

**CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
FEBRUARY 14, 2011**

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, Selden and Wedell
City Manager Murphy
City Clerk/Treasurer Zemke
Attorney Lee
Department Heads: Collins, Martin and Renwick
ABSENT: Council Member Morelli

CM 2-1-11- EXCUSE ABSENCE

Motion by Kivell, supported by Wedell

To Excuse the absence of Councilman Morelli

VOTE:

MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES:

CM 2-2-11 – APPROVAL OF MINUTES –JANUARY 19, 2011 and JANUARY 24, 2011

Motion by Kivell, supported by Kramer

To approve the minutes of the Special City Council meeting of January 19, 2011 and the Regular City Council meeting of January 24, 2011 as written

VOTE:

MOTION CARRIED UNANIMOUSLY

APPROVAL OF MONTHLY BILLS:

Discussion was held on various bills.

CM 2-3-11 – APPROVAL OF MONTHLY BILLS

Motion by Wedell, supported by Kivell

To approve the monthly bills as presented

VOTE:

MOTION CARRIED UNANIMOUSLY

APPROVAL OF AGENDA:

CM 2-4-11 – APPROVAL OF THE AGENDA

Motion by Kramer, supported by Wedell

To approve the agenda as presented

VOTE:

MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT:

Mayor Wallace introduced Mr. & Mrs. Camiller who are involved with the National Multiple Sclerosis Society. Mayor Wallace proclaimed the following:

WHEREAS, Multiple Sclerosis is the most common disabling neurological disease of adults in this country, affecting more than 400,000 people nationwide, including more than 18,000 in Michigan alone; and

WHEREAS, Every hour an adult, typically between the ages of 20 and 50, learns he or she has Multiple Sclerosis; and

WHEREAS, There is no known cure, prevention, nor known cause of Multiple Sclerosis; and

WHEREAS, Research advances have now brought us closer than ever to finding a cause and a means of preventing MS and arresting its progress, but much remains to be done before we can say that the fight has been won; and

WHEREAS, The National Multiple Sclerosis Society, which began on March 11, 1946, when Sylvia Lawry convened a meeting of 20 research scientists, this month celebrates 65 years of client services in the areas of health, knowledge and independence, including: counseling, advocacy, equipment assistance, education, information and referral, and self-help groups;

NOW, THEREFORE, I, Tedd Wallace, Mayor of the City of South Lyon do hereby proclaim March 14-20, 2011 as World MULTIPLE SCLEROSIS AWARENESS WEEK in South Lyon, Michigan, in support of the efforts of the National Multiple Sclerosis Society and its projects throughout the Tri County area.

Mrs. Camiller thanked Mayor Wallace for the proclamation.

Mr. Carl Richards of 390 Lennox discussed an article in last week's South Lyon Herald regarding Mr. Bonner's Artcraft Building. He stated that Mr. Bonner indicated that he was never notified that the window of his building was broken nor did he know that the building was going to be painted.

OLD BUSINESS: None

NEW BUSINESS:

1. Acceptance of Monetary Gifts for the Christmas Party

City Manager Murphy stated that every year, the City holds a holiday party for all of the volunteers who do not get paid for their time as well as the City's employees. Every year we ask some of our vendors to donate funds to offset that cost. This year we received a total of \$1,900. Mayor Wallace read the list of names and thanked them for their generosity.

CM 2-5-11 - ACCEPTANCE OF MONETARY GIFTS

Motion by Selden, supported by Kivell

To accept the following donations for the City Christmas Party:

Michigan Seamless Tube	\$ 500
Duncan Disposal	\$ 500
Booth Patterson	\$ 200
Hubbell, Roth & Clark	\$ 200
Plante & Moran	\$ 200
Becket and Raeder	\$ 100
Comerica Bank	\$ 100
IBEX Insurance	\$ 100
Citizen's Bank	\$ 50
	<u>\$1,950</u>

VOTE:

MOTION CARRIED UNANIMOUSLY

2. Policies and Guidelines for Granting Poverty Exemptions

City Clerk/Treasurer Zemke stated that back in 2008 Council adopted a resolution setting the guidelines for granting exemption from payment of property taxes. Within that resolution, we adopted the Federal Poverty Income standards set annually by the United States Office of Management and Budget in order to avoid adopting this resolution every year with the specific numbers. That resolution did not, however set forth the assets test, and we are being asked by Oakland County to incorporate specific language for that purpose. The proposed resolution is identical to that which was adopted in 2008 with the exception of paragraph 10.

