

REGULAR MEETING
Litchfield City Council - City Council Room
January 8, 2013 - 6:30 PM

Mayor Smith called the meeting to order at 6:30 PM.

Roll Call: Present – Mayor Edwin Smith, Councilpersons Greg Chapman, Jessica Bills, Rick Siebert, Brenda Thomas, Don Bannick and OR Smith.

Absent – None

Also Present – City Manager- Douglas Terry, Clerk-Susan Ballinger, Treasurer-Jill Pelham, Chief Michelin, Steve Burns, Tony Trombly, Bill Nobles, Gene Vagg, Andy Barrand (HDN), Mike Warner (Index) and Brendan Sanger.

Consent Agenda – Councilman Siebert moved to approve the consent agenda, seconded by Councilman Smith. Motion Carried.

Call to the Public – Bill Nobles updated the board on the Litchfield Initiative program. Mr. Nobles stated that the program has two classes currently in progress and with the help from TIFA new equipment has been purchased and is being installed by Wolfingers. So now the program can offer a much wider variety of welding and more apprentice programs. The Welding II class is paid for by local manufacturers and Nylon Craft. The Welding I class is primarily high school students from four different schools in Hillsdale County. The Welding III program is about different metals which are very tricky to work with and we've had three students graduate from the Welding III class. The number two priority for the Litchfield Initiative program is a Robot Program, we've already had one class last spring and will be having another this spring, that class is all paid for through a grant but we only have room in the class for eight people and if the money is there we could train sixteen people. Another program that we are working on bringing in is a CNC program and the cost for a CNC machine is about \$50,000 and we would like two machines. Bill informed the board of all the contributors for these programs and how important they are to the programs and keeping them going. The mission for the Litchfield Initiative is to educate to employ for careers. Bill stated that Litchfield employs over 2000 people and through the Job Shadowing Program there are currently 50 different careers in this community. Jackson Community College has contacted us because they would like to help with some of the technical things we are doing. Bill continued to inform the board of new programs and grants that are hopefully to come in the future that would help with the Litchfield Initiative programs. Councilwoman, Thomas asked who the members are in the Litchfield Initiative Program. Bill stated that the partners are people from the Industrial Park, TIFA, Jackson Area Manufacturing Association, Litchfield Schools, and the South Central Michigan Works are interviewing candidates. Also, Gary Smith, Gene Vagg, Brian Smith, Doug Terry, Bill Childs, Ann Riddle and I are meeting every Monday along with Sue Smith from (EDP), Annette from (JAMA). Mike Flint heads up the Industrial Advisory Group and they are very passionate and are deeply involved and support this program.

Mr. Steve Burns – Discuss Stock Street – Mr. Burns addressed the board stating that a survey was done awhile back and wonders why since the city already had an engineered survey of that area and why the board didn't realize this. Mr. Burns stated he was told that the new survey was because Frank (my neighbor) needed water for his new facility and that was discussed with the board and I have those minutes. The more I looked into what was going on, the new survey had a stake 12 ft into my property and the city now saying this is the new property line. Mr. Burns feels that an engineered survey line was already established from the first survey done and thought that when the new survey was done that the engineer would just reissue the engineered line that was already in place when done by Wolverine Engineers years back. Mr. Burns stated that he had talked to Parrish Excavators the day they started the work, which was a Friday neither Mr. Terry nor Kevin Shirk were available that day. Parrish had drawn a blue line onto the ground and stated to Mr. Burns that was where the new water line would be going in. Prior to that and because of the new survey Mr. Burns had informed Mr. Terry not to cross his property line; Mr. Burns stated that the new survey doesn't change the deal he and the city had made and the already engineered line

