

NOVEMBER 19, 2018

**CALL TO ORDER**

The regular monthly Council meeting of the City of Saint Marys was called to order by Deputy Mayor Gregory Gebauer on Monday, November 19, 2018 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 November 15, 2018, posted at City Hall and published in the Daily Press.

**PLEDGE TO THE FLAG  
ROLL CALL**

Present: Deputy Mayor Gregory Gebauer, Nedward Jacob, Bob Mohr, Chris Pletcher, Andrew Mohney, Margie Brown, Manager Timothy Pearson, Solicitor Tom Wagner and Recording Secretary Lorrie Levenduski.

Mayor Louis Radkowski is scheduled to arrive later.

City Staff: Carol Muhitch, Finance Director, Hannah Brock, HR Specialist and PR Officer, Tina Gradizzi, Community & Economic Development Coordinator and Jim Wolf, Parks and Recreation Manager.

**VISITORS**

Visitors included: Dennis Bauer, Mary Lorenzo, Warren Stewart, Edward Kuntz, Amy Cherry, and Lance Mohney.

**APPROVAL OF MINUTES**

November 1, 2018 – Budget Workshop

Margie Brown made a motion to approve the November 1, 2018 minutes, seconded by Andrew Mohney and all were in favor.

November 5, 2018 – Budget Workshop

Bob Mohr made a motion to approve the November 5, 2018 minutes, seconded by Andrew Mohney and all were in favor.

November 8, 2018 – Budget Workshop

Andrew Mohney made a motion to approve the November 8, 2018 minutes, seconded by Gregory Gebauer and all were in favor, except Chris Pletcher and Nedward Jacob who abstained.

**CITIZEN COMMENTS ON  
AGENDA TOPICS**

There were no citizen comments on agenda topics.

**MAYOR'S REPORT**

Manager Pearson reported the following for the Mayor:

The Mayor and the Manager attended the following Veteran's Day events:

St. Marys Area High School annual program, the ceremony on the Diamond hosted by the St. Marys Legion Post 103 and their annual banquet, which recognized Victor Straub for his life time achievements.

**MANAGER'S REPORT**

Manager Pearson reported the following:

As a follow up to the budget requests, the Golf Authority was awarded the \$3,500 grant from the Elk County Community Foundation.

Provided updates on construction projects which included the base repair which was intended to finish this week. He listed some streets that would not be finished due to the weather and cautioned residents. The Chestnut curbing project work was continuing and hopefully would be finished up within the next two weeks. Any leftover items would be addressed in the spring.

**TREASURER'S REPORT**

Manager Pearson provided the following Treasurer's Report for October 31, 2018:

The General Fund had collected 91 percent of its budgeted revenue and spent 72 percent of the budgeted amount. Last year at this time revenue collected was at 88 percent and expenditures

NOVEMBER 19, 2018

were at 65 percent and in 2016 budgeted revenue collected was 87 percent and expenses were at 67 percent of budget. Benchmark figures would be at 83 percent. Market value in pension funds decreased this month and has increased from last year to date figures. Earned Income was at 81 percent of budget and for 2017 was at 82 percent and in 2016 was 80 percent of budget at the end of October.

Margie Brown questioned the difference in the ambulance fund figures and Carol Muhitch responded, in the past the ambulance service would be billed for their gasoline charges through the City's account and the City would then pay the Real Estate taxes collected for the Ambulance Fund. Currently, the gasoline charges are not billed, but are charged against the money owed to them from the collection of Ambulance Fund Real Estate taxes.

**LEGISLATIVE ACTION:**

Appointment to the Recreation Board

A recommendation from the Recreation Board to appoint Gregory Gebauer to fill the unexpired term of Michael Kronenwetter was received.

Mayor Radkowski enters at 7:15 p.m.  
Motion

Chris Pletcher made a motion to appoint Gregory Gebauer to the Recreation Board to fill the unexpired term of Michael Kronenwetter, seconded by Andrew Mohny.

Discussion

There was a lengthy discussion on the appointment and other requirements for filling board vacancies. It was determined there was past practices and policy, but no legal requirements.

Motion Passed

All were in favor of the motion, except Deputy Mayor Gebauer who abstained.

