

REGULAR CITY COUNCIL MEETING
July 28, 2009

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

Present: Council Members Sangster, Couture, Kopernik, Bronson, VanFleet, Lepp and Jewell

Councilman VanFleet led the Pledge of Allegiance to the Flag.

Approval of Agenda and Receive and File all Communications

Mayor Sangster indicated that Ms. Erica Fink of BP Oil Company would address Council prior to Public Comment.

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

Correction and Approval of Prior Meeting Minutes

- **Regular City Council Meeting – June 23, 2009**

Councilman Couture moved to approve the minutes of the June 23, 2009 Regular City Council Meeting as presented. Seconded by Councilman Kopernik. Motion carried unanimously.

- **BP Oil Products Sold to U.S. Oil**

Ms. Erica Fink introduced herself and indicated on behalf of BP Oil Products that the terminal located on Coast Guard Drive was sold to U.S. Oil who will take over operations on August 5, 2009. She stated that the terminal will remain in operation throughout the sale and customers will continue to be supplied. Ms. Fink noted that all three employees with BP Oil Products will be retained through U.S. Oil. Councilman VanFleet questioned if there would be any impact on the community. Ms. Fink indicated that there would be no change in terms of the operations and the company will continue to supply clean fuels to this region. She added that U.S. Oil is a small company that is very diligent in taking over terminals and their plans are to increase circulation.

Public Comments

Public comment portion of the meeting opened by Mayor Sangster.

- **Court Street/Western Avenue 4-way Stop**

Mr. Bill Burnett introduced himself and expressed gratitude for the four-way stop at the corner of Court Street and Western Avenue. He questioned the possibility of street repairs made to D Street. City Manager McNeil indicate he would convey that request to DPW Director Gall.

- **Blight Ordinance**

Mrs. Barb Lennon introduced herself and commented on enforcement of the Blight Ordinance. She asked if Council would consider rewording part of the Ordinance in terms of implementing a timeline or increments of higher fines regarding blight and how it is addressed to eliminate constant revisiting and continual issues similar to the LeGault property. Ms. Lennon referred to property that was in the process of being cleaned up but the dumpster heaping with debris still remains on the property for several weeks as well as a collapsed, dilapidated lean-to attached to the side of the house on the property. Additionally, she referred to nearby property with tall grass and torn garbage bags along

side the house that need to be addressed. Ms. Lennon commented on two letters of concern regarding Ordinance violations she sent to Chief Jones who addressed both issues but the properties still have on-going unresolved issues. Mayor Sangster indicated that grass cutting and fees added to property taxes were discussed extensively at the July Board of Review. He noted he hopes to address the blight issue extensively in the fall and involve public input at that time. Councilman Jewell commented he would like to see this addressed as soon as possible and recommended adding discussion of the Blight Ordinance to an upcoming City Council meeting agenda. Ms. Lennon commented that she did not want to see blight issues end up in a court situation like the LeGault property. Councilman Jewell asked if this could be discussed at the next City Council meeting. Mayor Sangster indicated that the next meeting agendas are getting full. He added that he would like the matter well thought out. Councilman Jewell noted that the current Blight Ordinance has no time frame and needs something more defined. Councilman Kopernik agreed that the matter should be addressed as soon as possible. Mayor Sangster stated that at the next City Council meeting there will be a reading of the Ordinance and discussion regarding blight. City Manager McNeil recommended that Council specifically review the enforcement section of the Ordinance to address some of the issues with input from Chief Jones at that time.

- **Tree Watering Schedule**

Mr. Bob Friday introduced himself and asked if a schedule has been set up to water the trees on Main Street. Mayor Sangster indicated that the trees are watered twice a week and the flowers daily. DPW Director Gall stated that trees are watered on Mondays and Fridays starting at approximately 7:30 a.m. with 40-50 gallons of water for each tree.

- **Blight Enforcement**

Mr. Friday also commented on blight enforcement and referred to a couch by the side of the road on Duncan Avenue that was left there. He noted that City employees drive by blight situations during the course of the day and should address these issues. Mayor Sangster explained that Council is looking at how to handle more efficiently and whose responsibility it is to identify and address blight issues. He commented that another consideration is for Council to add an hour a week to Council Office Hours and drive around town to identify and address blight issues. Mr. Bill Burnett commented on a television set along the side of Cleveland Avenue that has been there for two weeks. Councilman VanFleet stated that he feels Council needs to move forward at a minimum whether it is just office hours or more specific on blight patrol. Mayor Sangster indicated he appreciates public input. Ms. Kim Pappas Executive Director of the Chamber of Commerce introduced herself and noted that with regard to blight, there is an Economic Development Group that has a Cheboygan Clean-up Committee that has been formed and is in the process of making lists. Additionally, the NCMC students have done a fantastic job in the area as well. Councilman VanFleet recommended that if the Clean-Up Committee is making lists of blight issues, a copy of the list should be provided to City Manager McNeil or Council.

