

City Council

Regular Meeting Minutes

Monday, March 3, 2014
7:00 p.m., Council Chambers



1. Call to Order

2. Invocation

- Pastor Devon Herrell – First UMC

3. Roll Call

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

Absent: Burr

Moved by Kozlik Wall and seconded by Klavins to excuse Mayor Burr for personal reasons.

Voted Yes: All. Motion Carried.

4. Approval of Agenda

Moved by Patterson to approve the agenda. Seconded by Kozlik Wall.

Voted Yes: All. Motion Carried.

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

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

- A. Council will be requested to approve the City Council Minutes of February 17, 2014.
- B. Bills totaling \$1,679,561.52 for the period ending March 4, 2014 be approved and forwarded to the Clerk and Treasurer for payment.
- C. Council will be asked to consider the following regarding Phoenix Road Substation Equipment Bids:
 - 1) Approve award of four (4) 12 kV circuit breakers to ABB in the amount of \$75,060.
 - 2) Approve award of one (1) 69kV transformer circuit switcher to Siemens Energy in the amount of \$34,785.
 - 3) Approve award of six (6) regulators and base stands to GE in the amount of \$89,166.
- D. Council will be asked to receive the following administrative reports and approved minutes to be placed on file:
 - 1) 10-02-2013 DDA Minutes
 - 2) 01-21-2014 Harbor Commission Minutes
 - 3) 01-21-2014 LHBM Minutes

- 4) 01-22-2014 Housing Commission Minutes
- 5) 01-27-2014 BPU Minutes

A Roll Call Vote was taken:

Yeas: Arnold, Gruber, Klavins, Kozlik Wall, Patterson, Fitzgibbon
Nays: None

Voted Yes: All. Motion Carried.

NEW BUSINESS

6. Council will be asked to introduce the zoning ordinance amendment, modifying certain general provisions and establishing regulations for wind energy turbines with provisions for special use permit requests.

Background Information: For many months, beginning in 2009, the city's planning commission actively worked to review and consider the possible use of wind turbine generators within the City of South Haven. The ordinance recommended by the city's planning commission establishes two categories of wind turbines, requires a special use permit for all wind turbines, and places height restrictions on the proposed units. (Attached is a chronology of the planning commission activities related to the development of that draft ordinance.) In April of 2010, the planning commission forwarded the draft ordinance to the city council for review and action.

On May 3, 2010, the council discussed the draft ordinance, which if approved would amend Article XVII, Section 1732, and establish Article XVII, Section 1742 and Article XV, Section 1510.35, and further establish regulations for wind energy turbines, with provisions for special use permit requests. The city council had some concerns with the draft ordinance and sent it back to the planning commission for further study. In September of that year, a joint workshop was held with the planning commission and city council to discuss the few remaining points of disagreement. The discussion at the meeting focused on:

1. Whether to limit all turbine heights to 40' in the areas west of Blue Star Highway, and
2. Remove 200' height limitation in areas east of the interchange and revise the fall zone provision to a one to one ratio, in the areas east of Blue Star Hwy.

At the November 4, 2010 meeting of the planning commission, the commission discussed the proposed modifications as offered by the city council and, after considering the potential impacts, voted to retain the originally drafted language. Most specifically, the commission agreed that no wind turbines over 200 feet should be permitted in the city and that the fall zone should remain at one to one and one half (1:1.5) except when adjacent to occupied buildings at which time the fall zone is increased to one to three (1:3).

The draft ordinance was sent back to city council late in 2010 but no action was taken.

Moved by Patterson to introduce a zoning ordinance amendment, modifying certain general provisions and establishing regulations for wind energy turbines with provisions for special use permit requests. Seconded by Gruber.

Voted Yes: All. Motion Carried.

