

**CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
JANUARY 23, 2012**

Mayor Wallace called the meeting to order at 7:31 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 Salerno
City Clerk/Treasurer Zemke
Department Heads: Collins, Kennedy, and Martin

APPROVAL OF AGENDA:

City Manager Murphy stated that he would like to replace New Business #4 with 4a and 4b.

CM 1-1-12 APPROVAL OF AGENDA

Motion by Kivell, supported by Wedell

To approve the agenda as amended

VOTE: **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF MINUTES:

Council Member Dixon stated that on page 5, her name was left off under Council Comments.;

CM 1-2-12 – APPROVAL OF MINUTES- JANUARY 9, 2012

Motion by Kramer, supported by Dixon

To approve the minutes of the January 9, 2012 Regular Council meeting as amended

VOTE: **MOTION CARRIED UNANIMOUSLY**

PUBLIC COMMENT:

Maryanne Mihalic from Active Faith thanked the City Council and Community members for their support of Active Faith. She stated that she will leave some information in the back as far as how the community has supported them and the people that have benefited in various different ways. She described the amount of food distributed to families and their ability to serve Thanksgiving and Christmas dinners.

OLD BUSINESS: None

NEW BUSINESS:

1. DWRP Financing Information/Notice of Intent Resolution

City Manager Murphy introduced Mr. Warren Cramer of Robert W. Baird Co. and Pat McGow from Miller Canfield.

Mr. Cramer stated that the Administration asked them to look at the financing options for the DWRP project. He reviewed the projected water supply system operating cash flow and debt service coverage and provided three different options.

Discussion was held on the impact on the community being the first four years until the 2000 bond is paid off. City Manager Murphy stated that we still would have to look at the rates on an annual basis. Councilman Wedell stated that future increases would be for inflationary reasons not for the debt. It was stated that we would also have to look at any further improvements, etc.

Pat McGow, Attorney for Miller Canfield stated that the City's last bond issue for the sewer system was done in 2002. He discussed the DWRP Federal Program. He further discussed the addition of the grant program or a 50% principal forgiveness. All the numbers discussed are based on that forgiveness. The Notice of Intent Resolution is the first step in the process. It says that the City intends to sell bonds up to \$5 million. The actual amount is going to be dependent on what the bids are going to come in at. There has been a lot of concern about the 50% forgiveness and the fact that it is not in stone. However, they have assured us that those funds would be there.

Mr. McGow discussed the time table. He stated that the action tonight does not bind the City to anything. The bonds are not required to be approved by the voters. Assuming the 50% forgiveness, the principal does not get paid until the completion of the project.

It was stated that the City has already paid a lot of money in engineering costs. It was stated that the engineering is also eligible for the financing and forgiveness.

Council Member Kopkowski asked if it would hurt to wait to approve the Notice of Intent until we have the actual cost. Mr. McGow stated that you cannot get to that point without the Notice of Intent.

Councilman Kramer asked if there is any penalty for withdrawing. Mr. McGow stated that there is no penalty except for the monies that would be expended as we move through the project. It was stated that the City has already pulled out once.

Discussion was held on additional engineering costs. Jesse VanDeCreek of HRC stated that all of the design work has been done. However, there are still costs for bid documents, etc. in preparation of the project, then once the project bids are accepted there would be costs to oversee the project.

Council Member Kopkowski asked if we waited two to four weeks is there anything going to be harmed. Mr. McGow stated that a week or two would not hurt. Council Member Kopkowski stated that they asked for these numbers in plenty of time to digest, yet we have only had them for four days. Councilman Wedell stated that by approving the resolution it simply gets the clock ticking. Councilman Kramer stated that they have been talking about this for some time. The only new part is that we now have the numbers to look at. At least we can get the ball rolling and have a chance to look at the numbers moving forward.

Discussion was held on the \$2.5 million forgiveness as opposed to funding the full \$5 million or more down the road. Further discussion was held on the 2.5% interest rate that may not be there in the future.

Council Member Kopkowski asked if street improvements and other site disruptions going to be included in the project. Mr. VanDeCreek stated that all of these costs would be within the bid.

Council Member Kopkowski asked if a hole will be dug in front of each house. Mr. VanDeCreek explained the bursting, trenchless technologies and the process. Council Member Kopkowski asked if there is any cost to the residents outside the user costs. Mr. VanDeCreek stated that there is no cost to the resident. Discussion was held on the responsibility of the pipes from the curb-stop to the home being that of the homeowner, but nothing from the curb stop to the main.

Mayor Wallace stated that he does not have a problem with proceeding with this now because there are still some stop-gap measures.

