

PROCEEDINGS
OF
CITY COUNCIL
OF THE
CITY OF LOWELL

For the Regular Meeting of TUESDAY, SEPTEMBER 7, 2010.

The Meeting was called to order at 7:30 p.m. by Mayor Jim Hodges and City Clerk Betty Morlock called the roll.

Present: Councilmembers Jeff Altoft, Maryalene LaPonsie, Andrew Schrauben, Mayor Pro Tem Sharon Ellison and Mayor Jim Hodges.

Absent: None.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, Police Chief James Hinton, DPW Director Dan DesJarden, Light and Power Boardmember, Planning Commissioner and Parks and Recreation Commissioner Jim Hall, Water Distribution Supervisor Bob Robinson and Parks and Recreation Chairman Perry Beachum.

Item #1. **APPROVAL OF THE AGENDA.**

IT WAS MOVED BY ELLISON and supported by SCHRAUBEN to approve the agenda as presented.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #2. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF AUGUST 16, 2010.**

IT WAS MOVED BY ELLISON and supported by LAPONSIE to approve the regular meeting minutes of August 16, 2010 as written.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #3. **APPROVAL OF THE ACCOUNTS PAYABLES.**

IT WAS MOVED BY ELLISON and supported by LAPONSIE that the bills and accounts payables be allowed and the warrants issued.

YEA: Councilmembers Altoft, LaPonsie, Schrauben, Mayor Pro Tem Ellison and Mayor Hodges.

NAY: 0. ABSENT: 0. MOTION CARRIED.

| <u>BILLS AND ACCOUNTS PAYABLE (09/07/10)</u> | |
|----------------------------------------------|-------------|
| GENERAL FUND | \$73,913.07 |
| MAJOR STREET FUND | 20,632.17 |
| LOCAL STREET FUND | 4,365.20 |
| DDA FUND | 562.08 |
| AIRPORT FUND | 485.13 |
| WASTEWATER FUND | 3,523.52 |
| WATER FUND | 15,607.24 |
| CABLE TV FUND | 8,700.00 |
| DATA PROCESSING | 776.46 |
| EQUIPMENT FUND | 8,951.46 |
| CURRENT TAX FUND | 193,101.50 |

Item #4. **CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA.** No comments were received.

Item #5. **RESOLUTION PROCLAIMING FRIDAY, SEPTEMBER 10, 2010 AS PINK ARROW PRIDE DAY.** On behalf of the schools, administration, teachers, student body and the community of Lowell, Brian Krajewski thanked the Council for honoring them in the event of Pink Arrow Pride Day. This is the third year the Lowell High School football and coaching staff have initiated cancer awareness and fund raising event called Pink Arrow Pride Day. It is about serving our community and inspiring others to serve theirs.

The Lowell Community has raised over \$250,000 in addition another \$250,000 in kind services in helping change the Lowell Senior Neighbor Center and adding the Gilda's Club of Lowell. This Community has inspired States, schools and people.

Mayor Hodges read the following:

**RESOLUTION PROCLAIMING FRIDAY, SEPTEMBER 10, 2010
AS PINK ARROW PRIDE DAY - ARROW FORCE III
IN THE CITY OF LOWELL**

WHEREAS, many have been afflicted and battling cancer and breast cancer in particular and

WHEREAS, the Lowell High School football team will once again compete against this disease with each player wearing a pink jersey for its game on Friday, September 10, 2010 and

WHEREAS, the Lowell community is encouraged to buy and wear Pink Arrow Force III t-shirts to support Gilda's Club of Lowell, Lowell Community Wellness for Pink Arrow Family Support, the Dr. Don Gerard Medical Scholarship and the Kathy Talus Scholarship and

NOW, THEREFORE, BE IT RESOLVED, that the Lowell City Council recognize Friday, September 10, 2010 as "Pink Arrow Pride Day Arrow Force III" and further to encourage all Lowell Community residents to participate in this event by purchasing pink T-shirts and attending the game. IT WAS MOVED BY LAPONSIE and seconded by ELLISON to adopt the resolution proclamation designating September 10, 2010 as "Pink Arrow Pride Day".

