

City Commission  
December 21, 2015

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

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

Absent: Commissioner Dan Rothstein, who was excused due to knee surgery.

There were 10 people in the audience.

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF THE AGENDA** - There were revisions to resolutions 10a and 10d.

**APPROVAL OF MINUTES**

Commissioner Anderson moved, seconded by Commissioner Hogenson that the minutes of December 7, 2015 regular meeting be accepted.

Yeas: Anderson, Hogenson, James, Warba

Nays: None

**SPECIAL ORDERS OF THE DAY –**

A moment of silence was observed in remembrance of former Mayor Ed Burch who passed away earlier in the week.

**STUDY SESSION** - NONE

**PUBLIC COMMENT** - None

**PUBLIC HEARING** – None

The Mayor asked the following questions of the City Attorney:

- Could anyone obtain a right to real property owned by a governmental entity by eminent domain?  
Response: 'not by eminent domain'.
- Is it true that the Statute of Frauds requires that most, if not, all interest in real estate be reduced to writing and recorded in some way, shape or form?  
Response: 'yes'

To the extent that there has been any use of what is now City owned property and previous owned property, at most it is by permission that can be withdrawn for any reason at any time.

Response: 'If it is permissive use, the permission can be withdrawn.'

**RESOLUTION NO. 15-129**

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

**RESOLUTION ACCEPTING SURPLUS PROPERTY DESIGNATION  
OF CITY OWNED PROPERTY AT  
702 N. FOURTH AVENUE (PARCEL NO. 54-17-11-181-010)**

WHEREAS, the City Commission, per Resolution 15-77, dated August 3, 2015, referred the discontinuation of City owned property identified as 702 N. Fourth Avenue (Parcel No. 54-17-11-181-010) to the Planning Commission to determine if it may be surplus property, and

WHEREAS, at its November 18, 2015 meeting, the Planning Commission reviewed future City uses of Parcel No. 54-17-11-181-010 and determined this land was not needed for future City governmental uses.

NOW, THEREFORE, BE IT RESOLVED, that the City Commission declares Parcel No. 54-17-11-181-010 as surplus property.

Yeas: Anderson, Hogenson, James, Warba

Nays: None

The Mayor declared the resolution adopted.

Date: December 21, 2015

There is an open ditch that crosses the property that may have to be filled in. The City may be able to fill in the ditch with soil from other governmental projects to reduce the cost of preparing the parcel for sale.

**ORDINANCE NO. 691-12-15**

Commissioner Anderson moved, supported by Commissioner James the adoption of the following Ordinance:

**AN ORDINANCE VACATING JACKSON STREET FROM N FOURTH AVENUE TO  
THE FRED MEIJER WHITE PINE TRAIL**

WHEREAS, the City Commission deems it advisable to vacate Jackson Street from N Fourth Avenue to the Fred Meijer White Pine Trail, and

WHEREAS, the City Commission by Resolution directed the Planning Commission to solicit public input on this matter and offer a recommendation, and

WHEREAS, the Planning Commission conducted public hearings on the vacation of Jackson Street on October 21, 2015, and November 18, 2015, and after that public hearing recommended the vacation of Jackson Street from N Fourth Avenue to Fred Meijer White Pine Trail.

NOW, THEREFORE, THE CITY OF BIG RAPIDS ORDAINS:

Section 1. The following described street in the City of Big Rapids, Mecosta County, IS HEREBY VACATED:

Jackson Street from N. Fourth Avenue to Fred Meijer White Pine Trail, Indiana Railroad Company and Continental Improvement Company's Sub-Division – Blk 4, City of Big Rapids.

Section 2. The City Clerk is hereby directed to publish this Ordinance in THE PIONEER, and to record the ordinance with the Mecosta County Register of Deeds.

Section 3. This ordinance shall become effective immediately upon publication.

Yeas: Anderson, Hogenson, James, Warba

Nays: None

The Mayor declared the ordinance adopted.

