

**CITY OF GRAND HAVEN
519 WASHINGTON AVE.
GRAND HAVEN, MICHIGAN
REGULAR CITY COUNCIL MEETING
April 11, 2022**

CALL TO ORDER

The April 11, 2022 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 Ryan Cummins, Mike Fritz, and Mayor Cathy McNally.

Absent: Council Members Karen Lowe and Kevin McLaughlin

Others Present: City Manager Patrick McGinnis; City Clerk Kelly M. Beattie; Assistant City Manager Ashley Latsch; City Attorney Tom Forschee; Director of Public Works Derek Gajdos; Streets and Utilities Manager Matt Wade; and Community Affairs Manager Char Seise

INVOCATION AND PLEDGE OF ALLEGIANCE

Tom Fullerton, provided an invocation; following this, Mayor McNally led those assembled in the Pledge of Allegiance.

APPROVAL OF CONSENT AND REGULAR AGENDAS

22-119 Moved by Council Member Fritz, second by Council Member Cummins to approve the regular and consent agenda. This motion carried with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

The CL/Lakewood Agreement was discussed, noting that it would be impossible to vote on the matter without four members of the City Council present. The City Council decided to leave the item on the agenda to receive the presentation from CL/Lakewood.

CALL TO AUDIENCE

1. Bob Monetza, 945 Washington, spoke in opposition of eliminating the neighborhood housing services and in support of the services this department provides to the community.
2. Joyce Workman, Vintage Green, 7 N. 7th St., spoke in support of Cycle Back to Centertown, an event planned for Saturday May 7, pending City Council approval.
3. Warren Feyt, 21 Crescent Hill, spoke in opposition of the proposed amendment to the Noto's Planned Development.

4. Bob Wood, 15316 Krueger, spoke in support of the Ukrainian-American Crisis Response Committee of Michigan (UACRC) and encouraged those in attendance to support efforts in West Michigan.
5. Charity Sternberg, 911 Slayton Ave., spoke in support of providing aid to Ukraine, including calling for the community to participate in UACRC efforts, by participating in the “West Side UACRC”
6. Erica Layton, 17512 Ridgemoor Ct. #206, introduced herself as the new Executive Director of Tri-Cities Museum.
7. Jim Hagen, 400 Lake, spoke about his concerns with the diesel plant project. Specifically, Hagen addressed the concerns that the current buy/sell agreement leaves money on the table and the agreement will focus on building condos.
8. Mike Weavers, 637 Lake Ave., spoke in support of collecting more information before approving a sales agreement for the diesel plant. Weavers shared concerns that the proposed uses will cause traffic issues. Weavers also spoke in support of Noto’s Planned Development.
9. Tony Noto, 1223 S Harbor Dr., spoke in support of the Noto’s Planned Development.
10. Tom Noto, 1223 S Harbor Dr., provided clarification about the proposed balcony included in the Noto’s Planned Development amendment.
11. Laureen Birdsall, 2663 44th St SW, Wyoming, MI, offered her opinion that the proposed amendment to the Noto’s Planned Development would violate the current consent judgement with regards to the planned balcony, stating that such construction would require a modification to the agreement.

CONTINUATION OF THE WORK SESSION

Tom Forshee continued the discussion of the general legal landscape surrounding issuance of adult-use marijuana business.

Forshee described how zoning buffers work when there is no competitive process.

Mayor McNally asked about the relationships between medical marijuana permits and adult-use marijuana permits. Forshee responded that the state allows for certain permits to be collocated, this would allow zoning buffers for adult-use marijuana based on existing medical marijuana business permits.

Forshee closed by sharing information about the citizen initiative process by which an ordinance allowing adult-use marijuana could be placed on the ballot.

PRESENTATIONS

Birthday Announcement

It was announced that it is Pat McGinnis’ Birthday. CM Fritz led everyone in singing, “Happy Birthday to You.”

CL/Lakewood (Diesel Plant)

Nathan Watson (CL Real-estate Development) and Kyle Engbers (Lakewood Construction) provided a presentation on the current vision for the diesel plant property. This presentation included:

- Projects from the company's portfolio
- A development concept
 - Preserve the historic building
 - Site plan presented
 - Community Benefits
 - Parking

The presentation concluded and the City Council asked for clarification on several points.

