

CITY OF FENTON COUNCIL PROCEEDINGS
Monday, December 12, 2005
City Hall Council Chambers
301 South Leroy Street

Meeting was called to order at 7:30 PM by Mayor Sue Osborn.

The Lord's Prayer was recited, followed by the Pledge of Allegiance.

Present: Angeluski, Hammond, King, Moffitt, North, Osborn, Rauch.

Absent: None.

Others Present: Michael Senyko, City Manager; Christopher Wren, Assistant City Manager; Stephen Schultz, Legal Counsel; Brad Hissong, Zoning Official; Ed Everett, Strata Environmental; Rick Aro, Chief of Police; Cynthia Shane, Treasurer; Leslie Bland, DPW Director.

INTRODUCTION

Brad Hissong introduced the City's new building inspector, Donald Coleman.

MINUTES

Moved by Rauch, seconded by North to approve the minutes of the November 28, 2005 regular meeting as written. Motion carried by voice vote.

ACCOUNTS PAYABLE

Moved by Hammond, seconded by Osborn to authorize payment of invoices in the amount of \$160,425.13.

Yeas: Osborn, Rauch, Angeluski, Hammond, King, Moffitt, North.

Nays: None.

Absent: None. Motion carried.

CORRESPONDENCE, MINUTES & REPORTS

Moved by Rauch, seconded by King to place on file the following minutes:

- Minutes of the October 27, 2005 Downtown Development Authority special meeting.

- Minutes of the October 27, 2005 Planning Commission meeting.

Motion carried by voice vote.

ORDINANCE NO. 631 - WELLHEAD PROTECTION

Hissong explained this ordinance is vital to protect the City's water supply. Paul LaBlanc gave a brief of overview of the ordinance, noting that the overlay district created by the ordinance allows for certain important requirements to be imposed. Everett pointed out that Ordinance No. 631 gives the City the ability to restrict or impose restrictions for new businesses.

Angeluski felt the City should begin looking at ways of conserving water also.

Schultz stated Fenton Township would have to adopt a parallel ordinance in order to protect the entire wellhead protection area. Township Supervisor Mathis has been contacted and has agreed to sit on a committee for discussions. It was also noted that the state and federal governments to not place any restrictions on trains traveling through the protection area. There is nothing the City

can do to control the railroad or US23. Hissong stated all businesses in the area have been inspected and the Fire Chief can inspect for hazardous materials.

Schultz also pointed out there is another section to the ordinance that should be reviewed.

Osborn opened the public hearing. The hearing was closed due to lack of audience comments.

**CITY OF FENTON
ORDINANCE NO. 631
AMENDMENT TO ZONING ORDINANCE**

An Ordinance to amend the City of Fenton Zoning Ordinance to add provisions for Wellhead Protection Overlay Zones and Zoning Agreements.

THE CITY OF FENTON ORDAINS:

Section 1 The City of Fenton Zoning Ordinance is hereby amended to read as follows:

1. Sec. 17.06 Zoning Agreements

Sec. 17.06 Zoning Agreements

- a. Zoning Agreement.** An applicant for a rezoning may voluntarily offer a Zoning Agreement along with an application for rezoning before or following the public hearing for a proposed rezoning. An election to submit a Zoning Agreement shall be pursuant to the City and Village Zoning Act, specifically Michigan Public Act 207 of 1921, as amended, and this Section.
1. A Zoning Agreement shall be a written agreement executed by the applicant and the City, shall be in recordable form and shall be recorded with the Genesee County Register of Deeds after execution.
 2. A Zoning Agreement may include limitations on the uses permitted on the property in question, specify lower or varying density or less intensity of development and use, or may impose more restrictive measures on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features than would otherwise be provided in this Ordinance.
 3. A Zoning Agreement may not authorize uses or developments of greater intensity or density, or which are not permitted in a proposed zoning district; nor may a Zoning Agreement permit variations from height, area, setback or similar dimensional requirements that are less restrictive than a proposed zoning district.
 4. A Zoning Agreement shall include conditions that bear a reasonable and rational relationship and/or benefit to the property in question. A Zoning Agreement may include conditions related to the use and development of the property that are necessary to:
 - (a) Serve the intended use of the property such as improvements, extension, widening, or realignment of streets, utilities, or other infrastructure serving the site.
 - (b) Minimize the impact of the development on surrounding properties and the City overall.
 - (c) Preserve natural features and open space beyond what is normally required.
- b. Content of Agreement.** In addition to any limitations on use or development of the property or preservation of property features or improvements as described above, a Zoning Agreement shall also include the following:
1. An acknowledgement that the Zoning Agreement was proposed voluntarily by the applicant.
 2. An agreement and understanding that the property shall not be developed or used in any manner that is not consistent with a Zoning Agreement.
 3. An agreement and understanding that the approval of a rezoning and a Zoning Agreement shall be binding upon and inure to the benefit of the property owner and the City, and their respective heirs, successors, assigns, receivers or transferees.
 4. An agreement and understanding that, if a rezoning with a Zoning Agreement becomes void for any reason including, but not limited to, reasons identified in this Section, then no

