



**CITY OF WALLED LAKE
REGULAR COUNCIL MEETING
TUESDAY, APRIL 7, 2015
7:30 P.M.**

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

Pledge of Allegiance led by Mayor Ackley

Invocation led by Mayor Pro Tem Robertson

ROLL CALL: Mayor Ackley, Mayor Pro Tem Robertson, Council Member Ambrose, Council Member Loch, Council Member Owsinek, Council Member Sturgeon, Council Member Yezbick

ABSENT: None

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

OTHERS PRESENT: City Manager Whitt, Police Chief Shakinias, Interim Fire Chief Coomer, Finance Director Coogan, City Attorney Vanerian, Deputy City Clerk Stuart and Confidential Assistant Rodgers

REQUESTS FOR AGENDA CHANGES:

Council Member Loch provided a written request to add an Immediate Action Item to the agenda; Proposed Resolution 2015-14 Denial of the application for Commercial Planned Development (CPD) submitted by Foremost Development.

City Attorney Vanerian requested Unfinished Business item #1, Second Reading C-321-15 Wireless Communication Ordinance Amendment be postponed until it has had the required public hearing with the Planning Commission.

Finance Director Coogan requested scheduling of public hearing for fiscal year budget 2015-2016 and rescheduling of the April 11th Budget Work Session, items added under New Business.

Council Member Sturgeon requested Confidential Attorney Client Communication be changed from executive session to public. City Attorney Vanerian said it requires a vote from Council.

**CM 04-01-15 MOTION TO CHANGE CONFIDENTIAL ATTORNEY CLIENT
COMMUNICATION TO PUBLIC**

Motion by Sturgeon, MOTION FAILED DUE TO LACK OF SUPPORT

APPROVAL OF MINUTES:

**CM 04-02-15 APPROVAL OF THE MARCH 3, 2015 REGULAR COUNCIL
MEETING MINUTES**

Motion by Sturgeon, seconded by Ambrose, CARRIED UNANIMOUSLY: To approve the March 3, 2015 Regular Council Meeting Minutes.

COUNCIL CONSIDERATION:

1. Proposed Resolution 2015-14 Denial of application for a Commercial Planned Development (CPD) submitted by Foremost Development

City Manager Whitt requested proposed resolution be read into the record. Deputy City Clerk Stuart read memorandum and Proposed Resolution 2015-14 into the record.

*STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF WALLED LAKE*

*A RESOLUTION DENYING THE APPLICATION FOR A COMMERCIAL
PLANNED DEVELOPMENT (CPD) SUBMITTED BY FOREMOST
DEVELOPMENT*

RESOLUTION 2015-14

At a regular meeting of the City Council of the City of Walled Lake, Oakland County, Michigan, held in the Council Chambers at 1499 E. West Maple, Walled Lake, Michigan 48390, on the 7th day of April, 2015, at 7:30 p.m.

WHEREAS, the developer, Foremost Development Company, has submitted an application for a Commercial Planned Development (CPD) pursuant to Article 30 of the Walled Lake Zoning Ordinance; and

WHEREAS, Section 30.06 requires the City Council to review and make a determination of eligibility pursuant to the standards in Section 30.03; and

WHEREAS, the Planning Commission has reviewed the developer's preliminary site plan and has recommended conditional approval; and

WHEREAS, after due consideration of the application for the CPD and listening to the public's concerns, the City Council has determined that:

- 1. The subject site is partially located in the Downtown Overlay District.*
- 2. The site is located on E. Walled Lake Drive – an arterial road designated in the City's Master Plan.*

3. *The proposed project will require modifications of the underlying zoning ordinance.*
4. *The land use objectives achieved by the proposed project may not be achieved under conventional zoning.*
5. *The proposed project may add public service and facility loads beyond those contemplated by the Master Plan.*
6. *The preliminary site plan will increase density.*
7. *The preliminary site plan will establish land use patterns that are not compatible with the surrounding land use patterns.*
8. *The proposed project does not provide adequate parking.*

NOW, THEREFORE BE IT RESOLVED:

Section 1: The City for Walled Lake, Michigan City Council hereby determines that the Planning Commission recommendation for conditional approval are not in the best interest of the City and the applicant's proposal is NOT appropriate to continue forward in the Commercial Planned Development process as defined in Article 30 of the Walled Lake Zoning Ordinance.

Section 2: The City Council hereby determines that the applicant's proposal is NOT appropriate for approval, and instructs the City Manager to notify the developer of this City Council decision.

