

CITY OF FENTON COUNCIL PROCEEDINGS
Monday, December 9, 2013
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, McDermott, Osborn.
Absent: None.
Others Present: Lynn Markland, City Manager; Stephen Schultz, Legal Counsel; Tim Juidici, City Engineer; Carmine Avantini, City Planner, Mike Burns, Assistant City Manager; Brad Hissong, Building and Zoning Administrator, Daniel Czarnecki, Director of Public Works.

MAYOR'S COMMENTS

Osborn stated Pastor Dale Swihart is retiring and there will be an open house on December 28, 2013 from 2 p.m. – 5 p.m. She thanked the Jingle fest committee for their work and stated the event was beautiful. She just returned from Washington D.C. where she attended a meeting at the White House with the Mayors Manufacturing Summit and stated there are a few things being worked on in the industrial park to help with the transition from the auto industry into other endeavors. She wished everyone a Merry Christmas and Happy New Year.

CITY MANAGER'S REPORT

Markland reported the following:

- Wished everyone a Merry Christmas and Happy New Year
- Congratulated the Jingle fest committee for their work on Jingle fest and the parade
- The water main on Leroy Street has been installed and will be online soon
- The Fire Hall project is going well and expects it will be open soon
- Standard & Poor's reviewed the City's credit rating and reaffirmed the AA- bond rating

COUNCIL MEMBER COMMENTS

Jacob stated he had a great time at Jingle fest and thanked the D.P.W. for their work with the holiday decorations. He was glad to see the City retain its AA- bond rating during tough economic times.

Grossmeyer thanked the D.P.W., Police Department and Fire Department for their work regarding Jingle fest. He commented Pastor Swihart has been a very active member of the community and encouraged all to attend the open house in his honor.

Lockwood thanked all involved in helping with Jingle fest and stated the committee is always looking for new members and that civic groups have contacted the committee wanting to be a part of Jingle fest. She acknowledged Dale Swihart stating he is a good friend and will be missed by the community. She stated John Vamossy passed away.

McDermott commented that his family enjoyed Jingle fest and he heard many positive comments about the fireworks. He went to State Road Elementary School and held a mock City Council meeting and it went well.

King wished all a Merry Christmas and Happy New Year. She stated the Jingle fest fireworks were beautiful and thanked all involved with Jingle fest. The Loose Senior Center open house date has changed and once a new date has been decided, it will be in the newspaper and she will inform Council of the date.

Bland wished everyone a Merry Christmas. He commented Russ Conklin passed away and offered his condolences to the family.

Mayor Osborn called for a moment of silence to observe the passing of John Vamossy and Russ Conklin. The Mayor and Council offered their condolences to both families.

LEGAL COUNSEL REPORT

Schultz stated it has been a quiet few weeks. He wished everyone Happy Holidays.

CITIZEN COMMENTS

Dawn Overmyer, 826 Southwood, asked to speak on Resolutions 13-18 and 13-19.

Tim Turzin asked to speak on agenda item D - Consideration of Amendment of the Pine Creek North PUD Development Agreement.

CONSENT AGENDA

Osborn reviewed all items that were on the Consent Agenda.

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

- Authorize payment of invoices in the amount of \$158,323.84.
- Approve and place on file the minutes of the March 26, 2013 Zoning Board of Appeals meeting, the October 22, 2013 Downtown Development Authority Meeting, the October 24, 2013 Planning Commission meeting, the November 11, 2013 and November 25, 2013 City Council meetings.
- Accept the resignations of Cherie Smith, Lorraine Geiger, Elaine Eldred and Marilyn Brumback from the Beautification Commission.

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

NAYS: None.

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

RESOLUTION 13-18

Markland stated this was discussed at last week's work session. This resolution is to reduce the sewer quarterly capital charge to \$30.00 per unit per quarter.

Dawn Overmyer, 826 Southwood Drive, asked who is charged the capital charge. Markland responded it is charged to users of the sewer system in the City. He stated the reduction is proposed to offset the increase from Genesee County, which is addressed in the next agenda item.

A motion was made by Grossmeyer and seconded by Lockwood to adopt Resolution No. 13-18, a resolution to reduce the sewer capital charge \$10.00 from \$40.00 to \$30.00 per unit per quarter.

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

NAYS: None.

ABSENT: None. **RESOLUTION DECLARED ADOPTED**

RESOLUTION 13-19

Markland stated this resolution is to increase the rate charged to users of the sewer system. He stated Genesee County charges the users of the treatment plant in Linden, which the City uses, the costs of operations. The last increase in 2006 was anticipated to last for five years and it lasted seven years. In order to make the increase easier on customers, the City Council reduced the capital charge by \$10.00 per quarter.

Dawn Overmyer asked for an explanation of the rate increases.