further development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established.

5. An agreement and understanding that no part of a Zoning Agreement shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district.
6. A legal description of the land to which the agreement pertains.
7. Any other provisions as are agreed upon by the parties.

c. Process. A Zoning Agreement shall be reviewed concurrently with a petition for rezoning following the process in *Section 17.03 Rezoning, Zoning Ordinance, and Master Plan Amendment Procedure* and the following:

1. A Zoning Agreement may be submitted prior to or following the Planning Commission public hearing. If the agreement is submitted following the Planning Commission public hearing, it must be reviewed by Planning Commission and a second public hearing shall be held prior to the Planning Commission making its recommendation on the rezoning and Zoning Agreement to the City Council. A Zoning Agreement shall be reviewed by the City Attorney to determine that it conforms with the requirements of this Section, this Ordinance, and the City and Village Zoning Act, as amended, and that the Zoning Agreement is in a form acceptable for recording with the Genesee County Register of Deeds.
2. Following a public hearing for a proposed zoning amendment, the Planning Commission shall make a recommendation to the City Council based upon the criteria listed in *Section 17.04 Criteria for Amendment of the Official Zoning Map (Rezoning)*. In addition, following a public hearing to consider a Zoning Agreement, the Planning Commission shall consider and address in written findings whether a proposed Zoning Agreement:
 - (a) Is consistent with the intent of this Article.
 - (b) Bears a reasonable and rational connection and/or benefit to the property being proposed for rezoning.
 - (c) Is necessary to insure that the property develops in such a way that protects the surrounding neighborhood.
 - (d) Leads to a better development than would have been likely if the property had been rezoned without a Zoning Agreement, or if the property were left to develop under the existing zoning classification.
 - (e) Is clearly in the public interest.
3. If a Zoning Agreement has been offered by the applicant and recommended for approval by the Planning Commission, the City Council may approve a Zoning Agreement as a condition to the rezoning if it meets all requirements of subsection 2 above. The Zoning Agreement shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested rezoning.
4. If a rezoning and Zoning Agreement are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the Zoning Agreement. The Zoning Map shall specify the new district, plus a small letter "a" to indicate that the property is subject to a Zoning Agreement (i.e., "GBD a"). The City Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.
5. An approved Zoning Agreement shall be recorded with the Genesee County Register of Deeds.
6. Any uses proposed as part of a Zoning Agreement that would otherwise require approval of a special land use or site plan approval shall be subject to the applicable review and approval requirements of *ARTICLE 14 SPECIAL LAND USES* and *ARTICLE 16 SITE PLAN REVIEW*.
7. All other requirements of this Ordinance or any other City ordinances shall apply to the property to which a Zoning Agreement applies.

d. Expiration

1. Unless extended by the City Council for good cause, a rezoning and Zoning Agreement shall expire two (2) years after adoption of the rezoning and Zoning Agreement, unless substantial construction on the approved development of the property pursuant to building and other required permits issued by the City commences within the two (2) year period and proceeds diligently to completion.
2. In the event that substantial construction on the approved development has not commenced within the aforementioned two (2) years, or if construction and development does not proceed diligently to completion thereafter, a Zoning Agreement and rezoning shall be void and of no effect.
3. Should a Zoning Agreement become void, all development on the subject property shall cease, and no further development shall be permitted. Until action satisfactory to the City is taken to bring the property into compliance with this Ordinance, the City may withhold or, following notice to the applicant and being

given an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.

4. Notwithstanding the above, if the property owner applies in writing for an extension of a rezoning and a Zoning Agreement at least thirty (30) days prior to the expiration date, the City Council may, in its sole discretion, grant an extension of up to one (1) year. Future extensions may be granted, although the number of previous extensions granted to a particular rezoning and Zoning Agreement shall be considered by the City Council.

