



CITY COUNCIL

October 19, 2009

A regular meeting of the City of Petoskey City Council was held in the City Hall City Council Chambers at Petoskey, Michigan, on Monday, October 19, 2009. The meeting was called to order at 7:30 P.M.; then, after a recitation of the Pledge of Allegiance to the Flag of the United States of America, a roll call determined that the following were

Present: H. Ted Pall, Jr., M.D., Mayor
James Dittmar, City Councilmember
William Fraser, City Councilmember
Robert Johnson, City Councilmember
Ronald C. Marshall, Ph.D., City Councilmember

Absent: None

Also in attendance were City Manager Dan Ralley, City Clerk-Treasurer Alan Terry, and City Planner Amy Tweeten.

Resolution No. 18347
Conduct Public Hearing; Approve
Downtown Programs and Services

downtown-area programs and services for 2010; that, the City Council, by adoption of the resolution, determined that such programs and services should be financed by the levying of a single special assessment, designated the Board's territory as the proposed assessment district, approved a square-footage assessment formula, and scheduled an October 19 public hearing to receive comments concerning these recommended programs and services; that public-hearing notices had been mailed October 6; and that this proposed special assessment would provide \$55,400 in revenues, added to other income that had been anticipated for receipt next year for an estimated total of \$67,100.

As the first item of business, the City Manager reported that, on October 5, the City Council adopted a resolution at the request of the City's Downtown Management Board, that the City Council again arrange for financing of

The City Manager also reported that, after requesting that the City Council again levy special assessments on behalf of the Downtown Management Board, the Board on September 22, decided upon proposed expenditures for next year that would total \$67,100 and asked that they be included as part of the City Manager's recommendations for the City's proposed 2010 Annual Budget; that, for 2010, the Downtown Management Board proposed to sponsor or support 16 events for \$28,000 and continue with beautification activities that would include purchases of tree-well flowers and holiday decorations at \$11,000, cover administrative costs associated with needed materials and supplies, contracts for services including sidewalk-snow removal, personnel, equipment repairs, education, and insurance and bonds, for \$25,600, and economic-enhancement activities of business recruitment and retention for \$2,500.

The City Manager also reported that, if, after conducting the October 19 public hearing, the City Council wished to approve these recommended proposed downtown-area programs and services for financing through a special-assessment levy, the City Council then would be asked to adopt a proposed resolution that would approve the proposed programs and services for 2010 and their costs, establish the assessment district, and direct the City staff to prepare a special-assessment roll for presentation to the City Council on November 2; that a second public hearing then could be scheduled for November 16 to receive comments concerning proposed special assessments; and that revenues and expenditures associated with this program again would be included within the City's Downtown Development and Management Fund as part of the City's 2010 Annual Budget.

The City Manager further reported that the City Council had been provided with an October 8 letter from John Reusch, owner of 427-429 East Mitchell Street, concerning his request to suspend for one year the programs and services special assessment and the City Manager's October 13 response to Mr. Reusch; and that no other comments or correspondence had been received prior to this October 19 City Council meeting.

The City Manager also reported that Downtown Director Becky Goodman was present to answer inquiries concerning programs and services that would be provided by the Downtown Management Board.

Mayor Pall then opened the public hearing and heard comments from Skip Keys, 824 East Mitchell Street, who reported that he believed there to be more winter activity costs than summer activity costs since 2006 and asked about Downtown Management Board members discussions concerning funding for summer activities during a time when he believed there to be more visitors to the downtown area.

The Downtown Director reported that a new Winter Blues Festival event had been added two years ago to programs and services offered by the Downtown Management Board following a recommendation by the Downtown Management Board's marketing consultant; that she believed contracted labor for snow removal contributed to winter activity expenses; that she believed a concerted effort had been made by the Downtown Management Board to spread events throughout the year to include both "shoulder" seasons and "main" season; reported about the Downtown Management Board's Downtown Events committee, that consisted of nine downtown business owners, who routinely reviewed and made recommendations for downtown programs; and reviewed discussions of the Downtown Management Board concerning programs and services.

