

## CITY COUNCIL

July 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, July 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, Director of Public Works Michael Robbins, and Administrative Assistant Dianne DeWitt.

Resolution No. 18322  
Approve Consent Agenda Items

Following the introduction of the consent agenda for the City Council meeting of July 6, 2009, City Councilmember Fraser moved that, seconded by City Councilmember Marshall, adoption of the following resolution that would confirm that the minutes of the regular meeting of June 15, 2009, be approved as 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 June 15, 2009, for contract and vendor claims at \$1,421,991.68; intergovernmental claims at \$1,446.52, and the June 25 payroll at \$192,210.07:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the June 15, 2009, regular 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 June 15, 2009, totaling \$1,615,648.27, be and is hereby acknowledged.

Said resolution was adopted by the following vote:

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

City Councilmember Dittmar reported that he believed a more detailed summary of comments should be included in meeting minutes; and that a process should be available for the public to correct minutes prior to meetings at which they were approved.

Resolution No. 18323  
Approve 2010 Capital Improvements Plan

The Acting City Manager reported that the proposed Capital Improvements Plan for the period 2010-2015 had been introduced at the June 1, 2009, City Council meeting; and that the plan, as approved by the Planning Commission April 16, 2009, listed potential projects and purchases over the six-year period that totaled \$86,350,950 within eight service-type, facility-type, and function-type categories that included building and grounds, downtown area, electric distribution, motor pool, parks and special facilities, streets and drainage, wastewater collection-treatment, and water production-distribution-storage.

The Acting City Manager also reported that the City Council had briefly discussed and asked questions about the Plan at its June 1 meeting and had directed City Councilmembers with questions concerning the plan to timely submit them to the Acting City Manager so that a response could be prepared in time for this July 6, 2009, meeting where the Plan could be further discussed and possibly approved; and that responses to questions received in emails from Councilmembers James Dittmar and Dr. Ron Marshall were as followed:

**Dr. Marshall**

***“I believe our capital improvement plan needs to address our concerns about reducing our dependency on fossil fuels. Not only global warming concerns, but also about reducing the harmful effects of carbon dioxide. Any vehicle replacements, building upgrades and/or new buildings need to be selected for energy efficiency in order to reduce our per capita energy use. We need to have long-term goals to reduce our reliance on fossil fuels. Perhaps initially, the use of public forums to educate our citizens about the need for a green economy. Perhaps hiring energy consultants to provide low cost energy audits of our residents’ homes and businesses. Possibly, seeking to attract green industries to increase the pool of higher paying jobs over lowering paying jobs. Demonstration projects that utilize alternative energy sources in some of our public buildings. Seeking state/federal grants to stimulate the growth of a local green economy.”***

Response:

The City is currently undertaking two projects within the electric utility that are designed to reduce dependency on fossil fuels. The City Council reviewed the City’s Renewable Energy Plan (REP) and Energy Optimization Plan at its May 4, 2009, meeting. The REP plan involved the City investing in a renewable energy source with Granger Electric of Michigan LLC, a Michigan based landfill company, to provide renewable energy in the form of landfill gases. The investment is expected to provide over 10% of the City’s power needs by 2015.

The City is also initiating an energy optimization plan that is designed to reduce electric energy consumption and therefore overall dependency on electric energy. The plan includes working with all of the City’s electric customers, residential and commercial, to reduce energy usage through education and more energy efficient appliances, equipment, heating and cooling systems and machinery. The plan is expected to be implemented via a joint services agreement through MPPA by Franklin Energy Services.

Residential programs would include: a refrigerator/freezer turn-in recycling program to remove older, less efficient appliances from use; an efficiency lighting program that replaces incandescent light bulbs with compact fluorescent light bulbs (CFLs); and incentives to purchase high-efficiency appliances and electronic programs including heating and air conditioning systems. Programs would vary from year to year.

Commercial programs would involve working with businesses to educate them in selling high-energy efficient products and services and assisting them to sell them to their customers through an incentive program. Custom programs would be developed for other customers such as the hospital, schools, manufacturers and lodging by identifying more complex energy saving projects and implementing them.

These improvements are more operating than capital in nature and thus were not reflected in the CIP. However, City improvements to existing facilities have and will continue to include upgrades to CFL lighting like that done in the CBD and along the waterfront. City Hall and other facilities have also received new CFL lighting. The new Petoskey Public Library building has many of the new energy efficient technologies included within its design. City staff is currently completing a grant application through the economic stimulus plan for a grant to construct the proposed Public Safety Building West that requires the latest energy efficient technologies to be used within its design.

