

City of South Lyon  
Regular Council Meeting  
September 28, 2020

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

Present: Mayor Pelchat, Councilmembers Dilg, Kennedy, Kivell, Kurtzweil, and Walton  
Absent: Councilmember Richards

Also present: City Manager Zelenak, Chief Sovik, Chief Vogel, Superintendent Varney, Attorney Hamameh, and Clerk/Treasurer Deaton

Mayor Pelchat stated Councilmember Richards cannot connect to the meeting.

CM 9-1-20 MOTION TO EXCUSE ABSENCE

Motion by Walton, supported by Kurtzweil

Motion to approve the absence of Councilmember Richards

VOTE: MOTION CARRIED

MINUTES

Councilmember Dilg stated on page 4, the word is should be changed to are.

CM 9-2-20 MOTION TO APPROVE MINUTES

Motion by Kennedy, supported by Kivell

Motion to approve the minutes as amended

VOTE: MOTION CARRIED

AGENDA

CM 9-3-20 MOTION TO APPROVE AGENDA

Motion by Kennedy, supported by Kivell

Motion to approve agenda as presented

VOTE: MOTION CARRIED

PUBLIC COMMENT- None

DISCUSSION- Downtown

Mr. Mack stated to date he has distributed all but 2 of the mini grant checks to the local businesses and he is hoping to deliver the last 2 as soon as possible and then he will do a social media post with pictures.

Mr. Mack stated he has received the soil report on 390 S Lafayette, and they discovered peat which is a soft soil that contains high levels of organic material that is unsuitable for a foundation at the depths of 7 feet and 4 feet at the two locations the drilled. He then stated they found groundwater at 7 feet and 7 and ½ feet. They indicated that we could remove the peat from the site and it would have to be de-watered and the property which could negatively affect the surrounding roads and buildings. He then stated they recommend to utilize the property as a gateway. Mr. Mack stated Main Street Oakland County has opened their Flagstar placemaking and façade grants to affiliate and associate level communities which we are an affiliate community so the grants are a \$1,000 match and he intends to apply for funding for at least one mural to be placed on the Grande Trunk building. Mr. Mack stated they will begin to place the hay bales and corn stalks around town soon. He stated Grande Trunk is interested in pursuing a historic

9/28/20

designation. He then stated Cancun Mexican Grill opened on Monday September 21<sup>st</sup> and he stopped in and introduced himself and welcomed them to town. He stated Lefty's Cheesecake should be opening in approximately 2 weeks. Councilmember Dilg asked if we can't build on that parcel, will we sell the lot? Mr. Mack stated we had someone make an offer on that parcel, but it kind of depends on what they want to build. He stated we need to have an RFP and see if anyone is interested and do everything, we are supposed to do for the property to ensure all the right steps are taken. Councilmember Dilg asked if he heard anything from the people interested in opening a winery. Mr. Mack stated he doesn't have an update except they were struggling to get financing. He gave them some resources and explained some of the loans the County offers and they were going to look into that. Councilmember Kurtzweil stated there was a reason a lot of us knew that that ground was peat anyway, and that is the reason the building that was on the property didn't have a basement. She doesn't think anything can be put there except something with a flat surface. She further stated we could use it for additional parking for the DDA or a park for additional seating. She stated it is far greater a benefit to the City than to a builder. She then asked if the business going in next to Third Monk pain management coming soon is a medical marijuana center? Mr. Mack stated it is not, it is for back pain. Councilmember Kurtzweil stated it would be nice if they had a sign because people are assuming it is going to be a medical marijuana facility and asking her about it. Councilmember Kivell stated when we do the transition to the pumpkins and hay bales, if they will be removing the wilting flowers on the posts. Mr. Mack stated they will be doing that as well.

#### FIRE CHIEF REPORT

Chief Vogel stated the tornado siren in the Lake Street parking lot has been repaired. Chief Vogel stated we were able to get the ladder truck back in service. He stated he had a pre-build meeting with CSI about the rescue truck. They made a few tweaks and they were able to save the City some money. He further stated the body is being built in Florida, and then it will be sent to Grayling to be completed. He stated we had four new firefighters that passed the fire academy this week. Chief Vogel stated we were called for a possible woman not breathing, South Lyon Police Department got there and started CPR and when we arrived, we put the LUCAS device on the patient and currently she was able to have a strong pulse and breathing on her own. He stated he is very proud of our crews. Chief Vogel stated we will be receiving a \$40,000 grant from the government to purchase more rescue equipment. He then thanked Council, the City Manager and Ms. Tiernan for the hazard pay, it really helped many of our firefighters. Councilmember Kivell asked about the status of the training facility at the water treatment plant. Chief Vogel stated the ground has been prepped and the boxes should be here any day now. He stated we have some money leftover from the grant money so they will be purchasing drywall to build individual rooms. He then stated the building may not be used this year. He stated a councilmember complained about the fence next to the building. He stated it is a protective barrier from the road so he is going to leave it until spring and then he will look at it again. Councilmember Kennedy complimented him on the grant money and he is happy to hear the LUCAS device obviously was a successful on the call. He then asked if he is going for a second grant later this year for the second LUCAS device. Chief Vogel stated we had to move some equipment around to make sure it is available. He stated there was a time the LUCAS device was outside of the City and he doesn't want that to happen again. It is a very important piece of equipment.

