

REGULAR CITY COUNCIL MEETING
August 8, 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 Muschell, Boardman, Tebo, Chlopan, Riddle, McCauslin and Charboneau

Mayor Muschell led the Pledge of Allegiance to the Flag.

Approval of Agenda and Receive and File all Communications

- Mayor Muschell noted four additions to the agenda: General Business – 12 C. North E Street Sewer Repairs; 12 D. Agreement with U.S. Geological Survey – re: Use of West Second Street Right-of-way; and 12 E. Paving Contract Change Order, and under Messages and Communications – 15 B. Committee of the Whole re: POLC Collective Bargaining Update.

Councilman McCauslin moved to approve the agenda as amended and receive and file all communications. Seconded by Councilman Tebo. Motion carried unanimously.

Correction and Approval of Prior Meeting Minutes

- **Regular City Council Meeting – July 25, 2006**

Councilman Tebo moved to approve the minutes of the July 25, 2006 Regular City Council Meeting as presented. Seconded by Councilman McCauslin. Motion carried unanimously.

Public Comments

The Public Comment portion of the meeting was opened by Mayor Muschell.

There being no comments from the public, the Public Comment portion of the meeting was closed by Mayor Muschell.

Public Hearings

- **Consideration of an Ordinance to Amend Chapter 52, Water, Section 52.03(A) “Wells” by Adding an Exception to said Section 52.03 (A) for Wells used for Cooling Machinery and Equipment**

City Manager McNeil stated that this comes before Council as an amendment to the Ordinance in order to help assist the location of an industrial concern to the City’s Industrial Park. He noted that the reason the City has provisions in the Ordinance requiring connection to the City water and sewer services is basically two fold – to be able to protect the integrity of the water system by requiring its use and secondly the City does not want to encourage the drilling of wells in an urban area and into a single aquifer for health reasons. City Manager McNeil commented that the proposed exception to this Ordinance is believed to aid the City from an economic and job creation standpoint, and hopefully a tax base standpoint in bringing FiberForm Inc. to the City of Cheboygan. Additionally, he believes the definition with regards to the exception is very narrow and in his opinion will not compromise the objective of the language in the Ordinance regarding the banning of wells.

Public Hearing portion of the meeting opened by Mayor Muschell.

Mayor Muschell introduced Mr. Tim Collins, President of FiberForm, Inc. Mr. Collins expressed appreciation for Council's consideration of their request. He provided background information regarding FiberForm, Inc. noting that the company does primarily development work and demonstration lines including technology involving continuous fiber-reinforced thermoplastics. Mr. Collins also explained the equipment cooling system. Councilman Chlopan clarified that Mr. Collins would not be sending this through the Wastewater Treatment Plant for treatment. Mr. Collins indicated that is correct, explaining that it will have no exposure to anything other than piping in and out. Mayor Muschell noted that FiberForm clients may have some bearing on improving the City's Industrial Park for other interests because of their contact with FiberForm. Mr. Collins replied that FiberForm is optimistic and at some point in time is looking to bring in additional funding with the right partner that can take their activity to another level. Additionally, FiberForm hopes within the foreseeable future to add between 4 and 8 new jobs and they also hope for the opportunity to bring in additional investment that would permit them to do more. Mayor Muschell asked if Council or anyone from the public had any questions or comments.

Public Hearing portion of the meeting closed by Mayor Muschell.

Councilman Chlopan moved to adopt an Ordinance to amend Chapter 52, Water, Section 52.03(A) "Wells" by adding an exception to said Section 52.03(A) for wells used for cooling machinery and equipment. Seconded by Councilman Tebo. Motion carried unanimously.

Communications and Petitions

There were none.

Bills and Disbursements

- **Bills and Disbursements for the Month of July 2006**

Clerk/Treasurer Kwiatkowski noted additions to the bills and disbursements that include late invoices received from Nye Uniform, Quill Corporation and Traffic Specialty which changes the total disbursement for the month of July to \$1,019,760.81.

Councilman Tebo moved to approve the bills and disbursements for the month of July 2006 in the amount of \$1,019,760.81. Seconded by Councilman Boardman. Councilman McCauslin and Mayor Muschell abstained from voting. Motion carried unanimously.

