

CITY OF FENTON COUNCIL WORK SESSION PROCEEDINGS
Tuesday, September 3, 2013
City Hall Conference Room
301 South LeRoy Street
7:30 PM

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

Present: Bland, Grossmeyer, Jacob, King, Lockwood, Osborn, Smith.
Absent: None.
Others Present: Lynn Markland, City Manager; Stephen Schultz, Legal Counsel; Brad Hisson, Building and Zoning Administrator; Daniel Czarnecki, Director of Public Works

CITIZENS COMMENTS

Bruce Stewart, 817 Oakwood Circle, asked to speak on the Wellbridge of Fenton Final PUD Agreement.

WELLBRIDGE OF FENTON FINAL PUD AGREEMENT

Hisson stated it was discovered subsequent to his August 20, 2013 memo recommending approval of the PUD as proposed, there was an amendment to the master deed for this project and it was recorded prior to the Planning Commission looking at it. In reviewing documents with Planner Avantini and discussing this with Manager Markland and Attorney Schultz, there are two options to consider. The first option is to go forward and recommend approval of the PUD Agreement and rely on the Planning Commission, which has to approve those documents; the second option is to send the project back to the Planning Commission.

Schultz stated in terms of review of the amendments to the PUD, with the recommendations Carmine Avantini and Brad Hisson made and his recommendations, the PUD is probably okay but, this is an entire parcel and the use within the PUD is changing. It was discovered the amendment to the master deed changes the dividing line. Between the remainder of the property and the existing condominiums, one would usually expect the dividing line to be down the middle of the street. Both sides of the street are responsible for maintenance, assessments, etc. The amendment to the master deed puts the entire street into the part of the condominiums that are already there. The master parcel for the existing eight units goes across the street and into the front yards of what would be the units across the street. It changes the ability to develop the inner part of the circle and shifts responsibility for maintenance of that entire street to the existing eight units as opposed to being split between the 'general property owner' and the owners of the eight units already there.

Schultz further stated the original master deed contained a provision that gave the original property owner the right to amend the master deed within five years. Near the five year mark, an amendment was made to separate the eight existing units and create their master parcel. There was no notice to the City that a change was made. When the line was drawn, it put the entire street into the hands of the eight existing units instead of being split down the middle. The question is whether or not the Council wants to consider the amendment to the PUD and the changes to the master deed as one issue or treat them as two separate issues and approve the PUD amendment and then look at the master deed issue.

Schultz stated the property owner takes a different view and suggests the City's ordinance did not require approval of the master deed amendment. He discussed this with Brad Hissong and Carmine Avantini and he completely disagrees. He feels the amendment had to go to the Planning Commission. The City's ordinance contemplated this type of situation, where the maintenance and upkeep of common elements are properly addressed. The issue the Planning Commission will have to take up is what is drawing this line where it was drawn such that it shifted the cost from one property owner to another, and did it also make potential building sites within the circle unbuildable because the front yards have essentially been put with the properties across the street.

Bruce Stewart stated the residents were unaware of the master deed amendment. A meeting was called with the residents where the amendment was presented to them and the management of the eight existing units was turned over to the residents. He looked at the legal description and noticed the property line went across the street. It brought a red flag up and he wanted to know why it was split that way and not down the center of the street. He talked to Brad Hissong, who did not know about it. He wrote a letter to the City requesting an update and would like to know how this will be handled.

Bland asked if the Council decides to address both the PUD and master deed amendment at the same time, does it still go back to the Planning Commission. Schultz responded Brad Hissong can address it, but the master deed change has to go back to the Planning Commission. Bland stated he doesn't have a problem with addressing it either way, but would like some sort of recommendation from the Planning Commission.

Hissong stated under the normal process, the developer would go for a PUD amendment. That gives the developer the go-ahead to create all the other documents and make changes knowing they have approval for the PUD. In this case, there is some confusion so he felt it was necessary to bring this to the Council's attention before action is taken.

