

REGULAR CITY COUNCIL MEETING
January 10, 2017

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, Lavender, Bronson, Temple, King, Riddle and Couture

Councilwoman Kwiatkowski led the Pledge of Allegiance to the Flag.

Approval of Agenda, and Receive and File all Communications:

Councilman King moved to approve the Agenda and receive and file all communications; supported by Councilwoman Kwiatkowski. Motion carried unanimously.

Approval of Prior Meeting Minutes:

Councilwoman Kwiatkowski moved to approve the Regular City Council Meeting Minutes of December 27, 2016 as presented; supported by Mayor Pro Tem Couture. Motion carried unanimously.

Communications and Petitions:

▪ **2015/2016 Audit Presentation – Gabridge & Company, PLC** – Clerk/Treasurer Kwiatkowski introduced Mr. Neil Hammerbacher. Mr. Hammerbacher stated the Council has a report in front of them for the year ended June 30, 2016. He referred to page 1, Independent Auditor’s Report letter, which talks about management’s responsibility for the financial statements; and the auditor’s responsibility which is to give an opinion on the fairness of the statements (they have to follow Government Auditing Standards issued by the Comptroller General of the United States, and standards by the Michigan Department of Treasury). Mr. Hammerbacher then read part of the Opinions section on page 2, stating this is called an unmodified opinion. If there was something wrong it would be called a modified opinion and they would have to disclose what that was. So in layman’s term, this is a clean Opinion. He then referred Council to page 4, Management’s Discussion and Analysis, including the Financial Highlights. He read the fourth bullet – “At the end of the current fiscal year, unassigned fund balance for the general fund was \$1,013,077, or 49 percent of the general fund’s annualized expenditures and transfers out.” He explained the State of Michigan thought if the fund balance in the general fund was 13% or less of expenditures, there was a problem. The City is at 49%, which is a decent fund balance for the general fund. He then stated the two most important pages of this report are pages 15 and 16, which is a snapshot of the City. Page 15, Statement of Net Position as of June 30, 2016, shows what the City owns, what is owed and what’s left over. Page 16, Statement of Activities for the Year Ended June 30, 2016, and the Change in Net Position shows a \$40,980.00 increase. Mr. Hammerbacher then referred to page 37, Notes to the Financial Statements, Note 3 – Statutory Compliance, stating it is a legal requirement for governments in the State of Michigan to have a budget for the general fund and all special revenue funds. The City can have them for all their funds, but the only ones that are required are the general and special revenue funds. He then read “During the year ended June 30, 2016 the City had no expenditures in excess of budgeted amounts.” On page 38 there were three areas where the City was in deficit in unrestricted net position - when looking at the governmental activities, (\$1,331,997.00). There was a new standard last year where the pension had to be put on the books and never before was that

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liability put on the books. This is around \$4,000,000.00, which puts the City in a deficit. The State looks to see if there are any funds in a deficit, and the City had three. The next funds are the Internal Service Fund (Equipment) – (\$25,896.00) – The State gives an exception here if current assets are greater than current liabilities and there is no deficit elimination plan required. The last fund is the Business-Type (Ice Pavilion) – (\$29,194.00) – the current assets were greater than current liabilities, so this is an exception.

Mr. Hammerbacher then referred Council to page 66, Combining Balance Sheet, Non-Major Governmental Funds, the City will need to do a little work in the Port Property Fund, the unassigned fund balance of a deficit of (\$22,986.00). When the audit report is sent to the State of Michigan, an audit and procedures report is required to show any funds that are in a deficit that don't have an exception. The Clerk/Treasurer received a letter from the Department of Treasury and has to follow it up with an elimination plan. Mr. Hammerbacher stated it is his understanding the City is going to sell the property and make a little money and the deficit will go away. The State gives you one to five years to file a deficit elimination plan, and the City will address this in the first year when the property is sold. Mr. Hammerbacher then referred to page 55, Note 14 – Prior Period Adjustment to the beginning net assets for the Governmental Activities and Business-Type Activities, which was for adjustment of the GASB Statement No. 68, the pension fund. They previously made adjustments, but then needed to amend the Governmental Activities by (\$316,501.00) and the Business-Type Activities by (\$94,584.00). Note 15 – Upcoming Accounting Pronouncements talks about the effects of GASB Statement No. 74 and GASB Statement No. 75 on future reports. In the future the auditors have to footnote tax abatement to industrial facilities (IFT), as the Government wants to know how much revenue the City is losing. He then asked if the City currently has any IFT's. City Manager Eustice replied no. Mr. Hammerbacher stated IFT's abatements can be granted for up to 12 years with the industrial facility only paying one-half the tax.

