

CITY OF FENTON COUNCIL PROCEEDINGS
Monday, July 14, 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: Grossmeyer, Jacob, King, Lockwood, McDermott, Osborn.
Absent: Bland (excused).
Others Present: Lynn Markland, City Manager; Stephen Schultz, Legal Counsel; Bob Cairnduff, Fire Chief; Steve Guy, Water Plant Supervisor; Kent Early, Engineer and Dan Czarnecki, Director of Public Works.

MAYOR'S COMMENTS

Osborn thanked the Freedom Festival committee for their work and stated it was an outstanding event and a great plus for the community. She commented the Art Walk went very well.

CITY MANAGER'S REPORT

Markland commented the Community Center project is moving forward. He thanked those who worked on the Art Walk. He stated last Thursday there were a lot of activities taking place downtown including the Farmers Market and Concerts in the Park and it was nice to see so many people downtown and thinks the DDA is doing a great job.

COUNCIL MEMBER COMMENTS

Jacob commented the Art Walk was well attended and a very enjoyable event and thanked those who organized it.

Grossmeyer commented he also attended the Art Walk and it was a good event to showcase the City.

Lockwood commented the Bastille Day Race raised more than \$22K for Habitat for Humanity and thanked the committee for their work. She congratulated the organizers of the Art Walk for their work. She thanked the Police Department, Fire Department and D.P.W. for their help with the 4th of July event. She stated the Holiday Lighting committee will meet at the end of July. She commented there are three or four tables at Bush Park with graffiti on them.

McDermott thanked the D.P.W. Director and the Parks Board for allowing the use of Silver Lake Park for softball and that about 600 kids played over the course of the season.

King commented the 4th of July event was great and thanked the Committee for their work. She thanked Councilman Jacob for his work on the Shiawassee River clean-up. She would like to discuss the Lincoln Street property at a future work session. She gave an update on the Loose Senior Center fundraiser taking place in October. She would like to see something done with the wireless carrier for the laptops. Markland commented new equipment has been ordered for Council members.

LEGAL COUNSEL REPORT

Schultz commented his office is putting the finishing touches on the PUD agreement for Cornerstone.

CITIZEN COMMENTS – Julie Pfeifle, Patty Smith and Georgine Easton asked to speak regarding Ordinance No. 681.

CONSENT AGENDA

Osborn reviewed all items that were on the Consent Agenda.

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

- Authorize payment of invoices in the amount of \$383,375.61.
- Approve and place on file the minutes of the May 7, 2014, the May 21, 2014 and the May 28, 2014 Beautification Commission meetings, the June 16, 2014 Parks and Recreation Board meeting, the June 9, 2014 and June 23, 2014 City Council meetings.
- Approve the request from Kim Forrester, Event Director for the Tour Des Lacs Bike Tour, for authorization to conduct the 12th annual event on Saturday, August 2, 2014 and to place signage in the right-of-way along the route, as well as a brief closure of Elizabeth Street from 7:30 AM to 8:00 AM.
- Approve the request of the Fenton Firefighters Charities to conduct the annual 5/10K Run on Saturday, August 9, 2014.

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

NAYS: Bland.

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

DOWNTOWN DEVELOPMENT AUTHORITY (DDA) REVENUE SHARING AGREEMENT

Markland stated the City Council and DDA approved a revenue share of \$350,000 from the DDA Fund to the General Fund for Fiscal Year 2015. Before the transfer can occur, there must be a formal agreement between the City Council and DDA, which is presented tonight. A public hearing must take place prior to approving the agreement.

Osborn opened the public hearing at 7:47 p.m.

Osborn closed the public hearing at 7:48 p.m. due to lack of comment.

A motion was made by King and seconded by Lockwood to approve the revenue sharing agreement between the DDA and the City of Fenton for Fiscal Year 2015 in an amount not to exceed \$350,000. Motion carried by a voice vote.

ORDINANCE NO. 681

Cairnduff stated this was previously discussed at a work session. The use of ice retardant systems (“bubbler”) was brought to his attention by residents on Silver Lake and the Fenton Township Supervisor. Safety concerns were discussed at the work session and tonight he is seeking discussion and approval of the proposed ordinance.

