

MINUTES  
CITY OF FARMINGTON HILLS  
SPECIAL JOINT REGULAR SESSION  
FARMINGTON HILLS CITY COUNCIL  
FARMINGTON CITY COUNCIL  
MAY 26, 2021 – 6:00PM

The Special Joint Regular Session meeting of the Farmington Hills City Council was held electronically and called to order by Mayor Barnett at 6:00pm. Members were asked to state their name and location (city and state) as to where they were attending the electronic meeting.

Farmington Hills Council Members Present: Vicki Barnett, Farmington Hills, Michigan  
Jackie Boleware, Farmington Hills, Michigan  
Michael Bridges, Farmington Hills, Michigan  
Valerie Knol, Farmington Hills, Michigan  
Ken Massey, Farmington Hills, Michigan  
Mary Newlin, Farmington Hills, Michigan  
Matthew Strickfaden, Farmington Hills, Michigan

Farmington Council Members Present: Sara Bowman, Farmington, Michigan  
Joe LaRussa, Farmington, Michigan  
Maria Taylor, Farmington, Michigan  
Steve Schneeman, Farmington, Michigan (left meeting early)

Council Members Absent: David DeLind, Farmington City Council

Others Present: Farmington Hills City Manager Mekjian  
Farmington City Manager Murphy  
Farmington Hills Assistant City Manager Valentine  
Farmington Hills City Clerk Smith  
Farmington City Clerk Mullison  
Farmington Hills Directors Mondora, Monico and Skrobola  
City Attorney Joppich  
City Attorney Schultz  
City Attorney Shortley  
Farmington Treasurer-Finance Director Chris Weber  
Farmington Public Works Superintendent Chuck Eudy

**CONSIDERATION OF APPROVAL OF METRO ACT PERMIT GRANTING SIFI NETWORKS UTILIZATION OF PUBLIC RIGHTS-OF-WAY FOR THE ESTABLISHMENT OF A CITY-WIDE FIBER OPTIC NETWORK SYSTEM**

Gary Mekjian, Farmington Hills City Manager, explained that the meeting was being held to discuss an exciting opportunity for both communities to partner with Si-Fi to develop a city-wide fiber-optic network. He mentioned that the report that resulted from efforts of the Broadband Task Force and hired consultant determined that broadband in the communities was unacceptable and that providing access to a world-class, highspeed infrastructure was a critical service for the quality of life and needed for residents, businesses and schools. The report indicated that a municipally owned broadband network was feasible but would require in excess of \$120 million investment. Subsequently, the City of Farmington Hills was contacted by Si-Fi, a company that specializes in developing these fiber-optic networks who had identified Farmington and Farmington Hills from a press release on their Broadband Task Force study

realizing that the two cities were ahead of other communities in terms of studying broadband. The cities demographics, population and corporate partners were also identified as reasons for selecting the communities as being the first in Michigan extended this opportunity. The investment proposed by Si-Fi to build out the network would be approximately \$150 million and broadband would be extended to every household. Si-Fi is backed by one of the largest European pension funds looking for long term investment opportunities for its participants.

Mr. Mekjian stated that staff from both communities, attorneys and members of the Broadband Task Force have been working with Si-Fi to draft an agreement. He feels this is a chance to drive competition and improve internet service provider options for the residents at no cost to the taxpayers. It will also open the door to implement smart city initiatives. He noted that the language is not yet finalized and the attorneys continue to work with Si-Fi and staff to work on the remaining outstanding items, but explained that if the Councils were to consider approving the concept presented tonight, they would be asked to do the following:

Accept and authorize approval by their City Manager, the proposed SiFi Metro Act Permit with Supplemental Terms and Conditions for the establishment of a City-wide fiber optic network system, subject to the following conditions:

- (1) Finalization of the terms and conditions of the Permit and Supplemental Terms and Conditions by the City Manager and City Attorney;
- (2) Submission of any additional required documents for SiFi's Metro Act Application;
- (3) Submission to the City Manager of an acceptable route map and a completed Metro Act Permit Application; and
- (4) Receipt of proof of insurance from SiFi and a bond or letter of credit from SiFi's construction contractor, both following the coverage specified in the Supplemental Terms.

Aaron Paluzzi, Broadband Task Force Chair, stated that the work of the Broadband Task Force culminated in a feasibility study showing that municipal broadband was possible but also showed private industries that the cities were interested, which put them ahead of all other communities in Michigan for this opportunity.

Joe LaRussa, Farmington Mayor Pro-Tem, spoke to the thorough process taken by Broadband Task Force and consultant and commented on the report findings. He is excited about the opportunity to be leaders in the state and provide services to residents and businesses and believes it will also help the communities recruit and retain businesses.

