CITY OF CADILLAC MICHIGAN

City Council Meeting

December 16, 2024
6:00 p.m.

Cadillac Municipal Complex
Council Chambers
200 N. Lake St.
Cadillac, MI 49601

CITY OF CADILLAC MICHIGAN

December 16, 2024 City Council Meeting Agenda
6 p.m. at City Hall - 200 N. Lake St. – Cadillac, MI 49601

We support each other in serving our community

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL

I. APPROVAL OF AGENDA

II. PUBLIC COMMENTS

This opportunity for public comment provides the public with a chance to make a statement regarding any subject matter. Public comment is not an opportunity to necessarily ask questions or converse with City Staff, Council Members or other meeting attendees. Contact information for Council and staff is available on our website, www.cadillac-mi.net, or can be obtained by calling (231) 775-0181. Comment time is limited to 3-minutes, and unused time may not be yielded back or given to someone else to use.

III. CONSENT AGENDA

All items listed on the consent agenda are considered routine and will be enacted by one motion with roll call vote. There will be no separate discussion of these items unless a Council Member so requests it, in which event the items will be removed from the consent agenda and discussed separately.

A. Minutes from the regular meeting held on November 18, 2024
Support Document III-A

IV. APPOINTMENTS

A. Recommendation regarding reappointment to the Cadillac Historic Districts Commission.
Support Document IV-A

B. Recommendation regarding reappointment to the Cadillac Historic Districts Commission.
Support Document IV-B

C. Recommendation regarding appointment to the Cadillac West Corridor Improvement Authority.
Support Document IV-C

V. CITY MANAGER'S REPORT

A. Bids and recommendation regarding The Market Renovations Project.
Support Document V-A

B. Calendar Year 2025 Council Meeting Schedule
Support Document V-B

VI. INTRODUCTION OF ORDINANCES

A. Adopt resolution to introduce Ordinance Vacating a Portion of West Nelson Street and Reserving a Public Utility Easement in Favor of the City of Cadillac and set a public hearing for January 21, 2025.
Support Document VI-A

VII. ADOPTION OF ORDINANCES AND RESOLUTIONS

A. Adopt Resolution Amending General Appropriations Act for Fiscal Year 2025.
Support VII-A

B. Adopt Ordinance to Amend Sections 46-4, 46-186, and 46-216 of the Code of Ordinances.
Support Document VII-B

VIII. PUBLIC COMMENTS

This opportunity for public comment provides the public with a chance to make a statement regarding any subject matter. Public comment is not an opportunity to necessarily ask questions or converse with City Staff, Council Members or other meeting attendees. Contact information for Council and staff is available on our website, www.cadillac-mi.net, or can be obtained by calling (231) 775-0181. Comment time is limited to 3-minutes, and unused time may not be yielded back or given to someone else to use.

IX. GOOD OF THE ORDER

X. CLOSED SESSION

Adjourn to closed session pursuant to MCL 15.268(1)(h) to consider a confidential written legal opinion, which is exempt from discussion or disclosure by state or federal statute.

XI. ADJOURNMENT

Core Values (R.I.T.E.)
Respect
Integrity
Trust
Excellence

Guiding Behaviors
We support each other in serving our community
We communicate openly, honestly, respectfully, and directly
We are fully present
We are all accountable
We trust and assume goodness in intentions
We are continuous learners

CITY COUNCIL MEETING MINUTES
November 18, 2024
Cadillac City Hall - 200 N. Lake St. - Cadillac, Michigan 49601

CALL TO ORDER

Mayor Filkins called the City Council meeting to order at approximately 6:00 pm.

PLEDGE OF ALLEGIANCE

ROLL CALL

Council Present: Elenbaas, Schippers, Engels, King, Mayor Filkins
Council Absent: None
Staff Present: Peccia, Roberts, Dietlin, Wallace, Ottjepka, Homier, Wasson

APPROVAL OF AGENDA

2024-221 Approve agenda as presented.
Motion was made by Elenbaas and supported by Engels to approve the agenda as presented.

Motion unanimously approved.

PUBLIC COMMENTS

Robb Munger commented about the interaction between Council Members. He noted it can impact developers wanting to invest in the City.

Pat Ponczek noted many concerned citizens have spoken about the negative impact of short-term rentals.

Art Stevens noted the Public Act states LDFA Board Members are appointed by the City Manager and approved by the governing body.

Andrea Lilly commented on communication regarding PFAS test results and the recent town hall meeting.

Andy VanAlst expressed concerns about the proposed bed and breakfast and zoning changes.

Audrey Wood commented on the recent town hall meeting regarding PFAS.

Bill Barnett talked about PFAS testing on 30 wells in the North Park area and asked Council to consider testing the remaining 97 wells.

John Saari stated bed and breakfasts should be allowed in all zones because Cadillac is a tourist destination.

Andy Ulrich noted he brought the proposal for a bed and breakfast forward. He stated the home operated as a bed and breakfast for many years.

Jerry Olson stated he lives on a dirt street and hasn't seen the Street Department go down it in over 2 months.

CONSENT AGENDA

2024-222 Approve consent agenda as presented.
Motion was made by Schippers and supported by Elenbaas to approve the consent agenda as presented.

Motion unanimously approved.

COMMUNITY SPOTLIGHT

A. Local Development Finance Authority (LDFA) Update

Charles Barbieri, Foster Swift, noted the LDFA has represented a unique effort of this community to address contamination that existed from industrial sources that consisted of volatile organic compounds (VOCs), primarily TCE, and chromium contamination. He stated while that focus remains, it has made adjustments to accommodate and respond to the recent emergence of the per- and polyfluoroalkyl substances, also known as PFAS.

Barbieri stated Cadillac's former industrial area, which was near its former wellfield, had several different sources, but the primary sources were Northernaire Plating, which was found to be responsible for the hexavalent chromium and Kysor which apparently released volatile organic compounds, including the TCE.

Barbieri stated because those contaminants spread and mixed, in 1989, the U.S. EPA proceeded to designate these sites as Superfund sites and issued a plan to address that contamination through groundwater treatment and site use restrictions. He noted the LDFA, created by and through the efforts of the City, was formed to acquire, construct, install, and operate that Superfund cleanup system.

Barbieri stated the City established a special assessment district to finance that cleanup by the LDFA. He noted the LDFA, in undertaking this work, has done so voluntarily and without assuming the Superfund liability itself. He stated that liability, under Superfund, is placed on the owners, the operators, the generators, and the transporters of the hazardous substances. He stated the LDFA has undertaken this unique approach, in part to spur and support industrial developments in the City.

Barbieri stated because of those efforts, we can report that the chromium cleanup is largely completed. He noted the treatment involving granulated activated carbon was able to meet and achieve the cleanup goal that was set a few years ago. He stated as for the volatile organic compound cleanup, which involves air stripping to control and reduce the volatile organic compound contamination, that cleanup is continuing, and as a result of the last optimization study done several years ago, is expected to be completed in the 2040 decade.

Barbieri stated the emergence of PFAS has altered that to some extent, and even though the chromium cleanup met its goals a few years ago, concerns were expressed by the U.S. EPA about the PFAS substances. He noted the LDFA, when confronted about this, pointed out that it was limited by the requirements that the LDFA set out to do and it was only going to perform the cleanup that the volatile organic compounds and the chromium contamination presented. He stated while the LDFA declined to test for PFAS, EGLE agreed to test and did so in 2021 and 2022, and that testing did not show PFAS constituents in excess of EGLE's criteria. He noted since that time, the U.S. EPA has proceeded to adopt its own PFAS criteria, and in a few cases, that is slightly lower than EGLE's criteria. He stated the U.S. EPA's criteria took effect in July 2024 and EGLE is expected to adopt that probably over the next year.

Barbieri stated for the time being, the EPA has not proceeded to relieve the LDFA of the ongoing chromium cleanup because it would like the LDFA to perform certain PFAS testing according to U.S. EPA procedures, which is called the Quality Assurance Project Plan (QAPP). He noted that QAPP program and protocol was submitted by the City through its consultant, and the LDFA is waiting for approval from the U.S. EPA to perform PFAS testing in the cleanup zone as part of the U.S. EPA request. He stated the LDFA has gone beyond that request from the U.S. EPA because, on its own, it decided to do some tests of the effluent that it recovers as part of the cleanup system in the chromium cleanup. He noted it tested what flows in from the recovery wells, and there was some PFAS in that, but it also tested the effluent or the outfall that is discharged. He stated the after-treatment condition of the water does not exceed EGLE's surface water quality criteria. He noted there is some small level of PFAS in the discharge, but it's even below the U.S. EPA's new drinking water criteria which wouldn't apply because no one is drinking the discharged water going into the Clam River.

Barbieri stated the LDFA has also proceeded to do an audit with the City's assistance of what wells could still be in the restricted zone that are not hooked up to City water. He noted three residential wells were found to be in use and the City has already helped one residence to hook up and a second residence will hopefully be hooked soon. He stated the third residence of a college student in the UP, he hopes will also be connected too.

Barbieri stated in the meantime, the LDFA has also met with the U.S. EPA and EGLE before and as part of the MPART presentation that was alluded to in some of the public comments. He noted as a result, EGLE has tested a few wells and the LDFA has cooperated with that and asked that some volatile organic compounds be tested for, and the LDFA has also indicated that if the volatile organic compounds are detected, it might also arrange to do testing for chromium too.

Barbieri stated, in summary, the testing for PFAS will be conducted using the U.S. EPA approval of QAPP for testing in the cleanup zone. He noted the LDFA will be cooperating with EGLE to perform additional testing that is occurring through EGLE's efforts in Haring Township. He stated, in addition, the LDFA at its last meeting has agreed to continue some testing in the vicinity of the cleanup zone and is also seeking proactively for approval to recapture and treat groundwater potentially contaminated with PFAS from two wells, S1 and S2, even though the LDFA is not required to do so.

Barbieri stated the LDFA is in the process of retaining an environmental consultant through an RFP process, which will consider and evaluate PFAS issues. He noted as a result of an additional direction from the LDFA, legal input has been sought from the law firm of Warner Norcross & Judd as to LDFA responsibilities and those items will be reported as they occur. He stated there is an LDFA meeting scheduled for December 2, 2024.

Barbieri stated currently safety measures to the best of the abilities of the city, township and the LDFA are occurring. He noted new well fields have been in place so that anybody connected to the City water system will receive the new wellfields drinking water that's free of PFAS. He noted the groundwater restriction ordinances are being evaluated and, if necessary, they will be enforced. He stated he believes the LDFA has responded appropriately and has a history of responsiveness to the concerns that this community set out to have accomplished in the Cadillac area.

INTERVIEWS FOR THE LOCAL DEVELOPMENT FINANCE AUTHORITY APPOINTMENT

Mayor Filkins noted two individuals have expressed interest in serving on the LDFA.

King asked if there is a process for appointing members when there is more than one applicant. He noted it appears the statute provides a process to appoint, and it states the chief executive shall appoint and then approved by Council. He stated he wants to make sure we follow the right process. He noted if Mr. Peccia is able to interview these gentlemen and propose a name, he thinks that would be the right process to follow because it's pretty black and white in the state statute.

City Attorney Homier explained that the LDFA was part of a larger scope of statutes that were consolidated into one in 2018. He noted the LDFA statute, Mr. King referenced, says the authority shall be under the supervision and control of a board of seven members appointed by the chief executive officer of the city, village, or urban township creating the authority subject to the approval of the governing body creating the authority. He stated this means it's the chief executive official of the city, then with confirmation by the city council. He noted your Charter defines the chief executive as the mayor and the manager is described as the chief administrative officer, which are two very different things. He stated it is his understanding, because we inquired about what had happened in the past, was nobody could recall the city manager ever appointing a member to the LDFA. He noted whether functionally that's happened or not is beyond the scope of his knowledge, but his understanding is it's never happened that way. He stated the mayor has the authority to appoint subject to approval by the city council and the manner in which you make those appointments, he will leave to the discretion of the mayor and the city council.

Homier stated he doesn't think interviews are prohibited but they are not required either. He noted the manner in which the appointments are made is simply appointment by the chief executive, and confirmation by the city council.

