

April 26, 2010

Regular meeting of the Ludington City Council held in the Council Chambers of the Municipal Building on Monday, April 26, 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, and City Clerk Deborah Luskin.

Invocation was pronounced by Councilor Engblade.

Pledge to the Flag was given.

The agenda was corrected to include the approval of the Agreement for the Act 146 Certificate for KDMAC Ventures LLC under topic 7(a)1 and to move the Adoption of the Resolution Approving Application of OPRA Exemption Certificate to 7(a)2. Moved by Councilor Castonia, seconded by Councilor Holman, that the Agenda be approved as corrected. Motion Carried.

The meeting was opened for public comments.

Bob Neal, 110 William St., informed Council that he moderated a recent town hall meeting on the topic of the wind turbines. He explained that there was a power point presentation by the POWER Group. There were no negative comments and approximately 50 people spoke at this meeting. There were comments made regarding the credibility of the developers, the noise and light projected by these turbines, and a comment regarding the fact that these turbines may not be a permanent solution to the energy problem. There was also discussion on how these structures would be pulled out of the lake after they no longer have a use and who will pay for this removal. County officials did attend this meeting as well. He is urging Council to become informed on these wind turbines as \$350 million flowed through Mason, Oceana, and Manistee Counties from tourism. He again urged Council to educate themselves on this subject so as to make an informed decision.

Lila McClelland, 309 N Harrison St., spoke supporting everything Bob Neal said. She then presented a letter addressed to the City Manager referring to the condemned building at 311 N Harrison St. which was destroyed by fire in July, 2009. The letter explained that this property is dangerous, an eyesore, and lowers the property values of houses in the neighborhood. The homeowner at 315 N Harrison St. recently had to call animal services to remove a porcupine which came out of the debris at this house. The letter further stated that they are aware that the City is working on this, but would like to keep this issue a priority with the City. Photographs of the property were also added to the letter and are on file. There are five signatures on the letter and all residents located in close proximity of the burned home.

Judy Johnson, 310 N Harrison St., spoke in support of Lila McClelland's comments and is also a signer of the letter. She lives directly across from the burned home and explained that she sees wild animals and cats going in and out of the house because it is not properly boarded up.

His Honor Mayor Henderson stated they will discuss the above issue when they come to the Building and Licensing Committee update.

After no further 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 04/12/10. Motion Carried.

The meeting was opened for the scheduled public hearing to hear comments on the Obsolete Property Rehabilitation Application for Exemption Certificate filed by KDMAC Ventures, LLC.

Bob Neal, 110 N William St., spoke in favor of the OPRA Application for exemption Certificate filed by KDMAC Ventures, LLC.

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

AGREEMENT FOR ACT 146 CERTIFICATE

THIS AGREEMENT is made this 26th day of April, 2010, by and between the City of Ludington, a Michigan municipal corporation, with offices at 400 South Harrison Street, Ludington, Michigan 49431 (the "City") and KDMAC Ventures, LLC, (the "Owner") owners of commercial property located at 102 West Ludington Avenue, Ludington, Michigan 49431, with reference to the following:

- a. The City has previously established an Obsolete Property Rehabilitation District (the "District") pursuant to the requirements of Act 146 of the Michigan Public Acts of 2000, as amended (the "Act");
- b. The Owner owns a commercial property located in the District and has requested the City to grant an Obsolete Property Rehabilitation Exemption Certificate for the cost of building rehabilitation only in the aggregate amount of Three Hundred Thousand and no/cents (\$300,000.00) (the "Project").
- c. The Owner and the City are entering into this Agreement to set forth their respective rights and responsibilities in connection with the granting of an Act 146 Obsolete Property Rehabilitation Exemption Certificate for the proposed Project.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the Owner and the City agree as follows:

1. Subject to requisite State of Michigan approval, the City shall grant a tax abatement to the Owner for twelve (12) years for any rehabilitation of the existing property associated with the Project.
2. The Owner estimates that approximately 4 jobs will be retained or created as a result of completion of the Project and agrees to use its best efforts to increase its employment in the City in accordance with its estimate.
3. This Agreement applies only to the tax abatement for the Project described herein and does not apply to any other outstanding Obsolete Property Rehabilitation Exemption Certificate(s) granted to the Owner by the City of Ludington.

Moved By Councilor Holman, seconded by Councilor Taranko, to approve the foregoing Agreement for Act 146 Certificate. Motion Carried.