Mr. Hammerbacher then called attention to the last page of the report, Schedule of Findings and Responses, Segregation of Duties, which deals with the Treasurer handling money and doing the accounting. This is not an ideal situation and should be segregated but due to budget constraints this is not done.

Mayor Bronson inquired as to the new rules for pensions in the future and a plan to address the deficit. Mr. Hammerbacher stated this is adjusted typically in the budgeting. When the budget is done, the City may want to add an analysis of what is the estimated affect. Mayor Bronson then asked Clerk/Treasurer Kwiatkowski for comments. Clerk/Treasurer Kwiatkowski stated he thought the audit went very well, noting the big thing is the pension plan as we are not sure what's going to happen in the next two years. For the first time beginning last year we showed on our books and audit the overall deficit in our pension plan, noting currently it is approximately 3.9 million dollars. Mayor Bronson asked if the Clerk/Treasurer at one time presented a report that showed that over the years, where some employees would phase out. Clerk/Treasurer Kwiatkowski stated we have what is called a Hybrid Plan now and it's very inexpensive compared to the Defined Benefit, which is a very rich plan. Currently we have eight employees who are in the Hybrid Plan, so they are not really contributing to the Defined Benefit Plan, so it's not helping with our deficit. Mayor Pro Tem Couture asked how we make a move on that. Clerk/Treasurer Kwiatkowski replied what MERS has done is accelerated funding; 22 years ago the City's portion of the pension expense was less than \$100,000.00 per year and now it's approaching \$300,000.00. He has printed off for the budget meetings what the City has contributed for the last 15 years or so. Mayor Pro Tem Couture stated he would like to review that during the budget meeting and see what the plan is for the future. Clerk/Treasurer Kwiatkowski explained that now we have gone with accelerated funding; a lot of cities if they have

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additional funds left over in the fund balance, they will make a one-time lump-sum payment. Some of them have issued debt to cover their unfunded liability. The State is getting more involved so what's going to happen down the road, we don't know yet. Mayor Pro Tem Couture asked if we did not fund it for so many years to the right extent. Clerk/Treasurer Kwiatkowski replied we funded it at the level we were supposed to fund it and now it is accelerated funding. Part of the problem with the pension plan is the actuarials done every year are overly rosy. They are projecting over a period of time an 8% return on investment and that's just not happening. This is where all the cities are running up these big unfunded liabilities and people are living longer.

Councilman King moved to accept the 2015/2016 Audit as presented by Gabridge & Company, PLC; supported by Councilman Temple. A roll call vote was taken; motion carried unanimously.

Mayor Bronson asked if the Audit has already been submitted to the State. Clerk/Treasurer Kwiatkowski replied yes, noting he has to now submit a deficit elimination plan for the Port project.

Bills and Disbursements:

▪ **Prepaid Bills and Disbursements for the Month of December 2016.**

Councilman Lavender moved to approve the prepaid bills and disbursements for the month of December 2016 in the amount of \$422,354.60; supported by Councilman King. A roll call vote was taken; motion carried unanimously.

▪ **Unpaid Bills and Disbursements for the Month of December 2016.**

Councilman King questioned the expense to Jett Pump & Valve, L.L.C. asking if another pump went down at a lift station. Clerk/Treasurer Kwiatkowski replied yes. Councilman Lavender inquired if that was from the power outage. Clerk/Treasurer Kwiatkowski replied no, noting we have a lot of aging infrastructure in the streets and this was about the third pump we have replaced. Mayor Bronson asked if the pumps are all about the same age. Clerk/Treasurer Kwiatkowski replied he did not know. City Manager Eustice stated they vary in age. Councilman Lavender inquired as to a different vendor being less costly. Clerk/Treasurer Kwiatkowski responded he could not answer that. City Manager Eustice stated we typically use Jett Pump, adding there are not a lot of vendors out there and is sure DPW Director Karmol get quotes. When a lift station pump goes down, there is not a lot of time to repair.

Councilman King moved to approve the unpaid bills and disbursements for the month of December 2016 in the amount of \$34,474.21; supported by Councilwoman Kwiatkowski. A roll call vote was taken; motion carried unanimously.

Department, Board and Commission Reports:

▪ **Port Commission, December 5, 2016** - City Manager Eustice stated there was no Port Commission meeting last evening due to the lack of a quorum, but would still like to have a meeting this month. One issue they need to look at is marketing strategies. He spoke with Mr. Gabe Schneider of Northern Strategies 360 who has been here and early on had some interest in Port marketing and feels we need to hear what he has to say about marketing strategies. He will try and have a Port Commission meeting around January 23. City Manager Eustice then stated he will talk about the status of the purchase agreements under his City Manager's Report. Councilman King asked if possible easements for drainage have been discussed with the Little Traverse Conservancy. City Manager Eustice replied yes, noting two of the three easements are already in place, but we may have to write an easement for one section of the property to retain where we have a drainage ditch. He noted we have always maintained it but cannot find a recorded easement, as it does drain a large

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part of the east side.

