CITY OF CHARLEVOIX

PUBLIC NOTICE

CHARLEVOIX CITY COUNCIL
SPECIAL MEETING

Mayor Kurtz has called a City Council Special Meeting for **Tuesday, August 15, 2017 at 2:00 p.m.** The meeting will be held in Council Chambers at City Hall, 210 State Street, Charlevoix, Michigan.

The purpose of this meeting is to consider revised language to amend the City Charter regarding the sale or change of use of parks.

Joyce M. Golding, City Clerk

08/14/2017 4:30pm

The City of Charlevoix will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon one week notice to the City of Charlevoix. Individuals with disabilities requiring auxiliary aids of services should contact the City of Charlevoix Clerk's Office in writing or calling the following: City Clerk, 210 State Street, Charlevoix, MI 49720 (231) 547-3250

CITY OF
CHARLEVOIX

AGENDA
CITY OF CHARLEVOIX CITY COUNCIL SPECIAL MEETING
Tuesday, August 15, 2017- 2:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

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1. **Pledge of Allegiance**
2. **Roll Call**
3. **Inquiry Regarding Conflicts of Interest**
4. **All Other Actions and Requests**
   - A. Resolution to Approve Revised City Park Ballot Language
5. **Reports and Communications**
   - A. Public Comment
   - B. City Manager Comments
   - C. Mayor and Council Comments
6. **Other Council Business**
7. **Adjourn**

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CHARLEVOIX CITY COUNCIL

All Other Actions and Requests

TITLE: Resolution to Approve Revised City Park Ballot Language

DATE: August 15, 2017

PRESENTED BY: Mark L. Heydlauff, City Manager

BACKGROUND:

As you know, the City Attorney has been working with the Attorney General on a proposed Charter Amendment regarding the sale and disposition of City parks. Attached, you'll find a resolution for the revised language and a memo from the City Attorney regarding this process.

RECOMMENDATION:

Motion to approve Resolution 2017-08-01.

ATTACHMENTS:

- Memo from City Attorney
- Resolution 2017-08-01
- Special Meeting Public Notice

MEMORANDUM

TO: Charlevoix City Council

FILE NO. 5984.00

FROM: Scott W. Howard

DATE: August 14, 2017

RE: Draft Charter Amendment Language

I have prepared a revised draft amendment to Section 2.16(f) of the City's Charter, along with a resolution that would put the question on the ballot for the next City election. The purpose of the amendment is to propose language that would potentially increase the level of protections for its parks.

Section 2.16(f) currently provides that Council may not sell or otherwise dispose of "any City park" without first obtaining approval of a majority of residents voting on the question at an election. State law similarly requires that a City obtain approval of electors voting on the question if the City wants "to sell a park, cemetery, or any part of a park or cemetery, except where the park is not required under an official master plan of the city."[1] This statutory language has been interpreted by the Michigan courts to require a vote of the electorate except in situations where a City has removed a park from its master plan. In other words, a City can avoid the vote requirement if it goes through the process of amending its master plan and re-classifies the property as something other than a park.

You previously approved ballot language in June that would have provided for a 2/3 majority vote to sell or dispose of any parkland. We have heard back from the Attorney General's office that they believe that a 2/3 majority is not authorized by Michigan statute, since there is already a park protection that requires a majority vote to dispose of designated parkland. This means that, in the State's view, you cannot increase the vote margin requirement. In other words, the State's view is that the statute establishes both a floor and ceiling for the vote on parkland.

As a result of the State's decision not to approve the original proposed ballot language, we have revised the language to provide the next best alternative – clarifying what is a "City park" and requiring a vote for that designation to be removed.

The proposed changes to Section 2.16(f) read as follows:

> The Council shall not have the power to sell, divide, lease, partition, plat, subdivide, or dispose of any City park or cemetery, or any part thereof, unless specifically approved by a majority of the electors

[1] MCL 117.5(e).

> voting thereon at any general or special election, except as provided for in "sub-section h" of this section. "City park" shall include any property designated as a City park on the City's Recreation Master Plan or otherwise formally designated as a City park by official action of Council as a "City park". Once property is designated as a City park, the designation of property as a City park shall not be removed or changed unless specifically approved by a majority of the electors voting thereon at any general or special election.

The draft changes are designed to better define what constitutes a "City park" and how that designation gets removed. The concern that this change addresses is the issue that has arisen under state law – exactly how does a City create a "park" and how does it remove the "park" designation for the property? The proposed amendment would clarify that a park is created by the City's Recreation Master Plan or otherwise formally designated by official action of Council. It would also require the City to seek approval of the electorate before it changes the classification of what has been already designated as a City park.

If you agree that the proposed changes to the Charter should be put to the voters, the next step would be for you to approve a resolution instructing the City Clerk (with assistance from the City Manager and Legal Counsel) to put the issue on the ballot at the next regularly scheduled election. I have provided a draft resolution for your consideration if you choose to go this route. This proposed ballot language has been provided by the State of Michigan for review and comment. This is the language that has been approved by the State.

Thank you for meeting on short notice and approving the ballot language. As always, I am happy to address any follow up questions or concerns that you might have.

CITY OF CHARLEVOIX
RESOLUTION NO. 2017-08-01
CITY PARK BALLOT LANGUAGE

WHEREAS, the City Council desires to propose an amendment to the City Charter, as provided and permitted by Public Act No. 279 of the Public Acts of 1909, State of Michigan, as amended; and

WHEREAS, the City Charter would be amended to add the following sentences to the end of Article II, Section 2.16(f): "City park" shall include any property designated as a City park on the City's Recreation Master Plan or otherwise formally designated as a City park by official action of Council as a "City park". Once property is designated as a City park, the designation of property as a City park shall not be removed or changed unless specifically approved by a majority of the electors voting thereon at any general or special election."

WHEREAS, state law requires that the ballot language be phrased as a question and be no more than 100 words in length; and

WHEREAS, the City Council is required to provide ballot language for the proposed amendment consistent with state law through adoption by resolution; and

WHEREAS, the City Attorney has crafted proposed ballot language that is consistent with the requirements of state law.

NOW THEREFORE BE IT RESOLVED, that the City of Charlevoix City Council hereby adopts the following ballot language for the potential amendment of the City Charter and directs the Clerk to take appropriate action to put the question on the ballot for the November 2017 general election:

> *Shall Article II, Section 2.16 (f) of the Charlevoix City Charter be amended to add the following two sentences to the end of the section: "'City park' shall include any property designated as a City park on the City's Recreation Master Plan or otherwise formally designated as a City park by official action of Council as a 'City park'. Once property is designated as a City park, the designation of property as a City park shall not be removed or changed unless specifically approved by a majority of the electors voting thereon at any general or special election"?*

RESOLVED this 15th day of August 2017 A.D.

Resolution was adopted by the following yea and nay vote:

Yeas:
Nays: