



**CITY OF WALLED LAKE
REGULAR COUNCIL MEETING
(ELECTRONIC MEETING PLATFORM)
TUESDAY, JUNE 15, 2021
7:30 P.M.**

The Meeting was called to order at 7:30 p.m. by Mayor Ackley.

ROLL CALL Mayor Ackley, Mayor Pro Tem Ambrose, Council Member Fernandes, Council Member Lublin, Council Member Owsinek, Council Member Woods

There being a quorum present, the meeting was declared in session.

City Council members announcing their attendance for meeting within Oakland County, Michigan.

OTHERS PRESENT City Manager Whitt, Confidential Assistant Jaquays, Assistant City Manager Pesta, Police Chief Shakinias, Fire Chief Coomer, City Attorney Vanerian, Deputy City Clerk Gross, and City Clerk Stuart

CM 6-1-21 MOTION TO EXCUSE COUNCIL MEMBER LOCH FROM TONIGHT'S MEETING

Motion by Lublin, seconded by Ambrose: UNANIMOUSLY CARRIED: To excuse Council Member Loch from tonight's meeting.

REQUESTS FOR AGENDA CHANGES

Council Member Woods advised he has a recertification class he must attend for work, and he will be leaving the meeting early depending on how long the meeting goes.

AUDIENCE PARTICIPATION None

APPROVAL OF THE MINUTES

1. Regular Council Meeting May 19, 2021

CM 6-2-21 MOTION TO APPROVE REGULAR COUNCIL MEETING MINUTES OF MAY 19, 2021

Motion by Owsinek, seconded by Woods, UNANIMOUSLY CARRIED: To approve regular council meeting minutes of May 19, 2021.

COUNCIL REPORT

1. Public Safety Campus Expansion Committee – Progress Report Councilman Owsinek – Committee Member

Council Member Owsinek explained that the project is a work in progress depending on and predicated primarily upon the availability of the contractors to facilitate the work.

2. Mayor Pro Tem/DDA Chairman Ambrose report of DDA

Mayor Pro Tem Ambrose said he attended the ribbon cutting ceremony for Bazonzoes the third and final provisioning center within the City. Mayor Pro Tem Ambrose said unless some outside organization gets on the ballot again and tries to push for eight more, the residents hopefully pay attention to the language on the ballot. Mayor Pro Tem Ambrose explained the board also discussed Oakland County's Covid 19 grant program for restaurants and there is still funding available grant applications are due by the end of the month. Mayor Pro Tem Ambrose explained the ADA compliance along E. Walled Lake Drive and parking were discussed. Mayor Pro Tem said there are city Events this weekend downtown with the annual Beach Party, classic car shows the second Friday in June, July and August, and the ribbon cutting ceremony the prior weekend at the Segway store with Mr. John Smith and the promotion of the pedaway electric bicycle. Mayor Pro Tem Ambrose said this weekend's beach party will have pet rescue's, artist fairs, a tour of the Banks Dolbeer Foster Farmhouse, meet and greet with hockey player Darrin McCarty and Detroit Lions Calvin Johnson and Rob Sims.

CITY MANAGER REPORT

1. Departmental / Divisional Statistical Reports

- a. Police
 - b. Fire
 - c. Finance
- Warrant

CM 6-3-21 MOTION TO RECEIVE AND FILE THE DEPARTMENTAL / DIVISIONAL STATISTICAL REPORTS

Motion by Ambrose, seconded by Fernandes, UNANIMOUSLY CARRIED: To receive and file the departmental / divisional statistical reports.

Roll Call Vote

Ayes (7)	Lublin, Owsinek, Woods, Ambrose, Fernandes, Ackley
Nays (0)	
Absent (1)	Loch
Abstain (0)	

