

The regular meeting of the Clare City Commission was called to order at 6:00 p.m. in Meeting Room A of the Pere Marquette District Library by Mayor Pat Humphrey who led with the Pledge of Allegiance. Present were: Commissioners Bob Bonham, Pat Humphrey, Karla Swanson and Carolyn (Gus) Murphy. Absent: None. Also present were Ken Hibl, City Manager; Steve Kingsbury, Treasurer; Diane Lyon, City Clerk; and Dale Clark, WWT Superintendent.

2. CONSENT AGENDA:

Moved by Commissioner Swanson second by Commissioner Murphy to approve the items listed with an asterisk (*) (Amended Agenda (*addition of item H. and #15*), Minutes, First Reading of Ordinances 2019-002 (Ethics) and 2019-003 Telecommunications, Communications, and Bills) that are considered to be routine by the City Commission. Ayes: All. Nays: None. Absent: None. *Motion Carried.*

3. *APPROVAL OF MINUTES:

Approved By Consent Agenda.

5. PUBLIC COMMENT:

6. UNFINISHED BUSINESS: None.

7. NEW BUSINESS:

A. DISSOLUTION OF LAKE SHAMROCK BOARD

Subsequent to discussions with the City Commission at the scheduled February 18th Commission meeting, the Commission directed the City Staff to initiate the process to allow formal consideration of the dissolution of the Lake Board. Mayor Humphrey also asked that the City Staff provide a chronological overview of the lake and historical actions taken by the lake board to the City Commission prior to any decisions regarding the future of the lake board. This was accomplished at the March 4th Commission meeting.

Our City Attorney has outlined the requirements to dissolve the Lake Board. The requirements are further outlined in a proposed resolution (Resolution 2019-030), which must be adopted if the Commission determines dissolution of the lake board is in the best interests of the City.

Notice of the City Commission's intent to consider this action is one of the stated requirements outlined in the City Attorney Opinion. The Commission is required to hold a hearing to receive public comment related to dissolution of the board and then may, at its discretion, formally dissolve the lake board. If the Commission determines the lake board should be retained/remain in place to oversee maintenance and management of Lake Shamrock, no formal action is required.

Motion by Commissioner Bonham second by Commissioner Swanson to open the public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

Public Comment: Wayne Terpening, Wilcox Pkwy, questioned whether it was determined, by the title search completed by the City Attorney, if the city owns the (bottomland) Tobacco River. C/M Hibl stated that the river was not part of the title search. Mr. Terpening added that he interprets his family's (property) title policy as indicating that they have riparian rights to the river and that their property has nothing to do with the lake; he asked that this information should be considered when (lake improvement) assessments are applied. Mr. Terpening also made comment that the river has never been treated for weeds.

Vince Demasi asked for representation of waterfront property owners. If the Lake Shamrock Property Owners Association is still in force, that group could appoint a couple of their members as an advisory board to the City Commission or the City Commission could appoint a board. Mayor Humphrey favored the Association appointing their own representatives. C/M Hibl will have to check into whether the group is still active. Mr. Demasi questioned whether silt traps would continue. C/M

Hibl offered that the topic of silt traps would be coming before the City Commission as will the topic of dredging the lake.

Mr. Terpening asked about the stipulations that placed on the city by the DEQ to receive the approved permit: Those that have a major affect are that the DEQ limited the time of year that the city could dredge the lake; the DEQ requires that the dredged sediment must proceed directly to the location that we intend to deposit the sediment rather than allowing it to drain first (the city has asked the engineer to check with DEQ to find out if we can get permission to allow the material to drain prior to hauling offsite); and that the lake cannot be dredged any deeper than the original depth of the lake.

Motion by Commissioner Swanson second by Commissioner Murphy to close the public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

Motion by Commissioner Bonham second by Commissioner Swanson to approve the Dissolution of the Lake Shamrock Board by adoption of Resolution 2019-030. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

B. ORDINANCE 2019-002 - ETHICS

Prompted by a memo from our City Attorney on the topic of ethics, the City's Planning Commission and City Commission discussed and considered the need for an ethics ordinance to formally prescribe and outline acceptable ethical behavior and standards for the City's elected and appointed officials.

The Planning Commission formally considered the topic at its last two regularly-scheduled meetings and has, subsequent to a public hearing, adopted its Resolution 2019-008PC, thereby recommending that the City Commission adopt Ordinance 2019-002. If the City Commission supports the Planning Commission's and City Staff's recommendations to proceed with the adoption of the ethics ordinance, the provisions of the ordinance will be applicable to and govern the conduct of all elected and appointed officials of the City, to include all members of the City's various boards and committees and all City employees.

All ordinance code changes or amendments require the approval of the Clare City Commission.

