

**CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
July 27, 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, Selden and Wedell

City Manager Murphy

City Clerk/Treasurer Zemke

Attorney Hill

Department Heads: Collins, Martin and Renwick

ABSENT: Council Member Morelli

CM 7-1-09 – EXCUSE ABSENCE

Motion by Maida, supported by Kivell

To excuse absence of Councilman Morelli due to family business

VOTE:

MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES:

CM 7-2-09 – APPROVAL OF MINUTES – JULY 13, 2009

Motion by Wedell, supported by Maida

To approve the minutes of the July 13, 2009 Regular Council meeting as written

VOTE:

MOTION CARRIED UNANIMOUSLY

APPROVAL OF AGENDA:

CM 7-3-09 APPROVAL OF AGENDA

Motion by Wedell, supported by Maida

To approve the agenda as presented

VOTE:

MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT: None

OLD BUSINESS: None

NEW BUSINESS

1. Chester Street Drainage Project, bid

City Manager Murphy stated that this is a CDBG project. The estimate was \$48,940 with the bid coming in at \$40,786.00. It is a budgeted project and he is recommending approval of the bid.

Councilman Selden asked if the contractor is required to ensure that all of their employees are US citizens or have the proper Green Card. Superintendent Renwick stated that this is a CDBG project and they do

have to conform to the Davis-Bacon Act. Attorney Lee stated that they are obligated to pay their employees prevailing wages, they do check their payroll records and you cannot have a payroll record in the United States without a social security number. However he does not know of any pledge that says all of their employees are citizens.

Council Member Kopkowski asked how much of the funds are CDBG. City Manager Murphy stated that we are getting \$29,000+ from CDBG.

Councilman Kivell asked that this information be provided when asking for Council approval given the time frame between when the project is decided and the bid is presented. He further stated that the contract talks to liquidated damages and failure to complete the work and the fact that those liquidated assets are not considered a penalty. He asked the qualifier as to that not being considered penalty. Attorney Lee stated that you cannot have a penalty award in a contract. We agree to what the damages would be in the event of a breach of contract.

Discussion was held on substantial completion and the qualifier. City Manager Murphy stated that in his experience substantial completion has never been defined well in the contracts. Discussion was held on the need to have that more defined.

CM 7-4-09 – APPROVAL OF BID – CHESTER STREET DRAINAGE PROJECT

Motion by Kivell, supported by Selden

To approve the bid from Summit Transportation in the amount of \$40,786 for the Chester Street Drainage Project

VOTE:

MOTION CARRIED UNANIMOUSLY

2. 2009 Street Improvement Project, bid

City Manager Murphy stated that we have received a bid from Pro-line for the 2009 Street Improvement Project in the amount of \$281,832. The engineers estimate was \$354,103.50 which is a significant savings. He would ask that Council approve the bid.

Discussion was held on the streets that will be complete. Superintendent Renwick stated that it would include Harvard, University, Winchester, Covington, Scott and some of E. McHattie.

Councilman Wedell asked if the small portion of University to be complete include the horseshoe and the portion that goes west. Superintendent Renwick stated that it will be just the horseshoe, only that portion that is asphalt now.

Council Member Kopkowski stated that the engineers did not save us money because we did not spend the money. City Manager Murphy stated that he is simply saying that the bid came in much lower than the original estimate.

Council Member Kopkowski stated that she was not in favor of doing all of these streets from the beginning.

Councilman Kivell stated that the letter speaks to an alternate and asked why we are not looking at the higher bid price of \$302,544.78. City Manager stated that speaks to a mat before the concrete is laid. Superintendent Renwick stated that it is bonding the asphalt to concrete, but not asphalt to asphalt. Councilman Kivell stated that it is difficult to make a decision without answers. City Manager Murphy stated that he can get some additional information for the next meeting. It was stated that the base bid could be approved at this time so as not to hold up the project.

CM 7-5-09 – APPROVAL OF BID – 2009 STREET IMPROVEMENT PROJECT

Motion by Kivell, supported by Wedell

To approve the bid from Pro-Line Asphalt Paving Corp. in the amount of \$281,832 for the 2009 Street Improvement Project as submitted

VOTE:

MOTION CARRIED UNANIMOUSLY

3. Agreement with Lyon Township for Vehicle Maintenance

City Manager Murphy stated that Lyon Township approached us to see if there is a way that our mechanic could start taking care of their fire equipment. He stated that he did talk with our mechanic who indicated that we would be able to fit them in. Therefore, he sat down with Lannie Young and Chief McLain as well as Chief Kaska and reached the proposed agreement. Our equipment will come first and they will purchase any required parts so that it is not running through our accounting system. We will charge them time plus a 20% administration fee. He stated that he would like to do this to show cooperation with the Township.

