

August 23, 2021

A regular meeting of the City Council was held on Monday, August 23, 2021, at 7:00 p.m. in the Council Chambers of City Hall. Mayor Donker presided. The Pledge of Allegiance to the Flag was recited in unison.

Councilmen present: Steve Arnosky, Diane Brown Wilhelm, Maureen Donker, Pamela Hall, Marty Wazbinski
Councilmen absent: None

MINUTES

Approval of the minutes of the August 9, 2021 regular meeting was offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski. (Motion ADOPTED.)

CONSTITUTION WEEK

Communications Coordinator Katie Guyer presented information on Constitution Week and the John Alden Chapter of the Daughters of the American Revolution Chapter, who is the recipient of the proclamation. The following resolution was then offered by Councilman Arnosky and seconded by Councilman Hall:

RESOLVED, that the Mayor is authorized to issue the attached proclamation designating the week of September 17 – 23, 2021 as Constitution Week in the city of Midland to commemorate the formation and signing of the United States Constitution and encourage all citizens to study the Constitution and reflect on the privilege of being an American with all the rights and responsibilities which that privilege involves. (Motion ADOPTED.)

PUBLIC COMMENT

Brian Mills, 6110 Briarwood Ct. commented on the footing drain disconnect program. John Elsen, 6106 Sturgeon Creek Pkwy commented on planning in the City. Richard Holmes, 4104 Congress Dr. commented on water removal and the footing drain disconnect program. John Lynn, 4604 Oakridge Dr. commented regarding Concept 5 and the footing drain disconnect program.

SANITARY SEWER AND STORM SEWER BONDS – NOTICE OF INTENT

Assistant City Manager David Keenan presented information regarding the City's intent to issue general obligation limited tax capital improvement bonds for the purpose of funding the costs associated with the City's 2021 Sanitary Sewer and Storm Sewer Infrastructure Improvement Project. Pat McGow from Miller Canfield also spoke regarding the proposed notice and issuance of bonds. The following resolution was then offered by Councilman Arnosky and seconded by Councilman Wazbinski:

WHEREAS, the City of Midland, Counties of Midland and Bay, State of Michigan (the "City") intends to issue general obligation limited tax bonds pursuant to Act 34, Public Acts of Michigan, 2001, as amended ("Act 34"), in an aggregate principal amount of not to exceed Forty-eight million dollars (\$48,000,000) (the "Bonds") for the purpose of paying part of the cost of acquiring and constructing additions, extensions and improvements to the City's sanitary sewer system and storm sewer system, including lift station and retention basin improvements, sanitary sewer upsizing and lining improvements, storm sewer separation and water main replacements (the "Projects"); and

WHEREAS, a notice of intent to issue the Bonds must be published before the issuance of the Bonds in order to comply with the requirements of Section 517 of Act 34; and

WHEREAS, the City intends at this time to state its intentions to be reimbursed from proceeds of the Bonds for any expenditures undertaken by the City for the Projects prior to issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Notice of Intent Authorized. The City Clerk is authorized and directed to publish a notice of intent to issue bonds in the Midland Daily News, a newspaper of general circulation in the City.
2. Form of Notice of Intent. The notice of intent shall be published as a display advertisement not less than one-quarter (1/4) page in size in substantially the form attached to this resolution as Exhibit A.
3. Approval of Notice of Intent and Publication. The City Council does hereby determine that the foregoing form of Notice of Intent to Issue Bonds and the manner of publication directed is the method best calculated to give notice to the City's electors and taxpayers residing in the boundaries of the City of the City's intent to issue the Bonds, the maximum amount of the Bonds, the purpose of the Bonds, the source of payment for the Bonds and the right of referendum relating thereto, and the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed.
4. Reimbursement Declaration. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:
 - a) The City reasonably expects to reimburse itself with proceeds of the Bonds for certain costs of the Projects which were paid or will be paid from funds of the City subsequent to sixty (60) days prior to today.
 - b) The maximum principal amount of debt expected to be issued for the Projects, including issuance costs, is \$48,000,000.
 - c) A reimbursement allocation of the capital expenditures described above with the proceeds of the Bonds will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Projects are placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the Bonds to reimburse the City for a capital expenditure made pursuant to this resolution.
5. Bond Counsel. Miller, Canfield, Paddock and Stone, P.L.C. is hereby approved as bond counsel for the Bonds.
6. Municipal Advisor. PFM Financial Advisors LLC is retained as the registered municipal advisor to the City in connection with the issuance of the Bonds.
7. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded. (Motion ADOPTED.)