CM Cummins asked for clarification on several issues including:

- How the BLP's use of space as office space would affect planned space for a restaurant. Engbers responded that it would be an either-or, both would not be able to be housed.
- Parking and condo considerations. Engbers responded that it would be difficult to put parking on parts of the site, but that two-story condos would be well suited for the planned locations.
- If a Planned Development or any zoning variances would be requested. Engbers responded that there are not current requests, but some might be needed.
- Items removed in the current agreement, including right of first refusal and guarantee of preservation of the building. Watson responded that the 3-year language was inserted because of uncertainties, including approvals, but would be open to language that includes a well-defined preservation of the building. CL/Lakewood be open some language changes to deal with right of first refusal or a restriction that effects successors.
- Sequencing of the project. CL/Lakewood would support a written sequencing.

Mayor McNally, asked about the number of condos. Engbers responded that there were no condos in the initial plan, but they were adding to increase the purchase price, and are a requirement at the current price.

Mayor McNally also shared that she has concerns about condos on Sherman. Engbers responded that the lower level grade would be near where the retaining wall currently is. Mayor McNally also suggested a preservation restriction, while asking about seasonality of community.

CM Fritz commended on guarantees from past developers, reminding everyone that preservation of the exterior building is what the community wants.

Harbor Island Environmental Updates

Lara Zawaideh, HDR Area Resources Business Development Leader, shared project updates, including information about the 3 task orders under consideration on the agenda.

CM Cummins asked about EGLE violation notices and inquired if the tasks and plans will bring the BLP and City as a whole into compliance with regulations. Derek Gajdos, Director of Public Works, responded that he believes that is the case.

Mayor McNally asked about groundwater sampling activities, including how long these should be assessed before addressing the issues. Gajdos responded that a plan can be in place sometime by early next year. Zawaideh added that by the middle of this year options to address CCRs will

be available, but it would be wise to address these issues jointly with PFAS options, to meet objectives in the best way possible.

Street Resurfacing

Matt Wade, Streets and Utilities Manager presented on street resurfacing. Key topics included:

- PASER Rating System
- Planning and Tracking
- Resurfacing and Crack Sealing 2016 -2021
- Planning for the Future