- **Planning Commission. December 19, 2016** - City Manager Eustice reported there are no other pending site plans, noting today he had a meeting with Mr. Robert Falk of the Cheboygan Yacht Club. The Yacht Club wants to put up a stick-built building on City property in Major City Park and lease the land, noting Mr. Falk dropped a preliminary rendition idea of a site plan. This will go to the Planning Commission next week for discussion and then it will be discussed at the Council level on January 24. The leased property would then go on the tax roll as a building on leased land. The site plan would require Planning Commission recommendation and Council approval. The building will be done in two phases. The building will have a view of the Riverfront but no access and will be used as an office, clubhouse and storage.

- **Downtown Development Authority Board, January 3, 2017** – City Manager Eustice stated the “bunny wall” was discussed at this meeting. He was going to have some discussion with the DDA on this, but had to leave for the Inverness Township Meeting that same night. The wall is something we need to address when we get into the spring season. He and the City Engineer may have to drill out a piece to see what is there. It is not an easy resolution because the wall is underneath the roof of the building, and we are not certain what is behind the wall. The best resolution would be to remove the wall but we do not know if it will disturb the structure. Councilwoman Riddle stated if the wall is not structurally sound, the only thing to do is to remove it and replace it with something structurally sound. City Manager Eustice stated this would cost approximately \$60,000.00. The best case scenario would be to remove the wall, repair the roof, and not have to replace the wall. He stated to cover the wall with a stucco or plaster type finish, the City Engineers and other engineers feel the wall will just crumble in a few years. City Manager Eustice noted there is newer brick and cement block at the top of the wall, which was added at one time. Councilman Temple inquired about going down the wall 15 or 20 feet and take a couple bricks out to see if there is space between the cement block wall and brick. Councilwoman Riddle commented it is stated that the wall is not an exterior quality brick. Councilman King agreed with Councilman Temple. City Manager Eustice commented maybe the best solution might be to demolish the whole block to Linde Furniture.

Resolutions:

- **Consideration of Local Governing Body Resolution for Charitable Gaming Licenses** – City Manager Eustice informed Council the Cheboygan High School bowling team is going to have a raffle and approval is required of the local governing body.

Mayor Pro Tem Couture moved to adopt the Local Governing Body Resolution for Charitable Gaming Licenses for the Cheboygan Bowling High School Boosters; supported by Councilman Temple. A roll call vote was taken; motion carried unanimously.

Unfinished Business:

- **Consideration of Mobile Food Vendor License Application, Fees and Guidelines** – Mayor Bronson commented this matter was delayed until there was a full Council. Chief Jones, Director of Public Safety, stated Council received a memo in their packet. Council’s biggest decisions to make from previous discussions are the distance from similar or like businesses and the fee. The other considerations came up during the previous discussions. He noted the distance from similar or like businesses consensus was around the 200 feet, which he feels would be comfortable on most City blocks. Also the future consideration on limiting the number of food trucks, as there was some discussion that some of these food trucks are going to get larger than the carts we normally see. If this happens and there are actually trucks, they will have to be moved quite a ways from the corners. In the future Council may even be looking at having the vendors only on closed streets for certain events

