



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

Thursday, January 8, 2015

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

**Workshop
6:15 p.m.**

Members Present: Daniel Clark, Perry Hopkins, Molly Nixon, Rose Ellen Powell, Robert Truesdale, Pamela Conley and Gerald Hall.

Also Present: City Manager Thad Taylor, City Clerk Linda Christensen, Finance Director Debra Brunett; DPW Director Tom Stressman, Fire Chief Marty Fraser.

The City Manager reviewed agenda items with Councilmembers. Also discussed were the need to amend the agenda to retire into closed session to discuss pending litigation; the draft policy regarding guidelines for the classification of and allowable action on items placed on the City Council agenda; the hiring of a new assessor and that workshops would be held in the Council room starting the following month. Councilor Conley brought up the Red Flannel bill that had been resubmitted and asked for clarification of it on behalf of Michele Andres, Red Flannel President.

**Meeting
7:00 p.m.**

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

2. ROLL CALL:

Mr. Daniel Clark	Present
Mr. Perry Hopkins	Present
Mrs. Molly Nixon	Present
Mrs. Rose Ellen Powell	Present
Mr. Robert Truesdale	Present
Mrs. Pamela Conley, Mayor Pro Tem	Present
Mr. Gerald Hall, Mayor	Present

3. PUBLIC FORUM.

Shawn Kiphart, 1575 21 Mile Road, provided an update on the Chamber of Commerce's Mingle With Kris Kringle event.

Todd Powley, Alpena, provided comments on Open Meetings Act violations.

Mark Fankhauser, 91 E. Muskegon, stated that at last month's meeting he had asked for a moment of silence in memory of those who gave their lives on

December 7th. It had not been recognized. He reminded the mayor that members of the community have the right to speak and not be bullied. A citizen should have the luxury of speaking his/her mind if he/she is not being disrespectful. He told the Council he had nothing but distain for its inaction in not moving forward with the investigation of an alleged violation of the Open Meetings Act. The Council should allow due process to go through, he said.

Hall said he had made a mistake in overlooking **Fankhauser's** request for a moment of silence at last month's meeting. He then called for a moment of silence in recognition of those who had died.

Patricia Troost, 184 Johnston, agreed with **Fankhauser** in that the Council had a chance to make it right if they had gone through with the investigation.

4. There were no public hearings.
5. **Motion by Conley, supported by Hopkins, to approve the agenda with the addition of closed session as authorized by Section 8 (e) of the Open Meetings Act to discuss with the attorney trial or settlement strategy in the matter of Mark Laws, et al versus the City of Cedar Springs et al.**

VOTE: 7 – 0, Motion Carried.

Motion by Conley, supported by Nixon, to approve the addition to the agenda the option to discuss or vote on the matter once the Council had returned to open session.

VOTE: 7 – 0, Motion Carried.

Motion by Conley, supported by Hopkins to enter Closed Session as authorized by Section 8 (e) of the Open Meeting Act to discus with the City Attorney trial or settlement strategy in the matter of Mark Laws et al versus the City of Cedar Springs et al.

VOTE:	Hall	Yes
	Hopkins	Yes
	Conley	Yes
	Powell	Yes
	Nixon	No
	Clark	Abstain
	Truesdale	Abstain

VOTE: 4 -1-2 (abstaining) Motion Carried.

City Attorney **Crystal Morgan** explained the Council could not retire to closed session unless it was a unanimous vote of those voting.

Nixon stated unless there was a new development in the law, she did not see any reason to go into closed session.

Morgan replied there had been a new development in the discussions surrounding the case.

Motion by Conley, supported by Hopkins to retire to Closed Session as authorized by Section 8 (e) of the Open Meeting Act to discus with the City

Attorney trial or settlement strategy in the matter of Mark Laws et al versus the City of Cedar Springs et al.

VOTE:	Hall	Yes
	Clark	Abstain
	Powell	Yes
	Conley	Yes
	Truesdale	Abstain
	Nixon	Yes
	Hopkins	Yes

VOTE: 5 – 0 – 2 (abstaining) Motion Carried.

The Council retired to closed session at 7:19 p.m. **Clark** and **Truesdale** did not retire to closed session as they were plaintiffs in the pending lawsuit.

Motion by Conley, supported by Nixon, to return to Open Session.

VOTE: 5 – 0, Motion Carried.

The Council returned to Open Session at 7:38 p.m. **Clark** and **Truesdale** joined the Council.

