

**CITY OF SOUTH LYON  
REGULAR CITY COUNCIL MEETING  
October 12, 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, Selden and Wedell  
City Manager Murphy  
Attorney Lee  
City Clerk/Treasurer Zemke  
Department Heads: Collins, Renwick and Martin  
ABSENT: Council Members: Maida and Morelli

**CM 10-1-09 – EXCUSE ABSENCE – MORELLI**

Motion by Kivell, supported by Wedell

To excuse the absence of Councilman Morelli due to being out of town on business

VOTE: MOTION CARRIED (1 OPPOSED)

**CM 10-2-09 – EXCUSE ABSENCE – MAIDA**

Motion by Kivell, supported by Wedell

To excuse the absence of Council Member Maida

VOTE: MOTION CARRIED (1 OPPOSED)

**APPROVAL OF MINUTES:**

**CM 10-3-09- APPROVAL OF MINUTES – SEPTEMBER 28, 2009**

Motion by Kivell supported by Wedell

To approve the minutes of the regular meeting of September 28, 2009 as written

VOTE: MOTION CARRIED UNANIMOUSLY

**APPROVAL OF MONTHLY BILLS:**

Discussion was held on various bills.

**CM 10-4-09 – APPROVAL OF MONTHLY BILLS**

Motion by Selden supported by Kopkowski

To approve the monthly bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

**APPROVAL OF AGENDA**

CM 10-5-09 – APPROVAL OF AGENDA

Motion by Wedell, supported by Kivell

To approve the agenda as presented

VOTE:

MOTION CARRIED UNANIMOUSLY

CITIZENS SUGGESTIONS:

City Clerk/Treasurer Zemke stated that she has been requested by Council Member Maida to read the following into the record:

To South Lyon City Clerk and South Lyon City Council members:

I feel that I could have been misinformed as to how to handle my default to the City and my position on City Council. At this time I have made the decision to resign my seat on South Lyon City Council effective immediately.

Patricia Sue Maida

CM 10-6-09 – ACCEPTANCE OF RESIGNATION

Motion by Kivell, supported by Selden

To accept the resignation of Patricia Sue Maida from the South Lyon City Council

VOTE:

MOTION CARRIED UNANIMOUSLY

Senator Nancy Cassis was present as well as Betty Nulty of the Salem-South Lyon District Library. Senator Cassis stated that she is present to pay tribute to Ms. Betty Nulty in honor of her Michigan Library Association 2009 Trustee Citation of Merit Award. She stated that this is a great honor and Ms. Nulty is very deserving. She reviewed Ms. Nulty's accomplishments serving the South Lyon Community Schools before becoming a member of the Salem-South Lyon District Library Board. She stated that we all recognize the value of our libraries in our towns across America. It is the heart of our communities, and because of that, it makes Ms. Nulty so worthy of this honor. She read a portion of the tribute recognizing her Michigan Library Association 2009 Trustee Citation of Merit Award signed by Governor Granholm, State Representative Crawford and herself. Ms. Nulty thanked Senator Cassis and stated that it is a real honor to receive such an award. She stated that she appreciates the fact that libraries are recognized for their value in the community. She further stated that it has been an exciting time to serve on the Library Board as it has grown phenomenally. This community should be commended for supporting the Library as they have.

Mayor Doyle congratulated Ms. Nulty and stated that we are very fortunate to have the facilities that we have, and that is due in large part to her efforts.

Oakland County Commissioner Jeff Potter of 1099 Stable Lane discussed the Library and the expansion of the Library and formation of the District Library. He discussed the State budget and where we are going as a County. He stated that the Ford Wixom Plant will be re-opening under new ownership. They are talking about replacing ultimately 4,000 jobs. All of the pieces are not in place yet, but there has been significant grants given for pollution remediation and tax forgiveness thanks to efforts by our State Senator and others. He further discussed the reopening of the plant and jobs creation. He discussed upcoming road projects. He stated that the County is now on a three-year budget cycle and are budgeting out to anticipate their revenues for the next three years. He further discussed the economy and effect on home values and taxable values. The County budget has been cut and they are maintaining their millage rates. Finally, he discussed police costs in various communities and the use of State Police troopers for local calls in certain communities. He stated that they may be in a position of stripping out some of the elemental functions such as highway patrol, arson investigation, cross-jurisdictional corruption cases, etc. thereby affecting taxpayers.



