

CITY OF SAINT MARYS REGULAR COUNCIL MEETING

OCTOBER 20, 2014

CALL TO ORDER

The regular monthly Council meeting of the City of Saint Marys was called to order by Mayor Robert Howard on Monday, October 20, 2014 at 7:00 p.m. The meeting was held in the Council Room of City Hall, 11 LaFayette Street. Notice of this meeting was sent to Council on October 16, 2014, posted at City Hall and published in the Daily Press.

PLEDGE TO THE FLAG**ROLL CALL**

Present: Mayor Robert Howard, Gary Anderson, Sally Geyer, Nedward Jacob, Gregory Gebauer, Lou Radkowski, Robert Mohr, Manager David Greene and Solicitor Thomas Wagner.

VISITORS

Visitors included: Randy Rippy, Paul Fleming, Jim DeLullo Sr., Jim DeLullo, Jr., Darlene Larkin, Katie Weidenboerner, Dale Rowekamp, Don Kepler, Rob Boulware, Chris Nestor, Doug Morgan, Roger Auman, Mike Buhler, Mary Hayes, Diane Kohler, Janice Pandullo, John Beimel, Trisha Beimel, Mike Stager, Mike Brock, Tina Gradizzi, Amy Cherry, Maurice Herbstritt, Aaron Bleggi, Fritz Lecker, Linda Myers, Jim Myers, Jeff Johnson, Thomas Straub, Dave Kerner, Matt Quesenberry, Warren Stewart, Richard Sadley and Dean Ball.

APPROVAL OF MINUTES

October 6, 2014
Motion Passed

Sally Geyer made a motion to approve the minutes of October 6, 2014, seconded by Gary Anderson and all were in favor to approve the minutes, except Gregory Gebauer who abstained.

REPORT ON EXECUTIVE SESSION:

Mayor Howard stated an Executive Session was held immediately prior to tonight's meeting regarding personnel matters. No decisions were made.

SPECIAL PRESENTATION:

Dean Ball from PennDOT, re:
Update on South St. Marys
Street/Rte. 255 Project

Dean Ball, Project Manager from PennDOT, provided an update on the South St. Marys Street/Route 255 Project. He stated the slope was changed on the Arch Street bio-filtration basin which eliminated the need for any fencing around the basin. The final planting for the bottom of the basin would soon be completed. The maintenance of the basin would be the responsibility of the City upon completion. The grass would be mowed at the State Street basin and adjacent area. The maintenance of this basin and grassy area would be the responsibility of the State. The Arch Street traffic light study to consider a "no right turn on red" would be completed soon. The inlets (catch basins) are being evaluated. Those that were taking water would be left alone and the ones not taking water will be worked on within the next couple of weeks. They are currently reviewing the traffic lights at State Street due to a recent issue of the lights defaulting to yellow flashing mode. The traffic lights at Mill Street were also affected. The pedestrian crossing signals were still being installed at the State Street intersection and the school crossing along with work on school zone signage. The project should be completed by November of this year.

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Council expressed their concerns with the following: Traffic light issues, water running across the road near the Earth Road intersection, ponding of water near the Pepsi building, the turning radius onto Arch Street for emergency vehicles and school buses, the replacement sidewalks and/or pathways along the project and the quality of the landscaping.

Council thanked him for the update.

CITIZEN COMMENTS ON AGENDA TOPICS

There were no citizen comments on agenda topics.

MAYOR'S REPORT

Mayor Howard gave the following Mayor's Report:
Attending the following:
Christian Food Bank meeting
Elk County Mayor's Association meeting
Stakeholders meeting at East Branch Dam
C.A.R.E.S. meeting
EMA Committee meeting

MANAGER'S REPORT

September 18- Met with Fritz Lecker from Representative Matt Gabler's office to discuss various issues pertaining to the City.

September 22- Tim Brennan, Steve Samick and the Manager met with representatives from PennDOT to discuss the condition of the road in front of TKS Computer Solutions.

September 24- Carol Muhitch, Lorrie Levenduski and the Manager attended a webinar on "Personnel Policies" held at City Hall.

September 25- Attended the EMA meeting held at City Hall.

October 2- Attended the Northern Tier Community Action Board of Directors meeting held in Emporium.

