

**CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
NOVEMBER 28, 2011**

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

PRESENT: Mayor Wallace
Council Members: Dixon, Kivell, Kopkowski, Kramer, Rzyzi, and Wedell
City Manager Murphy
City Attorney Lee
City Clerk/Treasurer Zemke
Department Heads: Collins, Kennedy, Martin and Renwick

APPROVAL OF AGENDA:

City Manager Murphy stated that he would like to remove New Business #7 to be brought back at the next meeting. He further stated that he would like to add New Business 1a to set a public hearing for Michigan Seamless Tube Tax Abatement request.

CM 10-1-11 APPROVAL OF AGENDA

Motion by Wedell supported by Kivell

To approve the agenda as amended

VOTE: MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES:

CM 10-2-11 – APPROVAL OF MINUTES- NOVEMBER 14, 2011

Motion by Kopkowski ,supported by Kivell

To approve the minutes of the November 14, 2011 Regular Council meeting as written

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT:

Proclamation for Leonard LaChance

Mayor Wallace proclaimed the following:

WHEREAS, The year 2011 marks a milestone for Hornet Concrete, celebrating 50 years in the City of South Lyon; and

WHEREAS, The Leonard LaChance Family bought up the bankrupt concrete company and made it viable again; and

WHEREAS, Leonard picked up the reins and guided the business to success in South Lyon; and

WHEREAS, From 1960 to 1979 Hornet Concrete donated all diesel fuel to the South Lyon Fire Department; and

WHEREAS, Leonard helped the City Fire Department with a large donation to purchase their first "Jaws of Life" device; and

WHEREAS, Leonard donated, in his brother Don's name, the property where the City water tower is now located;

NOW THEREFORE, I Tedd Wallace, Mayor of the City of South Lyon, do hereby by proclamation, issue a heartfelt THANK YOU from the City of South Lyon for your generous donations and hard work.

Mr. Robert Hahn of 12195 Andrasen in Green Oak Township stated that he had a couple questions related to an incident on November 13th at the South Lyon Hotel. He asked what the procedures are when someone wishes to press charges against an individual. City Attorney stated that there is no single procedure. It depends on the charges that are filed and it depends on the facts. If there is a charge, the matter is taken before the Oakland County Prosecutor. If it is a simple assault, it comes to his office as City Attorney. He further suggested that if there are any questions on the processes then they should be directed to the Police Chief, himself or the Prosecuting Attorney. These are procedures that are governed by State law. This is nothing that Council makes a determination on. Attorney Lee stated that it is not up to the individual officer but rather the policies that are established by his office, the Prosecutor's Office or the procedures established by the Chief of Police.

Mr. Carl Richards of 390 Lennox stated that the trees on Lake Street that were taken down were in bad shape for a long time, We can all be very grateful that they were taken down.

Sabrina Harris of 601 Ada Street stated that she loves South Lyon. However, she feels sadness about the way the Police Department handled the situation at the South Lyon Hotel on November 13th. A man was viciously attacked only to have the individual let go and arrested for drunk driving later that night. This is disturbing and she hopes the City of South Lyon holds somebody accountable.

Andrew Hagemann of 1164 Chestnut stated that he has been a resident since 2009 and has never had an issue with his water bill in the past. His bill was due October 31st. He wrote a check and intended to take the cash and deposit it in the bank. He received a call that his son had suffered a seizure. He realized he did not deposit the money in his bank and immediately called the water department. November 7th the City received the check back. On November 15th he received a call from his in-laws that the water had been shut off. He called the water department and asked for waiver of the NSF fee, late fee, etc. but was told "No". He asked when a shut-off notice was mailed. He stated that in other communities, if a water bill is not paid, it is put on the taxes. He stated that the question was why his water was shut off without notice. Clerk/Treasure Zemke stated that Mr. Hagemann was given notice. She further stated that her office did call him and let him know of the consequences.

