

REGULAR CITY COUNCIL MEETING
January 12, 2010

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 VanFleet, Lepp, Sangster, Couture, Kopernik and Bronson
Absent: Councilman Jewell

Councilwoman Lepp moved to excuse Councilman Jewell from the meeting. Seconded by Councilman Kopernik. Motion carried unanimously.

Councilman Kopernik led the Pledge of Allegiance to the Flag.

Approval of Agenda and Receive and File all Communications

Mayor Sangster noted two amendments to the agenda under 8.C. – a letter of request from Mr. Dennis Lennox and 9.B. – adjusted amount of unpaid bills and disbursements for December 2009.

Councilman Kopernik moved to approve the agenda as amended and receive and file all communications. Seconded by Councilwoman Lepp. Motion carried unanimously.

Correction and Approval of Prior Meeting Minutes

- **Regular City Council Meeting – December 8, 2009**

Councilman VanFleet moved to approve the minutes of the December 8, 2009 Regular City Council Meeting as presented. Seconded by Councilman Couture. Motion carried unanimously.

Public Comments

The public comment portion of the meeting opened by Mayor Sangster.

There were no public comments.

Public comment portion of the meeting closed by Mayor Sangster.

Communications and Petitions

- **Consideration of a Request from Military Order of the Purple Heart and Auxiliary to hold Viola Day on August 20 and 21, 2010**

Councilwoman Lepp moved to approve the request from the Military Order of the Purple Heart and Auxiliary to hold its Viola Day on August 20 and 21, 2010. Seconded by Councilman Kopernik. Motion carried unanimously.

- **Consideration of a Request from the Cheboygan Area Chamber of Commerce & Cheboygan Area Tourist Bureau for approval of 2010 Events in Washington Park, Water Street Parking Lot and Parades**

Councilman Kopernik moved to approve the request from the Cheboygan Area Chamber of Commerce & Cheboygan Area Tourist Bureau for approval of the 2010 events in Washington Park, Water Street parking lot and parades. Seconded by Councilman Bronson. Motion carried unanimously.

Reading of Ordinances

- **First Reading – New Ordinance – License Requirements for Vacation Home Rentals**

City Manager McNeil stated that with regard to a proposed new Ordinance and license requirements for vacation home rentals, the recommendation from the Planning Commission comes in two parts. The first is a proposed licensing ordinance which would license some activities that would fall under the definition of vacation home rental. City Manager McNeil explained that the license ordinance would provide for certain conditions to be in place for issuance and would also provide for the application procedure as well as conditions for revoking the license and an appeal process. The second portion of this recommendation from the Planning Commission is that the City's Zoning Ordinance be amended to provide a definition of vacation home rentals and allow those types of uses in Two-Family Residential, Multi-Family Residential, Tourist Service, Office, and General Commercial Districts, and specifically not in Single-Family Residential Districts. Council discussed the restrictions at length as well as the existing Ordinance that does not allow vacation home rentals. Also discussed were Ordinance enforcement and the nature of complaints brought to Council regarding noise, fireworks, trespassing, parking, public obscenities, and others which are addressed by rules currently in force and whether the ability to enforce those restrictions or be notified of violations is the real issue. City Manager McNeil clarified relative to Ordinance enforcement that the Ordinance does require that homes be occupied by groups that meet the definition of single family. Additionally, the current ordinance does not allow for renting out to groups who are unrelated or do not represent the definition of single family within a Single Family Residential District. Council discussed what constitutes the definition of a family. Also discussed was the procedure for investigating complaints, and the process of revoking licenses.

Councilman VanFleet moved to schedule a public hearing for February 9, 2010 to consider a new ordinance for License Requirements for Vacation Home Rentals. Seconded by Councilman Bronson. Discussion was held on obtaining public input of the proposed Ordinance as well as the zoning ordinance districts recommendation from the Planning Commission relative to zoning where vacation home rentals would be allowed. A roll call vote was taken.

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

No votes: Council Members Sangster and Couture

Motion carried.

