

**CITY OF FENTON COUNCIL WORK SESSION PROCEEDINGS**  
**Tuesday, September 5, 2017**  
**City Hall Conference Room**  
**301 South LeRoy Street**  
**7:30 PM**

Mayor Osborn called the meeting to order at 7:30 PM.

**ROLL CALL**

Present: Draves, Grossmeyer, Jacob, Lockwood, McDermott, Osborn, Smith.  
Absent: None.  
Others Present: Lynn Markland, City Manager; Michael Hart, Assistant City Manager and Stephen Schultz, Legal Counsel.

**CITIZENS COMMENTS** – Curt Foguth and Leanne Beckwith asked to speak on the agenda item regarding food trucks.

**RESOLUTION NO. 17-15**

Hart commented Council approved a resolution for the Industrial Facilities Tax (IFT) on August 22, 2016. The City Manager subsequently signed the Industrial Facilities Agreement on October 31, 2016. The basic parameters for the resolution and agreement was a minimum investment of \$3,000,000 with \$2,500,000 for real property improvement and \$500,000 for personal property investment. As the project progressed, the real and personal property investment are slightly under the \$3,000,000 mark initially provided. The revised target for the total investment is \$2,785,000 with \$2,385,000 for real property improvement and \$400,000 in personal property investment. The expansion of Crust's facilities will create an additional fifty jobs.

Hart stated the previous resolution was provided in the meeting packet for reference. He is recommending Council adopt an amended resolution that reflects the updated investment amounts.

Markland stated documents relating to the IFT are due to the State by October 31<sup>st</sup>. He would like to submit them ahead of time in case there are questions from the Department of Treasury.

McDermott commented when this was addressed last year, the original agreement indicated seventy jobs were to be created and now that number is fifty. Markland clarified that number was corrected last year before the application was submitted to the state and that fifty is the correct number; seventy was the number of jobs that existed at the time the original application was submitted.

Smith commented she enjoyed watching the progress made on the building and is excited for the expansion but feels it sets a precedent by allowing these abatements outside of the Industrial Park.

A motion was made by Lockwood and seconded by McDermott to approve Resolution No. 17-15, a resolution that amends the resolution approved by Council on August 22, 2016 regarding the IFT Application of Crust, LLC. and authorize the City Manager to sign all documents for completion of the Crust, LLC Industrial Facilities Tax (IFT) abatement package to be submitted to the State of Michigan.

YEAS: Draves, Grossmeyer, Jacob, Lockwood, McDermott, Osborn, Smith.  
NAYS: None.  
ABSENT: None. **RESOLUTION DECLARED ADOPTED.**

### **FOOD TRUCK ORDINANCE/EVENTS**

Osborn stated she asked for this to be put on the agenda so this topic can be brought to resolution.

Schultz stated three years ago a food truck ordinance was drafted for discussion purposes but an ordinance was never adopted. The draft ordinance from three years ago was included in the meeting packet and there have been no updates to the draft. What Council decides tonight will determine what the next steps will be.

Melvin Foguth, 4025 Minnetonka, stated when this was previously discussed, it was mentioned to base items in the ordinance similar to those in Traverse City's ordinance. He commented food trucks in Traverse City are booming and asked if anything has been adopted regarding food truck. Attorney Schultz responded no.

Mr. Foguth asked about food trucks on private property and mentioned the food trucks that were recently on Gerych's property. Osborn commented a special use permit was obtained to allow the food trucks on private property. She would like the issue of food trucks on private property to be a part of tonight's discussion.

LeAnne Beckwith, 4390 Eleanor, asked how many food truck permits would be allowed, how the City will decide who receives a permit (i.e. lottery) costs, etc. She had to shut down a food truck located on Silver Lake Road and was told she was in violation of ordinances, but it wasn't explained what ordinances were violated and was told by the Clerk's office as long as they were on private property, they'd be fine. She also stated they had permission from the property owner to be on the property.

Markland stated the truck on the property on Silver Lake Road was parked twenty-four hours a day many days in a row and was being utilized like a brick and mortar building and not a mobile food truck.

