

FARMINGTON CITY COUNCIL
SPECIAL MEETING
December 1, 2008

A special meeting of the Farmington City Council was held on Monday, December 1, 2008, in Council Chambers, 23600 Liberty Street, Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 267-1976.

The meeting was called to order at 7:02 p.m. by Mayor Knol.

COUNCIL MEMBERS PRESENT: Buck, Knol, McShane, Wiggins, Wright.

COUNCIL MEMBERS ABSENT: None.

CITY ADMINISTRATION: Director Gushman, City Manager Pastue, Recording Secretary Pohto, and City Attorney Schultz.

APPROVAL OF AGENDA

12-08-230 MOTION by McShane, seconded by Wright, to approve the agenda as presented. MOTION CARRIED UNANIMOUSLY.

DISCUSSION – MONITORING AND MAINTAINING HOMES IN FORECLOSURE

City Manager Pastue presented a prospective program to monitor and maintain homes in foreclosure stating this economic calamity has impacted our communities substantially. He advised solutions to the source of the problem areas should be addressed systematically adding resources to DPW/DPS Departments and not impacting the City's budget.

Upon a review of an ordinance adopted by Genesee County and established by the MAMAS (MI Association of Municipal Attorneys) regarding registration of foreclosed properties, Pastue expressed support for implementing this process in Farmington. He reviewed the City's objectives: 1) foreclosed home property appearance, exterior appearance adds to the property value; 2) positive impact on property value, a well maintained community commands a higher price; 3) address interior conditions, vacated homes develop additional problems requiring intervention and repair; 4) budget neutral financing, a well structured self sustaining program is needed; and 5) communication, effective communication with residents and foreclosed property owners is necessary.

Pastue stated pro-active intervention by addressing home & ground maintenance assures foreclosed properties will remain presentable and allow adjoining property and its community to retain value, therefore placing less burden on the City.

Pastue shared possible strategies stating foreclosed home registration using Genesee County's Ordinance as a template to register foreclosed properties would be the first step in the process. He explained with today's economic climate bundled properties

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sold require a due on sale inspection prior to occupancy in order to insure observable deficiencies are addressed.

Councilmember McShane asked if interior inspections were possible sighting unknown burst pipes and mold may need to be addressed.

Pastue responded this issue is best addressed at the back end of the sale in order to alleviate District Court involvement.

Attorney Schultz concurred stating non-intrusive evidence can expedite the court warrant process.

Councilmember Wright asked about preventative measures allowed. City Manager Pastue responded there may be an opportunity to be aware of problem areas during the initial property inspection.

Councilmember Wiggins commented at the onset of this process the mortgage holder is aware that upon transfer of the property an on sale inspection will occur therefore motivating him to address problem areas prior to sale.

Pastue stated on-going monitoring by the Code Enforcement Officer and Public Safety is critical in order to ensure the home is secure and ordinance guidelines are met.

Pastue noted a housing rental inspection program may be considered in the future explaining this may be an additional strategy that may be employed.

Pastue reviewed program details related to code enforcement and property maintenance responsibilities utilizing a series of steps. He explained the City Assessor would forward a list of foreclosed homes to the building department. A data base of current contact information and addresses would be maintained on those homes. He noted a registration application and \$350.00 fee would be required.

Pastue stated the City Attorney would review procedure requiring notification and penalties under the property maintenance code.

Mayor Knol inquired as to the appropriate timing of notification and felt there was difficulty reaching un-occupied homeowners verses occupied homeowners. She commented mortgage holders such as out-of-state banks should be treated differently.

Pastue explained the initial inspection process stating a paid on call inspector would look at the general condition of the house and grounds. This initial inspection would be forwarded to the individual or company responsible for filing the foreclosure notice giving notice as to items that need to be addressed before the on sale inspection occurs prior to closing.

Responding to a question asked by councilmember McShane, Pastue stated Director Gushman would draft a detailed checklist to be utilized at the time of inspection.

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McShane shared concern as to the checks and balances used when hiring contractors so that favoritism isn't a problem.

Responding to a question by councilmember McShane and Mayor Knol, Director Gushman stated existing inspectors would be contracted. Pastue noted contractors would be paid on call.

Pastue and Gushman concurred inspections will be reviewed and all final decisions will be made by Gushman.

Council discussed inspectors and the inspection process noting the process needs to remain consistent and fair.

