

City Council

Regular Meeting Minutes

Monday, May 16, 2016
7:00 p.m., Council Chambers



1. **Call to Order by Mayor Burr at 7:01 p.m.**

2. **Invocation – Reverend Milan Bittenbender of Life Bridge Church**

3. **Proclamation for Lloyd “Tom” Thomson and Quilt of Valor Presentation**

Presentation by John “Mike” Henry and Quilt of Valor to Lloyd “Tom” Thomson

4. **Roll Call**

Present: Jeff Arnold, Clark Gruber, Andy Klavins, Vickiy Kozlik Wall, Steve Schlack, Scott Smith, Bob Burr

Absent: None

5. **Approval of Agenda**

Moved by Arnold, seconded by Smith, to approve the agenda.

Voted Yes: All. Motion carried.

6. **Consent Agenda: Items A through E (Roll Call Vote Required)**

Moved by Gruber, seconded by Arnold, to approve the Consent Agenda as follows:

- A. Council will be asked to approve the City Council Regular meeting minutes for May 2, 2016.
- B. Council will be asked to approve invoices totaling \$2,390,283.36 for the period ending May 15, 2016 be approved and forwarded to the Clerk and Treasurer for payment.
- C. Council will be asked to approve a license agreement for a projecting sign at 527 Phoenix Street, Kitchen 527, a restaurant.
- D. Council will be asked to consider approval of Resolution 2016-29, a resolution adopting the Van Buren County Hazard Mitigation Plan 2016 update.
- E. Council will be asked to accept the following minutes:
 - 1) April 14, 2016 Planning Commission meeting minutes.

A Roll Call Vote was taken:

Yeas: Arnold, Gruber, Klavins, Kozlik Wall, Schlack, Smith, Burr

Nays: None

Motion carried.

OLD BUSINESS

7. Council will be asked to take the following actions related to the proposed regulations for short-term rentals:

- A. Hold a public hearing on the proposed ordinances; and**
- B. Consider adoption of the proposed amendment to the code of ordinances, related to the proposed short-term rental regulations.**
- C. Consider adoption of the proposed amendment to the zoning ordinance, related to the proposed short-term rental regulations.**

City Manager Brian Dissette introduced this item and presented a short PowerPoint presentation on the short-term rental ordinance with City Attorney Catherine Mish of Dickenson Wright.

A. Hold a public hearing on the proposed ordinances

Moved by Kozlik Wall, seconded by Schlack to open the public hearing on the proposed short-term rental ordinances, the rental registration ordinance and the amendments to the zoning ordinance.

Voted Yes: All. Motion carried.

Public Hearing Open:

Jack Fitzer, 24 ½ Grand Boulevard, believes that 2 years old not 6 years old should be the age of individuals not counted towards occupancy.

Michael Bierdermann, 64 North Shore Drive, believes that short-term rentals should not diminish the neighborhoods but believes this issue was caused by decreased industry. He supports the rental ordinance – if it doesn't work we can amend it.

Charlene Klein, 24 Lakeshore Drive, lives in Monroe Park and has always been surrounded by short-term rentals never once having a problem. Believes registration is intrusive, has heard the term recall bandied about and is disgusted by it.

Joe Waskiewicz, 505 St. Joseph, wonders how this will affect the value of homes. He is concerned with the city dictating what people can do with their homes and cautions against being too drastic.

Susan Ryan, 37 Cass Street, is concerned with the fire safety of short-term rentals and believes that South Haven could be another Flint.

Deb Smith, 501 St. Joseph Street, thanks the Council for their hard work, believes that property rights should be preserved and that all persons interested in this issue should discuss it civilly.

Bill Masterson, 27 Grand Boulevard, believes that a reasoned approach is best and not decisions based on emotions. Asked if safety is the basis for this action, shouldn't it apply to everyone.

Debbie Masterson, 27 Grand Boulevard, is concerned about the revocation process and wonders if it isn't arbitrary if you have a disgruntled neighbor.

John Matthews, 44 Cass Street, questioned the limits on the grandfathering clause and the effective date of the ordinance.

Joan Hiddema, 212 Monroe Street, provided additional signatures of persons supporting a maximum occupancy of 10 to the City Manager and believes that proposed ordinances are a good compromise and that the rental registration is necessary.

James Clark, 09646 76th Street and 225 North Street, intends to build his retirement home on North Street and doesn't believe the 3,500 square feet restriction for future rentals is necessary.

Bill Bradley, 746 Lee Street, spoke to the Council regarding morality, specifically that it is moral for a person to do what they want with their property.