Markland stated the Readiness to Serve rate will be increased by \$9.45/quarter; the metered users charge will increase \$0.30/1,000 gallons. The average increase will be \$5.67 per month for the average customer.

Grossmeyer commented that all users of that treatment plant are faced with these increases, not just the City of Fenton.

A motion was made by Bland and seconded by King to approve Resolution No. 13-19, a resolution to approve a sewer rate increase.

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

NAYS: None.

ABSENT: None. **RESOLUTION DECLARED ADOPTED**

RESOLUTION 13-20

Markland stated in 2011 the legislature enacted a new law establishing standards and a process with respect to medical benefit plans offered by public employers. Under the current law there is a formula for employee's contribution to the premium(s) paid by the local unit of government. In order to comply with the law, the City must use the process for employee participation that is in the law or the City Council must approve a resolution that states the City has decided to exempt itself from the requirements of Act 152 for the succeeding year.

Markland further stated City employees contribute 20% of the healthcare premium for the HMO Health Plus policy. If the employee selects the Health Plus PPO Policy, the employee must pay the difference between the costs of the PPO and HMO policies and 20% of the cost of the HMO premium. The PPO policy is more expensive than the HMO policy. If the Council approves the resolution, the current program will remain in effect. The current program was negotiated in current collective bargaining agreements.

A motion was made by Jacob and seconded by McDermott to approve Resolution No. 13-20, which elects to comply with Public Act 152 by exercising the City's right to exempt itself from the requirements of the Act for year 2014.

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

NAYS: None.

ABSENT: None. **RESOLUTION DECLARED ADOPTED**

EAGLES ON THE WATERS EDGE S.A.D. ENGINEERING SERVICES

Czarnecki stated a petition was received by the City from property owners in the Eagles on the Water's Edge development for creation of a special assessment district for certain public improvements within their development. This is for the townhouse association area that includes Eagle Drive, Eagle Drive East and the unfinished parking areas. The Council approved Resolution 13-12 on October 14, 2013 which directed the City Manager to prepare a report to include the necessary plans, profiles, specifications and cost estimates, an estimate of the life of the improvement, a description of the assessment district and other such pertinent information.

Czarnecki further stated the City's engineers, Orchard, Hiltz & McCliment, Inc. (OHM) prepared a scope of services for engineering services for the road rehabilitation associated with the proposed special assessment district. The design work will address asphalt repairs to deteriorated pavement, sub grade improvements, rehabilitation of structures as needed and the installation of the top course of asphalt on Eagle Drive, Eagle Drive East and the unfinished parking areas. The scope of services includes the collection of information, development of plans, obtaining permits and bidding of the project. When completed, the project will be ready for further review by Council in accordance with the City's special assessment process and the project will be ready for award and construction.

Czarnecki also stated OHM proposes to provide the services outlined in their scope of engineering services dated November 26, 2013 for a "not-to-exceed" amount of \$31,700.00. A separate contract with a geotechnical services company may be needed as the design moves forward to provide necessary information on the existing soils and sub grade. When needed, OHM will assist the City in developing a scope and contract for geotechnical services. This amount is anticipated to be about \$4,000.00 and is not included in OHM's proposed cost to perform the work. He is recommending approval of the scope of engineering services.

King asked if the association understands if they choose not to go ahead with the special assessment that they will be responsible for these engineering costs. Denise Schniers representing the homeowner's association, Your Peace of Mind, responded yes.

A motion was made by Bland and seconded by Lockwood to approve the Scope of Engineering Services for the Eagle on the Water's Edge Townhomes special assessment district as proposed by Orchard, Hiltz & McCliment, Inc. in their letter dated November 26, 2013 for a "not-to-exceed" amount of \$31,700.00 and authorize the City Manager to sign the agreement. Motion was carried by a voice vote.

CONSIDERATION OF AMENDMENT OF THE PINE CREEK NORTH PUD DEVELOPMENT AGREEMENT

Avantini stated four issues were looked at. Two concerned the master deed which went before the Planning Commission. Two are presented to Council as part of the PUD agreement. The two that went to the Planning Commission were to make sure the cost of infrastructure maintenance and improvements over time for the eight units would continue to be proportionate once MediLodge purchases the rest of the property. The second was to make sure the condominium line went down the middle of the road. The Planning Commission agreed on both items and approved the master deed. When the master deed and PUD agreement are reviewed, he is looking out for City ordinances, to make sure they are being followed. The two items in the PUD agreement being reviewed tonight are making sure the paving of the roads is included and to install a temporary sidewalk along Pine Creek Drive to the development entrance on Sixth Street. The PUD agreement is looked at to make sure there are no changes that might affect

other aspects of the project, and there were none. The agreement was reviewed by his office, City Administration and the City Attorney, who are all satisfied with the changes made.

A motion was made by Jacob and seconded by King to approve the amended PUD Development Agreement for Wellbridge of Fenton (Pine Creek North). Motion was carried by a voice vote.

