

City of Albion
Council Session Minutes
July 16, 2018

I. CALL TO ORDER

Mayor Brown called the regular meeting to order at 7:00 p.m.

II. MOMENT OF SILENCE TO BE OBSERVED

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

PRESENT: Maurice Barnes (1), Lenn Reid (2), Sonya Brown (3), Marcola Lawler (4), Jeanette Spicer (5), Andrew French (6) and Mayor Brown.

ABSENT: All members were present.

STAFF PRESENT:

Scott Kipp, Interim City Manager; Cullen Harkness, City Attorney; Jill Domingo, City Clerk and John Tracy, Director of Planning, Building & Code Enforcement.

V. PRESENTATIONS

A. 2017 Audit Presentation-Stevens, Kirinovic & Tucker P.C.

Bill Tucker, Stevens, Kirinovic & Tucker P.C. presented the 2017 Audit presentation highlighting the following:

- The City has received a clean opinion which is the best you can receive
- The City's overall government retirement fund is 94% funded
- Public Safety Pension is 167% funded
- Fund Balance for the general fund is at 30% of our annual operating expenses. Last year it was at 37%. It is recommended by the auditors to maintain a 15-20% minimum fund balance.
- Public Safety expenditures were up approximately \$200,000 in overtime expenses
- Recreation & Cultural Expenses were up \$294,000 due to grant funds for Holland Park
- The City had a decrease in fund balance of (\$61,116.00)
- Public Safety is 53% of the general fund

Comments were received from Mayor Brown.

B. The Big Read-Jess Roberts

Jess Roberts, Director of The Big Read program gave the following update on the Big Read Program:

- The Big Read program is a program that aims getting young people to read and discuss the 2018 Big Read title: “X: A Novel” by Ilyasah Shabazz and Kekla Magoon.
- It is a large celebration of collaboration
- The Big Read goes on throughout the summer with the big celebration being held in October.
- How to see the Big Read in Albion over the summer:
 - The novel X: A Novel” by Ilyasah Shabazz and Kekla Magoon is available at various locations throughout the community
 - Look for the Malcolm logo
 - Albion college van who will be picking students up from every precinct in the City to participate in the program.
- September 29th is the Big Read kickoff.
- Oct 2nd, 2018 Ilyasah Shabazz, author of “X” will be at the Bohm Theatre
- Oct. 5th & 6th is the “Walk the Beat” downtown event
- November 1, 2018 is the final Big Read Celebration

C. Albion College/Oaklawn Clinic Project-Dr. Ditzler & Dr. Williams

Mauri Ditzler, President Albion College and Gregg Beeg, Interim CEO Oaklawn Hospital gave the following presentation on the Albion College/Oaklawn Clinic Project:

- The project has been in the works for the past two (2) to three (3) years
- It will be in the basement of the old Parker Inn building (Munger building)
- It will be an extended hours clinic that will be open for Albion College students and the Albion community.
- The Clinic hours will be:
 - Monday – Friday 8:00 a.m. – 9:00 p.m.
 - Saturday 11:00 a.m. – 9:00 p.m.
 - Closed on Sunday
- May increase clinic hours if the need arises
- Thanks to Senator Nofs and Representative Bizon for the million-dollar grant received to renovate the property for the clinic
- Kathy Rhodes, Project Administrator stated the demolition of the area is complete and the drawings are done. They will plan to open in January 2019

Comments were received from Council Member Lawler.

D. Introduction of Lindsey Collins, New Code Enforcement Officer

Director of Planning, Building & Code Enforcement introduced Lindsay Collins, the new Code Enforcement Officer for the City.

Comments were received from Council Member Spicer, Mayor Brown and Lindsay Collins.

E. National Night Out-Officer Karilynn Noppe

Chief Kipp stated National Night Out is sponsored in part by the National Association of Town Watch and will involve over 16,500 communities from all 50 states, U.S. Territories, Canadian cities and military bases around the world. They are asking community members to consider sponsoring the event locally with a monetary donation.

On Tuesday, August 7th, 2018 neighborhoods throughout Albion are being invited to join forces with thousands of communities nationwide for the “35th Annual National Night Out” crime and drug prevention event.

National Night Out is designed to:

- heighten crime and drug prevention awareness
- generate support for and participation in local anti-crime efforts
- strengthen neighborhood spirit and police-community partnerships
- send a message to criminals letting them know neighborhoods are organized and fighting back

From 6 p.m. to 8 p.m. on August 7th residents are asked to lock their doors, turn on their porch lights and spend the evening with neighbors, police officers, firefighters, and paramedics at Victory Park in the City of Albion.

