

REGULAR MEETING

The meeting was called to order at 8:00 p.m., Mayor Steven M. Brown presiding.

Pledge of Allegiance to the Flag

PRESENT: Councilpersons Mario DiSanto, Michael Higgins, Mark Kandes, Thomas McPartlin,
Thomas Murphy and Frank Vaslo

ALSO PRESENT: City Attorney Ed Zelenak and City Clerk Donna Breeding

Mayor's remarks

RESOLUTION 07-82 Minutes

By Councilman Vaslo, supported by Council President Higgins

RESOLVED, that the minutes of the Regular Meeting held under the date of February 26, 2007
be approved as recorded.

Motion carried.

ABSTAIN: Councilman DiSanto

(NOTE: Closed Meeting held 2-26-07 re: Labor Negotiations immediately following regular
meeting)

Public Hearing called to order regarding Dangerous Building at 1676 Brest

Discussion

No Public Comment

Public Hearing Adjourned

Regular Meeting Reconvened

RESOLUTION 07-83 Order to Demolish/1676 Brest

By Councilman DiSanto, supported by Councilman Kandes

WHEREAS, the Dangerous Building and Code Appeals Board issued an order to **demolish** the structure
located at 1676 **BREST**, said order being issued subsequent to a hearing of the facts pertaining to this
matter and identified as **CASE # 06-02**, which was held on **November 15, 2006** in accordance with
Section 1444.04 of the Codified Ordinances of the City of Lincoln Park; and

WHEREAS, the Dangerous Building and Code Appeals Board has filed a report of it's findings and a
copy of it's order with this Council and with each party having a recorded interest in the subject property;
and

WHEREAS, the City Council has established the date of **February 26, 2007 and continued on March 5,
2007, at 8:00 PM**, as the date for a hearing to review the findings and order of said Board, the owner or
party of interest having been given the opportunity to show cause why said structure should not be
demolished, and the Council having duly held such hearing.

NOW, THEREFORE BE IT RESOLVED, that said order of the Dangerous Building and Code Appeals
Board to demolish and remove the structure located at **1676 Brest**, Lincoln Park MI, is hereby approved
by the Council of the City of Lincoln Park; and

BE IT FURTHER RESOLVED, that the Acting Building Superintendent is hereby directed to comply
with the order of the Board as approved by Council after 20 days from the date of this resolution; and

BE IT FURTHER RESOLVED, that the Acting Building Superintendent shall determine the date of
demolition and shall notify each party of interest as required by Section 1444.10 of the Codified
Ordinances; and

BE IT FURTHER RESOLVED, that the cost of the demolition shall be assessed against the real property
on which said structure is located, such costs shall be reported to the City Assessor who shall place said
lien.

Motion unanimously carried.

RESOLUTION 07-84 Open Bids/Quandt Park Fencing

By Councilman McPartlin, supported by Councilman DiSanto

RESOLVED, that the City Clerk is hereby authorized to open bids marked "Quandt Park
Fencing".

Motion unanimously carried.

RESOLUTION 07-85 Referral of Quandt Park Fencing bid

By Councilman DiSanto, supported by Councilman McPartlin
RESOLVED, that the bid proposals marked "Quandt Park Fencing" be referred to the Parks & Recreation/CDBG Director for tabulation and recommendation.
Motion unanimously carried.

RESOLUTION 07-86 Accounts & Claims Payable

By Councilman Kandes, supported by Councilman DiSanto
RESOLVED, that the Accounts & Claims Payable as presented by the Finance Director to the Mayor & Council be approved as follows:

Warrant Report: \$2,403,662.43

Motion unanimously carried.

RESOLUTION 07-87 Mid Year Budget Adjustment

By Councilman Vaslo, supported by Council President Higgins
RESOLVED, that the Director of Finance be and is hereby authorized to make the following adjustments to the General Appropriated Revenues and Expenditure budgets for Fiscal Year 2006-2007 (inserted in minute book).
Motion unanimously carried.

RESOLUTION 07-88 MERS Retiree Healthcare Funding Vehicle

By Councilman Kandes, supported by Councilman Vaslo
Councilman Kandes WITHDREW his motion

By Councilman Vaslo, supported by Councilman Murphy

WHEREAS, Chapter 295 and 297 of the Codified Ordinances of the City of Lincoln Park provide for the establishment of a Municipal Employees and a Police and Fire Health Benefits Fund and the subsequent investment thereof, and Sections 295.10 and 297.10 thereof confirms the authority to invest and reinvest those funds currently held in accounts at LaSalle Bank, and

