

REGULAR MEETING
(CONDUCTED AS A COMMITTEE-OF-THE-WHOLE)
OF THE COUNCIL
CITY OF SOUTHFIELD
May 4, 2009

INDEX

<u>RESOLUTION</u>	<u>TOPIC</u>	<u>PAGE(S)</u>
C-35-2009	PURSUANT to Section 10 of the Rules of Procedure adopted by the Southfield City Council on February 23, 1998, Council hereby determines that there is an immediate need to act.....	1-3
C-36-2009	APPROVE the Southfield Sports Arena Management Agreement with Little Caesars Enterprises.....	3
*****	REQUEST for Liquor License from Independent Bank East Michigan.....	3-5
*****	LIQUOR License Update.....	5-8
C-37-2009	PURSUANT to Section 10 of the Rules of Procedure adopted by the Southfield City Council on February 23, 1998, Council hereby determines that there is an immediate need to act.....	8
C-38-2009	ADOPT resolution recognizing The African Nation as a non-profit organization.....	9
C-39-2009	PURSUANT to Section 10 of the Rules of Procedure adopted by the Southfield City Council on February 23, 1998, Council hereby determines that there is an immediate need to act.....	10
C-40-2009	APPROVE the appointment of Sue Ward-Witkowski as Deputy City Attorney.....	10

C-41-2009 PURSUANT to Section 10 of the Rules of
 Procedure adopted by the Southfield City Council
 on February 23, 1998, Council hereby determines
 that there is an immediate need to act.....10

C-42-2009 CHANGE the Regular Meeting (conducted as a
 Committee-of-the-Whole) scheduled for July 6,
 2009 to June 29, 2009.....10

***** DISCUSSION regarding the Holiday Inn Hotel.....10-11

***** UPDATE on Millennial Mayors Congress.....11

***** 2009-2010 Budget presented to the City Council.....11-12

**Approved
June 15, 2009**

REGULAR MEETING
(CONDUCTED AS A COMMITTEE-OF-THE-WHOLE)
OF THE COUNCIL
CITY OF SOUTHFIELD

May 4, 2009

MINUTES

The meeting of the Council convened at 7:00 p.m. in the Council Conference Room of the Municipal Building, 26000 Evergreen Road, Southfield, Michigan, with Council President Donald Fracassi in the Chair. PRESENT: Council Members: Donald Fracassi, Myron Frasier, Sylvia Jordan, Sidney Lantz, Bill Lattimore, Joan Seymour and Kenson Siver. ALSO PRESENT: City Clerk Nancy Banks, City Administrator James Scharret and City Attorney Jack Beras. There being a quorum, Council was in session.

The first item on the agenda was the Sports Arena Management Agreement.

Mr. Scharret stated that the possibility of an agreement with Little Caesars was discussed at the Council meeting on April 3, 2009. The City has been seeking a way to achieve the following four objectives with the Southfield Sports Arena.

1. Upgrading the quantity and quality of recreational opportunities for City residents.
2. Upgrading the appearance and functionality of the facility.
3. Providing a capacity to provide expanded services in other Parks & Recreation service areas.
4. Engaging new partners to share the longer-term vision of Parks & Recreation to achieve new and expanded programs and facilities to meet emerging community recreational and wellness needs of Southfield residents.

The City worked with representatives of Little Caesars to come up with an agreement that works for both sides. He asked that Council declare an immediate need to act so work can begin immediately. Under the agreement the City is responsible for major repairs. The agreement does not reduce the budget but it increases the efficiency of the staff. Facilities Maintenance and P & R staff are now available to do other work. He thanked Bill Waterhouse for his efforts.

Mr. Waterhouse stated that he is very pleased that an agreement could be worked out and is very passionate about this project. It is a win-win situation for everyone involved. The first two years is a trial period with the hope it will become a long term partnership. He introduced Lisa Ilitch-Murray, Executive Director of the Little Caesars Amateur Sports Foundation.

Councilman Siver asked if there would time available for open skating. Mr. Waterhouse replied that open skating would be available for about the same amount of time it is currently offered. The City will work with Little Caesars on the current programs and possibly expand them. There will be hockey clinics for residents. He is scheduled to meet with someone heavily involved in minority hockey across the country. This is a tremendous opportunity for the City. School hockey programs have also been discussed.

