

CITY OF CHARLEVOIX
SPECIAL CONCURRENT CITY COUNCIL/PLANNING COMMISSION/DDA MEETING MINUTES

Monday, March 11, 2013 – 6:00 p.m.

210 State Street, City Hall, Council Chambers, Charlevoix, MI

The meeting was called to order at 6:00 p.m. by Mayor Norman L. Carlson, Jr.

I. Pledge of Allegiance

II. Roll Call of Members Present

A. City Council

Mayor: Norman L. Carlson, Jr.
Members Present: Council members Bryan Vollmer, Shane Cole, Lyle Gennett, Dennis Kusina, Jill Picha, Greg Stevens,
Absent: None.

B. City Planning Commission

Chair: John Hess
Members Present: Frances [Brownie] Flanders, Toni Felter, Dan Buday, Becky Doan, Judy Clock, Sherm Chamberlain
Members Absent: John Elzinga

C. Downtown Development Authority

Chair: Hugh Mason
Members Present: Dan Barron, Kirby Dipert, Fred DiMartino, Jeannine Wallace, Gina Whitney, John Yaroch, Mayor Norman L. Carlson, Jr.
Members Absent: Todd Wyett

D. Others

City Manager: Rob Straebel
City Planner: Michael Spencer
DDA Director: Keith Carey
City Clerk: Carol A. Ochs
City Attorney: Bryan Graham

III. Inquiry Regarding Possible Conflicts of Interest

None.

IV. Requests, Petitions and Communications and Actions Thereon

A. Discussion Regarding Fireplace Proposal in East Park

Mayor provided an outline of the procedures and agenda for the night's meeting.

1. Presentation by Architect Mark Buday and Landscape Architect Richard Hitz

Mr. Buday reviewed the history of the project up to this point and his involvement in it.

Mr. Hitz presented a PowerPoint presentation, which resulted as a culmination of ideas and work from the Steering Committee. During the PowerPoint presentation, Mr. Hitz reviewed the criteria set for the fire feature, research performed on various potential locations and specific details that had been reviewed with the Steering Committee.

The following information was provided in response to specific questions by members of the three boards:

- If the space around the fire feature is left free of vendor booths, sitting benches would work in the area.
- Both Mr. Buday and Mr. Hitz worked on the original East Park project.
- There are two approaches to seasonal usage of the fire bowl, with gas consumption being a concern: (1) use the feature during certain times of the year and certain times of the day and (2) use LED lighting to highlight the sculptural aspect even when the fire is not burning.
- Planning Commissioner Chamberlain suggested that the bowl could be used for special occasions, such as lit for a deceased soldier. Mr. Hitz feels this is a good idea, but the decision would ultimately be up to City management.
- The Committee did look at loss of vending space due to the fire bowl installation. Mr. Hitz reported that using this space for vendor booths impacts flow and suggested that they should study use of space around the park to augment available vendor space.
- DDA Member Dan Barron, President of Venetian Festival Inc., reported that the plaza is a small space which has been used in the past for caricature artists, but not for food vendors. This space is dysfunctional from a pedestrian stand point, and may be a good place for people to congregate. While the space may be used with smaller 4x4 vendor tables, it's probably better not to have vendors in that space.
- It appears to be possible to have multiple controls on the fire, so that you could turn it on at certain times of day or have it thermostat-controlled.
- While most people want the fire bowl to be less than three feet tall, the actual design may have a sculptural piece that stands higher than that for visibility. The flame would be higher than the foundation.

The Mayor clarified that these are just suggestions, and a conceptual rendering, not an actual design. Design will depend on how Council chooses to proceed. Mayor Carlson reviewed possible scenarios for moving forward.

The Mayor also reviewed how the cost figures were derived. The cost of placing the gas line was dependent on expected usage: Higher projected usage resulted in lower installation costs, so management was liberal in their estimates. Since then, more realistic hours have been determined. Seasonal and weekly changes will result in different operating scenarios. Reevaluation of the design has resulted in a design that would use less fuel, which cuts gas usage by 54% if operated during general operating times with extra time during various festivals. Until the exact model is known, staff has used higher estimates.

