

August 10, 2009

Regular meeting of the Ludington City Council held in the Council Chambers of the Municipal Building on Monday, August 10, 2009, at 6:30 o'clock p.m.

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

Absent: Councilor Engblade who was excused.

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

Invocation was pronounced by Police Chief Mark Barnett.

Pledge to the Flag was given.

Item c under Communications was added to the agenda to set a special meeting on August 31, 2009, at 5:30 p.m. at Ludington City Hall to review and award the contract for the marina day dock and break wall additions. Moved by Councilor Peterson, seconded by Councilor Holman, that the Agenda be approved as corrected. Motion Carried.

The meeting was opened for public comments.

Bruce Fletcher, 306 S. Ferry, Unit 13, presented a suggestion for improving the traffic flow on the south end of Stearns Drive where Stearns exits onto Ludington Avenue. He presented a sketch and is suggesting the addition of the traffic arrows on Stearns Drive allowing drivers the ability to turn left onto Ludington Avenue. City Manager John Shay explained that there has been discussion with the DPW Superintendent regarding striping the left lane only for a turn onto Ludington Avenue and the right lane would be used for a driver to proceed straight or turn to the right. The suggestions provided by Mr. Fletcher were given to the Public Safety Public Utilities Committee for their review.

Lila McClelland, 309 N. Harrison, publicly thanked everyone for their efforts in making James Street Plaza a reality. The original plan began in 1988.

Police Chief Mark Barnett introduced Officer Matthew Warmuskerken who is a seasonal officer living in the City of Ludington. Officer Warmuskerken explained that he grew up in Scottville and graduated from MCC in 2006. He attended West Shore Community College and received an Associates of Arts & Science in Criminal Justice. He expressed his appreciation to the City of Ludington for allowing him to work for the Police Department.

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

Moved by Councilor Holman, seconded by Councilor Peterson, to approve the minutes of the regular meeting on 7/27/09 and the minutes of the Budget Projection Workshop on 8/3/09. Motion Carried.

A public hearing was held on the alley paving of Block 2, Resseguie's Addition, bounded on the West by Delia St, on the East by Lavinia St, on the North by Ludington Ave, and on the South by Loomis St.

Bill Loforte, 207 N. Gaylord Ave., introduced himself and explained that he owns a home at 403 Loomis St. and the alley up for paving is directly behind this home. He questioned the City on how this alley was determined to be paved. His Honor Mayor Henderson explained that a petition is taken out by an individual in the block who then acquires at least 70% of the homeowners' signatures on this petition. Once these signatures are received the petition goes to Council and then Council decides on the necessity of the paving. Mr. Loforte explained that he had not seen the petition and so this was a surprise. He asked when the work would take place assuming the determination is approved. City Manager Shay explained that the work will be done this year. Mr. Loforte explained that he has a driveway which enters into this alley and he wants to make sure that there is a smooth transition between driveway and City alley. City Manager Shay explained that during the course of the paving if the contractor damages any driveway, the contractor would be responsible to fix the damage. The question came up as to how to pay for this alley paving. It was explained that a homeowner would be responsible for either one payment or a payment spread over five years with 6% interest which will be assessed on the homeowners' tax bill. Mr. Loforte asked if the City were paying for any of this alley. It was noted that the City would not pay for any of the cost of the alley paving. The alley is within the City's right of way. City Manager Shay explained that the City has a policy to concentrate the City's road funds on actual roads. If residents want their alley paved it is up to them to secure a petition of at least 70% of the homeowners and to pay for the entire cost of the paving. Mr. Loforte then asked who initiated the petition. City Clerk Deborah Luskin explained that the

initial petition was obtained by Thomas Draghi, a property owner in this block, and the petition was later finalized and filed by property owner Shawn McDonald.

