

City Council

Regular Meeting Minutes

Monday, August 3, 2015
7:00 p.m., Council Chambers



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

2. Invocation – Reverend Travis Wilson of Peace Lutheran Church

3. Roll Call

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

4. Approval of Agenda

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

Voted Yes: All. Motion carried.

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

Moved by Patterson, seconded by Kozlik Wall to approve the consent agenda.

- A. Council will be requested to approve the City Council Minutes for July 6, 2015.²⁰
- B. Bills totaling \$163,019.16 for the period ending August 2, 2015 to be approved and forwarded to the Clerk and Treasurer for payment.
- C. Council will be requested to award the paving bid contract to Compton, Inc. in the amount of \$432,890.95 for repaving Michigan Avenue from Center Street to Broadway Street and Center Street from Elkenburg Street to Superior Street.
- D. Council will be asked to award the Center for the Arts Elevator ADA Renovations contract to Wagenmaker's Construction for the total value engineered amount of \$127,500.
- E. Council will be asked to approve the following minutes:
 - 1) 01-07-2015 DDA Workshop Minutes;
 - 2) 02-25-2015 DDA Special Meeting Minutes;
 - 3) 04-13-2015 BRA Minutes;
 - 4) 05-18-2015 BPU Minutes;
 - 5) 05-19-2015 SHARA Minutes;
 - 6) 06-04-2015 Planning Commission Minutes;
 - 7) 06-16-2015 LHBM Board Minutes;
 - 8) 06-17-2015 CBA Minutes;
 - 9) 06-22-2015 ZBA Minutes;
 - 10) 06-24-2015 SHHC Minutes; and
 - 11) 06-29-2015 BPU 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.

No action was taken by Council.

7. 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.

Dan Ballock and his attorney, Phil Reed, spoke on the matter and answered questions posed by the Council.

Moved by Fitzgibbon, seconded by Patterson 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.

Voted Yes: All. Motion carried.

NEW BUSINESS

8. Council will be asked to approve an amended License Agreement with RAPA Development, LLC doing business as Black River Tavern located at 403 Phoenix Street.

Background Information:

The City Council will be asked to reauthorize staff to issue a license agreement, to add outdoor dining along Phoenix Street, to the restaurant owner of Black River Tavern.

Black River Tavern is a local restaurant, located at 403 Phoenix Street. The owner of Black River Tavern, Mr. Scott Maxwell, is seeking an updated approval of the license agreement with the city. That agreement allows Maxwell 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 City Council approved the original license agreement with Black River Tavern as part of the March 3, 2014 regular meeting. Maxwell is requesting the agreement be reauthorized with Black River Tavern's proper name included in the agreement. That designation notes that the agreement will be held by RAPA Development, LLC d/b/a Black River Tavern.

The license agreement for Black River Tavern has been actively reviewed by staff, the city's attorney, and the restaurant owner. The license agreement requires 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 agreement has a variety of requirements. Some of the highlights of the agreements are:

- The agreement allows customer seating to occur until 11:00 p.m.,
- The agreement requires the city be provided with a certificate of insurance,
- The agreement requires that a designated clear path be maintained, to allow pedestrians to use the city's sidewalks,

The agreement also requires that if alcohol service is to be provided at the outdoor dining location that the owner be in compliance with Michigan Liquor Control Commission rules and regulations.

Moved by Gruber, seconded by Patterson, to approve an amended License Agreement with RAPA Development, LLC doing business as Black River Tavern located at 403 Phoenix Street.

Voted Yes: All. Motion carried.

9. Council will be asked to approve Special Event Application 2015-23, the Bobby Walker Basket Ball Tournament to be held in Elkenburg Park on August 6 through August 8, 2015 from 5:00 p.m. to 9:00 p.m.

Background Information:

Bobby Walker would like to host a basketball tournament at Elkenburg Park to raise awareness for The American Cancer Society. There will be a ceremony honoring outstanding leadership in the community, children's games, and 5 on 5 basketball! Great fun for all ages.

Moved by Patterson, seconded by Fitzgibbon, to approve Special Event Application 2015-23, the Bobby Walker Basketball Tournament to be held in Elkenburg Park on August 6 through August 8, 2015 from 5:00 p.m. to 9:00 p.m.

Voted Yes: All. Motion carried.

