

**SPECIAL CITY COUNCIL MEETING**  
**May 30, 2017**

The Special City Council Meeting was called to order by Mayor Bronson in the Council Chambers at City Hall at 5:15 p.m.

**Roll Call:**

Present: Kwiatkowski, Riddle, Bronson, Lavender, Temple

Absent: King and Couture

Councilman King entered the meeting at 5:17 p.m.

**Presentation and Consideration of a 425 Agreement with Inverness Township**

Mayor Bronson asked how the City Manager wished to proceed. City Manager Eustice stated we can proceed with an explanation and then will entertain any questions. City Manager Eustice stated the City Council established a Sub-Committee to address the 425 Agreement with Inverness Township. They met several times with their City sub-committee and met twice with Inverness Township's committee, which consisted of Ron Neumann, Supervisor, and Jean Beethem, Clerk, as well as their legal counsel, Attorney Tim MacArthur. The City's committee has basically revised the 425 Agreement that we think is in the best interest of the City. Inverness Township understands some of the content of this Agreement, not all of it, but we have explained to them that the City would like to have all 11 parcels that Meijer's owns in the Agreement, which is going to make a couple of things happen: (1) they are going to have to remove 9 of the 11 parcels from the DDA because even though those parcels become part of the City it would not dissolve those parcels from the DDA, so the DDA could continue to capture tax dollars on those parcels, which would be of no benefit to the City. The City requested that Inverness Township remove those from the DDA and they seem to be okay with that at this point. City Manager Eustice went on to state the City drafted the 425 Agreement that Council has before them through the Sub-Committee who is making a recommendation at this point to send this on to Inverness Township, which is the purpose of this meeting to get Inverness Township a finalized 425 Agreement. There certainly may be some things they may not agree with but we are basically taking the position that this is the type of Agreement we need to have to help build the Meijer's store here. He noted that City Attorney Stephen Lindsay and DPW Director Jason Karmol are both part of the Sub-Committee, along with Mayor Bronson, Councilman Temple and Mayor Pro Tem Couture. Last Thursday the Sub-Committee made a determination to set a Special Council Meeting to get this Agreement in the hands of the City Council for review and to make a motion to send this to Inverness Township for their review. He then stated he, DPW Director Karmol and City Attorney Lindsay are available now to answer questions. He did explain they discussed at length of the 425 Agreement so the options they are recommending to give the Township are basically three different legal descriptions and/or boundaries: (1) the 11 parcels that Meijer's owns in the Township; (2) to devise a 425 Agreement with the boundaries of VFW Road to Townline Road to the River to the City Limits; and (3) devise a 425 Agreement that includes the entire sewer district. There was a lot of discussion on even offering those because the Township is likely not to go that direction, but we thought we would leave them in to give the Township the options. We believe that the 11 parcels will be most favorably looked at by the Township going forward, but we still have the other two options available should they choose to go that direction. The other issue is the millage split. The Township made a motion back in February to enter into a 425 Agreement with just two of the Meijer's parcels and a 12/3 millage split. The City's Legal Counsel, Mr. Lindsay, basically put language in the

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Agreement that the millage split will be dependent on the debt; if the City has to take on debt to help move this project along, then we want all 15 mills that we are allowed to levy until that debt is paid off. Once the debt is paid off, then we will give the Township what they could otherwise levy legally and that can fluctuate. For example, right now the Township can levy 2.9 mills. So if there is no debt involved we will give them 2.9 mills. City Manager Eustice explained that two of the millages are special millages – they levy .95 mills for general operating, which is by Charter and they can legally levy to operate, and they have a fire millage at .95 mills, which has a time limitation on it, and then they have a road millage of 1.0 mills, that also has a time limitation on it (4 year millage). For example, when the road millage expires, we would then give the Township only 1.9 mills because they would not be able to levy that millage against the Meijer's property. It can go the other way as well – if they are levying 2.9 mills and they come up with a special assessment to put sidewalks in or that sort of thing, they can levy that millage on the Meijer's property. This is language that was put into the millage split agreement.

Mayor Bronson commented that one of the reasons they wanted to have a Special Meeting is that they wanted to get this document available for the Township, which is next week. If we missed their June meeting, then there would not be a meeting until July. City Manager Eustice reiterated this Agreement is the recommendation of the Sub-Committee which was formed for this purpose – to get basically a finalized 425 Agreement together to present to the Township. He then stated they will try and answer any questions.