**OLD BUSINESS:** None

**NEW BUSINESS:**

1. The City taking ownership of the Charleston Park lift station

Superintendent Martin stated that we have received a call from Mike Cain of the Singh Development requesting that the City consider taking over the utility bills for the Charleston lift station. He believes that we should do that due to the fact that the lift station, unlike any other that we have, reaches into the older part of the City including Chester, Hagadorn, Crest, etc. approximately 400 homes with only 18 within the Singh Development. We have eight lift stations in the City with the average monthly DTE bill being \$80-85 and Consumers only approximately \$15. We already maintain this lift station mechanically. The only thing that we do not have is a survey of the lift station, and Singh has indicated that they would provide that.

Councilman Wedell asked if we take over the lift station, would that include acceptance of the property. Superintendent Martin stated that it would include the lift station itself, no water or sewer lines. Attorney Lee stated that the reason we are bringing this to Council now is that the City has a policy of not accepting dedication of water, sewer, roadways, etc. within a subdivision until they are at least 90% complete. This is different is because this lift station pursuant to an agreement not only included the Singh Development but also other areas of the City. Singh would have to prepare a document deeding the property and equipment to the City for Council's acceptance. Before we proceeded and had Singh spend the money to prepare these documents, we wanted to get a sense of approval from Council. We are not willing to accept water and sewer lines, roads, etc. at this time.

Councilman Selden asked if the maintenance contract is transferrable and asked if it would include all maintenance records. Superintendent Martin stated that it would. Councilman Selden asked if we would do an acceptance inspection before accepting the station. Superintendent Martin stated that we can, but a punch list has already been completed as well as the yearly maintenance. Councilman Selden asked if there has been any monetary offer for us to take this. Superintendent stated that there has not been any offer, but he can discuss this with Mike Cain.

Councilman Kivell asked how much of the capacity that will run through the lift station is on line now. Superintendent Martin stated that it is approximately 50%. He stated that Phase I of that subdivision includes 98 homes. Councilman Kivell asked if we could have an agreement with Singh to pay a portion of the energy costs until they fulfill the threshold that we would normally accept it. He stated that we are relieved of a great deal of liability by not taking in the underground lines, and the cost is only \$100 per month, but it could take them six years to complete the development. Superintendent Martin stated that he will talk with the City Attorney to draft a letter to them requesting such an agreement. Councilman Kivell stated that we are already doing the maintenance so all we are talking about is \$600 per year, but it is something.

**CM 10-7-09 – TABLE CONSIDERATION OF CHARLESTON PARK LIFT STATION**

Motion by Wedell, supported by Kivell

To table consideration of taking ownership of the Charleston Park Lift Station until the first meeting in November

VOTE:

**MOTION CARRIED UNANIMOUSLY**

2. Liability Insurance Renewal

City Manager Murphy stated that last year, the City switched its liability insurance from the Michigan Municipal League to the Michigan Municipal Risk Management Authority (MMRMA) because they were less expensive and offered better coverage. At that time, we also signed an agreement with them for a second year with the understanding that the rate would not exceed 5%. They are actually proposing an increase of .6% or \$650. He is requesting Council approval.

Councilman Kivell pointed out that we are going to be receiving a \$5,000 grant from MMRMA. City Manager Murphy stated that based on that grant, the rate actually went down.

#### CM 10-08-09 – LIABILITY INSURANCE RENEWAL

Motion by Selden, supported by Kopkowski

To approve the agreement with the Michigan Municipal Risk Management Authority for property and liability insurance in the amount of \$116,079

VOTE:

MOTION CARRIED UNANIMOUSLY

#### 3. Possible CDBG Projects

Mayor Doyle stated that a map of the eligible area has been provided. We should be receiving \$28,139 and a list of suggested projects has been submitted.

