

August 15, 2016

A regular meeting of the City Council was held on Monday, August 15, 2016, 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: Thomas Adams, Steve Arnosky, Diane Brown Wilhelm, Maureen Donker, Marty Wazbinski

Councilmen absent: None

## **MINUTES**

Approval of the minutes of the July 25, 2016 regular meeting was offered by Councilman Brown Wilhelm and seconded by Councilman Arnosky. (Motion ADOPTED.)

## **2016-17 HOUSING FUND BUDGET AMENDMENT**

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

WHEREAS, the Midland Public Schools administration has requested a joint project with the City of Midland and the Reece Endeavor of Midland, by having students in the Building Trades Class provide the labor for the construction of a two-family residential structure; and

WHEREAS, such participation will result in the training of students in skills beneficial to both the students and the community; and

WHEREAS, the City of Midland and the Reece Endeavor of Midland have agreed in principle to construct a zero-step two-family dwelling in collaboration with the Midland Public Schools on property owned by the Reece Endeavor of Midland and located at 406/408 Eastlawn Drive; and

WHEREAS, it is expected that the City will have total costs up to \$250,000 towards construction of this two-family dwelling which will be reimbursed by the buyer in full upon completion of the project, per the contents of the Housing Construction Agreement; and

WHEREAS, the FY 2016/17 Housing Fund budget does not currently include revenues or expenditures of this amount related to this project and it is therefore necessary to amend the FY 2016-17 Housing Fund budget; and

WHEREAS, in accord with Section 11.6 of the Charter of the City of Midland, a public hearing was held at 7:00 p.m. on August 15, 2016, in the City Council Chambers of City Hall, Midland, Michigan, for the purpose of receiving public input on the proposed budget amendment to the FY 2016-17 Housing Fund; now therefore

RESOLVED, that the FY 2016/17 Housing Fund budget is hereby amended by increasing both revenues and expenditures in the amount of \$75,000, with the funding coming from the Housing Fund and which will be fully reimbursed by the Reece Endeavor of Midland at the conclusion of the project; and

RESOLVED FURTHER, that the Mayor and City Clerk are authorized to execute a Housing Construction Agreement between the City of Midland, Midland Public Schools and the Reece Endeavor of Midland for this purpose; and

RESOLVED FURTHER, that the Reece Endeavor of Midland shall pay to the City all material costs, contracted labor, and other incidental costs as agreed upon. (Motion ADOPTED.)

## **PUBLIC COMMENTS**

No public comments were made.

## **ORDINANCE AMENDMENT - WEEDS**

Director of Public Services Karen Murphy presented for second reading and adoption an ordinance amending Section 26-1 of Article 1 of Chapter 26 – Weeds. The following ordinance amendment was then offered by Councilman Wazbinski and seconded by Councilman Brown Wilhelm:

Ordinance No. 1791

An ordinance to amend the Code of Ordinances of the City of Midland, Michigan, by amending Section 26-1, Article I of Chapter 26.

The City of Midland Ordains:

Section 1. Section 26-1 is hereby amended to read as follows:

**Sec. 26-1. Unlawful to permit growth of noxious, poisonous or injurious weeds.**

It shall be unlawful for the owner or occupant or any person or persons, agent, firm or corporation having control or management of any lot, place or parcel of land within the city to permit or allow the presence thereon, or on any portion thereof, of noxious weeds of any kind, including Canada thistle (*Cirsium arvense*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior*) and poison ivy (*Rhus radicans*), poison sumac (*Rhus vernix*), sow thistle (*Sonchus* species), climbing nightshade or European bittersweet (*Solanum dulcamara*), garlic mustard (*Alliaria petiolata*), phragmites (*Phragmites australis*), crown vetch (*Coronilla varia*), purple loosestrife (*Lythrum salicaria*), giant hogweed (*Heracleaum mantegazzianum*), wild parsnip (*Pastinaca sativa*), spotted knapweed (*Centaurea maculosa*), Japanese knotweed (*Fallopia japonica*), giant knotweed (*Fallopia sachalinesis*), autumn olive (*Elaeagnus umbellata*), glossy buckthorn (*Rhamnus frangula*), common buckthorn (*Rhamnus cathartica*) or any other varieties, species or plants designated by the city forester as poisonous or injurious. The presence of such weeds upon any lot or parcel of land within the city limits is hereby declared to be a public nuisance.