Councilwoman Riddle asked for additional detail if the City has to assume debt. City Manager Eustice explained there are multiple situations where we may have to take on some debt, the most obvious is if Meijer's comes back to us and says they are not going to build there unless the Township and the City participate in funding some of the waterline project. This will be a decision the City Council will have to make and the Township will have to determine whether they want to take on debt to build the waterline out there. The other issue is that the 9 parcels are in the sewer district and their loan agreement says if you take those parcels out of the sewer district you have to pay the REUs (residential equivalent units) on those parcels and it has to go on the debt, whether it be the Township, Meijer's or us in order to get those parcels out of the sewer district and the DDA. That cost is likely \$35,000.00 on the nine parcels. If we chose to pay that, then we are going to levy 15 mills on that property until the \$35,000.00 is paid back to the City. Mayor Bronson commented another possible debt is if we decide to upscale from an 8 inch main to a 12 inch main, and Meijer's only needs an 8 inch main, but if we are looking at getting water to future developments then maybe we want to invest the money to upgrade that to a 12 inch main. Councilman King inquired as to the difference in cost of the main. DPW Director Karmol replied approximately \$100,000.00. Mayor Bronson stated also in the discussion to include all 11 parcels, with just the 2 and getting water there it does at least open the discussion about the gas station and the restaurant. They thought this should be done in one document and get all of it set now. Mayor Bronson stated we can't find anyway to make the 2 parcels work and pay for it. He thinks they can always come back to the USA (Utility Service Agreement) and if they don't like the 425 Agreement that we are sending back then the USA is still there. City Manager Eustice stated Inverness has the USA and under a USA it would be the Township's responsibility to build the line and determine who is going to pay for it. Clerk/Treasurer Kwiatkowski commented they are talking about 15 mills, which is City Operating, asking how in this entire process if we have to take on debt are we going to make the Sewer and Water Funds whole. You cannot transfer money from the General Fund to either one of them. City Manager Eustice stated Clerk/Treasurer Kwiatkowski had a good question. Councilman King stated to build that it would strictly have to come from what we bill for water. City Manager Eustice went on to state unless we borrow money that comes from the

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General Fund to pay for it, then we would pay back the General Fund. Councilman Lavender inquired as to an answer from Meijer on whether they are planning on paying for the infrastructure or not. City Manager Eustice said on Friday he did send another e-mail to Mr. Chris Jones, the representative for Meijer's, and explained to him we were having the special meeting today and asked him again to give him an answer as to whether or not Meijer's will fund this project, or how we can fund this project. He stated he needs to know if the Township or City has to pay for a portion of, or if all three are going to partner in paying for this water project because it will affect how this 425 Agreement comes together. Mr. Jones did open the e-mail at 4:09 on Friday afternoon, but did not respond with a thank you or anything. At this time we don't know if they are going to fund 100%. Councilman Lavender said if Meijer's doesn't pay for anything what the plan is to pay for that infrastructure. City Manager Eustice stated there isn't one; right now our offer is for them to pay for it, but if they come back and say there are not going to pay for it, then we are going to have to go back to the drawing board. If they come back and say they want the City and Township to pay 50% of the project, then the Council and Township Board are going to have to make a decision. Councilwoman Riddle asked why it is the City's responsibility to pay for this project in Inverness Township. City Manager Eustice replied it isn't and that is our position. Councilwoman Riddle said she would hope so. When Meijer's is coming in it will affect businesses that are within the City that pay taxes; so are we serving the best interest of the people who have businesses within the City who are going to be harmed by this situation and it costing the City money? She has real concerns with this whole situation. Councilman Temple stated as far as businesses losing, he does not believe that because that was already done when K-Mart and Wal-Mart were built. The shops you see downtown now Meijer's is not going to hurt. Councilwoman Riddle stated she is not talking about the downtown shops, mentioning Family Fare (a grocery store) in the City. She then noted we already lost Carter's who was located on the other side of the River. City Manager Eustice responded that is a very valid point and there are residential property owners who are going to question why we would fund any part of this project, i.e. long time taxpayers that need their waterlines replaced. Mayor Bronson asked if there is not a 425 Agreement how can the City legally spend any money in the Township. Mayor Pro Tem Couture and City Manager Eustice both responded we can't. City Manager Eustice stated under a 425 Agreement the property is leased to the City and becomes City property under the land lease agreement. We don't have title to it but we have equitable title to it and it becomes part of the City, but it doesn't justify that the City needs to pay for a waterline because we wouldn't do that if Meijer's went out on the corner of Butler Road and U.S. 23 in the City of Cheboygan. We wouldn't run sewer out there for that project; we would ask them to pay for it (water is already there). Mayor Bronson commented just like any other business.