7. South Haven Area Senior Services will provide an update to Council.

8. Council will be asked to adopt the Title VI plan per MDOT requirement.

Background Information: As a sub-recipient of federal transportation funds the City of South Haven is required to have a Title VI Non-Discrimination plan in place. The City, with assistance from MDOT, developed a plan for Council's consideration. The plan makes formal the anti-discrimination policies that are already in place at the City, but goes further to identify specific procedures for ensuring that discrimination does not occur and for addressing any violations. In summary, the plan addresses the following:

- It identifies the City Manager as the Title VI coordinator and assigns responsibility to him for initiating and monitoring Title VI activities, ensuring compliance with Title VI activities and addresses program deficiencies or violations. Any Title VI complaints will be addressed to him per the procedures outlined in the plan.
- It ensures that people affected by the City's programs and projects receive the services, benefits and opportunities to which they are entitled without regard to race, color, national origin, age, sex or disability.
- It requires the City to ensure that their sub-recipients adhere to state and federal law and include in all written contracts and agreements assurances that the sub-recipient must comply with Title VI and other related statutes.
- It also requires the City to provide access to individuals with limited ability to speak, write or understand the English language. Steps for addressing language barriers are identified in the plan.
- It establishes procedures for identifying impacts in programs, services or activities that may create adverse discrimination.
- It establishes procedures to annually review Title VI compliance within the City.
- The plan will be available on the City's website.

Moved by Patterson, to adopt the Title VI plan per MDOT requirement. Seconded by Arnold.

Voted Yes: All. Motion Carried.

9. Council will be asked to introduce an ordinance to amend the official zoning map of the South Haven zoning ordinance to allow for one family detached dwellings in the B-3 waterfront business zone.

Background Information: The planning commission considered this amendment to the B-3 zoning district after becoming aware that there were several scattered small lots in the zone unusable for any permitted use. During a review and drive through of the B-3 zone area, a subcommittee of planning commission members also found a number of single family homes existing in the zone which are currently in nonconformance with the zoning district requirements.

On January 9, 2014, the planning commission held a public hearing on the matter of adding single family residences on individual lots to the B-3 Waterfront Business regulations. A decision on the matter was delayed until the February 6 meeting in order to give the planning commission more time to consider comments heard and determine if additional changes were needed to the proposed amendment. At the February meeting, the planning commission voted unanimously to recommend approval of the amendment to the city council.

The proposed ordinance provides that only lots of a size or configuration not adequate to support other permitted uses should be made available for single family homes.

It is not the intent of this amendment to encourage redevelopment of existing waterfront businesses. Staff and planning commission realize the importance of water related businesses to the vitality of the city. Any proposed conversion of a current permitted use to a single family home(s) will need a special use permit from the planning commission. The application for that permit shall include a compelling argument that the proposed use is more beneficial to the community than the existing use.

Moved by Kozlik Wall, to introduce an ordinance to amend the official zoning map of the South Haven zoning ordinance to allow for one family detached dwellings in the B-3 waterfront business zone. Seconded by Arnold.

Voted Yes: All. Motion Carried.

10. Council will be asked to take the following actions regarding a liquor license transfer to JWilco, Inc.:

A. Hold a public hearing regarding the request.

B. Consider Resolution 2014-10, a resolution to transfer a Class C & SDM liquor license from Porter Township to JWilco, Inc. at 515 Williams St, South Haven.

Background Information: The City Council will be asked to hold a public hearing regarding the application for a liquor license transfer, on behalf of JWilco, Inc., for a proposed business to be located at 515 Williams Street.

Staff has received an application to transfer a liquor license from Porter Township to JWilco, Inc., for a business that is proposed to be developed at 515 Williams Street. Per the City's Liquor Control Ordinance, a public hearing must be held regarding the application. After the City Council has received public comment, the Council will be asked to consider a resolution to recommend or not recommend the license to be approved by the Michigan Liquor Control Commission.

The applicant has been asked to be present during the public hearing to answer any questions that the City Council may have regarding the license transfer.

Please note; included in the staff reports are correspondence from the city's attorney regarding the liquor license transfer request. Further, is correspondence from the city's Police Chief regarding the Police Department's review of the license application.