During this year’s event we are planning several fun events for children and adults including face painting, a dunk tank and painting a patrol car. Emergency vehicles including patrol cars, fire trucks and ambulances will be on hand to tour and have your picture taken with. There will be free food and music along with snow cones. Everyone will have a chance to meet their local police officers, firefighters and paramedics!

VI. PUBLIC HEARINGS-None

VII. PUBLIC Comments (Persons addressing the City Council shall limit their comments to agenda items and to no more than three (3) minutes. Proper decorum is required.)

Comments were received from John Geyer, 904 Irwin Avenue and Terry Atkins, 28 Mile Rd, Homer.

VIII. CONSENT CALENDAR (vv) (Items on Consent Calendar are voted on as one unit)

- A. Approval Study Session Minutes, June 25, 2018
- B. Approval Regular Session Minutes, July 2, 2018
- C. Approval Study Session Minutes, July 9, 2018

French moved, Reid supported, CARRIED, To Approve Consent Calendar as presented. (7-0, vv)

IX. ITEMS FOR INDIVIDUAL DISCUSSION

A. Request Approval 1st Reading Ordinance # 2018-06, An Ordinance to Amend Article V of Chapter 22, Section 22-204, of the Albion Code of Ordinances, Medical Marihuana Facilities License Applications

Comments were received from Council Member French and Attorney Harkness.

Brown moved, Lawler supported, CARRIED, To Approve 1st Reading Ordinance # 2018-06, An Ordinance to Amend Article V of Chapter 22, Section 22-204, of the Albion Code of Ordinances, Medical Marihuana Facilities License Applications as presented. (7-0, rcv)

B. Request Approval 1st Reading of the Amended Council Rules & Procedures

Council Member French asked to have 1st Reading of the Amended Council Rules & Procedures TABLED until the August 6, 2018 Council meeting.

French moved, Reid supported, CARRIED, To **TABLE** 1st Reading of the Amended Council Rules & Procedures until the August 6, 2018 Council meeting. (7-0, rcv)

C. Discussion-Parking on Maple Street

Council Member Lawler stated currently one end of Maple Street has parking on both sides of the street while the other end only has parking on one side of the street. She is requesting to change the parking for all of Maple Street to parking on one side only.

Interim City Manager Kipp stated he believed the reason for this was due to the width of the street and the school buses. He also would like to see parking on only one side of the street. He will check into the legal issues and what needs to be done to make the change and report back to Council at the next meeting. A survey of how property owners feel about the parking should be done for all of Maple Street.

Additional comments were received from Council Member French.

D. Update on Closure of Michigan Street between Dalrymple and Albion Streets

Council Member Reid stated she would like Michigan Street between Dalrymple and Albion Streets closed during the summer to protect children's safety.

Interim City Manager Kipp stated for a more permanent solution four (4) gates would be needed at a cost of \$500.00 per gate plus the cost of installation. City workers may be able to install. The highest expense of the gates would be approximately \$2500.00. If the City installed the gates, the street would be able to be opened or closed at any time. The temporary solution would be for the City to set up cement barriers with no cost involved as the City has these. They would not be able to be moved on a daily basis and will not provide any flexibility for opening and closing the street. Interim City Manager Kipp stated no incidents have happened on Michigan Street.

Interim Manager Kipp suggests using the temporary cement barriers this year and seeing how they work and if the Council is interested in something more permanent, the gates could be purchased and installed before summer begins next year.

Council Member Barnes suggested that residents on Center, Washington and Dalrymple Street be consulted as to how they feel about the road closure before moving forward.

Additional comments were received from Council Members Lawler, Spicer, French and Brown.

E. Election Discussion

Council Member Barnes discussed a phone call he received pertaining to the Council election. He stated he felt the information he received regarding Mayor Brown was unbecoming of the office of the Mayor and had ethical and moral implications.

Council Member Brown asked for Point of Order and suggested that she respects Council Member Barnes position, that the Mayor and Council Member Barnes should have a conversation regarding the issue. She stated public comments disparaging the Mayor are out of line and is listed in Roberts Rules of Order. It is unacceptable to attack or make any disparaging comments against any Council person or Mayor.

Mayor Brown ruled on the Point of Order citing from Roberts Rules of Order that the direct naming of a colleague is out of order and put the question before the Council on whether the Council Member should continue to speak. The question is undebatable.

