

CITY OF CHARLEVOIX
REGULAR CITY COUNCIL MEETING MINUTES
Tuesday, September 8, 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 Shane Cole, Lyle Gennett, Dennis Kusina, Jill Picha, Greg Stevens, 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 – August 17, 2009 Regular Meeting Minutes
- B. Accounts Payable Check Register – August 20, 2009
- C. Accounts Payable Check Register – September 9, 2009
- D. Tax Disbursement – September 9, 2009
- E. Payroll Check Register – August 21, 2009
- F. Payroll Check Register – September 4, 2009
- G. Purchase Order Report

V. Public Hearings

None.

VI. Reports

None.

VII. Requests, Petitions and Communications and Actions Thereon

A. Presentation of Energy Optimization Plan Implementation

Electric and Water Superintendent Don Swem introduced Tom Kovalak of Franklin Energy Services, who made a presentation regarding the Energy Optimization Plan implementation. Franklin Energy Services will be running the program, which satisfies the requirement of MPSC Public Act 295. Mr. Kovalak reviewed details of implementation and administration of the plan.

B. Report on Dixon Avenue Tree Trimming

The Manager said that staff has met with Dixon Avenue residents regarding trimming trees and utility lines, and thinks that they have come to a compromise that would preserve most of the canopy along Dixon Avenue. Residents would be given the option of putting their secondary lines underground at a cost of \$3.00 a foot, though this option is not available in all cases. Residents who choose not to underground their secondary lines would have the trees trimmed according to the approved tree trimming policy. The estimated costs to underground both the primary and secondary lines is \$622,000, not including staff time or legal fees; a special assessment to cover these costs would be \$26,000 per household for just the north side Dixon residents or \$13,000 per household if including both the north and south side residents. Staff does not recommend proceeding with a special assessment for the project.

Electric and Water Superintendent Don Swem reviewed details of undergrounding the wires. Any customer in the City can underground their secondary line to their house. This project would underground the secondary lines between the poles on the streets; customers could choose to put the line to their house underground as well. The entire street does not need to go underground; customers can choose on a case by case basis whether they want to pay for their line to go underground.

Dan Passman, 405 E. Dixon, stated that he had thought the underground of the secondary would be for the entire length of Dixon in question. After discussion, it was decided that any homeowner who did not want to pay for the secondary line to go underground would be referred to Mr. Passman. Mr. Passman also asked for clarity regarding the radius around the primary line as well. The Manager expressed concerns regarding lessening the radius around the primary lines, as it could compromise worker safety, but stated that he would defer to Mr. Swem on that decision. The tree trimming policy provides guidelines, and there is language in the policy to allow for some latitude on the radius on a case by case basis.

John Campbell, 309 E. Dixon and also a member of the Shade Tree Commission, stated the City needs to follow the goal of the study completed three years ago: provide a shade tree canopy for the City. Mr. Campbell also made the following points:

- (1) Dixon Avenue tree trimming needs to be City of Charlevoix tree trimming; it's not fair to the people of Dixon Avenue or the people of Charlevoix to single out Dixon Avenue.
 - (2) Discussion of the Hendrix line placed on Dixon Avenue has created some confusion. Six feet of clearance is the minimum standard for the line. The City didn't have this information when the tree trimming policy was put together. The Shade Tree Commission will discuss this with staff at their meeting later this month so that any changes would be true for the whole community, not just Dixon Avenue.
 - (3) Looking at underground, the City needs to consider how the boring is going to be accomplished. The last time a bore was done on Dixon Avenue, it needed to be open trenched. If open trench is used to put the lines underground, the method would destroy the trees' root systems. The City needs to be careful how the boring is done so it can be successful.
- Mr. Campbell agrees with Mr. Passman, that if the City does put lines underground, it should do the whole block.

Bob Linton, who lives at the corner of Dixon and Meech, commented that at the meeting with staff, they had discussed reducing the clearance radius from ten feet to six feet, burying the secondary power lines along Dixon Avenue, and, if recommended by Mr. Swem, to replace the existing Hendrix line with an improved version. The Manager stated that he had clearly expressed to the group that he was not going to compromise on employee safety by reducing the clearance radius. Mr. Linton discussed electric cable and his recommendations regarding trimming trees at length.

