

November 2, 2009

Minutes of the regular meeting of the city council of the City of Kingsford, County of Dickinson, and State of Michigan.

A regular meeting of the Kingsford city council was held Monday, November 2, 2009 at 6:30 p.m. in the council room in City Hall.

Roll Call: Present: Councilmember Baldwin, Flaminio, Miller, Novara, and Sjoquist.
Absent: None.

Also present were City Manager Darryl Wickman, City Attorney Bruce Brouillette, Public Safety Director Jan Groeneveld, Public Works Superintendent Anthony Edlebeck, Bill Johnson, Jim Anderson, Phillip and Polly Peterson, Jeff Pearson, and Dianne Hicks.

The pledge of allegiance was stated.

Prior to approving the agenda, Councilmember Sjoquist asked to have the minutes of the October 19, 2009 meeting removed from the consent agenda and the city manager asked to have the Kakuk invoice added to the agenda under communications.

A motion was made by Councilmember Sjoquist and supported by Councilmember Baldwin to approve the amended agenda.

ALL AYES. NO NAYS. MOTION CARRIED.

A motion was made by Councilmember Novara and supported by Councilmember Sjoquist to approve the minutes of the regular council meeting held October 19, 2009 as amended.

ALL AYES. NO NAYS. MOTION CARRIED.

The consent agenda consisted of the following items:

Bills Payable from October 19, 2009 to November 2, 2009
October 2009 Public Works Department report

A motion was made by Councilmember Sjoquist and supported by Councilmember Miller to approve the consent agenda.

ALL AYES. NO NAYS. MOTION CARRIED.

Under public comment, William Johnson of 136 North Pyle Drive addressed the council in regard to the rejection on June 1, 2009 of his request to purchase the lot at 101 Evergreen Court. His intent was to move an existing house onto that lot in lieu of new construction. He presented a photograph of the home he moved to his current address. He said he believes the decision on whether or not to sell the lot at 101 Evergreen Court was made prior to the June 1, 2009 meeting. He said he would like an apology from the council members. He feels his home exceeds the city's requirements.

Mayor Flaminio informed Mr. Johnson that the decision was indeed made on June 1, 2009 at the council meeting. The council declined to sell the lot at 101 Evergreen Court to Mr. Johnson because doing so would vary from the guidelines that required new home construction already imposed on other purchasers in the newly developed residential area.

Also under public comment, Dianne Hicks of 409 Garfield Street spoke to the council regarding their property line dilemma. She said that at the last council meeting the council agreed to look into the situation. She noted that Councilmember Sjoquist, the city manager, and the public works

superintendent visited her property last week. Mr. and Mrs. Hicks feel the city is partly to blame because in 2004 the council declined their request to purchase 50 to 100 feet of additional property. She noted that two similar requests from homeowners on Grant Street and Garfield Street were granted their requests to purchase additional property prior to the Kleinert sale. Mrs. Hicks said she spoke with Mr. Kleinert and he said he will look into options to see what he can do. She stated that she and her husband will not be satisfied until Mr. Kleinert and the city remedy the situation.

Public comment was closed.

A copy of all communications are affixed to and made a part of the permanent record.

A letter from residents of the 400 block of Grant and Garfield Streets requesting to have a portion of alley vacated was read. They are asking the city to vacate 200 feet of alleyway that runs between the 400 blocks of Grant Street and Garfield Street. This section of alley borders 408 Grant Street, 2001 and 2021 Emmett Avenue, and 409 Garfield Street.

The city manager presented a sketch of the original plat of the area indicating the portion of alley that applies to the request. The remainder of the alley had been vacated previously. This is an undeveloped alley right-of-way with a utility easement in it.

After discussion, a motion was made by Councilmember Sjoquist and supported by Councilmember Baldwin to table this matter and direct the city manager to look for easements or other information regarding the alley in question.

ALL AYES. NO NAYS. MOTION CARRIED.

The U.P. Hog Wild letter submitted by John Bertoldi was read. Contained therein is the request to use LoDal Park for their event to be held July 16 and 17, 2010. They are also asking for some improvements to the park to help the event run more smoothly and allow for additional cooking teams.

After discussion, a motion was made by Councilmember Baldwin and supported by Councilmember Sjoquist to allow U.P. Hog Wild to tentatively reserve the entire LoDal Park facility for July 16 and 17, 2010 for their annual event with final approval to come after the first of the year and further information on the improvements requested has been received.

Roll Call: Ayes: Councilmember Baldwin, Miller, Novara, and Sjoquist.

Nays: None.

Abstained: Mayor Flaminio.

Absent: None.

Carried.

The city attorney commented on the U.P. Hog Wild request stating that some of the requested improvements would involve some excavation; however, development of a restrictive covenant is being looked at for that area of LoDal Park. He said he is not clear on the proposed restrictive covenant area involving LoDal Park.

