

**CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
June 13, 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: Kivell, Kopkowski, Kramer, Morelli, and Wedell
City Manager Murphy
City Clerk/Treasurer Zemke
Attorney Lee
Department Heads: Collins, Kennedy, Martin and Renwick

ABSENT: Council Member Selden

CM 6-1-11 – EXCUSE ABSENCE

Motion by Kopkowski, supported by Morelli

To excuse the absence of Councilman Selden due to illness

VOTE: MOTION CARRIED UNANIMOUSLY

Councilman Wedell stated that on page 4, second paragraph, the word State should be capitalized. Also, on page 6 the amended resolution should read Senators (plural)

CM 6-2-11 – APPROVAL OF MINUTES –MAY 23, 2011

Motion by Wedell, supported by Morelli

To approve the minutes of the Regular City Council meeting of May 23, 2011 as amended

VOTE: MOTION CARRIED UNANIMOUSLY

APPROVAL OF MONTHLY BILLS:

Discussion was held on various bills.

CM 6-3-11 – APPROVAL OF MONTHLY BILLS

Motion by Kivell, supported by Morelli

To approve the monthly bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

APPROVAL OF AGENDA:

City Manager would like to add New Business 1a for Les Pulver to discuss GASB 54 changes. He stated that Council action is required prior to June 30th, which means that we only have one meeting prior to that. He asked Mr. Les Pulver to come and provide an explanation.

CM 6-4-11 – APPROVAL OF THE AGENDA

Motion by Kivell, supported by Kopkowski

To approve the agenda as amended by adding New Business 1a for discussion of GASB 54 changes.

VOTE:

MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT: None

OLD BUSINESS: None

NEW BUSINESS

1a. GASB 54

Les Pulver of Plante Moran stated that time is running short before we get to the end of the year. The Governmental Accounting Standards Board, which makes the rules for governmental accounting has made changes. There are two main changes with statement #54. The first is new fund balance terminology. He discussed reserved versus unreserved and designated and undesignated funds as well as non-spendable, restricted, committed, assigned and unassigned funds. He discussed special revenue funds. Discussion was held on committed funds. He stated that Council can delegate the authority to the City Manager to "assign" fund balance. Most City Managers have that authority. It does not give him the authority to spend, but rather clarify the type of funds that they are. Pulver further explained the following:

1. GASB 54 overview
 - a. New fund balance terminology
 - b. Changes to Special Revenue/Capital Project definitions
2. Applicability to South Lyon
 - a. Fund balance
 - b. Capital Improvement Fund
 - i. Will no longer be presented as a Special Revenue Fund in the financial statements. Going forward, it will either be shown as a Capital Project Fund or will be combined (for financial statement purposes only) with the General Fund. In order for it to be a Capital Project Fund, fund balance must be restricted, committed, or assigned.
 - c. Local Road Fund
 - i. The majority of the funding in Local Road is coming from the Capital Improvement Fund (and is therefore unrestricted since CI is funded by unrestricted General Fund transfers).
 - ii. G54 would then tell us that Local Road should be combined with GF.
 - iii. We DO NOT suggest combining Local Road with GF.
 - iv. Instead, we can reclass local road expenses to the CI fund, and record transfers FROM local road into CI.
 - v. I agree – this does not seem very logical.
 - d. Equipment Replacement Fund
 - i. Not special revenue anymore – the funding sources are not restricted for equipment replacement.
 - ii. Left alone, this should be combined with GF
 - iii. One possible solution – create a motorpool fund – This seems overly complicated to me as you now would capitalize assets in the fund and switch to full-accrual accounting.
 - iv. Easier solution – Change to Capital Project fund, then Council or Dave can Commit or Assign
 - e. Land Acquisition
 - i. The majority of this funding has come from unrestricted GF or unrestricted property tax.
 - ii. Left alone, this should be combined with GF.
 - iii. Or, change to Capital Project fund, then Council or Dave can Commit or Assign

f. Cemetery Perpetual Care Fund

- i. Is there an ordinance that says the proceeds from sale of graves will be restricted?
- ii. Is there something in the contract/paperwork when a grave is sold that says the money will be restricted?
- iii. If the answer to both of these questions is No, this does not APPEAR to meet the new definition of a special revenue fund or restricted fund balance. G54 would have us combine this fund with General Fund and show the fund balance as unassigned. Politically/Publicly, this could be controversial.
- iv. I recommend consulting with Parvin to see if there is anything that would provide guidance that this money is actually restricted.
- v. If it is not restricted, this will no longer be shown as its own fund (capital project is not an option), but Council/Dave could still Commit/Assign the balance within General Fund

3. Homework

- a. If Council wants to "commit" (earmark fund balance as of 6/30 via a vote of the Council) any fund balance, they MUST vote on it before 6/30.
 - i. The commitment must be somewhat specific. List a dollar amount to be committed. Or, provide a formula (Prior year fund balance plus the net income for the current year)
- b. If Council wants to give Dave the ability to "assign" fund balance, they MUST vote to give him the ability before 6/30.
 - i. Brian has forwarded a sample resolution to Dave
 - ii. Note: If Dave is given the ability, he DOES NOT have to make a final decision by 6/30. This can occur right up until the 6/30 financial statements are completed.
- c. Have Parvin research why the Cemetery money is actually restricted for use. Right now, it really seems like Council could use this money at their own discretion (if they could maneuver around the public outcry).

Councilman Wedell asked if they will provide suggested resolutions and asked if they could get those ahead of time. Mr. Pulver stated that they will provide those resolutions.

Councilman Kramer asked if the purpose is to consolidate the funds. Mr. Pulver stated that you can still have separate project funds. The purpose is that some places have set aside monies for not specific reason. For financial reporting it has to be put back into general fund to make their fund balance smaller. Councilman Kramer asked if they assign to the City Manager can they still have a designation. Mr. Pulver stated that it takes the governing body to commit the funds and uncommit them later. The City Manager could make assignments or tentative plans.

Councilman Kivell asked the real benefit of these changes. Mr. Pulver stated that it is tightening up the definition of a special revenue fund. That is an area that has been abused by other governmental units by trying to reduce their fund balance. If you get it out of the general fund, then you can possibly hide it and

spend that money on something else. South Lyon has never abused that. It is a matter of tweaking the definition and limiting it to an external source of revenue. Councilman Kivell asked if capital funds are restricted. Mr. Pulver stated that it would take action by the legislative body to restrict, commit or assign.

Attorney Lee asked if the City wanted to, could we set up its cemetery fund as a proprietary fund. Mr. Pulver stated that it would have to be self-sustaining and based on a user charge. He is not sure that the charges would be enough to pay for it. Attorney Lee stated that since we cover the expenses for maintenance out of general fund, might it be wise to put the price of the lots to meet our expectations relative to perpetual care and maintenance. It would free the Council from having to worry about the cemetery being profitable or non-profitable. Discussion was held on possible restrictions on the cemetery fund.

1. CDBG Resolution

City Manager Murphy stated that we need to enter into an agreement with the county so that we can continue to receive CDBG funds.

CM 6-5-11 - COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

Motion by Morelli, supported by Wedell

We resolve to participate in Oakland County's Urban County Community Development Block Grant (CDBG) programs for the years 2012, 2013 and 2014. Furthermore, we resolve to remain in Oakland County's Urban County Community Development programs, which shall be automatically renewed in successive three-year qualification periods of time, or until such time that it is in the best interest of the local Community to terminate the Cooperative Agreement.

VOTE:

MOTION CARRIED UNANIMOUSLY

Councilman Kivell asked how long can we expect to have the eligible area. City Manager Murphy stated that he has not heard that there would be any change. However, he does have a meeting with the County next week.

2. Second Reading: Amendment to Fire Prevention and Protection Ordinance

Chief Kennedy stated that as requested, he has provided additional information as to what is currently the authoritative source, which is the City Code and the International Fire Code. He discussed the distance of a fire from a structure. He stated that in the International Fire Code for an open camp fire, there is a requirement of 25 feet, and 15 feet is specified for approved containers, which is something left up to the community to identify. He further stated that one question at the last meeting was relative to the outdoor furnace. This new language would allow them if they meet the recommendations as set forth with the Michigan Department of Natural Resources and Environment. Councilman Kivell stated he was surprised at the height requirement being two feet higher than the ridge of a building 200 feet away versus a regular chimney. Further discussion was held on outdoor wood furnaces. Council Member Kopkowski stated that they have codes within themselves. She stated that this is excessive. These units are newer and will only get more efficient and better.

Councilman Kivell asked about the 15 foot distance for open burning from a structure. He stated that you can have a grill closer than that. Chief Kennedy stated that came directly from the International Fire Code. Those

codes are updated every three years. It is based on the Consumer Product Safety recommendations and National Institute of Science and Technology. Discussion was held on the ability of Council to change the requirement. Chief Kennedy stated that if we are going to go against the International Fire Code, we should have a compelling argument to go less restrictive. This is trying to be proactive. We are not going to be going out with tape measures, but rather a best practice.

Councilman Kramer asked how we would deal with a conflict between our Code and the International Fire Code. Attorney Lee stated that his concern would be that there would be a problem with the individual's insurance company. If we put the individual in a position to conform to our Fire Code yet his policy requires him to comply with the International Fire Code then we could be setting our citizens up for a bad experience in the event they had a fire. This might also set us up to be a party to a lawsuit.

Councilman Morelli stated that Section 11 talks about patio wood burning units and asked if propane units are subject to compliance with that section. Chief Kennedy stated that propane is a lot cleaner and a lot safer and some might fall under cooking appliances regulations. Further discussion was held on propane fire places. Chief Kennedy stated that he can get some clarification.

Council Member Kopkowski asked what code prohibits fire rings. Chief Kennedy stated that is addressed in the International Fire Code, which is where the 25 foot distance for open burning comes from.

Chief Kennedy stated that this is a housekeeping effort. If we do not adopt something it will default to the International Fire Code and continue on the way we currently are. Council Member Kivell stated that it is important for people to know that there is not going to be a patrol of people with measuring tapes. Chief Kennedy stated that if there is an issue or complaint, we have a document to reference and protect the enforcement and liability of the City.

Councilman Kivell stated that if we found compelling reason to lessen the 25 feet, we could amend this. It would have to be a deliberate measure. Chief Kennedy stated that he would have to consult with the Attorney. He would hesitate doing something less restrictive than the International Fire Code, but if we did find source documentation, we could do that.

Councilman Morelli stated that as technology gets more efficient, wood burning furnaces will become more efficient and asked if we should address some of this in this ordinance. Attorney Lee stated before a manufacturer puts something like this on the market, they go to the groups like the International Fire Code modification board, which is why we have modifications every three years.

Discussion was held on outdoor warmers. Chief Kennedy stated that those do not fall within this ordinance. This deals with open burning with an open flame.

Discussion was held on the nuisance aspect of the ordinance. Chief Kennedy stated that they go out and use common sense and work with all of the parties.

Councilman Kramer asked if the nuisance is part of the International Fire Code. Chief Kennedy stated that normally when they receive a call, it is because of smoke. Discussion was held on the use of discretion.

Councilman Wedell stated that there are different types of containers and asked if we could remove the number of feet to read "safe" distance. Chief Kennedy stated that he would then default back to the Fire Code absent another number.

Councilman Wedell asked if the manufacturers of these containers come with a recommended distance. Chief Kennedy stated that some come with directions and some may or may not. There is not a Consumer Product Safety Commission standard. The Fire Code would have jurisdiction. Attorney Lee stated that in his experience, the only cases that he has seen have come because of contaminated wood.

Discussion was held on eliminating the language for the outdoor wood furnace. Councilman Kivell stated that he feels that it is too restrictive. He further stated that our exposure would be marginal. Discussion was held on the requirement of a permit from the building department for installation of these units. Further discussion was held on the manufacturer specifications.

CM 6-6-11 – POSTPONE SECOND READING – FIRE PREVENTION AND PROTECTION ORDINANCE

Motion by Wedell, supported by Morelli

To postpone the second reading until the next meeting for further review of section 10 of the proposed ordinance and review of the manufacturers' recommended specifications

Discussion was held on permits required for open burning. Chief Kennedy stated that they currently do not have a permit structure. However, they do have to conform to the size and location requirements of the 2006 Fire Code.

VOTE:

MOTION CARRIED UNANIMOUSLY

Mr. Bill Rodman of 1176 Chestnut stated that Council did not address outside fireplaces built right into the patio. He further stated that the nuisance section is too ambiguous. There are other sections of the City Code that deals with nuisance. Council Member Kopkowski stated that the fireplace is a free standing unit above the ground.

Carl Richards of 390 Lennox discussed older homes in town with smaller lots.

Phil Weipert of 135 Warren stated that he feels that Council should re-think the 15 foot distance. He discussed the older homes in town with smaller lots.

3. Replacement of concrete apron in front of the fire station

City Manager Murphy stated that it is in bad shape and we do have money in the budget. We have to get it done as soon as possible. Chief Kennedy stated that he did receive three quotes from companies that the City has used in the past. We are asking Council to waive the bid process so that we can move forward.

Councilman Kivell asked why we cannot amend the budget and do this in the next fiscal year. City Manager Murphy stated that we could, but we do have money remaining in this year's budget. Councilman Kivell stated if we waited, we could follow the advertising requirements, etc. Attorney Lee stated that we are not obligated to advertise, but rather receive bids which we have.

Councilman Kramer asked the bid amounts. Chief Kennedy stated that the one was for \$11,980, one was for \$11,475 and the third was \$15,599 for 8 inch and 6 inch at \$13,000.

Discussion was held on 6 inch versus 8 inch. Chief Kennedy stated that two contractors recommended 6 inch over 8 inch. All include steel mesh enforcement. The 6 inch is the standard. Further discussion was held on the concrete construction.

Mayor Wallace asked Superintendent Renwick if he is familiar with the contractors. Superintendent Renwick stated that we have worked with all three contractors and all are very good.

Council Member Kopkowski stated that she is not in favor of waiving the bid process. We have the process for a reason.

Discussion was held on waiving the bid process. City Manager Murphy stated that we can wait, but our reasoning is that we have money left in the budget.

Councilman Morelli stated that he was recently in Utah and stated that they have a developer who installed red concrete driveways. He discussed the melting of the snow on the red concrete versus the white. He asked if we can use a color concrete. Discussion was held on the extra cost for colored concrete.

Mayor Wallace stated that he would like to follow the City Manager's recommendation and get it done within this fiscal year. Councilman Kivell stated that this is not going to question the integrity of the City, but he does like to follow the rules.

CM 6-7-11 – WAIVER OF BID PROCESS AND REPLACEMENT OF CONCRETE APRON

Motion by Wedell, supported by Kramer

To waive the standard City of South Lyon bidding posting and approve up to \$13,000 for the replacement of the concrete apron in front of the fire station

VOTE:

MOTION CARRIED (2 opposed)

4. Industrial Development District

Michelle Eaton of Oakland County Economic Development at 2100 N. Pontiac Lake Road, Waterford stated that she is one of six representatives that work with businesses in Oakland County. She stated that she is here in support of the Industrial Development District. The County has worked with this company for many years. They have been a great company to work with and would encourage the City to do the same and approve the establishment of the Industrial Development District.

City Manager Murphy stated that Valutec is representing Michigan Seamless Tube and is requesting that the City establish the district on their behalf. A legal description and map is enclosed in Council's packet. Discussion was held on the map and aerial view.

CM 6-8-11 – APPROVAL OF INDUSTRIAL DEVELOPMENT DISTRICT

Motion by Kramer, supported by Morelli

To approve the request for the establishment of the Industrial Development District under Public Act 198 as described in exhibit "A".

VOTE:

MOTION CARRIED UNANIMOUSLY

5. Well Enclosure

Superintendent Martin stated that he has looked at the options. Two were brick buildings and one was a prefab building ranging from \$30-75,000. He then spoke with the Tube Mill who are anxious to work with us and fabricate a seal enclosure that will go around the new well. We can then build a 10 foot high security fence 12'x16' open so that the trucks can get in to service the well in the future. We can do this for a cost of \$4,218. This is Homeland Security fencing. This is extremely strong fencing and provides us a great opportunity to work with the Mill. He further discussed the construction. The question was asked how well the slats will survive. Superintendent Martin stated that they are strong slats and was told by the fence company that they are used by DTE, Consumer Energy, etc who have good luck. Discussion was held on vandalism. Superintendent Martin stated that this will stop 98% of people, but if they want to vandalize, they are going to which is very unfortunate.

Discussion was held on the top of the fence. Superintendent Martin stated that they went out and looked at Milford's well and they installed 8' high fence with barbed wire. He further stated that at any time, we can have them come out and install an angled top or barbed wire.

CM 6-9-11 – APPROVAL OF AND INSTALLATION OF WELL ENCLOSURE – WELL #6

Motion by Kramer, supported by Wedell

To approve weatherproof structure provided by Michigan Seamless Tube and installation of 10' high fence at Well #6 at the cost of \$4,218.60.

VOTE:

MOTION CARRIED UNANIMOUSLY

MANAGER'S REPORT:

City Manager Murphy stated that we held a Housing Commission meeting last week. It went very well. He would like to mention that the management company only makes approximately \$5,000 per year on this complex, but have various complexes with 100s of units throughout southeast Michigan. Although this is not top priority for them, we have been assured that they will be more attentive.

City Manager Murphy stated that we have put together a newsletter that should be going out later this week.

COUNCIL COMMENTS:

Councilman Kramer stated that he will be on vacation and will not be available for the next meeting.

Councilman Kivell asked about the acquisition of the easement on 8 Mile. City Manager Murphy stated that Oakland County is still looking to go out for bid in July and start the project in August.

Councilman Kivell stated that the last chapter of the South Lyon Visioning meetings was held which brought forth some interesting and clever applications, although some not very practical. It was a very interesting experience for the community to import some of their own ideas and see how that played out. The group that

made the presentation did a great job. He discussed a simple beautification project to plumb the askew signage throughout town. He further stated that there were some things within that presentation that we can translate to workable types of events.

Mayor Wallace stated that we received some letters from a group of 2nd graders asking Council to consider adding garbage cans to the bike trail and downtown as well as other green activities.

ADJOURNMENT:

CM 6-10-11 ADJOURNMENT

Motion by Kopkowski, supported by Kramer

To adjourn meeting at 9:09 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Tedd M. Wallace
Mayor

Julie C. Zemke
City Clerk/Treasurer