Councilman Wedell asked if the Township Board acted on this yet. Chief McLain of Lyon Township Fire Department stated that they were advised that it should come to the City first and if there were no significant changes then it would be brought back in front of their board.

Councilman Selden stated that there is nothing in the agreement for handling a dispute. Attorney Lee stated that rather than having warranties, etc. we said that we will resolve disputes between the two groups, and if a dispute cannot be resolved, then the agreement will be terminated. Councilman Kivell asked if there is a problem with a vehicle that was repaired will it simply come back for us to repair again. Attorney Lee stated that there is an implied warranty of workmanship in anything.

Chief McLain stated that his board did have question what would happen if the mechanic is busy and their vehicles cannot be fit in. He stated that he does have a third party that they can contract with. He stated that he would like to see some consistency in doing preventative maintenance and repairs.

CM 7-6-09 – APPROVAL OF INTERGOVERNMENTAL WITH LYON TOWNSHIP

Motion by Selden, supported by Kopkowski

To approve the Intergovernmental Agreement with Lyon Township for vehicle maintenance

VOTE:

MOTION CARRIED UNANIMOUSLY

4. Mower Replacement

Superintendent Renwick stated that our zero-turn mower is six years old. We do have some major repairs that have arisen. Given the age of the mower and the cost to make those repairs he would like to put the funds into a new machine. He stated that he did not plan to replace the mower for another year, but unfortunately there have been things that have come up after a few months of use this year.

Discussion was held on the use of the mower. Superintendent Renwick stated that we cut from one end of the City to the other.

Council Member Maida asked if there would be any trade-in value to the current machine. Superintendent Renwick stated that there would not be given the repairs that need to be done.

Councilman Wedell asked if 1500 hours is a lot for that type of machine. Superintendent Renwick stated that it is average for a commercial machine. He further stated that John Deere has come out with an extended warranty for the proposed equipment. In the past, extended warranties have not been something that we have looked at. However, for an additional \$1,200 they will offer an extended warranty for up to six years, which at that point we would be looking for a replacement.

Councilman Selden asked what would be done with the old equipment. Superintendent Renwick stated that we could put it out for bid.

Council Member Kopkowski stated that it looks like homework has not been done, and it is just easier to replace the old one. It was not in the budget. As far as the warranty, in four years you would be out of warranty given the number of hours so it is not a six year warranty.

Councilman Kivell asked if the frame is sound on the current mower and asked about the mower deck. Superintendent Renwick stated that the frame is sound and the mower deck is in good condition. The hydraulics are going. Councilman Kivell asked how much a new engine would cost for the machine. Superintendent Renwick stated that it would be \$4-5,000. He further stated that these machines are actually rated for three years so we have already gone beyond the life expectancy. Going to a diesel will extend the life expectancy to approximately ten years. Further discussion was held on the number of hours the equipment is used.

Discussion was held on the down-time of the equipment if we chose to repair it. Superintendent Renwick stated that we could be looking at several weeks depending on parts availability. The question was asked how much longer is the mowing season. Superintendent Renwick stated that they will continue mowing until the first of October depending on weather.

CM 7-7-09 – REPAIR OF ZERO-TURN MOWER

Motion by Selden, supported by Kivell

To approve the repairs on the zero-turn mower including a new engine and repair of hydraulics

VOTE:

MOTION CARRIED (2 OPPOSED)

Discussion was held on cost of repairs. Discussion was held on the need to get the repairs done as quickly as possible. Doug Buers, City Mechanic stated that we have already put \$6,000 into the machine and we are now looking at another \$5,000 just to make it useable. He further stated that part of the repairs that have already taken place was for the hydraulic motors. Discussion was held on the hydraulics on the new machines.

CM 7-8-09 – REPAIRS TO ZERO-TURN MOWER

Motion by Kivell, supported by Kopkowski

To approve the repairs on the zero-turn mower in an amount not to exceed \$6,000

VOTE:

MOTION CARRIED (1 OPPOSED)

Councilman Wedell asked what equipment will be used until the repairs are made. Superintendent Renwick stated that we will check into a rental unit.

