

**CITY OF TRENTON
REGULAR MEETING
MARCH 2, 2015**

After the Pledge of Allegiance to the Flag, a moment of silence was observed in memory of former City Employees Alan Price and Alfred Liedel who passed away. The Regular Meeting of the City Council of Trenton, Michigan, was called to order by Mayor Stack, at 8:02 p.m. on the above date in the City Hall Council Chambers.

Present on roll call by City Clerk Patricia Gearhart: Councilpersons Timber Baun-Crooks, Dan Gillespie, Robert Howey, MaryEllen McLeod, Steven Rzeppa, and Mayor Kyle Stack.

There being a quorum present, the Council was declared in session.

Absent: Councilperson William LeFevre.

Moved by Councilperson McLeod, seconded by Councilperson Howey, to excuse the absence of Councilperson LeFevre.

Carried unanimously.

Other Officers Present: James Wagner, City Administrator; Wallace Long, City Attorney; John Dahlquist, City Assessor; Michael McCullough, City Treasurer; Christine Arnoczki, City Controller; Scott Church, Human Resources Director; Joann Gonyea, Parks and Recreation Director; Tim Beaker, Recreation Business Operations Manager; James Nardone, Police and Fire Services Director; and Steven Voss, Police Chief.

Moved by Councilperson McLeod, seconded by Councilperson Baun-Crooks, to recess to a Closed Session for the purpose of discussing litigation.

Roll call: Gillespie, Yes; Howey, Yes; McLeod, Yes; Rzeppa, Yes; Stack, Yes; and Baun-Crooks, Yes.

Motion carried.

Recessed at 8:03 p.m.

Moved by Councilperson McLeod, seconded by Councilperson Howey, to reconvene the Regular Council Meeting at 8:32 p.m.

Carried unanimously.

**RESOLUTION 2015-4
APPROVING COURT ORDER AND SETTLEMENT
OF CERTAIN DISPUTES REGARDING INDUSTRIAL USES
OF PARCELS OWNED BY TRENTON LAND HOLDINGS, LLC**

WHEREAS, the City of Trenton (the “City”) is presently in litigation with Trenton Land Holdings, LLC, a Michigan limited liability company, Detroit Steel Company, LLC, a Michigan limited liability company and Trenton Marine Terminal, LLC, a Michigan limited liability company (collectively, the “Owner”) regarding Owner’s use of those riverfront parcels, buildings and improvements owned by Owner, for industrial purposes; and

WHEREAS, the City is giving consideration to additional permitted uses by Owner of Owner’s riverfront parcels, buildings and improvements for industrial purposes as part of a resolution of the pending litigation between the parties; and

WHEREAS, the Owner continues to utilize the parcel for industrial purposes; and

WHEREAS, Michigan law recognizes the ability of property owners to maintain pre-existing non-conforming uses following a rezoning; the City recognizes and acknowledges that use of the site as an integrated steel mill and certain attendant activities associated therewith are permitted, non-conforming uses.

I. PERMITTED ACTIVITIES:

NOW THEREFORE BE IT RESOLVED THAT FIRST, as part of a resolution of the pending litigation between the parties, the City will recognize and acknowledge as permitted the following activities by Owner, subject to the limitations stated in Parts II and III below:

(a) deep water port operations limited to those materials and products identified in this Resolution Part I;

(b) manufacturing (but only with permits from City, State, county and/or federal authorities if required by Law). For purposes of this Resolution, “Law” means any law, statute, code or ordinance of any federal, state or local government or governmental agency or authority having jurisdiction thereof;

(c) the import, export and otherwise transfer to or from the site of machinery, equipment and the following materials and products (together with the on-site storage thereof subject to the limitations contained in Resolution Part III below on storage): metals, salt, stone aggregate, plastics, aluminum ingots, lumber, Steel, Raw Materials, and finished manufactured parts and attendant activities associated therewith (but only with permits and Certificates of Occupancy from City, State, county and/or federal authorities for storage, handling, disposal and transport thereof if required by Law). For the purposes hereof “Steel” includes but is not limited to hot rolled, cold rolled, bars, billets, wire rods, milled and unmilled slab steel. For the purposes hereof, “Raw Materials” means textiles, cotton, food products, sugar, grain and other unprocessed materials that can become food when processed;

(d) the receipt and use of Fuel on the site only as may be required for the operation of the site (but only with permits and Certificates of Occupancy from City, State, county and/or federal authorities for storage, handling, disposal and transport thereof if required by Law). For purposes hereof, “Fuel” means petroleum, oil, gasoline, propane, and diesel (provided the same is confined in industry standard containers). Natural gas may be supplied to the site by pipeline. No Fuel may be trans-loaded on the site;

(e) the use of such machinery, equipment, materials and products, subject to the permit conditions set forth above;