that was already there and the city shouldn't be able to come up with a new line after fifteen years. Mr. Burns said that the blue line that was drawn by Parrish was on the alley side of his property line (the original engineered line) so Mr. Burns thought the blue line was safe and Parrish began their work. That same day Mr. Burns went back out to see the work and noticed that Parrish had starting digging on his property. When Mr. Burns questioned Parrish on what was happening, Parrish informed Mr. Burns that a hydrant was being installed. Mr. Burns stated that his understanding was to move the existing hydrant down to the end of the line to give Mr. Walters water. Mr. Burns stated that Parrish informed him that they were installing a second hydrant and Mr. Burns feels the second hydrant is partially on his property. Mr. Burns contacted the city manager and stated that Mr. Terry assured him the hydrant was not on his property. Mr. Burns then referred to some emails that Mr. Terry had provided to him regarding this issue. Mr. Burns read to the board a copy of an email that Mr. Terry had provided to him regarding the Stock St. survey. Mr. Burns feels that the email wasn't about the waterline but it was about making Frank's property a street. Mr. Burns pointed out another email where Stantac was asking for an additional \$1500.00 and pointed out that the board had already approved \$3000.00 for the expense of the survey and that bill was over by \$625.00. Mr. Burns stated he doesn't know of the board authorizing the \$1,500.00 and to Mr. Burns this is fraudulent because the board did not okay the extra expense and pointed out the 1,500.00 is on the bills to be approved at tonight's meeting. Mr. Burns stated the 1,500.00 should be paid by Mr. Terry and Mayor, Smith and feels that Mr. Terry's job should be looked at because this is dishonest. Mr. Burns stated that he has been forced to hire an attorney to figure this out. Mr. Burns requested the 1,500.00 not be approved for payment to Stantac tonight and for an investigation into this matter and an investigation on Mr. Terry's job. Mr. Burns' attorney advised him that he could bring documents (emails) to the board to make the board aware of the email documents and that his attorney felt that this is not right and the city board should be aware of what took place. Mr. Burns then read emails to the board that referred to the newest survey having extra footage at the Northeasterly line of the alley and Mr. Burns feels the surveyor added the extra footage onto the alley which would allow enough footage to make the alley into a street. Mr. Burns doesn't feel this is legal and now there are two surveys' the first coming from Wolverine Engineers and the second from Stantac which both surveys now contradict each other and there is no benefit in that. Mr. Burns stated that Wolverine spent a lot of time and engineered from the county plat stakes and came in on both directions and at the time fifteen years ago Maury from Wolverine approached Mr. Burns and asked him because there was close to two foot difference between that side of town and this side of town. But they were both over where the line was that I thought that I owned, so I told Maury if it would save argument I would take the lesser of the two, so Wolverine put a lot of time into the engineering of the city and we made a deal at that time with the city. Mr. Burns stated he would not sign any agreement or the piece of property over to the city until it was staked into the earth and it was drawn staked and I said that's the deal and that's where it's at and it's a non-changeable line now. So the city wasted \$3600.00 dollars. Even if the engineer, charged the city \$500.00 that should be the most they should of charged to have the survey done to re-establish the line to have the water main put in there, that's a guaranteed line those are staked surveys. So if there is an issue with that the city could go back to Wolverine and say we have a problem here and Wolverine has insurance to cover that, we didn't need another survey. Mr. Burns then stated that he would like that investigated and his job (Mr. Terry), please don't pay the \$1,500.00 I feel it should be taken out of their paychecks (Mr. Terry and Mayor, Smith). Mayor, Smith asked if anyone had any questions and thanked Mr. Burns for his comments.

Warning Siren Approval – Mr. Terry informed the board that their packets contained a letter from West Shore's president Jeff DuPilka. The city has already given West Shore a notice to proceed because this is a grant and the city has followed the guide lines on the preparation. Manager, Terry asked for the board's formal authorization to approve the dollar amount of \$23,570.00. Councilman, Chapman asked if the grant is taken out of that amount or does that amount include the grant. Manager, Terry stated that the grant does get taken out at fifty percent. Councilwoman, Thomas moved to authorize the contract in the amount of \$23, 570.00, seconded by Councilman, Smith. Motion Carried. Mayor, Smith asked when installation would begin, Manager, Terry stated around February 1, 2013. Councilman, Siebert asked about the pole. Manger, Terry stated that we will have to put in some conduit because the pole is being placed by the police department side of the building.

2011-2012 Audit Approval- Mayor, Smith asked if there was any question regarding the audit that was presented at the previous meeting if not could we have a motion to approve the audit? Councilman, Bannick moved to approve the 2011-2012 audit and place on file, seconded by Councilwoman, Thomas. Motion Carried.

