



Agenda
City of Charlevoix City Council Regular Meeting
Monday, June 5, 2023 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

1. Pledge of Allegiance

2. Roll Call

3. Presentations

- A. Trees Are Terrific Poster Presentation
Mark Heydlauff, City Manager
- B. Housing Progress Report from the Planning Commission
Jonathan Scheel
Jennifer Muladore

4. Inquiry Regarding Conflicts of Interest

5. Consent Agenda

- A. City Council Meeting Minutes - May 15, 2023
- B. Accounts Payable and Payroll Check Registers
- C. Building Authority Commission Reappointment: Treasurer McGinn
- D. PA 95 Opt Out
- E. Set Work Session for 5:15pm on June 19, 2023

6. Public Hearings and Actions Requiring Public Hearings

- A. Set Public Hearing: Zoning Ordinance Amendments: Accessory Dwelling Units and Bed and Breakfast Parking Requirements
Mark Heydlauff, City Manager

7. All Other Actions and Requests

- A. 2023 Venetian Festival Street Closure Request
Dan Barron- Charlevoix Venetian Festival President
- B. Initiative Committee Response to Certificate of Insufficiency
Luther Kurtz

8. Reports and Communications

- A. Public Comment
- B. City Manager's Comments

C. Mayor and Council Comments

9. Other Council Business

10. Adjourn

Persons with disabilities who need an accommodation to fully participate in these meetings should contact the City Clerk's Office at 231-547-3250 or by email clerk@charlevoixmi.gov. A 24-hour notice may be needed for certain accommodations. An attempt will be made to grant all reasonable accommodations requests.

Charlevoix City Council

Presentations

Title: Trees Are Terrific Poster Presentation

Date: June 5, 2023

Presented By: Mark Heydlauff, City Manager

Background:

Bryanna Barnum was selected as the winner of the 3rd grade "Trees are Terrific in Charlevoix" poster contest! The contest had 56 entries and is intended to bring awareness to Arbor Day and it's relevance to our City, Her poster has been displayed in the showcase at City Hall for the past month. At this time we would like to thank all the participants and judges. We hope to continue this contest going forward. Again, thanks to Brynna for an amazing job!

Recommendation:

N/A

Attachments:

None

Charlevoix City Council

Presentations

Title: Housing Progress Report from the Planning Commission

Date: June 5, 2023

Presented By: Jonathan Scheel
Jennifer Muladore

Background:

As you know, the Planning Commission has been working on several different initiatives to support housing access and development in the City. Later in the agenda, you'll be asked to set public hearings for two ordinance amendments. The Commission has also created a sub-committee to focus on housing and the potential of proactively rezoning some parcels to encourage more robust housing opportunities. Zoning Administrator Jonathan Scheel and Planning Commission Chair Jennifer Muladore will be present to discuss these updates with Council.

Recommendation:

Attachments:

None

Charlevoix City Council

Consent Agenda

Title: City Council Meeting Minutes - May 15, 2023

Date: June 5, 2023

Presented By:

Background:

Recommendation:

Motion to approve the minutes as presented.

Attachments:

1. City Council Draft Meeting Minutes 05/15/2023

City of Charlevoix
City Council Regular Meeting Minutes
Monday, May 15, 2023 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

1. Pledge of Allegiance

The meeting was called to order at 6:00 p.m. by Mayor Gennett. The Council, staff, and members of the public rose and recited the Pledge of Allegiance.

2. Roll Call

Mayor: Lyle Gennett

Members Present: Aaron Hagen, Janet Kalbfell, Mark Knapp, Phil Parr, Richard Spring

Members Absent: Shane Cole

City Manager: Mark L. Heydlauff

City Clerk: Sarah J. Dvoracek

3. Presentations

A. Introduction: Brian Ewalt, Airport Manager

Brian Ewalt, Airport Manager, introduced himself and provided a brief history of his work experience. Mr. Ewalt provided Council with an update about the Airport's current operations and projects.

B. Introduction of New Police Officers

Jill McDonnell, Chief of Police

Jill McDonnell, Chief of Police, introduced Brian Christian as the new police officer to the department. Chief McDonnell provided a brief history of Officer Christian's work experience.

4. Inquiry Regarding Conflicts of Interest

5. Consent Agenda

Mayor Gennett opened the item for public comment. None were heard.

Motion by Parr, seconded by Spring to approve the consent agenda as presented.

Yeas: Spring, Hagen, Knapp, Kalbfell, Parr

Nays: None

Absent: Cole

Motion carried.

A. City Council Meeting Minutes - May 1, 2023

Motion to approve the minutes as presented.

B. Accounts Payable and Payroll Check Registers

Motion to approve the accounts payable and payroll check registers as presented.

Dates	Description	Amount
05/12/2023	Payroll Transmittal Checks	\$6,408.67

05/12/2023	Payroll (net pay)	\$111,058.30
05/16/2023	Regular Accounts Payable	\$301,006.28
05/01/2023-05/12/2023	ACH/WIRE Payments	\$138,573.34
Grand Total		\$557,046.59
To view the entire accounts payable and payroll check registers, please Click here.		

C. Boyne Thunder

Motion to approve the use of Bridge Park on July 8, 2023 for Boyne Thunder.

D. Revised MERS HCSP Participation Agreement - Jill McDonnell

Motion to approve the revised MERS Health Care Savings Program Participation Agreement for the Position of Chief of Police per the request of Jill McDonnell.

E. L-4029 Tax Rate Request Forms and Millage Collection Procedure Verification

Motion to approve the City of Charlevoix and Charlevoix DDA L-4029 Tax Rate Request Forms for 2023.

Motion to approve the Millage Collection Procedure Verification Form for 2023 and to be signed by the City Clerk.

F. Annual Bridge Park Lift Station Cleaning by GFL: estimated \$19,000

Motion to approve the time and material estimate from GFL for cleaning and annual maintenance at the Bridge Park Lift Station.

G. Accept Planning Commission Annual Report

Motion to accept the Planning Commission annual report as presented.

H. Resolution 2023-05-02: MDOT Contract for Airport AWOS

Motion by Parr, seconded by Spring to approve Resolution 2023-05-02 and authorize the City Manager to execute the contract and all relevant documents.

CITY OF CHARLEVOIX

RESOLUTION NO. 2023-05-02

EXECUTION OF MDOT CONTRACT NO. 2023-0312

WEATHER OBSERVATION SYSTEM AND DATA DISSEMINATION SYSTEM

WHEREAS, the Charlevoix Municipal Airport operates and maintains a Weather Observation and Data Dissemination System; and

WHEREAS, the system is made up of three components (a) the Weather Briefing System, (b) Automated Weather Observation System (AWOS), and (c) a system to collect the AWOS data for national dissemination (Data Collection System); and

WHEREAS, the continued operation and maintenance of the Weather Observation and Data Dissemination system is required by the Federal Aviation Agency (FAA) and the Michigan Department of Transportation's Office of Aeronautics (MDOT) for aviation safety and efficiency.

NOW THEREFORE BE IT RESOLVED that the City of Charlevoix City Council hereby authorizes

the City Manager to execute the MDOT Contract No. 2023-0312 for the Weather Observation System and Data Dissemination System Contract after review by the City Attorney.

RESOLVED this 15th day of May, 2023 A.D.

Resolution was adopted by the following yea and nay vote:

Yeas: Spring, Hagen, Knapp, Kalbfell, Parr

Nays: None

Absent: Cole

Motion carried.

6. Public Hearings and Actions Requiring Public Hearings

7. All Other Actions and Requests

8. Reports and Communications

A. Public Comment

B. City Manager's Comments

- There may be a mayor exchange with South Haven in September more details will follow
- Northern Lakes Economic Alliance Board is working on a revolving loan fund program
- Summer hiring is almost complete
- We are working with building owners to add options for future fire suppression in both Van Pelt Alley and Mason Street, this is intended to take advantage of the streets being already opened to avoid future construction work

C. Mayor and Council Comments

- Mayor Gennett stated the glow ball golf event at the Golf Course was a success
- Council Member Kalbfell stated the Charlevoix Commission on Aging received recognition from the State of Michigan regarding their policies, procedures, and programs were highly rated and they are a model for the rest of the State

9. Other Council Business

10. Adjourn

Mayor Gennett adjourned the meeting at 6:11 p.m.

Sarah J. Dvoracek

City Clerk

Lyle Gennett

Mayor

Charlevoix City Council

Consent Agenda

Title: Accounts Payable and Payroll Check Registers

Date: June 5, 2023

Presented By:

Background:

Recommendation:

Motion to approve the accounts payable and payroll check registers as presented.

Attachments:

1. Check Registers 06-05-23 Agenda

Check Number	Payee	Amount
05/16/2023		
139558	METAL HEAD WELDING LLC	3,745.00
Total 05/16/2023:		3,745.00
Grand Totals:		3,745.00

Summary of Check Registers & ACH Payments HUNTINGTON NATIONAL BANK - CHECKS ISSUED

05/16/23	Special Accounts Payable Run	\$ 3,745.00
05/23/23	Special Accounts Payable Run	\$ 76,493.53
05/26/23	Payroll (net pay)	\$ 114,938.77
05/26/23	Payroll Transmittal Checks	\$ 5,305.62
06/06/23	Regular Accounts Payable	\$ 482,332.66
Checks Sub-Total:		\$ 682,815.58

HUNTINGTON NATIONAL BANK - ACH/WIRE PAYMENTS

05/15/23	MI Public Power Agency	\$ 14,332.41
05/22/23	Enterprise FM Trust (fleet lease)	\$ 4,326.98
05/22/23	MI Public Power Agency	\$ 26,521.59
05/25/23	MI Public Power Agency	\$ 328,833.42
05/26/23	IRS (Payroll Tax Deposit)	\$ 40,263.41
05/26/23	Alerus Financial (HCSP)	\$ 558.00
05/26/23	Vantagepoint (401 Plan)	\$ 1,062.00
05/26/23	Vantagepoint (457 Plan)	\$ 20,046.18
05/26/23	Vantagepoint (Roth IRA)	\$ 1,220.76
05/26/23	State of MI (Withholding Tax)	\$ 6,074.71
05/26/23	MERS (Defined Benefit Plan)	\$ 54,753.48
05/30/23	MI Public Power Agency	\$ 43,902.61
ACH Sub-Total:		\$ 541,895.55

Huntington National Bank Total: \$ 1,224,711.13

CHARLEVOIX STATE BANK - CHECKS ISSUED

(PROPERTY TAX DISBURSEMENT TO VARIOUS TAXING AUTHORITIES)

Tax Disbursement	\$ -
Charlevoix State Bank Total:	\$ -
Grand Total:	\$ 1,224,711.13

APPROVED:


CITY MANAGER


CITY TREASURER


CITY CLERK

Check Number	Payee	Amount
05/23/2023		
139568	AT&T	2,255.61
139569	AT&T MOBILITY	757.94
139570	CHARLEVOIX STATE BANK	9,293.29
139571	CHARLEVOIX TOWNSHIP TREASURE	72.59
139572	CHARTER COMMUNICATIONS OPERA	774.35
139573	DELTA DENTAL	3,147.08
139574	FISHER SCIENTIFIC	3,620.81
139575	GREAT LAKES ENERGY	337.21
139576	PRIORITY HEALTH	49,208.28
139577	RANGE TELECOMMUNICATIONS	211.00
139578	VSP INSURANCE CO. (CT)	544.07
139579	WEX BANK	6,271.30
Total 05/23/2023:		76,493.53
Grand Totals:		76,493.53