Dated: December 21, 2015

Published: December 23, 2015

**RESOLUTION NO. 15-130**

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

**RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS  
TO SUBMIT THE APPLICATION PERMIT FOR MISCELLANEOUS  
OPERATIONS WITHIN STATE HIGHWAY RIGHT-OF-WAY FOR 2016  
VIA THE MICHIGAN BUSINESS ONE STOP WEBSITE**

WHEREAS, the City of Big Rapids hereinafter referred to as the "GOVERNMENTAL AGENCY", periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT", for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utility or other facilities, or to conduct other activities, on, over, and under state highway right of way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the GOVERNMENTAL AGENCY agrees that:

1. Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law. This Agreement is not intended to increase either party's liability for, or immunity from, tort claims nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.

2. Any work performed for the GOVERNMENTAL AGENCY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL AGENCY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL AGENCY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL AGENCY.

3. The GOVERNMENTAL AGENCY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.

4. The GOVERNMENTAL AGENCY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State highway right of way resulting from the installation construction, operation and/or maintenance of the GOVERNMENTAL AGENCIES facilities according to a PERMIT issued by the DEPARTMENT.

5. With respect to any activities authorized by PERMIT, when the GOVERNMENTAL AGENCY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.

6. The incorporation by the DEPARTMENT of this resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.

7. This resolution shall continue in force from this date until cancelled by the GOVERNMENTAL AGENCY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the

GOVERNMENTAL AGENCY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position[s] are authorized to apply to the DEPARTMENT for the necessary permit to work within state highway right of way on behalf of the GOVERNMENTAL AGENCY.

Name	Title
Mark Gifford	Public Works Director

Yeas: Anderson, Hogenson, James, Warba  
Nays: None  
The Mayor declared the resolution adopted.  
Dated: December 21, 2015

**RESOLUTION NO. 15-131**

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

**RESOLUTION AWARDING BID FOR  
CUSTODIAL SERVICES**

WHEREAS, the City solicited bids for custodial services for the cleaning of City Hall, the Community Library, and the Wastewater Treatment Plant, and

WHEREAS, three bids were received, whereby staff is recommending the acceptance of the bid from Hi-Tec Building Services, Inc. for a period of three years beginning January 1, 2016 to December 31, 2018 in the amount of \$ 26,400.00 per year, and

WHEREAS, the contract provides for an option of one (2) year extension if both parties agree.

NOW, THEREFORE, BE IT RESOLVED, that the City Commission hereby accepts staff's recommendation for custodial services in the amount of \$ 26,400 per year to Hi-Tec Building Services, Inc. for a period of three years beginning January 1, 2016 to December 31, 2018 with an option of one (2) year extension.

BE IT FURTHER RESOLVED, that the City Commission authorizes the Mayor to sign the contract.

BE IT FURTHER RESOLVED, that the funds be expensed to the following Account Numbers:

Account Number	Amount per year
----------------	-----------------

101-267-801.002 Contracted Services Janitorial	City Hall	\$11,100
271-267-801.002 Contract Services Janitorial	Library	\$ 9,600
590-560-801.000 Contract Services Janitorial	WWTP	\$ 5,700

Yeas: Anderson, Hogenson, James, Warba

Nays: None

The Mayor declared the resolution adopted.

Dated: December 21, 2015

Ms. Barbara Borth has approximately 21 acres of vacant land for sale that is adjacent to the City's Clay Cliffs Nature Preserve. This parcel of land would be a great addition to the Clay Cliffs Nature Preserve because of the topography of the current park. Currently, visitors have to trespass onto this parcel to use the Clay Cliff trails. Even though the Borth family has given their permission, the purchasing of this land would eliminate that issue.

This parcel has great potential for winter and summer activities, however, the goal is to have Clay Cliffs be a nature preserve where people have a place to enjoy walking, observing plants and animals. A parking lot and restrooms may be discussed in the future.

The DNR Trust Fund may be one avenue that the City could look into for financial help in developing this area. Grant funding would not be available until the land contract is paid in full.

This parcel includes six acres with access off Monroe Avenue that could be sold for the development of homes, which the City could use to recover some of the cost of buying this parcel.

The City is proposing to purchase this vacant parcel on a land contract of \$53,000 with \$23,000 being paid by December 31, 2015 and \$10,000 in each of the next three fiscal years.