(Ord. No. 1014, § 2, 2-22-82)

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

## **PROPOSED CHANGING OF CITY COUNCIL ELECTIONS REPORT**

Community Affairs Director Selina Tisdale presented a report on changing City Council elections from odd years to even years and a resolution setting a hearing to receive public comments. Connie Pankhurst, 4304 Oakridge Drive, spoke regarding the Midland Public Schools changing the school board elections to the even year November ballot and noted its success. The following resolution was then offered by Councilman Arnosky and seconded by Councilman Adams:

WHEREAS, Midland City Council has received a report on the option of changing City Council elections from November in the odd years to November in the even years; and

WHEREAS, further public input on this decision is desired; now therefore

RESOLVED, that a public hearing will be scheduled for October 10, 2016 to receive public comment on changing City Council elections from November odd year to November even year and to consider a resolution to potentially approve the change. (Motion ADOPTED.)

## **CITY OF MIDLAND MASTER PLAN UPDATE DRAFT CIRCULATION**

Assistant City Manager for Development Services Brad Kaye presented information on the draft City of Midland Master Plan Update for review by the public, neighboring jurisdictions and other required entities. The following resolution was then offered by Councilman Arnosky and seconded by Councilman Wazbinski:

WHEREAS, during the previous eight months the Planning Commission has prepared the City of Midland Master Plan Update, which contains recommendations for changes to the Future Land Use Map in the form of proposed land use designations; and  
WHEREAS, the Michigan Planning Enabling Act, PA 33 of 2008, as amended, requires a Master Plan to be reviewed and, if necessary updated, at least every five years; and  
WHEREAS, a final draft of the proposed Master Plan Update was provided to the Planning Commission at its July 26, 2016 meeting; and  
RESOLVED, that City Council approves circulation of the City of Midland Master Plan Update to begin the statutorily required 42 days public comment period, copies of the plan be provided to neighboring jurisdictions and entities. (Motion ADOPTED.)

#### **SITE PLAN NO. 352**

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

WHEREAS, the City Council has received the recommendation of the City Planning Commission for approval of Site Plan No. 352, the request of TeleCad Wireless/Skyway Towers for site plan review and approval for a 195 foot tall wireless communication tower on a parcel owned by the City of Midland and operated as a municipal landfill, located at 3600 and 4812 East Wheeler Road; and

WHEREAS, the City Council has reviewed the proposed Site Plan No. 352 in accord with the provisions set forth in Sections 27.02(A) and 27.06(A) of the Zoning Ordinance of the City of Midland; now therefore

RESOLVED, that the City Council does hereby approve Site Plan No. 352, contingent upon the following:

1. A signed agreement stating that co-location shall be permitted on the proposed tower shall be provided to the satisfaction of the City Attorney.
2. A signed agreement stating that the applicant is aware of and agrees to comply with the removal standards of Section 3.16.B.10 of the City of Midland Zoning Ordinance shall be provided to the satisfaction of the City Attorney.
3. A final site lease, including required access easements, shall be executed between the applicant and the City of Midland.
4. A soil and sedimentation control plan shall be submitted to the City of Midland Building Department.
5. A lighting plan demonstrating compliance with all FAA and City of Midland standards shall be submitted to the City Building Department prior to construction permits being issued. This contingency may be waived if no lighting is required or proposed.
6. Final fence details demonstrating compliance with the City of Midland Zoning Ordinance shall be provided to the City Planning Department.

(Motion ADOPTED.)

#### **CABLE ACCESS ADVISORY COMMISSION – SHELOW RESIGNATION**

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

RESOLVED, that the resignation of Taitia Shelow as a member of the Cable Access Advisory Commission is hereby accepted, effective immediately, and the Administration is directed to convey the Council's appreciation to Ms. Shelow for her service on this important Commission. (Motion ADOPTED.)

### **MERS ANNUAL MEETING – OFFICER DELEGATES**

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

RESOLVED, that David Keenan be appointed officer delegate and Carol Stone be appointed alternate officer delegate to represent the City of Midland at the annual meeting of the Municipal Employees Retirement System to be held September 28 through September 29, 2016 in Traverse City, Michigan. (Motion ADOPTED.)

