

CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
June 8, 2009

Mayor Doyle called the meeting to order at 7:30 p.m.

Mayor Doyle led those present in the Pledge of Allegiance to the Flag

PRESENT: Mayor Doyle
Council Members: Kivell, Kopkowski, Maida, Morelli*, Selden and Wedell
City Manager Murphy
Attorney Lee
City Clerk/Treasurer Zemke
Department Heads: Collins, Renwick and Martin

APPROVAL OF MINUTES:

Councilman Kivell commented that he had made statements with regards to the film ordinance that if filming took place in South Lyon more likely than not, we would not be portrayed as South Lyon but rather a small town as part of the film.

CM 6-1-09- APPROVAL OF MINUTES –MAY 26, 2009

Motion by Kivell supported by Maida

To approve the minutes of the regular meeting of May 26, 2009 as written

VOTE: MOTION CARRIED UNANIMOUSLY

Discussion was held on various bills.

APPROVAL OF MONTHLY BILLS:

CM 6-2-09 – APPROVAL OF MONTHLY BILLS

Motion by Selden, supported by Maida

To approve the monthly bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

APPROVAL OF AGENDA

CM 6-3-09 – APPROVAL OF AGENDA

Motion by Wedell, supported by Kivell

To approve the agenda as presented

VOTE: MOTION CARRIED UNANIMOUSLY

CITIZENS SUGGESTIONS:

Brownie Troop 21496 conducted a flag ceremony.

OLD BUSINESS:

1. Private Fire Hydrants.

Mr. Bruce Nuesbaum of Lafayette Woods read a statement indicating concerns of the Lafayette Woods residents pertaining to the fire hydrant issue. He stated that they are angry and that several residents have attempted to inform Council on this matter. He discussed the City Charter which indicates that when any water is delivered to any complex in the City, it becomes the obligation of the City to maintain the fire hydrant. He further quoted the City Code which indicates that the City will pay an annual fire protection charge of \$75 per hydrant to the Fire Department. The City has an obligation to recognize that fire hydrants are part of the public safety of the residents of the City. This would be the only City in the area that does not provide fire hydrant inspection. There should be no distinction between public and private hydrants when the welfare of the City residents is at issue. He asked Council to let their conscious and good sense prevail and not charge any group for fire hydrant inspections.

Mr. Jerry Chundy from Quail Run Condominiums stated that they are part of the 26 private developments as described by the City. They all pay the same tax rates and do not get the same City services that other people get. He questioned who is better qualified to check the fire hydrants than the City Water or Fire Department. The expense is more justified than purchasing movie equipment to show movies in the park. He quoted from the City Charter indicating that the City is to provide for peace, health and for the safety of persons and property. It does not differentiate between public and private property.

City Manager Murphy gave an update of the fire hydrant issue. He stated that he had brought a suggestion in his Manager's report suggesting that the City do a one-time basic inspection of all the fire hydrants including privately owned. He understood that he was to move forward with that after the discussion. At the last meeting it was brought up that it had not been put on the agenda so he is bringing it on the agenda at this time. We would have the Fire Department check the hydrants and send a report back to the owners of those hydrants as well as a list of contractors that could perform any necessary work and other necessary information. It is important that our Fire Department knows that when they go to use a hydrant that it will work properly.

Councilman Selden questioned the fairness. He discussed the owners of the hydrants not being aware of the needed maintenance.

*Councilman Morelli arrived at 7:47

Council Member Kopkowski questioned whether we have a list of people qualified to do the inspections after the initial City inspection or will our Fire Department do it. City Manager Murphy stated that we are putting a list of contractors together as well as a cost for the City to do it. Council Member Kopkowski stated that the fire hydrants in the City are a public safety issue and she feels that public safety is the responsibility of the City.

Councilman Kivell stated that it is a public safety issue so to have an inspection annually gives us the best idea we can of having a functional system, and it is the responsibility of the people who own that property to be the ones who maintain that.

Councilman Selden questioned again whether it is fair to charge the same amount of taxes for less services. Councilman Kivell stated that Colonial Acres is a private entity with the benefit of a number of other issues that the public at large does not. Councilman Selden questioned the dedication of the water system but not the hydrants. Attorney Lee stated that is the way that it was done at the time of the development and dedication. Further discussion was held on how Colonial Acres was developed under Federal Regulations that circumvented City standards. Attorney Lee stated that they were built cheaply which is reflected in their taxes. He further stated that to say that you pay the same taxes is not fair because other developments built under other standards have higher values and are taxed accordingly. He further stated that if the City were to take control of those hydrants we would have to find all of the lines to the hydrants have the private owner obtain the legal descriptions for the lines and hydrants and have a complete dedication to the City which is a very large undertaking.

