



**CITY OF EVART
REGULAR COUNCIL MEETING**

March 3, 2014

Meeting called to order at 7:00 p.m.

Present: **Mayor** - Eric Schmidt; **Council** - Dan Elliott, BJ Foster, Casey Keysor, Gregg Sherman; **City Clerk** – Seraphim Leemon; **City Manager** – Zack Szakacs
Absent: **Treasurer** Sarah Bigelow

Guests: Mary Ann Swiger, Donna Mackleit, Nicole Weiss – Cadillac Evening News, James White – City Attorney, John Joyce, Jennifer Joyce, Maryann Borden, Miranda Lorenz, Ryan Douglas, Patrick Muczynski, Kevinn Beemer, Jonathon Hartoon, Buck Vallad – Director DPW, Annamaria Herrera

Citizenry Comments:

<<Kevinn Beemer>> At most recent DDA meeting, he drove discussion questioning contract appropriateness with MSG (Michigan Solutions Group); alluded to previous era when he felt he'd unwisely backed down when introducing a consultant group "Hickey & Associates LLC" (sharing printout with today's Council), whom he now suspects could be a valuable resource to the City; alluded to his current business project "Adult Care Complex", the need for an Evart list of pro's (what Evart has to offer) to be shared with investors, and a general lament that there are time lags to the current system (DDA, LDFA, City) that impede the expansion momentum, although he sees none of it as deliberate delays.

<<Annamaria Herrera>> Self-identified as the representative of Osceola County Emergency Management / Hazard Mitigation Plan – calls upon Council to approve her Memorandum of Agreement (linking townships, cities, villages) for the purpose of open and active planning, and for the designation of a City point-person. City Manager expresses disappointment that she didn't address him with this earlier, affording Council time to review her information and add it to today's agenda. City Clerk verifies with Herrera that her deadlines will not be compromised by a Council vote at the second March meeting (3/17/4). Decision made to move review and vote to this evening's New Business.

<<Mary Ann Swiger>> As to her frozen pipes at 704 North Cedar and appeal to the City to underwrite repair expenses (\$1,887.00, invoices provided) asserting that as one of the 15 to 25 "annual run-water homes", she has naturally continued to "run water" yet still sustained a freeze. Mr. Rooter informed her it was "under the street". City Manager takes occasion to implore Council for citywide policy by March 17 Council Meeting for water bill adjustments as well as "thaw policies" – rates, availability of city crews, etcetera (noting that some communities insist on leaving water restoration 100% in the hands of the private sector). Adds that in his understanding, if water had remained on, the freeze would have been impossible. Asks Council if they want to set a precedent this evening or table until next meeting when policy can be formulated and then followed. DPW Director points out some residents are enduring two weeks without water, waiting for the more affordable DPW crews to be available. Mayor asks if City had been unavailable in this case. Vallad confirms that the alley and ShopKo were current projects; noting that Mrs. Estep (on Jefferson) accepted the offer of only being charged a third of expense (and paying on installments), so that DPW crews could "learn on the job" experimenting with techniques for future thaw out projects. Mayor cites his own daughter's experience in Tustin, running

water but still freezing; suggests that decision as to Mrs. Swiger be postponed until next Council meeting, as recommended by City Manager. Answering Mrs Swiger's concerns, Szakacs offers to cc her on the packet he will be putting together for Council for March 17.

Moved by Keysor, seconded by Foster to amend agenda adding Hazardous Mitigation Plan MOA to New Business...

Passed unanimously

Moved by Keysor, seconded by Sherman to amend the minutes of February 17, 2014 to change former plant manger's name from Rose to Willis (pg. 3); change Council name Anderson to Sherman (pg. 1); change EVIT to EVIP "Economic Vitality Incentive Program" (pg. 6-1); change Niles to Novi (pg. 6-2). **Passed** unanimously

City Clerk revisits the awkward nature of the February 17 minutes due to the DDA Director having chosen to share publically all information pertaining to the forthcoming MEDC award to Evert, and then announcing that he wished to honor MEDC's request for a media blackout until they could do their own "grant announcement" in advance of the February 28th public presentation. (*awkward yes, but her dual minutes were not illegal according to Michigan Open Meetings Act language*)

City Manager points out Clerk's memo of 2/25/14 regarding her new schedule for future paychecks to Council, freeing Treasurer to combine these with preexisting city patterns. Council will be presented with each quarter's check at the first Regular Council Meeting of the subsequent quarter.

