

CITY OF CHARLEVOIX
REGULAR CITY COUNCIL MEETING MINUTES
Tuesday, January 3, 2012 — 7:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

The meeting was called to order at 7:00 p.m. by Mayor Norman L. Carlson, Jr.

I. Pledge of Allegiance

II. Roll Call of Members Present

Mayor: Norman L. Carlson, Jr.
City Attorney: 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 19, 2011 Regular Meeting Minutes
- B. Accounts Payable Check Register – December 14, 2011
- C. Accounts Payable Check Register – December 22, 2011
- D. Accounts Payable Check Register – January 4, 2012
- E. Tax Disbursement – January 4, 2012
- F. ACH Payments – December 19 – December 27, 2011
- G. Payroll Check Register – December 22, 2011
- H. Payroll Transmittal – December 22, 2011

V. Public Hearings

- A. Public Hearing on Project 2011-09, Zone Change Request from American Legion, 106 E. Garfield
City Planner Mike Spencer was available to review the item and answer questions from Council. Mr. Spencer has not received any additional public comments since the last meeting. The Planning Commission has presented findings of fact and recommends approval of the zone change request. The Mayor opened the public hearing at 7:01 p.m. There were no comments. The Mayor closed the public hearing at 7:01 p.m. Action by ordinance.

VI. Reports

There will be a Budget Work Session, Monday, January 9, 2012 at 5:30 p.m. in Council Chambers.

The Manager will be completing department head reviews sometime this week.

Police Chief Gerard Doan introduced new officer Jason Traeger to Council.

VII. Requests, Petitions and Communications and Actions Thereon

- A. Proposal Regarding 2012 Parking Enforcement for the Downtown Area
Police Chief Gerard Doan was available to review the proposal and answer questions from Council. The Chief recommends option 2, which would leave meters on Bridge Street, the first few spaces on side streets, the Coast Guard lot, and Bridge Park Drive. Officers would continue to enforce two-hour and ten-minute parking zones. Fifty-seven meters will be removed from downtown to make it more parking friendly. Two fifteen-minute spots will be placed in the Erber Lot for businesses needing a quicker turnover. Councilmember Jill Picha expressed concern that business employees will fill up the free parking spots.

Motion by Councilmember Lyle Gennett, seconded by Councilmember Shane Cole, to approve parking option 2 as presented.

Yeas: Stevens, Vollmer, Cole, Gennett

Nays: Picha, Kusina

Absent: None

MOTION PASSES.

- B. Resolution Extended Moratorium on Sexually Oriented Business Operation and Facilities
City Planner Mike Spencer was available to review the item and answer questions from Council. The Planning Commission is in the process of drafting a new zoning ordinance which will include regulations for sexually oriented businesses. The moratorium will allow for additional time to get those regulations in place. Action by resolution.

- C. Approval of MDOT Title VI/Non-Discrimination Plan and the Limited English Proficiency (LEP) Plan

City Manager Rob Straebel was available to review the items and answer questions from Council.

Motion by Councilmember Dennis Kusina, seconded by Councilmember Jill Picha, to adopt the MDOT Title VI/Non-Discrimination Plan and the LEP Plan as written and presented on pp. 36-80 of the Council packet.

Yeas: Picha, Stevens, Vollmer, Cole, Gennett, Kusina

Nays: None

Absent: None

- D. Appointments

Motion by Councilmember Jill Picha, seconded by Councilmember Bryan Vollmer, to reappoint Arlene Staley to the Board of Review.

Yeas: Picha, Stevens, Vollmer, Cole, Gennett, Kusina

Nays: None

Absent: None

Motion by Councilmember Lyle Gennett, seconded by Councilmember Bryan Vollmer to reappoint Council members Dennis Kusina and Greg Stevens to the Board of Review.

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

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

A. Set Public Hearing for the 2011-2012 Budget Amendment

Motion by Councilmember Dennis Kusina, seconded by Councilmember Jill Picha, to set a public hearing on the proposed ordinance for the 2011-2012 Budget Amendment on February 20, 2012, at 7:00 p.m., in Council Chambers of City Hall.

