

# City Council

## Regular Meeting Minutes

Monday, June 15, 2015  
7:00 p.m., Council Chambers



1. **Call to Order by Mayor Burr at 7:01 pm**
2. **Invocation – Pastor Eric Jarvis**
3. **Presentation of Keys to the City to Miss and Mister South Haven**
  - Christian Burmeister, Mr. South Haven
  - Amaris Bryant, Miss South Haven
  - Allie Ruppert, 1<sup>st</sup> Runner Up (absent)
  - Jessica Miles, 2<sup>nd</sup> Runner Up
  - Jessica Price, Miss Congeniality
  - Colin Assink, Mr. Nice Guy

#### 4. **Roll Call**

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

Moved by Fitzgibbon, seconded by Gruber to excuse Councilmembers Patterson and Arnold for personal reasons.

Voted Yes: All. Motion Carried.

#### 5. **Approval of Agenda**

Moved by Kozlik Wall, seconded by Fitzgibbon to approve the agenda.

Voted Yes: All. Motion carried.

#### 6. **Consent Agenda: Items A thru G (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 June 1, 2015.
- B. Bills totaling \$600,965.97 for the period ending June 14, 2015 to be approved and forwarded to the Clerk and Treasurer for payment.
- C. Council will be asked to approve the change in MERS Employee Contribution Rate for the Police Division from 4% to 4.5%.
- D. Council will be asked to approve motor pool purchase of two trucks and award the purchase of trucks #169 and #762 to Woodhams Ford in the total amount of \$55,311.32.

- E. Council will be asked to award the contract for water system communication improvements to West Michigan Instrumentation Systems in the amount of \$18,200.00.
- F. Council will be asked to approve budget adjustments for FY 2014-15.
- G. Council will be asked to approve the following minutes:
  - 1) 03-10-2015 Parks Commission minutes;
  - 2) 04-13-2015 LFDA minutes;
  - 3) 05-07-2015 Planning Commission minutes;
  - 4) 05-12-2015 Parks Commission minutes; and
  - 5) 05-20-2015 Airport Authority minutes.

A Roll Call Vote was taken:

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

Nays: None

Motion Carried.

#### OLD BUSINESS

- 7. Council will be asked to consider a motion to adopt the ordinance amending water and sanitary sewer rates for various components to increase by 2%.**

*Background Information:*

The City Council will be asked to consider a motion to adopt the utility rate ordinance as presented, thereby adopting a 2% increase for the various components of the water and sanitary sewer utility rates.

During this year's rate setting process, the Board of Public Utilities (BPU) approved an increase of 2% for the various components of the water and sanitary sewer utility rates.

The BPU recommendation for possible changes to the electric utility rates will be forthcoming during the month of July, 2015. As a result, the utility bill comparisons will reflect the adopted 2014 electric rates. The average utility customer will see an increase in their monthly utility bill of approximately \$2.05.

Please review the attached Utility Bill Comparison report based on the average residential utility customer.

Moved by Fitzgibbon, seconded by Klavins to approve an ordinance amending water and sanitary sewer rates for various components to increase by 2%.

Voted Yes: All. Motion Carried.

#### NEW BUSINESS

- 8. Council will be asked to consider the following appointments to the corresponding boards & Commissions:**

- A. Letitia Wilkins to Housing Commission for a 5 year term.**

Moved by Fitzgibbon, seconded by Kozlik Wall to appoint Letitia Wilkins to the Housing Commission for a five year term.  
Voted Yes: All. Motion Carried

**B. Vikke Andersen to Library Board for a 5 year term.**

Moved by Fitzgibbon, seconded by Gruber to appoint Vikke Andersen to the Library Board for a five year term.  
Voted Yes: All. Motion Carried

**9. Council will be asked to consider Special Event 2015-20, Rotary Pancake Breakfast on July 5, 2015 from 6:30 a.m. to 12:30 p.m. at the Huron Street pavilion.**

*Background Information*

The Rotary Club of South Haven will be using the Huron Street pavilion to host a pancake breakfast on July 5, 2015 from 6:30 am to 12:30 pm. Rotary is requesting permission to reserve 12 parking spaces under the pavilion immediately following the close of the Farmer's Market on Saturday, July 4, 2015. These parking spaces would be available for public use following the pancake breakfast.

Moved by Kozlik Wall, seconded by Fitzgibbon to approve Special Event 2015-20, Rotary Pancake Breakfast on July 5, 2015 from 6:30 a.m. to 12:30 p.m. at the Huron Street pavilion.

Voted Yes: All. Motion Carried.

