

MINUTES OF THE MEETING OF THE COMMITTEE-OF-THE-WHOLE, OF THE CITY OF GROSSE POINTE WOODS, HELD ON MONDAY, FEBRUARY 10, 2014, IN THE CONFERENCE ROOM OF THE MUNICIPAL BUILDING, 20025 MACK PLAZA, GROSSE POINTE WOODS, MICHIGAN.

PRESENT: Mayor Novitke  
Council Members Bryant, Granger, Ketels, Koester, Shetler

ABSENT: Council Member McConaghy

ALSO PRESENT: City Administrator Fincham  
City Attorney Don Berschback  
Recording Clerk St. Peter

The meeting was called to order by Mayor Novitke at 7:30 p.m.

Motion by Bryant, seconded by Shetler, that all items on tonight's agenda be received, placed on file, and taken in order of appearance.

Motion carried by the following vote:

Yes: Bryant, Granger, Ketels, Koester, Novitke, Shetler  
No: None  
Absent: McConaghy

Motion by Bryant, seconded by Shetler, to excuse Council Member McConaghy from tonight's meeting.

Motion carried by the following vote:

Yes: Bryant, Granger, Ketels, Koester, Novitke, Shetler  
No: None  
Absent: McConaghy

The first agenda item discussed was regarding **Grosse Pointes/Clinton Refuse Disposal Authority**. The Chair opened discussion. City Attorney Berschback stated that any amendment to the Articles of Incorporation requires unanimous consent from the members.

Mayor Novitke expressed his initial concerns about this agenda item:

- The agreement to divide up the environmental liability based on tonnage would not include liability to Grosse Pointe Woods for whatever went into the landfill.
- If Clinton Township doesn't sign the amendment to the Articles of Incorporation, and the ownership of the property is in the name of the Authority, how does Grosse Pointe Woods protect itself from potential environmental liability.

By way of background, Mr. Gillooly, Authority Council, stated that in the 1960's Grosse Pointe Park, Grosse Pointe City and Grosse Pointe Farms bought a 64 acre piece of property in Clinton Township at Lipke Road and 14 Mile Road. This became a municipal landfill. Subsequently, the three communities were deeded the property by the Harman Family. Clinton Township later became a member of the Authority. Thereafter, Grosse Pointe Woods, Harper Woods, Grosse Pointe Shores and Mount Clemens were added through amendments to the Articles of Incorporation. Grosse Pointe Woods was never involved in operation of the landfill.

The Grosse Pointes/Clinton Refuse Disposal Authority has title to the property. There was an amendment to the Articles of Incorporation after Grosse Pointe Woods and Clinton Township joined the Authority. The amendment states that Grosse Pointe Park, City, Farms and Clinton Township are responsible for the landfill and gravel mining operations. Clinton Township has assumed liability for any environmental problems that might exist from the former landfill and gravel mining operations, however they contend that because they didn't put as much waste into the landfill that they don't share as much liability as Grosse Pointe Park, City and Farms. There was an incinerator on the property which everybody used to burn their refuse until it was demolished in the late 1990's for cost reasons. All of the communities are liable for any environmental problems that might exist from the incinerator.

Mayor Novitke inquired if any quantitative reporting has been made to the State of Michigan regarding environmental concerns. Mr. Gillooly stated that fifteen years ago environmental testing was done to see if any issues stood out and all findings were below baseline of that which needed to be reported to the state. The property is in very good shape. Mayor Novitke stated his concern is that the property was zoned residential and the standard is different than if it is zoned commercial or industrial. Mayor Novitke inquired if when the testing was performed, it was tested for residential use as well. Mr. Gillooly stated the guidelines for testing could have been applied to residential and light industrial. Clinton Township rezoned the property from light

industrial to residential because they wanted mixed use housing on the property. The property remains residential today and by changing the zoning they have heightened the clean up requirements if there is ever a problem found.

There is a 24 acre spring fed lake on the property which is flourishing. There are wetlands on the property. Mayor Novitke stated the Authority took heavy metals, dumped them into the lake and then reclaimed them so inquired if there is a concern of contamination or any threat of ground water contamination. Mr. Gillooly stated there were two types of testing that were not done, topographical and ground water, because the results of the testing were sufficient to the engineers to suggest no other testing needed to be done. The water migrates naturally underground toward Lake St. Clair and not to any other property. Soil borings were done in the area and results were consistent with regular dirt in many places. Mayor Novitke inquired if there was any evidence of ground water contamination. Mr. Gillooly stated there was no evidence whatsoever. Topographical studies would include above and below ground testing, including ground water. Ground water testing was not done because of the cost and the results showed it wasn't necessary. The only remnants of the former incineration activities are footings that still remain on that property.

