



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

**Thursday, July 9, 2015
Cedar Springs City Hall
66 S. Main St.
Cedar Springs, Michigan**

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

Members Present: Gerald Hall, Pamela Conley, Rose Ellen Powell, Molly Nixon, Dan Clark, Perry Hopkins.

Members Absent: Robert Truesdale.

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

The City Manager reviewed agenda items with Councilmembers. Among the items discussed were: concerns with the proposed Red Flannel Festival Agreement including: first year costs to the City were approximately \$11,000 and there was no cost containment going forward; to dissolve the contract took a $\frac{3}{4}$ vote of the Council and it was the attorney's opinion that this was illegal; if the City was going to provide financial support to the Festival, there should be language in the contract calling for financial information to be reported to the City as would be necessary for the City auditors and was required for other financial contributions the City was making such as the recent agreement with the museum and Friends of Skinner Field; the contract allowed alterations of public areas by the Festival but there was no language calling for such alterations to be put back into prior conditions; DPW costs were not identified in the contract as being paid by the City; it was the City Attorney's recommendation that City services should be referenced in the agreement and not attached as an addendum and the use of the DPW garage by the Festival on Red Flannel Day presented an issue with security of the building as well as DPW equipment having to be removed to make room for golf carts.

He also reminded Councilors that the USDA Project would begin July 20; the Library was not going to share costs of the FOIA policy but had put together their own policy; the MERS actuarial report had come in very good; two organizations had been added to the tax rolls that had not been on the roll before - the Red Flannel Festival and Hope Network and a request had been made to annex a property south of 17 Mile Road into the City.

**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. <u>ROLL CALL:</u>	Mr. Daniel Clark	Present
	Mr. Perry Hopkins	Present
	Mrs. Molly Nixon	Present
	Mrs. Rose Ellen Powell	Present
	Mr. Robert Truesdale	Excused
	Mrs. Pamela Conley, Mayor Pro Tem	Present
	Mr. Gerald Hall, Mayor	Present

Motion by Conley, supported by Hopkins, to excuse Truesdale's absence.

VOTE: 6 – 0, Motion Carried.

3. PUBLIC FORUM.

Sue Wakeland, 340 Pioneer Trail, felt the Prairie Run subdivision had slipped in the past few years and asked what was going to be done about it; she also made comments about the illegal use of fireworks in her neighborhood.

Donna Clark, Library Director, provided an update on the Summer Reading Program.

Marty Fraser, Fire Chief, asked the Council to take a new look at the fireworks ordinance and asked that the hours in which fireworks could be used be readdressed.

4. PUBLIC HEARING.

A. **Motion by Conley, supported by Nixon, to open a public hearing on a request to add a parcel to an existing Industrial Facilities Tax District for Display Pack located at 680 West St.**

VOTE: 6 – 0, Motion Carried.

The Public Hearing opened at 7:12 p.m.

1. Staff Comments:

Taylor stated the IFT Committee had met and reviewed the request and recommended approval.

2. There were no Public Comments.

3. **Motion by Conley, supported by Hopkins, to close the Public Hearing.**

VOTE: 6 – 0, Motion Carried.

The Public Hearing closed at 7:17 p.m.

5. **Motion by Clark, supported by Conley, to approve the agenda with the addition of Item K under New Business to waive Policy No. 12 to act on approval of an amendment to the Planned Unit Development site plan and corresponding special land use for a 2.15-acre parcel known as The Pines Condominiums.**

VOTE: 6 – 0, Motion Carried.

6. **Motion by Conley, supported by Hopkins to approve the Consent Agenda consisting of the following:**
 - A. **approval of the minutes of the regular meeting of June 11, 2015.**
 - B. **approval of the Checks Paid Prior #s 37830 – 37876 totaling \$84,463.90; the July Accounts Payable #s 37877 – 37890 totaling \$54,431.13 and Electronic Transfers totaling \$1,124.81. The total of all checks and transfers was \$140,019.84.**

VOTE: 6 – 0, Motion Carried.

