

CITY OF FARMINGTON  
CLOSED SESSION  
(Approved: Regular Meeting of May 15, 2006)

A closed session of the Farmington City Council was held on May 17, 2006 in Council Chambers, 23600 Liberty Street, Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 267-1976.

The session was called to order at 9:35 p.m. by Mayor McShane.

**COUNCIL MEMBERS PRESENT:** Buck, Knol, McShane, Sutherland, Wiggins.

**COUNCIL MEMBERS ABSENT:** None.

**CITY REPRESENTATIVES PRESENT:** Clerk/Treasurer Cantrell, Director Gushman, City Manager Pastue, Assistant City Manager Richards, Attorney Schultz.

Council met to review City Attorney Schultz's opinion regarding a pending Michigan Tax Tribunal case related to a special assessment on property owned by Kimco in the Downtown Center and issues related to an easement on the property.

City Manager Pastue reviewed the purpose of the meeting and pending issues.

Attorney Schultz advised Council that Kimco had requested an agreement in which the City would commit to not constructing a parking structure in the Downtown parking lot for a period of twenty-five years and that this may be an opportunity to wrap up issues with Kimco related to the Downtown Center parking lot and the street special assessment.

Pastue provided a handout regarding the master plan and location of a parking structure in the Downtown parking lot.

Councilmember Knol noted her issues including the pending MTT case, reluctance to commit future councils, concern that there is no written commitment from the tenant Kimco was seeking to secure, discussing how the parking structure would not obstruct the view, concern with the effect on other businesses, noting reasons for a structure citing the master plan, the need to site a parking structure where it would not reduce tax revenues, etc.

Schultz reviewed the special assessment litigation and that it is only important to show the City has made some accommodation and that making an accommodation is not a new defense to the MTT case.

Buck noted the cost to defend the MTT case. Schultz estimated it at \$50,000 not including the assessor's time and other staff time which may be required.

Buck stated he believes poor relations with Kimco developed over a number of years and he looks at the master plan as a living plan, not fixed, noting it does not hurt to work things out with Kimco. He noted a possible opportunity to change other terms of the parking lot easement, that the Orchard Street lots may be made available by Kimco and that he believes Home Depot, the prospective tenant, may bring more customers into the downtown.

Sutherland noted the Northville and Plymouth parking structures are behind other buildings and not in a parking lot, that she can see Kimco's point and that she is open to options and interested in attempting to gain leverage in the situation.

Wiggins voiced concern about assurances that Home Depot will be the tenant and not another "discount" store and acknowledged Knol's concern regarding a 25 year commitment to an agreement to not place a parking structure in the parking lot.

Knol noted that the proposed parking structure is not a three story structure, that retail is proposed on the ground level, and that a retail façade will be included.

McShane stated the City can lose credibility if it changes the master plan but that she is willing to consider options, that most residents are affected by the "NIMBY" concept, and that Knol made a good point regarding future councils.

Richards noted the improvements Kimco has made to their buildings in response to former council and administration requests.

McShane suggested options to offer Kimco; that she does not want to rule out an underground parking structure; and noted plans for a structure in the north area.

Sutherland noted she likes the idea of locating in the north area.

Pastue reviewed the options; design of a structure; that it is a mistake to consider a 25 year agreement, and that any agreement should be a 10 year max with a 5 year renewal.

McShane noted two other possible sites are noted in the master plan for a parking structure and confirmed she would like to see Office Depot in the Downtown Center.

Schultz noted a drafting problem related to specifying one business; and regarding the easement suggested language along the lines of a "major national tenant, not a discount."

Buck asked if the City could agree specifying a specific tenant. Knol stated the City could not risk it being any tenant. Buck stated the need is for a major retailer, not another discount.

Discussion continued regarding various acceptable options.

Buck asked if it could be structured that if Kimco sells, the easement agreement would be null and void.

Pastue and Gushman discussed previous exchanges, uses, etc. of property in and around the Center, including Kimco's purchase of the Orchard lots.

Schultz noted it would be great to eliminate the current easement, noting the circumstances surrounding Kimco's request and suggested Council offer several options, establishing a bottom line. He looks at this as an opportunity to "wrap up" several Kimco related issues.

Discussion continued regarding alternatives.

Knol asked for a list of options/alternatives.

Sutherland noted that Kimco is "coming to us" and may be more willing to discuss alternatives.

McShane noted her opinion that Kimco will probably sign Office Depot regardless.

Knol noted that it sounds like it is not a done deal, that Farmington may not be the ideal location being a marginal market for the retailer. Knol stated she likes the idea of a traditional downtown, that much thought has gone into the master plan, and she likes stores on the street.

Council reviewed the particular points of concern:

- Concurred that a maximum of ten (10) years should be agreed on regarding the delay in construction of a parking structure, in the area identified by Kimco, related to the named tenant, with a five (5) year renewal at the sole discretion of the City.
- Concurred that the City should pursue a lease versus the current easement agreement.
- Concurred to work with Kimco regarding signage, possibly allowing more flexibility.
- Suggested that any long-term lease resolve current easement issues and include provisions regarding signage.
- Any lease agreement restricting construction of a parking structure should specify Office Depot only, Kimco only.
- Any lease agreement should include settlement of the pending special assessment MTT case.
- Any lease agreement should attempt to include transferring control of the Orchard lots to the City.

Pastue noted settlement of the MTT case may be problematic, asking what the deal breakers are.

Sutherland stated the City should know what is most important to have resolved or included in an agreement.

Buck stated he felt that staff should communicate that the Council considers the master plan important and that Kimco is asking the City to make a serious tradeoff; that the City in an effort to build a better working relationship is willing to consider alternatives; and then close anything that the City is able to close and evaluate from there.

Pastue stated that he felt the 10 year period should be firm and resolution of the MTT case should be included.

Discussion continued regarding the City's options.

Council concurred to return to open session

Closed session concluded at 10:55 p.m. with Council returning to open session.

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Patsy K. Cantrell, City Clerk/Treasurer