

August 8, 2022

A regular meeting of the City Council was held on Monday, August 8, 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

### MINUTES

Approval of the minutes of the July 25 special meeting and the July 25, 2022 regular meeting were offered by Councilman Wazbinski and seconded by Arnosky. (Motion ADOPTED.)

### SAGINAW BAY WATERSHED INITIATIVE NETWORK GRANT

Director Public Services Karen Murphy presented regarding the proposed budget amendment for fiscal year 2022-23 General Fund to accept a grant of \$25,000 from the Saginaw Bay Watershed Initiative. A public hearing opened at 7:08 p.m., hearing no public comments, the public hearing closed at 7:09 p.m. The following resolution was then offered by Councilman Hall and seconded by Councilman Arnosky.

WHEREAS, in accord with Sections 5.11, 11.4, and 11.6 of the Charter of the City of Midland, and after having given proper legal notice, and having conducted a public hearing on Monday, August 8, 2022 on a proposal to accept a grant from the Saginaw Bay Watershed Initiative Network and amend the General Fund budget for FY 2022-23 for improvements along the riverfront in upper Emerson Park; now therefore  
RESOLVED, that City Council accepts this generous grant in the amount of \$25,000 from the Saginaw Bay Watershed Initiative Network; and  
RESOLVED FURTHER, that the FY 2022-23 General Fund Budget is hereby amended to increase revenues and expenditures by \$25,000 to recognize the funds received from the Saginaw Bay Watershed Initiative Network for use toward riverfront improvements in upper Emerson Park. (Motion ADOPTED.)

### PUBLIC COMMENT

No public comments were made.

### FARM AND EXOTIC ANIMALS ORDINANCE AMENDMENT

City Attorney James O. Branson III presented regarding the proposed Zoning Ordinance Amendment to include the prohibition of exotic animals. The following ordinance amendment was then offered by Councilman Wazbinski and seconded by Councilman Arnosky.

#### ORDINANCE NO. 1862

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MIDLAND, MICHIGAN, BY ADDING A NEW ARTICLE, WHICH NEW ARTICLE SHALL BE ARTICLE III OF CHAPTER 3 THEREOF AND BY AMENDING SECTION 34-5 OF CHAPTER 34 THEREOF.

The City of Midland Ordains:

Section 1. Article III of Chapter 3 is hereby established to read as follows:

#### **Article III. Farm and Exotic Animals** **Division 1. General**

#### **Sec. 3-40. Animals—Keeping, Harboring, Breeding.**

It shall be unlawful to keep, harbor or breed any farm or exotic animal as defined in the City of Midland Zoning Ordinance, being Ordinance No. 1585, except (1) farm animals kept in that portion of the city zoned for agricultural purposes, or (2) animals used in a parade or for

providing rides on a temporary basis for which a permit has been issued, or (3) animals kept as part of a show or event at the Midland County Fairgrounds, or (4) miniature pigs subject to the provisions of Division 2 of this article. (Ordinance ADOPTED)

### **CIVIC ARENA RATES**

Assistant City Manager David A. Keenan presented regarding the proposed ordinance to amend Section 21-70 of Division 1 of Article II of Chapter 21 of the Code of Ordinances. The following ordinance amendment was then offered by Councilman Arnosky and seconded by Councilman Hall.

#### ORDINANCE NO.1863

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MIDLAND, MICHIGAN, BY AMENDING SECTION 21-70 OF DIVISION 1 OF ARTICLE II OF CHAPTER 21 THEREOF.

The City of Midland Ordains:

Section 1. Section 21-70 of Division 1 of Article II of Chapter 21 is amended to read as follows:

#### **Sec. 21-70. Civic Arena Fees**

The fees for use of the Civic Arena and its facilities are as follows:

Rates during the season (September through May)

- |      |  |                |             |
|------|--|----------------|-------------|
| (1)  | Individual Ice Skater – Adult  | \$ 5.00        | per session |
| (2)  | Individual Ice Skater – Youth & Senior   | \$ 4.00        | per session |
| (3)  | Skating Pass (20 admissions) – Adult   | \$ 85.00       | per pass    |
| (4)  | Skating Pass (20 admissions) – Youth & Senior  | \$ 70.00       | per pass    |
| (5)  | Skate Rental   | \$ 3.00        | per session |
| (6)  | Skate Sharpening   |                |             |
|      | Hockey   | \$ 5.00        |             |
|      | Figure/Goalie  | \$ 6.00        |             |
|      | New/Rusty/Poor Condition   | \$ 8.00        |             |
| (7)  | Drop-In Program  |                |             |
|      | Hockey (Noon)  | \$ 8.00        |             |
|      | Hockey (Prime)   | \$ 10.00       |             |
|      | Speed Skating  | \$ 12.00       |             |
|      | Figure Skating   | \$ 12.00       |             |
| (8)  | Conference Room Rental   | \$ 15.00       | per hour    |
| (9)  | Special events and programs  | variable rates | per event   |
| (10) | The Civic Arena Manager is authorized to adjust rental rates for the purpose of marketing additional rink rental. The maximum hourly rate for ice rental shall be \$250.00 per hour effective September 1, 2022, \$255.00 per hour effective September 1, 2023, and \$260.00 per hour effective September 1, 2024. The maximum hourly rate for turf rental shall be \$120.00 per hour. |                |             |
| (11) | For customer invoices not paid by the invoice due date, the Civic Arena will assess a late fee on the unpaid amount at a rate of the greater of \$25.00 or 1% of the unpaid invoice balance.   |                |             |