WHEREAS, the Municipal Employee's Retirement System ("MERS") Plan Document of 1996, effective October 1, 1996, authorized the Municipal Employees' Retirement Board ("Board") to establish additional programs including but not limited to defined benefit and defined contribution program (MERS Plan Document Section 36(2)(a); and the Municipal Employees Retirement Act of 1984. Section 36(2)(a) as amended by 1996 PA 220, MCL 38.1536(2)(a);

WHEREAS, the Board has previously authorized MERS' establishment of a retiree health funding vehicle ("RHFV" or "Program"), which a participating municipality or court, or another eligible public employer that is a political subdivision of the State which constitutes a "municipality" under MERS Plan Document Section 2B(4); MCL 38.1502b(2) ("Eligible Employer"), may adopt for its Eligible Employees;

WHEREAS, the Board has established a governmental trust under Section 115 of the Internal Revenue Code (the "Trust Fund") to hold the assets of the RHFV, which Trust Fund shall be administered under the discretion of the Board as fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed Program Administrator;

WHEREAS, 1999 PA 149, the Public Employee Health Care Fund Investment Act, MCL 38.1211 *et seq.* ("PA 149") provides for the creation by a public corporation of a public employee health care fund, and its administration, investment, and management, in order to accumulate funds to provide for the funding of health benefits for retirees and beneficiaries;

WHEREAS, a MERS health care trust fund constitutes a governmental trust established by a public corporation ("municipality") as an Eligible Employer, provided that all such employers shall be the State of Michigan, its political subdivisions, and any public entity the income of which is excluded from gross income under Section 115 of the Internal Revenue Code; provided further, that the health care trust shall not accept assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code;

WHEREAS, adoption of this Uniform Resolution (the "Uniform Resolution") by the Eligible Employer is necessary and required in order that the benefits available under the MERS Retiree Health Funding Vehicle may be extended;

WHEREAS, this Uniform Resolution has been approved by the Board under the authority of 1996 PA 220, MERS Plan Document Section 36(2)(a), MCL 38.1536(2)(a), declaring that the Board "shall determine...and establish" all provisions of the retirement system. The MERS RHFV shall not be implemented with respect to any Eligible Employer unless in strict compliance with the terms and conditions of this Resolution, the trust Document, and Trust Agreement.

continued

- It is expressly agreed and understood as an integral and nonseverable part of extension or continuation of coverage under this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle that Section 43B of the MERS Plan Document shall not apply to this Uniform Resolution, its administration or interpretation.
- In the event any alteration of the language, terms or conditions stated in this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle is made or occurs, under MERS Plan Document Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Board, as fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the MERS RHFV or its Trust Fund; or to continue administration.

NOW, THEREFORE, BE IT RESOLVED that the Lincoln Park City Council adopts the MERS PA 149 Health Care Trust Fund as provided below.

SECTION 1. MERS RHFV PROGRAM

EFFECTIVE March 6, 2007, the MERS Retiree Health Funding Vehicle is hereby adopted by the City of Lincoln Park, (hereinafter also referred to as “Eligible Employer”).

CONTRIBUTIONS shall be made only by the Eligible Employer, remitted to MERS by the Eligible Employer, and credited to the Eligible Employer’s separate fund within the trust sub-fund for MERS RHFV. As this Plan is funded solely by employer, on a cash or actuarial basis as determined by the employer, there is no requirement for a Participation Agreement establishing the schedule of contributions.

INVESTMENT of funds accumulated and held in the Fund shall be held in a separate reserve and invested on a pooled basis by MERS subject to the Public Employee Retirement System Investment Act (“PERSIA”), 1965 PA 314, as provided by MERS Plan Document Section 39; MCL 38.1539, and PA 149.

THE ELIGIBLE EMPLOYER, shall abide by the terms of MERS RHFV, including all investment, administration, and service agreements, and all applicable provisions of the Code and other law. It is affirmed that no assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code shall be transferred to, or accepted by, MERS.

SECTION 2. IMPLEMENTATION DIRECTIONS FOR MERS AS RHFV

INVESTMENT FIDUCIARY AND TRUSTEE

- (A) The City Council of this Eligible Employer desires that all assets placed in its MERS RHFV (as a sub-fund within all pooled Trust Funds with MERS) be administered by MERS, which shall act as investment fiduciary with all powers provided under Public Employee Retirement System Investment Act, PA 149, all applicable provisions of the Internal Revenue Code and other relevant law.
- (B) The City Council desires, and MERS upon its approval of this Resolution agrees, that all funds accumulated and held in the MERS RHFV Trust Fund shall be invested and managed by MERS within the collective and commingled investment of all funds held in trust for all Eligible Employers.
- (C) All monies in the MERS RHFV Trust Fund (and any earnings thereon, positive or negative) shall be held and invested for the sole purpose of paying health care benefits for the exclusive benefit of “Eligible Employees” who shall constitute “qualified persons” who have retired or separated from employment with the Eligible Employer, and for any expenses of administration, and shall not be used for any other purpose, and shall not be distributed to the State.
- (D) The Eligible Employer will fund its MERS RHFV Trust sub-fund to provide funds for health care benefits for “Eligible Employees” who shall constitute “qualified persons”. Participation in and any coverage under RHFV shall not constitute nor be construed to constitute an “accrued financial benefit” under Article 9 Section 24 of the Michigan Constitution of 1963, nor shall any contribution method for Eligible Employer funding other than “pay as you go” cash funding be required or imposed, and all benefits, rights, and obligations conferred by or arising under RHFV shall be as provided under the RHFV documents.

