

REGULAR CITY COUNCIL MEETING
July 26, 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: Temple, King, Riddle, Couture, Kwiatkowski, Lavender and Bronson

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 – June 28, 2016.**

Councilman Lavender moved to approve the Regular City Council Meeting Minutes of June 28, 2016 as presented; supported by Councilman King. Motion carried unanimously.

▪ **Regular City Council Meeting Minutes – July 12, 2016.**

Councilman Lavender moved to approve the Regular City Council Meeting Minutes of July 12, 2016 as presented; supported by Mayor Pro Tem Couture. Motion carried unanimously.

Communications and Petitions:

▪ **Presentation of Semi Annual Report, January – June 2016, Jason Karmol, DPW Director -** Mr. Jason Karmol, DPW Director, informed Council he started this presentation to keep the Council informed in the non-routine activities so they would be aware of what DPW Director Karmol was working on and where he is at with certain items. Obviously there are day-to-day and normal routine things taken care of, but then there are the extra efforts such as capturing revenues, and are we spending positive money to recoup some of the losses. He then referred Council to the Comparative Water Production and Comparative Wastewater Treated charts, which shows how much water they produce and how much wastewater they treat. The water production gives him some kind of gauge of whether we are capturing the revenue. It is that gauge that made him want to spend money toward meters because we are not capturing all the revenue. Sometimes it is difficult to find things you want to spend positive money on to recoup money – whether it is to save electricity or to accurately meter how much water. DPW Director Karmol stated this year there was not a City-wide water run, so it gives him a lot closer to an accurate accounting of the water produced and water billed. The water run is in the calculation that he makes based off of what we normally run. This is very helpful to him to know what he should be accurately billing during those months that we just let water go so it doesn't freeze.

DPW Director Karmol stated the report talks about infiltration and inflow again, which is done in every report because the State makes him aware every time he sends a report that his wastewater production is not proportional to the water that he treats. He puts this in the report as a statement to let the State know that he is continually reminding Council and different parties that these flows don't match and we need to do something about it, especially a Plant that is 40 years old and it's going into

Regular City Council Meeting – July 26, 2016

a clean body of water and we are already taxing a 40-year old Plant and we are doing everything we can to meet our permit limits before going to the River. Mr. Karmol referred the Council to the repetition of the paragraphs on page 3 because he needs to reiterate to tell the State that he has made Council aware that the wastewater that is coming in is unproportional with the water that is used. Until we do something about that, Council may hear DPW Karmol repeat himself.

DPW Karmol then referred Council to the Water Treatment and Distribution Activity Summary, noting it doesn't feel great to say he installed 100 new meters, but a journey of one-thousand miles begins with a step. We had to start getting into the homes and try to rectify the unmetered accounts and start accurately billing. They have not rectified all unmetered accounts because he made a choice to go after the large consumers because accuracy of those large meters means big dollars. For instance, if you have a small residence with two people in it and the meter is not working, we are not losing as much revenue as a large four inch meter that is not working properly. They are starting with the big meters and working their way down. Mayor Pro Tem Couture asked if DPW Karmol has seen an inaccuracy. DPW Director Karmol replied he is actually too close to the forest to look at the trees at the moment; what they are going to start to do is start doing the oldest, biggest meters first and then he will worry about a year-end total later. We will applaud our achievements at year-end. Werner's is in the home or business installing the new meter and doing the plumbing and on the outside the City is burying the meter pits so they don't freeze. Room was needed to properly set a meter, so they had to fix the sewer. This is not a typical, but it shows the Council the kind of effort and the need for a plumbing contractor. DPW Director Karmol feels the City is doing the more expensive work outside of the home. Mayor Bronson asked for an explanation on a curb stop. DPW Director Karmol referred Council to the photo on page 4, showing a curb stop. He explained it allows him to shut off the water service. Wherever the shut off is, everything from there towards the house would be the homeowners responsibility, and everything back from it would be the City's responsibility. Although some properties have curb stop boxes, most of them are meter pits right now, which is where you would have a meter inside the shutoff. The curb stop is a straight rod that allows him to put a four foot wrench in the ground and turn water off or on and will survive a lot more frost being buried down at least 48 inches.

DPW Director Karmol explained there is a radio system that does most of the telemetry, which is where most of the calls come from. Most of the calls come from the automation and if the automation doesn't work we are then in manual operation. They are doing some things to reduce the amount of calls by creating redundancy – back-ups built in. He is hoping to reduce overtime by creating redundancy in electronics, i.e. radio system.

DPW Director Karmol then commented on the pick-up of the Miss-Dig activities. We may not see the revenue yet, but it is usually an indication that people are spending money and doing work on properties. He noted Miss Dig is called whenever somebody does landscaping, add a new deck, new water service, etc. He added the City does spend a lot of man-hours marking for Miss Dig, explaining in the last six months the City spent 426 man-hours.

Councilman King asked if anything happened with the radio system during the recent fire, such as whatever was programmed in for redundancy. DPW Director Karmol replied yes it was, but because we were planning for back-up we already had those backed up on pin drive, which saved us a lot of time because as soon as the new radio was installed, we had a back-up program. We already had other radios and we could take a radio from Well 4, which was out, and get it working and place it at the

Regular City Council Meeting – July 26, 2016

Treatment Plant and have a USB pin drive upload the program and it was a lot quicker to be back up and running.

