

**CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
March 22, 2010**

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

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

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

APPROVAL OF AGENDA:

City Manager Murphy stated that he would like to add New Business #6 to discuss the changing of Agent of Record.

CM 3-1-10 APPROVAL OF AGENDA

Motion by Kivell, supported by Morelli

To approve the agenda as amended by adding New Business #6.

VOTE: MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES:

CM 3-2-10 – APPROVAL OF MINUTES- MARCH 8, 2010

Motion by Morelli, supported by Kramer

To approve the minutes of the March 8, 2010 Regular Council meeting as written

VOTE: MOTION CARRIED UNANIMOUSLY

APPROVAL OF MONTHLY BILLS: None

PUBLIC COMMENT:

Mr. Carl Richards of 390 Lennox Street stated that he would like to bring to Council's attention a possible significant savings for the City. He discussed an error on his recent Consumer's Energy bill and indicated that although the error in math on his bill was not significant, with the number of accounts that the City has, any error could add up. He further discussed the various plans that are made available for both residential and commercial accounts.

Mr. Corey Bala of the South Lyon Hotel stated that last year in conjunction with Pumpkinfest, the Chamber of Commerce along with the Hotel sponsored a beer garden downtown, which was very successful. They would like to expand on that idea through the Chamber of Commerce and the DDA and ask permission to have a couple of more this year. They would like to have the downtown intersection blocked off again on three dates, Saturday, May 15th, July 24th and October 22nd. On the first two dates, they would like permission to have a band stand where they will have music from 5 p.m. until 11 p.m. They would like to have a beer garden and would like the open intoxicants ordinance suspended. For the October 22nd event, Pumpkinfest will be going on and it is his understanding that downtown will already be blocked and the bandstand there for the event therefore they are only asking that the beer garden be allowed and the open intoxicants ordinance suspended. The goal is to try and get people downtown more often than just the one

festival. They would like to encourage all of the businesses in town and in Lyon Township to make some type of appearance, booths, etc.

Council Member Kopkowski asked what events would be taking place May 15th and July 24th. Mr. Bala stated that what they did last year was "Downtown Saturday Night" and would like to do that again.

Councilman Morelli asked if this is a Chamber event. Mr. Bala stated that the beer garden was a Chamber event, but the Downtown Saturday Night was a DDA event. He stated that the Hotel did volunteer some of its help to run the beer garden. He would encourage other establishments to participate and multiple beer tents if they choose.

Mayor Wallace stated that he had an inquiry about other non-profits being involved and asked if this group would be looking for that. Mr. Bala stated that for the tent to take place, it has to be through a non-profit organization. This one was for the Chamber. Other organizations could co-sponsor or possibly another establishment would be interested in doing one. He stated that this type of event has a lot of possibilities and will create foot traffic downtown.

Councilman Kivell stated that he does like the idea of a beer tent being an anchor rather than this being the event. Discussion was held on the music being the anchor event.

Discussion was held on the proposed lay-out. Mr. Bala stated that last year was the learning time and are looking at expanding seating, better lighting, more stations for checking IDs, etc. They have also talked about the possibility of charging an admission to try to supplement the DDA.

Mayor Wallace stated that he is in favor of anything to promote downtown. He discussed other communities' downtown events such as Brighton, etc. and stated that it would be nice to see South Lyon turning into a destination place. Councilman Kramer stated that he thinks that it is a great idea to promote downtown and get more people there. Mr. Bala stated that the idea is not to extend the South Lyon Hotel porch. They are looking for a family atmosphere.

Discussion was held on the application process. Mr. Bala stated that he was simply looking for Council's input.

Mr. Tom March of 334 W. Lake Street stated that he would like to address Council about the speed limit issue on 10 Mile. He understands that there has been a lot of discussion about the issue, but he is not happy with the change. He stated that he has taken the time to read Public Act 285, which is supposedly the reason why we had to make the change, and he is not convinced that it was necessary. Now that it has been done, the only thing that is going to change that limit is a State study. He would like Council to proceed in any way we can to get that State study completed. He stated that prior to the change, there was a patrol car with the speed limit device and he watched that and the 85% was under 27 miles per hour. He believes that if the State study was done, the 85% is not more than 30 miles per hour. He further discussed how the State police set the speed limit and one of things pointed out is that a speed zone should be no less than 1/2 mile to reduce the amount of changes. Now we have a speed zone approximately 1/10 of a mile. This is simply another reason why he feels that a State speed study would result in that speed limit being lowered. Mayor Wallace stated that there is going to be a traffic study that will be done this week. It was stated that this is not a State study, which is the only one that counts. Mr. March stated that it is unfortunate that we moved so quickly. He stated that the statement that the speed limit was unenforceable did not make sense because we have been enforcing it. Mr. March further discussed his interpretation of the intent of the State Law and the setting of a prima facie speed limit.