Councilman Kramer suggested a slight modification to that paragraph to read as follows: "The value of the applicant's total assets (excluding the property for which the exemption is requested and one automobile) including, but not limited to all savings, retirement accounts, stocks and bonds and other real estate. The value of the applicant's assets cannot exceed two times the adjusted household income. An ownership interest in any real estate other than the applicant's principal residence automatically disqualifies the applicant from consideration for a hardship exemption under normal circumstances." Clerk/Treasurer Zemke stated that this language was derived from looking at what other communities have done. Attorney Lee stated that there is no problem with the proposed changes.

Discussion was held on the asset testing being separate from the Federal Guidelines.

Councilman Selden asked if co-op and other condominium owners could qualify for this exemption. Clerk/Treasurer Zemke stated that they could. Even though co-ops are billed as one unit, each unit has its own taxable value, which is how the exemption would be determined. The co-op itself would then simply not bill them based on that zero taxable value or bill them based on a lower taxable value whatever the case may be.

CM 2-6-11 – RESOLUTION ESTABLISHING POLICIES AND GUIDELINES FOR GRANTING EXEMPTION FROM PAYMENT OF PROPERTY TAXES

Motion by Kivell, supported by Kramer

WHEREAS, Public Act 390 of 1994 requires the governing body of each city to determine and make available to the public the policies and guidelines to be followed by the local assessing unit in processing and granting exemptions on account of poverty in the collection of ad valorem property taxes; and

WHEREAS, it is the intent of the Council to adopt guidelines in compliance with said act;

NOW, THEREFORE, THE CITY COUNCIL FOR THE CITY OF SOUTH LYON RESOLVES:

The following guidelines shall be followed by the Board of Review in the exercise of its discretion in determining who is eligible and whether an exemption from taxation in whole or in part shall be granted under the General Property Tax Act, PA 206 (1893), as amended:

1. All applicants must obtain an application for exemption from the City Assessor's office. Handicapped or infirm applicants may call the Assessor's office to make necessary arrangements for assistance
2. Applicants will not be eligible for consideration for an exemption if they do not meet the income and asset tests as established in their guidelines.
3. All applicants must be an owner of and occupy as a homestead the property for which the exemption is being requested. All applicants may be asked to verify ownership of the property and provide personal identification upon request by the Board of Review.
4. All applicants are required to complete each section of the form attached to this resolution which is hereby adopted by the City Council and return said application to the City Assessor's office of the City of South Lyon, subject to alternate procedures which may be allowed pursuant to the City's obligation in the application of the American Disabilities Act.
5. All applications must be notarized before being considered.
6. All applicants must submit a copy of the prior year's
 - (a) Federal income tax return – 1040 or 1040A;
 - (b) Senior Citizen Homestead Property Tax Form MI-1040CR (if applicable);
 - (c) General Homestead Property Claim Form MI-1040CR

Note: All requested forms must be submitted. The Board of Review will not consider any application that is presented which is incomplete or unaccompanied by the appropriate tax forms.
7. All applications shall be filed with the City Assessor's office after January 1 of each year, but before the day prior to the last day upon which the Board of Review is scheduled to meet.
8. Applicants need not appear before the Board of Review; however, the Board of Review reserves the right to request further information or clarification of any item presented on the application form or any tax for submitted. Applicants may be asked to make a physical appearance to respond to questions at the Board of Review's discretion.
9. The City of South Lyon does hereby adopt and incorporate by reference into this Resolution the Federal Poverty Income Standards as set annually by the United States Office of Management and Budget. If either, or both, the applicant and the applicant's spouse is 65 years of age or more as of January 1st the effective household size will increase by 1 person.
10. The value of the applicant's total assets (excluding the property for which the exemption is requested and one automobile), including, but not limited to all savings, retirement accounts, stocks and bonds and other real estate. The value of the applicant's assets cannot exceed two times the adjusted household income. An ownership interest in any real estate other than the applicant's principal residence automatically disqualifies the applicant from consideration for a hardship exemption under normal circumstances.
11. Utilizing these guidelines, the Board of Review shall grant full, partial, or no exemption based upon the income ranges and asset levels set forth above. The Board of Review shall exercise its discretion in weighing the interest of the City and the applicant's ability to pay based upon the available information as collected pursuant to these guidelines.

VOTE:

MOTION CARRIED UNANIMOUSLY

3. E-Commerce Services Agreement

City Clerk/Treasurer Zemke stated that this is the agreement that allows taxpayers to pay their taxes using credit card or electronic check through Oakland County. This is simply a renewal of the Agreement with Oakland County for their services. This is the standard Oakland County agreement.

