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## PROCEEDINGS OF THE MANISTEE CITY COUNCIL – May 7, 2019

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A regular meeting of the Manistee City Council was called to order by his honor, Mayor Roger Zielinski on Tuesday, May 7, 2019 at 7:00 pm in the City Hall Council Chambers, 70 Maple Street, followed by the Pledge of Allegiance.

**PRESENT:** Dale Cooper, Lynda Beaton, Roger Zielinski, Robert Goodspeed, Michael Szymanski, James Grabowski and Erin Pontiac

**ABSENT:**

**ALSO PRESENT:** City Manager – Thad Taylor, City Attorney – George Saylor, Deputy Clerk – Lora Laurain, City Assessor – Molly Whetstone, DPW Director – Jeff Mikula, Finance Director – Edward Bradford, City Planning and Zoning Administrator – Rob Carson and City Engineer – Shawn Middleton

### **CITIZEN COMMENTS ON AGENDA RELATED ITEMS**

Paul Ernzen, 560 First St. – spoke about erosion along the Manistee Channel.

Tom Swedenborg, 562 First St. – spoke about erosion along the Manistee Channel.

Mike Herbert, 306 Hancock St. – spoke about the proposed Recreational Marihuana Ordinance.

Michelle Hanson, 387 Eleventh St. – spoke about the proposed Recreational Marihuana Ordinance.

### **CONSENT AGENDA**

- Minutes - April 16, 2019 - Regular Meeting  
April 16, 2019 - Work Session
  
- Financial Reports
  - Cash Balances March 2019
  - Quarterly Financial Update
  - Quarterly Investment Update
  
- CONSIDERATION OF ZONING ORDINANCE AMENDMENT Z19-01 ARTICLE 5, SECTION 514 (E)  
At their March 20, 2019 Planning Commission meeting a public hearing was held to amend Article 5 Section 514 (E) to replace the word “painted” with “approved.” The Planning Commission is recommending approval of this zoning amendment.  
  
As an ordinance two separate readings are required. This ordinance was introduced at the April 16, 2019 meeting and could be adopted at this time.
  
- NOTIFICATION REGARDING NEXT WORK SESSIONS – Tuesday, May 14, 2019, 7:00 pm  
A discussion will be conducted on Housing Commission Rental Inspection Program, Discussion with DDA on expectations, PRT Housing Approach discussion, Fablite expansion; and such business as may come before Council.

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MOTION by Szymanski, second by Goodspeed to approve the Consent Agenda as presented.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### CONSIDERATION OF APPROVING THE DOWNTOWN DEVELOPMENT AUTHORITY PROPOSED BUDGET FOR FISCAL YEAR 2019-2020

The City of Manistee is required by state statute to approve the budget of the Downtown Development Authority (DDA) before it can be adopted by the Downtown Development Board. The DDA presented their proposed budget to City Council at the April 16, 2019 City Council work session. If approved by Council, the Downtown Development Authority Board must still hold a public hearing on their budget and vote to adopt it.

MOTION by Grabowski, second by Cooper to approve the Downtown Development Authority's proposed budget for Fiscal Year 2019-2020.

MOTION by Beaton, second by Cooper to table the Consideration of Approving the Downtown Development Authority's Proposed Budget for Fiscal Year 2019-2020 until the May 21, 2019 City Council meeting and add Discussion of the Downtown Development Authority's Proposed Budget for Fiscal Year 2019-2020 to the May 14, 2019 Work Session Agenda.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### CONSIDERATION OF ADOPTING THE 2019-2020 BUDGET AND CAPITAL IMPROVEMENT PLAN

Under Section 7-4 of the Charter, the annual budget must be adopted before May 15 of each year. The budget has been the subject of multiple work sessions and a public hearing.

MOTION by Beaton, second by Cooper to adopt a resolution approving the 2019-2020 Budget and Capital Improvement Plan for the City of Manistee.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

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### CONSIDERATION OF DESIGNATING THE CITY CLERK AS THE TITLE VI NON-DISCRIMINATION PLAN COORDINATOR

On January 21, 2014 City Council adopted the Title VI Non-Discrimination Plan and specifically named City Clerk Michelle Wright as the Title VI Coordinator. Upon Ms. Wright's retirement the new City Clerk took over the responsibility of making sure the City remains in compliance with Title VI. It is requested that Council change the Title VI Coordinator to be designated as the City Clerk, regardless of who holds the position.

