

September 22, 2008

Regular meeting of the Ludington City Council held in the Council Chambers of the Municipal Building on Monday, September 22, 2008, at 7:30 o'clock p.m.

Present: Mayor Pro-Tem Gary Castonia, Councilors Kaye Holman, Paul Peterson, Greg Dykstra, Brent Scott, Dave Weston, and Pete Engblade.

Absent: His Honor Mayor John Henderson.

Also present were City Manager John Shay, Police Captain Rich Pruneau, Fire Chief Jerry Funk, City Treasurer Mary Reeds-Mortensen, and City Clerk Deborah Luskin.

Invocation was pronounced by Councilor Pete Engblade.

Pledge to the Flag was given.

Item (d) (2) Approve AT&T Lease Agreement and Item (c) (2) Sidewalk at 210 N. Robert St. under Public Safety were pulled from the agenda and to be included on the next meeting agenda. Moved by Councilor Holman, seconded by Councilor Dykstra, that the Agenda be approved as amended. Motion Carried.

The meeting was opened for public comments.

Gloria Savory, owner of Savory Sales, Manistee Michigan, explained that her business handles household, moving, and estate sales for those individuals who choose not to hold the sale themselves. She has been in business for 17 years and is attending the meeting tonight to discuss the City's sign ordinance. She presented her understanding of the sign ordinance and stated that there was to be no signs on the city right-of-ways, or other homeowners' private property, or on your own vehicle. Earlier in the summer she had two sales in Ludington and had many signs out. She explained that these signs were not removed nor was she given notice that she was not in compliance with the City's ordinance. In August she had an estate sale on Brother Street and this is when she became aware of the sign ordinance. The Code Enforcement Officer explained to her that she would have to get permission from the household owners to put the signs in their yards. She complied with this and then later on that day she was told by Carol Foote, the Zoning Administrator that she was not in compliance and the signs would have to be removed. Gloria removed the signs. She explained that she cannot continue to have sales in the City of Ludington without the placement of signs recognizing and directing people to these events. She also stated that customers do not just come to Ludington to attend the sales and leave, they shop and eat at the restaurants. She cannot have sales in the City of Ludington without having the ability to display her signs. She asked the City to reach a compromise on the placement of signs. Mayor Pro-Tem Castonia explained that this would be addressed under Communications from City Officials later in the meeting.

After no further comments were received, the regular order of business was resumed.

Moved by Councilor Engblade, seconded by Councilor Dykstra, that the minutes of the regular meeting held 09/08/08, be approved as printed. Motion Carried.

Moved by Councilor Scott, seconded by Councilor Holman, to approve the street closures for the Fall Festival/Oktoberfest on October 4, 2008 on Ludington Ave between James and Robert Streets, with the closure of the first half block of North and South Rath Ave in order to run the SS Mini Badger ride. Motion Carried.

Moved by Councilor Peterson, seconded by Councilor Dykstra, to approve the parade application for the Homecoming Parade on Friday, September 26, 2008. Motion Carried.

Moved by Councilor Holman, seconded by Councilor Peterson, that the Finance Report with total expenditures in the amount of \$562,971.57 for this period be approved and orders drawn according to the City Charter. Motion Carried.

ORDINANCE NO. 182-08

An ordinance to authorize the City Manager and City Clerk to enter into an agreement with the Charter Business Telephone and Internet Service.

THE CITY OF LUDINGTON ORDAINS:

Section 1: The City Manager and City Clerk are authorized and directed to enter into the attached three (3) year agreement with the Charter Business Telephone and Internet Service.

Section 2: Severability: Should any provisions of this ordinance or any part thereof be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions hereof or of any other provisions of the City Code.

Section 3: Repeal: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4: Effective date: This ordinance shall be effective 20 days after publication.

