

July 14, 2008

Regular meeting of the Ludington City Council held in the Council Chambers of the Municipal Building on Monday, July 14, 2008, at 7:30 o'clock p.m.

Present: His Honor, Mayor John Henderson, Councilors Kaye Holman, Paul Peterson, Greg Dykstra, Brent Scott, Dave Weston, Pete Enblade, and Gary Castonia.

Absent: None.

Also present were City Manager John Shay, City Attorney Roger Anderson, Police Captain Rich Pruneau, City Treasurer Mary Reeds-Mortensen, and City Clerk Deborah Lusk.

Invocation was pronounced by Councilor Pete Enblade.

Pledge to the Flag was given.

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

The meeting was opened for public comments.

Bruce Fletcher, 306 S. Ferry, questioned the status of the Coast Guard 44, whether it would be installed west of the new Coast Guard building and when it would be installed. His Honor Mayor Henderson confirmed that the 44 was still in the West Ludington Avenue plan and would be west of the new Coast Guard Building. The City does have title to the boat but setting it in this location is not certain. Mr. Fletcher also asked about the Coast Guard Station and it was explained that the City does not have title to this building yet and is undergoing an environmental assessment which is part of the process of getting possession of this property. The City does have an agreement with the Historical Society to operate and run the museum in this building. The timing was questioned and His Honor Mayor Henderson stated that this target date is probably next spring. Mr. Fletcher also commended the Council and the City for the Skate Park. He asked about the hours of operation and indicated that they are not prominent on the big sign. The hours are 8 a.m-10 p.m. and are dictated by daylight. His final question was regarding cleanup and His Honor Mayor Henderson stated that the cleanup is up to each individual.

Nick Tykoski, 303 S. Washington Ave, introduced himself as a candidate running for the 3rd District County Commissioner seat.

Debbie Rasmussen, 914 N. Harrison St., explained that her husband and she had approached Council a few years ago regarding the expansion of Straits Steel and Wire Company. During the expansion process Straits Steel and Wire wanted to know if there would be any problems with the neighbors. At that time, Debbie Rasmussen questioned the day care across the street and Straits Steel stated that the parking lot area would be fenced in and paved. To date, this parking lot has not been paved. She questioned whether there were any guidelines regarding the runoff of water for factories and buildings in the City. City Attorney Roger Anderson stated that the zoning ordinance does require a site plan review which is to minimize runoff of properties on to adjoining properties. Mrs. Rasmussen stated that the amount of runoff water from the factory during this last big storm was 5 feet with 10-15 yards of dirt. There are no drainage pipes and Straits Steel and Wire built a gravel bed with pvc pipes which goes right into the parking lot and because she is the neighbor her house received the largest amount of runoff. She has asked that the City address this issue. His Honor Mayor Henderson asked that the Planning Commission and Site Plan to review this and see what the City can do to resolve this issue.

Tom Tyron, 305 E Ludington Ave., commented on the 4th of July parade and that by living on Ludington Avenue, he sees that many people are setting up tarps on the grass one to two days ahead of the parade. He is asking for an ordinance to address when an individual can set up tarps and chairs for the parade. Another issue he addressed are the yard sale signs and that no one asks for his permission to place the signs on his property. He is asking the Code Enforcement Officer to look at the signs His Honor Mayor Henderson asked the Public Safety Public Utility Committee to review the issue of when to put tarps and chairs out for parades.

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

Moved by Councilor Dykstra, seconded by Councilor Holman, that the minutes of the regular meeting held 06/23/08 be approved as printed. Motion Carried.

A public hearing was held on the proposed police pension millage for the City. Al Benson, 1012 N. William, asked what the impact of the DDA and TIF in dollars and cents was on the City's police pension fund. He questioned why the DDA needs these funds for 5 years for a total of \$340,813. He stated that it appeared to him that they DDA is robbing funds to other local government units. He would like the City to publish the amount of the tax breaks given to businesses via the DDA and tax abatements to other businesses before the City gives away any further tax breaks. He asked to hear the Treasurer's opinion on these tax breaks.