Discussion was held on the checklist for the inspections and the uniformity.

Councilman Morelli asked if there is a time frame in which to complete the repairs. Attorney Lee stated that we would assume that everyone would want them fixed promptly. Under the Fire Code there are mechanisms to seek enforcement if the hydrant is not operable.

Mr. David Black of 383 Maple stated that the main responsibility of the City is to protect the citizens. The fire hydrants are extremely important. If there were a fire and a hydrant did not work properly, it could be a major disaster. He would ask that Council take another look at this and think about the safety of all residents of the City of South Lyon.

Mr. Bill Winegarden of 261 Ash Ct. asked if they are going to flow test. City Manager Murphy stated that it will be a very basic inspection. It was stated that the City flow tests the entire City so they have a very good idea of what the system operates at and feel comfortable with the way the system works. Further discussion was held on flow testing. The question was asked if we flow test all of the other hydrants. Superintendent Martin stated that we do not. He further stated that we are very confident with the pressure throughout the City. He further discussed the testing and design of the system. The question was asked if there is documentation that we can provide. Superintendent Martin stated that there is. Discussion was held on the process used in flow testing and the equipment used. Superintendent Martin stated that we do not have the equipment, and to do every hydrant would be overkill.

Mr. Tedd Wallace stated that he is a member of the Southridge Condominium Board. He stated that Council is asking these developments to tax themselves higher in order to cover these costs. The bottom line is the City is to provide public safety, and the City has a \$3 million surplus. He feels that this is a "PR blunder". This is not worth it. Council is causing a rift in the community.

Mr. Claude Danielson of 25111 Jefferson Ct. stated the attorney made a statement about Colonial Acres being a substandard community, but they pay on the same basis as every other property owner in the City. He stated that Councilman Kivell made a statement that they receive benefits that others do not get and questioned what those are. He discussed DPW budget, road maintenance, snowplowing, etc. Councilman Kivell stated that the roads, for example, are sub-standard roads that would not be allowed to be built in a public development, which is what the City Attorney was indicating.

Linda Depoorter of 646 Maple Dr. stated that their private property is not really private. They abut the trail. They tried to close it because they are private property and it got torn down. They have constant traffic through their development, they have kids sitting in their gazebo, etc.

Councilman Selden stated that the Fire Department should be notified if a hydrant is in disrepair. Attorney Lee stated that it is required in the Fire Code.

CM 6-4-09 – RESOLUTION – FIRE HYDRANTS ON PRIVATE PROPERTY

Motion by Wedell, supported by Morelli

WHEREAS, The City Fire Code requires the inspection and maintenance of fire hydrants on private property, and

WHEREAS, The City has not heretofore maintained records of inspections of private hydrants and the condition and functionality of these hydrants is unknown, and;

WHEREAS, The protection of life and property requires that City fire fighters have certainty in the operational integrity of these hydrants,

NOW THEREFORE; The City Council directs to City Manager to undertake a program to provide a one time inspection of all private fire hydrants in the City at City expense for those properties who agree to execute a hold harmless agreement protecting the City and its agents and employees from claims or damages arising from the inspection. Property owners shall be notified of any defects in the hydrants and will be obligated, as required by Ordinance, repair any defects found at their own expense.

IT IS FURTHER RESOLVED; That this program is not intended to relieve the property owner, or modify their duties, or waive any requirements of the Fire Code, or relieve them of their responsibilities in the future to annually inspect and maintain the fire hydrants on their property.

ROLL CALL VOTE:

KIVELL-YES, KOPKOWSKI-NO, SELDEN-NO
DOYLE-YES, WEDELL-YES, MAIDA-YES
MORELLI-YES MOTION CARRIED

2. First Reading – Film Permit Ordinance.

Attorney Lee stated that there were two issues raised by Council at the last meeting. One is concerning private business people doing their own making of commercials on their property. He added a provision to the agreement exempting them from permit requirements. The second issue was a timing issue. He called other City Attorneys who have these types of ordinances. They indicated that the purpose of the time limits relate to the need to have a police officer on scene whenever traffic is interfered with for public safety. The time limit relates to how long an officer needs to be on site. The thinking is, if it is longer than five minutes, the PD needs additional time to revise its manning schedule to have an officer on site for as long as traffic is being obstructed. That is why the ordinance provides an extra day to issue a permit if an officer is needed for an extended period.