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or in business or City parking lots. Chief Jones commented most of the fees in comparable communities in the Northern Michigan communities that are also dealing with this issue range from \$450.00 a year to \$4,000.00 a year. They also have six-month licenses. He went on to state other than Duke, most of the other vendors don't work beyond 90 days, so a six-month license would probably be beneficial to them. If there was something special going on during the year, they may want to look at a special license for a short period of time, which would be prorated. It is the Council's prerogative as to the license fees. As far as the location, he thinks if Council goes with the 200 feet as the minimum that is safe. The other consideration was having adjoining property owners give permission, but the City needs to give the permission. City staff, being Chief Jones and City Manager Eustice, would reach out and look for a consensus among the businesses in a particular area. The problem they had last year was businesses that did not want any food trucks by their establishments, but 200 feet away at the other end of a block Chief Jones feels would work. Chief Jones stated he feels the Council needs to let himself and the City Manager monitor that and authorize or not authorize those permits. He said the recommended licensing was presented to Council at the December meeting and adjustments would be made such as distance, i.e. 200 feet. Chief Jones then stated another issue was whether the vendors would pay an additional fee for special events, i.e. Music Fest. He noted that Ms. Guenther, the Downtown Enhancement Administrator and operator of the Music Fest charges an additional fee of \$100.00 per vendor. This would need to be resolved. Councilman Temple asked if a private organization was using Festival Square and food was not served would a food vendor be allowed to go in there. Chief Jones stated it would be up to whoever was in charge of the event, keeping in mind if the food vendor was not one of our regular licensed vendors they would be considered a transient merchant and would be required to have the proper licenses through the City. City Manager Eustice asked Chief Jones in the case of an event, would the vendor have to have a temporary license. Chief Jones replied yes and the fee would be prorated to a daily rate. Councilman King questioned the special event fees. Chief Jones stated in other ordinances reviewed and discussions that took place, most of the events charge an additional fee; however, vendors feel they should not be charged an additional fee. City Manager Eustice explained they will raise fees for current vendors and if a vendor wants to go to a festival and has already paid a license fee, then the vendor would tell whoever is using Festival Square they have already paid a license fee and cannot be charged. On the other hand, the Chamber of Commerce and Downtown Enhancement Administrator say they need to be able to charge an additional fee because that is how they make their money or breakeven. This is something we need to look at. Councilman King commented there is extra fees involved for the organization putting the event on because there is open alcohol going through the event. City Manager Eustice stated, with that being said, it is probably best to leave that alone – have a license for a food vendor and if the Chamber leases Festival Square it is up to them what they want to charge a food vendor. Mayor Pro Tem Couture asked when a food vendor signs their permit, are there actual locations they state where they want to be, wondering if they move from one place to another during the day. Is approval needed for each location on Main Street or wherever? Chief Jones answered the vendor has the option of up to three choices. He explained doing business within a parking lot is a good choice. Mr. Andrew Kosack of Duke's Dogs, commented the additional charge for the Music Fest he does not feel anyone minds paying it because they all do really well. The Chamber never charged him to be at the events on Thursday evenings for free concerts. At other Chamber events they generally are given a discount on the fee as a local Chamber member and it is always reasonable.

Chief Jones explained staff is recommending a license fee of \$600.00 per year for City residents and \$1,000.00 for non-residents (City residents); and \$300.00 for six months for City residents and \$500.00 for six months for non-residents.

City Manager Eustice stated we also need to set a fee, annual or semi-annual, stating he thinks the

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Chief understands how to manage who goes where. Also if a business owner, i.e, Johnnie's, has a vendor right in front and are not opposed and want them there, then that is up to the business owner. Mayor Pro Tem Couture stated an unlike or dissimilar business on Main Street does not have any control whether somebody sets up in front of them, as long as they are the required distance from a like business. City Manager Eustice stated that is correct. Chief Jones stated if two of three surrounding businesses are opposed to the location of the vendor, he will not license them for that location. This was in the Guidelines. The one issue to firm up is the distance from a similar or like business, as well as the fee. Ms. Lynn C. Hall asked if the Chief rejects a vendor, will the public hear about it or is it just done. Mayor Bronson stated there will be no public notice and will not be brought to Council. Ms. Hall stated the Chief just then decides. Councilman King stated the Chief will follow the formula of checking with three surround business owners, and getting permission from two to allow the vendor. Chief Jones explained the appeal process, if someone wanted to take their issues to a higher level, they would go to Council. Councilman King stated he is okay with leaving the fee at \$100.00. Mayor Bronson questioned whether Council needs to deal with the capping of the number of vendors now. Mayor Pro Tem Couture stated he feels this needs to be addressed now, noting it can always be changed later. Councilman King agreed with Mayor Bronson that if the number of vendors becomes an issue then it can be brought to Council. Mayor Bronson commented the special event fees should remain as they currently are. Mr. Kosack stated \$300.00 for the summer months is fine, but \$300.00 for the winter months is a struggle and thinks \$150.00 for the winter months is more reasonable, for a total of \$450.00 a year. Councilwoman Kwiatkowski stated she feels Mr. Kosack is right. Councilman Lavender inquired from the City Manager as to why we have not considered a specific Ordinance for this (mobile vendors), as we are trying to regulate it through the licensing process. Chief Jones responded it is addressed under the Licensing Ordinance. Councilman Lavender stated he thought if there was language drafted for an Ordinance, there is not as much discretion for grey areas, as everything is spelled out in black and white what the rules are. Chief Jones stated most of it is covered in Chapter 110. Councilman King and Mayor Pro Tem Couture stated they would like clarification on the season, a season being May 1 – October 31 and the other being November 1 – April 30. Ms. Hall asked if there is any way to waive a fee if an individual circumstance comes up and someone is just starting as a food vendor. Mayor Bronson stated if someone is buying all the equipment to do a food vendor business, it should be part of their business plan to get the proper licensing in place.