Mayor Pall then closed the public hearing and heard comments from City Councilmembers that included:

City Councilmember Marshall's reported concern in knowing whether retailers were in agreement with the programs and services and what measures were taken to determine such satisfaction (the Downtown Director reported that surveys of downtown business owners were conducted following each event; that she utilized a vast email list that included all downtown business owners; that surveys were distributed through the downtown newsletter; that she was constantly in touch with downtown business owners to determine their satisfaction with downtown events; and that she had been attempting to contact Mr. Reusch to discuss his comments concerning the programs and services; and Mayor Pall reported that, as a member of the Downtown Management Board, he had participated in much discussions at the Board's meetings concerning programs offered).

City Councilmember Dittmar asked what information was provided with notices concerning the public hearing process and invoices for the special assessment; that he had not received copies of such information, but asked if more detailed information should be provided to explain the assessment to property owners; and City Councilmember Johnson reported that he believed that with receipt of only three comments in the last two years concerning assessments, followed by those property owners' concerns being resolved by communication from the Downtown Director, that it was evident that downtown property owners were satisfied with downtown programs and services and the information that was being provided to them.

The Downtown Director reported that the Management Board had been made aware of comments received and resolution of those concerns; that she believed that the assessment procedure was "routine" in nature at this time for downtown property owners and that she, nor the Management Board, composed notices mailed to property owners, but that she had received no complaints concerning information provided to them.

Mayor Pall then requested that information provided to downtown property owners concerning this assessment process, also be provided to the City Council for its information.

City Councilmember Johnson then moved that, seconded by City Councilmember Fraser, the following resolution be approved:

WHEREAS, at its meeting of October 5, 2009, the City Council reviewed a report by the City Manager dated September 25, 2009, as required of City Code provisions, that listed proposed programs and services to be provided to property owners and tenants within the Downtown Management Board's territory during 2010 and a proposed roll of special assessments to be spread against properties within the Management Board's district as a means of financing such proposed programs and services; and

WHEREAS, following its review of that September 25 report, the City Council scheduled a public hearing for 7:30 P.M., Monday, October 19, 2009, as required of City Code provisions, to receive comments concerning proposed Downtown Management Board programs and services; and

WHEREAS, the City Council now has conducted this October 19 public hearing to receive comments concerning proposed programs and services as recommended by the Downtown Management Board:

NOW, THEREFORE, BE IT RESOLVED that the City Council does and hereby approves proposed programs and services as recommended by the Downtown Management Board and costs as estimated by the Management Board to be assessed eligible property owners within the boundaries of the proposed assessment district that are coterminous to those of the Management Board's territory; and

BE IT FURTHER RESOLVED that the City staff be and is hereby directed to prepare a special-assessment roll in accordance with the City Council's determination and to provide such a roll for the City Council's review at its regular meeting of November 2, 2009.

Said resolution was adopted by the following vote:

AYES: Dittmar, Fraser, Johnson, Marshall, Pall (5)

NAYS: None (0)

Resolution No. 18348
Approve Consent Agenda Items

Following the introduction of the consent agenda for the City Council meeting of October 19, 2009, City Councilmember Marshall moved that, seconded by City Councilmember

Fraser, adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the October 5, 2009, regular meeting of the City Council, be and are hereby approved as submitted;

BE IT FURTHER RESOLVED that the City Council does and hereby acknowledges receipt of a report from the City Manager concerning all checks that had been issued since October 5 for contract and vendor claims at \$730,972.28, intergovernmental claims at \$138,018.29, and the October 15 payroll at \$160,933.57, for a total of \$1,029,924.14;

BE IT FURTHER RESOLVED that the City Council does and hereby authorizes the purchase of a multi-purpose utility vehicle from Classic Farm Equipment, Williamsburg, for \$43,622.20; and

BE IT FURTHER RESOVLED that the City Council does and hereby authorizes the purchase of an administrative vehicle from Gorno Ford, Woodhaven, for costs not to exceed \$29,000, through the Mi-Deal State purchasing contract.

Mayor Pall then asked for public comment and heard Mr. Keyes report that he believed that local providers should be sought in the bidding process (the City Manager responded that with the bobcat purchase, the lowest bidder of three had been recommended for approval and that, in the case of the administrative car, local dealerships had opportunity to place bids or match purchase prices through the State of Michigan purchasing program; and the City Clerk-Treasurer responded that local dealerships had been contacted in the past to match State of Michigan prices, but had responded that they could not do so).