Attorney Schultz explained a piece of private property has an associated principal use, which is what is allowed on the property. If the property is being utilized for a temporary use other than its principal use, the proper permits need to be obtained to allow those accessory and/or special uses and that every use of property needs to comply with the City's Zoning Ordinance. The issue with the food truck was that it was on the property for much longer than what is allowed as a temporary use.

Lockwood stated food trucks are becoming more and more popular and the City realizes that. She would like to see a distinction between existing brick and mortar restaurants in the downtown area of a small community that pay taxes, and mobile food vendors that service areas like the industrial park where businesses are located that would benefit from a vendor coming to them. She thinks food trucks events, as well as areas within the City where food trucks can operate can do so without impacting businesses.

Grossmeyer commented he does not think Traverse City is a good comparison because it is a tourist destination. Any ordinance considered will look at regulations for both private and public property and thinks once an ordinance is put in place, trucks will be allowed on both types of property, but will be limited in terms of the number allowed. He asked if permission for an event by City Council excludes the need for a license. Schultz stated it would have been written into the ordinance how to handle licensing for events.

Jacob stated he would like to see the ordinance provide for events and that allowing food trucks at events become part of the process when applying for the event. He asked if any distinction will be made between the gourmet food trucks that operate outside the industrial park and the trucks that services businesses within the park that are only onsite for a short period of time.

Osborn thinks the industrial park should be looked at separately. Lockwood stated some businesses within the industrial park contract directly with food vendors.

Osborn asked how food trucks are regulated by the Health Department. Mr. Foguth explained what it is involved with licenses and inspections through the Health Department.

Smith commented Traverse City might not be good for comparison but Clarkston and Howell are. She asked how vendors would be informed that there would be a permitting process to go through. Markland suggested a notice could be sent out to property owners where the food trucks are located.

Schultz clarified the ordinance in the packet is for discussion and was drafted at a time when the openness toward food vendors was not what it is today. What is in the packet is a starting point for discussion and noted the end product could be dramatically different.

McDermott stated ordinances in other municipalities address items such as time, location and not allowing trucks to be parked overnight. They also address food trucks associated with a brick and mortar business located within the municipality in a different manner than food trucks from other areas. He thinks the City can find parameters that will work by looking at other ordinances.

Ms. Beckwith asked if the truck does not stay in the same place for more than a day, are they able to operate. Markland stated zoning is permissive so if something is not listed as permissive in the zoning ordinance, it is not permitted. Attorney Schultz stated at best, it would be an accessory use, which requires the property owner to obtain a permit.

Osborn stated she likes the idea of having food truck events but not sure she likes the idea of food trucks in the downtown area and would like a designated area for the trucks to park and operate.

Schultz stated the first decision Council needs to make is whether or not to allow, and regulate, the food truck industry within the City and then decide the process to take in drafting an ordinance; whether Council will review it or have the Planning Commission review.

Lockwood stated she thinks it is unfair to send this to the Planning Commission without any guidelines from Council and thinks there needs to be input from local businesses.

McDermott stated he doesn't feel the Planning Commission is the appropriate body to address this topic. Public hearings are needed to get input from businesses and he would like tonight's conversation to be geared toward how to move this process forward.

Grossmeyer stated businesses will have to be cautious as they are only allowed 14 days per year for outdoor sales on two or three occasions throughout the year. Allowing food trucks on their property could take away from the time outdoor sales are utilized for Christmas tree sales, flower sales, fireworks, etc. He would like this process to move forward more rapidly than it would if the Planning Commission were involved in putting the ordinance together but they could offer input if a draft was provided to them.

Osborn asked for a consensus from Council as to what extent they would like to permit food trucks within the City; at events only, in a designated area or anywhere within the City.

Lockwood – is in favor of food trucks at events and carving out a designated area for them to operate but she is mixed on allowing them in the downtown area. She agrees having the

Planning Commission handle the ordinance process would take long and feels if the proposed ordinance is sent to them for review, that it should include recommendations from City Council. She thinks food trucks at events should require approval from the event committee.

Jacob – is in favor of allowing them in a public area, but with restrictions as suggested in the proposed ordinance (i.e. certain distance from brick and mortar restaurants, hours of operation, etc.). He is also in favor of allowing food trucks at events and that events be handled through a separate permit/license process.