DPW Director Karmol stated Mayor Bronson asked about energy efficiency, noting there is a photo of an old pump on page 6 and a new pump on page 7. He noted that he looks at energy efficiency in most of the items he purchases, because he wants to do as much work with as less energy as possible. There will only be a few items that he forgoes that in favor of reliability. If Council hears DPW Director Karmol did not take energy into consideration, it is probably because we have something that is so solid state he is afraid to go to something and less reliable. He said there are items in the Plant they don't make like that anymore and sometimes those pieces you need to be so reliable so you are willing to pay more in electricity to make sure that doesn't go down. A lot of the new technologies are using cheaper motors or higher rpms, but he is looking for lower rpms, less spinning and more reliable than some of our items. In the pump situation, more of the manufacturers have figured out the game of reliability and energy efficiency, but some of the operations in our plant we just can't make more energy efficient and we try to make them as reliable as possible. DPW Director Karmol then noted the new pump is cheaper to service. There are some he rebuilds because we can't get anything like it anymore. We are looking at automation, redundancy and energy efficiency with the pump stations.

DPW Director Karmol commented the Public Works section of the report is basically giving the Council an update. We need to either remove abandoned pipes that are in the ground or we need to fill them with concrete slurry so we don't have collapses in the system, as most of the collapses are due to abandoned pipes. Others, like a collapse in the parking lot, the structure was just old. The more work we do in a street the more likely these types of things will show up. The staff is having to do some research before we fill something in because we have to see if anything abandoned is tied in. There are some things we thought might be abandonable, but found out through cameraing and dyeing that there is a reason they are still tied in. This goes back to solving some of the flow problems we have between water and wastewater, as well. We don't want to abandon lines pouring in our sewer, as well, because it might just be bringing groundwater into our system.

DPW Director Karmol informed Council the City did apply for an MEDC Grant, which looks good, regarding work from Lake Street to Court Street and taking care of abandoned sewer lines, noting the sewer was replaced in 1978, but the old sewer was not taken care of. He mentioned he will either want the old sewer taken out or filled in with concrete. The original project was estimated to be near 3 million dollars, but when the Grant came up we scrambled to cut that into a third to apply. We are still awaiting for the results back, but he is confident we will be getting some money from the grant to start the infrastructure. Also, this has led DPW Director Karmol to go back, look at and appreciate the system as it was built. He has had people bring him articles, has reviewed and researched beyond the maps, and through the research has learned a lot. Originally when this was built there was a large investment from the community, referring to an article in 1889 that talks about \$26,240.00 and with inflation that would be about \$25.00 for every dollar spent, which is a large investment from the City and the rates would have been high at that time for that initial investment. DPW Director Karmol commented that everybody that takes a step forward has paid a larger burden to get a newer system, and at the end of that people enjoy a lower rate because somebody had paid the initial investment 40 years ago for the Wastewater Plant. At some point we will have to look at upgrading the Plant, which might be a burden to raise rates but there is always a cycle where at the end of those rates where you are back to enjoying lower rates because the Plant is paid off. He noted the lines were all hand dug

Regular City Council Meeting – July 26, 2016

and not only was it a large financial investment, but they dug through the clay, which helps motivate the current crew.

DPW Director Karmol wanted to give credit to Mayor Pro Tem Couture for doing his sewer right. When other residents ask for favors he is able to refer to a Council person as not wanting any favors from us to do it. When the Council does it right, then he is able to use that example to apply the rules to everybody and if anybody were to try to subrogate those rules he would have to be adamant that he did not give any special treatment to a Council person so why should he do that for a resident.

DPW Director Karmol stated he wanted to give credit in a public forum to all the people that helped with our recent event at the Wastewater Plant – Stan’s Electric, UIS and our staff who were all instrumental in keeping our system operating.

Mayor Pro Tem Couture inquired on the wastewater that we treat compared to the water we are producing, asking what is the plan and how do we find out why we are getting so much infiltration and how do you stop it. DPW Director Karmol answered the plan is to fix the underground infrastructure, stating most of it has been dyed and some of it has been identified. The most efficient method is to work from the Plant out and eliminate any sources as we go out from the Plant. It was an easy choice for the grant, which is to work out with the water line and inspect the sewer line at the same time working from the Plant towards town, including cameraing the sewer between the Plant and Lake Street, all the way down to Backus Street. If the Plant is a trunk they will work out the branches, i.e. starting at the main line and working out. It doesn’t make sense to go after a storm sewer fix and not have the money to do the water and street at the same time. There is a lot of planning to do and he knows there is some immediate spot fixing he could do, but it would be indeterminate of how much reduction we would get from wastewater. He thinks the prudent thing to do is be patient, plan and fix everything under the ground and then put a piece of pavement on top that he doesn’t have to cut into later. Mayor Pro Tem Couture commented DPW Director Karmol’s Capital Improvement portion is going to be long. DPW Director Karmol stated it cannot be done all at once, as we don’t have the manpower or the contractor that can go out and fix all of it. We have to bite it off in chunks and work our way out from the Treatment Plant. He does not want to go in and fix a water line and have a storm or sewer problem later; he wants to be the last one to cut into the street because he wants to fix all the problems underneath before we asphalt. DPW Director Karmol explained that is why he only gave a few options on paving when Council talked about paving. He had to point out the sections of town that had new enough infrastructure that he was fairly confident he would not be cutting into it, noting they are repaving W. Lincoln Avenue and Duncan Avenue. They are also planning W. State Street. Mayor Pro Tem Couture thanked DPW Director Karmol for his report.