And all ordinances require two readings and approval of the Clare City Commission subsequent to a public hearing. The required public notices announcing the hearing have been published. Subsequent to the conduct of the hearing, the Commission has the option of allowing a First Reading of the proposed Ordinance or denying the conduct of a First Reading, thereby rejecting the proposed new ordinance.

The City Commission is asked to conduct the required public hearing and approve or deny a First Reading of the proposed ethics ordinance.

Motion by Commissioner Bonham second by Commissioner Swanson to approve the first reading of Ordinance 2019-002 and open a public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

Public Comment: None.

Motion by Commissioner Bonham second by Commissioner Murphy to close the public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

C. APPROVAL TO SUBMIT FUNDING FOR WATER TREATMENT PLANT REHABILITATION PROJECT

For the past four years, we've discussed many options and alternatives relative to improving our public water system and completing crucial improvements to our water treatment plant - in particular, rehabilitation or replacement of our iron removal filters. We've conducted assessments and analysis to potentially abandon the current water treatment plant and construct a new plant and wells in the northern sector of the City. We've completed necessary preliminary assessments to replace Well #6 and have progressed to the point of drilling a test well at the Emerald Isle Recreation Complex; we are still wrestling with possible replacement of Wells #8 & #9 based on comments and recommendations of MDEQ. We've had extensive and repetitive meetings on this topic with GFA and USDA and have, with the City Commission's concurrence, completed all the required preliminary steps (filed our Notice of Intent and held the requisite public hearing) to obtain funding (\$1.5M) from USDA to finance the needed improvements. We've determined it is critical that we now proceed with the water system rehabilitation project and ask for the City Commission's approval to submit the formal application to USDA to bond the project.

Based on the most recent cost estimates to complete our water system upgrade project, we've had to make some difficult decisions and are recommending that we reduce the scope of the rehabilitation project to keep the end-price at or below the \$1.5M cap previously approved by the City Commission - any significant increase above that amount will require us to increase water rates to an unacceptable/unpalatable level.

The revised scope of the project is outlined in the Updated Estimate of Probable Costs provided by GFA. The second page of that update reflects the major work items that we need to defer due to costs - most significantly, replacement of the aeration tower, abandonment of Well #6, and replacement of that well. The update also reflects the replacement of only one of two iron removal filters due to the assessment that three filters will adequately meet our present water treatment and capacity needs.

The City Commission is asked to formally approve the submittal of our application to USDA to fund the needed water plant rehabilitation project.

Notes:

- We will continue to pursue the possibility of replacing Wells #6, #8, & #9 using an emergency 100% grant funding mechanism available thru USDA. We don't believe that we can presently validate the need to qualify for the grant without significant justification, e.g., EPA or MDEQ providing us a directive or strong recommendation that we abandon those wells, an appreciable loss of our current water-generating capacity, a significant increase in water demand, loss of PRP funding participation, etc.
- We asked for and the City Commission approved the immediate sole source rehabilitation of two of our iron removal filters by Peerless-Midwest at the Mar 4th Commission meeting. That approval was based on two primary factors: immediate/critical need and information that we'd received that we would be able to reimburse our Water Fund for the cost (approx. \$300K) from the USDA loan proceeds when the actual loan was approved. We were advised this week that we may not be able to do so. We are in the process of pursuing absolute confirmation as to whether we can or cannot reimburse our Water Fund for this work. If USDA denies us the ability to do so, I intend to place a "Stop Work" order on this portion of the project, and we will include the work in the full project bid solicitation after we receive formal USDA loan approval. Should it be necessary to stop the project, Peerless-Midwest could potentially place a claim against us if he is not the vendor awarded the project work and if can demonstrate damages, i.e., has already purchased supplies and incurred expenses to complete this work.

Motion by Commissioner Bonham second by Commissioner Swanson to approve submittal of the USDA Loan Application by adoption of Resolution 2019-031. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

D. DISCUSSION TOPIC: VACANT CITY COMMISSION SEAT

Section 6.6 of the City Charter promulgates that if any elected official is absent from five consecutive regularly-scheduled meetings without approved excusal), the seat is declared vacant. Mayor Pro Tem Jean McConnell has missed five consecutive regularly-scheduled meetings without excusal. The City Commission is obliged to

comply with and is bound by the provisions of the City Charter and does not have the legal authority to override or grant exception to any stipulation of the Charter - consequently, the seat is now considered vacant.

Section 5.4 of the City Charter mandates that the now-vacant seat is to be filled within thirty (30) days of being declared vacant - in this case March 4th, thus requiring the Commission to appoint a new City Commissioner by April 6th.

The Charter is silent in regard to the appointment process except that the authority to appoint is the Clare City Commission. The individual appointed by the Commission will complete the term of the elected official - Jean's term of office ends December 31, 2020.