Councilman Rzyzi asked if it does not pass in July, can we still use the engineering. Mr. VanDeCreek stated that the design work is on the shelf.

CM 1-3-12 – NOTICE OF INTENT RESOLUTION

Motion by Kivell, supported by Kramer

WHEREAS, the City of South Lyon, County of Oakland, State of Michigan (the "City"), has determined that it is necessary for the public health, safety and welfare of the City to acquire and construct improvements to the water supply system of the City's existing Water and Sewer System (the "System") consisting generally of replacement and upgrades to existing water mains, constructing and equipping water distribution system improvements and water treatment facility improvements together with all necessary appurtenances and attachments thereto (the "Project"); and

WHEREAS, the City has been advised by the Michigan Department of Environmental Quality ("MDEQ") that financial assistance to accomplish the acquisition and construction of the Project is available through the Drinking Water Revolving Fund ("DWRF") Loan Program administered by the Michigan Department of Environmental Quality (the "MDEQ") and the Michigan Finance Authority (the "MFA"); and

WHEREAS, the Revenue Bond Act, Act 94, Public Acts of Michigan, 1933, as amended ("Act 94"), provides a means for financing the purchase, acquisition, construction, improvement, enlargement, extension, and repair of public improvements such as the Project through the issuance of revenue bonds; and

WHEREAS, the issuance of bonds payable from revenues of the System under Act 94 in a total amount not to exceed Five Million Three Hundred Thousand Dollars (\$5,300,000) (the "Bonds") for the purpose of financing all or part of the Project represents the most practical means to that end; and

WHEREAS, the City has made application for participation in the DWRF loan program; and

WHEREAS, a notice of intent to issue revenue bonds must be published before the issuance of the Bonds in order to comply with the requirements of Section 33 of Act 94; and

WHEREAS, the City intends at this time to state its intentions to be reimbursed from proceeds of the Bonds for any expenditures undertaken by the City for the Project prior to issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a notice of intent to issue the Bonds in the *South Lyon Herald*, a newspaper of general circulation in the City.
2. The notice of intent shall be published as a display advertisement not less than one-quarter (1/4) page in size in substantially the form attached to this resolution as Exhibit A.
3. The City Council does hereby determine that the foregoing form of Notice of Intent to Issue Bonds, and the manner of publication directed, is adequate notice to the electors of the City and users of the System, and is the method best calculated to give them notice of the City's intent to issue the Bonds, the purpose of the Bonds, the security for the Bonds, and the right of referendum of the electors with respect thereto, and that the provision of forty-five (45) days within which to file a referendum petition is adequate to insure that the City's electors may exercise their legal rights of referendum, and the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed.
4. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:
 - a) As of the date hereof, the City reasonably expects to reimburse the City for the expenditures described in (b) below with proceeds of debt to be incurred by the City.
 - b) The expenditures described in this paragraph (b) are for the costs of acquiring and constructing the Project which were or will be paid subsequent to sixty (60) days prior to the date hereof.
 - c) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$5,300,000.
 - d) A reimbursement allocation of the expenditures described in b) above with the proceeds of the borrowing described herein will occur not later than 18 months after

the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the debt to be issued for the Project to reimburse the City for a capital expenditure made pursuant to this resolution.

- e) The expenditures described in b) above are "capital expenditures" as defined in Treas. Reg. § 1.150-1(b), which are any costs of a type which are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Treas. Reg. § 1.150-2(c)) under general Federal income tax principles (as determined at the time the expenditure is paid).
- f) No proceeds of the borrowing paid to the City in reimbursement pursuant to this resolution will be used in a manner described in Treas. Reg. § 1.150-2(h) with respect to abusive uses of such proceeds, including, but not limited to, using funds corresponding to the proceeds of the borrowing in a manner that results in the creation of replacement proceeds (within Treas. Reg. § 1.148-1) within one year of the reimbursement allocation described in d) above.

5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

ROLL CALL VOTE:

MOTION CARRIED Dixson – Nay
Kivell – Yea
Kopkowski – Nay
Kramer – Yea
Rzyzi – Nay
Wedell – Yea
Wallace - Yea

2. 2012 Street Improvement Program

Superintendent Martin stated that we are getting ready to address street improvements in the 2011-2012 budget. We have funds budgeted for repairs in the amount of \$163,000. However, we have a not to exceed amount of \$157,550. We are asking for approval of \$31,500 at this point so that we can go out for bid in early spring for a project in early summer.

Discussion was held on replacing the concrete on Dean Drive. Superintendent Martin stated that it is concrete now and we try and replace with like.