RESOLUTION APPROVING APPLICATION OF KDMAC VENTURES, LLC FOR AN OBSOLETE PROPERTY REHABILITATION EXEMPTION CERTIFICATE

WHEREAS, Act No. 146, Sec 2(k) of the Michigan Public Acts of 2000, as amended, authorizes the City of Ludington to establish Obsolete Property Rehabilitation District and to approve applications for Obsolete Property Rehabilitation Exemption Certificates; and

WHEREAS, pursuant to Act No. 146, and after a duly noticed public hearing held, the Ludington City Council, by resolution adopted on March 15, 2010, created an Obsolete Property Rehabilitation District for the above applicant at 102 W. Ludington Avenue; and

WHEREAS, the Applicant did on April 6, 2010, file an application with the City of Ludington for an Obsolete Property Rehabilitation Exemption Certificate under the provisions of Act 146 for a project to modify, remodel and/or rehabilitate the building located at 102 W. Ludington Avenue in the City of Ludington; and

WHEREAS, the City and Applicant have entered into a written agreement pursuant to P.A. 146 of 2000; and

WHEREAS, before acting on said application, the Ludington City Council held a public hearing on April 26, 2010, at the Ludington City Council Chambers, located at 400 South Harrison Street, Ludington, Michigan, at 6:30 p.m., at which hearing the applicant, the assessor, and representatives of the affected taxing units, who were given previous written notice, were afforded an opportunity to be heard on said application; and

WHEREAS, this City Council also finds as follows:

- a) That the application relates to a rehabilitation project which when completed constitutes a remodeling of the current building within the meaning of Act 146, and which rehabilitation is situated within the Obsolete Property Rehabilitation District duly established by the City of Ludington.
- b) That the Project is calculated to have the reasonable likelihood to create employment, retain employment or prevent a loss of employment in the City.
- c) That the facility does not have the primary effect of transferring employment from another community within the State of Michigan to the City of Ludington.
- d) That the primary purpose of Applicant's rehabilitation project is to restore or update the current physical building of its current functional obsolescence.
- e) That the aggregate state equalized valuation of real and personal property from ad valorem taxes under Act No. 146 and under Act No. 198 including that for which the applicant seeks exemption does not in fact exceed five (5) percent of the total state equalized valuation of the City of Ludington
- f) All of the items required by No. 9 of the application, i.e. Items (a) through (f), inclusive, have been provided by the applicant.
- g) That the rehabilitation of the facility did not commence prior to the establishment of the district.

- h) The rehabilitation of the building exceeds 10% of the aggregate improvement true cash value as provided in section 2(1) of the Act.
- i) The rehabilitation of the building shall commence upon approval by the State Tax Commission and shall be completed within two (2) years from date of commencement.
- j) The applicant is not delinquent in any property taxes related to the facility.
- k) That the City Assessor certifies that the SEV and Taxable Value of the facility are \$129,100 and \$129,100, respectively, and they will be certified at those values by the State Tax Commission for the year 2010 on the fourth Monday of May, .

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

- 1. That the application of KDMAC VENTURES LLC for an Obsolete Property Rehabilitation Exemption Certificate for this rehabilitation project be and is hereby approved, subject to the following condition:
 - a) That the exemption for the real property portion of this application shall remain in force and effect for a period of twelve (12) years, unless otherwise modified or revoked pursuant to the provisions of Act 146 of 2000.
The estimated cost of Applicant's rehabilitation project as set forth in the application is: \$300,000.

Moved by Councilor Scott, seconded by Councilor Castonia, to approve the foregoing Resolution Approving Application of KDMAC Ventures LLC for an Obsolete Property Rehabilitation Exemption Certificate. Motion Carried.

Moved by Councilor Holman, seconded by Councilor Peterson, that the Finance Report with total expenditures in the amount of \$386,746.68 for this period be approved and orders drawn according to the City Charter. Motion Carried.

DPW Superintendent Shawn McDonald presented the 2009 DPW, Cemetery, and Parks Annual Report. He summarized the report and explained that there are 3 employees in the Cemetery and Parks Department, 10 employees at DPW and 3 employees in Motor Pool. He thanked the DPW Clerk, Julie Ledger, for putting together all the information for this report. The DPW plows and salts the roads in the winter with 6 snow plow trucks, 2 loaders, and 1 holder which plows the sidewalks. In 2007, \$71,000 was spent salting and brining the roads, in 2008 it cost \$93,000 to salt and brine, and in 2009 it cost \$75,000. In the spring DPW checks the Loomis Street Boat Launch to see if the City needs to dredge and in 2010 the new break wall was put in and is working so no dredging is required which saves the City \$20,000. In 2009, there were 133 trees planted after old trees were cut down. Brush is also picked up and in the summer they pump fish offal. In 2008, DPW picked up 4,207 cubic yards of leaves and material and in 2009 DPW picked up 4,201 cubic yards of leaves and material. DPW also works on a variety of special events beginning in February through December. There were no Major Street Projects in 2009, however, James Street was completed by the Michigan Department of Transportation. Shawn has met with an asphalt company to look at different options of covering the roads with a micro seal to repair more blocks with less money. The Motor Pool repairs all equipment and vehicles. The Cemetery handled 36 full burials, and 46 cremations in 2009. He finally explained that he has taken a reduction in the budget each year and is living within the budget that is set for him.

