

CITY OF SOUTH LYON
REGULAR COUNCIL MEETING
DECEMBER 12, 2016

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, Department Head Martin,
Attorney Wilhelm, and Clerk/Treasurer Deaton

MINUTES

Councilmember Parisien stated on page 3 it says she stated at previous meetings, she believes Councilmember Kurtzweil said meeting, please remove the s. She further stated on page 5 it says Councilmember Kurtzweil stated the on the original warranty deed the word the before on needs to be removed. She further stated her name is misspelled on page 9.

Councilmember Kivell stated on page 10, it should state to eliminate potential perception of a conflict of interest.

Councilmember Rzyzi stated on page 10 he would like the following statements added as well as the letter from the City Attorney regarding the conflict of interest. He stated on page 12 in referring the City Attorney's 61% raise. He would like the following quotes added. "Councilmember Kramer stated are we talking about Glenn or are we talking about the City Attorney." "Councilmember Rzyzi stated we are talking about treatment and unfair treatment, this is all part of the conflict of interest." He also added "Councilmember Rzyzi stated and you made the recommendation to your buddy Glenn, that is what happened." He stated that was his comments regarding the City Attorney's raise.

Councilmember Kurtzweil stated on page 1, Tawn Veliger should be changed to Tawn Beliger. She further stated on page 3 the sentence can have a personal financial interest should be personal or financial consideration. She further stated on the same page it should be 2014, not 2004 and the sentence she further stated in that time some land was sold to a developer, should be changed to in some time the land was sold to a developer.

CM 12-1-16 MOTION TO APPROVE THE MINUTES AS AMENDED

Motion by Kivell, supported by Parisien

Motion to approve the minutes as amended

ROLL CALL VOTE: Kivell- Yes
Parisien- Yes
Rzyzi- Yes
Galeas- Yes
Wedell- Yes
Kramer- Yes
Kurtzweil- Yes

MOTION CARRIED UNANIMOUSLY

BILLS

Councilmember Kurtzweil stated she has a question regarding the entry for October 5th regarding multiple correspondence to and from the City Manager regarding Pullum Windows and a sewer line and easements. City Manager Ladner stated Pullum Windows is in the process of replacing a building that had burned down, and there is a question regarding the sewer line the City has that goes through the

12/12/16

property and if we have an easement from the original owner of the property. She further stated there is a need for a fire hydrant added. Councilmember Kurtzweil asked if that meeting was held at City Hall or at Pullum. City Manager Ladner stated it was at the City. Councilmember Kurtzweil asked if the second meeting with Pullum was held at City Hall or at Pullum. City Manager Ladner stated it was held at City Hall. Councilmember Kurtzweil asked about the telephone call on October 24th regarding that status of a local business. Attorney Wilhelm stated that was regarding the Grand Trunke business. Councilmember Rzyzi asked what the issue was with Grand Trunke. City Manager Ladner stated there is an issue with meeting the barrier free requirements. They sent their application to the State, but now the State has decided this has to be handled by the City. She further stated the City Clerk and herself have been contacting the Construction Board of Appeals members to find out if they are interested in serving again. She stated of the five members three have agreed to serve again, one has declined, and one has not returned phone calls. Councilmember Rzyzi asked if the other requirements have been completed at Grand Trunke. City Manager Ladner stated they have. Councilmember Rzyzi stated he knows it is a popular store and he wanted to make sure they haven't been getting any unfair treatment while we are trying to promote downtown businesses. City Manager Ladner stated they have not had any unfair treatment, we have been working with them, due to the State's administrative cuts, those types of applications will now be handled by the local jurisdictions.

CM 12-2-16 MOTION TO APPROVE BILLS

Motion by Kramer, supported by Wedell

Motion to approve the bills as presented

ROLL CALL VOTE: Kivell- Yes
 Parisien- Yes
 Rzyzi- Yes
 Galeas- Yes
 Wedell- Yes
 Kramer- Yes
 Kurtzweil- No

MOTION CARRIED

AGENDA

City Manager Ladner stated she has no additions or deletions.