- **Street Sweeper Schedule**

Ms. Pappas asked if there is any rotation for the streets to be swept and noted that street sweeping would be worthwhile maintenance considering the cost of the road project. City Manager McNeil recommended that Ms. Pappas contact DPW Director Gall.

- **Riverfest Contribution**

Ms. Pappas referred to the Riverfest event and indicated she was following up on discussion about any contributions that the City might be able to make toward the event. Mayor Sangster indicated

that a request should be directed to the DDA. He asked if there were any specific needs. Ms. Pappas outlined the expenses of the event adding that any type of sponsorship would be greatly appreciated. Councilman VanFleet recommended that a specific request be provided as a sponsorship that could be taken to the DDA for consideration.

Public comment portion of the meeting closed by Mayor Sangster.

Communications and Petitions

- **Consideration of Request Board to hold Annual Sidewalk Sales on August 6-8, 2009 and to Block Certain Parking Spaces on Main Street between W. State Street and Nelson Street.**

Councilman Jewell requested clarification on the notation “with necessary permission” in the letter requesting permission for the sidewalk sales. Clerk/Treasurer Kwiatkowski explained that he contacted MDOT because the parking spaces along Main Street are on the State Trunkline.

Councilman Jewell moved to grant the request from the Downtown Development Authority to hold its annual Sidewalk Sales on August 6-8, 2009 and to allow the blocking of certain parking spaces on Main Street between W. State Street and Nelson Street. Seconded by Councilwoman Lepp. Motion carried unanimously.

- **Consideration of Request from Ellis Olson for Determination of Moody Street being part of Pinehill Cemetery**

Mr. Ellis Olson explained that there was a Special City Council meeting on July 25, 2007 at Pinehill Cemetery which was prompted by a myriad of complaints. He commented that each of the complaints was declared to be either a non-complaint or frivolous at the Special City Council meeting except one issue pertaining to the determination regarding Moody Street which remains unresolved. Mr. Olson stated that it is his contention that Moody Street is not part of Pinehill Cemetery although the Street is maintained by Cemetery staff with the exception of the ditch. He noted Council’s patience in dealing with complaints regarding the Cemetery, commenting that complaints should not be directed to Council but should be referred to the City Manager who administers the Cemetery and other City issues. Mr. Olson referred to a complaint form which has been in place at the City for 25-30 years and explained that anyone with a complaint is to complete the complaint form, including the date and their signature, and submit the form to the City Manager who is required to satisfy the request or complaint within seven days. Mr. Olson commented that he addresses complaints immediately if the complaint is legitimate because he and his staff endeavor to do the best job possible to make the Cemetery look like a park and the public proud of the Cemetery grounds. He explained his liability insurance which involves coverage for himself and his staff on Cemetery grounds and the importance of determining if Moody Street is within the Cemetery in order to provide the appropriate liability coverage. Mr. Olson added that the media strip between the sidewalk and Pinehill Avenue on both sides is not in the Cemetery and he is not responsible for maintaining that portion although he does maintain those areas. He added that there is a very definitive boundary for the Cemetery and referred Council to three maps for review. Mr. Olson commented that he would like to address the issue of Moody Street first and then would like to discuss grounds maintenance around the fence in the new section of the Cemetery. Mr. Olson referred to a 1902 plat map of Arthur Watson’s First Addition to the City of Cheboygan commenting that Moody Street is on the map. He pointed out the triangle which is now the east point of the Cemetery, which were building lots and not part of the Cemetery in 1902. Mr. Olson clarified that City Manager McNeil made a determination based on the assessor’s map some time ago and that he

