

City Council

Regular Meeting Minutes

Monday, February 4, 2013
7:00 p.m., Council Chambers



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

2. Invocation

- Council observed a moment of silence.

3. Roll Call

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

4. Approval of Agenda

Moved by Patterson to approve the agenda. Seconded by Fitzgibbon.

Voted Yes: All. Motion carried.

5. Consent Agenda: Items A thru D (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 following City Council:
 - 1) Regular Meeting Minutes: January 21, 2013.
 - 2) Special Meeting Minutes: January 28, 2013.
 - 3) Workshop Meeting Minutes: January 28, 2013
- B. Bills totaling \$894,734.58 for the period ending February 4, 2013 be approved and forwarded to the Clerk and Treasurer for payment.
- C. Council will be asked to approve a Sanitary Sewer Service Agreement with Casco Township and the Miami Park Waste Water Association.
- D. Council will be asked to receive the following administrative reports and approved minutes to be placed on file:
 - 1) Zoning Board of Appeals: Minutes, October 22, 2012.
 - 2) Board of Public Utilities: Minutes, November 26, 2012.

A Roll Call Vote was taken:

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

Motion carried.

UNFINISHED BUSINESS

6. City Council will be asked to take the following action regarding a MSHDA Grant Application:

- A. Hold a public hearing regarding the grant application.**
- B. Consider Resolution 2013-07: A Resolution authorizing the City Manager to apply for a Michigan State Housing Development Authority grant for Phoenix Street accessibility and public green space improvements.**

Background Information: On January 4th, City staff was informed that a new grant opportunity has become available through MSHDA. At the February 4th, 2013 meeting, City Council will be asked to consider an application for improved accessibility and public green space to City Hall and Phoenix Street.

The MSHDA Community Development grant is new this year. In March 2012, forty-nine state attorneys general, including Michigan Attorney General Bill Schuette, entered into a settlement with five of the nation's largest mortgage servicers following a lawsuit regarding mortgage foreclosure practices. Among other things, the settlement resulted in direct payments to states. Of Michigan's \$97.2 million share, the Michigan Housing and Community Development Fund (the "MHCD Fund") has been appropriated \$3,709,500 from 2012 PA 296. The total allocation of 2012 funds \$3,785,500 (appropriated funds from 2012 PA 296 plus \$76,000 in recaptured funds) represents the third opportunity to allocate funding to eligible activities under legislation authorizing the MHCD Fund. The MHCD Fund will support projects designed to fuel strategies leveraging public and private resources to meet the affordable housing needs of low income, very low income, and extremely low income households and to finance projects located in a downtown area or adjacent neighborhood.

At their January 30, 2013 Special Meeting, the DDA Board approved a resolution to seek application and to fund Phoenix Street accessibility and public green space improvements.

The application is due on or before February 15, 2013 by 11:59 p.m. Only one application per applicant is permitted. The Michigan State Housing Development Authority ("MSHDA") expects to make 10-15 awards statewide.

Item A: Hold a public hearing regarding the grant application.

Moved by Kozlik Wall to open a public hearing regarding the grant application. Seconded by Gruber.

Voted Yes: All. Motion carried. Public hearing declared open.

Don Bemis, 740 Phillips Street – voiced concerns with the relocation of the welcome island.

Moved by Fitzgibbon to close the public hearing. Seconded by Patterson.

Voted Yes: All. Motion carried. Public hearing closed.

Item B: Consider Resolution 2013-07: A Resolution authorizing the City Manager to apply for a Michigan State Housing Development Authority grant for Phoenix Street accessibility and public green space improvements.

Moved by Fitzgibbon to approve Resolution 2013-07: A Resolution authorizing the City Manager to apply for a Michigan State Housing Development Authority grant for Phoenix Street accessibility and public green space improvements. Seconded by Patterson.

Voted Yes: All. Motion carried.

