

## City Council

### Regular Meeting Minutes

Tuesday, September 3, 2013  
7:00 p.m., Council Chambers



#### 1. Call to Order by Mayor Burr at 7:00 p.m.

#### 2. Invocation

- Moment of Silence

#### 3. Roll Call

Present: Arnold, Fitzgibbon, Gruber, Klavins, Kozlik Wall, Patterson, Burr

Absent: None

#### 4. Approval of Agenda

Moved by Fitzgibbon to approve the agenda. Seconded by Patterson.

Voted Yes: All. Motion Carried.

#### 5. Consent Agenda: Items A thru E (Roll Call Vote Required)

Moved by Fitzgibbon seconded by Klavins to approve the Consent Agenda as follows:

- A. Council will be requested to approve the City Council Minutes of August 19, 2013 and August 26, 2013.
- B. Bills totaling \$349,881.01 for the period ending September 4, 2013 be approved and forwarded to the Clerk and Treasurer for payment.
- C. Council will be asked to approve consulting contracts with GRP Engineering Inc. to provide engineering services for design, construction administration, and start-up for the following 2013-14 Electrical Projects:
  - 1) Phoenix Road Substation Transformer Procurement in the amount of \$6,000.
  - 2) Project #102 PR-C Circuit 2nd Avenue in the amount of \$13,000.
  - 3) Project #103 PR-D Circuit Veteran's Blvd. in the amount of \$43,000.
  - 4) Core City Secondary Upgrades on an hourly basis.
- D. Council will be asked to approve a professional services agreement with Abonmarche, to provide engineering services for design, bidding, and construction services for a sanitary sewer extension on Monroe Blvd, in the amount of \$15,500.
- E. Council will be asked to receive the following administrative reports and approved minutes to be placed on file:
  - 1) 04-09-2013 Parks Commission Minutes
  - 2) 04-16-2013 Harbor Commission Workshop Minutes

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- 3) 05-21-2013 Harbor Commission Minutes
- 4) 06-11-2013 Parks Commission Minutes
- 5) 06-18-2013 Harbor Commission Minutes
- 6) 06-24-2013 BPU Minutes
- 7) 07-09-2013 Parks Commission Minutes
- 8) 07-11-2013 BPU Special Meeting Minutes
- 9) 07-16-2013 Harbor Commission Minutes
- 10) 07-16-2013 Harbor Commission Workshop Minutes
- 11) 07-16-2013 LHBM Minutes
- 12) 07-17-2013 Airport Authority Minutes
- 13) 08-01-2013 LHBM Minutes
- 14) 08-20-2013 LHBM Minutes

A Roll Call Vote was taken:

Yeas: Arnold, Fitzgibbon, Gruber, Klavins, Kozlik Wall, Patterson, Burr

Nays: None

Motion carried

#### BOARD & COMMISSION APPOINTMENTS

- 6. City Council will be asked to consider the appointment of Brian Peterson to fill a 3-year term on the Planning Commission expiring in 2014.**

Moved by Gruber and seconded by Patterson to approve the appointment of Brian Peterson to fill a 3-year term on the Planning Commission expiring in 2014.

Voted Yes: All. Motion carried

#### UNFINISHED BUSINESS

- 7. City Council will be asked to continue the public hearing regarding the Corridor Improvements Authority.**

*Background Information:* The City Council will be asked to continue a public hearing, related to the establishment of a Corridor Improvement Authority, to address issues related to the I-196 Business Loop and M-43 in the city limits. The public hearing was initiated at the City Council's August 19<sup>th</sup> regular meeting. That public hearing was continued for inclusion at the September 3<sup>rd</sup> regular meeting.

As part of this year's priority setting process, the City Council expressed interest in planning improvements to the I-196 Business Loop and exploring financing for those improvements.

That priority is listed below:

##### **Priority #5; Infrastructure Maintenance & Improvements**

City Council will seek to maintain the highest quality public infrastructure. The following tasks will be completed:

- During the 2013-14 fiscal year Council will work with staff and the Board of Public Utilities to explore the city's sanitary sewer system and eliminate inflow and infiltration of storm water connections from flowing to the Waste Water Treatment Plant.

- During the 2013-14 fiscal year Council will work with staff to plan and explore the possible creation of a Corridor Improvement District, which seeks to improve the public infrastructure on portion of Broadway and Phoenix Streets.

As part of the authority creation, the City Council is required to provide a series of notices to the public. For tonight's meeting, the City Council should continue the public hearing to receive public comment on the proposed Corridor Improvement Authority.

Council continued public hearing regarding the Corridor Improvements Authority.

Public Comment:

Don Bemis – Voiced concerns about a non-conforming business across from his house.

Moved by Kozlik Wall to close the public hearing regarding the Corridor Improvements Authority. Seconded by Patterson.

