

July 13, 2020

A regular electronic meeting of the City Council was held on Monday, July 13, 2020, at 7:00 p.m. online via <https://zoom.us/join>, with Webinar ID: 840 5012 3103 ~ Password: 269050. Mayor Pro Tem Wazbinski presided. The Pledge of Allegiance to the Flag was recited in unison.

Councilmen present: Steve Arnosky, Diane Brown Wilhelm, Pamela Hall (7:04 p.m.), Marty Wazbinski

Councilmen absent: Maureen Donker

MINUTES

Approval of the minutes of the June 22, 2020 regular electronic meeting was offered by Councilman Arnosky and seconded by Councilman Brown Wilhelm. (Motion ADOPTED by a Roll Call Voice Vote.)

2020-2021 BUDGET AMENDMENT TO ACCEPT GIFT FROM KATHERINE A. MOORE REVOCABLE TRUST FOR MPD POLICE K-9 PROGRAM

Police Chief Nicole Ford presented information regarding the donation and corresponding budget amendment. A public hearing opened at 7:08 p.m., recognizing no public comments, the hearing closed at 7:09 p.m. The following resolution was then offered by Councilman Brown Wilhelm and seconded by Councilman Arnosky:

WHEREAS, that in accordance with Section 11.6 of the Charter of the City of Midland, a public hearing has been conducted at 7:00 p.m., Monday, July 13, 2020, in the Council Chambers of City Hall, or virtually due to social distancing guidelines as a result of the coronavirus pandemic; and

WHEREAS, the Midland Police Department's (MPD) former K-9 Program ended upon the December 2019 retirement of K-9 Tza'Yid and K-9 Officer John DuBois; and

WHEREAS, an MPD K-9 Program provides a supplemental layer of service in patrol functions as well as increases positive community interactions; and

WHEREAS, a generous monetary gift to the City of Midland in the amount of \$77,844.84 has been received from the Katherine A. Moore Revocable Trust for use by the MPD K-9 Program; now therefore

RESOLVED, that Midland City Council accepts the monetary gift from the Katherine A. Moore Revocable Trust for use by the MPD Police K-9 Program; and

RESOLVED FURTHER, that the General Fund 2020-2021 budget is hereby amended to increase revenues and expenditures by \$77,844.84 to recognize a monetary gift from the Katherine A. Moore Revocable Trust for use by the MPD Police K-9 Program. (Motion ADOPTED by a Roll Call Voice Vote.)

PUBLIC COMMENT

No public comments were made.

PURCHASING ORDINANCE AMENDMENT

Assistant City Manager Dave Keenan presented information on an ordinance amending the City's purchasing ordinance by adding Section 2-28 to Chapter 2 of the Code of Ordinances establishing policies and procedures for Federal Emergencies and Disasters to provide special consideration to allow the use of federal procurement guidelines for purchases related to federal disasters. The following ordinance was then presented for consideration and first reading:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MIDLAND, MICHIGAN, BY ADDING SECTION 2-28 TO ARTICLE II OF CHAPTER 2 THEREOF.

The City of Midland Ordains:

Section 1. Section 2-28 to Article II of Chapter 2 is hereby added to read as follows:

SEC. 2-28. ESTABLISHMENT OF POLICIES AND PROCEDURES FOR FEDERAL EMERGENCIES AND DISASTERS.

THE CITY MANAGER, OR ITS DESIGNEE, SHALL CREATE, IMPLEMENT AND MAINTAIN CURRENT POLICIES AND PROCEDURES FOR PROCUREMENT OF GOODS AND SERVICES AND REIMBURSEMENT OF COSTS PAID FOR SAID GOODS AND SERVICES THROUGH FEDERALLY FUNDED PROGRAMS, IN COMPLIANCE WITH FEDERAL RULES AND REGULATIONS. THE PURPOSE OF THESE POLICIES AND PROCEDURES SHALL BE TO AFFORD CITY STAFF THE ABILITY TO USE FEDERAL PROCUREMENT POLICIES IN PLACE OF STANDARD CITY PROCUREMENT POLICIES TO PROCURE GOODS AND SERVICES IN A MANNER THAT IS BOTH COMPLIANT WITH FEDERAL PROCUREMENT POLICIES, AND CONSISTENT WITH TIMING REQUIREMENTS AS DETERMINED BY THE CITY. THIS ABILITY SHALL ONLY APPLY TO FEDERAL EMERGENCIES AND DISASTERS.