Boards and Commission Reports

- **Regular Downtown Development Authority Board of Directors Meeting – August 1, 2006**

City Manager McNeil reported that the DDA continues to discuss whether or not to get involved in some manner to induce development or redevelopment of the former Woolworth site. He noted that the DDA Board tabled further discussion pending his identifying possible developers who may be interested. City Manager McNeil stated that the scenario that he presented to the DDA was the possibility of entering into an option or some other type of purchase agreement with the owner whereby the DDA would identify an amount, be given some time to conduct due diligence, and identify a developer with a development that the DDA would approve. He explained that if that were to happen, the DDA could purchase the building for the negotiated price then transfer ownership to the developer for one dollar in hopes of inducing development. Additionally, the DDA

identified a wish to know of interested parties willing to develop the property under that scenario. City Manager McNeil commented that he would make further inquiries of previous contacts to determine interest and try to identify others, then take that information back to the DDA. Councilman Tebo questioned if the former Woolworth building is salvageable. City Manager McNeil commented he is unsure, explaining that it would take a certain amount of due diligence on someone's part to evaluate the structural integrity of the building and determine cost effectiveness. He added that one developer may consider a tear-down scenario where another developer may consider rehabilitating the building.

- **Regular Zoning Board of Appeals Meeting – August 2, 2006**

City Manager McNeil reported that the Zoning Board of Appeals took under consideration three different issues. The Board denied a variance to allow a Bed and Breakfast operation in a One Family Residential (R-1) District and granted a variance to allow a 24 foot high building in a residential district due to some extenuating and unique circumstances. City Manager McNeil stated that the Board also approved a variance for allowing signage with regards to the Fleetwood Inn, explaining that the Fleetwood Inn had shared driveway access with the Walgreen facility which is currently under construction and because of unique circumstances and somewhat of a hardship, the Board approved the off-premise signage and additional signage on the motel.

Resolutions

- **Consideration of Resolution of Appreciation for Klaus Hergt, Civil Rights – Human Relations Board**

Mayor Muschell read the Resolution of Appreciation for Klaus Hergt for his service to the City of Cheboygan on the Civil Rights – Human Relations Board.

Councilman Chlopan moved to adopt the Resolution of Appreciation for Klaus Hergt for his service on the Civil Rights-Human Relations Board. Seconded by Councilman McCauslin. Motion carried unanimously.

General Business

- **Consideration of Professional Services Agreement with Granger & Associates for Design and Construction Supervision Services of Sanitary Sewer extension on E. State Street (E. U.S. 23 Hwy)**

City Manager McNeil referred Council to the proposed professional services agreement which would allow the City to have the design completed for extension of the sanitary sewer one half mile east of Eastern Avenue. He noted that the cost for this is included in the budget and the project is pursuant to the Land Use Plan directives and Sanitary Sewer System Master Plan. City Manager McNeil added that upon completion of the design a refined cost estimate will be available and the City will request to go out for bids.

Councilman Tebo moved to approve the Professional Services Agreement with Granger & Associates for Design and Construction Supervision Services of the Sanitary Sewer extension on East State Street (E. U.S. 23 Hwy.) Seconded by Councilman McCauslin. Motion carried unanimously.

- **Consideration of Waterways Grant Program Application for Mooring Facilities Engineering Study and Proposed Professional Services Agreement with United Design Associates for the Engineering Study**

City Manager McNeil explained that this is the direct result of the conditions of the marina facilities as reported a couple meetings ago. There are areas where stress and affects of time on some of the sheet-pile walls at the Water Street Marina facility are visible as well as similar signs of those conditions and deterioration at the Washington Park facility. He also noted that because of the sheet pile moving out, some fairly substantial repair to the sidewalk will be required this fall and that the engineer's estimate on that repair is approximately \$12,000 which will come to Council at a later date. City Manager McNeil commented that because of that, it is felt that a complete study of all the facilities should be done to determine from an engineering standpoint exactly where we are at with regards to its condition and get some solid recommendations with regards to future repairs and improvements. He added that hopefully the City can take advantage of some funding opportunity from the Waterways Commission of the Department of Natural Resources who offers grant programs that will provide 50% of the funding for these types of engineering studies. City Manager McNeil stated that he has completed the form for that and attached is the proposed professional services agreement where that funding is identified. Additionally, in the event the grant is approved, the City can then formally entertain entering into the professional services agreement but at this time the agreement is simply evidence of the cost. City Manager McNeil commented that what Council would essentially be looking at tonight is committing to the matching funds of \$24,056 pursuant to the application. Councilman McCauslin indicated that the information provided to Council stated that City Manager McNeil was optimistic in possibly having both properties fall under the same grant. City Manager McNeil agreed. Councilman McCauslin asked if the interruption caused by the marina in between those two lots would be an issue. City Manager McNeil explained that there is a privately owned marina and therefore it is not a contiguous piece of property but that should not be an issue and if it is, then if for some reason there is a technicality to that affect from the Waterways Commission, he foresees the City going back and getting two separate professional services agreements for engineering studies on each facility. Mayor Muschell concurred.