This year, the money to pay for this land would come from several positions that have not been filled after employees retired or left employment. As a result, there is money available from those line items that can be used to pay the \$23,000. The next three years can be worked into the budgeting process.

The City is responsible for obtaining a survey of the property. This will be done by Fleis and VandenBrink who have agreed to provide the verification of the survey at no cost to the City.

If the City Commission approves this resolution, the City hopes to close on the property by the end of January 2016.

Currently, part of the Clay Cliffs is in town and part is out of town. Once the land title is acquired the boundaries need to be reconfigured and the property bought into the City limits. A resolution from the City Commission will need to be adopted setting the new boundaries and City limits.

**RESOLUTION NO. 15-132**

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

**RESOLUTION AUTHORIZING PURCHASE OF  
VACANT LAND FROM BARBARA BORTH**

WHEREAS, the City Commission desires to purchase vacant land from Barbara Borth, which is described as follows:

*Sec 10 T15N R10W-Big Rapids TWP – POLP-54-052-010-011-000 acreage TBD after survey.*

WHEREAS, a purchase agreement has been reviewed by the City Attorney and signed by the owners of the property and the City Manager, and

WHEREAS, staff considers this property an addition to the Clay Cliffs Nature Preserve, and

WHEREAS, park users currently use trails across this land due to the topography of Clay Cliffs Park, and

WHEREAS, funds to purchase this 21 ± acre parcel have been accumulated in a park and recreation 'land purchase' line item by savings realized in other General Fund accounts within this fiscal year, and

WHEREAS, this purchase is being made on a land contract basis calling for \$23,000 to be paid by December 31, 2015 and \$10,000 in each of the next three fiscal years for a total of \$53,000.

NOW, THEREFORE, BE IT RESOLVED, that the purchase of the above described property from Barbara Borth is hereby approved and authorized and that the Mayor and City Manager are hereby authorized to sign said documents.

BE IT FURTHER RESOLVED, that this land acquisition be charged to Account No. 101-756-971.002 – Madison Land Acquisition.

Yeas: Anderson, Hogenson, James, Warba

Nays: None

The Mayor declared the resolution adopted.

Dated: December 21, 2015

Commissioner James stated that she has a professional relationship with some of the officers. Mr. Eric Williams, City attorney, stated that it did not appear to be a conflict that would require attention.

**RESOLUTION NO. 15-133**

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

**RESOLUTION ACCEPTING AGREEMENT WITH THE  
PATROL OFFICER’S UNIT**

WHEREAS, the Police Officers Labor Council, in order to accept the tentative collective bargaining agreement presented to and approved by the Big Rapids City Commission on November 2, 215, requested modifications to that document, and

WHEREAS, further negotiations have resulted in a document that has been ratified by the membership.

NOW THEREFORE, BE IT RESOLVED, that the City Commission of the City of Big Rapids hereby approves the attached settlement contract between the City of Big Rapids and Patrol Officers bargaining unit of the Police Officers Labor Council, for the period of January 1, 2016 to December 31, 2018 and that the Mayor and City Manager are hereby authorized to sign the contract upon final contract formatting.

Yeas: Anderson, Hogenson, James, Warba

Nays: None

The Mayor declared the resolution adopted.

Dated: December 21, 2015

**UNSCHEDULED BUSINESS**

- Commissioner Hogenson commented that the Employee Recognition luncheon was a very nice gathering.
- The Rules of Procedures were handed out for the Commission to review for the January 4, 2016 meeting.
- The frozen water ordinance will be ready for the January 4, 2016 meeting.
- The downtown lights look very nice, kudos to staff.
- Each year MDOT officials inspect the airport for trees that are interfering with the maintenance of the approaches to the landing strips. This year, two to three acres of trees (approximately 300 trees) will be cut down in the area behind Fastenal Industrial and Drs. Nevins Family Dentistry.

There being no further business to come before the City Commission, the Mayor declared the meeting adjourned at 7:20 p.m.

\* \* \* \* \*

\_\_\_\_\_  
Mayor Mark J. Warba

\_\_\_\_\_  
Tamyra K. Gillis, City Clerk