Pay Period Date	Journal Code	Check Issue Date	Check Number	Payee	Emp ID	Description	Amount
05/20/2023	PC	05/26/2023	37322	HEYDLAUFF, MARK L.	102		3,398.24
05/20/2023	PC	05/26/2023	37323	DVORACEK, SARAH J.	105		2,321.15
05/20/2023	PC	05/26/2023	37324	DEROSIA, PATRICIA E.	107		913.30
05/20/2023	PC	05/26/2023	37325	DOTSON, LINDSEY J.	109		1,507.72
05/20/2023	PC	05/26/2023	37326	KLOOSTER, ALIDA K.	121		1,927.46
05/20/2023	PC	05/26/2023	37327	BARNEVELD, RICHELLE	123		1,270.32
05/20/2023	PC	05/26/2023	37328	SCHULZ, GINNY L.	125		1,528.11
05/20/2023	PC	05/26/2023	37329	BRADLEY, KATHLEEN R.	126		1,252.53
05/20/2023	PC	05/26/2023	37330	MILLER, FAITH G.	142		26.56
05/20/2023	PC	05/26/2023	37331	MCGINN, KELLY A.	146		2,296.63
05/20/2023	PC	05/26/2023	37332	SCHEEL, JONATHAN D.	149		1,799.50
05/20/2023	PC	05/26/2023	37333	MCDONNELL, JILL L.	202		2,242.88
05/20/2023	PC	05/26/2023	37334	SCHOLEY, ROBERT W.	204		2,012.92
05/20/2023	PC	05/26/2023	37335	UMULIS, MATTHEW T.	205		1,778.08
05/20/2023	PC	05/26/2023	37336	ORBAN, BARBARA K.	209		1,314.49
05/20/2023	PC	05/26/2023	37337	RILEY, DENISE M.	213		554.60
05/20/2023	PC	05/26/2023	37338	MUNK, CHRISTOPHER J.	215		1,892.01
05/20/2023	PC	05/26/2023	37339	STEWART, MORGAN J.	217		1,622.71
05/20/2023	PC	05/26/2023	37340	CHRISTIANSEN, BRIAN D	218		1,638.47
05/20/2023	PC	05/26/2023	37341	YOUNG, KRISTEN L.	230		1,435.12
05/20/2023	PC	05/26/2023	37342	BINGHAM, LARRY E.	240		368.27
05/20/2023	PC	05/26/2023	37343	MACGILLIVRAY, ROGER	244		283.71
05/20/2023	PC	05/26/2023	37344	KIELISZEWSKI, GENNA R	245		92.35
05/20/2023	PC	05/26/2023	37345	DAVIS, RONALD L.	250		139.16
05/20/2023	PC	05/26/2023	37346	WURST, RANDALL W.	411		1,396.80
05/20/2023	PC	05/26/2023	37347	HILLING, NICHOLAS A.	413		1,706.15
05/20/2023	PC	05/26/2023	37348	MEIER III, CHARLES A.	421		1,781.66
05/20/2023	PC	05/26/2023	37349	ZACHARIAS, STEVEN B.	422		2,028.84
05/20/2023	PC	05/26/2023	37350	NEWMAN, MARK J.	424		1,780.54
05/20/2023	PC	05/26/2023	37351	LOUGHMILLER, JOHN A.	425		1,621.17
05/20/2023	PC	05/26/2023	37352	BORTHS, MICHAEL J.	450		971.31
05/20/2023	PC	05/26/2023	37353	GRIFFITH, JOHN J.	500		2,931.86
05/20/2023	PC	05/26/2023	37354	EATON, BRAD A.	515		2,545.78
05/20/2023	PC	05/26/2023	37355	WILSON, TIMOTHY J.	516		2,891.11
05/20/2023	PC	05/26/2023	37356	LAVOIE, RICHARD L.	519		2,521.89
05/20/2023	PC	05/26/2023	37357	STEVENS, BRANDON C.	521		2,845.02
05/20/2023	PC	05/26/2023	37358	WHITLEY, ANDREW T.	522		2,506.99
05/20/2023	PC	05/26/2023	37359	FARRELL, MITCHELL L.	524		2,019.06
05/20/2023	PC	05/26/2023	37360	ANDERSON, ELIZABETH	526		1,401.92
05/20/2023	PC	05/26/2023	37361	KENWABIKISE, DAVID L.	528		1,239.32
05/20/2023	PC	05/26/2023	37362	ELLIOTT, PATRICK M.	600		3,201.04
05/20/2023	PC	05/26/2023	37363	SCHWARTZFISHER, JOS	603		1,277.34
05/20/2023	PC	05/26/2023	37364	BRADLEY, KELLY R.	614		1,416.54
05/20/2023	PC	05/26/2023	37365	HART II, DELBERT W.	616		1,856.40
05/20/2023	PC	05/26/2023	37366	JONES, ROBERT F.	618		1,329.43
05/20/2023	PC	05/26/2023	37367	LEITNER, RYAN S.	624		1,397.95
05/20/2023	PC	05/26/2023	37368	FERGUSON, ROYCE L.	625		1,785.84
05/20/2023	PC	05/26/2023	37369	REID, ROB A.	632		1,495.48
05/20/2023	PC	05/26/2023	37370	DORAN, JUSTIN J.	634		2,378.61
05/20/2023	PC	05/26/2023	37371	NEDWICK, DAVID J.	642		295.52
05/20/2023	PC	05/26/2023	37372	HART III, DELBERT W.	657		1,106.57
05/20/2023	PC	05/26/2023	37373	FINNERTY, HOLLY E.	669		1,137.78
05/20/2023	PC	05/26/2023	37374	POIROT, KENNETH R.	673		948.75
05/20/2023	PC	05/26/2023	37375	VENTZKE, COLE C.	674		537.49
05/20/2023	PC	05/26/2023	37376	WILSON, GARRETT L.	687		994.41
05/20/2023	PC	05/26/2023	37377	MOOAR, ISAAK S.	690		553.11
05/20/2023	PC	05/26/2023	37378	CRANDELL, ZACKARY R.	691		872.31

Pay Period Date	Journal Code	Check Issue Date	Check Number	Payee	Emp ID	Description	Amount
05/20/2023	PC	05/26/2023	37379	RABIDEAU, JACOB L.	696		1,016.02
05/20/2023	PC	05/26/2023	37380	KNORR, KENT J.	700		2,223.40
05/20/2023	PC	05/26/2023	37381	ANZELL, BETH A.	702		1,546.15
05/20/2023	PC	05/26/2023	37382	STEBE, LAURA A.	703		71.69
05/20/2023	PC	05/26/2023	37383	STEWART, SPENCER P.	720		770.22
05/20/2023	PC	05/26/2023	37384	MCDERMOTT, DENNIS J.	732		2,046.05
05/20/2023	PC	05/26/2023	37385	JASURDA, DONALD J.	748		567.16
05/20/2023	PC	05/26/2023	37386	WHITE III, MARCUS W.	754		921.82
05/20/2023	PC	05/26/2023	37387	CARUSELLO, JACOB M.	755		236.32
05/20/2023	PC	05/26/2023	37388	SNYDER, JACOB M.	756		278.98
05/20/2023	PC	05/26/2023	37389	CUNNINGHAM, ABIGAIL A	759		1,053.33
05/20/2023	PC	05/26/2023	37390	ELGART, SARAH N.	769		537.72
05/20/2023	PC	05/26/2023	37391	WALKER, MEREDITH A.	771		94.02
05/20/2023	PC	05/26/2023	37392	DRENTH, DOUGLAS A.	838		694.85
05/20/2023	PC	05/26/2023	37393	GILL, DAVID R.	856		1,114.78
05/20/2023	PC	05/26/2023	37394	LABLANCE, MAUREEN J.	863		318.06
05/20/2023	PC	05/26/2023	37395	LIVINGSTON, BRIAN D.	866		2,135.26
05/20/2023	PC	05/26/2023	37396	STANLEY, MARK J.	867		63.61
05/20/2023	PC	05/26/2023	37397	KLOOSTER, PATRICK H.	868		523.43
05/20/2023	PC	05/26/2023	37398	WAY, KRISTINA M.	870		115.44
05/20/2023	PC	05/26/2023	37399	DIETRICH, ARLENE M.	871		636.11
05/20/2023	PC	05/26/2023	37400	CUDD, ROBERT M.	875		187.47
05/20/2023	PC	05/26/2023	37401	EWALT, BRIAN W.	901		2,184.74
05/20/2023	PC	05/26/2023	37402	OLIVER, GRANT T.	915		1,058.28
05/20/2023	PC	05/26/2023	37403	DOUGLAS, MARK	935		1,274.10
05/20/2023	PC	05/26/2023	37404	FRATRICK, JOSEPH W.	940		706.19
05/20/2023	PC	05/26/2023	37405	PAALMAN, STEPHEN J.	942		1,423.72
05/20/2023	PC	05/26/2023	37406	DVORACEK, BRIAN N.	952		903.93
05/20/2023	PC	05/26/2023	139559	MORRISON, KEVIN P.	601		1,540.28
05/20/2023	PC	05/26/2023	139560	COX, RONALD L.	869		305.36
Grand Totals:			87				114,938.77

Report Criteria:

Computed checks included
 Manual checks included
 Supplemental checks included
 Termination checks included
 Void checks included

Pay Period Date	Check Issue Date	Check Number	Payee	Emp ID	Description	Amount
05/20/2023	05/26/2023	139561	4FRONT CREDIT UNION	9024	HSA-EMPLOYEE CONTRIB-4FR	947.98
05/20/2023	05/26/2023	139562	AMERICAN FAMILY LIFE	9011	AMERICAN FAMILY LIFE-POST T	86.90
05/20/2023	05/26/2023	139562	AMERICAN FAMILY LIFE	9011	AMERICAN FAMILY LIFE-PRETA	390.05
05/20/2023	05/26/2023	139563	CHARLEVOIX STATE BAN	9017	HSA - EMPLOYEE CONTRIB - C	1,220.00
05/20/2023	05/26/2023	139564	COMMUNICATION WORK	9004	CWA UNION DUES Pay Period:	639.23
05/20/2023	05/26/2023	139565	MI STATE DISBURSEMEN	9012	FRIEND OF THE COURT Pay Pe	116.55
05/20/2023	05/26/2023	139566	PRIORITY HEALTH	392358	PRIORITY HEALTH Pay Period:	1,548.88
05/20/2023	05/26/2023	139567	THE HARTFORD	9035	LIFE - VOLUNTARY Pay Period:	257.12
05/20/2023	05/26/2023	139567	THE HARTFORD	9035	SPOUSE LIFE Pay Period: 5/20/	56.42
05/20/2023	05/26/2023	139567	THE HARTFORD	9035	CHILD LIFE Pay Period: 5/20/20	8.87
05/20/2023	05/26/2023	139567	THE HARTFORD	9035	AD&D - VOLUNTARY Pay Period	24.39
05/20/2023	05/26/2023	139567	THE HARTFORD	9035	SPOUSE AD&D Pay Period: 5/20	5.48
05/20/2023	05/26/2023	139567	THE HARTFORD	9035	CHILD AD&D Pay Period: 5/20/2	3.75
Grand Totals:		13				5,305.62



Check Number	Payee	Amount
06/06/2023		
139581	ACUSHNET COMPANY	103.60
139582	ALL-PHASE ELECTRIC SUPPLY CO	585.09
139583	AMAZON CAPITAL SERVICES	2,871.17
139584	ANDERSON, ELIZABETH A.	50.00
139585	ANZELL, BETH A.	50.00
139586	ASPEN WIRELESS TECHNOLOGIES IN	10,509.00
139587	ASPLUNDH TREE EXPERT LLC	12,342.72
139588	AT YOUR SERVICE PLUS INC	560.00
139589	AVFUEL CORPORATION	38,308.11
139590	BAKER VEHICLE SYSTEMS INC	54.75
139591	BALLARD'S PLUMBING AND HEATING	14,762.00
139592	BAY STREET ORTHOPAEDICS & SPIN	200.00
139593	BEAVER RESEARCH COMPANY	422.10
139594	BLARNEY CASTLE OIL CO	1,378.07
139595	BRADFORD MASTER DRYCLEANERS	45.00
139596	BRADLEY, KELLY R.	1,500.00
139597	BRADY'S CARPET CLEANING INC	829.93
139598	BRIDGE STREET BLOOMS	273.23
139599	CCP INDUSTRIES INC	310.31
139600	CDW GOVERNMENT	73.12
139601	CHARLEVOIX SCREEN MASTERS INC	702.50
139602	CHARLEVOIX TOWNSHIP TREASURE	36,625.00
139603	CHRISTIANSEN, BRIAN	299.51
139604	CINTAS	70.97
139605	CONWAY PROFESSIONAL SERVICES	486.00
139606	D&D ELECTRONICS	1,024.90
139607	DELL MARKETING LP	1,811.55
139608	DeROSIA, PATRICIA E.	50.00
139609	DITCH WITCH SALES OF MICHIGAN	2,709.45
139610	DORAN, JUSTIN J.	50.00
139611	DOTSON, LINDSEY J.	50.00
139612	DOUGLAS, MARK	50.00
139613	DRENTH, DOUGLAS A	50.00
139614	DVORACEK, SARAH	50.00
139615	ECONO SIGNS LLC	221.15
139616	EDGEWATER RESOURCES LLC	580.00
139617	EJ USA INC.	732.60
139618	ELLIOTT, PATRICK M.	50.00
139619	ELLSWORTH FARMERS EXCHANGE	836.80
139620	ELMER'S CRANE & DOZER INC	211,717.20
139621	EMMET BRICK & BLOCK	97.00
139622	ETNA SUPPLY	54.00
139623	EWALT, BRIAN W	50.00
139624	GRAINGER	769.47
139625	GRIFFITH, JOHN J	437.08
139626	GRP ENGINEERING INC	2,748.70
139627	HACH COMPANY	780.96
139628	HAGGARD'S INC	1,791.38