City Manager Eustice replied correct, just like any other developments. Councilwoman Kwiatkowski stated she wanted to go back to Councilwoman Riddle's concern, stating the Committee that was formed with the business people in Inverness Township actually went to a few of the businesses and went to Save-A-Lot because they thought it would be detrimental, but Save-A-Lot told them that when Meijer's comes in they don't mind. The first year they may go down maybe 15%, but after that they come back up to what they were and actually go over and above. They like the Meijer plan. Councilwoman Riddle commented also Save-A-Lot is in Inverness Township, so they are paying less taxes to begin with. Councilman Temple asked if it is not true that Meijer's has paid for waterlines wherever they went in Michigan. City Manager Eustice replied he knows of 9 situations where they needed either water, sewer or both utilities and Meijer's funded the entire project. Councilman Temple commented Gaylord was one of them. City Manager Eustice added it was about 1.6 million dollars to get water and sewer to that site. Mayor Bronson asked if they got some money back from others connecting to that. City Manager Eustice answered they did get some monies back, around \$280,000.00, with a residential development. He went on to state the thought process of funding some

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of it whether it be through the Township or the City and the external benefits that the City and the Township are going to gain because of that. It's 250 jobs, not all new jobs but there will be some new jobs; and we have in the City of Cheboygan a large inventory of housing that could benefit from it, as people that have these new jobs will be able to buy homes instead of renting. It is hard to measure these kind of things but this is typically what can happen. Councilwoman Kwiatkowski commented Meijer's is very good to the communities they move into. City Manager Eustice stated they are and are good partners. Mayor Bronson said he thinks they have not explained what's involved with the two choices to go out to the VFW or out to M-33, which would involve us taking over management and control of their sewer system. City Manager Eustice added the Township's sewer system has 2.5 million dollars of debt, so we would have to assume that debt. Councilwoman Kwiatkowski asked why this is being brought up. Mayor Bronson responded DPW Director Karmol has done figures and we think we can handle that debt because then we would also have the revenue from property taxes from that entire area and water and sewer revenue. DPW Director Karmol stated what they are trying to set up is that with a USA the City will not be involved, they will pay no subsidy and it would be a complete Township project. Under a USA when it becomes a City property then we need to provide utilities there, but once we are in the utility business in the Township and the Township is struggling to manage their own utilities, we gave them some options to get out of the sewer business, as well. We gave them the option to get rid of half of the sewer district, or the whole sewer district, so they do have an option of getting out of the utility business; and the same people who are hooked up to utilities would now be City taxpayers. With each of these 425s it requires the homeowner to sign off, where in this case the 425 requires Meijer's to sign off. Yes, there will be a lot of negotiation but we gave them the option if they don't want to be in the utility business then we have options to get them out of the sewer. The 2.5 million dollars we are able to borrow at very low interest on that debt and we could also structure it the same way we do for our City sewer and City water customers at a lower rate. They would be paying a higher millage but the utilities would be more reasonable.

Mayor Bronson asked City Attorney Stephen Lindsay to explain some of the changes in the 425 Agreement that gets us away from what is called the fifth generation rather than the 4 partial documents that we have had over the years about managing sewer out there. City Attorney Lindsay explained the sewer district when created in 2002 had some parts and pieces in it and 3 subsequent amendments that are anti-development in regard to the City of Cheboygan. One was a provision that there would be no annexation of Township land during the term of the agreement. There was an agreement that the Township would have a right of first refusal for any excess sewage treatment capacity. Before we could offer sewage treatment to Benton or Beaugrand or anybody else, we would have to first present it to Inverness, who may not have any need for it, but who could buy it and lock up development to the east and west. We are trying to eliminate those anti-development provisions in those now 4 documents that are comprising the existing sewer agreement. Also we wanted to clarify those four documents. He has done a memo which masks them all together with all their amendments so it's readable. City Attorney Lindsay went on to state there was about 7 months spent working on the USA with the Township before they abandoned that last February and went to a 425. DPW Director's Karmol has been quick to respond to any questions. City Attorney Lindsay said the water/sewer agreement was hammered out 99.99% with the Township as of February 20 when the Township turned to the 425. We have pulled the water part out and now it is a Sewer Utility Agreement between the City and the Township which would govern the sewer district going into the future and they made the Township adoption of that in the 425 mandatory. We are saying we need to get of those 4 documents (original agreement and 3 amendments) and enter into a new sewer service agreement. Payment term and debt service term is all the same. He just made it readable and quite condensed. Within the 425 Agreement we are requiring that other agreements must be reached,