#### POLICE CHIEF REPORT

Chief Sovik stated Lieutenant Baaki attended the New Chief's and Police Executive School. It was a 40-hour class in preparation for future leadership and we were happy to get him into that training. He then stated unfortunately Officer Mostek will be leaving us. He had some changes at home, so his last day will be October 8<sup>th</sup>. He then stated they received many applications. We will be having 24 interviews that

will begin next week. We have some strong candidates. Chief Sovik stated around 2014-2015 we had an officer on the DEA task force and we just found out the payments on those cases are slowly coming and we will be receiving approximately \$68,000 from one of the cases he was involved in. Chief Sovik stated he wanted to recognize Ron Brock. He is such a nice and laid-back person to work with, he has worked with setting up many barricades, and signs for many events over the years. He is one of the nicest guys and he is our go-to guy for any type of events. He has done a great job for the City all these years. Mayor Pelchat stated he agrees that Ron Brock does an incredible job and you won't run into a nicer gentleman. Councilmember Kurtzweil thanked Chief Sovik for his extreme attention to budget items. She further stated he has been incredible in his commitment to maintaining the professionalism that is in our Police Department. She thanked him for the additional training that the department is having. That is a line item that needs to be looked at next year, to possibly set aside more money for additional training. She further stated the South Lyon Police Department is a role model for Police Departments throughout the country for your management and your commitment to public safety which is really the number one reason we have government. That is our number one function. Councilmember Dilg stated she likes that the Police Department is now posting the weekly stats on social media. She further stated people are picking up on the fact that our Officers issue many more warnings than citations and a lot of people think they have to meet a certain quota and we are trying to make money off the citizens. Chief Sovik stated he knows people are having a hard time with COVID and we really never have been heavy handed and we just want to let people know that we are human beings too. Councilmember Kivell stated he is happy about the radar being moved around throughout the City to remind people of the speed limit and so they know if they are moving too fast, or even too slow.

## OLD BUSINESS

### 1. Road Improvement Program

City Manager Zelenak stated this will be our second discussion on addressing the long-term repair of our roads, including discussion revenue, expenditures, funding alternatives and how to plan and move forward for that. He stated he has prepared a document that he is going to read through for the public to hear. He then read the Road Improvement Plan Discussion "Funding" document. \*Please see attached document as part of the record\*. Councilmember Kivell stated he isn't interested in the process at this point, but he is curious if we look at the 3 to 5 mill range by the community deciding they would like to bond, will be still be using the PASER study primarily because he is thinking if he has a road that is in pretty decent shape, he wouldn't want to wait to see the entire City solved before he would see some action with his dollars being thrown in. What would the selection of the process be? City Manager Zelenak stated first the millage would be used for the milling and overlay of roads and potential reconstruction but would also potentially be used for the maintenance of roads and enhanced maintenance project to ensure the life of the roads will be extended. He further stated the next step would be the discussion of developing and grouping of roads by a road by road segments and areas to determine the potential costs per households or what it would cost for those particular areas to actually get paved and if it would be a mill and overlay and start to work on getting soil borings done if we don't have enough information to ascertain whether they need drainage improvements such as curb and gutter or just ditches. After we grouped those areas together, we would do that for the whole city and it would be required for the whole city because we want to identify which roads are in the worst condition and which roads, we can extend the life on. If Council decides to go for a millage, he suggests that Council establish a committee so they can see what segments of road and what areas are going to be done within each year of a particular millage levy. Everyone will need to understand the process and it's not just levying a millage and then not knowing what's going to happen. He stated you could potentially bond for that at the beginning, but if you recommend if you're looking at doing that, you would do more than on levy of a

bond. You could do one levy immediately and start the road project and then you may do another one in 5 years. So that we aren't looking at levying 40 million dollars in improvements at one time. Councilmember Kivell stated his interest is that there is some balance between the maintenance and the reconstruction, he would hate to see us have to wait until all the assessments are done on some of the worst conditions and with that amount of money and the interest it would generate once people get over the shock value of how much it's going to cost because everybody will have to weigh in on that too, but when you see what the results will be, he thinks everyone will recognize that their property becomes more valuable if the routes to their property are enhanced. So, we can work on that as well with the language with the community. City Manager Zelenak stated the millage language would be not only for the reconstruction repair of roads but would also include maintenance so everybody can understand what that is all about. He stated this will kick it up a notch so that everyone will see the benefit. Councilmember Kurtzweil stated an issue with the special assessment districts is that they tend to be cumbersome which opens the door for litigation if it isn't done right. She stated she has litigated special assessment districts in a local municipality and they settled because they screwed it up. She further stated another issue is if you issue a special assessment district, and there is a special assessment on a house, when they sell the house, does the special assessment have to be paid off completely prior to selling the house? City Manager Zelenak stated it is not required. Councilmember Kurtzweil stated the advantage to a voter approved millage is that you wouldn't have that additional issue to negotiate on the sale of a property. Further discussion was held regarding bonds and mileages. City Manager Zelenak stated he will bring this back to a future council meeting and give Council more information on segments and costs by subdivisions.

#### NEW BUSINESS

##### 1. Police vehicle purchase- New patrol SUV

Chief Sovik stated they are requesting to order one replacement patrol SUV and this was approved during the budget workshops for the current fiscal year. The funds will be used from line item 101-300-978. Normally this type of purchase we look for 3 bids. Normally over the last few years, we only gotten bids from 2 dealerships.