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

### **SEWER ORDINANCE AMENDMENT**

Director of Wastewater Services Jared Driscoll presented regarding the proposed Sewer Ordinance Amendment. Karl Kamena 5616 Pine Meadow Drive, John Lynn 4604 Oakridge

Drive, Jim Allen 4608 Oakridge Drive, Jim Johnson 4712 Moorland Drive, Tyler Carter 4809 Moorland Court, John McGown 2505 Jamestown Drive, Sam Choo 6103 Briarwood Court, Brian Mills 6110 Briarwood Court, Nancy Peeler 4304 Partridge Lane, John Hill 4224 Partridge Lane, John Elsen 6106 Sturgeon Creek Parkway, Jerry Crane 4618 Forestview Drive, and Lee Koski 6113 Perrine Road commented on the Sewer Ordinance. Introduction and first reading of the following ordinance amendment was then offered by Councilman Wazbinski and seconded by Councilman Arnosky.

RESOLVED, that in accordance with Section 6.2 of the Charter of the City of Midland, the attached ordinance amending Article III to Chapter 28 to add Sections 28-239—28-245 as Reserved to Division 6 and adding Division 7 to the Midland Code of Ordinances is given introduction and first reading; and

RESOLVED FURTHER, that the ordinance shall be placed on the agenda for second reading and proposed adoption at the regular City Council meeting scheduled for Monday, August 22, 2022 at 7:00 p.m., in the Council Chambers of City Hall.

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

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MIDLAND, MICHIGAN, BY ADDING SECTIONS 28-239--28-245 TO DIVISION 6 AND ADDING DIVISION 7 OF ARTICLE III OF CHAPTER 28 THEREOF.

The City of Midland Ordains:

Section 1. Division 6 of Article III of Chapter 28 is hereby amended to add:

**SECS. 28-239--28-245. RESERVED.**

Section 2. Division 7 of Article III of Chapter 28 is hereby added to read as follows:

DIVISION 7.

**PROGRAM FOR FOOTING DRAIN DISCONNECT.**

**SEC. 28-246. PURPOSE.**

THE PURPOSE OF THE FOOTING DRAIN DISCONNECTION (FDD) PROGRAM IS TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE BY (I) REDUCING IMPROPER STORMWATER INFLOW CONNECTIONS IN A COST EFFECTIVE MANNER, (II) REDUCING OR ELIMINATING INSTANCES OF SURCHARGED SANITARY SEWERS CAUSED BY IMPROPER STORMWATER INFLOWS, (III) REDUCING THE OCCURRENCE OF SANITARY SEWER BACKUPS INTO OCCUPIED STRUCTURES, AND (IV) OPTIMIZING THE EFFICIENT OPERATION OF THE PUBLICALLY OWNED TREATMENT WORK (POTW). IT IS THE FURTHER PURPOSE OF THE FDD PROGRAM TO ASSIST THE CITY IN ITS COMPLIANCE WITH ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT AND RELATED APPLICABLE LAWS, RULES AND REGULATIONS.

**SEC. 28-247. DEFINITIONS.**

IN ADDITION TO THE DEFINITION OF WORDS AND PHRASES IN SECTION 28-102 OF THIS ARTICLE, FOR THE PURPOSES OF THIS ARTICLE THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS ASCRIBED TO THEM BY THIS SECTION UNLESS THE CONTEXT IN WHICH THEY ARE USED SPECIFICALLY INDICATES OTHERWISE:

- (1) *DESIGNATED PROJECT TIMELINE* – TIMEFRAME IN WHICH PARTICIPANTS MAY BE REIMBURSED FOR ELIGIBLE EXPENSES.
- (2) *DESIGNEE* –THE INDIVIDUAL AUTHORIZED BY THE CITY MANAGER.
- (3) *FDD (FOOTING DRAIN DISCONNECTION)* - THE ELIMINATION OF THE CONNECTION BETWEEN A STRUCTURE'S FOUNDATION DRAINS INTENDED TO COLLECT GROUNDWATER AND STORMWATER AROUND THE STRUCTURE'S BASEMENT AND WHICH CONNECTS TO THE STRUCTURE'S SANITARY SEWER LEAD WHICH DISCHARGES TO THE SYSTEM. THE DISCONNECTION REQUIRES AN ALTERNATIVE MEANS OF DISCHARGING THE COLLECTED GROUNDWATER AND STORMWATER BY (A) A SUMP, SUMP PUMP AND DISCHARGE OR (B) A SURFACE DISCHARGE WHERE SUCH DISCHARGE CAN BE ACCOMPLISHED

BY GRAVITY WITHOUT THE POTENTIAL FOR BACKUP FROM SURFACE FLOODING.