Department, Board and Commission Reports:

- **Downtown Development Authority Board of Directors, July 5, 2016** – City Manager Eustice commented the sound system is operable in Festival Square, although not completely installed. He briefly explained the sound system, stating a unit has to be installed, such as a tablet or computer that will be transmitted from the City Hall building to the amplifier in Festival Square. Hopefully this will be in place in the next couple of weeks. Also they plan on using Sirius Satellite Radio, at a cost of \$30.00 per month, which has all the licensing requirements to play music in a public space. City Manager Eustice noted the wireless mic will be kept at the City Hall. Councilwoman Kwiatkowski asked that now it has been installed, is it the City’s responsibility to pay Sirius radio and keep up the equipment. City Manager Eustice replied it will be the DDA’s responsibility to pay that bill and any upkeep, noting it would be under the City’s insurance should anything else happen to the equipment.

Regular City Council Meeting – July 26, 2016

- **Special Zoning Board of Appeals, July 8, 2016** – City Manager Eustice briefly reported there was an approval of a sign variance for the Best Western River Terrace due to signage being updated. One of the signs was 24 feet high and our Ordinance limitation is 18 feet high, so it had to go before the Zoning Board of Appeals for a variance.
- **Planning Commission, July 18, 2016** – City Manager Eustice reported the Planning Commission is finished editing the Zoning Ordinance and we are trying to get a digital copy of all the changes that were made, so it can then go to Council for approval. The review committee, James Granger and himself, are going to review it once the changes are done. He is hoping to have it to the Council by the second meeting in August for approval. City Manager Eustice then referred to the Planning Commission Annual Report to the City Council, July 1, 2015-June 30, 2016, noting it is not very detailed and there were no site plan reviews during the last fiscal year. He stated Ciena Healthcare is still considering building in the City of Cheboygan and are continuing to look at properties in and around the City. They will have to go back through site plan review with the Planning Commission because their approval has expired and they will likely build on a different piece of property than what they own.

Councilman King commented he hears all too often that the reason Meijer's is dead is because the City Council shut it down, asking for an update. City Manager Eustice stated that project is very much alive. Mr. Chris Jones, who is the Project Manager for Meijer's, will be here next Friday, August 5, 2016 for a meeting with the City, including DPW Director Karmol, to discuss the water situation. Meijer's is going to build and it's possible they might break ground late this fall, but it is more likely it will be next spring. The City has the capabilities and engineering to get water to Meijer's and will get them water; however, it is a matter of the cost and who is going to pay for it. Councilwoman Riddle asked what the date was that Meijer's initially thought they would break ground. City Manager Eustice replied late 2016, early 2017. They initially stated they would open the store in 2018, but now they are saying late 2018, 2019. We can't control this, as they work at their pace and build as they get funded. Mayor Pro Tem Couture commented the City in no way, shape or form is holding them up. City Manager Eustice responded not at all. Councilman King stated perhaps the Tribune could help with an update on Meijer's, because he thinks a majority of the citizens don't understand it is not the City stalling the project. City Manager Eustice commented the City has done everything it can to participate, noting Meijer's is not building in the City of Cheboygan but in Inverness Township and we have been bending over backwards to make this successful. Mayor Bronson noted this is an all County project, including the site plan.

General Business:

- **Consideration of Counter-Offer to Kokosing at a Monetary Value Set by Council and Contingent on a Maritime Services Cooperative Working Agreement being Executed** – City Manager Eustice commented Council has a draft of the Agreement, noting the City has a proposal from Kokosing/Durocher Marine for the purchase of some of the port property, which is dated March 7, 2016. It has been some time and they are certainly willing to work with us and have been very gracious as far as participating with us and trying to work through this Agreement. They understand the City needs to make a counter-offer. City Attorney Steve Joppich believes legally we shouldn't sell the property for the offer made to us, as he is very concerned we are selling property that is favorable to them and we can't do that because it is taxpayer owned property. He has given us an opinion that we can negotiate directly with private entities, but we cannot look favorably at any entity over another.

