

**CITY OF FENTON COUNCIL PROCEEDINGS**  
**Monday, August 26, 2013**  
**City Hall Council Chambers**  
**301 South LeRoy Street**

Mayor Sue Osborn called the meeting to order at 7:30 PM.

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

Present: Grossmeyer, Jacob, King, Osborn, Smith.  
Absent: Bland (Excused), Lockwood (Excused).  
Others Present: Lynn Markland, City Manager; Stephen Schultz, Legal Counsel; Rick Aro, Police Chief.

**CITY MANAGER'S REPORT**

Markland reported the following:

- Since the last meeting he has signed the grant for the needs assessment for the area resources.
- He attended the Board of Governors meeting at the Community Center where the addition and financing of the project was discussed.
- The Assessor has started work at the City of Grand Blanc and reports things are going well with the transition.
- Construction on the Cornerstone project began this week.
- The District 3 Subcommittee for the Genesee County Drain Commissioner's office has approved a rate increase for sewer usage. The increase will be effective January 2, 2014. The City will work with Genesee County and Paul Stauder to review the impact this will have on rates. The last rate increase from the County was on August 1, 2006 and was expected to be a five-year rate but lasted over seven years. The upcoming increase is also expected to be a five-year rate.
- He attended a meeting this past Wednesday at Genesee County on the Long Range Transportation Plan for 2040; the project will take about a year to complete.
- A good part of last week was spent collecting temporary easements for the streetscape project. All of the easements needed have been collected and the plans were submitted to MDOT on Friday and will now go through MDOT's review process.
- He is working with AT&T to lower the City's cost of telecommunications and expects to bring this issue to the September City Council work session.
- He spoke with the Genesee County Road Commission regarding the construction on N. Leroy Street/Fenton Road. The Road Commission has begun completely closing sections that are under construction. He requested they consider an alternative method that would allow at least one lane to stay open and was informed they will continue the current practice of closing the road and then moving north as each section is completed.
- There will be an addition to tonight's agenda to appoint a delegate to the Michigan Municipal League Convention.

## **COUNCIL MEMBER COMMENTS**

Jacob welcomed the new City Clerk. He is glad the Cornerstone project is moving along and stated its unfortunate about the construction on Leroy Street and thanked the City Manager for following up on the situation.

Grossmeyer welcomed the new City Clerk. He attended his first Beautification Commission meeting last week; the Board is a nine member board that only has six members. He doesn't know if there are any other Boards that are short members but suggested the City do what it can to fill vacant positions.

Smith stated Doug Tebo and the DPW have talked about putting down asphalt in the cemetery to help alleviate flood issues. He drove through the cemetery and commented staff does a good job for not having all the equipment needed and hopes asphalt will help fix the issues that occur when it rains.

King welcomed the new City Clerk. She commented work on the Loose Center is still growing. She also commented that the Dauner Haus Apartments 35<sup>th</sup> anniversary celebration is upcoming and encouraged all to attend. She stated there have been issues at Dauner Haus with cats being dropped off in the area and told Management it's not up to the seniors to trap them, it is Management's responsibility to take care of the problem.

## **LEGAL COUNSEL REPORT**

Schultz commented there has been a spate of FOIA issues in the last few weeks including an individual who sued the City but the case was dismissed within a week. The other thing he has been working on is the Cornerstone agreement that is on tonight's agenda. There was an inadvertent error in the language that needs to be corrected.

## **MAYOR'S COMMENTS**

Osborn welcomed the new City Clerk. She also asked Ryan Tackabury of the Tri-County Times to place a letter in the paper asking for applications for various City Boards and Commissions. She thanked the Building Department for taking care of the house on Adelaide but is concerned with the wood that is still on the property. Brad Hissong, Building and Zoning Administrator, informed her that the homeowner had someone who was going to pick up the wood but it is still there. She asked the Manager to follow up with Brad.

## **CITIZENS COMMENTS - None**

## **CONSENT AGENDA**

Osborn reviewed all items that were on the Consent Agenda.

King asked with regards to the push cart license request, if this would just occur on days when there are no events going on. She stated there was prior discussion about certain groups (i.e. Lions, Rotary, etc.) working certain events and asked the Attorney if this was legal.

Schultz responded that the push cart ordinance does not contain specific geographic limitations; as long as the applicant operates within the confines of the ordinance, they are free to operate. While it may raise an issue at events where certain individuals from a sponsoring organization work a concession stand, as long as a push cart operates within the restrictions of the ordinance with regards to location, they can operate.

Grossmeyer commented he also had concerns but that the City can't ask a person not to operate on certain days. He thinks the City is covered some when festivals are organized because permission is granted for use of City parks and the City can control what goes on within the parks but within the City, outside of the parks, he feels an individual should be free to operate as any other restaurant or business.

Schultz responded that when a permit is obtained to use a park, or in the case of the Applefest on the grounds of St. John's Church, a push cart cannot go into those locations because they are reserved for the organization sponsoring the event. Outside of those boundaries, push carts are free to operate within the confines of the Ordinance.