Council Member Barnes spoke out against the ruling.

Council Member Brown asked for Point of Order.

Mayor Brown declared Council Member Barnes out of order.

Council Member Brown asked for a motion to remove Council Member Barnes supported by Council Member Spicer.

Council Member Barnes called for Privilege and left the meeting at 8:00 p.m.

The question before the Council is should Council Member Barnes be allowed to continue to speak.

Brown moved, Spicer supported, CARRIED, Should Council Member Barnes Not be Allowed to Continue Speaking on Agenda Item. (4-2, rcv) (Reid and French dissenting).

Mayor Brown asked the City Attorney Harkness to waive privilege and give the Attorney's opinion that was sent to Council pertaining to this issue.

Brown moved, French supported, CARRIED, to Allow City Attorney Harkness to Waive Privilege and Give Opinion that was Sent to Council. (6-0, vv)

City Attorney Harkness gave the following information:

The City Council requested what the state regulations are regarding prohibited conduct as it relates to current members of council engaging in

discussions with other persons running for the same office and whether said conduct violates Michigan election laws. I was also asked to comment as to whether or not such conduct is ethical. I have additionally been asked to comment on whether or not representing that a majority of Council supports a potential candidate not running would violate the Michigan Open Meetings Act.

There does not appear to be anything in Election law to prohibit current members of Council discussing with potential candidates for election, whether the potential candidates should in fact run for office. Most of the election prohibitions deal with voting or not voting after being provided valuable consideration in exchange. The remainder of the prohibitions deal with various threats relating to employment, religious excommunication, etc. As such, it does not appear that the factual scenario presented to this office falls into any of the categories of prohibited conduct contained within the Michigan Election Law.

As it relates to the ethical concerns posed to this office regarding the above described conduct, it is not for this office to comment on issues of ethics. At this time, it is only for this office to comment on matters of law. However, if in the future the City of Albion adopts an ethics ordinance, this office would be able to comment on compliance with the same.

With regards to whether or not the Michigan Open Meetings Act (Act 267 of 1976), and by implication, the Home Rule City Act (Act 279 of 1909), have been violated if a representation was made to a potential candidate that there was a consensus of Council that the candidate not run, at this time, I have not been presented with sufficient information to render a legal opinion as to whether or not a violation of either act has occurred.

Mayor Brown stated the Council needed to adhere to Robert's Rules of Order and all be respectful of each other. The City needs to establish a code of ethics policy.

Comments were received from Council Members Barnes, Brown, Reid and French; Mayor Brown and City Attorney Harkness.

F. Discussion-Rental Certification Ordinance

City Attorney Harkness stated he would recommend definitions be added for residential rental structure and residential rental unit as they are used throughout the ordinance but are not in the definitions.

The three items that Council needs to address to move the rental certification program forward are:

- Section 18-405 (c) How much the registration fee will be and will the fee be charged per parcel or per site.
- Section 18-406 Term of the registration
- Section 18-404 How long inspections are valid for

Council questions/comments were as follows:

- How do other municipalities handle the registration fee? *Each municipality does it differently. Some charge by parcel while others charge by site.*
- What does the City plan to charge for a registration fee? *\$25.00 registration fee per parcel or site depending on what Council would like to do.*
- Would consider a one-time registration fee of \$25.00 until a change of ownership occurs.
- Would like to meet with Landlord Association to work through some of the details of the ordinance.
- What would the inspection fee be? *If we used SAFEbuilt for the inspections, the fee would be \$56.00 per unit. SAFEbuilt generally increases their fees every three years.*
- Would like to create a sub-committee to meet with Landlord Association before moving forward with the rental certification process.

Comments were received from Council Members Reid, French, Brown, Spicer and Lawler; Mayor Brown and Director of Planning, Building & Code Enforcement Tracy.

Mayor Brown asked for a motion to change agenda item from a discussion to an approval.

French moved, Brown supported, CARRIED, to Change Discussion-Rental Certification Ordinance to an Approval Item. (6-0, rcv)

Mayor Brown asked for approval of creation of a sub-committee to meet with Landlord Association regarding rental certification. He asked for volunteers from the Council to be a part of the sub-committee.