Councilman Siver inquired as to whether the signage on the building would be changed. Mr. Waterhouse replied that there has been talk of putting up Southfield Sports Arena, Home of Little Caesars Hockey and possibly Home of LTU Hockey.

Councilman Siver asked if \$60,000 will cover the work that is needed. Mr. Waterhouse replied that Little Caesars has looked at the arena and believes that amount will keep the arena running for the next couple of years. If there was a leak under ice, repair costs would be much higher but Little Caesars does not believe there is any leak. Mr. Scharret added that because of Little Caesars expertise and experience with mechanical equipment for ice arenas, if something went wrong, the City could get considerable expertise in minimizing repairs.

Councilman Siver asked who is paying the utility bills. Mr. Waterhouse replied that the City is paying for utilities.

Councilman Siver responded that in his experience it is more advantageous to have the tenant handle utilities because then they are more cognizant of energy savings. He is uncomfortable with that portion of the agreement.

Council President Fracassi replied that it is a management agreement, not a money making situation. The City is getting a Class A tenant to run a facility that the City was not running very well. The City gains two staff members that can be placed elsewhere in the organization.

Councilman Lantz stated that he read the contract and it is one of the best, clearly written contracts he's seen. It will bring tremendous exposure for the City.

Councilwoman Jordan stated that the agreement is good for the City. It will give the City the opportunity to provide more for the residents. The publicity will make us a destination. She is very excited about the partnership. Two years is a good trial period in which to work out any of the kinks.

Councilwoman Jordan agreed with Councilman Siver regarding the utilities. The City needs to revisit the issue in two years. The agreement is a win-win situation.

Councilman Frasier asked if the arena would operate year round and whether the Goodfellows would still be able to use it. Mr. Waterhouse replied that the arena is closed when the pool is open. The Goodfellows will still be allowed to use the facility. The intent is to move forward towards a new facility.

Councilman Lattimore asked how big the rink is. Mr. Banda replied that it is NHL size.

Councilman Lattimore stated that he understands some of the concerns but sometimes its about the spirit of the contract rather than the little details. He would not be as excited if the agreement was longer than two years.

Mayor Lawrence stated that she is excited about the partnership. It is an opportunity to enhance the community. The City needs to make sure there is outreach to our residents in terms of hiring of staff for the arena. In two years, the City needs to be clear about what its expectations were regarding community impact.

Mr. Scharret replied that it is important to have measures of progress. Mr. Block can work with Little Caesars.

Mayor Lawrence expressed her appreciation to Mr. Waterhouse, Little Caesars, Sue Ward-Witkowski and Administration for their due diligence in getting it to this point.

Lisa Ilitch-Murray thanked the Mayor and Council. She has known the City for a long time. Hockey has always been a part of their fabric. Giving back to the community has been one of their principles. It was her and her husband's desire to come to Southfield, the Center of it All. She is very excited about the minority opportunities. She wants Southfield kids to play hockey in Southfield. She appreciates the City's financial support. The foundation is starting from zero.

Councilman Fracassi asked if there would be an opening. Ms. Ilitch-Murray replied that they have talked about doing something in conjunction with the announcement of the foundation. Mike Babcock's son plays on one of the teams and will probably be playing here.

C-35-2009 Motion by Frasier; seconded by Jordan.

RESOLVED: that pursuant to Section 10 of the Rules of Procedure adopted by the Southfield City Council on February 23, 1998, Council hereby determines that there is an immediate need to act.

Motion passed unanimously.

C-36-2009 Motion by Seymour; seconded by Frasier.

RESOLVED: that the City Council does hereby approve the Southfield Sports Arena Management Agreement between the City of Southfield and Little Caesars Enterprises, Inc., for a two year period beginning May 1, 2009 through April 30, 2011.

Motion passed unanimously.

Next on the agenda was a liquor license request from Independent Bank East Michigan.

