

FARMINGTON CITY COUNCIL
REGULAR MEETING

A regular meeting of the Farmington City Council was held on Monday, April 16, 2007 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 8:03 p.m. by Mayor McShane.

PRESENT: Buck, Knol, McShane, Wright.

ABSENT: Wiggins.

CITY ADMINISTRATION: Director Gushman, City Clerk Halberstadt, Director Nebus, City Manager Pastue, Assistant City Manager Richards, Treasurer Weber.

CONSENT AGENDA

Council approved the following items on the consent agenda:

- Special and Regular meeting minutes of March 19, 2007
- Special meeting minutes of April 2, 2007
- City of Farmington Monthly Payments Report – March 2007
- Monthly Public Safety Report – March 2007
- Third Quarter Report: City of Farmington Building Department – January 1, 2007 through March 31, 2007
- Public Hearing for MDNR grant application

04-07-071 MOTION by Knol, seconded by Buck, to approve all items on the consent agenda as presented. MOTION CARRIED UNANIMOUSLY.

APPROVAL OF REGULAR AGENDA

04-07-072 MOTION by Wright, seconded by Buck, to approve the agenda as submitted. MOTION CARRIED UNANIMOUSLY.

PRESENTATIONS/PUBLIC HEARINGS

PROCLAMATION – NATIONAL CHILD ABUSE PREVENTION AND AWARENESS MONTH

Mayor McShane proclaimed April as National Child Abuse Prevention and Awareness month in the City of Farmington.

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Alton Bennett, Farmington/Farmington Hills Exchange Club member, spoke about the Club's involvement in the prevention of child abuse. He noted blue ribbons are worn in support of this cause. He thanked Council for their proclamation and provided a ribbon to each member.

Mayor McShane expressed gratitude to the Exchange Club for their involvement in this most important cause.

Councilmember Knol also thanked the Exchange Club for their contribution to the community. She stated it takes a community effort to combat child abuse.

PROCLAMATION – APRIL 2007 FAIR HOUSING MONTH

Mayor McShane proclaimed April as Fair Housing month in the City of Farmington.

CONSIDERATION TO APPROVE 2007 CLASSIC CAR SHOW

04-07-073 MOTION by Buck, seconded by Wright, to approve a 2007 Classic Car Show to be held in the western portion of the Village Commons parking lot each Monday evening beginning in April and ending October 2007. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

CONSIDERATION TO ADOPT RESOLUTION #4 – PRINCIPAL SHOPPING DISTRICT (PSD) RENEWAL

Councilmember Buck expressed concern, on behalf of the Downtown business owners, that the proposed PSD budget increase for FY 2007/08 places an additional financial burden on them in a down economy. He requested holding the PSD budget amount at the FY 2006/2007 level.

Knol stated she is not opposed to eliminating the increase, but strongly recommended consulting DDA Director Knowles before a change is made. She pointed out that Main Street committees were interested in using the proposed 2007/08 numbers for their budgets.

Buck noted that the PSD budget had not been set yet and that Council was agreeing to most of the budget changes recommended by the DDA Board.

Knol noted Director Knowles and the Main Street committees had proposed the increase in order to accomplish certain projects.

City Manager Pastue recommended adopting Resolution #4 as presented, however, he noted one last opportunity to adjust the budget amount on the final resolution.

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Mayor McShane pointed out this would allow time to consult with the Director Knowles and the opportunity for further public input at the public hearing on May 7, 2007.

04-07-074 MOTION by Knol, seconded by Wright, to approve Resolution No. 4 to schedule a public hearing for Monday, May 7 at 7:00 p.m. regarding the assessment roll for the Principal Shopping District renewal. [SEE ATTACHED RESOLUTION].

ROLL CALL

Ayes: Knol, McShane, Wright.

Nays: Buck.

Absent: Wiggins

MOTION CARRIED.

Knol recognized the difficult economic times for business owners, but pointed out that Director Knowles had come before Council at the March 19th meeting and had provided a thorough explanation of the process undertaken by the committee to arrive at the proposed budget numbers.

NEW BUSINESS

CONSIDERATION TO APPROVE SPECIAL EVENT REQUEST – “POPPY DAYS”

04-07-075 MOTION by Wright, seconded by Knol, to grant permission to the American Legion Groves-Walker Post 346, to conduct their annual Poppy Days sale on May 17, 18, and 19, 2007 as presented; solicitations prohibited in the intersections; and to proclaim these dates as “Poppy Days” in the City of Farmington. MOTION CARRIED UNANIMOUSLY.