- e. **Reversion of Zoning.** If a rezoning and Zoning Agreement become void as outlined above, then the zoning classification of the property shall revert back to its previous zoning classification. The reversion process shall be initiated by the City Council by requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests, including the notice and hearing as required by the City and Village Zoning Act and this Ordinance. No building or other permit shall be issued or valid during the process described in this subsection.
- f. **Continuation.** Provided that all development and/or use of the property in question is in compliance with a Zoning Agreement, a use or development authorized there under may continue indefinitely, provided that all terms of a Zoning Agreement continue to be adhered to.
- g. **Amendment**
 1. During an initial two (2) year period, or during any extension granted by the City as permitted above, the City shall not add to or alter a Zoning Agreement, even with the landowner's consent.
 2. A Zoning Agreement may be amended after the expiration of an initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and Zoning Agreement.
- h. **Violation of Agreement.** Failure to comply with a Zoning Agreement at any time after approval will constitute a breach of the agreement and also a violation of this Ordinance and further use of the property may be subject to legal remedies available to the City. Any violation of a Zoning Agreement that is not cured within thirty (30) days after written notice of the violation is given shall permit the City Council, in its sole discretion, to declare a Zoning Agreement void ab initio and of no effect
- i. **Subsequent Rezoning of Land.** Nothing in a Zoning Agreement, nor any statement or other provision, shall prohibit the City from later rezoning all or any portion of the property that is the subject of a Zoning Agreement to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the City and Village Zoning Act.
- j. **Failure to Offer Conditions.** The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect the owner's rights under this Ordinance.

2. **Sec. 24.04 Wellhead Protection Overlay Zone**
Sec. 24.04 Wellhead Protection Overlay Zone

- a. **Purpose**
 1. The City of Fenton has determined that:
 - (a) Certain groundwater underlying the City currently is, or may be in the future, the sole source of the City's drinking water supply.
 - (b) Groundwater aquifers are integrally connected with the surface water, lakes, and streams that constitute significant public health, recreational and economic resources of the City and surrounding area.
 - (c) Spills and discharges of hazardous substances could threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.
 2. Therefore, the City of Fenton has enacted a Wellhead Protection Overlay Zone to promote the following actions:
 - (a) Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas for the municipal water supply, and to protect them from adverse land use development or land use practices.
 - (b) Preserve and protect sources of drinking water supply for public health and safety.

- (c) Conserve the natural resources of the City and the surrounding area.
- (d) Provide a level of protection for the financial investment that the City has in its drinking water supply.
- (e) Assure that State regulations, that help protect groundwater are implemented consistently when new or expanded development proposals are reviewed.

b. **Applicability**

- 1. The Wellhead Protection Overlay Zone shall overlay existing zoning districts delineated on the official Zoning Map of the City. The boundaries of the Wellhead Protection Overlay Zone are depicted on the Wellhead Protection Overlay Zone Map.
- 2. It shall be the responsibility of any person owning real property and/or owning and operating a business within the City corporate limits to make a determination of the applicability of this Section as it applies to the property and/or business under his or her ownership or operation. Failure to ascertain the applicability or requirements of this Section shall not excuse any violations of this Section.

c. **Use Regulations.** Permitted land uses in the Wellhead Protection Overlay Zone include all those permitted uses as allowed in the underlying zoning district, except for the following:

- 1. Petroleum product manufacturing, processing or refining, gasification, recycling, or other derivative activities (including coal).
- 2. Commercial salvage yards and/or scrap processing.
- 3. Oil and gas drilling, including oil or gas drilling contractors or operations.
- 4. Vehicle maintenance services, including public and private garages.
- 5. Chemical and paint manufacturing operations.
- 6. Laundry and dry cleaner operations.
- 7. Electronic equipment manufacturing operations.
- 8. Electro-plating and chemical coating operations.
- 9. Recycling operations involving any of the base processes described above.
- 10. Other similar uses utilizing chemicals on a commercial or industrial basis.

d. **General Provisions.** These provisions shall apply to all properties within the Wellhead Protection Overlay Zone, including private, commercial, industrial, residential and public properties, which use, store or generate hazardous substances, as defined in State or Federal law, in quantities greater than one hundred (100) kilograms (approximately two hundred and twenty (220) pounds or twenty five (25) gallons) per month, and which require site plan review under provisions of the City of Fenton Zoning Ordinance. The General Provisions apply to entire property parcels, providing parcel is at least partially included in the Wellhead Protection Overlay Zone.

