

CITY OF CHARLEVOIX
REGULAR CITY COUNCIL MEETING MINUTES
Monday, August 17, 2009 — 7:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

The meeting was called to order at 7:00 p.m. by Mayor Norman L. Carlson, Jr.

I. Pledge of Allegiance

II. Roll Call of Members Present

Mayor: Norman L. Carlson, Jr.
Assistant City Attorney: Bryan Graham
City Manager: Rob Straebel
City Clerk: Carol A. Ochs
Members Present: Council members Gabe Campbell, Shane Cole, Dennis Kusina, Jill Picha, Greg Stevens
Absent: Council member Lyle Gennett

III. Inquiry Regarding Possible Conflicts of Interest

None.

IV. Consent Agenda

The following items were approved and filed:

- A. Approval of Minutes – August 3, 2009 Regular Meeting Minutes
- B. Approval of Minutes – August 10, 2009 Special Meeting Minutes
- C. Accounts Payable Check Register – August 3, 2009
- D. Accounts Payable Check Register – August 18, 2009
- E. Tax Disbursement – August 18, 2009
- F. Payroll Check Register – August 7, 2009
- G. Payroll Transmittal – August 7, 2009
- H. Judy Przybylski Final Payroll – August 14, 2009
- I. Payroll Transmittal – August 14, 2009
- J. Certificate of Appreciation – Patricia Miller
The Mayor presented the plaque and thanked Ms. Miller for her service to the City as a member of the Zoning Board of Appeals.

V. Public Hearings

- A. Joint Public Hearing on Earl Young Buildings Historic District Ordinance with the Standing Historic District Study Committee
Chair Mary Adams called the Standing Historic District Study Committee meeting to order at 7:04 p.m.

Members present: Jeannine Wallace, Bob Heath, Mary Adams, Amy Lalewicz, Hugh Mason, Paul Weston, Linda Mason
Members absent: Ken Polakowski, John Campbell

The Mayor asked Chair Adams to review the ordinance for Council and the audience. Ms. Adams stated that the committee was asked to examine the possibility of making a theme district out of the Earl Young structures. The report has been submitted to Council and the State. The State feels it would be a desirable district for preserving the history of the unique structures. Ms. Adams stated that there are property owners that are adamantly for and those that are adamantly against having their properties in the district. Ms. Adams answered questions from Council regarding the details of the ordinance. The ordinance would impose certain restrictions on exterior alterations to the properties. There would be prohibitions against raising the properties, unless there was financial hardship involved. Vice Chair Bob Heath was also available to answer questions. Council discussed the responses received from property owners. Individual property owners can not exclude themselves from the district. The Mayor stated that all three commercial properties were against the district, while the residence owners were split, with a few undecided that could go either way. Mr. Heath that Council has the authority to exclude the properties based on commercial or residential status, not based on the property owners' desire to be in the district or not. The Mayor expressed concerns about imposing restriction on properties that people already own and made a comparison to Nantucket, where people know about the restrictions and expectations when they buy the property. The Mayor's opinion is that the people who own the Earl Young homes are very passionate about them. He is not supportive of the commercial properties being included in the district, particularly in tough economic times. Mr. Heath reviewed the process of the Study Committee bringing forward all the properties that were eligible to be in the district; the Council can exclude commercial properties if they so desire. Mr. Heath reviewed the three properties on Thistledown as an example. The property owners have not responded in writing regarding the creations of the district. Two of those properties would not be included in the district anyway, because one of the homes has been torn down and the other has been remodeled to such an extent it no longer qualifies. However, they had to be included in the study. The remaining home's owner had verbally supported the creation of the district, but had not responded in writing. Ms. Adams also reviewed the tax advantages owners would receive in the form of tax credits related to the exterior improvements to the homes.

The Mayor reviewed the rules for public comment, reminding speakers to address their comments to him. He stated he would not

impose the three minute rule unless it became necessary.

The Mayor opened the public hearing opened at 7:23 p.m.

Attorney Dan Barron, representing the owners of the Lodge and the Weathervane Terrace, stated that his comments refer only to the commercial properties. He stated that the proposed ordinance is ill-suited for commercial properties. The ordinance would affect a handful of commercial properties in a local economy that would be singled out and have the rules changed on them. The proposed package would create a new level of government regulation on these three businesses. Decisions would be made by the local Historic District Commission, but decisions on appeals of the board's decision would go to Lansing. Disagreements on local approvals of projects by the Commission could be appealed by others to the Circuit Court. Mr. Barron expressed concerns over the determination of "undue financial hardship." Mr. Barron pointed out that the Lodge is currently for sale and the property may be suited for a better use. Placement in the historic district may discourage potential buyers. Mr. Barron hopes that Council will reject the ordinance as it relates to commercial properties.

Alice Timms, 303 Clinton, stated that she is neutral on the formation of the historic district, but would hate to see the homes torn down. Ms. Timms thinks the commercial properties should be excluded from the district.

Sydney Feldman, 306 Park, stated that when they bought their home there were no restrictions in place. He does not like the idea of another layer of encumbrance as to what they can do with a piece of property they own outright.

