

CITY OF SAINT MARYS REGULAR COUNCIL MEETING

NOVEMBER 16, 2009

CALL TO ORDER

The regular monthly Council meeting of the City of Saint Marys was called to order by Mayor Sally Geyer on Monday, November 16, 2009, at 7:00 p.m. The meeting was held in the Council Room of City Hall, 11 LaFayette Street. Notice of this meeting was sent to Council on November 12, posted at City Hall, and published in the Daily Press.

ROLL CALL

Present: Mayor Sally Geyer, Dennis Nero, Thomas Farley, Steven Skok, Richard Gabler, Jr., Sean Gabler, Richard Dornisch, Manager David Greene, and Solicitor Mark Jacob

VISITORS

Visitors included: Ken Young, Todd Caltagarone, Don Beimel, Matthew Pfeufer, Mike Kraus, Desiree Rawlings, Diane R. Cheatle, Chester Cheatle, Dan Hepner, Sarah Samick, Ronald Samick, Bob Roberts, Tom Wagner, Brandon Mitchell, Richard Sadley, Warren Stewart, and Jean Undercoffer.

APPROVAL OF MINUTES
November 2, 2009

Richard Gabler, Jr. made a motion to approve the minutes of November 2, 2009, seconded by Richard Dornisch, and all were in favor.

REPORT ON EXECUTIVE SESSION

An Executive Session was held after the November 2, 2009 Council meeting, regarding real estate matters. No decisions were made.

PUBLIC HEARING Re: CDBG Program

Manager Greene stated the Public Hearing was canceled due to a publication error by the Daily Press.

CITIZEN'S COMMENTS ON AGENDA TOPICS

Don Beimel

Don Beimel approached Council and wanted to be sure that all of Council received a copy of the Petition urging Council to approve Mr. Nero's changes to the City's Sign Ordinance. He stated most of the businesses were in agreement with Mr. Nero's proposed changes, except they would like to see unlimited square footage instead of 200 square feet, but they were willing to compromise. Mr. Beimel hoped that Council could also compromise on the total sign square footage.

Art Colaprete

Art Colaprete stated he was at the meeting for moral support for the local businesses. He requested Council not hamper the local businesses anymore, and asked

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Council to consider accepting the suggested changes to the sign ordinance.

Jean Undercoffer

Jean Undercoffer stated she utilizes Mr. Beimel's signs, and was in support of the proposed changes by Mr. Nero.

MANAGER'S REPORT

October 21- Attended the Elk County Tax Collection Committee meeting held at the Courthouse in Ridgway.

October 29- Attended the North Central Regional Planning and Development Commission Board of Directors meeting in Ridgway.

October 30- The Lumber Heritage Region, Elk County Council of the Arts and Appalachian Arts Studio and I met on the Diamond for the placing of the Woodlins Project woodcarvings.

November 9- Carol Muhitch and I met with Neil Hoffman and Don Valone from Northwest Savings Bank to discuss the progress with the Parking Garage. Northwest Savings Bank is providing the interim financing for the Parking Garage Project.

November 9- Todd Caltagarene, Phil Hoh, Sharon Brem and I met with Jeff Davidek from C.S. McKee to discuss our City Pension plans.

APPROVAL OF EXPENDITURES

Sean Gabler made a motion to approve the Expenditures Report for the period October 11, 2009 to November 9, 2009, seconded by Steven Skok, and all were in favor.

TREASURER'S REPORT

Mayor Geyer presented the following Treasurer's Report as of October 31, 2009: The General Fund has collected 76% of its budgeted revenue and spent 70% of the budgeted amount. Last year at this time the revenue collected was 91% and expenditures were at 80% of budget; 2007 budgeted revenue collected was 91% and expenses were at 82.4% of budget. Benchmark figures would be at 83%. Market value on the pension funds continues to climb. Some of the October 1, 2009 balances have been adjusted per audit

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entries for the 2008 audit, which was completed as of the end of September.

LEGISLATIVE ACTION

Consider for publication Ordinance No. 253 re: Amending the Board of Health Ordinance

Manager Greene stated Ordinance No. 253 is to amend the St. Marys City Code to expand the powers of the Health Board and to establish penalties and remedies for the violation of any orders, rules or regulations issued by the Health Board.

Mr. Tom Wagner

Mr. Wagner approached Council and explained that he belongs to the Justice Robert H. Jackson Chapter of the American Inns of Court; it is a five county association of attorneys primarily for continuing education. The organization had a presentation recently with regards to what the legal system could do in the event of a pandemic flu. With a comparison of the reaction to the Spanish flu between Kane and St. Marys, he quoted information presented by Judge Cleland. "The Board of Health in Kane reacted immediately, but still had 516 cases of the flu and approximately 20-50 people died. By contrast, in St. Marys no action was taken for three weeks and there were 1500 cases and approximately 117 people died." Mr. Wagner stated prompt response to a flu pandemic was a very significant thing and a community could not expect support on a federal or state level.