1. **Groundwater Protection Standards**

- (a) A use, development, or project and any related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and groundwater, and to ensure the absence of an impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.
- (b) Storm water management and drainage facilities shall be designed to promote and continue the natural retention and storage capability of any wetland, water body, or watercourse, and shall not increase flooding or the potential for environmental contamination, on-site or off-site, and shall not result in loss of the use of property by any third party or adjacent property.
- (c) Industrial facilities with a point source discharge of storm water shall maintain a Storm Water Pollution Prevention Plan in accordance with applicable State and Federal regulations.
- (d) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a State surface or groundwater discharge permit. If connected to the public sewer system, the volumes and concentrations of waste discharged to a floor drain shall comply with the City's pretreatment requirements.
- (e) Sites that at any time use, store or generate substances in quantities greater than one hundred (100) kilograms that include hazardous substances shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
- (f) State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without applicable permits and approvals.
- (g) Bulk storage of pesticides shall be in accordance with applicable County, State and Federal regulations.

2. **Above Ground Storage and Use Areas for Hazardous Substances**

- (a) Primary containment of hazardous substances shall be product tight.
- (b) Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers with a volume of less than forty (40) gallons and packaged for retail use shall be exempt from this subsection (b).
- (c) Outdoor storage of hazardous substances shall be prohibited except in product-tight containers that are protected from weather, leakage, accidental damage and vandalism, including an allowance for the expected accumulation of precipitation.
- (d) Accessory buildings, storage rooms, sheds and pole barns that are utilized as secondary containment shall not have floor drains that outlet to soil, a public or private sewer system, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained pursuant to applicable County, State and Federal regulation.
- (e) Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled and stored, shall be designed and constructed to prevent unpermitted discharges to floor drains, rivers, lakes, wetlands, groundwater, or soils.

3. Underground Storage Tank Systems

- (a) Existing and new underground storage tanks shall be registered with the authorized State agency in accordance with applicable requirements of the U.S. Environmental Protection Agency (EPA) and the Michigan Department of Environmental Quality (MDEQ).
- (b) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements of MDEQ. Leak detection, secondary containment, corrosion protection, spill prevention and overflow protection requirements shall be met.

4. Well Abandonment. The owner of a parcel of land within the Wellhead Protection Overlay Zone shall determine whether or not any wells exist on the property, and, if wells do exist, they must be properly abandoned in accordance with applicable State requirements.

5. Well Construction

- (a) Well drilling, construction and installation shall only be performed by State of Michigan Registered Well Drillers.
- (b) Well construction shall be completed in accordance with Part 127 of Act 368 of the Public Acts of 1978, as amended, and any rules adopted pursuant to that Act.
- (c) Well construction shall include fully grouting the entire length of the well casing in accordance with Part 127 of Act 368 of the Public Acts of 1978, as amended, and any rules adopted pursuant to that Act.

6. Sites with Contaminated Soils and/or Groundwater

- (a) Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and environment.
- (b) Information must be provided regarding the type, concentration and extent of identified contamination, land use deed restrictions and any remedial action plans.
- (c) Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

7. Construction Standards

- (a) A general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before any construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For example, handling hazardous substances in proximity to water bodies or wetlands may be improper.
- (b) Hazardous substances stored on a construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage container with a volume of over forty (40) gallons that contains hazardous substances shall have secondary containment.
- (c) If a contractor stores or handles hazardous substances that require a Material Safety Data Sheet (MSDS), the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of any hazardous substance.
- (d) Upon completion of construction, all hazardous substances and containment systems no longer used or not needed in the operation of the facility shall be removed from the construction site by the responsible contractor and shall be disposed of, recycled, or re-used in a proper manner as prescribed by applicable State and Federal law or regulations.

