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REGULAR MEETING of the PAINT CREEK TRAILWAYS COMMISSION
Paint Creek Cider Mill
4480 Orion Road, Rochester, MI 48306

CALL TO ORDER: The Tuesday, March 21, 2023 Regular Meeting was called to order by Chairperson Olijnyk at 7:05 p.m.

Voting Members Present: Brian Blust, Julia Dalrymple, Ken Elwert, Patrick Ross, Steve Sage, David Walker

Voting Alternates Present: David Becker, Dave Mabry

Non-Voting Alternates Present: Carol Morlan, Martha Olijnyk, Matt Pfeiffer

Voting Members Absent: Robin Buxar, Linda Gamage

Alternates Absent: Russell George, Ann Peterson, Aaron Whatley

Village of Lake Orion Non-Voting Member Absent: Jason Peltier

Village of Lake Orion Non-Voting Alternate Absent: Jerry Narsh

Others Present: Melissa Ford, Trail Manager, Louis Carrio, Friends of the Paint Creek Trail, Sandi DiSipio, Recording Secretary

PLEDGE OF ALLEGIANCE: All rose and recited the Pledge.

APPROVAL OF AGENDA:

MOTION by Walker, seconded by Dalrymple, *Moved*, to approve the March 21, 2023 agenda as presented.

Ayes: All Nays: None

MOTION CARRIED.

PUBLIC COMMENT: Ms. Stephanie Burdo Smith, 4588 Ludlow, came forward, said she's representing Rochester Community Schools PTA Green Committee, and is looking to help with a litter cleanup on the trail. She asked what the process is as a permit is required and wasn't sure if they qualified because it's a community service event. The Committee thought that Earth Day would be a day of service for the PTA – they want to clean up the school yards, but also wanted to have another area to clean up. The Commission thanked her for this effort and asked that she coordinate efforts with Ms. Ford. Ms. Ford said they would need to sign a liability waiver to conduct a cleanup, and asked for her email contact information. There are Adopt-A-Trail groups that are planning a spring cleanup the weekend of Earth Day, so we could see if one of those groups would like to partner with the PTA group. Mr. Carrio mentioned the Friends Group cleans up the section of the trail near Kings Cove, and said Ms. Burdo Smith's group would be welcome to work with their group.

CONSENT AGENDA:

- a. Minutes – February 21, 2023 Regular Meeting, approve and file
- b. Treasurers Report – February 2023, receive and file

MOTION by Elwert, seconded by Sage, *Moved*, to approve the Consent Agenda as presented.

Ayes: All Nays: None

MOTION CARRIED.

APPROVAL OF INVOICES: Ms. Ford presented the list of invoices totaling \$1,332.44. In addition to the recorder's fee for two meetings, this amount includes credit card charges for GoToMeeting monthly fee, certified mail for the TAP public hearing and to Dillman Upton & Rochester's City Manager, and plaques for the new commissioner; reimbursement to Rochester for Bridge 31.7 engineering review fees, the cost of the TAP public hearing notice advertised in the Orion Review Newspaper, and the MNRTF public hearing notice advertised in the Rochester Post, legal fees for review of Dillman Upton correspondence, and payment to the State of Michigan for a certified copy of our Intergovernmental Agreement. Estimated unrestricted fund balance is \$93,000.

MOTION by Becker, seconded by Blust, *Moved*, that the invoices presented for payment are approved as presented in the amount of \$1,332.44 and orders be drawn for payment.

Roll Call Vote:

Ayes: Becker, Blust, Dalrymple, Elwert, Mabry, Ross, Sage, Walker

Nays: None

MOTION CARRIED.

