

July 11, 2022

A regular meeting of the City Council was held on Monday, July 11, 2022, 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

**NOTE:** MAYOR DONKER ADVISED THAT AGENDA ITEM #7 SPECIAL EVENT REQUEST FROM 611 THEATRE COMPANY HAD BEEN REMOVED FROM THE AGENDA.

### **MINUTES**

Approval of the minutes of the June 27, 2022 regular meeting was offered by Councilman Arnosky and seconded by Hall. (Motion ADOPTED.)

### **ZONING TEXT AMENDMENT NO. 162**

Director of Planning & Community Development Jacob Kain presented regarding the proposed Zoning Text Amendment No. 162. A public hearing opened at 7:07 p.m., hearing no public comments, the public hearing closed at 7:08 p.m. The following resolution was then offered by Councilman Brown Wilhelm and seconded by Councilman Hall.

#### ORDINANCE NO. 1861

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 ORDINANCE TO AMEND ARTICLE 19.00 COMMUNITY DISTRICT.

The City of Midland Ordains:

Section 1. That Ordinance No. 1585, being the Zoning Ordinance of the City of Midland, is hereby amended by adding the following to section 19.02, subsection A:

*Child care centers, as defined in "Residential Care Facilities" in Section 2.02*

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 All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.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 7 days after publication. (Ordinance ADOPTED.)

### **CONDITIONAL USE PERMIT NO. 76**

Director of Planning & Community Development Jacob Kain presented regarding Conditional Use Permit No. 76 for a Child Care Center at 1025 E. Wheeler Street. A public hearing opened at 7:17 p.m., Kristen Hosfeld 5606 Pineview Dr. spoke regarding the Child Care Center, the public hearing closed at 7:19 p.m. The following resolution was then offered by Councilman Brown Wilhelm and seconded by Councilman Arnosky.

WHEREAS, Kristin Hosfeld submitted a request for a conditional land use to permit a child care center located at 1025 E. Wheeler Street; and  
WHEREAS, City Planning Department staff notified property owners and occupants within three hundred (300) feet of the proposed area by transmitting notice on May 6, 2022 and publishing said notice on May 7, 2022 of the proposed public hearing on May 24, 2022; 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 with contingencies, in accord with Section 28.02(B) of the Zoning Ordinance of the City of Midland; now therefore

RESOLVED, that the City Council finds the request for the conditional use to be in accord with Section 28.03 of the Zoning Ordinance of the City of Midland, and hereby approves Conditional Use Permit No. 76, in accord with documents provided and submitted at the meeting of July 11, 2022, subject to the following contingencies.

1. Approval is granted for the child care center. Any additional uses of the property shall be reviewed and approved in accordance with the standards of the City of Midland Zoning Ordinance, including the requirements for site plan approval under Article 27.
2. The City specification for double-lined parking is required to the satisfaction of the City Building Department. (Motion ADOPTED.)

### **CURRIE GOLF COURSE FUND**

Assistant City Manager David Keenan presented regarding the Currie Gold Course Fund budget amendment and contract award for irrigation controllers replacement. A public hearing opened at 7:31 p.m., hearing no public comments, the public hearing closed at 7:32 p.m.

### **CURRIE GOLF COURSE FUND BUDGET AMENDMENT**

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

WHEREAS, that in accord with Section 11.6 of the Charter of the City of Midland, a public hearing was conducted at 7:00 p.m., Monday, July 11, 2022, in the Council Chambers of City Hall, on the proposal to amend the 2022-23 Currie Golf Course Fund budget by increasing revenues and expenditures by \$200,000 to provide adequate budgetary authorization for the replacement of irrigation controllers, and to recognize the additional federal and state grants that will fund the replacement; now therefore

RESOLVED, that the City Council hereby approves amending the 2022-23 Golf Course Fund budget by increasing revenues and expenditures by \$200,000 to provide adequate budgetary authorization for the replacement of irrigation controllers, and to recognize the additional federal and state grants that will fund the replacement. (Motion ADOPTED.)

### **IRRIGATION CONTROLLERS CONTRACT**

The following resolution was then offered by Councilman Wazbinski and seconded by Councilman Hall.

WHEREAS, the irrigation controllers at the Currie Golf Course are in need of replacement due to the flood of 2020 caused by the dam failures upstream of the city on the Tittabawassee River; and

WHEREAS, replacement of the irrigation controllers has been approved by the Federal Emergency Management Agency and will be fully funded through federal and state grants; and WHEREAS, sealed bids were opened on the replacement of the irrigation controllers on June 7, 2022, with the only bid received being from Thielen Turf Irrigation, Inc. at a cost of \$353,005; and

WHEREAS, staff has reviewed the base bid and alternates and recommends an award of the base bid and alternate number one totaling \$340,965; now therefore  
RESOLVED, that the Mayor and City Clerk are hereby authorized to execute an agreement with Thielen Turf Irrigation, Inc. for the irrigation system repairs at Currie Golf Course in the amount not to exceed \$340,965 upon document approval by the City Attorney; and

RESOLVED FURTHER, that the City Manager is authorized to approve change orders modifying or altering the contract in an aggregate amount not to exceed \$15,000. (Motion ADOPTED.)