- (e) Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.
- e. **Maintenance.** In areas where hazardous substances are handled, structural integrity of any building, containment facility, or storage must be maintained to avoid inadvertent discharge of hazardous substances to soil and groundwater. Cracks and holes in floors, foundations and walls must be repaired in areas where hazardous substances are handled or stored.
- f. **Exclusions**
1. A limited exclusion from *Section 24.04.d. General Provisions* is hereby authorized for hazardous substances as follows:
 - (a) The hazardous substance is packaged for personal or household use or is present in the same form and concentration as a product packaged for use by the general public.
 - (b) The materials containing hazardous substances that are excluded under this subsection 1 may not exceed a combined total of fifty (50) gallons or four hundred (400) pounds at any time.
 2. A limited exclusion from the *Section 24.04.d. General Provisions* is hereby authorized for non-routine maintenance or repair of property in the Wellhead Protection Overlay Zone provided the uses are limited as follows:
 - (a) The aggregate of hazardous substances may not exceed a combined total of fifty (50) gallons or four hundred (400) pounds at any time.
 - (b) The total use of materials containing hazardous substances may not exceed a combined total of one-hundred (100) gallons or eight hundred (800) pounds at any time.
- g. **Site Plan Review Requirements.** In addition to the requirements of *ARTICLE 16 SITE PLAN REVIEW*, the following information shall be provided on a site plan submitted for review to the City:
1. The location and size of interior and exterior area(s) and structure(s) to be used for on-site storage, use, load/unloading, recycling, or disposal of hazardous substances.
 2. The location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous substance storage, collection of contaminated stormwater or wash water, and all similar uses.
 3. The location of existing and proposed wells, and the plans to properly abandon those wells before site work begins.
 4. The location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
 5. The areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of any site remedial action plan and land use deed restrictions, if applicable.
- h. **Exemptions.** The transportation of any hazardous substance shall be exempt from the provisions of this Ordinance provided the transporting motor vehicle or rail is in continuous transit, or that it is transporting substances to or from a State licensed hazardous waste treatment, storage, or disposal facility.
- i. **Appeals.** The Planning Commission may grant a special permit if it finds by written decision that the proposed use:
1. Meets the intent of this section as well as its specific criteria,
 2. Will not, during construction or thereafter, have an actual or potential adverse impact on any aquifer or recharge area in the district,
 3. Will not actually or potentially adversely affect an existing or potential domestic or municipal water supply, and
 4. Is consistent with existing and probable future development of surrounding areas.
3. **Sec. 28.02 Definitions**
- Aquifer:** A geologic formation, group of formations or part of a formation capable of storing and yielding a significant amount of groundwater to wells or springs.
- Environmental Contamination:** The presence or release of a hazardous substance or other substance in a quantity that is or may become injurious to the environment or to the public health, safety, or welfare.
- Hazardous Substance:** A chemical or other material that is or may become injurious to the public health, safety, or welfare, or to the environment. The term "hazardous substance" includes, but is not limited to, any of the following:
- a. Hazardous Substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96.510, 94 State. 2767.

- b. Hazardous Waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
 - c. Regulated Substance as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
 - d. Hazardous Substance as defined in Part 201 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
 - e. Used oil.
 - f. Animal waste or byproducts, or carcasses.
- Primary Containment Facility:** A tank, pit, container, pipe, or vessel for first containment of a hazardous substance.
- Secondary Containment Facility:** A second tank, catch basin, pit, or vessel that limits and contains a liquid or hazardous substance leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent future environmental contamination of land, ground water or surface water.
- Underground Storage Tank System:** A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
- Used Oil:** Any oil that had been refined from crude oil, used, and as a result of such use contaminated by physical or chemical impurities.
- Well:** A permanent or temporary opening in the surface of the earth for the purpose of removing fresh water, testing water quality, measuring water characteristics, liquid recharge, waste disposal, or dewatering purposes during construction, as defined in the Michigan Water Well Construction and Pump Installation Code, Part 127, Act 368 of the Public Acts of 1978, as amended, and the rules promulgated pursuant thereto.
- Wellhead Protection Area (WHPA):** The area around and upgradient from the public water supply wells delineated by the ten-year travel time contour capture boundary.
- Wellhead Protection Overlay Zone:** The area outlined on the Wellhead Protection Overlay Zone Map.

- Section 2 SEVERABILITY
Should any section, subsection, paragraph, sentence, clause, or word of this Ordinance be held invalid for any reason, such decision shall not affect the validity of the remaining portions of the Ordinance.
- Section 3 SAVINGS
This amendatory ordinance shall not affect violations of the Zoning Ordinance or any other Ordinance existing prior to the effective date of this Ordinance and such violation shall be governed and shall continue to be separately punishable to the full extent of the law under the provisions of such ordinance at the time the violation was committed.
- Section 4 EFFECTIVE DATE
These Ordinance amendments shall become effective upon their publication.
These Ordinance amendments were adopted by the City of Fenton City Council at its regular meeting held on December 12, 2005 and ordered to be published in the manner required by law.
The ordinance was introduced by Mayor Osborn at a regular meeting of the Fenton City Council on November 14, 2005.
At a regular meeting of the City Council held on December 12, 2005, Councilman Hammond moved the enactment of the ordinance. The motion was seconded by Councilwoman North. Motion carried by voice vote.
The ordinance was declared enacted.