5. West Nile Reimbursement

CM 7-9-09 - OAKLAND COUNTY WEST NILE VIRUS FUND PROGRAM REQUEST FOR REIMBURSEMENT

Motion by Selden, supported by Kopkowski

WHEREAS, upon the recommendation of the Oakland County Executive, the Oakland County Board of Commissioners has established a West Nile Virus Fund Program to assist Oakland County cities, villages and townships in addressing mosquito control activities; and

WHEREAS, Oakland County's West Nile Virus Fund Program authorizes Oakland County cities, villages and townships to apply for reimbursement of eligible expenses incurred in connection with personal mosquito protection measures/activity, mosquito habitat eradication, mosquito larviciding or focused adult mosquito insecticide spraying in designated community green areas; and

WHEREAS, the City of South Lyon, Oakland County, Michigan supports and authorizes the 2009 expenditure and application submittal for reimbursement of expenses in connection with mosquito control activities eligible for reimbursement under Oakland County's West Nile Virus Fund Program.

NOW THEREFORE BE IT RESOLVED, that this City Council authorizes and directs its City Manager, as agent for the City of South Lyon, in the manner and to the extent provided under Oakland County Board of Commissioners, to request reimbursement of eligible mosquito control activity under Oakland County's West Nile Virus Fund Program

VOTE:

MOTION CARRIED UNANIMOUSLY

6. Service Body for Mechanic's Truck

Superintendent Renwick stated that we need to replace the service body on the mechanics truck. It is beyond repair. The price through Knapheide Truck is through the Oakland County purchasing and they are the only company who provided the option to paint it the same color as the vehicle. The lowest bid was from NBC Truck, however he would recommend accepting the bid from Knapheide with the paint option for a total cost of \$8,119. This was a budgeted item.

Discussion was held on the equipment. Superintendent Renwick stated that it is the back portion of the truck that allows for storage of tools, etc.

Councilman Selden asked if we looked at South Lyon Collision for painting. Superintendent Renwick stated that there cost was \$900-\$1,000.

Discussion was held on the other two companies not providing a paint option. Superintendent Renwick stated that typically when the units are ordered, it is done through a dealership and the dealership takes care of the painting. In this case, we are just purchasing the body and doing the work.

Motion by Wedell, supported by Selden

To forego the bid process and approve the quote from Knapheide Truck at the price of \$7,165 with the \$954 paint option for a total cost of \$8,119 at a pre-bid cost through the Oakland County Purchasing price

VOTE:

MOTION CARRIED UNANIMOUSLY

ATTORNEY'S REPORT: (PRIVATE FIRE HYDRANTS)

Attorney Lee stated that at the request of Council and the City Manager, his office inquired through the Michigan Municipal League and the Michigan Townships' Association regarding other communities ordinances and how they handle fire hydrant inspections. They also inquired the same of the President of the Michigan Association of Fire Chiefs. He stated that many communities do conduct the inspection of hydrants on private property and if there is an objection of allowing the inspection they do get an administrative warrant to do the inspection. He stated that he has asked all of our private communities to sign an agreement to allow us to come in and do the inspection. Some communities make the inspections and the Fire Department simply absorbs the cost as part of public safety. In other communities they do the inspection and recover the cost from the property owner. The problem comes back to the question that the City is precluded by its Charter to conduct functions on private property other than court order. Even if we inspect whether for free or charge. Making any repairs pursuant to the inspection would require another court proceeding. Some communities have gotten around this by to entering into an agreement that would allow the City to make the repairs and charge back to the private community. Another question that was asked is if we could maintain the hydrants and charge back through their water bill. He stated that he will investigate that question. He would suggest that Council offer these communities the opportunity for them do the survey and offer these to the City and upon determination that they meet our code, they would be made public hydrants. He further recommended that any offer should be done by resolution of Council.

Discussion was held on Fire Safety Requirements.

Discussion was held on the cost burden of the private developments unless or until they were dedicated to the City. Attorney Lee stated that we can under Health and Safety aspects of our Charter do the inspections.

Discussion was held on the cost of a survey. Attorney Lee stated that we cannot allocate money to do it ourselves. It would be doing something for a private party.

Councilman Kivell asked what the motivation is in insisting on a court order for this type of activity. Attorney Lee stated that it is about fire safety and the right of private property. Discussion was held on voluntarily entering into an agreement. Attorney Lee stated that it would be considered a proprietary function.

Council Member Kopkowski stated that each private community has the option to have a survey done and dedicate the hydrants or if they choose have us do the inspection and they make the repairs. Attorney Lee stated that if they are private hydrants, we cannot spend public monies to make the repairs.

Councilman Kivell asked if they want to dedicate the hydrant but after it is inspected that there is a deficiency found could we accept the hydrant contingent upon them making the necessary repairs or paying for it. Attorney Lee stated that we could put it as a contingency or we can say that the City will do the repair.