continued

- (E) The Eligible Employer generically designates the following groups of persons as “Eligible Employees” who shall constitute “qualified persons”, to receive retiree health care benefits subsidized under the MERS RHFV trust sub-fund. Groups may include any dependent(s) as specified in your bargaining agreement and/or personnel policy (provide copies of any governing agreement or other policy):
All union and non-union Full-Time employees eligible for benefits.
- F) The City Finance Director shall be the Eligible Employer’s RHFV Coordinator; **shall direct payment of fund monies for the benefit of the** Eligible Employees identified in (E) under any MERS (or non-MERS) retiree health care benefit program, including, but not limited to, MERS HCSP, or MERS Premier Health; make investment allocations of the Employer’s sub-trust fund within MERS-approved portfolios; receive necessary reports, notices, etc.; shall act on behalf of the Eligible Employer; and may delegate any administrative duties relating to the Fund to appropriate departments.

SECTION 3. EFFECTIVENESS OF THIS RESOLUTION

This Resolution shall have no legal effect until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under MERS Plan Document Section 36 (2) (a), 1999 PA 149 and other relevant laws, and this Resolution have been met. Upon MERS’ determination that all necessary documents have been submitted, MERS shall record its formal approval upon this Resolution, and return a copy to the Eligible Employer’s RHFV Coordinator as identified above.

In the event a amendatory resolution or other action by the Eligible Employer is required by MERS, such Resolution or action shall be deemed effective as of the date of the initial Resolution or action where concurred in by this governing body and MERS (and the Program Administrator if necessary). Section 54 of the MERS Plan Document shall apply to this Resolution and all acts performed under its authority. The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

I hereby certify that the above is a true copy of the Resolution Adopting the MERS Retiree Health Funding Vehicle adopted at the official meeting held by the governing body of this municipality on March 5, 2007.

Motion carried.

NAYS: Councilman Kandes and McPartlin

RESOLUTION 07-89 Plante & Moran/Perform 5-Yr Financial Plan

By Councilman Murphy, supported by Councilman Kandes

RESOLVED, that the firm of Plante & Moran, LLP be retained to perform a five-year financial plan for the City of Lincoln Park.

Motion unanimously carried.

NO ACTION TAKEN on resolution to solicit bids for 1059 Montie

RESOLUTION 07-90 Request Attorney General Opinion/FAILED

By Councilman DiSanto, supported by Council President Higgins

RESOLVED, that the City of Lincoln Park seek an opinion from the Michigan Attorney General concerning whether it is necessary to have all seven members of the Local Officers Compensation Commission be duly appointed and serving in order for an action taken by the Commission to be lawful and valid. It is to be noted that in the present case five members were duly appointed and serving, there were two unfilled vacancies, and the five members met and took action.

YEAS: Councilpersons DiSanto, Higgins, Murphy

NAYS: Councilpersons Kandes, McPartlin, Vaslo and Mayor Brown

RESOLUTION 07-91 Meeting Postings/Boards & Commissions

By Council President Higgins, supported by Councilman Murphy

RESOLVED, that in addition to all requirements prescribed by Charter, Codified Ordinance and State Law, meetings of all boards, commissions and any duly-constituted public bodies in the City of Lincoln Park, shall be posted in a manner timely communicated on the City's municipal cable television governmental channel, city website and any other successor electronic services announcing the date, time and location of said meeting, a minimum of eighteen hours prior to said meeting.

Motion unanimously carried.

RESOLUTION 07-92 Rej. Comp Comm. Recommendation/FAILED

By Council President Higgins, supported by Councilman DiSanto

RESOLVED, that the determination of the Local Officers Compensation Commission as submitted to the City Clerk on February 13, 2007, be REJECTED.

YEAS: Councilpersons DiSanto and Higgins

NAYS: Councilpersons Kandes, McPartlin, Murphy, Vaslo and Mayor Brown

CITIZENS COMMUNICATIONS

ORAL REPORTS OF THE MAYOR AND COUNCIL

There being no further business, the meeting adjourned at 9:47 p.m.

STEVEN M. BROWN, MAYOR

DONNA BREEDING, CITY CLERK