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

CITY OF LUDINGTON
DETERMINATION OF NECESSITY AND
CONFIRMATION OF ASSESSMENT ROLL

2009 ALLEY PAVING NO. 1:
BLOCK 2, RESSEGUIE'S ADDITION
IN THE CITY OF LUDINGTON

(Bounded on the West by Delia St, on the East by Lavinia St, on the North by Ludington Ave, and on the South by Loomis St)

WHEREAS, a combined hearing was held by the City Council to determine the necessity for the alley paving in THAT PORTION OF LOTS 1 THROUGH 9 INCLUSIVE OF BLOCK 2, RESSEGUIE'S ADDITION OF THE CITY OF LUDINGTON WHICH IS BOUNDED ON THE WEST BY DELIA ST., ON THE EAST BY LAVINIA ST., ON THE NORTH BY LUDINGTON AVE., AND ON THE SOUTH BY LOOMIS ST., and to consider the confirmation of the proposed assessment roll, and

WHEREAS, due notice was provided by the City Clerk to all property owners or parties in interest in the property to be specially assessed, and

WHEREAS, the City Council finds that the above project is necessary for the benefit of the property owners to be assessed, and

WHEREAS, the City Council finds that the cost of improvement has been fairly allocated and assessed against the properties benefited,

THEREFORE, BE IT RESOLVED:

1. That the City Council determines that the above improvement is necessary for the benefit of the properties to be benefited.
2. That the Special Assessment District is described as THAT PORTION OF LOTS 1 THROUGH 9 INCLUSIVE OF BLOCK 2, RESSEGUIE'S ADDITION OF THE CITY OF LUDINGTON WHICH IS BOUNDED ON THE WEST BY DELIA ST., ON THE EAST BY LAVINIA ST., ON THE NORTH BY LUDINGTON AVE., AND ON THE SOUTH BY LOOMIS ST. WHICH FRONT ON THE ALLEY OF SAID BLOCK.
3. That the above improvement will specially benefit the properties contained in the attached list.
4. That the estimated cost of the improvement is: FOUR THOUSAND SIX HUNDRED THIRTY EIGHT DOLLARS and 00/100 (\$4,638.00).
5. That the entire cost of such improvement shall be paid by special assessments.
6. That the assessments as contained in the attached assessment roll are hereby confirmed.
7. That the assessments may be paid in full or in five (5) equal annual installments, which installments shall be subject to the provisions of Chapter 42 of the Code of the City of Ludington.
8. That any portion of the unpaid assessment shall bear interest at the rate of six percent per annum.
9. That the assessments shall be a lien upon the property described in the attached assessment roll in accordance with the State Statute and Local Ordinances, including Chapter 42 of the Code of the city of Ludington.

Moved by Councilor Holman, seconded by Councilor Castonia, that the above Determination of Necessity and Confirmation of Assessment Roll be adopted. Motion Carried.

REQUEST TO HOLD BIKE NIGHT EVENT

WHEREAS, the Ludington Downtown Board and the Community Development Department are proposing the annual "Ludington Bike Night" event in downtown Ludington to promote the downtown by providing a variety of entertainment on August 29, 2009; and

WHEREAS, the proposed location for the festival is South James Street from Ludington Avenue to the alley between Foster and Danaher, and the side streets between Rath Avenue and Harrison Street from James Street to the alleys (with the exception of Loomis west of James); 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 request to close South James Street from Ludington Avenue to the alley between Foster and Danaher, and the side streets between Rath Avenue and Harrison Street from James Street to the alleys (with the exception of Loomis west of James) to vehicular traffic other than motorcycles from 4 p.m. to 9 p.m. on the above date.

Moved by Councilor Castonia, seconded by Councilor Scott, to approve the Downtown Ludington Board's "Ludington Bike Night" on August 29, 2009 from 5-9 p.m. Motion Carried.

Moved by Councilor Holman, seconded by Councilor Peterson, that the Finance Report with total expenditures in the amount of \$380,697.62 for this period be approved and orders drawn according to the City Charter. Motion Carried.

ORDINANCE NO. 201-09

An Ordinance creating the Appropriation Bill for the City of Ludington, Michigan, for the year January 1, 2010, to December 31, 2010.

THE CITY OF LUDINGTON ORDAINS:

Section 1:

That the several sums of money mentioned shall be appropriated to defray the expense 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 \$273,102,899., which includes the IFT Rolls, DNR PILT, Birch Lake PILT, and OPRA.

General Operating

11.5096 Mills	\$3,143,305.13
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Garbage & Rubbish

2.7623 Mills	\$ 754,392.14
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TOTAL MILLS 14.2719 Mills

\$3,897,697.27

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 Petersn, to adopt Ordinance No. 201-09.

