

**CITY OF WIXOM
49045 PONTIAC TRAIL
REGULAR CITY COUNCIL MEETING MINUTES
TUESDAY, SEPTEMBER 13, 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

AGENDA CHANGES:

Mr. Goodlein requested the addition of Correspondence #5 – Taxpayers for Michigan Constitutional Governments et al. v State of Michigan; University of Michigan Public Policy Survey & Analysis – Local Government Funding Deficiencies and Solutions.

Councilmember Smiley requested that Correspondence #3 – Hopkins Barn Evaluation be moved to New Business #6, moving New Business #6 to New Business #7.

PRESENTATION:

1.) Proclamation for Police Officer James E. Watt

Mayor Hinkley read a Proclamation for Officer Watt upon his retirement from the Wixom Police Department. The Mayor also presented a remembrance/retirement brick that would be installed near the fountain.

Mr. Watt thanked everyone. He said he had a wonderful career with the City of Wixom. He noted that there were a lot of high points and not any low points, although leaving the City was one of the saddest things. He had the opportunity to work with a lot of police officers, special agents, etc. in his career but working with Wixom officers was unlike any other. They were all good-hearted and hardworking people. He was proud to be part of the group. It was with a heavy heart that he was leaving. He thanked Mr. Goodlein for hiring him sixteen years ago and thanked Chief Yon for keeping him on the up and up. He hoped the City would continue with the support of the Police and Fire Departments.

MINUTES:

CM-09-156-16: Moved and seconded by Councilmembers Rzeznik and Kennedy to approve the Regular City Council meeting minutes of August 23, 2016.

Vote:

Motion Carried

CORRESPONDENCE:

1.) Notice of Hearing before the Michigan Public Service Commission Regarding Consumers Energy Company Case No. U-18124

- 2.) Notice of Hearing before the Michigan Public Service Commission Regarding Consumers Energy Company Case No. U-17693-R
- 3.) Hopkins Barn Evaluation (Moved to New Business #6)
- 4.) ITC Vegetation Management Brochures
- 5.) Taxpayers for Michigan Constitutional Governments et al. v State of Michigan; University of Michigan Public Policy Survey & Analysis – Local Government Funding Deficiencies and Solutions

CALL TO THE PUBLIC:

There were no comments at this time.

CITY MANAGER REPORTS:

- 1.) **Fire Monthly Reports – July 2016**
- 2.) **Police Monthly Report - July 2016**

There were no comments regarding these reports.

CONSENT AGENDA:

CM-09-157-16: Moved and seconded by Deputy Mayor Ziegler and Councilmember Beagle to approve the Consent Agenda as presented which included:

- 1.) Approval to receive and file:
 - a. Library Board Minutes of July 25, 2016
- 2.) Consideration of Setting September 27, 2016 as the Date for a Public Hearing Associated with the Issuance of an Industrial Facilities Exemption Certificate for OPS Solutions, LLC in Accordance with Public Act 198 of 1974, as Amended

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 17.12 (Woodlands), to Add a New Section 17.12.090(H) to Establish Guidelines for Utility Work**

CM-09-158-16: Moved and seconded by Councilmember Rzeznik and Deputy Mayor Ziegler to enact an Amendatory Ordinance to the City of Wixom Code of Ordinances, Title 17, "Environment", Chapter 17.12 (Woodlands), to add a New Section 17.12.090(H) to Establish Guidelines for Utility Work.

Councilmember Gottschall stated that he was not in favor of this. He believed a more practical solution would have been having a height limitation or threshold.

Councilmember Kennedy said he thought there was talk about arcing problems. He questioned if there were any type of figures on how close the tree had to get to a wire. Mr. Goodlein did not believe so. He noted there were reports of power failures related to something as simple as a tree branch. He thought the Ordinance related to the fact that the utility services had the ability to clear trees in order to provide the safe delivery of power to communities. The courts had been straight forward in allowing these utility services to cut and trim as they wanted as long as

they provided compensation to private homeowners if that was desired. The Ordinance would require some notice of any activity and provide a process to maintain the historic specimen trees. Councilmember Kennedy questioned what the process was in order to maintain and protect historic specimen trees. Mr. Goodlein hoped the process would include the utility company communicating with the City should they come across those types of trees on public property before they clear or cut the tree. Councilmember Kennedy thought it best if they asked the City Attorney why the City would write an Ordinance if there was already a State and Federal Law that would trump any City Ordinance.

Attorney Gilliam thought the Ordinance would provide additional protection.

