



**Minutes of the Special Meeting of the
Cedar Springs City Council**

**Thursday, October 30, 2014
7:00 p.m.**

**Cedar Springs City Hall
66 S. Main St.
Cedar Springs, Michigan**

1. The Meeting was Called to Order by Mayor **Mark Fankhauser** at 7:00 p.m. The Pledge of Allegiance was recited.

2. ROLL CALL:

Mr. Ken Benham	Present
Mrs. Ashley Bremmer	Present
Mr. Daniel Clark	Excused
Mr. Gerald Hall	Present
Mr. Robert Truesdale	Present
Mayor Pro Tem Mrs. Patricia Troost	Present
Mayor Mr. Mark Fankhauser	Present

3. PUBLIC FORUM.

Marty Fraser, 27 W. Cherry St., said he was not at the meeting as a department head; but a tax paying citizen. He had been sitting in City Council meetings for 40 plus years and felt that what Councilmembers decided was in the best interests of the community. Said he had even run for City Council and when the voters selected his opponent he walked away with the feelings that the citizens had spoken and he had no hard feelings; but he still had confidence in the Council. He has now lost his confidence in the current Council. There were members who appear dazed and confused. If things did not go in their way, they have a puppet stir things up and file a lawsuit. He is tired of seeing his tax dollars spent on legal fees. We as adults should sit down and work the problems out. He questioned how that could happen when there were a couple of councilmembers and more than one private citizen that were behind the unprofessional actions causing the mayhem. **(Attached Item A)**

Paul Fankhauser, 111 W. Muskegon St., stated he had been a taxpayer of the City for over 50 years and he hated to see his money wasted on legal fees; he thought Thad Taylor had done a fine job as City Manager and was appalled at some of Bob Truesdale's behavior.

Steve McBride, 139 7th St., rules were rules and when rules were not gone by law takes over. The people needed to fight for the running of its municipality.

When the people were not addressed there were laws to protect them. Without laws and without lawsuits there would be nothing but anarchy.

Chris Powell, 316 W. Cherry St., wanted to know what was in the city manager's contract. He had never seen it.

Mark Laws, the City Council was not following the rules and regulations. There was a violation of the Open Meetings Act. We were here because the City Attorney didn't know what he was talking about. This City Council shouldn't be making this decision tonight. You should wait for a new City Council to make the decision. The City Council is acting like a king and shouldn't be making decisions. The change to the City logo and tagline was done wrong. It is just hard to believe.

Scott Troost, 184 Johnson St., the City Council has followed the law; it followed the cease and desist order from the Red Flannel Festival. They have done nothing wrong.

Molly Nixon, 89 S. Fifth St., the reason we are here tonight is because there was a violation of the Open Meetings Act. The City Manager's contract was not talked about with the public. She did not understand why this needed to be rushed through. The City Council needs to consider things for citizens. Someone in the City Manager's position shouldn't have six months of severance pay. She was more in favor of a shorter contract. That would be more reasonable.

Sam Gebhardt, 5393 16 Mile Road, owner of a business at 112 W. Beech St., wanted to remind the Council that they worked for him. It was not a warm and fuzzy feeling when people came into City Hall. Why can't you work things out, he said. He didn't understand why things needed to be rushed through. You should spend time on something worthwhile. It was a rash decision on the contract.

Sara Finch, 182 Elm St., some of the money that was being saved on police services should be spent on a customer service class for the front office people. They don't even acknowledge you half the time, she said.

Pat Capek, 100 E. Muskegon St., stated she had sat on the City Council for 16 years and was dismayed at certain actions of some members of the City Council calling them uninformed legal maneuverings. No decision of the Council was ever made on the spur of the moment. This lawsuit was the height of ridiculous activity. It was a frivolous accusation. The City Manager had been hired when she was on the Council. His contract was well thought out by the City Manager, City Attorney and the City Council, she stated. When people come before the City Council and say they didn't know what was happening, she can't understand that. We have a newspaper, a website. Come to meetings to find out about what is occurring. She was a part of the ad hoc committee that met with the Red Flannel Festival Board. There were three meetings and every time we left a meeting we thought we had resolved it. There were hugs all around, handshakes and the next day we would get a snotty letter from their attorney and we all wondered if we had attended the same meeting. The logo was removed per their requirement, she stated. It was a heartbreaking decision. The City Council and ad hoc committee are not to blame.