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

Nays: None. Absent: Councilor Engblade. Motion Carried.

RESOLUTION ADOPTING STATE OF MICHIGAN RETENTION SCHEDULES

WHEREAS, in accordance with MCL 399.5 and MCL 750.491, public records can only be disposed of in accordance with the provisions of an approved Retention and Disposal Schedule; and

WHEREAS, the City of Ludington has been disposing and archiving its records in accordance with a General Record Retention and Disposal Schedule #8 for Cities and Villages approved by the Michigan Department of State on January 17, 1984; and

WHEREAS, the Michigan Department of History, Arts and Libraries, Records Management Services (State Archives) has updated and approved Schedule #8 and has further approved several other retention schedules to meet the administrative, legal, fiscal and archival requirements of the State of Michigan; and

WHEREAS, although there is no legal requirement to formally adopt the State of Michigan's approved Retention Schedules prior to implementing, it is highly recommended.

NOW THEREFORE, BE IT RESOLVED, the City of Ludington does hereby adopt the following Retention Schedules approved by the Michigan Department of History, Arts, and Libraries, Records Management Services (State Archives):

- General Schedule #1-Non-Record Materials (Approved 11/16/04);
- General Schedule #8-Municipalities (Records Management Handbook by Michigan Municipal League);
- General Schedule #11-Local Law Enforcement Agencies (Approved 8/02/05);
- General Schedule #18-Local Fire/Ambulance Departments (Approved 3/06/07);
- General Schedule #23-Elections Records (Approved 10/16/07);
- General Schedule #24-City and Village Clerks (Approved 11/05/08); and
- General Schedule #26-Human Resources (Approved 10/07/08).

BE IT FURTHER RESOLVED, that any amendments to these Retention Schedules or any additional Retention Schedules approved by the Michigan Department of History, Arts and Libraries, Records Management Services (State Archives) pertinent to public records created and stored by the City of Ludington, are hereby incorporated herein and will need no separate approval prior to implementation.

BE IT FURTHER RESOLVED, that the City Clerk, as "official keeper of the records" shall

1. Ensure that all City departments have a copy of the General Schedules #1 and #8 and copies of any agency-specific schedules for their use (i.e. law enforcement, fire);
2. Ensure all employees have basic knowledge about Retention and Disposal Schedules; and
3. Ensure confidential records are destroyed properly.

City Clerk Deborah Luskin provided Council with additional information regarding the history of the record retention and disposal schedule and the new subsequent schedules issued by the Department of History Arts and Libraries.

Moved by Councilor Holman, seconded by Councilor Peterson, to approve the Resolution for Record Retention and Disposal. Motion Carried.

City of Ludington
Electronic Mail Retention Policy

POLICY

In order for government to function administratively, undergo periodic audits, provide for its legal requirements and document its heritage, it must manage its records properly. Therefore, the City of Ludington requires its employees to retain and destroy e-mail messages that are sent and received in the course of conducting official business in accordance with an approved Records Retention and Disposal Schedule.

Definitions:

- **Electronic mail (e-mail):** is a means of exchanging messages and documents using telecommunications equipment and computers. A complete e-mail message not only includes the contents of the communication, but also the transactional information (dates and times that messages were sent, received, opened, deleted, etc.; as well as aliases and names of members of groups), and any attachments. Transactional information can be found and printed or saved from the e-mail system
- **Records Retention and Disposal Schedules:** are listings of records or records series that are maintained by government agencies in the course of conducting their official business that identify how long the records must be kept, when they may be destroyed and when certain records can be sent to the Archives of Michigan for permanent preservation. In accordance with Michigan law, records cannot be destroyed unless their disposal is authorized by an approved Retention and Disposal Schedule. Retention and Disposal Schedules are developed by the Department of History, Arts and Libraries, Records Management Services, through consultation with an agency about its records. These schedules are then approved by the Michigan Historical Center and the State Administrative Board. Once a schedule is approved and issued, it is approved by the governing body of the local unit of government and it may not be modified without state and council approval.

FOUR CATEGORIES OF E-MAIL:

Official Records: Recorded information that is prepared, owned, used, in the possession of, or retained by the City of Ludington in the performance of an official function. Official records include evidence of a decision. E-mail messages are public records if they are created or received as part of performing a public employee's official duties. Retain official records according to the City of Ludington Retention Schedule.

