

CITY OF CHARLEVOIX
REGULAR CITY COUNCIL MEETING MINUTES
Monday, January 4, 2010 — 7:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

I. Pledge of Allegiance

II. Roll Call of Members Present

Mayor: Norman L. Carlson, Jr.
Assistant City Attorney: Bryan Graham
City Manager: Rob Straebel
City Clerk: Carol A. Ochs
Members Present: Council members Jill Picha, Greg Stevens, Bryan Vollmer, Shane Cole, Lyle Gennett, Dennis Kusina
Absent: None

III. Inquiry Regarding Possible Conflicts of Interest

None.

IV. Consent Agenda

The following items were approved and filed:

- A. Approval of Minutes – December 21, 2009 Regular Meeting Minutes
- B. Accounts Payable Check Register – January 5, 2010
- C. Tax Disbursement – January 5, 2010
- D. Payroll Check Register – December 23, 2009
- E. Payroll Transmittal – December 23, 2009

V. Public Hearings

None.

VI. Reports

The Manager stated that staff would like to schedule the first budget work session for next week. Council agreed to meet Wednesday, January 13, 2010 at 5:30 p.m. for a budget work session. The Manager stated that they have made some tough cuts to present a balanced budget.

The Manager provided a quick update on the EMS/Fire fee discussions with the townships. The City has received one signed agreement from Eveline Township. The City will not sign off on the agreements until all other participating townships have signed theirs. The date for the agreements to be back to the City is January 15.

VII. Requests, Petitions and Communications and Actions Thereon

A. Request to Apply for MDOT Annual Permits

The Manager reviewed the items and was available to answer questions from Council. These are annual items to allow for work in the MDOT right of way of US 31 and to also be allowed to close US 31 for parades and events. Actions by resolutions.

VIII. Introduction and Initial Actions Relating to Ordinances or to Resolutions That Require Publication or Hearings Prior to Final or Further Action

None.

IX. Resolutions

A. MDOT Performance Resolution for Governmental Agencies

Motion by Councilmember Jill Picha, seconded by Councilmember Greg Stevens, to approve Resolution 2010-01-01 as follows:

CITY OF CHARLEVOIX
RESOLUTION NO. 2010-01-01
PERFORMANCE RESOLUTION FOR GOVERNMENTAL AGENCIES

This Performance Resolution is required by the Michigan Department of Transportation for purposes of issuing to a municipal utility an "Individual Permit for Use of State Trunkline Right of Way" (form 2205), or an "Annual Application and Permit for Miscellaneous Operations Within State Trunkline Right of Way" (form 2205B).

RESOLVED WHEREAS, the City of Charlevoix hereinafter referred to as the "GOVERNMENTAL AGENCY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utility or other facilities, or to conduct other activities, on, over, and under state trunkline right of way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the GOVERNMENTAL AGENCY agrees that:

Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law.

This Agreement is not intended to increase either party's liability for, or immunity from, tort claims.

This Agreement is not intended nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.

1. Any work performed for the GOVERNMENTAL AGENCY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL AGENCY and not as a contractor or agent of the DEPARTMENT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL AGENCY. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL AGENCY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT.
2. The GOVERNMENTAL AGENCY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents

and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.

3. It will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State trunkline right of way resulting from the installation construction, operation and/or maintenance of the GOVERNMENTAL AGENCIES facilities according to a PERMIT issued by the DEPARTMENT.
4. With respect to any activities authorized by PERMIT, when the GOVERNMENTAL AGENCIES requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.
5. The incorporation by the DEPARTMENT of this resolution as a part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.
6. This resolution shall continue in force from this date until cancelled by the GOVERNMENTAL AGENCY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the GOVERNMENTAL AGENCY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the Michigan Department of Transportation for the necessary permit to work within state trunkline right of way on behalf of the GOVERNMENTAL AGENCY.

Name	And/or	Title
Robert J. Straebel		City Manager
Patrick Elliott		Street Superintendent
Don Swem		City Engineer

I HEREBY CERTIFY that the foregoing is a true copy of a resolution adopted by the City of Charlevoix City Council of the City of Charlevoix of Charlevoix County at a regular meeting held on the 4TH day of January, A.D. 2010.

