

FARMINGTON CITY COUNCIL
SPECIAL MEETING

A special meeting of the Farmington City Council was held on Monday, May 7, 2007, in Council Chambers, 23600 Liberty Street, Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 267-1976.

The meeting was called to order at 7:05 p.m. by Mayor McShane.

COUNCIL MEMBERS PRESENT: Buck, Knol, McShane, Wiggins, Wright.

COUNCIL MEMBERS ABSENT: None.

CITY ADMINISTRATION: City Manager Pastue, Recording Secretary Schmidt, City Attorney Schultz.

OTHERS PRESENT: Senator Gilda Jacobs, State Representative Aldo Vagnozzi.

APPROVAL OF AGENDA

5-07-82 MOTION by Knol, seconded by Wiggins, to approve the agenda. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING – PRINCIPAL SHOPPING DISTRICT SPECIAL ASSESSMENT RENEWAL

City Manager Pastue stated City Council had scheduled a public hearing regarding the proposed assessment roll for the renewal of the Principal Shopping District (PSD) at their meeting of April 16, 2007. He commented that notices were sent to all of the property owners of record within the district along with the proposed assessment and public notice was provided in the Oakland Press.

Pastue discussed the handout regarding the PSD and noted the Finance Department stated the actual amount levied was about \$53,000, which was approximately \$4,600 more than the budget estimate. He stated assessment notices were sent out based on the first year levy of \$210,000.

Pastue noted letters were received from David H. Johnson, Johnson Investment Company; Paul Dooley, Vice President of Kimco Realty Corporation; and James R. Meyer, Jr., Quality Dining, Inc., representing Bravokilo, Inc., which operates Burger King; recording their objection to the Principal Shopping District Special Assessment Roll. He commented that in a recent discussion with representatives from Quality Dining, Inc., he informed them they would have a \$40 reduction from last year.

Mayor McShane asked Pastue if he knew what the general response was regarding the PSD in the Special Assessment District. Pastue responded he had not received any

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comments regarding approval of the PSD, but noted the objection letters previously discussed.

Mayor McShane opened the Public Hearing.

Mr. Gaiser, representing Carl Gaiser Architects, 33018 Grand River, asked regarding plans for the PSD assessment. Pastue replied the \$1.1 million is the full assessment over a 5-year levy to pay for promotions, marketing and maintenance in the downtown area. Responding to an additional question, Pastue stated that the assessment had been levied in the past and was not new.

Annette Knowles, Downtown Development Authority (DDA) Director, further explained the uses for the PSD revenue. She discussed the Main Street Program and the use of monies for marketing promotion and the Design Committee. She noted work plans for the upcoming year will be funded through the PSD; a downtown marketing plan, cooperative advertising with the businesses, continuation of the Downtown Farmington website, the Farmers Market, Holly Day, hanging baskets in the downtown, new home owners' welcome bags, Friday evening concert series and further activities throughout the year.

Dave Bagwell, representing Quality Dining, Inc. (Burger King), questioned whether Burger King was within the DDA District. Pastue stated they are in the PSD and informed Mr. Bagwell he would provide him a map showing that Burger King is in the DDA District. Mr. Bagwell stated they are already being assessed marketing funds and royalties by the franchise. Mr. Bagwell, stated for the record, they disagreed with the assessment.

Greg Cowley, President of the DDA and a shareholder of Jack Cowley and Sons, 33338 Grand River, discussed economics and lack of funding. He stated the Design Committee was addressing increased walk-ability in the downtown, however, he noted there are other areas within the DDA that require funding besides the promotional activities and the Main Street concept. He stated the DDA receives 100% of the PSD, providing money for walk-ability, advertising and some areas of redevelopment. Cowley supported Council approval for the special assessment.

05-07-83 MOTION by Knol, seconded by Wiggins, to close the Public Hearing.
MOTION CARRIED UNANIMOUSLY.

Pastue advised the next step in the PSD approval is consideration of the final resolution to adopt the PSD at the May 21, 2007 meeting. He requested that later in the meeting Council provide a directive regarding the dollar amount to be levied.

**SENATOR GILDA JACOBS AND REPRESENTATIVE ALDO VAGNOZZI –
PRESENTATION (Handouts provided at meeting).**

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Senator Gilda Jacobs and Representative Aldo Vagnozzi were present to provide updates on the State budget and economic forecast. Senator Jacobs noted the Michigan economy has shown little improvement since the 2001 recession. She stated Michigan employment has declined by 390,000 jobs or 8.3%. She noted during the same time period Michigan has lost 31.1% of its total manufacturing jobs and 47.7% of its auto-related manufacturing jobs. She commented May forecasts are coming up shortly and the forecast is a little higher than anticipated for the next period.

