

March 1, 2010

Regular meeting of the Ludington City Council held in the Council Chambers of the Municipal Building on Monday, March 1, 2010, at 6:30 o'clock p.m.

Present: His Honor Mayor John Henderson, and Councilors Kaye Holman, Paul Peterson, Wally Taranko, Brent Scott, Wanda Marrison, Pete Engblade, and Gary Castonia.

Absent: None.

Also present were City Manager John Shay, City Attorney Richard Wilson, Police Chief Mark Barnett, Fire Chief Jerry Funk, Interim City Treasurer Linda Rogers, and City Clerk Deborah Luskin.

Invocation was pronounced by Councilor Engblade.

Pledge to the Flag was given.

Moved by Councilor Castonia, seconded by Councilor Engblade, that the Agenda be approved as presented. Motion Carried.

The meeting was opened for public comments.

After no comments were received, the regular order of business was resumed.

Moved by Councilor Peterson, seconded by Councilor Holman, to approve the minutes of the regular meeting 02/22/10. Motion Carried.

Moved by Councilor Holman, seconded by Councilor Peterson, that the Finance Report with total expenditures in the amount of \$140,682.52 for this period be approved and orders drawn according to the City Charter. Motion Carried.

2009 SUMMARY OF BUDGET AMENDMENTS #1

NAME/ACCOUNT	CODE	BUDGET	AMENDED BUDGET
Total General Fund Revenues	403-693	\$7,237,000	\$5,155,500
General Fund Prior Year Balance		0	0
Mayor & City Council	101	42,700	36,900
Manager's Office	172	226,800	226,600
Clerk's/General Accounting	215	301,800	295,100
Board of Review	247	2,800	2,400
Treasurer's Office	253	139,500	150,400
Assessor's & Bldg Inspector	257	290,200	232,400
Elections	262	25,000	20,200
City Hall & Grounds	265	103,100	100,000
City Attorney	266	58,200	60,100
City Property-Downtown	268	746,500	102,700
City Property-Other	269	3,200	2,600
Cemetery	276	189,100	177,700
Board of Ethics	290	200	200
Police Dept.	301	1,284,300	1,257,700
Police Clerical	302	66,500	69,200
Special Police	303	1,400	800
Fire Dept.	336	1,576,400	165,700
DPW-Municipal Services	441	303,700	321,300
Sidewalk Construction	444	69,400	72,700
Street Lighting	448	105,000	146,100
Garbage & Rubbish	528	595,300	577,500
Planning Commission	721	7,500	5,700
Economic & Community Dev.	728	74,500	70,500
Parks	751	268,800	294,100
Lifeguards	752	26,800	22,800

