

CITY OF CHARLEVOIX
REGULAR CITY COUNCIL MEETING MINUTES
Monday, August 3, 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.
City Attorney: Jim Young
City Manager: Rob Straebel
City Clerk: Carol A. Ochs
Members Present: Council members Greg Stevens, Gabe Campbell, Shane Cole, Lyle Gennett, Dennis Kusina, Jill Picha
Absent: None

III. Inquiry Regarding Possible Conflicts of Interest

None.

IV. Consent Agenda

The following items were approved and filed:

- A. Approval of Minutes – July 20, 2009 Regular Meeting Minutes
- B. Accounts Payable Check Register – July 23, 2009
- C. Accounts Payable Check Register – August 4, 2009
- D. Tax Disbursement – August 4, 2009
- E. CWA Retroactive Pay – July 17, 2009
- F. Retro Transmittal – July 17, 2009
- G. Payroll Check Register – July 24, 2009
- H. Payroll Transmittal – July 24, 2009

I. Resignation – Patricia Miller, ZBA

Motion by Councilmember Gabe Campbell, seconded by Councilmember Lyle Gennett, to accept the resignation of Patricia Miller from the Zoning Board of Appeals.

Yeas: Stevens, Campbell, Cole, Gennett, Kusina, Picha
Nays: None
Absent: None

Motion by Councilmember Gabe Campbell, seconded by Councilmember Jill Picha, to appoint Richard Clem to the Zoning Board of Appeals.

Yeas: Stevens, Campbell, Cole, Gennett, Kusina, Picha
Nays: None
Absent: None

V. Public Hearings

None.

VI. Reports

The Manager stated that there would be a renovations grant presentation ceremony Wednesday, August 5, 2009, at 3:00 p.m. at the lighthouse.

Police Chief Gerard Doan introduced new officer Wesley Roberts.

VII. Requests, Petitions and Communications and Actions Thereon

A. Power Purchase

Electric Superintendent Don Swern was available to present the item and answer questions for Council. This would allow the MPPA Power Pool, to which Charlevoix belongs, to buy blocks of power now to be used in the interim between the Power Pool disbanding in 2010 until they can decide what to do in the future. These blocks of power are good until 2015. The prices provided in the packet are a little higher than what they are actually seeing now, but they are trying to cover any price fluctuations over the next few days. If this purchase is approved tonight, the actual purchase will happen this week. The actual purchase will be billed over the next four to five years.

Motion by Councilmember Jill Picha, seconded by Councilmember Greg Stevens, to approve the purchase up to \$5,454,446 [for

various blocks of power through MPPA for the years 2011 through 2014].

Yeas: Stevens, Campbell, Cole, Gennett, Kusina, Picha
Nays: None
Absent: None

B. Discussion Regarding Relocating Overhead Electrical Lines on Dixon Avenue

Electric Superintendent Don Swem reviewed for Council discussions they had with property owners regarding the possibility of relocating some overhead electrical lines from Dixon Avenue to Berdan Place instead of drastically trimming so many trees on Dixon. There is an estimate of about \$193,000 for relocating the primary and secondary lines, including the engineering fees Mr. Swem would like direction from Council on whether they would like him to proceed. Mr. Swem answered questions from Council about how this would affect his work schedule. The Manager stated that it is not just the power lines that are an issue, but the health of some of the trees is also a concern. City Staff is desirous to work with the property owners to help lessen the impact to the canopy, possibly by staggering some of the tree removal and replacement over the next several years. Staff and members of the Shade Tree Commission have walked Dixon Avenue and looked at each individual tree.

Dan Passman, 405 E. Dixon, thanked Council and Staff for working with homeowners to explore other options. Mr. Passman spoke of the beauty of the trees and the desire to put a plan in place to preserve the historical value of the trees, while still considering the safety of linemen and passersby. Each street should be viewed separately as they are unique in their own way; a blanket approach to this issue is not appropriate. Each street should be treated in a manner that best suits the beauty of that neighborhood. Mr. Passman said that to continue with the current trimming plan would impact the aesthetic and property values of the neighborhood and dramatically change the look and feel of the neighborhood. Mr. Passman urged Council to consider the relocation of the lines to Berdan Place, as he thinks the impact on Berdan is considerably less.