Section 2. This Ordinance shall take effect upon publication.

PURCHASING ORDINANCE TEMPORARY AUTHORIZATION

Assistant City Manager Dave Keenan presented to Council regarding a request for temporary authorization to implement the proposed amendments to the purchasing ordinance related to policies and procedures for federal emergencies and disasters. Councilman Brown Wilhelm motioned, seconded by Councilman Arnosky to provide authorization for City staff to utilize the pending amendment to the Code of Ordinances, which adds Section 2-28 to Article II of Chapter 2 of the Code of Ordinances – Establishment of Policies and Procedures for Federal Emergencies and Disasters, effective July 14, 2020 through July 27, 2020. (Motion ADOPTED by a Roll Call Voice Vote)

LOCAL DIVERSITY, EQUITY, AND INCLUSION EFFORTS AND PARTNERSHIPS IN THE MIDLAND COMMUNITY

City Manager Brad Kaye presented information regarding the efforts to identify and understand the strengths and challenges of our community relative to diversity, equity, and inclusion. Members of the coalition and community leaders spoke regarding these efforts and shared experiences including Diane Brown Wilhelm, Perry Holman, Rickey Fields, Sharon Mortenson, Billy Strawter, and Gina Wilson. The following resolution was offered by Councilman Brown Wilhelm and seconded by Councilman Hall:

WHEREAS, our nation, our State and the Midland community were shocked by the preventable death of Mr. George Floyd in Minneapolis, MN; and

WHEREAS, the aftermath of Mr. Floyd's death and the resulting demonstrations across the country have revealed deep pain and anger in people all across our country, including right here in our own community; and

WHEREAS, as a community, we acknowledge the need for deeper understanding and discussion to ensure that we live out our ideals of being a community where every person can not only live, but thrive; and

WHEREAS, we believe that the first step towards meaningful discussion is to more deeply understand our own community, including all of its unique strengths and challenges; and

WHEREAS, an autonomous group of community leaders has come forward to initiate the data collection and partnerships that will be necessary to launch these community discussions; now therefore

RESOLVED, that the City Council hereby supports and encourages continued efforts towards identifying and understanding the unique strengths and challenges of our community relative to diversity, equity and inclusion; and

RESOLVED FURTHER, that the City of Midland continue to partner with local leaders towards the collection of data and the identification of local partnerships that will best facilitate a broad community discussion centered on diversity, equity and inclusion and our vision of being a community where everyone can thrive. (Motion ADOPTED by a Roll Call Voice Vote.)

MIDLAND COUNTY ROAD COMMISSION INFORMATION ROAD MILLAGE BROCHURE

The following resolution was offered by Councilman Arnosky and seconded by Councilman Brown Wilhelm:

WHEREAS, the City Engineer has indicated the need for street funding to keep the City's street system condition in good repair; and

WHEREAS, on May 5, 2020 the Midland County Board of Commissioners approved road millage proposal language to place a one mill road millage renewal on the August 4, 2020 Primary Election ballot; and

WHEREAS, City administration desires to produce and distribute an informational brochure related to the road millage ballot proposal; now therefore

RESOLVED, that the City administration is hereby authorized and instructed to prepare and distribute an informational brochure regarding the road millage proposal on the August 4, 2020 Primary Election ballot, and the City Manager is hereby authorized to invoice the Midland County Road Commission for its equal share of the brochure expenses. (Motion ADOPTED by a Roll Call Voice Vote.)

BROADHEAD ESTATES NO. 6 FINAL PLAT

The following resolution was offered by Councilman Arnosky and seconded by Councilman Brown Wilhelm:

WHEREAS, the Final Plat of Broadhead Estates No. 6 is in general conformance with the approved Preliminary Plat, and all requirements of Chapter 23 of the Code of Ordinances of the City of Midland have been met; now therefore

RESOLVED, that the City Council does hereby approve the Final Plat of Broadhead Estates No. 6 in accordance with Section 23-19 of the Code of Ordinances of the City of Midland; and

RESOLVED FURTHER, that the Mayor and City Clerk are hereby authorized to execute the contract for the requirement improvements; and

RESOLVED FURTHER, that the City Clerk is hereby authorized to execute the plat and record it on behalf of the City. (Motion ADOPTED by a Roll Call Voice Vote.)

