

The regular meeting of the Clare City Commission was called to order at 6:00 p.m. in the Commission Chambers by Mayor Pat Humphrey who led with the Pledge of Allegiance. Present were: Commissioners Bob Bonham, Josh Clark, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Absent: Also present: Ken Hibl, City Manager; Steve Kingsbury, City Treasurer & Finance Director; and Diane Lyon, City Clerk.

2. CONSENT AGENDA:

Moved by Commissioner Swanson second by Commissioner Clark to approve the items listed with an asterisk (*) (Agenda, Minutes, Communications, Department Reports, 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.

4. *APPROVAL OF AGENDA:

Approved By Consent Agenda.

5. PUBLIC COMMENT:

Pete Spitzley, Vice-Chair of the Parks & Recreation Advisory Board, informed the City Commission that the Board opposes funding the repair of the Clare Public School's tennis courts at Brookwood Complex with money from the Dr. Kuno Hammerberg Family Endowment fund because it is not city property and the school could decide to tear the courts out following the 10-15 year lease agreement being proposed at tonight's meeting; they prefer that funds are used for long term recreational programs/investments on city property.

Carol Santini, member of the Dr. Kuno Hammerberg Family Endowment Fund Committee, does not oppose funding the tennis court repairs but suggested that the Clare Tennis League should contribute money toward tennis court repair costs as there are a number of other groups in the city that have had to do significant fundraising in order to complete their "pet" projects. The Clare Tennis League had been asked to make a monetary commitment of at least \$1,000 but the League has not made that commitment.

Dave Smith, Clare Rod & Gun Club President, provided a letter to the City Commission which he verbally outlined at the meeting. Mr. Smith explained that the Club removed and sold some of the trees on city property (which is leased by the Club) in order to support the high school students who want to take part in the shooting program. Mr. Smith went on to provide information to the Commission about past events and future activities sponsored by the Club.

Sarah Coker, 511 Wilcox Parkway, states that Shamrock Lake is not useable. She is aware that a necessity hearing was held previously (by the City Commission); as a city taxpayer and lake resident, she asked for information on weed spraying/harvesting and lake dredging.

Lori Martin provided a quarterly report to the Commission regarding activities occurring at the county level which included information on increased collections on court costs, the establishment of a State Trial Court Funding Committee, and upcoming elections within the county.

6. UNFINISHED BUSINESS: None.

7. NEW BUSINESS:

A. DISCUSSION TOPIC: CLARE ROD & GUN CLUB LEASE AGREEMENT

The Clare Rod & Gun Club enjoys the use of City property located on Eberhart Road contiguous to the Clare Municipal Airport under the terms of a lease agreement between the City of Clare and the Clare Rod & Gun Club. The City was recently surprised when we learned the Rod & Gun Club had clear-cut the trees on a significant portion of this property without notice to or permission of the City. Consequently, we asked our City Attorney to review the lease and concurrently notified the Rod & Gun Club that we desired to discuss this matter.

Jaynie has reviewed the lease agreement and opined the lease is an illegal document due to its length (99 years) and the total lack of terms and conditions outlining use of the City's property by the tenant. For the same reasons, she has recommended it is counterproductive and not worth the expenditure of resources to attempt to take any action regarding the Rod & Gun Club's decision to clear-cut the trees without first notifying the City or to pursue compensation for doing so.

The City Commission was asked to decide whether it desires to continue its landlord/tenant relationship with the Clare Rod & Gun Club. If the Commission is inclined to do so, the City Commission is asked to direct our City Attorney to draft a new lease agreement that properly and legally protects the interests of the City.

Commissioner Swanson and Mayor Humphrey opined that the Rod & Gun Club should reimburse the city for the trees cut and sold by the Club.

Mr. Dave Smith, the current Rod & Gun Club President, appeared before the City Commission to discuss the logging matter. Mr. Smith stated that the money from the sale of lumber was donated to the high school shooting program. Commissioner Swanson informed Mr. Smith that the city needs the funds just as much as the school. Mr. Smith noted that money raised from the sale of the trees was around \$1,000 and they (Rod & Gun Club) will reimburse the city.

Commissioner Swanson inquired as to whether the Rod & Gun Club had ever considered purchasing the property. Mr. Smith offered that they had not taken purchasing the property into consideration but would entertain the idea of purchasing the property. Mayor Humphrey added that they (Rod & Gun Club) should seriously consider purchasing the property; the Commission would rather sell the property than lease the property. The City Commission favored postponing further discussion and decision to the September 3rd meeting.

