

CITY OF SYLVAN LAKE
REGULAR MEETING
May 21, 2008

A Regular Meeting of the Sylvan Lake City Council was held on Wednesday, May 21, 2008; opening at 7:45 p.m. Mayor Hungerman presided over the Pledge of Allegiance.

Present: Wiegand, Hungerman, Lorenz, Maurina, Shepp

Absent: None

Also Present: City Manager Martin, Clerk Clippert and City Attorney Bibeau

Yes: All

No: None

MOTION CARRIED

APPROVAL OF AGENDA

Lorenz requested to add Item 11O, to discuss moving up the Dock Policy registration date.

Moved by Shepp, seconded Wiegand, to approve the City Council Agenda for May 21, 2008, as amended.

Yes: All

No: None

MOTION CARRIED

APPROVAL OF MINUTES

Moved by Lorenz, seconded Maurina, to approve the following minutes as presented:

April 9, 2008 Regular Meeting

April 24, 2008 Special Meeting

Yes: All

No: None

MOTION CARRIED

APPROVAL OF DISBURSEMENTS

Moved by Wiegand, seconded Maurina, to approve the voucher report for May totaling \$277,223.40.

Apr Payroll \$ 46,334.48 Check #'s 10651-EFT93

Accts Pay-Apr-May \$230,888.92 Check #'s 42795-42947

 Totaling \$ 189,911.98

Yes: All

No: None

MOTION CARRIED

ACCEPTANCE OF REPORTS

Bibeau noted two more tax tribunals have been filed since he wrote his report, Sylvan Office Center and McDonald's.

Mayor Hungerman received the DPW's and City Attorney's report for the month of April 2008, the Police Department report for March 2008 and asked that they be placed on file.

L2-006-08

Mayor Hungerman introduced Randy Fields, attorney for Sherrod vs. The City of Sylvan Lake and Police Chief Mark Silver. Fields explained lawsuits are always a difference in opinion of two people. This lawsuit alleged sexual harassment and wrongful discharge. Chief Silver was the victim in this case. He hired a friend who couldn't get a job anywhere else. There was never any talk or allegation of sexual harassment until the lawsuit was filed. The articles in the newspaper on sexual discussions with Silver were three or four patrol officers talking from four to six years ago. They were not working together. There was no supervisor relationship. It was just guys joking and talking. There was one resident of Sylvan Lake who claims Mark made a comment to him that was so meaningless to the resident at the time, more than three years before the start of the lawsuit, that he didn't think to bring it up until the lawsuit started.

He explained why the Michigan Municipal Risk Management Association (MMRMA) settled, because they are risk management. They claimed they paid out millions of dollars in labor related cases. Fields stated he wanted to try the case and not give anything to Sherrod. He feels the city did the right thing in firing Sherrod. The City is a better place, the Police department is a better place and all of the police officers have faith in the department and Chief Silver. He explained the money being paid to Sherrod is paid by the MMRMA, not the City of Sylvan Lake. The MMRMA wanted to settle. The city pays very little to the MMRMA. It is a pool of municipalities in which Sylvan Lake belongs. He further explained if the city didn't accept their recommendation they would have had to go it alone. You never know what a jury is going to do, so the city may have had to levy a millage to pay if they lost the case.

Fields feels the department is a better place to work today. He believes the decision was the right one to make and it is time to move on.

One resident asked how to clear the city's name with the bad press. Fields explained it was his own direction to the City to not make comment to the press. Mark and council wanted to answer back in the paper immediately after the lawsuit was filed. Fields' experience has been no matter what you say to the reporter, there is no guarantee it will be put in the paper at all or quoted correctly. Everyone reading the paper always blames the alleged victim. He suggested if someone comments on the newspaper articles, just say it is a bunch of baloney and Sylvan Lake is a great place to live.

Linda Shepp suggested saying "I'm proud of my Chief and my City." Jan Hays suggested putting something in the city newsletter.

Mayor Hungerman thanked Fields. Fields wrapped up by saying Mark Silver is a good guy and no one has to worry about him.

