

CITY OF LANSING

CITY COUNCIL MEETING

REGULAR MEETING MINUTES
November 1, 2018

Call To Order:

The regular meeting of the Lansing City Council was called to order by Mayor Mike Smith at 7:00 p.m.

Roll Call:

Mayor Mike Smith called the roll and indicated which Councilmembers were in attendance.

Councilmembers Present:

Ward 1: Gene Kirby and Dave Trinkle

Ward 2: Andi Pawlowski and Don Studnicka

Ward 3: Kerry Brungardt

Ward 4: Tony McNeill

Councilmembers Absent: Jesse Garvey and Gregg Buehler

OLD BUSINESS:

Approval of Minutes: Councilmember Studnicka moved to approve the regular meeting minutes of October 18, 2018, as presented. Councilmember McNeill seconded the motion. The motion was approved with Councilmember Brungardt abstaining.

Audience Participation: Mayor Smith called for audience participation and no one came forward.

Presentations

COUNCIL CONSIDERATION OF AGENDA ITEMS:

Request to Purchase Replacement Control System for Ultraviolet Disinfection System:

Councilmember Kirby moved to approve the quotation from Suez Treatment Solutions, Inc., for the replacement of the control system in the Ultraviolet Disinfection System. Councilmember McNeill seconded the motion.

- Councilmember Pawlowski asked so if we approve this and stuff comes in too high but you already order it.
 - Wastewater Utility Director Tony Zell asked specifically what stuff.
 - Councilmember Pawlowski responded I mean for the, like we were talking before about the next item, bids for the next projects. If we're in a cash crunch.
 - Wastewater Utility Director Tony Zell stated without getting off in the weeds about finances, it's always been my understanding that we would be bonding the next project that we're talking about this evening. And how much of that is going to be dependent on the bid prices. This is a mission critical piece of equipment to our facility that is required by state and federal mandate. So, I would like to get the order placed now. We have 6-8 weeks lead time. This should put us in the 2019 budget cycle for actually expending the funds to pay for this. I believe it's appropriate to do that now since we are out of spare parts at this point.
- Councilmember Studnicka asked did you go out for bids for this equipment or did you just go to one vendor.
 - Wastewater Utility Director Tony Zell replied there is only one vendor.
 - Councilmember Studnicka responded that was my question.
 - Wastewater Utility Director Tony Zell replied yeah, so Suez purchased Infilco Degremont who was the original manufacturer.
 - Councilmember Studnicka asked and the parts and all that are available.
 - Wastewater Utility Director Tony Zell stated this is almost identical to the request earlier in 2017 for the belt filter press. Same control system, you know, just different system.
 - Councilmember Studnicka responded right, thank you Tony.

The motion was unanimously approved.

Authorization to Advertise for Bids – City Projects 17-04 & 18-02 (NW Sewer Relief

Projects): Councilmember Studnicka moved to authorize staff to solicit bids for the Northwest Sewer Relief Project. Councilmember Brungardt seconded the motion. The motion was unanimously approved.

- Wastewater Utility Director Tony Zell stated I was just going to say we anticipate, if we hit all our deadlines based on the timeline presented here tonight, coming back to you the first week in December for approval of those bids so we can get started right away. Easement acquisition is still ongoing, permitting is done. We're getting this done as fast as we can so we're moving forward.
 - Councilmember Pawlowski asked how's easement acquisition going?
 - Wastewater Utility Director Tony Zell responded we have a couple of properties signed. We've made some minor alignment adjustments based on some feedback from the property owners. We've got to give them some time to mull it over and think about it but the easements will be staked the first of next week which helps property owners kind of visualize what's going to happen and how much of their property will be either utilized as a permanent easement or as a temporary easement. Mr. Skeens and I have a meeting with property owners daily to work through all the issues and kind of address all their needs. It's been a task but been fun. We're moving forward. Thank you.

Museum Building Transfer Agreement: Councilmember McNeill moved to approve the Memorandum of Understanding between the City of Lansing and the Lansing Historical Society on the condition that the Lansing Historical Society executes the Memorandum of Understanding prior to November 15, 2018. Councilmember Pawlowski seconded the motion.

