

**CITY OF GRAND HAVEN
519 WASHINGTON AVE.
GRAND HAVEN, MICHIGAN
REGULAR CITY COUNCIL MEETING
February 7, 2022**

CALL TO ORDER

The Regular Meeting of the Grand Haven City Council was called to order at 7:30 p.m. by Mayor Cathy McNally in the Council Chambers of City Hall, 519 Washington Ave.

Present: Council Members Karen Lowe, Ryan Cummins, Kevin McLaughlin, Mike Fritz, and Mayor Cathy McNally.

Absent: None.

Others Present: City Manager Patrick McGinnis; City Clerk Kelly M. Beattie; Assistant City Manager Ashley Latsch; Director of Public Works Derek Gajdos; Human Resources Manager Zac VanOsdol; Finance Director Amy Bessinger; Streets and Utilities Manager Matt Wade

INVOCATION/PLEDGE OF ALLEGIANCE

Mayor McNally read the poem *Stopping by Woods on a Snowy Evening* by Robert Frost to open the meeting; following this reading Mayor McNally led those assembled in the Pledge of Allegiance.

APPOINTMENTS TO BOARDS & COMMISSIONS

22-024 **Moved by Council Member McLaughlin, seconded by Council Member Fritz the City Council approved the appointment of Andrew Alt to the Planning Commission with a term expiring June 30, 2022 and Liza Dora to the Historic Conservation District Commission with a term expiring June 30, 2024.** Motion carried unanimously.

APPROVAL OF CONSENT AND REGULAR AGENDAS

22-025 **Moved by Council Member Lowe, seconded by Council Member McLaughlin, to add Consideration by the City Council of a final resolution to approve an ordinance to amend the approved Planned Development for Grand Plaza located at 1021 Jackson Avenue (parcel #70-03-21-199-021) to redesign the plans to avoid State-regulated wetlands and to reduce the scope of development to one phase and one land use (medical marihuana provisioning center) to agenda under unfinshed business (Item 13 a).** This addition was made unanimously.

22-026 **Moved by Council Member McLaughlin, seconded by Council Member Cummins, to approve the consent and regular agendas as amended.** This motion carried unanimously.

CALL TO AUDIENCE

Ten members of the audience provided public comment:

1. Carolyn Taylor, 15577 Ferris, shared information about her son as a cautionary tale regarding marijuana use by youth. She asked that the City Council slow down and make sure consideration of the issue is done right by exploring how other communities have handled this based on research and best practices.
2. Tom Galletto, 1323 Lake, spoke about the difficulties in walking on sidewalks during winter storms and spoke in support of allowing people to walk in the road when it is perceived to be safer.
3. Sheila McNally, 100 Franklin, spoke about lack of transparency, naming Council Members Lowe, Cummins, and McLaughlin regarding the removal of the marijuana discussion from the work session agenda.
4. Oliver Shampine, 12296 Lakeshore Drive, Grand Haven Township, spoke in support of the medial uses for marijuana and of the operation of New Standard. Spoke in opposition of the characterizing the marijuana debate as a debate of character. Shampine supports a survey of pubic related to recreational marijuana businesses in Grand Haven and indicated that he believes marijuana use is safer than alcohol use. Shampine supports education regarding marijuana.
5. Jack Demarr, 130 Crescent, spoke in support of finding a solution to walkability of the sidewalk on Harbor Drive. Demarr indicated that walkers and runners cannot safely use sidewalks on Harbor or Grand.
6. Mariann McNally 11 Howard Ave., spoke regarding lack of transparency from elected officials. McNally voiced concerns that the community would not hear the concerns and legal pitfalls regarding recreational marijuana if the City Council met in closed session.
7. Steve Burch, 132 Dale Ct., asked for the City's help to address a longstanding problem regarding the walkability of Harbor Drive in winter. Burch referenced expectation from the City regarding services in the master plan. Burch also pointed out the SWOT analysis includes walkability and location and would like the City's help with snow removal in winter sand removal in summer in along Harbor Drive.
8. Anneke Burch, 132 Dale St., spoke in support of the City clearing the sidewalks on Harbor Drive, and identified walkability as a safety issue that matters to the community.
9. Katie Mawby, 129 Dale Ct., asked that sidewalks be cleared downtown (Grand and Harbor). Mawby thanked the City for putting up crossing at Grand with traffic button. Mawby shared her account of being stopped by another community member, and being

informed she was in the street not on a sidewalk, when her service dog led her on the street as the best option to walk.

