

SPECIAL CITY COUNCIL MEETING
March 6, 2008

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

Present: Council Members Riddle, Boardman, Lepp, Tebo, Sangster and Charboneau

Mayor Riddle stated that the purpose of the Special City Council meeting is as follows:

- Review of written opinions from City Attorney and City Labor Counsel relative to deviation from existing written policy
- Review of report and recommendation dated April 12, 2005 regarding retiree health care benefit
- Review of current City Retiree Health Benefit Policy and Cost Projection.

City Manager McNeil provided an overview of the information provided to Council including legal opinions from the City Attorney and City Labor Counsel in order to discuss the legal ramifications relative to action of Council that is contrary to the existing written policy; information relative to the report that Council entertained in April 2005 from a Committee of Council pertaining to the current policy in place on the retiree health insurance benefit which provides all the background information prior to the approval of that policy by the City Council; and information relative to how the funding of that benefit affects the City's cost projections and financial considerations. Mayor Riddle commented that Council has had an opportunity to read the opinions of legal counsel and labor counsel and have also been able to review the report and recommendation. She noted that this is a very important issue that has far reaching ramifications for the City. There was a committee that reviewed the retiree health benefit and provided a recommendation. Councilman Charboneau commented on allowing the matter to proceed as decided. Mayor Riddle stated that Council cannot have a motion contrary to policy. Councilman Tebo suggested suspending the current policy. City Manager McNeil commented that from a legal standpoint which is covered in the City Attorney's opinion, the approved motion and support is contrary to the existing policy which exposes the City to legal liability in that the deviation from the written policy places the City in a poor legal position relative to any challenge from other employees that want to retire and receive the same benefit. He explained that the remedy to that situation, which is a shared opinion between the City Attorney and City Labor Counsel, is that the motion that is contrary to written policy should be rescinded and then Council should consider what should be done with the current policy. City Manager McNeil stated that if Council still intends to provide that benefit, in this case to Mr. LaCross, then Council can rescind the current policy, consider a different policy, and then enact the new policy. He commented that any other mechanism or type of action exposes the City to some fairly serious liability risk including any action that would mean simply suspending the current policy, taking the same action as before, and then re-enacting the policy; that would also provide an exception which would be subject to challenge that would be difficult to defend. Councilman Sangster commented that the information states based on the opinion that the burden of proof would be on Council to show why a particular person or position is treated differently than the other when Council denies benefits to others. He noted that he feels the position of each Council member is their entitlement to what one wants for the people of the City. Councilman Sangster stated that he feels there is a difference that Mr. LaCross has 35 years of service for the City and if Council enacted a policy that only those with 35 or more years of service are entitled to that benefit, then the City would be protected. He commented that there is no one that has 35 years of service and he feels it is very clear that Council wanted Mr.

LaCross to have that retirement benefit by the vote that was established. City Manager McNeil commented that if that is the underlying issue or criteria of the City Council relative to that consideration, then he recommends that a policy be developed around that criteria which meets with legal scrutiny, then have the financial implications of that policy produced and available for review. Councilman Sangster noted that the policy adopted by the City Council April 26, 2005 states that as in the past the City continues to reserve the right at any time to modify, revise, amend, terminate or otherwise change the City's retirement health benefit policy. He commented that he feels the statement is very clear. City Manager McNeil agreed, commenting that goes along with his suggestion relative to the comments of Councilman Sangster. Councilwoman Lepp commented on the suggestion to extend the retiree health insurance benefit for those retirees with 35 or more years of service and asked where that leaves the City as far as current employees or those who have already retired. Councilman Sangster commented that Mr. Denny Temple and Mr. Harry Taylor had 34 years of service but this would not affect them and there are retirees coming off the retiree health insurance policy in 2008 and 2009. Councilman Tebo stated that two retirees in 2008 and one retiree in 2009 will be coming off the policy when they turn 65 and the only other three people this will affect is Mr. Dave LaCross, Mr. Mike LaLonde and Mr. Rick Winters. Mayor Riddle stated she has concerns on the legal ramifications of enacting a policy for one person without having the matter reviewed by the City Attorney. City Manager McNeil commented that another common theme from the two legal opinions is that when developing policy there must be clear and reasonable basis. He added that if the 35 years of employment is the criterion, he believes that criterion should be developed into a written policy, ruled on by the attorney to make sure it meets that standard, the financial implications reviewed, and then take action. Mr. Vaughn Temple questioned the status of the policy Council enacted regarding existing employees that would receive retiree health insurance and new employees that would not receive that benefit. City Manager McNeil stated that the criterion is still in the existing policy but the existing policy reduced the benefit. Mr. Temple questioned the concern of Mr. LaCross receiving the benefit. City Manager McNeil explained that Council adopted a different policy in 2005. Mayor Riddle reviewed the action taken by Council on April 27, 1999 that all present City employees be given a retirement health insurance package of whatever the City is carrying at the time. Upon their retirement which would include full health insurance benefits for themselves and spouse from age 55 until retiree attains age 65. She also reviewed the subsequent action taken by Council to adopt the policy for the change in retirement health benefit as recommended by the Retirement Benefit Review Committee. Councilwoman Lepp asked if the City is basically looking at paying for health insurance for Mr. LaCross and his spouse for 10 years. City Manager McNeil explained that Council's approval at the most recent meeting would provide that benefit. Councilwoman Lepp asked the amount of the benefit. Clerk/Treasurer Kwiatkowski stated the amount is \$270,730 based on a 10-year average of increased rates of health insurance premiums and \$220,055 based on 5 year average. Under the current policy that amount would be \$60,608 for ten years. Clerk/Treasurer Kwiatkowski referred to the information provided by City Manager McNeil, commenting that depending on what happens with Mr. LaCross, there will be a line of retirees that will come to Council with a similar request and the City taxpayers will have to fund a liability for retiree health care in excess of \$3 million. Councilman Charboneau suggested proceeding with the 35 year policy. Councilwoman Lepp commented on making policy on a per person basis and the possibility of similar requests from future retirees. Councilman Sangster stated that retirees have that right. City Manager McNeil commented that the operation cost projection is a very important tool when trying to make financial decisions such as major purchases that may have debt ramifications over five or ten years. He noted the importance of having a policy in place to create projections from. City Manager McNeil explained that managing the City with any long term vision in mind would be nearly impossible with a governing board that frequently changes policy