October 6- Tom Wagner and the Manager met with James and Mike Rigas to discuss the cable franchise agreement.

October 7- Tim Brennan, Matt Young and the Manager attended a meeting held at the site of the proposed new hotel on Depot Street to meet with hotel and DEP representatives.

October 10- Met with Joleen Hindman who is the area Manager for First Energy Corporation. She discussed the proposed rate increase for West Penn Power customers. If approved, the average residential customer's bill would increase 14.7%. She indicated that this is the first rate filing in 20 years for West Penn Power customers.

SOLICITOR'S REPORT

Solicitor Wagner stated he had emailed Council his comments regarding Zito Media and he requested Council provide feedback to him before he further negotiates the franchise agreement.

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**APPROVAL OF
EXPENDITURES**
Motion

Gary Anderson made a motion to approve the Expenditures from September 14, 2014 until October 18, 2014, seconded by Sally Geyer.

Questions

Manager Greene responded to questions from Council regarding the Expenditures.

Motion Passed

All were in favor to approve the Expenditures.

TREASURER'S REPORT

Mayor Howard gave the following Treasurer's Report for September 30, 2014:

Revenue collected for the General Fund was at 87 percent of budget, down from last year of 90 percent and in 2012 was at 81 percent. General Fund Expenditures were at 69 percent of budget and for last year was at 65 percent and 70 percent in 2012. Real Estate tax revenue was at 96 percent of budget and last year at this time was at 99 percent. Earned Income was at 78 percent of budget compared to last year of 93 percent of budget. Pension Plans market values have increased in value since last year at this time.

There was a discussion regarding consumption changes in Sewage collections.

LEGISLATIVE ACTION:
Consider for adoption: Resolution
No. 14-18, re: 2014 Community
Development Block Grant
(C.D.B.G.) Application

Resolution No. 14-18 was presented for adoption for the filing of the City's 2014 C.D.B.G. application.

Nedward Jacob made a motion to adopt Resolution No. 14-18, seconded by Sally Geyer and all were in favor.

Motion Passed

Subdivision Application:
Grotzinger Equipment Inc.,
Grotzinger Road

A subdivision application was presented from Grotzinger Equipment, Inc. for property located on Grotzinger Road. The subdivision proposed to divide a 2.49 acre lot from a 31.95 acre parcel as a new building lot. The residual lot is 29.46 acres and is proposed to remain vacant. The new lot has access to public water and was proposing a sanitary sewer line extension; however, the sanitary sewer line is not located along the frontage of the property. The zoning district setback lines are not located on the plat for the new lot; the engineer has revised three plats for signature. There were no other issues with the application. The Planning Commission recommended approval of the subdivision with no substantial comments.

Motion Passed

Gary Anderson made a motion to approve the Grotzinger Equipment Inc. subdivision application, seconded by Robert Mohr and all were in favor.

TOPICS FOR DISCUSSION:
Scheduling of Budget Workshops

Council scheduled the following dates for Budget Workshops:

November 6th, 6:00 p.m. until 8:00 p.m.

November 11th, 6:00 p.m. until 8:00 p.m.

November 13th, 6:00 p.m. until 8:00 p.m. (if needed)

Motion Passed

Lou Radkowski made a motion to accept the above listed dates, seconded by Sally Geyer and all were in favor.

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An Ordinance amending Chapter 27 of City Code, City Zoning Ordinance, regarding the regulations of Oil & Gas production activities

Solicitor Wagner explained the proposed Ordinance regarding the regulations of Oil and Gas production activities was reviewed by the Planning Commission and they had submitted a list of questions and comments. He had not responded to those questions because he knew that representatives from Seneca Resources were attending tonight's meeting and he was also researching more information.

Dale Rowekamp, VP of land and marketing for Seneca Resources, provided a brief background of the company. He stated the company's largest Oil and Gas holdings were in Elk County which consisted of 300,000 acres out of the 532,000 acres in the County. Two test well pads were already in the City. Seismic testing was recently performed and the full results would be known by the end of this year. Two additional well pads were scheduled for 2015. A more active or continuous drilling schedule would begin in 2017. He offered his company's help in the process of drafting an ordinance. He provided a list of positive impacts of Oil and Gas drilling activities highlighting local contractors, revenues generated, Impact Fees and the possible increase in those figures. The average well pad has five wells but can have up to ten wells. Horizontal drilling has made the process more efficient than vertical drilling.

