

CITY COUNCIL

August 3, 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, August 3, 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 Parks and Recreation Allen Hansen, Director of Public Works Michael Robbins, and Administrative Assistant Dianne DeWitt.

Resolution No. 18330
Approve Consent Agenda Items

Following the introduction of the consent agenda for the City Council meeting of August 3, 2009, City Councilmember Fraser moved that, seconded by City Councilmember Dittmar, adoption of the following resolution that would confirm that the minutes of the regular-session meeting of July 20, 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 July 20, 2009, for contract and vendor claims at \$1,761,571.41; intergovernmental claims at \$2,240,308.81, and the July 23 payroll at \$172,783.74:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the July 20, 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 July 20, 2009, totaling \$4,174,663.96, 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 next reported that, at

Resolutions 18331
Approve District Library Agreement;
Interlocal Agreement

its March 16, 2009, meeting, the City Council formed a District Library Planning Committee, whose purpose was to prepare a proposed District Library Agreement as the next step in establishing the formation of a District Library; and that this seven-member Committee had begun monthly meetings in April and had contracted with Attorney Stephen Schultz, Fahey, Schultz, Burzych, Rhodes, PLC, Okemos, to prepare necessary agreements.

The Acting City Manager also reported that two agreements were being presented that would establish the District Library composed of a single entity, that being the City of Petoskey, and utilizing the two existing library facilities; that the first agreement was a District Library Agreement between the City of Petoskey and the Petoskey Public Library that would establish the District Library; and that the second agreement was an Interlocal Agreement between the City of Petoskey and the District Library that described how current City Library operations and assets would be transferred to the District Library.

The Acting City Manager also reported that the District Library Agreement contained statutory provisions as required under Michigan's District Library Establishment Act of 1989, P.A. 24 of 1989; and that those provisions included naming the City as the only participating municipality, establishing a five-member governing board appointed by the City, listing the various funding sources, providing provisions for amending the agreement, and withdrawing from the district library; and the distribution of assets upon dissolution.

The Acting City Manager also reported that, under provisions of this agreement, the City would continue to levy and collect the two library millages that were currently levied, at their maximum amounts, as adjusted per provisions of State law; that the levy would continue until such time that another member joined the District and a District-wide library millage was approved by the voters within the District; and that a new District Library Agreement would be required, which would include provisions agreeable to all participating members included within any new district.

The Acting City Manager also reported that the Interlocal Agreement provided for the transfer of real and personal property from the City Library to the District Library, along with the transfer of employees, contractual obligations, and provided for other services or obligations to be borne by both parties; that the current Library funding methods would continue, with all revenues being transferred to the District Library; and that all assets, except for the building located at 500 East Mitchell Street, would be transferred upon the levy of a millage for District Library purposes.

The Acting City Manager also reported that the City would lease the building located at 500 East Mitchell Street to the District Library in an amount equal to the annual bond-debt requirements owed by the Petoskey Building Authority, until the 2003 \$4,300,000 General Obligation Bond Issue, or any subsequent refunding bond issue, was completely retired; that the current bond issue, with an outstanding balance of \$3,950,000, was scheduled to be retired in October, 2028; and that annual debt requirements ranged from \$275,000 to \$327,000.

The Acting City Manager also reported that, upon retirement of all debt, the City would transfer title of the building and any remaining assets held due to bond encumbrances

to the District Library; that the District Library would be responsible for maintenance of all buildings and grounds including utility costs and insurance coverage; that the City would continue to provide certain services to the District Library for a fee, such as accounting services, which would be addressed in Appendix C and attached to the Agreement upon completion.

The Acting City Manager also reported that Appendix B, consisting of the lease agreement between the City and District Library, would be prepared by the City Attorney; that the appendices were straight forward and could be completed and attached following the City Council's approval; that, with the State's recent decision to close the Library of Michigan and reassign the duties to various departments within the State, it was the Committee's desire to submit the necessary documents to the current State Librarian for approval prior to closing because of its familiarity and support for the project.

The Acting City Manager also reported that the City Council had been provided with a proposed District Library Agreement between the City and Petoskey Public Library, the Interlocal Agreement between the City and District Library, a memo from Library Director Karen Sherrard; and a proposed resolution for the City Council's consideration in approving these two Agreements.

The Acting City Manager also reported that he and City Councilmember Dittmar had served on the Library Planning Committee, as did Library Director Karen Sherrard, Library Commission member Lori Pall, and Library Commission member Christine Gephard, all of whom were in attendance at this August 3 City Council meeting, and who could respond to the City Council.