City Councilmember Fraser reported that he believed that the City Council should preference local bidders due to the economic climate, but that he understood purchasing through the State program. Mayor Pall concurred with City Councilmember Fraser.

Said resolution was adopted by the following vote:

AYES: Dittmar, Fraser, Johnson, Marshall, Pall (5)

NAYS: None (0)

Resolution No. 18349
Approve Traffic Order 3-133
Greenwood Road-West Sheridan St.

The City Manager next reported that, in conjunction with recent reconstruction work on Greenwood Road between West Sheridan Street and the south City Limits of Greenwood Road, stop signs temporarily had been installed as traffic controls for the eastbound and westbound West Sheridan Street traffic at Greenwood Road; and that, following the completion of the Greenwood Road project, the City staff left the temporary West Sheridan Street stop signs in place and determined that these newly-required stops greatly improved the safety of the intersection.

The City Manager also reported that these proposed Greenwood Road-West Sheridan Street controls functioned in a similar manner as other all-way-stop intersections in the City by slowing traffic and improving safety in a congested intersection; that the Greenwood Road-West Sheridan Street intersection was a limited-sight intersection that made pulling out or crossing West Sheridan Street difficult and dangerous; and that, since the construction of the Meadow Way Apartment complex and 2007 opening of the Odawa Casino on Greenwood Road, traffic in this area had greatly increased, raising concerns about the safety of this intersection.

The City Manager further reported that with the completion of the Greenwood Road-West Sheridan Street reconstruction project, the Department of Public Safety and other City staff had observed the intersection and concurred that an all-way-stop designation was the best solution for making this intersection safer for public use; and that the City Council was being asked to adopt a proposed resolution that would authorize a traffic order to confirm the administrative decision to designate Greenwood Road-West Sheridan Street as an all-way-stop intersection, as established by temporary Traffic Order 3-133, and direct that stop signs be installed permanently.

City Councilmember Johnson reported that he had received comments from Third Ward constituents who were in favor of this all-way-stop intersection and that he, too, favored this all-way-stop intersection. Mayor Pall and City Councilmember Fraser concurred with City Councilmember Johnson.

City Councilmember Johnson then moved that, seconded by City Councilmember Fraser, the following resolution be adopted:

WHEREAS, the City's Department of Public Safety staff, working with the City's traffic engineering consultant, has reviewed existing temporary traffic control devices at the intersection of Greenwood Road and West Sheridan Street; and

WHEREAS, that investigation by the Department of Public Safety staff and consultant has determined that there would be justification to permanently upgrade the Greenwood Road-West Sheridan Street intersection from requirements for stopping only northbound and southbound Greenwood Road traffic at West Sheridan Street to an all-way-stop intersection; and

WHEREAS, the Director of Public Safety has requested that the City Manager recommend that the City Council confirm a traffic order that would call for the designation of eastbound and westbound West Sheridan Street traffic to stop at West Sheridan Street's intersection with Greenwood Road:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby confirms Traffic Order 3-133 that would redesignate the Greenwood Road-West Sheridan Street intersection as an all-way-stop intersection; and

BE IT FURTHER RESOLVED that the City Manager be and is hereby directed to arrange for necessary signs to be permanently installed at this intersection.

Said resolution was adopted by the following vote:

AYES: Dittmar, Fraser, Johnson, Marshall, Pall (5)

NAYS: None (0)

Resolution No. 18350
Defer Planning Re-creation Ordinance

The City Planner then reported that the Michigan Planning Enabling Act 33 of the Public Acts of 2008 became effective September 1, 2008; that the Act combined what had previously been separate planning acts for counties, cities, villages and townships in order to provide more consistency on planning matters across all jurisdictions; and that, in general, the law spelled out the authority and responsibilities of planning commissions and required existing commissions to be re-established under the new law.

The City Planner also reported that the current Planning Commission had been established by Ordinance 393, adopted by the City Council in 1967; that the current ordinance spoke generally to the creation of the Planning Commission, a membership of nine members, and their powers and duties; and that the proposed ordinance recreating the Planning Commission provided more detail as to membership qualifications and make-up, required training, removal from office, meeting requirements, and powers and duties.

