

SPECIAL CITY COUNCIL MEETING

November 15, 2022

The Special City Council meeting was called to order by Mayor Tebo in the Council Chambers at City Hall at 7:00 p.m.

Roll Call:

Present: Kwiatkowski, Tebo, Raab, Mallory, Darling, Mills and Bedwin.

Absent:

Approval of Agenda and Receive and File all Communications:

- Councilwoman Mills moved to approve the agenda and receive and file all communications. Seconded by Councilwoman Darling. Motion carried unanimously.

Resolutions:

- Resolution for the City to be Participant Provider in MSHDA Homeowner Assistance Fund.
 - City Manager Sabolsky explained that this is a program established by the State of Michigan in order to help people pay their mortgages, utilities, etc. If we are a participant, our residents can access this program and get help if needed. It does not cost us anything.
 - Councilman Bedwin asked if there is a role we play as the municipality. Do we need to provide anything?
 - Sabolsky said for example, if someone was behind on their utilities, we would have to provide documentation for MSHDA.
 - Councilwoman Darling understood that it is a one-time payment of up to \$25,000 per individual, is that correct?
 - Sabolsky responded yes.
 - Councilwoman Mills said from her understanding, we are eligible because we are considered a provider since we provide water and sewer.
 - Councilman Mallory moved to authorize the City Manager to enter into a contract with MSHDA to be a Participant Provider in the Michigan Homeowner Assistance Fund. Seconded by Councilman Kwiatkowski. A roll call vote was taken, motion carried unanimously.
- Resolution of Authorization for Risk Reduction Grant Program Application and Local Match.
 - Executive Assistant Clear explained that the Michigan Township Participation Plan is our liability insurance provider and they have multiple risk reduction grant cycles. Asking them to help purchase things that can reduce your risk of liability claims. Fire Chief Dailey thought that back-up safety cameras would really help in the fire department because they are currently operating without any back-up cameras and they have to have firefighters out behind the fire trucks directing so they can keep people, property, etc. safe.

- Councilwoman Raab moved to authorize submission of a Risk Reduction Grant Program application through the Michigan Township Participating Plan for \$1,543.96, and a local match of \$1,000.00 to back-up camera systems for the City of Cheboygan Fire Department. Seconded by Councilman Mallory. a roll call vote was taken, motion carried unanimously.

General Business:

- Appointment of Mayor Pro Tem.
 - Councilwoman Mills moved to appoint Councilman Mallory as Mayor Pro Tem. Seconded by Councilwoman Darling. Motion carried unanimously.
- Maintenance and Upkeep of the Cheboygan Crib Light.
 - Sabolsky said he has been working with Noreen Keating and the Cheboygan Community Foundation on a number of projects. They would like to adopt the Crib Light to make improvements, paint it and maintain it. Sabolsky is recommending to allow him to enter into an agreement so that the Cheboygan Community Foundation can take care of the Crib Light.
 - Mayor Pro Tem Mallory asked about the entry signs the Foundation was working on with the City.
 - Sabolsky stated that that was still in the works. The Crib Light is something the Cheboygan Community Foundation can accomplish now.
 - Councilman Kwiatkowski moved to authorize the City Manager to enter into an agreement with the Cheboygan Community Foundation to adopt the Cheboygan Crib Light at the mouth of the Cheboygan River. Seconded by Mayor Pro Tem Mallory. A roll call vote was taken, motion carried unanimously.
- Emergency Repairs at Structure B at Golf Course.
 - Sabolsky explained that we hired an engineer, and that engineer went inside the pipes and gave us some recommendations and expressed some concerns. There are a couple cracks in there that come spring time, when the pressure behind the dam gets high enough, water shoots about 50 feet into the air. Another issue we run into is that it is not on our property. There is the question of are we truly responsible for it? If that dam lets go, the water will be in the City limits. If we go in and fix it, it will safe guard the community from being under water. We don't know if the dam will let go. We know the dam is damaged and we know there are issues. We are on EGLE's list of structures that are in serious condition. Sabolsky did talk to Bud Ormsbee and the Soil and Conservation District. Sabolsky thinks that they have some money that they can put into this with us in order to move forward. Sabolsky is hoping the weather will hold out in order to get this repair done.
 - Councilman Kwiatkowski asked why isn't the Township participating in this.
 - Sabolsky said because they think it is the City's responsibility. Sabolsky is concerned that if the dam lets go, the City will be paying for it. He doesn't like being in this position, but we have to handle it.
 - Mayor Pro Tem Mallory asked how serious of a fix this would be.
 - Sabolsky explained the process of replacing the pipe and fixing it.