(f) the transfer of such machinery, equipment, materials and products from, to and among the various forms of water, rail and truck transportation (but, only if and when expressly required by this Resolution Part I, the City will be provided with advance notice of applications for, and copies of, any and all permits which are issued or applied for from City, State, county and/or federal authorities if required by Law, within seven days of final issuance);

(g) the leasing of any space on the site to any third party for use in accordance with the preceding "Permitted Activities" only, and only upon delivering to the City at least 14 days written advance notice of such proposed tenancy and the acquisition by each tenant of a permit and Certificate of Occupancy from the City as required by Law (except however, the use of the space, provided it is a Permitted Activity, will not be a reason for not issuing a Certificate of Occupancy); and

(h) any other use or activity approved by the City Council or for which a Certificate of Occupancy is issued by the City.

II. STRICTLY PROHIBITED ACTIVITIES:

BE IT FURTHER RESOLVED THAT SECOND, the City and Owner understand and agree that the non-conforming, and therefore strictly prohibited, activities at this site consist of the following activities:

(aa) use of the site as a truck depot (which is defined as any use of the property for home-based truck operations to be dispatched and returned to the site for future dispatches or for the long term (in excess of five business days) parking of empty trucks or trailers owned or operated by persons other than Owner and any Affiliate.) For purposes of this Resolution, an "Affiliate" means a company that controls, is controlled by or is under common control with the Owner including, Detroit Steel Company, LLC and Trenton Marine Terminal, LLC);

(bb) use of the site as a rail yard (which is defined as any use of the property for the parking or storage of more than 20 rail cars, whether empty or full, and whether owned by the Owner, any Affiliate or others, for a period of more than 15 consecutive days and not simply positioned for trans-loading);

(cc) storage of TEU ("twenty-foot equivalent units") and FEU ("forty-foot equivalent units") shipping containers, within 150 feet of the centerline of the abutting West Jefferson Avenue view and/or within 150 feet from the riverbank, or elsewhere on the property, for more than 30 consecutive days;

(dd) stacking of three or more TEU ("twenty-foot equivalent units") and FEU ("forty-foot equivalent units") shipping containers;

(ee) the long-term parking (in excess of seven days) of rail cars within 150 feet of the centerline of Jefferson Ave and/or within 150 feet from the riverbank, unless otherwise obstructed from reasonable view by terrain, vegetation, trees, buildings or with a permit, fencing;

(ff) inside or outside storage of petroleum-coke (which is defined as a black solid nonvolatile residue which is obtained as the final still product in the distillation of crude petroleum) or any derivative thereof, including calcinated pet coke, desulphurized pet coke and aluminum alloy containing pet coke;

(gg) any storage, inside or out, on, or imported to, or exported from, the site of (i) any explosives (defined as any article or device which is designed to function by explosion), (ii) any radioactive materials, (iii) any "hazardous waste" (as defined in the federal Resource Conservation and Recovery Act, 42 USC 6901 et seq. and the regulations promulgated thereunder at 40 CFR Parts 261 as attached and amended from time to time) unless otherwise (A) permitted by Resolution Part I above and (B) permits are obtained from City, State, county or federal authorities for storage, handling and transport thereof if required by Law; (iv) any toxic substances which are liable to cause death or serious injury to human health if inhaled, swallowed or by skin absorption, and (v) any biohazards; and

(hh) Any activity or use that is not expressly identified as a Permitted Activity described in Part I or as approved by the City Council as set forth in Part I(g).

III. LOCATION OF MATERIALS:

BE IT FURTHER RESOLVED THAT THIRD, the City and Owner understand and agree that any and all storage of machinery, equipment, materials and products pursuant to the Resolution Part I, must be:

(aaa) located inside a building; or

(bbb) if outside, either (i) located beyond 150 feet of the centerline of the abutting West Jefferson Avenue and beyond 150 feet of the riverbank, (ii) moved or used completely within five business days if located within 150 feet of the centerline of the abutting West Jefferson Avenue or within 150 feet of the riverbank, or (iii) obstructed from reasonable view by terrain, vegetation, trees, buildings or, with a permit, fencing.

IV. INSPECTIONS; REMEDIES OF CITY:

BE IT FURTHER RESOLVED THAT FOURTH, upon giving the Owner at least 24 hours advance notice, the City will have the right to visually inspect the property, during regular business hours, for the purposes of determining whether the Owner is and has been in compliance with the terms of this Resolution. Additionally, upon reasonable advance notice of no less than three days, the federal Environmental Protection Agency will be granted access to the property to complete environmental assessment activities for purposes of processing the application for a Brownfield Assessment Grant made by the City. Moreover, if the Owner, any Affiliate, tenant or any other invitee conducting activities or making use of the property is in breach or default of the terms of this Resolution, the City will give the Owner written notice thereof and within 5 business days, there will be a conference between representatives of the City and Owner to discuss the matter. If within the following 5 business days, the City has not received assurance of compliance, satisfactory to the City, the City will have and may exercise, any and all of the rights and remedies afforded the City by law or in equity. The rights and remedies of the City are cumulative. If it is determined by a court having jurisdiction thereof, by a final order that is not appealed and for which the time for appeal has expired, that any provision of Resolution Part I, Resolution Part II or Resolution Part III has been violated by Owner, the Owner shall not be allowed to use the property for any Permitted Activity conducted for the first time.

