

CITY OF LOWELL
CITY COUNCIL AGENDA
JUNE 1, 2015, 7:00 P.M.

1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL
2. APPROVAL OF THE AGENDA
3. APPROVAL OF MINUTES OF PREVIOUS MEETING(S)
 - a. May 18, 2015 – Regular
 - b. May 18, 2015 – Closed Session
 - c. May 26, 2015 – Worksession
4. APPROVAL OF ACCOUNTS PAYABLE
5. CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA
6. OLD BUSINESS
 - a. Strategic Goals Report
 - b. Pending Council Projects Report
 - c. Library HVAC System
 - d.
7. NEW BUSINESS
 - a. Zoning Board of Appeals – Variance Application – O'Reilly Auto Parts – 1427 W. Main Street
 - b. Updated FOIA Procedures and Guidelines – Draft Review
 - c. Cascade Inspection Services Agreement
 - d.
8. COUNCIL COMMENTS
9. MANAGER'S REPORT
10. APPOINTMENTS
11. CLOSED SESSION
 - a. Pending Litigation – MCL 15.268(e)
12. ADJOURNMENT

NOTE: Any person who wishes to speak on an item included on the printed meeting agenda may do so. Speakers will be recognized by the Chair, at which time they will be required to state their name and will be allowed five (5) minutes maximum to address the Council. A speaker representing a subdivision association or group will be allowed ten (10) minutes to address the Council.



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MEMORANDUM

TO: Lowell City Council

FROM: Mark Howe, City Manager

RE: Council Agenda for Monday, June 1, 2015

1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL
2. APPROVAL OF THE AGENDA
3. APPROVAL OF MINUTES OF PREVIOUS MEETING(S)
 - a. May 18, 2015 – Regular Session
 - b. May 18, 2015 – Closed Session
 - c. May 26, 2015 – Work Session
4. ACCOUNTS PAYABLE
5. CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA
6. OLD BUSINESS
 - a. Strategic Goals Report

The report is attached for your review.

- b. Pending Council Projects Report

The report is attached for your review.

- c. Library HAVC System

During your previous meeting you asked that we review the current HVAC system at the Englehardt Public Library and make recommendations on lasting improvements to the system before moving forward with replacement of the cooling unit.

A memo from Interim Public Works Director Ron Woods is attached outlining his review with a recommendation that you approve a bid to replace the cooling unit.

Recommended Motion: That the Lowell City Council accept the bid from Seaman's Mechanical for \$18,000 to replace the cooling system as the Englehardt Public Library.

7. NEW BUSINESS

- a. Zoning Board of Appeals – Variance Application – O'Reilly Auto Parts – 1427 W. Main Street

We have received a variance request for a proposed sign at O'Reilly Auto Parts. Attached are memos outlining the process of holding the public hearing on this request as well as recommendations.

- b. Updated FOIA Procedures and Guidelines – Draft Review

Attached is a draft procedures and guidelines document for your review that will keep us in compliance with recent amendments to the Michigan Freedom of Information Act. We will provide a summary discussion during your meeting.

- c. Cascade Inspection Services Agreement

We have prepared a new agreement with Cascade Township to provide building inspection services for an additional three-year period. Our transition to Cascade Township three years ago has been met with positive comments from contractors and homeowners.

Recommended Motion: That the Lowell City Council approve a three-year agreement with Cascade Township for building inspection services and authorize the signatures of the Mayor and City Clerk.

8. COUNCIL COMMENTS

Matt Mayer	Lowell Area Fire and Emergency Services Authority
Jeff Altoft	Airport Board Park and Recreation Commission Downtown Development Authority
Jim Hall	Planning Commission Lowell Area Recreation Authority
Sharon Ellison	Arbor Board LCTV Endowment Board Downtown Historic District Commission
Jim Hodges	Lowell Light and Power Chamber of Commerce Board of Directors Look Memorial Fund

9. MANAGER'S REPORT

The report is attached for your review.

10. APPOINTMENT(S)

Airport Board Vacancy -	01/01/2017
Board of Review Vacancy – (Nancy Wood currently serving)	06/30/2015
Light and Power Board Vacancy – (Greg Canfield currently serving)	06/30/2015
Local Officers Compensation Commission Vacancy – (Roger LaWarre currently serving)	06/30/2015
Planning Commission Vacancy – (Kelli Carney currently serving)	06/30/2015
Vacancy – (Jim Salzwedel currently serving)	06/30/2015

11. CLOSED SESSION

- a. Pending Litigation – MCL 15.268(e)

We will need to go into closed session to discuss pending litigation with the city attorney.

12. ADJOURNMENT

**PROCEEDINGS
OF
CITY COUNCIL
OF THE
CITY OF LOWELL
MONDAY, MAY 18, 2015, 7:00 P.M.**

1. **CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL.**

The Meeting was called to order at 7:00 p.m. by Mayor Hodges and roll was called by Deputy City Clerk Susan Ullery.

Present: Councilmembers Jeff Altoft, Sharon Ellison, Jim Hall, and Mayor Jim Hodges.

Absent: Councilmember Mayer.

Also Present: City Manager Mark Howe, Deputy City Clerk Susan Ullery, Interim DPW Director Ron Woods, City Treasurer Suzanne Olin and City Attorney Richard Wendt.

2. **EXCUSE OF ABSENCE.**

IT WAS MOVED BY HALL and seconded by ALTOFT to excuse the absence of Councilmember Mayer.

YES: 4. NO: 0. ABSENT: 1. MOTION CARRIED.

3. **APPROVAL OF THE AGENDA.**

IT WAS MOVED BY HALL and seconded by ELLISON to approve the agenda as written.

YES: 4. NO: 0. ABSENT: 1. MOTION CARRIED.

4. **APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING(S).**

IT WAS MOVED BY ELLISON and seconded by HALL to approve the regular minutes of the May 4, 2015 meeting as corrected.

YES: 4. NO: 0. ABSENT: 1. MOTION CARRIED.

5. **APPROVAL OF THE ACCOUNTS PAYABLE.**

IT WAS MOVED BY ELLISON and seconded by HALL to approve the accounts payable as presented.

YES: Councilmember Altoft, Ellison, Hall and Mayor Hodges.

NO: None. ABSENT: Councilmember Mayer. MOTION CARRIED.

BILLS AND ACCOUNTS PAYABLE (05/18/2015)

General Fund	\$18,377.77
Major Street Fund	\$5,064.27
Local Street Fund	\$4,125.23
Downtown Development Fund	7,217.78

Designated Contributions	\$427.19
Airport Fund	\$1,021.07
Wastewater Fund	\$12,273.08
Water Fund	\$9,300.84
Data Processing Fund	\$908.39
Equipment Fund	\$423.80

6. **CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA.**

No comments were received.

7. **OLD BUSINESS.**

- A. Strategic Goals Report. City Manager Howe referred to inflow and infiltration. He said the City engineer is working on a theory that there could be a layer of clay on the west side that is acting somewhat like a dam. This could be the reason for a high water level in this area.
- B. Pending Council Projects Report. Howe stated RFP's for the removal of the tower have been sent out.
- C. Public Hearing and Adoption of 2015 – 16 Budget Resolution. It was noted copies of the budget have been available at city hall, library and on the website for the public to review.

No public comments were received.

Councilmember Altoft questioned what was budgeted for maintenance expenses at the library. Do changes need to be made because of the heating/cooling system? Howe stated the total expenses for the current year are approximately \$70,000 and we anticipate receiving approximately \$8,000 from KDL. Within that there is approximately \$10,000 for repair/maintenances expenses. However, expenses will be well beyond this due to the HVAC project. Howe noted the project was built into next year's budget which begins July 1, 2015.

IT WAS MOVED BY ELLISON and seconded by HALL to accept Resolution 07-15 adopting the City of Lowell's annual budget for the 2015 – 16 fiscal year.

YES: 3. (Councilmembers Ellison, Hall and Mayor Hodges)

NO: 1. (Councilmember Altoft)

ABSENT: 1. (Councilmember Mayer) MOTION CARRIED.

8. **NEW BUSINESS**

- A. Kent County Dispatch Agreement. Kent County has requested that the City renew the agreement to provide dispatch services for the police department. The county has been working with other agencies to extend the agreement to entities in which the county is providing dispatch services for fire departments. Currently not all fire departments, including the Lowell Area Fire Department, pay for dispatch services.

The proposed agreement with the City of Lowell will actually reduce the cost of police dispatch services as fire agencies are being asked to pay their share of dispatch costs. This will likely be offset by a future

increase in our contribution to the Lowell Area Fire Authority assuming the authority agrees to a similar agreement for dispatch services.

The City currently budgets approximately \$40,000 annually for dispatch services. Under the agreement our share of police dispatch would be \$32,823. The fire authority will be asked to phase in payment for dispatch services over a three-year period at annual rates of \$4,881, \$9,763 and \$14,644. As an operating expense to the authority, these amounts would be included in the annual budget with the City of Lowell's portion being determined by the formula established when the fire authority was created.

IT WAS MOVED BY ALTOFT and seconded by ELLISON that the Lowell City Council approve the agreement with Kent County for police dispatch services for a three-year period (January 1, 2015 to December 31, 2017) and authorize the signatures of the Mayor and City Clerk.

YES: 4. NO: 0. ABSENT: 1. MOTION CARRIED.

- B. Property Available under Tax Foreclosure. The Kent County Treasurer has determined that it will foreclose a property at 126 S. West Street in the City of Lowell. The City has the first opportunity to purchase the property if we deem that it is needed for a public purpose. The total due on the property is \$2,373.33.

While the City has purchased properties in this fashion in the past for public purposes, there does not appear to be any public use for this particular property and therefore it is recommended that the City forego the option to purchase it.

By general consensus, the Council agreed.

- C. Library HVAC System.

The City has been having issues with the heating and cooling system at the Englehardt Public Library for several years. The system was first installed when the building was constructed more than 15 years ago.

Grant applications have been submitted to the Look Memorial Fund and the Lowell Area Community Fund to assist with replacement of the system as well as some efficiency upgrades. In the meantime, during the recent warmer weather as the air conditioning was needed, the system failed and now needs to be replaced.

It will be another month before we hear about whether or not our grant requests have been approved. In the meantime, replacing the system will require time for ordering, delivery and scheduling the installation. We would like to move forward with the project now.

We had planned on upgrading and replacing the system in the 2015 -16 budget. If we moved forward the project has the potential of putting us over budget for the current year, however, we have a sufficient fund balance to cover the expense. This is a prime example of why we carry reserves in fund balance.

Howe asked for the authority to accept a bid less than \$25,000 for the project.

Councilmember Ellison asked if 15 years was a typical life span for such a system. Howe did not believe this was typical but was not sure. There have been many issues all along with the current system.

Councilmember Altoft asked if the new system would be better quality. He also wanted to take a couple extra weeks to make sure it is done right. Mayor Hodges agreed.

Howe clarified the Council wanted the City to hire an outside firm to investigate what the best system would be rather than relying on the contractors to improve the system. By general consensus, the Council agreed.

9. MONTHLY REPORTS.

No comments were received.

10. COUNCIL COMMENTS

Councilmember Altoft stated the Airport Board discussed improvements that will take place over the summer. He noted all of the hangars are full. Much of the improvements are being done by the board. Altoft also noted Airport Manager Jim Sowle officially resigned from the board which leaves a vacancy.

Councilmember Hall stated the LARA meeting was canceled. However, Planning Commission did meet and it can be viewed from the City's website.

Councilmember Ellison stated none of her boards or commissions met. Ellison requested "public buildings" be discussed at an upcoming worksession.