YEA: Councilmembers Altoft, LaPonsie, Schrauben, Mayor Pro Tem Ellison and Mayor

Hodges. NAY: None. ABSENT: None. MOTION CARRIED.

Item #6. **STREET CLOSINGS.**

- A. Request from Larkin's Restaurant – close Broadway on Saturday, October 9 for the Chili Cook Off. As part of the Harvest Festival schedule for Saturday, October 9, Larkin's will hold its ninth Annual Chili Cook Off from 7 a.m. to 7 p.m. Broadway is requested to be closed from the alley by the Post Office to the Main Street intersection. Chief Hinton and City Manager Pasquale recommended the Council approve this request.

This year, the money raised will be donated to the Ivan Blough Scholarship fund that the Chamber of Commerce is starting.

IT WAS MOVED BY LAPONSIE and seconded by SCHRAUBEN to close Broadway Street on October 9, 2010 from 7 a.m. to 7 p.m. for the Chili Cook Off.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

- B. Lowell Rotary Club – closed Elm Street and Lincoln Lake by Richards Park on Thursday, September 9 for Kaleidoscope of Flavors. As part of the Kaleidoscope of Flavors the Lowell Rotary Club plans to use Richards Park on Thursday, September 9. They will be giving out ice cream. The Lowell Police Department will also be present and provide Child Seat Safety Checks. The Lowell Fire Department will attend with a fire truck and smoke house as well as Lowell Ambulance will be selling helmets for bikers.

IT WAS MOVED BY ALTOFT and seconded by LAPONSIE to close Elm Street and Lincoln Lake by Richards Park on Thursday, September 9 for Kaleidoscope of Flavors.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #7. **REZONING – 119 LINCOLN LAKE INCLUDING THE VACANT LOT AT THE SOUTHEAST CORNER OF CHATHAM AND LINCOLN LAKE – FROM PF (PUBLIC FACILITIES AND R-3 (RESIDENTIAL TO C-3 (GENERAL BUSINESS – RECOMMENDATION FROM THE PLANNING COMMISSION – PUBLIC HEARING.** Councilmember LaPonsie explained the request originally came before the Planning Commission involving a business moving into the Masonic Lodge. A request was made to rezone the lodge as well as the adjacent vacant lot to the north. The request has since been rescinded. However, the Planning Commission decided to hold a public hearing as there has been at least four times where a request for a business has been proposed. Currently, the building is zoned Public Facilities.

Mayor Pro Tem Ellison believed this made sense.

IT WAS MOVED BY ELLISON and seconded by LAPONSIE to rezone 119 Lincoln Lake including the vacant lot at the southeast corner of Chatham and Lincoln Lake from PF (Public Facilities) and R-3 (Residential) to C-3 (General Business).

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #8. **RESURFACING OF SOUTH WEST AND SOUTH PLEASANT – BIDS.** On August 27, bids were received to resurface South West and South Pleasant Streets from West Main to Bowes Road. After reviewing the bids, Williams & Works recommended Michigan Paving and Materials perform the work as low bidder at a cost of \$75,909.

This project is being funded from the Local Street Construction Fund (one mill equivalent of \$97,697).

Councilmember LaPonsie questioned what would happen to the left over funds. City Manager Pasquale hoped to have monies to allocate toward the resurfacing of Center Street. This would be the next major project which will be undertaken.

IT WAS MOVED BY LAPONSIE and ALTOFT to approve the low bid from Michigan Paving and Materials for \$75,909 to resurface South West and South Pleasant Streets.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #9. **ALLOCATION OF LCTV ENDOWMENT FUND FOR COMPLETION OF LIBRARY EXTERIOR TRIM WORK.** Previously, the LCTV Endowment Fund granted \$10,000 to undertake the reroofing of the Englehardt Public Library. Along with a \$50,000 allocation from the Lowell Area Community Fund, a total of \$60,000 had been provided.