2. Public Comment

The Mayor opened the item to public comment at 6:40 p.m., invoked the three minute rule, and asked that comments be limited to either for or against [the fireplace].

John Cross asked Council to consider what's to stop anyone else from building in the park. The City can't discriminate [against others that want something in the park]. Allowing the fireplace isn't right, because there wasn't supposed to be anything built in the park: It was supposed to be all open space.

The Mayor advised the audience that staff is drafting a policy regarding donations. Once the policy is drafted, there will be an opportunity for public comment on the policy.

Vic Stilson reported that he has lived in Charlevoix for more than 20 years, and the park works fine the way it has been. Because someone has some money and wants to build a memorial, the fireplace is being placed in the middle of the downtown area. Mr. Stilson is not opposed to have something like a fireplace, but not in the park. Charlevoix has enough gathering places for the people of Charlevoix. When summer is over, there is nothing there for people to do, and they're not going to want to gather down there to roast marshmallows. If Council thinks the fireplace is going to change that or bring more people into the community, Mr. Stilson doesn't think it's a good idea. From what Mr. Stilson can see, the fireplace is creating a cluster in the middle of town with people.

Vicki Voisin expressed her opposition to the fireplace. She is concerned that while a drawing has been presented, there is not a definitive answer regarding height.

The Mayor reported that the design concept has the fire bowl eight feet wide with a height of three to three and a half feet. At this point, the architects have proposed the parameters to design something and come back and present that design to Council before construction resumed.

Ms. Voisin stated that she had heard that the design could be six feet high. The community doesn't want it that high.

Mr. Hitz stated that the sculptural part of the fire bowl may be six feet high, but it would not block the view.

John Campbell noted that it took two years of public meetings to get five trees planted. Early one morning one of these donated trees was gone. In regards to the fireplace, Mr. Campbell is looking at three primary issues: safety, health and welfare. The first consideration is to meet some standards set forth by AIA and landscape architects. One standard is the width of the sidewalk. Mr. Campbell presented a drawing that shows the width as approximately eight feet. Mr. Campbell then superimposed the architects' drawing over his drawing, showing the fire bowl with a bench around it. This leaves enough room for people to walk between the benches and the fireplace. The picture also shows a railing around the fireplace so that no one can fall into it and a railing around the bench so that no one runs into the bench. Another standard, based on the size of plaza and ADA requirements, shows two wheelchair spaces are necessary. The other critical area is the amount of space from the railing to the top of the steps. At the last Fireplace Steering Committee meeting, one of the members expressed concern about the safety near and at the steps and safety at the sidewalk.

City Manager Straebel reported that the seating proposed by the architects did not have a railing. Mr. Campbell stated that the railing would be required for safety, health, and welfare.

Leon Perron recommended that the City Council take no further action on the fireplace until after the May election.

Madelyn Renaud noted that the fireplace was supposed to be paid for by a donor, and that the City has paid for \$15,000 of the project already. Ms. Renaud asked what the actual cost to the City taxpayers will be. Ms. Renaud also commented that taxpayers are more concerned with losing the stores in the downtown than building a fireplace. The City needs to be worried about jobs, and the infrastructure for jobs. Ms. Renaud has been downtown many times when there isn't anyone down there, and the City needs to focus on getting people and the jobs back before the City becomes a village.

Mayor Carlson stated that the donor's money is with the [Charlevoix County Community] Foundation.

Additionally, the Mayor reported that there has been a lot done to entice businesses to our downtown. He is holding meetings with other organizations, such as the DDA, Merchants Association, Castle Farms, and others to develop a strategy for bringing business to town. This Council has done everything it can to help businesses that have asked for it.

Ms. Renaud disagreed with the Mayor, stating that Council discourages businesses.

