

MINUTES
CITY OF FARMINGTON HILLS
CITY COUNCIL MEETING
CITY HALL – COUNCIL CHAMBER
SEPTEMBER 12, 2022 – 7:30 PM

The regular session meeting of the Farmington Hills City Council was called to order by Mayor Barnett at 7:32pm.

Council Members Present: Barnett, Bridges, Bruce, Knol, Massey, and Newlin

Council Members Absent: Boleware

Others Present: City Manager Mekjian, City Clerk Smith, Assistant City Manager Valentine, Directors Kettler-Schmult, Mondora, Monico and Schnackel, Police Chief King and City Attorney's Joppich and Young

PLEDGE OF ALLEGIANCE

Mayor Barnett led the pledge of allegiance.

APPROVAL OF REGULAR SESSION MEETING AGENDA

MOTION by Massey, support by Knol, to approve the agenda as published.

MOTION CARRIED 6-0.

CORRESPONDENCE

There was no correspondence acknowledged received.

CONSENT AGENDA

MOTION by Bridges, support by Massey, to approve consent agenda items #5 through #12 and #14, as read.

Roll Call Vote:

Yeas: BARNETT, BRIDGES, BRUCE, KNOL, MASSEY, AND NEWLIN

Nays: NONE

Absent: BOLEWARE

Abstentions: NONE

MOTION CARRIED 6-0.

MOTION by Massey, support by Bridges, to approve consent agenda item #13, as read.

Roll Call Vote:

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

Nays: NONE

Absent: BOLEWARE

Abstentions: BRUCE

MOTION CARRIED 5-0-1-1.

CONSENT AGENDA ITEMS FOR DISCUSSION

There were no consent agenda items discussed.

PUBLIC QUESTIONS AND COMMENTS

There were no public questions or comments.

COUNCIL MEMBERS COMMENTS AND ANNOUNCEMENTS

Council made the following comments and announcements:

- Acknowledged an event in the honor of the Anniversary of September 11th
- Farmington SAFE Resource Fair to be held in the Council Chamber on October 12th from 6:30pm-8:30pm
- Acknowledged the Police Officer and Firefighter of the Year
- Wished Councilmember Bruce a happy birthday

CITY MANAGER UPDATE

City Manager Mekjian made the following comments:

- The cannabis public outreach sessions will be held on October 3rd at 6pm and October 4th at 9am at City Hall
- The City Open House will be held on October 8th from noon-3pm

NEW BUSINESS

CONSIDERATION OF APPEAL OF A FREEDOM OF INFORMATION ACT (FOIA) REQUEST DATED AUGUST 1, 2022.

City Clerk Pam Smith explained that the appeal before City Council was with regard to a FOIA request submitted by Mr. DeWard that was denied by her office as the records simply do not exist. With regard to the communications requested, two prior requests for similar information were also denied back in 2018. She added that while the city has many documents relating to special assessment districts (SAD's), it is impossible to know if any were used in the production of the 2018 memo to which Mr. DeWard referred to in his FOIA request. Clerk Smith added that the two of the staff members that were here 4 years ago when the memo was drafted are also no longer with the city.

Mr. DeWard read portions of the 2018 memo from City Manager Boyer that he believed proved that there must have been documents used in the creation of the memo that were not provided to him. He also expressed concern that this memo was issued and there was no discussion at a City Council meeting regarding refunds on special assessment districts. He believes there are homeowners due a refund amounting to over \$550,000 per the City Charter. Mr. DeWard stated that he was the one who brought forth the fact that special assessments were not being certified as required and then this memo was issued.

Mayor Barnett asked Mr. DeWard to please explain what he is appealing under FOIA and what documents he believes exist that the city is not providing.

Mr. DeWard responded that he doesn't know what documents were reviewed by Mr. Boyer and other staff in preparation of the memo. He assumes if a memo was created with all of this information that there must have been documents used to create the memo and attachment. He also asked how Mr. Boyer could have certified the special assessments without reviewing any documentation and expressed concern that he did so through a memo to council and not in a public meeting.

