

**CITY OF WILLIAMSTON
CITY COUNCIL
MARCH 23, 2009
REGULAR MEETING MINUTES**

1. Call To Order:

The meeting was called to order at 7:07 p.m. in the City Hall Council Chambers by Mayor Michelle Hyne and the Pledge of Allegiance was recited.

3. Roll Call:

Mayor Michelle Hyne, Mayor Pro-tem Michael Moody, Council members John Pratt, Carmen Siciliano, Traci Smith, Scott VanAllsburg, and Ken Zichi. Absent: None.

Also Present:

City Manager Lisa Hitchcock, Deputy Clerk Holly Thompson, City Attorney Bonnie Toskey, Police Chief Mark Hetfield, JFM Productions, *Enterprise* Reporter Brad Ritter, citizens Robert Scheuerman, Terri Campbell, Brooke Locke, Sue Nichani, GERAL Jeffrey, Barb Burke, Richard Couturier, Larry Stafford, Teresa Wood, Trudy Stevens, Scott and Debra Simmons, Dawn Marie Joseph, Toby Weston, B.P. Weber, Kendra Line, Dave Underwood, Tim Grant, Randy Schafer, Linda Lee Tarver, Dave Okowit, and other members of the public.

4. Approval of Agenda:

Delete the March 2nd Special Council Minutes, and add 6. DDA Public Hearing, and 10a. Release of Attorney/Client Privilege Letter.

Motion by **Siciliano**, second by **Moody**, to approve the agenda as amended. **Motion passed by voice vote.**

5. Audience Participation:

Kendra Line, 3404 E. Grand River Ave., Chamber Representative, invited Council to attend their meetings.

Randy Schafer, 4139 Meadowdale Dr., County Commissioner, shared information regarding the development in the Ingham County Sheriff's office. He reported that there are budget issues with future deficits. They expect the townships in Ingham County to contract with neighboring police departments for services. Williamstown Township is currently talking with the City of Williamston and Meridian Township.

Joe Eiffert, 715 N. Putnam St., commented that the Ingham County Road Commission is going to tear up the street in front of his house and asked if the water main could be replaced at the same time.

Terri Campbell, 308 Fulton St., commented that some of the City Council members feel that the City Manager is doing a poor job. She asked if there is a list of potential Managers that exists and whether someone has already been conducting interviews for the City Manager. She stated that she would like the harassment and intimidation of people's jobs stopped until someone brings forward documentation.

Richard Couturier, 702 S. Putnam St., referred to the City Charter section 4.4 regarding the City Manager being the Chief Executive Officer of the City and shall perform all duties as provided by he or she by law. Section 6.3, the City Manager shall serve at the pleasure of the City Council, and by this Charter shall perform the duties of the office and be accountable to the City Council. Chapter 13-1b, all contracts shall be authorized by the Council and shall be signed on behalf of the City by the Mayor and Clerk. He believes some of these should be looked into.

Brooke Locke, 1145 W. Grand River Ave., suggested that the City Manager job be separated from the Clerk position. He pointed out that in his March packet for the Zoning Board of Appeals, he received mail that was unopened, not date stamped for December meetings that he would have attended if possible which could have been beneficial to the City. He understands that there have been changes in the office, and he realizes that. He sees hostility going on continually and the code of conduct and is clearly pointed in one direction and everyone needs to work together. The City needs to start acting like adults and looking for solutions. He added that the Mayor should never have to FOIA for contracts. He believes that the City should strive for higher standards and work as a team.

6. DDA Plan Public Hearing:

Motion by **Moody**, second by **VanAllsburg**, to adjourn the scheduled DDA Plan public hearing. Yes: Siciliano, Smith, VanAllsburg, Zichi, Hyne, Moody, Pratt. No: None. **Motion passed.**

7. Presentation- Robert Scheuerman- CARTS Information:

Hyne: Next we have number 7. presentation by Robert Scheuerman, CARTS Information. Mr. Moody if you'd like to introduce...

Moody: Oh yeah, Mr. Scheuerman if I say your name correctly. I received the e-mail actually, I think you originally sent it to the Mayor and then the Mayor sent it to me and then we met with Mr. Scheuerman and he had some important stuff to share and I was concerned and I followed up a little bit on the information he shared with the Mayor and myself and that's why I thought it would be good to have him come and talk to use. I made some copies of some of the information you provided. I sent the e-mail to everyone for the packet but I don't know if they've got some of the lists and stuff and I made copies of those and I'll pass those around too if anyone, in case you refer to the letter or anything cause I got extras for people in the audience if they want or... And there's more here if you want to pass them out or something.

Hyne: Yes, thank you.

Moody: Just to help if anyone has any questions for you and I think I mentioned to you, maybe you could do a short synopsis and then if anyone has any questions.

Robert Scheuerman: Hi my name is Robert Scheuerman, 1175 Nottingham Forest Trail, am I right in assuming everybody's actually seen my e-mail prior to tonight. I'm just going to go over it quickly then. Basically my concern is the condition of the roads in the City of Williamston and the lack of applying for federal money to help take care of our roads. As I mentioned in the e-mail there's basically one way that the federal highway money is redistributed back to the communities and that in

