

**CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
December 12, 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 Clerk/Treasurer Zemke
Attorney Lee
Department Heads: Collins, Kennedy, and Martin

ABSENT: None

APPROVAL OF MINUTES:

CM -12-1-11 – APPROVAL OF MINUTES – NOVEMBER 28, 2011

Motion by Kivell, supported by Kramer

To approve the minutes of the Regular City Council meeting of November 28, 2011 as written

VOTE:

MOTION CARRIED UNANIMOUSLY

Discussion was held on various bills.

CM 12-2-11 – APPROVAL OF MONTHLY BILLS

Motion by supported by

To approve the monthly bills as presented

VOTE:

MOTION CARRIED UNANIMOUSLY

APPROVAL OF AGENDA:

CM 12-3-11 – APPROVAL OF AGENDA

Motion by Kopkowski, supported by Kivell

To approve the agenda as presented

VOTE:

MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT: None

OLD BUSINESS:

1. Second Reading of Amendments to the Historical Commission ordinance

City Manager Murphy stated that there have been no changes since the last meeting. There are two minor changes under the duties and finances sections as requested by the Historical Commission.

CM 12-4-11 – SECOND READING & ADOPTION – AMENDMENT TO CHAPTER 2, SECTION 151-156 OF THE CITY CODE

Motion by Kivell, supported by Dixon

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

VOTE:

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS:

1. Public Hearing on an Industrial Facilities Exemption Certificate for Michigan Seamless Tube

Mayor Wallace opened the public hearing at 7:37 p.m.

A representative of ITEC representing Michigan Seamless Tube stated that Michigan Seamless Tube is planning on investing \$11.5 million on equipment and creating approximately 20 jobs. Inside the existing buildings they will be adding a quench and temper line. He further explained their operations.

Kopkowski asked the square footage of the expansion. It was stated that it would be approximately 9600 square feet.

Martin Gaut of 459 W. Liberty asked what part of the building would be expanded. Mr. Whitver stated that it would be an extension of the southern most building.

Councilman Kivell asked the additional truck traffic. Mr. Whitver stated that there would be more steel truck coming and more product trucks going out. He further explained that the truck traffic will actually be fewer trucks coming in and out because of the process.

Attorney Lee explained the exemption certificate. The City can grant them an exemption up to 50% or a portion of the amount that they will be investing. In this case, the Tube Mill is coming promising to invest \$11 million in this community and requesting an exemption of 50% of the value for 12 years.

David Kurtycz with Michigan Economic Development Corporation discussed the school taxes. He stated that they have agreed that if the City agrees to do this then they will waive the 6 mills State Education Tax.

Councilman Kramer stated that there is a provision in paragraph 3 of the agreement that if the improvements are not completed, the City may recommend reducing the term of or revoking the Certificate. He asked who would make that final determination. Attorney Lee stated that Council would pass a resolution, but the Tax Tribunal would have the ultimate decision. They would be entitled to a hearing and the facts would have to be established.

The question was asked when the expansion is anticipated. Mr. Whitver stated that they have started already and have selected an engineer for the building expansion.

Jeff Darling of 461 W. Liberty asked what the projected sound and smell levels would be. Mr. Whitver stated that it will not sound or smell anything more than what we have today. Once in a while they will have an acid smell which is harmless, and that will be every 4-5 months. They have air emissions tested and other tests done and are in compliance with State standards. Mr. Whitver stated that they do generate noise when they drop scrap, but they try to keep that after 9 a.m. Further discussion was held on the noise from the fans. Mr. Whitver stated that is simply to blow the air up so it does not blow out onto the path.

Mr. Gaut stated that they did complain approximately two years ago to complain about the dropping of the steel. Although it did die down for a short time, they do drop it throughout the night. Mr. Whitver stated that they do try to be a good neighbor and sometimes you have to inspire the employees to comply. He stated that they try not to make noise if they do not have to. He discussed the decibel readings that they have taken.

Carl Richards of 390 Lennox stated that he is closest to the main gate and does not have a problem with the noise. He asked if there are plans to put an entrance on Ten Mile or Dixboro to reduce the traffic on McMunn. Mr. Whitver stated that there are no plans at this time. Mr. Richards further asked if the construction entrance will be the main gate. Mr. Whitver stated that they will be using the existing gate.

