

**CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
JULY 28, 2008**

Mayor Pro-tem Kivell called the meeting to order at 7:30 p.m.
Mayor Pro-tem Kivell led those present in the Pledge of Allegiance to the Flag

PRESENT: Council Members: Kivell, Kopkowski, Maida, Morelli, Selden and Wedell
City Manager Murphy
Attorney Lee
City Clerk/Treasurer Zemke
Department Heads: Collins, Martin & Renwick
ABSENT: Mayor Doyle

APPROVAL OF MINUTES:

CM 7-1-08- APPROVAL OF MINUTES – REGULAR MEETING OF JULY 14, 2008

Motion by Kopkowski, supported by Maida

To approve the minutes of the regular meeting of July 14, 2008 as written

VOTE: MOTION CARRIED UNANIMOUSLY

APPROVAL OF MONTHLY BILLS: None

APPROVAL OF AGENDA

CM 7-2-08 – APPROVAL OF AGENDA

Motion by Wedell, supported by Selden

To approve the agenda as presented

VOTE: MOTION CARRIED UNANIMOUSLY

CITIZENS SUGGESTIONS:

Mr. Cory Bala of the South Lyon Hotel stated that he is asking for some help. He stated that he has been involved with the community for over seven years. They do not have any negative issues or police issues. It is a bar as well as family dining. The problem seems to be that every Friday and Saturday night they are getting noise complaints. Some may be justified, but the majority are not. They have tried to be proactive this year by rather than keeping their porch open to 1-2 a.m. which their liquor license allows, they close it down by midnight and keep everyone inside. He asked if there is anything that he could do to try to minimize the officer's time.

Council Member Kopkowski stated that she makes many of the calls as her house is directly across from the balcony. When she went in to speak with him, she was told that he would buy her an air conditioner and that she should keep her windows closed. She stated that she does not want an air conditioner and she enjoys having her windows open. However, she does not enjoy the profanity. When she has to turn her TV up to drown out the noise, she does make a call. She stated that she is tired of the problem and her neighbors are tired of the problem and they do call. It is time to do something about it.

Mr. Bala stated that he did offer to purchase an air conditioner and windows, and he would still be willing to do that. Council Member Kopkowski stated that she does not want air conditioning. She has a historical home and enjoys having her windows open.

Council Member Maida asked what time the people are moved off the balcony. Mr. Bala stated that generally they move everything inside 11:30-11:45 p.m. Lately, the officers are showing up around 11:25 p.m. Discussion was held on moving people indoors sooner. Mr. Bala stated that in the past couple of years it has been difficult for restaurants to survive in South Lyon and a lot of their revenue comes after the 11 o'clock hour, and a lot of that is due to the fact that people can enjoy the outside. He stated that he is not trying to justify profanity. They need to get those people off the porch or out of the business, but in general they have been good about cleaning things up. They have worked very hard to make it a better place, and it is getting harder when the noise complaints come earlier. He stated that he would be willing to handle things individually with Council Member Kopkowski, but she is hurting his business. Council Member Kopkowski stated that she is not the one who took the trees down. Mr. Bala stated that he did not either.

Discussion was held on having a bouncer if profanity is the major issue. Council Member Kopkowski stated that it is the profanity but also the hollering and loud music. She stated that her neighbors call her and ask her to make a call. Mr. Bala stated that they do not have bouncers and never have. A bar that has bouncers accepts that they will have fights. They do not. He could have a staff member patrolling the porch. Further discussion was held on staff being responsible if things are getting to loud.

Discussion was held on a good portion of the Hotel's revenue coming from after 11:00 p.m. Discussion was held on trying to keep the doors closed because of the music. Council Member Kopkowski further discussed the loud music.

Discussion was held on the problem existing because the trees were cut down. Mr. Bala stated that he should not be expected to lose \$5-10,000 each week because they cut the trees down. He further stated that he is happy to continue to close the porch at 12:00 and he is happy to put a staff member out there to keep people from yelling or using profanity, but he is asking that we stop accepting noise complaints before 12:00.