It was stated that the City is going to do the inspection this year at no charge, so there is time to investigate prices for surveys, etc. Attorney Lee stated that we would have to have a registered survey because it will need to be recorded.

Councilman Wedell stated that we have an idea of what the residents of these private developments would like, but has there been contact made with the owners to find out what they want. It was stated that almost

all of them are incorporated, owner associations. They would have a vote pursuant to their by-laws. Councilman Wedell stated that he would like to hear from those organizations. Attorney Lee stated that he is suggesting that Council pass a resolution making an offer which would then be sent to the registered owner and they would have the responsibility to go before their membership.

City Manager Murphy stated that he did talk with Jesse VanDeCreek who indicated that their offer to do the survey work was not a part of the design work that was being proposed at the last meeting. He did ask for a cost estimate to have them do that work, which should be available shortly and it would be broken down into developments. This would give the residents an estimated cost. Attorney Lee stated that the City could not pay for that survey work to be done. We can give them the information but we cannot use public money for private purpose.

Discussion was held on moving forward. Attorney Lee stated that we do have some time to take action. If Council wishes to direct him to draft a resolution making offer to the private developments, that would be the next step.

Councilman Kivell stated that since the time that Council passed the resolution to do the first inspection, the City has been in contact with all of the owners. Therefore, this issue is not going to be a surprise. City Manager Murphy stated that they have started the inspections.

Council Member Kopkowski stated that if we do wish to move forward, she would like the letter to include the fact that they should look into their records to see if what they have may help lower the cost. City Manager Murphy stated that we would also offer up any of our records. Council Member Kopkowski asked if there is any information as to cost of repairs over the years on the public hydrants. Superintendent Martin stated that we inspected all of the hydrants last fall, and all of them worked. The only time he could see a problem is if we had an older antiquated hydrant. He stated that even if some of the hydrants have not been inspected in years, they still flush hydrants to get rust out of the system.

MANAGER'S REPORT:

City Manager Murphy stated that he will be passing out to Council some information from the Michigan Suburbs Alliance. Superintendent Renwick stated that this is an alliance looking for clients. They are dealing with the energy stimulus package. The idea is that a large group would apply versus individual communities so we stand a better chance in receiving some of these grant monies. They would like to start a program similar to DWRP for doing energy projects. The question was asked if SEMCOG's energy coalition is a part of this. Superintendent Renwick stated that they are partners.

City Manager Murphy stated that his annual review will be at the next meeting. He stated that he would be using the goals set by Council and indicate how he has accomplished each item. He further asked if Council would like to see anything else. Mayor Doyle stated that this would be a good starting point. Councilman Kivell stated that he would also like to see anything done beyond those set goals.

City Manager Murphy stated that an off-shoot of the Pumpkinfest Committee is going to be looking at a possible beer tent downtown during the festival and concert downtown. He stated that he is looking for input from Council so that if it is something Council does not want to see that they can stop pursuing it. Council Member Kopkowski stated that she will always entertain new ideas, but it does depend on who the sponsor will be. Councilman Kivell stated that Farmington's Founders Day Festival always has a beer tent and it has been successful. It could be beneficial to Pumpkinfest. City Manager Murphy stated that it will be brought back to Council for approval. Attorney Lee stated that they will also need approval from Liquor Control Commission.

COUNCIL COMMENTS:

Council Member Maida stated that on Saturday Theiser Equipment will be having a free summer celebration and antique tractor show as well as many family events. Also, another free event will be Family Fun Day at Larry's Foodland this Saturday with games, food, prizes, etc.

Council Member Maida stated that their Operation Injured Soldier event was a great success. They had 123 bikes and fun was had by all.

Councilman Selden asked the status of the citation issued to Bodnar and asked if any other citations have been issued. Attorney Lee stated a second citation was issued. The problem is he simply comes in and pays the tickets. At some point we will ask for a hearing and try to compel him to do what we need him to do.

Mayor Doyle stated that Lieutenant Craig Johnston of our Fire Department is very sick. He thanked the South Lyon Hotel for hosting a fundraising event and stated that there are numerous business throughout town where donations can be made. Craig and his family have done a lot for our City, and any help would be greatly appreciated.

ADJOURNMENT:

CM 7-11-09 ADJOURNMENT

Motion by Selden, supported by Kopkowski

To adjourn meeting at 8:56 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

John Doyle, Jr.
Mayor

Julie C. Zemke
City Clerk/Treasurer