Richard Anderson Builders finished the reroofing at a cost of \$42,500. But, it was noticed that the exterior siding and trim had been badly deteriorating. Anderson had given an estimate of \$26,200 totaling \$68,700 for the project. The LCTV Fund provided the \$8,700 allocation.

In undertaking the siding project, Anderson encountered significant deterioration around the rear window facing the river. The additional cost was \$2,300. There is approximately \$123,500 in spendable balance of the LCTV Fund remaining.

City Manager Pasquale consulted with the LCTV Endowment Fund Board on this issue by email and phone. Each has granted a recommendation to allocate these monies. Thus, the Council is requested to approve this funding proposal.

Councilmember Altoft questioned the insulation in the upper part of the building. DesJarden stated this is another project which needs to be addressed at a later time. The Library Building Engineer Architect visited the site with the Mechanical Engineer to figure out why the A/C and heat is coming out from the walls. It was discovered some areas were not properly sealed.

IT WAS MOVED BY ELLISON and supported by ALTOFT to approve the additional allocation of \$2,300 from the LCTV Endowment Fund to complete the library project.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #10. **REPAIRS TO OLD PUMP HOUSE (BRICK OUT BUILDING) AT 990 N. WASHINGTON.** At its August 2, 2010 meeting, the City Council determined to proceed with bids involving the repairs to the old pump house at 990 N. Washington. It was also recognized that Gary Dietzel and Sandy Bartlett would provide \$2,000 toward the project.

Three local building contractors were invited to submit bids which would bring the building to code. The bids were as follows:

- Overbeck Construction \$16,901
- Ridgeline \$19,950
- Architectural Buildings Restoration, Inc. \$25,800

If approved by Council, the City's share would be allocated from the Water Fund. As noted previously, a total of \$1,900 has been estimated for demolition of the structure.

DPW Director Dan DesJarden noted this does not include electrical work as this should be addressed at a later date.

Mayor Hodges noted discussion during the August 2, 2010 meeting indicated the cost would be approximately \$6,000. However, the bids received are much higher.

DesJarden noted the demolition permits for the project have been received. The cost is based upon it taking 19 hours to perform the work.

Gary Dietzel of 990 N. Washington Street stated the building is secure and is still standing. He suggested giving them more time before demolition to see if the money can be acquired.

Councilmember LaPonsie had hoped there wouldn't be much of a cost difference. Councilmember Schrauben agreed. This is disappointing. He appreciated Dietzel and Bartlett investing \$2,000 toward the project.

Councilmember Altoft was also disappointed. He suggested allowing more time to acquire the fund since the building is secure and fenced in. Dietzel required time through the winter.

Councilmember Ellison did not believe it needed to be demolished immediately.

Hodges noted Mark Fleet, Building Inspector from Vergennes Township has condemned the building and gave the City a deadline of October 21, 2010. DesJarden explained the City received a letter stating both buildings need to be stabilized, restored or reconstructed. Otherwise, it must be demolished or removed from the premises. DesJarden noted an extension could be requested.

LaPonsie did not believe additional funds would be available by next spring either. However, if it is secure and no one can get into the structure, it probably doesn't hurt to ask Vergennes for an extension. Schrauben agreed.

Hodges confirmed a date of March 31, 2011 be requested giving time for the construction season to begin, dependent on an agreement with the Vergennes Township Building Inspector.

DesJarden noted "no trespassing" signs could be placed.

By general consensus, the Council agreed. DesJarden noted he would report back at the next meeting.

Item #11. **ORDINANCE AMENDMENT REQUIRING LICENSING OF SNOW PLOW OPERATORS – TABLED FROM THE PREVIOUS MEETING.** A license for those, who as a business, remove snow and ice from private properties has been provided by this ordinance amendment. After conducting a public hearing at the August 16 meeting, Councilmember Schrauben had several issues which needed to be addressed by City Attorney Richard Wendt.

Schrauben explained the two ordinances (trash hauling and snow plow) both had the same intent, but were written slightly differently. He was trying to confirm if these are written differently, would the ordinances still be interpreted the way the City intended. Wendt clarified these are written to be interpreted a certain way.