Wiggins commented on a recently purchased foreclosed home, noting the sale may not have occurred if the new owner had been asked to jump through hurdles with an unfair due on sale inspection.

Pastue stated it is better to have an occupied home than an unoccupied home. He continued inspectors will be looking for observable deficiencies making sure the home is safe and functional.

McShane questioned the City's liability regarding the inspection standards.

Attorney Schultz clarified liability regarding home inspection stating the City and the inspector are immune as long as it does not amount to gross negligence. He commented it has been historically difficult to file a claim against a building official. He noted other communities are individual as to their standards and that Council would need to stipulate the City's standards.

Mayor Knol insisted there needs to be balance. She expressed support for the ordinance but would like to have two tracks allowing the mortgage company to bring the house up to standard or after presenting a renovation plan the buyer is allowed a one year temporary occupancy permit to bring it up to standard.

Following discussion regarding examples of other community inspection standards the Council, City Attorney Schultz, and Director Gushman concurred reasonable standards needed to be met prior to occupancy.

Pastue recommended on-going inspections by Code Enforcement officials and follow-up inspections be made by paid on call inspectors.

Pastue recommended on-going property maintenance, similar to Genesee County ordinance standards, making it legal to cut grass & shrubs of non-compliant property. He advised the Building Department would bill the property owner and delinquent charges would be assessed on the tax bill or a lien placed on the property.

Pastue advised addressing observable significant deficiencies would be a reasonable standard to follow during the due on sale inspection.

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City Manager Pastue stated a communication plan is needed in order to convey a strong message that property maintenance standards will be enforced and perspective foreclosed home buyers can rest assured homes are in good working order.

Pastue described the initial costs:

a. Notebook	\$1200.00 (this may not be needed)
b. Software	\$1200.00
c. Set-up and installation	<u>600.00</u>
Total	\$3000.00

Pastue suggested a patrol car be assigned to the Code Enforcement Officer rather than selling the car at the end of the year. He then estimated the on-call inspector will cost \$150.00 for a 2-3 hour initial inspection and \$25.00 for each additional inspection with these expenses to be covered as part of the application fee.

Wiggins inquired if the current 70 foreclosed Farmington homes in Farmington went through the registration process would that total be inspected monthly. Pastue answered yes, stating the initial inspection would determine whether the home is occupied. If occupied the City would utilize regular property maintenance standards and upon the next inspection if determined unoccupied a more detailed inspection would be required.

Responding to a question from Mayor Knol, Attorney Schultz stated the City receives the initial notice of foreclosure from Oakland County.

Gushman envisioned the paid on-call person would complete the initial inspection and drive by inspections would be handled by him and the Ordinance Officer.

Buck questioned the time needed for each of the follow up inspections. Director Gushman responded approximately 20 minutes.

After much discussion regarding the time needed to inspect and re-inspect properties, the Council agreed the initial estimated \$350.00 fee may need to be raised to \$500.00 in order to cover costs.

Attorney Schultz commented the cost is difficult to determine and may raise questions when applied.

Wright noted the process should be tweaked and an annual fee applied in order to address the long term offender.

Pastue explained selling bundled foreclosed properties are unlike a conventional sale and would require additional attention.

City Attorney Schultz concurred with Pastue, adding a disclosure statement isn't filed. He stated a foreclosed home sale has its own statutes and procedures to follow.

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Buck questioned the process used regarding a tax lien without a mortgage, or a contractor's lien foreclosure.

Councilmembers discussed land contract or tax sales. Schultz commented there is a difference between foreclosure and forfeiture process. The forfeiture is a faster process where the owner gets the property back within six weeks.

Councilmembers discussed abandoned homes and the abandoned residential property registration.

Wiggins gave an example of a previously rented home that has been abandoned and noted it has not been maintained.

Gushman shared his experience with abandoned foreclosed homes, stating the bank had no interest in property maintenance and noted the lack of relief from the court system due to it being privately owned.

Mayor Knol commented on homes abandoned due to trustee ownership. Attorney Schultz explained the proposed ordinance could be structured to require a trustee (by will or estate) to register a property foreclosure.

Wright stated his interest was primarily in an ordinance protecting the City against abandoned homes. McShane agreed stating something was needed so that these homes don't fall through the cracks.

Attorney Schultz commented the proposed standard can either begin at the time of foreclosure or when the property is abandoned per Council's decision.