Check Number	Payee	Amount
139629	HARRELL'S LLC	3,327.40
139630	HARTFORD, THE	2,770.19
139631	HECKENDORN, KIRK	270.00
139632	HEYDLAUFF, MARK L.	50.00
139633	HILLING, NICHOLAS A.	50.00
139634	HUTSON INC	1,773.35
139635	IDEXX DISTRIBUTION INC	453.36
139636	INTEGRITY BUSINESS SOLUTIONS	87.85
139637	IPS GROUP INC	618.75
139638	JCD SALES & SERVICE LLC	9,616.00
139639	JOE'S PROFESSIONAL SERVICES LLC	750.00
139640	KEEP CHARLEVOIX BEAUTIFUL	10,000.00
139641	KLOOSTER, ALIDA K.	50.00
139642	KNORR, KENT J.	50.00
139643	KRAFT BUSINESS SYSTEMS	64.17
139644	KROLL, SUSAN	238.50
139645	KSS ENTERPRISES	1,462.00
139646	LASER PRINTER TECHNOLOGIES	389.99
139647	LITTLE TRAVERSE DISPOSAL LLC	571.82
139648	LIVINGSTON, BRIAN D.	50.00
139649	MANTHEI CONSTRUCTION	1,403.60
139650	MCDERMOTT, DENNIS J.	177.09
139651	MCDONNELL, JILL L	240.00
139652	McGINN, KELLY A.	282.00
139653	METTLER TOLEDO INC	365.47
139654	MICHIGAN ASSOCIATION OF CHIEFS	280.00
139655	MICHIGAN MUNICIPAL LEAGUE	2,219.00
139656	MICHIGAN MUNICIPAL LEAGUE	14,846.00
139657	MUTT MITT	1,919.77
139658	NAVIA BENEFIT SOLUTIONS	100.00
139659	NCL OF WISCONSIN INC	938.22
139660	NORTH COAST FASTENERS LLC	30.25
139661	NORTHERN PUMP SERVICE INC	160.00
139662	NORTHWEST ELECTRONICS & REPAI	11.99
139663	NW MI COG	6,900.00
139664	OMS COMPLIANCE SERVICES INC	329.00
139665	O'REILLY AUTOMOTIVE INC	42.46
139666	PLUNKETT COONEY	140.00
139667	POWER LINE SUPPLY	37,162.55
139668	POWER SYSTEM ENGINEERING INC	6,397.50
139669	PREIN & NEWHOF	583.97
139670	PRESTON FEATHER	436.74
139671	PROTEC	293.50
139672	PROVIDENCE FARM LLC	24.00
139673	PRO-VISION SOLUTIONS LLC	45.06
139674	QUILL LLC	721.61
139675	R B LYONS INC	2,000.00
139676	REVOLUTION BIKE LLC	1,647.96
139677	RGM SERVICES LLC	309.66

Check Number	Payee	Amount
139678	SCHEEL, JONATHAN D	50.00
139679	SCHOLEY, ROBERT W.	50.00
139680	SITEONE LANDSCAPE SUPPLY LLC	311.79
139681	SKEGEMOG RAPTOR CENTER	228.60
139682	SMARTSIGN	168.00
139683	SOUND ENVIRONMENTS	836.62
139684	SPARTAN DISTRIBUTORS INC	355.03
139685	SPARTAN STORES LLC	88.85
139686	STATE OF MICHIGAN	290.00
139687	STRICKER'S OUTDOOR POWER EQUI	372.85
139688	TARGET SPECIALTY PRODUCTS	1,980.55
139689	THORP JR, WILLIAM D.	150.00
139690	TRACE ANALYTICAL LABORATORIES I	852.25
139691	TRUCK & TRAILER SPECIALTIES	1,200.60
139692	UNIFIRST CORPORATION	891.69
139693	UP NORTH ASSESSING INC	5,300.00
139694	UPPER CASE PRINTING INK.	1,521.00
139695	VILLAGE GRAPHICS INC	110.00
139696	WAGENSCHUTZ, DAVE	3,500.00
139697	WALKER, MEREDITH A.	50.00
139698	WEST MARINE PRO	91.35
139699	WILBERT BURIAL VAULT CO	817.28
139700	WITT FAMILY FARM	58.00
139701	WOOLF, TOD	97.00
139702	WURST, RANDALL W.	50.00
139703	YOUNG, KRISTEN L.	70.00
139704	ZIXCORP	66.00
Total 06/06/2023:		482,332.66
Grand Totals:		482,332.66

Check Number	Payee	Amount
05/15/2023		
51523001	MICHIGAN PUBLIC POWER AGENCY	14,332.41
Total 05/15/2023:		14,332.41
Grand Totals:		14,332.41

Check Number	Payee	Amount
05/22/2023		
52223001	ENTERPRISE FM TRUST	4,326.98
52223002	MICHIGAN PUBLIC POWER AGENCY	26,521.59
Total 05/22/2023:		30,848.57
Grand Totals:		30,848.57

Check Number	Payee	Amount
05/25/2023		
52523001	MICHIGAN PUBLIC POWER AGENCY	328,833.42
Total 05/25/2023:		328,833.42
Grand Totals:		328,833.42

Check Issue Date	Check Number	Payee	Amount
52623001			
05/26/2023	52623001	**EFTPS* Payroll Taxes	10,778.76
05/26/2023	52623001	**EFTPS* Payroll Taxes	10,778.76
05/26/2023	52623001	**EFTPS* Payroll Taxes	2,520.79
05/26/2023	52623001	**EFTPS* Payroll Taxes	2,520.79
05/26/2023	52623001	**EFTPS* Payroll Taxes	13,664.31
Total 52623001:			
	5		40,263.41
52623002			
05/26/2023	52623002	Alerus Financial	558.00
Total 52623002:			
	1		558.00
52623003			
05/26/2023	52623003	MissionSquare - 401 Plan 109153	1,062.00
Total 52623003:			
	1		1,062.00
52623004			
05/26/2023	52623004	MissionSquare - 457 Plan 300959	4,561.00
05/26/2023	52623004	MissionSquare - 457 Plan 300959	2,625.79
05/26/2023	52623004	MissionSquare - 457 Plan 300959	4,568.10
05/26/2023	52623004	MissionSquare - 457 Plan 300959	8,291.29
Total 52623004:			
	4		20,046.18
52623005			
05/26/2023	52623005	MissionSquare - Roth IRA 706117	1,220.76
Total 52623005:			
	1		1,220.76
52623006			
05/26/2023	52623006	STATE OF MICHIGAN	6,074.71
Total 52623006:			
	1		6,074.71
Grand Totals:			
	13		69,225.06



Check Number	Payee	Amount
05/26/2023		
52623007	MERS	54,753.48
Total 05/26/2023:		54,753.48
Grand Totals:		54,753.48

Check Number	Payee	Amount
05/30/2023		
53023001	MICHIGAN PUBLIC POWER AGENCY	43,902.61
Total 05/30/2023:		43,902.61
Grand Totals:		43,902.61

Charlevoix City Council

Consent Agenda

Title: Building Authority Commission Reappointment: Treasurer McGinn

Date: June 5, 2023

Presented By:

Background:

In June 2019, the Building Authority Commission was established to facilitate a bond purchase for the new Public Services Facility building. Pursuant to the Articles of Incorporation, the City Treasurer is required to be a member of the Commission. Treasurer McGinn's term expires June 2023, therefore Council is required to reappoint her with her new term expiring June 2026.

Recommendation:

Motion to reappoint Treasurer Kelly McGinn to the Building Authority Commission, term expiring June 2026.

Attachments:

None

Charlevoix City Council

Consent Agenda

Title: PA 95 Opt Out

Date: June 5, 2023

Presented By:

Background:

Michigan's Public Act 95 was signed into law in 2013 to create the Low-Income Energy Assistance Fund (LIEAF). The fund is administered by the Michigan Public Service Commission in partnership with the Michigan Department of Health and Human Services. This fund provides money to low-income households for heating assistance through non-profit service agencies in the state through the Michigan Energy Assistance Program (MEAP). The Act requires all Michigan utilities to opt in or out of the LIEAF program by July 1 each year. To date, Charlevoix has chosen opt out.

If Charlevoix chooses to opt In, it would collect a surcharge of approximately one dollar per month from every electric account and forward these funds to the State of Michigan. The DHHS, in consultation with the Public Service Commission, ensures that all money collected for the fund from a geographic area is returned, to the extent possible, to that geographic area. The estimated annual LIEAF funds for Charlevoix for 2022-2023 are \$56,000.

If Charlevoix chooses to opt out, it would not collect the surcharge and its customers would not be eligible for LIEAF assistance. In return, Charlevoix's residential electric customers could not be disconnected for non-payment between November 1 and April 15.

Recommendation:

Move to opt out of Public Act 95 of 2013 for the 2023 – 2024 heating season.

Attachments:

1. 2013-PA-0095_440175_7

Act No. 95
Public Acts of 2013
Approved by the Governor
July 1, 2013
Filed with the Secretary of State
July 1, 2013
EFFECTIVE DATE: July 1, 2013

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Senators Nofs, Bieda, Caswell, Hopgood, Proos, Young, Anderson, Brandenburg, Jones, Schuitmaker, Walker, Marleau and Pappageorge

ENROLLED SENATE BILL No. 284

AN ACT to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," (MCL 460.1 to 460.11) by adding section 9t.

The People of the State of Michigan enact:

Sec. 9t. (1) The low-income energy assistance fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of licensing and regulatory affairs shall be the administrator of the fund for auditing purposes.

(5) Subject to the limitations imposed in this section, the department of human services shall expend money from the fund, upon appropriation, as provided in the Michigan energy assistance act, 2012 PA 615, MCL 400.1231 to 400.1236. The department of human services, in consultation with the public service commission, shall ensure that all money collected for the fund from a geographic area is returned, to the extent possible, to that geographic area.

(6) Subject to the limitations imposed in this subsection, the public service commission may, after an opportunity to comment, annually approve a low-income energy assistance funding factor no later than July 31 of each year for the subsequent fiscal year. The low-income energy assistance funding factor shall be the same across all customer classes and shall not exceed \$1.00. The amount used by the public service commission to calculate a low-income energy assistance funding factor during each fiscal year shall not exceed \$50,000,000.00 minus both the amount appropriated from the general fund in that fiscal year for home energy assistance and the amount remaining in the fund from the prior fiscal year. An electric utility, municipally owned electric utility, or cooperative electric utility that collects money under this subsection shall remit that money to the state treasurer for deposit in the fund on a monthly basis no later than 30 days

(39)

after the last day in each calendar month. The electric utility, municipally owned electric utility, or cooperative electric utility shall list the low-income energy assistance funding factor as a separate line item on each customer's bill.

(7) An electric utility, municipally owned electric utility, or cooperative electric utility may elect to not collect a low-income energy assistance funding factor under this section by annually filing a notice with the public service commission by July 1. Notwithstanding any other provision of this act, an electric utility, municipally owned electric utility, or cooperative electric utility that elects to not collect a low-income energy assistance funding factor under this section shall not shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account.

(8) An electric utility, municipally owned electric utility, or cooperative electric utility that does not opt out under subsection (7), or an association representing a municipally owned electric utility or cooperative electric utility that does not opt out under subsection (7), shall annually provide to the public service commission by July 1 the number of retail billing meters it serves in this state that are subject to the low-income energy assistance funding factor.

(9) Nothing in this act gives the public service commission the power to regulate a municipally owned electric utility.

(10) As used in this section:

(a) "Fund" means the low-income energy assistance fund created in subsection (1).

(b) "Low-income energy assistance funding factor" means a nonbypassable surcharge on each retail billing meter payable monthly by every customer receiving a retail distribution service from an electric utility, municipally owned electric utility, or cooperative electric utility that does not opt out under subsection (7), regardless of the identity of the customer's electric generation supplier. The low-income energy assistance funding factor shall not be charged on more than 1 residential meter per residential site.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

.....
Governor

Charlevoix City Council

Consent Agenda

Title: Set Work Session for 5:15pm on June 19, 2023

Date: June 5, 2023

Presented By:

Background:

Kyle Kopczyk of Power System Engineering will present to Council on the development of a Technology Work Plan for the Electric Department.

Recommendation:

Motion to set a Work Session for June 19, 2023 at 5:15pm in the Council Chambers of City Hall, 210 State Street, Charlevoix, Michigan for the purpose of discussing long-term operational planning and system design for the Electric Department.

Attachments:

None

Charlevoix City Council

Public Hearings and Actions Requiring Public Hearings

Title: Set Public Hearing: Zoning Ordinance Amendments: Accessory Dwelling Units and Bed and Breakfast Parking Requirements

Date: June 5, 2023

Presented By: Mark Heydlauff, City Manager

Background:

The Planning Commission held their required public hearing on April 10, 2023 for the proposed amendments. The City Attorney reviewed the changes and provided his comments, his letter is attached to the memo.

Recommendation:

Motion to set a public hearing for Monday, June 19, 2023 at 6pm in the Council Chambers of City Hall regarding the proposed ordinance amendments for sections 153.071 Schedule of Uses, 153.072 Dimensional Requirements, 153.116 Accessory Buildings and Uses, and 153.187 Parking Requirements and Limitations.

Attachments:

1. Ordinance Amendment 839 with red lined version (Draft)
2. Ordinance Amendment 840 with red lined version (Draft)
3. Letter from Scott Howard, City Attorney

City of Charlevoix
Zoning Ordinance Amendment – Bed and Breakfast Parking Requirements
Planning Commission Public Hearing April 10, 2023
Recommended adoption to City Council
Changes Marked in Red

§ 153.116 ACCESSORY BUILDINGS AND USES.

(D) Bed and breakfast establishments.

- (1) The bed and breakfast shall be located within a residence which is the principal dwelling unit on the property. Whenever the bed and breakfast is open for the renting of rooms, the residence shall be occupied by the owner or innkeeper at all times.
- (2) The rental rooms within the establishment shall be part of the principal dwelling. Bed and breakfast establishments shall not contain more than five rental rooms, however the Planning Commission may consider-approve additional rooms based on the following criteria:
 - (a) The existing single-family home has the capacity for more than five rental rooms;
 - (b) It is a single-family home which has been operated as a bed and breakfast establishment in the past;
 - ~~(c) There is sufficient parking on site, or within 300 feet of the property, to accommodate additional rooms; and~~
 - (d) The Planning Commission finds that the additional rooms will not have an adverse impact to the residential character of the neighborhood.
- (3) The residence shall have at least two exits to the outdoors.
- (4) Signage shall be subject to the requirements of §§ 153.205 through 153.219.
- (5) A bed and breakfast establishment shall be consistent with the essential character of the residential neighborhood in terms of use, traffic generation and appearance.
- (6) A bed and breakfast establishment shall not be permitted on a lot or parcel, (including a non-conforming lot or parcel of record) which does not meet the established lot size requirements for the zoning district in which it is located.
- (7) A minimum of one (1) parking space per rental room is required. Parking may include street spaces in front of the property according to City parking rules. ~~arking spaces shall be accessible at all times.~~ Off-street parking shall be subject to the requirements of Off-Street Parking, Loading, Access and Circulation requirements (§153.185 - 153.190).

