

City of Allen Park Regular Council Meeting Minutes
Tuesday, February 8, 2011 – 7:00 PM

Mayor Gary Burtka called the Meeting to order at 7:00 PM

Roll Call showed present: Mayor Pro-Tem Felice A. Lalli, Councilman Francesco V. Tucci, Councilwoman Kelley, Councilman Kevin A. Rourke, Councilman Kyle Tertzag and Councilman James A. Flynn.

Also present: City Administrator Eric Waidelich, City Attorney Patrick Kruse and City Clerk Michael I. Mizzi

Motion by Tucci

Supported by Kelley

RESOLVED, to approve corrections/approval of the agenda for February 8, 2011

MOTION ADOPTED – 11-0208-0027

Motion by Lalli

Supported by Rourke

RESOLVED, to approve the regular Council meeting minutes of January 25, 2011

MOTION ADOPTED – 11-0208-028

Motion by Lalli

Supported by Tucci

RESOLVED, to approve the special Council meeting minutes of January 28, 2011

MOTION ADOPTED – 11-0208-029

Motion by Kelley

Supported by Lalli

RESOLVED, to approve claims and accounts in the amount of \$2,515,100.94

MOTION ADOPTED – 11-0208-030

Motion by Lalli

Supported by Kelley

RESOLVED, to approve consent agenda item as follows:

A. Request to approve curb side pickup license from Roosevelt Williams of R.W. Savage and Scrap Co., #2011-4 (approved by the Police department)

B. Request to approve curb side pickup license from Benito Juarez of B.J.'s Scrap, #2011-5 (approved by the Police department)

MOTION ADOPTED – 11-0208-031

Motion by Lalli

Supported by Rourke

RESOLVED, WHEREAS, the Downriver Community Conference (DCC), a consortium of twenty Downriver communities in Wayne County whose total population exceeds 500,000, has joined in an effort to improve local government and enhance the quality of life for area residents through municipal cooperation; and

WHEREAS, all local governments participating in the DCC are experiencing a continuing loss of Property Tax revenue and yet continue to have responsibility for the health, safety, and welfare of their residents; and

WHEREAS, statutory changes enacted as part of Proposal A will prohibit local governments from receiving the full annual increase in property tax revenue from future increases in property values, and

WHEREAS, revenue sharing income is essential for the continued provision of vital public safety services; and

WHEREAS, local governments have already had imposed upon them hundreds of millions of dollars in reductions in state revenue sharing in recent years; and

WHEREAS, communities will be unable to fund much-needed health and welfare services if such extraordinary cuts in state revenue sharing are made, and

NOW THEREFORE BE IT RESOLVED, that the DCC Board of Directors opposes any further cuts in state Revenue Sharing, and urges that, if any cuts are made to Statutory Revenue Sharing the lost revenue be replaced by the State from another State revenue source.

BE IT FURTHER RESOLVED that a copy of this resolution also be sent to Governor Snyder, our State Legislators, and the Conference of Western Wayne.

MOTION ADOPTED – 11-0208-032

Motion by Tertzag

Supported by Lalli

RESOLVED, WHEREAS, the Downriver Community Conference (DCC), a consortium of twenty Downriver communities in Wayne County whose total population exceeds 500,000, has joined in an effort to improve local government and enhance the quality of life for area residents through municipal cooperation; and

WHEREAS, Property Tax and Personal Property Tax are Michigan's oldest form of taxation and, as such, have contributed greatly to the growth and success of Michigan by allowing local governments to provide essential services and attract investment; and

WHEREAS, Michigan chose to base all Property Tax on a market value basis which resulted in the need for Personal Property Taxes as a tool to balance the tax burden between classes of property because many unique industrial and commercial properties negated a sales analysis method of establishing "Market Value"; and

WHEREAS, Competitiveness is not a justification for eliminating the Michigan Property Tax Law since 35 other states have Personal Property Taxes similar to Michigan and five others have Personal Property Taxes with specific exemptions, and

WHEREAS, The elimination of Personal Property Taxes will lead to debate over what is or is not Real Property, resulting in a new administrative burden falling on local governments at a time when state action will have dramatically reduced their revenue; and

WHEREAS, local governments have already had imposed upon them hundreds of millions of dollars in reductions in state revenue sharing in recent years coupled with an unprecedented loss of revenue due to declining market value in all classes of property; and

WHEREAS, communities will be unable to fund needed health, safety and welfare services if Personal Property Taxes are eliminated without a replacement revenue; and

WHEREAS, SB 34 as introduced and referred to the Senate Finance Committee will have a devastating impact on our members, local government statewide and ultimately the quality of life within our state.