Schultz stated the draft ordinance presented reflects comments received from Council members at the work session. The proposed ordinance mirrors Fenton Township's ordinance so regulations are consistent lake wide and noted the draft presented tonight does not include a provision for exceptions.

Julie Pfeifle, 4037 Silver Lake Road, Suite A, stated she rents the apartment attached to Silver Spray Sports, which is owned by Jeff and Patty Smith. She commented Silver Spray is a year round business and during the winter months there is a considerable amount of service on boats to winterize and store them for the season. She stated Silver Spray formatted an area just outside the launch area with a bubbler. The bubbler system was originally started to accommodate a swan that had been de-winged. The area where the bubbler is used is contained with lattice and is a well lit, fenced in area that is one to five foot deep. The area is marked with orange cones and surveillance is provided by computer monitors that can be viewed remotely by phone. She further stated this is private property and since the bubbler system has started, boats can be serviced year round. If this ordinance is passed it will restrict Silver Spray Sports from working on boats in the water in the winter and asked the Council to consider that when making a decision.

Patty Smith stated she and her husband Jeff own Silver Spray Sports located at 4037 Silver Lake Road. She commented if this ordinance is passed and an exemption is not allowed for their business, it will negatively impact their business. The business includes a marina with a private boat launch that is open to the public for day launching and noted there is no State launch on Silver Lake. The launch is used for the service and storage of boats and using a bubbler during the winter months in a controlled area is an asset for their business that allows them to complete work essential to their business and livelihood in a timely manner and asked that Council take this into account when making a decision.

Mrs. Smith further commented each year Silver Spray Sports participates in Jinglefest activities which include hosting the Polar Ski event with the Silver Lake Ski Club. The bubbler acts as an insurance policy to be able to get a boat into the water that day. She asked if a bubbler ordinance is passed, that use of their bubbler be grandfathered in. She provided pictures of the bubbler system currently in use noting the area is fenced in, marked with orange cones, signs are posted and the area is well lit and under surveillance.

King asked how big the open area around the bubbler is. Mrs. Smith responded approximately 15'x20'. She stated there are two docks in the open area and each dock has a structure against the dock that the bubbler pushes against when it runs which contains the bubbling to one area.

Georgine Easton, 15073 Marl Drive, commented she lives in the second house on Marl Drive and the bubbler does not affect them in any way and she has had no issues walking on the ice. She commented three years ago a swan was caught in the ice and feels if a bubbler is not used it could be an issue again. She stated no one asked the residents in the area if they were affected by the bubbler. She doesn't think there is a safety issue and commented the owners of the bubbler maintain the property well.

Schultz commented this issue was raised by Fenton Township who have adopted an ordinance similar to the one presented tonight that applies to the portions of the lakes that fall within Fenton Township. The issue was whether there was uniformity of regulation. There was discussion with the Fire Chief about the public safety issue associated with having open water in the winter time and the proposed ordinance is fairly typical of ordinances prohibiting the use of ice retardant systems.

Cairnduff stated the issue is not just open water but also the unsafe area that can be created beyond where the bubbler is used. Depending on the system, it can create a false sense of ice beyond the open area. He stated Township residents around the lake did call and voice concerns. Subsequent to that, Fenton Township contacted the City asking for an ordinance that mirrors their ordinance in order to have continuity across the lakes.

Jacob stated he is in favor of continuity and understands the public safety issues. He went out and looked at the area and stated the owners have been very proactive in regards to safety. There is a physical barrier in the bubbler area and there is security, lighting and cones in the area. He feels there should be a mechanism within the ordinance for a variance for commercial enterprises.

McDermott asked if there have been any issues where people have broken through ice that could have been attributed to the use of a bubbler. Cairnduff responded no. McDermott asked if the Chief knows of any issues in Fenton Township. Cairnduff responded he is not aware of any. He talked to the Township's Fire Department and part of their problem was a lot of residential use of bubblers.

King asked if the open water space needs to be as big as it is. Mrs. Smith responded it is not a very large area and a boat cannot fit into the area, only the back end of a boat is put into the water.

Jeff Smith, owner of Silver Spray Sports, stated a plow truck can be driven within twenty feet of the opening. He puts in ice skating rinks with a tractor and there have been no issues and stated the steps he took to contain the bubbler restricts it effect to that specific area and described how the area is contained.