Mayor Pro Tem Couture moved to, in regard to the mobile food vendors, approve an annual fee for a resident of \$450.00 (May 1 through April 30) or a semi-annual fee of \$300.00 (May 1 through October 31) for a resident. For a non-resident vendor an annual fee of \$1,000.00 and a semi-annual fee (non-peak season) an additional \$250.00. There shall be no cap on the number of vendors at this time and no additional charges for special events. The distance from a similar or like business shall be no less than 100 feet; supported by Councilwoman Kwiatkowski.

Councilman Temple expressed concern with no capping the number of vendors. Mayor Bronson stated the capping on the number of vendors can be brought to Council at any time.

A roll vote was taken.

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

No votes: Lavender

Motion carried.

Mayor Bronson asked if this will be in line for the new season. City Manager Eustice stated this will take effect in May.

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General Business:

▪ **Consideration of Reappointment of Mayor Mark C Bronson and Mark Lorenz to the Port Commission** – Mayor Pro Tem Couture asked if both members want to continue. City Manager Eustice replied yes.

Mayor Pro Tem Couture moved to reappoint Mayor Mark C. Bronson to the Port Commission, term to expire November 6, 2018 and Mark Lorenz, term to expire November 14, 2018; supported by Councilman Temple. Motion carried.

▪ **Consideration to Take Proposals for City Attorney Services – Governmental Business and Ordinance Enforcement/Criminal Prosecution** – Mayor Bronson stated these are for two different attorney services for the City. City Manager Eustice explained these are contracted positions, not City employees, noting we received two bids for Civil Counsel (Governmental Business), which is currently contracted with Attorney Stephen E. Lindsay and two bids for Ordinance Enforcement/Criminal Prosecution and are currently contracted with Mr. Thomas Hungerford. Bids were received from Attorney Lindsay and Attorney Hungerford and bids were also received for both services from Attorney Amber Libby. All the proposals are for three years.

City Manager Eustice explained the proposal from Attorney Lindsay for Governmental Business has two options: an hourly fee of \$150.00 per hour or a flat fee of \$25,000.00 annually. Attorney Libby has proposed an annual rate of \$18,475.00 (2017), \$19,398.75 (2018) and \$20,322.50 (2019). Attorney Lindsay has been the City Attorney for seven years and we are in some critical contract negotiations, one of which is the Utility Services Agreement with the Township and Meijer's. Attorney Libby does have an extensive background in public administration, holding a Master's Degree, and is the former Deputy Clerk of Cheboygan County. She understands municipal law very well.

City Manager Eustice explained the Ordinance Enforcement/Criminal Prosecution proposal from Attorney Hungerford is a fixed annual fee of \$15,250.00, which is a decrease from the current \$18,500.00, with a proposed five percent (5%) increase per year for years two and three. Attorney Libby's proposal is for an annual rate of \$16,575.00 (2017), \$17,403.75 (2018), and \$18,232.50 (2019).

Councilman Temple commented Attorney Lindsay has done a good for the City and has worked a lot on the Inverness/Meijer's matter and Attorney Hungerford has also done a good job for the City. His recommendation would be to keep the Attorneys we currently have. Mayor Bronson stated if Attorney Libby would not be able to practice until May 1, 2017 that would leave a two month gap. City Manager Eustice stated that may be a concern for that period of time. Attorney Libby stated the first quarter payment would be forfeited. Councilwoman Kwiatkowski asked if the proposal from Attorney Lindsay stating \$150.00 per hour would only go up to the \$25,000.00, or could that be exceeded. City Manager Eustice replied it is his understanding Attorney Lindsay would bill all billable hours, no matter what they are, even if the total exceeds \$25,000.00. Councilman King commented on the matters Attorney Lindsay has been on board with, knowing he has a deep understanding of how the City operates and the current matter with Meijer's/Inverness Township. He noted Attorney Libby has a great resume and educational background, but he is more comfortable with Attorney Lindsay for the Utility Services Agreement with Inverness Township to get us through it. Mayor Pro Tem Couture commented on the three months of not having contracted legal services scares him, noting both candidates are very well qualified. He then asked when the current contracts are up. City Manager

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Eustice replied January 31. Councilman Temple inquired as to the best way to go with Attorney Lindsay, hourly or annual? Clerk/Treasurer Kwiatkowski replied it is a coin toss. We put in a lot of time with the Township and Meijer's lately and if we get a few issues like that it could easily exceed \$25,000.00 a year. Councilwoman Riddle said being aware we are still in negotiations with Inverness Township, the City cannot wait three months.