IT WAS MOVED BY LAPONSIE and seconded by ELLISON to approve the ordinance amendment requiring licensing of snow plow operators.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #12. **RESOLUTIONS ESTABLISHING LICENSE TERM AND FEE FOR WASTE HAULERS LICENSES AND TIME FOR COLLECTION; AND TERM AND FEE FOR SNOW PLOW OPERATORS.** With the adoption of the respective ordinances involving waste haulers and snow plow operator's licenses, the following is proposed:

- | | | |
|---------------------|---|---------------------------------------------------------------------------------------------------------------------------------|
| Waste haulers | - | Two year term \$30 fee per vehicle pro rated collect and transport only on Thursday each week between 7 a.m. to 7 p.m. |
| Snow plow operators | - | Two year term \$10 per year per vehicle pro rated |

John VanTolen of Green Valley Disposal questioned when the Thursday pick up rule would be effective. City Manager Pasquale explained once the resolution is passed, it could be initiated immediately, unless the Council wanted differently. Councilmember LaPonsie suggested there be time to notify customers and make changes. Mayor Hodges proposed the resolution be effective as of January 1, 2011. Pasquale noted license applications will be sent to those companies who make a request.

VanTolen questioned vehicle inspections. Police Chief James Hinton read from the ordinance which states "the City shall have the right to inspect all motor vehicles and related equipment for which a license must be obtained". Hinton clarified he had no intention of inspecting all vehicles at this time.

DPW Director Dan DesJarden asked who would establish the winter season for snow plowing and when is it pro rated? He suggested "pro rated" be removed. Therefore, the rate would simply be \$10 per year per vehicle. DesJarden also questioned if the fee of \$10 was enough. Pasquale noted discussion from the last meeting indicated direction to keep the fee as low as possible.

IT WAS MOVED BY LAPONSIE and seconded by ELLISON to approve the resolution establishing license term and fee for waste haulers as presented.

YEA: Councilmembers Altoft, LaPonsie, Schrauben, Mayor Pro Tem Ellison and Mayor Hodges.

NAY: None. ABSENT: None. MOTION CARRIED.

IT WAS MOVED BY ELLISON and seconded by SCHRAUBEN to approve the resolution establishing license term and fee for snow plow operators as presented with no pro rating.

YEA: Councilmembers Altoft, LaPonsie, Schrauben, Mayor Pro Tem Ellison and Mayor Hodges.

NAY: None. ABSENT: None. MOTION CARRIED.

Item #13. **RESOLUTION APPROVING AND AUTHORIZING THE RENEWAL AGREEMENT FOR LEGAL SERVICES WITH DICKINSON WRIGHT.** With the current agreement expiring on September 30, 2010, City Manager Pasquale proposed to extend the legal services agreement with Dickinson Wright until December 31, 2011. The terms remain the same with Richard Wendt designated as City Attorney as well as charges fees (\$145 per hour for regularly assigned work and \$90 per hour for ordinance enforcement).

With a new City Manager starting July, 2011, this agreement gives the Manager and Council time to determine whether to consider proposals for legal counsel or continue with Dickinson Wright.

Councilmember Altoft believed the legal services should be placed up for bid. Pasquale noted Wendt is very well versed in municipal law. He has worked with Wendt for a number of years and is high on his colleagues list.

IT WAS MOVED BY ELLISON and seconded by LAPONSIE to approve and authorizing the renewal agreement for legal services with Dickinson Wright until December 31, 2011.

YEA: Councilmember LaPonsie, Schrauben, Mayor Pro Tem Ellison and Mayor Hodges.

NAY: Councilmember Altoft. ABSENT: None. MOTION CARRIED.

Item #14. **SOFT SIDED ACCESSORY STRUCTURES – DIRECTION REQUESTED FROM THE PLANNING COMMISSION.** At its August 23 meeting, the Planning Commission received a report from Jay Kilpatrick of Williams & Works regarding options for regulating soft sided accessory structures. The Commission wanted direction from the Council on this issue before proceeding.

