

**CITY OF WIXOM
49045 PONTIAC TRAIL
REGULAR CITY COUNCIL MEETING MINUTES
TUESDAY, JUNE 28, 2016**

Approved
7-12-2016

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
T. Rzeznik
R. Smiley (Excused)

AGENDA CHANGES:

Deputy Mayor Ziegler requested that Consent Agenda items #1(A) and #1(B), Tax Abatement Review Board Minutes of March 10, 2016 and March 24, 2016, be moved to New Business #8(A) and #8(B). This would move New Business #8, Recommendation to Convene a Closed Session, to New Business #9.

PUBLIC HEARING:

1.) Public Hearings Associated with the Establishment of an Industrial Development District and the Issuance of an Industrial Facilities Tax Exemption Certificate for MJC Assets, LLC in Accordance with Public Act 198 of 1974, as Amended

Ms. Barker introduced David Strach, President of MJC Assets, also known as Premier International. She indicated that she met with Mr. Strach prior to his purchase of the building on West Road. Before the purchase, he was inquiring about additions. One of the reasons he bought the building was because he could add onto it. He purchased the building in 2012. In order to move his business in the direction he wanted it to continue, he either had to add on or look for another building. He asked if there were any tax incentives so they discussed the tax abatement process. Mr. Strach asked for a tax abatement for an investment of approximately \$462,000 to add 6,400 square feet to the south end of their warehouse. This was a necessity following the laws of tax abatements. He made the application and he had the contractors in place. They filed the permits according to the laws. Originally, he asked for a 12-year tax abatement, but the Tax Abatement Review Board recommended a 3-year tax abatement. She explained that after the Public Hearing, the Council would consider the establishment of the District, the Certificate for three years for \$462,000, and the agreement.

Mayor Hinkley read the Rules for Speaking at a Public Hearing.

The Hearing was then opened at 7:07 p.m. Since there was no public comment at this time, the Hearing was closed at 7:08 p.m.

MINUTES:

CM-06-107-16: Moved and seconded by Councilmembers Rzeznik and Beagle to approve the Regular City Council meeting minutes of June 14, 2016.

Vote:

Motion Carried

CORRESPONDENCE: (None)

CALL TO THE PUBLIC:

There were no comments at this time.

CITY MANAGER REPORTS:

1.) Departmental Monthly Reports – May 2016

Councilmember Gottschall wondered about the yoga participation. Since the numbers are so low, he wondered if we were paying for a yoga instructor. Ms. Magee stated that one instructor left to open her own business and the other instructor has been ill, so there have been very few classes. When there is a class, the instructor is paid by a percentage of participants.

Councilmember Rzeznik noted that in regard to the Trailway, the acquisition is now poised for completion and a closing date has been scheduled. He asked if all of the rights-of-way had been acquired. Ms. Magee said that the closing will take place in approximately two to three weeks. After the closing, bids for consulting firms to do the design will go out.

Councilmember Kennedy wondered if the City of Walled Lake had bought into the development of the Trailway. He had heard that they had not appropriated any funds for that. Ms. Magee said they haven't gotten to that point. The Walled Lake representative had not mentioned that.

Mayor Hinkley thought the yoga program was pretty active during 2014/2015. He asked what was being done to replace the instructor who started her own business or the instructor that had been off ill for a while. Ms. Magee stated that once the new Senior Coordinator gets started, a new replacement will be found.

Councilmember Gottschall said he was concerned about the DPW overtime. Mr. Sikma said that there were two employees that were out for most of the month of May, which is a busy time for lawn mowing. During this period, he had extra guys working on Mondays and Fridays. We didn't have enough of the seasonal employees working at that time. Councilmember Gottschall asked if future DPW Reports could include an explanation of the overtime. The breakdown of hours is shown, but he would like the report to include what work was done. He felt that the overtime was one of the items that we could control in the budget. Mr. Sikma said that we can control the overtime to a certain extent, but when employees are out, the work still needs to get done.

Councilmember Rzeznik asked if the work on the Charms Road culvert repair would be done during this construction period. Mr. Sikma said a repair is necessary, but he wasn't sure when that would happen. Initially they had talked about complete

replacement and we are looking at some other modes now that will be better for us. Councilmember Rzeznik wondered if it was in danger of collapsing. Mr. Sikma said that it had that potential danger originally. He added that they have structural material they can spray on the internal workings that may work. They are still looking into that.

Councilmember Gottschall noted that Korex has popped up over the last few years under the violation section of the Water Report. He asked about the hazards and why they were in violation. Mr. Delaney explained that Korex makes soap and we can't remove the suds, colors, dyes and additives. When they don't call the plant to let us know it is coming, we can't prepare for it and we can't remove the suds. We actually agitate it more. It becomes a discharge to the creek, which would be a violation of our NPDES Permit. The Wastewater Treatment Plant does not remove any of that. It is up to them to be a responsible company in the community. The big issue is to get the heads up from them that it was coming. The purpose of the IPP is to hold them accountable. They should see what they are allowed to discharge and know that they cannot discharge this foamy substance.

Councilmember Gottschall said he didn't see too many other companies with violations. He wondered what we have done with them to try to cut back on these violations. Mr. Delaney commented that there were nine significant violations. Since that time, Korex has come back to us in good faith and have addressed each individual violation. They have changed their entire treatment process so they are able to collect a batch and sample it prior to the discharge. Since the most recent violation, they have no longer been discharging from their production plant 3. They have been batching it in totes and hauling it off-site because it didn't meet the requirements to be able to be discharged to the Wastewater Treatment Plant. They have made a good faith step in addressing the issues so they can meet the criteria and local limits as part of the IPP Permit. The plan is to move forward and continuously monitor them. If needed, enforcement will take place.

Councilmember Gottschall asked if we were at risk of overtaxing or breaking our equipment or if it was just us being in violation. Mr. Delaney said that they were discharging a higher rate of phosphorus. We were able to control that, but with that comes additional cost of the chemical we use to control the phosphorus. Since this violation has gone out, the influent raw phosphorus has gone down. We have been able to utilize the IPP Program to enforce this and it has helped to bring a lot of the numbers down.