Jacobs reviewed several economic indicators for the State including: loss of light vehicle market share by the "Big Three"; and employment and wage and salary losses. Jacobs stated gains in employment were in the service industry and declines occurred in construction, manufacturing, trade and transportation.

Senator Jacobs stated she and Representative Vagnozzi are still waiting for the "powers that be" to make some final decisions to solve the budget problem and the tax plan.

Representative Vagnozzi discussed the House plan to replace revenue lost to the repeal of the Single Business Tax. He stated the Michigan Chamber of Commerce is endorsing the plan because it is based on profits. He advised the House plan reduces the Personal Property Tax up to 75% and favors Michigan companies over out-of-state companies. He stated the plan will likely go to a conference committee.

Senator Jacobs stated the Senate plan reduces revenues by \$400 million. She commented that the Senate plan allows businesses to choose between two different tax plans enabling them to choose one that is most advantageous. She noted it is also based on profits and would reduce the personal property tax burden.

Jacobs stated it is a frustrating time in the State due to deficits and there is not enough money to fund all of the various agencies.

Responding to a question from City Manager Pastue, Senator Jacobs stated there was no support for a gas tax due to high gas prices and other priorities that need to be addressed.

Councilmember Knol requested the Senate and House look at reforming teacher and public employee retirement health care and pension for the 2008 budget. She noted other businesses were using 401K programs to reduce costs. Discussion followed regarding the need for solutions to legacy costs and the merit of implementing 401K programs.

Councilmember Wright discussed the State of Michigan's economy and the impact of tax reform. He stated the government of Michigan needs to develop policies that will keep our college graduates in the State. Senator Jacobs discussed policies that have been created to do just that. Vagnozzi and Jacobs responded to the issues raised by Wright. Wright noted the elimination of the Single Business Tax was accomplished by

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County initiatives, not by the State. Jacobs responded that the State did have a role in the elimination of the Single Business Tax. She stated businesses are reluctant to invest in the State of Michigan due to the uncertainty of the tax environment.

Councilmember Wiggins thanked Vagnozzi and Jacobs for coming and providing the monthly legislative notes. He noted a Detroit News article about a senate bill supported by Senator Jacobs to prohibit outsourcing in public schools. He agreed with the Detroit News that the senate bill is a bad idea, as written, since the ability to use outsourcing by a school district or business is one of the tools that could be used to save money. Jacobs stated she did not always agree with the News and that the school districts could go through negotiations. She stated she sees both sides of the issue and will send the information regarding the bill to Wiggins.

Wiggins voiced his concern since the Farmington School District asked Farmington and Farmington Hills to provide additional tax dollars to pay for school projects including Head Start. He noted the cities have received reduced funding from the State and now are asked to provide additional support for the school district. Jacobs reviewed what other states are doing to provide additional funding. Wiggins stated the schools are being restricted.

Vagnozzi stated he was working with Chiefs Nebus and Dwyer on Public Safety issues including control of plastic facsimiles of guns.

Councilmember Buck stated strong leadership is needed to resolve current issues in the State. Buck noted as a business owner he is encumbered with completing three different tax returns each year at a cost of \$1000 each to prepare. He requested legislation that would reduce the amount of returns and the complexity of filing. Jacobs stated she would refer his comments to the proper committee.

Buck asked about the proposed pop-up tax legislation. Jacobs replied they recently attended a meeting regarding the pop-up tax and Proposal A and noted an 18-month moratorium. She stated she is going to research Proposal A.

Buck asked Vagnozzi and Jacobs if there is a consensus in Lansing to reduce costs in order to bring jobs back into the State. Vagnozzi and Jacobs responded that the State is aware of the seriousness of the issues at hand.

Mayor McShane stated the residents of the State want equality, parity and equal partnerships. She noted the residents don't want to be penalized with higher taxes for working hard, but want an equitable solution to the budget problem. She objected to negative comments about Michigan and praised the state as a wonderful place in which to live.

Jacobs expressed hope that residents would spend their money in Michigan and travel in the state to help Michigan's tourism.

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Mayor McShane thanked Vagnozzi and Jacobs for taking time to meet with Council and welcomed them to the opening of Farmington's Farmers' Market on Saturday, May 12th.

CONSIDERATION TO APPROVE DOWNTOWN PARKING STUDY

City Manager Pastue reviewed the request for a Downtown Parking Study noting one of the recommendations contained in the Downtown Master Plan was to develop a long-term parking strategy for the Downtown area. He stated the study would formulate a strategy to deal with the increased demand and develop a financing plan. He advised the DDA Board and City Council identified the completion of a parking study as one of their goals. He further advised a request for proposal (RFP) for this project was drawn up by City Administration and the DDA Executive Director and then mailed to firms who specialize in parking analysis.

