



CITY COUNCIL

March 19, 2018

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, March 19, 2018. 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, Parks and Recreation Director Kendall Klingelsmith, City Planner Amy Tweeten, Downtown Director Becky Goodman and City Attorney James Murray.

Consent Agenda - Resolution No. 19163

Following introduction of the consent agenda for this meeting of March 19, 2018, 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 March 5, 2018 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 March 5, for contract and vendor claims at \$1,310,601.44, intergovernmental claims at \$11,884.08, and the March 8 payroll at \$189,848.40, for a total of \$1,512,333.92 be and is hereby acknowledged.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Public Comment

Mayor Murphy asked for public comments and there were no comments.

City Manager Updates

The City Manager reported that the downtown bathroom design will be revised to include a required family restroom facility; briefly reviewed infrastructure projects slated to be completed during the 2018 construction season and that staff will utilize the City website to keep residents updated on project progress; that MDOT will hold a public open house 4:00-5:30 P.M., Tuesday, April 10, at North Central Michigan College, to review 2019 U.S. 31 realignment project; that MDOT will also give a brief presentation at the April 16 City Council meeting; and that all RRC program requirements have been completed and submitted to MEDC officials for review with hopes to be formally certified as a Redevelopment Ready Community in the coming weeks and thanked the City Planner for her efforts.

The City Manager responded to Council comments that additional costs for revised downtown bathrooms are unknown at this time; that there are no extra routes for bike path while Lake Street is under construction and staff anticipates that contractors will construct and complete bike path first to get it open for users; and reviewed Mr. Berg's plans for a parking deck, grocery store, housing, etc. noting the plan exceeds height limit.

Board of Review Reappointment – Resolution No. 19164

Mayor Murphy reviewed that City Council consider possible reappointment to the Board of Review.

City Councilmember Dittmar 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 Joseph Nachtrab, 6744 Preserve Drive North, to the Board of Review for a three-year term ending April 2021.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Zoning Board of Appeals Reappointment – Resolution No. 19165

Mayor Murphy reviewed that City Council consider possible reappointment to the ZBA.

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 reappointment of Mary Clinton, 1004 Howard Street, to the Zoning Board of Appeals for a three-year term ending April 2021.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Zoning Board of Appeals Reappointment – Resolution No. 19166

Mayor Murphy reviewed that City Council consider possible reappointment to the ZBA.

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 Jim Knibbs, 616 Bay Street, to the Zoning Board of Appeals for a three-year term ending April 2021.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Adopt Ord. 760 – Redevelopment Liquor License Amendments – Resolution No. 19167

The City Manager reported that this was the second reading of a proposed ordinance that would amend Ordinance 727 pertaining to redevelopment liquor licenses and that City Council could approve if concurred with changes. The City Manager further reviewed the proposed changes

City Councilmembers inquired if new ordinance would make current establishments illegal; inquiries on who controls licenses including escrowing licenses; heard concerns about losing family-friendly atmosphere downtown with too many liquor establishments; commented that restaurants gear up when retail merchants close; and that some current restrictions limited bars such as the 11:00 P.M. closing time.

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

ORDINANCE NO. 760

AN ORDINANCE TO establish conditions and criteria for the evaluation of liquor license requests submitted to the City of Petoskey pursuant to Public Act 501 of the Public Acts of 2006, being Section 521a(1) of the Michigan Liquor Control Code of 1998, being MCL 436.1521a(1) (the "Act") and to establish necessary conditions to ensure that the issuance of a liquor license is consistent with adopted goals and plans of the redevelopment project area established by the City and to ensure the issuance of the license will enhance the quality of life for residents and visitors.

THE CITY OF PETOSKEY ORDAINS:

ARTICLE I

Sec. 4-1 Purpose: The City hereby establishes criteria for the evaluation of liquor license requests submitted pursuant to Public Act 501 of the Public Acts of 2006, being Section 521a(1) of the Michigan Liquor Control Code of 1998, Act 58 of 1998, as amended, MCL 436.1101 et seq. (the "Act") and establishes necessary conditions to ensure that the issuance of a license is consistent with adopted goals and plans of the redevelopment project area established by the City and to ensure the issuance of a license will enhance the quality of life for residents and visitors. This Ordinance shall also apply retroactively to all existing redevelopment liquor licenses.