Lisa Carlson offered positive comments about the fireplace. Ms. Carlson didn't like the original location and original drawing; however, she loves what they've come up with now. Ms. Carlson didn't like the tree there and loves that the plaza is going to be more open. She appreciates all the work done and believes that most of the people who don't want the fireplace do show up at meetings, and those that want it don't.

Erin Bemis, Director of the Charlevoix Area Chamber of Commerce, stated that she wanted to refute Ms. Renaud's statements regarding jobs. This City Council, Planning Commission, and the DDA have been very proactive and done a lot of teamwork to help get businesses established. There is a lot of work behind the scenes that most citizens don't realize. It is important to have jobs here and there are empty storefronts. The citizens of this City need to support local businesses by shopping here. There are many reasons why a business fails; sometimes it's a business plan failure. The City and its citizens need to support local business by shopping at local businesses.

Peggy Kusina, representing Castle Farms, stated that her position is to promote not just Castle Farms, but all of Charlevoix and to bring tours to Charlevoix. Last year 12,000 people came to tour the Castle. Three thousand of those people were brought here on 91 buses. Those buses are sent downtown to shop and explore. East Park is an amazing thing people enjoy. Many people find it fun to watch the children in the park. Ms. Kusina believes the fireplace will be another draw to bring people to town.

The Mayor closed the item to public comment at 7:03 p.m.

3. *Discussion/Recommendation by Downtown Development Authority*

The Mayor turned the meeting over to Hugh Mason, Chair of the DDA, who called for additional comments from the DDA.

Jeannine Wallace thanked Mark Buday and Richard Hitz for donating their time and talents to this project. Ms. Wallace reminded those present of the outcry when the buildings were torn down but the park grew by an extra block, which everybody loves now. When she first heard of the fireplace idea, she was opposed; however, Ms. Wallace went down to the park and realized that area is not used at all, whereas the other plaza with the clock and benches is used. The concept by Mr. Buday and Mr. Hitz is wonderful. The idea of something for the shoulder seasons is wonderful; the City has to have draws. This is a wonderful City with wonderful draws. Ms. Wallace likes what's been done and hopes Council will consider it.

Dan Barron requested and received confirmation that the purpose of this meeting is to get a recommendation from the DDA and Planning Commission based on the presentation that was made. Mr. Barron thinks that the design is creative, worthwhile to town, can be architecturally striking, and can be done right. Mr. Barron likes the design and, based on the reasons submitted in the Committee's report, Mr. Barron believes that Plaza B is the most suitable location for this type of amenity for Charlevoix.

Motion by Barron, second by Whitney, that the DDA recommend that Council proceed to the design phase based upon the conceptual design that was presented.

Yeas: Mason, Barron, Dipert, DiMartino, Wallace, Whitney, Yaroch, and Carlson
Nays: None.
Absent: Wyett

4. *Discussion/Recommendation By City Planning Commission*

The Mayor turned the meeting over to John Hess, Chair of the Planning Commission.

Mr. Hess took a moment to thank Mr. Flanders for his many years of service to the Planning Commission and the City. Mr. Flanders will be resigning his position for personal reasons.

Mr. Hess noted that the Commission usually polls each member when making a decision, and asked Mr. Buday to begin.

Dan Buday thanked the original landscape designer, Mark Buday, and Richard Hitz. Mr. Buday noted that the architects were not asked to make final recommendation, but to present options. As a member of the Planning Commission, Mr. Buday's primary concern is for the safety, welfare, and health of the public. When it comes to the structure, Mr. Buday believes the architects have done a good job and would support moving forward with the project. Mr. Buday also stated that the City is moving forward in its efforts to create jobs, and while he feels that the fireplace is a good thing, he agrees with Ms. Renaud that creating jobs is a more important issue.