In response to questions from the City Council, the Acting City Manager and Library Director responded with the following: a new District Library Agreement would be required in the event that a new governmental unit joined the District Library, and would be required to be approved by both the City and the new governmental unit; that the State Librarian would have 30 days from the date of receipt of the Agreement to either accept it, request amendments to it, or take no action, in which case the Agreement would become effective at the end of the 30-day period; that the Library Director was confident that the State Librarian would approve the District Library Agreement; that there would be no changes to current millage levies until another governmental unit joined the District Library; that the execution date was the date when the transfer of operations from the City to the Library took place, which would not occur until a millage vote occurred; that it had been opined that the Carnegie Library building deed restrictions would permit it to operate under the District Library arrangement and that its only restriction was that it continue to be used as a library operation; that there existed a 30-year bond to pay off the recent Library redevelopment project and that the Library building would not be transferred from the City to the District Library until that bond had been paid in full; that the advantage for other governmental units to join the District Library would be that they would be an equal partner in the District Library operation; that, if current Townships opted not to join the District Library within a time frame that would be decided upon, then library service to that unit would be discontinued, and increased fees would be charged Township residents for library use; that a 5-member District Library Board had been decided upon because it was believed that additional Township members would be added in the future if Township units joined the District Library; that the maximum District Library Board members required was eight and the minimum was five; reviewed the District Library Agreement approval process that consisted of a resolution to join, a new District Library Agreement was then written, followed by a decision on a millage levy, and then an election was held in the

corresponding governmental units; that a transfer of employees and personnel costs would not take place at first, but would take place eventually following a millage approval once another governmental unit joined the District Library, but until that time, no employee cost transfers would take place; that the Library would contract with the City for certain accounting functions; that no millage would be voted upon until another unit joined the District Library and at that time when a millage was voted upon, that would become the "Execution Date" and transfers would then occur.

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

B. Jeremy Wills, D.D.S., 204 State Street, asked if the City Charter requirements concerning a Library Board would be met with the District Library Board (the Acting City Manager responded that the City Attorney had reviewed this matter and believed that the District Library Board could meet requirements of the City Charter).

Judy Hills, 575 Hillcrest Avenue, asked for clarification if the City's Library Building would be transferred to the District Library (the Acting City Manager responded that once the 30-year bond had been paid for, the building would be transferred to the District Library); and asked if a Township did not join the District Library if their contractual fees would be increased (the Library Director responded that service would be discontinued to Townships who did not opt to join the District Library and Township residents would pay an increased fee to use District Library services).

Mayor Pall thanked members of the District Library Planning Committee for their time and efforts in planning for the District Library Agreement.

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

WHEREAS, the City of Petoskey has actively pursued establishing a District Library consisting of multiple units of government since 1995 without success; and

WHEREAS, the Petoskey Library Commission petitioned the State Librarian to approve the establishment of a District Library consisting of a single-taxing unit and the Library received approval from State Librarian Nancy Robertson to establish such a District Library; and

WHEREAS, the City Council appointed a District Library Planning Committee whose purpose was to prepare a District Library Agreement; and

WHEREAS, pursuant to Act 24 of the Michigan Public Acts of 1989, a District Library Agreement has been presented to the City Council for the purpose of establishing a District Library to be known as the Petoskey District Library; and

WHEREAS, the City Council has also been presented an Interlocal Agreement that provides for the transfer of the current Library's operations and assets to the District Library; and

WHEREAS, the Petoskey Public Library's Board of Commissioners approved the District Library Agreement and Interlocal Agreement at its meeting of July 23, 2009:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council hereby determines that it is in the best interest of the public to establish the District Library pursuant to Act 24; and

BE IT FURTHER RESOLVED that the City Council approves the District Library Agreement and hereby authorizes the Mayor and City Clerk to sign said Agreement to establish the Petoskey District Library; and

BE IT FURTHER RESOLVED that the City Council approves the Interlocal Agreement and hereby authorizes the Mayor and City Clerk to sign said Agreement and any other documents necessary to accomplish the transfer of operations and assets of the City's Library to the District Library and to deliver all necessary documents as may be required to the Library of Michigan.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Resolutions 18332
Approve Energy Services Agreement
Designated Representative

The Acting City Manager then reported that, at its May 4, 2009, meeting, the City Council entered into an Energy Services Agreement with the Michigan Public Power Agency (MPPA) for the purpose of authorizing MPPA staff, through the Energy Services Project Committee, to search for potential resources and power supply arrangements and perform limited analyses on new energy resources; and that the project allowed members to use MPPA as a mechanism to provide a source of aggregated power to replace the current power pool that was scheduled to terminate on December 31, 2010.

