

---

## PROCEEDINGS OF THE MANISTEE CITY COUNCIL – MARCH 19, 2019

---

A regular meeting of the Manistee City Council was called to order by his honor, Mayor Roger Zielinski on Tuesday, March 19, 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: None

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

### CITIZEN COMMENTS ON AGENDA RELATED ITEMS

Mike Herbert, 306 Hancock St. – asked City Council to change the proposed Ordinance 19-05 penalty from a misdemeanor to a civil infraction.

Don Wahr, Wahr Hardware, 87 Division St. – disagreed with implementing a criminal misdemeanor penalty with proposed Ordinance 19-05 due to tourism being affected negatively.

Shawn Herbert, 306 Hancock St. – spoke against the proposed Ordinance 19-05 misdemeanor penalty.

Danielle Simo, 12115 Lynn St., Bear Lake – spoke against passing proposed Ordinance 19-05 penalty being treated as a criminal act.

Thomas Dame, 635 Piney Rd. – stated there should not be any penalties imposed for recreational use of marihuana.

Barry Lind, 532 – 4<sup>th</sup> St. – spoke as a PEG Commission member and pointed out a discrepancy in the Charter Communications franchise renewal cover letter and the proposed contract. Mr. Lind also spoke as a citizen stating that the proposed Chamber of Commerce contract for Economic Development is nonspecific.

Shelly Doyen, Ideal Kitchen, 421 River St. – spoke regarding the proposed Chamber of Commerce contract for Economic Development and asked for approval of her request for a food truck to be located on River Street on April 13, 2019 in celebration of her business anniversary.

Allison Anderson, 609 Davis St. – urged Council not to adopt proposed Ordinance 19-08 Chapter 1024 Sidewalks and Riverwalk.

Gabriel Mattice, 319 ½ River St. – stated that proposed Ordinance 19-05 will hurt children's futures if adopted.

---

## PROCEEDINGS OF THE MANISTEE CITY COUNCIL – MARCH 19, 2019

---

### CONSENT AGENDA

- Minutes
  - March 5, 2019
  - March 12, 2019
  - Regular Meeting
  - Work Session
  
- Financial Reports
  - Payroll February 2019
  - Invoices February 2019
  
- Notification Regarding Next Work Session – April 9, 2019, 7:00 pm

A discussion will be conducted on the 2019-2020 Budget and Capital Improvement Plan; and such business as may come before Council.
  
- CONSIDERATION OF ORDINANCE 19-04 CHAPTER 663 FIREWORKS

There are two proposed changes to Chapter 663. The Michigan Fireworks Safety Act was amended at the end of 2018 to allow greater periods of time for cities to bar the use of consumer fireworks. The City's current ordinance bars the use of consumer fireworks in the City, except for those periods of time that Michigan law did not permit a city to regulate. The proposed modification to the ordinance bars the use of consumer fireworks except for those days and times that the 2018 amendment to the Michigan Fireworks Safety Act does not permit the City to regulate. The penalty section for the ordinance is also changed to follow the change to state law.

This ordinance has been reviewed by the Council Ordinance Committee. As an ordinance two separate readings are required. This ordinance was introduced at the March 5, 2019 meeting and could be adopted at this time.
  
- CONSIDERATION OF ORDINANCE 19-05 CHAPTER 662 PEACE DISTURBANCES

Two changes were made to Chapter 662. First, Section 662.01 B.1. provides that being intoxicated in a public place, standing alone, is not a violation, but the individual must also be acting in a way that endangers the safety of someone, endangers property, or is causing a public disturbance. This change was to conform to the requirements of Michigan law.

Section 662.01 B.15. was added to provide that consumption of marihuana in a public place, other than an area identified by a private property owner, is prohibited. The Michigan Regulation and Taxation of Marihuana Act (Recreational Marihuana) allows municipalities to authorize consumption in a public place and the ordinance is intended to make clear that it is not authorized in Manistee. The Act is silent as to what penalty, if any, is imposed for violating the restriction against consumption in a public place. The ordinance makes it a misdemeanor to consume in a public place.

This ordinance has been reviewed by the Council Ordinance Committee. As an ordinance two separate readings are required. This ordinance was introduced at the March 5, 2019 meeting and could be adopted at this time.

