

CITY OF BRIGHTON
CITY COUNCIL MEETING
CITY HALL
February 18, 2010

EARLY BLUE SKY / PROPOSED CIP REVIEW WORKSESSION: 6:00 pm

Regular Blue Sky - 7:00 pm: Review of Agenda Items for this evening's meeting

REGULAR SESSION - 7:30 P.M.

1. Call to order
2. Pledge of Allegiance
3. Roll Call
4. Approval of minutes: Regular Meeting and Closed Sessions of February 4, 2010, and Special City Council Meeting of February 8, 2010, and Closed Session of February 8, 2010
5. Call to the Public
6. **Response to Citizen Inquiries to City Council received prior to this City Council Meeting**
7. Consider approval of the Agenda

Consent Agenda

8. Consider a Resolution requesting the State of Michigan to revoke the American Mitsuba Tax Abatement; and motions to allow the City to collect the abated taxes from American Mitsuba and to impose the maximum penalty allowed by Act 198 of 1974 on American Mitsuba.

Policy Development & Customer Communications' action item

9. Conduct a public hearing for the second reading on the proposed Temporary Use Time Period Amendment to the Sidewalk Café Permit Ordinance
 - a. Mayor closes the regular Council meeting discussion and opens the public hearing to ask for public input/comment
 - b. Mayor closes the public hearing and resumes the City Council meeting discussion on the proposed ordinance amendment
 - c. Consider a motion to approve the proposed ordinance amendment
10. City Council report to the Public regarding the outcomes of the City Council's annual performance evaluation of the City Manager conducted on 02/08/10
11. Consider a motion to adopt the proposed Capital Improvements Program and related direction to staff

Other Business

12. Information for City Customers
13. Receive updates from Council Member Liaisons to other Boards and Commissions
14. Call to the Public
15. Consider Closed Session to receive a written attorney-client privileged communication from the City Attorney
16. Consider possible recommended action or motion from the City Council City Manager's Employment Agreement Subcommittee
17. Adjournment

MINUTES OF THE MEETING OF THE CITY COUNCIL OF BRIGHTON
HELD ON FEBRUARY 18, 2010 AT THE BRIGHTON CITY HALL
200 N. 1ST STREET, BRIGHTON, MICHIGAN

BLUE SKY SESSION

The Council conducted a Blue Sky Session at 7:00 p.m. Present were Mayor Bandkau, Councilmembers Muzzin, Cooper, Roblee, Schillinger, Bohn and Pipoly. The Council reviewed the agenda items.

REGULAR SESSION

Mayor Bandkau called the regular meeting to order at 7:30 p.m. Following the Pledge of Allegiance, the roll was called, there being present were Mayor Bandkau, Councilmembers Muzzin, Roblee, Cooper, Bohn, Schillinger and Pipoly. Also in attendance were Engineer Linda Basista, Attorney Paul Burns, Special Legal Counsel Dennis Gabrian and Staff members Dana Foster, Diana Lowe, Jennifer Piasecki, Matt Modrack, Dave Gajda, Tom Wightman, Matt Schindewolf and an audience of 6.

MINUTES APPROVAL

It was moved by Councilmember Roblee, seconded by Bohn to approve the Regular Meeting minutes of February 4, 2010 as presented. Motion passed 7-0.

It was moved by Councilmember Muzzin, seconded by Pipoly to approve the Closed Session minutes of February 4, 2010 as presented. Motion passed 7-0.

It was moved by Councilmember Roblee, seconded by Bohn to approve the Special City Council minutes of February 8, 2010 as presented. Motion passed 7-0.

It was moved by Councilmember Bohn, seconded by Muzzin to approve the Closed Session minutes of February 8, 2010 as presented. Motion passed 7-0.

CALL TO THE PUBLIC

Mayor Bandkau gave a Call to the Public at 7:33 p.m. The following comment was heard:

Susan Walters Steinacker read a citizen inquiry from Pat Cole regarding deadlines and read the letter written by Mayor Bandkau in response to the inquiry. She stated it makes no sense to publish vacancies in the newspaper if we do not follow the deadlines and she read the charter from 1956 regarding appointments and requests Council go back to it.

Hearing no further comment, Mayor Bandkau closed the Call to the Public at 7:37 p.m.

Councilmember Muzzin stated we are getting down to words here that seem to be meaningless and a waste of taxpayers dollars. We have had discussed FOIA's and all of this information and much time is being wasted on issues that are frivolous.

CITIZEN INQUIRY RESPONSE

Mayor Bandkau read a Citizen Inquiry from Patricia Cole asking why citizen's inquiries are not answered at the next Council meeting, as the public should also have this information. She thanked Ms. Cole for the inquiry.

