

June 22, 2009

Regular meeting of the Ludington City Council held in the Council Chambers of the Municipal Building on Monday, June 8, 2009, at 6:30 o'clock p.m.

Present: His Honor Mayor John Henderson and Councilors Kaye Holman, Brent Scott, Dave Weston, Pete Engblade, and Gary Castonia.

Absent: Councilors Paul Peterson and Greg Dykstra who were excused.

Also present were City Manager John Shay, City Attorney Roger Anderson by phone, Police Chief Mark Barnett, Fire Chief Jerry Funk, and City Clerk Deborah Luskin.

Invocation was pronounced by Councilor Pete Engblade.

Pledge to the Flag was given.

Moved by Councilor Holman, seconded by Councilor Weston, that the Agenda be approved as presented. Motion Carried.

The meeting was opened for public comments. Kris Plouff, 608 6th Street, requested that the City provide a couple of trash containers at the west end of the beach where Ludington Ave meets Lake Michigan. She explained that this area is accessed by people with special needs, elderly, and small children, and currently there are no trash containers there. After no further comments were received, the regular order of business was resumed.

Moved by Councilor Castonia, seconded by Councilor Scott, to approve the minutes of the regular meeting 6/08/09. Motion Carried.

Don Clingan, 201 N. Gaylord Ave., presented an update on the Sculptures in Waterfront Park. There are 8 sculptures in the park now and each has a strong connection to the history of the Ludington area. The Committee is in the process of installing the 8th sculpture, which is named "Hooked on Hamlin." This is being donated by the Friends of Hamlin Lake. The theme is a grandfather and grandson sitting on stumps next to the shore of Hamlin Lake fishing. There is a third stump available for photo opportunities as this sculpture is going to be very interactive. The cost is \$75,000 plus the cost of the plaque, with all but \$5,000 already raised for this project. The Committee is very optimistic of meeting this goal. The installation has begun and is located in the northwest corner of the park. The dedication is scheduled for July 17th at 5 p.m. and the committee has asked Mayor Henderson to attend this dedication. He publicly thanked the City of Ludington, the City Council, the Parks and Recreation Committee, the DPW, and Shawn McDonald and his employees as well as Councilor Scott for the outstanding help that has been given. One additional sculpture is being planned for the park with a farming theme. There are several interested donors and the Committee hopes to have the funding in place this year with installation in 2010. This will be the final sculpture. There will also be some sidewalk work and some additional landscaping on the car ferry sculpture and the "Put Me In Coach" sculpture. There will be a final bronze plaque installed at the park to recognize those who have donated \$1,000 or more as well as media publicity for anyone who has contributed any donation to the park. The current investment in the park with 8 sculptures is \$707,000. With the last sculpture in place, the total investment will be over \$800,000 and \$30,000 will be turned over to the City for the future maintenance and yearly waxing of these sculptures.

Mayor Henderson thanked Don Clingan and the Sculpture Committee for all of the hard work that was done to make these sculptures happen.

DOWNTOWN LUDINGTON BOARD REQUEST TO HOLD FRIDAY NIGHT LIVE EVENT

WHEREAS, the Ludington Downtown Board is proposing "Friday Night Live" events in downtown Ludington to promote the downtown by providing a family atmosphere with a variety of entertainers on July 17, July 24, July 31, and August 7, 2009, and;

WHEREAS, the proposed location for the festival is Ludington Avenue between Harrison St and Robert St and the first block of North and South James St, and the first half block of North and South Rath Ave., and

WHEREAS, MDOT requires the City Council's approval of requests for street closure.

THEREFORE, BE IT RESOLVED, that the Ludington City Council approves the Downtown Ludington Board's request to close Ludington Avenue from 5 p.m. to 10 p.m. on the above dates.

Moved by Councilor Weston, seconded by Councilor Castonia, that the foregoing Resolution be approved. Mayor Henderson stated that there are a lot of activities planned and if anyone is willing to volunteer or has a game, event, or band the committee would like them to come forward and be part of these events. Motion Carried.

