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## PROCEEDINGS OF THE MANISTEE CITY COUNCIL - August 22, 2017

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A special meeting of the Manistee City Council was called to order by his honor, Mayor James Smith on Tuesday, August 22, 2017 at 7:30 p.m. in the City Hall Council Chambers, 70 Maple Street, followed by the Pledge of Allegiance.

**PRESENT:** Dale Cooper, Lynda Beaton, Roger Zielinski, Robert Goodspeed, James Smith, Mark Wittlieff, and Erin Pontiac.

**ALSO PRESENT:** City Manager – Thad Taylor, City Attorney – George Saylor, City Clerk – Michelle Wright, DPW Director – Jeff Mikula, Finance Director – Ed Bradford, Public Safety Director – Tim Kozal, and City Engineer – Shawn Middleton / Spicer Group.

### **CITIZEN COMMENTS ON AGENDA RELATED ITEMS.**

Bob Grabowski, 341 Fourth Street / Tom Rotta should not be allowed the information requested, deny his appeal.

### **CONSENT AGENDA.**

Councilman Cooper requested the removal of Item IX. b.) Consideration of Manistee County Homeward Bound Animal Shelter Annual Strut Your Mutt Event.

- Minutes
  - August 1, 2017 - Regular Meeting
  - August 8, 2017 - Work Session
  - August 15, 2017 - Regular Meeting
  
- Financial Reports
  - Payroll
    - July 3 – July 16, 2017 - \$128,076.55
    - July 17 – July 30, 2017 - \$127,695.36
  - Invoices
    - July 18, 2017 - \$472,551.33
    - July 21, 2017 - \$856,686.48
    - July 31, 2017 - \$ 50,005.99
  
- Notification Regarding Next Work Session – September 12, 2017
  - A discussion will be conducted on the Sidewalk Ordinance / Sidewalk Program; Sale of City-Owned Property CP-3; Recycling Center; and such business as may come before the Council.

MOTION by Goodspeed, second by Zielinski to approve the Consent Agenda as presented with the removal of Item IX. b.).

With a roll call vote this motion passed unanimously.

**AYES:** Cooper, Beaton, Zielinski, Goodspeed, Smith, Wittlieff, and Pontiac  
**NAYS:** None

**CONSIDERATION OF LOCAL REVENUE SHARING BOARD GRANT APPLICATIONS.**

The Local Revenue Sharing Board (LRSB) distributes 2% money from the Little River Casino. The deadline for 2017 Cycle II applications is Friday, September 1, 2017 at 5:00 p.m. City staff has prepared two grant applications for submission to the Local Revenue Sharing Board. This agenda item will include two separate motions, one for each grant application.

MOTION by Zielinski, second by Goodspeed to authorize the submission of a grant application to the Local Revenue Sharing Board for a Public Safety Utility Vehicle in the amount of \$25,409.12.

With a roll call vote this motion passed, 6-1.

AYES: Cooper, Zielinski, Goodspeed, Smith, Wittlieff, and Pontiac  
NAYS: Beaton

MOTION by Goodspeed, second by Wittlieff to authorize the submission of a grant application to the Local Revenue Sharing Board for two Vindicator Nozzles in the amount of \$1,804.90.

With a roll call vote this motion passed unanimously.

AYES: Cooper, Beaton, Zielinski, Goodspeed, Smith, Wittlieff, and Pontiac  
NAYS: None

**CONSIDERATION OF AUTHORIZING A NOTICE OF INTENT FOR THE ISSUANCE OF WATER AND SEWER REVENUE BONDS IN ONE OR MORE SERIES IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000.**

The most recent Michigan Department of Environmental Quality (MDEQ) NPDES permit effective January 1, 2017 includes a final wet weather corrective action plan to eliminate the last combined sewer overflow. This is the culmination of a twenty year sewer separation process. This project and the MDEQ requirement has been discussed with Council and the Community several times over the last few years. The Notice of Intent Resolution is the first step in issuing these bonds.

Council reviewed the video recording from the Tuesday, August 15, 2017 meeting at which Pat McGow, bond counsel at Miller Canfield spoke on the bonding process, and the City Engineer answered questions posed by Council members. Presentation was then given by Mikula, Middleton, and Bradford detailing the background, history, statement of the problem, and explaining the bonding process.

MOTION by Wittlieff, second by Zielinski to adopt a Notice of Intent Resolution for the issuance of Water and Sewer Revenue Bonds in one or more series. Lengthy discussion followed including cost, timelines, ability of citizens to exercise their rights, potential fines if timeline is not met, and Council's ability to approve each bond.

With a roll call vote this motion passed unanimously.