- Councilmember Pawlowski asked do you have anything to say.
 - City Administrator Tim Vandall stated so like Mayor Smith had mentioned our approval is contingent on them signing within the next two weeks. There's been some questions back and forth as to whether or not they already own the building. We don't think they do. It would be nice to have a contract with our list that says we're handing it over to them but anyway, so we do have a deadline of November 15th on there.
 - City Attorney Greg Robinson responded Tim and I have been discussing this and you know I'm in contact with the Historical Society Attorney, Ms. Hall. And seems to be that they approached us, they wanted this, we, pretty much I thought, did our due diligence in turning it around pretty quickly. We just tried to clean up some language and I submitted back to them. I've gotten no response back from the Attorney. It seems that members of the Historical Society have made overtures in sense of abiding by the terms that we suggested. You know just for example the modem. They returned the modem so that's not really an issue, it's almost a moot issue but it was something in the agreement. So, all we need to do is have them sign it. Because we had an agreement when they gave us the property, so it's my suggestion and my advice that we do an agreement to get rid of the property and I think we need that on our books to have a clear title. You know, even though it's not real estate but it's tangible property and I think we do need to make sure it's done by agreement.
 - City Administrator Tim Vandall stated and at the end of the day, too, and we've tried to explain this, I think we're in agreement that this is going to be a win-win. At least, I think most of the Council feels like that but I think it's important for us to have a contract that says this building is as-is.
 - Councilmember Brungardt replied sure, I agree.
 - Mayor Smith stated absolutely.
 - City Administrator Tim Vandall stated we don't want liability to come back on us down the road.
 - Councilmember Studnicka responded no.

- City Administrator Tim Vandall stated and like Greg had said it transferred to the City through an agreement signed by both parties. It should transfer back by agreement of both parties.
 - Mayor Smith stated it seems this is more difficult than it really should be. But I will leave it at that.
 - Councilmember Pawlowski responded every time they get attorneys involved.
 - City Attorney Greg Robinson stated I'll be honest with you, I'm perplexed why this is not signed. We are not a road block to what they had requested. We, in fact, for something like this, I thought was a pretty darn quick turnaround.
 - Mayor Smith replied it was.
 - City Attorney Greg Robinson responded I don't know.
- Councilmember Kirby asked was there a danger to them or a possibility that they don't sign.
 - City Administrator Tim Vandall stated in a way one could make the argument they already have possession of the building because I don't have access to the building anymore.
 - Councilmember Kirby asked why.
 - Councilmember Pawlowski replied because she changed the code.
 - City Administrator Tim Vandall responded because they changed the security code without informing the city.
 - Councilmember Kirby asked under what authority did they change the security code.
 - Councilmember Brungardt stated wow, oh my goodness.
 - Mayor Smith stated they didn't have authority.
 - Councilmember Kirby responded and of course they're not here.
 - Councilmember Pawlowski responded no.
 - Councilmember Kirby stated and I suppose I don't blame them.
 - City Administrator Tim Vandall stated we invited them to come to the meeting and they all had prior engagements I was told.
 - Mayor Smith stated yeah Tim found that alarm had been changed.
- Councilmember Trinkle responded a locksmith can take care of the lock problem. What happens if they don't sign it. I mean, can we just keep it.
 - City Attorney Greg Robinson replied it's been, basically, to me is that we do want to proceed with this. It's just a matter of getting the agreement done. It's just, there's not one of these, I want this, we want this and there's this big logger head of not being able to agree. We want to give it back. We just got to have the agreement, so they understand a couple of things. One, it's as-is, and we don't have any future recurring liabilities that once they get it so to speak, here's your keys, we're done. We're absolutely done.
 - Councilmember Brungardt stated that is just being smart.
 - Mayor Smith stated yeah, it is.
 - City Administrator Tim Vandall responded well the thing is too, at one point they said we're ceasing negotiations. Greg and I are saying what negotiations, we're trying to give it to you for free.
- Mayor Smith asked Greg can you contact their Attorney?
 - Councilmember Pawlowski stated he did.
 - City Attorney Greg Robinson replied I have.