The Acting City Manager also reported that the City of Petoskey now owned entitlement commitments in three separate power-production plants as part of the Michigan Public Power Agency program that totaled 10.60 megawatts of base- and peak-load generating capacity; that the City had a firm-capacity demand from its customers of approximately 24 megawatts that resulted in a deficiency of nearly 14 megawatts; and that this deficiency must be made up through other sources of wholesale power producers in order to meet the City's future electric needs.

The Acting City Manager also reported that the Energy Services Project Committee, through an analysis of current power market pricing, evaluation of future power demand and pricing trends, and discussions with various wholesale power providers, had been able to arrange for the purchase of power in a series of one, two, and three-year blocks that would secure pricing comparable to 2008 levels; and that these staggered blocks of power would meet all of the City's power needs for 2011 and 2012, two-thirds for 2013, and one-third for 2014.

The Acting City Manager also reported that, due to recent economic conditions that included business closings, related job losses, and cooler summer temperatures resulting in less energy usage, there appeared to be a desire by wholesale power producers to secure long-term wholesale customers; and that, at the same time there was also a desire by members of the Project Committee to secure long-term wholesale power supplies prior to any improvement in economic conditions that may cause an increase in the demand for power and a resulting increase in prices.

The Acting City Manager also reported that a primary objective of the Project Committee and the City was to provide a source of long-term wholesale power that maintained a stable electric service cost without large up or down movements that would provide City customers with a reliable source of energy with comparatively level pricing; and that the electric energy was a commodity and a primary objective of MPPA was to manage the risks inherent in the commodities' marketplace in which MPPA participated for its members.

The Acting City Manager also reported that the membership and MPPA desired to take advantage of recent market conditions and purchase blocks of power in one to three-year arrangements from various suppliers as the market conditions presented themselves; that MPPA was requesting that the City Council designate an individual who could approve these power purchases on behalf of the City when a favorable opportunity presented itself; and that a proposed resolution had been provided for the City Council's consideration that would authorize the City Manager to approve such purchases with the Director of Public Works as an alternate in the City Manager's absence.

Mayor Pall asked if it was anticipated that there would be imminent purchases available (the Acting City Manager responded that he anticipated purchases would be available within 30 days).

City Councilmember Johnson asked if these "locked-in" rates were preferred by the City staff (the Acting City Manager responded that current power purchases had been inconsistent and had been based on formulas, but that these "fixed" costs would be advantageous to the City for budgeting and cost savings); and asked the Director of Public Works if he believed it was the right time to buy these power packages (the Director of Public Works responded that he believed with economic conditions as they were, that it was the right time to purchase these power agreements and that prices would only increase as the economy turned upward).

Mayor Pall asked for public comment and heard Dr. Wills ask if residents would see a decrease in their electric fees because of these power purchased (the Acting City Manager responded that fuel cost adjustments that were shown on utility bills would reflect the lower prices).

In response to Mayor Pall, the Acting City Manager also reported that the City Council would be informed of any power purchase agreements greater than one year that were entered into as the contractual information became available.

City Councilmember Dittmar then 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 is also a member of the Energy Services Project Committee; and

WHEREAS, MPPA is preparing for the purchase of base load and peaking power and capacity in the near future and the City is desirous of participating in some or all of those purchases, all of which will be for a period of one year and greater; and

WHEREAS, Section 3 of the Energy Services Risk Management Policy which was previously approved as part of the Energy Services Agreement requires City Council to designate a representative and approve purchases greater than one year:

NOW, THEREFORE, BE IT RESOLVED that the City Council names the City Manager as the Designated Representative to MPPA and thereby authorizes the City Manager to direct MPPA to enter into power purchase agreements as are deemed necessary to implement the phase-in of a three-year cycle of purchases and act on the City of Petoskey's behalf with regard to other power supplies as necessary; and

BE IT FURTHER RESOLVED that, in the event the City Manager is not available to perform as Designated Representative, that the Director of Public Works is hereby designated as the Alternate Representative to MPPA to serve in the City Manager's absence; and

BE IT FURTHER RESOLVED that the City Council be informed of any power purchase agreements greater than one year that are entered into as the contractual information becomes available.