Mayor Filkins stated, not with the LDFA, but in the past when we have had more than one person that has been interested, we've received their application, resume, and background but then we also took the opportunity to do interviews of the two individuals. She noted the two individuals are here tonight so she thinks that it would be good if we as a Council would give them the opportunity to answer the interview questions so that we might understand better who we'd like to see serve on the board.

King stated he believes Mr. Homier is incorrect that the chief executive officer of the City is the Mayor. He noted we are not a strong mayor community. He noted the chief executive officer is the manager and it seems meaning without distinction, but it has very specific distinction. He stated the Charter goes on to say in Section 7.1 about the mayor has ceremonial duties and is to head and run the meetings, but all council members are equal and with one vote. He stated he doesn't think it puts the responsibility on the mayor to be able to decide, it is on the chief executive who is our manager because we are manager run.

King stated the reason he's taking the time to do this is because he thinks we've seen publicly there is a mistrust about us following procedures and following what we're supposed to do. He noted he believes Mr. Peccia has the ability to review who the people are and make a recommendation to us so the public sees that we are following the proper process.

Homier noted Section 7.1 of the Charter says, quote, for all statutory and ceremonial purposes, the mayor shall be the executive head of the city, which, again this is Act 57 of 2018, a statutory purpose that names the chief executive, not the chief administrative official. He stated under the Charter the mayor is the chief executive official and the manager is the chief administrative official. He added if you're going to read that language in concert with the statute, it is the chief executive and not the chief administrator.

Peccia stated that City Council, should they wish to move forward tonight, has the ability to do so. He noted as an alternative, if the Mayor wants to conduct interviews with the two applicants, he would be happy to help facilitate that and be a part of that process. He stated the Mayor could bring it back at the next meeting with her recommendation.

King stated that it puts the Mayor in a position higher than the other four Council Members. He noted he doesn't agree with Mr. Homier. He noted he thinks that because we are a Council/Manager City, the City Manager is the CEO of the City. He stated there is a danger if the Mayor takes on that role, she's putting herself above the other four Council Members in making decisions and he believes that violates the Charter and he wants to be careful because people are concerned about us following the proper procedure.

Mayor Filkins stated that before the meeting this evening, the City Manager mentioned that there was something on the website that he thought was incorrect and asked him to speak to that.

Peccia stated under the LDFA page, it incorrectly referenced the city manager making the appointments and we have since changed that.

Homier noted Section 7.1 of the Charter talks about the mayor being the executive head of the city and 7.2(b), says, quote, the city manager shall be the chief administrative officer of the city. He stated there's a difference between executive and administrative and that's reflected then in the statute that talks about the chief executive, not the chief administrative. He noted there are other statutory references that use similar language, for instance, in the Zoning Enabling Act, the mayor has the authority to appoint members subject to confirmation by the city council, which is the same sort of scenario statutorily, but here in this act, under that section regarding the LDFA, it clearly says they're appointed by the chief executive.

Homier noted he looked at history to see how the City had handled it in the past, and he could only go back so far, but there wasn't an instance that we were able to identify where the City Manager had appointed LDFA members subject to Council confirmation.

King stated if the public is looking at our City website and it's saying that the City Manager has the responsibility, he asked when did it get changed. He noted he didn't receive any notice that there was an error or that there was a change in our procedure.

Peccia stated it was brought to his attention this afternoon and was changed within an hour.

King stated his biggest concern is this issue of trust with the public. He noted it was changed without us knowing about it, and without the public knowing about it.

Peccia asked how we would have identified that to the public. He noted when we learned of the error, we changed it.

King stated discussing it with us, discussing how the process is going to go, and then us determining where to go from there would have been the most straightforward way to do it.

Homier stated the Home Rule City Act, MCL 117.3, also says that the mayor is the chief executive of a city so that's why there's this differentiation between executive and administrative reflected, we believe, in the statutory process on who has the authority to appoint, subject, of course, to confirmation by the City Council.

Schippers noted we have two highly qualified candidates. She stated when we had to appoint somebody for different things and there was more than one candidate, we actually did this process, not for the LDFA, but for example, to replace someone on Council. She noted she is uncomfortable with just the Manager interviewing people and making a recommendation. She stated if our candidates are amenable to this, I don't see how this violates anything and then we could all hear what their thoughts are on these questions and then make a determination. She noted she doesn't see that it could be a bad thing to have us all get more information.

King stated it's not whether it's a bad thing or not, it's that there's a process set up, it's statutory, and there's been concern already that processes aren't followed. He noted if there is something that would make more common sense than what our Charter says, and we think it just makes more sense to do it, we don't have the right to change that process.

Schippers noted we have a legal opinion by the City Attorney that this process is within our rights. She stated that we also have an opinion that the Mayor is the chief executive, which Council Member King disagrees with.

King stated when it says mayor or manager, that is in relation to cities that are strong mayor and mayor-led cities versus manager-led cities. He noted to him that is clear and understands the City Attorney is saying it's not clear. He stated all it would take is for us to put it on the next agenda and to have a name proposed to us.

Mayor Filkins proposed that we table this discussion. She stated she thinks there needs to be more clarification about the change and communication with the Council about how or why it was changed so that we all understand it going into the next meeting.

Schippers noted she would ask that if it is determined that it's the City Manager who does the interview and makes the recommendation that we as a Council can appoint a committee to be part of that instead of it just saying the Mayor and Marcus.

King stated he heard from a couple of the LDFA members asking if they could be part of this process and he thought it was a great idea. He noted he thought part of our conversation tonight was going to be, do we want to involve the current LDFA board members in the process.

Mayor Filkins noted she does like the idea of a subcommittee with LDFA members, with Council Members, and the two candidates.

Peccia asked when we talk about clarification are we asking for a legal opinion.

Engels stated he would like to see a longer, more thoughtful legal opinion from the lawyer so that it's clear. He noted he would like to have a closed session and hear the legal opinion from our lawyer on this specific clarification.

Mayor Filkins stated if we are asking for a legal opinion in closed session, how are we going to be bringing this back to our next meeting.

King stated he made a motion to table this, to be able to make sure we're following the process. He noted he doesn't think the legal opinion has to be a closed session legal opinion. He stated he thinks we can take the input from the City Attorney and decide what we want to do. He noted if the Manager interviews the two candidates, he's not sure that in that process the Manager couldn't decide to involve the LDFA board members as long as the two candidates are open to it and to do it in a setting where other people can participate.

Peccia stated if City Council is going to request for the legal opinion to be shared as part of your public session, Council will need to waive that privilege.

Homier noted the legal opinion can be provided early and then the City can decide whether it wants to adjourn to closed session or waive privilege.

2024-223 Table interviews for LDFA appointment.

Motion was made by King and supported by Elenbaas to table this item on the process of the appointment of candidates for the LDFA board and pending legal opinion that's been requested.

Motion unanimously approved.

APPOINTMENTS

A. Recommendation regarding reappointment to the City of Cadillac/Clam Lake Joint Planning Commission.

2024-224 Approve reappointment to the City of Cadillac/Clam Lake Joint Planning Commission.
Motion was made by Elenbaas and supported by Engels to approve the reappointment of David Bunce to the City of Cadillac/Clam Lake Joint Planning Commission for a 3-year term to expire on November 18, 2027.

Motion unanimously approved.

ADOPTION OR ORDINANCES AND RESOLUTIONS

A. Adopt Ordinance to Amend Sections 46-4, 46-186, and 46-216 of the Code of Ordinances.

   Peccia noted this was before City Council previously and ultimately was remanded back to the Planning Commission for them to have further discussion and analysis.

   John Wallace, Community Development Director, noted the first proposed zoning ordinance amendment was to provide a definition for a bed and breakfast. He stated the second two amendments were to add it to the RM-1 and the RM-2 under the special use sections. He noted that does not necessarily mean they would always be approved in those districts but it would create a pathway where they could be evaluated by the Planning Commission and acted upon based on the special land use standards for the bed and breakfast.

   Wallace reviewed a Memorandum: Bed & Breakfast Zoning Ordinance Amendment which was included in the Council packet (see attachment).

King asked about the history of the home. He asked if it was a bed and breakfast before, how was it a bed and breakfast before that led us into this.

Wallace stated he's not sure we can determine how it was approved as a bed and breakfast. He noted he believes it was done by special use permit, which we're proposing again. He stated he thinks we did find that it was revoked and that's why the focus on trying to create a pathway again, because it would have stayed with the land and been able to be done without a reapproval if they had never revoked it. He added he's not sure why it was revoked.

King asked if it was approved, are we missing something that they simply don't have to reapply for it there now.

Wallace stated there is evidence that the Planning Commission took action to revoke it. He noted he doesn't think it's specified that they were doing it for some inappropriate action, or merely that somebody quit doing it, so they thought it was a good idea just to terminate it to run with the land.

King stated in a situation where special uses are allowed and then one landowner may have it revoked, it doesn't stop another person from reapplying for a special use. He asked if that is something that could be done in this case especially because we don't see that anything egregious had occurred which resulted in the revocation. He asked, in other words, if you find the history, could Mr. Ulrich reapply for a special use as a B&B as it was historically.

Peccia noted the concern that John and the department had, was that they didn't see that use expressly permitted in the list of uses.

Wallace stated there's been times when we've considered for special use something very similar that's identified, but if there's not something that's pretty closely tied to that particular use, we feel like we're reaching too far out on a limb to let people apply for things that aren't specifically stated.

King asked if it was previously approved and it's not revoked because it was specifically excluded, if it was just revoked for whatever reason or condition and there's nothing egregious, would there be any problem in reapplying for that property and going through the special use permit process.

Homier stated he doesn't believe so, except to the extent that the ordinance did not expressly provide for that as a land use permitted by special use permit. He noted zoning ordinances are permissive, meaning that if it's not in there, generally speaking, it's prohibited. He noted that's why in those specific districts, because you couldn't possibly name every potential land use for every district, unless it's permitted, it's prohibited. He stated if you want to allow bed and breakfast as a special use, then you should amend the ordinance to provide for that land use.

King asked is it spot zoning if that house was permitted to be a bed and breakfast in the past and we see no reason that it was revoked for a nefarious activity that it couldn't go through the Planning Commission and Council with public input and be approved for that special use again.

Homier stated he thinks the problem is you would be permitting a use by special use permit that is not actually permitted in that district by special use. He noted if the city had issued a special land use permit and then amended the ordinance to now exclude that use from that zoning district, but the property had been used for that all along then it would constitute a legal non-conforming use that could continue subject to applicable non-conforming uses. He stated in this instance the permit was revoked so any future uses must conform with whatever regulations apply to that district unless you change the regulation, which is a legislative decision.

Wallace noted we also wanted to clarify where we could consider it, because if we did it by special use without being named, then we can conceivably consider it in a single-family district by special use without being named, and then we would be broadening the scope, and we didn't want to do that. He stated we wanted to be more deliberate about where it would be an appropriate use.

Mayor Filkins stated this is simply opening the process, adding the bed and breakfast in there as a use, but if anyone else was looking at doing a bed and breakfast, they would have to go through this entire process.

Schippers stated when you look at the other special land uses permitted which are, recreational activities, offices, businesses, business dwelling mix, family shelter, group shelter, mobile home parks, et cetera, this just adds another use that can be put in through a special use permit. She noted she thinks it would be contradictory to say, well, can't we just do a special use without it being one of the listed special uses. She stated she thinks this makes a lot of sense and it doesn't mean there's going to be a flood of bed and breakfasts. She noted it means that we are making this a legal use to be able to apply for a special use permit. She stated once that permit is applied for, that's when the neighbors are contacted, everybody has a say in whether or not this is a good spot for it, and then it can be approved or not.

Mayor Filkins noted based on the questions that came back to them, the Planning Commission reaffirmed the decision that they made so they were very thoughtful in that process, and this simply now allows the process to happen. She stated if he continues to move forward with it, then those contacts are made to the neighbors and we start the whole process all over again.

King asked if there is a reason why we don't have the option of an overlay. He noted, specifically, what we just did with the apartments that we approved, we did the downtown PUD versus the outlying PUD, as to why an overlay along that area wouldn’t be a better method for the special use for a B&B, rather than changing all of the RM-1 and RM-2.