DISCUSSION: Presentation of Preliminary Design for Paint Creek Trail Bridge 31.7

Renovation: Ms. Ford said the Commission received the preliminary plans and special provisions via email on Saturday; copies are also available tonight. Ms. Aseel Putros from AEW is present to talk about the plans and answer any questions. Ms. Putros came forward, introduced herself and said the plans are about 85% complete, they are still working on finalizing a few items and indicated the plans will be completed within a month. The plans show the existing condition of the bridge, its size is 12' wide and 43' long with severe deterioration with the piers and abutments, which is why it is being replaced. The new bridge is pre-fabricated steel that will be 14' wide and 70' long, so it's wider and longer than what exists. There are two sets of existing stairs, one on the north and one on the south; because the new bridge will be larger, these stairs will not line up with it and need to be removed and replaced. The plans show the northeast corner stairs leading to Dinosaur Hill will be replaced, but replacement of the southwest stairs is not indicated. If the Commission desires replacement of the south stairs, AEW needs to be told so, because discussion did not affirm this. Ms. Ford said the discussion was if we could get the two sets of stairs replaced, we'd like two; but if we have to choose one, the stairs to Dinosaur Hill are more important. The southwest stairs are for fishing access, and because you can wade through the creek very easily there – there is access from the northeast stairs. Ms. Putros continued stating the bridge itself and the trail connection will be ADA accessible with no ramps, and a handrail will be added along the bridge railing to allow handicapped individuals to get up if they can to view the river. Ms. Ford explained this request came out of the ADA workshop. Ms. Putros indicated the trail will be shut down from Ludlow to the bridge, and a re-route is planned for trail users using the Woodward sidewalk to North Hill, then to Dinosaur Hill to get back to the trail. AEW is working to finalize the EGGLE permit, how the bridge will impact the floodplain. Ms. Putros explained the new bridge is improving the area; the existing bridge and abutments are in the channel - the abutments for the new bridge will be placed further out to allow better flow of the river and minimize erosion in the future. Ms. Putros asked for questions. Mr. Elwert appreciates the cost estimate breakout, and is curious why there's no contingency listed. Ms. Putros explained a 5-10% contingency is built into cost. Mr. Becker asked how long the trail will be closed for the project. Ms. Putros responded three to four months, exactly when will be determined when the grants are finalized. Mr. Elwert asked the status of the possible historic designation and how that will affect the process. Ms. Ford explained AEW is in the loop on this issue, and she should know next week one way or the other regarding historic designation eligibility. Ms. Ford indicated a consultant was hired using extra grant money not used for the mussel survey – she got permission from the County to use that money towards hiring the cultural

resource consultant and the archeologist. The consultant had to contact the SHPO historian, they've already been out to the bridge, and should let us know about eligibility next week. The TAP grant needs this information next week, or it will push this project out to the next funding cycle. This might change the entire project. Mr. Walker commented there was dialogue at the ADA workshop about getting on and off the bridge as the rendering displayed showed a cement edge. Ms. Putros said there is a concrete abutment at the end of the bridge on both sides with a geo tech style fabric underneath the gravel on the trail which locks the stone into the fabric so there won't be any flooding. There isn't much runoff due to the grade in the area. Mr. Walker said the concern was if someone on a wheelchair comes up the concrete abutment, there's not a curb or edge they could be caught on. Ms. Putros explained this is what is shown on the unfinished plans; when Mr. Zauel, the engineer returns from vacation, Ms. Putros will discuss other options with him. Mr. Walker mentioned the Bald Mountain bridge and that the DNR had a viable solution for access to that bridge; a cement apron that tapered into the gravel for a smooth transition that would never create an edge. Ms. Ford will share the Bald Mountain bridge plans with AEW. Mr. Blust likes the overall aesthetics of the bridge and asked if the city of Rochester has reviewed the plans. Ms. Putros said she will share the plans with Rochester once they are finalized. Mr. Becker feels the planned detour is unrealistic and too long, and wonders if there is a possibility to route people through the apartment complex instead. Ms. Putros will explore this option, but needs to ascertain if the sidewalk is private as they try to use public walkways for re-routes. The Commission thanked Ms. Putros for coming and she said she will be here for the Southeast Rochester property discussion.

