

CITY OF CHARLEVOIX
REGULAR CITY COUNCIL MEETING MINUTES
Monday, June 1, 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: Stephanie C. Brown, Deputy Clerk
Members Present: Council members Shane Cole, Lyle Gennett, Dennis Kusina, Jill Picha, Greg Stevens, and Gabe Campbell
Absent: None.

III. Inquiry Regarding Possible Conflicts of Interest

None.

IV. Consent Agenda

The following items were approved and filed:

- A. Approval of Minutes – May 18, 2009 Regular Meeting Minutes
- B. Accounts Payable Check Register – May 22, 2009
- C. Accounts Payable Check Register – June 2, 2009
- D. Payroll Check Register – May 29, 2009
- E. Payroll Transmittal Check Register – May 29, 2009

V. Public Hearings

None.

VI. Reports

- A. The Manager reported that the Odmark Pavilion dedication is tentatively scheduled for Tuesday, July 7, and that, as this is the final piece of the park project, the dedication could also recognize the overall completion of East Park and the DNR Waterways Commission for their six million dollar grant. During the dedication, a sign acknowledging the DNR's efforts in renovating the park would be installed. Plans could include a ribbon cutting ceremony and an ice cream social to celebrate the official park opening. Council generally agreed that July 7 in the evening would work and the Mayor suggested that Council members could scoop ice cream for the public.
- B. The Manager noted that he has provided Council with copies of two items that fall under the City's Conflict of Interest Policy. The first is a proposal from Stevens Concrete; Councilmember Stevens is an employee of the business. After receiving three quotes, the City would like to employ Stevens Concrete for some work at the Marina. The second is an invoice from Sales and Marketing of Michigan; Joe Schwartzfisher is a sales representative for the company. The Fire Department has acquired some parts from the company and wishes to disclose the relationship of the City employee to this vendor. Mayor Carlson talked about revising the Conflict of Interest Policy to prevent these types of items from having to come before Council. The City Manager stated that the current policy states that any item falling under the Conflict of Interest Policy must be disclosed to Council before the City Manager approves any invoice. After a brief discussion, Council generally agreed that the City Attorney should work with the City Manager to revise the Conflict of Interest Policy, allowing certain items to be approved without prior agreement from Council.

VII. Requests, Petitions and Communications and Actions Thereon

A. Discussion on Trout Stream Guardrail

Street Superintendent Pat Elliott was available to review the item and answer questions for Council. Staff has been working with Mark Buday on a fencing plan for both the upper and lower trout pools. Superintendent Elliott reviewed the details of the design and presented this option at Council's request, but the guardrail is not required by law or code. All inspections have been done, and during the design many individuals were involved including licensed architects, licensed engineers, and landscape designers. None of these individuals felt that a handrail was needed.

Mayor Carlson noted that a guardrail would detract from the environment of the trout stream and East Park and that the park looks like it was designed around the trout stream. There was discussion regarding whether signs, guardrails, increased fines for ordinance violations, brick block or other options were needed. It was noted that parents have an obligation to supervise their children since the ponds and stream are obviously not intended as play areas.

There was a general consensus that Council did not have sufficient expertise to make a decision regarding whether a safety issue exists and, if so, what are reasonable steps to take.

Councilmember Kusina asked Attorney Young whether the City had a liability exposure due to this discussion. Attorney Young stated that if Council has a question about liability, then an expert in park design safety needs to be consulted. If the expert determines that there is a dangerous situation and the City does not take reasonable remedial action, then the City's liability is significant. Councilmember Picha asked if signage would be sufficient to protect the City. The Attorney explained that if the experts determine that the water feature presents an attractive nuisance to the safety of young children who cannot read or understand the warning, then signage does not help. When asked about other potential safety hazards, such as an individual tripping on the stairs, Attorney Young reiterated that if experts determine that the water feature is an attractive nuisance to the safety of young children in a family-oriented park, then there may be a liability.

Mayor Carlson suggested that an opinion be obtained from someone at the State level for the Building/Health and Safety Occupational Code Department. Attorney Young agreed that a written opinion from the State level would be helpful and that we should also try to get a written opinion from an expert in park design and safety.

Traver Wood of Site Planning stated that, in his opinion, the water feature is no more or less an attractive nuisance than any other feature along the waterfront and that the water feature is clearly for viewing only. Mr. Wood stated the signage should have nothing to do with getting in the water but rather with respecting the planting around the water.

Mayor Carlson suggested that this discussion should be postponed until he can follow up with the Building Inspection Department. Attorney Young agreed that, since a potential problem has been identified, Council should follow up with experts. The experts' opinion should be provided in writing or verbally at a Council meeting to ensure the opinion is on record.

City Manager Rob Straebel reported that he has contacted the MML Risk Assessment Department and forwarded pictures of the trout stream and other areas of concern. The MML risk assessment expert's initial assessment is that there is not a significant safety hazard; however, the risk assessment expert cannot make a site visit for several weeks.

Motion by Councilmember Campbell, seconded by Councilmember Gennett, to table [postpone] the discussion on the trout stream guardrail until after we have a response back from the Risk Management of MML and the State of Michigan Building/Safety Department.