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AYES: Cooper, Beaton, Zielinski, Goodspeed, Smith, Wittlieff, and Pontiac  
NAYS: None

### CONSIDERATION OF DESIGNATING A VOTING DELEGATE FOR MML ANNUAL MEETING.

The Annual Convention for the Michigan Municipal League (MML) will be held September 13-15, 2017. Pursuant to the provisions of the League bylaws, we are requested to designate by action of the governing body, one official who will be in attendance at the convention as the official representative to cast the vote of the City of Manistee at the annual meeting, and if possible, to designate one other official to serve as an alternate. Signed up to attend the convention are Mayor Smith, Mayor Pro-Tem Zielinski and City Manager Taylor.

MOTION by Wittlieff, second by Pontiac to appoint Mayor Pro-Tem Zielinski as the voting delegate to the Michigan Municipal League's annual convention.

With a roll call vote this motion passed unanimously.

AYES: Cooper, Beaton, Zielinski, Goodspeed, Smith, Wittlieff, and Pontiac  
NAYS: None

MOTION by Beaton, second by Goodspeed to appoint City Manager Taylor as the alternate voting delegate to the Michigan Municipal League's annual convention.

With a roll call vote this motion passed unanimously.

AYES: Cooper, Beaton, Zielinski, Goodspeed, Smith, Wittlieff, and Pontiac  
NAYS: None

### CONSIDERATION OF A FOIA APPEAL, TOM ROTTA.

Tom Rotta submitted a FOIA request to the City for police incident records involving Manistee residents Jeneva (aka Jen) Schaub and/or her ex-husband Bruce Schaub since 2014. The City provided some records and after consulting with the Manistee County Prosecuting Attorney, on August 15, 2017 denied the request as to reports relating to the incident that took place on August 8, 2017. The basis indicated for the denial was that the records are exempt from disclosure under the Michigan Freedom of Information Act as they constitute investigative records compiled for law enforcement purposes and disclosure would interfere with law enforcement proceedings, in part, as disclosure could reveal direction of the investigation, alert potential witnesses and disclose facts before completion of witness interviews, all of which may negatively affect the ability of law enforcement to gather reliable information. Further, disclosure could jeopardize both the prosecution and defense right to a fair trial.

Mr. Rotta has indicated his decision to appeal the denial indicating: I APPEAL this FOIA response (as pertains to the incident report generated on 8-8-17 concerning the killing of Bruce Schaub, and all other partially or non-exempt public records supplementing that report since then) citing effectively the same rationale I used for appealing the total denial of the records concerning the killing of Lee Pat

Milks on April 7th.

The last appeal of Mr. Rotta was factually different and involved a lengthy statement by Mr. Rotta that is unrelated to the records requested in the current FOIA Request. The previous statement from the last appeal is contained in Mr. Rotta's email of April 7, 2017.

MOTION by Wittlieff, second by Cooper to Deny the appeal of Mr. Rotta.

With a roll call vote this motion passed unanimously.

AYES: Cooper, Beaton, Zielinski, Goodspeed, Smith, Wittlieff, and Pontiac

NAYS: None

**CONSIDERATION OF MANISTEE COUNTY HOMEWARD BOUND ANIMAL SHELTER ANNUAL STRUT YOUR MUTT EVENT.**

The Manistee County Homeward Bound Animal Shelter would like to hold their annual Strut Your Mutt event on Sunday, September 17, 2017. They plan to start at the Lions Pavilion, walk to and down the Riverwalk as far as the House of Flavors and back to the Lions Pavilion. The time for this event is from noon to 4 p.m.; with the walk occurring between 1 p.m. and 3 p.m.

MOTION by Beaton, second by Zielinski to authorize the Manistee County Homeward Bound Animal Shelter Strut Your Mutt event on Sunday, September 17, 2017; subject to appropriate department approvals. Discussion followed.

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

AYES: Beaton, Zielinski, Goodspeed, and Pontiac

NAYS: Cooper, Smith, and Wittlieff

**CITIZEN COMMENT.**

Comments received by:

- Gary Patulski, 159 Quincy Street / meeting should be videotaped; when bond amounts were discussed, no time to react, and no fallback plan.
- Bob Grabowski, 341 Fourth Street / agrees with not allowing dogs on the riverwalk and liability issues.

**OFFICIALS AND STAFF.**

*None received.*

**COUNCILMEMBERS.**

Goodspeed wished everyone a safe Labor Day weekend.

Smith thanked people for attending this special meeting.

**ADJOURN.**

MOTION to adjourn was made by Goodspeed. Meeting adjourned at 9:06 p.m.

Michelle Wright MMC / CPFA, MiCPT  
City Clerk/Chief Deputy Treasurer