Councilman Morelli stated that his concern was the scope of the project. He stated that in his experience, they were filmed for two hours inside Powerhouse Gym on private property. They also filmed inside a car and walking down the sidewalk, but they did not impede traffic, they did not need an officer, etc. Attorney Lee stated that his reading is that if they are going to be within City right-of-way then they will need a permit. It is up to Council to determine how extensive they want the ordinance. Council could also send this back to the Planning Commission with comments and ask them to further review it. Discussion was held on the filming of the Council meeting for The Biggest Loser. Councilman Morelli stated that he would like to see something incorporated for less lengthy projects. He does see why something like this is needed for larger projects.

Discussion was held on radio broadcasting at the oil change facility. Attorney Lee stated that would be private property and not using the public right-of-way.

Councilman Wedell stated that he is glad that we are ahead of the curve, but asked Councilman Morelli if he feels that this is too restrictive. Councilman Morelli stated that he does not feel that it is too restrictive for a larger scale project especially if they are bringing in crews of people. Councilman Wedell stated that he would not like us to be so restrictive that we would preclude those projects such as The Biggest Loser. South Lyon received great publicity.

Councilman Selden stated that he would like to see a requirement that if a film is filmed here in the City that the City receive credit. Attorney Lee stated that may cut off some opportunities because when filming, they may want to portray it as a small town anywhere.

Council Member Kopkowski stated that her concern was for the local business owners doing their own private filming. Some of our businesses are downtown and you would not be able to do anything outside because the sidewalk is public. Attorney Lee stated that his concern would be if they are using the sidewalk and people are forced to walk out into the street then it is a public safety issue. We want them to be able to film and be prosperous, but if they are forcing people to walk into the street and someone is injured, then it is our responsibility.

Councilman Kivell stated he is concerned about charging a fee of \$250 for this type of activity on private property. Attorney Lee stated that they would not need a permit, only if they are in the public right-of-way.

Discussion was held on adopting the fee schedule separately.

Councilman Kivell stated that Section 22-205 (6) and 22-207 (2) which requires notification to neighbors and effected residents and/or businesses gives some discretion to the City Manager and would like to see those items as a requirement irrespective of how the City Manager feels. He stated that this is similar to the requirement for notification for a variance. Attorney Lee stated that if someone was proposing a project involving loud music, etc. to a point that would upset the neighbors nearby then the City Manager would very quickly say that we need approval from the affected neighbors. However, if it is a symphony quartet, it probably would not be necessary. That is why we need some type of discretion. Councilman Kivell stated that he does not think that it should be up to the City Manager. Attorney Lee stated that if the City Manager makes a determination that a resident could be affected then he would require those approvals. However, if a quartet is going to play a song within an enclosed building, then they probably would not need neighbor's approval.

Councilman Kivell pointed out two typographical errors.

CM 6-5-09 – FIRST READING – FILM ORDINANCE – CHAPTER 22, ARTICLE VII

Motion by Selden, supported by Maida

That this be the first reading of an amendment to the City Code Chapter 22 – Businesses, Article VII – Film Permits (see attached amendment as part of these minutes)

VOTE:

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS:

3. Water/Sewer rate increase.

Superintendent Martin stated that we are proposing a water and sewer rate adjustment based on the rate study conducted by Plante Moran. They have arrived at a plan which is an increase of \$0.51 per 1000 gallons of water, which breaks down to \$0.11 for water and \$.40 for wastewater. This would work out to approximately \$5 per month or \$14.50 per quarter.

Brian Camiller from Plante Moran was present to answer any questions. He stated that they have not gone back to analyze the activity for 2009. From discussions with the City, there has been nothing that would warrant altering what was presented in January.

Councilman Morelli stated that this is a necessary evil. Our Water Department runs well and their budgets are always good. They cannot operate using other monies except for what they make and they cannot spend beyond that. He questioned that due to building down, foreclosures, etc. are there monies that we were anticipating that we may not get. Superintendent Martin stated that our lift stations are all in established neighborhoods with the exception of one, which is the Singh Development. However, that lift station took over a lift station on Chester Street which incorporates 350 homes. Across the board in other communities there are reduced water rates over the past 3-4 years due to the economy and people cutting back on usage for watering lawns, etc. We have seen slight reductions, but the economy is not affecting a pumping station or lift station. It was stated that because you are not pumping as much water, you are not using as much energy to run the pumps and the wells.

Council Member Maida stated that she does not like to see any increases, but if the revenue is declining, we need to figure out some way to pay.

Councilman Wedell stated that he was pleased when we had the rate study done because it gives us a factual basis on which to base our rates. Using that instrument he is comfortable with the recommendation.