#### CM 9-4-20 MOTION TO APPROVE PURCHASE

Motion by Kennedy, supported by Dilg

Motion to approve the purchase of one 2021 Ford Police Interceptor SUV vehicle from Signature Ford, under the Macomb County bid, at a cost of \$32,614.00 from line item 101-300-978 Capital Equipment

ROLL CALL VOTE:

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

MOTION CARRIED

BUDGET- None

#### MANAGER'S REPORT

City Manager Zelenak asked Council to continue reviewing the zoning rewrite and he is hoping to schedule the combined meeting of the Planning Commission and City Council soon. City Manager Zelenak reminded everyone to fill out the census form. They are extending the deadline and we are

9/28/20

currently around 85%. He spoke with Chief Sovik and Chief Vogel about making a video for social media discussing the importance of the census. City Manager Zelenak stated the sign at the Cemetery has been completed by Eagle Scout Stuart Brown. He did a great job and we plan on having him at a future meeting. The sign will hold maps and other information regarding the Cemetery. He then stated Fieldstone site plan was approved by the planning commission and it will come before City Council at a future meeting. He stated the water tank installation is moving forward and you can go online and look at the construction as it is taking place. There is a photograph that is taken every few minutes. The camera was provided by HRC. We didn't contribute to the cost of the camera. The forms will be going up in the next few weeks. Superintendent Varney highlighted the project. Phase one included the horizontal directional drilling, the pressure filters, refurbishing of the media, the existing ground storage tank being completely refurbished on the inside and outside. The big one that everyone will see is the new storage tank itself. He further stated the horizontal directional drilling is completed, and all connections have been made. He stated there was some pitting that occurred in the cast iron pipe in one location. We had to have a 30 ft section replaced. He further stated there is a new change order that he was given by HRC. He stated there was an unknown field condition that led to the need to add an additional second gate valve. Essentially at the T where existing water main was intersected it was unclear as to which line the valve was on. It was assumed that the existing gate valve was on the line headed towards well 7 because the water main is buried there. There was no way of confirming which line the valve was on, after excavation, it was determined that the valve was not on the line heading toward well 7, but instead on a different line. He further stated there is a second gate valve needs to be added to the water line to well seven to allow the system for firm capacity while sharing well 6. He stated that the whole point why we had the horizontal directional drilling done. He then he stays in contact with the onsite general contractor to keep up with everything that is happening out there. Councilmember Kennedy asked if they know when they will be getting the filters from TONKA. Superintendent Varney stated they thought they may only be able to do them two at a time, but it seems they are going to go faster than they originally anticipated, they may do 3 or 4 at a time. They won't have to make multiple trips. Councilmember Kurtzweil stated she has received phone calls about the sidewalks that are downtown that are now getting repaired, and what is the process for deciding which sidewalks are repaired. City Manager Zelenak stated it is a two-part repair plan. One is the installation of new sidewalks in other areas where they need to be broken up and repaired. The other part is the use of the scarifier for milling down areas. We are starting with the immediate downtown and then work our way out into the subdivisions. Further discussion was held regarding the sidewalk repairs. Councilmember Kurtzweil asked if the City approaches businesses or homeowners if their sidewalk needs repair. City Manager Zelenak stated our Ordinance Officer does review sections and identify things that need to be taken care of. Superintendent Varney stated they work with people with the fifty fifty program and they work with the Ordinance Officer as well. Councilmember Kivell asked how much of the money budgeted for the fifty-fifty program has been used. Superintendent Varney stated probably less than 20%. City Manager Zelenak stated we will be discussing the water sewer rates at a future meeting. He stated he is preparing a notice regarding Halloween. It is not a city sanctioned event and they will be adding that to social media. Councilmember Dilg stated she watched the water resources roundtable and it was very impressive and she liked the information about the water meters and she was very impressed. She then stated we should put that out for the residents to see, she thinks people would be interested. Councilmember Kennedy stated the panel discussion is available on YouTube if anyone is interested in watching it. Channel 19 will be showing it as well.

PUBLIC COMMENT- None

### COUNCIL COMMENTS

Councilmember Kennedy reminded everyone that there is a Hazardous Waste Collection Event this Saturday, October 3<sup>rd</sup> from 9am until 2pm at the Novi DPW garage located 26300 Lee BeGole Drive which is located between Meadowbrook Rd. and Town Center Drive on the north side of 11 Mile Rd. The mobile shredder will be there for paper shredding as well. Councilmember Kennedy stated he knows there was some disappointment following the announcement that Downtown Trick or Treat was not going to be held this year. So, I want everyone to know that SLARA, the South Lyon Area Recreational Authority will be holding a Trick or Treat event at the South Lyon High School Stadium Field on Saturday, October 24 from 3pm until 7pm. The event is being held on the field to ensure that social distancing can be maintained. In addition, masks are mandatory for all who attend. It will be conducted in ½ hour time increments with 50 children allowed per time slot. One adult will be permitted to accompany their children. Pre-registration is required and you can sign up on the SLARA website. (slrec.net) He further stated they are looking for businesses that would like to participate in the event. If you have a business and would like to set up a table, please contact them at 248-437-8105 for all the details. It will be held on a first-come, first-served basis so be sure to register now.