Mayor Hinkley explained that DTE mentioned a tree branch did not have to be sitting on a power line in order to arc. It could be as far as five to six feet away.

**Roll Call Vote: (5) AYES – Beagle, Hinkley, Rzeznik, Smiley, Ziegler
(2) NAYS – Gottschall, Kennedy**

Vote:

Motion Carried

NEW BUSINESS:

- 1.) Recommendation to Accept Hubbell, Roth, & Clark's Proposal for Engineering Design and Construction Services for the City of Wixom's Local Development Financing Authority (LDFA) Road Rehabilitation Projects for 2017 for a Total not to exceed \$113,000 for Design Engineering and \$310,000 for Construction Engineering, along with the related Budget Amendment**

CM-09-159-16: Moved and seconded by Councilmembers Beagle and Kennedy to accept Hubbell, Roth, & Clark's Proposal for Engineering Design and Construction Services for the City of Wixom's Local Development Financing Authority (LDFA) Road Rehabilitation Projects for 2017 for a Total not to exceed \$113,000 for Design Engineering and \$310,000 for Construction Engineering, along with the related Budget Amendment.

Councilmember Kennedy asked what construction engineering meant.

Mr. Booth explained that construction engineering was the effort they put into the project after the bids were received and when the project goes to construction. So there was a contract administration by office personnel, construction observation by field personnel, construction material testing and paperwork, etc.

Councilmember Gottschall asked if they were hopeful that the preconstruction of West Road would start before 2019. Mr. Booth said that the section of West Road from Beck Road to west of the City limits was on the tip for 2019 funding. If there was interest in advancing construction, there would be pros and cons, but the City would have to front the money and wait for the reimbursement. Mr. Goodlein said they were in discussions with Oakland County regarding this matter and it appeared there might be a way to decrease the amount of money the City would pay with the

manner in which the work was performed, but the City would need to advance the money and wait for a reimbursement.

Mayor Hinkley questioned if there was another project in that immediate area they could take care of at the same time. Mr. Booth did not believe so.

Councilmember Kennedy wondered if they planned on doing Magellan at the same time. Mr. Goodlein said no as they had Anthony and Wixom Tech Drives in the works.

Vote:

Motion Carried

2.) Consideration of an Agreement between the City of Wixom and the City of Novi for an Emergency Connection to Public Water in order to Provide an Emergency Source of Water to Ryan Court

CM-09-160-16: Moved and seconded by Deputy Mayor Ziegler and Councilmember Smiley to approve an Agreement between the City of Wixom and the City of Novi for an Emergency Connection to Public Water in order to provide an Emergency Source of Water to Ryan Court.

Vote:

Motion Carried

3.) Request for Approval of Traffic Control Order #103 that would Require Northbound Traffic on Alpha Drive to Yield to Closely Approaching Traffic on Alpha Court

CM-09-161-16: Moved and seconded by Councilmembers Rzeznik and Smiley to approve Traffic Control Order #103 that would require Northbound Traffic on Alpha Drive to Yield to Closely Approaching Traffic on Alpha Court.

Councilmember Beagle wondered why they did not consider a Stop Sign. Director Yon noted that the Oakland County Traffic and Improvement Association (TIA) did a study and found that a Yield Sign would be the best solution at this time. He was unsure but noted that maybe once the development was finished, a Stop Sign would be installed. Councilmember Beagle questioned if a Stop Sign could just be installed now instead of later. Director Yon noted the TIA thought a Yield Sign would be best for now.

Councilmember Gottschall asked if they had to follow their recommendation or if they could just put in a Stop Sign. He noted there were Yield Signs at the Beck Road ramp of I-96 that were not being used properly as he'd witnessed drivers failing to yield. Director Yon wished to follow the recommendation from the TIA as they calculated a formula and discovered that would be the best solution at this time.

Vote:

Motion Carried

4.) Consideration of a Resolution Rescinding a Wixom Authorizing Resolution (#2016-56) and Approving a Resolution (#2016-62) Providing Businesses with and without Proximity to a City-Sponsored Village Center Area Event with Sidewalk Sales Space Outside of Their

Business or Through a Lottery Process that would allow those Businesses to Conduct *Sidewalk Sales* during Scheduled City Hosted Events within the Village Center Area under Guidelines of the Wixom Municipal Code and other Specific Criteria and Without Cost