Morgan stated a motion hearing on the proposed litigation was scheduled for January 31st. Extensive negotiating had taken place between the parties involved. On December 31st the City presented its most recent offer which included the following stipulations:

1. The City agrees to electronically record all open and closed sessions.
2. The City agrees to retain the recordings as required by law.
3. The City will pay for training sessions on the Open Meetings Act and Parliamentary Procedure.
4. There will be a written settlement agreement dismissing the lawsuit stating the City does not admit to a violation of the Open Meetings Act; but rather this is a good faith dispute.
5. The City will pay \$2,000.00.

The City received a counter offer January 7th which agreed to numbers 1-4, **Morgan** stated; but asked for \$3,500.00 in place of the City's offer of \$2,000.

Conley asked if the City approved the counter offer, would the case be done.

Morgan replied yes; this would be a binding agreement.

Hopkins wanted to be sure there was no admission of guilt.

Morgan replied there was not. This was a good faith dispute and such language would be outlined in the agreement.

Motion by Nixon, supported by Conley, to approve the settlement proposal and authorize City officers to take all actions necessary to effectuate the settlement on those terms reported by the City's legal counsel at that evening's meeting.

VOTE:	Hall	Yes
	Conley	Yes
	Powell	Yes
	Nixon	Yes

Hopkins Yes
Clark Abstain
Truesdale Abstain

VOTE: 5 – 0 – 2 (abstaining) Motion Carried.

Hall read the following statement: “As the public is aware, a lawsuit was filed by three people last year alleging violations of the State’s Open Meetings Act by the City and City Council. The lawsuit sought an injunction against the City to prevent it from violating the Open Meetings Act in the future as well as awarding the plaintiffs their attorney fees and other relief. The City responded by filing an answer and later a brief opposing the request for an injunction, arguing that no violation of the Open Meetings Act had occurred. The City has emphasized that it went beyond this and took affirmative action to reenact the action as permitted under state law and also made available all of the records that were distributed at the closed session in order to promote transparency.

“The parties have negotiated in good faith to resolve all outstanding issues so that we can move on, which is the desire of the Council. As Ms. Morgan just summarized, the settlement proposal that has now been approved will put a complete end to the litigation on terms which are entirely satisfactory to the City. I want to thank all of the parties involved for their efforts to get this completed.”

6. **Motion by Hopkins, supported by Truesdale, to approve the Consent Agenda consisting of the following:**
 - A. **approval of the minutes of the Regular Meeting of December 11, 2014 and the Special Meeting of December 30, 2014.**
 - B. **approval of the Checks Paid Prior #s 37289 – 37352 totaling \$63,682.55; the January Accounts Payable #s 37353 – 37367 totaling \$24,158.60 and electronic transfers totaling \$472.67. The total of all checks and transfers was \$88,313.82.**
 - C. **Resolution No. 2015 – 01, a resolution to collect 100% of the Grand Rapids Community College School District property tax in the summer of 2015 as requested pursuant to Section 144 of the Community College Act of 1966, as amended and Part 26 of the School Code of 1976, as amended.**

VOTE: 7 – 0, Motion Carried.

7. Correspondence was offered in the form of a public notice from Consumer’s Energy.

8. UNFINISHED BUSINESS.

- A. Discussion regarding City property that might be available for economic development:
City Manager **Thad Taylor** stated that he had been in contact with the Inner City Christian Federation about the availability of two City properties that might be available for development. He asked Councilors if they would be interested in selling these properties.
The consensus of the Council was for the City Manager to proceed with discussions regarding the properties.

- B. Discussion regarding a draft policy to provide guidelines for the classification of and allowable action on items placed on the City Council agenda:

Taylor told Councilmembers that staff needed direction on how to proceed with the policy. He pointed out the draft policy did not allow for action on an agenda item unless that item had been on a previous agenda for discussion. The policy, however, did allow the Council to waive that requirement. He listed concerns regarding various aspects of the agenda as it currently is written. Among them were: continuing with the consent agenda; how to handle action after a public hearing; revising the agenda format and how to determine if an item will be acted on

Clark suggested changing language to read not taking action on a new business item unless there was a vote of 2/3 of the Council to waive it. The Council needed such a policy to give it (the council) more time to make a decision or the public more time to make comment on something, he said.

Conley said one meeting could be for discussion and action would take place at the next meeting.