CM 1-4-12 – 2012 STREET IMPROVEMENT PROGRAM

Motion by Kramer, supported by Kopkowski

To approve the Preliminary Engineering Fees in the amount of \$31,500 for the 2012 Street Improvement Program

VOTE:

MOTION CARRIED UNANIMOUSLY

3. Second Amendment to Head-end Lease

Mayor Wallace stated that the Head-end is for our cable station and is located at the DPW yard.

Mayor Wallace asked when they move their equipment what will happen to our ability to put our Council meetings, etc. out. City Manager Murphy stated that it should not change the way we do things. It is simply the location of the equipment.

Councilman Kramer questioned the terms within the agreement and stated that it refers to "Lessor" and "Landlord", both of which is the City. He further stated that the amendment refers to the fact that the "lessee" may terminate the agreement with a 30 day written notice, but does not allow the "lessor" the same. Further discussion was held on the fact that the original agreement calls for a 120 notice. Discussion was held on the need to have the language correct and that it should be further reviewed by the City Attorney.

CM 1-5-12 – AMENDMENT – HEAD END LEASE

Motion by Kramer, supported by Wedell

To table consideration of the second amendment to the head-end lease for further correction

VOTE: MOTION CARRIED UNANIMOUSLY

4.
 - a. Fire Apparatus Sale

He thanked Doug Buers, Assistant Fire Chief/City Mechanic for his assistance with the process. They have been looking at where we are now and what we need to be looking into the future. He discussed the cost of new equipment. He further stated that Squad 1 is starting to plague us with some maintenance issues. He further discussed the condition of the vehicle and the substantial investment that we would need. The first request is to replace Squad 1, which was originally purchased as a demo and they have come up with an estimated sale price of \$50,000. They would like to take the proceeds and allocate those funds for the modifications to Engine 1. This is not a budgeted item, but they hope that it would benefit us and provide long-term cost reductions in the future.

Discussion was held on Engine 1 replacing Squad 1 and further discussion was held on the role of all of the vehicles within the department.

Council Member Kopkowski asked why they are planning all of these modifications all at once rather than repairs or replacement as needed. Chief Kennedy discussed the continual repair items. Assistant Chief Buers further discussed the LED lights. Chief Kennedy stated that the vehicle would be going off-site for the work and we would like to have all of the work done at one time. They expect the vehicle to be off-line for approximately 30 days.

CM 1-6-12 – FIRE APPARATUS SALE

Motion by Rzyzi ,supported by Kivell

To approve the auction and sale of Squad 1 (2001 American Fire & Rescue) via the Michigan Intergovernmental Trade Network for a minimum price of \$50,000 and allocate the proceeds toward the modifications to Engine 1

VOTE: MOTION CARRIED UNANIMOUSLY

- b. Fire Apparatus Upgrade

Chief Kennedy discussed the equipment and what they are proposing to upgrade Engine 1. He stated that the manufacturer of the vehicle is KME and they do have a service center based in Grosse Isle. We have a long standing relationship with them. We would like to waive the normal low bid process and single source this work.

CM 1-7-12 – FIRE APPARATUS MODIFICATIONS

Motion by Kopkowski, supported by Dixon

To approve the waiver of competitive bidding for the upgrades to Engine 1 and award the upgrade proposal to Payette Sales & Services

VOTE:

MOTION CARRIED UNANIMOUSLY

5. First Reading – Amendment to B3 Zoning District

Pam Weipert, Planning Commission Chairperson stated that the Planning Commission was requested by a business owner to look at why we did not allow residential in the B-3. It is allowed in the B-1 and B-2 districts. They did do some research and could not figure out why the B-3 was excluded.

The question was asked why residential is only allowed on the second floor. Chairperson Weipert stated that the language was changed slightly by the City Attorney. However, it is to recognize that it is truly a commercial district. It was stated that the residential would be an accessory use. Mayor Wallace stated that he does not feel that that language should be there. Further discussion was held on allowing residential on the first floor.

Discussion was held on the restrictions. Discussion was held on the need to meet building and fire code requirements.

The consensus of Council was to request an explanation as to why the City Attorney added the language limiting residential uses to the second floor apartment above permitted commercial uses.

CM 1-8-12 – POSTPONE FIRST READING – AMENDMENT TO B3 ZONING DISTRICT

Motion by Dixon, supported by Kramer

To postpone the 1st reading of the amendments to City of South Lyon Ordinance, Chapter 102 Article VI, Division 10, Sec. 102-322 "Principal uses permitted"

VOTE:

MOTION CARRIED UNANIMOUSLY

6. First Reading – Wind Energy and Solar Panel Ordinance

Chairperson Weipert stated that this is to accommodate the changes in technology and solar energy. We already allow for wind energy and solar panels in our ordinance, but are recommending various changes to definitions and the restrictions. She reviewed the amendments.

Discussion was held on the height requirement. Chairperson Weipert stated that they can only be as tall as the height restrictions within the district. Councilman Kivell stated that the language indicates a max height of 120 and asked why would we have that language when the height shall not exceed the maximum height for structures permitted in the zoning district. Further discussion was held on the height restrictions in the various districts.

Further discussion was held on other restrictions including the noise section. Councilman Kivell stated that he would like it more specific. The consensus of Council was that further review needed to take place. It was stated that our new Planning Consultant should also review it.

CM 1-9-12 – POSTPONE FIRST READING – WIND & SOLAR PANEL ORDINANCE

Motion by Kopkowski, supported by Dixon

To postpone the 1st reading of the amendments to City of South Lyon Ordinance, Chapter 102 Article VII, Division 1, Sec. 102-431 "Accessory Buildings, Structures And Uses" and ask that some further review

VOTE: MOTION CARRIED UNANIMOUSLY

7. Acceptance of Monetary Gifts for the Christmas Party

Mayor Wallace stated that we had a Christmas Party for all of the employees and volunteers and received funding to help pay for the function.

CM 1-10-12 – ACCEPTANCE OF GIFTS

Motion by Wedell, supported by Kivell

To accept the following monetary donations for the City Christmas Party:

Duncan Disposal	\$ 500
Michigan Seamless Tube	\$ 500
Booth Patterson	\$ 200
Hubbell, Roth & Clark	\$ 200
Plante & Moran	\$ 200
Comerica Bank	\$ 100
IBEX Insurance	\$ 100
<u>PNC Bank</u>	<u>\$ 100</u>
TOTAL	\$1,900

VOTE: MOTION CARRIED UNANIMOUSLY

8. HAVEN Agreement

Mayor Wallace stated that this is our annual agreement that we have had with HAVEN for many years. Discussion was held on the services they provide.

Councilman Kivell asked if they have met the specific unit of measurement for all of their services. City Clerk/Treasurer Zemke stated that we have but are being asked to keep that confidential.

CM 1-11-12 – APPROVAL OF AGREEMENT - HAVEN

Motion by Kopkowski, supported by Kramer

To approve the proposed contract between HAVEN, Inc. and the City of South Lyon for fiscal year 2012-2013 with a contribution of \$2,500

VOTE: MOTION CARRIED UNANIMOUSLY

MANAGER'S REPORT:

City Manager Murphy stated that the MML Capital Conference is scheduled for March 21st

City Manager Murphy stated that we now have the ability to view our Council meetings on our website. The plan is to have the most recent three meetings available.

City Manager Murphy stated that the Mayor has proposed the idea of having the Council Members pictures done and put on the wall at City Hall.

City Manager Murphy stated that the Clarifier, which is a magazine for Wastewater Treatment Plants through the Michigan Rural Water Association, is featuring the City of South Lyon and Bob Martin. Superintendent Martin stated that there is another article coming out nationally which will be even better.

COUNCIL COMMENTS:

Councilman Ryzyi congratulated everyone for the great success at the fundraiser on Friday for the ball diamonds at McHattie.

Council Member Kopkowski asked Ms. Maryanne Mihalic to describe the Active Faith coverage area. Ms. Mihalic stated that they cover the entire South Lyon School District.

Councilman Kivell stated that he had talked with Doreen Hannon at the Library who was interested in members of Council to participate in a local campaign.

Councilman Kramer thanked Kroger and Busch's for their donations last Saturday during a cub scout event. There were able to collect over 2000 lbs. of non-perishable food items for Active Faith.

Councilman Kramer stated that we have reviewed the City Engineer and the City Planner and he feels that it is time to review the City Attorney and go out for proposals.

Councilman Kramer stated that he would like to see the City look into options to fill the void of a recreation center in South Lyon and the surrounding areas. City Manager Murphy stated that he has been looking into that and has talked with the other two members of the Recreation Authority. He would like a few people from each community get together and look into the options and possibly putting out a survey to see what people do and do not want to see. Mayor Wallace stated that he has brought up the recreation center before and there is some seed money at the Lions Club although it will take a great deal more.

Mayor Wallace stated that he went to the new craft shop in town. They are very enthused and will have a lot of different things available. The owner did bring up a problem with street parking by post office employees.

Mayor Wallace stated that he will be out of town and will miss the next meeting. Councilman Kramer stated that he may be late for that meeting as well

ADJOURNMENT:

CM 1-12-12 ADJOURNMENT

Motion by Kramer, supported by Kopkowski

To adjourn the meeting at 9:42 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Tedd M. Wallace
Mayor

Julie C. Zemke
City Clerk/Treasurer