The Commission is asked to discuss and decide the process by which to select the new City Commissioner at the March 18th meeting. You have many options for selection of the individual for appointment. Examples include asking the Mayor to make the selection and then approve/disapprove the Mayor's selection by vote of the entire Commission; publicly solicit applications and have a committee of the Commission review the applications and invite the top applicant(s) for interview of the entire Commission - or any combination or variation of these examples. If the Commission determines it desires to solicit applications, we will need to publish the solicitation notice as soon as possible as the appointment will have to be made at the April 1st Commission meeting unless the Commission wishes to hold a special meeting specifically for the purpose of appointing a new commissioner sometime after April 1st and not later than April 6th.

Following a brief discussion, Mayor Humphrey recommended the appointment of Mr. Joshua Clark to fill the vacant seat on the City Commission.

Motion by Commissioner Murphy second by Commissioner Bonham to nominate Karla Swanson to serve as Mayor Pro Tem. Motion by Commissioner Bonham second by Commissioner Murphy to close nominations. Motion by Commissioner Murphy second by Commissioner Bonham to select Karla Swanson to serve as Mayor Pro Tem by adoption of Resolution 2019-032. Roll call vote: Yeas: Commissioners Pat Humphrey, Bob Bonham, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

E. SELECTION OF MAYOR PRO TEM

The Charter of the City of Clare stipulates that the City Commission may, at its discretion, designate one of its members to serve as the City's Mayor Pro Tem to fulfill the duties of the City Mayor during any absences of the Mayor. Commissioner Jean McConnell was selected to fill this position in November 2018, but with the vacation of her commission seat, the seat of the Mayor Pro Tem position concurrently became vacant. Consequently, the City Commission is asked to consider whether it desires to select one of its members to fill this vacancy.

Motion by Commissioner Swanson second by Commissioner Bonham to designate Karla Swanson to serve as Mayor Pro Tem by adoption of Resolution 2019-037. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion carried.*

F. ORDINANCE 2019-003 – TELECOMMUNICATIONS (SMALL CELL TOWERS)

Prompted by a memo from our City Attorney on the topic of small cell wireless deployment, we asked Jaynie to craft an ordinance amendment to allow us to locally control and regulate those minor areas that the federal and state governments have allowed us to retain control over in the arena of telecommunications. The resultant ordinance (2019-003) is offered for the City Commission's consideration.

All ordinance code changes or amendments require the approval of the Clare City Commission.

And all ordinances require two readings and approval of the Clare City Commission subsequent to a public hearing. The required public notice announcing the hearing has

been published. Subsequent to the conduct of the hearing, the Commission has the option of allowing a First Reading of the proposed Ordinance or denying the conduct of a First Reading, thereby rejecting the proposed new ordinance.

The City Commission is asked to conduct the required public hearing and approve or deny a First Reading of the proposed ethics ordinance.

Motion by Commissioner Swanson second by Commissioner Murphy to approve the first reading of Ordinance 2019-003 and open a public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

Public Comment: None.

Motion by Commissioner Murphy second by Commissioner Swanson to close the public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

G. APPROVAL FOR SUBMITTAL OF TRANSPORTATION ECONOMIC DEVELOPMENT FUND CATEGORY B GRANT APPLICATION

Approximately two months ago, we informed the City Commission of a new (to us) state initiative, Category B Transportation Economic Development Fund (TEDF) that appeared to have the potential to provide us an opportunity to significantly capitalize and compound the positive impact of our voter-approved street millage. The \$250K (maximum) grant can only be used for local street projects; the deadline for this year's grant submittal is April 1, 2019 and requires the approval (by resolution) of the local governing entity.

Our initial excitement about the grant opportunity was significantly diminished when we studied the detailed requirements (had to be engineered by a certified engineering company and designed to MDOT standards, have to provide 1:1 local match funds, and made sidewalk replacement ineligible being the most objectionable requirements) of the grant program. These requirements dramatically increase the cost of our local street projects and thus diminish our local benefit.

We asked GFA to assist us in developing probable costs for the three primary street projects (completion of John R, one block of E. Fourth Street and one block of Pine Street) using the MDOT Category B grant criteria. Only the John R project has the potential to provide us an economic benefit (initial estimates of approx. \$15K), thus we ask that the City Commission provide its support and approval to submit the grant application.

Commissioners noted that the condition of Witbeck Drive has deteriorated significantly over the winter.

Motion by Commissioner Murphy second by Commissioner Bonham to approve submittal of the TEDF Grant Application by adoption of Resolution 2019-033. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion carried.*

H. APPROVAL FOR SUBMITTAL FOR A MICHIGAN NATURAL RESOURCES TRUST FUND (PASSPORT) GRANT – EMERALD ISLE PLAYGROUND

The Parks & Recreation Advisory Board and our Recreation Director have recommended that the City submit a Michigan Department of Transportation (MDNR) Recreation Passport Grant application for the purchase of playground equipment for the Emerald Isle Recreation Complex. Significant local fund-raising for the required local match has already commenced for the recommended playground. The city will not accept the Passport grant if the local match funding isn't raised. The deadline for submittal is April 1, 2019, thus this is the last scheduled City Commission to obtain the Commission's endorsement and support for the grant prior to the submittal deadline. The Commission is asked to approve the submittal of the application.

