

*City of Utica*  
**Regular Council Meeting**  
**March 10, 2015**

The City Council meeting was called to order by Mayor Noonan at 7:30 p.m.

**Members present:** Sikora, Osladil, Terenzi, Montag, Cuddington, Noonan  
**Absent:** Barthelmeh

The City Council meeting was called to order by Mayor Noonan, who led the pledge of allegiance at 7:30 p.m.

**Matthew Myers Recognition**

Mayor Noonan congratulated Matthew Myers, firefighter, on his recent award of the Chief Gene Shepherd scholarship which entailed writing an essay on what firefighting means to him and how the service would change over the next ten years.

**Christopher Bennett Swearing In**

Mayor Noonan administered the Oath of Office to Patrolman Christopher Bennett.

**Minutes of 2/10/15**

Motion by Sikora, seconded by Cuddington, to approve the minutes of 2/10/15. Voting all ayes, motion **CARRIED**.

**Unfinished Business**

**45637 Van Dyke- Billboard Variance Requests**

Mike Taylor, Attorney, representing Eastside outdoor, tentative purchaser, was present to request a decision on four variances and special conditional use, for a non-accessory billboard, to be placed above the roof at 45637 Van Dyke. On the fourth variance, his reading of section 1503-8.b. stating it cannot be placed on the roof logically applies to all signs in the City and wants it to be not applicable. There are other signs above roof level at: Hydro Pros, Wendy's, SAV, Macomb Restaurant supply, Weingartz, and he feels his client is being singled out.

Mayor Noonan disagrees, not everything has been submitted for the requests; no scale drawings, this is the same petitioner as the billboard on M-59. The billboard is a non-accessory sign, in a C-2 zoning, needing 4 variances, if they are buying the building what will the use be? Mike Taylor responded, yes the client is purchasing the property, he doesn't know for what use. A scale drawing would have been sent to all departments and the planner, only a plan showing the sign, not a full site plan was submitted. The Mayor would like to include all minutes of past meetings concerning this request with these minutes. The majority of billboard signs are on State highways and the majority in Utica are on M-59; Van Dyke is a locally owned street, zoned C-2 with high pedestrian and vehicle traffic overall. Mayor Noonan is very concerned; the sign ordinance was recently adopted in 01/14/2014. The ordinance was amended purposefully to clear up issues such as: The city finds that signs and other visual outdoor advertising tends to promote commerce and are related to the health, safety, and/or general welfare of the residents of the city, and that the preservation of the existing character of the community requires regulation of signs and of other visual outdoor

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advertising. The city finds that failure to regulate the size, location, and construction of signs and other outdoor advertising may have an adverse effect upon the promotion of business and commerce in the city, may lead to poor identification of businesses, may have an adverse effect upon the existing aesthetic character of the city, and may cause deterioration of business and residential areas of the community. Mayor Noonan stated one issue is the fact that this billboard is on Van Dyke; the others are along M-59. This one is unsightly and horrible in her opinion. The City amended the ordinance for clarity, not to unfairly site his client on the first three variances and believes the fourth variance is viable also. Therefore, the purpose of this section and the subsections there under is to permit such signs and visual outdoor advertising as will not, by reason of their size, location, or manner of display, endanger public health and/or safety; confuse or mislead traffic; or obstruct vision necessary for traffic and pedestrian safety; and further, to regulate signs and other visual outdoor advertising in such a way as to prevent the placement of signs, and such other visual outdoor advertising in a manner that will conceal or obscure other signs and other visual outdoor advertising on adjacent businesses; to keep the number of signs and sign messages at a minimum level reasonably necessary to identify a business and its products; to keep signs within a reasonable scale with respect to the buildings to which they relate; and further, to prevent off premise signs from conflicting with business, residential and public land uses, and to prohibit signs and other visual outdoor advertising which will have an adverse effect upon the existing aesthetic character of not only the zoning district in which they are located, but also upon the overall existing aesthetic character of the City. Complaints on traffic interference are important issues, as the ordinance was amended for signs constructed before 01/14/2014, they should not be considered, only if it is a hardship and other reasons.

Ken Sikora, Councilmember asked if they purchase the building is it conditional on the billboard sign? Mike Taylor stated they intend to close whether or not they receive the sign variance approvals. The business itself has a non-conforming roof sign and a wall sign, the billboard sign has nothing to do with the business it is a separate income, lease of advertising. Bill Osladil, Councilmember stated the maximum allowed is 250 sq.ft. they are requesting 650 sq.ft., 2 and a half times bigger and 50ft in height is allowed, want 60ft. No federal or state law allows this to his knowledge. Contends there is danger to the fire department, the public, buildings and employees, too many egress points, adjacent property is at risk, zero setback and not a full parapet dividing business. Also he is concerned with the lighting 60 ft. high. The size is not harmonious with the Van dyke corridor and adjacent communities, from 25 mile road to Messmore Street there are zero billboards. It is not harmonious with the residential homes and Historic District in close proximity, just feet away. Does it comply with BOCA Codes; and the photo is not to scale, distorted. Mayor Noonan added building and fire codes are applicable.