Pastue informed Council that DDA Executive Director Annette Knowles, Design Committee member Ken Murray, and the City Manager interviewed three firms and determined Walker Parking Consultants of Ann Arbor as the most qualified to address Farmington's needs. He stated the Design Committee and the DDA Board concurred with the recommendation.

Pastue stated it has been understood that the City and the DDA would share the cost of the study. He further stated the anticipated cost is \$40,000, noting that the proposal contained a base cost of \$29,300 plus an estimated \$3,120 in reimbursable expenses. He stated Walker Parking Consultants projected four months to complete the study. Pastue noted that the DDA would administer the contract. Pastue requested Council concurrence to move forward with the Downtown Parking Study.

RESOLUTION 05-07-084 Motion by Wright, seconded by Knol, to concur with the Downtown Development Authority Board to select Walker Parking Consultants of Ann Arbor to conduct the Downtown Parking Study and appropriate up to \$20,000 toward the study.

Responding to a question from Councilmember Buck, Pastue stated the Request for Proposal (RFP) for the Identity Study is ready to go. Buck voiced concern the City and DDA might be swapping dollars. Responding to an additional question, Pastue stated the DDA Board may not understand that this project is a 50/50 proposition, but did not believe there is resistance to moving forward.

Mayor McShane stated it is a completely different subject if there is resistance to another financial matter than the motion on the table. Buck disagreed and stated the Identity Study was the same dollar amount as the parking study. Mayor McShane again stated it is a different financial subject. Buck stated the dollars come from the same sources and it is important how they are allocated. McShane asked if Council wanted to table the decision.

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Knol stated each project stands on its own merit and there has been discussion regarding them both. She expressed her desire not to hold up the parking study in order to wait for the RFP on the Identity Study.

McShane re-emphasized the motion at hand only addresses the parking study.

Wiggins stated he was ready to vote on the motion and stated the primary purpose of the parking plan was to study long term needs.

ROLL CALL

AYES: Knol, McShane, Wiggins, Wright, Buck

NAYS: None.

ABSENT: None.

MOTION CARRIED UNANIMOUSLY.

Mayor McShane requested Council address agenda item 7 followed by item 6.

OTHER BUSINESS

Pastue asked for Council direction regarding the dollar amount on the PSD. Discussion followed regarding the amounts shown on the handouts. Pastue verified the PSD Assessment for FY 2007/08 is \$210,000 to be levied the first year.

Knol stated her support for the \$210,000 assessment, noting the DDA has worked hard to achieve good results in the Downtown and provides good value through sponsorship of events.

Buck stated his approval of the elimination of the 1.95 mill levy on residences, but voiced concern regarding increased taxation on businesses.

Wiggins stated he supported the DDA projects that would result from the assessment and therefore supported the PSD assessment.

Wright supported the \$210,000 and recommended moving forward.

Buck found it interesting that Burger King did not know they were in the DDA District and he felt it is important to make businesses feel like they are part of the DDA and that they are involved.

McShane stated she felt the people need to be encourage to shop in the Downtown even during difficult times.

Council concurred to direct Pastue to establish the first year levy at \$210,000 and to eliminate the 1.95 mill property tax levy in order for Attorney Schultz to draw up the resolution. Pastue advised the final resolution would be on the May 21st Agenda.

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DWSD MODEL WATER CONTRACT RESOLUTION

Present: Beth Kudla, Secrest Wardle

Attorney Schultz informed Council that communication had been received from the City of Detroit Board of Water indicating Farmington's water contract with Detroit has expired and Farmington and Detroit's customer communities need to enter into a new 30-year model "Water Service Agreement". He stated it is important to consider the policy changes and to ascertain if entering into the contract is in the best interest of the community or whether further consideration of those policy changes is necessary.

Pastue stated concerns with the rate making process, lack of specific language, pressure of water, delivery of water, and compliance with the Safe Drinking Water Act.

Beth Kudla, of Secrest Wardle, reviewed the contract with Council. She stated Detroit is making it impossible for the City to breach the contract and that the contract is one-sided.

Attorney Schultz stated it could become a take it or leave it situation, but it is important that Farmington be on record with its concerns.

Kudla discussed the major concerns regarding the contract. She cited early termination costs, noting the City would have to pay for water even if they quit using the water during the time period of the contract. She reviewed the pressure and flow commitments and noted if a customer's "max flow rate" on days other than DWSD's "max day" may result in another remedy deemed appropriate as finally determined by the Board. She stated there is no contractual consequent if DWSD fails to supply water or meet the flow rate set forth in Exhibit B.

Pastue stated it is important to control spikes in water pressure that can cause water main breaks. Kudla stated deletion of the "best efforts" language is suggested in order to provide for an enforceable pressure range requirement and that the City should consider whether the policies regarding pressure and flow commitments within the proposed Agreement require further consideration by DWSD.