Motion by Commissioner Swanson second by Commissioner Murphy to approve submittal of the MDNR Recreation Passport Grant Application by adoption of Resolution 2019-036. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion carried.*

8. TREASURER'S REPORT

The Treasurer presented his report.

9. *DEPARTMENT REPORTS

Approved By Consent Agenda.

10. CITY MANAGER'S REPORT

Planning Commission Meeting. The Planning Commission met on March 13th. The Commission recommended the City Commission adopt the proposed ethics ordinance and set the date of a special meeting (Apr 17th) to meet with representatives of Giffels-Webster to discuss zoning code revisions. The April 10th meeting of the Planning Commission will be dedicated to review of the City's 2019/2010 Capital Improvement Program.

New Fireworks Legislation. The state has modified existing fireworks legislation to more favorably allow local government to have more control and restrict fireworks displays. We ask for the Commission's guidance to allow Jaynie to draft a proposed ordinance amendment to implement any of the changes allowed by the new legislation and desired by the Commission. The Commission requested that the draft ordinance include all restrictions allowed by the state.

Appraisal Fees. The Bills List includes a request for approval of appraisal fees required for Tax Tribunal purposes. As reflected, the costs are exorbitant but unfortunately necessary.

Community Pitch Contest. We were not selected as a finalist for the CE Pitch Contest for Art Alley.

April 1st Commission Meeting. I will be out of town for the scheduled April 1st City Commission meeting; Steve will facilitate the meeting in my absence.

City Attorney Memo - New Assessing Requirements. Jaynie provided us a memo of new legislative requirements pertaining to assessing - another unfunded mandate (training requirements).

MDOT Open House. We've asked the Mt Pleasant TSC to hold an open house in Clare to provide a public overview of all their planned regional road projects for 2019. They've accepted the invitation. We've suggested dates of Mar 27th & 28th or a date within the first two weeks of April; we are awaiting confirmation of their availability on the suggested dates. We will host the event @ the Clare Depot.

11. *COMMUNICATIONS

Approved By Consent Agenda.

FOIA Requests: The most recent FOIA requests & responses are attached for information; Ogg Investigative Services; Jade MacDonald; Tom Dunn; Metropolitan Reporting; Sherlock Investigations; Jack Elliott; ATC Group Services.

Bureau of Elections. The Bureau of Elections has provided updates on Proposal 18-3 changes being implemented.

Charter Notice of Transfer-Franchise Agreement: Due to internal restructuring, Charter Communications has transferred the local franchise agreement to Spectrum Mid-America, LLC, an indirect subsidiary of Charter Communications.

Thank you letter-Thrive Church. Thrive Church sent a thank you to the Mayor & the City of Clare for the celebration of Ethan Gage's life.

Secretary of State Benson Media Releases. Secretary of State Jocelyn Benson announced the launch of the SOS's transparency web page and her call on the legislature to require personal financial disclosure.

Testimony of Secretary of State Benson. Secretary of State Jocelyn Benson's testimony before the House Committee on Elections and Ethics is provided.

12. EXTENDED PUBLIC COMMENT: None.

13. COMMISSION DISCUSSION TOPICS: None.

14. CLOSED SESSION (DISCUSS PROPOSED COAM & POAM LABOR AGREEMENTS)

Motion by Commissioner Murphy second by Commissioner Swanson to go into closed session to discuss the proposed COAM & POAM Labor Agreements. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

Motion by Commissioner Murphy second by Commissioner Swanson to go into open session. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

15. APPROVAL OF CLOSED SESSION MINUTES

Motion by Commissioner Murphy second by Commissioner Swanson to approve the closed session meeting minutes. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

16. ADDITIONAL NEW BUSINESS-LETTER OF AGREEMENT TO EXTEND THE CURRENT POAM & COAM LABOR CONTRACTS AND APPROVE THE RENEWAL OF THE HEALTH CARE PORTION OF THE CONTRACTS

Motion by Commissioner Bonham second by Commissioner Murphy to approve the COAM & POAM Letters of Agreement by adoption of Resolutions 2019-034 & 2019-035 respectively. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

17. *APPROVAL OF BILLS

Approved By Consent Agenda.

18. ADJOURNMENT

Motion by Commissioner Murphy second by Commissioner Swanson to adjourn the meeting. Ayes: All. Nays: None. Absent: None. *Motion Carried.* Meeting adjourned at 7:30 p.m.

Pat Humphrey, Mayor

Diane Lyon, City Clerk