CM-09-162-16: Moved and seconded by Councilmembers Gottschall and Smiley to rescind Wixom Authorizing Resolution #2016-56 and approve the following new Authorizing Resolution #2016-62 providing businesses with and without proximity to a City-sponsored Village Center Area event with sidewalk sales space outside of their business or near the event, if the business had no brick and mortar location near the event, through a lottery process that would allow those businesses to conduct sidewalk sales during scheduled city hosted events within the Village Center Area under guidelines of Wixom Municipal Code and other specific criteria and without cost:

**CITY OF WIXOM
AUTHORIZING RESOLUTION 2016-62
Village Center Area Businesses to Conduct *Sidewalk Sales***

- WHEREAS, the City of Wixom hosts events within the Village Center Area; and,
- WHEREAS, the City has received interest from a business owner within the Village Center Area to conduct a *Sidewalk Sale* during events hosted by the City; and,
- WHEREAS, there are certain requirements under the Wixom Municipal Code (Sec. 5.10.060, Sec. 5.10.120, Sec. 5.10.140, Sec. 5.10.180, Sec. 5.10.190) and additional specific requirements for this type of event and of which businesses would be required to adhere so as to be authorized to conduct *Sidewalk Sales*, to wit:
- Business must be located in the Village Center Area
 - Must display/sell only their wares in front of their address, or at the event site if selected by lottery due to business' *brick & mortar* location being other than near the event site
 - Business must have approval of landlord, if applicable
 - Business must conduct sales only on the date of, and during hours of, a City hosted event
 - Business must not obstruct access on the sidewalk, if applicable
 - Business must maintain a clear barrier-free walkway, if applicable
 - *Sidewalk Sales* cannot be located within 25 feet of any handicapped parking space or access ramp
 - *Sidewalk Sale* items must be removed and trash cleaned up within one hour after end of event; trash must be placed in dumpster and not in receptacle in front of building (if applicable), which is for customer/pedestrian traffic

NOW, THEREFORE, BE IT RESOLVED, that the City Council herein authorizes the Village Center Area businesses to conduct *Sidewalk Sales* on the date of, and during the hours of, a City-hosted event within the Village Center Area, as so described, and rescinds Wixom Authorizing Resolution #2016-56 approved on July 26, 2016;

BE IT FURTHER RESOLVED that the City Council has determined that this activity would promote and enhance the growth of the downtown area for the community's benefit.

Councilmember Gottschall thanked the staff for bringing this back to the Council. He did not notice the number of lottery slots available per event. Mr. Goodlein said between now and next year when the events begin, they would develop a lottery protocol. The protocol would become an internal matter so it could be tweaked if

they needed it to be. He imagined providing the business selected with one slot at the event because that would be consistent with the other businesses and would not increase the congestion in the adjacent parking area. If it was determined that more spaces were not being occupied, they could take that number and increase it. He envisioned everyone's business name would go into a hat. The business selected would be offered a space. Regardless of participation, they would go off to the side. At the next event they would select from the other businesses dwindling the business selection down with every event.

Councilmember Gottschall thought that one business seemed a little light. He believed that more than one business would be better.

Mr. Goodlein said it all depended on how many vendors approached the City to pay for slots. There were ten businesses outside the immediate VCA area and with ten to twelve summer events, everyone would essentially get to participate at one of the events if they chose.

Councilmember Gottschall understood vendors paying for slots versus not paying but stated the businesses within the VCA paid higher taxes as members in the VCA/DDA. It wasn't that the slot was free but paid for by another method.

Councilmember Rzeznik thought it best to keep this out of the Ordinance leaving the flexibility to Administration should the other properties north of Pontiac Trail develop.

Councilmember Smiley liked that they were trying to be fair but thought the City needed to see some data.

Mr. Goodlein agreed with Councilmember Smiley. He thought the idea was to provide flexibility so they could make those adjustments. If we burned this into a Resolution, we might be stuck with hard and fast standards.

Mayor Hinkley clarified that the City would provide a space for the selected business to put out their tables or tents free of charge. Mr. Goodlein said yes. Mayor Hinkley questioned the criteria for the business. Mr. Goodlein said that it would be any business within the VCA.

Vote:

Motion Carried

5.) Approval of Local Road Improvement Matching Fund Pilot Program Cost Participation Agreement with the Road Commission for Oakland County for Joint and Crack Sealing and Pavement Marking of Local Roads in the Amount of \$18,814 with a Local Share of \$30,000

CM-09-163-16: Moved and seconded by Councilmembers Beagle and Kennedy to approve the Local Road Improvement Matching Fund Pilot Program Cost Participation Agreement with the Road Commission for Oakland County and authorize the Mayor, Kevin W. Hinkley, to execute the agreement on behalf of the City.