Mayor Hodges stated the Chamber of Commerce Board of Directors met. There was a discussion regarding the "Lowell Bucks" and ways of keeping funds in Lowell. Lowell Light and Power also met. The bio-digester continues to move closer to full operation. May 1, 2015 became the Commercial Operation start-up date. They are in the official 30 day start-up period. LEAD is looking to have a ribbon cutting ceremony in the near future. There was also discussion on their personnel handbook and annual health care renewal. The FROM Food Fight is being coordinated with Light and Power. A recycling event will be held on May 30 from 9 – noon. He mentioned on May 20, 2015 the Chamber of Commerce will be celebrating the businesses and "Person of the Year" at its annual gathering. Look Memorial Fund will meet on May 20, 2015 to discuss the distribution of \$7,400 available.

11. CITY MANAGER REPORT.

1. The Donna Drive project is moving along well and with continued good weather should be completed on schedule.
2. The sidewalk inspection has been completed and letters are being drafted. Howe is putting together an outline for a discussion on sidewalks at the next workshop.
3. As mentioned in previous reports, the Hudson Street Bridge over the Grand River near the fairgrounds is expected to be closed by the Kent County Road Commission this week for resurfacing. Traffic will be rerouted to Jackson Street. The project is expected to take until July 2 to complete.

4. The cost of the city attorney attending council meetings is approximately \$300 to \$400 depending on the length of the meeting.
5. The May workshop will be held on Tuesday, May 26, at 6 p.m. If the Council has any specific topics to discuss, please let us know so that staff can prepare and have information available for you. The LCTV Committee will also be invited.
6. Howe suggested the Council view the last Planning Commission meeting regarding gravel mining.
7. Howe welcomed Interim DPW Director Ron Woods to the meeting.

12. **APPOINTMENTS.**

Mayor Hodges suggested Matt Kepley be appointed as an alternate to the Board of Review. By general consensus, the Council agreed.

13. **CLOSED SESSION.**

A. Pending Litigation and Union Negotiations

IT WAS MOVED BY ELLISON and seconded by HALL to move to closed session at 7:40 p.m. as allowed under the Open Meetings Act MCL 15.268(e) to discuss pending litigation and MCL 15.268(c) to discuss union negotiations.

YES: Councilmembers Altoft, Ellison, Hall, and Mayor Hodges.

NO: 0. ABSENT: 1. (Councilmember Mayer) MOTION CARRIED.

Council returned to open session at 8:11 p.m.

IT WAS MOVED BY ELLISON and seconded by HALL to adjourn at 8:12 p.m.

DATE:

APPROVED:

James W. Hodges, Mayor

Susan S. Ullery, Deputy City Clerk

**CITY OF LOWELL
KENT COUNTY, MICHIGAN**

RESOLUTION NO. 07-15

**RESOLUTION ADOPTING CITY OF LOWELL ANNUAL
BUDGET FOR FISCAL YEAR 2015-16, APPROVING
MILLAGE LEVIES, APPROVING SCHEDULE OF RATES
AND FEES AND OTHER MATTERS RELATED THERETO.**

Councilmember ELLISON, supported by Councilmember HALL, moved the adoption of the following resolution:

WHEREAS, the City Manager has prepared and presented to the City Council at its meeting on April 20, 2015, a proposed complete itemized annual budget for the 2015-16 fiscal year of the City (the "FY 15-16 Budget") in accordance with the City Charter, applicable State of Michigan law and applicable federal law and regulations, if any; and

WHEREAS, after the FY 15-16 Budget was presented to the City Council, a copy has been available for public inspection at City Hall at the offices of the City Clerk; and

WHEREAS, the City Charter requires that before the FY 15-16 Budget may be considered for adoption by the City Council, the City Council shall hold a public meeting; and

WHEREAS, a public hearing on the FY 15-16 Budget, properly noticed as referenced by Section 8.4 of Chapter 8 of the City Charter, was held at 7 p.m. on May 18, 2015, in the City Council Chambers in City Hall at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the City Charter requires that the City Council adopt a budget for the City for the 2015-16 fiscal year of the City not later than the third Monday in May, including the amount to be levied in such fiscal year on taxable real and personal property in the City to meet the requirements of the FY 15-16 Budget; and

WHEREAS, in connection with the approval of the FY 15-16 Budget, the City Council desires to approve a schedule of rates and fees to be applicable in the City commencing at the beginning of the City's 2015-16 fiscal year.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the FY 15-16 Budget as presented at this meeting, including modifications, if any, made at the time of public hearing and noted in the FY 15-16 Budget document, is hereby adopted.

2. That for the 2015-16 Fiscal year of the City there shall be levied on all taxable real and personal property in the City (a) a general *ad valorem* tax rate of 15.70 mills for general purposes (*i.e.*, administration, fire, police, parks and recreation, etc.), and (b) a general *ad valorem* tax rate of 0.2424 mills for improvements to, and operation of, the public museum. The

total 2015-16 fiscal year City general *ad valorem* tax levy on all taxable real and personal property in the City is 15.9424 mills.

3. That in accordance with the FY 15-16 Budget which is adopted at the fund level, the following are the estimated City revenues and expenses for the 2015-16 fiscal year of the City:

REVENUES

General Fund, \$2,883,654
Major Street Fund, \$425,550
Local Street Fund \$250,850
Historic District Fund \$50,200
Downtown Development Authority Fund, \$626,000
Designated Contributions Fund, \$34,300
Airport Fund, \$49,490
Wastewater Fund, \$1,050,000
Water Fund, \$1,001,270
Light & Power, \$8,826,293
Data Processing Fund \$79,000
Equipment Fund, \$140,000
Lee Fund, \$10,000
Look Fund, \$25,000

APPROPRIATIONS

General Fund, \$2,883,654
Major Street Fund \$475,350
Local Street Fund \$243,300
Historic District Fund \$50,000
Downtown Development Authority Fund, \$482,850
Designated Contributions Fund, \$34,300
Airport Fund, \$46,200
Wastewater Fund, \$808,050
Water Fund, \$889,746
Light & Power, \$7,896,748.48
Data Processing Fund, \$79,000
Equipment Fund, \$143,469
Lee Fund, \$10,000
Look Fund, \$25,000

4. That in a Fund where total appropriations exceed estimated revenue the City has determined that there is sufficient surplus, or undesignated fund balance, in the Fund to meet the requirements of the Uniform Budgeting and Accounting Act, Act 2 of the Public Acts of Michigan 1968 as amended ("Act 2").

5. That pursuant to the provisions of the Uniform Budgeting and Accounting Act, Act 2 of the Public Acts of Michigan 1968 as amended ("Act 2") the City Manager is hereby authorized to make budgetary transfers within the identified fund in the FY 15-16 Budget or between identified activities within a fund. All other budgetary transfers in the FY 15-16 Budget shall be in accordance with Act 2 when City Council approval is required.

6. That the City Manager or his designee(s) is authorized to make expenditures budgeted in the FY 15-16 Budget in accordance with applicable law, ordinances, rules, regulations and policies.

7. That the Schedule of Rates and Fees presented at this meeting is approved to be effective July 1, 2015.

8. That all resolutions and parts of resolutions to the extent of any conflict herewith are rescinded.

YEAS: Councilmembers Ellison, Hall and Mayor Hodges

NAYS: Councilmembers Altoft

ABSTAIN: Councilmembers None

ABSENT: Councilmembers Mayer

RESOLUTION DECLARED ADOPTED.

Dated: May 18, 2015

Sue Ullery
Sue Ullery, Deputy City Clerk

CERTIFICATION

I, the undersigned Clerk of the City of Lowell, Michigan (the "City"), do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council, at a meeting held on May 18, 2015, and that public notice of said meeting was given pursuant to, and in compliance with, Act 267 of the Public Acts of Michigan of 1976, as amended.

Dated: May 18, 2015

Sue Ullery
Sue Ullery, Deputy City Clerk

PROCEEDINGS OF THE
CITY COUNCIL WORKSESSION
OF THE CITY OF LOWELL
TUESDAY, MAY 26, 2015

1. **CALL TO ORDER; ROLL CALL**

The Meeting was called to order at 6:00 p.m. and Deputy City Clerk Susan Ullery called roll.

Present: Councilmembers Jeff Altoft, Sharon Ellison, Jim Hall and Mayor Jim Hodges.

Absent: Councilmember Matt Mayer.

Also Present: City Manager Mark Howe, Deputy City Clerk Susan Ullery, Interim DPW Director Ron Woods, City Treasurer Suzanne Olin and Police Chief Steve Bukala.

2. **APPROVAL OF THE AGENDA**

Councilmember Altoft wanted to add item "D" "Parking" under "Street Updates". Councilmember Hall wanted to add item "E" "Tree Removal on Lafayette" under "Street Updates".

IT WAS MOVED BY ELLISON and seconded by HALL to approve the agenda as amended.

YES: 4. NO: 0. ABSENT: 1. MOTION CARRIED.

3. **CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA**

No public comments were received.

4. **DISCUSSION ABOUT PUBLIC BUILDINGS.** Councilmember Ellison wanted to discuss the taxpayer dollars that are spent on the upkeep of public buildings. This is a burden to city residents only, even though many other communities use these facilities.

Mayor Hodges referred to the Strategic Plan and believed these buildings help create a "Vibrant Core to a Thriving Community".

After much discussion, the Council agreed to gather information pertaining to public buildings. Information would include; expiration dates of lease agreements and utility costs. This should include mowing and plowing expenses as well. Ellison believed the City was renting these buildings out at a huge loss. City Manager Howe suggested the City continue to gather information and facts pertaining to these buildings. A summary sheet can then be created for public information. Howe noted the library brings many individuals into the city limits.

There was further discussion about using some funds from the LCTV Endowment Fund for these public buildings. Howe reminded the Council that they need to let the LCTV Endowment Board know what they wish to do with this money by September. Councilmembers Altoft, Ellison and Hall all believed 100 percent of the funds should go toward a specific street project for the upcoming year.

Altoft, Ellison and Hall agreed to inform the LCTV Endowment Board they will identify a street project that will benefit the entire community. This will be presented formally in August at a City Council meeting. Hodges stated he would be in favor of 50 percent going to streets and 50 percent going to non-profit organizations.

5. **LIBRARY HVAC** Interim DPW Director Ron Woods stated at the May 18, 2015 City Council meeting staff was directed to pursue a total engineering review and redesign of the library heating and cooling system.

Three quotes from area contractors were received. Each have enough expertise and manpower to handle the proposed cooling system replacement. He and the Department of Public Works staff feel confident that the low bidder, Seaman's Mechanical, has a clear understanding of the problems and proposed solution. It is recommended that they be awarded the proposed replacement.

By general consensus, the Council agreed to place the Library HVAC on the City Council agenda for June 1, 2015.

6. **STRATEGIC PLAN GOALS**. City Manager Howe provided a list of the 2015 goals. He noted the difficulty in completing some of these based upon departments being understaffed. Councilmember Ellison suggested the list be reviewed quarterly.

Councilmember Altoft believed the Street Asset Management Plan is a high priority and suggested exploring the idea of hiring a firm to complete this. The group further discussed the rest of the Tier One, Tier Two and Tier Three goals for 2015.

7. **SIDEWALKS**. City Manager Howe explained this is a project that will be reviewed every year.

The Council discussed the tree on Lafayette and agreed it should be removed.

8. **FOIA POLICY**. City Manager Howe stated a draft policy will be presented at the June 1, 2015 City Council meeting and a final copy presented at the June 15, 2015 City Council meeting.

9. **MINING PRESENTATION TO PLANNING COMMISSION**. City Manager Howe encouraged the Council to review the presentation on the City's website.

10. **STREET UPDATES**.

- a. Kent County Hudson Bridge Project -- The City is working with partners to minimize issues.
- b. Donna Street -- It should be paved by the end of the week. The City is taking on the expense of moving the mailboxes.

- c. Avery Street – The engineers are close to completing the design. There needs to be a conversation regarding traffic control.
- d. Parking – Councilmember Altoft raised concerns about additional apartments and the need for parking.
- e. Tree Removal on Lafayette – Issue was discussed under “Sidewalks”.

