



City Commission Regular Meeting Minutes
Monday, August 15, 2016
Kiwanis Park 7:00 p.m.

CALL TO ORDER:

- a) Mayor Dwyer called the meeting to order and led the group in the Pledge of Allegiance
- b) Roll Call: All members of the City Commissioner were present, including Mayor Dwyer, Mayor Pro-tem Wolcott, Commissioners Pobur, Wright, Deal, Dalton and Valenti.

CITIZEN COMMENTS:

Mayor Dwyer started the Citizen comments by thanking the members of the Colonial Kiwanis Club of Plymouth for coming to the park today and providing the hot dogs prior to the City Commission Meeting.

George Lytle of the Kiwanis Club thanked the Commission for coming to Kiwanis Park and he indicated that in partnership with the City they were going to be funding a new play structure for the park in the late fall of this year.

Terri Allen of 805 W. Ann Arbor Trail spoke on a number of parking issues in the Downtown area and the need for additional parking.

APPROVAL OF THE AGENDA:

A motion was made by Commissioner Pobur and seconded by Commissioner Wright to approve the Agenda as presented.

MOTION PASSED 7 - 0

ENACTMENT OF THE CONSENT AGENDA:

Items on the Consent Agenda included the following:

- a) Approval of the August 1, 2016 City Commission Regular Meeting Minutes
- b) Approval of the July Bills
- c) Special Event: Pure Barre in the Park on August 30, 2016

A motion was made by Commissioner Pobur and seconded by Mayor Pro-Tem Wolcott to approve the Consent Agenda as presented.

MOTION PASSED 7 - 0

COMMISSION COMMENTS:

Mayor Pro-Tem Wolcott indicated that the Kiwanis Park was his "home park" growing up as child in the neighborhood and that he really enjoys coming back to the park for the City Commission meeting.

OLD BUSINESS:

Mayor Dwyer indicated that there was no Old Business, so they would move right into New Business.

NEW BUSINESS:

a) Dog Ordinance Amendments - City Manager Sincock talked briefly related to the history of the changes in the Dog Ordinance and he indicated that the City Commission wanted to make some changes related to the Dog At Large section of the Ordinance to change the violation to a Civil Infraction from a misdemeanor.

RES. #2016-73

WHEREAS The City of Plymouth for the health, safety and welfare of its citizens has Previously established an Ordinance related to the care and control of dogs, and.

WHEREAS From time to time it is necessary to update Ordinances.

NOW THEREFORE BE IT RESOLVED THAT an Ordinance to AMEND ARTICLE II CHAPTER 14, DOGS, by updating Section 14 -11, 14 - 14 and 14 - 23 as outlined here:

14 - 11 - Add the words -Violation of this section shall be a civil infraction subject to a fine of not more than \$500, plus costs of prosecution.

14 - 14 - Add the words -Violation of this section shall be a civil infraction subject to a fine of not more than \$500 plus costs of prosecution.

14- 23 - Add the words - Unless stated otherwise within a section,.....

IS HEREBY INTRODUCED IN PRINTED FORM FOR ITS FIRST READING.

It was moved by Mayor Pro-Tem Wolcott and seconded by Commissioner Dalton for approval of the resolution.

MOTION PASSED 7 - 0

b) Wilcox Grant Agreement - Commissioner Wright gave a brief update on the status of the fund raising for the City's 150th birthday celebration. He indicated that he along with Mayor Pro-Tem Wolcott and Commissioner Deal that they have been working on a plan to begin to raise funding for the rest of the Kellogg Park improvements beyond the fountain. It is hoped that this effort will get into full swing at or around the Fall Festival.

City Manager Sincock gave a brief outline of the \$700,000 grant from the Wilcox Foundation related to the fountain improvements for Kellogg Park. The terms of the grant are fairly simple, in that funding is restricted to the fountain portion of the park improvement project and that a plaque be placed on the fountain indicating that it is the Wilcox Fountain.