ARTICLE II

Sec. 4-2 Requirements: Businesses that apply and obtain redevelopment liquor licenses licensed under the Act must:

- (1) Be engaged in dining, entertainment or recreation as required by this Ordinance, the Act and all State of Michigan laws.
- (2) Be open to the general public as required by this Ordinance, the Act and all State of Michigan laws.
- (3) Have a seating capacity of at least 25 people.
- (4) Demonstrate to the satisfaction of the Liquor Control Commission (LCC) that they attempted to purchase an available on premise escrowed license or quota license within the County, and that one was not readily available as defined in the Act.
- (5) Have spent at least \$75,000 for the rehabilitation or restoration of the building where the license will be housed over a period of the preceding five years or a commitment for a capital investment of at least \$75,000 that will be spent before the issuance of the license.

Sec. 4-3 Policy: The City of Petoskey will use the following procedures in reviewing applications for liquor licenses under the Act:

- (1) Applicants requesting a license must document that they have a real property interest within the Redevelopment project area defined by the City Council under separate resolution, also known as the "DDA District" by completing an application documenting the property interest to the satisfaction of the City Manager (deed, lease, contingent sale, contingent lease, or similar documentation). If the applicant is not the owner, applicant shall include written concurrence from the owner.

Each application must be accompanied by an application fee in the amount established from time to time by the City Council.

- (2) The applicant shall include, as a part of an application, documentation showing that at least \$75,000 has been expended for the rehabilitation or restoration of the building that would house the licensed premises, or shall make a commitment for capital investment of at least \$75,000 which shall be expended prior to the issuance of the license.
- (3) The applicant shall document how the issuance of the license will benefit the DDA District and the City. Such documentation may include a business plan, an architectural plan, and other information necessary to review the proposal.
- (4) In evaluating proposals, the City Council may consider how the issuance of a license would promote economic growth in a manner consistent with adopted goals, plans or policies of the DDA District, including, but not limited to, the Downtown Blueprint Masterplan. In addition, the Council shall give consideration to:
 - (a) The recommendation of the Downtown Management Board, who shall have thirty days from the date of submission to the City of Petoskey to review and make a recommendation on a license application.
 - (b) Existing restaurant, recreation, and entertainment businesses/entities within the DDA District that meet the criteria for issuance of a license as of January 1, 2011.
 - (c) New restaurant, recreation, and entertainment businesses/entities occupying space where the capital investment greatly exceeds the requirements of the Act.
 - (d) New restaurant, recreation, and entertainment businesses/entities which will contribute a new or unique choice to the mix of establishments within the DDA area.
 - (e) The quality and detail of the business documentation as outlined in §3.
- (5) New qualifying businesses making exterior façade improvements shall conform to the Downtown Design Guidelines.
- (6) The applicant and subject property owner shall not have any current or outstanding code violations, tax delinquencies, other outstanding City fees or in any way be in default to the City.
- (7) Businesses seeking to utilize a Redevelopment Project Area Liquor License, as provided for in the Act shall conform to the Act and all State of Michigan laws for hours of operation.
- (8) The provisions of this section shall not apply to Banquet Facility Permits or A Hotel or B Hotel Licenses issued by the Michigan Liquor Control Commission as part of a Redevelopment Project Area License.
- (9) In order to protect the health, safety and welfare of the Petoskey community and the retail character of the Petoskey downtown area as outlined in the Downtown Blueprint Masterplan the City Council shall not approve more than ten (10) Redevelopment Project Area Liquor Licenses within the DDA district.

ARTICLE III

Sec. 4-4 Penalty: Municipal Civil Infractions

- (1) Any person, firm or corporation violating any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine pursuant to the City of Petoskey Municipal Civil Infraction Ordinance, as amended, plus costs and other sanctions for each violation (as authorized by Section 24 of Act 184 of the Public Acts of Michigan of 1943, as amended, the City of Petoskey Municipal Civil Infraction Ordinance, and other applicable laws).