Councilmember LaPonsie explained there is a gray area which is not covered within the ordinance on certain building sizes. The City is working under the assumption soft sided garages are not allowed per Building Inspector Doug Hopkins who explained if an issue is not addressed in the code, it is not allowed. The City Attorney backs this up as well. However, a Planning Commission member wanted to review slightly bigger structures to determine if this should be considered.

A memorandum from Planner Jay Kilpatrick, indicated he was unsure if he agreed with the Hopkins' interpretation. Kilpatrick believed the ordinance needed to be tightened up. He suggested it be regulated under an existing ordinance, more specifically state either these are allowed or not.

Pasquale noted there are no regulations for buildings less than 600 square feet.

LaPonsie also explained such structures are being enforced in residential zones, but not in commercial or business areas.

Hodges noted Two Seasons is allowed through a special use permit.

Hodges did not believe such structures should be allowed unless there is a special use permit. Hodges suggested it simply state "No soft sided structures".

Councilmember Schrauben wanted the gap between 200 and 600 square feet structure addressed.

Mayor Pro Tem Ellison believed the ordinance needed to be tightened up. She did not feel residential areas were a proper place for soft sided structures.

Schrauben asked if one would still be allowed if it is less than 200 square feet. LaPonsie explained there has been violation notices sent to everyone, no matter if it is a soft sided structure.

Councilmember Altoft did not want the issues all grouped together. The soft sided structures are being grouped together with the gap between 200 and 600 square feet structures. Altoft noted a building permit is not needed for a structure less than 200 square feet.

Altoft questioned if the City had received any complaints prior to the issue being brought up about Bob Robinson's structure. Altoft suggested addressing the issue for structures between 200 and 600 square feet and do nothing for structures under 200 square feet alone.

LaPonsie confirmed the Council wanted the Planning Commission to pursue the issue and include more specific language, including residential and commercial. The size issue should also be discussed and what is allowed in businesses.

Barb Barber of 318 King asked if Meijer had a permit for such structures. It was noted Meijer is located in Lowell Township.

Dave Clark of 712 Lincoln Lake has a soft roofed structure. He was surprised to hear Hodges give a definite no. There are over 4,000 residents living in the City, with less than one percent having a soft sided structure.

Clark referred to the meeting of May 3, 2010 where Councilmember Schrauben stated "while he served on the Planning Commission the first couple residents who came to talk about these issues were both in support of the soft sided structures". It was only later that the opposition came in and tried to talk against it. It further states the other issue involves the condition of soft sided buildings. This applies to every building. It is not just the soft sided structures, but the buildings and houses. He agreed there are structures that look rather trashy. But his place is very attractive and kept up.

Jim Miles of 718 Lincoln Lake questioned how much money has been spent on the issue. He has had such a structure up and down in his driveway over the past eight years. He is not happy with the process. Pasquale explained most of it involves the time the Planning Commission and City Council have spent on this. Miles noted he called City Hall when he originally put the structure up and was told it was allowed as this was a 10 by 20 structure.

Police Chief James Hinton stated on behalf of the citations which were written by IMS, these will be voided out. There will be letters sent to the residents who received the citations advising them. Hinton explained the ordinance used to issue the citations is not applicable to this size of unit. He noted there is no ordinance he is aware of which could be enforceable to address this issue of a structure under 600 square feet. LaPonsie was frustrated about this. The Commission had been told, very specifically for the entire process, such structures are not allowed in the City because these are not listed as an assessable building material. In the building code, if something is not specifically allowed then it is denied.

Altoft couldn't understand why this issue was being discussed. There have been no complaints. He believed the gap should be closed between the 200 and 600 square feet and leave the others alone.

No further information was discussed.

Item #15. **SANITARY SEWER FLOW STUDY – NEXT STEP**. At its August 9 work session, the Council had the opportunity to review the results of the First Phase of the Sanitary Sewer Flow Study with Dennis Benoit of Hubbell, Roth and Clark, Inc. The next steps in the process were provided.