Voted Yes: All. Motion carried

**8. City Council will be asked to consider the approval of an Ordinance to amend the official map of the South Haven zoning ordinance to rezone 16.8 acres from industrial I-1B to industrial I-1.**

*Background Information:* At the June 6, 2013 meeting, the Planning Commission heard public comments relating to a request from the LDFA to rezone 16.8 acres from the I-1B Industrial zoning to I-1 Light Industrial zoning district. The subject properties are located at 220 Aylworth and 1280 Kalamazoo Streets as shown on the attached map.

Following the public hearing where no comments were received, the Planning Commission unanimously approved a resolution recommending adoption of the rezoning to City Council.

Moved by Patterson to approve an Ordinance to amend the official map of the South Haven zoning ordinance to rezone 16.8 acres from industrial I-1B to industrial I-1. Seconded by Fitzgibbon.

Voted Yes: All. Motion carried.

**9. City Council will be asked to consider the approval of an Ordinance to amend section 201 of the South Haven zoning ordinance to define easement and private road.**

*Background Information:* At the August 19, 2013 City Council meeting, staff was asked to make a clarification to the draft amendment to zoning ordinance section 201 regarding easements. Staff subsequently made the clarification by including the provision that the easements must be recorded to be considered valid.

Moved by Fitzgibbon to approve an Ordinance to amend section 201 of the South Haven zoning ordinance to define easement and private road. Seconded by Patterson.

Voted Yes: All. Motion carried.

**10. City Council will be asked to consider the approval of an Ordinance to amend section 2001 and 2008 of the South Haven zoning ordinance to allow for institutional signage in residential zones.**

*Background Information:* At the August 19, 2013 City Council meeting, staff was asked to make a clarification to the draft amendment to zoning ordinance Article XX, Sections 2001 and 2008 as to the number of signs permitted for institutional uses in residential zoning districts. s. Staff subsequently made the clarification by including the provision that, “No establishment may have both a wall sign and a freestanding sign on any street front”.

Moved by Fitzgibbon to approve an Ordinance to amend section 2001 and 2008 of the South Haven zoning ordinance to allow for institutional signage in residential zones. Seconded by Kozlik Wall.

Voted Yes: All. Motion carried.

NEW BUSINESS

**11. City Council will be asked to consider approval of Resolution 2013-53, a resolution setting a public hearing regarding the American Twisting IFT.**

*Background Information:* The City Council will be asked to schedule a public hearing date to consider an Industrial Facilities Tax Exemption Certificate for American Twisting Company, located at 1675 Stieve Drive.

The tax exemption request, which totals \$540,000, is for personal property acquired by the company. The company plans to acquire new twisting equipment to assist with their paper products assembly. The applicant notes that the company anticipates creating 2 new jobs and plans to retain 39 existing jobs at their facility as a result of the project.

American Twisting Company was founded in 1924. Since 1986 American Twisting has been located in the City of South Haven. American Twisting produces twisted paper bag handles for designer shopping bags found in virtually every shopping mall across the Country. In 1991 American Twisting constructed a second facility in South Haven, across the street from their main building. From these facilities, American Twisting produces between 8 million and 10 million feet of twisted paper products, per day, for use by their customers. The company is an ISO 9001:2008 Manufacturer of Paper Covered Wire and Custom Slitted Products. American Twisting is also recognized by the Forest Stewardship Council (FSC) and is FSC Certified.

The estimated total value of the Industrial Facilities Tax Exemption Certificate for American Twisting Company is \$27,762 over the 12 year life of agreement. The tax exemption does include a “claw-back” provision, which allows the City of South Haven to seek the abated tax amount if the terms of the abatement are not met by the business.

A public hearing will be held on September 16, 2013 prior to final approval of the request.

Moved by Kozlik Wall to approve Resolution 2013-53, a resolution setting a public hearing regarding the American Twisting IFT. Seconded by Fitzgibbon.

Voted Yes: All. Motion carried.

**12. City Council will be asked to approve Special Event 2014-01 Summer Art Fair.**

*Background Information:* The special event request for the 2014 Summer Art Fair sponsored by the South Haven Center for the Arts is ready for City Council to approve. As in the past it will be held at Stanley Johnston Park. While the 2014 event is similar to past events in 2014 the organizers are requesting to change the event from a one day event to a two day event (Saturday, July 5 & Sunday, July 6) with set up being on Friday, July 4<sup>th</sup>.

Overnight security will be provided by the Art Center. An extra dumpster and extra trash containers will be necessary as this event has the potential to draw 20,000 people. The Art Center intends to bring in port-a-johns for this event and place them adjacent to the picnic shelter. This is necessary because the existing restrooms cannot handle the large volume of people that attend the art fair.

The special event application has been provided for your review.

Proof of insurance has been provided.

Moved by Patterson to approve Special Event 2014-01 Summer Art Fair. Seconded by Kozlik Wall.

Voted Yes: All. Motion carried.