Osborn asked how many boats are put in the water during the winter. Mr. Smith responded a lot as he ships boats worldwide.

Grossmeyer commented this ordinance is to address the entire lake and public safety on the lakes. He appreciates the steps Silver Spray Sports have taken to use a bubbler responsibly but doesn't know that all lake front property owners would be as responsible and he has to consider the safety of the entire lake. He asked if exemptions would be addressed by requesting a variance through the Zoning Board of Appeals. Schultz responded no; it is a police power ordinance, not part of the zoning ordinance.

Lockwood asked if the bubbler runs all the time and asked how the area is contained. Mr. Smith responded it is on a timer and a barrier was constructed and as long as water stays moving in that area, it does not go outside the barrier.

Lockwood asked about liability since the lakes in question are public. Schultz responded failure to adopt an ordinance does not expose the City to liability. He stated there is the public safety issue the Fire Chief brought forward but it is a question of policy for the Council whether they think it is a significant enough issue that there should be an ordinance in place. Council has the right under police power granted to Home Rule Cities to take action to protect the general public's health, safety and welfare but the failure to act does not expose the City to liability.

Cairnduff commented the whole lake needs to be looked at. The discussion has been focused on one property, but concerns the entire lake. If exemptions are allowed under the ordinance who would perform inspections and what criteria would be used.

Jacob commented Silver Spray Sports had the code enforcement officer look at the area even though there is no ordinance in place. He feels if this was handled as a zoning issue, it would give the City the tools needed to set criteria for inspections and exemptions.

Osborn suggested tabling this item to gather more information on how this issue is handled on other lakes.

A motion was made by Lockwood and seconded by King to table adoption of Ordinance No. 681 for further investigation. Motion carried by a voice vote.

CHANGE IN HEALTH CARE PLANS

Markland stated Administration has been reviewing healthcare plans for a possible change and this was discussed in depth at last week's work session. The City's insurance agents have presented a plan from Priority Health that is comparable to the current plan offered through Health Plus. The new plan would include a Health Savings Account (HSA) which is owned by the employee. Under this proposal, the City would place the amount of the deductible into the account and at the end of the year, any amount remaining would stay in the account and the City could continue the contribution. The unused amount each year would continue to build up and when an employee retires, the account stays with the employee to use for healthcare.

Markland further stated the cost of this plan, including the cost of the HSA would save the City approximately \$95,000 annually from the cost of the renewal with Health Plus. In addition since employees pay 20% of the premium, the cost savings from the reduced premiums would benefit employees as well.

Lockwood asked if meetings have been held with employees to explain the changes and receive input. Markland responded normally what is done is Council approves the plan and then employee meetings are scheduled. He stated there have been meetings with representatives from each department and more meetings are scheduled for this week and next for employees and retirees.

Tom Rupp, 3461 Rolston, representing Brown and Brown, commented one of the biggest concerns at the employee meeting was having access to McClaren Hospital and an exception was made to include them in-network.

A motion was made by Jacob and seconded by Grossmeyer to approve the new group application with Priority Health and the HSA accounts and authorize the City Manager to sign the application. Motion carried by a voice vote.

DOWNTOWN STREETScape PROJECT

RESOLUTION 14-14

Czarnecki stated the Downtown Fenton Streetscape project will need signatures on contract documents and the Michigan Department of Transportation Authority (MDOT) requires receipt of a resolution naming the official authorized to sign the contract.

A motion was made by Lockwood and seconded by McDermott to adopt Resolution 14-14, a Resolution to authorize the Fenton City Manager to sign the contract with MDOT for the Downtown Fenton Streetscape Project (Contract #14-5361).

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

NAYS: Bland.

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

MICHIGAN DEPARTMENT OF TRANSPORTATION (MDOT) CONTRACT

Czarnecki stated bids for the streetscape project were opened last Friday. Champagne and Marx Excavating in Saginaw was the low bid at \$4,279,196.42, which is a little more than

5% under the engineer's estimate. He stated a contract is required by MDOT and must be executed by the City in order to receive federal funding; MDOT administers the street programs for the federal government. The City is scheduled to receive federal Surface Transportation Program funds (\$1.14M) and federal Transportation Alternatives Program funds (\$575,444) to help with the construction of the Streetscape project. In order to receive the federal funds, the City must sign the contracts and include a certified resolution indicating who may sign the documents. He stated the City will receive funding from the State of Michigan Revolving Fund of about \$906,000, of which \$256,000 is a grant and \$650,000 is a low-interest loan and that the paperwork has already been completed.