RES. #2016-74

WHEREAS The City of Plymouth is desirous of making improvements to Kellogg Park and a major improvement to the fountain in Kellogg Park, and

WHEREAS The preliminary estimates place the fountain removal and upgrades at approximately \$700,000.00, and

WHEREAS The Wilcox Foundation wishes to make a charitable grant to the City of Plymouth to help pay for the new fountain in the park, and

WHEREAS There is a Grant Agreement between the Wilcox Foundation and the City of Plymouth.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby authorize a Grant Agreement between the Wilcox Foundation and the City of Plymouth for a fountain in Kellogg Park. The grant is for funding for the fountain in an amount not to exceed \$700,000.00. The Mayor of the City is hereby authorized to sign the Grant Agreement on behalf of the City of Plymouth.

BE IT FURTHER RESOLVED THAT the City Commission directs the City Clerk to make a complete copy of the Grant Agreement a part of these Meeting Minutes.

It was moved by Mayor Pro-Tem Wolcott and seconded by Commission Wright for approval of the resolution.

MOTION PASSED 7 - 0

Grant Agreement

The Wilcox Foundation

This Grant Agreement ("Agreement"), to be effective as of _____, 2016 ("Effective Date"), is made by and between the Wilcox Foundation, a Michigan non-profit corporation, whose address is 6260 Tower Road, Plymouth, Michigan 48170 (the "Foundation") and the City of Plymouth, whose address is 201 South Main Street, Plymouth, Michigan 48170 (the "City"). Based upon the Recitals below, and in consideration of the mutual promises and benefits hereunder, the parties hereto agree as follows:

RECITALS

The Foundation wishes to make a charitable grant to the City for the use and benefit of the City and the Plymouth community as set forth in this Agreement.

The City desires to accept such grant, subject to the terms and conditions set forth in this Agreement.

AGREEMENT

1. **Grant Amount.** The Foundation hereby pledges to the City a grant in an amount not to exceed \$700,000.00 (the "Grant").

2. **Purpose of the Grant.** The Grant is an irrevocable pledge that will be paid to the City for the purpose of making a permanent improvement for the benefit of the Plymouth community, specifically, for paying for the planning, design and construction of a fountain (the "Fountain") to be installed in Kellogg Park in the City of Plymouth and to be owned by the City.
3. **Payment of the Grant.** Payments in support of this Grant will be made periodically by check to the City upon the Foundation, or its authorized agent, being provided City approved Invoices for the costs of the planning, design and construction of the Fountain to the extent of the amount of the grant. Payments for approved Invoices will be made within twenty-one (21) days of receipt of an invoice and a certification by the City to the Foundation that the invoice submitted by the contractor is in conformity with the plans and specifications and the work was satisfactorily completed and the invoice is correct.
4. **Use of the Grant Funds.** The Grant funds shall be solely used to pay toward the costs of the planning, design and construction of the Fountain structure, including Fountain site work, but not any off-site excavation, sidewalk relocation construction, demolition, landscaping, streetscape, brick pavers, surrounds and related improvements.

The Grant funds are being provided for the express purposes stated above which are in accordance with the uses permitted by Internal Revenue Code Section 501(c)3. By accepting the funds, the City agrees that the funds will be so used. If the City is unable to use the funds for the stated purposes, the funds will be returned to the Foundation.

5. **City Agreements.** In consideration for the Grant, the City agrees as follows:
 - a) The City will name the Fountain (the "Naming") the "Wilcox Fountain". Subject to the terms of this Agreement, the name of the Fountain will continue in perpetuity, including for any replacement fountain should it become obsolete or should it be damaged. The Naming will be exclusive and no other Fountain sponsors', donors' or other contributors' plaques or acknowledgements shall be placed on the Fountain commemorating their contributions.
 - b) The City, to the extent reasonably possible, agrees to make reference to the "Wilcox Fountain" (not "the Fountain" or the "Kellogg Park Fountain") on City maps, publicity materials, informational drawings and the like which publicly show or depict Kellogg Park and the Fountain. No commercial or political advertising or signage shall be placed within a 50' radius of the Fountain.
 - c) The City will incorporate a permanent bronze plaque into the Fountain design in a prominent location on the Fountain and will maintain and replace the plaque, as necessary, with a plaque of equal quality, including the replacement of a stolen, vandalized or damaged plaque. The plaque shall be of a size no greater than 750 square inches (in a 24"x24", 24"x30" or similar configuration) and shall state:

"Wilcox Fountain"

