

CITY OF MONROE
REGULAR COUNCIL MEETING
MONDAY, AUGUST 17, 2009

Regular meeting of the City Council of the City of Monroe, Michigan held on Monday, August 17, 2009 at 7:30 p.m. in the City Hall Council Chambers.

Present: Council Members Paisley, McGhee, Molenda, Conner, Beneteau, Clark and Mayor Worrell.

Rosalind Boswell, City Clerk gave the invocation.

The Mayor led the pledge of allegiance to the flag.

Presentations.

Presentation by Andrea Jones, Executive Director, DDA.

Presentation by Scott Cieniawski, EPA Project Manager and Mike Alexander Michigan DEQ Project Manager.

Rosalind Boswell, Clerk Secretary reported that the agenda has been amended with two item numbers 192 and 193 and that another item, number 194, will be added at this meeting.

Public Hearings.

190 This being the date set to review and hear comments on the proposed Brownfield Plan for Site No. 22, tax parcel ID No. 58-55-69-01146-000, 721-759 N. Monroe Street there being no persons present comment and no comments on file in writing in the Clerk's Office, the Mayor declared the hearing closed.

Communications. (Communications are referred to city administration for action and report back unless otherwise noted.)

180 Communication from Mark J. Jagodzinski, Lake Erie Transit, General Manager, submitting a request to the City Council recommending the appointment of Dr. Patrick Miller to the vacant seat on the Lake Erie Transportation Commission.

181 Communication from James H. Davies, Local Officers Compensation Commission Chairman, giving a recommendation for salaries of the local elected officials of the City of Monroe.

Council Action

182 It was moved by Councilman Paisley and seconded by Councilman Beneteau that Ordinance 09-011, an Ordinance to establish public safety, fire and public utility emergency response cost recovery within the City of Monroe, be placed on its first reading and the public hearing be set for Tuesday, September 8, 2009.

Ayes: 7 Nays: 0

Motion Carried.

Proposed Ordinance No. 09-011 was then presented for the first time and laid over for its second reading and public hearing.

Consent Agenda. (All items listed under the Consent Agenda are considered to be routine by Mayor and Council and may be approved by one motion. Any item may be removed for separate discussion by a Councilperson or citizen.)

A. Approval of the Minutes of the Work Session held on, Monday, August 3, 2009, the Minutes of the Regular Meeting held on, Monday, August 3, 2009, and the Minutes of the Special Meeting held on Monday, August 10, 2009

B. Approval of payments to vendors in the amount of \$ 1,266,213.47.
Action: Bills be allowed and warrants drawn on the various accounts for their payment.

183 Fire Department Inspection Fees Resolution.

1. Communication from the Fire Chief, submitting a proposed resolution to implement an inspection fee schedule for the inspection of commercial occupancies by the Monroe Fire Department within the City of Monroe, and recommending the proposed resolution be adopted.
2. Supporting documents.
3. Action: Accept, place on file and the resolution be adopted.

184 Traffic Crash Cost Recovery Fee Structure Resolution.

1. Communication from the Chief of Police, submitting a proposed resolution to establish the fee structure for the traffic crash cost recovery ordinance that was enacted on July 6, 2009, and recommending the proposed resolution be adopted.
2. Supporting documents.
3. Action: Accept, place on file and the resolution be adopted.

185 Traffic Crash Cost Recovery Service Contract.

1. Communication from the Chief of Police, submitting the proposed contract with Cost Recovery Corporation for accident cost recovery services, and recommending that the Mayor and City Council approve the attached contract for traffic crash cost recovery services with Cost Recovery Corporation and further recommending that Council approve the City Manager to sign the agreement on its behalf.
2. Supporting documents.
3. Action: Accept, place on file and the recommendation be carried out.

186 Riverview Avenue Reconstruction – MDOT Funding Contract.

1. Communication from the Director of Engineering and Public Services, submitting a proposed resolution delineating the terms of the Riverview Avenue Reconstruction agreement and the actual agreement itself, and recommending that the attached resolution be adopted, and further recommending that the Finance Director be authorized to appropriate up to \$20,000 in funds from the Major Street Fund Balance into this project as necessary and if needed to allow for a 10% contingency in the construction costs.
2. Supporting documents.
3. Action: Accept, place on file and the resolution be adopted.