Councilman McCauslin moved to approve the Waterways Grant Program Application for mooring facilities at Water Street and Washington Park and to approve the Professional Services Agreement with United Design Associates for the engineering study. Seconded by Councilman Tebo.

City Manager McNeil clarified that we are looking to approve the agreement with United Design Associates in the event that the grant is approved. Mayor Muschell agreed. A roll call vote was taken. Mayor Muschell abstained from voting, explaining that he is involved with publicly presenting to the City Council for approval as part of this disclosure to comply with the requirements of Public Act 317 as amended by Public Act 145 of 1997 and it will be voted on then. Motion carried unanimously.

- **Invitation to Bidders for North E Street Sanitary Sewer Repair**

City Manager McNeil explained that there is a section of sanitary sewer on North E Street that is not functioning properly and repairs are needed as well as accommodations for sewer extension in the future. He commented that Water and Wastewater Superintendent Gary Good is present to answer any questions. Superintendent Good explained that the sanitary sewer system on North E Street has not drained properly for some time and has been an ongoing problem. He noted that making a new tap into a manhole in the street is being proposed in order to solve the problem.

Councilman Tebo moved to authorize the advertising for bids to replace 280 feet of 8 inch sanitary sewer main on North E Street. Seconded by Councilwoman Riddle. Motion carried unanimously.

- **Agreement with U.S. Geological Survey – re: Use of West Second Street Right-of-way**

City Manager McNeil stated that pursuant to Council's direction, he and the City Attorney have been working with representatives of the U.S. Geological Survey with regards to coming up with an agreement that would provide them use of the West Second Street right-of-way. He added that what is before Council is an adapted form that the City uses with regards to licensing uses within street right-of-ways to include some of the concerns of the USGS and subsequent concerns of the City Attorney. City Manager McNeil commented that officials in Washington were fairly insistent that the one-year provision be included in the agreement with possible four additional one-year options. He added that officials in Ann Arbor desire a longer term agreement because they do not believe they can get funds appropriated to improve the site. City Manager McNeil stated that his recommendation to the USGS and Council is to approve the agreement as it is currently written in order to move forward with the street right-of-way use, have the agreement in place, and have the fees coming to the City of Cheboygan. He added that Council will note there is a provision that requires the USGS to provide the City with a master plan with regards to any improvements they want to make before proceeding with those improvements at that time, the City could consider an amendment to the agreement that would provide a longer term and allow the USGS to obtain the appropriations needed to make the improvements pursuant to the master plan. City Manager McNeil stated that the license agreement meets with his recommendation and that the City Attorney has also reviewed and approves the agreement. Council Member McCauslin commented that he noticed that all mention of bond or insurance was stricken from the agreement, asking if that is standard with federal authority. City Manager McNeil explained that he is unsure if that is standard with federal authority however, that has been fairly standard with use agreements as the City does not require a bond at this point until the exact use is determined. He added that the City needed to emphasize to USGS officials that this is merely a transfer of the use of that property for transportation purposes.

Councilman McCauslin moved to allow the City Manager to act on the U. S. Geological Survey Application for Permit for the use of the West Second Street right-of-way. Seconded by Councilman Boardman. Motion carried unanimously.

- **Paving Contract Change Order**

City Manager McNeil stated that this proposed addition to the paving contract will resurface an area of Lafayette Avenue between Hamden and Abbott Street that did not turn out very well after extension of the sanitary sewer. He noted that DPW Superintendent LaCross wanted to ensure that the other streets needing repair could be taken care of prior to addressing the resurfacing of the portion of Lafayette Avenue. City Manager McNeil explained that the City has contingency funds available in the bond account for street paving and that the addition to the contract is recommended. Councilman McCauslin asked if this addition to the paving contract takes into consideration some of the cold patch work that had been discussed in various areas such as in front of the Recreation Center and others that are not very large but need to be tapped. City Manager McNeil replied that he does not believe those are under this contract but he would check with Superintendent LaCross.

