

FARMINGTON CITY COUNCIL
SPECIAL MEETING
DECEMBER 6, 2010

A special meeting of the Farmington City Council was held on Monday, December 6, 2010, 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 6:30 p.m. by Mayor Buck.

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

COUNCIL MEMBERS ABSENT: None.

CITY ADMINISTRATION: Director Gushman, City Clerk Halberstadt, City Manager Pastue, Director Schulz.

APPROVAL OF AGENDA

12-10-216 MOTION by McShane, seconded by Knol, to approve the agenda as amended switching the order of Item Nos. 5 & 6. MOTION CARRIED UNANIMOUSLY.

CLOSED SESSION – REVIEW OF ATTORNEY CONFIDENTIAL CORRESPONDENCE

12-10-217 MOTION by Wiggins, seconded by Wright, to enter into closed session to review City Attorney confidential correspondence.

Roll Call

Ayes: Buck, Knol, McShane, Wiggins, Wright.

Nays: None.

Absent: None.

MOTION CARRIED UNANIMOUSLY.

Council entered closed session at 6:31 p.m.

12-10-218 MOTION by Knol, seconded by Wright, to exit closed session. MOTION CARRIED UNANIMOUSLY.

Council returned to open session at 7:10 p.m.

SWOCC ANNUAL REPORT

Present: Caren Collins, Director, Southwestern Oakland Cable Commission (SWOCC)

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Director Collins presented SWOCC's FY 2009-10 Annual Report. She discussed contents of the report and efforts to streamline operations. She presented information regarding video on demand, franchise fees; productions correlating with franchise fees, shared programs with Novi and Farmington Hills, special events and charge for playback.

Responding to a question from Wright, Collins indicated SWOCC has 11 employees; 6 full-time, 5 part time and interns.

Wright expressed concern about this year's budget due to significant loss in revenue and a reduction of 3 employees. He asked regarding additional loss of service. Collins stated the most significant change in the budget is the removal of capital items.

McShane asked regarding the number of new SWOCC "Around-the-Block" productions for the City. Collins shared the various access programs that have been completed since July 1, 2010. She stated there are less "Around-the-Block" productions but more coverage of special events.

McShane inquired about finding a less expensive facility for SWOCC. Collins stated the current location is supported by additional revenue sources such as renting out some of the office space in the building, etc.

McShane noted the fund balance is substantial and keeps rising every year. Collins advised the approved budget allocates funds from fund balance to cover expenditures this fiscal year.

Pastue noted half of the fund balance is in receivables and half is cash on hand.

Collins noted the cash is needed to pay for any equipment and facility issues.

Knol asked for additional discussion regarding a pending Request for Proposal.

Collins indicated they responded to an RFQ issued by West Bloomfield for a Municipal Programming Manager. SWOCC was able to qualify and subsequently responded to the Request for Proposal. She is one of two qualified candidates who will be interviewed after the first of the year.

Buck inquired if Farmington, Farmington Hills and Novi would contribute to cover any costs of the work for West Bloomfield. Collins responded no.

Knol noted West Bloomfield is another opportunity to utilize the building and create revenue.

Wright requested a copy of the current SWOCC budget.

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Buck recognized Director Collins' service as Chair of the Michigan Chapter of NATOA.

12-10-219 MOTION by Wiggins, seconded by McShane, to accept the SWOCC FY 2009-10 Annual Report. MOTION CARRIED UNANIMOUSLY. [SEE ATTACHED REPORT].

REVIEW OF PROPOSED CHANGES TO PUBLIC SAFETY RECOVERY ORDINANCES

Pastue reviewed changes to proposed ordinances since their introduction at the October 18th meeting.

Buck clarified ordinances would be reviewed but not approved that evening.

Laurie Doughty, AT&T External Affairs, stated taxes and fees paid by AT&T to the City should already cover costs of any emergency. She pointed out a utility should not be liable for "Acts of God" occurrences. She noted the ordinance seems random and the two hour provision before costs are imposed seems arbitrary. She asked how responsibility would be assigned if multiple service providers are involved in an emergency. She noted there is no appeal process provided in the ordinance.

Wright asked how someone would be able to differentiate between a power line and a telephone line.

Schulz responded Public Safety officers are trained to know the difference between lines.