Mr. Gillooly advised to leave the property alone and to not sell or transfer the property. If there is an interest in the property, it must be a legitimate company that poses an ability to indemnify all of the communities and their leaders and to purchase a policy of environmental insurance to provide a clean-up if necessary. The property is not on a DEQ, federal or township watchlist. Nothing is migrating from the property. It is an old municipal landfill that took residential waste from three good communities. The biggest problem is people cutting through the fence and fishing in the lake.

Mr. Gillooly stated the useful life of the Authority ends March 31, 2014 and a new contract is needed. The proposed Amendment to the Articles of Incorporation extends the life of the Authority to 2024. It is contended that unanimity of all parties is required, however Clinton Township wants to leave the Authority. Mayor Novitke inquired if the original Articles of Incorporation state that any amendment requires the unanimous consent of all the parties. Mr. Gillooly stated they do, and that language was taken from statute.

If the Authority ceases to operate after March 31, 2014, something has to be done with the land. Clinton Township has stated they will abide by their liability for the property

and continue to be responsible for past obligations due to the Authority, however they do not want to commit their waste through the Authority anymore. Mayor Novitke stated he would like to see something in writing from Clinton Township. Also, it is Mr. Gillooly's understanding that without Clinton Township, there is still a valid Authority with title to the property remaining in the Authority and Clinton Township is still liable to all of the remaining members of the Authority. Mr. Gillooly stated he has no problem providing that in writing to the Council.

Mr. Gillooly stated that there have been meetings with all of the attorneys representing the members of the Authority and the consensus is that this is the right path to take. If the Authority ceases to continue it has to divest itself of the land and assets. Mayor Novitke inquired if suitable reserves can be maintained for identified liabilities. Mr. Gillooly stated they intend to do that but they'd still have to distribute assets based on a pro rata share. Mayor Novitke inquired what would happen to the property if the Authority did not continue. Mr. Gillooly stated that title would vest to all of its members.

Mayor Novitke inquired if the Authority is transferred to the remaining communities, whether that increases their liability and necessitates any action for remediation. Mr. Gillooly stated he is not prepared to discuss whether putting title in all of the communities' names would increase their liability. The title now is in the Authority and the Authority is required to remedy any environmental issues, of which there are none. Grosse Pointe Woods' share for any liability for incineration is less than 10%. Clinton Township bears more than 50% and the three Grosse Pointes have obligations for the landfill and gravel mining operations dating back to the 1960's.

Mayor Novitke stated he would like information provided that if the Authority doesn't exist, whether it increases Grosse Pointe Woods' liability and impose any additional obligations. City Attorney Berschback stated there would be no greater liability than what exists now. Mayor Novitke inquired if all parties can remain in the Authority with a contract that states Clinton Township can have independent waste disposal. Mr. Gillooly stated that Grosse Pointe Shores believes that every community who remains in the Authority commits to disposing of their waste stream through the Authority.

Grosse Pointe Woods does not need to be a part of the Authority, it is an option. Grosse Pointe Woods gets better pricing to combine refuse with other communities. That is the benefit to remaining in the Authority. Mr. Gillooly suggests that he respond to Clinton Township

and state that the Authority will create a separate account for its pro rata share. Then also maintain a reserve in a separate interest bearing account for future environmental liability with a statement that they are responsible only for what happened in the past in terms of the land itself.

Council Member Koester inquired if the value for GPW to remain in the Authority is a lower disposal rate per ton of refuse. Mr. Gillooly stated yes that is the benefit to remaining in the Authority. Council Member Koester noted there is also a risk of future issues with the site and other entities not being involved and the risk to Grosse Pointe Woods. Mr. Gillooly stated the risk will not go away even if the Authority goes away and the rates may be close to \$15/ton.

Council Member Koester inquired what the rates would be with Rizzo if Grosse Pointe Woods did not continue with the Authority. City Administrator Fincham stated Grosse Pointe Woods is currently paying \$21.28/ton. Rizzo was late providing a bid, but they were \$17-\$18/ton if Grosse Pointe Woods did not continue with the Authority, so the cost difference would be \$2-\$3/ton.

Mr. Koester inquired if Grosse Pointe Woods could sell its share within the Authority and negotiate selling its liability too. City Attorney Berschback stated they have tried that and Clinton Township would not accept the liability so there is no way for Grosse Pointe Woods to extricate themselves from the Authority without still maintaining liability unless a reputable company comes along with money behind them and an insurance policy.

