

## CITY OF SAINT MARYS REGULAR COUNCIL MEETING

NOVEMBER 16, 2015

**CALL TO ORDER**

The regular monthly Council meeting of the City of Saint Marys was called to order by Mayor Robert Howard on Monday, November 16, 2015 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, 2015, posted at City Hall and published in the Daily Press.

**PLEDGE TO THE FLAG****ROLL CALL**

Present: Mayor Robert Howard; Gary Anderson, Sally Geyer, Nedward Jacob, Gregory Gebauer, Lou Radkowski, Bob Mohr, Solicitor Thomas Wagner and Manager Timothy Pearson.

**VISITORS**

Visitors included: Steve Bagley, Chuck Abraham, Tim Ruffner, Carol Muhitch, Tina Gradizzi, Mason Catalone, Katie Weidenboerner, Amy Cherry, Joe Kopp, Ashley O'Dell, Rob Boulware, Chris Trejchel, Andrew Mohny, Paul Fleming, Warren Stewart, Mike Brock, Art Colaprete and Richard Sadley.

**APPROVAL OF MINUTES**

November 2, 2015  
Budget Workshops – November 5, 2015, November 9, 2015 and November 12, 2015

Sally Geyer made a motion to approve the minutes of November 2, 2015 and the Budget Workshops – November 5, 2015, November 9, 2015 and November 12, 2015, seconded by Gary Anderson and all were in favor.

Motion Passed

**CITIZEN COMMENTS ON AGENDA TOPICS**

There were no citizen comments on agenda topics.

**MAYOR'S REPORT**

Mayor Howard provided the following report:

Attended the Mayor's Association meeting.

**MANAGER'S REPORT**

Manager Pearson provided the following report:

Attended the Manager's Association meeting in Kane.

Met with Rotary Club, Redevelopment Authority, Shade Tree Commission and Rick Vigilone from the PA Downtown Center.

Request for Executive Session and addition to agenda

Manager Pearson requested an Executive Session immediately following tonight's meeting and to add a resolution regarding sanitary sewer rates to be added to the agenda.

Motion Passed

Gregory Gebauer made a motion to add Resolution No. 15-13, regarding Sanitary sewer rates to the agenda, seconded by Gary Anderson and all were in favor.

**SOLICITOR'S REPORT**

Solicitor Wagner stated he had sent the Manager the Zito Media agreement for his review and the other matters were on the agenda.

**APPROVAL OF EXPENDITURES**

Motion Passed

Gary Anderson made a motion to approve the Expenditures from October 12, 2015 until November 15, 2015, seconded by Sally Geyer and all were in favor.

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**TREASURER'S REPORT**

Manager Pearson gave the following Treasurer's Report for October 31, 2015:

The General Fund had collected 73 percent of its budgeted revenue and spent 73 percent of the budgeted amount. Last year at this time Revenue collected was at 90 percent and Expenditures were at 80 percent of budget. In 2013 budgeted revenue collected was 93 percent and expenses were at 70 percent of budget. Benchmark figures would be at 83 percent. Market value in pension funds increased this month as well as year to date figures. Earned Income was at 80 percent of budget and for 2014 was at 84 percent of budget and in 2013 was at 99 percent of budget. As of November 9, 2015 it was at 83 percent of budget.

**LEGISLATIVE ACTION:**

**Consider for adoption:** Resolution No. 15-12, re: Early Intervention Program Grant Request  
Motion Passed

Resolution No. 15-12 was presented for adoption to file an Early Intervention Program Grant Request Phase Two.

Gary Anderson made a motion to adopt Resolution No. 15-12, seconded by Sally Geyer, and all were in favor.

**Consider for publication:**  
An Ordinance providing for the levy and assessment of taxes for the fiscal year 2016  
Motion Passed

An Ordinance was presented for publication providing for the levy and assessment of taxes for the fiscal year 2016.

Nedward Jacob made a motion to publish the Ordinance, seconded by Bob Mohr and all were in favor.

