



## CITY COUNCIL

May 7, 2018

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, May 7, 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, Downtown Director Becky Goodman and City Attorney James Murray.

### **Hear 2017 Audit Presentation**

Trina Edwards, Gartland & Niergarth, Traverse City, was in attendance and presented information concerning the City's Financial Statements and Report of Independent Certified Public Accountants as the annual audit for the City's fiscal year ended December 31, 2017. Representatives also reviewed and answered questions on the audit-related communications letter and MERS pension changes and how earnings effect overall plan.

### **Hear Arbor Day Proclamation**

Mayor Murphy reviewed that the City recently received Tree City USA certification and read the following proclamation:

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal:

NOW, THEREFORE, I, John Murphy, Mayor of the City of Petoskey, do hereby proclaim May 7 as Arbor Day in the City of Petoskey. I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands; and

FURTHER, I urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

**Consent Agenda - Resolution No. 19180**

Following introduction of the consent agenda for this meeting of May 7, 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 April 16, 2018 regular session and April 30, 2018 special 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 April 16, for contract and vendor claims at \$1,249,446.95, intergovernmental claims at \$0, and the April 19 and May 3 payrolls at \$389,967.79, for a total of \$1,639,414.74 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 staff met with Emmet County Administrator regarding exploratory discussions on constructing a parking deck at the Lake Street and Division Street Lot and that he will make a presentation to County Commissioners in early summer; that staff will be looking at a financial plan on how to pay for the project before further steps are taken on potential deck; that Petoskey Harbor Springs Community Foundation recently informed staff that they received a \$60,000 grant from the C.S. Mott Foundation and that grant funding will be used to support local efforts to advance the use of clean and renewable energy for the cities of Charlevoix, Harbor Springs, Petoskey and Traverse City; that the Lake Street Dam will be inspected and a final report shared with City Council; reviewed construction project updates for West Lake Street, Bridge Street Bridge, Downtown street improvements and that the Bear River East Lift Station project is completed; and that there is a Special Election tomorrow.

City Councilmembers inquired if engineering expenses would be shared by the City and County and that downtown improvements are going well. City staff responded that expenses would be shared.

**Adopt Ord. 761 – Amending Chapter 8, Article III pertaining to New Business Registrations – Resolution No. 19181**

The Director of Finance reviewed that this was a second reading and that staff and the City Attorney have reviewed amending various sections of Chapter 8 Businesses and Business Regulations with the first being Chapter 8, Article III, Sections 8-31 through 8-36. The Finance Director reviewed that changing the business registration process is a step to revamp ordinances pertaining to licenses that have not been updated in many decades; that currently only retail merchants are required to register one-time and be licensed with the City; reviewed the proposed amendment which will require all new businesses to register with the City and be placed on the tax rolls; and that this is the first section of Chapter 8 to be updated with potential for more in the coming months.

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

# AN ORDINANCE TO REGULATE NEW BUSINESS REGISTRATION IN THE CITY OF PETOSKEY

## THE CITY OF PETOSKEY ORDAINS:

1. Chapter 8, Article III, Sections 8-31 through 8-36 of the Petoskey Code of Ordinances is hereby repealed and replaced by the following:

### **Sec. 8-31 Definitions.**

The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*New business* shall mean every person who occupies all or part of a building within the City:

- 1) in connection with a business, whether for profit or not for profit, or
- 2) for the purpose of manufacturing or conducting research and/or development, or
- 3) for offering for sale goods or performing services,

and who did not pay personal property tax to the City at the location of the new business or submit an exemption form to the City for that location during the preceding calendar year.

*Person* shall mean any individual, firm, co-partnership, corporation, company, association, or joint stock association, society, organization or league, and includes any trustee, receiver, assignee, subcontractor, agent or other similar representative thereof.

### **Sec. 8-32 Municipal Civil Infraction.**

- (a) Any person, firm or corporation violating any of the provisions of this chapter 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 Act 236 of the Public Acts of Michigan of 1961, as amended, see MCL 600.101 et seq., the City of Petoskey Municipal Civil Infraction Ordinance, and other applicable laws).
- (b) Repeat offenses under this chapter shall be subject to increased fines, as provided by the City of Petoskey Municipal Civil Infraction Ordinance, as amended from time to time.

### **Sec. 8-33 Registration Required.**

No person shall start a new business in the City without first filing and registering with the City in the manner set forth in this Ordinance.

### **Sec. 8-34 Application.**

Applicants for a registration under this article must file with the City Assessor, a sworn application on a form to be furnished by the City Assessor, providing the following information:

- (1) Full name, date of birth, tax identification number of the registering business, if any, and driver's license number of the individual signing the application.
- (2) The name the business will use.
- (3) The names and addresses of its owners, officers, partners, directors and trustees.
- (4) The nature of any franchises under which the applicant will operate.
- (5) The names and addresses of owners of any leased equipment in use in the business.
- (6) The value of all furniture, fixtures, signs, leasehold improvements, machinery and equipment on hand, when such business is established.