He suggested the local Board of Health become empowered to deal with a situation effectively. Due to the recent H1N1 flu, a model ordinance was drafted, primarily by Mr. Wagner, to deal with a possible pandemic flu. He stated if three percent of the population of St. Marys needed hospitalized, that would be approximately 420 people and the local hospital can only accommodate 120. He believed the Board of Health was the most effective way to deal with the situation by being comprised of individuals who are knowledgeable, who have expertise about public health issues, and if given the opportunity, could develop education programs. He encouraged Council to adopt this ordinance.

Mayor Geyer asked for an explanation of the right to enter any premise language.

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Mr. Wagner explained entering a premise would be upon due cause and a search warrant would be required. The City's current Code Enforcement Officer has the power to enter private property to investigate violations, but has to obtain the authority from the court.

Mayor Geyer inquired if a 90 day limit could be placed on the ordinance until after the pandemic was over and Mr. Wagner stated there was not a pandemic, yet.

Mr. Wagner stated the idea of amending the ordinance was to allow the Board of Health to gather experience of the process if the City was faced with a pandemic.

Mr. Dornisch stated he thought some of the language was antagonistic and oppressive and had a problem with amending the ordinance. He believed there should be supervision by an elected body.

Mr. Wagner responded the language was taken from statutes that were already in effect in the Commonwealth of Pennsylvania. "If a community is faced with an epidemic it needs to have someone to look to for guidance and provide direction with knowledge and experience. The idea of empowering the Board of Health is to develop a board that has credibility and respect within the community that could act and give direction to protect the populace."

After further discussion by Council, Mr. Wagner, and the Solicitor, it was determined there may not be a body of law under Home Rule Charter for a Board of Health in case of a pandemic flu situation. The third Class City Code does not have jurisdiction for the City, and the proposed amended ordinance would give the Board of Health the maximum authority allowed to deal with a pandemic within an individual's Constitutional Rights. The language was needed to authorize the Health Officer to enter a premise, investigate, and enforce the ordinance.

Motion Passed

Dennis Nero made a motion to approve Ordinance No. 253 for publication, Richard Gabler, Jr. seconded the

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- motion, and all were in favor, except Richard Dornisch.
- Consider for publication Ordinance No. 254 re: Levy and assessment of 2010 Taxes** Ordinance No. 254 was presented providing for the Levy and Assessment of taxes for the City fiscal year 2010.
- Motion** Dennis Nero made a motion to publish Ordinance No. 254, seconded by Richard Dornisch.
- Discussion** Thomas Farley commented he was still not satisfied with the budget meetings and the results of budget deliberations. He was not in favor of using funds from the Capital Reserve Fund and believed a slight increase in taxes was in order, along with additional cuts in spending.
- Motion Passed** All were in favor to publish Ordinance No. 254, except Thomas Farley.
- Consider for publication Resolution No. 09-24 re: 2010 Preliminary Budget** Resolution No. 09-24 was presented for publication of the 2010 Preliminary Budget for various funds for the City. The Preliminary Budget would be on display for ten days at City Hall and at the St. Marys Public Library.
- Motion** A motion was made to publish Resolution No. 09-24 by Dennis Nero, seconded by Sean Gabler.
- Discussion** Thomas Farley restated his prior comments on the budget.
- Dennis Nero agreed with Mr. Farley and added he too thought there were more cuts that could have been made, but knew the majority of Council disagreed.
- Motion Passed** All were in favor to publish Resolution No. 09-24, except Thomas Farley.
- Subdivision Application Jason and Marguerite Hanes, Johnsonburg Road** A subdivision application from Jason and Marguerite Hanes was submitted. This subdivision plan proposed to divide a 0.37 acre lot from a 15.798 acre parcel, owned by Hanes, for the purpose of a rear lot addition to an adjoining property owned by Smith. The two parcels would be combined into one parcel as a result

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of the subdivision to correct a negative setback situation. All parcels comply with the zoning regulations. There are no new building lots created as a result of this subdivision. The parcels are served with public water and private sewage disposal. The Planning Commission had no comments on the application.

Motion Passed

Sean Gabler made a motion to approve Jason and Marguerite Hanes subdivision, seconded by Thomas Farley, and all were in favor.

