

City Commission  
July 18, 2016

Mayor Mark Warba called the regular meeting of the City Commission to order at 6:30 p.m.

Present: Commissioners Lynn Anderson, Tom Hogenson, Lorraine James, and Dan Rothstein; Mayor Mark J. Warba; City Attorney Eric D. Williams; and City Treasurer Aaron Kuhn.

Absent: None

There were 12 people in the audience.

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF THE AGENDA** – 11c - Resolution regarding 2015/16 Carry Forwards was taken off the agenda for further review and will be on the August 1, 2016 City Commission agenda.

**APPROVAL OF MINUTES**

Commissioner Hogenson moved, seconded by Commissioner Anderson that the minutes of July 5, 2016 meeting be accepted.

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

**PARK & RECREATION, LIBRARY, POOL BILLS AND QUARTERLY INVESTMENT REPORT** – Aaron Kuhn

Mr. Aaron Kuhn, City Treasurer, presented the Park & Recreation, Library, Pool Financial Statements and Quarterly Investment reports. Some of the highlights included:

- Library Quarterly Budget to Actuals - The total revenues for the quarter were \$56,833 and the total expenses for the quarter were \$121,277. Building maintenance was \$14,433 and \$106,844 was for general library expenses. Total library revenues for the fiscal year came in at \$28,249 over budget and total library expenditures for the fiscal year came in at \$33,416.74 under budget.
- Community Pool Quarterly Budget to Actuals - The total revenues for the quarter were \$50,770 and the total expenses for the quarter were \$42,531. Total pool revenues for the fiscal year came in at \$5,418.56 over budget and total pool expenditures for the fiscal year came in at \$21,806.39 under budget.
- Park and Recreation Budget Quarterly to Actuals - The total donations, grants, and charges for services related to park and recreational services were \$7,719, total expenditures for the quarter were \$122,76, which \$89,208 went toward park facilities and \$33,558 went for recreation. Total park revenue for the fiscal year

was \$6,507.36 under budget and total park expenditures for the fiscal year was \$11,888.10 under budget. Total Recreation expenditures for the fiscal year was \$9,306.17 under budget.

#### Investment Report –

The City of Big Rapids pooled cash investment balance for the end of March 2016 was \$4,041,306 and the ending balance as of June 30, 2016 was \$4,134,627. The fluctuation was due to the receipt of the first reimbursement for Baldwin Street Bridge construction.

#### SPECIAL ORDERS OF THE DAY - None

#### STUDY SESSION

##### a. Hanchett Discussion Factors – Steve Sobers

This topic was presented at the last City Commission meeting. It is being brought back for Commission input.

Commissioner Hogenson commented on the question of whether the State would allow site access at the north end of the property. He would be looking at staff for a recommendation of what should be done. Depending on the developer, would the access be a problem or a benefit. Mr. Sobers commented that the question with MDOT is how far away would the access point be from the traffic light at Baldwin and State Street. MDOT would consider an access point at the far northern edge. This would also depend on the developer and where they would like to see the access point constructed.

Mayor Warba questioned as to whether or not action should be taken to remove the sewer line across the property. The Bonner Group recommends taking action now but the Mayor would like to wait and see what kind of developers are interested in the property.

##### b. Noise Ordinance – Eric Williams

Eric Williams, City Attorney, stated that back in March he learned about a Michigan Court of Appeals decision involving the City of Grand Rapids concerning their noise ordinance. Mr. Williams researched how this decision might impact the City of Big Rapids ordinances. The language in the City of Grand Rapids ordinance read:

“No person shall use any premises or suffer any premises under his or her care or control to be used which shall **destroy** the peace and tranquility of the surrounding neighborhood.” The Michigan Court of Appeals found the ordinance language to be unconstitutional and void for vagueness.

Mr. Williams reviewed the City’s ordinances and found that no ordinances use the word **destroy**, however, Mr. Williams in reviewing the City ordinances for similar ordinance phrases that might need to be updated or corrected, noticed that several sections in which code regulations use the word **annoy** or **annoyance**. In the City’s ordinances the word annoy is also used with the word disturb or disturbance. Mr. Williams suggested removing the word annoy in all forms, leaving the operative word disturb or disturbance in place.

Mr. Williams will revise the City's noise ordinances replacing annoy or annoyance and adding or replacing it with disturb or disturbance. This text change will be at a future City Commission meeting.

**PUBLIC COMMENT** - None

**PUBLIC HEARING** – None

The City has not done an assessment alley paving in several years. Mark and Jodie Speas acquired signatures on a petition to have the alley between Warren Avenue and Stewart Avenue, north of Oak Street paved. The property owners that are adjacent to the alley would pay 50% and the City would pay 50% of the paving costs. In the past, the interest rate has been 6%. Commissioner James suggested lowering the interest rate due to the interest rates at the bank are lower than 6%. This rate will come back in a future resolution.

**RESOLUTION NO. 16-65**

Commissioner Hogenson moved, seconded by Commissioner James, the adoption of the following Resolution:

**RESOLUTION DIRECTING STAFF TO PREPARE PLATS, ESTIMATES AND DIAGRAMS AND TO ESTABLISH A PUBLIC HEARING DATE FOR ALLEY IMPROVEMENTS PARTIALLY FUNDED THROUGH SPECIAL ASSESSMENT OF ADJACENT PROPERTY OWNERS - BLOCK 36 OF THE ORIGINAL PLAT**

WHEREAS, the City Commission of the City of Big Rapids is in receipt of a petition signed by the majority of the property owners and has determined that alley improvements of the alley that is identified as Block 36 of the original plat, between Warren Avenue and Stewart Avenue, north of Oak Street be initiated by Special Assessment and therefore;

BE IT FURTHER RESOLVED, that the expenses for the project therefore shall be paid on a cost sharing basis by each property owner benefited thereby and by the City of Big Rapids in the following apportionments:

Work relating to paving sections of alley not currently improved shall be paid at 50% by the owner of the property benefiting from the improvement and 50% by the City.