Councilwoman Riddle moved to award the Proposal for City Attorney Services for Governmental Business to Attorney Stephen E. Lindsay for three years in the amount of \$25,000.00 per year; supported by Councilman Temple. A roll call vote was taken; motion carried unanimously.

Mayor Bronson inquired as to how much the City is using Attorney Hungerford. City Manager Eustice replied much less than Civil Counsel, but again it varies. Mayor Pro Tem Couture noted Council does not hear about a lot of his work. Councilwoman Riddle asked what the City's options would be during the three month time. City Manager Eustice replied we would have to contract with an attorney for that three months on an hourly rate. Councilwoman Kwiatkowski inquired as to when Attorney would be able to start. Attorney Libby stated there is an additional exam for the Bar in March and the results usually come in four weeks.

Councilman Lavender asked how often the Department of Public Safety uses Attorney Hungerford. Chief Jones replied almost on a daily basis throughout the year. Councilman King stated he knows how tough it is for the younger generation when they don't have experience and if Attorney Libby were shovel ready he would be all for it. Councilwoman Kwiatkowski asked Attorney Libby to please come back.

Councilwoman Riddle moved to award the Proposal for City Attorney Services for Ordinance Enforcement/Criminal Prosecution to Attorney Thomas Hungerford in the proposed fixed fee for 12 months at \$15,250.00, with a 5% increase per year for year two and year three; supported by Councilman Temple. A roll call vote was taken; motion carried unanimously.

Public Comments: None.

City Clerk/Treasurer's Comments:

- **Union Contracts/Budget Workshop** – Clerk/Treasurer Kwiatkowski stated Council has been given copies of the AFSCME and POLC Union Contracts, which expire June 30, 2017. He asked Council to look over the Contracts over before the Budget Workshop on January 24 at 5:00 p.m. and to call him with questions. Also, if there is anything Council wants for the meeting to let him know. Mayor Bronson stated he will let him know, as he also has things marked in the Audit.

City Manager's Report:

- **Port Property Purchase Agreements** – City Manager Eustice reported he and Attorney Steve Joppich are still working on the Purchase Agreements and the Port of Cheboygan Operation Agreements. Both Ryba and Kokosing have the one page Operation Agreement and both have minor concerns with it. Late last week he and Attorney Joppich had a long conversation about the Port Operation Agreements, which Attorney Joppich has concerns with. There is a conference scheduled for tomorrow morning. Mayor Pro Tem Couture asked how long Attorney Joppich had the Agreements before City Manager Eustice's conversation with him. City Manager Eustice stated probably a couple of weeks, but Attorney Joppich was gone the last two weeks of December, so he did not have it much before he went on vacation. Mayor Pro Tem Couture expressed frustration, stating