Regular City Council Meeting – July 26, 2016

With that being said, the City Manager would like direction to make a counter-offer to Kokosing with a couple of stipulations, one being the Maritime Services Cooperative Working Agreement, which basically guarantees us that they will provide maritime services to any entity that would locate in the City of Cheboygan and guarantee that an industrial investor would have a place to ship and receive out of. City Manager Eustice noted that Kokosing is certainly willing to do that. Also, in the purchase agreement there will be a reciprocal clause which would allow us to get the property back should Kokosing disband, leave or move, so whatever company is using the Port would still have that availability. Kokosing gave the City three options in their initial purchase agreement (showing the Council the location of the parcels on a map) as follows: first 100 feet, with a boat well, \$30,000.00; the next 388 feet, \$400.00 per front foot - \$155,200.00; and the next 279 feet, with a great deal of depth, \$700.00 per front foot - \$195,300.00. This is a total of 767 feet to the north right-of-way of Lake Street for \$380,500.00. In Attorney Joppich's opinion this is too low. He noted the 300' sold recently to Ryba Marine, which was squared off with a little more frontage (400 feet) on Main Street, adding a little value to the property, was sold at \$750.00 per front foot, or \$225,000.00. Mayor Pro Tem Couture asked if it is correct that we have an appraisal on the total piece of property, and what did it appraise per foot. City Manager Eustice replied yes, and the property appraised at \$750.00 per front foot. Mayor Pro Tem Couture commented when you are selling property on waterfront you are selling the waterfront, but there is value to the depth. City Manager Eustice stated adjustments can be made for the depth. Mayor Pro Tem Couture stated the City purchased this property for the riverfront and with the intention of a Port. There will be different values on depth from someone interested in purchasing; what we value the property at is what we value it at. In his opinion our value is frontage, but does not say we cannot make adjustments. Mayor Pro Tem Couture stated the City Manager's proposed counter-offer is still lower than what we have already set a precedence for. City Manager Eustice explained his calculation of his recommendation, being \$50,000.00, \$194,000.00, and \$223,200.00. Councilman Lavender asked for the square footage for each parcel, wanting to compare the price per square foot of Ryba's piece with that of Kokosing's offer. City Manager Eustice stated he does not have the square footage calculated but can do it. Councilwoman Riddle stated another thing she feels is very important to take into account is that on the 279 foot piece, there is access basically to two roads; that, in itself, and the front footage are all very important aspects and she personally thinks \$800.00 per front foot is too low.

Mayor Pro Tem Couture stated the following are important in the sale of this property: the cost of each piece per square foot and the Maritime Services Cooperative Working Agreement. He asked with the Maritime Agreement can other entities ship there. City Manager Eustice replied yes. Councilman King stated the way he reads it, "Additional parties may be added to this Agreement by unanimous vote of all current parties." – If Kokosing said no, that eliminates any other option. Mayor Pro Tem Couture asked if someone wanted to buy the 350 foot piece north of Ryba to provide shipping services and build whatever, they could do that, and could we get into an agreement with them, as well. City Manager Eustice stated a very possible scenario is Mr. Zac Morrish, President of Ryba, would like to buy the 360 feet and adopt the same type of agreement we have written for Kokosing which would basically sell all the Port properties and all private entities would ship off of Kokosing and Ryba properties. City Manager Eustice explained the properties that would then be available for shipping and receiving and the two entities would then coordinate. Mayor Pro Tem Couture stated it appears the Agreement is set up where Kokosing buys the property and they can do whatever they want with it, as long as they know they have to facilitate anything that comes in. He then asked if they have an agreement to deny a company that needs to ship because they don't have the manpower. They are in charge of charging and the City does not come up with any of the price, but we reserve the right to be able to facilitate another business. City Manager Eustice stated that is correct. Mayor Pro Tem

Regular City Council Meeting – July 26, 2016

Couture stated the City will be able to market it as the Port Commission wants to be able to do this. City Manager Eustice commented this would provide competition in bidding on product coming in and out. Mayor Bronson asked if the City sells all that property, when they off-load, are fees being sent to the City. City Manager Eustice replied this is something Kokosing has talked about and it could be something we could look at. Kokosing suggested a percentage of the fee charged. City Manager Eustice then commented he does not know that the City needs that as the property will go on the tax roll with any improvements they make, and the City will get these revenues from property taxes. Mayor Bronson stated if they are putting stone on there, there is not going to be a lot of improvements to the property. City Manager Eustice agreed, stating again the best case scenario for the Port of Cheboygan is to ship and receive on the north end of their property, which is the deepest part of the River where they have stone and sand now, in addition to a seawall and ramp. If they do shipping and receiving they will likely do it off the north end of the property. Councilwoman Kwiatkowski asked instead of maybe taking their 5% or whatever they would offer, could they possibly do some riverfront improvement like down by Plaunt's where we can use and turn the parking lot into something besides a parking lot and redo the waterfront and have a nice looking walkway from there, a park and other things. Could they possibly help us do that since they're marine? City Manager Eustice stated we could talk to them about that, which is what Ryba did when they leased a 66 foot right-of-way from the City. Councilwoman Riddle stated if any fees generated went right into improving the infrastructure for the community, it's one stone in a big bucket that needs to be filled but it's all moving in a good forward direction, whether it goes toward the River where the parking lot is or to the rest of the infrastructure of the City, it is all improvement that we need.