OLD BUSINESS: None

NEW BUSINESS:

1. Discussion on 9 Mile speed limit

Councilman Kivell stated that there was a lot of controversy when we changed the speed limit on Nine Mile to 35 with the primary opposition being the number of children crossing to get to the middle schools. We did put in the crosswalk and crossing lights, but it did not seem to satisfy people. With the onset of the 10 Mile situation, he came across some language relating to the setting of a school speed zone. With that being our own road, we do not have to go through the entire process through the State. He would like to discuss setting a school zone for the times one hour prior to school and one hour after the conclusion of school to 25 mph. The morning traffic would not get as much benefit as the after school given the amount of traffic in the area causing a lower speed.

Councilman Morelli stated that he is there at those times every day and at those times with all of the parents and all of the busses, there is a time where traffic is moving at 3 mph. The crosswalk works well if the kids cross there, the problem is they are not always crossing there. In the morning, traffic is at a standstill. In the afternoon, there is about a 15 minute window until all of the buses and parents have picked up the kids. All of the kids who are going to cross the street will cross during that window unless they are staying after school. He stated that he feels that it would be better to discuss this after the road project to see if it is going to change. It may change the flow and the speed.

Council Member Kopkowski stated that when the change to 35 mph was originally brought up she was on Council and was the only one who voted no. She stated that she remembers Councilman Kivell adamantly stating that 35 mph was not a big deal. She asked why it is being brought up now. Councilman Kivell stated that he is simply talking about the hour before and the hour after school. Council Member Kopkowski stated that it was not a concern at that time and asked why now. Councilman Kivell stated that we have two hours in the day that people seem to have a significantly more concern. If this will alleviate their concerns, it is a small price to pay to satisfy the residents. Council Member Kopkowski stated that she does not see why the concern has changed. Councilman Kivell stated that he still feels that we fulfill our obligation. We have a crosswalk, but cannot force the kids to use it. The issue is that we can alleviate the residents' concerns by establishing a 25 mph school zone prior and after school.

Council Member Kopkowski stated that she does not feel that an hour after school is long enough because there is going to be activities after school. If they are going to change the road, then she would agree that we should wait until that is completed. She further stated that she has traveled the road when people are dropping off their kids and it is 3 mph. Councilman Morelli stated that he is not concerned about the morning, but it is the after school activities, summer leagues, etc. where people are crossing the road. The ideal thing would be a crosswalk over the road.

Councilman Wedell asked if anyone from the school system is asking for this. Mayor Wallace stated that Dr. Pearson has indicated that he would not pursue this, but he would be fine if the City did do it. It does not seem to be a major concern of his. He further stated that he would agree that waiting until after construction would make more sense.

CM 3-3-10 – TABLE DISCUSSION OF NINE MILE ROAD SCHOOL ZONE

Motion by Selden, supported by Wedell

To table discussion of a speed zone on Nine Mile until after the road construction is complete

VOTE:

MOTION CARRIED UNANIMOUSLY

2. International Fire Code: Lock Boxes

Mr. Randy Clark of 415 S. Lafayette stated that the updated Code was adopted in February 2009. He stated that nobody read the code or received a copy. Section 506 of the fire Code requires exterior key boxes and may have been in a previous code. In 2009 the Fire Department's policy regarding the key box requirement changed. Last year he had heard that the City was prosecuting business owners for failing to install them because the business owners felt for security reasons that it was not a good idea. He had hoped that if that was the case, that it would be discussed by Council. There are ways that we could have communicated with the business community, which was not done. After his fire inspection in September, he found out that numerous states like New Hampshire, many communities in Texas, California, Colorado, etc. changed the code to eliminate the requirement of the key boxes. The cost of the box after installation is \$200-300 when multiplied by the number of businesses in town is significant. His biggest concern as well as some of the other business owners is that there is no written policy of when those boxes are going to be used, they do not know who has the keys, the fact that we do not track box usage, there is no background checks on the firefighters, and they do not know if there is a key in every truck and if there is then they are driven all around town. He discussed a community in Georgia who changed the code to reflect the requirement of key boxes for businesses with excessive amounts of chemicals, locked gates or entry ways, etc. He stated that he is hoping that Council will look at this and take a common sense approach. We are full of businesses in town with a lot of windows and doors and if there is a fire, the Fire Department is not going to fumble for keys and simply break the glass. He stated that he provided a waiver to the Fire Department indicating that he would not hold them responsible for broken glass in the case of a fire. His insurance agent has indicated that if there is an emergency in his building, the glass is covered.