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we don't need our legal attorney holding this project up. City Manager Eustice agreed, stating he has also had frustrations, as well. They are certainly going to try and finalize it within the next few days and getting the Agreements to the right parties. He went on to state Attorney Joppich had some concerns with the Port Operation Agreement as far as whether we need it, with his main concern being if we have a Port Operation Agreement he is concerned with the liability and exposure with a simple agreement. The Port Commission wanted to have a one page Agreement that would simplify it. Attorney Joppich told him he would have to advise Council he does not believe the Agreement is solid enough to protect the liability of the City. He gave the example of the City marketing Ryba Marine and Kokosing as Port Operators and the City wants to partner with those companies, because the Port Commission wants a guarantee that these companies will provide Port operations for the long term, which is the reason behind the Port Operation Agreement. Attorney Joppich stated if the City is going to do that, he has a concern about liability if Kokosing gets a contract to do shipping, if we get a manufacturer here, and there is 5 million dollars' worth of product on a Kokosing barge that is going to the east coast and that barge sinks in Lake Huron on the way there, the way the Agreement is proposed the City has liability because we are partnering with this company to be Port operators, so we could be sued. Mayor Pro Tem Couture asked what City Manager Eustice suggests to clean the language up. City Manager Eustice replied it has to be all hold harmless, noting some of the Port Commission members did not want that process to slow it down, as they would have to have an attorney develop that language and thinks it is wise. Attorney Joppich is going to develop it so the City is held harmless for any of those types of legal operations. City Attorney Eustice then stated as long as Kokosing and Ryba are okay, we can just go ahead with the Purchase Agreements. Attorney Joppich has said before they don't have to have these Port Operation Agreements agreed upon now, but we are going to make them aware that he is going to write Port Operation Agreements to protect the City. The language Attorney Joppich will put in the Purchase Agreements would state they are contingent upon a Port Operation Agreement to be agreed upon at closing. He thinks both Ryba and Kokosing are okay with that. Mayor Bronson asked if this will be discussed tomorrow in his conference call. City Manager Eustice replied yes. Mayor Pro Tem Couture inquired who is involved in the conference call. City Manager Eustice replied Mr. Aaron Harke and Mr. Stan Neff of Kokosing, Attorney Joppich, and himself. He then stated we can do the same with Mr. Zac Morrish of Ryba. Ryba has basically indicated they are okay with the Purchase Agreement as it is, noting an edit was made to the Agreement per Mr. Morrish that he have available land divisions for the future. The original property we sold had zero land divisions, but we will change that in the next Agreement. Mayor Pro Tem Couture asked that the City Manager send out an e-mail with a quick summary of what happened with the conference call. City Manager Eustice replied absolutely. Mayor Bronson asked if the City Manager wanted anyone from Council at the conference call. City Manager Eustice stated if someone would like, noting the conference call is at 9:00 a.m. He then stated he thinks a better solution would be to have a conference call with some Council members and Attorney Joppich because he is really advisory to Council going through the City Manager. It is probably time that some of the Council members or the entire Council had a conference with Attorney Joppich, which would have to be at a special meeting. He noted that Attorney Joppich is open to coming up and does not charge for travel time. Mayor Pro Tem Couture commented he does not feel Attorney Joppich has done bad work, but there is the time issue and things dragging. City Manager Eustice agreed it is frustrating. Councilwoman Riddle commented we really need to get closure. Councilman Temple asked how long ago both parties said they were going to take the property. City Manager Eustice replied early October, so it's only been a few months. He looked at that today and we sent the first draft Purchase Agreement to both parties the first week of October. Mayor Bronson told the City Manager he needs to relay to Attorney Joppich that there is frustration from the Council about the time it is taking. City Manager Eustice told Council he will put more pressure on, noting he was disappointed nothing happened for two weeks while Attorney Joppich was on vacation, but Attorney

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Joppich did call him. Councilwoman Riddle commented there was also a delay from Kokosing because someone was on vacation.

Mayor Pro Tem Couture left the meeting at 8:38 p.m.

- **Cheboygan Armory Auction** – City Manager Eustice reminded the Council the Armory is going up for auction/bids on January 17. The County is considering bidding on it and does not know if they made their decision today. He spoke to Mr. Jeff Lawson last week and there was some consideration to bid on it only for basically warehouse purposes. They have been in the process of considering building a storage building for the Straits Regional Ride and some Sheriff Department equipment. They got cost estimates as high as \$500,000.00. Councilman Temple asked if the property is zoned for that. City Manager Eustice replied they don't need to be zoned for that because they are a governmental entity and don't have to abide by local zoning. He stated all bids below \$260,000.00 will be rejected automatically; if it does not sell it has to be reappraised and whatever it reappraises at they can then send it back out for bids. State statute requires it has to be sold for the appraised price, even if a governmental entity buys it.
- **MEDC MainStreet Program/Redevelopment Ready Communities** – City Manager Eustice stated he forwarded a press release to everybody from the MEDC on January 5 that we were selected to participate in the upcoming MainStreet Program along with the City of Eaton Rapids and the Grandmont Rosedale Development Authority (part of northwest Detroit). We are at the Associate Level and mainly training will happen, not only with staff but also people in the public. It is all free, other than travel. Councilwoman Riddle asked if this is something people from the BringIt Cheboygan Group would be interested in. City Manager Eustice stated yes, and they do. We need a lot of volunteers for this Program and it won't help if the business owners and the citizens don't participate. With that we are also working on the Redevelopment Ready Communities (RRC). On February 10, 2017 at 8:00 a.m., Mr. Steve Arwood, CEO of the MEDC is going to be here and will have a kick-off presentation for the Redevelopment Ready Communities. It will be held in the Opera House and there will some invitation, such as the Cheboygan Economic Development Group, County and other public officials. It will be an open forum with a light breakfast afterwards. You can discuss anything you want with Mr. Arwood one on one. Mr. Arwood will also talk about the MainStreet Program and the ICE Grants. We received an ICE Grant for \$987,000.00 for the Huron Street Project. Today the MEDC announced they have 20 million dollars for the current year that can be applied for infrastructure grant funding. This would money to be distributed in 2018; the grants range from \$500,000.00 to \$2,000,000.00 with a 10% match. We are going to look at how to utilize that funding for low to moderate income communities and we will discuss that with Mr. Arwood who is paying attention to us and is very well aware of what our community is all about and the needs of our community.
- **Meijer's** - City Manager Eustice informed Council we have a Utility Service Agreement that is close to being finalized and have had meetings with the Township that included City Attorney Lindsay, DPW Director Karmol, Inverness Township Supervisor Neumann, Inverness Township Clerk Beethem, Inverness Township Attorney MacArthur and himself. The Agreement was reviewed and some minor changes were made. It is finalized and Inverness Township will get to review it this week. There are really two options that can happen: The Township could agree with the Utility Service Agreement and they build the water line to the Meijer's site (the Township would own the line) and the City would provide the water and get revenue from being the operation and maintenance entity. The City currently gets \$68,000.00 a year in operation and maintenance for the sewer system. We are going to raise that because the \$68,000.00 has been in place since 2002 and costs have increased considerably. So we need to come to a figure on the operation and maintenance on the