### **Sec. 8-35 Fees.**

The fee for a new business registration and license shall be set by resolution of the City Council.

**Sec. 8-36 Issuance.**

When the applicant has paid the fee and has provided the information required by this article, the applicant shall be deemed registered under this article. Such registration shall not permit any person to engage in any activity otherwise prohibited by this Code and shall be nontransferable.

2. **Severability; Saving Clause.**

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.

3. **Effect.**

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, Dittmar, Wills, Murphy (4)

NAYS: Lyman (1)

**Adopt Ord. 762 – Amending Appendix C to the Sign Ordinance – Resolution No. 19182**

The City Planner reviewed that this was a second reading and ordinance could be adopted; and reviewed proposed amendments to sign ordinance including low lit, where sandwich board signs are allowed and special condition signs for remote locations.

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

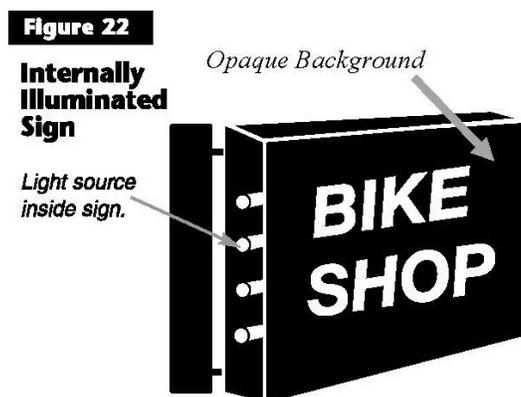
**AN ORDINANCE TO AMEND APPENDIX C OF THE CITY CODE OF ORDINANCES, SIGN ORDINANCE, SECTIONS 3.1(5)(b) SIGN ILLUMINATION, SECTION 8.2(a) SPECIAL CONDITION SIGNS AND SECTION 7.1(6) SANDWICH BOARDS**

The City of Petoskey ordains:

1. The text of Section 3.1(5)(b) shall be amended to read as follows:

Interior illumination is only permitted for individual elements within a sign such as letters and graphics, but the entirety of the background shall be opaque and not illuminated. All illumination shall be steady and stationary in source and intensity (Figure 22).

2. Figure 22 shall be amended to read as follows:



3. The text of Section 8.2(a) shall be amended to include a new subsection (12) to read as follows:

One (1) off-premise, wall-mounted sign not to exceed three (3) square feet may be approved by the Sign Committee in situations where a business in the Central Business District has no street or public sidewalk access and the visibility of the business is clearly restricted. If there are multiple signs for vision-obstructed businesses on a single wall, the location of all signs shall be coordinated and part of the Sign Committee review.

4. The text of Section 7.1(6) shall be amended to allow Sandwich Board signs in the B-2A Transitional Business and B-2B Mixed Use Corridor Districts. The introductory language should be amended to read as follows, with regulations (a)-(f) remaining the same.

*Sandwich boards.* Sandwich board signs shall be permitted in the Central Business District (B-2), Transitional Business District (B-2A) and Mixed Use Corridor (B-2B) on private or public property, subject to the following conditions.

5. 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.
6. 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, Lyman, Dittmar, Wills, Murphy (5)

NAYS: None (0)

### **Approve Public Participation Plan Amendments – Resolution No. 19183**

The City Planner reviewed that City Council adopted the Public Participation Plan in January of 2016 as part of the Redevelopment Ready Communities (RRC) certification process. The document is required to ensure that public documents and actions adequately incorporate public input. The proposed updated plan was introduced at the April 16 Council meeting. The City Planner further reviewed proposed changes; that the RRC program requires a policy in place that encourages developers to engage the public early in the development process prior to more detailed plans that increase costs; and that the input is not binding, but rather trying to determine issues.

City Councilmembers inquired how the City, staff and Council are supposed to weigh public input; that it is advantageous if citizens identify where they live and if part of the city or non-city residents; and that it is important to advertise and get information out to the public as much as possible. City staff responded that staff and Council don't have to weigh input since the City is required to perform hearings.

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

WHEREAS, the City of Petoskey understands and values the importance of an informed public and public involvement in the decision-making process; and

WHEREAS, the City is dedicated to maximizing opportunities for its residents and customers to provide input on policies, programs, and projects in order to reach the best decisions for the people of Petoskey; and

WHEREAS, the Petoskey Planning Commission has approved a plan amendment to enhance and expand public participation processes:

NOW, THEREFORE BE IT RESOLVED, the Petoskey City Council hereby adopts an amendment to the City of Petoskey Public Participation Plan.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

**Approve Local Revenue Sharing Board Application for DPS Equipment – Resolution No. 19184**

The City Manager reviewed that the Emmet County Local Revenue Sharing Board (LRSB) was accepting applications from local governmental units for funds to be used for lawful governmental purposes. The Department of Public Safety requested \$9,000 for the replacement of one hydraulic spreader tool, commonly known as the “Jaws of Life”. The City Manager reviewed that this tool would replace the current spreader tool that was purchased in 2003 and is now approaching 15 years old.

City Councilmember Dittmar moved that, seconded by City Councilmember Wills to adopt the following resolution:

WHEREAS, the City of Petoskey operates a Department of Public Safety that provides extrication services not only within the City but along the U.S. 31 corridor to the Emmet County line; and

WHEREAS, the current extrication tools are fifteen (15) years old and should be replaced; and

WHEREAS, the Public Safety Department needs to update their extrication tools to enable them to adequately deal with the high strength steel used in today’s vehicles:

NOW, THEREFORE, BE IT RESOLVED, that the City of Petoskey City Council does hereby support and authorizes the submission of this grant application to the Emmet County Local Revenue Sharing Board in the amount of \$9,000 for the purchase of an extrication spreader tool.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

**Approve Local Revenue Sharing Board Application for Iron Belle Bear River Bridge Construction – Resolution No. 19185**

The City Manager reviewed that the Emmet County Local Revenue Sharing Board (LRSB) was accepting applications from local governmental units for funds to be used for lawful governmental purposes. The Department of Parks and Recreation requested \$10,000 for funding towards the Iron Belle Bear River Bridge. The City Manager reviewed that the City, along with the North Country Trail, Jordan Valley 45 Chapter, is aggressively capitalizing on funding opportunities for the construction and installation of the bridge, which will connect the natural area of North Central Michigan College, to the River Road Sports Complex. The City Manager reviewed that in March, the City applied to the Michigan Department of Natural Resources Trust Fund for 50% of the project; that total project costs are \$167,000; and that this grant would help with the remaining local match.

City Councilmember Marshall moved that, seconded by City Councilmember Wills to adopt the following resolution:

WHEREAS, the City of Petoskey with grant funds from the Local Revenue Sharing Board is proposing funding support for construction and installation of the Iron Belle Bear River Bridge; and

WHEREAS, the City of Petoskey has prepared a Proposal Summary for the Local Revenue Sharing Board (Tribal Gaming Revenue Board) requesting \$10,000 in funding assistance for construction and installation of the Iron Belle Bear River Bridge; and

WHEREAS, the Iron Belle Bear River Bridge will increase regional hiking opportunities on the Iron Belle/North Country Trail and will provide a safer route for hikers by routing them off public streets:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council hereby endorses and authorizes the submission of this Proposal Summary and requests that the Local Revenue Sharing Board consider funding for this project.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

**Support Senate Bill 469 and House Bill 5178 Concerning Historic Tax Credits – Resolution No. 19186**

The Downtown Director reviewed Senate Bill 469 and House Bill 5178, which have the same text, and would reinstate the availability of residential and commercial tax credits to historic property owners doing rehabilitation work in local historic districts. The Downtown Director further reviewed that these potential tax credits would be one of the few preservation funding incentives available for historic rehabilitation projects, especially in residential areas; that great work across the State was accomplished with this incentive before Michigan lost these credits in 2011; that the new legislation would bring the tax credits back and create an environment favorable to rehabilitation verses demolition and destruction; that the Michigan Historic Preservation Network and the Michigan Downtown Association are working to support the passage of these bills as they will be invaluable in protecting sense of place in downtowns and residential districts across the state; and that the tax credits also serve as economic development tools that create jobs and protect sustainability.

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

WHEREAS, the historic buildings, neighborhoods and places in Michigan villages, towns and cities distinguish each community and provide character and a sense of place that contribute significantly to the quality of life and the economic benefits enjoyed in and by each community; and

WHEREAS, the preservation and rehabilitation of historic buildings, places and neighborhoods contributes to the beauty, character, and economic vitality of Michigan communities; and

WHEREAS, the labor-intensive nature of historic rehabilitation creates jobs and investment in local businesses and has been proven to generate more economic activity than equivalent investment in new construction; and

WHEREAS, demolition or destruction of historic buildings creates costs to Michigan and its communities by destroying the often-irreplaceable construction and ornamental materials of each structure and by adding significantly to landfills, whose makeup is estimated to be more than 40 percent building materials and waste; and

WHEREAS, development and redevelopment within established villages, townships and cities is encouraged by Governor Rick Snyder's ten-point program to "Reinvent Michigan" that includes goals to Restore Our Cities, Protect Our Environment, and Create More and Better Jobs; and

WHEREAS, many public policies and financial and lending practices and policies create disincentives or barriers to the preservation, renovation and rehabilitation of historic buildings and resources and create a preferential financial environment for new construction; and