§ 153.187 PARKING REQUIREMENTS AND LIMITATIONS

(H) The minimum required number of off-street parking spaces shall be determined based on the requirements listed in Table 153.187.

Table 153.187: Parking and Access Requirements by Use	
Use	Number of Parking Spaces
Residential Uses	
Bed and breakfast	<u>See § 153.116 (C) 1 space per rental room of designated off-street parking with the option of providing on-street parking spaces where City parking rules permit in addition to primary residential dwelling unit parking requirements</u>

**CITY OF CHARLEVOIX
ORDINANCE NO. 839 of 2023**

AN ORDINANCE TO AMEND TITLE XV, LAND USAGE, SECTIONS 153.116 AND 153.187 OF THE CHARLEVOIX CITY CODE

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title XV, Chapter 153, Section 153.116 Accessory Buildings and Uses (D) Bed and Breakfast Establishments (2) (a)-(d) of the City of Charlevoix Code is hereby repealed and replaced, and shall read as follows:

(2) The rental rooms within the establishment shall be part of the principal dwelling. Bed and breakfast establishments shall not contain more than five rental rooms, however the Planning Commission may approve additional rooms based on the following criteria:

- (a) The existing single-family home has the capacity for more than five rental rooms;
- (b) It is a single-family home which has been operated as a bed and breakfast establishment in the past;
- (c) The Planning Commission finds that the additional rooms will not have an adverse impact to the residential character of the neighborhood.

SECTION 2. Title XV, Chapter 153, Section Table 153.116 Accessory Building and Uses (D) Bed and Breakfast Establishments of the City of Charlevoix Code is hereby amended by adding a section, which shall be labeled (7) and shall read as follows:

(7) A minimum of one (1) parking space per rental room is required. Parking may include street spaces in front of the property according to City parking rules. Off-street parking shall be subject to the requirements of Off-Street Parking, Loading, Access and Circulation requirements (§153.185-153.190).

SECTION 3. Title XV, Chapter 153, Section 153.187 Parking Requirements and Limitations, Table 153.187: Parking and Access Requirements by Use; Section Labeled Use; Bed and Breakfast; Table header labeled Number of Parking Spaces of the City of Charlevoix Code is hereby repealed and replaced and shall read as follows:

<i>Table 153.187: Parking and Access Requirements by Use</i>	
<i>Use</i>	<i>Number of Parking Spaces</i>
RESIDENTIAL USES	
Bed and breakfast	1 space per rental room of designated off-street parking with the option of providing on-street parking spaces where City parking rules permit in addition to primary residential dwelling unit parking requirements

SECTION 4. Severability. No other portion, paragraph or phase of the Code of the City of Charlevoix, Michigan shall be affected by this Ordinance except as to the above sections, and in the event any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this Ordinance or of the Code of the City of Charlevoix, Michigan.

SECTION 5. Effective Date.

This Ordinance shall become effective thirty (30) days after its enactment.

Ordinance No. 839 was adopted on the 19th day of June 2023 A.D., by the Charlevoix City Council as follows:

Motion by:

Seconded by:

Yeas:

Nays:

Absent:

State of Michigan }
City of Charlevoix } §

Sarah J. Dvoracek

City Clerk

Lyle Gennett

City Mayor

City of Charlevoix
Zoning Ordinance Amendment – Accessory Dwelling Units
Planning Commission Public Hearing April 10, 2023
Recommended adoption to City Council
Changes Marked in Red

§ 153.071 SCHEDULE OF USES

Uses permitted in the R1, R2, R2A, R4 and PC Districts are listed in Table 153.071 of this chapter. Additional requirements related to a specific use, if any, are referenced in the “Specific Requirements” column.

Table 153.071: Allowed Uses in Residential Zones						
P = Permitted Use by Right						
S = Special Land Use						
	R1	R2	R2A	R4	PC	Specific Requirements
RESIDENTIAL						
Dwellings						
Accessory dwelling unit	<u>P</u>	P	<u>P</u>			

Section 153.072(C) Dimensional requirements: square footage for accessory dwelling units and home conversion units. Square footage for accessory dwelling units and home conversion units shall conform to the requirements of Table 153.072(c).

Table 153.072(c): Dimensional Requirement: Square footage for Accessory Dwelling Units and Home Conversion Units		
Zoning District	Minimum	Maximum
R1, and R2, and R2A	300	900

§ 153.116 ACCESSORY BUILDINGS AND USES

(A) Accessory buildings and structures

(3) In the R1, ~~and R2, and R2A~~ Single-Family Residential Districts, if the principal building has an attached accessory building, only one detached accessory building shall be permitted.

(4) Lots in the R1, ~~and R2, and R2A~~ Zones shall be permitted to have a secondary detached accessory building, such as a storage shed. Secondary accessory buildings shall meet all the requirements of this section and not exceed 200 square feet in area.

(9) Prohibited uses within detached accessory structures or accessory structures connected by a breezeway or similar structure in all districts except the R1, ~~and R2, and R2A~~ Zones:

**CITY OF CHARLEVOIX
ORDINANCE NO. 840 of 2023**

AN ORDINANCE TO AMEND TITLE XV, LAND USAGE, SECTIONS 153.071 AND 153.116 OF THE CHARLEVOIX CITY CODE

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title XV, Chapter 153, Section 153.071 Schedule of Uses; Table 153.071: Allowed Uses in Residential Zones of the City of Charlevoix Code is hereby amended; under the Section heading labeled *Residential*; under Section Subheading labeled *Dwellings*, under Detailed Subheading labelled *Accessory dwelling unit* shall read as follows:

Table 153.071: Allowed Uses in Residential Zones						
<i>P = Permitted Use by Right</i>						
<i>S = Special Land Use</i>						
	<i>R1</i>	<i>R2</i>	<i>R2A</i>	<i>R4</i>	<i>PC</i>	<i>Specific Requirements</i>
<i>RESIDENTIAL</i>						
<i>Dwellings</i>						
<i>Accessory dwelling unit</i>	<i>P</i>	<i>P</i>	<i>P</i>			

SECTION 2. Title XV, Chapter 153, Section 153.072 (c) Dimensional Requirement: Square footage for Accessory Dwelling Units and Home Conversion Units of the City of Charlevoix Code is hereby amended; under the Section heading labeled *Zoning District* shall read as follows:

Table 153.072 (c): Dimensional Requirement: Square footage for Accessory Dwelling Units and Home Conversion Units		
Zoning Districts	Minimum	Maximum
R1, R2, and R2A	300	900

SECTION 3. Title XV, Chapter 153, Section Table 153.116 Accessory Building and Uses (A) Accessory Buildings and Structures items (3), (4), and (9) City of Charlevoix Code is hereby repealed and replaced and shall read as follows:

(3) In the R1, R2, and R2A Residential Districts, if the principal building has an attached accessory building, only one detached accessory building shall be permitted.

(4) Lots in the R1, R2, and R2A Zones shall be permitted to have a secondary detached accessory building, such as storage shed. Secondary accessory buildings shall meet all the requirements of this section and not exceed 200 square feet in area.

(9) Prohibited uses within detached accessory structures or accessory structures connected by a breezeway or similar structure in all districts except the R1, R2, and R2A Zones:

(a) May not contain features that form a habitable dwelling unit or create a second dwelling unit;

(b) These structures may contain utility sinks, one bathroom, and refrigeration units. Full kitchen facilities that include a range or stove are prohibited; and

(c) Rooms within accessory structures may be used for additional sleeping quarters for the owner, or resident, and their immediate family provided that these rooms may not be rented out as short- or long-term rentals for any length of time.

SECTION 4. Severability. No other portion, paragraph or phase of the Code of the City of Charlevoix, Michigan shall be affected by this Ordinance except as to the above sections, and in the event any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this Ordinance or of the Code of the City of Charlevoix, Michigan.

SECTION 5. Effective Date.

This Ordinance shall become effective thirty (30) days after its enactment.

Ordinance No. 839 was adopted on the 19th day of June 2023 A.D., by the Charlevoix City Council as follows:

Motion by:

Seconded by:

Yeas:

Nays:

State of Michigan } §
City of Charlevoix

Sarah J. Dvoracek

City Clerk

Lyle Gennett

City Mayor



May 19, 2023

Mark Heydlauff
City Manager
City of Charlevoix
210 State Street
Charlevoix, MI 49720

Dear Mr. Heydlauff:

This letter is to confirm our review of the following proposed Zoning Ordinance amendments approved by the Planning Commission on April 10, 2023, for transmission to City Council:

1. Accessory Dwelling Units – Amends Sections 153.071 Schedule of Uses; 153.072(C) Dimensional requirements; and 153.116(A) Accessory Buildings and Uses, Accessory buildings and structures; to reflect that ADUs will be permitted as a use by right in the R2A district.
2. Bed and Breakfast Parking Requirements – Amends Sections 153.116(D) Accessory Buildings and Uses, Bed and breakfast establishments; and 153.187(H) Parking Requirements and Limitations, Parking and Access Requirements by Use; to clarify parking requirements for bed and breakfasts.

We found no potential legal problems with the proposed changes but note that updated language allowing street parking spaces to count toward the one-space-per-rental-room requirement in Section 153.116(D)(7) appears to conflict with the requirement that spaces be accessible at all times because accessibility of street parking is not within a property owner's control. Eliminating the sentence requiring spaces to be accessible at all times would resolve this issue.

If you have any questions or concerns, please feel free to call me at 231-946-0044.

Sincerely,

Scott W. Howard
City Attorney

Charlevoix City Council

All Other Actions and Requests

Title: 2023 Venetian Festival Street Closure Request

Date: June 5, 2023

Presented By: Dan Barron- Charlevoix Venetian Festival President

Background:

The Charlevoix Venetian Festival is scheduled for next month. As this draws closer, they are solidifying their plans for the event and would like to obtain City Council approval for the street closure plan. You'll find the full request attached and it is in keeping with the past few festivals. Mr. Barron plans to be present to answer questions from Council.

Recommendation:

Council discussion and direction.

OR

Motion to approve the Venetian Festival Street Closure for 2023 as presented and direct City Staff to make all necessary arrangements.

Attachments:

1. 2023 Venetian Festival Request

CHARLEVOIX VENETIAN FESTIVAL, INC.

309 Petoskey Avenue
P.O. Box 120
Charlevoix, Michigan 49720
PH 231-547-3872 / FAX 231-547-2977
www.venetianfestival.com E-mail: info@venetianfestival.com

May 31, 2023
HAND DELIVERED

Mark Heydlauff
City Manager
City of Charlevoix
210 State Street
Charlevoix, Michigan 49720

Dear Mark:

I am writing in furtherance of our discussions regarding the Venetian proposal for downtown closure of Bridge Street during the 2023 Festival. We have engaged in numerous discussions with various City department heads, as well as multiple planning sessions, to confirm a sound preliminary plan for City Council consideration.

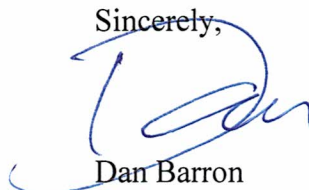
A prospective road closure map is enclosed, which illustrates the proposal to close Bridge Street from Antrim Street to Park Avenue from Thursday morning, July 20th through Saturday evening, July 22nd, reopening upon conclusion of the Harbor Fireworks display. Please note that this is the precise time frame and location of Venetian street closures which have been approved by Council over the past several years, to ensure pedestrian safety. The closure would be again implemented in similar manner, including "soft closings" of Antrim Street and Clinton Street to facilitate limited access to various establishments and residential dwellings.

The following Venetian programming is also proposed for those areas of Bridge Street which would be closed to vehicular traffic:

- a. Thursday/July 20, 2023. Kid's Day, which currently has no authorized venue, would be moved back to downtown Charlevoix. A vast array of children's activities and events would be staged along Bridge Street, from Antrim Street to Park Avenue. Additionally, the Farmer's Market would take place in Bridge Park.
- b. Friday/July 21, 2023. The Venetian Car Show would be staged on Bridge Street, between Antrim Street and Clinton Street. An expanded version of the Kid's Zone with a multitude of children's activities, would be staged between Clinton Street and Park Avenue. A corn hole toss tournament would also be staged in Bridge Park.
- c. Saturday/July 22, 2023. The Venetian footraces and the traditional Venetian Street Parade would take place in the morning and early afternoon. Street concerts would take place throughout the afternoon, leading to the spectacular evening events.

Mark Heydlauff
City Manager
May 31, 2023
Page 2

Please see that the foregoing proposal is submitted for consideration by the City Council at their meeting of June 5, 2023. Please also feel free to contact me, in the interim, if you should have any questions.