Councilmember Walton stated she was in Manistee over the weekend and they have a very nice walkable area and one of the things she noticed was they had a big sign of all the historic homes in the area, with a picture and description of the homes. She further stated South Lyon has a lot of historical homes and that would be a great addition to our downtown area. She stated she is wondering if the Historical Society would be interested in doing something like that.

Councilmember Kurtzweil stated she is encouraging everyone to turn off the news and just enjoy October, it is a wonderful month and very colorful. She stated people should visit Erwin's Orchard and get some great apples and donuts and lots of fresh air. She stated you can also stop in at Three Cedar Farms and have great fun, buy corn stalks and go for a hay ride. It is wonderful. You can stop by Donahee Farms on Pontiac Trail and get some great pumpkins and don't forget 5-H Farms, they have great fall produce. They had the best sweet corn over the summer. She then reminded everyone of Mikes Garden, they have great perennial mums. She stated we need to let go a little bit and reduce the anxiety. Take the kids out walking downtown and let them have fun. We have some wonderful paintings downtown by Dana Johnston. Stay safe, be cautious and be careful.

Councilmember Dilg stated she agrees with Councilmember Kurtzweil. She stated she is very excited about Halloween and the fact that people will finally hear about something that isn't cancelled. She hopes people will be smart and wear masks, and they social distance. She further stated her neighbor is building a whole scare fest for the kids and he is so happy to hear Trick or Treating will not be cancelled. She is happy to see the scarecrows downtown, it feels a little normal. She stated Lyon Township is going to be working on their part of the rail trail between October 1 and October 31<sup>st</sup>, north of Eleven Mile to Milford Road will be closed, but it will be very nice when it is finished. Councilmember Dilg stated we may want to put something out on social media about the charter amendment on social media.

Councilmember Kivell stated he and his wife have been eating downtown on the patios and inside the restaurants and it is nice to be out and visiting with people again. It is good to see things opening up and people seem to be behaving appropriately. He stated he wanted to give props to the department heads for their reports. They have been a wealth of information and they are written very well. It is very helpful so

we can see what we are facing and some of the solves we need to accomplish for whatever the endgame is.

Mayor Pelchat stated Kensington Metro Park is great and the colors are starting to change so it is a great time to visit and stay active. Maybe you will see the albino deer that is there. He stated everyone should be kind to each other and everyone is shouldering a load that's a little bit different than we are all use to.

ADJOURNMENT

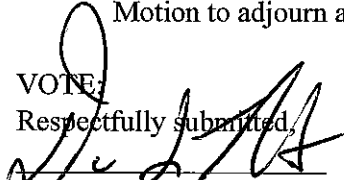
CM 9-4-20 MOTION TO ADJOURN

Motion by Kurtzweil, supported by Walton


Motion to adjourn at 8:39 p.m.

VOTE:

Respectfully submitted,

  
\_\_\_\_\_  
Mayor Dan Pelchat

MOTION CARRIED UNANIMOUSLY

  
\_\_\_\_\_  
City Clerk/Treasurer Lisa Deaton

**City of  
South Lyon**

**Road  
Improvement  
Plan Discussion  
“Funding”**



## Road Funding

At our City Council meeting last month we discussed various components of a Road Improvement Plan. Including the road assessment, types of road repairs, typical road cross-sections, sample roads conditions within our community, current local and major road revenues and expenditures, infrastructure affected by a road improvement and funding methods. Moving forward, I would now like to go into further detail regarding road funding.

As was stated last month, 90% of our roads are in poor or very poor shape. No one wants to pay higher taxes. But the number one complaint we get at City Hall is the conditions of our roads. So, we must come up with a way to fund a road improvement program.

The City receives a majority of its road revenue from ACT 51 funds. Other examples to fund road maintenance / repairs / improvements include: **County Road Funding** – funding directly received from the county for a particular road. **Tri Party Funds**-which is a combination of City, County and RCOC funds for a specific improvement. **SAD** – Special Assessment Districts - which is a specific levy designed to recover the costs of improvement that benefits the property. It is levied against the lands benefitting by the improvement. **Federal Funds** – funds directly to be used based upon the requirements of receiving the funds. **General Fund**-City tax dollars allocated in the budget to be used on city expenses. **Bonds** – A loan that is designated to pay for a particular improvement. **Levied Road Millage** – a voter approved millage by the residents.

**Road Bonds:** One item in particular that always comes up when road funding is needed is a road bond. Bonding is the borrowing of money to pay for a particular improvement. The taking out of a bond costs the residents or the municipality bond fees, principle and interest payments. The City is also limited in the amount that we can borrow for a bond based upon state limits which is based upon a percentage of our SEV (State Equalized Value).

A bond is usually done with a Special Assessment District (SAD), whereby all the costs and payments would be borne by the taxpayer receiving the improvement, unless there is a City percentage contribution. One item of importance is that an individual SAD project takes about a year from starting to collect signatures to establish the district, to the time the construction project actually begins.

Bonding could also be used to pay for road improvements levied by a road millage. Whereby the revenue generated by the road millage would pay directly for the improvement or a bond payment. (i.e. The City takes out a \$5 million dollar bond to pay for road improvements. The revenue received from the road millage each year pays for the bond payment, which includes principle and interest). Or the City could use the road millage revenue each year to pay for improvements based upon how much revenue we receive. This would eliminate the need to take out a bond. If the City raises the millage via a vote (3+ Mills) we would receive enough revenue each year via tax receipts (every July) to potentially eliminate the need to take out a bond. This is because we would have enough funds generated by the collection of the millage to pay for the road improvements each and every year.