11. **COUNCIL COMMENTS.** Councilmember Altoft questioned the policy on high speed pursuits. Chief Bukala explained the policy comes from the Michigan Municipal League.

IT WAS MOVED BY ALTOFT and seconded by HALL to adjourn at 9:10 p.m.

DATE:

APPROVED:

James W. Hodges, Mayor

Susan S. Ullery, Deputy City Clerk

BOTH JOURNALIZED AND UNJOURNALIZED

BOTH OPEN AND PAID

GL Number	Invoice Line Desc	Vendor	Invoice Description	Amount	Check #
Fund 101 GENERAL FUND					
Dept 000					
101-000-040.000	ACCOUNTS RECEIVABLE	17TH CIRCUIT COURT	BOND JEREMY DAVIS	500.00	66230
101-000-084.015	DUE FROM FIRE AUTHORITY	AT&T LONG DISTANCE	LONG DISTANCE APRIL 2015	1.88	66234
101-000-123.000	PREPAID EXPENSES	MML WORKERS' COMP FUND	WORKERS COMP FUND	5,365.00	66254
101-000-222.000	DUE TO COUNTY-TRAILER FEE	KENT COUNTY CLERK	TRAILER FEES MARCH & APR	69.00	66245
101-000-222.001	DUE CO-DELINQ PERS PROP T	KENT COUNTY TREASURER	TAX DISBURSEMENT 5/1 - 5/	56.01	66246
101-000-222.001	DUE CO-DELINQ PERS PROP T	KENT COUNTY TREASURER	TAX DISBURSEMENT 3/16 - 3	7.27	66246
101-000-223.001	DUE LIB-DELINQ PERS PROP	KENT DISTRICT LIBRARY	TAX DISBURSEMENT 5/1 - 5/	3.84	66247
101-000-225.000	DUE TO SCHOOL-TRAILER FEE	LOWELL AREA SCHOOLS	TRAILER FEES MARCH & APR	276.00	66251
101-000-225.001	DUE SCHL-DELINQ PERS PROP	LOWELL AREA SCHOOLS	TAX DISBURSEMENT 5/1 - 5	102.10	66251
101-000-225.001	DUE SCHL-DELINQ PERS PROP	LOWELL AREA SCHOOLS	TAX DISBURSEMENT 3/16 - 3	11.90	66251
101-000-228.009	DUE TO STATE-DELINQ S.E.T	KENT COUNTY TREASURER	TAX DISBURSEMENT 3/16 - 3	10.20	66246
101-000-228.009	DUE TO STATE-DELINQ S.E.T	KENT COUNTY TREASURER	STATE ED TAX 5/1 - 5/15/1	72.91	66246
101-000-234.001	DUE INTERMED SCHL-DELINQ	KENT INTERMEDIATE SCHOOL	TAX DISBURSEMENT 5/1 - 5/	56.98	66248
101-000-234.001	DUE INTERMED SCHL-DELINQ	KENT INTERMEDIATE SCHOOL	TAX DISBURSEMENT 3/16 - 3	7.97	66248
101-000-235.001	DUE TO COM COLLEGE-DELINQ	GRAND RAPIDS COMMUNITY CO	TAX DISBURSEMENT 5/1 - 5/	21.69	66242
101-000-235.001	DUE TO COM COLLEGE-DELINQ	GRAND RAPIDS COMMUNITY CO	TAX DISBURSEMENT 3/16 - 3	3.03	66242
101-000-236.001	DUE TO LOWELL HISTORICAL	LOWELL AREA HISTORICAL MU	TAX DISBURSEMENT 3/16 - 3	0.41	66250
101-000-236.001	DUE TO LOWELL HISTORICAL	LOWELL AREA HISTORICAL MU	TAX DISBURSEMENT 5/1-5/15	2.93	66250
101-000-274.000	UNDISTRIBUTED DELINQUENT	GRAND RAPIDS COMMUNITY CO	TAX DISBURSEMENT 5/1 - 5/	3.42	66242
101-000-274.000	UNDISTRIBUTED DELINQUENT	GRAND RAPIDS COMMUNITY CO	TAX DISBURSEMENT 3/16 - 3	0.21	66242
101-000-274.000	UNDISTRIBUTED DELINQUENT	KENT COUNTY TREASURER	TAX DISBURSEMENT 3/16 - 3	0.71	66246
101-000-274.000	UNDISTRIBUTED DELINQUENT	KENT COUNTY TREASURER	TAX DISBURSEMENT 5/1 - 5/	8.27	66246
101-000-274.000	UNDISTRIBUTED DELINQUENT	KENT COUNTY TREASURER	STATE ED TAX 5/1 - 5/15/1	11.50	66246
101-000-274.000	UNDISTRIBUTED DELINQUENT	KENT COUNTY TREASURER	TAX DISBURSEMENT 3/16 - 3	0.51	66246
101-000-274.000	UNDISTRIBUTED DELINQUENT	KENT DISTRICT LIBRARY	TAX DISBURSEMENT 5/1 - 5/	0.08	66247
101-000-274.000	UNDISTRIBUTED DELINQUENT	KENT INTERMEDIATE SCHOOL	TAX DISBURSEMENT 5/1 - 5/	8.97	66248
101-000-274.000	UNDISTRIBUTED DELINQUENT	KENT INTERMEDIATE SCHOOL	TAX DISBURSEMENT 3/16 - 3	0.56	66248
101-000-274.000	UNDISTRIBUTED DELINQUENT	LOWELL AREA HISTORICAL MU	TAX DISBURSEMENT 3/16 - 3	0.02	66250
101-000-274.000	UNDISTRIBUTED DELINQUENT	LOWELL AREA HISTORICAL MU	TAX DISBURSEMENT 5/1-5/15	0.46	66250
101-000-274.000	UNDISTRIBUTED DELINQUENT	LOWELL AREA SCHOOLS	TAX DISBURSEMENT 5/1 - 5	13.02	66251
101-000-274.000	UNDISTRIBUTED DELINQUENT	LOWELL AREA SCHOOLS	TAX DISBURSEMENT 3/16 - 3	0.84	66251
Total For Dept 000				6,617.69	
Dept 209 ASSESSOR					
101-209-740.000	OPERATING SUPPLIES	MUSKEGON COUNTY TREASURER	ASSESSING DEPT - TRIBUNAL	30.00	66256
101-209-860.000	TRAVEL EXPENSES	RASHID, JEFFREY	ASSESSOR EXPENSES APRIL 2	52.33	66261
Total For Dept 209 ASSESS				82.33	
Dept 215 CLERK					
101-215-730.000	POSTAGE	PURCHASE POWER	POSTAGE METER REFILL	520.99	66260
101-215-850.000	COMMUNICATIONS	SPRINT	PHONE CHARGES 4/10 - 5/9/	57.90	66264
101-215-860.000	TRAVEL EXPENSES	MORLOCK, BETTY	MILEAGE TO WMI CLERK ASSO	55.77	66255
Total For Dept 215 CLERK				634.66	
Dept 253 TREASURER					
101-253-955.000	MISCELLANEOUS EXPENSE	PERSONNEL CONCEPTS	PERSONNEL POSTERS 2015	129.90	66258
Total For Dept 253 TREASU				129.90	
Dept 265 CITY HALL					
101-265-727.000	OFFICE SUPPLIES	SUPPLYGEEKS	OFFICE SUPPLIES	50.95	66265
101-265-802.000	CONTRACTUAL	RUESINK, KATHIE	CLEANING 4/22 - 5/27/2015	750.00	66262
101-265-850.000	COMMUNICATIONS	AT&T	PHONE CHARGES 5/16 - 6/15	1,605.44	66233
101-265-850.000	COMMUNICATIONS	AT&T LONG DISTANCE	LONG DISTANCE APRIL 2015	190.30	66234
101-265-930.000	REPAIR & MAINTENANCE	CANFIELD PLUMBING & HEATI	CITY HALL R & M	132.00	66237
101-265-930.000	REPAIR & MAINTENANCE	WEST MICHIGAN FLAG POLES	FLAG POLE R & M	240.00	66269
Total For Dept 265 CITY H				2,968.69	
Dept 276 CEMETERY					
101-276-802.000	CONTRACTUAL	KERKSTRA PORTABLE, INC.	RESTROOM - CEMETERY	75.00	66249

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GL Number	Invoice Line Desc	Vendor	Invoice Description	Amount	Check #
Fund 101 GENERAL FUND					
Dept 276 CEMETERY					
101-276-864.000	CONFERENCES & CONVENTIONS	MAMC	2015 CONFERENCE REGISTRAT	85.00	66229
101-276-955.000	MISCELLANEOUS EXPENSE	MAMC	2015 CONFERENCE REGISTRAT	35.00	66229
Total For Dept 276 CEMETE				195.00	
Dept 294 UNALLOCATED MISCELLANEOUS					
101-294-955.000	UNALLOCATED MISCELLANEOUS	KENT COUNTY TREASURER	DUE TO KC PER TAX TRIBUNA	1.73	66246
Total For Dept 294 UNALLO				1.73	
Dept 301 POLICE DEPARTMENT					
101-301-740.000	OPERATING SUPPLIES	SPRINGROVE VARIETY	POLICE - ROPE FOR SHOOTIN	5.39	66263
101-301-744.000	UNIFORMS	NYE UNIFORM COMPANY	POLICE BADGES	40.00	66257
101-301-803.000	DISPATCHING SERVICES	VERIZON WIRELESS	WIRELESS CHARGES 4/11 - 5	158.01	66268
101-301-850.000	COMMUNICATIONS	AT&T	PHONE CHARGES 5/16 - 6/15	1,241.63	66233
101-301-850.000	COMMUNICATIONS	AT&T LONG DISTANCE	LONG DISTANCE APRIL 2015	103.69	66234
101-301-850.000	COMMUNICATIONS	SPRINT	PHONE CHARGES 4/10 - 5/9/	252.62	66264
101-301-955.000	MISCELLANEOUS EXPENSE	GR CITY TREASURER	POLICE PARKING	29.00	66241
Total For Dept 301 POLICE				1,830.34	
Dept 400 PLANNING & ZONING					
101-400-955.000	MISCELLANEOUS EXPENSE	MICHIGAN ASSOC OF PLANNIN	MEMBERSHIP DUES 7/1/15-6/	650.00	66253
Total For Dept 400 PLANNI				650.00	
Dept 441 DEPARTMENT OF PUBLIC WORKS					
101-441-850.000	COMMUNICATIONS	AT&T	PHONE CHARGES 5/16 - 6/15	546.84	66233
101-441-850.000	COMMUNICATIONS	AT&T LONG DISTANCE	LONG DISTANCE APRIL 2015	14.33	66234
101-441-850.000	COMMUNICATIONS	SPRINT	PHONE CHARGES 4/10 - 5/9/	56.91	66264
101-441-927.000	REPAIR & MAINT. STREET LI	LOWELL LIGHT & POWER	STREET LIGHT R&M	1,453.30	66252
Total For Dept 441 DEPART				2,071.38	
Dept 790 LIBRARY					
101-790-802.000	CONTRACTUAL	RUESINK, KATHIE	CLEANING 4/22 - 5/27/2015	450.00	66262
101-790-850.000	COMMUNICATIONS	AT&T	PHONE CHARGES 5/16 - 6/15	176.32	66233
Total For Dept 790 LIBRAR				626.32	
Total For Fund 101 GENERA				15,808.04	
Fund 202 MAJOR STREET FUND					
Dept 463 MAINTENANCE					
202-463-850.000	COMMUNICATIONS	SPRINT	PHONE CHARGES 4/10 - 5/9/	12.65	66264
Total For Dept 463 MAINT				12.65	
Total For Fund 202 MAJOR				12.65	
Fund 203 LOCAL STREET FUND					
Dept 463 MAINTENANCE					
203-463-850.000	COMMUNICATIONS	SPRINT	PHONE CHARGES 4/10 - 5/9/	12.65	66264
Total For Dept 463 MAINT				12.65	
Total For Fund 203 LOCAL				12.65	
Fund 238 HISTORICAL DISTRICT FUND					
Dept 000					
238-000-880.000	COMMUNITY PROMOTION	CITY OF LOWELL	HDC GRANT FOR PAINTING C	9,200.00	66238
Total For Dept 000				9,200.00	
Total For Fund 238 HISTOR				9,200.00	
Fund 248 DOWNTOWN DEVELOPMENT AUTHORITY					
Dept 463 MAINTENANCE					
248-463-740.000	OPERATING SUPPLIES	HORROCKS NURSERY FARMS, I	LANDSCAPE PLANTS - DDA	49.96	66243
248-463-740.000	OPERATING SUPPLIES	HORROCKS NURSERY FARMS, I	LANDSCAPING PLANTS DDA	174.86	66244
Total For Dept 463 MAINT				224.82	
Total For Fund 248 DOWNT				224.82	
Fund 581 AIRPORT FUND					
Dept 000					