Launching Ramps	756	94,800	74,900
Insurance & Bonds	851	54,000	46,200
Miscellaneous Contributions	960	559,500	579,100
Miscellaneous	961	20,000	29,300
TOTAL GEN FUND EXPENSES		\$7,237,000	\$5,140,900
Major Streets Revenue	202	\$ 463,600	\$ 437,100
Major Streets Expenses	202	463,600	437,100
Local Street Revenue	203	\$ 521,200	\$ 522,700
Local Street Prior Year Fund Balance		100,000	0
Local Street Expenses	203	621,200	464,000
Recreation Revenues	208	\$ 149,000	\$ 159,000
Recreation Prior Year Fund Balance		7,100	0
Recreation Expenses	208	156,100	157,800
Senior Center Revenues	211	\$ 145,000	\$ 148,200
Senior Center Prior Year Fund Balance		8,800	0
Senior Center Expenses	211	153,800	139,700
Waterfront Playground Revenues	215	\$ 1,000	\$ 1,000
Waterfront Playground Prior Year		0	1,400
Waterfront Playground Expenses	215	1,000	2,400
Movies In The Park Revenues	216	\$ 2,000	\$ 1,500
Movies In The Park Expenses	216	2,000	1,500
Bldg Auth Bond & Interest Revenues	371	\$ 245,200	\$ 245,800
Bldg Auth Bond & Interest Expenses	371	245,200	245,800
West Lud Ave Improvement Revenues	404	\$ 170,700	\$ 150,700
West Lud Ave Prior Year Balance		65,000	52,400
West Lud Ave Improvement Expenses	404	235,700	203,100
Bryant Woods Project Revenues	405	\$ 83,200	\$ 74,200
Bryant Woods Prior Year Balance		0	7,600
Bryant Woods Project Expenses	405	83,200	74,200
Building Rehab Revenues	422	\$ 954,800	\$ 161,400
Building Rehab Expenses	422	802,300	132,600
Capital Improvements Revenues	450	\$ 0	\$ 0
Capital Improvements Prior Year Fund Balance		10,000	10,000
Capital Improvements Expenses	450	10,000	10,000
DDA Operating Revenues	493	\$ 121,100	\$ 128,800
DDA Operating Prior Year Balance		0	0
DDA Operating Expenses	493	114,200	104,700
Watchcase Contam Revenues	495	\$ 0	\$ 0
Prior Year Fund Balance		15,000	5,500
Watchcase Contam Expenses	495	15,000	5,500
Cartier Park Improve Revenues	497	\$ 58,900	\$ 57,700
Cartier Park Prior Year Fund Balance		0	800
Cartier Park Improve Expenses	497	\$ 50,700	\$ 58,500
Cartier Park Revenues	508	\$ 175,900	\$ 192,200
Cartier Park Expenditures	508	\$ 175,900	\$ 138,100
Water & Water Maint Revenues	591	\$ 1,402,100	\$ 1,322,300
Prior Year Retained Earnings		229,400	199,000

Water Maint Expenses	591-000	576,400	484,200
Water Plant Expenses	591-556	1,055,100	1,037,100
Sewer & Sewer Maint Revenues	592	\$ 1,437,000	\$ 1,267,600
Prior Year Retained Earnings		5,900	137,300
Sewer Maint Expenses	592-000	463,600	407,800
Sewer Plant Expenses	592-527	979,300	997,100
Municipal Marina Revenues	594	\$ 1,269,300	\$ 947,800
Prior Year Retained Earnings		534,100	246,400
Municipal Marina Expenses	594	1,803,400	1,194,200
Site Assessment Fund Revenues	644	\$ 0	\$ 20,000
Site Assessment Prior Year Fund Balance		0	0
Site Assessment Fund Expenses	644	0	5,600
Technology Fund Revenues	650	\$ 98,000	\$ 84,600
Technology Fund Expenses	650	\$ 98,000	\$ 84,600
Motor Pool Revenues	661	\$ 714,700	\$ 611,600
Prior Year Fund Balance		375,800	467,200
Motor Pool Expenses	661	1,090,500	1,078,800
Fringe Benefits Revenues	719	\$ 795,100	\$ 917,300
Fringe Benefits Expenses	719	795,100	917,300

City Manager Shay summarized that the 2009 budget amendments and explained that originally the revenues and expenditures in the General Fund were budgeted to be balanced. Our initial look at the results of 2009 reflected that revenues exceeded expenditures by \$71,300, however, this past Friday, the City received the November and December State Revenue Sharing payment which was much lower than anticipated. Therefore, the 2009 revenues will exceed expenditures by \$14,900. The overall General Fund Revenues were projected to be just over \$7 million with \$2 million of this coming from the Western Land Services project which did not occur. This affected both the revenues and expenditures for the General Fund. City Manager Shay explained other changes such as the Charter Communications franchise fee revenue which increased by \$28,600. The City no longer has to reimburse Charter for the legal expenses which were incurred when the franchise agreement was originally developed in 2002. The expenditures decreased in both the Police and Assessing Departments due to personnel reductions. Street lighting electrical costs did increase and will be looked at during 2010. Water Fund Revenues dropped as a result of a drop in customer sales and Pere Marquette Township is switching more of their water system over to their own system. There was a corresponding drop in expenditures in the Water Fund as there were fewer water meters purchased and fewer repair and maintenance expenses. Sewer Fund Revenues also decreased due to a decrease in customer sales and less revenue in the surcharge revenue received from House of Flavors. In the Motor Pool Fund the City budgeted to charge less equipment rental into this fund from each of the other funds so there is less revenues and the City will have to look at this as expenditures are starting to exceed revenues. Moved by Councilor Holman, seconded by Councilor Taranko, to approve the 2009 Budgetary Amendments as presented. Motion Carried.

