

**DUNDAS CITY COUNCIL
REGULAR MEETING MINUTES
Monday, May 24, 2010
7:00 p.m. Dundas City Hall**

PRESENT: Mayor Glenn Switzer; Councilors John Cruz, Chad Pribyl, Nathan Ryan, John Zander

OTHERS PRESENT: Chuck DeMann, Bill Nelson, Chad Marks, Gene Kruse, Dan Zander, Erick Kaardal (Attorney), Police Chief Gordon Mincke, City Attorney Paula Callies, City Engineer Tom McMahon, Administrator/Clerk John McCarthy, Deputy Clerk/Treasurer Linda Ripka

CALL TO ORDER

Mayor Switzer called the meeting to order at 7:00 p.m. with the Pledge of Allegiance. Roll Call taken; a quorum was present.

PUBLIC FORUM

Chad Marks (resident and former Mayor and Councilor) requested the Council consider changing the term of the Mayor's office from a two-year term to a four-year term.

APPROVAL OF AGENDA

Motion by Ryan, second by Cruz, to approve the Agenda with additions under Ordinance/Resolutions of 6a Ordinance 2010-03, 6b Resolution 2010-17 and 6c Resolution 2010-18; under Old Business add 7b(i) Letter to Bridgewater Township and 7b(ii) Kathleen Doran-Norton Resignation. Motion Carried Unanimously. (MCU)

CONSENT AGENDA

Motion by Cruz, second by Ryan, to approve the Consent Agenda as follows:

Regular Meeting Minutes of May 10, 2010;

Delinquent Utility Bills;

Special Action Claims:

Epic Enterprises, Inc Refund Escrow Balance - \$286.03

Virginia Gleason Refund Escrow Balance - \$252.42

Pavilion Rental Cancellation Refund Juan Torres - \$75.84

Dundas Baseball Association Refund Background Check Fee - \$100.00

Expenditures - \$33,919.20

MCU

ORDINANCES/RESOLUTIONS

Ordinance 2010-03 An Ordinance Adopting Chapter 1500, Section 28, of the Dundas City Code Establishing Zoning and Subdivision Regulations for the Annexation Reseve District

Motion by Pribyl, second by Switzer, to approve Ordinance 2010-03. Administrator McCarthy reviewed the general concept of the ordinance of adding the new Section 28 ARD. Discussion followed with Mayor Switzer giving the time line.results of various meetings and discussions. **MCU**

Resolution 2010-17 A Resolution Appointing the Zoning Administrator for the Annexation Reserve District

Motion by Cruz, second by Pribyl, to approve Resolution 2010-17. MCU

Resolution 2010-18 A Resolution Denying the Tax Rebate Payment

A motion by Pribyl, second by Cruz, to approve Resolution 2010-18. Administrator McCarthy indicated the Township had made changes in preparing the tax rebate request and did not officially request rebate. Errors were found and staff believes 2008 tax rebate money may have been expended to maintain township roads, which are the township's responsibility. **MCU**

Councilor Zander recused himself at 7:30 p.m.

OLD BUSINESS

Titan Supply Company Conditional Use Permit (CUP) Update

Administrator McCarthy reported Dan Zander submitted Council's required updates on May 21 and May 24 but not on May 19.

Mayor Switzer asked Dan Zander if he is going to make the June deadline for the building permit.

Dan Zander stated conditions in the CUP are unenforceable and illegal according to his attorney. He further stated it would be prohibitively expensive to him to allow a code inspection of the buildings and to bring things up to code. Zander stated he is not going to allow the City to come on the property for a compliance analysis and tell him he has \$100,000 in deficiencies. Zander stated he is not going to comply with the CUP and did not understand that when he read and agreed to the (CUP) document.

Ryan asked if Dan Zander had his attorney read the document. Zander responded his attorney read and approved the document.