Two of the action strategies in the City Master Plan address Dr. Marshall's question: development of a City energy plan and a sustainability plan. Completion of these plans will give better direction to staff and City Council when developing project priorities. The area of energy conservation is receiving a lot of attention nationwide, and through on-going project development, will have many new energy efficient products that would become more readily available and economical that would provide more opportunities for the City and its residents to reduce energy consumption, and the City will continue to pursue those opportunities as they become available.

**Mr. Dittmar**

***"The majority of costs in the electric distribution category are for underground electric. Could I please have the information that was the basis for that policy?"***

Response: I am not aware of a formal written policy regarding this work and refer to page 6 of the Plan that states, "The City has been working for many years on the overhead-to-underground electric-line conversion process as the system has needed upgrading. The primary reason for the conversion is to improve system reliability - that is, a decreased susceptibility of the system to weather related outages. Added benefits include a healthier tree canopy and view sheds."

The conversion does reduce the amount of power outages by being out of the elements and protected from wind related damage; it extends the life of the electric lines by not being exposed to the weather; and is safer to the general public by eliminating the danger of downed power lines striking someone, their home, car, etc. Eliminating power lines is more aesthetically pleasing by removing them from one's view and also by not having to continually trim trees away from lines which also helps extend the life of the tree, and it provides a better looking tree.

***"Also, from what I understand, the CBD boxes are underground, but the residential boxes are above ground? Could I please have some background on that?"***

Response: The underground vaults located within the CBD were used to pull underground electric lines through the buried conduit. The distance a line can be pulled is limited and these vaults are used to pull lines and connect them to other lines between the vaults. The vaults act as junction boxes, much like wiring in a house, to splice lines together. All switching gear, fuses, transformers, etc. are located in above-ground boxes within the alleys of the downtown where the lines were originally located and subsequently buried.

The equipment previously placed on the power poles are now located in the above-ground electrical boxes. These boxes are positioned above ground to provide for easier access by City workers and to also eliminate certain safety issues that may result when located in confined spaces, including issues that arise due to water or moist conditions with equipment located in below-ground vaults.

***"The project sites for the Parks and Special Facilities category is well covered in the P&R Master Plan, and the Motor Pool category is not site specific. But the other categories are not mapped in any one public document that I know of.***

***Could we please include a map or maps that show the locations for all of the projects in the categories of Buildings and Grounds; Electric Distribution; Streets and Drainage; Wastewater Collection and Treatment; Water Production, Distribution and Storage; and Downtown Area?"***

Response: Maps were produced showing the various projects but were inadvertently not included. The maps are included with this Council packet.

***"Could we please have a breakdown for the Greenway Corridor improvements, similar to what we did for the Bear River Valley?"***

Response: The Greenway Corridor has not been formally designed which would provide detailed plans that could then be priced out for an estimated project cost. The Greenway Corridor only has a conceptual plan as produced approximately ten years ago. Very rough cost estimates of project costs were provided at that time with no detail and those numbers were simply inflated to estimate today's dollars. This is a reason why there is only detail provided for CIP projects in 2010, because projects in later years of the plan are not fully engineered and costs are therefore best estimates.

***"I would also want the breakdown of all costs that relate in any way to the trolley."***

Response: The trolley and the operation of the trolley are not included within the proposed Capital Improvement Plan as we already own the trolley and operating costs would not appear in a capital plan. The Greenway Corridor segment improvements include sidewalks, landscaping, burying of utilities, and possible improvements to the rail system. Upon acquisition of the railroad right of way, the City will study the condition of the railway and any necessary upgrades, improvements, or extensions to the railway for trolley operations along with refurbishing the trolley itself.

***"As much as possible, I have a few requests that I hope we could have as soon as possible, prior to the next meeting at which the Program will be discussed:***

***Per the last meeting, Section III, could we please add columns for:***

- 1. Fund and revenue sources (e.g., bonds, developer contributions, grants, specific fund transfers, etc.).***
- 2. Priority (e.g., urgent, important, desirable).***
- 3. Expanded description, brief justification, and beneficial impacts for projects in these categories: Buildings and Grounds; Electric Distribution; Streets and Drainage; Wastewater Collection and Treatment; Water Production, Distribution and Storage."***

Response: Since a Capital Improvement Plan had not been prepared for several years, the intent was to prepare a basic document, in a new format, that would list potential upcoming projects and cost estimates with the understanding that the plan would be refined, revised, and expanded on in future years. Based on time constraints and six years of information that was required to be compiled, the initial plan is seen as a base for future plans to be added to as needed. These items could be taken into consideration for next year's plan.