"This Fountain was made possible by a grant from The Wilcox Foundation at the request of Jack Wilcox in memory of his parents, George and Harriet Wilcox, and as a tribute to the 150th Anniversary of the founding of the Village of Plymouth."
July 4, 2017
 - d) The City will not proceed with Fountain construction until The Wilcox Foundation has approved the final design, size and location of the bronze plaque.
 - e) The City acknowledges, understands and agrees that the naming of the Fountain is an integral and essential part of this Agreement and without the City's promise to permanently name it the "Wilcox Fountain", the Foundation will not make this grant.
6. **Publicity.** For purposes of publicizing the Grant and the Naming, City will have the right, without charge, to use photographs of Jack Wilcox and his family and use the names, likenesses, and images of the family in photographic, audiovisual, digital or any other form of medium (the "Media Materials") and to use, reproduce, distribute, exhibit, and publish the Media Materials in any manner and in whole or in part, including in brochures, website

postings, informational and marketing materials, and reports and publications describing City's development and business activities.

7. **Maintenance and Insurance.** The City will maintain the Fountain and keep it in good working operation and maintain insurance for personal liability and property damage. The Foundation will have no responsibility to maintain or repair the Fountain.
8. **Assignment.** This Agreement and the rights and benefits hereunder may not be assigned by either party without the prior written consent of the other party, which consent shall be in the sole and absolute discretion of the non-assigning party.
9. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with regard to the matters referred to herein, and supersedes all prior oral and written agreement, if any, of the parties in respect hereto. This Agreement may not be modified or amended except by written agreement executed by both parties hereto. The captions inserted in this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement, or any provision hereof, or in any way affect the interpretation of this Agreement.
10. **Mediation.** In the event of any controversy or claim arising out of this Agreement, or the rights or obligations of the parties, the parties shall try to settle their differences in good faith amicably between themselves. If such individuals or their designees are unable to resolve such dispute, then either party may give the other party a written notice of intent to mediate the dispute and, within thirty (30) days of such written notice, the parties shall refer the dispute to non-binding mediation before resorting to litigation. Such mediation shall be conducted pursuant to the commercial mediation rules of the American Arbitration Association with costs shared equally. If any unresolved matter is not resolved within 30 days following referral to non-binding mediation, either party may seek any remedy at law or in equity that may be available.
11. **Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of Michigan without regard to any conflict of laws rule or principle that might refer the governance or construction of this Agreement to the laws of another jurisdiction. Any legal proceeding brought in connection with disputes relating to or arising out of this Agreement will be filed and heard in Wayne County, Michigan, and each party waives any objection that it might raise to such venue and any right it may have to claim that such venue is inconvenient.
12. **City of Plymouth Approval.** This Agreement and the recognition and Naming provided for herein are subject to the approval by the City and this Agreement will not be effective unless and until approved by the City.
13. **Representations by City.** The City represents unto donor that there are no outstanding agreements, contracts or commitments of any kind with any other third parties that exist which would prohibit the City from exclusively naming the fountain the "Wilcox Fountain" and that the Foundation is relying on these representations in making the above grant.
14. **Completion Date.** The parties acknowledge and agree that the estimated intended completion date of the Fountain is July 4, 2017. Extensions, if necessary to complete the project, shall be subject to the mutual agreement of the parties.

ACCEPTED AND AGREED TO:

The Wilcox Foundation

City of Plymouth

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

c) MML Annual Meeting - Mayor Dwyer indicated that this is the annual meeting of the Michigan Municipal League and that the City needs a voting delegate and alternate.

RES. #2016-75

WHEREAS Each year the Michigan Municipal League hosts an annual business meeting to discuss matters and to form policy related to local government, and

WHEREAS The City of Plymouth has an opportunity to designate a voting delegate and Alternate to the Business meeting.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby designate City Manager Paul Sincock as the voting delegate to the Michigan Municipal League Annual Convention for September of 2016.

BE IT FURTHER RESOLVED THAT the City Commission of the City of Plymouth does hereby designate Municipal Services Director Chris Porman as the voting alternate to the Michigan Municipal league Annual Convention for September of 2016.

It was moved by Commissioner Pobur and seconded by Commissioner Wright for approval of the resolution.

