

**REGULAR CITY COUNCIL MEETING**  
**November 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 Tebo, Lepp, Riddle, Sangster, Muschell, and Boardman  
Absent: Councilman Charboneau

Councilman Tebo moved to excuse Councilman Charboneau due to family illness. Seconded by Councilwoman Riddle. Motion carried unanimously.

Councilman Tebo led the Pledge of Allegiance to the Flag.

**Approval of Agenda and Receive and File all Communications**

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

**Correction and Approval of Prior Meeting Minutes**

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

Councilwoman Lepp moved to approve the minutes of the October 23, 2007 Regular City Council Meeting as presented. Seconded by Councilwoman Riddle. Motion carried unanimously.

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

Councilman Boardman moved to approve the minutes of the October 30, 2007 Special City Council Meeting as presented. Seconded by Councilman Sangster. Motion carried unanimously.

**Public Comments**

Public comment portion of the meeting opened by Mayor Muschell.

- **Sewer Lead Repairs**

Mr. Roger Kopernick introduced himself and commented that he is present to address Council on water main repairs. He explained that residents of his rental unit at 301 Cleveland Avenue experienced water and sewage backup in the basement just after water main replacement was done in front of the residence. He also explained a problem eight years ago at that location which resulted in excavation to the street. Mr. Kopernick stated that the sidewalk in front of the residence and path where the new pipe is located was recently dug up during water main replacement along the street. He commented that he contacted WWTP Crew Leader Steve Gall who attempted to address the problem but was unsuccessful in the clean up effort. Mr. Kopernick informed Mr. Gall that he would arrange the necessary repairs and submit the bill to the City for payment. He noted for the record that the appropriate repairs were made but in the event something was to happen and the pipe cracked, a major problem could result in the future. Mr. Kopernick requested that the City assume expenses for the repairs made at his rental unit. Additionally, Mr. Kopernick stated that he has a rental unit at 628 Duncan Avenue where residents experienced a problem with water backing up. He advised the renter to contact the City Water & Wastewater Department to address the problem. Mr. Kopernick contacted WWTP Crew Leader Steve Gall and was informed that the underground boring equipment had drilled into the sewer main which ultimately broke and caused the sewer system to back up. Mr.

Gall looked into the problem at the Duncan Avenue rental and discovered clay and debris in the manhole area that had not been cleaned up properly. Mr. Kopernick indicated that arrangements were made to clean the area and feels the City should assume the expense. He noted that he wanted the information on record in the event there are future problems. Mr. Kopernick also noted for the record that there were two instances of water main work in front of the residences, two instances of problems, and he had to pay the expenses for two clean outs although there have not been any prior problems in years at either rental location. He commented that he would appreciate the City assuming the expenses for these two incidents. City Manager McNeil commented that he advised Mr. Kopernick to also go on record with the contractor because these are results of activities of the contractor. Mr. Kopernick requested the City pursue the matter with the contractor. Mayor Muschell indicated that the contractor is responsible to the City. Councilwoman Riddle asked if there have been any other complaints from residents having difficulties during the water main project. City Manager McNeil replied that there have been issues and the incident Mr. Kopernick referred to on Duncan Avenue affected two or three homes where the contractor drilled through the lead at Lighthouse Village Apartments and quite a bit of damage resulted, which the contractor took care of directly through their insurance company. He added that the claims were handled between the property owners and contractor. Mr. Kopernick indicated that the two residences on either side of his Cleveland Avenue rental unit are vacant and have been for some time and that he is unaware if there have been problems at either location. Additionally, a residence next to his on Duncan Avenue has been vacant.

Mr. Lofgren noted that he has comments but could defer them until the issue is addressed under the City Manager's Report – 13.A. Water Main Project Update. Mayor Muschell indicated that is acceptable. Mr. Lofgren also questioned if Councilman Sangster should take the oath of office. Mayor Muschell replied that the oath of office has already taken place and is not necessary this evening.

Public comment portion of the meeting closed by Mayor Muschell.

### **Communications and Petitions**

- **Presentation of Ice Rink/Pavilion Operating Budget by Mr. Charles Watson, Manager**  
City Manager McNeil noted that Mr. Watson is not present and recommended that the presentation on the Ice Rink/Pavilion Operating Budget be tabled until the next City Council meeting. He commented that he would contact Mr. Watson.

