

CITY OF FENTON COUNCIL WORK SESSION PROCEEDINGS
Wednesday, January 8, 2014
City Hall Conference Room
301 South LeRoy Street
7:30 PM

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

Present: Bland, Grossmeyer, Jacob, Lockwood, McDermott, Osborn.
Absent: King (excused)
Others Present: Lynn Markland, City Manager; Cindy Shane, Treasurer; Dan Czarnecki, Director of Public Works, Stephen Schultz, Legal Counsel, Alan Panter, City Auditor and Tim Juidici, City Engineer

CITIZENS COMMENTS

Patricia Baird, Fair Housing Program Manager at Legal Services of Eastern Michigan, asked to speak on agenda item #8 – Discussion regarding Keeping of Animals Ordinance (Therapy Animals).

PRESENTATION OF 2013 AUDIT REPORT

Alan Panter of Abraham & Gaffney, P.C. presented the 2013 Audit Report. He stated the audit went very well this year and the City was well prepared when his office arrived. He reviewed the Balance Sheet as of June 30, 2013. He stated fund balance in the general fund is at 40% of annual expenditures, last year was 37%. He recommends a minimum for cash flow and operating purposes of 15-20%. Any amount over that depends on what the City's plans are for that money and what the economic outlook is.

Panter next reviewed the Statement of Revenues, Expenditures and Changes in Fund Balance which indicates how fund balance changed during the year. Fund balance in the general fund increased by \$28,087. Revenues had less than a 1% variation from last year and expenses were up about 6.6%. He next reviewed a chart that showed the last five years of data for revenues, expenditures and fund balance for general fund. He noted 2013 was comparable to 2012 and that fund balance has increased every year. He reviewed charts that showed current year revenue and expenditure detail in the general fund.

Panter reviewed the Statement of Net Position for the water and sewer funds. He stated these funds are accounted for differently than governmental funds. They are intended to be self supporting and funded by user charges. Markland noted the net position includes all the capital assets that are in the ground (water and sewer mains) and is not just cash on hand. Panter reviewed five years of historical data for the water and sewer funds.

Panter reviewed the letter of audit findings. He stated there are two items to report this year. There was untimely remittance of federal tax withholdings that cost the City \$5,000 in penalties. Another issue is that the City has a number of outstanding checks. Public Act 29 of 1995 requires the City to perform due diligence and try to find the person the check was written to and reissue the check. He stated there is a \$50 minimum threshold and he has provided information to the City Treasurer.

Lockwood referred to the general fund revenues and expenditures detail pie charts and asked for more detail as to what makes up those numbers. Grossmeyer responded more detail is given in the full audit report.

Lockwood referred to the letter of audit findings and asked if there were conversations with the former City Clerk regarding the untimely tax payments and didn't feel the comment in the letter wasn't appropriate.

Osborn stated this was talked about at the budget session and it is ultimately the Clerk's responsibility to make the tax payments since that department processes payroll.

Panter stated it is his office's duty to report any issues and that his office composes the letter and it is provided to administration for review. Ultimately it is his letter, with his name signed to it and he has to take responsibility for the contents.

Markland thanked Panter and the City Treasurer for their work on the audit stating they both do an excellent job.

STREET MAINTENANCE PROGRAM

Czarnecki stated back in late summer, there was discussion about putting together a Street Asset Management Plan which would spell out a plan on how to fix City streets. OHM rated the City's streets with the Pavement Surface Evaluation and Rating (PASER) system. Once that information was collected, a maintenance program was created covering the next five years. This plan was necessary to help the City and is a requirement from the State to transfer monies from major street funds to local street funds. Currently, 50% can be transferred but if the City has a plan that is accepted by the State, more money can be transferred.

Czarnecki stated a five year plan was created which expends anywhere from \$740,000 to \$1,208,000 each year on fixing streets. The plan includes crack sealing or cape sealing streets. Mill and overlays were also looked at. The plan was engineered to raise the PASER rating of the overall system. The City has been fortunate to have received monies through federal and state funding, which is great for the major street system, but the local street system suffers because there are no state dollars for local roads.