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

B. Set Public Hearing for 2012-2013 Budget Appropriation Ordinance

Motion by Councilmember Shane Cole, seconded by Councilmember Jill Picha, to set a public hearing on the proposed ordinance for the 2012-2013 Budget Appropriation on February 20, 2012, at 7:00 p.m., in Council Chambers of City Hall.

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

IX. Resolutions

A. Resolution for Extended Moratorium on Sexually Oriented Business Operation and Facilities

Motion by Councilmember Greg Stevens, seconded by Councilmember Jill Picha, to approve Resolution 2012-01-01 as follows:

**CITY OF CHARLEVOIX
RESOLUTION 2012-01-01
CHARLEVOIX CITY COUNCIL RESOLUTION FOR MORATORIUM
ON SEXUALLY ORIENTED BUSINESS OPERATIONS AND FACILITIES**

WHEREAS, sexually oriented businesses include, but are not limited to, commercial uses such as book and video stores that sell or rent sexually explicit items, retail sale of sexually oriented products or novelties, nude or topless bars, adult theaters, and escort agencies; and

WHEREAS, it has been established that sexually oriented businesses can cause adverse impacts to the public health, safety, morals, and general welfare of a municipality; and

WHEREAS, studies have shown that increased crime and unhealthful conduct, including but not limited to prostitution, pandering, exposing minors to harmful materials, possession and distribution of obscene materials and child pornography, possession and sale of controlled substances, and violent crimes against persons and property tend to accompany, concentrate around, and be aggravated by sexually oriented businesses; and

WHEREAS, the City of Charlevoix 2011 Master Plan was adopted on February 7, 2011 and includes the following language: "Amend the zoning ordinance to regulate certain land uses, including sexually-oriented businesses and those related to medical marijuana."; and

WHEREAS, the existing City of Charlevoix zoning ordinance does not regulate sexually oriented businesses in any manner and it would be prudent for the City to carefully research and consider whether such regulation would be appropriate for the City; and

WHEREAS, on February 14, 2011 the City of Charlevoix Planning Commission unanimously recommended that City Council establish a twelve month moratorium on sexually oriented businesses to provide adequate time to establish reasonable and lawful regulations, in accordance with the newly adopted Master Plan; and

WHEREAS, even if the City of Charlevoix decides that there should be regulation of sexually oriented businesses, the drafting of such regulations is complex; the City of Charlevoix recognizes that sexually oriented businesses have constitutional rights under the 1st Amendment and the right to engage in commerce; as a result, the City not only needs adequate time to study and investigate the negative secondary effects associated with sexually oriented businesses and to determine if regulations aimed at limiting the secondary effects, if any, associated with sexually oriented businesses are necessary within the municipality, but also sufficient time is needed to carefully draft regulations that are consistent with State and Federal law; and

WHEREAS, the Michigan Zoning Enabling Act (MZEA) provides in Section 207 that land uses may not be excluded unless the use is unlawful; and

WHEREAS, the City of Charlevoix passed a twelve month moratorium on February 21, 2011; and

WHEREAS, the City of Charlevoix's Planning Commission and the City's planning staff have made significant progress over the past year by researching other communities land use regulations and licensing requirements, creating overlay maps with buffer zones around schools and churches, reviewing relevant court cases, and drafting proposed language; and

WHEREAS, the City of Charlevoix's Planning Commission and the City's planning staff need additional time to research and evaluate the issues described in this resolution and to consult with its legal counsel regarding this extremely complex subject; and

WHEREAS, the City Council believes that it would be in the City's best interest to place an additional twelve month moratorium on sexually oriented businesses, in order to give the Planning Commission, City staff and the City Council time to give reasonable consideration to a thoughtfully-drafted zoning ordinance amendment, and/or licensing program on this subject;

NOW, THEREFORE, BE IT RESOLVED that the City of Charlevoix, through its City Council, hereby adopts a twelve month moratorium on the establishment or operation anywhere within the City of a sexually oriented business, including but not limited to book and video stores, retail sale of sexually oriented products or novelties, nude or topless bars, adult theaters, and escort agencies; and

BE IT FURTHER RESOLVED that said moratorium shall expire on the date of the City Council's first regular meeting in January of 2013, or on the date that an ordinance regulating sexually oriented businesses and facilities becomes effective, whichever is earlier.

