



**CITY OF WALLED LAKE
REGULAR COUNCIL MEETING**

**AND
PUBLIC HEARING
TUESDAY, MAY 15, 2018
7:30 P.M.**

The Meeting was called to order at 7:30 p.m. by Mayor Ackley.

Pledge of Allegiance led by Mayor Ackley.

Invocation led by Mayor Pro Tem Owsinek.

ROLL CALL: Mayor Ackley, Mayor Pro Tem Owsinek, Council Member Ambrose, Council Member Costanzo, Council Member Loch, Council Member Lublin, Council Member Robertson

There being a quorum present, the meeting was declared in session.

OTHERS PRESENT: City Manager Whitt, Assistant City Manager Pesta, Police Chief Shakinis, Fire Chief Coomer, Finance Director Coogan, City Attorney Vanerian, and City Clerk Stuart

PUBLIC HEARING

1. 2019 Fiscal Year Budget Appropriations

Finance Director Coogan explained the City Council strategically utilized funds without accruing any debt. Ms. Coogan explained the 2019 budget includes a \$460,000 outlay from the 2018 budget for the trailway. Ms. Coogan explained City Council made a sacrifice of a new piece of Public Safety equipment for the trailway obligation of \$460,000.

Open Public Hearing 7:35 p.m.

Darlene Ciampa, 1717 Ashstan – explained she is favor of the trailway and is in favor of spending \$460,000 to fund the walking trail.

Susan Helke, 1361 Shaw – explained the City redesigned the parking lot two years ago and 10% raises for employees. Mrs. Helke questioned whether the purchase of a \$600,000 pumper truck for the fire department was necessary, so she asked, if that fire truck was necessary why was financing of the fire truck not reviewed?

City Manager Whitt explained that the City was provided an award from the Government Finance Officers Association and there is a timeline with the submittal of follow-up documents. Manager Whitt explained at the next council meeting the approval of the budget will be held because there is an extra 30 days needed to meet the finalize demands for those documents required for the award. Manager Whitt also explained, this will provide additional opportunities for the public to speak on the budget and for anyone to meet with him to discuss any items concerning the budget before approval.

Mayor Ackley asked if the budget proposal will be on the website. Manager Whitt said yes.

Close Public Hearing 7:39 p.m.

REQUESTS FOR AGENDA CHANGES:

Mayor Pro Tem Owsinek requested to add a resolution recommending enclosure of the ditch along E. West Maple Road in front of the Public Safety Campus. Mayor Ackley added as number 8 under New Business.

City Attorney Vanerian requested to add a Closed Session to discuss a pending litigation against the city. Mayor Ackley added as item number 1 under Attorney Report.

Council Member Costanzo requested to add to Unfinished Business the posting of agendas to the city website. Mayor Ackley added as number 3 to Unfinished Business. Mr. Costanzo requested to add the discussion of the Banks Dolbeer Committee. Mayor Ackley explained this will be agenda item under Mayor's Report. Mr. Costanzo requested to add discussion of the City Charter to the agenda. Mayor Ackley added as number 9 under New Business.

APPROVAL OF THE MINUTES:

1. Regular Council Meeting Minutes of March 20, 2018

Mayor Ackley explained the March 20, 2018 minute approval was held over to this meeting for requested additional review. Mayor Ackley explained the minutes are to be a summary of the meeting not a word for word verbatim and she felt the minutes were in order for approval.

CM 5-1-18 TO APPROVE THE MARCH 20, 2018 REGULAR COUNCIL MEETING MINUTES

Motion by Robertson, seconded by Owsinek, **UNANIMOUSLY CARRIED:** To approve the March 20, 2018 Regular Council Meeting Minutes.

Roll Call Vote

Yes (7) Ambrose, Costanzo, Loch, Lublin, Owsinek, Robertson, Ackley
No (0)
Absent (0)
Abstain (0)

2. Regular Council Meeting Minutes of April 17, 2018

CM 5-2-18 TO APPROVE THE APRIL 17, 2018 REGULAR COUNCIL MEETING MINUTES

Motion by Owsinek, seconded by Robertson, MOTION CARRIED: To approve the April 17, 2018 Regular Council Meeting Minutes.

Discussion

Council Member Costanzo stated on page 25 of the packet in the minutes of the motion he made at the last meeting regarding posting the meeting agendas to the city website. Mr. Costanzo requested it at the end of his motion "starting with the May 2018 meetings".

Mr. Costanzo made motion to amend motion died due to lack of a second.

