

**CITY OF WIXOM
49045 PONTIAC TRAIL
REGULAR CITY COUNCIL MEETING MINUTES
TUESDAY, MAY 10, 2016**

Mayor Hinkley called the meeting to order at 7:00 p.m. at which time the Pledge of Allegiance was recited.

Present:

Mayor: K. Hinkley
Deputy Mayor: R. Ziegler
Councilmembers: P. Beagle
K. Gottschall
N. Kennedy (Excused)
T. Rzeknik (Excused)
R. Smiley

AGENDA CHANGES:

Mr. Goodlein requested the addition of New Business #2 – Consideration of a Closed Session in Accordance with the Open Meetings Act for the Purpose of Considering the Purchase of Real Property Pursuant to MCL 15.268(d).

Mayor Hinkley added the Presentation of a Proclamation to David Vanderhovel in Appreciation for his Years of Service on the Downtown Development Authority.

PRESENTATION:

1.) Presentation of Proclamation to David Vanderhovel in Appreciation for his Years of Service on the Downtown Development Authority

Mayor Hinkley introduced Mr. David Vanderhovel who has recently resigned from the Downtown Development Authority. He read and presented Mr. Vanderhovel with a Proclamation in appreciation for his years of services on the DDA. Mayor Hinkley thanked his family for the sacrifice they also made during his tenure on the DDA. He said he appreciated Mr. Vanderhovel's time and thought the accomplishments of the DDA was something of which we could all be proud.

MINUTES:

CM-05-80-16: Moved and seconded by Councilmembers Smiley and Beagle to approve the Joint City Council, DDA, Planning Commission and ZBA meeting minutes of February 29, 2016.

Vote:

Motion Carried

CM-05-81-16: Moved and seconded by Councilmembers Beagle and Smiley to approve the Special City Council meeting minutes of April 18, 2016 and April 19, 2016.

Vote:

Motion Carried

CM-05-82-16: Moved and seconded by Councilmembers Smiley and Beagle to approve the Regular City Council meeting minutes of April 26, 2016 with an amendment.

Vote:

Motion Carried

CORRESPONDENCE:

- 1.) Letter from David Vanderhovel regarding his Resignation from the DDA
- 2.) Permanent Injunction Enjoining Enforcement of MCL 169.257(3) as enacted in PA 269 of 2015
- 3.) Response to Concern by Resident Regarding Cloudy Water
- 4.) Conveyance of Letter from Spurt Industries

CALL TO THE PUBLIC:

There were no comments at this time.

CITY MANAGER REPORTS:

1.) Fire Monthly Report – March 2016

Councilmember Beagle noticed 28 more calls from March 2015 to March 2016 and commented that they were doing more work with less people. If there were any citizens that wished to join the Fire Department, they were more than welcome. Chief Roberts said a banner was posted outside the Station, information was posted on Zip Recruiter, and they held workshops trying to generate new candidates. Councilmember Beagle said he appreciated the work that they did with the limited amount of staff.

2.) Police Monthly Report – March 2016

There were no comments regarding this report.

3.) Monthly Budget – November 2015

There were no comments regarding this report.

4.) Quarterly Investment and Monthly Budget Report – December 2015

There were no comments regarding this report.

TABLED ITEM:

- 1.) **Discussions with The Detroit Free Press and the City Attorney for the City of Troy Reference Consideration of Designing and Developing an Ordinance, or an Amendment to an Existing Ordinance, that would Regulate the Delivery of Advertising Literature and Brochures to Homes and Businesses within the City of Wixom**

Mr. Goodlein said they contact the Free Press in regards to the delivery of circular ads to the two addresses listed in the report. They were told that delivery would be ceased to those two addresses with the exclusion of Sunday deliveries, and if they were subscribers to Sunday deliveries they would get those circulars only in Sunday's paper. He explained in conversations held with the City of Troy's attorney that they learned on occasion Troy acted as a facilitator to stop the delivery of circulars to certain residents' homes, but that they had no ordinance pertaining to regulate a circular delivery. He also learned that Troy had not performed what he

would describe as the foundation legal work to determine whether or not such an ordinance would be enforceable under the Constitution or case law.