Mr. Darling asked if construction will be taking place during normal business hours. Mr. Whitver stated that it would be. Mr. Darling further asked if there will be truck traffic 24/7. Mr. Whitver stated that it is a 24/7 operation, but there will be no more traffic than there is today.

Mr. Larry Bray of 432 W. Liberty stated that our water treatment facility is not far and asked if there is any risk involved. Mr. Whitver stated that the water they use is re-circulated over and over and they have a water treatment plant. The water is cleaner than what they get from the well.

Mr. Gaut asked how much additional water will be used. Superintendent Martin stated that the Mill is using approximately 350,000 gallons per day which is drawn from our aquifer, but a different well. Mr. Whitver stated that they will be using more water, but it will be retained within the facility.

Ms. Nancy Kern of 450 W. Liberty stated that it has been indicated that construction has already started and asked why this is not going through the Planning Commission. City Manager Murphy stated that any new construction would require a building permit. Ms. Kern stated that on their website they indicate that they have changed their name to Michigan Seamless Tube and Pipe, LLC. Mr. Whitver stated that the official name is Michigan Seamless Tube, LLC. Ms. Kern stated that the quench and temper line costing \$4.5 million is to be installed by Therma Tool and asked where they are located. Mr. Whitver stated that they are in Connecticut. She asked why we do not have a Michigan Company doing the work. Ms. Kern presented a picture of the exterior of the facility. She stated that this is the epitome of blight in her opinion. She stated that the City Manager indicated that he has tried to get them to fix the exterior and they refused to do it. She stated that she lives within 200 feet of the tube mill. She asked if any of the Council Members live in that proximity. She stated that they are a self reporting company. She described an incident involving a malfunction and a release of sulfuric acid that made her ill. This is a health hazard. She stated that she cannot imagine that the toxic chemicals released into the air will not increase. Ms. Kern asked if \$7.7 million in tax abatement over a five year period is in exchange for creating 60 new jobs. It was stated that they are anticipating 20 new jobs.

Mr. Kurtycz from the State stated that originally they were talking about completing additional projects in phases. He explained the additional revenue to the City. Attorney Lee stated that you need to remember that if they are going to receive 50%, then we are going to receive an additional 50%. This is not a decrease in taxes, but rather an increase.

Mr. Whitver stated that they have plans to repair the windows. Ms. Kern asked how many employees they have. Mr. Whitver stated that they have 281. She asked of those how many live in South Lyon. Mr. Whitver stated that he cannot answer that. Further discussion was held on the employee base.

Ms. Kern stated that she knows that the MDEQ has been working with the Tube Mill to monitor and investigate the soil and ground water contamination and asked when the contamination will be cleaned up and did they get permission from MDEQ to move dirt. She stated that they are under an order preventing anyone from moving any dirt without consent of the MDEQ.

Matt Bell, Environmental Engineer of Michigan Seamless Tube stated that the investigation is on-going. The plant is over 100 years old and there will be several more years of investigation and several more years of clean-up. They do not set the timeline or priorities, the State does. They have made great strides. Attorney Lee stated that this is a public hearing and she has no right to cross examination. Ms. Kern stated that they are self reporting. Mr. Bell stated that they do self report and they do so honestly.

Ms. Kern discussed a 2004 \$9 million Economic Development Corporation Limited Obligation Bond Grant to fund a project including construction and equipment. She stated that to her knowledge this was never done and asked where the money went. Michelle Eaton Oakland County Economic Development stated that these statements were addressed in 2009 and 2010 both in letter and via email. Ms. Kern further stated that she has never been told what they did with that money. Mr. Whitver stated that the equipment was inside the building. Councilman Kramer stated that this is a public hearing is for the tax abatement, not issues that have taken place in the past. Ms. Kern asked how do we know that they are going to do what they say. Councilman Kramer stated that there are provisions within the contract. She stated that she would like it reflected in the record that Mr. Whitver has told her that it is none of her business what they did with the money. She further stated that she hopes that the City will do what is best for the City and especially the residents who live close to the mill.

Ms. Kern stated that the City Manager did tell her that anything they do will have to go through the Planning Commission. Councilman Kivell stated that what they are doing is modifying and reconfiguring the equipment within an existing building.

Ms. Kern stated that they have seen them with road graders and moving dirt, and according to the State order, they are not to be doing that. Attorney Lee stated that should then be reported to the State. The City cannot do anything about it. Mr. Bell stated that less than 5% of their property is under the covenant. They do not do anything in that area.