RESOLVED, this 3rd day of January, A.D. 2012

Resolution was adopted by the following ye and nay vote:
 Yeas: Picha, Stevens, Vollmer, Cole, Gennett, Kusina
 Nays: None
 Absent: None

X. Ordinances

A. Project 2011-09, Zone Change Request from American Legion, 106 E. Garfield

**CITY OF CHARLEVOIX
 Ordinance No. 752 of 2012**

AN ORDINANCE TO AMEND TITLE V, PLANNING AND ZONING, CHAPTER 51, ZONING ARTICLE III, SECTION 5.16 OF THE CODE OF THE CITY OF CHARLEVOIX.

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Amendment of Section 5.16 Zoning Map.

The Zoning Map incorporated into Article III, Section 5.16 of the City of Charlevoix Zoning Ordinance is hereby amended to rezone the following property located at 106 E. Garfield in the City of Charlevoix, Charlevoix County, Michigan and described as:

BEG AT PT 150 FT E OF INTER OF E LI BRIDGE ST WI S LI GARFIELD AVE TH S PARAWI BRIDGE ST 185 FT TH E PARA WI GARFIELD AVE 200 FT TH N PARA WI BRIDGE ST 185 FT TO S LI GARFIELD AVE TH W AL SD S LI 200 FT TO POB BEING PT OF SW1/4 OF SW1/4 SEC 26 T34N R8W.

from the PR (Public Reserve) zoning district to the PO (Professional Office) zoning district.

SECTION 2. Severability.

No other portion, paragraph or phrase 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 3. Effective Date.

This Ordinance shall become effective thirty (30) days after its enactment by the City Council.

ENACTED this 3rd day of January, A.D. 2012

Ordinance No. 752 of 2012 was adopted on the 3rd day of January, 2012, by the Charlevoix City Council as follows:

Motion by: Councilmember Jill Picha
 Seconded by: Councilmember Greg Stevens

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

XI. Miscellaneous Business

Councilmember Lyle Gennett stated he was displeased by the recent accidental use of the emergency siren by central dispatch, especially since we are trying to educate people on the siren use. The Manager stated that he is working with the Fire Chief to develop a community education program regarding the sirens.

XII. Audience - Non-agenda Input (written requests take precedent)

None.

XIII. Adjourn

The Mayor stated if there were no objections, the meeting would adjourn.

There were no objections.

Meeting adjourned at 7:20 p.m.

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|-----------------------|-------------------------------|------------------------|-----------|
| Carol A. Ochs | City Clerk | Norman L. Carlson, Jr. | Mayor |
| <hr/> | | | |
| STATE OF MICHIGAN | Accounts Payable – 12/14/2011 | TOTAL | 18,034.56 |
| | 18,034.56 | | |
| <hr/> | | | |
| AT&T MOBILITY | Accounts Payable – 12/22/2011 | STANDARD INSURANCE CO | 1,359.57 |
| CHARLEVOIX STATE BANK | 145.40 | VERIZON WIRELESS | 113.44 |
| DELTA DENTAL | 5,419.79 | VISION SERVICE PLAN | 526.64 |
| GREAT LAKES ENERGY | 4,590.94 | | |
| PRIORITY HEALTH | 182.80 | TOTAL | 50,479.01 |
| | 38,140.43 | | |