- (4) *FDD FUNDING CAP* - THE FDD PROGRAM REIMBURSEMENT LIMITATION ESTABLISHED PURSUANT TO SECTION 28-251 OF THIS ARTICLE FROM TIME TO TIME BY RESOLUTION OF THE CITY COUNCIL.
- (5) *FDD PROGRAM* - THE EFFORT WITHIN THE CITY TO ELIMINATE IMPROPER STORMWATER INFLOW CONNECTIONS FROM THE SYSTEM.
- (6) *FDD PROJECT AREA* - THE AREA OR AREAS OF THE CITY DESIGNATED FROM TIME TO TIME FOR IMPLEMENTATION OF THE FDD PROGRAM.
- (7) *FDD REIMBURSEMENT* - THE AMOUNT REIMBURSED TO, OR FOR THE BENEFIT OF, A PARTICIPATING OWNER FOR THE COST OF REMOVING IMPROPER STORMWATER INFLOW CONNECTIONS AND RELATED APPURTENANT WORK.
- (8) *IMPROPER STORMWATER INFLOW CONNECTION* - A DIRECT CONNECTION TO THE SANITARY SEWER SYSTEM OF SUMP PUMPS, EXTERIOR DRAINS, DOWNSPOUTS, FOUNDATION DRAINS AND OTHER SOURCES OF STORMWATER INFLOW AND GROUNDWATER.
- (9) *PARTICIPATING PROPERTY OWNER* - A PROPERTY OWNER WITHIN AN FDD PROJECT AREA WHO HAS NOTIFIED THE CITY THAT IT WILL PARTICIPATE IN THE FDD PROGRAM.

**SEC. 28-248. DETERMINATION OF FDD PROJECT AREAS; NOTIFICATION OF PROPERTY OWNERS.**

WITH APPROVAL OF THE CITY COUNCIL, THE CITY MANAGER, OR ITS DESIGNEE, AS DEFINED IN SECTION 28-240 OF THIS CODE, SHALL FROM TIME TO TIME PRIORITIZE THE AREAS IN THE CITY FOR IMPLEMENTATION OF THE FDD PROGRAM BASED ON THE SEVERITY OF SYSTEM GROUNDWATER AND STORMWATER INFLOW SURCHARGE PROBLEMS. BASED ON SUCH PRIORITIZATION, ONE OR MORE FDD PROJECT AREAS SHALL BE ESTABLISHED FROM TIME TO TIME BY THE CITY MANAGER, OR ITS DESIGNEE, FOR INCLUSION IN THE FDD PROGRAM. EACH PROPERTY OWNER WITHIN AN FDD PROJECT AREA SHALL BE (I) ORDERED BY THE CITY MANAGER, OR ITS DESIGNEE, TO DISCONNECT ALL IMPROPER STORMWATER INFLOW CONNECTIONS AND (II) NOTIFIED OF THE ABILITY TO PARTICIPATE IN THE FDD PROGRAM. PARTICIPATION IN THE FDD PROGRAM IS VOLUNTARY, HOWEVER, A PROPERTY OWNER ELECTING NOT TO PARTICIPATE SHALL BE SUBJECT TO THE CHARGE PROVIDED FOR IN SECTION 28-249 OF THIS ARTICLE UNTIL THE IMPROPER STORMWATER INFLOW CONNECTION(S) ARE DISCONNECTED. IF DURING PROJECT CONSTRUCTION A DETERMINATION IS MADE BY CITY STAFF THAT A SUFFICIENT AMOUNT OF HOMES HAVE BEEN DISCONNECTED FROM THE SANITARY SEWER SYSTEM TO REDUCE INFLOW AND INFILTRATION TO THE POINT OF MEETING REDUCTION GOALS, PREVIOUSLY IDENTIFIED HOMES ELIGIBLE FOR PARTICIPATION MAY BE EXCLUDED FROM THE PROGRAM IF THOSE PROPERTY OWNERS SO CHOOSE. THIS DETERMINATION MUST BE APPROVED BY CITY MANAGER, OR ITS DESIGNEE, AND THE CITY COUNCIL.