this area is through the Tri-County Regional Planning through the CARTS. One of the areas of funding that is provided every year is the small urban communities block of money. There are only four areas in the Tri-County area that are even eligible for this funding. One is Charlotte along with Potterville as one urban area, Eaton Rapids is the second, St. Johns is the third, and the urban area of Webberville and Williamston is the fourth area. As I noted under the small urban a community can get \$375,000, up to \$375,000 in federal money, that being 80% of a project. So if we had roughly \$93,000 for match we can get \$375,000 of free federal money to do a local street project. Historically when CARTS distributes money within this fund, actually all the projects go into a space pool when they come out of there but basically what you're going to find is about every other year each of the four communities or at least two out of every five communities, one of each community gets a project up to the \$375,000. As I've noted, I haven't seen the City of Williamston on the list in the last couple of years, I don't see it on the list in 2009. Recently I did participate in the meeting at CARTS, actually I was representing the community I work for on the large urban, sat through the process for distributing the money for 2010, 2011, 2012, and 2013. Again I didn't see Williamston anywhere on the list and supposedly had not put in for any projects, also at that same meeting the CARTS had asked people to submit projects for the stimulus list through you know federal programs. Again there were projects listed, they were prior to us and they were issued to go before the board for approval. Again, Williamston was not included anywhere and that's a 100% free money. I know I've looked around the City and I can see an awful lot of streets that need work and I see the fact there's \$375,000, no we're not going to get it every year, we do share it with Webberville and they did put in for a project in 2010, but at least you know I would have expected a couple of projects that we are working toward, that we would have something for 2012. Actually when it came to putting projects in for 2012, Charlotte already had enough other projects and St. John's in 2011 they couldn't apply two years in a row. They were looking for projects to go in there. Actually the Ingham County Road Commission tried to ask to have Zimmer Road and Grand River to Sherwood actually put in as part of the Williamston/Webberville but apparently was just outside the district. So again my big problem is we have some needs in this community. I don't think anybody here can't find a road that couldn't use repairing, if not, please drive from Linn Road to the freeway every morning and try to make it through there. Try riding your bike around this community which I try to do every weekend, and I think you'll find an area and to not be submitting for these projects, I think there's a problem. We should have projects in there at all times so that when the money is available we're in line to get it rather than you know just missing out or give it to the County or somebody else. So I'd be happy to answer any questions. I did provide, there are two sheets, one is a small urban projects, that was presented to Tri-County February 25th. Again you'll see St. John's, Clinton transit, Webberville, Potterville, Charlotte, St. John's, St. John's, Clinton, Eaton Rapids, Clinton transit, St. John's, nothing with Williamston and the next one it says small urban stimulus projects, again Williamston is totally, you know missing from these lists. I don't understand why they aren't applying for this free money.

Hyne: Thank you. Is there any wishing, Councilmember VanAllsburg.

VanAllsburg: Yeah, I was wondering, you mentioned the stimulus, that the stimulus was part of this, is this the only way to get money from the stimulus for roads? Or is this one way to do it?

Scheuerman: You may find it some other way but all the federal money to date in other forms have always come through this program and it was noted that it was likely and everything that I've seen since then in the web-cast that MDOT just put on a week ago, this is the route that the money is coming.

VanAllsburg: Is it too late for any of this stuff that you're bringing up now?

Scheuerman: For the stimulus I know Charlotte kind of after it was first voted on by the group at the end of January submitted a couple projects, they were put at the very bottom of the list, so again it would have to go quite a ways down the list and you know how much extra money... 2010, 11, you know, 12, and 13 were set at the meeting. 2013 was really a place holder I would say if you went in and fought for it, there isn't anybody that wouldn't probably throw Williamston into the list for 2013 but again you know 11, 12 the stimulus money... I don't run the program, you need to talk to CARTS but, the first thing you got to do is apply for the money and again this is the way that federal money is distributed for highway projects, it goes through CARTS. They meet constantly, they put out the request for the applications. The City of Webberville you know is represented and attends those meetings. They put in for \$375,000 for 2010, that's why they used the full amount for the Webberville/Williamston area but at least I think we should have I think had a 2012 in the stimulus project and really the four communities, it's very much a gentleman's agreement, there is a ranking system on projects when you put in. They totally ignore it, they go in a rotation, I had one, you had one, you know every fourth project is yours is basically pretty much the way it happens.

Hyne: Attorney Toskey can I take questions from the audience?

Toskey: Your procedures provide for the opportunity for a Council member to request that a member from the audience be allowed to participate and address Council at a motion on that request.

Hyne: Okay, a motion?

Moody: I'd move to recognize audience...

Hyne: Okay, is there...

VanAllsburg: Second.

Hyne: Okay, wait all in favor?

All: Aye.

Hyne: Opposed? Okay.

A citizen: I just had a question regarding the document that was submitted. It does have Williamston as part of the submitted request, not approved. Does this mean that it was not, it was submitted correct? Or was it submitted and not approved?

Hyne: Is that the government, is that the governor's list?

A citizen: It's attached to the document that was submitted. The last few pages have Williamston.

Hyne: Mr. Scheuerman, oh, Michael is this the one, is this off the government's list, off the website?

Moody: Maybe, I don't know. I thought it was one Mr. Scheuerman gave me. Is that the...

Scheuerman: Are you looking at this?

Hyne: Yes.

Scheuerman: What this is, is every community, the Michigan Municipal League, and our first discussion about a stimulus program, asked all the communities 'give us your wish list'. Kind of like telling kids to send Santa Claus your letter, so this is page 157 out of 1108, these were all the communities just through, and every project they thought they might want. Since the way the state supposedly wanted to get a handle on what were the needs of the communities? Sewer, water, streets, everything. So again I mean, I helped a community put together 30 million dollars worth and they were going to get a million you know, so. It was everybody's wish list so this appears to be the list the City of Williamston probably provided through MML, your City Administration mailed it. This is not what went through CARTS or was submitted to CARTS or anything, this is every community in the state's wish list.

A citizen: I just wanted clarity because it was attached to it.

Hyne: Okay, thank you. Alright, is there questions from Council? Yes.

Hitchcock: First of all, I would like to state that Mr. Scheuerman's is inaccurate. We have received funding, 2006 funding received for East Riverside and in speaking with Mr. Hamilton who's the one who runs the CARTS program, he somehow inadvertently had erased me from his e-mail list, so I did not receive the information. I have met with him and also Webberville and at this point we are putting together something this week. I am meeting with Tom Oliver from the Village of Webberville, and Mr. Hamilton informed me that it is not too late. There was no funding that we lost, I asked since I have not attended meetings as Mr. Scheuerman states in his e-mail, how much money has Williamston lost, he says there is no money that you've lost, there's no, it just basically puts you in line and since we received the 2006 funding we would not be eligible in the next three years anyway and secondly that we are still in the federal stimulus fund. There is \$115 dollars that is there for Williamston and Webberville. You cannot split it based on population or anything

along that line. It has to be tied to a project and I explained to them that our project would be the Williamston Road project from Linn Road to the I-96.

Hyne: Okay. Yes.