French moved, Brown supported, CARRIED, To Approve Council Members Reid, Lawler and Spicer to a Sub-Committee to Meet with the Landlord Association Regarding Rental Certification. (6-0, vv)

G. Discussion-Sale of City Owned Property Policy

City Attorney Harkness included in the packet a copy of Detroit's sale of City owned property ordinance. Council consensus from previous study session was to have the City's ordinance similar to that of Detroit.

City Attorney Harkness stated he would need the following information to draft the ordinance for Council review:

- Does the Council want a closed bidding process for properties that exceed a minimum amount? What would the minimum amount be?
- Does the Council wish to have a clause to offer certain property to adjoining property owners?
- Does the Council want an opt-out clause?

Questions/Comments from Council were as follows:

- What protections will the City have from selling properties and having the owners sit on it. *The City can add to the ordinance the ability to add conditions to an offer. This would be done with a buy/sell agreement that list the specific conditions and would be done on a case by case basis.*
- The Detroit ordinance is just an example. The Council can set the system that works best for the City.
- How will surplus property be defined?
- Options for minimum bid:
 - 10% of assessed value with a 10% deposit
 - 10% of assessed value with a 5% deposit

Consensus of Council is to have City Attorney Harkness create a draft ordinance with the following information:

- 10% of assessed value and 5% deposit
- Clause to offer certain property to adjoining property owner
- Opt-Out clause
- Ability to add conditions to the offer

Comments were received from Council Members Spicer, Brown and French and Mayor Brown.

H. Request Approval Boards & Commissions Reappointment

- Marvin Itner, Reappointment, Public Safety Pension Board, Term to Expire 12-31-2021

Comments were received from Mayor Brown.

French moved, Brown supported, CARRIED, To Approve Marvin Itner, Reappointment, Public Safety Pension Board, Term to Expire 12-31-2021 as presented. (6-0, rcv)

I. Discussion-Street Millage

Council Member French asked to have the street millage discussion tabled until the August 6, 2018 Council meeting.

French moved, Brown supported, CARRIED, To **Table** Street Millage Discussion until the August 6, 2018 Council Meeting. (6-0, vv)

J. Discussion-Sale of 702,704,706 & 708 W. Erie Street

City Attorney Harkness stated the letter received in the packet is considered a counter offer to the Council's offer for sale of 702,704,706 & 708 W. Erie Street as the potential purchaser added a term. The consensus of the Council is to add this agenda item to the August 6, 2018 agenda as an approval item.

Comments were received from Council Members Spicer, Lawler and Brown.

K. Request Approval of Demolition Bid for 608 Austin Avenue

Council Member Brown asked to have the Approval of Demolition Bid for 608 Austin Avenue TABLED until the August 6, 2018 agenda.

Brown moved, Spicer supported, CARRIED to **POSTPONE** Approval of Demolition Bid for 608 Austin Avenue until the August 6, 2018 Council meeting. (6-0, vv)

Comments were received from Council Members Spicer and Brown, Mayor Brown and Director of Planning, Building & Code Enforcement Tracy.

X. Future Agenda Items

The following items were requested for the next agenda:

- Council Member Brown asked for a discussion on code of ethics ordinance
- Council Member Lawler asked for discussion on McIntosh Park, the dog park and Project Rising Tide
- City Attorney Harkness asked for the City Attorney's annual review on an upcoming Council agenda
- Council Member French asked for a timeline for the City Manager search.
- Mayor Brown stated a Closed Session has been set for August 14, 2018 to discuss the City Manager search.

XI. Motion to Excuse Absent Council Member (s)

No action was necessary as all members were present.

XII. PUBLIC COMMENTS (Persons addressing the City Council shall limit their comments to no more than three (3) minutes. Proper decorum is required).

Comments were received from Wayne Arnold, 906 Hall St; John Dunklin, 1203 2nd St; Al Smith, 1209 Adams St and Jim Hull, 113 E. Cass St, Apt. B.

XIII. CITY MANAGER REPORT

Interim City Manager Kipp stated the inside of the water tower has been painted. It will take approximately a week to cure. The water tower should be back in service by the end of this week or early next week. The exterior is almost complete.

Comments were received from Council Member French and Mayor Brown.

XIV. MAYOR AND COUNCIL MEMBER'S COMMENTS

Comments were received from Council Members Lawler and French, Mayor Brown and City Attorney Harkness.

XV. ADJOURNMENT

Brown moved, Spicer supported, CARRIED, to ADJOURN Regular Council Session. (6-0, vv).

Mayor Brown adjourned the Regular Session at 9:25 p.m.

Date

Jill Domingo
City Clerk