

COUNCIL PROCEEDINGS

July 21, 2014

The Municipal Council of the City of Alpena met in regular session in the City Hall on the above date and was called to order at 7:00 p.m. by the Mayor.

Present: Mayor Waligora, Councilmembers Sexton, Nielsen, Nowak, and Johnson.

Absent: None.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

MINUTES

The minutes of the closed session of July 7, 2014, and regular session of July 7, 2014, were approved as printed.

MODIFICATION TO AGENDA

Moved by Councilman Sexton, seconded by Councilwoman Nielsen, that the following modification to the agenda be approved:

1. Add item 14, Council action, if necessary, on City/Township water and sewer issues.

Carried by unanimous vote.

CONSENT AGENDA

Moved by Councilman Nowak, seconded by Councilwoman Johnson, that the following Consent Agenda items be approved:

1. Bills Allowed – in the amount of \$306,969.36 be allowed and the Mayor and City Clerk authorized to sign warrants in payment of same.
2. One Mayoral appointment to the Historical District Study Committee for an undefined term (Douglas Pugh).
3. One Mayoral reappointment to the Downtown Development Authority for a

four-year term expiring on 8/1/2018 (Dan Florip).

4. Approval of budget amendments to finish incomplete projects from fiscal year 2013-2014.
 - 1) Fire Department – Jaws of Life.
 - 2) Sewer Fund – Land improvements, driveway resurfacing, flow meters, and entrance gate.
 - 3) Water Fund – Clear well repair.
 - 4) Light Department – Light pole replacements.
 - 5) I.T. Department – Wired city.

Carried by unanimous vote.

TREASURER'S FINANCIAL REPORT

Moved by Councilman Nowak, seconded by Councilman Sexton, to receive and file the Treasurer's Financial Report of July 1, 2013, through June 30, 2014.

Carried by unanimous vote.

BLACK SHEEP PUB REQUEST FOR OUTDOOR SEATING

Moved by Councilman Nowak, seconded by Councilwoman Nielsen, that the request of Black Sheep Pub to have outdoor seating on the sidewalk at the front entrance, be approved.

Carried by unanimous vote.

CLOSED SESSION

Moved by Councilman Sexton, seconded by Councilwoman Nielsen, that the Municipal Council adjourn to a closed session at 7:27 p.m., to discuss attorney client privilege written opinion.

Carried by unanimous vote.

RECESS

The Municipal Council recessed at 7:27 p.m.

RECONVENE – CLOSED SESSION

The Municipal Council reconvened in closed session at 7:35 p.m.

RECONVENE – OPEN SESSION

The Municipal Council reconvened in open session at 8:07 p.m.

**MOTION TO AUTHORIZE FILING OF COMPLAINT AGAINST THE
TOWNSHIP OF ALPENA BY THE ALPENA CITY ATTORNEY**

Whereas, in 2013 the City received a water and sewer Rate Study Report from an independent consultant; the consultant strongly recommended that water and sewer rates be set at a level which is necessary to maintain the integrity of the City's utility system; in 2014 the City took an initial step to revise its water and sewer rates for all customers consistent with the consultant's recommendation; the 2014 rate increase was also consistent with a 1977 Water & Sewer Agreement between the City and Alpena Township; Alpena Township has formally rejected these 2014 rates and has failed to make a full payment of its water and sewer invoice as required of all utility customers; and its formal rejection of the 2014 rates coupled with its non-payment of a full invoice shows that the Township will continue making incomplete payments; and

Whereas, an additional disagreement exists between the City and Alpena Township as to whether the 1977 Agreement regarding water and sewer rates has expired, and

Whereas, the City desires to treat all of its water and sewer customers equally and all other customers are required to make full payment of utility invoices, and

Whereas, discussions between the City and Alpena Township have not resolved these issues and the City will not harm water and sewer customers in Alpena Township

by terminating water and sewer services for non-payment; and

Whereas, the City has no alternative except to seek Court intervention.

Therefore, I move that the Alpena City Council authorize City Attorney William Pfeifer to:

- A. commence and pursue litigation against Alpena Township seeking such legal remedies, which in his professional judgment, are in the best interests of the City and which may include seeking a Court Order to force payment of the unpaid balance owed for water and sewer services, obtain a Court Order requiring future water and sewer invoices to be fully paid on time and seek a determination regarding whether the 1977 Agreement between the City and Alpena Township has terminated;
- B. defend against any counterclaims raised by Alpena Township; and
- C. work in conjunction with Special Counsel, James Young, to protect the interests of the City in this litigation and in any discussions or negotiations related to this matter.

Carried by unanimous vote.

On motion of Councilman Sexton, seconded by Councilman Nowak, the Council adjourned at 8:15 p.m.

MATTHEW J. WALIGORA
MAYOR

ATTEST:

Karen Hebert
City Clerk