



City of New Buffalo

224 W. Buffalo Street

New Buffalo, MI 49117

REGULAR COUNCIL MEETING AGENDA (REVISED)

August 15, 2022 6:30 PM

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of Agenda
5. Consent Agenda
 - a. City Council Minutes: July 18, 2022 (Regular)
 - b. Receive Monthly Reports: Police, Fire, Water, Park, Streets, Building, Code Enforcement & Treasurer
 - c. Monthly Account Payable
6. Public Comment
7. Unfinished Business
8. New Business
 - a. Appointment of Hearing Officer
 - b. Agreement for Ordinance Prosecution
 - c. Awarding of Contractor (City Hall Painting and Repair)
 - d. Awarding of Contractor (Beach Concession Building Painting)
 - e. Awarding of Contractor (Beach Concession Sunshade)
 - f. Awarding of Contractor (Beach Bathhouse Upgrade)
 - g. Marijuana Facilities (Planning Commission Recommendation)
 - h. Marquette Greenway Contribution
 - i. Dune Walk Pay Request
 - j. Purchase of Autoclave (Water Department)
 - k. City Organizational Study (Gov.HR)
 - l. Extension of Mondays at the Marina Special Event Application
 - m. City Comprehensive Asset Management Plan
 - n. Amendment to Zoning Ordinance Chapter 21 – Zoning Board of Appeals (2nd Reading)
 - o. Mayhew Street Sediment Basin Payment Request
9. Discussions
 - a. Parking Lot (116 S. Whittaker)
10. Pokagon Fund Update
11. City Manager Report
12. Council Comments
13. Adjournment



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Appointment of Hearing Officer

ITEM BEFORE THE COUNCIL:

Approval of the appointment of Randy Hyrns as the Hearing Officer for the City of New Buffalo

DISCUSSION:

The City of New Buffalo enacted Ordinance 248 in May 2021. Sections 11-1(E) and 11-2(D) established a permit hearing system and defined the hearing officer. The Hearing Officer is:

“An individual designated by the City Council who presides over and adjudicates permit revocation hearings as described in Section 11-13. The hearing officer may be either an employee or independent contractor of the City, but in either case shall act as an impartial adjudicator. To ensure impartiality, an individual who serves as a hearing officer may not be involved in enforcing this chapter in any way other than as described in Section 11-13.”

The city needs to fill this position and reached out to Mr. Hyrns, a retired attorney, to serve in this capacity.

RECOMMENDATION:

That the New Buffalo City Council approves appointing Randy Hyrns as the Hearing Officer for the City of New Buffalo.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Agreement for Ordinance Prosecution (Straub, Seaman and Allen)

ITEM BEFORE THE COUNCIL:

Approval of entering an agreement with Straub, Seaman and Allen for ordinance prosecution

DISCUSSION:

Previously, the city contracted with Attorney Nick Curcio to serve as City Attorney. Under the agreement with Attorney Curcio, the law firm of Straub, Seaman and Allen was subcontracted to handle ordinance prosecution. Recently, the city contracted with the law firm Dickinson Wright to serve in the capacity of City Attorney.

After consultation with Dickinson Wright, it was decided that it would be in the best interest of the city to continue using the law firm of Straub, Seaman and Allen to handle ordinance prosecution. Furthermore, it was decided that the best method to do so would be for the city to contract directly with the law firm of Straub, Seaman and Allen (see attached proposal).

RECOMMENDATION:

That the New Buffalo City Council approves entering an agreement with Straub, Seaman and Allen for ordinance prosecution.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Painting and Repair Work at City Hall

ITEM BEFORE THE COUNCIL:

Approval of awarding interior painting and repair work at City Hall to E.I. Construction

DISCUSSION:

The interior of City Hall needs painting, along with some minor repair work (crack sealing, drywall repair, etc.). The interior of City Hall was last painted in 2013 or 2014.

City staff solicited quotes from companies to perform the work and quotes were received from E.I. Construction and Prez's Painting, with E.I. Construction submitting the low quote of \$23,200.

