



CITY COUNCIL

December 18, 2017

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

Resolution No. 19133
Approve Consent Agenda Items

Following introduction of the consent agenda for this meeting of December 18, 2017, City Councilmember Marshall 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 December 4, 2017 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 December 4 for contract and vendor claims at \$1,628,332.93, intergovernmental claims at \$15,552.82, and the December 14 payroll at \$314,346.30, for a total of \$1,958,232.05 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 there were no comments.

Hear City Manager Updates

The City Manager reported that staff will meet with FOPLC representatives tomorrow for the second round of negotiations and potentially could be discussed in closed session at the January 15 meeting; that the Winter Sports Park opens for the season on December 22; that City Hall will be closed December 22, December 25 and January 1 in observance of the Christmas and New Year's Day holidays; and that he would be on vacation beginning December 20 through January 1, but available by phone.

Resolution No. 19134-35
Confirm Appointments

Mayor Murphy reviewed that City Council consider possible appointments to the Downtown Management Board and Parks and Recreation Commission.

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

BE IT RESOLVED that the City Council does and hereby approves the appointment of Benjamin Slocum, 112 ½ Howard Street, to the Downtown Management Board for a four-year term ending December 2021.

Said resolution was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)
NAYS: None (0)

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

BE IT RESOLVED that the City Council does and hereby approves the reappointment of Amy McMullen, 901 Sunset Court, for a two-year term ending January 2020.

Said resolution was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)
NAYS: None (0)

Discuss Potential Ordinance
Amending Appendix A to the
Zoning Ordinance

The City Attorney reviewed that he had received a legal opinion from the attorney representing the Harbor Hall Foundation at the November 20 meeting. In the correspondence, Mr. VanTreese claimed that Harbor Hall's Recovery Residence is a "residential use" of "dwelling" under case law interpreting application of the federal Fair Housing Act, 42 USC § 3601 *et seq.* (the "FHA") and the Americans with Disabilities Act, 42 USC § 12132 *et seq.* (the "ADA"). The City Attorney further reviewed that Mr. VanTreese's correspondence further claimed that Harbor Hall, Inc. is licensed by the State of Michigan as a substance-abuse integrated treatment health system facility; that Harbor Hall houses a total of 50 beds 38 in the main building and 12 in two recovery residences; and that even if Harbor Hall's uses are not allowed within the RM-2 District, Harbor Hall's right to use the property for substance abuse housing is "grandfathered" given its continued operation for both office and residential use for over 40 years.

The City Attorney also reviewed Harbor Hall variances received over the last 40 years that all referred to boarding houses as referenced in the December 18, 2017 agenda memo; reviewed Fair Housing Act and Americans with Disabilities Act; and that the current amendment predates any Harbor Hall proposal. The City Attorney recommended City Council give direction to staff to further amend the proposed Zoning Ordinance in the RM-2, B-2A and B-2B Districts in the following two ways:

For the RM-2 District

(1) either allow residential substance abuse service facilities, by requiring the issuance of a conditional use permit, in the same manner as other materially similar uses such as boarding houses, emergency shelters, sheltered housing, and similar assisted living facilities or, alternatively, to (2) exclude entirely all materially similar uses so that no one use is singled out.

For the B-2A District

(1) either allow residential substance abuse service facilities, by requiring the issuance of a conditional use permit, in the same manner as other materially similar uses such as boarding houses, emergency shelters, sheltered housing, and similar assisted living facilities or, alternatively, to (2) exclude entirely all materially similar uses so that no one use is singled out.

For the B-2B District

(1) either allow residential substance abuse service facilities, by requiring the issuance of a conditional use permit, in the same manner as other materially similar uses such as boarding houses, emergency shelters, sheltered housing, and similar assisted living facilities or, alternatively, to (2) exclude entirely all materially similar uses so that no one use is singled out.

City Councilmembers discussed that Harbor Hall began as a boarding house and evolved into more; discussed exclusions to various districts; and to further define nursing/convalescent homes.

City Councilmembers concurred and directed staff to make the following changes to the proposed zoning ordinance amendment:

RM-2 District – permitted residential uses include Multifamily Housing, Single Family Residence, Two Family Residence, Assisted Living Facilities, Boarding House, Sheltered Housing, Convalescent/Nursing Facility and Residential Care and Treatment Facilities; that there are only 8 occupants per structure; and that there is a 400-foot buffer between facilities.