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GL Number	Invoice Line Desc	Vendor	Invoice Description	Amount	Check #
Fund 581 AIRPORT FUND					
Dept 000					
581-000-920.000	PUBLIC UTILITIES	CONSUMERS ENERGY	AIRPORT ENERGY CHARGE 3/2	22.61	66239
581-000-955.000	MISCELLANEOUS EXPENSE	VERGENNES BROADBAND	AIRPORT INTERNET JUNE 201	49.99	66267
		Total For Dept 000		72.60	
		Total For Fund 581 AIRPOR		72.60	
Fund 590 WASTEWATER FUND					
Dept 000					
590-000-043.000	DUE FROM EARTH TECH	AT&T LONG DISTANCE	LONG DISTANCE APRIL 2015	45.69	66234
		Total For Dept 000		45.69	
Dept 550 TREATMENT					
590-550-802.000	CONTRACTUAL	UNITED WATER, INC.	CONTRACT SERVICES MAY 201	37,550.78	66266
590-550-802.000	CONTRACTUAL	UNITED WATER, INC.	SURCHARGES APRIL 2015	5,067.85	66266
		Total For Dept 550 TREATM		42,618.63	
Dept 552 CUSTOMER ACCOUNTS					
590-552-860.000	TRAVEL EXPENSES	BARTLETT, SANDY	MILEAGE FOR METER READS M	30.77	66235
		Total For Dept 552 CUSTOM		30.77	
		Total For Fund 590 WASTEW		42,695.09	
Fund 591 WATER FUND					
Dept 570 TREATMENT					
591-570-743.000	CHEMICALS	ALEXANDER CHEMICAL CORP	WTP CHEMICALS	1,023.00	66232
591-570-850.000	COMMUNICATIONS	AT&T	PHONE CHARGES 5/16 - 6/15	60.33	66233
591-570-850.000	COMMUNICATIONS	AT&T LONG DISTANCE	LONG DISTANCE APRIL 2015	2.32	66234
		Total For Dept 570 TREATM		1,085.65	
Dept 571 DISTRIBUTION					
591-571-850.000	COMMUNICATIONS	VERIZON WIRELESS	MOBILE BROADBAND 4/13 - 5	40.01	66268
		Total For Dept 571 DISTRI		40.01	
Dept 572 CUSTOMER ACCOUNTS					
591-572-860.000	TRAVEL EXPENSES	BARTLETT, SANDY	MILEAGE FOR METER READS M	30.76	66235
		Total For Dept 572 CUSTOM		30.76	
Dept 573 ADMINISTRATION					
591-573-801.000	PROFESSIONAL SERVICES	ABRAHAM & GAFFNEY, P.C.	PROF SERVICES - TWP WATER	412.50	66231
		Total For Dept 573 ADMINI		412.50	
		Total For Fund 591 WATER		1,568.92	
Fund 636 DATA PROCESSING FUND					
Dept 000					
636-000-801.000	PROFESSIONAL SERVICES	BS&A SOFTWARE	SOFTWARE CONTRACTUAL	640.00	66236
636-000-986.000	COMPUTER DATA PROCESSING	DELL MARKETING L P	DELL COMPUTER DOCK -DPW	127.49	66240
636-000-986.000	COMPUTER DATA PROCESSING	DELL MARKETING L P	LAPTOP COMPUTER - DPW	958.09	66240
636-000-986.000	COMPUTER DATA PROCESSING	DELL MARKETING L P	COMPUTER - CLERK	667.92	66240
		Total For Dept 000		2,393.50	
		Total For Fund 636 DATA P		2,393.50	
Fund 661 EQUIPMENT FUND					
Dept 895 FLEET MAINT. & REPLACEMENT					
661-895-740.000	OPERATING SUPPLIES	PRODUCTION TOOL SUPPLY	DPW EQUIP SUPPLIES	75.81	66259
		Total For Dept 895 FLEET		75.81	
		Total For Fund 661 EQUIPM		75.81	

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GL Number	Invoice Line Desc	Vendor	Invoice Description	Amount	Check #
Fund Totals:					
			Fund 101 GENERAL FUND	15,808.04	
			Fund 202 MAJOR STREET FUN	12.65	
			Fund 203 LOCAL STREET FUN	12.65	
			Fund 238 HISTORICAL DISTR	9,200.00	
			Fund 248 DOWNTOWN DEVELOP	224.82	
			Fund 581 AIRPORT FUND	72.60	
			Fund 590 WASTEWATER FUND	42,695.09	
			Fund 591 WATER FUND	1,568.92	
			Fund 636 DATA PROCESSING	2,393.50	
			Fund 661 EQUIPMENT FUND	75.81	
				<hr/>	
				72,064.08	



STRATEGIC GOALS REPORT

JUNE 1, 2015

COMMUNITY COLLABORATION

1) Encourage Public Participation: We are currently developing a poll to gather public input on our web site. (3/17/14)

2) Promote Accomplishments: The Lowell Police Department participated in the UpTV "UpLiftSomeone" campaign. I will be showing the video during your council meeting. This project has caught the attention of region and national media. Congratulations to our team members at the police department and our new friends at UpTV. (12/15/14)

3) Engage Boards/Commissions: The Planning Commission and Parks & Recreation Commission have completed the Roles/Responsibilities exercise. (3/17/14)

GOVERNMENT EFFICIENCY AND EFFECTIVENESS

4) Street Asset Management Plan: We have been working on updating the worksheets and included a long-term financial planning tool in the recommended budget. (5-4-15)

5) Wastewater System Asset Management Plan: We were not awarded the SAW Grant for 2014 and were chosen in the lottery at 372 of 573 grant proposals submitted. Our engineers have calculated that we could be eligible in 2016 if the Legislature appropriates funds for the grant program. We are optimistic about our chances; however, this goal may need to be put on hold until 2016. (3/17/14)

6) Inflow & Infiltration Mitigation: The flow monitors you approved at the previous meeting have been installed and data will be collected for the next two months. You may recall this process has the dual benefit of collecting data to evaluate and size the new lift station while giving us more information to assess areas for eliminating inflow and infiltration. (3-16-15)

✓ 7) Facility Improvement Plans: Completed. The submitted plans have been incorporated into the budget document. (12/1/14)

✓ 8) Utility Improvement Plans: Completed. These plans have been updated and are incorporated into the budget recommendations presented to you. (5/5/14)

CITY OF LOWELL STRATEGIC GOALS REPORT

QUALITY NEIGHBORHOODS

✓ **9) Community Clean-Up Project:** Completed. We worked with the townships, the school district and the chamber on a community clean-up day during the harvest festival. This goal has been completed. (11-17-14)

✓ **10) Pilot Leaf Disposal Project:** You discussed this item at your September 17 workshop with a consensus that we have explored this sufficiently but that this is not a project we are able to accomplish. This item is completed. (10-6-14)

11) Code Compliance Process and Reporting: As of the end of October we are at 86% compliance for all zoning and code enforcement complaints we have taken during the calendar year. Of the 14% that are still open, one is a foreclosure home awaiting a sheriff sale and three are vacant buildings awaiting the sale of the property. (11-17-14)

12) Rental Rehabilitation Program: We were recently informed by Kent County that the end of our three-year cycle is in 2015, even though the Department of Housing and Urban Development required us to notify them of our intent to terminate our participation in the Urban County Program by May of this year. (7/7/14)

ECONOMIC VITALITY AND SUSTAINABILITY

13) Community Development Director: At this point, we are monitoring and following the work of the Greater Lowell Community Alliance. (3/17/14)

✓ **14) Downtown Development Plan:** The final report has been presented to the Downtown Development Authority. (3/2/15)

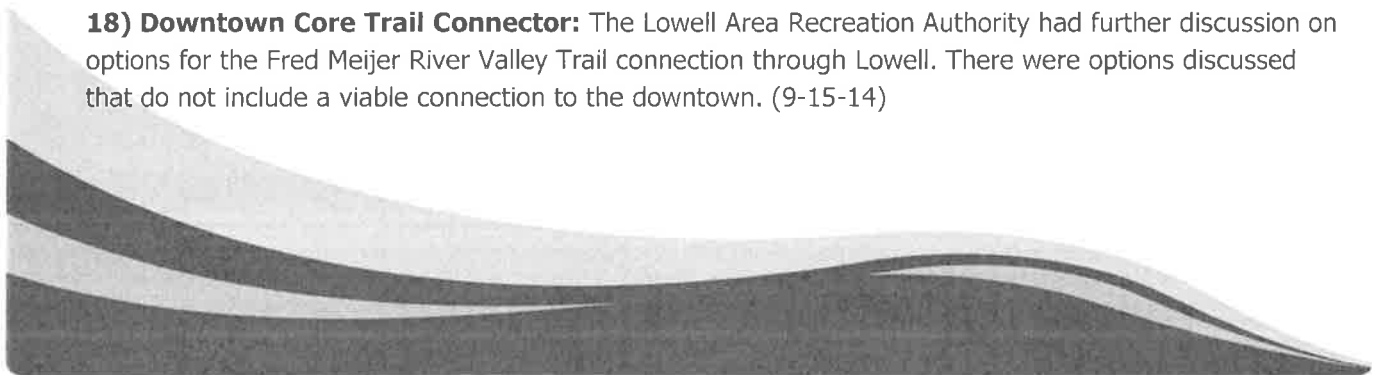
15) Business Recruitment: This project will begin this summer. (3/17/14)

DIVERSE RECREATIONAL AND CULTURAL OPPORTUNITIES

16) Recreation Plan Update: We have presented a first draft to the Parks & Recreation Commission for review. Next step will be to take their input and incorporate that into the next draft. (6-2-14)

✓ **17) Riverwalk Stage/Showboat Plan:** The final plan was presented to you at your June 16, 2014, council meeting. This project is completed. (7-7-14)

18) Downtown Core Trail Connector: The Lowell Area Recreation Authority had further discussion on options for the Fred Meijer River Valley Trail connection through Lowell. There were options discussed that do not include a viable connection to the downtown. (9-15-14)





301 East Main Street
Lowell, Michigan 49331
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PENDING COUNCIL PROJECTS REPORT June 1, 2015

UPDATES

Downtown Tower Removal – No further update.

Lime Disposal – No further update.

Underground Electrical Lines – No further update.

Trash Ordinance Update – No further update.

Right of Way Ordinance – No further update.

UPDATES

Downtown Tower Removal

(5-18-15) Removal of the tower has been put out for bid. We hope to receive responses and bring them to you at a future council meeting.

(4-6-15) Chief Bukala has been working on the request for proposals to have the tower removed this year.

(11-3-14) We received no bids on this project. Our timeline was mentioned as one potential obstacle. We are reevaluating and may proceed later this year or early next year.