Said motion was adopted by the following resolution:

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

NAYS: None (0)

Review Public Safety Station-West The Acting City Manager then reported that, in 1995, the City staff had determined that an additional fire station was needed to better serve all areas within the 6.2 square-mile jurisdiction of the City; that the additional fire station would enhance response times, improve first responder safety, improve mutual-aid times, and provide for redundancy in fire-operations response during catastrophic events; and that the proposed station would be designed and located to become a central station and would complement the City's existing station.

The Acting City Manager also reported that, in 2008, after an extensive evaluation of potential sites on which to build, the City Council approved the purchase of the former Western Concrete building located on US-31 near the entrance to the Bay Harbor development; and that this 6.5 acre parcel was purchased for the amount of \$1,100,000 with monies loaned internally from the City's Electric Fund to the General Fund, with reimbursement to be made from the total proceeds of a bond issue for the entire project.

The Acting City Manager also reported that the proposed fire station would total 10,419 square feet, which would incorporate the existing 3,750 square-foot concrete

building, and would contain three bays to house fire-apparatus equipment; that the station would contain an office area, conference/training room, public restroom, exercise-training area, unisex shower/restroom, and a personnel day room; and that the building had been designed to be energy efficient and would be LEED certified (Leadership in Energy and Environmental Design).

The Acting City Manager also reported that costs to construct the proposed fire station, including site-related work and improvements, were estimated to be \$1,600,500; and that cost estimates had been broken down as follows: building construction, \$1,243,600; site work, \$211,650; architectural and design fees, \$50,560; sprinkler system and related fire-suppression systems, \$23,340; energy conservation, \$16,200; ADA compliance, \$15,600; vehicle-exhaust system, \$10,950; NFPA 1500 compliance, \$15,600; and building equipment, \$13,000.

The Acting City Manager also reported that the City Council took action in March to begin preliminary steps for issuing bonds for the project through the Building Authority by approving a lease contract with the Building Authority, who would, in turn, issue the bonds; that recent litigation brought against the City by a group of property owners from Bay Harbor would negatively impact the City's ability to issue bonds; and that investors would not be willing to purchase bonds that relied upon tax revenues for repayment while litigation was pending that questioned the City's ability to levy taxes on a significant portion of the City's tax base.

The Acting City Manager also reported that the City had filed a grant application earlier that month through provisions of the American Recovery and Reinvestment Act under the Assistance to Firefighters Fire Station Construction Grants that requested funding assistance of \$1,200,380, or 75% of the \$1,600,500 total project cost, with the City's 25%-match being \$400,120; that grants would be awarded on a competitive basis with funds distributed through the Federal Emergency Management Agency (FEMA); and that a decision on the request was expected later this year.

The Acting City Manager also reported that the Director of Parks and Recreation, who was present at this August 3 meeting, had provided drawings of the building and site plan for the City Council's review; that the site plan had been presented to the Resort Township Planning Commission last week and the City had received approval for the project; that the proposed project had been designed and engineered, and bid documents were currently being prepared; and that Phase I and Phase II environmental assessments had also been completed qualifying the project as shovel ready under grant specifications.

The Director of Parks and Recreation then reported about the Public Safety Station-West project, corresponding project drawings, and the grant proposal, and responded to City Council inquiries that included: grant-approval decision was anticipated to be received within 90 days; that the entrance and exit drives to the Station would be signed to alert motor-vehicle traffic in the area; that the Station was not viewed as a public-use building and, therefore, the City staff believed that on-site parking was adequate; that the Station's conference room area could also serve as an interrogation room; that additional trees could be added to the site, but that trees would be required to be set back so as not to interrupt the required line of site by the Michigan Department of Transportation for exiting the site; that this Station was viewed as being more centrally located to the City and would better serve not only the Bay Harbor development, but also residents within the City of Petoskey proper, because it was located 4.9 miles from any point within the City; that City staff believed that an exercise room was vital at the Station because State statistics showed that

Firefighters were among the top professions prone to heart attacks and injuries, and heavy loads that firefighters were required to bear also required extreme physical conditioning in performing their job duties; that he believed that fire apparatus could safely exit the project site because of the long-distance vision corridor in that area; that the City staff had determined that the project site would best be utilized by City of Petoskey personnel, without outside governmental or private entities leasing space at the site; that a nearby Resort Township Fire Department currently existed; that mutual-aid assistance agreements were currently in place with both surrounding Townships; that an ambulance-service provider already leased space at another City of Petoskey site within the Third Ward; that public-safety personnel already provided first-responder emergency-medical services to dispatched calls; and that a traffic light at the intersection of US-31 and Resort Pike Road that could be controlled by the Department of Public Safety had not been discussed with the Michigan Department of Transportation corresponding to this project development.

