

CITY OF SOUTH LYON  
REGULAR COUNCIL MEETING  
OCTOBER 23, 2017

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

PRESENT: Mayor Galeas, Councilmembers: Kivell, Kramer, Kurtzweil, Parisien, Rzyzi and Wedell  
ALSO PRESENT: City Manager Ladner, Chief Collins, Chief Kennedy, Attorney Wilhelm and Clerk Deaton

MINUTES- 10-5-17 and 10-9-17

Councilmember Kurtzweil stated on page 2 the sentence "she stated the multiplier was raised to 2.5 in 2008" should be added 7 sentences down.

CM 10-1-17 MOTION TO APPROVE MINUTES AS AMENDED

Motion by Rzyzi supported by Kivell  
Motion to approve the minutes of 10-5-17 as amended

VOTE: MOTION CARRIED UNANIMOUSLY

CM 10-2-7 MOTION TO APPROVE MINUTES AS PRESENTED

Motion by Kivell, supported by Parisien  
Motion to approve the minutes of 10-9-17 as presented

VOTE: MOTION CARRIED UNANIMOUSLY

BILLS- None

AGENDA

CM 10-3-17 MOTION TO APPROVE THE AGENDA

Motion by Rzyzi, supported by Parisien  
Motion to approve the agenda as presented

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

Ryan Cottongim read the following email that he had sent to Mayor and Council earlier in the day.  
My name is Ryan Cottongim and I am the owner of The Witch's Hat Brewing Company. I have a few concerns with the new proposed Liquor License Ordinance.  
My first concern is about the lack of communication to existing businesses that this will directly affect. If the City plans on placing further restrictions and governing regulations on existing businesses that rely on their establishments for their livelihood, the City should contact them to inform them about the proposed change. My business is how I feed my family, along with the 23 other people that work for Witch's Hat. Our industry is already one of the most regulated industries in America. We are governed by the Michigan Liquor Control Commission, the Federal Alcohol and Tobacco Tax and Trade Bureau and either the Department Of Agriculture or local County Health Departments. Why do you as a City Council

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want to impose more regulations above and beyond what currently exist? One example of this is the ordinance states if I want to apply for a building improvement or modification I will need City Council approval, why do we need this added Governmental regulation? This will only hinder growth of existing businesses.

The ordinance states that people obtaining a license “shall not” have any prior arrests. The existing governing agencies already regulate this, and are not as strict as your ordinance will be. As it is proposed, you would not have a Witch’s Hat Brewing Company in your city. I can understand mirroring what MLCC requires and maybe not allowing someone convicted of Felonies, but as it states now it is unjust and unfair and could prohibit growth of businesses in our town.

I am also concerned about the language and who the ordinance will even apply to. My business holds a wholesale Manufacturer License with the MLCC, not an On-Premises or Class C License. I think this needs to be clear when trying to apply new rules and regulations to existing and new businesses if you plan on doing so. If the primary purpose of this ordinance is centered around and built to clarify and protect Class C quota on Premises licenses, why would you include the language as it states in 8-35? Is my business included? I see supporting documents referring to licensing requirements for Class C licenses but nothing addressing a Wholesale Manufacturer Of Alcohol.

8-41 Annual License Review is also very concerning. We already undergo an Annual License renewal of our MLCC license, and as the proposed ordinance is written, the city now can recommend to MLCC that any license not be approved?!? And the City can do so if it feels that the business in question may be affecting the surrounding neighborhood or investment in real property. This does not sit right with me as a business owner at all.

In conclusion, I as a tax paying business owner in South Lyon do not understand why our city is spending money on legal fees to increase regulation on an already over regulated industry. What you are proposing could only hurt growing business in our town. And I know first hand, unlike in the explanation letter, that they have not made it “easy” on applicants.

I understand the need to clarify the process and protect Class C quota licenses in the city. That is what is listed as the primary purpose of the ordinance. What I don’t understand, is all the extra restrictions and limitations added into the language. I am not a lawyer by any means, but to me, it seems that the City has not done it’s due diligence in drafting this ordinance and it should not be approved.

City Manager Ladner suggested to Council that the subcommittee meet with local business owners and bring suggestions back to City Council at a future meeting. Councilmember Kurtzweil stated as a point of order, this issue should be dealt with during old business #2.

Carl Richards of 390 Lenox stated Active Faith just celebrated their 30 year anniversary and they had a party over the weekend. He further stated Active Faith was started by 3 local churches in 1987. He stated one of the original founders made an appearance at the party over the weekend.

Mr. Richards stated there was a new electrical outlet installed at the gazebo in the historical depot. He stated they also had some repairs done with the lighting at the gazebo. Mr. Richards further stated Linda Ross of the Historical Society decorated the village with corn stalks that were delivered to her by the DPW. He stated they will also be blowing out and shutting down the sprinklers and that must be done every year. Mr. Richards stated his neighbors came to him and asked if his basement was flooding, and they went down and looked and it was, as was theirs. He stated they contacted the Police Department because it was a Sunday, and we had both the Water and DPW departments working together and they got the blockage taken care of. He stated that shows great cooperation between the two departments even though we don’t have a superintendent right now. Mr. Richards further stated he received a letter from the water department and he will be having a new water meter installed in his home. He further stated the DPW has begun leaf pickup and it will be done by quadrants.

#### OLD BUSINESS

1. Consider second reading of Ordinance to amend Chapter 58 Article V Division 2 Sections 58-239, 240, 242, 243 to conform with State Law changes relating to minors that purchase, possess or consume alcohol

Attorney Wilhelm stated there have been no changes since the first reading and it will go into effect January 1, 2018.

Councilmember Kurtzweil stated she liked the bill analysis that Attorney Wilhelm included and thanked him for providing it. She further stated it has a lot of very useful information and if he can include that in the future she would appreciate it, it helps her see both sides of the argument.

CM 10-4-17 MOTION TO APPROVE SECOND READING OF ORDINANCE AMENDMENT  
CHAPTER 58 ARTICLE V DIVISION 2, SECTIONS 58-239, 240,242 AND 243

Motion by Kivell, supported by Kramer

Motion to approve the second reading of ordinance to amend City of South Lyon Code of Ordinances, Chapter 58- offenses and miscellaneous provisions, article V- offenses involving minors, division 2-alcoholic beverages to conform to changes in State Law

VOTE: MOTION CARRIED UNANIMOUSLY

2. Consider second reading of Liquor License Ordinance- Update and request postponement to 1<sup>st</sup> meeting in November

City Manager Ladner stated the first reading was on September 25<sup>th</sup> and since then a subcommittee has met, but she now believes concerning the comments that were spoken earlier, we should have the subcommittee meet with some of the local business owners for more information and table this until the second meeting in November.

Councilmember Rzyzi stated he thinks it is very wise to consider feedback from local businesses. He further stated we shouldn't hinder current business owners or any potential business owners in any way. Councilmember Kurtzweil asked if the City didn't learn anything about the food-truck issue. She further stated Mr. Cottongim's concerns are probably shared by other business owners as well. She then asked if Bob Donohue was involved in the sub-committee. Mr. Donohue stated he was not part of the meeting, but he will review the ordinance.

CM 10-5-17 MOTION TO POSTPONE THE SECOND READING UNTIL SECOND MEETING IN NOVEMBER

Motion by Wedell, supported by Kramer

Motion to postpone the second reading of Liquor License Ordinance until the second meeting in November

VOTE: MOTION CARRIED UNANIMOUSLY

NEW BUSINESS

1. 2016-2017 Audit Presentation- Plante Moran

Doug Bohrer of Plante Moran thanked the City Manager, the City Clerk, the Bookkeeper and Chief Collins and Chief Kennedy for their assistance with the audit. Mr. Bohrer stated they stay in contact throughout the year to stay up to date with anything that is coming down the road. He further stated the results of the audit is the City has an unmodified opinion report which means we found the statements are

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materially correct which is the highest form of assurance you can receive from a 3<sup>rd</sup> party firm which is also what the City has received in the past. Mr. Bohrer stated the City invests a little over a million dollars in its capital assets and infrastructure which is similar to what the City has done in the past few years. He further stated that the City is reinvesting in its infrastructure which requires maintenance. He further stated the City also continues to pay down its debt and that is consistent as well.

Spencer Tawas of Plante Moran presented a power-point presentation which showed a comparison from years past. Mr. Tawas stated the general fund revenue increased by 6% which is mostly due to additional building permits as well as the personal property reimbursement from the State which was \$140,000. He then explained our biggest revenue is from taxes, but that has stayed relatively the same. Mr. Tawas stated the other major revenue is State Revenue Sharing and the City received \$950,000 in state shared revenue which is almost the same as in 2001. He further explained if it would have stayed consistent instead of decreasing, the City would have received an additional 3 million in the last 16 years. He stated the expenditures decreased by about 2% mostly because last year there were a lot of capital expenditures and there wasn't as much this year. He then stated the fund balance has been decreasing over the past few years and expenditures are over revenue by \$170,000. He further stated the City needs to keep that in mind when working on the budget.

Mr. Tawas stated the City is close to having the revenue exceed the expenditures for the water and sewer fund. He explained the City needs to make sure you keep the rates high enough to cover any expenditures needed currently or in the future. He stated this year the City raised the sewer rates and the debt millage which helps keep that inline. He stated we need to keep an eye on water and sewer rates to ensure the City has the money for any expenditures that may come up.

Mr. Tawas stated one of the big things that happened with accounting standards now require the net pension liability is now on the books which is why the unrestricted funds went down and some communities went into the negative. Mr. Tawas stated next year the total liability will have to be added to the books which will be about a million dollars that will be eaten up for the unrestricted fund. He stated this includes retiree health care. Councilmember Kivell stated he wished that would have happened all along because it would have helped keep track of things. He then asked if there is any information for the uncapping of the taxes. City Manager Ladner stated that is not currently tracked, but we can work on that. Councilmember Rzyzi stated we spent \$170,000 from the general fund. Mr. Tawas stated that is correct. City Manager Ladner stated that is still less than what was budgeted for. Councilmember Rzyzi stated we raised the mill rate, but we still used funds from the general fund. City Manager Ladner stated that is a different year. Councilmember Kramer asked for some clarification on the chart reflecting the different numbers for 2013 and 2014. Mr. Tawas stated the original graphs didn't reflect the property tax revenue. Mr. Bohrer stated this graph shows the cash flow of the revenues and expenditures. He stated the rates are funding the operating side of the water and sewer fund, and the debt service is covering the debt, but the debt service was not funding all of the debt, so part of that was paid for through the rates. Councilmember Rzyzi asked how long that had been happening. Mr. Bohrer stated at least 4 years. Mr. Tawas then reviewed the end of the audit letter. He stated the results are broken up into 3 sections. One is procedures, second is auditing standards, and the last is suggestions. He stated we found one finding relating to wire transfer controls. He stated there are 2 administration logins and they recommend to work with the bank to ensure no one person can issue and approve a wire transfer. He further stated we looked at the wire transfers and there were no concerns with them, they are mainly done with the County for tax disbursements.

