

CITY COUNCIL

April 6, 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, April 6, 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 was Acting City Manager Alan Terry and Administrative Assistant Dianne DeWitt.

Resolution No. 18289
Approve Consent Agenda Items

Following the introduction of the consent agenda for the City Council meeting of April 6, 2009, City Councilmember Dittmar moved that, seconded by City Councilmember

Johnson, adoption of the following resolution that would confirm that the minutes of the regular meeting of March 16, 2009, be approved as had been submitted and revised by City Councilmember Dittmar, and that would confirm the City Council's acknowledgement of a report by the Acting City Manager concerning all checks that had been issued since March 16, 2009, for contract and vendor claims at \$1,468,499.48; intergovernmental claims at \$106,947.82, and the March 19 and April 2 payrolls at \$306,252.18:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the March 16, 2009, regular-session meeting of the City Council, be and are hereby approved as submitted; and

BE IT FURTHER RESOLVED that receipt by the City Council of the report concerning all checks that had been issued since March 16, 2009, totaling \$1,881,699.48, be and is hereby acknowledged.

Said resolution was adopted by the following vote:

AYES: Dittmar, Fraser, Johnson, Marshall, Pall (5)
NAYS: None (0)

The Acting City Manager reported that, at its

Resolution No. 18290
Defer Consideration of Industrial
Development District, Tax Abatements

March 16, 2009, meeting, the City Council held a public hearing regarding proposed tax abatement requests by Kilwin's Chocolates Franchise, Inc., Petoskey, for anticipated new real and personal-property investments at the former Oleson's Plaza site, 1050 Bay View Avenue; and that following the March 16 public hearing, the City Council directed the Acting City Manager to meet with representatives of Kilwin's to discuss concerns regarding the retail portion of the business.

The Acting City Manager also reported that he had met with Donald McCarty and Stephen Hooley of Kilwin's Chocolates Franchise, Inc. regarding concerns discussed at the March 16 City Council meeting; and that Mr. McCarty again expressed his desire to locate Kilwin's manufacturing operations within the City of Petoskey, however, Mr. McCarty was reluctant to place any restrictions on the retail portion of the business and requested that the City Council act on the requests as had been proposed.

The Acting City Manager also reported that the City Council was being asked to consider proposed resolutions as had been prepared for its March 16 meeting, the first which would establish the Industrial Development District (IDD) with separate resolutions for each of the two tax abatement requests; and that Mr. McCarty and Mr. Hooley were present at this April 6 meeting to address the City Council, as were Jan Kellogg, Northern Lakes Economic Alliance, Boyne City, and Lydia Murray, Business Development Manager, Michigan Economic Development Corporation, Lansing.

Mr. McCarty then reviewed his requests to the City Council with the assistance of Ms. Kellogg and Ms. Murray.

Following discussion by the City Council that included support of tax abatements for the industrial operation at the site but concern that approval of these abatements would create an unfair retail advantage for Kilwin's, City Councilmember Fraser moved that, seconded by City Councilmember Johnson, the following resolution be approved:

BE IT RESOLVED that consideration of establishing an Industrial Development District at the former Oleson's Plaza site, 1050 Bay View Avenue, and for certain tax abatements on investments in new real and personal property anticipated by Kilwin's Chocolates Franchise, Inc., Petoskey, at the former Oleson's Plaza site, be deferred until the April 20, 2009, City Council meeting; and

BE IT FURTHER RESOLVED that the Acting City Manager is directed to communicate the following proposed provisions to Kilwin's representatives for consideration:

1. Factory retail hours limited to standard business hours of 9:00 A.M. to 5:00 P.M., Monday through Friday;
2. Retail limited to Kilwin's products only; and
3. Claw-back of the entire abatement, with interest, if the conditions are not continued during the entire abatement period.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Hear Petoskey Point Update

The Acting City Manager reported that he had received no correspondence from Lake Street Petoskey Associates, L.L.C., Farmington Hills, concerning the Petoskey Pointe redevelopment project status but had referred inquiries from a lender and the developer to the City Attorney.

Mayor Pall reported that the City had filed a February 17, 2009, Notice of Default with Lake Street Petoskey Associates and National City Bank, Lansing, and still awaited the completion of a 60-day period before proceeding with this matter.

Resolution No. 18291
Approve Fireworks Display

The Acting City Manager next reported that an application for the public display of fireworks beginning at 10:00 P.M., Saturday, July 4, 2009, at Bayfront Park, had been received by the City staff from Melrose Pyrotechnics, Inc., Kingsbury, Indiana, on behalf of the Stars & Stripes Committee, Petoskey, as part of the annual community Independence Day celebration; that State law required that local governing boards approve applications for such public fireworks displays within their jurisdictions; and that, as in previous years, fireworks again would be launched from an isolated site along the Lake Michigan shoreline at Bayfront Park's East Bowl Area.

The Acting City Manager also reported that State and United States Coast Guard requirements had been satisfied, and all other required documentation had been reviewed by the City's Departments of Parks and Recreation and Public Safety staffs and had been determined to be in order; that Melrose Pyrotechnics had successfully completed previous public fireworks displays at Bayfront Park; that spectator-safety zones again would be established based upon National Fire Protection Association standards; and that the City Council was being asked to approve a proposed resolution that would confirm approval of the permit and that would direct that the Acting City Manager enforce its conditions.