Vote:

Motion Carried

6.) Hopkins Barn Evaluation Discussion

Councilmember Smiley hoped Ms. Barker could give an overview of what the City envisioned for this barn. Ms. Barker said they were creating a vision. She noted that many of the DDA members did not know it belonged to the City or what it was used for. It was noted that barns were pretty popular as people were restoring them and hosting events. They wanted to investigate and determine what the possibilities were or how they could partner with the Community Center and/or local businesses. She had a volunteer this summer that called around to different cities to find out how they used their barns, what they charged, etc.

Councilmember Smiley assumed it would cost the City money to tear down the house and remove the asbestos. Ms. Barker said that it may not cost the City anything as they could receive donations. Councilmember Smiley wondered if the barn craze was a fad. Ms. Barker said many of the municipalities utilized these barns for a long time and they are used for more events than weddings. She was hoping to compile data, and then put together a spreadsheet offering options. The options would be presented to the DDA and then to City Council. She added that the DDA was excited for this.

Councilmember Kennedy questioned who paid for the bags that were put out for sale. Ms. Barker said the DDA. Councilmember Kennedy questioned if the City was still paying down debt for the DDA. Ms. Barker said they were, although the DDA had a budget of \$3,000. Councilmember Kennedy commented that the DDA thought it would be a good use to spend the \$3,000 on bags to try and raise funds for this project. Ms. Barker said no, the bags were to raise funds for the DDA. Councilmember Kennedy explained that the bags had a picture of a barn saying "Save the Barn." Ms. Barker said that was incorrect. She said the bags said "Welcome To Wixom- A Barn Good Place To Be." Councilmember Kennedy asked if those bags were for the barn project. Ms. Barker said there was no barn project. Councilmember Kennedy thought this was something the DDA was already moving forward on and questioned how many hours Ms. Barker spent on this. Ms. Barker said hardly any of her time was spent on this because she had a volunteer working on it. Councilmember Kennedy asked if they were working on donations for the Wixom Wire House. Ms. Barker said the Wire House was not her project and could not comment. Councilmember Kennedy noted that the Wixom Wire House was a City-owned asset. Ms. Barker agreed. Councilmember Kennedy thanked her for her time.

Mayor Hinkley thought money was donated for those bags. Ms. Barker said that was correct. Mayor Hinkley explained that the barn was an asset of the City. He attended the DDA meeting and listened to the comments from Oakland County regarding this asset that was literally just sitting there. The uses for the barn were endless. He could see the Library having summer children's reading programs in there and many other programs/events. He was anxious to see the final results and hopefully they could generate donations. He would like the City to enhance that asset and make it part of the community which would be another reason to come to downtown Wixom.

7.) 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 Attorney-Client Privileged Communication Pursuant to and authorized by MCL 15.268(h)

CM-09-164-16: Moved and seconded by Councilmembers Beagle and Kennedy 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 and attorney-client privileged communication pursuant to and authorized by MCL 15.268(h).

Roll Call Vote: (7) AYES – Beagle, Gottschall, Hinkley, Kennedy, Rzeznik, Smiley, Ziegler
(0) NAYS

Motion Carried

CALL TO THE PUBLIC:

Josh Springer, 2606 Wenona, said that he was a voting member of the LDFA and thanked the Council for their approval in utilizing those funds to fix the roads. He then asked about Beck Road. Mr. Goodlein said that Beck Road was on the schedule to be repaired as part of this LDFA project. Mr. Springer asked if each road went through its own design or engineering. Mr. Goodlein said that each road was evaluated to its state of disrepair then evaluated. They look at each road and try to determine where/when they had to make the repairs based upon the PASER rating found. The Wixom DPW worked with the engineers to firm up the PASER rating to insure when the work was done, that they did not have to do anymore work, and what was needed to control the costs.

CITY MANAGER COMMENTS:

Mr. Goodlein commented about the Police Department's Active Assailant Training and the training that was completed by Lt. Ron Moore recently. We will be offering that Active Assailant Training to local businesses. Sometime in the next 30 to 45 days, we hope to do Active Assailant Training with staff that will involve a field exercise. We will make sure that the public and the City Council are notified in advance of this training because we intend to close City Hall and the City Hall campus on that day from 8:00 a.m. until 1:00 p.m. During that period of time, we will give staff firsthand experience as to what they should do if an assailant armed with a weapon enters the building. As soon as we know the date, we will be publicizing it in the community and we will be notifying City Council.