Rand Ruwersma, 7770 17 Mile Road, said he wanted to set the record straight. He was on the Red Flannel Festival Board at the time. The whole thing started when the City sent a letter to the Red Flannel Festival stating they were going to bill the Festival for services. Two months later they were using the logo to make money for the library.

Dan Spitsbergen, 1430 13 Mile Road, Sparta and business owner at 111 S. Main St., said he had been researching minutes and he didn't see anything where a review of the City Manager's contract had taken place. The public had the right to know if the City Manager was doing a good job and if this was going on behind closed doors, it was wrong.

Stuart Maynard, 79 E. Ash St., you all need to grow up, he said. You are wasting time, effort and money. I don't hold anyone accountable; we are all accountable, he said. There is no way this can continue; it gets nothing accomplished.

~~**Betty Kiphart**, 1575 17 Mile Road, I am tired of seeing everyone bash the City Council; they have good intentions for the City. Thank you for your service.~~

4. **Motion by Troost, supported by Benham, to approve the agenda.**

VOTE: 6 – 0, Motion Carried.

5. MOTION/DELIBERATION/DECISION.

- A. To consider a motion to rescind the motion to adjourn to executive/closed session as described in the minutes of the August 21, 2014 City Council meeting (Item No. 11) and to affirm, approve, reenact and ratify the Employment Agreement between Thad Taylor and the City of Cedar Springs dated September 10, 2014.

Discussion:

City Attorney **Jeff Sluggett**, said the City had been served with a lawsuit alleging a violation of the Open Meetings Act and seeking invalidation of the City Manager's Employment Agreement. Two of the sitting Councilmembers and a private citizen were plaintiffs in that lawsuit, he explained. In a meeting with the Mayor it had been noted that Subsection 10(5) of the Open Meetings Act provides a tool allowing a public body to reenact a disputed decision. To enable the City Council to affirm its previous approval of the Employment Agreement in a transparent manner and to remove any taint as to the validity of that Agreement, it was his recommendation for the City Council to consider adoption of the proposed motion. In addition it was his recommendation that the Council hold a public hearing on the matter to again allow the public to speak on the issue. The other portion of the motion to rescind the motion to adjourn to closed session, would allow the Clerk to release copies of the minutes to the public and reenact it as an open meeting.

Hall asked if the Council had violated the Open Meetings Act.

Sluggett said he was not going to comment on whether the Council had violated the Open Meetings Act.

Truesdale asked if the attorney had sent correspondence. The Council was told in the workshop that the Mayor had correspondence from the attorney. We only saw Mr. Taylor's original contract with lines in it. Why would we go from one month severance pay for every year of employment and jump to six months. I saw no correspondence from you or your office, he said. We were misled into a contract. We want to do what is best for the citizens. What is good about giving the City Manager \$35,000 if the City Manager is terminated?

Sluggett stated the Employment Agreement was based on the same agreement that the City Manager had been working under. The severance pay only applied if he was terminated at any time without cause or if the Council decided they wanted a new face. The contract was a public record. Anyone from the public could request a copy. You could request it under the Freedom of Information Act.

Truesdale said he found it strange that an all new contract had not been drawn up. The benefits were costing the City money. He also understood that with the action the Council was taking that evening, the lawsuit could be null and void.

Sluggett said, he believed that the contract could be viewed as a generic contract.

Fankhauser stated that contracts were not generally thrown out. Bits and pieces were used to make new contracts. If a contract was totally redone, it would be very costly. Negotiating teams put together contracts. This contract had been negotiated under the parameters of the law and the City's Charter with help from the City's Attorney, he said.