CM 12-3-16 MOTION TO APPROVE THE AGENDA

Motion by Parisien, supported by Kramer

Motion to approve the agenda as presented

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

Carl Richards of 390 Lenox stated the DPW did a great job with the unexpected snow we had. Mr. Richards stated Cool Yule was outstanding, he was stationed at the caboose of the historical depot, so he didn't get outside much, but he did see Chief Kennedy with the firetruck helping Santa. He further stated the streets were filled with cars and it was one of the most attended one ever. Mr. Richards stated South Lyon Woods has installed all of the new playground equipment. He stated a lady came into the bakery very excited because there is going to be a new business in town, which is another pizza parlor. He further stated he had a conversation with some people and we have 10 pizza places, 5 restaurants and 1 high end that we can't afford to eat in, and 7 hair salons. He further stated the Chamber of Commerce has moved to New Hudson and has changed their name. Mr. Richards stated there is a new trailer park going

12/12/16

in with 1000 trailers at Rushton and 9 Mile which will affect the City. Mr. Richards stated we have 29 vacancies and he would like to see a new travel agency, a leather shop, shoe repair, ladies apparel such as Victoria's Secret, menswear store, art deco store, research facility and a special equipment store and or rental store.

OLD BUSINESS

1. Consider acceptance of property tax and poverty exemption criteria:
 - a. Establishing a limit on SEV meaning a property with an SEV above a set limit would not be eligible
 - b. Establishing a limit on the number of years a person is eligible for a poverty exemption

City Manager Ladner stated she was asked to add this item to the agenda by Councilmember Kurtzweil. Councilmember Kurtzweil stated she asked for this to be added so some loose ends could be tied up and she wanted to share her research with other councilmembers. She stated Council could set a policy and say the SEV value of property could be considered toward whether or not a person is eligible for a poverty exemption. She further stated her understanding of the research shows the intent of the statute was to help people keep their homes, not sell them. She further stated someone that has a higher valued home shouldn't be penalized because their value is higher than someone else's. She further stated she did not see any evidence that the SEV was being used in our policy, and her personal recommendation is not to use SEV as part of the resolution. Councilmember Kurtzweil stated the case Williams versus Detroit reflect the City of Detroit was not allowing a poverty exemption to anyone that did not own their home for a certain number of years. She further stated that was a MTT case, and the tribunal found that not to be valid, therefore she suggests we don't consider that as part of the resolution. Councilmember Kurtzweil stated the case of Mandel v City of Oak Park, which was also an MTT case. The City of Oak Park had a policy that stated a property owner could not apply for a poverty exemption more than 3 years in a row. The Tribunal stated that was ineligible criteria for poverty exemption because a person's income may not change from year to year, therefore she would like to reject that criteria as well. Councilmember Kurtzweil stated another issue is tying income to the property tax itself in regards to coming up with a formula, and she thinks Attorney Wilhelm should follow up with Tracey from Oakland County Equalization. She further stated that the Board of Review will have to be educated on the formula and she thinks it will put too much of a burden on them for making an assessment for a poverty exemption. She further stated she did not find any tax tribunal cases that spoke to the legitimacy of linking property tax liability and income, which means it could be a litigious issue if we adopt that. Councilmember Rzyzi stated there has been a lot of progress made with the Board of Review and it has moved out of the dark ages and also no longer violating City Charter by not having appointments. He further stated now we are having the appointments being made. He further stated we have training in place as well. Councilmember Rzyzi stated he would like to thank Councilmember Kurtzweil for bringing that to light and he is glad the whistle was blown. Councilmember Kivell stated he can't leave that hanging, he stated there was a Board of Review mistake at last year's BOR which was caused by the Oakland County Assessors and it caused an improper conclusion at the tumultuous BOR and to make the assumption we are now being saved by all of this additional stuff is silly. Councilmember Kurtzweil stated Councilmember Kivell isn't being truthful, what happened is the form used by the City was outdated and that caused some of the problems as well as other issues that contributed. The City was not staying updated on forms for the applicant. She further stated she believes Councilmember Kivell should review his understanding of the issue. Mayor Galeas stated it is all semantics in the end, we are moving forward in the right direction, and he thanked Councilmember Kurtzweil as well for bringing this

