

REGULAR CITY COUNCIL MEETING
February 13, 2007

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 McCauslin, Charboneau, Muschell, Tebo and Lepp

Absent: Councilwoman Riddle and Councilman Boardman

Councilman McCauslin led the Pledge of Allegiance to the Flag.

Councilman McCauslin moved to excuse Councilwoman Riddle and Councilman Boardman from the meeting. Seconded by Councilman Tebo. Motion carried unanimously.

Approval of Agenda and Receive and File all Communications

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

Correction and Approval of Prior Meeting Minutes

- **Special City Council Meeting – January 16, 2007**

Councilwoman Lepp moved to approve the minutes of the January 16, 2007 Special City Council Meeting as presented. Seconded by Councilman Charboneau. Motion carried unanimously.

- **Regular City Council Meeting – January 23, 2007**

Councilman Tebo moved to approve the minutes of the January 23, 2007 Regular City Council Meeting as presented. Seconded by Councilman McCauslin. Motion carried unanimously.

- **Special City Council Meeting – January 30, 2007**

Councilman McCauslin moved to approve the minutes of the January 30, 2007 Special City Council Meeting as presented. Seconded by Councilman Charboneau. Motion carried unanimously.

Public Comments

Public comment portion of the meeting opened by Mayor Muschell.

There were none.

Public Comment portion of the meeting closed by Mayor Muschell.

Communications and Petitions

- **Request from the Cheboygan Lions Club to Hold its Annual White Cane Sale on June 1 and 2, 2007**

Councilman Charboneau moved to approve the request from the Cheboygan Lions Club to hold its annual White Cane Sale on June 1 and 2, 2007. Seconded by Councilman Tebo. Motion carried unanimously.

- **Request from the Cheboygan Lions Club to use Washington Park on July 4, 2007 from 7:00 a.m. to 12:00 noon for a Pancake Breakfast prior to the Parade**

Councilman Charboneau moved to approve the request from the Cheboygan Lions Club to use Washington Park on July 4, 2007 from 7:00 a.m. to 12:00 noon for a pancake breakfast prior to the parade. Seconded by Councilwoman Lepp. Motion carried unanimously.

- **Request from the Cheboygan Lions Club, the Cheboygan Area Sports Fishermen and the Cheboygan Salmon Tournament to use the Joseph Doyle Recreation Area/Gordon Turner Park on August 3, 4 & 5, 2007 for the 9th Annual Cheboygan Salmon Tournament**

Councilman McCauslin moved to approve the request from the Cheboygan Lions Club, the Cheboygan Area Sports Fishermen and the Cheboygan Salmon Tournament to use the Joseph Doyle Recreation Area/Gordon Turner Park on August 3, 4 & 5, 2007 for the 9th Annual Cheboygan Salmon Tournament. Seconded by Councilman Charboneau. Motion carried unanimously.

- **Consideration of Approval to Allow Dredge Material to be Deposited on Former City Landfill**

Councilman McCauslin questioned the possibility of environmental contamination with regard to the dredge material. City Manager McNeil replied there are no contaminants in this case, explaining that the areas where there may be contamination concern have already been identified and the dredge spoils proposed to be deposited at the former City landfill have been identified as not contaminated. Additionally, the Department of Environmental Quality oversees projects such as this very strictly. Mayor Muschell commented that this project pertains to dredging materials from work that the Michigan Department of Natural Resources will do on the lock and dam in the Cheboygan River, which has been thoroughly investigated in conjunction with the DEQ in order for approval to be granted. City Manager McNeil referred to assurances within the letter from the MDNR that this project will comply with DEQ standards.

Councilman Tebo moved to approve the depositing of dredge material on the former City landfill by the State of Michigan Department of Natural Resources pursuant to letter dated January 22, 2007. Seconded by Councilman McCauslin. Motion carried unanimously.

- **Request from Citizens National Bank to hold 3rd Annual Churchill Classic on August 18, 2007 at 8:00 a.m. and to close Main Street from Division Street to Backus Street for start of race**

Councilman McCauslin moved to approve the request from Citizens National Bank to hold the 3rd Annual Churchill Classic on August 18, 2007 at 8:00 a.m. and to close Main Street from Division Street to Backus Street for the start of the race. Seconded by Councilman Tebo. Motion carried unanimously.

