

Update from far away –

(I'm currently visiting my mother in Las Cruces, New Mexico – November 20 – 29 – and will return after Thanksgiving) Still have access to email and have my cell phone with me, so I'm not out of touch or ignoring City business or communications)

All kinds of statements being made concerning 12th Street. Without getting into a closed session update from the City Attorney, I'll provide some background and information.

It should have been dealt with at the time the new school was built. I was not involved with it at the time, but do know after the first millage issue failed, the second was scaled back to reduce the amount needed (they also took off the football stadium and other features) to get the bond passed the second time around (money to reconstruct the street may have been cut also). And yes, the school 'found' money to build the football field after the school was built – but the street issue remained.

The street was originally classified as a "local street" based on plat and use. Now that we have a school located on it, and the resulting increase in traffic (including large school busses) it now falls under the classification of "Major Street." What does that mean? It means a local street is platted to a 33' width and major streets are 66' width (can be reduced with some adjustments). Once the street base deteriorates beyond a resurface condition, it must be "reconstructed." Reconstruction, by State of Michigan law, must be engineered to current standards for traffic and use – thus, according to State law, 12th Street must be reconstructed to Major Street standards. Kind of takes some of the mystery away from the issue doesn't it? The bottom line is the City needs 28' (not 33') along three Filer Township properties to reconstruct the street. No one is being forced off of their property, no homes are being "taken." Again, the street base has deteriorated to the point it cannot be repaired economically, **it must be reconstructed** and is beyond structural integrity for resurface – therefore, by State law, must be reconstructed to current State standards.

Negotiations have been going on for a considerable period of time with the Filer Township property owners. Offers have been made to provide water and sewer hookups and replace landscaping lost in the process. There will be curbs, a green space, and sidewalks. While Judge Thompson rules in favor of the property owners on the recent motion filed by the City, that motion was over "implied use/right of way" and is a very different issue than emanate domain (where governments are almost always successful).

Emanate Domain is a process used by government agencies for a variety of purposes. It has been abused in instances, where governments condemned low income properties to re-develop for a higher tax base (elimination of "blight" being the most often cited justification). Those abuses have resulted in many states passing laws to limit the exercising of the process to generally conform the "compelling public interest/safety" issues. States can exercise the emanate domain process against Cities, Cities against Townships, and so on. Manistee City Charter contains a provision that allows the City to exercise the process of emanate domain within and outside of its borders.

There is legal costs in the process of trying to get the right of way for the street construction. The most cooperative process would be for all parties to come to agreement. Without agreement, legal options are explored to resolve the issue. The longer the process drags out, the more expensive it becomes. The more technical it becomes, the more specialized expertise you require to represent you. Property

issues can be very complex and it makes sense to seek representation that specializes in this area of law for the most effective representation and success.

There will be an open session discussion on the 12th Street issue. The only reason there was a closed session was City Council has the same “attorney client privilege” with the City Attorney as an individual might have with an attorney, and he offered his legal opinion and presented options Council may wish to pursue – no decisions were made or deliberated. **You can expect the issue of 12th Street to be on a future Council Agenda and deliberation in public.**

Plow/Salt Trucks –

Council approved the purchase of two additional vehicles – at a costs of around \$360,000. One truck will add capacity to remove snow from the downtown area (the City pays contractors for that service now) and one will allow more efficient salt/sand spreading. These vehicles have a lifespan of approximately 15 years and will reduce maintenance costs of current vehicles and provide better fuel use. Should the City have set aside the funds for these replacements? Yes, that should have been done – and I made that point when the purchase was discussed by Council. The last truck purchased was two years ago, and we are paying about \$31,000 this year (year 3) of the 5 year installments on that purchase. I pointed out we will be paying nearly \$100,000 a year for the next several years (until the other truck is paid for) and in the vicinity of \$26,000 plus in interest on the installment payments over the life of the installments. **That interest loss could have been avoided with planning.** When plowing the City after a snow fall could be done with lesser vehicles, it would take a lot more time. I rode with the plow operators last winter and can attest to the challenges they face in working around parked vehicles (parked at curbs) and trash bins (people place them so the plow can’t throw snow in their drive way). It is a challenge and a lot more of an issue than simply plowing a parking lot or a drive way. The type of vehicles purchased allow for efficient clearance of the streets in the City. It is still borrowed money, with interest being paid. You would think with the original funding of the Motor Pool fund (sale of City property that netted over \$500,000) purchases could have been made and sufficient fund balances supplemented on an annual basis to establish a plan of vehicle replacements that could have been funded with cash payments. It is time to work toward that objective and make better use of City tax dollars. As one Council member stated, “is there any source of revenue that is not leveraged to pay installments or debt?” A very valid question. The Council is divided between those who want to do business different, but a majority still supports the old way of doing things. I’ll keep working on a more cost effective process where planning for the future needs is funded for a “pay as you go” process.

Budget and Finance –

We’ll have our new City Manager toward the end of the first week in December and the budget process will begin. I’d like to see a more thorough process this year, with earlier involvement by the Council so we can get a finer level of detail in spending request for departments. Take a look at the City Council Guidelines Policy and you’ll see there is a “Standing Committee” of three appointed by the Mayor called the Audit Committee. That committee is charged with the responsibility of reviewing the monthly invoices for compliance with spending policy (both City and Michigan Municipal). A good question to ask is when does that committee meet and what minutes are available for public review? The committee chair is responsible for publicizing the meeting date and time (minimum 18 hour notice) so staff, Council, and Public can attend to observe the process and offer comments. I’m unaware of the committee ever meeting (and have never seen a posting of meeting date/time/location). Last year’s

committee members were the Mayor Kenny, Councilman Goodspeed, and Councilman Cote. I've not seen the appointments for this committee since the Organization Meeting took place. Councilwoman Beaton has already ask for a review of the City Spending Policy (and salvage policy) in a future work session. I would have requested the same, as some adjustments seem in order for better fiscal control. Some items were brought to light last year that resulted in the City Attorney recommending items for elimination from the budget that were "long standing policy" that may not have been valid expenses paid for by tax dollars. There are Council members who take this issue seriously. I consider all subsidies, appropriations, and other expenses of the City to be open to discussion. There is debt that must be paid and obligations from the past that must be honored – but change must take place if we are to gain better fiscal control.

Wishing everyone a great Thanksgiving holiday! Thank you for your comments and continued support.
Jim