

City of South Lyon  
Regular City Council Meeting  
March 22, 2021

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

Roll Call: Mayor Pro Tem Kivell joined the meeting from South Lyon MI, Councilmembers: Dilg joined the meeting from South Lyon MI, Kennedy joined the meeting from South Lyon MI, Kurtzweil joined the meeting from South Lyon MI, and Walton joined the meeting from South Lyon MI  
Also, present: City Manager Zelenak, Attorney Hamameh, Chief Sovik, Chief Vogel, Finance and Benefit Administrator Tiernan, DDA Director Mack, Superintendent Varney and Clerk/Treasurer Deaton

Councilmember Richards joined the meeting from South Lyon at 7:40 p.m.

MINUTES

3-1-21 MOTION TO APPROVE MINUTES OF MARCH 1, 2021

Motion by Kennedy, supported by Kivell

Motion to approve the minutes of March 1, 2021

Councilmember Kivell stated on page 5, the word flush, should be changed to flesh.

VOTE: MOTION CARRIED UNANIMOUSLY

CM 3-2-21 MOTION TO APPROVE MINUTES OF MARCH 8, 2021

Motion by Kivell, supported by Kennedy

Motion to approve the minutes of march 8, 2021

Councilmember Kennedy, stated on page 3, it should say Lieutenant Baaki, not Sargent.

VOTE: MOTION CARRIED UNANIMOUSLY

CM 3-3-21 MOTION TO APPROVE MINUTES OF MARCH 11, 2021

Motion by Dilg, supported by Kennedy

Motion to approve minutes of March 11, 2021

Councilmember Kennedy stated the word only needs to be added on page 4.

Councilmember Kivell stated the word ignition should be changed to emission

VOTE: MOTION CARRIED UNANIMOUSLY

BILLS- None

AGENDA

CM 3-4-21 MOTION TO APPROVE THE AGENDA AS AMENDED

Motion by Kennedy, supported by Kivell

Motion to approve the agenda as amended

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

Sofia Santana of 26566 Pontiac Trail stated she has lived here for almost 5 years and she loves it. Her comments are not meant to convey a lack of sympathy to the sensitivity of the issues facing a rapidly aging population. If anything, she thinks it is a beautiful thing to see neighboring municipalities

embracing new senior oriented housing developments, including the one at 8 Mile and Pontiac Trail. She then stated in the same vein, an adult foster care facility, or AFC for short is an idea that sounds good on paper, but to be able to move a senior into a family like environment versus a large facility, but there will be entities that excel and those that do ok by meeting the minimum standards and others that raise serious questions as to how they are allowed to remain operational. The problem started about a year ago, there are 3 houses on their street that is comparable to a standalone cul de sac, and her home is on 6 acres, her neighbor is on 3 and the house in question is on 1. She then stated the house on 1 acre was foreclosed on and was purchased by an LLC in March 2020. They weren't aware it was an LLC until several months went by and no one moved in and seeing contractors going in, we wondered what was happening. She then stated in September 2020 Suzi's bar hosted a private street care meet up, and things got out of hand and there were 200 plus people there and people racing on Pontiac Trail. She and her neighbor rushed out to see what was happening, and in the midst of that the LLC owner showed up and it appeared they had a guest in the back seat, and she was forced to explain that the house was going to be a senior home. She then stated they began doing their homework. She learned the Michigan Dept of Licensing and Regulatory Affairs knows as LARA oversees the licensing of nursing homes and senior group homes. There are several licenses and the proposed one for 26650 Pontiac Trail would be an adult care foster home for up to 6 people. She then explained the staffing that would be required for such a home, which could include up to 6 plus vehicles on her private drive, along with visiting vehicles from family members and medical transport vehicles. She stated the increased traffic included with the transient and high turnover rate of traditional home health workers, would significantly alter her way of living. She said they spend the majority of their time outdoors maintaining their properties and their property was purchased for the privacy and safety afforded for being on a private driveway. She stated the bigger picture everyone should take offense that an LLC with a flawed record is attempting to sneak its operation into the City. She then asked anyone listening if LARA has met the 45-day notice. She stated they have a history of not doing so. Until 2006 there would have been statutory notice given to the City and the City would have had to notify neighboring property owners. The Michigan Supreme Court struck that down because it was viewed as violating the Federal Housing Act which prohibits housing discrimination among a number of classes of individuals including those with mental disabilities including seniors with dementia. While that seems appropriate, the decision in effect is eliminating the rights of neighboring property owners to have any say in the decision. She then stated she isn't sure how the owners of Carriage Trace would react if they found an elderly person in distress in their backyard, they wouldn't know what to do. She then explained the pandemic has exposed the flaws in our State government in not protecting our seniors and it has become a political issue which she doesn't agree with. She thinks these happened previous to our Governor. She further stated in the past, challenges to the fair housing act have been proven largely unsuccessful, leaving homeowners at the mercy of the discretion of LARA approving licenses in areas they know little about. She then stated there is an emergency concern regarding their gravel driveway which is a hazard to the initiated, which is how she refers to it. She and her neighbor can handle it with their larger vehicles, but it may be uncomfortable for seniors. Ms. Santana stated she has included contact information for LARA as well as the licensed social worker charged with reviewing their license application. She then stated she and her neighbor penned a letter to LARA and they have learned more about the company that owns 26650 Pontiac Trail. She stated they solicit job applications on Facebook versus using resources better to finding workers. She then stated there is evidence the LLC has a facility in Milford that is operating without a license that houses up to 15 seniors, she then stated there was a 2019 online series compiled by volunteer journalists and volunteers and the LLC appears to be potentially corrupt system of business entities and attorneys that specialize in obtaining conservatorships and guardianship authority over seniors that are placed in group homes while their assets are sold off to cover the cost of their care. She then statute the findings were published on a