Council Member Kopkowski stated that she received emails from five businesses regarding these lock boxes. She asked why this is all of the sudden being enforced. Chief Kaska stated that prior to adopting the International Fire Code, we used the National Fire Protection Code and the Building Department was following BOCA and then adopted the INFC and requested that the Fire Department follow that as well, but both codes have the lock box requirement. We actually started the lock box program in 2004. All new buildings have them. It is not a new program. Council Member Kopkowski asked how many businesses we have in the City. Fire Inspector Welch stated that we have 258 businesses, 139 have boxes, 26 are vacant and 2 are plazas which may have a sprinkler room, alarm, etc. and 5 are exempted due to the fact that there is somebody there 24 hours a day, seven days a week. There are 9 businesses that are in the process of installing them now, so there are 74 businesses that are left.

Chief Kaska stated that the keys are not just floating around the trucks, they are in a secured lock box. Council Member Kopkowski asked if all the individuals with access to the keys have criminal background checks. Chief Kaska stated that everyone he has hired within the last 10-12 years have been checked by the Police Department. They do not do fingerprints, but the process for the background checks is up to Chief Collins. Council Member Kopkowski asked what happens to the businesses that do not want to comply. Chief Kaska stated that we have been very patient, but we will issue a citation. If they do not comply, we will take them to court. Each time, the Judge has said this is the law and they will comply. We have three that have been taken to court and each time the Judge has ruled in favor of the City.

Council Member Kopkowski stated that she did receive emails from businesses owners and she supports them as well as the Fire Department. The business owners have issues and concerns, and there appears that we do not have a policy. Inspector Welch stated that there is a policy which was given to Mr. Clark as well as included in Council's packet. Chief Kaska stated that any time the lock box is opened, dispatch is notified as to who has taken the key and which key and they are notified when it is put back in. At the same time, dispatch is trying to notify the business owner.

Discussion was held on the use of the keys. Inspector Welch stated that typically, the key is not used in the case of a fire, unless it is for containment. If there is a report of smoke and they get to a scene and they do not see smoke, they do not want to break glass. We would rather confirm that there is none, lock the business back up and be done. Council Member Kopkowski asked how many times this type of situation has happened in the last five years. Chief Kaska stated that most recently we had an incident at Senate

Coney Island when the sprinkler system went off. Without that key, we would have had to wait for over 11 hours to get the water shut off. They were able to get in and stop the damage. Inspector Welch stated that they also had an issue with Brookdale Apartments when they had a fire in one of their laundry rooms and they were able to contain the fire to that room because they had the keys to get in. There have been times that they have gone to a business where they did not have a key and they had to sit for a long period to wait for the owner. They do not want to break something if they do not see flames. If they do see flames, their concern is not about a key. They do not want to do damage to businesses.

Council Member Kopkowski stated that she has always been in support of the Fire Department. It was not until today that she heard bad things about the Department. She heard businesses that feel bullied. They do not feel confident in the Fire Department having keys to their establishments and they feel bullied into giving those keys. She stated that she needs answers to that before she can accept this. Chief Kaska stated that the inspectors work with the business owners as much as possible. If they need an extension, we give them an extension. However, when it gets to a certain point and they are affecting the Fire Department's lives and the lives of the residents by not following the Fire Code that is when we issue a citation. We do not issue that many citations and certainly do not feel that the inspectors are bullying business owners. Council Member Kopkowski stated that the business owners need to stand up and speak on their own so that Council can make a decision. Chief Kaska stated that all of our inspectors are residents in town and do business in town and support the businesses.

Councilman Morelli stated that he knows two business owners that have had a problem with the inspectors. One probably pushed the issue by not complying and the other had ordered the equipment but did not install it. He further stated that he does not want that to cloud the issue of whether we need to enforce the boxes or not. Any business that has another business attached to it, he feels that it is a good idea to have the box. If the business is free standing, if a fire breaks out, it will not affect any other business. He does have concern about who has the keys and do they have background checks as well as are the keys secured. He asked if everyone has their own code so we know who opened the box. Chief Kaska stated that there is one code, but he is capable of changing that code at any time. Councilman Morelli stated that he would be more comfortable with everyone having a separate code. Chief Kaska stated that equipment can be purchased, but he does not consider any of his firefighters criminals or thieves. Councilman Kramer stated that there is nothing to say that something could happen down the road. Further discussion was held on identifying who opens the box. It was stated that Novi dispatch is informed of who and when the boxes are opened as well as who is in attendance and supervision. Discussion was held on the boxes being opened during yearly inspections and the fact that the business owner is also present.