Roll Call Vote:

Yes (6) Loch, Lublin, Owsinek, Robertson, Ambrose, Ackley
No (1) Costanzo
Absent (0)
Abstain (0)

(6-1) MOTION CARRIED

AUDIENCE PARTICIPATION:

Dorothy McCallan, 751 E. Walled Lake – explained there is new home construction along Walled Lake Drive blocking traffic, bike paths, and parking areas. She thanked the Police Department and Lieutenant Delgreco for addressing the issue successfully and was happy with the response, the trucks were removed. She commended the police department for their attention to the matter.

Russ McClelland, 132 Coalmont – explained he and his neighbors filed complaints about activities on Coalmont Street. Mr. McClelland explained this issue has been decided in the courts and the result is they do not have riparian rights. He opined they are looking for code compliance with the City ordinances as it requires individuals to have riparian rights to place docks.

Manager Whitt explained he read the court's opinion, this is a civil issue there is a lawsuit and appeals will be filed it is not simple.

City Attorney Vanerian explained this is not a City ordinance issue violation. Mr. Vanerian further explained it is not the City's responsibility to enforce what Judge Bowman ordered if this is violation of the court order someone needs to go back before Judge Bowman.

Manager Whitt explained the dispute that the judge ruled there are no riparian rights for residents on Coalmont. Mr. Whitt explained until this is sorted out, the residents need to go back to the judge and ask the judge to hold the violators in contempt of court for violating the judge's order. Mr. Whitt recommended the residents ask the judge to interpret his order.

Mr. McClellan said he does not want to go back before the judge without going down all the available avenues with the City ordinances. The City ordinances already state no docks without riparian rights.

Mr. Whitt said this needs to be handled in courts. The judge has the authority to hold the violators in contempt of court not the City.

Scott Toth, 455 Sparks Lane – said he thanked the finance department for all the work in Area H. He said recently somebody from East Bay attended a local beach access meeting asking for access to utilize the neighborhood's docks. Mr. Toth explained there was a flyer placed in their mailboxes asking to rent their dock space. That is why they bought here so they had deeded access to the lake. Mr. Toth opined the ordinance appeal process should not be an easy process, be very careful when dealing with this people. Mr. Toth explained he is not in favor of rezoning the vacant the three parcels, this could be a walkable community please do not build houses on those lots.

David Luchetti, 144 Coalmont – explained it has been trying on Coalmont. Mr. Luchetti opined the city abide by their ordinances. Mr. Luchetti said the "No Turn on Red Sign" on West Road and Pontiac Trail has been knocked down or removed, no one can get in or out. Police Chief Shakinas said it was damaged in a car accident.

Sylvia Toth, 455 Sparks Lane – thanked the city staff for the work. Ms. Toth said the water was so close to the property and considered getting sand bags to protect their home. Ms. Toth explained the Vice President of East Bay Association approached them at their home to request permission to use the docks. Ms. Toth said it was explained by the Association President of East Bay the Association has \$950,000 excess of association fees. The berm is not high enough and the pump needs to be replaced. They have not been able to get into their shed as it is still under water. Ms. Toth asked who she addresses this with, the developer, the association, the City for its negligence. If the Leon Road PUD is developed their home is between two detention ponds.

Kenneth Kolke, 179 Spring Park – explained a lot of neighborhoods within the City are flooded and there is a lot of dead debris that needs to be cleaned out the ponds and drainage areas.

Mark Toth, 1111 Quinif – asked about the Medical Marijuana Licensing Ordinance and if there is police participation with the applications.

Debbie Atwell, 902 N. Pontiac Trail – said she is the wife of Mr. Atwell and they both own Erin Industries. Mrs. Atwell said they and their team are competent, professional business people who have submitted copious information for their medical marijuana licenses.

COUNCIL REPORT: None

CITY MANAGER'S REPORT:

1. Departmental / Divisional Statistical Reports

- a. Police**
- b. Fire**
- c. Code Enforcement**
- d. Finance**

-Warrant Report #5-2018

CM 5-3-18 TO RECEIVE AND FILE THE MONTHLY DEPARTMENTAL / DIVISIONAL STATISTICAL REPORTS

Motion by Loch, seconded by Owsinek, UNANIMOUSLY CARRIED: To receive and file the monthly Departmental / Divisional Statistical Reports.

Discussion

Council Member Costanzo said he will ask questions then yield the floor after his questions and answer. The check disbursement reports its more of an inquiry at the February 1st meeting at the fire station we had a video recording set up, large televisions large cameras as well as an audio sound system, I still haven't seen a check disbursement for that event 90 days ago. I was wondering if we have we received a check on that or how much and who did the services and how much will that cost the city.