- **Bills for Approval** – Councilman, Chapman questioned the two bills from Parrish; one in the amount of \$11,956.00 that the board okayed and the other in the amount of \$4,588.08. Councilman, Chapman asked Manager, Terry didn't the board only allow \$3,000.00 and not to go over. Treasurer, Pelham stated that at the September meeting the board did approve \$3,000.00 for extra items and as Manager, Terry and Supervisor, Langhann were involved in the process they had to make some judgment calls in the field and the payment has not been made yet and is in front of the board for approval. That is why I broke the bill out that way the original bid was \$11,956.00 so that the board would understand what was going on with that. Manager, Terry stated the other thing about it is there is only one hydrant and you always end a water main with a hydrant. Councilman, Chapman asked you couldn't remove the one that was there to the other end. Manager, Terry stated no, that would have cost more money and it's not good practice to do that, plus the fact it gives the fire department more options in staging. The other idea was in exchange for a future easement the fire department and the city have identified to run a 12 inch main from M-49 to M-99. Part of the survey included preparation of future easement along there. In exchange for that easement was to be a water line put into the Mills building, so that's where part of the cost came in from, years ago people would give you an easement for a dollar and that's not how it's done today. If people perceive their properties as having value and your restricting use of it which then you're taking away from their value, however, if your adding something like a water line to provide them service that is a fair and even exchange. It was the city's belief and still is that someday the city will receive an easement from Frank Walters at the mill. Councilman, Bannick asked so right now we don't have an easement from the water line. Manager, Terry stated not for a future water line. The water main is terminated within the legal right-of-way; the city has not taken it any further beyond. There is one other thing, do you remember what City Attorney, Kevin Shirk said that by use and by history that the street is natural corridor for public thoroughfare meaning that it can also be used as a utility corridor. I just had a conversation with Frank and he has indicated to me that if someday the city wants to run a water main down there, he does not have problem with it, now whether or not he agrees to give the city an agreement; I don't know. Mayor, Smith stated that most the extra charge from Parrish was due to the hydrant wasn't figured into the regular quote. Councilwoman, Bills stated there was a hydrant in the Parrish quote, that was the alternative add of \$2,180.00. Manager, Terry stated I'm sorry Mr. Burns left, but I did talk to the surveyor to make sure the city was in the legal boundaries of the road, the city did not encroach onto Mr. Burns property not even the old property line. Councilman, Chapman stated he understands, but when I see that survey and see the old engineered line on the map, why didn't they go by that and the old engineered lines are even on the new survey. All you do is recertify the line that was there, whether we're on his property or not I'm not really worried about that, but when you got an engineered line on a survey taken fifteen or thirty years ago the markings are still there on the new survey, why didn't they run by that, why did we move 12 ft. over when there is no reason to. Manager, Terry first of all the City of Litchfield is not making any assertion of taking any property. Sue and I had a conversation with Wolverine and they felt that getting a second opinion on this was a great idea. Now in this finished survey one thing that wasn't done in the past was the surveyor left notes on how he achieved the lines and that was important, because nobody has justified how they got from one line to another. So that in future time somebody will be able to make sense of it. Councilman, Chapman but how do you get a second opinion of 12 ft, I could see maybe a foot or two but not twelve. Manager, Terry stated I'm not a surveyor but I will tell you that the city has encountered all kinds of problems in this part of the city; at the same time this was going on we encountered problems with Mrs. Biddle and her neighbor and also encountered an issue with the ambulance barn it's the city's property and their barn so that added some more costs and more things. So you had surveys that were conflicting with one another and this surveyor has used science to figure out where things went, the city is not accusing Wolverine of doing anything wrong, however, this is how the surveyor came up to it and I asked the surveyor in court would he be able to testify and stand up to