Wallace stated you could do an overlay, but the problem is it would be very difficult to know in advance so much about the housing stock that we knew where some of these situations already existed. He noted it would be difficult to know in advance were there homes that were designed to be bed and breakfasts. He stated to some degree we're picking where it's appropriate by doing it by district, but by doing it by overlay, then you also have the choice of having to decide between multiple districts. He noted that becomes problematic because there could be a lot of challenges to that. He stated one of the key areas that you would normally do this is in your historic single-family districts, but there has been a history of not wanting to do any more intensive use in single-family districts.

King stated, as an example, from Prospect down from Division over to Chapin, we do know that this house and some of the other houses may have fallen into this category in the past. He asked what the difficulty would be of doing an overlay from that down to the downtown area because we know the history of the houses there.

Wallace stated it comes down to the different areas that you might consider and where would those start and stop, giving more people rights or less people rights, whereas if you do it by district, it's all based upon the intensity and activity of the use so you can make sure that it's compatible.

King asked if we could do it here because we do know there was a B&B here close to downtown.

Wallace stated you could do it but it would be very challenging and might be subject to a lot more pushback.

Peccia stated if you are going to create an overlay within this certain boundary adjacent to downtown, you can do that but the properties within that area would be able to use them as a bed and breakfast by right.

Homier stated you could still require a special use permit.

Wallace stated, alternatively, you could set the standards and if they meet those standards, you could permit it by right.

King asked if one of the options could be that we do a special overlay for B&B being a special use in a designated area that this property is in.

Wallace stated that is an option.

Engels asked if the Planning Commission thought that was not the best idea or a dangerous idea.

Wallace stated starting out it would likely take a lot more effort and how much of the area around the site that was proposed would you include. He noted if you did an overlay for that one property, you might be back to questioning spot zoning again through overlay. He stated you'd probably want to develop one area or multiple areas of more than one property if you thought there was more than one area suited for it.

King asked if it would be easier to do an overlay rather than change the zoning in all of RM-1 and RM-2, especially when we've heard the concerns from the people who are in those areas who don't want this. He added if we were going to do an overlay, you already know the history of those homes and can lay it out.

Wallace stated actually we don't so we would have to do a lot of research and ask a lot of questions.

King asked how is that different than recommending all of RM-1 and RM-2. He stated the people that have voiced that they don't want this and you're saying you don't want to do the work here as far as the textual change to do an overlay even though we haven't talked to everybody and there's been public opinion that they didn't want those areas done. He stated he doesn't see how it's more work and if it's an option that's less negative on all, it's better.

Wallace stated it changes the basic way that you do planning and zoning.

King stated you've offered overlays before as an option to us.

Wallace stated the most standard way to consider uses such as this and this condition would be by district. He noted overlays are usually something that you would use for access control, where you could lay the overlay over the entire corridor that has multiple districts and say, within this corridor, we're going to have this regulation governing how many driveways you can have. He stated that would be a perfect use for an overlay district.

Engels stated the questions he's asking are to look at what RM-1 is, what RM-2 is, and what's that list look like. He noted not to get back into the specific house, but it's right next to an insurance agency that used to be the chiropractor and it's right across from Kirkland Terrace. He stated when he looks at the RM-1 district he does think it is zoned correctly. He noted the next thing he looks at is the list of RM-1 uses and a bed and breakfast seems to be one of the least offensive of these uses in this RM-1, which is meant to be multifamily homes and a barrier between our single family neighborhoods and our business districts so it seems to make sense.

Engels stated he hasn't heard from anybody in the RM-1 district. He noted he's not heard anybody tell him why it doesn't make sense to include bed and breakfast on the list of allowable uses in RM-1 and RM-2. He stated the overlay that was suggested includes Prospect and Chapin, so now you're into the R-3 neighborhoods which he believes is a bad idea. He noted it's hard to argue that a bed and breakfast use doesn't make sense in the list of approved uses in RM-1 and RM-2. He noted it would be allowed with the special use permit process so the neighbors do get letters sent out and people do get a chance to say this makes no sense and we don't want this here.

King stated he agrees with a lot of what was said by Council Member Engels but the RM-1 up E. Division goes all the way up to E. Harris and where we're talking about here has RM-1 so it would be easy to do an overlay on that without hitting the other sections and without changing it for the whole city.

Engels noted he watched the last two Planning Commission meetings. He stated he knows we have the final say, but he does think they do a lot of hard work and ask these questions.

King stated he asked two of the Planning Commission members if an overlay was considered and they said they were told it would be too complicated, it wouldn't be practical and that's as far as that discussion on that option went.

Mayor Filkins noted we've been criticized for spot zoning, and so she thinks that the Planning Commission looked at it from the perspective that with all of the additional uses that were out there, that it just made sense. She stated it's simply opening the door for that one property, but anybody coming into one of the RM-1 or RM-2 areas in the future will have to go through a very stringent process for it even to be considered.

Peccia stated there are some instances where City Council can take a recommendation from another board, modify, and then approve as modified. He noted if it's City Council's determination that you would rather see this as an overlay, it would not be able to be modified and then approved tonight. He stated Council would need to remand it back to the Planning Commission, and then they would go through a public noticing process accordingly for that change.

Schippers noted she was a former member of the Planning Commission and attended a 10-week training session. She stated one of the things she learned is that the less convoluted your zoning is, like with overlays, et cetera, the easier it is for developers, citizens, and everybody else to know what's going on and to know what's allowable and thereby reduce the number of violations.

Schippers stated with what she has learned and what the Planning Commission has recommended and then reviewed and recommended again, she believes that the best way to deal with this is through adding it as a special use in those two zones.

Schippers made a motion to approve the resolution to adopt Ordinance to Amend Sections 46-4, 46-186, and 46-216 of the Code of Ordinances.

The motion was not supported. Motion failed.

Mayor Filkins stated it will need to go back to the Planning Commission.

Homier noted the Planning Commission will need some instructions and directions on what they should review or consider.

King stated he is not convinced that this won't be a good proposal, but he thinks we need to know what the overlay option is. He noted we can't just hear it's too much work or it's. going to be too difficult. He stated we need to know how it could be done so that we can decide. He noted if both options had come up to us, we could have debated and approved one and not the other. He stated this is in no way minimizing the work of the Planning Commission, but he's not sure the overlay was thoroughly vetted.

Engels stated the only thing that gave him pause is some of the RM-1 does cut into the neighborhood by the courthouse. He noted a downtown overlay of the RM-1 district may be even more restrictive and then if they include a block or two of the R-3 district they're going to have to make that case.

Peccia stated if City Council would ultimately like to see is us drawing that circle, whether it's in the downtown area of the City or others, where we think that this use would be appropriate, presumably through a special use permitting process, but done as an overlay and not really focusing on what the underlying zoning is we can do that and present it to the Planning Commission as an alternative.

King stated to make it easier for the Planning Commission, he doesn't think we have to include other zones other than the RM-1 downtown.

Peccia asked why we wouldn't want to look at anything on the west side or anywhere else because there could be homes that could be very suitable.

King stated because RM-1 has been part of the subject, that makes it easy and it covers this area. He noted if we want to change something behind that later, we're able to do that.

Engels noted we're not trying to waste anybody's time on the Planning Commission and we may end up right back where we started, taking option A and changing the definitions for RM-1.

2024-225 Send proposed ordinance back to Planning Commission.
Motion was made by King and supported by Elenbaas that the amendment go back to the Planning Commission to look at the option of an overlay for special use of bed and breakfast for the RM-1 district that's downtown where it appears the southern border is on Harris Street and the northern border is around North Street.

Motion unanimously approved.

MINUTES AND REPORTS OF BOARDS AND COMMISSIONS

A. Local Development Finance Authority (LDFA)

PUBLIC COMMENTS

Andrea Lilly stated she appreciates the effort made to encourage heightened communication. She commented on a discussion held with Mayor Filkins and Mr. Dietlin after a Council meeting in October. She discussed the upcoming Great Lakes PFAS Summit being held virtually on December 3-5, 2024.

Audrey Wood encouraged the Council Members to attend the summit. She mentioned the LDFA Bylaws and asked if the LDFA has a website. She discussed decision-making power for additional PFAS testing.

Bill Barnett asked that Council support a message to test private wells up and down the Clam River. He asked Council to consider that private citizens, not elected people or City staff, serve on the LDFA. He noted he did apply for the LDFA and he believes Marcus makes the decision on the appointment. He commented on the process used to appoint the current members of the LDFA.

Steve Piwowarski noted he appreciates Council doing the extra work to get the bed and breakfast proposal done right. He commented on little glass tubes from marihuana shops laying around town.

Jerry Olson stated that the Mayor runs the City and the City Manager controls everything else and lets her know about it.

Rick Torres stated the LDFA appointment could have been taken off the agenda. He noted there is a house at the intersection of Cass and Division that is still listed as a short-term rental. He stated people don't want short-term rentals or bed and breakfasts. He commented on contaminated water and the condition of the lake.

Andy VanAlst noted when the City codified zoning for the short-term rentals to TS-1, TS-2, B-1 and B-2 it was the understanding that the City would work on zoning of everything else and that has not been done.

GOOD OF THE ORDER

Schippers stated regarding the public forum meeting, both members of the City Council and members of the LDFA were advised to go and observe and let that be a time to listen to what the community was saying and to listen and learn from the experts, but not to participate because there was a quorum of us there and it was not advertised as a public meeting. She noted that is why she, for one, wasn't up speaking. She stated there were questions that she needed answered and she did ask those questions of the individuals. She noted she appreciates everyone asking a lot of the questions that she wanted to hear answers to. She stated it was an informative meeting and for those who were not there she strongly recommends viewing that meeting.

Elenbaas stated it's a complex issue and he believes everyone is still learning so that's why he attended the town hall meeting. He noted he did learn quite a few things.

Engels stated he wanted to highlight the great opportunity that was pointed out regarding the upcoming 2024 Great Lakes PFAS Summit put on by EGLE which will be held virtually on December 3-5, 2024. He noted he will be viewing as much of the summit as he can.

Engels stated the suggestion made by Bill Barnett about helping as many people test their water as possible or at least connecting them with those resources is something we should put our money behind. He noted we've all expressed a favorable view on connecting people to City water who have a desire to but can't afford it. He noted he doesn't know if that's possible, but those are the roads we need to go down, and we only get started down that path when we get good suggestions.

King stated regarding the comment made by Mr. Olson he thinks it's really important that people understand the Charter of the City of Cadillac as to how things work because the Charter is our bible of how we are to represent you and what actions we may take and not take, and he believes we've talked about it over and over that transparency is so critical. He noted the Mayor is not the boss of the Council. He stated Section 3.1 of the Charter says the legislative authority of this city shall be vested in a council composed of five members, one of whom shall be the mayor and all members shall have equal authority. He added the council shall be the governing body of the city and shall exercise all power conferred upon or possessed by the city by adoption of laws, ordinances, and resolutions except as limited by this charter or state law. He stated that means not one of us is the boss to take action on our own. He noted the next sentence is critical which says no individual council member shall, on his own initiative, issue orders to any city employee. He stated we act as one voice, we govern together, and we manage together. He added not one of us has the right to act on their own.

King stated he doesn't think we can go into closed session on a legal opinion that was asked for by one of the Council Members and the rest of the Council did not have input. He noted that is also expenditure of City resources, which we are not supposed to do unless we act as one, and he thinks that is critical.

King stated in relation to our consideration of doing an evaluation, we have a policy and process, which we established over the past several years through work sessions, which were public, and through City meetings. He noted that process is that each year we evaluate our manager, and we do it by each filling out an evaluation and sending it to all Council to see, and as Council Member Shipper's pointed out, our process then has been adopted to say we then meet, confer about it and talk about it before we meet with Mr. Peccia.

King stated he's surprised that his evaluation is on the agenda today. He noted he doesn't think it follows the policy or procedures we established as a Council and he thinks we need to follow that procedure. He stated he agrees with the Mayor that if it's going to change, we need to do a work session. He noted we need to have the same type of input that established this policy, but we don't go behind closed doors and change what our process is and hide that from the public and not have public input on it.