Mayor Bronson asked if there is any concern about the utilities that go underneath the River there. City Manager Eustice stated he does not think so, pointing out where the storm sewer is and where the water line crosses. The City has easements in place so no one will be able to build on those. Councilwoman Riddle asked if this is mentioned in the purchase agreement at all. City Manager Eustice replied no, adding it wouldn't need to be as there are recorded easements and the City has the right to go on the property whomever owns it. Mayor Bronson then stated there has been some discussion about the Fish & Wildlife buying some property. City Manager Eustice stated in that scenario between Mr. Zac Morrish and himself they have a pretty good remedy and the U.S. Fish & Wildlife is aware of it. Ryba would like to move their operation north, noting they own a 66 foot piece next to the USGS property and there is a boat well cut in there right now. The Spencer Baird is a 94 foot boat and the depth of that property is 120 feet, so Mr. Morrish has talked to the US Fish & Wildlife about selling them the 66 feet and he would cut in that boat well at least 100 feet in so they would have dockage all the way around the boat, and then they would be adjacent to the USGS. Councilwoman Kwiatkowski stated if Ryba wants that 360 feet and we are talking about fair market value for Kokosing, what would be the fair market value for Ryba. Mayor Pro Tem Couture replied \$750.00 a foot, which is what it is appraised for, or \$271,500.00. Councilwoman Kwiatkowski then stated if we let Kokosing have the 279 feet for \$550,000.00 it is not very fair to Ryba. City Manager Eustice stated he agrees, stating he thinks it is probably worth \$500.00 a front foot. Councilwoman Kwiatkowski then asked if Kokosing would pay more because of the two streets and depth. Mayor Pro Tem Couture asked Clerk/Treasurer Kwiatkowski as to how much does the City have into the purchase and all fees, what are our total expenses, and what will they be by the time it's done. Clerk/Treasurer Kwiatkowski stated the property sold at \$850,000.00, we put \$170,000.00 down on it, and made payments on the land contract for a year, and then the piece we sold to Ryba came off the principal, so we will have \$550,000.00 invested if that didn't sell. Mayor Pro Tem Couture asked before the Ryba sale, how much did we have into this property (1,429 feet for \$850,000.00), and how

Regular City Council Meeting – July 26, 2016

much have we paid in legal fees to date. Clerk/Treasurer Kwiatkowski stated we have \$47,000.00 in legal fees to date. Mayor Pro Tem Couture stated we have about \$900,000.00 into this property. Clerk/Treasurer Kwiatkowski stated we have more than that with environmental, surveys, etc. He does not know the total amount invested but has it all on a spreadsheet. City Manager Eustice stated we are close to one million dollars. Mayor Pro Tem Couture commented if we sold the property at fair market value, \$750.00 a foot all the way across the board, it is \$1,071,250.00. This is what it appraised at and that is what needs to be paid for it, in his opinion. We have agreement(s) in place and they are buying this property to increase their business. He knows there are pieces of the pie that are smaller, but it is all River frontage. Mayor Pro Tem Couture noted we still have the property on the other side. City Manager Eustice stated we will be getting \$100,000.00 for the property on the east side from the Little Traverse Conservancy, while keeping the 13 acres upland. Councilman Temple stated we need to be sure to get back the million dollars that we spent. City Manager Eustice replied that is easy to do with all the transactions. He then stated he is suggesting the City sell property to Kokosing for a total of \$500,000.00. Mayor Pro Tem Couture commented that is \$651.00 per front foot. City Manager Eustice pointed out there is not much land with the first 250 feet. Mayor Pro Tem Couture commented that the City Manager just told them it was more valuable because it is deeper. City Manager Eustice then stated the City paid \$594,000.00 for it, but thinks \$500,000.00 is fair and his concern is that even at \$500,000.00 Kokosing will come back with a counter-offer probably at \$450,000.00. He does not want to scare them away and feels it is a fair counter-offer and they do need the property, but on the other side of the coin they don't need us because they can already ship and receive off of their property and have all the licensing and Port Facility Security Agreement. He does not want to put them out of the ballpark. Mayor Pro Tem Couture stated he is in total agreement and wants to make this work, but we have an Attorney's opinion that doesn't want us to sell because we have already set a precedence with a sale, which is one of his issues. Both ends of the property are maritime construction and they pay in other places around the Great Lakes for leasing, for property they bought and the prices they are paying for that are not going down. This is their home base and we want them to stay here. Considering comparables in other places where they have harbor, he is certain they are paying a whole lot more than \$750.00 a front foot. Mayor Pro Tem Couture stated it is not necessarily relative, but it is and it isn't. It is his opinion that Kokosing or anyone are not getting a bad deal at \$750.00 a front foot. Although we paid less than that, the City also jumped through quite a bit of hoops. A brief discussion held on Kokosing later selling the property, but it has to be to someone that will provide port related services that is part of the 10-year agreement. Councilman Lavender stated he feels the way this is transpiring now is working in favor of the entire City and for the Port. We have two potential Port operators who have the ability to ship and receive now. Of course, there is nothing to ship and receive right now. Thinking of taking 5% of shipping and receiving where there is none is kind of the cart before the horse. We need this to happen so the Port Commission can market this in hopes that an investor or company will set up shop here to ship and receive from whichever Port operator they want to work with, whether it be Ryba or Kokosing. He thinks this is the best case scenario for us and does not think the Fish & Wildlife Service in the middle of that fits anywhere. City Manager Eustice stated Ryba is already developing a Port Facility Security Plan to Lake Street, so their entire property will be eligible for shipping and receiving. Kokosing already has that in place for their property and the City's property. You cannot ship and receive off of any property without a Port Facility Security Plan, which comes through the United States Coast Guard. To be able to ship and receive domestically or internationally on any of this property it has to be in a secure location and all fenced in and locked with access only by the owners of the property. City Manager Eustice agreed the US Fish & Wildlife does not fit in this area. Mayor Bronson commented the estimate the City had for the riverfront for putting in seawall, etc. was five million dollars, which is multiple years of our whole City budget. Discussion held. Councilman Temple

Regular City Council Meeting – July 26, 2016

stated we need a deadline or this could go on forever. Councilwoman Kwiatkowski wanted clarification on the City Manager's recommendation. City Manager Eustice replied \$500,000.00 for 767 feet.