and City Manager McNeil disagree on that determination. Mr. Olson referred to Moody Street on the 1902 plat map which was for building lots because no one in 1902 thought there would be a need for that much space for a Cemetery that was not even considered. He provided background information on the Cemetery which was founded in 1869 and serviced both Beaugrand Township and the Village of Cheboygan, explaining why part of the Cemetery is in the Township and part is in the City. Mr. Olson stated that in 1924 the City of Cheboygan codified all of the records because those records were in the possession of the Cemetery Sexton and it was thought the records should be retained in City Hall since they are public records. Additionally, a plat map was done in 1924 showing exactly where the Pinehill Cemetery is located. He noted that the east point, north block, west block and most recently the new section were added to the Cemetery at different points in time. Mr. Olson explained that when the new section was added, a fence was erected around the confines of the Cemetery. He explained that the function of Moody Street in 1902 was to provide out-house sanitation areas in the rear property of the building lots on each side of the Street. Mr. Olson also explained that Moody Street in 1902 ran from the beginning of the point to Foster Street which was never finished and marked the corporate limits. He stated that Foster Street was on the map as a Street at that time, although the Cemetery at that time was located on the small hill next to a levy and had been expanded in the center between the road to Potter's Field and the asphalt road. Mr. Olson then referred to a reduced version of a 1924 3' x 5' framed map of the Cemetery that is located in the Cemetery Chapel, stating that Moody Street was eliminated within the Cemetery because it no longer had a function. He stated that Moody Street on the assessor's map, only extends to the north block after crossing the creek because when the north block was added, Moody Street was eliminated in that part of the Cemetery. Mr. Olson stated that Moody Street is not in the Cemetery and has never been in the Cemetery; it was a street only until additions were made. He commented that the north block, west point and east point are not on the 1902 plat map but for some reason the street right-of-way was left next to the creek. Councilman Kopernik requested clarification on the purpose of discussing Moody Street. Mayor Sangster explained that the question at hand is the determination of whether Moody Street is part of Pinehill Cemetery because Mr. Olson has presented a couple documents that contradict what City Manager McNeil has provided which reflect Moody Street as part of the Cemetery. Mr. Olson noted that resolution is needed because of the number of complaints that have been registered. Mayor Sangster asked if the contract specifies anything about Moody Street. City Manager McNeil indicated that the contract does not specifically address Moody Street and only addresses Cemetery maintenance. Mayor Sangster asked if Mr. Olson was under the impression when bidding on the Cemetery maintenance contract that Moody Street was included. Mr. Olson replied that it was not his intent to include Moody Street in the bid for the maintenance contract because Moody Street is not within the Cemetery. He added that he and his staff will maintain that area at his liability risk but he wants the complaints to stop because he feels they are not legitimate. Mayor Sangster stated that the task at hand is to resolve the Moody Street issue. Discussion was held on the proximity of Moody Street and the boundary lines on the various maps of Pinehill Cemetery. City Manager McNeil stated that his determination is based on the overlay of the exterior description boundary lines of the Cemetery overlaid to what was originally platted as Moody Street. He determined that the south half of Moody Street was part of the Cemetery grounds. Mr. Olson indicated that City Manager McNeil did not have the benefit of the original plat map of 1924 that is located in the Chapel. He added that Moody Street should be included in the City Street map for PA 51 funding through the State. Councilman Couture asked if there is any question that Mr. Olson is responsible for cleaning the ditch on the other side of Moody Street. Mayor Sangster indicated that it is the opinion that Moody Street is maintained with the exception of the ditch. He clarified that Mr. Olson did not intend to include cleaning the ditch or maintaining Moody Street in the bid for the Cemetery maintenance contract. Mr. Olson agreed. Mayor Sangster noted that the