Ms. Banks stated that Independent Bank East Michigan is requesting the transfer of a Class C license with Entertainment Permit from Crush, Inc. The license is currently in escrow and will

continue to be held in escrow. All the appropriate approvals have been received. Attorney Andrew Ayar is present to answer any questions.

Andrew Ayar, 300 E. Long Lake, Bloomfield Hills and Neil Warner, Independent Bank East Michigan introduced themselves.

Mr. Warner stated that Crush closed in 2006 and while in the process of showing the property the power was turned off causing the sump pump to fail. The place filled with water and by the time it was discovered a month later the place was covered in mold. The entire building had to be gutted. There is nothing left but the concrete walls. The property has been mowed and trimmed and the debris removed. A management contract is in place for the upkeep of the property until it is sold.

Councilman Lattimore asked if the bank owns the restaurant. Mr. Ayar responded that under the assignment the bank will own the restaurant. Crush has signed off on it.

Mr. Warner stated that the bank had a lien on the liquor license as collateral for a loan. The bank can't have a restaurant and therefore the license will go into escrow.

Ms. Banks noted that for the bank to legally have the license in their name they must go thru the normal process.

Councilman Lattimore asked what the value of the license is. Mr. Warner replied that the license is worth \$50,000. The property, after being gutted is appraised at \$390,000.

Councilman Lantz asked if the assets were assigned to the bank by the judge. Mr. Ayar responded it was done by default.

Councilman Lantz replied that the license reverts to the City if a place goes out of business. Mr. Beras responded that the license stays in escrow for up to five years. In the past, the State required businesses to renew licenses every year if they were in escrow. In 2004, the rules changed, a business has five years to transfer or reactivate the license. The bank is 12 to 18 months into the five years. Crush has no rights to sell the license. If the transfer is not approved it will sit in escrow for 3.5 years.

Councilman Lantz replied that in effect it's a sale; the bank wants its name on the license. Mr. Beras answered that it is in the bank's best interest to sell the license in conjunction with the sale of the property.

Councilman Lantz responded that the City cannot transfer a liquor license to a bank. It's opening a Pandora's box.

Councilman Frasier answered that Crush forfeited their rights to the license.

Councilman Lattimore added that the bank has the right to sell the license to anyone they see fit provided they follow the procedures outlined by the Liquor Control Commission.

Councilwoman Seymour asked if the property was sold for a use other than a restaurant would the liquor license remain in escrow. Mr. Warner replied that the license would remain in escrow and would be sold to someone else.

Mayor Lawrence asked if the license can be transferred. Mr. Beras replied that it can be transferred to anywhere in Oakland County. If the transfer is not approved the license would remain in escrow another 3.5 years before reverting back to the City.

Councilman Lattimore stated that the license was assigned to the bank by Crush. No one was aware of the condition of the building. The valuation of the building is considerably less because of the power failure. He had no problem with the transfer once he heard Crush had agreed to it.

The consensus of Council, with the exception of Councilman Lantz, was to refer the item to the Regular Meeting of May 11, 2009 for final approval.

Mayor Lawrence asked who turned the power off. Mr. Warner replied that the realtor was responsible. They attempted to sue but it was difficult to prove because the realtor did not have sole access.

Ms. Banks explained that when someone wants a liquor license they apply to the State first. Once the State has give preliminary approval then they file an application with the City.

Councilman Lantz replied that the State was wrong. Liquor licenses should only be given to restaurants and banquet halls.

Next on the agenda was the Liquor License Update.

Ms. Banks stated that the City has been granted 52 quota licenses based on population. The Kabobgy license was returned to the State. The City currently has two Class C licenses available. Any license that is in escrow for five years is returned to the City. There are seven licenses in escrow. Most licenses are not in escrow more than two years.

Councilman Lantz noted that the resolution only talks about restaurants and not banks. Mr. Beras replied that the resolution only applies to quota licenses.

Councilman Siver stated that he appreciates the information. It is exactly what Council needed. He asked for the information because there is a proven business in the City that meets one of the criteria (epicurean diversity) listed in the resolution. A liquor license would allow the business to expand. The Taste of Ethiopia deserves an answer and should be given consideration for one of the two available licenses. SEMCOG is predicting a loss in population which means the City will probably not receive any additional quota licenses. There is no guarantee something bigger will come along.