especially to a ramification such as what is being discussed here. He commented on the health insurance benefit with double digit inflation rates per year in comparison to revenues at less than 2.5% inflation per year. City Manager McNeil agreed that there are some retirees coming off the retiree health insurance benefit but there are just as many or more remaining or being added to the program which is why it is important to look at how this may affect future retirees. He stated that from his perspective, it is important to have a policy in place, have that policy and the financial implications reviewed, and something Council is comfortable with and adhere to that policy so that decisions can be made accordingly as time goes on. Mayor Riddle asked if there are any other public comments or comments from Council. Councilman Charboneau commented on the recent salary increase provided to City Manager McNeil. Mayor Riddle noted that City Manager McNeil was granted a salary increase and in turn gave half of that increase back to the City. Councilwoman Lepp stated that approximately one year ago, she served on the Budget Review Committee along with Mr. LaCross, former Councilman McCauslin, Councilman Tebo, Chief Jones, City Manager McNeil and Clerk/Treasurer Kwiatkowski. She explained that the Committee reviewed cost reduction options because the budget did not have the funds to cover items such as the Opera House and fireworks as well as a number of other items. Councilwoman Lepp stated that the issue of retiree health insurance was brought up and it was the general consensus at that time, including Mr. LaCross, that the retiree health insurance benefit was one of the benefits to eliminate before considering employee lay-off. She added that although Mr. LaCross did not like the idea of possibly not having insurance upon retirement, he knew that if he retired at age 55 his employee health insurance may terminate. Councilwoman Lepp stated that her vote in favor of this motion at the last City Council meeting was in all honesty a vote from her heart rather than her head because she is aware that the budget cannot fund significant benefits for people that are retiring. She commented on communities in the area surrounding Cheboygan that do not provide retiree health insurance. Councilman Charboneau stated he will not rescind his motion. Councilman Tebo noted he will not rescind the support of that motion. City Manager McNeil explained that it is not necessary that Council take action on this matter tonight but it is important that Council has a grasp of the issues. He reiterated that it is the perspective from both the corporate attorney and labor relations attorney that the City's liability and cost risks are currently very high with the motion in place without first rescinding that and doing something with the current policy even if that is to rescind the current policy and then move on. City Manager McNeil commented that without that, it opens the City up to discrimination proceedings based on those that have come before and have been turned down under the current policy, and those that have retired without asking expecting the policy as it is will be put into place for them and those that would follow. Mayor Riddle stated she would like a consensus of Council on whether or not the current policy in place is too rigid or needs to be changed. Consensus was as follows: Councilman Charboneau – no; Councilman Boardman yes, Councilwoman Lepp – no; Councilman Tebo – yes; Councilman Sangster – yes. Councilman Sangster reiterated that the policy states that Council has the right to revise, modify, terminate or otherwise change the City's plan. Mayor Riddle stated that because the general consensus of Council is that the policy needs to be changed she requested a committee of three Council members be established to review the policy and make recommendations on how this policy can be changed.

Councilman Tebo moved to establish a committee consisting of three City Council members to review the current retiree health insurance benefit policy and that the recommendation be provided to the City Council no later than the last meeting in April 2008 and prior to May 6, 2008 election so that this current Council must vote on the policy and the issue is not left to future Council members. Seconded by Councilman Sangster. Motion carried.

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Councilman Sangster questioned the amount of \$438 per month that the attorney cited in his opinion letter. City Manager McNeil stated that the \$438 is the monthly benefit for 2008 under that current policy.

Councilman Tebo, Councilman Sangster and Councilwoman Lepp volunteered to serve on the Retiree Health Benefit Policy Committee.

Adjournment

Councilman Charboneau moved to adjourn the meeting at 7:40 p.m. Seconded by Councilwoman Lepp. Motion carried unanimously.

Mayor Winifred L. Riddle

City Clerk Kenneth J. Kwiatkowski

Councilman Richard B. Sangster

Councilman Gerald R. Boardman

Councilwoman Theo Lepp

Councilman Charles Charboneau

Councilman Leslie A. Tebo