PROPOSED AMENDMENT TO CITY OF MIDLAND CODE OF CONDUCT

City Attorney James O. Branson III presented information regarding the proposed amendment to the City of Midland Code of Conduct. The following resolution was offered by Councilman Arnosky and seconded by Councilman Hall:

WHEREAS, on January 25, 2021 City Council adopted the Code of Conduct to ensure public confidence in the integrity of local government in its effective, open, and fair operation and, in addition, it is to apply the idea that what any one member does have an impact on the effectiveness and actions of the whole in both positive and negative ways; and WHEREAS, upon implementation it has been determined to be necessary to revise paragraph 14 titled "Compliance and Enforcement" regarding City Council's vote on imposing sanctions to members whose conduct does not comply with the City's ethical standards of the Code of Conduct; now therefore

RESOLVED, that paragraph 14 of the Code of Conduct is hereby amended to require a 4/5 vote and the "Member Statement of Acknowledgment" shall be signed by each member, and the Code of Conduct shall be applicable to all members of the City Council and members of the City's boards and commissions. (Motion DENIED. YEAS: Arnosky, Wazbinski NAYS: Brown Wilhelm, Donker, Hall) Councilman Hall motioned to reconsider the motion, seconded by Councilman Arnosky. (Motion ADOPTED. YEAS: Arnosky, Wazbinski, Hall NAYS: Brown Wilhelm, Donker) After reconsideration, Councilman Hall motioned to offer the originally proposed resolution, seconded by Councilman Arnosky. (Motion ADOPTED. YEAS: Arnosky, Wazbinski, Hall NAYS: Brown Wilhelm, Donker)

CITY ATTORNEY & CITY MANAGER JOB PERFORMANCE REVIEWS

Mayor Donker introduced a discussion on the City Council's report on the job performance review and resolution adjusting the annual compensation for the City Attorney and City Manager. The following two items were then presented for consideration.

CITY ATTORNEY JOB PERFORMANCE REVIEW

Councilman Wazbinski read a letter to City Attorney James O. Branson III regarding his job performance. The following resolution was then offered by Councilman Wazbinski and seconded by Councilman Arnosky:

RESOLVED, that the salary of James O. Branson III, City Attorney, is amended with an effective date of July 1, 2021 as follows: cost of living increase of 2%, plus a merit-based increase of 0.5% base salary and a merit-based lump sum payment of \$3,000 and

RESOLVED FURTHER, that all other terms and conditions of the employment agreement shall remain in effect; and

RESOLVED FURTHER, that City Council authorizes the Mayor and City Clerk to execute an addendum to the employment agreement of James O. Branson III incorporating this and previous Council amendments once approved by the Human Resources Director as well as James O. Branson III. (Motion ADOPTED.)

CITY MANAGER JOB PERFORMANCE REVIEW

Councilman Brown Wilhelm read a letter to City Manager C. Bradley Kaye regarding his job performance. The following resolution was then offered by Councilman Brown Wilhelm and seconded by Councilman Arnosky:

RESOLVED, that the salary of C. Bradley Kaye, City Manager, is amended with an effective date of July 1, 2021 as follows: cost of living increase of 2% in accordance with the terms and conditions of the employment contract, plus a merit-based increase of 1% base salary and a merit based lump sum payment of \$3,000; and

RESOLVED FURTHER, that all other terms and conditions of the employment agreement shall remain in effect; and

RESOLVED FURTHER, that City Council authorizes the Mayor and City Clerk to execute an addendum to the employment agreement of C. Bradley Kaye incorporating this and previous Council amendments once approved by the Human Resources Director as well as C. Bradley Kaye. (Motion ADOPTED.)

PARKPALOOZA EVENT

The following resolution was offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski:

RESOLVED, that the request from Jeffrey Reno, DStreet Music Foundation, seeking permission to conduct Parkapalooza, is single-day community event featuring live music, food vendors, youth and children's activities, and non-profit informational booths on Sunday, September 12

from noon to 8:00 p.m. The Administrative Staff has reviewed the request and recommends approval subject to the following conditions:

- The responsible party and contact number for the event date is Jeffrey Reno, 989-672-3620.
- A certificate of insurance for general liability coverage in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate, with the City of Midland named as certificate holder and additional insured with the event specified on the certificate.
- If using the Farmers Market lawn owned by the H Hotel, participant must coordinate usage with the hotel management.
- Parks Department will provide trash cans for this event. The event organizer needs to contact the Parks & Recreation office at 837-6930 to complete the reservation process.
- Due to ongoing health and safety concerns related to Covid-19, the responsible party is to ensure compliance with federal, state and local guidelines and executive orders, including social distancing and group size.
- Be advised that should an executive order or other local, state or federal directive be issued that would necessitate a change or cancellation of this event, the event holder shall strictly comply with said order or directive or notice by the City of Midland.