A motion was made by McDermott and seconded by King to approve the contract with the Michigan Department of Transportation for the Downtown Fenton Streetscape project and authorize the City Manager to sign the documents. Motion carried by a voice vote.

REPAIRS TO HIGH SERVICE PUMP #2

Czarnecki stated high service pump #2 has a problem of some sort. The pump turns on but does not pump water. Water Plant Supervisor Steve Guy has contacted Peerless Midwest about the problem and they provided a quote to pull and inspect the pump of \$3,950. If the pump needs work, it will be transported to Peerless Midwest to be overhauled. The overhaul price, not including an overhaul of the motor (which is not expected) and column shaft, is \$11,500. The cost for a total overhaul, including mobilization and inspection is \$15,450, but likely won't be needed.

King asked what happens if the pump needs to be taken off site for repairs. Steve Guy responded there are four pumps that are rotated every day.

A motion was made by Lockwood and seconded by McDermott to hire Peerless Midwest to make the needed repairs to high service pump #2 at a cost not to exceed \$15,450. Motion carried by a voice vote.

REPAIR WORK TO AERATION TOWER

Czarnecki stated the aeration tower is above the roof of the water plant and is subject to extreme temperatures. These conditions caused the deterioration of the coating and construction materials. Three contractors were invited to bid the work and an invitation to bid was advertised in the local paper. One bid was received from Sorenson Gross in the amount of \$38,894 to complete the work which includes structural work and a specified coating applied by Dubric Industries. The coating is not paint but a composite material that protects against abrasion, erosion-corrosion, chemical and atmospheric corrosion.

McDermott asked if the material is different than what was previously applied. Guy responded yes. Paint was used before and the new material is a composite that is ceramic reinforced and is supposed to last three to four times longer than paint.

A motion was made by McDermott and seconded by King to accept the bid from Sorenson Gross in the amount of \$38,894 for the repair and coating of the aeration tower. Motion carried by a voice vote.

2014 PAVEMENT MAINTENANCE PROGRAM

AWARD BID FOR PAVEMENT MAINTENANCE

Czarnecki stated last Wednesday a neighborhood informational meeting was held with residents from Outer and Vassar Drives to explain the work that will be done in that area. The work on those drives is a portion of the overall pavement maintenance program, which is what was bid out. The cost to complete the work on Outer and Vassar is \$463,015. The cost of the overall project is \$578,734 for the construction portion of the program. There is an added cost of construction engineering which is around \$84,000, bringing the program cost up to \$662,734 and just under \$700,000 was budgeted.

Czarnecki started during the final design phase he was approached to discuss installing a concrete curb instead of the asphalt valley gutter. To place the concrete curb and gutter entails removing the existing material and will require additional work at the driveway approaches. During the bidding process, an alternate bid was asked to include the cost of the concrete curb and the low bidding contractor for the entire project was also the low bidder for this work. The cost of including curb and gutter in the work to be performed in the Outer and Vassar area raised the cost from \$463,015 to \$743,818.

Czarnecki stated during the informational meeting it was asked if the concrete curb was installed, where the additional funds would come from. One option discussed was a special assessment. If the assessment is based on road frontage, the average assessment would be \$3210 per property. Czarnecki stated it was split among the residents at the meeting as to who wanted to pay extra for concrete curb and gutter and those that want asphalt at no additional charge to homeowners. He stated both the concrete curb and gutter and the asphalt valley gutter will perform the same function for transporting water to drainage structures. He further stated the asphalt will last as long as the street and the concrete will last longer and noted the work to install the concrete is considerably longer and more complex than the asphalt.