Councilwoman Lepp moved to table the presentation of the Ice Rink/Pavilion Operating Budget by Mr. Charles Watson, Manager, until the November 27, 2007 Regular City Council Meeting. Seconded by Councilwoman Riddle. Motion carried unanimously.

- **Request from Karen Martin, Founder and Member of the Straits Area Concerned Citizens for Peace & Justice for Adoption of Resolution of the City Council of the City of Cheboygan Supporting a Federal Department of Peace and Nonviolence**

Ms. Karen Martin introduced herself and explained how the establishment of a Federal Department of Peace and Nonviolence would benefit Cheboygan area residents through the availability of increased funding for local programs on violence and crime prevention. She commented that programs relating to domestic violence, child abuse, and substance abuse could be improved. Ms. Martin also commented on the national and global impact of having a Cabinet level Department of Peace and

Nonviolence and the benefit of having a Secretary of Peace on the other side of the Secretary of Defense. She requested that Cheboygan join with other Michigan cities and support this resolution. Ms. Annabelle Dwyer introduced herself, and commented that the adoption of the resolution would be a great benefit for the community, and would complement the passage of the resolution supporting recycling and concern on global warming. Ms. Dwyer requested that Council pass the resolution and stated that she would like to go on record along with her husband and all the other members of the Straits Area Concerned Citizens for Peace and Justice in support of the letter from Ms. Martin. Mayor Muschell noted that the letter states that the Department of Peace and Nonviolence will assist in the design, dissemination, establishment and funding of community-based violence prevention programs including violence prevention, counseling, and peer mediation in schools in areas such as domestic violence and child abuse, school and gang violence, crime, punishment and rehabilitation, violence related to race, ethnicity, gender and sexual orientation, and drug and alcohol abuse. He questioned if that is a summary of what the objective is for the resolution for nonviolence and peace and the primary objective of the Cabinet, if a Cabinet selection is made and voted upon. Ms. Martin indicated that is correct. Councilwoman Riddle asked if this initiative is on a local level and dealing only with local issues. She commented that she is in favor of peaceful settlement of disturbances within the community and within the United States but she also fully supports the national effort to eliminate terrorism. Councilwoman Riddle noted concern that this initiative may be in opposition with the Department of Defense. Ms. Martin commented on the confusion of many people that the Department of Peace and Nonviolence and the Department of Defense are in opposition. Councilwoman Riddle referred to the terrorist attacks against the United States on 9/11 and commented that she has difficulty with this initiative being on the opposite side of defending the needs of this Country. Ms. Martin explained that the establishment of a Department of Peace and Nonviolence will not affect our safety by having a voice on peace. Councilman Tebo stated that many of the issues pertaining to gang violence, and racial and ethnic violence are handled by the Department of Justice. He recommended that Ms. Martin contact legislative officials regarding this issue but that the City should not become involved at this point. Ms. Dwyer commented that she feels what the Department of Peace is trying to do is prevent the issues that the Department of Justice must deal with. Councilwoman Riddle reiterated her support of becoming involved on a local level but not on a state or national level. Councilman Tebo stated that this issue should be addressed by each individual and that Council should not take action.

Councilman Tebo moved to take no action as a Council on the Resolution of the City Council of the City of Cheboygan Supporting a Federal Department of Peace and Nonviolence. Seconded by Councilman Boardman. Motion carried unanimously.

- **Request from Cheboygan Lions Club to use Joseph Doyle Recreation Area for 10<sup>th</sup> Annual Cheboygan Salmon Tournament on August 1, 2 & 3, 2008**

Councilman Sangster moved to approve the request from Cheboygan Lions Club to use Joseph Doyle Recreation Area for 10<sup>th</sup> Annual Cheboygan Salmon Tournament on August 1, 2 & 3, 2008. Seconded by Councilman Tebo. Motion carried unanimously.

- **Request from the Kiwanis Club of Cheboygan to sell the “Old Newsboy” newspaper during the 2007 Christmas Parade**

Councilwoman Lepp moved to approve the request from the Kiwanis Club of Cheboygan to sell the “Old Newsboy” newspaper during the 2007 Christmas Parade. Seconded by Councilman Boardman. Motion carried unanimously.