Based upon existing revenue (general fund or Act 51 road funding) the city does not have enough funds to make substantial road improvements or make payments on a bond that would have any effect on the overall condition of our roads. So taking out a bond to make road improvements with existing funding levels under this scenario isn't feasible. Which leads us to two other potential scenarios. Raising the millage rate 1+ mill which we have the ability to do under the law, and establish individual SADs. Or raise the millage via the vote of the electorate. (more than 1 mill) This would allow us to generate enough funds via the millage to pay for the improvements each year. Each 1 mill increase generates approximately \$400,000 in additional revenue. This coupled with a portion of the Act 51 funds we receive each year (approximately \$500,000) could begin a road improvement plan for the City, if the City roads are improved by a SAD. However, the single mill increase and the Act 51 funds alone are not enough to initiate a road program.

The City contribution of approximately \$500,000 of Act 51 funds and our ability to raise the millage (1+ mill) as a City contribution to the establishment of a SAD would work out to be a contribution of almost a \$1 million dollars a year to a road improvement plan. Which works out to be about a 20% contribution per year on \$5 million worth of road improvements per year.

If the City makes any bond payments (whether by payment from a millage increase or the establishment of a SAD) we are reducing the amount of improvements we can make each year by approximately 15-20% due to the cost of the setting up the bond plus principal & interest payments. If a SAD is established, the City would need to take out a bond for the improvements due to the timing in receiving payments for the SAD (total payments would be made over a period of 10 years).

**Important discussion points:**

Additional Millage of 1+ Mill = \$500,000 in additional revenue each year

Act 51 Funding available = \$500,000 per year

Additional millage levied by voter approval can also occur (3,4,or 5 mills)

No County, State or Federal grant funds to pay for paving of subdivision streets.

Work that would be done: Sealcoating, Mill and Overlay, Reconstruction

A one (1) mill increase would mean additional taxes on an average home of approximately \$125 per year.

**Three potential funding scenarios:**

**Scenario A**

No millage increase

Use existing Act 51

Funds-Approx. \$500,000

Minor road repairs

**Scenario B**

1+ Mill increase

(allowed by Headlee)

+\$500,000 Act 51 Funds

Establish an SAD

Specific road projects

**Scenario C**

3-5 Mill Increase

(Voted increase)

\$1.2-2.0M in Revenue

+ Act 51 Funds

City-wide projects

Sec. 78-1. - Definitions.

The following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Cost* means and shall include, when referring to any public improvement, the cost of surveys, services, lands, plans, condemnation, spreading of rolls, notices, advertising, financing, construction, and legal fees and all other costs incident to the making of such improvements, the special assessments therefor, and the financing thereof.

*Engineer* means the engineer of the City of South Lyon, or any person, firm or association of registered engineers employed by the City of South Lyon in that capacity.

*Improvement* means any public betterment and/or any improvement upon public property which results in special benefit to the real property in the vicinity of such improvement.

*Owner* means the last recorded title holder(s) of any lot or parcel of land.

(Code 1988, § 1.251)

Sec. 78-2. - Initiation of proceedings.

Proceedings to provide for any public improvements to be financed in whole or part by a special assessment tax may be initiated by resolution of the council or by a petition signed by the owners of more than 50 percent of the assessable frontage lots or acreage, as the case may be, who may be subject to any such special assessment tax or may be initiated, without such petition being first filed, upon resolution of the council determining that an improvement shall be made and financed in whole or in part by special assessment. All improvements hereunder shall be made at the discretion of the council solely and no petition shall be mandatory or directive in nature.

(Code 1988, § 1.252)

Sec. 78-3. - Petitions—Requirements.

All petitions for public improvements shall include an affidavit by one or more of the circulators that the signatures appearing thereon are genuine and each signer declares himself to be the owner of the land(s) indicated. Where any lot or parcel is owned by more than one person, each person having an interest must join in the petition.

(Code 1988, § 1.253)

Sec. 78-4. - Same—Investigations by the city manager.

All petitions for public improvements shall be investigated by the city manager to determine whether a sufficient number of valid signatures have been obtained and, if such investigation discloses a deficiency, the said petition shall be returned to the circulator with notice of that fact.

(Code 1988, § 1.254)

Sec. 78-5. - Preliminary report.

- (a) Whenever the city manager shall determine that a petition containing the required number of valid signatures has been received, or whenever the council shall by resolution so direct, the city manager shall make or cause to be made an investigation of the proposed public improvement and report his findings to the council.
- (b) The report shall include an analysis of the following:
  - (1) The assessed valuation of all property affected by the proposed improvement, together with the name and address of the last known person or party against whom taxes are currently assessed.
  - (2) The number of parcels which show tax delinquency.
  - (3) The number of parcels owned by public authorities.
  - (4) The number of parcels which are vacant.
  - (5) Prepare, or cause to be prepared, plans and specifications therefor, and an estimate of the cost thereof.
  - (6) An estimate and recommendation as to what portion of the cost should be paid by special assessment and what part, if any, should be a general obligation of the city.
  - (7) A recommendation concerning the number of installments in which the assessment may be paid.
  - (8) The land which should be included in the special assessment district.
  - (9) And any other facts or recommendations which will aid the council in determining whether the improvement shall be made and how the same shall be financed.
  - (10) The report in total shall be placed on file with the city clerk as soon as same has been prepared.