Moody: I double checked with the Director, after I talked with Mr. Scheuerman. I wanted to confirm some information that he provided and I did go back and it's all on the website if you want to go to the CARTS website, we haven't attended a meeting since Linn Wilson was here, back in like 2007.

Hitchcock: That is not true.

Moody: And I've got them right here, they actually, they give you on the back of it the attendance records and if you look at all the attendance records we're not listed.

Hitchcock: Our engineers were there for us.

Moody: Well I talked to Paul Hamilton about them, and he said they didn't represent the City. The engineers were there, but they weren't there on behalf of the City.

Hitchcock: We aren't represented in CARTS anyway.

Moody: No it's the STP committee which is the small urban...

Hitchcock: Right, Dave Fear was representing us.

Moody: Well that's not what Paul Hamilton told me and they mention in here that they were represented and the City of Williamston's not represented anywhere on here and I mean I don't, I just wanted to say, my point was I did confirm and I tried to make sure that this was a factual thing and I went and I noticed that Webberville was on here, you know Tom Oliver, other cities are on here, but Williamston is never on here. The only time I saw Williamston actually stated was way back in 2007, in early 2007 with Lynn Wilson, June 5th 2007 is the last time I saw our City listed and my concern is I don't know if you lost any money, but you know if you're not there for these meetings you know I'm concerned that we're not putting Williamston first into these things and we're not making sure the residents get the most out of their tax money cause this is taxpayer money that's coming back to the cities and we need to be there and that's why I was concerned and that's why I suggested having Mr. Scheuerman here to, I mean it was a shock to me that we haven't been going to these meetings and I did talk to Paul Hamilton and he told me that the engineer wasn't representing us but that he was there and hopefully he was passing information on but...

Hitchcock: He was representing us. We paid him to represent us, so.

Moody: But they don't list us.

Hitchcock: Well it's unfortunate because he was paid to be there so I can check on that, why it wasn't because we did pay for them to be there.

Hyne: Mr. Scheuerman?

Scheuerman: I guess my concern then is first of all I was careful and I did say it was only the last couple years, I didn't say anything about 2006, but because I know we had a project, but I mean if we had a project in 2006 we probably could have very likely gotten a project in 2008, yes Webberville took the money for 2010, there was nothing in for 2012 or 13, there was nothing in for the stimulus package. Those were facts at the time that the small urban groups sat down prior to ask them, we were told at that meeting, yes if you do send something in late it will go to the bottom of the list. The bottom of the list is a long ways from the top of the list of being in one of the first four that is likely to get funding, so having meetings now... I'm sorry about the e-mails missed, I guess it didn't get here by regular mail either?

Hitchcock: No.

Scheuerman: Because we're on the City of Williamston with their address and your name is on their mailing list on the website so apparently we're not getting mail either besides that but whatever but at least if we didn't get it, it's nice to know that we have some consultants asking for us, so where are they? You hired the professionals, they haven't ridden through our community and said there are some street that need some work and they haven't suggested to you that maybe you put in an application. I'm amazed that they haven't done that. I mean maybe you want to check with why they have never recommended to the administration that there is money needed out here. You pay them to represent you and then they did nothing, that's even worse.

Hyne: Yeah, who's our engineer that would represent us?

Hitchcock: Dave Fear.

Hyne: Can we have him at our next meeting?

Hitchcock: I can invite him.

Hyne: Okay, thank you. Thank you. Are there any other questions from Council.

VanAllsburg: I was wondering what company is he from?

Hitchcock: C2AE.

VanAllsburg: Okay.

Hitchcock: It would also be helpful to get some information from Mr. Hamilton since there seems to be some discrepancy between him and Mr. Scheuerman so.

Hyne: Okay, who's... are you going to contact Mr. Hamilton, Mr. Moody? Would you like to?

Hitchcock: I can do that. It's my job.

Moody: That's appropriate. Yes, my main concern is not seeing us on the list, I have concern for taxpayers. Like I said when I talked to Paul Hamilton I don't want to you know put words in his mouth but he did tell me we weren't being represented and you know I double checked their website and you know it just didn't look good and I noticed in some of the minutes you know they talked about stuff about Williamston and then when I looked on the agenda to see if we were there, you're not there. So it just made me nervous that you know things are on the meeting notices and I don't see anyone from Williamston being there and you know I bring this up only because the last meeting we talked about stimulus money and we thought maybe we were actively pursuing it and maybe we are but it sounds like after talking with Mr. Scheuerman, we're not where we should be and we should know this because Lynn Wilson used to be there and it's not like we've never been there before.

Hitchcock: I had been there before Lynn. I had went to them before she did.

Hyne: Any other Council members have any comments or questions? Yes.

Siciliano: Was the City Manager ever approached to find out why she hadn't went before jumping on her at a meeting? It doesn't have to be answered, I'm just wondering.

Moody: No, I just learned the other day from Mr. Scheuerman so then I did some investigating just to make sure I didn't want to you know, not that I don't trust a citizen of our City but I think it's trust and verify, you know it's a good thing to go out there and he even told me to go call and so I did and then I said well I'll put it on as a presenter and I did give the e-mail to the manager on Thursday I think it was early, so I mean she's had it and I think she did talk with Paul Hamilton afterwards so I mean I think...

Hitchcock: I actually talked to him before that.

Moody: Yeah, he told me that you had contacted him that week, you know but...

Hitchcock: After the webinar.

Moody: But he told me that was a little late, but maybe different information he's giving us.

Hyne: Okay, any other questions or comments? Thank you. Appreciate it. Okay.