website called [www.thedailykos.com](http://www.thedailykos.com) and it alleges there are over 3,000 seniors caught up in this in Oakland County. Ms. Santana discussed other cases such as the one in Genoa in 2020 which appears, the owner was stealing prescription pills from a senior and another case in August 2019 where the manager was dinged for giving controlled substance that were left over by past residents. She stated LARA made note of that but shortly after a new license was issued for the same facility with the manager listed as owner. She stated those situations are the norm and LARA will only site violations in their inspection reports and only requires as a remedy a written response on how they will rectify the situation. Most are found during inspections is of value a lengthy history of health code violations at its Milford facility, and violations at its Novi and Highland facility. She then stated that property does not have air conditions, that will not be comfortable for seniors.

#### DISCUSSION- Downtown

Nate Mack, the Economic and Downtown Development Director stated he sent out the restaurant relief program to the County and he has received 2 applications back asking to receive funds and there seems to be a lot of interest. He stated all the funds have to be allocated by June 30<sup>th</sup>. Mr. Mack stated the Lyon Area Task Force is working on another survey to send out to businesses this week, and it will be used to see where business is at this point in time. He stated he will be attending the Michigan Downtown Association Spring conference this Friday which will fill the requirement for the historic preservation aspect of the Michigan Downtown Certified Professional program. He stated we received a drawing for 106 S Lafayette although it wasn't completed. The owner is now changing the space from not a restaurant specifically to a white box retail space, so they are open to a retail business or restaurant coming there. He stated we will have the 3 sanitation stations delivered this week from the County. Councilmember Kivell stated he is excited about 106 S Lafayette and everyone will be happy with something there that is an active revenue generator rather than sitting vacant. Discussion was held regarding ordering the flowering baskets for downtown. Councilmember Kurtzweil stated Duke has some good suggestions about what will look good downtown and she has already ordered the flowers for Paul Baker park. Councilmember Walton recommended that we match the flower pots at the Veterans Memorial to the downtown flower pots.

#### FIRE CHIEF REPORT

Chief Vogel stated the Fire Department was very busy today with the gas leak that caused havoc. He is thinking we should do some cost recovery. The contractor working at the site nicked the main feed even though it is marked. We spent a couple hours out there. We had a few other calls so we ended up having to use the ladder truck. He then stated he spoke with the vendor for the ladder truck, and they will come here at their cost, and they promised we will have a demo truck in our City in May and everyone can come see it.