Award of Bids:  
Memorial Park Scout House  
Access Renovations Project

Tina Gradizzi, Community and Economic Development Coordinator, explained as one of the 2015 CDBG projects, the City was working with the Parks and Recreation Manager and the Rotary Club members on access renovations for the Scout House at memorial Park. The bids were opened at a public meeting on November 5, 2018, but the due date was extended to November 9, 2018 due to changes to the original specifications. There were two interested parties, but the following was the only bid received and was recommended for approval:

D&L Contracting - \$43,871.00

Motion

Nedward Jacob made a motion to award the bid to D&L Contracting in the amount of \$43,871.00, seconded by Andrew Mohny.

Discussion

Solicitor Wagner questioned if there were any additional requirements for CDBG funds due to only receiving one bid and Ms. Gradizzi responded prior to submission of the CDBG application quotes and engineering estimates were obtained, which were higher than the bid received.

Bob Mohr asked the details of the renovations and Ms. Gradizzi responded they are all ADA compliant access renovations. Other renovations are anticipated in the future but will not be CDBG funded.

Chris Pletcher questioned why the other interested contractor did not submit a bid and Ms. Gradizzi responded she was informed the contractor had obtained other work that would not allow time for this project.

## CITY OF SAINT MARYS COUNCIL MEETING

NOVEMBER 19, 2018

Motion Passed

All were in favor of the motion.

13 Diamond Street Demolition Project

Tina Gradizzi, Community and Economic Development Coordinator, explained as one of the 2016 CDBG projects, the Historical Society had requested funding for the demolition of their structure located at 13 Diamond Street. The bids were opened at a public meeting on November 6, 2018. There were five interested contractors and the following two bids were received by the deadline:

Bucktail Excavators, Inc. - \$18,981.00

Auman Brother Constructions - \$66,079.00

Ms. Gradizzi clarified the property will remain a vacant lot until the lien is released or paid off.

Edward Kuntz, representative of the St. Marys Historical Society, explained there were no intentions right now to construct another building on the property.

Motion Passed

Andrew Mohny made a motion to award the bid to Bucktail Excavators, Inc. in the amount of \$18,981.00, seconded by Bob Mohr and all were in favor.

Consider for adoption:  
Resolution No. 18-16, re:  
Imposing temporary parking  
restrictions on Chestnut St.

Resolution 18-16, re: Imposing temporary parking restriction on Chestnut Street was presented for adoption.

Manager Pearson explained as the Chestnut Street curbing project nears completion, the City Engineer advised that this portion of Chestnut Street does not have sufficient width to allow for two-way traffic and roadside parking. This Resolution will allow a 90-day prohibition to review the effect of removing parking in the designated area. (West – Race Street to East Mill St. and East – Oak Street to East Mill Street)

Motion

Nedward Jacob made a motion to adopt Resolution 18-16, seconded by Margie Brown.

Solicitor Wagner suggested the 90-day period begin on November 30<sup>th</sup> to allow for completion of the project.

Amended Motion

Nedward Jacob amended his motion to include 90 days to begin on November 30<sup>th</sup>, 2018, Margie Brown amended her second.

Deputy Mayor Gebauer requested a letter be sent out to the affected residents explaining the parking restrictions and Manager Pearson agreed.

Amended Motion Passed

All were in favor to adopt Resolution No. 18-16 with a 90-day period to begin on November 30, 2018.

Discussion on City's Budget

Mayor Radkowski explained Council had discussed the City's revenue sources at the prior budget workshops and determined to propose a raise in the City's portion of the Earned Income Tax .20 percent to a total of .70 percent.

After a brief discussion, Mayor Radkowski clarified the money was to be earmarked for roads, bridges and "associated" stormwater infrastructure improvements. He noted this additional revenue would assist with previously unfunded projects.

NOVEMBER 19, 2018

Manager Pearson asked the Solicitor where the proposed increase in Earned Income Tax should be listed in the tax ordinance and Solicitor Wagner responded it would be handled separately. First, the intent to levy the tax will need to be advertised. A separate motion will be needed from Council members that would in addition to the budget ordinance and resolution.

Mayor Radkowski noted the proposed increase in the Earned Income Tax was reviewed by another attorney and also by the Department of Community and Economic Development. Both agreed the Home Rule Charter did not limit the governing body's ability to levy taxes. He stated previous minor tax increases went to the Recreation Fund and the Fire Protection Fund and not for the City's General Fund. He also noted there was no proposed increase in property taxes. He also requested Council state any issues with the proposed budget now and not in December. He stated he believed bringing any issues up now would be the responsible thing to do for the taxpayers.

