

**MINUTES OF THE GROSSE POINTE CITY COUNCIL MEETING HELD IN THE  
CITY COUNCIL CHAMBERS, 17145 MAUMEE AVENUE, GROSSE POINTE, MICHIGAN  
ON MONDAY, JANUARY 11, 2010.**

The meeting was called to order at 7:00 p.m.

ROLL CALL

Present: Mayor Scrace, Council Members Boettcher, Parthum, Stempfle, Stevens, Walsh and Weipert

In Attendance: City Manager Dame, Attorneys Fildew and Kennedy, City Clerk Arthurs, Public Service Director Weitzel, Assistant City Manager Fincham, Finance Director Johnson, Public Safety Director Fox and City Planner Jackson.

CONSENT AGENDA

Motion by Council Member Weipert second by Council Member Parthum to approve the Consent Agenda consisting of the following:

1. Minutes from the regular Council Meeting held on December 14, 2009
2. Invoices
  - a) Anderson, Eckstein & Westrick, Inc.
    - Professional Services, CDBG ADA Ramp Improvements, \$8,398.87
    - Mack Avenue Water Main – Cadieux to Washington, \$14,371.50
  - b) Zuniga Cement Construction, Inc.
    - ADA Accessible Ramp Replacement, \$29,675.69
  - c) Arbor Pro Tree Service, Inc.
    - Tree Trimming & Pruning, \$8,843
  - d) State of Michigan
    - Marina Bottom Land Lease, \$14,036
  - e) RIO Supply Michigan Meter, Inc.
    - Water Meter Replacement Program, \$12,446.20
    - Water Meter Replacement Program, \$15,300
    - Water Meter Replacement Program, \$5,700
    - Water Meter Replacement Program, \$46,272

CONSENT AGENDA UNANIMOUSLY ADOPTED.

PRESENTATION – GROSSE POINTE LIBRARY – TRUSTEE MARY BETH SMITH

Mary Beth Smith, Vice President and City representative on the Grosse Pointe Library Board discussed the history of the Grosse Pointe Library and summarized her functions on the board. Mrs. Smith provided an overview of library services and the Board's mission. Mrs. Smith introduced Ed Frederickson, also a City resident, who provided a financial overview of revenues and expenditures of the Grosse Pointe Library. Mrs. Smith also introduced Bob Clocza, President of the Board, who explained the complexities of improving the existing historical Central Branch building. Various flyers pertaining to library history and services were distributed. The City Council thanked the library board members for their presentation.

PRESENTATION – GROSSE POINTE FOUNDATION – PRESIDENT JOSEPH JENNINGS

Joseph Jennings, President of the Grosse Pointe Foundation updated Council on recent Foundation projects. He discussed various projects that the Foundation members have discussed and considered. Mr. Jennings answered various Council questions and stated that Grosse Pointe Foundation will continue to communicate with the City so that potential initiatives can be accomplished more readily.

RESOLUTION – PAYMENT IN LIEU OF PARKING

City Manager Dame made the following report:

In 2009, the Council adopted a zoning ordinance change establishing the ability of a commercial building developer to pay a payment in lieu of meeting the required number of parking spaces for a new development. In this way, the lack of parking in the land scarce Village would not be a deterrent to new investment.

A resolution is required to establish the amount of the Payment in Lieu of Parking (PILP) fee. The fee would be paid prior to the issuance of a building permit for a project that does not meet the required amount of parking. Under the ordinance, the City is required to use the PILP funds from developers, which is put into the parking fund reserve, for expansion of the parking spaces in the system. It does not require the City to immediately build new parking. The PILP system allows a development to get started without the required parking and rely on existing public parking system for the immediate needs, while the City collects sufficient funds to expand the number of spaces available. The City has two primary options to expand parking in the Village: 1) build a parking structure or 2) buy a property (such as a house and lot), demolish the building, and pave the new property as a surface lot. In either scenario, a conservative estimate of the cost would be approximately \$18,000 per space. Given that the City is not required to immediately construct new parking upon receipt of PILP fees, the City would garner investment interest from the funds it holds. Also, it may be expected that additional sources of funds, such as TIF revenues from the new development or other Parking Fund reserves, could make up the difference necessary to construct the lot. Mr. Dame discussed various options to expand parking in the Village. It was noted that the financial revenues will depend entirely on how many projects are proposed and how many spaces, if any, a proposed project is short on spaces needed to meet the added demand of the project. City staff recommends establishing the PILP fee at \$9,000 per parking space. The fee is based on an estimated half of what it would cost to construct the parking space. Council discussion took place pertaining to the resolution and per parking space fee calculations. It was noted that the fee will be uniform and does not affect existing grandfathered buildings in the Village.

