

CITY OF SYLVAN LAKE  
STUDY SESSION  
FEBRUARY 27, 2007

A Study Session of City Council was held on Wednesday, February 23, 2007, at Sylvan Lutheran Church, 2399 Figa, West Bloomfield, at 7:04 p.m. with Mayor Lorenz presiding.

Present: Hungerman, Lorenz, Maurina (7:28p.m.), Shepp, Conkey (7:15p.m.)

Absent: None

Also Present: City Manager Martin, Clerk Clippert and City Attorney Bibeau

Discussion of Budget

Martin reported he has been working on the budget and he should be able to get them preliminary figures next week. He shared the General Fund looks like it will be ok, partly because of the increase in Police tickets.

The sale of Police and DPW vehicles will show in this years revenue and not next years. Martin would like to get rid of the big blue 2 ½-ton dump truck. He stated it was used with the leaf pickup primarily and not needed anymore. It is 11 years old and repairs will start to cost a lot when the vehicle really isn't needed. They would replace this truck with a smaller 1 ½-ton dump truck. Martin would also like to sell the leaf vacuums since the city won't be using them. Lorenz suggested working out an agreement with Richfield to use and maintain them, but the City would still own them. Martin stated they are too small for them. Lorenz asked if there would be anyone else that would be interested in this. Hungerman feels it would be better off selling them. The maintenance would be costly. Martin stated it would be very difficult to know if they were properly maintained. He would like to auction the vehicles and equipment; he feels the city would get more.

Lorenz inquired about the Street/Drainage budget and where it stands, when will it be gone. Martin stated work still needs to be done on the bridge, at the end of Pontiac Drive, the parking at the Community Center and mailbox racks. Hungerman asked if all of the culverts have been put in now. Martin replied, pretty much. This spring he will go around and look and if he sees something that is too steep or not draining properly, they may cover it up.

Hungerman asked about the liquidated damages. Martin stated the city owes the contractor around \$90,000, but minus the liquidated damages assessed by the city, we would only owe around \$19,000, which the city has not paid yet. Lorenz asked how much money is left in the construction fund. Martin believes there is around \$200,000 after this. Bibeau and Martin need to meet with the Engineers because the contractor isn't doing anything.

Lorenz stated he forwarded Martin a name he got from Phil Sakalian, of an Attorney who works with closures of construction contracts and bonding agents.

Martin informed Council that at the Community Center Committee meeting, Eriksen told Maurina that he plans on coming to the Council meeting to discuss very seriously how the Street/Drainage Project was handled and how terrible it was.

Martin discussed the project and how it went. The number one goal was to correct drainage and this was done. The biggest problem was how long it took. He stated they are now at the maintenance stage which he will be ongoing.

Lorenz inquired about the maintenance bond. Martin stated it hasn't closed out yet. There is still two years left once maintenance begins. He reminded them it can only be used for construction failure.

Lorenz shared, this project was a restoration project and many don't realize that basically the infrastructure is never fixed. Meaning if there was bad foundation under the road to start with, that will cause cracking. Lorenz thanked Eriksen for getting the job done better than it may have been done, with getting the shoulders back.

Bibeau went back to the Police tickets and explained that parking tickets are now running through the Court. Tickets weren't getting paid and the Chief decided it would be better this way. It was confirmed that "No Parking" signs are posted at the entrances on Pontiac Drive, Inverness, Woodland, Warwick and Beverly.

#### Discussion of Lakeview Litigation

Bibeau provided a historical background on the lawsuit. In 1967 the boat dock ordinance was adopted. There were no fees. The city has always viewed the Lakeview property as public property and took jurisdiction on it. He stated in 1893 Lakeview was recorded and platted. The plat shows the Lakeview property ending at Lakeview, not continuing into the lake. Then the Warwick Estate was conveying quit claim deeds to all the Lakefront property owners, of property on the west side of Lakeview and went out into the water. Warwick quit claimed land that wasn't there. Warwick filled in this area. In 1972 the City filed a lawsuit for two things, declare the City the owner of property because they have been maintaining it and using it as private beach. The other thing in the lawsuit was to prevent Warwick from conveying the quit claim deeds. In 1976 the City filed an amendment to the 1972 claim and added the City is entitled to an easement if the Court doesn't rule in the City's favor. In 1977 the consent judgment was entered into.