RECOMMENDATION:

That the New Buffalo City Council approves awarding the interior painting and repair work at City Hall to E.I. Construction in the amount of \$23,200.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Beach Concession Building – Exterior Painting and Repair

ITEM BEFORE THE COUNCIL:

Approval of awarding exterior painting and repair work at beach concession building to E.I. Construction

DISCUSSION:

The exterior of the concession/restroom building at the beach needs painting, along with some minor repair work (new aluminum fascia). City staff solicited quotes from companies to perform the work and a quote was received from E.I. Construction in the amount of \$11,300.

Funding for this project is available in the Parks Building Repair budget.

RECOMMENDATION:

That the New Buffalo City Council approves awarding the exterior painting and repair work at the beach concession building in the amount of \$11,300.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Purchase of Beach Concession Sunshade

ITEM BEFORE THE COUNCIL:

Approval of the purchase of a sunshade for the beach concession building from Penchura

DISCUSSION:

The area around the concession stand at the beach is enjoyed by hundreds of people, annually. Recently, the city needed to repair the sewer lateral that removes waste from the bathrooms. Consequently, the tree that provided shade near the facility needed to be removed due to its contribution to the sewer problem.

City staff sought to provide a solution to the problem and provide shade for beachgoers. Staff received a quote from Penchura to deliver and install a sunshade in the amount of \$54,400. Given the supply chain issues, this would more than likely be installed Spring 2023.

Funding for this project is available in the Parks Fund budget.

RECOMMENDATION:

That the New Buffalo City Council approves the purchase and installation of a sunshade at the beach concession building by Penchura in the amount of \$54,400.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Beach Restroom Fixture Upgrade

ITEM BEFORE THE COUNCIL:

Approval of the upgrading of the fixtures in the beach restrooms by City Plumbing and Heating

DISCUSSION:

The beach restrooms are used by hundreds of people, daily, and need to be upgraded with new fixtures as the current fixtures are several years old.

City staff sought quotes from contractors to change out the fixtures in the beach restrooms. Staff received a quote from City Plumbing and Heating to change the fixtures in the amount of \$11,607.

Funding for this project is available in the Parks Building Repair budget.

RECOMMENDATION:

That the New Buffalo City Council approves the installation of new beach bathroom fixtures by City Plumbing and Heating in the amount of \$11,607.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Planning Commission Marijuana Recommendation

ITEM BEFORE THE COUNCIL:

Approval of conditionally accepting the Planning Commission marijuana recommendations

DISCUSSION:

In December 2018, the City Council passed an ordinance prohibiting the any marijuana establishments until such time as the City Council amends this chapter to allow one or more establishments. Additionally, the ordinance directed the Planning Commission to:

- A. Study the City's options for authorizing and regulating marihuana establishments under the Act;
- B. Hold at least one public hearing to seek input from the public; and
- C. Prepare and submit a report to the City Council by December 1, 2019, with a recommendation as to whether the City should authorize one or more types of marihuana establishments. If the Planning Commission recommends authorization, the report shall outline, in general terms, recommended regulations.

In accordance with the ordinance, the Planning Commission held 2 public hearings (February 1, 2022 and July 26, 2022) to seek public input. Following the July 26, 2022 public hearing, the Planning Commission made the following recommendations:

- That the New Buffalo City Council approve the retail sale of marijuana in the City of New Buffalo.
- That the Zoning Ordinance, Section 11-2 be amended to insert as number 43 under General and Specialty Retail and Personal Services "the retail sale of marijuana" as a Special Land Use.
- That additional provisions also include: 1) that the sale of marijuana is not located within 1,000 feet of a school or church; 2) does not directly adjoin an R-1, R-2 or R-3 Zoning Districts; and 3) not be within 1000 feet of the Central Business District.

