**City of Marine City**

**City Commission**

**September 2, 2021**

A regular meeting of the Marine City Commission was held on Thursday, September 2, 2021 at 260 South Parker Street, Marine City, and was called to order by Mayor Vercammen at 7:00 pm.

Present: Mayor Cheryl Vercammen; Commissioners Jacob Bryson, Elizabeth Hendrick, Wendy Kellehan, William Klaassen, Brian Ross; Interim City Manager Michael Itrich; City Clerk Kristen Baxter

Absent: Commissioner John Kreidler

Motion by Commissioner Ross, seconded by Commissioner Bryson, to excuse Commissioner Kreidler from the meeting. All Ayes. Motion Carried.

Also Present: City Attorney Robert Davis

**APPROVE AGENDA**

Motion by Commissioner Hendrick, seconded by Commissioner Ross, to approve the Agenda with the following amendments:

* Add Special Event – Friends of City Hall Concert to Consent Agenda
* Move Cancellation of September 16, 2021 to Items Removed From Consent Agenda

All Ayes. Motion Carried.

**PUBLIC COMMENT**

Public comment was given by Phil Oleksiak.

Public comment was given by Judy White.

**APPROVE MINUTES**

Motion by Commissioner BrysoneH, seconded by Commissioner Klaassen, to approve the City Commission meeting minutes of July 15, 2021. All Ayes. Motion Carried.

Commissioner Kellehan clarified her vote regarding the July 15, 2021 minutes.

Commissioner Hendrick questioned if the Board was going to address Mr. Oleksiak’s request to amend his statement given during public comment at the August 19, 2021 meeting. City Clerk Baxter spoke to her formal training and instruction regarding minute taking and advised that under no circumstance should the public be able to weigh in on what was stated in the minutes and that minutes regarding public comment should be very minimal. She advised that she would be willing to change the minutes to reflect: Phil Oleksiak made comment on the sale of City property.

Commissioner Hendrick also expressed her opinion regarding why she believed it was important to include a lot of detail in the minutes. She stated that eventually recordings disappear and all you have left are the minutes.

City Attorney Davis stated that the law required only date, time and the action taken to be included in meeting minutes.

Motion by Commissioner Bryson, seconded by Commissioner Klaassen, to approve the City Commission meeting minutes of August 19, 2021 with the revision to Mr. Oleksiak’s public comment. Ayes: Bryson, Kellehan, Ross, Vercammen. Nays: Hendrick, Klaassen. Motion Carried.

**CONSENT AGENDA**

Presented:

* Communication from Jim Turner
* Cancellation of September 16, 2021 meeting
* SCC Gypsy Moth Program
* Special Event – Tenyer’s Automotive 2nd Annual Customer Appreciation & Memorial Car Show
* Special Event – MC Chamber of Commerce Pumpkin Palooza
* Business License – Harvest Church
* Business License – Back Door Grill
* Special Event – Friends of City Hall Concert

Motion by Commissioner Bryson, seconded by Commissioner Ross, to approve the Consent Agenda items A & C-H. **Roll Call Vote.** Ayes: Bryson, Hendrick, Kellehan, Klaassen, Ross, Vercammen. Nays: None. Motion Carried.

**FINANCIAL BUSINESS**

Expenditures

Motion by Commissioner Kellehan, seconded by Commissioner Bryson, to approve total expenditures including payroll, in the amount of $110,658.75. **Roll Call Vote.** Ayes: Bryson, Hendrick, Kellehan, Klaassen, Ross, Vercammen. Nays: None. Motion Carried.

**UNFINISHED BUSINESS**

Ratification of Level 3 Background Investigation for New City Manager

City Attorney Davis spoke to the timeline of events regarding the background investigation for the new City Manager including: the formation of a subcommittee to select potential candidates to be interviewed, the unanimous vote to hire Mrs. Tatman, the subcommittee’s work with City Attorney Davis to draft a contract, which was ultimately approved by Commission, the motion by Commission to do a level 2 background investigation, and the signing of the employment agreement subject to an enhanced background investigation, the level of which was not identified in the employment agreement.