COMMITTEE REPORTS

Midge Davidson reported for the Home & Garden Tour and invited everyone to the tour June 21. She thanked everyone for getting their lawns in shape. She stated they are going to have a historical perspective at Ferndale Beach with lemonade and cookies. You don't have to participate in the tour to attend this. They still need docents. Tickets are available online at www.sylvantour.com.

Helen McAllister announced the Garden Club will be hosting the Plant Exchange on June 7th at Memorial Park from 10-12. Money will go towards Memorial Park or maybe something for the Community Center.

BRIEF PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

Helen McAllister shared, she is a member of the Pontiac Branch Farm & Garden Club. Before the Community Center was closed down, they use to meet there. They meet the second Monday of each month at noon. She requested to have the same arrangement with the new center. Mayor Hungerman informed her they would think it over.

Sue Birnholtz stated the tennis courts are why they moved to Sylvan Lake. She recalled reading the Schimmel Report and it stating there was money in the budget for the tennis courts. She would like to see them opened again with reasonable repair. She asked what is going to happen. Martin explained a few years ago he got a quote for \$30,000 to repair the tennis courts. That was put off because City Council was discussing tearing down the Community Center. In the meantime, there are more cracks and the quote has expired. He received a new quote for \$104,000 to totally reconstruct. He will get more quotes and finding out what other repairs can be made in order to make it safe enough to open.

Sam Warwick stated the businesses on Orchard Lake Road are having trouble getting customers in. He would like to have some more creative signs, three-dimensional signs. He will put something together for Martin to look at.

Betty Delaney asked Martin if the City had gotten a Clinton Trail sign that says Sylvan Lake on it. Martin stated he has not. Delaney provided a business card on whom to contact regarding this. She stated the signs are \$87 each and she felt four are needed. She questioned when trash cans would be provided on the trail. Martin stated he thinks we may have some in the garage and would be put out soon. Delaney questioned Cadillac Brick and how high they are allowed to stack their bricks according to OSHA. Martin replied, he didn't know. She asked when the trail would be cut. Martin stated hopefully this week.

Kathleen Palazzolo inquired about guidelines for rental properties. Mayor Hungerman informed her regulations were discussed in prior years and they decided to go with registering

the rentals. Palazzolo feels they need to be accountable and fined. She shared her problem with the rental house next door, where the landlord is absent from the community. Hungerman stated it might fall under the blight ordinance. It will need to be looked at.

Midge Davidson requested having the lawns mowed, by June 20th for the tour. There are some which need help. She suggested cutting them for free. Martin stated the code enforcement officer is aware of those that need cutting but the City could not mow them for free.

Loren Maurina questioned putting delinquent water/sewer bills on the tax roll and having them tax deductible. Martin clarified, special assessments are not a legal tax deduction.

C4-006-08

Mike Zubrycki stated he is here to follow up on the DTE situation. Martin stated City Attorney Bibeau, Chief Silver and himself met with four representatives from DTE and discussed possible solutions. They are looking at getting cameras, then they both can see what is happening in the back. Zubrycki stated trucks are running consistently every night, a high-low has been going and he found a roll of coiled wire in his back yard. He believes there was a noise study done and it revealed there are some existing problems with truck noise coming from that facility. Martin stated the study showed the noise didn't exceed to ordinance requirements. Also Martin was told if something is going on at night it is because of an emergency. Trucks being repaired are supposed to be moved to the front.

Lorenz asked him what he wants the city to do, start a lawsuit for them to cease and desist? He asked him how much money should the city spend on this. Zubrycki replied, whatever it takes to stop the night time activity. Lorenz asked the Chief how many complaints the police have received regarding DTE. The Chief replied, two in the last month. Zubrycki feels that is an unfair measure because there have been meetings in the past which residents have complained. He feels they should limit their use with living next to a residential area.

Lorenz doesn't feel the city can do a whole lot, but feels a ticket could be written. Chief Silver stated he has no problem writing a ticket if it legitimate. He doesn't want to do something that will cause the city a problem. His understanding from the meeting was their attorney stated they will fight it and charge possible harassment. Bibeau confirmed that is correct. Martin reminded everyone they are a 24 hour operation and they have been for the 75 years they have been here. That is the problem in going after them for what they are doing, when they are running utility operation.