Signed Carol A. Ochs Title City Clerk

RESOLVED this 4th day of January, A.D. 2010.

Motion adopted by the following yea and nay votes:

Yeas: Picha, Stevens, Vollmer, Cole, Gennett, Kusina
Nays: None
Absent: None

- B. Resolution – Designation of Authorized Official to Apply for Parade Permits
Motion by Councilmember Dennis Kusina, seconded by Councilmember Shane Cole, to approve Resolution 2010-01-02 as follows:

**CITY OF CHARLEVOIX
RESOLUTION NO. 2010-01-02
DESIGNATION OF AUTHORIZED OFFICIAL TO APPLY FOR PARADE PERMITS**

- WHEREAS, the City of Charlevoix is desirous to close the State Highway to hold various parades and events during 2010 which require the closing or partial closing of the US 31 highway; and
- WHEREAS, Keep Charlevoix Beautiful Inc. and the City of Charlevoix wishes to prepare the petunia beds, plant the petunias adjacent to the highway and when necessary, be able to weed the petunias; and
- WHEREAS, the American Legion is desirous to hold a Memorial Day parade from 10:00 a.m. to 11:00 a.m. on Monday, May 31, 2010; and
- WHEREAS, the City of Charlevoix wishes to close one lane of US 31 on Saturday, June 26, 2010 for the Run Charlevoix marathon; and
- WHEREAS, the Veterans of Foreign Wars is desirous to hold a 4th of July parade from 10:00 a.m. to 11:00 a.m. on Friday, July 4, 2010; and
- WHEREAS, the Jeff Drenth Memorial Foot Race wishes to close US 31 for its one mile, 5k and 10k races from 9:00 a.m. to 11:00 a.m. on Saturday, July 24, 2010; and
- WHEREAS, the Charlevoix Venetian Festival wishes to hold its Venetian parade from 11:00 a.m. to 1:00 p.m. on Saturday, July 24, 2010; and
- WHEREAS, the State Highway requires a permit to close the highway and requires the governmental body to designate and authorize an official to request parade permits;

BE IT RESOLVED, THAT THE CITY OF CHARLEVOIX CITY COUNCIL HEREBY authorizes Patrick M. Elliott, Street Superintendent and designated MDOT Street Administrator, authority to apply for permits to close State Highway US 31 for the above mentioned parades/events.

RESOLVED this 4th day of January, A.D. 2010.

Motion adopted by the following yea and nay votes:
 Yeas: Picha, Stevens, Vollmer, Cole, Gennett, Kusina
 Nays: None
 Absent: None

X. Ordinances
 None.

XI. Miscellaneous Business

Motion by Councilmember Bryan Vollmer, seconded by Councilmember Lyle Gennett, to confirm the Clerk's reappointment of Stephanie Brown and Patti Spencley as Deputy Clerks.

Yeas: Picha, Stevens, Vollmer, Cole, Gennett, Kusina
 Nays: None
 Absent: None

XII. Audience - Non-agenda Input (written requests take precedent)
 None.

XIII. Closed Session

A. Review of Legal Opinion and Analysis on Litigation

Motion by Councilmember Greg Stevens, seconded by Councilmember Lyle Gennett, to go into closed session pursuant to Section 8(h) of the Open Meetings Act, being MCL 15.268(h), to consider the written memo from the Assistant City Attorney dated January 4, 2010, which is exempt from disclosure by Section 13(1)(g) of the Michigan Freedom of Information Act, being MCL 15.243(1)(g), since this memo is subject to the attorney-client privilege.

Yeas: Picha, Stevens, Vollmer, Cole, Gennett, Kusina
 Nays: None
 Absent: None

Council entered closed session at 7:08 p.m.

XIV. Open Session

Council reconvened in open session at 7:58 p.m.

Motion by Councilmember Lyle Gennett, seconded by Councilmember Bryan Vollmer, to authorize the City Attorney's office to file an Application for Leave to Appeal in the Michigan Supreme Court in connection with the case of Klooster v City of Charlevoix, COA No. 286013, on the express condition that \$10,000 is received by the City Treasurer on or before January 11, 2010 to cover the estimated legal expenses the City will incur in connection with this appeal.