(10/6/14) We have issued a Request for Proposals to have the downtown tower removed and sold. The deadline for submitting proposals is October 17. We hope to bring a recommendation to you at your October 20 meeting and expect to have the tower removed by the end of November.

Lime Disposal

(10/6/14) Our engineering firm has been in contact with the DEQ and has been informed that lime application on agricultural land is being handled by the Department of Agriculture effective September 16. We are working with both departments to determine how to proceed.

(1/20/15) I will be forwarding to you a copy of a letter and report that we have submitted to the DEQ.

(2-17-15) The cover letter and report issued to the DEQ has been forwarded to you.

Underground Electrical Lines

(11-3-14) You discussed this item at your previous council meeting. A report was presented by Light & Power General Manager Greg Pierce and questions were asked and answered.

(10/6/14) During your early September workshop you asked that I convey to Light & Power that you would like to have a report back to the council by your second meeting in October. Greg Pierce responded to my email stating that he would have something prepared for your October 20 council meeting.

Trash Ordinance Update

(10/6/14) We have completed drafts to make improvements to the trash ordinance and have also developed rules to go along with the ordinance. This will be an agenda item at a future workshop.

Right of Way Ordinance

(10/6/14) You have asked that I contact the city attorney to begin a discussion about a right-of-way ordinance.

To: Mark Howe, City Manager

From: Ron Woods, Interim Public Works Director

Subject: Library Heating/Cooling System

At the May 18, 2015 City Council meeting staff was directed to pursue a total engineering review and redesign of the Lowell Library heating and cooling system. In reviewing original design documents, contractor proposed changes, and, discussion with staff, I am not convinced that a total redesign is warranted at this time. While I understand comments, and the obvious frustrations, discussed at the meeting with regards to the system "never really working", I believe the proposed changes discussed below are in fact improvements.

The failure of the Library's main compressing unit and cooling coil after 15 years is not unheard of depending on many factors, including load and usage. This unit handles the main library area, or 60% of the building area that gets the most usage during the cooling season. The proposed changes include replacement of this entire system with new more efficient indoor and outdoor components. I would propose that this system be replaced now using the three quotes listed below and follow up improvements in the near future. For instance, in the future I would propose replacement of outdated thermostats with wall sensors with set-point overrides to allow the library staff minor temperature adjustments to improve comfort and efficiency in the building. Also, I would propose installation of a circulation pump and valving changes to the passive baseboard heating system that library staff have stated "never really worked". Getting this component to function as originally intended, in an active mode, will also enhance building comfort and efficiency. These additional components will be bid separately in the near future.

In reviewing the as-built documents and, examining the mechanical components in the library, I believe that there are many quality components still remaining that have not exceeded their useful life. This belief has been verified with area contractors that have submitted quotes for the proposed improvements. In addition, I have had several conversations with area design and installation contractors who confirmed that they are very busy at this time, as council members acknowledged during the meeting. One individual informed me that it would be about one month before he would be able to review as-built plans with me and start to formulate a redesign. I estimate that redesign, specification drafting, and bidding may require a four month time period and cost between two and five thousand dollars.

We have now received a total of three quotes from area contractors with enough expertise and manpower to handle the proposed cooling system replacement. The following three quotes have been submitted for our consideration:

Seaman's Mechanical	\$18,000
Progressive Heating and Cooling	\$20,503

Canfield Plumbing & Heating

\$21,750

I believe that the most cost effective solution is to fix the existing failed components and work with the contractor to re-balance the system. Department of Public Works staff and I are very confident that the low bidder, Seaman's Mechanical, has a clear understanding of the problems and proposed solution and we recommend award to them for the proposed replacement.

MEMORANDUM

TO: City of Lowell Board of Zoning Appeals

FROM: Andy Moore, AICP

DATE: May 22, 2015

RE: Variance Review Procedures – 1427 West Main Street SE (O'Reilly Auto Parts)

At the June 1 City Council Meeting, the Council, acting as the Lowell Board of Zoning Appeals, will consider a variance request by Mr. Ron Connor, representing O'Reilly Auto Parts. The applicant is requesting a variance from the standards of Section 20.08(D) of the Zoning Ordinance, pertaining to signs permitted in the C-3 Zoning District in the City. Specifically, the applicant is seeking to place a larger wall sign (100 square feet) than what is currently permitted by the Ordinance (50 square feet). In my memo to the Board of Zoning Appeals dated May 22, 2015, I reviewed this request pursuant to the applicable standards of the Zoning Ordinance and suggested a course of action. The purpose of this memorandum is to summarize the process that the Council should follow to ensure that the meeting and decision follows the proper procedures.

1. The City Council meeting on June 1 should begin normally. When the requested variance for O'Reilly is reached on the agenda, the Council should, by motion, suspend the City Council meeting and commence the Board of Zoning Appeals meeting. As chair of the Board of Zoning Appeals, Jim Hall should then begin the meeting.
2. The Chair should recognize the applicant and allow the applicant to review the application and make any other statements that s/he wishes to make before Board.
3. A public hearing must be held for all matters before the Board of Zoning Appeals. After comments by the applicant, the Chair should open the public hearing and allow the public to make comments pertaining to this application. Public comments should be addressed to the Chair and be kept to a reasonable length.
4. When all comments have been heard, the Chair should close the public hearing. The Chair may ask that I review my report.
5. Following my review, the Board should deliberate and eventually make a decision on the application. The decision should be in the form of **seven motions**: one motion for each of the approval standards found in Section 21.04(B) of the Zoning Ordinance stating the Board's findings and whether or not the standard has been met, and one final motion stating the final decision by the Board.

6. Once the decision has been made, the Board should, by motion, adjourn the Board of Zoning Appeals meeting and resume the regular City Council meeting.

I have attached a findings of fact along with motions for the Board's consideration of the following pages. I will be at the meeting to assist the Board with the procedures if necessary. In the meantime, please feel free to contact me with any questions.

c: Mr. Mark Howe, ICMA-CM, Lowell City Manager
Ms. Sue Ullery, Deputy City Clerk

CITY OF LOWELL BOARD OF ZONING APPEALS

VARIANCE REQUEST BY O'REILLY AUTO ENTERPRISES, LLC

FINDINGS OF FACT AND DECISION

JUNE 1, 2015

Background. Mr. Ron Conner, representing O'Reilly Auto Enterprises, LLC, has submitted a request for a sign area variance for a wall sign located on the O'Reilly Auto Parts building at 1427 West Main Street. For the variance request to be approved, the Board of Zoning Appeals must find that the proposed variance meets the standards of Section 21.04, B of the Zoning Ordinance.

The applicant is requesting a variance from Section 20.08(D) of the Zoning Ordinance. This section requires that wall signs in the C-3 district cannot exceed 20% of the wall area to which the sign is attached, or 50 square feet, whichever is less. The applicant's existing sign meets this standard; however, the applicant desires to replace this wall sign with a new wall sign that would be approximately 100 square feet in area.

The Board of Zoning Appeals thoroughly considered the proposal in public hearing on June 1, 2015 following proper public notice and ultimately took the following action: DENIAL of the requested variance from Section 20.08(D) for a larger wall sign than what is permitted, as set forth herein.

The following documents support these findings of fact and the decision of the Board of Zoning Appeals:

- ◆ Variance application form and attached information, dated March 17, 2015;
- ◆ Revised landscape plan, dated January 6, 2015
- ◆ Sign Permit applications, received via email November 3, 2014 and November 12, 2014

It is noted that pursuant to Section 12.03, A, 4, b, of the Zoning Ordinance, the Zoning Enforcement Officer can determine if the site plan materials submitted are complete. For the purposes of this application, the Zoning Enforcement Officer determined that the application materials submitted, along with previously submitted applications for sign permits and site plan review, were sufficient to consider this application.

FINDINGS

The review process for a variance request requires attention to the specific provisions applicable to such requests found in Section 21.04, B of the Zoning Ordinance. The following section addresses each of these provisions and the findings of the Board of Zoning Appeals:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;

Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of this requirements of this ordinance would involve practical difficulties.

Findings: The subject property has an area of about 1.2 acres and a width to depth ratio of less than 2:1, both of which are typical for commercial properties in the vicinity. Within less than ¼ mile of the property there are several other parcels of similar dimensions and area including 1401 W Main (1.07 acres), 1300 W Main (1.19 acres), 2001 W Main (1.37 acres), 2186 W Main (1.07 acres) and 2050 W Main (1.09 acres). The property is relatively flat and we are not aware of any unique or significant natural features on this property.

There are not any exceptional or extraordinary circumstances or conditions that preclude the applicant from meeting the standards of the Zoning Ordinance.

MOTION BY _____, SECONDED BY _____ to find that the proposed variance request does not meet this standard.

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

Findings: This is the first variance request in several years pertaining to the area of a wall sign. The City's sign standards (Chapter 20 of the Zoning Ordinance) was comprehensively rewritten and adopted as an amendment to the Zoning Ordinance in 2013, and this is the first variance request that asks for a deviation from those standards. Since there have not been any other similar variance requests received after this amendment, the Board finds that this is not a recurring request.

The Board further finds that the applicant's request, absent any unique or extraordinary circumstances, is quite general when considered within the context of the C-3 zoning district, and therefore does not meet this standard.

MOTION BY _____, SECONDED BY _____ to find that the proposed variance request does not meet this standard.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

Findings: The regulations for signs in the C-3 district are the same throughout the City. The sign standards in Ordinance have been followed by all recent applicants. There are no property rights possessed by neighboring property owners that are not possessed by O'Reilly's with regard to signage, although it may appear that way since many of the properties along this corridor erected signs under the terms of the previous sign Ordinance, which allowed for larger signs. In this instance, the applicant is in the unique position of being one of the first applications for completely new signage under the terms of the revised Ordinance.

The applicant stated on the application form that the ability to establish the identity of their store is an important mechanism for directing customers and provides wayfinding. While these reasons certainly serve the applicant's business interests, this standard for reviewing variance requests clearly states that "The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance."

MOTION BY _____, SECONDED BY _____ to find that the proposed variance request does not meet this standard.

4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

Findings: The Board finds that if the applicant were permitted an extra 50 square feet of wall sign area, it not likely be significantly detrimental to adjacent property and the surrounding neighborhood.

MOTION BY _____, SECONDED BY _____ to find that the proposed variance request meets this standard.

5. The variance will not impair the intent and purpose of this ordinance.

Findings: The applicant states on the application that granting the variance would not be contrary to the purpose and intent of the Ordinance. The Board disagrees, for the reasons set forth below:

- Section 20-1 of the Zoning Ordinance states the purpose and intent of the chapter. It reads that the purpose of the chapter "is to regulate the size, number, location and manner of construction and display of signs in the City of Lowell." This variance, if granted, would set a precedent that would significantly weaken the City's ability to regulate signage in the C-3 district, and potentially throughout the City. The board finds that there is no compelling evidence with respect to this request that suggests the existing regulations cause the applicant any undue hardship or practical difficulty.

- The purpose and intent statement also states that it “is further intended to protect all zoning districts from visual chaos and clutter, eliminate distractions hazardous to motorists, protect uses from excessive signage...” Allowing for the placement of a larger sign, absent a compelling reason, would set a dangerous precedent that would completely undermine the existing Ordinance and the hard work by the Planning Commission in drafting it. If this variance were granted as requested, the City would be in an extremely weak position to enforce current regulations.
- The purpose and intent statement further indicates that its purpose is to “provide ability for the public to identify premises and establishments.” Clearly the applicant currently possesses this ability since a wall sign and a ground sign, each of which meets the standards of the Zoning Ordinance, have already been placed on the building and property, respectively.

MOTION BY _____, SECONDED BY _____ to find that the proposed variance request does not meet this standard.