Chris Pletcher asked if publishing the proposed budget would be considered as the intent to raise the Earned Income Tax and Solicitor Wagner responded he believed the increase was not transparent in the budget, because it did not specify the source of the revenue. He recommended Council make a motion to authorize a notice of their intention to increase the Earned Income Tax be placed in the newspaper.

Mayor Radkowski questioned if Council had any objections to adding item C. Publish the intent to increase the Earned Income Tax to the agenda. There were no objections.

Deputy Mayor Gebauer wanted to clarify the increase was not violating the City's Home Rule Charter due to case law and Solicitor Wagner responded yes. He then explained the Home Rule Charter addresses levying an Earned Income Tax permitted under the Local Tax Enabling Act which limits it to 1.0 percent. Currently the City collects .5 percent and the School District collects .5 percent. However, Home Rule Charters are not bound by that limit, because the Home Rule Charter Law states the governing bodies are not limited in their ability to tax. The City's original Home Rule Charter is somewhat ambiguous about the issue. He cited a court case from 2005 where a local Home Rule Charter had a provision in it that their real estate taxes could not be raised by the governing body unless by referendum. The Commonwealth Court's decision was the provision was invalid and a violation of the law. Applying that case by analogy to the City's Home Rule Charter that limits the ability of the governing body to raise the Earned Income Tax, violates the Home Rule Charter Law. He stated he believed through his research and communication with experts, the decision to increase the Earned Income Tax would be sustained by the Courts, but he could not guarantee that outcome. If it is challenged it would first go before the Elk County Court of Common Pleas, then the Commonwealth Court which a decision would come from a panel of three of the nine members. He noted the opinion from the Local Government Commission pointed out the case law changed the opinion that you could not raise Earned Income Taxes beyond the Act 511 limit of 1.0 percent. He noted in this instance the Home Rule Charter Law trumps the City's Home Rule Charter language.

## CITY OF SAINT MARYS COUNCIL MEETING

NOVEMBER 19, 2018

Manager Pearson confirmed the other attorney that was consulted with on this matter had provided an opinion that the Home Rule Charter Law supersedes and renders null any conflict contained in the City's Home Rule Charter.

Solicitor Wagner confirmed the Home Rule Charter Law states you cannot increase taxes on non-residents.

Carol Muhitch confirmed the figures presented to Council included an increase to only St. Marys residents.

Solicitor Wagner confirmed the tax is paid to the municipality of where the taxpayer lives and not where they work.

Bob Mohr questioned if that could be changed and Solicitor Wagner responded no.

Consider for publication: An Ordinance providing for the levy and assessment of taxes for the fiscal year 2019

An Ordinance providing for the levy and assessment of taxes for the fiscal year 2019 was presented for publication.

Nedward Jacob made a motion to publish the ordinance, seconded by Bob Mohr and all were in favor.

A Resolution for the 2019 City Preliminary Budget for various funds

A Resolution for the 2019 City Preliminary Budget for various funds was presented for publication.

Mayor Radkowski noted the budget includes the projected revenue as discussed from an increase in the Earned Income Tax.

Motion

Andrew Mohny made a motion to publish the 2019 Preliminary budget resolution, seconded by Bob Mohr.

Nedward Jacob questioned if a transfer to the Capital Reserve Fund for streets, roads and bridges was part of the Earned Income increase and Carol Muhitch responded yes.

Nedward Jacob questioned if storm sewers should be added and Carol Muhitch responded the transfer would be placed in a separate account for the items listed.

There were concerns that if the storm sewers were not specifically listed then none of the funding could be spent on that expense.

Manager Pearson clarified that any capital project would be presented to and approved by Council.

The Finance Director confirmed she would add that language to the preliminary budget line item.

Solicitor Wagner noted that future Council has the power to make changes.

Manager Pearson noted a list of tentative projects was included in the budget for Council's consideration in the future.

Motion Passed

All were favor to publish the 2019 Preliminary City Budget.

Publish the intent to increase the Earned Income Tax for 2019 (added to agenda)

As recommended by the Solicitor, the intent to increase the Earned Income for 2019 was presented for publication.

Nedward Jacob made a motion to publish the intent to raise the

NOVEMBER 19, 2018

Motion Passed

Earned Income Tax .20 percent, seconded by Andrew Mohney and all were in favor.