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referencing paragraph 19 on page 5 and reading the same and explaining it. We want the Township to acknowledge a direct contract between the City and Township rather than for provision of utilities. The City need not seek Township approval. City Attorney Lindsay commented on The Brook, being ½ mile from the Township sewer district so they approached the City and asked what the cost would be for City water/sewer. Of course, it was paying for the pipe and 1 ½ times the City rates. The Township took real offense at that and it comes up again and again and also during Walmart and Huron Estates 425 re-writes. It came up in discussion of a USA. He personally cannot understand the Township's position because it was a new building (City Manager Eustice noting it is probably a 1.5 million dollar facility) and they have them paying the Township taxes and didn't have to do a thing and the only reason it is there is because the City provided water and sewer. It is still in their contract and not subject to a 425 and is a win-win for everybody around, we are expanding our utility services and they are getting taxes on the building. It has become such a bone of contention he wanted to eliminate that for the future and never have that discussion again. Part C is: "The prior or contemporaneous execution of a Development Agreement from Meijer, Inc." He noted the City has not reached an agreement with Meijer and have not heard back from Meijer and we don't know what that final agreement may look like. He would like to have Mr. Chris Jones call City Manager Eustice and say they will pay for the pipe; however, the next question is who is going to pay for annual maintenance and this is why we are looking at 11 parcels instead of 2. Two will not generate a positive revenue stream for the City on property taxes alone, even without sharing with the Township. The annual estimated cost to maintain the line is \$22,000.00 with the cost increasing each year. City Attorney Lindsay stated why are we saying no the Township's motion of offering 2 parcels, which are the store parcels and which are not in the sewer district in the 425 Agreement? We are saying no that because the City is not going to subsidize that development because there will not be a positive revenue stream back to the City; it will be a negative revenue stream out of the City. We are trying to strike a balance. The more land that is included in the 425 the more property taxes could be collected, the greater the likelihood there would be a positive revenue stream and as the City Manager has pointed out when the City has reached a point, whenever that might be – first year or tenth year – a positive revenue stream then would have millage sharing. The whole sewer district we thought was a good idea in that we now have control over and it would be easier to maintain. From the Township end we thought it would be attractive because it would get them out of the utility business, because they were turning toward the utility business with the sewer district. They were starting to complete that turn by being a water provider with the USA. The other option is to take everything from the highway west, Townline east and VFW north. That concept is rooted in the idea that to really develop that site, and that seems to be where development is going and probably the most attractive development site in the County (that corridor), was to pipeline to Meijer's (8 inch line) – you can't add much more to that flow capacity because Meijer's need a minimum gallon per minute flow capacity for fire suppression. So it's like a one-trip pony; one shot out and that's where the system stops. Ideally if there had been a 12 inch line along the highway when the sewer district was put in, had the pipe laid, seal it, and wait for the day of water need. That would have been very cheap to accomplish once the ditch was open. We are opening the door to a looped system that would serve parcels all the way over to Townline, on VFW, and come all the way back. DPW Director Karmol is a big fan of looped systems because it makes his job of ensuring pure water much easier. He really has to hand it to him for looking out for the City; most people don't realize that the water and sewer service, primarily water, is the City's biggest investment. The Plant and pipes is where our most value is, where our most money is, and where our most expense is. City Government has been successful in providing drinking water every day, several times day. It is important that this infrastructure be funded, be improved, be built adequately and maintained well. He is hoping the Township will take a very, very hard look at those options other than the 11 Meijer's parcels. City Attorney Lindsay then