10. Jay Whitelaw, 99 Poplar Rdg., spoke in support of the City Council resolving the adult-use marijuana sales and prioritizing oversight of financial and management concerns relating to the operation of the BLP and cleanup of Harbor Island. Whitelaw closed by sharing concerns about the City's bond rating and finances.

CONTINUATION OF THE WORK SESSION

The discussion regarding the Open Meetings Act and Freedom of Information Act continued from the work session with Tom Forshee, from Dickinson Wright responding to questions from the City Council.

Mayor McNally asked about decision making outside of a meeting. Forshee responded with general advice: round robin decision making should be avoided, that council members should be careful about the use of "Reply All", because an email can, under the law, become a closed session called invalidly. Forshee expressed the idea that email can cause pitfalls easily without malicious intent.

Mayor McNally also asked about the remedies to OMA for inadvertent violations. Forshee shared there are remedies, including the option to reenact in an open session. Forshee further noted that penalties do exist for intentional violations and that actions can be invalidated by a court (within 30-60 days for most items). Forshee cautioned about looking to remedies and recommended the Council abide by the OMA as best as possible.

Forshee also shared that there are limited reasons for closed session, recommended seeking the advice of an attorney before going into closed session.

CM Lowe asked about the way for getting legal advice while abiding by the Open Meetings Act. Forshee clarified that individual members can ask for legal advice from the City Attorney, but cautioned about members discussing a pathway or action acting on the legal advice if several members the City Council are copied on the question or response.

CONSENT AGENDA

22-027 Moved by Council Member McLaughlin, seconded by Council Member Fritz, to approve the Consent Agenda. This motion carried unanimously.

22-028 Moved by Council Member McLaughlin, seconded by Council Member Fritz, to approve the City Council meeting minutes for the special strategic planning session of January 10, regular meeting minutes and closed session minutes of January 18, & joint special meeting of the Council and BLP of January 20, 2022. This motion carried unanimously.

22-029 Moved by Council Member McLaughlin, seconded by Council Member Fritz, to approve the bills memo in the amount of \$821,634.58.. This motion carried unanimously.

22-030 Moved by Council Member McLaughlin, seconded by Council Member Fritz, to proclaim June to be “Michigan Scleroderma Awareness Month.” This motion carried unanimously.

22-031 Moved by Council Member McLaughlin, seconded by Council Member Fritz, to approve the proposal of \$73,341.25 from KSB-Dubric, of Comstock Park, MI, to refurbish Low Service Vertical Turbine Pump #2 and Pump Can Interior located in the Northwest Ottawa Systems Low Service Pump Station and authorize the Mayor and Clerk to execute the necessary agreements. This motion carried unanimously.

22-032 Moved by Council Member McLaughlin, seconded by Council Member Fritz, to approve an electrical inspection service agreement with Joel Hosko, Twin Lake, MI, and authorize the Mayor and Clerk to execute the necessary agreements. This motion carried unanimously.

22-033 Moved by Council Member McLaughlin, seconded by Council Member Fritz to approve a seasonal slip agreement for Terry Korte, Grand Haven, MI, in the amount of \$3,630 for slip 39 at the City of Grand Haven Municipal Marina and authorize the Mayor and Clerk to execute the necessary agreements. This motion carried unanimously.

PRESENTATIONS

Loutit District Library Presentation by Burton Brooks, Sara Derdowski, and John Martin, Library Director

John Martin, Loutit Library Director presented the annual report of the Loutit District Library. This presentation included:

- Goals and Trends
- Information Regarding In-Person Services
- Metrics of Volunteer Hours
- Metrics on programs offered, physical and digital materials checkouts, and library cards issued
- Financials

Following this presentation, Burton Brooks, Library Board Member praised staff efforts in response to the pandemic and John Martin also introduced Sara Derdowski who will be new Library Director.

