

City Commission  
July 17, 2017

Mayor Mark Warba called the regular meeting of the City Commission to order at 6:30 p.m.

Present: Commissioners Lynn Anderson, Tom Hogenson, Lorraine James, and Dan Rothstein; Mayor Mark J. Warba; City Manager Mark Gifford; City Attorney Eric D. Williams; and City Treasurer Aaron Kuhn.

Absent: None

There were 35 people in the audience.

**PLEDGE OF ALLEGIANCE**

There was a moment of silence for Roben Hood airport manager Mike Lafferty who passed away.

**APPROVAL OF THE AGENDA**

**APPROVAL OF MINUTES**

Commissioner Hogenson moved, seconded by Commissioner Anderson that the minutes of July 3, 2017 regular meeting be accepted.

Yeas: Anderson, Hogenson, James, Rothstein, Warba  
Nays: None

Commissioner Rothstein moved, seconded by Commissioner Anderson that the minutes of July 3, 2017 executive session be accepted.

Yeas: Anderson, Hogenson, James, Rothstein, Warba  
Nays: None

Commissioner Anderson moved, seconded by Commissioner James that the minutes of July 10, 2017 special meeting be accepted.

Yeas: Anderson, Hogenson, James, Rothstein, Warba  
Nays: None

**SPECIAL ORDERS OF THE DAY** – Steve Schroeder, Deputy Director of Public Safety, introduced Derek Vincent as the newly hired firefighter and the Clerk administered his Oath of Office.

**STUDY SESSION**

- a. Safety Rings and Call Stations – Heather Bowman

Heather Bowman presented a PowerPoint presentation on the City's emergency call towers that are stationed throughout the City. The City has been maintaining the emergency towers since 2012. Currently, there are six call towers that are stationed at Hemlock Park, Riverwalk /behind the Middle School, Northend Park, Hanchett Park, and River Street Park. There was a tower at Swede Hill Park, but it had to be taken out due to the construction of the Baldwin Street Bridge. This tower needs to be re-installed. Some of these towers have begun to show inconsistencies and the structures are starting to age and are becoming obsolete.

The River Street tower does not work properly due to it flooded the first year it was installed. Ms. Bowman is recommending that this tower be removed and the parts be used to fix the tower at Hanchett Park.

The Talk a Phone on the tower is the mechanism that when you press the button it connects to the modem and makes the phone call. When the River Street tower flooded and it would not make the phone call, a modem was ordered. The modem does not work with the Talk a Phone that is on the City's towers, the company was called and notified and are working on the issue. They have been working on this issue for a year and a half.

If the City were to replace the Talk a Phones and the modem mechanisms that would only be a short-term fix because the structures themselves are starting to age.

On the Hanchett and Swede Hill towers, cables will be affixed through Charter Communications in order to have service at these locations. This service will cost \$40.00 a month for each tower.

Ms. Bowman went to Holland, MI to a company called Code Blue. The towers from this company would be approximately \$7,500 – \$10,000 each.

Jayna Wekenman from the Jaycees updated the commission on the following projects:

- Life Jacket Drive. They gave out life jackets at the Community Expo last April.
- Sammy the Salmon mascot
- Created coloring pages with safety tips
- Fundraiser – selling dry bags for cell phones so that people can call on the river in case of an emergency.
- Helping with more signage along the river.

Gary Fitch gave a presentation regarding signage for the river. He believes that there is a serious problem of losing people to the river. He has seen people tubing and kayaking without life jackets on and feels that there is a need to educate people on how dangerous the river is. He has created a couple of signs that he would like to present to the Park and Recreation Board for their approval to install them in the parks.

Commissioner Hogenson suggested having signs that say, "Swimming is Prohibited" or "Swim at your own Risk" along the river. Mr. Fitch commented that some signs could be made.

Mayor Warba commented on the following three items:

1. The maintenance and or replacement of the emergency towers - If the towers are to continued, what is the cost and how will they be paid for.
2. Education/signage on the river - Additional signage
3. Life Jackets – Although educating and supplying life jackets is a good thing, there is no law that requires that kids wear life jackets on or by the river. The idea of giving out free life jackets is great; however, the City cannot require children to wear one. This needs to be put on parental responsibilities.

Commissioner James asked how the call towers were paid for in the beginning. Ms. Bowman stated that the money was raised through fundraising. There is still \$8,231 left in the River Safety line item in which the City administers and can use to purchase towers or equipment.