question at hand is whether Mr. Olson is responsible for maintaining the ditch. City Manager McNeil indicated that without an actual survey of the grounds it is unknown whether the north line of the plat of the Cemetery extends down the middle or south line of Moody Street as it would be surveyed. He added that based on the assessor's map, the line reflects the center of Moody Street. Mr. Olson requested providing the original plat for review. Councilwoman Lepp stated that the problem that has come up the last couple years is the appearance of the north side of Moody Street which was discussed a year ago. She added that City Manager McNeil made the determination that the Cemetery property extends to the fence line and needs to be maintained. Councilwoman Lepp mentioned that Moody Street is a highly traveled street into the Cemetery and should be fully maintained rather than only a portion of the area. She commented that brambles, litter and weeds are unsightly and should be taken care of as Cemetery grounds. Councilwoman Lepp stated that this issue needs to be settled and feels that if the Cemetery property extends to the fence, she believes it should be included. Mr. Olson stated that there is a plat at the Cemetery which includes the boundary of the Cemetery and Moody Street is not on the plat. He added that is the official 1924 plat of Pinehill Cemetery. Councilwoman Lepp questioned why the property line would be changed on the assessor's map. Mayor Sangster indicated that assessments are not official boundaries and are used as a reference for tax purposes. He stated that Council has been through this enough times and needs to determine whether Moody Street is part of Pinehill Cemetery. Mr. Olson referred to the assessor's map where the line extends down the middle of Moody Street rather than the entire street. Councilman Jewell requested a survey of the property and questioned if a survey would provide a true answer. Mayor Sangster stated that the City would be spending money on a survey versus whether or not to maintain the grounds. The question now is who will maintain the grounds, either Mr. Olson through his bid for Cemetery maintenance if the area is determined to be within the Cemetery or through the City Department of Public Works if it is determined that area is not within the Cemetery. Mayor Sangster commented that as Councilwoman Lepp pointed out, Moody Street is well traveled and litter does accumulate there. Council is to determine whether Moody Street is in the boundaries of the Cemetery Maintenance contract. Mr. Olson reiterated his position on maintaining the area that he believes to be outside the boundary of the Cemetery. He commented he is willing to maintain an area that he considers not his responsibility but is not willing to clean the years of accumulated rubble from the ditch and that he wants to quiet complaints. Mayor Sangster stated that Moody Street is intended to be part of Pinehill Cemetery on the part of the City. City Manager McNeil commented that for the most part, Moody Street is used in conjunction with the Cemetery. Councilman Couture commented on the condition of the ditch, noting that in his opinion it is not able to be mowed but it is otherwise maintained. Mr. Olson stated he is willing to accept a letter of agreement to provide maintenance of the grass area even though it is not part of his contract. Discussion was held regarding the determination of Moody Street. Councilman VanFleet questioned the possibility of Mr. Olson maintaining Moody Street and any complaints regarding the ditch along Moody Street be addressed by City staff. City Manager McNeil clarified that his determination is only that the south half of Moody Street is part of the Cemetery grounds and again based on his review of the assessor's map which he believes overlaid the boundaries of the original Cemetery plat. He added that he does not believe the ditch is part of that south half and in essence would be part of the City Street. Mayor Sangster indicated that Council has an opportunity to correct this in future maintenance agreements.

Councilman VanFleet moved to determine that the south half of Moody Street is part of Pinehill Cemetery and as such should be maintained by Mr. Olson, and that the ditch is City property and not part of Pinehill Cemetery and any complaints regarding the ditch will be addressed by City staff. Seconded by Councilman Couture. A roll call vote was taken.

Yes votes: Council Members Couture, Bronson, Lepp, Kopernik, Sangster and VanFleet

No votes: Councilman Jewell

Motion carried.

Mr. Olson stated he would like to meet with City Manager McNeil to go over some of the needs of the new part of the Cemetery for drainage. Mayor Sangster indicated that City Manager McNeil has been directed to do that to solve the erosion problems. City Manager McNeil indicated that he and Director Gall are aware of the extent of the work that needs to be done by the Public Works Department. Mayor Sangster indicated that he would like to see Mr. Olson's concerns in writing regarding that site.

Reading of Ordinances

- **First Reading – Amendment to Section 95.02(23), “Nuisances Per Se”, of the Cheboygan City Code of Ordinances by Repealing Said Section 95.02(23), and Enacting a New Section 95.02(23), which Provides for the Placement of Swimming Pools upon Residential Property, the Construction of a Fence Surrounding Pools and the Height and Material of the Fence**

City Manager McNeil deferred to Chief Jones, noting for the record that he is recusing himself from any discussion on the matter to avoid a possible conflict of interest. Chief Jones provided an overview and reading of the memo from himself to the Mayor, City Council and City Manager McNeil pertaining to the Nuisance Ordinance RE: Swimming Pools Draft of Amendment. Mayor Sangster commented that the first reading is to determine whether or not to schedule a public hearing for consideration of amending the City Ordinance pertaining to swimming pools. Councilman Kopernik requested clarification on what language is recommended for amendment. Chief Jones explained the recommendations for amendment. Mr. Steven Lindsay introduced himself and commented on the language contained in the draft ordinance. He noted that the City does not have to duplicate what the County is already doing. Mr. Lindsay also commented on the stringent County Construction Code requirements for pools including fencing, barriers and locking gates. He recommended that the City look at pools from 0-24 inches in depth and let the County deal with the rest. Mr. Lindsay also commented on proposed fence requirements. He noted that the regulations will create a hardship to the users of the small pools. Discussion was held regarding swimming pools and fencing. Councilman Bronson recommended tabling the issue and having more discussion on how involved Council wants to become in these rules particularly when there is not sufficient staff to regulate enforcement.