---

## PROCEEDINGS OF THE MANISTEE CITY COUNCIL – MARCH 19, 2019

---

- **CONSIDERATION OF ORDINANCE 19-06 CHAPTER 606 ANIMALS**

The proposed modifications to Chapter 606 are to incorporate, with respect to dogs and cats, state law. By incorporating state law, City Police Officers are able to charge what is described as a state offense as a City ordinance violation.

Section 606.5 D. was added to prohibit dogs on City beaches, except between the piers at First Street Beach and from the north end of Man-Made Lake to the north end of the City beach. While the City has posted the prohibition of dogs on the beaches, without an ordinance City Police Officers were unable to ticket violators.

This ordinance has been reviewed by the Council Ordinance Committee. As an ordinance two separate readings are required. This ordinance was introduced at the March 5, 2019 meeting and could be adopted at this time.

- **CONSIDERATION OF ORDINANCE 19-07 CHAPTER 1482 RESIDENTIAL RENTAL PROPERTIES**

The ordinance to amend parts of Chapter 1482 is primarily intended to address confusion as to whether short-term rentals and bed and breakfasts are exempt from the rental inspection requirements. The ordinance refers to hotels, motels, and overnight rooms intended for transient use as being exempt. Pursuant to Michigan law hotels, motels, and overnight rooms designed for transient use are subject to inspection by the State of Michigan. Bed and breakfasts, Airbnb, etc. are not subject to inspection by the State, consequently they are subject to inspection by the City pursuant to the rental inspection program. The amendment clarifies which rentals must comply with the inspection requirement. It also clarifies that the Certificate of Compliance issued after inspection terminates after three years, but is assignable to a new owner. The remaining changes were to correct or clarify language in the ordinance.

This ordinance has been reviewed by the Council Ordinance Committee. As an ordinance two separate readings are required. This ordinance was introduced at the March 5, 2019 meeting and could be adopted at this time.

- **CONSIDERATION OF ORDINANCE 19-08 CHAPTER 1024 SIDEWALKS AND RIVERWALK**

The proposed change to Chapter 1024 prohibits walking dogs along the Riverwalk from the west end of the City Marina to the west end of the Riverwalk. Bicycles, skateboarding, and rollerblading are prohibited along all portions of the Riverwalk. Just like Chapter 606, by providing these restrictions in the ordinance, City police officers are able to ticket violators. The proposed change makes clear that a violation of Chapter 1024 is a civil infraction.

This ordinance has been reviewed by the Council Ordinance Committee. As an ordinance two separate readings are required. This ordinance was introduced at the March 5, 2019 meeting and could be adopted at this time.

- **CONSIDERATION OF ORDINANCE 19-09 CHAPTER 292 EMPLOYEE SAVINGS PLAN AND CHAPTER 294 EMPLOYEES RETIREMENT SYSTEM**

The City has two ordinances regarding employee retirement that have been superseded by City Council adopting the Michigan Employees Retirement System (MERS) in 2005 and recent City Council action to set up a defined contribution plan for new nonunion hires. The ordinances are no longer needed and should be repealed.

---

## PROCEEDINGS OF THE MANISTEE CITY COUNCIL – MARCH 19, 2019

---

This ordinance has been reviewed by the Council Ordinance Committee. As an ordinance two separate readings are required. This ordinance was introduced at the March 5, 2019 meeting and could be adopted at this time.

Szymanski requested the removal of Item VII. b.) Consideration of Ordinance 19-05 Chapter 662 Peace Disturbances from the Consent Agenda.

Beaton requested the removal of Item VII. e.) Consideration of Ordinance 19-08 Chapter 1024 Sidewalks and Riverwalk from the Consent Agenda.

MOTION by Cooper, second by Grabowski to approve the Consent Agenda as presented with the removal of Item VII. b.) Consideration of Ordinance 19-05 Chapter 662 Peace Disturbances, and Item VII. e.) Consideration of Ordinance 19-08 Chapter 1024 Sidewalks and Riverwalk.

With a roll call vote this motion passed unanimously.

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

NAYS: None

### CONSIDERATION OF ORDINANCE 19-05 CHAPTER 662 PEACE DISTURBANCES

Two changes were made to Chapter 662. First, Section 662.01 B.1. provides that being intoxicated in a public place, standing alone, is not a violation, but the individual must also be acting in a way that endangers the safety of someone, endangers property, or is causing a public disturbance. This change was to conform to the requirements of Michigan law.