Randy Plante, Asst. Fire Chief, stated this is a unique proposal. He found the site plan inaccurate and incomplete when doing an on-site visit. It is a hazard to the fire department as it would obstruct the ladder truck and a stream of water creating hazards. Energized exposure would be over firefighters. Any emergency over the buildings, the billboard would impede ground ladder use. The potential for rescue is unknown, it could be 30-70 people or zero. There is concern for collapse; no others in the City are above buildings. There are utility lines, entrances to buildings, 4 doors and many windows within inches of the billboard base. The Fire inspectors concur.

Dave Faber, Chief of Police, stated Van Dyke is not a highway but a five lane City street with numerous ingress/egress points, close to a school crossing and major park, with high pedestrian and vehicular traffic. The latter is the target audience.

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Bill Lang, Superintendent, felt the site plan unclear.

Beth Ricketts, City Clerk, summarized that there were no positive comments received at any meetings and many concerns for health, safety and welfare of the community.

Steve Cassin, the City Planner, recommends denial based on no practical difficulty being shown and: 1. Whether strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose. *The property owner is already using the property in the manner consistent with the zoning ordinance. The use would continue without the variances.* 2. Whether a variance would do substantial justice to the applicant, as well as other property owners in the district. *The obsessive size, height and close proximity to the adjacent residential neighborhood would detrimentally impact the adjacent homes.* 3. Whether the plight of the owner is due to the unique circumstances of the property and whether the problem is self created. *In my opinion there is nothing unique to the property, and the variance request is self-created based upon the property owner's desire to increase financial gain by overbuilding the site.*

Mike Taylor stated a proper site plan was submitted. A scale of not less than 1" equals 50" if the subject property is less than three acres; there is no landscaping, fencing, vegetation. There are 3 billboards that do not comply with city ordinances. The sign on Van Dyke, south of M-59 is close to an apartment complex. He restated his is not asking for anything different than what the City allowed itself, his client is asking for the same treatment.

Ken Sikora stated the smaller drawing misrepresents the magnitude of the sign .Mayor Noonan stated reduced email drawings are not to scale.

Motion by Sikora, seconded by Terenzi, to deny the 4 variance requests for a billboard sign above the roof at 45637 Van Dyke. Voting by roll, all ayes, motion **CARRIED**.

### **Administration Resolution**

Motion by Noonan, seconded by Montag, to approve the amendments to the Administration Resolution. Voting all ayes, motion **CARRIED**.

### **Consent Business**

None.

### **Correspondence**

Motion by Sikora, seconded by Montag, to receive and file the correspondence from: the Family of Dan Meli and Wigs for Kids, thank you's. Voting all ayes, motion **CARRIED**.

### **New Business**

#### **Department Reports**

##### **Mayor Noonan**

##### **Ballpark Update**

Mayor Noonan informed all that the Ballpark is scheduled to submit construction plans in April and start in May. We have received a DEQ grant to remove the "dirty" dirt for at least \$500,000.

##### **MML Request- State Sales Tax**

Mayor Noonan received a resolution in support of Proposal 1 for Safer Roads for possible adoption next month. Also there is more information available to Council and the public on the MML website concerning this proposal.

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**Shelby Road Enterprises, LLC- Sewer Request**

Anthony Penna, was present to request approval to connect to the cities sanitary for its residential development project at 43611 Shelby Rd. parcel 07-33-252-001 & 07-33-252-003. HRC the City Engineers, have reviewed the request and there is capacity.

Bill Osladil, Councilmember, asked if billing would be the same; yes.

Chuck Cuddington, Councilmember, asked if buyers would be told of double rates prior to purchasing; yes.

Jerry Owczarzak, the Building Inspector, asked if it was to both the sanitary and storm sewer: just sanitary.

Bill Lang, Superintendent, supports the request as HRC did the study and we do have capacity. He did state that the petitioner would be responsible for any costs associated with the connection to Utica sanitary sewer.

Chuck Cuddington asked if the old Packing Plant site was built on, would there still be capacity: yes. Even with the Ballfield: yes.

Bill Osladil asked about the older lines: the petitioner would be responsible for the cost if a liner or updates were needed.

Motion by Montag, seconded by Terenzi, to approve the request to connect to the sanitary sewer at 43611 Shelby Rd. parcel 07-33-252-001 & 07-33-252-003, contingent on approval being given from Shelby Township also. Voting all ayes, motion **CARRIED**.