Council President Fracassi replied that the Taste of Ethiopia is not on the agenda.

Councilman Siver responded that the intent was to discuss the issue so we could give the restaurant an answer.

Councilman Lattimore applauded the City Clerk for the update. The update was requested because Council did not know what licenses were available. If there are two licenses available, Council has options it can consider. The resolution clearly states that applicants must meet at least one of the criteria. There are several other applicants that meet the criteria that should be considered before making a decision. He is not sure a liquor license would increase business at the Taste of Ethiopia because people go there because of the cuisine that is offered. They have a right to request a liquor license but no decision is being made tonight.

Councilman Lantz replied that the Taste of Ethiopia has been before Council several times looking to obtain a liquor license. Councilman Siver is correct in that they deserve the opportunity to have a liquor license and grow their business.

Councilman Siver stated that the last time the owner was before Council she indicated that she would not pay the application fee if there was no chance of her being approved. She has waited six months for this update.

Councilwoman Jordan asked about the status of the Kenzi Steakhouse liquor license. Ms. Banks replied that the license is in escrow. Every license that is currently in escrow has a sale pending.

Councilman Frasier stated that the City has always been close to the limit on quota licenses and has always saved one quota license for the Town Center area. It is not unusual for smaller restaurants to be turned down because of a lack of financial benefit. Beans & Cornbread had to wait almost ten years for a license. During that time the business grew. If there are a number of applications on file than the City has to consider how each one fits the criteria. The City needs to be very judicious on giving away the last quota license.

Council President Fracassi noted that licenses can now be transferred anywhere within Oakland County. There are many available. The owner has the option of buying a license. The City needs to look at all those vying for a quota license. He has no objection to Taste of Ethiopia but the City has to be fair to everyone.

Councilman Frasier noted that currently a restaurant can get a free license from the City and then turn around and sell it. The law needs to be changed so that the license reverts back to the City. Given the current economy, cities need as many incentives as possible to bring people in. He suggested having the Legislative Committee study the matter.

Meskerem Yohannes, Taste of Ethiopia, 29702 Southfield Road, stated that when she applied, four years ago, she paid \$1500.00. Her request was denied because her business was small. Her restaurant is still operating and Metro Times recently selected it as the Best Restaurant. People do come for the cuisine but they also would like to have a drink. In December 2008 Council promised to get back with her regarding a liquor license but has yet to hear anything.

Council President Fracassi replied that the City only had one license left and the consensus was that it should be held for the Town Center area. There are opportunities to purchase a license from outside of Southfield. The one license that remains is the only one the City has to use as an enticement to bring a major development into the city.

Ms. Yohannes responded that major developments have money and can afford to buy a license from outside. In December she was told there were no other applicants and now others have applied.

Councilman Frasier replied that she had not yet heard from anyone because Council only received the information tonight. There is only one quota license and the City will do the best it can to determine who should receive the license.

Councilman Lattimore noted that a second license recently became available. Others who have asked for a license have been given the same response and some have chosen to apply for it.

Ms. Yohannes stated that four years ago she was denied and Uptown Eatery and Beans & Cornbread were approved. Now, she has to compete against new applicants.

Council President Fracassi replied that it is not unusual to run into this type of situation. The City is not trying to hurt her or her business. Liquor licenses are very scarce and every city would like more restaurants.

Ms. Banks noted that Ms. Yohannes has not applied for a liquor license. Ms. Yohannes answered that she will apply when she is more certain she will be approved.

Council President Fracassi replied that the Council cannot vote on an application that is not filed.

Ms. Banks stated that when someone requests an application they are told how many licenses are available and that Council reserves one license for the Town Center area. If they choose, they may submit an application along with the \$1500 fee and it will go before Council for a vote. Someone applied a few weeks ago, knowing the risk, and are being put thru the system. It has been four years since Ms. Yohannes applied and the Police Department will want to do a new investigation.

Councilwoman Jordan stated that it does not seem fair to make her submit a new one if she won't be approved.

Council President Fracassi replied that maybe Council can consider a new rule which allows those applicants who are denied to remain on the list.