AGENDA APPROVAL

It was moved by Councilmember Schillinger, seconded by Bohn to approve the Consent Agenda as presented. Motion passed 7-0.

The following items were approved:

1. Approved Resolution 10-01, Request the State of Michigan to revoke the American Mitsuba Tax Abatement and allow the City to collect the abated taxes from American Mitsuba and to impose the maximum penalty allowed by Act 198 of 1974 on American Mitsuba.

It was moved by Councilmember Cooper, seconded by Muzzin to approve the Action Agenda as amended. Delete item # 15, Written Attorney-Client Privileged Communication Closed Session. Move item #16 to #11a, Manager Employment Agreement. Motion passed 7-0.

SIDEWALK CAFÉ PERMIT ORDINANCE AMENDMENT

Mayor Bandkau opened the Public Hearing on the proposed Temporary Use Time Period Amendment to the Sidewalk Café Permit Ordinance at 7:45 p.m. Hearing no comment, the Public Hearing was closed.

It was moved by Mayor Pro-Tem Bohn, seconded Pipoly to approve Ordinance 549, Temporary Use Time Period Amendment to the Sidewalk Café Permit. A roll call vote was taken. Yes: Schillinger, Cooper, Bohn, Bandkau, Muzzin, Roblee, Pipoly. No: none. Motion passed 7-0.

CITY MANAGER ANNUAL PERFORMANCE EVALUATION REPORT

Mayor Pro-Tem Bohn stated there was healthy dialogue with the range of topics discussed at the City Manager Performance Evaluation. Each of the Councilmembers members shared their views and offered suggestions from their perspectives of what could be improved upon.

Councilmember Muzzin stated the City of Brighton is very lucky to have a City Manager as dedicated as Dana Foster for 18 plus years and has done a great job in hiring his Staff.

Mayor Bandkau concurs with both of the former comments and stated he listens to Council's suggestions and has been a fantastic manager.

Councilmember Muzzin stated Dana Foster is not getting a raise and is taking a five percent pay cut and an additional five percent cut as a result of the furlough program.

City Manager, Dana Foster thanked the Council for the evaluation process, the time and energy each Councilmember puts into the process, for the feedback, constructive critiques and suggestions to work on. He thanked the Council for statements made tonight. He stated he has been in City Management for 28 years in two different states. The outcomes of the evaluations are not just about the City Manager, but ultimately what the organization has accomplished. He thanked all of the staff at all levels, particularly the Department Directors, City Attorney, City Engineers, City Boards who carry out the policies and meet the goals.

CAPITAL IMPROVEMENTS PROGRAM

City Manager, Dana Foster stated there is an annual CIP updating process to identify major projects needed to improve the community, which is done ahead of the annual operating budget process to identify what those investments need to be and the linkage between City Council goals and policy already set in motion. Given our declining revenue it will be a challenge to build into the budget any of the six-year projects. If the Council adopts the CIP, it does not mean it will be funded.

Councilmember Muzzin stated this part of the budget process, the capital is done and funding or not funded comes back. A balanced budget and will be challenging, as property tax continues to go down and every dollar is critical.

Councilmember Bohn stated City Staff has done a good job of what needs to be done and the CIP Citizens Advisory Board can recommend some good dependable funding. The problem is finding the funding to make these things happen.

It was moved by Mayor Pro-Tem Bohn, seconded by Muzzin to adopt the 2010 – 2016 Capital Improvements Program. Motion passed 7-0.

CITY MANAGER EMPLOYMENT AGREEMENT

Special Legal Counsel, Dennis Gabrian stated this agreement intends to incorporate all of the amendments that have taken place to the City Manager's contract since 1997. He thanked the subcommittee, Attorneys and Mr. Foster for their time.

Councilmember Roblee recommended waiting for the check to clear from the City Manager returning the funds he had previously been given before taking any other action. She expressed her concerns regarding the payout amount and being equitable.

Councilmember Bohn stated he has no issue with the City Manager contract or payout, as it is taking an estimated \$400,000 liability off of the books for a net cost of \$18,400 and the City Manager's compensation will also be reduced.

Councilmember Cooper stated he served on the City Manager Contract Subcommittee, stands behind the proposed contract and this is a good opportunity to have a clear sheet moving forward.

Councilmember Pipoly stated he served on the City Manager Contract subcommittee, stating Mr. Foster has seen some penalties and is not receiving what he is actually paying back.

Councilmember Schillinger stated he served on the City Manager Contract subcommittee and Mr. Gabrian did a fine job of condensing down the documents into a concise document and there were some penalties to the City Manager.

