

MONTROSE CITY COUNCIL REGULAR MEETING MINUTES

May 16, 2019

CALL TO ORDER: Mayor Pro-Tem Mark Richard called the regular Council meeting to order at 7:00 p.m. The meeting was held at the Montrose City Office located at 139 S. Saginaw St., Montrose.

ROLL CALL: Present Council Members were, Mayor Pro-Tem Mark Richard, Debbie Gross, Robert Arnold, Tom Bigelow, (left the meeting at 8:10 p.m.), and Ryan Heslop. Also present were City Manager Neil Rankin, City Clerk Christina Rush, and 6 citizens. Council members Mayor Colleen Brown and Christy Sanborn were recorded as absent.

PLEDGE OF ALLEGIANCE TO THE FLAG: Mayor Pro-Tem Mark Richard led the Pledge of Allegiance.

CITIZEN OF THE MONTH

1. *THE MONTH OF MAY 2019, JOANNE COCHRAN:* Joanne Cochran was not able to attend. Gross spoke about why Joanne was nominated. Miss Cochran has endless hours of dedication she gives to the kids and the community. She has remained on the athletic boosters even though her children have graduated.

2. *CHOOSE A CITIZEN OF THE MONTH FOR THE MONTH OF JULY:* Rankin suggested nominating Senator Ken Horn and State Representative Sheryl Kennedy for the Citizen of the Month for July and August for their quick response in sending a letter to help get the grant for the Genesee Street Project

- **MOTION** by Gross **SECOND** by Arnold to nominate Senator Ken Horn for Citizen of the Month for July and State Representative Sheryl Kennedy for the Citizen of the Month for the Month of August. All Ayes. Motion Carried.

PUBLIC HEARINGS:

1. *PROPOSED ORDINANCE NO. 439 RE: RENTAL UNIT INSPECTIONS ORDINANCE:* Mayor Pro-Tem Richard opened the public hearing at 7:03 pm. Chad Diffin spoke in opposition of the proposed ordinance. He stated there was a federal court case in Ohio where it was ruled that mandatory rental inspections are un-constitutional, it is invasion of the lessee's privacy, and it is in violation of the Fourth Amendment right. Diffin also said there is a State law that if the lessee makes a complaint about living conditions in the rental property, the municipality is required to inspect. Diffin agreed with the municipality being required to inspect if there is a problem. The other concern Diffin had was regarding the fees in the proposed ordinance for the inspections because there are no fees listed. Kendra Wilson wanted to know if there are issues in the City with landlords which is the reason the City is doing this. Wilson spoke about her properties in the City, stating that she takes very good care of them but is concerned about the cost. Council member Debbie Gross spoke on behalf of Landlord Sadie Leonard. Leonard wrote Gross a letter saying that her insurance company already requires a rental inspection before the properties can be insured. Leonard has concerns about her renters' rights and the City coming into their homes. There were no other questions and/or comments from the public. Mayor Pro-Tem Richard closed the public hearing and brought the regular meeting back to order at 7:08 p.m.

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PRESENTATIONS: JOHN F. O'BRIEN, PE, BCEE, DIRECTOR GENESEE CO. DIVISION OF WATER AND WASTE SERVICES: Mr. O'Brien spoke about installation of a second water service line into the City for an emergency backup. There are three options for placement of the line, the first option is to tie into the current line along M-57 by having a secondary connection, but depending on the location of a watermain break, the city could potentially still not have water during repairs. The second option is connecting the line from Seymour Rd. to Allyn Drive, and the third option would help benefit township residents as well, by hooking up through Wilson Rd. and tying in at the south side of Nichols Rd. O'Brien spoke about cost and possible avenues to take for funding of this project. O'Brien mentioned that there is potential funding and/or low interest loans, rural water finding, the Safe Water Drinking Act, or Army Core of Engineers. Richard said he thought the city already bonded 2 million dollars back in the 1980's and O'Brien said he would look into it.

REPORTS

1. **FIRE & POLICE DEPARTMENT REPORTS:** *On file at city office.* Bigelow asked if the Police Chief was at the last meeting per the police contract. Rankin said the Police Chief will be at the next meeting.

2. **SAFEBUILT INSPECTION SERVICES:** *On file at city office.*

PUBLIC COMMENTS: NONE

MATTERS OF COUNCIL ACTION

1. **APPROVAL OF 04/18/19 REGULAR MEETING MINUTES:**

- **MOTION** by Gross **SECOND** by Arnold to pass the minutes as presented. All Ayes. Motion Carried.

