

**PROCEEDINGS
OF
CITY COUNCIL
OF THE
CITY OF LOWELL
MONDAY, JANUARY 06, 2020, 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 DeVore and City Clerk Susan Ullery called roll.

Present: Councilmembers Marty Chambers, Councilmember Jim Salzwedel, Councilmember Greg Canfield and Mayor Mike DeVore.

Absent: Councilmember Cliff Yankovich.

Also Present: City Manager Michael Burns, Chief of Police Steve Bukala, City Clerk Sue Ullery, Lowell Light & Power General Manager Steve Donkersloot, and DPW Director Dan Czarnecki.

2. **EXCUSED OF ABSENCE.**

IT WAS MOVED BY CHAMBERS and seconded by SALZWEDEL to excuse the absence of Councilmember Yankovich.

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

3. **ELECTION OF OFFICERS.**

a. Mayor

IT WAS MOVED BY CANFIELD and seconded by CHAMBERS to nominate Mike DeVore for Mayor.

YES: Councilmember Canfield, Mayor DeVore, Councilmember Salzwedel and Councilmember Chambers.
NO: None. ABSENT: Councilmember Yankovich MOTION CARRIED.

b. Mayor Pro Tem

IT WAS MOVED BY CHAMBERS and seconded by DEVORE to nominate Greg Canfield as Mayor Pro Tem. Greg Canfield gratefully and gracefully declined the nomination. He doesn't feel he has enough time as he should to dedicate to the job.

IT WAS MOVED BY CANFIELD and seconded by CHAMBERS to nominate Jim Salzwedel as Mayor Pro Tem.

YES: Councilmember Salzwedel, Councilmember Chambers, Councilmember Canfield, and Mayor DeVore.
NO: None. ABSENT: Councilmember Yankovich. MOTION CARRIED.

c. Review and Adoption of Council Rules of Procedure.

City Manager Michael Burns stated the Rules of Procedure have been in place for a number of years, however, we did have an incident in the last couple months where because of our Rules of Procedures, we could have had a Council Member call into the meeting even though we had a quorum together at the meeting. Because of our Rules of Procedure, he could not vote. Burns wanted to bring it to

Councils attention to see if after verifying it is legal with our City Attorney, if they wanted to consider changing that item in the Rules of Procedure.

Burns will clarify and report back after he speaks with the City Attorney.

4. **APPROVAL OF THE CONSENT AGENDA.**

- Approval of the Agenda.
- Approve and place on file the regular and closed session minutes of the December 16, 2019 City Council meeting.
- Authorize payment of invoices in the amount of \$147,255.17.

IT WAS MOVED BY SALZWEDEL and seconded by CANFIELD to approve the consent agenda as written.

YES: Councilmember Chambers, Councilmember Canfield, Mayor DeVore, and Councilmember Salzwedel.

NO: None.

ABSENT: Councilmember Yankovich.

MOTION CARRIED.

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

There were no comments.

4. **OLD BUSINESS**

a. Showboat Construction Specifications.

City Manager Michael Burns briefly explained the mix-up on the height issue and how it is being resolved. Discussed the requirement for a letter of stability from C-Fly. Architect should have final plans completed and adjusted with new heights by early February.

b. Lowell Township Water/Sewer Agreements.

City Manager Michael Burns stated the next step needed if the City and Township were to merge into a Water and Sewer Authority would be to have a full valuation of the assets of the water and wastewater treatment plants. The City Attorney and Township Attorney Jeff Sluggett reached out to Plante and Moran to see if this was a project they could take on and they informed us that this is not something within their wheelhouse. We were referred to Public Financial Management Company (PFM), a Philadelphia based public finance financial advisory firm which focuses on asset management and consulting services for municipalities, cities, schools, hospitals and other public entities. PFM provided us with a proposal to consider to conduct a limited valuation and a full valuation of our treatment facilities. After reviewing both options in our proposal, I believe the full valuation of our assets would be necessary to determine the accurate cost of both facilities. The cost of completing this valuation is \$37,500. This cost is not budgeted in our water and wastewater funds for the current fiscal year. I have discussed this with the township and they are willing to pay the first \$10,000 of the cost and the remaining cost would be split between the City of Lowell and Lowell Township if we choose to move forward.