NOW THEREFORE BE IT RESOLVED, that the DCC Board of Directors opposes any effort to eliminate Personal Property Taxes in Michigan without a replacement revenue or a broad and inclusive discussion of statewide tax policy that allows local governments the new revenue opportunities already afforded local governments in 34 other states; and

BE IT FURTHER RESOLVED that a copy of this resolution also be sent to Governor Snyder, our State Legislators, and the Conference of Western Wayne.

MOTION ADOPTED – 11-0208-033

Motion by Kelley

Supported by Tucci

RESOLVED, WHEREAS, on November 4, 2008, Michigan voters approved a ballot initiative regarding legal use of “medical marihuana”; and

WHEREAS, on December 4, 2008, Michigan’s Medical Marihuana Act (MMMA), MCL 333.2641 et seq., took effect; and

WHEREAS, on April 4, 2009, the Michigan Department of Community Health adopted rules to implement the MMMA; and

WHEREAS, there continues to be a great deal of uncertainty among municipalities across the State as to how best to regulate the dispensing of medical marihuana, including litigation over the validity of certain forms of regulation and prohibition; and

WHEREAS, the City Council has determined that it is necessary to further study the matter of medical marihuana and to allow the pending litigation to resolve, in order to insure consistent, cohesive and sensible land use regulation and development in the City; and

WHEREAS, the City Council has determined that during this further study, it would be counterproductive if applications for approvals related to medical marihuana facilities were allowed to move forward; and

WHEREAS, the City Council also recognizes that deferring review of applications for approval related to medical marijuana facilities could result in hardship to some applicants;

THEREFORE, IT IS HEREBY RESOLVED, that the City Council imposes a six month moratorium on consideration or approval of any and all applications of any kind for businesses or facilities related to Medical Marijuana, effective immediately, review of all applications of any kind related to medical marihuana facilities shall be deferred for a period of 180 days, during which there shall be no consideration or action taken by the City, any elected official, any appointed official, or any City employee on any request for any approval related to a medical marijuana facility.

IT IS HEREBY FURTHER RESOLVED that the City Council requests that during this moratorium, the City Attorney, in consultation as necessary with the City Administrator, Building Department, Police Department, Fire Department, and other city departments, monitor the ongoing litigation involving the cities of Livonia, Birmingham and Bloomfield Hills, and advise the Mayor and Council when the litigation is concluded and any impact of the manner in which the litigation is resolved on the MMMA and the applicable rules of the Michigan Department of Community Health.

IT IS HEREBY FURTHER RESOLVED, that during the period of this moratorium, any entity or property owner alleging that the deferred review resulting from the moratorium will result in the denial of all viable economic use of property or would otherwise result in a violation of applicable federal or state constitution or law shall be entitled, upon written application, to a hearing at a regularly scheduled meeting of the City Council. At the conclusion of this hearing, the City Council shall determine whether or not the Petitioner has demonstrated that all viable economic use of the property has been denied by the deferred review, and/or whether or not this resolution on its face or as applied to the Petitioner otherwise violates applicable federal or state constitution or law. If it is demonstrated and found that the deferral has the effect of denying all viable economic use of the property, or that the deferral otherwise violates applicable federal or state constitution or law, the City Council shall grant relief from the moratorium to the extent necessary to cure the violation.

Roll Call Vote Unanimous

MOTION ADOPTED – 11-0208-034

Motion by Kelley

Supported by Lalli

RESOLVED, to approve/extend construction inspection services of Ken P. Buccilli, LLC for the District 1 Tunnel project

MOTION ADOPTED – 11-0208-035

Motion by Lalli

Supported by Rourke

RESOLVED, to extend the current contract with Hartwell Cement Corporation for the 2011 Concrete Repair Program

MOTION ADOPTED - 11-0208-036

Motion by Kelley

Supported by Lalli

RESOLVED, that when the City Attorney has completed collecting the answers to Town Hall Questions, they be made available in the Clerks Office and placed on the City Web Site

MOTION ADOPTED - 11-0208-037

Motion by Kelley

Supported by Rourke

RESOLVED, to adjourn the regular council meeting of February 8, 2011

MOTION ADOPTED – 11-0208-038

Gary J. Burtka – Mayor

Michael I. Mizzi – City Clerk