Phase VI Bond Expenditure

Manager Pearson explained the following Phase VI Bond Expenditure was being presented for approval.

Bond Project (Phase VI 2018 Final Candidate List)

#	Project	Total Cost	City Bond Funds	Grant	Comments
1	Charles St. Rehabilitation Project	\$984,715	\$234,715	\$750,000	The funds will be used towards the completion of the Charles St. Rehabilitation Project

Phase I	\$490,462
Phase II	\$201,000
Phase III	\$590,232
Phase IV	\$150,000
Phase V	\$165,000
Phase VI	\$234,715
Total	\$1,804,073
Bond Total	\$1,804,073
Funds Left	\$0
Current Estimate of Interest	\$36,336

The request was to use all remaining bond funds for the Charles St. Rehabilitation Project, which would include any leftover of funds from other bond projects.

It was noted the City had been trying for years to get the funding in place for this project.

Motion

Nedward Jacob made a motion to approve using all the remaining bond funds for the Charles St. Rehabilitation Project, seconded by Andrew Mohney.

Manager Pearson noted it was anticipated to complete the project in 2019.

Motion Passed

All were in favor of the motion.

Subdivision Applications:  
2018-13, Jacob, Joseph and Jessica Auman, So. Michael St.

A subdivision application was presented from Jacob, Joseph and Jessica Auman for property located on So. Michael St. The subdivision proposed to divide a 29.242ac parcel into two buildable lots. Lot 1 is 14.046ac and proposed public water with onlot sewage disposal. Lot 2 is 14.547ac and also proposed public water and onlot sewage disposal. An application was received in 2010 for a subdivision of this property into three lots, but that application was void because the approved plan was not recorded within 90 days of approval. According to DEP, the previous planning module is valid for this subdivision. There is no residual property. The Planning Commission has no comments on the subdivision.

Motion Passed

Nedward Jacob made a motion to approve 2018-13 subdivision application, seconded by Andrew Mohney and all were in favor.

2018-14, Mary Lorenzo and Laura Ishler, Rosely Road

A subdivision application was presented from Mary Lorenzo and Laura Ishler for property located on Rosely Road. The subdivision proposed to divide a 1.5771ac lot from a 71.931ac parcel as a stand-alone lot. Lot 1 contains an existing single-family dwelling with on lot sewage disposal and public water. The residual parcel is 70.354ac and is to remain vacant. A non-building waiver was attached. The Planning Commission

## CITY OF SAINT MARYS COUNCIL MEETING

NOVEMBER 19, 2018

commented that the right-of-way description needed to be removed from the suggested deed description, and it was completed.

Motion Passed

Bob Mohr made a motion to approve 2018-14 subdivision application, seconded by Margie Brown and all were in favor.

**TOPICS FOR DISCUSSION:**

There were no topics for discussion.

**CITIZEN COMMENTS ON NON-AGENDA TOPICS**

There were no citizen comments on non-agenda topics.

**COUNCIL COMMENTS**

Councilman Mohr thanked everyone who helped with Light-Up night. He also commented the City crew plows legally within the City's right-of-way, which is at least 3 feet from the edge of the roadway.

Councilman Pletcher also thanked all those involved with Light-Up night. He also commented this year's budget process was better and Council came to a logical and reasonable conclusion.

Mayor Radkowski thanked Carol Muhitch for her work on the budget. He also thanked City staff and the Chamber for their work for Light-Up night and thought the ATV riders were a great addition. He thanked the community for their participation in numerous Veteran's Day events.


**ANNOUNCEMENTS**

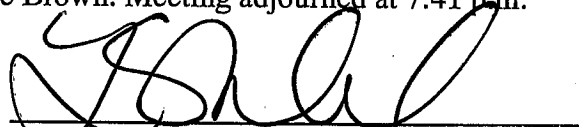
Mayor Radkowski made the following announcements:

- Council will hold an Executive Session on Monday, November 26<sup>th</sup>, 2018 at 6:00 p.m. regarding personnel matters.
- Council's next regular meeting will be held on Monday, December 17, 2018, at 7:00 p.m. at City Hall.

**ADJOURNMENT**

Nedward Jacob made a motion to adjourn the meeting, seconded by Margie Brown. Meeting adjourned at 7:41 p.m.

  
Recording Secretary

  
Mayor