Scott Bradshaw, representing Si-Fi, discussed Si-Fi as an organization and explained that the company is seeking to come into communities where they can have a significant impact. They would be investing significant private funds into a fiber-optic network that would drive job creation and attract new businesses to the communities. He explained that the fiber-optic network would pass every premise to take fiber to the inside of the premise. He spoke about other states where they have installed this type of network and noted that they are backed by one of the world's largest pension funds that manage over half a trillion dollars on behalf of their clients. Si-Fi supports city-wide infrastructure to drive intelligent data through communities and bring in new service providers. The infrastructure proposed would include 680 miles of fiber optic infrastructure and represents well over \$100 million of private investment so there is no cost to the taxpayers. Si-Fi does not provide service but brings the opportunity to the communities with a smart-city mindset to serve the communities in the future. Smart City infrastructure in place will increase the scale of data for both communities and the goal is to have the most advantageous infrastructure with the lowest capital spent and attract competition. He explained the installation process and noted that the project will have pre-allocated funds before it begins. Si-Fi has a list of communities in which they wish to invest and what drew attention to Farmington/Farmington Hills was the foresight and work they already put in with their Broadband Task Force. Si-Fi also looked at corporations in the cities and economic impact as they were seeking communities that would drive this infrastructure.

Mayor Barnett acknowledged Richard Lerner, a member of the original Broadband Task Force, to speak.

Richard Lerner stated that he and Mr. Paluzzi began discussing broadband in 2016 and requested the formation of a Broadband Task Force to study the topic. He acknowledged a few other members on the original Task force who had also put countless hours into the project. The Task Force had hoped to have reliable, affordable highspeed broadband in the communities but what he is hearing tonight is an even better program. He stated that this is a great opportunity that is substantially less expensive for the taxpayers and provides for an open access format. He commented that this is a once in lifetime opportunity to attract people to the communities and he encouraged the councils to support the project.

Council members expressed support of the project but had the following questions/comments:

- It was suggested that supplemental language is included in the agreement to ensure completion of the project
- Has staff had the opportunity to review SiFi's financials
- What precipitated the supplemental terms and conditions and if the agreement and terms were similar with other communities SiFi has worked with or were there additional risks on the part of Si-Fi or the investors
- Can Si-Fi effectively complete this project in a cold-weather state without significant disruption due to collapsed trenching, etc.
- Would approving the supplemental terms and conditions obligate the cities to provide the same terms to other service providers regarding right-of-way access and permit schedules and if so, what would be the liability to the communities.
- What would be the next step if after further review by the city administrations and attorneys it is determined they are not comfortable moving forward.
- Inquiry about supplemental language to Section 4.10 relating to relocation and requiring 3<sup>rd</sup> party contractors to indemnify Si-Fi for any damage to facilities within the right-of-way and if this would be typical contract language.

In response to Council comments, Mr. Bradshaw responded that the Metro Act appears to have been created at a time when a form of Si-Fi networks did not exist. The structure of the Metro Act did not allow them to create an infrastructure that attracted institutional investments nor does it provide structured guidelines for efficient permitting, so they requested supplemental language such as access to the roads and efficient permitting to ensure they could build for the future and not have to ask for funding. He noted the biggest difference between Michigan with the Metro Act and communities in other states is the length of access to the right-of-way that limits it to 30 years. He discussed the timeline for project installation that could take approximately 2 years and confirmed he would agree to include language that they would complete the project. It was noted that Councils were not seeking a specific time frame for completion but only a commitment to completing the project.

Tom Skrobola, Farmington Hills Finance Director, indicated that staff has not yet reviewed financials but that would be part of the process if the Councils authorize moving forward with the project.

Mr. Bradshaw assured the councils that they could effectively complete the project in a cold weather state.

There was some discussion on the outstanding terms and conditions and it was clarified that the action requested by council was to authorize the City Managers to sign the Metro Act Permits and Supplemental Terms and Conditions subject to finalization of those terms by staff and the city attorneys.

Attorney Joppich explained that an attorney-client privileged communication has been provided to the Councils regarding the terms and conditions being discussed for this project and that any future requests by other parties for supplemental terms and conditions would be considered on a case-by-case basis.

Mayor Bowman acknowledged that Si-Fi has come to the communities with this opportunity due to all the hard work of the Broadband Task Force.

Attorney Joppich stated that if there are other concerns that staff is not able to work through with Si-Fi to their comfort level, they certainly would report back to the Councils.

Discussion was held on requiring third parties to indemnify Si-Fi for any damage to facilities in the right-of-way and who would be responsible in the event of any damage.

Attorney Shortley explained that the cities are being asked to put in their contracts that the contractor with the city will indemnify Si-Fi for any damage to the fiber in the right-of-way where that contractor would be working.

City Manager Mekjian added that if a contractor strikes any utility, they are responsible for those damages and are required to have insurance to cover such damage. The fiber would be another piece of infrastructure in the ground and would be treated the same as the other utilities.

Attorney Joppich pointed out that there are some special provisions for the use of right-of-way for this particular project and reiterated that this would require the city to put in their contracts additional language relating to SiFi's infrastructure.

Mayor Pro-Tem LaRussa suggested pausing action this evening to allow for further discussion on such language and to reconvene in a week.

Further discussion was held on the proposed language and the fact that cities already require insurance from contractors to cover any damage when working in the rights-of-way. It was noted that staff could work with the city attorneys to draft standard language relating to SiFi's infrastructure that would be included in all future contracts.