Sherm Chamberlain reported that he has spent a lot of time working on the park, and has received a lot of angry remarks over the work done in the past. Mr. Chamberlain thinks the scale and size of proposed fireplace is in keeping with the park. The park is designed with understated structures so as not to detract from the beauty of the harbor. Many people may not realize that the plaza design was changed at the last minute due to budget. The first design of the fireplace was out of scale and inappropriate, whereas the new proposal is an excellent start. Mr. Chamberlain believes the project should proceed forward to create a design for Council to approve.

Becky Doan reported that she has always been in favor of the fireplace, but preferred the north side until she saw the oval design. The fire bowl is supposed to draw people downtown, which is what the park was created for. Ms. Doan likes the design and thanked the architects for their work.

Toni Felter thanked everyone for their comments, both those in favor and those against. Because of the comments against the fire feature, Council listened and asked someone else to come in and look at this to come up with what she believes is a wonderful plan. Ms. Felter has a vision that this fireplace will bring people downtown. She hates driving through town and seeing vacant storefronts. If anything will draw people downtown, she will support it, which is why she supports the fireplace.

Brownie Flanders stated that he was opposed to the fireplace when he saw the first rendering; however, he thanks Mr. Hitz and Mr. Buday for coming up with a design that is in scale with the park and a fine design. Mr. Flanders believes that the fire bowl will enhance the beauty of the park and he is in support of the project.

Judy Clock reported that she likes the new design very much, but is still unhappy with the financial burden to the City for gas and maintenance of fireplace.

John Hess stated that he is really happy with the design change, although he thinks it would be better if placed on top of the marina building, which would still be a good place for people to gather and look at the fire feature. Mr. Hess stated that he is pragmatic, and the cost of the fireplace, even though it's lower, is still money. The City has asked the departments to not spend money, to cut back, and to do other things. To run more efficiently the departments need to be able to spend money. When looking at lifetime costing, the cost for the next 50 or 60 years, the cost goes up. It is unreasonable to believe that gas is going to stay as low as it is today and would rather spend the City's money more efficiently. Mr. Hess likes the design, but would prefer another location and fuel source, such as wood.

Motion by Member Doan, second by Member Buday, that the Planning Commission sends this [plan] to Council for the oval fireplace design and location as is.

Yeas: Flanders, Felter, Buday, Doan, and Chamberlain
Nays: Hess, Clock
Absent: Elzinga

Mike Spencer, City Planner and Zoning Administrator, appreciates that the Planning Commission was able to voice their personal comments and opinions for the benefit of the public and Council. The Planning Commission often has contentious issues to consider, usually in the form of a development proposal. When considering these issues, their job is to look at whether the proposal is in accordance with Zoning, the Planning Enabling Act, the City's Parks and Recreation Master Plan, and the City's Land Use Master Plan. The City has received a legal opinion stating that features in the park do not need to go through zoning approval. State law stipulates that capital improvements such as a road, structure, or parks need to go to the Planning Commission for their review to determine if the project is in accordance with the adopted Master Plan. The normal procedure is for staff to offer two options, one for approval and one against, and to provide findings of fact that support their decision. The Planning Commission may modify these findings of fact as they see fit.

In accordance with normal procedure, staff has reviewed the Parks and Recreation and Land Use master plans and prepared two motions for the Planning Commission to consider. Additionally, the City is seeking a recommendation from the Planning Commission on whether or not the fire feature proposal is in keeping with the City Master Plan. The two proposed motions are as follows:

Option 1: The Planning Commission finds that, in accordance with Section 125.3861 of the Planning Enabling Act, the proposed community fireplace is in accordance with the City Master Plan and the Parks and Recreation Master Plan. The plans do not specifically address what features or amenities should go in East Park, nor do they prohibit

new features or structures from being erected in East Park. The planning commission feels that the revised fireplace height will protect the scenic beauty of East Park and will enhance Charlevoix's downtown by providing a gathering place in the shoulder seasons. (Objective 1.2 and Objective 1.3 of City Master Plan, page 31)

