

REGULAR CITY COUNCIL MEETING
April 11, 2006

The Regular City Council Meeting was called to order by Mayor Muschell in the Council Chambers in the City Hall at 7:00 p.m. The proceedings were as follows:

Present: Council Members Temple, Charboneau, Muschell, Boardman, Tebo, Riddle and McCauslin

Council Member Temple led the Pledge of Allegiance to the Flag.

Approval of Agenda and Receive and File all Communications

Council Member McCauslin moved to approve the agenda as presented and receive and file all communications. Seconded by Council Member Charboneau. Motion carried unanimously.

Correction and Approval of Prior Meeting Minutes

- **Regular City Council Meeting – March 28, 2006**

Council Member Boardman moved to approve the minutes of the March 28, 2006 Regular City Council Meeting as presented. Seconded by Council Member Riddle. Motion carried unanimously.

Public Comments

Public comment portion of the meeting was opened by Mayor Muschell. Mayor Muschell noted a time limit of three minutes for those wishing to address Council during public comment.

- **South Western Avenue Sanitary Sewer/425 Agreement**

Mr. Ray Lofgren questioned the three minute limitation, commenting he felt that is inappropriate. Mayor Muschell referred to the Roberts Rules of Order for Parliamentary Procedure. Mr. Lofgren distributed information to Council and the public regarding documentation he obtained from City Hall and Inverness Township through the Freedom of Information Act (FOIA) that pertains to a proposed 425 Agreement for development of property adjacent to the City boundary as well as discussions regarding installation of sanitary sewer on South Western Avenue. He noted that he previously mentioned on three other occasions that this is a misappropriation of taxpayer money. Mr. Lofgren referred to the minutes of the March 14, 2005 Regular City Council meeting where he states that the City auditing firm property and development proposed in that area by the City Attorney does not look right. He also pointed out that the minutes reflect that Council Members Temple, Tebo and Boardman voted no with regards to a motion to award the bid for the installation of the sanitary sewer on South Western Avenue, and commented that he applauds that action. Mr. Lofgren stated he initiated FOIA requests from Cheboygan Area Public Schools, City Hall, and Inverness Township and also talked to Cornerstone Christian School. Mr. Lofgren referred to a letter dated May 4, 2004 from Charles Hoffman regarding a proposed 425 Agreement due to the need for city water and other amenities, and that in the letter, Mr. Hoffman indicates a preference to use the City Master Plan rather than the county designation and that he needs to have the lands further included to the property up to Riggsville Road. Mr. Lofgren also referred to the minutes of a Special Meeting of Inverness Township on May 19, 2004 that indicates Mr. Hoffman held discussions over the past nine months with Inverness Township Supervisor Mr. Fred Weeks and City Manager McNeil and has optioned a parcel from Mr. Dick Reimann; conditions of the purchase include access to the entire 80 acres, sewer and water, and proper zoning; the City has already purchased the northerly 66 feet of the easterly 1,400 feet of this parcel for a City Street; the City can provide water and sewer could

possibly be provided by either Inverness or the City; Mr. Hoffman plans to build an assisted living facility; and that Mr. Hoffman shared that the School Board is looking at assisting with road construction. Mr. Lofgren indicated that in speaking with Cheboygan Area Schools Superintendent Mr. Paul Ellinger, there was no such discussion and that Superintendent Ellinger commented that it would be political suicide for him to ever want to bring up assistance for any road construction when he is trying to reduce the school budget by \$2 million. He was also informed by Superintendent Ellinger that he advised City Manager McNeil that two fuel tanks were put into the easement. Mr. Lofgren noted that in no way was there any indication from the school that the school was interested. Mayor Muschell commented that the three minute time frame has expired however he would allow another minute for Mr. Lofgren to summarize his comments. Mr. Lofgren noted that there is only one way in the minutes to get the point across; misappropriation of funds, which is in the minutes of the meetings and he has stated that taxpayers should not be developing property for anyone let alone the City Attorney. He added that there is no Master Plan development in talking to three Planning Commissions that ever said that they looked at something outside the City limits of Cheboygan. Mr. Lofgren commented that the bottom line is poor administration and intentional misconduct, and it is clear that this is not right and that no one should put a road in for someone else to do a development. Mr. Lofgren also stated that City Manager McNeil took no action on a \$10,000 payment to buy this road and did not come to Council for approval because he has administrative authority. Mr. Lofgren noted that is wrong. Council Member Charboneau indicated Council gave City Manager McNeil the authority. Mr. Lofgren stated he has more in the packet that he would like on record. Again, he would wish that someone on Council would allow him by motion to extend his time for public comment and allow him to continue through these pages of information because this is serious business for the taxpayers of Cheboygan. Council Member Charboneau noted that it sounds like Mr. Lofgren is campaigning for Mayor. Mayor Muschell indicated that Mr. Lofgren's time is up. Mr. Lofgren indicated that it is wrong to shut him off. Council Member Temple noted that some people are given three minutes and others much more time to speak and that Council should give everyone an equal share of time to speak during public comment. He added that is one reason why people do not like the City Council and that he hears negative comments about Council not giving people a chance to speak. Mayor Muschell disagreed with that comment.

Council Member Temple moved to allow Mr. Lofgren 15 more minutes to speak during public comment. Seconded by Council Member Riddle.

Yes votes: Council Members Muschell, Riddle, Boardman, Temple, Tebo and McCauslin

No votes: Council Member Charboneau

Motion carried.