Motion by Council Member Weipert second by Council Member Parthum to adopt the following resolution:

#### RESOLUTION

After having considered the cost of the acquisition of land and the cost of construction for parking facilities that may be desirable or required in and adjacent to the Village in the City of Grosse Pointe, considered the practice of neighboring communities, and considered the comments and input of Council and City staff; the City of Grosse Pointe adopts a payment amount of \$9,000 per parking space as the applicable fee payment in lieu of providing parking as provided for under Section 90-156(14)(b) of the City Code.

UNANIMOUSLY ADOPTED.

The City Council now convened as the Zoning Board of Appeals.

#### PUBLIC HEARING – ZONING BOARD OF APPEALS – 16919 KERCHEVAL AVENUE – KROGER CO.

Mayor Scrace indicated that this was the time set for a public hearing on a variance request of Kroger Co., 16919 Kercheval Avenue. It was noted that notice of public hearing had been given as required by PA 110 of the State of Michigan and Grosse Pointe City Ordinance, proof of which is on file in the official records of the City Clerk of the City of Grosse Pointe.

City Planner Jackson made the following report:

The subject property is located at 16919 Kercheval and is currently zoned C-2, Central Business District (Kroger store) and P-1, Vehicular Parking District (surface parking lot). The grocery store will be located in the same location as the existing store, and the parking lot will be restriped to provide more space per vehicle.

The applicant is requesting that the ZBA grant two variances as follows:

1. Storefront opening: 90-305(4)b; requires that all facades maintain a minimum of 70% clear windows between one and eight feet from the ground. The applicant is requesting a 24% variance along Kercheval, and 26% along the rear façade.

2. Number of loading spaces: Section 90-160; requires a minimum of six 12 x 50 loading spaces. The applicant is proposing one loading space and other designated loading areas. The applicant is requesting a variance from the loading requirement.

The design of the building is in character with other buildings in the Village. Further, the Kercheval and alley facades will incorporate window boxes and art glass to provide an active street frontage, consistent with the intent of the ordinance. Since the previous proposal, Kroger has increased the amount of transparent glass and reduced the amount of display areas to improve the overall appearance of the building.

The physical arrangement of the Village far predates the loading standards in the City's zoning ordinances. Without making sweeping changes to the physical arrangement; in many cases at the expense of the character of the Village, providing six loading spaces is a practical difficulty. The applicant is currently exploring ways to minimize the impact of the reduced number of loading docks to ensure that the day to day operations of the store will not interfere with the safe and efficient flow of traffic through the alley. The site is directly adjacent to the existing alley, as well as other businesses in the Village. The truck-loading schedule will provide for an orderly use of the alley during deliveries. The proposed redevelopment will improve vehicular and pedestrian circulation by providing larger parking spaces and a minimum 21-foot wide clear path in the alley will be maintained, thus allowing for two passing vehicles. There will also be a ten foot wide sidewalk at the rear of the store providing improved pedestrian access and circulation. Adequate improvements to the alley will ensure vehicular and pedestrian traffic is no more hazardous than is normal for the district involved. Mr. Jackson stated that based on the review of the background information, the existing codes and ordinances, and the relationship of the surrounding parcels, that the requested variances are necessary to provide for a functional grocery store on this site. The requested variances are subject to site plan approval and special use approval and include the following conditions:

1. Execution of a new encroachment agreement between the City of Grosse Pointe and the applicant for any encroachments into the public right-of-way.
2. Execution of license agreements for use of City property.
3. Site plan approval.
4. Special use approval for a business over 5,000 sq. ft.

Mayor Scrace opened the public hearing regarding the requested variances. Hearing no comment from the public, Mayor Scrace closed the public hearing.

Motion by Council Member Parthum second by Council Member Stevens that the variances are granted for Kroger Co., 16919 Kercheval Avenue, with the following conditions 1-4 listed above.

UNANIMOUSLY ADOPTED.

The Zoning Board of Appeals now convened as the Planning Commission.

