

CITY OF FENTON COUNCIL SPECIAL WORK SESSION PROCEEDINGS
Monday, October 21, 2013
City Hall Conference Room
301 South Leroy Street
6:00 PM

Mayor Sue Osborn called the meeting to order at 6:15 PM.

Present: Bland (arrived at 7:22 p.m.), Grossmeyer, Jacob, King, Lockwood, Osborn, Smith.
Absent: None.
Others Present: Lynn Markland, City Manager; Stephen Schultz, Legal Counsel; Lauren Dutcher, Legal Counsel.

CITIZENS COMMENTS

None.

REGULATION OF FOOD TRUCKS

Osborn stated she is going to the National League of Cities conference next month and on their agenda is a session about food trucks. She will bring as much information back as she can and suggested having another meeting about this topic prior to a regular City Council meeting.

Schultz stated what is in effect now is basically a food cart ordinance that has a \$100 annual license fee. He stated this is a hot topic that will be around for several years and there are a lot of policy issues that need to be discussed.

Jacob stated he prefers to allow these and figure out how to regulate them because the food truck sales that occur in industrial areas are different than those that take place in commercial and residential areas.

Osborn stated she worries about businesses in town suffering because the City is so small and she does not like the idea of a food truck roaming around town and going into neighborhoods.

Jacob suggested restrictions be put into place that state the trucks would only be allowed in the City during certain hours, which restricts the exposure brick and mortar restaurants would face.

Markland asked if there is a limit on the permit fee that could be charged. Schultz responded no, but if the permit fee is so high that it makes it basically impossible to operate, it is no different than saying the City isn't going to allow food trucks within the City limits.

Smith stated he does not agree with pricing food trucks out the market. They are new and up and coming and draw a young crowd. He thinks \$1000 for an annual permit is not too high and only four to six trucks should be allowed in the City at any time. If a vendor leaves, then that permit becomes available to the next vendor in line. He suggested restrictions be put into place indicating how far they have to be from brick and mortar restaurants, festivals, etc.

Lockwood stated she got information from the City of Livonia and City of East Lansing. She stated Livonia has an ordinance that falls under their food permitting process and they do not allow food trucks to operate on City streets but they do allow vendors, which is a little different than what Fenton is looking at. She stated East Lansing allows food trucks, but it is handled by their Downtown Development Authority (DDA) because they're trying to promote the

downtown area. They do not allow food trucks at City festivals unless they are part of the Committee that puts the festival on and they do not allow trucks on any residential streets and have a designated district boundary approved by the DDA. She stated it is difficult to compare Fenton to East Lansing but that this is something that smaller communities really haven't had to deal with and they are looking to the bigger communities to see how they've addressed this. The East Lansing application fee is \$100 which is put towards the annual fee, which for the first application is \$1800 annually and renewals are \$1700 annually. The annual fee for concession carts is \$1200 and vendors are required to have \$300,000 in liability insurance. She stated Livonia allows food trucks to contract directly with businesses in the industrial district and that has to be approved by the DDA.

Schultz stated in East Lansing, the University created their own food trucks that go to the dorms and athletic events and they are not regulated by ordinance because they are outside the district.

Lockwood stated she is on the fence about this issue and is not in favor of allowing food trucks at festivals where non-profits are working to raise money. She stated the information she gathered indicates there are a lot of restrictions put into place and she is not opposed to that.

Grossmeyer stated he is in favor of being restrictive. He thinks if areas are designated, it needs to be specific as to what parking lots and streets they'd be allowed on. He thinks the trucks need to be self contained and should not run cords and hoses across a parking lot which creates trip hazards and thinks the trucks need to be away from buildings. He looked at on-street parking and said that issue would have to be looked at again in a year because of the streetscape project. He stated it would be easy to justify a higher fee when the D.P.W. will be performing more maintenance work such as cleaning picnic tables and benches and emptying trash.

Schultz asked if the City would allow community groups, restaurants or other businesses to sponsor a food truck for a one or two day event or allow churches to bring in food trucks to their parking lots during festivals to use as a fundraising event. And if so, how many to allow and what fee would be charged.

Grossmeyer stated he thinks differences can be written into the Ordinance. He thinks the industrial district should be exempt because the employees there don't get much time for lunch and thinks the trucks that go into those areas are more akin to a caterer, not a food truck. He also thinks festivals could be exempt.

Schultz stated an issue that could come up is that if the industrial district is exempt and food truck vendors get permission to hold a festival on the weekend in one of those parking lots, then the City has a problem. He stated the issue of managing this use is very complex.

Jacob asked if a festival such as the Freedom Festival which has non-profits selling there, could the City put an additional fee in place if vendors wanted to operate during festivals.

Schultz stated he thinks a distinction can be drawn between festivals like Applefest that has associated street closures and permits that have to be obtained. He is looking for guidance on what to do for smaller events i.e. Kiwanis wanting to do a fundraiser and they find someone that allows them to use a parking lot to have a food truck festival; they're not using City streets.

Smith asked if a City can require a license, even if it is on private property.

Schultz stated for example the City could choose to allow three food trucks in the City at any time and all else are banned. He asked how the City would handle it when a group approaches the City about having a festival.