PUBLIC HEARING: Michigan Natural Resources Trust Fund (MNRTF) Grant

Application TF23-0002 – Paint Creek Trail Bridge 31.7 Renovation: Chairperson Olijnyk stated this is a public hearing for the Michigan Natural Resources Trust Fund Grant Application to hopefully obtain funds for the Bridge 31.7 Renovation. As part of the application, a public hearing is required for any comments. **The public hearing was opened at 7:29 p.m.** Ms. Olijnyk added notice of the public hearing was advertised in the Lake Orion Review and the Rochester Post. This notice, application and supplemental information was also posted on the Commission's website and social media; and for review at the Trail Office and Rochester City Hall. Chair Olijnyk asked for any comments. No comments were heard. **The public hearing was closed at 7:31 p.m.**

APPROVAL: Resolution #2023-002 – Resolution of Authorization – Paint Creek Trailways Commission Application to the Michigan Natural Resources Trust Fund:

Ms. Ford explained a new resolution was handed out tonight and is different from the one in the packet as the cost estimate has changed. The new cost estimate also includes \$5,000 in permit fees and \$300 for a Trust Fund recognition sign.

MOTION by Becker, seconded by Elwert, *Moved*, to accept and approve Resolution #2023-002 as presented.

**Resolution #2023-002 – Resolution of Authorization – Paint Creek Trailways Commission
Application to the Michigan Natural Resources Trust Fund**

WHEREAS, the Paint Creek Trailways Commission, an intergovernmental agency, owns, manages, and operates the 8.9-mile Paint Creek Trail in Oakland County, Michigan; and

WHEREAS, the Paint Creek Trailways Commission supports the submission of an application titled "Paint Creek Trail Bridge 31.7 Renovation" to the Michigan Natural Resources Trust Fund, for the development of a 70' long pedestrian bridge between Ludlow Avenue and Tienken Road in Rochester, Michigan; and

WHEREAS, the location of the proposed project is within the jurisdiction of the Paint Creek Trailways Commission; and

WHEREAS, the proposed project, if completed, will be a benefit to the community and the thousands of trail users annually; and

WHEREAS, the proposed development application is supported by the approved 2020-2024 Paint Creek Trail Recreation Master Plan and the city of Rochester's 2019-2023 Parks & Recreation Master Plan; and

WHEREAS, the city of Rochester has made a financial commitment to the project in the amount of \$191,760; and

WHEREAS, if the grant is awarded to the Paint Creek Trailways Commission, we commit the donated amount of \$191,760 from the city of Rochester for matching funds in combination with a proposed \$487,174.02 Transportation Alternatives Program Grant; and

WHEREAS, with this resolution of support it is acknowledged that the Paint Creek Trails Commission is not committing any of their own funds to any financial obligations; and

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT the Paint Creek Trailways Commission of Oakland County, Michigan, hereby authorizes submission of a Michigan Natural Resources Trust Fund Application for the "Paint Creek Trail Bridge 31.7 Renovation" project for \$300,000, and further resolves to make available a local match through financial commitment from the city of Rochester and Transportation Alternatives Program Grant funding of \$678,900 (69%) of a total of \$978,900 project cost, during the 2024-2025 fiscal year.

Ayes: Becker, Blust, Dalrymple, Elwert, Mabry, Ross, Sage, Walker

Nays: None

Absent: Buxar, Gamage, George, Narsh, Peltier, Peterson, Whatley

MOTION CARRIED.

Ms. Ford reminded the Commissioners there will be a special meeting next Wednesday to approve these minutes in order to include them with the grant application that is due by 4/1.

