

REGULAR CITY COUNCIL MEETING
February 23, 2016

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

Absent: Lavender

Councilwoman Kwiatkowski led the Pledge of Allegiance to the Flag.

City Manager Eustice stated he did not hear from Councilman Lavender.

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

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 – February 9, 2016.**

Councilman King moved to approve the Regular City Council Meeting Minutes of February 9, 2016 as presented; supported by Councilwoman Kwiatkowski. Motion carried unanimously.

Department, Board and Commission Reports:

▪ **DPS Monthly Statistics, January 2016.** *Received and filed.*

General Business:

▪ **Discussion of Purchase Agreements, re: Port Property – Bois Blanc Township and Ryba Marine Construction** - City Manager Eustice informed Council they currently have two purchase agreements, noting there is an updated agreement from Bois Blanc Township that has been presented to Council via e-mail. He went on to state Council has been provided with the February 10, 2016 Bois Blanc Township meeting minutes, explaining there were two motions, one being to prepare the Cheboygan River purchase agreement and resubmit to the City, which the City has noting they did agree to basically take out most of the contingencies that we thought were not favorable to the City. City Manager Eustice went on to explain the second motion, which involves a 4-acre piece owned by the MDNR (larger than what they wanted in the Port property), that the DNR is willing to sell to them. City Manager Eustice then stated he has spoken with Mr. Jeff Lawson, Cheboygan County Administrator, because adjacent to the County Marina there is a pretty large parking lot, with two boat launches, and the parking lot is never more than 50% full. Mr. Lawson said the Township could certainly use the marina parking lot for overnight parking. City Manager Eustice made a presentation to Council pointing out the County Marina property, the MDNR property (35% wetlands; 65% very usable), the parking lot of the County Marina, boat parking and additional parking, with sidewalk accessing the MDNR property. The Township received approval to spend \$300 for the application process to the State

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of Michigan. At least a couple Board Members do not like the location, but he feels it is more of a recreational area and would be more conducive to a car & passenger ferry service, instead of being in the midst of Kokosing and Ryba as they expand and directly across from U.S. Oil when their boat is in unloading for a minimum of 72 hours. He pointed out the proposed location of the ferry dock in the Port property. City Manager then indicated the Cheboygan County Commission property and three residential properties, in addition to one home on Lake Street that should be condemned. He stated that entire block is an ideal location to put a manufacturer in that area. The County Road Commission building is in good shape and the Road Commission wants to move to be more centrally located in the County. There has been some interest, but it has not been sold. If the Township were to locate in the Port property, they would impede access to the water and lay down area/storage space.

City Manager Eustice explained the purchase agreement with Ryba is 300 feet of River, squared off to Main Street. There is still available property north of this 300 feet for the Township, if they are interested in it, but feels in the long run it is not the ideal place for a ferry service, adding it is more suited for a private investor or someone who wants to build a manufacturing facility here, or Moran Iron Works. City Manager Eustice stated if the Township occupied property within the Port at their desired located they would occupy about 25% of the entire Port property. They are a public entity and non-taxable while Ryba Marine is a private company and taxable. There would be long-term property tax revenue from Ryba. He then pointed out the public properties on the River in that area.

City Manager Eustice further explained in the agreement with Bois Blanc Township the purchase price did not change, but they want to be private (no activity going on around them) and want to control that, along with wanting the City to control that, as well. It is a Federal navigable waterway and we cannot police some of the things they want us to do. Mayor Pro Tem Couture interjected this information makes him recreate his thoughts from when he first got involved. His understanding originally was the idea of the Port project was to create jobs in the City of Cheboygan, utilizing our deep water port which is basically a gem in Michigan. Now putting Bois Blanc Township, which he has nothing against or its operations, right in the middle of what property we now own, with the constant traffic from the ferry dock does not really add up to being the perfect location with barges, etc. It would be ideal for the ferry to be located near the mouth of the River.

City Manager Eustice stated the picture he is showing was the original plan for the Port being industrial, including a dry dock. He explained freighters coming in to unload aggregate, i.e. stone or sand. This is still the plan and it is what Kokosing wants to do, so not only is there a vessel at U.S. Oil across the River, there could be a vessel sitting north of the ferry unloading stone or sand.

Mayor Pro Tem Couture stated we have two existing businesses on each end of the property that are already utilizing for what we originally thought would be correct usages. The businesses are already doing this and will only expand, we hope. Whether it be these existing businesses or new businesses that will create jobs in this City, his personal goal is to create more lunch pail jobs in the City. We need to be able to control the access so our Industrial Park can grow and use this Port because that is the idea of the Port.

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City Manager Eustice stated we are going to attract similar business, like Moran Iron Works. They will need an area to lay down product until ready to be shipped. City Manager Eustice informed Council there is a marketing committee working on attracting industrial type businesses for the Port.

Mayor Bronson inquired from City Manager Eustice as to whether there is to be action on this matter, such as direction from Council. City Manager Eustice replied the Ryba agreement is pretty cut and dried, with only a couple subtle changes to make to it. Mayor Bronson then asked for any comments from the public. There were none. Councilwoman Riddle asked how easy it is to update information on the port drawing, because she noticed Cheboygan Lumber Company should be Bernard's, adding there may be others that are outdated. City Manager Eustice stated this can be changed.