B-2A & B-2B – permitted residential uses include Multifamily Housing, Single Family Residence, Two Family Residence, and lodging uses Bed and Breakfast and Hotel; remove Assisted Living Facilities, Boarding House, Dormitory, Convalescent/Nursing Facilities, Residential Care and Treatment Facilities and Sheltered Housing.

Jeff VanTreese, Harbor Hall Attorney, commented that Harbor Hall is not a boarding house; that spacing requirements could be different; and that the facility is used for clinical use and residential use according to the Fair Housing Act.

Larry Rochon, Harbor Hall President, commented that it has been a 20-year vision to have a program for women; that Harbor Hall brought a plan to Council and possible road vacation; that there was an open house on Thursday, December 14 and 450 invitations were mailed, with only 6-7 neighbors who attended; and that Harbor Hall has scaled back plans from the initial presentation.

Mayor Murphy asked for public comments and heard from those that did not receive invitations and live in the neighborhood; that the open house was sparsely attended and didn't learn anything new; heard from those that benefited from Harbor Hall; that Harbor Hall changes lives and affects many individuals in the community; that there is no treatment programs in the area for females and Harbor Hall should be considered; that location is a concern and a facility in a more rural area would be preferred; that moving to a rural area does not integrate people back into society; that Council needs to be very clear on what is permitted and excluded from each district; inquiries if there is opposition to alcohol treatment facility in RM-2; that there needs to be open communication with Harbor Hall and the City; that Harbor Hall is trying to revitalize a dilapidated building and make it a transitional treatment facility; inquiries on what is the primary goal of the City and zoning can only cause wealth in a city; heard from those that would like to see it work and didn't realize amending the zoning code would have been such an issue 16 months ago when first brought to Council; and that a special condition use was recently granted for boarding houses in Charlevoix.

City Councilmembers further commented that they are the policy makers and not trying to disparage Harbor Hall; that Harbor Hall provides beneficial work to its residents and the community; and that there is no question that there is a need for a facility, but that it is the City's responsibility that it is compatible with the rest of the community.

The City Attorney reviewed that he would be communicating with Mr. VanTreese on an accommodation policy.

Based on City Council's direction, city staff will draft ordinance language and have a first reading of the proposed ordinance at the January 15, 2018 meeting.

Resolution No. 19136 - Approve
Redevelopment Liquor License for
425 Michigan Street, LLC

The City Manager next reviewed that David Meikle, owner of 425 Michigan Street, LLC, submitted a Redevelopment Liquor License application for a bar/restaurant/garage building at 425 Michigan Street, behind the "Bistro" building on Michigan Street. The City Manager reviewed that construction is currently ongoing for the new building adjacent to the alley and behind his two businesses, Tap 30 and Pour; that the first, second and third floors of the Tap 30 and Pour buildings have been renovated with the new garage serving as indoor parking spaces for 3rd floor residents; and that on November 21 the DMB unanimously recommended City Council approve the Redevelopment Liquor License.

The City Manager also commented that if approved, the license would be number 4 of the maximum 6 Redevelopment Liquor Licenses that are currently available; that the Public Safety Director had no concerns regarding the site or building plans from a public safety response perspective; and reviewed temporary escrows of licenses due to an issue that recently surfaced and that according to the City Attorney, the decision to escrow a liquor license is within the authority of the Michigan Liquor Control Commission.

City Councilmembers discussed how much licenses cost; purpose of redevelopment liquor licenses; and that DMB needs to be clear on intent of approving these licenses for downtown.

Mayor Murphy asked for public comments and heard from those encouraging the approval; that this business opportunity is creative; and these types of licenses help provide affordable new restaurants downtown.