### **WOW SERIES CONCERT KICK-OFF**

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

RESOLVED, that the request from the Midland Center for the Arts to hold the WOW Series Concert Kick-Off, a free outdoor concert, on Larkin Street in downtown Midland on Friday, August 26, 2016, utilizing the public right-of-way and amplified sound, is hereby approved subject to the following conditions:

- The responsible party and contact number for the event date is Heath Hetherington, 989-631-5930, ext. 1280.
- A Certificate of Liability Insurance in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate, with the City of Midland named as Additional Insured must be submitted to the City Engineer's Office no less than one week prior to the event. You may fax it to 989-837-5708.
- The City stage is already reserved and not available on this date.
- DPS will provide barricades for street closures per appropriate traffic control order issued by City Engineering. Organizers will be responsible for placing/removing barricades from the street.
- Organizer must supply portable restrooms sufficient for anticipated number of participants.
- Clean up and removal of stage must be completed at end of concert.
- Submittal has been received for roof system and stage. Organizer to review hold down ballast plan with Fire Marshal Josh Mosher at 837-3413 prior to event.

; and

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

### **WASHINGTON WOODS – RENOVATION OF 94 APARTMENTS**

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

WHEREAS, sealed proposals were advertised and received in accord with Article II of Chapter 2 of the Midland Code of Ordinances for Washington Woods west wing renovations, Bid No. 3795; and

WHEREAS, sufficient funds are included in account # 536.9010.97.002. Capital Outlay and Construction of the approved Washington Woods 2016/17 budget, with additional funds to be provided via donation in the 2017/18 budget; now therefore

RESOLVED, that the low-sealed bid proposal meeting City specifications, submitted by Graham Construction Corp. of Saginaw, MI for Washington Woods west wing renovations in response to Bid No. 3795, is hereby accepted; and

RESOLVED FURTHER, that a purchase order for \$2,319,500.00 to Graham Construction Corp. of Saginaw, MI in accord with this resolution and City specifications is hereby authorized; and RESOLVED FURTHER, that the City Manager is authorized to execute any associated documents in accordance with the proposal and City of Midland specifications once prepared by and/or approved by the City Attorney; and RESOLVED FURTHER, that the City Manager is authorized to approve change orders in an aggregate amount not to exceed \$120,000.00. (Motion ADOPTED.)

#### **HOCKEY REFEREE SERVICES**

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

WHEREAS, the Midland Hockey Official Association is unique in the type and scope of the services provided to the Civic Arena, specifically for hiring referees for the City of Midland's hockey leagues; and

WHEREAS, funding is available in the 2016/2017 Civic Arena budget; now therefore RESOLVED, that the City Council hereby determines that sealed proposals are impractical, and in accordance with Section 2-18 of the Code of Ordinances, the requirement for sealed proposals is hereby waived and the purchase of services from the Midland Hockey Official Association is hereby approved in an amount not to exceed \$60,000 and the necessary purchase order authorized. (Motion ADOPTED.)

#### **NEW WORLD SYSTEMS SOFTWARE MAINTENANCE AND SUPPORT**

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

WHEREAS, New World Systems annual software maintenance and support services are due for renewal; and

WHEREAS, software maintenance and support is directly provided by the manufacturer and is considered sole source; and

WHEREAS, sufficient funding exists in the Information Services Operations Fund, and its 2016-17 budget includes sufficient appropriations to pay the 2016-17 expenditures; now therefore RESOLVED, that the City Council hereby determines that sealed bids are impractical, and in accordance with Section 2-18 of the Code of Ordinances, the requirement for sealed proposals is hereby waived and the payment to New World Systems in the amount of \$62,007.00 for maintenance and support services is hereby approved. (Motion ADOPTED.)