MaryAnn Smith asked about an agreement the city entered into with DTE for leasing them land. Martin stated that was for road right-of-way use.

Zubrycki asked if the petition was shown to DTE. Bibeau stated it was not because it was written to the city not DTE. Zubrycki asked how the petition could be made a part of the minutes. He then read the petition (attached)

Brad Conkey shared he supports “no reason absentee voting.” He inquired about the kitchen at the Community Center. He stated last year he offered help by giving the name of a kitchen contractor and he has not been contacted. Maurina stated she called the company he spoke of back in November or December. The committee made a decision to not have commercial appliances, only the sinks would be.

Conkey addressed rentals and blight. He was on City Council when this discussion took place and recalled the blight ordinance was going to be strictly enforced.

Conkey referred to the budget and remembered when he first got on City Council how he thought he was going to find waste in the budget. He stated there is no waste and very little extra in the budget. He commended John Martin, Dennise Clippert and City Council for the fine job they do.

CITY MANAGER COMMENTS

Community Center

Martin acknowledged the center is looking nice and Rob Galacz, Construction Manager, is doing a great job. They hope to be paving in a few weeks and then begin landscaping soon after. They are hoping to open around the first of August.

Tree Planting Program

Twenty trees will be planted within the next couple months and some more in the fall and next spring.

CITY COUNCIL COMMENTS

Maurina thanked everyone for coming.

Lorenz weighed in on the Sherrod case and thanked Chief Silver for following the rules set forth by the attorney. He acknowledged that he wanted to contact the press immediately but was advised not to. He explained that the Mayor and City Council that brought several complaints to the City Manager to review before Sherrod’s probation was up. He stated it was a difficult time for the city and Chief Silver and wishes there was some way to undo it.

Lorenz thanked the Home & Garden Tour for their time and effort. He asked everyone to beautify and clean up for the tour and asked residents to attend the tour. He stated his daughter is chairman of the lemonade/cookie stand and stated she is looking for other children to help out.

Lorenz is in favor of fixing the tennis courts and feels it is an asset of the city.

Lorenz discussed the budget and stated a millage proposal has been discussed for the last few years and will need to be put on the ballot in November, whether it is a park & recreation renewable millage, a public safety millage, increase in the headlee millage or a combination of those.

Shepp expressed, he agrees with everything Lorenz just said. He thanked the Home & Garden Tour Committee, Helen Jane Peters for her work and time on the historical presentation. He acknowledged Chief Silver's professional attitude and thanked him.

Wiegand provided pictures taken from the trail, of Zilka storing 50 boats next to the fence. Also Aguafina has junk next to the trail. He would like to see a requirement of businesses to have to plant trees or something to block this.

Wiegand discussed foreclosures and rentals.

Hungerman congratulated Marlene Toby, and Mike and Judy Schwanitz for receiving awards at the Michigan Week Breakfast.

Hungerman expressed his confidence in Chief Silver and feels he is doing a good job and thanked him.

ACTION ITEMS

C3-006-08

a. Consideration to Approve GWBCAB Capital Expenditure Request

Dave Albery stated the Cable Board is requesting an approval for a capital expenditure from the Cable Joint Venture Fund, for the purchase of equipment to provide network capabilities for the Civic Center TV 15 facility, streaming of the channel to the internet and AT&T, and the inclusion of Michigan Government Television programming. The city's share of the expenditure is \$2,316.

Lorenz stated a letter was submitted to the board for funding of broadcasting at the Community Center. Albery acknowledged the letter and stated the city has around \$6,000 in the fund for cable related items.

Moved by Wiegand, seconded Shepp, to approve the request from the GWBCAB for the purchase of equipment, not to exceed \$82,720, of which the portion provided by the City of Sylvan Lake's Cable Joint Venture Fund will not exceed \$2,316.

Yes: All

No: None

MOTION CARRIED

ZP-003-08 C4-007-08

b. Consideration to Approve T-Mobile/Aguafina Special Land Use Request

Mayor Hungerman explained this went before Planning Commission. They held a public hearing on this issue and recommended that City Council approval the Special Land Use Request.