Truesdale said none of the Council had seen the contract but in a closed session. We didn't have time to research it. I don't know why this meeting had to be called. One of our key players isn't even here tonight and that's not fair, he said. The lawsuit was based on we broke the laws of the land and the only way this can play out is to keep going forward with the lawsuit.

Motion by Benham, supported by Troost, to consider a motion to rescind the motion to adjourn to executive/closed session as described in the minutes of the August 21, 2014 City Council meeting (Item No. 11) and to affirm, approve, reenact and ratify the Employment Agreement between Thad Taylor and the City of Cedar Springs dated September 10, 2014.

B. The Public Hearing opened at 7:50 p.m.

Rose Ellen Powell, 316 W. Cherry St., said she did not understand why if the Council wanted to go into a closed session, they were now hedging on that decision. Aren't you supposed to say why you are going into a closed session, she asked. This has been slammed on the people. The Council was rushing through things. People are surprised at the power of the mayor and City Council. You are slamming things on us and the people have to pay for it.

Mark Laws, said in reference to Pat Capek's comments, if the public didn't look at the website or see the notice on the door, they wouldn't know about tonight's meeting. The Ronny Merlington policy did exist and he didn't understand why more time had not been spent looking for it. There was no

need to rush through this. Do this at a regular meeting. There is no need to rush this.

Fankhauser said an exhaustive search of the City's minutes, resolutions and records had taken place and the Ronny Merlington Policy did not exist.

Louise King, 186 E. Ash St., said the City Manager may be a nice man; but he wasn't doing his job. When she complained about a neighbor's yard a couple of years ago, only one of the Councilmembers came to her home and took care of the situation. The City Manager doesn't enforce the City's codes.

Steve McBride, 139 7th St., this item needed to be tabled. I've tried to talk to the City Manager on several occasions, he said, and I have gotten no caring, no service. The only man I've gotten it from is that man right there, Bob Truesdale.

Tom Stressman, 13207 Oakcrest, Gowen, said he was here that night because Mr. Taylor was not there to defend himself. I know him personally, he said. He gives me an answer with any question I give him. Most people like Mr. Taylor, he said. There was one person in this room that doesn't like Mr. Taylor and doesn't like me because we told him no. I'm not going to take it anymore, he said. A standard contract is six month's severance pay. This was all political and blown out of proportion. It was nothing more than an assassination of his character.

Stuart Maynard, 79 E. Ash St., somebody tell me something good that Thad's done, he said. I don't like the man, he doesn't answer my questions. You don't have to be at City Hall to know what is going on. I talk to people, he said.

Pat Capek, 100 E. Muskegon St., the City Manager doesn't make the laws, she said. The City Council tells him what to do. He serves at the pleasure of this City Council. He would only get the severance pay if he is released from his contract for no reason.

Dan Spitsbergen, 1430 13 Mile Road, Sparta, we have been through good times and bad times and we have seen what we have to do to adapt. In 2012 I was against the contract at that time. There were no concessions from the previous contract. I am a firm believer in pulling our belts in and not giving away anything more.

Stressman, people do not know Mr. Taylor. They haven't talked to him. They are trying to hurt his character. The City Manager is an honorable man.

The Public Hearing closed at 8:10 p.m.

C. Council Deliberations:

Hall asked what a yes vote on the motion meant for the contract .

Sluggett said a yes vote would affirm the existing contract.

Hall said he did not agree with six month's severance pay. He had been an at will employee and if you were terminated, you were done, he said.

Fankhauser said the City Manager was forced to implement City Council decisions or a policy change. He needed to have some protection. He was in a unique position running a municipality day-to-day. Severance pay was a protective measure so that the City Manager can do his job without fear of termination.

Hall stated we saw the contract for 15 whole minutes before being asked to vote on it.