The Mayor reviewed the costs of relocation; the costs of relocation would be shouldered by residents. Mr. Passman pointed out that both sides of the street would benefit, and he believes the property owners on the south side of the road would also benefit from the relocation and be willing to share the cost burden. The Manager agreed that there is a possibility that more people in the neighborhood might also benefit and be willing to share the costs of a special assessment. The Mayor asked for a show of hands from residents in the audience for those in favor of the relocation and those objecting to it; there were no objections from those present. Council discussed with the Manager the relocation of the lines to Berdan Place, including which side of the alley the lines might be located and the tree trimming issues on the alley, which would be similar, if not more, than Dixon. However, there isn't really a canopy on Berdan.

Mr. Passman asked that the City consider applying the funds that would normally be spent on trimming and removing trees on Dixon to the costs of relocating the lines.

The Manager cautioned Council that, although it is heartening to see the public support from the neighborhood, costs for the project are substantial and some people may have a change in heart when they see the actual costs involved. Council should be cautious about authorizing \$14,000 for engineering on a project that might not occur.

William Zousmer, 407 E. Dixon, asked about the timing of the engineering in relation to the project, and if that would have to occur before the residents could have more exact cost figures. The Manager is unsure at this time and said that the figures are good ballpark figures, but that additional research would be needed to determine more exact costs.

The City Attorney answered some basic questions about special assessments.

Concerns were raised by Council regarding the people with property on the north side of Berdan who were not present, as those are the trees that would be affected by the wire relocation.

Bob Linton, who lives at the corner of Meech and Dixon, stated that he thinks the proposed dangers are exaggerated, as the lines are engineered to be used in tree locations. He proposed leaving the primary lines high in the trees where they are and using boring equipment to bury the secondary lines. He thinks a cost comparison should be made in using this approach rather than relocating all the lines or trimming and removing trees according to the policy. Mr. Linton also stated that he didn't see any diseased trees on Dixon Avenue, but did concede that there are some dead limbs that need to be removed. He would like to discuss the matter further with members of the Council, but he thinks the City is headed in the wrong direction.

Shade Tree Commissioner John Campbell, in response to questions from Council, stated that the trees designated for removal, excluding electrical issues, were slated to be removed due to rodent homes within the trees, splits in the major trunk of the trees, and other things of that nature.

Councilmember Gennett stressed the importance of getting input from the property owners on the north side of Berdan.

In response to safety questions from Councilmember Picha, Mr. Swem stated that he doesn't want the responsibility or the liability of asking linemen to work in areas where they can't get to the lines. If there is not a 10-foot clearance, there is not room to get a bucket in the tree. Mr. Swem acknowledged that these wires are "tree cables," and were put in with the thought that less trimming would be needed. However, Mr. Swem said, they are insulated not for safety but for the mechanical protection of the wires rubbing against the tree. There have been places in the City where the insulation has rubbed through. The 10-foot separation is still the national standard.

Councilmember Stevens spoke in favor of moving forward with trimming the trees on Dixon without holding up work schedules. Other Council members are not objecting to moving the lines, as long as the residents are willing to pay for it. Focus of the discussion moved to getting residential input on paying for the project. Council members stressed the importance of worker safety.

Council referred the matter back to staff, asking them to get input from property owners in the three block area on both sides of Dixon and the property owners on Berdan as well. Council would like a report back at the meeting Tuesday, September 8. The Attorney briefly reviewed the provisions for advisory petitions and special assessments. He will address the process further with the Manager after the meeting.

Council agreed for staff to work on the diseased trees using the proposed staggered approach.

Sandra Morse, 401 E. Dixon, addressed a particular tree in her yard. She asked that staff work with her to remove her tree a little at a time and let her try and nurse it along for a few years. The Manager said they will look at her tree and see what can be done.