City Attorney Davis informed the Board that the subcommittee had met, as a whole, to analyze levels 2 and 3 of the background investigation and they had come to the conclusion that portions of the level 2 background were too intrusive and requested Mr. Davis’ permission to address modifications; he stated it was acceptable if the subcommittee agreed, as a whole, to the changes. He informed the Board that although he was not at the meeting, it was conveyed that a unified decision was made to do the level 3 background investigation.

City Attorney Davis informed the Board that Fifer Investigations then sent in their investigation dated August 13, 2021 with an invoice that did not identify the level of investigation. He stated that he personally contacted Mr. Fifer to reissue the invoice identifying the level of investigation completed, which was done. City Attorney Davis gave his opinion that the Interim City Manager accepted the initial investigation report as what was ordered since the invoice did not state anything differently. The background report was then put into the employee’s personnel file; from there, the investigation report made its way out of the personnel file and into communications with others. City Attorney Davis confirmed that the initial background report provided was not a level 3 and was inadequate however, the level of report was not identified on the invoice and he gave his opinion that there was no one in the City office who would have been qualified to tell the difference in the levels of background investigation therefore, the initial background provided was accepted as satisfactory.

City Attorney Davis stated he then worked directly with Fifer Investigations to perform a full level 3 investigation background which was recently provided to the City Commission via email. He stated that because of the process that had taken place, he had advised the Commission to take action to ratify the decision to accept and receive the level 3 investigation report.

Commissioner Hendrick stated her opinion that the Board was misled and made to believe the level 2 investigation was performed and completed prior to the Commission voting to approve the City Manager’s contract at the previous City Commission meeting. She confirmed the subcommittee discussed a level 3 background however, she had informed the subcommittee that the City Commission had voted on a level 2 background report and they had to follow the decision of the City Commission. Commissioner Hendrick stated that she thought the subcommittee meeting ended but instead the meeting went on in the Clerk’s office without her being present. She also stated that she was approached by Chief Heaslip after the August 19, 2021 meeting and, at that time, he provided her with information on the background report that had not been provided in the Commissioner packets.

Commissioner Hendrick questioned what Board Members were provided with an anonymous letter as she was informed that an anonymous letter had been sent to the City offices and it was her belief the letter should have been released to the Board. City Attorney Davis stated he had been contacted about the letter and advised that if the letter contained merit or had veracity it should be released. Commissioner Hendrick questioned Interim City Manager Itrich as to what the letter said and he replied that he had not read the letter and said it was addressed to the Mayor and Mayor ProTem. Commissioner Hendrick inquired why the letter was not shared with the Commission. Mayor Vercammen advised that she was in receipt of the anonymous letter, addressed to her, and she determined the information to have no merit.

Commissioner Hendrick questioned if a complaint was made by a City staff member regarding the anonymous letter and the initial background investigation and what was done with the complaint and when was it filed. Interim City Manager Itrich and City Attorney Davis responded that they had not received a complaint from a City staff member.

Commissioner Hendrick questioned why the subcommittee continued to meet once she had left the building. Mayor Vercammen and City Clerk Baxter responded that the meeting did not continue. Commissioner Hendrick sought confirmation from Chief Heaslip that while in the subcommittee meeting they had agreed to keep the investigation at a level 2; he confirmed. City Attorney Davis stated that he had had a conversation with

Commissioner Hendrick at which time she had agreed to remove some portions of the level 2 background, including medical. City Clerk Baxter informed the Board that once the subcommittee meeting had ended, she went to her office to contact the City Attorney to verify that the changes made by the subcommittee were acceptable.

Commissioner Hendrick distributed to each Board member two separate letters addressed to Fifer Investigations. She questioned if the letter approving the level 2 investigation was signed and submitted to Fifer Investigations. She then claimed that a second letter materialized that had the level 2 investigation removed and asked for confirmation from Interim City Manager Itrich which letter was sent to Fifer Investigations. Interim City Manager Itrich responded and said that the Police Chief had assisted him with writing the signed letter. He said he did not have knowledge of the unsigned letter and questioned Commissioner Hendrick on where the letter came from as his name was on it; she stated that she had no idea.

Commissioner Hendrick questioned who contacted Fifer Investigations and reduced the background investigation from a level 2 to less than a level 4. Interim City Manager Itrich responded that he had contacted Fifer Investigations. She asked him why the Board wasn’t advised that a level 2 investigation wasn’t completed and why all of this information was hidden from the Board prior to them approving the hire of City Manager Tatman.