Councilmember Kennedy asked if they were charged back for the additional cost for us to control this. Mr. Delaney said that there are surcharges that are part of that. Councilmember Kennedy wondered if there were any fines from federal agencies with regard to the discharges that are happening. Mr. Delaney replied that there could be fines, but he wasn't sure what they would be. We try to use Foam-Ex to try to control it, but once it is already in the system and it is agitated, there is only so much we can do to knock down the foam. Most of the time, they don't call us. Sometimes they don't know about it. By then, it is already in the creek. Councilmember Kennedy said that it potentially puts us in a violation that we can get fined for also. Mr. Delaney said that was correct. We did contact the State on both occasions and they have not passed down any penalties or violations to us. Korex

is high on the list. If there was to be another one, Mr. Delaney expected something formal from the State. We are following the program and Korex is showing good faith. He indicated that Korex representatives came to the Wastewater Treatment Plant for a tour so they could see where it was discharged and why we can't break it down. They now have a better understanding of what they are doing and how it affects the Wastewater facility and the environment. Also, they did hire a Quality Assurance Manager this past Monday who will oversee the changes in their process. Mr. Delaney said they would continue to work with them.

2.) Budget Report - April 2016

There were no comments regarding this report.

3.) Budget Report – May 2016

Councilmember Gottschall noticed the Other Revenues was down a little (under \$150,000) compared to last year. He asked what kinds of things falls under Other Revenues. Ms. Stamper said that it could be almost 70 different revenues, including cable, copies, and passports revenues. Timing of those revenues is also a possibility. There could also be some delay if they come in within two months of the fiscal year.

CONSENT AGENDA:

CM-06-108-16: Moved and seconded made by Deputy Mayor Ziegler and Councilmember Kennedy to approve the Consent Agenda as presented which included:

- 1.) Approval to receive and file:
 - a. Downtown Development Authority Minutes of April 26, 2016
- 2.) Consideration of Setting July 12, 2016 as the Date for a Public Hearing Associated with the Sale of City Property, in Accordance with Chapter 3.16 (Disposition of Real Property) of the Code of Ordinances

Vote:

Motion Carried

UNFINISHED BUSINESS:

- 1.) **Consideration of the Enactment of an Amendatory Ordinance to the City of Wixom Code of Ordinances, Title 17, "Environment", Chapter 17.11 "Woodlands", to Add a New Section 17.12.100(K) to Establish a Tree Fund**

CM-06-109-16: Moved and seconded by Councilmembers Gottschall and Beagle to approve the Enactment of an amendatory Ordinance to the City of Wixom's Code of Ordinances, Title 17, "Environment", Chapter 17.12, "Woodlands" to add a new Section 17.12.100(K) to establish a tree fund.

Councilmember Rzeznik asked the City Clerk if the Council would still be receiving the updates to the Ordinance Books. City Clerk Buck said that the Clerk's Office would be happy to update the books, but she thought everyone had said they would prefer to look at the ordinances online. Councilmember Rzeznik said he was

happy to go online. He wondered if the City Clerk would like the books back and she said yes, that would be fine.

Vote:

Motion Carried

2.) Consideration of the Enactment of an Amendatory Ordinance to the City of Wixom Code of Ordinances, Title 18, "Zoning", Section 18.24.110, "Definitions S-T", to provide a definition for "Tree"; to add a new Section 18.14.020(L), "Payment in Lieu of Landscaping and Screening"; and to Establish Amounts for Tree Permit Fees and Payments in Lieu of Tree Planting

CM-06-110-16: Moved and seconded by Deputy Mayor Ziegler and Councilmember Rzeznik to approve the Enactment of an amendatory Ordinance to the City of Wixom's Code of Ordinances, Title 18, "Zoning", Section 18.24.110, "Definitions S-T" to provide a definition for "Tree", and to add a new Section 18.14.020(L), "Payment in Lieu of Landscaping and Screening" and establish, by the following Resolution, amounts for tree permit fees and payments in lieu of tree planting:

RESOLUTION 2016-52 ESTABLISHING FEES FOR A TREE PERMIT AND PAYMENT IN LIEU OF TREE PLANTING

WHEREAS, the City finds that rapid growth, the spread of development, and increasing demands upon natural resources have had the effect of encroaching upon, despoiling, or eliminating many of the trees and other forms of vegetation and natural resources and processes associated therewith, which, preserved and maintained in an undisturbed and natural condition, constitute important physical, aesthetic, recreational and economic aspects to existing and future residents of the City; and

WHEREAS, woodland growth protects public health through the absorption of air pollutants and contamination, the buffering of excess noise and wind, the screening of undesirable views, the cooling of buildings in summer, and insulating buildings in winter; and

WHEREAS, the preservation of trees and woodland growth is a matter of paramount public concern and an essential component of the general welfare of the City; and

WHEREAS, the City has adopted Chapter 17.12 of the Code of Ordinances, Woodlands, to ensure the protection of such natural resource; and

WHEREAS, the City has also provided for the protection and planting of trees through its Zoning Ordinance, Chapter 18 of the Code of Ordinances; and

WHEREAS, it is necessary to establish fees for a tree permit, as well as a fee to be paid in lieu of tree planting into the City Tree Fund pursuant to Section 18.14.020(L) of the Code of Ordinances.

NOW, THEREFORE, BE IT HEREBY RESOLVED:

- 1. The following fees are set with respect to a tree permit and a fee for payment in lieu of tree replacement:

Tree Permit Fee - \$50.00
Payment in lieu of tree planting - \$425.00 per tree

2. It is further determined that this Resolution may be amended from time-to-time by further resolution of the City Council.