Accounts Payable – 01/04/2012

| | | | |
|--------------------------------|-----------|--------------------------------|-------------------|
| AIRGAS GREAT LAKES INC. | 120.20 | J & B MEDICAL SUPPLY INC. | 76.40 |
| ALTEC INDUSTRIES INC | 128.35 | JACK DOHENY SUPPLIES INC | 128.26 |
| AMERICAN WASTE INC. | 65.00 | JACKLIN STEEL SUPPLY CO | 143.14 |
| APX INC. | 100.00 | JERRY'S TIRE | 526.88 |
| AT&T LONG DISTANCE | 177.66 | KASSBOHRER ALL TERRAIN VEHICLE | 175.57 |
| AVFUEL CORPORATION | 618.78 | LAKESHORE TIRE & AUTO SERVICE | 20.00 |
| BAILEY, MATTHEW L. | 48.84 | LAVOIE, RICHARD | 12.19 |
| BEHAN WINDOW CLEANING | 210.00 | LIFELOC TECHNOLOGIES INC. | 26.40 |
| BELLEROC TIRE/GAYLORD | 1,060.00 | MEGGISON, BRUCE | 240.00 |
| BIO-ONE INC. | 446.60 | MICHIGAN LOCAL GOVERNMENT | 410.00 |
| BIOTECH AGRONOMICS INC | 13,721.72 | MICHIGAN MUNICIPAL LEAGUE | 1,227.81 |
| BOLLINGER | 300.00 | NASH, JENNIFER | 41.00 |
| BOSS JR, DALE | 903.91 | NEOPOST INC | 1,385.62 |
| BRADFORD'S | 63.00 | NORTHERN CREDIT BUREAU | 40.00 |
| BRANDI, RICHARD | 41.00 | NORTHERN MICHIGAN JANITORIAL | 91.90 |
| CALDWELL, JAMES P. | 41.00 | NORTHERN MICHIGAN REVIEW INC. | 478.33 |
| CAREY, KEITH | 41.00 | NORTHERN MICHIGAN SOCIETY FOR | 65.00 |
| CCP INDUSTRIES INC | 300.98 | NORTHERN PUMP SERVICE INC. | 17.19 |
| CENTRAL DRUG STORE | 103.15 | OTEC | 341.50 |
| CHARLEVOIX SCREEN MASTERS INC | 1,196.25 | PLUNKETT & COONEY | 300.00 |
| CHARLEVOIX TOWNSHIP | 10.50 | POWER LINE SUPPLY | 5,731.54 |
| CHEMSEARCH | 348.47 | PREIN & NEWHOF | 1,543.50 |
| CITY OF CHARLEVOIX - MISC | 270.44 | PROGRESSIVE MEDICAL INT'L | 420.33 |
| CITY OF CHARLEVOIX - UTILITIES | 28,869.60 | PURITY CYLINDER GASES INC | 120.72 |
| COMPLETE MUFFLER | 182.03 | QUILL CORP | 450.19 |
| CUMMINS BRIDGEWAY LLC | 1,158.00 | RIETH-RILEY CONST CO INC | 837.90 |
| DITCH WITCH SALES OF MICHIGAN | 363.01 | ROHRER, BEVERLY | 47.88 |
| DOAN, GERARD | 41.00 | SALES & MARKETING OF MICHIGAN | 38.29 |
| DTE ENERGY | 6,324.80 | SCHMUCKAL OIL CO | 241.55 |
| DVORACEK, DANA J. | 41.00 | SCIENTIFIC BRAKE & EQUIP CO | 166.68 |
| EATON CORPORATION | 44.20 | SIEMENS INDUSTRY, INC. | 310.00 |
| ELLIOTT, PATRICK M. | 41.00 | SILVA, JESSE | 137.28 |
| ELLSWORTH FARMER'S EXCHANGE | 1,865.24 | SPENCER, MICHAEL | 41.00 |
| EVANS, HAL | 41.00 | SPENCLEY, DEAN | 131.07 |
| FASTENAL COMPANY | 15.47 | STANDARD ELECTRIC CO | 817.47 |
| FERGUSON & CHAMBERLAIN | 1,200.00 | STEVENS, BRANDON | 10.07 |
| FEYEN ZYLSTRA LLC | 689.00 | STRAEBEL, ROBERT J. | 41.00 |
| FISHER SCIENTIFIC | 1,673.47 | SUPERIOR MECHANICAL | 460.83 |
| GBS INC. | 41.24 | SWEM, DONALD L. | 41.00 |
| HACH COMPANY | 710.88 | TOUGH, KEN | 19.96 |
| HANKINS, SCOTT | 41.00 | USA BLUE BOOK | 553.06 |
| HART, TERESA | 41.00 | VALLEY TRUCK - GAYLORD | 951.92 |
| HEID, THOMAS J. | 41.00 | VERDIN COMPANY, THE | 146.19 |
| HOLIDAY COMPANIES | 6,843.57 | WELLER, LINDA | 41.00 |
| HYDE SERVICES LLC | 72.65 | WILLCOME TREE SERVICE | 390.00 |
| IDEXX DISTRIBUTION INC. | 1,089.73 | WORK & PLAY SHOP | 79.02 |
| INDEPENDENT DRAFTING SERVICES | 800.00 | YOUNG GRAHAM | 10,443.30 |
| IVAN, PAUL | 41.00 | TOTAL | 102,547.68 |

