

PROCEEDINGS OF THE MANISTEE CITY COUNCIL – SEPTEMBER 20, 2011

A regular meeting of the Manistee City Council was called to order by his honor, Mayor Richard Mack on Tuesday, September 20, 2011 at 7:00 p.m. in the City Hall Council Chambers, 70 Maple Street, followed by the Pledge of Allegiance.

PRESENT: Colleen Kenny, Ed Cote, Robert Hornkohl, Ilona Haydon, Catherine Zaring, Richard Mack, and Alan Marshall.

ALSO PRESENT: City Manager – Mitch Deisch, City Attorney – George Saylor, City Clerk – Michelle Wright, City Assessor – Julie Beardslee, Community Development Director – Jon Rose, and Public Safety Director – Dave Bachman.

AMEND AGENDA.

MOTION by Hornkohl, second by Haydon to amend the agenda to include item X. Concerns and Comments e.) Consideration of Four One-Year Collective Bargaining Agreements with the USW, IAFF, POAM and COAM Unions.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall

NAYS: None

BOARD OF REVIEW FOR THE OXFORD COURT SPECIAL ASSESSMENT PROCESS.

City Council adopted a resolution to establish a special assessment district for the Oxford Court Curb and Gutter Project on May 17, 2011, after a public hearing in response to the Initiatory Petition filed with the City by the majority of the homeowners with frontage on Oxford Court. Upon completion of the project the City Clerk certified the true copy of costs of \$14,865.84 or \$18.77 per front foot of Oxford Court, for curb and gutter in the District.

Chapter 208.06 (b) of the City Chapter requires City Council to act as the Board of Review, to hear appeals regarding the Oxford Court Special Assessment District. The City Assessor has certified and confirmed the Final Special Assessment Roll Oxford Court Special Assessment District to City Council, including Council's resolved directive that the special assessments shall be paid in seven (7) annual installments with interest accruing on the unpaid portion of the special assessment at the rate of 4.3% per annum. Council will further resolve to allow payment in full within thirty (30) days of the final adoption date of the resolution.

City Council will act as the Board of Review. The City Assessor will act as the Secretary of the Board of Review. An owner or party in interest, or his or her agent may appear in person at the Board of Review to protest the special assessment, or shall be permitted to file his or her appearance or protest by letter and his or her personal appearance shall not be required. Protests without letters require the

filing of a Special Assessment Petition to the Board of Review and must be completed as a record of the protest.

Following the Board of Review an owner or any person having an interest in the real property may file a written appeal of the special assessment with the Michigan Tax Tribunal within thirty (30) days after the confirmation of the special assessment roll, by resolution, which is on the City Council agenda for consideration later this evening.

City Assessor Beardslee described the Board of Review process: citizens need to file a letter and/or petition to protest – same process as the July, December, or March Board of Review; Council must make a decision on each written protest tonight, or at another public meeting; allow people to ask questions; taxpayers can turn in a written protest to the City Assessor, either a letter or special assessment petition, she would then present them to Council; taxpayers have 30 days to pay in full or seven years in annual installments; and a deferment is available for special assessments for those with age and income eligibility.

Marshall - Why this is happening now instead of last May?

Beardslee - It was just the special assessment district that was established last May. That allowed construction to occur.

Marshall - The job is already done, why petition now? Would the City have to pay?

Beardslee - Any decrease in the special assessment, the City would pay the difference.

Deisch –We are just following the protocol as to how the ordinance sets up a special assessment.

Beardslee - The idea behind a special assessment is the value added to the property is equal to the payment.

Marshall – We shouldn't see any protest except for one that didn't sign the petition.

Mayor Mack opened the public hearing to receive citizen comments.

Ed Palsrok, 16 Oxford Court – We never received storm sewer, none was put in, curb and gutter became the storm sewer by funneling the water to another street. Other people had curb and gutter put in and did not have to pay for it. Questions: 1) why aren't others getting assessed, and 2) is there a policy on this?