forward. Councilmember Wedell stated if we change the language to state we are adopting the Federal guidelines instead of having the year on the form, we will not have to change this every year. Councilmember Kurtzweil stated she agrees that is a constructive comment, since we are working on everything, that is a significant change which will help with efficiency. City Attorney Wilhelm stated he doesn't have any objection, but would like to check with OCE to make sure they don't have a specific reason for the year being on the form. City Manager Ladner stated this was already adopted unanimously by Council in November of this year, but we could change it next year for 2018.

2. Discussion of conflict of interest and consider next steps

a. Ratifying Pullum Windows bid acceptance votes

City Manager Ladner stated allegations have been brought before Council regarding a vote for the acceptance of two bids with Pullum Windows for 318 W Lake and 214 W Lake, both City owned buildings, and a conflict of interest. She further stated the conflict creates several issues for Council such as the vote conducted by Council on August 8th as a member of Council that is employed by Pullum Windows did not disclose that relationship and that same member of Council voted to approve the acceptance and contract. She further stated the next issue is to determine based upon City Code and the City Charter whether the actions of the Councilmember in question rise to the level of a criminal act as outlined in the City Charter and Financial Interest sections or qualify as a violation of the adopted Code of Ethics as outlined in the City Code. City Manager Ladner stated she contacted three law firms to ensure the investigation is conducted in an impartial and transparent manner and she contacted the MML and was given the names of three attorneys, but eliminated one because they do the City's bond work. She further stated she contacted two of the firms if Council decides to seek outside assistance with this issue. Councilmember Wedell stated he suggests we separate the motion into two separate motions, one to ratify the contracts, and one to approve contracting with outside Counsel to investigate the allegations. Attorney Wilhelm stated there were three separate motions on August 8th for the waiving of the bid process, and both contracts for the two City buildings, so Council may decide to do three separate votes. Councilmember Kramer asked if Councilmember Kivell is going to recuse himself on the vote. Councilmember Kivell stated he would. Councilmember Rzyzi asked Attorney Wilhelm if he suggests Councilmember Kivell leave the room as he suggested for Councilmember Kurtzweil. Attorney Wilhelm stated he believes the best practice for a Councilmember with a conflict of interest is for that person to volunteer to leave the table and the room until the matter is over with. Councilmember Kurtzweil stated it is an open meeting, no reason for him to leave the room. Attorney Wilhelm stated this is recommendation to the Councilmember with a conflict, he is not demanding or asking the Councilmember to leave the room. Mayor Galeas stated he likes what City Manager Ladner has done with this memo, and he believes this will take away most of the personal issues, and using an impartial person will help us avoid the road we went down at the last meeting. Councilmember Kurtzweil stated she wanted to thank everyone that emailed her with their kind thoughts, and the information she gave on conflicts of interest. She stated her issue with the contracts is that this is a commercial transaction. We have to be aware of the procurement process of a commercial transaction. The procurement process is when you are obtaining a contract deals with writing up the bid, sending out the bids, receiving the bids, opening the bids, how you reward the bid, how the contract is written up, and how you procure the contract through the delivery of services and then payment of the contract. She further stated in the procurement process, the bidding and awarding of contracts is the most susceptible for conflicts of interest. She further stated this is a very grave issue. If you look at the history of the City of Detroit, Kwame Kilpatrick's public corruption charges arose because of awarding public contracts and conflicts of interest. She further stated the underlying contracts and underlying bidding is a very serious matter because it could lead to public corruption. That is not being alleged, but those are issues that can arise if there is a conflict of interest during a procurement