Reading of Ordinances

- **First Reading – An Ordinance to Amend Title XV “Land Usage” of the City of Cheboygan by Amending Sections 154.002, 154.150, 154.151, 154.158 and 154.159**

City Manager McNeil explained that this Ordinance brings the administration section of the City of Cheboygan Zoning Ordinance in line with the Zoning Enabling Act of 2006 and provides within it the appeals standards of the recent law, the notice standards, as well as specific standards that are provided for consideration of use variances and dimensional variances. He noted that the Zoning

Enabling Act also provides for a minimum membership of five and this Ordinance is recommending that the City of Cheboygan Zoning Board of Appeals adopt that minimum membership, as the current Ordinance provides for seven members. City Manager McNeil commented that previously, the standards for consideration of variances within the current Ordinance were shared standards relative to use variances and dimensional variances, and now there are different standards for use variances and for review of dimensional variances. He noted that the Zoning Board of Appeals spent a significant amount of time on this proposed Ordinance and the City attorney has reviewed it as well and agrees that these changes bring the City in line with the recent law. Mayor Muschell noted one of the important changes is the five member board, adding that attendance has been an issue in the past and a quorum is necessary to act on variance requests. City Manager McNeil agreed, commenting that a lack of quorum created complications when considering use variances where a two thirds vote of the full board was required to service a request. He added that historically, the City has been able to retain five members on the Zoning Board of Appeals and he feels that change in the provision is warranted.

Councilman McCauslin moved to schedule a Public Hearing for March 27, 2007 to consider an Ordinance to Amend Title XV “Land Usage” of the City of Cheboygan by Amending Sections 154.002, 154.150, 154.151, 154.158 and 154.159. Seconded by Councilman Charboneau. Motion carried unanimously.

Bills and Disbursements

- **Bills and Disbursements for the Month of January 2007**

Mayor Muschell noted a correction on the bills and disbursements which voids item 51 – Grand Traverse Newspapers in the amount of \$133.11 as the item was entered twice. He commented the total bills and disbursements amount is now \$973,030.41.

Councilman McCauslin moved to approve the bills and disbursements for the month of January 2007 in the amount of \$973,030.41. Seconded by Councilman Charboneau. Mayor Muschell abstained from voting. Motion carried.

Boards and Commission Reports

- **Regular Zoning Board of Appeals Meeting – February 7, 2007**

City Manager McNeil reported that the Zoning Board of Appeals reviewed the draft ordinance just discussed and created the recommendation for approval.

Resolutions

- **Resolution of Support for Calibration/Certification of Oil and Gas Meters**

Councilman Charboneau moved to adopt a Resolution of Support for Calibration/Certification of Oil and Gas Meters. Seconded by Councilwoman Lepp. Motion carried unanimously.

- **Resolution Authorizing Issuance, City of Cheboygan 2007 Capital Improvement Bonds for Lincoln Avenue Bridge Replacement**

City Manager McNeil stated that this resolution authorizes issuing \$495,000.00 in bonds that will be used to come up with the remaining funding necessary for the City of Cheboygan to participate with MDOT in replacement of the Lincoln Avenue Bridge. He explained that this resolution provides for a negotiated bond sale, adding that in the past the City has done competitive bond sales; however, the bond attorney recommended through a bond sale of this size that the City could actually save money

in issuance costs by negotiating with a local bank as opposed to providing all the advertising and administration that goes with a competitive bond bid. A negotiated bond will produce an interest rate that is very close to the market and will offset and provide more savings than costs the City would incur through a competitive bond sale. He added that if for some reason the negotiated bond sale does not go well, the City could then revert back to a competitive bid bond sale. City Manager McNeil referred Council to a construction budget which sets forth the amounts that the City must come up with for construction, engineering, bond issuance and contingencies, and includes the offsetting revenues relative to the funds that have already been set aside which include this particular bond issue and a small amount of interest income that is anticipated. Councilman McCauslin referred to Exhibit A – Official Notice of Sale/Solicitation for Bids - \$495,000 asking if it is the City's goal to find a bank that would provide the same or better fee schedule than what is listed on this page. Clerk/Treasurer Kwiatkowski replied that this fee schedule reflects the projected payment installments on principal over a twenty year time frame and does not include interest. He added that the interest will not be able to be included until the bids on the bonds are received. City Manager McNeil commented that probably does influence how the bank might respond with the interest rate because often times the bank will not bid just a single interest rate and will bid a series of rates based on time periods given the principal amount listed here, and then render one aggregate interest rate that would be reported to Council.