Mr. Rowekamp responded to Council's questions: Chemicals used by the drilling industry are listed at frackfocus website. The company operates within 10 to 12 counties in the state. The company has received Notices of Violations, but he noted all violations are reported the same no matter how insignificant. The wells are anticipated to produce for 40 – 50 years. Well pads are placed according to geology, seismic, land ownership, topography, streams, wetlands and location of residents. The gas produced will be distributed within the northeastern United States and possibly into Canada. At this time, compressor stations were not planned within the City. The extraction of liquid gases was towards the western part of the state. They were willing to work with the City regarding the anticipated increase in truck traffic. When a pipeline for a water supply can be utilized it is preferred, but is utilized more after the test pads are drilled.

Doug Kepler, VP Environmental Engineer of Seneca Resources explained the details of the construction and timing of a typical well pad. Construction takes three to four months in order to bring the drill rig to the site. As an example, an eight well pad would take four months to complete the drilling process, another month of prepping the wells for completion, hydraulic fracking would last about six weeks. 9 to 12 months of activity is an average, for a well pad. Dust control is regulated by the company and DEP. A dust suppressant is placed on gravel roads for dust control. Centralized fresh water impoundments are built on developed well pads in order to pipe the water to each well. 75 percent of the water used is fresh water. Test pads normally truck water to the well pad until the

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structure is in place. 25 percent of the water is recycled to minimize the need for disposal.

Mr. Kepler responded to Council's and the Solicitor's questions:

An average of eight million gallons of water per well is used. As the gas flows to the surface the water comes with it. Mr. Kepler provided an example of the water decline curve that is similar to the gas extraction decline curve. The water is produced, stored and reused and all the brine water is stored in tanks. The brine tanks are regulated by DEP and State regulators monitor those activities. "Frack" water is temporarily stored at the site in tanks. The tanks are considered the primary containment and there is also a secondary containment system with leak detection systems in place. The secondary containment system can hold the volume of the tank. Containment plans are submitted and approved by DEP. Noise levels are a concern of Council and Mr. Kepler commented the noise levels can vary from day to day due to various conditions. Drilling operations on the pad are normally 60 to 70 decibels. "Fracking" is a louder process than drilling operations. There are ways to mitigate the noise levels with sound barriers. Gas leak monitors are in place throughout the life span of the well, which DEP also regulates. A drilling and mechanical integrity inspection is also required.

Solicitor Wagner commented, for Council's benefit, most of his questions were to clarify what operations were regulated by DEP, since parts of Act 13 were ruled unconstitutional there still was an underlying rule of law that activities regulated by the State preempt the municipality regulating the same activity. Set-backs and location can be regulated, but operations of the well site cannot. The municipalities regulations must be within reason. The draft of the proposed ordinance included set-backs with an overlay zone according to mapping data regarding population density information from the US Census Bureau. The northeastern and northwestern sectors of the City are within the lowest density areas.

Mayor Howard questioned if the ability to drill horizontally has increased to near ten thousand feet then why the need to place the well pads so close to residents and Mr. Kepler responded the company tries to minimize the impact.

Gary Anderson questioned the source of the water used in the drilling process and Mr. Kepler responded the water comes from a variety of sources, underground, streams and rivers, ground water wells.

Nedward Jacob questioned the vibration complaint received from a resident and Mr. Kepler responded he was unsure what part of the operation would have a vibratory effect. The fracking process is over a mile underground and should not have any surface vibrations.

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Gary Anderson questioned if the company would utilize natural gas for fuel and Mr. Kepler responded when they could.

Mr. Kepler further noted all required notifications are submitted to the municipalities.

Chris Nestor, Attorney for Seneca Resources, explained there are multiple components to consider when composing an ordinance of this nature, the community quality of life, economic and legal components. He encouraged Council to discuss with the City Solicitor the scope and the extent of their (Council's) authority to adopt an ordinance of this nature. Land use ordinances are a restriction on property owner's constitutional rights to use their property as they see fit. Ordinances can only be sustained if they are necessary to protect the health and safety of the community. He suggested the following questions be answered when considering the ordinance:

Is the ordinance exclusionary on its face or when it's applied to anyone performing oil and gas operations within the City?