His Honor Mayor Henderson questioned the process of paving a road and then rolling the patching together called lap joints. He used N. Lavinia Street as an example and stated that you can definitely see the separation occurring. He asked Shawn if anyone has figured out why this is happening and how this can be avoided in the future. Shawn explained that they have changed the way the joints are going in now and there should now be a better seam. Councilor Holman questioned the 130 trees which were bought and ordered in advance in 2009. This year they bought only 85 trees and Shawn explained that the purchase was an attempt to cut down on cost. She also questioned how many trees were taken down and Shawn explained that they took down 100 trees but several of these areas could be covered by one tree or some residents have asked not to have a tree replaced if it has been cut down.

His Honor Mayor Henderson asked that Shawn McDonald to extend to the Cemetery, Parks, DPW, and Motor Pool crew appreciation for their efforts.

Moved by Councilor Peterson, seconded by Councilor Castonia, to approve the 2009 DPW, Cemetery, and Parks Annual Report.

Moved by Councilor Engblade, seconded by Councilor Holman, to approve the Michigan Department of Community Health Farmers' Market Nutrition Program (Project Fresh) Market Master Agreement and Certification. Councilor Engblade explained that this is a farmers' market nutrition program and allows low income families to obtain coupons from \$2 to \$20 each year and can redeem these coupons for any fresh grown local products. The City would be the master market person who would redeem the coupons and the City's DDA Fund would then pay the vendor for

the sales. The City would be reimbursed by the Michigan Department of Community Health Farmer's Market. Motion Carried.

Councilor Engblade presented the March Building, Zoning, and Enforcement Report. City Manager John Shay provided an update of the house at 311 N Harrison St. which burned down last summer. The house was uninsured and the City did post a demolition order and issued a civil infraction last fall. The former building inspector allowed the homeowner to demolish the house by April 1, 2010. This house has still not been demolished and another civil infraction was issued and if he does not comply, the City Attorney will issue a court order for him to demolish it. The neighbors' complaint is a legitimate complaint. There is a 30 day waiting period and the City Manager expects that there will be a court appearance after the 30 day wait period expires.

A public hearing has been set for 5/10/10 at 6:30 p.m. at City Hall to hear comments on the closing out of the Façade Grant Programs MSC-2000745-CAT and MSC-200814-CAT.

PROCLAMATION

WHEREAS, The United States Power Squadrons, now celebrating its 96th anniversary, has earned the respect of boating men and women through the nation, for their many civic service contributions to boating safety; and

WHEREAS, The voluntary members have taught their USPS public boating courses to more than four million people to date, and are presently teaching in excess of 40,000 men, women and youngsters a year; and

WHEREAS, The Sable Point Sail & Power Squadron was organized in Ludington and chartered by the United States Power Squadrons in January 2002; and

WHEREAS, The Sable Point Sail & Power Squadron encourages its members to improve their boating knowledge and skills through advanced boating courses and as a civic service has and continues to provide public safe boating courses to local residents; and

WHEREAS, The successful completion of the USPS Boating Course meets the Educational requirements for boat operation in all states; and

WHEREAS, The members of USPS, working in concert with the National Ocean Service, have provided and are continuing to provide, tens of thousands of chart corrections yearly, more than any other organization, in order to keep our nation's 1000 Nautical charts up to date; and

WHEREAS, The United States Power Squadrons have been honored by four U.S. Presidents for many contributions they have made in boating safety.

NOW, THEREFORE, I, John Henderson, Mayor of the City of Ludington, do Hereby declare, Saturday, May 22, 2010, the first day of Safe Boating Week, as United States Power Squadrons Day and urge all people to join in this observance.

Moved by Councilor Engblade, seconded by Councilor Holman, to adopt the foregoing Proclamation establishing May 22, 2010 as the first day of Safe Boating Week. Motion Carried.

Councilor Castonia referred to a report from the Western Mason Fire District Authority.

His Honor Mayor Henderson explained that the County of Mason is holding a public forum on the wind turbines on May 6th at 7 p.m. at the Peterson Auditorium. The City is looking to hold the same presentation in June 2010 and this will be associated with a regular meeting.

Police Chief Barnett explained that the police officers and code enforcement are working to mark the inoperable motor vehicles.

His Honor Mayor Henderson expressed appreciation to Chief Funk and Chief Barnett and all the volunteers who participated at the Skate Park on Saturday to clean up the park.

Moved by Councilor Engblade, seconded by Councilor Castonia, that the meeting be adjourned. So carried at 7:05 p.m.

Deborah L. Luskin, CMC
City Clerk