Item A: Hold a public hearing regarding a liquor license transfer to JWilco.

Moved by Kozlik Wall, to open the public hearing regarding a liquor license transfer to JWilco. Seconded by Patterson.

Voted Yes: All. Motion carried.

Joe Wiltgen – Spoke about his plans for his business.

Jeff Morris – Spoke as neighbor of Joe’s business. Has no objections.

Ellis Walden – Spoke on behalf of Joe. Thinks his project will be good for the city.

Moved by Patterson, to close the public hearing regarding a liquor license transfer to JWilco. Seconded by Kozlik Wall.

Voted Yes: All. Motion carried.

Item B: Consider Resolution 2014-10, a resolution to transfer a Class C & SDM liquor license from Porter Township to JWilco, Inc. at 515 Williams St., South Haven.

Moved by Gruber, to approve Resolution 2014-10, a resolution to transfer a Class C & SDM liquor license from Porter Township to JWilco, Inc. at 515 Williams St., South Haven. Seconded by Patterson.

A Roll Call Vote was taken:

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

Nays: None

Motion Carried.

11. Council will be asked to consider the following items regarding two Michigan Department of Natural Resources grant applications for improvements at Black River Park:

A. Resolution 2014-11, a resolution allowing for the application of an Aquatics Habitat Grant.

B. Resolution 2014-12, a resolution allowing for the application of a Land and Water Conservation Fund Grant.

Background Information: The City Council will be asked to consider resolutions authorizing the City Manager to apply for two (2) Michigan Department of Natural Resources (MDNR) grant programs for proposed improvements to Black River Park.

The grant applications seek funds for construction of a fishing area, seawall, and parking area improvements to Black River Park (at the site of the former Street Department.) The seawall design will incorporate boulders, as opposed to a steel seawall, in an effort to provide a habitat for river species. In 2011, the draft design was reviewed and approved by the City’s Harbor Commission and Parks Commission. Should either of the grant applications be approved by the MDNR, staff will present an updated park design to those boards, and the Planning Commission for consideration, prior to seeking final approval from the City Council to construct the project.

The MDNR is offering two grant programs which could be sought for the proposed improvements to Black River Park. Staff desires to submit two separate applications, which should improve the city’s potential for a successful grant application. The grant programs being sought are through the MDNR’s Land and Water Conservation Fund (LWCF,) and through the MDNR’s Aquatics Habitat (AH) program. The application to the LWCF funding request seeks \$78,100 in grant and the City will provide a local match of

\$78,100, for a total project cost of \$156,200. The second application, the AH funding request, seeks \$105,000 in grant and the City will provide a local match of \$51,200, for a total project cost of \$156,200. Since both applications seek funds for the same project, the City will only accept one of the grants, should the MDNR approve the project.

Over the past three years, the City has submitted an annual application to the Great Lakes Fishery Trust Fund, to help fund the proposed improvements at Black River Park. Those applications have been denied with each submittal. As a result, staff is now seeking alternate funding options for the project.

For the City to proceed with the applications to the MDNR, staff recommends the approval of the following resolutions, which authorize the City Manager to apply to the LWCF and the AH programs.

Item A: Consider Resolution 2014-11, a resolution allowing for the application of an Aquatics Habitat Grant.

Moved by Patterson, to approve Resolution 2014-11, a resolution allowing for the application of an Aquatics Habitat Grant. Seconded by Kozlik Wall.

A Roll Call Vote was taken:

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

Nays: None

Motion Carried.

Item B: Consider Resolution 2014-12, a resolution allowing for the application of a Land and Water Conservation Fund Grant.

Moved by Kozlik Wall, to approve Resolution 2014-12, a resolution allowing for the application of a Land and Water Conservation Fund Grant. Seconded by Patterson.

A Roll Call Vote was taken:

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

Nays: None

Motion Carried.

12. Council will be asked to approve outdoor seating license agreements for Black River Tavern, 403 Phoenix Street, and Taste, 402 Phoenix Street.