Bob Timms proposed hiring an outside service when the high lines between the poles need to be serviced.

Upon questioning from the Mayor, Mr. Swem stated that if there were no branches near the line, only trunk, he might feel comfortable decreasing the ten foot radius. If there were branches there, he would not feel comfortable reducing the radius. Mr. Campbell stated that another concern is climbing children grabbing the wires. Mr. Swem reminded Council that the covering on any of the wires—old Hendrix or new—is not an insulation. Pin holes in the covering of a wire can kill. In extreme circumstances, the electricity can arc to a branch of the tree, down the tree and to the ground.

Dan Passman suggested perhaps it would be safer to work on the lines if the power were shut off to the whole street. Councilmember Lyle Gennett stated that when the power goes out, the fire officer on duty is flooded with phone calls until the power comes back on. Elderly people quite often can't be without power. Police and fire officer are sent to check on people by others who are concerned about them. A lot comes into play with getting the power back on that people don't understand.

Mr. Passman asked Council to remember that the trees are an asset to the community; losing them will bring property values and tax revenues down. The City shouldn't cut the trees without spending significant time discussing mutual solutions.

The Mayor closed the item to public comment.

The Mayor stated that it is not just an issue of working on hot power lines: residents are asking the City to be careful and consider what it's taking away. The Mayor wants to preserve a lot of things in Charlevoix and maintain them for future generations. This has not been taken lightly by anyone on Council or Staff. Staff has bent over backwards trying to come up with different options and solutions that treat everyone fairly. Dixon Avenue is the only area in town that has not been trimmed yet. Other properties have not gone down in value. The Mayor thinks staff has come up with a solution that would work not only for Dixon Avenue, but other areas of the City. He summarized that Staff is willing to work with the homeowners to put the secondary lines underground; those residents who do not want to pay for the underground will be referred to Mr. Passman, so the other residents can try to persuade them to put their lines underground or offer to pay for it themselves. The Manager is not going to ask Council to adopt a policy that would put workers at risk. The policy was worded as such to give Mr. Swem the leeway to make some decisions on clearance; Council trusts his judgment. The Mayor understands that this is a passionate issue for the Dixon residents. However, they need to understand that Council is also receiving comments from residents of other areas of the City who think the Dixon residents are being given special treatment. The Mayor thinks Staff is trying to do what is best for everyone. Staff is going to contact the residents of Dixon, find out who is willing to participate; those that aren't willing to participate will be forwarded to Mr. Passman by Mr. Swem.

Motion by Councilmember Gabe Campbell, seconded by Councilmember Jill Picha, to approve the recommendation on electric [utilities on Dixon Avenue] on the Manager's memo from September 8, 2009.

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

The Mayor called a five minute recess at 8:17 p.m.
The Mayor called the meeting to order at 8:24 p.m.

C. Consideration of 2009 Infrastructure Improvements Park Avenue & State Street

The Mayor reviewed the details of project. Jim Malewitz of Performance Engineers was available to address the item and answer

questions from Council. Performance Engineers recommends awarding the bid to the low bidder, Elmer's Crane and Dozer, Inc. The bid from Elmer's had come in with the schedule starting spring of 2010. The City would like to start the project yet this fall, so Elmer's was contacted after the bid was opened and an additional cost of \$4,350 was added to their bid for remobilization costs. This is still about \$8,900 below the next bid from MDC Contracting, Inc. Performance Engineers did receive good recommendations regarding Elmer's. Mr. Malewitz says that both low bidders are qualified. Mr. Malewitz acknowledged that MDC had done work for the City in the past and has always done a good job.

Abe Manthei from MDC Contracting spoke, stating that they were a local contractor from this area. The majority of their workforce is from the Charlevoix County area and several of their employees live in the City of Charlevoix. They have had a good working relationship with the City doing a variety of large and small projects. They are available on short notice and have been available to come quickly for emergency work for the City. They have had to layoff a lot of people, many of whom are Charlevoix County and City of Charlevoix residents. They are trying to keep everyone working. Some area municipalities have adopted policies giving preference to local contractors. In regards to the scheduling issue, Mr. Manthei asked that the Council evaluate the bids based on price and schedule as referenced in the contract. MDC bid the project knowing that the schedule was going to be important to the City and believing that multiple mobilizations would be necessary. Multiple mobilizations were included in the bid as well as rework at the transition point. MDC requests that Council evaluate the base bid and schedule of MDC with the base bid and schedule of Elmer's as read and the local relationships between MDC and the City of Charlevoix. Mr. Manthei pointed out that if MDC had been approached after the bid opening about doing a single mobilization in the spring, they could have easily come in under Elmer's as they would have known the amounts.