ORDINANCE NO. 209-10
CITY OF LUDINGTON

AN ORDINANCE TO AMEND THE LUDINGTON CITY CODE TO ADD NEW ARTICLE II OF CHAPTER 54 TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES FOR A PROPOSED MULTIPLE FAMILY PROJECT FOR ELDERLY PERSONS AND PERSONS OF LOW OR MODERATE INCOME TO BE FINANCED OR ASSISTED PURSUANT TO THE PROVISIONS OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966 (1966 PA 346, AS AMENDED, MCL SECTION 125.1402 ET.SEQ., MSA SECTION 16.114 (1) ET.SEQ.) AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

The City of Ludington ordains:

Section 1. Addition of Article II of Chapter 54. Chapter 54 of the Ludington City Code is hereby amended to add Article II. Tax Exemption for Elderly Housing, which reads in its entirety as follows:

Sec. 54-20. Authority.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966

PA 346, as amended, MCLA Section 125.1401 et. seq., MSA Section 16.114 (1) et. seq.). The City is authorized by said Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under the Act at any amount it chooses not to exceed the taxes that would be paid but for the Act. It is further acknowledged that such housing for persons of low income is a public necessity, and as the City will be benefited and improved by such housing the encouragement of the same by providing certain real estate tax exemption therefore is a valid public purpose; further, that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of taxes during the periods hereinafter contemplated are essential to the determination of economic feasibility of housing developments which are constructed and/or rehabilitated and financed in reliance thereon.

Sec. 54-21. Definitions.

- A. Authority means the Michigan State Housing Development Authority.
- B. Act means the State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.
- C. Annual Shelter Rent means the total collections during an agreed annual period from and on behalf of all occupants of a housing development representing rent or occupancy charges, exclusive of owner-paid utilities as herein defined.
- D. Contract Rents are as defined by the U.S. Department of Housing and Urban Development (“HUD”) in regulations promulgated pursuant to the U.S. Housing Act of 1937, as amended by the Housing and Community Development Act of 1974.
- E. Housing Development means a development which contains a significant element of housing for a person of low or moderate income and elements of other housing, commercial, recreational, industrial, communal and educational facilities that the Authority determines improve the quality of the development as it relates to housing for persons of low or moderate income.
- F. Elderly means a single person who is 55 years of age or older, or a household in which at least one member is 55 years of age or older and all other members are 50 years of age or older.
- G. Mortgage Loan means a loan to be made by the Authority to the Sponsor for the acquisition, rehabilitation and permanent financing of a Housing Development.
- H. Utilities mean fuel, water sanitary sewer services and/or electrical service which are paid by the Development.
- I. Sponsor means persons or entities with a general partner interest in the Owner, which have applied to the Authority or HUD for a Mortgage Loan to finance a Housing Development.

Sec. 54-22. Class of Housing Developments.

It is hereby determined that the Class of Housing Developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be that portion of the development, which is for persons of low income and, which is financed or assisted pursuant to the Act. It is further determined that the 149 unit elderly development to be known as Arbors of Ludington (formerly Longfellow Towers) is of this class. The City acknowledges that Arbors of Ludington Apartments Limited Dividend Housing Association Limited Partnership (Owner) has offered, subject to receipt of a Mortgage Loan to rehabilitate, own and operate a housing development identified as Arbors of Ludington Apartments, on certain property located at 301 East Court Street, (as described on Exhibit “A” attached hereto) in the City to serve persons of low income, and that the Owner has offered to pay the City an annual service charge for public services in lieu of all taxes.