***"If a scoring system has been used for projects, I would like to know the criteria and scores."***

Responses: A scoring system was not used.

***"It seems like it would be good to know the total costs for projects that involve bonds. Should we somehow indicate the total costs, including interest expenses?"***

Response: The majority of projects will be proposed with funding from the general operating revenue of the Fund that is performing the project and, if a different or a partial source of funding such as a grant or donation becomes available, then that would be addressed at that time. A number of the projects, based on the sheer cost of the project, will no doubt require a bond issue, but others may be entirely or partially funded from cash reserves based on the level of reserves available at the time the project is proposed.

Bond costs including interest expense are generally considered operating cost and not included within capital costs. It would also be difficult to predict interest rates on bonds, which besides economic conditions, would also be influenced by the term of repayment and the structure of the bond issue.

***"I appreciate the pie charts. Could we also have two pie charts for total expenditures by program and fund, for the future 5-year totals? That way I can see the trend in comparison with 2010."***

Response: The program categories basically describe the fund that would perform the project. Program categories would in almost all cases be as follows:

<u>Program Category</u>	<u>Fund</u>
Electric Distribution	Electric Fund
Water Production, Distribution and Storage	Water & Sewer Fund
Wastewater Collection and Treatment	Water & Sewer Fund
Motor Pool	Motor Pool
Streets and Drainage	Major and Local Streets
Downtown Area	TIFA Fund
Parks and Recreation and Special Facilities	General Fund
Building and Grounds	General Fund (except DPW Garage-Electric Fund)

The Tax Increment Finance Authority Fund could fund some eligible projects allocated to the General Fund if funds are available, but if the Bear River Valley project proceeds, TIFA funds would be primarily tied to that project for the life of the bonds.

Mayor Pall recommended that the City Council focus on 2010 projects that would permit the City staff to prepare for the 2010 Annual Budget process, and, following additional questions and responses concerning the Plan by the City Council and Acting City Manager that included downtown restrooms, future Petoskey Regional Chamber of Commerce building site, bonding of 2010 projects; Emmet Street access to Washington Park; necessity of overhead-to-underground conversion of electric lines and a request for an analysis of costs for overhead versus underground benefits; motor pool projects that included a public-safety rescue boat for 2015 and the number of patrol cars purchased annually due to maintenance upkeep and mileage; Bayfront Park sign design and replacement costs for uniformity as wooden signs need replacement due to aging; a request for Greenway Corridor cost breakdowns as they became available due to the extraordinary expenditure; community garden cost estimates for City participation would likely be less than estimated; discussion by Mayor Pall for funding of projects located outside the City's corporate limits; well acquisitions that included purchase of the Strathmore and Meijer's well developments in Bear Creek Township; replacement of two aging lift stations; and possible replacement of central business district water and sanitary mains that had not been replaced as part of the major 1995 street reconstruction project because of their satisfactory condition at that time.

Mayor Pall requested public comments and heard the following:

Michael Teska, 313 East Lake Street, reported that he believed it was important to maintain the policy of overhead-to-underground conversion of electric lines because he believed it was a more protected environment to maintain such lines; that he believed that the City's proposed railroad right-of-way purchase acquisition proposal had been discussed for some 20 years; that he believed purchase costs were still an unknown for this property acquisition; and that he hoped that the City Council would be prepared to go forward with this property purchase once the State was ready to transfer such property to the City.

B. Jeremy Wills, D.D.S., 204 State Street, reported that he believed a factor in the overhead-to-underground conversion of electric lines being located underneath sidewalk and street surfaces during street renovations was that the Electric Fund could then participate in funding of such street projects; that he believed many conduits had been buried awaiting the conversion of overhead lines, and that, if such conversions did not proceed, that he believed these conduit burials had been for naught; that he encouraged the City Council to continue the overhead-to-underground conversion of electric lines; that he believed the proposed railroad right-of-way acquisition purchase covered a large expanse of property from the Bay View Association to Emmet Street; that he believed that the Michigan Department of Transportation had not settled on a purchase price, of which he believed the City had no control over; and that he believed the City had shown good faith to the State in rezoning that area to a PR Park Reserve zoning designation to assure that the City would not sell the property in future years.