CORRESPONDENCE None

CITY ATTORNEY REPORT

1. Memo Recent Developments on Litigation Matters

City Attorney Vanerian explained there have been recent litigation matters he wanted to update council on. Attorney Vanerian said the first case concerns the declaratory relief action that has had a declaratory ruling regarding the amendment to section 4.7 of the City Charter that appeared on the November 2020 General election ballot. Attorney Vanerian said this amendment purported to effectuate a voter removal of the current city manager who is under contract with the city through January 21, 2025. Attorney Vanerian explained the initiatory charter amendment was sponsored by a former unsuccessful council candidate. Attorney Vanerian explained all charter amendments are required to be reviewed by both the Attorney General and Governor's Office before the proposed ballot questions are placed on the ballot. Attorney Vanerian explained both of those reviews took place and both the Attorney General and Governor's Office found the proposed charter amendment invalid due to noncompliance with state law requirements. Attorney Vanerian explain, however, because the proposal was initiatory sponsored it had to go on the ballot. Attorney Vanerian explained the proposal was placed on the ballot and did receive more yes than no votes therefore a declaratory relief action was filed to seek a legally binding ruling from the court regarding the validity or invalidity of the amendment. Attorney Vanerian explained the case was assigned to Judge Kumar. Attorney Vanerian explained Judge Kumar held a hearing at an open court session on the merits of the various legal issues that were involved. Attorney Vanerian explained Judge Kumar found this amendment invalid essentially for the same reasons both the Attorney General and Governor's Office did, specifically declaring the charter amendment was invalid in its entirety as applied to the current city manager. Attorney Vanerian explained the proposed charter amendment has been reviewed by three high ranking state officials at various branches of state government and all three officials have ruled it invalid.

City Attorney Vanerian explained the second case is BDS vs City of Walled Lake. Attorney Vanerian said this denied marijuana applicant filed against the city as an appeal of the City Council's decision to uphold the administrative decision to deny BDS site plan application approval for a medical marijuana provisioning center. Attorney Vanerian explained this case was heard by Judge Nancy Grant of the Oakland County Circuit Court. Attorney Vanerian explained the case was thoroughly briefed by both sides, with an extensive administrative record of over 1500 pages concerning the administrative action that was taken on the BDS application against the city. Attorney Vanerian said Judge Grant, after considering all this voluminous material ultimately denied BDS's appeal and affirmed City Council's decisions to uphold the administrative denial of BDS's site plan application on November 11, 2020.

City Attorney Vanerian explained BDS then filed an application seeking leave to appeal Judge Grants decision with the Michigan Court of Appeals. Attorney Vanerian explained

on June 2, 2021 there was once again an extensive briefing by both sides at the appellate court level and the court ruled affirming the circuit court's decision to uphold the city's decision to deny BDS's application. Attorney Vanerian explained the application for leave to appeal is denied for lack of the grounds presented. Attorney Vanerian explained there is another pending Circuit Court case that BDS filed, and it is assigned to Judge Morris regarding its alleged damages arising out of the city's allegedly wrongful denial of BDS's site plan application. Attorney Vanerian explained this case is being addressed by the City's liability carrier, Michigan Municipal Risk Management Authority, and outside counsel. Attorney Vanerian explained based on the appellate rulings the city properly denied BDS's provisioning center application therefore has not suffered any damages on behalf of the city's decision of denial.

Mayor Ackley said congratulations on the work of City Attorney Vanerian and outside attorneys working on these items.

2. Memo Proposed Amendments to Section 5.1 of City Charter

City Attorney Vanerian explained there are three charter amendment proposals for the November 2, 2021 ballot that would amend the eligibility requirements to serve as an elective or appointive city officer.

City Attorney Vanerian explained proposal A. City Attorney Vanerian explained the City Charter contains eligibility requirements for residency however over the years during his tenure the city has had several issues regarding these residency requirements. Attorney Vanerian explained the lack of definition has been problematic for the city. Attorney Vanerian explained if approved by the voters it would clarify the residency requirements, adopting a specific definition of residence.

City Attorney Vanerian explained proposal B would prohibit officers from holding dual offices in the city. Attorney Vanerian explained the city enters agreements with entities including interlocal agreements. Attorney Vanerian said if there is a decision maker, whether it is an elected official or an appointed official with the city who is also being paid by one of the entities or communities that the city is seeking to partner with that creates an obvious conflict of interest. Attorney Vanerian explained this proposal creates an eligibility requirement that would prohibit people from doing dual office sitting.

City Attorney Vanerian explained proposal C prohibits individuals from serving in office who have been removed from office, those individuals who historically have shown they do or did not properly perform the duties of office through malfeasance would not be eligible to run for office.