~~Robert Scheuerman stated that he is concerned with the condition of the roads within the City and lack of applying for several grants to help take care of them. He commented that there are only four areas that are eligible for the small urban communities block of money. Under the small urban a community could be eligible for up to \$375,000 in federal money. He has not seen the City of Williamston on the list for the last couple of years and does not see them on the list for 2009. He participated in the CARTS meeting for distributing money for 2010, 2011, 2012, and 2013 and he did not see Williamston anywhere on the~~

~~list. At the same meeting CARTS asked communities to submit projects for the stimulus money and Williamston was not included. He believes Williamston should have projects for consideration at all times.~~

Motion by **Moody**, second by **VanAllsburg**, to allow audience participation. **Motion passed by voice vote.**

~~A citizen questioned why Williamston is mentioned in the document if Williamston is not being considered.~~

~~Robert Scheuerman commented that the list is the projects submitted to the state for funding, not CARTS.~~

~~Manager Hitchcock stated that the City has received money from CARTS in 2006 for E. Riverside Street. She has met with Paul Hamilton and he has indicated that Williamston has not lost any money, and the City is still in the federal stimulus fund.~~

~~Councilman Moody commented that the City has not attended a meeting for CARTS since 2007.~~

~~Manager Hitchcock commented that the City was being represented by engineer Dave Fear.~~

8. Council Minutes of March 9, 2009:

Councilman Moody asked that section 11n. be transcribed and section 16., 6 lines down change "make bricks that are made of wood and made to look old" to "making wooden molds to make stone bricks look old".

Motion by **VanAllsburg**, second by **Moody**, to table the Council minutes of March 9, 2009 until the next meeting. **Motion passed by voice vote with Zichi voting no.**

9. Accounts Payable:

Councilman Siciliano reported that the accounts payable totaled \$85,450.97 with reference #'s 56319-56384.

Motion by **Siciliano**, second by **VanAllsburg**, to approve the accounts payable as presented with reference #'s 56319-56384. Yes: VanAllsburg, Zichi, Hyne, Moody, Siciliano, Smith. No: Pratt. **Motion passed.**

10. Action Items

10a. Release of Attorney/Client Privilege Letter:

Motion by **VanAllsburg**, second by **Zichi**, to release the attorney/client privilege letter dated March 23, 2009 for regarding executing contracts. Yes: Zichi, Hyne, Moody, Siciliano, Smith, VanAllsburg. No: Pratt. **Motion passed.**

10b. Manager Contract Review and Performance:

Hyne: At this time the City Manager does have the opportunity to request closed session. Attorney Toskey would you like to address that please? Is that correct?

Toskey: Yes, under the Open Meetings Act there is a provision where the individual subject of certain actions by a public body, they request a consideration of that matter be dealt with in closed session and upon a 2/3 vote of the Council members the Open Meetings Act provides such an exception, that is true. It is not automatic, I'll use this opportunity to emphasize that it's a common misunderstanding that it's an absolute entitlement, it's automatic and that the individual asserts the right and if the Council or the board or commission must comply, that is not true. If the individual were to submit a request that the Council consider the subject matter in a closed session then it would be up to a member of the board or Council to move, a second, a vote, and it would require a 2/3 vote. So I'll use this opportunity to educate you on the Open Meetings Act.

Hyne: Thank you. Manager Hitchcock would you like to go into closed session?

Hitchcock: Yes, I think I will request closed session at this point.

Hyne: Okay, alright, I will entertain a motion to go into closed session.

Smith: I make that motion.

Hyne: Is there support?

Pratt: Support.

Hyne: Motion and support. Is there any discussion? Okay, roll call please.

~~Manager Hitchcock requested closed session for the Manager Contract Review and Performance.~~

Motion by **Smith**, second by **Pratt**, to go into closed session to discuss the City Manager contract review and performance. Yes: Hyne, Moody, Pratt, Siciliano, Smith, VanAllsburg, Zichi. No: None. **Motion passed.**

Hyne: How should I? Do we meet in closed session here? Or do I ask every to leave?

Toskey: Yes you would call the closed session to order and at the time you do that ask the members of the audience to absence themselves so the Council may conduct it's business in closed session.

Hyne: Okay, alright. Which that means is you're welcome to come back and check back in with us and we will open the door and look for you, so thank you. Okay.

VanAllsburg: Can't they just plug their ears.

Hyne: Can't we just...

*Closed Session started at 8:10 p.m.

Motion by **Pratt**, second by **Moody**, to return to open session. Yes: Moody, Pratt, Siciliano, Smith, VanAllsburg, Zichi, Hyne. No: None. **Motion passed.**

*Closed Session ended at 9:40 p.m.

Roll Call: Pratt, Siciliano, Smith, VanAllsburg, Zichi, Hyne, Moody. Absent: None.

Action on Closed Session:

Moody: This is probably one of the harder days that I have been on the Council and you know I don't want my motion to be something that is personal and you know I think the residents are not getting the type of services that they should get and that all the time I want to think of the City and how much got from the residents themselves and my feeling about what the City is not getting, I'd like to move to terminate the City Manager's contract.

Pratt: I'll support that. Do we need to state a time and date and everything?

Toskey: Effective date? Yes.

Hyne: Okay, Councilmember Moody?

Moody: I'd move to make that immediate, effective today I guess.

Hyne: Okay.

Pratt: Support.

Hyne: Motion and support, is there any discussion? Yes, Councilmember Siciliano.

Siciliano: I sincerely hope that those that are going to support this find us getting whatever is missing, I sincerely hope it's found. I don't know if it can be or not but I really hope that that's the feeling that whatever is missing is found.

VanAllsburg: Yeah, what's going to happen in the meantime if this passes?

Moody: I believe that...

Hyne: We have to go through this first, correct? The motion, or do we address this right now?

Toskey: You're in discussion.

Hyne: Okay, alright. Councilmember Moody, you were speaking?

Moody: I think my understanding is that if the Council so pleases and the motion passes the City Council, my understanding is maybe we would have a three member committee that would potentially field questions until such time that obtain an interim manager or we could I guess designate someone to handle maybe the

manager position on an interim basis. I understand that the Michigan Municipal League has interim managers on their list that are there that have either retired or you know...

VanAllsburg: So you're recommending manager that's approved by MML?

Moody: That we'd have to vote on, I mean it would be, the City would have to vote on. That would be the, I think that that would make the most sense and at which point...

VanAllsburg: Okay, thank you.

Hyne: I would also like to ask because that is certainly a valid question and I did address that with Attorney Toskey, or was it Attorney Stoker because this is unchartered waters for most of us on this port and certainly want to make sure the City is run as effectively as possible and he stated, or it was stated to me it is very common to use a committee process and that's totally up to the Council how they wish to proceed with that but that's usually a starting point in the process. So that's what was advised to me by our legal counsel. So anyway, any other further discussion? Yes, go ahead.

