

MINUTES
CITY OF FARMINGTON HILLS
CITY COUNCIL STUDY SESSION MEETING
CITY HALL – COMMUNITY ROOM
FEBRUARY 12, 2018

The Study Session meeting of the Farmington Hills City Council was called to order by Mayor Massey at 6:00pm

Council Members Present: Bridges and 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 Mondora and City Attorney Joppich

GREAT LAKES WATER AUTHORITY UPDATE

Karen Mondora, Director of Public Services, introduced Attorney Kelsey Cooke and Chief Manager, Tim Prince of the Water Resources Commission. She stated that Attorney Cooke would be providing City Council with information on a recent class-action settlement regarding Detroit Water and Sewer Department (DWSD) and an update on the Highland Park water issue.

Attorney Cooke reviewed the DWSD case and stated that when the Great Lakes Water Authority (GLWA) administration began to participate in the settlement of DWSD liabilities, the issues that arose were who should pay and how those costs should be allocated. She noted that the class action suit involving storm water fees that was filed was settled this fall and it was agreed that GLWA would pay one-half of the liability, which was \$29.5 million. Another issue was that the administration agreed to pay this amount without the knowledge of the Board. Attorney Cooke added that another case involving city water was also settled by the GLWA administration who agreed to pay 20% of those costs also without the knowledge of the Board.

Attorney Cooke pointed out that the water and sewer lease agreements are silent on who is responsible and the amount to be paid. She stated that the Board did later approve payment of half of the 29.5 million and unanimously agreed to send these matters to arbitration per the lease agreements. She noted that arbitration will set a precedent as to how approval without the Board's knowledge and with regard to allocation of costs.

Attorney Cooke explained that Water Resources Commission Nash wrote a letter to all of the communities and attached a sample letter that communities could sign and send to the Board Chair and copy to Sue McCormick of GLWA expressing their unhappiness with how this was handled and stating that the liability should be placed back on Detroit.

Discussion was held on the Board versus the GLWA Administration and in response to Councilmember Bruce, Attorney Cooke stated that Oakland County could not pull out of GLWA but there is potential for a lawsuit.

Attorney Cook added that GLWA requested a legal opinion from the attorneys who prepared the lease agreements but has refused to share this written legal opinion with the Board.

Mayor Pro-Tem Lerner inquired if the agreements spelled out what the GLWA Administration can and cannot approve as far as settlement amounts. Attorney Cook responded they did not and that this will be part of the responsibility of the arbitrator.

Councilmember Bridges felt that the Memorandum of Understanding could be a key part as to the set-up of the GLWA. Attorney Cooke agreed that the MOU and lease agreements will be key in the arbitration.

City Manager Boyer questioned if any other liabilities are known at this time. Attorney Cooke stated that they know of the few cases she mentioned, but those could open the door for others to come forward.

City Manager Boyer stated that the City has not sent this draft letter in to the Board Chair to date, but would do so if City Council concurs with that action.

The consensus of City Council was that they were supportive of staff submitting the letter to the Board as discussed.

Attorney Cooke next updated City Council on 3 pending lawsuits involving Highland Park. She explained that in the case of GLWA vs Highland Park, the Wayne County Circuit Court Judge entered a judgement in the amount of \$22 million against Highland Park, who has not been paying their water bills. Highland Park has appealed to the Michigan Supreme Court so this case is still pending.

She noted that Highland Park also sued the Environmental Protection Agency and there is a single tax payer case pending as well.

Attorney Cooke stated that the GLWA is working with the State and Highland Park to determine how to handle the debt and providing service going forward.

Councilmember Bruce inquired how the suburbs are benefitting from being a part of GLWA. Attorney Cooke responded that the Detroit infrastructure was very poor and the money that should have been going towards infrastructure was going elsewhere and the development of GLWA was intended to allow County's to have a say in operations going forward.

REVIEW OF ORDINANCE AMENDMENT FOR ABATING NUISANCE POOLS

City Manager Boyer explained that the at a previous study session, staff discussed a couple of challenges they were having with regard to nuisance pools and since that time staff has reviewed various options and researched how other communities were handling these types of concerns.

Ed Gardiner, Director of Planning and Community Development, explained that last October staff brought some of these code enforcement challenges to Council and current ordinances did not provide many options for staff to deal with nuisance pools. He stated that in a couple of instances, the city took the matters to court and the court ordered the city to demolish the pools; but both staff and Council felt at that time there should be other options.

Director Gardiner reviewed the proposed ordinance amendment that included several definitions and the option for demolishing the pool or securing the pool with a properly installed safety cover, which was defined as part of the ordinance amendment. He added that procedures and standards for demolishing a pool as well as restoring the area were also added as part of this amendment.

Councilmember Rich appreciated the fact that a violation would be a civil infraction but expressed concern with the term “owner or occupant” being used as she did not feel an occupant should be responsible.

Attorney Joppich stated that while he understands the concern, the proposed language provides for more flexibility. He noted that a court would not order an occupant to remove a pool without also ordering that of the owner and he prefers for the City to have some flexibility and does not feel it would be abused.

Councilmember Knol supported the language as is as there could be a long-term tenant and per a lease agreement upkeep of the pool is their responsibility. She appreciated the option for a safety cover but questioned if a pool were ordered to be demolished if it could be filled in or had to be completely removed.

Building Official, Tammy Murray, responded that it would be required to be completely removed.

Further discussion was held on the “owner or occupant” language. Mr. Gardiner explained that if the city were aware of a violation, staff would attempt to speak to the owner or occupant to find out what the situation was and would first attempt to contact the owner. He noted that staff would typically provide a 10-day notice to comply and depending on the situation, either extend that time or issue a citation and take the matter to court if necessary.

Councilmember Bridges concurred with the proposed language if the city was attempting to contact the owner first.

Building Official Murray added that in some cases, the owner of a home is unreachable and the city’s only recourse is to ticket the occupant and then the occupant will typically get the owners involved. She feels having that flexibility is important as it is often the only way that the owner can be reached but they would definitely attempt to have the owner address the concerns first.

Mayor Massey added that if any costs incurred by the City were to go on the tax rolls, that would be the owner’s responsibility anyway and he agrees that in some cases addressing the issue with the occupant will be the only way to reach the owner and get the word to them.

The consensus of City Council was to move forward with the proposed ordinance amendment as written.

Director Gardiner stated that Introduction of the ordinance is on tonight’s regular meeting agenda.

MAYORS YOUTH COUNCIL ATTENDANCE AT MML CAPITAL CONFERENCE

Mayor Pro-Tem Lerner stated Council budgeted \$5,000 to send several members of the Mayors Youth Council to a Michigan Municipal League (MML) conference and he suggested sending 15-20 students to the conference rather than sending just 4 or 5 students and offered to contact MML about sending the additional students at the cost of \$5,000.

Mayor Massey stated that he spoke with staff and they would prefer taking just a few students this time as they will be responsible for driving them and watching over them while at the conference and possibly growing that number in the future.

The majority of council agreed.

ADJOURNMENT:

The study session meeting adjourned at 7:00pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. Smith', with a stylized flourish at the end.

Pamela B. Smith, City Clerk