Section 3: The application for a Commercial Planned Development (CPD) submitted by Foremost Development is DENIED.

Motion to approve Resolution offered by _____ and seconded by _____.

AYES: ()

NAYS: ()

ABSENT: ()

ABSTENTIONS: ()

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

L. DENNIS WHITT
City Manager/City Clerk

LINDA S. ACKLEY
Mayor

**CM 04-03-15 MOTION TO APPROVE PROPOSED RESOLUTION 2015-14
DENYING THE APPLICATION FOR A COMMERCIAL
PLANNED DEVELOPMENT (CPD) SUBMITTED BY FOREMOST
DEVELOPMENT**

Motion by Loch, seconded by Owsinek

Council Member Sturgeon called for question.

Roll Call Vote:

Yes: (4)	Loch, Owsinek, Sturgeon, Ackley
No: (3)	Ambrose, Robertson, Yezbick
Absent: (0)	
Abstentions: (0)	

(4-3) MOTION CARRIED

PRESENTATION

1. Timothy J. Lynch, Lynch & Sons Funeral Home request for presentation regarding proposed development of Lighthouse Villas at Mercer Beach

Mr. Lynch, Sr. complimented the City staff for their professionalism. He stated they showed knowledge. He said he appreciates their work. He said he intended to say much more, however, due to Councils recent action he will be saying very little. He said he would like to offer any assistance to the property owner for another development proposal. He thanked Council for their support.

AUDIENCE PARTICIPATION:

Audience Participation rules read into the by Deputy City Clerk Stuart.

Mr. Abe Kiesaglou said he lives in Royal Oak and owns the property on along E. Walled Lake Drive; he said he is perplexed by the decision of Council. He said the decision was yes before and no now. He said he has been involved with this property since 1997. He said there was a proposal for a condominium development in the past but it wasn't economically feasible. He

said he is an engineer and he has 350 employees in his business. He said he has always wanted a capable partner to help develop this property. He said he has always had a concept for nice apartments or a condominium project for the downtown. He has asked people for partnership agreements to help develop his parcels. He said the offer submitted by Foremost Development has been the most feasible and economic proposal he has seen. He explained he has known Elias Zenos for five years. And further explained Mr. Zenos is his attorney. He said Mr. Bailey is a great developer and has a lot of confidence in him. He said he is disappointed and overwhelmed by the decision of Council. He said he feels it was made based on pressure from the local businesses downtown that want to dominate the downtown parking. He said he has good partners involved with this proposal. He said there was a lot of work and detail put into this proposal. He said this would have been a beautiful project and it would have added to the economy.

Carly Rutherford, 439 Market Street – said she prepared letter and she read letter into record. She said she is a hard working tax paying citizen of Walled Lake she has spent her whole life here. She said she lives on Market Street and anything built will affect her directly. She said it not her rental property not her residence, it is her home. She said one of the things she enjoys doing is visiting the beach. She said the influx and increase of residents there has been tremendous. She said traffic increases with all the City events. She said car after car turns into her driveway and one almost hit her daughter. She said think about the significant impact this would have on the neighbors. She said the residents tolerate these City events because they know it will only last a day or two. She said more people living in Walled Lake will not create commerce, she said more commercial opportunities would equate to more commerce. She said the proposed development has a total of 94 new residents. She asked if Council would like 94 new residents walking through their yards on a day to day basis.

Sam Galuck, 54443 Bentley – said he visits Mercer Beach and he has thought about moving here. He has also founded two LLC in the last two months. He said he does not want to stay in West Bloomfield. He said he will be moving. He said he is a requirements engineer and this proposal missed the requirements. He said he agreed the property owner meant well. The people do want development but not this development. He said the old bowling alley could be used as shuttle site, off load the parking. He said he has tried crossing the street at Nino's Bakery and he has got run over, cars have hit his coat as he crossed the street. He said the Master Plan calls for that road to be a through road it should make people turn only. He said the beach should be expanded and get rid of the parking lot at Bayside too. He said the developer would have to put 100 foot pilings in to reach the bedrock. He said he is an engineer and he knows what he is talking about. He said Walled Lake is a great City, he likes this town.

Roger Woznicki, 535 Winwood Court – said he conducted his own traffic study and provided handout to Council that he completed on April 1, 2015. He said thank you to Council for not closing Witherall and for saving 150 plus people some money. He said the City does not need this type of development now or ever.