Councilman Selden asked if we have a noise standard in our ordinance. Chief Collins stated that we do, but it is subjective as to disturbance or annoyance.

Councilman Selden asked if there is any type of screening that could be put up there such as a trellis or vines. Attorney Lee stated that you could hire a sound engineer. He further stated that it might be possible to build some type of baffles. Council Member Kopkowski stated that she had suggested at one time that possibly something could be put on Providence's roof for that purpose. Discussion was held on liability issues as well as cost, etc.

Discussion was held on the new trees that were planted. Discussion was held on the size of those trees.

Discussion was held on how many houses are affected. It was stated that there are three houses on the street. Mr. Bala stated that he has talked to some of the people there and though they can hear the music, it is not a big deal. He asked if the complaints are just from this area. Council Member Kopkowski stated that she thinks it's just her direction. Chief Collins stated that from a Police Department perspective, it would be helpful if they received calls from more than one source. Sometimes complaints come in anonymous others are identifiable to a person or address. Of the identifiable calls, the complaints are only coming from 1-2 people from one address. People in a neighborhood, if they know someone in city government they have a tendency to call them rather than calling a dispatcher. They need to call direct so that they can get a better idea of what degree of disturbance there is and what direction we should be focusing our attention. Council Member Kopkowski stated that we already know there is a problem, a log at this point is useless.

Further discussion was held on investigating the noise level and possibility of baffles. Mr. Bala stated that he is looking for what is best for everyone without spending thousands of dollars for building modifications. City Manager Murphy stated that he would investigate the issue and report back to Council.

Councilman Wedell stated that he would also like to look at the source of complaints and frequency. He stated that we should not be arguing, but rather looking for some solutions, and that is what a City Manager is for.

Mr. Hugh Crawford, Republican Candidate for the 38th District State House of Representative stated that he wanted to stop and introduce himself. He stated August 5th is the Primary and hopefully he will be successful and this is just one of many visits to South Lyon. He gave a brief background including his community involvement and political history.

OLD BUSINESS:

1. Review of reward for information

Councilman Kivell stated that Councilman Selden had suggested that we abandon reward for the Police car vandalism.

City Manager Murphy stated that nothing has come in at this point. However, he does not see a problem with leaving it in place for another 30-60 days, but at that time it will be a dead issue.

Chief Collins stated that we have had no tips and we have no leads to follow at this point.

CM 7-3-08 – RESCIND REWARD FOR VANDALISM

Motion by Selden, supported by Morelli

To rescind the reward for information leading to the arrest and conviction of individuals responsible for the police car vandalism as of August 31, 2008

VOTE:

MOTION CARRIED UNANIMOUSLY

2. Post Office Building Discussion

Councilman Kivell stated that at the last meeting, he brought up the idea of approaching the Post Office so that when their existing lease expires, we could be looking at a different scenario whereby we have a small-town post office and distribution is taken out of the 4-corners area. He was looking to see if anyone had any comments or ideas.

Discussion was held on their contract term and their original plan to be there for only five years.

Discussion was held on other post offices with this type of scenario.

The question was asked if we could force them to do something. Councilman Kivell stated that we could not, but he does not think that anything would happen to try to achieve it if we do not try to solicit the conversation.

Discussion was held on the building not being the ideal situation for the Post Office. Discussion was held on other locations that may be suitable. Attorney Lee stated that if you chase them out of town, you lose your designation as a Post Office and it would become the Lyon Township Post Office. Councilman Kivell stated that the idea is to get the distribution out without losing the ability to get stamps, post office boxes, mail letters, etc.

Discussion was held on the need for additional information. City Manager Murphy stated that he has been trying to figure out how to approach them without making them mad. He does not want to move forward without Council having some kind of consensus. Discussion was held on approaching the Post Office to find out what their long and short term intentions are. Consensus of Council was to approach them to find out what their intentions are.