accuracy of your survey and the surveyor stated yes, and I believe that to be the case. Councilman, Bannick stated that one of them is wrong so shouldn't one of their insurance be paying for this survey. Why is the city paying for both and I don't know which one is wrong? Manager, Terry stated that when it was surveyed years ago you use the best information available at the time. Councilman, Chapman asked how does that change now if you have the same information from back then saying this is where it's at then that is where it's at, you can't change 12 ft of land. Mayor, Smith stated that where the change is land is done by description not by some line that is painted on the ground or even a stake they get moved and even disappear. Councilman, Chapman said well then you move further out to the next line that's how a survey is done. Mayor, Smith stated no you are to go by the description from a certain starting point you get so many feet a certain way and that is what this outfit went in and did, actually Steve is the one that complained about Wolverines survey not being accurate the first time he came and talked with us. Councilman, Bannick so Mr. Burns lost twelve feet, Mayor, Smith I don't know if he did or not, Councilman, Bannick or at least 10 feet, Mr. Burns has been paying taxes on that 10 ft' is the city going to be refunded his taxes, if it's not his and we're saying that the survey was wrong for all these years and the gentlemen has been paying taxes what he believed to be his property. Manager, Terry stated the city is not making an assertion of taking any property from Mr. Burns, all we're saying is the city is illustrating that there is a difference between the two surveys. The city is not asking Mr. Burns to reduce the amount of property or anything, the intent was to make sure that water main and future water mains stay well within the legal boundaries of the thoroughfare. Treasurer, Pelham wanted to comment on what Councilman, Bannick had said and Mr. Burns did not lose any property where the lines where may have shifted, but taxes are based on your property description and property description based on your deed and your deed is what was transferred to you as an owner, so what Mr. Burns pays taxes on wasn't changed it may go from here to here based on where the point of beginning is but there is still this much; whether it's here or over here that's the part that has changed. Councilman, Bannick so if the property shifted over it had to of shifted from someone else's property so did Tony lose property. Treasurer, Pelham stated that she is sure his line has shifted also, but they didn't survey that part. Manager, Terry stated you have to go back and look at the entire community we know that there are certain segments of this entire community that have been offset, the city has gone through three re-plots since 1834. Back then everything was done by chains, links, and rods they didn't have the benefit of having GPS so the accuracy of plot lines back then weren't as accurate as they are today and we didn't necessarily have zoning back then. We wanted to make sure the water main was well within the legal boundaries. Councilman, Bannick stated we had a survey that was staked out why couldn't we just put the water line in. Councilwoman, Thomas we had to double check and make sure. Councilman Chapman it shouldn't cost \$3,000 to double check an already engineered line. Manager, Terry stated it wasn't just that the city also encountered a property dispute between the Biddle estate and Luigi's we've been dealing with that for a number of years. Councilman, Chapman is that the extra \$625.00 on top of the \$3,000 allotted. Manager, Terry I can't tell you that I don't know, they didn't do an actual survey all we wanted to do is identify corner stakes to make sure, people come to us and ask where is our property line at and maybe it's not our responsibility but we are the custodians of the original plots so we try to help people as much as we can, while we were there we just felt it was wise and worth the extra money to help and straighten out some of these problems we've encountered in the past. Councilwoman, Thomas and it was under the advice from council to get the survey too, Councilman, Chapman but not to exceed \$3,000.00 and it was \$3,625.00. Manager, Terry stated I can have the surveyor come in and account for his time and reasoning and I will have him here at the next meeting, but I was not out in the field with him. Treasurer, Pelham stated she thinks it's possible that the surveyor under bid this project and didn't realize what was involved, because I was part of a meeting where I was gathering deeds and giving copies to him, there were several descriptions and I know the surveyor was very thorough and he put many hours in and I think he had way more hours into it than what a normal survey should have been and the deeds he was required to go back and try and recreate these lines form the deeds and some of them just didn't match up right. One more thing I want to point out is that Doug is mentioning straightening out all these other lines but our property the city's property is part of that, so their property we have the street it's all in the same vicinity so we're able to