OLD BUSINESS: None

NEW BUSINESS:

1a. Michigan Seamless Tube – Set Public Hearing

CM 10-3-11 – SCHEDULE PUBLIC HEARING

Motion by Wedell, supported by Kramer

To set a public hearing for December 12, 2011 to consider the request From Michigan Seamless Tube for consideration of the application for Industrial Facilities Tax Exemption Certificate

VOTE:

MOTION CARRIED UNANIMOUSLY

1. Lexington Place

Pam Weipert, Chairperson of the Planning Commission stated that the reason this is before Council is because this is a Planned Unit Development. Council did approve a PUD in 2003 which consisted of Gateway Commons, Comerica Bank, office building and a condominium development. She further described the construction. Councilman Kivell stated that the approved restaurant was replaced with the office building. Chairperson Weipert stated that the condominiums did not get built. The Planning Commission was approached by Robertson Brothers with a plan to build detached condominiums rather than the attached condominiums that were originally planned. They have reduced the density of the development, made some adjustments to the front yard setbacks and have received preliminary site plan

approval from the Planning Commission. They are asking Council to grant preliminary approval so that the developer can move forward.

Jim Clarke, President of Robertson Brothers of 6905 Telegraph Road in Bloomfield Hills, Michigan stated that they are looking for preliminary approval. He stated that originally a 68 unit development was approved and 12 of those units were completed. They would like to reconfigure the site with 38 detached units decreasing the overall density by 18 units.

Discussion was held on the landscaping plan. Mr. Clarke stated that they plan on fulfilling all of the requirements of the original landscaping plan. Mr. Clarke stated that he has been asked to address the existing landscaping inventory.

Discussion was held on the sidewalks and the parking on one side of the street. Discussion was held on Oakland County Standards versus City standards.

Discussion was held on the width of the street. Mr. Clarke stated that the width varies from 26 –26.5 feet. It was stated that our standard is 33 feet. Councilman Kivell stated that he appreciates the fact that the Planning Commission minutes reflect the working relationship. He further stated that he understands the existing restraints of the property, however he is still a fan of the front and rear yard setback to define space from one property to the next. Discussion was held on the different floor plans. Councilman Kivell questioned whether a different floor plan was considered to fulfill the setback requirements. Mr. Clarke stated that they meet every setback that was in the original plan. Mr. Clark stated that they did design some new elevations to try and address the concerns of the Planning Commission.

Councilman Kramer stated that the infrastructure is in place. Mr. Clarke stated that Bank of America owns the property now and have posted a bond for the top coat of the roads and the street trees. He further discussed FHA approval of attached units versus detached units. Discussion was held on the performance bond. Attorney Lee stated that they have posted a \$100,000 bond for trees, roadways, non-finished sidewalks, etc. Discussion was held on the foreclosure action.

Council Member Kopkowski stated that being an architect, she knows that redeveloping or re-designing something that fits that site is not going to make or break the project economically. She stated that she likes the fact that it is detached condominiums, but with the resources available, redeveloping the project is not going to break the development. She further stated that the price point is somewhat high. Clarks Crossing, which is one of the last developments in the City is priced lower and are better looking.

Council Member Kopkowski stated that she would like to see some type of an agreement with the developer to assure the surrounding property owners. Ms. Weipert stated that preliminary approval means that he has past the first hurdle. She stated that we are very conscious that we need to take care of the adjacent property owners. Council Member Kopkowski stated that she would like to commend Mr. Clarke for trying to tackle this project.

Councilman Kramer questioned the option to buy the property. Mr. Clarke stated that the original owner owns the property but has signed off all rights.

Discussion was held on what happens to the property if Council decides not to approve it. Attorney Lee stated that the original plan is in place until the plan is modified.

Discussion was held on private streets. Councilman Kivell stated that the narrowness is a concern, but the radius is a concern for emergency vehicles. Discussion was held on fire codes. Ms. Weipert stated that the Fire Chief did indicate a concern with parking on both sides of the streets. Further discussion was held on parking.

Mr. Clarke stated that from here they would need to do final engineering, final condominium documentations and all the other items required for final approval. He stated that they tried to live within the approved

standards, reduced the density and changed the product type to something they felt would be successful in this area.

Mayor Wallace stated that he would like to see Council proceed based on the recommendation of the Planning Commission. Attorney Lee stated that the plans as submitted would become a part of the PUD and Council would essentially be granting a variance to the setbacks.