Yeas: Stevens, Vollmer, Cole, Gennett, Kusina
 Nays: Picha
 Absent: None

XV. Adjourn

The Mayor stated if there were no objections, the meeting would adjourn.
 There were no objections.
 Meeting adjourned at 8:02 p.m.

Carol A. Ochs	City Clerk	Norman L. Carlson, Jr.	Mayor
Accounts Payable – 01/05/2010			
AIRGAS GREAT LAKES INC.	\$ 626.99	CARDINAL CARPET CLEANING	\$ 293.60
ALLIED 100 L.L.C.	\$ 119.85	CAREY, KEITH	\$ 41.00
ALL-PHASE ELECTRIC SUPPLY CO.	\$ 355.73	CCP INDUSTRIES INC	\$ 248.55
AMERICAN WASTE INC.	\$ 3,759.00	CDW GOVERNMENT INC.	\$ 479.79
APPLIED INDUSTRIAL TECH	\$ 129.82	CHARLEVOIX CAR WASH	\$ 62.90
AT&T LONG DISTANCE	\$ 56.71	CHARLEVOIX TOWNSHIP	\$ 10.50
AT&T MOBILITY	\$ 271.42	CHARTER COMMUNICATIONS	\$ 81.72
BAILEY, MATT	\$ 73.45	CITY OF CHARLEVOIX - UTILITIES	\$ 26,893.68
BAKER COLLEGE OF CADILLAC	\$ 1,000.00	CONSUMER OFFICE FURNITURE	\$ 32.00
BELL EQUIPMENT COMPANY	\$ 65.81	DELTA VISION	\$ 471.55
BIOTECH AGRONOMICS INC	\$ 12,536.59	DOAN, GERARD	\$ 41.00
BOB MATHERS FORD	\$ 288.00	DONNER, LYNDA	\$ 41.00
BOSS, DWIGHT	\$ 864.18	DRY HARBOUR MARINE/MOTOR SPORT	\$ 924.38
BRANDI, RICHARD	\$ 41.00	DTE ENERGY	\$ 7,824.07
BROWN MOTORS	\$ 53.53	ELHORN ENGINEERING COMPANY	\$ 1,520.00
BROWN, STEPHANIE	\$ 355.50	ELLIOTT, PATRICK	\$ 41.00
CALDWELL, JAMES	\$ 41.00	ELLSWORTH FARMER'S EXCHANGE	\$ 32.00

EMERGENCY MEDICAL PRODUCTS INC	\$ 120.30	POLLUTION CONTROL SERVICES INC	\$ 450.00
ENVIRONMENTAL RESOURCE ASSOC	\$ 187.15	POSTMASTER - CHARLEVOIX	\$ 3,500.00
EVANS, HAL	\$ 41.00	POWER LINE SUPPLY	\$ 888.76
FASTENAL COMPANY	\$ 10.40	PURITY CYLINDER GASES INC.	\$ 123.20
FISHER SCIENTIFIC	\$ 395.26	QUILL CORP	\$ 585.14
GREAT LAKES ENERGY	\$ 163.18	R & R PRODUCTS INC	\$ 389.53
HACH COMPANY	\$ 133.63	SALES & MARKETING OF MICHIGAN	\$ 175.56
HANKINS, SCOTT	\$ 41.00	SCIENTIFIC BRAKE & EQUIP CO	\$ 169.18
HEALTH DEPT OF NW MICHIGAN	\$ 210.00	SPENCER, MICHAEL	\$ 41.00
HEID, THOMAS	\$ 41.00	SPORT SUPPLY GROUP INC	\$ 76.47
HILTON, BOB	\$ 360.00	STANDARD ELECTRIC CO	\$ 264.70
IDEXX DISTRIBUTION INC.	\$ 930.43	STANDARD INSURANCE CO	\$ 1,375.77
INDEPENDENT DRAFTING SERVICES	\$ 1,952.00	STATE OF MICHIGAN	\$ 15,009.50
ISLAND AIRWAYS	\$ 3,592.02	STATE OF MICHIGAN	\$ 250.00
IVAN, PAUL	\$ 41.00	STATE OF MICHIGAN	\$ 1,140.96
JACKLIN STEEL SUPPLY CO	\$ 129.84	STILSON, VIC	\$ 308.00
KSS ENTERPRISES	\$ 573.02	STRAEBEL, ROBERT J.	\$ 41.00
LAKESHORE TIRE & AUTO SERVICE	\$ 229.40	SWEM, DONALD	\$ 41.00
LENHART, ROBERT	\$ 38.03	SYSTEMS SPECIALISTS INC	\$ 2,660.00
MAGNUM ELECTRIC INC.	\$ 30.00	T & R ELECTRIC	\$ 8,214.00
MDC CONTRACTING LLC	\$ 1,849.90	TRIPLE M TIRE	\$ 878.96
MICHIGAN PUBLIC POWER AGENCY	\$ 56,081.84	TRUCK & TRAILER SPECIALTIES	\$ 167.41
MICHIGAN RURAL WATER ASSN	\$ 130.00	U.S. ENERGY ENGINEERS	\$ 3,300.00
MICHIGAN SECTION AWWA	\$ 260.00	USA BLUE BOOK	\$ 729.47
NORTHERN MICHIGAN REVIEW INC.	\$ 701.21	VOSS LIGHTING	\$ 71.34
NORTHERN SAFETY CO INC	\$ 209.94	WILKIN, AARON	\$ 22.63
OMS COMPLIANCE SERV INC	\$ 308.00	WILLCOME TREE SERVICE	\$ 780.00
OTEC	\$ 76.00	YOUNG GRAHAM	\$ 8,301.00
PINE RIVER MEDICAL ASSOCIATES	\$ 110.00	TOTALS:	\$ 78,577.45