Sec. 54-23. Establishing of Annual Service Charge.

The Housing Development identified as the 149 unit Arbors of Ludington Apartments and the property on which it is located shall be exempt from all property taxes under the Code from and after the acquisition by the Owner. The City, acknowledging that the Owner, the Authority and HUD have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Article II of Chapter 54 of the Code and the qualification of the Housing Development for exemption from all property taxes and a payment in lieu of taxes as established herein, and in consideration of the Sponsor’s offer, subject to receipt of a Mortgage loan, to rehabilitate, own and operate said Housing Development, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four (4%) percent of the gross Contract Rents of the preceding calendar year, exclusive of the amount paid to the City during the preceding calendar year for annual service charge. In the event the Development no longer receives project based Section 8 payments, the annual service charge shall be equal to four (4%) percent of the annual Shelter Rents and less any amounts paid in the previous year for annual service charge.

Sec. 54-24. Contractual Effect of Ordinance.

Notwithstanding the provisions of Section 15 (a) (5) of the Act, to the contrary, a contract between the City and the Owner with the Authority as third party beneficiary thereunder, to provide tax exemption and accept payments in lieu thereof as previously described is effected by enactment of this Article II of Chapter 54 of the Code.

Sec. 54-25. Payment of Charge.

The service charge in lieu of taxes as determined hereunder shall be payable in the same manner as general property taxes are payable to the City except that the annual payment shall be paid on or before April 15 of each year.

Sec. 54-26. Duration.

The provisions of this Article II of Chapter 54 of the Code shall become effective upon acquisition of the Development by the Owner and shall remain in effect and shall not terminate as long as the Mortgage Loan remains outstanding and unpaid or the Authority or Sponsor or HUD have any interest in the property provided that the acquisition of the Housing Development by the Sponsor occurs within one year from the effective date of this Article II of Chapter 54 of the Code.

Section 2. Severability.

The various parts, sections and clauses of this Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

Section 3. Repeal.

All Ordinances of the City of Ludington, or any amendments, thereto, and specifically Ordinance No. 721 dated November 17, 1975, which are in conflict, are, to the extent of such conflict, repealed, provided however, that such repeal shall be effective only upon the acquisition of the Housing Development by the Sponsor as provided in Section 1.

Section 4. Effective Date: Publication.

This Ordinance shall take effect twenty (20) days following its introduction, adoption and publication as required by law.

Councilor Holman introduced Beth Hendrickson, Manager of Longfellow Towers, Joe Bobeck,, President of Great Lakes Financial Group, and John Joyce, Chairman of Joyce Capital Development. It was explained that the City adopted an ordinance in 1975 which established a payment in lieu of taxes with Longfellow Towers equal to 4% of the contract rents charged at the Towers less the amount paid to the City for the previous year's PILT payment. The City received about \$10,300 annually. The new owner of Longfellow Towers will complete about \$2.4 million in improvements including new kitchen and bathroom flooring, sinks, cabinets, countertops, windows, and appliances in each of the 149 units and improvements to the common areas of the building. The Michigan State Housing Development Authority (MSHDA) is requiring the new owner to extend the PILT with the City in order for the new owner to receive tax credits from MSHDA. The proposed ordinance will extend the PILT and maintain the existing 4% of contract rents. A Municipal Service Agreement was also presented which would require Longfellow Towers to pay a new municipal services fee in the amount of \$20,750 per year in addition to the PILT. The combination of the PILT and the municipal services fee would equal about the same as what would have been collected under the current millage rate.

Moved by Councilor Holman, seconded by Councilor Scott to approve the Municipal Service Agreement. Motion carried.

Moved by Councilor Holman, seconded by Councilor Peterson, that Ordinance No. 209-10 Longfellow Towers PILOT Ordinance, be adopted.