Discussion was held on the adjacent property owners and the existing soil erosion. Mr. Clark stated that that they did meet with Mr. and Mrs. Green and there is an erosion problem due to lack of development and the overall grading plan will address those concerns. Further discussion was held on the landscape plan that was not done by the previous developer.

Discussion was held on the setbacks and decks. Mr. Clarke stated that if there is a deck, it would encroach the setback. He further stated that what they have found is that people want patios, not decks. Chairperson Weipert stated that one of the reasons why the Planning Commission wanted to see decks on the plan was they felt they could have more control of what they look like.

Mr. Tom Duncan 60440 Eleven Mile stated that they did encourage the developer to provide additional elevations. They appreciate the attempt to upgrade the scale. The first plan was very modular and very simple. He stated that the vegetation is not apparent. They felt that the only way to accommodate their future is to require maximum number of simple units and require the vegetation long before completion of the development. They would like to see if they can get some kind of guarantee. Councilman Kivell stated that the developer is going to want to control the cost. Mr. Clarke stated that they would do their best that when they build a house, they will put in the landscape in the yard with the cooperation of neighbors. Mr. Duncan stated that they would like to protect the existing homes as the development moves forward.

Councilman Kramer asked how many units would encroach the setback. Mr. Clarke discussed the encroachment of the decks into the setbacks. Councilman Wedell asked if elimination of the deck would cure the setback issue. Attorney Lee stated that as long as there is no structure. Mr. Clark asked if an on-grade patio is a structure. Attorney Lee stated that sand or stone in the ground is not considered a structure.

CM 10-4-11 – APPROVAL – PRELIMINARY SITE PLAN – LEXINGTON PLACE

Motion by Kramer, supported by Dixon

To approve the amended preliminary site plan for Lexington Place PD.

VOTE: MOTION CARRIED (2opposed)

2. Appointments
 - a. Zoning Board of Appeals

Mayor Wallace stated that we need to fill the Council Liaison position on the Zoning Board of Appeals. Joe Rzyzi has volunteered to step forward.

CM 10-5-11 – APPOINTMENT TO THE ZONING BOARD OF APPEALS

Motion by Wallace, supported by Wedell

To appoint Joseph Rzyzi as the Council Liaison to the Zoning Board of Appeals

VOTE: MOTION CARRIED UNANIMOUSLY

b. SEMCOG

Councilman Wedell volunteered to fill the position of SEMCOG delegate if there is not someone else interested. It was stated that the delegate needs to be an elected official, but the alternate does not.

CM 10-6-11 – APPOINTMENT – SEMCOG DELEGATE

Motion by Wedell, supported by Kopkowski

To appoint Councilman Wedell as the delegate to SEMCOG

VOTE: MOTION CARRIED UNANIMOUSLY

CM 10-7-11 – APPOINTMENT – SEMCOG ALTERNATE

Motion by Kopkowski, supported by Dixson

To appoint City Manager Murphy as the alternate to SEMCOG

VOTE: MOTION CARRIED UNANIMOUSLY

3. Cancellation of December 26th Council Meeting

City Manager Murphy stated that traditionally the second meeting in December is cancelled. In the past Council has left it to the City Manager's discretion if a meeting is needed. It was stated that December 26th is a scheduled holiday, therefore if a meeting is needed, it should be on Tuesday, December 27th.

CM 10-8-11 – CANCELLATION OF DECEMBER 26, 2011 REGULAR MEETING

Motion by Rzyzi, supported by Wedell

To cancel the second regular City Council Meeting of the month which falls on December 26, 2011 and to authorize the City Manager to schedule the meeting on Tuesday December 27, 2011 if the need should arise.

VOTE: MOTION CARRIED UNANIMOUSLY

4. First Reading of Amendment to Historical Commission Ordinance

City Manager Murphy stated that the Historical Commission has requested an update to the Historical Commission ordinance.

Council Member Kopkowski asked if all items are donated to the Society. Bob Tremetiere of the Historical Commission stated that the artifacts belong to the Society. If the Society were to dissolve for any reason, all items would go to the Commission. The Commission was created first. After the depot was in place, the Society was formed to accept donations and run the museum.

