

COUNCIL PROCEEDINGS

A regular meeting of the Farmington City Council was held on Monday, May 05, 2003 in Council Chambers, 23600 Liberty Street, Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 267-1976.

The meeting was called to order at 8:08 p.m. by Mayor Mitchell.

PRESENT: Bush, Campbell, Harrison, McShane, Mitchell.

ABSENT: None.

OTHERS PRESENT: Clerk/Treasurer Cantrell, Director Goss, Director Gushman, City Manager Pastue, Assistant City Manager Richards, Attorney Schultz.

APPROVAL OF AGENDA

05-03-117 MOTION by Bush, seconded by Campbell, to approved the agenda as submitted. MOTION CARRIED UNANIMOUSLY.

MINUTES OF PREVIOUS MEETING

05-03-118 MOTION by Campbell, seconded by Harrison, to approve the regular and special meeting minutes of April 21, 2003; and special budget meeting minutes of April 28, 2003.

MINUTES OF OTHER BOARDS

05-03-119 MOTION by McShane, seconded by Harrison, to receive and file the minutes of the following Boards and Commissions:

- Traffic and Safety Board minutes of April 17, 2003.
- Planning Commission minutes of April 14, 2003.
- Historical Commission minutes of March 19, 2003.
- Farmington Area Commission on Aging minutes of March 25, 2003.
- Farmington Community Library Board of Trustees minutes of March 13, 2003 and April 10, 2003.
- Commission on the Environment minutes of April 8, 2003.

MOTION CARRIED UNANIMOUSLY.

PETITIONS AND COMMUNICATIONS

REQUEST FOR PORTABLE SIGN AND OUTSIDE SEATING AT ANNA'S CAFÉ & BASKETS, 23622 FARMINGTON ROAD. City Administration advised that Council

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had tabled a decision in January regarding two requests by Anna Mariani, co-owner of Anna's Café & Baskets: the first one for a sign variance to allow use of an A-frame sign in front of her business and the second for outside seating. City Administration recommended that Council approve temporary use of an A-frame sign, but proposed an overall review of the sign ordinance in conjunction with the Main Street Design Committee recommendations. Regarding the request for outdoor seating, City Administration recommended that Council approval should be contingent on the petitioner providing an indemnification agreement and providing the City and Oakland County Road Commission with a certificate of insurance naming them as additional insureds.

Anna Mariani provided pictures of the proposed style and location of outside seating at her business. She asked for specifics on City requirements for outside seating. Responding to a question, Ms. Mariani stated that both the A-frame sign and outside seating would be equally important to her business.

Discussion followed regarding the merit of a projection sign versus an A-frame sign. Ms. Mariani again asked for guidelines regarding signage and inquired about approval for the projecting signs on the Cowley's building.

Council member Harrison noted that these sign and outside seating issues are groundbreaking and that Council will take great care to ensure that new requirements will be both consistent and fair.

Dino Mariani, co-owner of Anna's Café & Baskets, defended the need for marketing options, including A-frame signage and outside seating. He discussed the liability issue regarding outside seating and suggested disparate treatment of businesses by the City. He spoke about the need for the City to be more progressive in attracting customers from outside of Farmington.

Mayor Mitchell noted that public comment is normally not allowed on agenda items, however, he would make an exception.

David Cornwell, representing the owners of the Village Mall where Anna's Café is located, spoke highly of the business and stated his support for the owner's request. He further stated the need for the City to "soften" its image by allowing sidewalk or "café" seating. He spoke about the precedent of bench seating already in place on Farmington Road and cited other downtown locations where the pedestrian right-of-way would be comparable to that at Anna's Café. He further advocated for more signage options.

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Laura Osborne, owner of Spare Parts, spoke in support of Anna's Café and asked Council to take a "leap of faith" in allowing A-frame signage and outside seating pending revision of sign and outside seating requirements..

Council member Campbell confirmed with Ms. Mariani that the purpose of the A-frame sign is temporary advertising only, as opposed to the permanency of a projecting sign.