Vote:

Motion Carried

NEW BUSINESS:

1.) Consideration of Mayoral Appointments and Reappointments

- a. Re-appointment of Mary Stasser to the Cemetery Board
- b. Re-appointment of Melanie Klebba to the Downtown Development Authority
- c. Re-appointment of Dennis Olsen and Eddie Osman to the Local Development Finance Authority Board
- d. Appointment of Mary Crause to the Parks and Recreation Commission
- e. Re-appointment of John O'Brien, Mary Walsh and Mark White to the Parks and Recreation Commission
- f. Re-appointment of Anthony Lawrence to the Planning Commission
- g. Re-appointment of Larry Grant and Connie Salvati to the Senior Citizen Commission
- h. Re-appointment of Peter Behrmann, David Berry and Tom Marcucci to the Zoning Board of Appeals
- i. Appointment of Patrick Beagle to the Wage and Salary Committee

CM-06-111-16: Moved and seconded by Deputy Mayor Ziegler and Councilmember Rzeknik to reappoint Mary Stasser to the Cemetery Board with a term to expire June 30, 2021; reappoint Melanie Klebba to the DDA with terms to expire June 30, 2020; reappoint Dennis Olsen and Eddie Osman to the LDFA with terms to expire June 30, 2020; appoint Mary Crause to the Parks and Recreation Commission with a term to expire June 30, 2019 (to replace Fred Lorenger); reappoint John O'Brien, Mary Walsh and Mark White to the Parks and Recreation Commission with a term to expire June 30, 2019; reappoint Anthony Lawrence to the Planning Commission with a term to expire June 30, 2019; reappoint Larry Grant and Connie Salvati to the Senior Citizen Commission with a term to expire June 30, 2019; reappoint Peter Behrmann, David Berry and Tom Marcucci to the ZBA with terms to expire June 30, 2019; and appoint Patrick Beagle to the Wage and Salary Committee (to replace Lori Rich).

Vote:

Motion Carried

2.) Consideration of a Recommendation by the Tax Abatement Review Committee to Adopt a Resolution Authorizing the Establishment of an Industrial Development District at 46903 West Road in Accordance with Public Act 198 of 1974, as Amended, and as Requested by MJC Assets, LLC

CM-06-112-16: Moved and seconded by Councilmembers Beagle and Rzeknik to adopt the following Resolution creating an Industrial Development District at 46903 West Road in accordance with Public Act 198 of 1974, as amended, and as requested by MJC Assets, LLC:

RESOLUTION 2016-53 APPROVING INDUSTRIAL DEVELOPMENT DISTRICT

WHEREAS, pursuant to Section 4 of Act No. 198 of the Public Acts of 1974, as amended (“Act 198”), this Council has the authority to establish industrial development districts within the boundaries of the City of Wixom (the “City”); and

WHEREAS, the City has adopted practices and procedures relating to the establishment, continuation and cancellation of such industrial development districts; and

WHEREAS, in accordance with Section 4 of Act 198, a proposal was made regarding the establishment of an industrial development district encompassing land situated in the City more particularly described in Exhibit A attached hereto and incorporated by reference herein, which are herein defined as the “City of Wixom Industrial Development District No. 2016- 03” (the “District”); and

WHEREAS, written notice has been given by certified mail to MJC Assets, LLC of the Council’s pending action on this resolution and its right to a hearing on the establishment of the District as proposed; and

WHEREAS, notice has been given to all interested owners, residents and taxpayers in the City of a public hearing on the establishment of the District as proposed; and

WHEREAS, pursuant to the requirements of Section 4 of Act 198, on Tuesday, June 28, 2016, a public hearing was held on the establishment of the District as proposed, at which time MJC Assets, LLC, and other taxpayers and residents of the City had an opportunity to be heard (a copy of all statements both written and oral made at such hearing being on file with this City Council), and a representative of MJC Assets, LLC, attended said hearing and acknowledged receipt of notice of such hearing on behalf of the said petitioner;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WIXOM AS FOLLOWS:

1. The District is hereby established as proposed, subject to the City’s customary practices and procedures with respect to such districts referred to in the preambles of this resolution, such District to consist of the area described in Exhibit A attached hereto.
2. The District is hereby designated as the “CITY OF WIXOM INDUSTRIAL DEVELOPMENT DISTRICT NO. 2016-03”
3. Nothing herein shall be read to imply either the approval of or the making of any finding or determination in respect to an application by MJC Assets, LLC for an Industrial Facilities Exemption Certificate for property subsequently located or to be located within the District, the granting of any such Certificate being the subject of separate and independent proceedings, consideration and review standards by this Council pursuant to the provisions of Section 9 and the provisions of Act 198. This Council reserves the right under Act 198 to disapprove of any such application for an Industrial Facilities Exemption Certificate in accordance with Section 9 and the other provisions of Act 198.
4. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

Councilmember Gottschall questioned the “own” and “lease” that was checked under Section 7. Ms. Barker explained that MJC Assets is the parent company and Premier International is the subsidiary company. Premier International leases from MJC Assets. They are two separate corporations set up for taxing purposes. Councilmember Gottschall then asked about the investment of the City if this does go through. Ms. Barker replied that it would be approximately \$2,000 a year for three years.