Mr. Ray Lofgren, audience member, commented the two parties over the past year have been sort of negotiating on the sidelines, between themselves, or between Council meetings about the cost of the property, asking if it is still \$330 a foot. City Manager Eustice answered it is still \$330,000. Mr. Lofgren then asked if he was correct that Ryba wanted a lower price. City Manager Eustice replied Ryba's offer is \$750 per front foot, which is appraisal price; the price per foot for Bois Blanc Island is close to \$900 per front foot (367 feet at \$330,000). Mr. Lofgren then asked if the City has a proposal from Bois Blanc Township tonight for \$900 per front foot. City Manager Eustice replied yes. He commented both the Ryba and Township purchase agreements are draft agreements. Mr. Lofgren then asked if Council is looking at selling 600 feet of property for \$900 per front foot. Mayor Pro Tem Couture replied no. Mr. Lofgren then inquired where the City is at on this. Mayor Bronson stated that is part of the discussion because the offer from the Township is at a higher rate at about \$902 per front foot; Ryba has an offer for \$750 a front foot for the same frontage. He went on to explain it is not 600 feet, it's 300 feet with both wanting a part of the same footage. Mayor Bronson pointed out one is a taxing entity and one is not, but there is some consideration there, too. City Manager Eustice explained there is 200 feet of overlap, being they both want part of the same 200 feet. Mayor Pro Tem Couture commented that is why we are still here because more things have come to light why the property is wanted. That is what we are figuring out through the negotiation process. He went on to state we need to figure out what is the best route and in his opinion what our desire is and putting what we want there (part of our master plan) and then at a reasonable rate. Whenever we sell the first piece it will set a precedent and we have to be aware what we are doing. Mr. Ray Lofgren stated when the City purchased the property, the goal was to recoup the taxpayers' money as soon as possible; that doesn't make sense to him because the Port should operate with enough elbow room. He is concerned if the City of Cheboygan doesn't have the weight to recoup that money, then he thinks the front foot price should be put on the property and the players should pay that amount of money, whether they are taxed or not taxed. Mr. Lofgren said he made a comment at a Council meeting not too long ago as to how much room do you need to have a port, noting six or seven acres is not a lot of property. He understands the position the City is in, but just to recoup or lose money doesn't make sense either. Mayor Bronson responded both deals are for more than what we paid for the property. Mr. Lofgren commented the City is in the hole. Councilman King stated there are 63 acres across the River, which was part of the City's purchase.

City Manager Eustice stated we do have several options to recover the cost of the land contract. The U.S. Fish & Wildlife is interested in property, we will retain about 13 acres on the east side

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and sell the remainder to the Little Traverse Conservancy, who is very interested in buying the wetlands, and Kokosing has some real interest in buying property and will be our Port operator. Mr. Lofgren stated the City owns property by the U.S. Fish & Wildlife. City Manager Eustice replied the City owns a 66 foot right-of-way and the U.S. Fish & Wildlife improved it. Mr. Lofgren stated if that property was not used by the U.S. Fish & Wildlife it could probably work to solve the Port, asking if the City could negotiate with the U.S. Fish & Wildlife with regard to the City property that Ryba currently uses. If the City is trying to save space by moving the ferry to the mouth of the River, there is another 150 or more feet that the City owns that Ryba is occupying right now, pointing out if they were to expand there, there is a lot more depth. City Manager Eustice stated he has spoken to this with Mr. Morrish, i.e. putting the U.S. Fish & Wildlife at the south end of Ryba's property. Mayor Bronson stated all these options have been discussed and are still all on the table, noting the City has not even owned the property for a year. Mr. Lofgren commented that he feels waterfront property prices will now begin to climb.

Mayor Bronson asked if the City Manager needs direction from Council. City Manager Eustice stated he has concerns about the Township whether they will back out of a purchase agreement the City has signed with them, noting they can back out of it losing \$2,000. He has concern that they are paying more than fair market value for the property and would have to get a bond to buy the property, wondering if they are going to say they cannot get the financing to purchase the property. We have a much simpler deal right now for the southern 300 feet through Ryba Marine, which he believes they can close on relatively quickly (90 to 120 days). The Township, he believes, is out at least six months if everything went well. City Manager Eustice stated the Township could still buy some of the Port property, which he does not like because they would be in the middle of an industrial heavy commercial operation. Mayor Bronson then stated arguments have changed because the Township first thought they were going to purchase the property with funds on hand and could not. The same argument becomes an issue when they start construction because they cannot use those same funds from the Island to build anything on this site so they have to then find additional money to start building. He is afraid we will be looking at that piece of property there purchased and empty for another decade. Mayor Pro Tem Couture commented we can't do that. Councilman Temple asked if we have to wait or can we act quicker. Councilwoman Kwiatkowski stated she does not think it is very fair that we make Ryba and Kokosing wait. Mayor Bronson stated we have not received an offer from Kokosing, noting we are pretty close with Ryba but there are still some things we need to finish up. Councilwoman Riddle asked if we are waiting for information from our Attorney. City Manager Eustice replied we basically have everything we need; as far as Ryba is concerned we need to come to an agreement on a couple minor items in the purchase agreement and thinks that can be done relatively quickly. Councilwoman Riddle asked if this is something the Attorney is working on. Mayor Bronson replied he gave us recommendations and is waiting for us to give him direction. City Manager Eustice stated if Council thinks it's in the best interest to sell property to Ryba Marine Construction then he would suggest that we have a special City Council meeting and not wait until March 8 and then direct the City Manager and City Attorney Steven Joppich to finalize the purchase agreement, followed by the finalized purchase agreement being presented to Council for a motion whether or not to sell property to Ryba Marine. Mayor Bronson asked to have the agreement in another week or so.