Mr. Lofgren commented that this is interruptive and concentration is not easy when you are trying to speak. Additionally, he noted he could provide this same information at the May 9, 2006 City Council Meeting as a losing candidate for Mayor; however that may be interpreted as sour grapes and that is why he chose to present the information this evening. Mr. Lofgren referred to the Special Meeting of Inverness Township on June 29, 2005, commenting that those in attendance included Tim MacArthur, Scott McNeil, Ken Kwiatkowski, Vaughn Temple and Chuck Hoffman. The reason for the meeting was the 425 Agreement with the City and that the minutes reflect that the City feels they can provide sewer, water, fire, etc. and believes the Township and City should share equally in the vision for the road; Mr. Hoffman prefers City zoning over County zoning; Mr. Hoffman questioned hooking into the Inverness Sewer but this is discouraged. Mr. Lofgren also referred to the Regular City Council Meeting of February 28, 2006 where the minutes reflect he commented on the eleven homes and the lack of acreage to build in that area. Mr. Lofgren noted that there is not a lack of

acreage when considering Mr. Hoffman's 80 acre development; however, citizens do not deserve to pay for that. He stated that the minutes also reflect that he requested that Council explain to him and all other taxpayers of Cheboygan why hundreds of thousands of dollars should be spent on the South Western Avenue sanitary sewer project, referring Council and the public to the remainder of the highlighted areas of the minutes. The underlined portion also references that the reason the issue is brought forward is the recommendations from the Land Use Plan. Mr. Lofgren stated that the Land Use Plan stops at the City limits according to Planning Commission Chairman Ray Morrow. Mr. Lofgren also referred to the March 14 and March 28, 2006 Regular City Council meeting minutes, which indicate property owned by Mr. Konicki the City CPA and Mr. Hoffman the City Attorney, and that the rest of the property belongs to the railroad and there can be limited expansion. Mr. Lofgren reiterated that Council should not expect the citizens to pay for anyone's road or development, let alone the City Attorney's road. He stated that last Friday was the deadline for the City to provide the FOIA information he requested and the information was not ready. Mr. Lofgren commented that when he did receive the information on Monday morning there was hardly anything there. He referred to what Inverness Township provided him as a result of his FOIA application. Mr. Lofgren noted he argued with City Manager McNeil and Clerk/Treasurer Kwiatkowski about the FOIA information he requested and advised that there could be a penalty for protecting documentation that is public information. He added that City Manager McNeil then provided him with additional information. Mr. Lofgren commented that he thinks the wool pulled over the eyes is being caught up with and he believes and surely hopes that the Tribune will give some courtesy to the readers and explain the kind of actions Council is taking. Mayor Muschell thanked Mr. Lofgren for his comments but mentioned that if he is going to criticize the City Attorney, he should be present and have an opportunity to respond. Mr. Lofgren noted that he is simply reporting FOIA information, commenting that he would like Council to read the rest of the information he provided. He added that he also has 40 pages of additional information. City Manager McNeil stated that with regards any proposed developments by Mr. Hoffman and the 425 Agreement, Mr. Hoffman did propose a development which Council is well aware of, and a Committee was appointed to meet with Inverness Township to discuss that proposed development. Many issues were discussed such as water, sewer, roads and everything else. He pointed out that that none of the dates on the information extends beyond 2005 because the City and Inverness Township could not reach a mutual agreement with regards to tax sharing. City Manager McNeil stated that Inverness Township was steady in wanting 4 mills, they only levied 2, and the City offered 2 mills and that both parties ultimately walked away from the project in 2005. City Manager McNeil commented that his understanding is that Mr. Hoffman has a well. He added that he reported to Council two meetings ago that if Council decided to proceed with the sanitary sewer project on South Western Avenue, that he is not aware of any tangible developments and that includes anything proposed by Mr. Hoffman. City Manager McNeil also noted that as far as he knows, Mr. Hoffman walked away from that project as soon as the City and Inverness Township agreed to disagree, which was one year ago. City Manager McNeil stated that with regards to the FOIA issue, it is his opinion that Mr. Lofgren's FOIA request simply wanted information relative to the acquisition of the street right of way, and it was not his interpretation that he was asking for information relative to the proposed 425 Agreement. City Manager McNeil explained that when Mr. Lofgren came to his office and further requested information on the 425 Agreement, he was provided that information immediately.

- **West Second Street Right of Way Lease**

Mr. John Lechner introduced himself, commenting that he agrees that if an issue is important, there should be no time limit for public comment. Mr. Lechner stated that the last time he was here the

City Attorney was also referenced because Mr. Duffiney was high bidder on a piece of property to lease and the City did not like him and therefore the City Attorney came up with this proposal and Council then just picked through the proposals. Mr. Lechner noted that he remembers some of Council agreeing with him that there is no such thing as a proposal in the City Charter and that Council sells to the high bidder and buys from the low bidder. Council Member Riddle clarified that the West Second Street right of way property that Mr. Lechner is referring to is not for sale and that is why proposals were entertained. She added that there were never any bids on the purchase of that property. Mr. Lechner stated that he is aware of that and if he implied there was a sale, he was completely wrong. He also referred to a motion to lease a piece of property to Ryba Marine for 15 years without putting it out for bids, commenting that really upsets him because it says in the City Charter that Council will sell to the high bidder and buy from the low bidder. Council Member Riddle commented that Council has that right. Mr. Lechner disagreed, adding that the law says you shall award the job to the lowest qualified bidder meeting specifications unless that contractor defaulted on a similar type job and only if that contractor is notified in writing five days before the bids are opened that the bid will not be opened. He commented that Mr. Duffiney was not disqualified before the bids were opened. Mr. Lechner stated that he just wants to say that he agrees with everything Mr. Lofgren said in that if it looks wrong, it is wrong and a lot of the things Council does looks wrong.

Public comment portion of the meeting closed by Mayor Muschell.

Public Hearings

- **An Ordinance to Amend Sections 51.67(D)(1-4) of the Cheboygan City Code of Ordinances by Repealing Section 51.67(D)(1-4) and Enacting New Sections 51.67(D)(1-4) which Provides for Payment of Water and/or Sewer Disposal Services Charges in Rental Arrangements, Deposits, Liens, Shutting Off Service, Reconnection Fees and Remedies in the Event of Non Payment of Tenants and/or Landlords**

Public hearing portion of the meeting opened by Mayor Muschell.