7. **Correspondence was received from the Right Place Newsletter.**

8. **UNFINISHED BUSINESS.**

- A. **Motion by Clark, supported by Conley, to not exercise a Right of First Refusal and allow property at 288 N. Main St. to go to auction.**

VOTE: 6 – 0, Motion Carried.

- B. **Motion by Conley, supported by Nixon, to approve a proposed agreement between the City of Cedar Springs and the Red Flannel Festival.**

Hopkins asked if a conflict of interest existed since one of the Councilmembers was the mother of a board member on the Red Flannel Festival.

Taylor stated the City's ordinances only state a conflict of interest exists if there is a financial gain.

It was the consensus of the council that such a conflict of interest did not exist among the council.

Nixon stated she wanted to see the list of services the City is to provide to the Festival added as an addendum with the statement the Red Flannel Festival agrees to pay for the beverage tent expenses.

Taylor read a correspondence from the City's Attorney regarding the contract:

- The "Prior Agreement" is still referred to in the body of this agreement, but without any means of identifying what the "Prior Agreement" is. While I understand the parties today may know what that agreement refers to, I suggest adding a date or some other means of identifying the Prior Agreement to avoid future confusion.

- Section 2A (1) provides that the RFF will submit an application and plans to the City for approval; it does not, however, identify what the application is for. Our recommendation is to clarify that the application will serve two principal purposes – to designate and treat this as a “special event” (regulated by Chapter 36 of the City Code) and to make clear that this is the **only** approval that the RFF will need in order to operate the Festival. (This would be consistent with the language in the agreement that permits a waiver of fees for the RFF, something that Chapter 36 permits the Council to do as currently written.)
- Section 2B (2) of the draft still provides that the City will pay all costs for fire, police and medical services associated with the Festival. In order to ensure that neither party will later be surprised, I suggest that language be added stating that the City will pay all costs identified in the Plans (to be submitted by the RFF and approved by the City (see Section 2A (1)) annually. Thus, only unanticipated (and unapproved) costs would have to be dealt with separately.
- Under this draft no provision is made for DPW costs.
- In Section 4 the specific insurance requirements in the earlier agreement have been struck and a reference is now made to the need for insurance as required for community events. Again, because this would be treated as a special event for all purposes, I suggest we simply clarify to provide that the RFF will only need to meet the insurance requirements for a “special event.” (The same rationale would apply to the indemnification language in the agreement.)
- In Section 5 (“Term”) this version still requires a $\frac{3}{4}$ vote of the RFF or the City Council in order to terminate. In other words, a majority of the Council would be insufficient to terminate. Regarding the enforceability of such a provision please see my earlier letter and email. Perhaps, as a compromise, the parties could agree to change the process to ensure public oversight. Specifically I thought that we would add language which only permits termination following one year’s written notice, and that the Council could not terminate without first holding a noticed public hearing (to allow all stakeholders to be involved). This would maintain the ability of a majority of the elected representatives to decide how to proceed, but would also ensure that significant time was afforded to gather public comments before a decision was made. Even if the termination were then to proceed after a hearing, the one year period would allow the parties to try to resolve any differences.
- Finally, Section 7 was struck so that now all utilities will be paid for by the City.

Clark said he didn’t feel there was any need for further clarification regarding the City’s responsibilities in paying for expenses. If anything he felt the language as it stood would make employees see if they couldn’t do a better job to cut expenses. He wanted to see a return to a relationship with the Red Flannel Festival like it was eight years ago and not get bogged down with legalese. The City should be working with cooperation not in opposition of the Red Flannel Festival.

Conley stated the City of Rockford had 27 events for which it covered all expenses. The City works in concert with organizations to put on events, she said.

Nixon suggested language changes to Section B. (2) to read: The City will be responsible to pay all labor and benefit costs associated with the provision of Public Services necessary to the Festival's operation to include the attached list of DPW Services and exclude the interior security or police of the grand lodge beer tent.

Conley amended her motion to include the changes. **Nixon** concurred.

Hopkins asked about using the antique fire truck on Red Flannel Day.