Smith – is not too keen on allowing them at downtown events. She thinks the trucks should be in a designated area, but that the area could change to different spots within the City. She would like to see monthly events that are sponsored, or partially sponsored by the City or DDA.

Grossmeyer – when he spoke to several restaurant owners three years ago, it was about a 50/50 split of those in favor of food trucks and those opposed. When food trucks were included in events this past year, the restaurants in the City were asked to participate in a food court area for the event. They responded they are far too busy and do not have the staff needed for a food court and were okay with food trucks being utilized for events. He thinks whatever ordinance is put into place should include an exemption for food trucks that are part of an organized event. In terms of events, he is thinking along the lines of three to four events a year and thinks licensing for events should be separate from the licenses issued to food trucks to operate within the City on a regular basis. He likes that the current draft ordinance calls for no generators and suggested the number of permits be revisited annually.

Markland suggested instead of not allowing generators, to set a decibel level; he thinks noise standards need to be put in place.

McDermott - thinks food trucks can work in downtown if guidelines are set. He believes a public input session is needed to get input from businesses before moving forward with an ordinance. He does not think the ordinance process should be handled by the Planning Commission, but should be sent to them near the end of the process to make sure the proposed ordinance does not conflict with other ordinances.

Draves – suggested information be gathered from ordinances already enacted and be fine-tuned to meet the needs of the City. She is in favor of allowing them downtown with certain parameters in place and does not feel the Planning Commission should handle this process.

Osborn - doesn't know if food trucks should be allowed downtown, other than as part of an event. There is a lot of traffic in the downtown area and it is difficult to get through town.

Schultz stated there should be an opportunity for public input and stated it needs to be decided who is going to work on this ordinance.

After discussion on how to proceed, it was determined Administration will work with the City Attorney to get together a working outline to address the questions/issues raised by Council. Once this is complete, this issue will come back to Council to discuss and give direction on what to include in the ordinance. Subsequent to that, public input sessions will be scheduled.

## **AMENDMENTS TO CITY CHARTER**

Schultz commented the Charter was drafted in a different age. It works well in many ways but there are certain items and spending limits within the Charter that are outdated that occasionally create an issue for Administration but for the most part, the Charter still works very well. He stated there are two ways to revise the Charter. The first option is for a Charter Commission to do a wholesale revision of the Charter. If the City wants to look at changes to the Charter on a provision by provision basis, a committee could do that and suggest specific amendments. If changes are

done on a provision by provision basis, each individual change to each provision has to be a separate ballot question. If there are multiple changes proposed to the Charter, it creates a functional problem with so many questions on the ballots, especially if one ballot question is tied to another and can become confusing for voters. The Charter Commission process is an approximately eighteen month process, at minimum. It is up to Council to decide if, and how they want to address this issue and which process to follow.

Osborn suggested each Councilmember review the Charter and make suggestions. After feedback has been received, Council can make a decision on whether or not to proceed with Charter revisions and what process to utilize. Comments from Councilmembers should be sent to the City Manager before the next work session.

### **APPOINTMENT TO ARTS & CULTURE COMMISSION**

Osborn stated a representative from Fenton Village Players needs to be appointed to the Arts & Culture Commission. Bev Tippett is willing to serve as this representative.

A motion was made by Lockwood and seconded by Draves to appoint Bev Tippett to the City of Fenton Arts & Culture Commission.

YEAS: Grossmeyer, Jacob, Lockwood, Osborn, Smith, Draves.  
NAYS: McDermott.  
ABSENT: None. Motion carried by a roll call vote.

McDermott commented he voted against the appointment because the normal process was not followed.

**COUNCIL COMMENTS** – Smith commented she was at the Fenton Hotel on the night it reopened and is excited to see the Crust expansion close to opening.

Grossmeyer commented it is great to see the Fenton Hotel has reopened.

Lockwood stated the Fenton Education Foundation fundraiser will be this Thursday evening at The Laundry.

Osborn thanked everyone who helped her out while she was recovering from surgery.

**CALL TO THE AUDIENCE** – None.

Meeting adjourned at 9:24 PM.

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Mayor Sue Osborn

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City Clerk, Renee Wilson

Date approved: October 9, 2017