

MINUTES  
CITY OF FARMINGTON HILLS  
CITY COUNCIL STUDY SESSION MEETING  
CITY HALL – COMMUNITY ROOM  
MAY 22, 2017

The Study Session meeting of the Farmington Hills City Council was called to order by Mayor Massey at 6:05pm.

Council Members Present: Bridges, Bruce, Knol, Lerner, Massey, Rich and Steckloff

Council Members Absent: None

Others Present: City Manager Boyer, City Clerk Smith, Assistant City Manager Mekjian, Directors Gardiner and Randle, City Attorneys Joppich and Dovre and Planning Consultant Arroyo

**DISCUSSION ON MILLAGE RATES**

City Manager Boyer stated that during the budget study session discussion was held regarding increasing the millage rate, which would generate approximately 1.2 million in revenue per year over the next 3 years. He stated that the intent would be to earmark this money for large capital projects for major roads. He stated that if Council is favorable towards the idea, it would be included as part of the budget when that comes before Council for approval.

Councilmember Bruce inquired the approximate cost per household, the proposed increase and if it would affect the city's bond rating.

City Manager Boyer stated that staff is proposing to roll up the millage to its cap. The approximate cost would be \$30+ per household and discussions were held with Finance Director Gajda who spoke to the city's bond counsel and they did not feel this would affect the city's bond rating.

Councilmember Bruce stated that he would prefer to be able to tell the voters what the additional money is being used for. City Manager Boyer agreed and stated that staff would identify 3 or 4 large capital projects.

Mr. Boyer further explained that discussions were had during budget study sessions regarding the continued use of the city's fund balance and scenarios for maintaining the fund balance by bonding larger capital projects. He added that the additional tax revenue would assist the city with several of these projects.

Councilmember Bridges inquired if the city rolls the millage up to the Headlee Cap and in 3 years it is rolled back again, can the city ever increase that amount back up to the cap.

Mayor Massey explained that could not be done without a vote of the electors of the city.

The consensus was to include the increase in the tax millage rate in the budget that is presented to City Council for consideration next month and identify the projects for which the additional funding would be used.

**DISCUSSION ON DISTRIBUTED ANTENNA SYSTEMS (DAS) IN ROAD RIGHT-OF-WAY**

Director of Planning and Community Development, Ed Gardiner, explained that the city has received requests from companies for distributed antenna systems in order to have enough capacity for all cellular users. He noted that the current zoning ordinance allows for cellular towers and antennae with restrictions but does not allow them in the right-of-way, unless they were to receive a special exception from City Council. Mr. Gardiner mentioned that the city had a request for co-locating antennae in the right-of-way on existing DTE poles back in 2007 that went before Council for a special exception and at that time it was approved as the Council preferred the idea of co-location on existing poles rather than the installation of new poles.

He further explained that the Metro Act that regulates the fiber and cable in the right-of-way does not cover cell towers or antenna in the right-of-way.

Director Gardiner stated that staff is coming to Council now for some direction on how to handle these requests. If the city were to pursue an ordinance to allow for the DAS, Council would need to determine the restrictions or standards to include and if such ordinance would allow for new construction or only the use of existing infrastructure. He added that the companies have also indicated that they can't always use DTE poles.

He believed that the more regulations imposed by communities, the greater the possibility that the FCC may take some action to propose new legislation.

City Attorney Joppich stated that the DAS is another new method for increasing capacity for these companies and agreed that if enough communities impose regulations, they could see some legislation in the future allowing for these systems. He added that if the city adopts reasonable regulations, it might be able to keep some local control, but currently they are not allowed in the right-of-way by ordinance. The requests that have come in to the city include new poles ranging from 51 feet in height from one company to 120 feet in height from another.

Councilmember Bruce inquired if the city could charge any fees. Planning Consultant Arroyo responded that the city could charge fees for the use of the right-of-way as well as a separate fee if it were a city-owned structure being used.

Councilmember Bridges inquired why requests are coming to Farmington Hills. Attorney Joppich stated that communities across the state are receiving similar requests.

Consultant Arroyo added that the requests are driven by the capacity needs and companies trying to meet those demands.