#### PUBLIC HEARING – SPECIAL LAND USE APPLICATION – KROGER CO. – 16919 KERCHEVAL AVENUE

Mayor Scrace announced a public hearing, on a Special Use request of the Kroger Company of Michigan for a retail use over 5,000 square feet.

Mr. Jackson discussed his review letters of January 8, 2010. Mr. Jackson noted that the proposed floor plan includes a 42,000 square foot grocery store (including basement for non-sales use). The proposed Kroger store replaces the existing Kroger store at the same location. The proposed store will provide similar services as the existing store, as well as the Trader Joe's store, and of comparable intensity as Borders, Ace, and CVS, albeit at a larger scale. The existing parking lot is a key component to the Village parking system, and can be used by all Village users. The applicant will be paying for the loss of five parking spaces and the demand for seven additional parking due to the expanded footprint of the building at a rate of \$9,000 per space. An outdoor display area is proposed on Kercheval. The display area will be a significant improvement from the existing display/storage area, including seasonal displays. The type of display, design requirements, and location will not negatively impact the Village. A detailed truck delivery plan has been provided. Semi-truck deliveries will only taken place before school (before 7:30 AM) and after school (after 4:00 PM). Smaller truck

delivery will take place between 7 AM and noon. A minimum 21-foot wide clear path in the alley will be maintained, allowing for two passing vehicles. The applicant will provide a crossing guard and other measures to ensure that schoolchildren are safe crossing the alley at Cadieux during construction due to increased two-way traffic. Adequate improvements to the alley, provision of a crossing guard, adequate site distance, and mitigation of traffic conflicts will protect the public health, safety, and welfare of the community. Due to the turning radii at the alley, a mountable curb will be provided on the south side of the alley at the intersection with Notre Dame. Discussion took place regarding the special land use request.

Mayor Scrace opened the public hearing on the proposed special land use request. Hearing no comment from the public, Mayor Scrace closed the public hearing.

Motion by Council Member Weipert second by Council Member Stempfle to approve the Special Use request of Kroger Co. to operate a retail store in excess of 5,000 sq. ft. in accordance with the Kroger site plan of December 5, 2008, as revised December 17, 2009, subject to factual statements, conditions and requirements set forth in the City Planner's report of January 8, 2010, and execution by Kroger Co. of a Special Use Permit consistent with same as provided to Council. The conditions include the following:

1. Execution of a new encroachment agreement between the City of Grosse Pointe and the applicant for any encroachments into the public right-of-way.
2. Execution of license agreements for use of City property.
3. The payment in lieu of parking shall be made to the City in a form acceptable to the City prior to the issuance of any building permits.
4. Site plan approval.
5. The applicant will provide a crossing guard and other measures to ensure that schoolchildren are safe crossing the alley during construction due to increased two-way traffic.

UNANIMOUSLY ADOPTED.

The Commission reconvened as the City Council.

#### SITE PLAN REVIEW AND LICENSE AGREEMENT – KROGER CO. – 16919 KERCHEVAL AVENUE

Mayor Scrace announced the Council will consider the request of the Kroger Company of Michigan for site plan approval for a new grocery store pursuant to the December 5, 2008, site plan, as revised December 17, 2009.

John Jackson, the City Planner, presented his review letter of February 6, 2009. Mr. Jackson stated he reviewed Kroger's revised proposal to redevelop the store at the northwest corner of Kercheval Avenue and Notre Dame Avenue. The revised proposal consists of one story, along with a basement (non-sales area); with a total gross floor area of 42,000 square feet compared to the previous proposal of 54,816 sq. ft. The footprint of the store will be increased by approximately 1,000 square feet from the existing building by extending the building 9 feet toward Notre Dame. The revised proposal includes the reconfiguration of the existing surface parking lot. Under the proposed reconfiguration, the parking spaces will be increased in size from 7 to 8 feet and the number of spaces will be reduced by five. The applicant is proposing an outdoor seating area along Notre Dame and an outdoor sales area along Kercheval. The proposed Kroger store is over 5,000 sq. ft. in area, and therefore requires special land use approval per Section 90-298. A minimum 5 foot clear path will be maintained along the Notre Dame sidewalk where the outdoor seating is located, incorporating both the street trees and light poles. The proposed building height meets the maximum permitted 42 feet. The flat roof sections of the Kercheval façade will be approximately 30 feet tall and the highest point, measured at the midpoint of the pitched roof of the entry element on the corner is approximately 40 feet. The proposed Kroger store will consist of a brick façade, architectural stone base, cast stone trim, decorative concrete brick, and asphalt shingles. The screen wall adjacent to the alley will be brick on the north (school) face and decorative masonry on the south face. Further, lockable gates will be provided to screen the view of the trash area from vehicles traveling east within the alley. The streetscape design, including brick, concrete, trees, and tree grates, etc. will be consistent with City standards. The existing planter at the corner will be restored after construction. Mr. Jackson further discussed the outdoor seating and display, cart storage plan, the need for an encroachment agreement and the extension of the temporary use of the former Bath & Body Works portion of the store; items which are noted in his report.