**SEC. 28-249. PARTICIPATION; NON-PARTICIPATION; CHARGE.**

AFTER RECEIVING AN ORDER FROM THE CITY MANAGER, OR ITS DESIGNEE, TO DISCONNECT ALL IMPROPER STORMWATER INFLOW CONNECTIONS ON ITS PROPERTY, THE PROPERTY OWNER WILL HAVE NINETY (90) DAYS TO HAVE A COMPLETED INSPECTION BY A CITY APPROVED CONTRACTOR. ONCE THE INSPECTION IS COMPLETED THE PROPERTY OWNER SHALL HAVE AN ADDITIONAL NINETY (90) DAYS TO NOTIFY THE CITY MANAGER, OR ITS DESIGNEE, WHETHER IT WILL BE A PARTICIPATING PROPERTY OWNER IN THE FDD PROGRAM. UPON COMPLETION OF INSPECTION AND A SUBSEQUENT NOTICE FROM THE CITY MANAGER, OR ITS DESIGNEE, IT SHALL HAVE ANOTHER ONE HUNDRED EIGHTY (180)

DAYS TO COMPLETE THE DISCONNECTION OF ALL IMPROPER STORMWATER INFLOW CONNECTIONS ON ITS PROPERTY. IF THE PROPERTY OWNER FAILS TO DO SO WITHIN SUCH ONE HUNDRED EIGHTY (180) DAY PERIOD, THE PROPERTY OWNER OR OTHER PERSON RESPONSIBLE FOR PAYING REGULAR SYSTEM RATES AND CHARGES ESTABLISHED PURSUANT TO SECTION 28-163 OF THIS ARTICLE SHALL BE CHARGED AN ADDITIONAL AMOUNT DETERMINED BY THE CITY MANAGER, OR ITS DESIGNEE, TO REASONABLY REFLECT THE ADDITIONAL COSTS THE SYSTEM INCURS OR WILL INCUR AS A RESULT OF THE PROPERTY CONTINUING TO HAVE AN IMPROPER STORMWATER INFLOW CONNECTION(S). SUCH COSTS SHALL BE DETERMINED ON AN ANNUALIZED BASIS AND BILLED PROPORTIONALLY MONTHLY FOR EACH MONTH OR PARTIAL MONTH AFTER THE END OF SUCH ONE HUNDRED EIGHTY (180) DAY PERIOD THAT SUCH IMPROPER STORMWATER INFLOW CONNECTION(S) CONTINUE TO EXIST WITH RESPECT TO THE PROPERTY. SUCH CHARGE SHALL BE IN THE AMOUNT ESTABLISHED FROM TIME TO TIME BY RESOLUTION OF THE CITY COUNCIL AND SHALL BE BILLED AND COLLECTED IN THE SAME MANNER AS REGULAR SYSTEM RATES AND CHARGES ARE BILLED AND COLLECTED PURSUANT TO SECTION 28-167 OF THIS ARTICLE.

**SEC. 28-250. SCOPE OF WORK.**

THE CITY MANAGER, OR ITS DESIGNEE, SHALL DETERMINE, FOR EACH STRUCTURE OF A PARTICIPATING PROPERTY OWNER IN AN FDD PROJECT AREA, THE SCOPE OF WORK REQUIRED FOR DISCONNECTION OF IMPROPER STORMWATER INFLOW CONNECTIONS USING THE MOST COST EFFICIENT AND TIMELY METHODS. SUBJECT TO THIS ARTICLE, ALL OR A PORTION OF SUCH COSTS SHALL BE ELIGIBLE FOR FDD REIMBURSEMENT. IF THE SCOPE OF THE WORK FOR A STRUCTURE DOES NOT TOTALLY ELIMINATE IMPROPER STORMWATER INFLOW, THE CITY MANAGER, OR ITS DESIGNEE, MAY ISSUE SUPPLEMENTAL ORDERS FOR ADDITIONAL WORK, THE COST OF WHICH MAY, SUBJECT TO THE FDD FUNDING CAP, BE ELIGIBLE FOR FDD REIMBURSEMENT.

**SEC. 28-251. FDD REIMBURSEMENT; FDD FUNDING CAP.**

SUBJECT TO THE LIMITATIONS OF THE FDD FUNDING CAP, A PARTICIPATING PROPERTY OWNER SHALL BE ENTITLED TO REIMBURSEMENT OF THE COST OF QUALIFYING WORK WITHIN THE SCOPE OF WORK UP TO THE FDD FUNDING CAP WHICH AMOUNT MAY BE PAID TO THE PARTICIPATING PROPERTY OWNER, TO SUCH OWNER'S CONTRACTOR OR THE PARTICIPATING PROPERTY OWNER AND CONTRACTOR JOINTLY. THE FDD FUNDING CAP SHALL BE ESTABLISHED FROM TIME TO TIME BY RESOLUTION OF THE CITY COUNCIL. EXCEPT AS OTHERWISE PROVIDED IN SECTION 28-250 OF THIS ARTICLE, ALL COSTS OF QUALIFYING WORK ABOVE THE FDD FUNDING CAP SHALL BE THE RESPONSIBILITY OF THE PARTICIPATING PROPERTY OWNER.

