

**DUNDAS CITY COUNCIL
REGULAR MEETING MINUTES
Monday, July 26, 2010
7:00 p.m.
Dundas City Hall**

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

ABSENT: Chad Pribyl

OTHERS PRESENT: Chuck DeMann, Chip DeMann, Tresa Mazurek, Dan Zander, William Kunkel, Doug Kurtt, City Attorney Paula Callies, Administrator/Clerk John McCarthy, Police Chief Gordon Mincke, 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. Councilor Pribyl was absent.

PUBLIC FORUM

Tresa Mazurek (306 Grindstone Lane) expressed concern regarding the funding of the John Zander residency investigation.

John Zander (stepped down from council seat) stated that last Thursday, he asked to have a resolution regarding a personal business interest placed on the agenda last. The resolution dealt with Titan property, his business enterprises and activities there and is related to expiration of the CUP for storage of the County Market building panels expiring on July 31, 2010.

Dan Zander (Janesville) commented regarding a requested copy of a resolution.

PRESENTATIONS

Legislative Update – State Representative David Bly

Representative Bly gave a report on some of the latest legislation outcomes. He discussed budget shortfalls and LGA funds along with distributing a handout on how the budget breaks down. He talked about efforts to review the feasibility of the Dan Patch commuter railroad line.

Review of Concerns Raised in Public Forum

Mayor Switzer announced he would take the unusual step of responding to a public comment in a public meeting. He indicated Councilor John Zander had stepped down from his council seat at the July 12, 2010, meeting and made it clear he was speaking as a private citizen.

Switzer stated the City held a financial workshop on August 24, 2009 at which John Zander was present. The workshop lasted for two hours with an extensive review of the General and Enterprise Funds. The Enterprise Fund review included a 10 year projection to 2020. Mayor Switzer explained the information was extensive and invited follow-up questions and requests for additional information. As part of the workshop, a complete review of the Trailhead, Trail Extension and Trail Connection projects was presented for council and public review. Prior to the meeting, on August 13, 2009 City Administrator McCarthy had e-mailed a review and time line of official actions regarding the Trailhead. In his report, McCarthy specifically requested questions if anyone did not understand the information received. City Engineer McMahan had provided a complete breakdown of the costs, including line item amounts. It was explained the City received about \$240,000 in grants and the total expenditures, including soft costs were about \$351,000 for a net cost to the city of about \$112,000. McCarthy explained the soft costs had not been included in the original estimations.

Switzer stated Zander did not submit any questions or requests for additional information. He voted to approve all financial questions in 2009.

Switzer continued stating the City and staff have never “blocked” a legitimate request for information. All requests have been complied with in accordance with Data Practice requirements.

Switzer informed Council, Zander has not submitted a data practice request related to the Trailhead since making the statement at the July 9th meeting.

PRESENTATIONS

Review of Concerns Raised in Public Forum (con't)

Switzer stated since joining the Dundas City Council 2007, John Zander has been present for at least seven regular meetings where votes were taken on the Trailhead project and in all cases, including payment for services, Zander voted yes. Switzer also reported the State of Minnesota would charge the City for an investigative audit as requested by Zander. Preliminary research suggests an investigative audit would cost Dundas taxpayers in excess of \$10,000 up to \$25,000 and take a year to complete.

Switzer stated in all major financial votes since being elected, except for the vote not to accept the 2009 audit at the July 12, 2010, meeting, John Zander voted in favor of the question. Switzer continued stating Zander did not identify any specific cost saving measures or items of concern in either budgets or the audits except for asking questions about the transfers.

Switzer further reported since 2005, the City has increased its unreserved fund balance from \$249,760 to \$430,401. During the same period, total Government Funds have increased from \$628,580 to \$753,762.

Switzer stated if Zander, as a private citizen, is accusing the City of misappropriation of funds, then let the records show Zander has been present at all actions of the Mill Towns Trailhead, budgets, and audits. He stated to make a statement the City will be insolvent, needs to be backed up with facts.