Vote:

Motion Carried

3.) Recommendation by the Tax Abatement Review Committee to Adopt a Resolution Authorizing the Issuance of a Three (3) Year Industrial Facilities Exemption Certificate for Real Property as Requested by MJC Assets, LLC in Accordance with Public Act 198 of 1974, as Amended

CM-06-113-16: Moved and seconded by Councilmembers Rzeznik and Beagle to adopt the following Resolution authorizing the issuance of an Industrial Facilities Exemption Certificate to MJC Assets, LLC for a building addition at 46903 West Road, Wixom, Michigan for three (3) years on real property in accordance with Public Act 198 of 1974, as amended:

**RESOLUTION 2016-54 APPROVING
INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE**

WHEREAS, the City Clerk has received an Application for Industrial Facilities Exemption Certificate from MJC Assets, LLC dated April 19, 2016 (which application, for the purpose of Act No. 198, Public Acts of Michigan, 1974, as amended (“Act 198”), is deemed filed upon the establishment by the City Council of the District hereinafter defined, covering an existing Industrial Development District No. 2016-03 (the “District”) with in the City of Wixom; and

WHEREAS, the City has notified in writing the Assessor of the City of Wixom as well as the legislative body of each taxing unit which levies ad valorem property taxes in the local government unit in which the proposed facility is to be located, i.e. the City of Wixom, and advised each of them that the said Application has been received; and

WHEREAS, the City Council has afforded MJC Assets, LLC, the Assessor, and a representative of each of the affected taxing units an opportunity for a hearing on this Application and said hearing having in fact been conducted at 7:00 p.m. on Tuesday, June 28, 2016, at the Wixom City Hall, 49045 Pontiac Trail, Wixom, Michigan; and

WHEREAS, the aggregate SEV of real property exempt from ad valorem taxes within the City of Wixom, after granting this certificate, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of real property thus exempt; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WIXOM AS FOLLOWS:

1. That the City Council on the basis of the information received from the applicant, MJC Assets LLC, finds and determines: (a) that the granting of the Industrial Facilities Exemption Certificate, considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the City of Wixom or impairing the financial soundness of any taxing unit that levies an ad valorem property tax in the local government unit in which the facility is to be located; and (b) MJC Assets LLC has fully complied with the requirements of Section 9 and the other provisions of Act 198.
2. That the City Council hereby approves the Application for Industrial Facilities Exemption Certificate from MJC Assets LLC covering new industrial facilities to be located within the District, for a period of three (3) years for real property, effective as of December 31 following the date the Certificate is issued by the Michigan State Tax Commission, as the same may be supplemented by a new certificate issued in accordance with Section 16(a) of Act 198 and with the Letter of Agreement (hereinafter defined);

- 3. That in accordance with the requirements of Section 22 of Act 198, wherein a written agreement between MJC Assets LLC and the City is required in order to clarify the understanding and the commitment between MJC and the City as a condition of approval of an Industrial Facility Exemption Certificate, the Council hereby authorizes the Mayor and the City Clerk to sign such Letter of Agreement as duly executed and delivered by MJC Assets LLC (the "Letter of Agreement"), and such Letter of Agreement is hereby incorporated in this resolution in full by reference as part of the documentation required to complete the application for the Industrial Facility Exemption Certificate; and further that the City Clerk is authorized and directed to file a copy of the Letter of Agreement with the Michigan Department of Treasury in accordance with Public Act 198.
- 4. That the City Clerk shall forward a copy of the Application and this Resolution to the State Tax Commission for further consideration upon the payment by Premier International of the City's expenses incurred in connection with the consideration of Premier International application.
- 5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution be and the same hereby are rescinded.

Councilmember Rzeznik asked what Premier International did. Mr. Strach said they are a manufacturer. They buy sound insulation and dye-cut it. It goes to the second tier OEM suppliers. This makes the car quieter.

Vote:

Motion Carried

4.) Recommendation from the Tax Abatement Review Committee to Authorize the Execution of a Tax Abatement Agreement with MJC Assets, LLC

CM-06-114-16: Moved and seconded by Councilmembers Rzeznik and Beagle to approve a Tax Abatement Agreement with MJC Assets, LLC, and authorize the Mayor and City Clerk to execute the Agreement on behalf of the City.

Councilmember Kennedy noted that the Agreement indicates MJC Assets will support the Walled Lake Consolidated School District, Oakland Intermediate School, Oakland Technical Center and/or the Wixom Community Foundation by making their best effort. Mr. Strach said that they haven't defined that yet, but they would like to support the community by volunteering, donating or participating more. He said that they have grown at a fast pace and this has not been a priority. However, they understand they will be here for many years to come so they want to involve themselves in the community more. As a runner himself, he thought the earlier discussion regarding the Trailway was interesting and exciting.

Mayor Hinkley added that they had also discussed the potential for internships for students at Oakland Technical Center. Mr. Strach said that was correct.

Vote:

Motion Carried

5.) Recommendation to Award the Tennis Court/Athletic Court Repairs to the Low and Qualified Bidder, Goddard Coatings of Pontiac, Michigan in the Amount of \$36,100

CM-06-115-16: Moved and seconded by Councilmembers Beagle and Zeigler to award the bid for the Tennis Court/Athletic Court Repairs to the low qualified bidder, Goddard Coatings of Pontiac Michigan in the amount of \$36,100.

Councilmember Gottschall was concerned about receiving only one bid and that bid was over the budgeted amount. He wondered if we called any school districts, cities or tennis clubs to see if they use other companies. Ms. Magee answered that Goddard Coatings is a well-known company when it comes to coating tennis courts and athletic fields. They do a lot of universities and schools. They have also done our court twice before and have always done a good job. One time we did not use them and it was not a very well-done project. Councilmember Gottschall said that we wouldn't know if there were other companies out there that did this because we didn't call them. Ms. Magee explained to him that we advertise for bids on BidNet and a notice is placed in the Spinal Column. If any contractors are interested, they contact us. Goddard Coatings was the only company that attended the pre-bid meeting. Councilmember Gottschall said that it concerned him when we get one bid for something and it is over what we have set aside in capital improvements. He thought we might be able to be proactive when that happens by calling to see if there are other companies. He said that if we call everyone and they use Goddard, that is fine, but it didn't sound like we invited anyone to bid.

Mayor Hinkley said the process with municipalities is just what Ms. Magee stated. The only time it may be different is if we request a sealed bid. Those are date-stamped and opened at the same time. Vendors are often present and the low bidder gets the job. It has not been our practice in the past to call companies to see who is busy and who is not. BidNet is utilized around the State of Michigan. This is what all municipalities do.

Deputy Mayor Ziegler thought it would be frowned upon if we only received one bid and we started calling around to get other quotes. This would be inappropriate and perhaps illegal because we would be going around the bid process.