### **PARKS RULES AMENDMENT**

Director of Public Services Karen Murphy presented regarding the proposed amendment to parks rules to allow the use of Class 1 electric bikes at City Forest. A public hearing opened at 7:38 p.m., hearing no public comments, the public hearing closed at 7:39 p.m. The following resolution was then offered by Councilman Wazbinski and seconded by Councilman Brown Wilhelm.

RESOLVED, that Section 8 of the Park Rules and Regulations adopted June 2, 1975 pursuant to Section 17-9 of the Code of Ordinances are hereby revised as recommended by the Parks and Recreation Commission to allow the use of Class 1 e-bikes on the trail system at City Forest. (Motion ADOPTED.)

### **PUBLIC COMMENT**

No public comments were made.

### **2022 STORM WATER UPDATE REPORT**

Director of Wastewater Services Jared Driscoll presented regarding the 2022 Storm Water Update Report. The following resolution was then offered by Councilman Hall and seconded by Councilman Arnosky.

WHEREAS, City Council has directed City staff to explore opportunities with the U.S. Army Corps of Engineers (USACE) to address clearing of Sturgeon Creek for flood control between N. Saginaw Road and W. Wackerly Street, and

WHEREAS, funding for this potential project through the Flood Control Act of 1954 for a new start has not been officially made available, and

WHEREAS, City Staff will continue communication with the USACE and keep City Council informed of any updates, and

WHEREAS, ongoing communication with the Midland County Drain Commissioner is required to allow full legal review of County Drains within the City limits in order to clearly define potential drains that could be relinquished to the City, and

WHEREAS, once this legal review is complete, City Staff will bring formal recommendations to City Council for review; now therefore

RESOLVED, that City Council hereby receives and files the staff report on the July 2022 Storm Water Updates with the understanding that City Council discussion on this topic will continue. (Motion ADOPTED.)

### **EVENT REQUEST FROM MIDLAND BMX ORGANIZATION**

The following resolution was offered by Councilman Arnosky and seconded by Councilman Hall.

RESOLVED, that the request from Midland BMX to charge admission to their racing events held at the Stratford Wood Park in the season of 2022, is hereby approved subject to the following conditions:

- Event organizer must provide 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, for the dates of the event. The certificate must be submitted to the Parks and Recreation Office as soon as possible.
- Event organizer has permission to charge an entrance fee at tournament locations for patrons attending their event.

- Use of Stratford Woods Park is non-exclusive and park users not attending the BMX event shall be allowed to use the park free of charge for all other park activities.

and

RESOLVED FURTHER, that the Parks and Recreation staff is hereby authorized to approve future requests for this event provided it is conducted in substantially the same manner. (Motion ADOPTED.)

### **BOOK ORDERING AND PROCESSING SERVICES – GRACE A. DOW MEMORIAL LIBRARY**

The following resolution was offered by Councilman Arnosky and seconded by Councilman Hall.

WHEREAS, a state-wide contract for library materials purchasing is available to all public libraries through The Library Network in accordance with Article II of Chapter 2 of the Midland Code of Ordinances for book ordering and processing services for the Grace A. Dow Memorial Library; and

WHEREAS, the pricing for Ingram Content Group has been determined to be cost-effective while providing superior service to the City for the purchasing and processing of books for the Library; and

WHEREAS, Ingram Content Group has agreed to extend the same pricing terms and conditions to all public libraries in the State of Michigan; and

WHEREAS, funding is available in the 2022/2023 Grace A. Dow Memorial Library budget; now therefore

RESOLVED, that the City Council hereby utilizes The Library Network's contract pricing to purchase from Ingram Content Group in an amount not to exceed \$125,000 for book ordering and processing services for the Grace A. Dow Memorial Library for fiscal year 2022/2023 and authorizes the necessary purchase order. (Motion ADOPTED.)

### **OVERDRIVE SUBSCRIPTION – GRACE A. DOW MEMORIAL LIBRARY**

The following resolution was offered by Councilman Arnosky and seconded by Councilman Hall.

WHEREAS, Overdrive, Inc. provides subscription services, eBooks, eAudiobooks, and eMagazines for the Grace A. Dow Memorial Library; and

WHEREAS, funding is available in the 2022/2023 Grace A. Dow Memorial Library 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 subscription services, eBooks, eAudiobooks, and eMagazines from Overdrive, Inc. is hereby approved in an amount not to exceed \$100,000 and the necessary purchase order authorized. (Motion ADOPTED.)

### **HOOPLA SUBSCRIPTION SERVICES - GRACE A. DOW MEMORIAL LIBRARY**

The following resolution was offered by Councilman Arnosky and seconded by Councilman Hall.