MOTION by Pontiac, second by Szymanski to designate the City Clerk as the Title VI Non-Discrimination Plan Coordinator; and authorize the Mayor and City Clerk to sign the document.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### CONSIDERATION OF AMENDMENTS TO COUNCIL GUIDELINES CP-10

Amendments to Council Guidelines Policy CP-10 are being recommended to reflect Council's decision to appoint the City Manager, rather than the Mayor, to the Downtown Development Authority and to add the newly created Downtown Development Authority Citizens Council under Mayoral appointments.

MOTION by Goodspeed, second by Beaton to amend CP-10, Section 21 Committees to add the Downtown Development Authority Citizens Council and Section 22 Appointments to strike the language that appoints the Mayor to the Downtown Development Authority.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### CONSIDERATION OF A LOT SPLIT, 170 GLOCHESKI DRIVE, PARCEL 51-190-143-00

The applicant, Greg Ferguson, is requesting to split 170 Glocheski Drive into two parcels, with one lot being 42,688 square feet and the other lot 121,096 square feet. The Planning Commission has reviewed and recommends this action.

MOTION by Goodspeed, second by Szymanski to approve a lot split for Greg Ferguson, 170 Glocheski Drive, parcel 51-190-143-00 into two separate lots.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

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### **CONSIDERATION OF AUTHORIZING A CONSUMERS ENERGY JOINT APPLICATION FOR MANISTEE RIVER CHANNEL SAMPLING**

Consumers Energy wants to collect sediment samples and inspect rip-rap in the Manistee River channel adjacent to property owned by the City of Manistee. To perform the work Consumers Energy needs to file a joint permit application with the Army Corps of Engineers and the Michigan Department of Environmental Quality.

A condition of the joint application is a letter of authorization by the City of Manistee as the work will occur adjacent to property owned by the City.

MOTION by Grabowski, second by Goodspeed to authorize the Mayor to sign a letter authorizing Consumers Energy to file a joint permit application.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF AN AGREEMENT WITH SAFEUILT MICHIGAN, TO PERFORM BUILDING PLAN REVIEW SERVICES AND INSPECTIONS**

SAFEuilt Michigan, LLC was one of four companies that responded to the City's Request for Proposal for professional building plan review services and professional building inspection services. It was determined that SAFEuilt Michigan, LLC provided the best option for the City based on a review of all proposals and contact with four municipalities currently utilizing their services. The City Attorney has reviewed and approved the contract.

MOTION by Beaton, second Cooper to authorize the Mayor to sign the professional services agreement that will allow SAFEuilt Michigan, LLC to perform building plan review and building inspection services for the City of Manistee.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF A RESOLUTION CHANGING DATES FOR THE JULY AND DECEMBER BOARD OF REVIEW**

The Board of Review meets in July and December. As a contractor, Great Lakes Assessing is unable to attend BOR meetings in all of their contracted municipalities on the same date. The State of Michigan allows municipalities to select alternate dates.

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MOTION by Beaton, second Szymanski to select alternate dates for the July and December Board of Review: Wednesday, July 17 and Wednesday, December 11, 2019; and authorize the Mayor and Clerk to sign the resolution.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF A RESOLUTION TO ALLOW THE JULY AND DECEMBER BOARD OF REVIEW TO GRANT PRIOR YEAR PRINCIPAL RESIDENCE EXEMPTIONS**

The resolution gives the July and December Board of Review authority to grant Principal Residence Exemptions for prior years with a signed request.

MOTION by Beaton, second by Cooper to authorize the Mayor and Clerk to sign a resolution allowing the July and December Board of Review to grant Principal Residence Exemptions to benefit the taxpayers of Manistee.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF THE PIER FOUNDATION RUN THE PIER 5K RACE**

The Pier Foundation is planning a Run the Pier 5K Race fundraiser on Saturday, August 10, 2019. The event will begin and end in the Memorial parking lot. The race will require street closures on Fifth Avenue, Monroe Street, and Lakeshore for approximately one hour.