3. Recycling for Businesses and Apartment Dwellers within the City.

Council Member Kopkowski stated that she was pleased to see that price was not that expensive. She further stated that in order for it to be successful, we will need signage and advertisement for both the businesses and apartments.

City Manager Murphy stated that he would like to try this beginning in September or October for a 3-4 month trial period. There may be something else coming forward in the future to address this issue. For the price, it is a good experiment and it will get them in the habit of recycling.

Councilman Wedell asked how we will know that the people who are dumping are residents or city businesses. City Manager Murphy stated that we will not unless you want to hire someone to monitor it. Councilman Wedell stated that we pay for our recycling on our utility bills, and we will be providing this service tax free.

Discussion was held on how businesses pay for their garbage pick-up. It was stated that most of the businesses contract for services. It was further stated that only those who receive city pick-up pay for it.

Discussion was held on the dumpsters. City Manager Murphy stated that there would be plastics in one and everything else in the other. It will not be going to RRRASOC but rather Mt. Clemens because RRRASOC does not have the capability of single stream at this point. Further discussion was held on RRRASOC.

Discussion was held on times that it would be open. It was stated that the DPW hours are 7:00 a.m. to 3:30 p.m.

CM 7-4-08 – APPROVAL OF TRIAL RECYCLING FOR BUSINESSES AND APARTMENT DWELLERS

Motion by Kopkowski, supported by Wedell

To approve the proposed recycling plan for the businesses and apartment dwellers in the City for a three-month trial pilot period

VOTE:

MOTION CARRIED UNANIMOUSLY

4. Update on current and Future projects

Mr. Jessee VanDeCreek of HRC stated that they have had some inquiries as to the intersection detail in the downtown project, in particular the sidewalk approaches. He discussed a meeting held with Council Members Kivell and Kopkowski, the City Manager and the Permits Department of the Road Commission. He stated that there is a jog in the crosswalk due to the ADA requirements. He stated that they went through three separate designs to try to achieve ADA requirements. He discussed those requirements. We have a very narrow right-of-way and we had to come up with a configuration to meet those requirements, which resulted in the jog. There are some benefits including a brick paver section which provides for better aesthetic. There were some valid concerns including wheel chair wheels falling into a rut, and those concerns will be addressed. He discussed the intersection at Elm Place. He stated that at the southeast corner there is a building up against the existing sidewalk so the corner is limited by that building. He discussed the design in order to accommodate the requirements. He stated that every joint on the sidewalk detail has a grade on it to make sure they meet ADA. They have never had to do that in Oakland County.

Mr. VanDeCreek stated that another item that was brought up was at the northwest corner of McHattie. They tried to obtain a temporary easement for grade but were unsuccessful. They had to sawcut the island because of a drainage issue they did not want to modify. They are building another curb to accommodate the new landing and light signal. He further discussed the aesthetic issues. He stated that for under \$3,000 we can have this concrete curb and brick pavers added to the project. We may have to deal with this same issue at Elm Place. He stated that they are on schedule with the project and the

concrete paver contractor is expected to be out there tomorrow. The contractor has indicated that they expect to have the project completed by August 29th, which is the contract completion date. He discussed the problem with the brick paver contractor. Because it is a federal project, it has to comply with the Davis-Bacon Wage Rates, and we need to make sure that we do not have any illegals working on the project. The on-sight observer found that the sub-contractor was qualified for MDOT paving last year, but he is not this year. So the contractor had to find another sub-contractor who was qualified.

Councilman Morelli asked if once the new lighting is installed will the cobra lighting then be removed. Mr. VanDeCreek stated that will be the last thing done.

Councilman Kivell stated that if there had to be three separate meetings to come up with the configuration of the intersections, it should have been brought to the City immediately. Mr. VanDeCreek stated that the grade inspection was done a year ago. Furthermore, the administrative staff was provided with the design detail and the City Manager was involved in one of those meetings. If Council wishes, they could appoint someone from Council to oversee the engineering.