**SEC. 28-252. APPROVED CONTRACTORS.**

THE CITY MANAGER, OR ITS DESIGNEE, WILL ESTABLISH, ADD OR REMOVE, AND MAINTAIN A LIST OF CONTRACTORS OR CONTRACTOR TEAMS APPROVED FOR PERFORMANCE OF WORK UNDER THE FDD PROGRAM BASED ON SUCH CONTRACTORS' QUALIFICATIONS INCLUDING SIMILAR EXPERIENCE, QUALITY OF WORK AND THE PROVISION OF INSURANCE COVERAGE. THE CITY MAY REQUIRE, IN ACCORDANCE WITH PROCEDURES PROMULGATED BY THE CITY MANAGER, OR ITS DESIGNEE, THE LICENSING OF CONTRACTORS APPROVED FOR PERFORMING WORK UNDER THE FDD PROGRAM.

**SEC. 28-253. PERFORMANCE OF WORK BY CONTRACTOR OR PARTICIPATING PROPERTY OWNER.**

- (1) A PARTICIPATING PROPERTY OWNER MAY (I) SELECT A CONTRACTOR FROM THE CITY'S APPROVED LIST TO PERFORM THE WORK OR (II) PERFORM THE WORK. IF A PARTICIPATING PROPERTY OWNER SELECTS AN APPROVED CONTRACTOR,

THE APPROVED CONTRACTOR SHALL SUBMIT THE SCOPE OF THE WORK AND THE ESTIMATED CONTRACT PRICE TO THE CITY MANAGER, OR ITS DESIGNEE, FOR REVIEW. UPON COMPLETION OF THE REVIEW OF THE SCOPE OF WORK AND APPROVAL OF THE ESTIMATED CONTRACT PRICE, THE CONTRACTOR SHALL UNDERTAKE THE WORK PURSUANT TO A CONTRACT WITH THE PARTICIPATING PROPERTY OWNER. THE CITY SHALL NOT BE A PARTY TO SUCH CONTRACT AND THE CONTRACTOR, PRIOR TO COMMENCEMENT OF THE WORK, SHALL OBTAIN ALL REQUIRED GOVERNMENTAL APPROVALS.

- (2) IF A PARTICIPATING PROPERTY OWNER ELECTS TO PERFORM THE WORK, IT SHALL SUBMIT THE SCOPE OF THE WORK AND THE ESTIMATED COST TO THE CITY MANAGER, OR ITS DESIGNEE, FOR REVIEW, PROVIDED, HOWEVER, LABOR PERFORMED BY THE PARTICIPATING PROPERTY OWNER SHALL NOT BE REIMBURSABLE. UPON COMPLETION OF SUCH REVIEW, THE PARTICIPATING PROPERTY OWNER SHALL UNDERTAKE THE WORK IN ACCORDANCE WITH THE SUBMITTED AND REVIEWED SCOPE OF THE WORK. PROVIDED, HOWEVER, PRIOR TO COMMENCEMENT OF THE WORK, THE PROPERTY OWNER SHALL OBTAIN ALL REQUIRED GOVERNMENTAL APPROVALS.

**SEC. 28-254. FDD REIMBURSEMENT PAYMENTS.**

AFTER THE WORK FOR THE BENEFIT OF, OR BY, A PARTICIPATING PROPERTY OWNER IS COMPLETED AND HAS BEEN INSPECTED BY THE CITY AND APPROVED BY THE PARTICIPATING PROPERTY OWNER (IN THE EVENT A CONTRACTOR PERFORMS THE WORK), WHICH APPROVAL SHALL NOT BE UNREASONABLY WITHHELD, THE CITY MANAGER, OR ITS DESIGNEE, SHALL AUTHORIZE THE PAYMENT OF ELIGIBLE COSTS UP TO THE FDD FUNDING CAP (AS MAY BE MODIFIED PURSUANT TO 28-250 OF THIS ARTICLE). WHILE ORDINARILY PAYMENT WILL NOT BE MADE UNTIL THE WORK HAS BEEN COMPLETED AND INSPECTED, THE CITY MANAGER, OR ITS DESIGNEE, MAY APPROVE PARTIAL PAYMENT UNDER UNUSUAL CIRCUMSTANCES SUCH AS THE TIME OF THE YEAR WHEN WORK IS PERFORMED. IN THE CASE WHERE THE WORK IS CONTRACTED, PAYMENT MAY BE MADE TO THE PARTICIPATING PROPERTY OWNER, THE CONTRACTOR OR THE PARTICIPATING PROPERTY OWNER AND CONTRACTOR JOINTLY IN THE CITY MANAGER, OR ITS DESIGNEE'S, SOLE DISCRETION. PAYMENT SHALL BE MADE TO THE PARTICIPATING PROPERTY OWNER OF THE ELIGIBLE COST OF EQUIPMENT AND MATERIALS IF IT HAS PERFORMED THE WORK. REIMBURSEMENT ELIGIBILITY FOR PROPERTIES IDENTIFIED IN THE FDD PROGRAM WILL ONLY BE AVAILABLE DURING THE DESIGNATED PROJECT TIMELINE OUTLINED BY THE CITY MANAGER, OR ITS DESIGNEE.