King stated he's had numerous contacts from citizens and business leaders saying there isn't any business that doesn't have yearly evaluations. He noted if we were to even consider that, it's got to be a public process because that's obviously important to the public as well as important to us because we have to remember that Section 7.2A of the Charter says the city manager shall hold office at the pleasure of the city council. He stated that means we're managing and we're acting as five in doing that process. He noted if he's acting at our pleasure, never would it be in the public's interest to require a super majority vote to fire him. He stated Section 7.2B(2) very specifically states, if we're not happy with the manager, how we as five individual council members go about adopting a resolution, which would be by a normal majority vote. He noted to change that to a four-fifths vote would be to change the intent of the Charter and would take a vote of the people. He stated it's not appropriate, in his opinion, to change the Charter.

King stated it worries him that anyone would ask to change it to a four-fifths vote, because if you're doing your job and you're doing it well, and even if you're taking chances in doing it, you need a majority vote to stay in office and that's okay. He noted the only time you'd need a supermajority vote is if you're not doing a satisfactory job and you want to put up barriers to the five individuals for whom you are there at their pleasure. He stated, before even the Charter, when would it ever be ethical or in the public's interest for us to even consider changing it to a four-fifths vote.

Schippers asked if two members are out, could then the majority, because we could hold a meeting with three, and the majority at that meeting would be two, could two people choose to fire the City Manager.

King stated you have to have a quorum and this agenda item came onto the agenda when one member was specifically missing and was told it wasn't going to be handled while they were gone. He noted it's always a majority vote so you'd have to have at least three members to do that resolution.

King stated he doesn't think we can contract around the intent of the Charter. He noted we may not like the way it is and may be uncomfortable but it is the Charter, and absent a vote of the people, we can't do it.

King noted it's always okay to negotiate but what's not okay is when you try to slip something in and you go behind people to get it. He stated to say, I want a COLA raise, which is a raise, that's fine to negotiate and that is an appropriate thing to present to Council as a request as part of contract negotiations. He noted to say, I want a guaranteed raise every time one of these contracts that I negotiate and I control the ultimate outcome, even though Council can approve it or not approve it, I want it tied to what I negotiate for them, in his opinion, is unethical.

King stated at the least, it was very negligent not to think about the inherent conflict of interest that was presented there. He noted he wants the ability to follow the process because he wants Council to have these discussions. He stated it concerns him that that there was this very deceptive agenda item that most of us would agree was very deceptive and that it occurred when the Manager had told the only member that wasn't going to be here that his evaluation wasn't going to be part of the decision-making process while he wasn't here.

Peccia addressed Council Member King and stated he never told him that.

King stated if we don't vote to have a personnel committee pursuant to the Charter, then not one of us, not two of us, not any combination of us have the right to have conversations about what will be in the contract with the Manager without all five of us knowing those discussions.

King stated he doesn't think it is appropriate to have a closed session because he doesn't think we're following the process for the evaluation that we've established. He noted it was decided to be on the agenda for the evaluation process by one Council Member, and he doesn't think it was appropriate.

King noted in relation to an opinion that was directed to our City Attorney by one member of Council, and that attorney is part of the City staff, no individual Council Member shall on his or her own initiative, issue orders to any City employee which would include asking for a legal opinion on this one question. He stated we all must have input when that happens because we get charged for that as the citizens, and he thinks we have to be very careful in relation to that.

King stated he doesn’t think a legal opinion that was directed to be done by one Council Member fits into MCL 15.268(1)(h) that has been put on our agenda because there is no state or federal statute that allows for section exemption. He noted if one member asks something of the City Attorney and they're going to give an opinion, that's got to be public and can't be in closed session.

King stated especially considering the trust issues that we are trying to rebuild with the community, to make sure we follow the Charter. He noted it doesn't matter if we feel there's a more common-sense way to handle it we've got to handle it in that manner to have transparency to tell the public they can trust us not to go behind closed doors. He stated right now we have a policy by public meeting, and we have to follow that policy. He noted if we're going to change it, then we need to do it in the same manner that we instituted this policy.

Engels stated the City Manager evaluation process this year has not been going how it's supposed to be going. He noted at the last meeting, he believes the directive was to schedule the evaluation as soon as possible. He stated he does think we need to have the conversation about the page again. He noted he is not happy the process is disorderly. He stated when we get into the next year, he’d like to see dates that are followed and procedures that are followed.

Engels stated he sees this as two separate issues which are the evaluation process, which we do regardless of whether or not the City Manager requests a raise, and then the actual raise request. He noted he thinks we could remove a lot of the extra noise from the raise requests or requests from the City Manager for benefit changes if they came in separate e-mails, if they came a week ahead of time, and if they got sent to all of us at the same time.

Engels stated he thinks Marcus gets to ask what he wants to ask. He noted if he wants to get individual feedback on his ask to see how it's going to be perceived, I don't think that's a backdoor conversation, but it needs to come from him and it needs to be his ask because then we can respond to it accordingly. He stated he understands after a good evaluation that's a convenient time to ask for a raise, but he doesn't think you need to ask for a raise after every good evaluation or even wait for your evaluation to ask for a raise. He noted those things can be independent. He stated we said we need to get this done and he definitely wants to go into closed session. He noted Marcus has made his request and if we decide to have a discussion without him present like we did the last time, let's do that or not do that.

Engels stated Marcus has filled it out and he’s read it and made notes. He noted other Council Members may or may not have filled out their own, but it was clear in the last meeting that we wanted to have the evaluation, we want to get it done, and then we want to move towards clarity. He noted he understands we've had a process that we followed the first five years and tried to make it better. He stated that some of the tools were better, and then the year after, things kind of fell apart. He noted he doesn’t want things to continue to fall apart, he wants things to be clear, and he wants the dates to be followed. He stated he wants to consider the requests that Marcus made and he doesn't have to wait until his evaluation. He stated the fact that we didn't do an evaluation doesn't prevent him from thinking about and deciding whether his requests should be followed or whether he deserves that.

Engels noted if a Council Member asks the City Attorney for something, that it’s up to the City Attorney to decide whether it's worthwhile of our time or the City Manager's time. He stated he’s had a few conversations with the City Attorney when he had questions and that does run up a legal bill. He noted the City Attorney decides after that conversation if this is violation of the Charter or that is a violation of the Charter. He stated if he asked the City Attorney for a ridiculous legal opinion, he'd say no but he doesn't think the asking is inappropriate.

Engels stated he’s a Council Member and he needs legal help to make sure the City is following the law and he is following the law. He noted this is a position that comes with rules that are criminal penalties if you break them. He stated he wants to hear the legal opinion and he’d like to move on with Marcus's evaluation with the understanding that this is not how the process should be followed. He noted when we return back, he plans to discuss the requests Marcus made for changes to his benefits and contract.

Elenbaas stated this is embarrassing. He noted we're five months behind schedule and we're sitting here arguing. He stated to Mayor Filkins that we need to go back to square one and do it the way we've done it and we can get it done in two weeks. He stated then we set up a committee and then we change the way we do the process. He noted we don’t go into closed session now and let's just do it the way we did before, and then we'll take the proper steps to change it.

Schippers stated the last time we met for the evaluation, Council Member King was going to help with getting specific criteria by which to do an evaluation. She noted Council Member King was going to come back with some ideas. She stated she has not seen anything and that’s where it was left. She noted it's important to have an evaluation and everybody does, but they don't have a public shaming and that's what our evaluations have turned into not just for our City Manager, but for us. She stated we're just raked over the coals one way or another and it's just not helpful. She noted the goal of an evaluation is to give valuable feedback to help the person you are evaluating be more successful. She stated when the evaluation process is set up to be like a public shaming, or that the people making the evaluation get judged for what they say publicly in the community is not helpful. She noted that's why we talked about last time having three or more goals that then Marcus would show us what he has done according to those goals and that did not happen.

Schippers stated now we are saying let's go back and do it the way that didn't work, because it's too late to find a way that works. She noted instead of doing that, she proposes that we do a work session and we discuss possibilities of how to evaluate and then do that. She stated how can we do this in a humane, helpful and effective way so that everyone has their input and everyone, including the City Manager, is not set up as gotcha for humiliation. She discussed the recent MML Conference and noted they went to a session about council-manager relations and they talked about the evaluation process. She stated if we just get frustrated because too much time has passed, and go back to doing the old, destructive, painful, hurtful thing again, shame on us. She suggested scheduling a work session, go over some of these other options, discuss them, come up with a choice, have a consensus, go in there with open minds, look at how we can do this so it is helpful to everyone, and then let's do it.

King stated he would challenge the press and the public to FOIA his last six years of evaluations, because every item he took thoughtfully and said what he thought the manager was doing well, where he thought there were deficiencies, and he gave suggestions for improvement. He noted he completely disagrees with Council Member Schippers that if she reviews his evaluations, it was a gotcha or that it was putting the Manager in public stocks. He stated he doesn’t believe our process is as flawed as what Council Member Schippers is indicating.

King noted he agrees that you want to create an environment for someone to succeed and he also talked about the benchmarks we had talked about and where he didn't feel they were met. He stated that's part of an evaluation. He noted he does think we still need to do that process for this year and we have to do it publicly. He stated each of us have to be held accountable to our voters and to our citizens of how we do that process. He noted they need to see it to know whether we're doing our job in managing.

King stated he disagrees with Council Member Engels. He noted we don't individually get legal opinions from the attorney because they're not our attorney they're the Council's attorney. He stated when those discussions happen the whole Council needs to be aware of what those questions are and that’s why he doesn’t believe this opinion would be appropriate.

Mayor Filkins stated she appreciates everybody's input and she doesn't think we should go into a closed session tonight. She noted she doesn’t have a problem using the executive feedback program that we used. She stated she’s the one that brought it back from the MML. She noted this tool was used to evaluate the CEO of the Michigan Municipal League, and we made it ours, made it appropriate for Marcus's evaluation. She stated she thinks it's a good tool but she will never again be a part of dragging this process through the public eye. She noted Marcus is an employee and this is an employee issue.

Mayor Filkins stated tell me one other elected official, CEO, manager in the city or county that is put through this type of process. She noted it is important for us to do it and we should all be able to speak very openly, very freely, and have difficult discussions. She stated she doesn’t believe that this should be shared with the public. She noted we can come out with a summary and say this is where we are but to put this out in the community whether it's Marcus Peccia or another city manager sometime, or a city manager in the past, it has never been taken through such a public process.

Mayor Filkins stated she doesn’t have a problem sitting down, having a difficult discussion, doing this feedback program, and revising it if that's what we want to do. She noted it is important that we work as a group of five. She stated since she has been here, which is 11 years now, she has never not been able to speak with the City Attorney. She noted he guides our work and so he would be the first person that she would reach out to if she wondered if she was thinking clearly on something.

King stated to Mayor Filkins that he would challenge her to talk to other managers or our past managers. He noted we can’t individually direct the City Attorney.

Schippers stated we aren’t directing we are asking questions.

Mayor Filkins noted we are asking questions that she wanted shared with the entire council.

King stated to Mayor Filkins that she didn't share her questions with us.

King noted he has never persecuted Marcus Peccia in his evaluations. He noted he has been very thoughtful and he puts the good, the bad and the recommendations. He stated the only time this Council has gotten into some really tense discussions is when Mr. Peccia did something behind the scenes that he shouldn't have, which I would say the whole car issue and the unlimited credit card, that came on without Council understanding what was going on or being informed ahead of time. He added this issue right now because Mr. Peccia made these public by slipping them in that agenda as COLA update and that's something Council has to address. He noted he didn’t make that public. He stated Mr. Peccia made the terms of his agreement public by trying to sneak that in on that agenda.

Schippers noted if you read the weekend bullets, it was very specific.

Mayor Filkins stated she thinks it's important moving forward that we do have the work session and use this tool. She noted she doesn’t ever think it's wrong for Marcus to make an ask. She stated it's a simple yes or a no answer. She noted we need to make sure moving forward that those requests aren't buried within an evaluation or in Friday bullets. She noted it should be a clear communication to every Council Member and he should never be made to feel like he can't ask.