(Code 1988, § 1.255)

Sec. 78-6. - Hearing; notice of same.

After filing of the plans and specifications above referred to, the council shall, by resolution, provide for a public hearing before them, which hearing shall be held not less than ten days after notice thereof has been sent by the clerk, by first class mail, to all property owners in the proposed district as shown by the current assessment roll of the city. The council may also, in addition to personal notice, give notice by publication citing the time, date and place of hearing, however, such publication shall not be mandatory.

(Code 1988, § 1.256)

Sec. 78-7. - Public hearing, objections and changes.

At the time and place specified in such notice for the public hearing, the council shall meet and hear any person to be affected by the proposed public improvement. Such hearing may be scheduled for any regular, special or adjourned meeting of the council. The hearing may be adjourned from time to time by the council, and the council may make any changes in the proposed work or assessment which shall seem reasonable or proper in view of any objections, or for any other reason which may appear to be for the best interest of the city.

(Code 1988, § 1.257)

Sec. 78-8. - Resolution of determination.

After said public hearing the council may, by resolution, determine to make the improvement and to defray the whole or any part of the cost of the improvement by special assessment upon the property especially benefited in proportion to the benefits derived or to be derived. By such resolution the council shall approve the plans and specifications for the improvement, determine the estimated cost thereof, determine what proportion of such cost shall be paid by special assessment upon the property especially benefited, and what part, if any, shall be a general obligation of the city, determine the number of installments in which assessments may be paid, not to exceed 25 in number, determine the rate of interest to be charged on installments, and not to exceed eight percent, per annum, designate the district or land and premises upon which special assessment shall be levied, direct the assessor to prepare a special assessment roll in accordance with the council's determination, and designate the name by which said assessment roll shall be known and referred to.

(Code 1988, § 1.258)

Sec. 78-9. - Limitations on preliminary expenses.

No contract or expenditure except for the cost of preparing necessary profiles, plans, specifications and estimates of cost shall be made for the improvement, nor shall any improvement be commenced until special assessment roll to defer the cost of same shall have been made and confirmed.

(Code 1988, § 1.259)

Sec. 78-10. - Special assessment roll—Preparation.

The assessor shall thereupon prepare a special assessment roll including all lots and parcels of land within the special assessment district designated by the council, and shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district. There shall also be entered upon such roll the amount which has been assessed to the city at large.

(Code 1988, § 1.260)

Sec. 78-11. - Same—Columns for installments.

The assessor in preparing the special assessment roll shall divide the assessment into installments and provide a separate column for each installment. The roll and all installments thereof shall be made and reviewed as an original roll and confirmation of the roll shall be made of each and every installment or installments when due without further review or confirmation.

(Code 1988, § 1.261)

Sec. 78-12. - Notice of hearing on roll.

Upon receipt of such special assessment roll the council shall order it filed in the office of the clerk for public examination, shall fix the time and place when it will meet and review such roll, which meeting shall be held not less than ten days after notice thereof, specifying the purpose, time and place, has been sent by the clerk by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city. The council may also, in addition, give notice by publication citing the time, date and place of hearing, however, such publication shall not be mandatory. The special assessment roll shall remain on file in the office of the city clerk for public examination for a period of at least seven days prior to the date and time set for the said hearing.

(Code 1988, § 1.262)

Sec. 78-13. - Objections to roll.

Any person deeming himself aggrieved by the special assessment roll may file his objections thereto in writing with the clerk at any time prior to the close of said hearing, which written objections shall specify in what respect he deems himself aggrieved.

(Code 1988, § 1.263)

Sec. 78-14. - Hearing on objections.

The council shall meet and review the said special assessment roll at a time and place appointed or at an adjourned date therefor and shall consider any written objections thereto.

(Code 1988, § 1.264)

Sec. 78-15. - Corrections and changes.

The council may correct said roll as to any assessment or description of any lot or parcel of land or other errors appearing therein. Any changes made in such roll shall be noted in the council minutes.

(Code 1988, § 1.265)

Sec. 78-16. - Confirmation or rejection of roll.

After such hearing and review, the council may confirm such special assessment roll with such corrections as may have been made, if any, or may refer it back to the assessor for revision or may annul it and any proceedings in connection therewith.

(Code 1988, § 1.266)

Sec. 78-17. - Vote required.

In order to confirm any special assessment roll, such confirmation shall receive an affirmative vote of a majority of the council elect. No special assessment roll shall be finally confirmed except by a four-fifths vote of the council if prior to said hearing written objections to said improvement have been filed with the city clerk by the owners of the property which will be required to bear more than one-half of the special assessment.

(Code 1988, § 1.267)

Sec. 78-18. - Certificate of confirmation.

The clerk shall endorse the date of confirmation upon each special assessment roll and upon confirmation, such roll shall be final and conclusive.

(Code 1988, § 1.268)

Sec. 78-19. - Lien established.



All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall from the date of confirmation of such roll, constitute a lien upon the respective lots or parcels of land assessed until paid.

(Code 1988, § 1.269)

Sec. 78-20. - Personal liability of owner.