Section 662.01 B.15. was added to provide that consumption of marihuana in a public place, other than an area identified by a private property owner, is prohibited. The Michigan Regulation and Taxation of Marihuana Act (Recreational Marihuana) allows municipalities to authorize consumption in a public place and the ordinance is intended to make clear that it is not authorized in Manistee. The Act is silent as to what penalty, if any, is imposed for violating the restriction against consumption in a public place. The ordinance makes it a misdemeanor to consume in a public place.

This ordinance has been reviewed by the Council Ordinance Committee. As an ordinance two separate readings are required. This ordinance was introduced at the March 5, 2019 meeting and could be adopted at this time.

MOTION by Szymanski, second by Pontiac to adopt Ordinance 19-05 amending Chapter 662 Peace Disturbances with only the change made to Section 662.01 B.1. and withdrawing the proposed change to Section 662.01 B.15.

With a roll call vote this motion passed unanimously.

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

NAYS: None

---

## PROCEEDINGS OF THE MANISTEE CITY COUNCIL – MARCH 19, 2019

---

### CONSIDERATION OF ORDINANCE 19-08 CHAPTER 1024 SIDEWALKS AND RIVERWALK

The proposed change to Chapter 1024 prohibits walking dogs along the Riverwalk from the west end of the City Marina to the west end of the Riverwalk. Bicycles, skateboarding, and rollerblading are prohibited along all portions of the Riverwalk. Just like Chapter 606, by providing these restrictions in the ordinance, City police officers are able to ticket violators. The proposed change makes clear that a violation of Chapter 1024 is a civil infraction.

This ordinance has been reviewed by the Council Ordinance Committee. As an ordinance two separate readings are required. This ordinance was introduced at the March 5, 2019 meeting and could be adopted at this time.

MOTION by Szymanski, second by Goodspeed to adopt Ordinance 19-08 Chapter 1024 Sidewalks and Riverwalk.

With a roll call vote this motion passed unanimously.

AYES: Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac  
NAYS: None

### CONSIDERATION OF AN OLGA STREET VACATION REQUEST

The Little River Band of Ottawa Indians, Gary Niesen and Donald Pachesny request to vacate the southern portion of Olga Street from midway block between Eighth Street and continuing to the remaining portion of the entire block of Olga Street between Ninth Street and Tenth Street. The Planning Commission took action at their March 7, 2019 meeting to recommend approval.

MOTION by Beaton, second by Goodspeed to approve the request to vacate the southern portion of Olga Street.

With a roll call vote this motion passed unanimously.

AYES: Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac  
NAYS: None

### CONSIDERATION OF RENEWING CHARTER COMMUNICATIONS LOCAL FRANCHISE AGREEMENT

Charter Communications is requesting a ten-year renewal of the Local Franchise Agreement. The current franchise fee of 5% and the PEG fee of \$0.22 will remain the same in the renewal agreement.

MOTION by Cooper, second by Beaton to authorize a ten-year renewal of the Local Franchise Agreement with Charter Communications.

With a roll call vote this motion passed unanimously.

---

## PROCEEDINGS OF THE MANISTEE CITY COUNCIL – MARCH 19, 2019

---

AYES: Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac  
NAYS: None

### **CONSIDERATION OF ACTING AS A FIDUCIARY FOR BLOSSOM BOULEVARD**

Blossom Boulevard has been part of the Manistee Community for decades. A new committee has formed to once again plant flowers along US-31 beginning this spring. Until the Blossom Boulevard Corporation can be reinstated with the State of Michigan, the committee is requesting the City of Manistee act as a fiduciary to process payments to vendors. The City would be reimbursed from existing funds and new donations being managed by the Manistee Community Foundation.

MOTION by Beaton, second by Pontiac to approve acting as a fiduciary to Blossom Boulevard until such time as the Corporation can be reinstated with the State of Michigan.

With a roll call vote this motion passed unanimously.