SITE PLAN NO. 400

The following resolution was offered by Councilman Arnosky and seconded by Councilman Brown Wilhelm:

WHEREAS, the City Council has received the recommendation of the Planning Commission for approval of Site Plan No. 400, initiated by Archiverde LLC, for site plan review and approval of an expanded parking lot located at 1320 Waldo Avenue; and

WHEREAS, the City Council has reviewed the proposed Site Plan No. 400 in accord with the provisions set forth in Sections 27.02(A) and 27.06(A) of the Zoning Ordinance of the City of Midland; now therefore

RESOLVED, that the City Council does hereby approve Site Plan No. 400, contingent upon the following:

1. A final stormwater management plan and permit to the satisfaction of the City

Engineering Department.

2. An updated photometric plan to the satisfaction of the City Planning Department.
(Motion ADOPTED by a Roll Call Voice Vote.)

WTP JANITORIAL SERVICES 2020-21

The following resolution was offered by Councilman Arnosky and seconded by Councilman Brown Wilhelm:

WHEREAS, the Water Treatment Plant (WTP) has over 100,000 square feet of floor space that is cleaned and maintained, including open and treatment areas of the plant, office spaces, the laboratory, shop area, locker rooms, and restrooms; and

WHEREAS, for the past 26 years WTP staff has been pleased with the reliability, commitment, and cost-effective service that the Arnold Center of Midland special needs employees have provided, and would like to continue that business relationship; and

WHEREAS, the rate requested is \$3,000.00 per month, for a total annual cost of \$36,000.00; and

WHEREAS, the service contract between the City and the Arnold Center has been approved by the City Attorney as to form; and

WHEREAS, funds are available for that purpose in the 2020/21 Water Enterprise Fund Operating Budget; now therefore

RESOLVED, that the City Council hereby determines that sealed bids are impractical, and in accordance with Section 2-17 of the Code of Ordinances, the requirement for sealed proposals is hereby waived and the Mayor and City Clerk are hereby authorized to execute the service agreement with the Arnold Center of Midland for janitorial services at the City of Midland Water Treatment Plant, with a total annual amount not to exceed \$36,000.00. (Motion ADOPTED by a Roll Call Voice Vote.)

WASHINGTON WOODS INTEGRATED PEST MANAGEMENT AGREEMENT

The following resolution was offered by Councilman Arnosky and seconded by Councilman Brown Wilhelm:

WHEREAS, since 2018, Rose Pest Solutions has been providing Washington Woods with an all-inclusive pest control agreement; and

WHEREAS, the services provided by Rose Pest Solutions have been exemplary and the continuation of those services has been determined to be in the best interest of Washington Woods; and

WHEREAS, a new twelve-month, all-inclusive pest control agreement that has been renegotiated will see a decrease in cost; and

WHEREAS, Washington Woods wishes to identify and secure preventative pest control services for a one-year period with automatic renewals; and

WHEREAS, the cost of services is \$19,068.00 and sufficient funds are included in the approved 2021 budget for Washington Woods; now therefore

RESOLVED, that the City Council hereby waives the purchasing policy requirements of Section 2.17 of the Code of Ordinances; and

RESOLVED FURTHER, that the 2020 Integrated Pest Management and Pest Remediation Agreement between Rose Pest Solutions and the City of Midland is hereby approved allowing for automatic renewals each year unless either party gives notice in writing; and
RESOLVED FURTHER, that a purchase order in the amount of \$19,068.00 to Rose Pest Solutions is hereby authorized in accord with this resolution. (Motion ADOPTED by a Roll Call Voice Vote.)