6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

Remarks: The applicant indicated on the application that [the variance] is necessary “in light of the 91 foot setback required of the building, greatly reducing visibility from the road at normal travel rates.” By our measurements, the existing structure on the site is setback roughly 85 feet from the front lot line. The City’s Zoning Ordinance requires a minimum 35’ setback from the front lot line in the C-3 General Business District, so it is conceivable that the applicant could have constructed the building closer to the road, but opted not to do so. In reviewing the previous site plans submitted in 2011, 2012 and the approved plans from 2014, the Board has no evidence that the applicant ever sought to place the building closer to the road to enhance visibility. Thus, if the applicant is claiming that the large setback is a reason why the variance is needed, it would consider it a self-created hardship since the Board is not aware of any requirement by the City that necessitated the building be located 45 feet beyond the minimum front yard setback requirement.

MOTION BY _____, SECONDED BY _____ to find that the proposed variance request does not meet this standard.

DECISION

MOTION BY _____, SECONDED BY _____, based on the foregoing review and findings of fact, the application submitted On March 17, 2015 by Ron Conner on behalf of O’Reilly Auto Enterprises for a variance from Section 20.08(D) of the Zoning Ordinance is hereby DENIED.

MEMORANDUM

TO: City of Lowell Board of Zoning Appeals

FROM: Andy Moore, AICP
Nathan Mehmed

DATE: May 22, 2015

RE: Variance Application – 1427 West Main Street SE (O'Reilly Auto Parts)

Mr. Ron Conner, representing O'Reilly Auto Enterprises, LLC, has submitted a request for variance for a wall sign located on the O'Reilly Auto Parts building at 1427 West Main Street. For the variance request to be approved, the Board of Zoning Appeals must find that the proposed variance meets the standards of Section 21.04, B of the Zoning Ordinance. This report summarizes the variance request and reviews the standards of Section 21.04, B for the Board's consideration.

The applicant is requesting a variance from Section 20.08(D) of the Zoning Ordinance. This section requires that wall signs in the C-3 district cannot exceed 20% of the wall area to which the sign is attached, or 50 square feet, whichever is less. The applicant's existing sign meets this standard; however, the applicant desires to replace this wall sign with a new wall sign that would be approximately 100 square feet in area.

Background. The applicant's building is the recently-constructed O'Reilly Auto Parts and is within the C-3 Zoning District. There is some history in this case that is pertinent to the application at hand, and it is summarized as follows:

- In 2011, the first site plan application was filed and it was approved in 2012. However, the building was not constructed within one year, as required in Section 18.05(F) of the Zoning Ordinance. This meant that the 2012 approval became null and void.
- In August 2013, City Council approved an amendment to the Zoning Ordinance. This amendment consisted of a complete rewrite of Chapter 20 of the Zoning Ordinance pertaining to signs.
- In early 2014, O'Reilly Auto Parts resubmitted a new application for site plan review, along with a site plan. This was approved at the March 2014 Planning Commission meeting. In our review of this site plan, we noted that new regulations pertaining to signage had been adopted by City Council, and that these new standards would need to be met. At the time, both the ground sign and the wall sign were too large and we requested that both signs be reduced in size so as to comply with the Zoning Ordinance. This was also a condition of site plan approval.

- In **summer and fall 2014** we reviewed several O'Reilly Auto Parts applications for sign permits for both the ground sign and the wall sign. After receiving applications that met the standards of the Zoning Ordinance, the City issued the permits in late 2014.
- In **early 2015** the applicant submitted a revised landscape plan. In this revision, the applicant was proposing that the landscape plan deviate from what was approved, citing that the trees that were required along Main Street impaired visibility to the ground sign. The applicant compensated for this deviation by planting two additional trees and two additional shrubs in the front yard of the property. The Board should note that this deviation is authorized in Section 18.09(B) of the Zoning Ordinance. We reviewed this request and it was approved by the City shortly thereafter.
- After receiving approval for both signs, both signs were constructed during this past winter. Cascade Inspection Services indicates that building permit applications were submitted on December 1, 2015 and final inspections were performed on February 24, 2015.

Authority. Chapter 21 of the Zoning Ordinance creates and sets forth the duties of the Board of Zoning Appeals. The Board's duties can be generally summarized as follows:

1. To hear appeals of administrative decisions made pursuant to the Zoning Ordinance;
2. To hear requests for variances; and
3. To interpret provisions of the Zoning Ordinance or the zoning district boundaries on the Zoning Map.

In this case, the applicant is seeking a variance from the terms of the Zoning Ordinance. As noted above, this task is specifically assigned to the Board of Zoning Appeals by the City's Zoning Ordinance (Section 21.02, B, 2). This is similar to most municipalities, and in our experience variance requests are the most common requests that come before the Board of Zoning Appeals.

Review Standards. Section 21.04, B of the Zoning Ordinance requires that in order to approve a variance, the Board of Zoning Appeals must find that **all** of the standards presented in Section 21.04, B, 1-6 are met. Following presents each of those standards and our remarks on each.

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;

Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of this requirements of this ordinance would involve practical difficulties.

Remarks: The subject property has an area of about 1.2 acres and a width to depth ratio of less than 2:1, both of which are typical for commercial properties in the vicinity. Within less than ¼ mile of the property there are several other parcels of similar dimensions and area including 1401 W Main (1.07 acres), 1300 W Main (1.19

acres), 2001 W Main (1.37 acres), 2186 W Main (1.07 acres) and 2050 W Main (1.09 acres). The property is relatively flat and we are not aware of any unique or significant natural features on this property.

We do not believe there are any exceptional or extraordinary circumstances or conditions that preclude the applicant from meeting the standards of the Zoning Ordinance.

In our opinion, this standard is not met.

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

Remarks: This is the first variance request in several years pertaining to the area of a wall sign. The City's sign standards (Chapter 20 of the Zoning Ordinance) was comprehensively rewritten and adopted as an amendment to the Zoning Ordinance in 2013, and this is the first variance request that asks for a deviation from those standards. Since there have not been any other similar variance requests received after this amendment, we generally agree that this is not a recurring request.

However, the applicant's request, absent any unique or extraordinary circumstances, is quite general when considered within the context of the C-3 zoning district. Thus, if the Board feels that the Ordinance in its current form is too restrictive with regard to the area of wall signs, then the proper procedure would be for the Lowell City Council direct the Planning Commission to review these standards and consider allowing larger signs, instead of allowing the applicant to violate the sign Ordinance.

In our opinion, this standard is not met.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

Remarks: The regulations for signs in the C-3 district are the same throughout the City. The sign standards in Ordinance have been followed by all recent applicants. There are no property rights possessed by neighboring property owners that are not possessed by O'Reilly's with regard to signage, although it may appear that way since many of the properties along this corridor erected signs under the terms of the previous sign Ordinance, which allowed for larger signs. In this instance, the applicant is in the unique position of being one of the first applications for completely new signage under the terms of the revised Ordinance.

The applicant stated on the application form that the ability to establish the identity of their store is an important mechanism for directing customers and provides wayfinding. While these reasons certainly serve the applicant's business interests, this

standard for reviewing variance requests clearly states that "The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance."

In our opinion this standard is not met.

4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

Remarks: We agree that the granting of the variance would not likely be significantly detrimental to adjacent property and the surrounding neighborhood.

In our opinion this standard is met.

5. The variance will not impair the intent and purpose of this ordinance.

Remarks: The applicant states on the application that granting the variance would not be contrary to the purpose and intent of the Ordinance. We strongly disagree, for the reasons set forth below:

- Section 20-1 of the Zoning Ordinance states the purpose and intent of the chapter. It reads that the purpose of the chapter "is to regulate the size, number, location and manner of construction and display of signs in the City of Lowell." This variance, if granted, would set a precedent that would significantly weaken the City's ability to regulate signage in the C-3 district, and potentially throughout the City. There is absolutely no compelling evidence with respect to this request that suggests the existing regulations cause the applicant any undue hardship or practical difficulty.
- The purpose and intent statement also states that it "is further intended to protect all zoning districts from visual chaos and clutter, eliminate distractions hazardous to motorists, protect uses from excessive signage..." Allowing for the placement of a larger sign, absent a compelling reason, would set a dangerous precedent that would completely undermine the existing Ordinance and the hard work by the Planning Commission in drafting it. If this variance were granted as requested, the City would be in an extremely weak position to enforce current regulations.
- The purpose and intent statement further indicates that its purpose is to "provide ability for the public to identify premises and establishments." Clearly the applicant currently possesses this ability since a wall sign and a ground sign, each of which meets the standards of the Zoning Ordinance, have already been placed on the building and property, respectively.

In our opinion, this standard is not met.

6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

Remarks: The applicant indicated on the application that [the variance] is necessary “in light of the 91 foot setback required of the building, greatly reducing visibility from the road at normal travel rates.” By our measurements, the existing structure on the site is setback roughly 85 feet from the front lot line. The City’s Zoning Ordinance requires a minimum 35’ setback from the front lot line in the C-3 General Business District, so it is conceivable that the applicant could have constructed the building closer to the road, but opted not to do so. In reviewing the previous site plans submitted in 2011, 2012 and the approved plans from 2014, we have no evidence that the applicant ever sought to place the building closer to the road to enhance visibility. Thus, if the applicant is claiming that the large setback is a reason why the variance is needed, we would consider it a self-created hardship since we are not aware of any requirement by the City that necessitated the building be located 45 feet beyond the minimum front yard setback requirement.

In our opinion, this standard is not met.

Summary. Based on the information submitted, this application appears to be based on the simple fact that the applicant wants a larger wall sign to attract more customers to the business. This a respectable objective and we hope that this new business is successful. However, the justification provided is insufficient to grant a variance, and we see little evidence to support the request.

While stated previously in this report, we want to underscore our belief that granting of this particular variance, absent such sufficient justification, would seriously undermine the purpose and intent of the Zoning Ordinance, particularly with respect to signage. Variances are very important decisions not to be taken lightly, as they (1) allow for the applicant to violate the Zoning Ordinance and (2) set precedence for future decisions.

If the Board were to grant the variance as requested, they would be bound to granting all future variances for similar requests by property owners in reasonably similar circumstances as the applicant. In other words, the Board would have to grant all future variances for applicants who simply sought to attract more customers to their business; if that is the case, then the City might as well choose to not regulate signage at all.

Recommendation. At the June 1 public hearing, the Board of Zoning Appeals should carefully consider the comments from the applicant and from the public. The Board of Zoning Appeals should contemplate the circumstances behind the application and determine whether the request meets each of the standards in Section 21.04, B.

It is our opinion that the application does not meet the all of the standards of Section 21.04, B, and therefore the Board of Zoning Appeals should deny the application.

City of Lowell Board of Zoning Appeals
May 22, 2015
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As always, please feel free to contact me with questions or comments.

c: Mr. Mark Howe, ICMA-CM, Lowell City Manager
Ms. Sue Ullery, Deputy City Clerk



301 East Main Street
Lowell, Michigan 49331
Phone (616) 897-8457
Fax (616) 897-4085

**APPLICATION FOR VARIANCES(S)
AND/OR
APPEAL OF ADMINISTRATIVE DECISION**

Variance Number: _____ Filing Fee: _____

1. Street Address and/or Location of Request: O'Reilly Auto Parts
1427 West Main Street SE Lowell, MI 49331

2. Applicant's Name: O'Reilly Auto Enterprizes, LLC

Address: 233 South Patterson Springfield, MO 65802
Street City of Lowell State Zip

Daytime Phone Number: 417-829-5883 - Alisha Solinger

Are You: ☒ Property Owner ☐ Owner's Agent
☐ Contract Purchaser ☐ Option Holder

3. Applicant is being represented by: Ron Conner #393

Address: 233 South Patterson Springfield, MO 65802

Phone Number: 616-942-5584

4. Legal Description of the Property: Attached

or just attach if it is too long.