Vanessa Torres of 461 W. Liberty stated that she has had some questions and has received a response from Mr. Whitver. She has asked him to provide a "good neighbor" program to have some questions answered and peace said. The City Council does have an opportunity to hold MST to certain promises made here like the blight issue. The poor windows do exist and the noise is something to consider. It is important to realize that money is not everything, and a little more time and consideration and more conversation with the neighbors needs to take place. It is worth it to take the time. She thanked Ms. Kern for her comments. There is a middle ground to be found.

Mr. Bray of 432 W. Liberty stated that this is an investment into the community, but is it going to affect their taxable values. Councilman Kivell stated that the expansion is less than 10,000 square feet and should be insignificant to the surrounding properties.

Jan Gawrych 408 Ada asked if part of the plan is going to address the north side of the building and the overall appearance. Mr. Whitver stated that it will be addressed within the next couple of years.

Mayor Wallace closed the public hearing at 8:37 p.m.

2. Industrial Facilities Exemption Certificate for Michigan Seamless tube

Councilman Rzyzi asked if any study or long term projection of how much revenue this will potentially increase. Mr. Kurtycz of the State discussed the additional revenue.

City Manager Murphy stated that his recommendation is to grant a 12 year abatement at 50%.

Councilman Kramer asked if the money is not spent, how would the City revoke the abatement. Mr. Kurtycz stated that the abatement is based on their investment and it would be reduced by whatever amount they did not invest.

Councilman Kivell stated that the agreement spells it out. Further discussion was held on reducing or revoking the abatement. Attorney Lee stated that this is a no lose situation. We cannot lose revenue, we can only gain it.

Discussion was held on the Tube Mill's funding of the improvements. Mr. Kurtycz stated that it is a loan that has to be paid back.

Discussion was held on improvements being subject to the Planning Commission. It was stated that if there is a change in structures or changing the footprint of a building then it may be subject to approval of the Planning Commission. Discussion was held on approval of the Building Department and determination whether it goes before the Commission.

Councilman Kivell stated that he is in favor of the abatement. The jobs are important just as the amount of investment and the increased revenue to the City. He further stated that he would also like to qualify that support. It is often stated that because the Tube Mill has been in the community for 70+ years it should come to no surprise to residents that there is noise associated with the industrial manufacturing facility. He further discussed the management of noise in the current modern setting including technology and techniques.

Discussion was held on the different millage rates between real and personal property. City Clerk/Treasurer Zemke stated that Industrial Personal Property is exempt from the School Operating and the State Education tax.

CM 12-5-11 – RESOLUTION - INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR MICHIGAN SEAMLESS PIPE

Motion by Wedell, supported by Kivell

WHEREAS, pursuant to P.A. 198 of 1974, M.C.L. 207.551 et seq., after a duly noticed public hearing held on June 13, 2011, the City of South Lyon City Council by resolution established an Industrial Development District; and

WHEREAS, Michigan Seamless Tube has filed an application for an Industrial Facilities Exemption Certificate with respect to an expansion of their facility to be installed within the Industrial Development District; and

WHEREAS, before acting on said application, the City of South Lyon held a hearing on December 12, 2011 at the City and School Administration Building located at 335 S. Warren, South Lyon, Michigan at 7:30 p.m., at which hearing the applicant, the Assessor and a representative of the affected units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, construction of the facility and installation of new machinery and equipment had not begun earlier than six (6) months before November 18, 2011, the date of acceptance of the application for the Industrial Facilities Exemption Certificate; and

WHEREAS, completion of the facility is calculated to and will at the time of issuance of the certificate have the reasonable likelihood to retain, create or prevent the loss of employment in the City of South Lyon; and

WHEREAS, the aggregate SEV of real and personal property exempt from ad valorem taxes within the City of South Lyon, after granting this certificate will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE BE IT RESOLVED BY the City Council of the City of South Lyon that:

1. The City Council finds and determines that the granting of the Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Acts of 1974 and Act. No. 255 of the Public Acts of 1978, shall not have the effect of substantially impeding the operation of the City of South Lyon or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of South Lyon.
2. The application from Michigan Seamless Tube, LLC for an Industrial Facilities Exemption Certificate with respect to a Plant Improvement on towing described parcel of real property situated within the Industrial Development District:

T1N, R7E, SEC 19 & 30
PART OF NE ¼ OF SEC 30 &
PART OF SE ¼ OF SEC 19
BEG AT N ¼ COR OF SEC 30,
TH N 01-13-00 E 62.41 FT,
TH S 81-47-25 E 276.04 FT,
TH S 00-34-45 E 332.54 FT,
TH N 89-25-30 E 43.50 FT,
TH S 01-10-45 E 424.41 FT,
TH ELY 352.42 FT,
TH N 198 FT
TH E ALG S LINE OF 'KINGSLEY CALKINS ADD' 642.73 FT,
TH S ALG W LINE OF EST ST
910.25 FT,
TH WLY ALG NLY LINE OF GTRR
R/W 1261.25 FT TO
N & S ¼ LINE,
TH NO 01-28-00 W 1550.52 FT
TO BEG 31.27

Be and the same is hereby approved

3. The Industrial Facilities Exemption Certificate when issued shall be and remain in force for a period of 12 years after completion.

VOTE:

Councilman Kramer thanked Ms. Kern and the residents for coming tonight.

Councilman Kivell questioned the “not exceed 5% of an amount equal to the sum of the SEV of the unit” language. City Clerk/Treasurer Zemke stated that it simply means that the abatement will not exceed 5% of the entire unit. Attorney Lee stated that this is statutory language.

3. Fire Department’s Policy on key Boxes

Chief Kennedy stated that the key box issue pre-dates his employment with the City. We are at a crossroads between the Fire Prevention Bureau and several businesses. We have 16 businesses with potential and as many as 106 businesses that are currently in non-compliance. Upon review of this policy, he would request that the City change track. There are issues on both sides. Upon review of the International Fire Code and consulting with other area communities, he would support only requiring key boxes for facilities with automatic fire alarm systems or automatic suppression systems and Title 3 facilities which would be Michigan Seamless Tube and the AT&T building.

Councilman Kivell stated that he spoke with Chief Kennedy. It is unfortunate how this all took place. We were predicating our decision on the local expert. Chief Kennedy stated that if the intent of Council was to continue, he is willing to do so. He is bringing this forward before a large number of businesses come before Council who are in non-compliance. He further discussed working with businesses for compliance on a number of issues.

Councilman Kramer asked of the businesses that have had issue with this what is their biggest problem. Chief Kennedy stated that their biggest problem is the cost.

Councilman Rzyzi asked what warrants first offense and second offense. Chief Kennedy stated that this is directly from the City Code.

Council Member Kopkowski stated that this started before Chief Kennedy started and he should not apologize. However, there are other things that management and legal counsel could have done.

Councilman Kramer stated that we have had a lot of businesses comply and he is having difficulty justifying punishing those businesses who did comply. It was stated that it was less than 50% that did comply.

Councilman Kivell stated that all of the arguments used to compel them still exist. Chief Kennedy stated that they have tried to make this as uniform and consistent as possible.

Councilman Kramer asked what effect would this have on those who have complied. Attorney Lee stated that nothing would happen. It is a policy issue. It has not legal bearing whatsoever. The previous administration interpreted the code differently.

CM 12-6-11 – FIRE DEPARTMENT KEY BOX POLICY

Motion by Kivell, supported by Kopkowski

To approve the revised fire department key box policy (see attached policy as part of these minutes)

Councilman Wedell stated that he is supporting it because of the expert opinion of the Fire Chief.

VOTE: MOTION CARRIED UNANIMOUSLY

MANAGER’S REPORT: None

COUNCIL COMMENTS:

Councilman Rzyzi stated that he would like to commend everyone who contributed to the Cool Yule Parade. It was a great event.

Council Members Kopkowski and Kivell wished everyone Happy Holidays.

Council Member Dixson stated that the Cool Yule Parade was a great event and wished everyone a happy and safe holiday.

Mayor Wallace thanked the Chamber for sponsoring the Cool Yule Parade.

Mayor Wallace stated that the lights and the Santa house at the veteran's lot are out and look great.

Mayor Wallace discussed a recent trip to Colorado where he had an opportunity to meet with some local officials.

Mayor Wallace stated that this week is the City's volunteer party which is done by donations from local businesses and consultants. He thanked those who donated.

ADJOURNMENT:

CM 12-7-11 ADJOURNMENT

Motion by Kivell, supported by Kramer

To adjourn meeting at 9:08 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Tedd M. Wallace
Mayor

Julie C. Zemke
City Clerk/Treasurer