City Manager McNeil stated that this Ordinance pertains to the City's ability to collect water and sewer revenues. Clerk/Treasurer Kwiatkowski explained that this Ordinance mirrors State statute as far as what is required of landlords in a lease agreement with regard to utilities. Council Member Riddle questioned the \$100 deposit and asked how long a water bill is allowed to accumulate in a rental situation. She referred to the list of delinquent water/sewer accounts, noting the significant amounts owed on some of them. Clerk/Treasurer Kwiatkowski stated that 45 days are allowed which includes a 30 day payment period and 15 day shut-off notice. The City will work with the tenant and if no arrangements are made there is a shut off. Council Member Riddle asked if the deposit is used in partial payment of the outstanding bill and whether a replacement deposit is required. Clerk/Treasurer Kwiatkowski replied only when the renter leaves the premises. Council Member Riddle noted that the billing cycle is 90 days, and then there is a 45 day period for payment arrangements. She asked if the service is discontinued after the 45 day period or if there is a threat of the service being discontinued. Clerk/Treasurer Kwiatkowski replied that the tenant is given notice that the City fully intends to shut off the water; however, the only problem the City may have and will have to address is circumstances that occur during the winter months. Council Member Riddle asked if this is a new procedure or something the City has already been doing. Clerk/Treasurer Kwiatkowski stated this amendment is actually providing stronger enforcement. Council Member Tebo questioned if the \$100 deposit is what most municipalities require. Clerk/Treasurer

Kwiatkowski stated that deposit rates vary among municipalities. He explained that two schools of thought include a recommendation for Council to substantially raise the deposit rate so that the City is not stuck with a large utility bill once a tenant vacates the premises, in the event the City has an executed lease document on file which releases the landlord from financial responsibility for payment of utility costs. Increasing the deposit to \$200 or \$300 would force landlords to only rent to responsible tenants. Clerk/Treasurer Kwiatkowski noted that is strictly up to Council and that is why there is language in the Ordinance that says Council can change the rate from time to time as deemed appropriate. Council Member Riddle questioned if raising the deposit rate would protect the City in terms of those situations where there are renters leave town with unpaid utility accounts or for those who do not have leases. She added that she does not want to see other City taxpayers pay for people who skip town and that is basically what happens when the water bills get absorbed by the other users. Clerk/Treasurer Kwiatkowski replied that is hard to determine, explaining that the other side of the coin is that if the deposit rate is raised there will be people that will claim that is an undo hardship on low income renters. Council Member Temple commented that the appearance of renters can be misleading and that charging the landlord a significant deposit fee is unfair. Clerk/Treasurer Kwiatkowski explained that the deposit is due from the tenant and not the landlord. Council Member Temple stated that most people that rent in Cheboygan are renting because they cannot afford to purchase a home and most cannot afford the security deposit and first month rent let alone another deposit for water. Council Member Riddle asked if the deposit could be paid over a 3 or 6 month period. Clerk/Treasurer Kwiatkowski replied that the deposit is always required up front but Council could make a policy that requires the City to allow more time to pay the deposit. Council Member Riddle stated that allowing more time to pay the increased deposit would be a good idea. City Manager McNeil stated that the Ordinance puts the procedures in place that the City needs for collection and provides something of substance for landlords to know what the rules are. The City is not asking Council to change the deposit rate; the amendment simply provides the ability to do so if needed. What is important is that all the criteria is put into an Ordinance so that it is in place. Council Member Riddle questioned the average water bill. Clerk/Treasurer Kwiatkowski estimated between \$70 and \$100 for four people in the household; however, Mrs. Warsecke could provide the closest estimate as she handles all the utility billing. Council Member Riddle stated her concern that the \$100 deposit does not cover one cycle bill or a tenant that leaves town, and that the City should at least get a figure that is within that range. Clerk/Treasurer Kwiatkowski requested that Council adopt the Ordinance so that the basic framework is there and then the deposit issue could be addressed at another time. Council Member Temple asked how long of a period of time the water bill accumulates before past due charges are put on the taxes. Clerk/Treasurer Kwiatkowski stated that if an executed lease or affidavit is provided, the water bill is not placed on the taxes. However, if there is no lease, then the utility bills are subject to being put on the summer tax roll once a year. Council Member Temple asked if it is possible to shut off the water the first time the bill is delinquent after the three month billing cycle and that way the bill will not get out of hand and the renter will not end up owing a substantial amount. City Manager McNeil stated that the City does have that option in the Ordinance.

Public hearing portion of the meeting closed by Mayor Muschell.

Council Member Charboneau moved to adopt an Ordinance to amend Sections 51.67(D)(1-4) of the Cheboygan City Code of Ordinances by Repealing Section 51.67(D)(1-4) and Enacting New Sections 51.67(D)(1-4) which Provides for Payment of Water and/or Sewer Disposal Services Charges in Rental Arrangements, Deposits, Liens, Shutting Off Service, Reconnection Fees and Remedies in the

Event of Non Payment of Tenants and/or Landlords. Seconded by Council Member Tebo. Motion carried unanimously.

- **An Ordinance to Amend Chapter 70: General Provisions, Section 70.01(F) 8.26 Automobile Parking System – 5. All Night Parking Prohibited**

Public hearing portion of the meeting opened by Mayor Muschell.

City Manager McNeil brought Council's attention to some corrected agenda language and proposed motions, explaining that the language on the agenda and the motions are relative to a first reading and that this is in fact the public hearing for both items on the agenda.

City Manager McNeil deferred to Chief Jones to address the recommended Amendment of Chapter 70. Chief Jones referred to Chapter 70: General Provisions, Section 70.01 (F) 8.25 Automobile Parking System - 5. All Night Parking Prohibited. He explained that this pertains to Section F 5 under the Uniform Traffic Code and is regarding the removal of the 30 minute parking section. Council Member McCauslin noted that the statement, "except physicians on emergency calls" no longer applies as there is only one physician in the community that may make house calls and anyone else on emergency call are not physicians. Chief Jones replied that the exception would rarely be used but the language was left in because the situation may arise. The section most applicable is the period longer than thirty minutes with regards to snow removal. Council Member McCauslin commented that the previous language specified that there was no parking for snow removal which provides some logic to the citizen. He added that now it looks like there is no parking so that a citation can be issued and he feels an Ordinance should not be revenue generating. Chief Jones noted that the reference is all part of the snow removal parking issue. He explained that this is the exact wording as what was given to Council at the last meeting and the only language being eliminated is "for a period of time longer than 30 minutes."

Public hearing portion of the meeting closed by Mayor Muschell.

Council Member Charboneau moved to adopt an Ordinance to Amend Chapter 70: General Provisions, Section 70.01(F) 8.26 Automobile Parking System – 5. All Night Parking Prohibited. Seconded by Council Member Boardman.