Councilman Lavender moved to approve a counter-offer to Kokosing in the amount of \$500,000.00, contingent upon a Maritime Services Cooperative Agreement being executed; supported by Councilman Temple.

Councilwoman Kwiatkowski asked how far we are away from the one million dollar figure. Mayor Pro Tem Couture stated he noted the Port Commission did not have a meeting this month. City Manager stated a meeting was scheduled but there was no quorum. Mayor Pro Tem Couture then stated the Council does not have a recommendation from the Port Commission, which we don't need because Council has the recommendation from the City Manager. City Manager Eustice stated there is a recommendation from the Port Commission from the June meeting; they asked him to develop a counter-offer and a cooperative working agreement with Kokosing. Kokosing is okay with this at this time and we can make changes before we close, reiterating the recommendation from the Port Commission was to draft an agreement and work with Kokosing. Mayor Bronson and he sat with Mr. Joe VanAntwerp and Mr. Stan Neff at Kokosing, after that meeting, and they agreed to work with him on this agreement and Mr. Neff has. They are okay with that and have told him they will do whatever the City wants to do to get them this property and be the Port operator. Mayor Pro Tem Couture commented that the offer from Kokosing was \$380,500.00. City Manager Eustice stated he would like to sell the property to Kokosing in one transaction. Discussion held on Kokosing's offer. Councilwoman Riddle commented if the worst case scenario is Kokosing does not purchase the 279 feet, the property is still marketable due to its depth and the size of the property that another company could come in there, such as Moran Iron Works, and use it for a staging area. City Manager Eustice agreed, but it also could sit there for a long time, too. He stated at \$500,000.00 it is \$651.00 per front foot; if we sold another piece to Ryba we should sell it at \$651.00 a front foot. Mayor Pro Tem Couture stated we would be selling that piece for about \$206,000.00. City Manager Eustice commented he feels this is fair. Mayor Pro Tem Couture stated he feels we don't need to make any money, but sure would like to break even. He would like to see something put together if there is interest on the other end from Ryba on the other piece, whether we provide them with an offer first and we ask them for an offer with the same kind of agreement and likes having two people there that are capable of doing it; let them both provide more jobs.

A roll call vote was taken. Yes votes: King, Kwiatkowski, Riddle, Lavender, Temple and Couture
No votes: Bronson
Motion carried.

Councilwoman Riddle stated Mayor Bronson is on the Port Commission and asked him his reasons why he voted no. Mayor Bronson replied he feels we have more time to work on this and would like to have more time to mull it over.

Public Comments:

- **Port** - Mr. Ray Lofgren stated he was a little shocked with the Mayor voting no on the last motion, but noted the Mayor has stated his reason why. He stated, as he said before, take your time. Since we have had a sale but thinks there is still time and appreciates Councilman Lavender and the rest of Council wanting to get our money back, which as a taxpayer he would like to, also. But every Council member knows if anyone walks away on either end of this Port that the people cannot afford to

Regular City Council Meeting – July 26, 2016

develop the Port property and operate it. He commented on not seeing boats in Lake Huron, as does one of the Council members, adding it might be a very long time. If he were one of the potential buyers he would walk away; if he were both of them he would get together and walk away and let the negotiations settle. Let the Mayor and Port Commission then decide what they want to do for another two years. If in that two years the City spends another \$100,000.00 in legal fees it would be disastrous. Can the Port just sit with no activity? He has seen publications advertising the Port as being open. If it doesn't come to reality, so what; the Council might have a little egg on their face, but the taxpayers cannot afford to develop that property. He then made comments on selling waterfront and tax bills on secondary homes. He stated as the Council is looking at making jobs, they have to be thinking of people that want to develop the City. He commented on the general public never being able to see the River with development. Councilwoman Riddle stated that part of the River is not intended for public transit. The area north of the State Street Bridge is designated heavy commercial/industrial for planning (Riverfront Development Plan). Mr. Lofgren inquired as to the Water Street Condominiums, the first building north of the bridge. City Manager Eustice noted the Riverfront Development Plan was not approved until 2010. Mr. Lofgren commented he has been looking at the inland water route and it has been going down in his development career, instead of upward. The only thing he has seen that has been improved, which is not for any kind of improvement for the use of the City, has been Walstrom's, City park or footbridge. He would say Council better take the offer, noting Council is here to spend the money properly, try to retain, and get his money back. You have got to remember that these guys are ready tomorrow and having the Port open could happen tomorrow by accepting the offer. Mr. Lofgren then commented on the monies spent for the Port property. If we have a Port, then stick with it, as former Mayor Sangster stated we need a Port for the jobs.