Councilmember Gottschall wondered if a vote was necessary to forward this to Unfinished Business or move it forward to the City Attorney. Mr. Goodlein indicated that the first time it went before Council there were questions about forwarding this to the City Attorney. It was determined the cost would be \$1,500 for ten hours of attorney fees to determine whether or not this was unconstitutional or a case law problem with the construction of such an ordinance. Councilmember Gottschall thought that the ten hours may be excessive. He said that although Councilmember Kennedy was not at tonight's meeting he would be thrilled that they would not deliver to his home. He added that the circulars not being delivered to his home was fine, but his concern was how they were sealed so they didn't have papers flying around that he would have to pick up. He suggested the circulars could be put inside the newspaper box, hung on a hook on the post, or place a rubber band around the bag. Mr. Goodlein said it was only his opinion but if that was the direction the City moved that delivery may stop because the Free Press directed the delivery to have the circulars thrown into driveways. He believed that may cause problems because there were people that enjoyed looking through them. In addition, his discussions with Attorney Gilliam raised concerns on whether or not they met the burden of constitutional law. Councilmember Gottschall replied that was only if the City said that they were not allowed to deliver them. Mr. Goodlein said that he respectfully disagreed because if an ordinance regulated the delivery method that may detour the Free Press from delivering the circular to Wixom, and he still believed that you would have a case law or a constitution problem. He added that there may be another case where the same set of circumstances had come before the appellate court and they ruled the ordinance was unconstitutional but we would not know that for sure until the legal research was done. When they estimated ten hours of legal research it was because that was where the time/money would be spent. Councilmember Gottschall said in terms of speculation verses having the attorney move forward and look into it, he would be in favor of having the attorney look into it. He would like a clear answer from the City Attorney.

Deputy Mayor Ziegler said that he was not at the meeting when this issue first came up. He read the minutes and was a little surprised because he had not heard of this being a problem with anybody and those circulars had been delivered for years. Frankly, he and his wife enjoy getting them. He thought it was a waste of time and energy for the Administration and Attorneys to spend any time on this and he would prefer that they moved on. He believed the Administration had more important things to do than fool around because somebody doesn't like picking up a paper off the driveway. He thought it was a silly issue and he didn't think any more discussion was needed.

Councilmember Beagle recommended something be put on the City's website so the residents knew who they could contact if they wanted to stop delivery of these circulars if they chose. He added that the City could email a message to all those that have the e-Notification.

Mayor Hinkley supposed they had to entertain a motion to direct staff to contact the City Attorney and investigate whether or not there was merit to having an ordinance.

CM-05-83-16: Moved by Councilmember Gottschall to direct the City Attorney to research amending the current littering ordinance to control the way in which advertisements are permissible such as sealing or rubber banding.

Mayor Hinkley called for a second and there was no second. The motion failed due to lack of support.

Deputy Ziegler thought the Administration received direction as he supported Councilmember Beagle's idea of putting contact information on the City's website. Mr. Goodlein said the staff would take care of having the contact information posted on the website.

CONSENT AGENDA:

CM-05-84-16: Moved and seconded made by Deputy Mayor Ziegler and Councilmember Beagle to approve the Consent Agenda as presented which included:

- 1.) Approval to receive and file:
 - a. Planning Commission Minutes of March 28, 2016
 - b. Library Board Minutes of March 28, 2016
- 2.) Request for Resolution of Support for HB 5578 of 2016 that Enacts Property Valuation Procedures Requiring the Michigan Tax Tribunal to Assess Commercial Property at its Highest and Best Use, Thereby Eliminating the "Dark Store" Valuation Loophole
- 3.) Consideration of a Resolution Setting June 14, 2016 as the Date for Public Hearing to Solicit Community Input Regarding the Updated Local Development Finance Authority (LDFA) Development Plan and Tax Increment Financing Plan

Vote:

Motion Carried

UNFINISHED BUSINESS: (None)

NEW BUSINESS:

- 1.) **Resolution Designating DPW Foreman, James Byrd, as "Agent" for the City to Seek Reimbursement of Eligible Expenses Incurred Under the Oakland County West Nile Virus Fund Program**

CM-05-85-16: Moved and seconded by Deputy Mayor Ziegler and Councilmember Smiley to adopt the West Nile Virus Reimbursement Resolution designating Public Works Foreman, James Byrd, as "Agent" for the City of Wixom and to seek reimbursement of eligible mosquito control expenses made under the Oakland County West Nile Virus Fund Program.