Zichi: There are several items that I need to say and I guess it boils down to three things. I have great concerns about continuity and the ability of the City to continue to function appropriately if this motion passes. I really believe we're jeopardizing the City. I'm concerned that there is a great emphasis on technicalities when we've talked about substantive rights in the past, it's always been a well, well intentioned people make mistakes, and as long as their hearts are in the right place that shouldn't be an issue. I'm not saying Lisa hasn't made mistakes, she has, we all have, and that's not the issue. The issue is how do we get past the mistake to address the problem and move forward. I don't know that this motion does that and I share Council member's Siciliano's concern that I don't know that we're going to get what this Council really wants and the third issue is that I have a real problem with the way this has been presented. I've dealt with personnel issues for 25 years. I've hired and fired people more times than, well Tracy I'm not sure do you have supervisory in your job, okay. So you probably have the same experience that I do in that. It's never pleasant, and it's never easy, but the process is put in place in a professional atmosphere lead to easing the transitions and I don't see any of those processes that have been done in this particular instance and that concerns me. Obviously the Council as whole needs to be able to work with the City Manger so we'll go from there.

Hyne: Anybody else wishing to make any comments? I would just like to state that before we vote because we really don't know where we're going to be, just my own personal thoughts on this; it is a sad day to ever have to deal with something like this whatever way it turns out, but I have a very strong commitment to this community and there may be those who may jest at my commitment to transparency and accountability but I truly am committed to that and I'm willing to take the heat for it. This community deserves that, it's provided by law and as long as I sit in this position I will certainly insist upon it and do everything I can to make

sure it happens. Not to say that it isn't without regret that certain things need to be dealt with and as I said, we don't know which way it will go but you know you take the hand you're dealt and when you're in a position that you are required to make decisions you need to uphold that responsibility and take it seriously and I think each of us have. I would not say anything about any of the Council members and that is one of the benefits of the government that we have. We do have a seven member board, with seven different ideas and seven different approaches. We may overlap in some of our thoughts but we certainly are seven unique individuals and I do appreciate all the comments and but I do believe, I do share some of the comments that we do need to make sure that we are accountable, we're transparent and that a big issue for me is public documents need to be available to the citizens as well as the elected officials and there needs to be accountability in our positions to the Council as a governing body of the City, so with that said I'm finished. Thank you. Yes.

Moody: I just want to make the point that you know if the Council doesn't wish you know if the vote doesn't go the way I moved or whatever, I will endeavor to work with the City Manager and continue to work and move forward for the betterment of the City so I don't harbor any ill will. You know if it doesn't work, it doesn't work. It's just my concern that the City's not getting I think the services that it deserves and so that's why I made the motion.

Hyne: Okay, any further discussion? Yes.

Pratt: I just will restate, what Michael just said, you know it's not a personal thing it's just something I think you know has to be done. That's why I supported it.

Hyne: Okay, any further comment? Alright, let's do the roll call please.

Motion by **Moody**, second by **Pratt**, to terminate the City Manager contract effective immediately. Yes: Smith, Hyne, Moody, Pratt. No: Siciliano, VanAllsburg, Zichi. **Motion passed.**

Hyne: Attorney Toskey could you please, do we need a 2/3 vote or are we?

Toskey: No, this is a simple majority of the Council vote. It is a contractual relationship which requires a simple majority. I do point out however that under the terms of the Charter you do need to give written notice to the City Manager of the termination of her employment agreement. It also triggers a provision of a severance upon execution of an agreement whereby the City Manager waives certain matters, so you need to designate the preparation of such an agreement as well as designate the individual to make the written notice to the City Manager.

Moody: So there's the written notice, do we?

Toskey: Yes, there should be a motion directing someone to provide written notice to the City Manager as well as directing City Council to prepare the severance agreement.

Hyne: My question is number one do we need a motion as far as the computer, the password users, things like that before, so we have access to that information?

Toskey: Yes, you don't necessarily need a motion, a motion would be a fine device to use to accomplish that alternatively simply designating someone to secure those matters, would likewise be appropriate.

Hyne: Also what I would suggest to the Council is that we have a legal opinion advising us in regard to the severance, how to proceed with that and review the facts and the situation and advise us as to a recommendation regarding that provision.

Toskey: We will provide one.

Pratt: Question, what happens now on this Miss Attorney? Does the Chief of Police remove her from the building? How do we get her keys, how does she get off the computers? What happens now once the termination has become effective immediately.

Toskey: A request is made to the City Manager to relinquish the keys and other access to the personal property of the City. That request could be made forthwith to the City Manager. I have every reason to anticipate full cooperation and support by the City Manager with the City Council and I will personally take responsibility for securing those items.

Pratt: Oh, okay. How about the computer? How do we make sure that the computer is no longer accessible?

Toskey: Through the password matters that have been identified and whoever you work with on your information systems basis, could assist you in that matter as well.

Moody: I just wanted to move that maybe the Attorney could write a written notice. I'll make a move to direct the Attorney to write the written notice to the City Manager on behalf of the City.

Pratt: Support.

Hyne: Okay, alright. Motion and support. Any discussion?

Moody: My one thought being that it's best done by our Counsel.

Hyne: Okay, let's do a roll call please.

Motion by **Moody**, second by **Pratt**, to direct the City Attorney to write the notice to the City Manager to terminate the contact. Yes: Smith, VanAllsburg, Zichi, Hyne, Moody, Pratt.
No: Siciliano. **Motion passed.**

Hyne: Okay, and then with regard, I would appreciate consideration for a motion for a legal opinion regarding the severance package.

Pratt: I'll make a motion that the Attorney draft a letter to handle the severance package.

Hyne: A legal opinion...

Pratt: A legal opinion for the termination of the City Manager on March 23, 2009 at 10:02 p.m.

VanAllsburg: Hey Michelle, you trying to get out of paying, is that what you're doing?

Hyne: I want, no I want our legal counsel...

VanAllsburg: I asked a question can you answer it?

Hyne: I don't know and I don't really need to have a debate with you in public. But I would be happy to answer it...

VanAllsburg: We'll be having a lot of Michelle from this point forward.