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commented the 11 Meijer's parcels is as low as the City can go. He stated those are the essential pieces of paragraph 19, sections C, D, F & G. He then noted that F & G deal with the Township providing sanitary sewer service and the City and Meijer's ability to contract directly without Township involvement, such as The Brook contract. There is a little work to be done in tweaking the 425 Agreement once the City hears back from Meijer; hopefully, Meijer's will just say they will pay for it all. He thinks it is important to get this document out. As a Sub-Committee working on the USA over months, the City Attorney noted he had over 120 hours into it, and knows that the City Manager and DPW Director exceeded that, and it went nowhere and was a waste of time. City Attorney Lindsay stated he does not think it is wise for the City to waste any more time. He went on to state Mr. Chris Jones talked about October 2017 for the 425 Agreement to be in place. This is not the time to pass this back and forth to Committee. He thinks Council needs to take a hard look at this document, hopefully approve it for transition to the Township, and if the Township wants to negotiate it any more or argue about it, have them come back to Council. Let's have all Council here so that decisions can be made quickly and on the spot. Everyone can hear the arguments and everybody can hear the responses and then Council will decide and shave an awful lot of wasted time off the equation. City Attorney Lindsay then commented for him October is around the corner and is a small amount of time in his profession.

City Manager Eustice commented in our Sub-Committee conference call with Mr. Chris Jones in March, Meijer's was okay with the two parcel situation, but they preferred all 11 to be in a 425 Agreement. That is how we arrived at the 11 parcels. Also, the maximum amount of years that you can enter into a 425 Agreement is 50 years; the original 425 that the Township looked at was about 25 years because that is how many years they had left on their debt. The 50 years was also Meijer's suggestion because they preferred that to be the length of this agreement. Those two situations – 11 parcels and the 50 years are really a request from Meijer's. Mayor Bronson commented during their Sub-Committee meetings with the Township, a statement that DPW Director Karmol made really made sense which was why the 2 parcels are not a viable option. He asked them if they wanted to be in the water business or not because with the taking of 2 parcels and keeping 9 then the City is in the water business and the Township is, too. And if they don't want to be in the water business then we need to have all 11. DPW Director Karmol added that if we divide the parcels in anyway, we just subsidized the City line out to a new Township border and wants the Council to think about it that way. For 2 parcels we would have funded a line out to the Township and added them as City property and would have a new Township border that they are going to tap off of. They still need a USA, but, of course, they wanted us to build a one-half mile line and tap the restaurant and gas station off of it. So that is why we want all the parcels that we serve water to and we want every new water customer to be a 425, making it City provided services.

Councilman King said from reading through the 425 Agreement he does like it as far as protecting the City and likes the idea that we are talking beyond just this area and then in favor of a loop. If you talk about the time put into agreements he does not think it was completely in vain because he thinks it helped get some clarity to this new document in front of Council now. He does like a lot of the language being cleaned up. When reviewing the 425 Agreement with the Walmart situation it seemed to like really clash at each other, all four of those agreements. He then asked if there was a loop would the businesses that are currently on wells, do they have to go over to the City provided water system. DPW Director Karmol answered the easiest way, now that the Township already has a sewer system in place, is to take every new water customer and have them do a 425, as a willingness that they want a City water service. They take on the taxes and do a subsequent 425 in an effort to serve water out there. The other problem with just a small parcel is that if the whole sewer district, all the way down to

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Pier 33, was in a 425, he could plan the water system out the day after it's passed. With just those parcels he can't plan beyond the parcels that we are given. The reason he has said all this is that the well people, if he has to run a watermain in front of their property, he will have to 425. We are going to leave it up to Council to decide if there will be mandatory hook-up or not. When we run that watermain he will ask Council for guidance on that; if it's a mandatory hook-up then those people with the wells will hook to City water. At this time he does not recommend it because we already have a City policy that allows people to run their wells until they are done; when the well is done then they hook up to City water. But you have that choice when you run a watermain to connect everybody in order to help pay that watermain back. Mayor Bronson stated there was some analysis about there would be advantages for businesses to be in a 425 and pay City taxes, i.e. their sewage rates would go down and also they would then be eligible for lower insurance rates because of the City fire and police. The analysis that when property taxes go up there is going to be some balance in there because other fees that you pay are going to go down.