Dorothy Appleyard, 806 Wilson Street, is concerned about the erosion of the year round community due to short-term rentals and believes the rental registration ordinance is necessary.

Connie Schaffer, 735 North Shore Drive, believes that things have changed since she rented her house out and that this rental registration is a good compromise.

Rebecca Strauss of Miller Johnson, attorney for Linda Lamb of 51 Cass Street, states that enforcing occupancy limits at 51 Cass Street would be unlawful and urges the Council not to adopt the ordinances.

Jay De Bruyn, 300 Kalamazoo Street, says that lawyers with State of Michigan Board of Realtors agree with Ms. Lamb's attorney. Believes this ordinance will kill the local economy and violates property rights.

Pat Gaston, 97 Superior Street, doesn't think it is moral to not care how many occupants are in it.

Jo Carlson, 314 Indiana Street, asked about the violations – whether they are levied against the homeowner, the rental agency, or the renter.

Joe Reeser, 615 Monroe Boulevard, gave a definition of morality and asked the Council to be reasonable and do what's best for the community.

Moved by Kozlik Wall, seconded by Gruber, to close the public hearing on the proposed short-term rental ordinances, the rental registration ordinance and the amendments to the zoning ordinance.

Voted Yes: All. Motion carried.

Council Questions & Comments:

Kozlik Wall: Where is the accountability of the renter who puts their children in a basement bedroom? Six years ago, a rental registration ordinance was passed that had occupancy limits that didn't count individuals under 18 years old. Linda Anderson, Building Administrator, knows her job and does it well. Believes we do need an ordinance but doesn't like how it has divided a city or the tenor of the discussion on this issue.

Klavins: Inquired about the violations in the rental registration ordinance. Questioned the fines from the short-term rental registration. Clarified that the registered agent doesn't need to be a professional agent. Commented on the safety precautions in the ordinances. Believes that the 3,500 square foot provision is redundant and should be struck. Stated that we are prepared to get lawsuits on both sides of this issue. We are trying to be fair and reasonable and to get some reliable data. In Arizona, which has severely restricted short-term rentals, the Governor vacated those laws because they violated property rights. Believes that Mr. Bradley spoke very eloquently.

Gruber: This was an excellent compromise. This ordinance is for everyone – it allows short-term rentals and gathers data for future regulation. Believes the Planning Commission's formula (2 per floor plus 2 per floor) and would like to take out the 3,500 square foot provision in the rental regulation.

Schlack: Had a couple questions: (1) how is a noise ordinance be enforced, and (2) if police receive a call that there are 17 people in a house over the allowable occupancy.

Acting Police Chief Natalie Thompson answered: (1) if the noise violation is substantiated, it would go to the tenant; and (2) as to the occupancy, that goes more to zoning and we anticipate working closely with other city officials. She stated that we will not be barging in on anybody – due to 4th amendment Constitutional rights – but will be taking reports.

Schlack: Believes that people have rights – equal rights – and as long as property owners do not infringe on the rights of others, there should be no need for additional regulation. Believes there are existing ordinances that handle the complaints against noise, parking, trash, or smoke. Future owners may be discriminated against because we don't know yet who they are yet. Believes that he cannot support an ordinance that doesn't treat everyone the same. He could support a rental registration ordinance that does provide for the rental agent information (so as to contact with problems).

Smith: This ordinance is about compromise and about understanding this issue. We need data. We have to understand this business and we want a stronger community. We have to move forward and building this time. We need to wipe out the 3,500 square feet provision

B. Consider adoption of the proposed amendment to the code of ordinances, related to the proposed short-term rental regulations – the rental registration ordinance.

Catherine Mish, city attorney noted, prior to the vote on this item, the following numbering errors that needed to be corrected and included in the motion:

- In 10-245(a)(1), for the short-term rental of unregistered dwellings, it sets the fine of \$750 for a first violation and \$1,000 for each subsequent violation; however, it refers to a violation of subsection 10-242(a), when it should be 10-243(1).
- In 10-245(a)(2), for violation of the maximum occupancy limits, it lists a fine of \$500 for a first offense and \$1,500 for each subsequent offense; however, it refers to a violation of 10-243(d) when it should be 10-244(d).
- In 10-244(d)(3), for applications for increased occupancy limits, it refers back to 10-243(d)(2) but it should be 10-244(d).

Moved by Smith, seconded by Arnold to adopt the proposed amendment to the code of ordinances related to the proposed short-term rental regulations – the rental registration ordinance with the amendments to 10-245(a)(1), 10-245(a)(2), and 10-244(d)(3) as stated above.