Hyne: But the legal counsel I would appreciate their opinion as with regard to the City's liability with regard to the severance package because my obligation is to the taxpayers to this community. That's where my obligation lies. Yes sir.

Pratt: The same token. I think the City should try to find out what's going on because I think there may be legal actions that come with this FOIA matter.

Hyne: Anyway we have a motion before us with regard to the legal opinion. Is there support?

Moody: I'd support, and I just want to say one thing, I don't even think you need a motion because I think the Mayor can ask for an opinion.

Hyne: I can but I, I can ask for an opinion but I would rather do it by Council support. Okay, so, did you second that? Okay, is there any discussion? Okay, let's do roll call please.

Motion by **Pratt**, second by **Moody**, to ask the City Attorney to give a legal opinion regarding the City Manager's severance package. Yes: Smith, Hyne, Moody, Pratt. No: Siciliano, VanAllsburg, Zichi. **Motion passed.**

Hyne: And then as far as access to the computer with the information, how do we do that so it's not accessible?

Toskey: I offered earlier that I would make contact with the City Manager and make for those arrangements and anticipate full cooperation.

Hyne: But there is access through, I mean I can access my e-mails at night and all that I can access it.

Toskey: I understand that, I will make contact with her to make those arrangements.

Hyne: Okay, alright. Thank you. Alright is there any further discussion? No. Okay, we'll move forward. Okay. Next we have item 10c. participation in the Farmers' Market marketing. Can I ask a question? This has been a very difficult evening for everyone, is there a way that we could at least consider tabling this. I mean it's up to Council's pleasure but this has not been easy and it's been very difficult.

Pratt: I would make a motion that...

Hyne: Can we do that? Or do we need to...

Toskey: Yes, no you are in control of your agenda, your agenda items on a business basis, the Council by a majority vote determines the progress of each issue on the agenda.

Hyne: Okay. Yes.

Smith: I'm not convinced we're actually finished with that agenda item because are we now, have we set a path moving forward? Who's going to be doing what?

Hyne: That's true. Okay. Okay, as far as day to day operations, Attorney Toskey, would you like to, I mean do you have any discussion that we've...

Toskey: Well it has been identified that it is up to the determination of this Council how to proceed and that certainly communities experience a vacancy in office for many different reasons. There are interim managers who provide services. Typically they are retired individuals who provide services on an interim basis. This community has experienced such a relationship historically itself. There is no legal requirement that you do that, there are other options available depending on the determination of this Council in what matter to proceed in filling the position of City Manager. A department head for example. I am not advocating, but could be appointed as an interim manager if you have a long time extremely competent individual in whom Council has confidence and so forth. That is entirely at the discretion of this Council to make that determination but yes, plans should be made post haste to address exactly how it is you intend as a Council to provide for the absence of the City Manager vacancy.

Hyne: Okay, Council?

Moody: I guess one way we could do it is the people that I suggest do it, if they're willing to do it. I would move to have a committee of three and put, my motion would be Tracy, the Mayor and Mr. Pratt, Councilmember Pratt, and Councilmember Smith, and the Mayor on the committee and they could handle the day to day, I guess responses in the department?

Hyne: Councilmember Smith?

Smith: I think it would be appropriate to have a descending vote present on the committee if they are willing to.

Moody: What is it?

Smith: I just think that would be, I think it would make it seem more...

Hyne: I would be happy, I mean if you'd like I could step aside and then have a...

Moody: Oh that's a good point, I didn't understand what you were saying.

Hyne: I mean I could step aside and then have a dissenting vote.

Moody: Scott or... I'd move then to have a committee of three that would consist of Councilman Smith, Councilman VanAllsburg...

VanAllsburg: What's the committee for?

Moody: To handle the day to day operations of the City until such time as...

Hyne: And Councilman...

Moody: And Councilman Pratt, until such time as we get an interim manager and then he would, I guess my understanding is then questions from department heads could be fielded to the committee. How does that work?

Toskey: Yes, that could be an example. I understood your motion to be that the committee would arrive at a recommendation to bring back to Council to study alternatives and arrive at a recommendation, in the interim literally on a day to day, yes that committee could field issues and return the issues to Council with a recommendation if they could not otherwise be addressed or answered in the next two weeks. It may be that this Council may deem it necessary to hold a meeting sooner than two weeks under the circumstances.

Moody: They would then decide whether that maybe a department head maybe or somebody, the committee would decide, maybe a department head should handle these questions or...

Toskey: Would make a recommendation back to the City Council.

Moody: And then we have to have a special meeting for that right?

Toskey: Yes.

Moody: But in the interim even between that time what happens? Who's, unless we vote now for somebody?

Toskey: Correct, this Council could determine tonight on a day to day basis who it is that they request that their department heads direct issues, inquiries, to. That's correct.

Hyne: Councilmember Smith.

Smith: Well I do have a thought because I think the Mayor should be on this committee.

Hyne: Oh, okay.

Pratt: That's alright. I'll step down.

Smith: I have no need to be on the committee, but I believe the Mayor should be on the committee. I think if Scott was willing he would represent well or, I don't, I just think someone from...

Hyne: You'd have to change your motion then.

Moody: Yeah, I could do that.

Zichi: There's no second yet, but if I could just interject. A committee of three to search for an interim manager is a perfectly reasonable thing to do, but a committee can't act as a manager, you've got to have an individual do that and that needs to be somebody who's familiar with the day to day operations of the City and that's none of us and frankly most of us have full time jobs anyway.

Hyne: We need to have a supporting of the motion to have a discussion.

Zichi: I'm just...

Hyne: Is there support for this motion?

Zichi: I'm just saying we need a different motion guys.

Hyne: Well just a second, Councilmember Moody did make the motion, it is supported.

Pratt: I'll withdraw my second if we want to...

Zichi: Oh, I'm sorry it was seconded, that's right.

Moody: Can we do that, can we withdraw the motion.

Hyne: Excuse me.

Zichi: I didn't realize it had been seconded, I'm sorry.

Hyne: Do you want to withdraw your motion?

Moody: Maybe we'll have some more discussion on it.