- **First Reading – An Ordinance to Amend the Zoning Ordinance of the City of Cheboygan by adding new provisions 154.033(A) – 154.033(E), which shall provide for the siting, installation and construction of small wind energy systems, define the same, regulate visual appearance, lighting and power lines, provide for setbacks, ground clearance and safety as well as the removal of defective or abandoned systems**

City Manager McNeil stated that this proposed Ordinance would regulate wind energy systems that produce energy to be used onsite at residential or business property and not for wind systems that propose to put power on the grid. He explained that the Ordinance establishes the size, setbacks, noise limitations, maximum power produced, and regulation for their placement in anticipation of proposed homeowner owned energy producing systems within all zoning districts. Discussion was held on wind energy systems and landscape issues. Also discussed was whether the County has guidelines in place for wind energy systems and if the guidelines are similar to this proposed City ordinance. City Manager McNeil stated that in his view, there is not as much regulation in this proposed Ordinance as there is in the County Ordinance. He added that the limitations are established based on the size of the lot itself and require a setback of 1.1 times the maximum height

of the structure which would be based on the size of the property. City Manager McNeil commented that the Planning Commission felt that allowed a limit to the proportion based on the property size. Discussion was held on the size and density of some City lots that would not accommodate wind energy systems. Council also discussed the size of equipment needed to produce an energy savings and be effective as a renewable energy resource.

Councilman VanFleet moved to schedule a public hearing for February 9, 2010 to consider an Ordinance to Amend the Zoning Ordinance of the City of Cheboygan by adding new provisions 154.033(A)-154.033(E), which shall provide for the siting, installation and construction of small wind energy systems, define the same, regulate visual appearance, lighting and power lines, provide for setbacks, ground clearance and safety as well as the removal of defective or abandoned systems. Seconded by Councilman Couture. A roll call vote was taken. Motion carried unanimously.

- **First Reading – An Ordinance to Amend Section 154.002 of the Zoning Chapter of the Cheboygan City Code by adding a new definition for “Medical Marijuana Dispensary” and, further, amending Section 154.067(C) (8) by adding an additional use of “Medical Marijuana Dispensary”**

City Manager McNeil stated that this proposed Ordinance is designed to dictate where someone could operate a properly approved medical marijuana dispensary within the City of Cheboygan. He explained that the last section 154.067 (C) (8) would provide for medical marijuana dispensaries to be allowed in General Business Zoning Districts. City Manager McNeil read into the record the definition of medical marijuana dispensary for the benefit of the audience. Discussion was held on regulating medical marijuana and the definition of primary care giver as regulated by the State. City Manager McNeil noted that guidelines are all under State regulation and the proposed Ordinance would regulate establishment within a certain zoning district. Discussion was held regarding proposed location of medical marijuana dispensaries within a Business District, guidelines for primary caregivers, and State regulations regarding medical marijuana dispensaries.

Councilman Couture moved to schedule a public hearing for February 9, 2010 to consider an Ordinance to Amend Section 154.002 of the Zoning Chapter of the Cheboygan City Code by adding a new definition for “Medical Marijuana Dispensary” and, further, amending Section 154.067(C) (8) by adding an additional use of “Medical Marijuana Dispensary”. Seconded by Councilman Kopernik. A roll call vote was taken. Motion carried unanimously.

Bills and Disbursements

- **Pre-paid Bills and Disbursements for the Month of December 2009**

Mr. Bill Burnett questioned item 64 – United Design Associates in the amount of \$25,375. City Manager McNeil indicated that expense represents a fairly extensive engineering study of City mooring facilities and was funded approximately 50% by a grant from the Waterways Commission. He explained that the study identified recommended improvements and future upgrades and there will be further discussion with the DDA and City Council as to how some of those recommendations may be addressed. Discussion was held regarding the engineering study, sidewalk replacement along the river front, current marina facilities at Water Street and Washington Park and recommended improvements. Mr. Ray Lofgren questioned item 69 – Werner Plumbing & Heating in the amount of \$9,749.30. City Manager McNeil explained that an alarm failure and flooding in the basement that caused extensive damage to the City boiler and is an insurance claim that will be reimbursed to the City. Mrs. Trudy Lofgren questioned if the City bids out services such as those provided through

United Design. Mayor Sangster stated that is the direction the City is going but this project has been on-going with the Waterways Commission for some time.