Kudla stated the Drain Commissioner has proposed that DWSD look at the City of Boston's model for management of its regional water system, including its structure for an advisory body with consultants.

Kudla noted even though there is no legal ability to bind the Board to policy advice of customers the City may wish to consider whether a vote on the Technical Advisory Committee (TAC) or some advisory body, to be determined, would better allow for policy input by the customers. She stated the new contract has little ability to achieve financial records from DWSD and that the Drain Commissioner suggested an advisory body to oversee the DWSD and to communicate with water customers.

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Buck asked if anyone had signed the contract and Kudla stated "no" and noted the flow rate needs to be negotiated. Buck asked if Farmington was the only community to present a resolution voicing the City's concerns. Kudla responded Farmington Hills has a resolution, but it is not as detailed as the one proposed by Farmington.

Buck voiced concern regarding an article stating there was uncertainty where some dollars were being allocated in the Detroit Water Department. Kudla stated there is no provision for actual costs and that actual information is important.

Pastue stated the radio cost could not be passed to its customers. Pastue stated the Boston model addresses some of the ownership by the DWSD, but there is a need for a broader understanding and involvement by suburban customers. Pastue noted Farmington has a storage tank and there is the matter of who will maintain it. Discussion followed regarding the contract and problems with the DWSD.

Discussion followed regarding water alternatives.

McShane asked if collection deficits are addressed and Kudla replied they are not in the contract.

Kudla noted the following miscellaneous issues may require further consideration by DWSD before approval of the proposed Agreement:

1. Providing language requiring DWSD to meet Safe Drinking Water Act Standards.
2. Require DWSD to comply with use and disruption permit ordinances when working in a customer's rights-of-way.
3. Providing revised language regarding DWSD's potential liability for damage to a customer's water system.

McShane asked how long the City had to negotiate with DWSD for a contract. Kudla replied by the end of May and that it would be put before the TAC in June for the issue on rates.

RESOLUTION 05-07-085 MOTION by Buck, seconded by Knol, to adopt a resolution expressing concerns regarding the Detroit Water and Sewer Department (DWSD) Water Service Contract Policy.

ROLL CALL

AYES: Wiggins, Wright, Buck, Knol.

NAYS: McShane.

ABSENT: None.

MOTION CARRIED (4 ayes, 1 nay).

Mayor McShane thanked Ms. Kudla for her extensive report.

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OTHER BUSINESS

There was no other business.

PUBLIC COMMENT

No public comment was heard.

COUNCIL COMMENT

Knol expressed concern regarding a house on Valley View that sustained fire damage and has become a hazard and eyesore. She suggested discussion regarding an ordinance that would address this issue. Pastue noted the Bowling Alley fire and stated the issue is put in escrow and the insurance company claims the property owner either demolish the structure or bring it up to code.

Attorney Schultz stated the bowling alley was not completely destroyed, whereas, the house on Valley View is completely destroyed. He noted they could use the ordinance referring to Dangerous Buildings. Pastue stated that ordinance needed to be reviewed.

McShane asked Attorney Schultz if she could change her vote on the DWSD motion. She thought the vote was on the contract and not the resolution.

Schultz replied someone in the majority could vote to reconsider and if reconsidered another motion on the resolution could be offered.

05-07-086 MOTON by Buck, seconded by Wiggins, to reconsider the DWSD Water Service Contract Policy.

ROLL CALL

AYES: Wiggins, Wright, Buck, Knol, McShane.

NAYS: None.

ABSENT: None.

MOTION CARRIED UNANIMOUSLY.

RESOLUTION 05-07-087 Motion by Buck, seconded by Wiggins, to re-enter the motion to adopt the Detroit Water and Sewer Department (DWSD) Model Water Contract Resolution. **[SEE ATTACHED RESOLUTION].**

ROLL CALL

AYES: Wright, Buck, Knol, McShane, Wiggins.

NAYS: None.

ABSENT: None.

MOTION CARRIED UNANIMOUSLY.

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**CLOSED SESSION – REVIEW OF CITY ATTORNEY’S CONFIDENTIAL
CORRESPONDENCE**

05-07-088 MOTION by Wiggins, seconded by Knol, to adjourn for 10 minutes and then enter into closed session to review City Attorney’s confidential correspondence.

ROLL CALL

AYES: Buck, Knol, McShane, Wiggins, Wright.

NAYS: None.

ABSENT: None.

MOTION CARRIED UNANIMOUSLY.

Council returned to open session at 10:24 p.m.

ADJOURNMENT

Council concurred to adjourn the meeting at 10:25 p.m.

JoAnne M. McShane, Mayor

Susan K. Halberstadt, City Clerk

APPROVED: July 16, 2007