City Councilmembers discussed the plan's cost estimates for certain 2010 projects such as the Greenway Corridor Plan and concurred that the plan was a work in progress and should be viewed as such for future planning efforts; and that the Bay Harbor Public Safety Station project should be included in 2010 projects as it had been deferred to 2010 due to pending litigation with the Bay Harbor Tax Relief Fund group.

City Councilmember Dittmar then moved that, seconded by City Councilmember Marshall, the following resolution be adopted:

WHEREAS, as part of the City's annual budget-preparation process, the City Planner submitted to the Planning Commission April 16, 2009, the City staff's proposed update to the City's six-year capital improvements plan; and

WHEREAS, the Planning Commission reviewed this proposed 2010-2015 Capital Improvements Plan on April 16 and May 21, 2009, and recommended its adoption by the City Council; and

WHEREAS, the City Council reviewed the proposed plan June 1, 2009, and July 6, 2009, and concurs in the recommendation of the Planning Commission:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby approves the 2010 category portion of the 2010-2015 Capital Improvements Plan as submitted by the Acting City Manager June 1, 2009, and as had been approved by the Planning Commission May 21, 2009, with the addition of the Public Safety Station West project to the 2010 project listing, and concurring that the 2011 through 2015 categories are a work in progress.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Hear Use of City Property Presentation;  
Request City Attorney Opinion

The Acting City Manager then reported that the City staff had granted permission to Bear Cub Outdoor Apparel & Gear for a community event for children; that the event had been sponsored by Keen Shoe Company who were to provide information relating to environmental organizations in the community; and that information collected from the sponsor's table by the City staff had included brochures from the Oden Fish Hatchery, Raven Hill Discovery Center, Little Traverse Conservancy, See-North, and Emmet County Recycling.

The Acting City Manager also reported that the event took place from 10:00 A.M. to 3:00 P.M. , Saturday, June 27, 2009, in Pennsylvania Park; that the event had also included relay races for children to participate in; that Justin Rashid, American Spoon Food and Gelato Café, East Lake Street, had taken exception to this event taking place in Pennsylvania Park; that the Director of Parks and Recreation had been contacted and met Mr. Rashid at the site to discuss the City's approval for Bear Cub's use of the park; and that Mr. Rashid did not agree with the approval of the event and had requested to address the City Council.

The Acting City Manager also reported that events took place regularly on City property that were commercially related to one extent or another; that the Art in the Park program, for example, was entirely a commercial event with the sale of goods by individuals or businesses within the park; that the idea had been to provide a community event along with the purpose of bringing shoppers to the downtown and that, once there, shop the entire downtown; and that most events involved sponsors that were businesses and, at a minimum, advertised their name and/or products and services.

The Acting City Manager also reported that Saturday's event may have become more commercial than desired with the large selection of shoes on display; that, in such incidents, the City staff reviewed the event and discussed it with the applicant and made note for future requests; that, in any event, the City staff reviewed each request and attempted to provide a fair and equitable means of approving activities, while taking into account the character of the area; and that current City staff had been handling events on City property for more than 20 years and had received little or no objections concerning the nature of the events.

The City Manager also reported that he had distributed information that had been provided by Mr. Rashid to the City Council that had included a letter requesting to be placed on the City Council's July 6 agenda; an excerpt from the Petoskey Regional Chamber of Commerce's weekly e-mail newsletter; e-mail exchanges between Mr. Rashid and Downtown Director Becky Goodman; and four pictures of the event. A copy of the letter requesting permission for the event, along with the approval letter from the City for the event, also had been distributed to the City Council.

Mayor Pall then called on Mr. Rashid and Mr. Rashid read a prepared statement (attached to these July 6, 2009, City Council meeting minutes) that summarized his objections to what he believed had been the use of Pennsylvania Park as a commercial event for a private business; and requested that the City Council review the City's policy for approval of Pennsylvania Park use.

City Council discussion of this matter concurred that the City staff had acted in an appropriate manner in approving an event that it had believed would be appropriate for Pennsylvania Park in that the City staff had been requested to approve a community event for children where local environmental organizations would display information regarding environmental issues, education, and recycling; and that no retail sales would occur.