- Councilman Kwiatkowski shared that he doesn't agree with spending the money when we have documents proving that past agreements about the dam have lapsed and the Township won't take responsibility.
- Mayor Pro Tem Mallory and Mayor Tebo discussed how they do not want the whole west side of the City to be under water.
- Sabolsky said on EGLE's website, we are listed as the owner of the dam.
- Sabolsky said that with Tip of the Mitt Watershed, we are trying to track down the owner of the dam. Most of the parties involved are interested in forming a drainage district. If we can set that up, it helps drain 17,000 acres of land in the City and two Townships.
- Councilwoman Darling said that we can't just push this off because pushing problems off is how we got into the trouble we are in with our infrastructure.
- Mayor Pro Tem Mallory commented that this is different because it may not even be our responsibility to fix, where infrastructure is, but he sees Councilwoman Darling's point.
- Councilman Bedwin commented that the dam may be out there but the water will end up here if it breaks.
- Mayor Tebo says he would rather get the dam fixed now than spend even more money if the dam breaks and floods the City. Get it fixed now and worry about who is responsible later.
- Councilwoman Mills said that a lot of significant people were at the dam that day and we are working together to get money and grants to fix this problem.
- Mayor Pro Tem Mallory moved to authorize the City Manager to spend up to \$30,000 to complete emergency repairs to Structure B on the Little Black River Watershed (at Golf Course). Seconded by Councilwoman Mills. A roll call vote was taken, motion carried unanimously.
- Wastewater Rate Review Contract.
 - Karmol, Clear, Lindsay and Sabolsky have been talking with an individual from Utility Financial Solutions. We have a proposal that we sent out to Council to look at. We had a free rate study done and that is what we used to set our new rates. As we move forward and with the potential chance that we may end up in litigation, the free rate studies cannot be used in the courts. What we are trying to do is have someone come in, look at our current contract and evaluate our contract. They will also look at how we should structure the new contract but also reexamine our rate study to certify that what we did prior was sufficient.
 - Councilwoman Raab asked what a wastewater rate review is.
 - Sabolsky said they go through all the documents that are used in this process. In that process, we look at everything from employees, trucks, valves and everything else that goes into running our system.
 - Councilman Kwiatkowski said that this pertains to Inverness Township. This is basically a forensic audit. If we have to go to court with them over our billings and water rate increase, we need this review.
 - Councilwoman Mills wanted to note the price of \$16,500; they are doing most of the work remotely so if they have to come here for any reason, there are additional costs

