

September 27, 2021

A regular meeting of the City Council was held on Monday, September 27, 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 amended minutes of the September 13, 2021 regular meeting, which were amended to reflect under New Business City Council had a discussion regarding marijuana and gave a directive to the City Attorney to report back on the topic on or before the Council retreat in January, was offered by Councilman Arnosky and seconded by Councilman Hall. (Motion ADOPTED.)

### **PUBLIC COMMENT**

John McComb, 5104 Nurmi Dr. commented regarding Sturgeon Creek and flood control. John Elsen, 6106 Sturgeon Creek Pkwy commented regarding infrastructure and flooding. Clinton McClain of Gerace Construction, 4055 S. Saginaw spoke regarding City projects and bid competition.

### **CENTER CITY LOFTS PILOT AMENDMENT**

Director of Planning & Community Development, Grant Murschel presented regarding proposed Ordinance Amendment to the Center City Lofts PILOT. The following resolution was then offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski:

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MIDLAND, MICHIGAN, BY AMENDING SECTION 2-260.21 AND 2-264.19 AND BY AMENDING SECTION 2-262, ARTICLE XIII OF CHAPTER 2 THEREOF.

The City of Midland Ordains:

Section 1. Sections 2-260.21, 2-262, and 2-264.19 of Article XIII of Chapter 2 are hereby amended to read as follows:

**Sec. 2-260.21. Center City Lofts.**

The City acknowledges that Center City Lofts Limited Dividend Housing Association Limited Partnership (a sponsor, as defined herein) has offered, subject to receipt of financing from the authority, to erect or operate and maintain a housing development identified as Center City Lofts located on the following described property:

2710 & 2712 Jefferson Avenue, Midland, Michigan 48640;

And further described as:

2710 Jefferson Avenue:

BEGINNING 165 FEET SOUTH OF NORTHWEST CORNER OF SOUTHWEST 1/4 OF NORTHWEST 1/4 SECTION 15, THENCE EAST 300 FEET, SOUTH 60 FEET, EAST 228.35 FEET, SOUTH 46.48 FEET, SOUTH 38 DEGREES 31 MINUTES 24 SECONDS EAST 74.93 FEET, THENCE WEST 575.29 FEET, NORTH 165 FEET TO POINT OF BEGINNING. CONTAINING 1.719 ACRES.

AND

2712 Jefferson Avenue:

BEGINNING 165 FEET SOUTH & 300 FEET EAST OF NORTHWEST CORNER OF SOUTHWEST 1/4 OF SECTION 15, THENCE EAST 228.0 FEET, SOUTH

60 FEET, WEST 228.35 FEET, NORTH 60 FEET TO POINT OF BEGINNING.  
CONTAINING 0.314 ACRES.

In the city to serve low income persons, and that center city lofts Limited Dividend Housing Association Limited Partnership has offered to pay the city on account of said housing development an annual service charge for public services in lieu of all taxes.

**Sec. 2-262. Class of housing developments.**

It is hereby determined that the class of housing developments to which the tax exemption shall apply, and for which a service charge shall be paid in lieu of such taxes, shall be that portion of a development which is for elderly persons or low-income persons and which is financed or assisted pursuant to the act. It is further determined that Grove Street Commons I, Grove Street Commons II, The Village At Joseph's Run, Granite Club Acres #1, Chippewassee Court Phase I, Chippewassee Court Phase 11, Adams Acres Phase I, 606/608 Hemlock Street, 5004 Tucker Street, 1111 Franklin Street, 4301 Hancock Drive, 310 E. Pine Street, 1414 Lincoln Street, 1417 Mill Street, 2520 Charles Street and 528 Cottonwood Street, Bracken Woods 11 Apartments, Center City Lofts, and the elderly portions of Charter Square and Green Hill are of this class.

**Sec. 2-264.19. Establishment of annual service charge for Center City Lofts.**

- (A) *Annual service charge.* The housing development identified as Center City Lofts and the property on which it is constructed shall be exempt from all property taxes from and after the enactment of the ordinance for which this section derives and for the year subsequent to timely notification of exemption by the Michigan State Housing Development Authority. The city, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of the ordinance from which this section derives and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in the ordinance from which this section derives, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to erect, operate, and maintain the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to nine percent (9%) of the annual shelter rents less utilities. This exemption shall remain in effect so long as the housing development is subject to the affordability restrictions of Section 42 of the Internal Revenue Code of 1986, as amended, but not more than twenty (20) years.
- (B) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt. However, it is agreed that 100% of the units of the new facility will serve low-income persons.

**Sec. 2-267. Duration**

This article shall remain in effect and shall not terminate so long as a mortgage loan made to a sponsor for a development subject to this article remains outstanding and unpaid or the authority has any interest in property subject to a service charge under this article, and so long as the project remains compliant with Section 42 of the Internal Revenue Code of 1986, as amended, if applicable; provided, that construction of any housing development subject to this article commences within 24 months from the effective date of the ordinance establishing the annual service charge for said development.