CONSENT AGENDA

22-120 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve the Consent Agenda. This motion carried with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-121 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve the City Council Meeting Minutes of special meeting and closed session held on March 14, 2022 and the special and regular meetings held on March 21, 2022, as corrected. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-122 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve the bills memo in the amount of \$473,468.69. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-123 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve a resolution to hold a Special City Council Meeting on April 18, 2022 at 5:30 PM in the Mackinaw Ballroom of the Community Center, 421 Columbus Ave., Grand Haven, MI 49417 for the purpose of discussing the Proposed Budget for 2022-2023. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-124 Moved by Council Member Fritz, seconded by Council Member Cummins, to accept the low bid and approve the Contractor Services Agreement with Michigan Pavement Markings, Wyoming, MI, in the amount of \$47,636.50, for City-Wide Pavement Marking and Striping and authorize the mayor and clerk to sign the necessary documents. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-125 Moved by Council Member Fritz, seconded by Council Member Cummins, to award the 2022 Street Resurfacing Project to Michigan Paving Materials, Grand Rapids, MI, in the not to exceed amount of \$425,283.05 and authorize the mayor and clerk to sign the necessary documents. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-126 Moved by Council Member Fritz, seconded by Council Member Cummins, to accept the bid and approve the contractor services agreement with Division 7 Building Contractors Inc., Kalamazoo, MI, in the amount of \$45,632.10, to provide roof coatings for hangars D and F at the City of Grand Haven Memorial Airport and authorize the mayor and clerk to sign the necessary documents. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-127 Moved by Council Member Fritz, seconded by Council Member Cummins, to accept the bid and approve the contractor services agreement with PermaGreen Inc., Holland, MI, in the amount of \$39,487 for year 2022 with a 3% increase for year 2023 and 2024, to provide fertilization and weed control for the City of Grand Haven through the end of calendar year 2024 and authorize the mayor and clerk to sign the necessary documents. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-128 Moved by Council Member Fritz, seconded by Council Member Cummins, to accept the transfer of ownership of 815 Taylor Avenue, Seaway Party Store, of SDD and SDM Licensed Business with Sunday sales permit (PM) for SDD License (Spirits, Sunday sales permit (AM), Beer and Wine Tasting Permit), and Sunday sales permit (PM) for SDM License (Mixed Spirit Drink) from Dhillon & Dhillon, Inc. to applicant Vinod Kurmar Arora, C/O VJSK Enterprise, LLC and authorize the mayor and clerk to sign the necessary documents. (The request is for approval of the sale and transfer of liquor licenses from the current owner to the new owner of the business.) This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-129 Moved by Council Member Fritz, seconded by Council Member Cummins, to adopt a certified resolution approving MDOT AERO Contract 2022-0475 in the amount of \$115,930 for the land acquisition costs of Parcels E62 at 15870 O'Brien Court and Parcel E-63 at 14444 Angelus Court, Grand Haven, MI, and authorize the mayor and clerk to sign the necessary documents. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-130 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve a special event request to hold an Airport Open House Fly-In on Saturday, June 4, from 8:00 am to 2:00 p.m., and to waive \$325 in fees. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-131 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve a special event request to hold “Trunk or Treat” at the Grand Haven Municipal Airport on Saturday, October 29, 2022 from 2:00 p.m. to 4:00 p.m. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-132 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve a special event request to hold “Flea on 7th” and to utilize parking lots #12 & #13, on Sunday, July 31 from 10:00 a.m. to 4:00 p.m. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-133 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve a special event request to hold the “Music on the Grand” event at Lynne Sherwood Waterfront Stadium on Wednesdays, from 7:00 p.m. to 9:00 p.m., beginning June 8–August 31 (except during Coast Guard), and to waive the park rental fee of \$6,000 and reduce the electric use fee to \$25 weekly. This motion carried as part of the Consent Agenda with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

NEW BUSINESS

22-134 Moved by Council Member Fritz, seconded by Council Member Cummins, to adopt a resolution to approve retention agreement with Public Safety Chief Jeff Hawke and authorize the mayor and clerk to sign the necessary documents. This motion carried with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-135 Moved by Council Member Cummins, seconded by Council Member Fritz, to adopt a resolution to approve a budget amendment for Major Streets and Local Streets funds to adjust line items transferring a total of \$11,000 from asphalt overlay to pavement marking to accommodate bid outcomes. This motion carried with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-136 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve a resolution to approve the Contract Modification, Task Order Number 002

with HDR Michigan Inc. out of Ann Arbor, Michigan in the not to exceed cost of \$86,923.00 for project management services related to Coal Removal Activities pending identification and appropriation of sufficient funding. The work is required by the State of Michigan and outlined in the approved "Updated Coal Removal Verification Work Plan" dated July 9, 2021, and authorize the mayor and clerk to sign the necessary documents. This motion carried with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-137 Moved by Council Member Cummins, seconded by Council Member Fritz, to approve a resolution to approve the Contract Modification, Task Order Number 003 with HDR Michigan Inc. out of Ann Arbor, Michigan in the not to exceed cost of \$644,741 for environmental services related to the former JB Sims Generating Station and Coal Combustible Residual requirements pending identification and appropriation of sufficient funding and authorize the mayor and clerk to sign the necessary documents. This motion carried with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

CM Cummins asked for funding information. City Manager Pat McGinnis commented that resources are not YET identified, but ARPA funding is a possibility.

Mayor McNally commented that the BLP might have money set aside to share in the cost of this task. McNally also shared information about a meeting with Congressman Peter Meijer.