CM 2-7-11 – APPROVAL OF E-COMMERCE SERVICES AGREEMENT

Motion by Kramer, supported by Kopkowski

To approve the E-Commerce Services Agreement between the City of South Lyon and Oakland County and authorize the Mayor and the City Clerk/Treasurer to execute the necessary documents and agreements necessary for the purposes of allowing Oakland County to receive, process, deposit and maintain security for all credit card or electronic check payments and deposits for the City of South Lyon

VOTE:

MOTION CARRIED UNANIMOUSLY

4. Sale of Used Fire Department Equipment

Chief Kennedy stated that the Fire Department received a FEMA grant in 2010 to replace all of the department's SCBA equipment. Prior to that, our equipment was not in compliance with the current National Fire Protection Association standards, which is one of the reasons why we did receive the grant. This equipment is now sitting in storage and has no operational value and no longer in production. He stated that he did try to find another department in the area to see if they could use it, but given the antiquated condition he could not. He also checked with some of the State Fire Associations to see if there was a department that they could donate it to, but was unsuccessful there as well. He would like to use the Bidnet auction site that was recently used for the used vehicles to attempt to sell it. If there is interest, the equipment would most likely be used for parts. If it does not sell, he would like permission to destroy it.

Councilman Wedell asked if there is any training value. Chief Kennedy stated that any training they would do they would want train on the current equipment.

Councilman Kivell asked if there is anyone out of state that may want the equipment. Chief Kennedy stated that he even contacted an International Group that takes equipment overseas in developing countries, and they were not even interested. Furthermore, due to the weight, someone would have to come pick it up. The cost of the freight would be more than the equipment itself is worth. Discussion was held on the weight of the various parts.

Councilman Selden asked if it could be sold as scrap metal. Chief Kennedy stated that he will look into it. He further stated that the bottles are a composite. He discussed the time that would be involved to remove the metal from the other equipment.

Discussion was held on the age of the tanks. Chief Kennedy stated that some of these tanks are at their maximum life and cannot be tested again.

CM 2-8-11 – APPROVAL OF SALE OF USED FIRE EQUIPMENT

Motion by Kopkowski, supported by Selden

To approve placing used South Lyon Fire Department SCBA and related equipment for sale on the Michigan Inter-Governmental Trade Network for a minimum price of \$250.00. If a minimum price of \$250.00 is not received, SLFD has permission to destroy the equipment.

VOTE:

MOTION CARRIED UNANIMOUSLY

5. Medical Marijuana Moratorium Extension

Attorney Lee stated that Council adopted a moratorium back in August to let the dust settle to the application of the Michigan Marijuana Act. It may be close to being settled, but given that the law allows us a year moratorium, it is in our best interest to extend it for another six months. At that time there should be one if not two more decisions of the Court of Appeals on this subject. We may not have to do anything because the local prosecutor has determined that dispensaries are against the law and she is going to raid and arrest anyone who begins one. The law allows people to grow marijuana in their home if they have the State permission. The area in which we would be acting is narrowing greatly. We can extend the moratorium until August at which time we will have a better understanding.

Councilman Kramer asked how far along is the litigation with Bloomfield, Livonia, etc. Attorney Lee stated that it is just beginning. The biggest issue is whether a single caregiver can extend to more than five patients. The other issue is the profitability. He further discussed the case. The important thing is that you follow State guidance, you get your certificate, doctor approval, etc. His other concern was that if there were more than one person growing on the same block how that would affect the electricity use. He was assured by DTE that they would have to be running a 24-hour grow operation, which is illegal, to reach that state of usage.

CM 2-9-11 - RESOLUTION OF MORATORIUM

Motion by Kramer, supported by Wedell

WHEREAS, the sale or dispensation of medical marihuana was not envisioned when the current Zoning Ordinance was adopted in 1995 and is not regulated in any way; and

WHEREAS, allowing the sale or dispensation of medical marihuana prior to the amendment of the Zoning Ordinance would be contrary to the goals of the City Master Plan; and

WHEREAS, the City desires to ascertain the best and safest path to compliance with the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d) in order to protect the public health, safety, and welfare; and

WHEREAS, the City Council determines that it is desirable to immediately forbid the sale or dispensation of medical marihuana until an amendment to the Zoning Ordinance (Chapter 102 of the City Code) becomes effective; and

WHEREAS, Chapter 2, § 2.1 (b)(1) of the City Charter authorizes the City Council to enact resolutions immediately necessary for public health, peace, or safety to be adopted at the session at which first introduced, and the City Council determines that the following resolution satisfies that requirement; and

