

Regular Meeting of the Howell City Council
Monday, July 10, 2017
Howell City Council Chambers – Lower Level
611 E. Grand River
Howell, Michigan 48843
517-546-3502

The regular meeting of the Howell City Council was called to order by Mayor Nick Proctor at 7:00 p.m.

Council Members Present: Jan Lobur, Michael Mulvahill, Steven Manor and Mayor Nick Proctor.

Council Members Absent: Robert Ellis, Jeff Hansen & Scott Niblock.

Also Present: City Manager Shea Charles, City Attorney Dennis Perkins, and City Clerk Jane Cartwright.

Others in Attendance: Police Chief George Basar, Deputy Police Chief Scott Mannor, DPS Director Erv Suida, Finance Director/Treasurer Catherine Stanislawski, Community Development Director Tim Schmitt, Building Official Craig Strong, DPW Operations Manager Mike Luce, Project Technician Matt Davis, Assessor Joey Lentine, John & Caron Davis, Tom Richardson, Alex Smith, Tim Church, Elizabeth Kilbourne, Troy Morris, Michial Drown.

2. PLEDGE OF ALLEGIANCE

3. APPROVED MINUTES

MOTION by Lobur, SUPPORT by Mulvahill, “To approve the minutes of the regular meeting of the City Council held June 26, 2017.” MOTION CARRIED (4-0). MOTION by Lobur, SUPPORT by Mulvahill, “To approve the minutes of the June 26, 2017 Executive Session.” MOTION CARRIED (4-0).

4. CITIZENS’ COMMENTS

- None.

5. REPORTS – COUNCIL MEMBERS SERVING ON COMMISSIONS

- Mayor Proctor reported on the June 28, 2017 DDA meeting. A luncheon will be held July 19th for volunteers; the art project is on track with the auction scheduled for August 15th; a new bike rack will be installed in a few weeks, the tour of the Courthouse for the 100 Friends has been postponed; a merchant breakfast for Melon Festival will be held; the July 5th Rock the Block experienced high attendance and the final event of the summer is scheduled for August 2nd. Main Street was able to meet the fundraising goal of \$12,000 required for matching funds to secure the MEDC grant for Peanut Row Alley.

Renovations have begun on Mark's Coney Island, and Aberant Ales is targeting a September/October opening.

6. COUNCIL CORRESPONDENCE

- Rotary Club – Request for Waiver of Pavilion Rental Fee, August 28, 2017. MOTION by Manor, SUPPORT by Lobur, “That Council grant the request from the Rotary Club to use the Rotary Pavilion on Monday August 28, 2017 from 11:00 a.m. until 2:00 p.m. and waive the usage and entrance fees for their club members.” MOTION CARRIED (4-0).

7. HEARING ON APPEAL – UNSAFE BUILDING, 816 MCPHERSON

Mayor Proctor referenced the City Council action at the June 26, 2017 meeting authorizing the City Attorney to prepare a lawsuit against the property owner to condemn and demolish the unsafe structures. Property owner Michial Drown filed an appeal on June 29, 2017 within the 20 day time frame.

Mayor Proctor opened the hearing at 7:06 p.m. Mayor Proctor also announced that the meeting was being recorded and appropriate meeting minutes would be taken. City Clerk Cartwright gave the oath for sworn testimony to Community Development Director Tim Schmitt, Building Official Craig Strong, Operations Manager Mike Luce and Property Owner Michial Drown.

Community Development Director Tim Schmitt reported staff received a call in late May complaining of a sewer smell in the area. Upon investigation DPW staff discovered a puddle outside the property at 816 McPherson with an odor; the water sample tested positive for fecal coliform in excess of an amount that would require the closing of the City Beach. The water service has been turned off at this location since 2014. Staff secured an administrative search warrant that was executed on June 14, 2017. Both structural problems and unsanitary conditions were discovered. Community Development Director Schmitt entered the basement of the house to determine if the water was shut off and found the area covered with organic fecal material. Staff initiated condemnation proceedings, red tagged the house and garage, and served official notice to the owner on June 19, 2017. Property owner Michial Drown filed a written appeal with the City Clerk on June 29, 2017 indicating that the material in the basement was sand.