Fankhauser said Taylor's employment contract was a public document; anyone could have a copy of it. We have measures in place. Not everyone

can negotiate that contract. Negotiations don't work that way. You have labor and management negotiate both sides. Each side negotiates what is best for their side. On the City Council's side, I negotiated with Mr. Taylor and brought it to you and it was voted on in an open meeting.

Truesdale said he had never worked under a contract; but he did know right from wrong and there was no reason to vote on this motion that evening.

Fankhauser said he heard and respected his (Truesdale's) opinion; but the Employment Agreement had never been suppressed.

Truesdale said he didn't know the Council was going to discuss the contract until they went into closed session. If we wait another month to make this decision, we would have a key player here. We are moving too fast.

Troost asked what this reconsideration meant for the City.

Sluggett spoke regarding the pending litigation, under the Open Meetings Act, the plaintiffs could ask for and win legal fees which meant the City would be responsible for paying them. That was one of the reasons for the meeting that evening – to make clear that there was no continuing reason to pursue the litigation. The Employment Contract was at the meeting that evening and it could be reviewed line by line should the Council wish to do so. The other part was that there was a FOIA (Freedom of Information Request) requesting a copy of the closed session minutes. The City Clerk could not let them go unless the Council rescinded the motion to enter executive session.

Troost asked Truesdale what his purpose was for being on the City Council. Sometimes to you have to make hard decisions, she told him. Sometimes you have to make quick decisions.

Truesdale responded that a quick decision shouldn't be made when it was as important to the people of Cedar Spring as this was.

Troost asked if every time before a vote, the Council was supposed to get public input. We were all elected by the residents to make those decisions on their behalf, she said.

Truesdale responded that he was not going to answer that. He had only instigated the lawsuit because laws had been broken. Dan Clark should be included in this decision. He told the mayor that the council had afforded him the right to move a meeting because of his schedule; the same should be afforded Dan Clark.

Fankhauser said a decision that evening would stop the clock on attorney fees.

Sluggett said the options before the City with regard to the lawsuit were to move forward and answer the complaint. An injunctive hearing had already been scheduled and the complaint was going to be answered. A provision of the law allowed a private citizen to bring action against a public body and if successful in that endeavor, could be awarded attorney fees. At a minimum, this meeting tonight was an attempt to stop the process.

Fankhauser said if the meeting had not been held, the cost to the taxpayers could be much higher.

Troost asked if the City still had the right to press charges against those councilmembers who had violated the Open Meetings Act by divulging what went on in a Closed Session.

Sluggett said he would not give a legal opinion in a public meeting.

Truesdale, Tom (Stressman) said that I didn't like him. My problem with you (he told Stressman) is you have abused certain older citizens. I am an advocate for poor widows who have been mistreated by City Hall. I see things, he said. People being abused by people who use their authority and

position. We have forgotten God throughout the United States. I fear him and will stand before him on Judgment Day. We have got to learn to love one another. Cedar Springs should be a model city.

Bremmer asked if the decision was postponed for a month if **Truesdale** would drop the lawsuit.

Truesdale said his lawyer was out of the country. This lawsuit was a wake up call for the City, he said.

Troost asked why he (Truesdale) didn't bring his concerns to the Council before he filed a lawsuit.

Fankhauser said they (the plaintiffs) had rights. The Council should make decisions based on facts and we shouldn't attack them. The meeting that evening was called to discuss the motion and people shouldn't be attacked for personal opinions.

Troost said she was just concerned that what happened that evening would turn into another lawsuit.

Fankhauser said he would defer legal opinions to the City's Attorney.

Truesdale stated that if this meeting went on as planned, it would invalidate the lawsuit. However the hearing was pending which called for all future meetings to be videotaped so there wouldn't be a question of who said what.

Fankhauser asked if a meeting was videotaped how long was the tape kept.

Sluggett said it would depend on what the City's Record Retention Policy stated. Various municipalities kept tapes for varying time frames.