City Manager Whitt asked for clarification.

Mr. Costanzo asked who filmed the meeting and how much it cost the city for that event. Mr. Costanzo explained he has not seen a check disbursement come across yet.

City Manager Whitt explained he did not have the information available at the council meeting and suggested Mr. Costanzo meet with him the following day at 10:00 a.m. at city hall to go over the paperwork. Manager Whitt explained that he ordered the recording.

Council Member Costanzo asked who performed the work, who was the company that provided the camera system and audio system.

City Manager Whitt explained he will provide time the following afternoon and provide the information to Mr. Costanzo is looking for. Council Member Costanzo asked if the services had been paid for yet. City Manager Whitt explained again to Mr. Costanzo to come to the city office and he will provide the information.

Council Member Costanzo said he had additional questions and a point of inquiry then he would yield the floor. Mr. Costanzo said page 49 of the packet shows a city council advertisement \$414.76 what exactly is the city council advertising? What expense is that? Finance Director Coogan explained it is for advertising for the budget public hearing.

City Manager Whitt explained to Council Member Costanzo that the city budgets classified advertisements, so they can be charged to appropriate division or department line item for publications. Manager Whitt stated Mr. Costanzo is misstating information as the City Council did not advertise. Mr. Whitt explained that the City Administration advertises on behalf of the City Council, Planning Commission, or the Zoning Board of Appeals. Mr. Whitt explained further that those items are charged to a certain line item because that is the line item established in the city's budget.

Council Member Costanzo said he had a few more questions then he will yield the floor. Page 55 shows \$650.00 to D&L Outdoor for lawn cutting he said it seemed odd when the City has DPW to cut the grass.

Finance Director Coogan explained this this routine expenditure is for a company the City utilized for the property owners who are in violation of the ordinance for property maintenance, not maintaining their lawns. DPW handles the City owned properties.

City Manager Whitt explained to Council Member Costanzo that the City makes an effort to recover these kinds of fees by invoicing the property owners, and if not collected the fees are placed on the owners' taxes.

Council Member Costanzo said the last two questions go back to the discussion the gentleman had earlier during audience participation, entering into the medical marijuana field, and concerns of safety that several residents had expressed. How many officers are on the force, what is the total makeup of the entire force full-time and part-time.

Police Chief Shakinis said the Department has 19 certified officers on staff.

Council Member Costanzo said this is more for the audience, on page 35 of the packet, Operating While Under the Influence of Liquor and Drugs is up over 150% from April of last year. Council Member Costanzo opined this is a substantial increase in a years' time compared to last year and then stated, "I yield the floor."

Roll Call Vote:

Yes (7) Loch, Lublin, Owsinek, Robertson, Ambrose, Costanzo, Ackley
No (0)
Absent (0)
Abstain (0)

City Manager Whitt asked the railway representative, Finance Director Coogan to provide an update and the money that is obligated by the City.

Finance Director Coogan explained the grant application requires a 50% match, Oakland County has been soliciting a donor, but no commitment has been made yet. The RFP is still being organized. Ms. Coogan said the City has been successful in including the trailhead in the grant application, the City Consultant Engineer had to step forward because the railway engineer was not aggressive enough in including the trailhead.

City Manager Whitt said the bridge was a cost over \$5 Million dollars. Manager Whitt opined the people of Walled Lake should not have to pay 1/3 it should be based on community's population not divided by 3 the number of participating communities. The trail is operational in Walled Lake.

CORRESPONDENCE: None

ATTORNEY'S REPORT:

1. Closed Session Request on Pending Labor Litigation

**CM 5-4-18 MOTION TO ENTER INTO CLOSED SESSION TO DISCUSS
PENDING LABOR LITIGATION PURSUANT TO SECTION 8 (E)
OF THE OPEN MEETINGS ACT (OMA)**

Motion by Owsinek, seconded Robertson, UNANIMOUSLY CARRIED: To enter into closed session to discuss pending labor litigation pursuant to Section 8(e) of the Open Meetings Act (OMA).