Czarnecki briefly reviewed the Street Maintenance Program stating it consists of three parts:

Major street maintenance work consists of crack sealing the following:

- Silver Lake Road from US-23 to Main Street
- Silver Parkway
- Main Street from the City limits to Silver Lake Road
- South Holly Road from Adelaide to the east City limits

Local street maintenance work consists of crack sealing and minor joint repair of the following:

- Fenway Circle
- Copper Street
- Industrial Drive

Street resurfacing consists of pulverizing the existing material overlaying 4-inches of new asphalt at the following:

- Outer Drive
- Vassar Drive

- Summit Street
 - Plateau Street
- *original project design is for asphalt valley gutter on these streets

Czarnecki stated bids were opened on June 27, 2014 and the following bids were received:

- | | |
|--------------------------------------|--------------|
| • Cadillac Asphalt, LLC, Clarkston | \$578,734.00 |
| • Asphalt Specialists, Inc., Pontiac | \$620,781.00 |
| • ACE-Saginaw Paving Co., Flint | \$687,932.50 |
| • Florence Cement Co., Shelby Twp. | \$755,570.95 |

McDermott asked how long would the road last if asphalt valley gutters are installed. Czarnecki responded he hopes it will be forty years, which is how long the current pavement has been in. He stated the maintenance program includes crack sealing and other maintenance fixes that will help extend the surface life of the road.

McDermott asked if placing concrete curb and gutters would extend the life of the road. Czarnecki responded no, it only extends the life of the edge of the road and commented valley gutters will last as long as the roadway does.

Grossmeyer commented he attended the public meeting where it was explained the asphalt valley gutter will do the same job as the cement curb and gutter. At that meeting, and subsequent to it, he has not heard from enough residents to convince him there are enough people in favor of a special assessment district.

Schultz stated if the special assessment process is initiated, it will push this project back two to three months as two public hearings would be necessary.

Mark Luke, 866 Outer Drive, stated he does not think the expense of the concrete curb is necessary.

Lockwood asked once the roads are paved, how maintenance is scheduled. Czarnecki responded all roads are looked at every two years and the five year program is constantly updated. The roads are given a rating and then they are put into a maintenance schedule.

Markland commented maintenance is based on available funding. In years past, general fund contributed \$400,000 to roads and that contribution is now down to \$200,000. He stated the City needs to find new ways to obtain funds and one option is to present a local streets millage to the voters.

A motion was made by McDermott and seconded by Grossmeyer to accept the bid from Cadillac Asphalt LLC of Clarkston to perform the 2014 Pavement Maintenance Program for \$578,734 and authorize the City Manager to sign the documents. Motion carried by a voice vote.

CONSTRUCTION ENGINEERING SERVICES

Czarnecki stated the 2014 pavement maintenance work will need engineering oversight. The City's engineers, OHM, have provided a scope of services for this work. Their services will include observation of the proposed work, daily documentation of construction activities and pay item quantities, resolve any issues with the work and coordinate material testing. OHM will also handle all contract administration including execution of contract documents, arrange and attend pre-construction and progress meetings, provide monthly construction pay estimates and finalize paperwork at the end of the project. They will also provide construction staking for the proposed work.

Czarnecki also stated OHM has indicated they can do the construction engineering/administration work for a cost not to exceed \$74,000. Material testing work will be coordinated through OHM but will be invoiced directly to the City and has not been figured into OHM's proposed costs.

A motion was made by McDermott and seconded by King to approve the 2014 Pavement Maintenance Scope of Construction Services with OHM as outlined in their scope of services dated June 30, 2014 for a not to exceed amount of \$74,000 and authorize the City Manager to sign the agreement.

CALL TO THE AUDIENCE

Patty Smith, 4037 Silver Lake Road, stated it is not the intent of her business to have an uncontrolled bubbler or to open up large areas of water. She respects the concerns of the Fire Chief and is willing to work with him to ensure the area around the bubbler is as safe as possible. She thanked Council for allowing her and her husband to discuss their concerns and for tabling the ordinance.

Doug Tebo, 409 Bent Oak Street, stated there was an Oakwood Cemetery Board meeting last week in the conference room on Thursday and he observed how many people were downtown for the Farmers Market and Concerts in the Park and commented how happy he is to live in Fenton.

Meeting was adjourned at 9:33 PM.

Mayor Sue Osborn

City Clerk, Renee Wilson

Date approved: August 11, 2014