UPDATE: Grant Opportunities & Trail Capital Improvement Projects: A status of grant opportunities was included in the packet. Ms. Ford indicated the TAP grant was submitted, but they responded they needed more information - an updated cost estimate including mobilization and showing a contingency was built in (received tonight). She resubmitted this information to them earlier this week. They were also concerned about our Spark grant application and Ms. Ford explained we were unsuccessful in that endeavor. The one outstanding issue is whether the bridge is eligible for listing on the National Register of Historic Places. As mentioned before, Ms. Ford hopes to have an answer from the consultant and archeologist next week. We must have an answer regarding this status by March 31st otherwise our TAP application will be moved into the next funding cycle (due 6/21/23 with funding decision date of 11/15/23), and push our project into the 2025 construction season. Ms. Olijnyk asked if there are any other bridges on the trail where historic eligibility may arise; while we have the consultants on board, perhaps they could also take a look at them. Ms. Ford said the Tienken bridge is the next one the Commission will probably be looking at. This bridge is of similar style and has similar issues. Regarding the MNRTF grant, Ms. Ford said an accessibility workshop was held on 3/9 to receive feedback; Mr. Zauel was present to talk about the design and answer questions. Positive feedback was received with a few suggestions to improve the design so it's more accessible for wheelchairs. Application will be submitted by April 1st. There is nothing new on the Spark Grant. Ms. Ford reached out to the program officer at the Community Foundation as the application deadline on their website said 3/31/22 – they are not ready to announce any new dates and are working to get an updated timeline. Ms. Ford will keep checking their website. No further updates on the Fisheries Habitat or Land and Water Conservation grants.

DISCUSSION/APPROVAL: Southeast Rochester Property Preliminary Cost Estimate: A summary memo was included in the packet. Ms. Ford indicated Ms. Putros heard back from

EGLE about permitting the observation deck in this location. Ms. Putros came forward and explained AEW asked EGLE if the observation deck can be located in the floodway. She received a response they could permit the deck if it's above the 100-year floodplain (basically six feet above the ground) and if the piers are less than 1% of the floodway area. She explained what this means in engineering terms and believes the project is doable. We would still need to apply for a permit from EGLE to work in the floodway and floodplain, but it can be permitted. Ms. Putros said the trail itself is above the 100 year floodplain, so the deck would not have to be on an incline for access. As discussed at the last meeting, Ms. Ford indicated we need to get a cost estimate in order for the donor to approve the project, this would be a \$1,500 expense and she proposes it be moved out of our fund balance. She is asking for approval of this cost today. Then based on that, we'll bring the project cost estimate to the donor for his approval, as AEW will still have to design the project. Mr. Elwert commented he ran into Ms. LaFontaine, the liaison between the Commission and the donor for this project – she's a little frustrated we don't have real numbers for the project cost yet, so it makes a lot of sense to get this cost estimate. Mr. Mabry asked for clarification that we're asking for \$1,500 right now to get a cost estimate, and after that there will be design costs and then construction costs. Ms. Ford confirmed this and hopes the donor will approve these costs. Even if the donor says no, Ms. Ford feels it's good to have the cost estimate in case we decide to pursue another grant for the project. Upon a question of how long the cost estimate would take, Ms. Putros said a few weeks.

MOTION by Becker, seconded by Sage, *Moved*, to approve moving forward with requesting the cost estimate at a cost of up to \$1,500.

Roll Call Vote:

Ayes: Becker, Blust, Dalrymple, Elwert, Mabry, Ross, Sage, Walker

Nays: None

MOTION CARRIED.

MOTION by Blust, seconded by Ross, *Moved*, to amend the budget to move \$1,500 from fund balance to pay for the project cost estimate.

Roll Call Vote:

Ayes: Becker, Blust, Dalrymple, Elwert, Mabry, Ross, Sage, Walker

Nays: None

MOTION CARRIED.

DISCUSSION: Ad Hoc Committee Assignments: Ms. Ford indicated we need a few Orion Township representatives on some committees, especially the Licensing Committee, as we need one representative from each member community. Ms. Ford explained the Commission has licenses with various entities that use trail land for electric or gas lines or loading areas, and they are charged an annual fee for use of the property. We also have issues with residents who want access to the trail from their property, and this Committee reviews a limited use permit to allow them to build a path or stairs on trail property for access. This Committee also reviews any encroachment on trail property. This usually occurs when new residents don't realize the trail property goes beyond the actual path, it's actually 50' from the center of the trail in either direction. Mr. Walker explained a representative from each municipality is needed in case the encroachment happens in their area, we have an advocate with the ability to reach out to the resident. This Committee is consulted on an as-needed basis, and usually by phone or a Zoom meeting – not in a regular meeting. Mr. Pfeiffer agreed to join the Licensing Committee. Ms. Dalrymple agreed to join the Orion Art Project Committee. Ms. Ford indicated there's now at least three people on all the Committees, and thanked Ms. Dalrymple and Mr. Pfeiffer for stepping forward.

