

City Council

Regular Meeting Minutes

Monday, July 20, 2015
7:00 p.m., Council Chambers



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

2. Invocation – Mr. Art Ayers, Moderator at the First Congregational Church

3. Roll Call

Present: Arnold, Fitzgibbon, Gruber, Klavins, Kozlik Wall, Patterson, and Burr
Absent: None.

4. Approval of Agenda

Moved by Klavins, seconded by Kozlik Wall to amend the agenda to include item 9a, a sign permit request for Soha Surf Shop.

Voted Yes: All. Motion carried.

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

Moved by Patterson, seconded by Fitzgibbon to approve the consent agenda.

- A. Council will be requested to approve the City Council Minutes for July 6, 2015.
- B. Bills totaling \$460,385.34 for the period ending July 19, 2015 to be approved and forwarded to the Clerk and Treasurer for payment.
- C. Council will be requested to review and approve Traffic Control Orders 15-001 through 15-006.
- D. Council will be asked to approve Resolution 2015-33, a resolution recognizing the Rams Boosters as a nonprofit organization operating in the community for the purpose of obtaining charitable gaming licenses.
- E. Council will be asked to approve the following minutes:
 - 1) 03-17-2015 SHARA minutes;
 - 2) 05-18-2015 ZBA minutes;
 - 3) 05-27-2015 Housing Commission minutes; and
 - 4) 06-17-2015 Airport Authority minutes.

A Roll Call Vote was taken:

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

Motion Carried.

OLD BUSINESS

6. Council will be updated on potential changes to the code of ordinances, related to the lawn mowing ordinance.

Background Information:

The City Council will be asked to take no action on the city's adopted long grass code.

At the July 6th regular meeting of the City Council, the Council discussed potential changes to the city's long grass ordinance. At that meeting, the Council discussed a desire to increase the long grass threshold for enforcement from 6" to 9". Further, the Council discussed a desire to expedite the enforcement process, in an effort to reduce the time needed for the city to take enforcement efforts. Finally, the Council discussed a desire to increase the administrative fee from \$50 per occurrence to \$150 per occurrence.

The city's staff is currently working to develop an updated code amendment, for the City Council's consideration, related to the long grass enforcement ordinance. At this time, the city's staff has completed a review of enforcement procedures from other West Michigan communities. Staff has found a variety of enforcement procedures which are embraced by other communities. Staff are now working with the city's attorney to develop an updated code amendment draft for the City Council's review and consideration.

The city's staff anticipates having a code amendment draft ready for the City Council's review at the August 3rd regular meeting.

No action taken on this item. Item will be discussed in a workshop session on August 3rd at 6pm.

7. Council will be asked to consider approval of the utility rate ordinance, related to the proposed increases to the city's electric utility rates.

Background Information:

During the month of June, 2015 the Board of Public Utilities (BPU) and the City Council approved an increase of 2% for the various components of the water and sewer utility rates to be effective July 1, 2015. At that time the BPU wanted to obtain more information about the actual energy cost charges proposed by our supplier for the upcoming year before making any recommendation for possible changes to the electric utility rates. Upon analysis of the data the BPU recommends a 4% increase in the residential energy rate, no change in the commercial energy rate and a 3% increase in the Commercial Power and Industrial energy rates. The Demand customers will also see an increase of 3.1% in the demand rate.

Electric customers have shared in the fluctuations in fuel charges being charged by our supplier by way of the "Fuel Adjustment" shown on the monthly utility bill. The Utility is also charged monthly by our supplier for fluctuations in a PJM open access transmission tariff that appears on our monthly power invoice. These PJM fees were historically an average of \$500,000 - \$600,000 annually and were absorbed by the existing energy rates in effect. The fees now exceed those levels so the BPU has recommended that we share the fluctuations in the PJM fees costs with the electric customers in excess of a base amount of \$500,000 annually. The PJM and fuel cost adjustments will be included on one line on the monthly utility bill called "Energy Cost Adjustment".

Moved by Patterson, seconded by Klavins to approve a utility rate ordinance as presented in the packet.

Voted Yes: All. Motion carried.