Commissioner James asked Mr. Williams what Charter Communication’s responsibility was to the City regarding the cables at Swede Hill. Mr. Williams responded by saying that according to the terms of the franchise, the City can require Charter to do certain things or they run the risk of having their franchise revoked. Mr. Williams will make contact with Charter Communications to see what progress they are making on this issue.

**PUBLIC HEARING** – 7:00 p.m.

- a. Mayor Warba opened the public hearing on a Request to Rezone the East Half Block of S. Warren Avenue from C-2 To RP at 7:30 p.m.

The Mayor opened the floor for comments from the audience to talk in favor of the rezoning. Jack Frizzell, 218 S. Warren, Tom Sage, Big Rapids, and Carolyn Marcinkewciz, Big Rapids all spoke in favor of the rezoning. There were no persons in the audience who spoke against the rezoning.

The public hearing was closed at 7:35 p.m.

**STUDY SESSION**

- b. Clay Cliffs – Mark Gifford

The resolution to incorporate Clay Cliffs into the City was tabled in June. Commissioner Hogenson commented that he has spoken to Big Rapids Supervisor Bill Stanek, Trustee Carman Bean and Trustee Jerry Everett. Commissioner Hogenson was surprised by the Big Rapids Township’s vote.

Commissioner Anderson would like to see the township reconsider their vote so this situation can end on a positive note.

Supervisor Stanek commented that he is in support of incorporating Clay Cliffs into the City and does not know why some of the board voted as they did. He would like a couple of people from the City and Township to meet and discuss this topic. In order for the

township to vote on this issue again, one of the people who voted against it would have to bring it up again for another vote. Mr. Stanek will see if he can arrange a meeting.

c. Surplus Property Code Amendment – Eric Williams

Eric Williams spoke on the proposed code amendments on the sale of City property. He would like staff to look at these proposed changes and advise him of any suggestions that they may have. He would like this to be an action item at the August 21, 2017 Commission meeting.

**PUBLIC COMMENT** – Rose Mary Jennings commented that she is concerned about the birds that have roosted on top of the Bjornson water tower. She has counted 40 birds and does not like the feathers that they are dropping. Ms. Jennings was also very disappointed that no one from the City attended the pool’s cake and ice cream social.

Matt Biolette, Republic, just came to the Commission meeting to say “HI”.

The City Commission took a 5-minute break.

**ORDINANCE NO. 707-07-17**

Commissioner Hogenson moved, seconded by Commissioner James, the adoption of the following ordinance:

**ORDINANCE REZONING THE EAST HALF BLOCK OF  
SOUTH WARREN AVENUE FROM C-2 TO RP**

WHEREAS, the Planning Commission conducted a public hearing on a request to rezone property in the East half block of South Warren Avenue from C-2 to RP Residential-Professional, and voted 3-3 on recommending the rezoning to the City Commission, and

WHEREAS, the City Commission ordered another public hearing on the rezoning of the East half block of South Warren Avenue from C-2 to RP, and

WHEREAS, the rezoning from C-2 to RP is consistent with the Master Plan and would encourage the orderly use and development of the East half block of South Warren Avenue, and

WHEREAS, the affected property owners within and around the East half block of South Warren Avenue have been given the required notice of the proposed rezoning from C-2 to RP.

NOW, THEREFORE, THE CITY OF BIG RAPIDS ORDAINS:

Section 1. The East half block of South Warren Avenue is rezoned from C-2 to RP Residential-Professional.

Section 2. The City zoning map is hereby amended to designate the East half block of South Warren Avenue as zoned RP Residential-Professional. The City staff is directed to amend the zoning map.

Section 3. The City Clerk is directed to publish this ordinance in The Pioneer.

Section 4. This Ordinance shall be effective 20 days after publication.

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

The Mayor declared the ordinance adopted.

Dated: July 17, 2017

Published: July 26, 2017

Scott Herron, 421 Green St., professor at FSU, gave a presentation on the benefits of raising and caring for chickens in the City. He raises chickens in order to educate his children on the importance of respecting animals and how they are important as part of the food chain. He also teaches his children how to grow fruits and vegetables. Mr. Herron commented that chickens eat Japanese Beetles and ticks and make very good manure.