Councilman Bronson moved to table scheduling a public hearing to allow more time to discuss a proposed amendment to Section 95.02(23), “Nuisances Per Se”, of the Cheboygan City Code of Ordinances by Repealing Said Section 95.02(23), and Enacting a New Section 95.02(23), which Provides for the Placement of Swimming Pools upon Residential Property, the Construction of a Fence Surrounding Pools and the Height and Material of the Fence. Seconded by Councilman Couture. A roll call vote was taken. Motion carried unanimously.

Boards and Commission Reports

- **Regular Brownfield Redevelopment Authority Board Meeting – July 13, 2009**

City Manager McNeil reported that the Brownfield Redevelopment Authority elected Mr. Jim Mick as Chairperson for the upcoming year and reviewed some financial information relative to Brownfield Plans in progress which include Mariners Village and Calcite Credit Union. He noted that the Brownfield Authority also reviewed the activity of the County EPA grant work and how

some of the grant has been utilized on properties within the City. City Manager McNeil reported that the Authority also discussed a timeline relative to adoption of a Brownfield Plan and Act 381 work plan for the former Woolworth building and that a meeting has been scheduled for August 10, 2009 to review the draft plan which will then determine timeframes for public hearings.

Resolutions

- **Consideration of Resolution in Support of Northern Michigan Broadband Cooperative**

City Manager McNeil stated that the executive director of NEMCOG is seeking resolutions from the other government entities within each of the counties involved with the Broadband Cooperative in anticipation of making application for the stimulus funding that is available for broadband development. He commented on support from all the government entities under each of the counties and that he recommends its adoption to allow the Northern Michigan Broadband Cooperative that benefits Cheboygan County to pursue some of that federal funding.

Councilman VanFleet moved to adopt the Resolution in Support of Northern Michigan Broadband Cooperative, with Mayor Sangster signing on behalf of the City Council. Seconded by Councilman Couture. A roll call vote was taken. Motion carried unanimously.

General Business

- **Consideration of USDA Application for Water System Improvement Project**

City Manager McNeil noted that Council may recall some prior discussion relative to the 2010 Water Main Replacement project directed Mr. Paul Repasky of Wade Trim Engineers to prepare a preliminary application and for Council to review that application before submission and moving to the next step. Mr. Repasky referred to the USDA loan application and outlined each of the 12 sections of the application. City Manager McNeil referred to the map illustrating the water main projects in green that are being proposed for 2010, noting that the area in yellow was the 2007 upgrade and the area in red was done this past summer in conjunction with the Main Street Reconstruction project. Mayor Sangster referred to section 12 of the application regarding draft legal services agreement and asked why there is no cap on legal services fees. City Manager McNeil explained that the services through the City Attorney will be minimal but the scope of the services is unknown at this time and it would difficult to include an amount. Mr. Repasky stated that when the loan is approved there will be a conditional meeting with the City and the maximum rate for engineering and other professional services will be set through USDA guidelines. City Manager McNeil noted that it is his understanding that the bond attorney will be involved to a much greater extent than the City attorney. Mr. Repasky stated this is a preliminary application where the USDA wants to make sure that everything is in order and this is not the final sign-off on anything at this point. He added that there will be a meeting with all the conditions outlined and the City will have to negotiate at that point. Councilman Kopernik questioned if local contractors will be used on the project. Mr. Repasky explained the open bid process which will be advertised in the local newspaper. He also commented on the competitiveness of the grants. City Manager McNeil stated that if the City does not receive a grant but wants to do this type of capital improvement, the improvement is funded either by loan or some other means that must be serviced out of the revenues to the water system which impacts rates that would have to increase. He explained that this type of loan is clearly the most advantageous available and that the City is looking at an interest rate of 2.75% amortized over a 40 year period. City Manager McNeil added that the USDA loan is the best type of impact the City could put on water users and this is the best way to keep water rates as reasonable as possible while continuing to upgrade the water system.

Councilman VanFleet moved to approve the July 2009 USDA Application for Water System Improvements Project. Seconded by Councilman Jewell. A roll call vote was taken. Motion carried unanimously.

- **Consideration of City Council Policy for Directional Signage for Real Estate Advertising**

Councilman Kopernik abstained from discussing and voting on this issue. Mayor Sangster referred to a draft of the policy for Directional Signage for Real Estate Advertising, which advertises lands or buildings for rent, lease and/or sale which are not located on the land or building intended to be rented, leased and/or sold within the City limits. It was noted that the policy will be in place until December 31, 2009 at which time it will be reviewed by the City Council. Mayor Sangster indicated that directional signage will not be placed in the public road right-of-way and written permission must be obtained from the property owner.