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

ORDINANCE NO. 180-08

Short Title: An Ordinance creating the Appropriation Bill for the City of Ludington, Michigan, for the year January 1, 2009, to December 31, 2009.

THE CITY OF LUDINGTON ORDAINS:

Section 1:

That the several sums of money mentioned shall be appropriated to defray the expense of the Police Pension Fund of the City of Ludington, Michigan, for the next fiscal year, as estimated and determined by the Ludington City Council, and the City Clerk is directed to certify the same to the Mason County Board of Commissioners.

Revenue generated from the following millages is based on an equivalent Taxable Valuation of \$266,788,423., which includes the IFT Rolls.

Police Pension

1.0150 Mills	\$ 270,790.25
TOTAL MILLS 1.0150 Mills	\$ 270,790.25

Section 2:

This Ordinance being necessary to the public health and safety, shall take effect immediately upon publication in accordance with the City Charter.

Moved by Councilor Holman, seconded by Councilor Peterson, that Ordinance No. 180-08 be adopted.

Roll Call: Ayes: Councilors Dykstra, Scott, Peterson, and Holman.

Abstained: Councilors Weston, Engblade, and Castonia as they are retired police officers.

Nays: None. Motion Carried.

A public hearing was held on the proposed Tax Increment Financing Plan Amendments for the Downtown Development Authority. Heather Loney, Community Development Director, made a presentation on behalf of the DDA Board and explained that they have done some strategic planning on the revitalization of the downtown area. The Tax Increment Financing Plan is nothing new for this area and would allow the capturing of taxes to market downtown, recruit new sustainable businesses to downtown, maintain and/or develop the plaza area on James Street, revitalize the streetscape, make parking lot and alley improvements, and look at consistent signage downtown. She explained that this not a new tax but rather a capture of taxes that already exist. The DDA is asking to capture 12% of the taxes; currently the DDA gets 2% of the taxable value (1.6% with the Headlee Rollback) or approximately \$30,000 a year. The DDA does not think that the 2% is enough to revitalize downtown. \$39,500 would be captured from the City's millage and another \$30,000 from the County and West Shore Community College millage.

The public hearing was then opened. After no comments were received, the regular order of business was resumed.

ORDINANCE NO. 184-08

An ordinance to amend and restate the Development and Tax Increment Financing Plan for the Ludington Downtown Development Authority was presented for the first reading.

Ordinance No. 184-08 shall be presented for adoption on 7/28/08 and is available for public inspection in the City Clerk's office during regular business hours.

Moved by Councilor Holman, seconded by Councilor Peterson, that the Finance Report with total expenditures in the amount of \$645,495.16 for this period be approved and orders drawn according to the City Charter. 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 Luskin be appointed Officer Delegate and John E. Shay be appointed Officer Alternate to serve at the 2008 MERS Annual Meeting.

Moved by Councilor Holman, seconded by Councilor Dykstra, that the foregoing resolution be adopted. Motion Carried.

RESOLUTION

"RESOLVED", that the City of Ludington, Michigan, accepts the terms of the Agreement as received from the Michigan Department of Natural Resources and that the City agrees, but not by way of limitation, as follows:

1. To appropriate the sum of Sixteen Thousand dollars (\$16,000) to match the Sixteen Thousand dollars (\$16,000) State grant authorized by the Department.
2. To maintain satisfactory financial accounts, documents, and records, and to make them available to the Department for auditing at reasonable times.
3. To construct the facilities and provide the funds, services, and materials as may be necessary to satisfy the terms of the Agreement.
4. To ensure that all premises, buildings, and equipment related procedures comply with all applicable State and federal regulations.
5. To establish and appoint the City Manager to regulate the use of the facilities constructed under this Agreement to assure the use thereof by the public on equal and reasonable terms.
6. To enforce all State statutes and local ordinances pertaining to marine safety and to enforce statutes of the State of Michigan within the confines of the City pertaining to the licensing of watercraft. Watercraft not fully complying with the laws of the State of Michigan relative to licensing shall not be permitted to use the facility until full compliance with those laws has been made.
7. To comply with all terms of the Agreement, including all terms not specifically set forth in the foregoing portions of this Resolution.