- like for lodging, travel, etc. Councilwoman Mills noted that on page 4, it states “Township” and it needs to state “City”.
- Councilman Kwiatkowski moved to authorize the City Manager to enter into contract with Utility Financial Solutions for Wastewater Rate Review in an amount not to exceed \$16,500. Seconded by Councilwoman Mills. Ayes from Councilwoman Mills, Councilman Kwiatkowski, Councilwoman Darling, Mayor Pro Tem Mallory, Mayor Tebo and Councilman Bedwin. Nays from Councilwoman Raab. Motion carried.
 - Appointments to the Cheboygan Housing Commission (Councilwoman Mills and Councilman Bedwin request). Upon recommendations of Douglas Cordon, Director of Public Housing (Detroit HUD Field Office), the City Council will recommend to the City Manager to appoint five members to the Cheboygan Housing Authority including one that meets resident/participant requirement of MI Public Act No. 18 (1933) with appropriately staggered terms.
 - Councilman Bedwin stated that it turns out that the Housing Commission is an entity whose oversight is supposed to come from Council. They receive their funding from the national government through Housing and Urban Development (HUD), through state law that enables them to exist. An ordinance was passed back in the 60’s giving us the authority to create the Housing Commission. Housing Commissioners are appointed by City Managers under Michigan’s state law; specifically Act No. 18 (1933). A provision of that law states that for Housing Commissions with less than 250 residents, at least one member of the commission needs to be a resident. There is an exception; if you notify everyone via written notice there is an opening on the commission and wait 60 days before appointing someone else on the commission that is not a resident. After the passing of Mr. Keating and there was an opening on the commission, Sabolsky learned that he has the authority for appointment to the Housing Commission. The problem that arose was, the Housing Commission would seek applications, review them and appoint someone, and then City Managers would sign a letter and swear them in. Councilman Bedwin isn’t trying to blame anyone; he believes it was just people not knowing the law. When the law was brought up in the summer that Sabolsky has appointing authority and Councilman Bedwin discovered you have to have a resident on the commission, it created a lot of conflict. We discovered for at least the last 5 years, every time there was a commissioner opening, no effort was made to provide an opportunity for the residents to apply. Because of that, while no one intentionally violated the law, the current members of the Housing Commission are not properly appointed according to State law. When Sabolsky pointed that out to Douglas Cordon, Director of Public Housing (Detroit HUD Field Office), he said that we need to appoint members of our commission and that is why we have two motions here. The first being the motion to remove the current 3 members and then for Sabolsky to appoint 5 members.
 - Councilwoman Mills added that we are just trying to make sure everything is done right and in the correct legal matter. If we are ever taken to a court of law or litigated under any kind of issue, we could come out on the wrong side if it is not done right. By removing the 3 current commissioners, we start with a clean slate. Then we appoint 5 new members with the appropriate terms.
 - Councilwoman Raab commented that this law goes back to 1933. Councilwoman Raab stated that they are looking at the people that have been appointed over the last few

years and that it is being implied that what has been done has not been done legally. The City has been operating under the premise that this is what's done and has been done for 80 some years, and now we are finding out that maybe the last 30 years it hasn't been done properly because of the Housing Commission not knowing that there is to be a resident on the commission. Councilwoman Raab said that she is not comfortable kicking those current commissioners off the commission and appointing 5 new commissioners. Councilwoman Raab commented that she doesn't know who those people are, she does not have names of the people and Council has to approve Sabolsky's recommended appointments.

- Councilwoman Mills and Mayor Tebo told Councilwoman Raab that that is not true and Sabolsky has the sole authority to appoint people.
- Sabolsky stated that he has the sole authority to appoint people to the Housing Commission.
- Councilwoman Raab asked why he is bringing this in front of Council.
- Sabolsky responded that he cannot let people go off the commission, only Council can do that.
- Councilwoman Raab asked what is wrong with the current commissioners that are on the commission; if we are going to base it solely on a law from 85 years ago? Because the commission acted on not knowing that there needed to be a resident on the commission. Now suddenly, out of all this time, we are finding out that we needed to have a resident. Is there any proof that notice wasn't sent out to residents of the housing? That no resident responded? Is there any proof that the law was followed or not followed? As a Councilwoman, she wants to know this information. If the 3 commissioners are let go, there is no longer a Housing Commission. Their meeting scheduled for tomorrow is cancelled because they won't have a quorum because there is no commission. Councilwoman Raab asked that Sabolsky can appoint 5 new people without giving Council their information?
- Councilwoman Mills responded that yes, he can.
- Councilwoman Raab commented that she is not used to that because every other commission in the City, every appointment comes in front of the Council for approval.
- Mayor Tebo said that this a Federal law, not a law made by the City.
- Sabolsky commented that this is Federal and State law.
- Councilwoman Raab understands that this is different than City commissions.
- Mayor Tebo said that now that we know that the law has unknowingly been broken, it cannot be ignored. Things have to be corrected and made right. If we do not do this, someone from Lansing or higher government could come and reprimand us for not fixing the problem.
- Councilwoman Raab said she understands that we have been doing it wrong, and that if we make it right, we are okay. Councilwoman Raab cannot believe that in over 80 years, HUD has not come in to audit our books, audit the Housing Commission, and they didn't recognize that we weren't doing things properly. She finds that difficult to comprehend.
- Sabolsky said that he was asked to appoint someone to the one seat. If he knows that none of the seats were done in the right way, they were asking Sabolsky to violate State law. He cannot knowingly violate State law. The Director of HUD told Sabolsky to