#### POLICE CHIEF REPORT

Chief Sovik stated he has given everyone a South Lyon Police Department mask with their packets and Councilmember Kurtzweil and Dilg also received t-shirts for their donations during the no shave November event. He then stated we are knee deep in the accreditation process and we will come out as a better department and with more transparency and practices and adding new policies so that has been a good process for us. He stated he just received the applications for the cruising events this year and the Motorfest so he will be reviewing them in the next few days. Chief Sovik stated apparently, we need more communication devices between the Fire and Police Department before the phones will be installed and working. He is hoping between April 5<sup>th</sup> and the 19<sup>th</sup>. Councilmember Dilg thanked him for the shirt and the mask. Councilmember Kurtzweil asked Chief to explain the organization. She then stated the

Lathrop Village logo on the back of the shirt was designed by her husband years ago. Chief Sovik stated the pigs 4 wigs is a nonprofit organization and we participate in the no shave November and if the officers want to participate, they can make a donation of at least \$50.00 and all the proceeds go to the wigs for certain diseases and ailments and help with their self confidence and the letters and phones we get from our sponsors is very moving and we are very happy to be a part of it. Councilmember Kivell asked who is coming up with the new things that are needed to make the new phone system run. Chief Sovik stated is a combination of our IT company and Comcast and this hasn't been a smooth process but he knows the service will be reliable when it is completed. He stated trying to get everyone involved together at one time has been an issue. It may cost a little more before its finished. Councilmember Kivell stated he has heard often that Comcast is difficult to get past things completed, but they have a reliable system when its finished.

UNFINISHED BUSINESS- None

NEW BUSINESS

1. Purchase and installation of an induced draft aerator for the water treatment plant  
 Doug Varney, the Director for Utilities and DPW stated we have an induced draft aerator for the water plant that has failed and needs to be replaced, it is a budgeted item and will be purchased through the capital improvement fund 592-557-970. He further stated the cost will be \$62,997.00 He then stated the removal and installation was advertised with 5 local contractors and only one contractor responded and furnished a proposal in accordance with the job announcement. Councilmember Kurtzweil stated the aerator takes the dissolved solids and oxidizes them so they can easily remove through the filtration process. Mr. Varney stated that this is correct and if we didn't have the IAD online we would have a lot more iron the water. Councilmember Kurtzweil stated the end product when using the aerator is better tasting drinking water. Councilmember Kennedy thanked him for reiterating the information he gave Council a few months ago and asked when the installation will be. Mr. Varney stated he is hoping within the next few months.

CM 3-5-21 MOTION TO APPROVE PURCHASE

Motion by Kennedy, supported by Walton

Motion to approve the purchase of and installation of the induced draft aerator for the water plant for the amount of \$94,797.00 under line item 592-557-970

ROLL CALL VOTE:

Dilg- Yes  
 Kennedy- Yes  
 Kivell- Yes  
 Kurtzweil- Yes  
 Richards- Yes  
 Walton- Yes  
 Pelchat- Yes

MOTION CARRIED UNANIMOUSLY

2. State of emergency

City Manager Zelenak stated he is brining forth a resolution declaring a State of Emergency due to the COVID- 19. In October the City declared a State of Emergency to protect the peace, health, safety and general welfare of its residents due to the pandemic. Part of the declaration allowed the City to hold meetings virtually. The resolution will extend the State of Emergency to August 31<sup>st</sup> to continue to

protect staff, boards and residents. If we feel its appropriate to shorten the timeframe of this emergency order, the City Council can make that decision at a later date.