Background Information: The City Council will be asked to authorize staff to issue a license agreement, to add outdoor dining along Phoenix Street, to the restaurant owners of Black River Tavern and Taste.

Black River Tavern is a local restaurant, located at 403 Phoenix Street. The owner of Black River Tavern, Mr. Scott Maxwell, is seeking a license agreement to add outdoor dining along Phoenix Street. The Planning Commission approved the special use permit for outdoor dining at their regular meeting on December 5, 2013. Two (2) conditions were placed on the approval: the noise level currently heard outside the building may not increase with the outdoor seating and that the Downtown Development Authority (DDA) approve the outdoor

furniture. The DDA approved the outdoor furniture plan at the February 12, 2014 regular meeting.

Taste is a local restaurant, located at 402 Phoenix Street. The owners of Taste, Mr. Joel Gesiakowski and Mrs. Heidi Gesiakowski, are seeking a license agreement to add outdoor dining along Phoenix Street. The Planning Commission approved the special use permit for outdoor dining at their regular meeting on December 5, 2013. Two (2) conditions were placed on the approval: the noise level currently heard outside the building may not increase with the outdoor seating and that the Downtown Development Authority (DDA) approve the outdoor furniture. The DDA approved the outdoor furniture plan at the February 12, 2014 regular meeting.

The draft license agreements for Black River Tavern and Taste have been actively reviewed by staff, the city's attorney, and the restaurant owners. The license agreements require a payment of \$250 per year to the City of South Haven. The fee is based on comparison to other lake front communities, and mirrors the fees charged by the City of Grand Haven. The agreements have a variety of requirements. Some of the highlights of the agreements are:

- The agreements allow customer seating to occur until 11:00 p.m.,
- The agreements require the city be provided with certificates of insurance,
- The agreements require that a designated clear path be maintained, to allow pedestrians to use the city's sidewalks,
- The agreements also require that if alcohol service is to be provided, at the outdoor dining location, and that the owner be in compliance with Michigan Liquor Control Commission rules and regulations.

Public Comment

Dixie Capps – Spoke about concerns with alcohol being passed to minors.

Moved by Patterson, to approve outdoor seating license agreements for Black River Tavern, 403 Phoenix Street, and Taste, 402 Phoenix Street. Seconded by Arnold.

Voted Yes: All. Motion carried.

13. Council will be asked to approve the Van Buren Trail project bid, budget amendment, and additional signage expense.

Background Information: The low bid from the Van Buren Trail project came in at \$383,425.24. This is 5.8% over the grant amount of \$362,400.

As an addition to the Van Buren Trail project, staff is requesting signage that will direct bicyclists from the Kal-Haven Trailhead to the Downtown. This is not part of the grant project, but would be added to the contract as a City funded change order.

Staff is requesting approval of the Van Buren Trail bid and a budget amendment to cover the expense over the grant amount and the additional signage.

Moved by Kozlik Wall, to approve the Van Buren Trail project bid, budget amendment, and additional signage expense. Seconded by Patterson.

Voted Yes: All. Motion carried.

14. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

Dixie Capps – Spoke about Senior Services and invites everyone to come out to their new center.

15. City Manager's Comments

16. Mayor and Councilperson's Comments

Kozlik Wall – Is it spring yet?

Gruber – Mayor Pro-Tem did a great job. Spoke about signage.

Patterson – March is National Reading Month so come visit the library.

Arnold – No Comment

Klavins – Spoke about how impressed he is with city staff and how the city has grown.

Fitzgibbon – Spoke about appreciation for all those who came. Thank you.

17. Adjourn

Moved by Kozlik Wall to adjourn. Seconded by Klavins.

Voted Yes: All. Motion carried. Meeting adjourned at 7:52 p.m.

RESPECTFULLY SUBMITTED,



Michelle Coffey,
Deputy City Clerk

Approved by City Council: **March 17, 2014**