Jeff Denise from Elmer's Crane and Dozer stated that they work and bid with MDC. He explained the way they bid the project. The specifications did not include any statement saying that the project had to be started this year. Because of the possible difficulty in procuring the appropriate permits, Elmer's worked with the May 26 completion date. Mr. Denise stated that this is a heavy, two month construction project. Elmer's took the stance that they would rather mobilize and create chaos at one time as opposed to stretching the project over two periods. They think they were within their rights to bid the project they way they did, and they did submit that schedule with their bid. After the bids were opened, it was brought to their attention that the City would like to start work in the fall if they could get the permits. Mr. Denise had then told the City that there were mobilization issues if they were to do it that way; they felt that they had bid the project per plans and specs. The only two major mobilization charges are from the paving and concrete contractors, who would need to come in this fall, and then come in again in the spring. Those were the only charges Elmer's felt were justifiable. The City asked Mr. Denise for the additional mobilization cost, which he provided. Mr. Denise stated that his firm also has local connections. He is originally from Boyne Falls, and his entire northern crew is from Charlevoix County. It's true that Elmer's doesn't have the relationship of working with the City that MDC has, but they would like to start somewhere. They do use local subcontractors as much as possible.

Councilmember Lyle Gennett asked that Council give direction in the future for putting in conduit for electricity when the City tears up the streets to do the water and sewer, especially after what they've been through recently regarding trimming the trees. Council discussed with Staff.

Councilmember Dennis Kusina commented that, going back to when this project started, Mr. Malewitz had worked hard to have his bid come in as low as possible on the engineering because he wanted the project. The bidding process was fair. MDC has done a lot of great work for the City, but if they wanted the job, they should have come in cheaper. Mr. Kusina thinks Council should go with the low bid. Their qualifications have been checked and the work should be the same.

The Mayor stated that, although the bid did not specify when the project had to start and stop, it did specify that both schedule and price would be considered. The Mayor stated that it's easy for a contractor to come in under a bid when you see what the others are, not that that was done, but he thinks it needs to be taken into consideration. The Mayor stated he had spoken with people Elmer's had worked for, and they had good things to say. The Mayor reminded Council that the City had once taken the low bid and wound up with a debacle; sometimes you need to go with what works. The Mayor stated that City does not have a policy regarding local bidders. The City does reserve the right to accept or reject any or all bids. The Mayor stated that, it may be because he is a contractor, but he is very passionate about hiring local. The Mayor acknowledged that Mr. Denise said that his northern crew was local too. The Mayor stated that Mr. Malewitz had done his due diligence and Elmer's references check out. He also stated that Street Superintendent Pat Elliott had told him, all things being equal, he would just as soon work with MDC, as they already have a good working relationship. The Mayor would like Council to consider all points.

Mr. Manthei stated that local preference has not deterred Elmer's from bidding on projects.

Mr. Denise stated that he can appreciate that some municipalities have a local contractor preference, but it is established prior to the bid. The Mayor acknowledged that the City doesn't have a policy, but that it also reserves the right to accept or reject any or all bids for any reason. Mr. Denise spoke of the importance of protecting the integrity of the bidding process.

Motion by Councilmember Dennis Kusina to accept the bid [for the Park Avenue Improvements] from Team Elmer's, with the

additional \$4,350 for the extra mobilization for a total of \$700,814.
Motion failed due to lack of a second.

Motion by Councilmember Greg Stevens, seconded by Councilmember Shane Cole, to award the bid [for the Park Avenue Improvements] to MDC in the amount of \$709,713.40.

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

D. Consideration of Airport Grant Agreements and Construction Contracts

Airport Manager Matt Bailey was available to review the items and answer questions for Council.