Mr. Sikma said that Mr. Byrd had been the City representative in the past as this program was 12 years old. This program allowed the City to get reimbursed from Oakland County for the mosquito abatement. He noted that they added a change

for this year as they would purchase mosquito wipes to hand out during the summer months at events for people of all ages to use.

Mayor Hinkley wondered if the abatement killed the Zika Virus. Mr. Sikma said that there were over 500 different species of mosquitos and he learned the abatement would kill the Zika Virus mosquito.

Vote:

Motion Carried

2.) Consideration of a Closed Session in Accordance with the Open Meetings Act for the Purpose of Considering the Purchase of Real Property Pursuant to MCL 15.268(d)

CM-05-86-16: Moved and seconded by Councilmembers Beagle and Smiley to enter into Executive Session for the purpose of considering the purchase of real property

**Roll Call Vote: (5) Ayes - Beagle, Gottschall, Hinkley, Smiley, Ziegler
(0) Nays
(2) Absent – Kennedy, Rzeznik**

Motion Carried

CALL TO THE PUBLIC:

There were no comments at this time.

CITY MANAGER COMMENTS:

Mr. Goodlein shared that John Ellsworth had worked for the Wolverine Lake Police Department as Acting Police Chief for a number of years. He will be appointed as Police Chief at their meeting on May 11 at 7:00 p.m. in Wolverine Lake. He thought that it was well deserved and that he would do an excellent job in leading that community.

COUNCIL COMMENTS:

Councilmember Smiley thanked Dave Vanderhovel. He also thanked Mr. John Lee for his services to the City. He explained that he attended the 4th grade class at Loon Lake Elementary as they were studying local government. He thought it was a lot of fun and thought they asked great questions.

Councilmember Gottschall thought the email blast regarding the T-Ball Seminar was pretty cool.

Councilmember Beagle thanked Mr. Vanderhovel for his service to the City. He said that people may not realize when you sign up for a Board or Commission you give up time with the family so he expressed his appreciation.

Deputy Mayor Ziegler thanked Mr. Vanderhovel and John Lee for their service. He congratulated Chief Roberts for making it as President of the Southeast Fire Chief's Association. It was great to have recognition like that.

Mayor Hinkley congratulated Chief Roberts and was happy that it was the Wixom Fire Chief representing that organization. He said that Mr. John Lee could not attend tonight's meeting, but he sent the following letter that the Mayor read aloud:

You may have noticed the "For Sale" sign in front of my house. I have decided that now is the time for me to fulfill a lifelong dream to live in Northern Michigan. It is time to downsize my housing and move to my home in Atlanta, Michigan. I have accepted an offer for my Wixom house and will be moving in the near future. With this in mind, I must submit my resignation from the Wixom Tax Abatement Review Committee.

As I am sure you can appreciate, it will not be without some misgivings that I leave Wixom. I will always have a strong feeling of affection for the community. Being allowed to participate in the growth of the City through community service has been a great pleasure and highlight of my life. I thank the residents of Wixom for the opportunities they afforded me in that regard.

I will continue to eagerly monitor the future progress of the City from the shores of Crooked Lake in Atlanta, Michigan.

Thank you again for affording me the opportunity to serve the City.

*Sincerely,
John P. Lee*

Mayor Hinkley said he has known John Lee for 20-25 years working on all types of projects, boards and committees. He remembered one year they both ran for Council and he had won over Mr. Lee by only three votes. The three votes were his son, daughter and wife. Mr. Lee was such a gentleman that he did not ask for a recount. He appointed Mr. Lee to the Planning Commission after that and he was already serving on the Tax Abatement Committee. Mr. Lee gave a lot of insight regarding tax abatements. He was always very good at questioning and seeing the glass half full. His knowledge and expertise will be greatly missed. It would be a difficult pair of shoes to fill but he wished him happy hunting and fishing.

The Mayor and Council sang "Happy Birthday" to the City Clerk.

Council recessed at 7:44 p.m.

Council entered the Executive Session at 7:57 p.m. and rose from Executive Session at 8:12 p.m.

Council reconvened the meeting at 8:16 p.m.

ADJOURNMENT:

The meeting was adjourned at 8:16 p.m.

Catherine Buck
City Clerk

Approved 05-24-2016