V. APPROVAL OF COURT ORDER AND SETTLEMENT:

BE IT FURTHER RESOLVED THAT FIFTH, the City approves (a) the proposed Court Order dismissing the pending litigation with Owner (appended hereto under Tab 1) and (b) the Settlement Agreement and Release by and between the City and Owner.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Trenton, this 2nd day of March 2015.

Moved by Councilperson McLeod, seconded by Councilperson Baun-Crooks, to approve the resolution approving court order and settlement of certain disputes regarding industrial uses of parcels owned by Trenton Land Holdings, LLC, and authorize the Mayor and City Clerk to sign the resolution on behalf of the City of Trenton.

Carried unanimously.

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

Moved by Councilperson McLeod, seconded by Councilperson Baun-Crooks, to approve the settlement agreement and release of claims with Trenton Land Holdings, LLC, Detroit Steel Company, LLC and Trenton Marine Terminal, LLC, collectively, and authorize the City Administrator to execute same on behalf of the City of Trenton.

Carried unanimously.

Attorney Steven Ribiat of Brooks, Wilkins, Sharkey and Turco, spoke to the Mayor and City Council regarding the settlement with Trenton Land Holdings, LLC/Detroit Steel Company.

Moved by Councilperson McLeod, seconded by Councilperson Baun-Crooks, that Resolution 2015-4, Approving Court Order and Settlement of Certain Disputes Regarding Industrial Uses of Parcels Owned by Trenton Land Holding, LLC, will not become effective until all parties necessary have signed the Settlement Agreement and Release of Claims.

Carried unanimously.

MINUTES

Moved by Councilperson McLeod, seconded by Councilperson Howey, to approve the minutes of the Regular Meeting of February 17, 2015.

Carried unanimously.

APPOINTMENTS

Downtown Development Authority

Moved by Councilperson McLeod, seconded by Councilperson Baun-Crooks, to approve the Mayor's re-appointment of Suzanne Wallace to the Downtown Development Authority.

Roll call: Howey, Yes; McLeod, Yes; Rzeppa, Yes; Stack, Abstain; Baun-Crooks, Yes; and Gillespie, Yes.

Motion carried.

COMMUNICATIONS AGENDA

GENERAL

- B-1. 33RD DISTRICT COURT: Fines, Costs, Fees, January 2015
- B-2. THE SENIOR ALLIANCE: FY 2015 Match Request

GROUPS AND ORGANIZATIONS

- C-1. AMERICAN LEGION/VFW POST 1888: Annual Poppy Day Sale
- C-2. ST. PAUL LUTHERAN CHURCH: Raise the Roof Run

DEPARTMENT HEADS & OFFICIALS

- D-1. PARKS AND RECREATION: Buzz Magazine Printing
- D-2. PARKS AND RECREATION: Organized Recreation Employment
- D-3. PARKS AND RECREATION: Kennedy Aquatic Center Pool Resurfacing Recommendation
- D-4. POLICE DEPARTMENT: 2015 Chevrolet Tahoe Police Vehicles

LATE COMMUNICATIONS

- L-1. ENGINEERING: DTE Lighting Upgrade with LED, Contract 2015-08

COMMUNICATIONS

(B-1)

33RD DISTRICT COURT
Fines, Costs, Fees, January 2015

Moved by Councilperson McLeod, seconded by Councilperson Howey, to receive and place on file the Fines, Costs, Fees, January 2015, submitted by the 33rd District Court showing the City of Trenton receiving \$14,519.39.

Carried unanimously.

(B-2)

THE SENIOR ALLIANCE
FY 2015 Match Request

Moved by Councilperson Rzeppa, seconded by Councilperson Baun-Crooks, to approve the payment of \$1,567.00, to The Senior Alliance for the FY 2015 match.

Carried unanimously.

(C-1)
AMERICAN LEGION/VFW POST 1888
Annual Poppy Day Sale

Moved by Councilperson Baun-Crooks, seconded by Councilperson Howey, to grant permission to the American Legion and the Trenton VFW to distribute poppies in the City of Trenton on May 7, 8, and 9, 2015, under the direction of the Police Department.

Carried unanimously.