Hyne: Well we have discussion right now. We can have discussion. Once you the second you can have discussion.

Moody: Alright okay.

Zichi: And I didn't realize it had been seconded, I'm sorry but like I said you can't manage by committee. That doesn't work so what we really need to consider is rather than having the committee of three involved in the day to day operations, the committee of three needs to very quickly return who can we have as an interim and we need to pick a person for a day or two and schedule a special.

VanAllsburg: You're talking about an interim manager...

Hyne: We need to be recognized.

Zichi: Essentially.

Hyne: I would just like to say again in conversation just looking at options that would be available to us, present to us, this is, was one, and that it was suggested that department heads could meet with this committee on a daily basis, and then very quickly this committee bring forward or even Council members themselves. We have a special meeting in the very near future to address the issue of interim manager, so that's the way it was suggested as a potential possibility, that we could address that and that it is done in other communities that way so. Councilmember Pratt?

Pratt: Who runs the office now when the City Manager is not in the office? Who's in charge, can you address that?

Moody: Holly do you know?

Pratt: As the Deputy Clerk you're not, Alan as the Treasurer is not...

Thompson: It depends, I mean we've always ran, it depends on the questions where we ask questions.

Pratt: But it's handled within the system then, within the Clerk's office.

Hyne: Okay, but the thought is to have a committee and that they field the department heads on a daily basis and then if needed they can call a special meeting and report to Council for any immediate decisions that may need to be addressed and then in the interim we very quickly you know do a search for an interim manager and have a special meeting to do that and then from that point you go and post the position and do the job search. Attorney Toskey do you have any comments?

Toskey: No, that's exactly again, this Council needs to decide step by step, identify it's needs, it may be that you will start out with one idea and change that idea, abandon that idea. But you do need to proceed in the appointment of a department head initially on a day to day basis. Someone immediately available to you, a person with a great deal of experience within the City is often someone relied upon by a Council to assume immediate responsibilities and obviously to work closely with and report to the City Council.

Hyne: Okay, alright. I'll entertain a motion. Oh, we do have the motion.

Moody: Yeah, and I guess more discussion on this to make sure that... I mean I don't want this to be a burden for the three that are on the committee either I mean apparently I mean, my understanding is then the best way to do it is to have someone in the City designated currently and then have the committee oversee that person, is that the suggestion.

Toskey: Yes. Yes exactly.

Moody: So we let the committee decide that or the Council as a whole's got to decide that?

Toskey: Council should decide who they are going to appoint by way of an interim manager to report to and work with a Council committee.

Moody: Alright and so that should be part of the motion then I take it.

Toskey: Or a separate motion.

Moody: Okay.

Hyne: Okay.

Pratt: I have another question.

Hyne: Yes.

Pratt: What if we decide on somebody and they don't want to do it.

Zichi: That's a problem.

Moody: I know that's what I was thinking.

Pratt: That's what I mean because really there's not a, like Holly and Alan, and, what's that lady's name, Geral, they're the most, they have the longest tenureship right?

Zichi: Alan does.

Pratt: Yeah, that's what I thought. Didn't he act as a clerk once?

Hyne: Okay, we have a motion before us.

VanAllsburg: Can we actually do this, it's not even on the agenda?

Hyne: Attorney Toskey?

Toskey: You can amend your agenda at any time to add a matter especially one of an emergent nature such as this issue to fill in a vacancy that has been created by your own motion.

Hyne: Do we need a special amendment to the agenda for this specific issue?

Toskey: The matters were introduced as relating directly to the action taken at the item entitled manager contract review and the action taken by the Council. That's how it was introduced and placed before this Council, I see it as directly relevant and appropriate however if you want to take the extra step for a formal motion to amend the agenda and add this on an emergent basis, that certainly is available to you as well.

Moody: In clarification of motion then currently standing would be the Mayor, Councilman VanAllsburg, and Councilman Pratt, is that what we're talking about doing?

Pratt: Traci could do it.

Smith: Or you and John, I...

Moody: Well it could be Councilman VanAllsburg, Councilman Smith, and the Mayor, does that work? I don't want to put a burden on those who don't.

Pratt: You're prettier to look at than me.

Moody: I guess we can put forth the motion and vote for it.

Hyne: Okay are you...

Smith: John is in town all day, every day and so is Scott. I don't know.

VanAllsburg: I'm working right now.

Smith: You'd have one person in town.

Hyne: I mean I don't need to be... Alright.

Moody: Change the motion, okay, I'm sorry to the, I just want to make sure that it's a motion that people would...

Hyne: Are we going with the motion as presented then?

Moody: I don't even know, what did I present?

Hyne: You presented John, or Councilmember Pratt, Councilmember VanAllsburg, and myself.

Moody: Alright if that's acceptable I will move then for Councilman Pratt, Councilman VanAllsburg, and the Mayor to sit on the committee that will then report back to the Council about interim manager and also handle questions regarding questions from department heads.

Hyne: Okay, alright. Councilmember Pratt you supported that correct?

Pratt: Sure.

Hyne: Okay, is there any further discussion? Do a roll call. Oh, yes.

Zichi: As to the committee to report back and get us on track for an interim manager I think that's a great idea, I'm going to vote no on this because I don't think that it's appropriate to run the City by committee, but you could pick an individual...

Hyne: I don't believe that, was that your motion Councilmember Moody?

Zichi: Yeah, I think it had two parts right?

Moody: Well I didn't put forth the department head yet but I'm hoping that a motion will be made after my motion to select a department head.

Zichi: Okay well I misinterpreted your motion because I heard that the committee would also be here to coordinate day to day operations.

Moody: With the department head, I thought that might

Hyne: Yeah, with the department head, that would respond back to the committee and they would in turn determine whether a special meeting to advise Council on any decisions.

Moody: I'm hoping that, I don't know if this is part of the discussion on the motion then is, I'm hoping that the second motion would just be made about departments heads to handle day to day and that the committee will work with that department head. Is that everyone else's understanding?

Zichi: Well are we giving the department head the authority to make the day to day decisions or not?

Moody: I guess that's what the motion would be right? This one is just that the committee to work with the department heads.

Pratt: I don't want to be saying we give the department head daily operations.

