

**CITY OF MENOMINEE, MICHIGAN
REGULAR COUNCIL PROCEEDINGS
AUGUST 19, 2009**

A regular meeting of the Menominee City Council, City of Menominee, County of Menominee, State of Michigan, was held Wednesday, August 19, 2009 at 5 p.m. in the Municipal Complex Council Chambers.

The Honorable George W. Krah called the meeting to order and led the pledge of allegiance to the flag.

PRESENT: Councilmembers Hudon, Mick, Organ, Pintarelli, Schloegel, Sorensen, and Williams; Mayor Krah

ABSENT: Councilmember Fernstrum (excused)

PRESENT: 8

ABSENT: 1

A motion was made by Councilmember Hudon and seconded by Councilmember Mick to excuse Councilmember Fernstrum from the meeting. This motion was carried unanimously.

A motion was made by Councilmember Sorensen and seconded by Councilmember Hudon to amend the agenda to include the Personnel and Labor Committee on the City Manager Contract as #8 under Reports of Standing Committees and to approve the agenda for the meeting dated August 13, 2009 as amended. This motion was carried unanimously.

There being no additions or corrections to the minutes of the regular meeting of July 20, 2009, or the special meetings of July 21, 2009, July 22, 2009, and July 27, 2009, the minutes of all of the meetings stood approved as presented.

PUBLIC COMMENT:

Mayor Krah opened the public comment session.

Ed Smith, 1514-20th Avenue, requested councilmembers think before voting on the City Manager Contract; \$82,500 is a high salary, and \$600 is a lot for a car allowance. He also commented on the garbage truck situation.

Mary Nemetz, 805-7th Avenue spoke against automated garbage pickup. This would be a good time to outsource pickup. She asked what happened if the truck broke and how it would work during the wintertime on the streets. Cart storage was also an issue.

Annamae Amerman, 1205-15th Street felt the salary and benefits for the new City Manager were too high and should be looked at again.

A motion was made by Councilmember Williams and seconded by Councilmember Schloegel to close the public comment session. This motion was carried unanimously.

COMMUNICATIONS:

The first item under communications was a request from The Baron Restaurant Group, LLC (Vincent, Arthur, and Sandy Baron) to designate 525 First Street as an Obsolete Property Rehabilitation District and to waive all application fees and costs.

A motion was made by Councilmember Organ and seconded by Councilmember Williams to receive the request and place it on file. This motion was carried unanimously.

Next, Jim LaMalfa gave an update on the fishing sculpture that the Menominee Area Arts Council plans to place in a downtown park. He also spoke regarding the Cairn Crossing Competition that will be held at Henes Park in October.

COMMITTEE REPORT:

The Finance Committee reported that they reviewed the claims for July, 2009 and they recommended that checks be drawn on the treasurer in payment of the bills as follows:

General Fund in the amount of \$916,708.83
River Park Fund in the amount of \$15,082.49

S/FINANCE COMMITTEE

A motion was made by Councilmember Sorensen and seconded by Councilmember Williams to adopt the foregoing report. This motion was carried unanimously.

COMMITTEE REPORT:

The Finance Committee reported that they had reviewed the Operating Budget for fiscal year 2009-2010 and they recommended reducing 101-336-965 Fire Department lease/purchase by \$7,081.51.

S/FINANCE COMMITTEE

A motion was made by Councilmember Sorensen and seconded by Councilmember Williams to adopt the foregoing report. This motion was carried unanimously.

COMMITTEE REPORT:

The Finance Committee reported that they had reviewed proposed amendments to the Obsolete Property and Rehabilitation Act (OPRA) Policy and they recommended to City Council that they approve amending the policy as follows:

**CRITERIA FOR THE REVIEW OF APPLICATIONS UNDER THE OBSOLETE
PROPERTY REHABILITATION ACT (P.A. 146 OF 2000)**

~~(12) Property tax relief will not be granted to businesses having tax abatements or exemptions under other City or State economic development programs (e.g. P.A. 198, Renaissance Zone) or businesses located in a Tax Increment Financing Area.~~

It is the policy of the City of Menominee that the same property cannot simultaneously receive local property tax relief from more than one program. Property tax relief in the form of an OPRA designation will not be granted to businesses having tax abatements or exemptions under other City or State economic development programs (e.g. P.A. 198, Renaissance Zone).