Moved by Councilor Holman, seconded by Councilor Castonia, that the Finance Report with total expenditures in the amount of \$442,407.49 for this period be approved and orders drawn according to the City Charter. Motion Carried.

Ordinance No. 196-09, an ordinance setting the operating and garbage & rubbish millage at a total of 14.3437 mills, was presented for the first reading.

Ordinance No. 197-09, an ordinance setting the Police Pension millage at a total of 1.0150 mills, was presented for the first reading.

Ordinance No. 198-09, an ordinance setting the DDA operating millage at a total of 1.6080 mills, was presented for the first reading.

Ordinance Nos. 196-09, 197-09, and 198-09 shall be presented for adoption on 7/13/09 and are available for public inspection in the City Clerk's office during regular business hours.

RESOLUTION

WHEREAS, under the provisions of Michigan Public Act 5 of 1982, the base tax rate for the City of Ludington for 2009 has been reduced to 14.161 mills for operating purposes, garbage and rubbish; and

WHEREAS, because of increased operating costs, the City Council determines that it is necessary to increase the 2009 operating & garbage and rubbish millage above the base rate of 14.161; and

WHEREAS, the City has complete authority to establish the number of mills to be levied from within its authorized millage rate subject to the Headlee millage reduction fraction; and

WHEREAS, the City Council has determined that the amount of increase necessary over the base tax rate is .1827 mills for a total operating & garbage and rubbish rate of 14.3437 mills;

NOW THEREFORE BE IT RESOLVED THAT:

1. A public hearing is hereby set for Monday, July 13, at 6:30 p.m. at the Ludington Municipal Building, 400 S. Harrison Street, to receive comments on a proposed increase in millage of .1827 mills above the base tax rate of 14.161 mills.
2. The City Clerk is hereby directed to publish notice of said hearing in the Ludington Daily News at least six (6) days prior to the date of the hearing.
3. The notice of hearing shall include the date, time and place of said hearing and the amount of the proposed millage increase above the base tax rate, as well as any other information required under the provisions of Michigan Public Act 5 of 1982.

Moved by Councilor Holman, seconded by Councilor Scott, that the foregoing Resolution be approved. Motion Carried.

RESOLUTION TO APPLY FOR ARRA ASSISTANCE TO FIREFIGHTERS FIRE STATION CONSTRUCTION GRANT FUNDS

WHEREAS, the City of Ludington has been actively working toward the construction of a new Ludington Fire Station over the past year; and

WHEREAS, federal grant funding is available through the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5), which provides the Department of Homeland Security (DHS) with \$210,000,000 in funding to make awards for the construction and modification of fire stations; and

WHEREAS, the City of Ludington can apply for 100% of the costs of the construction of a new fire station through this grant opportunity.

THEREFORE, BE IT RESOLVED, that the City Council of the City of Ludington authorizes the grant application for the ARRA Assistance to Firefighters Fire Station Construction Grants in the amount of \$1,500,000.

Moved by Councilor Holman, seconded by Councilor Castonia, that the foregoing Resolution be approved. Motion Carried.

RESOLUTION

WHEREAS, the Municipal Employees Retirement System (MERS) requires that the governing body elect an Officer Delegate and an Officer Alternate to represent the City at the MERS' Annual Meeting; and

WHEREAS, MERS requires that the City Employees elect an Employee Delegate and an Employee Alternate to represent the employees at the MERS' Annual Meeting. Kirk Caithamer was elected as Delegate and Leo Lindbloom as Alternate; and

WHEREAS, MERS requires that the Officer Delegate shall be an officer member who holds a department head position or above, exercises management responsibilities, and is directly responsible to the legislative and /or executive branch of local government; and

THEREFORE, BE RESOLVED, that Deborah L. Luskin be appointed Officer Delegate and John E. Shay be appointed Officer Alternate to serve at the 2009 MERS Annual Meeting.

Moved by Councilor Holman, seconded by Councilor Castonia, that the foregoing Resolution be approved. Motion Carried.