CM 3-6-21 MOTION TO APPROVE EMERGENCY RESOLUTION

Motion by Walton, supported by Dilg

Motion to approve resolution declaring a Local State of Emergency to protect the peace, health, safety and general welfare of our community

ROLL CALL VOTE:

Kurtzweil- Yes

Richards- Yes

Walton- Yes

Dilg- Yes

Kennedy- Yes

Kivell- Yes

Pelchat- Yes

MOTION CARRIED UNANIMOUSLY

3. Charter Amendments

City Manager Zelenak stated Council has previously discussed the potential to make charter amendments to address issues pertaining to quorum requirement, notices of special meetings, nominations and potential conflicts of interest between state law and charter. Additionally, filling a vacancy on Council. Last November we placed on the ballot an item relating to our quorum requirement. Councilmember Kennedy stated we previously discussed filling a vacancy and asked if there is a reason that wasn't drafted. Attorney Hamameh stated she hasn't drafted anything yet; she is just asking Council what they are interested in having amended. Councilmember Kennedy stated he feels we should follow the process the County uses when there is a tie vote for filling a vacancy. He then stated the process the County uses is a lot drawing, basically you put two names in and the Clerk will pull a name out. Attorney Hamameh stated she tried to find how other communities deal with a tie vote. She further stated we have a section that states if there is a tie vote in an Election, it is laid out by Election Law. She then stated our Charter talks about filling vacancies for City Council and if there is a tie, is what we are discussing. She stated the Charter currently reads, if there is a vacancy in the elective office, it has to be a majority by Council to fill a vacancy. It is vague in the Charter, and it is also vague in other Charters as well. She presumes it will force a decision by Council. She further stated the City of Wixom copied what the Election Law is for township. Basically, it gets specific, which is if there is a tie, and no one is selected in 60 days, you have to go to a special election. She stated some other communities copied that law. There is case law and there is clear direction on how to handle it. Councilmember Kennedy stated he is fine with that, there just has to be some way to fill that vacancy. Councilmember Kivell stated the problem is if we have to have a special election, we could be without that 7<sup>th</sup> person for a long time, the beauty of doing the draw is it's settled that night. He doesn't have a problem with that. He then asked why we keep getting confidential communications, and he doesn't see anything that is confidential. Attorney Hamameh stated we should be able to communicate without worrying about other people getting their hands on it. She further stated for example, the quorum amendment, she didn't want that information out there because someone could challenge a decision before it was fixed. Councilmember Kurtzweil stated there isn't much attorney client confidentiality because we are talking about it in the open forum. She stated the reason people have used a name out of a hat is because you are looking for a statistically random choice that is biased towards one candidate or another. That is why the lot way has been used in the past, because it doesn't permit either side to bias. She then stated the reason special elections are approved is, because it is a pro voter solution. It is allowing the voters to make the decision and not just a couple of people in the governing body, and you hope that is how most of the decisions are made. She then stated

she isn't opposed to a special election, rather than 3 or 4 people on a City Council. Councilmember Kivell stated it would be 6 people making the decision to make the draw. City Attorney Hamameh stated she would like to get a consensus of Council if they would prefer the Election Law for townships or by the draw. She then stated she highlighted 4 items that was discussed last year, then there a conflict-of-interest concern. She then reminded Council that the Charter requires unanimous consent by Council to allow someone not to vote if you have a conflict of interest, and we discussed potentially removing the unanimous consent. She stated that may fix the concern. Councilmember Kurtzweil stated the issue for example is, if she has a client, and there is a conflict of interest, and Council says too bad, you have to vote, Council cannot control the code of professional conduct that holds her license under, and that would be challenged immediately in the courts. That is why she has argued for that. City Attorney Hamameh stated it appears we are at 6 questions and that could be a problem due to the size of the ballot. She will come up with language for all 6 and then we can decide if we want to push some off until the following year. Councilmember Kennedy stated he is good with doing it by draw because if the voters aren't happy with that person, they can vote that person out at the next Election, as opposed to paying the cost of a special election. Councilmember Dilg sated she would rather go with the special election. Councilmember Kivell stated he is fine either way, the problem is if there is enough conflict that you can't come to a consensus on someone being appointed, chances are there will be contention as it goes forward until the Election and you better buckle up. Councilmember Kurtzweil stated the better reasoning is this Council is working pretty well and she doesn't think anyone is going to act to disrupt the momentum that this Council has and it is only until the fall. Councilmember Walton stated she agrees with Councilmember Dilg and she would rather have a special election. Councilmember Kivell stated this issue isn't with this Council, it is about how the Charter looks at this issue anytime the situation comes up irrespective of who's on Council, we are trying to fix something that doesn't exist right now. Mayor Pelchat stated it is good if we have a solution if that ever happens. He then asked if Attorney Hamameh can write the amendments both ways, and then Council can decide, he is on the fence as well.

