

A regular meeting of the Ishpeming City Council was held on Wednesday, February 9, 2011 at the Ishpeming Senior Center. Mayor Pat Scanlon called the meeting to order at 7:00 p.m.

Present: Mayor Pat Scanlon, Council Members Claudia Demarest, Elaine Racine and Mike Tall.  
Present: Four (4). Absent: Councilman Stone. One (1). Also present were City Manager Jered Ottenwess and City Attorney David Savu.

#### PUBLIC COMMENT

None.

#### AGENDA COMMENT

Mr. Don Gladwell, Charter Communications, reserved time for comment on Agenda Item No. 8.

Police Chief Jim Bjorne reserved time for comment on Agenda Item No. 14.

#### CONSENT AGENDA

A motion was made by Councilwoman Demarest and seconded by Councilman Tall to approve the Consent Agenda as presented:

- a. Minutes of Previous Meetings (January 5 and 27, 2011)
- b. Approval of Disbursements
- c. Monthly financial report
- d. Approve street closures for the Skerbeck Carnival from April 27-30, 2011
- e. Reappoint Larry Bussone to the Iron Ore Heritage Recreation Authority
- f. Appoint Gabe Seelen to fill a vacancy on the Planning Commission
- g. Accept bid in the amount of \$2,610.00 from Associated Constructors for the sale of the large recycling baler and accept bid in the amount of \$1,001.00 from Patrick Taylor for the sale of the small recycling baler.
- h. Declare 600 books and 200 VHS tapes as surplus property to the City.

Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

By common consent of the City Council, Agenda Item No. 7, Ishpeming Hills Garbage Collection, was moved to Agenda Item No. 14A.

#### CHARTER SERVICES AGREEMENT

City Manager Ottenwess reported that Charter Communications notified the City of Ishpeming that as of January 1, 2011 they will begin to charge a \$150.00 fee per meeting to televise the City Council meetings. The City Manager stated that the City Attorney has reviewed the agreement.

At the recommendation of the City Manager, a motion was made by Councilwoman Demarest and seconded by Councilwoman Racine to approve the *Charter Services Agreement*, as presented, for live video coverage of specified monthly City Council meetings at a cost of \$150.00 per meeting and to authorize the City Manager to execute the agreement. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

APPROPRIATIONS REQUEST – PARTRIDGE CREEK

City Manager Ottenwess stated that although the City of Ishpeming's FY2011 Appropriations Request was unsuccessful, it is important that the City continue to pursue this possible funding source and submit the FY2012 request for the Partridge Creek project.

At the recommendation of the City Manager, a motion was made by Councilwoman Demarest and seconded by Mayor Scanlon to authorize the City Manager to submit the FY2012 Appropriations Request for the Partridge Creek Project to Senator Levin and Senator Stabenow, as presented. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

AFSCME LETTER OF AGREEMENT (RECYCLING CENTER EMPLOYEE)

City Manager Ottenwess reported that when the Recycling Center was permanently closed in January 2011, the Recycling Attendant was transferred to a Light Equipment Operator position. The City Manager stated that it is important to formalize the transfer with an agreement with the union. The City Manager stated that in the event that the Recycling Center reopens, the agreement allows the employee to return to the Recycling Attendant position.

At the recommendation of the City Manager, a motion was made by Councilwoman Racine and seconded by Councilman Tall to approve the *Letter of Agreement between the City of Ishpeming and the Department of Public Works AFSCME Local 1282*, regarding the transfer of the Recycling Attendant to Light Equipment Operator, as presented. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

IRON ORE HERITAGE TRAIL CHANGE ORDER FOR ENGINEERING SERVICES

City Manager Ottenwess reported that UPEA submitted a change order request for engineering services for the Iron Ore Heritage Trail, Phase II. The City Manager stated that there are two reasons for the change order request which include: (1) UPEA had performed additional work because of a route deviation in the trail and (2) the project came in under budget and funds are available for additional improvements that were not part of the original budget for Phase II. The City Manager stated that the change order from UPEA requests an additional \$16,172.00 for a revised total of \$59,172.00. City Manager Ottenwess stated that there are sufficient funds available from the grant to pay for the additional engineering costs.

At the recommendation of the City Manager, a motion was made by Councilwoman Demarest and seconded by Councilwoman Racine to approve the change order in the amount of \$16,172.00 as submitted by U.P. Engineers & Architects for additional engineering services for the Iron Ore Heritage Trail, Phase II. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

APPOINT COUNCIL MEMBER TO PARTRIDGE CREEK RFQ SELECTION COMMITTEE

A motion was made by Mayor Scanlon and seconded by Councilwoman Racine to appoint Councilwoman Demarest, Councilman Tall, City Manager Ottenwess and Public Works Director Kangas to the Partridge Creek Request for Qualifications (RFQ) Selection Committee. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

ROAD COMMISSION RESOLUTION

City Manager Ottenwess reported that a meeting was held earlier today with officials from both the Marquette County Road Commission and Kennecott Mining Co. The City Manager stated that based on the recent changes that have taken place regarding the Kennecott Mining transportation route, it was his recommendation to table this item.

At the recommendation of the City Manager, a motion was made by Mayor Scanlon and seconded by Councilwoman Demarest to table the request from the Marquette County Road Commission to approve a letter to our State Legislators and U.S. Legislators regarding the future of County Road 595 for the Kennecott Eagle Mine Project. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

RESOLUTION FOR RETIREMENT TRANSFER

City Manager Ottenwess reported that he had an opportunity to meet individually with each of the Council Members after the Special Council Meeting on January 27, 2011 to address the issues regarding Police Chief Jim Bjorne's request to transfer service from Marquette County to the City of Ishpeming. City Manager Ottenwess reviewed the main points concerning Chief Bjorne's request. The City Manager stated that Chief Bjorne served nearly four (4) years with the Marquette County Sheriff's Department. The City Manager stated that pursuant to state law, Act 88, Marquette County has approved a transfer of that service credit and by transferring that service credit, Chief Bjorne will have 25 years of total service in April 2011.

City Manager Ottenwess stated that the Act 345 actuarial study determined that the current value of the liability would be \$52,537. The City Manager stated that in addition to the transfer of service credit, Marquette County would also transfer a total of \$27,254 from their MERS pension fund to the City's Act 345 pension fund. The City Manager stated that the transfer would leave an unfunded liability of approximately \$25,000.

City Manager Ottenwess stated that several months ago, Mr. Schultz terminated his employment with the City of Ishpeming and he withdrew his contributions from the Act 345 fund. The City Manager stated that the City's contributions remain in the fund and total nearly \$70,000. The City Manager stated that Mr. Schultz's employer contributions would compensate for the unfunded liability, approximately \$25,000, of Chief Bjorne's transfer.

Mayor Scanlon stated that this is a good opportunity for the City. Mayor Scanlon stated that the retirement transfer is not a buyout, will not hurt the City financially, and does not violate any union rules. Mayor Scanlon stated that the retirement transfer will help the City move forward and will be the right thing to do for Chief Bjorne.

Councilman Tall questioned whether or not the transfer of funds from Marquette County includes Chief Bjorne's personal contributions to the pension fund.

Chief Bjorne stated that the transfer of funds from Marquette County to the City of Ishpeming would include his personal contributions from payroll and the County's contribution. Chief Bjorne stated that when he separated from the County, he did not withdraw or collect any of his

contributions to the County pension. Chief Bjorne stated that his contributions totaled approximately \$5,000 and the County's contributions totaled approximately \$22,000.

City Treasurer Keto reported that both the County of Marquette and the City of Ishpeming participate in Act 88, The Reciprocal Act, which allows an employee to combine service from both units to meet eligibility requirements. City Treasurer Keto stated that Chief Bjorne will meet the eligibility requirements for both age and years of service in April 2011.

Councilman Tall questioned whether or not the City has ever received this request in the past.

City Treasurer Keto stated that the City has honored similar requests when City employees have transferred between the Act 345 plan to the City's MERS plan. City Treasurer Keto stated that several years ago the City had approved a transfer of service credit for a police officer who left the City of Ishpeming and was hired by another municipality.

Councilwoman Demarest confirmed that Chief Bjorne will be eligible to retire from the City at age 50 and will be eligible to collect his pension from Marquette County at age 60.

Chief Bjorne stated that he cannot economically afford to retire with 21 ½ years of service when he meets the retirement age in April. Chief Bjorne stated that if the City Council does not approve the transfer, he would be leaving with a reduced pension. Chief Bjorne stated that he would not be able to collect his pension from the County until he is 60 years old.

Chief Bjorne stated that without the transfer of service credit from the County of Marquette he will not be able to afford to retire from the City with only 21 ½ years of service. Chief Bjorne stated that even if he leaves with 25 years of service, he will still take a 1/3 cut in pay. In addition, retirees from the City of Ishpeming do not receive health care insurance upon retirement and he will pay \$18,000 a year for health insurance.

Chief Bjorne stated that without the transfer of service credit from Marquette County to the City, he will not retire. Chief Bjorne stated that without getting into his personal health issues, the City Council must consider the liability of having him on board for four more years. Chief Bjorne stated that the City Council must recognize that as a sworn police officer, he is on duty 24 hours a day. Chief Bjorne asked the City Council to consider what poses the greater problem: the negligible impact to the Act 345 pension fund or to have him continue working and face the potential of encountering a violent situation and using more force than is necessary.

Chief Bjorne stated that several years ago when the City was faced with a need to make financial cuts, the City Council did offer a buyout to some employees for an amount much more significant than what he is asking for tonight. Chief Bjorne stated he is asking for a transfer, not a buyout as was done previously.

Mayor Scanlon stated that Chief Bjorne has had to wear many hats during his tenure at the City. Mayor Scanlon stated that on several occasions, Chief Bjorne has served as the acting City

Manager in the absence of the City Manager. Mayor Scanlon stated that Chief Bjorne has twice served as Interim City Manager while the City Council conducted its search for a new Manager.

Police Chief Bjorne stated that in the absence of the City Manager, he was required to serve as acting City Manager and did so on many occasions. Police Chief Bjorne stated that during some of those times he was left to address some very tumultuous union issues. Police Chief Bjorne stated that in addition to his regular police duties, he was given additional responsibilities including the residential rental inspection program and the unsafe building program. Chief Bjorne stated even though he was given additional duties and responsibilities he never asked for addition pay.

Police Chief Bjorne stated that he has given 110% to his employer. Chief Bjorne urged the City Council to consider all of the facts that have been presented and put aside their personal differences they may feel towards him.

At the recommendation of the City Manager, a motion was made by Mayor Scanlon and seconded by Councilman Tall to approve the retirement request from Police Chief Jim Bjorne to accept the transfer of 3 years and 10 months of service from the County of Marquette to the City of Ishpeming and to approve the transfer of funds as presented by City Manager Ottenwess. Roll Call Vote: Ayes: Councilman Tall and Mayor Scanlon. Two (2). Nays: Councilwoman Demarest and Councilwoman Racine. Two (2). Absent: Councilman Stone. One (1). Motion defeated.

#### AMENDMENT TO MASTER PLAN

City Manager Ottenwess reported that the Complete Streets legislation was signed into law in 2010 and requires cities to take action on a Complete Streets policy. City Manager Ottenwess stated that the Planning Commission has recommended amendments to incorporate a Complete Streets Policy and a Safe Routes to School Policy into the City's Master Plan.

At the recommendation of the City Manager and the Planning Commission, a motion was made by Mayor Scanlon and seconded by Councilwoman Demarest to schedule a public hearing at the next regular meeting of the City Council to hear and receive comments regarding the amendments to incorporate a Complete Streets Policy and a Safe Routes to School Policy into the Master Plan. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

#### BIDS FOR SURPLUS POLICE VEHICLES

A motion was made by Mayor Scanlon and seconded by Councilwoman Demarest to reject any and all bids that were received by January 31, 2011 for the 2008 Chevrolet Impala police vehicle and the 2005 Chevrolet Tahoe police vehicle. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

A motion was made by Mayor Scanlon and seconded by Councilman Tall to re-advertise for sale the 2008 Chevrolet Impala police vehicle and the 2005 Chevrolet Tahoe police vehicle. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

ISHPEMING HILLS GARBAGE COLLECTION

City Manager Ottenwess stated that this subject was discussed at the January 27, 2011 special meeting of the City Council. The City Manager stated that PCBM Management, owner of Ishpeming Hills Townhouses, requested a review of the City Manager's interpretation of Ordinance No. 4-400 which requires Ishpeming Hills Townhouses to be served by the solid waste collection services at residential properties.