Option 2: The Planning Commission finds that, in accordance with Section 125.3861 of the Planning Enabling Act, the proposed community fireplace is not accordance with the City Master Plan and the Parks and Recreation Master Plan. Although the fireplace proposal is not specifically addressed in either plan, the fireplace requires the use of natural gas and therefore does not conform to the goal of high environmental standards in the design of municipal facilities and utilities. (Goal on page 34.) The fireplace will also require annual operating costs that do not conform to the goal of providing high quality public services and infrastructure at a lower cost to the taxpayers. (Objective 4.1 of City Master Plan, page 34)

Chair Hess asked if there were any additional comments from the Commission. There were none. Chair Hess stated that he would like the opportunity for the Planning Commission to review and discuss the two proposed motions in more detail, preferably at a meeting without debate. Mr. Hess thinks it is important to have a policy regarding donations and how they are handled, which projects must go to the Planning Commission, and which do not. Having that discussion tonight would significantly lengthen the meeting, and he would like to have the opportunity to discuss it in detail.

Mayor Carlson stated that if the Planning Commission needs more time they can have it. Tonight's meeting won't be final time this is discussed, and if the Planning Commission were to wait until a later date, there may be an actual drawing for them to review. Mayor Carlson stated that he wants the Planning Commission to be comfortable with their decision.

Chair Hess asked Planning Commission members for their opinion:

- Member Doan stated that she has made her decision and would vote for Option 1.
- Member Buday agrees that there is no need for additional discussion, and he approves Option 1.
- Member Chamberlain favors Option 1.
- Member Felter favors Option 1.
- Member Flanders favors Option 1.
- Member Clock favors Option 2.

Motion by Member Doan, second by Member Chamberlain, that the Planning Commission pass Option 1 [in favor of the project] as outlined in the packet, on page 10.

The Planning Commission finds that, in accordance with Section 125.3861 of the Planning Enabling Act, the proposed community fireplace is in accordance with the City Master Plan and the Parks and Recreation Master Plan. The plans do not specifically address what features or amenities should go in East Park, nor do they prohibit new features or structures from being erected in East Park. The planning commission feels that the revised fireplace height will protect the scenic beauty of East Park and will enhance Charlevoix's downtown by providing a gathering place in the shoulder seasons. (Objective 1.2 and Objective 1.3 of City Master Plan, page 31)

Yeas: Flanders, Felter, Buday, Doan, and Chamberlain
Nays: Hess, Clock
Absent: Elzinga

5. *City Council Discussion/Next Steps*

The Mayor suggested that Council to review all the information that they received tonight and talk to people before the next Council meeting. At the next meeting, there will be an opportunity for additional public comment.

Mayor Carlson reported that he has received confirmation that there is an additional donor who is willing to cover additional costs so that the design is not limited by financial considerations. There is also a donation offer of up to \$30,000 for beginning operational expenses. Additionally, Council will be discussing the possibility of accepting donations in exchange for engraved pavers to help with operational and maintenance costs.

Council member Picha thanked Mr. Buday and Mr. Hitz for their efforts, and also the several people that spoke in support of Council. Ms. Picha is very grateful for the positive feedback.

V. Audience – Non-Agenda Input (written requests take precedent)

Mayor Carlson opened the meeting to non-agenda public comment at 7:29 p.m.

Ms. Gina Whitney thanked everyone present, both those for the project and against, for presenting themselves well, and for being kind and thoughtful. Ms. Whitney also thanked the architects for volunteering their time and for their hard work on this project. She reported that it is hard for all of us to sit on boards and listen to negativity: It is very nice to hear positive comments, and also to have negative comments presented thoughtfully, as they were tonight.

VI. Adjourn

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

There were no objections.

Meeting adjourned at 7:30 p.m.

John Hess Planning Commission Chair

Hugh Mason Downtown Development Authority Chair

Carol A. Ochs/scb City Clerk

Norman L. Carlson, Jr. Mayor