Councilman Lattimore responded that no city pre-approves an application. He doesn't think the LCC will approve either.

Ms. Banks replied that the LCC gives their approval first.

Next on the agenda was a request for a gaming license from The African Nation.

Ms. Banks stated that the request from The African Nation was brought before Council at the last meeting however, due to a miscommunication regarding attendance no one from the organization attended the meeting.

William Sims, 19785 Twelve Mile, Southfield, was present to answer questions regarding The African Nation.

Mr. Beras stated that local organizations that are not affiliated with the a state or national organization must be recognized by the local community where their principal activities are conducted. He asked Mr. Sims if he has any employees and whether they work in any other community.

Mr. Sims responded that they primarily work in Southfield but they also work in Detroit.

Councilman Frasier asked Mr. Sims what services the organization provides. Mr. Sims stated that they provide jobs to African-American youth and career guidance.

Councilman Frasier asked where they get their applicants. Mr. Sims responded that they are currently trying to raise capital and are working to form classes.

Councilman Frasier stated that past requests have come from groups with a track record. He doesn't want to impede Mr. Sims success but would like to see some results after the fundraising is complete. Mr. Sims replied that he trained young men in the heating and cooling business for twenty years. He has a track record in that respect.

Councilman Lattimore stated that other groups have been before Council that no one has ever heard of and they were approved. He appreciates the concern but does not understand why Mr. Sims is being grilled. It's a new organization and they are in need of funds.

Councilwoman Seymour replied that the IRS issued the group a 501(c)(3) which requires them to file reports with the IRS. Even though the group is new there is a plan in place.

C-37-2009 Motion by Jordan; seconded by Lattimore.

RESOLVED: that pursuant to Section 10 of the Rules of Procedure adopted by the Southfield City Council on February 23, 1998, Council hereby determines that there is an immediate need to act.

Motion passed unanimously.

C-38-2009 Motion by Jordan; seconded by Lattimore.

RESOLVED: that Council does hereby recognize The African Nation as a non-profit organization operating in the City of Southfield.

Motion passed unanimously.

Next was the appointment of the Deputy City Attorney.

Mr. Beras stated that the most important qualification of a deputy is the ability to step in when the Department Head is out of the office. Susan Ward-Witkowski has proven she can handle it over the past eight months. She has been performing the work for quite some time. There is no one more deserving. She has worked two jobs for the past six months. He asked that the appointment of Susan Ward-Witkowski be put on the agenda for the Regular Meeting of May 11, 2009. He also requested that she maintain the salary that was established when she became Acting City Attorney.

Councilman Frasier asked if Ms. Ward-Witkowski's salary had reverted back as of yet. Mr. Beras replied it had not yet reverted back but if Council waits until next week to approve the appointment than it would be retroactive.

Mayor Lawrence asked if Mr. Beras was committing to not filling the vacancy created. Mr. Beras replied that no vacancy is being created, there is only a change in her title.

Mayor Lawrence expressed concern that her increase is consistent. Mr. Scharret replied that the allotment was the recommendation of the Human Resources Department.

Mayor Lawrence replied that the City is not known to give 15%. She asked that the City validate that it is in compliance with the City's standard practice. Mr. Scharret replied that he believes there is precedence.

Councilwoman Seymour responded that there are exceptions. This increase is in recognition of what she has done for many years.

Council President Fracassi asked Mr. Scharret to get the information from Human Resources that the Mayor requested. He stated that not many attorneys would do what she does for her salary. She is very diligent in what she does. Mayor Lawrence replied that if there is leeway for a performance raise she deserves it.

C-39-2009 Motion by Jordan; seconded by Seymour.

RESOLVED: that pursuant to Section 10 of the Rules of Procedure adopted by the Southfield City Council on February 23, 1998, Council hereby determines that there is an immediate need to act.

Motion passed unanimously.

C-40-2009 Motion by Jordan; seconded by Seymour.

RESOLVED: that the appointment of Sue Ward-Witkowski as Deputy City Attorney is hereby confirmed, effective May 4, 2009, to be established as a Management Position Grade 'S', at the employee's current salary established during her acting capacity.

Motion by passed unanimously.