Mayor Pall asked for public comment and heard the following: Carol Cobb, Bay Harbor resident, reported that she viewed the Public Safety Station-West as an additional safety feature for residents of the Third Ward; that she believed this had long been needed to respond to areas within the Third Ward that included the Bay Harbor development; that she was pleased that first-responder service would be closer to the Bay Harbor development; that she was pleased that her ISO rating would be better because of this Station; and that she believed that the Bay Harbor litigation had been filed by four to six residents within the Bay Harbor development and that no other residents were involved in such litigation; and that she was saddened that this litigation had affected the City's progress of the Public Safety Station-West project.

In response to Ms. Cobb, the City Council and Acting City Manager assured Ms. Cobb that the Public-Safety Station project had been delayed only because bonds that would have been sold to pay for the project would have no buyers because the City could not assure buyers that the City's current tax revenues would continue because of unknown effects that could result from the tax-litigation matter; that the project delay was not a result of hard feelings on the City's part because of the litigation matter; that the City Council understood Ms. Cobb's and other Bay Harbor residents' frustrations with the project delay; that the City Council and City staff were committed to the Public Safety Station-West project that would service not only Bay Harbor but be centrally located for the City of Petoskey; and that the City Council would hope to proceed with the project if the grant were approved, or failing that, a resolution of the litigation matter.

Dr. Wills asked what the City's match would be if the grant were approved (the Acting City Manager responded that the City's match would be 25% of project costs totaling \$1,600,500, or \$400,120).

Mayor Pall reported that this agenda item had been presented for the City Council's information and that no action was necessary.

Resolutions 18333
Approve TIFA Appointments

Mayor Pall then asked that the City Council concur with his following reappointments and initial appointment to the Tax Increment Finance Authority Board that included the reappointment of Gary Hunter, 616 Lockwood Avenue, and John P. Norton, 621 Elizabeth Street, for four-year terms that would expire April 1, 2013; and the initial appointment of Charles Lindsley, 448 Grove Street, that would replace Richard Neumann, for a four-year term that would expire April 1, 2013; and that candidate applications to serve had been

provided to the City Council. Mayor Pall expressed thanks to Mr. Neumann for his long service to the Tax Increment Finance Authority Board.

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

BE IT RESOLVED that the City Council does and hereby approves the initial appointment of Charles Lindsley, 448 Grove Street, and the reappointments of Gary Hunter, 616 Lockwood Avenue, and John P. Norton, 621 Elizabeth Street, all for four-year terms that would expire April 1, 2013, on the Tax Increment Finance Authority Board.

Said resolution was adopted by the following vote:

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

NAYS: None (0)

Hear Comments

City Councilmember Marshall complimented the Acting City Manager for his response to a complaint by his neighbor that had been resolved the next day by the Department of Public Works staff; and that he was pleased that the Acting City Manager had written the Emmet County Road Commission requesting study of the US-31 and Resort Pike Road intersection for installation of a flashing light.

City Councilmember Fraser wished to thank the City staff for a job well done in its clean-up activities following downtown Sidewalk Sales Day; and asked if the Petoskey Pointe redevelopment site fencing and retaining wall could be inspected for safety reasons (the Acting City Manager responded that the City staff was, in fact, at the site that same day for those reasons and Mayor Pall reported that the Petoskey Pointe developers had been very amenable to letting City staff do such inspection work).

City Councilmember Dittmar reported that he wished to thank City staff for its efforts concerning Ward and City Conventions and that he believed that the Convention procedures had gone smoothly.

Mayor Pall read a letter from Robert Wheaton, Resort Township Supervisor, thanking the Department of Public Safety for its efforts associated with traffic control at the Resort Township's East Park entrance during July Fourth Independence Day festivities and also during the June reopening celebration at the Park. Mayor Pall also reported that the City Council meeting of September 7, 2009, conflicted with the Labor Day holiday and the City Council would be asked to review cancellation or alternate meeting dates for the September 7 meeting at its next regular meeting.

There being no further business to come before the City Council, the meeting was adjourned at 8:45 P.M.

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

Alan Terry, City Clerk-Treasurer