DISCUSSION/DIRECTION: Village of Lake Orion License Agreement – Trail

Maintenance and Snow Removal: Ms. Ford indicated she received a call from an irate Lake Orion Village resident about snow not being removed from the sidewalk section of the trail that's

behind Atwater Commons. We've never done this, but we do have a license agreement with the Village that came into effect after the .33 section of trail extension opened up a few years back. Ms. Ford reached out to their DPW Director and asked if they would clear the snow, and they said they wouldn't because they are not contracted to do it, as it's not specifically called out in the license agreement, and were concerned about liability because if someone was injured and they were the ones maintaining it, they could get sued. The DPW indicated that if we wanted them to clear the snow, we need to amend the license agreement to add snow removal. Ms. Ford called the woman back, explaining that no one would be removing the snow because we don't have a plow, and the Village would not be clearing the sidewalk. Ms. Ford was also concerned because the resident said we were in violation of ADA by not clearing the sidewalk. She reached out to our attorney on whether the Commission was in violation of ADA for not clearing this portion of the trail. Unfortunately, based on Ms. Hamameh's research there is no clear case law that relates to trails and snow removal that she could find. Ms. Hamameh did reach out to the Village's attorney because she feels they should be doing this, but has not had a response yet. Mr. Elwert said he's not a lawyer, but it's not an ADA issue potentially for us – it may be for the Village in connecting the retail establishment to the residential. Once we start plowing or maintaining the asphalt area, it's a potential additional level of liability on us to make sure there is no ice, etc. It's almost an exemption for governmental immunity on sidewalk and trail issues. He cautions the Commission as this is a Village issue providing residential access to a retail establishment, it is not a trail issue. Ms. Ford said we've never plowed any part of the trail. When she talked to the Village, they said there is another way for residents to get into the shopping center, they can go down Atwater to Broadway and come into the CVS parking lot that way. They said they would clear the portion that's from the road apron so they could get on the sidewalk along CVS, but would not do any more than that. Mr. Becker noted in the past when we've had requests to plow or groom the trail, our previous attorney told us if we do that, we have to do it correctly. If not done correctly, it opens the door for liability. Ms. Olijnyk said it has to do with changing the natural conditions – once the natural conditions are changed, you are taking responsibility. Mr. Becker asked if there's anyone who can give better clarity on ADA ramifications. Ms. Ford indicated our attorney looked into it, and there's nothing that specifies trails. Mr. Elwert noted there are hundreds of miles of trails in Michigan that are not plowed, so it's not an ADA issue other than the access to residential. Ms. Olijnyk suggests we wait for the outcome of our attorney's conversation with the Village's attorney.

DISCUSSION: Trail Manager Position: Chairperson Olijnyk said that unfortunately for us, the Commission will be losing our Manager as she filed her resignation effective April 26th. The Commission appreciates all Ms. Ford's hard work over the last four years and everything she has done. We now have to take steps for her replacement. The Personnel Committee has met and updated the Manager's job description, which was passed out tonight. Ms. Olijnyk is looking for any feedback and approval of the description tonight so it can be posted as soon as possible to solicit resumes by April 3rd, so we can potentially hire someone and allow overlap time for training purposes. Ms. Olijnyk thought the resumes could be collected by Ms. Grupido. Mr. Walker said Rochester Hills' Human Resource Director assisted in the RARA search, and might be an option to alleviate staff. Ms. Ford shared a list of places where the description will be posted – the Chambers, all municipality websites, social media, PCT website, Oakland County will send to everyone in the TWLA group, in the kiosks, LinkedIn, and the Polly Ann Trail website. Mr. Elwert said we could use their MParks account, and suggested sending it to Central Michigan University's career services department. Mr. Elwert asked who the communication coordinator between the contractor, consultant or engineers working on trail development projects was as he doesn't see anything in the description that speaks to that. Ms. Ford said on the last bridge project, her main contact was with the project engineer from Mannik Smith. It was suggested under Management Responsibilities #8, to add communicating with project managers,