appoint people, stagger their terms, and follow the Michigan State law by having a resident from the housing on the commission. That is what they are doing today. There is a person in the audience today at the meeting that is a resident of the housing. She did not receive a letter from the Housing Commission regarding the opening so Sabolsky had to send her a letter to let her know that this was an option. He has evidence that he followed the procedure properly. This is Federal money; it needs to be handled properly.

- Councilwoman Mills said that the Housing Commission is ready to spend millions of dollars in this redevelopment and we have to make sure everything is done correctly. By the recommendation from HUD, they said that Sabolsky needs to appoint the 5 members.
- Sabolsky said that we also found out that other employees that are employed by the Housing Authority, he has to approve those as well. We are finding things that we need to fix to the best of our ability if we want to move forward.
- Councilman Bedwin said that he attended Housing Commission meetings and listened. Then he went home and read Federal, State and local documents, plus the Housing Commissions by-laws and their minutes for the last year. The goal tonight was to come in, remove them from the commission because they were not properly appointed and allow Sabolsky to appoint others. For the reputations of the commissioners and the Executive Director, Councilman Bedwin doesn't want to go into the other problems that have popped up. We need to appoint new commissioners, properly train them on their duties and responsibilities and let them go from there. We need to seat a legitimate commission.
- Mayor Pro Tem Mallory noted that this makes sense.
- Councilwoman Raab said that what they are saying is the commission, previous commissions, etc. didn't recognize the law and or didn't realize this was a law and everything and anything they have done up to this point is invalid. That's what is being implied.
- Sabolsky said could be invalid.
- Council members talking over one another.
- Sabolsky said it could be. If it was challenged in a court of law, it could be. Are we saying 100%, yes? No, we are saying it could be. Let's fix the problem so that we know going forward, when decisions are made, they are made by properly appointed commissioners on that board. Sabolsky said if commissioners know they are breaking the law and keep going forward breaking the law, there is a problem.
- Councilwoman Raab asked how do you prove that? She understands what Sabolsky is saying.
- Councilman Bedwin said that he has a 15-page report.
- Mayor Tebo said nobody is blaming anybody. We are trying to fix the problem.
- Councilwoman Mills stated that the problem needs to be fixed. She calls the question.
- Sabolsky stated that we had employees, and commissioners say that they did not notify residents of the housing regarding the opening.
- Mayor Tebo stated that he is calling for the question. It has been explained thoroughly.