Dan Gay, 1502 W. West Maple – said he has lived in the area since 1995 he is a business owner in the community. He said he has had his eye on that property for some time and wondered what

could be placed there that would work. He said anything he had envisioned before did not compare to this proposed development. He said he has been through some lean times with his business. He said to have a proposal like this brought to the community was fortunate. He said it would be a shame not to have it built.

Don Magee, 1244 Woodcrest Court – thanked the City employees and Council. He said Council does what most don't want to do and people come once a year when something is an issue and he thanked the Council for the job they do.

COUNCIL CONSIDERATION:

1. Parks and Recreation Commission

Parks and Recreation Commission Members Gabe Costanzo and Joey Rondeau provided information to host Movie Nights in the City parks. Commission Member Costanzo said towns such as Milford, Brighton and Highland offer these to their community. He said during the recent city Easter Egg hunt, he had conversations with those that participated and it was positive. He asked how the Commission moves forward to increase the Parks and Recreation Fund to host this.

Commission Member Rondeau asked how Council felt about a sponsorship program to help aid in the funding. Council asked how much of an increase is necessary.

Council Member Yezbick said he would like to see sponsorships. He said it would add to the help the promotion of these events.

CM 04-04-15 MOTION TO INCREASE THE PARKS AND RECREATION BUDGET BY \$1,000 TO HOST MOVIE NIGHTS IN THE PARKS

Motion by Robertson, seconded by Loch, CARRIED UNANIMOUSLY: To increase the Parks and Recreation budget by \$1,000 to host movie nights in the parks.

City Manager Whitt said Council is heading into the budget process for the next fiscal year and this will be reviewed.

MAYOR'S REPORT:

Mayor Ackley said the Easter Egg hunt was successful.

COUNCIL REPORT:

Council Member Ambrose said the Walled Lake Lakeboard met and he said there would possibly be a reduction in the special assessment amount. He said it was reported the fish quantity died down due to the weed clean up and discussions of restocking the lake were had.

CITY MANAGER'S REPORT:

1. Monthly Departmental / Divisional Statistical Reports

**CM 04-05-15 MOTION TO RECEIVE MONTHLY DEPARTMENTAL
STATISTICAL REPORTS**

Motion by Robertson, seconded by Loch, CARRIED UNANIMOUSLY: To receive monthly departmental statistical reports.

CORRESPONDENCE:

City Manager Whitt said there was a packet provided to Council this evening that was provided today by a resident of East Bay who is opposed to the boat docks. He said the packet includes a publication produced by East Bay Village Condominium Association to its members. He asked Council to review it very thoroughly.

Council Member Ambrose asked if there was any clarification provided to them that explained even if their bylaws were changed it does not automatically provide them with docking. City Manager Whitt said the City Attorney and Council furnished them with the information. He said they have been provided information multiple times. He said East Bay Village Condominium Association is not relaying the information correctly to their members.

Council Member Sturgeon said his association had gone through the process of changing their bylaws and it is a huge process, residents, mortgage holders and attorneys are required.

ATTORNEY'S REPORT:

1. Confidential Attorney Client Communication

**CM 04-06-15 MOTION TO ENTER IN EXECUTIVE SESSION TO DISCUSS
PENDING LITIGATION**

Motion by Robertson, seconded by Owsinek, CARRIED UNANIMOUSLY: To enter into executive session to discuss pending litigation.

Roll Call Vote:

Yes: (7) Loch, Owsinek, Robertson, Sturgeon, Yezbick, Ambrose, Ackley
No: (0)
Absent: (0)
Abstentions: (0)

(7-0) MOTION CARRIED

UNFINISHED BUSINESS:

1. Second Reading C-322-15 Chapter 2 Establish Department of Public Services

**CM 04-07-15 MOTION TO APPROVE SECOND READING C-322-15 CHAPTER
2 ESTABLISH DEPARTMENT OF PUBLIC SERVICES**

Motion by Owsinek, seconded by Robertson, CARRIED UNANIMOUSLY: To approve Second Reading C-322-15 Chapter 2 Establish Department of Public Services

2. Second Reading C-319-14 Sign Ordinance Amendment

Motion was made by Council Member Sturgeon and seconded by Council Member Loch. There was discussion.

City Manager Whitt said as requested by Council attached is a memo comparing the surrounding communities electronic sign change frequency. He said Council may choose to amend the frequency of the sign change.