**10. Council will be requested to approve the following agreements:**

**A. Council will be asked to consider the approval of Resolution 2015-28, a resolution approving an agreement with the Michigan Maritime Museum, for use at the 260 Dyckman Avenue location, allowing the Maritime Museum, a local nonprofit organization, to host events which include alcohol service.**

*Background Information*

The City Council will be asked to consider the approval of Resolution 2015-28, a resolution approving an agreement with the Michigan Maritime Museum, for use at the 260 Dyckman Avenue location. The agreement, if approved by the Council, will formally acknowledge and allow the Maritime Museum, a local nonprofit organization, to host events which include alcohol service.

The Maritime Museum operates via a long-term lease agreement at the city's 260 Dyckman Avenue property. The Maritime Museum routinely hosts events at their campus which are intended to feature museum exhibits and align with the facility's mission. Occasionally the events are used to raise funds for the Maritime Museum.

The purpose of the agreement is to ensure the city and Maritime Museum comply with the city's Code of Ordinances, section 54-105(a), which provides that no person

shall consume or possess alcoholic beverages in a public place within the city, unless specifically permitted by resolution of the City Council. The adoption of Resolution 2015-28, and the approval of the proposed agreement, will bring the city and Maritime Museum into formal compliance. The agreement is intended to provide annual approval of events at the Maritime Museum. The Maritime Museum will need to provide an annual listing of planned events which include alcohol service. The City Council will need to adopt an updated agreement annually, with the next agreement to be presented as part of the 2016 calendar year.

Moved by Kozlik Wall, seconded by Fitzgibbon to approve Resolution 2015-28, a resolution approving an agreement with the Michigan Maritime Museum, for use at the 260 Dyckman Avenue location allowing the Maritime Museum, a local nonprofit organization, to host events which include alcohol service.

Voted Yes: All. Motion Carried.

**B. Council will be asked to consider the approval of Resolution 2015-29, a resolution approving a license agreement with the South Haven Center for the Arts, for use at 523 Phoenix Street location, allowing the Center for the Arts, a local nonprofit organization, to host events which include alcohol service.**

*Background Information*

The City Council will be asked to consider the approval of Resolution 2015-29, a resolution approving a license agreement with the South Haven Center for the Arts, for use at the 523 Phoenix Street location. The license agreement, if approved by the Council, will formally acknowledge and allow the Center for the Arts, a local nonprofit organization, to host events which include alcohol service.

The Center for the Arts operates via a long-term lease agreement at the city's Carnegie building at 523 Phoenix Street. The Center for the Arts routinely hosts events at the building which are intended to feature art exhibits and align with the center's mission. Occasionally the events are used to raise funds for the Center for the Arts.

The purpose of the license agreement is to ensure the city and Center for the Arts complies with the city's Code of Ordinances, section 54-105(a), which provides that no person shall consume or possess alcoholic beverages in a public place within the city, unless specifically permitted by resolution of the City Council. The adoption of Resolution 2015-29, and the approval of the proposed license agreement, will bring the city and Center for the Arts into formal compliance. The license agreement is intended to provide annual approval of events at the Center for the Arts. The Center for the Arts will need to provide an annual listing of planned events which include alcohol service. The City Council will need to adopt an updated license agreement annually, with the next agreement to be presented as part of the 2016 calendar year.

Staff recommends the City Council consider approval of the resolution and license agreement as presented.

Moved by Fitzgibbon, seconded by Klavins to approve Resolution 2015-29, a resolution approving a license agreement with the Center for the Arts, for use at the 523 Phoenix Street location allowing the Center for the Arts, a local nonprofit organization, to host events which include alcohol service.

Voted Yes: All. Motion Carried.

**11. Council will be asked to approve Resolution 2015-30, a resolution authorizing the City of South Haven to acquire the property at 229 Elkenburg Street, commonly known as the Overton Building, through tax foreclosure from Van Buren County, and to convey the property to the city's Local Development Finance Authority (LDFA).**

*Background Information*

The City Council will be asked to consider approval of Resolution 2015-30, a resolution authorizing the City of South Haven to acquire the property at 229 Elkenburg Street, commonly known as the Overton Building, through tax foreclosure from Van Buren County, and to convey the property to the city's Local Development Finance Authority (LDFA).

Due to the nonpayment of property taxes, the 5.7 acre property at 229 Elkenburg Street, commonly known as the Overton property, has been foreclosed upon by the Van Buren County Treasurer.

The County Treasurer first offers any tax foreclosed properties to the local unit of government before sending the parcels to tax sale auction. To acquire the property, the city must pay the minimum bid plus administrative costs of \$15. The cost of acquisition is \$98,265. The County Treasurer has indicated a willingness to waive \$10,000 in interest and penalty charges, should the city pursue the property purchase.

At the June 8<sup>th</sup> regular meeting of the LDFA, the board approved a resolution to purchase the Overton property from the City Council for the cost of acquisition. The LDFA is requesting that the city purchase the property and transfer it to the LDFA. The LDFA is not eligible to directly purchase the tax sale parcel from the County Treasurer.