Sincerely,

Dan Barron
President

DBB/jlm
xc: Venetian Board of Directors (via e-mail)

VENETIAN FESTIVAL ROAD CLOSURE

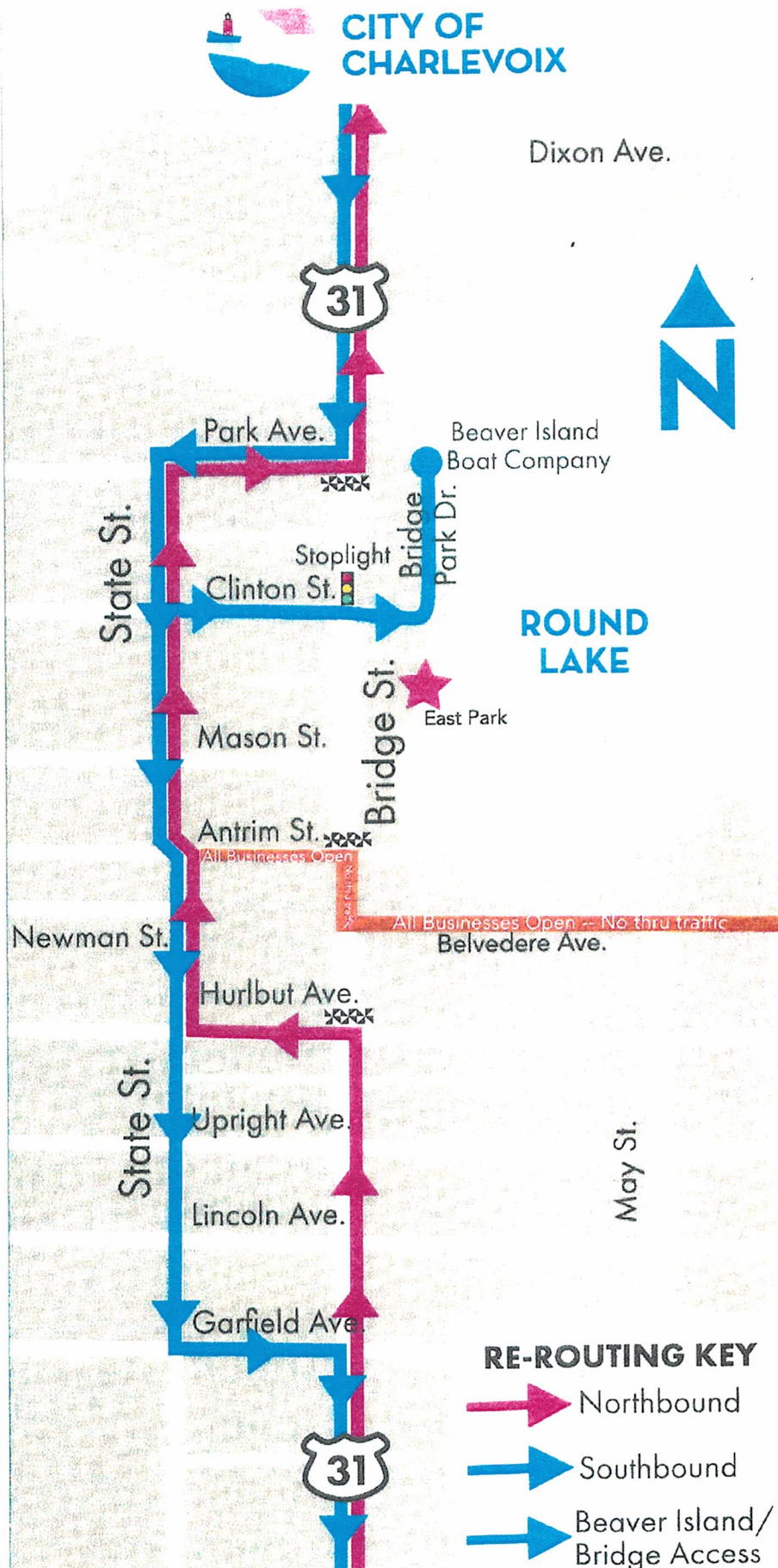
PLEASE NOTE
THAT BRIDGE
STREET WILL
RE-ROUTE
TRAFFIC
DURING THE
FOLLOWING
TIMES:

THURSDAY
MORNING
(7/20)

through

SATURDAY
(7/22)
AFTER
FIREWORKS

BRIDGE
STREET WILL
BE OPEN
FOR TRAFFIC
AT ALL
OTHER
TIMES



Charlevoix City Council

All Other Actions and Requests

Title: Initiative Committee Response to Certificate of Insufficiency

Date: June 5, 2023

Presented By: Luther Kurtz

Background:

As Council may be aware, a group of citizens formed an Initiative Committee to collect signatures for an ordinance to sell the former DPW site on Stover Road. The process for this is described in the City Charter. Upon initial filing, the language and process were deemed to be insufficient. The committee filed affidavits required under the Charter and wished to be reconsidered. The language of the ordinance is deemed still to be insufficient for the standard of the Charter.

On June 2, the Committee filed the attached written appeal of this determination of insufficiency and now Council can determine whether the language is, in fact, sufficient. You will also find attached the two letter written by the City Attorney on the matter.

Recommendation:

Council discussion and direction.

Attachments:

1. Appeal to Council from Initiative Committee
2. 2023-06-01 Second Letter to Initiative Comm re Petition to City
3. 2023-05-04 Letter to Initiative Committee re Petition to City

June 2, 2023

City Council
c/o City Clerk
City of Charlevoix
210 State Street
Charlevoix, MI 49720

Dear Members of Council:

The Initiative Committee has received the enclosed Certificate of Insufficiency from the City Clerk. Pursuant to Section 6.4(b) of the City Charter, the Initiative Committee requests that City Council review the certificate at its next meeting and approve or disapprove the certificate.

For Council's reference, we are also enclosing a copy of our attorney's letter to the City Attorney explaining why we believe the initiative is permissible under the City Charter. We ask that City Council allow the City's electors to vote on this important issue.

If you require any other information, please contact me.

Sincerely,

Luther Kurtz, Initiative Committee Member



Enclosures

1. The first part of the document is a list of the names of the members of the committee who have been appointed to study the problem of the shortage of housing in the city of New York.

Certificate of Insufficiency

Pursuant to Article XI, Section 6.4(a), the City Clerk has determined that the Petition submitted by the initiative committee is insufficient for the following reasons:

I. Substantive Deficiency

The submittal is substantively deficient under the Charter because it potentially requires the appropriation of money for purposes of housing. While this is certainly a laudable goal, it is violative of the substantive requirements of Section 6.1(a) of the Charter. Pursuant to Section 6.1(a), the power to propose ordinances using the petitioning process does “not extend to the budget or Capital Program, or to any ordinance relating to the [sic] appropriation of money, levy of taxes, or salaries of city officials or employees.” The proposed ordinance in question directly attempts to arrogate the budgeting and appropriation authority of the City Council in violation of the Charter.

The language of the proposed ordinance includes the following provision:

“Section 3: Obligations of the Council

...

B. If, within 1 year after the effective date of this Ordinance, Council has not received a reasonable offer and the Property [sic] remains unsold, the Council may choose to sell the Property to any other third party **and use the proceeds from the sale of the Property for the purpose of promoting the development of year-round housing within the City.**” (emphasis added).

The proposed ordinance includes a restriction on how the Council must use any proceeds from the sale. Therefore, the petition is substantively deficient, and the Clerk shall note this deficiency in her letter to the Petitioners' Committee.

II. Procedural Deficiency

The submittal was also found procedurally deficient. Under section 6.3(c) of the City of Charlevoix’s Charter, each circulated petition must include an affidavit executed by the circulator attesting to the following information:

- The affiant personally circulated the paper;
- All signatures were affixed to the petition in the presence of the affiant;
- The affiant believes the signatures to be the genuine signatures of the persons whose names they purpose to be; and
- Each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be considered.

Upon review of each originally submitted petition document, the attestation clause is missing one of the requirements outlined in the Charter. Although the proposed ordinance was attached to each circulated petition, the attestation clause fails to affirm “that each signer had an

opportunity before signing to read the full text of the ordinance proposed or sought to be considered.”

The City has accepted the re-submitted petition with the attestation clause included on the re-submitted petition to remedy the original procedural deficiency. However, because the petition still does not meet the requirements of the Charter as explained above, the petition continues to remain insufficient.

III. The Committee’s Rights

The City Charter gives the Petitioners’ Committee the right to file a request for the Council to review the petition and decide on its sufficiency. Section 6.4(b). The Petitioners’ Committee has two days after receiving a copy of the certificate from the Clerk detailing the insufficiencies to make such a request.

If the Petitioners’ Committee requests Council review, the Council “shall review the certificate at its next meeting following the filing of such request and approve or disapprove it. The Council’s decision shall then be the final determination as to the sufficiency or insufficiency of the petition.” Section 6.4(b). “A Council determination as to the sufficiency of a petition shall be subject to court review.” Section 6.4(c).

Sarah Dvoracek, City Clerk
(Signed by Scott W. Howard, City Attorney,
with permission of the City Clerk)
Dated: _____, 2023

Lansing

313 S. Washington Square
Lansing MI 48933

Detroit

333 W. Fort Street – Suite 1400
Detroit MI 48226

Walter S. Foster
1878-1961
Richard B. Foster
1908-1996
Theodore W. Swift
1928-2000
John L. Collins
1926-2001

Webb A. Smith - *Retired*

Charles A. Janssen
Charles E. Barbieri
Scott L. Mandel
Michael D. Sanders
Brent A. Titus

Brian G. Goodenough
Matt G. Hrebec
Deanna Swisher
Thomas R. Meagher
Douglas A. Mielock
Scott A. Chernich
Paul J. Millenbach
Dirk H. Beckwith
Brian J. Renaud
Lynwood P. VandenBosch
Lawrence Korolewicz
James B. Doezena
Anne M. Seurynek
Michael D. Homier
Scott H. Hogan
Richard C. Kraus

Southfield

28411 Northwestern Highway – Suite 500
Southfield MI 48034

Holland

151 Central Avenue – Suite 260
Holland MI 49423

Benjamin J. Price
Michael R. Blum
Jonathan J. David
Andrew C. Vredenburg
Julie I. Feishtman
Todd W. Hoppe
Jennifer B. Van Regenmorter
Thomas R. TerMaat
Frederick D. Dilley
David R. Russell
Joel C. Farrar
Laura J. Genovitch
Karl W. Butterer, Jr.
Mindi M. Johnson
Ray H. Littleton, II
Jack L. Van Coevering

Anna K. Gibson
Nicholas M. Oertel
Alicia W. Birach
Adam A. Fadly
Michael J. Liddane
Ryan E. Lamb
Clifford L. Hammond
Matthew S. Fedor
Andrea Badalucco
Stefania Gismondi
Leslie A. Abdo
Julie L. Hamlet
Michael C. Zahrt
Mark T. Koerner
Warren H. Krueger, III
Taylor A. Gast

Rachel G. Olney
Mark J. DeLuca
Thomas K. Dillon
Robert A. Hamor
Jacquelyn A. Dupler
Stephen W. Smith
Sarah J. Gabis
Amanda Afton Martin
Steven J. Tjapkes
Daniel S. Zick
Scott R. Forbush
Alexander S. Rusek
Benjamin R. Judd
Erica E. L. Huddas
Jennifer L. Montasir
Bryan Cermak

Grand Rapids

1700 E. Beltline NE – Suite 200
Grand Rapids MI 49525

St. Joseph

800 Ship Street – Suite 105
St. Joseph MI 49085

Michael A. Cassar
Hilary J. McDaniel Stafford
Emily R. Wisniewski
Amanda J. Demovshak
Brandon M. H. Schumacher
Alaina M. Nelson
Sydney T. Steele
Anthony M. Dalimonte
Jim W. Scales
Benjamin C. Dilley
Toi J. Thomas
Nicholas J. Stock, II
Keith T. Brown
Mallory E. Reader

Writer's Direct Phone: 616.726.2238

Fax: 616.726.6813

Reply To: Grand Rapids

Email: LGenovitch@fosterswift.com

May 9, 2023

Scott W. Howard
Olson, Bzdok & Howard
420 East Front Street
Traverse City, MI 49686

via e-mail

Dear Mr. Howard:

Re: Year-round Housing Initiative

As you know, we represent the initiative committee that has proposed a year-round housing initiative ordinance in the City of Charlevoix. We have received the City of Charlevoix's Certificate of Insufficiency, and we appreciate this opportunity to respond and request the City's reconsideration.

With respect to the affidavit, the circulators will be submitting affidavits that comply with Section 6.3(c) of the City Charter. We believe that will adequately resolve that issue.

With respect to the concern about Section 6.1(a) of the City Charter, we respectfully disagree that the City can review the substance of the proposal in evaluating the petition's sufficiency.

The Michigan Court of Appeals has held that city clerks and election commissions have a "clear legal duty to place [an] initiative on the ballot" if the petition has the required number of qualified signatures. *Coalition for a Safer Detroit v Detroit City Clerk*, 295 Mich App 362, 374; 820 NW2d 208 (2012). In that case, the petitioners initiated a proposed amendment to the city code that would exempt the use or possession of less than one ounce of marijuana on private property by a person 21 or older from punishment under the city code (in 2012, before the MRTMA was enacted). *Id.* at 365. The city's legal department determined that the proposed amendment violated state law, so the election commission voted not to place the initiative on the ballot despite the petition containing sufficient valid signatures. *Id.* at 366.