process. Councilmember Kurtzweil stated she is not comfortable voting on these contracts tonight because she is an officer of the court and she doesn't understand all the facts that are important to approve the contracts. She stated we have a waiver for the bidding process in one of the contracts, and she needs more information regarding the underlying facts of the conflict and the approval of the contracts. She stated she understands Councilmember Kivell stated he was not involved in the bidding process, but there wasn't a lot of honesty on August 8th. She further stated if you read the minutes that were just approved tonight, it says Councilmember Kivell stated after the bid was achieved Charlie Pullum told him he doesn't believe Lt. Sovik understood what was going on with the windows. She stated something was going on whether it was after the bid process or not. She further stated the public needs some assurance that the contracts were rewarded without any hint of a breach of public trust. Councilmember Wedell stated the bid process was completed through the Police Department. Chief Collins stated they contacted six different companies, only two made bids and Pullum Windows was the low bid. Councilmember Wedell stated that is consistent with the City's policy of bidding and awarding contracts, therefore he doesn't understand why we cannot move forward with the contracts. Councilmember Rzyzi asked Chief Collins if we received a breakdown of the labor cost, material and such. Chief Collins stated he did. Councilmember Rzyzi stated he would like to see how the investigation shakes out, there is serious issues happening. We began with a letter stating there is a conflict of interest, then we get a letter saying there was no financial interest. He further stated when you are producing \$42,000 of windows there is a lot of production going on. Councilmember Rzyzi stated he will not sweep these things under the rug and he will not vote on this until the investigation is done. Mayor Galeas stated this is not going to be solved tonight that is why the outside investigation will be done. Mayor Galeas asks where this leave us. Attorney Wilhelm stated the windows are installed and paid for, it could leave us with making a payment on a contract for services that is now an invalid contract. Councilmember Parisien stated Pullum has a great reputation, it is a local business, and they were the lowest bidder, and knowing what she knows now, she would have still voted the same. Councilmember Kramer stated to put this in perspective, the quotes the Police Department received, one was from Pro Brothers for \$25, 938 and the other quote was from Pullum for \$24,060.39 and that was just for the Police Department. They had also contacted Hansen, Wallside, Pella and they all declined. The Police Department did their due diligence; therefore, he doesn't have a problem voting on the contracts, that is a separate issue from the conflict of interest. Councilmember Kurtzweil stated if the contracts are void, how does that prejudice the next bidder in line, it is a complicated UCC issue. Councilmember Kramer asked what the recourse is considering the windows are installed and payment is made, and will it affect anything if we wait on the vote until the investigation is complete. Attorney Wilhelm stated he would have to do some research, but he believes they should handle the contracts in some manner. Councilmember Rzyzi stated based on the conflicting letters, he believes the recommendation should be handled after the investigation. Councilmember Wedell rescinded his motion.

b. Consider and identify ways to conduct investigation and next steps

Councilmember Kurtzweil stated the research and analysis City Manager Ladner did is very impressive. She stated all the issues are included. She found #7 review of the existing City policies and procedures regarding conflict of interest is very impressive and shows great leadership. She further stated this shows City Manager Ladner is looking to improve the City and how it does business. She further stated that is why she will vote for the outside counsel, and she believes the moral compass of the City needs to be adjusted a little. Councilmember Rzyzi stated he would also like to thank the City Manager for the memo. He also wanted to thank her and he is most impressed with how quickly she acted upon this when there was a hint of public corruption by lining up outside counsel. He further stated this is the right way to go, any allegation needs to be investigated. Mayor Galeas stated he also agrees #7 is important. He

further stated times are changing and he is surprised in smaller communities this doesn't come up more often. We all need to pay a little more attention to our actions. Councilmember Kramer asked who the contact person will be and will we get multiple reports or one final report. City Manager Ladner stated she will be the contact person, and we will get one report when the investigation is completed. She further stated the attorney will also discuss his findings with Council. Discussion was held regarding the two firms that made proposals for the investigation. Councilmember Parisien stated she would like more information regarding time frames and estimate of costs. Councilmember Rzyzi stated the analysis by Mr. Dykema seems to be more concise than the proposal by Barr, Anhut & Associates. City Manager Ladner stated they are professionally on an equal level. Councilmember Kurtzweil stated the damage is done and we need to move forward, either of the attorneys will be fine with her, and we will become a better City when it is completed. City Manager Ladner stated Mr. Barr may possibly have more time to spend toward this, because Mr. Mustkovitz of Dykema is involved with many different organizations as well as the MML. Councilmember Kramer stated he would prefer Dykema.