WHEREAS, due to the unsettled nature of the State Law relating to the application of the State Constitutional Amendment permitting the use and cultivation of Marihuana, the City Council desires to expend the previously approved moratorium for an additional six (6) months,

RESOLVED, that Moratorium approved by the City Council on August 23, 2010 be and the same is hereby extended for an additional six (6) months to August 22nd 2011, and that during this period, the City shall not grant permits, licenses or other approvals relating to the sale, cultivation or possession of marihuana during this period, or until the effective date of the adoption of proper text amendments to the Zoning Ordinance (Chapter 102 of the City Code) and any necessary licensing requirements, whichever occurs first. This resolution is hereby adopted and given immediate effect.

VOTE:

MOTION CARRIED UNANIMOUSLY

6. Budget Amendment

City Manager Murphy stated that we budgeted to move \$167,500 from Major Streets to Local Streets. That was based on anticipated funding, but we did not end up getting that amount so we were over by \$7,322. We were told that we could simply move that amount from Local Streets back to Major Streets. In order to do that we need to take it from Local Streets Fringe Benefits.

CM 2-10-11 – BUDGET AMENDMENT

Motion by Wedell, supported by Selden

To approve the amendment to Fiscal Year 2010-2011 as follows:

Fund/Dept.	Account Number	Adopted	Amended	Line Item
Expenses				
Local Streets	203-463.000-715.000	51,000	\$43,500	Fringe Benefits
Local Streets	203-485.000-969.202	-0-	\$7,322	Transfer Out-Major Streets

Fund/Dept.	Account Number	Adopted	Amended	Line Item
Revenue				
Major Streets	202-000.000-676.203	-0-	\$7,322	Transfer In-Local Streets

VOTE:

MOTION CARRIED UNANIMOUSLY

7. Well No. 3

Mayor Wallace stated that this well was built in 1957 and we are experiencing some problems.

Superintendent Martin stated that last week, we met with the DEQ and they told us that as long as the City maintains ownership of those wells, we can drill at the same location. That well would be considered a well not only for the Tube Mill, but if we ever needed another well for the City, we can use that well. We contacted 3 well companies, one of which was Peerless Midwest, which have been on site numerous times. The

information that we got was that there was less than 15% chance in repairing that well. We are accepting quotes for the drilling of a new well on February 22. In the meantime, we will be meeting with the Tube Mill. We will bring the bids back to Council at the next meeting. We are going to do our best to get the best deal possible. Superintendent Martin discussed the breach in the current well. We have looked at the size of the well, but in this case we feel that a 12" well will be sufficient. We also looked at drilling two smaller wells, but felt that drilling one well 20-25' east of well #3 is the best alternative. Well #3 will be abandoned and the new well will be well #6.

Mayor Wallace asked if we could drill a well in another part of town, and would we have to pipe it in. Superintendent Martin stated that it would. Discussion was held on the location of the iron plant. Superintendent Martin stated that they did look at alternative aquifers. If we ever needed to, we could drill again in the park. Even though two wells are for the Mill, if we ever needed to, there is a pipe running to the water treatment plant and we could run it through the treatment process to provide water equivalent to what is currently being pumped to the rest of the City.

Councilman Selden asked what caused the failure. It was stated that it was the age. Superintendent Martin stated that the same thing happened to wells #1 & #2, but we were able to install a stainless steel liner. We could not do this with well #3.

Discussion was held on the depth of the new well. Superintendent t Martin stated that it would be approximately 118-125 feet. Years ago we drilled 230 feet to see if we could find an aquifer under the one we are in.

Superintendent Martin discussed why we cannot turn the well over to the Tube Mill and the need for the City to maintain firm capacity. Discussion was held on the pumping capacity of the remaining wells.

Councilman Kramer asked if we are looking at disrupting the park. Superintendent Martin stated that we are looking at drilling this well 20-25' east of the building. All of the controls in the building now would run the new well. He further discussed the exposure of the wellhead. There will be some affect to the park.

Discussion was held on the abandoning of Well No. 3.

Councilman Kramer asked how we are going to pay for this. Superintendent Martin stated that we do have a restricted fund for doing things such as this. We are also looking at what we are charging the Tube Mill. He stated that right now we are at a break-even point with nothing being put aside for something like this. Discussion was held on the fact that this is untreated water.

Superintendent Martin stated that we will bring the quotes back at the next meeting so that we can move forward.

Councilman Selden asked if we have looked at any grants. Superintendent Martin stated that there may be grants available, but it usually takes months for the application process.