7. **City Council will be asked to take the following actions regarding an ordinance regulating alcohol in public spaces:**
- A. Council will hear public comment regarding the proposed ordinance.**
 - B. Consider an ordinance to add Section 42-29 to the City of South Haven Code of Ordinance to provide City Council authorization for consumption of alcohol in and on City owned property and to amend Section 54-105 of the City of South Haven Code of Ordinances to prohibit the consumption of alcohol in public spaces.**
 - C. Consider Resolution 2013-08: A Resolution establishing policies and procedures for the service and consumption of alcohol in public in conjunction with City approved special events and festivals.**
 - D. Consider Resolution 2013-09: A Resolution to establish a Downtown Special Event Area for the purpose of regulating the service and consumption of alcoholic beverages in public in conjunction with community wide special events.**

Background Information: In the fall of 2012, the Downtown Development Authority (DDA) Board approved a motion of support, to the City Council, to allow for the sale and consumption of alcohol on authorized public property. The proposed ordinance allowance could allow for downtown merchants to seek license agreements from the city, which could then be used for outdoor dining with alcohol consumption. Further, the proposed allowance could allow for special events to conduct beer/wine tents on public property. Please note that the sales and/or consumption would only be for property that has the appropriate local approval and license from the Michigan Liquor Control Commission. Based on the DDA's motion of support, the city's staff has been working to determine how this issue could be managed, and possibly considered by the City Council.

The city's attorney has provided an opinion on how this issue could be implemented and managed. That opinion is included within this packet, along with the DRAFT ordinance amendment.

At the December 14, 2012, City Council workshop session, the council members and staff discussed how allowing alcoholic beverages on public spaces could be managed. At the workshop session, the general consensus from the elected officials was to proceed with implementation of the program. Prior to the program implementation, the City Council will need to consider introduction and adoption of a code amendment, which allows alcohol in approved public spaces.

At the January 21, 2013 regular meeting of the City Council, some concerns were voiced about how the city's staff would manage requests for temporary alcohol sales. As a result of those concerns, the city's staff has worked to prepare a variety of items related to the proposed amendment to the Code of Ordinances related to the service of alcohol on public property. Staff worked with the city's attorney to prepare several items, which are intended to address the concerns of council members. Those items are as follows: 1) a DRAFT update to the proposed code amendment, which inserts a reference to adopted policies which control the service of alcohol at outdoor events, 2) DRAFT alcohol policies to be upheld by the South Haven Police Department (SHPD), 3) DRAFT Resolution approving the alcohol policies, 4) DRAFT Special Event Area map.

The proposed code amendment revision inserts language which references the city's adopted alcohol control policies for outdoor events, which will be enforced by the SHPD. The DRAFT alcohol control policy, for use with outdoor events/special events will then dictate the city's regulations to event promoters, and guide the actions of the SHPD. Should the DRAFT policy be acceptable to the City Council, the Council will then be asked to adopt the policy via resolution. Finally, the DRAFT Special Event Area map is intended to control where outdoor events/special events, that include alcohol service, could be conducted. The city's staff believes that the DRAFT Special Event map allows for events to occur in areas that will be locally accepted (e.g., River Front Park, Huron Street Pavilion, Maritime Museum, etc.) The map seeks to allow events to occur in areas where there is not a large amount of residential properties nearby. The map also seeks to allow events in areas where a variety of special events have occurred in the past. The map can easily be modified, should the City Council wish to edit the allowed Special Event Area. If the map is deemed acceptable, the City Council will be asked to adopt the Special Event Area map via resolution.

Item A: Council will hear public comment regarding the proposed ordinance.

Don Bemis, 740 Phillips Street – voiced his opposition to the ordinance amendment.

Sally Newton, South Haven Visitors Bureau – read a resolution of support for the proposed ordinance passed by the Board of Directors of the South Haven Convention and Visitors.

Kathy Wagaman, Chamber of Commerce – voiced support for the proposed ordinance on behalf of the Chamber of Commerce.