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sewer and then add operation and maintenance on the water, which would probably be somewhere in the \$100,000.00 range. So the Water Department will receive additional funding with a Utility Service Agreement. The other option is a 425 Agreement (Land/Lease Agreement) where the Meijer's property would become part of the City. In that scenario, the City would own the water line going to Meijer's and would get property tax revenue, with the potential of gaining debt because at this point Meijer's is basically saying they are only to pay for one-third of the project. We would have to negotiate a change in that because we would only get about \$57,000.00 a year in taxes and depending on when Meijer's wants the debt paid back it may not be enough. Councilwoman Riddle asked how many years a 425 Agreement would be for. City Manager Eustice stated the maximum is 50 years and is negotiable through the years. Councilman Temple asked what happens if we do the Service Agreement and Inverness Township doesn't follow through with what they are supposed to do. City Manager Eustice stated it is between Meijer's and the Township and they will have to decide who is going to fund it and how it is going to get paid, including engineering. Councilman Lavender stated it is his understanding the Township tabled their decision for the 425 Agreement. City Manager Eustice stated yes, basically; there was a motion to go with a 425 Agreement but there was no support. Clerk/Treasurer Kwiatkowski commented if we went with a 425 Agreement we would have to go into a whole new negotiation with Meijer's and if they stay with two-thirds we would have to incur \$350,000.00 in debt that the City taxpayers would be responsible for unless we can get some type of deal with Meijer's, noting they are not sure we can do tax abatements yet. Mayor Bronson stated the Township has to make a decision and then we can start deciding how to respond. City Manager Eustice stated the Township needs to review the Utility Service Agreement and thinks in principle they have an understanding of what's in there and feels they will be okay with it and then will take it to their Board and make a decision. Mayor Bronson asked if the Township would have a special meeting. City Manager Eustice replied yes, as they only have monthly meetings and their next meeting it not until February. With either a 425 Agreement or Utility Service Agreement it does not automatically turn on a switch that either the Township or City builds a line because it is going to take five to six months just to get the permits from the MDEQ before we can do anything, and also engineering needs to be done. One way or another the Township needs to make a decision pretty soon. Meijer's wants the water line in place a year before they break ground. One of the options is a 425 Agreement and if they want it out there a year before they break ground then they pay for it, and this is something we can negotiate but we have to ask. Councilman Temple asked for clarification on the water line one year before breaking ground. City Manager Eustice explained according to Mr. Chris Jones, Meijer's wants water in place a year before they start building. Mayor Bronson stated there is still time to do that. City Manager Eustice added their start date is Spring 2019, noting they have bid out the gas station already and is assuming the permit process is longer.

Messages and Communications from Mayor Pro Tem and Council Members:

- **Lincoln & Main Traffic Light Time** - Councilman King referred to Chief Jones that now the State Street Bridge is closed asking if the light time pattern has been changed to accommodate the traffic. City Manager Eustice replied he spoke with MDOT about it and if they are not here today, he is sure they will be here this week.
- **New Year's Day Celebration at Carnegie Library** – Mayor Bronson stated he and City Manager Eustice attended the New Year's Day Celebration at the Carnegie Library, noting it was encouraging talking about volunteers and people being enthusiastic. There were a lot of new faces of people that are interested.
- **DDA Legislation** – Mayor Bronson reported that the DDA Legislation was signed by the Governor giving libraries exemption from tax capture. Clerk/Treasurer Kwiatkowski asked the Mayor when this

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takes effect. Mayor Bronson replied January 1, 2017. He then stated the Library is very happy and will be able to do a ballot proposal without the tax capturing.

Adjournment:

Councilwoman Kwiatkowski moved to adjourn the meeting at 8:58 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