Note Clerk's memo of 2/24/14 addressing her change of contact information in wake of sudden marriage; email now CityClerk@evart.org

The LDFA - Director Melora Theunick not in attendance - packet provided

City Manager simply directs attention of Council to LDFA's page 8 YTD seven month Excess of Revenue \$15,000-ish figure.

The DDA – Director Al Weinberg not in attendance

Unfinished Business:

- **2014-15 Budget**

City Manager cancelled this evening's meeting, with plans to reschedule. Mayor asks for date, Szakacs notes this is Treasurer's first day back to work and that at the next Council meeting the second Budget Meeting date can be set. Notes that Board of Review will be next week, 12th and 13th. Adding that Ventra just submitted their Personal Property paperwork and it shows \$10-million less and City Assessor has asked City Manager for permission to request an audit.

- **City Owned Properties**

City Manager will be attending next week's LDFA meeting and with Treasurer completing the taxes, he will be poised to take her information with regard to the county, for property lists.

- **Council Member Attendance-Payment Corrections**

1) City Manager says there were many errors which have now been researched and recalculated to the tune of \$1600 (detailed in memo of 2/25/14); requests a Council motion to pay retroactively through October 15, 2007.

2) Mayor wonders if he and others affected are eligible to vote on the matter; Szakacs explains his motivation for the vote is because the monies had not been budgeted for. City Attorney determined that since it was a simple miscalculation, no vote is necessary however he thinks it begs the need for an overall City policy to be put into place governing “time frames” for any type of over or under error calculation for monies owed or paid by City Hall (noting that if it is a contractual issue such as with vendors, law dictates a 6 year window). Elliott offers recollection that mistakes in assessing can only go back by two years.

3) Sherman asks if this retro pay issue’s “past practices” could mean the existence of a grey area of interpretation ~~suggests that this retro pay issue is an attempt to undo a “past practices” and therefore has a somewhat grey area of interpretation~~; White assures that ~~White counters that~~ there is no grey and that “intent” of the Pay Commission and/or 2007 Council is irrelevant since the October 15, 2007 language of their decision(s) is unambiguous and should never have been misinterpreted. There is discussion with Foster offering that it is his belief that the intent wasn’t for payment of Special Meetings.

4) Szakacs reminds the body that Pay Commission “recommends” but Council makes the rule as “policy setters”. White clarifies that in the order of things, Council can reject Commission recommendations but is then obligated to send the Commission back to drawing board for a different recommendation; Council cannot itself, change a Pay Commission recommendation, merely reject or accept.

5) By general consensus with City Attorney’s blessings, all agree to have City Manager pay the retro amounts to past and current Council members.

- **Water Rate Changes / OHM**

1) DPW Director points out that OHM was not retained to initially evaluate sewer rates since the City fully expected to have those changes shadow/mirror any recommendations made to the water side of the equation. Nonetheless, some will be forthcoming shortly. Noting the history of the outside analysis, Vallad cites Ventra’s water reclamation plan as the spark which ignited Evert’s investigation. He sees the recent SAW Grant as lending a good deal of aide with sewer concerns. Shares that only upon closer examination did it become apparent that in the case of Dean’s, it was the surcharge that “made up for” the undercharging of sewer rates – noting loss via clay pipes, high water table, storm runoff and other “trouble spots”.

2) Keysor and Foster are adamant that citizens should not be hit with two rate hikes (water, then sewer) in short succession, preferring instead a calculated single rate increase which reflects any/all changes. Extensive discussion as to fixed costs impacting City water/sewer (citing DEQ guidelines of ranges from 57-cents per 1,000 gallons to \$1.59 when overall volume processed drops from ~~650,000~~ 650-million gallons to ~~200,000~~ 200-million), and failure of City Fathers in the past to invoke a Consumer Price Index (CPI) annual minimal rate increase of a minimally painful 1.5%, which would have prevented all need for the current jump which amounts to having waited ten years and jumping rates by 20%.