Roll Call Vote

Yes (7)
No (0)
Absent (0)
Abstain (0)

UNFINISHED BUSINESS:

1. Second Reading C-336-18 Amendment to Marijuana Facility Business Licensing Ordinance

CM 5-5-18 MOTION TO APPROVE SECOND READING OF C-336-18 AN ORDINANCE TO AMEND CHAPTER 18 "BUSINESS", OF THE CITY OF WALLED LAKE CODE OF ORDINANCES BY AMENDING ARTICLE XI "MEDICAL MARIJUANA FACILITIES" SECTION 18-356(A) TO INSERT THE TOTAL NUMBER AND DISTRICT PLACEMENT OF MARIJUANA FACILITIES AS PREVIOUSLY APPROVED BY CITY COUNCIL

Motion by Owsinek, seconded by Robertson, MOTION CARRIED: To approve second reading C-336-18 an ordinance to amend Chapter 18 "Business", of the City of Walled Lake Code of Ordinances by amending Article XI "Medical Marijuana Facilities" Section 18-356(A) to insert the total number and district placement of marijuana facilities as previously approved by City Council.

Discussion

Council Member Costanzo said the council is still writing the rules. Mr. Costanzo explained the application fee amounts are in the ordinance and questioned are the applicants going to be required to pay the \$5,000 fee. They have already started submitting applications April 2, 2018 and those who submitted applications, will they be required to pay the fee.

City Attorney Vanerian explained the only people who are required to pay the yearly operating fee of \$5,000 are the applicants who get the zoning approval, the state approval, and the local business. Once they get all three items with approvals, then they will be approved to operate in the city. Then those are the people who will be paying the \$5,000 a year. There is an application fee to submit the application and have it reviewed but the \$5,000 per year operating is just for those who obtain all the approvals they need and are up and running.

Mayor Ackley asked if this was according to State law. City Attorney Vanerian said yes.

Council Member Costanzo said the ordinance calls for the site plan to be reviewed by the Development Coordinator. Council Member Costanzo asked who the City's Development Coordinator who is will be approving the site plans. City Manager Whitt explained to Council Member Costanzo that he is in charge of the process and that responsibility falls to his office, with the manager having the power to assign a designee.

Mayor Ackley is there is a site plan with new construction it will go before the Planning Commission.

Council Member Costanzo said the reason he asked is the ordinance submitted in January, section 6, amendment 2 says it will be reviewed by the development coordinator it didn't say

anything about going to the Planning Commission, it was vague it did not look like it was going to the Planning Commission.

Mayor Ackley said any time something is build in the city, it has to go before the Planning Commission, it is new development.

Council Member Costanzo says the ordinance passed in January reads it was the going before the Development Coordinator not the Planning Commission.

Mayor Ackley said if you are gong to build, you have to go before the Planning Commission.

Mayor Pro Tem Owsinek explained all the ordinances need to be read you cannot cherry pick one or two items from each ordinance, they work together.

Council Member Costanzo said the last question is on page 72, reads "*a council member has to abstain*", why does a council member have to abstain if they are on the Planning Commission.

Mayor Ackley why are you on 72, we're not there yet.

Attorney Vanerian agreed and reiterated the meeting agenda is not there yet.

Council Member Costanzo said he now yielded the floor.

Roll Call Vote

| | |
|-------------|---|
| Yes (6) | Owsinek, Robertson, Ambrose, Loch, Lublin, Ackley |
| No (1) | Costanzo |
| Absent (0) | |
| Abstain (0) | |

(6-1) MOTION CARRIED

**2. First Reading C-337-18 Amendment to Marijuana Facility Zoning Ordinance:
Appeal Process**

CM 5-6-18 MOTION TO APPROVE FIRST READING C-337-18 AN ORDINANCE TO AMEND CHAPTER 51, "ZONING", OF TITLE V, "ZONING AND PLANNING", THE CITY OF WALLED LAKE ZONING ORDINANCE, TO AMEND ARTICLE 21.00 "GENERAL PROVISIONS", SECTION 21.49 "MARIJUANA FACILITIES" BY ADOPTING ADDITIONAL SUBSECTIONS AS PROVIDED BY THIS ORDINANCE

Motion by Loch, seconded by Lublin, UNANIMOUSLY CARRIED: To approve first reading C-337-18 an ordinance to amend Chapter 51, "Zoning" of Title V, "Zoning and Planning", the City of Walled Lake Zoning Ordinance, to amend Article 21.00 "General Provisions", Section 21.49 "Marijuana Facilities" by adopting additional subsections as provided by this ordinance.

City Attorney Vanerian said the current ordinance reads for the Zoning Board of Appeals (ZBA) to hear any appeals from applicants. Mr. Vanerian explained the Zoning Enabling Act provides for the City Council to act as the Zoning Board of Appeals and State law does allow the City Council to remove the appeal process from the ZBA and place with City Council.