Councilman Kivell stated that we have businesses that are wondering what is going on when they have orange barrels in front of their businesses and the work is not being done. They need some assurances. Mr. VanDeCreek stated that the assurance is that if the project is not complete by the contract date, the contractor will be penalized. He further stated that they did have a special meeting with the business owners in advance of the project and have spent a lot of time there talking with them. He has not had any complaints since the project started. The feedback has been fairly good on the capability of the contractor and the on-sight representative is there to make sure that their needs are being met.

Discussion was held on the concern of the businesses when they do not see work taking place. Discussion was held on the delays. Mr. VanDeCreek stated that as engineers, they protected the City by finding out that a non-MDOT contractor was about to start work on the project. Council Member Kopkowski stated that should have been caught ahead of time, and as a result it delayed the project. Mr. VanDeCreek stated that the contractor is still responsible for meeting the deadline date. Council Member Kopkowski stated that still the orange barrels are in front of the businesses without work being done. Someone could have moved the barrels. Mr. VanDeCreek stated that if there is a specific issue, then he would be more than happy to help. Council Member Kopkowski stated that the specific issue is when there is no work being done, let the businesses know why and ask if there is something that can be done to accommodate them. Mr. VanDeCreek stated that he can have the on-sight observer knock on some doors, but that is already being done. If there is a specific complaint, he will help.

Council Member Kopkowski stated that the DDA never received a copy of the construction drawings, but they are not engineers, so you cannot say that the DDA approved all of this. It has been said, and she does not appreciate that.

Discussion was held on the driveway cuts for the gas station. Mr. VanDeCreek stated that they worked directly with the property owner on what he wanted, and that is what was presented to the DDA. Further discussion was held on the design.

Discussion was held on the sidewalk flags in front of the insurance company where the old concrete meets the new concrete. Mr. VanDeCreek stated that they will look at this area.

Mr. VanDeCreek discussed the sanitary sewer televising program that has been taking place. He stated that they will be coming back about moving into the next area. He further discussed the Drinking Water Revolving Loan funds that are available. He stated that Federal appropriations have not been guaranteed for more than two more years. Last fall, they discussed with administration the needs of the water system. We have four miles of four inch main in the City, and if you have a funding source available, we need to look at it. He further discussed the need for putting together a project plan and the application process. Mr. VanDeCreek stated that the City of South Lyon has never prepared a formal Master Storm Water Management Plan. During the process of Phase II Storm Water Regulations, one of the year-three items was the development of a Master Storm Water Management Plan. This includes looking at the entire

watershed of the community. He stated that this is required as part of the City's permit. Further discussion was held on the development of this plan. Discussion was held on Oakland County's Master Storm Water Management Plan.

NEW BUSINESS

1. Approval of bid for Lake/Whipple Alleyway improvement project

Mr. VanDeCreek stated this is the project decided for the use of the CDBG funds. They received bids and the bid recommendation has been provided by Council. They have received all of the information on the contractor and are recommending the award.

The question was asked if the contract would extend the unit pricing to the businesses that may want to augment their existing areas. Mr. VanDeCreek stated that they did pursue temporary easements from all of the property owners and received all but one, and in exchange we will pave up to the buildings. Unfortunately, the area that abuts the one building will be the only area not paved.

Council Member Kopkowski stated that she was pleased to see that the project came in lower than originally proposed. However, it is not a significant roadway and she does not want to see cost overruns. Mr. VanDeCreek stated that there is contingency in the bid price for undercut work.

CM 7-5-08 – APPROVAL OF LOW BID – LAKE/WHIPPLE ALLEYWAY IMPROVEMENTS

Motion by Selden, supported by Maida

To approve the low bid from Nagle Paving Company for the Lake/Whipple Alleyway improvement project in the amount of \$35,845 as presented

VOTE:

MOTION CARRIED UNANIMOUSLY

2. Additional work on streetscape project

City Manager Murphy stated that there are no funds added for any additional work at Elm Place. Council could add funds for that additional work. Councilman Kivell stated that we could wait until we get there. Mr. VanDeCreek stated that these are all unit prices that are in the contract and you can go up or down as long as we do not exceed 25%.