The City Council also concurred that the event appeared to have been more commercial than requested; was advised that the City staff had spoken with the business owner who had requested the event concerning its more commercial nature than anticipated by the City staff; discussed whether a 1982 City Council resolution that granted the City Manager the ability to approve community activities on City-owned property was current given that a more restrictive PR-Park Reserve zoning designation ordinance had been approved that included Pennsylvania Park in 1997; and whether a single instance over a 20 year-approval process warranted further review of current park use approval procedures.

Mayor Pall then requested public comment and the following were heard:

Karen LaCross, Resort Township, reported that she believed that the City Council should use caution in defining restrictions for commercial activity for park use; that she believed excessive restrictions could eliminate use of the parks by non-profit agencies, charitable organizations, Girl Scouts of America, political parties, and general freedom of speech by the community; and asked the City Council to respect the rights of park users and use caution when defining restrictions for its use.

Mr. Teska reported that he agreed with Ms. LaCross; that he believed that City staff had the sense to determine what events were right or wrong in approving events for the park; that he did not believe changes to the approval process or ordinance language was necessary; that he believed that this one instance in over 20 years did not merit a change in policy procedures; and that he urged the City Council to make no changes to current policies.

Skip Keys, 824 East Mitchell Street, reported that he believed that the City Attorney should be present at City Council meetings to address matters such as was currently being discussed; and that he appreciated the attendance of Director of Public Works Robbins at this meeting for matters that were on the City Council's meeting agenda (Mayor Pall responded that the City Attorney was out-of-town and had been unable to attend the meeting).

Dr. Wills reported that he believed that other parks could also be affected by restrictive uses such as Bayfront Park Festival Place and Mitchell Street Bridge park area; and that he believed that commercial activities at the Bayfront Park Marina had come before the City Council for approval in the past such as a water taxi, para sailing; and charter fishing; and that he believed this type of past approval set a precedent for approval of certain commercial activities.

Carlin Smith, President, Petoskey Regional Chamber of Commerce, reported that he believed that this matter was a challenging issue for the City Council; that he believed that the Director of Parks and Recreation was a great decision maker in approving activities for the parks; that he believed that the business owner had been contacted concerning the commercial nature of the event; and that he would caution the City Council to tread lightly in this matter that could affect many community events currently being held in Pennsylvania Park and other parks in the area.

Mr. Teska further reported that he believed that the City Attorney might not be aware of the comments received at tonight's meeting in interpreting ordinance and resolution language.

Following additional City Council discussion, Mayor Pall then reported that he would request that the City Attorney opine on interpretation of the 1997 PR-Park Reserve ordinances versus a 1982 resolution that granted the City Manager authority to approve community events on City-owned property.

Resolution No. 18324  
Establish Identity Theft Program

The Acting City Manager next reported that the Congress had passed the Fair and Accurate Credit Transaction Act (FACTA) in 2003; that Sections 114 and 315 of the Act related to identify theft; that to implement these Sections, the Federal Trade Commission (FTC), in 2007, had issued "Red Flag Rules"; and that the Act provided new protections against the growing problem of identity theft and required financial institutions and creditors to implement a written Identity Theft Program to detect, prevent and mitigate identity theft in existing accounts or in opening new accounts.

The Acting City Manager also reported that identity theft was "a fraud committed or attempted using the identifying information of another person without authority"; that, according to the FTC, there was a foreseeable risk of identity theft of personal information on a customer utility account since a utility bill may be a "breeder document"; and that breeder documents were used to acquire additional access to credit or even voting rights as they were used to prove where a person was domiciled.

The Acting City Manager also reported that the policy was used to detect and identify relevant red flags and then respond appropriately to any red flags detected; that a red flag was a particular activity or pattern that indicated the possible risk of identity theft; and that a Privacy Officer (Director of Finance) was placed in charge of the program and he appointed a Privacy Committee, in this case consisting of the Director of Finance, Director of Public Safety, Director of Public Works, Finance Supervisor, and Utility Billing Clerk.

The Acting City Manager also reported that the Committee established the Identity Theft Prevention Program and made any future revisions to the program as necessary; that the City Council was required to approve the policy; that the proposed policy was taken from a model policy prepared and in use by other municipal utilities and presented through a seminar of the Michigan Government Finance Officers Association; and that the policy had been originally required to be adopted by November 1, 2008, but had been extended to August 1, 2009, as the FTC continued to issue regulations.