Mayor Filkins noted this is a learning opportunity that we expect that when those asks come to us, they're very clear and they come to all five of us at the same time in advance.

Mayor Filkins stated she would like to pause on any closed session and would like to set a date that is not on a Council meeting day. She noted she needs to send this out and have everybody fill it out. She stated Marcus has already done the work on his self-evaluation, so we've got that as we consider doing ours and then we'll come together for that conversation in a work session.

Council briefly discussed potential dates, and it was decided the work session would be held at 4:00 pm on Wednesday, December 4, 2024.

Mayor Filkins noted we have decided on what tool we are using so just like before Council will return the evaluations to her and she will compile them. She requested that Council not just automatically send it out to the media uncensored.

Peccia asked if he should update his memo requesting the closed session.

Mayor Filkins stated that is correct. She noted it is not a work session that's open to the public, it is our evaluation.

Peccia noted legally, it'll still be scheduled as a special session of the City Council, which is an open meeting, and you'll start it in here, and then you'll adjourn into closed session.

Owen Roberts, Director of Finance, stated that a week from today we're going to place the City Christmas tree. He noted last year we had talked about locations and we thought a lot about those. He stated we got a really nice big tree again and the proposal is to put it in the same spot. He noted he walked two blocks on Mitchell Street and went into every open business and asked for thoughts and opinions, and it was overwhelmingly positive. He stated the tree, transportation and removal of the tree are being donated.

<u>ADJOURNMENT</u>

Respectfully submitted,

Carla J. Filkins, Mayor　　　　　　　　　　Sandra Wasson, City Clerk

Community Development Department
200 N. Lake Street
Cadillac, MI 49601
(231) 775-0181

MEMORANDUM

To: Members of Council
From: John Wallace, Community Development Director
Subject: Bed & Breakfast Zoning Ordinance Amendment
Date: November 18, 2024

The City of Cadillac Planning Commission met for a regular meeting on October 28, 2024, to address the proposed Bed & Breakfast Zoning Ordinance amendment that was remanded by the Council.

The Planning Commission voted 8-1 to reaffirm its previous recommendation of the amendments to City Council. In response to Council's questions, the Planning Commission reached a consensus as to the following responses:

1. *Request planning commission provide City Council a summary and history of why a textual zoning change to two districts is required for accommodating the use for one house.*

   When the City received an inquiry concerning a possible Bed & Breakfast use, the City's staff researched potentially appropriate areas for this land use. Staff determined that RM-1 and RM-2 are potentially suitable districts, given that that they allow more intensive multi-family uses such as offices, family and group shelters, multi-family homes, and (in RM-2) mobile home parks. The purpose was not solely to accommodate one interested applicant, but rather to update the Zoning Ordinance to allow for this use where suitable.

2. *Provide a summary of all potential options available to accommodate this request and why these changes to two zoning districts are needed to accomplish it.*

   Beyond a text amendment, a property owner could request rezoning to TS-1 or TS-2, where tourist homes and short-term rentals are permitted. However, this could result in "spot" zoning, and it does not address the larger picture of providing a "place" (one or more districts) where B&Bs are suitable.

3. *Provide input from direct feedback gathered by City staff from residents and property owners in these districts across the City and explore the need to do it all across the RM1 and RM2 districts or just the area of this particular property.*

   The Planning Commission's consensus was that the appropriate time and manner to get feedback is when a property owner applies for a special land use permit for a B&B land use. At that time, notice will be published and mailed to neighbors, who will then have any opportunity to submit a written comment or speak during the public hearing.

4. *Request a summary from staff on specific enforcement rules and provisions for this property, how these rules will be adopted (special use permit?), who is responsible to enforce any future non-compliance, and the specific penalties for non-compliance*.

   The Planning Commission's consensus was that property-specific rules will be imposed at the special land use approval phase. Violations of the SLUP can lead to the Planning Commission revoking the SLUP following notice and a hearing (as it has done in the past for SLUP violations in other contexts).

December 16, 2024

COUNCIL COMMUNICATION

Re: Reappointment to Cadillac Historic Districts Commission – Gwen Dubravec

Gwen Dubravec has indicated her interest in being reappointed to serve on the Cadillac Historic Districts Commission. She has served on the Cadillac Historic Districts Commission since 2012.

It is recommended that Gwen Dubravec be reappointed to the Cadillac Historic Districts Commission for another 3-year term, expiring on 12/31/2027.

December 16, 2024

COUNCIL COMMUNICATION

Re: Reappointment to Cadillac Historic Districts Commission – Mark Snider

Mark Snider has indicated his interest in being reappointed to serve on the Cadillac Historic Districts Commission. Mark Snider has served on the Cadillac Historic Districts Commission since 2005.

It is recommended that Mark Snider be reappointed to the Cadillac Historic Districts Commission for another 3-year term, expiring on 12/31/2027.

December 16, 2024

COUNCIL COMMUNICATION

Re: Appointment of Kevin Dewey to a Four-Year Term on the Cadillac-West Corridor Improvement Authority

Kevin has expressed interest in serving on the Cadillac-West Corridor Improvement Authority for a four-year term.

Requested Council Action:

Motion to appoint Kevin Dewey to a four-year term on the Cadillac-West Corridor Improvement Authority, which will end on 12/16/2028.

Application for Appointment to Standing and Special Committees, Boards & Commissions

The information provided on this form is for the use of the Cadillac City Council in its deliberation to fill vacancies on standing and special committees, boards and commissions. Applications may be submitted at any time and will be kept on file for a period of one (1) year. In most cases, you must be a resident of the City of Cadillac to serve on its committees, boards and commissions. Exceptions include the DDA, CBOA, LDFA, Clam River Greenway Committee and Brownfield Redevelopment Authority. Applicants may be required to interview with the City Manager for appointment consideration.

To which committee, board or commission are you seeking appointment? Please check all that apply.

- ☐ Airport Authority
- ☐ Board of Review
- ☐ Brownfield Redevelopment Authority
- ☐ Cadillac Area Council for the Arts
- ☐ Cadillac-Wexford Transit Authority
- ☒ Cadillac West Corridor Improvement Authority
- ☐ Cemetery Board
- ☐ Civil Service Commission
- ☐ Clam River Greenway Committee
- ☐ Historic Districts Commission
- ☐ Diggins Hill Tennis Court Fundraising Committee
- ☐ Downtown Development Authority
- ☐ Economic Development Corporation
- ☐ Elected Officials Compensation Commission
- ☐ Election Commission
- ☐ Housing Commission
- ☐ Local Development Finance Authority
- ☐ Planning Commission
- ☐ Retirement Board to Administer Act 345
- ☐ Zoning Board of Appeals
- ☐ Construction Board of Appeals
- ☐ City of Cadillac/Clam Lake Joint Planning Commission
- ☐ Other ____________________

Please print or type:

Name Kevin Dewey Address [redacted]

Telephone: Home [redacted] Business/cell [redacted]

E-mail [redacted] Date available for appointment email to schedule

Please complete the following. You may use additional sheets as needed.

Community Service

List boards, commissions, committees or community service organizations that you are currently serving or have served upon, offices held, and in what municipality or county.

2025 Friends of Mitchal State Park- Cadillac-Pending board member 2025 voting Dec.2024
2025 Freedom Festival Committee-Cadillac-Coordination of food
2025 Project Christmas-Cadillac- Provide free food for all workers

2024 Freedom Festival Committee-Cadillac-Coordinated of food
2024 Project Christmas-Cadillac-Provided free food for all workers
2024 CTC Spring/Fall Advisory-Cadillac

2023 Cherry Grove fall cemetery clean-up Coordinated clean up day at cemetery

Employment and Education

List any employment experience or education that, in your opinion, best qualifies you for this appointment. List job titles, duties (current and past), level of education and any certificates or degrees you have obtained.

Education and Certifications
*Certificate in NSF/ANSI Standards
*Certificate in ENS Negotiation
*Certificate in APIC Supply Chain Management
*Certificate in Electrical Controls Troubleshooting
*Certificate in Kepner-Tregoe Analytical Troubleshooting

Professional Development and Conferences
*5S Principles (Focus on workplace organization and standardization)
*IS/IS-NOT Problem Solving (Techniques for identifying the root causes of issues and developing solutions)
*Numerous Manager/Supervisor Conferences (Including leadership development and team management strategies)

Have you ever worked for the City of Cadillac? ☐ Yes ☒ No
If yes, please list dates and names of departments.

Why do you have interest in serving on this board/commission/committee?

Versatile Career Background: With experience in manufacturing, product design, procurement, and operations management, I have developed a comprehensive understanding of business processes, from technical troubleshooting to high-level strategic decision-making.

Leadership and Team Collaboration: Extensive leadership experience in managing and mentoring teams across various functions. Strong ability to foster collaboration, improve team performance, and implement operational improvements.

Community Engagement and Public Safety: Through my work with the Kent County Sheriff's Department, I've developed a deep understanding of community dynamics and the importance of communication, public relations, and safety initiatives.

Problem-Solving and Analytical Skills: Certifications in Kepner-Tregoe Analytical Troubleshooting and Electrical Controls Troubleshooting, coupled with hands-on experience, enable me to approach complex problems with structured and effective solutions.

Commitment to Innovation: Eager to bring fresh ideas and new perspectives to the Westside Corridor. While my business may be located on the outskirts, I am highly invested in the community's growth and success, and am excited to contribute ideas for improvement.

Personal

Rules of law and ethics prohibit appointees from participating in and voting on matters in which they may have a direct or indirect financial interest. Are you aware of any potential conflicts of interest? ☐ Yes ☒ No

If yes, please indicate potential conflicts.

Are you aware of the time commitment necessary to serve on the committee, board and/or commission to which you seek appointment, and will you have such time? ☒ Yes ☐ No

Will be out of state from 01/01/2025-2/1/2025

Please provide information about specific training, education, experience or interests you possess that qualify you as an appointee to the position you seek.

I hereby certify that the preceding information is correct to the best of my knowledge.

Signature Kevin Dewey Date 11/15/2024

You are invited to attach additional pages, enclose a copy of your résumé or submit supplemental information that you feel may assist in the evaluation of your application.

Mail or return your completed application to:

Marcus Peccia, City Manager
City of Cadillac
200 N. Lake St.
Cadillac MI 49601

`

Thank you for giving us the opportunity to consider you for appointment.

December 16, 2024

Council Communication

RE: The Market at Cadillac Commons Renovations

The City is in the process of administering a Community Development Block Grant received to make significant improvements and renovations at The Market at Cadillac Commons. Grant funds will cover 87% of overall project costs, and the City has pledged the remaining 13% as a local match. All the required initial steps have been completed, all project plans approved by the granting agency, and the grant agreement executed. Accordingly, bids were sought and opened for the construction on October 18, 2024. The following bids were received:

Contractor	Bid
Orshal Construction Cadillac, MI	$957,000
Cole, Inc. Cadillac, MI	$1,023,526
Pumford Construction, Inc. Saginaw, MI	$1,339,860

Please see attached documentation that summarizes the actions taken by the project team to align project costs with available funding. The value engineering process is summarized in the attached draft of a memo requested by the MEDC in preparation for the Michigan Strategic Fund considering the City's request for additional funding. In addition, documentation related to the initial and amended project budget as well as information related to value engineering proposals is attached.

Should the request for additional funding be rejected by the Michigan Strategic Fund, staff will bring appropriate recommendations back to City Council for consideration.

Recommended Action
It is recommended that the contract for The Market at Cadillac Commons renovation project be awarded to Orshal Construction in the amount of $902,377. Funds are available in the Market Capital Projects Fund.