City Attorney Vanerian explained the State has a prequalification process and the City ordinance requires the applicant to provide the State's preliminary approval as a requirement to be approved locally. Mr. Vanerian explained the State does extensive and very stringent background and criminal background checks and denies applicants if any items are questionable. This proposed amendment seeks to blend the State process with the City's local ordinance process and deny applicants that do not qualify under the State process and also shorten the site plan approval to 180 days to qualify with the State. If the applicant receives State preliminary approval and local approval, then applicants move forward for a Business Operating License submittal and the State will also review the facility.

Council Member Costanzo asked why the Council would wish to remove the appeal process from the ZBA, that is their role.

Mayor Ackley explained the City Attorney provided an extensive explanation this is a different type of situation than a variance request that normally comes in front of the ZBA. Mayor Ackley said Council has heard from the community and some people are adamant that it is not beneficial to the city and its harmful. Mayor Ackley opined that the Council would want to keep control of something like this.

Mayor Pro Tem Owsinek explained having been a member of the Zoning Board of Appeals (ZBA), the ZBA is made up of non-elected individuals who have been appointed by the Mayor. This proposed amendment puts the Medical Marijuana Facility appeal process in the hands of elected officials who are accountable to the people. Mayor Pro Tem Owsinek further explained in regard to any member who is an *ex officio* to the Planning Commission would be precluded from acting in this capacity because that person having sat on the Planning Commission would have extra knowledge and he should be precluded from having his opinion taint an otherwise unbiased board.

City Attorney Vanerian agreed and said that is State law requirement.

Council Member Costanzo made a motion to change the 180 days to 270. Motion died due to lack of support.

Roll Call Vote

Yes (7) Robertson, Ambrose, Costanzo, Loch, Lublin, Owsinek, Ackley
No (0)
Absent (0)
Abstain (0)

3. City Meeting Agendas to Be Posted to City Website

City Manager Whitt explained his intent is post agendas to the City's website. Manager Whitt further explained the date and times of city meetings are posted as required. Manager Whitt opined by law, the meeting agendas do not have to be posted and posting of agendas to soon may be subject to change just as the agenda had changed this evening with the 4 or 5 added agenda items.

NEW BUSINESS:

1. Proposed Resolution 2018-23 Changing the Adoption Date of the 2019-2020 Budget and Levy of taxes

CM 5-7-18 MOTION TO APPROVE RESOLUTION 2018-23 A RESOLUTION RESCHEDULING THE FISCAL YEAR BUDGET RESOLUTION ADOPTION TO THE REGULAR COUNCIL MEETING OF TUESDAY, JUNE 19, 2018

Motion by Lublin, seconded by Owsinek, UNANIMOUSLY CARRIED: To approve resolution 2018-23 a resolution rescheduling the Fiscal Year Budget Resolution Adoption to the Regular Meeting of Tuesday, June 19, 2018

Roll Call Vote

Yes (7) Ambrose, Costanzo, Loch, Lublin, Owsinek, Robertson, Ackley
No (0)
Absent (0)
Abstain (0)

2. Proposed Resolution 2018-24 Interlocal agreement with Charter Township of Highland to coordinate residential transportation services

CM 5-8-18 MOTION TO APPROVE RESOLUTION 2018-24 A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT WITH THE CHARTER TOWNSHIP OF HIGHLAND TO COORDINATE THE OPERATION OF THE RESIDENTIAL TRANSPORTATION PROGRAM

Motion by Lublin, seconded by Ambrose, UNANIMOUSLY CARRIED: To approve resolution 2018-24 a resolution authorizing the City Manager to execute an Interlocal Agreement with the Charter Township of Highland to coordinate the operation of the residential transportation program.

Discussion

City Manager Whitt explained the City is going to coordinate to provide a better method of operating the transportation program, this will improve the system. It is not a personal taxi service, it is a service resident's need. We believe a professional dispatch service is a better way and combining services to make it better and more efficient.

Finance Director Coogan explains Highland Township has a dedicated staff person to operate their system, registering the riders into the program, the database will pull right up quickly and more effectively.

Council Member Costanzo asked how this will affect the fees the residents pay. He said he visited Highland Township's website and their fees are higher. Finance Director Coogan explained it will not.

Council Member Costanzo asked if the City will be losing the tax credits. Finance Director said yes, when coordinating with Highland the bus number increases from one to five because Highland Township has four buses. City Manager Whitt explained the tax credits operational credits will be issued to Highland Township.

