

## CITY COUNCIL

May 4, 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, May 4, 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, City Planner Amy Tweeten, Director of Public Works Michael Robbins, and Administrative Assistant Dianne DeWitt.

Resolution No. 18300  
Approve Consent Agenda Items

Following the introduction of the consent agenda for the City Council meeting of May 5, 2009, City Councilmember Dittmar moved that, seconded by City Councilmember

Fraser, adoption of the following resolution that would confirm that the minutes of the regular meeting of April 20, 2009, be approved as had been submitted, 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 April 20, 2009, for contract and vendor claims at \$439,189.17; intergovernmental claims at \$0, and the April 30 payroll at \$151,799.85:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the April 20, 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 April 20, 2009, totaling \$590,989.02, be and is hereby acknowledged.

Said resolution was adopted by the following vote:

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

Resolution No. 18301  
Approve Energy Services Group Participa-  
tion: Energy Service Agreement

The Acting City Manager reported that, after enabling legislation had been enacted in 1976 that allowed consortiums known as joint-action agencies to be established by municipal electric utilities as a means of acquiring power at wholesale-price rates, the Michigan Public Power Agency (MPPA) had been established in 1978; that, in 2005, participants in the Agency's Power Pool program decided to ask governing boards of the eight utilities that were members of the MPPA Power Pool project to decide if they wished to discontinue their membership, which would, in five years (December 31, 2010) at the end of the current power-supply contract dissolve the existing Power Pool project and provide opportunities for current Pool members and others to form a new project; that the membership had voted to discontinue their membership, including the City of Petoskey; and that discussions with MPPA members that were not participants in the Power Pool project and non-MPPA municipal electric utilities in Michigan had indicated an interest in establishing a project to address their power supply needs.

The Acting City Manager also reported that Michigan Public Power Agency membership totaled 16 and included Bay City Electric Light and Power, City of Charlevoix, Chelsea Light and Power, City of Eaton Rapids, Grand Haven Board of Light and Power, City of Harbor Springs, Hart Hydro-Electric, Holland Board of Public Works, Lansing Board of Light and Power, Lowell Light and Power, City of Petoskey, Portland Light and Power Board, City of St. Louis, Traverse City Light and Power, Wyandotte Municipal Services, and Zeeland Board of Public Works; that membership in Michigan's other joint-action agency, the Michigan South Central Power Agency, included the Villages of Clinton and Union City, Coldwater and Hillsdale Boards of Public Utilities, and City of Marshall; and that eight MPPA members - Charlevoix, Grand Haven, Harbor Springs, Lansing, Lowell, Petoskey, Traverse City, and Zeeland - participated in the Power Pool project.

The Acting City Manager also reported that included within the MPPA's pooling program were several projects, all of which the City of Petoskey was a participant; that through the pooling program, and in the name of the Michigan Public Power Agency, the City held entitlements of 1.55 megawatts of base-load-production capacity in the Consumers Energy Company's Campbell #3 Plant at West Olive, as well as 1.55 megawatts as corresponding transmission-grid capacity, and held 4.33 megawatts of capacity in the Belle River base-load plant near St. Claire that was jointly owned by the Agency and Detroit Edison Company; that this entitlement also included 4.33 megawatts of transmission-grid capacity; that the City also owned 4.72 megawatts of a peak-load plant near Kalkaska, as well as a similar grid share; and that other supply studies were underway.

The Acting City Manager also reported that, therefore, through its various entitlements as part of the Michigan Public Power Agency program, the City now owned 10.60 megawatts of base- and peak-load generating capacity, but, with a firm-capacity demand of approximately 24 megawatts, the City was faced with a 14-megawatt deficit; that along with the Cities of Charlevoix and Harbor Springs, Petoskey was considered by the MPPA pooling arrangement to be a deficient-production participant; that past attempts undertaken to establish additional base-load facilities and accompanying increases in transmission-grid allotments had not been successful; and that recent and future changes in the structure of the electric-utility industry, as well as in administration of regional transmission-grid systems, particularly with the establishment of the Midwest Independent System Operator (MISO) as administrator of the Midwest Market Initiative program, had made new approaches to acquiring wholesale power a necessity.