(13) If the owner(s) of a property(ies) located in a Tax Increment Finance District applies for and receives an OPRA exemption certificate for that property(ies), tax increment revenues will not be captured for those property taxes applicable to the property(ies) exempted from levy and collection by the OPRA exemption certificate upon approval of the OPRA exemption certificate by the Menominee City Council. Upon the expiration of the OPRA exemption certificate, the property taxes applicable to the property(ies) previously subject to exemption shall be captured as tax increment revenues provided the Tax Increment Financing District still exists.

(14) If the developer(s) of the project(s) has applied for and/or received other sources of municipal funding or other types of municipal support for the project(s), such as a loan(s) from the City's Revolving Loan Fund, the City shall take this into consideration when reviewing the OPRA application. The City shall consider its total, financial participation in a project(s) based upon the financial viability of the project as supported by reasonable, financial data and projections supplied by the developer(s) and the financial institution(s) participating in the project(s).

(15) Approval of the property tax abatement would not put undue pressure on the City of Menominee's ability to fund existing and future levels of municipal services.

(16) The applicant(s) applies to the Treasurer of the State of Michigan and receives an exclusion from the specific tax to be levied on the property(ies) of up to one-half of the mills levied for local school operating purposes and for the State Education Tax.

S/FINANCE COMMITTEE

A motion was made by Councilmember Williams and seconded by Councilmember Sorensen to adopt the foregoing report. This motion was carried unanimously.

COMMITTEE REPORT:

The Judicial and Legislative and Parks and Recreation/Buildings and Grounds Committees reported that they had reviewed the Use of Parks Ordinance (Title 5, Chapter 1) and they recommended amending the ordinance as it pertained to River Park Campground and its operation.

S/JUDICIAL AND LEGISLATIVE AND PARKS AND RECREATION/
BUILDINGS AND GROUNDS COMMITTEES

A motion was made by Councilmember Williams and seconded by Councilmember Mick to adopt the foregoing report. This motion was carried unanimously.

COMMITTEE REPORT:

The Personnel and Labor Committee reported that they had reviewed Eric Strahl's employment with the City and they recommended that his final day be September 4, 2009 with the option to extend to September 10, 2009.

S/PERSONNEL AND LABOR COMMITTEE

A motion was made by Councilmember Mick and seconded by Councilmember Williams to adopt the foregoing report. This motion was carried unanimously.

COMMITTEE REPORT:

The Personnel and Labor Committee reported that they had reviewed the proposed amendments to the job description for Water Department Foreman as recommended by the City Manager and they recommended that the job description be approved as amended.

S/PERSONNEL & LABOR COMMITTEE

A motion was made by Councilmember Schloegel and seconded by Councilmember Williams to adopt the foregoing report.

AYES: Hudon, Mick, Organ, Pintarelli, Schloegel, Sorensen, and Williams NAYS: Krah

This motion was carried.

COMMITTEE REPORT:

The Public Safety/Public Works Committee reported that they had reviewed the need for a sanitation collection vehicle and they recommended to City Council that they approve waiving the bid process and connecting with the City of Escanaba to purchase a Heil Rapid Rail on an International Model 7400 chassis at the cost of \$180,150, which was their bid price.

S/PUBLIC SAFETY/PUBLIC WORKS COMMITTEE

A motion was made by Councilmember Mick and seconded by Councilmember Organ to table the foregoing report.

AYES: Hudon, Mick, Organ, Schloegel, Sorensen, and Williams
NAYS: Krah and Pintarelli

This motion was carried.

