

REGULAR CITY COUNCIL MEETING
December 22, 2015

The Regular City Council Meeting was called to order by Mayor Bronson in the Council Chambers at City Hall at 7:00 p.m.

Roll Call:

Present: Temple, King, Riddle, Couture, Kwiatkowski and Bronson

Absent: Lavender

Councilman King moved to excuse Councilman Lavender; supported by Councilwoman Kwiatkowski. Motion carried unanimously.

Councilman Temple led the Pledge of Allegiance to the Flag.

Approval of Agenda, and Receive and File all Communications:

Mayor Pro Tem Couture moved to approve the Agenda and receive and file all communications; supported by Councilman Temple. Motion carried unanimously.

Approval of Prior Meeting Minutes:

▪ **Regular City Council Meeting Minutes – December 8, 2015.**

Councilman King moved to approve the Regular City Council Meeting Minutes of December 8, 2015 as presented; supported by Mayor Pro Tem Couture. Motion carried unanimously.

Department, Board and Commission Reports:

▪ **Department of Public Safety Monthly Statistics, November 2015.** *(Received and filed.)*

▪ **Port Commission Minutes, December 7, 2015.** *(Received and filed.)*

General Business:

▪ **Consideration of One-Year Extension of Agreements for Legal Services with Mr. Stephen E. Lindsay and Mr. Thomas T. Hungerford** - City Manager Eustice commented the agreements with Legal Counsel for both civil and criminal are up as of January 31, 2016. His and Clerk/Treasurer Kwiatkowski's recommendation is to extend the services for one year and then send out Requests for Proposals late next year. It is a tight timeframe right now and came up upon them relatively quick. City Manager Eustice noted the City has a lot of very serious pending legal issues, such as Meijer's, that we are in the middle of and feels the one year extension will help them manage those issues. The recommendation is to also keep the annual contract the same, \$20,500.00 for Mr. Stephen Lindsay and \$17,500.00 for Mr. Thomas Hungerford. City Manager Eustice then stated that Mr. Lindsay would like to address the Council.

Mr. Stephen E. Lindsay addressed the Council stating it has been his pleasure and honor to serve the City for the past six years, which has involved five City Managers/Interim City Managers. He informed the Council his contract started three years ago at \$18,500.00 and increased \$1,000.00 each year; this year it is at \$20,500.00. Part of the Contract states it is his obligation, under City Ordinance, to maintain malpractice insurance, which is a benefit to both parties. He noted it is

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good for the City to have that cushion. Mr. Lindsay stated he has had malpractice insurance throughout his contract. He stated the premium for this goes up every year and this year it has taken a jump again and is due to renew prior to February 2016 for another year. The present rate for the February 1, 2016 through February 1, 2017 year is \$3,508.00. He is more than happy to continue this service to the City and is pleased, but he is going to require a \$1,000.00 bump just like he has had in the last three years for a total of \$21,500.00. He stated at this level minus \$3,508.00 in malpractice insurance that he pays out of his pocket, it is effectively a gross to his wallet for services rendered of \$17,992.00. Mr. Lindsay stated he is asking Council to approve the \$1,000.00 increase and has presented the City Manager with a new contract for a proviso of \$21,500.00 to be paid in quarterly installments, which is an increase of \$250.00 per quarter or \$83.33 per month. He then asked for questions. Councilman King asked if the malpractice insurance is just for the City. Mr. Lindsay replied the way the underwriters do it you have to insure the firm and all areas of practice, and the form that is required to be completed contains areas of the practice with assigned percentages, noting they will not insure just a single area of practice or a single practice. Councilman King asked if Mr. Hungerford also has to provide malpractice insurance. City Manager Eustice replied it is not required for Mr. Hungerford, noting civil counsel has a lot more exposure to liability than criminal counsel. He added Mr. Lindsay has much bigger exposure, which is why his contract is more. Clerk/Treasurer Kwiatkowski stated he did talk with Mr. Hungerford and he would be glad to serve another year if Council is willing to extend it at the same current year cost.

Mayor Bronson stated he talked with Clerk/Treasurer Kwiatkowski and he does not believe there is enough time to get proposals now, stating we can look at this in October or November 2016. Councilwoman Riddle stated we still have the difference between \$20,500.00 and the \$21,500.00 in Mr. Lindsay's contract, and each year of the contract there was a \$1,000.00 bump, asking if the \$1,000.00 increase in Mr. Lindsay's contract is being recommended. City Manager Eustice replied the \$1,000.00 increase is certainly adequate. Councilwoman Riddle then asked if the Council needs to deal with the new contract with Mr. Lindsay. City Manager Eustice stated no, once the Council makes a motion it will give him the power to execute the contract. Mayor Pro Tem Couture asked if there are any other changes in the contract. Mr. Lindsay answered no, other than it is a single year contract at \$21,500.00 with quarterly payments.

Councilwoman Riddle moved to approve one-year extension of Agreements for legal services with Mr. Stephen E. Lindsay and Mr. Thomas R. Hungerford, being \$21,500.00 and \$17,500.00 respectively, with expiration dates of January 31, 2017; supported by Councilman Temple. A roll call vote was taken; motion carried unanimously.

