

City Council

Regular Meeting Minutes

Monday, May 5, 2014
7:00 p.m., Council Chambers



1. Call to Order

2. Invocation

- Pastor Mark Wheeler – Greater Faith Community Church

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 Patterson to approve the Consent Agenda as follows:

- A. Council will be requested to approve the City Council Minutes of April 14, 21 and 25, 2014.
- B. Bills totaling \$2,803,772.54 for the period ending May 6, 2014 be approved and forwarded to the Clerk and Treasurer for payment.
- C. Council will be asked to award a thirty-six (36) month contract for application of biosolids to farmland to GroAmerica at the unit prices noted in their bid.
- D. Council will be asked to approve document management software from Secant.
- E. Council will be asked to receive the following administrative reports and approved minutes to be placed on file:
 - 1) 01-14-2014 Parks Minutes
 - 2) 03-18-2014 LHBM Minutes
 - 3) 03-26-2014 Housing Commission Minutes

A Roll Call Vote was taken:

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

Nays: None

Voted Yes: All. Motion Carried.

NEW BUSINESS

6. Council will be asked to consider the following Special Events:

- A. Consider Special Event 2014-14, Steel Headers Pro-Am on May 16-18, 2014.**
- B. Consider Special Event 2014-16, Light Up The Night Sky 5K on October 11, 2014.**
- C. Consider Special Event 2014-17, Farmers' Market starting May 10, 2014 through October on Saturdays. The Farmers' Market will also be held on Wednesdays from June through September.**

Item A: Special Event 2014-14, Steel Headers Pro-Am (May 16-18, 2014).

Background Information: This fishing tournament is scheduled for May 16-18, 2014. Boaters travel from all over to participate in this tournament. It is also the event that provides all the fish for the fish boil dinner during the Blueberry Festival.

This fishing tournament has a history of being well run with minimal incident. The City facility impacted the most is the Southside Marina. They are requesting use of dock space #1 and #2 on the headwall at the Southside marina; this is where the vessels pull up to drop off the fish to be weighed in.

Moved by Patterson to approve Special Event 2014-14, Steel Headers Pro-Am (May 16-18, 2014). Seconded by Fitzgibbon.

Voted Yes: All. Motion Carried.

Item B: Special Event 2014-16, Light Up the Night Sky 5K (October 11, 2014).

Background Information: The special event request for the Light up the Night Sky 5K is ready to be approved by City Council. The Light up the Night 5K will begin on Saturday October 11th. It starts at 5:30 in the parking lot of South Haven High School.

The Light up the Night 5K will be using the South Haven High School parking lot, soccer and baseball fields and the Armory parking lots.

They will begin by having events planned for the family at the high school parking lot from 5:30-6:00pm. The race/walk starts at 6:45. Each mile they would like music. At the end of the race they will have a glow in the dark concert in the high school parking lots and fields. They will also need assistance with main road on the course during 5K walk/run.

Moved by Gruber to approve Special Event 2014-16, Light Up The Night Sky 5K (October 11, 2014). Seconded by Klavins.

Voted Yes: All. Motion Carried.

Item C: Special Event 2014-17, Farmers' Market starting May 10, 2014 through October on Saturdays. The Farmers' Market will also be held on Wednesdays from June through September.

Background Information: The South Haven Farm Market will begin Saturday, May 10th and runs through October. The event will also be held on Wednesday's during June, July, August and September.

The South Haven Farm Market will be using the Huron St. parking lot Pavilion. During the Blueberry Festival and the Festival of Cars the South Haven Farm Market will use Dyckman Park.

Both the Farm Market and the other events can use this area at the same time; it will simply require some coordination and communication between the organizations. It is believed that the events will enhance the Farm Market, at least for that particular day.

Moved by Fitzgibbon to approve Special Event 2014-17, Farmers' Market starting May 10, 2014 through October on Saturdays. The Farmers' Market will also be held on Wednesdays from June through September. Seconded by Kozlik Wall.

