

COUNCIL MEETING – February 8, 2021  
7:00 P.M.

An electronic meeting through Zoom was held due to the MDHHS Epidemic Order limiting meeting size and to continue decreasing the spread of COVID-19.

The meeting was called to order by Mayor Denner and opened with the Pledge of Allegiance to the Flag.

The following were electronically present: Councilmembers Relan, Read, Hodges, Robson, McConnell, and Fluitt, and Mayor Denner.

Also electronically present: Nick Sizeland, City Manager, Jane M. Blahut, Finance Director/Clerk, Jake Howlett, City Attorney, Jim Bostock, Interim Public Safety Director/Lieutenant, Ron Supal, Chief Building Official, and Leah Smith, Assistant to the City Manager.

APPROVAL OF CONSENT AGENDA

Mayor Denner presented to Council for consideration the approval of the consent agenda as presented.

The consent agenda included the following items:

- Approval of January 11<sup>th</sup> Meeting Minutes
- Approval of Mutual Aid Training Agreement
- Adoption of Poverty Exemption Policy and Approval of Policy Exemption Application
- Finance Report

Motion by Councilmember Read, supported by Councilmember McConnell, to approve the consent agenda as presented.

AYES: Councilmembers Relan, Read, Hodges, Robson, McConnell, and Fluitt and Mayor Denner

NAYS: None

APPROVAL OF REGULAR AGENDA

Mayor Denner presented to Council for consideration the approval of the regular agenda as presented.

Motion by Councilmember McConnell, supported by Councilmember Robson, to approve the regular agenda as presented.

AYES: Councilmembers Relan, Read, Hodges, Robson, McConnell, and Fluitt and Mayor Denner

NAYS: None

PUBLIC COMMENT (AGENDA ITEMS)

City Manager Sizeland read one written comment submitted by one resident.

Two residents made verbal comments.

## MANAGERS REPORT

City Manager Sizeland presented a brief overview of the status of issues since the last meeting:

- Safe Routes to School
- TIFA COVID Support Program
- DDA COVID Support Program
- DTE
- Public Works Building
- City Hall Building
- Master Plan Update
- Public Safety Director Position
- Dog Park
- Chillyfest
- Drinking Water Revolving Fund

Councilmember Fluitt inquired on what the next step is for the Public Works Facility.

City Manager Sizeland stated that he is waiting on the cost saving findings from the contractor and engineer. Once that is complete, construction can begin.

Councilmember McConnell inquired on how the visioning session was advertised.

City Manager Sizeland stated that the City advertised the event on the City website and Facebook page, a Facebook event was created, flyers were handed out to local businesses who hung them inside their windows, sandwich boards were placed at both entrances to the park and the entrance to the Lavins Center, and large signs were placed in key locations on Kercheval, Charlevoix, and by City Hall. Both local newspapers also advertised the event.

## COMMITTEE AND COMMISSION REPORTS

### Communications Committee

The Communications committee met on January 21, 2021. The Committee reviewed the City's primary communication tools:

1. Nixle: The City is seeking to expand the use beyond public safety to include DPW and other departments with the goal of communicating advisories ASAP.
2. Communicator: The Park Communicator is delivered to every home and many residents save it for phone numbers and programming information. Administration is working on a spring edition.
3. Business communication: Administration is completing a list of business contacts.
4. Social Media Messaging: The City will be spacing and scheduling posts to avoid information overload.
5. Website: The City is working to consolidate information to improve user experience. Administration will be adding committee Zoom video links.
6. New/Old Business: Councilmember McConnell proposed a communication survey so the Committee and Administration can best determine how residents prefer to receive city news/information.
7. Finally, the Committee is promoting the Master Plan visioning session, which will take place on Tuesday, February 9, 2021 at 7 PM via Zoom. The details for joining are on the City website.

#### DDA

Mayor Denner stated that the DDA Board met on February 2<sup>nd</sup> at 7pm via Zoom. The main topics of the meeting was approval of the modified DDA By-laws and discussion and approval of a second round of the DDA COVID-19 business program.