Roll Call: Ayes: Councilors Taranko, Holman, Scott, Peterson, Castonia, Marrison, and Engblade.

Nays: None. Motion Carried.

Interim City Treasurer Linda Rogers presented the 2009 Treasurer's Annual Report and was available to answer questions. She summarized the collection of taxes and utility revenue as well as provided a summary of the investments of the City money. A 2010 goal will be to step up the collection of personal property taxes.

Moved by Councilor Holman, seconded by Councilor Marrison, to accept the 2009 Interim Treasurer's Annual Report. Councilor Taranko questioned why he was not able to use the credit card for his seasonal Marina slip fees last year and the Treasurer stated that she would look into this. Motion Carried.

Wastewater Treatment Plant Superintendent Rob Allard presented the 2009 Wastewater Treatment Plant Annual Report and was available to answer questions. He explained that in 2009 the Wastewater Plant received influent flows which were up over 2008 and were the result of snow pack melt. Overall, the flows were down over the seven year average. The significant decrease was in the head works floating, Biochemical Oxygen Loading (BOD), which was down 12% from 2008 mainly due to House of Flavors and other industries which have reduced their flows to the Wastewater Treatment Plant. All chemicals with the exception of ammonia, were adequately treated and discharged to the Pere Marquette River. They will be looking at the issue of treating ammonia in 2010. Projects completed during 2009 were the improvements to the leachate receiving station and the industrial pretreatment program. The 2010 goals will be to complete the bypass pump for Rath Ave. lift station. He complimented the talented employees at the Wastewater Treatment Plant. Councilor Holman questioned the types of problems that may be experienced with the Rath Ave lift station being down for any period of time. Superintendent Allard explained that there would be residential sewer backups. His Honor Mayor Henderson questioned with the 43% decrease of BODs with House of Flavors, what would be the true cash loss. Superintendent Allard explained that the true revenue loss is \$89,000, and there would be a

reduction of chemical and electricity cost, but this is not a one-for-one offset , but will provide this information to Council.

Moved by Councilor Castonia, seconded by Councilor Scott, to accept the 2009 Wastewater Plant Annual Report. Motion Carried.

Wastewater Plant Superintendent Rob Allard presented the 2009 Utility Maintenance Annual Report. As an overall strategy to balance the 2010 budget, the staff was reduced from 6 operators to 5 and the superintendent position was eliminated for 2010. 2009 projects included the replacement of a water and sewer line on Loomis Street between the Fitch and Tinkham Ave. and completion of two sanitary and storm sewer separations on George Street and Melendy Street and one on the south end of Lavinia Street. The Tamarac Village/Cartier Park force main relocation was also completed in 2009. Some of the 2010 projects include storm sewer improvements on south William Street and the entrance to the Marina, fix sewer problems on Fifth Street as well as Mitchell Street. They are completing the installation of the radio read meters and will evaluate the savings which resulted in putting these meters in place. Superintendent Allard complimented his talented and dedicated Utility Maintenance staff. The ultimate goal is to overlap the personnel of both the Utility Maintenance Department and the Wastewater Treatment Plant to get better use of City's resources. Councilor Castonia questioned what the difference was between the S4 and the S2 licenses. Superintendent Allard explained that the S licenses were the water distribution licenses and they rate these on the basis of the size of the distribution. Ludington is rated a S2, and S1 is the highest rating. His Honor Mayor Henderson publicly thanked Rob Allard for his willingness in taking over the additional duties of the Utility Maintenance Department for 2010.

Moved by Councilor Castonia, seconded by Councilor Holman, to accept the 2009 Utility Maintenance Annual Report. Motion Carried.