Attorney Lee stated that all of the items are on City property. The purpose of this amendment is to assure that the responsibility falls upon the Commission. If they want to allow the Society to do certain things, that is fine. Mr. Tremetiere stated that most of the Commission members are also Society members. Attorney Lee stated that the idea of having the Society was that people could donate to a 501c3 organization and receive a deduction. The IRS has changed the law to allow for deduction for donations to cities.

Councilman Kramer questioned the donations for use of the facilities. Mr. Tremetier stated that those monies now go directly to the City.

CM 10-9-11 – FIRST READING – CHAPTER 2-SECTION 151-156

Motion by Kramer, supported by Kivell

That this be the first reading of an amendment to Chapter 2 Section 151 – 156 Historical Commission.(see attached amendment as part of these minutes)

VOTE: MOTION CARRIED UNANIMOUSLY

5. Agreement with S. L. School District for use of the Administration Building

City Manager Murphy stated that now that the bonds have been paid off, the agreement requires that the deed to the property goes back to the Schools. The agreement has been worked out between the City and the Schools and gives us a 99 year lease. It allows us to operate the way that we have been.

Attorney Lee stated that in 1997 when we agreed with the School district to construct this building, there were problems with the State Law with regards to schools doing business with local municipalities. We had to have the Schools deed the property to the City's Building Authority and the building was built with Full Faith In Credit bonds. We entered an agreement that gives the property back to the Schools in exchange for a 99 year lease.

Councilman Kivell asked about the ability for each side to have their own sign. City Manager Murphy stated that the School District wanted that language.

Council Member Kopkowski questioned the expiration. Attorney Lee stated that it goes from the date of our master agreement.

CM 10-10-11 – APPROVAL OF AGREEMENT WITH SOUTH LYON COMMUNITY SCHOOLS

Motion by Dixon, supported by Kramer

To approve the proposed agreement with the South Lyon School District as presented

VOTE: MOTION CARRIED UNANIMOUSLY

6. Liquor License for Moose

Chief Collins stated that Moose Lodge # 2685 is requesting a new Club License with Dance Entertainment Permit. This does not count against the City's quota. The Police Department investigation revealed no reason to not grant the request.

Discussion was held on the proposed location. It was stated that it will be located where the former Dorozo's Restaurant was located.

CM 10-11-11 – APPROVAL OF LIQUOR LICENSE

Motion by Kivell , supported by Kopkowski

That the request made by South Lyon Moose Lodge #2685 for a new Club License, with Dance Entertainment Permit, to be located at 507 S. Lafayette , South Lyon, MI 48178, Oakland County be considered for approval above all others, as detailed on LC-1800 and LC-1636 forms.

VOTE:

MOTION CARRIED UNANIMOUSLY

7. Redevelopment Liquor License –Removed from the Agenda
8. MAFF Contract

Chief Kennedy stated that in October 2011 during a time of turmoil within the Fire Department, the on-call firefighters voted to have the Michigan Association of Fire Fighters represent them. Shortly after that he, City Manager Murphy and City Attorney Lee sat on the negotiating committee with representatives of the Union and on-call firefighters. He stated that they have reached a tentative agreement and discussed the contract highlights. On November 8, 2011, the Union did ratify the contract. The Union was very willing to work with the City given the current economic conditions, and it is a fair contract.

Councilman Kivell stated that this is a good step in the right direction especially given the conflicts within the department.

Attorney Lee stated that the wages within the agreement are the same as what we have been paying for the past two years. Discussion was held on the cost of living allowance. Attorney Lee explained the 312 arbitration potential.

Discussion was held on the reimbursement of \$750 towards their insurance deductible. Attorney Lee stated that one thing we want to encourage is that they have insurance. He further discussed the "employee" status when the firefighter is to/from and in the course of employment. We want to make sure they have collision coverage versus simply PLPD. Chief Kennedy stated that we are also part of the Secretary of State reporting program. Any time any of the firefighters receive an infraction of any kind, we are informed.

Attorney Lee stated that with this contract we have also eliminated the potential for "double dipping". In the past if an officer were on a call and another call came in, that person would get paid for each call separately.

Council Member Kopkowski asked if there is anything in the contract relating to health insurance. It was stated that there is not.