**National Day of Prayer, May 7, 2015**

Motion by Noonan, seconded by Terenzi, to approve the request to recognize and hold the National Day of Prayer on May 7, 2015 in the Council Chambers. Voting all ayes. motion **CARRIED**.

**Board of Review- Rob Lootens, Alternate**

Motion by Montag, seconded by Terenzi, to approve the request to appoint Rob Lootens to the Board of Review as an alternate, as recommended by Mayor Noonan. Voting all ayes, motion **CARRIED**.

**Council Reports**

Mayor Noonan thanked all who helped with the Lucky Leprechaun Race on Saturday. Faith Terenzi, Councilmember, thanked Chief Faber for his help with traffic.

**Assessing- Nancy Strehl, Assessor**

No report.

**Building- Jerry Owczarzak**

No report.

**Fire- Randy Plante, Assistant Chief**

Motion by Osladil, seconded by Sikora, to thank, receive and file the resignations from; Andrew McClure and Jason Seitz.

**Police- Dave Faber, Chief**

**11335 Hall- Liquor License Transfer Request**

Dave Faber, Chief, informed Council that a request has been received concerning the transfer of the liquor license at 11335 Hall, same owners. No action required.

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**Emergency Management Hazardous Mitigation Resolution**

Motion by Sikora, seconded by Montag, to approve the Emergency Management Hazardous Mitigation Resolution. Jim McGrail, the City Attorney recommends approval. Voting all ayes, motion **CARRIED**.

Bill Osladil, Councilmember, asked what if priorities change. Chief Faber stated the plan is reviewed yearly.

**DPW- Bill Lang, Superintendent**

Bill Lang, Superintendent, informed Council that the City of Utica is partnering with the City of Sterling Heights for the administration of the Clinton River Corridor Grant expected through the U.S. EPA. There are no match requirements and the funds will be used to enhance the 9 miles of the Clinton River running from Utica to Sterling Heights. Also we are hoping to receive a SAW grant with Sterling Heights for storm water quality.

**Treasurer- Philip Paternoster**

None.

**Administration- Beth Ricketts, City Clerk**

**Telephone Update**

Beth Ricketts, City Clerk, reported that after reviewing the phone service & lines for all departments that the City will be saving at least \$10,000 per year for service and upwards of \$60,000 on line eliminations. A thank you was given to Jason Gottschalk, SYO computers for all the research and work, leading to the cost savings for the City.

**Library- Marsha Doege, Director**

Marsha Doege, director, informed all that the Library has tax forms and instructions available for copying.

**Parks and Recreation Commission**

Barb Montag stated the Annual Easter Egg Hunt will be on Saturday, March 28, 2015 at 11:00 a.m. in Grant Park for ages 1 year to 6<sup>th</sup> grade. Also the regular meeting for March has been moved to the 19<sup>th</sup>.

**Historic District Commission**

No report.

**City Attorney- James McGrail**

No report.

**Planning Commission**

**Master Plan Update**

Motion by Osladil, seconded by Sikora to authorizes staff to begin the process of updating the Utica Master Plan and to notify the required entities, as specified in Michigan Planning Enabling Act- PA 33 of 2008. Voting all ayes, motion **CARRIED**.

**Senior Housing Steering Committee**

No report.

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**Brownfield Redevelopment Authority**

No report.

**Kids Against Hunger Charitable Gaming License Request**

Linda-Ann Heldt, was present to request approval of a resolution recognizing Kids Against Hunger- Utica Satellite as a non-profit organization. KAH's aim is to provide a high nutrition food to move families from starvation to self-sufficiency, ending the tragedy of starving children.

Motion by Montag, seconded by Sikora, to approve the resolution recognizing Kids Against Hunger- Utica Satellite as a non-profit organization. Voting all ayes, motion **CARRIED**.

**Bills Payable**

Motion by Sikora, seconded by Terenzi, to approve the payment of all bills as presented. Voting all ayes, motion **CARRIED**.

**Communication from the Public**

Mike and Charlene Mathews, 7021 Greeley, were present to request permission to harbor 20 dogs. Macomb County would not license any more than 5 dogs or issue a kennel license. Charlene is a vet tech who rescues dogs, works with the animal welfare society, has two blind dogs, 3 with spinal injuries, 2 with congestive heart failure. The dog's shots are up to date and they have a fenced yard and would like to keep the dogs they currently have. Mayor Noonan stated the zoning ordinance does not allow kennels and Council cannot approve harboring more dogs. The Mathews will work with the City Attorney for a solution.

**Adjournment**

As there were no further comments from the public, motion by Montag, seconded by Sikora, to adjourn the meeting. Voting all ayes, motion **CARRIED**. Meeting adjourned at 9:08 p.m.

Beth Ricketts  
CITY OF UTICA  
City Clerk