Draft FY2022/23 Capital Plan by Amy Bessinger, Finance Director

Amy Bessinger provided a presentation on the FY2022/23 Capital Plan

CM Cummins requested clarification on the document requesting annotation to provide clarification on what items have previously been rescheduled or delayed.

2020 Fluoridation Award by Michigan Department of Public Health to the North Ottawa Water Treatment Plant by Derek Gajdos, DPW Director

Derek Gajdos and Eric Law, Water Filtration Manager provided a brief overview of this award and how it is awarded.

CM McLaughlin praised the water plant staff for the dedication to their jobs.

CM Fritz spoke in support of the superior quality of the water system compared to other systems, including the qualified staff and commitment by public works ensuring water distribution with minimal interruptions to service.

NEW BUSINESS

22-034 Moved by Council Member Fritz, seconded by Council Member McLaughlin, to approve a resolution to approve the Professional Service Agreement with HDR Michigan Inc. of Ann Arbor, Michigan for Harbor Island Environmental Consultation for tasks 1, 2 and 3 in the not to exceed amount of \$81,809, direct staff to prepare and present an adequate budget amendment at the February 21, 2022 Council Meeting and authorize the Mayor and Clerk to execute the necessary agreements. This motion carried unanimously.

CM Cummins spoke in support of the prioritization of a communications plan and the proposed implementation of a community advisory group.

CM McLaughlin raised the question of distinguishing what expenses are to be paid by the City Council and what fall to the BLP. Patrick McGinnis addressed this question by stating that the division of costs is a policy decision, but these actions are the right step forward. McGinnis stated that HDR will keep track of the funds for various issues, including due care of CCR, landfill contaminates, PFAS, etc.

McNally – need to sort out who is responsible for contaminates. Need to work with the BLP board

22-035 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve a resolution to approve updates to the City of Grand Haven FOIA Procedures and Guidelines and Written Public Summary. This motion carried unanimously.

22-036 Moved by Council Member McLaughlin, seconded by Council Member Fritz, to approve an introductory resolution to amend Sec. 2-13 of the City of Grand Haven Code of Ordinances to allow City Council to hold regular or special meetings at alternative locations provided the location is set in advance by Council Resolution, is posted on the City website and on social media and is explained in all notices of any meeting proposed to be held at an alternate location. This introductory resolution was approved with four members voting in favor and one-member voting against. Yes: Cummins, McLaughlin, Fritz, McNally. No: Lowe.

Patrick McGinnis briefed the City Council on this new proposed ordinance and shared the opportunities this ordinance would allow regarding community engagement.

CM Fritz spoke in favor of the legal support this ordinance will provide. Fritz also shared that he appreciates that the meeting location can only be decided by the City Council at an open meeting.

CM Lowe supports the language includes resolution at open meeting and shared concerns brought forward by residents in opposition to this ordinance. Lowe specifically mentioned that the Council Chambers are a known and reliable place for meetings and are set-up specifically for meetings.

CM Cummins spoke in appreciation of the legal review of this process and in support of the opportunity to utilize other appropriate spaces.

Mayor McNally shared a critique from a community member and provided that the City Council look into designation one location, such as the community center, as a designated alternative space.

UNFINISHED BUSINESS

22-037 Moved by Council Member Fritz, seconded by Council Member McLaughlin to amended the proposed ordinance by adding language to the proposed ordinance prior to approval. The language added was:

Section 3, 8. Provided refuse collection be conducted off street.

This amendment carried unanimously.

Mayor McNally brought forward questions about the dumpster plan (blue rolling cans out on Jackson) CM McLaughlin responded that there was a reason for this considered by the Planning Commission, but he could not remember it at this time.

22-038 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve a final resolution to approve an ordinance to amend the approved Planned Development for Grand Plaza located at 1021 Jackson Avenue (parcel #70-03-21-199-021) to redesign the plans to avoid State-regulated wetlands and to reduce the scope of development to one phase and one land use (medical marihuana provisioning center) (As amended). This motion carried unanimously.