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

WHEREAS, in 2011 the City of Petoskey established a Redevelopment Area under P.A. 501 of 2006 for purposes of fostering existing and new restaurants, entertainment or recreation establishments within Petoskey's Downtown Development Authority district; and

WHEREAS, 425 Michigan Street, LLC, 425 Michigan Street, has applied with the City of Petoskey for a Redevelopment Liquor License; and

WHEREAS, the Downtown Management Board reviewed and recommended the granting of a Redevelopment Liquor License for 425 Michigan Street, LLC because it will encourage economic growth and activity within downtown, particularly in the evening hours, and is in keeping with the downtown Master Plan; and

WHEREAS, the City's Department of Public Safety staff has completed investigations that are required to be performed by local governmental units under provisions of the Michigan Liquor Control Act; and

WHEREAS, the Department of Public Safety staff has reported to the City Manager that, based upon findings of the Department's investigations, the City Manager could recommend that the City Council confirm the City's approval of the application by 425 Michigan Street, LLC for a new Redevelopment Liquor License:

NOW, THEREFORE, BE IT RESOLVED that the City Manager be and is hereby directed to report to the Michigan Department of Labor and Economic Growth's Liquor Control Commission, upon forms that have been provided by the Liquor Control Commission, confirmation of the City Council's approval of the application by 425 Michigan Street, LLC, 425 Michigan Street, for a new Redevelopment Liquor License.

Said resolution was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)
NAYS: None (0)

Resolution No. 19137- Approve
Marketing Strategy for RRC Program

The City Manager reviewed that as part of the Redevelopment Ready Communities Program, the City is required to adopt a Marketing Strategy to promote and market Petoskey creating a positive image that sets the community apart from other communities. The City Manager further reviewed that the Marketing Strategy identifies opportunities and outlines steps to attract businesses, consumers and real estate development to Petoskey; highlights four development sites; focuses on common goals and strategies with implementation carried out by various community entities including, but not limited to, Petoskey Regional Chamber of Commerce, Petoskey Area Visitor's Bureau, the DMB and Northern Lakes Economic Alliance; and that some tools the City will use to market the community and redevelopment ready sites is through the City's new website and recently launched Facebook page.

City Councilmembers inquired if volunteers could help market the community; what the City's efforts were with developers; and discussed parking needs in the Michigan Lot.

Mayor Murphy asked for public comments and heard a comment that this type of strategy is needed for tax cuts and thanked Council for approving the Marketing Strategy.

City Councilmember Wills moved that, seconded by City Councilmember Lyman to approve the Marketing Strategy as part of the Redevelopment Ready Communities Program.

Said motion was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)
NAYS: None (0)

Resolution No. 19138
Adopt 2017 Budget Amendments

At the end of each fiscal year, the City Council is routinely asked to formally adopt amendments to the Annual Budget. These amendments are necessitated by a variety of circumstances, and in many cases are administrative changes to formally reflect previously approved actions and priorities.

The Library Fund revenue and expenditure adjustments are due to two Townships approving a millage request for library services at the November General Election, after the Library budget was submitted. The approved budget did not include these additional revenues or the additional services that were provided due to the millage approvals in both Springvale and Little Traverse Townships. Additional services included an expansion of library hours, building maintenance and capital outlays, were a large part of the increase in expenditures.

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

WHEREAS, at the close of the City's 2017 fiscal year, the City staff has determined that expenditures within one City fund is anticipated to differ from amounts that had been budgeted for:

NOW, THEREFORE, BE IT RESOLVED that expenditures within the Library Fund be adjusted as follows:

	<u>Original</u>	<u>Amendment</u>	<u>Difference</u>
Library Fund			
Revenues	<u>\$ 1,257,000</u>	<u>\$ 1,422,300</u>	<u>\$ 165,300</u>
Expenditures	<u>\$ 1,256,900</u>	<u>\$ 1,488,500</u>	<u>\$ 231,600</u>

Said resolution was adopted by the following vote:

AYES: Marshall, Lyman, Dittmar, Wills, Murphy (5)
NAYS: None (0)

Hear Council Comments

Mayor Murphy asked for Council comments and City Councilmember Wills commented on his concerns with nonprofit land purchases taking property off the tax roll and he would hate to see an abandoned area not redeveloped, and the area near Harbor Hall is another area in the community that needs to develop.

There being no further business to come before the City Council, this December 18, 2017, meeting of the City Council adjourned at 9:05 P.M.

John Murphy, Mayor

Alan Terry, City Clerk-Treasurer