Item B: Consider an ordinance to add Section 42-29 to the City of South Haven Code of Ordinance to provide City Council authorization for consumption of alcohol in and on City owned property and to amend Section 54-105 of the City of South Haven Code of Ordinances to prohibit the consumption of alcohol in public spaces.

Moved by Kozlik Wall to approve an ordinance to add Section 42-29 to the City of South Haven Code of Ordinance to provide City Council authorization for consumption of alcohol in and on City owned property and to amend Section 54-105 of the City of South Haven Code of Ordinances to prohibit the consumption of alcohol in public spaces. Seconded by Fitzgibbon.

Voted Yes: All. Motion carried.

Item C: Consider Resolution 2013-08: A Resolution establishing policies and procedures for the service and consumption of alcohol in public in conjunction with City approved special events and festivals.

Moved by Fitzgibbon to approve Resolution 2013-08: A Resolution establishing policies and procedures for the service and consumption of alcohol in public in conjunction with City approved special events and festivals. Seconded by Arnold.

Voted Yes: All. Motion carried.

Item D: Consider Resolution 2013-09: A Resolution to establish a Downtown Special Event Area for the purpose of regulating the service and consumption of alcoholic beverages in public in conjunction with community wide special events.

Moved by Fitzgibbon to approve Resolution 2013-09: A Resolution to establish a Downtown Special Event Area for the purpose of regulating the service and consumption of alcoholic beverages in public in conjunction with community wide special events. Seconded by Gruber.

Voted Yes: All. Motion carried.

NEW BUSINESS

8. City Council will be asked to consider the appointments of interested individuals who wish to serve on the Development Area Citizens Council.

Background Information: The DDA and City Council will consider an amendment to the Development Plan and Tax Increment Financing Plan. There is a strict timeline of events which must be followed. The first is to hold a meeting of the DACC (Development Area Citizens Council) to explain the amendment and ask for comment. Any comments received will be presented to City Council. The meeting is scheduled for Thursday, February 7th, 2013 at 5:30 p.m.

In order to meet publishing requirements, the public notice for the February 7th DACC meeting appeared in the January 27th South Haven Tribune. In the published notice, residents who are interested in serving were asked to contact staff by Friday, February 1st, noon.

The DACC was formed in 2000 during the Year 2000 Plan Amendments. The DACC is made up of residents of the Downtown Development District and acts as an advisory board to the Downtown Development Authority and to the City Council in reviewing the Development Plan & Tax Increment Financing Plan.

Last week letters were sent to the ten DACC members who were appointed in 2000 informing them of the meeting.

Moved by Kozlik Wall to appoint Patricia Burr, Doug Cook and Dave Miller to serve on the Development Area Citizens Council. Seconded by Fitzgibbon.

Voted Yes: All. Motion carried.

9. City Council will be asked to consider a license agreement with LJ Agency, Inc. to operate a jet ski rental at the Southside Marina.

Background Information: LJ Agency, Inc. (Linda VanDerZee) is requesting to operate a jet ski rental again this year.

The proposed agreement is similar to the previous year agreement, with a 10% increase in the license agreement (\$1,650) and elimination of the requirement that the swimming buoys be removed at the end of the season.

At the end of last season, it was found that the swimming buoy anchors were deeply buried in the Lake bottom, and the jet skis did not have the displacement to lift them out of the water, a larger boat is required. Staff recommends removing this requirement. LJ Agency will continue to assist in placing the buoys in the spring, and pulling them back in place if they are moved by storms throughout the season.

Linda VanderZee, LJ Agency – expressed her interest in using the Southside Marina for the jet ski rental.

Moved by Kozlik Wall to approve a license agreement with LJ Agency, Inc. to operate a jet ski rental at the Southside Marina. Seconded by Patterson.

Voted Yes: All. Motion carried.

10. City Council will be asked to consider Resolution 2013-10: A Resolution appointing a Board of Review and establishing a rate of compensation and a meeting schedule for Tax Year 2013.