Transitory Records: Records relating to City of Ludington activities that have temporary value and do not need to be retained once their intended purpose has been fulfilled. Retain transitory records for up to 30 days.

Non-Records: Recorded information in the possession of the City of Ludington that is not intended to document the performance of an official function. These include drafts, duplicates and convenience copies that do not document agency activities. Non-records should be disposed of as soon as they have served their intended purpose. There is no requirement to retain them.

Personal Records: Records that document non-government business or activities. These should not be retained by using government technology resources.

PROCEDURES:

Employee Responsibilities:

- Senders and recipients of e-mail messages shall evaluate each message to determine if they need to keep it as documentation of their role in a business process. Make retention decisions immediately. Delay reduces the likelihood the document will be properly retained or disposed of.
- Senders are generally considered to be the person of record for an e-mail message. However, if recipients of the message take action as a result of the message, they should also retain it as a record.
- It is recommended that employees retain only the final message in a communication string that documents the contents of all previous communications. This is preferable to retaining each individual message, containing duplicate content.
- Employees shall evaluate the content and purpose of each e-mail message to determine which Retention and Disposal Schedule defines the message's approved retention period.
- Employees shall retain e-mail that has not fulfilled its legally-mandated retention period by keeping a paper copy in the related topic or project file.
- Employees shall organize their e-mail messages so they can be located and used.
- Employees shall dispose of transitory, non-record and personal e-mail messages from the e-mail system on a regular basis.
- Employees should empty e-mail trash bins to purge deleted messages on a daily basis.
- Employees should delete sent email from the e-mail system on a regular basis, after ensuring that any necessary retention has been accomplished.

- Employees shall dispose of e-mail messages that document the official functions of the agency in accordance with an approved Retention and Disposal Schedule. Note: Records, including e-mail, shall not be destroyed if they have been requested under FOIA, or if they are part of on-going litigation, even if their retention period has expired.
- Employees shall provide access to their e-mail to the FOIA Coordinator upon request.
- Employees shall retain all work-related appointments, tasks and notes stored in the e-mail system for 2 years.
- Recognizing that e-mail messages that are sent and received using the City of Ludington's e-mail system are not private, employees are encouraged to manually delete personal appointments (such as doctor appointments or annual leave) from the e-mail system after the event takes place.
- IT backup processes are designed for disaster recovery, not for the retention of records. Employees shall retain e-mail that has not fulfilled its legally-mandated retention period by:
 1. Printing a paper copy and filing messages in a hard copy filing system. Keep with other paper records that document the same business process. Once a paper copy is printed, electronic message shall be deleted.
 2. Saving the message on a network drive in a folder that contains files that document the same business process. Note: E-mail should not be retained in the Outlook inbox, or in the "sent" or "deleted" folders.
- Employees shall retain transactional information with the e-mail message by:
 1. Printing a paper copy and filing messages in a hard copy filing system, if there is a substantial likelihood of relevancy to litigation.
 2. Saving the message on a network drive in a folder that contains files that document the same business process.

The City of Ludington's Responsibilities:

- Management shall ensure that its records are listed on an approved Records Retention and Disposal Schedule.
- Management shall ensure that all employees with e-mail accounts are aware of and implement this policy.
- Management shall notify Terrapin Networks when the accounts of former employees can be closed.
- Management shall ensure that the e-mail messages (and other records) of former employees are retained in accordance with approved Retention and Disposal Schedules.
- Management shall notify the litigation or FOIA coordinator when an agency becomes involved in litigation or receives a FOIA request.
- Management will arrange to purge backup tapes on a regular basis to ensure that e-mail deleted in conformance with the Retention and Disposal Schedule is not retained.

SUMMARY

- This policy is intended to ensure employees retain or destroy electronic mail sent and received in the course of conducting official business in accordance with an approved Records Retention and Disposal Schedule. It is helpful to think of email as just another delivery method. It is not a special series of records, with its own retention period. If documents related to a grant must be kept for six years, then emails related to that grant have a retention period of six years.
- Electronic mail can fall into one of four categories of records: official records, transitory records, non-records, and personal records.
- Employees have the responsibility to:
 1. determine if an email is an official record
 2. identify the retention period for that record
 3. retain an official record electronically or on paper for the required period
 4. include that record in a search for records in litigation or under FOIA
- Employees should adopt processes to regularly delete messages, either sent or received, that do not need to be retained.
- Employees should adopt processes to properly organize electronic files, including email, to ensure that any necessary search is comprehensive.