Moody: You don't want to do that?

Pratt: No.

Moody: Then my motion is wrong then.

Pratt: I mean if they want to accept it with the understanding that they bring it before the committee.

Hyne: Okay, Councilmember Moody.

Moody: Well I will, we'll put forth my original motion, is simply to have the committee that would be Councilman Pratt, Councilman VanAllsburg, and the Mayor to sit on the committee that would then work with City staff on day to day operations and then report back as to interim manager selection for us to vote on.

Zichi: We'll still working on the day to day operations.

Hyne: Yes. Councilmember Pratt, do you support that?

Pratt: Yes.

Hyne: Okay, further discussion? Okay, roll call please.

Motion by **Moody**, second by **Pratt**, to have a committee of Hyne, Pratt, and VanAllsburg, to have them report back to the Council regarding an interim manager and answer questions from department heads on a day to day basis. Yes: VanAllsburg, Hyne, Pratt. No: Smith, Zichi, Moody, Siciliano. **Motion failed.**

Hyne: Okay, discussion please. Yes.

Smith: I personally would like to appoint the interim city manager. The person that's going to be doing the day to day starting in the morning, who's going to have to meet I believe with the committee in the very immediate future but nonetheless, and they are, I in my motion I'm going to make they are going to have the power to make some decisions, that we are not going to handcuff them from the moment they leave the gates. So I would like to see that take place.

Hyne: Would you like to make the motion?

Smith: I would like to first discuss with the Chief of Police. If he has any opinion as a member of management for this community, who would be a good person to put in that role.

Hetfield: I think Alan would be. He's been around here a long time, he's got more knowledge and experience than anyone does.

Smith: I move that we appoint Alan, City Treasurer as the temporary City Manager before we meet again.

Zichi: Second.

Hyne: Okay, we have a motion and support, any further discussion?

Moody: So then do envision to have a committee after that, or...

Smith: Anyone can make that motion, as soon as this one is over.

Moody: That's what I just want to check.

Hyne: Okay, roll call please.

Motion by **Smith**, second by **Zichi**, to appoint Treasurer Alan Dolley as the temporary City Manager effective immediately. Yes: VanAllsburg, Zichi, Hyne, Moody, Pratt, Siciliano, Smith. No: None. **Motion passed.**

Hyne: Any additional conversation or actions?

Moody: I'd move to create a committee that would be, be on the committee would be Councilman Pratt, Councilman VanAllsburg, and the Mayor to work with the designated City Manager for any, I don't know concerns that may arise after this transition and to report back to the City regarding the interim manager selection, who could be voted on by the City at that point.

Hyne: Is there support?

Smith: Support.

Hyne: Okay, motion and support, is there further discussion?

Zichi: Do we have a time frame on that report back?

Moody: Yeah, ASAP, I don't know how much, as soon as possible but I guess you know a week maybe...

Siciliano: Can we say not later than the next meeting?

Moody: Yeah. Obviously time is important.

Hyne: Councilmember Smith, are you okay with that?

Smith: Yes.

Hyne: Okay, let's do roll call please.

Motion by **Moody**, second by **Smith**, to create a committee of Hyne, Pratt, and VanAllsburg, to work with the designated City Manager for any concerns that may arise after this transition and to report back to the City Council regarding interim manager selection who could be voted on by Council at that point by the next meeting. Yes: Zichi, Hyne, Moody, Pratt, Siciliano, Smith, VanAllsburg. No: None. **Motion passed.**

Pratt: I would like to make a motion that we table the rest of the agenda until our next Council meeting due to the nature of this meeting and the stress we've all been feeling.

Hyne: Okay, is there support.

Moody: Support.

Hyne: Okay, I would just like to address our legal counsel as to, that is acceptable under our Attorney Toskey?

Toskey: Yes, I can see no reason why a motion to table all remaining action, discussion, correspondence and staff reports wouldn't be appropriate.

Hyne: Alright, thank you. We have a motion and support, is there any discussion? Yes.

Siciliano: If I may I'd like to ask Director Aniol if by postponing the Farmers' Market discussion until the next meeting will that inhibit any of the at present, would it set us back at all? Could we still make a decision and keep it moving at that point or?

Aniol: Your next meeting is April...

Pratt: 11th.

Aniol: 11th. It just delays the marketing and advertising, it's not something, it's not going to Market.

Siciliano: Beyond that I think we should stay and finish the rest of the meeting, but if the feeling is to leave that's fine.

Moody: What was that I'm sorry.

Siciliano: I think we should stay and finish, personally.

Hyne: We have the motion, was there support? Yes. Is there further discussion?

Motion by **Pratt**, second by **Moody**, to table the rest of the agenda until the next meeting.

Siciliano: Move to recognize Ms. Campbell.

Hyne: Okay, is there support?

VanAllsburg: Second.

Hyne: Okay, all in favor? Opposed? Please state your name and address thank you.

Motion by **Siciliano**, second by **Zichi**, to allow Terri Campbell to speak. **Motion passed by voice vote.**

Campbell: Terri Campbell, 308 Fulton Street, I understand the circumstances in which you, it might be appropriate to you but I really think that action item 9f. is connected, and I for one would like to see that remain on the agenda for tonight. Well okay, the old 9f. which is the code of conduct.

Hyne: Okay, alright. Is there any further discussion by Council?

Moody: So what motion is on the table, the one that John, I mean Councilman Pratt...

Hyne: Yes, and it was supported. Okay, roll call please.

Vote on the original motion: Yes: Hyne, Moody, Pratt, Smith. No: Siciliano, VanAllsburg, Zichi. **Motion passed.**

Hyne: Okay, I'll entertain a motion to adjourn.

Pratt: I'll move that we adjourn at 10:25 p.m.

Hyne: Is there support?

Moody: Support.

Hyne: Okay, all in favor? Opposed?

Motion by **Pratt**, second by **Moody**, to adjourn. **Motion passed by voice vote with Zichi, Siciliano, and VanAllsburg voting no.**

***Meeting Adjourned at 10:25 p.m.**

Respectfully Submitted by: _____
Holly M. Thompson, Deputy Clerk

Michelle A. Hyne, Mayor

Date Approved: _____