Zander replied the auditor stated last year that he was not able to account for \$109,000.

Switzer reported the information on the Trailhead expenses have been supplied to Zander at least four times. Switzer stated Zander voted in the affirmative on all expenses on the Trailhead and previous audits.

Zander stated he voted not seeing the big picture.

Councilor Cruz indicated Zander had the big picture before the Mill Towns project and audit were voted on. Cruz stated the way Zander goes about grandstanding claims bother him and stated Zander brings up unfounded claims just to divert attention from his problems. He asked why Zander has to create a circus atmosphere when all the information is given to the Council ahead of time.

Zander stated he is not clear on the \$109,000.

Councilor Ryan stated the questions were answered at the financial work sessions.

Zander stated questions were not answered on the level he wanted answered and can show the email from the auditor.

APPROVAL OF AGENDA

Motion by Ryan, second by Cruz, to approve Agenda.

Motion by Zander to amend agenda to add a resolution to the agenda. McCarthy stated Zander as a Councilor is requesting an item to be added on the agenda in which Zander has a financial interest.

Motion failed for lack of second.

Motion carried 3 to 1. Aye: Switzer, Cruz, Ryan No: Zander

CONSENT AGENDA

Motion by Cruz, second by Ryan, to approve Consent Agenda with removal of Items b (Menard TIF payment) and c (Expenditures).

Approval of Regular Meeting Minutes of July 12, 2010

MCU

TIF Payment and Expenditures

Administrator McCarthy reported to Council the amount of the first half of TIF payment to Menards is \$74,002.64, which changes the Expenditures to \$122,045.84

Motion by Cruz, second by Ryan, to approve Menards TIF Payment and regular expenditures of \$122,045.84. Mayor Switzer requested explanation of TIF payments at the next work session. **MCU**

ORDINANCES/RESOLUTION

Resolution 2010-26 Declaring a Vacancy on Dundas City Council

Attorney Callies recommended Councilor Zander recuse himself. Zander did not recuse himself.

ORDINANCES/RESOLUTION

Resolution 2010-26 Declaring a Vacancy on Dundas City Council (con't)

Callies presented the report from the investigator and an affidavit. Not all information requested was provided by John Zander. Callies' recommendation was not to declare a vacancy at this time.

Motion by Ryan, second by Cruz, to declare vacancy on Dundas City Council. Councilor Ryan stated affidavit shows ten of the twenty-five sources were provided from Zander's company. No voter registration or other documents that would show where Zander's family lives were provided. Mayor Switzer stated when Zander is asked a tough questions it is avoided and out comes a law suit. Switzer stated no one on the Council was in favor of spending a thousand dollars but when Zander did not answer or provide any information the Council felt something had to be done on the residency issue.

MOTION FAILED 2-1. Yes: Ryan No: Cruz, Switzer Zander: Abstain

Ordinance 2010-05 Amendment to Chapter 1500 Zoning Code

Motion by Cruz, second by Ryan, to approve Ordinance 2010-05. Administrator McCarthy reported a public hearing was conducted by the Planning Commission on July 15, 2010, with no public comments. He stated the Ordinance creates an Interim Use Permit (IUP) which allows a time limit. Councilor Cruz stated an IUP allows more flexibility for City to work with property owners and businesses. Councilor Zander stated he would not be in favor of the permit. Mayor Switzer indicated if a business wants to operate in a residential area then the City should know what it is. Councilor Cruz stated home base businesses were discussed by the Planning Commission and the IUP provides flexibility.