Responding to a question from resident, Annabelle Gabel, Mayor Mitchell stated that the liability regarding seating at Dagwoods and Starbucks is different from Anna's Café because it is on private property rather than on a City right-of-way.

Julie Grippo, resident, spoke in support of Anna's Café, stating that outside seating would increase the quaintness of the downtown image.

Mr. Mariani commented on the merits of an A-frame sign versus a projecting sign. Responding to a question from Council member Harrison, Mr. Mariani stated that even if projecting signs are approved by Council, he would still like to display an A-frame sign.

Mayor Mitchell called for Council discussion on the signage issue.

Council member Harrison stated his support of a professionally designed A-frame sign.

Council member Campbell clarified that the A-frame sign would be placed in front of the store, close to the building.

Council member McShane expressed her desire to see Farmington businesses succeed, however, she stated her reluctance to approve a variance request that would result in spot zoning. She further stated that according to City Code, there must be a hardship basis for approval of such a variance. She stated her concern that Council is "putting the cart before the horse" in that the Sign Ordinance should first be revisited and, if necessary, changes made before granting individual sign variance requests.

City Attorney Schultz noted that the Sign Ordinance is separate from the Zoning Ordinance. He then read the portion of the Sign Ordinance pertaining to variances.

Council member McShane asked the owners of Anna's Cafe if they could offer a hardship basis for their sign variance request.

Council member Harrison suggested that a "lack of customers" could be defined as a hardship. He further stated that "spot zoning" in this situation would allow the Council to use this as a test case for evaluating the success of this type of signage.

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Responding to a question from Council, City Attorney Schultz stated that in order for Council to grant a sign variance on a hardship basis, the proponent would need to define objective characteristics of her location or business that would make it unique or unusual in structure or use, from other similar businesses.

Council member Bush stated her support for temporary A-frame signage with specific requirements attached. She further stated that these guidelines should be developed as part of an overall review process of the Sign Ordinance. Council member Bush recommended that the City require the proponent to sign an indemnification agreement and provide a certificate of insurance naming both the City of Farmington and the Road Commission for Oakland County as insureds.

Council member Campbell stated that a time limit should be established for the display of the A-frame sign at Anna's Cafe, after which time an evaluation of its effectiveness should be done. He further stated that a motion to approve should be stated in such a way that provides for any future change in sign requirements.

Mayor Mitchell stated that in his opinion if the sign variance request is approved it would not be because of the uniqueness of the business or location but rather because the City is changing its thinking with regard to signage in the Downtown. He further stated that he does not have a problem with granting temporary signage, however, he is reluctant to grant signage or seating in a City right-of-way.

Responding to a question from Council, Ms. Mariani stated she considers her business unique because it is a food establishment and the stairs to the north of the building obstruct the view of her business.

Council member McShane emphasized that she does not object to granting a variance for temporary signage, however, the reasons for such an approval must be those set forth in the sign ordinance.

Mr. Cornwell provided several reasons why Anna's Café is a unique business in a unique location.

Barbara Goins, owner of the Celtic Shamrock, cited the difficulty customers have locating businesses in the Village Mall.

Scott Freeman, resident, questioned why Cowley's projecting sign has not been taken down. He expressed concern that all businesses receive fair and equitable treatment.

Council member McShane stated she would support granting this variance request based on the uniqueness of the business.

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Council member Harrison cited the broader impact of this sign issue and the possible effect future recommendations by the Main Street Design Team might have on sign requirements.

05-03-120 MOTION by McShane, seconded by Bush, to grant a variance to Section 25-13 of the City Code, allowing an A-frame sign, 2' by 1'6", at Anna's Café & Baskets, 23622 Farmington Road, due to the uniqueness and limitations of the building and building location for a food service establishment; to stipulate that the sign be placed at the north entrance to the store; to grant the variance through December 31, 2003; to stipulate that the variance is contingent on Anna's Café & Baskets agreeing to indemnify and hold the City of Farmington and the Road Commission for Oakland County harmless, providing a certificate of insurance naming both the City of Farmington and Road Commission for Oakland County as insureds. MOTION CARRIED UNANIMOUSLY.