Councilman Couture moved to adopt the City Council Policy for Directional Signage for Real Estate Advertising as presented. Seconded by Councilman VanFleet. A roll call vote was taken. Motion carried with one abstention.

- **Consideration of Bids – 2009 Season Bituminous Street Resurfacing**

City Manager McNeil referred Council to a tabulation of bids for the 2009 Season Bituminous Street Resurfacing project and deferred to DPW Director Gall for his comments and recommendation. Superintendent Gall explained that the Payne and Dolan bid originally came in at \$282,945 and then the bid was amended to include wedging at \$58 per ton but did not specify the number of tons. He stated that the Rieth-Riley bid was \$371,443 and included the cost of wedging. DPW Director Gall recommended the bid from Rieth-Riley be accepted as the bid from Payne & Dolan was not complete. Councilman Couture asked if the bid from Payne & Dolan was resubmitted because they needed clarification on how much the \$58 per ton for wedging would end up costing. Director Gall stated he is unsure of the reason but the 1,300 tons for wedging was not indicated on their original bid. He explained that wedging was not listed in the original bid specifications from the City which caused confusion when the bids came in while he was on vacation and not available to answer questions. Councilman Couture asked a representative of Payne & Dolan if the original bid stated \$282,945 plus \$58 per ton for wedging. A Payne & Dolan representative indicated that is correct. DPW Director Gall commented that Payne & Dolan was aware of the bid amount from Rieth-Riley when adding the additional \$58 per ton for wedging. He added that he and City Manager McNeil discussed the matter and determined that the most equitable action to take was to accept the complete bid from Rieth-Riley. Director Gall noted that the Payne & Dolan bid should have specified the number of tons of wedging rather than only the cost per ton. City Manager McNeil clarified that the price per ton of wedging was received with the bid from Payne & Dolan but the amount of tonnage needed was not received at bid time. Director Gall commented that Council could consider re-bidding the project. A lengthy discussion was held regarding the bids submitted by Payne & Dolan and Rieth-Riley. Councilman Jewell asked Director Gall if the bid specifications were where they should have been. Director Gall indicated not in his opinion. He explained the scope of the street paving project and the time constraints to get the bid specifications out before he went on vacation so that the project would not be delayed any further. Discussion was held regarding the bid specifications provided by the City, and consideration of re-bidding the project. Discussion was also held on whether the low bid from Payne & Dolan is valid.

Councilman Jewell moved to award the 2009 Season Bituminous Street Resurfacing project to Payne & Dolan in the total amount of \$358,345. Seconded by Councilman VanFleet. Discussion held.

City Manager McNeil recommended that the bid not be accepted in that manner. He stated that if Council accepts the bid from Payne & Dolan, the bid should be accepted as it was submitted which was \$282,945 plus \$58 per ton for wedging. Mayor Sangster agreed and asked if the motion should be amended. Councilman Jewell amended the motion to award the bid to Payne and Dolan for \$282,945 plus \$58 per ton for wedging not to exceed \$358,345. Seconded by Councilman VanFleet. A roll call vote was taken. Discussion held. City Manager McNeil stated that he has concerns that Council is accepting information post-bid. He reiterated his recommendation that the project should be re-bid. Councilman Jewell noted that the City's specifications were incorrect and that is why it was bid like that.

Yes votes: Council Members VanFleet, Jewell and Sangster

No votes: Council Members Couture, Bronson, Lepp and Kopernik

Motion failed.

Councilman Couture moved to re-bid the 2009 Season Bituminous Street Resurfacing project to include all the necessary information in the specifications. Seconded by Councilwoman Lepp. A roll call vote was taken.

Yes votes: Council Members Jewell, Couture, Bronson, Lepp and Kopernik

No votes: Council Members VanFleet and Sangster

Motion carried.

- **Consideration to Accept the Bid for the Purchase of City of Cheboygan 2009 Transportation Fund Bonds in the Amount of \$425,000**

City Manager McNeil recommended that the matter be tabled until the next Regular City Council meeting until he can verify that Citizens National Bank is agreeable with the arrangement while the City goes through the re-bid process.

Councilman Couture moved to table consideration to accept the bid for the Purchase of City of Cheboygan 2009 Transportation Fund Bonds in the amount of \$425,000. Seconded by Councilman Kopernik. Motion carried unanimously.

- **Consideration to Take Bids – Used One-Half Ton Extended Cab Pick-Up Truck for Recreation Department**

City Manager McNeil stated that the consideration to take bids on a used one-ton extended cab pick up truck for the Recreation Department was discussed and parameters were established for bids to be submitted by local dealers that would fit those parameters. He added that the budget includes the purchase of a used pick up truck for the Recreation Department and that the bid specifications include details on the make of the vehicle, mileage, and total cost of the vehicle not to exceed \$10,000.