### **Bills and Disbursements**

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

Councilman Boardman moved to approve the bills and disbursements for the Month of October 2007 in the amount of \$812,432.73. Seconded by Councilwoman Lepp. Mayor Muschell abstained. Motion carried.

### **Boards and Commission Reports**

- **Regular Downtown Development Authority Board of Directors Meeting – Nov. 6, 2007**

City Manager McNeil reported that he provided the DDA Board with an overview on the dynamics of the Vibrant Small Cities Initiative grant that was received. He noted that the Board also reviewed a budget which is provided to Council on projected cash flows relative to activities of the grant. City Manager McNeil stated that the DDA also voted to recommend a two year extension of the Tax Increment Finance Plan which is on the agenda for Council's consideration. Additionally, under the City Manager's report, he has some further discussion on the grant activities. Councilwoman Riddle asked if two year extension on the Tax Increment Financing is extending the longevity on the life of the DDA. City Manager McNeil explained that the extension of the Tax Increment Financing extends the funding mechanism of the DDA, adding that the DDA and the funding mechanism are two separate issues and that the DDA and its activity can continue on without the Tax Increment Financing component.

### **General Business**

- **Consideration of Appointment of Ray Morrow, Jr. to a 3-Year Term; Stephen Lindsay to a 4-Year Term; and Dave McKinley to a 5-year term on the International Property Maintenance Code Appeals Board, terms to begin November 13, 2007**

City Manager McNeil referred to Council's recent action to formally adopt the International Property Maintenance Code into the City of Cheboygan Code of Ordinances which provides the City with another tool for addressing non-maintenance of buildings under the blight objective in the Strategic Plan. He explained that the Administrative Section of the Ordinance calls for the appointment of an Appeals Board whereby anyone that is subject to enforcement measures pursuant to the International Property Maintenance Code has the ability to appeal any action of the Code Administrator to the Board. He further explained that what is before Council is the establishment of the Appeals Board pursuant to the International Property Maintenance Code.

Councilman Tebo moved to appoint Ray Morrow, Jr. to a 3-Year Term; Stephen Lindsay to a 4-Year Term; and Dave McKinley to a 5-year term on the International Property Maintenance Code Appeals Board, terms to begin November 13, 2007. Seconded by Councilwoman Lepp. Motion carried unanimously.

City Manager McNeil noted that the Administrative Section of the Ordinance also calls for the Mayor and City Council to appoint a Code Official. He commented that he and Chief Jones are currently reviewing that information and will likely provide a recommendation at the next City Council meeting as to whether they believe the Code Official should be himself or Chief Jones.

- **Consideration to Reschedule Last City Council Meeting in December 2007 to Wednesday, December 26, 2007 at 7:00 p.m. due to the Christmas Holiday**

Councilwoman Riddle moved to reschedule the last City Council meeting in December 2007 at 7:00 p.m. due to the Christmas holiday. Seconded by Councilwoman Lepp. Motion carried unanimously.

- **Consideration to Schedule a Public Hearing for December 26, 2007 at 7:00 p.m. for Consideration of Adoption of Blighted Area Rehabilitation Plan No. 1**

City Manager McNeil referred to the first objective of the Strategic Plan which is the downtown cameo projects from the Hyett Palma study, and named specifically is the rehabilitation of the former F. W. Woolworth building. He explained that as tools to acquire the Woolworth building were reviewed, and Public Act 344 of 1945 as amended was identified which deals with blighted property. City Manager McNeil commented that the statute allows municipalities and governmental entities to acquire property under eminent domain if the property falls under the definition of blighted property which the Woolworth building does fall under. He noted that the statute also requires a rehabilitation plan for any district and refers to relocation of those residing within areas that may be rehabilitated. City Manager McNeil explained that the rehabilitation plan would assist the City when approaching the DNR for grant funding from a Brownfield Redevelopment standpoint on acquisition and possibly demolition of the Woolworth building. He added that the plan also positions the City to acquire the property by eminent domain if for some reason the City cannot negotiate with the owner what the DDA Board deems a reasonable purchase price for the property. City Manager McNeil explained that acquiring the Woolworth property under eminent domain, which he feels should be the second option, would require court action, proof that the property falls under the definition of blighted property within the statute, and a court ruling on what constitutes just compensation for the property owner. He commented that the statute requires a public hearing and notice of the hearing to the property owner. City Manager McNeil noted that he structured the proposed plan to meet the points that are listed within the statute and the City Attorney has reviewed the statute and his plan which meets with his approval. He recommended that a public hearing be set in order to formally consider adoption of the plan under the statute. Mayor Muschell commented that it is his understanding that this issue has become more significant because of the recent conditions with blight and the relationship with eminent domain. City Manager McNeil stated that the statute declares that activities under this statute and subsequent sale to private developers are to be for a public purpose, which is significant since the constitutional election recently with regard to what is and is not considered a public purpose when governments acquire property under eminent domain.