The Acting City Manager reported that a copy of the proposed policy was provided to the Council for its review along with a proposed resolution that would adopt the policy.

City Councilmember Dittmar asked concerning the City's network security and the Acting City Manager responded that few Department of Finance staff members had access to utility account computer information which was housed at the City Hall site, through the use of a password, and that this network was not accessible for viewing by other City employees or the public.

Following discussion by the City Council, City Councilmember Johnson moved that, seconded by City Councilmember Fraser, the following resolution be approved.

WHEREAS, Congress passed the Fair and Accurate Credit Transaction Act in 2003, which, in part, is to provide additional protections to consumers against identity theft; and

WHEREAS, the Federal Trade Commission issued "Red Flag Rules" in 2007 to implement provisions of the Act; and

WHEREAS, these provisions require the City of Petoskey to adopt and implement an Identity Theft Program that will detect, prevent and mitigate identity:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council hereby adopts the Identity Theft Prevention Program as required by the Fair and Accurate Credit Transaction Act of 2003.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolution No. 18325  
Implement Energy Optimization Plan

The Acting City Manager then reported that the City Council had received a copy of the City's Energy Optimization Plan (EOP), along with a presentation on the purpose of the Act and provisions of the Plan, at its May 4, 2009, meeting; and that the Plan had been filed jointly, along with other municipal utilities, through the Michigan Public Power Agency (MPPA) to the Michigan Public Service Commission (MPSC) as required by the "Clean, Renewable, and Energy Efficiency Act," 2008 P.A. 295 MCL460.1001.

The Acting City Manager also reported that the plan provided energy optimization programs that included energy conservation offerings to both residential and commercial classes, along with the amount of funds required to be expended annually, by the utility, along with customer service charges for each rate class to recover program costs over the project's four year period from 2009 through 2012; and that energy savings derived from the programs would result in financial savings that were expected to more than cover the customer's service charge for the project.

The Acting City Manager also reported that the City timely filed the Energy Optimization Plan by the April 3, 2009, deadline with the Michigan Public Service Commission; that a public comment period on provisions of the Plan had been provided until May 26, 2009; that no public comment was received; that the jointly-filed plan was expected to be approved by the MPSC, but, due to staffing issues, the process had been delayed; and that, although the plan had not been approved, the programs and funding were required to proceed.

The Acting City Manager also reported that, at a recent meeting of the Michigan Public Power Agency's Board of Directors, members agreed to proceed with plan implementation in order to comply with program and funding requirements for 2009; that it would become increasingly difficult, if not impossible, to implement the programs and receive sufficient customer participation which was necessary to meet funding requirements for the City, if the City did not proceed with implementing Plan provisions; and that this year's funding requirement was \$34,052.

The Acting City Manager also reported that the Michigan Public Power Agency would contract with Franklin Energy Services, LLC, Port Washington, Wisconsin, and with offices in Lansing to perform Implementation Services for participating members; that Franklin Energy was also providing services for Consumers Energy, DTE Energy, and Lansing Board of Water and Light, which would help in coordinating services with area vendors participating in the programs; and that total initial design phase costs were not to exceed \$75,000, with the City's share not to exceed \$2,639.

The Acting City Manager also reported that the 2009 programs for residential customers included a residential Efficiency Lighting Program, which involved replacing incandescent light bulbs with "Energy Star" qualified compact fluorescent light bulbs (CFL's); that CFL's used 75% less energy than standard incandescent light bulbs and lasted up to ten times longer, resulting in a savings to customers of up to \$30 in energy costs over the life of each light bulb; and that the method of distribution would be determined individually by each utility.

The Acting City Manager also reported that a second program was a residential refrigerator and/or freezer turn-in program; that studies showed that second refrigerators and stand-alone freezers were present in many households; that these appliances tended to be older and less efficient; that removing them from service could significantly reduce electrical usage; that a subcontractor would be used to receive and dispose of appliances and provide a reimbursement directly to customers; and that, while geared toward second units, primary units that would probably be replaced were also acceptable.

The Acting City Manager also reported that commercial customers would be offered a prescriptive program that was specific to their needs; that all business customers would be eligible to participate through the purchase of qualifying high-efficiency electric equipment; that applications were required from participants as part of a "pre-approval" process to insure the efficiency of the equipment and that reimbursements do not exceed annual program limits; and that Franklin Energy would provide field agents to review and approve applications, with the City issuing reimbursement checks.