The City Planner also reported that, in August, the City Council received an ordinance for re-creation of the City of Petoskey Planning Commission as required by Act 33 of the Michigan Public Acts of 2008, however, the Commission had some concerns with the language and wanted to make some additional changes, so the ordinance was withdrawn; that, after further review and discussion with the City Attorney, a proposed ordinance was now being recommended by the Planning Commission for approval by the City Council; and that, in addition to grammatical corrections, the following changes had been made:

- Section 2A Membership – The previous 2.A.2 stated that members were not to be candidates for elected office has been removed and the reference to training requirements in the new 2.A.2 corrected.
- Section 2C Membership – the exact wording of the Act has been included, and additional major interests of the City have been added so the section now reads:

The membership shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of the City of Petoskey, in accordance with the major interests as they exist in the City, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, commerce, healthcare, building trades, hospitality, retail, finance, insurance, real estate, cultural, historic, and recreational resources.

- Section 6C Capital Improvements Program – the wording “with the assistance of staff” has been added to the first sentence.

The City Planner further reported that City Charter provisions required that an ordinance be presented at the first meeting and that action be deferred until a second meeting; and that a copy of the current ordinance and the proposed ordinance had been provided to the City Council, which could be adopted at its next scheduled meeting.

The City Planner then reviewed various aspects of the proposed ordinance and noted that the ordinance included information that was not necessarily required by Public Act 33, but that the Planning Commission believed should be included.

Mayor Pall then asked concerning appointment of new members to the Planning Commission in regard to meeting the training requirements (the City Planner responded that she did not believe this would pose a problem); that the Public Act permitted one non-qualified elector to serve as a member on the Planning Commission and asked the City Planner to review discussion by the Planning Commission concerning this matter (the City Planner responded that the Commission believed it would best serve the interests of the Commission to have qualified electors serve, as had been past history, but that the Commission also recognized that a non-qualified elector could have financial holdings within the City of Petoskey; and that the Commission ultimately decided to have all members be qualified electors of the City); asked if the inclusion of one non-qualified elector should remain as an option in the ordinance language; reported that the City Attorney was unable to attend the October 19 City Council meeting due to illness; that he had discussed the definitions of a qualified elector versus a registered voter, which the City Attorney had explained differed in definition; and that he wondered if the definition of a qualified elector should be included in the ordinance, as well as other definitions.

City Councilmember Johnson reported that he believed that the use of the word "The membership shall be...." in item 2(c) was quite restrictive and asked if a less restrictive word should be considered (Mayor Pall responded that this same concern had generated discussion at Planning Commission and that the City Attorney had advised that the proposed ordinance language should reflect the Public Act's language, which used the word shall and that in making appointments to the Commission, the Mayor should consider the factors listed).

City Councilmember Dittmar reported that he was pleased with the proposed ordinance; that he believed that it reflected the Public Act; and that he believed that the Mayor's comments concerning the matter of having one non-qualified elector on the membership should be further discussed and asked the City Planner if the Planning Commission had a strong opinion concerning this (the City Planner responded that she did not believe that she could state there was strong opinion against a non-qualified elector member, but that she believed the Planning Commission supported membership made up of qualified electors).

Following no additional comments or public comments, City Councilmember Marshall moved that the proposed ordinance be adopted as recommended from the Planning Commission. No second was heard and the motion was withdrawn.

Mayor Pall reported that he was asking the City Council if it had any revisions it would like to see made with the proposed ordinance as presented.

City Councilmember Johnson then moved that, seconded by City Councilmember Fraser, the following resolution be approved:

BE IT RESOLVED that the City Council does and hereby defers action concerning this proposed ordinance that would recreate the Planning Commission until the November 2, 2009, City Council meeting, which would serve as a second reading of this proposed ordinance.

Said motion was adopted by the following vote:

AYES: Dittmar, Fraser, Johnson, Marshall, Pall (5)

NAYS: None (0)

Resolution No. 18351
Approve Appointments

Mayor Pall reported that he was recommending the appointment of Nancy Dwan, 1004 Waukazoo Avenue, to the Petoskey District Library Board for a term expiring January 31, 2011, to fill a vacancy created by the resignation of City Councilmember Dittmar; and the appointment of Liz Gowans Ahrens, Executive Director, Crooked Tree Arts Center, 461 East Mitchell Street, to the Downtown Development Authority Board and Downtown Management Board for term expiring December 1, 2010, to fill a vacancy by the resignation of William Takalo; and that City Councilmembers had received both candidates' applications to serve.