B. LEASE AGREEMENT FOR TENNIS COURTS-CLARE PUBLIC SCHOOLS & CITY OF CLARE

The City of Clare does not own tennis courts. Consequently, the Clare Tennis League presently uses four tennis courts owned by Clare Public Schools (CPS) located on CPS property at the Brookwood Athletic Complex. The courts are failing and in need of immediate repairs.

The City received a bequest of \$180K from the Dr. Kuno Hammerberg Estate to be used solely and specifically for the recreational and cultural benefit of the residents of Clare. Those funds are in the custody and management of the Clare County Community Foundation per the instructions of the Dr. Kuno Hammerberg Estate. The City enjoys an agreement with the CCCF that allows the City to access the Dr. Kuno Hammerberg Family Endowment fund monies upon request of the City of Clare.

The City Commission appointed a committee to develop a prioritized list of recreational & cultural project to be funded by the Dr. Kuno Hammerberg bequest. The committee sought public input and developed a prioritized list of eight (8) projects to be funded in whole or in part using monies from the Hammerberg Family Endowment Fund. The City Commission approved the prioritized list of projects by adoption of its Resolution 2019-111.

Approval of a disbursement not to exceed \$40K to repair the CPS tennis courts is the #2 project on the aforementioned funding priority list. A stipulated condition of the expenditure of those funds for that project is a required formal agreement with Clare Public Schools to ensure the tennis courts are properly maintained once the courts have been repaired.

The Clare Parks & Recreation Advisory Board unanimously voted down making improvements to the tennis courts as they are not city owned property; they prefer to make long term recreation investments on property owned by the city.

We've asked our City Attorney to draft a lease agreement between the City and CPS to provide the City of Clare management authority of the courts and tenant

responsibility for maintenance of the tennis courts - thereby allowing us to use the Hammerberg Family Endowment Fund monies to repair the courts and to negotiation a subsequent agreement for court maintenance between CPS, the City, & the Clare Tennis League. The City Commission is asked to approve the proposed lease agreement.

The City Manager dispelled some misinformation by informing the City Commission and audience that the Clare Tennis League has never provided funding to the city for tennis court maintenance. He added that the Clare Tennis League should fundraise to pay for maintenance to the courts.

Parks and Recreation Director Joy Simmer noted that over the past five years the city has given CPS \$2,500, which was to be matched by the school, for maintenance of the tennis courts however there has been no maintenance to the courts.

The Parks & Recreation Advisory Board opposed spending funds on property not owned by the City they prefer to invest in long term city projects. Commissioner Swanson favored accepting the Board's recommendation; she further noted that Clare Public Schools has no tennis team, they aren't asking for the courts to be repaired and therefore they likely have no vested interest in maintaining the courts; funds should not be spent on property that isn't owned by the city.

Commissioner Murphy explained that Mt. Pleasant does not have a tennis league so those people come to Clare to play tennis and while they are here, they spend money at the local businesses. She agreed that the Clare Tennis League should pay to play on the courts.

John Urquhart offered that there are 40 adults on the Clare Tennis League.

Commissioner Clark had concerns regarding future maintenance of the courts noting that if the city does enter in to a property lease agreement and a maintenance & use agreement with the schools for the tennis courts, the city's future obligations under the maintenance agreement should be for the administration of the maintenance needs only and not to incur costs related to funding ongoing maintenance; the Clare Tennis League and Clare Public Schools should be held responsible for funding future maintenance. Commissioner Clark opposed expending city funds for the tennis courts beyond the \$40,000 request for repairs from the Dr. Kuno Hammerberg Family Fund. He further offered that there is obviously an interest (in tennis) and as long as there are no future expenditures and it helps the community he is in support.

Mayor Humphrey noted that there are very few recreational activities offered to people over 30 in the community.

Commissioner Swanson suggested that the funding request for tennis court repairs should be reduced by the \$5,000 already provided by the school and city for maintenance of the courts.

Motion by Commissioner Bonham second by Commissioner Murphy to approve the tennis courts lease agreement with Clare Public Schools by adoption of Resolution 2019-119. Yeas: Commissioners Bob Bonham, Josh Clark, Pat Humphrey and Carolyn (Gus) Murphy. Nays: Karla Swanson. Absent: None. *Motion Carried.*

C. INTERGOVERNMENTAL AGREEMENT –TENNIS COURT USE & MAINTENANCE

As outlined in the Agenda Report pertaining to the lease of the Clare Public Schools Tennis Courts, a condition of the lease is that the responsibility to maintain the courts rests with the City. But as the Clare Tennis League and CPS will be the predominant users of the tennis courts, we asked our City Attorney to draft an intergovernmental agreement that specifies the maintenance costs of the tennis courts be shared between all three entities (CPS, Tennis League, & the City) for the term of the lease agreement for the courts. The City Commission is asked to approve the proposed agreement.