187 West Seventh Street Resurfacing – MDOT Funding Contract.

1. Communication from the Director of Engineering and Public Services, submitting a proposed resolution delineating the terms of the West Seventh Street Resurfacing agreement and the actual agreement itself, and recommending that the attached resolution be adopted, and further recommending that the Finance Director be authorized to appropriate up to \$18,000 in funds from the Major Street Fund Balance into this project as necessary and if needed to allow for a 10% contingency in the construction cost.
2. Supporting documents.
3. Action: Accept, place on file and the resolution be adopted.

188 2009 Curb Replacement and Resurfacing Program Bids.

1. Communication from the Director of Engineering and Public Services, reporting back on bids received for the 2009 Curb Replacement and Resurfacing Program, and recommending that City Council award the contract to C & D Hughes, Inc. in the amount of \$369,950.16, and that a total of \$425,000 be encumbered to include a 15% project contingency, and further recommending that the Mayor and Clerk-Treasurer be authorized to sign the contracts on behalf of the City of Monroe.
2. Supporting documents.
3. Action: Accept, place on file and the recommendation be carried out.

189 Vactor/Jet Truck Replacement Project Bids.

1. Communication from the Director of Water and Wastewater Utilities, reporting back on bids received for the purchase of a Vactor/Jet truck for the Wastewater Department, and recommending that approval of the sale of the 2001 Vactor/Jet Truck currently owned by Wastewater be granted to the Department of Public Service in the amount of \$40,000.00 and to transfer of the current Wastewater Vactor/Jet Truck to DPS, and further recommending that a purchase order in the amount of \$340,566.00 for the Wastewater Department Vactor/Jet Truck Replacement project be issued to Jack Doheny Supplies, Inc. out of Northville, MI in accordance with the bid specifications.
2. Supporting documents.
3. Action: Accept, place on file and the recommendation be carried out.

190 Eye Surgeons Associates PC, Brownfield Plan for Site No. 22. Resolution.

1. Communication from the Economic Development Director for the City & Port of Monroe, submitting a proposed resolution asking Mayor and City Council to approve the Brownfield Plan for Site No. 22, tax parcel ID No. 58-55-69-01146-000, 721-759 N. Monroe Street, and recommending that upon completion of the public hearing, the Mayor and City Council approve the Brownfield Plan for Site No. 22 and the proposed resolution.
2. Supporting documents.
3. Action: Accept, place on file and the resolution be adopted.

191 Home, Inc. Proposed Resolution.

1. Communication from the City Managers Office submitting proposed resolutions to recognize HOME, Community Supported Living Arrangements, HOME, Management Corporation, HOME, Non Profit Housing Corporation, and Monroe MI HOME Non-Profit Housing Corporation as non-

profit organizations in the Monroe community in order to apply for a gaming license from the State of Michigan Lottery Division, and recommending that the resolutions be adopted.

2. Supporting documents.
3. Action: Accept, place on file and the resolutions be adopted.

192 Transfer Ownership of a 2009 Class C-Licensed Business.

1. Communication from the City Manager's Office, reporting back on a request from Anthony Perna and Nicholas Sacco (Nino & Nick. LLC) to transfer ownership of a 2009 Class C licensed business located at 391 N. Telegraph, Monroe, MI 48162, Monroe County with dance-entertainment permit from Fresca, Inc., and recommending that City Council approve this request contingent upon all items being met as outlined by the administration, without dressing rooms, and that the City Manager be authorized to approve the request after a final inspection by the Building Department has occurred.
2. Supporting documents.
3. Action: Accept, place on file and the recommendation be carried out.

193 New Resort SDD License.

1. Communication from the City Manager's Office, reporting back on a request from Fatima Elabed for a new resort SDD license to be issued under R 436.1531(5) to be held in conjunction with an existing 2009 SDM license located at 467 Michigan Ave., Monroe, and recommending that City Council request that this application be denied based on staff findings that the current use of the subject property is zoning non-conforming, and the expansion of that use is discouraged by the City Comprehensive Plan and Zoning Ordinance.
2. Supporting documents.
3. Action: Accept, place on file and the recommendation be carried out.

194 Metropolitan Wastewater System Sewer Backup Legal Services.

1. Communication from the Director of Water & Wastewater Utilities, reporting back on a Class Action Complaint and Jury Demand related to the resulting backups/flooding that was reported due to rain events experienced around March 11, 2009, and recommending that the City enter into an agreement with Cummings, McClorey, Davis & Acho, P.L.C. to assist with the legal services related to the Class Action Complaint and Jury Demand filed under Case No. 09-027670-CZ against the City of Monroe and Monroe Metropolitan Water Pollution Control System regarding alleged flooding and invasion of property by sewage, water, etc causing material injury to properties at \$135.00/hour.
2. Supporting documents.
3. Action: Accept, place on file and the recommendation be carried

It was moved by Councilman Paisley and seconded by Councilman McGhee that items 186, 187, 188, 189, 190, 191, 192, 193 and 194 be approved as indicated and that items 183, 184 and 185 be removed and considered separately.