COMMITTEE REPORT:

The Personnel and Labor Committee reported that they had reviewed the draft City Manager Contract with Richard Goode and they recommended approval of the Contract including \$82,500 annual salary, six month term severance pay and three months health insurance, 10 city business days to remedy willful and continued failure, five days vacation from now to December 31, 2009, moving expenses not to exceed \$8,000, and an auto allowance of \$300 per month with the same language as the current City Manager Contract.

S/PERSONNEL AND LABOR COMMITTEE

A motion was made by Councilmember Williams and seconded by Councilmember Sorensen to adopt the foregoing report.

AYES: Mick, Schloegel, Sorensen, and Williams
NAYS: Krah, Organ, Pintarelli, and Hudon

This motion failed to carry.

MOTIONS AND RESOLUTIONS:

The only items under motions and resolutions were the following resolutions:

**RESOLUTION AUTHORIZING NOTICE OF INTENT
AND DECLARING INTENTION TO REIMBURSE
City of Menominee
County of Menominee, State of Michigan**

Minutes of a regular meeting of the City Council of the City of Menominee, County of Menominee, State of Michigan held on the ____ day of _____, 2009, at 5:00 o'clock p.m. Central Daylight Time.

PRESENT: Members

ABSENT: Members

The following preamble and resolution were offered by Member _____ and supported by Member _____:

WHEREAS, the City of Menominee, County of Menominee, State of Michigan (the "City") intends to issue and sell revenue bonds, pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in an amount not to exceed Two Million Four Hundred Thousand Dollars (\$2,400,000) for the purpose of paying part of the cost of acquiring and constructing water supply system improvements (the "Project"); and

WHEREAS, the Revenue Bond Act, Act 94, Public Acts of Michigan, 1933, as amended ("Act 94"), provides a means for financing the purchase, acquisition, construction, improvement, enlargement, extension, and repair of public improvements such as the Project through the issuance of revenue bonds; and

WHEREAS, a notice of intent to issue bonds must be published before the issuance of the aforesaid bonds in order to comply with the requirements of Section 33 of Act 94; and

WHEREAS, the City intends at this time to state its intentions to be reimbursed from proceeds of the Bonds for any expenditures undertaken by the City for the Project prior to issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a notice of intent to issue bonds in a newspaper of general circulation in the City.
2. Said notice of intent shall be published as a one-quarter (1/4) page display advertisement in substantially the following form:

NOTICE TO TAXPAYERS AND ELECTORS OF THE
CITY OF MENOMINEE AND TO USERS OF SAID CITY'S
WATER SUPPLY SYSTEM OF INTENT TO ISSUE
BONDS AND THE
RIGHT OF REFERENDUM RELATING THERETO

PLEASE TAKE NOTICE that the City Council of the City of Menominee, Menominee County, Michigan, intends to issue and sell revenue bonds, pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in an amount not to exceed Two Million Four Hundred Thousand Dollars (\$2,400,000), for the purpose of paying part of the cost of acquiring and constructing water supply system improvements to serve the City.

SOURCE OF PAYMENT OF
REVENUE BONDS

THE PRINCIPAL OF AND INTEREST ON SAID REVENUE BONDS SHALL BE PAYABLE solely from the revenues received by the City from the operations of said water supply system. Said revenues will consist of rates and charges billed to the users of the system, a schedule of which is presently on file in the office of the City Clerk. Said rates and charges may from time to time be revised to provide sufficient revenues to provide for the expenses of operating and maintaining the system, to pay the principal of and interest on said bonds and to pay other obligations of the system.

BOND DETAILS

SAID BONDS will be payable in annual installments not to exceed forty (40) in number and will bear interest at not to exceed 5% per annum on the balance of the bonds from time to time remaining unpaid.

RIGHT OF REFERENDUM

THE REVENUE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS OF THE CITY IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. IF SUCH PETITION IS FILED, THE BONDS MAY NOT BE ISSUED WITHOUT AN APPROVING VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS OF THE CITY VOTING THEREON.