WHEREAS, Michigan has measured the economic impacts of the former Michigan Historic Tax Credit programs between their enactment in 1999 and their elimination in 2011 and seen significant positive direct impacts on the revitalization of neighborhoods and communities, the preservation and creation of affordable and market-rate housing, the creation of skilled local jobs, and the subsequent private investment in areas surrounding tax-credit-driven revitalization projects; and

WHEREAS, each \$1.00 of credit issued leverages \$11.37 in direct economic impact, such that the former Michigan Historic Tax Credit programs during their twelve-year history have leveraged \$251 million in Federal historic tax credits that otherwise would not have returned to Michigan, spurred \$1.46 billion in direct rehabilitation activity, and created 36,000 jobs; and

WHEREAS, the Michigan Legislature is presently considering Senate Bill 469 and House Bill 5178 that would reinstate an up-to-25 percent investment tax credit for owners of historic residential and commercial properties who substantially rehabilitate their properties:

NOW, THEREFORE, BE IT RESOLVED that the Petoskey City Council endorses and supports both Senate Bill 469 and House Bill 5178 and calls upon the Michigan Legislature to pass this important legislation and Governor Snyder to sign it, in order to stimulate appropriate development and redevelopment and protect the historic character and quality of life of our communities; and

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Michigan Historic Preservation Network.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

#### **First Reading of a Proposed Ordinance Regarding Mobile Food Truck Regulations**

The City Planner reviewed that at its December 4 meeting, City Council discussed the topic of food truck regulations and requested that Planning Commission draft regulations that would allow food trucks on private property and would create a trial period for food trucks on public property. The City Planner reviewed that the Planning Commission established a sub-committee to research leading practices and make recommendations on possible regulations; that the Committee studied communities that have implemented mobile vending successfully and met with local representatives of food trucks and brick-and-mortar establishments; that to date, there has been no negative feedback; and reviewed some of the issues researched including locations, fee structure, noise, trial period and number of trucks allowed.

The City Planner further reviewed proposed amendments to the Code of Ordinances and that business licensing is the chapter recommended to create mobile vending regulations; that the Commission recommended and identified three public property locations on either the “food desert” or “cool factor” criteria including Bayfront Park behind the fire station, Bayfront Drive east of the ballfield and under the Mitchell Street Bridge; and suggested a maximum of 12 trucks on public property and unlimited number on private property during the trial period which would end December 31, 2019.

City Councilmembers discussed food trucks near concession stand; that a recent contract was signed to have a business operate the concession stand and that food trucks should stay away from that area; that there could potentially be 2-3 trucks per site; and preferred allowing a maximum of 6 trucks total on public property.

Mayor Murphy asked for public comments and heard comments that more food trucks will help the concession stand; that staff should communicate with concession stand operator and hear their viewpoints on matter; and heard other potential locations for food trucks including Gruler property, River Road, fire hall and Bayfront restroom area.

City Councilmembers deferred action since it was the first reading of the proposed ordinance.

**Recess to Closed Session – Resolution No. 19187**

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

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(h) of the Michigan Open Meetings Act to consider material exempt from disclosure, during the City Council's regular meeting of May 7, 2018:

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

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Recessed to closed session at 8:50 P.M. and reconvened into open session at 9:33 P.M.

**First Reading of Two Proposed Ordinances Related to Appendix A – Zoning Ordinance and Chapter 13 Nuisances – International Property Maintenance Code Creating an Accommodation Policy under the Federal Fair Housing Amendments Act (FFHA) in the Americans with Disabilities Act (ADA)**

The City Manager reviewed that at its February 19 meeting, City Council passed a motion to forward a proposed Zoning Ordinance amendment to the Planning Commission for a public hearing. The City Manager reviewed that the amendment would create a new Section 1912 Fair Housing Accommodation Policy under the FFHA, designating the ZBA as the body to hear requests for accommodation and establishes the factors under which such requests shall be evaluated; reviewed additional language which was not included in February 19 draft ordinance; that there were no negative comments received from the Planning Commission public hearing on April 19 and the Commission recommended ordinance to City Council on a 9-0 vote; reviewed the three elements that the City must follow whether an accommodation is required under the FFHA; and that an amendment to Chapter 13, Article II of the City's Code in order to also allow accommodations under the International Property Maintenance Code.

City Councilmembers reviewed additional language and deferred action since it was the first reading of the proposed ordinance.

**Council Comments**

Mayor Murphy asked for Council comments and there were no comments. Mayor Murphy reported that there was a two-acre fire and commended the Public Safety Department for their efforts.

There being no further business to come before the City Council, this May 7, 2018, meeting of the City Council adjourned at 9:40 P.M.

John Murphy, Mayor

Alan Terry, City Clerk-Treasurer