Ayes: 7 Nays: 0
Motion Carried.

183 The communication from the Fire Chief, submitting a proposed resolution to implement an inspection fee schedule for the inspection of commercial occupancies by the Monroe Fire Department within the City of Monroe, and recommending the proposed resolution be adopted.

Councilman Clark asked if the city had charged inspection fees in the past and how were these current proposed fees established.

Chief Mominee responded that the city has not charged commercial inspections fees in the past and that the fees were established not by the international fire code but are fees that he considers to be reasonable for the amount of time the department would spend in the field for these types of commercial inspections.

It was moved by Councilman Clark and seconded by Councilman Beneteau that item 183 be accepted, placed on file and the resolution be adopted.

Ayes: 7 Nays: 0

Motion Carried.

184 The communication from the Chief of Police, submitting a proposed resolution to establish the fee structure for the traffic crash cost recovery ordinance that was enacted on July 6, 2009, and recommending the proposed resolution be adopted.

Councilman Clark asked if this fee schedule will also cover fire department response and asked for clarification of what the fee charges will cover.

George Brown, City Manager responded that this fee schedule is for police response calls only.

Councilman Clark asked if there will be a follow-up fee schedule for traffic crash responses because the ordinance references both police and fire.

George Brown, City Manager responded that the fire department fee schedule is being worked on and that the Fire Chief has brought a preliminary schedule to a previous budget work session.

Councilman Clark asked why both fee schedules were not being presented since both are referenced in the ordinance and he pointed out some typos in the ordinance.

Chief Michrina addressed the typos and stated that most accidents are handled by one officer and in the instance that it would take more than one responder; the fee would be based on the amount of resources that are used. He further explained the cost accounting for the fee structure and how the fees will be billed first to the insurance company and if need be to the responsible party. He explained that these fees are for accidents that occur within the City of Monroe and are charged to non City of Monroe residents only.

Joe LaVelline, 1523 Dixie Drive asked how the insurance company would handle comprehensive claims and asked for confirmation that citizens of Monroe would not be included in the charges.

George Brown, City Manager stated that he could not answer as to the insurance claims but the ordinance stated that the at fault driver's insurance will be billed in all cases and that if after pursuit of claims it was determined that the insurance company was not going to pay, only non-resident's would be billed.

Councilman Clark voiced his concerns that this is only reflected to non-residents, that the fees are excessive, and that the information is incomplete.

Mayor Worrell said he thought this issue should have been brought up in March at the work session and that more work needs to be done on this issue before it should be brought to this point.

After discussion, it was moved by Councilman Molenda and seconded by Councilwoman Conner that item 184 be accepted, placed on file and the resolution be adopted.

Ayes: 5 Nays: 2 (Council Members Clark & Mayor Worrell)

Motion carried.

185 Communication from the Chief of Police, submitting the proposed contract with Cost Recovery Corporation for accident cost recovery services, and recommending that the Mayor and City Council approve the attached contract for traffic crash cost recovery services with Cost Recovery Corporation and further recommending that Council approve the City Manager to sign the agreement on its behalf.

Councilman Clark expressed concern that those who are non-residents are going to be treated differently than those who are residents and that he has concerns that Mayor and Council will have to state the position that those who are non-residents will be treated differently than those who are residents. He stated other concerns and issues with the contract.

Tom Ready, City Attorney responded that it was his recollection that it was a sense of Council at the time the ordinance was adopted, that dual consideration was favored, in favor of residents and not necessarily in favor of non-residents if insurance companies of at fault drivers didn't pay. He continued that he agrees and recognizes that it could be subject to challenge but stated on the other hand the police department is a service that is provided by the city and funded by the city's taxpayers so there is a good rational for giving a break to city residents.

Mayor Worrell expressed concern that there is only one company being considered to supply cost recovery when there may be other companies that may bid on this service and would lower the costs and he has concern with the minimum charge is 10% and a maximum is 29% and said that seems high. He further expressed concern that these issues should have been established before the fiscal year began.

Councilman Beneteau stated concern that in the CRC's Service Fee it stated that CRC shall bill and collect their fee for services from the payer but it does differentiate between resident and non-resident therefore it does not state that they will not bill residents for their administrative costs.