The proposed resolution would authorize the purchase of the Overton parcel through the tax foreclosure land sale, and the sale of the parcel to the LDFA. Both transactions would be at the cost to acquire the property.

Vikke Andersen voiced concerns to the Council on the environmental impact of cleaning up the Overton building site.

Moved by Gruber, seconded by Klavins to approve Resolution 2015-30, a resolution authorizing the City of South Haven to acquire the property at 229 Elkenburg Street, commonly known as the Overton Building, through tax foreclosure from Van Buren County, and to convey the property to the city's Local Development Finance Authority (LDFA).

Voted Yes: All. Motion Carried.

**12. Council will be asked to approve Resolution 2015-31, a resolution amending the City's FOIA policy to be compliant with PA 563 of 2014.**

*Background Information*

Beginning July 1, 2015, PA 563 of 2014, the new FOIA regulations go into effect, changing how governmental entities can charge for FOIA requests. Public Act 563 of 2014 amends certain sections and adds new sections to the original FOIA law, 1976 PA 442 as amended by 1996 PA 553. The new law requires public bodies to establish specific written procedures and guidelines for FOIA requests, including a separate written summary informing the public on how to submit FOIA requests, how to understand the public body's responses to FOIA requests, deposit requirements, fee calculations, and avenues for challenging and appealing denied requests.

To be compliant with the new law, there are a number of changes to be made to the City's FOIA policy. Since the City maintains an internet presence, it is required to post the procedures, guidelines, and written summary on its website. The City is also required to provide free copies of the procedures, guidelines, and written summary upon request, and is also required to include a free copy, or a website link to the policies, in all FOIA responses.

The procedures and guidelines must include a standard form to detail the itemization of any fee the public body estimates or charges under FOIA. The itemization must clearly list and explain each of the six fee components authorized under the new legislation, which include several categories of labor costs associated with producing records (e.g., DVDs, flash drives); copying costs; and postage costs.

The new legislation also increases mandatory punitive damages to be awarded to a plaintiff from \$500 to \$1,000, and mandates a new \$1,000 civil fine which a court must award if it finds the public body has arbitrarily and capriciously violated the Act. A court must impose an additional civil fine of \$2,500 to \$7,500 if it finds the public body willfully and intentionally failed to comply with the Act or otherwise acted in bad faith.

Moved by Kozlik Wall, seconded by Gruber to approve Resolution 2015-31, a resolution authorizing the City of South Haven to adopt the FOIA Procedures and Guidelines as drafted and attached to the resolution.

Voted Yes: All. Motion Carried.

**13. Council will be asked to take the following actions on the city's SRF Project Plan (wastewater system improvement plan):**

- A. Council will be asked to host a public hearing and receive a presentation on the SRF Project Plan.**
- B. Council will be asked to consider approval of Resolution 2015-32, a resolution formally adopting the SRF Project Plan and implementation schedule.**

*Background Information*

The City Council will be asked to host a public hearing and presentation on the city's wastewater system improvements plan and to consider the approval of Resolution 2015-32 a resolution formally adopting the improvement plan and implementation schedule.

The City of South Haven received an S2 grant from the State of Michigan for funding a study of the city's sewer system. The S2 grant totaled \$499,000. The grant program was created to accelerate the progress of water pollution control efforts and to facilitate system improvements through the utilization of the State Revolving Fund (SRF) program. As a requirement of the grant, the city is required to submit an administratively complete loan application for assistance from the SRF or other source of funding for the identified projects no later than September, 2016.

The scope of the study included utility mapping, field investigation, smoke testing, flow metering, computer modeling, sewer televising, dye testing, and sewer service investigation in order to identify opportunities to reduce or eliminate excessive wet weather infiltration and inflow (I/I) from the wastewater system, to identify critical structural defects warranting corrective action, and to confirm necessary wastewater treatment plant improvements. The study culminates with the Project Plan, the first required step in the loan application process. The Project Plan is due by July 1 for the next fiscal year funding cycle with the Michigan Department of Environmental Quality (MDEQ.)

The presentation scheduled for the Council's regular June 15<sup>th</sup> meeting is a required element of the Project Plan. A public hearing is prescribed in the SRF guidance and the items included in the presentation are required to be shared with the public, as well as being needed to sufficiently describe the proposed projects.

After the public hearing is complete the Council may adopt the resolution provided and instruct Abonmarche and staff to submit the Project Plan to the MDEQ by July 1<sup>st</sup> for Fiscal Year 16 funding – announced in October 2015. The Council could also request changes to the plan, based upon public input, prior to final submittal.