REPORTS BY CITY COUNCIL

CM Lowe spoke in support of the City controlling its own destiny regarding Adult-Use Marijuana businesses. Lowe stated that the City of Grand Haven has two options: 1. The City can be conservative and adopt reasonable regulations; or 2. The City can take no action and forbid it, but this allows marijuana advocates to file a petition to put the issue on the ballot. Lowe asked residents to consider these two options and what would be more acceptable to the community. CM Lowe in response to questions of governmental transparency made several points:

- The Mayor legally called a special meeting
- The City would waive confidentiality and privilege by receiving opinions in open session, and that the Mayor's request to hear the opinion of the City Attorney in open session puts the City at risk.
- There was no way for the other members of the City Council to cancel the meeting.

CM Cummins spoke in support of collective decision making regarding how the City Council receives information from the City Attorney regarding adult-use marijuana businesses and how the City Council chooses to make advice or information from the City Attorney public. Cummins indicated that the motion adopted at the special meeting was clear guidance from the majority of the City Council on how to proceed with legal advice regarding adult-use marijuana businesses. Cummins also encouraged the public to come to the Planning Commission meeting tomorrow to express their opinions. Cummins also praising DPS on responses to T-Mobile and LMCU cases. Cummins closed by referencing the MLive article on Chinook Pier and his Grand Haven Informed post about the same. Cummins stated these comments are viewable by the public and he encouraged other Council Members to review the comments and dialogue.

CM McLaughlin spoke in support for a sustainability plan, but asked the community to take a breath and allow the sustainability plan as part of the strategic plan.

CM Fritz spoke in support of DPS for the work they have done and thanked Winter Fest for livening up the town. Fritz spoke in support of the City Council holding a public briefing on the legal landscape of surrounding adult-use marijuana businesses. Fritz also expressed his concern over the open meetings act and recent email communications between council members.

Mayor McNally shared her concerns relating to the process by which adult-use marijuana

business regulations are being addressed. McNally expressed concerns regarding the language of the question shared with the DDA Board regarding regulation of adult-use marijuana businesses and indicated this was a chronic issue with planning processes in the city. McNally also shared her concerns regarding gathering recommendations from the planning commission without providing a primer on the legal landscape regarding adult-use marijuana business regulations, explaining this is the reason she called for the attorney to deliver this information in open session. McNally closed by thanking Planning Commission members for their commitment to the community and conveyed her intention to consider recommendations from the Planning Commission.

REPORT BY CITY MANAGER

City Beach Business Use Request - Bike Rental Business

Ashley Latsch presented a request from a bike rental vendor who is seeking permission to use the public beach as a place to locate a docking station to rent bikes. McGinnis added that other vendors do use the City Beach. City Council Members expressed concerns over the lack of space for business in this location.

EV Charging Stations

Patrick McGinnis sought support or opposition before writing a RFP. The City Council offered general support for the EV Charging Station initiative.

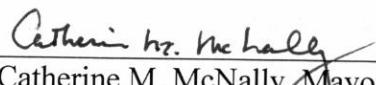
SECOND CALL TO THE AUDIENCE

Three members of the public spoke during the second public comment period.

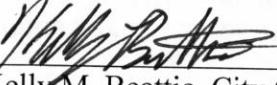
1. Benny Edwards, 405 Maar Ln. (BNS Bikes) spoke regarding his request to use the City Beach for bike rental. Edwards shared that he is open to moving to multiple locations and that bike racks will have 2 bikes per rack. The system used for rentals tracks data for bike users and allows the operator to reach out to renters directly. Edwards also shared that a percentage of revenue will go to assist people with opioid and alcohol abuse issues.
2. Jay Whitelaw, 104 Poplar Rdg., spoke in support of the importance of expediting the discussions about ratepayer vs taxpayer funding for Harbor Island issues.
3. Carolyn Taylor, 15177 Ferris St., spoke about score card methodology from California for regulating marijuana businesses. Taylor also spoke on changes in potency of marijuana over the years and warned of increased dangers for teens compared to previous generations. Taylor also urged the City Council to proceed with caution regarding adult-use marijuana businesses regulations.

ADJOURNMENT

After hearing no further business, Mayor McNally adjourned the meeting at 10:10 p.m.



Catherine M. McNally, Mayor



Kelly M. Beattie, City Clerk