Chief Michrina responded that this issue had been addressed and CRC will not bill residents for administrative costs. He further explained that by ordinance and fee structure we have only authorized charges to non-residents and zero charges to residents and that since CRC bills based on a percentage of the costs, there is zero cost to the resident, which leaves zero percent.

Councilman Beneteau responded that without that being stated in the contract, it leaves the door open to billing.

Chief Michrina stated that he has no problem penciling that in.

It was moved by Councilman Molenda and seconded by Councilwoman Conner that item 185 be accepted, placed on file and the recommendation be carried out.

Ayes: 4 Nays: 3 (Council Members Beneteau, Clark and Mayor Worrell)

Motion Failed.

Tom Ready stated that with a contract it needs five (5) affirmative votes to pass.

Mayor Worrell noted that without a contract fees can not be collected and assumes that a revised version of the contract should be brought back to Council at the next meeting.

Tom Ready, City Attorney stated that suggestions and comments for a revision should be given to him or Chief Michrina so that the changes can be made to the contract.

Councilman Beneteau stated that a change to paragraph five (5) to address that no service fees will be collected from residents would assure his support. He asked if it would be appropriate to have a motion to accept the contract as amended.

Tom Ready, City Attorney said that two options are available with the motion; To bring back an amended version of the contract at the next opportunity, or Council could approve a proposed revised contract with the specific amendment put in. He further suggested the language change to the second sentence of paragraph five (5) should be inserted; "No CRC fees shall be billed to or collected from a city resident of the City of Monroe". He continued that the most expeditious way and properly so, to pass this contract would be to have Council consider a motion to approve the contract as amended contingent upon being accepted by CRC.

After discussion on the motion it was moved by Councilman Beneteau and seconded by Councilman Molenda that item 185 be accepted as amended, placed on file and the recommendation be carried out.

Ayes: 5 Nays: 2 (Council Members Clark and Mayor Worrell)

Motion Carried.

Mayor Comments.

Mayor Worrell wished Councilwoman Conner a happy birthday and commented on the Local Officer Compensation Commission recommendation. He also commented on the need to have more open council work sessions, thanked those who sit on various boards and commissions and commented on current and future projects within the community.

Council Comments.

Councilman Paisley commented on the crash cost recovery services fees and the communication from the Local Officer Compensation Commission.

Councilman McGhee commented on the Local Officer Compensation Commission's recommendation.

Councilman Molenda commented on recognition of homeowners for their home improvements and recognition of employees from DPS and other employees from various departments.

Councilwoman Conner commented on changes to the façade of some downtown businesses and that this year Council came under budget which shows Council leads by example.

Councilman Beneteau commented on the renovations of 317 S. Monroe Street and the Jazz Festival.

Councilman Clark commented on the support from the Police Department and the Fire Department during the Jazz Festival.

Manager's Comments.

George Brown, City Manager stated that the Mayor's Office has developed a certificate for property owners who have made enhancements to their property and that nominations can be made at the Mayors office.

Councilman Beneteau commented on the information sent out by the Manager's Office regarding a seminar at the Monroe County Community College for Zoning and Planning and asked if the ZBA & CPC Members will be responsible to pay to attend.

George Brown, City Manager stated that the fees for the board members that work for the City will come from the training budget.

Citizens Comments.

Chief Michrina mentioned that the traffic crash cost recovery service was a budget saving idea he had presented to Council when Department's were asked for budget deficit cutting ideas because it is not an added tax to the residents.

Adam Yeager, 1833 S. Custer Road thanked the officers who saved the man during a home fire and commented on socialism ideas being expressed in the media today.

Joe LaVelline, 1523 Dixie Drive commented on the safety hazard's surrounding the construction on Front Street and asked for comments from someone regarding them.

Barry LaRoy, Director of Water & Wastewater Utilities explained that there are barriers and safety measures in place and that if there are safety hazards, they will be found by the inspectors who are out there at all times.

It was moved by Councilman Paisley and supported by Councilman Clark that Council go into executive closed session at the request of the City Manager for personnel review.

Ayes: 7 Nays: 0
Motion Carried.

Council reconvened at 10:42 p.m.

Adjournment.

It was moved by Councilman Beneteau and seconded by Councilwoman Conner that the meeting adjourn at 10:42 p.m. until the next Regular Meeting on Tuesday, September 8, 2009 at 7:30 p.m.

Ayes: 7 Nays: 0
Motion carried.

Rosalind Boswell
Secretary, Clerk's Office

Mark G. Worrell
Mayor