#### Marina Subcommittee

The subcommittee met on January 13, 2021. Some of the short-term plans include surveillance camera upgrade, plans for weed removal, and child safety latches on gates. Long-term, Chris Delmege, the marina supervisor, will be obtaining an engineering analysis that will help shape future plans. At this time, water levels are predicted to be lower this season than last. The subcommittee will reconvene on March 10, 2021, via Zoom.

#### Recreation Committee

The Recreation Commission met on February 3, 2021. At Windmill Pointe, Administration is looking at resurfacing of the tennis courts and is anticipating a similar pool season to last year with COVID restrictions. The Lavins Center is open with COVID limitations in place and will resume karate and pickleball on March 1. City Administration is working on rules for the dog park and will be scheduling a special Recreation Commission meeting in March to review them. Also at Patterson Park, Administration is considering the possibility of a disc golf course. The Date Skate event has been cancelled due to low interest. The City will be sponsoring Chilly Fest on Saturday, February 27 on Kercheval and Charlevoix to support our businesses and the event will be featured carriage rides and contests. More details can be found on the City website.

#### NAACP/Public Safety

Lt. Bostock stated that he and the other Public Safety chiefs met with the NAACP on January 27<sup>th</sup> via Zoom. They discussed hosting a bi-annual event for the community and the departments to interact and get to know each other. The discussions so far have been positive and good communication has been established. The committee feels that they would like to take their positive interactions to the community at large.

Councilmember Robson asked if a date had been selected yet.

Lt. Bostock stated no dates had been selected yet.

#### Eastside Community Network

Councilmember Hodges stated that she attended two Eastside Community Network meetings since the January council meeting. The committee continues to discuss important topics including discussion of creation of a Mack Avenue Improvement Authority, marketing and branding steps to help Mack Avenue businesses, and beautification.

### UNFINISHED BUSINESS: DECEMBER 21<sup>ST</sup>, 2020 MEETING MINUTES

Mayor Denner stated that Councilmember Fluitt asked for the agenda item after the last meeting following the December minutes being approved as part of the consent agenda with no opportunity for

her to request edits before approving. Mayor Denner asked City Attorney Howlett to introduce the topic for discussion.

City Attorney Howlett stated that he had investigated options that would allow the Council to add changes to the minutes after they have been approved. He focused on section 15.269 of the State of Michigan Open Meetings Act, which talks about meeting minutes and requires that any corrections or amendments to the minutes be made at the next meeting after the meeting to which the minutes refer. Based on the language in the OMA, the edits to the December meeting minutes would have had to be made at the January meeting prior to approval. The OMA does not provide an allowance for amending minutes outside of the timeframe previously describe and the December minutes cannot be amended further at this meeting.

Councilmember Fluitt stated that City Attorney Howlett had advised her of this prior to the meeting and that there was one item she wanted to have added to the minutes that she would address later in the meeting.

Mayor Denner reminded the public and the Council that these meetings are being recorded and the whole meeting is available for viewing on the City website.

UNFINISHED BUSINESS:  
COUNCIL COMMENT

Councilmember Fluitt stated that the comment she was going to request to have added to the minutes was related to the current DPW facility. She inquired on if the ventilation issues had been addressed because it was the only major concern at the current facility.

City Manager Sizeland stated that they were continuing to look at ways to address the ventilation issues with Chief Building Official Ron Supal. He stated that there was also roof patching that had been completed due to leaks.

Councilmember Relan requested an update on the Park Communicator.

City Manager Sizeland stated that he was working Parks and Recreation Supervisor Craig on content and they hoped to have it printed and delivered soon.

NEW BUSINESS:  
ZONING BOARD OF APPEALS

Mayor Denner stated that City Council would now sit as the Zoning Board of Appeals to hear three different variance requests.

ZONING BOARD OF APPEALS:  
15710 EAST JEFFERSON

Mayor Denner asked City Administration to present the first variance request for council consideration.