## Traffic and Parking

1. The proposed Kroger store is located within the Village Parking district. According to the ordinance, expanded uses are required to provide off-street parking or make a per space payment in lieu of providing the required parking. Based on the revised layout of the parking lot, they will lose five parking spaces. Based on the additional 1,000 square feet of usable floor area resulting from the expanded building footprint, they are required to provide an additional 7 parking spaces (1/150square feet of new floor area). In total, Kroger will need to make a payment to the City in lieu of 12 parking spaces. At a rate of \$9,000 per parking space the total contribution will be \$108,000 in lieu of the 12 required parking spaces. Payment in lieu of parking shall be made to the City in a form acceptable to the City prior to the issuance of any building permits.
2. The proposed parking lot will continue to be owned by Kroger. The existing parking lot is a key component to the Village parking system, and will continue to be available to all Village users. The lot will continue to be metered at consistent rates with other surface lots in the Village.
3. The revised proposal will be consistent in terms of the anticipated traffic impacts. The applicant submitted a traffic and parking study with the original proposal, and the study was reviewed by the City's traffic consultant. The City concurs with the traffic consultant that the amount of traffic generated with the new use is consistent with the types of uses encouraged in the Village.
4. The truck delivery system will be the same as the original proposal. Semi-truck deliveries will only take place before school (before 7:30 AM) and after school (after 4:00 PM). DSD truck delivery will take place between 7 AM and noon. A minimum 21 foot wide clear path in the alley will be maintained, thus allowing for two passing vehicles.
5. All traffic signage will meet Michigan standards for traffic control devices and are subject to the approval of the Department of Public Safety.
6. Per Section 90-160 a total of six 12 by 50 foot loading spaces are required and only one loading space has been provided. A variance will be required as noted above.
7. The applicant will provide a crossing guard and other measures to ensure that schoolchildren are safe crossing the alley during construction due to increased two-way traffic.
8. Due to the turning radii at the alley, a mountable curb or other configuration acceptable to the City will be provided on the south side of the alley at the intersection with Notre Dame.

Council discussion took place regarding the proposed outdoor display, window display boxes, proposed aesthetics and layout of store interior, utilities plan, proposed signage and the need for a detailed construction and logistics plan. Kroger representatives answered various Council questions.

Various member of the public in attendance commented on the site plan including what alley improvements are proposed, alley traffic flow, safety concerns regarding children crossing near the construction area, safety impact of construction dust and debris, and details and components of the streetscape along Notre Dame.

Further Council discussion took place regarding the proposed signage and awnings, display windows, logistics plan and the planner's recommendation listed in the January 8, 2010 report.

Motion by Council Member Stempfle second by Council Member Stevens to approve the revised site plan of Kroger Co., 16919 Kercheval Avenue, as submitted and authorize the execution of a license agreement as submitted to Council for outdoor merchandise and seating, including the following conditions:

1. Complete signage and awning plan is submitted to Council for approval.
2. Detailed color plan for display box windows be submitted to Council for approval.
3. A construction and logistics plan is submitted to City staff for approval prior to the issuance of permits.
4. Payment in lieu of parking for 12 required parking spaces.

5. Execution of a license agreement for outdoor merchandise, seating and refuse area.
6. Compliance with City Planner's conditions 1-7 listed in the January 8, 2010 report and compliance with the description of Kroger's operations as described in the City Planner's report.

UNANIMOUSLY ADOPTED.

#### EXTENSION OF TEMPORARY USE

Motion by Council Member Boettcher second by Council Member Stempfle to approve and continue the temporary use approval for Kroger Co. to use the former Bath & Body Works portion of the store until June 1, 2010.

UNANIMOUSLY ADOPTED.