Councilman Kramer asked what types of businesses have failed to comply. Chief Kaska stated that they have had no problem with any pharmacy or doctor. They have had a problem with one party store, a drycleaner and a strip mall. Councilman Kramer stated that there is nothing to say that we do not have faith in our fire fighters, but the concern is who is using the keys. Chief Kaska stated that dispatch is in the process of contacting the business owner while the Fire Department is opening the box.

Discussion was held on the durability of the boxes. Chief Kaska stated that it does depend on how the business owner mounts the box, but even though one could be knocked off the building, it is nearly impossible to open it.

Councilman Selden suggested a policy for those who do not wish to install the box, that a waiver could be provided by the business owner indicating that a window could be broken. Chief Kaska stated that it would be selective enforcement of a Fire Code.

Councilman Kivell stated that it was suggested that it is more justified when there is a neighboring business, which is a valid argument. But, if there is a situation at a stand alone business, it seems like undo action to break a window or door when you have the ability to unlock the door to investigate. There is also consideration of fireman's safety plus the fact that someone would have to be there until the building is secured. He further discussed other portions of the code such as exit signs or fire extinguishers associated

with fire safety not being negotiable. This has become standard fire procedure amongst neighboring communities.

Councilman Kramer asked if the City would be liable if a firefighter broke into a business because he has access to the box. It was stated that this would be criminal. Attorney Lee stated that this would be an act that he would be personally liable and personally sued, but the City would not be. City Manager Murphy concurred that this was also confirmed by our insurance agent.

Mr. Kenny Walkup of 116 N. Lafayette, Specialty Medicine Compound Pharmacy stated that Michigan Public Health Code as well as Administrative Rules for the Board of Pharmacy have stipulations regarding access to a pharmacy without a pharmacist on the premises. He questioned whether it is legal to have these keys outside a pharmacy. Attorney Lee stated that public health and safety in terms of disaster would take precedence over State Regulations and Drug Code Enforcement. Mr. Walkup stated that he would not be in favor of having a key box outside his pharmacy without having record of who took the key and why. Discussion was held on inside security and controls of drugs. Discussion was held on security or alarm systems. Chief Kaska stated that these boxes can be connected to an alarm system. Discussion was held on Rite Aid and CVS having boxes.

Discussion was held on the different types of boxes. The question was asked if there is any insurance discount for having a box. Inspector Welch stated that she is not sure of any insurance discounts.

Mr. Jacob Strecker of 940 Hidden Creek stated that he has had a CPA practice in Randy Clark's complex for the past 14 years at 415 S. Lafayette. He has concern about the lock box. He does not have inventory in his business but rather financial records for clients all over the country. He needs to know what the City is going to do to make sure that those records are not compromised. If those records are compromised it is not just about losing inventory, but people will lose identities. This could have far-reaching consequence. The question was asked if individual office keys would have to be in the box or just the main key. Mr. Strecker stated that he has been told that he would have to give a key to his office. Further discussion was held on internal security such as locked file cabinets, etc. Mr. Strecker stated that he has the only key to his office with the exception of Mr. Clark's master key. This just gives someone one more access to his records.

Sonny of Lafayette Party Store stated that one concern is if he gives them a key and has to change the lock to his business because of an employee then he now has to get that to the Fire Department. The second issue is that if someone comes into his store and the alarm is going off it will be loud for everyone and it will take time for him to get to his business. If there is a fire in his store then he gives permission to break a window. If there is a lock box, somebody will find a way to break in. He has money and very expensive liquor. It was stated that it would be faster for someone to smash a window to steal than to knock the box off, find a way to open it to use the key to enter the business. It was further stated that if the door is open than the alarm would go off. The key box would not turn off the alarm. Further, the alarm could be connected to the box.

Councilman Kramer asked if the business owner would have to contact the Fire Department each time they change their locks. Chief Kaska stated that they are supposed to and then the Fire Department would go out and re-lock a key. However, it has happened that during the inspection they have requested a new key. The question was asked if there is a charge. Chief Kaska stated that there is no charge. Discussion was held on the cost to the City for the Inspector. Chief Kaska stated that most of the time this would be done during the course of inspections that they would be conducting.

Mr. Bill Weingarden of 22882 Pontiac Trail, owner of Digicom Electronics stated that he disagrees with the key box. However, he would like to discuss the inspectors. He stated that the business owner is not notified when they are coming in for inspection. He has been in town for 20 years and have had a least 10 inspections all of which went well except for the last one. He was written up on issues he did not know about. He was notified that he needed the key box and he said "no". He was informed that it would cost him \$100 if he did not do it. They also told him he needed another fire extinguisher although he already had one centrally located. The reason why some of the business owners are upset is because they were not given

any notification that they needed a lock box and he was upset when he was told about it. He should have been given notification when the inspection was going to take place.