Mayor Novitke stated that he wants Mr. Gillooly and City Attorney Berschback to provide statements in writing that any action by Grosse Pointe Woods does not diminish the liability of Clinton Township. Council Member Koester inquired if Grosse Pointe Woods should investigate what a remediation insurance policy for its liability percentage. Mr. Gillooly stated that would require additional testing of the land and does not recommend doing so.

Council Member Ketels stated he had heard that if Clinton Township opts out of the Authority, it dissolves the Authority. Mr. Gillooly stated that if more than 25% of the original eight members withdraw, the Authority has to disband. All the other communities have signed on at this point. Mr. Gillooly stated that it boils down to price

and whether Grosse Pointe Woods likes being in the same disposal business as the remainder of the local communities where there is shared pricing.

Council Member Shetler stated he is happy with the discussion today and had no questions or comments. Council Member Granger inquired what refuse goes out to the Lipke Road property. City Administrator stated that nothing goes out there. Council Member Granger inquired what comprises the \$15/ton rate. Mr. Gillooly stated that Rizzo picks up refuse curbside and it's taken to the City Disposal Transfer facility at I-75 and I-94 where it is incinerated. Rizzo records how much tonnage is picked up every day. Grosse Pointe Wood's contract with Waste Management is \$21.28/ton. Council Member Granger inquired who maintains the Lipke Road property. Mr. Gillooly stated the Authority pays Clinton Township to mow the grass and maintain the fencing.

Council Member Granger stated the name Grosse Pointe Woods needs to be taken out of the Authority if it's going to be renamed. Council Member Bryant suggested an acronym for the name to represent each city that is involved in the Authority. Mr. Gillooly agreed that that was a good idea. Mayor Novitke stated that the City Council needs a written opinion from John Gillooly, and then subsequently City Attorney Berschback can write his own letter and recommendation. Mayor Novitke expressed concern that as environmental laws change, the city's liability can also change.

Council Member Ketels inquired if the \$15/ton rate was negotiated without Clinton Township. Mr. Gillooly stated the \$15/ton rate was negotiated without considering Clinton Township's tonnage. The Authority members will be told tomorrow about the tonnage rate which could possibly change Clinton Township's opinion about leaving the Authority. Additionally, if the incinerator is not available, the Authority will get \$1/ton credit and Rizzo will make up the difference to take it to the landfill.

Motion by Ketels, seconded by Koester, regarding Grosse Pointes/Clinton Refuse Disposal Authority, that this agenda item be removed from the Committee-of-the-Whole Agenda and be placed on the agenda of the City Council at the February 24, 2015 meeting.

Motion carried by the following vote:

Yes: Bryant, Granger, Ketels, Koester, Novitke, Shetler

No: None

Absent: McConaghy

(A brief recess was taken from 8:50 p.m. until 8:55 p.m.)

The next agenda item discussed was **Video Arraignment Grant**. The Chair opened discussion. Grosse Pointe Woods Municipal Court has been selected to receive Video arraignment equipment through a grant given to the State of Michigan. There will be ongoing costs of \$900/year for maintenance except for the first year, which is included. Mayor Novitke stated that the city needs to know what other restrictions might be attached to the grant; how long the city has to keep the equipment and any other obligations.

Mayor Novitke stated that a 70" television, speakers, a monitor and Codex system are being provided and will need to be hooked up and the city will need to purchase the monitor and associated equipment for the jail, for a total cost of about \$5,000. The funds will come out of the Forfeiture Funds. City Administrator Fincham stated they were originally told costs would be about \$2,000. Mayor Novitke stated the rest of the money may need to come out of the City's Reserves.

City Administrator Fincham stated that it is great to be the first municipal court to have this system and it will be tied into Wayne County and all of the State of Michigan that has these capabilities. The cost to the city will be offset by the savings from transporting prisoners and it is a much safer alternative than transporting prisoners to the courtroom.

Mayor Novitke stated the Codex system that is included is a wireless connectivity modem that will be able to hook up with the city's video monitor in the cell or Wayne County or elsewhere. City Administrator Fincham stated the Codex system is a communication mechanism that converts information between a camera and a screen. Mayor Novitke stated the 70" television screen will change the décor in the courtroom. Public Safety may be able to build a cabinet for the screen to minimize the impact.

Council Member Ketels inquired if this equipment can be used for power point presentations. Mayor Novitke stated he understands it will be able to be used in such a way. City Administrator Fincham stated someone will be able to bring in their laptop and project it onto the screen. Council Member Granger inquired if there will be an overhead projector. City Administrator Fincham stated it will be a USB or wireless monitor.