Moved by Councilor Scott, seconded by Councilor Dykstra, to adopt Ordinance No. 182-08. Councilor Scott explained that the move from Verizon telephone and internet service to Charter telephone and internet service would result in an annual savings of \$6,745. There were questions by committee members about the backup power when Charter goes down, but Charter has assured the City that the backup power would be through backup battery which would last 6-10 hours. Councilor Enghlade still opposes this ordinance, because if the cable goes out the telephones go out. He explained that there are two variables with Charter, one being if the power goes out there is no phones, and two if the cable goes out there are no phones. With Verizon there is only one variable, if the power goes out the phone goes out. This is not good for the public safety of the City. He stated the City should stay with Verizon. Councilor Weston explained that he is on the committee and asked why Verizon was not given the opportunity to bid on this service as well. City Manager Shay explained that the City has had a difficult time with Verizon on the internet side, mainly with the speed of the internet. Our computer consultant stated that there was no contest between Charter and Verizon on the internet, Verizon is much slower. On the electrical issue, any of the facilities that have the backup up generator will power the phones in an outage, those that do not have the backup generator will have battery backup. For the first three years of the agreement, Charter will pay for the batteries and after that the batteries will cost \$60 per phone location. Councilor Scott stated that the batteries depend upon the usage and are good for six to ten years. Councilor Enghlade reminded the City that this past storm had power out for some time and that the primary purpose is to protect the public, his main problem is that his cable goes out a lot and once this power goes out, the City is out of communication.

Roll Call: Ayes: Councilors Peterson, Castonia, Holman, Dykstra, and Scott.

Nays: Councilors Weston and Enghlade. Motion Carried.

Moved by Councilor Weston, seconded by Councilor Scott, to approve TCO #94A Determining and establishing a "No Parking Here to Corner" zone on the south side of First Street, from Washington Avenue forty (40') feet east. Motion Carried.

Moved by Councilor Weston, seconded by Councilor Enghlade, to approve TCO #98A Determining and establishing a "No Parking Here to Corner" zone on the north and south sides of Filer Street, forty (40') feet east from Lavinia Street. Motion Carried.

Moved by Councilor Weston, seconded by Councilor Enghlade, to approve TCO #99A, Determining and establishing a two-way traffic pattern for the City owned parking lot between the Ludington Skate Plaza and the Jaycee Mini-golf, located between North Lakeshore Drive and Stearns Outer Drive. All traffic exiting this lot shall stop prior to exiting onto North Lakeshore Drive and Stearns Outer Drive. Councilor Holman explained that she is going to vote no on this because the skate plaza and the mini golf do have an exit. This will allow a left turn lane onto Lakeshore Drive to the north, and this will be across two lanes of traffic. Councilor Weston also agreed that there should be no left turn lane from this driveway. Councilor Holman opposed this motion. Motion Carried.

Moved by Councilor Weston, seconded by Councilor Enghlade, to approve TCO #100A, Determining and establishing a temporary stop street on westbound East Filer Street, at the intersection of South Lavinia Street during the hours of 8:00 a.m. till 8:45 a.m. and 3:30 p.m. till 4:15 p.m. on school days. Motion Carried.

ORDINANCE NO. 186-08

An Ordinance to amend the City of Ludington Zoning Ordinance No. 23-00, as amended.

THE CITY OF LUDINGTON ORDAINS:

Section 1: The following described area of the zoning map of the City of Ludington is hereby rezoned from G-1 (Government Service District) to CBD (Central Business District): Original Plat, Lots 6 and 7, Block 46, also known as 206 W. Loomis St.

And the following described area of the zoning map of the City of Ludington is hereby rezoned from P (Parking) to CBD (Central Business District), Original Plat, Lots 8, 9, and 10, Block 46, also known as 206 W. Loomis St.

Section 2: Severability: Should any provisions of this ordinance or any part thereof be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions hereof or of any provisions of the City of Ludington Zoning Ordinance.

Section 3: Repeal: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4: Effective date: This ordinance shall be effective 20 days from the date hereof.

Moved by Councilor Enghlade, seconded by Councilor Weston, to adopt Ordinance No. 186-08.

Roll Call: Ayes: Councilors: Scott, Holman, Dykstra, Weston, Castonia, Engblade, and Peterson.
Nays: None. Motion Carried.

Councilor Engblade presented the August Building, Zoning, and Enforcement Report.

Resolution to Apply for Michigan State Housing Development Authority's Housing Resources Fund Downtown Rental Rehabilitation Project.

WHEREAS, the City of Ludington is interested in the continuing effort to provide affordable housing opportunities for its low and very low income residents;

WHEREAS, said Ludington City Council has reviewed and understands the content of the application for funding;

WHEREAS, said Ludington City Council accepts the recommendation of the Community Development Office to apply for Downtown Rental Rehabilitation Funds; and

WHEREAS, said Ludington City Council authorizes the City Manager to sign the application form as required;

THEREFORE, BE IT RESOLVED, that the City of Ludington authorizes the Community Development Office to prepare and submit the application for funding through the Michigan State Housing Development Authority's Housing Resource Fund.