**SEC. 28-255. RELEASE.**

PRIOR TO COMMENCEMENT OF THE WORK INCLUDED IN THE FDD PROGRAM FOR THE BENEFIT OF A PARTICIPATING PROPERTY OWNER, THE PARTICIPATING PROPERTY OWNER SHALL RELEASE AND HOLD HARMLESS THE CITY AND ITS OFFICERS, EMPLOYEES AND AGENTS FROM ALL LIABILITY RELATED TO PERFORMANCE OF SUCH WORK.

**SEC. 28-256. MAINTENANCE OF WORK.**

A PARTICIPATING PROPERTY OWNER UNDER THE FDD PROGRAM SHALL BE THE OWNER OF ALL EQUIPMENT AND WILL BE RESPONSIBLE FOR THE MAINTENANCE, REPAIR AND REPLACEMENT OF ALL EQUIPMENT, FACILITIES AND SYSTEMS CONSTRUCTED OR INSTALLED ON ITS PROPERTY AS A PART OF THE SCOPE OF THE WORK RELATED TO ITS PROPERTY. THE CITY SHALL HAVE NO OBLIGATION TO MAINTAIN, REPAIR OR REPLACE SUCH EQUIPMENT, FACILITIES AND SYSTEMS.

**SEC. 28-257. RULES, REGULATIONS AND POLICIES.**

THE CITY MANAGER, OR ITS DESIGNEE, AS DEFINED IN SECTION 28-240 OF THIS CODE, MAY FROM TIME TO TIME ESTABLISH RULES, REGULATIONS AND POLICIES

RELATED TO THE IMPLEMENTATION OF THE FDD PROGRAM NOT INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE.

**SEC. 28.258. CONFLICT.**

THIS ARTICLE SHALL NOT VOID THE PROVISIONS OF SECTION 28-110.1 OF THIS ARTICLE, BUT SHALL IMPLEMENT ADDITIONAL PROVISIONS APPLICABLE TO FOOTING DRAIN DISCONNECTIONS.

**SECS. 28.259--28.265. RESERVED.**

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

**MDOT GOOD FAITH OFFERS AT EASTMAN RD AND WACKERLY ST**

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

WHEREAS, the Michigan Department of Transportation (MDOT) is currently of designing roadway improvements at the intersection of Eastman Rd (US10-BR) and Wackerly St; and WHEREAS, a portion of the necessary intersection improvements will take place within property currently owned by the City of Midland and acquired for the purpose of facilitating this project; and

WHEREAS, the City of Midland has future plans for expansion of Wackerly Road in this area and has worked in coordination with MDOT to align these two projects; and

WHEREAS, MDOT has presented the City of Midland with Good Faith Offers for the required acquisitions at the intersection, which include parts of Parcels 7000, 7004 and 7005; and

WHEREAS, City of Midland staff has reviewed the Good Faith Offers and has worked in conjunction with MDOT staff to negotiate fair compensation; now therefore

RESOLVED, the City of Midland hereby accepts MDOT's Good Faith Offers of \$48,825.00 for parcel 7000, of \$30,000.00 for parcel 7004 and of \$36,000.00 for parcel 7005 as presented for the purposes of roadway improvements at the intersection of Eastman Rd and Wackerly St. (Motion ADOPTED.)

**ZONING BOARD OF APPEALS RESIGNATION**

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

RESOLVED, that the resignation of Michael Erickson as a member of the Zoning Board of Appeals is hereby accepted, effective immediately, and the Administration is directed to convey the Council's appreciation to Mr. Erickson for his service on this important Board. (Motion ADOPTED.)

**SPECIAL EVENT REQUEST TRI CITY VINTAGE FLEA MARKET**

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

RESOLVED, that the request from Jacob Peters of Bay City, Michigan seeking permission to host the Tri City Vintage Flea Market at Stratford Woods Park on Saturday, August 27, 2022, including live music and concessionaires, is hereby approved subject to the following conditions:

- Use of Stratford Woods Park is non-exclusive and event organizer must respect other park uses for the duration of the event.
- Event organizer has permission under the Parks Rules to allow vendors to sell goods in the park.
- Event organizer has permission to utilize concessionaires/food trucks for the event provided the concessionaires are self-contained with regard to water/sanitation needs.