8. Replacement of electronic switchgear at the Water Plant

Superintendent Martin stated that last Friday we had a large power outage in the City which included our Nine Mile and Hidden Creek lift stations as well as our water and wastewater plants. Within the water plant, we have electronic switchgears that monitor DTE to sense a loss of power so that the back-up can kick on. In this outage, when the power came back, our equipment could not sense that the power was restored and would not allow us to switch back to DTE. They had to try to manually switch that back for over 15 hours. They were forced to call an emergency service company. This gear is 30 years old and we think that it is time to update the system to a PLC (Programmable Logic Controller), which is a small computer to read DTE and engage standby power when needed. He stated that it is extremely dangerous dealing with this. They have received the quotes and we do have money in the budget. We can have the equipment installed this week. He is asking Council's approval.

Council Member Kopkowski asked if we received multiple quotes. Superintendent Martin stated that we have used this company for 30 years and they have their "footprint" in both our water and wastewater plants. They are the ones that show up any time we need help. He did not get other quotes, but this is the company that you want. They service 90% of the communities in Michigan.

Council Member Kopkowski asked if we will have someone on staff to program the PLC. Superintendent Martin stated that we have a PLC in place now. They gave us the software program that we have installed on our laptop. We have the ability to go in and do programming if needed.

Councilman Selden asked if this could be purchased through the State purchasing. Superintendent Martin stated that it is not.

Councilman Kivell asked if there is still a mechanical component in this equipment. Superintendent Martin stated that there is, however those springs and gears operated as they should and will not be changed.

Councilman Kivell stated that although this company has a long history of working with us, he would hate to not get pricing from someone else if the opportunity exists to get a better deal. Anyone in this business will be able to respond. Mayor Wallace stated that if we are only talking about a small savings, he would like to see us take care of this as soon as possible. This could be a dangerous situation.

Motion by Selden, supported by Wedell

To approve the purchase of switchgear

Attorney Lee stated that we first need to waive the competitive bid process.

Councilman Wedell stated that a single source bid is not uncommon with this type of equipment. Councilman Kivell stated that although single source bidding is not uncommon, PLCs are not uncommon. Superintendent Martin stated that he feels very strongly about this company and their professionalism. He further discussed what this company has done for the City. City Manager Murphy stated that he has worked with this company for over 17 years at three different municipalities, and they are the best.

CM 2-11-11 – WAIVER OF BID PROCESS

Motion by Kivell, supported by Kramer

To waive the competitive bid process for the purchase of electronic switchgear due to the emergency nature of the situation

VOTE:

MOTION CARRIED UNANIMOUSLY

CM 2-12-11 – APPROVAL OF PURCHASE – ELECTRONIC SWITCHGEAR

Motion by Selden, supported by Wedell

To approve the purchase of a replacement switchgear control for the Water Plant from UIS Programmable Service in the amount of \$18,364

VOTE:

MOTION CARRIED UNANIMOUSLY

MANAGER'S REPORT:

City Manager Murphy stated that the engineering RFQs are due to tomorrow and will have a meeting on Friday to start sorting through them.

COUNCIL COMMENTS:

Councilman Kivell stated that the sign post at the four corners needed to be replaced, but was disappointed that the "No Right Turn on Red" sign still is too low and hangs into the sidewalk interfering with pedestrians. He stated that he would like to see it shifted toward the private property.

Councilman Kivell stated that he was on his way to City Hall last week and saw a senior woman who he thought was struggling in the snow. After approaching her, she indicated that she did not need help. Chief Collins saw her and had the same feeling and asked an officer to respond to help. He stated that he wanted to commend the chief for recognizing the situation.

Councilman Selden stated that the Code Enforcement Officer seems to be doing a good job.

Councilman Kramer stated that he is encouraged with the response from Lyon Township and hopes that something comes out of those discussions. It is a step in the right direction.

Mayor Wallace stated that he too is glad that the Township has shown some enthusiasm in talking about working together on some things.

Mayor Wallace asked if dog calls come through the Police Department. Chief Collins stated that the officers do handle the calls. We do have a small budget for some of the issues that our officers are not able to deal with, and we do use Oakland County for calls such as dog bites at no additional cost.

Mayor Wallace announced that he recently became a grandfather again.

ADJOURNMENT:

CM 2-13-11 ADJOURNMENT

Motion by Kramer, supported by Kopkowski

To adjourn meeting at 8:33 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Tedd M. Wallace
Mayor

Julie C. Zemke
City Clerk/Treasurer