The Acting City Manager also reported that commercial customers would also be offered a custom program focused more toward very large utility customers; that a custom program would identify unique measures for the customer, so specific energy savings and incentives were determined for the project; and that these projects tended to result in higher reimbursement costs and would be fewer in number and again were restricted by annual funding limits; and that an application and approval process would be part of this program as well.

The Acting City Manager also reported that the Plan included customer service rates based on parameters contained within the Act; that the Act provided for a levelized rate that would fund program costs over the four-year period of the project at one set amount, versus a charge that was based on each year's specific funding requirement that would vary annually; that the City's annual funding requirements varied from \$34,052 to \$189,648; and that one set rate for the term of the project would help simplify the billing process.

The Acting City Manager also reported that the Act required residential customer rates to be billed monthly based on a per kWh charge, while commercial customers were billed on a flat monthly rate based on number of customers; that commercial customers were further broken down between secondary and primary customers; that the number of commercial customers included within the rate design included 976 secondary commercial customers and 12 primary customers; and that the City had approximately 5,400 residential customers or nearly 6,400 total customers.

The Acting City Manager also reported that the residential rate included within the Plan was \$.0018214 per kWh of usage; that a customer with monthly usage of 500 kWh would receive a service charge of 91 cents per month; that the use of CFL's distributed to residential customers was expected to provide monthly savings that would exceed the amount of the monthly service charge; and that participation in the refrigerator and freezer turn-in program would provide additional monthly energy savings and, in turn, an even lower electric bill.

The Acting City Manager also reported that the Implementation Agreement would be between Franklin Energy and the Michigan Public Power Agency; that the City would enter into an agreement with MPPA through the Service Committee, much like the one approved in May of this year to participate in an energy study; and that copies of the Energy Efficiency Service Committee Agreement, the proposal from Franklin Energy LLC for implementation services, and the City's Energy Optimization Plan had been provided to the City Council.

The Acting City Manager also reported that the City Council was being asked to adopt a proposed resolution that would authorize entering into the service agreement with MPPA to implement the Plan's programs and that would also establish customer service rates for the four-year project.

The Acting City Manager also reported that the Director of Public Works was present to respond to questions that the City Council might have concerning this program.

City Councilmember Dittmar discussed his views of CFLs usage versus LED bulbs; his concern of mercury used in CFLs; that he believed the resolution should state that the Mayor also sign the agreement per City Charter provisions versus the City Manager alone; and asked if the public had been given notice of this plan implementation. The Acting City Manager responded that the public had been notified through a notice in the paper and on the City's website, with no comments being received.

The City Council then discussed utility customer surcharge rates for the program and Mayor Pall asked for public comment and heard Dr. Wills ask for a clarification of rates; and that, because of his resident's dual use as both residential and commercial, he was concerned how these additional rates could affect his home business utility bills.

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

WHEREAS, the State of Michigan enacted P.A. 295 known as the "Clean, Renewable, and Energy Efficiency Act" in 2008; and

WHEREAS, the Act requires the City, as an electric energy provider in Michigan, to implement an "Energy Optimization Plan" designed to reduce electric energy consumption; and

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

WHEREAS, the Michigan Public Power Agency has contracted with Franklin Energy Services, LLC to perform program implementation services for its members Energy Optimization Plan; and

WHEREAS, the four-year plan provides energy conservation programs to both Residential and Commercial customers reducing energy consumption and the need for additional power producers, while resulting in lower monthly utility bills:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council agrees to enter into the Energy Efficiency Contractor Agreement with MPPA and hereby authorizes the Mayor and Acting City Manager to sign said agreement and;

BE IT FURTHER RESOLVED to establish the customer service charges as included within the Plan for 2009 through 2012, to recover the cost of the programs.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Defer Ward and City Procedures

The Acting City Manager then reported that City Councilmember Dittmar had requested the review of City Ward Convention meeting procedures on the July 6 City Council meeting agenda.

City Councilmember Dittmar then summarized his requested changes to Ward meeting provisions that included the consolidation of separate ward procedures into one universal procedure for all wards and calendar years; change the process for selecting the City Convention delegates to an impartial drawing of names; and the streamlining and clarification of wording, while adding explanations.

City Councilmember Dittmar also reported that he had given City Councilmembers further documentation of changes just prior to the City Council meeting and asked that the City Council review these changes.