Czarnecki stated newer roads were targeted for crack sealing, which will help with deterioration. Next roads that have potholes, but are in overall good shape, were targeted for cape seal. The mill and overlay is suggested for roads where patching will no longer work. Other options were also looked at. He tried to find what would work best for the City with the dollars available. He noted that while it is a five year plan, there needs to be some flexibility. There are too many variables that will affect the schedule. There is currently about \$900,000 in the capital improvement fund. The plan calls for \$740,000 of that money for the first year of the plan. He gave a brief overview of the roads to be repaired during each year of the plan. In the area of the Elmwood Subdivision there have been three water main breaks in the last year and half. He stated Tim Juidici and himself will be back in front of Council at a later date to discuss a water reliability study to look at the water system; he does not want to resurface a street if an underground utility needs to be repaired.

Czarnecki stated drainage issues with the storm sewer are another issue that needs to be addressed, and that is not part of this plan. The money currently available in the capital improvement fund will help get through the first year of the program. If the City continues with the practice of transferring available dollars into the fund, at a level of \$300,000 per year, it will turn the five year plan into a fifteen year plan. He stated other options have been looked at such as a Special Assessment District (S.A.D.) or a street millage.

Osborn stated this plan will take a lot of money and suggested scheduling a special work session to discuss the available funding options.

Bland stated he is not in favor of a S.A.D. He is in favor of a millage but stated there needs to be an effort put forth to explain to the public exactly what the money will be used for.

Osborn asked what the S.A.W. grants cover. Tim Juidici responded the grants are for asset management plans for storm and sanitary systems.

Jacob stated he is only in favor of a S.A.D. if it is initiated by residents. He asked if there is snapshot to see what things will look like at the end of the five years.

Czarnecki responded in the full program file that was emailed to Council, the Roadsoft model starts on page 15 which explains how the repairs work and there is a graph on page 18 detailing the life cycle of a road. Juidici stated the software will run through “what if” scenarios based on different funding levels. It won’t pick specific streets but it will give a picture at different funding levels if things are trending up or trending down.

Grossmeyer stated there would be a difference in cost if this plan takes five years to complete or fifteen years to complete. A road today might require minor reconstruction, but if it’s done ten or fifteen years down the road, that same road may need major reconstruction. He asked if that had been looked at. Markland stated the farther out projects are looked at, the numbers get less accurate.

Lockwood stated she is in favor of having a work session to address this issue. She asked since there is \$900,000 available in the budget to cover the first year of the plan, is the intent to move forward. Czarnecki responded yes.

McDermott asked for the projects that are scheduled after the first year, are there any roads scheduled for cape seal or overband crack seal that it would be beneficial to move them up in the timeline, would it decrease the cost.

Juidici stated there is a significant cost difference if the condition of a road deteriorates to a point that preventative maintenance can’t be done and more significant rehabilitation work is necessary. There probably won’t be much difference delaying a road for a year or two.

EXTENSION OF REPUBLIC SERVICES CONTRACT

Markland stated he has talked to Gary Hicks of Republic Services on this issue and there is a committee working on this. He would like to see City Council extend the contract with Republic Services for six months to give the committee an opportunity to work on making a recommendation. Gary Hicks indicated Republic Services would not change the rates during this six month period.

Lockwood stated the committee is looking at what other communities are doing in regards to solid waste pickup and also talking to residents to get feedback on the existing program and the committee is not ready to make a recommendation to City Council. The committee has met with Republic Services and there are a lot of options that could possibly save residents money and would appreciate more time to work on this.

Consensus was to add this item to the next City Council agenda for action.

EMS CONTRACT EXTENSION

Cairnduff stated the contract for Emergency Medical Services (EMS) is due to expire on February 1, 2014. The City has been part of a joint contract with the City of Linden and STAT EMS for four years. The initial contract was for three years and last year both the cities of Fenton and Linden approved extending the contract for an additional year. Contract language

allows for additional one year extensions. He stated the City has been served well by STAT EMS and they have consistently met the requirements of the contract, are responsive to requests and are very easy to work with. He is seeking approval for a one year contract extension and noted the City of Linden has already approved the extension.

Consensus was to add this item to the next City Council agenda for action.

Lockwood thanked the Fire Chief for his work during the last couple of weeks with the power outages and storms.