▪ **Sludge Hauling** - Mr. Lofgren stated the sludge hauling will be ongoing for many years. DPW Director Karmol agreed. Mr. Lofgren stated nothing is being done on the cost of hauling it. Councilwoman Riddle stated the question she previously asked Mr. Lofgren was if he had all his paperwork in place. Mr. Lofgren replied he went as far as he could without the assistance of DPW Director Karmol. Councilwoman Riddle then stated if Mr. Lofgren did not have his paperwork in place then he could not have accepted the sludge. DPW Karmol stated there is dredging permitting that he found where Mr. Lofgren is permitted to accept dredge. But there is also a residual management program that only a Farmer Dodder and Farmer Hemmer are currently listed in Cheboygan to accept the City's sludge. In order to do that, they have to test for soils, meet MDEQ protocol, apply an application rate that doesn't overtax the field, and then he has to visit the site to make sure that the sludge is appropriated. Even though Hemmer and Dodder both wanted it, but they didn't have soil samples. Mr. Lofgren stated he ran out of time, noting he made three telephone calls himself. DPW Director Karmol stated he asked Mr. Mike Person if any applications had come in for residual management because he is the only one that takes them. He then stated every field that he applies has to be tested annually in order for him to figure out an application rate, figure out a way to get it there, and then has to confirm the application rate and submit the paperwork. Mr. Lofgren commented it is the same MDEQ department and they haven't been approved for this particular sludge, but have been approved for a dump site and have hauled 10,000 cubic yards of dredging material from Bois Blanc Island. That is the piece of property he is positive on. The paperwork ran into maybe one-half years' time. Mr. Lofgren stated DPW Director Karmol does not have time to do this, but worked with Mr. Lofgren and all of a sudden he was being squeezed and it was put out for bids to be hauled. This is when he said if we had more time to process, and it would be more of a load on his shoulder and he would be getting nothing for his time put into it, but when he sells it, after working it into his soil, that is when he would reach a possible harvest. DPW Director Karmol commented we are only allowed a maximum amount on the site and he was already at max and had to

Regular City Council Meeting – July 26, 2016

get stuff off the drying bed and only hauled away what he had to. There is still 2100 yards with nobody to take it. Again, if he gets no farmers that comply with MDEQ regulations for residual management we will be forced to haul offsite any excess he is allowed to store and we will be in that scenario until a farmer can take it. Until you approve a piece of land for dredging, he can't throw solids on top of it, it has to go through the process. Even if you had a former dredging site, you can't dump one thing and then dump another thing on top of it. It has to be a site that is ready to grow material, apply at a rate that the MDEQ finds is feasible to grow stuff on it, then you have to agriculturally grow a produce on it to uptake the nutrient in order to reapply it there. Even though he gets letter after letter from Hemmer, who is already an approved site, we haven't got any soil samples yet for him to figure out the application rate to even take it to him. Dodder is approved on our site, as well, but he has not expressed interest or given DPW Director Karmol soil samples. Therefore, he has little or no options but to take the sludge away as unwanted material. The best case scenario would be to have multiple farmers that want fertilizer, who would even want to come get it where the City would not have to haul it. First of all we need to get multiple sites approved and then he thinks we can manage getting rid of the extra. Councilwoman Riddle asked if someone wants to think about doing that then they can contact DPW Karmol and start the long process that it takes. DPW Karmol commented all he can do is point them in the right direction to the MDEQ person where they can get a site approved. He can also show them the testing results he has of the product showing the nitrogen, phosphorous and pneumonia content of the materials being brought to their site. Councilwoman Riddle stated Mr. Lofgren is partially into the system but not totally there. Mr. Lofgren commented they have a 10-acre parcel that has been farmed and a 100-acre parcel, in the City also, so they have more than ample space for 2100 cubic yards. It might take a year to get through the paperwork. DPW Director Karmol stated on the dredging side you are allowed to put material down. Mayor Pro Tem Couture interjected that this needs to be discussed in DPW Director Karmol's office; it does not need to be discussed at a public meeting. Councilwoman Riddle stated every time Mr. Lofgren asks DPW Director Karmol a question, Mr. Lofgren cuts him off and thinks this is not open comment anymore but a conversation that needs to take place in the office and agrees with Mayor Pro Tem Couture. Mr. Lofgren responded fine, noting he did not recognize the names DPW Director Karmol mentioned, but when it comes to the City another \$100,000.00 for 2100 cubic yards, then it takes time over the year to get the proper permits. DPW Director Karmol clarified that the City has a fertilizer product that any farmer can try and take advantage of, whether they are in the City or not. There is a process to go through and there is an application rate to have. These farmers need to grow an agricultural product with our bio-solids because it has pneumonia, nitrogen and phosphorous. We can't really dump it anywhere without growing product because we are going to apply pneumonia, nitrogen and phosphorous into receiving waters. If any rain were to hit this product in some place that isn't being currently tilled and worked, then all of the runoff will be pollution. This is basically just made for an agricultural product. As a public statement, any farmer can come and try and get information on how to supplement their fertilizer with our product in a responsible way that doesn't impact the lake, river or any of the tributaries or storm waters that might receive it.