- (2) Repeat offenses under this Ordinance shall be subject to increased fines, as provided by the City of Petoskey Municipal Civil Infraction Ordinance, as amended from time to time.
- (3) Each day on which any violation of this Ordinance occurs or continues constitutes a separate offense, subject to separate sanctions. The paying of a fine or sanctions under this Ordinance shall not exempt the offender from meeting the requirements of this Ordinance.
- (4) The City Manager, the Director of Public Works, the Director of Public Safety, City Planner/Zoning Administrator, all Public Safety Officers or other designees of the City Manager, (as defined by the Municipal Civil Infraction Ordinance, as amended) are hereby designated as the Authorized City Officials to issue municipal civil infraction citations for violations of this Ordinance.
- (5) A violation of this Ordinance is deemed to be a nuisance, per se. In addition to any remedies available at law, the city may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this Ordinance.

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.

Said ordinance was adopted by the following vote:

AYES: Marshall, Dittmar, Wills, Murphy (4)

NAYS: Lyman (1)

City Councilmembers further discussed regulating this type of license, but not other licenses with 11:00 P.M. closing of restaurants/bars. The City Attorney reviewed that it would be a local civil infraction, but not a violation of license by the State.

Mayor Murphy asked for public comments and heard a comment from a citizen that enjoys going to the bar later at night to have a drink and don't see it as a problem, especially since there isn't much food available that late at night.

Hear 2017 Planning Commission Annual Report & Economic Development Strategy Annual Update

The City Planner reviewed that pursuant to Act 33 of the Michigan Public Acts of 2008, Article II, Section 125.3819, the City Council had been provided a copy of the 2017 Planning Commission Annual Report, as part of its March 19 agenda materials, and that City Council was being asked to acknowledge receipt of this 2017 annual report. The City Planner reviewed and commented on various areas of the annual report.

The City Planner further gave a brief update on the Economic Development Strategy and reviewed economic activities in the City over the last year as required by the MEDC for the Redevelopment Ready Communities (RRC) Program.

City Councilmembers inquired if there is ongoing accountability with the various programs and the City Planner responded each key group including staff, Council and other Boards and Commissions will continue with this type of work as part of being RRC certified.

Approve High Five Spirits LLC Liquor License – Resolution No. 19168

The City Manager reviewed that in 2017, City Council supported an application for a Small Distiller's License for High Five Spirits LLC, 330 West Mitchell Street, that was ultimately approved by the MLCC. High Five Spirits also obtained a tasting room license for their spirits at 312 Howard Street through the MLCC.

The City Manager reviewed that the tasting room license allows sampling of spirits (less than ½ ounce) and purchase of spirits for off-site consumption only; that the license does not allow for the selling of “cocktails” at the Howard Street location which is the desire of High Five Spirits’ owners; and that the owners are asking for Council to support their application for a Small Distiller’s License at the Howard Street location.

Michael Kazanowski, co-owner of High Five Spirits LLC, reviewed issue of not being able to sell cocktails and that they are not looking to be a night time establishment or bar.

City Councilmember Marshall then moved that, seconded by City Councilmember Lyman to adopt a resolution supplied by the MLCC approving the Small Distillers License for High Five Spirits LLC, to be located at 312 Howard Street.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Approve Restated Agreement for Wastewater Treatment Service between Springvale/Bear Creek Sewage Disposal Authority and the City – Resolution No. 19169

The City Manager reviewed highlights of the agreement and that the Restated Agreement will replace a 1977 agreement and amendments that have recently expired; that the Springvale/Bear Creek Sewage Disposal Authority approved the agreement at their February 27 board meeting; that because sewage flows from Springvale Township were never fully realized, it is anticipated that the Springvale/Bear Creek Sewage Disposal Authority will ultimately be dissolved; and that the Authority will assign the Restated Agreement to solely Bear Creek Township.

City Councilmember Marshall moved that, seconded by City Councilmember Wills to approve the Restated Agreement for wastewater treatment service between Springvale/Bear Creek Sewage Disposal Authority and the City of Petoskey.

Said motion was adopted by the following vote:

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

NAYS: None (0)

Approve Franchise Agreement for Wastewater Treatment Service with Bear Creek Township – Resolution No. 19170

The City Manager reviewed that a franchise agreement with the City would need to be created following the approval of the Restated Agreement allowing the City to collect wastewater from Township residents. The agreement was approved by the Bear Creek Township Board on March 7. The City Manager further reviewed highlights of the agreement; that the agreement states that the City is willing to provide wastewater treatment services to City customers within the Township; and the Township is willing to permit the City to provide such wastewater treatment services to City customers within the Township.