22-138 Moved by Council Member Fritz, seconded by Council Member Cummins, to approve a resolution to approve the Contract Modification, Task Order Number 004 with HDR Michigan Inc. out of Ann Arbor, Michigan in the not to exceed cost of \$46,016 for community and stakeholder activities through 2022, related to the former JB Sims Generating Station and Coal Combustible Residual requirements pending identification and appropriation of sufficient funding and authorize the mayor and clerk to sign the necessary documents. This motion carried with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

Postponed Consideration by City Council of a resolution directing staff to provide a recommendation on the creation and structure of a Sustainability & Energy Commission, a citizen commission under the city charter and responsible to the City Council.

22-139 Motion by Council Member Cummins, seconded by Mayor McNally to postpone the consideration of a resolution directing staff to provide a recommendation on the creation and structure of a Sustainability & Energy Commission, a citizen commission under the city charter and responsible to the City Council until the April 25 City Council Meeting. This motion to postpone carried with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

UNFINISHED BUSINESS

Postponed Moved by Council Member Fritz, seconded by Council Member Cummins, to approve a final resolution to approve an amendment to the approved Planned Development for Noto's at the Bil-Mar, located at 1223 South Harbor Drive (parcel #70-03-29-312-004), to construct a conference room/bridal lounge addition and second story deck and enclose an existing three-season patio.

CM Fritz commented that he is satisfied with the legal opinion from the City Attorney on this amendment.

CM Cummins expressed concerns about compliance with the consent agreement relating to this property, noting that this is a major modification to the Planned Development. Cummins added that there are some issues should be addressed to bring this property to compliance with the Planned Development.

Mayor McNally assured the community that she has read all the letters received on this issue. McNally shared that the main point of concern is the rooftop deck/balcony issue. She added that the City Attorney has provided an opinion that the amendment does not violate the agreement.

22-140 **Moved by Council Member Cummins, seconded by Council Member Fritz to postpone consideration of a final resolution to approve an amendment to the approved Planned Development for Noto's at the Bil-Mar, located at 1223 South Harbor Drive (parcel #70-03-29-312-004), to construct a conference room/bridal lounge addition and second story deck and enclose an existing three-season patio, until April 25, 2022.** This motion to postpone carried with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

22-141 **Moved by Council Member Fritz, seconded by Council Member Cummins to approve a final resolution to amend the City of Grand Haven Code of Ordinances by restating Section 9-1, regarding Penalties for Violating Construction Codes, to include Plumbing in Penalty language.** This motion carried with 3 members voting in favor and two members absent. Yes: Cummins, Fritz, and McNally. Absent: Lowe and McLaughlin.

The council asked to have an additional occurrence of the word, "the" inserted in section (e), before finalizing the vote.

REPORTS BY CITY COUNCIL

CM Fritz offered his thanks to the Department of Public Works crews for their work on fixing potholes and encouraged the community to use SeeClickFix. Fritz also announced the victory of the Detroit Tigers in their recent baseball matches. Fritz also thanked all employees of the City of Grand Haven

Mayor McNally, also announced that Congressman Meijer will visit Harbor Island on Wednesday.

REPORT BY CITY MANAGER

Paid Parking Update

Pat McGinnis provided a report on the recommendation of instituting paid parking in the downtown area. This report included a history of the process and recommendations.

Cycle Back to Centertown

Pat McGinnis reported about the proposed Cycle Back to Centertown event scheduled for May 7, which will be on the April 25, City Council agenda.

SECOND CALL TO THE AUDIENCE

1. Joyce Workman, Vintage Green, 7 N. 7th St., spoke about the City's process for reviewing and approving special events; noting that the process lacked transparency and encouraged improving communications with applicants.
2. Doug Vance, the Copper Post, 100 Washington Ave., asked for the City to take action to improve parking for residents at 100 Washington. Vance specifically requested reviewing options for residents with parking permits.
3. Jim Hagen, 400 Lake Ave., spoke about the CL/Lakewood presentation and the history of the buy/sell agreement.
4. Laurie Kelly, 1813 Doris Ave., spoke about the proposed deck for Noto's, sharing that she believes the proposed addition will violate the consent agreement.
5. Tony Noto, 1223 S Harbor Dr., Stated that Noto's has abided by the consent agreement and restated that the balcony in the requested amendment is not a rooftop deck.

ADJOURNMENT

After hearing no further business, Mayor McNally adjourned the meeting at 10:37 p.m.