Councilmember McShane stated there should be a plan covering vacant homes.

Responding to a question asked by Councilmember Wright, Schultz stated there is a foreclosure registration by default, citing standards set by a Flint Township ordinance as an example where foreclosed property is registered with the County Register of Deeds, not within the community. He then stated City Manager Pastue's hope to file the foreclosure notice in the Oakland County Register of Deeds office in order to be notified of the title company's action.

Pastue commented he would like a structure in place by April in order to enforce property maintenance issues this spring.

Schultz described a very popular three part seminar recently presented by his office addressing housing civil infraction, code enforcement work, and legal requirements when entering property and foreclosure. He stated the proposed ordinance standards were ahead of the curve in a good way.

Mayor Knol felt the City needed to be in the forefront on this issue and was in favor of moving forward in order to protect property values.

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McShane inquired as to how this process might apply to commercial and retail buildings. Pastue responded currently proposed standards are structured to residential property only. He recommended future consideration of commercial property maintenance standards. He continued if the proposed process works well, a paid on-call inspector might free up time for Ordinance Officer Koncsol and Director Gushman to focus on commercial property updates.

Council continued discussing the number of Farmington homes in foreclosure and how to address abandoned home maintenance issues.

Council asked City Manager Pastue and City Attorney Schultz to move forward working out details regarding foreclosed and abandoned property.

Pastue stated he and City Attorney Schultz would continue working toward implementation hoping to bring 3 or 4 Ordinances before Council in January.

DISCUSSION – DOWNTOWN SIGNS, OUTDOOR SEATING, AND OUTDOOR DISPLAYS

Pastue briefly outlined concerns regarding downtown signage, maintenance of outdoor seating areas and existing outdoor displays, addressing the need for improvements prior to the planned 2009 Streetscape Project.

Pastue commented A-frame signs need administrative approval and a permit in order to insure ordinance guidelines are followed. He hopes to extend this process to all signs after putting in place an administrative team to meet as each sign application is received in hopes of a quick turn around on the application and enforcement of the code. He advised the team would be comprised of himself, Director Gushman, DDA Director, Knowles, Ordinance Officer Koncsol and a member of the Design Committee.

Pastue expressed enthusiasm for the DDA Façade and Sign Grant Program administered by Director Knowles. He commented DDA located a booklet with a nice set of design standards published by Hamtramck. He felt it was an easy read regarding the process with nice illustrations.

McShane suggested when a sign is left out on the sidewalk at night it should be picked up and the owner cited. Pastue responded Ordinance Officer Koncsol has worked with business owners regarding that problem in the past.

Mayor Knol asked about the design booklet from LSL Planning. Pastue answered Director Knowles would establish a program defraying cost and assist with the A-frame problems. He continued stating it would be a more comprehensive program including downtown outdoor seating standards and procedures.

Buck asked if the standards would apply Citywide. McShane answered A-frame signs were not allowed outside of the downtown area.

Buck asked why two different set of standards for signs are applied.

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Mayor Knol commented the City should develop a design booklet encompassing both the downtown & City Ordinances.

Pastue felt there is little difficulty with businesses outside of the downtown area understanding the outdoor display or sign requirements.

Councilmembers discussed the different ordinance requirements applied to downtown and the surrounding City.

Attorney Schultz clarified signage within the downtown area has historical design standards that the outlying commercial areas would not be required to meet due to lack of governmental interests.

Responding to a question from Wright, Schultz stated the Council makes the final decision regarding sign standards.

Wright stated for practical reasons consistent sign standards should be applied throughout the City.

Responding to a question from Mayor Knol, Pastue stated the finished copy of the design booklet would include additional elements as discussed. He noted the A-frame changes will be addressed administratively.

Responding to a question from Councilmember McShane, Pastue stated the design standards for signs are written in the code. He explained pictures compatible with the existing ordinance would be applied. He then stated LSL would take the design standards completed by the Design Committee and apply them to the booklet.

Pastue commented property maintenance standards applied to outdoor seating needed to be defined. He noted after discussing this with Attorney Schultz he understands the Property Maintenance section of the Code should be amended to apply specific requirements to outdoor seating.

Pastue stated businesses should treat their outside seating area as an extension of their indoor business. He commented upgraded standards need to be clear in order to apply penalties for each violation leading up to and including termination of the permit.