A Roll Call Vote was taken:

Yeas: Arnold, Gruber, Klavins, Kozlik Wall, Smith, Burr
Nays: Schlack

Motion carried.

C. Consider adoption of the proposed amendments to the zoning ordinance, related to the proposed short-term rental regulations.

Moved by Gruber, seconded by Klavins, to adopt the proposed amendments to the Zoning Ordinance related to the proposed short-term rental regulations and striking the language prohibiting the short-term rental of a dwelling unit that is more than 3,500 square feet in total interior area.

Section 401.1 of the Zoning Ordinance will read as follows:

1. One-family detached dwellings. The short-term rental of a one-family detached dwelling shall comply with all applicable provisions of the City Code including, without limitation, any applicable registration requirements.

A Roll Call Vote was taken:

Yeas: Arnold, Gruber, Klavins, Kozlik Wall, Smith, Burr
Nays: Schlack

Motion carried.

8. Council will be asked to hold a public hearing for the proposed Fiscal Year 2016-17 Budget.

Moved by Kozlik Wall, seconded by Klavins to open the public hearing on the proposed Fiscal Year 2016-17 Budget.

Voted Yes: All. Motion carried.

No public comment.

Moved by Klavins, seconded by Gruber to close the public hearing on the proposed Fiscal Year 2016-17 Budget.

Voted Yes: All. Motion carried.

9. Council will be asked to take the following action regarding the proposed special assessment districts:

A. Conduct a public hearing to consider any objections to the proposed Public Improvements, the proposed special assessment district, and all other matters relating to said Public Improvements.

Moved by Gruber, seconded by Klavins to open the public hearing on the proposed Public Improvements, the proposed special assessment district, and all other matters relating to said Public Improvements.

Voted Yes: All. Motion carried.

Public Hearing Open:

Gail Patterson, 914 Kalamazoo, inquired when will the notices be sent out to residents on how much they'll be paying.

Larry Halberstadt, City Engineer, answered that those notices will be going out next week.

Moved by Smith, seconded by Klavins to close the public hearing on the proposed Public Improvements, the proposed special assessment district, and all other matters relating to said Public Improvements.

Voted Yes: All. Motion carried.

B. Consider Resolution 2016-30: Determination to Make Public Improvements; Approval of Plans and Estimate of Cost; Final Determination of Special Assessment District.

Moved by Smith, seconded by Arnold, to approve Resolution 2016-30: Determination to Make Public Improvements; Approval of Plans and Estimate of Cost; Final Determination of Special Assessment District.

Voted Yes: All. Motion carried.

C. Consider Resolution 2016-31: Special Assessment Roll 201601; Notice of Public Hearing.

Moved by Kozlik Wall, seconded by Arnold, to approve Resolution 2016-31: Special Assessment Roll 201601; Notice of Public Hearing.

Voted Yes: All. Motion carried.

NEW BUSINESS

10. Council will be asked to consider the following annual board and commission appointments/reappointments:

A. Reappoint board and commission members as follows:

- i. David Miller to the Zoning Board of Appeals for a 3-year term ending in 2019.**

Moved by Kozlik Wall, seconded by Arnold, to reappoint David Miller to the Zoning Board of Appeals for a 3-year term ending in 2019.

Voted Yes: All. Motion carried.

- ii. Mark Wheeler to the Zoning Board of Appeals for a 3-year term ending in 2019.**

Moved by Arnold, seconded by Smith, to reappoint Mark Wheeler to the Zoning Board of Appeals for a 3-year term ending in 2019.

Voted Yes: All. Motion carried.

B. Appoint new members to the board and commissions as follows:

- i. Stephen Runkle to the Zoning Board of Appeals for a 3-year term ending in 2019.**

Stephen Runkle, 16 Pine Street, introduced himself to the Council as a candidate for the Zoning Board of Appeals.

Moved by Gruber, seconded by Kozlik Wall to appoint Stephen Runkle to the Zoning Board of Appeals for a 3-year term ending in 2019.

Voted Yes: All. Motion carried.

ii. Tom Fleming to the Local Development Finance Authority and Brownfield Redevelopment Authority boards for partial four-year terms, each ending in 2019.

Moved by Kozlik Wall, seconded by Smith, to appoint Tom Fleming to the Local Development Finance Authority and Brownfield Redevelopment Authority boards for partial four-year terms, each ending in 2019.

Voted Yes: All. Motion carried.

11. Council will be asked to approve the following Special Events:

A. Special Event 2016-16 – Gospel Jamboree to be held on July 17, 2016 from noon until 10:30 p.m. at Elkenburg Park.

Moved by Arnold, seconded by Klavins, to approve Special Event 2016-16 – Gospel Jamboree to be held on July 17, 2016 from noon until 10:00 p.m. (not 10:30 p.m. as proposed) at Elkenburg Park.