Mayor Barnett commented that Mr. DeWard is making assumptions that documents exist and has also sent Council emails that are accusatory and border on defamation.

Mr. DeWard reiterated that he believes there are homeowners due a refund amounting to a total of over \$550,000. He believed that Clerk Smith said there may be documents.

Clerk Smith reiterated that the city has many special assessment records but there is no way of determining what records, if any, were used in the creation of the memo as requested by Mr. DeWard as there are no communications or emails as such and those employees are no longer with the City.

City Attorney Joppich added that the FOIA does not require the Clerk to track down former employees to determine what records, if any, might have been reviewed. In response to Council regarding further recourse Mr. DeWard may have, he stated that if the decision by the Clerk is upheld by Council, Mr. DeWard has the right to take his appeal further to Oakland County Circuit Court.

Mr. DeWard stated that he does not agree and feels that the Clerk has indicated there may be records. He is adamant that various homeowners are due over \$550,000 and he is not giving up on this effort. He commented that apparently the Council does not agree as he has written emails in the past and none of Council has agreed.

Mayor Barnett stated that she understands that Mr. DeWard believes homeowners are due more money including himself and alluded to prior appeals by Mr. DeWard and emails by Mr. DeWard where he has asserted that records must exist.

Mr. DeWard inquired what appeals Mayor Barnett was referring.

Attorney Joppich clarified that Mr. DeWard has submitted over the past 6 or 7 years 70+ FOIA requests and he is aware of at least one or possibly two other appeals that he brought in connection with those prior requests. A number of those requests asked for documents relating to various special assessment districts and charges and costs associated to those so a fairly good amount of material has been provided to Mr. DeWard on many of the special assessment districts over the years and perhaps some of that information supports this memo and worksheet attached. While not directly related to the appeal, a lot has been said about the city not responding to Mr. DeWard or agreeing with him regarding additional refunds; however, the city has responded to Mr. DeWard and did so through his office since the city was in litigation with Mr. DeWard. He noted that in at least five different letters he attempted to explain why the city believes no additional refunds were due to homeowners and the fact that many refunds were provided to homeowners as a result of the local road millage.

Mr. DeWard requested for the Council to waive the attorney-client privilege in order to provide him a copy of the attorney letter that was exempt per FOIA with regard to his request.

Mayor Barnett stated that she would not authorize providing attorney-client privilege documents. She asked that Mr. DeWard take a couple more minutes with his statement and then Council would hear from Attorney Young on the FOIA appeal.

Mr. DeWard reiterated that he is seeking any records relative to the production of the memo in question that was sent to the Mayor and Council and a memo he feels resulted in denying residents over \$550,000. He stated that he quoted a number of comments in the memo he believes relate to documents and requested staff take another look to determine if any documents are available. He does not know how the spreadsheet was created without any documents.

City Attorney Young explained that this appeal is made with respect to a FOIA request for specific documents. Upon receipt of the FOIA request, the City Clerk's Office reviewed past historical records

and determined that no such documents exist other than one specific public record that specifically answered the request made by Mr. DeWard and the one record was a communication between the City Attorney and at the time the highest administrative official in the city so the attorney-client privilege applies. The case law cited in his memo to Council indicates that just because a person believes their must be more records is not a basis to establish a FOIA violation and it is impossible in this case because even if we were to go back in time the city's retention policy would have applied and those records would not exist today. You have a request for information that is not present or protected by privilege and there is no basis to waive this privilege. He added that under FOIA, the city is not required to provide a report or summarize voluminous material that might have been reviewed to create a record or create a new document.

MOTION by Bruce, support by Massey, that the City Council of Farmington Hills hereby affirms the Clerk's denial of Mr. DeWard's August 9, 2022 FOIA Request for the following reasons:

- 1) Both FOIA Section 13(1)(g) and legal precedent in Michigan support withholding any legal communications between the City Attorney and City Officials pursuant to the attorney-client privilege.
- 2) The City has certified, under Section 5(5)(b) of the FOIA, that no other documents exist in response to Mr. DeWard's FOIA request other than the single email communication exempt for disclosure under the attorney-client privilege.
- 3) The City's response is consistent with the City Clerk's responses to Mr. DeWard's prior FOIA requests for the same or similar information.
- 4) Mr. DeWard has not provided any information showing that the City Clerk failed to conduct an exhaustive search for pertinent records, that there are documents that should have been provided to him in response to his August 2022 FOIA request, or that the City erroneously withheld any documents that would have satisfied his request.

MOTION CARRIED 6-0.

CONSIDERATION OF ADOPTION OF A RESOLUTION ESTABLISHING A MORATORIUM ON THE ISSUANCE OF ON-PREMISES LIQUOR LICENSES.

Charmain Kettler-Schmult, Director of Planning and Community Development, reported to Council that the city was informed by the Michigan Liquor Control Commission of five (5) additional quote licenses that are available to the city. The city is requesting a moratorium on issuance of those licenses through the resolution provided to Council as the city is reviewing the current ordinance pertaining to liquor licensing and updating language per state law and there are ongoing efforts to update the city's master plan and reevaluate the development and redevelopment objectives.

The proposed resolution would place a moratorium on issuing the license for a period of 180 days with the option to extend that time frame and also provided a "relief valve" by setting forth a process by which an aggrieved property owner or business petitioner may have a hearing before City Council to demonstrate that they meet certain conditions for relief from the moratorium. The moratorium will allow for City Staff, the Planning Commission, and City Council to carefully consider the relationship between future land uses and liquor licensing as it relates to implementing the City's vision.

Some Council members expressed concern with the 180 days and that placing a moratorium on the issuance of all 5 licenses does not come across as business friendly and welcoming to new businesses. A moratorium of 90 days was suggested or a compromise to only place a moratorium on only two or three of the quota licenses rather than all five.

Attorney Joppich clarified that City Council has the authority to extend or terminate the resolution at any time and that it could apply to all five license or only and that is also up to Council. He stated that while the Council could review the language of the current ordinance and update some of the language to mirror state law, it would most likely have to come back to City Council once the master plan is complete to include any further language to allow for social districts and certain establishments that may not be considered a bona fide restaurant.

Discussion continued and other members of Council agreed with 180 days in order to allow for the master plan process to proceed as prior discussions of Council included creating social districts and areas where future liquor licensed establishments could be located but not necessarily in conjunction with a bona fide restaurant, which is now required by city ordinance.

It was noted that larger development areas may qualify for redevelopment licenses that would not come out of the city's quota licenses.

MOTION by Bridges, support by Newlin, to establish a temporary 180-day Moratorium on the Issuance of On-Premises Liquor Licenses.

MOTION by Massey, support by Knol, to amend the motion to establish a temporary 90-day Moratorium on the Issuance of On-Premises Liquor Licenses with all other provisions of the resolution remaining including possible extensions.

Mayor Barnett called a vote on the motion to amend.

MOTION TO APPROVE THE AMENDMENT CARRIED 4-2
(Barnett and Bridges opposed, Boleware absent)

Attorney Joppich clarified that Council is adopting a resolution establishing this moratorium so based on the amended motion just made, that resolution would be modified to change 180 days to 90 days within the resolution with all other provisions remaining as submitted to Council.

Mayor Barnett called for a vote on the main motion as amended.

MOTION CARRIED 6-0

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF FARMINGTON HILLS
RESOLUTION NO. R-152-22

RESOLUTION ESTABLISHING A MORATORIUM ON THE
ISSUANCE OF ON-PREMISES LIQUOR LICENSES

At a regular meeting of the City Council of the City of Farmington Hills, County of Oakland, State of Michigan, held on September 12, 2022, at 7:30 o'clock p.m., Eastern Daylight Savings Time, with those present and absent being,

PRESENT: BARNETT, BRIDGES, BRUCE, KNOL, MASSEY AND NEWLIN
ABSENT: BOLEWARE

WHEREAS, the City of Farmington Hills has come to learn that the Michigan Liquor Control Commission has five (5) on-premises liquor licenses available to the City, as a result of a population increase in the 2020 federal census and possibly other reasons; and