Benham stated he was appalled at some of City Councilmember's actions. It appeared as if they were trying to run the City Manager out of town. The City Manager did not take any health insurance benefits and had no leased car. He has been a good City Manager.

Bremmer asked Truesdale if the reason he wanted the decision postponed was because he was waiting for a new City Council to get in place.

Hall said he was not trying to run the City Manager out of town but felt he had some growing to do. If a new City Council comes on board, the City Manager will take direction from them.

Troost said the severance pay protects the City Manager. She felt he did an awesome job.

Benham stated the City Manager was getting the same raise City employees had received.

Deb Brunett, City Finance Director, stated employees had received a two percent pay increase last year and one percent this current year.

Truesdale said several business people had come to him about the City Manager. The manager had never darkened their door, he said. He's the contact for the City Council and he should stop in to see business people. The only time he has been in my business is because of a code violation. I just don't see him as a go-to person.

Hall asked to call the question.

Fankhauser asked if he could make a comment before calling the question.

Hall allowed him to do so.

Fankhauser said that Mr. Taylor may not be the most outgoing person; but as the mayor he has had input with him weekly. He has been diligent in keeping me up to date. He brought the CS Brewing Co. to town. He has been dynamic in working with people. Sometimes his answer isn't what people want to hear; but those decisions have been made by the City Council. He is not taking health care. People shouldn't object because someone has something better than they do. He has been looking out for the

best interests of the community. Bullying is a terrible thing. No one should be bullied into making a decision. Has he (the City Manager) not extended an option to each and every one of you to come in and talk to him, he asked. He has had two evaluations and both times he scored an above average rating. This man has done his job.

D. Roll Call Vote:	Troost	Yes
	Benham	Yes
	Hall	No
	Bremmer	Yes
	Fankhauser	Yes
	Truesdale	No

VOTE: 4 – 2, Motion Carried.

6. Council Comments:

Troost – her hesitation on the vote was because she didn't believe the Council had done anything wrong. It seemed that other Councilmembers were bringing a lawsuit every time they didn't get a vote to go the way they wanted. ~~Bob, I don't~~ always think you have the best interests of the City Council at heart. After the last City Council meeting after you said you wanted to put things behind you, you put signs up in your yard the very next day. Did you honestly mean what you said at the meeting, she asked.

Truesdale said you aren't in any position to determine what we did was right or wrong. In my book you can only go so far. Get it all on the table, did we or did we not do something something wrong? He appreciated each and every one who had come out that evening.

Benham – I've had it.

Hall – appreciated everyone being here; was looking forward to the community as a whole needing to move forward, not backwards.

Fankhauser – thanked each and every one of the councilors working together that evening. A lot of the actions called into question that evening happened with a Council that we were not even on.

7. The Meeting adjourned at 9:20 p.m.

Linda Christensen, City Clerk

Mark Fankhauser, Mayor

Attachment A

I have been sitting in the Council meetings off and on for 40 plus years. I will admit I probably should have attended more over the years, but after attending a few meetings, I came away with the feeling that what our Council members decided, they did it in my best interest as a member of this community. I did not always agree with everything they did, but I knew they did what they felt was the best for everyone. On a couple of occasions over the years, I threw my hat in the ring and ran for a seat on the Council. The voters chose my opponent and I walked away with the feelings the citizens spoke and they picked who they felt was the right candidate. I walked away with no hard feelings and congratulated my opponent. After some time had passed and attending some Council meetings, I still had the confidence they were doing their best for all. I now have lost that confidence in this Council. There are members that seem to be dazed, confused and want all the marbles in their bag. If it does not go their way, they have a puppet stir the barrel of stink and file a lawsuit. Who is paying for the attorney fees for these lawsuits? I know as a taxpayer and a citizen in this community, I'm tired of my money being spent on attorney fees, researching the Council minutes, filing the necessary paperwork, time in court, etc. On the other hand, whom is paying for the attorney fees to file these lawsuits from their side? I can only make an educated guess where the money is coming from. I have sat silent in the meetings because I had hopes there would be some positives come from this. Boy oh Boy have I been wrong. I can't seem to grasp the idea that we as adults, can't sit down in a room and work these problems out. Why do we need lawyers, lawsuits and mudslinging? Sit in a room and work out the problems. I don't care if it takes 2 hours or 2 days. Another comment made just recently was that we are being laughed at and should be a model. How is that ever going to happen when we have a couple of councilors and more than one private citizen that are behind the unprofessional actions causing the mayhem.