2. **APPROVAL OF CHECK REGISTER & TREASURER REPORT:**

- **MOTION** by Gross **SECOND** by Bigelow to pay the bills as presented. Roll Call Vote: Heslop – Aye, Gross – Aye, Arnold – Aye, Bigelow – Aye, and Mayor Pro-Tem Richard – Aye. All Ayes. Motion Carried.

3. **RE-APPOINTMENT(S) TO THE TAX BOARD OF REVIEW:** Rush reported that the Tax Board of Review appointment terms end May 30th of each year. Robert Urmetz's term is ending May 30th, 2019. Mayor Pro-Tem Richard recommended the re-appointment of Mr. Urmetz.

- **MOTION** by Bigelow **SECOND** by Arnold to re-appoint him. All Ayes. Motion Carried.

4. **STORM SEWER AGREEMENT 2019:** Rankin reported that there is a section of storm drain that is clogged due to the rain located on Erean Street. There is a general idea where the location of the blockage is, however, the city lacks the equipment to jet and/or vac it to clean it out. This storm drain connects to the county and the cost to clean it out would be solely covered by the water fund. Currently the DPW is pumping the basin down every couple of hours dependent on the amount of rain and constant running sump pumps along Erean Street.

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- **MOTION** by Bigelow **SECOND** by Heslop to approve the storm sewer agreement. Roll Call Vote: Bigelow – Aye, Heslop – Aye, Gross– Aye, Arnold – Aye, and Mayor Pro-Tem Richard – Aye. All Ayes. Motion Carried.

5. *ADOPTION OF PROPOSED ORDINANCE NO. 439 RE: RENTAL INSPECTION ORDINANCE:* Rankin said that the number of rental properties is increasing in the City. Landlords have expressed concerns about the rental ordinance and an inspector entering the properties without permission. The inspector would not enter a property if a tenant refuses the inspector access. Adoption of this ordinance would also provide a registry of rental units that have been inspected and anyone who is interested in renting a property can come to the City Office to find out if the rental unit is safe. This ordinance would be a protection for the landlord and the tenant. Rankin has spoken with SafeBuilt, the City's current building inspector, and they do rental inspections for municipalities. The fees cannot be put into place until the Ordinance is adopted and the fees would need to be established by council. The ordinance would have inspections every three years. Heslop asked how many rental properties are in the City. Rankin said the City has over 200 rental properties in the City. There was discussion about the pros and cons of requiring rental inspections.

- **MOTION** by Heslop **SECOND** by Bigelow to table until September but still have on future agendas for discussion. Roll Call Vote: All Ayes. Motion Carried.

* Council member Bigelow left the meeting at 8:10 pm.

6. *APPROVAL/DISAPPROVAL OF ROBERT ARNOLD'S ABSENCE AT THE MARCH 21, 2019 REGULAR COUNCIL MEETING*

- **MOTION** by Gross **SECOND** by Heslop to approve Robert Arnold's absence for the March meeting. All Ayes. Motion Carried.

7. *APPROVAL/DISAPPROVAL OF DEBBIE GROSS' ABSENCE AT THE APRIL 18, 2019 REGULAR COUNCIL MEETING*

- **MOTION** by Arnold **SECOND** by Heslop to approve Debbie Gross' absence at the April 18th meeting. All Ayes. Motion Carried.

8. *APPROVAL/DISAPPROVAL OF TOM BIGELOW'S ABSENCE AT THE APRIL 18, 2019 REGULAR COUNCIL MEETING*

- **MOTION** by Gross **SECOND** by Arnold that we approve Tom Bigelow's absence at the April 18th meeting. All Ayes. Motion Carried.

9. *APPROVAL OF MURPHY ELECTRICAL INVOICE IN THE AMOUNT OF \$3,369.00 FOR FIXING DECORATIVE LIGHT POLE AT CITY PARK:* Rankin reported that this is the light pole that was hit by a tree in the city park. The claim was turned into the cities insurance which was completely covered minus the \$250 deductible.

- **MOTION** by Arnold **SECOND** by Gross that we approve Murphy Electrical invoice in the amount of \$3,369.00 for fixing the decorative light pole at the City Park. Roll Call Vote:

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Gross – Aye, Heslop – Aye, Arnold – Aye, and Mayor Pro-Tem Richard – Aye. All Ayes. Motion Carried.