Motion by Commissioner Bonham second by Commissioner Murphy to approve the tennis courts maintenance & use agreement with Clare Public Schools and the Clare

Tennis League by adoption of Resolution 2019-120. Yeas: Commissioners Bob Bonham, Josh Clark, Pat Humphrey and Carolyn (Gus) Murphy. Nays: Karla Swanson. Absent: None. *Motion Carried.*

D. APPROVAL TO REQUEST DISBURSEMENT OF FUNDS-DR. KUNO HAMMERBERG ENDOWMENT FUND

By adoption of its Resolution 2019-111, the Clare City Commission approved the Dr. Kuno Hammerberg Endowment Fund Committee’s recommended prioritized list of recreation and cultural projects to be funded with monies from the Hammerberg Endowment Fund. The approved prioritized project list & respective funding amounts are reflected below:

1. Clare Rail Trail Gap	\$10,000
2. Clare Public Schools Tennis Courts	\$40,000
3. Emerald Isle Recreation Complex-selected projects	\$59,000
4. Depot Benches	\$ 950
5. Music Licensing	\$ 3,360
6. Park Grills	\$ 950
7. Art Alley	\$ 5,000
8. Gateway Park	\$35,000

The Dr. Kuno Hammerberg funds are maintained by the Clare County Community Foundation (CCCF) per the instructions of the Dr. Hammerberg Estate. The City has an approved agreement with CCCF that provides that disbursement of monies from the Fund are to be formally requested by the City; fund requests are to first approved by the City Commission and then formally submitted under the signature of the Clare City Manager.

The City’s Parks & Recreation Advisory Board (PRAB) met on August 15th and has recommended that the City Commission approve requests for the disbursement of \$34,050 to facilitate the purchase of the items listed in the Parks & Recreation Director’s email. All of these items were included in the prioritized list approved by the City Commission.

In addition to the request recommended by the PRAB, we ask that the City Commission also approve a request for \$40,000 to facilitate repairs for the tennis courts being leased by the City - thus making the total of the request \$74,050.

It should be noted that the Parks & Recreation Board unanimously recommended that the tennis court project not be funded - at all. So if the Commission approves this recommendation, it will affect whether we lease the courts. And if we don’t lease the tennis courts, there is also no need to approve the inter-governmental agreement for the lease of the courts.

The City Manager offered the following comments and observations:

- First & foremost, the Endowment Fund Committee posted public notice and held a publicly noticed meeting specifically to request community comments and input regarding projects that should be funded using the Hammerberg Endowment Funds. There was ample opportunity to offer comments to the Committee during this process. If there were objections to the Committee’s recommendations, they are not recorded in the Committee’s report to the City Commission - there is only reference to conditions being imposed in respect to funding the tennis court project. Those conditions have been addressed in the proposed lease agreement and intergovernmental agreement related to use and maintenance.
- There was ample opportunity to offer comment on this topic at the August 5th City Commission meeting when the Commission considered and approved the Committee’s report. There were members of the PRAB in attendance at that meeting, but none voiced their concerns at that meeting.
- The City has historically attempted to endorse, support, and promote all recreation interests and activities in the community within its financial means to do so. One of the PRAB’s primary functions is to ensure that a wide range of recreation activities are available to our community - and if activities are not available, to assist in finding ways and means to make them available. The City has no tennis courts, yet there is obviously interest in tennis as evidenced by the number of Clare Tennis League

members that were in attendance at the August 5th Commission meeting when the Committee's Report was submitted.

- A number of comments were provided in the August 5th Agenda Report to the Commission regarding the Endowment Fund Committee's recommendations. The preponderance of those concerns were related to the Tennis League paying their way/contributing to support tennis activities thru payment of user fees and fund-raising efforts to offset the costs of maintenance and capital outlay for the tennis program. The Tennis League needs to demonstrate they have "skin in the game" just as other special interest groups and projects have in the past and still do today, e.g., the City's soccer league, the Skateboard Park Project, Little League Baseball, the Depot Project, the Brookwood Complex Rehab Project, etc...that the Tennis League needs to equitably contribute to the tennis program. Those concerns should be addressed if the Tennis League is a signatory to the proposed inter-governmental agreement related to use and maintenance of the tennis courts. If the League opts not to participate in the use and maintenance agreement and does not contribute a fair share to the maintenance and improvement of the tennis facilities and tennis program, that changes the equation significantly. The City Manager is inclined to support the recommendation of the PRAB should that occur.