- Event organizer has permission to use amplified sound for live music in a manner respectful to other concurrent park uses.
- Event organizer has permission to use the existing basketball court to host 3-on-3 basketball.
- The Parks Department will provide trash cans for this event, as well as approval for the location of bounce house. The event organizer must reserve park pavilion J for the event and needs to contact Melissa Farley at 989-837-6908 to complete the reservation process for these items.
- The event organizer must leave the natural setting how it was found with no damage.

; 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.)

### **CONTRACT AWARD FOR CITY HALL RENOVATIONS – PHASE 3**

City Manager C. Bradley Kaye presented regarding the contract award for City Hall renovations. The following resolution was then offered by Councilman Brown Wilhelm and seconded by Councilman Wazbinski.

WHEREAS, Midland City Hall was opened to public use in July of 1989, and has operated essentially unchanged since that time; and

WHEREAS, the City of Midland has determined that the building design no longer provides adequate safety and security measures to either the public or City staff, resulting in the need to undertake updates and enhancements to the current building; and

WHEREAS, adequate funds have been accumulated in the General Fund to move forward with Phase 3 (First Floor - Phase I) 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. 4268 City Hall Renovations Phase 1- First Floor; and

WHEREAS, Great lakes Bay Construction has submitted the low bid meeting all City specifications and requirements; now therefore

RESOLVED, that the Mayor and City Clerk, subject to document approval by City Attorney, are authorized to award and execute a contract with Great Lakes Bay Construction to provide construction services for Phase I of the City Hall Renovations Phase 1- First Floor project, in addition to authorizing a purchase order, with a cost not to exceed \$180,900.00.45; and

RESOLVED FURTHER, that the City Manager is authorized to approve change orders in aggregate not to exceed \$10,000 for any unanticipated issues that may arise during construction. (Motion ADOPTED.)

### **PROJECT AGREEMENT WITH THE MICHIGAN DEPARTMENT OF NATURAL RESOURCES - EMERSON PARK**

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

WHEREAS, the City of Midland received confirmation from the Michigan Natural Resources Trust Fund that phase II of the upper Emerson Park riverfront renovation project has been approved and funding has been appropriated in the amount of \$295,000 for the project; and WHEREAS, in order to move forward, the City needs to execute the project agreement provided by the Michigan Department of Natural Resources (MDNR); now therefore

RESOLVED, that the City of Midland, Michigan does hereby accept the terms of the Agreement as received from the Michigan Department of Natural Resources, and that the City of Midland does hereby specifically agree, but not by way of limitation, as follows:

1. To appropriate all funds necessary to complete the project during the project period and



to provide One-Hundred and Ten Thousand (\$131,000) dollars to match the grant authorized by the MDNR.

2. To maintain satisfactory financial accounts, documents, and records to make them available to the MDNR for auditing at reasonable times.
3. To construct the project and provide such funds, services, and materials as may be necessary to satisfy the terms of said Agreement.
4. To regulate the use of the facility constructed and reserved under this Agreement to assure the use thereof by the public on equal and reasonable terms.
5. To comply with any and all terms of said Agreement including all terms not specifically set forth in the foregoing portions of this Resolution.; and

RESOLVED FURTHER, that City Council authorizes the Director of Public Services to execute the project agreement with the MDNR in order to move forward with the Upper Emerson Park riverfront renovation project. (Motion ADOPTED.)

### **PURCHASE ORDER INCREASE FOR ENGINEERING AND COMPLIANCE – LANDFILL**

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

WHEREAS, staff administratively approved a purchase order for CTI and Associates of Farmington Hills, Michigan in the amount of \$35,000 for initial routine engineering and compliance support for the fiscal year; and

WHEREAS, staff subsequently worked with CTI and Associates on specific project goals and cost estimates pertaining to general engineering/compliance support, Phase II rate and operational study, a minor permit modification and the design for North Cell 17 which total \$255,000; and

WHEREAS, funding is included for each of these purposes in the FY 2022-23 Landfill Enterprise Fund's operating budget; and

WHEREAS, in accord with Section 2-19 of the Code of Ordinances for the City of Midland, sealed proposals are not required for professional services; now therefore

RESOLVED, that City Council authorizes the Mayor and City Clerk to execute Professional Services Agreements, subject to document approval by the City Attorney, and also increase existing PO # 2023-0000070 in the amount of \$220,000 to CTI and Associates, Inc. of Farmington Hills, Michigan, bringing the total authorized not to exceed amount to \$255,000 for the provision of engineering and compliance support services through the end of this fiscal year; and

RESOLVED FURTHER, that the City Manager is authorized to approve changes to the purchase order not to exceed \$25,000 in aggregate for should any unforeseen needs that may arise in the course of executing each project goal. (Motion ADOPTED.)