Council Member Sturgeon made a point of information and asked if an amendment is made to the sign change frequency will there have to be another set of first and second readings. City Attorney Vanerian said any zoning ordinance amendment is required to have a public hearing before the Planning Commission.

Council Member Sturgeon withdrew motion.

Council Member Ambrose asked what the current sign change frequency was on the City sign. Police Chief Shakinis said currently every six to eight seconds.

**CM 04-08-15 MOTION TO AMEND SIGN ORDINANCE AMENDMENT C-319-
14 TO AMEND SECTION 20.08 (R) 2 - SIGN CHANGE
FREQUENCY TO FOUR (4) TIMES PER MINUTE AND REFER
TO PLANNING COMMISSION FOR REQUIRED PUBLIC
HEARING**

Motion by Ambrose, seconded by Yezbick, CARRIED UNANIMOUSLY: To amend sign ordinance amendment C-319-14 to amend section 20.08 (r) 2 sign change frequency to four (4) times per minute and refer to Planning Commission for required public hearing.

NEW BUSINESS:

1. Schedule Public Hearing for public hearing for fiscal year 2015-2016 budget

**CM 04-09-15 MOTION TO SCHEDULE PUBLIC HEARING FOR MONDAY,
MAY 4, 2015 FOR FISCAL YEAR 2015-2016 BUDGET**

Motion by Sturgeon, seconded by Loch, CARRIED UNANIMOUSLY: To schedule public hearing for Monday, May 4, 2015 for fiscal year 2015-2016 budget.

2. Reschedule April 11, 2015 Budget Work Session

**CM 04-10-15 MOTION TO RESCHEDULE THE SATURDAY, APRIL 11, 2015
BUDGET WORK SESSION TO MONDAY, APRIL 20, 2015**

Motion by Owsinek, seconded by Loch, CARRIED UNANIMOUSLY: To reschedule the April 11, 2015 Budget Work Session to Monday, April 20, 2015.

AUDIENCE PARTICIPATION:

Mike Stone, 425 W. Walled Lake Drive – said he really enjoys the community. He said the Code Enforcement Officer informed him that some of the equipment he has on his four acre property is not permitted. He said the current weather conditions will not permit him to move the equipment without tearing up his lawn. He said he spoken with his neighbors and he was told they have no problem with the equipment on his property. He said he spent a month and half moving some of the equipment off his property he is still working on it. He said he is asking Council for some time to move the equipment. He said he does not need to be harassed in this fashion and asked to be given until May 15, 2015 for complete removal.

City Manager Whitt said time will be granted.

COUNCIL COMMENTS:

Council Member Ambrose said Council heard the public's comments and he appreciates the input. He said the property was bought to be developed. He said he hopes that Council finds a development that fits. City Manager Whitt said there was no formal negotiation meeting. He said developer was making no movement to adjust the site plan to work on density or parking.

City Attorney Vanerian said he spoke with developer's attorney and he had the same take that they were not willing to make any adjustments.

Mayor Ackley said Council Member Loch took the initiative and it was good. She said Council did not approve the project they only agreed to further the discussions of the project.

Council Member Yezbick said the City website is still terrible. He asked about the nursing home development at 1278 Leon. He said it is totally unacceptable. He said he deals with the upset neighbors. City Manager Whitt said a Certificate of Occupancy has not been issued. He said City departments have reviewed the request and signed off however, he has not. He said the case went to court and the State issued a provisional license. He said the State was notified and they

knew no City permits were issued prior to opening. He said instead of the State shutting it down they provided them a provisional license. He said the City submitted FOIA requests for all the information. He said he felt this business mislead the public and the State still issued them a provisional license.

Council Member Yezbick said the City still has the right not to allow them to operate. City Manager Whitt said he does not have any recourse.

City Attorney Vanerian said they needed a State license and Certificate of Occupancy from City. He said the State law provides immunity from the City Zoning Ordinance but it does not trump Michigan Building Code. He said when the temporary license was issued by the State, they were aware the property did not have the City's required building permits and Certificate of Occupancy. He said the City notified the State of all of this. He said at the time the lawsuit was filed, the business had no State license. However, they did obtain the State license after the fact.

CM 04-11-15 BILLS FOR APPROVAL

Motion by Robertson, seconded by Loch, CARRIED UNANIMOUSLY: To authorize the Treasurer to make disbursements and transfers on Warrant #4-2015 in the amount of \$524,078.67 this being the best interest of the City.

Jennifer A. Stuart
DEPUTY CITY CLERK

Linda S. Ackley
MAYOR