Mayor Mitchell called for discussion from City Council regarding the outside seating request from Anna's Café.

Council member Campbell recommended that specific design criteria be developed for outside seating in order to ensure consistency throughout downtown. He further stated that he did not feel prepared to make recommendations regarding style and design.

Council member Harrison agreed that specifications should be established for outside seating. He recommended that the DDA along with the Main Street Design Team identify appropriate styles of outside seating for the Downtown.

Council member Campbell recommended that the establishment of standards for outside seating by the DDA and Main Street Design Team should be a top priority.

Mayor Mitchell noted the potential liability of outside seating on City rights-of-way.

Council member Bush also stated her concern regarding the liability issue and stressed the importance of developing criteria for outside seating. She asked DDA Director Morgan if he could bring back a recommendation regarding outside seating in 30 days. Director Morgan responded that it would take about 60 days given the upcoming meeting schedule of the Main Street Design Team and their work process.

Discussion followed regarding how to proceed with the development of criteria for outside seating.

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City Attorney Schultz spoke about the inherent danger of outside seating and recommended the development of a formal license agreement.

Mayor Mitchell questioned whether an agreement regarding outside seating and temporary signage in a right-of-way would be required by Oakland County. City Attorney Schultz responded that Oakland County would need to be notified and give their approval.

05-03-121 MOTION by Campbell, seconded by Harrison, to direct City Administration and the City Attorney to prepare an agreement that, if accepted by Anna's Café & Baskets and approved by the City Council, would provide for outdoor seating, on a temporary basis, through October 30, 2003, at Anna's Café & Baskets, 23622 Farmington Road, allowing two tables and four chairs, stipulating acceptable materials, placement and maintenance of the seating; and with the further understanding that outside seating at Anna's Café & Baskets will conform to standards established through the Main Street Program process. MOTION CARRIED UNANIMOUSLY.

REQUEST FOR BANNER AT BAKER STREET DRAPERIES. Administration advised that Baker Street Draperies has requested approval for a temporary banner to promote a charity event benefiting the pediatrics unit at Henry Ford Hospital.

Carrine Pomaranski, Director of Marketing and Development, was present to explain the purpose of the banner.

05-03-122 MOTION by Bush, seconded by Harrison, to approve a request from Baker Street Draperies, 33432 Oakland, for a 3' x 8' temporary banner, to be displayed May 9 through May 16, 2003, to promote a charity event benefiting the pediatrics unit at Henry Ford Hospital. MOTION CARRIED UNANIMOUSLY.

REQUEST FOR TEMPORARY BANNER, CHARTER ONE BANK. Administration advised that Pete Camilleri of Charter One Bank has requested approval for a temporary banner to hang on the front façade of his building.

05-03-123 MOTION by Campbell, seconded by McShane, to approve a request from Charter One Bank, 23220 Farmington Road, for a 3' x 8' temporary banner, professionally produced, to be placed on the front façade of the building facing Farmington Road, for a period of thirty days, to advertise a new promotion offered by the Bank. MOTION CARRIED UNANIMOUSLY.

REPORTS FROM CITY MANAGER

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APPROVAL OF PUBLIC HEARING NOTICE FOR PROPOSED FY 2003/04 BUDGET AND PROPERTY TAX RATE. Administration advised that City Charter and state statutes require a public hearing to be held on the budget before it is adopted.

05-03-124 MOTION by McShane, seconded by Bush, to schedule a public hearing to review the FY 2003-04 proposed budget and the proposed 2003 tax millage rate on Monday, June 2, 2003 and to authorize the City Clerk to publish a notice of the public hearing. [SEE ATTACHED NOTICE]. MOTION CARRIED UNANIMOUSLY.

BUDGET AMENDMENT NO. 3, 2002-03 BUDGET.