RECOMMENDATION:

That the New Buffalo City Council conditionally accepts the recommendations of the Planning Commission. Additionally, the City Council directs the Planning Commission to begin working



with the City Attorney to draft the necessary zoning amendments to accommodate the establishment of marijuana facilities in the City of New Buffalo.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Marquette Greenway Donation

ITEM BEFORE THE COUNCIL:

Approval of requesting monies from the Pokagon Fund to assist with the Marquette Greenway

DISCUSSION:

The Marquette Greenway is a proposed 60-mile, non-motorized greenway that runs from Calumet Park in Chicago, Illinois to downtown New Buffalo, Michigan. It would connect Illinois, Indiana and Michigan along the southern shore of Lake Michigan. The total project estimated costs are roughly \$5.5M and approximately \$400,000 is being raised to complete the project.

At the July 2022 City Council meeting, it was decided that the city would ask the Pokagon Fund for funds to help lessen the shortfall. In a meeting with representatives from the Friends of Berrien County Trails, it was decided that the city's contribution would \$150,000. This contribution would be funded by a request to The Pokagon Fund, specifically the New Buffalo City Municipal Funds.

RECOMMENDATION:

That the New Buffalo City Council approves requesting from The Pokagon Fund – New Buffalo City Municipal Funds, \$150,000 for the Marquette Greenway project.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Dune Walk Reconstruction Payment Requests (TJM Services)

ITEM BEFORE THE COUNCIL:

Approval of Payment Request #3 for the Dune Walk Reconstruction from TJM Services

DISCUSSION:

In March 2022, the City Council approved awarding the dune walk reconstruction project to TJM Services, LLC. TJM Services, LLC has been working on the project and is requesting payment for the completed work (see attached documentation) in the amount of \$251,869.50.

RECOMMENDATION:

That the New Buffalo City Council approve the payment to TJM Services, LLC for Pay Request #3 in the amount of \$251,869.50.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Purchase of Autoclave

ITEM BEFORE THE COUNCIL:

Approval of the purchase of a replacement autoclave from USA Bluebook

DISCUSSION:

The Water Department uses an autoclave in the laboratory to decontaminate certain biological waste and sterilize media, instruments and lab ware. Autoclaves operate at high temperature and pressure in order to kill microorganisms and spores.

The current autoclave is in excess of 20 years old, has been repaired several times and staff has recommended that the unit be replaced. City staff sought quotes and found a replacement unit from USA Bluebook in the amount of \$5,787.

Funding for this project is available in the Water Department budget.

RECOMMENDATION:

That the New Buffalo City Council approves the purchase of an autoclave from USA Bluebook in the amount of \$5,787.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Organizational Assessment – GovHR USA

ITEM BEFORE THE COUNCIL:

Approval of contracting with GovHR USA to perform an Organizational Assessment

DISCUSSION:

An Organizational Assessment (“the Assessment”), in its most simplistic definition, is a systematic process for obtaining information about the performance of an organization and the factors that affect performance. The Assessment is a tool that every organization should use in the quest for continuous improvement. Performing the Assessment identifies strengths and weaknesses and requires the participation of key components within the organization. It is also an excellent method to take a figurative step back and evaluate how the organization operates as a whole. Forward-thinking organizations understand there are always ways to improve stakeholder, customer, or constituent services and support. When conducting an organizational assessment, government agencies often identify strengths and weaknesses that lead to improvement opportunities exploiting the previously untapped potential.

In an effort to identify to improve the city’s delivering of services, improve overall efficiencies, and “right size” city staff, the city reached out to several agencies. The International City/County Management Association (“ICMA”) and Michigan Municipal League (“MML”) were contacted about performing the Assessment. Both entities explained that they did not provide this service and both recommended GovHR USA.

GovHR USA provided a quote for performing the Assessment for the city in an amount not to exceed \$15,700.

RECOMMENDATION:

That the New Buffalo City Council approves contracting with GovHR USA to perform an Organizational Assessment in an amount not to exceed \$15,700.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Extension of Mondays at the Marina

ITEM BEFORE THE COUNCIL:

Approval of an extension of the Mondays at the Marina Special Event application termination

DISCUSSION:

In June 2022, the city approved a Special Event Application for Monday at the Marina. Due to the success of the program, the sponsors are asking that the ending date be extended through September 26, 2022.