Next, Mr. Goodlein read the following:

"Throughout our history, certain images have become engrained in our minds – the flag-raising at Iwo Jima; the day President Kennedy was killed; the day Neil Armstrong stepped onto the moon; or the day that President Reagan told the Soviets to tear down the Berlin Wall. In this regard and for all of us, certainly, the events of September 11th, 2001 will also forever live in our memories.

I don't think that we will ever forget the images of planes flying into the World Trade Center or the smoke rising from the Pentagon. I don't think that we will ever

forget the courage and compassion of the firefighters and police officers who raced into the burning buildings of the World Trade Center and Pentagon, or those passengers and heroes who died on Flight 93. I don't think that we will ever forget the more than 3000 innocent people who perished at the hands of religious fanatics and terrorists, or those 343 firefighters and 60 New York City and Port Authority Police Officers that perished at the World Trade Center itself. I don't think that we will ever forget the more than 2000 children who were orphaned by the terrorism of that day or the 50 pregnant wives who became widows and alone.

In my opinion, our thoughts today, on Sunday, and at future memorials of the events of September 11th will always be more than a remembrance of the past or a tribute to those lost and their families. It will also recall and celebrate what we learned about ourselves, and how we acted on that day. It will cause us to remember once again how ordinary Americans, living their ordinary lives, reacted with extraordinary heroism when – without warning and in an instant – they were confronted with the most fundamental tenets of human existence – honor, courage, unselfishness, and commitment to something other than themselves.

On September 11, 2001, we saw ordinary people choose duty in the face of death as security guards in the Trade Center continued to help people from the buildings as they were collapsing around them. On September 11, 2001, we saw courage and unselfishness overwhelm all sense of danger as New York City firefighters, police officers and Port Authority police searched tirelessly for victims and missing firefighters and police officers. On September 11, 2001, we saw ordinary people choose self-sacrifice for the good of strangers, as the passengers of Flight 93 refused to allow terrorists and hijackers to succeed. On September 11, 2001, we saw ordinary people choosing to spend their final moments expressing their love to their families in tape-recordings and cell-phone calls.

While on September 11th, this year, and every September 11th from now-on, we will remember that we have enemies in this world who would destroy us if they could, we will also remember that Americans still hold dear the age-old verities of honor, duty, courage, self-sacrifice, and love, and that, despite everyday appearances, these principles have meaning and flourish in the hearts of our neighbors and the people that we work with every day.

So today and on Sunday, as we think back on the events of September 11, 2001, our sorrow over the loss of so many good people should be tempered by the example shown by so many who died and so many who lived. These people have taught us, through their actions on that day, what it means to be human. They have showed us the immutable value of duty, loyalty, self-sacrifice, and love. The only way that America will triumph over terrorism and conquer the senseless tragedy of that horrible day is by celebrating the legacy of those lost and injured on that day – the value of honor, courage, kindness, and unselfishness.

As we remember those lost and injured, I ask you to join me in faith and prayer that goodness will not only endure, but also prevail in our continuing fight against terrorism. I ask you to remember the valor of the police officers, firefighters, and EMS technicians who gave their lives on that day and to recall the words of John

15:13 – No greater love hath any man than one who lays down his life for his family, friends, neighbors, or country.

Never forget the sacrifice of those who perished at the hands of the terrorists on September 11, 2001, and never forgive those who were responsible.”

COUNCIL COMMENTS:

Deputy Mayor Ziegler thanked the City Manager for his touching words that are very real. First of all, he thought the Town Hall meeting was fairly well-attended given that it was the first week of school. He said that Mayor Hinkley did a very good job in presenting the information that is needed relative to the upcoming vote on the extension of the millage request. He also thanked Dave Hieber for coming from Oakland County to provide information on the way taxes work and how we rate among the other communities in Oakland County and the State.

Secondly, he wanted to make a comment and take issue with Mr. Kennedy on what he believed was unacceptable behavior during the question and answer portion of the meeting. He wasn't questioning Mr. Kennedy's right to ask questions or state his position on the issues being discussed and he wasn't criticizing his questions themselves. He was criticizing the way he believed he behaved. Deputy Mayor Ziegler thought he behaved badly. Specifically, Mr. Kennedy was rude, demanding, intimidating, confrontational, accusatory and argumentative with the Mayor and the Finance Director, Marilyn Stamper. He treated Ms. Stamper as though she was the subject of an inquisition. He demanded answers and cut Ms. Stamper off if the answers were not the ones he wanted to hear. Mr. Kennedy acted as though he was conducting an interrogation, not taking part in a community meeting. This is not the first time Mr. Kennedy has targeted our employees with boorish behavior. Just a few weeks ago, he treated our Director of the DPW, Mr. Tim Sikma, in a similar manner in an open Council meeting. The employees of this City should not have to be exposed to this type of treatment. Deputy Mayor Ziegler believed that Mr. Kennedy owed an apology to our employees, in particular to Ms. Stamper. He thought she was very upset by the way she was treated and he thought an apology should be forthcoming.