Voted Yes: All. Motion Carried.

7. Council will be asked to consider Resolution 2014-18, a resolution to ensure compliance with Public Act 95 of 2013 by the City of South Haven electric utility.

Background Information: On July 1, 2013, Gov. Snyder signed Senate Bill 284 creating Public Act 95 of 2013. The bill authorizes the Public Service Commission to raise up to \$50 million annually for low income energy assistance in Michigan. The money will be placed in the Low Income Energy Assistance Fund (LIEAF) and will be dispensed by the Department of Human Services. The legislation requires that the money collected from a geographic area is returned, to the extent possible, to that geographic area. Low income customers will be able to receive State assistance to pay electric, natural gas, and propane bills.

In order to raise the \$50 million annual stipend, the legislation requires all electric utilities in Michigan, including municipal utilities, to place a monthly surcharge on customer bills and send the collected money to the State on a monthly basis. The monthly surcharge will be established by the State but will not be more than \$1.00 per customer. A customer who has multiple meters at their residence is to be billed the surcharge on only one meter.

The legislation does include an opt-out provision for all utilities. Each year, a utility may file a notice with the Public Service Commission by July 1 indicating that they desire to opt out of collecting the surcharge. A utility that opts out may not shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account. Michigan's two largest electric providers, Consumers Energy and DTE, both intend to collect the surcharge.

In 2009, the legislature passed a series of bills that placed winter shutoff restrictions on municipal utilities. These bills place restrictions on performing winter shutoffs for certain customers. Eligible military customers, critical care customers, and senior citizens are provided certain shutoff protections by these bills. In addition, there are specific steps outlined that must be followed by the City to legally shut off a residential customer during the heating season (defined as November 1 through March 31). Due to the complexity of the legislation, the City's practice has been to restrict all residential shutoffs during the heating season. If the City elects to opt out of collecting the low income surcharge, we will not be

permitted to shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account. Since we already limit winter shutoffs, utility operations will not be substantially changed if the City elects to opt out.

On July 15, 2014, Council passed Resolution 2013-44, electing to not collect the low income energy assistance funding factor between July 1, 2013 and June 30, 2014. As a result, the City was restricted from performing residential electric shutoffs between November 1, 2013 and April 15, 2014. Council cited the following three primary reasons for passage of Resolution 2013-44:

1. Council was concerned that a portion of the surcharge would be used to assist customers outside of the City's service territory.
2. Council felt that it was unfair to subsidize customers of the investor owned gas utility operating in the City's service territory.
3. Since 2009, the City has implemented an unwritten policy restricting residential customer shutoffs during the heating season.

At the beginning of the past heating season, there was some confusion related to the types of assistance available to City electric customers. The Michigan Department of Human Services (DHS) denied State Emergency Relief (SER) funding to customers of any electric utility that elected to opt out of collecting the surcharge. The SER program is funded with federal Low Income Home Energy Assistance Program (LIHEAP) dollars and not through the LIEAF program. DHS determined that City customers seeking SER funding were not in threat of shutoff and ineligible to receive SER funds.

The \$50 million collected through the LIEAF program is distributed to customers via the Michigan Energy Assistance Program established by Public Act 615 of 2012. The purpose of the Michigan Energy Assistance Program is to implement preventative programs designed to help low-income customers reach energy self-sufficiency. This program distributes \$50 million of LIEAF money and \$40 million in LIHEAP funds via grants to 14 various entities. South Haven electric customers are eligible to seek assistance from the following six agencies providing services in Van Buren County:

Bureau of Community Action and Economic Opportunity
Michigan Community Action Agency Association
The Salvation Army
SEMCO Energy Gas Company
The Heat and Warmth Fund
True North Community Services

During the 2013-2014 heating season, 14 municipal electric utilities elected to collect the surcharge while 27 elected to opt out. The Michigan Public Service Commission requires an annual filing on each utility's opt-out choice. If the City does not opt out, approximately \$100,000 will be paid to the state in the upcoming fiscal year.