Building Official Craig Strong reported that he entered the house at 816 McPherson on June 14, 2017 under a search warrant with representatives from the Howell Police Department, Howell DPW, Howell Area Fire Authority, Livingston County Animal Control & CMH. Building Official Strong outlined several issues discovered upon inspection: 1) No water or sewer service to the house as required by the Michigan Residential Code and International Property Maintenance Code (IPMC); 2) No electric or gas service as required by the IPMC; 3) Evidence of leaking and sagging roofs compromising both the house and accessory structures; and 4) Unsanitary conditions with animals in the house. Chapter 1420.01 of the Howell City Code outlines a dangerous building, defining it as “a building which

is structurally unsafe or unstable; is unsanitary; is inadequately provided with exit facilities; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; or constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment". A wood burning stove in the garage was vented out the window and the window was charred which is evidence of a fire hazard. Appendix A attached to the Notice of Unsafe Buildings and included in the Council Packet display pictures taken during the inspection of the property. The electric meter has a lock out which indicates the stealing of power. A thorough structural analysis of the house was not performed however Mr. Strong testified that the building was uninhabitable; the upstairs roof was sagging very badly.

DPW Operations Manager Mike Luce reported conditions found at the home were pretty similar to what he experienced in 2014 when he entered the building to repair the water meter. He discovered organic and fecal matter on the basement floor and water meter with evidence of an attempted roto rootering of the sewer line.

Council members questioned if there was mold in the house. Community Development Director Schmitt stated staff did not test for mold noting the Building Official is not responsible for mold under the building code, however there was evidence of what appeared to be mold in a few spots. Building Official Strong stated he did not pay much attention to mold however there was an area in the kitchen that could be mold.

Troy Morris, 9125 Chilson Road, stated he was a good friend of Michael Drown and would like to speak on his behalf as Mr. Drown was nervous and upset. City Attorney Perkins questioned Mr. Morris if he had observed the condition of the property. Mr. Morris indicated he observed the home from the front door to the living room and the condition of the dogs. City Clerk Cartwright gave the oath for sworn testimony to Troy Morris and confirmed his picture ID with address. Mr. Morris stated Mr. Drown went to Livingston County CMH requesting help to get his water turned on which was the wrong agency. Mr. Drown didn't know how to get help to take care of his sister. Mr. Morris also referenced attempts to get Mr. Drown's dogs back, statements made to Mr. Drown linking the demolition of his house to return of his dogs, the procedure used by the City to inspect the house, and the deal made with neighbors to access electric service. He pleaded with Council to give Mr. Drown a chance to access his property to get his belongings, clean up the yard, get the water turned on, get his dogs back, and a chance to clean up the house and make it livable within a year. Mayor Proctor stated the dog issue is under the jurisdiction of Livingston County Animal Control, not the City. Mr. Morris stated there is a charge of \$50 per day to house the dogs at Animal Control and questioned if the City has excess money to tear down houses referencing the City of Detroit.

Mayor Proctor questioned property owner Michial Drown on statements contained in his appeal reporting numerous complaints to the City Water Department asking

if he had documentation supporting that statement. Mr. Drown stated it was recorded by the City. Mayor Proctor stated according to City Staff the water had been turned off for about 4 years and since Mr. Drown had continued to live in the house without water and sanitation for so long, what assurances could he make to the City that the home would be repaired. Mr. Drown referenced a medical condition and inability to work however stated he was now back to work. Mr. Morris stated he would help Mr. Drown with the work that needed to be done.