5. Parcel Identification Number (Tax I.D. No.): #41-20-03-452-002

6. Current Zoning of Parcel: C-3

7. Present Use of the Parcel: Retail Auto Parts Sales

8. Check Below For The Item Which A Variance Is Being Requested:

Lot Coverage	_____	Lot Size	_____	Sign	<input checked="" type="checkbox"/>
Lot Width	_____	Parking	_____	Setbacks	_____
Fence	_____	Landscaping	_____	Other	_____
Height Requirements	_____				
Area Requirements	_____				
Nonconforming Residential Use	_____				
Nonconforming Commercial Use	_____				
Accessory Building Use	_____				

9. Your Request is: (check only one)

- ☐ An Appeal of an Administrative Decision
☐ A Temporary Use
☒ A Variance from Zoning Ordinance Requirements

10. If an appeal is being requested, state the administrative decision being appealed: _____

10(a). If a variance is being requested, state the reason(s) for the request and your intended uses:

Requesting variance to increase front wall sign square frontage to 100 square

foot to increase visability of location from adjacent street traffic.

The following provisions of the City of Lowell Zoning Ordinance (Section 21.04 B) must be met in total before a variance can be granted. Respond to each of the six criteria as it pertains to the request.

A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district:

Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in questions, the literal enforcement of the requirements of this Ordinance would involve practical difficulties;

Proposed wall signs are necessary in light of the 91 foot setback required of the building, greatly reducing visability from the road at normal travel rates.

B. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

Because of limited visibility due to required landscaping and our compliance with a smaller ground sign, the larger wall signs are needed to ensure our entrance is visible so that customers can navigate safely into our lot. Without proper visibility the reaction time of motorist will be reduced, which could be hazardous to traffic flow.

- C. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

The ability to establish the identity of our store is an important mechanism for directing customers and provides wayfinding. Signs are an essential tool in determining the success of a retail site.

- D. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

Granting the variance requested would not confer on the applicant any special privilege as the requested sign area increase is minimal and would permit the store to present to pedestrian and vehicular traffic in similar manner as businesses in the area.

- E. The variance will not impair the intent and purpose of this Ordinance.

Granting the variance would not be contrary to the purpose and intent of the ordinance. O'Reilly Auto Parts sign's are professionally designed to work in harmony with multiple design elements of the entire site plan. This presents a clean modern site.

- F. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

Clearly visible, easily recognized signage will allow the business to thrive, enhance the economic value of the community, and promote the Applicants ability to be a contributing member of the City of Lowell.

The facts presented above are true and correct to the best of my knowledge.

Signature: Saundra Wilkinson Date: 3/17/15

Type or Print Your Name Here: Saundra Wilkinson

EXHIBIT A
LEGAL DESCRIPTION

Certificate No.: NJL-479263

Land in the City of Lowell, Kent County, Michigan, described as follows:

Parcel A

That part of the Southeast $\frac{1}{4}$ of Section 3, Town 6 North, Range 9 West, City of Lowell, Kent County, Michigan, described as: Commencing at the Southeast corner of Lot 85 of VALLEY VISTA NO. 4, thence South, 00 degrees 22 minutes 10 seconds West 150.00 feet along the West line of Valley Vista Drive (60 feet wide) to the North line of Rubin Street, thence North 88 degrees 21 minutes 51 seconds West along the North line of said Highway 290, 10 feet to the point of beginning for the description thence South 88 degrees 21 minutes 51 seconds West along the North line of said highway 180.00 feet, thence North 00 degrees 22 minutes 10 seconds East 301.79 feet to the South line of Deborah Drive (60 feet wide) extending Westward; thence South 89 degrees 31 minutes 57 seconds East 180.00 feet along said extended South line, thence South 00 degrees 22 minutes 10 seconds West 285.19 feet to the point of beginning.

Tax Map No.: 41-20-03-452-002, covers more land

CITY OF LOWELL FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES

Section 1: General Administration

1.1. Purpose. These Procedures and Guidelines provide for the administration of the Michigan Freedom of Information Act, 1976 PA 442, as amended, MCL 15.231 *et seq.* (the "FOIA"), within the City of Lowell.

1.2. FOIA Coordinator and Designees. The Police Chief is the FOIA Coordinator for the City. The FOIA Coordinator may designate other City staff to respond to FOIA requests from time to time. When used in the remainder of these Procedures and Guidelines, the term "FOIA Coordinator," includes all authorized designees.

1.3. Administrative Rules and Forms. The FOIA Coordinator may implement additional administrative rules and promulgate forms to be used by the City in processing FOIA requests, provided those rules and forms are consistent with the FOIA and these Procedures and Guidelines. In accordance with the FOIA, the FOIA Coordinator shall promulgate: (1) a Detailed Itemization of Costs Form to be used whenever the City charges FOIA fees, and (2) a Public Summary of these Procedures and Guidelines.

1.4. Public Inspection. Reasonable facilities and opportunities will be provided for examination and inspection of public records during normal business hours. The FOIA Coordinator may promulgate rules regulating the inspection of records so as to protect against loss, alteration, mutilation, or destruction and to avoid excessive interference with City operations.

1.5. Records Retention. The FOIA Coordinator shall ensure that City departments follow appropriate records retention policies, in compliance with applicable state requirements. Further, the FOIA Coordinator shall keep a copy of all written requests for public records received by the City for a period of at least one year.

1.6. Availability of Policies and Forms. The following documents are posted on the City's website and available in all City offices: (1) these Procedures and Guidelines; (2) the Detailed Itemization of Costs Form; and (3) the Public Summary of these Procedures and Guidelines.

Section 2: Requests for Public Records

2.1. Requests in Writing. A person making a request pursuant to the FOIA to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the City must do so in writing. The request must sufficiently describe a public record so as to enable City personnel to identify and find the requested public record. There is no required form for submitting requests.

2.2. Method of Submission. To ensure proper receipt, the City prefers that FOIA requests be made by one of the following methods:

Mail / Hand Delivery	Email	Facsimile
Lowell Police Department Attn: –FOIA Coordinator 111 N. Monroe Lowell, MI 49331	foia@ci.lowell.mi.us	(616) 897-4074

However, requests may be submitted in person or by mail to any City office, and shall be forwarded to the FOIA Coordinator or appropriate designee.

2.3. Receipt of Emails and Facsimiles. If the City receives a request for a public record by facsimile or email, the request is deemed to have been received on the following business day. If a

request is sent by email and delivered to a City spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request. The FOIA Coordinator shall review his or her spam and junk-mail folders on a regular basis, no less than once a week.

2.4. Requesting Non-Paper Disclosure. A person may request that public records be provided by email or on non-paper physical media. The City will comply with the requests for the use of non-paper physical media only if it has the technological capacity to do so, without acquiring additional hardware. Subscriptions to Public Records. A person may request to subscribe to future public records that are created, issued, or disseminated by the City on a regular basis (e.g. agendas, minutes, and other periodic reports). A subscription is valid for up to 6 months and may be renewed by the subscriber.

2.5. Incarcerated Persons. The City is not obligated under the FOIA to respond to records requests from persons serving a sentence of imprisonment in a local, state or federal correctional facility. However, in the interest of transparency, the City may choose to respond to requests from incarcerated persons if there are compelling reasons to do so. An incarcerated person who receives a response from the City is not entitled to the appeal rights or legal causes of action provided in the FOIA.

Section 3: Responding to a Request

3.1. No Obligation to Create New Records. The FOIA does not require the City to create a new public record, make a compilation or summary of information which does not already exist, or answer questions contained in requests for public records. The City's response obligations are as described in this Section.

3.2. Time Period for Responding. Unless otherwise agreed to in writing by the person making the request, the FOIA Coordinator will either: (1) issue a response to a FOIA request within 5 business days of receipt, or (2) issue a notice indicating that, due to the nature of the request, the City needs an additional 10 business days to respond. The City's normal procedure is to respond within 5 days, and to issue a 10-day extension only in unusual circumstances such as when the FOIA Coordinator is unavailable, or when legal counsel is required to determine whether requested information is exempt from disclosure.

3.3. Form of Response. A response granting a FOIA request may be delivered in any form acceptable to or specified by the requester. A response denying a FOIA request shall be delivered in writing and signed by the FOIA Coordinator. The FOIA Coordinator shall deliver a copy of these Procedures and Guidelines and the City's Public Summary thereof simultaneously with all responses or, if responding by email, shall include a link to those documents on the City's website.

3.4. Options for Disposition. The City will respond to a request by:

- A. Granting the request;
- B. Issuing a written notice denying the request;
- C. Granting the request in part and issuing a written notice denying the request in part; or
- D. Issuing a written notice indicating that the public record requested is available at no charge on the City's website.

3.5. Delivery or Inspection of Records After Grant. A response granting a request in whole or in part shall do one of the following: (1) provide the requested records; (2) provide information as to

when and how the requester can inspect the requested record in a City facility, if the requestor asked for an opportunity for inspection; (3) inform the requester that payment of applicable fees is required before the City will provide the requested records; or (4) inform the requester that the City is requiring a fee deposit before searching for the requested records and separating exempt material. Certified copies of public records shall be provided at no additional cost upon request.

3.6. Contents of Denial Notice. If request is denied or denied in part, the FOIA Coordinator will issue a denial notice which shall provide, as applicable:

- A. An explanation as to why the record (or material redacted from the record) is exempt from disclosure; or
- B. A certification stating that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the City; and
- C. A description of any material redacted from the record; and
- D. An explanation of the person's right to submit an appeal of the denial to the City Manager, or to seek judicial review in the Kent County Circuit Court; and
- E. An explanation of the right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.

3.7. Denial of Deficient Requests. If a request does not sufficiently describe a public record, the FOIA Coordinator may issue a denial notice seeking clarification. The requester's clarification will be considered a new request subject to the timelines described in this Section.

3.8. Receipt of Requests by Non-Designated Employees. Any employee receiving a written communication that conveys a request for information shall forward the communication to the FOIA Coordinator. City employees are not generally obligated to respond to verbal requests for information, but if the employee knows that requested information is available on the City's website, the employee shall inform a verbal requester of that fact.

Section 4: Fee Calculations

4.1. Fee Categories. Subject to the terms and conditions in this Section, the City may charge for the following costs associated with processing a FOIA request:

- A. Labor costs directly associated with searching for, locating and examining a requested public record (only when failure to charge a fee would result in unreasonably high costs).
- B. Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed (only when failure to charge a fee would result in unreasonably high costs).
- C. The actual cost of computer discs, computer tapes or other similar non-paper media.
- D. The cost of the duplication, not including labor, of paper copies of public records.
- E. The cost of labor associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means.
- F. The actual cost of mailing or sending a public record.

4.2. Labor Fees. Fees for labor costs will be calculated in accordance with the following:

- A. All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down.
- B. Labor costs for employees will be charged at the hourly wage of the lowest-paid City employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
- C. If using contract or outside labor to separate and delete exempt material from non-exempt material, the public body must clearly note the name of person or firm who does the work and total labor fee for the work may not exceed an amount 6 times the state minimum hourly wage. No fee shall be charged for contract or outside laborers performing any function other than those specified in this paragraph.
- D. Labor costs may be charged to cover or partially cover the cost of fringe benefits for employees. The City may add up to 50% to the applicable labor charge to cover or partially cover the cost of fringe benefits, but the charge shall not exceed the actual cost of fringe benefits.
- E. Overtime wages may not be included in labor costs unless agreed to by the requestor. Overtime costs will not be used to calculate the fringe benefit cost.

4.3. "Unreasonably High Cost" Requirement. When charging a fee for the categories of labor described in 4.1.A and 4.1.B above, the FOIA Coordinator shall specifically identify why the failure to charge a fee would result in unreasonably high costs to the City, which are costs greater than those incurred in the typical or usual request received by the City. The following factors may be relevant:

- A. The volume of the public record requested
- B. The amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
- C. Whether public records from more than one City department or various City offices is necessary to respond to the request.
- D. The available staffing to respond to the request.
- E. Other similar factors identified by the FOIA Coordinator.