City Manager Murphy stated that he also wanted to give Council a chance to put forth any projects they may have in mind. We can get cost estimates and bring them back at the next meeting.

Councilman Wedell asked about the parking lot adjacent to the water plant. He further stated that he would suggest that when we do select a project that we limit it to the amount of the grant. City Clerk/Treasurer Zemke pointed out that the parking lot next to the water plant is not within the eligible area.

Mayor Doyle stated that he likes the project that includes 460 feet of sidewalk on 11 Mile Road. City Manager Murphy stated that this would be from Heritage Drive to Pontiac Trail and give the people of Colonial Acres a walking path.

The question was asked if the existing areas of sidewalk would be removed. Superintendent Renwick stated that it would be filling in and connecting the areas that are already there. The cost estimate is roughly \$13,000. City Manager Murphy asked for a cost estimate for the Police/Fire parking lot. Superintendent Renwick stated that it would roughly be \$60,000, but could be scaled back. We had talked about expanding the area, and at that time was \$160,000.

Councilman Selden stated that he also likes the sidewalk project at 11 Mile Road. People currently have to walk in the street.

Council Member Kopkowski stated that she too would like to keep the project within budget. She further stated that it would have been nice to have some costs included with the suggested projects. She asked if this can be rolled over to another year. City Manager Murphy stated that we can roll this over for a few years. Council Member Kopkowski stated that we could use the funds for the sidewalk and roll the rest of it over to next year. City Manager Murphy stated that he would think that we could roll over what we do not use.

Councilman Kivell asked if we could look into the cost of the Whipple Street parking lot. It is in rough shape, and not just the surface of the lot, but we have not done a good job keeping the area neat. There is over growth around the perimeter, etc.

City Manager Murphy stated that he will get the cost information and bring this back for further discussion at the next meeting.

#### 4. Trick or Treat Hours

City Manager Murphy stated that last year we had talked about setting an ordinance for trick or treat hours, but Council at that time wanted to have it brought back each year. We are suggesting 6:30-8:30 on



Saturday, October 31<sup>st</sup>. Councilman Kivell stated that by bringing this back each year, it provides a good notice to residents.

#### CM 10-9-09 – APPROVAL OF TRICK OR TREAT HOURS

Motion by Kopkowski, supported by Kivell

To set the hours for trick or treating from 6:30 p.m. to 8:30 p.m. on October 31, 2009

VOTE:

MOTION CARRIED UNANIMOUSLY

#### MANAGER'S REPORT:

City Manager Murphy stated that he contacted DTE about the light at 11 Mile and Heritage. Apparently there had been some confusion with the paperwork, however they have indicated that it will be going on an existing pole and should be fairly easy to accomplish once the paperwork is in order.

#### COUNCIL COMMENTS:

Councilman Wedell stated that he enjoyed all of the events surrounding the Pumpkinfest. He thanked all of the organizers and participants.

Councilman Wedell stated that he had made copies of an editorial in the Oakland Press regarding revenue reductions. He will have those copies for Council at the next meeting.

Councilman Selden congratulated the Pumpkinfest Committee. The beer tent was also very successful.

Councilman Selden stated that it is time to invoke a point of order discuss the situation revolving the upcoming election. He read the Charter, Section 5.1 (b) No person shall be eligible for any elective or appointive City office who is in default to the City. The holding of office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof has been served at his last known place of residence, according to the records of the City, by the City Clerk upon the direction of the Council, or unless the officer contests his liability for the default in a court of competent jurisdiction. He stated that he is confused about the "unless" such default shall be eliminated..... The question is should someone remain in office if they are in default or is the office vacated. Attorney Lee stated that you need to read on to 5.1 (e) which indicates that Council shall be the sole judge of the election and qualifications of its own members. Until this Council declares an office vacant, it is not vacant. The Clerk cannot undo an election official. If you go on to Section 5.5 of the Charter, it states: After notice and hearing, any elective City office shall be declared vacant by the Council upon the occurrence of one or more of the following events: (a) For any reason specified by Statute or this Charter as creating a vacancy in office and for any reason specified by Statute for removal of City officers by the Governor;... Section 5.1 (b) is one of those events specified in 5.5 (a). As he has indicated, that notice is an additional requirement because under this provision and Roberts Rules of Order, which Council has adopted, you cannot have a hearing and a vote on the removal of a part of the body at the same meeting. Council could direct the Clerk at this meeting to give notice and at the next meeting set a hearing date for the following meeting. When you read 5.1 in conjunction with 5.5 in makes sense that for default to the City, you first have to be notified by the Clerk and secondly Council needs to make a determination of a date for a hearing and provide a 30 day cure period.