Councilwoman Riddle moved to schedule a public hearing for December 26, 2007 at 7:00 p.m. for consideration of adoption of the Blighted Area Rehabilitation Plan No. 1. Seconded by Councilman Boardman. Motion carried unanimously.

Councilwoman Riddle referred to comments made by Mr. Kopernick and possible damage to vacant homes as a result of the water main project and whether the City should contact property owners to determine if any damage has occurred. City Manager McNeil replied that his understanding is that contact with property owners has already been initiated.

- **Consideration to Schedule a Public Hearing for December 11, 2007 for Consideration of an Amendment to the DDA Tax Increment Finance Plan**

City Manager McNeil referred Council to a proposed amendment to the Tax Increment Finance Plan, which would extend the revenue producing mechanism for the DDA another two years. He explained that there are eight years left in the Tax Increment Finance Plan and the amendment would provide two more years and allow the DDA to issue a ten year bond which would basically allow them to have a positive cash flow and finance the projects under the Vibrant Small Cities Initiative grant program. City Manager McNeil further explained that in order to extend the Tax Increment Finance Plan, a public hearing must be held and the taxing entities that are affected must be notified

and given an opportunity to meet with the City Council with regard to that extension. Councilman Sangster asked if this is an increase or additional tax. City Manager McNeil explained that this is not an additional tax, but a matter of the DDA capturing taxes for an additional two years from when the base was established in 1985. He added that he provided Council with a cash flow estimate and the project budget and without the two year extension, there is not a positive cash flow and would require additional assistance from the City over and above that small contingency amount he included in the cash flow estimate at this time.

Councilman Sangster moved to schedule a public hearing for December 11, 2007 for consideration of an amendment to the DDA Tax Increment Finance Plan. Seconded by Councilman Tebo. Motion carried unanimously.

- **Consideration of Reappointment of Robert Spinella to the Cheboygan Life Support Systems Board of Directors, Term to Expire December 31, 2010**

Councilman Sangster moved to reappoint Robert Spinella to the Cheboygan Life Support Systems Board of Directors, Term to Expire December 31, 2010. Seconded by Councilwoman Riddle. Motion carried unanimously.

- **Consideration of Snowmobile Route Renewal**

City Manager McNeil commented that the new snowmobile route was approved for a one year basis last year and a renewal of that approved route is being requested. Chief Jones provided a report on the experience from the prior snowmobile season. Councilwoman Riddle asked if there were any negative issues with the expansion of the snowmobile route. Chief Jones noted there were not, adding that there were some original concerns in the beginning and the routes were amended somewhat but last season was not a good test year because of the poor snowmobiling conditions. He commented that the concerns pertained to reduced parking along West State Street because of the area left expanded by snow plows. Councilman Sangster asked if any problems are anticipated before maps are generated. Chief Jones commented that maps are available and feedback is anticipated before a decision is made on the routes.

Councilwoman Riddle moved to approve the snowmobile route renewal for a one-year trial period for the 2007-2008 snowmobile season as requested. Seconded by Councilwoman Lepp. Motion carried unanimously.