Roll Call Vote

Yes (7) Costanzo, Loch, Lublin, Owsinek, Robertson, Ambrose, Ackley
No (0)
Absent (0)
Abstain (0)

3. Proposed Resolution 2018-25 Oakland County West Niles Virus Fund Program

CM 5-9-18 MOTION TO APPROVE RESOLUTION 2018-25 A RESOLUTION TO REQUEST REIMBURSEMENT OF ELIGIBLE MOSQUITO CONTROL ACTIVITY UNDER OAKLAND COUNTY'S WEST NILE VIRUS FUND PROGRAM

Motion by Owsinek, seconded by Robertson, UNANIMOUSLY CARRIED: To approve resolution 2018-25 a resolution to request reimbursement of eligible mosquito control activity under Oakland County's West Nile Virus Fund Program.

Roll Call Vote

Yes (7) Loch, Lublin, Owsinek, Robertson, Ambrose, Costanzo, Ackley
No (0)
Absent (0)
Abstain (0)

**4. First Reading C-338-18 Amendment to Zoning Ordinance Section 21.10
Mechanical Unit Location**

**CM 5-10-18 MOTION TO APPROVE FIRST READING C-338-18 AN
ORDINANCE TO AMEND CHAPTER 51, "ZONING", OF TITLE
V, "ZONING AND PLANNING", THE CITY OF WALLED LAKE
ZONING ORDINANCE, ARTICLE 21.00 "GENERAL
PROVISIONS", SECTION 21.10(A)(3) "NUISANCES" TO
PROVIDE FOR LOCATION OF MECHANICAL UNITS IN SIDE
YARDS IN RESIDENTIAL DISTRICTS**

Motion by Ambrose, seconded by Owsinek, UNANIMOUSLY CARRIED: To approve first reading C-338-18 an ordinance to amend Chapter 51, "Zoning", of Title V, "Zoning and Planning", the City of Walled Lake Zoning Ordinance, Article 21.00 "General Provisions", Section 21.10 (A)(3) "Nuisances" to provide for location of mechanical units in the side yards in residential districts.

Roll Call Vote

Yes (7) Lublin, Owsinek, Robertson, Ambrose, Costanzo, Loch, Ackley
No (0)
Absent (0)
Abstain (0)

5. Lot Split Recommendation from Planning Commission 416/430 Nicolet

**CM 5-11-18 MOTION TO APPROVE PLANNING COMMISSION
RECOMMENDATION FOR LOT SPLIT FOR 416/430 NICOLET**

Motion by Ambrose, seconded by Robertson, UNANIMOUSLY CARRIED: To approve Planning Commission recommendation for lot split for 416/430 Nicolet.

Roll Call Vote

Yes (7) Owsinek, Robertson, Ambrose, Costanzo, Loch, Lublin, Ackley
No (0)
Absent (0)
Abstain (0)

6. Rezoning Recommendation from Planning Commission 1272 E. West Maple Road

CM 5-12-18 MOTION TO APPROVE PLANNING COMMISSION RECOMMENDATION FOR REZONING OF 1272 E. WEST MAPLE ROAD FROM RM-1 TO C-2 AND NO APPROVAL ON ANY PENDING LICENSE THAT HAS BEEN APPLIED FOR

Motion by Owsinek, seconded by Ambrose, MOTION CARRIED: To approve Planning Commission recommendation for rezoning of 1272 E. West Maple Road from RM-1 to C-2 and no approval on any pending license that has been applied for.

Discussion

Council Member Costanzo asked if this site has applied for a medical marijuana facility.

Mayor Pro Tem Owsinek explained the request before Council is for rezoning only there is approval being granted for any pending license.

Manager Whitt explained further the request and motion is to rezone only there is not a request for approval or denial for a marijuana license. Manager Whitt explained Council should not base their decision on the intent of the owner. He opined that what is proposed in the future will be decided in the future.

Roll Call Vote

| | |
|-------------|---|
| Yes (6) | Robertson, Ambrose, Loch, Lublin, Owsinek, Ackley |
| No (1) | Costanzo |
| Absent (0) | |
| Abstain (0) | |

(6-1) MOTION CARRIED

7. Rezoning Recommendation from Planning Commission Vacant Land Three (3) parcels on E. Walled Lake Drive

CM 5-13-18 MOTION TO NOT APPROVE PLANNING COMMISSION RECOMMENDATION FOR REZONING OF THREE (3) VACANT PARCELS ON E. WALLED LAKE DRIVE

Motion by Robertson, seconded by Costanzo, UNANIMOUSLY CARRIED: To not approve Planning Commission's recommendation for rezoning of three (3) vacant parcels on E. Walled Lake Drive.

Discussion

Council Member Costanzo opined the reason to reject this recommendation is this request is taking a third of the downtown area away from commercial to residential.