ZONING TEXT AMENDMENT NO. 161

The following resolution was offered by Councilman Arnosky and seconded by Councilman Brown Wilhelm:

WHEREAS, a public hearing was held by the Planning Commission on Tuesday, June 23, 2020 to consider the advisability of amending the site plan review process of Article 27.00; now therefore

RESOLVED, that notice is hereby given that a public hearing will be held by the City Council on Monday, August 10, 2020, at 7:00 p.m. in the Council Chambers, City Hall, or will be held digitally due to the COVID-19 pandemic, for the purpose of considering the advisability of amending the Zoning Ordinance of the City of Midland, as set forth in the following proposed Ordinance, which is hereby introduced and given first reading; further consideration of adoption of this ordinance will be scheduled for Monday, August 24, 2020 and

RESOLVED FURTHER, that the City Clerk is hereby directed to publish said notice on July 24, 2020.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE NO. 1585, BEING AN ORDINANCE TO REGULATE AND RESTRICT THE LOCATION OF TRADES AND INDUSTRIES AND THE LOCATION OF BUILDINGS DESIGNED FOR SPECIFIC USES, TO REGULATE AND LIMIT THE HEIGHT AND BULK OF BUILDINGS HEREAFTER ERECTED OR ALTERED, TO REGULATE AND DETERMINE THE AREA OF YARDS, COURTS, AND OTHER OPEN SPACES SURROUNDING BUILDINGS, TO REGULATE AND LIMIT THE DENSITY OF POPULATION, AND FOR SAID PURPOSES, TO DIVIDE THE CITY INTO DISTRICTS AND PRESCRIBE PENALTIES FOR THE VIOLATION OF ITS PROVISIONS BY AMENDING THE ZONING ORDINANCE TO AMEND ARTICLE 27.00 THE SITE PLAN REVIEW PROCEDURES AND REQUIREMENTS.

The City of Midland Ordains:

Section 1. That Ordinance No. 1585, being the Zoning Ordinance of the City of Midland, is hereby amended as follows:

ARTICLE 27.00 SITE PLAN REVIEW

Section 27.02 -- SITE PLAN REQUIRED

A. Site Plan Required

Except as provided in the following subsection B, the construction of any new structures, development of any new use, and all other building or development activities shall require site plan approval pursuant to this Section. Site plan review shall be required for the following activities:

1. Erection, relocation, conversion or structural alteration to a building or structure to create an additional ~~seventy five hundred (7,500)~~ **fifteen thousand (15,000)** square feet of gross floor space, other than a single family dwelling or two family dwelling.
2. Development of all non-single family residential uses permitted in single family districts, regardless of the building square footage.
3. Expansion or paving of off-street parking involving ~~twenty-six (26)~~ **fifty-one (51)** or more spaces. All proposed parking lots and parking lot expansions are subject to the parking lot review and approval process in Section 5.01.D(1).

4. Mobile home parks shall be reviewed in accord with the standards set forth in this Article unless contrary to provisions of the Mobile Home Commission Act 1987, PA 96, as amended, and the Mobile Home Commission Rules.
5. All site condominium projects where ~~four (4)~~ **eleven (11)** or more detached dwelling units are proposed.
6. Erection, relocation, conversion or structural alteration to a building or structure that will result in a change in access provisions to adjoining streets.
7. Erection, or structural addition of at least one thousand square feet (1,000) of gross floor area to a commercial, industrial or office building or structure when located directly adjacent to RA-1, RA-2, RA-3, or RA-4 Residential Zoning districts.

B. Site Plan Not Required

Notwithstanding the preceding subsection a site plan approval is not required for the following activities:

1. Construction, moving, relocating or structurally altering a single or two-family dwelling, including any customarily incidental accessory structure.
2. Construction of any addition to an existing building or structure to create not more than an additional seven thousand five hundred ~~(7,500)~~ **fifteen thousand (15,000)** square feet of gross floor area, in aggregate, since the approval of a site plan under the preceding subsection A.

Section 27.03 -- SITE PLAN REVIEW APPLICATIONS AND PROCEDURES

A. Review and Approval Authority

All site plans shall be reviewed **and approved** by the Planning Commission and approved by the City Council following the procedures set forth in the following Section 27.04. The City Council **Planning Commission** shall have the authority to approve, approve with conditions, or deny all site plans.

27.04 -- REVIEW AND FINAL ACTION

B. Planning Commission Review and Approval by City Council

The Planning Commission shall review the site plan proposal together with any public hearing findings, reports and recommendations from the Planning and Community Development Department and any from other reviewing agencies. The Planning Commission shall then recommend that the City Council approve, approve with conditions, or deny, the proposal as follows:

1. Approval

Upon determination that a site plan is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the City Council **Planning Commission** shall approve the site plan. Site plan approval does not exempt the proposed development from any other applicable City Codes.