Ms. Cindy Klucharich, Administrator of South Lyon Senior Care stated that her concern is that they are open 24 hours, however they were informed that because they have offices that are locked after business hours that they needed to provide keys. It would be a huge issue if they have to provide these keys because of HIPA violations among other things. She has been the Administrator in South Lyon for almost four years and during those years they have felt very bullied by the Fire Department not about this issue but a separate issue. They were trying to improve the safety of their residents. Councilman Kivell asked Ms. Klucharich if she has brought up the bullying aspect to the City Manager. Ms. Klucharich indicated that she has not. She further stated that they are inspected by the State every year and has never felt bullied by a State inspector. She stated that her concern is who has keys. Any employee who works in a nursing home in the State of Michigan is required to be fingerprinted, not only a background check. She further discussed the need to take precautions for her residents. Councilman Wedell asked if there is a supervisor on duty at all times with keys to the offices. Ms. Klucharich stated that there is not.

Chief Kaska stated that the only thing that they have had to go back to the Senior Care several times is due to the fact that they are closing the end of Elm Street, which is a fire lane. He stated that they have given them an exemption because they are open 24 hours a day. As far as the HIPA law, those documents should be kept under lock and key in a file cabinet. They are simply asking for keys to the offices. They have had multiple fires at that location. He further stated that as far as the fire lane, they have settled on them putting up tape so that their trucks could break through if needed versus barricades that would have to be moved.

Chief Kaska stated that the law does not require the Fire Department to notify a business about an inspection. He discussed the reasons why including a business owner "borrowing" extinguishers, etc. from another business so that they would not have to buy them, and as soon as the inspector leaves they are taken down. He stated that any business owner can contact him as well as the City Manager if they ever feel like they are being bullied. A situation cannot be corrected if he is not aware there is one. The fact that if the business owner is not complying after several attempts, sooner or later the inspector will have to show some type of authority. Further discussion was held on extensions granted and working with the business owner. It was stated that these issues need to be handled legally, not with attitude.

Councilman Kramer asked if we could look at making the boxes that are located in the trucks PIN accessible. Chief Kaska stated that if that makes everyone feel better, he would check our options.

Dr. Kaplan 410 N. Lafayette stated that he believes that there is bullying. When he moved locations, the day he signed on the building he was notified that the Fire Department was inspecting and writing violations. These violations occurred years before he purchased the building. He was given 14 days to comply, and only 7 days later he was notified that if he did not comply then he would have to go to court. He did comply within the 14 days, but he did not need the phone call. He stated that as far as the box, there are no other buildings close by him that would be affected.

Ms. Mary Pool of the Lake Street Tavern stated that she worked with the Fire Department to put a box on her building and she was hesitant and did receive gentle reminders. Never did she feel that she was bullied. It still does not feel comfortable. It is the sense of loss of security. There is a concern that a professional thief could access the box with the right tools. It was stated that a professional thief could probably be able to get in the door faster than trying to get the key out of the box. Ms. Pool stated that she is confident now with the Fire Department's explanation of how they secure the keys, but can see how other businesses are concerned.

Inspector Welch stated that in regards to bullying, they do go into a business and ask if now is an okay time to conduct an inspection. Sometimes it is difficult to schedule a fire inspection and sometimes it is not a good time for the business owner. They will try to work with them. She further stated that they give 14 days to correct a violation, and they never go back before that 14 days. She stated that she has files that have been open for six months. They prioritize the need to correct the violations. Sometimes it is frustrating after

multiple visits. They do not want to issue a ticket, they would rather get the job done. This is for the protection of not only the patrons but the business owners themselves. She further discussed the detailed records and the processes they use to work with the business owners. She invited anyone interested to come in and look at their files.

Norm of Norms Automotive stated that he has a lock box. It would not take much for someone to come over, knock the box off the wall, take it home and open it. He would much rather have a key locked at the Fire Hall where it is kept safe. He does not see it as a problem with the Fire Department, but rather the criminal element. Everyone will know about these boxes now. These boxes are not indestructible. It might not be simple, but somebody could get in without anyone knowing. It was stated that there would be a lot easier way to get into a building.

Ms. Diane Roest of Diane's Doll House at 102 N. Lafayette stated that she would be happy to donate to the Fire Department to install a lock box at their place to hold their keys. She stated that she was inspected approximately two years ago and did go through and made upgrades. They have Guardian Alarm including the smoke detecting through them. She stated that they feel they are very well protected. She is not in favor of the lock box. There is no inconspicuous place on her building to install one, but would feel very safe having the Fire Department having a key.

Council Member Kopkowski stated that after listening to everything, Council needs to consider what is best for our community. The Code can be altered. In some communities this Code has worked very effectively. But, just because it works for them does not mean that it is what is right for our community.