A Resolution for the 2016 Preliminary budget for various City funds  
Motion Passed

A Resolution was presented for publication as the 2016 Preliminary Budget for various City funds.

Sally Geyer made a motion to publish the 2016 Preliminary Budget Resolution, seconded by Nedward Jacob and all were in favor.

**Consider for adoption:**  
Resolution No. 15-13, re:  
Establishing sewer rental rates

Resolution No. 15-13 was presented for adoption to increase the sewer rental rates as follows:

The monthly base rate of the sewer rental rate per water meter , authorized by Chapter 18, Part 3, Section 302, of the St. Marys City Code, is changed to the following:

- A. Residential Property -- \$22.50;
- B. Nonresidential Property whose primary use is industrial -- \$50.00;
- C. Nonresidential Property whose primary use is other than industrial -- \$30.00.

The monthly consumption rate of the sewer rental rate authorized by Chapter 18, Part 3, Section 302, of the St. Marys City Code, is changed to the following:

Level	Metered Water	Rate for Gallons in Each Level
1	First 50,000 gallons	\$4.91 per thousand gallons
2	Over 50,000 gallons	\$4.81 per thousand gallons

The above rates will apply effective January 1, 2016, and shall remain in effect until changed by further Resolution.

From the charges collected for each water meter, the City shall set aside the sum of \$4.00 per month per meter to be deposited to a separate fund, known as the "I & I Fund".

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The monies from the I & I Fund will be dedicated solely to the purpose of repair, construction and maintenance of the sanitary sewer lines to control infiltration and inflow. Monies will be transferred from the I & I Fund to the Sewer Fund as needed for such purpose.

Motion

Sally Geyer made a motion to adopt Resolution No. 15-13.

Point of Order

Lou Radkowski questioned a point of order regarding the approval of the preliminary budget first, which contained the sewer fund rates. He questioned if Council did not approve this resolution would it void the preliminary budget resolution and Solicitor Wagner responded no, Council was only approving to publish the preliminary budget for comment. If the preliminary budget contained an increase in sewer rates then Council would need to approve those increases before January 1, 2016.

Motion restated

Sally Geyer made the motion to adopt Resolution No. 15-13, seconded by Lou Radkowski.

Discussion

Council and the Manager discussed the proposed rate increases and the need to balance the fund, the average increase for residents and a decrease in overall consumption.

It was determined the Manager would contact the Municipal Authority to request funds to offset expenditures in the sewer fund and explore any possible grant funding available for the steady decrease in consumption.

Roll Call Vote- Motion Passed

On a roll call vote all were in favor to adopt Resolution No. 15-13.

**Subdivision Applications:**

RC Realty, LLC, 499 (519) Spruce Street

A subdivision application was presented from RC Realty, LLC, for property located at 499 (519) Spruce Street. The applicant proposed to subdivide a 6.658 acre lot from a 14.659 acre parcel for the purpose of transfer to a new owner. The residual parcel is 8.001 acres and contains a nonconforming lumber processing operation. Both parcels have access to public utilities. The Planning Commission recommended approval of the subdivision with no comments.

Motion

Sally Geyer made a motion to approve the RC Realty, LLC subdivision application, seconded by Gary Anderson.

Discussion

There was a discussion regarding the correct address since the memo stated 499 Spruce Street and the application stated 519 Spruce Street and if there was a need to amend the motion.

Solicitor Wagner stated the approval was for the subdivision plan and clarification of the address was not needed in the motion.

Motion Passed

All were in favor to approve the RC Realty, LLC, subdivision application.