2. Approval Subject to Conditions

Upon determination that a site plan is in compliance except for minor modifications, the City Council **Planning Commission** may impose reasonable conditions upon the approval of the site plan. The conditions for approval shall be identified **in writing**, and the applicant shall be given the opportunity to correct the site plan.

If a plan is recommended for approval by the Planning Commission subject to conditions, the applicant shall submit a revised plan with a revision date, indicating compliance with the conditions. The applicant may re-submit the site plan to the City Council for approval after conditions have been met.

Conditional site plan approval does not exempt the proposed development from any other applicable City Codes.

3. Denial

Upon determination that a site plan does not comply with the standards and regulations set forth in this Article or elsewhere in this Ordinance, or requires extensive revision in order to comply with said standards and regulations, the City Council **Planning Commission** shall deny the site plan and set forth its reasons in writing.

C. Recording of Site Plan Review Action

Each action taken on a site plan review and the grounds for action shall be recorded in the minutes of the Planning Commission and ~~City Council~~.

After final action has been taken on a site plan and all steps have been completed, copies of the application and plans shall be marked APPROVED or DENIED, as appropriate, with the date that action was taken. One (1) marked copy shall be returned to the applicant and at least one (1) copy shall be kept on file in the Planning and Community Development Department.

D. Procedure After Site Plan Approval

1. Application for Building Permit

Following final approval of the site plan by the ~~Planning Commission City Council~~ or the Planning and Community Development staff, the applicant may apply for a building permit. The City may require engineering approval prior to issuance of the building permit. It shall be the responsibility of the applicant to obtain all other applicable City, County, State, or Federal permits prior to issuance of a building permit.

A building permit for a structure in a proposed condominium project shall not be issued until evidence of a recorded Master Deed has been provided to the City. However, the Building Official may issue permits for site grading, erosion control, installation of public water and sewage facilities, and construction for roads prior to recording the Master Deed. No permit issued or work undertaken prior to recording the Master Deed pursuant to this Section shall grant any rights or any expectancy interest in the approval of the Master Deed. The Master Deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The Master Deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association

2. Expiration of Site Plan Approval

If construction has not commenced within two (2) years of final approval of the site plan, the site plan approval becomes null and void and a new application for site plan review shall be required. The applicant may apply in writing to the ~~Planning Commission City Council~~ for an extension of the site plan approval. The ~~Planning Commission City Council~~ may grant an extension of up to twelve (12) months if:

- a. The applicant requests the extension prior to expiration of the previous approval, and
- b. The approved site plan adequately represents current conditions on and surrounding the site, and
- c. The site plan conforms to the current Zoning Ordinance standards.

E. Modification to Approved Plan

Minor modifications to an approved site plan may be approved by the Planning and Community Development staff.

1. Minor Modification Defined

Minor modifications are changes that do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public services, the danger from hazards, or the provision of any bonus item. Examples of minor modifications include:

- a. An addition to an existing commercial or industrial building that does not increase the floor space by more than twenty-five percent (25%) or ~~seventy five hundred (7,500)~~ **fifteen thousand (15,000)** square feet, whichever is less.
- b. Changes to building height that do not add an additional floor.

- c. Alterations or modifications involving less than **fifty-one (51)** ~~twenty-six (26)~~ parking spaces.
- d. Substitution of landscaping for equivalent species of landscaping.
- e. Off-site improvements that individually would otherwise be approved administratively by the city and that add to the safety, appearance or functionality of the approved site plan being amended.

The construction of a new building or structure with ~~7,500~~ **15,000** square feet or more of gross floor area, adding ~~twenty-six (26)~~ **fifty-one (51)** or more parking spaces, or deleting parking or the addition of curb cuts onto a public road are examples of modifications which are not considered minor. If the modifications are not deemed minor by the Planning and Community Development staff, then full review and approval by the Planning Commission and ~~City Council~~ shall be required.

2. **Recording of Action**

Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file. The ~~City Council~~ **Planning Commission** shall be advised of all minor site plan modifications approved by the Planning and Community Development staff and such modifications shall be noted on the site plan.

Section 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3. This Ordinance shall take effect upon publication. (Motion ADOPTED by a Roll Call Voice Vote.)

Being no further business the meeting adjourned at 8:31 p.m.

Erica Armstrong, City Clerk