Dan Zander stated the project entails 800 sq. ft. of new impervious service and the City wants 29,000 sq. ft. of existing buildings to be brought into compliance, which increases the cost to him. Zander stated he doesn't have to invest any more in Dundas, and if anyone asks about doing development, he will inform them it is grossly unfair. Zander stated he can't afford the kind of investment that the City is interpreting the code to require.

Ryan asked where the \$100,000 figure came from and does he (Zander) know the problems that are there. Dan Zander responded he had an architectural code analysis/licensed architect.

Switzer asked if the building was in full operation, what would be the number of employees. Dan Zander stated they would have four.

Ryan asked why the 2008 CUP, which was agreed to by Dan Zander's signature, has taken two years to come to this point.

Switzer asked who indicated he (Zander) can't have a silo over 35 feet.

Ryan asked if Dan Zander intended to put the silos up and have a business running. There is a cost of doing business; Zander should have figured out a budget and plan at the time the silos were bought.

Dan Zander stated he was informed he had a valid CUP and then later was tagged for outside storage.

McMahon stated a lot of Dan Zander's statements are just misrepresentations. McMahon stated City Attorney Neuville's letter had nothing to do with bringing tanks onto his property in an area that is prohibited for outside storage. McMahon restated that by their signatures on the resolutions granting the CUP, the Zanders (Dan and John) had agreed to the conditions.

Erick G Kaardal (Attorney, Mohrman & Kaardal, PA of Minneapolis, representing client Dan Zander) requested Council consider a public hearing.

OLD BUSINESS

Titan Supply Company Conditional Use Permit (CUP) Update (con't)

Switzer indicated he is not in favor of a public hearing. There is a long history with the project. Switzer explained the code compliance inspection is required for safety purposes. He further stated Titan would be operating a Class 2 Hazardous Location, and that the city is asking for a safe, healthy building and workplace. The City is not anti growth as City has grown substantially over the last few years and has a good track record of projects completed. Council has attempted to work with Dan Zander.

Switzer asked for a little respect in working with the City. He stated the City wants to work with the Zanders (Dan and John). Switzer referred to Ryan's question regarding the \$100,000 and explained Dan Zander's refusal to fully comply with the code evaluation seemed to indicate something is wrong in the building.

McMahon indicated Council has requested everything be completed by June 9, 2010, so the staff can make a recommendation on June 14, 2010.

Switzer requested Dan Zander clarify his intentions regarding the project. Switzer and McMahon explained the code inspection is primarily to identify safety concerns and create a schedule to bring safety concerns into compliance.

Dan Zander stated he isn't going to spend any more money or allow any one in his building for inspection.

McCarthy explained the process of a public hearing. He stated staff has not received enough information to determine if they agree or disagree with Zander's project.

Motion by Ryan, second Pribyl, to call for a Public Hearing on June 14, 2010, to revoke the Conditional Use Permit (CUP) unless Titan Supply Company is in complete compliance with Resolution 2004-34 and Resolution 2008-29 by June 9, 2010. MCU

McMahon stated it is his understanding the public hearing will be limited to items of non-compliance with the CUP.

Councilor John Zander returned to his chair at 8:28 p.m.

Amended Annexation Agreement

Motion by Pribyl, second by Cruz, to approve sending May 24, 2010, letter from Mayor Switzer to the Bridgewater Township regarding the Annexation Agreement. Administrator McCarthy reviewed the letter with discussion on the noted changes in letter. **MCU**

Motion by Ryan, second by Pribyl, to accept the resignation of Kathleen Doran-Norton from the Planning Commission and request Bridgewater Township to submit replacement names. MCU

Motion by Ryan, second by Cruz, to amend the Agenda to add under New Business 8(e) Removal of Councilor John Zander from the Dundas City Council based on his not living in the City of Dundas. Motion carried 4-0 Zander abstained.