Section 2. This Ordinance shall take effect upon publication. (Ordinance ADOPTED.)

### **TRAFFIC CONTROL ORDER P-21-02**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

WHEREAS, a public request for review of existing parking regulations along Collins Street between Ashman Street and Rodd Street resulted in the implementation of Traffic Control Order No. P-21-02 filed July 9, 2021 based on review and recommendations from the City's traffic consulting engineer; and

WHEREAS, Traffic Control Order No. P-21-02, pursuant to Chapter 24 of the Code of Ordinances has been in place for the required trial period with no adverse comments or issues; now therefore

RESOLVED, that Traffic Control Order No. P-21-02 filed July 9, 2021 pursuant to Chapter 24 of the Code of Ordinances to establish traffic control as follows:

That parking shall be allowed on the north side of E. Collins Street between Ashman Street and Rodd Street and that parking shall be prohibited on the south side of E. Collins Street between Ashman Street and Rodd Street is hereby made permanent, and that previous Traffic Control Orders for parking along this section of roadway be rescinded. (Motion ADOPTED.)

### **COMMUNITY NIGHT OF WORSHIP EVENT**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

RESOLVED, that the request from Ayo Akindona, Christian Celebration Center, seeking permission for Community Night of Worship on Saturday, October 9, 2021. 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 Ayo Akindona, 713-550-6785.
- 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.
- Parks Department will provide the stage and trash cans for this event. The event organizer needs to contact the Parks & Recreation office at 837-6930 to complete the reservation process and to pay fees associated with these rentals.
- Part of the area where your event is taking place is owned by the H Hotel. The event organizer will need to seek permission and confirm use of this area with the H Hotel. Please provide proof of approval from the H.
- Note: Downtown Midland has scheduled music on Main Street from 7-9 pm the same day. This should not pose a problem for either event.
- 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.)

### **FOURNIE STREET BAND PERFORMANCE EVENT**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

RESOLVED, that the request from Lori Karbowski seeking permission to hold a band performance on Fournie Street on Saturday, October 23, 2021. 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 Lori Karbowski, 989-948-6138.
- 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.
- Engineering will issue a Traffic Control Order (TCO) for the event. Department of Public Services will provide barricades for the road closure using Engineering's TCO.
- Any temporary membrane structure (tent/canopy) 200 square feet or larger in area, requires a tent permit issued by the Fire Marshal 837-3413. Tents may not be staked into the street; only weights may be used for securing tents.
- The City stage is not available for private events on private property.
- The Police Department will still enforce the city noise ordinance if complaints come in.
- 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.)

#### **CIVIC ARENA BOILER REPLACEMENT**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

WHEREAS, sealed proposals were advertised and received on September 7, 2021 for Bid No. 4183, Civic Arena Boiler Replacement; and

WHEREAS, sufficient funding for this project is included in the FY 2021-22 Civic Arena Capital Outlay budget; now therefore

RESOLVED, that the Accounting Manager is authorized to issue a purchase order to the lowest bidder, Smillie Plumbing & Heating of Freeland, Michigan, in the amount of \$51,900.00 for the Lochinvar Boiler; 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 in total. (Motion ADOPTED.)

#### **CONTRACT WITH CONSUMERS ENERGY FOR INSTALLATION OF LED STREET LIGHTS**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

RESOLVED, that it is hereby deemed advisable to enter into a contract with Consumers Energy Company of Jackson, Michigan, for furnishing lighting service within the City of MIDLAND for a period of 2 year(s) and thereafter from year to year, in accordance with the terms of the contract heretofore submitted to and considered by this Council; and

RESOLVED, further, that the Mayor and the Clerk be and are authorized and directed to execute such contract on the behalf of the City. (Motion ADOPTED.)

### **AUTHORIZE CITY CLERK TO SIGN PERIODIC RECONCILIATION NOTICES WITH CONSUMERS ENERGY**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

WHEREAS, Consumers Energy is replacing over head streetlights with LEDs which last longer and use less energy, and

WHEREAS, Consumers Energy is requesting that the City Council authorize a designee to respond to periodic reconciliation notices, and

NOW, THEREFORE, BE IT RESOLVED, the City Clerk (designee) is authorized to sign periodic reconciliation notices to Standard Lighting Contracts with Consumers Energy for maintenance replacement of High-Pressure Sodium fixtures with more efficient LED fixtures at various locations. (Motion ADOPTED.)