1. FAA Grant Agreement
 2. MDOT Grant Agreement
- Actions by resolution.

3 Construction Contracts for Security Gates and Airport Lighting Projects

Motion by Councilmember Lyle Gennett, seconded by Councilmember Gabe Campbell, to approve the Mayor and/or City Staff to sign the construction contracts with RMD Holdings, Ltd., to install security gates and the airport lighting projects.

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

4. Approval of Bids for Purchase of Loader Bucket

Motion by Councilmember Jill Picha, seconded by Councilmember Lyle Gennett, to approve the purchase of a loader bucket from Ginop Sales, Inc., for the amount of \$5,888.

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

E. Purchase of 1/0 Kerite Cable

Electric and Water Superintendent Don Swem was available to review the item and answer questions from Council. This is the City's preferred cable and there is only one provider in the area.

Motion by Councilmember Jill Picha, seconded by Councilmember Gabe Campbell, to approve the purchase of 7,500 feet of 1/0 Kerite cable from Resco at a cost of \$1.73/ft. [for a total of \$12,975].

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

F. Appointments

Motion by Councilmember Gabe Campbell, seconded by Councilmember Lyle Gennett, to approve the reappointment of Bob Heath and Mary Adams to the Historic District Commission.

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

G. Deputy Clerk

Motion by Councilmember Shane Cole, seconded by Councilmember Lyle Gennett, to approve the Clerk's appointment of Patti Spencley as Deputy Clerk.

Yeas: Cole, Gennett, Kusina, Picha, Stevens, Campbell
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

None.

IX. Resolutions

A. Resolution Authorizing Airport Grant Agreement

Motion by Councilmember Gabe Campbell, seconded by Councilmember Lyle Gennett, to approve Resolution 2009-09-01, as follows:

RESOLUTION NO. 2009-09-01
EXECUTION OF MDOT AIRPORT GRANT AGREEMENT
(MDOT Contract No. 2009-0710)
EXECUTION OF FAA AIRPORT GRANT AGREEMENT
(Federal Project # 2-26-0017-1209)

WHEREAS, a grant has been received from the Michigan Department of Transportation to fund installation of electric-powered security gates, taxiway lighting, and airfield lighting protection; design of the taxiway lighting and the terminal building expansion and renovation (phase 1); preparation of an airport layout plan (phase 2) and purchase of snow removal equipment; and

WHEREAS, a grant contract has been received from the Federal Aviation Administration to acquire snow removal equipment (loader bucket); expand terminal building (design-phase 1); install perimeter fencing (five electric gates); install runway lighting (lighting protection); rehabilitate taxiway lighting and taxiway guidance signs; and update airport master plan (airport layout plan – phase 2); and

WHEREAS, the grant agreement, in the amount of \$912,000 from the FAA and \$24,000 from MDOT, is 97.5% of the total project costs; and

WHEREAS, the City of Charlevoix's local share of the grant will be \$24,000;

NOW THEREFORE BE IT RESOLVED THAT THE CITY OF CHARLEVOIX CITY COUNCIL hereby authorizes Mayor Norman L. Carlson, Jr. to execute the FAA and MDOT grant agreements for the Airport improvements.

RESOLVED, this 8th day of September, A.D. 2009.

Resolution was adopted by the following yeas and nays vote:

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

X. Ordinances

None.

XI. Miscellaneous Business

Bob Timms suggested that the wattage on the lights in Council Chambers be cut in half, they are quite warm. Council discussed lighting.

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

Councilmember Greg Stevens stated that his family had need for emergency services over the weekend. The EMS team was very professional and did a good job.

Councilmember Jill Picha enquired if the City of Charlevoix practices any safety programs. The Manager stated that each department puts together a safety program that conforms to MIOSHA standards.

Ms. Picha asked for and received information regarding who the union stewards were.

Ms. Picha stated that the green paint looks nice on the railings.

XIII. Closed Session

A. City Manager Evaluation

The City Manager has requested that Council go into closed session to do his performance evaluation.

Motion by Councilmember Lyle Gennett, seconded by Councilmember Greg Stevens, to go into closed session for the City

Manager's performance evaluation, at his request.

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

Council entered closed session at 9:29 p.m.
Council reconvened in open session at 9:49 p.m.

XIV. Adjourn

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

There were no objections.

Meeting adjourned at 9:50 p.m.

Carol A. Ochs

City Clerk

Norman L. Carlson, Jr.

Mayor