City Manager Sizeland stated that the petitioner would like to put a four-foot fence in the front yard setback on Jefferson and a portion of Berkshire. The ordinance 27.100(b) prohibits fences in the front yard.

Chief Building Official Supal stated that per the drawings, allowing the petitioner to run the fence as far along Berkshire as desired could create potential visual issues for drivers turning from Jefferson onto Berkshire and from Berkshire onto Jefferson. This is why Administration's recommendation is to allow the fence but have it end at the wall of the home.

Ms., Mary Markus, the petitioner, stated that she is requesting the fence to keep people from cutting through her front lawn. She stated that her front lawn is cut through on a regular basis because the first postal box in from Detroit sits on the corner of Jefferson and Berkshire. She has planted a red barberry hedge along the front yard to try and protect her yard but has been unsuccessful. She stated that when the home was originally built, the front door was supposed to face Berkshire but the City required her and her husband to turn the house so the driveway would not be facing Jefferson. She would like to have the fence for these reasons.

Mayor Denner asked if there were any residents wishing to comment on the variance request.

No comments were made.

Mayor Denner stated that this request had been in front of Council before in July 2006 and asked if the request was the same.

Ms. Markus stated that this request was different from the 2006 request.

Mayor Denner asked what materials were going to be utilized for the fence.

Ms. Markus stated that the fence would be a brown aluminum fence to match the existing gates she already has on her property.

Councilmember Read inquired on if the fence would be solid or slotted?

Ms. Markus stated that the fence would be slotted.

Motion by Councilmember Hodges, supported by Councilmember Relan, to approve the variance request for 15710 East Jefferson for a front yard variance recognizing the hardships and unique circumstances at the site.

Councilmember Robson stated that he would like to propose tabling the vote on the variance request until the next meeting because Council needs to be able to see the fence to make sure there are no safety concerns.

Councilmember Relan stated that he had a picture of the referenced gates and shared his screen for Council to see.

Ms. Markus confirmed that the fence would look like the gates being displayed on the screen except it would be straight across instead of curved.

Councilmember Robson stated that he was satisfied with the picture displayed and was withdrawing his request to table.

AYES: Councilmembers Relan, Read, Hodges, Robson, McConnell, and Fluitt and Mayor Denner

NAYS: None

ZONING BOARD OF APPEALS:  
1120 AUDUBON

Mayor Denner asked City Administration to present the next variance request for consideration.

Chief Building Official Supal stated that the requestor at 1120 Audubon wishes to install an emergency electrical generator in the side yard setback. The zoning ordinance 27-86(c) prohibits placement of emergency electrical generators in the side yard setback and only allows installation of emergency generators in the backyard setback.

Mr. Thomas Nowinski, the petitioner, stated that he would like to install an emergency generator in the side yard setback of his home located at 1120 Audubon. He stated that the generator needed to be placed in the side yard instead of the backyard due to architectural, landscaping, and connectivity impediments. He also stated that they were installing a generator because of the constant power outages that occur on the block.

Mayor Denner stated that Council was in possession of a letter from the adjacent neighbor approving the placement of the generator.

Mayor Denner asked if there were any residents wanting to make a comment on the variance request.

No comments were made.

Motion by Councilmember Read, supported by Councilmember Relan, to approve the variance request as presented.

AYES: Councilmembers Relan, Read, Hodges, Robson, McConnell, and Fluitt and Mayor Denner

NAYS: None

ZONING BOARD OF APPEALS:  
1200 DEVONSHIRE

Mayor Denner asked City Administration to present the next request for consideration and stated that a similar request was presented by the requestor at a previous meeting which was denied. The request has been modified and is back for consideration again.

Chief Building Official Supal stated that the petitioner wishes TO erect an 1847 square foot addition to the existing 3005 square foot home. The addition will be a two-story addition placed behind the garage and no interior details were included in the new set of drawings. The new addition will not meet the

Zoning requirements Article X Schedule of Regulations RA which requires a rear yard setback of 30 feet and a side yard setback of 10' 8". The new addition will only have a rear yard setback of 19' 4 1/8" and a side yard setback of 6'5" and 12' - 9 3/4" respectively. Administration is recommending denial of the request.