Partition of Land for Robert P. and Julie R. DeLullo, 823 Silver Creek

A subdivision application was presented from Robert P. and Julie R. DeLullo for property located at 823 Silver

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- Road  
Creek Road. The subdivision proposed to divide a 0.78 acre lot from a 5.1 acre parcel as a side-lot addition to an adjoining parcel. The residual parcel is 4.32 acres and proposed to remain vacant. The new lot will be consolidated into an existing parcel with public water and private sewage disposal. The Planning Commission recommended approval of the subdivision with the condition that a corrected deed description be received for Lot 1. The corrected deed description was received November 4, 2015.
- Motion Passed  
Sally Geyer made a motion to approve the Robert and Julie DeLullo subdivision application, seconded by Gary Anderson and all were in favor.
- Request from Chamber of Commerce, re: Free Holiday Parking  
Ashley O'Dell from the Chamber of Commerce, presented a request for free holiday parking as follows:  
4:00 p.m. to 8:00 p.m. on Friday, November 20, 2015 for Light-Up Night  
Friday, November 27, 2015 through Saturday, December 26, 2015  
Ms. O'Dell stated she had contacted the businesses in the downtown area and they were in favor of the request.
- Motion  
Sally Geyer made the motion to approve the above request, seconded by Bob Mohr.
- Discussion  
Lou Radkowski was concerned with the businesses utilizing the free parking for themselves and Ms. O'Dell explained a letter is sent out to the businesses encouraging them to keep the parking open for customers.  
Lou Radkowski stated he was not in favor of 100 percent free parking for the Holiday, he preferred last year's weekend only approval, except for the Parking Garage.
- Motion Passed  
On a roll call vote all were in favor to approve the request, except Lou Radkowski who opposed.  
Lou Radkowski stated for the record he was for the downtown businesses, but for him this was not the right way to handle the City's parking policy.
- Golf Authority Authorization  
Solicitor Wagner explained the Golf Authority is planning to sell some vacant land that is adjacent to the golf course and was requesting permission to list the property for sale.  
Manager Pearson suggested any revenue received from the sale of the property have restrictions on the use of the funds.  
Council and the Solicitor discussed the request and the restriction of the use of those funds.  
Steve Bagley of the Golf Authority, explained the subdivision and development of the vacant land was too costly to pursue at this time and debt service payment would be the primary use of the funds, but was concerned with restricted use of the funds.

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Motion Gregory Gebauer made a motion to allow the sale of the property with the condition that the money is used to pay off any outstanding debt with the City at that time, seconded by Nedward Jacob.

Request to amend motion Gary Anderson requested the motion be amended to include subject to the approval of Northwest Savings Bank.

Amended motion passed Gregory Gebauer amended his motion and Nedward Jacob amended his second and all were in favor.

**TOPICS FOR DISCUSSION:**  
Oil & Gas Ordinance Proposed  
revisions

Solicitor Wagner explained all of Council had received the latest draft of the proposed ordinance and the process of the adoption of the proposed ordinance. The proposed ordinance should be sent to the City and the Elk County Planning Commissions for their review and comment.

Solicitor Wagner further explained the most significant change was the measurement of the setback requirements from the edge of the well pad to instead be measured from the center of the well bores on the well pad. He revised the ordinance to increase the setback to 1250 feet to provide a reasonable setback distance from all well bores on the well pad. The other significant change was proposed by the Oil and Gas Committee to change from conditional use to a special exception which shifts the responsibility of approval to the Zoning Hearing Board. There were other minor changes for example, the posting of signs at the entrance of the well pad.

Motion Gary Anderson made a motion to authorize the Solicitor distribute the proposed ordinance to the City and Elk County Planning Commissions and advertise and schedule the public hearing, seconded by Sally Geyer.

Statement form Seneca Resources The following statement was presented by Chris Trejchel, Assistant General Counsel for Seneca Resources Corporation

“Seneca appreciates this opportunity to address City Council as it considers advertising the proposed oil/gas ordinance for public hearing.

As City Council is aware, Seneca owns significant oil and natural gas properties within the City limits. Seneca, therefore, has a vested interest in the proposed ordinance.

Seneca has endeavored to be involved throughout the ordinance development process, and has continually relayed its concerns to the City Council and the Solicitor regarding the proposed ordinance.

This latest version of the proposed oil/gas ordinance, like the prior drafts, remains unduly restrictive with respect to where oil and gas development activities can occur within the City limits.

