

CITY OF FENTON COUNCIL PROCEEDINGS
Monday, October 13, 2014
City Hall Council Chambers
301 South LeRoy Street

Mayor Sue Osborn called the meeting to order at 7:34 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, Osborn.

Absent: McDermott (excused).

Others Present: Lynn Markland, City Manager; Stephen Schultz, Legal Counsel; Mike Burns, Assistant City Manager; Bob Cairnduff, Fire Chief and Dan Czarnecki, Director of Public Works.

MAYOR'S COMMENTS

Osborn thanked the Beautification Commission for putting up the corn stalks stating they look beautiful. She stated the Community Center project is starting to take shape and the brick work looks good. She will be leaving tomorrow for the MML Convention in Marquette where the City will be presenting the Fire Hall project to compete for the statewide Community Excellence Award. She thanked the Fenton Village Players for the Ghost Walk that took place this past weekend.

CITY MANAGER'S REPORT

Markland commented Administration has been busy putting together the Community Excellence Award display to be presented at the MML Convention. He gave an update on various street repairs going on around town. He toured the Community Center last week and stated that the project is coming along well. He met with the owners of the Cornerstone project to discuss downtown parking and thinks the issue has been resolved regarding parking for residents of the Cornerstone building.

COUNCIL MEMBER COMMENTS

Grossmeyer commented the corn stalks look great. At the last Planning Commission meeting the two new members were sworn in and he feels they will be wonderful additions to the Planning Commission.

Lockwood stated she is looking forward to the MML Convention and stated there are some great breakout sessions scheduled. She thanked the Beautification Commission for their work putting up the corn stalks and that members of the Commission had some comments regarding the plants and flowers used as part of the streetscape project. She thinks it will be helpful to put an article in the paper explaining why trees were taken down on Shiawassee Avenue. She doesn't think people know there was a reason the trees were removed.

Assistant City Manager Burns explained six trees were removed as part of the Streetscape project and new trees will be planted downtown. The trees had to be removed by November 1st, otherwise studies would've had to been conducted to determine if the trees were natural habitats for long eared bats. In order to receive funding for the project, the trees had to be removed before

the project starts next year and noted a number of the trees were dead and not functional with the construction project because handicap accessible sidewalks will be installed along with new trees. Markland stated some of the trees were taken down at the request of a homeowner so each side of the street looks uniform.

King commented that while some people complain about the trees being removed downtown, other people commented that downtown looks good without the trees because buildings are more visible. She commented the Loose Center fundraiser is almost sold out and will take place this Saturday. She thanked the Beautification Commission for putting up the fall decorations. She asked if the money from the Community Foundation came through for the basketball court at Adams Park. Markland responded there have been conversations with the Community Foundation but doesn't know what their decision was. Lockwood stated the grant was discussed at two meetings and that \$2,000 of the requested amount, which she thinks was \$8,400 or \$8,500, was approved and that information will be forthcoming to the City. King stated she would like it on record that she thinks the entire amount of the grant should've been approved. She thanked the City Manager and Police Chief for the 'No Parking' signs installed on South Long Lake Road.

Bland thank the Beautification Commission for their work on the fall decorations. He stated the Lions Club is having a fundraiser a week from Thursday. He thanked the DPW for their work keeping the leaves off the streets.

LEGAL COUNSEL REPORT

Schultz commented his office put together a draft ordinance regarding the sale of property. His office is also working on a parking ordinance in connection with the Cornerstone project and has also prepared a draft contract for the F.A.C.T. Consortium for the consultant they will be hiring.

CITIZEN COMMENTS – Dawn Overmyer asked to speak on Ordinance No. 684 and D.P.W. Equipment Replacement.

Patty Smith, Richard Sandel, Mark Harris, Wes Nolde and Marnie Boehlke, asked to speak on Ordinance No. 681.

CONSENT AGENDA

Osborn reviewed all items that were on the Consent Agenda.

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

- Authorize payment of invoices in the amount of \$\$608,596.77.
- Approve and place on file the minutes of the August 19, 2014 Downtown Development Authority meeting, the August 28, 2014 Planning Commission meeting, the September 8, 2014 and September 22, 2014 City Council meetings.
- Approve Traffic Control Order 14-02 which installs Pedestrian Warning signs and Yield to Pedestrian signs on South Alloy Drive.
- Approve casting ballot for incumbent Directors for the Michigan Municipal League Liability and Property Pool Board of Directors.
- Approve renewing membership in the National League of Cities for 2015 at a cost of \$1,563.45.