Attorney Rosati said she would not recommend that. There is usually a time given for the cut off of the bid process. If we solicit after that, it appears we are manipulating the process.

Councilmember Gottschall said his thoughts were to do it beforehand if it is a specialized thing like that. He knew we have used Goddard Coating in the past so he knew we were going to be looking for that service every few years. He wasn't suggesting that we go around the bid process. It was concerning to him that we are going to spend more money than we budgeted for on something we received only one bid. We don't have anything to compare it to.

Vote:

Motion Carried

6.) Consideration of a Request from Mr. Marvin Poota to Open and Amend a Consent Judgment of November 6, 1997 for the Purpose of Authorizing a Process that would Consider Site Plan Changes at 31331 Old Wixom Road in the City of Wixom

Attorney Rosati explained that a request was made by Mr. Poota to amend an old Consent Judgment. After Mr. Poota provides a presentation to the Council, she

advised that the Council not yet make a motion. A closed session will be held to discuss the legal ramifications related to amending the Consent Judgment. If the Council wanted to act after that, they may do so.

Councilmember Rzeznik said that while it doesn't signify a conflict of interest, he consulted with legal counsel and he disclosed he is a guarantor on the lease on property that is owned by the Pootas.

Mr. Marvin Poota, 31331 Old Wixom Road, said he was here to ask the Council's blessing to be able to update the BP Gas Station at Wixom Road and Pontiac Trail after almost two decades. They have been in Wixom for about 44 years and they think they have been fairly successful over these years. His dad has acquired property and they have a lot of unused property behind the gas station that they would like to use. At the same time, while updating the gas station, they would like to consolidate the Wixom Food Market with that. That building is 38 years old and the BP building is 18 years old. He said that with one swoop, they would like to update the building to approximately 7,000 square feet. He thought there was some concern raised as to it being a truck stop but that was the last thing they wanted to do. It was recommended to them by more than one person that the consolidation probably should occur where the Wixom Food Market is, but they opted not to do that because they own property in downtown Wixom and they don't want to see the gateway to Wixom as a gas station. They plan on putting trees all around it and they will make it VCA compliant, if approved. They believe it will trigger development where the Wixom Food Market is currently. They are excited about putting a multi-story building there as the gateway entrance to the downtown. They also think it will trigger development around the BP gas station. He spoke to more than one real estate broker about it and they have heard a pretty positive response.

Councilmember Gottschall questioned the north and south elevations. He wasn't sure if it was our copier but it was unclear to him.

Joe Phillips, 302 N. Sheldon Road in Plymouth, replied that the white space shown is brick. It will be an all-brick building. He apologized and said that they accentuated the east elevation being the front and cut back on the graphics, which is why it wasn't clear.

Councilmember Gottschall then asked about the timeline for having this building on the property. Mr. Poota said that if this were approved, they would immediately start marketing the property. They would put a billboard there with a picture of the elevation on the side of the property with the names of the broker, architect and developer. Once they acquired a couple of anchors, which are needed for financing, they would start. The building they want to build is nice. It needs bank money. Councilmember Gottschall knew that the terms would be discussed by the attorneys but he wondered if the timeframe would be part of the amended Consent Judgment. Mr. Poota said they could estimate something, but they couldn't say for sure. He said they would be at the mercy of the bank and the real estate market.

Councilmember Rzeznik indicated that the fourth page had an elevation-labeled architectural character. He assumed that would be for the new development where

the old Wixom Market was. Mr. Phillips said that was correct. Councilmember Rzeznik said that it shows a single multi-story building. He asked if it would be possible that the site would be able to handle multiple buildings. Mr. Phillips said that they are exploring that right now. They have been working back and forth with Ms. Barker on that. This sample was brought to Council to show the quality or type of architecture that would be there. He said there is a desire to have façade along the main thoroughfares. Councilmember Rzeznik stated that Ms. Barker did a great job last week of showing the Council what place-making means when older, dilapidated buildings are replaced with new ones. It is very nice looking. He felt that the corner intersection was truly the gateway to our City, not only for folks going left from Old Wixom Road headed to Milford Township, but also the ones that head straight up Wixom Road going to Commerce Township, Waterford and White Lake. He thought something like this would definitely be desirable in keeping with the VCA design guidelines. Mr. Phillips said that the Pootas wanted to be a part of all of this.

Councilmember Kennedy asked if the gas station was part of the VCA. Mr. Poota replied yes. The entire proposed development is included in the VCA.

Deputy Mayor Ziegler asked how the Consent Judgment limited their ability to renovate the property. Mr. Poota said they were told by their Attorney and the City Attorney that in order to make any changes, they needed to open the Consent Judgment. Attorney Rosati clarified that there is nothing in the Consent Judgment that would prohibit taking an old building and renovating it. They are asking to add on to the existing building and to add gas pumps, which does make it an amendment to the Consent Judgment. Mr. Poota indicated that they are only proposing to add one gas pump in addition to what was already there. Currently, there are nine pumps and they are proposing ten total fuel pumps.

Mayor Hinkley noted that the Consent Judgment is from 1997. He asked if the Pootas had many any changes to the property since 1997. Mr. Poota explained that the building was built in 1998 different than the Consent Judgment, but with City approval. In 2001, they added more pumps with City approval. They have done some landscaping, but no other major changes.

Deputy Mayor Ziegler asked if we were changing the Consent Judgment so they could add one pump. Attorney Rosati said that they are also going to expand the building. Mr. Phillips stated that the expansion will be about 3,800 additional square feet. Attorney Rosati added that this will also result in them taking some of the property next door to make this expansion. They are going outside the limits of the area covered by the Consent Judgment.

Attorney Rosati commented that there have been statements made that the City had approved the previous expansion; however, she has never been able to find any records to verify that. Mr. Poota said he had evidence of City approval and would be happy to provide that. Councilmember Kennedy thought it would be hard for him to add gas pumps without anyone seeing him do that.