4.4. Non-Paper Media Fees. Fees for providing records on non-paper physical media are calculated based on the actual cost of procuring the non-paper physical media used. In order to ensure the integrity and security of the City's technology infrastructure, the City will procure the requested non-paper media and will not accept non-paper media from the requestor. The City will procure the needed non-paper media at the most reasonably economical cost.

4.5. Copying Fees. The fee for paper copies made on standard letter (8 1/2 x 11) or legal (8 1/2 x 14) sized paper is \$.10 per sheet. Copies for nonstandard sized sheets of paper will reflect the actual cost of reproduction. The City may provide records using double-sided printing, if cost-saving and available.

4.6. Mailing Fees. Fees for mailing records to the requestor are based on the actual cost of mailing, using a reasonably economical and justified means. The City may charge for the least expensive form of postal delivery confirmation, but shall not charge for expedited shipping or insurance unless requested.

4.7. Fee Reductions. The FOIA Coordinator shall reduce the amount of the applicable fee for labor costs by 5% for each day the City exceeds the applicable deadline for responding to a FOIA

request, up to a maximum reduction of 50% of such fee, if any of the following applies:

- A. The late response was willful and intentional;
- B. The written request, within the first 250 words of the body of a letter facsimile, e-mail or e-mail attachment conveyed a request for information; or
- C. The written request included the words, characters, or abbreviations for "freedom of information," "information" "FOIA," "copy," or a recognizable misspelling of such, or legal code reference to MCL 15. 231 *et seq.* or 1976 Public Act 442 on the front of an envelope or in the subject line of an e-mail, letter or facsimile cover page.

The FOIA Coordinator shall fully note any fee reduction in the Detailed Itemization of Costs Form.

Section 5: Fee Deposits

5.1. Good Faith Deposit. If, based on a good faith calculation by the City, the cost of processing a FOIA request is expected to exceed \$50, or if the requestor has not fully paid for a previously granted request, the City will require a good-faith deposit before processing the request. In making the request for a good-faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the City to process the request and also provide a best efforts estimate of a time frame it will take the City to provide the records to the requestor. The best efforts estimate shall be nonbinding on the City, but will be made in good faith and will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

5.2. Deposits Due to High Estimated Fees. If a deposit is charged because the fee estimate is expected to exceed \$50.00, the deposit shall not exceed one half of the total estimated fee.

5.3. Deposits Due to Prior Non-Payment. If a deposit is charged because the requester has not fully paid the City for copies of public records made in fulfillment of a request, a deposit of 100% of the estimated processing fee may be charged if:

- A. The prior request was made within the last 365 days;
- B. The final fee for the prior request is not more than 105% of the estimated fee;
- C. The public records made available contained the information sought in the prior request and remain in the City's possession;
- D. The public records were made available to the individual, subject to payment, within the time frame estimated by the City to provide the records;
- E. 90 days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
- F. The individual is unable to show proof of prior payment to the City; and
- G. The FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

Section 6: Fee Waivers

6.1. Public Interest Waiver. The FOIA Coordinator may, in his or her sole discretion, waive or reduce FOIA fees upon determining that the request is in the public interest.

6.2. Indigency Waiver. The FOIA Coordinator shall generally waive the first \$20.00 of a FOIA fee

if the requester submits a sworn affidavit stating that the requester is indigent and receiving specific public assistance, or otherwise demonstrating an inability to pay because of indigence. However, fees shall not be waived if:

- A. The requestor has previously received discounted copies of public records from the City two times during the calendar year; or
- B. The requestor requests information in connection with other persons who are offering or providing payment to make the request.

6.3. Waiver for Certain Nonprofit Organizations. The FOIA Coordinator shall waive the first \$20.00 of a FOIA fee if the requester is a nonprofit organization designated to by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 200 and the Protection and Advocacy for Individuals with Mental Illness Act, or their successors, if the request is:

- A. Made directly on behalf of the organization or its clients;
- B. Made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, MCL 330.1931; and
- C. Accompanied by documentation of its designation by the State.

Section 7: Appeals

7.1. Appeals to City Manager. A requester may appeal a decision of the FOIA Coordinator on the grounds that: (1) all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure; or (2) the fee charged to process a FOIA request exceeds the amount permitted by state law. Appeals shall be filed with the City Manager, who is the administrative head of the City pursuant to the City Charter. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requestor is seeking a reversal of the denial. If no appeal is taken within the applicable timeframe, the decision of the FOIA Coordinator shall be deemed to be the final decision of the City.

7.2. Decision on Nondisclosure Appeals. Within 10 business days of receiving an appeal asserting that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, the City Manager will respond in writing by:

- A. Reversing the disclosure denial;
- B. Upholding the disclosure denial; or
- C. Reversing the disclosure denial in part and upholding the disclosure denial in part.

Under unusual circumstances, such as the need to examine or review a voluminous amount of separate and distinct public records or the need to collect the requested records from numerous facilities located apart from the office receiving or processing the request, the City Manager may issue not more than 1 notice of extension for not more than 10 business days to respond to the appeal.

7.3. Decision on Fee Appeals. Within 10 business days after receiving an appeal asserting that the fee charged to process a FOIA request exceeds the amount permitted by state law, the City Manager will respond in writing by:

- A. Waive the fee;
- B. Reduce the fee and issue a written determination indicating the specific basis that supports the remaining fee, accompanied by a certification by the City Manager that the

statements in the determination are accurate and the reduced fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA;

- C. Uphold the fee and issue a written determination indicating the specific basis under Section 4 of the FOIA that supports the required fee, accompanied by a certification by the City Manager that the statements in the determination are accurate and the fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA; or
- D. Issue a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the City Manager will respond to the written appeal.

7.4. Deadline for Circuit Court Actions. The requestor may file a civil action in Kent County Circuit Court to challenge the City's response to a FOIA request within: (1) 180 days after the City's final decision, if challenging nondisclosure; or (2) 45 days after the City's final decision, if challenging a requested fee. Notably, a requestor may challenge a determination of the FOIA coordinator in civil action in without first appealing to the City Manager, if the challenge is based on nondisclosure.

7.5. Circuit Court Remedies in Nondisclosure Cases. If a court determines that a public record is not exempt from disclosure, it will award the appellant reasonable attorneys' fees, costs, and disbursements. If the court determines that the appellant prevails only in part, the court in its discretion may award all or an appropriate portion of reasonable attorneys' fees, costs and disbursements. If the court determines that the City arbitrarily and capriciously violated the FOIA by refusing or delaying the disclosure of copies of a public record, it will award the appellant punitive damages in the amount of \$1,000.

7.6. Circuit Court Remedies in Fee Cases. If the court determines that the City required a fee that exceeds the amount permitted, it shall reduce the fee to a permissible amount. If the appellant in the civil action prevails by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that City has acted arbitrarily and capriciously by charging an excessive fee, the court will also award the appellant punitive damages in the amount of \$500.

Section 8: Miscellaneous

8.1. Effective Date. These Procedures and Guidelines shall take effect on July 1, 2015.

8.2. Repealer. As of their effective date, these Procedures and Guidelines repeal and supersede all previous FOIA policies promulgated by City Council or City staff.

8.3. Modifications by FOIA Coordinator. If any provision of these Procedures and Guidelines is found to be in conflict with any State statute, or if the FOIA is amended in a manner that creates a conflict, the FOIA Coordinator is authorized to modify the affected provisions of these Procedures and Guidelines. The FOIA Coordinator shall inform the City Council of any change.

INSPECTION SERVICES AGREEMENT

THIS AGREEMENT is made this 1st day of July, 2015 by and between CASCADE CHARTER TOWNSHIP, 2865 Thomhills SE, Grand Rapids, Michigan 49546 (hereinafter called "Cascade"), and the City of Lowell, 301 East main St., Lowell MI 49331 (hereinafter called "Lowell")

WHEREAS Lowell is desirous of contracting with Cascade for the performance of inspection services by Cascade; and

WHEREAS Cascade is agreeable to rendering such services on the terms and conditions hereinafter set forth.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Cascade agrees to provide building, plumbing, mechanical and electrical inspection services of residential, commercial and industrial structures within the corporate limits of Lowell for compliance with the State of Michigan building, plumbing, mechanical and electrical codes. Such inspections shall be performed pursuant to the applicable state Codes.
2. Lowell shall adopt and enforce charges for inspections equal to those charged by Cascade for the same inspections in Cascade. Cascade shall remit to Lowell twenty percent (20%) of all fees collected by Cascade, once each month.
3. The rendition of inspection services, the standards of performance, the discipline of Inspectors, other matters incident to the performance of inspection services and the control of personnel so employed shall remain with Cascade provided Cascade will timely perform all inspections.
4. Cascade Township will be responsible for all inspection functions under this agreement except code enforcement citations, stop orders and dispute resolutions which will be exclusively within the jurisdiction of the Lowell City Manager or the Manager's designated representative.

5. Cascade Township Inspection Department shall within 24 hours inform the Lowell City Manager of any complaints, from whatever source, concerning buildings or inspections which it receives concerning property located in Lowell.
6. Lowell shall not be liable for the direct payment of any salaries, wages, benefits or other compensation to employees or agents of Cascade for services performed under this Agreement.
7. In providing inspection services pursuant to this Agreement, Lowell acknowledges that Cascade is performing a valuable and essential governmental function for and on behalf of Lowell.
8. Neither party, its officers, employees or agents shall be liable for intentional or negligent acts of the other party, its officers, employees and agents and each party shall indemnify and hold harmless the other party for such acts.
9. The parties are authorized to enter into the Agreement by virtue of the provisions of Act 35 of the Michigan Public Acts of 1951, as amended, being MCL 124.1 et seq.
10. This agreement shall commence on the first date above written and continue for three (3) years provided, however, either party may terminate this Agreement at any time by providing the other party with forty five (45) days prior written notice of intention to terminate.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the date first above written.

CASCADE CHARTER TOWNSHIP

_____ By _____
Robert Beahan, Supervisor

_____ And By _____
Ronald H. Goodyke, Clerk

THE CITY OF LOWELL

_____ By _____
James Hodges, Mayor

_____ And By _____
Betty R. Morlock, Clerk



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CITY MANAGER'S REPORT
June 1, 2015

1. A Truth-in-Taxation hearing notice will appear in this week's ledger announcing a hearing that you will need to hold during your next council meeting. The state law that outlines the notice to hold a Truth-in-Taxation hearing requires that we use language such as "notice of public hearing on increasing property taxes" and "proposed additional millage."

We are not proposing a property tax increase or a millage rate increase.

These hearings may be required each year based on calculations performed by the Kent County Equalization Department relating to the "Headlee" provisions of the state's constitution. The city's charter authorizes the council to allocate up to 20 mills, however, Headlee rollbacks have reduced that amount to 17.4597 mills. The council has allocated a millage rate of 15.70 mills, more than 10 percent below the amount authorized. Headlee rollbacks are typically triggered by increases in taxable value that exceed the rate of inflation, although that is a simplistic way of describing a much more complicated formula.

During the past several years, the formula has not triggered a Truth-in-Taxation hearing although when the hearings are required they can be held in conjunction with the budget hearing with a note in the budget hearing notice that the proposed millage rate will be a subject of the hearing. We did not include that language in our budget hearing notice and only found out after the notice had been published that a Truth-in-Taxation hearing is required.

2. The Hudson Street bridge over the Grand River was closed on May 21 by the Kent County Road Commission in order to begin the resurfacing project. It is expected to take until July 2. Traffic was backed up more than a mile up to 7 p.m. the first evening the bridge was closed. We were in contact with the Kent County Road Commission to ask them to reconsider their detour plan and they responded by installing a four-way stop at the intersection of Main and Jackson Streets. We continue to work with the road commission to monitor traffic and encourage all drivers to remain patient during this temporary situation.

Respectfully submitted,


Mark Howe, City Manager