Moved by Gruber to approve Resolution 2013-10: A Resolution appointing a Board of Review and establishing a rate of compensation and a meeting schedule for Tax Year 2013. Seconded by Patterson.

Voted Yes: All. Motion carried.

11. City Council will be asked to consider Resolution 2013-11: A Resolution adopting a 5-year Recreation Plan for the City of South Haven.

Background Information: The City of South Haven's 5-Year Recreation Plan, written in conjunction with South Haven Public Schools, South Haven Area Recreation Authority (SHARA), and the South Haven Township, is ready for City Councils Approval.

A 5-Year Recreation Plan is a requirement of the State of Michigan in order for a jurisdiction to be eligible for grant funding. The intent of the plan is that any potential grant-funded goals and/or projects should be included in the plan in order to improve chances that a project will be selected by state grant agencies.

After City Council released the plan for distribution the plan was presented to the Harbor Commission and the Planning Commission for comments. These comments were then presented to the Parks Commission for their review and edits of the plan. In December the Parks Commission held a public hearing for the recreation plan and made a motion to approve the plan and to recommend that City Council approve and adopt the proposed 5 - Year Recreation Plan.

The South Haven Township, SHARA and the South Haven Public Schools have already approved their sections of the plan.

City Council will need to review the 5-Year Recreation Plan and when satisfied make a motion to approve the plan and approve a resolution of adoption.

Moved by Fitzgibbon to approve Resolution 2013-11: A Resolution adopting a 5-year Recreation Plan for the City of South Haven. Seconded by Patterson.

Voted Yes: All. Motion carried.

12. City Council will be asked to consider adopting Fiscal Year 2013/2014 Priorities.

Background Information: Council has received a listing of the priorities discussed at the City Council's priority setting workshop session, which was held on January 28, 2012. As part of the workshop session, Council members were asked to provide guidance to staff on their priorities for the City of South Haven. Those goals/priorities were described by the attendees in broad terms and then focused towards the upcoming fiscal year. The list indicates a strong commitment to addressing both the long-term and short-term needs of the community. Some of the highlights of the proposed priorities includes: improved roads and infrastructure, development of bike/pedestrian pathways, building improvements, and economic development.

Moved by Kozlik Wall to adopt the Fiscal Year 2013/2014 Priorities. Seconded by Fitzgibbon.

Voted Yes: All. Motion carried.

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

(You will be given up to 5 minutes to address your concerns.)

None at this time.

14. City Manager's Comments

15. Mayor and Councilperson's Comments

Kozlik Wall: IceBreaker was wonderful. Great job on snow removal by city staff.

Gruber: City has worked really hard on snow removal over last few weeks.

Fitzgibbon: Had a really great time at IceBreaker Festival.

Patterson: IceBreaker was great. Thank you to the Chamber for all their hard work.

Arnold: Thank you to staff at public works for all the hours put in on snow removal.

Klavins: Great time at IceBreaker.

Burr: Thanked Kathy Wagaman for recognizing the salmon fishing in the City of South Haven with the salmon ice carving.

16. City Council will be asked to go into closed session pursuant to the Michigan Open Meetings Act; Public Act No. 267 of 1978; 15.268; Section 8(e) to consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation.

Moved by Patterson to go into closed session pursuant to the Michigan Open Meetings Act; Public Act No. 267 of 1978; 15.268; Section 8(e) to consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation. Seconded by Kozlik Wall.

A Roll Call Vote was taken:

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

Nays: None

Motion carried. Adjourned into closed session at 8:04 p.m.

Moved by Kozlik Wall to return to open session. Seconded by Fitzgibbon.

Voted Yes: All. Motion carried. Returned to open session at 8:31 p.m.

17. Adjourn

Moved by Patterson to adjourn. Seconded by Kozlik Wall.

Voted Yes: All. Motion carried. Meeting adjourned at 8:31 p.m.

RESPECTFULLY SUBMITTED,



Amanda Morgan, CMC
City Clerk

Approved by City Council: February 18, 2013