the Michigan Open Meetings Act, to consider a periodic personnel evaluation of the City Manager.

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

WHEREAS, the City Manager has requested that the City Council recess to a closed session, pursuant to Section 8(a) of the Michigan Open Meetings Act, to consider a periodic personnel evaluation of the City Manager, following the conclusion of routine business at the City Council's regular meeting of September 18, 2017:

NOW, THEREFORE, BE IT RESOLVED that the City Council does and hereby authorizes to recess to a closed session, to consider a personnel evaluation of the City Manager.

Said resolution was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)

NAYS: None (0)

Adjourned to closed session at 9:12 P.M. and reconvened into open session at 10:30 P.M.

Resolution No. 19100 - Approve City  
Manager Evaluation

The City Manager reviewed that his evaluation was discussed in closed session and the final evaluation document produced for City Council approval.

City Councilmember Marshall moved that, seconded by City Councilmember Wills to approve the final form of the City Manager evaluation.

Said motion was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)

NAYS: None (0)

There being no further business to come before the City Council, this September 18, 2017, meeting of the City Council adjourned at 10:32 P.M.

John Murphy, Mayor

Alan Terry, City Clerk-Treasurer