The invoice from Kakuk Construction, Inc. in the amount of \$238,378.04 was considered. Invoices such as this would normally be included on the list of bills payable; however, the city did not receive it until today. The city manager stated he put the engineer on notice that invoices such as this must be received on the Thursday prior to the meeting in order to be included on the agenda and that he would not in the future submit an invoice he receives on the day of the meeting.

A motion was made by Councilmember Sjoquist and supported by Councilmember Novara to approve the Kakuk Construction, Inc. pay request in the amount of \$238,378.04.

ALL AYES. NO NAYS. MOTION CARRIED.

The city manager gave his report covering his intent, if there are no concerns or other potential candidates, to appoint Paul Schultz to the Kingsford Housing Commission board and he gave updates on the Revolving Loan Fund situation, the budget, and Wastewater Treatment Plant contract negotiations.

Also included in his report, the manager provided a memo in regard to the Hicks property line issue that states in 1992, prior to selling vacant lots 73 and 74 at 409 Garfield Street, the city hired a surveyor to survey them. During the survey, the lot corners either had markers existing or they were installed by the surveyors. The lots were sold to Mark Dulan and he received a zoning permit from the city to construct a house and garage with no deck included. As of this date, there is an existing deck off of the south side of the house, which Mr. and Mrs. Hicks claim was there when they purchased the home in 2001. The city cannot find any record of a zoning permit being applied for or issued for the deck. In addition, the city cannot locate any corner markers that had been placed by the surveyors in 1992 for these lots. Without having a certified survey of this property line by a registered land surveyor, we cannot accurately determine whether any zoning violations exist.

In July 2004, the city council received a copy of a letter from Mr. and Mrs. Hicks requesting to purchase from the city 50 to 100 feet of land south of their property to prevent any other building on that property. There was no mention at that time of any possible property line encroachment or setback issues. The council was aware that plans were being made by a private developer to begin development nearby along the Menominee River and that this city-owned property may be attractive for a multi-family residential development. The council was also aware that the Kingsford Planning Commission was reviewing various city-owned properties and would likely make a recommendation regarding the future use of this vacant property. Therefore, the city responded to the request by indicating the city was not ready to sell the property yet and would explore the possibilities of a larger residential housing development there in the future.

In September 2004, the Kingsford Planning Commission approved a recommendation to the city council that the city property south of the Hicks property be retained by the city "until a master plan can be developed or a plan to develop in relationship to a potential new waterfront development on private properties immediately southwest".

On October 18, 2004 the city council received and placed on file the recommendation from the Planning Commission and continued working toward a multi-family residential development, in compliance with the current zoning classification and as recommended by the Planning Commission.

Mayor Flaminio said the property was sold to Craig Bray prior to the Kleinert project and before selling property to Albert Muntz, the city asked Mr. Kleinert if he needed that property and he indicated he did not need it; therefore the Muntz request to purchase property was approved. At the time Mr. and Mrs. Hicks asked to purchase 50 – 100 feet of property, Mr. Kleinert was again approached. His site plan would not allow selling the requested property.

Mr. Phillip Peterson addressed the council objecting to the apartment complex and supporting Mr. and Mrs. Hicks.

After discussion, Mrs. Hicks said they would like to be bought out. She asked the city to assist.

After a lengthy discussion, a motion was made by Mayor Flaminio and supported by Councilmember Baldwin to accept the manager's report and place it on file.

ALL AYES. NO NAYS. MOTION CARRIED.

Under old business, the proposed 2009-2010 budget amendments for the General Fund and the Retiree's Health Insurance Fund were explained by the city manager. He said it is not absolutely necessary to

amend the budget at this time as there will be other funds affected by revenue sharing cuts; however amending the budget at this time would be a step in the right direction.

A motion was made by Councilmember Novara and supported by Councilmember Sjoquist to adopt the proposed budget amendments #2009/11/2.1.
ALL AYES. NO NAYS. MOTION CARRIED.

There was no new business or public hearings.

Under council member's privilege, Councilmember Baldwin thanked the city manager for his diligence in researching the Hicks property line matter. The situation now must be resolved between Mr. and Mrs. Hicks and Mr. Kleinert.

Councilmember Sjoquist stated that the only legal remedy now would be to check Mr. Kleinert's garage to be certain it is in compliance with the city's zoning in regard to setbacks.

Councilmember Miller spoke on Mr. Johnson's comments in regard to being denied the opportunity to purchase the property located at 101 Evergreen Court. She said she based her decision on the fact that the guidelines imposed on other purchasers require new home construction in this newly developed residential area. This requirement is part of the purchase agreement.

There being no further business to come before the council, a motion was made by Councilmember Sjoquist and supported by Councilmember Baldwin to adjourn the meeting at 8:02 p.m.
ALL AYES. NO NAYS. MOTION CARRIED.