MOTION by Cooper, second by Goodspeed to approve the request to use City services, parks, and streets for the Pier Foundation Run the Pier 5K Race on August 10, 2019; subject to appropriate departmental approvals.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF USDA RURAL DEVELOPMENT FORM 442-7 OPERATING BUDGET AND PROJECTED CASH FLOW**

As part of the process of obtaining a low interest wastewater loan from USDA Rural Development, the City is required to submit a Form 442-7 Operating Budget and Projected Cash Flow that must be approved by City Council.

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MOTION by Szymanski, second by Pontiac to approve USDA Rural Development Form 442-7 Operating Budget and Projected Cash Flow and authorize the Mayor and Clerk to execute the form.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF LICENSE AGREEMENT WITH CONSUMERS ENERGY FOR ENVIRONMENTAL TESTING AND REMEDIATION ON CITY PROPERTY**

Consumers Energy is requesting a license agreement for a piece of City property along the river channel behind the American Legion Post on Mason Street; directly west of the property where Consumers is currently performing remediation efforts.

The license agreement is necessary as the shoreline stabilization required will extend beyond the boundaries of the property Consumers Energy is remediating and onto the City parcel.

MOTION by Szymanski, second by Pontiac to approve a license agreement with Consumers Energy.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF ADOPTING RESOLUTION 19-11 ESTABLISHING ORDINANCE FEES**

The City Attorney has drafted Resolution 19-11 establishing Application and Renewal License Fees for Recreational Marihuana Establishments. The City Attorney has also provided Council with a memorandum outlining the various increase in services required of City Departments in connection with the licensing of Recreational Marihuana Establishments in the City. The memo and resolution support a \$5,000 application and renewal license fee for Recreational Marihuana Establishments.

MOTION by Szymanski, second by Cooper to adopt Resolution 19-11 establishing ordinance fees.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF ADOPTING CHAPTER 867 RECREATIONAL MARIHUANA**

The City Attorney has drafted ordinance 19-14, Chapter 867 Recreational Marihuana, to address the authorization of marihuana establishments, operational standards for marihuana grower establishments, safety compliance establishments, secure transporter establishments, microbusiness

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establishments, and marihuana retailers within the City of Manistee. Authorization for the ordinance adoption comes from Initiated Law 1 of 2018 as was approved by voters at the November 6, 2018 election.

As an ordinance two separate readings are required. If this ordinance is introduced at this time it could be adopted at the next regular meeting.

MOTION by Beaton, second by Cooper to introduce Ordinance 19-14, Chapter 867 Recreational Marihuana.

MOTION by Szymanski, second by Pontiac to amend the motion to change the proposed Ordinance 19-14 Chapter 867.16 Penalties and Enforcement, Section A to read as follows: Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of \$500, plus costs, except that a violation of Section 867.14 by consuming marihuana in a public place is a civil infraction and subject to the payment of a civil fine of up to \$100. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

With a roll call vote the motion to amend the original motion passed unanimously.

**AYES: Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac**

**NAYS: None**

With a roll call vote the amended motion passed, by 5-2.

**AYES: Cooper, Beaton, Zielinski, Szymanski and Pontiac**

**NAYS: Goodspeed and Grabowski**

### CONSIDERATION OF ORDINANCE 19-15 AMENDING CHAPTER 288 PEG COMMISSION

The PEG Commission has had difficulty attracting new members and establishing a quorum for its meetings. Consequently the PEG Commission has requested that the City consider reducing the number of members from seven to five. The hope is that the reduced number will make finding new members more manageable and also allow for the presence of three members to establish a quorum for meetings. The City Attorney has prepared Ordinance 19-15 to address the requests of the PEG Commission.

As an ordinance two separate readings are required. If this ordinance is introduced at this time it could be adopted at the next regular meeting.

MOTION by Grabowski, second by Pontiac to introduce Ordinance 19-15 Chapter 288 PEG Commission.

With a roll call vote this motion passed unanimously.