Yes votes: Council Members Boardman, Charboneau, Temple, Tebo, Muschell and Riddle

No votes: Council Member McCauslin

Motion carried.

- **An Ordinance to Amend Chapter 130 General Offenses, Section 130.02 "Disorderly Persons"**

Public hearing portion of the meeting opened by Mayor Muschell.

Chief Jones explained that this proposed Amendment pertains to the Disorderly Conduct Ordinance Chapter 130 130.02 (L) which specifies that no personal shall knowingly harbor or hide a wanted fugitive from a police officer or member of Department of Public Safety and (M) provide false information to a police officer. Additionally, Section 130.99 (A) is an amendment that specified that a violation of any provision of 130.02 shall be a misdemeanor punishable by a fine of not more than \$500 and/or 93 days in jail.

Public hearing portion of the meeting closed by Mayor Muschell.

Council Member Tebo moved to adopt an Ordinance to Amend Section 130.02 “Disorderly Persons.” Seconded by Council Member McCauslin. Motion carried unanimously.

Communications and Petitions

- **Request from the Cheboygan Rotary Club to Host a Cheboygan Bike Night on Saturday September 9, 2006 from 4:00 p.m. to 11:00 p.m. – Use of Main Street (motorcycle parking only) from State Street to Division Street, including Backus Street – Food & Beverage Tents and Entertainment on Backus Street, along with use of Citizens National Bank parking lot for possible vendors**

Mr. Spence Libby introduced himself, explaining that the Rotary Club would like to host the Cheboygan Bike Night on Saturday, September 9, 2006 and that the original request was for the use of Main Street from State Street to Division including Backus Street; however after further discussion by the Rotary Club, the location is yet to be determined. Council Member McCauslin questioned if Mr. Libby would like Council to table the matter until a decision is made on the location. Mr. Libby requested the matter be tabled until a final location is determined.

Council Member McCauslin moved to table consideration of the request from the Cheboygan Rotary Club to host a Cheboygan Bike Night on Saturday September 9, 2006 from 4:00 p.m. to 11:00 p.m. pending further information on the location. Seconded by Council Member Tebo. Motion carried unanimously.

Bills and Disbursements

- **Bills and Disbursements for the Month of March, 2006**

Council Member Boardman moved to approve the bills and disbursements for the month of March 2006 in the amount of \$546,330.84. Seconded by Council Member Charboneau. Motion carried unanimously.

Mr. Ray Lofgren referred to item 29 on the March 1, 2006 Invoice Register regarding Granger & Associates – Engineering Services, Sewer Extensions for \$3,069. He asked if the expense pertains to the Lafayette or South Western Avenue sewer extension. Clerk/Treasurer Kwiatkowski replied that he believes the expense pertains to both sewer extension projects but that he would have to confirm that by checking the invoice. Mr. Lofgren indicated he would check with Clerk/Treasurer Kwiatkowski at a later time. Mr. Lofgren also questioned item 55 regarding Rowe Incorporated – Progress Payment, Lincoln Avenue Bridge for \$18,772. He asked if this is the first bill. City Manager McNeil commented he believes that is the second or third bill. Mr. Lofgren also asked if the expense is entirely Rowe Incorporated or if United Design is included. City Manager McNeil stated that the contract the City has is with Rowe Incorporated.

Boards and Commission Reports

- **Regular Downtown Development Authority Board Meeting – April 4, 2006**

City Manager McNeil reported that the Downtown Development Authority Board has indicated that the proposed foot bridge project remains an important issue to the Board and directed him to continue working on that project as well as induce redevelopment of the former Woolworth site. He stated that the Board has asked him and the City Attorney to investigate condemnation procedures and

whether that is a viable option and he will report back at their next meeting in that regard. City Manager McNeil also commented that he provided the Board with an overview of the estimated cash flow and the probabilities with the cash flow that might be available toward the foot bridge as well as grant possibilities. Council Member Riddle referred to the discussion at the meeting regarding the lamppost art project and that concerns were expressed regarding negative affects on the integrity of the light poles. She commented that the light posts are very beautiful and the more they are covered, the less visible they will become. City Manager McNeil indicated that some of the DDA Board Members expressed those sentiments as well with regards to the art, and expressed concerns on the possibility that the appearance of the light poles would become too busy and that wind resistance may cause some damage.

- **Regular Zoning Board of Appeals Meeting – April 5, 2006**

City Manager McNeil reported that the Zoning Board of Appeals considered a request for a variance to allow a building that was already constructed contrary to the issued permit, which was denied. The Board also reviewed in some detail the same petition that the City Council and other public boards received from the retail businesses and the Board did discuss signage in that regard. As reported previously, the Zoning Board of Appeals has also been evaluating the four points in the Zoning Ordinance that must be met in order to provide a variance and whether those are appropriate, and the Board reviewed extensive information from the Michigan Municipal League, the Society of Planners, the County Ordinance and other materials, and went over those in some detail comparing that to the criteria available in the current City Ordinance for approving variances. City Manager McNeil commented that the Zoning Board concurred that the criteria is appropriate although the Board will continue to keep that in mind.

Unfinished Business

- **Presentation by Kirsten Guenther, Downtown Enhancement Administrator – re: Branding**

Ms. Kirsten Guenther, Downtown Enhancement Administrator, distributed information to Council regarding her presentation on branding. She explained that in January, the Downtown Development Authority received a report from the Cool Cities Commission which is a subcommittee of the DDA Board involved with downtown improvement planning. Ms. Guenther provided a presentation to Council on the idea behind the branding initiative, explaining that branding is more than a logo. She referred to three examples of very recognizable logos which are brands, commenting that what the Commission would like to establish is possibly developing a brand for the City of Cheboygan. Ms. Guenther explained that a brand delivers a consistent message at every touch-point with the customer and is not to be confused with a logo which is a point of entry to the brand. She referred to various publications the City uses such as the City Review, Downtown Central, Cheboygan Events Calendar which is provided jointly by the Chamber of Commerce and Arts Council, as well as publications from the Tourist Bureau and Chamber of Commerce. Ms. Guenther explained that the branding process would be completed in three phases which include: Phase 1 – Evaluation and analysis of attributes and strengths of downtown district and community; and strategic development and definition of core values and brand promise. Phase 2 – Design of development of the logo, tagline and stationary package. Phase 3 – Production of the brand or graphic standards document. Ms. Guenther stated that when the concept was presented to the DDA Board, the Board requested that the idea be taken outside the DDA District to obtain a collaborated effort from various public groups. The Chamber of Commerce has indicated an interest in partnering in this project and she will be presenting this concept to the Tourist Bureau. She questioned whether Council would consider the