CM 7-6-08 – APPROVAL OF ADDITIONAL WORK – STREETSCAPE PROJECT

Motion by Morelli, supported by Wedell

To approve the extra cost of placing brick pavers around the island at McHattie and Pontiac Trail and additional sidewalk at Liberty and Pontiac Trail in the amount of \$3,065.83 as presented.

VOTE:

MOTION CARRIED UNANIMOUSLY

3. Web hosting/maintenance agreement

City Manager Murphy stated that one of the duties of the Economic Development Director was the maintenance of the web site. The City Clerk has been doing some of the updating. However, he would like to hire 3Sixty Interactive to take care of the maintenance including updating minutes, etc. and any other changes or updating that we require. Although the cost is \$100 per hour, to put something up on a website takes only minutes. The savings of not having an Economic Development Director will certainly cover the cost of having a professional company take care of this. We have also asked them to give us a quote on making our site more user friendly and easier to navigate, which will be handled separately.

Councilman Wedell asked if there is a local company willing to do this. City Manager Murphy stated that he is familiar with this company as he worked with them in Brighton Township. City Clerk/Treasurer stated that she did talk with a few companies who verbally indicated a price higher than we see here. This is a very professional company, much different than an in-home maintenance group. This company will also be hosting our website as well as maintain so there is some benefit there as well.

Councilman Kivell stated that he understands that this is an interim solution, but if we are going to look at long-term, he would like to see something to compare this with. City Attorney Lee stated that we did revise the contract to allow us to terminate with 30 days notice.

Councilman Kivell asked if they have streaming video capability. City Clerk/Treasurer Zemke stated that they do. We will have some streaming video up on our site shortly, but the issue of live Council meetings is a separate issue.

Discussion was held on contracting for a one-year period. City Manager Murphy stated that we can contract with them and see how we like it. If Council wants to go out for bid, we should state that we are doing this on a probationary period. However, for maintenance he is asking that we go with them for an indefinite period. Discussion was held on revamping the web site being a separate issue.

CM7-7-08 – MAINTENANCE AGREEMENT – WEB SITE HOSTING/MAINTENANCE

Motion by Wedell, supported by Morelli

To approve the maintenance agreement with 3 Sixty Interactive as amended

VOTE: MOTION CARRIED UNANIMOUSLY

4. Road closure for block party on Drury Lane

Chief Collins stated that this is their second annual block party, and he is recommending approval.

CM 7-8-08 – ROAD CLOSURE – DRURY LANE

Motion by Selden, supported by Maida

To approve the closure of Drury Lane on August 9, 2008 from 12:00 noon until 10:00 p.m. for a Block Party

VOTE: MOTION CARRIED UNANIMOUSLY

5. Road closure for block party on Appaloosa Court

Chief Collins stated that he is recommending approval.

CM 7-9-08 – ROAD CLOSURE – APPALOOSA COURT

Motion by Wedell, supported by Morelli

To approve the closure of Appaloosa Court on August 2, 2008 from 8:00 a.m. until 10:00 p.m. for a Block Party

VOTE: MOTION CARRIED UNANIMOUSLY

6. Road closure for block party on Graefield Drive.

Chief Collins stated that he is recommending approval.

CM 7-10-08 – ROAD CLOSURE – GRAEFIELD DRIVE

Motion by Morell, supported by Kopkowski

To approve the closure of Graefield Drive on August 23, 2008 from 3:00 P.M. until 10:00 p.m. for a Block Party

VOTE:

MOTION CARRIED UNANIMOUSLY

7. First reading for Ordinance change, Article VIII Supplementary District Regulations: Sec. 102-454- Screening of rooftop equipment

Pam Weipert, Planning Commission Chairperson, stated that this would require screening of equipment on top of commercial buildings. It would require that it be maintenance free and compatible with the building material.