C. Discussion Regarding Legal Strategy for Anderson Boathouse Appeals

City Attorney Jim Young reviewed typical procedures. Both parties have appealed to circuit court. The Attorney reviewed his recommendations, which will show respect to the court and support the decision of the ZBA while minimizing legal costs to the City. The Attorney recommends that the City Attorney and the Assistant City Attorney be authorized to attend hearings, but not file pleadings (written documents) with the court or engage in oral argument except for the following:

1. The judge is provided with inaccurate information regarding the City's position on any matter;
2. Any of the parties make an inaccurate statement of facts to the judge;
3. Any of the parties provide an inaccurate statement of the law to the judge;
4. Any of the parties urge a decision that is contrary to the law or creates a bad precedent in subsequent cases in which the City might participate;
5. The judge asks questions directly to the City.

Motion by Councilmember Dennis Kusina, seconded by Councilmember Lyle Gennett, that the City Council supports the recommendation of the City Attorney regarding the involvement of the City and its attorneys in the Anderson-Johnson litigation.

Yeas: Stevens, Campbell, Cole, Gennett, Kusina, Picha
Nays: None
Absent: None

D. Appointment of Official MERS Delegate

Motion by Councilmember Shane Cole, seconded by Councilmember Gabe Campbell, to approve the officer and employee delegate certification form as presented by staff and the employees.

Yeas: Stevens, Campbell, Cole, Gennett, Kusina, Picha
Nays: None
Absent: None

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

A. Proposed Amendment to City Code – Earl Young Homes

Motion by Councilmember Shane Cole, seconded by Councilmember Dennis Kusina, to set a public hearing for Monday, August 17, 2009 at 7:00 p.m. in Council Chambers of City Hall on a proposed Earl Young Building Historic District Ordinance.

Yeas: Stevens, Campbell, Cole, Gennett, Kusina, Picha
Nays: None
Absent: None

B. Proposed Amendment to City Code to Require Reporting FAA Enplanement Data

Motion by Councilmember Jill Picha, seconded by Councilmember Shane Cole, to set a public hearing for Monday, August 10, 2009 at 12:00 noon in Council Chambers of City Hall on a proposed amendment to the City Code, which would require reporting FAA enplanement data.

Yeas: Stevens, Campbell, Cole, Gennett, Kusina, Picha
Nays: None
Absent: None

IX. Resolutions

None.

X. Ordinances

None.

XI. Miscellaneous Business

Councilmember Jill Picha stated she had received complaints about chairs that were up all week at Venetian in the park and on the sidewalks. She would like staff to discuss this with the Venetian committee and see about drafting a policy regarding this. Council generally agreed that there should be a policy.

Ms. Picha stated that five police officers helped her family locate some lost grandchildren over Venetian and she thanked them for their help. She is very proud of the Charlevoix Police Department and thinks we are fortunate to have them.

Councilmember Lyle Gennett asked for an update on the beach groomer.

Councilmember Greg Stevens asked that something be done about the Land Conservancy building, which is owned by the DDA. The house is in bad shape and either needs to be maintained or taken down. The Mayor will bring the issue up at the next DDA meeting.

Ms. Picha stated that the new Alcoholics Anonymous building looks great. Council concurred. The Mayor stated that members have offered its use for a small meeting for Council to allow the community to see it. Councilmember Gennett stated he thinks there is a grand opening scheduled for later this month.

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

George Haggard, 318 Meech Street, stated that Meech is a heavily traveled street and the City needs to put in curbs and possibly widen the street. The Mayor stated that Meech is on the list of infrastructure projects and is one of the higher priorities. Mr. Haggard also spoke in favor of anything that can be done to preserve the tree canopies throughout the City.

Bill Trubilowicz thanked Council for allowing people a chance to find a solution to the location of the Big Rock flag pole.

XIII. Closed Session

A. Discussion on Alice Street and City Attorney's Opinion

Motion by Councilmember Greg Stevens, seconded by Councilmember Dennis Kusina, to go into closed session to discuss a written opinion on Alice Street from the City Attorney dated July 28, 2009.

Yeas: Stevens, Campbell, Cole, Gennett, Kusina, Picha
Nays: None
Absent: None

Council entered closed session at 8:48 p.m., after a short recess.

XIV. Reconvene Meeting

Council reconvened in open session at 8:55 p.m.

XV. Adjourn

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

There were no objections.

Meeting adjourned at 8:56 p.m.