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

B. Proposal to Upgrade Taxiway Lights and Signage to Energy Efficient LEDs and Proposed Purchase of New Sand Loader Bucket

Airport Manager Matt Bailey was available to review the item and answer questions for Council. With discussion of becoming more "green"/energy efficient at the federal, state, and local government levels, staff proposes to make the airport more energy efficient. After research, investigations, and construction estimates were gathered, it was determined that the City could possibly save close to 40% (based on current electrical usage) by replacing the existing incandescent taxiway lights and signage with more energy efficient LEDs. After speaking with the City Manager, the FAA, the Michigan Department of Transportation (MDOT), and RW Armstrong, it was discovered that this could be included in the second part of the 2009 FAA grant year. The estimated total cost of this project is \$341,700 with a 95% grant by the FAA, a 2½% matching grant from the MDOT leaving a 2½% local share for the City at an approximate cost of \$8,542.50 which is in the current fiscal year budget.

Airport Manager Matt Bailey also reported that a new sand bucket is needed because the existing 4½-yard bucket is too large for the sander we have, dumps material down the back of the sander causing damage to the runways and wastes a lot of material. The cost of a new 2½-yard loader bucket would be approximately \$10,000 and this would qualify for the FAA program grant/MDOT matching grant with a local share of \$250. This is not in the current year budget. Airport Manager Bailey noted that this is Part B of the FAA grant program year, and that the purchase would happen by the end of the 2009 FAA's fiscal year. The pre-application has already been submitted; with Council's approval a formal application will be made to the FAA.

Motion by Councilmember Picha, seconded by Councilmember Stevens, to approve upgrading the older taxiway lights and taxiway signage to energy efficient LED lights with our FAA and MDOT grants with the local match to be \$8,542.50 and also to approve seeking a new 2½-yard bucket with a local share of no more than \$250.

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

C. Dewitt Parking Lot Paving Proposal

Downtown Development Authority (DDA) Director Keith Carey and Street Superintendent Pat Elliott were available to review the item and answer questions from Council. According to the Fiscal Year 2009-10 budget document, the purpose of the Downtown Parking

Fund is "to receive income from downtown properties for parking demand created where it is impractical for the properties to develop on-site parking." Currently, the Downtown Parking Fund has a balance of \$130,239 and has never been utilized to improve or develop parking. The Charlevoix Downtown Blueprint 2007 included a recommendation that "all current existing public parking lots in downtown should be paved and signed to encourage their maximum use." Currently all parking lots are signed but the Dewitt Parking Lot and the White Parking lot are not paved. The DDA proposes to utilize the Downtown Parking Fund (PI #16) monies to pave and provide proper drainage of the Dewitt Parking Lot and the entrance alley from Park Avenue, which currently offers parking for 23 vehicles. The parcel is owned by the DDA and the City's legal counsel has confirmed that the Downtown Parking Fund monies may be used to improve downtown parking areas owned by the DDA.

After consulting with the City Manager and the Street Superintendent, a general design was determined in order to obtain the approximate cost of paving, draining and striping the Dewitt Parking Lot and adjacent entrance alley. Manthei Development Corporation (MDC) was asked to offer a rough budget for the project, including removal of existing materials, basic landscaping associated with drainage, placement of an aggregate base and an asphalt top layer and striping of parking stalls. The project would mitigate surface water runoff, provide dust control, and simplify snow removal. MDC's estimate for this work is \$35,000 to \$45,000. This project was not included in the current year's budget, nor is it identified in the capital plan.

Council members expressed general concerns that when paving lots, older trees are protected, handicapped spaces are included, and efforts are made to make the general public aware of the lot. Director Carey stated that there is a directional sign off State Street and the lot is included in the downtown shoppers map and will be included on all three kiosks.

Councilmember Kusina asked why this DDA owned property was not being improved with DDA monies. Treasurer Brandi noted that it would be at least three years before DDA funds became available and that the Downtown Parking Fund has been identified in the budget as complementing DDA funds to develop parking on an as needed basis. Councilmember Kusina asked if monies from this fund could be used for other operating expenses or for parking lot maintenance. Treasurer Brandi responded that the fund is intended to provide additional parking and should not be used for any other reason.

Motion by Councilmember Campbell, seconded by Councilmember Gennett, to authorize the expenditure of up to \$50,000 from the Downtown Parking Fund in order to pave, provide drainage for, and stripe the Dewitt Parking Lot and the entrance alley from Park Avenue.

The City Manager commented that staff did not intend authorization of an expenditure, but rather was looking for general direction to proceed. The motion was rescinded by Councilmember Campbell.

Motion by Councilmember Campbell, seconded by Councilmember Gennett, to authorize procurement of bids for paving, providing drainage for, and striping the Dewitt parking Lot and the entrance alley from Park Avenue.