- Appoint Voting Delegate and Alternate to the National League of Cities Annual Business Meeting (Osborn nominated herself as Voting Delegate, King supported nomination. Osborn nominated Lockwood as Alternate, Grossmeyer supported nomination)

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

NAYS: None.

ABSENT: McDermott. Motion carried by a roll call vote.

ORDINANCE NO. 681

Cairnduff stated this ordinance is regarding banning the use of ice-retardant (“bubbler”) systems. In February, Fenton Township contacted the City requesting the City look at adopting an ordinance similar to theirs. The issue has been addressed at two separate work sessions and the ordinance is up for adoption tonight and he will be glad to answer any questions.

Patty Smith, 15157 Marl Drive, stated her and her husband own Silver Spray Sports and commented she wished Council members could have seen the bubbler in use and that it did not threaten the health or well-being of anyone, hinder use of the lake or negatively affect the environment. She provided photos of the area the bubbler is used. This area has been open during the winter months for the past three years to do work that is necessary for their business and there have been no incidents. The area is marked with ‘no trespassing signs’, has safety cones, is lit at night, monitored by security cameras and has a locked gate. She stated not being allowed to use a bubbler will be a sizeable hardship on her business and she briefly described the work done on boats during the winter months. She thinks it’s important to have open water in the winter for the Fire Department if needed and stated her business donated a dry suit to the Fire Department in case of a winter emergency.

Mrs. Smith stated she understands the issue of snowmobile access via Silver Spray Sports property was raised at a prior meeting. She has always allowed people to park snowmobile trailers on their lot during business hours. Access that takes place after hours is done so without permission. She provided photos depicting individuals standing in the area the bubbler is used. She stated she previously submitted to Council research/documentation showing that regulation of ice-retardant systems is more common than an outright ban. She feels taking away her right to use an ice-retardant system is wrong when it has been used for three years without issue. She feels her business has been targeted and doesn’t think Fenton Township should have passed an ordinance banning the use of bubblers. If the City feels an ordinance is necessary, she asked that it contain a hardship exemption, which other municipalities have included in their ordinance and doesn’t feel an ordinance not allowing exemptions needs to be adopted just because Fenton Township passed a similar ordinance.

Richard Sandell, 16118 Silvershore Drive, stated he has been a homeowner on Silver Lake for over thirty years. He stated the Smiths run a great business and are friendly people, but he has a different opinion on the bubbler issue. He feels bubblers are dangerous and is in favor of the ordinance and doesn’t think it makes sense to have two different sets of regulations on one lake.

Mark Harris, 4479 Island View Drive, a fifteen year resident on Silver Lake, stated his family walks on the lake in the winter time and thinks it is difficult to explain that different parts of the lake have different regulations. He researched this issue and found articles that indicate bubblers can have an effect on ice up to five hundred feet away depending on the undercurrent of the water. He thinks allowing the use of bubblers poses a safety concern.

Wes Nolde, 5099 Marl Drive, stated he lives eight houses down from Silver Spray Sports and commented there is a culvert down from the marina that never freezes. If there are concerns with providing an area for a swan to stay all winter he stated it can live safely in the culvert. He stated the Smiths are great people, but is concerned that all the safety features in place are not going to prevent someone from possibly falling through the ice. He doesn't think the use of bubblers is safe for the people on the lake.

Marnie Boehlke, 4216 North Shore, stated she is a Silver and Marl Lakes Association Board member and an eight year resident of the lake. She understands both sides of the issue but after doing a lot of research, she feels ice-retardant systems pose a danger to residents as well plant life and wildlife on the lake.

Jacob stated he is disappointed a compromise can't be had. He understands the safety concerns and does not want to see anyone get hurt but thinks common sense regulations could be put into place to regulate the use of ice-retardant systems.

Grossmeyer stated he appreciates the effort to keep the bubbler safe and if there was an engineered way to isolate a bubbler system from the lake, he would have looked at that. Since there is no way to isolate it and no inspection standards in place, he thinks there are safety concerns. He contacted Nautique in Orlando who informed him there are two ways to feed water to boats without placing the boats in a lake which made him feel better about voting in favor of the ordinance.

King asked how big the open area of water is. Patty Smith responded ten feet by fifteen feet.

Bland stated this was discussed in depth at the work session and thinks the City and Township having two different ordinances does not make sense and feels consistency is needed on the lakes.

Lockwood thanked the City Attorney and Fire Chief for their research on this issue. She feels the number one charge of the Council is the safety and welfare of residents. She stated Silver Spray Sports is a great business but the Council makes decisions based on what it believes to be in the best interest of residents.