Bibeau reviewed the City's obligation according to the consent judgment is to maintain the property and the shoreline. The court doesn't say how to finance that.

Conkey suggesting removing the seawall all together and putting the shoreline back to natural.

Maurina inquired if there is an erosion factor on that side that is not seen on Ferndale. Martin stated the section by the ramp is more protected.

Bibeau reviewed that now the Lakeview owners are claiming the City has violated the consent judgment in not maintaining the shoreline and charging fees for the space. Lorenz added the consent agreement also states they will follow all the boat dock rules and regulations. Bibeau agreed there is nothing restricting the city from charging them a fee. Hungerman asked why they have paid the fee for the last 25 years. Bibeau stated some of them will claim they paid it under protest, which they wrote on their check.

Council discussed vacating the road and decided it wouldn't be a good idea.

Martin shared when it was platted chances are it wasn't nearly as wide as it is now because Sam Warwick filled it, and the reason it wasn't platted because it was less than your standard 50' road right-of-way width. In the late 80's it was discussed to special assess the Lakeview owners to replace the seawall. Public hearings were held and they didn't want it and agreed to do it themselves. In 1990 \$3,500 was approved but more was spent on emergency seawall repairs on Lakeview.

Lorenz discussed there are 20 Lakeview homeowners with the consent judgment and eight city docks on Lakeview. Revenue is around \$7,000 for this.

Council discussed Ferndale between the Boat Club to the beach being a similar area. This area is not platted and has no description. Martin would like the city to file to own it. Lorenz agreed to defining the area on Ferndale as the City's property. Bibeau stated the City would argue they own because of adverse possession. He doesn't even know if the properties on Ferndale are platted to the lake. Martin stated they are not. Bibeau confirmed the area being from the Boat Club through the beach, corner of Ferndale and Oakwood.

Martin left the meeting at 8:00 p.m.

Council all agreed to defining the Ferndale property as City property. Bibeau will look into this.

Lorenz feels they need to come to a resolution of what to do with the docks. Determine right to charge Lakeview owners, which they are claiming undo burden.

Bibeau stated cost versus revenue is looked at when determining a fee. He feels the fees assessed on not excessive for the cost to maintain the parks.

Bibeau shared in speaking with the Lakeview Attorney the city could start enforcing the consent judgment which states no more than one boat with 10 hp motor. Their Attorney is not interpreting it as no more than one. Bibeau read the exact language “no dock shall have more than one boat powered by an engine in excess of 10 hp or thereto.” Council interpreted it as they can have one boat above 10 hp.

Maurina asked what is the worst the court could do if the judge didn’t feel the seawall was being maintained. Bibeau feels it is subject to argument.

Lorenz asked if a separate fund could be set up for Parks & Recreation and include charges for administration time, police, ranger, maintenance, etc. Maurina was also interested in this and wanted to know if there was a downside to doing this. Clippert replied, it could be done, but it would be like the Building Department fund where the expenditures exceed the revenues and the General Fund has to cover the shortfall. The State mandated the Building Department fund.

Bibeau clarified the user fees should be justified in the budget. Lorenz is looking to the future and wanting this clear that Council has reason to increase the fee because the Parks & Recreation Budget is showing a deficit.

Council discussed how residents want to see their fee going for improvements in front of their space and they don’t realize what the whole Parks & Recreation entails. Conkey suggested filling in the holes each year. Maurina asked if there has been a real effort to fill in the areas which need it. She feels money hasn’t been put into the seawall in a long time.

Lorenz asked Bibeau to estimate how much this is going to cost the city legally. Bibeau estimated \$5000. Lorenz questioned if this part of the cost to maintaining their dock. Bibeau stated no, but he can ask for reimbursement fees.

Hungerman is for arguing the motion and seeing what happens.

Conkey feels maintenance is the big issue and it needs to be explained that maintenance happens periodically when money allows.

Conkey suggested for a future study session the dock policy be reviewed. He would like conditions put on for not having a boat at the space after the deadline.

Adjournment

Moved by Hungerman, support Maurina, to adjourn the Study Session Meeting.

Yes: All

No: None

MOTION CARRIED

The study session adjourned at 9:04 p.m.

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Dennise Clippert, City Clerk