The Acting City Manager also reported that the Michigan Public Power Agency, under direction of its Board, created Service Committees to help address issues in an ever changing electric utility industry; that Service Committees had been created to search for potential resources and power supply arrangements, perform limited analyses on new resources, or provide specific professional services to members of the Service Committee; that one such committee the City of Petoskey had been participating in was the Power Supply Service Committee; that the intent of the committee was to develop arrangements that could be used to provide power supply, delivery services, MISO metering and scheduling services; that MPPA staff through the efforts of the Power Supply Service Committee had developed an arrangement for future power supply in the form of an Energy Services Project; and that this project allowed its members to use MPPA as a mechanism for providing power supply needs.

The Acting City Manager also reported that the City Council had been provided a proposed Energy Services Agreement and proposed resolution that would approve joining the Energy Services Project and entering into the Energy Services Agreement with MPPA and that would authorize the Acting City Manager to sign said agreement; that the agreement would provide for the City's participation in MPPA's efforts to obtain long-term purchase power agreements with electric providers that would replace the current power pool agreement; that, once MPPA had obtained an agreement for all of the members participating in the Energy Services Project, the City would have the option of either becoming a party to the purchased power agreement or opting out of the agreement; that, if the City Council were to opt out of the proposed purchased power agreement, it would then be up to the City to seek out its own wholesale power agreement.

The Director of Public Works responded to questions from the City Council and following discussion and the receipt of public comment, City Councilmember Dittmar moved that, seconded by City Councilmember Johnson, the following resolution be approved:

WHEREAS, the City of Petoskey is a member of the Michigan Public Power Agency (MPPA); and

WHEREAS, the Petoskey City Council approved at its meeting of December 19, 2005 a resolution providing a five year notice to MPPA that the City is terminating its partnership in the Power Pool Project, such termination effective midnight on December 31, 2010 and;

WHEREAS, the City desires to enter into a new agreement to provide for the City's wholesale purchase power requirements and;

WHEREAS, MPPA was organized under P.A. Act 448 to provide a means for those Michigan municipalities which are members of MPPA to secure electric power and energy for their present and future needs;

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council agrees to join the Energy Services Project and enter into the Energy Services Agreement with MPPA and hereby, authorizes the Acting City Manager to sign said agreement.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Hear Reports on Renewable Energy Plan  
and Energy Optimization Plan

The Acting City Manager then reported that on October 6, 2008, Governor Granholm signed into law the "Clean, Renewable, and Efficient Energy Act," 2008 Public Act 295, MCL 460.1001 (Public Act 295); that this act required utilities to provide at least 10% of the energy furnished to retail customers from renewable energy sources by 2015; that Public Act 295 also required electric providers, including those municipalities in Michigan with their own utility systems, to file proposed Renewable Energy Plans (REP) with the Michigan Public Service Commission (MPSC) for its review and approval; and that on December 4, 2008, the MPSC issued a Temporary Order that established procedures for energy providers to follow in the preparation, submission, and processing of REPs.

The Acting City Manager also reported that the Michigan Public Power Agency (MPPA) had been working diligently with its members in preparing the required Renewable Energy Plan with the intention of filing a joint plan on behalf of its membership; that the Director of Public Works and Public Works Supervisor-Electric had been working closely the last several months with MPPA staff in preparing the City's portion of the plan; that MPPA had submitted a Joint Filing of the Renewable Energy Plan with the Michigan Public Service Commission for its membership before the April 3, 2009, deadline; and that a copy of the plan had been provided to the City Council.

The Acting City Manager also reported that the City Council took action December 15, 2008, to enter into an agreement through MPPA to participate in the Agency's renewable-energy project with Granger Electric of Michigan LLC, a Michigan based landfill company, who would provide renewable energy from its various landfill sites throughout the State; that the renewable energy would be in the form of landfill gas as fuel for electric generation; that this energy production was expected to provide enough electricity to meet and eventually exceed the requirements of Public Act 295; that costs for purchasing this energy had been estimated at 7.5 cents per kilowatt hour with current purchases of electricity through more conventional generation closer to 4.7 cents per kilowatt hour; and that the renewable energy cost would be merely blended into the City's overall purchased power costs that currently was from four sources.