**13. City Council will be asked to consider approval of Resolution 2013-54, a resolution adopting the 2013 special assessment installment poverty exemption guidelines.**

*Background Information:* The City Council will be asked to consider the 2013 special assessment poverty exemption guidelines for approval and adoption. Should the guidelines be approved, the special assessment poverty exemption guidelines will be used by the Assessing Department when considering relief requests at the annual Board of Review meeting(s).

As part of the Kalamazoo Street Reconstruction Project, Phase 2, the City Council approved a variety of action items, including the approval of a special assessment district (SAD) for the properties adjacent to the construction. As part of the SAD approval, the City Council expressed interest in providing a poverty exemption program, similar to the long established property tax poverty exemption program, for properties included in a SAD.

Several years ago, at a meeting of the City Council, there was debate over the proposed Federal Poverty Guidelines and whether or not they should be adopted. Ultimately the City Council opted not to adopt the guidelines, stating that the proposed levels were set too low, and should be adjusted to a more acceptable level.

In an effort to create a more acceptable local level for the poverty guidelines, staff modified the asset standards to reflect the asset eligibility limitation to not exceed \$5,000 (as opposed to the original \$2,000). Further, the guidelines were modified to reflect that an individual's primary motor vehicle would not be included in the asset calculation. The final adjustment that staff made to the proposed guidelines was to increase the poverty threshold maximum income level by \$5,000 per unit of family. Ultimately the adjustments made by staff were accepted by the City Council and the guidelines were approved and adopted. These modified guidelines have been used since 2009.

For tonight's meeting, the City Council will be asked to approve and adopt the special assessment poverty guidelines. Staff has mirrored the levels set forth in the 2009 property tax poverty exemption guidelines, in an effort to continue the levels offered in the prior years. The proposed 2013 special assessment poverty guidelines, if adopted, will be less restrictive than the Federal poverty guidelines, but appear to be locally acceptable.

Moved by Fitzgibbon to approve Resolution 2013-54, a resolution adopting the 2013 special assessment installment poverty exemption guidelines. Seconded by Patterson.

Voted Yes: All. Motion carried.

**14. City Council will be asked to consider approval of Resolution 2013-55, a resolution authorizing the City Manager to effectuate a settlement agreement with DuPont, for damage done to city trees by DuPont fertilizer.**

**Background Information:** The City Council will be asked to consider a resolution which authorizes the City Manager to agree to the terms of the DuPont Imprelis® Claim Resolution Agreement and to sign as the Authorized Property Owner.

There is a Settlement of a class action lawsuit providing money and other compensation for damage to trees and other vegetation that was caused by a weed-control product called Imprelis®.

Imprelis® was an herbicide (weed-killer or weed-control product) approved for use in all states across the country, except California and New York, and was used by lawn care professionals on residential and commercial properties as well as by golf courses and other self-applicators between August 31, 2010, and August 21, 2011. In addition to weeds, the lawsuit claims that Imprelis® also kills and damages certain trees and other non-target vegetation.

The City of South Haven received notice from DuPont that City Hall property was identified as having reported injuries to trees related to the application of Imprelis®, and offered a claims process. The claims process included submitting an Inspection Request Form, a property inspection by a Settlement Claims Process representative, review of the claim, and receipt of a proposed offer detailing the compensation and services available under the Settlement.

In the attached Claim Resolution Agreement, DuPont offers to:

- Remove 8 specified trees from the property or pay \$6,437.50.
- Pay \$27,580.00 for the replacement of those 8 trees.
- Pay \$1,200.00 to provide new tree maintenance for replacement trees.
- Pay \$5,505.00 to purchase tree care for 7 other trees remaining on the property.
- Give a limited warranty for damage (if any) to trees caused by Imprelis® arising in the future.
- Pay an additional \$6,108.38 in compensation.

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The City's legal counsel has reviewed this agreement and recommends accepting the terms.

Moved by Fitzgibbon to approve Resolution 2013-55, a resolution authorizing the City Manager to effectuate a settlement agreement with DuPont, for damage done to city trees by DuPont fertilizer. Seconded by Klavins.

Voted Yes: All. Motion carried.

#### **15. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda**

#### **16. City Manager's Comments**

#### **17. Mayor and Councilperson's Comments**

Klavins – Spoke about the bridge and Phoenix Street projects.

Arnold – School is back in session. Please watch out for kids and busses.

Patterson – Remember the Flywheelers event coming up.

Fitzgibbon – Spoke about the successful summer season. Kudos to the City.

Gruber – Spoke about working on Mr. Bemis' concerns.

Kozlik Wall – Kudos to the City on clean up after the weekend events. Also kudos to all the merchants.

Burr – Reminded everyone about the upcoming Myrtle Beach Film Fest.

#### **18. Adjourn**

Moved by Kozlik Wall to adjourn. Seconded by Patterson.

Voted Yes: All. Motion carried. Meeting adjourned at 7:39 p.m.

RESPECTFULLY SUBMITTED,



Michelle Coffey  
Deputy City Clerk

Approved by City Council: September 16, 2013