Mayor Hinkley clarified that Mr. Poota added outside of the Consent Judgment without approval because the Consent Judgement said they couldn't make any

changes. Mr. Poota stated that the Consent Judgment said anything outside of this falls into the regular City Code. Attorney Rosati said that was not correct. Mr. Poota thought anything that was not mentioned in the Consent Judgment was okay. Attorney Rosati said no, that was only with respect to the development of what specifically was approved by the Consent Judgment. In other words, we don't list all of the Building Codes in the Consent Judgment, but there is a plan that is approved. That plan is to be built. If that plan is to be changed or increased, the proper remedy is through amendment of the Consent Judgment as stated in the Consent Judgment. If there were additions of gas pumps, it should have been through an amendment of the Consent Judgment.

Mayor Hinkley said this new plan includes an addition of a tree scape. He asked if there was any reason why he hadn't done a tree scape so far since he has been there for 18 years. Mr. Poota said that was recommended by the Planning Commission in January. That is why they were willing to do it now. He said they have never received a complaint to date about the landscaping.

Mayor Hinkley asked if he was the recipient of approximately \$1.2 million when he sued the City in regard to this piece of property. Mr. Poota said not that he was aware of. Attorney Rosati said that Mr. Poota did file a lawsuit against the City that resulted in a Consent Judgment. There was no award of money. The City did have to pay attorney fees.

Next, Mayor Hinkley said there was no one here that loved economic development more than he, other than Ms. Barker. He believed in economic development for the right purpose in our community. It has to meet the Master Plan. In his opinion, Mr. Poota was looking at going outside of what we have in the Master Plan and the VCA. Mayor Hinkley wondered if he had any studies done to indicate his increased establishment would generate economic development and bring in investment dollars. Mr. Poota said they have already development a very old site, Country Corners. They demolished everything and did a clean up there. They marketed it and it is still running today. He believed it increased the revenue for the City. Mayor Hinkley wanted to know if he paid some kind of professional to conduct a study that showed he would trigger economic development in our downtown. Mr. Poota said he hadn't paid anyone to do a study but he paid an architect to make a rendering to market the property. He has an engineer and builder aboard who are ready to do their jobs. He has spoken to multiple real estate agents who got excited about this project. This is something that is realistic at this time. With the City going in this direction, this is the time to build, especially where the Wixom Food Market is.

Mayor Hinkley asked about the timeframe. He wondered if he had all the approvals, would he be able to put a shovel in the ground 45 days after January 1, 2017. Mr. Poota replied yes, with bank financing.

Councilmember Kennedy noted that if they expanded on the gas station, the Wixom Market location would be the next economic development benefit for the City. Mr. Poota agreed and noted the ultimate goal was to develop the Wixom Market site. He explained that today's gas stations were not like they used to be because they are so much larger. If we wanted an updated gas station downtown, they were

willing to provide that for the City. This is the opportunity to provide a hybrid store that would benefit community. He added that the tax revenue would increase.

Councilmember Beagle said looking at the preliminary plans, the addition to the gas station and the new construction development at the old Wixom Market looked good. His concern was the addition of gas pumps. It was noted that it was one gas pump but even the letter said the demand for diesel fuel was increasing. The demand for gasoline was flat or slightly declining. He wondered why they would add more pumps when that end of the business was declining. Mr. Poota said originally they wanted to keep the diesel pumps only in the front and get rid of them in the rear but it was recommended to do otherwise. It was for symmetry purposes mostly but it would help having an additional pump when there was a rush. He noted that it won't hurt as they were breaking the ground anyway.

Councilmember Gottschall clarified the additional pump they would add would be diesel. Mr. Poota agreed. He explained that technically they could build a 3,800 square foot building right next door and be compliant with the VCA. All they were doing was attaching the building to the gas station and reorienting the same pumps. He was unsure what the problem was with the project. He said that the gas station and Market got them through the difficult times. They funded it from their pockets to keep their honor. This project was his family planning for the future. Nobody looked him in the eye and told him that this project was not good for the City. Councilmember Gottschall asked about the number of units that would go into the new building at Wixom Market. Mr. Poota said the current parking requirements were around 20,000 feet for a multi-story building. Councilmember Gottschall said he would venture to guess the new building would have a higher taxable value which meant more tax revenue. His main concern was that the other building was going to be built. It was not merely giving it the old college try. He was not implying it was going to be a bait and switch but he wanted to make sure the other building was built. Mr. Poota said that they were not there to make a deal but they were there to open up the Consent Judgement. His family has been around for 40 years and they would be in a better position to handle an economic downturn with this building they proposed for the gas station. They would market it and build it. He felt confident. Their plan was to break ground for the Wixom Food Market in 2018. Councilmember Gottschall asked how quickly the gas station could be expanded. Mr. Poota said if everything went well, they could possibly break ground mid-September or October.

Councilmember Rzeznik said that studies had shown that gasoline and diesel purchases were habitual and the addition of one pump would not create a truck stop or traffic jam at Old Wixom Road and Pontiac Trail. Those folks that traveled east on Pontiac Trail would continue. He did not feel that should be a concern. In fact, if we had all four diesel pumps behind the station, it might provide a better flow for the larger rigs and trucks. He added that economic development cycles cannot be predicted.

7.) Consideration of the Year-End Budget Amendments and Requests for Commitments of Fund Balance to comply with the Uniform Budget Act 621 and Governmental Accounting Standards Board Pronouncement – GASB 54

CM-06-116-16: Moved and seconded by Councilmembers Beagle and Rzeznik to approve the Budget Amendments to reflect more accurately the revenues and expenditures for Fiscal Year 2015-2016 and to comply with the Uniform Budget Act 621 and GASB 54.