Mayor Warba commented that he was concerned about residents being compliant, wondered if they would be able to seek a variance and asked who would be monitoring how many chickens they had. Mr. Sweppenheiser stated that he would follow up on any complaints.

Mr. Williams suggested a change to the ordinance. Section 4, 91.03 (1) should read as follows:

- 1) in a fully enclosed area within the back yard, set 10 feet back from the boundary and 40 feet from neighboring residences, with a coop no larger than 200 square feet suitable for roosting that is kept clean

#### **ORDINANCE NO. 708-07-17**

Commissioner Rothstein moved, seconded by Commissioner Anderson, the adoption of the following ordinance:

#### **ORDINANCE AMENDING TITLE 9 CHAPTER 91 SECTION 91.02 ANIMALS PROHIBITED, ADOPTING SECTION 91.03 CHICKENS PERMITTED, AND REPEALING SECTION 91.04 COLORING BIRDS PROHIBITED**

WHEREAS, a Public Hearing was held before the Planning Commission on allowing chickens to be kept within the City under specified terms and conditions, and

WHEREAS, the City Commission accepted the Planning Commission's recommendation to amend to allow chickens within the City under terms and conditions specified in the City Code,

NOW, THEREFORE, THE CITY OF BIG RAPIDS ORDAINS:

Section 1. Section 91.02 is amended by adding the words “except chickens” to read as follows.

91.02 ANIMALS PROHIBITED; EXCEPTIONS.

It shall be unlawful for any person to keep any animal or fowl **except chickens** within 500 feet of any dwelling, street, alley or public place; permit any animal or any fowl owned by him or in his possession or control to run at large in any street, alley or public place, or upon the premises of another without express permission of the owner or occupant thereof, except such animals as are commonly kept or housed as household pets.

Section 2. Section 91.04, which prohibits the coloring and sale of birds, is repealed.

Section 3. Section 91.03 prohibits the willful injury of birds and their eggs, and is renumbered as Section 91.04, which remains in full force and effect.

91.04 DISTURBING BIRDS.

It shall be unlawful for any person to willfully injure, molest, or disturb in any way any birds or the nest, eggs, young or brood of any such birds, except that this provision shall not apply to any birds declared by any law or this code to be “pests.”

Section 4. A new Section 91.03 captioned CHICKENS PERMITTED is adopted.

91.03 CHICKENS PERMITTED.

Up to 3 chickens may be kept per single family residential parcel of land under the following conditions and limitations:

- 2) in a fully enclosed area within the back yard, set 10 feet back from the boundary and 40 feet from neighboring residences, with a coop no larger than 200 square feet suitable for roosting that is kept clean
- 3) roosters are prohibited
- 4) no slaughter of chickens on site
- 5) the owner of the chickens must be a resident of the property where the chickens are kept
- 5) with a two-year temporary permit issued by the City and a fee of \$25.00.

Section 4. The City Clerk is directed to publish this ordinance in The Pioneer.

Section 5. This Ordinance shall be effective 20 days after publication.

Yeas: Anderson, Hogenson, James, Rothstein

Nays: Warba

The Mayor declared the ordinance adopted.

Dated: July 17, 2017

Published: July 26, 2017

**RESOLUTION NO. 17-98**

Commissioner Rothstein moved, seconded by Commissioner James, the adoption of the following:

**RESOLUTION AMENDING FISCAL YEAR 2017/2018  
GENERAL APPROPRIATIONS- 2017/2018 CARRY FORWARDS**

WHEREAS, the City of Big Rapids adopted FY 2017/2018 General Appropriations on June 5, 2017 per Resolution No. 17-66, and

WHEREAS, there are a number of items from fiscal year 2016-2017 that need to be carried forward into this fiscal year 2017/2018.

NOW, THEREFORE, BE IT RESOLVED, that the Big Rapids City Commission hereby approves the attached budget adjustments to carry forward to the 2017/2018 budget.

BE IT FURTHER RESOLVED, that the City Manager is authorized to amend the FY 2017/2018 City of Big Rapids Budget accordingly.

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

The Mayor declared the resolution adopted.

Date: July 17, 2017

**RESOLUTION NO. 17-99**

Commissioner Anderson moved, seconded by Commissioner Hogenson, the adoption of the following:

**RESOLUTION APPOINTING OFFICER DELEGATE TO ANNUAL MEETING OF THE  
MICHIGAN EMPLOYEE'S RETIREMENT SYSTEM ANNUAL MEETING**

BE IT RESOLVED, that Aaron Kuhn be appointed as Officer Delegate to the Annual Meeting of the Michigan Municipal Employee's Retirement System to be held on September 21-22, 2017, in Detroit, Michigan.