- **Consideration of Update to Economic Development and Public Works Projects List for 2007-2008 Northeast Michigan Comprehensive Economic Development Strategy (CEDs)**

City Manager McNeil stated that the Northeast Michigan Comprehensive Economic Development Strategy is a document that is updated annually through the Northeast Michigan Council of Governments and includes economic and demographic data as well as a fairly extensive list of large projects from all the communities and counties that make up the Northeast Michigan Council of Governments. He commented on the possibility of qualifying for federal economic development grants should the right project come along and grant funding become available. City Manager McNeil recommended that the projects already listed should remain, and that projects relative to the preliminary loan applications that Council approved recently with regard to Wastewater Treatment Plant upgrades and Water System upgrades be added, as well as the proposed East State Street sanitary sewer extension. Mayor Muschell questioned if estimated costs were updated as well. City

Manager McNeil replied that updated estimates have been included and that the Wastewater Treatment Plant improvements and Water System improvements are quite accurate as a result of preliminary engineering that has been done and that the East State Street sewer extension project is an estimate from a couple years ago.

Councilman Tebo moved to approve the update as recommended by the City Manager to the Economic Development and Public Works Projects List for 2007-2008 Northeast Michigan Comprehensive Economic Development Strategy (CEDS). Seconded by Councilman Sangster. Motion carried unanimously.

### **City Clerk's and Treasurer's Comments**

There were none.

### **City Manager's Report**

- **Water Main Project Update**

City Manager McNeil stated that the water main project from his point of view has been going fairly smoothly until a few weeks ago. He referred to the substantial completion date of this Friday, which appears will be met based on the progress meeting held this morning with the contractor. City Manager McNeil commented that the paving should be completed today and tomorrow, all the hook ups are complete, the excavations are to be finished and the contractor anticipates the roads and sidewalks will be available by the end of the week. He noted that inspecting engineers will be available to verify the substantial completion status. City Manager McNeil commented on traffic control issues and unforeseen problems during the project, adding that the rain has caused problems with mud and therefore restoration work is yet to be done. He added that the plan is to retain payment and not release the surety bond until next spring when restoration is complete. Additionally, from the City's perspective the project is clearly on budget and under the original cost estimates. City Manager McNeil commented that there is concern with regard to restoration and the films taken before the project started will be reviewed in some detail with the contractor both now and in the spring. Councilman Sangster commented on the lack of proper signage, hazard lighting and reflective work gear which he feels is unacceptable from a safety standpoint. City Manager McNeil indicated that those issues are all contractor responsibilities. Mr. Lofgren commented on the improper equipment used during paving, the procedure for underground drilling, lack of flag men, reflective barrels and hazard lights during construction, and the current condition of the streets. He requested that Council observe the status of the project and that a substantial sum should be retained before the contractor is released. Mr. Lofgren questioned who will determine if the job is substantially complete. City Manager McNeil explained that Mr. Gary Johnson is the project manager and Mr. Dave Ashenfelter is the full time inspecting engineer from Wade Trim who will make that determination. He added that he is confident that water main installation has been done correctly; however, there is concern about some of the finish work and settling taking place over the winter. City Manager McNeil commented that Mr. LaCross, Mr. Gall and the inspecting engineers will be with the contractor to determine that final substantiation.

- **Vibrant Small Cities Initiative (VSCI) Grant Update**

City Manager McNeil referred to the \$667,000 in grant funding that the City was awarded through the Vibrant Small Cities Initiative based on preliminary approval of a notice of intent. He added that a formal application needs to be submitted by the end of next month and that the availability of matching funds and control of the Woolworth building site must be in place by March 15, 2008.