Councilman Kramer stated that he would like to see this tabled until we see what kind of procedures that we could have to appease the business owners as well as make the Fire Department happy. He would like to see information on the PIN access box as well as the feasibility of having keeping the keys locked at the Fire Department rather than the boxes on the individual buildings. Councilman Wedell agreed and stated that he would like the business owners feel more security. He stated that he does see the advantage to the Fire Department being able to access the building to investigate smoke, alarm, etc. without having to break glass or doors. He would be interested to hear what type of incidents have occurred with lock boxes being broken into or breached in some way.

Discussion was held on the cost of fingerprinting all of the firefighters.

Discussion was held on how the Fire Department will enforce this code until Council makes a decision.

CM 3-4-10 – TABLE DISCUSSION – INTERNATIONAL FIRE CODE – LOCK BOXES

Motion by Selden, supported by Kopkowski

To table the discussion of the lock box provision of the International Fire Code and suspend enforcement until the issue is resolved

Councilman Kivell stated he feels that Council should table the discussion and continue with enforcement.

VOTE:

MOTION CARRIED (1 opposed)

3. Farming of City owned property

Mayor Wallace stated that Ken Hamblin is a local farmer who has stands in the area. We are looking at a maintenance agreement regarding an area of Volunteer Park which is currently a fire hazard. These are former farming fields that are being filled in with brush and trees. What Mr. Hamblin is proposing, at his expense, is to come in and clear these fields and make them useable again for crops. The brush, etc. would be put around the edge of the field for wildlife. It would be grooming the land into a useable condition. If we

wanted to do something 10-15 years from now, it would be a mess to clean up. He would be enriching the soils and has offered to have an area devoted to pumpkins for Pumpkinfest with any sales going to the Parks and Recreation. He would be putting in some trees that would be transplanted later. He would be the caretaker for the property that would cut down on the dumping that has been taking place. And, he would be making a contribution of vegetables to Active Faith as he has done in the past. We would not pay him anything for doing this and it will be a couple year process.

Mr. Ken Hamblin stated that he has walked the property and has seen what has been dumped. Farming is his living and sees the potential of cleaning the property and using it for agricultural.

Mayor Wallace stated that Oakland Township does this and collects fees for the acreage, which is not our intent. Lyon Township also charges for their fields as well as park use. The Oakland County Parks and Recreation is very supportive of this idea. They have 12 houses that they are renting for a reasonable rate and those people are considered caretakers. They do not even pay taxes on those houses. It is a maintenance idea and we will get some funds to be earmarked toward parks and recreation in any of our parks.

Council Member Kopkowski asked Mr. Hamblin's thoughts on any vandalism on the farming land. Mr. Hamblin stated that on another piece of property he had there had been dumping in the weeded areas. He did go in and clean it up at his expense. As he was doing that he had people come to him and say how pleased they were to see someone being productive on a vacant piece of property that someone trashed. He stated that he has been farming in this community since he was a child. Farming is a dying thing. He stated by cleaning up the property, it will make it visible to all the neighbors. The City has a gate there now, but he is proposing to put in a larger gate to get his equipment in. He would provide a key to the gate to the City. By starting at 8 Mile, people will be able to see and prevent people from going in and vandalizing or dumping.

Council Member Kopkowski stated that she frequents the 5-H Farms stands and feels that farms are attractive. She stated that she is in favor of this.

Councilman Morelli stated that he likes the idea of someone taking care of our park land and in these economic times cannot foresee us developing that in the near future. He questioned when the time comes to develop the park land, what type of exit plan is there. He stated that he likes the idea of a tree farm, etc., but questioned from a legal standpoint, is there a problem with us letting him use City property to make a profit.

Attorney Lee stated that we do have the power to lease City land. However, Section 11.3 (b) 1-3 of the City Charter governs what needs to be done before you can dispose or allow anyone else to use. Attorney Lee read the following:

(a) The City shall not have power to purchase, sell or dispose of any real estate unless:

- (1) In case of sale, there shall be two published advertisements for bids prior to the adoption of a resolution for sale or disposal.
- (2) Such action is approved by the affirmative vote of at least four members of the Council, and unless,
- (3) In the case of real estate owned by it, the resolution authorizing the sale, lease or disposal thereof shall be completed in the manner in which it is finally passed and has remained with the Clerk for public inspection for ten days before the final adoption or passage thereof.

Attorney Lee stated that if he is going to have any property interest in the land, which he would have to if he is going to take crops off of it, Council would have to go out for bid and approve the agreement. The agreement would have to be left with the Clerk for 10 days before Council adopts it.