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

D. Consideration to Purchase Beach Groomer

Street Superintendent Pat Elliott was available to review the item and answer questions for Council. The City of Frankfurt is selling a used, 1999 Cherrington beach groomer with approximately 140 hours of use on it. It has been satisfactorily inspected by the Street Department Superintendent and the City Mechanic to confirm its condition and overall operations. The purchase and use of this machine would enhance our beaches, produce a cobblestone bi-product that could be used at other locations, and possibly create a revenue stream through rental. Superintendent Elliott reported that he anticipates 15 to 20 years of use from the machine.

Motion by Councilmember Kusina, seconded by Councilmember Cole, to approve the purchase of a 1999 Cherrington beach groomer from Frankfurt in the amount of \$35,000.

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

E. Consideration to Approve Account Clerk Position Description

Human Resources Assistant Lynda Donner was available to review the item and answer questions for Council. The long-term Account Clerk, Judy Przybylski, has retired. There is no current job description on file and with the position vacant it is an opportunity to look closely at the essential functions and requirements of the position and create a job description. City Treasurer Rick Brandi has assisted with, reviewed, and approved the description. The position is currently posted internally as a CWA position.

Motion by Councilmember Picha, seconded by Councilmember Stevens, to approve the Account Clerk position description as described on pp. 26-27 of the [agenda] packet.

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

F. Purchase of City Hall File Server

City Treasurer Rick Brandi was available to review the item and answer questions for Council. Our current file server has reached the limits for file space, memory, and speed processing capabilities and is also nearing the end of its five-year period of reliability. Fiber connections to other City buildings will add at least another 12 computers to our network with email, anti-virus protection, and access to other software systems; the current server will not be able to provide enough storage space or memory. NetSource One, our current support organization, has proposed installation with complete conversion of our current data and upgrade of the software and hardware systems at a cost of \$18,557.

Motion by Councilmember Gennett, seconded by Councilmember Campbell, to award the bid to NetSource One, Inc. for \$18,557 for a new Dell File Server including software and installation as outlined on pp. 30-35 of the [agenda] packet.

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

G. Consideration to Approve a Resolution in Support of the Michigan Green Communities Challenge

City Manager Rob Straebel was available to review the item and answer questions for Council. City Staff continues to explore options to obtain economic stimulus grant dollars. To strengthen future grant submittal, the Michigan Municipal League (MML) is recommending that cities become part of the Michigan Green Communities Challenge. Step one is to pass a resolution in support of the initiative. By completing this preliminary work, the City will show a strong commitment to promoting energy efficiency and conservation which should, in turn, increase our chances of obtaining grant funding. Action by Resolution.

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

A. Consideration to Approve a Resolution in Support of the Michigan Green Communities Challenge

Motion by Councilmember Campbell, seconded by Councilmember Stevens, to approve the Resolution 2009-06-01 as follows:

**CITY OF CHARLEVOIX
RESOLUTION NO. 2009-06-01
RESOLUTION IN SUPPORT OF MICHIGAN GREEN COMMUNITIES CHALLENGE**

WHEREAS, the City of Charlevoix wants to emphasize the benefits of energy efficiency and conservation; and

WHEREAS, the City of Charlevoix wants to demonstrate that energy efficiency and conservation practices can be applied to the daily governmental operations and to infrastructure projects; and

WHEREAS, the City of Charlevoix seeks to find methods of service delivery and operations that conserve energy and resources, saving taxpayer dollars and protecting and preserving the environment; and

WHEREAS, the City of Charlevoix recognizes that sound energy efficiency and conservation practices can reduce government costs over the long-term; and

WHEREAS, the City of Charlevoix will lead by example to show the practicality and effectiveness of these practices; and

WHEREAS, the City of Charlevoix seeks to encourage its citizens and businesses to initiate stewardship activities that benefit the environment and their community;

NOW, THEREFORE, IT IS RESOLVED that the City of Charlevoix accepts the Michigan Green Communities Challenge and pledges to work toward achieving the goals of the Basic Challenge over the next three years.

RESOLVED, this 1st day of June, 2009.

Resolution adopted by the following yea and nay votes:

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

X. Ordinances

None.

XI. Miscellaneous Business

Councilmember Picha asked about the plaques that were promised to the Fountain of Youth donors. The Mayor assured Councilmember Picha that the plaques have been ordered and that layout of the plaques on the wall is being worked on. Picha also noted that dogs were in East Park during the Memorial Day event. The Manager reported that signs have been ordered and that Police Chief Doan will start enforcing the ordinance as soon as the signs are installed.

Councilmember Gennett reported that the garden work on Dixon looks very nice.

Councilmember Stevens stated that his electric went out at 7:20 a.m. on Sunday morning and that not only was power back on within an hour and a half, the crew hustled and was cheerful in spite of the fact that it was early on a Sunday morning.

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

Bob Timms asked when the tar truck would be out to repair the streets. Superintendent Elliott reported that the truck was out last week and broke down. As soon as the machine is fixed street repairs will continue.

XIII. Adjourn

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

There were no objections.

Meeting adjourned at 8:42 p.m.

Stephanie C. Brown City Clerk

Norman L. Carlson, Jr. Mayor

Carol A. Ochs City Clerk