### **PORTABLE TOILETS – PARKS**

The following resolution was offered by Councilman Wazbinski 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 portable toilet rental for various parks locations on Bid No. 4209 dated December 14, 2021; and

WHEREAS, the sole bid meeting City specifications was submitted by R.B. Satkowiak City Sewer of Carrollton, Michigan; and

WHEREAS, staff has estimated the number of portable toilets, additional cleanings and potential flood-related removal/reset needed for this fiscal year; and

WHEREAS, based on the unit prices in the bid, sufficient funds are included in the FY2022-23 Parks, Recreation and Softball operating budgets to cover these services; now therefore

RESOLVED, that the Accounting Manager is authorized to issue a purchase order to R.B. Satkowiak City Sewer of Carrollton, Michigan not to exceed \$40,000 for the rental of portable toilets for various parks locations and special events. (Motion ADOPTED.)

#### **ANNUAL PURCHASE OF WATER DISTRIBUTION METERS AND ACCESSORIES**

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

WHEREAS, ETNA Supply of Grand Rapids is the sole provider of Sensus Water Meters and Accessories; and

WHEREAS, pricing has been received by the sole provider of Sensus Water Meters and Accessories in accord with Section 2-18 of the Midland Code of Ordinances; and

WHEREAS, there is currently a need for a larger inventory of residential water meters as a result of supply chain issues and long delivery times, which accounts for a total cost increase over last year; and

WHEREAS, staff considers the pricing received from sole provider ETNA Supply of Grand Rapids to be acceptable, and therefore recommends award for inventory purchases of Sensus Water Meters and Accessories; and

WHEREAS, the purchases will be made from the Water Enterprise Fund inventory account; now therefore

RESOLVED, that a purchase order is hereby authorized to ETNA Supply of Grand Rapids, MI in an amount not to exceed \$244,695.00; and

RESOLVED FURTHER, that the City Manager is hereby authorized to approve changes modifying the purchase order in an aggregate amount not to exceed \$10,000.00. (Motion ADOPTED.)

#### **INDUSTRIAL PUMP STATION VALVE AND METER REPLACEMENT BID 4269**

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

WHEREAS, valves and flow meters, installed in the Water Treatment Plant Industrial pump station no longer function reliably; and

WHEREAS, staff has determined that replacing this critical equipment is in the best interests of the City; and

WHEREAS, sealed bids for Bid No. 4269, Industrial Pump Station Valve and Meter Replacement, have been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and

WHEREAS, staff has determined that the low bid submitted by John E. Green of Saginaw, MI, in the total amount of \$130,000.00 meets the City specifications and is acceptable; and

WHEREAS, the funds for this project are available in the Water Fund capital budget; now therefore

RESOLVED, that the low bid is accepted and authorization is granted to the Mayor and City Clerk to execute the contract and issue a purchase order in an amount not to exceed \$130,000.00 to John E. Green of Saginaw, MI, for the replacement of valves and flow meters and associated work 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 \$10,000.00. (Motion ADOPTED.)

#### **SET PUBLIC HEARING TO ACCEPT A GRANT FROM THE HAZARD MITIGATION GRANT PROGRAM**

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

WHEREAS, in May of 2020 the Tittabawassee River rose to record level of over 35 feet, caused by dam failures along the river, upstream of the City of Midland; and  
WHEREAS, this event resulted in damages to structures located in the flood plain; and  
WHEREAS, several prior flood events have also resulted in damages to structures located in the flood plain; and  
WHEREAS, the City seeks to mitigate the risk to structures located in the flood plain due to future flooding events; and  
WHEREAS, the City has been awarded a Hazard Mitigation Program Grant in the amount of \$3,862,021.50 from the Federal Emergency Management Agency; and  
WHEREAS, these funds will enable the City to acquire up to 27 properties containing at-risk structures, remove structures from those properties, and restore those properties for use as open space in perpetuity; and  
WHEREAS, these activities will mitigate the risk to structures located in the flood plain as a result of future flooding events; and  
WHEREAS, it is necessary to amend the FY 2022-23 Planning budget as part of the acceptance of the grant to increase revenues and expenditures to include the awarded grant funds necessary to complete the project; 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 August 22, 2022 at 7:00 p.m. in the City Council Chambers, City Hall, 333 West Ellsworth Street, Midland, Michigan, on the proposal to amend the FY 2022-23 Planning budget by increasing revenues and expenditures by \$3,862,021.50 to provide adequate budgetary authorization for the program, and to accept the grant funds. (Motion ADOPTED.)

**SET PUBLIC HEARING TO AMEND FY 2022-23 GENERAL FUND AND SPECIAL ASSESSMENT REVOLVING LOAN FUND FOR THE 2022 SIDEWALK PROGRAM**

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

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., Monday, August 22, 2022, in the Council Chambers of City Hall, on the proposal to amend the 2022-23 General Fund and Special Assessment Revolving Loan Fund budgets to provide adequate budgetary authorization for the 2022 Sidewalk Program. (Motion ADOPTED.)

Being no further business the meeting adjourned at 9:42 p.m.

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Lacey Todd, City Clerk