- City Administrator Tim Vandall responded we've been trying to.
 - Mayor Smith stated they're not returning.
 - City Attorney Greg Robinson stated it got to the point that I questioned if she still represented them, because the Historical Society kept having all this communication with Mr. Vandall. So, I was like, are you still representing them because there's all this communication going back and forth which they can do. Obviously, they can go around an attorney that's not the problem. But it seems like things were happening that made me think they didn't have an attorney anymore.
- Councilmember Brungardt asked where is the animosity coming from?
 - City Attorney Greg Robinson responded I don't want to point fingers but we're trying to give them a building. Just sign the agreement. I've told Tim this so I'll just state, I don't care if it's public record but it's like it's such a simple process and it's not being done, it make me start to get my conspiracy hat on. Ok, what am I missing here? What is the motive, what is the underlying thing here about, what am I really missing here. I joke around with Tim, I said the Hope Diamond down there and I don't know it. And we won't get any of the money now or something or what. I mean, it's like, ok, is it that I'm going to read in the paper next week they found the Hope Diamond down there and we just gave it away.
 - Mayor Smith responded so they've got to the 15th.
 - City Administrator Tim Vandall replied at the end of the day, yeah, contingent on them signing it by November 15th. At the end of the day, we agree on 99% of the things probably. We agree we want to give them the building. They agree they want it.
 - Councilmember Kirby stated and in the meantime, they went down and changed the code on a building we own. Right?
 - Mayor Smith responded they took control of it.
 - Councilmember Brungardt stated I have a huge issue with that.
 - Mayor Smith replied yeah.
 - Councilmember Kirby responded and on top of that, didn't tell us they were doing it.
 - Councilmember Pawlowski replied and the way Tim found they changed the code because the police showed up.
 - City Administrator Tim Vandall responded I had the police called on me.
 - Councilmember Kirby stated I know how he found out.
 - Councilmember Pawlowski replied well I didn't know if they knew.
 - Councilmember Brungardt responded I had no idea.
 - Councilmember Pawlowski stated the police showed up.
 - Councilmember McNeill asked what are the 1% issues, if we are 99% agreeable.
 - City Administrator Tim Vandall stated so my understanding and it's hard for me to characterize this and they might disagree. When I found out that they changed the alarm code without informing us, I felt the City shouldn't be paying for utilities on a building we didn't have access to so I shut off utilities to the building.
 - Councilmember Pawlowski responded but he told them.
 - City Administrator Tim Vandall stated and I told them that and they seemed to think that was some type of abandonment, and I would disagree with that. Part of me just has a problem paying for utilities for a building we don't have access to but like I said, I think they viewed that as some type of nonverbal agreement that we were giving it to them.

- City Attorney Greg Robinson stated but again, and that is where the rub comes in. Is that I am trying to reach out to the attorney and have that communication so we can get this thing done and it appears that the other parties and I'm not mentioning our side. I think they get the input that I'm providing to the attorney and they're taking action on their own. For example, the modem, they bring it up, here you go. Like somehow that fulfills something we needed as part of the agreement, like now all of a sudden, we don't need an agreement. We've just given you the modem back. That's not the point. We still have insurance on that building. We have liabilities if somebody goes there and they're negligent but it's our building. You know we're getting dragged in. So, it's like we just want this cleaned up. We want you to sign, we'll sign and here's your building. Thank you.
 - Councilmember McNeill asked they're not going to sign this one, right.
 - City Attorney Greg Robinson asked what's that.
 - Councilmember McNeill stated this MOU, it has two paragraph fives.
 - City Attorney Greg Robinson replied oh no, I'm sorry.
 - City Administrator Tim Vandall responded we can get that cleaned up.
 - Councilmember Pawlowski asked can we just give the building to the prison. It's on their property.
 - Councilmember McNeill responded would that be in accordance with paragraph five.
 - Councilmember Pawlowski replied I mean realistically.
 - City Attorney Greg Robinson replied I haven't thought of it that way, so no, I can't sit here and answer that question.
 - Councilmember Trinkle stated what I'm saying is, the 15 days or whatever it is, however this works out. I know talking to Tim, he shut the utilities off, weather gets bad.
 - City Attorney Greg Robinson no I think they've already turned them back on.
 - City Administrator Tim Vandall replied I think they turned them back on.
 - City Attorney Greg Robinson stated but the reason, see what we're asking you to do is basically approve this agreement in the form we presented. We'll correct that number. In the form we presented it, that way it's done from the authorization for you to authorize the Mayor to sign off on it. That way if we, I call them tomorrow or they learn tonight somehow that you guys have approved this document as it was presented and if they finally say tomorrow, we'll sign it. Then we're done. But you know, if they don't want to sign it and they never sign it, then we'll obviously still be figuring out how we're giving this back to them.
 - City Administrator Tim Vandall if they never sign it that kind of brings up more issues in terms of I still do not have access, none of us have access to that building.
 - Mayor Smith replied it's our building.
 - Councilmember Kirby responded that was my question. They changed the code to a building that we own and we don't have the code.
 - City Administrator Tim Vandall stated correct, I still don't have the code.
 - Councilmember Kirby replied ok, alright.
 - City Attorney Greg Robinson stated and I can certainly understand that the problem that presents in a sense.
 - Councilmember Kirby stated we own the building. Yeah, it causes problems.
 - City Attorney Greg Robinson responded but from my perspective when I first heard of that I was thinking it would be signed and be done so it really didn't give me any angst. You know because we're not in there, we're giving it back on Thursday anyway.