At their April 28, 2014 regular meeting, the Board of Public Utilities reviewed PA 95 and passed a motion recommending that Council elect to opt out of collecting the surcharge for the upcoming 12 month period.

Moved by Patterson to approve Resolution 2014-18, a resolution to ensure compliance with Public Act 95 of 2013 by the City of South Haven electric utility. Seconded by Kozlik Wall.

Voted Yes: All. Motion Carried.

8. Council will be asked to consider contract award for the Monroe Blvd. Bluff Stabilization project to Brad Thomas Excavating, Inc., in the amount of \$47,112.50.

Background Information: The City owns property located at 660 Monroe Boulevard. This property serves as a City park and is commonly referred to as the "Blue Stairs Beach Access". The water level of Lake Michigan fluctuates over time. During the last period of high water that occurred in October of 1986, the water level reached a monthly average of 582.35 feet (IGLD). As of March 2014, the water level was 577.26 feet (IGLD) and rising. During high water periods, the current expanse of beach becomes submerged below Lake Michigan. Wind and waves are able to erode the bluff line along Monroe Boulevard during these periods.

In fall of 2012, a local contractor offered to begin the process of bluff restoration by placing excess soil material from a nearby construction site along the eroded bluff areas. Approximately 200 - 300 feet of bluff restoration was completed north and south of South Haven Street. The work was stopped short of South Haven Street due a storm sewer outlet at that location.

As part of the current fiscal year budget, \$50,000 was allocated to extend the storm sewer outlet and complete the bluff restoration in the vicinity of South Haven Street. Abonmarche was hired to develop plans and specifications and solicit bids for completion of the work. On April 22, 2014, the City received four (4) bids for the bluff stabilization project. The low bid was submitted by Brad Thomas Excavating, Inc. of Grand Junction, Michigan. Abonmarche has contacted the references provided by Brad Thomas Excavating, Inc. and determined the bidder to be qualified to complete this project.

Moved by Kozlik Wall, to award for the Monroe Blvd. Bluff Stabilization project to Brad Thomas Excavating, Inc., in the amount of \$47,112.50. Seconded by Patterson.

Voted Yes: All. Motion Carried.

9. Council will be asked to consider Resolution 2014-19, a resolution to establish a policy on commercial uses at municipal marinas and boat launch facilities.

Background Information: Staff was requested to prepare a commercial use policy for how the City responds to businesses desiring to use City Marina facilities for commercial uses.

The attached commercial use policy lays out an application procedure and approval process. License agreement requirements are stated, and specific requirements for specific facilities are listed.

This document was reviewed by the Harbor Commission at their March 18 meeting and recommended to City Council. City Council may wish to review and add or amend the terms of the commercial use policy.

Moved by Fitzgibbon, to approve Resolution 2014-19, a resolution to establish a policy on commercial uses at municipal marinas and boat launch facilities. Seconded by Patterson.

Voted Yes: All. Motion Carried.

10. Council will be asked to consider approval of a Transformer Inventory Management Agreement with Power Line Supply Company, in the amount of \$213,648.60.

Background Information: In October 2009, the City of South Haven entered into a number of contracts with PLS for the purchase of transformers. The contracts expired in October, 2012. Those contracts required the parties to mutually establish minimum and maximum inventory levels for the transformer stock, and that the stock would be purchased upon termination of the contracts. PLS and the city do not agree on the number of transformers which have been ordered. PLS has an extra 68 transformers, which have a value of \$427,297.21. PLS believes the city is responsible to pay this amount and purchase the transformers. The city disputes the inventory level, and does not believe staff authorized the order of all of the 68 transformers.

The city's staff, city attorney, and representatives from the Board of Public Utilities worked for more than six months to negotiate an agreement with PLS, to resolve the inventory dispute. The benefit of reaching an agreement ensures that the city will not face litigation on this issue, and ensures the Department of Public Works is able to continue working with PLS for electric system inventory needs.