Property Owner Michial Drown continued with his testimony indicating the City damaged his sewer line when they installed the shut off valve in 2014. He had an agreement with his neighbor to access power, the dogs pooped on the floor because he couldn't get up to let them out due to medication. The garage was built by his grandfather, the concrete is solid and he doesn't understand why the garage was included in the order. The neighbor's garage addition is on his property due to an agreement made by his father. The new sump pump failed and flooded his basement; since the sewer was damaged it would not hold the water so he pumped the water outside asserting "that's what people do". He stated the fecal matter is actually sand with a little bit from the trap. The outside debris will take years to clean up. There are no pictures of the new faucet, sink and tile in the kitchen that he had been working on. Water buckets were placed outside to collect water to flush the toilet (which could only be done when it wasn't raining). A new roof was installed in 2012 and there are no leaks; the area in the kitchen is not mold, it is grout where ceramic tile was removed. Mr. Drown also reported there was evidence of new damage to the fence, wood burner and his telescope which was reported to the State Police. His phone was left at the house and it is no where to be found.

Mayor Proctor requested additional information from staff. DPS Director Suida stated he was the supervisor on site in 2014 and wanted to clarify what was reported. Clerk Cartwright gave the oath for sworn testimony DPS Director Ervin Suida. DPS Director Suida referenced the situation reported by Operations Manager Mike Luce when he arrived at 816 McPherson to check the meter in 2014 (see page 3). A few months later DPW Employees Mike Luce and Larry Schlusher went back to the home on suspicion that water theft was occurring. Water service had been turned off by the City due to non-payment and turned back on by the homeowner. Mr. Drown had threatened to let his dogs out and his employees called for assistance. Employees vactored around the area of the water service, removed the curb box and buried it so there was no access to turn the water back on. They were just vactoring, a gentle process that sucks debris out of the hole; they did not access or damage the sewer line.

Member Lobur questioned Mr. Drown if he had written his appeal and did he ever request help from any agency to assist him. Mr. Drown stated he was told that his appeal had to be in writing so he sat down and wrote it at City Hall. He tried to get his electric turned back on however he was told they couldn't help him until the balance was paid off and put into his name (the electric service was still in his

deceased father's name). City Attorney Perkins questioned Mr. Drown stating "you haven't had water in the house for a couple of years and your sewer line has problems". Mr. Drown agreed with that statement and indicated the line between the sidewalk and the road was damaged by the City. Attorney Perkins continued stating that he had used his toilet and questioned how it was flushed. Mr. Drown stated he used rain water to flush the toilet into the sewer line; the sewer line worked after he cleaned it out unless it was raining. After further questioning regarding the fecal matter found in the basement, Mr. Drown stated that Mr. Schmitt had never been in his basement and he and Mr. Luce were lying. Attorney Perkins asked Mr. Drown if anyone was telling the truth beside himself, and he responded just himself and Troy Morris. Mr. Drown also stated that the house was now a mess; he has not been allowed in and is now living with Mr. Morris. Mr. Morris reiterated that his family was here to help him and they just need 365 days.

Mayor Proctor closed the hearing at 7:52 p.m. and thanked Mr. Drown for attending. He reviewed the potential two options before Council. Council members requested more information on the process if the building was deemed unsafe. Attorney Perkins stated the next step was to go before Circuit Court and request a court order to demolish the home based on the ordinances and evidence presented by the Building Official. Mr. Drown would not be entitled to have legal counsel appointed for him for a civil case however he can represent himself. Mayor Proctor indicated that nothing was presented that changes his opinion that the house is uninhabitable. MOTION by Manor, SUPPORT by Mulvahill, "That the building at 816 McPherson, Howell Michigan, is an unsafe structure based upon the findings of the City Council and confirming the Building Official's Order of June 14, 2017 for demolition of the house and accessory structures, pursuant to Chapter 1420 of the Howell City Code." Member Manor stated that no one was happy to be here with this situation and circumstance. He feels staff acted appropriately and in good faith within the City's ordinances and with no malice. This case is best adjudicated through the Circuit Court process. Member Lobur reiterated that there were many agencies that could give Mr. Drown some help. Member Mulvahill stated this was a difficult decision and position to be in; he would like nothing more than to be able to allow Mr. Drown back into the house. Mayor Proctor also reiterated the difficult position the Council was in however Mr. Drown would have ample due process through the Circuit Court. He advised Mr. Drown to contact City staff tomorrow to gain access to the house. MOTION CARRIED (4-0).