Rose – A policy was established in the 1990's. Policy states that curb and gutter is added to a project if 1) it replaces current curb and gutter, 2) to provide storm water control, or 3) it is a major street. Oxford Court never had storm sewers, therefore is not included in the project. On at least two other streets property owners wanted curb and gutter but were too late for a special assessment. They paid for theirs out-of-pocket.

Beardslee read the initiatory petition signed by citizens on Oxford Court – six signatures.

Marshall – That document says curb and gutter only, no sewer separation.

Rose – Work was being done on Oxford Court because Council decided to upgrade some of the “orphan” streets.

Deisch – It was never said they would receive storm sewer on those streets.

Palsrok – How many people had this done and didn’t have to pay? We just received a new water line and the street was paved.

Mack – Tamarack Street, between Third and Fourth Streets, is an example of curb and gutter being installed to control storm water.

Gordon McLellan, Oxford Court – What makes Fourth Street more important than Oxford Court?

Rose – No streets were added for curb and gutter after the plans were made.

Zaring – How much does curb and gutter add to the value of the property?

Beardslee – No real discernible value is added for curb and gutter, value is based on frontage. It is the opinion of individual homeowners as to the value added.

John Veach, Oxford Court – He is grateful for City Council’s time and explanations.

McLellan – He was against the curb and gutter, and still is; appreciates the Assessor’s statement on curb and gutter’s value being a matter of opinion. Now people have to be more careful parking or mowing their lawns because of the curb and gutter. It has added no value to the land or home. He resents paying for it when he doesn’t want it.

No further comments received. Public hearing closed at 7:36 p.m.

CITIZEN COMMENTS ON AGENDA RELATED ITEMS.

None received.

CONSENT AGENDA.

- Minutes - September 6, 2011 - Regular Meeting
- September 13, 2011 - Work Session
- Payroll - August 29 – September 4, 2011 - \$ 55,394.91
- September 5 - 11, 2011 - \$ 48,393.03
- September 12 – 18, 2011 - \$ 54,320.70
- Cash Balances Report - August 2011

- Notification Regarding Next Work Session – October 11, 2011
Possible financial projection review by the Finance Director; and such business as may come before the Council.

MOTION by Haydon, second by Hornkohl to approve the Consent Agenda as stated.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall
NAYS: None

CONSIDERATION OF A RESOLUTION, OXFORD COURT SPECIAL ASSESSMENT ROLL.

Earlier this evening Council acted as the Board of Review, to hear appeals regarding the Final Special Assessment Roll Oxford Court Special Assessment District. Following the Board of Review session to hear appeals and a May 17, 2011 public hearing in response to the Initiatory Petition filed with the City by the majority of the homeowners with frontage on Oxford Court, for the purpose of installing curb and gutter, City Council adopted a resolution to establish a frontage on Oxford Court, for the purpose of installing curb and gutter, City Council adopted a resolution to establish a special assessment district for the Oxford Court Curb and Gutter project. Upon completion of the project the City Clerk certified the true copy of costs of \$14,865.84 or \$18.77 per front foot of Oxford Court, for curb and gutter in the District. The City Assessor has certified and confirmed the Final Special Assessment Roll Oxford Court Special Assessment District to City Council, including Council's resolved directive that the special assessments shall be paid in seven (7) annual installments with interest accruing on the unpaid portion of the special assessment at the rate of 4.3% per annum.

MOTION by Hornkohl, second by Zaring to adopt, approve and certify the Final Special Assessment Roll Oxford Court Special Assessment District, at a cost of \$14,865.84 or \$18.77 per front foot of Oxford Court, which may be paid in full within thirty (30) days of the final adoption date of the resolution or paid in seven (7) annual installments and interest shall accrue on the unpaid portion of the special assessment at the rate of 4.3% per annum. Discussion followed.

With a roll call vote this motion passed, 6-1.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, and Mack
NAYS: Marshall

CONSIDERATION OF STREET VACATION REQUEST, MANISTEE AREA PUBLIC SCHOOLS.