MOTION PASSED 7 - 0

d) Authorization to Hire - City Manager Sincock explained to the City Commission that the City had an employee who was leaving to move to another State. The City Administration had conducted a review of the position and recommends replacing the position with another full time staff member. This hire would not be an increase in staffing, but a replacement of existing staff.

RES. #2016-76

WHEREAS The City Commission passed a hiring ordinance that requires that the City Administration seek prior and express approval before any full time hiring, and

WHEREAS The City Administration has requested prior and express approval for the hiring of an administrative assistant for the police department.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby grant prior and express approval for the hiring of a full time Police Department Administrative Assistant.

It was moved by Commissioner Valenti and seconded by Commissioner Wright for approval of the resolution.

MOTION PASSED 7 - 0

e) Sign Ordinance Amendment - 1st Reading - City Manager Sincock stated that the City Commission wanted to update the City's Sign Ordinance in order to come into compliance with the Supreme Court ruling on the Reed vs. Gilbert case, which indicates that municipal governments cannot regulate sign content. It was noted that due to heavy vacation schedules in August, that the Planning Commission had moved their regular meeting to August 24th and they had not had an opportunity to review the proposed changes and they would be holding the Public Hearing on that date as well.

There was a motion by Commissioner Pobur and it was seconded by Mayor Pro-Tem Wolcott to **table action on this item until the September 6, 2016** Regular City Commission Meeting. There was no discussion on the tabling motion.

MOTION PASSED 6 - 1

REPORTS AND CORRESPONDENCE:

a) Goal Setting - There was a discussion of the City Commission related to the annual Goal Setting by the City Commission. Mayor Dwyer indicated that the City Commission may want to delete the goal related to development of a funding plan for Capital Improvements due to the overall financial situation of the City and that there is currently no funding available for these types of projects, in part due to the State of Michigan reducing revenue sharing with the local units of government.

RES. #2016-77

WHEREAS From time to time the City Commission sets goals for the City and updates those goals as well as reporting to the public on the status of those adopted goals; and

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth hereby removes the following Goal: Develop Funding Plan for future Capital Improvements.

It was moved by Commissioner Pobur and seconded by Commissioner Wright for approval of the resolution.

MOTION PASSED 7 - 0

Mayor Dwyer stated that the City Administration had provided a copy of the other goals that the City Commission had reviewed in January of this year. In addition, he indicated that there seemed to be two primary goals that the Commission should consider and one is dealing with the tree canopy and the second is to work collaboratively with the DDA related to parking issues.

Commissioner Suzi Deal asked if the Planning Commission is already working on the tree issues. Commissioner Wright indicated that he is the liaison with the Planning Commission and in fact they are reviewing the issue. City Manager Sincock stated that the City is a "Tree City USA" community and we have available model ordinances from that organization that may be of help on this matter.

Mayor Dwyer indicated that with either goal it will take members of the City Commission to work collaboratively with members of other Boards who are working on these issues. He went on to say that both he and Mayor Pro-Tem Wolcott are on the DDA and working on the parking issues.

RES. #2016-78

WHEREAS From time to time the City Commission sets goals for the City and updates those goals as well as reporting to the public on the status of those adopted goals.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth hereby adds the following Goal: Develop an Ordinance to help address and preserve the City's Tree Canopy.

A motion was made by Commissioner Pobur and seconded by Commissioner Wright for approval of the resolution.

MOTION PASSED 7 - 0

There was some continued discussion related to the potential goal related to parking and who would be the "Champions" of the various goals of the Commission.

RES. #2016-79

WHEREAS From time to time the City Commission sets goals for the City and updates those goals as well as reports to the public on the status of those adopted goals.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby add the following Goal: To work collaboratively with the DDA and other Boards, as needed related to parking issues, including, but not limited to the expansion of parking in the Downtown.

A motion was made by Commissioner Valenti and seconded by Commissioner Dalton for approval of the resolution.

MOTION PASSED 5 - 2

9) ADJOURNMENT

There being no further business to come before the City Commission it was moved by Mayor Pro-Tem Wolcott and seconded by Commissioner Pobur to Adjourn the Meeting.

MOTION PASSED 7 - 0

Daniel Dwyer
Mayor

Linda Langmesser
City Clerk