Councilman Selden stated that nobody wants to see a higher rate, but they become necessary with increased expenses.

Council Member Kopkowski stated that the report was all inclusive, however her recollection was that we were set for now and this was future. She stated that she would like to see us increase much less than 7% and 13% due the fact that we do not need it right now and based on what our economy is right now. She feels that it should be at the cost of living and maybe a little bit of inflation, but she cannot support the recommendation.

Councilman Kivell stated that the study was done so that it would be more scientific and take the emotion out of the issue. It is as if the variables are being skewed from what he is thinking that we should ultimately do. We have \$1.4 million in excess in the sewer and \$.5 million in water. He is not suggesting that we do not do anything, however we increased 10% last year after 9 years of not doing anything. Superintendent Martin stated that it was actually 6 years at that point.

Mr. Camiller stated that he does not recall specifics, however over the past 3-4 years the cash reserves have been going down. He is sympathetic to increasing rates at such a time, however not passing on the increase today means an even larger increase tomorrow. What they are seeing across southeastern Michigan is that the communities that are not increasing rates every year end up in a position with very large increases. That can be difficult for people struggling to pay their own bills. Councilman Kivell asked what it would take to maintain that \$1.4 million and \$.5 million to next year. The model projects out 5 years, and some of that is guessing. We do not know how much electricity is going to go up or fringes for employees, etc. If you go out 7% and 13% each year, we meet our target 5 years from now. Your reserves are going to go down as rates go up and meet somewhere in the middle. Councilman Kivell stated that the report indicated that we already exceed what we are looking for in 2014 in reserves. Mr. Camiller stated that they did meet their target in 5 years at these rates. What we are trying to prevent is having to do 20% increase one year and only 3% the next which causes a shock to the system. Councilman Kivell stated that he is in agreement with projecting down the road rather than year to year. Mr. Camiller stated that even though the model projects out five years, that does not mean that you have to automatically increase the 7% and 13%, but rather it should be analyzed again based on a 5 year period.

Councilman Wedell stated that when we compared our rates to communities nearby we found ourselves at the very low end. If you start talking about percentages based on low figures you are going to have a percentage that looks bigger. However we are talking about less than \$5 per month. Water and sewer rates in South Lyon are still a bargain. Mr. Camiller stated that the less than \$5 would be for the average family of 4. Superintendent Martin stated that we recently did a survey of the neighboring communities and there is a scientific model that we can base rate increases on now.

Councilman Morelli asked if it is evaluated next year are you going to come back and say we need to increase 20%. Mr. Camiller stated that unless something dramatic happens, it should not fluctuate that wildly from year to year. The hope is that using this model, even though there would be an increase every year, it would be manageable so that you do not run into a situation where you have to have a 20% increase.

Superintendent Martin stated that we would like this rate to be effective June 1st. The residents would see the first increase in October.

Councilman Kivell asked if there is a time every year we will discuss increases. Discussion was held on trying to address the issue at budget time or shortly after adoption of the budget. The question was asked if we will be doing the evaluation in-house or will Plante Moran be doing it. City Manager Murphy stated that we will be doing it in-house.

CM 6-6-09 – APPROVAL OF WATER/SEWER RATE ADJUSTEMENT

Motion by Kivell, supported by Morelli

To increase the water rate by \$0.11 per thousand gallons and the sewer rate by \$0.40 per thousand gallons effective June 1, 2009

VOTE:

MOTION CARRIED (2 OPPOSED)

4. First Reading – Amendment to Ordinance 54, Sec. 54-63 Sale procedures

City Manager Murphy stated that when the Police Department confiscates property, currently we have to hire an auctioneer and advertise that auction. It ends up costing the City money. He is proposing that we adjust the ordinance so that we can simply put it out for bid and bid it either bulk or individually. In the proposed amendment he would suggest that the sentence limiting the value of the property to less than \$1,000 be stricken. Attorney Lee stated that it makes more sense without that sentence that way if it is put out to auction then it goes pursuant to the previous procedure. If not, he has to report to Council the manner in which he is disposing of the property.

Councilman Kivell questioned if the cost savings is simply not having the auctioneer. City Manager Murphy stated that it is, but also it makes it much easier for us to get rid of this property. Currently we have approximately 200 bikes that we have been storing. Under the current ordinance we would have to have the auctioneer come in and auction them all off separately. This way we could do it fairly simply dispose of the equipment or sell them in bulk to Kiwanis, for example, who could make any repairs and give them away.

Discussion was held on the equipment we have to dispose of. Superintendent Renwick stated that there is one motorcycle and an incredible number of bicycles.