8. APPROVED – IT DATA CENTER

MOTION by Manor, SUPPORT by Mulvahill, "To approve the Gracon Services Inc. proposal for the 2017 Howell/Brighton Data Center for a cost not to exceed \$111,683." Staff was able to realize some savings; the original price was estimated at \$126,000. The total cost is being shared with the City of Brighton and the Howell Recreation Authority. MOTION CARRIED (4-0).

9. **APPROVED – MML WORKERS’ COMPENSATION BOARD OF TRUSTEES**

MOTION by Lobur, SUPPORT by Mulvahill, “To authorize votes to be cast for the 2017 Official Ballot to serve as Trustees of the Michigan Municipal League Workers’ Compensation Fund as presented.” MOTION CARRIED (4-0).

10. **APPROVED – CITY HALL HVAC BALANCING**

MOTION by Lobur, SUPPORT by Mulvahill, “To accept the proposal from William E. Walter, Inc. of Flint Michigan to perform the HVAC balancing of the complete City Hall building for a price not to exceed \$13,080.” DPS Director Suida stated there have been problems with temperature fluctuation at City Hall over the past 2 years, mostly the second floor and the bank area. He feels strongly that the system needs to be balanced to function appropriately. This procedure will improve the system and is the last option. MOTION CARRIED (4-0).

11. **APPROVED – LUCY ROAD IMPROVEMENTS**

A. Resolution No. 17-17, Intergovernmental Agreement with Livingston County Road Commission. MOTION by Lobur, SUPPORT by Mulvahill, “To adopt Resolution No. 17-17 approving the Intergovernmental Agreement with the Livingston County Road Commission for reimbursement of all costs associated with the paving of Lucy Road.” The project is for the portion of Lucy Road from Grand River to Bark Town, approximately 1,100 – 1,200 feet. MOTION CARRIED (4-0).

B. Bid Award, TLS Construction, \$396,268.66. MOTION by Lobur, SUPPORT by Mulvahill, “To award the Lucy Road Improvement Contract to TLS Construction of Howell Michigan for a unit price cost of \$396,268.66 contingent on receipt of a Michigan Department of Transportation 426 Agreement with the understanding that the entire cost of the project will be funded by MDOT and the Livingston County Road Commission.” MOTION CARRIED (4-0).

12. **APPROVED PAYMENT OF BILLS**

MOTION by Mulvahill, SUPPORT by Lobur, “To approve the payment of bills ending July 10, 2017 in the amount of \$554,221.93 and payroll to cover the period ending July 8, 2017.” MOTION CARRIED (4-0).

13. **CITY MANAGER’S REPORT**

- Food Truck Tuesday is scheduled for tomorrow from 11:00 a.m. to 2:00 p.m.

14. **OLD BUSINESS**

- Mayor Proctor inquired if staff had received any boat noise complaints this summer.
- Member Manor commented that the fencing for Parking Lot #2 turned out really nice and he noticed the dumpster had been removed noting he appreciates staff’s efforts on this project.

15. NEW BUSINESS

- MOTION by Lobur, SUPPORT by Mulvahill, “To excuse members Niblock, Hansen & Ellis from the July 10, 2017 meeting (reasons stated).” MOTION CARRIED (4-0).
- Mayor Proctor requested to have the parking space in front of Cobb Hall marked as no parking since it is in front of a fire hydrant. He also questioned if the curbs would be repainted along no parking areas. City Manager Charles explained that staff was relying on the signage to post no parking areas instead of painting the curbs. DPS Director Suida indicated that M & M Painting would be working on repainting the crosswalks and part time employees would also be working on fire hydrant painting.

16. ADJOURN

MOTION by Mulvahill, SUPPORT by Lobur, “To adjourn the regular meeting of the City Council at 8:19 p.m.” MOTION CARRIED (4-0).

Nick Proctor, Mayor

Jane Cartwright, City Clerk