#### **MIDLAND COMMUNITY STADIUM CABLING PROJECT**

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

WHEREAS, MCTV needs new underground cabling at Midland Community Stadium because the current cabling is obsolete following MCTV's technical facilities upgrade; and

WHEREAS, ESCON Group is the recommended vendor for the purchase and installation of specialized fiber cabling; and

WHEREAS, funding is available in the 2016-17 MCTV budget; now therefore RESOLVED, that the City Council hereby determines that sealed proposals are impractical, and in accordance with Section 2-18 of the Code of Ordinances, the requirement for sealed proposals is hereby waived and the purchase of materials and labor from ESCON Group for the replacement of stadium cabling is hereby approved in the amount of \$24,810 and the necessary purchase order authorized. (Motion ADOPTED.)

### **2016 SIDEWALK IMPROVEMENT PROGRAM**

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

WHEREAS, sealed proposals have been advertised and received in accord with Article II of Chapter 2 of the Midland Code of Ordinances for the construction of new sidewalks and sidewalk ramps along Northwood Drive, a portion of Sugnet Road and a portion of Wheeler Street; and

WHEREAS, funding for this project is provided by the General Fund and Special Assessment; now therefore

RESOLVED, that the low sealed proposal submitted by JKS Inc. dba Steve Krotzer Contracting of Midland, Michigan, for the "2016 Sidewalk Improvement Program; Contract No. 22", in the indicated amount of \$79,178.00, based upon City estimated quantities is hereby accepted and the Mayor and the City Clerk are authorized to execute a contract therefore in accord with the proposal and the City's specifications; and

RESOLVED FURTHER, that the City Manager has the authority to approve change orders modifying or altering this contract in an aggregate amount not to exceed \$20,000.00. (Motion ADOPTED.)

### **MDOT EASTMAN AVE WATER MAIN REPLACEMENT CHANGE ORDER**

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

WHEREAS, the fast-tracked design-build State of Michigan Department of Transportation (MDOT) Eastman Avenue/BR10 Improvement Project was announced in June 2014, and was made possible by special funding from the State of Michigan; and

WHEREAS, the project was unique for the City, in that we are generally in control of the project planning, bid specifications, and construction engineering oversight, however for this project, the City was further removed working within the process that MDOT managed; and

WHEREAS, the MDOT project has been completed, and the City subsequently received an invoice of the City's share of additional construction and engineering costs incurred by the State, with a remaining invoice balance to be paid of \$33,902.34; and

WHEREAS, funding is provided in the Capital Project WD1506 - US-10 MDOT Water Main; now therefore

RESOLVED, that an increase of \$33,902.34 to an existing purchase order of \$532,118.56 to the State of Michigan Department of Transportation is hereby authorized, bringing the total amount of the purchase order to \$566,020.90 for expanded and final construction activities during the MDOT Eastman Avenue Water Main Project. (Motion ADOPTED.)

### **WASTEWATER – RAW SEWAGE PUMP REPLACEMENT**

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

WHEREAS, the Main Pump Station was constructed in 1973 at the Wastewater Treatment Plant (WWTP), utilizing four pumps, with two designated as primary, running on variable frequency drives; and

WHEREAS, staff plans to replace one pump per each fiscal year for four years in order to ensure reliable efficient operation of the WWTP; and

WHEREAS, on May 9, 2016, Council accepted the low bid from Kennedy Industries, Inc. of Milford, in the amount of \$99,235.00 for a Xylem Allis Chalmers 16 x 16 x 20 NSY centrifugal

pump, and authorized the purchase of the first primary replacement pump for the Main Pump House at the Plant; and

WHEREAS, the second primary replacement pump is budgeted in the 2016/17 Fiscal Wastewater Enterprise Fund Account 590.9120.97.025 - Capital Equipment, and Kennedy Industries will extend the price offered in Bid No. 3770 for the second primary pump purchase; now therefore

RESOLVED, that a purchase order in an amount not to exceed \$99,235.00 to Kennedy Industries is hereby authorized, based on a previously approved bid price, for the purchase of one Xylem Allis Chalmers pump for the Main Pump House at the Wastewater Treatment Plant. (Motion ADOPTED.)