Matthew Jurson, representative of T-Mobile, stated the wire industry over the past several years has experienced tremendous growth. Good service has become a demand and people are embracing technology. T-Mobile determined a gap exists along Orchard Lake Road. They are proposing an 80-foot stealth monopole to put at Aguaфина Garden's. He stated they surveyed the area to see if there are any existing structures they could possibly use. They found none. He stated the antennas would be enclosed within the structure itself and stated it is a low profile site.

Wiegand stated he spoke with the Planner from Southfield and discussed how they changed their ordinance. He would like to table this and discuss it with City Council. He would like to obtain more money for the City.

Jurson stated McKenna already gave them a glowing recommendation.

Lorenz asked how long the lease is for and what the impact would be if the property is sold and redeveloped. Jurson replied, it is a long term lease. He is not at liberty to discuss. He felt the property could still be developed if sold. Lorenz addressed the Master Plan and stated it is not intended to be industrial in the future. He doesn't want the antenna to hinder future use. Jurson believes the future use is for high tech and he doesn't believe this would interfere with this.

Wiegand doesn't understand why they can't put their antennas at City Hall. He would like a grid provided to the Engineers to determine if this is true. Jurson provided grid drawings and simulated views of how the antenna would look. He explained they already have antennas at Detroit Edison and they need to be at least a mile away. Coverage would not be effective at City Hall. Wiegand asked about a taller pole. Jurson replied, if the pole is too tall the signal won't work. He stated T-Mobile's policy is to use an existing structure if possible. This tower is designed to allow for two more carriers to locate there in the future. He stated the screening will be taller than the fence.

Lorenz stated this is inconsistent with the Master Plan and of what should be developed there. He stated he was not at the Planning Commission meeting and can't believe it went through so easily. Hungerman stated everything was met per the City Planner's, McKenna and all questions were answered that the Planning Commissioners had. Lorenz would like to table this to discuss it more with City Council. Shepp agreed that would be fine.

Moved by Wiegand, seconded Shepp, to table T-Mobile Special Land Use request.

Yes: Lorenz, Maurina, Shepp, Wiegand

No: Hungerman,

MOTION CARRIED

c. Discussion of Boat Dock Payment Policy **BD-008-08**

Mayor Hungerman stated they will address each item individually. Hungerman stated he didn't have a problem with the \$100 non-refundable fee to be on the wait list. Lorenz stated he is ok with the \$100 fee, but doesn't believe it should be non-refundable.

Mitch Black explained the dock committee's goal was to try and get a better handle on the boat docks and wait list. They wanted to generate a small revenue stream for the city. Members of the committee were not unanimous in agreement of each change.

Brad Conkey clarified the \$100 fee is applied toward the first year fee when the applicant obtains a dock space. They were hoping to move the list along and only have serious people get on it.

Conkey informed these changes won't apply until next year.

Council agreed they would like to address these changes with the committee at a study session.

Moved by Maurina, seconded Wiegand, to table the dock policy to the next study session.

Dock Committee members requested to be put at the top of the agenda.

d. Appointment to the Fire Board for a 2-year term **A2-002-08**

Mayor Hungerman recommended re-appointing Bill Wright to the Fire Board for a 2-year term.

Moved by Lorenz, seconded Wiegand, to approve the Mayoral appointment of Bill Wright to the Tri-City Fire Board for a 2-year term, to expire June 30, 2010.

Yes: All
No: None

MOTION CARRIED

e. Discussion of Water Rates **WA-002-08**

Martin announced Detroit Water has increased their water rates. They are now charging more than the City is charging the residents. Water rates have not been increased for about 10 years. Sewer rates were decreased twice in the last five years. Martin stated he will be proposing a

change in the base fee and increasing per-unit cost at the next study session.

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T-002-08

f. Consideration to Approve Placing Delinquent Bills on the Tax Roll

Moved by Shepp, seconded Lorenz , to approve placing the delinquent water/sewer and accounts receivable bills on the tax roll as presented.