- **Blight** – Mrs. Trudy Lofgren commented with the blight situation in the City and trying to take care of it, she has observed weeds on the sides of the River banks from Great Lakes Tissue to the bridge and from the bridge to the motel, which are horrendous. City Manager Eustice asked if the weeds are in the rocks. Mrs. Lofgren replied yes, you can hardly see the white rocks.
- **Agenda** - Mr. Bruce Gauthier stated he wanted to make a suggestion regarding the Agenda. He stated he thinks it might be useful adding public comments at the beginning of the meeting, as well as at the end of the meeting like they do at the County. He went on to state tonight's meeting was a good example because we were talking about something very important - the Port. The Council may have

Regular City Council Meeting – July 26, 2016

taken advantage of some input from the general public. Councilman King stated he appreciated Mr. Gauthier's comments.

City Clerk/Treasurer's Comments:

- **Nominating Petitions** – Clerk/Treasurer Kwiatkowski stated the close of turning in Nominating Petitions for the General Election in November has come and gone. We have one individual running for Mayor and four individuals running for three Council seats.
- **Primary Election** – Clerk/Treasurer Kwiatkowski commented this coming Tuesday is the Primary Election for County, local and State. Also, there are two proposals on the ballot. The Primary is a closed Primary so you cannot split your ticket. Mayor Bronson asked what happens is someone splits their ticket. Clerk/Treasurer Kwiatkowski replied it will spit the ballot out and the voter will have the chance to rectify; if they choose not to, it will not vote that particular race. Because of this issue, Primary's in Michigan usually have a poor turnout.

City Manager's Report:

- **Power Outage and Fire at WWTP** – City Manager Eustice mentioned the recent power outage and fire at the Wastewater Treatment Plant, which was mentioned briefly in DPW Director Karmol's Report. For the general public, there was a major electrical fire at the WWTP on Friday morning last week and believe it caused as much as one million dollars' worth of damage, but it was insured. It was a very catastrophic event. The staff and DPW Director Karmol responded very well, in addition to help from Stan's Electric and UIS (company that helps us manage our SCADA System). Surprisingly, in a very short period of time, we are almost back to normal for something that was very serious at the time. He commended the WWTP staff and DPW Director Karmol. City Manager Eustice stated this is probably something that went very much unnoticed in the general public.
- **Lincoln Avenue and Duncan Avenue Repaving** – City Manager Eustice reported we are in the process of repaving Lincoln Avenue and Duncan Avenue, noting paving on Lincoln Avenue began today. They are moving along very fast on their estimated two-week timeframe. Councilwoman Kwiatkowski stated there is a concern of a culvert and believes the City Manager spoke with her neighbor. City Manager Eustice stated he has not spoken to DPW Director Karmol on this, but City Engineer Granger will be looking at it. He stated they will also be looking at a couple of other things, as well, mentioning a discussion with Mr. Lofgren.

Messages and Communications from Mayor Pro Tem and Council Members:

- **Downtown Music Festival** - Councilman King asked if the Festival is doing okay on volunteers. City Manager Eustice replied Friday is good, but believes additional volunteers are needed for Saturday.
- **Blight** – Councilwoman Kwiatkowski stated their Church has “Our Church Has Left The Building” every so often, in addition to a youth group, and they would be interested in helping out. She also talked to someone who is on council in another city, and their blight committee tries to work on “you get more flies with honey than vinegar”. She was told they take before and after pictures and they actually give a citizens an award for their job on the blight clean-up. There are other ways to go after blight other than citing and fining them, i.e. positive.
- **Mackinaw Avenue Bridge** – Councilman Temple asked for the status on the Mackinaw Avenue bridge. City Manager Eustice replied they are backed up about another week, as their end date was July 29. It will be near the end of the first week of August before it is completed. There were a couple issues, i.e. hitting a natural gas line that backed them up 11 days and the replacement of a new steel I-beam that had a stress fracture in the steel that backed them up 6 or 7 days.

Regular City Council Meeting – July 26, 2016

- **Michigan Main Street Program** - Mayor Pro Tem Couture stated he noted the DDA making a recommendation for the Michigan Main Street Program to the City Council, and asked when this will come before the Council. City Manager Eustice stated it will come to Council the first meeting in August. Mayor Pro Tem Couture noted it was unanimous by the DDA Board that the City should do this. City Manager Eustice responded it was unanimous and the first phase does not cost the City anything and thinks it's worth the time and effort to at least look at it. If it doesn't look beneficial after a year, we don't have to continue. Mayor Pro Tem Couture inquired as to staff time required. City Manager Eustice replied there is not a lot of time involved, other than some training that is free other than the travel time. He, Kirsten Guenther and maybe some other staff people will have to attend training. City Manager Eustice informed the Council he will have a lot more detail on it the first meeting in August.
- **Farmers' Market in Festival Square** – Mayor Pro Tem Couture asked if the City Manager has spoken to anyone on the Farmers' Market in Festival Square. City Manager Eustice replied starting tomorrow, the Wednesday Farmers' Market will be held in Festival Square, and also after Labor Day on Saturdays. He then stated he is not sure if the group is split, with others being at the Fleetwood.
- **Crosswalk at the Kingston** – Councilwoman Kwiatkowski commented the stripes have not been done, asking why it hasn't been done, as she thought it was to be done in the spring. City Manager Eustice stated he will check with Mr. Jason Bodell of MDOT.

Adjournment:

Councilman King moved to adjourn the meeting at 9:00 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