City Manager Whitt explained as a voting member of the Planning Commission he voted no on this request.

Mayor Pro Tem Owsinek said as a member of the Planning Commission as well, he made the motion specific to recommend bringing request before City Council. He explained it is Council's obligation to decide the rezoning of this parcel and his personal recommendation is to leave as a C-3 zoning.

City Attorney Vanerian explained Council may choose to take no action, however because it here before Council he recommends Council take some form of action.

City Manager Whitt explained as parliamentary procedure Council needs to vote on motion that was seconded and then make a separate motion if they choose to deny.

Roll Call Vote

Yes (7) Ambrose, Costanzo, Loch, Lublin, Owsinek, Robertson, Ackley
No (0)
Absent (0)
Abstain (0)

**CM 5-14-18 MOTION TO REJECT THE PLANNING COMMISSIONS
RECOMMENDATION FOR REZONING AND KEEP LOTS
ZONED C-3 AS PER THE MASTER PLAN**

Motion by Costanzo, seconded by Loch, UNANIMOUSLY CARRIED: To reject the Planning Commission's recommendation for rezoning and keep lots zoned C-3 as Per the Master Plan.

Roll Call Vote

Yes (7) Costanzo, Loch, Lublin, Owsinek, Robertson, Ambrose, Ackley
No (0)
Absent (0)
Abstain (0)

8. Proposed Resolution 2018-26 Re-Appropriation of \$30,000 of cost savings to enclose ditch along Maple Road in front of the Public Safety Campus

CM 5-15-18 MOTION TO APPROVE RESOLUTION 2018-26 A RESOLUTION RE-APPROPRIATING \$30,000 OF COST SAVINGS ON THE TOXIC CLEANUP OF 1275 E. WEST MAPLE ROAD TOWARD ENCLOSING THE DITCH ALONG MAPLE ROAD IN FRONT OF THE PUBLIC SAFETY CAMPUS

Motion by Owsinek, seconded by Ambrose, MOTION CARRIED: To approve proposed resolution 2018-26 a resolution re-appropriating \$30,000 of cost savings on the toxic cleanup at 1275 E. West Maple Road toward enclosing the ditch along Maple Road in front of the Public Safety Campus.

Discussion

Council Member Costanzo opined this project is not an urgent pressing matter.

Mayor Ackley explained her disagreement and said she witnessed individuals who have attended the ceremonies in front of City Hall in the past, have had issues maneuvering the ditch. Mayor Ackley further explained this will be a cost savings in the future decreasing the maintenance cost and improving the safety.

City Manager Whitt explained there is no ditch in front of the Fire Station and the ditch alongside the Fire Station was recently enclosed. Manager Whitt said the city consultant engineer recommended the project as there was a cost savings from the abatement and it is a safety issue that can be addressed. These funds are not a new funds they exist because of a cost savings and they can be re-appropriated to address this safety concern.

Roll Call Vote

| | |
|-------------|---|
| Yes (6) | Loch, Lublin, Owsinek, Robertson, Ambrose, Ackley |
| No (1) | Costanzo |
| Absent (0) | |
| Abstain (0) | |

(6-1) MOTION CARRIED

9. City Charter Revisions

Council Member Costanzo asked the City Attorney how the City Charter is amended. Mr. Costanzo said there was activity removing a duly elected city councilmember under the Charter. In reviewing the Charter, I am not sure, it can be interpreted multiple ways whether Council can remove or not. I would like to know what can be done to revise the Charter.

City Attorney Vanerian explained a Charter amendment can only be done by the vote of the people. Mr. Vanerian explained the process begins with City Council; to start the process, then

preparing proposed ballot language and then it goes before the voters on a ballot for proposed amendment approval or denial. Mr. Vanerian further explained the ballot language is reviewed for clarity by the Attorney General's Office and the Governor's Office to ensure State legal requirements before being placed on the ballot to the voters.

Mr. Costanzo asked if the City Charter can be posted on the city website for public knowledge as he obtained his copy from the Library.

City Manager Whitt stated to Council Member Costanzo; "I am not sure what you want to take out, what you just referred to for City Council Members is an ethics provision." Mr. Whitt explained that it sounded like Council Member Costanzo didn't want an ethics provision in the charter to have council members held accountable as elected officials. Mr. Whitt stated he was not sure the Mayor should not put that on the table and asked if Council Member Costanzo wanted to take away the authority of the council to hold council members accountable for being ethical. Mr. Whitt opined that's that the provision is related to ethics, that it is a provision in every charter in the State of Michigan; and that Council Member Costanzo suggested it should be changed.