A request has been received from the Manistee Area Public Schools to vacate portions of streets located within the Hadsall Village Subdivision (Manistee High School Campus). The High School was constructed in the Hadsall Village Subdivision. The School was constructed over platted streets and by vacating the streets it cleans up property issues. The School owns all of the property within the Hadsall Village Subdivision.

The Planning Commission reviewed this request at their meeting on September 1, 2011 and recommends approval. The City Attorney has reviewed and approved the prepared resolution.

MOTION by Hornkohl, second by Kenny to authorize the Mayor and City Clerk to sign a resolution to vacate portions of streets located within the Hadsall Village Subdivision; and authorize the City Clerk to record the resolution with the Register of Deeds and file it with the State of Michigan.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall
NAYS: None

CONSIDERATION OF A RESOLUTION, BASIC LIFE SUPPORT / TRANSPORT LEVEL OF SERVICE.

The State of Michigan requires that City Council adopt a resolution supporting Basic Life Support / Transport level of service on an annual basis. Under required agency criteria the State requires documents related to the official types of legal organization of the service, this resolution satisfies that requirement.

MOTION by Haydon, second by Cote to adopt a resolution supporting Basic Life Support / Transport level of service for the Manistee City Fire Department.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall
NAYS: None

CONSIDERATION OF RESCHEDULING THE OCTOBER 3, 2011 COUNCIL MEETING DATE.

The City Council approved the schedule for regular meetings and work sessions for the year 2011 last November. At that time it was believed that the Michigan Municipal League Annual Convention would be starting on Tuesday, October 4, so the City Council meeting date was changed to Monday, October 3, 2011 to allow Councilmembers to attend the convention.

However, the MML has changed the starting date of their convention to Wednesday this year. Therefore, the City Clerk has recommended changing the date of the first meeting in October 2011 back to Tuesday, October 4, 2011.

MOTION by Hornkohl, second by Kenny to change the date of the first Regular Meeting in October 2011 back to Tuesday, October 4, 2011.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall
NAYS: None

CONSIDERATION OF A RESOLUTION, BEACH HOUSE GRANT APPLICATION.

In March of 2011 City Council approved a grant application to the Michigan Natural Resources Trust

Fund in the amount of \$300,000 to assist with replacing the First Street Beach House. The preliminary review of the application by MNRTF identifies several opportunities for the City to increase their application score. The item being considered this evening is a resolution increasing the local match from 25% (\$100,000) to 26% (\$104,000) to obtain increased points.

MOTION by Kenny, second by Haydon to adopt a Resolution of Support to the Michigan Natural Resources Trust Fund increasing its local match commitment from 25% to 26% for the First Street Beach House grant application; and further authorize the Mayor and City Clerk to execute the resolution.

Deisch informed Council that by increasing our local match to 30%, we would receive 20 additional points, thereby increasing our odds of being awarded grant money. This would increase the City's overall commitment by \$20,000 (\$120,000 total). Funds are available internally without using Capital Improvement Funds. He asked Council to consider raising the local match to 30%.

MOTION by Hornkohl, second by Zaring to *amend* the original motion to increase the local match from 26% to 30%.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall
NAYS: None

Roll call on the *original* motion (increasing local match from 25% to 26%) failed, 1-6.

AYES: Marshall
NAYS: Kenny, Cote, Hornkohl, Haydon, Zaring, and Mack

Discussion held whether it was understood what they were voting on.

MOTION by Marshall, second by Haydon to *reconsider* the original motion.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall
NAYS: None

MOTION by Kenny, second by Zaring to re-vote the *original* motion with the local match increasing from 25% to 30%.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall
NAYS: None

CONSIDERATION OF APPLICATIONS TO BOARDS AND COMMISSIONS.