City Manager McNeil stated that ultimately a decision will be made on which truck is felt to be the best offer and that the mileage, the model year and cost will be weighed accordingly.

Councilman Couture moved to approve the taking of bids for a used one-half ton extended cab pick-up truck for the Recreation Department. Seconded by Councilman Kopernik. A roll call vote was taken. Motion carried unanimously.

- **Review of Cemetery Maintenance**

City Manager McNeil stated that Council requested to review the Pinehill Cemetery maintenance contract because of some concerns that were expressed regarding maintenance issues. Councilman Couture stated that since the last meeting he toured the Cemetery and what he observed seemed to be

sufficiently mowed. He added that Mr. Olson showed him some of the points that came up in the past that were complained about and how there were wet, low areas with drainage problems in the new section, which the City is already aware of. Councilman Couture noted that the areas in question in the new section along the fence are very rough and difficult to maintain. Mr. Ray Lofgren distributed photographs of the Cemetery and referred to the maintenance contract. He invited Councilman Couture to tour the Cemetery with him to discuss several concerns. Mr. Lofgren commented on the various routine maintenance responsibilities within the contract. He referred to Moody Street and the nearby ditch and fence which he feels has been neglected. Mr. Lofgren explained that the Moody Street fence and ditch were neglected for so many years by Mr. Olson that City Manager McNeil authorized the City DPW crew to go in and pull the fence out. He also commented on the fence line along the northwest side of the Cemetery where there are high hay piles from four weeks ago that have not been picked up yet. Mr. Lofgren noted that the first segment of the maintenance contract has been violated and referred to the photographs as documentation. He also commented on an abandoned wreath as well as leaves and debris and the retaining wall used as a holding area, and Mr. Olson's arrangement to pick up fall leaves in the spring. Mr. Lofgren also noted the contracted payment to Mr. Olson of \$61,000 per year and expressed concerns regarding various violations of the contract and a modification to the contract that was made at this meeting tonight. He referred to movement and damage to headstones, inadequate restoration of gravesites after burial, and the photographs he provided to Council. Mr. Lofgren commented on the \$625,000 paid to Mr. Olson over the past 12 years for his services at the Cemetery, adding that the photographs show neglect. Councilman Kopernik recommended the use of complaint forms. Mr. Lofgren commented that will not change and that he feels the Cemetery needs someone that is dedicated and willing to provide staff on a daily basis. Ms. Janet Gahn introduced herself and commented that the contract needs to be upheld by the City Council regardless of the amount of staff provided by Mr. Olson. She noted that she is a property owner of five vacant gravesites within a section of eight graves. Ms. Gahn referred to photographs of the Cemetery and requested that Council do something. She clarified that the wreath Mr. Lofgren referred to was a wreath put on the veteran's grave on Memorial Day which ultimately became brown and discolored, and stood against a tree for weeks near her family gravesites. Mr. Ellis Olson requested Council's indulgence to have enough time to answer all of these charges. He explained each of the concerns that were expressed regarding the various grounds maintenance issues, weather conditions, grave preparation, a recent disinterment, soil erosion in the new section of the Cemetery, and the need to institute the use of complaint forms for follow up. Mr. Olson requested that he be notified of any corrections that need to be made. He commented that he works with Clerk/Treasurer Kwiatkowski and City Manager McNeil and maintains the Cemetery extremely well and with common sense. Ms. Gahn explained that she has taken concerns for several years to Clerk/Treasurer Kwiatkowski and City Manager McNeil and addressed the photographs of the Cemetery without satisfaction and that she is finished and will not complete complaint forms that she feels serve no purpose. She related her dissatisfaction with fulfillment of the terms of the maintenance contract and discouragement as a taxpayer subsidizing the maintenance of the Cemetery. Mr. Olson refuted the comments and recommended that Ms. Gahn complete complaint forms through the proper process rather than repeatedly addressing Council with what he feels are false complaints. Mr. Olson recommended that Council allow the City Manager to handle the complaint process and that any necessary corrections will be made accordingly. Ms. Gracie Larson introduced herself and welcomed visitors to the Cemetery at any time. Mayor Sangster noted that Council would now have discussion. Councilman Bronson expressed the importance of having documentation of concerns to formally address. Discussion was held regarding the complaint form. Councilman Jewell agreed that the appropriate documentation of concerns is needed. Council concurred that the complaint form should be used consistently. Mr.