Lockwood asked if there are time constraints on the project that would prohibit the Council from asking the Planning Commission to look at it and make a recommendation so the Council can deal with it as a whole. Schultz responded there is nothing in the ordinance regarding a time limitation. Lockwood stated she is in favor of treating this as one issue after the Planning Commission has done its due diligence. Hissong stated the City received a draft of the documents last week. He would just have to get copies ready and put it on the Planning Commission agenda. He doesn't think a public hearing is required, but he will confirm this and it will go in front of the Planning Commission as soon as possible.

Bruce Stewart asked to be kept informed of any upcoming meetings regarding this project. Lockwood asked why the developer disagreed with the interpretation of the ordinance. Schultz responded there are a couple provisions in the Zoning Ordinance that deal with condominiums and the master deed. One provision says if any expansion or conversion of a condominium, where there is additional land or a new phase added, it needs to go to the Planning Commission. Another provision that relates to the master deed states the Planning Commission needs to ensure an assessment mechanism has been included to guarantee maintenance of common elements and that master deeds submitted to the City for review shall not permit contraction of the condominium whereby co-owners can withdraw from the condominium and responsibility for maintenance of common elements without re-submittal and approval.

Grossmeyer stated he feels this is a significant change and would feel more comfortable with the Planning Commission looking at both items before the City Council takes action.

King agreed this needs to go back to the Planning Commission. She stated the property line should go down the center of the street and to make sure if there is infrastructure that needs to be done, that it is paid for equally by all residents affected. She also stated residents expressed concerns at prior meetings and would hope that working with the developer, those concerns could be addressed.

Jacob stated he thinks this needs to go to the Planning Commission. The change to the master deed should have gone in front the Planning Commission when it occurred.

Bland stated it needs to be clear who is responsible for the roads, right-of-way, etc. and also thinks this should go back to the Planning Commission to address.

Czarnecki stated he had a chance to read through the PUD documents today and he has concerns on who will take care of what, and he will put his concerns in a memo.

Smith agreed this need to go back to the Planning Commission.

Jim Galbrath stated he is here with Allan Schwartz, the Attorney representing Wellbridge. He stated Wellbridge has received a Certificate of Need and that certificate is valid for fourteen months, so time is of the essence in moving this forward. There is a difference of opinion with the City as far as Wellbridge's right to have amended the master deed. He feels the condominium law makes it very clear they have the right to contract the condominium. He is not familiar with the Zoning Ordinance provisions that Attorney Schultz referred to earlier in the meeting and they were never mentioned in Carmine Avantini's letter regarding the review process. He asked for a meeting with the City's Attorney, Planner and department heads within the next week or so to move the project forward.

RESOLUTION TO REVISE ELIGIBILITY FOR RETIREE HEALTH CARE

Markland stated it has come to the City's attention there are retiree(s) that may have duplicate health care coverage; they may be enrolled in a healthcare plan from their spouse's employer or former employer. The intent of this resolution would prevent a retiree from having healthcare coverage from the City and another employer, or former employer source. The resolution may need to be modified to clarify intent, which can be done following tonight's discussion.

Schultz stated this is pretty common. People retire and then get another job where insurance is provided. The intent of the resolution is if a retiree has coverage from a current employer, or through their spouse, the City would not provide coverage. If they do not have coverage, they would still be eligible for coverage through the City. The idea is to not pay two full premiums for one full coverage.

Lockwood asked if coverage for the retirees is full coverage.

Markland responded yes, until they reach age 65, then the City purchases the Medicare supplement.

Lockwood asked if the contract for retirees state the City provides health care coverage.

Markland stated none of the contracts include healthcare coverage; it's done by resolution of the City Council.

Lockwood asked if a retiree was covered by another spouse or job and those circumstances change, are retirees allowed to come back on the City's plan. Schultz responded that retiree healthcare is a matter of Council policy.

Bland asked if a retiree would be able to purchase a supplement on their own if their current employer's coverage isn't comparable to the City's.

Markland commented that under that scenario, the retiree can decline coverage from their employer and take the City's.

Schultz stated the Council can put standards in place and establish a policy to make sure what is offered to retirees doesn't put them in a bad spot if their current employer's or spouse's coverage is not equivalent to what the City provides.