NEW BUSINESS

Renewal of Liquor Licenses for period July 1, 2010 through June 30, 2011

On Sale, Off Sale, and Special Sunday On Sale for PlanF, LLC; dba: Fermentation Wine Bar and Bistro at 236 Railway Street North

Motion by Ryan, second by Pribyl, to approve renewal of On Sale, Off Sale, and Special Sunday On Sale liquor licenses for the period July 1, 2010, through June 30, 2011, for Plan F, LLC (dba: Fermentation Wine Bar and Bistro) at 236 Railway Street North. MCU

Motion by Cruz, second by Pribyl to remove 8a(ii) from the agenda. MCU

Liquor Licenses for period July 1, 2010 through June 30, 2011

On Sale, Off Sale, and Special Sunday On Sale for Lyle & Pauline's Inc. dba: L & M Bar and Grill at 224 Railway Street North

Motion by Cruz, second by Pribyl, to approve On Sale, Off Sale, and Special Sunday On Sale liquor licenses for the period July 1, 2010, through June 30, 2011, for Lyle & Pauline's Inc. (dba: L&M Bar and Grill) at 224 Railway Street North. MCU

On Sale and Off Sale, for Dawn's Corner Bar, Inc.; dba: Dawn's Corner Bar at 200 Railway Street N

Motion by Pribyl , second by Cruz, to approve On Sale and Off Sale liquor licenses for the period July 1, 2010, through June 30, 2011, for Dawn's Corner Bar, Inc. (dba: Dawn's Corner Bar at 200 Railway Street North. Owner Dawn Kruse stated she would like to continue working with City on getting Sunday's On Sale liquor license. Administrator McCarthy explained he is working with Kruse to clarify a definition MCU

Off Sale for AJE Enterprises, Inc.; dba: Firehouse Liquor at 607 Stafford Rd N

Motion by Cruz, second by Pribyl, to approve Off Sale liquor license for the period July 1, 2010, through June 30, 2011, for AJE Enterprises, Inc., (dba: Firehouse Liquor) at 607 Stafford Road North. MCU

Renewal of 3.2 per cent Malt Liquor for period July 1, 2010 through June 30, 2011

3.2 per cent Malt Liquor (Beer) for Dundas Baseball Association at 214 1st St S

Motion by Cruz, second by Ryan, to approve renewal of 3.2 per cent Malt Liquor for the period July 1, 2010, through June 30, 2011, for the Dundas Baseball Association at 214 1st Street South. MCU

Park & Recreation Park Board Member Appointment – Terry Allen

Motion by Switzer, second by Ryan, to approve Terry Allen to serve on the Park & Recreation Advisory Park Board with term expiring 2010. MCU

Removal of Councilor John Zander

Motion by Ryan, second by Cruz, to remove Councilor John Zander from Council as Zander is not a resident of the City of Dundas.

Motion by Switzer, second by Pribyl, to table the motion until June 14, 2010, Council meeting.

Motion to table carried by 4 - 0; Zander abstained.

REPORTS OF OFFICERS, BOARDS, COMMITTEES

City Attorney – Paula Callies

Callies indicated the City has received word from State they are ready to sign off on the Kor property. McCarthy reportrd MnDot inquired about inspecting the Kor Site.

REPORTS OF OFFICERS, BOARDS, COMMITTEES (con't)

City Engineer – Tom McMahon

McMahon reported on the letter he received from City of Northfield regarding the City's interceptor comments and request review of response from their letter.

City Administrator/Clerk – John McCarthy

McCarthy reported the City's financials show City's budget is slightly under spent. This includes the purchase of the new squad car. Revenue is up due to building permit fees. State legislature approve budget with no further reduction in state aid.

McCarthy reported a water break occurred in the Millstone Addition. Services will be shut down for eight units on Archibald Lane on Tuesday, May 25, to correct problem. The affected area involves electrical pad, fiber junction box, Qwest lines, and Xcel gas all within close range.

Mayor and Councilors and Committees

Pribyl reported on Park Board May meeting noting new member Deb Mikulecky and good discussion on parks and trails

ADJOURMENT

Motion by Cruz, second by Ryan, to adjourn the regular meeting of the Council at 9:18 p.m.

Submitted by:

Attested by:

John M. McCarthy, Administrator/Clerk

Glenn Switzer, Mayor