FARMINGTON EMPLOYEES’ RETIREMENT SYSTEM SUMMARY ANNUAL REPORT FY 2005-2006

04-07-076 MOTION by Wright, seconded by Buck, to receive and file the Farmington Employees’ Retirement System Summary Annual Report for FY 2005-06 and direct that the report be made available to the public at the Clerk’s office. MOTION CARRIED UNANIMOUSLY.

CONSIDERATION TO INTRODUCE ORDINANCE C-723-2007, DOWNTOWN CENTER TRAFFIC CONTROL ORDER PARKING LIMITATIONS

04-07-077 MOTION by Buck, seconded by Knol, to introduce Ordinance C-723-2007 to permanently establish 30-minute parking in front of the Office Depot site in the Downtown Center. [SEE ATTACHED ORDINANCE]. MOTION CARRIED UNANIMOUSLY.

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Council concurred to delay agenda item 7D, "Consideration to Accept the Video Service Local Agreement for AT&T Michigan", to allow time for the City Attorney to arrive.

CONSIDERATION TO ACCEPT BROWNFIELD REDEVELOPMENT FINANCIAL REPORT

Responding to a question from Councilmember Wright, City Manager Pastue stated he was comfortable with the preparation of the report.

04-07-078 MOTION by Wright, seconded by Knol, to accept the financial report for the City of Farmington Brownfield Redevelopment Authority for the period ending June 30, 2006 and authorize filing with the Michigan Tax Commission. **[SEE ATTACHED REPORT]**. MOTION CARRIED UNANIMOUSLY.

BOARD AND COMMITTEE APPOINTMENT AND REAPPOINTMENTS

i. Construction Board of Appeals

04-07-079 MOTION by Buck, seconded by Knol, to appoint Albert Dompierre, Jr. to serve on the Construction Board of Appeals to fill an unexpired term ending February 2008; and to reappoint David Mariner and William T. Ingalls each to serve a two-year term on the Construction Board of Appeals ending February 2009. MOTION CARRIED UNANIMOUSLY.

PRESENT CITY MANAGER'S FISCAL YEAR 2007/2008 BUDGET

Administration presented the Fiscal Year 2007/2008 budget.

CONSIDERATION TO ACCEPT THE VIDEO SERVICE LOCAL AGREEMENT FOR AT&T MICHIGAN

Present: Caren Collins, SWOCC Executive Director
Kristin Kolb, Attorney (arrived 8:45 p.m.)

Caren Collins provided a brief background on Public Act 480, the "Uniform Video Service Local Franchise Act" which became effective January 1, 2007. She stated this Act provides a state mandated franchise agreement for use by all cable providers. She described the process and timetable established for approval of franchise agreements/applications. She advised there is no room for negotiation on the agreement except for three blanks that must be filled in.

Collins stated SWOCC held a meeting to review the franchise application from AT&T that is presently before Council. She further stated that SWOCC representatives recommended that the City Attorney prepare a resolution regarding completing the blanks within the agreement. She stated that under the agreement the City can expect a 5% franchise fee and a PEG (Public, Education and Government Access) fee. She stated under the current PEG fee the City receives a dollar amount and in-kind services. She further stated that under ACT

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480 the City is allowed to place a dollar value on the in-kind services. She advised SWOCC is recommending 3% for the PEG fee. She stated the ACT provides a 2% PEG fee at the point the contract with the current provider ends.

Collins advised the City of Farmington Hills changed the word "agreement" to "state mandated agreement" in the "Resolution Granting Approval of a Uniform Video Service Local Franchise Agreement with AT&T Michigan"; and added item "F" under the Miscellaneous section of the Uniform Video Service Local Franchise Agreement with AT&T providing language that preserves certain rights to the City.

Collins stated Council has the option to do nothing in which case the agreement would automatically go into effect or the agreement can be signed including the reservation of rights provision which is the recommendation of the City Attorney.

Attorney Kristin Kolb advised that the proposed resolution clearly states Council is approving the AT&T Uniform Franchise Agreement because it is required by state law. She stated under the resolution Council is giving approval only because the agreement meets the technical requirements of ACT 480. She noted that a "reservation of rights" is provided at the end of the resolution. She stated this provision asserts the City has not waived its rights to engage in any litigation that challenges the Act. She further stated that if other municipalities engage in successful litigation this provision allows the City to "glom on" and realize those positive results.

Attorney Kolb recommended Council add the reservation of rights provision to the agreement. She advised that AT&T may not accept the additional language and declare it a procedural or substantive change to the agreement which the MPSC will not allow. She stated that if that is the case a different recommendation would be made which may be for the City to do nothing. She advised that under the Act doing nothing is also considered an approval of the Act. She stated if the City allows it to become effective by operation of law then the City has taken no affirmative action which would also be an equal non-waiver of rights.

Responding to a question from Councilmember Buck, Attorney Kolb stated AT&T has already set a precedence of filing complaints with the MPSC when a community takes an action they don't like.