Buck asked about the type of power that flows through the beige boxes located on easements. He asked if they would be hazardous to residents if knocked over. He discussed the budget challenges the City is now facing.

Jeff White, Power House, 31505 Grand River, stated his opposition to the proposed ordinance due to its vagueness.

Bill Breeze, 23366 Liberty Street, asked why the ordinances are necessary.

Pastue advised that as a result of a recent court case the City is now required to have in place a mechanism by which costs can be recovered in a hazmat response. He stated that during the process of developing an ordinance to address this issue the City Attorney also took the opportunity to look at other areas where emergency costs can be recovered.

Bill Breeze asked where the line would be drawn in recovering emergency costs.

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Pastue responded the ordinance is limited to four areas: unusual circumstances, unlawful conduct, utility emergency and hazmat recovery. He stated the likelihood of a communication line posing a threat is minimal. He advised a downed power line is what represents a safety concern and in that instance officers would remain at the scene until the utility company arrived. Charges for the officers' time would be applied after two hours at the emergency site.

Jim Patton, 23361 Liberty Street, asked who makes the final decision concerning severity of situation.

Pastue discussed the decision making and appeal process.

Knol expressed concern regarding the definition of utility emergency. She stated the language leads one to believe that a utility emergency is not just to protect the health and safety of the public, but could be related to property damage only. She believed this would be too extreme. For example, if a communication line came down damaging property the utility company could be subject to a charge back.

Knol recommended changing the "and/or" to "and" only in the definition of utility emergency.

Knol expressed further concern regarding the "Joint and Several" clause. She questioned why it is necessary.

Pastue replied the jointly and severally liability clause is standard ordinance language.

Knol advised that by including this language the City is able to charge a party who had nothing to do with the emergency.

Pastue cited circumstances where charges would apply.

Knol stated the language seems arbitrary and noted the appeals process board should be specifically called out.

Pastue responded it would be impossible to clearly define costs and apportionment thereof in an ordinance.

McShane pointed out that not enough information is provided and recommended finding other ways to remedy cost recovery in emergency situations. She expressed concern about how this affects the City's business partners. She questioned who would pay when more than one party is involved. She stated the ordinance seems aggressive and punitive. She noted the public is already paying fees. She recommended further study is needed on the entire process.

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Wiggins asked regarding the number of incidents over the last 3 to 5 years where charges may have been applied. He pointed out in a severe storm a number of power lines may go down. He stated that if 15 power lines go down at the same time the utility companies would not be able to manage all downed lines within a two hour period. He asked if the City is legally responsible to respond to downed power lines. He noted the City is required to be a member of the hazmat group in Oakland County and compelled to cost recovery for such group.

Wright asked for clarification on liability for costs of emergency response and a mutual aid agreement. He stated the mutual aid agreement needs to be reviewed and attached to the ordinance.

Pastue replied the ordinance can specify that the mutual aid agreement relates only to hazardous waste responses.

Wright inquired as to who decides culpability for setting or causing a fire. He stated language should be used such as "found guilty of". He stated there needs to be clarification on schedule of costs. He expressed concern regarding the limitations of a review board.

Buck inquired if costs would be recovered for a sidewalk damaged by a utility.

Pastue advised costs have been recovered due to good will. He cautioned that in a regional emergency, if Farmington does not charge for recovery costs neighboring municipalities who have fees in place would receive first response from utilities.

Buck discussed the intent of the ordinances.

Wright described a hazardous waste scenario and asked who would be responsible.

Pastue replied undetermined hazmat participants need to recover their costs.

Wright stated the ordinance needs to hit the intended mark.

CAPITAL IMPROVEMENT PROJECTS

Present: Jon Kramer & Roberto Scappaticci of Orchard, Hiltz & McCliment

Pastue focused on Water and Sewer and Street Capital Improvement Projects and reviewed project priorities. He stated the City has proposed a bond issue in the budget to at a minimum reimburse the City for expenses related to prior water projects. He discussed bond issue priorities as they related to water and sewer projects. He further discussed proposed street projects funded with Municipal

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Street Millage. He requested direction from Council concerning their project priorities.

Wright inquired about the effect of Council's decision on future budgets and tax rate.

Pastue replied if all water and sewer projects were done water bills would increase approximately 10%. He noted even if the projects were not done, the water and sewer bill would still go up.