City Manager McNeil explained that the grant with regard to the Woolworth building will fund 75% of the average of two appraisals toward the acquisition of the property. He commented that two appraisals have been arranged and then it will be a matter of negotiating with the present owner for purchase. City Manager McNeil stated that the DDA Board would like to hold a special meeting once both appraisals are done and provide input into the negotiation process. He commented that if a purchase agreement cannot be reached with the owner, he feels it is important that the City proceed toward acquiring the property through eminent domain in order to secure the grant funds. City Manager McNeil noted the estimated cost to demolish the Woolworth building is \$270,000 and that the amount is built into the budget and cash flow analysis provided to Council. He explained that the plan is to secure a developer to demolish the building and then repay the demolition costs to the developer through the Brownfield Authority but in the event a developer is not secured within the specified time period, the City must be prepared to demolish the building if necessary. City Manager McNeil stated that of the \$667,000 in grant funding, \$500,250 will be used toward the footbridge and the remaining \$167,000 can be used toward acquisition of the Woolworth building and demolition. Councilwoman Lepp questioned if the March 15 deadline also applies to securing a developer. City Manager McNeil stated that the March 15, 2008 is the deadline to demonstrate that matching funds are available in an escrow account and that the City has control of the Woolworth building either substantially through a process of acquiring the building through eminent domain or otherwise, such as an agreement for purchase. Mayor Muschell asked if there is a tentative schedule or program for the footbridge. City Manager McNeil stated that the application must be completed first which is in the process of being done by Ms. Jan Kellogg of the Northern Lakes Economic Alliance, and must be submitted by the end of next month. He commented that once the application is submitted, he feels there is a good chance that approval will be granted to begin with the final engineering and other issues with regard to the footbridge and then depending on how that progresses, will determine the rest. Councilman Tebo questioned when the footbridge would be completed if everything goes as planned. City Manager McNeil stated that the grant program ends at the end of December 2009 so everything must be done by then.

- **Public Act 425 and Intergovernmental Cooperation Training at Next Northern Cheboygan County Intermunicipality Planning Committee Meeting of December 3, 2007**

City Manager McNeil stated that the Northern Cheboygan County Intermunicipality Planning Committee has been working on recommendations of the Land Use Plan and discussed Public Act 425 Agreements and an intergovernmental cooperation. He noted that a representative from MSU Extension Office will be addressing the Committee on Monday, December 3, 2007 at 7:00 p.m. at the Beaugrand Township Hall regarding 425 agreements and intergovernmental cooperation in Michigan. City Manager McNeil asked that Council members wanting to attend should contact him in advance.

### **Messages and Communications from Mayor and Council Members**

- **Lincoln Avenue Bridge Ribbon Cutting Ceremony**

Mayor Muschell commented on the possibility of having a ribbon cutting ceremony for the Lincoln Avenue Bridge the day before Thanksgiving. City Manager McNeil stated that based on the last conversations with the contractor, the window of completion is anywhere between Thanksgiving and December 1. Councilwoman Riddle referred to design plans for the Bridge, noting that sidewalks were to be slightly over five feet wide. City Manager McNeil commented that he does not recall the sidewalk being that wide although he does remember the proposed snowmobile lane being five feet wide. He added that he will review the plans with regard to the proposed width of the sidewalks.

Councilwoman Riddle also questioned if the railing and lights on the Bridge will be completed this fall. City Manager McNeil indicated that will all be done.

- **Recycle Trailer**

Councilman Tebo stated that he has been contacted by citizens regarding an unsightly recycle trailer located on Mackinaw Avenue and whether the trailer is an approved use on that property. City Manager McNeil replied that the matter would have to be investigated as to whether the trailer falls within the approved use. He added that the trailer may fall within the business use if it is allowed there but there may be a nuisance issue or something else it may fall under.

- **Industrial Waste Treatment**

Councilman Sangster referred to Council’s approval of a joint study by an engineering firm on industrial waste treatment at the Wastewater Treatment Plant and questioned the status of that study. City Manager McNeil explained that as Council may recall, a component of that plan was to review the workings and processes of the Great Lakes Tissue Company and the issues that have come to surface there especially with regard to what the DEQ wanted to see done actually expanded the scope of work beyond the budget for the grant. He stated that notification has been received that additional grant funding will be available although the paperwork has not yet been received. City Manager McNeil commented that the scope of work has been identified and grant funding is pending.

- **CEDS Documents**

Councilman Sangster inquired on where to obtain the Comprehensive Economic Development Strategy documents. City Manager McNeil commented that last year’s CEDS is available in his office and usually on line through the NEMCOG website.

### **Adjournment**

Councilman Boardman moved to adjourn the meeting at 8:25 p.m. Motion carried.

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Mayor James Muschell

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City Clerk Kenneth J. Kwiatkowski

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Councilman Richard B. Sangster

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Councilman Gerald R. Boardman

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Councilwoman Winifred L. Riddle

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Councilman Charles Charboneau

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Councilman Leslie A. Tebo

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Councilwoman Theo Lepp