City also becoming a partner in this project and contributing funds toward the total cost of \$9,100 which is a quote on the branding process. Ms. Guenther noted that the DDA is currently trying to determine what groups would like to collaborate on this project and whether there is any interest in doing so. Council Member Riddle commented that she does not understand the difference between a brand and a logo and that the City already has a brand in the lighthouse image. She added that the Tribune has included the lighthouse on the front page of the newspaper and to her it seems the City is already branded with the lighthouse image. Ms. Guenther explained that this all came about from a Cool Cities meeting where “Way Finding” signage was reviewed and in looking at that, the Commission discussed the current brand and whether the lighthouse truly depicts what Cheboygan is and whether visitors and locals understand why the lighthouse image is used. She further explained that the initiative is not only the logo and includes the tagline and everything that encompasses the brand, and if a professional were hired, they would be able to conduct market research to determine what best suits Cheboygan. Council Member Temple asked if a logo would bring people to Cheboygan. Ms. Guenther replied that a logo could help and educates the community as well. Council Member Riddle indicated that she feels the branding initiative is an unnecessary expense and that the City has worked on creating a logo brand that includes the lighthouse image. Council Member Tebo agreed, commenting the \$9,100 could best be spent elsewhere and the City already has the lighthouse which is appropriate for Cheboygan and is a fitting brand and should not be changed. Council Member Boardman agreed. Council thanked Ms. Guenther for the very informative presentation.

Council Member Tebo moved to reject the concept of the branding initiative at this time because the \$9,100 could be best allocated elsewhere. City Manager McNeil clarified that the request is for a partnership and the \$9100 expense would be split four ways. Seconded by Council Member Temple. Motion carried unanimously.

- **Consider a request to rezone the following described property in Cheboygan, Michigan: Property on E. State Street (U.S. 23 East) from One-Family Residential (R-1) to General Business (B-3): Commence at SW intersection of Eastern Avenue and U.S. 23 (E. State Street); thence S’yly along the W’yly ROW of Eastern Avenue 630.0 feet for a POB; thence continue W’yly 1287.0 feet to E’yly line of Block 3, Supervisor’s John B. Dufresne’s First Addition to the City of Cheboygan; thence S’yly along E’yly line of said Block 3 700.0 feet; thence E’yly parallel to Gerow Street and U.S. 23 (E. State Street) a distance of 4400.0 feet; thence N’yly and at right angles to U.S. 23 (E. State Street) 700.0 feet; thence E’yly 3116.0 feet, more or less, to POB**

Council Member McCauslin questioned if the appropriate property owners received notification regarding this rezoning. City Manager McNeil clarified that the request to rezone is not a public hearing. Mr. Lofgren commented that the issue was tabled at a previous meeting for a more decisive map. He added that a gentleman at tonight’s meeting received re-notice but that he did not receive re-notice on this issue. Mr. Lofgren noted that he is unsure why he was not sent re-notification when he is the one that requested the clarification. City Manager McNeil explained that the reason the issue was tabled is because the City discovered that the owners of property lying westerly of Eastern Avenue did not receive proper notification of the proposed rezoning. Those whose property lies east of Eastern Avenue did receive appropriate notice with regards to this rezoning. He further explained that a public hearing was held and the matter was tabled for clarification of the area as Mr. Lofgren requested. The request was tabled again once the City realized that there were property owners westerly of Eastern Avenue that did not receive notification. City Manager McNeil commented that

everyone through the notice procedure will have an opportunity to comment on this proposed rezoning. City Manager McNeil stated that the issue at hand pertains to the property rezoning as well as the next item on the agenda which is an Ordinance to control the locations of adult and sexually oriented businesses. He added that the rezoning recommendation and amended Zoning Ordinance go hand in hand. City Manager McNeil referred to the Zoning map illustrating the area for proposed rezoning. He explained the reason for the rezoning request is within the Ordinance where the City is looking to control the locations of adult and sexually oriented businesses, and provides for setbacks from protected areas, such as 1500 foot setbacks from churches and schools, and 1,000 foot setbacks from residential zoning and other areas not zoned for business. City Manager McNeil commented that the law requires that the City provide locations for these types of businesses. He explained that what the Planning Commission is recommending is that given the setback area, if the General Business (B-3) zoning is extended, that extension would provide locations where the adult and sexually oriented business could locate, but those businesses must be set back from the road frontage on U.S. 23 in order to provide the least amount of impact. City Manager McNeil stated that in order to accomplish the set backs required in the Ordinance, an extension of the General Business (B-3) zoning is needed to provide for that scenario. He commented that the rezoning recommendation is the first issue at hand, and then Council would need to entertain the issue with regards to consideration of amending the Zoning Ordinance. Mr. Lofgren questioned why he was not notified, noting that this is a completely different description than previously provided. City Manager McNeil indicated that Mr. Lofgren was notified and that the description is the same. Mr. Lofgren requested to see the new map that was sent to property owners. Council Member Riddle questioned if that is the map Council had from the last meeting when the issue was tabled. City Manager McNeil noted the same map was provided at the last two City Council meetings. Mr. Lofgren stated that he thought the map was going to be cleaned up to provide a better bearing. City Manager McNeil referred to the map, noting this is the cleaned up version which provides a wider view. He pointed out the acreage that Mr. and Mrs. Lofgren own. Council Member McCauslin asked if the 1500 foot setback requirement from churches is measured from the physical building or the property line. City Manager McNeil replied that the 1500 foot set back is from the property line. Council Member McCauslin also questioned the property owned by the Seventh Day Adventist Church on Lafayette Avenue, asking which of the two parcels on the map represents the Church property. He explained that if the larger of the two parcels belongs to the Church, that property borders on the rezoned section. City Manager McNeil commented that he is unsure which parcel is owned by the Church; however, he feels the setbacks will work because it is outside the rezoned area. Council Member Temple asked how much vacant property is residentially zoned in the City. City Manager McNeil commented he is unsure. Council Member Temple stated that Council has rezoned properties to General Business (B-3) quite a bit and that homes would more likely be built than businesses. Additionally, he feels the City is eliminating too many residential areas and that is where the City tax money will be coming from in the next few years and he does not see a lot of businesses development coming north. City Manager McNeil stated that with the Land Use Plan, the basic premise is the opposite from the Planning Commission in that they thought the City's best hope for the future is to position itself as a commercial center for the faster growing outside area. He explained that the Planning Commission felt this zoning recommendation is consistent with the Land Use Plan that shows commercial zoning along all of the State highway corridors. Secondly, without the rezoning, the Planning Commission would then have to go back and change the setback requirements in the Adult and Sexually Oriented Business Ordinance because it is known that those businesses must be provided some place to locate and this recommendation provides a location with the lowest impact. Council Member Temple commented that is acceptable in this particular case; however, the City is taking away a lot of residential zoning and replacing that with General Business (B-3) zoning, which