RESOLUTION FOR SPECIAL ENROLLMENT RIGHT
SECTION 125 CAFETERIA PLAN

WHEREAS, the City of Ludington previously adopted a Code Section 125 plan, referred to as the Cafeteria Plan ("the Plan");

WHEREAS, effective April 1, 2009, the Children's Health Insurance Program Reauthorization Act of 2009 (the "Act") permits a Plan to allow special enrollment for eligible but not enrolled employees or dependent child who either (1) lose coverage under a Medicaid or a State Children's Health Insurance Plan (SCHIP) under titles XIX and XXI of the Social Security Act, respectively, or (2) become eligible for group health plan premium assistance under Medicaid or SCHIP ("Special Enrollment Right"); and

WHEREAS, effective 04/01/2009 the City of Ludington desires to amend the Plan as set forth in the attached Summary of Material Modifications to allow for a Special Enrollment Right that is consistent with the requirements set forth in the Act; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Ludington has hereby reviewed the attached Summary of Material Modifications and does hereby approve the adoption of the Special Enrollment Right as set forth therein;

BE IT FURTHER RESOLVED that the City Council of the City of Ludington is authorized and directed to take any and all action as may be necessary to effectuate this Resolution.

BE IT FURTHER RESOLVED that the City Clerk is directed to enter a copy of this Resolution into the records of this Institution and into the minutes of this meeting.

Moved by Councilor Scott, seconded by Councilor Holman, that the foregoing Resolution be approved. Motion Carried.

The Manager's Report for Special Assessment on the sidewalk at 301 N. William St., was presented to Council. The owner of this property was contacted by the city to apply for the 50/50 plan with the city to repair this sidewalk. No response was received and it is now recommended that the owner's portion be specially assessed at 75% with the City paying 25% of the cost of these repairs. The total cost of repairs on the sidewalk at 301 N. William St. is \$1,637.50. The purpose of the special assessment is to provide for the overall safety of the general public.

Moved by Councilor Holman, seconded by Councilor Scott, to approve the Manager's Report. Motion Carried.

TENTATIVE DETERMINATION OF NECESSITY
2009 Sidewalk Replacement No. 1
Original Plat Lot 8 Block 7
(301 N. William St)
In The City of Ludington

WHEREAS, a contract has been mailed to the homeowner of the above parcel requesting the signature of property owner(s) to be in agreement to repair/construct sidewalk, however failed to be filed with the City said contract to repair/construct safe passable sidewalk for the ORIGINAL PLAT LOT 8 BLOCK 7 (301 N. WILLIAM ST.),

WHEREAS, the City Manager has filed his report pursuant to Section 46-74 of the City of Ludington's City Code, and

WHEREAS, THE City Council has tentatively determined that it is in the best interest of the City and of the residents whose property is to be benefited to proceed with such improvement.

NOW THEREFORE BE IT RESOLVED,

1. Pursuant to Section 42.30(b) of the City Code, the City Council waives the Resolution required in Section 42.30(a) of the City Code.
2. That the City Council tentatively determines the necessity of the improvement to be in the best interest of the City and the residents whose property is benefited by such improvement.
3. That the description of the proposed improvement is: **TO PROVIDE PUBLIC SAFETY BY REPAIRING/CONSTRUCTING HAZARDOUS SIDEWALK WHICH ADJOINS THE ABOVE PROPERTY.**
4. That the estimated cost of the proposed improvement is: **ONE THOUSAND SIX HUNDRED THIRTY-SEVEN DOLLARS AND FIFTY CENTS (\$1,637.50)**
5. That the portion to be specifically assessed against the properties benefited is: **seventy five percent (75%) of the proposed improvement.**