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

The Mayor declared the resolution adopted.

Date: July 17, 2017

**RESOLUTION NO. 17-100**

Commissioner Anderson moved, seconded by Commissioner Rothstein, the adoption of the following:

**RESOLUTION ELECTING THE MICHIGAN MUNICIPAL LEAGUE WORKERS' COMPENSATION FUND BOARD OF TRUSTEES**

WHEREAS, the Michigan Municipal League Liability Workers' Compensation Fund has a Board of Directors which is elected by participating members, and

WHEREAS, the vote for the members must be done by the governing body, and

WHEREAS, the ballot consists of five names, Incumbent members Councilmember Lois Allen-Richardson, City of Ypsilanti, Mayor Maureen Donker, City of Midland, Mayor Deb Doyle, City of Durand, City Manager Scott Erickson, City of Ironwood, and City Manager John Shay, City of Ludington.

NOW, THEREFORE, BE IT RESOLVED, that the City Commission recommends that the ballot be completed by voting for these five individuals and authorize the City Clerk to sign and submit.

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

The Mayor declared the resolution adopted.

Date: July 17, 2017

**ORDINANCE NO. 709-07-17**

Commissioner Hogenson moved, seconded by Commissioner Rothstein, the adoption of the following ordinance:

**ORDINANCE AMENDING TITLE 9 CHAPTER 94 BY ADDING FOUR SECTIONS OF CITY CODE REQUIRING THE CITY'S CONSENT AND A PERMIT FOR WORK AND INSTALLATION OF FACILITIES IN THE STREETS, ALLEYS, PUBLIC PLACES AND PUBLIC RIGHT OF WAY**

WHEREAS, the Michigan Constitution provides that no person or corporation operating a public utility shall have the right to use the highways, streets, alleys or other public places of any county, township, city or village for utility facilities without the consent of the City, and this legal principle should be stated plainly in the City Code, and

WHEREAS, Section 7.9(a) of the City Charter provides that the City Commission is authorized to exercise its power to license, prohibit, and regulate the use of its sidewalks, streets, and all structures and excavations within and under them, and this legal principle should be stated plainly in the City Code, and

WHEREAS, Chapter 94 should include a provision that a permit from the City and “as built” diagrams are required for any use, installation, or construction in the City streets, alleys, highways, public places or right of way, and

WHEREAS, Chapter 94 should include a provision authorizing the City to issue a revocable license or permit for installing or constructing facilities in the public right of way, and prohibiting the granting of an easement within the public right of way,

NOW, THEREFORE, THE CITY OF BIG RAPIDS ORDAINS:

Section 1. Sections 94.01A, 94.01B, 94.01C, and 94.01D are hereby adopted in Chapter 94 of the City Code.

**94.01A** No person, public utility, business, or association, public or private, shall have the right to use the City streets, alleys, highways, public places, or right of way for wires, poles, pipes, tracks, conduits, antennae or other utility facilities without the consent of the City, or to transact business therein without first obtaining a franchise from the City.

**94.01B** Every public utility franchise shall be subject to the right of the City to use, control, and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improving or maintaining streets, alleys, bridges and public places as shall arise from its use thereof, and shall protect and hold the City harmless from all damages arising from said use. The City may require every franchise to permit joint use of its property and appurtenances located in the streets, alleys and public places by the City and by other utilities insofar as such joint use may be reasonably practicable. The City Commission shall arbitrate the terms and conditions of joint use and the compensation to be paid. The City Commission’s decision shall be final.

**94.01C** No person, public utility, business or association, public or private, shall use, install or construct any wire, pole, pipe, track, conduit, antenna, or other utility facility in the City streets, alleys, highways, public places or right of way without first obtaining a permit from the City that describes the use, work, and facility and requires an “as built” blueprint or diagram to be filed with the City.

**94.01D** No easement shall be granted by the City for the placement or installation of any wire, pole, pipe, track, conduit, antenna or other facility in the City streets, alleys, highways, public places or right of way, but the City may grant a revocable license or permit for such purposes.

Section 2. The City Clerk is directed to publish this ordinance in The Pioneer.