Accounts Payable – 01/04/2012

Tax Disbursements

| | | | |
|------------------------------|------------|--------------------------------|------------|
| BAC TAX SERVICES CORPORATION | 3,611.54 | CHARLEVOIX PUBLIC SCHOOLS | 4,758.82 |
| CHARLEVOIX COUNTY TREASURER | 167,479.36 | CHARLEVOIX PUBLIC SCHOOLS | 1,761.64 |
| CHARLEVOIX COUNTY TREASURER | 7,355.17 | CITY OF CHARLEVOIX - TAXES DUE | 64,223.64 |
| CHARLEVOIX DISTRICT LIBRARY | 60,655.54 | RECREATIONAL AUTHORITY | 10,912.70 |
| CHARLEVOIX PUBLIC SCHOOLS | 30,260.20 | Total 1/4/2012 | 351,018.61 |

ACH Payments – 12/19/2011 – 12/27/2011

| | | | |
|------------------------|-----------|------------------------|-------------------|
| MI PUBLIC POWER AGENCY | 22,807.46 | MI PUBLIC POWER AGENCY | 239,273.80 |
| MI PUBLIC POWER AGENCY | 23,934.37 | TOTAL | 286,015.63 |

PAYROLL: NET PAY

Pay Period Ending 12/17/2011 – Paid 12/22/2011

| | | | |
|------------------------|----------|-----------------------|----------|
| WELLER, LINDA JO | 1,226.52 | BRADLEY, KELLY R. | 1,301.47 |
| STRAEBEL, ROBERT J. | 2,015.29 | EATON, BRAD A. | 1,485.68 |
| BRANDI, RICHARD M. | 1,739.66 | WILSON, TIMOTHY J. | 1,796.17 |
| LOY, EVELYN R. | 983.31 | LAVOIE, RICHARD L. | 1,232.35 |
| KLOOSTER, ALIDA K. | 1,144.68 | STEVENS, BRANDON C. | 1,161.40 |
| BROWN, STEPHANIE C. | 1,073.37 | ELLIOTT, PATRICK M. | 1,457.00 |
| OCHS, CAROL A. | 900.00 | WILSON, RICHARD J. | 1,229.94 |
| CAREY, KEITH V. | 1,153.10 | JONES, ROBERT F. | 1,153.48 |
| SPENCER, MICHAEL D. | 1,500.83 | HART, TERESA M. | 547.16 |
| SPENCLEY, PATRICIA L. | 1,033.91 | BAILEY, MATTHEW L. | 1,713.81 |
| NASH, JENNIFER B. | 835.08 | DVORACEK, DANA J. | 1,140.73 |
| SCHLAPPI, JAMES L. | 986.82 | SCHERPING, CHARLES L. | 547.63 |
| UMULIS, MATTHEW T. | 1,239.81 | STEIN, DONNA E. | 113.19 |
| ORBAN, BARBARA K. | 1,219.90 | TOUGH, KENDALL J. | 352.46 |
| TRAEGER, JASON A. | 570.78 | CESARO, JASON M. | 58.50 |
| WARNER, JANINE M. | 989.33 | RAMSEY, KYLE J. | 146.08 |
| IVAN, PAUL M. | 1,715.83 | TRAVERS, MANUEL J. | 163.26 |