City Manager Shay explained that this year the City received approval from MSHDA to renovate one unit at the Granary Building and to renovate 7 units above the Stram Building. This resolution applies for additional funding to renovate up to 15 units in the downtown area. This grant allows up to \$30,000 per unit and the property owners, not the City will pay 25% match. Moved by Councilor Peterson, seconded by Councilor Holman, to adopt the foregoing Resolution. Motion Carried.

A public hearing was held to hear comments on the application for Downtown Façade Renovation Grant Funds. After no comments were received, the regular order of business was resumed.

Resolution to Apply for Michigan State Housing Development Authority's Façade Improvement Project

WHEREAS, the City of Ludington is interested in the continuing effort to enhance the appearance of downtown Ludington;

WHEREAS, said Ludington City Council has reviewed and understands the content of the application for funding for the Façade Improvement Program and supports the application to apply for matching funds for 3 downtown buildings in the amount of \$75,750 in CDBG dollars and \$75,700 in local dollars supplied by the participating property owners and certifies that this program is consistent with the local Community Development plan as described in the application; and

WHEREAS, the Ludington City Council recognizes the requirement of the State of Michigan that states that at least 51% of the jobs created through this proposed project would be reserved for low and moderate income persons; and

WHEREAS, the Ludington City Council agrees that no costs (CDBG or non-CDBG) will be incurred prior to a formal grant award, completion of the environmental review procedures and formal, written authorization to incur costs is received from the Community Assistance Team; and

WHEREAS, the Ludington City Council Authorizes the Community Development Director Heather L. Venzke-Loney to submit the Michigan CDBG Application and associated documents and to serve as the certifying officer for the environmental review process; and

WHEREAS, the Ludington City Council authorizes the City Manager to sign the application form as required.

THEREFORE, BE IT RESOLVED, that the City of Ludington authorizes the Community Development Office to prepare and submit the application for funding through the Michigan State Housing Development Authority's Housing Resource Fund.

City Manager Shay explained that this proposal will apply for \$75,000 CDBG funds with the property owner to pay the 50% match. There are three store fronts that would use this current program, Snyder Shoes, the Rath Building, and PM Sports.

Moved by Councilor Engblade, seconded by Councilor Weston, to approve the foregoing Resolution. Motion Carried.

Councilor Holman personally thanked Jerry Welton, Code Enforcement Officer, for his efforts in handling the sign issues this year. She stated that the City's sign ordinance is very specific as to prohibiting signs or posters and attaching these to trees, telephone poles, public benches, street lights, or placed on any public property or any public right-of-way. This also includes signs placed on vehicles or trailers, which are parked or located for the primary purpose of displaying said signs. She explained that the ordinance does not apply to allowed portable signs or to signs

or lettering on busses, taxis, or vehicles operating during the normal course of business. Councilor Holman explained that the public right-of-way extends from the sidewalk to the curb. She stated that if you go to the property owner and the property owner states that a person can put the sign on their property then the sign must be between the house and the sidewalk, this is not a prohibitive sign. Also, if you place a sign on your vehicle it can be parked in front of the property where you are working. However, you cannot place a sign on your vehicle and then place the vehicle at the end of the street to announce the activity down the street. Primarily, the problem comes when the signs are placed in the City's right-of-way. In the past, the City has not enforced this ordinance, but the City has hired a Code Enforcement Officer and he is doing a great job enforcing the ordinance. Councilor Engblade agrees with Councilor Holman, and stated that the sign ordinance has been in effect since as long as he remembers. In the past, the police officers used to take the signs down and take them back to their owners. This would take place a couple of times before a citation would be issued. He explained that an ad will be placed in the paper in the spring to explain this ordinance to the public. This ordinance will be enforced. Councilor Castonia also commended Jerry Welton on doing a great job.

Councilor Peterson commended the Ludington Area Arts Council for obtaining the old United Methodist Church for its new center, as well as congratulating Western Land Services for building downtown.

Councilor Scott commented that Savory Sales do run a nice estate sale.

Moved by Councilor Engblade, seconded by Councilor Holman, that the meeting be adjourned. So carried at 8:15 p.m.

Deborah L. Luskin, City Clerk