RESOLVED FURTHER, that the Administrative Staff is hereby authorized to approve future requests for the event provided if conducted in substantially the same manner. (Motion ADOPTED.)

GREAT LAKES BAY ELECTRIC VEHICLE MEET UP EVENT

The following resolution was offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski:

RESOLVED, that the request from Luke Russell, Great Lakes Bay Electric Vehicle (GLB EV) Club, seeking permission to conduct a GLB EV Meet Up in the Farmers Market area on Sunday, September 12 from 11:00 a.m. to 5:00 p.m. closing the Farmers Market circle to traffic, is hereby approved subject to the following conditions:

- The responsible party and contact number for the event date is Luke Russell, 989-280-2092.
- Engineering will write a Traffic Control Order (TCO) for the road closure.
- The Department of Public Services will provide barricades per Engineering's TCO. Event organizers will be responsible for placing/removing from roadway to enact the street closure.
- No "burn out" competitions are allowed.
- Due to ongoing health and safety concerns related to Covid-19, the responsible party is to ensure compliance with federal, state and local guidelines and executive orders, including social distancing and group size.
- Be advised that should an executive order or other local, state or federal directive be issued that would necessitate a change or cancellation of this event, the event holder shall strictly comply with said order or directive or notice by the City of Midland.

RESOLVED FURTHER, that the Administrative Staff is hereby authorized to approve future requests for the event provided if conducted in substantially the same manner. (Motion ADOPTED.)

WASTEWATER TREATMENT – OXIDATION DITCH IMPROVEMENT, PHASE II

The following resolution was offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski:

WHEREAS, the Oxidation Ditch treatment process was put into service at the Wastewater

Treatment Plant (WWTP) in 1990 and as part of ongoing replacement schedules and improvements in the existing project WW2103 Oxidation Ditch Upgrade, the aeration rotors are being updated to newer technology; and
WHEREAS, Phase II of this improvement requires rotor and brush replacement with Evoqua OX Oxidation Ditch Rotors; and
WHEREAS, City Staff requests that City Council waive the requirement for sealed bids as impractical in accordance with Section 2-18 of the Code of Ordinances for the City of Midland; and
WHEREAS, funding has been budgeted in the 2021/22 Wastewater Fund Capital Budget; now therefore
RESOLVED, that a purchase order in the amount of \$72,790.00 be approved to Peterson and Matz of Farmington Hills, Michigan to complete Phase II of the WW2103 Oxidation Ditch Upgrade; and
RESOLVED FURTHER, that the City Manager is authorized to approve changes to the purchase order in an aggregate amount not to exceed \$5,000.00. (Motion ADOPTED.)

DEPARTMENT OF PUBLIC SERVICES – WIDE AREA COMMERCIAL TURF MOWER

The following resolution was offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski:

WHEREAS, bids for commercial mowers are solicited by the Sourcewell Cooperative Purchasing Program on a biannual basis and the City of Midland is authorized to make purchases from this cooperative purchasing program; and
WHEREAS, sufficient funding for the purchase of one 4WD wide area commercial turf mower is included in the FY 2021/22 Equipment Revolving Fund Capital Outlay account as a replacement for an existing aging, high maintenance unit; now therefore
RESOLVED, that the Accounting Manager is authorized to issue a purchase order to Sourcewell's selected vendor, Spartan Distributors of Sparta, Michigan in the amount of \$127,279.62 for one 4WD wide area commercial turf mower, all in accordance with the associated cooperative purchasing program's proposals and specifications. (Motion ADOPTED.)

WATER DEPARTMENT – FORKLIFTS

The following resolution was offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski:

WHEREAS, sealed bids for Bid 4184 – Fork Lifts and Scissor Lift, have been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and
WHEREAS, purchase of a 4000-lb lift truck and a 3000-lb straddle truck, will be made from the Water Fund Capital Budget; now therefore
RESOLVED, that the bids submitted by Lingle Equipment of Saginaw, MI, of \$24,540.00 for a 4000-lb lift truck and \$25,565.00 for a 3000-lb straddle truck, for a total bid price of \$50,105.00, is hereby accepted and a purchase order is authorized; and
RESOLVED FURTHER, that the City Manager is authorized to approve changes to the purchase order in an amount not to exceed \$3,500.00 including increases due to the volatility in the market supply. (Motion ADOPTED.)