### **MIRACLE FIELD CHANGE ORDER #8**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

RESOLVED, that the change order from Three Rivers Corporation in the amount of \$1,146.00 is hereby approved to allow for installation of electrical circuits for hand dryers in the restroom units at the Central Park Miracle Field project; and

RESOLVED FURTHER, that the City Manager is authorized to increase the contract with Three Rivers Corporation for the Central Park Miracle Field project which was approved on September 14, 2020. (Motion ADOPTED.)

### **HORTICULTURE CONTRACTED LABOR SERVICES**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

WHEREAS, difficulty in hiring and retaining an adequate seasonal labor force for the City's horticulture crew has led to the need to supplement the in-house staff with contracted labor services; and

WHEREAS, sealed proposals were advertised and received in accord with Article II of Chapter 2 of the Midland Code of Ordinances Quote No. 1954 "As-Needed Landscaping Labor Services"; and

WHEREAS, funding for this work is included in the FY 2021-22 General Fund and Downtown Development Authority budgets for horticulture activities; and

WHEREAS, the sole bidder meeting specifications, R.L. Laurenz, Inc. of Midland, Michigan, has provided satisfactory horticulture and landscape labor services to the City of Midland in the past; now therefore

RESOLVED, that the Accounting Manager is hereby authorized to increase the purchase order not to exceed \$70,000 to R.L. Laurenz, Inc. of Midland, Michigan for as-needed contracted horticulture labor services.(Motion ADOPTED.)

### **ROAD SALT PURCHASE 2021-22 WINTER SEASON**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

WHEREAS, bids for road salt are solicited by the State of Michigan's MiDeal Extended Purchasing Program and the City of Midland is authorized to make purchases from this program; and

WHEREAS, funding is provided in the FY2021-22 Stores Revolving Fund budget for the purchase of road salt as an inventory item that gets charged out upon use to the Major and Local Street budgets for snow and ice control; now therefore  
RESOLVED, that the Accounting Manager is authorized to issue purchase orders to the State of Michigan's selected vendor for the Bay Region district, Detroit Salt Company of Detroit, Michigan, in the amount of \$62,950.00 for the early delivery salt and not to exceed \$83,564.00 for the purchase of 130% of the seasonal backup salt if needed for snow and ice control based on the State of Michigan's MiDeal Extended Purchasing Program unit prices. (Motion ADOPTED.)

#### **GERSTACKER FOUNDATION GRANT ACCEPTANCE**

Director of Public Services Karen Murphy presented information on the grant, proposed budget amendment, and purchase order related to the painting and staining for the Tridge. The following resolution was then offered by Councilman Arnosky and seconded by Councilman Hall:

WHEREAS, upon evaluation of the Tridge in the spring of this year it was determined that the Tridge needs to be power washed with the handrails restrained and the metal features repainted; and

WHEREAS, the City sought competitive bids for the project in June 2021 with the sole bid coming in at \$174,500; and

WHEREAS, the Tridge Endowed Maintenance Fund at the Midland Area Community Foundation lacks adequate spendable funds at this time to support the needed maintenance; and

WHEREAS, the City requested assistance from the Rollin M. Gerstacker Foundation for the project and the Foundation generously awarded a grant to cover the entire cost of the work; now therefore

RESOLVED, that the City Council accepts \$174,500 in funding from the Rollin M. Gerstacker Foundation to cover the cost of the current maintenance needs for the Tridge. (Motion ADOPTED.)

#### **SET PUBLIC HEARING TO AMEND FY 2021/22 GENERAL FUND BUDGET FOR TRIDGE STAINING/PAINTING**

The following resolution was then offered by Councilman Arnosky and seconded by Councilman Wazbinski:

WHEREAS, the City has been awarded a grant in the amount of \$174,500 from the Rollin M. Gerstacker Foundation to be used for maintenance on the Tridge; and

WHEREAS, the FY 2021-22 General Fund budget does not currently include adequate revenues or expenditures related to this project, and in order to spend the grant for the purpose intended, it is necessary to amend the FY 2021-22 General Fund budget; now therefore

RESOLVED, that in accord with Section 11.6 of the Charter of the City of Midland, a public hearing shall be conducted at 7:00 p.m., October 11, 2021 in the Council Chambers of City Hall on the proposal to amend the FY 2021-22 General Fund budget to increase revenues and expenditures to recognize a grant of \$174,500 from the Rollin M. Gerstacker Foundation to be used for maintenance on the Tridge; and

RESOLVED FURTHER, that the City Clerk is hereby directed to give notice as provided in Section 5.11 of the Charter of the City of Midland. (Motion ADOPTED.)