City Attorney Vanerian explained these proposed charter amendments are to be placed before the voter, City Council cannot change or amend the City Charter in any way. Attorney Vanerian explained City Council can place questions or proposals on the ballot and the voters ultimately decided to adopt or not adopt.

**CM 6-4-21 MOTION TO APPROVE RESOLUTION 2021-67 A
RESOLUTION OF THE CITY COUNCIL APPROVING
PROPOSED AMENDMENT TO SECTION 5.1 OF THE
CITY CHARTER AND FORMAT THAT CHARTER
AMENDMENT PROPOSAL: PROPOSAL A ELIGIBILITY
FOR OFFICE IN THE CITY TO APPEAR ON THE
NOVEMBER 2, 2021
BALLOT**

Motion by Owsinek, seconded by Lublin, UNANIMOUSLY CARRIED: Motion to approve resolution 2021-67 a resolution of the City Council approving proposed amendment to Section 5.1 of the City Charter and format that Charter amendment proposal; Proposal A Eligibility for Office in the City to appear on the November 2, 2021 ballot

Roll Call Vote

Ayes (7) Lublin, Owsinek, Woods, Ambrose, Fernandes, Ackley
Nays (0)
Absent (1) Loch
Abstain (0)

**CM 6-5-21 MOTION TO APPROVE RESOLUTION 2021-68 A
RESOLUTION OF THE CITY COUNCIL APPROVING
PROPOSED AMENDMENT TO SECTION 5.1 OF THE
CITY CHARTER AND FORMAT THAT CHARTER
AMENDMENT PROPOSAL: PROPOSAL B ELIGIBILITY
FOR OFFICE IN THE CITY TO APPEAR ON THE
NOVEMBER 2, 2021 BALLOT**

Motion by Lublin, seconded by Woods, UNANIMOUSLY CARRIED: Motion to approve resolution 2021-68 a resolution of the City Council approving proposed amendment to Section 5.1 of the City Charter and format that Charter amendment proposal; Proposal B Eligibility for Office in the City to appear on the November 2, 2021 ballot

Roll Call Vote

Ayes (6) Owsinek, Woods, Ambrose, Fernandes, Owsinek, Ackley
Nays (0)
Absent (1) Loch
Abstain (0)

**CM 6-6-21 MOTION TO APPROVE RESOLUTION 2021-69 A
RESOLUTION OF THE CITY COUNCIL APPROVING
PROPOSED AMENDMENT TO SECTION 5.1 OF THE
CITY CHARTER AND FORMAT THAT CHARTER
AMENDMENT PROPOSAL: PROPOSAL C ELIGIBILITY
FOR OFFICE IN THE CITY TO APPEAR ON THE
NOVEMBER 2, 2021 BALLOT**

Motion by Lublin, seconded by Fernandes, UNANIMOUSLY CARRIED:
Motion to approve resolution 2021-69 a resolution of the City Council approving
proposed amendment to Section 5.1 of the City Charter and format that Charter
amendment proposal; Proposal C Eligibility for Office in the City to appear on
the November 2, 2021 ballot

Roll Call Vote

Ayes (6) Woods, Ambrose, Fernandes, Lublin, Owsinek, Ackley
Nays ()
Absent (1) Loch
Abstain ()

3. Memo Western Oakland County Transportation Authority (WOTA)

City Attorney Vanerian explained Walled Lake is a voting member of the Western Oakland County Transportation Program (WOTA). WOTA provides a bus service in the City of Walled Lake. WOTA administers all the services, personnel, and utilizes all of the city’s transportation assets that it has ordered to provide that service. WOTA has proven to be a very beneficial service to the city. WOTA has greatly improved administration’s productivity by having an independent entity that specializes in this service to the city residents. WOTA wants to reform the authority under a different state statue, to apply for federal transportation funding. Under the current system WOTA does not qualify for this funding. Attorney Vanerian explained he reviewed the interlocal agreement of the new recognized authority, it consists of same members, provisions are nearly word for word identical that the city is already a party to.

Attorney Vanerian explained the main difference is the taxing power. Attorney Vanerian explained WOTA would not be able to levy any tax in the City of Walled Lake. Attorney Vanerian said any millage would have to be approved by the voters as well as council. Attorney Vanerian said the other main difference concerns the way council would withdraw from the newly organized authority. Under the current agreement the city can withdrawal from the authority providing it gives 90 days advance written notice. There is currently not a great deal of impediment from withdrawing from current organization.