Interim City Manager Itrich expressed his belief that the issues relating to the background investigation could have been prevented if Commissioner Hendrick and Chief Heaslip would have informed him of their concerns prior to the meeting. He stated that Chief Heaslip knew prior to the last meeting that the background check was not a level 3.

Commissioner Klaassen stated that prior to voting for the City Manager, he had asked if the background check was completed and he was told yes.

Commissioner Hendrick questioned what staff members had access to the file for City Manager Tatman. City Attorney Davis stated that that was a good question as information from that file had escaped. Commissioner Hendrick called for an investigation by the State Police to find out what had transpired to evaluate what had happened. City Attorney Davis and Interim City Manager Itrich agreed and said there was information provided to some that could have only come from a personnel file and they would like to know how that happened.

City Attorney Davis reiterated that the level 3 background report was provided to the Commission and that if it was deemed sufficient, then the Commission could vote to accept the ratification of the level 3 background investigation. Commissioner Hendrick expressed her unwillingness to accept the level 3 background report as sufficient and called for the removal of individuals implicated in the pending State Police investigation. She further said until we get to the bottom of the investigation, no one should move forward on bringing this person on board.

Mayor Vercammen stated that there were some internal leaks that needed to be investigated however, it should not affect the hiring of City Manager Tatman.

Motion by Commissioner Hendrick, seconded by Commissioner Klaassen, to elevate the level 3 to a level 2 background investigation on the applicant. Roll Call Vote. Ayes: Hendrick, Klaassen. Nays: Bryson, Kellehan, Ross, Vercammen. Motion Failed.

Motion by Mayor Vercammen, seconded by Commissioner Bryson, to ratify the interim decision made to go from level 2 to accept a level 3 as the enhanced background check pursuant to the offer of employment.

Commissioner Ross stated that when the background report was received he had looked over every level and the portion the Commission had received was a full level 4 and met a level 3 with some removals. He questioned why the Commission was not informed by the subcommittee that they were downgrading from a level 2 investigation to a level 3. He conveyed that the differences between a level 2 and level 3 investigation were the removal of a section addressing social media and internet presence and the level 2 required more family and personal references. He further said he was okay going to a level 3 but was disappointed that he was not informed prior to this meeting.

Commissioner Bryson expressed his disappointment at the breakdown in communication and said he was fully in support of the State Police conducting an investigation and said we needed to move forward. He asked for confirmation that a complete level 3 investigation had been conducted by Fifer Investigation. City Attorney Davis stated that Fifer Investigation supplied an invoice stating that a level 3 had been completed.

Roll Call Vote: Ayes: Bryson, Kellehan, Ross, Vercammen. Nays: Klaassen, Hendrick. Motion Carried.

Motion by Commissioner Hendrick, seconded by Commissioner Klaassen, to reconsider revisiting the Commission’s prior vote made on August 19, 2021 to approve the contract for the new City Manager. Ayes: Hendrick, Klaassen. Nays: Bryson, Kellehan, Ross, Vercammen. Motion Failed.

City Attorney Davis advised that Chief Heaslip could not do the investigation and that City Attorney Davis would contact the State Police.

Commissioner Hendrick stated that she would like a new Interim City Manager until the investigation was complete. No action was taken by the Board.

Repeal Section 70.057 (Snow Removal) of Ordinance No. 2018-01-2nd Reading/Adoption

Motion by Commissioner Bryson, seconded by Commissioner Ross, to approve the second reading and adoption of Repeal Section 70.057 (Snow Removal) Ordinance No. 2018-01. **Roll Call Vote:** Ayes: Bryson, Hendrick, Kellehan, Klaassen, Ross, Vercammen. Motion Carried.

**NEW BUSINESS**

Friends of City Hall – Request for Signage

Interim City Manager Itrich stated that the request for signage was for two signs, one facing Broadway and one facing South Main promoting the Phase II Restoration of their Capital Campaign.

Motion by Commissioner Hendrick, seconded by Commissioner Ross, to allow the Friends of City Hall to put up their 4x4 signs. All Ayes. Motion Carried.