Mayor Bandkau stated in the long run this will save the City money and hopes the unions understand this. She expressed her concerns regarding jeopardizing our pension plans.

Councilmember Cooper summarized the impacts of the City Manager's contract stating it is a 12 percent cut in overall compensation, he is relinquishing his future retiree healthcare, future sick and vacation will change to use it or lose it and the City will no longer be contributing to his OPEB.

Special Legal Counsel, Dennis Gabrian stated there was a commitment by the City Manager to not seek other work in this contract and if he leaves the City of Brighton for any reason, he would have to payback any funds he has received on his sick leave.

Councilmember Roblee recommended any other motions future that change the contract immediately get forwarded by the City Attorney so we always have an updated City Manager contract.

Councilmember Pipoly suggested making an updated contract as part of his annual performance review.

City Manager, Dana Foster stated he appreciates the Subcommittee's time with the City Attorney and the City's Labor Attorney. He concurs with the contents of the contract. He related he has not consulted with an attorney on his own or sought legal advise. He stated if Council approves the contract, they still have the prerogative to terminate the City Manager as they always have, the pro rata part would still apply.

It was moved by Councilmember Cooper, seconded by Schillinger to adopt the City Manager contract. Motion passed 6-1 with Councilmember Roblee voting "no".

INFORMATION FOR CITY CUSTOMER

Department of Public Services Director, Matt Schindewolf gave an update on the Main Four project with DTE, stating he has not been given a firm date as to when they will have people complete the work and why it is taking them this long. The Bombardier performed well with the latest snowfall and it was tight in some areas, but works superbly on Grand River.

Councilmember Muzzin stated he works with a number of people that come from outside of the community and they can tell him when the City limit starts because of the clean roads after a snowfall. Great kudos to your Staff for their efforts on snow days.

City Manager, Dana Foster thanked the Council for the extended time this evening to review the CIP. He thanked Staff, City Engineer and Amy Cyphert for their work on the CIP. He thanked City Council for the statements regarding his evaluation. He humbly thanked City Council for approving a new comprehensive agreement for him.

Councilmember Muzzin stated the Budget and Finance Subcommittee met and discussed the City budget. The Brighton Area Fire Authority met and they are close to submitting to Livingston County the language for the millage revote on the August 3rd ballot.

Councilmember Roblee stated the Brighton Arts and Culture Commission met and there has been a flurry of memorials going up. The Commission is asking would it be in the best interest to appoint a memorial committee or have the Brighton Arts and Culture Commission make approvals in conjunction with the art.

It was the consensus to keep funneling memorials through the Brighton Arts and Culture Commission.

Councilmember Roblee stated six people attended the last Main Street training and the City would need to hire an intern in order to get to the Select Level. After reviewing budgets, she suggests continuing in the Associate Level for one more year, attend Main Street trainings, form a subcommittee between PSD and DDA members for business recruitment. Moving forward we will have a clearer picture of where the budget is coming from and next fall start the intern recruitment. The DDA is not comfortable with funding the Main Street Program from this budget.

Councilmember Pipoly stated hiring of the intern should be held off for further discussion by the DDA. He asked what to do with the funds the PSD has offered.

Community Development Director, Matt Modrack stated the DDA is willing to proceed under the Associate Level and hire the intern in 2011 and the DDA deserves a more detailed budget.

Councilmember Cooper thanked Matt Schindewolf and Staff for helping a resident that had received a water bill with over usage. He thanked to the Police Chief for assisting Brighton Township recently. The Zoning Board of Appeals met, the applicant needed a super majority vote and they need to follow-up with the applicant. He stated he was reappointed to the MML Energy and Technology Committee.

CALL TO THE PUBLIC

Mayor Bandkau gave a Call to the Public at 8:55 p.m.

Patricia Cole, Brighton City, stated she appreciates the Mayor reading the Citizens Inquiry, but did not hear an answer to the inquiry. She questions why answers to citizens inquires are not publicly provided and when will she receive the answer to her inquiry?

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City Manager, Dana Foster stated the process is to read the inquiry out loud and in terms of responding, it is the City Council's prerogative on how/when to respond to the inquiry as there is not a specific requirement and a variety of means to responding. He informed the Council that all Citizen Inquiries submitted have received a response either verbally or in writing.

Ms. Cole stated she respectfully disagrees with Mr. Foster, as all if her inquiries have not been responded to.

Hearing no further comment, the Call to the Public was closed at 9:06 p.m.

ADJOURNMENT

It was moved by Councilmember Roblee, seconded by Cooper to adjourn the meeting at 9:06 p.m.
Motion passed 7-0.

Diana Lowe, City Clerk

Ricci Bandkau, Mayor