

A Special Meeting of the Sylvan Lake City Council was held on Tuesday, July 15, 2008; opening at 4:03 p.m. Mayor Hungerman presided.

Present: Shepp, Wiegand, Hungerman

Absent: Maurina, Lorenz

Also Present: City Manager Martin, Clerk Clippert, City Attorney Bibeau (4:10 p.m), Dean Hay, Environmental Designer for McKenna and John Booth, Engineer for Hubbel, Roth and Clark (4:08 p.m).

### Approval of Agenda

Moved by Wiegand, seconded Shepp, to approve the agenda as presented.

Yes: All

No: None

MOTION CARRIED

### Discussion of Site Plan and Consent Judgment for 2451 Orchard Lake Road

Martin provided a summary of McKenna's and the Engineer's reports. He showed council the consent judgment site plans and the differences in the "as built" plans. Shepp would like to ask the Yaladoo's why there is a difference; what drove them to vary from the plan. Hay stated there were some issues with the pond design and changes to the curb line. Booth added, when he spoke with the contractor they stated the owner threw out the plans and built it how he wanted. He got the same answer from the underground contractor also.

Shepp stated he agrees with some of Lorenz' comments. Shepp is willing to give a temporary Certificate of Occupancy with time frames and financial consequences. He added if they do not comply to lock the doors on the due date. Martin clarified the Certificate of Occupancy is issued by the building inspector. City Council can only give temporary approval for the site plan. He reminded Council the Yaladoo's brought this problem on themselves. This already went to court and a consent judgment was issued and they didn't build to that consent judgment. The city is not delaying them from opening. They did it themselves.

Wiegand is concerned with the retaining walls, south property line, things built on property, things not on plan, pole light on city property and the sidewalk.

Martin would rather give them a list of things the city approves of and say that everything else has to be according to the consent judgment plan. He addressed the retention areas, both are holding water. Martin is concerned with the "as built" plans, not being correct. He explained how a sanitary manhold is marked on the "as built" plans, but stated Booth couldn't find it. They did find it, but it wasn't where their plan showed it.

Booth provided two letters that they wrote today, a response to owner's July 11, 2008 letter and an as-built drawing review. He addressed the detention basins. There are problems with sideslopes, volume, grade, and freeboard elevation. There are problems with grade on drive and the parking lot drains into Orchard Lake Road. This is not a simple fix. A letter of approval will be needed from the Road Commission.

Wiegand asked if a greater bond would be needed for all the problems. Bibeau asked Hays and Booth what they would estimate for costs. Hays estimated \$20,000 for landscaping and Booth estimated \$50,000 for engineering work. Bibeau recommended getting an irrevocable letter of credit for \$100,000.

Council discussed with Hays each of the items on McKenna's list. The site has an additional vehicle-accessible fuel pump. The consent judgment limit was four. The owner claimed they were being pressured for an Ethonal pump. Hays feels this is not true. Required landscaping parking lot peninsula adjacent to the access driveway was not put in correctly. Two parallel parking spaces have been installed along Orchard Lake Road. There is not enough room for cars to pass. These spaces should be removed. Two barrier-free parking spaces were not to plan. Council agreed they are ok. Thirty recessed canopy lights were installed. The plan allows only 16. Hays feels a new photometric plan should be required. He stated the 30 lights are 320 watts each. They should not exceed the 18.1 footcandles per the consent judgment. Hungerman suggested requiring them to have to take the wiring out. Wiegand suggested putting a cap over to cover glass. There are a number of issues with landscaping. Council agreed to everything in item 4 of McKenna's letter, stating they need to be adhere to with the addition of landscape screen barrier for trash enclosure, new area. A revised plan must be provided.

Wiegand inquired about dead trees. Martin stated in the plan it states they have to replace dead trees within three months.

Council discussed each of the 18 items listed on Booth's response to Owner's July 11, 2008 letter and the 17 items listed on the as-built drawing review.

Hungerman suggested they set a time deadline. Council agreed to 30 days with 45 days for landscaping and restoration.

Martin suggested requiring them to provide approval from the building inspector, approval from the fire inspector, a letter of approval from the Road Commission and a new photometric plan before setting a meeting for approval of the site plan. Council also agreed they should pay for review costs for the planner and engineer. Bibeau suggested setting up an escrow for \$10,000.

At 5:30 p.m. the meeting recessed to go to the Valero site.

Site Visit - 2451 Orchard Lake Road

The meeting reconvened at 5:42 p.m. Mayor Hungerman stated they are here so City Council can view the issues which the planner and engineer would like to discuss with them. Booth provided his letters to the Yaldoo's and addressed each of his concerns with them. Next Hays discussed the planner's letter of concerns. He added bricks were suppose to be installed above the pumps and are missing. Nemo Yaldoo replied, the brick and pump guys both said the bricks would fall down if there was a fire and they couldn't do it. Hays asked them to provide a letter from these guys stating such. Nemo submitted a letter of approval from the Road Commission.

Mayor Hungerman informed the Yaldoo's they need to get approval from the building and fire inspectors. He further explained the building inspector issues the temporary certificate of occupancy, but this can't be issued until the site plan is approved. Martin will work on a temporary site plan approval letter. He stated it should be ready for council approval by Thursday. Bibeau added that in the this letter they will be requiring a deadline for the work to be completed and an irrevocable letter of credit in the amount of \$100,000. Hay stated they need to provide a new photometric plan. Laith Yaldoo stated they will request it immediately.

ADJOURNMENT

Moved by Wiegand, seconded Shepp, to adjourn the special City Council Meeting.

Yes: All  
No: None

MOTION CARRIED

The meeting was adjourned at 6:29 p.m.

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Dennise Clippert, City Clerk