Buck noted that taking the effort to add the language to the agreement would appear to be busy work with no result.

Discussion followed regarding the opportunity for competition under the agreement, but the need to preserve certain rights.

Responding to a question from Councilmember Wright, Attorney Kolb stated that adding AT&T as an additional cable provider does not result in increased

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revenue to the City due to the Metro Act. She stated AT&T pays Metro Act fees to the State of Michigan and in turn the State issues a check to Farmington. She further stated that because AT&T pays Metro Act fees they receive a credit in the exact amount against their 5% franchise fee, so until AT&T adds enough customers so that their 5% of gross revenues exceeds the Metro Act payment, the City will receive no franchise fee.

Collins noted that it would be an even greater loss if AT&T takes customers from the City's current provider resulting in no franchise fees from either provider.

Knol stated she is in favor of adopting the resolution, but does not support adding the non-waiver of rights language to the agreement. She stated she does not believe AT&T would adopt the agreement with the added language, therefore it would just be added busy work. She further stated she would like to see AT&T come into the community. She noted the resolution provides sufficient protection to the City.

Councilmember Buck expressed concern regarding the potential loss of video services to the city and schools. He expressed support for the resolution, but not the additional language to the agreement.

Responding to a question from Mayor McShane, Attorney Kolb stated the franchise agreement is with each City, therefore the action taken by other cities has no impact.

City Manager Pastue recommended incorporating the language into the agreement because it would provide the strongest statement for reservation of rights.

Attorney Kolb recommended modifying the resolution by adding "state mandated" in front of the word "agreement" wherever it appears in the document and adding the effective date of April 25, 2007 to the first "Be It Resolved" paragraph on page two.

Knol stated her belief that to include the non-waiver of rights language in the agreement conveys to AT&T that they are not welcome to the community and noted the resolution provides adequate protection.

Pastue stated the importance of taking an action on the resolution and agreement.

Attorney Kolb pointed out that if the language is added to the contract the City runs the risk that AT&T will challenge it, however, if the language is not added, and there comes a time when the City participates in a lawsuit or another municipality gets a positive result for challenging the Act, the City may not be able to take advantage of that result.

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Buck stated his hope that Farmington residents find that this resolution and agreement supports competition and provides the gains and improvements they desire. He further hoped that his concerns regarding potential losses to the school and the community for videos services are unfounded. He expressed concern regarding the unsightliness and locations of the large AT&T boxes.

RESOLUTION 04-07-080 Motion by Buck, seconded by Wright, to adopt a resolution to grant approval of a Uniform Video Service Local Franchise Agreement with AT&T Michigan, amending the resolution to change the word "agreement" wherever it appears to "state mandated agreement" and adding the date of April 25, 2007 to the end of the first BE IT RESOLVED paragraph; and add to the Uniform Video Service Local Franchise Agreement with AT&T Michigan, item "F" under the "Miscellaneous" section, a non-waiver of rights provision as defined in the last paragraph of this adopted resolution. [SEE ATTACHED RESOLUTION].

ROLL CALL

Ayes: McShane, Wright, Buck.

Nays: Knol.

Absent: Wiggins.

MOTION CARRIED.

PUBLIC COMMENT

Dick Carvell, 33906 State Street, referred to an article in the Free Press publication regarding homeowners who have benefited from tax relief for renovation of their historic homes. He noted the Historical Commission tried to certify the City's Historical District, but the Council turned it down.

COUNCIL COMMENT

Councilmember Knol expressed concern regarding recent incidences of graffiti noted in the Public Safety report.

Councilmember Buck stated he was very encouraged by positive initial reports regarding the recent change in management for the Civic Theatre. He also stated it was an honor to represent citizens at a recent Public Safety recognition dinner.

Councilmember Knol stated that according to her sources the large AT&T boxes are a result of the Metro Act, not the recent franchise law. She stated AT&T attempts to work with local government regarding placement of boxes.

Mayor McShane announced upcoming meetings of the International Council of Shopping Centers and the Michigan Suburbs Alliance. She expressed concern regarding the disrepair of the Worldwide Shopping Center. She asked administration what action can be taken.

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City Manager Pastue responded there are property maintenance provisions in the ordinance that can be applied. He stated code enforcement officer Konscol has addressed the issue with the property owners.

Mayor McShane requested a meeting with the property owners to discuss the poor condition of the Center.

ADJOURNMENT

04-07-081 Motion by Knol, seconded by Wright, to adjourn the meeting. MOTION CARRIED UNANIMOUSLY.

The meeting adjourned at 9:45 p.m.

JoAnne M. McShane, Mayor

Susan K. Halberstadt, City Clerk

APPROVED: May 21, 2007