Councilmember Rzeznik thanked Officer Jim Watt for 44 years of public service. He wished him good luck in his retirement. In regard to the Local Road Improvement Matching Fund Pilot Program, our Administration working with our Engineering Department and DPW, they do look for a lot of ways to save money. In previous years, we have banded together with other communities to buy bulk crack sealing material. By doing it that way, we were afforded a better price. This is another way of saving money, by finding some local matching funds. Good job. Councilmember Rzeznik knew there were new programs coming up all the time, so keep looking for them.

In regard to the barn event, he mentioned in previous meetings, as well as at the DDA meetings, he attended two weddings this summer that were in barns and they were unbelievable. It is amazing how it is a trend right now. People want that rustic look of a barn. One of the neat things about our asset is it is adjacent to our Community Center, so we have a kitchen, water, electricity, ADA ramp and

everything else. *The Review* is a magazine that comes out through the Michigan Municipal League bimonthly. Every two months there are great articles about place-making. This month's article is about public art and we have the Polish Mission doing their thing here. Place-making is exactly that – making our downtown and our City known beyond the boundaries of our own City and making them want to come here to have their weddings and events. He said he was excited to see that take place and the transformation. He supported the DDA and he will be helping them as we look forward to moving that program along.

Lastly, he said to encourage friends and business neighbors to attend the Block Party this weekend.

Councilmember Smiley thanked Officer James Watt for his service. Wixom will miss his wisdom and experience. He said he didn't like to bring personal stuff to the Council table, but the Smiley house had to call 911 on Sunday at 3:00 a.m. after his father took a spill. It is serious, but he is already on the mend. He commended Wixom Police Officer Pulaski who was there within minutes. Ten seconds behind him were Firefighters Smith and Clark. Ten seconds behind them was Huron Valley Ambulance. He thanked the Wixom First Responders. They did a fantastic job getting to his home so fast. He has heard that before, but he certainly never wanted to test it out at his own house.

Councilmember Gottschall said his thoughts are with Officer Watt during his new retirement and he wished him well. We voted on LDFA stuff and he mentioned a few months ago and the Mayor commented on someone speaking to the City of Novi about the potential of putting in a crosswalk from the Village Apartments to the businesses on the east side of Beck and if Novi would be interested in sharing any of the cost. He wondered if that had been done yet or if that would be a part of design and planning. Mr. Goodlein said it would be part of the design and planning. Now that this project has been approved, we will contact the City of Novi to see if they are interested in sharing the expense. Regardless of that, we will get an idea of what the actual expense will be to do that. Councilmember Gottschall said that he still sees people out there all the time and he gets nervous for them crossing the road.

Also, school is in session now. He asked if we have spoken to the school district about when we will begin video recording the Council meetings. Mr. Goodlein said that one of the barriers to doing the recording at this meeting or even the Town Hall meeting last week was that they are just getting underway. We will have a schedule for Council shortly. When he contacted the schools about doing these meetings, they said it was too soon because the semester had just started.

Councilmember Beagle thanked Officer Watt for his service to the City and he wished him the best of health in his retirement. He will be missed by the City. He thanked Fire Chief Roberts for ten years of service. After hearing the story about the Smiley house, it is a great example of why we need to pass the upcoming millage. It will continue those services that are provided like that.

Councilmember Kennedy thanked Mr. Goodlein for his comments regarding 9-11. He wished Officer Watt good luck. He knew Officer Watt wanted to keep going, but sometime you have to stop. He thanked him for his 16 years of service to our community. He is a good man. He wished good luck to the Smiley household. He knew he was busy with that.

At a homeowners meeting that he attended recently, they discussed the radar checkpoints and traffic controls. He asked when those would be going out. Chief Yon answered that those would be set up within the next couple of weeks. Specific points have already been identified for placement of these.