Councilman Morelli asked if we trade the clean-up and maintenance of the area in exchange for him removing crops would we have to go out for bid. Attorney Lee stated that whatever the agreement, if he has property interest it has to be entered in a form open to the public. As he reads the Charter if we are going to dispose of our right to own, control and operate the land then we would have to follow these procedures.

Council Member Kopkowski stated that he would just be a caretaker. Attorney Lee stated that we still would have to work out the agreement and publish it and make available for anyone else.

Councilman Wedell stated that the last time we talked about using the property, many people did not like it because they liked walking their dogs, etc. He asked if it goes from park land to farm land, what are the tax implications. Attorney Lee stated that the County Assessor, who is our Assessor tells him that if we lease the property and receive benefit then it should go back on the tax roll. He would insist that in any agreement, the person would have to take responsibility in the event that it is put on the tax roll.

Councilman Kivell stated that Mr. Hamblin seems nice, but he does not understand why we would not try to avail ourselves of the bidding process. He further stated that the tax implication and not being compensated for allowing our parkland to be utilized for profit enterprise seems less than what it should be. Council Member Kopkowski stated that this person has already demonstrated what he has done in the community. If another person from outside the community comes in with a dollar more, are we going to take the dollar more or give it to the person who has already contributed to Active Faith and is an upstanding part of our community. Councilman Wedell stated that is what our Charter says. The question was asked if we have the ability to waive the highest bid. Attorney Lee stated that Council could if you put on the record the reasons why.

Councilman Kivell stated that the tax implication is big. Attorney Lee stated that issue does not have to be resolved. However, he would insist that the risk be passed on to whomever leases the property. Councilman Kivell stated that it is zoned as residential and would be taxed as residential. Mayor Wallace stated that is why we were approaching this as a maintenance agreement. Any revenue from the crops, he would make a donation to parks and recreation.

Attorney Lee stated that unless Council gives him some lease-hold interest, anyone could walk in and take whatever is planted because it is public land. Mr. Hamblin stated that is a risk with property anyone owns.

Mr. Hamblin stated that when the City decides to develop the property, he would guess that would be done coming from the north side. He would simply move when needed.

Councilman Wedell stated that he would like to postpone the matter and ask the City Attorney look into some of the implications, especially the tax implications. Attorney Lee stated that he has not seen anything what this agreement is going to include. Councilman Wedell stated that Mayor Wallace seems very familiar and possibly he could help the City Manager work out some of those details. That could be referred back to the Attorney. Attorney Lee stated that he would be happy to draft the agreement if he knew what some of the points are.

CM 3-5-10 – MAINTENANCE AGREEMENT – UNDEVELOPED VOLUNTEER PARK

Motion by Kopkowski, supported by Selden

To authorize the City Manager and City Attorney to proceed with the draft of a maintenance agreement for Volunteer Park

VOTE:

MOTION CARRIED UNANIMOUSLY

4. Class Action Lawsuit against the DEQ

Attorney Lee stated that this City has spent in excess of \$20 million over the last several years on unfunded mandates by the DEQ. This is a lawsuit that is finally bringing that to a head and challenging it. We are named in the suit because we are one of the communities with an NPDES permit. They are not seeking damage, but rather an injunctive order to preclude the DEQ from doing it again in the future. The DEQ has caused us to reduce our phosphorous discharge from our treatment plant from 950 pounds to 200 pounds. To do that we have spent approximately \$20 million. The State should have helped us do that. The Headlee Amendment commands it. He would recommend that the City not opt out, and in fact, if Council would permit him, he would like to assist by providing whatever data we have that would support their position.

Discussion was held on the City spending millions while neighboring communities are permitted septic tanks, infiltration into our outflow, etc.

Councilman Kramer asked the consequences of opting out. Attorney Lee stated that if we opted out then a year from now they could come in with other mandates. We would not have the advantage of the injunctive order. The question was asked if the relief would be only for those in the class action suit. Attorney Lee stated that is correct if we opt out. Superintendent Martin stated that this is not a sewer issue, but a storm water issue. Attorney Lee stated that the suit is broader than that. They are asking for injunctive relief against the DEQ for any unfunded mandate.

CM 3-6-10 – REMAIN PARTY TO THE CLASS ACTION LAW SUIT

Motion by Morelli, supported by Wedell

To remain party to the class action law suit against the Michigan Department of Environmental Quality

Councilman Wedell asked Attorney Lee if he had the required direction to assist in the suit. Attorney Lee stated that unless Council has an objection to him doing that, he will participate and provide them the information relevant.