Mr. Tawas stated there was one non-compliant issue was found. There is an asset management reporting deficiency for the Act 51 money. Councilmember Rzyzi asked what was the deficiency. Mr. Tawas stated there was a report not filled out and submitted to the State. City Manager Ladner stated the State has been making some changes and she thought they wanted the pazer study which is what she submitted,

but what they also wanted the 2-year study of what projects the City will do. Councilmember Kivell stated the filing was months late. Councilmember Kurtzweil asked how someone was confused. Does the State not say what they require? She further stated she doesn't recall being told the State rejected our filing. City Manager Ladner stated she didn't either until sometime later. Councilmember Kurtzweil stated the letter says the State withheld monies until the City fulfilled the requirement and how much money was withheld. Mr. Tawas stated it was about \$750,000 over the course of the year.

Mr. Tawas stated the letter goes on to talk about the new accounting standard which is the GASB 77. Mr. Tawas stated that means we have to report any abatements that were given and the City currently has two. Mr. Tawas stated there are sensitive estimates that they used to come up with some of the amounts reported such as the unbilled water and sewer and the MERS actuary. He stated they look at the reasonableness of the actuaries. Councilmember Kivell asked if they are reaffirming the numbers from MERS. Mr. Tawas stated they look at their 7.75% return and does their portfolio have the support for that. He further stated they look at the national trend and perspective. We are seeing a downward trend. He stated they are using the 2014 mortality table. Councilmember Rzyzi asked if they can give him something reflecting the unfunded pension liability. Mr. Tawas stated it is currently 5.1 million. Councilmember Rzyzi stated it went from 2 million in 2001 to 5.1 million in 2016. Councilmember Rzyzi asked if this money is going to keep going up. Mr. Tawas stated not as significantly and as long as they make their ARC payment it shouldn't go up that drastically.

Mr. Bohrer stated some of the other recommendations are the City has some performance deposits and we need to find out if they need to be returned and if so who they need to be returned to.

Mr. Bohrer stated restricted assets are within the water and sewer fund. That is money that the City has set aside for tap in fees. He stated years ago a resolution was approved and the current structure is a little different than the resolution. He further stated he recommends the City look at how much of the tap in fees does the City need to keep in the restricted funds. Councilmember Kivell stated he believes it was 60% and 40%. Mr. Bohrer stated the current practice is a little different than that. He believes at some point the City Manager tweaked that a bit. He further stated the water and sewer rates should be adopted by Council. They are currently set through 2018. City Manager Ladner stated the sewer rate was adopted in 2017 by the fee schedule. Mr. Bohrer stated the biggest challenge in the City is the water and sewer area. He stated you can continue to cover the operations via the rates, but you also need to forecast a need to replace things and plan for that.

Mr. Bohrer stated there are some investment potential such as the Comerica J Fund, Oakland County Pooling Fund or the Michigan Class has a group of investments that communities get involved with and they are probably a point better than the banks offer. Mr. Bohrer stated the password protections could be strengthened and they should be changed more often. Mr. Bohrer stated the cash drawer needs to be counted every day regardless of the amount of money taken in. He stated there needs to be 2 people involved with that. Mr. Bohrer stated the City will need to get a formal actuarial for the OPEB liability next year. Councilmember Wedell asked who mandates the need for that. Mr. Bohrer stated the accounting standards and it is unfunded. Mr. Bohrer stated there are some old outstanding checks that need to be looked at and why they weren't cashed and they may need to be voided at some point.

Mr. Bohrer stated we need to look at how we are charging for equipment. The City can charge some of the equipment use from the Act 51 money. City Manager Ladner stated our mechanic will send a front-end loader owned by the water department and he was estimating the use including the travel time, instead of just the usage. She further stated the State gives us a table with the amounts we can charge for different equipment by the hour. Councilmember Rzyzi asked who signs off on that. City Manager Ladner stated no one did, but she will be working with Doug Buers on this in the future. Councilmember Kurtzweil stated someone gave someone \$30,000. Where did that number come from? City Manager Ladner stated that comes from our mechanic. Councilmember Kurtzweil stated she is having a hard time

understanding how the confusion happened if the State gives us the requirements and the amount we can charge per equipment by the hour. She further stated no one thought to check to make sure the process was being done correctly. City Manager Ladner stated the State has never asked for so much detail. Councilmember Kivell stated you can't charge idle time either. Councilmember Kurtzweil asked when the City Manager learned the policy was being done in error. City Manager Ladner stated about a month ago. She stated we are now putting forms and processes in place to ensure this problem doesn't happen in the future. Councilmember Rzyzi asked when the State notified us we were not in compliance. Councilmember Kurtzweil asked why Council wasn't told about this. City Manager Ladner stated she was trying to correct the process herself.

Councilmember Kurtzweil stated her understanding is the restricted assets are at 4.2 million and how we got to that point is because we are relying on a resolution directing how the funds are to be allocated. Mr. Bohrer stated that is correct. Councilmember Kurtzweil then asked for a copy of the resolution.

Councilmember Kurtzweil stated her point is that the resolution directs the allocation of tap in fees and it is the restricted assets that is designated for infrastructure improvements. If they go down, how will this be funded. She further stated tap in fees are in decline and the City has to find another way to fund this. Mr. Bohrer stated you can fund this with rates or from bonding. If you bond for it, you have to raise the rates to pay for that. He further stated there are options. Councilmember Kurtzweil stated if Council reallocated 60% goes into restricted assets, where does the 40% go. Mr. Bohrer stated it would be funded through rates. Councilmember Kurtzweil stated we might want to change the ratio and compensate by raising the water rates. Mr. Bohrer stated it is a good idea to get everything down on paper and do some forecasting.

Mr. Bohrer stated the last part in the letter is franchise fees are going down and some communities have asked the cable companies to see their books to ensure the community is getting their fair share.

Councilmember Kramer asked who you would have do the audit for the cable company. Councilmember Rzyzi stated he doesn't think they will be very open to this. Councilmember Kivell stated we wouldn't want to pay for an audit unless we thought we weren't getting what the City is owed. City Manager Ladner asked if it would be wise to do that now that we are signing another franchise agreement. Mr. Bohrer stated you can use that as an excuse to do so.

Councilmember Kurtzweil stated the actual financial report on page 3 speaks about expenditures being over revenue in the General Fund. She then asked if that would send notification to the State of Michigan again. Mr. Bohrer stated the City sends that information. This year we have a positive fund balance, but we did use \$170,000 from fund balance. Councilmember Kurtzweil asked if we received a letter from the State again. City Manager Ladner stated we did and she is drafting a letter with a corrective action plan and it will be submitted to Council on November 9<sup>th</sup>. She stated we weren't in excess of revenues, but we did spend some fund balance. Councilmember Kurtzweil stated the issue isn't deficit spending. The issue is we cannot get our expenditures under control. The letters from the State of Michigan has to stop coming to the City. She further stated we made a cut of a half a million dollars, and we still had to dip into general fund by \$170,000. This is a problem. Mr. Bohrer stated the final amended budget is on page 36 and it shows the original was \$405,000 over revenue, the amended was budget was \$455,000 and you ended up with \$170,000. Councilmember Rzyzi stated we were on the same track and had to raise taxes. Councilmember Kurtzweil asked their opinion on the net position related to the governmental activities note stating that it decreased by \$953,000. Mr. Bohrer stated the liabilities going on the books includes depreciation. He further stated if you look at this from a cash standpoint the City is still ok.

Councilmember Kurtzweil stated it is important to understand that on page 5 the governmental activities reflect the total expenses that were spent, you can see the expenses for 2016 was about 7.5 million and in 2017 it was 7.6 million. She stated that is an increase and the notation states the City's governmental expenses stayed relatively consistent. Increasing approximately by \$57,000. She further stated when you

look inside the numbers the Police Department increased by \$200,000. She stated the only reason it isn't reflected as such is because there was a drop in cultural recreation and a small drop in general government. What she is talking about is a huge jump in one department. Mr. Bohrer stated part of that is related to OPEB where the health stipend is \$500.00 up to age 65 but it is \$700.00 for the Police Department. Councilmember Rzyzi asked how many officers we have because that is a big increase. Mr. Bohrer stated it is the number of employees multiplied. Mr. Tawas stated the Fire truck that was purchased is included as well because it is depreciated. Councilmember Kivell stated not all notices from the State are equal. He stated Council decided to purchase the Fire truck with cash instead of paying the interest, that was deliberate, not mismanagement of funds. Mr. Bohrer stated they look at total expenditures based on public safety and most communities spend 48% to 60% and the City falls within that range as well. Councilmember Kurtzweil asked them to comment on the depreciation under operating expenses under the water and sewer fund is at 1.4 million and the capital assets show roughly 7 million. Mr. Bohrer stated that is things that were predominantly purchased in past years. Councilmember Kurtzweil asked if there is a point where you look at these numbers and see that the depreciation is too high, so therefore one can draw the conclusion the City isn't investing enough in infrastructure. Mr. Bohrer stated that is a difficult question to answer. He further stated the depreciation side is the estimate of capital assets bought depreciated over their estimated useful lives. He stated the capital side is looking at scheduled improvements the City will need to make and having a rainy-day fund in case there are any surprises.

Councilmember Kurtzweil asked about the excess of expenditures over appropriations and we had a general budget and an actual. She stated she doesn't recall a budget amendment for Parks and Recreation of \$8,000. City Manager Ladner stated it wouldn't have been for \$8,000 exactly it would have been smaller requests for approval for things such as playground equipment and the ice rink that was put in. Councilmember Kurtzweil asked if Plante Moran look to ensure there were actual amendments made for any changes. Mr. Bohrer stated they look at the budget and the latest version, but they don't look at each individual amendment. Councilmember Kurtzweil asked if they could walk her through the note that states interfund receivables, payables and transfers. Mr. Tawas stated over the course of a year if you have water and sewer reimburse general fund or vice versa, this graph reflects that. We verify that information. Councilmember Kurtzweil asked how you know that general fund was owed \$1,000 by water and sewer. Mr. Tawas stated we verify the receivables and liabilities. Councilmember Kurtzweil asked what is the evidence of money loaned to another fund. Mr. Tawas stated he would have to look into that.

## 2. Appointment: Heather-Marie Montilla to Cultural Arts Commission

Ms. Montilla stated she has spent more than 15 years working with arts and cultural organizations mostly on the east coast. She stated she and her family moved here a year ago. She further stated she has been looking for a way to bring art to her community. She further stated she thinks she will bring a lot to the commission and the community. She further stated she has a master's in public administration and worked at a library that was a historic cultural center which presented art and culture and they had over 700 events a year. Before that she was the head of the arts organization committee in New York. She stated she has always done community building to get people excited in art. Councilmember Rzyzi welcomed her and what stood out was she is from Lyon Township and it is refreshing to have township residents feel connected to our community. Councilmember Kurtzweil stated you have received your masters from Columbia University in New York, and your BA from Duke University, we are very lucky to have you. She then asked Ms. Montilla what would she do if she was given a blank check to bring art to the City. Ms. Montilla stated she would like to bring people together and she would start with kids

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because kids need to be exposed to culture and arts. She further stated we need to think what we could do with the schools to expose people with something they wouldn't expect. Councilmember Kurtzweil stated the Cultural Arts Commission is a fabulous commission and it works extremely well and their shows are doing great. She then stated this is a great appointment. Councilmember Kivell stated he is delighted with her active participation in presenting art to the community and he asked how effective she thinks she can be with fundraising. Ms. Montilla stated she always works hard and she loves art and is always looking for grants. Councilmember Kivell stated the current commission is doing great.

10-6-17 MOTION TO APPROVE APPOINTMENT TO THE CULTURAL ARTS COMMISSION

Motion by Rzyzi, supported by Kurtzweil

Motion to approve appointment of Heather-Marie Montilla to the Cultural Arts Commission

VOTE: MOTION CARRIED UNANIMOUSLY

3. Discussion on next steps regarding requested restricted covenant for 128 S Lafayette

City Manager Ladner stated this has been discussed in the past. There were underground storage tanks leaking. The owners are asking for a restrictive covenant. Attorney Wilhelm stated briefly he has supplied Council the background information from Arcadis. He stated he wants to know if Council would like a presentation on this. There are a few moving parts and he doesn't want to pursue this if Council isn't interested. Councilmember Kramer asked if this property can be built on. Attorney Wilhelm stated you could build on this property. He further stated the issue is any type of structure will have to have a vapor intrusion measure to put in place to make sure vapor from the contamination doesn't get through. They can have residential. He stated this memorializes many of the obligations and circumstances of this property. For example, even without this and if you tear up the parking lot and start building a building on it, you must meet DEQ requirements because it is contaminated. It puts the world on notice what the restrictions are. You can't pull drinking water from it, and you can't leave it exposed. Councilmember Kramer stated it seems there is an urgency for them to do this. Attorney Wilhelm stated they are trying to go through the closure process and there is no plan to go in and remove soil and part of the process from the Amoco side is the DEQ requires them to have this restricted covenant. He further stated they will indemnify and hold the City harmless on this. He stated this puts it in the chain of title so people are aware of this. Councilmember Kivell asked if the City is in a more protected place with this or without. Attorney Wilhelm stated that is hard to answer. Bob Donohue stated he has had discussions with two separate developers regarding this property and he would like more information on this. Councilmember Kurtzweil stated if there is going to be an indemnification she would like that as part of the deed itself. That will give the City more chances of legal options if there is an issue down the road. She further stated it sounds like the City will be responsible for some administration monitoring and that is an additional cost to the City.

4. Resolution approving a Uniform Video Service Local Franchise Agreement with Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington LLC

City Manager Ladner stated in 2007 the City by default because they submitted a franchise act formation and due to lack of action by the City, it automatically went into effect. They are now beginning to build out. She stated we have a question if this is a cable franchise or not because they are putting in fiberoptic lines above and below ground more for internet than cable franchising. Attorney Wilhelm stated the State has taken the ability to negotiate. He stated they currently have a Metro Act permit. This gives them the right to use the City's right of way and the compensation the City will get in return for that. He further stated the franchise fee is 5% and that is the maximum you can get. The PEG fees are at 0% because that



was grandfathered from 2007. He further stated the City chose to contract out the operation of the public access channel and left that contractor to basically fend for themselves. He further stated the term is for 10 years. He recommends to approve it by resolution and we have two existing franchises and by approving by resolution we keep the right to challenge this in the future. Councilmember Kivell stated the City didn't have the resources to staff and have a channel sophisticated enough to warrant the PEG fees. He further stated he would like the Cable Commission to try to collate what their expenses may be from programming to equipment and maybe we can reach out to the providers and possibly have them fund whatever activity we decide. He further stated this is fiberoptic so we don't know if this is video or communication. He then asked if Attorney Wilhelm has seen a substantial difference in revenue from one or the other. He further stated the Metro Act is driven by length and the fees are driven by their gross revenue. He further stated this is a done deal, we are trying to find our best position by approving something. Councilmember Rzyzi asked realistically if there is a chance to get the PEG fees, and if so how much money will we be looking at. Attorney Wilhelm stated there is a federal communications process that we could try to utilize to try to deal with franchise agreements. He stated we would have to look into what the requirements are and that may provide the opportunity for the City to ask for peg fees in the future. He further stated there is a maximum percentage of 2%. Councilmember Rzyzi then asked if Comcast comes in and people like WOW, this will not hinder them from choosing which cable provider they like. Attorney Wilhelm stated he doesn't think Comcast has built out as much as WOW has. City Manager Ladner stated there is no agreement saying that our residents must use one provider over another. Councilmember Kivell stated we have never had an exclusive agreement that required people to use a certain provider, the City wasn't big enough for other providers to be interested. Councilmember Rzyzi stated without seeing what money the PEG fees could bring in he is uncomfortable with this. Attorney Wilhelm stated once the full application is submitted we are on a 30-day time table.

#### CM 10-7-17 MOTION TO APPROVE RESOLUTION APPROVING UNIFORM VIDEO SERVICE

Motion by Kivell, supported by Wedell

Motion to approve the resolution approving a Uniform Video Service Local Franchise Agreement with Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington LLC directing the Uniform Franchise Agreement be completed as provided for therein, and authorizing and directing the Mayor to sign it.

VOTE: MOTION CARRIED – 1 OPPOSED

5. Consider approval of City-wide Trick or Treat hours

City Manager Ladner stated the traditional trick or treating time in the City has been from 6:00 p.m. to 8:00 p.m.

#### CM 10-8-17 MOTION TO APPROVE TRICK OR TREAT HOURS

Motion by Rzyzi, supported by Kramer

Motion to approve setting the official Trick or Treat hours for the City of South Lyon between the hours of 6:00 p.m. and 8:00 p.m. on October 31st

VOTE: MOTION CARRIED UNANIMOUSLY

6. Consider approval of Downtown Trick or Treat and Zombie Walk including street closures

City Manager Ladner stated the request has been received for the event and the associated road closures for October 26<sup>th</sup> from 6:00 p.m. – 8:00 p.m. Bob Donohue stated this is an annual downtown event and

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they are just asking to do have it again. Chief Collins stated the actual road closure request is from 6:00 p.m. to 9:00 p.m. to have time to remove the barricades.

CM 10-9-17 MOTION TO APPROVE ROAD CLOSURES FOR DOWNTOWN TRICK OR TREAT

Motion to approve by Kramer, supported by Wedell

Motion to approve the requested road closures on October 26<sup>th</sup> from 6:00 p.m. to 9:00 p.m.

VOTE: MOTION CARRIED UNANIMOUSLY

7. Discussion and consideration of new hire MERS retirement plan

Councilmember Rzyzi stated he only has 2 points he wants to address. Councilmember Kivell stated he is comfortable with this, but he has some questions about re-establishing a new DB plan for new hires running parallel with existing staff in other communities. City Manager Ladner stated it has worked but as Sue stated as long as you have a DB you will always retain an unfunded liability and that is a challenge. She stated she has supplied everyone with the actuarial. She thinks to stay with a DB plan with a lower multiplier she would ask if Council is planning on working to change all current employees to a new plan or if they are planning on closing the current plan. She would not recommend going with a 2-tier plan. Councilmember Rzyzi stated his questions are when it says the City will contribute up to 8% and the employee can do 8% with a total of 16%. City Manager Ladner stated we can limit the City contribution to 8% but the employee can contribute as much as they want. She further stated the average is 8.3% on the City side. Councilmember Rzyzi asked if we have the ability to lower the multiplier for new employees. City Manager Ladner stated the multiplier only deals with a defined benefit. We are looking at a DC/457 plan for new employees. She further stated the City could say we will contribute 4% then an additional percentage to the 457 plans. She stated the locked amount will be the 4% and as the employee increases or decreases their contribution the City will have the same option. Councilmember Rzyzi stated this doesn't address the unfunded liability. Councilmember Kivell stated it would. Attorney Wilhelm stated this isn't a vote to change, this is a vote to begin the new process of a new DC plan for new employees. He stated we need a motion to move toward a new plan for new hires. Councilmember Kurtzweil stated the only issue currently is the new hires. In order to get replacement employees, we need a new policy and this is only for new hires. She stated this does not mean there won't be any modifications to the current retirement plan as we move forward. She further stated it is the 457 components for the City to match what the employee contributes to a maximum. However, on the DB plan it guarantees a certain amount, but then on the 457 plan we match the employee's contribution. She stated she likes this plan because it begins to reduce the City's ultimate pension liability in the long run. City Manager Ladner stated the Council will have to decide on a vesting time period, the average right now is 5 years. Councilmember Kurtzweil stated when you look at the report from Plante Moran there are details in the notes about the unfunded pensions. She said they were very clear that the City has flat lined tax revenue and we all recall MERS saying we have a Cadillac program right now and the City cannot afford that right now. We don't have much time; the economy isn't always going to be moving along as it is now. She stated the City got into a bind in 2008 when the City approved the 2.5% multiplier. The employees will not be happy about it, but you have to think about the taxpayers. The seniors cannot be taxed to continue this. Mayor Galeas stated this is a start. Councilmember Kurtzweil suggested a 5-year vested period. Councilmember Kramer stated his company is 5 years as well. Councilmember Wedell stated a few years ago MERS had one product that was much cheaper and he asked her if someone could retire on that plan and Sue said no. He wants to recommend we don't underfund the limit of percentages on the plan so people may save enough to retire. City Manager Ladner stated the average sustainable retirement pension benefit needs to be 13-15%. Councilmember Rzyzi

stated any financial planner will tell people you can't rely on your employer to fund your retirement. In the corporate world, most of the time it is a maximum of 4% from the employer. Councilmember Kivell stated the writing is on the wall, we will have a very difficult time getting good employees because they will recognize they will be treated like dirt. Councilmember Kurtzweil stated that is insulting to our taxpayers.

#### CM 10-10-17 MOTION TO BEGIN PROCESS OF DC/457 PLUS PLAN FOR NEW HIRES

Motion by Kramer, supported by Kurtzweil

Authorize the City Manager to move forward with changing the pension plan for new hires to a defined contribution/457 plan

VOTE: MOTION CARRIED UNANIMOUSLY

BUDGET-None

#### DOWNTOWN

Bob Donohue the DDA/Economic Development Director stated he is not a Department Head and asked if the Downtown discussion could be moved to the beginning of the meeting. Councilmember Rzyzi stated that is a great idea, other communities do that as well, good modernization. Mr. Donohue stated the new business directory is ready and only had one glitch which will be handled this week. As the first directory everyone is pleased. He further stated he would like to do this once a year, but if we get enough sponsors he would like to do it every 6 months. Mr. Donohue stated we are still gathering input regarding the Downtown Walking Tour brochures and hopes to have it after the holidays. Mr. Donohue stated the enforcement of the no truck turns in town is in full force. Chief Collins stated they have been very active with the educational proponent. He stated we had 93 warnings last week and 16 citations. He further stated he gave direction today to issue citations for the no truck turn violations. He stated the commercial enforcement officers are also writing various safety violations they find as well. He thinks they will learn one way or the other. Councilmember Kivell stated he is surprised at the amount of trucks that are still turning at the intersection. Chief Collins stated they are aware of the number of truck drivers that continue to violate, but he thinks with them now issuing citations that will change. Councilmember Rzyzi stated he thinks the signs are great and he asked how much the signage cost. Mr. Donohue stated it cost \$6,000. Mr. Donohue stated all of the striping has been completed at the crossings downtown. Mr. Donohue stated he is also looking into gathering data on the platform dining. Mr. Donohue stated Ladies Night Out is the 17<sup>th</sup> of November and of course they are hoping the South Lyon Hotel will be open. He further stated we will have a shuttle service available that night. Councilmember Kivell asked about the banner poles. Mr. Donohue stated probably will not have the benefit of that until Spring.

#### MANAGER'S REPORT

City Manager Ladner stated the downtown Trick or Treat and Zombie walk is October 26<sup>th</sup>. She then asked what the Zombie Walk is. Mr. Donohue stated the event chair had an idea for parents and store owners to dress as zombies. He stated he doesn't know how much effort has been put into it, but we will see.

City Manager Ladner stated if you're not participating in the Trick or Treat you may join the Kensington Valley Civitan Group and celebrating their first year in the community. She stated that is a great non-profit community service group. City Manager Ladner stated she met with the Parks and Recreation Committee and the DPW regarding the new playground equipment and we picked out the colors for the equipment, hopefully in about 4 weeks it will be here. She further stated she met with the MMRMA, Parks and Recreation Commission and we got some great information on how to help our equipment last 10-23-17

longer, but we were told 2 of our largest pieces have outlived their safety. She further stated Parks and Recreation will be bringing forward quotes in the future to have those replaced.

City Manager Ladner stated she has looked into some of the "Dark Store" cases. They are tax cases for large vacant stores such as Menards, grocery stores and closing out shopping malls. She further stated the courts originally said a dark store could not be valued as the same price of an equal store that is active or being built because it was empty. She further stated the State will not hear those cases and they are agreeing with communities that they cannot claim such things. Councilmember Kurtzweil asked if that decision was based on the square footage of the property. Attorney Wilhelm stated he has not dealt with this, but Stephanie Morita in his office has. City Manager Ladner stated the information on the website does not mention that. She further stated the case was a Menards store in Escanaba.

### COUNCIL COMMENTS

Councilmember Parisien stated she wants to quickly thank all of the Councilmembers that will not be returning after the Election. She then thanked Mike Kramer. She stated he was the rational level-headed entity that oftentimes was the only one that could tame the unruly beast Council can be and he will be sorely missed, and she thanked him for his service. Councilmember Parisien stated the Mayor's connection with the community is unmatched and as Mayor he did a great job working and reaching out to the community, networking and being a part of every event. She further stated often there is a disconnect but it is important to get to know your neighbors and Mayor Galeas was always there, you went to each business not to just campaign but also for visiting and listening to them and being dedicated to our community. Councilmember Parisien stated she hopes to see Councilmember Kivell on Council after the Election, and she wishes him luck. She further stated his insight on Council has been critical and pivotal on many things that have been discussed. She stated he sees things on a different level and perspective. She stated whether he wins or loses, he has had a huge hand to play in South Lyon for the last 2 decades, and she thanked him for his service. Councilmember Parisien stated when she graduated law school and decided to run for Council and try her hand at politics, she came to a Council meeting and watched what everyone had to offer and see what they knew. She stated she thought Councilmember Wedell was the smartest person in the room. He didn't say much, but he was very professional and that spoke volumes about his self and character and that taught her as a Councilmember how to behave. She stated she is still working on being on that level but the professionalism Councilmember Wedell has brought to play to each and every meeting. She then thanked him for being an inspiration to her and for his service. Councilmember Parisien stated she would like to remind everyone to vote and it matters, please educate yourselves on the candidates.

Councilmember Kramer stated he has been on Council for 8 years. He stated he wants to thank all of the voters and he has always tried to represent the residents of the City and he is looking forward to spending time on the other side of the table to ensure the new Council that is coming in will continue to represent the residents. He will be in the audience and watching the meetings online and he will make his voice heard again if necessary.

Councilmember Wedell thanked Mary for her kind words. He stated he wants to thank the voters for allowing him to occupy this seat since 2005. It has been an honor. He then thanked the employees from the City of South Lyon for all their unfailing courtesy and professionalism. He thanked his wife Nancy for putting up with him doing this for so many years. He stated his 2 daughters have helped him with all his campaigning and they were a great help to him. He is very proud of them, his daughter Megan is an

elected official in her community in Colorado, and his younger daughter Sarah is appointed to the Parks and Recreation Committee in Chelsea Michigan.

Councilmember Rzyzi stated we had a productive meeting. Some of the things that stand out is we have issues with our budget. The City received a corrective action measure because we spent more money than we took in. We used \$170,000 from our general fund. We have some challenges and unfortunately one of the issues are the pension issues. We have to get with the times and modernize because there are too many residents that don't get pensions and he has to look in their eyes. We are not going to raise taxes to pay for Cadillac benefits. We will be competitive, he doesn't want to see our Police Department scaled down so it is very positive Council will be looking at these benefits and looking out for our taxpayers. Councilmember Rzyzi congratulated Active Faith for their 30-year anniversary. He attended their party and he saw Carl Richards there as well. He then reminded everyone that Active Faith gives all their clothes away for free and keep donating to them. Councilmember Rzyzi stated he wasn't able to attend the football game on Friday night between the two South Lyon High Schools. He stated he has heard the sportsmanship between the teams and the crowd and they really represented our community in a good way. Councilmember Rzyzi stated normally he doesn't agree with going into closed meetings, but we have one on the agenda tonight and it is for the City Manager's review and that is by her request which is a legal reason to have a closed session so he is ok with it. Councilmember Rzyzi stated he wants to wish all of the candidatess luck, but he wants to wish Carl Richards, our local watchdog luck as well and he is very confident he will be joining him on Council.

Councilmember Kivell stated he was surprised the modification for the fee schedule was not on the Agenda tonight. He doesn't know what we need to do to make that happen, but that needs to be done. Councilmember Kivell stated in the September 11<sup>th</sup> meeting you suggested that everyone had access to the website. City Manager Ladner stated they were all given access and training and if they have lost or forgotten their logins, she can give them new ones. Councilmember Kivell stated I ask everyone and no one has access. City Manager Ladner stated she knows he comes in because he speaks with everyone but her. Councilmember Kivell stated that is not a slight towards her. Councilmember Kivell stated he is glad the playground equipment is moving along. Councilmember Kivell stated he appreciates Harvey, Mike and John's opinions and he was very proud to sit on Council with them. He further stated they were always able to validate their opinion, you don't always have to agree, but you have to be able to justify your decision making and you always did that. He further stated he hopes people realize what he has brought to Council and he will continue to do what he has done in the past.

Councilmember Kurtzweil stated she had a great weekend in South Lyon and Erwin's was packed on Saturday and Sunday. She stated where else can you go where you can pick your own raspberries. She stated we are lucky to live in this area. She stated they then went to Kensington and it was wonderful. She further stated it was a great weekend in this area. She stated we live in an interesting community and South Lyon has its roots as being a very small community and there wasn't much demanded of its officials, but times have changed and leadership styles have changed, accountability of public officials is increasing. We aren't that small of a town anymore. We need to adjust our business practices for the modern world. She stated we have some very dynamic individuals that have the same dedication and enthusiasm to the community that Harvey, Mike and John had. They deserve a chance to begin taking their role to move the City forward. She then thanked the gentlemen leaving tonight for their service. She further stated she is looking forward to running into them in town and listening to their suggestions or criticisms to move the City forward. She also thanked their families. Councilmember Kurtzweil stated with respect to Carl, she believes in dreams and if you don't dream you will never get anywhere and you have made attempts to get onto Council and you may do it this time. She stated there are many senior citizens appreciate that all that he does and they relate to you and they connect with you. She further stated he attends Parks and Recreation meetings, Planning Commission meetings, Cultural Arts meetings,

and you will be the only one sitting on Council that will be meeting out. She further stated he has a great interest in this town. She further stated he is an extremely brilliant man. What it takes is to read and analyze the issues and have some good analytical skills. She believes he will fit well with the new members of Council and she wished him luck.

Mayor Galeas stated everyone that is running is a valuable candidate and not to take things personal. He further stated don't get caught up in drama, look out for the community. He stated everyone has brought something to the table and sometimes it hasn't always been roses. He further stated he will miss everyone on Council but he will still be involved. He loves our downtown and will stay involved. Mayor Galeas stated he has learned a lot from Harvey and he has great respect for him. He stated he was able to get to know Mike a little more than before he was elected. He stated Mike has done a great job. Mayor Galeas stated he will miss everyone. He stated he will miss the chats with Chief Collins and he has great respect for our Fire and Police force. They are second to none. Mayor Galeas stated hiring Robert Donohue is the best thing that could happen to the City. Everyone is talking about our downtown. Mayor Galeas again stated he will miss everyone. Mayor Galeas stated we do have some budget issues. Mayor Galeas stated Bob Martin was the most respected hardest working person in the City. No matter when you called him he would be there and he would never take kudos, he always said it was his guys. Mayor Galeas stated he doesn't have a big ego, he loves the City of South Lyon. Mayor Galeas stated he respects Glenn Kivell tremendously. He stated Glenn brings a lot of experience to the table and he takes responsibility for his actions and he is very dedicated to this community. Mayor Galeas stated the City should promote the rails and trails in the City. He stated there are a lot of people that come in on the weekends, but there are still a lot of people that don't know they are there. Our trails are a gem and we need to draw upon this. He further stated he spoke with Bob Donohue about this and he works out with Jessica Dilts-Cash. He stated she is an amazing person. He stated she was diagnosed very young with colorectal cancer. He stated he didn't know her very well at first and things weren't good. She means a lot to him. Her husband is a great guy. She was diagnosed very young. She is the spokesperson for colorectal cancer society and she tells everyone to get checked and trust your body. She wants to "paint the town blue" to recognize colorectal cancer next year. She is an amazing young lady and she has taught him to live your life every day. Mayor Galeas stated her husband is a long-standing resident of the township and he is a good guy. He really hopes Council will have the "paint the town blue" on the table in the future. Jessica refuses to give up and she fights hard. Mayor Galeas stated he will miss this but he thinks the path has been made for the way the future should go for this City. He stated he also wants to thank his wife for putting up with him. He tries to treat everyone with respect and he hopes the new Councilmembers and Mayor will do the same. He has always had the best interest for the City. Mayor Galeas thanked everyone that voted for him and he stated we have done a lot but there is much more work to be done.

CLOSED SESSION- Pursuant to Section 8(a) of the Open Meetings Act to consider a personnel evaluation of a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. City Manager Evaluation, at her request

10-11-17 MOTION TO ENTER INTO CLOSED SESSION

Motion by Rzyzi, supported by Parisien

Motion to enter into closed session per Section 8(a) of the Open Meetings Act to consider a personnel evaluation of a public office, employee, staff member, or individual agent per the City Manager's request

ROLL CALL VOTE:

Kurtzweil- Yes

Kramer- Yes

Wedell- Yes

Galeas- Yes  
Ryzyi- Yes  
Parisien- Yes  
Kivell- Yes

ADJOURNMENT

Council reconvened the regular City Council meeting at 12:06 a.m.

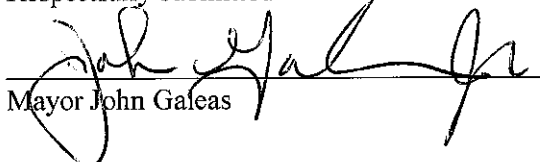
CM 10-12-17 MOTION TO ADJOURN MEETING


Motion by Kramer, supported by Kivell

Motion to adjourn meeting at 12:06 a.m.

VOTE: MOTION CARRIED UNANIMOUSLY

Respectfully submitted

  
\_\_\_\_\_  
Mayor John Galeas

  
\_\_\_\_\_  
Clerk Lisa Deaton