Any special assessment made pursuant to this chapter shall, until paid, be charged against the respective owners of the several lots or parcels of land and shall be a debt owed to the city from the persons to whom they are assessed.

(Code 1988, § 1.270)

Sec. 78-21. - Character of lien.

All liens above referred to shall be of the same character and effect as the lien created by the city Charter for taxes and shall include accrued interest and penalties.

(Code 1988, § 1.271)

Sec. 78-22. - Destruction or impairment of lien.

No judgment or decree nor any action of the council vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by regular mode of proceeding might have been lawfully assessed thereon.

(Code 1988, § 1.272)

Sec. 78-23. - Failure to receive notice.

Failure of any owner to receive any notice required to be sent under the provisions of the city Charter and this chapter, shall not invalidate any special assessment or special assessment roll. Nor shall, to the extent permitted by law, any failure on the part of the treasurer to give any required notice cause any invalidation of any special assessment roll of the city or assessment thereupon, nor excuse the payment of interest or penalties.

(Code 1988, § 1.273)

Sec. 78-24. - Installments and date due.

All special assessments levied hereunder shall become due upon confirmation of the special assessment roll and the annual installments shall not exceed 25 in number as the council may determine at the time of confirmation and if in annual installments, the council shall determine the first installment to be due upon confirmation or on the following July 1 and subsequent installments on July 1 of succeeding years.

(Code 1988, § 1.274)

Sec. 78-25. - Publication of notice to pay.

The assessment roll shall be transmitted by the clerk to the treasurer for collection immediately after its confirmation and the treasurer shall give notice by one publication in a newspaper which shall meet the requirements of the city Charter, that said special assessment roll (identifying it) has been filed in the city treasurer's office and specifying when and where payments may be made thereon. The council may order the treasurer to send a notice to pay to those persons listed on the special assessment roll, although such notice shall not be required.

(Code 1988, § 1.275)

Sec. 78-26. - Treasurer's warrant; acceleration of payments when overdue.

Upon confirmation of any special assessment roll, the council shall direct that the city clerk shall attach his warrant to such assessment roll therein commanding the city treasurer to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite their names therein, and in case any person named in said roll shall neglect or refuse to pay the assessment upon demand, then to levy and collect the same by distress and sale of the goods and chattels of such person. The city treasurer under such warrant shall be authorized to collect the several installments of any special assessment as and when the same shall become due and payable, together with interest and penalties, as provided in this chapter, and in the event that any such special assessment installment shall remain unpaid for a period of 90 days from and after the due date of such special assessment installment, that, thereupon, the same shall become delinquent and such delinquent installment and all future installments shall become due and payable forthwith and shall be certified by the city treasurer to the city clerk for spreading upon the next succeeding city tax roll in a column designated "special assessments," and there shall be added to such special assessment installments all interest which may have accrued from the date of confirmation of the special assessment tax roll to July 1 of the year in which such city tax roll is made, provided, that any fraction of a month shall be considered a full month.

(Code 1988, § 1.276)

Sec. 78-27. - Cash payment; remaining installments.

The whole or any part of any such assessment may be paid within 60 days from the date of confirmation of the special assessment roll. Such part as may be paid within the said 60 days shall not bear interest or penalty. Not later than 15 days after the end of said 60-day period the treasurer shall transmit such roll to the assessor with all payments upon assessment noted thereon. The assessor shall then divide any remaining balance of each assessment into such number of equal installments as shall have been fixed by the council, but not into a number of installments which will make any installment less than \$10.00.

(Code 1988, § 1.277)

Sec. 78-28. - Collection fees.

Upon transfer to any delinquent or accelerated delinquent installments of any special assessment to the general city tax roll, there should be added thereto in addition to the interest as hereinbefore provided, a collection fee of four percent of the amount of the delinquent assessment (without interest computed) as shall be so transferred to the general city tax roll.

(Code 1988, § 1.278)

Sec. 78-29. - Additional payments by taxpayer.

A taxpayer may, at any time prior to the time when special assessment taxes have been transferred to the general city tax roll, pay one or more of such installments, together with accrued interest from the date of confirmation of the special assessment roll to the date of such payment, and in the event that all delinquent and past due installments shall have been paid, thereupon the deferred installments shall be reinstated as such and be considered current and may be paid annually as spread upon the original assessment roll unless and until any subsequent installment shall become delinquent, whereupon the foregoing procedure shall be followed.

(Code 1988, § 1.279)

Sec. 78-30. - Collection by suit at law.

In addition to any other remedies and without impairing the lien therefor, any delinquent special assessment, together with interest and penalties may be collected in an action in assumpsit in the name of the city against the person assessed, in any court having jurisdiction of the amount. If in any such action it shall appear that by reason of any irregularities or informalities the assessment has not been properly made against the defendant or upon the premises sought to be charged, the court may, nevertheless, on satisfactory proof that expense has been incurred by the city which is a proper charge against the defendant or the premises in question, render judgment for the amount properly chargeable against such defendant or upon such premises.

(Code 1988, § 1.280)

Sec. 78-31. - Contested assessments.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment unless within 30 days after the confirmation of the special assessment roll, written notice is given to the council of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal and unless such suit or action shall be commenced within 60 days after confirmation of the roll.

(Code 1988, § 1.281)

Sec. 78-32. - Return to county treasurer.