Schultz explained it would be a "live and learn" process, noting Zoning Ordinance regulations regarding outdoor seating were originally designed to conduct an annual review but without language addressing noncompliance penalties. He stated additional language would be added to clarify penalties applied for noncompliance.

Council discussed ordinance regulation of outdoor seating and better ways to encourage business owner responsibility. They continued discussing applied fees questioning who the payee should be.

After much discussion, Council agreed education was needed to make business owners aware of clearance issues related to outdoor seating.

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Councilmember Wright used the Gala Restaurant as an example of unique circumstances that needed to be addressed when applying for outdoor seating.

Pastue responded Gala is a good example of an application that will come before Council in order to address the municipal parking lot it utilizes and right-of-way issues. He continued describing an example of a business located on private property such as Big Apple Bagel. He noted without wait staff their business wouldn't need to go before Council thereby expediting the approval process. He discussed the denial process for applications.

Council concurred standards are needed.

Pastue then addressed quality standards for outdoor displays and sufficient pedestrian clearance.

McShane shared her concern for business owners adding embellishments to their property creating a garage sale look to the City.

Pastue understood her concern citing an example of a florist shop on private property interested in updating their site. He questioned whether this request should be handled administratively or before the Planning Commission.

McShane would like the approval process to be brought before the Planning Commission as in the past.

Responding to Mayor Knol's question, City Manager Pastue gave a few examples of seasonal on-going outdoor displays.

Buck commented a balance is needed regarding outdoor displays.

Councilmembers discussed the pros and cons of a walkable community.

Mayor Knol would like seasonal permanent structures to go before the Planning Commission.

Wright questioned the approval process. Pastue answered a business permit defining the seasonal structure would be administratively handled and reviewed annually.

Responding to Councilmember Wiggins' question, Pastue explained how and where the structure displays the store's product and the approval process.

Wiggins asked for a maintenance standard to be considered. Pastue noted maintenance standards could be applied by ordinance when monitoring commercial property.

City Manager Pastue and Council concurred to make the following changes regarding outdoor displays in the downtown area:

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- Planning Commission approval is not necessary for outdoor displays. Administrative approval can be sufficient.
- City Council shall approve all permanent displays in the right-of-way. A permanent permit, subject to annual approval, should be considered by the Planning Commission or City Council. All portable outdoor displays will require administrative approval. Pastue will meet with MDOT and the Road Commission on a General Permit approval process.
- Outdoor display standards will be established.

Councilmembers brainstormed appropriate usage, and a possible limit on approved permits.

Mayor Knol suggested DDA work with downtown businesses on promotional events to be held during the streetscape renovation allowing portable outdoor displays during the summer.

Pastue stated his intension to review design standards and the approval process with Planning Commission, DDA, and the Design Committee.

Pastue asked Council for their thoughts on limitations to be considered regarding smoking, such as the distance allowed from the entrance of a business.

Mayor Knol suggested placing attractive signage in and around the marketplace/pavilion area.

Wiggins discussed smoking mandates used by different establishments such as a smoke free environment or designated smoking areas. He then asked if a restaurant allowed smoking inside would they by extension allow patrons to smoke outside as well.

City Attorney Schultz responded to Councilmember Wiggins' question stating a municipality can do more than the state does to enforce a no smoking ban inside.

Wiggins clarified he was interested in regulations applied outdoors.

Schultz stated he wasn't aware of any Michigan municipalities that regulate outdoor smoking on private property.

Councilmembers continued discussing different types of no smoking signs and their effectiveness.

McShane suggested patrons be ticketed for dropping cigarette butts on the sidewalk. Wright noted it wouldn't be feasible.

Mayor Knol stated it needed to be a two-fold process holding a restaurant as well as the customer accountable for the litter on the sidewalk.

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Attorney Schultz stated the property maintenance for outdoor seating ordinance will include language addressing these issues. He concurred with McShane and Mayor Knol, stating it may take a week of writing tickets along with new signage to bring awareness to the businesses of the new ordinance and planned enforcement.

City Manager Pastue stated Director Nebus would support enforcement of this ordinance.

DISCUSSION – PARKING AND STORAGE OF RECREATIONAL VEHICLES

City Manager Pastue asked Attorney Schultz to review the proposed changes in Chapter 35, Zoning Article II, Section 35-38, Recreational Vehicles and Section 35-171 Residential Parking.