Lockwood stated it wouldn't be known, except on a case by case basis, if a family has more than one policy, which policy would cover a family's needs.

Bland does not have a problem not allowing two coverages but feels there should be something in the resolution that allows a retiree to purchase a supplement if they don't find the primary coverage to be adequate.

Smith stated that nowhere in this discussion was it stated a retiree can't buy a supplement. The intent is to not have two policies that cover the same thing.

Jacob asked what happens if the retiree has another policy available through a spouse or employer, but the City has the higher quality policy.

Schultz stated no two policies are alike but the Council can establish a policy that if the policy available to the retiree is not equivalent to the City's, then they can choose the City's.

Markland stated two years ago the City made significant changes to both retiree and employee health care policies. Those changes saved the City over \$300,000 a year. Prior to that, an actuarial study was done as required for Other Post Employment Benefits (OPEB). Before those changes were made, the City's unfunded liability was over \$11 million dollars. Since the changes were made, the unfunded liability is down to \$4.7 million dollars. Those who are taking multiple insurance policies may be jeopardizing the program for everybody else. He also stated this will not be the last time that healthcare issues will be brought to Council.

Markland further stated that if a resolution is passed, a letter would go out to the retirees explaining what is going on and a meeting will be held to explain the changes.

King stated when people are retiring young and getting other jobs, they need to make a choice in coverage and that every municipality is in the same boat.

Markland stated anybody who is eligible for retiree healthcare, there is no change other than they won't have multiple coverages.

Grossmeyer stated he would like to see language added to the resolution that states retirees have a choice if the policies aren't comparable and, if they are on a policy other than the City's, should they lose that policy, that they can opt back in to the City's policy.

Osborn stated if two policies are available an individual will pick the policy that best suits them and their family.

Jacob stated including an option of coming back onto the City's policy if their other coverage is lost should encourage cooperation with the retirees.

Osborn stated this be on the Council agenda for September 9, 2013.

DISCUSSION REGARDING AT&T TELECOMMUNICATIONS CONTRACTS

Osborn stated this will not be discussed tonight. The City Manager is still gathering information.

INDEPENDENT CONTRACT AGREEMENT FOR APPRAISAL SERVICES

Markland stated the City of Grand Blanc recently contracted with the City of Fenton for assessing services. In that plan, it was intended to outsource reappraisals to an independent contractor which allows City employees more time to take on other responsibilities. This is done

at a cost of \$7.00 per parcel and was something that was anticipated when putting together the plan to do Grand Blanc's assessing. The contractor would be performing reappraisals for both Grand Blanc and Fenton. One of the guidelines for the Michigan Tax Commission is 20% of parcels be reappraised each year, and that's what this agreement is for.

Smith asked if both private residential and business appraisals will be performed. Schultz responded the contractor could be directed to perform others. The agreement was drafted to include residential, industrial, commercial and agricultural but the idea was just for residential.

King asked if the cost will be shared. Markland responded this agreement was included in the contract price.

COUNCIL MEMBER COMMENTS

King stated the roof is on at the Loose Center and that work is almost done and hopes everything will be in place by time Thanksgiving dinner takes place.

Smith thanked The Stain Shop in Linden and Mary Hanson of the Parks and Recreation Board for approaching them. They cleaned and stained the deck at O'Donnell Park. The supplies, labor, stain, etc. were all provided by the Stain Shop.

King stated next year's Back to the Bricks Tune Up event needs to be discussed and what area it will be in.

Markland responded that event is sponsored by the Downtown Development Authority (DDA) and needs to take place in a DDA area.

Lockwood stated Southern Lakes Parks and Recreation coordinates that event.

King stated if it has to stay in the DDA district, maybe it could be done in the parking lots along Silver Parkway.

Lockwood commented regarding the vandalism at Bush Park. She shared pictures with Council members. She stated there were only four picnic tables left but the number is now back up to thirteen. The Park Board will discuss these issues at their next meeting. She also commented on parking issues along Elizabeth Street.

CALL TO THE AUDIENCE - None

Meeting was adjourned at 8:47 PM.

Mayor Sue Osborn

City Clerk, Renee Wilson

Date approved: September 23, 2013