reduces the available areas for building homes. City Manager McNeil stated that the rezoning is consistent with the Land Use Plan recommendations and that if Council is concerned, then he would convey those concerns to the Planning Commission to evaluate. Mr. Lofgren requested clarification on whether the City is proposing to rezone any of his property. City Manager McNeil stated that the City is requesting to rezone an additional 600 feet or so of Mr. Lofgren's property on U.S. 23; however, the YARTAG property that Mr. Lofgren owns is not being rezoned. Mr. Lofgren requested clarification on the 4400 foot portion along U.S. 23. City Manager McNeil referred to the Zoning Map and indicated the 4400 foot area in question, commenting that the area under consideration is the rear property.

Council Member Riddle moved to approve the request to rezone the following described property in Cheboygan, Michigan: Property on E. State Street (U.S. 23 East) from One-Family Residential (R-1) to General Business (B-3): Commence at SW intersection of Eastern Avenue and U.S. 23 (E. State Street); thence S'ly along the W'ly ROW of Eastern Avenue 630.0 feet for a POB; thence continue W'ly 1287.0 feet to E'ly line of Block 3, Supervisor's John B. Dufresne's First Addition to the City of Cheboygan; thence S'ly along E'ly line of said Block 3 700.0 feet; thence E'ly parallel to Gerow Street and U.S. 23 (E. State Street) a distance of 4400.0 feet; thence N'ly and at right angles to U.S. 23 (E. State Street) 700.0 feet; thence E'ly 3116.0 feet, more or less, to POB. Seconded by Council Member Charboneau. Motion carried unanimously.

Council Member Temple recommended that City Manager McNeil mention Council's concerns to the Planning Commission regarding the decrease in residential areas in town with vacant property to build homes on. City Manager McNeil commented that he appreciates the comments, explaining that one of the issues about this particular rezoning is that there is hardly any road frontage involved and that the rezoning pertains to back acreage.

- **Consideration of an Ordinance to amend the Zoning Ordinance of the City of Cheboygan, Michigan, by adding new provisions 154.034 – 154.042 “Adult and Sexually-Oriented Businesses”**

City Manager McNeil explained that this proposed Ordinance controls the location and defines adult and sexually oriented businesses, provides for protected areas and establishes setbacks from those protected areas, and provides for penalties and violations. City Manager McNeil commented that the proposed Ordinance also dovetails with a Licensing Ordinance that Council adopted quite some time ago in reference to these types of businesses. Mayor Muschell questioned if this is based on the same format as the County. City Manager McNeil indicated the proposed Ordinance is not the same format as Cheboygan County and is rather a blend of the best portions of Ordinances from the City of Gaylord and Township of Grayling. He further explained that the Grayling Ordinance is considered to be a very good model because it was the result of actual litigation and the lessons learned as a result of that process. Council Member Riddle asked that with the passing of this proposed Ordinance and the rezoning that just took place, is the City protected in terms of where these types of businesses can locate should the City be confronted with another sexually oriented business that wants to come into town. City Manager McNeil explained that the Ordinance would provide the City with something to defend which has not been available in the past, although the Ordinance could possibly be challenged as unconstitutional citing that adult and sexually oriented businesses have a right to road frontage. He further explained that the Ordinance does not imply that adult and sexually oriented businesses do not have access to frontage; only that the businesses would have to provide a long driveway from where the proposed business would be located.

Council Member McCauslin moved to adopt an amendment to the Zoning Ordinance of the City of Cheboygan, Michigan, by adding new provisions 154.034 – 154.042 “Adult and Sexually-Oriented Businesses.” Seconded by Council Member Tebo. Motion carried unanimously.

General Business

- **Consideration of Appointment of Thomas Bancroft as Fire Chief effective immediately**

City Manager McNeil stated it is his pleasure to offer for Council’s consideration, the appointment of Mr. Thomas Bancroft who currently serves as the Assistant Fire Chief, for the position of Fire Chief. City Manager McNeil stated that Mr. Bancroft has served the City for many years in an exemplary manner and feels he will do an excellent job as Fire Chief. Council Member Tebo commented on the loyalty of the Fire Department staff for Mr. Bancroft, citing his regard for safety of the staff and knowledge of procedures and that he cannot see anyone on the staff not wanting Mr. Bancroft as Fire Chief.

Council Member Tebo moved to appoint Thomas Bancroft as Fire Chief effective immediately. Seconded by Council Member Temple.

Council Member Riddle asked how long Mr. Bancroft served as Assistant Fire Chief. City Manager McNeil indicated three years, since Mr. David Lloyd was appointed Fire Chief. Council Member Tebo clarified that Mr. Bancroft is a long time member of the Fire Department and possess a wealth of information, is highly respected and would be doing the City an honor by serving as Fire Chief. Council Member Charboneau abstained from voting. Motion carried unanimously with one abstention.

- **Consideration of Reappointment of Steve Brisson to the Historic Resources Commission – Term to Expire March 25, 2009**

Council Member Temple moved to reappoint Steve Brisson to the Historic Resources Commission with a term to expire March 25, 2009. Seconded by Council Member McCauslin. Motion carried unanimously.