6. That the portion to be paid by the City at large is: twenty five percent (25%).
7. That the description of the District is ORIGINAL PLAT LOT 8 BLOCK 7 (301 N. WILLIAM ST.)
8. That the manner in which the assessment is to be made (e.g. lineal foot or other benefit) is: based on square footage of the amount of sidewalk that is in need of repair that lines the property.
9. That the Special Assessments may be paid in full or in scheduled monthly installments until June 1, 2010, at which time the remaining balance will be placed on the homeowner's summer taxes.
10. That the City Assessor shall prepare and deliver to the City Clerk a proposed assessment roll based on the above estimated cost of the improvement and the method by which such assessment is to be determined in accordance with Sections 42.36 and 42.37 of Chapter 42 of the City Code.
11. That complete information concerning this proposed improvement and the proposed assessment roll shall be placed in the office of the City Clerk and available for inspection during normal business hours.
12. That the City Clerk is directed to give notice of the time and place of the hearings at which time interested persons may be heard upon the determination of the necessity and the confirmation of the assessment roll. Such notice to each interested person shall include the amount proposed to be assessed upon the property of such interested person.
13. Such notice shall comply with Act 162 of the Public Acts of 1962, or any successor provisions thereof, and with the Charter and the City Code of the City of Ludington.

Moved by Councilor Castonia, seconded by Councilor Engblade, that the foregoing Tentative Determination of Necessity on 301 N. William St be approved. Motion Carried.

A public hearing was set for 7/13/09 on the foregoing sidewalk special assessment for the above listed sidewalk at 301 N. William St.

Ordinance No. 199-09, an ordinance to amend Sections 62-101 and 62-102 of the City Code was presented for the first reading. The City has been receiving more requests by landlords to transfer the responsibility to pay the water & sewer bill to the tenant. This amendment would allow the landlord to transfer to the tenant the responsibility to pay the bill as long as the landlord provides a separate meter for City personnel to shut off the water upon non payment. The security deposit of \$250 and \$500 for commercial customers shall be paid to the City. The City would no longer allow the security deposits to be paid in installments.

Ordinance No. 199-09 shall be presented for adoption on 7/13/09 and is available for public inspection in the City Clerk's office during regular business hours.

Moved by Councilor Castonia, seconded by Councilor Scott, to approve the Sand Bar's request to use the alley off Loomis St., behind Gary Nichols Law Office, the Sand Bar, and the Cedar Chest, to serve alcoholic beverages on the dates of July 4th, 17th, 24th, 31st, August 7th, 22nd, and 29th. Councilor Engblade questioned whether the Sand Bar needed to have a liquor license to use that alley. Police Chief Mark Barnett explained that the Sand Bar is applying for temporary liquor license through the Liquor Control Commission. Moved by Councilor Engblade, seconded by Councilor Castonia, to amend the motion to approve this activity for the dates listed above only upon approval of the proper license by the Liquor Control Commission and also that the proper liability insurance is in place cover the activities in this alley. Councilor Scott clarified that picnic tables are only supplied by the City on the Bike Night, August 29th. Motion Carried on the amended motion. Councilor Holman asked if there would be any other way to get into the fenced area other than to go through the establishment and then through the back door of the Sand Bar. No other entrance was noted. Motion Carried on the original motion.

Councilor Castonia presented the May 2009 Monthly Police Activity Report.

A public hearing was set for July 13, 2009, to hear comments on the application for Industrial Facilities Tax Exemption Certificate by The Brill Company, Inc. This public hearing was originally scheduled for tonight, but all of the other taxing jurisdictions were not notified of the meeting tonight so a new hearing will be set for July 13, 2009.

City Manager Shay publicly thanked Laude Harturm III and BSA Troup 1190 for painting the Kiawanis Bandshell at City Park.

Councilor Holman complimented Chief Barnett on the closure of the skate park for cleaning and asked if Chief Barnett had any reaction from the public on this closure and if the park has stayed clean. Police Chief Barnett explained that it was Kirk Caithamer and Shawn McDonald's recommendation to shut the skate park down for cleaning. This was the right decision and has made a marked improvement at the park.