Tim Turzin stated he has been talking to the developer trying to work through an issue regarding the master deed changes and that he is speaking as the association president. The concern is the land, as it was originally cut out, gave land in the circle across the street to the development he represents. He has no issues of the Wellbridge development. He stated there is a construction issue with the condos and the roofs are leaking. He doesn't have anything in writing tonight, but an internal assessment indicates the roofs were not put on properly. He was hoping to hold the land as part of a trade, roofs for land, with the developer. The association's Attorney, who is still working on this, hasn't gotten back to him with a position statement.

Mr. Turzin asked if the line has been moved to the center of the road, how can land that was given to them, be taken away without an agreement from the association. He stated there is an agreement with the developer indicating the developer is going to work with association on the roof issue. He wanted it known that the association will work with the developer on the roof issue without causing further due issue with the property line.

Schultz stated the second amendment to the master deed moved the line between properties across the street and took up the front yard of any units built across the street. Members of the association objected to that change, which caused the City to look at the issue because amendments to the master deed require City approval. The City staff and consultants brought to the attention of the developer that the line cannot be moved without City approval. The developer agreed to move the line back, which is what the third amendment was.

Mr. Turzin stated he respectfully disagrees with the process and feels the second amendment was an annexation of units from the main PUD.

Avantini clarified the process stating the issue being discussed is the master deed and the City Council does not have review authority, it was already approved by the Planning Commission. The City only responds to what is presented, and what was presented indicated the line was across the street, which was objected to. The applicant was asked to move the line down the middle of the road and the Planning Commission asked for the line to be moved and that change was approved by the Planning Commission. He went through the key issues involved with the PUD agreement, which Council acted on tonight. The master deed, although it shows up in the exhibit for the PUD agreement, is really not part of the PUD review that was handled by the Planning Commission.

Avantini stated from the City ordinance and approval process standpoint, a concern was that the line being on the other side of the road would have rendered the PUD plan invalid. It would have eliminated some units that were required in the amended plan that the Council approved. If residents have issues with the master deed, they can take it up with the developer, but from the City's position, he would not recommend the line go on the opposite side of the street.

Mr. Turzin stated he wanted on record his concerns with the lines moving and property being changed without due notification.

Bland stated this issue has been previously addressed at public meetings, where there was a chance for residents to comment.

Markland stated the discussion regarding the placement of the lines was done at a public meeting and members of the homeowner's association were present and part of the discussion.

FACT COORDINATOR

Markland stated the FACT Committee recently reorganized and wants to contract with someone as a part-time coordinator. In order to fund the position, the three area school districts have agreed to participate in paying for the position, along with the City of Linden and Fenton Township. The City's cost is \$3,812.65 per year and the funds would come from franchise fees the City receives. The Committee is requesting Council fund the position for a three year period on a trial basis, with a review at the end of each year.

Lockwood commended the work the committee has done. Grossmeyer agreed and commented the presentation given at last week's work session was wonderful.

A motion was made by Lockwood and seconded by Grossmeyer to approve \$3812.65 per year, for a three year period, to fund a part-time coordinator. Motion was carried by a voice vote.

COMPENSATION COMMITTEE

Burns stated the Compensation Committee met on December 6, 2013 to review the current compensation provided to the Mayor and City Council. The Committee recommended that the City Council and Mayor per meeting fee remain at \$69 but due to the many projects the Council is currently involved in, to increase the limit of paid meetings from 36 to 40. This would only include joint meetings with another City entity (i.e. DDA) and/or special meetings.

Schultz stated the way the City ordinance is written (Chapter 2, Article VI, Section 2-117), the recommendation becomes the salary unless the Council, by a two-thirds vote, rejects the recommendation.

There were no objections to the recommendation, which will be effective thirty days following its filing with the City Clerk.

DISCUSSION REGARDING TAX REVERTED PROPERTIES

Markland stated he provided the Council with a list of tax reverted properties provided by Genesee County and noted there are a lot less parcels than in previous years. If Council wishes to accept the properties, no action is needed and the properties will revert to the City. If the Council wishes to reject receiving the parcels, a motion is needed. The City has the option of selling the properties, which then can be put back on the tax roll.

Consensus was to accept the properties.

2014 MEETING SCHEDULE

A motion was made by Bland and seconded by King to approve the 2014 City Council meeting schedule as presented. Motion was carried by a voice vote.

SET PUBLIC HEARING DATE FOR PROPOSED ORDINANCE NO. 677

A motion was made by Osborn and seconded by Jacob to set the Public Hearing date for proposed Ordinance No. 677 for Monday, January 13, 2014. Motion was carried by a voice vote.

CALL TO THE AUDIENCE

None.

Meeting was adjourned at 8:35 PM.

Mayor Sue Osborn

City Clerk, Renee Wilson

Date approved: January 13, 2014