| SCHWARTZFISHER, JOSEPH | 932.20 | SILVA, JESSE L. | 193.81 |
| ROLOFF, ROBERT P. | 2,245.58 | RILEY, DANIEL | 518.73 |
| BRODIN, WILLIAM C. | 1,329.11 | WHITLEY, ADAM | 264.80 |
| RILEY, DENISE M. | 420.38 | SCHOOOF, WILLIAM R. | 601.97 |
| CALDWELL, JAMES P. | 1,355.71 | DOAN, GERARD P. | 1,559.35 |
| WURST, RANDALL W. | 1,561.44 | SHRIFT, PETER R. | 1,100.80 |
| MAYER, SHELLEY L. | 1,532.26 | HANKINS, SCOTT A. | 1,453.60 |
| HILLING, NICHOLAS A. | 1,097.94 | COPPOCK, TIMOTHY M. | 1,093.07 |
| MEIER III, CHARLES A. | 1,957.15 | WHITLEY, JOHN F. | 1,772.88 |
| NISWANDER, JOSEPH F. | 1,312.76 | BLANCHARD, SCOTT W. | 1,688.80 |
| FRYE, EDWARD J. | 1,001.01 | SWEM, DONALD L. | 1,645.45 |
| WELLS JR., DONALD E. | 1,233.57 | MORRISON, KEVIN P. | 966.06 |
| JONES, TERRI L. | 1,056.17 | HODGE, MICHAEL J. | 1,100.08 |

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|-----------------------|----------|----------------------|------------------|
| JOHNSON, STEVEN P. | 1,018.44 | MATTER, DAWSON K. | 397.56 |
| ZIPP, DONALD R. | 1,344.72 | MARSH JR., JAMES D. | 32.08 |
| BOSS JR, DALE E. | 1,113.28 | RILEY, TIMOTHY | 47.25 |
| BOSS, JAMES W. | 917.42 | MACMILLAN, RACHEL A. | 27.90 |
| STEBE JR, JOHN M. | 218.90 | SCOTT JR., WINFIELD | 121.50 |
| HOLM, ARTHUR R. | 603.11 | BARRETT, SCOTT T. | 539.09 |
| HEID, THOMAS J | 1,318.54 | BERGMANN, DOUGLAS M. | 101.25 |
| SARASIN, CHRISTIAN M. | 312.08 | MACDONALD, BRIAN K. | 463.31 |
| ROLOFF, AUDREY M. | 389.61 | TOTAL | 75,889.25 |

**PAYROLL: TRANSMITTAL
 12/22/2011**

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|---------------------------|-----------|-----------------------|------------------|
| **EFTPS* Payroll Taxes | 24,762.76 | MERS | 390.00 |
| AMERICAN FAMILY LIFE | 402.61 | MI STATE DISBURSEMENT | 274.35 |
| CHAR EM UNITED WAY | 63.00 | NORTHWESTERN BANK | 252.00 |
| CHARLEVOIX STATE BANK | 1,793.47 | PRIORITY HEALTH | 707.85 |
| COMMUNICATION WORKERS | 518.51 | STATE OF MICHIGAN | 4,003.73 |
| ICMA RETIREMENT TRUST 401 | 699.79 | | |
| ICMA RETIREMENT TRUST 457 | 7,254.27 | TOTAL | 41,122.34 |