10. APPROVAL/DISAPPROVAL RE: REMOVAL OF DDA BOARD MEMBERS GLENN POWELL AND SHARON PERKINS: Rankin reported that we have tried to have a DDA since December but we have not had a quorum, therefore, the DDA has not been able to take care of business. Rankin mailed out letters to all of the members that read as follows:

Dear Montrose DDA Board Members,

To ensure that the Downtown Development Authority in Montrose will continue to make progress in improving the downtown and community the regular attendance of the membership at meetings is vital. Each member of the authority brings a unique perspective and with that a voice in the direction the authority wishes to pursue. However, without your voice and the lack of quorum the DDA as organization is unable to conduct business. The lack of a quorum not only effects the organization but the view of the organization's membership as time not well spent. The action of the DDA directly influences the decisions made by the council, manager and staff.

At the last scheduled DDA meeting on April 9th which was absent members for the assembly of a quorum the membership that was present suggested a letter should be sent out to all members. This letter you are receiving is to either confirm your commitment and maintain the current size of the DDA or make changes to the bylaws to reduce the membership size.

It was suggested by the Chair to hold another meeting on May 14, 2019 at 7:30am to review these DDA bylaws which would be dependent on the attendance of members at the meeting.

If you no longer wish to serve on the Montrose DDA I would request that you drop off either a letter to the City Office or send me an email at manager@cityofmontrose.us by May 7th.

Rankin said that only 2 people responded, Glenn Powell called to say he would not be able to make the meeting and Rankin spoke with Sharon Perkins in person who mentioned she would like to resign.

- ***MOTION*** by Arnold ***SECOND*** by Gross that we remove DDA Board members Glenn Powell and Sharon Perkins. Roll Call Vote: Heslop – Aye, Arnold – Aye, Gross – Aye and Mayor Pro-Tem Richard – Aye. All Ayes. Motion Carried.

11. DISCUSSION DIRECTION RE: CHANGE OF DDA BY-LAWS TO ALLOW A QUORUM: Rankin recommended changing the by-laws from requiring twelve, (12) board members to eight, (8) in order to allow the opportunity for a quorum with 5 members.

- ***MOTION*** by Arnold ***SECOND*** by Gross to change the DDA by-laws to an 8 member board instead of 12. Roll Call Vote: Gross – Aye, Heslop – Aye, Arnold – Aye, and Mayor Pro-Tem Richard – Yes. All Ayes. Motion Carried.

PUBLIC COMMENTS: NONE

REPORTS FROM BOARDS & COMMISSIONS:

DOWNTOWN DEVELOPMENT AUTHORITY BOARD: No May meeting due to no quorum. Next meeting is June 11th and the DDA will be approving their budget.

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ELECTION COMMISSION: Rush reported that due to the recent passing of Sally Arnold, the Election Commission is short one member.

GENESEE COUNTY SMALL CITIES & VILLAGES ASSOCIATION: NONE

GENESEE COUNTY WATER AND WASTE SERVICE'S ADVISORY COMMITTEE: NONE

GENESEE COUNTY METROPOLITAN ALLIANCE: Richard reported that they will be doing patchwork on I-69 in Shiawasee County west of Genesee County, so if you have business in Lansing, they will be closing it down to one lane. Recycling household hazardous waste will be June 8th. Repairs will begin on M-57, west of Montrose, east of M-13. The big major project this year for MDOT will be on I-75 & M-46 and the major project over the next 10 years is totally revamping I-69 and having more roundabouts by 2045.

PLANNING BOARD: Did not meet in May due to no business.

911 CONSORTIUM: NONE

ZONING BOARD OF APPEALS: NONE

REPORTS FROM CITY MANAGER AND CITY ATTORNEY:

CITY MANAGER: MDOT Grant for Genesee Street.

If you haven't checked your city email, in the last couple of days the city was one of 23 awarded a grant for Genesee St. of \$250,000 from MDOT. The City will be having a meeting with engineering staff and business located along this street to provide input and review the plan on May 22nd at 1:00pm.

Sale of Dump Truck

It sold on 5/9/19 for \$7,954. The sale will be completed on Monday 5/13 when we receive payment the title will be signed over.

Water Main 2nd Line Extension

John O'Brien will be here for our council meeting. As I mentioned last month the cost went from a 50%-county/ 25% township/ 25% city split to a 33% all party split between the meeting and this letter. In addition there is no meter pit in these preliminary costs. This would be significant item that should be part of the design and it will have significant costs.