- Councilwoman Darling moved for the City Manager to remove the three existing board members of Cheboygan Housing Authority due to their recommended appointments by previous officials, violating MI Public Act. No. 18 (1933). Seconded by Councilman Kwiatkowski. A roll call vote was taken. Ayes from Councilwoman Darling, Councilwoman Mills, Councilman Kwiatkowski, Mayor Pro Tem Mallory, Mayor Tebo, Councilman Bedwin. Nays from Councilwoman Raab. Motion carried.
- Councilwoman Mills moved to recommend to the City Manager to appoint five members with appropriate staggered terms to Cheboygan Housing Authority including one that meets resident/participant requirement of MI Public Act. No. 18 (1933). Seconded by Councilman Bedwin. A rollcall vote was taken. Ayes from Councilwoman Darling, Councilwoman Mills, Councilman Kwiatkowski, Mayor Pro Tem Mallory, Mayor Tebo, Councilman Bedwin. Nays from Councilwoman Raab. Motion carried.
- Appointment to the Zoning Board of Appeals.
 - Mayor Tebo stated that as Mayor he can appoint a Councilmember to the ZBA and he has asked Councilman Kwiatkowski.
 - Councilwoman Raab moved to appoint Councilman Kwiatkowski to the Board of Zoning Appeals effective immediately. Seconded by Councilwoman Darling. Motion carried unanimously.

Public Comments:

- Connie Rieger wanted to thank Council for their thoughtful discussion tonight. Being one of those Housing Commissioners, she hopes nothing but good things for the future commissioners and for everything to smoothly move forward.
- Sabolsky commented that the City Manager's report was removed from the agenda tonight but he wanted to update Council on a few things. We do have two viable candidates that we have interviewed for Police Chief. We are negotiating. We believe one of the candidates will be accepting but we have to get everything in writing. Right now, he will not announce names but this gentleman comes from many years in law enforcement and he is a Deputy Police Chief in a major community. This Thursday, we have candidates for the Treasurer position interviewing.
- Councilwoman Darling asked if the people viable for the resident appointment for the Housing Commission are here tonight, could they meet them?
- Sabolsky introduced Ms. Danielle Griswold.
- Mayor Tebo asked Sabolsky to send a letter out to the current commissioners thanking them for their service on the Housing Commission.
- Mr. Rick Bauers asked regarding the MSHDA assistance. Do they come to City Hall to get help with that?
- Clear said that people can come up to City Hall and ask someone in the office for guidance regarding this.
- Ms. Griswold asked regarding MSHDA; don't they provide classes regarding homebuying and such?
- Clear commented that she is not sure.
- Mr. Bauers commented that there are a lot of beautiful things happening in Cheboygan.

Messages and Communications from Mayor and Council Members:

- Councilwoman Darling asked if it is set in stone that we have to meet at 7:00pm? Can we meet earlier?
- Mayor Tebo commented that he is pretty sure that the Charter states that we meet at 7:00pm.
- Councilwoman Raab commented that the lights on the north end of the Lincoln Bridge are off again.
- Mr. Matt Nedwick asked what the cause was of the power outage.
- Mayor Tebo responded it was the McDonalds. They were trying to get their power hooked up.
- Councilwoman Mills said that she had one item on the Housing Commission. They are on the hunt for an Interim Executive Director. There are a few candidates.
- Councilwoman Raab reported on Historic Resources Commission. The commission would like to ask the City to make a \$50 payment to a State group that would allow them to meet other people with the State for grant opportunities.
- Sabolsky said that was taken care of. Blaskowski should have registered them.
- Mayor Pro Tem reported that the DDA Halloween Trick-or-Treating had a great turnout. December 3rd will be the holiday parade. Also reported on the Coast Guard Christmas Tree ship. Mayor Pro Tem asked if the Water Street bathrooms were fixed.
- Sabolsky said there have been a number of back-ups. Still working on that to get it fixed.
- Mr. Nedwick thanked whoever policed the bathrooms this year because there was far less vandalism this year compared to years before.
- Councilwoman Darling commented that the Parks and Recreation Commission meeting is cancelled for this month.

Adjournment:

- Councilman Kwiatkowski moved to adjourn the meeting at 8:12pm. Seconded by Mayor Pro Tem Mallory. Motion carried unanimously.

Mayor Leslie A. Tebo

Clerk Alyssa Singles

Mayor Pro Tem Brett Mallory

Councilwoman Diane Mills

Councilman Ken Kwiatkowski

Councilwoman Mary Darling

Councilwoman Diane E. Raab

Councilman Adam Bedwin