Moved by Councilor Holman, seconded by Councilor Peterson, that the foregoing Resolution be adopted. Motion Carried.

The Manager's Report for Special Assessment on the sidewalk at 501 N. Rath Ave. 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. Only that portion of the sidewalk in disrepair will be repaired. The total cost of repairs on the sidewalk at 501 N. Rath Ave. is \$1,818.75. The purpose of the special assessment is to provide for the overall safety of the general public.

Moved by Councilor Castonia, second by Councilor Weston, to approve the Manager's Report.

TENTATIVE DETERMINATION OF NECESSITY

2008 SIDEWALK REPLACEMENT NO. 1:
ADDITION NO. 4 E 95 FT OF S ½ OF LOT 4 &
E 95 FT OF LOT 5 BLOCK 153
(501 N. RATH AVE.)

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 ADDITION NO. 4 E 95 FT OF S ½ OF LOT 4 & E 95 FT OF LOT 5 BLOCK 153 (501 N. RATH AVE.), and

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 EIGHT HUNDRED EIGHTEEN DOLLARS AND SEVENTY FIVE CENTS (\$1,818.75).
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 ADDITION NO. 4 E 95 FT OF S ½ OF LOT 4 & E 95 FT OF LOT 5 BLOCK 153 (501 N. RATH AVE.)
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, 2009, 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 City Code of the City of Ludington.

Moved by Councilor Castonia, seconded by Councilor Scott, to approve the foregoing Tentative Determination of Necessity on 501 N. Rath Ave. Motion Carried.

A public hearing was set for 7/28/08 on the foregoing sidewalk special assessment for the above listed sidewalk at 501 N. Rath Ave.

Councilor Engblade presented the June Building, Zoning, and Enforcement Report. Moved by Councilor Engblade, seconded by Councilor Scott to approve this report. Motion Carried.

ORDINANCE NO. 185-08

Short Title: An ordinance to amend the City of Ludington Zoning Ordinance No. 23-00, as amended.

THE CITY OF LUDINGTON ORDAINS:

Section 1.

ARTICLE 200.2, Section 200.2:6 shall be amended to read as follows:

SECTION 200.2:6

- (1) **LOT:** A parcel or portion of land, exclusive of any adjoining street, separated from other parcels or portions by description of record.
- (2) **LOT AREA:** The total horizontal area within the lot lines of the lot.
- (3) **LOT, CORNER:** Any lot having at least two contiguous sides abutting upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents of the curve, at the points of beginning within the lot or at the points of inter-section of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees.
- (4) **LOT COVERAGE:** That part or percent of the lot occupied by buildings, including accessory buildings.
- (5) **LOT DEPTH:** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.
- (6) **LOT, DOUBLE FRONTAGE:** Any lot including a corner lot, as defined herein, having two or more sides abutting on one or more streets or roads.
- (7) **LOT, INTERIOR:** Any lot other than a corner lot.
- (8) **LOT LINES:** The lines bounding a lot are defined as follows:
 - (a) **FRONT LOT LINE:** The line separating the lot from the street, *except along the shoreline in RIA where the front lot line is the high water mark.*
 - (b) **REAR LOT LINE:** The line opposite to and most distant from the front lot line; in irregularly shaped lots, it shall be the straight line entirely within the lot, ten feet long, parallel to and most distant from the front lot line.
 - (c) **SIDE LOT LINE:** Any line other than front or rear lot lines.

(d) STREET OR ALLEY LOT LINE: Any line separating a lot from a street or alley.

(9) LOT OF RECORD: A parcel of land, the deed to which is on record with the County Register of Deeds, and which exists as described.