10. Council will be asked to hold a public hearing and consider approval of Resolution 2015-36, a resolution detailing the brownfield plan for the Overton building at 229 Elkenburg Avenue.

Background Information:

On July 13, the Brownfield Redevelopment Authority recommended the attached brownfield plan for the Overton building at 229 Elkenburg Avenue. It also authorized use of the Local Site Remediation Revolving Fund to pay for demolition and related environmental work.

An approved brownfield plan is required by state law to use the Local Site Remediation Revolving Fund.

The brownfield plan includes estimates for demolition and associated expenses, and an estimate of tax capture for a future development. At this time it is not known what type of future development will be permitted on this site. The Local Development Finance Authority will be the owner of the site. The site is currently zoned Light Industrial, and it is likely that the LDFA will request a change in zoning. The site appears to have only minor environmental issues, although further testing is recommended. Because of these unknown items, the estimate for taxable value after development is a rough estimate of \$1,000,000. This value is used to estimate the repayment of the demolition costs through tax capture.

The estimated expenses of demolition which may be recovered through a brownfield plan total \$500,000. The actual cost of demolition and remediation will be determined through a bid process for the demolition and remediation work, and actual costs may be different than

the estimate. We hope that the actual cost will be lower. The plan will reimburse actual expenses to the Brownfield Redevelopment Authority.

The plan estimate of cost recovery is based on a development with a taxable value of \$1,000,000 and estimates a payback period over 30 years, the maximum length of a brownfield plan under state law. This is a rough estimate. While the surrounding neighborhood would suggest that a residential development may be the highest and best use, no decision has been made on what the potential development may be.

The Local Development Finance Authority is the entity which will own the parcel and carry out the demolition and remediation. Because the LDFA works through the City of South Haven budget and accounting system, the City of South Haven purchasing policy will be used. City Council and the LDFA will have approval authority over contracts and expenditures.

Moved by Fitzgibbon, seconded by Arnold, to hold a public hearing and consider approval of Resolution 2015-36, a resolution detailing the brownfield plan for the Overton building at 229 Elkenburg Avenue.

Voted Yes: All. Motion carried.

Public Hearing opened.

Paul VandenBosch, Assistant City Manager and Brownfield Redevelopment Authority Secretary, spoke on the matter.

Mike Henry, representative of the Van Buren County Brownfield Redevelopment Authority, gave his support for the project.

Moved by Patterson to close the public meeting. Seconded by Klavins.
Voted: Yes: All. Motion carried.

Moved by Fitzgibbon, seconded by Kozlik Wall, to approve Resolution 2015-36, a resolution detailing the brownfield plan for the Overton building at 229 Elkenburg Avenue.

Voted Yes: All. Motion carried.

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

Rosalie Plechaty, Event Coordinator for the National Blueberry Festival, spoke about the festival and reminded Council that the parade starts at 11:00 a.m. and will be on Huron Street and not on Phoenix Street this year. The parade route is in the festival brochure.

Mike Henry, Van Buren County Commissioner, gave a brief update on county government business.

12. City Manager's Comments

Compliments to Paul VandenBosch who has worked tirelessly on the Overton Building project through all of the numerable steps to get us to this point.

Compliments to Mike Henry, Van Buren County Commissioner, upon seeing how bad the building was, gave his support to this project.
By this time next year, we will hopefully see a greatly improved neighborhood.

13. Mayor and Councilperson's Comments

Arnold – no comment.

Fitzgibbon – Have fun at National Blueberry Festival.

Gruber – We encouragement comments and Council looks to staff for more information when complaints are received. Each comment or complaint are thoroughly vetted by staff.

Klavins – Keep an eye on the clock since the bridge opens on the half hour, but please, stop at the crosswalk and allow walkers to cross the street near the bridge.

Kozlik Wall – no comment.

Patterson – Welcome to guests, tourists, and visitors. Come out to Blueberry Festival!

Burr – The repaving contract in the consent agenda is a major project that should be completed by the end of this month.

14. Adjourn

Moved by Patterson, seconded by Fitzgibbon, to adjourn the meeting.

Voted Yes: All. Motion carried. Meeting adjourned at 7:34 p.m.

RESPECTFULLY SUBMITTED,



Kate Hosier
Deputy City Clerk

Approved by City Council: **August 17, 2015**