In regard to Deputy Mayor Ziegler's comments, Councilmember Kennedy said that if he has done anything to belittle Marilyn Stamper, he apologized. He would think that if he said something to Tim Sikma, that he would come back to say something to him later on. He apologized to Mr. Sikma if he did that. He said he was interested in seeing the facts get out in regard to the millage increase. He thought it was somewhat frustrating at times with what he feels are only half the answers or half the story of the millage increase. He, too, believed that we need more Firefighters and he would love to see a separate millage for that kind of thing, or a separate millage for roads, or a separate millage for police. He didn't think that we moved forward in doing what we said we would do four years ago. That is the biggest problem that he had. With the rhetoric he hears now, he sees that it looks almost like we are going to do it again for another four years and be in the same position, which he believed was a \$400,000 deficit on our budget in four years. Mr. Goodlein stated that the revenue will not match expenses in 2021. Councilmember Kennedy said that we have great employees and we need more. We have a great City. He just wanted to make sure that we have some sort of plan and he didn't think we did have one that was addressing these issues.

Mayor Hinkley congratulated Chief Roberts on ten years with the City and Officer Watt on his retirement. He wanted to make a couple comments about our Town Hall Meeting. Our Town Hall Meeting is simply a meeting to try to convey to the residents the pros and cons of a renewal millage, not an increase as Councilmember Kennedy had stated. It was not meant to get into debate between the Councilmembers whether we are in favor of it or not in favor of it. It was simply an informational type meeting to convey to our residents and allow them to ask questions and try to give answers to their questions. By no means does he want to see the Council get into a debate because he knows there are some Councilmembers that are in favor of the renewal and some that are not in favor of the renewal. That is why we have seven Councilmembers. He hoped at the next Town Hall Meeting that we respect each other. He heard some sneeds and snarls and sarcasms directed to him by Councilmembers that were there. He found it very disrespectful. He was only conveying to the public the pros and cons on the millage. It wasn't a campaign speech. He said if anyone wanted to take shots at him during a campaign, please do so. That is why he is the Mayor and will continue to be the Mayor. He thought we have to respect the fact that it is a Town Hall Meeting and we are trying to convey the pros and cons to the community. Just like some of his fellow Councilmembers have agendas regarding different things as it relates to open meetings and having transparency, he found it interesting that he

was being filmed tonight but when he wanted to film a portion of tonight's meeting, he was blocked by Councilmember Gottschall from filming. He didn't quite get the transparency thing. It is good for one but it is not good for everybody. That is disingenuous. It shows this problem that we have on Council. He has been on this Council for almost 16 years now and it is disingenuous. It is sad to see when some of our Councilmembers say up and others say down, when some say right and some say left. It is a constant battle. He hoped at some point, as we progress through this budget year and into our next budget years, that we can come to some consensus and do what is right for the community. He wished Lori Rich was here because she said it so eloquently about not worrying about getting reelected but worrying what we do for the community.

Lastly, Mayor Hinkley had some comments regarding an individual business owner in the City that he thought was treated unfairly. For many years, the Mayor has been involved in the City by volunteering, as a Councilman, or as the Mayor. He has seen a lot of people give their time, energy and donations to our community. He stated that someone, in his opinion, that has gone above and beyond is Mr. Eddie Osman. Eddie has donated time and money to our Firefighters, to our Police, to our festivals, and people who are in need simply by donating water at our festivals or raising money for people by donating five cents per gallon that he sells at his station. He gives it back to Firefighters and others who have lost their lives. If we had more Eddie Osmans in the world, it would certainly be a better place.

Council recessed at 8:30 p.m.

Council entered Closed Session at 8:45 p.m. and rose from Closed Session at 9:12 p.m.

The meeting reconvened at 9:19 p.m.

CM-09-165-16: Moved and seconded by Deputy Mayor Ziegler and Councilmember Smiley to approve the proposed Acknowledgements of Full and Final Settlement Release with International Transmission Company d/b/a ITC Transmission in regards to Vegetation Management Easement Acquisitions for Parcel Numbers 17-32-427-008 and 17-32-451-009-000 and to authorize the Mayor and City Clerk to execute the same on behalf of the City.

Vote:

Motion Carried

CM-09-166-16: Moved and seconded by Deputy Mayor Ziegler and Councilmember Beagle to confirm the Mayor's appointment of Eddie Osman to the Tax Abatement Review Board based on the information received by legal counsel in the Closed Session.

Deputy Mayor Ziegler wanted to echo the comments that Mayor Hinkley made earlier regarding Mr. Osman. He thought it would be appropriate to waive our right to the attorney-client privileged letter and post the legal opinion along with the minutes to close this matter.