(C-2)
ST. PAUL LUTHERAN CHURCH
Raise the Roof Run

Moved by Councilperson Baun-Crooks, seconded by Councilperson Howey, to approve the temporary street closure request to hold a 5K Charity Run on Saturday, June 13, 2015, from 8:30 a.m. to 10:00 a.m., commencing on Nichols to Charlton, to McLouth Park and back to Nichols, with supervision of volunteers, under the direction of the Police Department.

Carried unanimously.

Shawn McNamara thanked the Mayor and City Council for their support last year and spoke about the event.

(D-1)
PARKS AND RECREATION
Buzz Magazine Printing

Moved by Councilperson Baun-Crooks, seconded by Councilperson Rzeppa, to concur with the recommendation of the Parks and Recreation Director and award the printing of the Buzz Magazine to Printwell, Inc., who provided the lowest quote, in the amount of \$7,495.00, with funding from the Magazine Advertisements Sales Account (285-692-985.049), and to reject the other bids.

Carried unanimously.

(D-2)
PARKS AND RECREATION
Organized Recreation Employment

Moved by Councilperson McLeod, seconded by Councilperson Howey, to authorize the Parks and Recreation Department to hire Andrea Segedi, as a Summer Program Aide.

Carried unanimously.

(D-3)

PARKS AND RECREATION

Kennedy Aquatic Center Pool Resurfacing Recommendation

Moved by Councilperson Baun-Crooks, seconded by Councilperson McLeod, to concur with the recommendation of the Parks and Recreation Director and award the bid for the resurfacing of the Kennedy Pool to the lowest bidder meeting specifications, Clearwater Pools and Services of Ann Arbor, in the amount of \$136,675.00, with funding from the Capital Improvements Account (042-265-988.025) and to reject the other bids.

Carried unanimously.

(D-4)

POLICE DEPARTMENT

2015 Chevrolet Tahoe Police Vehicles

Moved by Councilperson Gillespie, seconded by Councilperson Rzeppa, to concur with the recommendation of the Police Chief to waive the usual bidding process and approve the purchase of two Chevrolet Tahoe Police Vehicles, from Berger Chevrolet of Grand Rapids, in the amount of \$81,471.82, with funding from the Police Department State Forfeiture Account (289-307-988.000).

Carried unanimously.

(L-1)

ENGINEERING

DTE Lighting Upgrade with LED, Contract 2015-08

Moved by Councilperson Baun-Crooks, seconded by Councilperson Gillespie, to authorize the City Engineer to proceed and process the DTE purchase order and rebate application for the conversion of 429 mercury vapor street lights to LED, in the amount of \$101,572.00; with funding from a DTE Energy Optimization Rebate, in the amount of \$19,708.00, and the Street Lighting Account (101-450-926.000) in the amount of \$81,864.00.

Carried unanimously.

DISBURSEMENTS AND STATEMENTS

Moved by Councilperson McLeod, seconded by Councilperson Howey, that the Authorized Disbursements, per the March 2, 2015, schedule, be approved, in the amount of \$1,592,698.27.

Carried unanimously.

Moved by Councilperson McLeod, seconded by Councilperson Howey, to approve the disbursement payable to Certified Alarm, in the amount of \$60.00.

Roll call: McLeod, Yes; Rzeppa, Yes; Stack, Yes; Baun-Crooks, Yes; Gillespie, Abstain; and Howey, Yes.

Motion carried.

REPORTS

Moved by Councilperson McLeod, seconded by Councilperson Howey, to receive and place on file the Commission and Board Reports, March 2, 2015.

Carried unanimously.

COMMENTS FROM THE COUNCIL AND OFFICIALS

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| Councilperson McLeod | * Congratulated her daughter Stephanie McLeod on getting into Vet School; Unable to make Budget Session on March 23 rd , consider rescheduling to March 26 th . |
| Councilperson Baun-Crooks | * Wished the Mayor good luck with surgery. |
| City Clerk Gearhart | * Reminded residents of daylight savings time this weekend "spring forward"; Next Regular Council Meeting is Monday, March 16 th . |
| City Assessor Dahlquist | * State of Michigan conducting audits of local assessing departments, homeowners may be contacted by Tax Management Associates, if visited please request identification; Assessment notices have been mailed; March Board of Review. |

MOTION TO ADJOURN by Councilperson McLeod, seconded by Councilperson Howey, at 9:05 p.m.

APPROVED BY:

KYLE F. STACK, MAYOR

PATRICIA M. GEARHART, CITY CLERK

MINUTES PREPARED BY: Debra R. Devitt, Deputy City Clerk
APPROVED ON: _____

INFORMATIONAL ITEMS:

1. STATE OF MICHIGAN BEFORE THE MICHIGAN SERVICE COMMISSION: Notice of Hearing for the Natural Gas Customers of DTE Gas Company, Case No. U-17763.