WHEREAS, pursuant to Section 501 of the Michigan Liquor Control Code, being MCL 436.1501(2), an application for a license to sell liquor on premises must be approved by the legislative body in which the applicant's place of business is located before the license is granted by the Liquor Control Commission; and

WHEREAS, upon examination by the City Council, City Staff, and City Attorney, it has been determined that the provisions of Chapter 4 of the City Code of Ordinances, which sets forth the requirements for approval of new on-premises licenses and other alcohol related matters, is in need of review and updating based on changes in state laws, ongoing master planning efforts of the City, re-evaluation of the City's development and redevelopment objectives, and considerations relating to the current character of the City; and

WHEREAS, City Council finds that with the availability of five (5) additional liquor licenses for issuance in the City, it is appropriate to carefully study, review, and evaluate the manner in which the City's liquor licensing and regulations may play into and could help facilitate the City's concurrent master planning efforts and future development objectives; and

WHEREAS, the City Council hereby finds that it is in the public interest to impose a temporary moratorium on applications for new on-premises liquor licenses in order to undertake such a study, review, and evaluation, and to determine the types and extent of amendments to Chapter 4 of the City Code that may be warranted under the circumstances.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Farmington Hill that a temporary moratorium be imposed barring the acceptance of applications for new, on-premises liquor licenses for a period of ninety (90) days, or the date that the City Council repeals this Resolution, whichever occurs first.

IT IS FURTHER RESOLVED that during the aforementioned 90-day moratorium, or any extension thereof, the City Council, together with the Planning Commission, City Staff, City Attorney, and appropriate consultants, shall attend to the following undertakings:

- 1) study, review, and evaluate the City's ongoing master planning efforts, development and redevelopment objectives, and current character (in all or specific areas of the City), and whether and how the City's liquor licensing and regulations, including potential amendments of same, may play into and could help support, facilitate, and maintain consistency with such efforts, objectives, and character;
- 2) study, review, and evaluate whether any of the current regulations in Chapter 4 of the City Code relating to liquor licensing are outdated or no longer necessary or in the best interest of the community, giving due consideration to public health, safety, and welfare and other relevant factors;

IT IS FURTHER RESOLVED, that the City Council authorizes the City Manager and City Clerk to execute the contract on behalf of the City.

Roll Call Vote:

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

MOTION CARRIED 6-0.

RECOMMENDED APPROVAL OF AWARD OF BID FOR AS NEEDED BUILDING TRADES TO COMMONWEALTH ENERGY FOR APPROXIMATELY \$35,000 PER YEAR; WITH EXTENSIONS. CMR 9-22-80

MOTION by Bridges, support by Massey, that the City Council of Farmington Hills hereby authorizes the City Manager to approve all repairs as needed for approximately \$35,000 per year with one or more administration approved extensions, not to exceed a total of four (4) additional years, under the same terms and conditions upon mutual consent by the City and Commonwealth Energy.

Roll Call Vote:

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

MOTION CARRIED 6-0.

RECOMMENDED APPROVAL OF AWARD OF BID FOR JANITORIAL SUPPLIES FOR CITY HALL AND POLICE DEPARTMENT TO LOWER HURON CHEMICAL & SUPPLY CO. INC. FOR AN ESTIMATED AMOUNT OF \$20,000 AND POTTY-PRODUCTS FOR AN ESTIMATED AMOUNT OF \$5,000 PER YEAR; WITH EXTENSIONS. CMR 9-22-81

MOTION by Bridges, support by Massey, that the City Council of Farmington Hills hereby authorizes the City Manager to approve all budgeted purchases and issue purchase orders to Lower Huron Chemical & Supply Co. Inc., for an estimated amount of \$20,000.00 and Potty-Products for an estimated amount of \$5,000.00 per year with one or more administration-approved extension not to exceed a total of four (4) additional one year extensions under the same terms and conditions upon mutual consent by the City and vendor.