Councilmember Steckloff inquired about requesting free city-wide services in return. Mr. Arroyo explained that the city would not necessarily be dealing with the providers of the service but the companies building the infrastructure for use by the providers.

In answer to Councilmember Knol, Mayor Massey stated that it would not necessarily provide for better coverage for cable as that involves fiber optic cable.

Councilmember Rich stated that she feels due to technology changing this will be permitted one way or another and that the city should take action to negotiate how to make it happen. She showed Council photos of how other communities have used poles as art.

Councilmember Knol stated that she does not want new poles in the right-of-way as she feels they would be unattractive as well as a safety hazard and would prefer allowing antennas on existing poles.

Attorney Joppich added that safety was mentioned in the discussions with staff due to the proposed location of the base of the poles to the curb or roadway. He added that it was his understanding that the higher the pole, the fewer poles that were needed to gain the same capacity.

Councilmember Lerner concurred that co-locating antennas on existing poles would be preferred and felt it would be wise for the city to prepare an ordinance to address these requests.

Attorney Gary Dovre arrived at the meeting at 6:45pm.

Attorney Dovre explained that one of the companies from which the City has a request has already filed a petition with the FCC to allow for these uses and from what he has witnessed the FCC generally rules in favor of the industry. He stated that purchasing private parcels to locate cell towers is expensive and the DAS technology is designed to supplement the towers. It is his understanding that this technology does not transmit as far.

Attorney Dovre explained that he was working with the companies on legal terms and conditions through license agreements that he felt would be acceptable but left the fees to be resolved by the city if the city is inclined to allow for this type of technology. He reiterated that the Metro Act was a result of communities setting aggressive fees, but there is no maximum amount set by law. He noted that engineering did raise concerns over safety and the appearance in the ROW and there are currently no standards for height or spacing.

Further discussion was held and council members expressed that if the city were to allow new poles, they would prefer setting height and spacing standards as well as identifying locations within the city ROW where new poles would be permitted.

Councilmember Knol suggested the companies consider replacing a DTE pole that would accommodate both DTE and the utility. She stated that if it could accommodate both, she would not be opposed to allowing a slightly taller pole.

Assistant City Manager Mekjian stated that he spoke to DTE regarding companies co-locating on their existing poles and DTE has a joint location committee that accepts applications for co-location. The instances in which this would not be allowed were if a pole already has too many existing utilities on it or when a pole has two levels of service on it. He is attempting to obtain a copy of the DTE policy.

Mayor Massey inquired if the City could deny the requests that have come to the city. Mr. Gardiner confirmed this was possible under the current ordinance.

Mayor Massey summarized that he is hearing concerns with having new poles in the ROW and suggested that the city deny the two requests received and work on drafting an ordinance that would contain standards with regard to height, spacing and aesthetics of the poles and to incorporate language about co-location.

Attorney Joppich suggested that the proposed ordinance could allow for co-location by right or with limited review and then include a process for the installation of new poles.

Councilmember Bruce suggested that if the new poles looked similar to existing DTE poles, people might be less inclined to notice them. He also suggested that the city identify locations where new poles would be permitted.

Councilmember Rich cautioned that the locations the city chooses might not satisfy the needs of the companies. She liked the idea of creating an ordinance and being proactive and would like to see the city act on this soon.

The consensus was to have staff address the requests under the current ordinance and to work on drafting a new ordinance to address these types of requests and technology going forward.

Attorney Dovre suggested that the city should have a license agreement for any company installing anything in the city ROW. He added that while the city staff can deny the current requests, the companies have the right to ask Council for an exception to special land use under the ordinance and they cannot be denied that process.

Mayor Massey confirmed that Council would have the right to deny a special exception in those cases.

Attorney Dovre inquired if Council were agreeable to a company replacing an existing DTE pole that would accommodate both DTE and the utility as suggested earlier.

Mayor Massey stated that is sounded as if Council would not be opposed as long as it was within the height requirements.

It was suggested that the height standard could be addressed by taking a percentage of the height of existing poles in the area.

Attorney Joppich stated that the attorneys would draft an ordinance to be brought back to Council at a future study session.

**ADJOURNMENT:**

The study session meeting adjourned at 7:15pm

Respectfully submitted,



Pamela B. Smith, City Clerk