Councilmember Gottschall asked if the Council needed to receive an updated budget or if they would not change the new budget based on the changes. Ms. Stamper said the budget that was adopted for next fiscal year did not change. They amended the current budget. Councilmember Gottschall knew they were closing out some things and changing how they did the accounting so that accounted for larger dollar amounts. He asked if it was pretty much in line with what was just adopted. Ms. Stamper said this was, for the most part, pretty close with what was submitted as estimated year-end. Basically, this was to eliminate the possibility of going over expenditures in any department because the budget was adopted on a departmental basis. If they were to go over in any department, even though the General Fund may be at a positive balance as far as expenditures, they would be in violation of the Budgeting Act.

Councilmember Gottschall wondered about the Building Official contractor, the additional \$300,000, and if it made more sense to move back to in-house services. Ms. Stamper thought that would need to be determined by an analysis of that department. Mr. Goodlein believed that topic was discussed in passing during the Budget Study Sessions.

Councilmember Gottschall said that he was told the \$25,000 for the Holiday Markt was offset by donations. He thought it appeared the cost for those events totaled \$25,000 by the information presented. Ms. Stamper said that was just a reflection of the expenditure line item, where the expenses were actually paid out, as that did not reflect any revenue that came into the City. Councilmember Gottschall asked what that cost was after they took the donations into account. Ms. Magee believed the donations were around \$10,000.

Councilmember Gottschall asked about the Safety Path program fund and the increase in delinquent penalties and interest. Ms. Stamper explained that was revenue from delinquent taxes. Councilmember Gottschall said he was referring to the penalties under Expenditures as if the City was paying them. He added that it was a pretty negligible amount but it seemed odd that the City was paying penalties and interest on the Safety Path program. Ms. Stamper apologized as that amount should have been in with revenue.

Vote:

Motion Carried

8.) Approval to Receive and File:

- a.) Tax Abatement Review Board Minutes of March 10, 2016**
- b.) Tax Abatement Review Board Minutes of March 24, 2016**

Deputy Mayor Ziegler commented that these minutes do not reflect those members who were absent. He stated that he was absent from the March 10, 2016 meeting and should be marked excused. Mayor Hinkley was absent from the March 24, 2016 meeting and should also be marked excused.

CM-06-117-16: Moved and seconded made by Deputy Mayor Ziegler and Councilmember Rzeznik to receive and file the Tax Abatement Review Board Minutes of March 10, 2016 with the excused absence of Deputy Mayor Ziegler and the Tax Abatement Review Board Minutes of March 24, 2016 with the excused absence of Mayor Kevin Hinkley.

Vote:

Motion Carried

9.) Recommendation and Request to Convene a Closed Session of the City Council in Accordance with the Open Meetings Act, after "Council Comments" for the Purpose of Discussing Litigation regarding the Wixom Venture vs City of Wixom case in Oakland County Circuit Court pursuant to and authorized by MCL 15.268(e) and Attorney-Client Privileged Communication Pursuant to and authorized by MCL 15.268(h)

CM-06-118-16: Moved and seconded by Councilmembers Rzeznik and Councilmember Beagle to convene a closed session of the City Council in accordance with the Michigan Open Meetings Act (PA 267 of 1976, as amended) for the purpose of discussing litigation regarding the Wixom Venture vs City of Wixom case in Oakland County Circuit Court pursuant to privileged communication pursuant to and authorized by MCL 15.268(e) and MCL 15.268(h).

Roll Call Vote: (6) AYES – Beagle, Gottschall, Hinkley, Kennedy, Rzeznik, Ziegler

(0) NAYS

(1) ABSENT - Smiley

Motion Carried

CALL TO THE PUBLIC:

Mike McDonald, 2005 Lamella, noted that there was a country-western song that said "I Saw It In Color". He explained that he was on the City Council when all of this transpired with the Poota family. He said Mr. Poota was robbed as he bought the property as B-3 and on a 6-1 vote by Council, the zoning was changed to B-2. He thought the Poota family was sort of like a bumble bee. People say that bumble bees cannot fly but the bumble bee did fly. Mr. McDonald said in 1972 when Mr. Poota had a grocery store on Wixom Road, Wixom had a population of 850 people. He thought that took a lot of guts to open a store with a town that size. He believed Mr. Poota had improved every piece of property that he touched. He knew that Mr. Poota cleaned up Country Corners on his own and bought the other site that used to be Don and Stan's gas station. He felt that Mr. Poota wanted to improve his property and he should be able to do that. The last thing he wanted to see when pulling out of his gas station was a tree. He wanted to see traffic. He has seen too many places where trees were not our friends as they don't help a lot. He wanted to express to the Council that the Pootas have improved everything they have ever touched in this City. He thought this was just another smart person that said bumble bees can't fly.

Sam Poota, 31100 Wixom Road, said that he had a store in the 1960's in Detroit. He moved to Wixom in 1972 after he was shot in a robbery. At that time, Wixom

had only 800 residents. In 1976, he decided to build a Spartan Store as he thought the community was growing and the Ford Plant was expanding. He tried to put his store in the location where the gas station was now. They said there was no way in the world they could have that commercial. When he started the construction of his store, he noticed a sign that listed 15 acres of property for sale. That 15 acres used to be part of 60 acres (Gibson Farm) owned by Mildred Gibson. The Mayor at the time told him to purchase the 15 acres because it was zoned commercial. He explained that he could not because he had already started construction of his store and needed to find business partners. He found two partners and they bought the property in April 1979. In 1987, he was told the property was zoned for community business. He was devastated as he brought in partners. They tried to get it zoned back to B-3 but they had voted against it. In 1992, he provided 2.5 acres to the City in order to widen Wixom Road. The money that the City paid him was used to create a corner. He came back to the City in 1992 to try and get the zoning changed. He thought he should have gone to the court and asked the City to comply but figured he had too much going on in this town. After all these years, he was now 80 years old standing here with his son, and still going through the same problems with trying to improve the business. They already went through so many difficulties after the Ford Plant closed. There are twelve gas stations within a mile of their gas station. They were not hurting their competition or Wixom's downtown.

