

**PROCEEDINGS OF THE MANISTEE CITY COUNCIL – December 6, 2011**

A regular meeting of the Manistee City Council was called to order by her honor, Mayor Colleen Kenny on Tuesday, December 6, 2011 at 7:00 p.m. in the City Hall Council Chambers, 70 Maple Street, followed by the Pledge of Allegiance.

**PRESENT:** Colleen Kenny, Sid Scrimger, Robert Hornkohl, Ilona Haydon, Catherine Zaring, Beth Adams, and Alan Marshall.

**ALSO PRESENT:** City Manager – Mitch Deisch, City Attorney – George Saylor, City Clerk – Michelle Wright, Community Development Director – Jon Rose, DPW Director – Jack Garber, Finance Director – Ed Bradford, and Public Safety Director – Dave Bachman.

**CITIZEN COMMENTS ON AGENDA RELATED ITEMS.**

John Soltes, 1054 Oak Street, spoke about the Z11-09 ordinance amendment regarding the request from Faith Covenant Church. He has 330 feet of common boundary with the church; feels the ordinance amendment would discriminate people owning less property; property values might go down because of this; and there being a possibility of commercial uses down the road.

Marc Eix, pastor of Faith Covenant Church, also commented on Z11-09 ordinance amendment. He spoke with Mr. Soltes and understands his concerns; regarding property values – since the high school is already there, this would not change his property value; they have 10 acres bordering 8<sup>th</sup> and 12<sup>th</sup> Streets; with current ordinance very little can be done with our property; we are good stewards of our property and continue to be good neighbors.

Steve Paine, 38 Cottage Lane, represented the Manistee Manufacturing Council and spoke in regards to the Waterfront District ordinance amendment; commented on the value of rail service to the industries and the people in this community; those industries are providing employment in this area; they are in the position they are because of location of both rail and shipping; concerned about the negative effects of possibly shutting down the rail service; industry and tourism can co-exist.

**CONSENT AGENDA.**

- Minutes - November 1, 2011 - Regular Meeting  
- November 15, 2011 - Organizational Meeting
  
- Payroll - October 31 – November 6, 2011 - \$ 51,409.34  
- November 7 - 13, 2011 - \$ 54,535.60  
- November 14 – 20, 2011 - \$ 51,030.19  
- November 21 – 27, 2011 - \$ 67,227.32
  
- Cash Balances Report - October 2011

- Notification Regarding Next Work Session – December 13, 2011  
Rick Liptak of the Michigan Department of Transportation will make a presentation on planned improvements to the US-31 intersection; and such business as may come before the Council. No action is required on this item.
- Consideration of Consideration of a Resolution Authorizing Charitable Gaming License, Manistee Ski Club.  
The Manistee Ski Club, a 501(c)3 non-profit organization, is organizing a raffle to help raise funds for the club to help keep the cost of participation as low as possible for the athletes. They have applied for a raffle license with the State Charitable Gaming Division. A resolution from the local government is required that recognizes them as a non-profit organization operating in the community.
- Consideration of a Bottle Drive, Conservatory of Dance.  
The Conservatory of Dance is requesting authorization to conduct a bottle drive in the City of Manistee to raise funds for the Northfire Dance Company to attend a workshop. The bottle drive would be held on Saturday and Sunday, January 7 & 8, 2012.

MOTION by Hornkohl, second by Haydon to approve the Consent Agenda as presented.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Hornkohl, Haydon, Zaring, Adams, and Marshall

NAYS: None

**CONSIDERATION OF ORDINANCE Z11-01 TO THE ZONING ORDINANCE.**

The Council Ordinance Committee met on November 10, 2011. At that meeting they determined that Ordinance Z11-01 (amendments to the Waterfront District) should be presented again for Council’s consideration.

This will be the first reading of the proposed Ordinance Z11-01. A second reading and possible adoption could take place at the December 20, 2011 Council meeting.

MOTION by Hornkohl, second by Zaring to introduce Ordinance Z11-01 to the Zoning Ordinance. Rose gave a brief background of this amendment, stating that this would remove industrial use from this district – does not eliminate rail. Discussion followed including the negative effect on the condos in the area, noise complaints, keeping industrial options open for potential jobs, and possibly splitting the waterfront district by keeping the area north of the bridge as is and just change the peninsula area.

With a roll call vote this motion failed, 3-4.

AYES: Hornkohl, Haydon, and Zaring

NAYS: Kenny, Scrimger, Adams, and Marshall

**CONSIDERATION OF ORDINANCE Z11-08 TO THE ZONING ORDINANCE.**

The Planning Commission has developed a zoning amendment that would address wind energy conversion systems. These systems, intended to primarily serve the needs of the property upon which it is located, would be allowed in all zoning districts.