#### CONSIDERATION OF SNOW REMOVAL POLICY

Public Service Director Weitzel made the following report:

After the retirement of the Public Service Supervisor in July 2009, Public Service personnel inventoried existing policies and procedures. It was noted that a written snow removal policy was needed. The Snow Removal Policy was developed and drafted to help standardize the manner in which snow events are handled in the City. It was noted that the proposed policy documents existing procedures and minimizes the use of salt which is increasingly difficult to acquire. It was further noted that sidewalks will not be plowed on the weekends.

A Neff Road resident expressed concern regarding snow plowing and parked cars on Neff. She indicated that cars are parked on the street longer than what is posted on Neff Rd. between Kercheval and Waterloo and for this reason the plows never have a chance to clear snow. It was noted that further investigation would be done regarding this situation.

Motion by Council Member Parthum second by Council Member Stevens to approve and adopt the Snow Removal Policy and Procedure as presented.

UNANIMOUSLY ADOPTED.

#### PROPOSED ORDINANCE REGARDING SALE OF MEDICAL MARIHUANA

City Attorney Kennedy made the following report:

On November 4, 2008, the electors of the State of Michigan enacted the Michigan Medical Marihuana Act which provides in part that a qualified caregiver under the Act may dispense and sell medical marihuana in accordance with the Act. As reflected in a recent Detroit News article, a number of Michigan communities have taken steps to regulate the sale of marihuana under the Michigan Act, particularly in proximity to school property. Although the Michigan Act is silent, Federal law clearly prohibits the sale of marihuana within 1,000 feet of school property. The proposed ordinance will provide the City with a clear local enforcement mechanism for the principles reflected in the Federal law. The proposed ordinance prohibits the sale of marihuana by a qualified primary caregiver within 1,000 feet of school property. It is already a local crime for anyone other than a "qualified primary caregiver" to sell marihuana anywhere in the City.

RECEIVE AND FILE.

#### ORDINANCE ADOPTION

MOTION by Councilmember Weipert supported by Councilmember Parthum, that the following ordinance be adopted:

ORDINANCE NO. 390

An Ordinance to add Section 42-10 to the Code of Ordinances  
of the City of Grosse Pointe, Sale of Medical Marihuana

(For complete text of Ordinance No. 390 - see Ordinance Book of the City of Grosse Pointe)

UNANIMOUSLY ADOPTED.

AMENDMENT TO PARKS AND RECREATION FEE STRUCTURE

Parks and Recreation Director Hardenbrook made the following report:

Anticipating tightening budgetary constraints, the Parks and Recreation Department conducted a mid year review of its fee structure. Typically, a comprehensive review of all City fees are conducted as part of the budget process ending in May each year. However, this mid-year review will allow the proposed changes to be implemented in time for the summer recreation season and published in the upcoming recreational newsletter.

Changes to various registrations, classes and regulations are recommended to help recoup the cost of administering these specialized programs. Even with the proposed increases, the fees remain reasonable, and a significant number of general recreation events and programs available at no cost. It is anticipated that all of the Parks & Recreation fees will be reviewed again as part of the annual budget process comprehensive fee review.

Discussion took place regarding the charge for outdoor movies. It was suggested that children attending an outdoor movie that are 4 and under continue to be free.

Motion by Council Member Stempfle second by Council Member Parthum to adopt the amended Parks and Recreation fee structure effective immediately and children 4 and under attend outdoor movies at no cost.

UNANIMOUSLY ADOPTED.

STAFF REPORTS

Chief Fox updated Council about recent coyote sightings and the possibility of trapping. He further discussed the recent fires in the area, two of which were in the City limits. City Clerk Arthurs advised that the winter edition of the City newsletter will be delivered to residents by the end of the week. City Manager Dame reviewed his memorandum dated January 8 regarding 2010 project issues. He further discussed the citizen fiscal priorities survey developed by the Citizen Budget Committee which will be delivered along with the City newsletter. It was requested the surveys be returned by January 31.

COUNCIL COMMENT

The City Council commented on the following topics:

- The Kroger development project is a positive step for the Village and the improvements will greatly benefit the area.
- Discussion of the Mack streetscape and Village clock repairs as possible Grosse Pointe Foundation projects.
- Council committee assignments are forthcoming.

On Motion, the meeting was adjourned at 9:50 p.m.

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Julie E. Arthurs, City Clerk  
City of Grosse Pointe