Councilman Tebo moved to approve the additional \$7432 in the street paving contract needed for the corrective paving of 190 feet between Lafayette Avenue to Hamden Street as presented by City Manager McNeil. Seconded by Councilman McCauslin. Motion carried unanimously.

City Clerk's and Treasurer's Comments

Clerk/Treasurer Kwiatkowski expressed appreciation to Council for authorizing the advertising for bids regarding the North E Street sanitary sewer repair because the sewer problem directly affects his property.

City Manager's Report

- **Administrative Changes – re: Zoning Board of Appeals (15-Day Notice and Filling Vacancies)**

City Manager McNeil stated that the Zoning Board of Appeals discussed the affects of the recent Zoning Enabling Act that was passed by the State. He explained that previously, there were different laws that governed zoning and zoning administration between counties, cities, villages and townships and that there were different rules based on the laws adopted by the State relative to each of those types of jurisdiction. City Manager McNeil commented that there is now one law that pertains to all jurisdictions. He noted that one of the major changes involves a 15 day notice to property owners and occupants rather than a 7-day notice to only property owners within 300 feet of the property under consideration for rezoning which as a result will cause an increased cost and changes the time table with regards to deadlines for bringing in appeals and other issues. City Manager McNeil stated that there is also language in the law that requires the filling of vacancies on the Zoning Board of Appeals within 30 days in which a term expires. He added that there are other changes in the law with regards to determinations or findings that have to be made with regards to use variances and also language changes such as affected parties that have a right to appeal as well as aggrieved parties that have a right to appeal, so there will be some changes to the Zoning Ordinance that will need to be entertained, especially with regards to administration. Councilwoman Riddle asked how the 15-day notice affects holding the public hearing at the next City Council meeting. City Manager McNeil stated that with regards to zoning changes or actions taken by Council there has always been a waiting period of one month because the 15-day time period could not be met. He added that for the Zoning Board of Appeals, there has been a 7-day time frame and therefore anyone issuing an appeal would have to ensure the appropriate paperwork was submitted the Wednesday prior to the next Zoning Board of Appeals meeting and now it will have to be two weeks plus there is a requirement to notify not only property owners but occupants as well so those that rent property will also receive notices in the case of appeals. Councilman McCauslin stated that with regard to filling Board vacancies, there have been instances where no interested parties have come forward and as a result there were vacancies exceeding 30 days. He asked what the State's contingency plan is in that situation. City Manager McNeil stated that he is unsure what the ramifications are but he found it interesting that the requirement was included in the law.

- **Committee of the Whole – re: POLC Collective Bargaining Update**

Councilman McCauslin moved to adjourn to Committee of the Whole at 7:40 p.m. for a POLC Collective Bargaining Agreement update. Seconded by Councilman Tebo. Motion carried unanimously.

Councilman McCauslin moved to reconvene from Committee of the Whole at 7:56 p.m. Seconded by Councilman Tebo. Motion carried unanimously.

Messages and Communications from Mayor and Council Members

- **Patching Concerns**

Councilman McCauslin requested that cold patch be used in repair areas around town, adding that chunks of exposed gravel are not handling the heat well causing excessive dust and a washboard appearance in the middle of some of the City streets that have been repaired. City Manager McNeil stated he would pass that information along to Superintendent LaCross.

- **City Beach Restroom Signs**

Councilman Tebo asked if the restrooms at City Beach are both unisex. City Manager McNeil indicated they are not. Councilman Tebo commented that an individual mistook the wrong stick figure and asked to have the men/women restrooms designated with the appropriate signage. City Manager McNeil noted he would pass that request along to Parks and Recreation Director Hancock.

Adjournment

Councilman Charboneau moved to adjourn the meeting at 8:00 p.m. Seconded by Councilman Tebo. Motion carried unanimously.

Mayor James Muschell

City Clerk Kenneth J. Kwiatkowski

Councilman Scott McCauslin

Councilman Gerald R. Boardman

Councilwoman Winifred L. Riddle

Councilman Charles Charboneau

Councilman Leslie A. Tebo

Councilman William E. Chlopan