Jane Kleban, 507 Natures Cove Court, she said that she was sorry that she could not attend the last Council meeting as she had a family funeral. She wanted to close out a few items. Most of the Council would remember that she made remarks at the Budget Hearing on May 24, 2016 about the budget and millage. She did not make the comments lightly and she appreciated those Councilmembers that approached her to discuss issues and even ask if she was interested in running for City Council. She supported Wixom for thirteen years and hoped to support Wixom longer. Many people know her as the leader of the Friends of the Wixom Library, as they raised more than \$150,000 to better serve the public. She organized the Million Penny Drive and co-chaired the initial Library Citizens Millage Community to a successful outcome. She volunteered at Wixom Elementary School and Hospitality House. Additionally, she was a co-chair of Precinct 3 and helped Mr. Hinkley on his first election campaign. She was sad to say to the Mayor how many people were surprised and dismayed at the comments directed toward her during the Budget Hearing. She hoped that some of the other Councilmembers felt as awkward as she did. She thought we needed to wonder why more people didn't speak at public hearings. She spoke because she cared. She wondered if other voters were less thick-skinned than her or didn't want to feel intimidated. She thought that maybe the voters were so confident that the Council would deliver on financial commitments so there was no need for them to be present or maybe they were indifferent. She noted that some of the Mayor's comments were deleted from the minutes but she would still like to respond to them. Regarding the SUVs, she was glad that he clarified they were purchased for the comfort of officers so they didn't have to spend all day driving around in cramped Crown Victorias. She wanted to express that her point was once the new vehicles were purchased, why they were not being driven. Instead they were being parked behind the Police Headquarters. She added that by all means, the Police Department was entitled to comfortable working conditions. She was happy to receive an email later on that said they were parked there waiting to be customized. She was happy to see that

one vehicle was finally ready to be used at last week's fun day bike parade. She never meant to imply that City employees should put their lives at risk by operating unsafe equipment. She believed they could rely on Mr. Sikma to see that did not happen. She wanted to thank the Mayor for clarifying that if the leaves were not sucked up by the DPW, they would cause damage to the sewer that resulted in a major financial burden. It made her wonder how the other 30 cities in Oakland County that didn't offer leaf pickup handled that problem. She appreciated Councilmember Rzeznik's comments about the wing plow truck as it paid for itself because of the increase efficiency. She was grateful to Deputy Mayor Ziegler's offer to discuss her concerns more fully. She apologized if some of her comments were misconstrued or seemed over critical but she had another take on how the City spends the tax payer's money. She is retired now but explained that she used to manage budgets 6-7 times larger than the City budget so she knew something about budgets. She knew how they were constructed and how painful making cuts could be. She also believed that no boss liked to tell his or her managers a recommendation needed to be postponed or cut. She said that before she made her comments, she researched meeting agendas, minutes, the State of the City Addresses, budgets, newspaper articles, and spoke to citizens. It was expressed that there was no place to make cuts but as any budget business person knows, there are always cuts that could be made, and must be made. The question was where to make the cuts resulting in the least painful and still maintaining a profitable or solvent municipality or business. It took courage and thought to make those decisions. Everyday residents were being forced to cut back in their own business and personal lives. If those residents realized the promises made during the last millage were not being fulfilled, they may not want to renew another millage. They may ask how many more years of charging higher taxes would City officials need to make things right. Fortunately, the million dollars spent on the ladder truck, bucket truck, and ballroom renovations would not need to be repeated for another ten years. She thought that it would be helpful if the Council informed the citizens on what steps were being taken to cut budgets and maintain City services since 2012; that way the residents would be able to make an informed and confident decision come November. She thanked everyone for their time and expressed that she loved living in Wixom.

David Strach, MJC Assets, thanked the City Council for approving the Tax Abatement.

CITY MANAGER COMMENTS:

Mr. Goodlein reminded everyone that this Thursday was Lite the Nite. He hoped everyone would enjoy it.

COUNCIL COMMENTS:

Councilmember Rzeznik thought that he heard a lot of good news on the economic development front. It was great seeing something announced every week. The concert series so far have been great. We have been blessed with super weather.

Councilmember Gottschall hoped everyone would be safe during the Independence Day holiday, especially if they let off fireworks. He hoped the fireworks were not going to be going off until 3 am. He heard in the past the City

struggled to get new talent to be appointed to the Boards and Commissions. He believed there were still six vacancies. He thought if the Mayor was up to it, this may be the opportunity to test drive the marketing by putting the vacancies in the Crossroads and on Facebook. We could really find out what we are capable of right now with a general email blast. Comments were made that the City offered Tremec a Tax Abatement as it has been in packets, articles and on Facebook but the City did not receive the application to his knowledge. Ms. Barker commented that part of the partnership with MEDC is attracting businesses with the partnership of a Tax Abatement. The City has to cooperate with some kind of incentive with the State and MEDC. A Tax Abatement was all that we really had to offer as the City Charter did not allow us to do much more. Councilmember Gottschall asked if any years had been talked about as his main concern was the expectation that they would receive a certain number of years resulting in a potential problem. Ms. Barker said there was a letter that states something to the effect that they would consider a Tax Abatement; however, everything was based on Council approval. Mr. Goodlein said the City commits to the process but it does not commit to doing anything without Council approval or to any specific number of years.

Councilmember Beagle thanked the Mayor and Council for appointing him to the Wage and Salary Committee. He hoped to see everybody at Lite the Night and wished everyone a happy and safe holiday weekend.

Councilmember Kennedy wished everyone a happy and safe holiday. Drive careful and not too many fireworks.

Deputy Mayor Ziegler had no comment.

Mayor Hinkley had no comment.

Council recessed at 8:51 p.m.

Council entered the Closed Session at 8:57 p.m. and rose at 9:54 p.m.

Council reconvened the meeting at 9:57 p.m.

ADJOURNMENT:

The meeting was adjourned at 9:57 p.m.

Catherine Buck
City Clerk