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

WHEREAS, the City staff has reviewed an application as submitted by Melrose Pyrotechnics, Inc., Kingsbury, Indiana, on behalf of the Stars & Stripes Committee, Petoskey, for a permit that would allow for a public display of fireworks in conjunction with the planned annual Independence Day program on Saturday, July 4, 2009, at Bayfront Park; and

WHEREAS, the Acting City Manager has reported to the City Council that the City staff's review of said application materials indicate that all requirements have been satisfied:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby approves this application for a permit as submitted by Melrose Pyrotechnics, Inc., Kingsbury, Indiana, and does and hereby directs the Acting City

Manager to enforce said permit for said display and to administer and enforce conditions of said permit.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18292
Authorize Tree Planting Contract

The Acting City Manager then reported that the City's 2009 Annual Budget again included \$50,000 for planting trees within street greenlawns as replacements for trees that had been removed, as fillers to close gaps between trees, or to place trees where they previously had not existed; and that such plantings were part of a forestry program that also included trimming and removals.

The Acting City Manager also reported that specifications had been prepared that called for various quantities of trees within 12 species and/or varieties, all at trunk sizes varying from 2½ to 3 inches in diameter for a total of 120 trees, with most to be planted in the Spring and the remainder to be planted in the Fall; and that unit prices could be used to plant additional trees up to the \$50,000 budget limit.

The Acting City Manager also reported that Departments of Parks and Recreation and Public Works staffs prepared specifications, based upon various national standards, which again included one-year-long maintenance requirements and one-year guarantees; that contractors had been required to provide hourly prices for equipment and labor, and unit prices for seed, mulch, sod, and topsoil placement, should these services be needed to repair greenlawns or park turf; that packets had been made available March 11; that eleven firms had been invited to bid; and that four bids had been received March 31:

<u>Bidder</u>	<u>Amount</u>
Drost Landscape and Design Petoskey	\$ 54,687.92
Jim Hoffman's Sons, Inc. Petoskey	\$ 30,980.00
Louis A. Hoffman Nursery, Inc. Harbor Springs	\$ 28,815.00
Mid Michigan Turf Owosso	\$ 32,065.00

The Acting City Manager also reported that Louis A. Hoffman Nursery, Inc., Harbor Springs, which had been a successful bidder in the past, reported that all species and trunk-diameter sizes could be provided as specified for \$28,815; that, in 2008, the bid for 185 trees averaged \$312 while this year's bid for 120 trees averaged \$240 for a reduction of \$72

per tree; and that the City Council was being asked to approve the City staff contracting with this firm, with the ability to extend unit prices.

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

BE IT RESOLVED that the City staff be and is hereby authorized to contract with Louis A. Hoffman Nursery, Inc., Harbor Springs, for planting of trees at various locations throughout the City for \$28,815, with unit-price guarantees that would permit planting of additional trees during 2009.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18293
Authorize Non-Motorized Trail
Pavement Repairs

The Acting City Manager next reported that the City's 2009 Annual Budget included monies to remove and repave portions of the Little Traverse Wheelway non-motorized trail located in the Bay Harbor trail segment; and that

existing asphalt pavement in portions of this trail segment were failing and required replacement to keep the trail functioning for all user groups.

The Acting City Manager also reported that, at its meeting of December 29, 2008, the City Council accepted unit-cost bids from four pre-qualified asphalt contractors, based upon performance specifications that included 63 various line items for asphalt paving applications; that, based upon these line-item prices, contractors were ranked based upon an overall price; and that the City Council had authorized the City staff to contract with these contractors based upon their ranking and availability.

The Acting City Manager also reported that H & D Division of Reith-Riley Construction Company, Bay Shore, received a number one ranking and was available to complete this project; and that the City Council was being asked to authorize contracting with H & D Division of Reith-Riley Construction Company for the removal and repaving of portions of the Bay Harbor segment of the Little Traverse Wheelway non-motorized trail for a cost not to exceed \$50,000 based upon approved unit costs that had been provided.

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

BE IT RESOLVED that the City staff be and is hereby authorized to contract with H & D Division of Rieth-Riley Construction Company, Bay Shore, for removal and repaving of portions of the Bay Harbor segment of the Little Traverse Wheelway non-motorized trail at unit-prices total costs not to exceed \$50,000.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Hear Comments

City Councilmembers then discussed the following matters during the miscellaneous section of the April 6, 2009, City Council meeting agenda: The Mercer Group, Inc., Estes, Colorado, timeline for recruitment of the City Manager position and asked the Acting City Manager to confirm with the City Attorney concerning the confidentiality requirement for candidates prior to a final interview list; discussed audio display and archiving of City Council meetings and meeting minutes; discussed City Charter language interpretation on City Councilmember dealings with City staff members and concluded that the Acting City Manager should inform City staff that City Councilmembers were permitted to make inquiries of the City staff and that the City staff had the option to refer such inquiry to the Acting City Manager; future discussion of the City's website make-up; reviewed upcoming projects at the U.S. Army Corps of Engineers Breakwater and at Bayfront Park Festival Place; heard a report that well acquisition from the Bear Creek Township Meijer, Inc. property was ongoing; discussed the placement of agenda meeting material information on the City's website; and concurred that the City Council's consent agenda include any routine matter that could be extracted for individual discussion if deemed necessary.

There being no further business to come before the City Council, the meeting was adjourned at 8:55 P.M.

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

Alan Terry, City Clerk-Treasurer