engineers, etc. It was also suggested under External Relations #3 to add that community planners include SEMCOG, Oakland County and the Trail's Member Communities. These changes will be incorporated into the final description. It was asked if the resumes should be forwarded to Ms. Grupido. Ms. Ford can monitor her email Monday through Thursday. Mr. Walker will see if Rochester Hills' HR Director will act as a funnel for the resumes.

MOTION by Becker, seconded by Mabry, *Moved*, to approve moving forward with posting the open Trail Manager position as presented.

Ayes: All Nays: None

MOTION CARRIED.

MANAGER'S REPORT: Ms. Ford summarized her written report included in the packet. She reminded the members about the special meeting next Wednesday. The 40th Anniversary Committee has met for a second time and is targeting November 11th or 18th as the date for the 5k race. She has spoken with three different race management companies who can manage registration, chip timing and assist the day of the event for a cost. The committee will meet again to select someone to manage the race. They are also looking to update the sponsorship form as they are looking for a higher level of sponsorship, and Mr. Whatley has two interested parties in the higher level. The committee also wants to update the video made for the 30th anniversary celebration and provided a link for members to view the video and start brainstorming ideas. Mr. Elwert said he's been in contact with Rochester Hills' video department about this effort.

COMMISSIONER REPORTS: Mr. Becker recalls that the last time we filled the Manager position, the resumes went to the Personnel Committee who interviewed four or five people, and brought two or three candidates to the Commission for a second interview. Mr. Walker asked Mr. Sage if Rochester has heard anything from Dillman & Upton regarding the certified letter that was sent. Mr. Sage indicated no. Mr. Blust indicated he would like to get the Trails Improvement Committee together to look at the list of possible trail amenities and requested some time with Ms. Ford to discuss the list of donors. Mr. Blust mentioned the planned marathon we discussed last month that anticipated 800-1,000 participants starting at the Cider Mill, and asked how many people attend the LDBW event. Ms. Ford said around 300, and has an update on the large marathon. One of the race companies she contacted was the applicant's company, and they indicated they were getting some push back from the police departments for this event. Nothing has been finalized, but if this is the case, the applicant would probably take it off the trail and start it somewhere else. Mr. Elwert said the city is looking at possible trail counters and will probably bring a request to this Commission to install and manage one at Tienken. Mr. Elwert suggested postponing the website design until later in the year. He also feels it's important for the Commission to discuss and give guidance to Ms. Ford and Ms. Grupido as to what we think is important and what isn't as we go through the staff transition and the loss of a valued colleague. He doesn't feel we should be adding new functions during this transition so a new person can settle in. Ms. Olijnyk agreed as there's a lot to learning a new job and doing the things that need to be done is important. Mr. Pfeiffer looks forward to working with the Commission. Everyone thanked Ms. Ford for all her hard work, congratulated and wished her the best in her new position, and expressed that she will be missed.

ADJOURNMENT OF REGULAR MEETING:

MOTION by Becker, seconded by Elwert, *Moved*, to adjourn the Regular Meeting at 8:35 p.m.

Ayes: All Nays: None

MOTION CARRIED.

NEXT REGULAR MEETING: April 18, 2023 at 7:00 p.m. – City of Rochester Municipal Offices

Respectfully submitted,

MELISSA FORD, Trail Manager

I, David Becker, Paint Creek Trailways Commission Secretary, do hereby certify that the foregoing is a true and correct transcript from the minutes of a regular meeting of the Paint Creek Trailways Commission held on March 21, 2023 at 7:00pm, at 4480 Orion Road, Rochester, Michigan, with a quorum present.

David Becker, Secretary

3/29/2023
Dated _____