ELLEN STREET SPECIAL ASSESSMENT

Senyko explained that after public input, this resolution authorizes the creation of a special assessment district and approves the project conceptually. He then reviewed the project and gave a brief background to date. He also noted the removal of four parcels from the original list. According to the owner of the parcels, they are unbuildable.

Osborn opened the public hearing. The hearing was then closed due to lack of public input.

CITY OF FENTON RESOLUTION NO. 05-33

ELLEN STREET CURB AND GUTTER SPECIAL ASSESSMENT

Minutes of a regular meeting of the City Council of the City of Fenton, Genesee County, Michigan held in the City Hall Council Chambers, 301 South Leroy Street in said City on

December 12, 2005 at 7:30 P.M.

Present: Angeluski, Hammond, King, Moffitt, North, Osborn, Rauch.
Absent: None.

The following preamble and resolution were offered by Rauch and supported by North:

WHEREAS, the City Council of the City of Fenton after due and legal notice, has met and heard all interested persons to be affected by the proposed public improvement described as follows:

Installation of curb and gutter on West Ellen Street, west of South West street

WHEREAS, 50% or more of owners of frontage to be assessed have/have not filed written objections to the proposed improvement, and

WHEREAS, the City Council deems it advisable and necessary to proceed with said public improvement;
NOW, THEREFORE, BE IT RESOLVED THAT:

10 The City Council hereby determines to make the public improvement described above and to defray the entire cost by special assessment upon the property specially benefitted in proportion to the benefits to be derived.

20 The City Council hereby approves the profiles, plans and specifications for the aforesaid public improvement, determines the estimated cost of said improvement to be \$27,500 and estimates the useful life thereof to be not less than 10 years.

30 The City Council determines that of said total estimated cost the sum of \$27,500 to be paid by special assessment upon the property specially benefitted, as more particularly hereinafter described and the sum of \$0 to be paid by the City from funds legally available for such purpose.

40 The City Council hereby designates the following lots and parcels of land as the property to comprise the special assessment district upon which the special assessments shall be levied.

50 The City Assessor shall prepare a special assessment roll including all lots and parcels of land within the special assessment district herein designated, and the Assessor shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district. Said special assessment roll is hereby designated as the Ellen Street Special Assessment Roll.

60 The number of installments in which assessments may be paid is hereby determined to not exceed five (5) annual installments, with interest not to exceed that which is allowable by law.

70 When the Assessor shall have completed the assessment roll, he shall file the same with the City Clerk for presentation to the City Council.

80 All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Rauch, Angeluski, Hammond, King, Moffitt North, Osborn.

NAYS: None.

ABSENT: None.

RESOLUTION DECLARED ADOPTED.

CDBG FUND TRANSFER RESOLUTIONS

Wren explained these resolutions are necessary to transfer unused Community Block Grant Funds into other projects.

CITY OF FENTON RESOLUTION NO. 05-30

A RESOLUTION TRANSFERRING FUNDS WITHIN THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The following resolution was offered by North and seconded by King:

WHEREAS, the City of Fenton participates in the Genesee County Community Development Program; and

WHEREAS, the City of Fenton received sealed bids for project 04-06 handicap sidewalk improvements; and

WHEREAS, the low bid received exceeds the allotted amount for project 04-06; and

WHEREAS, the City of Fenton has additional Community Block Grant Development funding with project 04-09 community center improvements;

NOW THEREFORE BE IT RESOLVED that the City of Fenton shall transfer \$6,453 from project 04-09 to project 04-06 through the Community Development Block Grant Program:

YEAS: Angeluski, Hammond, King, Moffitt, North, Osborn, Rauch.
NAYS: None.
ABSENT: None.
RESOLUTION DECLARED ADOPTED.