This will be the first reading of the proposed Ordinance Z11-08. A second reading and possible adoption could take place at the December 20, 2011 Council meeting.

MOTION by Marshall, second by Scrimger to introduce Ordinance Z11-08 to the Zoning Ordinance. A brief discussion followed regarding height, noise, and who would benefit from this.

With a roll call vote this motion passed, 5-2.

AYES: Scrimger, Hornkohl, Zaring, Adams, and Marshall

NAYS: Kenny and Haydon

**CONSIDERATION OF ORDINANCE Z11-09 TO THE ZONING ORDINANCE.**

Faith Covenant Church made application to the Planning Commission to amend Section 1868 Place of Public Assembly of the Zoning Ordinance; the proposed ordinance amendment would read:

A large Place of Public Assembly shall front on and be accessed primarily from a key street segment, as defined here, ***unless it is located on a parcel of land with a minimum area of five (5) acres.***

A public hearing was held on October 6, 2011 after which the Planning Commission made a motion to recommend to City Council to amend the ordinance. This will be the first reading of the proposed Ordinance Z11-09. A second reading and possible adoption could take place at the December 20, 2011 Council meeting.

MOTION by Marshall, second by Zaring to introduce Ordinance Z11-09 to the Zoning Ordinance. A lengthy discussion followed including the approval of special use permits, who this ordinance would apply to, and how is this different than the industrial use in the Waterfront District.

With a roll call vote this motion passed, 4-3.

AYES: Kenny, Scrimger, Zaring, and Marshall

NAYS: Hornkohl, Haydon, and Adams

**CONSIDERATION OF A DRIVEWAY LICENSE FOR 523 SECOND STREET.**

Benjamin Wagner and Kay Wagner own the property at 523 Second Street (corner of Second Street and Cedar Street hill). During the Cedar Street CSO project the City closed the hill to vehicular traffic. Ms. Wagner has a garage that fronts on Cedar Street hill and has been accessing the entrance on Cedar Street by a gravel drive that was constructed on City right-of-way.

Ms. Wagner has submitted a request to City Council for a License Agreement. Staff has reviewed Ms. Wagner's request and is recommending City Council grant Ms. Wagner a License Agreement that allows her to construct a driveway.

MOTION by Hornkohl, second by Haydon to authorize a Non-Exclusive Revocable License to Benjamin Wagner and Kay Wagner for a driveway in the City right-of-way to provide access to the garage at 523 Second Street. Deisch stated that the City will put up temporary, flexible fencing for the winter along the hill and the Wagner property for the protection of sledders and the property owner.

After discussion, with a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Hornkohl, Haydon, Zaring, Adams, and Marshall

NAYS: None

### **CONSIDERATION OF A LICENSE AGREEMENT WITH CONSUMERS ENERGY.**

Consumers Energy Company has prepared a License Agreement that would allow overflow parking from the Arthur Street Boat Launch to use the parking lot of their former facility at 26 Arthur Street. The City Attorney has reviewed and approved the License Agreement.

MOTION by Hornkohl, second by Haydon to authorize the Mayor and City Clerk to sign a License Agreement with Consumers Energy Company.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Hornkohl, Haydon, Zaring, Adams, and Marshall

NAYS: None

### **CONSIDERATION OF IMPLEMENTING AUTOMATIC MUTUAL AID AGREEMENT WITH FILER FIRE DEPARTMENT.**

An Automatic Mutual Aid Agreement designed by the intergovernmental task force has been reviewed and tested. Approval of this agreement will provide enhanced safety, faster response and stronger fire attack support resulting in reduced fire loss for both jurisdictions. The City Attorney has reviewed and approved the agreement.

MOTION by Haydon, second by Hornkohl to support and approve the Automatic Mutual Aid Agreement with the Filer Charter Township Fire Department. After discussion, it was agreed that an addendum should be added later to the agreement that would deal with payment provisions.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Hornkohl, Haydon, Zaring, Adams, and Marshall

NAYS: None

**CONSIDERATION OF APPLICATIONS TO BOARDS AND COMMISSIONS.**

The City Clerk has taken action to advertise vacancies on the Airport Authority, Brownfield Redevelopment Authority, Compensation Commission, Harbor Commission, Historic District Commission, Parks & Beautification Commission, and the Ramsdell Theatre Governing Authority. The following applications have been received:

**AIRPORT AUTHORITY** – One vacancy, two year term ending 11/30/13. This is the City’s nomination to the County Board of Commissioners. (Council appointment)

Dale L. Picardat, 521 Pine Street\*

**BROWNFIELD REDEVELOPMENT AUTHORITY** – Two vacancies, two terms ending 6/30/13. (Mayoral appointment)

*None received*

**COMPENSATION COMMISSION** – Two vacancies, terms ending 9/30/14 and 9/30/15. (Mayoral appointment)

*None received*

**HARBOR COMMISSION** – One vacancy, three year term ending 10/31/14. (Council appointment)

Roger Zielinski, 529 First Street\*

**HISTORIC DISTRICT COMMISSION** – One vacancy, term ending 2/28/14. (Council appointment)

Mary E. Russell, 272 Lighthouse Circle

**PARKS & BEAUTIFICATION COMMISSION** – Two vacancies, one unexpired term ending 6/30/12; one three year term ending 6/30/14. (Mayoral appointment)

*None received*

**RAMSDELL THEATRE GOVERNING AUTHORITY** – One vacancy, three year term ending 6/30/14. (Mayoral appointment)

*None received*

\*Incumbent

MOTION by Haydon, second by Marshall to nominate Mr. Dale Picardat, 521 Pine Street, for the County Airport Authority for a two year term ending 11/30/13.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Hornkohl, Haydon, Zaring, Adams, and Marshall  
NAYS: None

MOTION by Hornkohl, second by Zaring to appoint Roger Zielinski, 529 First Street, to the Harbor Commission for a three year term ending 10/31/14.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Hornkohl, Haydon, Zaring, Adams, and Marshall  
NAYS: None

MOTION by Hornkohl, second by Marshall to appoint Mary E. Russell, 272 Lighthouse Circle, to the Historic District Commission for a term ending 2/28/14.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Hornkohl, Haydon, Zaring, Adams, and Marshall  
NAYS: None

The Council then directed the City Clerk to advertise the remaining vacancies.

**CONSIDERATION OF LEASE AMENDMENT, EQUIPMENT SPACE ON INDUSTRIAL PARK WATER TOWER WITH NEW CINGULAR WIRELESS PCS.**

New Cingular Wireless PCS, LLC has cellular antennas located on the City's industrial park water tank. They have requested a lease amendment to add additional equipment on the tank. Dixon Engineering has reviewed and approved the proposed installation. The annual rent will be increased by \$6,000 per year to \$30,000.

MOTION by Haydon, second by Hornkohl to approve a lease amendment with New Cingular Wireless PCS.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Hornkohl, Haydon, Zaring, Adams, and Marshall  
NAYS: None

**CONSIDERATION OF A RESOLUTION ADOPTING CHANGE TO MERS DEFINED BENEFIT PROGRAM FOR NEW HIRES IN THE USW DIVISION.**

The City and the United Steel Workers (USW) agreed to a one year labor agreement starting July 1, 2011. The agreement calls for all new eligible hires after July 1, 2011 to receive a lower, 1.5% pension multiplier. Council must approve the resolution to implement this change.

MOTION by Hornkohl, second by Zaring to approve a resolution adopting a change to MERS defined benefit program for new hires in the USW division.

With a roll call vote this motion passed, 5-2.

AYES: Kenny, Scrimger, Hornkohl, Zaring, and Marshall

NAYS: Haydon and Adams

**A REPORT FROM 2-1-1 ACTION TEAM AND ALLIED WASTE SERVICES.**

Ms. Evelyn Szpliet reported on the activities of the 2-1-1 Action Team and responded to questions the Council had regarding their activities.

Mr. Todd Harland reported on the activities of Allied Waste Services and responded to questions the Council had regarding their activities.

**CITIZEN COMMENT.**

Carol Pasco, 610 Spruce Street, wanted to publicly thank Richard Mack for his dedication and years of service on City Council.

Cyndy Fuller informed Council of Allied Waste's donation of all removal services in regards to the Vogue Theatre renovation; they are committed to this community.

**OFFICIALS AND STAFF.**

Rose stated that this is a rough time for development and that stability is needed on the peninsula so that developers will come back; asked Council for direction on Z11-01. A work session will be scheduled for further discussion.

Bachman received a letter regarding the City owning a police dog. He clarified this by stating that the City *does not* have a canine unit, and *has not* applied to receive a grant for one.

**ADJOURN.**

MOTION to adjourn was made by Haydon, second by Marshall. Meeting adjourned at 9:15 p.m.

Michelle Wright CMC/CPFA, MiCPT  
City Clerk/Deputy Treasurer