City Manager Ottenwess stated that he was directed by the City Council to determine the financial impact of exempting all 4-unit, residential properties from Ordinance No. 4-400. The City Manager stated that the City Assessor identified 22 properties that have 4-unit residential structures. The City Manager stated that the annual revenue from those properties is approximately \$24,000. The City Manager stated that the total garbage collection revenue from all properties subject to the Ordinance is approximately \$460,000 annually. City Manager Ottenwess stated that the 4-unit properties comprise nearly 5% of our total revenue for trash collection.

Mr. Brad Argall, PCBM Management, stated that he is not requesting the City Council to exempt Ishpeming Hills Townhouses from Ordinance No. 4-400. Mr. Argall stated that he is requesting the City to recognize Ishpeming Hills Townhouses as one housing complex with 16 units rather than as 4 separate buildings each with 4 units. Mr. Argall stated that they currently have a dumpster from Great American Disposal (GAD) servicing the townhouses and the dumpster is working well for them. Mr. Argall stated that he would not be in favor of having separate trash cans for each of the units. Mr. Argall stated that PCBM intends to construct additional units and dumpsters are much more suitable to their needs rather than having separate trash cans for each unit.

City Manager Ottenwess stated that Ordinance No. 4-400 clearly defines "residential" as any single family home, duplex, condominium, or apartment house with not more than four (4) units. The City Manager stated that the Ordinance does not address site layout or ownership of the property as a means to distinguish residential from commercial. The City Manager stated that dumpsters are available through North Country Disposal, but there would be an additional monthly fee.

Mr. Argall stated that according to the Ordinance, Ishpeming Hills Townhouses will be charged \$16.20 per month for each unit. Mr. Argall stated that dumpsters would be available to them for an additional \$110.00 per month for each dumpster; a total monthly charge of \$479.00. Mr. Argall stated that PCBM currently pays \$224.00 per month to Great American Disposal (GAD) for two dumpsters and the pickup service. Mr. Argall stated that they cannot continue to pay these fees and questioned whether or not it would be possible to have the dumpster provided by North Country Disposal at no charge.

Mayor Scanlon stated that the City Council cannot make any changes to Ordinance No. 4-400 at this time, but the City Council will continue to evaluate the Ordinance and work through these situations.

OLD BUSINESS

City Manager Ottenwess stated that the condition of the former St. Joseph's Church, located at 424 S. Lake Street, was discussed at some length at the last regular meeting of the City Council. The City Manager stated that he reviewed the Unsafe Building Ordinance with the City Attorney as it relates to the former church building.

City Manager Ottenwess stated that Police Chief Bjorne has reviewed the condition of the church. City Manager Ottenwess stated that there are not sufficient problems with the former church building to bring it within the scope of enforcement that is authorized by the City's Unsafe Building Ordinance. The City Manager stated that it is the opinion of the City Attorney that based on the criteria set forth in Ordinance No. 7-100, the structure is not a candidate for demolition.

City Manager Ottenwess stated that they also discussed the applicability of the State Blighted Area Rehabilitation statute in relation to the former church building. The City Manager stated that it is the opinion of the City Attorney that this building falls within the definition of a "blighted property" however proceeding against a blighted property is very complicated and could cost the City over \$15,000.00. The City Manager stated that should the City prevail in that process, the City would then bear the costs of demolishing the structure.

The City Manager stated that based on the information from the Police Chief and the City Attorney, the City's options are very limited at this time in terms of taking the action that the neighbors would like to see. The City Manager stated that the City will continue to keep this property in mind, like several other problematic properties in town.

NEW BUSINESS

Councilwoman Racine reported that it was brought to her attention that the Al Quaal tube slide attracts up to 120 people each day it is open. Councilwoman Racine stated that there are only 60 tubes available and recommended that the City purchase additional tubes. Councilwoman Racine stated that the tube slide is a great attraction for our City and stated that the City should do whatever it can to keep the hill running efficiently. Councilwoman Racine stated that she contacted the head inspector from the Carnival and Ski Safety Department for the State of Michigan and was told that the City would be permitted to add additional tubes.

Public Works Director Kangas stated that representatives from the *Pure Michigan* program were in Ishpeming today with several tourism journalists. The Public Works Director stated that the visit was arranged by Elizabeth Peterson, Director of Ishpeming-Negaunee Chamber of Commerce. Public Works Director Kangas stated that the journalists were here to help promote the *Pure Michigan* program and stated that the journalists toured the Al Quaal recreation facilities, including the tube slide and the ski trails.