- Councilmember Brungardt stated but if the shoe were on the other foot, can you imagine.
 - City Attorney Greg Robinson stated oh, I know. We'd be filled up in here
 - Councilmember Brungardt stated we'd be filled up in here and it'd be damn the Council again
 - City Attorney Greg Robinson replied I understand.
- Mayor Smith stated so let's give them the fifteen days and then if that doesn't play, I'm hoping they'll come up and whoever needs to sign it will get it done.
 - City Attorney Greg Robinson stated what I would like to say, I'm not suggesting that Tim doesn't take affirmative steps to assert ownership that we have. I'm not saying we just sit back and do nothing. Because again, we have liability at the moment and I think that we should not be having access to a piece of property that we potentially have liability for. So, there's no reason why we cannot get in there.
 - Mayor Smith asked who has liability insurance.
 - Councilmember Pawlowski replied we do now.
 - City Administrator Tim Vandall stated we do as of midnight tonight. We've talked about, we can start it tomorrow again.
 - Mayor Smith stated yeah, well it's still ours.
 - City Administrator Tim Vandall replied I guess I've never heard of a property like this transferring verbally or because of the decision of utilities. I've never heard of that.
 - Mayor Smith stated no you can't do that.
 - Councilmember Brungardt stated that would not be smart business
 - Councilmember Pawlowski stated it's not real estate so it doesn't have to be in writing. But it's considered personal property.
 - Councilmember Kirby stated this needs to be in writing.
 - Councilmember Pawlowski replied I know but I'm talking about legally.
 - City Attorney Greg Robinson stated well you're correct about it's not real estate, so you don't have to have an instrument in writing and deeds and things like that but at the same time it is a City asset. The City cannot just simply dispose of it by saying hey, here you go Mr. Kirby take this.
 - City Administrator Tim Vandall stated I guess I'd say if you guys unanimously said yeah let's hand it off to them verbally probably wouldn't be a good idea.
 - Councilmember Kirby stated no.
 - Mayor Smith stated I wouldn't.
 - City Administrator Tim Vandall stated I suppose you guys could.
 - Councilmember Pawlowski replied I don't think the Council is going to do that.
 - Mayor Smith stated I think we just give them that time and see what plays out and then come back together.
 - Councilmember Trinkle stated if it doesn't, we need to have steps in place to get back inside.
 - Mayor Smith stated we will.
 - City Attorney Greg Robinson replied because technically without an agreement, in my opinion, without an agreement signed or somebody coming in here as a representative to accept it then how to do you know you really transferred it. You guys can vote tonight, we transfer it right now.