Based on the above listed comments and observations, I recommend that the City Commission stand behind the Endowment Fund Committee's Report and the recommendations listed therein. I also ask that the City Commission approve my request to approve a submittal to the CCCF for disbursement of \$40K to repair the tennis courts.

Motion by Commissioner Bonham second by Commissioner Murphy to approve the Dr. Kuno Hammerberg Endowment Fund Committee's recommended prioritized list to be funded with monies from the Hammerberg Endowment Fund by adoption of Resolution 2019-121. Yeas: Commissioners Bob Bonham, Josh Clark, Pat Humphrey and Carolyn (Gus) Murphy. Nays: Karla Swanson. Absent: None. *Motion Carried.*

E. APPROVAL OF CONCRETE BIDS-DPW GARAGE RAMP PROJECT

The concrete ramp on the east side of the DPW Garage is in serious disrepair. It is the primary vehicle entry and exit access point of this side of the Garage, thus it is imperative it be rehabilitated.

This project was included in the City's approved 2019/2020 CIP. We solicited bids for the project. As reflected in a DPW Memo, three bids were received - the low bid submitted by Humphrey Brothers Concrete.

The City Commission is asked to approve the bids and award the work to one of the three contractors.

Motion by Commissioner Clark second by Commissioner Bonham to approve the bids, award the bid to Humphrey Brothers and authorize rehabilitation of the ramp by adoption of Resolution 2019-122. Yeas: Commissioners Bob Bonham, Josh Clark, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

F. SALE OF CITY OWNED VACANT PROPERTY-BIRCHWOOD AVENUE

After approximately two decades of unsuccessful attempts to sell vacant residential property adjacent to Birchwood Avenue in the City of Clare, the David Seiter Estate donated the property to the City in 2011. The only access to the property is via the unimproved street (Birchwood Avenue). The only residence on this street is owned by Mr. Blaine Tanner. Mr. Tanner has offered to purchase one of the vacant lots for \$5,000 and pay the closing costs (approx. \$700) for the sale.

The City has not marketed nor solicited bids for the sale of the property. The City has no viable need for the property. And based on the Seiter Estate's fruitless efforts to sell the property, it likely has little or no value to anyone other than Mr. Tanner. As reflected on the assessor's card, the City has the vacant parcel valued at \$6,000. With the sale offer combined with the agreement to pay closing costs on the sale, Mr. Tanner's offer is just \$300 shy of that value. Consequently, the City Commission is asked to approve the sale of the parcel to Mr. Tanner.

Motion by Commissioner Murphy second by Commissioner Swanson to approve the sale of city property 051-240-041-50 to Mr. Blaine Tanner by adoption of Resolution 2019-123. Yeas: Commissioners Bob Bonham, Josh Clark, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

G. AMEND GFA ENGINEERING AGREEMENT-WATER SYSTEM IMPROVEMENT PROJECT

By adoption of its Resolution 2019-055, the City Commission approved an engineering services agreement with its engineer of record, Gourdie-Fraser Associations (GFA), for the City's Water System Improvement Project (Iron Removal Filters). Due to the reduced scope of the project, GFA has offered the city an amended services agreement. The City Commission is asked to approve the amendment

Motion by Commissioner Bonham second by Commissioner Murphy to approve the GFA Engineering amended agreement by adoption of Resolution 2019-124. Yeas: Commissioners Bob Bonham, Josh Clark, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

H. AMEND MEAD & HUNT ENGINEERING AGREEMENT – AIRPORT RUNWAY & TAXIWAY LIGHTING PROJECT

By adoption of its Resolution 2018-100, the City Commission approved an engineering services agreement with its airport engineer of record, Mead & Hunt, for the design of runway and taxiway lighting for Runway & Taxiway 04/22 at the Clare Airport. Design has been completed, and we've received an amendment to the original contract - the amendment being for engineering services for construction of the project.

MDOT Office of Aeronautics has approved the amendment. The City Commission is asked to do likewise.