The Acting City Manager also reported that the Plan as submitted to the MPSC by MPPA would proceed through its review and approval process; that part of MPSC's process would be to receive comments from the public regarding the plan; that the City would publish notices in the Petoskey NEWS-REVIEW informing the public of the plan and the availability of copies at either City Hall or the City's website; that written comments must be submitted to the City Manager which would be forwarded to the MPSC; that comments must be received no later than May 26, 2009; and that, upon approval of the plan by the MPSC, the plan would be returned to the City Council for its approval.

Energy Optimization Plan Report

The Acting City Manager further reported that on October 6, 2008, Governor Granholm signed into law the "Clean, Renewable, and Efficient Energy Act," 2008 P.A. 295 MCL 460.1001 (P.A. 295); that the Act required each electric energy provider in Michigan to implement an Energy Optimization Plan (EOP) designed to reduce electric energy consumption; and that the State's goal of an energy optimization plan was to save energy and thus reduce the need for additional energy thereby delaying the need for additional electric generation facilities.

The Acting City Manager also reported that Energy Optimization Plans would, among other things, propose a set of energy optimization programs that included offerings for each customer class, including low-income residential; specify necessary funding levels; describe how energy optimization program costs would be recovered; and insure that charges collected from a particular customer rate class were spent on energy optimization programs for that rate class.

The Acting City Manager also reported that the Michigan Public Power Agency (MPPA) along with staff from the Lansing Board of Water and Light (LBWL) and their consultant Wisconsin Energy Conservation Consultants (WECC) worked with MPPA members in developing an energy optimization plan with the intent of having MPPA jointly file the plan with the Michigan Public Service Commission (MPSC); that the design of the program was modeled after those prepared for the LBWL, Detroit Edison, and Consumers Energy, who were required to have plans submitted prior to smaller utilities; and that MPPA submitted a Joint Filing of the Energy Optimization Plan with the MPSC for the membership, prior to the April 3, 2009 deadline, which had been provided to the City Council.

The Acting City Manager also reported that the Act provided a method for determining the amount of funding that must be spent on energy efficiency programs by the utility within each rate class, which took into account the amount of actual past and projected future electric sales; that there was also a specified amount that must be allocated to the low-income residential customer which also was included within the residential customer rate class; and that rate Classes included residential-single and multi-family, commercial-small & medium, and large commercial/industrial (primary & secondary metering) users.

The Acting City Manager also reported that programs offered in the plan had been obtained from those designed for larger utilities and had met the approval of the MPSC; that the programs were designed individually for the various rate classes which had differing needs; that the computed funding level for each rate class of customer was applied to the programs being offered for that class; that there was also a certain percentage of funding applied to overall customer education and an allocation for administration costs; that the programs would be performed by an Implementation Contractor for the utilities provided, again, through MPPA; and that the success of the programs must also be reviewed by an Evaluation Contractor.

The Acting City Manager also reported that the Plan as submitted to the MPSC by MPPA would proceed through its review and approval process; that part of the MPSC's process was to receive comments from the public regarding the plan; that the City would publish notices in the Petoskey NEWS-REVIEW informing the public of the plan and the availability of copies at either City Hall or on the City's website; that written comments must be submitted to the City Manager which would be forwarded to the MPSC; that comments must be received no later than May 26, 2009; and that, upon approval of the plan by the MPSC, the plan would be returned to the City Council for its approval.

Mayor Pall then reported that the Renewable Energy Plan and Energy Optimization Plan reports had been placed on the May 4, 2009, City Council meeting agenda as an informational item for the City Council in advance of receiving these plans for review following their approval by the MPSC. The Acting City Manager and Director of Public Works then responded to questions by the City Council and from those persons who were in attendance at this May 4 meeting.

Hear Water Sampling Report

Mayor Pall then reported that he had requested that the Acting City Manager prepare information for the City Council concerning the City's water sampling procedures; that the Acting City Manager had enclosed such a report in the City Council's May 4, 2009, meeting-agenda materials; that the report had showed that water samples were taken more often than were required from the City's wells and its water-distribution system; and that all required testing was being performed on a regular basis.