The City Clerk has taken action to advertise vacancies on the Board of Canvassers, Brownfield Redevelopment Authority, Compensation Commission, Historic District Commission, Parks & Beautification Commission, Planning Commission, Ramsdell Theatre Governing Authority and the Zoning Board of Appeals. The following applications have been received:

BOARD OF CANVASSERS - One vacancy, Republican member, term ending 12/31/14; Council appointment.

none received

BROWNFIELD REDEVELOPMENT AUTHORITY - Three vacancies, two terms ending 06/30/13 and one term ending 06/30/14; Mayoral appointment.

none received

COMPENSATION COMMISSION – Two vacancies, terms ending 09/30/14 and 09/30/15; Mayoral appointment.

none received

HISTORIC DISTRICT COMMISSION – One vacancy, term ending 02/28/14; Council appointment.

none received

PARKS & BEAUTIFICATION COMMISSION – Two vacancies, one unexpired term ending 06/30/12 and one three year term ending 06/30/14; Mayoral appointment.

none received

PLANNING COMMISSION – Three vacancies, three year terms ending 10/31/14; Mayoral appointment.

*Roger Yoder, 225 Seventh Street

*Bill Dean, 282 Lighthouse Circle

*Maureen Barry, 230 Lighthouse Way S

RAMSDELL THEATRE GOVERNING AUTHORITY – One vacancy, three year term ending 06/30/14; Mayoral appointment.

none received

ZONING BOARD OF APPEALS – One vacancy (alternate member), term expiring 05/31/13; Mayoral appointment.

Stanton Haner, 508 ½ Davis Street

*Incumbent

Mayor Mack appointed Roger Yoder - 225 Seventh Street, Bill Dean – 282 Lighthouse Circle, and

Maureen Barry – 230 Lighthouse Way S. to the Planning Commission for three year terms ending 10/31/14. MOTION by Haydon, second by Kenny to support the Mayor’s appointments to the Planning Commission.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall

NAYS: None

Mack appointed Stanton Haner – 508 ½ Davis Street as an alternate member to the Zoning Board of Appeals for a term expiring 5/31/13. MOTION by Haydon, second by Hornkohl to support the Mayor’s appointment to the Zoning Board of Appeals.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall

NAYS: None

A REPORT FROM THE ALLIANCE FOR ECONOMIC SUCCESS.

Ms. Cyndy Fuller reported on the activities of the Alliance for Economic Success and responded to questions the Council had regarding their activities.

CITIZEN COMMENT.

None received.

OFFICIALS AND STAFF.

None received.

COUNCILMEMBERS.

Haydon gave an update on the Father Marquette death site. She and Bob Adams have been working on this and believe there is supportive evidence that he did die in Manistee. They are looking for Council’s support to place a rock marker and plaque at the site yet this year, and then have a dedication ceremony in May 2012. There would be no cost to the City. Mayor Mack asked that this be placed on the 10/4/11 agenda to approve a resolution of support.

Mack stated that he has been nominated to serve a three year term on the MML Board of Directors and will be voted in at the Annual Convention in October.

CONSIDERATION OF ADJOURNING INTO AN EXECUTIVE SESSION.

City Manager Mitch Deisch has requested an Executive Session this evening as permitted by the Open Meetings Act, Section 8 (c) to discuss contract negotiations with the United Steel Workers, the International Association of Fire Fighters, the Police Officers Association of Michigan, and the

Command Officers Association of Michigan.

MOTION by Hornkohl, second by Haydon to adjourn to Executive Session. Time: 8:52 p.m.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall

NAYS: None

MOTION by Kenny, second by Haydon to return to Regular Session. Time: 9:24 p.m.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall

NAYS: None

CONSIDERATION OF FOUR ONE-YEAR COLLECTIVE BARGAINING AGREEMENTS WITH THE USW, IAFF, POAM AND COAM UNIONS.

MOTION by Kenny, second by Haydon to approve four one-year collective bargaining agreements (7/1/11 – 6/30/12) with the United Steel Workers, International Association of Fire Fighters, Police Officers of Michigan and Command Officers of Michigan; and authorize the Mayor and Clerk to execute the documents.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Cote, Hornkohl, Haydon, Zaring, Mack, and Marshall

NAYS: None

ADJOURN.

MOTION to adjourn was made by Kenny, second by Cote. Meeting adjourned at 9:25 p.m.

Michelle Wright CMC/CPFA, MiCPT
City Clerk/Deputy Treasurer