#### **ALLEN BRADLEY PLC EQUIPMENT**

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

WHEREAS, the City of Midland Wastewater Treatment Plant utilizes programmable logic controllers and associated equipment for control and monitoring the WWTP and pump stations; and

WHEREAS, the purpose of the programmable logic controllers is for 24 hour monitoring and controlling the operations of the WWTP and pump station telemetry; and

WHEREAS, the existing programmable logic controllers were first installed over 20 years ago, and have exceeded their life expectancy; and

WHEREAS, Allen Bradley PLCs are an industry standard, and have been specified, while Kendall Electric of Saginaw is the area's only authorized distributor of Allen Bradley PLC equipment; and

WHEREAS, on July 5, 2016, one bid was received for Bid No. 3801, Allen Bradley PLC equipment, in accord with section 2-18 of the Midland Code of Ordinances; and

WHEREAS, the lone bid of \$175,350.61 received from Kendall Electric of Saginaw, for Allen Bradley PLC equipment, meets City specifications; and

WHEREAS, funding is provided for this purpose in Capital Construction Project WW1502 - Plant/Pump Station Communications Upgrade; now therefore

RESOLVED, that the low bid amount offered by Kendall Electric for the purchase of Allen Bradley PLC equipment at the Wastewater Treatment Plant, is hereby accepted in the best interest of the City, and authorization is granted for the issuance of a purchase order in an amount not to exceed \$175,350.61. (Motion ADOPTED.)

#### **WATER PLANT REAR DRIVEWAY PAVING**

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

WHEREAS, the rear driveway of the Water Treatment Plant was at one time a gravel road constructed as part of the water plant expansion in 1983, and a layer of asphalt was added in 1993, with no other repairs having been made since then; and

WHEREAS, the driveway regularly experiences heavy equipment traffic from chemical deliveries and maintenance activities, and is severely degraded with extensive cracking and numerous potholes; and

WHEREAS, sealed proposals were received and opened for Bid No. 3791, Midland Water Treatment Plant Paving for the reconstruction of the rear driveway, in accord with Section 2-18 of the Midland Code of Ordinances; and

WHEREAS, staff has reviewed the responses received and has determined that the low bid submitted by Pyramid Paving Co. of Bay City in the amount of \$109,749.50 to be acceptable; and

WHEREAS, funding has been budgeted for this purpose in Fiscal 2016/17 Water Enterprise Fund account #591.9120.97.015 – Capital Land Improvements; now therefore

RESOLVED, that the low bid submitted by Pyramid Paving Co. for the indicated price of \$109,749.50, is accepted and a purchase order is hereby authorized in that amount for the rear driveway reconstruction at the Water Treatment Plant; and

RESOLVED FURTHER, that the City Manager is authorized to approve changes to the purchase order in an aggregate amount not to exceed \$15,000.00. (Motion ADOPTED.)

#### **WATER DISTRIBUTION INVENTORY WATER SERVICE FITTINGS**

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

WHEREAS, sealed bids for Bid No. 3804 Water Service Fittings, have been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and

WHEREAS, staff considers the low bid received from H.D. Supply Waterworks of Shelby Township to be acceptable, and recommends award for inventory purchases of water service fittings; and

WHEREAS, the purchases will be made from Water Enterprise Fund Account #591.13.031 – Water Parts Inventory; now therefore

RESOLVED, that a purchase order is hereby authorized to H.D. Supply Waterworks in the amount of \$22,039.19; and

RESOLVED FURTHER, that the City Manager is hereby authorized to approve change orders in an aggregate amount not to exceed \$5,000.00. (Motion ADOPTED.)

#### **PROPOSED ZONING ORDINANCE REVISIONS**

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

WHEREAS, a public hearing was held by the Planning Commission on Tuesday, July 26, 2016 for consideration of revisions of Zoning Ordinance No. 1585; and

WHEREAS, a copy of the Zoning Ordinance revisions may be reviewed at the Planning Department, City Hall, 333 West Ellsworth Street; now therefore

RESOLVED, that notice is hereby given that a public hearing will be held by the City Council on Monday, September 12, 2016, at 7:00 p.m. in the Council Chambers, City Hall, for the purpose of considering the revised Zoning Ordinance; and

RESOLVED FURTHER, that the City Clerk is hereby directed to publish said notice on August 27, 2016.

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.

The City of Midland Ordains:

Section 1. That the Zoning Ordinance being Ordinance No. 1585 of the City of Midland is hereby amended to read as follows.

(see attached)

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. Considered first reading.)

Being no further business the meeting adjourned at 8:00 p.m.

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Selina Tisdale, City Clerk