Voted Yes: All. Motion carried.

B. Special Event 2016-19 – Memorial Day Parade to be held on May 30, 2016 from 9:00 a.m. to 10:00 a.m. beginning at the intersection of Center and Michigan Avenue and ending at the Veterans' section of Lakeview Cemetery (in case of rain, event end will be held at the high school).

Moved by Kozlik Wall, seconded by Gruber, to approve Special Event 2016-19 – Memorial Day Parade to be held on May 30, 2016 from 9:00 a.m. to 10:00 a.m. beginning at the intersection of Center and Michigan Avenue and ending at the Veterans' section of Lakeview Cemetery (in case of rain, event end will be held at the high school).

Voted Yes: All. Motion carried.

C. Special Event 2016-20 – Rotary Pancake Breakfast to be held on July 3, 2016 from 6:30 a.m. to 12:30 p.m. at the Huron Street Pavilion.

Moved by Smith, seconded by Kozlik Wall, to approve Special Event 2016-20 – Rotary Pancake Breakfast to be held on July 3, 2016 from 6:30 a.m. to 12:30 p.m. at the Huron Street Pavilion.

Voted Yes: All. Motion carried.

D. Special Event 2016-21 – Rotary Pancake Breakfast to be held on September 4, 2016 from 6:30 a.m. to 12:30 p.m. at the Huron Street Pavilion.

Moved by Arnold, seconded by Klavins, to approve Special Event 2016-21 – Rotary Pancake Breakfast to be held on September 4, 2016 from 6:30 a.m. to 12:30 p.m. at the Huron Street Pavilion.

Voted Yes: All. Motion carried.

12. Council will be asked to hold a public hearing regarding the Renewable Energy Plan and Energy Optimization Plan.

Moved by Gruber, seconded by Smith to open the public hearing on the Renewable Energy Plan and Energy Optimization Plan.

Voted Yes: All. Motion carried.

City Manager, Brian Dissette, stated that under PA 295 energy optimization programs must be established by electric providers. We have been providing the EO program to our customers for a number of years but recently changed our vendors. We must show the State of Michigan that we have are encouraging our customers to come forward and offer their thoughts on our EO program and vendor. We are now working with MECCA which works throughout the state. They are pursuing a number of upgrades with construction projects around town – specifically, the high school.

City Engineer, Larry Halberstadt, concurred with Dissette and commented on the Renewable Energy program.

No public comment.

Moved by Kozlik Wall, seconded by Smith to close the public hearing on the Renewable Energy Plan and Energy Optimization Plan.

Voted Yes: All. Motion carried.

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

Phil Oretsky, candidate for Van Buren County Sheriff, introduced himself to the Council and promised a more in-depth presentation next time.

Mike Henry, County Commissioner District 1 of Van Buren County, spoke on the upcoming elections and various offices.

Dorothy Appleyard, 806 Wilson, is relieved to have the rental issue resolved but feels that Council needs to investigate why ordinary people can't afford to live in South Haven.

Bill Bradley, 746 Lee Street, recommended a book to Council: "The Evolution of Everything – How New Ideas Emerge" by Matt Ridley. He plans to read it a fourth time.

14. City Manager's Comments

Brian Dissette, City Manager, stated that the Local Development Finance Authority (LDFA) approved a Buy/Sell Agreement for 220 Aylworth, the former Bohn building with a locally based company that has a multi-year plan for the site. We do have many volunteers serving on these boards working to attract jobs. Our LDFA has three different districts and that they are completely out of property. The LDFA is seriously looking to purchase property and developing a fourth LDFA.

15. Mayor and Councilperson's Comments

Klavins: Serves on LDFA and notes that while the other offer had more jobs, in doing their due diligence, the board figured out which proposal was the best offer.

Smith: Good news on the offer.

Arnold: There is more work needed to be done on the short-term rentals. He cautions that if you went to social media for your information on this issue, you were sadly misinformed. There are still people who haven't heard about this ordinance.

Gruber: No comment.

Schlack: No comment.

Kozlik Wall: No comment.

Burr: Notes that our utility rates are 20% lower than Consumers. Sewer rates are set by the state following guidelines in the SAW (Sewer and Water) study.

16. Adjourn

Moved by Kozlik Wall, seconded by Gruber, to adjourn the meeting.
Voted Yes: All. Motion carried meeting adjourned at 9:44 p.m.

RESPECTFULLY SUBMITTED,



Kate Hosier, Assistant City Manager
Approved by City Council: