

CITY OF FENTON COUNCIL PROCEEDINGS
Monday, February 10, 2014
City Hall Council Chambers
301 South LeRoy Street

Mayor Sue Osborn called the meeting to order at 7:32 PM.

The invocation for the evening was the Lord's Prayer and was followed by the Pledge of Allegiance.

Present: Bland, Grossmeyer, Jacob, King, Lockwood, McDermott, Osborn.
Absent: None.
Others Present: Lynn Markland, City Manager; Rick Aro, Police Chief and Stephen Schultz, Legal Counsel.

MAYOR'S COMMENTS

Osborn stated the session with Lew Bender is scheduled for February 26th. The March 10th Council meeting will be rescheduled to March 17th. She reminded Council the Michigan Municipal League Capital Conference is scheduled for March 18th and 19th. She and Councilman McDermott will be attending the 'Under the Dome' conference on February 12th in Lansing. She commented the budget session is scheduled for Saturday, April 26th.

Osborn presented Ben Smith with a plaque honoring his four years of service as a member of City Council. Council thanked him for his years of service.

CITY MANAGER'S REPORT

Markland reported the following:

- He has been working on the bonding for the streetscape project
- The Community Center addition is still being worked on; the committee is looking at ways to reduce costs.
- Work has started on the 5-year financial plan.
- The personal property tax is up for elimination on the August ballot and if eliminated, it would be a big hit to both the City's and school district's finances.

COUNCIL MEMBER COMMENTS

Grossmeyer stated he attended the Michigan Municipal League's core training and it was a great opportunity to gather a lot of good information.

Lockwood reminded Council the Chamber of Commerce Expo takes place March 1st and 2nd and the City's booth will highlight City departments as well as community events and new projects taking place in town.

McDermott commented the Parks and Recreation Board has started the planning process to look at what projects they will take on this year and encouraged anyone with a suggestion to contact the Board.

King commented the Loose Center is up and running. She thanked Stephen Schultz for his donation to the Cultural Center.

Bland welcomed Mrs. Mullins class to tonight's meeting. He commented the recent article in My City magazine about the Fenton Fire Hall was outstanding.

LEGAL COUNSEL REPORT

Schultz commented the Michigan Supreme Court issued a decision in the case of Ter Beek vs. City of Wyoming, which addresses whether or not cities can, by ordinance, prohibit the use of medical marihuana within city boundaries. The Court's decision stated the City could not prohibit the use of medical marihuana within city limits for the reason that the state statute pre-empted the local statute. He referred to a footnote at the end of the Court's opinion that states in part "...this outcome does not create a situation where a person...would be able to operate with no local regulation of their cultivation and distribution of marihuana." He stated the Planning Commission was working on an ordinance to provide for zoning and other regulatory provisions related to the proper time, place and manner for the use of medical marihuana within the City. In light of the Supreme Court's opinion, he has discussed this issue with Brad Hissong, who will discuss it with Carmine Avantini. He think it's important that the City consider the scope of regulation it wants to adopt in light of the fact this decision clears out any chance of prohibiting the use.

CITIZEN COMMENTS

Ben Smith, 200 Union Street, asked to speak on the Consent Agenda and Resolution No. 14-5.

STUDENT PRESENTATION REGARDING THERAPY ANIMAL ORDINANCE

Mrs. Callie Mullins, second grade teacher at State Road Elementary, thanked the Council for allowing her students to address City Council. She stated one of the standards for second grade social studies is to study public issues in the community and pick one of those issues to address and the class chose the therapy animal issue – allowing pigs as pets. Students wrote letters regarding this topic that she will give to City Council after the presentation. Students also had a homework assignment to survey five adults. One hundred forty people were surveyed, with 93 people in favor of, and 47 opposed to, allowing pigs as therapy animals. Several students, both for and against, allowing pigs as therapy animals presented their letters to City Council. Council thanked the students for their presentation.

CONSENT AGENDA

Osborn reviewed all items that were on the Consent Agenda.

King asked if other applications were on file for the Planning and Beautification Commission appointments. Lockwood responded there was only one application on file for the Beautification Commission. Osborn stated there were five applications on file for the Planning Commission appointment and noted Skip Bancroft serves on the Board of Review and has been asking for the last few years to serve on the Planning Commission. The Planning Commission made a recommendation that didn't work out and she checked with Skip Bancroft to confirm he was still interested in serving, and he is.

King stated other applicants for the Planning Commission had previously served and are up to date on the issues facing the Planning Commission and stated that is sometimes taken into account when appointing someone. Grossmeyer stated at the Planning Commission meeting,

there were many qualified applicants but it was thought to provide an opportunity to an applicant that was well qualified, but had not had an opportunity to serve in the past. Osborn stated the other applicants have previously served on the Planning Commission. Her recommendation is Skip Bancroft and it is up to the Council to approve or deny the recommendation.

King asked that the Fenton High School Project Graduation Committee street sales be removed from the consent agenda to be acted on separately. She is opposed to street sales because she feels it is a dangerous practice.

A motion was made by Lockwood and seconded by King to approve the consent agenda containing the following items:

- Authorize payment of invoices in the amount of \$125,823.53.
- Approve and place on file the minutes of the January 8, 2014 City Council Work Session and the January 20, 2014 special City Council meeting.
- Accept resignation of Angela Nuvean from the Parks and Recreation Board
- Appoint Stacy Walsh to a first term on the Beautification Commission
- Appoint Skip Bancroft to a first term on the Planning Commission

YEAS: Bland, Grossmeyer, Jacob, King, Lockwood, McDermott, Osborn.

NAYS: None.

ABSENT: None. Motion carried by a roll call vote.

A motion was by Lockwood and seconded by Grossmeyer to approve the request from the Fenton High School Project Graduation Committee to conduct street sales on April 26-27, 2014, May 17-18, 2014 and May 24-25, 2014. Motion carried by a voice vote with King dissenting.

RESOLUTION 14-5

Aro stated The M. Hamel Company, Inc., which operates The Laundry, a Class C, S.D.M. licensed business at 125 W. Shiawassee, has made a request for local governmental approval for a Brewpub license. The Brewpub operation, if approved, would be located at 115 W. Shiawassee, which is adjacent to The Laundry on the east side. The Brewpub license issued in conjunction with a Class C license authorizes the license holder to manufacture and brew not more than 5,000 barrels of beer per calendar year in Michigan and sell the beer at those licensed premises for consumption on or off the licensed brewery premises. He called the Liquor Control Commission (LCC) because the beer will be produced at 115 W. Shiawassee, but the liquor license is at 125 W. Shiawassee and was informed that Mr. Hamel will have to apply for a permit to increase the size of the establishment to include 115 W. Shiawassee and that request does not require local, or police, approval.

Aro further stated that local approval must take place prior to the submission of an application to the LCC. The application and resolution is then forwarded to the LCC for further investigation and processing. He has discussed the application with Mr. Hamel who indicated the beer manufactured at 115 W. Shiawassee will be sold to customers of The Laundry to consume on or off the premises. Aro is recommending approval of this request.

Osborn asked how the beer that would be consumed off the premises is packaged. Mr. Hamel responded it would be sealed in a growler.

Council members expressed concern that there would be an odor emitted that would impact neighboring buildings and homes. Mr. Hamel responded he doesn't believe there would

be an odor and stated there is a ventilation system in place. The license would allow 5,000 barrels of beer per year, but they only have the capacity to brew around 300 barrels a year. Schultz commented his firm represents Short's Brewing, who have a brewpub in downtown Bellaire and brew thousands of gallons and commented there is no odor and they have been in Bellaire for years without issue.

Lockwood stated brewpubs are very popular these days and this operation is very small scale. She stated the Redwood Lodge brews on a larger scale and there is no odor. She supports this request.

Grossmeyer commented he has stayed right across from the Short's Brewery in Elk Rapids and there is no odor. Schultz commented that is a three million barrel a year facility.

Markland stated the forms from the LCC used to have a question on them asking if the premises are properly zoned. Hamel stated he talked to Brad Hisson, who indicated the property is properly zoned.

Ben Smith, 200 Union Street, commented the Hamel family has been in Fenton for many, many years and have done well for themselves and the City. He thinks approving this will be an asset to the community.

A motion was made by Bland and seconded by Jacob to approve Resolution No. 14-5, a resolution recommending approval of an application for a Brewpub License for M. Hamel Company, Inc.

YEAS: Grossmeyer, Jacob, King, Lockwood, McDermott, Osborn, Bland.

NAYS: None.

ABSENT: None. **RESOLUTION DECLARED ADOPTED**

SET PUBLIC HEARING DATE FOR PROPOSED AMENDMENT TO THE WHISPERING PINES PRELIMINARY PUD PLAN

A motion was made by Osborn and seconded by Lockwood to set the Public Hearing date to consider a proposed amendment to the Whispering Pines Preliminary PUD Plan for Monday, March 17, 2014. Motion was carried by a voice vote.

RESCHEDULE MARCH 10, 2014 CITY COUNCIL MEETING

A motion was made by Osborn and seconded by Grossmeyer to reschedule the March 10, 2014 City Council meeting to Monday, March 17, 2014. Motion was carried by a voice vote.

CALL TO THE AUDIENCE

None.

Meeting was adjourned at 8:25 PM.

Mayor Sue Osborn

City Clerk, Renee Wilson

Date approved: March 17, 2014