Does the ordinance result in disparate treatment to oil and gas operators compared to other commercial or industrial operations?

Is the zoning ordinance unduly restrictive to oil and gas operations compared to other similar uses?

Does the ordinance as a whole allow for reasonable development of minerals?

Does the ordinance result in taking as in regulatory taking?

Mr. Nestor provided preliminary figures of possible impacts of the proposed ordinance. The company controls oil and gas rights within 45 of the 63 thousand acres within the City. He encouraged Council to consider the consequences of the proposed ordinance.

Lou Radkowski commented the figures Mr. Nestor provided of the impact were over stated.

Solicitor Wagner commented set-backs can be made by the City provided they are justified. He commented if Seneca could provide the mapping that supports the data stated it would be helpful. He stated the conditional use process would enable Council to judge each well pad on its particular circumstances.

Sally Geyer questioned if Council adopted an ordinance stating a 2,000 foot set-back, would it impact Seneca Resources business to the point that there would be a lawsuit and Mr. Nestor responded he believed the answer was yes.

Solicitor Wagner commented that "no one" is allowed to operate a business that unreasonably impacts his/her neighbors. Both issues can be addressed in a properly drafted ordinance to balance the interest on both sides.

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Matthew Quesenberry stated Zoning only restricts surface development of a property.

Solicitor Wagner requested Seneca Resources provide an explanation of what problems they have, from the industry's perspective, with the current proposed draft of the ordinance.

**CITIZEN COMMENTS ON
NON-AGENDA TOPICS**

Diane Kohler, daughter of Ray Nero

Diane Kohler explained she was supporting her father Ray Nero who was recently terminated from his position of grass mowing at Benzinger Park after 14 years. She believed her father never received a reason for his termination. She requested that her father receive an explanation for his termination because she believed he deserved it.

Council, the Manager and the Solicitor discussed her concerns.

Maurice Herbstritt
South St. Marys Street

Maurice Herbstritt explained problems with the sidewalk and a sewer tap along South St. Marys Street.

Various business representatives
Oil & Gas Industry

John Beimel, Doug Morgan, Jim DeLullo, Mike Stager, Tom Straub and Linda Myers provided information regarding the positive impact the Oil and Gas industry has had on their businesses and the safety criteria of Seneca Resources.

Oil and Gas Discussion

Council discussed some of the previous comments from Seneca Resources and expressed their willingness to compromise, but their priority was to protect the residents of the City and the City's watershed.

COUNCIL COMMENTS:
DAR plaque

Councilman Anderson commented he had received a letter from Lynn Nicklas representative of the Daughters of the American Revolution stating they are still in possession of the plaque from 1932 for a tree that was removed due to the S. St. Marys Street project. They would like it to be part of the South St. Marys Street Beautification Project.

Congratulation to ECC Band

Councilman Radkowski congratulated Elk County Catholic Band for placing first in their district.

Mirror at LaFayette and Washington
street intersection

Councilman Jacob questioned if a mirror could be placed at the intersection of LaFayette and Washington streets and Manager Greene responded PennDOT requires the City to have unlimited liability coverage if the City would place a mirror at that location.

Thank you to attendees

Councilwoman Geyer thanked everyone attending tonight's meeting.

Backup radio system funding

Councilman Gebauer stated Tina Gradizzi informed him of possible funding for the backup radio system for the EMA.

Motion

Sally Geyer made a motion to accept the funds, seconded by Nedward Jacob.

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Discussion
Motion Withdrawn

After a brief discussion, the motion and the second was withdrawn. The matter will be placed on the next Council worksession agenda.


ANNOUNCEMENTS

Mayor Howard made the following announcements:

- The next Council worksession will be held Monday, November 3, 2014 at 7:00 p.m. at City Hall.
- "Trick or Treat" will be held Friday, October 31st from 6:00 p.m. until 8:00 p.m. by porch light invitation only.

ADJOURNMENT

Robert Mohr made a motion to adjourn the meeting. Meeting adjourned at 10:01 p.m.



Recording Secretary



Mayor