Councilwoman Riddle asked in the monies that the City would generate from the parcels, if any of that is being held for upgrades in the waste treatment plant that probably is going to be necessary in the future. DPW Director Karmol stated that is basically part of it and one of the reasons he can't propose rates that are balanced until he knows what we are into with the Meijer's project. With it being City land, and a 425 makes it City land for 50 years, we can plan and build out a system on that property. We can also include it in our water loan for other items, such as a tower and the other watermain. That water line could be paid for over 40 years if we had a 425 agreement and it would be subject to low interest because it is on City property. The Township would not be afforded the same interest rate that the City would because it would be Township property. Councilwoman Riddle commented so we are also looking toward the future and what is necessary for the waste treatment plant. DPW Director Karmol replied yes. DPW Director Karmol stated whenever that becomes City property and if that whole parcel were City property, it would be the same as Meijer's building out near Butler, as the utilities still have to get out there. We still have to make concessions for the business to get the utilities. Even if somebody built on Lafayette, we would still have to look at the expenses of putting that facility in and how much the City taxpayers are going to have to pay. In our tap fees, we are losing money now for people that hook up. With all that said, we are going to try to make sure that all of our fees are wrapped up into our new rates so that they are self-sufficient and by doing that we need to know how much debt we need to take on and make this happen for a 425. Clerk/Treasurer Kwiatkowski asked if DPW Director Karmol is saying throughout this entire process, there would be different rates depending on if you are in the Township or the City and that rates will be adjusted in the Township to pay for future infrastructure and it will not affect the rates in the City. DPW Director Karmol replied under a 425 Agreement the rates will affect everybody in the City and everybody in the 425. Clerk/Treasurer Kwiatkowski then stated if we build infrastructure out there and we do water revenue bonds, DPW Director Karmol is saying not only would the rates go up in the Township to support that debt, they would also go up in the City. DPW Director Karmol replied correct. Councilwoman Kwiatkowski said the rates are going to go up in the City anyway. DPW Director Karmol answered yes, noting the City rates have to go up about \$8.00 just to get grant qualification. Councilwoman Kwiatkowski then mentioned there is also the \$5.00 ready-to-serve fee. DPW Director Karmol informed Council they are already looking at 6 million dollars in improvements to the water system, so if we are going to expand he wants to know now and plan to have everything built in and self-sufficient in the rates. Councilwoman Riddle stated she has a problem with this project to get the line out to Inverness Township, she does not want it to be at the expense of the City residents. For the lines that are in the City and for what is typically there now, but for things going to Inverness she does not think City residents should have to have any additional expense. DPW Director Karmol stated

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there are going to be 8 watermains on those proposed projects and it is only affecting 40% of City residents, so it is other City residents that won't have a watermain project in front of them that can say the same thing to that affect. He cannot replace all the lines in the City and cannot even tell Council who eventually will benefit, depending on the water situation, with a tower across the River, which is a couple million dollar investment in the City that depending on where you are there is no pressure benefit if you are closer to the current tower. He tries to make the best compromise by eliminating the weakest link in the water system, but it is not going to affect everybody. Some of those people that don't have a project are going to have to pay higher water rates to make the system better. It is an imperfect system and he can't charge the people that have old watermains less than the people that have new watermains. Councilwoman Riddle stated right, but in their turn watermains will come. She went on to state with a 425 basically that portion of Inverness is part of the City for taxes. DPW Director Karmol replied correct, stating we are investing in City property for a term of 50 years and then this 425 document, and at the end of that 50 years, if the Township would like to purchase that line back, they have to purchase it back at its appreciated value. So the City has an investment in there that is worth money in the ground that Inverness has to pay the City money back if it were ever attempted to be taken away from them. Councilwoman Riddle said at the end of 50 years if they want to purchase the line, then that money would go back into the wastewater area so that would come back to the City, so it is an investment in the future, it's not a drain on the City residents. DPW Karmol replied correct. Mayor Bronson asked in a 425 do those citizens become citizens of the City and vote. City Attorney Lindsay responded fortunately the 425 Agreement expressly provides that they shall be City citizens in all respects and in particular for voting and census purposes. Clerk/Treasurer Kwiatkowski commented in the last 425 extension, those people that were formerly voters in the City of Cheboygan are now voters in the Township. City Manager Eustice clarified that is why City Attorney Lindsay has written it into this Agreement. It really is language that should have never been in there and you shouldn't put into a 425 land lease agreement where people can vote. He has not gotten a solid decision on where it is unconstitutional, but he feels it is.