Scott W. Howard
May 9, 2023
Page 2

The petitioners sued, and the Court of Appeals ultimately held in their favor, concluding that “it was not within the scope of [the city’s] authority to assess the substance of the petition or to determine whether, if passed, it would conflict with state law.” *Id.* at 370. The Court of Appeals further noted that “a preelection determination of the validity of a ballot initiative substantially interferes with the legislative function, and our courts have repeatedly held that substantive challenge to a proposed initiative is improper until *after* the law is enacted.” *Id.* at 371–72, emphasis in original.

Similarly, the Michigan Court of Appeals ordered a township clerk to immediately certify ballot language when the clerk had declined to do so on the basis that the wording of the ballot proposal was illegal. *Oakland Cares Coal v Turner*, unpublished opinion of the Court of Appeals, issued September 1, 2021 (Docket No. 358304). There, the clerk requested a legal opinion regarding whether the proposed ordinance violated the title-object clause of Michigan’s Constitution. *Id.* at *1. The township’s counsel concluded that the title and proposed ordinance encompassed multiple objects, and the clerk declined to certify the ballot proposal on that basis. *Id.* The ballot committee filed suit seeking a writ of mandamus ordering certification. *Id.* at *2. Relying on *Coalition for Safer Detroit*, the Court of Appeals held that the clerk’s attempt to declare a ballot proposal illegal before the election was an undue interference with the legislative process and ordered the immediate certification of the ballot language. *Id.* at *4–*5.

Finally, the Supreme Court of Michigan held that once a petition in proper form has been filed, the secretary of state cannot refuse to submit the proposed amendment to the electors on the ground that such amendment would violate the federal Constitution. *Hamilton v Vaughan*, 212 Mich 31; 179 NW 553 (1920). In doing so, the secretary of state would be overstepping their duties as a ministerial officer. *Id.* at 34. Furthermore, no one knows to any certainty whether the proposed amendment will receive a sufficient number of votes to carry it. *Id.* If it does not receive such a number of votes, its substantive legality is moot. *Id.* Therefore, the Court ruled that refusing to place a petition with the proper number of signatures on the ballot was unlawful. *Id.*

Based on this case law, we submit that the City Clerk has a ministerial duty to place the question on the ballot if the petition has sufficient signatures (which it does) and complies with the technical petition requirements (which it will, once the affidavits are filed). The question of whether the ballot question conforms to the Charter is a substantive legal analysis that is outside the scope of reviewing the petition’s sufficiency for inclusion on the ballot.

Furthermore, even if the substance were reviewed, we do not believe the initiated ordinance violates Section 6.1 of the City Charter. Section 6.1 does not allow an initiated ordinance that “relat[es] to appropriation of money, levy of taxes, or salaries of city officials or employees.” The committee’s proposed ordinance unquestionably does not call for a tax levy or affect salaries. Nor does it compel an “appropriation of money.” Rather, it allows the City Council – in its sole discretion – to choose to sell the property and use the proceeds from that sale in a particular manner.

Scott W. Howard
May 9, 2023
Page 3

This does not violate Section 6.1 because the City retains full discretion over the public funds (the Council “may” sell the property use the proceeds to promote the development of year-round housing in the City, but it is not required to do so). And even to the extent it relates to public funds, it does not relate to an *appropriation* in the budget. It essentially keeps certain sale proceeds earmarked for a particular use *if* the Council chooses to sell the property and use them in that manner.

For these reasons, we request that the City reconsider its decision and accept the petitions. Please feel free to contact me if you wish to discuss.

Very truly yours,

FOSTER SWIFT COLLINS & SMITH PC

/s/ Laura J. Genovich

Laura J. Genovich

LJG:MER

88351:00001:7090316-1



June 1, 2023

Initiative Committee
102 Chicago Ave.
Charlevoix, MI 49720

RE: Notice of Intent to File Initiative Petition

Dear Members of the Initiative Committee:

This letter is written on behalf and request of the City Clerk. The Clerk requested I review the resubmitted initiative petition by the Initiative Committee. I have reviewed the City of Charlevoix's Charter and relevant case law, with analysis, and I am still of the opinion that the petition language is contrary to the language of the Charter. Therefore, the Clerk may not certify the petition as complete, and this letter is to inform you of the petition's deficiency based on the following item:

The petition and ordinance are contrary to Section 6.1(a) because it potentially requires the appropriation of money for purposes of housing. While this is certainly a laudable goal, it is violative of the substantive requirements of Section 6.1(a) of the Charter, which states that the petition may "not extend to the budget or Capital Program, or to any ordinance relating to the [sic] appropriation of money, levy of taxes, or salaries of city officials or employees."

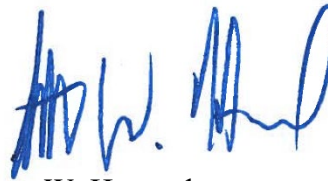
It is my opinion that the case law provided on behalf of the Initiative Committee is not directly on point and is distinguishable from the proposed petition language in this instance. All three cases cited involve a decision not to put petition language on the ballot because it was arguably contrary to the laws and constitutional provisions of the state of Michigan and the United States. In the current request, on the other hand, the issue is with the language of the Charter itself. As noted above, the language of the Charter directly proceeding the mechanisms for a petition under the Charter specifically prohibits any petition from extending to "the budget or Capital Program, or to any ordinance relating to the [sic] appropriation of money, levy of taxes, or salaries of city officials or employees." In this regard, it is my opinion that the case of *Herp v Lansing City Clerk*, 164 Mich App 150, 151; 416 NW2d 367 (1987) is more similar to the current petition submission and the action taken by the City Clerk. That case, cited in footnote 2 of *Coal for a Safer Detroit v Detroit City Clerk*, 295 Mich App 362, 371; 820 NW2d 208 (2012), involved the question of whether a Clerk was able to require compliance with the petition requirements of the Home Rule Cities Act. The Court held that the Clerk did have that authority, as to read the statute otherwise would have rendered the language moot. Similarly, the petition language in this instance must comply with all of the requirements of the City Charter, including Section 6.1(a).

Initiative Committee
June 1, 2023
Page 2

The Clerk has determined the petition still to be deficient, and, therefore, has not certified the petition as complete under Article XI of the Charter. Enclosed with this letter is a Certificate of Insufficiency with notice of the deficiencies pursuant to Section 6.4(a). You have certain rights under Article XI of the Charter that are discussed in Section III of the Certificate for your reference.

Please do not hesitate to contact me with any questions.

Sincerely,



Scott W. Howard

SWH/klg

xc: Tom Kirinovic
Norman L. Carlson
Luther Kurtz
Sherman A. Chamberlain
Shirley Gibson

Certificate of Insufficiency

Pursuant to Article XI, Section 6.4(a), the City Clerk has determined that the Petition submitted by the initiative committee is insufficient for the following reasons:

I. Substantive Deficiency

The submittal is substantively deficient under the Charter because it potentially requires the appropriation of money for purposes of housing. While this is certainly a laudable goal, it is violative of the substantive requirements of Section 6.1(a) of the Charter. Pursuant to Section 6.1(a), the power to propose ordinances using the petitioning process does “not extend to the budget or Capital Program, or to any ordinance relating to the [sic] appropriation of money, levy of taxes, or salaries of city officials or employees.” The proposed ordinance in question directly attempts to arrogate the budgeting and appropriation authority of the City Council in violation of the Charter.

The language of the proposed ordinance includes the following provision:

“Section 3: Obligations of the Council

...

B. If, within 1 year after the effective date of this Ordinance, Council has not received a reasonable offer and the Property [sic] remains unsold, the Council may choose to sell the Property to any other third party **and use the proceeds from the sale of the Property for the purpose of promoting the development of year-round housing within the City.**” (emphasis added).

The proposed ordinance includes a restriction on how the Council must use any proceeds from the sale. Therefore, the petition is substantively deficient, and the Clerk shall note this deficiency in her letter to the Petitioners' Committee.

II. Procedural Deficiency

The submittal was also found procedurally deficient. Under section 6.3(c) of the City of Charlevoix’s Charter, each circulated petition must include an affidavit executed by the circulator attesting to the following information:

- The affiant personally circulated the paper;
- All signatures were affixed to the petition in the presence of the affiant;
- The affiant believes the signatures to be the genuine signatures of the persons whose names they purpose to be; and
- Each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be considered.

Upon review of each originally submitted petition document, the attestation clause is missing one of the requirements outlined in the Charter. Although the proposed ordinance was attached to each circulated petition, the attestation clause fails to affirm “that each signer had an

opportunity before signing to read the full text of the ordinance proposed or sought to be considered.”

The City has accepted the re-submitted petition with the attestation clause included on the re-submitted petition to remedy the original procedural deficiency. However, because the petition still does not meet the requirements of the Charter as explained above, the petition continues to remain insufficient.

III. The Committee’s Rights

The City Charter gives the Petitioners’ Committee the right to file a request for the Council to review the petition and decide on its sufficiency. Section 6.4(b). The Petitioners’ Committee has two days after receiving a copy of the certificate from the Clerk detailing the insufficiencies to make such a request.

If the Petitioners’ Committee requests Council review, the Council “shall review the certificate at its next meeting following the filing of such request and approve or disapprove it. The Council’s decision shall then be the final determination as to the sufficiency or insufficiency of the petition.” Section 6.4(b). “A Council determination as to the sufficiency of a petition shall be subject to court review.” Section 6.4(c).

Sarah Dvoracek, City Clerk
(Signed by Scott W. Howard, City Attorney,
with permission of the City Clerk)
Dated: _____, 2023



May 4, 2023

Via First Class Mail

Initiative Committee
102 Chicago Ave.
Charlevoix, MI 49720

RE: Notice of Intent to File Initiative Petition

Dear Members of the Initiative Committee:

This letter is written on behalf and request of the City Clerk. The Clerk requested I review the initiative petition submitted to the City by the Initiative Committee. I have reviewed the City of Charlevoix's Charter and unfortunately have concluded that the petition language is contrary to the language of the Charter. Therefore, the Clerk may not certify the petition as complete, and this letter is to inform you of the petition's deficiency based on the following two items:

1. The petition and ordinance are contrary to Section 6.1(a) because it potentially requires the appropriation of money for purposes of housing. While this is certainly a laudable goal, it is violative of the substantive requirements of Section 6.1(a) of the Charter, which states that the petition may "not extend to the budget or Capital Program, or to any ordinance relating to the [sic] appropriation of money, levy of taxes, or salaries of city officials or employees."
2. Under section 6.3(c) of the City of Charlevoix's Charter, each circulated petition must include an affidavit executed by the circulator attesting to the certain information, including an attestation clause "that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be considered." Although the proposed ordinance was attached to each circulated petition, the attestation clause fails to contain this statement. This procedural defect may be of lesser concern and might be subject to amendment as provided by the Charter. However, in light of both the substantive and procedural deficiencies, the Clerk is compelled to deem the petition deficient and not certify the petition as complete.

The Clerk has determined the petition to be deficient, and, therefore, has not certified the petition as complete under Article XI of the Charter. Enclosed with this letter is a Certificate of Insufficiency with notice of the deficiencies pursuant to Section 6.4(a). You have certain rights under Article XI of the Charter that are discussed in Section III of the Certificate for your reference.

Initiative Committee
May 4, 2023
Page 2

Please do not hesitate to contact me with any questions.

Sincerely,



Scott W. Howard

xc: Tom Kirinovic
Norman L. Carlson
Luther Kurtz
Sherman A. Chamberlain
Shirley Gibson

Certificate of Insufficiency

Pursuant to Article XI, Section 6.4(a), the City Clerk has determined that the Petition submitted by the initiative committee are insufficient for the following reasons:

I. Substantive Deficiency

The submittal is substantively deficient under the Charter because it potentially requires the appropriation of money for purposes of housing. While this is certainly a laudable goal, it is violative of the substantive requirements of Section 6.1(a) of the Charter. Pursuant to Section 6.1(a), the power to propose ordinances using the petitioning process does “not extend to the budget or Capital Program, or to any ordinance relating to the [sic] appropriation of money, levy of taxes, or salaries of city officials or employees.” The proposed ordinance in question directly attempts to arrogate the budgeting and appropriation authority of the City Council in violation of the Charter.

The language of the proposed ordinance includes the following provision:

“Section 3: Obligations of the Council

...

B. If, within 1 year after the effective date of this Ordinance, Council has not received a reasonable offer and the Property [sic] remains unsold, the Council may choose to sell the Property to any other third party **and use the proceeds from the sale of the Property for the purpose of promoting the development of year-round housing within the City.**” (emphasis added).

The proposed ordinance includes a restriction on how the Council must use any proceeds from the sale. Therefore, the petition is substantively deficient, and the Clerk shall note this deficiency in her letter to the Petitioners' Committee.

II. Procedural Deficiency

Under section 6.3(c) of the City of Charlevoix’s Charter, each circulated petition must include an affidavit executed by the circulator attesting to the following information:

- The affiant personally circulated the paper;
- All signatures were affixed to the petition in the presence of the affiant;
- The affiant believes the signatures to be the genuine signatures of the persons whose names they purpose to be; and
- Each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be considered.