NEW BUSINESS

- 8. Council will be asked to approve Resolution 2015-34, a resolution to grant local government approval on the reclassification of Class B Hotel Liquor License to a Class C Resort Liquor License.**

Background Information:

Ballock Holdings, LLC is requesting city approval for the reclassification of the liquor license for the bar and restaurant located at 515 Williams, formerly known as York's Tavern, which has been closed due to bankruptcy proceedings. Ballock Holdings, LLC is purchasing this bar and restaurant from the bankruptcy trustee and, as part of the purchase, they've submitted an application requesting the transfer of the current liquor license attached to that location. However, in the approval process it was determined that due to the sale of condo units and a change in ownership, the Class B Hotel license that York's was operating under no longer conformed to the requirements of the Michigan Liquor Control Commission (MLCC).

As such, the current license must be reclassified to the more appropriate license, a Class C Resort license which requires an establishment to be open 5 days a week, for at least 5 hours a day, with 50% of its revenue generated from food sales. To complete the property purchase and MLCC licensing, the MLCC has requested that the City of South Haven approve the reclassification of this location from a Class B Hotel to a Class C Resort license.

Detective Adam DeBoer reviewed the materials and found no problems with the reclassification request. Wendy Hochstedler, the Finance Director, did note that there are outstanding taxes on the property under two accounts in the following amounts: \$42.37 and \$1,680.29.

Moved by Gruber, seconded by Kozlik Wall to table Resolution 2015-34 until August 3rd City Council meeting.

Vote Yes: All. Motion carried.

- 9. Council will be asked to approve Resolution 2015-35, a resolution to opt out of the electric utility surcharge for the LIEAF program, and to ensure compliance with PA 95 of 2013.**

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, 2013, 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. On May 5, 2014, Council passed Resolution 2014-18, electing to not collect the low income energy assistance funding factor between July 1, 2014 and June 30, 2015. As a result, the City was restricted from performing residential electric shutoffs between November 1, 2014 and April 15, 2015.

Council cited the following three primary reasons for adoption of Resolutions 2013-44 and 2014-18:

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 2013-14 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 (MEAP) 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:

DHS - 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

MEAP Grant Program Fact Sheets can be downloaded from the State's website: http://www.michigan.gov/mpsc/0,4639,7-159-52493_52588-317123--,00.html.

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 June 29, 2015 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 Fitzgibbon, seconded by Kozlik Wall to approve Resolution 2015-35, a resolution to opt out of the electric utility surcharge for the LIEAF program, and to ensure compliance with PA 95 of 2013.

Voted Yes: All. Motion carried.

9a. Council will be asked to consider a request for a sign application for public property for SoHa Surf Shop.

Background Information:

SoHa Surf Shop is requesting a permit to place signs at their South Beach sports equipment location. The applicant has a license agreement for the use but signs were not included in the agreement. The zoning administrator is unable to issue sign permits as the property is publicly owned.

The applicant is asking to place a sandwich board sign at the top of the dune (near the sidewalk) and a freestanding 4' by 6' sign at the rental location. The signs would be in place from the time of the approval until September 15, 2015. In future years the signs would be in place from May 15 to September 15.

Moved by Kozlik Wall, seconded by Fitzgibbon to approve the placement of signs at the South Beach and that the sandwich board sign must be removed daily.

Voted Yes: All. Motion carried.

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

Richard Austen, 365 Jones Avenue – Spoke to the Council regarding the Fireworks ordinance that prohibits fireworks displays except for July 3, 4, and 5.

11. City Manager's Comments

None.

12. Mayor and Councilperson's Comments

Kozlik Wall – No comment.

Gruber – No comment.

Fitzgibbon – No comment.

Patterson – Notes that our beaches are well used and our rental housing has been praised. Reminder to tourists and visitors that dogs are not allowed on the sand or in the water at the beach. Pets must remain in the paved areas of the beaches.

Arnold – No comment.

Klavins – Reminder that Friends of the Blue Star Trail will be hosting the 4th Annual Lakeshore Harvest Country Bike Tour on August 15th, a 15 to 100 mile ride and tour of local fruit and produce farms, wineries, orchards, and cider mills. If you order ½ barrel of fruit juice, they will deliver it back to your staging area.

Burr – MDOT has put out to bid the paving of the Van Buren State Park Trail and expects to have the paving completed in October. This is the final phase in a 3 year project.

13. Adjourn

Moved to adjourn by Patterson, seconded by Fitzgibbon.

Voted Yes: All. Motion carried, meeting adjourned at 7:25 p.m.

RESPECTFULLY SUBMITTED,



Kate Hosier
Deputy City Clerk

Approved by City Council: **August 3, 2015**