Councilman Selden stated that the time period would be after the election, which would take care of the situation. Attorney Lee stated that Council is not obligated by Charter or anything else to carry out a futile act. Both Council persons who are in default, their term expires with this coming election. The 30 days would expire after the election. Attorney Lee stated that if they did cure the default, their term would have expired and if they did not cure it, it would not matter because they would be out of office. It is unfortunate that these personal problems have to be discussed in public, but that is the price to be paid when holding public office.



Council Member Kopkowski stated that she would like to clarify for the public what happens with the election and their ballots if they vote for either of the mayoral candidates. City Clerk/Treasurer Zemke stated that the absentee ballots did go out. We were beyond the withdraw date for someone who wished to have their name removed from the ballot. Mayor Doyle's name is on the ballot. If he does get the largest number of votes and corrected the default, he would assume office. However, if the default is not corrected, he would be ineligible to take the oath of office and Tedd Wallace would assume that seat. People still have the option of voting for either candidate. Councilman Selden stated that the only other way to run for the position would be to run a write-in campaign. City Clerk/Treasurer Zemke stated that is correct, but they do have to declare their intent to run a write-in campaign. Attorney Lee stated that the deadline for filing was prior to the default taking place. Nobody was in default until October 1<sup>st</sup> and the filing deadline was September 15<sup>th</sup>.

Councilman Kivell asked if there is any option for anyone who has already submitted an absentee ballot. City Clerk/Treasurer Zemke stated that once a ballot is returned there is no other recourse. However, if someone is in possession of their ballot and wishes to spoil their ballot, they can return that ballot to the Clerk's office and receive a new one.

Councilman Kivell stated that the Pumpkinfest was a great event. It was nice to see the people of the community stand out in the rain to watch all of the children, floats, etc. in the parade and enjoying it. Downtown Saturday Night was a great success. They had so much fun sitting and listening to the bands in downtown South Lyon. The beer tent was completely successful without one incident of misbehavior, and was a great point on which to start building on. There are already ideas being looked at as to how we can improve that event for next year. He would like to commend Kristen Delaney who worked hard to make sure that this was the best event that we could have.

Councilman Kivell stated that it is unfortunate that the confusion over the election has occurred because of confusing language in the City Charter and making it difficult to be clear on what the intent is, which is an enormous aspect. Council has to initiate the Clerk to give notice to somebody in default which starts the timeline of 30 days for them to make corrections. At that point it comes back to Council to determine how they want to act on the event. It is not automatic. Council is the driving factor in the decision making process. He would hope that this gives anyone who is not clear a better understanding. There is no conspiracy, it is a deliberate process.

Councilman Selden stated that the Charter indicates that when someone is in default, the office is vacated yet they serve the time period that the notice is given.

Councilman Selden stated that given the turnout despite the rain during Pumpkinfest shows how the populous feels about the event. The limited few that work on the event need some help and would encourage anyone who enjoyed it to become a part of the committee to help make it better next year.

Mayor Doyle agreed that Pumpkinfest was a great, successful event.

### **ADJOURNMENT:**

#### **CM 10-10-09 – ADJOURNMENT**

Motion by Selden, supported by Wedell

To adjourn the meeting at 8:34 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully Submitted,

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John Doyle, Jr.  
Mayor

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Julie C. Zemke  
City Clerk/Treasurer