CM-09-166-16: Moved and seconded by Deputy Mayor Ziegler and Council-member Beagle to amend the motion to waive our right to the attorney-client privileged letter and confirm the Mayor's appointment of Eddie Osman to the Tax Abatement Review Board based on the information received by legal counsel in the Closed Session.

Councilmember Gottschall said that the attorney's opinion notwithstanding he raised a few other issues that he has with this particular appointment and any going forward. He indicated that he is still not in favor of this.

Councilmember Beagle stated that as an issue of transparency, Mr. Osman has donated money and goods to the Community Foundation Golf Outing. With that being said, Mr. Osman is the type of person that he would like to have representing the City in our decisions. He is a quality human being and he cares a lot, not only for this community, but for this whole area. He is the type of person that we need representing our City.

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

Motion Carried

ADJOURNMENT:

The meeting was adjourned at 9:25 p.m.

Catherine Buck
City Clerk

Approved
9-27-2016



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August 25, 2016

Clarence Goodlein, City Manager
City of Wixom
49045 Pontiac Trail
Wixom, MI 48393-0155

RE: Appointment to Tax Abatement Review Committee

Dear Mr. Goodlein:

You have asked for an opinion on whether a person appointed to the Tax Abatement Review Committee must be a resident of the City of Wixom. The Tax Abatement Review Committee is a group created by the City Council to review and provide recommendations to the City Council as to whether a tax abatement should be granted for a particular piece of property.

Section 4.12 of the City Charter provides as follows:

Sec. 4.12. Independent boards and commissions.

- A. The Council may not create any board or commission, other than those provided for in this charter, statute and constitution, to administer any activity, department or agency of the City government.
- B. The Council is authorized to create a board or commission to administer:
 1. A municipal hospital,
 2. A municipal cemetery,
 3. Recreation, or
 4. Any activity which by statute is required to be so administered.
- C. The Council may also establish:
 1. Quasi-judicial appeal boards, and
 2. **Boards or commissions to serve solely in an advisory capacity.**

- D. Unless otherwise provided by law or this charter, all members of the city's Boards and Commissions shall be appointed by the Mayor as each respective term expires, but such appointment shall not be effective until it is confirmed by majority vote of the City Council. If the appointment is not made, however, within 30 days from date of expiration of the said term, then the Council shall have the right to so appoint.
- E. Each member of a City Board or Commission shall have been a resident of the City for at least one year prior to the date of his appointment, and shall be a qualified and registered elector of the City on such day and through his tenure of office. Exception to this residency requirement may be granted if the reason for appointment of a particular individual conflicts with this paragraph.

Based upon the clear language of the Charter, Section 4.12 only applies to "independent boards and commissions." By state statute, there are a number of boards and commissions that contain requirements for its individual members. For example, the Michigan Zoning Enabling Act creates the Zoning Board of Appeals. The Michigan Planning Enabling Act creates the Planning Commission. Other specific boards, such as a Downtown Development Authority or an Historic Commission, are also created by statute. Those statutes specify the requirement for membership on the commissions or boards. You should note that, in all of these examples, the boards or commissions are "independent" in that they have the authority to make final decisions on the matters that come before them.

The Tax Abatement Review Committee is not a required committee by statute, and was merely created by City Council to provide a recommendation. On the other hand, the Commercial Redevelopment Act specifically places the approval for a tax abatement to the discretion of the City Council. In other words, the members of the Tax Abatement Review Committee are merely advisory (Section 4.12(C)(2) of the City Charter). It is not uncommon for a community to appoint members to committees of this nature who have certain expertise or practical experience with respect to the issues they are reviewing. That expertise assists the City Council in making a final determination.

My opinion is as follows:

(1) The Tax Abatement Review Committee is not an "independent board or commission" under Section 4.12 of the Charter that would mandate that the member be a resident of the City or qualified and registered elector of the City. Members of the Tax Abatement Review Committee do not have independent decision-making ability, and no formal action can occur on a tax abatement without City Council approval.

(2) There is no conflict that would prohibit a member of the local Development Finance Authority from also serving on the Tax Abatement Review Commission. It is my understanding that the City has appointed members to more than one committee in the past. For example, two of the four members of the Construction Board of Appeals are non-residents. Six of the ten members of the Downtown Development Authority are non-residents. Non-

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residents also previously served on the Land Acquisition Committee, Pension Planning Committee, and Airport Study Committee.

If you should have any questions, please feel free to call me.

Sincerely yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.

A handwritten signature in cursive script that reads "Carol A. Rosati".

Carol A. Rosati

CAR:jah