Councilman Lavender referred to page 3 of the Agreement, No. 5 that talks about the millage levied, stating his concern is that it is very vague as to when and if the Township will receive any millage revenue from the City. He then read, "up to the point the City realizes a positive net revenue stream after taking into consideration all costs incurred by the City initially and annually." He asked if this means the entire City operation. City Attorney Lindsay answered it is limited to those expenses associated with a 425 and that would be if the City gets involved in any financial assistance for the original build-out and his concern on top of that is the now \$22,000.00 annual operation and maintenance, which will go up in time and also the system aging over 50 years. There will be repairs and grinders & pumps are going to break down. City Attorney Lindsay went on to state he is not saying this couldn't be changed; for example, the concept is that on an annual basis the City will say we started out putting in \$100.00, now here is another \$50.00 in maintenance, which is \$150.00 per year. What did we get for revenue; \$160.00, so there is a \$10.00 positive net revenue stream and the \$10.00 would be shared. That number will be anywhere from \$22,000.00 and up. Clerk/Treasurer Kwiatkowski asked City Attorney Lindsay if he thought the Township would make the argument whatever we get as far as taxes go is general fund revenue; now you have expenses for the build-out, expenses for maintaining the water and sewer lines and the argument that may be able to be made is well that doesn't affect the general fund, and that is where we are looking for the three mills, the general fund and not from the water and sewer. City Attorney Lindsay responded he would refer to the Clerk/Treasurer on this, with City Manager Eustice stated that is a valid point and he thought of the same thing and thinks it has to be looked at as all expenses related to that property, whether it be water and sewer enterprise accounts or police, fire, and general fund expenses. You have to weigh all of



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those expenses related to that property to determine whether you have a net positive gain before we can share millage with them. DPW Director Karmol stated with this being City property and the City providing all the services, he would like to hear their argument to get any millage. Councilman Lavender stated he will preface this by going to Township meetings, there was always the intent of the Inverness Township Supervisor to have a cooperative working relationship with the City moving forward on this and he has concerns with all the contingencies we built in, not that he feels they are bad contingencies for the City, but his concern is that we are trying to group all these things specific to the Meijer's agreement and that all these contingencies are going to be a huge roadblock in further negotiations with the Township. Mayor Bronson inquired as to what negotiations. Councilman Lavender replied any further 425s, asking if this is kind of a take or leave it for the Township. Mayor Bronson responded yes because ever since he has been on the Council we have been negotiating with the Township and if we present this for your response we will be sitting here a year from now with it going back and forth. Councilman King commented to take Meijer out of the equation completely, he still thinks if that falls through, and he hopes it wouldn't. Other things will happen in that area and that is the direction this is going. If we can have something even without Meijer in there that would expand this and get this done and not have to constantly go back and rehash these things, we started this four years ago on the renewal and both parties, Inverness and the City, we need to do this for the future expansion. We just can't keep shelving it and then try and come back and hash this out. He commented on the hours that have been put in and the competent people on our staff have done a ton of work to see this come through and if he were sitting in Inverness Township's shoes he would be thanking us for the sincerity on this now and it can be a step forward and beneficial to not just to our two parties but to the entire County, as well. Take Meijer out and look at other things that could come, which may not be that large scale but it is still something. Councilwoman Kwiatkowski commented she doesn't think these things shouldn't be done, but has concerns with moving this through the Township. City Manager Eustice replied he understands because there is language in the 425 from their side of the fence that are deal breakers and believes that, too. But we are going to present it to them as basically if they want a Meijer's store in Cheboygan County this is the way you have to do it and this is what we have to have to get that done. Councilwoman Riddle stated as City Attorney Lindsay said the water and sewer are major investments that we are offering to share with Inverness Township. City Manager Eustice commented that is a very good point and they have discussed that and have millions of dollars into our water and wastewater system that has been in place for 120 years. You just don't extend it into a different municipality without having some respect for the monies the City has invested into the infrastructure. If Inverness wants to grow and help the County and school system grow, this is how you do it. City Attorney Lindsay stated what he appreciates about the City's Sub-Committee is that they are very forward looking and looking not just at a limited amount of time or limited area to benefit a limited number of people. They are thinking community wide. Most of the Township's roadblock deal killers are particular to the Township. We are looking out beyond the Township and would like to spread east, west and south. A lot of this language has already been hammered out in the USA so there is not that much new in here and shouldn't be a big problem and if it is, we can go back to the USA with the Township getting into the water provider business, which would not involve any City dollars, at all. It would be a limited vision option because then Meijer's is only going to do an 8 inch pipe to serve a limited number of properties – it will not allow for future expansion and the kind of looping we would like to see and it's going to require 425 Agreements or other agreements to connect literally from 2 parcels in the 425 proposal from the Township to cross that paper thin line to the other 9 parcels. It is really making a simple equation complicated and this is an attempt to un-complicate what's been out there and get it to where it should be.