Roll Call Vote:

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

MOTION CARRIED 6-0.

RECOMMENDED APPROVAL OF PURCHASE OF POLICE CANINE WITH SHALLOW CREEK KENNELS IN THE AMOUNT OF \$8,900 AND TRAINING WITH OAKLAND POLICE ACADEMY, PATROL DOG ACADEMY IN THE AMOUNT OF \$5,000. CMR 9-22-82

MOTION by Bridges, support by Massey, that the City Council of Farmington Hills hereby authorizes the City Manager to issue a purchase order to:

- Oakland Police Academy, Patrol Dog Academy in the amount of \$5,000.00 (Training)
- Shallow Creek Kennels in the amount of \$8,900.00 (Dog Purchase)

Roll Call Vote:

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

MOTION CARRIED 6-0.

RECOMMENDED APPROVAL OF PURCHASE OF TEN (10) VEHICLES WITH SIGNATURE FOR IN THE AMOUNT OF \$420,839 AND PURCHASE OF EIGHT (8) VEHICLES WITH TODD WENZEL BUICK GMC IN THE AMOUNT OF \$276,627. CMR 9-22-83

MOTION by Bridges, support by Massey, that the City Council of Farmington Hills hereby authorizes the City Manager to issue purchase order(s) as follows:

- 1) To Signature Ford for ten (10) vehicles in the amount of \$420,839
- 2) To Todd Wenzel Buick GMC for eight (8) vehicles in the amount of \$276,627

Roll Call Vote:

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

MOTION CARRIED 6-0.

RECOMMENDED APPROVAL OF A RESOLUTION RECOGNIZING ALLIANCE CATHOLIC FOUNDATION AS A NON-PROFIT ORGANIZATION OPERATING IN THE COMMUNITY FOR THE PURPOSE OF OBTAINING A CHARITABLE GAMING LICENSE.

MOTION by Bridges, support by Massey, that the City Council of Farmington Hills hereby approves the Local Governing Body Resolution for Gaming Licenses Issued by the Bureau of State Lottery, recognizing Alliance Catholic Foundation as a non-profit organization operating in the community for the purpose of obtaining a Charitable Gaming License.

Roll Call Vote:

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

MOTION CARRIED 6-0.

RECOMMENDED APPROVAL OF CITY COUNCIL STUDY SESSION MEETING MINUTES OF AUGUST 15, 2022.

MOTION by Bridges, support by Massey, that the City Council of Farmington Hills hereby approves the City Council study session meeting minutes of August 15, 2022.

Roll Call Vote:

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

MOTION CARRIED 6-0.

RECOMMENDED APPROVAL OF CITY COUNCIL REGULAR SESSION MEETING MINUTES OF AUGUST 15, 2022.

MOTION by Bridges, support by Massey, that the City Council of Farmington Hills hereby approves the City Council regular session meeting minutes of August 15, 2022.

Roll Call Vote:

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

MOTION CARRIED 6-0.

RECOMMENDED APPROVAL OF CITY COUNCIL REGULAR SESSION MEETING MINUTES OF AUGUST 22, 2022.

MOTION by Bridges, support by Massey, that the City Council of Farmington Hills hereby approves the City Council regular session meeting minutes of August 22, 2022.

Roll Call Vote:

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

MOTION CARRIED 6-0.

RECOMMENDED APPROVAL OF CITY COUNCIL SPECIAL MEETING MINUTES OF SEPTEMBER 6, 2022.

MOTION by Massey, support by Bridges, that the City Council of Farmington Hills hereby approves the City Council special meeting minutes of September 6, 2022.

Roll Call Vote:

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

MOTION CARRIED 5-0-1-1.

ADDITIONS TO AGENDA

There were no additions to the agenda.

ATTORNEY REPORT

The attorney report was received by Council.

ADJOURNMENT

MOTION by Bridges, support by Knol, to adjourn the regular session City Council meeting at 8:57pm.

MOTION CARRIED 6-0.

Respectfully submitted,

Pamela B. Smith, City Clerk