- **Consideration to Appoint David A. Kronberg to the Planning Commission – Term to Expire May 10, 2007 (finishing term of former Commissioner Walter Humphrey)**

Council Member Temple moved to appoint David A. Kronberg to the Planning Commission with a term to expire May 10, 2007. Seconded by Council Member Tebo. Motion carried unanimously.

- **Consideration to Place 6 Month Delinquent Water/Sewer Utility Bills as a Lien on the 2006 Summer Tax Roll**

Council Member Tebo referred to the delinquent water and sewer utility bills report, commenting that some of the past due balances are quite substantial and questioned if the amounts represent more than three months usage. Clerk/Treasurer Kwiatkowski explained that they may be businesses. He explained that the City Code calls for account balances that are delinquent six months to be placed on the tax roll as a lien, adding that the City does not have the resources to pursue collection efforts and that placing past due balances on the tax roll is the simplest alternative. City Manager McNeil commented that the utility payment collection is relatively good and as Clerk/Treasurer Kwiatkowski noted, placing the past due balances on taxes provides full payment. Council Member Tebo questioned the possibility of sending shut-off notices on accounts 30 days past due. Clerk/Treasurer

Kwiatkowski explained that one or two additional full time employees would be needed to accomplish that because of the amount of work involved. Council Member McCauslin noted that as previously mentioned, the pay rate is approximately 93% which is high realistically. Clerk/Treasurer Kwiatkowski agreed, commenting that in looking at the overall collections including what is placed on the tax roll, the total collection is approximately 99% which is typical as far as tax collections go as well.

Council Member Charboneau moved to place 6 month delinquent water/sewer utility bills as a lien on the 2006 Summer Tax Roll. Seconded by Council Member McCauslin. Motion carried unanimously.

- **Consideration of 2005/2006 Third Quarter Budget Revision**

City Manager McNeil referred Council to the 2005/2006 Third Quarter Budget Revision, commenting that as noted in the report, there were very few changes and those all reflect slight changes based on review of the City's experience through the third quarter which is pretty much at levels adopted at the previous budget review. City Manager McNeil noted that there have been a couple small changes with regards to revenues in the amount of \$41,000 in federal grant funds received for the Fire Department and the matching funds from the City in the amount of \$2,200 so the Fire Department will receive some equipment with those funds which is reflected in the budget. Additionally, he brought to Council's attention that the projections on revenues for the Water and Wastewater Departments have been increased. He noted that staff has done an excellent job with regards to collections and the revenues are starting to reflect that effort, and as a result, the City is now able to appropriate for capital improvements in these departments accordingly. City Manager McNeil added that the Sewer Department is also assisted by increased revenues from the Inverness Township users and those revenues have been updated based on review of experience through the third quarter. He indicated that everything else remains at levels as previously adopted. Council Member McCauslin asked if there have been any more increases to the flow rate coming from Inverness Township. Clerk/Treasurer Kwiatkowski noted that after that one occasion, the flow rate for Inverness Township has been consistently stable from month to month.

Council Member McCauslin moved to adopt the 2005/2006 Third Quarter Budget Revision as presented. Seconded by Council Member Tebo. Motion carried unanimously.

- **Consideration of 2006/2007 Preliminary Budget**

City Manager McNeil stated that as required by Charter, the Preliminary Budget for the upcoming budget year beginning July 1, 2006, is provided to Council for review and consideration. He noted that a public hearing would be needed in June before the final adoption for the next fiscal year budget. City Manager McNeil commented that as stated in the report there are many factors that can affect this Budget including seeking proposals with regards to professional services including auditing services, as well as liability and property insurance. He added that negotiations for the POLC Collective Bargaining Agreement will be held this year and the first year of operations under the performance contract with Johnson Controls will also be a factor in the Budget and that adjustments will have to be made as these scenarios and a few others are realized. City Manager McNeil referred to the projected revenues with basic incremental increases with the exception of State shared revenues that are showing to be at levels comparable to the last couple years which have decreased substantially from what the City received in the past. City Manager McNeil stated that from an expense versus revenue standpoint, this Budget came out better than anticipated. He

commented that when reviewing the Operation Funds Projections, Council will note that the Budget includes a couple large capital projects; a debt service for the bonds the City anticipates selling to support costs of the Lincoln Avenue Bridge Replacement are included and a debt service for an anticipated \$300,000 repaving project this year. City Manager McNeil stated that the City will be retiring some paving bonds and anticipates simply renewing another debt stream and continuing to try to repave City streets. Also included in the Budget is a new police vehicle and some turn out gear air packs for the Fire Department. He asked that Council take note that the report indicates \$4,000 for the Fire Department for turn out gear and that amount should be \$9,000 which is what is actually in the Budget. Council Member Riddle questioned if that changes the total on the Budget. City Manager McNeil replied that does not change the total, explaining that the amount in the narrative is incorrect and what is actually in the Budget is a \$9,000 appropriation. He explained that these all come as recommendations from the refined capital improvement planning process where the management team reviews the entire operation and provides recommendations. He provided Council with a copy of the results of the review that the management team undertook and the recommendations that were made. City Manager McNeil noted that all of the recommendations the management staff made are included in the Budget with the exception of City Hall windows although the windows are very badly needed. City Manager McNeil commented that he continues to be concerned with regards to the Operation Funds Projections over the next several years and as mentioned in his goals and projects for this year, he wants to refine those projections and would probably recommend that in the near future that Council set a special meeting so that he can review the details with Council as he has in the past. He referred Council to the Operation Funds Projection which is down from the previous budget year and that is indicated and held true for the most part in this Budget he is presenting. City Manager McNeil stated that in proceeding toward 2007 that projection dips down another \$80,000 and if that holds true, it is very possible the City could be in a deficit situation if other cost trends continue such as employee benefits which increased 5% of wages this year and is reflected in this Budget. He noted that if that happens again next year, and the other influences that he has indicated in this trend, the City could be looking at a very tight budget this time next year. City Manager McNeil stated he also wanted to bring to Council's attention issues with regards to Water and Sewer Funds, commenting that Council will note in keeping with the extension of sanitary sewers to commercially zoned areas there is a recommendation to extend sanitary sewer on East U.S. 23 and a \$300,000 appropriation under capital improvements for that project. Also, in anticipation of acquiring some debt in the Water Fund to possibly address water main replacement, he included in the Budget a debt service for a half million dollar debt and with that debt service an amount of approximately \$42,000 that is a twenty year amortization debt estimate. With regard to the Required Capital Improvements, Council will note that there is a slight deficit projected and how capital improvement decisions transpire over the next year that will of course change the Budget. City Manager McNeil commented that the Wastewater Fund is doing very well and the revenues appear to be exceeding the City's needs both from a capital improvement standpoint and operations standpoint. He indicated that there may be an opportunity for Council to lower rates within the Sewer Fund and raise rates within the Water Fund to address some of the capital needs, especially with regards to water quality. City Manager McNeil commented that he will be analyzing that further and offering more information to Council in that regard at a later date. He added that he wanted to bring to Council's attention the half million dollar debt service which was included to address matching funds that Council had put forward in a grant application which he will address further under City Manager's Report.