If the city ranks high enough on the Project Priority List (PPL), in October, as determined by the MDEQ based upon population, enforcement action, water pollution severity/dilution of receiving stream, disadvantaged status, and other factors, Part I, II, and III Applications along with plans and specifications, bid data, proposed schedule, financing plan, rate analysis, etc. will all be required by prescribed dates corresponding to the desired loan closing/construction start dates. After a favorable determination that the city is on the PPL final details will be prepared and a Final Order of Approval will be prepared which outlines the final steps toward a loan closing. After the loan closing the MDEQ provides monthly disbursements for incurred costs during construction. At the completion of construction an Initiation of Operation document establishes the administrative completion of the project and defines when semi-annual interest and annual principal payments begin. Annual principal payments begin within one year of Initiation of Operation, either April 1 or October 1. Semi-Annual interest payments are due on those dates. As outlined in the city's draft plan, if the city is on the PPL for Fiscal Year 2016 and construction proceeds into 2018, it is expected that principal payments would begin in 2019.

The financial highlights of the Project Plan are summarized below:

**Segment I Total Cost = \$13,772,646**

If the city is awarded funds in Fiscal Year 2016, then construction could start in 2016 and run through 2018. Rates are expected to increase by \$6.50/mo to \$10.94/mo per user, depending upon a few factors such as potential Downtown Development Authority and/or

Local Development Finance Authority contributions and if the city received disadvantaged status. Township users would expect to see an increase of \$3/mo to \$6.19/mo. Please note that the city has a rate study underway, which will provide greater details of any necessary rate adjustments and define how each user class would be impacted. It is expected that the rate setting consultants will complete their work in early 2016. At that time it will likely be prudent to proceed with a first step increase to prepare for the upcoming debt.

**Segment II Total Cost = \$1,235,682 for sewer work and \$5,780,000 for WWTP to total \$7,015,682.**

The Project Plan shows these projects spanning from 2019-2023. So, principal payments would be expected to start in 2024. It is expected that the sewer work could be paid for from normal sewer system budgeted funds but we are projecting the rate increase could go as high as would be \$16.50/mo for city users and \$10.50/mo for Township users. These would be the total rate increases from today, not including any potential cash contributions from the city's tax increment finance districts or disadvantages benefits. These rates would not be additive to the Segment I increase. So, for example, if Segment I increased by \$10.94/mo per user, then Segment II could take rates up another \$5.56/mo per user to \$16.50/mo. Again, with the completion of the city's rate study and MDEQ confirmation of SRF funds, the city will have a clearer picture of the true impact on utility rates.

At the May 18<sup>th</sup> regular meeting of the Board of Public Utilities (BPU,) the BPU received the project plan presentation from Abonmarche. The BPU reviewed the presentation and ultimately offered a motion of support for the plan adoption. The BPU's recommendation was approved with unanimous support, and included the general support from the South Haven Charter Township and Casco Township Water and Sewer Authority.

**ITEM A: Council will be asked to host a public hearing and receive a presentation on the SRF Project Plan.**

Moved by Fitzgibbon, seconded by Klavins to open the public hearing and receive presentation on the SRF Project Plan.

Voted Yes: All. Motion Carried.

Public Hearing Opened and Presentation of SRF Project Plan

Chris Cook, P. E., President/Chief Executive Officer and Dan Dombos, P.E. of Abonmarche presented the SRF Project Plan. (See power point presentation in the agenda packet for the June 15, 2015 City Council meeting.)

Enriqueta Turanzas voiced concerns to the Council regarding components of the project plan.

Move by Kozlik Wall, seconded by Fitzgibbon to close the public hearing.

Voted Yes: All. Motion Carried.

**ITEM B: Council will be asked to approve Resolution 2015-32, a resolution formally adopting the SRF Project Plan and implementation schedule.**

Moved by Kozlik Wall, seconded by Fitzgibbon to approve Resolution 2015-32, a resolution formally adopting the SRF Project Plan and implementation schedule.

Voted Yes: All. Motion Carried.

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

None.

**15. City Manager's Comments**

None.

**16. Mayor and Councilperson's Comments**

Kozlik Wall – Don't forget this weekend is Harborfest which starts on Thursday. Please be considerate where you leave your garbage.

Gruber – no comment

Fitzgibbon – no comment

Klavins – no comment

Burr – We are still raising money for Fireworks since our show costs \$34,000 this year. The Fireworks are on July 3<sup>rd</sup> and starts earlier than last year. This year it will begin at 10:30 p.m. so that people can watch the finale at 11:00 p.m. on Channel 3.

**17. Adjourn**

Moved by Fitzgibbon to adjourn. Seconded by Klavins.

Voted Yes: All. Motion carried. Meeting adjourned at 8:39 p.m.

RESPECTFULLY SUBMITTED,



Kate Hosier  
Deputy City Clerk

Approved by City Council: **July 6, 2015**