CM 12-4-16 MOTION TO APPROVE AGREEMENT WITH BARR, ANHUT & ASSOCIATES P.C.

Motion by Kurtzweil, supported by Rzyzi

Motion rescinded

CM 12-5-16 MOTION TO APPROVE AGREEMENT WITH DYKEMA

Motion by Kurtzweil, supported by Rzyzi

Motion to execute agreement and retain services with Dykema regarding matters raised in the City Manager conflict of interest review report.

VOTE: MOTION CARRIED UNANIMOUSLY

NEW BUSINESS

1. Consider approval of meeting dates for 2017

City Manager Ladner stated each year we approve the City Council schedule, there is only one change next year. The second meeting in December scheduled for a Wednesday because the 25th and 26th will be closed for city holidays.

CM 12-6-16 MOTION TO APPROVE CITY COUNCIL SCHEDULE FOR 2017

Motion by Kramer, supported by Wedell

Motion to approve the City Council schedule for 2017 as presented

VOTE: MOTION CARRIED UNANIMOUSLY

Councilmember Rzyzi stated last year there was a new Council, and he has thought about this, and the meetings have been going late, and he knows the employees wouldn't mind having an extra night at home with their families, therefore he would like to make a motion to cancel the second meeting of this month.

CM 12-7-16 MOTION TO ADD VOTE TO CANCEL THE DECEMBER 26TH MEETING TO THE AGENDA

Motion by Rzyzi, supported by Kramer

Motion to add vote for cancelling December 26th meeting to the agenda

ROLL CALL VOTE: Kivell- Yes
Parisien- Yes
Rzyzi- Yes
Galeas- Yes

12/12/16

Wedell- Yes
 Kramer- Yes
 Kurtzweil- Yes

MOTION CARRIED UNANIMOUSLY

CM 12-8-16 MOTION TO CANCEL THE SECOND MEETING OF THE MONTH OF DECEMBER

Motion by Ryzyi, supported by Kurtzweil

Motion to cancel the December 26th Council meeting

VOTE: MOTION CARRIED UNANIMOUSLY

DISCUSSION- Downtown

Councilmember Kivell stated Bob Donohue is doing a great job.

Councilmember Ryzyi asked the status of the South Lyon Hotel. Mr. Donohue stated the site plan was approved, and they were given approval to proceed with soil compaction report and if that is approved, they can proceed with installing footings. It appears everything is in order. He further stated he was told they are hoping to open on July 1st of 2017. Councilmember Ryzyi stated the weekly report stated he was in talks with six different businesses. Mr. Donohue stated it is a continuous conversation because we don't have buildings for new businesses therefore he is having discussions with building owners to see if we can relocate some of the business out of the retail area. He further stated the former Kathleen's building will have a new store for women's clothing, also a shabby chic furniture store in the downtown area as well. He further stated we are expecting a new restaurant in January or February to come before Council.

Councilmember Kurtzweil asked Mr. Donohue where we are with the commercial rehab district. Mr. Donohue stated he is working on that along with other incentives. Councilmember Kurtzweil stated he may want to contact the Wyandotte DDA. They have economic grants they can apply for. Mr. Donohue stated he has facilitated six or seven different façade programs at his past job at Oakland County.

Councilmember Parisien stated there was discussion at the DDA meeting that there would be a match by the City for business owners that want to update their façade. Mr. Donohue stated they are investigating that and we will have more information on that shortly. Councilmember Parisien stated Mr. Donohue ran a great meeting, and she is very impressed with our DDA. She further stated the meeting was run really well, and we as a Council could take some pointers from them.

MANAGERS REPORT

City Manager Ladner stated if the weather holds, the ice skating rink at the overload parking lot in McHattie Park should be ready shortly. City Manager Ladner stated Anne Badarak our Building Department Secretary is retiring as of January 27, 2017. She stated we are looking forward to the future but she will be missed. She further stated most administrative employees received training on the new website for updating and we are hoping to begin the online bill pay and the new website the beginning of January. City Manager Lander stated we received 2 checks from MMRMA for \$19,979 for access net access, and a check for \$8,715 for state pool access. City Manager Ladner stated City Hall is closed the 23rd, 26th, 30th of December and the 2nd of January for the holidays.

Councilmember Kurtzweil asked if the flags are taken down before Veterans Day. Department Head Martin stated they were not, but the DPW doesn't remove them, the VFW remove them.

COUNCIL COMMENTS

Councilmember Kurtzweil stated she would like to thank all the seniors that are knitting blankets and hats and doing many good things for people they have never met. She stated they are finding compassion in

12/12/16

their hearts to help people that they will never meet and she would like to thank them for reaching into their hearts particularly at this time of year. Councilmember Kurtzweil stated every subdivision in the City looks wonderful, but Hidden Creek is like a winter wonderland and she wants to thank all of her friends and neighbors that participate in this. She further stated it is breathtaking and they do it for our community. She further stated she wants to wish a Happy Hanukkah to the Jewish members of the community and Merry Christmas to everyone and please share the miracle of Christmas with everyone.

Councilmember Kramer stated he would like to thank everyone on Council for the meeting tonight, everyone treated each other with respect and he hopes this continues through the new year.

Councilmember Wedell stated he agrees and we had a very good meeting tonight. He further stated he enjoyed Cool Yule and he is appreciative of the clean streets he woke up to today and he is thankful for the City services and he would like to wish everyone a Merry Christmas.

Councilmember Rzyzi stated the DPW does a great job every year. Department Head Martin stated the cleaning of the streets began a long time ago, he stated the employees do a great job and keep an eye on the equipment so we can replace or fix things as needed before the snow flies. Councilmember Rzyzi stated the Holiday party is this Wednesday and he wants to thank all the employees, Election Inspectors, and all the members of the Boards and Commissions. He further stated Hidden Creek has great Christmas lights, as well as some very nice ones on Lake Street. Councilmember Rzyzi wished everyone a Merry Christmas and Happy New Year. He further stated with the November election next year we may see some new Councilmembers and he sees many positive things coming our way.

Councilmember Parisien stated she would like to say great job by the DPW for the clearing of the snow. She further stated she watched the Discover the D and it was a great show. They did a great job touching on multiple businesses in South Lyon and it is something worth everyone seeing.

Councilmember Kivell stated lights have been added with Michigan Seamless Tube where the ice rink is located near the tube mill and it is nice having companies in the community that are very generous and willing to work with us. He further wished everyone a Merry Christmas and Happy New Year.

Councilmember Kurtzweil stated she would like the memo from the City Manager regarding the conflict of interest review to be added as part of the minutes. (see attached memo)

Mayor Galeas stated he would like to thank the students for attending. He further stated he attended Cool Yule and it was amazing, and seeing all the kids with the glow sticks was great. He further stated the weather was great and it has been growing each year, and he is happy to see so many people getting involved. Mayor Galeas asked Chief Kennedy to speak about the award given to Cindy Conrad. Chief Kennedy stated each year the command staff does a review of our staff and Cindy Conrad has been one of the best of the best for 2016, she has been part of the staff for two years. Mayor Galeas stated he would like to wish everyone a Merry Christmas and Happy New Year.

ADJOURNMENT

CM 12-9-16 MOTION TO ADJOURN

Motion by Kramer, supported by Kurtzweil

Motion to adjourn at 9:06 p.m.

VOTE: MOTION CARRIED

Respectfully submitted,

12/12/16

Mayor John Galeas

Lisa Deaton Clerk/Treasurer