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Councilwoman Riddle asked if we have a date by which we need to receive a response. City Manager Eustice replied no, other than Mayor Bronson mentioned that they do have a meeting on the first Tuesday in June and it is certainly going to be the topic of discussion at that meeting. If Council wants to set a date specific where they need to respond to us we can request that. City Attorney Lindsay stated his only concern about a date would be the October date Meijer has mentioned and also a timeframe in which DPW Director Karmol will start planning the system and loan structures. Councilwoman Riddle commented she was thinking the end of July or first part of August, and that would give two months until October. Councilman Temple stated he does not think we should give them that much time. City Attorney Lindsay added all this has been discussed, essentially over the Walmart 425 and working through the USA, noting there aren't any surprises in the agreement. There are some disappointments from the Township's perspective. Councilwoman Riddle asked if the City Attorney thinks they don't need two meetings; they have one meeting a month. Councilman Temple stated we had a special meeting and is sure they can do that, too. Councilman Lavender inquired on the three options as far as the boundaries of the 425 agreement, is that what we are leaving up to Inverness Township to pick. City Manager Eustice replied we are in that respect. Mayor Bronson clarified there are three boundaries for consideration or the USA. Councilwoman Riddle commented there are four possible options and we could work with any one of those four. DPW Director Karmol responded correct, adding that the City should have their own deadline and he is thinking sometime late August if we don't have a USA or a 425, he has a plan C ready, but nobody is going to like it. He stated he is just telling the Council the deadline he has in his head that by August if they have not picked an option, there is a plan C which will not take much time to get that one worked out, but thinks we should pursue it instead of letting Meijer's date slip by. Councilman Temple suggested going no later than the middle of July. Councilwoman Riddle suggested a June 22 deadline. Councilman Lavender asked if we would still have to have a public hearing for the actual 425. City Manager Eustice replied both the City and Township will. Councilman Temple stated this has been moving too slow and is afraid that the end of October will be here before we know it. Councilwoman Kwiatkowski asked about Friday, June 30. Councilwoman Riddle stated we should have the deadline previous to our second Council meeting in June so we can address it. Clerk/Treasurer Kwiatkowski stated the second Council meeting in June is June 27. Councilwoman Riddle stated we need to have it back to place it on that agenda. Mayor Bronson stated that is fine with him. Clerk/Treasurer Kwiatkowski suggested we have a deadline of June 22 because we are putting together a Council agenda that as to be firmed up on Friday.

Councilman King moved to approve the language and content of the 425 Agreement presented to the City Council by the Meijer's 425 Sub-Committee with the only option for Inverness Township to decide what are the boundaries, and if approved by City Council, a copy of that Agreement to be presented to the Inverness Township Board no later than 12:00 p.m., May 31, 2017 with a response deadline set for June 22, 2017; supported by Councilwoman Kwiatkowski. A roll call vote was taken; motion carried unanimously.

### **Public Comments:**

Mr. Ray Lofgren commended the City Council for moving and putting a closed deadline. If they don't understand it they better learn to understand it real quick. He also commented the overall affect in the pocketbook to the citizens of the Township are no different than what they are today, tomorrow or 20 years from now.

Councilwoman Kwiatkowski thanked the Sub-Committee who put this together so quickly and called a meeting.

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**Adjournment:**

Councilman King moved to adjourn the meeting at 6:30 p.m.; supported by Councilman Temple. Motion carried unanimously.

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Mayor Mark C. Bronson

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Clerk/Treasurer Kenneth J. Kwiatkowski

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Councilman Joseph Lavender

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Councilwoman Winifred L. Riddle

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Councilman Vaughn Temple

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Councilman Nathan H. King

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Mayor Pro Tem Nicholas C. Couture

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Councilwoman Betty A. Kwiatkowski