

City of Muskegon  
City Commission Worksession  
December 10, 2012  
City Commission Chambers  
5:30 PM

MINUTES

2012-90

Present: Commissioners Gawron, Spataro, German, Wierengo, Turnquist, and Markowski.

Absent: Commissioner Hood.

**Melching Property Rezoning.**

A lawsuit has been filed against the City for the ballot question to rezone the property currently owned by Melching on the November ballot. The City Attorney encouraged those residents or groups interested to participate by joining the lawsuit with their own Attorney.

It was explained that Commissioners can not discuss the case because it is in litigation.

John Schrier, City Attorney, explained the options available. Even with a zone change, Melching and any successors can continue to use the property under its current zoning. It's a legal non-conforming use.

If the City chooses not to answer the lawsuit, a default judgment will be entered for the plaintiff unless citizens file and the judge accepts it.

The lawsuit is unlikely to be covered under the City's insurance policy and Attorney fees will be paid out of the General Fund.

Commissioner Turnquist stated a compromise is needed on both sides. The Attorney indicated that a compromise, if possible, would take several months. A response to the lawsuit needs to be given in the next two weeks.

Commissioner Markowski asked if it can be settled at this time. The Attorney responded, probably not.

The Attorney outlined options available in a memo to City Commission.

- A. The City can agree with Melching's position that the initiatory petition and vote has no legal binding effect.
- B. The City could disagree with Melching's position and litigate the validity of the initiatory petition and vote.
- C. If the City is going to litigate the issue, the City could encourage the proponents of the initiatory petition to join the litigation.

- D. If the City is going to vigorously litigate the issue, the City should consider adding Sappi to the litigation.

Communication between the City Commission and the City Attorney is confidential unless waived by City Commission.

**Motion by Spataro, Seconded by Markowski to waive Client/Attorney privilege to release the City Attorney's memo explaining the options to respond to the lawsuit.**

***ROLL CALL VOTE:***

**Ayes: Spataro, German, Wierengo, Turnquist, Markowski, and Gawron.**

**Nays: None.**

Copies are to be given by hard copy only available in the City Clerk's Office.

**Senior Transit System.**

Mayor Gawron indicated that the Senior Transit System is currently running in a deficit. The City's General fund will be using funds from the Stabilization Fund to balance.

Commissioner Turnquist indicated \$60,000 is a small amount of money and would like to continue to support the program.

Commissioner Spataro stated that the City needs to find a partner if we want to continue the program or make the program self-funding by reducing hours, raising the fee, etc.

Commissioner Markowski told the Commission she contacted a local transportation company that is willing to drop their fee to \$18 for a ride within a ten mile radius.

This item will be considered at the December 11<sup>th</sup> Commission Meeting.

**Closure of Beach Street During Winter Months.**

Staff suggested the Commission consider closing Beach Street by the Water Filtration during the winter months. Currently the City pays approximately 20 hours a month in overtime to remove sand from the street and place barricades blocking the road during bad winter days.

It was the consensus of the Commission to close the street through March.

**Any Other Business.**

Commissioner Spataro let the Commission know that he attended a meeting regarding potential locations for the jail.

He did tell the committee that he did not think the Commission would support a new facility at Craig School or adding a new facility by closing Pine Street.

A meeting regarding tree removal in Glenside was attended in November. Approximately 15 to 20 trees need to be removed. The City will be replacing some trees. Diseased trees can be removed by digging deeply for removal.

Commissioner Markowski asked that Commissioners update all Commissioners when attending meetings.

**Public Comment.**

Public comment was received.

**Adjournment.**

**Motion by Turnquist, seconded by Spataro to adjourn at 7:48 p.m.**

***MOTION PASSES.***

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**Ann Marie Cummings, MMC  
City Clerk**