KEEPING OF ANIMALS ORDINANCE (THERAPY ANIMALS)

Schultz stated the Planning Commission has been working on this for quite some time. The issue arose from a situation in the City where a family wanted to keep a therapy animal and the City had no guidelines to deal it. Any enforcement action was held in abeyance while researching the issue. The Planning Commission held a public hearing on November 21, 2013 and approved the draft ordinance that addresses both service and therapy animals, be sent to City Council for consideration.

Patricia Baird commended the Council for addressing this issue. She suggested a few changes to help tighten up the ordinance. Last time she was before City Council, she provided joint statements from the Department of Housing and Urban Development (H.U.D.) and Department of Justice (D.O.J.) and provided a memo from H.U.D. She stated courts have applied case law which states local governments have to follow both the ADA and Fair Housing Act. The proposed ordinance omits a lot of stuff that falls under the Fair Housing Act. She stated the Federal Register from September 15, 2010 indicates in part that a municipality "...may not use ADA definitions of a service animal as a justification for reducing their fair housing obligations." She stated there is no mention of this in the proposed ordinance.

Baird stated another area of the proposed ordinance that concerns her is who can sign a reasonable request for accommodations. The current language indicates certification is to come from "...an accredited medical physician or mental health professional specializing in the field of disability..." She suggested a better definition would follow the guidelines provided in the above mentioned memo which indicates documentation can come from a physician, psychiatrist, social worker or other mental health professional – it does not have to be a person specializing in disability.

Baird referred to section 6 which addresses the breed and size of animal stating limitations cannot be set on those items.

Schultz responded there is no limitation on the size of the animal unless given the property involved, it would be an unreasonable accommodation. There was no attempt to prevent an animal based on its size. Baird suggested adding language indicating it will be looked at on an individual case basis.

Baird stated under D.O.J. guidelines, the animal has to be trained and certified, not under the Fair Housing Act. She suggested looking at language regarding training and certification for the animal and look at the Fair Housing Act.

Markland asked when there are two conflicting promulgated rules from the different federal agencies, how is it determined which one needs to be followed. Baird responded there has been guidance from April 25, 2013 from H.U.D. and D.O.J. that says how the ADA and Fair Housing Act interact with one another on this matter.

Baird stated she would be glad to sit down and discuss the issues she brought up tonight. She does not want there to be an issue with enforcement later down the road.

Schultz stated he will look at the comments brought up tonight and tweak the ordinance if needed.

Baird stated after the Ordinance is published, she is willing to come and do a presentation regarding support animals. She would address the forms that need to be filled out and answer any questions residents may have.

Lockwood suggested tabling this issue since there are items that need to be addressed. She also would like to see examples of ordinances from other communities.

After discussion regarding the type and size of animals allowed and certification requirements, consensus was to table the ordinance for further research.

PROPOSED SMOKING POLICY

Osborn stated she has received several calls from St. John's requesting letters in regards to the Council's opinion. She wrote a letter indicating the issue had not been brought back to a City Council agenda. She wanted to know how the rest of the Council feels. She feels a non-smoking policy will be difficult to enforce.

Lockwood suggested writing a letter indicating the Council appreciates their input and state the City is adhering to the laws and policies of the State of Michigan that are in place. She suggested the school contact the State Representative for the City as a starting point if they would like to petition to change the law.

Bland agreed stating he is not in favor of putting an unenforceable ordinance on the books.

Osborn stated she will write a letter and send it to the City Council for review before sending out.

COUNCIL MEMBER COMMENTS

McDermott stated there is a third grade class from State Road Elementary that wants to attend an upcoming City Council meeting and do a presentation regarding the Therapy Animal Ordinance.

Lockwood stated the holiday lights are being reviewed. There will be an informal meeting for recommendations and feedback. There is also private fundraising taking place for additional lights and a lot of businesses are stepping up to the table.

Council members thanked the Police Department, Fire Department and D.P.W. for their work during the recent power outages and storms.

Osborn asked for sales information for the last six years and the tax revenues that have been collected. She would like to see how tax revenues have changed. She thanked Steve Schultz for his donation to the Community Center. She stated the session with Lew Bender has been moved to February.

CALL TO THE AUDIENCE - None

Meeting was adjourned at 9:34 P.M.

Mayor Sue Osborn

City Clerk, Renee Wilson

Date approved: February 10, 2014