05-03-125 MOTION by Harrison, seconded by Bush, to approve Budget Amendment No. 3 for the 2002-2003 fiscal year. [SEE ATTACHED RESOLUTION].

ROLL CALL

AYES: Campbell, Harrison, McShane, Mitchell, Bush.
NAYS: None.
ABSENT: None.

MOTION CARRIED UNANIMOUSLY.

LIQUOR LICENSE TRANSFER. Administration advised that the City received notice from the Michigan Liquor Control Commission of an application to transfer a liquor license from Marco Conte to Estee Enterprises Inc. d.b.a. TASTE. Administration further advised that the Public Safety Department conducted a thorough background investigation on the applicant and recommended approval of the transfer.

05-03-126 MOTION by Campbell, seconded McShane, to adopt a resolution recommending approval of a Class C Liquor License transfer from Marco Conte to Estee Enterprises, Inc. [SEE ATTACHED RESOLUTION]. MOTION CARRIED UNANIMOUSLY.

PURCHASE OF THERMAL IMAGING CAMERA. Administration advised that Public Safety Director Goss solicited proposals for the purchase of a thermal imaging camera and based on features and cost, recommended purchase of an MSA Evolution Thermal Imaging camera from Apollo Fire Equipment.

05-03-127 MOTION by Harrison, seconded by Bush, to authorize the purchase of an MSA Evolution Thermal Imaging Camera from Apollo Fire Equipment in the amount of \$9,500; funds provided in the 2002-03 budget.

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ROLL CALL

AYES: Harrison, McShane, Mitchell, Bush, Campbell.
NAYS: None.
ABSENT: None.

MOTION CARRIED UNANIMOUSLY.

CONSIDERATION OF CONSTRUCTION ESTIMATE #5 (FINAL) FOR FARMINGTON INTERCEPTOR SEWER. Administration concurred with the City Engineer and Public Services Director and recommended payment of construction estimate no. 5 for the Farmington Interceptor Sewer project.

05-03-128 MOTION by McShane, seconded by Campbell, to authorize payment of final construction estimate #5 to Insituform Technologies, USA, Inc. in the amount of \$92,221.24 for the Farmington Interceptor Sewer Rehabilitation Project; funds provided in the FY 2002-03 Water and Sewer Fund.

ROLL CALL

AYES: McShane, Mitchell, Bush, Campbell, Harrison.
NAYS: None.
ABSENT: None.

MOTION CARRIED UNANIMOUSLY.

CONSIDERATION OF CONSTRUCTION ESTIMATE #2 (FINAL) AND CHANGE ORDER #1 FOR FARMINGTON SEWER INTERCEPTOR SIPHON ACCESS CHAMBER. Administration advised that work was completed on the siphon lining portion of the Farmington Sewer Interceptor Project and the amount of the contract was reduced due to the elimination of the construction of a siphon access chamber included in the original contract.

05-03-129 MOTION by Campbell, seconded by Bush, to approve change order no. 1 to reduce the amount of the contract with Lawrence M. Clarke, Inc. by \$24,820.21 for the siphon-lining portion of the Farmington Sewer Interceptor Project and to authorize payment to Lawrence M. Clarke, Inc. for construction estimate no. 2 (final) in the amount of \$63,484.49; funds provided in the FY 2002-03 Water and Sewer Fund.

ROLL CALL

AYES: Mitchell, Bush, Campbell, Harrison, McShane.
NAYS: None.
ABSENT: None.

MOTION CARRIED UNANIMOUSLY.

DISCUSSION – PROJECTING SIGNS IN DOWNTOWN AREA.

Administration recommended that for the short term, the Sign Ordinance should be amended to allow projecting signs in the Downtown District and for the long term, a thorough review and revision of the Sign Ordinance should be done. Administration advised that this issue has arisen due to a variance request from Cowley and Sons for projecting signs. Administration further advised that both the City's consulting planners and the Main Street consultants have recommended allowing projecting signage in the Downtown District.