King asked the applicant how food quality would be controlled. Frederick Malmquist, 19200 Hickory Ridge Road, responded he received a copy of the ordinance regarding push carts and stated if approved, will go to the Genesee County Health Department for proper permitting and will provide the City with insurance. He stated quality control will fall under the rules and regulations of the County Health Department.

Smith asked what type of push cart would be used. Mr. Malmquist responded it is a trailer cart that he can wheel down the sidewalk. Smith welcomed Mr. Malmquist to conduct business within the City but also shared reservations about being at events other vendors have paid to be a part of. Mr. Malmquist responded that he has no intention of setting up near organized events without paying any fee that may be associated with the event.

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

- Authorize payment of invoices in the amount of \$129,848.65
- Approve and place on file the minutes of the June 19, 2013 Beautification Commission and July 9, 2013 Parks and Recreation Board.
- Approve the request from Fenton High Student Council to conduct the annual homecoming parade on Friday, September 27, 2013
- Approve license to operate a Push Cart from Frederick Malmquist, owner/operator of Fritz Bits

YEAS: Grossmeyer, Jacob, King, Osborn, Smith.

NAYS: None.

ABSENT: Bland, Lockwood. Motion carried by roll call vote.

#### **PURCHASE AUTHORIZATION FOR A CUSTOM STORAGE CABINET FOR THE COMMAND VEHICLE**

Aro stated he is requesting to purchase this cabinet as there have been a few critical incidents where specialized equipment was needed and it was at the Police Department and that the recent exercise at the Middle School brought to light the need to have emergency equipment in the vehicle.

Smith asked if this will be permanently installed or can it be switched to a new vehicle. Aro responded it depends how much a vehicle model has changed by time the cabinet would be moved. Smith asked how it would be installed. Aro responded it will be bolted down.

A motion was made by Smith and seconded by King to purchase a custom storage cabinet for the command vehicle at a cost of \$4,900.00. Motion was carried by a voice vote.

Osborn stated she attended the exercise that took place at the Middle School and thanked Chief Aro and the officers that participated. She expressed how proud she is of the Police Department and that she learned a lot from the exercise.

#### **AWARD BID FOR EXTERIOR PAINTING AT THE JACK WINEGARDEN LIBRARY**

Markland reported bids were opened on August 12, 2013 for the exterior painting work for the Jack Winegarden Library. One bid, at a cost not to exceed \$12,150, was received from Bruce Hatch Painting in Fenton. He checked references and all were positive and all information requested as part of the bid has been submitted. The bid is \$1,350 higher than the architectural estimate provided in the Library Feasibility Report completed last fall. The Downtown Development Authority approved this expenditure at their August 20, 2013 meeting. Since the Library is a city building, the Council needs to approve this as well.

A motion was made by Smith and seconded by Jacob to award the exterior paint bid for the Jack Winegarden Library to Bruce Hatch Painting at a cost not to exceed \$12,150 from the Downtown Development Authority Fund. Motion was carried by voice vote.

Jacob stated he is glad this project is starting and that somewhat local is working on it.

#### **APPROVE LETTER OF UNDERSTANDING BETWEEN THE CITY OF FENTON AND CORLIN BUILDERS**

Markland stated there was an inadvertent error in the language of the ground lease agreement with Corlin Builders for the Cornerstone project related to the amount of rent due during the first 18 months of the lease term. The language in the executed agreement between the City of Fenton, City of Fenton Downtown Development Authority and Corlin Builders refers that Corlin will make a rent payment of \$500 per month during the first 18 months. The actual terms of the agreement, which was presented and approved by both the City Council and Downtown Development Authority Boards this past January, was to make a one-time payment of \$500 for the first 18 months of the ground lease. Rather than amending the agreement with Corlin Builders, Attorney Schultz has drafted a letter of understanding for all parties to sign that can be attached to the agreement. The letter needs to be approved by both the City Council and Downtown Development Authority prior to execution.

Smith asked why the agreement doesn't need to be amended. Schultz responded the letter is an amendment to the agreement. The lease agreement provides the lease can be amended by a letter signed by all parties.

A motion was made by King and seconded by Jacob to modify the ground lease rental payment terms listed in the executed Ground Lease Agreement of \$500 per month for the first 18 months of the lease to only \$500 for the first 18 months of the lease. Motion was carried by voice vote.

#### **APPOINT DELEGATE TO THE MICHIGAN MUNICIPAL LEAGUE CONVENTION**

A motion was made by Smith and seconded by King to designate Sue Osborn as delegate, and Patricia Lockwood as alternate, to the Michigan Municipal League Convention. Motion was carried by a voice vote.

**CALL TO THE AUDIENCE - None**

Meeting was adjourned at 8:01 PM.

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Mayor Sue Osborn

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City Clerk, Renee Wilson

Date approved:       September 9, 2013