CM 3-7-21 MOTION TO DIRECT CITY ATTORNEY TO MOVE FORWARD WITH DRAFT LANGUAGE

Motion by Kurtzweil, supported by Walton

Motion to direct Attorney to begin draft amendments to the Charter as outlined in Memo, including the two areas that were debated tonight, including filling a vacancy and conflict of interest.

ROLL CALL VOTE:

Kivell- Yes  
 Kurtzweil- Yes  
 Richards- Yes  
 Kennedy- Yes  
 Dilg- Yes  
 Walton- Yes  
 Pelchat- Yes

MOTION CARRIED UNANIMOUSLY

BUDGET- None

PUBLIC COMMENT- None

MANAGER'S REPORT

City Manager Zelenak stated he has mentioned we need to schedule our budget meeting, and based on responses from Council, the meeting will be held Thursday April 8<sup>th</sup> 6:00 p.m. He then stated we are moving forward with the annual garage sales. The city-wide yard sales will be held April 29<sup>th</sup>, 30<sup>th</sup> and May 1<sup>st</sup> and 2<sup>nd</sup>. We will not be charging the yard sale fee again this year, but we will be asking people to

contact us with their address so we can ensure people aren't holding them on a regular basis. He then stated the 17<sup>th</sup> annual South Lyon 17<sup>th</sup> annual creek clean up will be held on Sunday April 18<sup>th</sup> at 9:00 a.m. to 1:00 p.m. City Manager Zelenak stated on a future agenda, we will have the mural ordinance. Councilmember Dilg asked if LARA gave us the 45-day notice. Councilmember Kurtzweil stated she attended the CapCon this week and a few issues came up. She stated the question is if you have someone that is on council but can't attend a closed session, and that person attempts to gain knowledge of what happened in the closed session. She stated 2 attorneys stated that is an issue, but they have never dealt with it. She further stated it is important to have a procedure in place in case it happens. The attorney's recommend Council to not engage in that conversation. Rather than getting into that, their suggestion was allowing that person to read the minutes. Attorney Hamameh stated she has always been under the opinion you cannot discuss what happens in a closed session, an alternative would not be the minutes because those are not normal minutes, they are basic. Councilmember Kurtzweil stated that according to the State, minutes are taken during closed session, then the Clerk holds onto them for a year and then they're destroyed and they are only opened by court order. Attorney Hamameh stated she is confident the minutes are very skeletal, you have to state who is there, and what the topic was. She further stated, she can have a conversation with the person that was absent without disclosing what was said in closed session. Councilmember Kurtzweil stated another issue that was brought up was virtual meetings. Do you have to be in the jurisdiction that you were elected when joining a meeting virtually? She further stated you do not have to be. you have to say the location you are in at the time of the meeting. Councilmember Kivell stated he thinks the idea was that you should be in your jurisdiction predominantly when joining meetings. Councilmember Kivell asked when the changes will be made on the zoning ordinance. He then asked what occurred at the zoning board meeting. City Manager Zelenak stated the requests for variances for Suzi's was granted, and the 2<sup>nd</sup> item was tabled until the next ZBA meeting which will be April 15<sup>th</sup>.

#### COUNCIL COMMENTS

Councilmember Walton thanked Sofia Santana for joining the call tonight, she knows it takes a lot to stand up and make public comment and she appreciates her input. She then congratulated a young man named James who is working on his Eagle Scout project and he is making cat shelters for Furry Friends Rescue and you can contact them if you would like to have one. She further stated normally people put them out in the winter, but right now you can get one or get on the list for next year.