The Acting City Manager and Director of Public Works then responded to questions from the City Council concerning water sampling by the City; and the City Council heard comments and received information from David Clink, Resort Township, concerning the City's acquisition of wells located within the Bay Harbor development (Mayor Pall responded to Mr. Clink that he had contacted appropriate officials concerning Mr. Clink's information; that these officials had informed Mayor Pall that such information had contained allegations that had not been found to be findings of fact; that such information had been forwarded to the Attorney General who had ruled that no further investigation was warranted; and that the City Council accepted the Attorney General's ruling on this matter as final).

Resolution No. 18302  
Add Amending Ordinance to  
May 13 Special-Session

Mayor Pall next reported that, at its meeting of March 16, 2009, the City Council had referred back to the Planning Commission a proposed amending change for fencing; that City Council-member Fraser had requested that this matter be placed on the City Council meeting agenda for the City Council to again review and possibly suggest proposed changes to the text; that the City Council had been provided a copy of the Planning Commission's last proposed ordinance, along with a copy of the City's current ordinance; that, if the City Council proposed a revised ordinance, a public hearing would be necessary with notice of the public hearing published at least 15 days prior to the meeting; that the City Council was being asked to make requested amendments to the proposed ordinance; and that the City Planner was present to answer questions that the City Council might have concerning this matter.

Following discussion, the City Council recommended revisions to the ordinance that included the elimination of front-yard fencing including live materials; that corner lots would be considered as two front-yards; and that side-yard fences would be required to stop at the building plane. The City Planner and City Attorney were requested to draft such proposed ordinance for placement on the May 13, 2009, special-session City Council meeting. The City Planner reported that she believed that she understood the City Council's proposed changes and could provide such a draft ordinance, pending the City Attorney's schedule, in time for the May 13 City Council meeting.

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

RESOLVED that the City Council does and hereby places the first reading of a proposed ordinance concerning fencing and corner clearances on the May 13, 2009, special-session City Council meeting agenda.

Said resolution was adopted by the following vote:

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

Resolution No. 18303  
Approve Reappointments

Mayor Pall then reported that the City Council was being asked to concur with the Mayor's recommended appointments to the Zoning Board of Appeals and the Board of Review.

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

BE IT RESOLVED that the City Council does and hereby approves the reappointment of Jim Knibbs, 616 Bay Street, and Clark Smith, 710 Michigan Street, to the Zoning Board of Appeals for three-year-long terms that will expire in April, 2012; and

BE IT FURTHER RESOLVED that the City Council does and hereby approves the reappointment of Gary Phillips, 416 Arlington Avenue, to the Board of Review for a three-year-long term that will expire in April, 2012.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Hear Comments: Address  
Special-Session Request

Chandler Symons, owner, CAVO, 795 Front Street, Bay Harbor, reported that he planned to open a restaurant business at the former Latitude's Restaurant site in Bay Harbor; that

currently pending was an application to the Michigan Liquor Control Commission that would seek approval from the City Council; that he believed a quick review of his application was imperative for his restaurant to open prior to the summer season; and that he requested that the City Council act upon this request as soon as the application was received from the Liquor Control Commission rather than placing this matter on the next regular City Council meeting agenda (City Councilmembers concurred that they would be willing to set a special-session meeting to review this request when the pending paperwork was received from the Michigan Liquor Control Commission); (The Acting City Manager reported that two additional applications had been received from the Michigan Liquor Control Commission and asked if the City Council intended to act upon these requests in special-session as well and the City Council concurred that these requests could be acted upon simultaneously.)

City Councilmembers then reported on the following miscellaneous matters: status of speed enforcement and State Street Central School street closing reports requested by City Councilmember Marshall (the Acting City Manager responded that City staff were working on these reports); the use of performance measures procedures; District Library; Petoskey Pointe; Mayor Pall's meeting with State Senator Tom George concerning health-related issues; and that it would be the goal for the May 13 special-session City Council meeting to narrow City Manager candidate applications to three or five for future interviews.

There being no further business to come before the City Council, the meeting was adjourned at 9:40 P.M.

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

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Alan Terry, City Clerk-Treasurer