Owen Roberts

From: Owen Roberts
Sent: Friday, December 6, 2024 3:15 PM
To: Marcus Peccia; mhomier@fosterswift.com
Cc: Houk, Connie; dean@dkdesign.cc
Subject: The Market Renovations update
Attachments: The Market (7-15-24).pdf; Appendix-B-budget Revised 2-16-2024.pdf; Appendix-B-budget Revised 12-5-2024.pdf

Members of Council:
Below is the update that I had prepared to provide last Monday regarding the grant-funded renovations project at the Market:

Bids were opened for this CDBG grant-funded project on Friday, October 18. Three bids were submitted, two by local contractors and one by an out-of-town contractor. The bids were as follows:
Orshal Construction - $957,000
Cole, Inc. – $1,023,526
Pumford Construction - $1,339,860

Based on current market conditions, the low bid was $171,900 over the original budget for the project that was developed 18 months ago. Because of the increase in costs, an updated bid sheet was issued to the three contractors with proposed adjustments to the project to bring the costs into alignment with available funding. We identified several viable options that reduced the cost of the project by $54,623. This included modifying the garage door hardware to an alternate but equally acceptable product, adjusting the garage door rails to standard rails instead of powder-coated rails, eliminating some of the windows in the bathrooms, modifying the canopy structure over the bike racks, and installing a manual movie screen instead of a power screen. Additional options were discussed that we felt would have too detrimental of an impact on the project, including reducing the size of the bathrooms, eliminating all the storage space included in the bathroom structure, utilizing solid garage doors instead of glass doors, etc. After several conversations with the MEDC regarding what other options may be available, they gave us some hope that some additional grant funds may be available for the project. This would require additional financial commitment of $12,123 from the City to keep the percentage match (~13%) the same as the original commitment.

The bottom line is that we will be requesting these additional funds from the MEDC when the Michigan Strategic Fund meets in January. In the meantime, we need to get the construction contract awarded to the low bidder, Orshal Construction, in the amount of $902,377 which includes the proposed reductions to the scope of the project. We will be requesting an additional $105,154 from the MEDC, and in order to maintain our matching commitment we will need to commit an additional $12,123.

Along with the request for the award of the bid to Orshal Construction, I plan to ask Council to consider the approval for the additional funds at the next City Council meeting on December 16. I recommend that we utilize an additional $12,123 in ARPA funds for this grant match.

For your reference, attached are the project plans used for bidding, and the original and revised budget submitted to the MEDC this week.

Happy to answer any questions about the project. Don’t hesitate to reach out to me next week. Thanks.

Owen Roberts **|** Director of Finance
City of Cadillac **| Direct:** 231.779.7333
www.cadillac-mi.net

Financial Services Department
200 N. Lake Street
Cadillac, MI 49601
(231) 775-0181

MEMORANDUM

To: Monica Smith, MEDC
From: Owen Roberts, Director of Finance
Subject: The Market at Cadillac Commons – Value Engineering
Date: 12/11/2024

Monica:
You have asked for details regarding the value engineering process that the City followed related to this grant project. This process included:

- Sealed competitive bids were opened on Friday, October 18. Low bid was $957,000. The original construction budget was $785,100. This is a difference of $171,900.
- The local project team, including Prein Newhof (Engineer) and DK Design Group (Architect sub-contracted through Engineer) held several discussions regarding the total bid amount, the need to identify opportunities to lower costs and/or secure additional funding for project, and what options may exist to help bring total construction costs into better alignment with available funding. In addition, the architect had multiple conversations with the lowest bidder to seek their suggestions for cost savings based on their thorough knowledge of the approved project plans.
- These discussions were principally focused on identifying options that would be minimally impactful on the end project. However, more impactful items were explored as part of a cost/benefit discussion. These included reducing the overall size of the bathrooms, eliminating the storage room, and utilizing standard, solid overhead doors in place of the windowed doors specified.
- In the end, the project team identified a list of potential options for cost reductions. This list was approved by grant staff and sent out to the three contractors that had originally submitted bids for the project. After receiving these sheets back from the bidders, the team identified just over $60,000 in cost savings that would not have a negative impact on the function of the final project. They also concluded that one of the original bid alternates, an addition of $5,500, would increase durability and reduce long-term operational costs. Net savings achieved through this process were $54,623. Other options on the list were deemed to have too negative of an impact on the functionality and durability of the project to be considered.
- *Mention council support of additional matching funds once approved (on the Council agenda for 12/16/24).*

Revised 2-16-2024

Public Gathering Spaces Initiative
Appendix B: Budget

ACTIVITY COSTS	CDBG	UGLG	OTHER	TOTAL
Engineering		$ 84,900		$ 84,900
3rd Party Environmental	X			
Construction (includes contingency and bonding)	$750,000	$35,100		$785,100
MEDC CGA	X			
GRAND TOTAL	**$750,000**	**$120,000**		**$870,000**

C

Revised 12-5-2024

Public Gathering Spaces Initiative
Appendix B: Budget

ACTIVITY COSTS	CDBG	UGLG	OTHER	TOTAL
Engineering		84,900		84,900
3rd Party Environmental	4,900			4,900
Construction (includes contingency and bonding)	855,154	47,223		902,377
MEDC CGA	24,150			24,150
	884,204	132,123	0	1,016,327

PROPOSED RENOVATION/TOILET ROOM ADDITION FOR THE MARKET AT CADILLAC COMMONS

November 1, 2024
Request for Cost Reductions

Based on the bids received and total grant and local dollars available to fund the project, the City of Cadillac is requesting that contractors evaluate and provide cost reductions for the following alterations to the project:

Item	Cost Reduction
Provide and install Tubelite Door Hardware in lieu of hardware specified	11,800
Provide and install standard, galvanized garage doors tracks in lieu of the power coated rails specified	11,780
Provide and install Rockport, 12' x 10', black, galvanized gazebo in lieu of the bike rack canopy specified.	17,397
Reduce size of toilet room building as shown in attached sketch	22,193
Provide and install 12' wide, manual screen in lieu of the 16' wide, motorized screen specified.	6206
Provide and install asphalt shingled roof on toilet room building in lieu of steel roof specified	12470
Delete three (3) windows from south wall of Men's Toilet Room	2440
Quote cost per door to provide and install black, insulated steel, overhead doors in lieu of glass doors specified	5180/door 14x11
Remove storage space from toilet room structure shown in documents. Footprint will be similar in size to sketch of reduced toilets	18,094
Total alternate cost reductions	

Please sign and return this form in the enclosed envelope by 2:00 PM on Thursday, November 7, 2024. Electronic submission will also be accepted. Please sign and scan the form and email to Owen Roberts, Director of Finance, at oroberts@cadillac-mi.net. Email submissions **should be sent between 1:30PM and 2:00PM on Thursday, November 7, 2024.** Please make sure to sign and forms submitted by email.

I have evaluated the items above and agree to reduce my bid by the above amount.

Orshal Construction
Contractor Name

[signature]
Signature

11/7/24
Date

December 16, 2024

Council Communication

Re: Calendar Year 2025 Council Meeting Schedule

Pursuant to Article 3, Section 3.2 of the City Charter, the City Council shall meet at least one time per month on a regular day and hour to be established by the City Council.

In the past, the City Council has set its regular meeting schedule for two meetings per month that are held on the first and third Mondays at 6:00 p.m., unless the meeting day falls on or near a holiday or is the day before an election. In those instances when there is a conflict, the City Council has traditionally set its annual schedule in a manner to avoid the conflict by either not scheduling two regular meetings in that specific month, and/or by scheduling the meeting on an alternative day. Note, regardless of whether two regular meetings are scheduled monthly, or if in some months only one regular meeting is scheduled, the Council may call a special meeting anytime.

Recommended Action

It is recommended that the 2025 City Council Meeting Schedule be approved as follows:

Regular Council Meetings will be monthly on the first and third Mondays starting at 6:00 p.m. except for the following months-

- January - Schedule one regular meeting for the third Tuesday, January 21, 2025. Due to Christmas, New Years, and Martin Luther King Jr. holidays, City Offices are closed December 24, 25, 31, 2024, and January 1, 20, 2025 respectively. Additionally, it is common for staff to take vacation and/or personal time off during this timeframe.

- February - Schedule the second meeting for the third Tuesday, February 18, 2025. Due to the City Offices being closed for Presidents' Day on Monday, February 17, 2025.

- July - Schedule one regular meeting for the third Monday, July 21, 2025. Due to Independence Day on Friday in the first week of the month, it is common for staff to take vacation and/or personal time off during this timeframe.

- September – Schedule the first meeting of the month for Tuesday, September 2, 2025. Due to City Offices being closed on Monday, September 1, 2025 for Labor Day.

- November – Schedule one regular meeting for the third Monday, November 17, 2025. Due to the City General Election scheduled for Tuesday, November 4, 2025.

Should other elections be scheduled, a recommendation would come forward accordingly requesting the meeting prior be cancelled. Otherwise, as previously noted, all other regularly scheduled Council Meetings would be on the first and third Mondays of every month starting at 6 p.m. aside from the exceptions listed above or any special meetings that are called as needed.

December 16, 2024

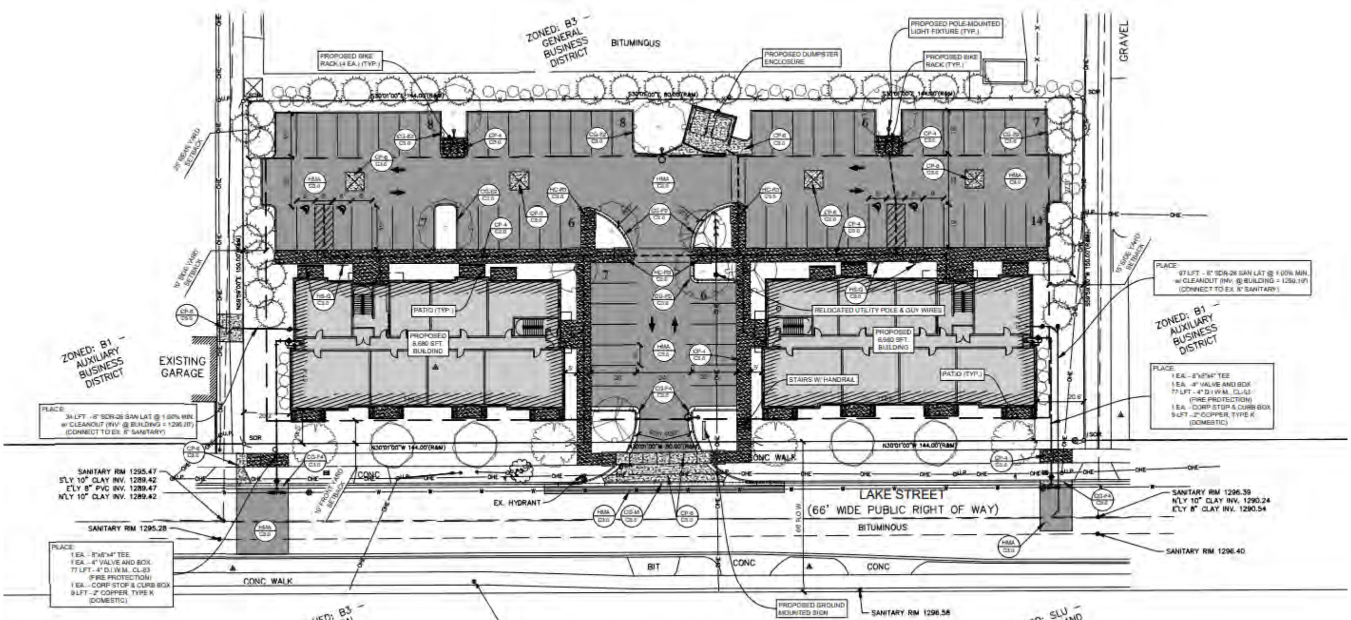
Council Communication

Re: Resolution to introduce ordinance vacating a portion of West Nelson St and reserving a public utility easement in favor of the City of Cadillac

The Cadillac Planning Commission voted unanimously at their November 25, 2024 meeting to approve and recommend that Council approve the vacation of the remaining portion of West Nelson St. The vacation is described as the remaining portion of West Nelson Street running northeasterly from Lake Street.

This vacation request is necessary for a future development; N. Lake St. Flats, to take place on property owned by Gary Pitsch. In summary, the development consists of two, three-story apartment buildings totaling 48 units. Shown below is an aerial photo of the recommended vacation in green and the portion that has been previously vacated in blue. Other photos include a rendering of the development and a site plan.

Recommended Action
Council is asked to adopt a resolution to introduce ordinance vacating a portion of West Nelson St and reserving a public utility easement in favor of the City of Cadillac and set public hearing for January 21, 2025.