City Administrator Fincham stated that Grosse Pointe Woods is the first to receive the opportunity to have this grant. There are many advantages to this grant. There are systems like this being put all over the state and county, including district courts and sheriffs facilities. It will allow the city the ability to not transfer prisoners for court proceedings. It will decrease the frequency to writ out prisoners if the holding facility has the same equipment. Wayne County already has this equipment in place. It can also be used for depositions. City Administrator Fincham stated he has spoken to Judge Metry who is in favor of this system, as well as Gary Capps and the Chief of Police.

Council Member Ketels inquired if there will be a television in the jail cell. Mayor Novitke stated that the city has an obligation to install equipment for speakers and a monitor. City Administrator Fincham stated there are two areas for the placement of the speakers and monitor; the area in between the two cells and the interrogation room. Council Member Koester inquired where the camera is in the courtroom. City Administrator Fincham stated it is in the Codex system. Council Member Bryant inquired if the \$900/year can be paid of the Forfeiture Funds. City Administrator Fincham stated it can be paid any way they want. The \$900 will be saved in overtime costs and transport costs.

Council Member Granger inquired if the system also records the proceedings. City Administrator Fincham stated the proceedings are recorded by a court reporter, and the arraignment equipment does not record the proceedings. Council Member Granger inquired if there is a requirement to have a video recording of the proceedings. City Administrator Fincham stated there is no such requirement. Council Member Granger inquired how many prisoners are brought over annually. City Administrator Fincham stated the annual report comes out on March 3<sup>rd</sup> and there was 490 prisoners that were arrested, however, not all will come before the judge.

Mayor Novitke inquired as to how many of the 490 prisoners would this system apply to have a video arraignment in the cell, at Wayne County or other locations. City Administrator Fincham stated he can better answer that question after he speaks to the Chief of Police. Council Member Granger stated she would also like to know how many prisoners have escaped during transport. City Administrator Fincham stated there has been one escapee ten years ago.

Mayor Novitke stated the following information is needed when this agenda item goes before the City Council:



- What are the conditions of the grant;
- Any obligations that City has associated with the grant;
- City Attorney Berschback will review the grant language;
- Estimate of the number of prisoners that would be subject to this system from past history and projected in the future;
- The amount of money in the Forfeiture Fund and where remaining funds will come from.

It was the consensus of the Committee of the Whole that the video arraignment system is a great asset to Grosse Pointe Woods.

Motion by Granger, seconded by Bryant, to recommend to the City Council to approve the Video Arraignment Grant and allow the installation of video arraignment equipment, based on suitable information being provided as requested from administration.

Motion carried by the following vote:

Yes: Bryant, Granger, Ketels, Koester, Novitke, Shetler

No: None

Absent: McConaghy

Motion by Bryant, seconded by Shetler, regarding Video Arraignment Grant, that this agenda item be removed from the Committee-of-the-Whole Agenda.

Motion carried by the following vote:

Yes: Bryant, Granger, Ketels, Koester, Novitke, Shetler

No: None

Absent: McConaghy

Under New Business, City Administrator Fincham discussed the Farmers Market. He stated he went to several Farmers Markets as research. When this agenda item was discussed last year it was thought that a \$25 fee for vendor stalls was reasonable. However, after reaching out to vendors and getting feedback, a lot of them stated that the first year there is usually an introductory rate that is less expensive. City Administrator Fincham recommended a \$15 fee for vendor stalls the first year in order to attract vendors. Mayor Novitke stated the vendor fee could always be increased later if it chooses to start with a \$15 fee.

It was the consensus of the Committee of the Whole that a \$15 fee for vendor stalls is reasonable for the first year in order to attract vendors. This fee is every time the vendor has a stall at the Farmers Market. Council Member Granger inquired if the Farmers Market will consist of vendors selling arts and crafts and local food. Mayor Novitke stated that it was for selling produce, some handcrafted foods and allowing some arts and crafts. City Administrator Fincham stated in addressing council member concerns, there will be no port-a-johns and the ingress and egress to the city offices will not be blocked.

City Administrator Fincham stated vendors needing electricity was never discussed. Mayor Novitke stated it was previously the consensus of the Committee of the Whole that the market will offer fruits, vegetables and crafts and advised keeping it as simple as possible the first few times it runs.

Under New Business, the Committee-of-the-Whole also discussed:

- Dimming lights in the community center for functions;
- Blinds on the interior of the outside door of the community center.

City Administrator Fincham will look into these issues with Director of Public Works Ahee.

Motion by Granger, seconded by Bryant, that the meeting of the Committee-of-the-Whole be adjourned at 9:35 p.m. PASSED UNANIMOUSLY.