THIS NOTICE is given pursuant to the requirements of Section 33, Act 94, Public Acts of Michigan, 1933, as amended.

Thomas DeNike
Clerk, City of Menominee

3. The City Council does hereby determine that the foregoing form of Notice of Intent and the manner of publication directed is the method best calculated to give notice to the water supply system's users and the City's taxpayers and electors of this Commission's intent to issue the bonds, the purpose of the bonds, the security for the bonds, and the right of referendum relating thereto.

4. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

- a) As of the date hereof, the City reasonably expects to reimburse the City for the expenditures described in (b) below with proceeds of debt to be incurred by the City.

- b) The expenditures described in this paragraph (b) are for the costs of acquiring and constructing the Project which were or will be paid subsequent to sixty (60) days prior to the date hereof.
- c) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$2,400,000.
- d) A reimbursement allocation of the expenditures described in b) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the debt to be issued for the Project to reimburse the City for a capital expenditure made pursuant to this resolution.
- e) The expenditures described in b) above are "capital expenditures" as defined in Treas. Reg. § 1.150-1(b), which are any costs of a type which are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Treas. Reg. § 1.150-2(c)) under general Federal income tax principles (as determined at the time the expenditure is paid).
- f) No proceeds of the borrowing paid to the City in reimbursement pursuant to this resolution will be used in a manner described in Treas. Reg. § 1.150-2(h) with respect to abusive uses of such proceeds, including, but not limited to, using funds corresponding to the proceeds of the borrowing in a manner that results in the creation of replacement proceeds (within Treas. Reg. § 1.148-1) within one year of the reimbursement allocation described in d) above.

5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members

NAYS: Members

RESOLUTION DECLARED ADOPTED.

**RESOLUTION AUTHORIZING NOTICE OF INTENT
AND DECLARING INTENTION TO REIMBURSE
City of Menominee
County of Menominee, State of Michigan**

Minutes of a regular meeting of the City Council of the City of Menominee, County of Menominee, State of Michigan held on the ____ day of _____, 2009, at 5:00 o'clock p.m. Central Daylight Time.

PRESENT: Members

ABSENT: Members

The following preamble and resolution were offered by Member _____ and supported by Member _____:

WHEREAS, the City of Menominee, County of Menominee, State of Michigan (the "City") intends to issue and sell revenue bonds, pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in an amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) for the purpose of paying part of the cost of acquiring and constructing sewage disposal system improvements (the "Project"); and

WHEREAS, the Revenue Bond Act, Act 94, Public Acts of Michigan, 1933, as amended ("Act 94"), provides a means for financing the purchase, acquisition, construction, improvement, enlargement, extension, and repair of public improvements such as the Project through the issuance of revenue bonds; and

WHEREAS, a notice of intent to issue bonds must be published before the issuance of the aforesaid bonds in order to comply with the requirements of Section 33 of Act 94; and

WHEREAS, the City intends at this time to state its intentions to be reimbursed from proceeds of the Bonds for any expenditures undertaken by the City for the Project prior to issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a notice of intent to issue bonds in a newspaper of general circulation in the City.
2. Said notice of intent shall be published as a one-quarter (1/4) page display advertisement in substantially the following form:

NOTICE TO TAXPAYERS AND ELECTORS OF THE
CITY OF MENOMINEE AND TO USERS OF SAID CITY'S
SEWAGE DISPOSAL SYSTEM OF INTENT TO ISSUE
BONDS AND THE
RIGHT OF REFERENDUM RELATING THERETO

PLEASE TAKE NOTICE that the City Council of the City of Menominee, Menominee County, Michigan, intends to issue and sell revenue bonds, pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in an amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000), for the purpose of paying part of the cost of acquiring and constructing sewage disposal system improvements to serve the City.