Councilman Morelli asked with all of the newspapers folding, what are we going to do about advertising if something were to happen to the South Lyon Herald. City Manager Murphy stated that a lot of communities are facing that problem. He stated that the Legislature needs to change the law to allow us to use our website. He stated that currently our alternative is to post the advertisement in five locations throughout the City.

The question was asked if there is a specific day that we would put these out for auction. Chief Collins stated that we do it on an as needed basis, when we run out of storage. Found property or money we need to hold for six months. There is a provision that the finding party, after six months, can possess the item. If that does not happen it would go to auction or bid. Councilman Morelli stated that he would rather see a list posted in the Herald every six months. City Manager Murphy stated that there may be a six month period when there is nothing. Possibly we should look at an annual basis. Discussion was held on coordinating with the City-wide garage sale.

Councilman Wedell asked if this is only found property, not forfeited. Chief Collins stated that there would be other statutes that would govern forfeited or evidence property.

CM 6-7-09 - FIRST READING – AMENDMENT TO ORDINANCE 54, SEC. 54-63 SALE PROCEDURES

Motion by Selden, supported by Maida

That this be the first reading of an amendment to the City Code, Chapter 54, Section 54-63-Sale Procedures (see attached amendment as part of these minutes)

VOTE:

MOTION CARRIED UNANIMOUSLY

1. Resolution to delegate authority from Council to Manager/Police Chief to approve Street Closure for Block Parties

City Manager Murphy stated that we talked about this at the last meeting and he has brought back a resolution for Council's consideration.

Councilman Kivell stated that he would like us to limit this to block parties, not parades, etc.

CM 6-8-09 – RESOLUTION DELEGATING AUTHORITY FOR STREET CLOSURES

Motion by Wedell, supported by Maida

WHEREAS: The City Council has the power to approve parades and road closures within the City boundary's, and

WHEREAS: Numerous requests are received where the date of the request and the proposed date of a parade or road closure not provide adequate time to submit the request to Council at a regularly scheduled meeting, and

WHEREAS: The City Council desires to provide for a timely review and approval of these requests and while providing for the safety and public welfare of the community, and

WHEREAS: The City Council has the authority under the City Charter to delegate its authority to approve permits to certain administrative officers of the City,

NOW THEREFORE: The City Council hereby delegates to the Chief of Police and the City Manager the authority and responsibility to review and approve or deny requests for parades and road closures based upon safety and public access concerns and to forward such requests where appropriate to the Oakland County Road Commission.

IT IS FUTHER RESOLVED: Any person or organization objecting to the grant or denial of a parade or road closure permit, may request a review of the administrative decision by the City Council at its next scheduled meeting.

VOTE:

MOTION CARRIED (1 OPPOSED)

MANAGER'S REPORT: None

COUNCIL COMMENTS:

Councilman Morelli thanked everyone who came out for the walk. They anticipate that they had 350-400 people who came out. A lot of people have asked if they are going to continue. We will have to get together and organize it. Mayor Doyle stated that he did attend the walk. He thanked the Morellis and Kristen Delaney who did a lot of work to pull it together.

Councilman Selden asked the status of Primal. City Manager Murphy stated that we do not know.

Council Member Kopkowski stated that she recently read an article about either the City or Township of Brighton who are having their City employees take one day per month off without pay and an extra day at all of the holidays without pay. In a 24 month period they anticipate saving the City \$125,000. She felt that it was interesting and shows that people are looking at different ways to save money for their communities.

Councilman Kivell asked if HRC is indicating that Rocks and Roots did not meet Davis Bacon. City Manager Murphy stated that they just did not provide proof. Actually it is a supplier to the subcontractor.

Councilman Kivell asked the status of the Interlocal Agreement for the projection equipment. City Manager Murphy stated that Plymouth pulled out. The Supervisor in Milford Township is sending it to his attorney. We are hoping to have it within the next two weeks.

Councilman Kivell asked if there has been any discussion about what happens to our inmate labor if White Lake actually closes. City Manager Murphy stated that he has not heard anything yet.

Councilman Kivell stated that in the bills was a check written to the schools for the 1% of the franchise fee. He would like to see this as an agenda item at a future meeting to discuss if this is something that is still in our best interests. He would like to invite someone from the schools to see if they can make an argument to justify receiving that money.

ADJOURNMENT:

CM 6-9-09 – ADJOURNMENT

Motion by Selden, supported by Kopkowski

To adjourn the meeting at 9:06 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully Submitted,

John Doyle, Jr.
Mayor

Julie C. Zemke
City Clerk/Treasurer