Catherine M. McNally
Catherine M. McNally, Mayor

Kelly M. Beattie
Kelly M. Beattie, City Clerk

**FOR MDOT AERO
Project Authorization 2022-0475**

CERTIFIED SIGNATURE RESOLUTION

Resolution 22-129

Resolution approving MDOT AERO Contract 2022-0475 in the amount of \$115,930 for the land acquisition costs of Parcels E62 at 15870 O'Brien Court and Parcel E-63 at 14444 Angelus Court, Grand Haven, MI, and authorize the mayor and clerk to sign the necessary documents.

WHEREAS, the City of Grand Haven has the authority to contract with the Michigan Department of Transportation for state and/or federal funds for airport transportation related services; and

WHEREAS, the City of Grand Haven does hereby approve MDOT AERO Project Authorization 2022-0475,

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Clerk of the City of Grand Haven, be authorized and directed to execute said agreement for and on behalf of the City of Grand Haven for Grand Haven Memorial Airport;

CERTIFICATE

The undersigned duly qualified City Clerk of the City of Grand Haven certifies the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the City of Grand Haven held on April 11, 2022.

/s/ Kelly Beattie
Kelly Beattie
City Clerk
April 11, 2022

ORDINANCE NO. 22-3

AN ORDINANCE TO AMEND THE CITY OF GRAND HAVEN CODE OF ORDINANCES BY RESTATING SECTION 9-1, REGARDING PENALTIES FOR VIOLATING CONSTRUCTION CODES.

THE CITY OF GRAND HAVEN, COUNTY OF OTTAWA, STATE OF MICHIGAN, ORDAINS:

Section 1. Restatement. Section 9-1 of Article I in Chapter 9 of the City of Grand Haven Code of Ordinances is restated in its entirety to read as follows:

Sec. 9-1. – Penalty.

A violation of any provision, permit, certificate or order issued pursuant to the Michigan Building Code, the Michigan Mechanical Code, the Michigan Electrical Code, or the Michigan Plumbing Code shall be punishable as follows:

- (a) A first violation of any provision, permit, certificate or order issued pursuant thereto, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than fifty dollars (\$50.00).
- (b) A second violation of any provision, permit, certificate or order issued pursuant thereto, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than one hundred fifty dollars (\$150.00).
- (c) A third violation of any provision, permit, certificate or order issued pursuant thereto, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than three hundred dollars (\$300.00).
- (d) In addition to a fine, a person determined to be responsible for a municipal civil infraction under this chapter shall be assessed the cost of prosecution of not less than nine dollars (\$9.00) but not to exceed five hundred dollars (\$500.00).
- (e) The fourth and any subsequent violation of any provision of a permit,

certificate or order issued pursuant to the Michigan Building Code, the Michigan Mechanical Code, the Michigan Electrical Code, or the Michigan Plumbing Code, by any persons, is a misdemeanor which shall, upon conviction, be punishable in accordance with section 1-8 of this Code.

(f) In addition to the penalties provided by this section, the district court shall have equitable jurisdiction to enforce any judgment, writ, or order necessary to enforce any provision, the violation of which is a municipal civil infraction, including, but not limited to, abatement of the violating condition or granting any injunctive relief.

Section 2. Effective Date. This amendment to the City of Grand Haven Code of Ordinances was approved and adopted by the City Council on April 11, 2022. This Ordinance shall be effective 20 days after its publication.

This Ordinance was adopted by a motion offered by Council Member Fritz, seconded by Council Member Cummins.

YEAS: Councilmember(s) Cummins, Fritz, and Mayor McNally

NAYS: Councilmember(s) None

ABSTAIN: Councilmember(s) None

ABSENT: Councilmember(s) Lowe and McLaughlin

APPROVED: April 11, 2022

I certify that this ordinance was adopted by the City Council of the City of Grand Haven at a regular meeting held on April 11, 2022, and published in *The Grand Haven Tribune*, a newspaper of general circulation in the City, on April 15, 2022.

/s / Kelly Beattie

Kelly Beattie, City Clerk

Introduced: March 21, 2022

Adopted: April 11, 2022

Published: April 15, 2022