Section 3. This Ordinance shall be effective 20 days after publication.

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

The Mayor declared the ordinance adopted.

Dated: July 17, 2017

Published: July 26, 2017

**RESOLUTION NO. 17-101**

Commissioner Hogenson moved, seconded by Commissioner Anderson, the adoption of the following:

**RESOLUTION ACCEPTING PROPOSAL FROM FLEIS & VANDENBRINK FOR PROFESSIONAL ENGINEERING SERVICES FOR A PUBLIC WATER SYSTEM ASSET MANAGEMENT PLAN**

WHEREAS, the Michigan Department of Environmental Quality (MDEQ), pursuant to the Michigan Safe Drinking Water Act, 1976 PA 399, requires municipalities with publicly owned water systems serving populations greater than 1,000 to prepare and submit as Asset Management Plan by January 1, 2018, and

WHEREAS, the City has retained Fleis and VandenBrink Engineering Inc. to provide engineering services, with the adoption of Resolution No. 15-52 dated June 1, 2015, and

WHEREAS, this plan will inventory and assess the water system, report the level of service, score/rank each asset and develop an appropriate plan for each asset, and

WHEREAS, Fleis and VandenBrink Engineering Inc. has submitted a proposal outlining the engineering tasks and services they will provide in the amount of \$19,200.

NOW, THEREFORE, BE IT RESOLVED, that the City Commission hereby accepts the proposal of Fleis and VandenBrink Engineering Inc. to provide engineering services to inventory and assess the water system, report the level of service, score/rank each asset and develop an appropriate plan for each asset and the cost be expensed from Account Number 591-560-802.048.

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

The Mayor declared the resolution adopted.

Date: July 17, 2017

**RESOLUTION NO. 17-102**

Commissioner Anderson moved, seconded by Commissioner James, the adoption of the following:

**RESOLUTION ACCEPTING PROPOSAL FROM FLEIS & VANDENBRINK FOR PROFESSIONAL ENGINEERING SERVICES FOR HEMLOCK PARK MITCHELL CREEK SANITARY SEWER CROSSING REPLACEMENT**

WHEREAS, the City has retained Fleis and VandenBrink Engineering Inc. to provide engineering services, with the adoption of Resolution No. 15-52 dated June 1, 2015, and

WHEREAS, the City desires professional services to assist in the design, bidding and soil borings phase to replace the Hemlock Park, Mitchell Creek sanitary sewer, and

WHEREAS, Fleis and VandenBrink Engineering Inc. has submitted a proposal outlining the engineering tasks and services they will provide in the amount of \$25,100.

NOW, THEREFORE, BE IT RESOLVED, that the City Commission hereby accepts the proposal of Fleis and VandenBrink Engineering Inc. to provide engineering services for the design, bidding and soil borings phase in the amount of \$25,100 for Hemlock Park, Mitchell Creek sanitary sewer replacement and the cost be expensed from Account Number 598-561-967.031.

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

The Mayor declared the resolution adopted.

Date: July 17, 2017

### **RESOLUTION NO. 17-103**

Commissioner Rothstein moved, seconded by Commissioner Hogenson, the adoption of the following:

#### **RESOLUTION ON MAYORAL APPOINTMENTS TO BOARDS AND COMMISSIONS**

BE IT RESOLVED, that the City Commission hereby confirms the following Mayoral appointment/recommendation:

### **DOWNTOWN DEVELOPMENT AUTHORITY**

Mark Sochocki re-appointed to a full term ending August 2021

Bob Patterson re-appointed to a full term ending August 2021

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

The Mayor declared the resolution adopted.

Date: July 17, 2017

### **UNSCHEDULED BUSINESS**

Commissioner Hogenson commented on the Manager's Newsletter dated August 14<sup>th</sup> regarding the use of border collies to deter the geese in City parks. He believes that this is a good idea.

Mayor Warba stated that the User Charge contract is close to being finalized.

There was discussion regarding the passing of Mike Lafferty, Roben Hood airport manager. The contract with Colt Aviation ends October 31, 2017. Mr. Gifford will be talking to Colt to see if they will stay until October 31<sup>st</sup>. Mr. Lafferty was a good ambassador for the airport and will be missed.

There being no further business to come before the City Commission, the Mayor declared the meeting adjourned at 8:50 p.m.

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Mayor Mark J. Warba

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Tamyra K. Gillis, City Clerk