**CITY OF FENTON
RESOLUTION NO. 05-31**

**A RESOLUTION TRANSFERRING FUNDS WITHIN THE COMMUNITY DEVELOPMENT BLOCK
GRANT PROGRAM**

The following resolution was offered by Rauch and seconded by Moffitt:

WHEREAS, the City of Fenton participates in the Genesee County Community Development Program; and
WHEREAS, the City of Fenton seeks to transfer funding from project 04-07 Neighborhood Improvements to the
Genesee County Home Improvement Program; and
WHEREAS, the funds transferred from project 04-07 shall be used for projects located within the City of Fenton;
and

NOW THEREFORE BE IT RESOLVED that the City of Fenton authorizes the transfer of all remaining funds in
project 04-07 Neighborhoods Improvements to the Genesee County Home Improvement Program:

YEAS: Hammond, King, Moffitt, North, Osborn, Rauch, Angeluski.
NAYS: None.
ABSENT: None.
RESOLUTION DECLARED ADOPTED.

**CITY OF FENTON
RESOLUTION NO. 05-32**

**A RESOLUTION TRANSFERRING FUNDS WITHIN THE COMMUNITY DEVELOPMENT BLOCK
GRANT PROGRAM**

The following resolution was offered by Moffitt and seconded by North:

WHEREAS, the City of Fenton participates in the Genesee County Community Development Program; and
WHEREAS, the City of Fenton seeks to transfer funding from project 04-09 Community Center Improvements to
the Genesee County Home Improvement Program; and
WHEREAS, the funds transferred from project 04-09 shall be used for projects located within the City of Fenton;
and

NOW THEREFORE BE IT RESOLVED that the City of Fenton authorizes the transfer of all remaining funds in
project 04-09 Community Center Improvements to the Genesee County Home Improvement Program:

YEAS: King, Moffitt, North, Osborn, Rauch, Angeluski, Hammond.
NAYS: None.
ABSENT: None.
RESOLUTION DECLARED ADOPTED.

USED EQUIPMENT BIDS

Bland recommended that council accept the bids as presented for the three DPW vehicles and
reject the mower bids with instructions to re-bid it next year.

Moved by King, seconded by North to award the 1996 Ford Bronco bid to Chris Pangerl for
\$1678.00, award the 1996 Dodge ½ ton pickup bid to Arthur Dansczynski for \$2193.79, award the
1998 Chevy Kodiak 7500 dump truck bid to Adam Shoemaker for \$17,259.95 and reject all bids for
the Vicon Rotary Mower and re-bid next year. Motion carried by voice vote.

BUDGET AMENDMENT 05/06-01

Shane explained this amendment is a result, in part, of the purchase of the 800 megahertz radio
system. The funds were borrowed in FY05, but the purchase will not occur until the end of FY06.
Also, the South Long Lake Road project will be completed in this fiscal year, which requires an
increase in that line item of \$70,231.

Moved by Hammond, seconded by Rauch to adopt Budget Amendment 05/06-01 for the
purchase of the 800 megahertz radio system and completion of the South Long Lake sidewalk project.
Motion carried by voice vote.

TYRONE TOWNSHIP FIRE SERVICES AGREEMENT

Senyko noted the agreement had been revised based on input from the Council work session discussion. Contract B provides for fire and EMS services to Tyrone Township east of US23 and south to the township boundary. It would commence April 1, 2006 and expire on March 31, 2010. The language added as a result of work session discussion includes a better description of the fire run, a six month review period and a requirement to adopt a cost recovery ordinance by October 1, 2006. The City expects to receive over \$100,000 annually from Tyrone Township as a result of this contract. There also are references built into the contract for automatic increases to cover our expected future costs.

Angeluski requested clarification of language regarding review of the agreement by either party after October 1, 2006 for possible amendments. He pointed out that this clause was supposed to allow the City the ability to increase the per run charge. He felt this language was too vague. Senyko and Schultz both explained that this open-ended language allows the City to look at any and all provisions in the agreement.

King requested that specific action should be taken to insure that the initial \$18,700 payment be placed in the equipment fund.

Royce Hyde, former Tyrone Township Supervisor, was present to thank the City of Fenton for past services and for this current contract if approved.

Moved by Osborn, seconded by Hammond to approve the contract with Tyrone Township to provide fire and medical services and authorize the Mayor, City Manager and City Clerk to execute any necessary documents.

Yeas: Osborn, Rauch, Hammond, Moffitt, North.

Nays: Angeluski, King.

Absent: None. Motion carried.

Moved by North, seconded by King to place the initial \$18,700 payment in the Fire Equipment Fund. Motion carried by voice vote. Moffitt opposed.