Upon review of each submitted petition document, the attestation clause is missing one of the requirements outlined in the Charter. Although the proposed ordinance was attached to each circulated petition, the attestation clause fails to affirm “that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be considered.”

III. The Committee's Rights

The City Charter gives the Petitioners' Committee the right to file a request for the Council to review the petition and decide on its sufficiency. Section 6.4(b). The Petitioners' Committee has two days after receiving a copy of the certificate from the Clerk detailing the insufficiencies to make such a request.

If the Petitioners' Committee requests Council review, the Council "shall review the certificate at its next meeting following the filing of such request and approve or disapprove it. The Council's decision shall then be the final determination as to the sufficiency or insufficiency of the petition." Section 6.4(b). "A Council determination as to the sufficiency of a petition shall be subject to court review." Section 6.4(c).

Sarah Dvoracek, City Clerk
(Signed by Scott W. Howard, City Attorney,
with permission of the City Clerk)
Dated May 4, 2023

Charlevoix City Council

Reports and Communications

Title: City Manager's Comments

Date: June 5, 2023

Presented By:

Background:

A. Northside Trail Update

Last week, Recreation Director Kent Knorr and I met with Golf Course Greenskeeper Brian Livingston and Chris Powell of OHM Advisors to review placement and design for the northside trail as it cuts through the golf course. We want to ensure the trail placement is consistent with golf course operations and design. We also reviewed the tree conditions in the forest to look at which trees should definitely be preserved and which should be removed (because of disease and safety). We are on track to sign the latest grant documents for MDOT later this month. If the project is accepted by MDOT, we'll be looking to bid the project next spring.

B. Electric Department Updates

Future Power Supply

The Michigan Public Power Agency Long-term Power Supply Service Committee (LTPS-SC) was formed to address the impact on resource adequacy of retiring coal fired base load generating stations. The committee has executed several agreements that will provide time to develop a long-range power supply strategy. MPPA's goal is to develop a diversified power supply portfolio to minimize power supply and price risk. MPPA staff is currently exploring options from existing natural gas fired generation stations along with additional renewable resources. This initial review includes no financial commitment for committee members. If the initial due diligence and risk evaluation warrant a more in-depth review, the service committee members will be asked to authorize the funds to hire an outside consultant. That could, in turn, lead to a financial commitment to execute a power purchase commitment or own part of an asset. This option would be brought to City Council for approval.

Technology Work Plan

On June 19, we'll have Kyle Kopczyk from Power System Engineering back with us to do a Work Session with Council on the recommendations for a Technology Work Plan. This is an extension of the recommendations PSE had as part of the AMI project and is important to keep our system updated and viable going forward. As noted in the consent agenda, this is scheduled for June 19 at 5:15pm.

Strategic Planning

The Michigan Municipal Electric Association is hosting a strategic planning training session for its members. We have engaged in this process and assembled a planning team including Electric Director John Griffith, Lineman and CWA Steward Brandon Stevens, Council Member Janet Kalbfell, Charlevoix Township Supervisor Dan Ulrich, and me. Together, we'll look at the recommendations for what should be in a strategic plan and eventually bring a recommendation to Council that represents our best efforts.

C. Downtown Infrastructure Improvements

Work on Mason Street continues with most of the underground utilities being complete on the street

portion of the project. Final testing on the water main was completed this week and it will be connected to the system tomorrow. Storm sewer installation under the parking lot and rain garden areas began this week along with demolition work on the existing parking lot. At the request of downtown merchants, we created a pedestrian walking lane at the Bridge Street end of the project to make it easier and safer for pedestrians to cross Mason Street.

D. NLEA Symposium

Last week, Council members Kalbfell and Spring attended the NLEA Symposium at Boyne Mountain. I also attended along with Chamber President Sarah Van Horn, DDA Executive Director Lindsey Dotson, and Visit Charlevoix Executive Director Amanda Wilkin. There were many good topics about the future of the economy in northern Michigan and our state as a whole. I was pleased to co-moderate a breakout session on housing with Sean Bradley, who is a graduate of Charlevoix High School and currently a senior at Princeton University. Together, we talked with panelists Yarrow Brown of Housing North, Jessica Lovay of the NLEA, and Emily Doerr, Executive Director of the State Land Bank about new incentives and tools available through recently passed legislation.

E. Response to the Initiative Committee

You'll recall last month that a group of citizens filed a petition for an initiated ordinance relative to the sale of the former DPW Site on Stover Road. In review of this, the City Clerk and City Attorney found the petition and the language of the ordinance to be deficient pursuant to the Charter. Though the committee never accepted the certified letter stating the reasons for the deficiency, they did file affidavits to correct one of the deficiencies noted in the original letter of deficiency. On June 2, we advised the Committee that the ordinance language is still deficient. The letter is attached.

Recommendation:

Attachments:

1. Police Monthly Report-March and April 2023
2. Planning Commission Regular Meeting Minutes 04/10/2023
3. Housing Commission Regular Meeting Minutes 04/18/2023
4. 2023-06-01 Second Letter to Initiative Comm re Petition to City

CITY OF CHARLEVOIX

POLICE ACTIVITY REPORT FOR THE MONTH OF MARCH 2023

ITEM	NUMBER THIS MONTH	THIS MONTH LAST YEAR	TOTAL THIS YEAR	TOTAL LAST YEAR
TRAFFIC CITATIONS	4	16	8	30
TRAFFIC WARNINGS	37	94	106	285
TRAFFIC CONTACTS	40	-	112	-
MOTORIST/CITIZEN ASSIST	21	16	53	51
POLICE ASSIST	23	26	75	70
MEDICAL RESPONSE	11	9	31	21
PAPER SERVICE	0	-	0	-
RESIDENTIAL/COMMERCIAL	30	47	77	118
FELONY ARRESTS	0	0	2	1
MISDEMEANOR/NTA ARRESTS	7	3	10	6
WARRANT ARRESTS	2	-	3	-
WARRANT ATTEMPTS	1	-	1	-
TRAFFIC CRASH 9300-1	4	9	13	19
TRAFFIC CRASH 9300-2	1	2	7	5
GENERAL ASSISTS/OTHER	264	428	837	1,110
FUNERAL ESCORTS	0	-	0	-
ALARMS	4	-	13	-
SCHOOL PATROL	15	-	62	-
SCHOOL PRESENTATIONS	0	-	0	-
PARKING/SNOW TICKETS	84	3	138	117
PARKING METER TICKETS	0	0	0	0
LIQUOR INSPECTIONS	20	3	48	36
ORIGINAL COMPLAINTS	20	24	58	56
CLOSED COMPLAINTS	11	31	47	62
FOLLOW-UP/SUPPLEMENTS	6	-	12	-
PATROL MILES	4,743	4,637	12,462	13,727

TOTAL MILEAGE #87-1

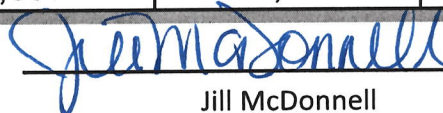
3,881

TOTAL MILEAGE #87-2

704

TOTAL MILEAGE #17

158



Jill McDonnell
Chief of Police

CITY OF CHARLEVOIX

POLICE ACTIVITY REPORT FOR THE MONTH OF APRIL 2023

ITEM	NUMBER THIS MONTH	THIS MONTH LAST YEAR	TOTAL THIS YEAR	TOTAL LAST YEAR
TRAFFIC CITATIONS	3	11	11	41
TRAFFIC WARNINGS	53	83	159	368
TRAFFIC CONTACTS	56	-	168	-
MOTORIST/CITIZEN ASSIST	17	14	70	65
POLICE ASSIST	23	29	98	99
MEDICAL RESPONSE	11	8	42	29
PAPER SERVICE	0	-	0	-
RESIDENTIAL/COMMERCIAL	36	46	113	164
FELONY ARRESTS	3	1	5	2
MISDEMEANOR/NTA ARRESTS	2	4	12	10
WARRANT ARRESTS	4	-	7	-
WARRANT ATTEMPTS	0	-	1	-
TRAFFIC CRASH 9300-1	4	2	17	21
TRAFFIC CRASH 9300-2	1	3	8	8
GENERAL ASSISTS/OTHER	315	420	1,152	1,530
FUNERAL ESCORTS	0	-	0	-
ALARMS	7	-	20	-
SCHOOL PATROL	24	-	86	-
SCHOOL PRESENTATIONS	0	-	0	-
PARKING/SNOW TICKETS	5	3	143	120
PARKING METER TICKETS	0	0	0	0
LIQUOR INSPECTIONS	13	18	61	54
ORIGINAL COMPLAINTS	28	19	86	75
CLOSED COMPLAINTS	17	13	64	75
FOLLOW-UP/SUPPLEMENTS	24	-	36	-
PATROL MILES	3,777	5,528	16,239	19,255

TOTAL MILEAGE #87-1

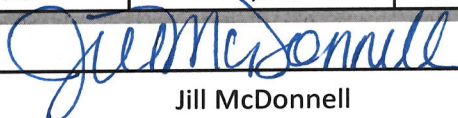
3,380

TOTAL MILEAGE #87-2

0

TOTAL MILEAGE #17

397



Jill McDonnell
Chief of Police

City of Charlevoix
Planning Commission Regular Meeting Minutes
Monday, April 10, 2023 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

A. Call to Order/Pledge of Allegiance

The meeting was called to order by Chair Muladore at 6:00 p.m.

B. Roll Call

Chair: Jennifer Muladore

Members Present: Scott Beatty, Sherm Chamberlain, Toni Felter, John Kurtz, Mary Millington

Members Absent: RJ Waddell, Maureen Radke

Staff Present: Jennifer Neal, Community Planner; Jonathan Scheel, Zoning Administrator

C. Inquiry into Potential Conflicts of Interest

D. Approval of Agenda

Motion by Member Chamberlain, seconded by Member Millington to approve the agenda as presented.

Motion carried by unanimous voice vote.

E. Approval of the Minutes

1. Draft Minutes of March 13, 2023

Motion by Member Chamberlain, seconded by Member Millington to approve the minutes of March 13, 2023 as presented.

Motion carried by unanimous voice vote.

F. Call for Public Comment Not Related to Agenda Items

G. New Business

1. Public Hearing: Zoning Ordinance Amendment - Bed and Breakfast Parking Standards

Planner Neal explained the details of the proposed amendment to Sections 153.116, *Accessory Buildings and Uses*, and Section 153.187, *Parking Requirements and Limitations* of the Zoning Ordinance which were adding parking requirements for Bed and Breakfast establishments.

The public hearing was opened.

Shelley Boehmer questioned if existing bed & breakfast units would be grandfathered in and Chair Muladore stated that the Ordinance revisions were applicable to new bed & breakfast establishments.

Jonathan Scheel stated he had concerns regarding this ordinance and to his knowledge, they had never had a complaint involving parking related to bed & breakfast establishments, and

there would be inequity between bed & breakfasts and short-term rentals. Mr. Scheel believed that the proposed language was very similar to language that was removed from the ordinance back in 2017 because they didn't want asphalt backyards in residential neighborhoods.

Bob Timms referenced parking issues at various bed & breakfast establishments.

The public hearing was closed.

Motion by Member Beatty to recommend the proposed Ordinance to the City Council for approval. After discussion, the motion was withdrawn by Member Beatty.

Motion by Member Millington, seconded by Member Beatty to recommend to the City Council the proposed Ordinance as amended in Section 153.116, Subsection (d)(7) to include the sentence, parking may include street spaces in front of the property according to City parking rules.

Motion carried by unanimous voice vote.

2. Public Hearing: Zoning Ordinance Amendment - Accessory Dwelling Unit Use Expansion
Planner Neal explained the details of the proposed amendments to Sections 153.071, *Schedule of Uses*, 153.072(C) *Dimensional Requirements*, and 153.116, *Accessory Buildings and Uses* of the Zoning Ordinance allowing accessory dwelling units (ADUs) in the R1 and R2A Districts.

The public hearing was opened.

Jonathan Scheel stated this was an amendment that staff had been working on since 2018.

The public hearing was closed.

Motion by Member Felter, second by Member Kurtz to recommend the amendment to Sections 153.071, *Schedule of Uses*, 153.072(C) *Dimensional Requirements*, and 153.116, *Accessory Buildings and Uses* of the Zoning Ordinance as presented to the City Council for final approval.

Motion carried by unanimous voice vote.

3. Downtown Building Height

Planner Neal reviewed in detail the informational and background materials related to downtown building height as requested by the Planning Commission. Ms. Neal stated the downtown area may be considered to extend as far north as Dixon Avenue and as far south as Hurlbut Avenue. Properties located as far west as Grant Street near the Charlevoix Library and properties bordering Round Lake to the east are within the DDA boundary. Bridge Street and State Street are the central business corridors with a multitude of uses along each. Ms. Neal stated that the Central Business District encompasses mainly Bridge Street.

Planner Neal questioned the location of building height in the entire DDA area or narrowing the scope down to a more specific area. Ms. Neal stated that the Commission needed to discuss what the vision is for downtown Charlevoix and what they are trying to achieve for downtown Charlevoix. Ms. Neal stated that the DDA had conducted its own visual preference survey (Downtown Charlevoix Futures Survey) in 2021.