3) Citizen Beemer poses the question if residents might be pushed to consider drilling illegal water wells. Szakacs criticizes Beemer for earlier in the evening saying he’d expect water rate deals/abatements if his housing project goes forward. Vallad points out that even

with the OHM figures, Evert would still be on the lower side of rate fees. He also laments that the City installed “Big Rapids sized” facilities thereby strapping smaller Evert with the fixed costs budget of a large city capacity but without the consumer base to underwrite the costs of an over-sized facility.

New Business:

- **OCHMP Membership and Liaison Designation**

Osceola County Hazard Mitigation Planning Memorandum of Agreement and designation of a non-emergency-personnel point person, both as requested by Annamaria Herrera, Osceola County Emergency Management Administrative Assistant, revisited.

Moved by Keysor, seconded by Sherman to join the countywide effort and to designate City Manager Szakacs as the Council’s representative.

Passed unanimously

- **Treasurer - Sarah Bigelow, Absent – City Manager reporting**

Notes that this was first day back post-Maternity Leave and it had already been a ten hour day, hence the decision to send her home pre-meeting.

Submission of Revenue Expenditure Report July 1, 2013 through February 28, 2014; Manual Check Report through March 3, 2014; and Vendor List.

Moved by Foster, seconded by Schmidt to accept Vendor List as submitted

Passed unanimously

- **City Manager – Zack Szakacs reporting**

1) Distributed revenue sharing fact sheets pertaining to EVIP (Economic Vitality Incentive Program) to explain his concerns about Michigan constitutional issues potentially impacting Evert, with reference to House and Senate bills currently under debate to address Personal Property taxes (with August 2014 citizen votes pending). This includes the likelihood that the state will conduct the assessments instead of local jurisdictions.

2) Also addressed previous recommendation that Evert might piggyback on Lake and Osceola for assessing. The County Administrator, Sue, is supportive of us invoking that option to satisfy EVIP if we so desire. Szakacs also spoke with her about the option of Police Department consolidation. His research is continuing. Keysor wonders why the DPW figures/options weren’t put into play. Elliott humorously suggests we propose merger between Evert PD and Michigan State Police – all agreeing that the state would reject it outright.

3) Szakacs offers current numbers, reflecting about \$64,000 missing from the General Fund. Adding that our shortfall of potentially \$73,000 could actually hit \$129,000.

4) DIG Grant monies must all be in by December 2014.

5) The MEDC person has been promoted, replacement is Ryan and he intends to consult with him.

6) Pete Ashby \$150.00 invoice for Sarah Soderdahl’s rental property at 847 Main. The Indiana owner this spring intends to hook into Main Street instead of Jefferson. City had presumed the freeze was because water wasn’t left on, but just getting usage numbers shows that indeed the water has been on. DPW describes how flowing water should not

freeze. Vallad goes on to review “failure” of the water main project on Main Street (of approximately seven years earlier), in which 3 – 4 houses were allowed to not tie-in, and instead be linked via Jefferson Street line. As a consequence, Vallad interprets the unique “main” that services them as the offshoot of the inadequate Jefferson; so in his opinion if they tie-in in the summer, they should be entitled to reimbursement for frozen lines since the reconfiguring is in the long term best interest of the City. Even the fire hydrant there was linked to the 1 ½-inch line (and has been eliminated).

- **Department of Public Works – Director Vallad reporting**

Reports that the Lounge is still frozen and it is next on the City’s list. A woman on Pine has requested the City’s aide. The list is getting smaller.

- **City Attorney – Jim White reporting**

- 1) Primarily police related issues.
- 2) He and City Manager are poised to take next step for Dean’s non-payment/non-response to sewer fees.
- 3) He and City Manager are taking steps into City Charter changes; noting that it is a fairly complicated procedure which will demand a great deal of time, adding that they both feel the changes are overdue emphasizing that in 1983 when voters defeated the proposal to convert the Clerk’s post into an appointed instead of elected position, all relevant language in the Charter failed to be accurately amended, creating inconsistencies. Also White feels there are additional considerations which could be addressed to save money (fewer Council meetings, etc.). Concluding that White has personally never overseen a Charter change; it requires citizen vote to name the commissioners. Szakacs wants to get it on this year’s ballot.

Moved by Keysor, seconded by Sherman ...
... Adjournment at 8:21 p.m.
Passed unanimously