Grossmeyer stated he is not opposed to a food truck festival on occasion. He asked if that could be done and if the City could limit the number of times that could happen a year to avoid having a festival in a parking lot every weekend.

Lockwood stated the Southern Lakes Parks and Recreation Board thought it would be a great idea to do a food truck event in their parking lot. She stated that for Applefest, St. Johns has a contract with the vendors that provide the rides at the festival and part of the contract is the money St. Johns get is from the rides, not from the food sold at the festival.

Jacob asked if the City can differentiate between trucks that go up and down the street and those that set up in parking lots.

Schultz suggested a daily permit could be implemented and any given vehicle can only get two a year, or whatever amount the Council decides. That way a vendor can't dodge the annual fee.

Lockwood stated she would like to know what other municipalities do with regard to festivals. Some of the information she looked at indicates food trucks are not allowed during city sponsored festivals but a lot of festivals are not city sponsored.

Grossmeyer stated he thinks the City can differentiate between festivals. He does not have a problem telling a business or group they can have an event if they use one of the food trucks that are licensed by the City.

King stated VG's had a car cruise and brought in prepared food from Beale St. Smokehouse and the restaurant had a permit that allowed them to transport prepared foods. She stated the City has to look at every aspect of this. She stated the parking lot at City Hall can get congested with the Millpond Manor residents, Fenton House patrons, people visiting the park, etc. If a vendor is brought in, it can affect the people that would normally utilize those parking lots.

Osborn asked if the City could designate certain days of the year that food trucks would be allowed and hold events to make it easier to supervise and regulate.

Schultz stated the City could try that, but that almost amounts to a ban and asked if the City wants to go that route.

Lockwood asked if there is a time frame to get this Ordinance in place. She referred to an earlier comment regarding extra work by the D.P.W. and stated in East Lansing's ordinance, clean up falls back on the vendor. Schultz responded there is time since the food truck season is almost over.

Osborn suggested surveying the restaurants in the area to get their feedback on this topic.

Grossmeyer stated he talked to some of the restaurants in the area and the reaction has been all over the map.

Lockwood also suggested contacting the Chamber of Commerce to reach out to the business community.

King thinks the Council needs to take their time in dealing with this issue, limit the number of permits and not saturate the City with trucks. If something happens to a vendor and a permit becomes available, it goes to the next vendor on the waiting list, if there is one.

Smith commented that a lot of food trucks have a following and they would possibly draw young people to Fenton who have never visited before.

Bland arrived at 7:22 p.m.

Grossmeyer asked if a truck is in a retail business's parking lot, would it be considered part of their outdoor sales. Schultz responded that is now done with the vendors set up during the fireworks, it goes against the business's two weeks of outdoor sales.

Lockwood stated some communities have an advisory committee that work with administration to make the decision on what is allowed. She also commented that the City of Linden just passed an ordinance to allow early Sunday liquor sales. This now means that Linden, Fenton and Tyrone Townships are capturing the City's business. She wanted to make the Council aware that there will be a letter of request forthcoming to the City to consider allowing early Sunday sales.

Schultz stated he wanted to make the Council aware that the Ter Beek case was recently argued in front of the Supreme Court, which deals with the City of Wyoming's ordinance that states no use would be allowed in the city that is in violation of federal law, which is how they prohibited medical marihuana because it violates the federal Controlled Substances Act. He stated when a decision comes down from the Court, this issue will be back on the Council's front burner.

Smith stated it needs to be defined what a food truck is. There's a difference between a truck going into industrial districts and selling premade goods and a truck that is prepping food on site.

Schultz stated he thinks that issue is solvable. There are licensed vehicles and unlicensed vehicles, ready to eat food and food that is prepared on site, carts on the sidewalk and vehicles that operate on the street so he thinks some distinctions can be drawn.

Grossmeyer suggested if an advisory committee is formed, that an application period be established from November 1st-December 31st that is for the following year to give the committee time to make a decision.

Jacob stated he thinks this could work if restrictive hours and zoning controls are put into place and a cap is placed on the number of permits and to also have permits that take care of special events.

Markland stated he thinks there is a place for food trucks but thinks the proper amount of restrictions needs to be placed on them and done in a way that does not damage the brick and mortar restaurants.

Smith asked the Attorney to put together a set of ideas and have that go to the Planning Commission to get their feedback.

Lockwood stated she agrees with this ultimately going to the Planning Commission but the Council needs to make a decision as to whether or not they want this to go forward.

Bland stated he is not in favor of sending this to the Planning Commission. The Council should deal with it as it is their decision to make.

King stated she thinks this should go to the Planning Commission and thinks this should be reviewed by both Building and Zoning Administrator Brad Hisson and the Planning Commission as they may offer a different perspective.

Schultz stated the Planning Commission can look at any zoning issues, but they are not set up to decide what the licensing and application fees should be and what public health, safety and welfare issues need to be addressed.

Osborn stated she would like to table this issue and asked the Attorney to get copies of ordinances from other municipalities in Michigan that address this issue.

COUNCIL MEMBER COMMENTS

None.

CALL TO THE AUDIENCE - None

Meeting was adjourned at 7:56 P.M.

Mayor Sue Osborn

City Clerk, Renee Wilson

Date approved: November 11, 2013