Mayor Hodges noted the amount is \$14,900 to further the process. This would include the breakdown offered with meter rental, installation and maintenance, communication and intersection, interaction with residents, review of data and survey information, report and preparation and also provided funds for meeting time.

IT WAS MOVED BY ELLISON and seconded by ALTOFT to approve the second step in the Sanitary Sewer Flow Study in the amount of \$14,900 with Hubbell, Roth and Clark, Inc.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #16. **COUNCIL COMMENTS**. Councilmember Altoft referred to discussion held a few months ago regarding filming other City meetings than just the City Council meeting. He believed this should be done. Altoft wanted all meetings placed on the public access channel. Hodges noted a proposal has been made as well as money has been allocated toward upgrading the system. When this is in place, Hodges believed this should be fairly easy to do once this is completed.

Altoft also referred to Code Enforcement for bad sidewalks. He suggested the building inspector walk N. Monroe to the cemetery and back and would find 12 violations. Altoft noted there had been prior discussion where Hopkins indicated he would be checking one street at a time a long time ago, but it doesn't appear this has been done.

Atloft suggested contract renewals be presented to the Council a couple months prior so inquiries can be made.

Councilmember LaPonsie cheered for the Lowell Pink Arrows.

Councilmember Schrauben stated today is a good day to appreciate Lowell Light and Power due to all the wind.

He also thanked Mark Droog and Tom Russo for repairing the line coming to his house.

Councilmember Ellison agreed stating they do an excellent job. She also lost power but only for 15 minutes.

Ellison commented on the film, the Genesis Code that was shot in Lowell. It is playing at the local theaters. Pasquale noted it has been extended to September 16, 2010.

Ellison also noted today was the first day of school for the Lowell School District. She is proud to be part of the district.

Mayor Hodges received a letter from David B. Simmons from the West Michigan Blue Grass Association informing him that they will be holding the Fall Fest Blue Grass Music Festival at the fairgrounds in Lowell, September 17 – 19th.

Mayor Hodges also noted he and City Manager Pasquale has been in contact with the Michigan Municipal League and working with them in finding and doing a search process for a new City Manager. The contact person is Caroline Kennedy. Hodges presented an overview of a typical executive search process. The Michigan Municipal League assures the City of Lowell they can do the job in 60 to 90 days.

Item #17. **CITY MANAGER'S REPORT.** City Manager Pasquale reported on the following:

1. The following boards and commissions meetings minutes were provided:
 - Downtown Development Authority meeting of June 24, 2010
 - Parks and Recreation Commission meeting of July 17, 2010
 - Planning Commission meeting of July 26, 2010
 - Grand Valley Metro Council – Transportation Policy Committee meeting of July 21, 2010
2. The Municipal Employees Retirement System (MERS) will hold its annual meeting in Kalamazoo from September 15 – 17. An officer delegate from the City must be appointed by Council. Dan DesJarden is recommended for approval while Greg Pierce would be selected as the alternate. Steve Donkersloot is the employees delegate with George Regan being the alternate.

IT WAS MOVED BY ELLISON and seconded by LAPONSIE to approve Dan DesJarden as the officer delegate from the City and Greg Pierce as the selected alternate. Steve Donkersloot is the employees delegate with George Regan being the alternate.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

3. A voting delegate and alternate to the Michigan Municipal League Annual Meeting at Dearborn (September 21 -24) needs to be selected.

IT WAS MOVED BY ELLISON and seconded by LAPONSIE to appoint Mayor Hodges as the Voting Delegate at the Michigan Municipal League Annual Meeting.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

IT WAS MOVED BY HODGES and seconded by LAPONSIE to appoint Mayor Pro Tem Ellison as the alternate voting delegate to the Meghan Municipal League Annual Meeting at Dearborn.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #18. **APPOINTMENTS**. No appointments were made at this time but the City does have vacancies on the City Planning Commission and the Board of Review. Anyone interested should contact City Clerk Morlock or Mayor Hodges.

IT WAS MOVED BY ELLISON to adjourn at 9:15 p.m.

DATE:

APPROVED:

James W. Hodges, Mayor

Betty R. Morlock, City Clerk