ZONED: B3 - GENERAL BUSINESS DISTRICT
BITUMINOUS
PROPOSED BIKE RACK (4 EA.) (TYP.)
PROPOSED DUMPSTER ENCLOSURE
PROPOSED POLE-MOUNTED LIGHT FIXTURE (TYP.)
PROPOSED BIKE RACK (TYP.)
GRAVEL
ZONED: B1 - AUXILIARY BUSINESS DISTRICT
EXISTING GARAGE
PATIO (TYP.)
PROPOSED 8,680 SFT. BUILDING
RELOCATED UTILITY POLE & GUY WIRES
STAIRS W/ HANDRAIL
PATIO (TYP.)
CONC WALK
LAKE STREET
(66' WIDE PUBLIC RIGHT OF WAY)
BITUMINOUS
EX. HYDRANT
SANITARY RIM 1295.47
SANITARY RIM 1295.28
SANITARY RIM 1296.39
SANITARY RIM 1296.40
SANITARY RIM 1296.38
PROPOSED GROUND MOUNTED SIGN
CONC WALK
BIT
CONC
ZONED: SLU - SPECIAL LAND USE PERMIT

Planning Commission

200 North Lake Street
Cadillac, Michigan 49601
Phone (231) 775-0181
Fax (231) 775-8755

RESOLUTION NO. 2024-02

RESOLUTION TO RECOMMEND ADOPTION OF AN ORDINANCE VACATING A PORTION OF WEST NELSON STREET AND RESERVING A PUBLIC UTILITY EASEMENT IN FAVOR OF THE CITY OF CADILLAC

At a meeting of the Planning Commission of the City of Cadillac, Wexford County, Michigan, held in the Council Chambers, Cadillac Municipal Complex, 200 North Lake Street, Cadillac, Michigan, on the 25 day of November, 2024, at 6:00 p.m.

PRESENT: Putvin, Bosscher, Fent, Host, Bunce, Rice, VanPelt, Filkins

ABSENT: Baumann

The following preamble and resolution was offered by Fent and seconded by Rice.

WHEREAS, the City of Cadillac ("City") is authorized by statute to control its streets, alleys and public ways, and has the authority to vacate such streets, alleys, and public ways (MCL 117.4h; *Detroit Edison Co v City of Detroit*, 208 Mich App 26, 33; 527 NW2d 9 (1994)); and

WHEREAS, the Charter of the City of Cadillac provides that the City may, by ordinance and upon the affirmative vote of four or more members of the Council, "vacate, discontinue or abolish any highway, street, lane, alley or other public place, or part thereof" (Charter, Sec. 5.6); and

WHEREAS, Section 20-4 of the Cadillac City Code requires that, before the City Council may vacate any street or alley, the Cadillac Planning Commission must make a recommendation to the City Council regarding a street/alley vacation; and

WHEREAS, the City of Cadillac owns an interest in a portion of West Nelson Street (the "Street") described on Exhibit A; and

WHEREAS, the Planning Commission has determined that adopting an ordinance vacating the Street and reserving to the City a public utility easement is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, the Planning Commission of the City of Cadillac, Wexford County, Michigan, resolves as follows:

1. The Planning Commission recommends that the City vacate the Street described on Exhibit A.

2. Any and all resolutions that are in conflict with this Resolution are hereby repealed, but only to the extent necessary to give this Resolution full force and effect.

YEAS: 8

NAYS: 0

STATE OF MICHIGAN)
)
COUNTY OF WEXFORD)

I, John Putvin, the Chair of the Planning Commission of the City of Cadillac, hereby certify this to be a true and complete copy of Resolution No. 2024-02, duly adopted at a meeting of the Planning Commission held on the 25 day of November, 2024.

By: John Putvin
Print Name: John Putvin
Its: Chair

EXHIBIT A
(Portion to be vacated)

Real property in the City of Cadillac, County of Wexford and State of Michigan, and legally described as:

> All of the remaining portion of West Nelson Street running Northeasterly from Lake Street.

City Council

200 North Lake Street
Cadillac, Michigan 49601
Phone (231) 775-0181
Fax (231) 775-8755

Mayor
Carla J. Filkins

Mayor Pro-Tem
Tiyi Schippers

Councilmembers
Robert J. Engels
Stephen King
Bryan Elenbaas

RESOLUTION NO. 2024-______

RESOLUTION TO INTRODUCE ORDINANCE VACATING A PORTION OF WEST NELSON STREET AND RESERVING A PUBLIC UTILITY EASEMENT IN FAVOR OF THE CITY OF CADILLAC

At a meeting of the City Council of the City of Cadillac, Wexford County, Michigan, held in the Council Chambers, Cadillac Municipal Complex, 200 North Lake Street, Cadillac, Michigan, on the 16th day of December, 2024, at 6:00 p.m.

PRESENT: ____

ABSENT: ____

The following preamble and resolution was offered by _________________________and seconded by ____________________________ .

WHEREAS, the City of Cadillac ("City") is authorized by statute to control its streets, alleys, and public ways, and has the authority to vacate such streets, alleys, and public ways (MCL 117.4h; *Detroit Edison Co v City of Detroit*, 208 Mich App 26, 33; 527 NW2d 9 (1994)); and

WHEREAS, the Charter of the City provides that the City may, by ordinance and upon the affirmative vote of four or more members of the Council, "vacate, discontinue or abolish any highway, street, lane, alley or other public place, or park" (Charter Sec. 5.6);

WHEREAS, the Code of Ordinances of the City provides that the City Council may, by resolution or ordinance, vacate a street or alley or any portion of a street or alley located in a platted subdivision and may reserve an easement for public utility purposes or any other public purpose (Code of Ordinances, Section 20.4(a); and

WHEREAS, the Charter further provides that before final adoption of such an ordinance, the Council shall hold a public hearing and shall publish notice once at least twenty (20) days and again ten (10) days prior to the hearing; and

WHEREAS, the City owns an interest in a public street commonly known as a portion of West Nelson Street as described on Exhibit A to the proposed ordinance, which street is located within the City; and

WHEREAS, the City wishes to consider adopting an ordinance vacating a portion of West Nelson Street ("Street") described on Exhibit A to the Ordinance, but reserving to the City a public utility easement under, over and through the Street for the purpose of constructing, installing, operating, maintaining or repairing any and all public utilities, including water, sewer, gas, electric, cable, fiber optic, telecommunications and any similar public utilities, and authorizing the Mayor and/or the City Clerk to execute any and all documents necessary to vacate the Street, and to reserve a public utility easement and to make minor adjustments to the legal description of the Street as directed by the City Attorney; and

NOW, THEREFORE, the City Council of the City of Cadillac, Wexford County, Michigan, resolves as follows:

1. Pursuant to Section 5.2 and 5.6 of the City Charter, the City introduces Ordinance No. 2025-____, Ordinance Vacating a portion of West Nelson Street and Reserving a Public Utility Easement in Favor of the City of Cadillac (the "Ordinance," attached as Exhibit 1).

2. A public hearing regarding the Ordinance shall be held on the 21st day of January, 2025, at 6:00 p.m. in the Council Chambers, Cadillac Municipal Complex, 200 North Lake Street, Cadillac, Michigan.

3. The City Clerk is directed to publish a summary of the Ordinance in a newspaper of general circulation in the City of Cadillac, together with a notice setting the time and place for a public hearing on the Ordinance, in accordance with the Charter. The summary and notice of the hearing shall be substantially in the form of Exhibit 2.

4. A copy of the Ordinance shall be available for examination at the office of the City Clerk, and copies may be provided for a reasonable charge.

5. Any and all resolutions that are in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

YEAS: ______________________________

NAYS: ______________________________

STATE OF MICHIGAN)
)
COUNTY OF WEXFORD)

I, Sandra Wasson, City Clerk of the City of Cadillac, hereby certify this to be a true and complete copy of Resolution No. 2024-____, duly adopted at a meeting of the City Council held on the 16th day of December, 2024.

____
Sandra Wasson
City Clerk

ORDINANCE NO. 2025-_____

ORDINANCE VACATING A PORTION OF WEST NELSON STREET AND RESERVING A PUBLIC UTILITY EASEMENT IN FAVOR OF THE CITY OF CADILLAC

THE CITY OF CADILLAC ORDAINS:

Section 1.

Pursuant to MCL 117.4h and the Charter of the City of Cadillac and other applicable authority, the City hereby vacates and abandons a portion of West Nelson Street ("Street") located in the City and legally described on Exhibit A attached hereto, pursuant to MCL 560.257 and any other applicable authority. The City reserves to itself a public utility easement under, over and through the vacated Street for the purpose of constructing, installing, operating, maintaining, replacing and repairing any and all public utilities, including water, sewer, gas, electric, cable, fiber optic, telecommunications and any similar public utilities.

Section 2.

The Mayor and/or the City Clerk are authorized to execute any and all documents necessary to vacate the Street and to reserve a public utility easement in the vacated Street and subject to the direction of the City Attorney to make minor corrections to the legal description of the vacated Street.

Section 3.

The City Clerk is directed, pursuant to Section 20-4(b) of the City Code, within 30 days after the adoption of this Ordinance, to record a certified copy of this Ordinance with the Wexford County Register of Deeds and to send a copy to the State Treasurer.

Section 4.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed but only to the extent necessary to give this Ordinance full force and effect.

Section 5.

This Ordinance shall take effect twenty (20) days after its adoption and publication.

Approved this _____ day of ______________, 2025.

_______________________________ _______________________________
Sandra Wasson, Clerk Carla J. Filkins, Mayor

I, Sandra Wasson, City Clerk of the City of Cadillac, Michigan, do hereby certify that a summary of Ordinance No. 2025-_____ was published in the Cadillac News on the _____ day of ____________, 2025.

____
Sandra Wasson, City Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF WEXFORD)

On this ______ day of _________________, 2025, before me, a Notary Public, in and for said County, personally appeared Carla J. Filkins, Mayor, and Sandra Wasson, City Clerk, on behalf of the City of Cadillac, who executed the foregoing Ordinance and acknowledged that they have executed it on behalf of the City of Cadillac in their capacity as its Mayor and City Clerk, respectively.

____

_____________________________, Notary Public

County of ______________, State of Michigan

My commission expires: ___________________

Prepared By and Return To:
Scott H. Hogan (P41921)
FOSTER, SWIFT, COLLINS & SMITH, PC
1700 E. Beltline Avenue NE, Suite 200
Grand Rapids, MI 49525
(616) 726-2200

EXHIBIT A
(Portion to be vacated)

Real property in the City of Cadillac, County of Wexford and State of Michigan, and legally described as:

> All of the remaining portion of West Nelson Street running Northeasterly from Lake Street.

City Council

200 North Lake Street
Cadillac, Michigan 49601
Phone (231) 775-0181
Fax (231) 775-8755

NOTICE OF PROPOSED ORDINANCE AND PUBLIC HEARING

The City of Cadillac hereby gives notice of proposed Ordinance No. 2025-____, Ordinance Vacating A Portion of West Nelson Street and Reserving a Public Utility Easement in Favor of the City of Cadillac.

NOTICE IS HEREBY GIVEN that a Public Hearing on the proposed ordinance will be held in the Council Chambers, Cadillac, Municipal Complex, 200 North Lake Street, Cadillac, Michigan, on January 21, 2025, at 6:00 p.m., at a meeting of the City Council. The City of Cadillac complies with the "Americans with Disabilities Act." If auxiliary aids or services are required at a public meeting for individuals with disabilities, please contact Sandra Wasson, City Clerk, at least three (3) business days prior to any such meeting. Copies of the proposed ordinance are available for examination at the office of the City Clerk and copies may be provided at a reasonable charge. The following is a summary of the proposed ordinance.

ORDINANCE VACATING CERTAIN STREETS AND ALLEYS AND RESERVING A PUBLIC UTILITY EASEMENT IN FAVOR OF THE CITY OF CADILLAC

Section 1 of the proposed ordinance provides that pursuant to MCL 117.4h, the Charter of the City, and other applicable authority, the City vacates and abandons a portion of West Nelson Street described on Exhibit A ("Street") to the Ordinance and the City reserves to itself a public utility easement for the purpose of constructing, installing, operating, maintaining, replacing and repairing any and all public utilities, including water, sewer, gas, electric, cable, fiber optic, telecommunications and any similar public utilities.