(10) LOT, THROUGH: Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. All yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

(11) LOT WIDTH: The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

(12) LOT, ZONING: A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, does not have to coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record.

Section 2.

ARTICLE 200.2, Section 200.2:11 shall be amended to read as follows:

SECTION 200.2:11

(1) WATERFRONT DISTRICT: Any reference to “any Waterfront District”. “A “Waterfront District” or similar reference shall mean any District the title to which contains the word “Waterfront” whether or not any property within such District borders a lake or stream.

(2) YARD, LEAST DEPTH OR WIDTH: The shortest horizontal distance from each of the lot lines to the building thereon.

(3) YARD, FRONT: The open space extending the full width of the lot between the main building and front lot line except as provided in SECTIONS 500.10:1 and 500.10:2. *In the case of a shoreline lot in zoning district RIA, Shore Front Residential, the front yard is that which abuts the lake shore.*

(4) YARD, REAR: The open space extending the full width of the lot between the main building and rear lot line, except as provided in SECTIONS 500.10:1 and 500.10:4.

(5) YARD, SIDE: The open space extending from the front yard to the rear yard between the main building and the side lot line, except as provided in SECTIONS 500.10:1 and 500.10:3.

(6) ZONING DISTRICTS: The areas into which the City has been divided and for which the regulations and requirements governing use and size of lots and structures are specified in the Ordinance.

Section 3.

ARTICLE 500.10:2, Section 500.10:2 shall be amended to read as follows:

SECTION 500.10:2

(1) In any residential district, *except RIA, Shore Front Residential*, the front yard requirements of a lot may be modified so as to equal the average depth of existing developed front yards on lots within 100 feet of said lot and within the same block and fronting on the same street, provided the front depth shall not be less than 15 feet.

Section 4. Severability: It is the legislative intent of the City Council that all provisions of this Ordinance be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City. Should any provision of this Ordinance or part thereof be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions, and the remainder of this Ordinance shall stand, notwithstanding the invalidity of any such provision thereof.

Section 5. Repeal: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. Effective Date: This ordinance shall take effect twenty (20) days after publication.

Councilor Holman explained that the reason for the text changes to this ordinance was to resolve the questions that arise when talking about the front and back of shoreline property. The front lot line is now defined as the water line when discussing shoreline property.

Ordinance No. 185-08, an ordinance to amend the City of Ludington Zoning Ordinance No. 23-00, as amended to define the front lot line of shorefront residential property was presented for the first reading.

Ordinance No. 185-08 shall be presented for adoption on 7/28/08 and is available for public inspection in the City Clerk’s office during regular business hours.

His Honor Mayor Henderson invited all to attend the celebration of the mini SS Badger this Friday at Waterfront Park beginning at 5 p.m. and to attend the first Friday Night Live Event of this year downtown this Friday at 6:30 p.m. He also reminded all that the Skate Park is open and well attended.

Councilor Weston asked why no one is looking at the tall grass on Madison Street south of Whitehall Industries which is City property as well as the grass on the property that the City acquired for the new fire station. City Manager Shay explained that he has contacted the City’s contractor for grass cutting and they will cut this grass.

Councilor Castonia commented that last year the City approved a payment in lieu of taxes at Birch Lake Apartments and he stated that these improvements are well received and the residents are very happy.

City Manager John Shay explained that at the next meeting there will be a report on the costs of the Department of Public Works and the Police Department for their involvement in the Gus Macker.

City Manager Shay discussed that at the latest DDA meeting the Board voted on the idea of a pink Christmas for breast cancer awareness in line with the hospital fund raising for a piece of equipment for detecting this cancer. More on this will come later this year.

Councilor Holman commended Jackie Steckel, Shawn McDonald, and other City employees on their efforts after the storm during the Gus Macker event.

Moved by Councilor Engblade, seconded by Councilor Scott, that the meeting be adjourned. So carried at 8:20 p.m.

Deborah L. Luskin, City Clerk