Project cost as stipulated in Subsection 35.04 COST OF PUBLIC IMPROVEMENTS, Chapter 35: Public Improvements: Special Assessments, ordained by the City of Big Rapids, shall be paid according to a pro rata share based on the improvements made adjacent to the property and cost associated with the alley improvements.

BE IT FURTHER RESOLVED, that payment shall be levied in the manner following:

Full payment during a three (3) year term payable in three equal annual installments with interest at the rate of six (6%) percent per annum on all unpaid sums with no interest charged until after the first installment of the special assessment.

BE IT FURTHER RESOLVED, that the said special assessment shall be upon each lot, premise and parcel of land abutting the public improvement on or next to the attached list of properties according to lineal foot of road frontage according to platted dimensions along the improvement.

BE IT FURTHER RESOLVED, that City staff shall have prepared estimates, plats and diagrams and that the estimates, plats and diagrams be filed with the City Clerk for public examination and the City Clerk shall publicize this public improvement in the Pioneer Press; and that the City Commission will meet on August 15, 2016, at 7:00 p.m. in the City Commission Chambers to consider any objections.

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

The Mayor declared the resolution adopted.

Dated: July 18, 2016

#### **RESOLUTION NO. 16-66**

Commissioner Anderson moved, seconded by Commissioner Hogenson, the adoption of the following:

#### **RESOLUTION ACCEPTING BID FOR THE 2016 STREET RESURFACING PROJECT**

WHEREAS, the City maintains a street system of approximately 38 miles, and recognizes that the maintenance of the street surfaces are a vital element of a good street pavement management system, and

WHEREAS, staff has identified City streets that are in need of repair and solicited bids for the 2016 Street Resurfacing Project, and

WHEREAS, three bids were received with staff recommending the lowest and best bid of Rieth-Riley Construction Co, Inc., of Big Rapids for the 2016 Local Street Resurfacing Project in the amount of \$234,646.64, and

WHEREAS, the streets identified for milling and overlay treatment are:

1. Grant Street from W. Bridge Street to W. Pere Marquette Street
2. Sheridan Street, from W. Bridge Street, through W. Pere Marquette Street
3. Rust Avenue, from S. State Street to Hutchinson Street
4. West Grand Traverse Street, from Rose Avenue to Finley Avenue

Alleys:

1. West of 500 N. State Street, from W. Waterloo Street to West Pere Marquette Street

2. West of N. Warren Avenue, from Maple Street to North 350 feet
3. West of 400 Ives Avenue, from Oak Street to Locust Street

Also included as **Street rehabilitation is 2 blocks of S. Michigan Avenue**, from the South side of Linden Street, to the North side of Oak Street, where the curb and asphalt will be fully removed, subgrade repaired and then the street replaced.

WHEREAS, contract documents allow the City to include additional unit quantities for paving additional streets if surplus funds are available after the completion of the above streets.

NOW, THEREFORE, BE IT RESOLVED, that the bid of Rieth-Riley Construction Co, Inc., in the amount of \$234,646.64 be accepted.

BE IT FURTHER RESOLVED, that the Mayor be authorized to sign the forthcoming contract upon approval of the City attorney and the cost be expensed to the 2015/16 budget from the following Account Numbers:

<u>Account Numbers:</u>	<u>Budgeted</u>
202-451-998.000 Major Street Construction	\$150,000
203-451-998.000 Local Street Construction	\$106,300
101-442-967.046 Alley Paving	\$ 25,000
101-442-967.047 Pave Petition Requested Alley	\$ 8,000

Yeas: Anderson, Hogenson, James, Rothstein, Warba

Nays: None

The Mayor declared the resolution adopted.

Dated: July 18, 2016

**UNSCHEDULED BUSINESS**

- Staff met with a resident who lives on Cherry Street today. In the rear of their property, the water that runs off Ives from the university crosses behind their house. There has been serious erosion behind the property that needs immediate attention. To complicate matters more, there is a sanitary sewer line that parallels this ditch which is exposed thirty feet or more. This has the potential of being a million-dollar project. There has been talk in the past about working with the drain commission and setting up a county drain that could be assessed over a period of time. Michigan law does not permit the drain commissioner to assess State owned property and the university without their written consent. The City will be working with the university, Highway Road Commission and the neighborhoods to come up with a plan.

- Commissioner Anderson read in the Manager's Newsletter that the street department was spraying for bees and wanted to make sure that they were not honey bees. Mr. Schneidt assured her that it was for hornets and not honey bees.
- Commissioner Rothstein thanked Mr. Sobers for the quick attention that was paid to the situation on Cherry Street.
- Commissioner Hogenson stated that he rode his bike on the new bike lane on the Baldwin Street Bridge. He said that it was very enjoyable to ride his bike on an adequately prepared roadway.
- There will be a City Commission retreat August 29, 2016. Agenda items include: Purchasing Policy, City Manager's retirement, Big Rapids Housing Authority, and MERS retirement discussion.
- An article from TIME magazine was distributed relating to wild animals and the need to control them.

There being no further business to come before the City Commission, the Mayor declared the meeting adjourned at 7:10 p.m.

\* \* \* \* \*

---

Mayor Mark J. Warba

---

Tamyra K. Gillis, City Clerk