Councilmember Kurtzweil stated spring is here and if you need garden tools sharpened stop by Peter's True Value in downtown and the flowers will be in May 1<sup>st</sup>. She then stated the Cultural Arts Commission is planning an incredible month in April dedicated to poets. She stated they are doing an incredible job and there will be some poets with international reputations. It is outstanding. She then stated like Steve, she has also helped people obtain the vaccine and she has been since January for the Moderna and the Pfizer vaccine. She then stated that Ford Field will be starting their vaccination operation on March 24<sup>th</sup> from 8 a.m. to 8:30 p.m. 7 days a week for eight weeks under a government vaccine program. The Ford Field Clinic will be able to give up to 6,000 vaccinations a day, and she is supporting that and assisting people with that. The support comes from FEMA and Wayne County, Meijer, Ford Field and the Detroit Lions and mostly importantly the Ford Health System. There will be plenty of doctors if you have problems after the vaccine, it is an incredible event and she is proud to be associated and assisting on getting people to sign up. You have to go online at [clinic.meijer.com/register/c12021](https://clinic.meijer.com/register/c12021) or text `endcovid` to 75049 or contact Health and Human Services at 888-5365-6136 and press 1. If you need assistance, contact her and she will help. She then thanked Steve for his efforts on this too.

Councilmember Kennedy asked if she wanted to provide contact information because a lot of people don't have access to computers. Councilmember Kurtzweil stated 248-446-9664. Councilmember Kennedy then reminded everyone of the annual creek cleanup event in South Lyon. It will be held Sunday April 18<sup>th</sup> from 9:00 a.m. to 1:00 p.m. Everyone should meet at 400 McMunn Street.

Councilmember Kivell stated he is looking forward to seeing what happens at 110 Detroit Street and we've caught a reprieve and the building is remarkable how much better it looks with just getting the debris removed. There are some high-quality architectural details that have clearly fallen into deep disrepair. The promise is at least there is a chance life can be brought back into it and coupled with 106 S Lafayette we might end up with two really nice retail or restaurant locations.

Councilmember Richards stated he hopes 110 Detroit can become a counseling center, it isn't appropriate as a home and at this time the property owner hasn't pulled a permit although he doesn't have to if he is just doing clean up. He then stated the footing that is in the backyard inside of the fence is a historic site, it was a garage for horse shoeing and it was a school house in the 1840's. He then stated as a senior, he has tried to get a covid shot, and he hasn't been able to. He can't register in person; it has to be done online. There has to be some avenues available to seniors. He then stated he hopes we haven't created confusion on garage sales, it seems if someone wants to be able to do the city-wide yard sales, they are still eligible for one more permit at regular price during the year and if they don't do the city wide, they can have 2 permits which is \$5.00

Mayor Pelchat congratulated the Girls and Boys East Basketball teams on winning the Lakes Valley conference and the districts are beginning this week. He then wished all the South Lyon team's good luck.

#### CLOSED SESSION

##### CM 3-8-21 MOTION TO ENTER INTO CLOSED SESSION

Motion by Kurtzweil, supported by Kennedy

Motion to enter into closed session pursuant to Section 8 ( e ) of the Open Meetings Act to discuss pending litigation in Alexander's vs City of South Lyon at 8:57

ROLL CALL VOTE:

Kennedy- Yes  
Kivell- Yes  
Walton- Yes  
Richards- Yes  
Dilg- Yes  
Kurtzweil- Yes  
Pelchat- Yes

#### ADJOURNMENT

\*Council reconvened the open session at 9:15p.m.\*

##### CM 3-9-21 MOTION TO PROCEED AS DISCUSSED IN CLOSED SESSION

Motion by Kennedy, supported by Kivell

Motion to proceed as discussed in closed session

ROLL CALL VOTE:

Kurtzweil- Yes  
Richards- Yes  
Kivell- Yes  
Kennedy- Yes  
Dilg- Yes

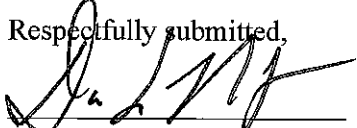


Pelchat- Yes  
MOTION CARRIED – 1 absent

ADJOURNMENT

Motion by Kivell, supported by Kennedy  
Motion to adjourn at 9:16 p.m.

VOTE: MOTION CARRIED UNANIMOUSLY

Respectfully submitted,  
  
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Dan Pelchat, Mayor

  
\_\_\_\_\_  
Lisa Deaton, City Clerk