Patty Smith thanked the Council for all the work they have done but feels there is a personal issue with her business and that is what driving this issue.

Cairnduff commented all the discussion tonight has been concerning commercial property but the ordinance also includes residential properties. He spoke to the Fenton Township Supervisor last week and asked if there are issues with residential properties, and there are. Every year their ordinance officer has to check on a few properties and tell them to remove the bubbler. He wants it made clear that the ordinance is for all properties on the lake, both commercial and residential.

King stated the ordinance will ban the use of ice-retardant systems by anyone on the lake and asked that if anyone sees a system in use, call the local municipality to have the Code Enforcement Officer address the issue. She stated the natural instinct of water fowl is to go south in the winter but that keeping water open and feeding the fowl stops them from going south.

Osborn stated Silver Spray Sports is a very viable business within the City and everyone appreciates the support they give to the community but the health, safety and welfare of the citizens of the community is first and foremost with her.

A motion was made by Osborn and seconded by Lockwood to adopt Ordinance No. 681.

YEAS: Grossmeyer, King, Lockwood, Osborn, Bland.
NAYS: Jacob.
ABSENT: McDermott. Motion carried by a roll call vote.

ORDINANCE NO. 684

Markland stated this ordinance was by prepared Tom Colis of Miller, Canfield, Paddock and Stone. It is specifically for the portion of the bonds being sold for the streetscape project through the State Revolving Fund. The interest is much lower since it is underwritten by the State and a portion of the bonds (approximately \$286,000) will be forgiven because part of the project is considered environmentally friendly. He is recommending approval of the ordinance and clarified this is for the storm water portion of the streetscape project.

A motion was made by Grossmeyer and seconded by Bland to adopt Ordinance No. 684. Motion carried by a voice vote.

FIRE DEPARTMENT TRUCK AND EQUIPMENT PURCHASE

Cairnduff stated this was discussed at the budget session as well as two Council work sessions. He is looking for approval to purchase a KME-mini pumper from Payette Sales and Service. He stated 50% will be put down on the truck and by doing this, the City will receive a \$2,450 discount. The balance would be financed for five years. He is working with the City Treasurer to look at different finance options. The City has until the time of delivery to finance the balance of the purchase price so there is time to shop for the best available rate. He is also looking for approval to purchase the additional equipment that was discussed at last week's work session in the amount of \$18,524 and a contingency of \$2,500.

A motion was made by Bland and seconded by King to approve the purchase of a KME mini-pumper from Payette Sales and Service in the amount of \$223,801, with a 50% down payment, with the balance being financed for five years, to approve a contingency of \$2,500 and equipment purchase in the amount of \$18,524.00. Motion carried by a voice vote.

REAPPRAISAL SERVICES CONTRACT RENEWAL

A motion was made Jacob and seconded by Grossmeyer to approve the Independent Contractor Agreement for Reappraisal Services with David Cook. Motion carried by a voice vote.

DEPARTMENT OF PUBLIC WORKS (DPW) EQUIPMENT REPLACEMENT

Czarnecki stated there are pickup trucks used by the DPW that need to be replaced. He would like to purchase three new trucks. One would be purchased by the Water Department and the other two purchased by Public Works. Bid specifications were delivered to four local dealers and also advertised in the Tri-County Times. One bid was received from Vic Canever Chevrolet with a per vehicle price of \$36,018 for a grand total of \$108,054.00.

Czarnecki stated the new Water Department truck would replace the 2003 truck currently used by the water crew leader. The old crew leader truck would be transferred to the Inspection Department to replace two old trucks (1997 Ford and 2000 Chevrolet). One of the new DPW trucks would replace a 2001 Ford and the other new truck would replace a 2001 GMC. Once the new trucks are placed into service, the DPW would then sell the four replaced trucks as well as

four retired vehicles at the DPW. He stated at this time the DPW would not sell any mowers as they are sometimes used to help mow roadsides, the water plant and well houses.

Dawn Overmyer, 826 Southwood, stated she does not recall the purchasing of three trucks being discussed at the April budget session. She asked if the money for these comes out of the general fund. Markland stated the money comes out of the equipment fund.

A motion was made by Lockwood and seconded by Bland to approve the purchase of three new pickup trucks from Vic Canever Chevrolet, as specified, for a total amount of \$108,054. Motion carried by a voice vote.

CALL TO THE AUDIENCE – None.

Meeting was adjourned at 8:42 PM.

Mayor Sue Osborn

City Clerk, Renee Wilson

Date approved: November 10, 2014