Mayor Ackley that is what she understood as well.

Council Member Costanzo said in the Charter there are two provisions, two sections that outline the process for penalizing council members and that two of the places it refers to council action after taken to a court. Council Member Costanzo opined that he didn't think that the writers of the charter originally intended to have an individual removed, a duly elected official removed unless a court proceeding had been issued. Council Member Costanzo said he believed there is a gap in the Charter.

City Manager Whitt explained the Charter provides that any decisions made by the council can be appealed to the circuit court; the removed council member did not appeal. Mr. Whitt explained to Council Member Costanzo that the city charter has language that is similar, if not exactly the same, as the majority of the cities in Michigan and it is the same provision that has been used in the state of Michigan over and over again. Mr. Whitt restated to Council Member Costanzo that when there is unethical activity by an elected official, a governing body can remove them and that is what happened in this the city's case. Mr. Whitt stated that changing the charter does not undo that and they will be held to ethical standards.

Mayor Ackley said if you want to do away with ethics in the city make that motion and we will see where the council stands but that she would not allow an argument about going to court because the Charter outline how to do it. Mayor Ackley stated that there have other ethics violation by a council person, other communities of the state have proceeded with removals.
Mayor

Mayor Ackley explained to Council Member Costanzo that if he wanted to change the charter, make the motion.

Council Member Costanzo said he was discussing where it mentions in the Charter two separate places the penalties come after action taken a ruling by the court in this particular instance.

City Manager Whitt disagreed and stated that is not what the charter says and opined that Council Member Costanzo was misstating the charter provision for political reasons because that is not what the provision says.

Council Member Costanzo said he just wanted to know exactly what the process was.

COUNCIL COMMENTS:

Council Member Loch thanked city staff for the efforts.

Council Member Lublin said the ditching alongside the Fire Department is done however the area for the Farmer's Market has shrunk he asked for it to be reviewed.

Council Member Robertson reminded everyone of the Memorial Day parade on the 27 th and it is one of the best parades.

Council Member Costanzo asked how does he order a city councilman shirt? Manager Whitt said you call them up an order it and pay for it.

Council Member Ambrose thanked the city administration, city consult engineer, and all the people who attend the meeting and discussions concerning district Area H and the water problem area. He felt the meeting was very beneficial both from a city standpoint and from the resident standpoint. Items are moving in the right direction. Mr. Ambrose explained this is a matter of making sure we address all the issues and do our due diligence and get it right. It is unfortunate, and he apologize for past administration or past council members or whatever that we are now having to deal with today. It is what it is.

Mayor Pro Tem Owsinek said the ditch next to the Fire Department is now enclosed and he noticed an area of the public safety parking lot that has a gravel path from the curb and over to an area behind the neighboring property. He said the new curb is being driven over because people are using this gravel path. He asked if a guard rail of some kind can be placed to prevent this and further damage to the new parking lot.

City Manager Whitt opined the curbing was placed to stop full cement trucks going through the parking lot because they do not want to open their gates. The neighbors have recreated a pathway that was never in existence anyway. The neighbors removed a tree recently hopefully to make more parking for their own employees.

MAYOR'S REPORT

Mayor Ackley reported prior City Clerk Ruby Lewandowski passed away. Mayor Ackley explained she was contacted by the Lakes Area Chamber for a volunteer to nominate someone

who has devoted extensive time to the City. She asked for the terribly overgrown grass at the Community Education Building to be addressed.

Mayor Ackley said at the last meeting she was asked to appoint a committee to address the Banks Dolbeer Home. Mayor Ackley appointed Council Member Ambrose as Chairman, Mayor Pro Owsinek, Council Member Robertson and resident Janice Leonhardt to be on the committee.

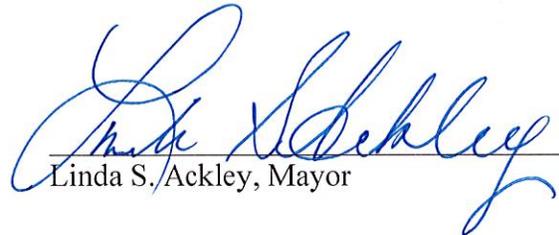
City Manager Whitt opined there had been thousands of dollars given to the Banks Dolbeer House and there have been no results. The Committee needs to work this out because this project is an embarrassment.

ADJOURNMENT

Meeting adjourned at 9:57 p.m.



Jennifer A. Stuart, City Clerk



Linda S. Ackley, Mayor

approved 6/19/18