Mayor Murphy asked for public comments and heard an appreciative comment that it is good the City is working with the Township on agreement.

City Councilmember Lyman moved that, seconded by City Councilmember Wills to approve the Franchise Agreement for wastewater treatment service with Bear Creek Township.

Said motion was adopted by the following vote:

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

NAYS: None (0)

Approve Electric Rates for Voluntary Green Pricing Program – Resolution No. 19171

The City Manager reviewed the Voluntary Pricing Program (VGP) for renewable energy as required by State law. The program is to go into effect by April 20, 2018. The City Manager further reviewed that Michigan Public Power Agency (MPPA) developed such a program for its member utilities and the City of Petoskey is proposing to participate; that customers can specify from the options available the amount of the customer's electrical usage that will be attributable to renewable energy; that customers may elect to have 25%, 50% 75% or 100% of their usage attributable to renewable energy at an additional cost of \$0.01 per each kWh; that MPPA will maintain a VGP webpage which will provide a description of the program and include a customer registration page; that the proposed VGP rate of \$0.01 includes administration costs for the program by both MPPA and the City is based on current renewable market rate pricing; and that future adjustments to the VGP rate may be necessary by MPPA based on program participation and market variations, with City rates adjusted accordingly.

Mayor Murphy asked for public comments and heard an inquiry on what kinds of generations will be offered. The Director of Public Works responded that renewables will come from solar and wind.

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

WHEREAS, Chapter 22 of the City of Petoskey Code of Ordinances, § 22-83, provides that rates and charges for electric service in the City shall be established and changed by the City Council from time to time; and

WHEREAS, Public Act 342 of 2016 directs electric utility providers to offer customers the opportunity to participate in a Voluntary Green Pricing program (VGP); and

WHEREAS, Michigan Public Power Agency has developed a VGP program for its member utilities and has established a rate for the program, which the City of Petoskey desires to join:

NOW, THEREFORE, BE IT RESOLVED that the City Council for the City of Petoskey does and hereby establishes a Voluntary Green Pricing program whereby all customers can participate by paying an additional electric charge based on the kWh usage that attributes their electrical usage to renewable energy sources; and

BE IT FURTHER RESOLVED that the additional cost be at the rate established and adjusted by MPPA, which is currently \$0.01 per kWh and that customers may select that 25%, 50%, 75% or 100% of their monthly usage be applied against the renewable energy rate, which is in addition to the customer's regular electric rate.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Authorize Tree Planting Contract – Resolution No. 19172

The City Manager reviewed that the 2018 Annual Budget included monies for planting of trees and shrubs within street green lawns and public spaces as new or replacement trees. The City Manager further reviewed that this tree planting initiative is part of the City's overall Forestry Program that includes trimming, maintenance and tree and stump removal of City owned trees.

City Councilmember Wills moved that, seconded by City Councilmember Marshall to authorize to contract with David Hoffman Landscaping and Nursery, Inc., Petoskey, in the amount of \$22,010, for planting of trees throughout the City.

Said motion was adopted by the following vote:

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

NAYS: None (0)

Council Comments

Mayor Murphy asked for Council comments and there were no comments.

Authorize Closed Session – Resolution No. 19173

City Council was being asked to adopt a resolution that would recess to a closed session pursuant to Section 8(c) of the Michigan Open Meetings Act, to consider strategy and negotiations of a collective bargaining agreement.

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

WHEREAS, the City Manager has requested that the City Council recess to a closed session, pursuant to Section 8(c) of the Michigan Open Meetings Act to consider strategy and negotiations of a collective bargaining agreement, following the conclusion of routine business at the City Council's regular meeting of March 19, 2018:

NOW, THEREFORE, BE IT RESOLVED that the City Council does and hereby authorizes to recess to a closed session, to consider negotiations of a collective bargaining agreement.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Recessed to closed session at 8:40 P.M. and reconvened into open session and adjourned at 9:20 P.M.

There being no further business to come before the City Council, this March 19, 2018, meeting of the City Council adjourned at 9:20 P.M.

John Murphy, Mayor

Alan Terry, City Clerk-Treasurer