Chair Adams clarified that the Commission would not be dictating home colors if the district is appointed.

Jeannine Wallace stated that she is on the Committee and also owns two Earl Young structures, which she is passionate about, as is the town. She is concerned that the town is not doing enough to preserve and protect them. The structures are an asset to the City of Charlevoix and are known all over.

Upon questions from Council regarding the home on Thistledown that can not be counted, Chair Adams stated that most of the original structure has to be visible. Ms. Adams stated that the local economy benefits from having the Earl Young homes.

Bob Heath stated that Charlevoix's Commission guidelines are modeled after those of Grand Rapids, which have stood up for a long time. Grand Rapids has never had a court case. This means the rules and regulations they are following from the Secretary of the Interior and their own guidelines have stood up well with the people living in those districts. Mr. Heath said that historic districts do have rules, but the guidelines are flexible. Mr. Heath compared the guidelines to building codes and zoning ordinances. The Committee is trying to preserve something that everyone thinks is noteworthy – the Earl Young structures. People were upset about the Apple Tree building, and there was nothing the Council at the time could do. This is something that can be done. These structures are a resource that is at risk; some of them have been lost, and more will be lost in the future if Council does not act tonight.

The Mayor closed the public hearing 7:47 p.m.

Councilmember Gabe Campbell stated that, in the present market, more restrictions should not be put on businesses. He thinks a majority of the people in the houses want to be in a district, and he thinks that would be good for Charlevoix.

Councilmember Greg Stevens said that he had an opportunity to talk to some of the homeowners. One of the comments he received was that the residence is not an empty building, it is someone's home. The City is not asking people to change an empty building downtown, the City is asking to come in the back door and change somebody's home. Most of the owners bought the homes because they like the way they look and they do whatever they can to keep them in their current state. Mr. Stevens doesn't agree with changing the rules.

Councilmember Jill Picha thinks Council would probably exclude commercial properties. She thinks that most people, based on the material presented, are against this. She would not like someone to tell her what to do with her house, and she doesn't want to tell someone else what to do with theirs. Ms. Picha is optimistic that most of the homes will survive. Ms. Picha is especially disturbed by the notes from Mr. Young's grandchildren, who are against this and will inherit one of the houses. Ms. Picha would be in favor of the district if everyone was for it. Council members Cole and Kusina concurred that passing the ordinance would be another erosion of property owner rights.

The Mayor closed Council comments at 7:53 p.m.

Chair Adams stated that if there were no objects, the Standing Historic District Study Committee meeting would adjourn. There were no objections. The Standing Historic District Study Committee adjourned at 7:53 p.m.

VI. Reports

The Manager reviewed the typo referred to in Don Swem's memo regarding a unit of power measurement. The typo does not affect the actual dollar amount of the power purchase. The memo will be filed with the information packets for August 3 and August 17, 2009.

The Manager reminded Council of his upcoming review.

VII. Requests, Petitions and Communications and Actions Thereon

A. Policy – Family Medical Leave

Lynda Donner, Human Resources, reviewed the policy and answered questions from Council. The policy is dictated by and based on the Family Medical Leave Act. The City is required to have a policy to implement the Act as written.

Motion by Councilmember Gabe Campbell, seconded by Councilmember Shane Cole, to approve the Family Medical Leave Policy as presented on pp. 45-51 [of the packet].

Yeas: Campbell, Cole, Kusina, Picha, Stevens

Nays: None

Absent: Gennett

B. Appointments

Motion by Councilmember Jill Picha, seconded by Councilmember Gabe Campbell, to reappoint Arlene Staley to the Board of Review.

Yeas: Campbell, Cole, Kusina, Picha, Stevens

Nays: None

Absent: Gennett

City Planner Mike Spencer reminded Council that one of the Planning Commissioners is running for Council, and that they should be keeping their eyes open for a replacement in case he is elected.

C. Designation of City Delegate and Alternate for MML Convention

Motion by Councilmember Gabe Campbell, seconded by Councilmember Shane Cole, to designate Councilmember Jill Picha as the City delegate and Councilmember Dennis Kusina as the alternate to the MML Convention.

Yeas: Campbell, Cole, Kusina, Picha, Stevens

Nays: None

Absent: Gennett

VIII. Introduction and Initial Actions Relating to Ordinances or to Resolutions That Require Publication or Hearings Prior to Final or Further Action

None.

IX. Resolutions

None.

X. Ordinances

A. Earl Young Building Historic District Ordinance

Motion by Councilmember Gabe Campbell to enact an ordinance to designate the Earl Young Building Historic District, for the residential districts only.

Motion died for lack of a second.

XI. Miscellaneous Business

None.

XII. Audience - Non-agenda Input (written requests take precedent)

In response to Ms. Picha's comments regarding the property owners opinions of a district, Bob Heath stated that, based on the map tabulation, six of the homeowners expressed being in favor of the district, four expressed being against it and two expressed no opinion.

XIII. Adjourn

The Mayor stated if there were no objections, the meeting would adjourn.

There were no objections.

Meeting adjourned at 8:04 p.m.

Carol A. Ochs

City Clerk

Norman L. Carlson, Jr.

Mayor