WHEREAS, Midwest Tape provides on-demand multi-use Hoopla subscription services for eBooks, eAudiobooks, eMusic, and downloadable film for the Grace A. Dow Memorial Library; and

WHEREAS, no other vendor provides the variety of materials or simultaneous use of such materials; and

WHEREAS, funding is available in the 2022/2023 Grace A. Dow Memorial Library 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 Hoopla subscription services, from Midwest Tape is hereby approved in an amount not to exceed \$100,000 and the necessary purchase order authorized. (Motion ADOPTED.)

#### **LEGAL DEFENSE SERVICES – FLOOD RELATED LAWSUIT**

The following resolution was offered by Councilman Arnosky and seconded by Councilman Hall.

WHEREAS, in January 2021 a lawsuit was filed against the City of Midland relating to the May 2020 flooding events which occurred in the city of Midland; and

WHEREAS, the law firm of Braun, Kendrick, Finkbeiner, P.L.C. has been retained in assisting the City of Midland in its legal defense of this lawsuit which is now pending in the 42<sup>nd</sup> Circuit Court of Midland County; and

WHEREAS, on December 6, 2021 City Council authorized payments to Braun, Kendrick, Finkbeiner, P.L.C. for the aforementioned services in a total amount not to exceed \$100,000; and

WHEREAS, the cost of said services is expected to exceed the purchasing limit of \$50,000 and, therefore, approval of the City Council is required under Section 2-18 of the Code of Ordinances; and

WHEREAS, sufficient budgetary funding exists within the 2022-2023 Legal Fees budget for the City Attorney's Office; now therefore

RESOLVED, that the above-referenced services are hereby determined to be professional services within the meaning of Section 2-19 of the Code of Ordinances and do not require sealed proposals; and

RESOLVED FURTHER, that authorization for payment to the legal firm of Braun, Kendrick, Finkbeiner, P.L.C. for their assistance in connection with the aforementioned lawsuit is hereby authorized in an amount not to exceed \$225,000. (Motion ADOPTED.)

#### **PROFESSIONAL SERVICES CONTRACT – CENTER FOR PUBLIC SAFETY MANAGEMENT**

The following resolution was offered by Councilman Arnosky and seconded by Councilman Hall.

WHEREAS the City of Midland determined that a review of all City departments was warranted to assess current programs and service delivery; and

WHEREAS these reviews conducted to date have identified areas of strength, areas in need of improvement, and have allowed a realignment of financial and personnel resources; and

WHEREAS it has been determined that a comprehensive review of public safety services provided by the Midland Fire Department would benefit from external professional services; and

WHEREAS the City of Midland advertised for bids from consultants specializing in assessments for public safety entities, received four bid proposals, and selected two for direct interviews; and

WHEREAS following interviews and the opening of cost proposals from said two consultants, the City (and separately Larkin Township) identified the Center for Public Safety Management (CPSM) as the preferred consultant based on proposal contents and bid price; now therefore

RESOLVED, that the Mayor and City Clerk are hereby authorized to execute a contract agreement with Center for Public Safety Management (CPSM) for the purpose of completing a comprehensive review of the Midland Fire Department in the amount not to exceed \$44,500.00 upon document approval by the City attorney. (Motion ADOPTED.)

#### **REFEREE SERVICES – MIDLAND HOCKEY OFFICIAL ASSOCIATION**

The following resolution was offered by Councilman Arnosky and seconded by Councilman Hall.

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 2022/23 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 \$70,000 and the necessary purchase order authorized. (Motion ADOPTED.)

#### **CHANGE ORDER – TRIDGE MAINTENANCE PROJECT**

The following resolution was offered by Councilman Arnosky and seconded by Councilman Hall.

WHEREAS, J.R. Heineman & Sons, Inc. was awarded Bid No. 4176 to power wash the Tridge, restrain the handrails and repaint metal components of the structure; and

WHEREAS, during the power washing phase of the work it was determined there are a few areas of the handrail that need repairs due to the presence of cracks and gaps; and

WHEREAS, the City will provide the epoxy product for the needed repairs and J.R. Heineman has provided a cost estimate for the labor to be charged on a time/materials basis not to exceed \$6,143.55; and

WHEREAS, the Tridge Endowed Maintenance Fund at the Midland Area Community Foundation has adequate spendable funds at this time to support the needed maintenance and the City will request reimbursement for the actual time/materials expense from the endowed maintenance fund upon completion of the work; now therefore

RESOLVED, that the City Council accepts up to \$6,143.55 in funding from the Midland Area Community Foundation to cover the cost of the additional maintenance work for the Tridge; and

RESOLVED FURTHER, that the City Manager is authorized to approve the change order submitted by J.R. Heineman & Sons, Inc. of Saginaw, Michigan in an amount not to exceed \$6,143.55 for the repairs to the handrail system. (Motion ADOPTED.)

Being no further business the meeting adjourned at 8:12 p.m.

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Lacey Todd, City Clerk