**PUBLIC COMMENTS:**

Matt Groen, Executive Director of Michigan Cable Television Communications Association, commented that residents of Farmington and Farmington Hills currently have 100% access up to 1 gigabit per second speed, which is the fastest speed in residential areas these days and no new construction had to occur to offer that increased speed. He expressed concern that this agreement would provide for special access to right-of-way for new providers; and while they do not object to competition, he feels it is inappropriate to advantage one provider over another and expressed concern that the Councils will not commit to doing the same for other providers. Mr. Groen encouraged the Councils to review innovative broadband adoption programs to engage low-income residents and school districts to offer broadband to students and educators at their homes.

Mayor Barnett commented that public/private partnerships are not new and under the Metro Act, all providers are equally able to utilize the Metro Act provisions to come in and build a competing network. She stated that this private developer would not be operating the network but allowing telecommunications companies that want to access the network to rent space on it. She noted that because costs for such a network are so high, communities are left with non-innovative products that don't support the growth and speeds necessary for a growing community and growing country that relies on integrated telecommunication services and fiber optics.

Aaron Paluzzi, Broadband Task Force Chair, stated that there is no competition in Farmington and Farmington Hills. The residential customers in the cities are only able to get Spectrum and few residents can get WOW. He added that AT&T U-verse is no longer available in the area. Mr. Paluzzi commented that while 1 gigabit speed is offered, the providers don't deliver that speed to all residents and the reason why the Task Force has been looking into broadband for the last several years. He added that all companies are welcome to participate on this network and have been approached by the Task Force both for the municipally owned network previously studied as well as this private/public partnership and all companies have turned the cities down.

Mike Schuster, Farmington Hills resident, commented that they have been limited to only one provider since he moved to the area in 1985. He questioned how access to the right-of-way for private roads would be addressed.

Mr. Bradshaw responded that Si-Fi has a dedicated team to address private roads and they reach out to the residents and homeowners associations to get permission to access the right-of-way.

Mr. Shuster expressed his excitement for this opportunity.

Richard Lerner reiterated that the Broadband Task Force met with Spectrum, AT&T and Verizon and all those companies said they would not put in a fiber to premises network, which led the Task force to believe that if the cities did not put in their own network, it was never going to happen. He added that if the cities want a fiber to premises network, they should allow staff and the attorneys to work out the terms of the agreement and not let go of this opportunity.

MOTION by Massey, support by Bridges, that the City Council of Farmington Hills accepts, and authorizes approval by the City Manager of Farmington Hills, the proposed SiFi Metro Act Permit with Supplemental Terms and Conditions for the establishment of a City-wide fiber optic network system, subject to the following conditions:

- (5) Finalization of the terms and conditions of the Permit and Supplemental Terms and Conditions by the City Manager and City Attorney;
- (6) Submission of any additional required documents for SiFi's Metro Act Application;
- (7) Submission to the City Manager of an acceptable route map and a completed Metro Act Permit Application; and
- (8) Receipt of proof of insurance from SiFi and a bond or letter of credit from SiFi's construction contractor, both following the coverage specified in the Supplemental Terms.

Roll Call Vote:

Yeas: BARNETT, BOLEWARE, BRIDGES, KNOL, MASSEY, NEWLIN AND STRICKFADEN

Nays: NONE

Absent: NONE

Abstentions: NONE

MOTION CARRIED 7-0.

MOTION by LaRussa, support by Taylor, that the City Council of Farmington hereby accepts, and authorizes approval by the City Manager of Farmington, the proposed SiFi Metro Act Permit with Supplemental Terms and Conditions for the establishment of a City-wide fiber optic network system, subject to the following conditions:

- (1) Finalization of the terms and conditions of the Permit and Supplemental Terms and Conditions by the City Manager and City Attorney;
- (2) Submission of any additional required documents for SiFi's Metro Act Application;
- (3) Submission to the City Manager of an acceptable route map and a completed Metro Act Permit Application; and
- (4) Receipt of proof of insurance from SiFi and a bond or letter of credit from SiFi's construction contractor, both following the coverage specified in the Supplemental Terms.

Roll Call Vote:

Yeas: BOWMAN, LARUSSA AND TAYLOR

Nays: NONE  
Absent: DELIND AND SCHNEEMAN  
Abstentions: NONE

MOTION CARRIED 3-0-2-0

**ADJOURNMENT**

MOTION by Massey, support by Bridges, to adjourn the meeting at 8:35pm.

Roll Call Vote:

Yeas: BARNETT, BOLEWARE, BRIDGES, KNOL, MASSEY, NEWLIN AND  
STRICKFADEN  
Nays: NONE  
Absent: NONE  
Abstentions: NONE

MOTION CARRIED 7-0.

MOTION by Taylor, support by LaRussa, to adjourn the meeting at 8:35pm.

Roll Call Vote:

Yeas: BOWMAN, LARUSSA AND TAYLOR  
Nays: NONE  
Absent: DELIND AND SCHNEEMAN  
Abstentions: NONE

MOTION CARRIED 3-0-2-0

Respectfully submitted,



Pamela B. Smith, City Clerk