SOURCE OF PAYMENT OF
REVENUE BONDS

THE PRINCIPAL OF AND INTEREST ON SAID REVENUE BONDS SHALL BE PAYABLE solely from the revenues received by the City from the operations of said sewage disposal system. Said revenues will consist of rates and charges billed to the users of the system, a schedule of which is presently on file in the office of the City Clerk. Said rates and charges may from time to time be revised to provide sufficient revenues to provide for the expenses of operating and maintaining the system, to pay the principal of and interest on said bonds and to pay other obligations of the system.

BOND DETAILS

SAID BONDS will be payable in annual installments not to exceed forty (40) in number and will bear interest at not to exceed 5% per annum on the balance of the bonds from time to time remaining unpaid.

RIGHT OF REFERENDUM

THE REVENUE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS OF THE CITY IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. IF SUCH PETITION IS FILED, THE BONDS MAY NOT BE ISSUED WITHOUT AN APPROVING VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS OF THE CITY VOTING THEREON.

THIS NOTICE is given pursuant to the requirements of Section 33, Act 94, Public Acts of Michigan, 1933, as amended.

Thomas DeNike
Clerk, City of Menominee

3. The City Council does hereby determine that the foregoing form of Notice of Intent and the manner of publication directed is the method best calculated to give notice to the sewage disposal system's users and the City's taxpayers and electors of this Commission's intent to issue the bonds, the purpose of the bonds, the security for the bonds, and the right of referendum relating thereto.

4. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

- a) As of the date hereof, the City reasonably expects to reimburse the City for the expenditures described in (b) below with proceeds of debt to be incurred by the City.
- b) The expenditures described in this paragraph (b) are for the costs of acquiring and constructing the Project which were or will be paid subsequent to sixty (60) days prior to the date hereof.
- c) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$1,500,000.
- d) A reimbursement allocation of the expenditures described in b) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the debt to be issued for the Project to reimburse the City for a capital expenditure made pursuant to this resolution.
- e) The expenditures described in b) above are "capital expenditures" as defined in Treas. Reg. § 1.150-1(b), which are any costs of a type which are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Treas. Reg. § 1.150-2(c)) under general Federal income tax principles (as determined at the time the expenditure is paid).
- f) No proceeds of the borrowing paid to the City in reimbursement pursuant to this resolution will be used in a manner described in Treas. Reg. § 1.150-2(h) with respect to abusive uses of such proceeds, including, but not limited to, using funds corresponding to the proceeds of the borrowing in a manner that results in the creation of replacement proceeds (within Treas. Reg. § 1.148-1) within one year of the reimbursement allocation described in d) above.

5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members

NAYS: Members

RESOLUTION DECLARED ADOPTED.

A motion was made by Councilmember Organ and seconded by Councilmember Hudon to adopt the foregoing resolutions. This motion was carried unanimously.

PUBLIC COMMENT:

Mayor Krah opened the public comment session.

Ed Smith, 1514-20th Avenue, commented on the mill rate that was too much for small towns. He also spoke regarding the number of homes for sale.

Jill Schwanz, 2014-18th Street, commented on the closing of Nu-Vu. She also spoke regarding the City Manager appointment and expressed her disappointment in the 4-4 vote. She feels Mr. Goode would be an asset to the City.

Arthur Baron, N2360 M-35, said he was asking for the City to establish an OPRA District at 525 First Street. This building needs a great deal of work, including 31 windows and doors. There is a time deadline for forming the district, and quick action is needed to apply for facade grant funding before it expires.

A motion was made by Councilmember Williams and seconded by Councilmember Organ to close the public comment session. This motion was carried unanimously.

COUNCIL COMMENTS:

Councilmember Schloegel spoke regarding garbage collection and said he favored user fees – how many housing units per stop?

Mayor Krah said the trash situation needed to be solved. He also commented on the City Manager appointment.

Councilmember Williams said Mr. Goode was a tough negotiator; costs won't follow population decrease; disappointed with the 4-4 vote; things are moving backward not forward.

ADJOURN:

A motion was made by Councilmember Schloegel and seconded by Councilmember Mick to adjourn the meeting. This motion was carried unanimously.



Thomas F. DeNike, City Clerk/Treasurer