Taylor said that was basically the way the agenda was formatted now. Action items were listed as motions and discussion items were listed as discussion. The Council always has the option to not act on an item, he said.

Conley said their duty as Councilmembers was to do what the public wanted and the Council could not represent them if it hadn't heard from them.

There was consensus among councilors that some items such as the consent agenda, public hearings and urgent matters should be voted on immediately. The City Manager will bring back another draft policy for discussion at the February meeting.

- C. Discussion and motion to approve the purchase of equipment to provide for the recording of Council meetings:

Taylor provided quotes for portable and permanently mounted cameras suitable for recording council proceedings. He also provided an option for the Dropcam system which would allow for video storage and management.

Motion by Truesdale, supported by Hopkins to authorize the purchase of the dropcam system at a cost of \$149.00 with a \$99.00 option for video storage/management and a \$100.00 set-up-installation-training fee.

VOTE: 7 – 0, Motion Carried.

- D. There was no mayoral business.

9. NEW BUSINESS.

- A. **Motion by Clark, supported by Hopkins, to approve an amendment to the License Agreement with Infrastructure Alternatives.**

VOTE: 7 – 0, Motion Carried.

- B. **Motion by Powell, supported by Clark, to approve a legal services agreement to satisfy USDA requirements.**

VOTE: 7 – 0, Motion Carried.

C. **Motion by Truesdale, supported by Conley, to approve an addendum to the non-exclusive license with Wolverine Skyhawk's Club Agreement.**

VOTE: 7 – 0, Motion Carried.

D. **Motion by Clark, supported by Hopkins, to approve Resolution No. 2015 – 02, a resolution to request assistance with traffic enforcement services from the Kent County Sheriff Department through PA 416.**

VOTE: 7 – 0, Motion Carried.

E, **Motion by Truesdale, supported by Conley, to approve the purchase of a hot water pressure washer from Northern Tool in an amount not-to-exceed \$ 3,499.99.**

VOTE: 7 – 0, Motion Carried.

F. **Motion by Clark, supported by Hopkins, to approve Resolution No. 2015 – 03, a resolution to amend the City's 2014 – 15 Fiscal Year Budget.**

VOTE: 7 – 0, Motion Carried.

10. CITY MANAGER'S REPORT.

A. General Information and Special Projects discussed included the following:

- He had interviewed two candidates for the City Assessor position and is negotiating a contract with one candidate. The City undoubtedly will be paying more for assessor services than what it had paid in the past, he explained.
- Thirty-five citizens have responded to the request for email addresses. Requests went out in tax bills and was also placed on the City's website.
- A timer had been purchased for use during the public forum.
- The City Manager had moved his seat at the Council table to the end to better view Councilmembers.

1. An update on the status of the City Council goals was also provided.

B. Monthly Department Reports were offered by the following:

1. Department of Public Works.

a. Infrastructure Alternative's operational and maintenance report. DPW Director **Tom Stressman** provided an update on upcoming City projects:

- Beech Street needed to be replaced.
- The City's bridge had failed its last inspection. It had been placed on the Critical Bridge Fund and if awarded would require a \$275,000 match from the City toward construction costs.
- Main Street also needed a rebuild which would coincide with the bridge project which would cost in the neighborhood of \$3.5 million.
- Water mains would also need to be replaced at an approximate cost of \$750,000,

- He was in the process of trying to get Pine Street designated as a major street which would add some additional monies to the City's coffers, if approved.
- 2. Police Department.
- 3. Fire Department.
- 4. City Clerk.
- 5. Finance Officer/Treasurer.
 - a. Cash Summary Report.
 - b. Revenue/Expenditure Report.
- 6. Minutes from the following boards and commissions were offered:
 - a. The December 2, 2014 Planning Commission Meeting.
 - b. The November 24, 2014 DDA Meeting.
 - c. The December 18, 2014 DDA/Brownfield Redevelopment Authority Meeting.

11. COUNCIL COMMENTS.

Powell – thanked the City for sending her to the MML Conference; one of the classes she took was on the Open Meetings Act and it was stressed that department heads should be included in upcoming training.

Conley – was grateful for the way the City functions and to live in a community that cares.

Nixon – thanked Tom Stressman for looking forward with his discussion regarding the upcoming projects.

Clark – thanked the clerk for her report.

Hall – thanked everyone for coming that evening.

12. The Meeting adjourned at 9:06 p.m.

Linda Christensen, City Clerk

Gerald Hall, Mayor