RECOMMENDATION:

That the New Buffalo City Council approves the extension of Monday at the Marina through September 26, 2022.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Roadway and Utility Asset Management Plan

ITEM BEFORE THE COUNCIL:

Approval of requesting monies from the Pokagon Fund to assist with the development of a roadway and utility asset management plan

DISCUSSION:

Community economic development (CED) is a community- driven process where communities identify and initiate their own solutions to economic, social and environmental issues to build healthy, economically viable communities. Some of the outcomes include the development and rehabilitation of workforce housing, promoting sustainability, encouraging entrepreneurship and the attraction of investment into the community.

As the City of New Buffalo continues to explore ways to improve on these, knowledge of the city's infrastructure capacity and condition to accommodate new development, housing and the like is paramount. In order to accomplish this, the city needs to assess its physical assets which includes water, sanitary, and storm utilities, as well as a roadway network, through an Asset Management approach. While knowing the city's physical assets is the first step in the Asset Management approach, optimal programs provide the tools and information needed for making data-driven decisions to better prioritize maintenance actions, minimize system downtime, and complete capital and strategic planning for replacing and rehabilitating system components.

An asset management plan provides a structured framework for improving system performance and justifying future planning and expenditures – particularly important given today's limited budgets and aging infrastructure. The plan will provide valuable information for short-term and long-term capital improvement planning, rate strategies, and ensure successful and cost-efficient ongoing operation of the city's infrastructure. These are all essential to the city's overall community economic development.

In the city's Master Plan, the Land Use and Development section identifies appropriate uses for all properties in the city, providing for orderly and efficient growth, development, investment and change over time. In order to accomplish the outcomes identified in this section, the city must have knowledge of what the infrastructure is capable of supporting.

More importantly, this project will allow residents to understand the methodology that goes into the decision-making process regarding the assets of the community and the allocation of their tax dollars.



The total project cost is estimated to be \$125,000 and the potential funding breakdown is as follows:

Funding Source	Status	Amount
City of New Buffalo	2023 Fiscal Year Budget	\$14,000
Drinking Water Asset Management (DWAM) Grant	Grant being prepared for submission in October 2022	\$35,000
EPA's Clean Water State Revolving Fund (CWSRF)	Grant being prepared for submission in July 2022	\$35,000
The Pokagon Fund	Letter of Inquiry – June 2022	\$41,000

RECOMMENDATION:

That the New Buffalo City Council approves the development of a roadway and utility asset management plan. Additionally, the City Council approves requesting from The Pokagon Fund – New Buffalo City Municipal Funds, \$41,000 for the development of the roadway and utility asset management plan.



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Second Reading of Zoning Ordinance Amendment – Chapter 21 (Composition)

ITEM BEFORE THE COUNCIL:

Second reading of amendment to the City of New Buffalo Zoning Ordinance – Chapter 21 (Composition)

DISCUSSION:

The City Council passed a resolution on June 20, 2022 to have the Planning Commission consider the composition of the Zoning Board of Appeals. The Planning Commission deliberated the proposed request at their July 12, 2022 meeting. The Planning Commission unanimously voted to recommend to the City Council that the composition of the ZBA be reduced to 5 members.

RECOMMENDATION:

That the New Buffalo City Council approves the second reading of the amendments to the New Buffalo Zoning Ordinance – Chapter 21 (Composition)



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: August 15, 2022

RE: Mayhew Sediment Basin Payment Request (Payjay, Inc.)

ITEM BEFORE THE COUNCIL:

Approval of payment request for the Mayhew Sediment Basin from Payjay, Inc.

DISCUSSION:

In May 2022, the City Council approved awarding the Mayhew Street Sediment Basin project to Payjay, Inc. Payjay, Inc has been working on the project and is requesting payment for the completed work (see attached documentation) in the amount of \$101,538.

RECOMMENDATION:

That the New Buffalo City Council approve the payment to Payjay, Inc in the amount of \$101,538.