Councilman Couture moved to approve the pre-paid bills and disbursements for the month of December 2009 in the amount of \$754,283.74. Seconded by Councilwoman Lepp. A roll call vote was taken. Motion carried unanimously.

- **Unpaid Bills and Disbursements for the Month of December 2009**

Mayor Sangster questioned item 31 – Truck & Trailer Specialties in the amount of \$10,626.44. City Manager McNeil stated that was an insurance claim with the exception of the deductible.

Councilman Kopernik questioned item 20 – Manning’s Northern Tire in the amount of \$4,002.98.

Clerk/Treasurer Kwiatkowski explained the expense included new front end loader tires, as well as tire repair for vehicles. Mayor Sangster questioned item 27 – Royal “D” Linen in the amount of \$377.16. Clerk/Treasurer Kwiatkowski explained that Royal D Linen is affiliated with Premiere Linen and includes rugs, cleaning rags and uniforms.

Councilman Kopernik moved to approve the unpaid bills and disbursements for the month of December 2009 in the amount of \$34,175.47. Seconded by Councilman Bronson. A roll call vote was taken. Motion carried unanimously.

Department, Boards and Commission Reports

- **Regular City Planning Commission Meeting – December 21, 2009**

City Manager McNeil noted the Planning Commission’s recommendation for a similar and no more objectionable character use for an indoor shooting range within the Light Industrial District and review of those Ordinances which Council has reviewed tonight.

- **Regular Downtown Development Authority Board of Directors Meeting – January 5, 2010**

City Manager McNeil stated that the DDA meeting facilitated the presentation of the Major City Park Final Conceptual Master Plan as presented by the MSU Department of Landscape Architecture. He noted there was also some discussion relative to DDA participation in the Pure Michigan Campaign and the DDA ultimately appropriated some funds. Additionally, there was a report and some discussion from the Enhancement Administrator relative to upcoming events and his report and update on the Annual DDA Tax Increment Finance Plan which Council has reviewed. City Manager McNeil commented that there was also some discussion and direction given by the DDA Board relative to a couple areas of dispute with the contractor for the footbridge which included the amount of liquidated damages and an extra payment requested by the contractor relative to soil conditions that needed testing and locations of the crane that had to set the footbridge. City Manager McNeil stated that the direction given by the DDA was to refer those issues to the dispute resolution provisions of the agreement.

General Business

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

City Manager McNeil indicated the Policy for Directional Signage for Real Estate Advertising was adopted by Council in July 2009 and that he is recommending continuing the policy for another year. He added that if no problems occur the policy should ultimately be drafted into an Ordinance.

Councilman Couture moved to continue the Directional Signage for Real Estate Advertising policy until December 31, 2010. Seconded by Councilwoman Lepp. Motion carried unanimously.

- **Consideration of Appointment re: City Attorney/Legal Services**

City Manager McNeil referred to proposals received for City Attorney legal services, noting that upon review he is recommending formal appointment of Mr. Stephen Lindsay as the City Attorney with regard to civil issues and Mr. Thomas Hungerford as the City Attorney for criminal and ordinance enforcement issues. He referred to the fixed fee proposals, commenting that Mr. Lindsay's proposal is \$15,000 per year for a three year period, and Mr. Hungerford's proposal is \$17,750 the first year, \$18,637.50 the second year and \$19,569.38 for the third year. City Manager McNeil recommended accepting the fixed fee proposals and securing a letter of agreement for services to become effective February 1, 2010. Council held a lengthy discussion on the advantages and disadvantages of having two different law firms versus a single firm for legal services, the qualifications and experience of the recommended attorneys, the selection process, cost comparison and savings, fixed rates for services, attorney presence at Council meetings, and administrative issues. Also discussed was possible conflict of interest with regard to also serving on City Boards and Commissions, the contract terms and termination language, and the annual performance review process. City Manager McNeil indicated there would be no conflict of interest or any problem from an administrative standpoint of having two separate law firms providing legal services.