The City Council then began discussion of the changes and City Councilmember Johnson reported that while he was not opposed to changes, he believed that he needed additional time to review these changes proposed by City Councilmember Dittmar. City Councilmember Fraser also reported that he wished additional time to review the changes.

Mayor Pall reported that he believed that he had had enough time to review the changes but asked if the City Council wished additional time.

City Councilmember Dittmar reported that he was mostly concerned with the concept of delegate selection; that he had asked the City Attorney to review these changes; and asked if the City Council needed additional time to review this concept.

Mayor Pall reported that he believed that this change could be positive; that he believed, in the past, there had been uncertainty as to who gets called on at ward conventions; and that he believed this random drawing process could eliminate such uncertainty and make the process more equal.

City Councilmember Marshall reported that he believed this concept could foster more participation in ward conventions and would be a fairer way to select city convention delegates.

City Councilmember Dittmar asked if the City Council would consider approving these changes at the July 20, 2009, meeting and that he could explain each change for the City Council's review.

Mayor Pall asked for public comment and the following were heard:

Mr. Teska reported that he believed this matter needed additional public input before the City Council voted on the matter; that he did not understand the reason for voting at the July 6 meeting without additional public input; and asked for clarification on whether City Councilmember Dittmar's proposed changes included that a qualified delegate must be present at the ward convention to participate in the delegate selection process. (Mayor Pall responded that he believed this was a requirement in City Councilmember Dittmar's proposed changes and that because the City Council had recently selected the location and dates of conventions, that this review of procedures had been raised.)

Dr. Wills reported that he believed that a lack of attendance at ward conventions could prohibit the selection of 15 delegates and 5 alternate delegates if such delegates were required to be in attendance at the ward convention; and that he believed that a review or change of convention procedures at this time, just prior to July 27 and 29 Ward and City Convention dates, seemed too hasty.

Joseph Baird, 923 State Street, reported that he had debated this matter with City Councilmember Dittmar for several years; reviewed what he believed to have been the history of the makeup of Ward and City Convention procedures; that he believed the position of Ward Delegate was a very important one; that he preferred to have his voice heard to say who he wanted to represent him as a Ward delegate; and that he did not desire to leave this representation up to a chance random drawing.

Mr. Teska reported that he concurred with Mr. Baird's comments and believed that he should have the right to vote for his ward representation and not be up to a random drawing.

Judy Hills, 575 Hillcrest Avenue, reported that she also agreed with Mr. Baird's comments and that she did not desire her individual right to vote for a Ward Delegate be taken away by a random drawing.

City Councilmember Dittmar reported that he believed that all ward delegates were equal and qualified and all should be given an equal opportunity to represent the ward.

Mr. Baird reported that he believed that a random drawing for ward delegates would not represent the public's wishes; and that he desired to vote for his preferred candidates, even though all candidates were equally qualified.

City Councilmembers then concurred that this matter be deferred to the July 20, 2009, City Council meeting.

Hear Comments

Mr. Teska asked if the City Attorney had responded to the Downtown Management Board's request for a ruling on the Petoskey Pedi Cab sign matter. The Acting City Manager responded that he had not yet received information concerning this matter from the City Attorney.

Dan McIntire, Ann Arbor, asked if the City had a current energy plan and if the City had applied for funds through the EECBG stimulus program. The Acting City Manager replied that the City did not have a current energy plan and had applied for grant funding for the Public Safety Station West building project through the U. S. Department of Homeland Security Stimulus Program of A.R.R.A. Assistance to Firefighters Fire Station Construction Grants that required LEED Certification as part of its building program criteria.

Carla Buckmaster, Resort Township, asked if there was additional information concerning the Petoskey Pointe project and was advised that no new information was available.

City Councilmember Johnson reported that he wished to commend the City staff for its efforts during the Independence Day celebration and asked the Acting City Manager to personally thank the Department of Parks and Recreation staff for its work.

City Councilmember Dittmar reported that the District Library Study Committee was very close to bringing its proposal to the City Council for review.

Mayor Pall reported that Dan Ralley, Cardington, Ohio, had accepted the position as City Manager; and that he had been approached by a company seeking the City's permission to compose a website video for use on the City's home page free of charge with sponsorship of such video through advertisement by local businesses linked to the video.

There being no further business to come before the City Council, the meeting was adjourned at 10:38 P.M.

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

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Alan Terry, City Clerk-Treasurer