Motion by Commissioner Swanson second by Commissioner Clark to approve the Mead & Hunt Engineering agreement amendment by adoption of Resolution 2019-125. Yeas: Commissioners Bob Bonham, Josh Clark, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

I. AMEND APPROVED MINUTES OF JULY 15, 2019 CITY COMMISSION MEETING

USDA representatives are conducting the final audit of all required documentation associated with the approved \$1.5M loan for the City's Water Treatment System Improvement Project prior to the scheduled loan closing on Monday, August 19th. During the process of the audit, they noted an error in the approved minutes of the City Commission's Meeting of July 15, 2019 - specifically Item G of those minutes.

As reflected in the extract of the approved minutes, the title of Item G is IRON REMOVAL FILTER TANKS APPROVAL OF BIDS & CONTRAT AWARD, but the text of the paragraph pertains to the purchase of a new folding machine.

The corrected text has been added to those minutes. The City Commission is asked to approve the corrected meeting minutes.

Motion by Commissioner Murphy second by Commissioner Bonham to approve the agreement amendment by adoption of Resolution 2019-126. Yeas: Commissioners Bob Bonham, Josh Clark, Pat Humphrey, Carolyn (Gus) Murphy and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

8. TREASURER'S REPORT

The Treasurer presented his report.

9. CITY MANAGER'S REPORT

Planning Commission Meeting. The Planning Commission met on August 14, 2019 and approved a site plan application of Consumers Energy to expand the substation in the City's south industrial park.

Mandatory DDA & LDFA Public Information Meetings. PA 57 requires that all tax increment finance entities in the state of Michigan hold two mandatory public information meetings annually. Our DDA and LDFA held the first of the two required meetings on Friday, August 16. They will schedule their second meeting prior to December 31, 2019. The subsequent year meetings will be held in March and September annually.

Notice of Day of Review - Little Tobacco Drainage District Boundaries. The City has received the attached notice regarding the drain project; we will send a City representative to review the proposed project boundaries.

U.S-27 Auto Tour. The 13th annual Tour will arrive in Clare on Thursday, August 22nd and depart on Friday, August 23rd. City staff plan to close McEwan Street at 2pm on Friday.

Closure of City Offices. City offices will be closed on Monday, September 2nd in commemoration of the Labor Day Holiday.

First City Commission Meeting in September. Due to the Labor Day Holiday, the first City Commission Meeting in September is scheduled for Tuesday, September 3rd vs. Monday September 2nd.

Addendum:

New Physical Therapy Office.

Kim Denton has purchased the former gas station on McEwan Street located in front of (east) her health & fitness club to accommodate a new physical therapy office

10. *COMMUNICATIONS

FOIA Requests: The most recent FOIA requests & responses were provided; Tim Beebe (2 requests), extension-W. Jay Brown

Trees: The city sent a letter to a resident on Orchard regarding the removal of a tree in the city of right of way to rectify sanitary sewer issues caused by the roots. Letters were also sent to two property owners requesting tree removal on private property for public safety and to prevent property damage to neighboring properties.

Clare County Treasurer: The city received notice from the Clare County Treasurer regarding a decrease in taxable value based on two recent tax tribunal orders.

Clare Area Pilots Association: The 20th annual Ice Cream Social and Band Concert was held at the Clare Airport on August 12th.

US Census Bureau: US Census Bureau has provided an e-newsletter regarding the recruitment of workers for the 2020 census.

11. EXTENDED PUBLIC COMMENT: Laurie Shively, Northridge Drive, cited a safety hazard complaint against a neighbor for failing to maintain a closed gate around their pool as required by city ordinance.

12. COMMISSION DISCUSSION TOPICS: Commissioner Clark questioned the DPW report stating that they had put down brine on city streets. Commissioner Bonham explained that the city brines unpaved streets to keep the dust down.

CM Hibl addressed Sarah Coker's question from the first public comment period of the meeting, offering that the city is closer now than ever before to moving forward with the Lake Shamrock Dredging Project proposal. The city has been issued a dredging permit. At this point we are looking for a new site to place the material dredged from the lake which must be approved by the State's Great Lakes Environmental office.

13. *APPROVAL OF BILLS

Approved By Consent Agenda.

14. ADJOURNMENT

Motion by Commissioner Bonham second by Commissioner Murphy to adjourn the meeting. Ayes: All. Nays: None. Absent: None. *Motion Carried.* Meeting adjourned at 7:07 p.m.

Pat Humphrey, Mayor

Diane Lyon, City Clerk