Councilman Siver asked that the Regular Meeting (conducted as a Committee-of-the-Whole) scheduled for July 6, 2009 be changed to June 29, 2009.

C-41-2009 Motion by Lattimore; seconded by Frasier.

RESOLVED: that pursuant to Section 10 of the Rules of Procedure adopted by the Southfield City Council on February 23, 1998, Council hereby determines that there is an immediate need to act.

Motion passed unanimously.

C-42-2009 Motion by Siver; seconded by Lattimore.

RESOLVED: that Council does hereby change the Regular Meeting (conducted as a Committee-of-the-Whole) scheduled for July 6, 2009 to June 29, 2009.

Motion passed unanimously.

Councilman Lantz stated that last week the owner of the Holiday Inn did some work on the first floor of the hotel without a permit and the Building inspectors closed him down. They have spent \$500,000 on renovations. The Wyndham is coming to Southfield.

Council President Fracassi replied that the hotel was closed down because they tore down the firewalls.

Councilman Lantz responded that the owner should have been given thirty days to fix the problem instead of just closing him down. As a result the Wyndham may not come here.

Councilman Lattimore agreed with Councilman Lantz. He was there about a month ago. The firewall was in the restaurant. Two deals for the restaurant and nightclub have fallen through. Those areas have been closed off. There should be some type of protocol for issuing a temporary Certificate of Occupancy to keep the hotel operating. Otherwise, the City could end up with an empty building.

Councilman Siver replied that he was there last week for a breakfast meeting. They are struggling. The work that has been finished is really nice.

Council President Fracassi asked Mr. Scharret to look into the situation.

Councilman Frasier stated that a couple weeks ago Council asked the Boards & Commissions Committee to look at the Millennial Mayors Congress and decide whether the City should appoint a representative. The Boards & Commissions Committee discussed the matter at their last meeting and agreed to support trying it for one year and then take another look at it. On May 14th the MML is holding a program on how to attract 18-35 year olds into the community. He would like to attend the MML program prior to designing a program to attract them.

Councilwoman Seymour asked if Council could get updates on their progress so there is a basis on which to evaluate it.

Councilman Frasier replied that the MSA (Michigan Suburbs Alliance) has indicated that they would do the work and would advertise it.

Councilwoman Jordan asked if the establishment of a Youth Commission would wait until after the MML program. Councilman Frasier replied that Councilwoman Jordan was correct. He stated that someone needed to contact the MSA. The Council should make the selection but the MSA can advertise it.

Councilman Siver asked how the City would advertise for this position. The deadline is June 1, 2009. The City needs to get the word out that applications are being accepted.

Council President Fracassi recommended that a press release be done. Mayor Lawrence replied that the MSA will do the press release. The City can have the applicants apply at City Hall.

Mayor Lawrence presented the 2009-2010 budget. She stated that the budget is reflective of the promises made and kept which enables the City to enter the new fiscal year from a position of strength. She asked that Council adopt a new five-year plan. The City is much stronger because of the previous five-year plan. The City needs to step up on the green initiative. It will help reduce costs and help take care of the environment. Curb appeal is a priority with the creation of summer jobs for the youth that are funded by new grant money. The expanded summer appearance program is a seven day a week intense effort under the direction of Code Enforcement. The City is not maximizing technology and the budget needs to support that effort. Existing staff needs to have the skills to maximize the technology available. One of the appraisers will be taking a disability retirement. There are currently no residential appraisals being done. The Assessing Department needs additional staffing.

Councilman Lattimore applauded the Mayor for her comments regarding staffing and technology. The budget deficit may be less than was originally thought. The City needs to make the tough decision to cut back where necessary. If the City doesn't do it this year, it will have to be done next year.

Council President Fracassi thanked the Mayor for presenting the 2009-10 budget.

There being no further business, the Regular Meeting of May 4, 2009 (conducted as a Committee-of-the-Whole) adjourned at 10:00 p.m., until the next Regular Meeting on May 11, 2009, in the Council Chambers of the Municipal Building, 26000 Evergreen Road, Southfield, Michigan.

Donald Fracassi, Council President

Nancy L. M. Banks, City Clerk