Attorney Vanerian explained under the new WOTA Authority it would be hard to withdraw after December 31, 2021. The council would have to withdraw and the WOTA

board would have to approve the withdrawal. Attorney Vanerian explained making a long-term commitment is not risky in an operational sense. Attorney Vanerian said the difficulty is with the funding. The city meets its funding obligations to WOTA through the transportation millage which is due to expire end of this year. It is likely to be on the ballot on November 2021 for renewal. It will be the same transportation millage and likely be for a similar amount the voters are currently paying. Attorney Vanerian explained council will not know if the millage is renewed until after the November 2021 election which comes after the date of the current agreement. Attorney Vanerian explained if the city decided to join the new authority, it could withdraw by October 31st with written notice, the city would be out of the agreement and WOTA has no legal ability to keep the city in. Attorney Vanerian explained October 31, 2021 comes before the November 2, 2021 election, again council will not know if the funding will be there to meet the funding obligation to WOTA. Attorney Vanerian recommended to shorten the sixty days to thirty days, which gives until December 1, 2021, to still have the ability to withdraw from WOTA without WOTA begin able to say no to that. City Attorney Vanerian asked if there was WOTA representative present this evening.

Finance Director Pesta introduced WOTA Director Kim Viener.

Director Viener said she has been running the program since 2014. Ms. Viener said WOTA was first formed January 2020, the City of Walled Lake was brought in under Highland Township as a subrecipient because the Highland Township contract did not expire until well into 2020. Ms. Viener explained at the beginning of 2021, the city came on as a full-fledged member with voting status. Ms. Viener said the new contract for the authority still has the same exiting method as the initial agreement. Ms. Viener explained the city can cancel any time through 2021 and the city will not be obligated into 2022. Ms. Viener said once 2022 starts the city has to provide a 90-day notice to withdraw. Ms. Viener explained part of the 196 Authority provides that all communities have to vote unanimously for a millage and then it has to go before any necessary boards of its members for it to be a taxation. Ms. Viener said if WOTA were an authority, it can counter the Regional Transportation Authority (RTA) and the RTA plans to come back as a ballot proposal which in the past they had lost. Ms. Viener explained the WOTA board cannot stop the RTA completely, because WOTA cannot counter the RTA. Ms. Viener explained Oakland County is talking about a 5-mil millage. Ms. Viener said WOTA can turn around and run the current program for 1 to 1.5 mills. The RTA may place a 2, 3, 4 or 5 mil millage on the taxpayers and that is not WOTA's goal. Ms. Viener said if WOTA had to it could operate with a 1 to 1.5 millage.

Ms. Viener explained if WOTA does not become an authority they will continue to get the crumbs of the RTA and SMART. Ms. Viener said this is a big step to get more federal funding resources through grants and the state, it is not to tax Walled Lake. This money will help replace aging vehicles to provide reliable transportation for its riders. Ms. Viener said WOTA is asking for approval to move forward with the 196 Article of Incorporation.

Finance Director Pesta explained the city has been in conversations with WOTA for some time and the recommendation is to continue with WOTA.

Mayor Ackley clarified if the November 2021 millage proposal failed, the city still had option to exit from WOTA.

City Attorney Vanerian explained under the agreement the city has to give WOTA sixty days written notice prior to December 31, 2021 which puts council at an October 31, 2021 deadline which is before November 2, 2021 election. Attorney Vanerian said that is the problem with the agreement. He explained if a thirty-day notice can be given prior to the expiration, then council would know if the millage is renewed or not. If the agreement stays the way it is right now, council must notify WOTA by October 31st which is before the election. Mr. Vanerian explained if council did not provide WOTA written notice by October 31st, then the council is committed for four more years. Attorney Vanerian said that is a potential problem because if the millage is not renewed the funding source is not renewed. Attorney Vanerian explained the initial term of this agreement on the effective date ends December 31, 2021. After the initial term, the term would then be a four-year period. Attorney Vanerian explained to withdraw pursuant to 196 Article, council would have to ask WOTA for permission to withdraw, it would then be up to WOTA to grant permission.