Responding to a question from Council, City Manager Pastue stated he would work with the City Attorney to draft an ordinance for projecting signs, mirroring provisions of similar ordinances in other communities, for submission no later than the first meeting in June.

Council member Campbell asked that the issue of projecting signs at locations with multiple tenants be addressed.

Council member Harrison recommended that the projecting signs at Cowley and Sons be removed until the Sign Ordinance is amended to allow projecting signs.

Council member McShane noted that proponents in the past have made variance requests after the fact and that Council has allowed non-compliance to continue until deliberations were completed. She supported allowing the projecting signs at Cowley and Sons to remain until a resolution is achieved. She stressed that Council has always attempted to impart fairness and equal treatment to variance requests.

Council member Harrison stated that to allow continuance of a sign violation would encourage non-compliance in the future.

Responding to a question from Council, City Manager Pastue stated that the challenge in amending the Sign Ordinance to allow projecting signs is in defining clear specifications. He further stated that for the long term specifications should be defined through the DDA Main Street Program.

Responding to an additional question, City Manager Pastue stated that if Council intends to amend the Sign Ordinance, he would recommend allowing the projecting signs on the Cowley and Sons building to remain through the amendment process.

Council member McShane stated that Council should move forward in amending the Sign Ordinance.

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Discussion followed regarding the development of design criteria for projecting signs and how that criteria would dovetail with future recommendations by the Main Street Design Team.

City Attorney Schultz recommended the development of an interim, special use ordinance, whereby Council would review requests for projecting signs on a case-by-case basis.

Council member Harrison stated his support for projecting signs, however, he expressed concern that a business, owned by a DDA board member, is allowed to remain in violation of the Sign Ordinance.

Responding to a question from Council, City Manager Pastue recommended allowing the projecting signs on the Cowley and Sons building to temporarily remain pending a review of the Sign Ordinance and Council consideration of a sign variance request by the owners of Cowley and Sons.

05-03-130 MOTION by Campbell, seconded by McShane, to direct the City Administration and City Attorney to draft an amendment to the Sign Ordinance allowing use of projecting signs in the Downtown District and submit to Council within 60 days. MOTION CARRIED UNANIMOUSLY.

MISCELLANEOUS

PUBLIC COMMENT.

Laura Osborne, owner of Spare Parts, expressed her support for the projecting signs on the Cowley and Sons building.

City Manager Pastue noted that Mr. Cowley was very apologetic about the projecting signs at his business. He also stated that projecting signs are very common in downtown districts.

Domenic Belcastro, owner of Luigi's, spoke about the process he went through to ensure his signs were in compliance as is required by all business in the City.

Anna Mariani stated that she had originally ordered a projecting sign, but cancelled it when she discovered it did not meet City Code.

Barbara Goins, President of the Downtown Merchants Association and on their behalf, thanked City Council for moving forward in responding to the needs of the downtown merchants.

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COUNCIL COMMENTS AND ANNOUNCEMENTS.

Council member Bush questioned the temporary banner used by Cowley's during weekends. She also announced the beginning of the Farmer's Market on Saturday,

May 10, 2003 and noted that Saturday is also the drop off day for household hazardous waste.

In response to a question from Council member Bush, City Manager Pastue recommended that Council schedule a study session to address some of the DDA "Main Street" issues.

Council member Campbell also suggested that the status of the City's web site be included in the study session.

FINANCIAL REPORT: QUARTER ENDED MARCH 31, 2003.

05-03-131 MOTION by Harrison, seconded by Campbell, to receive and file the financial report for quarter ended March 31, 2003. MOTION CARRIED UNANIMOUSLY.

APPROVE MONTHLY PAYMENTS REPORT

05-03-132 MOTION by Bush, seconded by Campbell, to approve the monthly payments report for April 2003. MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

05-03-133 MOTION by McShane, seconded by Harrison, to adjourn the meeting. MOTION CARRIED UNANIMOUSLY.

Meeting adjourned at 10:34 p.m.

JAMES K. MITCHELL, MAYOR

PATSY K. CANTRELL, CITY CLERK/TREASURER