PEG AGREEMENT

Wren explained that Fenton Township has applied to and been approved by the FACT board for grant monies to be used to purchase audio visual equipment for the purpose of recording and broadcasting various board meetings. They are requesting \$12,724.77 in Educational and Government fees. These funds are derived from the 2% collected from Charter Communication and there is no fiscal impact to the City.

Moved by King, seconded by North to approve Fenton Township's request for Educational and Government fees in the amount of \$12,724.77. Motion carried by voice vote.

CITY HALL RENOVATIONS

Wren explained that the initial renovations consist of carpeting throughout, remodeling the council chambers, conference room and front office. He is recommending that the City contract with Space, Inc. to oversee the renovation process. The purchase of all materials can be done through the State of Michigan bid process. He is also recommending that any additional work performed by Space Inc. not included in the State of Michigan bid be billed at a fee not to exceed \$52.00 per hour.

Moved by North, seconded by Moffitt to award the contract for City Hall renovations to Space, Inc. of Flint, Michigan with any additional work borne by

Space, Inc. no included in the State of Michigan bid process to be billed at a fee not to exceed \$52.00 per hour. Motion carried by voice vote.

CITY MANAGER'S CONTRACT

Moved by Hammond, seconded by Angeluski to approve the terms of Mr. Senyko's contract and authorize the Mayor and City Clerk to execute the documents. Motion carried by voice vote.

JUBIL'EVE BANNER

Moved by King, seconded by North that Council approve the request of the Jubil'Eve steering committee to install banners at Leroy and Wass Streets and at Shiawassee and Rounds Drive from December 16, 2005 through January 2, 2006. Motion carried by voice vote.

SOUTHERN LAKES PARKS AND RECREATION BOARD APPOINTMENTS

Moved by Osborn, seconded by King to accept the resignation of Robert Burek from the South Lakes Parks and Recreation Commission. Motion carried by voice vote.

Moved by Osborn, seconded by North to appoint Justin Sprague to a term to expire December 31, 2008. Motion carried by voice vote.

Moved by Osborn, seconded by North to reappoint David Osborn to a term to expire December 31, 2008. Motion carried by voice vote.

2006 MEETING SCHEDULE

Moved by Osborn, seconded by North to approve the 2006 Council Meeting schedule as follows:

Work Sessions will be held January 3, January 30 (Goal Setting), February 6, March 6, April 3, April 22 (Budget Worksession), May 1, June 5, July 3, August 7, September 5, October 2, November 6, and December 4. Regular meetings will be held January 9 & 23, February 13 & 27, March 13 & 27, April 10 & 24, May 8 & 22, June 12 & 26, July 10 & 24, August 14 & 28, September 11 & 25, October 9 & 23, November 13 & 27, and December 11.

Motion carried by voice vote.

SET PUBLIC HEARINGS

Ordinance No. 632 – Moved by Osborn, seconded by Rauch to set a public hearing on Ordinance No. 632 for January 9, 2006. Motion carried by voice vote.

Century Tool IFT – Moved by Osborn, seconded by Hammond to set a public hearing on the IFT request of Century Tool for January 9, 2006. Motion carried by voice vote.

Creative Foam IFT – Moved by Osborn, seconded by North to set a public hearing on the IFT request of Creative Foam for January 9, 2006. Motion carried by voice vote.

CALL TO AUDIENCE – None.

CITY MANAGER'S REPORT

Senyko thanked Council for their attendance and comments at the 5:00 PM special meeting for discussion of downtown design guidelines.

COUNCIL MEMBER COMMENTS

Moffitt questioned the \$18,000 paid to FANG. Senyko explained these are technically dues, which increased from \$6,000 last year.

North praised the DPW workers for the snow removal on Friday.

Rauch also praised the DPW for their work. He also reported that the Engineering Committee has started the interview process and will attempt to bring their recommendation to a January meeting.

Angeluski felt administration should look within the current Fire Department ranks to fill the vacant Chief's position resulting from Dennis Smith's resignation. Osborn stressed it is important to remember that it is the City Manager's choice, with City Council approval.

King wished everyone a happy holiday. She inquired about the East Street home and was informed it should already be demolished.

LEGAL COUNSEL REPORT

Schultz wished everyone a Merry Christmas and Happy New Year.

MAYOR'S COMMENTS

Osborn wished everyone a Merry Christmas.

Meeting was adjourned at 9:45 P.M.

Sue Osborn, Mayor

Melinda Carrier, City Clerk