Police Chief Barnett presented an update on the Gus Macker which was held this past weekend. Arrests and citations were higher than last year although the parking enforcement was down. Chief Barnett recognized the efforts of

Officer Wells and several High School students who painted the curbs illustrating the set back which reduced the volume of illegal parking. Ludington Police Department's cost was \$5,471. He stated that the event went real well.

Police Chief Barnett introduced an application for a Port Security Grant with a very short turnaround time. Community Development Director Heather Venzke learned late last week of a 0 match 100% grant funded Port Security Grant which needs to be submitted by Monday, June 29, 2009. This would be spent on a \$227,053 Tender Craft Dock, located just off the 410 foot straight seawall which cuts back to the Municipal Marina at a 45 degree angle. This dock would provide dockage for Tender Craft and cruise ships where people can be tendered into Ludington. This dock is required by federal security guidelines. The main focus of this grant would be for compliance with the security plan. The second part of the grant request is for the purchase of a fire and police boat. Police Chief Barnett explained that in discussing this with Fire Chief Funk and recognizing that in 2003 there was a fatal boat fire at Thompson's Marina where five boats, pulled in bow first, could not be salvaged due to the inefficient ability to put water on the back of those boats. A request for fire fighting assistance had been made to a federal agency, but they could not respond. This boat would be 100% funded by federal grant funds. Moved By Councilor Holman, seconded by Councilor Castonia, for the approval of the Port Security Grant for the Tender Craft Dock and for the fire and police boat. Councilor Enghlade went on record as against this grant as the Coast Guard is responsible for responding to fire and rescue. It was explained that in the past they were responsible but no longer are able to respond to these fires. Councilor Enghlade explained that there has not been enough research done on this request to determine how much it will cost the City, what type of training for the police and fire department, and what is the cost to the City in the long term. He is against the boat, but not against the dock and said that this should go back to Committee to determine these costs. Police Chief Barnett explained that the window of opportunity to apply for this grant is up June 29th. Community Development Director Heather Venzke is out of the office this week but has agreed to prepare the grant if the request is approved. If the City is given the funds he believes that there will be ample time to determine if the grant should be accepted if it is offered. His Honor Mayor Henderson explained that with the federal stimulus money the grants are offered for a short time and these must be submitted quickly or the money is lost. Both Councilors Enghlade and Weston questioned when this particular grant was made available. It was explained that the Community Development Director attended an online conference call on the specifics of this grant last Thursday. Fire Chief Funk explained that there are no fire fighting capabilities at the marina for boats at this time. The Coast Guard will not come to a personal marina fire. There have only been three incidents on boats in the last 10 years that the fire department responded to. Councilor Scott explained that as many times during the course of a year that the boats go up on the breakwall each of these instances are a potential for fires. Councilor Enghlade explained that there are no exposure suits for these types of fires, the City will need marine equipment and radios and training on this type of boat and these are costs that have not been determined in this proposal. He believes that the City must look at the demand and what are the costs to operate and store the boat. His Honor Mayor Henderson explained that these are valued points and the answers to the questions will come in time, however we are a water side community and that currently there is a deficit in the ability to provide fire security to boaters. Councilor Castonia questioned whether this was a vote to apply for a grant and suggested if there was additional information needed; Chief Barnett and Chief Funk could get this information together and bring back to Committee for review. City Manager Shay explained that the timing for applying for these grants is very frustrating to do due diligence. It was agreed that the Tendercraft Dock is a worthwhile project to pursue. A good compromise is to apply for the grant and then come up with the information on the cost of the boat and if we are awarded the grant, make the decision to either accept or turn down the boat. Councilor Enghlade opposed this motion. Motion Carried.

Police Chief Barnett stated that with the 4th of July next week he suggested that the public drink responsibly and have a designated driver. Fire Chief Funk asked the public to be safe with fireworks.

City Manager Shay informed Council that we have received the final payments on the storm damage from the Federal Highway Administration. Total reimbursements received were \$286,000.

Moved by Councilor Enghlade, seconded by Councilor Holman, that the meeting be adjourned. So carried at 7:35 p.m.

Deborah L. Luskin, CMC
City Clerk