point out our own property lines like he pointed out, the city owns the land the ambulance building is on, so it wasn't a lot more effort to extend it a little farther. Councilwoman Bills stated that she understand extra line stuff, but I think we as a council would not be doing our job if we did not catch this and question the fact that we approved \$3,000.00 and now it's over the \$625.00 or like the Parrish we approved \$11,956.00 plus the \$3,000.00 and now it's over like \$1,588.80 and we as a council have a right and is our job to question and catch that stuff. Manager, Terry stated we don't have a problem with that whatsoever. Treasurer, Pelham stated that she just wanted to say why this has come before you anything over a \$1,000.00 is not paid unless it's brought before the board first, so you do have that discretion. The engineer did the work that we asked him to do or the surveyor I should say and we approved up to a certain amount and he went over that amount in hours, it's up to the board whether or not to pay it. Councilman, Chapman stated that he can understand doing the whole the building and plotting that all out but we aren't told that so we won't know that and we see the numbers and we approved this amount of money, miscommunication is lot of it. Mayor, Smith stated to the board that there were so many issues with Stock Street approximately four owners that had some kind of issue so I told Doug that we should do this and finish it all up so that somebody isn't coming before this board or another board the next time something comes up to clarify. Stock Street is Stock Street it is a thoroughfare and has been for as long as anybody can remember and that is legally sound. What we attempted to do was to actually put boundaries on it with descriptions and we were hoping maybe we could work with Frank to get an easement or deed to that portion. And we told Stantac that there would be questions on this so he found every stake and done a really good job. Manager, Terry stated that the city has been threatened with legal actions so many times that I thought it was important that the city do its' due diligence and be prepared to do the right thing no matter what the outcome was and the city can honestly say this is what we did or the attempts that the city made to make things right, now a lot of people don't like the results of that but a lot of times none the less my tenure here has always been to protect you (the board) and the future of this city and we have witnessed in the past things that were done maybe not according to hoyle in this particular case the city did but we're going to feel competent that if anything ever comes about with this, this survey is accurate. Councilman, Chapman stated that if we're going to stand by it that's fine, but it's the distances that threw me off. Manager, Terry stated that other areas of the city that are off even greater but right now the city had disputes with neighbors that were disputing themselves and the city took the leadership position and tried to straighten out some of this. Councilwoman, Bills asked so then did the city put in two hydrants or just the one. Treasurer, Pelham asked Councilwoman, Bills if she was looking at the original bid; it looks like that's an alternate addition. Councilman, Chapman stated the hydrant is what put it up to the \$11,956.00. Councilwoman, Bills stated that the original quote was for \$9,776.00 with the extra \$2,180.00 for the hydrant and that got it to \$11,956.00 and then the board allowed the \$3,000.00 extra and now \$1,588.08 over that extra. Councilman, Chapman it would be different if the hydrant wasn't already included but Parrish is saying it wasn't and their adding on top of it well there's a lot of money being shifted around that's \$1,500.00. Manager, Terry stated he thought it was part of the individual water line that was run to the building. Councilwoman, Bills asked did Parrish inform the city before. Manager, Terry stated that we requested that to be done; no we thought that was part of the original, the reason why we had to extend the main because the city couldn't run another water line of that small of diameter because of friction laws plus the city would have been encroaching on Mr. Burns property which we did not have an easement. The city wanted to extend that water main for two reasons one because it's a good thing and the fire department and I recognize it as being a good thing the other thing is that once the main was extended the city could T-off and put in a 1 inch service going back another 80 foot friction lost that line would have been too small. Councilman, Bannick asked then shouldn't we have received a change order to approve it, it couldn't have needed to be done that fast. Manager, Terry stated I guess so; you're talking about a project that took two in half days to install. Councilwoman, Bills obviously we are going to pay bill and that's fine but if Parrish quoted us on this that should be the final unless the city was notified. Councilman, Chapman stated that he doesn't see a \$4,500.00 difference when it's already quoted in, we allotted \$3,000.00 but when it comes in and practically everything was added included into the quote originally and now we've have \$4,500.00 adding