CM 10-12-11 – APPROVAL OF MAFF CONTRACT

Motion by Kopkowski, supported by Kivell

To approve the contract between MAFF and the City of South Lyon

VOTE:

MOTION CARRIED UNANIMOUSLY

9. Medical Insurance

City Manager Murphy stated that there are two parts of this issue; Senate Bill 7 and Public Act 152. The City is required to do one of three things: 1) The employees must split the cost of their insurance 80/20 2) The employer, by 2/3 vote of its governing body each year may exempt itself from the requirements of the act or 3) The employer pays no more than the "hard caps" for the insurance premium. The other portion is the Economic Vitality Improvement Program, which requires the 80/20 split in order to be eligible for the statutory revenue sharing, which equates to approximately \$14,000 per year for the third leg. The bill goes into effect January 1st. The people affected right now is the administrative personnel because of the current union contracts. Out of 6-7 administrative personnel, 4 people would be affected. He is asking Council exempt employees for a period of one year to give us an opportunity to adjust our budgets, etc. and make arrangements to pay for the insurance. By putting together a plan to implement, we will satisfy the requirements for the revenue sharing. He further stated that approximately 1 ½ years ago, we implemented some changes which has saved the City approximately 21% of our insurance costs. We have hit what the

Governor wants us to, before the legislation was in place. We just did not put the burden on the employees. The 80/20 split would then take effect January 2013.

Councilman Wedell stated that he is going to support this because it is the right thing to do. He further questioned whether the plan would be to go for the 80/20 split or the hard cap. City Manager Murphy stated that the 80/20 is actually less for the employees. He further stated that he did put together a committee with employees and representatives of the unions to look at our options to possibly realize additional savings for the employees.

Council Member Kopkowski stated that she does understand the concept from both sides. However, she does not appreciate the way it was presented. The memo indicates that the City would save \$12,301.16. It further indicates that the employees have gone without raises, etc. The money is coming from the tax payers. This is not something that Council has put in effect, but rather the Governor. The people who are paying for this have gone without raises, etc. also. She does not like the way it was presented, as if these four people were the only ones enduring this. This is affecting everyone in the community. It was presented as if these four people were better than any of the other employees or tax payers. City Manager Murphy stated that was not the intent. The intent was to show who would be affected at this time. Council Member Kopkowski stated that they need to realize that the money that is being paid is coming from tax payers who are also making cuts, etc. City Manager Murphy stated that all of the employees are aware.

Councilman Kivell stated that we are always looking for places to make cuts and maintain services at a lower cost whether it is health care or how we purchase equipment. It is important to recognize that the Governor signed this in October and did not give people an opportunity to make adjustments in their own financials first. That is something that can be accounted for by exempting this for the first year.

CM 10-13-11 – APPROVAL OF MINUTES- NOVEMBER 14, 2011

Motion by Kivell, supported by Wedell

To approve exempting the City of South Lyon from the requirements of Public Act 165 for a period of one year

VOTE:

MOTION CARRIED UNANIMOUSLY

MANAGER'S REPORT: None

COUNCIL COMMENTS:

Council Member Dixon stated that she would like to commend McDonalds of South Lyon for their participation in the Toys for Tots program.

Councilman Wedell congratulated that AP students present for tonight's long meeting.

Councilman Kivell asked if the two lights downtown that did not get changed are simply on order. Superintendent Renwick stated that they are in order and should be here in a few weeks.

Councilman Kivell commended the DPW and everyone involved with decorating downtown. Council Member Kopkowski stated that the Santa house is also in the Veteran's parking lot.

Councilman Rzyzi stated that he is looking forward to continuing on the Zoning Board of Appeals.

Mayor Wallace stated that he would like to remind everyone of the Cool Yule, lighted parade on Saturday. It was a big success last year and should be even better this year. He asked if the lights downtown would be turned off. Superintendent Renwick stated that they will make sure and have them off.

ADJOURNMENT:

CM 10-14-11 ADJOURNMENT

Motion by Kivell, supported by Kopkowski

To adjourn the meeting at 9:17 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Tedd M. Wallace
Mayor

Julie C. Zemke
City Clerk/Treasurer