**Accounts Payable – 01/05/2009
Tax Disbursements**

CHARLEVOIX COUNTY TREASURER	\$ 216,786.18	CHARLEVOIX PUBLIC SCHOOLS	\$ 1,647.25
CHARLEVOIX COUNTY TREASURER	\$ 8,273.52	CITY OF CHARLEVOIX - TAXES DUE	\$ 17,792.17
CHARLEVOIX DISTRICT LIBRARY	\$ 61,639.05	RECREATIONAL AUTHORITY	\$ 21,699.31
CHARLEVOIX PUBLIC SCHOOLS	\$ 14,258.82	WALKER, Q. & LINDSEY	\$ 1,827.00
CHARLEVOIX PUBLIC SCHOOLS	\$ 1,590.46	TOTALS:	\$ 345,513.76

**PAYROLL: NET PAY
Pay Period Ending 12/19/2009 – Paid 12/23/2009**

WELLER, LINDA JO	\$ 1,323.09	ORBAN, BARBARA K.	\$ 655.32
STRAEBEL, ROBERT J.	\$ 1,975.45	IVAN, PAUL M.	\$ 1,681.95
BRANDI, RICHARD M.	\$ 1,621.59	SCHWARTZFISHER, JOSEPH	\$ 1,135.78
LOY, EVELYN R.	\$ 933.48	ROLOFF, ROBERT P.	\$ 2,405.17
KLOOSTER, ALIDA K.	\$ 1,044.48	BRODIN, WILLIAM C.	\$ 1,152.41
BROWN, STEPHANIE C.	\$ 1,014.32	CALDWELL, JAMES P.	\$ 1,417.14
OCHS, CAROL A.	\$ 937.37	MAYER, SHELLEY L.	\$ 1,330.00
HANCHIN, AMY	\$ 200.11	HILLING, NICHOLAS A.	\$ 904.25
CAREY, KEITH V.	\$ 1,159.44	JACOBS, DOUGLAS R.	\$ 2,003.06
SPENCER, MICHAEL D.	\$ 1,439.87	NISWANDER, JOSEPH F.	\$ 1,234.26
DONNER, LYNDIA	\$ 1,078.02	WELLS JR., DONALD E.	\$ 1,164.09
SPENCLEY, PATRICIA L.	\$ 1,126.21	JONES, TERRI L.	\$ 855.62
SOMERVILLE, COLLIN P.	\$ 406.34	BRADLEY, KELLY R.	\$ 1,473.55
BAILEY, MATTHEW L.	\$ 1,068.73	EATON, BRAD A.	\$ 1,137.25
MASON, CHARLES F.	\$ 591.47	WILSON, TIMOTHY J.	\$ 1,332.55
UMULIS, MATTHEW T.	\$ 1,308.00	ELLIOTT, PATRICK M.	\$ 1,706.76
DOAN, GERARD P.	\$ 1,669.61	WILSON, RICHARD J.	\$ 1,419.21
METDEPENNINGEN, SARAH	\$ 1,198.01	RAMSEY, MADISON L.	\$ 43.99
ROBERTS, WESLEY S.	\$ 1,237.87	STEVENS, BRANDON	\$ 43.99
WARNER, JANINE M.	\$ 1,045.15	BOSS, DWIGHT M.	\$ 362.72
SCHLAPPI, JAMES L.	\$ 1,081.36	GILLESPIE, MURPHY L.	\$ 52.91