#### **TRIDGE PAINTING AND STAINING PURCHASE ORDER**

The following resolution was then offered by Councilman Arnosky and seconded by Councilman Wazbinski:

WHEREAS, City Council has accepted a very generous gift from the Rollin M. Gerstacker Foundation in the amount of \$174,500 to provide for maintenance work on the Tridge; and WHEREAS, City Council has set a public hearing for October 11, 2021 to formally amend the FY 2021-22 General Fund budget to increase revenue and expenditures accordingly to cover the cost of the project; and

WHEREAS, sealed proposals were advertised and received in accord with Article II of Chapter 2 of the Midland Code of Ordinances for Bid No. 4176 "Tridge Maintenance"; and

WHEREAS, in order to proceed with the work yet this construction season staff is requesting approval of the sole bid received at this time knowing that the funding source is secured and pending addition to the City's current fiscal year budget; now therefore

RESOLVED, that City Council authorizes the Accounting Manager to issue a purchase order in the amount of \$174,500.00 to JR Heineman & Sons, Inc. of Saginaw, Michigan for power washing, staining and painting at the Tridge, all in accordance with the proposal and City specifications. (Motion ADOPTED.)

### **SET PUBLIC HEARING FOR WASHINGTON WOODS BUDGET AMENDMENTS**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

WHEREAS, Washington Woods has been awarded generous grants from the Hemlock Semiconductor Community and Regional Empowerment (CARE) Fund for \$10,000 and the Midland Area Community Foundation for \$40,000 to assist in the replacement of the east side chiller; and

WHEREAS, the east side chiller at Washington Woods is over 30 years old and is currently being kept in service by emergency repairs and stopgap measures; and

WHEREAS, reliant cool and comfortable air within the senior living community is critical to the health of the residents and their visitors; and

WHEREAS, it is necessary to amend the FY 2021-2022 Washington Woods budget to include the increase of grant funding; now therefore

RESOLVED, that in accord with Section 11.6 of the Charter of the City of Midland, a public hearing shall be conducted on Monday, October 11, 2021, at 7:00 p.m. in the Council Chambers of City Hall for the purpose of considering the proposal to amend the 2021-2022 Washington Woods budget by increasing revenues and expenditures by \$50,000 to recognize the grants received for the east side chiller replacement project. (Motion ADOPTED.)

### **SET PUBLIC HEARING FOR ZONING PETITION NO. 634**

The following resolution was offered by Councilman Wazbinski and seconded by Councilman Arnosky:

WHEREAS, a public hearing was held by the Planning Commission on Tuesday, September 14, 2021 for property located at 6109 and 6115 Merlin Ct for the purpose of considering the advisability of amending the Zoning Map of Ordinance No. 1585, the Zoning Ordinance of the City of Midland, from split zoning of OS Office Service and CC Community Commercial zoning to zoning entirely of CC Community Commercial; now therefore

RESOLVED, that notice is hereby given that a public hearing will be held by the City Council on Monday, October 18, 2021, at 7:00 p.m. in the Council Chambers, City Hall for the purpose of considering the advisability of amending the Zoning Map of Ordinance No. 1585, the Zoning Ordinance of the City of Midland, as set forth in the following proposed Ordinance, which is hereby introduced and given first reading; and

RESOLVED FURTHER, that the City Clerk is hereby directed to notify property owners within three hundred (300) feet of the area proposed to be rezoned by transmitting notice on or before October 1, 2021, and to publish said notice on October 2, 2021.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE NO. 1585, BEING AN ORDINANCE TO REGULATE AND RESTRICT THE LOCATION OF TRADES AND INDUSTRIES AND THE LOCATION OF BUILDINGS DESIGNED FOR SPECIFIC USES, TO REGULATE AND LIMIT THE HEIGHT AND BULK OF BUILDINGS HEREAFTER ERECTED OR ALTERED, TO REGULATE AND DETERMINE THE AREA OF YARDS, COURTS, AND OTHER OPEN SPACES SURROUNDING BUILDINGS, TO REGULATE AND LIMIT THE DENSITY OF POPULATION, AND FOR SAID PURPOSES, TO DIVIDE THE CITY INTO DISTRICTS AND PRESCRIBE PENALTIES FOR THE VIOLATION OF ITS PROVISIONS BY AMENDING THE ZONING MAP TO PROVIDE A CC COMMUNITY COMMERCIAL ZONING DISTRICT, WHERE SPLIT ZONING OF OS OFFICE SERVICE AND CC COMMUNITY COMMERCIAL ZONING DISTRICTS PRESENTLY EXIST.

The City of Midland Ordains:

Section 1. That the Zoning Map of Ordinance No. 1585, being the Zoning Ordinance of the City of Midland, is hereby amended as follows:

LOT 300 STERLING PARK SUBDIVISION NO. 10 and LOT 301 STERLING PARK SUBDIVISION NO. 10, and the same is hereby changed to CC Community Commercial zoning.

Section 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3. This Ordinance shall take effect upon publication. (Motion ADOPTED.)

Being no further business the meeting adjourned at 7:56 p.m.

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Erica Armstrong, City Clerk