Going back a few years, there was a decision made to file a law suit against the City for copyright infringements. The city felt it in their best interest to follow the "cease and desist" orders and remove and or destroy anything that had to do with the festival trademarks. It was done in the time frame that was set by the Festival board and lawyers. Ever since then, Festival supporters have been stirring the barrel of stink condemning the city for doing what they were told to do or face a

law suit. I don't understand this mentality. If you don't do what we want, we will sue. When you do what we want we will criticize and condemn. Some Council members want the entire city staff and council members to come together and do what is best for everyone. How are they suppose to do that when there is so much dissention and so called "shenanigans" as 1 Council member puts it, going on behind the backs of other Council members?

I have been asked what my thoughts are about certain things going on in the community and what is going on up there. I have tried to explain that I have my opinions and everyone else has theirs. I have also tried to explain that a few people involved are being led around and used as puppets for what appears to be a takeover of the Council by festival supporters and again this is strictly in my opinion. I have watched the mayhem begin to snowball since the election of some new Council members a few years back. I know whom I voted for and I am now having serious thoughts as to the way I voted. I was under the impression that as an elected official, the members where to vote in the best interest of their constituents. I don't think this is happening with this sitting council. I can see different agendas for some of the council members. As 1 council member stated a few meetings ago, the matter at hand would be voted on as in the best interest of all, not necessarily what the feelings of this individual was. I totally agreed with that statement and encourage other council members to take heed of comments made during these meetings.

I am going to throw down a challenge to the citizens of the City of Cedar Springs. That challenge is to start taking an interest in your Council by attending the monthly meetings and letting these elected officials know how you feel about the decisions being made. Council meetings are usually 1 to 2 hours, once a month. A small price to pay to let your Councilors hear you. Don't let a few people make decisions regarding issues that have, will or are going to effect you as taxpayers. Attend, standup and voice your thoughts and ideas to your Council members. I have a theory that I have had most of my life. If you don't speak up and let your thoughts be known, then don't criticize those that do. If you don't vote, then sit down and shut up, because you had the chance to be heard.

I have tried to express my concerns here tonight and hope I have not offended the wrong people by making these statements. I'm pretty confident that the ones I

possibly have offended are the ones I intended to wake up. I'm not by no means a politician or lawyer, but I believe I was raised to know the difference between right and wrong and I truly believe that certain members of this Council are going about this all wrong. If you agree with me, show up to Council meetings held the second Tuesday of each month at 7:00 pm and voice your concerns.

I have a lot more to say, but I also realize that I can't condense all my thoughts to a single meeting and therefore will sit down and let someone express their opinion. I don't offer any apologies for my comments tonight and if you were offended, may be that should be a wakeup call.

I will be at the polls to cast my vote on Tuesday and I will be well informed on what the candidates views are going forward from this point.

The City Council approved the following additions to the minutes 11-13-2014:

Rose Powell Comments under 5 B:

Slamming items on the agenda at the last minute in the workshop after the agenda has been published has to stop. Voting on those last minute additions does not allow the people and councilors a chance to comment on them, before the vote. Why wasn't the real reason for the closed meeting of 8-21-14 discussed before the meeting or workshop? What did councilors know before the closed meeting was called?

Jerry Hall Comments under 5 C were changed to read:

Hall said he was not trying to run the city manager out of town. The City Manager took his direction from past councils.