Mr. Ray Lofgren asked if there was a legal description first given to Bois Blanc Township with only 100 feet being sold to Ryba, so the City's agreement with Bois Blanc Township today would

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encroach the 300 feet that Ryba now wants. City Manager Eustice replied yes. Mr. Lofgren then stated if you have to have action of the Council for the legal that overlaps why doesn't Council take that action and take another action to proceed to sell Ryba the 300 feet. If you have an offer from Bois Blanc Township that has a legal description that would encroach on the 300 feet then that seems to him it could be a little bit of a problem. City Manager Eustice stated that the legal description was just a preliminary draft, noting the port property has not been split under the Land Division Act, and there are no signed documents with the Township or Ryba Marine. Councilwoman Kwiatkowski asked if Council needs to make a motion to have a special meeting once the paperwork is done. Mayor Bronson replied he can call the special meeting. City Manager Eustice stated both agreements could be brought to a special Council meeting to act on both if we want to. Mayor Bronson commented that we should get some determination from at least one of them if they are going to accept or reject. Mayor Pro Tem Couture agreed. Mayor Bronson recommended bringing the agreement that is ready to Council. City Manager Eustice replied okay, he will confer with City Attorney Joppich to get some direction as to whether or not to schedule a meeting. Mayor Bronson informed Council that either the City Manager or staff will contact Council regarding a special meeting.

Public Comments: *(None)*

City Clerk/Treasurer's Comments:

- **March 8, 2016 City Council Meeting** – Clerk/Treasurer Kwiatkowski stated the March 8 City Council Meeting is actually an Election Day, and between himself and his Deputies, Judy Sanders and Janet Gahn, he may or may not be here. November will be the Mayor and Council election, with a cut-off for turning in nominating petitions of July 21, 2016, if anyone is going to run again. Mayor Pro Tem Couture asked what the term limits are. Clerk/Treasurer Kwiatkowski replied three four-year terms for Council and two two-year terms for Mayor.

City Manager's Report:

- **Façade Program** – City Manager Eustice reported the Façade Program, which is a DDA project, is nearing the end of the application stage. There are four definite businesses that are going to be funded for this project. They are working with Mr. Andy Wolfe who has two buildings, the Big Dipper building and the former Box Fit building, and is trying to stay in the program because the MEDC changed the funding from a possible 75% to 50% (he was at 72% State money). To do what he wanted to do is going to cost him a little more personally, so he may drop out with the Big Dipper building. The construction on the four buildings definitely in the project will start in late spring to mid-summer. The building at the corner of Main and State (former Chinese restaurant), one of the buildings in the project, will be getting significant renovations, which will be a big plus for our downtown. He reminded Council it has taken us two years to get to this point.
- **Capital Improvement Planning/Strategic Planning** – City Manager Eustice asked Mayor Bronson if he wanted to talk about this tonight. Mayor Bronson stated we are going to have a big planning workshop sometime in the future and thought we would want to spend about one-half day. City Manager Eustice stated his original thought was to schedule sessions at 6:00 p.m. before a regular City Council meeting, but we would not get much done. He feels the Mayor's idea is much better, noting it is difficult to get seven people together at one time. Mayor Bronson asked the Council members on ideas of timeframes for the workshop and suggested that we use the on-line scheduling, Doodle.

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Messages and Communications from Mayor Pro Tem and Council Members:

- **Court Street Business** – Councilman Temple stated he was asked again today about the former meat processing business on Court Street which still houses all the trucks. City Manager Eustice stated the owner will move that operation in the spring, noting the business operation/staging area is not an allowable use. He apparently has an idea for relocating outside of the City or may relocate the equipment to the Industrial Park, noting he could still have his office on Court Street. Councilwoman Riddle why it is taking so long for him to move the equipment. City Manager Eustice answered he wanted more time and has basically laid up those vehicles for the winter.
- **Chamber of Commerce Annual Awards Dinner** – Councilman King congratulated City Manager Eustice on his nomination and also Craig Coxe, Rink Manager on his nomination. City Manager Eustice then mentioned Councilman King was also nominated, adding it was a nice dinner. Councilman King stated there is a lot of action going through the Chamber and the money we put into the Pure Michigan Campaign is reaping a lot of benefits as far as increasing tourism here in the summertime.

Adjournment:

Councilman Temple moved to adjourn the meeting at 7:50 p.m.; supported by Mayor Pro Tem Couture. 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