Mr. Lindsay thanked the Mayor and City Council.

Public Comments: *(None.)*

City Clerk/Treasurer's Comments:

- **Video/Cable MPSC** – Clerk/Treasurer Kwiatkowski commented the Council has a copy of an Advisory he received in the mail yesterday. The Michigan Public Service Commission (MPSC), who would normally go to bat for cities and villages as far as cable services and any problems with these companies, such as Charter; now their funding wasn't approved again for the upcoming year so if we have any problems locally with Charter Communications, it would be up

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to the City to go directly to Charter and work things out with them as best we can. The MPSC will no longer step in on the City's behalf. Councilwoman Riddle inquired as to what kind of issues we could possibly have. Clerk/Treasurer Kwiatkowski replied it could be rates, rights-of-way issues, etc. He noted the City really has not had any issues with Charter in many years. Mayor Bronson asked if this notice is only for the cable company or does it include the satellite companies. Clerk/Treasurer Kwiatkowski pointed out it is for video and cable providers.

- **City Audit** – Clerk/Treasurer Kwiatkowski stated the City audit is being completed; noting after the field work was done it was an additional three weeks before he got the draft of the audit which came last week. He has some year-end reports that have to go into the Department of Treasury. The audit will be presented at the first meeting in January 2016.
- **Council Quarterly Payroll** - Clerk/Treasurer Kwiatkowski informed Council he will be running the quarterly Council payroll tomorrow.

City Manager's Report:

- **Consumer's Energy Tree Trim** – City Manager Eustice stated the Consumers Energy tree trimming and cutting should start by the second week of January. Consumers Energy does have a grant program in which they will fund 100% to replace trees, but certainly not in the areas they cut trees down. He stated we can apply to replace trees throughout the City and have utilized it in the past throughout the City in the parks and by the Ice Rink Pavilion. Councilwoman Riddle asked if there is also the possibility that if a tree was removed in the right-of-way, could this tree be replaced somewhere else on the property of an individual property owner. City Manager Eustice stated he does not know, but he is working with Heather Butler from Consumers Energy and will get this answer. He noted that some of the trees are on personal property, in people's yards. Mayor Bronson stated Consumers Energy provides the trees but does not plant them.
- **Recent Rain Event/Ditches** – City Manager Eustice commented we recently had a significant rainfall, which is unusual for this time of year. A few issues developed mainly in the Abbott Street/Lafayette Avenue area (a couple houses were nearly underwater) and we will be looking at this to see what the problem is. He has spoken to City Engineer Granger and he will be doing a study on the whole east side because one of the problems with the east side is that all of the drainage/stormwater goes north. The area is basically level from Cheboygan Cement to the Lake. There is not much fall through there, which makes it difficult for the water to move. City Manager Eustice then stated that some of the ditches need to be maintained and cleaned out, noting some of the main ditches that empty into Lake Huron have not been cleaned in 25 to 30 years. It will be difficult to get in there but we need to and will have to remove debris, as well as trees that are down. Councilman King commented that years ago the City had a lot more heavy equipment. City Manager Eustice stated the City can cut cattails, etc., noting it is possible that we may have to get a contractor to do the ditches that empty into the Lake. He went on to state the stormwater is handled a little better on the west side, but we also are getting stormwater into a sanitary sewer system, which was a huge issue last Tuesday as we were treating a lot of stormwater coming into our sanitary sewer system. We know there are certain sections in the City that have a combination sanitary sewer and storm sewer. Over the years these are being eliminated with most of these being on the west side and need to be addressed. City Manager Eustice then stated we are going to be looking at the storm sewers that go the River, noting Mr. Ralph Chasse of S. Huron Street believes we need to put backflow preventers on where the storm sewers enter the River because he believes when we get heavy rain like we did the River rises and backflows into the storm sewers and then gets into the sanitary sewers. There may be something

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to this and we are going to have City Engineer Granger look at all of those possibilities. He then stated on Tuesday we treated 2½ times more sewage in a day than we normally do because of storm water getting into our sanitary sewer and this is costly because it has to be treated.

▪ **No Anchor Drop/Putting up 2016 Sign** – City Manager Eustice reminded Council there is no Anchor Drop this year in Festival Square, noting there is an event at the K of C Hall. The 2016 sign will be put up in Festival, either before or shortly after Christmas.

Messages and Communications from Mayor and Council Members: *(None.)*

Adjournment:

Mayor Pro Tem Couture moved to adjourn the meeting at 7:26 p.m.; supported by Councilman Temple. Motion carried unanimously.

Mayor Mark C. Bronson

Clerk/Treasurer Kenneth J. Kwiatkowski

Councilman Joseph Lavender

Councilwoman Winifred L. Riddle

Councilman Vaughn Temple

Councilman Nathan H. King

Mayor Pro Tem Nicholas C. Couture

Councilwoman Betty A. Kwiatkowski