Councilman Tebo moved to adopt the Resolution Authorizing Issuance, City of Cheboygan 2007 Capital Improvement Bonds for Lincoln Avenue Bridge Replacement and to authorize the Mayor and Clerk/Treasurer to sign the same. Seconded by Councilman McCauslin. Motion carried unanimously.

General Business

- **Consideration of Appointment of Selina Chevalier to the Recreation Commission – Term to Expire July 1, 2007**

Councilwoman Lepp moved to appoint Selina Chevalier to the Recreation Commission with a term to expire on July 1, 2007. Seconded by Councilman Charboneau. Motion carried unanimously.

- **Consideration of Appointment of Michael VanFleet to the Planning Commission – Term to Expire May 10, 2007**

Councilman McCauslin moved to appoint Michael VanFleet to the Planning Commission with a term to expire on May 10, 2007. Seconded by Councilman Charboneau. Motion carried unanimously.

- **Consideration of Agreement between the Michigan Department of Transportation and the City of Cheboygan with regard to the Replacement of the Lincoln Avenue Bridge, being Contract No. 06-5169.**

City Manager McNeil referred Council to a proposed agreement with the Michigan Department of Transportation which establishes certain assurances for the project and funding through the Critical Bridge Program. He commented that the language of the agreement specifies that the State will not have jurisdiction of the Lincoln Avenue Bridge even though most of the project cost is State funded. Additionally, assurances that the City will put into place items such as not allowing parking in the approach areas, and issues of setting forth the project and how payments are made and certain requests are set forth. City Manager McNeil stated that the proposed agreement has been reviewed and approved by the City attorney and a recommendation is being made that the Mayor and Clerk be authorized to sign the agreement in order to secure funding.

Councilman Tebo moved to approve the Agreement between the Michigan Department of Transportation and the City of Cheboygan with regard to the replacement of the Lincoln Avenue Bridge, being Contract No. 06-5169 and to authorize the Mayor and City Clerk to execute the same on behalf of the City. Seconded by Councilman McCauslin. Motion carried unanimously.

City Clerk's and Treasurer's Comments

There were none.

City Manager's Report

- **Update – Former Locust Street Right-of-Way at Former Railroad Property**

City Manager McNeil provided an update with regard to the former Locust Street right-of-way which crosses the former railroad right-of-way primarily owned by the Straits Corporation. He referred to the east and west areas of the former Locust Street, the DNR trail, the area to the south owned by the Straits Corporation, the McRae property to the north, and the property lying westerly of the trail which has questionable ownership. City Manager McNeil explained that recently the Church of the Nazarene purchased part of the right-of-way and within the quit claim deed that transferred ownership from the Straits Corporation to the Church, the deed noted the area is subject to a 50-foot wide easement on the north side, and also a provision that the Church must provide a 50-foot wide easement to the City for street purposes if requested. City Manager McNeil stated that the timeframe for request by the City is 20 years. He added that there appears to be the ability of the City to obtain the right-of-way even though it was transferred by quit claim deed. The chain of title is clear in that this area was vacated by the City and turned over to Straits Corporation and has been in that status. He noted that he also has some concerns with the language that specifies the area is subject to an easement and then later provides for the City to be able to obtain a street easement over the same area. City Manager McNeil commented on the ambiguous status of the property on the west side including identifying ownership of the former street right-of-way. He noted that the Church of the Nazarene plans to develop and would like a street put in so there has been some progress in this regard. Mayor Muschell asked if there is a process the City must go through to obtain title to the property. City Manager McNeil replied that the process would involve having the title researched and obtaining assurances through the City attorney's opinion and possibly title insurance before proceeding with making a request to the Church. He added that there are still issues on the west side that need to be cleared up before the City can take a serious look at the matter. Councilman McCauslin questioned the reason for abandoning that section of Locust Street. City Manager McNeil explained that based on his research, the railroad wanted it to use the property as a railroad yard for train storage and in exchange for the vacating of the street, the railroad built Maple Street, so the City obtained a new street in exchange for the vacation.