VOTE:

MOTION CARRIED UNANIMOUSLY

5. Repairs to Well #2

Superintendent Martin stated that in December of each year, he budgets for Peerless Midwest to come in to run efficiency tests on every well and every pump that we have to tell us how well it is operating. We receive a report and take our budgeted money and put emphasis on certain wells. This December it came back that Well #2 which was drilled in 1957 was running at 40% efficiency and it was time to clean it. On March 15th we started cleaning it and gravel started pouring out. It was determined that there was a 6 foot breach which means a rusted opening 118 feet down. We had a similar situation with Well #1 eight years ago. They repaired that and it has been running fine ever since. We can do the same thing here. They would take a stainless steel liner in this 12 inch well and re-build the shaft on the existing well. It should give us another 40-50 years. If we wanted to drill a new well, it would be hundreds of thousands of dollars. We originally had an estimate of \$45,000, however they went back and looked at it and what was done in 2003 which cost \$57,000 without a new screen. This will have a new screen and will not exceed \$66,000. We have had a lot of success with this. Although it is not a good time, this is one of three main wells for distribution of water to the residents.

Councilman Morelli asked that although this could not be predicted, is there money in the maintenance budget. Superintendent Martin stated that we do have funds, but there may be a budget amendment required.

Councilman Kramer asked if he is happy with the output of well #2. Superintendent Martin stated that we are. In the summer, 2-3 wells are pumping all of the time. He would like to get this done prior to the pumping season. Superintendent Martin stated that to sink a new well in the State of Michigan, we would have to enter into an engineering study and we would be talking about months to find an aquifer to accept it, etc. We talked about finding a new aquifer with Phase II of the DWRF, but with this repair it will give us plenty of leeway.

Councilman Kivell asked the time frame for the repair. Superintendent Martin stated that they could start the repair next week. He further stated that Peerless Midwest is an outstanding company and have been with the City for approximately 10 years and have a good track record with us. The question was asked if this has to be put out for bid. Superintendent Martin stated that we should not have to. He stated that he has video tapes of each well. They have done their homework. There are only 2-3 big well companies in the State of Michigan. We have no reason to doubt them. Councilman Kivell stated that it is a matter of cost, which is the reason behind the bidding process.

The question was asked if there is going to be any interruption of service. Superintendent Martin stated that there would not be.

CM 3-7-10 – APPROVAL OF REPAIRS FOR WELL #2

Motion by Selden, supported by Kivell

To suspend the bidding process for repairs for Well #2 based on prior experience and authorize the expenditure not to exceed \$66,000 for those repairs through Peerless Midwest

Councilman Kivell asked the City Manager if he has any other experiences with well companies. City Manager Murphy stated that he does not. The company that he had worked with turned into this company.

Further discussion was held on the bidding process. Attorney Lee stated that bidding would not be required for a repair or emergency.

VOTE:

MOTION CARRIED UNANIMOUSLY

6. Changing of Agent of Record

City Manager Murphy stated that he would like to change the agent of record for our health insurance as well as our dental and life insurance coverage. He stated that currently Lori Mosier, our Bookkeeper has been involved with working with Blue Cross/Blue Shield and the employee rather than our agent, which we get into HIPA requirements. He is suggesting Griffin, Smalley & Wilkerson out of Farmington Hills. We will get much better coverage and they will be the liaison between the employee and the provider. We do not pay for the service. The agent receives 4% of our annual fee from the provider.

CM 3-8-10 – CHANGE OF AGENT OF RECORD

Motion by Wedell, supported by Morelli

To name Griffin, Smalley & Wilkerson as agent of record for our insured group dental coverage, disability and life coverage and health care coverage

VOTE:

MOTION CARRIED UNANIMOUSLY

MANAGER'S REPORT:

City Manager Murphy stated that after the last meeting, the budget was distributed to Council. We will be looking at some dates for a budget workshop.

COUNCIL COMMENTS:

Councilman Kivell stated that he would like an agenda item added for the next agenda for discussion about freeing up the City Manager to research different angles to see if we can reach a different solution and re-establish 25 mph. Discussion was held on setting agenda items. City Manager Murphy questioned the need for affirmation by Council Member to place an item on the agenda. Discussion was held on needing a support from another Council Member.

Councilman Selden asked what had taken place at the hearing for Mr. Bodnar. Attorney Lee stated that Mr. Bodnar did not show up for court on Monday so the Judge indicated that we should draft the order for his action.

Mayor Wallace discussed a meeting he attended with several area Mayors where Jessica Cooper was a guest speaker. She discussed the "Release Program" and how they intend on releasing these individuals.

Mayor Wallace discussed the timing for the maintenance agreement due to the planting season. He stated that he would be in favor of holding a special meeting given that we have three weeks between meetings.

ADJOURNMENT:

CM 3-9-10 ADJOURNMENT

Motion by Morelli, supported by Kramer

To adjourn meeting at 10:22 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Tedd M. Wallace
Mayor

Julie C. Zemke
City Clerk/Treasurer