Councilman Couture moved to appoint Stephen E. Lindsay as City Attorney for civil issues for a lump sum fee of \$15,000 annually for a three year period and to appoint Thomas Hungerford as City Attorney for criminal & ordinance enforcement issues for a three year period for a lump sum fee of \$17,750 (year one): \$18,637.50 (year two); and \$19,569.38 (year three) and that the City Manager draft a letter of agreement for each attorney for their respective legal services, said services to begin February 1, 2010. Seconded by Councilman Bronson. Discussion held on cost reduction, including annual review language in the letter of agreement, providing a quarterly comparison of cost savings, and continued quality legal service as in the past. A roll call vote was taken.

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

No votes: Council Members Sangster and VanFleet

Motion carried.

City Clerk's and Treasurer's Comments

There were no comments.

City Manager's Report

- **2010/2011 Preliminary Operating Budget**

City Manager McNeil referred to the 2010/2011 Preliminary Operating Budget for the upcoming budget year beginning July 1, 2010. He noted this budget is operations only and does not reflect capital amounts or any other amounts Council may wish to interject. City Manager McNeil explained that within the revenue estimates is a reduction in property taxes and anticipated additional reductions in State shared revenues. He further explained that looking to hold the line from a general operation cost, he added 2% for wage and benefit increases. Discussion was held regarding budget increases specifically with regard to Public Safety. City Manager McNeil commented that he is recognizing the influences on costs reflected throughout the budget and would review the Public Safety Budget. Council discussed the possibility of a Special City Council Meeting to review the

budget in detail and decided on Thursday, January 28, 2010 at 9:00 a.m. in the City Council Chambers or at the Library, depending upon availability.

- **Status Report of the Priorities of the City Manager for the Year 2009**

City Manager McNeil referred to a status report of his written priorities that were provided to Council this time last year and requested feedback.

- **City Council Strategic Planning Session**

City Manager McNeil questioned Council's interest in a City Council Strategic Planning Session to review priorities and evaluate accomplishments or areas needing improvement. Discussion was held regarding recognizing accomplishments, re-evaluating goals, and the merits of using a facilitator as in past strategic planning sessions and determined the matter would be readdressed in the future.

- **Major City Park Final Conceptual Master Plan**

City Manager McNeil commented on the presentation regarding the Major City Park Conceptual Master Plan. He added that the next step is to have those plans reviewed by the specific Boards and Commissions such as the Planning Commission, Recreation Commission, and DDA to reach a consensus on what the final plan should look like, what elements should be included, and prioritizing those elements. Discussion was held regarding the portion of the Major City Park within the DDA District. Council also discussed the plan submitted by the Economic Development Group and this plan traveling in a parallel path.

- **2010 Water Main Replacement/USDA Loan Update**

City Manager McNeil referred to the proposed 2010 Water Main Replacement Project noting that he met with USDA officials last week and secured funds in the amount of \$3.1 million with an interest rate of 2.375%. He noted that securing funds does not require the City to go forward with the project or take the loan. City Manager McNeil commented on Council making a final decision by way of approving an engineering agreement to get the design started either at the next City Council meeting or the meeting after that.

- **City Manager Evaluation**

City Manager McNeil commented on the standard evaluation tool used by Council in the past and if acceptable, the information could be distributed and the evaluation process completed at the next City Council meeting.

Messages and Communications from Mayor and Council Members

- **Uniforms**

Councilman VanFleet referred to the cost of uniforms reflected on the bills and disbursements noting he was not aware that City staff wore uniforms. City Manager McNeil stated that uniforms are not required and will be an item of discussion in upcoming union negotiations.

Adjournment

Councilwoman Lepp moved to adjourn the meeting at 8:40 p.m. 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