The ordinance would exclude oil/gas development from districts where it has historically occurred. It would impose extensive setbacks not imposed on other land uses

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in the City and that lack any scientific or other rational basis. What is, for example, the scientific or other basis for imposing a 1,250 foot setback from a well bore to an occupied structure? What is the scientific basis for your noise standard? What is the legal and scientific basis for using OSHA standards applicable to workplaces in the context of municipal zoning? Why are setbacks being imposed from hunting cabins, barns, chicken coops and hog pens? Regarding the well pad setback, why is the City measuring the setback from the outer perimeter of the well pad, where there is *no* permanent activity or use, rather than from the well bore? Why is oil/gas development being singled out by this ordinance and why are similar setbacks and requirements not being imposed for any other land use in the City?

Additionally, City Council continues to ignore its limitations under the Municipalities Planning Code. By what authority is the City imposing operational and other best management practices on oil/gas development? That authority certainly does not come from the MPC, which grants the City certain authority to determine where, *but not how*, these otherwise lawful activities take place. Pennsylvania Supreme Court case law makes that clear.

Aside from global observations regarding the legality of the proposed ordinance, Seneca has serious concerns regarding several other aspects of the proposed ordinance that lack clarity in their proposed regulation or that are, in Seneca's view, otherwise unreasonable or invalid. Those concerns are largely addressed in prior comments submitted to the City Council and its Solicitor.

In the end, this latest iteration of the proposed ordinance continues to demonstrate a fundamental lack of understanding regarding oil/gas development operations and activities. The proposed ordinance also reflects a deliberate, but unnecessary, interference with, and restriction upon, the property rights of oil/gas owners within the City limits.

Make no mistake – if this proposed ordinance is adopted, Seneca will be unable to develop thousands of acres of its oil/gas properties in the City. Seneca has owned those oil/gas interests *long before* the City headed down the path of this proposed ordinance. Ask yourselves – if the City suddenly adopted an ordinance that completely eliminated any and all rights you had to use and enjoy your property in the City, what would *you* do? Would you sit idly by and allow the City to just take your property? Of course not. Seneca of course feels the same way about its property.

Seneca remained hopefully optimistic that the City Council would draft an ordinance that struck an appropriate balance between the interests of the City and oil/gas owners. If you opt to proceed with the latest version of the ordinance it would appear that our optimism was misplaced and that the City would prefer to resolve our differences via costly litigation rather than collaboration.

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Thank you for allowing the opportunity for this brief statement.”

Art Colaprete

Art Colaprete, resident, stated he was proud of Council.

Solicitor Wagner

Solicitor Wagner stated we have met with Seneca Resources representatives and believed the proposed ordinance was fair. He recognized the legal obligation to attempt to balance the interests of property owners and the Oil & Gas producers. He believed the draft of the proposed ordinance was the best effort of all those involved and the regulations were reasonable. The proposed ordinance will not affect any existing permitted well pads. (Haney’s Hill)

Roll Call Vote – Motion Passed

On a roll call vote all were in favor to approve the motion.

**CITIZEN COMMENTS ON  
NON-AGENDA TOPICS**

Joe Kopp

Joe Kopp, resident, questioned the time limits regarding outdoor burning.

**COUNCIL COMMENTS**

Lou Radkowski commented on Veteran’s Day and his thanks to veteran’s and the recent events in Paris.

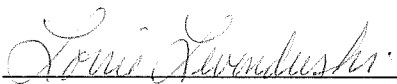
**ANNOUNCEMENTS**

Mayor Howard made the following announcements:

- An Executive Session will be held following adjournment of tonight’s meeting regarding personnel matters.
- The next Council worksession will be held Monday, December 7, 2015 at 7:00 p.m. at City Hall.

**ADJOURNMENT**

Gary Anderson made a motion to adjourn the meeting. Meeting adjourned at 8:20 p.m.

  
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Recording Secretary

  
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Mayor