- **Infrastructure Construction Information**

City Manager McNeil stated that there have been some concerns from the Downtown business owners relative to the proposed water main replacement project this summer and little information has been available because the project is still being designed. In most construction projects, design is completed and details are confirmed, then construction begins the following year; however, design and construction are compressed into one year in this case. City Manager McNeil commented that information regarding the 2007 Water Main Replacement Project, the 2007 Lincoln Avenue Bridge Replacement Project, and 2009 Main Street Reconstruction Project has been developed and is currently being distributed to downtown business owners by the Downtown Enhancement Administrator, although the information is subject to change. With regard to the 2007 Water Main

Replacement, the plan for the downtown area is currently proposing to proceed in two or three block increments and use the east parking lane for northbound traffic and the remainder of the street for construction, with southbound traffic routed around that two or three block area. Additionally, water main replacement would stop by June 15 and resume after Labor Day in the downtown area but would proceed throughout the summer for the other areas. City Manager McNeil also commented on the opportunity for the City to avail itself of the MDOT survey done in preparation for the 2009 Main Street Reconstruction Project.

- **Request to be Excused from March 27, 2007 Regular City Council Meeting**

City Manager McNeil requested to be excused from the March 27, 2007 Regular City Council Meeting for a planned vacation.

Councilman Tebo moved to excuse the City Manager from the March 27, 2007 Regular City Council Meeting. Seconded by Councilman Charboneau. Motion carried unanimously.

Messages and Communications from Mayor and Council Members

- **Economic and Financial Market Outlook**

Mayor Muschell distributed information regarding the Economic and Financial Market Outlook – Winter 2007 prepared by Fifth Third Asset Management Inc. and presented at a special meeting of a Board of Education work session in order to provide some input on the State's economy. Mayor Muschell noted highlights of the report which include a significant decline in manufacturing jobs and considerable increase in services; the average U.S. retail gasoline prices and the significant affect on the economy; the different affects of unemployment rates during the various presidential administrations; a State tax comparison that reflects some of Michigan taxes in comparison to other states; the U.S. market share of major automakers which reflects a decline in the Detroit automotive industry and increase in Asian market; productivity estimates, wages and health care costs and the affect on the automotive industry, the changing educational environment due to the increase in services, and a summary of the future of the automotive industry in Michigan.

- **Utility Bills**

Councilwoman Lepp stated she was recently contacted with a concern regarding utility billing, explaining that the individual noted that bills arrive at different times every quarter which apparently creates a financial hardship for the resident on a fixed income. City Manager McNeil commented that the City is willing to take partial payments and would accommodate the resident accordingly. Clerk/Treasurer Kwiatkowski noted that utility bills are sent out quarterly and not on specific dates.

- **Councilman McCauslin – Absent from February 27, 2007 Regular City Council Meeting**

Councilman McCauslin requested to be excused from the February 27, 2007 Regular City Council Meeting for a planned vacation.

Councilman Tebo moved to excuse Councilman McCauslin from the February 27, 2007 Regular City Council meeting. Seconded by Councilwoman Lepp. Motion carried unanimously.

Closed Session Re – Annual Evaluation of City Manager McNeil

Councilman McCauslin moved to adjourn to Closed Session at 7:47 p.m. to conduct the annual evaluation of City Manager McNeil. Seconded by Councilman Charboneau. Motion carried unanimously.

Regular City Council Meeting – February 13, 2007

Councilman McCauslin moved to reconvene the meeting from Closed Session at 8:20 p.m. Seconded by Councilman Tebo. Councilman Charboneau was absent. Motion carried unanimously.

Councilman Tebo moved to accept the evaluation of City Manager McNeil as presented in closed session. Seconded by Councilwoman Lepp. Motion carried unanimously.

Adjournment

Councilman McCauslin moved to adjourn the meeting at 8:22 p.m. Seconded by Councilwoman Lepp. 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

Councilwoman Theo Lepp