- Councilmember Brungardt stated if anything ever happens then trying to figure out who's responsible and liable. That will be just a hot mess.
 - Councilmember Kirby stated it's already a hot mess. What if something happens now and we can't get in the building.
 - Councilmember McNeill stated we already made the motion and seconded it that we want this to go through.
 - Mayor Smith stated that's what I'm saying give them the fifteen days. Yeah, Tony. Is everybody ready to get this on down the road.
- City Attorney Greg Robinson stated I'll send out an email first thing or might this evening or tomorrow morning to Ms. Hall and let her know here is the agreement. If you'll approve it here in this vote that if you guys accept this, sign it and it's yours.
 - Councilmember Trinkle asked do we need to put a contingency on the motion that if in fifteen days.
 - Councilmember Pawlowski stated no, we'll be back here.
 - Mayor Smith replied we'll be back here.
- City Attorney Greg Robinson stated David it'll basically die on the vine.
 - Councilmember Trinkle stated that's my question do we need to say we're going to.
 - City Administrator Tim Vandall replied I think we added that to the verbiage.
 - City Attorney Greg Robinson stated verbiage is on or about the deadline is the 15th.
 - Mayor Smith replied that's the key.
 - Councilmember Trinkle stated I just wanted it to be public.
 - City Attorney Greg Robinson replied sure.

The motion was approved with Councilmember Kirby voting against the motion.

Executive Session: Councilmember Brungardt moved to recess into executive session for the consultation with an attorney for the City which would be deemed privileged in an attorney-client relationship. K.S.A. 75-4319(b)(2) for 20 minutes, beginning at 7:20 PM and returning to the Council Chambers at 7:40 PM. Councilmember Pawlowski seconded the motion. The motion was unanimously approved.

Councilmember Pawlowski moved to return to Open Session at 7:40 PM. Councilmember Brungardt seconded the motion. The motion was unanimously approved.

REPORTS:

Department Heads: Department Heads had nothing to report

City Attorney: City Attorney had nothing to report

City Engineer: City Engineer had nothing to report

City Administrator: City Administrator Tim Vandall reported the solid waste group met with a representative from Deffenbaugh recently and Deffenbaugh talked about how changes in China are affecting how recycling is being handled worldwide now. China has increased their standards and costs are going up because there is more supply than demand at the moment. Deffenbaugh suggested a small increase in rates

now to avoid a high increase at the end of the contract in a few years. After crunching numbers, a 50 cent increase for regular customers and \$1 or \$1.87 for senior customers would meet Deffenbaugh's baseline.

- Councilmember McNeill questioned holding off until the contract is over and we potentially get a different company to take over recycling or no longer provide recycling to city residents. Councilmember McNeill doesn't see the purpose of raising rates when we are in the middle of a set contract with Deffenbaugh.
 - Finance Director Beth Sanford stated this recycling problem is affecting every waste company across the United States, so it may not be possible to find a lower price from another company in a few years.

- Mayor Smith suggested a Work Session with the committee to further discuss rates.

A meeting with the developer will take place next week for Fairway Estates. Feedback is needed from the Council on what questions staff can bring to the meeting.

- Councilmember Pawlowski asked how much is the total for the project.
 - City Administrator Tim Vandall is unsure if a number has been finalized but the project would be assessed on the lots over a 20-year period. The amount would be assessed to the homeowners property taxes.
 - Community & Economic Development Director Matthew Schmitz stated the money would be bonded upfront so the developer would have capital for the project. When dollar amounts are available for the project, the developer will have to have to bring a petition to the Council and then a decision can be made on whether or not to do the project.
 - Councilmember Kirby is interested in the timeframe for complete build out and the amount of homes per year.
 - Councilmember Pawlowski would like to know the amount per lot, per valuation, how much per month since it effects a person's ability to buy.
 - Community and Economic Development Director Mathew Schmitz has seen this done before with the total project cost divided by the square footage and every property gets assessed by so many dollars per square foot.

Governing Body: Councilmember Studnicka suggested giving staff the Monday before Christmas off in appreciation to all employees for doing a great job.

ADJOURNMENT:

Councilmember Kirby moved to adjourn. Councilmember Pawlowski seconded the motion. The motion was unanimously approved. The meeting was adjourned at 8:07 p.m.

ATTEST:

Michael W. Smith, Mayor

Sarah Bodensteiner, City Clerk