Council Member Lublin asked how much we are contributing each year.

City Attorney Vanerian explained it is about \$130,000. Finance Director Pesta confirmed figure.

Council Member Lublin asked if drafted resolution allowed council to cancel out if millage not approved in November 2021.

City Attorney Vanerian explained the resolution in packet is from WOTA including sixty days not a thirty-day notice.

City Attorney Vanerian explained council can also decide to approve resolution contingent upon changing the sixty days to thirty days and review of revised agreement by city attorney.

CM 6-7-21 MOTION TO APPROVE RESOLUTION 2021-70 A RESOLUTION TO APPROVE AMENDMENT OF THE INTERLOCAL AGREEMENT WITH THE WESTERN OAKLAND TRANSPORTATION AUTHORITY FOR FORMATION OF AN ACT 196 AUTHORITY AND TO ADOPT ARTICLES OF INCORPORATION CONTINGENT UPON THE SIXTY DAY ADVANCE NOTICE BEING CHANGED TO THIRTY DAYS AND SUBJECT TO REVIEW AND APPROVAL OF A REVISED AGREEMENT BY THE CITY ATTORNEY

Motion by Lublin, seconded by Woods: UNANIMOUSLY CARRIED: To approve resolution 2021-70 a resolution to approve amendment to the interlocal agreement with the Western Oakland Transportation Authority for formation of an Act 196 Authority and to adopt Articles of Incorporation contingent upon the sixty-day advance notice being changed to thirty days and subject to review and approval of revised agreement by the City Attorney.

Discussion

Mayor Ackley asked if millage approved in November how long is the millage for.

City Attorney Vanerian explained probably four years same as last proposal, but proposal language is not available yet to confirm.

Roll Call Vote

Ayes (6) Ambrose, Fernandes, Lublin, Owsinek, Woods, Ackley
Nays (0)
Absent (1) Loch
Abstain (0)

UNFINISHED BUSINESS None

NEW BUSINESS

1. Proposed Resolution 2021-71 Budget Appropriations for Fiscal Year 2022

**CM 6-8-21 MOTION TO APPROVE RESOLUTION 2021-71 A
RESOLUTION ADOPTING THE OPERATING AND
CAPITAL BUDGET APPROPRIATION OF FUNDS AND
LEVY OF TAXES FOR FISCAL YEAR JULY 1, 2021 –
JUNE 30, 2022**

Motion by Owsinek, seconded by Ambrose, UNANIMOUSLY CARRIED: To approve resolution 2021-71 a resolution adopting the operating and capital budget appropriations of funds and levy of taxes for fiscal year July 1, 2021-June 30, 2022.

Roll Call Vote

Ayes (6) Fernandes, Lublin, Owsinek, Woods, Ambrose, Ackley
Nays (0)
Absent (1) Loch
Abstain (0)

2. Proposed Resolution 2021-72 Budget Amendment for Fiscal Year 2021

CM 6-9-21 MOTION TO APPROVE RESOLUTION 2021-72 A RESOLUTION AMENDING THE OPERATING AND CAPITAL BUDGET APPROPRIATION OF FUNDS FOR FISCAL YEAR 2020-21

Motion by Lublin, seconded by Woods, UNANIMOUSLY CARRIED: To approve resolution 2021-72 a resolution amending the operating and capital budget appropriations of funds for fiscal year 2020-21.

Roll Call Vote

Ayes (6) Lublin, Owsinek, Woods, Ambrose, Fernandes, Ackley
Nays (0)
Absent (1) Loch
Abstain (0)

3. Proposed Resolution 2021-73 Community Development Block Grant Cooperation Agreement PY-21-23

CM 6-10-21 MOTON TO APPROVE 2021-73 A RESOLUTION TO PARTICIPATE IN OAKLAND COUNTY'S URBAN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FOR THE YEARS 2021, 2022 AND 2023

Motion by Owsinek, seconded by Lublin, UNANIMOUSLY CARRIED: To approve resolution 2021-73 a resolution to participate in Oakland County's Urban County Community Development Block Grant (CDBG) for the years 2021, 2022 and 2023.