All special assessments or installments thereof, which have been transferred to the general city tax roll as being delinquent, or because the delinquency has been accelerated by nonpayment of installments as and when due, shall be collected in all respects as city taxes due upon such general city tax roll, and if uncollected, shall be returned to the county treasurer with unpaid general city taxes, on March 1, following the date upon which such general tax roll shall have been delivered to the city treasurer for collection.

(Code 1988, § 1.282)

Sec. 78-33. - Special provisions.

Special assessment installments shall become delinquent, if unpaid, 90 days after the due date for such special assessment installment and the delinquency in any one installment shall accelerate the payment of future installments, which, in the event of delinquency of one installment, shall cause all of the remaining special assessment installments to become due and payable forthwith. Delinquent special assessment installment or installments shall be transferred to the general city tax roll for the year commencing July 1 succeeding the date of such delinquency, provided, however, that prior to the time that any delinquent special assessment tax has been transferred to the general city tax roll, the taxpayer shall have the right and privilege of reestablishing future installments of such special assessment tax upon payment of all delinquent special assessment tax installments to the date of such payment, together with accumulated interest thereon as hereinbefore provided. All delinquent special assessment tax installment or installments as certified to the city clerk by the city treasurer shall be spread upon the general city tax roll as hereinbefore provided by the city treasurer, under a column designated "special assessments" to which shall be added all interest upon such special assessment installment or installments accruing from the date of confirmation of the special assessment tax roll to July 1 of the current tax year, and in such computation fractions of the month shall be considered as a full month, together with collection fee as provided in section 78-28.

(Code 1988, § 1.283)

Sec. 78-34. - Cost certification.

Upon completion of the improvement and the payment of the cost thereof, the city manager shall certify to the council the total cost of said improvement, together with the amount of the original roll for said improvement.

(Code 1988, § 1.284)

Sec. 78-35. - Additional assessment.

Should the assessments in any special assessment roll, including the amount assessed to the city at large, prove insufficient for any reason to pay the cost of the improvement for which they are made, then the council shall make additional assessments against the city and the several lots or parcels of land in the same ratio as the original assessments, to supply the deficiency.

(Code 1988, § 1.285)

Sec. 78-36. - Limitation of additional assessment.

Any additional pro rata assessment shall not exceed 25 percent of the assessment as originally confirmed unless a meeting of the council be held to review such additional assessment, for which meeting notice shall be given as provided in the case of review of the original special assessment roll.

(Code 1988, § 1.286)

Sec. 78-37. - Excess under five percent.

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the city if such excess is five percent or less of the assessment.

(Code 1988, § 1.287)

Sec. 78-38. - Excess over five percent.

Should the assessment prove larger than necessary by more than five percent, then the entire excess shall be refunded on a pro rata basis to the owners of the property assessed.

(Code 1988, § 1.288)

Sec. 78-39. - Refund procedure.

Any excess refund shall be made by credit against future unpaid installments in the inverse order in which they are payable to the extent such installments then exist and the balance of such refund shall be made in cash.

(Code 1988, § 1.289)

Sec. 78-40. - Illegal or invalid assessment.

Whenever any special assessment shall in the opinion of the council be invalid by reason of irregularity or informality in the proceeding, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the council shall, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made.

(Code 1988, § 1.290)

Sec. 78-41. - Proceedings on reassessments.

All proceedings on any reassessment and for the collection thereof, shall be conducted in the same manner as provided for the original assessment and whenever any sum, or any part thereof, levied upon any premises has been set aside, if the same has been paid and not refunded, any payment made thereon shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied, or if the payments exceed the amount of the reassessment, refund of the excess amount shall be made.

(Code 1988, § 1.291)

Sec. 78-42. - Retention of lien.

To the extent permitted by law, no judgment or decree nor any act of the council vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by regular mode of proceeding might have been lawfully assessed thereupon.

(Code 1988, § 1.292)

Sec. 78-43. - Combination of projects.

The council may combine several districts into one project for the purpose of effecting a savings in the cost; provided, however, that for each district there shall be established separate funds in accounts to cover the cost of same.

(Code 1988, § 1.293)

\*Sec. 78-44. - Deferred payment of special assessment.

The council may provide for the deferred payment of special assessment from persons who, in the opinion of the council and assessor, by reason of poverty are unable to contribute towards the cost thereof. In all such cases as the condition of granting of such deferred payments, the city shall require mortgage or like security on the real property of the beneficiary, payable on or before his death, or in any event, on the sale or transfer of the property.

(Code 1988, § 1.294)

## **Special Assessment District Process**

### Application

Feasibility

Formal petitions

### Circulate Petitions

Petition review - #, verify names, addresses

Verify estimates

Resolution #1 – Acknowledge receipt of Petitions, Prepare plans and estimate

Resolution #2 – Set Public Hearing – Setting Date of Public Hearing

### Public Hearing on Necessity

Notices sent out

Public hearing

Direct to prepare final plans and engineers estimates

Resolution # 3 – Approve Boundaries, Estimates, Sent out for Bids

Bids received

Resolution #4 – Set Public Hearing on Costs

Roll Finished

Notice

Public hearing

Board Confirms Roll

Resolution #5 – Adopts Final Roll / Number or Installments / interest rate

Award Bid

Notice of Assessment

Construction

*See Attached Special Assessment Ordinance / Attorney Letter*