AYES: Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac  
NAYS: None

### **CONSIDERATION OF A 2019 CATEGORY B GRANT APPLICATION**

The Michigan Department of Transportation notified the City that a new grant program had been created to assist with paving streets for communities with populations less than 10,000. The maximum grant amount is \$250,000 with a 50/50 match. The City has identified eligible street segments adjacent to planned construction and will utilize these projects as match money. This application is for 2019 construction.

MOTION by Beaton, second by Goodspeed to adopt a resolution authorizing Jeffrey W. Mikula to act as agent on behalf of the City and sign the project agreement; commits the City to one-half of the construction costs; and commits the City to a maintenance program for design life of the facilities constructed.

With a roll call vote this motion passed unanimously.

AYES: Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac  
NAYS: None

### **CONSIDERATION OF A 2020 CATEGORY B GRANT APPLICATION**

The Michigan Department of Transportation notified the City that a new grant program had been created to assist with paving streets for communities with populations less than 10,000. The maximum grant amount is \$250,000 with a 50/50 match. The City has identified eligible street segments adjacent to planned construction and will utilize these projects as match money. This application is for 2020 construction.

---

## PROCEEDINGS OF THE MANISTEE CITY COUNCIL – MARCH 19, 2019

---

MOTION by Goodspeed, second by Beaton to adopt a resolution authorizing Jeffrey W. Mikula to act as agent on behalf of the City and sign the project agreement; commits the City to one-half of the construction costs; and commits the City to a maintenance program for design life of the facilities constructed.

With a roll call vote this motion passed unanimously.

AYES: Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac  
NAYS: None

### **CONSIDERATION OF ECONOMIC DEVELOPMENT SERVICES AGREEMENT WITH THE MANISTEE AREA CHAMBER OF COMMERCE**

On February 5, 2019 City Council voted unanimously in support of the concept for the Manistee Area Chamber of Commerce to provide economic development services for the City and directed the City Attorney and staff to draft an agreement.

A three-year agreement has been drafted with an effective date of July 1, 2019 that includes the following: an annual payment of \$20,000, scope of services, and requires quarterly reports to the City Council on their activities.

MOTION by Goodspeed, second by Szymanski to authorize the Mayor and City Clerk to execute the Economic Development Services Agreement with the Manistee Area Chamber of Commerce.

With a roll call vote this motion passed unanimously.

AYES: Cooper, Beaton, Zielinski, Goodspeed, Szymanski, Grabowski and Pontiac  
NAYS: None

### **A REPORT FROM THE PUBLIC SAFETY DEPARTMENT**

Chief Tim Kozal reported on the activities of the Public Safety Departments and responded to questions the Council had regarding their activities.

### **CITIZEN COMMENT**

David Holmer, 909 High St. – invited councilmembers and the public to attend an event hosted by the Manistee Tea Party on 3/21/19 at the Bungalow Inn.

Thomas Dame, 635 Piney Rd. – stated that he is proud of councilmembers and proud to be a member of the Manistee community.

Allison Anderson, 609 Davis St. – asked that repairs be done on Sixth Street in the St. Joseph Church area.

## PROCEEDINGS OF THE MANISTEE CITY COUNCIL – MARCH 19, 2019

---

### OFFICIALS AND STAFF

Mikula reported that second and third work shifts for DPW workers have been discontinued. Mikula also updated Council on erosion issues at First Street beach and Riverwalk areas. The marina docks repair contractor has requested a 2 week extension of their contract for completion of work. Tightlines for Troops event will again be held at Seng's Marina this year. A grant application to the Waterways Fund for six docks needing repairs not related to the 2018 Seiche event will be submitted.

Lisette Reyes of Project Rising Tide stated that consultant Joe Borgstrom will meet with the DDA Board regarding Economic Development.

### COUNCILMEMBERS

Pontiac and Goodspeed will be absent from the April 2, 2019 City Council meeting.

Grabowski thanked the DPW for their hard work with snow removal this year.

Szymanski noted that the City DPW workers did a great job getting through the winter and thanked the citizens for their comments regarding the Peace Disturbances Ordinance.

Beaton thanked Mikula for his work on the Grant Applications and hopes they are approved.

Zielinski expressed his appreciation for those citizens in attendance and comments provided.

### ADJOURN

MOTION to adjourn was made by Goodspeed. Meeting adjourned at 8:35 pm.

Lora Y Laurain  
City Deputy Clerk