SET PUBLIC HEARING FOR ESTABLISHMENT OF A MICHIGAN STRATEGIC FUND DESIGNATED RENAISSANCE ZONE

The following resolution was offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski:

WHEREAS, a request was made to consider the establishment of a Michigan Strategic Fund

Designated Renaissance Zone for specific parcels contained within the Dow Michigan Operations I-Park, which parcels are owned and operated by The Dow Chemical Company and Dow Silicones Corporation; now therefore RESOLVED, a public hearing shall be held before the City Council on Monday, September 13, 2021 at 7:00 p.m., in the Council Chambers of the City Hall, 333 W. Ellsworth Street, Midland, Michigan, for the purpose of affording the applicant, the City Assessor and representatives of the affected taxing units an opportunity for a hearing on the request and the City Clerk shall provide written notice thereof in accordance with Section 5 of Public Act 198. (Motion ADOPTED.)

SET PUBLIC HEARING FOR CONDITIONAL USE PERMIT NO. 74

The following resolution was offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski:

WHEREAS, David Laurette has submitted a request for a Conditional Use Permit to allow the continued use of an existing single-family home located at 4917 Hedgewood Drive; and WHEREAS, City Planning Department staff notified property owners and occupants within three hundred (300) feet of the proposed area by transmitting notice on July 23, 2021 and publishing said notice on July 24, 2021 of the proposed public hearing on August 10, 2021; and WHEREAS, the City Planning Commission has conducted a public hearing in accord with Section 28.02(A) of the Zoning Ordinance of the City of Midland on said conditional use; and WHEREAS, the Planning Commission has submitted its recommendation to approve the permit, in accord with Section 28.02(B) of the Zoning Ordinance of the City of Midland; now therefore RESOLVED, that a public hearing will be held by the City Council on September 13, 2021, at 7:00 p.m. in the Council Chambers of City Hall, 333 W. Ellsworth Street, Midland, Michigan, for the purpose of considering the request for a Conditional Use Permit; and RESOLVED FURTHER, that the City Clerk is hereby directed to notify property owners and occupants within three hundred (300) feet of the proposed area by transmitting notice on or before August 27, 2021 and to publishing said notice by August 28, 2021. (Motion ADOPTED.)

2021-22 COMMUNITY DEVELOPMENT BLOCK GRANT-DECLARED DISASTER RECOVERY BUDGET AMENDMENT

The following resolution was offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski:

WHEREAS, the City of Midland is estimated to receive substantial revenue in Community Development Block Grant (CDBG) funds for fiscal year 2021-22 from the U.S. Department of Housing & Urban Development; and WHEREAS, these revenues include a special grant of \$5,476,035 million in CDBG Declared Disaster Recovery (CDBG-DDR) funds; and WHEREAS, this is an increase of \$76,035 from the original estimate; and WHEREAS, it is necessary to program the additional revenue to an activity that meets the statutory goals and the City's objectives of the CDBG program, as outlined in the 2020-25 Consolidated Plan as amended; and WHEREAS, it is necessary to provide an opportunity for public input on the proposed expenditure of said funds in accordance with the required seven (7) day public comment period; now therefore RESOLVED, that a public hearing will be held on September 13, 2021, for the purpose of receiving public input on the use of federal funds through the City's CDBG-DDR program, as set forth in the attached table:

Community Development Block Grant – Declared Disaster Relief (CDBG-DDR) Budget 2021-22		
Revenue	Adopted Budget	2021-22 Adopted Budget
HUD Special CDBG-DDR Allocation	\$5,400,000	\$5,476,035
REVENUE TOTAL	\$5,400,000	\$5,476,035
Expenditures		
General Planning and Administration	\$250,000	\$326,035
HMGP Local Match	\$1,250,000	\$1,250,000
HMGP 1:1 Housing Replacement	\$1,700,000	\$1,700,000
Riverside Place Flooding Restoration	\$1,000,000	\$1,000,000
Sewer Improvement & Pump Station Flood Mitigation	\$1,000,000	\$1,000,000
City Modern Sustainability & Resiliency Planning	\$200,000	\$200,000
EXPENDITURES TOTAL	\$5,400,000	\$5,476,035

(Motion ADOPTED.)

Being no further business the meeting adjourned at 9:00 p.m.

Erica Armstrong, City Clerk