on top of it and \$1,800.00 wasn't approved. Manager, Terry stated that there are two new hydrants, we replaced the old one and terminated the main with the other hydrant. Councilman, Chapman stated then that's what the \$3,000.00 is addition for; Manager, Terry stated that he understands that the board needs to question us and I take any responsibility for discrepancy but what we did along Stock Street we done the right thing. Councilman, Bannick asked if there was something wrong with the old hydrant. Manager, Terry stated that when Parrish tried to hook onto the old hydrant Parrish had informed Tony that the old hydrant was junk and Tony let me know and asked me if we wanted to replace it and I said yes. Councilwoman, Thomas well the Manager had to make a judgment call we can't have bad hydrants. Manager, Terry stated that he tries to keep council informed on issues. When the city gets into construction on the detail day to day big projects usually there is an assumption that the board wants us to use our judgment, in other words if there's a doubt with a piece of apparatus the board would want us to replace that, we aren't trying to be defiant and by pass the system we understand the system. Councilman, Chapman stated the \$1,500.00 for the Stock Street easement right-away I don't think should be paid until the city knows we have an easement for that he mapped the road out for something we don't know if we're getting for sure. Manager, Terry stated the surveyor done the work. Councilman, Chapman I understand that but it shouldn't have been told to go forward when the city doesn't have a written document stating the city could have an easement through there, otherwise the city is sitting on maps that aren't any good. Mayor, Smith stated that the surveyor did the paperwork the city would need to get an easement it would be the description and everything that would go on the easement. Mayor, Smith stated that some of those we will use like the fire barn that easement will be done. Councilman Bannick stated that he was under the impression that Frank had given the city the easement when the Manager first came to the board asking for the water line; did Frank or didn't he. Manager, Terry stated that we were under the impression that Frank was going to give it to us and we could not get an easement until we got a description done. Mayor, Smith now we have the description but the work is not wasted the city still may get an easement. Councilwoman, Bills so there was no easement for the Mill ever written up at all, so with all this going on everybody is suppose to have an easement correct. Manger, Terry stated that the city has a description of an easement. Councilwoman, Bill so you're saying this had to be done. Councilman, Chapman for the extension from that to M-49 that's what the \$1,500.00 is for right. Manager, Terry part of it yes. Mayor, Smith plus it cleared up all the issues on Stock Street. Councilwoman, Thomas moved to approve the bills in the amount of \$53,779.35 and charge to the proper accounts, seconded by Councilman, Smith. Motion Carried with 1 Nay vote from Councilman, Bannick

Police Report – Chief, Michelin gave the board a report for the complete year of 2012 and a report for the month of December. The cars are functioning okay and I'm rotating them and I am using the black car for my business to save mileage on the other two cars. Councilwoman, Thomas motioned to accept the police report as presented and place on file, seconded by Councilwoman, Bills. Motion Carried

Public Works Report – Councilwoman, Thomas motioned to accept the public works report and place on file, seconded by Councilman, Chapman. Motion Carried.

Treasurers Update – Treasurer, Pelham gave quarterly financial reports to the board in their packets and was hoping to give the board an analysis's review of those, but because the meeting's are so early in the month I wasn't able to review it myself I was barely was able to get those in your packets. City bills are still trickling in so I get into a problem because the meeting is on the second Tuesday of the month of getting all the bills into the general ledger so the board can have accurate financial statements at the end of a quarter. Treasurer, Pelham requested from the board to move the council meeting to maybe the third Tuesday of the month or into the third week of the month so that she can give the board a useful financial report of the previous month. And Chief, Michelin also doesn't have all his information in order to give to the board. Councilman, Chapman motioned to move the Litchfield City Council to the third Tuesday of the month starting February 2013, seconded by Councilwoman, Bills. Motion Carried.

City Manager's Update – Manager, Terry the city attorney will be meeting with Mr. Burns on Thursday and it's very important that I protect the city and I will do so under the oath of office.

Clerks Update – Clerk, Ballinger informed the board that she was approached by County Clerk, Marney Kast with information from the state. The State of Michigan is asking cities to consider possibly moving their city elections to an even year election. Normally the city's election would be held this odd year in November. The State of Michigan is looking for cities to save money in all ways possible and consolidate. This is not currently mandatory, if the board does decide to move to an even year election I would have to have a public hearing and then pass a resolution. If the board does vote to move to an even year election that would mean the current board members would have an extended term for one year. If a current board member chooses not to stay on for the extended year then council would appoint someone to their seat to finish the term until the new election date. Clerk, Ballinger stated that the city would save money as far as paying election workers for the extra election and it would be convenient for us, but I'm concerned if it would be too much for our voters to have to come in and vote on everything all at once. Clerk, Ballinger stated that she has election class coming up on the 15th and is hoping to find out more information on this whole issue. Mayor, Smith asked for the clerk to bring back more information to the board after her class.

Committee Reports – None

Councilman Concerns –None

Adjournment –Councilman, Chapman moved to adjourn at 8:00pm, seconded by Councilman, Bannick. Motion Carried.