Water Plant Superintendent Kurt Malzahn presented the 2009 Water Plant Annual Report and was available to answer questions. In 2009, the overall pumpage was down 29 million gallons compared with 2008 which is contributed to Pere Marquette transferring out of our water system as well as a cold summer. All water quality test results were met and exceeded including current EPA and MDEQ (DNRE) requirements. The Water Treatment Plant received a satisfactory rating on the MDEQ sanitary survey. In regards to the sanitary survey, the Utilities Committee met with Fishbeck, Thompson, Carr & Huber (FTCH) to go over water treatment options and costs needed to address MDEQ water treatment plant improvement recommendations. It was suggested that the City put money aside for improvements. In 2009, two operators Ken Bulley and Erich Brooke passed the F2 certification. All water treatment plant operators now have a F2 or higher license. In 2009, the City hired Underwater Construction Corporation to inspect the Water Plant crib intake. Results showed the 70 year old line was in good shape, but the PVC plastic chlorine infuser used to control zebra mussels was cracked. A new one was constructed and put in its place. The Lighthouse Keepers Association's radio station at the Water Treatment Plant went on line in 2009. The 10 year revenue bond was paid in full during 2009. Goals for 2010 include the painting of the Gaylord and Danaher Water Towers. The leak on the Danaher Water Tank has been fixed and Superintendent Malzahn complimented operator Will Swan for climbing the tank and fixing a leaking gasket. There is still ice on the catwalk so it is still unsafe to sled on the hill. He also publicly thanked the Fire Department and the DPW for knocking off the ice from the tank and putting the barricades around the tank and salting the street. Other goals for 2010 include coming up with finance options and better capital improvements options for the Water Treatment Plant, along with many in house maintenance projects as well as sealing the parking lot. Councilor Peterson questioned if the revenue bonds were paid off and it was confirmed that they were paid in 2009. Councilor Holman asked how much would be set aside to prepare for capital improvements at the Water Treatment Plant. Superintendent Malzahn stated that the Utilities Committee did not come up with an amount as a result of the Fishbeck study as they were still deciding which direction to go with. With the water loss study, there was a 13.6% water loss, and it was asked what are the acceptable limits for water loss. Superintendent Malzahn explained that at 20% you have to start to look at where the leaks are at. His Honor Mayor Henderson questioned what the true cash cost to the City was for a 13.6% water loss, with chemical costs and energy. Superintendent Malzahn will get the Mayor this information. Better recordkeeping needs to be done to calculate and identify water loss. Councilor Engblade asked if water loss was water not paid for and this was confirmed. Some of the areas where water is not accounted for include the fire fighter water and flushing hydrants. Superintendent Malzahn explained that as a rule, fire fighters do not use a lot of water on a residential fire. His Honor Mayor Henderson stated that if 700 million gallons were pumped in 2009 and there was roughly 13.6% water loss, that means there was 9 million gallons of water which were unaccounted for, this is a concern due to the loss of revenue. Superintendent Malzahn explained that he will get the Council the appropriate monetary figures they are asking for. Councilor Engblade asked what the average loss statewide was. Superintendent Malzahn stated the range is between 10% and 15%. There are many variables which need to be considered including meters that read accurately. Councilor Scott asked when you back flush how many gallons are used. It was explained that the backwash water is included in the water loss ratio.

Moved by Councilor Castonia, seconded by Councilor Engblade, to accept the 2009 Water Treatment Plant Annual Report. Motion Carried.

Police Chief Mark Barnett clarified a question Councilor Scott asked a couple of weeks ago regarding the sex offender numbers. There are currently 45 sex offenders listed with registered addresses in the City of Ludington. Of this number, 4 are listed as living at Mason County Jail and 41 are registered at residences in the City. 3 of the 41 are registered as living within the school safety zone. These individuals were grandfathered in and are not in violation of state law. When the City started looking into this there were 7 individuals living in the school safety zone, with 3 of these grandfathered in and the remaining 4 being resolved. If a person visits a place within the school district this is not the same as living at a place within the school district.

His Honor Mayor Henderson reminded Council of the next meeting on Monday, March 15, at City Hall.

Moved by Councilor Engblade, seconded by Councilor Holman, that the meeting be adjourned. So carried at 7:15 p.m.

Deborah L. Luskin, CMC
City Clerk