Motion carried: 3 to 1. Yes: Switzer, Cruz, Ryan No: Zander

NEW BUSINESS

Naming Play Park in Bridgewater Heights

Motion by Ryan, second by Cruz, to approve the name of Pinnacle Park for the park located at Outlot F in Bridgewater Heights development. MCU

Street Closure for Block Party

Motion by Cruz, second by Ryan, to approve closing of Pinnacle Drive from Outlot F to the end culdesac for a block party on Tuesday, August 10, at 6:30 p.m. to sunset. MCU

Bridgewater Township Submitted Names for Planning Commission

Mayor Switzer reported two names were submitted by Bridgewater Township, and before making a recommendation to Council, he and possibly Councilor Cruz should talk to each person.

IPAD Open Meeting Law Training

Motion by Cruz, second by Ryan, to approve normal and customary expenses for Council and Staff and Council to attend IPAD training on the open meeting law on September 17. MCU

REPORTS OF OFFICERS, BOARDS AND COMMITTEES

City Attorney – Paula Callies

Attorney Callies stated she has been working on the ATV/Golf Cart Ordinance with Chief Mincke and the administrator, which will include the addition of a sticker on the vehicle. Councilor Cruz asked if the current fee is sufficient.

Callies stated due to a recent supreme court decision on how variances are considered, the City should change the Code. She indicated the definition in the Dundas Code is not as precise as State statute along with other provisions in the City Code which need to match State statute.

City Administrator/Clerk – John McCarthy

Financials: McCarthy reviewed the City's revenue and expenditures for the first half or the year stating the City is on budget and he compared budget to previous year. McCarthy noted the City has reduced bonded indebtedness.

REPORTS OF OFFICERS, BOARDS AND COMMITTEES

City Administrator/Clerk – John McCarthy (con't)

LGA: McCarthy reported the first payment from LGA of \$21,947 was received.

Population: McCarthy reported as of April 1, 2009, the population was estimated at 1,038 with a count of 430 households; however, he indicated utility bills suggest the City is closer to 520 residential households

Building Permits: McCarthy reported nine single family permits for the year.

Health Insurance: McCarthy reported the health insurance renewal is up by 16% and employees will incur out of pocket expenses.

Titan Supply Company Zoning Violations: McCarthy reported the 30-day period to correct violations expires on July 28 and the City has not received a response from the City's letter of July 2 to Titan Supply.

John Zander Storage Building Material McCarthy reported in an email received from John Zander on February 17, 2010, and the minutes of February 22, 2010, Zander stated he will be removing the County Market material on his property by July 31, 2010.

Financial Impact of Titan/Zander: McCarthy reported the demand for City resources and the time created by the Titan/Zander controversy has cost the taxpayers of Dundas over \$12,000 in the past two years in unreimbursed funds. He stated this doesn't include staff and Council time in trying to work with the Zanders. He stated on an annualized basis, the expense is approximately 1% of the real estate tax levy.

Mayor and Councilors and Committees

Park & Recreation Advisory Board - McCarthy reported the regular meeting on August 10 was changed to August 17 due to Primary Election. He stated movie night will be on Saturday night, August 21 at the Memorial Field ball park with the playing of "The Adventures of Robin Hood".

Mayor and Councilors and Committees

Planning Commission – McCarthy reported the Planning Commission will hold three public hearings on August 5, 2010.

Mayor Switzer

Mayor Switzer stated if Titan Supply Company wants to get the silos up and a building constructed, then the appropriate city procedure should be followed. McCarthy stated the process is as outlined in the City Code, same as other businesses have done. McCarthy stated the City has to receive documentation before making a judgment on how to proceed.

Committees

Mayor Switzer reviewed the committees and appointments.

Switzer indicated a Task Force with two Council representatives and a staff member resulted from the Northfield/Dundas Council meeting on July 19.

Motion by Ryan, second by Cruz, to appoint Mayor Switzer and Councilor Ryan along with a staff member to serve on the Northfield/Dundas Adhoc Committee. MCU

ADJOURNMENT

Motion by Cruz, second by Ryan, to adjourn the meeting of the City Council at 9:50 p.m. MCU

Submitted by:

Attested by:

John McCarthy, Administrator/Clerk

Glenn Switzer, Mayor