Section 2 of the proposed ordinance authorizes the Mayor and/or the City Clerk to execute any and all documents necessary to vacate the Street, and to reserve a public utility easement in favor of the City and to make minor corrections to the legal description of the vacated Street, as directed by the City Attorney.

Section 3 of the proposed ordinance directs the City Clerk to record a copy of the ordinance with the Wexford County Register of Deeds and to send a copy to the State Treasurer.

Section 4 of the proposed ordinance provides that other ordinances inconsistent with the provisions of the ordinance are repealed but only to the extent necessary to give the ordinance full force and effect.

Section 5 of the proposed ordinance provides that it will take effect 20 days after adoption and publication.

CITY COUNCIL OF THE
CITY OF CADILLAC, MICHIGAN

By: Sandra Wasson, City Clerk
Cadillac Municipal Complex
200 North Lake Street
Cadillac, Michigan 49601
Telephone No: (231) 775-0181

City Council

200 North Lake Street
Cadillac, Michigan 49601
Phone (231) 775-0181
Fax (231) 775-8755

Mayor
Carla J. Filkins

Mayor Pro-Tem
Tiyi Schippers

Councilmembers
Stephen King
Robert J. Engels
Bryan Elenbaas

RESOLUTION NO. 2024-____

RESOLUTION AMENDING GENERAL APPROPRIATIONS ACT FOR FISCAL YEAR 2025

At a regular meeting of the City Council of the City of Cadillac, Wexford County, Michigan, held in the Council Chambers, Cadillac Municipal Complex, 200 North Lake Street, Cadillac, Michigan, on the 16th day of December, 2024, at 6:00 p.m.

PRESENT: ____

ABSENT: ____

The following preamble and resolution was offered by ______________________ and seconded by ______________________ .

WHEREAS, the City adopted Ordinance No. 2024-06, Ordinance Adopting General Appropriations Act for Fiscal Year 2025 ("General Appropriations Ordinance") on May 30, 2024, which approved a general appropriations act for the 2025 fiscal year; and

WHEREAS, Section 10.5 of the City Charter provides that the City Council may make additional appropriations during the fiscal year for unanticipated expenditures required of the City; and

WHEREAS, Section 9 of the General Appropriations Ordinance authorizes the City Council to make such additional appropriations by resolution; and

WHEREAS, the City Council has determined that additional appropriations are required due to unanticipated expenditures;

NOW, THEREFORE, the City Council of the City of Cadillac, Wexford County, Michigan, resolves as follows:

1. The general appropriations act for the 2025 fiscal year is hereby amended in the manner set forth in the attached Exhibit A, which is incorporated by reference.

2. Any and all resolutions that are in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

YEAS: ____________________________

NAYS: ____________________________

STATE OF MICHIGAN)
)
COUNTY OF WEXFORD)

I, Sandra Wasson, City Clerk of the City of Cadillac, hereby certify this to be a true and complete copy of Resolution No. _________________, duly adopted at a regular meeting of the City Council held on the 16th day of December, 2024.

____
Sandra Wasson
Cadillac City Clerk

City of Cadillac **EXHIBIT A**

Financial Services Department
FY2025 Budget Amendment #2
December 16, 2024

	Current Budget	Amended Budget	Increase (Decrease)
GENERAL FUND			
Department: Other Financing Uses	**$465,000**	**$477,500**	**$12,500**
Amended Line Items Detail			
Transfer Out	0	12,500	12,500

Purpose: *Transfer additional funds for The Market at Cadillac Commons renovation project. Recommended to use portion of ARPA funds remaining. Current balance remaining is $785,116.*

General Fund Summary		**Prior Approved**	**Amended**	**Change**
Revenues		$8,917,500	$8,917,500	$0
Expenditures		9,265,200	9,277,700	12,500
Revenues Over (Under) Expenditures		**($347,700)**	**($360,200)**	

	Current Budget	Amended Budget	Increase (Decrease)
The Market Capital Project Fund			
Revenue	**$825,000**	**$959,300**	**$134,300**
Amended Line Items Detail			
Federal Grants	750,000	884,300	134,300

Purpose: *Recognize revenue from additional grant funds requested from the Michigan Economic Development Corporation to cover actual project costs after bids received.* ***Note:*** ***Initial General Fund transfer for matching funds was made in prior fiscal year.***

	Current Budget	Amended Budget	Increase (Decrease)
Expenditures	**$825,000**	**$973,500**	**$148,500**
Amended Line Items Detail			
Contractual Services	825,000	973,500	148,500

Purpose: *Appropriate additional funds for project construction after bids received.* ***Note:*** ***$43,350 in design and engineering costs incurred in prior fiscal year.***

December 16, 2024

Council Communication

Re: Resolution to amend Sections 46-4, 46-186, and 46-216 of the Code of Ordinances

The Cadillac Planning Commission voted 6-1 at their September 23, 2024, meeting to approve and recommend that Council approve the adoption of the amendments to Sections 46-4, 46-186 and 46-216 of the Cadillac City Code of Ordinances. The amendments pertain to allowing the Bed and Breakfast in the RM-1 and RM-2 zoned districts only by Special Land Use Permit.

At the October 21, 2024, Council meeting, Council voted unanimously to remand the proposed amendments back to Planning Commission and requested they review a series of questions. At the Planning Commission's meeting on October 28, 2024, they discussed Council's request and voted 8-1 to reaffirm their previous recommendation of the amendments to Council and addressed Council's questions.

At the November 18, 2024, Council meeting, Council voted unanimously to remand the proposed amendments back to Planning Commission and requested that they consider an overlay district within the RM-1 District in the Downtown area. At the November 25, 2024, meeting of the Planning Commission, the commission discussed Council's request and voted unanimously to reaffirm their previous recommendation of the amendments to Council.

Recommended Action
Council is asked is consider the ordinance amendment to Sections 46-4, 46-186, and 46-216 of the Cadillac City Code.

City Council

200 North Lake Street
Cadillac, Michigan 49601
Phone (231) 775-0181
Fax (231) 775-8755

RESOLUTION NO. 2024-_______

RESOLUTION TO ADOPT ORDINANCE NO. 2024-_____, AN ORDINANCE TO AMEND SECTIONS 46-4, 46-186, AND 46-216 OF THE CODE OF ORDINANCES, CITY OF CADILLAC, MICHIGAN

At a meeting of the City Council of the City of Cadillac, Wexford County, Michigan, held in the Council Chambers, Cadillac Municipal Complex, 200 North Lake Street, Cadillac, Michigan, on _________, 2024, at ______ p.m.

PRESENT: ____

ABSENT: ____

The following preamble and resolution was offered by _________________________ and supported by ______________________________.

WHEREAS, pursuant to the Michigan Zoning Enabling Act, Act 110 of 2006, MCL 125.3101 *et seq.* ("MZEA"), the City has authority to adopt and amend zoning ordinances regulating land use in the City; and

WHEREAS, the City desires to amend the City's Zoning Ordinance regarding the use of land as a bed and breakfast;

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments; and

WHEREAS, the Planning Commission voted to recommend the adoption of the proposed amendments; and

WHEREAS, the City Council introduced the proposed amendments at a meeting on October 7, 2024; and

WHEREAS, the City Council held a duly noticed public hearing on the proposed amendments on October 21, 2024; and

WHEREAS, the City Council desires to adopt the proposed amendments.

NOW, THEREFORE, the City Council of the City of Cadillac, Wexford County, Michigan, resolves as follows:

1. The City adopts Ordinance No. 2024-____, An Ordinance to Amend Sections 46-4, 46-186, and 46-216 of the Code of Ordinances, City of Cadillac, Michigan (the "Ordinance"), attached as **Exhibit A**.

2. The Ordinance shall be filed with the City Clerk.

3. The City Clerk is directed to publish a Notice of Adoption within 7 days after its adoption. The Notice shall be substantially in the form of **Exhibit B**.

4. A copy of the Ordinance shall be available for examination at the office of the City Clerk, and copies may be provided for a reasonable charge.

5. Any and all resolutions that are in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

YEAS: ________________________

NAYS: ________________________

STATE OF MICHIGAN)
)
COUNTY OF WEXFORD)

I, Sandra Wasson, City Clerk of the City of Cadillac, hereby certify this to be a true and complete copy of Resolution No. 2024-____, duly adopted at a meeting of the City Council held on the ___ day of _______, 2024.

____
Sandra Wasson, Cadillac City Clerk

EXHIBIT A

CITY OF CADILLAC

ORDINANCE NO. 2024-_____

AN ORDINANCE TO AMEND SECTIONS 46-4, 46-186, AND 46-216 OF THE CODE OF ORDINANCES, CITY OF CADILLAC, MICHIGAN.

The City of Cadillac ordains:

Section 1. Purpose.

The purpose of this Ordinance is to regulate the use of land within the City as a bed and breakfast.

Section 2. Amendment of Section 46-4 of the City Zoning Ordinance.

The definition of "bed and breakfast" contained in Section 46-4 of the City Zoning Ordinance is amended in its entirety to read as follows:

> *Bed and breakfast* means a single-family dwelling unit in which up to eight rooms are available for rent to transient tenants, for fewer than 15 days, during which time the innkeeper resides in the dwelling unit. The term "bed and breakfast" is also known as a "tourist home."

Section 3. Amendment of Section 46-186 of the City Zoning Ordinance.

Section 46-186 of the City Zoning Ordinance is amended by the addition of a new subsection 7 to read in its entirety as follows:

Sec. 46-186. - Special land uses permitted.

The following uses of land and structures will be allowed, as stipulated in article VI of this chapter, special land uses:

(1) Recreational activities.

(2) Offices and/or business in an existing building.

(3) Office and/or business in a dwelling (mixed use).

(4) Family shelter.

(5) Group shelter.

(6) Combination group/family shelter.

(7) Bed and breakfast.

Section 4. Amendment of Section 46-216 of the City Zoning Ordinance.

Section 46-216 of the City Zoning Ordinance is amended by the addition of a new subsection 9 to read in its entirety as follows:

Sec. 46-216. - Special land uses permitted.

The following uses of land and structures will be allowed, as stipulated in article VI of this chapter, special land uses:

(1) Recreational facilities.

(2) Mobile home parks.

(3) Office and/or business in an existing building.

(4) Office and/or business in a dwelling (mixed use).

(5) Family shelter.

(6) Group shelter.

(7) Combination group/family shelter.

(8) Accessory buildings and uses customarily incident to any of the special land uses in subsections (1) through (7) of this section.

(9) Bed and breakfast.

Section 5. Severability.

If any provision of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining provision of this Ordinance.

Section 6. Repealer.

Any ordinances that conflict with this Ordinance are repealed to the extent necessary to give this Ordinance full force and effect.

Section 7. Effective Date.

This Ordinance takes effect 20 days after its adoption.

EXHIBIT B

NOTICE OF ADOPTION OF AN ORDINANCE TO AMEND SECTIONS 46-4, 46-186, AND 46-216 OF THE CODE OF ORDINANCES, CITY OF CADILLAC, MICHIGAN

NOTICE IS HEREBY GIVEN that the City Council of the City of Cadillac, Wexford County, Michigan, at a meeting on __________, 2024, adopted Ordinance No. 2024-______, An Ordinance to Amend Sections 46-4, 46-186, and 46-216 of the Code of Ordinances, City of Cadillac, Michigan.

A copy of the Ordinance may be inspected or purchased, for a reasonable charge, during regular business hours at City Hall, 200 Lake Street, Cadillac, Michigan 49601.

The following is a summary of the regulatory effect of Ordinance:

The Ordinance redefines “bed and breakfast” in the City Zoning Ordinance and adds bed and breakfast as a special land use permitted in the RM-1 and RM-2 zoning districts.

The ordinance takes effect 20 days after its adoption.

CITY OF CADILLAC, MICHIGAN

By: Sandra Wasson, City Clerk
Cadillac Municipal Complex
200 Lake Street
Cadillac, Michigan 49601
Telephone No: (231) 775-0181