Mr. Richard Tepper, the petitioner, stated that he did meet with Chief Building Official Supal to try and identify an alternative plan to get his variance request approved following the initial denial. The amount of space between the dwelling and the setback has been increased and the overall footprint has been reduced by almost 300 square feet from the original request. He stated that he and his wife would like to have the addition added on for more living and garage space and they are committed to making sure that the addition does not look like an addition.

Mayor Denner stated that Council was in receipt of four emails from residents, one for the project and three against. Mayor Denner asked for verbal comments.

Four residents made verbal comments, two for and two against.

Numerous Council Members stated concern with the size of the addition and the impact on the drainage issues that already exist in the area.

Motion by Councilmember Robson, supported by Councilmember Relan, to deny the variance request as presented.

AYES: Councilmembers Relan, Read, Hodges, Robson, McConnell, and Fluitt and Mayor Denner

NAYS: None

Motion by Councilmember Hodges, supported by Councilmember Relan, to refund the variance application fee to Mr. Tepper.

AYES: Councilmembers Relan, Read, Hodges, Robson, McConnell, and Fluitt and Mayor Denner

NAYS: None

Mayor Denner closed the Zoning Board of Appeals.

NEW BUSINESS:  
OMA DISCUSSION

Mayor Denner asked City Attorney Howlett to present the next topic for Council consideration.

City Attorney Howlett stated that the agenda item was requested to be added by Councilmember Fluitt following the last special City Council meeting on February 1st. He stated that Councilmember Fluitt requested an investigation into who had potentially broken the confidentiality of the closed-door session held on January 25th. City Attorney Howlett asked Councilmember Fluitt to expand on her request.

Councilmember Fluitt stated that her original request was made because she believes that the closed-door confidentiality was broken based on emails and statements received from the community following the meeting on January 25th. She investigated numerous options and determined that the only way to investigate what happened properly would be to hire a special investigator, which she felt would not be good use of taxpayer funds. She stated that while she is withdrawing her formal request for an investigation, she would like to encourage the following actions:

- Who put the allegations out should come forward and,
- If anyone has any details or information they would like to share regarding the topic, please contact the City Attorney and/or herself

Councilmember McConnell stated that she did not believe Council should be investigating themselves for credibility purposes.

Councilmember Read stated that she also did her own research, and the law enforcement officials seem to be at a loss as how to handle the situation. She stated that Council should focus on moving past this incident and focus on working together and trusting each other.

#### NEW BUSINESS: COUNCIL COMMENT

Councilmember McConnell stated that she had worked with a number of citizens to launch an initiative called Sustain GPP which was created to support the local businesses. Work so far has included the launch of a Facebook page, and surveying the local businesses to identify the kind of support they need.

Councilmembers Robson, Read, and Relan, and Mayor Denner all made statements encouraging residents and City Council to work together and put the previous negative discourse in the past.

Councilmember Relan stated that he was working with Lt. Bostock and City Manager Sizeland to address the ongoing safety issues around Defer Elementary and Pierce Middle School as all students return to face-to-face learning.

Councilmember Relan stated that the next Diversity and Inclusion Initiative meeting would be held on Tuesday, February 23rd at 7pm via Zoom.

Mayor Denner reminded everyone that the Master Plan update Virtual Visioning Session would be held Tuesday, February 9<sup>th</sup> at 7pm as part of the Planning Commission meeting. The purpose of the session is to gather public feedback.

#### PUBLIC COMMENT (NON-AGENDA ITEMS)

City Manager Sizeland read one written comment submitted by one resident.

Eight residents made verbal comments.

Motion by Councilmember Robson, supported by Councilmember Read, to adjourn the meeting.

AYES: Councilmembers Relan, Read, Hodges, Robson, Fluitt, and McConnell, and Mayor Denner

NAYS: None

With no further business, the meeting adjourned at 9:40 pm.