Budget Workshop

I have been working with the departments to develop the 2019-2020 city budget. As I have mentioned this year it will be a 1 year adopted budget and 2 years of proposed budgets. I have used the comment feature in the excel spread sheet to be fairly user **friendly and would like to schedule a May budget workshop to get the input on council and lay out the needs and priorities of the city.**

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Bankruptcy Chapter 11 and Sav- On drugs.

Regarding the last meeting and waiving of water usage charges... Under Chapter 11 once a court provides bankruptcy protection frequently referred to as a "reorganization" bankruptcy the business is provided a stay on current debts. The courts establish a plan and the city taking any action to collect on such is considered an attempt to collect and is illegal after the issuance by the courts after a stay. The city has to open a new account and close the old. This process started in 2016 and in Sav-On's case the court issued a motion with payment in an amendment that we received in October of 2017. They claim that the water/sewer payments were \$179 but within a month of this court order CVS moved to purchase the remaining store in a stalking horse bid which is an initial bid on a debtor's assets. This is a bid given ahead of a formal auction. In this case the assets are purchased and the debts would be resolved from the proceeds of the sale. It would be after this that a motion could be filed in federal bankruptcy court after exiting Chapter 11. This would have to be filed in the Southern District Court of New York. If a scheduled creditor (the city) chooses to file a claim, a properly filed proof of claim supersedes any scheduling of that claim. Fed. R. Bankr. P. 3003(c)(4). It is the responsibility of the creditor to determine whether the claim is accurately listed on the debtor's schedules (it was not). The debtor must provide notification to those creditors whose names are added and whose claims are listed as a result of an amendment to the schedules. The notification also should advise such creditors of their right to file proofs of claim and that their failure to do so may prevent them from voting upon the debtor's plan of reorganization or participating in any distribution under that plan. As you can see the city would have more in the cost for legal proceedings than what could be recovered.

Mowing Billing/Liens

The city has a minimum bill for \$150 or if greater that amount.

Sec. 22-219. - Costs as a lien; assessment.

That the single lot cost and fees for the cutting, removal and/or destruction of growth of weeds, grass, poisonous or harmful vegetation from lots in violation of the standards established in the City Code of Ordinances, plus related inspections, and any other cost in connection shall be either the actual cost, or a minimum of \$150.00, whichever is greater, and, if not fully paid by May 1 of the following year, shall become a lien upon such property and shall be assessed and collected in the same manner as provided in the Charter of the city, wherein any cost is incurred in connection with a single lot or parcel of land. The city may hire outside contractors to perform the work to be done in this section. A 15 percent administrative fee shall be added to the subcontracting costs on invoices sent to violating property owners over and above the accounted sum of actual costs incurred by the city for the mowing tasks identified in this section.

Last year the city had only one property that was more than the \$150 fine.

Unfortunately the liens placed on these properties are not always collected especially when they go to land bank. However, what we have placed in liens over the last three years has been greater than the invoiced amount.

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Snow Removal/Snow Ordinance

In February 2016 I provided council members in their packet a report in the steps to enforce snow removal from sidewalk. This past year I had notified properties with door hangers on properties along M-57. As I concluded then the implementation, financial and policy consideration without education and enforcement burden on the public will exceed the benefit. I did get businesses to not pile snow along the sidewalk when they plowed this year however one the issues are the components of how much time has passed since accumulation has stopped. Is the snow a result of drifting? Plow trucks? I have included a copy of the report in the packet.

Marihuana Zoning

I have put together a spreadsheet that addresses the establishment of marihuana business zoning/site plan reviews. I believe it is pretty straight forward.

CITY ATTORNEY: Stout was not in attendance.

MAYOR AND COUNCIL COMMENTS: Gross asked Engineer Geric Rose from Fleis & Vandenbrink if the city could receive a proposal(s) to address minor repairs on streets before they become larger issues. Rose replied it should not be a problem, the DPW has already completed a PASER rating/street survey. Rose also mentioned that TIP is offering a second round for grant funding. Mayor Pro-Tem Richard congratulated the manager and everyone involved for obtaining the \$250,000 State grant from the Community Service Infrastructure Fund.

COMMUNICATIONS TO THE COUNCIL: *On File at City Office.*

ADJOURNMENT

- **MOTION** by Gross **SECOND** by Arnold to adjourn. All Ayes. Motion Carried.

Mayor Brown adjourned the meeting at 8:33 p.m.

Prepared by City Treasurer, Chrystal Raible