**Land Development Application re:
Elk Waste Services Inc., South
Michael Road**

Applicant proposes to erect a 40' x 100' storage building for an existing recycling operation. A commercial storage building (40' x 100') and use was approved by the zoning hearing board on October 23, 1989 under Benzinger Township's Zoning Ordinance #193. Under that ordinance, industrial and commercial uses were permitted in the Residential Agricultural zone as special exceptions. The second building (60' x 80') also required the approval of the zoning hearing board under the same provisions and approval was granted August 12, 1992 with the stipulation that the building be constructed at least 50 feet from the west property line. Since that time, the property has been re-zoned to Residential Suburban, and the zoning ordinance has been changed to not allow industrial and commercial uses in residential districts. This places the current use into nonconforming status, and the expansion thereof requires the approval of a special exception by the zoning hearing board, which is scheduled for November 18, 2009 at 5:00 pm.

Comments:

The application lists eight (8) parking spaces at 8' x 20'. The zoning ordinance requires nine spaces at 9' x 20' if they are non-parallel. One (1) space per two (2) employees on the largest shift or one (1) space per 1,000 square feet of gross floor area, whichever is greater. The parking must be lit if used at night.

The zoning ordinance requires one (1) loading space, which must be paved with bituminous or concrete material, and lit if used at night.

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In regards to stormwater management, any impervious surface constructed before the adoption of the stormwater management ordinance is exempt from the regulations. Therefore, the proposed construction does not meet the 5,000 sq. feet impervious surface threshold for stormwater management planning.

Manager Greene stated this was for informational purposes only.

TOPICS FOR DISCUSSION

Recommended revisions the Sign Ordinance.

Dennis Nero stated he had further suggested revisions to the Sign Ordinance and added a few definitions.

Mr. Nero stated the business sign definition would be for the name of the business only, anything else would be considered an advertising sign. Therefore, any business that may have a large wall area, or sign for the business name only, would not use the 200 sq. foot area allotment for advertisement signage with the name of their business.

The Solicitor clarified the 15% of the wall area was for a "business sign" and the 200 square foot area total would be for an "advertising sign" and a business could possibly have both.

There was a very lengthy discussion by Council on the proposed definitions, the wording of the proposed changes, what changes to accept, modify, or possibly eliminate.

Motion

Mayor Geyer made a motion to have the Solicitor draft an Ordinance based on the recommendations of Mr. Nero and with the discussed changes, seconded by Richard Gabler, Jr.

Discussion

Sean Gabler stated the changes were long overdue.

Mayor Geyer stated there was a great amount of time and effort in preparing these changes by Mr. Nero and she would like to see this matter resolved before the end of the year.

Mr. Nero asked Council to review the suggested changes and to contact him for an explanation or if

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they had any suggestions.

Mr. Farley stated he intends to further examine the proposed changes.

Motion Passed

All were in favor to have the Solicitor draft an Ordinance, except Richard Dornisch, who opposed.

**CITIZEN COMMENTS
ON NON-AGENDA TOPICS**

There were no citizen comments.

COUNCIL COMMENTS

Dennis Nero stated he received numerous complaints from residents on the northern end of the City regarding leaf pickup.

Mr. Nero also commented on numerous complaints from the Senior Center and requested the Mayor appoint a committee of two Council members to meet with the St. Marys Senior Center and with the developer, Mr. Yoder. Mr. Nero and Richard Dornisch volunteered to be on the committee.

**Appointment by Mayor to
Committee**

Mayor Geyer approved the appointment of Dennis Nero and Richard Dornisch to help resolve the Senior Center issues.

Thomas Farley commented the wood carvings on the Diamond were a nice improvement to the area.

Mr. Farley thought there may be a problem with the loop on the traffic signal at Sheetz if you are traveling westbound on Bruxelles Street. A resident complained it was a rather lengthy wait in the center lane, unless another car approaching from Chestnut Street tripped the light.

Manager Greene stated he would look into it.

Mayor Geyer requested for anyone out at night, especially children, to please wear more reflective clothing or tape.

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Mayor Geyer stated there were still vacancies on the following Boards, Authorities and Commissions:

- Benzinger Township Golf Course Authority
- Benzinger Township Hospital Authority
- St. Marys Area Airport Authority
- St. Marys Planning Commission
- Redevelopment Authority

ANNOUNCEMENTS

Mayor Geyer made the following announcements:

- The next Council meeting will be Monday, December 7, 2009, at 7:00 p.m. at City Hall
- An Executive Session will be held immediately following adjournment of this meeting regarding personnel matters.

ADJOURNMENT

Thomas Farley made a motion to adjourn the meeting.

Mayor


Recording Secretary