Council Member Boardman moved to adopt the 2006/2007 Preliminary Budget as presented. Seconded by Council Member Tebo. Motion carried unanimously.

City Clerk's and Treasurer's Comments

- **Consolidation of City Funds & Local Bank Proposals for Maximization of Interest Revenues**

Clerk/Treasurer Kwiatkowski referred Council to information pertaining to consolidation of City funds and local bank proposals. He noted that the investment climate for the past several years has not been very good as far as investing public funds and that most municipalities have not done very well in that area. However, the investment climate is improving with CD rates running between 4.5% and 5%, and Sweep Accounts running consistently over 4%. Clerk/Treasurer Kwiatkowski stated that a representative of one of the local banks approached him with a request for a portion of the City's business. He commented that in fairness to all the local lending institutions, he took proposals and has received responses from Citizens National Bank, National City Bank, First Community Bank and First Federal Bank. Clerk/Treasurer Kwiatkowski noted that what he discovered is that each were offering pretty much the same instruments and there was very little spread therefore it really did not make sense to move the City's funds. He commented that what he proposes to do and is bringing before Council, is to consolidate some of the City's funds such as the Lincoln Bridge Capital Project Fund, DDA Fund, Escrow Fire Insurance Fund, Pooled Fund that includes the City General Fund, Major and Local Street Funds, Sewer and Water Funds, Cemetery and Equipment Fund. Also there are two liability funds which include the Public Act 222 Liability Fund and the Termination Liability Fund. Clerk/Treasurer Kwiatkowski explained that Citizens National Bank has a program called PrimeVest which is a sweep account and as checks are written, only the funds needed to cover the checks are transferred and the remainder is put into mutual fund investments. He noted that the \$2.376 million consolidated fund at a 4% interest rate would net the City in excess of \$95,000 per year in interest income. Clerk/Treasurer Kwiatkowski explained that the other funds he had grouped together were taken out as they were the bond funds that are covered under Federal Deposit Insurance Corporation (FDIC) which insures funds up to \$100,000. He stated that he is proposing consolidating funds within PrimeVest, explaining that Cheboygan County has invested \$1.6 million in PrimeVest and is extremely pleased with the rate of return. Additionally, the City's Trial Balance is available for review if there are questions on the various funds.

City Manager's Report

- **Water Quality Audit**

City Manager McNeil referred to the Goals and Objectives as adopted in the Strategic Plan with regards to improvement of water quality and as such the contracting of services from Wade Trim. He stated that Wade Trim provided a report based on their review of the City's system and operations. City Manager McNeil provided a brief overview of the report noting that several recommendations have been made including addressing some specific iron levels at well fields on the east side versus different iron levels from well fields on the west side. He commented that Wade Trim recommends different testing methods, more long term in-depth analysis that can be used to determine future treating considerations, as well as recommendations with regards to separation when chlorine and Aquadine are put into the system. City Manager McNeil stated that Mr. Reg Hamilton of Wade Trim will attend the next City Council meeting to present the report and address any questions. Also, the recommendations will be reviewed and an action plan based on these recommendations will be developed in conjunction with Water and Wastewater staff and presented to Council to consider.

Water Main Replacement Grant

City Manager McNeil stated that the City did not receive good news with regard to the grant application from the MEDC for water main replacement and that the grant was not approved. He

indicated that the next plan is to review federal grants and loan options with regards to water main replacements, which works hand in hand with his report on the Water System Funds and the Preliminary Budget. Council Member Temple questioned the approximate amount of funds available in the Sewer Fund. City Manager McNeil stated that as far as reserves, the Sewer Fund is at \$723,000 as reflected on the Cash Flow on the Budget. Council Member Temple noted that he is aware that the Water and Sewer Funds are separate and asked if funds could be borrowed from one fund to supplement another. City Manager McNeil commented that he is unsure if that can be done and if so, the funds would have to be repaid but that is an option to look into. Council Member Temple stated that the City must do something about the water situation, even by replacing a portion of water main at a time so that eventually the entire system is repaired. City Manager McNeil commented that DPW Superintendent LaCross and Water and Wastewater Superintendent Good are discussing the proposed 2010 paving project that is included in the Capital Improvement Plan and the possibility of coordinating some water main replacement with that project.

- **Planning Commission and Zoning Board of Appeals Vacancies**

City Manager McNeil reported that the Planning Commission and Zoning Board of Appeals each need one new member and anyone with information on candidates should contact Mayor Muschell.

- **Brief Vacation**

City Manager McNeil noted he plans on taking a short vacation beginning tomorrow and will be back in the office on Monday, April 17, 2006.

Messages and Communications from Mayor and Council Members

- **Lincoln Avenue Bridge Permits**

Mayor Muschell indicated that he has no messages and communications other than United Design is still working on obtaining all the necessary permits for the Lincoln Avenue Bridge replacement. He noted that four agencies require permits and all demand the same data but require that information separately rather than working jointly, and that two of the agencies require public hearings.

Adjournment

Council Member Charboneau moved to adjourn the meeting at 9:01 p.m. Seconded by Council Member Boardman. Motion carried unanimously.

Mayor James Muschell

City Clerk Kenneth J. Kwiatkowski

Councilman Scott McCauslin

Councilman Gerald R. Boardman

Councilman Vaughn M. Temple

Councilwoman Winifred L. Riddle

Councilman Leslie A. Tebo

Councilman Charles Charboneau