City Clerk Deborah Luskin provided a brief understanding of the foregoing email policy.

Moved by Councilor Holman, seconded by Councilor Peterson, to adopt the foregoing Electronic Mail Retention Policy. Motion Carried.

Councilor Scott read with regrets the letter of resignation from Jim Gallie, Marina Manager, to the City of Ludington. His Honor Mayor Henderson stated that he was sorry to see Jim go and he wished him luck in his retirement. Motion Carried.

Moved by Councilor Scott, seconded by Councilor Castonia, to accept the resignation of the Marina Director Jim Gallie effective August 15, 2009. Motion Carried.

Moved by Councilor Scott, seconded by Councilor Castonia, to appoint Jim Christensen, as Interim Marina Manager from August 16, 2009 to the end of the season with an hourly rate of \$16.81 which represents 75% of the difference between Jim Christensen's current wage and the Marina Manager's wage. Motion Carried.

Councilor Casonia presented the July Monthly Police Department Activity Report. Police Chief Mark Barnett made note that there was a reduction in traffic citations from 2008 to 2009 which was the result of the reduction of the seat belt traffic zone money. The parking enforcement fines have increased which is the result of using the Ludington Police Department Reserve Unit who volunteered their time to conduct this enforcement.

A public hearing is set for August 24, 2009, to hear public comments on the Obsolete Property Rehabilitation District for the old bowling alley by Westnd Development LLC.

City Manger John Shay presented an update on the efforts to acquire the old Coast Guard Station. He stated that the Coast Guard has completed the removal of contaminated soil around the building which was really only composed of lead based paint and they have begun the restoration work. He has spoken with the Coordinator for the Coast Guard and it was explained that the Coast Guard has to send a follow up report, and then the EPA has to review this and hear public comment before the General Services Administration can review this. Councilor Peterson asked about the timeframes, but there is no speculation on when the transfer will occur. Councilor Scott questioned whether the Coast Guard would construct a storage facility. City Manager Shay explained that he had heard that it was the Coast Guard's intent to build on the west side of the new facility, but that there was not enough property available to build there.

Moved by Councilor Holman, seconded by Councilor Peterson, to accept two resignations from the Downtown Ludington Board, one from Jim Lindsay and the other from Andy Thomas, and to approve the appointment of Amanda St. Hillaire to complete the term expiring 2009 and Carrie Kosla to complete the term ending 2011. It was stated that Amanda St. Hillaire is the co-owner of the Red Door Gallery and has been attending the Downtown Ludington Board meetings for a year now while Carrie Kosla has been active on the Board for a year and works at Lenz Insurance. Motion Carried.

Moved by Councilor Holman, seconded by Councilor Peterson, to approve the appointment of Kristen Biggs as a Hamlin/Pere Marquette Library Board Representative to cover D'Lynn Pollock who has resigned. She submitted the only letter of interest for this vacancy. Councilor Castonia asked if this vacancy had been advertised. City Manager Shay explained that this was merely an appointment to the position for the Library Board and this came from the Mason County Administrator. Councilor Castonia opposed this motion. Motion Carried.

His Honor Mayor Henderson set a special meeting for Monday, August 31, 2009, at 5:30 p.m. to review and award the bids for the Marina transient dock and boat launch additions. Motion Carried.

Councilor Holman explained that she had family stay at Cartier Park this past weekend and they raved about the park, how clean and how well taken care of it was. She complimented Dave and Meredith Hanson for a great job on maintaining the park.

City Manager John Shay communicated to Council that Jason Porter's Community Give Back day, which was set for this past weekend was postponed and rescheduled for this Friday from 5-8 p.m. at City Park.

Councilor Holman reminded everyone of the next Movies in the Park being Thursday night at dusk. Madagascar 2 will be showing.

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

Deborah L. Luskin, CMC
City Clerk