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**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF ORDINANCE 19-16 AMENDMENT TO CHAPTER 282 DOWNTOWN DEVELOPMENT AUTHORITY**

The Downtown Development Authority Act was repealed and replaced with similar provisions with the Recodified Tax Increment Financing Act. Ordinance 19-16 corrects Chapter 282 by reflecting the correct authorizing legislation for the DDA. In addition, the Ordinance reflects that the Chief Executive Officer for the City is the Mayor, while the current view is that the proper person to identify as the Chief Executive Officer for the City of Manistee is the City Manager.

As an ordinance two separate readings are required. If this ordinance is introduced at this time it could be adopted at the next regular meeting.

MOTION by Beaton, second by Goodspeed to introduce Ordinance 19-15 Chapter 282 Downtown Development Authority.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF BUDGET AMENDMENT 2019-3 FOR FISCAL YEAR END JUNE 30, 2019**

The City of Manistee is required by State law to ensure that actual expenditures do not exceed budgeted amounts. Over the course of the current fiscal year, unanticipated and unbudgeted events and/or Council approved expenditures have occurred. The proposed budget amendment addresses expenditures associated with these events to ensure compliance with State statute regarding appropriations.

MOTION by Goodspeed, second by Szymanski to adopt budget amendment 2019-3 for fiscal year ending June 30, 2019.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

### **CONSIDERATION OF APPLICATIONS TO BOARDS AND COMMISSIONS**

The City Clerk has taken action to advertise vacancies on the Downtown Development Authority Citizens Council, Harbor Commission, Historic District Commission, PEG Commission, and the Zoning Board of Appeals.



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Mayoral appointments require a motion, second, and Council voted support. Nominations for Council appointments do not require a second, After all nominations are made, Council votes on the nominees until one nominee receives majority support.

The following applications have been received:

\*Incumbent

**Downtown Development Authority Citizens Council** – Nine vacancies, applicants must be residents of the DDA and shall be at least 18 years of age. This is a new advisory board to the DDA and the City of Manistee in the adoption of the development or tax increment financing plans; Mayoral appointment.

Dennis terHorst, 63 Clay Street

Paul Gavlinski, 80 Washington Street, Unit 16

MOTION by Szymanski, second by Grabowski to support Mayor Zielinski's appointment of Dennis terHorst, 63 Clay St. to the Downtown Development Authority Citizens Council.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

MOTION by Szymanski, second by Pontiac to support Mayor Zielinski's appointment of Paul Gavlinski, 80 Washington St., Unit 16, to the Downtown Development Authority Citizens Council.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

**Harbor Commission** – Two vacancies, one term ending 10/31/20 and one term ending 10/31/21. Two members can be non-residents but must own real estate or a business or profession having a licensed business location in the City; Council appointment.

Tracey Lindeman, 308 River Street

MOTION by Goodspeed, to appoint Tracey Lindeman, 308 River St. to the Harbor Commission with term ending 10/31/2021.

With a roll call vote this motion passed unanimously.

**AYES:** *Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac*

**NAYS:** *None*

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### A REPORT FROM THE CITY ASSESSOR

Ms. Molly Whetstone reported on the activities of the Assessor's Office and responded to questions the Council had regarding their activities.

### DISCUSSION ON RIVERWALK EROSION

DPW Director Jeff Mikula and Engineer of Record Shawn Middleton made a presentation on Riverwalk repairs, riverbank erosion, and scope of work.

### CITIZEN COMMENT

Jim Matthews, 334 River St. – spoke regarding the proposed Recreational Marijuana Ordinance.

### OFFICIALS AND STAFF

None.

### COUNCILMEMBERS

Pontiac wished everyone a Happy Mother's Day.

Grabowski asked about removal of signs from River Street.

Szymanski expressed disappointment in Munson Healthcare Manistee Hospital's recent decision to close its Obstetrics Department.

Beaton thanked citizens for speaking regarding the erosion issues and hopes to find a satisfactory solution.

Zielinski thanked everyone for participating in the meeting and also thanked the DPW Director and City Engineer for acting quickly to work on solutions for the erosion issues.

### ADJOURN

MOTION to adjourn was made by Goodspeed. Meeting adjourned at 8:44 pm.

Lora Y Laurain  
City Deputy Clerk