As part of the agreement, the city and PLS agree to liquidate the 68 transformers. The city agrees to share half of the inventory cost, with a local cost of \$213,648.60. The city and PLS agree to share in gains or losses as the excess transformers are sold. PLS agrees to retain the transformers, and to actively market the units.

At the October 16, 2013 meeting of the Board of Public Utilities (BPU), the board approved a motion to recommend to the City Council that the Transformer Inventory Management Agreement, in the amount of \$213,648.60, be approved.

Moved by Patterson, to approve a Transformer Inventory Management Agreement with Power Line Supply Company, in the amount of \$213,648.60. Seconded by Fitzgibbon.

Voted Yes: All. Motion Carried.

11. Council will be asked to consider approval of Resolution 2014-20, a resolution setting a public hearing date for the Fiscal Year 2014-15 Budget.

Background Information: The City Council will be asked to consider a resolution which establishes a public hearing date for the Fiscal Year 2014-15 Budget, to be held on May 19, 2014.

The budget process begins in earnest in January with department heads preparing budget concerns and requests for the City Manager's review. The Finance Department compiles and reviews these requests. As staff works through the various budget projections, a series of reports are distributed for the City Council's review. This year, several workshop sessions were held by the City Council to make sure the budget reflects the adopted policy priorities of City Council.

The manager's proposed budget for 2014-15 is complete and is now presented to the City Council for consideration. It is available for the public to review, and can be downloaded from the city's website at www.south-haven.com or can be obtained in print form at City Hall.

The City Charter requires a public hearing on the proposed budget. The City Council is required to adopt a budget at the first meeting in June.

Moved by Kozlik Wall, to approve Resolution 2014-20, a resolution setting a public hearing date for the Fiscal Year 2014-15 Budget. Seconded by Fitzgibbon.

Voted Yes: All. Motion Carried.

12. Council will be asked to consider Resolution 2014-21, a resolution authorizing a ballot proposal for senior services millage.

Background Information: At the April 7, 2014 regular meeting of the City Council, Resolution 2014-15 was adopted to place the Senior Services millage proposal on the August 5, 2014 ballot. The information in the resolution regarding the proposed ballot language was provided by South Haven Area Senior Services and submitted to the Council as presented. A certified copy of the resolution must be submitted to the County Clerk no later than May 13, 2014 in order to be placed on the ballot.

The City Attorney subsequently reviewed the resolution and determined there were a couple of changes needed in the wording. One of the items was the 4-year period of 2014 to 2017 that should read 2015 to 2018. As previously stated, it would actually limit the period to 3-years. It was also noted that there was no language included that addressed tax capture by the City's Tax Increment Financing Districts and applicable Brownfield plans

Moved by Patterson, to approve Resolution 2014-21, a resolution authorizing a ballot proposal for senior services millage. Seconded by Kozlik Wall.

Voted Yes: All. Motion Carried.

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

No Public Comment

14. City Manager's Comments

15. Mayor and Councilperson's Comments

Kozlik Wall – Spoke about Phoenix Street.

Gruber – Vote tomorrow.

Fitzgibbon – Vote tomorrow.

Patterson – Spoke about Senior Services and Warren Center. Vote tomorrow.

Arnold – Spoke about receiving letters from citizens and thanked them. Vote tomorrow.

Klavins – Spoke about concert. Vote tomorrow.

Burr – Spoke about the new exhibit at the Michigan Maritime Museum.

16. Adjourn

Moved by Patterson to adjourn. Seconded by Fitzgibbon.

Voted Yes: All. Motion carried. Meeting adjourned at 7:27 p.m.

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script, appearing to read "M. Coffey", enclosed within a thin black rectangular border.

Michelle Coffey,
Deputy City Clerk

Approved by City Council: **May 19, 2014**