Yes: All
No: None

MOTION CARRIED

B-003-08

g. Consideration to Approve 2008/2009 Millage Rate Resolution

Moved by Wiegand, seconded Lorenz, to adopt the 2008/2009 millage rate resolution as presented.

Yes: Lorenz, Maurina, Shepp, Wiegand, Hungerman
No: None

RESOLUTION ADOPTED

B-004-08

h. Consideration to Approve 2008/2009 Appropriation Resolution

Moved by Shepp, seconded Maurina, to adopt the 2008/2009 appropriation resolution as presented.

Yes: Maurina, Shepp, Wiegand, Hungerman, Lorenz
No: None

RESOLUTION ADOPTED

R2-004-08

i. Consideration to Approve a Resolution to set Marriage Ceremony Fee

Moved by Lorenz, seconded Maurina, to adopt the Civil Marriage Ceremony Fee Resolution, setting the fee at \$50 per ceremony.

Yes: Shepp, Wiegand, Hungerman, Lorenz, Maurina
No: None

RESOLUTION ADOPTED

O-013-08

j. Consideration to Approve Ordinance 289-Text Amendment-ZBA

Martin explained that this amendment will bring this portion of the ordinance into compliance with new regulations. It will also give the Zoning Board of Appeals the authority to act on Use Variance requests.

Moved by Wiegand, seconded Maurina, to adopt ordinance 289 regarding the Zoning Board of Appeals, as presented.

Yes: Wiegand, Hungerman, Lorenz, Maurina, Shepp

No: None

ORDINANCE ADOPTED

R2-005-08

k. Consideration to Approve "Stopped" Program Resolution

Moved by Lorenz, seconded Maurina, to approve the Sylvan Lake Police Department's participation in STOPPED program, and the resolution supporting the STOPPED program as presented.

Yes: Hungerman, Lorenz, Maurina, Shepp, Wiegand

No: None

RESOLUTION ADOPTED

R2-006-08

l. Consideration to Approve Resolution Supporting No Reason Absentee Voting

Moved by Lorenz, seconded Maurina, to adopt the Resolution supporting No Reason Absentee Voting as presented.

Yes: Lorenz, Maurina, Shepp, Wiegand, Hungerman

No: None

RESOLUTION ADOPTED

B-005-08

m. Consideration to Approve Budget Amendments for Fiscal Year 2007/2008

Moved by Maurina, seconded Lorenz, to approve the budget amendments for FY 2007/2008 as presented.

Yes: All

No: None

MOTION CARRIED

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B3-002-08 R2-007-08

n. Consideration to Approve CDBG Resolution to Continue the CDBG Program

Moved by Maurina, seconded Lorenz, to adopt the Resolution to participate in the Community Development Block Grant program through program year 2011 and to be automatically renewed in successive three-year periods until the City decides to terminate the Cooperation agreement.

Yes: Maurina, Shepp, Wiegand, Hungerman, Lorenz

No: None

RESOLUTION ADOPTED

NON-ACTION ITEMS

- a. Boat Docks and Marina License
- b. Amendment to the Zoning Ordinance Defining Maximum Lot Coverage of Structures
- c. Amendment to the Zoning Ordinance Defining Total Lot Coverage
- d. Amendment to the Zoning Ordinance Defining Residential Parking
- e. Amendment to the Zoning Ordinance defining attached garage location and dimensions
- f. Security for Ferndale Park, Restroom and Boat Launch
- g. Street and Drainage Project
- h. City Entrance/Identification Signs

There was nothing new to report on these agenda items.

NEWSLETTER AND CABLE INPUT

Home and Garden Tour

Wiegand questioned Citgo's lot coverage. Martin stated there are no coverage requirements for commercial property, but there are minimum landscape and stormwater management requirements which have been met and exceeded.

Loren Maurina asked to meet with City Council at a study session to discuss cable issues.

ADJOURNMENT

Moved by Lorenz seconded Shepp, to adjourn the regular City Council Meeting.

Yes: All

No: None

MOTION CARRIED

The meeting was adjourned at 10:03 p.m.

Dennise Clippert, City Clerk