STEBE, DAVID S.	\$ 704.96	BEHAN, HALEY C.	\$ 41.79
SILVA, JESSE L.	\$ 249.25	STEVENS, WILLIAM J.	\$ 142.97
O'CONNOR, BRUCE E	\$ 96.97	HOLM, ARTHUR R	\$ 923.74
RILEY, ANDREW	\$ 879.50	HEID, THOMAS J	\$ 1,483.60
SHRIFT, PETER R.	\$ 1,128.74	STEVENS, JEFFREY W.	\$ 46.20
HANKINS, SCOTT A.	\$ 1,502.58	HAND, REBECCA J.	\$ 96.77
COPPOCK, TIMOTHY M.	\$ 1,068.25	MEGGISON, JERRY B.	\$ 156.99
WURST, RANDALL W.	\$ 1,184.47	ROLOFF, AUDREY M.	\$ 395.29
MEIER III, CHARLES A.	\$ 1,715.50	BARNWELL, SAM M.	\$ 180.08
WHITLEY, JOHN F.	\$ 1,876.98	MARSH JR., JAMES D.	\$ 117.74
BLANCHARD, SCOTT W.	\$ 1,687.05	RILEY, TIMOTHY	\$ 178.19
FRYE, EDWARD J.	\$ 1,005.74	BUCKNER, DAVID D	\$ 258.25
SWEM, DONALD L.	\$ 1,704.73	TRAVERS, MANUEL J	\$ 112.19
ROTTA, RUSSELL	\$ 1,547.35	SCOTT, WINFIELD	\$ 112.19
MORRISON, KEVIN P.	\$ 1,297.46	WINNELL, CHARLES J.	\$ 66.43
HODGE, MICHAEL J.	\$ 1,111.71	RILEY, DANIEL	\$ 419.34
JOHNSON, STEVEN P.	\$ 1,322.89	BARRETT, SCOTT T	\$ 749.51
JONES, ROBERT	\$ 1,394.44	RILEY, JEFFERY C	\$ 131.59
ZIPP, DONALD R.	\$ 1,585.39	BERGMANN, DOUGLAS M.	\$ 52.80
BOSS JR, DALE E.	\$ 1,090.80	MACDONALD, BRIAN K	\$ 324.93
BOSS, JAMES W.	\$ 916.93	HERRIMAN, LUKE J.	\$ 72.59
CRICK, HAILEY C.	\$ 35.20	ZIMMERMAN, ANTHONY J.	\$ 72.18
STEBE JR, JOHN M.	\$ 41.57	TOTAL:	\$ 78,255.77

PAYROLL: TRANSMITTAL
12/23/2009

**EFTPS* Payroll Taxes	\$ 26,925.41	ICMA RETIREMENT TRUST 457	\$ 5,895.91
AMERICAN FAMILY LIFE	\$ 34.60	MI STATE DISTRICT UNI	\$ 179.89
CHAR EM UNITED WAY	\$ 26.00	NORTHWESTERN BANK	\$ 75.00
CHARLEVOIX STATE BANK	\$ 83.00	PRIORITY HEALTH	\$ 103.82
COMMUNICATION WORKERS	\$ 501.41	STATE OF MICHIGAN	\$ 4,056.97
ICMA RETIREMENT TRUST 401	\$ 669.43	TOTALS:	\$ 38,551.44