Roll Call Vote

Ayes (5) Lublin, Owsinek, Ambrose, Fernandes, Ackley
Nays (0)
Absent (1) Wood, Loch
Abstain (0)

COUNCIL COMMENTS

Council Member Owsinek said there have been a few people who have advance the Foster Farmhouse Banks Dolbeer House. Council Member Owsinek named Jefferson Art Lighting Company who donated two chandeliers to the Foster Farmhouse and Ms. Dita

Redman who provided significant painting of the interior parlor area. Council Member Owsinek recommended council provides letters of recognition to them.

CM 6-11-21 MOTION TO SEND LETTERS OF RECOGNITION TO BE SENT TO MR. TERI JEFFERSON AND MS. DITA REDMOND FOR THEIR EFFORTS WITH THE ENHANCEMENT OF THE BANKS DOLBEER FOSTER FARMHOUSE

Motion by Ambrose, seconded by Fernandes, UNANIMOUSLY CARRIED: To send letters of recognition to be sent to Mr. Teri Jefferson and Ms. Dita Redmond for their efforts with the enhancement of the Banks Dolbeer Foster Farmhouse.

Roll Call Vote

Ayes (5) Ambrose, Fernandes, Lublin, Owsinek, Ackley
Nays (0)
Absent (1) Wood, Loch
Abstain (0)

Council Member Fernandes explained she has had conversations with residents telling her there is nothing going on in Walled Lake. Council Member Fernandes said there are several activities at the waterfront downtown in particular this weekend including an art show and fireworks. Council Member Fernandes said the library has programs all the time and there are summer concerts in the park running June, July, and August on Wednesdays. Council Member Fernandes said this is a great city and we do have a lot going on she encouraged communication from residents.

Council Member Lublin said he is happy to see the infrastructure activities throughout the city and he is proud of the team efforts.

Mayor Pro Tem Ambrose thanked the businesses, city employees, and administration, Walled Lake Civic Fund, and Mr. Jerry Millen Greenhouse providing a third barge to the firework display. Mayor Pro Tem Ambrose said it will be outstanding.

MAYOR’S REPORT

- 1. **Proposed Resolution 2021-74 Accepting Mayor’s nomination of John Smith to the Downtown Development Authority Board**

CM 6-12-21 MOTION TO APPROVE RESOLUTION 2021-74 A RESOLUTION ACCEPTING THE MAYOR’S NOMINATION TO FILL A POSITION THE DOWNTOWN DEVELOPMENT AUTHORITY BOARD PURSUANT TO THE REQUIREMENTS OF THE CITY CHARTER;

**MAKING AN APPOINTMENT TO THE DOWNTOWN
DEVELOPMENT AUTHORITY BOARD FOR AN
UNEXPIRED
TERM**

Motion by Ambrose, seconded by Fernandes, UNANIMOUSLY CARRIED:
Motion to approve resolution 2021-74 a resolution accepting the Mayor’s
nomination to fill a position on the Downtown Development Authority Board
pursuant to the requirements of the City Charter; making an appointment to the
Downtown Development Authority Board for an unexpired term.

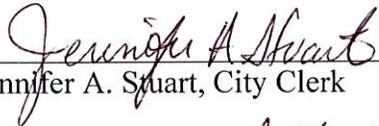
Roll Call Vote

Ayes (5) Ambrose, Fernandes, Lublin, Owsinek, Woods, Ackley
Nays (0)
Absent (2) Woods, Loch
Abstain (0)

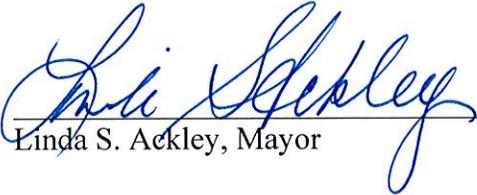
Mayor Ackley explained she hopes everyone shows up for the summer festival and fireworks. The improvement downtown is great.

ADJOURNMENT

Meeting adjourned at 8:45 p.m.



Jennifer A. Stuart, City Clerk



Linda S. Ackley, Mayor

approved 8/17/21

History: Chapter 6, The Council: Procedure and Miscellaneous Powers and Duties: *Section 6.7 (a) A journal of the proceedings of each meeting shall be kept in the English language by the Clerk and shall be signed by the presiding officer and Clerk of the meeting.*