A motion was made by Councilwoman Racine and seconded by Councilman Tall to purchase 30 (thirty) additional tubes and necessary clips for the Al Quaal tube slide. Roll Call Vote: Ayes: Councilwoman Racine and Councilman Tall. Two (2). Nays: Councilwoman Demarest and Mayor Scanlon. Two (2). Absent: Councilman Stone. One (1). Motion defeated.

Mayor Scanlon stated that he could not support the motion because the tube slide has been unable to generate a profit and stated that he did not think it would be wise to invest more money in the tube slide. Mayor Scanlon stated that it would be appropriate to request the Parks and Recreation Commission to review this concern and prepare a recommendation for the City Council.

Mayor Scanlon announced that at next month's meeting, the City Council will consider reducing hours at the Cemetery due to the upcoming retirement of the Cemetery Office Manager.

Mayor Scanlon announced that President Obama is scheduled to visit Marquette tomorrow. Mayor Scanlon stated that he was disappointed that no Ishpeming City officials were invited to attend the events.

Mayor Scanlon announced that Councilman John Stone is absent tonight because he is participating in a mission project in Haiti.

At the recommendation of City Manager Ottenwess and Public Works Director Kangas, a motion was made by Mayor Scanlon and seconded by Councilwoman Racine to waive the competitive bidding process and approve the purchase of a new John Deere loader through the MiDEAL program and to authorize the Public Works Director to offer the 1986 Case W14 loader, vehicle #304, as a trade-in on the purchase, contingent upon receiving final pricing information. Expenditure to be paid from the DPW Public Improvement Fund. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

#### COUNCILMAN TALL

Councilman Tall reported that he attended the Planning Commission meeting and stated that the Planning Commission is working on a fence ordinance.

#### COUNCILWOMAN RACINE

Councilwoman Racine reported that she and Councilman Tall attended a Parliamentary Procedure workshop and stated that she found the workshop to be very productive.

Councilwoman Racine stated that the opportunity was offered through the City and was held at Northern Michigan University.

Councilwoman Racine reported that she attended the Downtown Development Authority's monthly meeting.

Councilwoman Racine reported that she attended the Volunteer Fire Department's weekly meeting. Councilwoman Racine stated that the Volunteer Firemen are a very dedicated group of men. Councilwoman Racine stated that she learned that some firemen spend anywhere from 20 to 30 hours per month at the fire hall in addition to the time spent on fire calls. Councilwoman Racine stated that the firemen hold two parties each year to thank their families and to compensate the families for the time spent away. Councilwoman Racine encouraged the public to thank our firemen for keeping our community safe.

COUNCILWOMAN DEMAREST

Councilwoman Demarest reported that she attended the Cemetery Board meeting.

Councilwoman Demarest reported that she attended the Nordic Combined Junior Olympic North American Championship at Al Quaal Recreation Area and stated that it was interesting to watch these very talented athletes compete.

MAYOR SCANLON

Mayor Scanlon requested that the previous discussion concerning the tube slide be sent back to the Parks and Recreation Commission for their review and recommendation.

Mayor Scanlon expressed his disappointment in the action that was taken earlier this evening to deny Police Chief Bjorne's retirement transfer request. Mayor Scanlon stated that he found no reason for Chief Bjorne's request to be denied and feels the action taken was personal.

MANAGER'S REPORT

The City Manager thanked Fire Chief Ed Anderson for promoting the Adopt-A-Fire Hydrant program. The City Manager encouraged residents to help keep our City safe and keep the fire hydrants clear of ice and snow.

City Manager Ottenwess reported that Governor Snyder will release the FY2012 state budget next week. The City Manager stated that significant cuts are expected in State Revenue Sharing. The City Manager stated that the City of Ishpeming currently receives approximately \$800,000 in State Revenue Sharing; one-half is statutory and one-half is constitutional. The City Manager cautioned the City Council to be prepared to address a loss of revenue in the current budget and the FY2012 budget.

PUBLIC WORKS DIRECTOR / CITY ENGINEER REPORT

A written report from the Public Works Director was provided to the members of the City Council in the meeting packet.

ATTORNEY'S REPORT

None.

ADJOURNMENT

A motion was made by Councilwoman Demarest and seconded by Councilman Tall to adjourn the meeting at 8:45 p.m. Ayes: Four (4). Nays: None (0). Absent: One (1). Motion carried.

Jenifer M. Rajala  
City Clerk