Council Member Kopkowski asked where these changes are coming from. Ms. Weipert stated that these are holes in the ordinance. They have been able to require builders or developers to do these things, but it is not required in the ordinance. They are cleaning things up. There is not a lot of building going on right now so they are taking the opportunity to do this. There will be additional changes coming forward.

CM 7-11-08 – FIRST READING – AMENDMENT TO SECTION 102-454

Motion by Morelli, supported by Selden

That this be the first reading of an ordinance amendment to Article VIII Supplementary District Regulations: Section 102-454 – Screening of rooftop equipment

VOTE:

MOTION CARRIED UNANIMOUSLY

8. Update on DeMaria Case.

Attorney Lee stated that he is happy to report that our renewed motion, after 18 months of discovery, was granted by the Court. As a result, the City has been victorious with both sides of this lawsuit. He was able to deliver the check from DeMaria for the settlement amount and we have received a check from HRC. The issue of DeMaria trying to free up the northwest corner of Trotter's Point property has been dismissed. However, when he picked up the check from DeMaria, the defense attorney did indicate that they intend to appeal. He further explained the case. He further explained the suit between the developer and the Homeowner's Association.

Discussion was held on a walking path that was never put in. Attorney Lee stated that will be an issue between the Planning Commission and the Trotter's Point Subdivision. It will either have to be put in or the Planning Commission will have to waive that requirement. Discussion was held on the issue of Toll Brothers taking over from DeMaria.

MANAGER'S REPORT

City Manager Murphy stated that at the last meeting the question was asked as to the fuel tank repair. He stated that this was related to the vandalism. The question was asked regarding sludge hauling bill. This is actually twice per year, not quarterly. The question was asked regarding the number bicycles the Police Department has, and that number is two plus one Harley.

City Manager Murphy stated that he would like to bring up the idea of Council utilizing a consent agenda and would like to provide Council with some information and put it on a future agenda for discussion. A consent agenda would allow us to put items together into a consent agenda to be approved with one

action. Things could be taken out of the consent agenda if it requires additional discussion, but items such as the bills or these block parties could be approved together. He stated that this might make things run smoother and quicker.

Councilman Kivell stated that for a lot of people in the community, this is their only source of information. The newspaper rarely posts information about what takes place at our meetings. When we took the role of being on Council, it was not to make sure we could get through the meeting as quickly as possible. City Manager Murphy stated that is not the point, but rather there are some things that can be put forward to make one motion and move on. He stated that he would like Council to consider it. Councilman Wedell stated that it is an efficient way of doing business and he would support it.

City Manager Murphy stated that we have received a Chinese Warrior as a gift from China. It is in the hallway of the City offices.

COUNCIL COMMENTS

Council Member Maida thanked the DPW for trimming the hedges at the gazebo at Pontiac Trail and Reynold Sweet Parkway. She further reminded everyone to get out and vote August 5th. Contact the City Clerk's office if you are not sure where to vote.

Councilman Morelli asked if we received any update on the railroad and the problem with the gates. Chief Collins stated that he has been in contact with the railroad several times as well as the State Transportation Department. CSX has come through and replaced all of the track sensors and the wiring outside the buildings. Since that time he has had to have two officers directing traffic for 7 hours and 16 minutes, which took attention away from other areas of the City. We have billed the railroad, but have not gotten response. They have, however, indicated that they will be working on the inside of the signal house that controls all four crossings in the City. Discussion was held on how the officers hold the gates up so traffic can get through.

ADJOURNMENT

CM 7-12-08 – ADJOURNMENT

Motion by Morelli, supported by Selden

To adjourn the meeting at 9:27 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully Submitted,

John Doyle, Jr.
Mayor

Julie C. Zemke
City Clerk/Treasurer