Lofgren offered to complete the appropriate forms and attach photographs for documentation. Councilman Jewell recommended including discussion of a specific procedure on the agenda for the next City Council meeting. City Manager McNeil commented he could handle the process administratively or Council could adopt a policy but he would like an opportunity to meet with department heads and follow an administrative procedure for consistency. He noted that he could provide Council with a copy of the administrative policy for review if there are any concerns. Discussion was held regarding the concerns that have been expressed and the current language in the Cemetery maintenance contract. Councilman Couture commented that if the nature of some complaints is not the responsibility of Mr. Olson, such as the erosion problem, then perhaps the DPW could address those issues. Also discussed were situations regarding headstones, specifically movement or damage to headstones.

Councilman VanFleet moved to excuse Councilman Jewell from the meeting at 10:13 p.m. Seconded by Councilman Couture. Motion carried unanimously.

Councilman Bronson reiterated the importance of having the appropriate complaint forms and documentation. Councilman VanFleet commented that the photographs that were provided could be attached for complaint forms and easily addressed. He added that any further complaints must be provided on the appropriate form and followed up accordingly. Councilman VanFleet suggested that Council receive a copy of complaints at each Council meeting that reflects the nature of the complaint and the corrective action.

- **Discussion Relative to Former F. W. Woolworth Building Site**

City Manager McNeil recommended deferring any decisions with regard to the Woolworth building until after the Brownfield Plan is discussed.

- **Consideration of Appointment of Gary A. Lamberg to the Downtown Development Authority Board of Directors, Term to Expire January 27, 2012**

Councilman Kopernik moved to approve the appointment of Gary A. Lamberg to the Downtown Development Authority Board of Directors with a term to expire January 27, 2012. Seconded by Councilman Bronson. Motion carried unanimously.

City Clerk's and Treasurer's Comments

- **Letter of Engagement, Anderson, Tackman & Company, PLC (2008/2009 Audit)**

Clerk/Treasurer Kwiatkowski referred Council to the engagement letter with Anderson Tackman & Company which is an understanding of what the auditors will provide the City and what the City will provide to the auditors.

City Manager's Report

- **Sidewalk Corner Repair Bids**

City Manager McNeil stated that Council authorized bids to be taken on specific sidewalk corners in town but subsequent to bids going out there were questions from contractors relative to the ADA compliant pads and questions relative to drain structure in some of the areas and how those would be handled. He noted that DPW Director Gall was on vacation and with that he ordered the bids to be closed to allow time to review and revise the specifications. Councilman Kopernik questioned if all the local masonry contractors bid on this project. City Manager McNeil indicated that the local contractors have bid. Discussion was held on the bidding process. Councilman Bronson stated that there has to be a certain amount of due diligence on the part of the contractors.

- **City-Wide Sidewalk Repair**

City Manager McNeil stated that recommendations for City-wide sidewalk repair will be developed soon and provided to Council for review.

- **Citizens Indoor Swimming Pool Committee Update**

City Manager McNeil stated that the Citizens Indoor Swimming Pool Committee is structuring documents to take proposals on engineering and getting engineering consultants on board to do some preliminary drawings, cost estimates and operation estimates. He commented that ultimately a recommendation for a consultant will be coming forward and Council will need to authorize that consultant to be paid out of the gift that the City received from the Spies Trust.

- **Major City Park – MSU Concepts**

City Manager McNeil stated that Michigan State University representatives will be here tomorrow night at 6 pm to present four different concepts for the Major City Park and supporting images and that involvement by as many people as possible would be beneficial.

Messages and Communications from Mayor and Council Members

- **Main Street Sewer Odor**

Councilman Bronson commented that concerns have been expressed to him about sewer odor at the businesses along Main Street. He stated the Public Works Department was informed of the matter and investigated but was unable to find a definitive solution.

Closed Session

- **Collective Bargaining Strategy Session**

Councilwoman Lepp moved to adjourn to closed session at 10:17 p.m. Seconded by Councilman Bronson. Motion carried unanimously.

Councilman Kopernik moved to reconvene the meeting. Seconded by Councilman Bronson.

Adjournment

Councilwoman Lepp moved to adjourn the meeting at 10:40 p.m. Seconded by Councilman Kopernik. Motion carried unanimously.

Mayor Richard B. Sangster

City Clerk Kenneth J. Kwiatkowski

Councilman Nicholas C. Couture

Councilman William K. Jewell

Councilwoman Theo Lepp

Councilman Mark Bronson

Councilman Michael J. VanFleet

Councilman Roger Kopernik