Jon Kramer discussed eligibility requirements under the State Revolving Fund (SRF). He advised SRF eligibility requirements includes using the Pipeline Assessment Certification Program which requires considerable upfront costs and ultimately the study may show the City would not be eligible SRF funding.

Discussion continued regarding eligibility requirements under SRF. Kramer confirmed that the City may not qualify because its water and sewer system is not bad enough.

In response to a question from Knol, Pastue confirmed the water and sewer projects are being proposed now because bond rates were at an historical low although recently they have seen increases. He advised the projects are still worthwhile even with the increases.

Responding to a question from Wright, Pastue confirmed that if Council made a decision today it would still be several months before the money would be borrowed.

Kramer discussed the process and timing of the projects.

Knol commented it would be more cost effective to do the Grove Street water main replacement at the same time the reconstruction project is done. She stated the Thomas Street Water Main repair should be tied into the DDA repaving project so as not to inconvenience business owners.

McShane stated the proposed project work needs to be done for the welfare of both businesses and residents. She asked how much more it would cost to delay them. She suggested that to wait might cost the City that much more in terms of higher interest rates.

Pastue responded there is no indication the bond market will dry up, however, it has tightened resulting in higher costs. He discussed cost effectiveness of doing projects together.

McShane suggested going through the SRF process may cost more in the long term due to higher bond rates if ultimately SRF does not approve projects.

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At a minimum, Pastue requested Council's approval on the Hawthorne Street water main project.

Buck confirmed with City Administration the bond issue would include the following as "A" list projects: Slocum Water Main Reimbursement, Grand River Water Main Reimbursement, Water Control Systems, River Glen Paving and Hawthorne Street Water Main.

Wiggins asked if priorities are based on costs. Pastue replied yes except for the televised meetings that already has a revenue stream through PEG fees.

Responding to a question from Wright, Pastue stated PEG fees have to be related to public education government access.

Buck concurred with Knol that it makes sense to do projects at the same time in terms of cost effectiveness and limited inconvenience to the public and businesses.

Pastue noted if done separately the Orchard/Grove water main and streetscape projects would inconvenience the public for shorter periods of time rather than the full 12 weeks it would take to complete both projects at the same time.

Knol expressed concern about public perception when projects are done separately. She stated it would look like a waste of money to the public.

Responding to a question from Wiggins, Pastue confirmed redevelopment of Grove Street would require a larger water main.

Wright recommended basing the project on a range of bond rates and finding the midpoint on which to make a decision. He advised City Administration should try to neutralize the rate issue in making a decision about the project.

Discussion followed regarding potential savings on meter reading automation.

McShane recommended the City be proactive and move forward on the top five Bond Issue priorities as identified by City Administration.

Responding to a question from Wright, Pastue stated it would not be possible to replenish the Water and Sewer funds without bonding.

Buck expressed concern regarding the condition of the Floral Park Collection System.

Discussion followed regarding the condition of the Floral Park pipes.

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Knol suggested a bond issue should include Floral Park, noting it may be more expensive if the project is delayed. She requested City Administration provide different scenarios in the proposed budget regarding project funding.

Buck noted the City would need to justify implementation of automated meter reading given the upfront cost. He further noted the staggering cost for televised meetings.

Discussion followed regarding the installation of sewer lining and the potential for back-ups.

Discussion ended regarding coordination with the DDA on the Thomas Street Water Main Project.

PROGRESS REVIEW OF WORK PLAN (HANDOUTS AT MEETING)

Council concurred to delay discussion of the Work Plan to allow more time for review.

OTHER BUSINESS

Discussion took place regarding Board and Commission appointments and status of the members of the Traffic and Safety Board.

PUBLIC COMMENT

No public comment was heard.

COUNCIL COMMENT

Wright suggested raising the speed limit on Drake. He asked about zoning violations relative to the number of vehicles that can be parked on residential property.

Buck recognized the success of the recent Tree Lighting Event at the Warner Mansion. He spoke about attending the installation of new officers at the Masonic Hall.

ADJOURNMENT

12-10-220 Motion by McShane, seconded by Wiggins, to adjourn the meeting.
MOTION CARRIED UNANIMOUSLY.

The meeting adjourned at 10:05 p.m.

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J.T. (Tom) Buck, Mayor

Susan K. Halberstadt, City Clerk

APPROVED: January 18, 2011