Discussion followed regarding keeping the charm of the downtown area, dimensional requirements of the various zoning districts, preserving the character of the downtown buildings while possibly allowing more elevation along Bridge Street to make a project financially feasible, preserving the integrity of the downtown, the potential for downtown housing including smaller affordable units, and incentives to encourage development of smaller residential units. Chair Muladore recapped topics to look into for a future meeting: existing heights of downtown buildings, incentives to bring more affordable year-round housing into the downtown, and the wholistic vibrancy of the town.

4. Housing Progress Report

After discussion, Chair Muladore stated that she wanted to form a sub-committee for housing. Ms. Muladore stated she had two (2) members; Mr. Chamberlain and Mr. Kurtz, who would be very interested in being on the committee and she would welcome any community members or representatives who might want to be on the committee as well. Sarah Van Horn would also serve as a member of the committee.

Member Kurtz stated that he had the opportunity to look at many of the maps for possible locations for 2- or 4-unit dwelling units. Mr. Kurtz reported that he had spoken to Charlevoix State Bank, their M-66 property that could potentially hold 12 residential units, and he had spoken to two (2) property owners on Sheridan Street regarding possible multi-unit housing and the reaction was not negative. Mr. Kurtz also spoke to individuals at the Charlevoix Reformed Church as well as the Charlevoix School District about the property directly across from the bus garage.

Member Kurtz explained their thought process for the letter was because they could not contact everyone directly and the purpose of the letter was to say this is not an official notice that we are rezoning your property, but we are considering the possibility of rezoning your property and asking interested individuals to contact the Planning Commission. Member Chamberlain stated that rezoning would improve the marketability of someone's property and it would also help a developer start a project right away rather than wasting several months on getting the property rezoned.

Chair Muladore stated that she would handle the final approval of the letter. The letter will be sent out and then a determination will be made as to when to schedule a public meeting on housing.

H. Old Business

1. Housing Types Discussion

Planner Neal began the discussion focused around what and where missing middle housing can be added in the City. The Planning Commission had requested to evaluate properties throughout the City that are redevelopment ready or require minimal changes in order to be developed. These parcels are considered the low-hanging fruit for new housing development. Ms. Neal referenced each of the following areas:

- Parcel # 052-123-080-10, 755 Petoskey Avenue (adjacent to Jax), .75 acre parcel
- Parcel # 052-335-058-20, 3-5 acre parcel on Stover Road.
- Parcel #052-335-045-00, -2.5 acre parcel on Rose Lane - Zoning Administrator Scheel

stated that this parcel was zoned R4 and a developer has approached him with a possible project for this property.

- Parcel # 052-361-001-00, -1.48 acre parcel.
- Parcel #052-270-002-00, .57 acre parcel on Newman and State Streets where the Montessori School was located, near where the hotel was proposed.

Discussion followed about opportunities to develop vacant property and each of the parcels identified in the staff report. Zoning Administrator Scheel stated that the aforementioned letter should be sent to all vacant property owners.

Motion by Member Felter, seconded by Member Chamberlain to extend the meeting by ten (10) minutes to 8:10 p.m.

Motion carried by unanimous voice vote.

Chair Muladore requested to see the next level of properties available for discussion and continue the ongoing research.

I. Staff Updates

Planner Neal stated that they did hear from the Hurlbut hotel developers and they have requested more time to work through the project. Staff will be in communication with the developer soon to see if they will be ready for the May meeting agenda.

J. Requests For Next Months Agenda or Research Items

Chair Muladore noted that today was RJ Waddell's last meeting after serving on the Planning Commission for ten (10) years, and thanked him on behalf of the Commission for his valuable service to the City.

K. Adjournment by 8:00 p.m. unless extended by a motion

Meeting adjourned at 8:04 p.m. by Chair Muladore.

Sarah J. Dvoracek/fgm Clerk

Jennifer Muladore

Chair

CHARLEVOIX HOUSING COMMISSION

210 WEST GARFIELD ST.

CHARLEVOIX, MICHIGAN 49720

(231) 547-5451



PROJECT
PINE RIVER PLACE

REGULAR MEETING

CHARLEVOIX HOUSING COMMISSION

Tuesday, April 18, 2023

2:00 P.M.

PINE RIVER PLACE COMMUNITY ROOM

Commissioners Present: Mitts Lee, Joan Buday, R.J. Waddell, Diane Sowa

Commissioners Absent: None

Others Present: Dan Murray CHC-Maintenance Supervisor, Annessa Haist-Director MPH/CHC, Cindy Morris CHC-Occupancy Specialist and Residents of Pine River Place.

Chairperson Mitts Lee called the Meeting to Order at 2:00 p.m.

ADDITIONS TO THE AGENDA: NONE

Approval of the January 17, 2023 Meeting Minutes along with February and March Payables and Financials.

Motion made by Commissioner Waddell, seconded by Commissioner Sowa to approve and accept the regular meeting minutes for January 17, 2023. February and Marches payables and financials as presented for 2023.

Ayes: Lee, Buday, Waddell, Sowa

Nays: None

Absent: None

OLD BUSINESS: Discussion continued in regard to the RAD and the Presentation from Tony Lentych of Traverse City Housing Commission/Elk Rapids Housing Commission.

NEW BUSINESS:

Resolution #I-23 Intergovernmental Management Agreement

Minimal discussion was had. Director Annessa Haist MPH/CHC pointed out a change to the Intergovernmental Management Agreement. Commissioners were in agreement.

Motion made by Commissioner Buday, seconded by Commissioner Waddell to accept the Resolution #I-23 Intergovernmental Management Agreement as presented.

Ayes: Lee, Buday, Waddell, Sowa

Nays: None

Absent: None

Resolution #II-23 FYB 4/1/23 Budget Approval

Commissioners engaged in conversation with the Director Annessa Haist MPH/CHC and Dan Murray/Maintenance Supervisor. Who spoke briefly on the topic of the new elevator arrival.

Motion made by Commissioner Buday, seconded by Commissioner Sowa to accept Resolution #II-23 FYB 4/1/23 Budget Approval as presented.

Ayes: Lee, Buday, Waddell, Sowa

Nays: None

Absent: None

Resolution #III-23 Election of Officers

**Motion made by Commissioner Waddell to keep the Officers as they stand moving forward.
Seconded by Commissioner Buday.**

Ayes: Lee, Buday, Waddell, Sowa

Nays: None

Absent: None

Resolution #IV-23 Updated Bank Signers

Resolution #IV-23 Updated Bank Signers was read out loud.

Motion made by Commissioner Waddell to move forward with Resolution #IV-23 Updated Bank Signers, Seconded by Commissioner Buday.

EXECUTIVE DIRECTOR'S REPORT: Elevator Upgrade Project was the first topic of discussion from the Director- Annessa Haist MPH/CHC. Conversation was had by all commissioners. Minimal questions were asked and answers were given.

Director, Annessa Haist MPH/CHC announced the 2023 CFP given.

Annessa Haist, Director MPH/CHC spoke on the New Portfolio Manager Specialist (PMS) from the field office. Previous portfolio manager is now retired, information for the new PMS will be given to all commissioners.

Public Comment on subjects unrelated to Agenda Items: None

Adjournment: Commissioner Lee adjourned the meeting at 2:53 p.m.

Respectfully submitted and approved by:

A handwritten signature in black ink, appearing to read "Annessa Haist", written over a horizontal line.

Executive Director, Annessa Haist – CHC/MPHC

The next Board Meeting is May 16, 2023 at 2:00 p.m. at the Pine River Place Community Room at 210 W. Garfield St., Charlevoix, MI. 49720



June 1, 2023

Initiative Committee
102 Chicago Ave.
Charlevoix, MI 49720

RE: Notice of Intent to File Initiative Petition

Dear Members of the Initiative Committee:

This letter is written on behalf and request of the City Clerk. The Clerk requested I review the resubmitted initiative petition by the Initiative Committee. I have reviewed the City of Charlevoix's Charter and relevant case law, with analysis, and I am still of the opinion that the petition language is contrary to the language of the Charter. Therefore, the Clerk may not certify the petition as complete, and this letter is to inform you of the petition's deficiency based on the following item:

The petition and ordinance are contrary to Section 6.1(a) because it potentially requires the appropriation of money for purposes of housing. While this is certainly a laudable goal, it is violative of the substantive requirements of Section 6.1(a) of the Charter, which states that the petition may "not extend to the budget or Capital Program, or to any ordinance relating to the [sic] appropriation of money, levy of taxes, or salaries of city officials or employees."

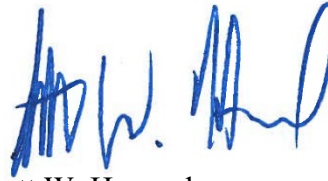
It is my opinion that the case law provided on behalf of the Initiative Committee is not directly on point and is distinguishable from the proposed petition language in this instance. All three cases cited involve a decision not to put petition language on the ballot because it was arguably contrary to the laws and constitutional provisions of the state of Michigan and the United States. In the current request, on the other hand, the issue is with the language of the Charter itself. As noted above, the language of the Charter directly proceeding the mechanisms for a petition under the Charter specifically prohibits any petition from extending to "the budget or Capital Program, or to any ordinance relating to the [sic] appropriation of money, levy of taxes, or salaries of city officials or employees." In this regard, it is my opinion that the case of *Herp v Lansing City Clerk*, 164 Mich App 150, 151; 416 NW2d 367 (1987) is more similar to the current petition submission and the action taken by the City Clerk. That case, cited in footnote 2 of *Coal for a Safer Detroit v Detroit City Clerk*, 295 Mich App 362, 371; 820 NW2d 208 (2012), involved the question of whether a Clerk was able to require compliance with the petition requirements of the Home Rule Cities Act. The Court held that the Clerk did have that authority, as to read the statute otherwise would have rendered the language moot. Similarly, the petition language in this instance must comply with all of the requirements of the City Charter, including Section 6.1(a).

Initiative Committee
June 1, 2023
Page 2

The Clerk has determined the petition still to be deficient, and, therefore, has not certified the petition as complete under Article XI of the Charter. Enclosed with this letter is a Certificate of Insufficiency with notice of the deficiencies pursuant to Section 6.4(a). You have certain rights under Article XI of the Charter that are discussed in Section III of the Certificate for your reference.

Please do not hesitate to contact me with any questions.

Sincerely,



Scott W. Howard

SWH/klg

xc: Tom Kirinovic
Norman L. Carlson
Luther Kurtz
Sherman A. Chamberlain
Shirley Gibson

Certificate of Insufficiency

Pursuant to Article XI, Section 6.4(a), the City Clerk has determined that the Petition submitted by the initiative committee is insufficient for the following reasons:

I. Substantive Deficiency

The submittal is substantively deficient under the Charter because it potentially requires the appropriation of money for purposes of housing. While this is certainly a laudable goal, it is violative of the substantive requirements of Section 6.1(a) of the Charter. Pursuant to Section 6.1(a), the power to propose ordinances using the petitioning process does “not extend to the budget or Capital Program, or to any ordinance relating to the [sic] appropriation of money, levy of taxes, or salaries of city officials or employees.” The proposed ordinance in question directly attempts to arrogate the budgeting and appropriation authority of the City Council in violation of the Charter.

The language of the proposed ordinance includes the following provision:

“Section 3: Obligations of the Council

...

B. If, within 1 year after the effective date of this Ordinance, Council has not received a reasonable offer and the Property [sic] remains unsold, the Council may choose to sell the Property to any other third party **and use the proceeds from the sale of the Property for the purpose of promoting the development of year-round housing within the City.**” (emphasis added).

The proposed ordinance includes a restriction on how the Council must use any proceeds from the sale. Therefore, the petition is substantively deficient, and the Clerk shall note this deficiency in her letter to the Petitioners' Committee.

II. Procedural Deficiency

The submittal was also found procedurally deficient. Under section 6.3(c) of the City of Charlevoix’s Charter, each circulated petition must include an affidavit executed by the circulator attesting to the following information:

- The affiant personally circulated the paper;
- All signatures were affixed to the petition in the presence of the affiant;
- The affiant believes the signatures to be the genuine signatures of the persons whose names they purpose to be; and
- Each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be considered.

Upon review of each originally submitted petition document, the attestation clause is missing one of the requirements outlined in the Charter. Although the proposed ordinance was attached to each circulated petition, the attestation clause fails to affirm “that each signer had an

opportunity before signing to read the full text of the ordinance proposed or sought to be considered.”

The City has accepted the re-submitted petition with the attestation clause included on the re-submitted petition to remedy the original procedural deficiency. However, because the petition still does not meet the requirements of the Charter as explained above, the petition continues to remain insufficient.

III. The Committee’s Rights

The City Charter gives the Petitioners’ Committee the right to file a request for the Council to review the petition and decide on its sufficiency. Section 6.4(b). The Petitioners’ Committee has two days after receiving a copy of the certificate from the Clerk detailing the insufficiencies to make such a request.

If the Petitioners’ Committee requests Council review, the Council “shall review the certificate at its next meeting following the filing of such request and approve or disapprove it. The Council’s decision shall then be the final determination as to the sufficiency or insufficiency of the petition.” Section 6.4(b). “A Council determination as to the sufficiency of a petition shall be subject to court review.” Section 6.4(c).

Sarah Dvoracek, City Clerk
(Signed by Scott W. Howard, City Attorney,
with permission of the City Clerk)
Dated: _____, 2023

Charlevoix City Council

Reports and Communications

Title: Mayor and Council Comments

Date: June 5, 2023

Presented By:

Background:

Recommendation:

Attachments:

None