Schultz explained after a nationwide ordinance search, he found the City's language was restrictive and very comprehensive regarding recreational vehicle storage and residential parking.

Schultz stated after review of the recreational vehicle standards Council may consider an amendment to address the number and condition of stored vehicles on residential property.

Wiggins suggested the amended ordinance include language restricting the number of recreational vehicles. Schultz stated it is possible, but pretty restrictive when limiting the number of recreational vehicles to less than two.

Pastue responding to Councilmember Wiggins' question, stated the City has had minimal complaints regarding recreational vehicles.

Wiggins asked for clarification regarding the amendment related to accessory buildings. Schultz explained the proposed amendment refers to distances from principal structures, lot lines and easements are concerned.

Pastue asked Attorney Schultz if language can be added to address lot size in order to limit the number of recreational vehicles parked on a lot.

Councilmembers discussed the existing 35% lot coverage requirement.

Attorney Schultz advised when adding up the recreational vehicle, garage, shed and then applying the lot coverage requirement, many homeowners in Farmington would be precluded from adding recreational vehicles.

Wiggins suggested allowing everyone to store one recreational vehicle and then applying the lot coverage requirement.

Council concurred to amend the ordinance to allow one recreational vehicle before applying the lot coverage requirement.

DISCUSSION – OFF-STREET PARKING IN RESIDENTIAL AREA

Attorney Schultz explained the proposed changes to residential off-street parking. He explained the proposed changes will update the ordinance addressing parking area surfaces, and apply vehicle standards mandating they be licensed, operable and have a current registration. He stated side yard and rear yard provisions will also be added.

Schultz stated parking between the curb and sidewalk adjacent to public-right-of-ways or private streets are prohibited. He advised parking areas in the side and rear yards will be limited to a driveway and the rear yard not to exceed thirty-five percent of the rear yard area.

Council discussed the necessity of the changes to the ordinance and current parking problems in Farmington.

Council concurred to approve the changes to the ordinance.

OTHER BUSINESS

City Manager Pastue asked Councilmembers if they would be interested in attending an informative mini workshop hosted by Plante Moran to review finances.

Council concurred to hold this meeting sometime in January or February to review the financial report.

Pastue announced an additional leaf pick-up will be held next week Monday.

PUBLIC COMMENT

Annabelle Gable, 23089 Violet Street, expressed concern over the loss of businesses in Farmington. She commented since moving here in 1970 the downtown has changed significantly. She named several businesses that were located in Farmington at that time and explained how the City was thriving. She expressed worry for Farmington's businesses today and hopes the City will be a thriving metropolis again.

Mayor Knol responded noting Council is hopeful and plans to bring about those changes in the near future.

COUNCIL COMMENT

Councilmember Wiggins expressed concern over the timing of a newspaper article announcing water and sewer rates are rising when residents are using less water due to the economy and the fact that Council is allocating usage in order to bring water and sewer rates down.

Pastue explained Detroit adopted their rates late and because of the bond coverage requirements they need 125% of their revenues greater than their operating expenses. He explained due to a late start Detroit felt a need to increase the rates by 10%-16%.

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Pastue stated he disagreed with this increase and hoped Detroit would take into consideration next summer may be dry and therefore increase resident usage. He then advised a modest growth in water and sewer rates be applied annually.

Pastue stated he would be meeting with Detroit on December 12, 2008.

Councilmember McShane questioned if a smaller increase in rates would be applied to Farmington residents if usage was decreased.

Pastue answered the residents may see a small offset.

Councilmember Buck commented Holly Days went very well.

Wright commented residents have complained saying Council's audio is substandard.

Pastue commented an upgrade of equipment may be necessary.

Councilmembers discussed options such as wireless lapel microphones.

Wright reminded Council of an agreement to place a crosswalk at State Street prior to the Founders Festival.

City Manager Pastue stated due to Oakland County's difficult and expensive approval process the crosswalk would be incorporated into the streetscape as a bid alternate.

ADJOURNMENT

12-01-231 MOTION by McShane, seconded by Wiggins, to adjourn the meeting.
MOTION CARRIED UNANIMOUSLY.

The meeting adjourned at 10:24 p.m.

Valerie S. Knol, Mayor

Susan Halberstadt, City Clerk

Susan Pohto, Recording Secretary

APPROVED: February 16, 2009