Board Appointment – Board of Review

Motion by Commissioner Hendrick, seconded by Commissioner Klaassen, to approve the Board Appointment of Gary Westrick to the Board of Review. All Ayes. Motion Carried.

Attorney Opinion – Retiree Healthcare Eligibility

City Attorney Davis advised the Board that the topic of Retiree Healthcare Eligibility, regarding Richard Ames and John Ameel’s spouse, was being presented as there was a motion at the lower Board level to bring the issue before the City Commission. He stated that the City had two ordinance sections that worked together, Section 32 and Section 33, and they interplay in such a manner that one’s roll in the retirement program affected one’s roll in the healthcare program. City Attorney Davis advised that both ordinances had to be read in conjunction and it was his legal opinion that Richard Ames and John Ameel’s spouse qualified for retirement healthcare benefits and that the City was contractually obligated to give them retirement healthcare benefits.

Motion by Mayor Vercammen, seconded by Commissioner Bryson to accept the conclusions and recommendations made in the Attorney’s opinion regarding the Retiree Healthcare Eligibility of Richard Ames and John Ameel’s spouse. Ayes: Bryson, Kellehan, Klaassen, Ross, Vercammen. Nays: Hendrick. Motion Carried.

Water Plant Upgrade – Programmable Logic Controller

Motion by Commissioner Bryson, seconded by Commissioner Klaassen, to waive competitive bidding for the installation of the Programmable Logic Controller by Kerr Pump and Supply at the Water Plant. **Roll Call Vote.** Ayes: Bryson, Hendrick, Kellehan, Klaassen, Ross, Vercammen. Nays: None. Motion Carried.

Motion by Commissioner Bryson, seconded by Commissioner Klaassen, to accept the quote from Kerr Pump and Supply following a 3 year plan: Phase 1 for the amount of $28,300, Phase 2 for the amount of $36,090, and Phase 3 for the amount of $49,259.

**Roll Call Vote.** Ayes: Bryson, Hendrick, Kellehan, Klaassen, Ross, Vercammen. Nays: None. Motion Carried.

Cruise Boat – Termination of Lease

Motion by Commissioner Klaassen, seconded by Commissioner Hendrick, to terminate the lease in full, not to extend past October 31, 2021. All Ayes. Motion Carried.

**ITEMS REMOVED FROM CONSENT AGENDA**

Cancellation of September 16, 2021 Meeting

Motion by Commissioner Bryson, seconded Commissioner Hendrick to not approve the cancellation of the September 16, 2021 City Commission meeting. All Ayes. Motion Carried.

**CITY MANAGER REPORT**

Interim City Manager Itrich provided a list of his ongoing duties as DPW Superintendent and Interim City Manager.

**COMMISSIONER PRIVILEGE/LIAISON REPORTS**

Commissioner Bryson commented on his disappointment regarding the breakdown in communication that had occurred.

Commissioner Hendrick stated she no longer supported the hiring of the new City Manager and chastised the other Board Members for the way they chose to vote on agenda items, stating they had failed the community.

Commissioner Kellehan echoed Commissioner Bryson’s comments that she was disappointed in the breakdown of communication. She further commented that she believed City Manager Tatman was extremely competent and stressed the importance of giving her a chance. Furthermore, she stated she did not feel she had let the community down and said she would not be bullied or accused of not doing her job as a Commissioner. She thanked the CED Board for doing a good job.

Commissioner Klaassen stated he would like better communication.

Commissioner Ross reiterated that there was a very small amount of information removed from the Background investigation so he was ok with it however, would prefer more transparency. He would like everyone to give the new City Manager a chance and said he still felt she was the best candidate for the job.

Mayor Vercammen reminded residents that there was a code compliance complaint form. She spoke to the presentation they gave in Lansing for the Marina project. She concluded that there was no intentional wrong doing associated with hiring the new City Manager and that there needed to be confidentiality within the City offices. She thanked Michael Itrich for stepping up and for all he does to help the community.

City Attorney Davis spoke to how everyone at the City offices was just trying to do their best having been put in positions with no training and being short staffed.

**ADJOURNMENT**

Motion by Commissioner Hendrick, seconded by Commissioner Ross, to adjourn at 9:14 pm. All Ayes**.** Motion Carried.

Respectfully submitted,

Kristen Baxter

City Clerk