With the extensive restoration that is on-going with the truck he questioned if people should be climbing all over the truck. He also stated that if the City was going to pick up the expenses for the Red Flannel Festival, it should pick up the expenses for all festivals. He felt that the $\frac{3}{4}$ vote to discontinue the agreement was holding the hand of councils that come after us. If the City Attorney is telling us it is not legit; what is the point of having an attorney if we are not going to follow his advice, he asked.

VOTE: 5 – 1 (Hopkins) Motion Carried.

C. Motion by Conley, supported by Clark, to approve a trademark agreement between the City of Cedar Springs and the Red Flannel Festival.

Conley stated the Red Flannel Festival had been more than generous to allow the City the use all 14 of its trademarks. This was a step in the right direction, she said.

Nixon said she was glad to be returning to this.

Michele Tracy, President of the Red Flannel Festival, stated the City could use the trademarks however it wanted to or whichever way it saw fit.

VOTE: 5 – 1 (Hopkins) Motion Carried.

D. Shawn Kiphart provided an update on Skinner Field activities. The field, open to the public, has been used for the West Michigan Hawks football league; rocket football and the Alpha Women's Walk of Life. There was interest in a fall soccer league this fall. The group was trying to phase out expenses by seeking corporate sponsors, he said. Among the improvements made to the field so far are: the painting of the booster building; power washing and re-painting the locker rooms and exterior of the locker room building and replacing plumbing in the bathrooms and locker rooms. Plans for the future include a new scoreboard; sealing cracks at the entranceway and resurfacing the track.

E. There was no mayoral business.

9. NEW BUSINESS.

A. Motion by Clark, supported by Conley, to waive Policy No. 12, to act on adding a parcel to an existing Industrial Facilities Tax District for Display Pack located at 680 West Street at first consideration

VOTE: 6 – 0, Motion Carried.

1. **Motion by Nixon, supported by Hopkins, to approve the addition of a parcel to an existing Industrial Facilities Tax District for Display Pack located at 680 West Street.**

VOTE: 6 – 0, Motion Carried.

- B. **Motion by Nixon, supported by Clark, to waive Policy No. 12, to act on an option to purchase a City strip of land by Hansen Realty LLC at first consideration.**

VOTE: 6 – 0, Motion Carried.

1. **Motion by Conley, supported by Hopkins, to approve an option to purchase a City strip of land by Hansen Realty LLC.**

VOTE: 6 – 0, Motion Carried.

- C. **Motion by Conley, supported by Clark, to waive Policy No. 12 to act on the Nelson Township Fire Agreement at first consideration.**

VOTE: 6 – 0, Motion Carried.

1. **Motion by Clark, supported by Hopkins, to approve the Nelson Township Fire Agreement between the City of Cedar Springs and Nelson Township for fire services.**

VOTE: 6 – 0, Motion Carried.

- D. **Motion by Clark, supported by Hopkins, to waive Policy No. 12 to act on Resolution No. 2015 – 23, a resolution amending the City of Cedar Springs' 2015/16 Budget at first consideration.**

VOTE: 6 – 0, Motion Carried.

1. **Motion by Conley, supported by Clark, to approve Resolution No. 2015 – 23, a resolution to amend the City of Cedar Springs' 2015/16 Budget.**

VOTE: 6 – 0, Motion Carried.

- E. **First consideration was held on Policy No. 14, a policy regarding the public inspection of assessing records.**

- F. **First consideration was held on a license agreement between the City of Cedar Springs and Yankee Zephyr Racing Promotions.**

- G. **Motion by Conley, supported by Hopkins, to waive Policy No. 12 to act on Resolution No. 2015 – 24, recognizing the 2015 Red Flannel Festival as a Community Event at first consideration.**

VOTE: 6 – 0, Motion Carried.

1. **Motion by Conley, supported by Hopkins, to approve Resolution No. 2015 – 24, recognizing the 2015 Red Flannel Festival as a Community Event.**

VOTE: 6 – 0, Motion Carried.

- H. **Motion by Hopkins, supported by Clark, to waive Policy No. 12 to waive all fees for the 2015 Red Flannel Festival at first consideration.**

VOTE: 6 – 0, Motion Carried.