City Councilmember Fraser reported that he believed the Mayor's recommended appointments represented two strong candidates and supported their appointments.

City Councilmember Fraser then moved, seconded by City Councilmember Dittmar, the following resolution be approved:

BE IT RESOLVED that the City of Petoskey City Council does and hereby confirms the Mayor's appointment of Nancy Dwan, 1004 Waukazoo Avenue, to the Petoskey District Library Board for a term expiring January 31, 2011; and

BE IT FURTHER RESOLVED that the City of Petoskey City Council does and hereby confirms the Mayor's appointment of Liz Gowans Ahrens, Executive Director, Crooked Tree Arts Center, 461 East Mitchell Street, to serve on the Downtown Development Authority Board and Downtown Management Board, for a term expiring December 1, 2010.

Said resolution was adopted by the following vote:

AYES: Dittmar, Fraser, Johnson, Marshall, Pall (5)

NAYS: None (0)

Hear Comments

Carla Buckmaster, Resort Township, asked where the City had placed monies that had been allotted for the delayed portion of the East Mitchell Street reconstruction project in the area of the proposed Petoskey Pointe development area (Mayor Pall responded that the City had received Michigan Department of Transportation funds for the East Mitchell Street reconstruction project; that reconstruction of East Mitchell Street adjacent to the proposed Petoskey Pointe development had been deferred due to the development's proposed construction possibly destroying any improvements that would have been made to this area of East Mitchell Street; and the City Clerk-Treasurer reported that the received State funding had been for reconstruction of East Mitchell Street from Division Street to Kalamazoo Avenue and from Kalamazoo Avenue to the City Limits; and that State funding had not included the downtown portion of the East Mitchell Street reconstruction project; that no monies had been set aside for this portion of the project; and if this project portion were completed in the future, it would most likely be funded through the City's Right-of-Way Improvement Fund that received revenues from a right-of-way improvements tax millage); and asked concerning foreclosure information that had been printed in the Petoskey NEWS-REVIEW concerning Petoskey Pointe (Mayor Pall responded that the legal notice that Ms. Buckmaster referred to concerned a condominium development at 200 West Lake Street and was not the proposed Petoskey Pointe project by Lake Street Petoskey Associates, L.L.C., Farmington Hills).

Alan Kalchik, 1011 Curtis Avenue, asked concerning a recent NEWS-REVIEW letter from City Councilmember Marshall that addressed planned review of a proposed rental-inspection ordinance and asked if other City Councilmembers were in favor of such a proposed ordinance (Mayor Pall responded that Mr. Kalchik should talk to each City Councilmember individually as this matter had not yet come before the City Council; that he was in favor of such a discussion because it was listed within the City's master plan, but that City Councilmembers had received nothing specific to discuss at this time; and asked the City Planner for an update on this proposed ordinance; and the City Planner responded that the Planning Commission had not addressed this issue; and that she believed this issue would be brought before the City Council following the City staff's preparation of the proposed ordinance, and would not be brought before the Planning Commission); that he was concerned that this matter would be decided by a small group of persons that would affect 50% of property owners in the City without serious discussion from the public; and questioned why such an ordinance would not include inspection of private individual homes as well (Mayor Pall assured Mr. Kalchik that the public would be provided sufficient opportunities to provide comments concerning this proposed ordinance when it came before the City Council; and that he recognized that this was a sensitive issue).

City Councilmember Marshall commented concerning the possibility of the rubbish-collection pickup program being offered in both the Spring and Fall seasons; and reported about a Resort Township resolution requesting that the Michigan Department of Transportation conduct a traffic-study of the US-31 corridor from Petoskey City Limits to the Bay Harbor development.

City Councilmember Johnson asked that the City Manager relay his compliments to the City staff for their service they provide to the City's operations, including recent work in preparing for the winter season.

Mayor Pall reported that he believed additional bike racks were needed in the downtown area and hoped that the City would continue to plan to make these available.

There being no further business to come before the City Council, the meeting was adjourned at 8:40 P.M.

H. Ted Pall, Jr., M.D., Mayor

Alan Terry, City Clerk-Treasurer