1. **Motion by Conley, supported by Powell, to waive all fees for the 2015 Red Flannel Festival: parade fees, peddler’s fees, escrow fees and any other fees.**

VOTE: 6 – 0, Motion Carried.

- I. Discussion regarding waiving sidewalk display and other permitting fees for the downtown:

Hopkins stated that at a meeting held this spring, sponsored by the Michigan Municipal League, it was suggested that less stringent ordinances regarding permitting fees for such things as outdoor seating and signs were more beneficial to a downtown. Once they were relaxed, downtowns started to prosper, he reported. Permits would still be required; but the fees for them would be eliminated.

Nixon said she would be interested in trying it out on a trial basis for a year. **Conley** stated she was uncomfortable with **Hopkins** bringing this up as he was a downtown business owner.

Powell said she was in favor of anything that would help the downtown business owners.

It was the consensus of the Council to have more discussion on the subject at the August meeting.

- J. **Motion by Nixon, supported by Powell, to waive Policy No. 12 to act on Resolution No. 2015 – 25, recognizing the Chamber of Commerce’s August and September Sidewalk Sales and Movies in the Park as Community Events at first consideration.**

VOTE: 6 – 0, Motion Carried.

1. **Motion by Conley, supported by Nixon, to approve Resolution No. 2015 – 25, recognizing the Chamber of Commerce’s August and September Sidewalk Sales and movies in the Park as Community Events.**

VOTE: 6 – 0, Motion Carried.

- K. **Motion by Conley, supported by Hopkins, to waive Policy No. 12 to act on approval of an amendment to the Planned Unit Development site plan and corresponding special land use for a 2.15-acre parcel known as The Pines Condominiums at first consideration.**

VOTE: 6 – 0, Motion Carried.

- 1. Motion by Conley, supported by Clark, to approve an amendment to the Planned Unit Development site plan and corresponding special land use for a 2.15-acre parcel known as The Pines Condominiums.**

VOTE: 6 – 0, Motion Carried.

10. CITY MANAGER'S REPORT.

- A. General Information and Special Projects discussed included the following:
 - The USDA project will begin July 20.
 - The library will not be sharing costs for development of the FOIA policy.
 - MERS actuarial results.
 - The Red Flannel Festival and Hope Network have been added to the tax roll. The Flying Club may also be added.
 - An EDA grant had been submitted.
 - Vacation plans.
 - A new development is in the works for south of 17 Mile Road.
- B. Monthly Department Reports were offered by the following:
 1. Department of Public Works.
 - a. Infrastructure Alternative's operational & maintenance report.
 2. Police Department.
 3. Fire Department.
 4. City Clerk.
 5. Finance Officer/Treasurer.
 - a. Cash Summary Report.
 - b. Revenue/Expenditure Report.
 6. Professional Code Inspections Report.
 7. Minutes from the following boards and commissions:
 - a. the June 15, 2015 Planning Commission meeting.
 - b. the June 26, 2015 Industrial Facilities Tax Advisory Board meeting.
 - c. the May 26, 2015 Library Board meeting.

11. COUNCIL COMMENTS.

Hopkins – some people may not be happy with his vote that night; but he is not a Red Flannel hater. I have concerns and I have to vote on my concerns.

Nixon – similarly people may be unhappy with her vote that evening. The election is in November; come out and vote.

Clark – had sat down with the fire chief to discuss the use of the fire truck. We need to find a middle ground. The truck may not be in the shape to be used the way it was before; but a discussion on how it may be used needs to be held.

Powell – thanked the Red Flannel Festival committee; she appreciated their work. Happy Red Flannel!

Conley – thanked all the organizations – the Red Flannel Festival, the Chamber of Commerce, Friends of Skinner Field, and the Community Building Development Team. So many things were happening in the community. Looks forward to the day when Cedar Springs has a lists of events that takes up a whole page.

Hall – there may be ruffled feathers; but majority rules; thanked the groups for moving the City forward; this was the democratic process.

12. The Meeting adjourned at 9:10 p.m.

Linda Christensen, City Clerk

Gerald Hall, Mayor