Burns stated City Council needs to determine where we would like to go regarding the selling of the assets and transferring them to an authority. Does the City Council believe the sale is worth giving equal

representation in management of these facilities and selling our assets to an authority? If the authority is formed, the City would also lose the ability to require a 425 agreement for expanded service outside the current service area in Lowell Township.

City Council discussed at length and it was a general consensus that city funds should not be used to pay for the study. Burns will find out what the Township would like to do and then will report back to Council who will then direct him on the next step.

c. Line Shack RFP.

City Manager Michael Burns explained he has been working on the RFP for the sale and development of the former Line Shack building. The building and land for the property is valued at \$100,000. Under the Michigan Constitution, we must sell the property for a fair market value and require \$100,000 as a minimum price for the bid in the RFP. Burns would like to see a restrictive covenant on the building which would require the building to function as a specific use(s) under the restrictive covenant. If chosen this is tied to the deed and if ownership of the building were to change the requirements of the building would not.

City Council discussed and it was a general consensus to not use a restrictive covenant.

5. **NEW BUSINESS**

a. Annual Authorization of Signature for City Bank Accounts and Designation of Depository Banks.

IT WAS MOVED BY CHAMBERS and seconded by SALZWEDEL that Lowell City Council approve the annual authorization of signatures for City Bank Accounts and designation of depository banks as proposed.

YES: Councilmember Canfield, Mayor DeVore, Councilmember Salzwedel, and Councilmember Chambers.

NO: None.

ABSENT: Councilmember Yankovich.

MOTION CARRIED.

b. Resolution 01-20.

City Manager Michael Burns stated being presented are Resolutions' 01-20 and 02-20 which in essence will resolve all issues pertaining to Unity Schools Investors LLC.

Resolution 01-20 if approved will settle all matters pertaining to and authorize the Mayor and City Clerk to execute the approved agreement on behalf of the city and thus authorizing the City Manager to take all steps required to fulfill the City's obligations under the Agreement.

To summarize the settlement agreement, the terms are the following:

- The City will purchase 238 High Street for \$225,000 within 30 days of the purchase. (The Downtown Development Authority and Lowell Light and Power have resolutions to approve allowing the DDA to purchase the property on behalf of the City and for Lowell Light & Power to lend the DDA \$165,000 over a five-year period with an interest of 1.75%).
- The City will support the partial vacation of the north 15 feet of High Street from Monroe Street to the west edge of the existing Unity School building on the 219 High Street Parcel with ownership of said vacated property to be transferred to Unity. The City and Unity will share all costs equally for the partial vacation and re-platting of High Street adjacent to 219 High Street.

- Unity at its cost will construct curbs, gutters and sidewalks in accordance of City standards, along and within the vacated parcel. Unity will also not be limited on curb cuts for the south side of its property accessing 219 High Street.
- Subject to approval by the Michigan Department of Natural Resources (DNR), the City will transfer a 7 foot by 263.2-foot strip of Riverside Park to Unity Schools in exchange for a 10' north and 50' east portion of the southwest corner of 219 High Street. The City will retain easements for locations on the currently owned property for underground utilities and communication lines.
- If required by the Michigan Department of Environment, Great Lakes and Energy, the City will allow a compensation cut to a portion of the banks of Stoney Lakeside Park to address any floodplain mitigation concerns at 219 High Street. Unity at its costs, will be responsible to provide the required testing of the soils to be removed and for the proper disposal of the soils.
- Since the boundary lines of High Street will change on the south and west of the Planned Unit Development relating to the property, these will be deemed as minor amendments to the PUD. The amendments shall be reviewed and approved administratively by the City's zoning enforcement officer.
- Upon execution of the settlement agreement, legal counsel for both parties shall prepare and file a Stipulated Order to Dismiss All Claims with Prejudice and Without Costs for entry by the Court in the Lawsuit.
- Unity further waives and releases any claims for the City's, City's Departments of Lowell Light & Power, the Lowell Area Public Schools, or Comcast/Xfinity's past, current, and future use of the 219 and 238 High Street parcels through existing known easements of record and/or existing above ground or underground lines, including any related facilities for utility and communication services that are currently subject to written easement agreements or are contemplated to be given by Unity pursuant to this Settlement Agreement.

Since there will be a transfer of property between the City and Unity, a resolution pertaining to the transfer of property must sit at Council and be available for public review for twenty days after it has been presented, per the City Charter.

IT WAS MOVED BY CHAMBERS and seconded by SALZWEDEL to approve Resolution 01-20 pertaining to the Settlement Agreement with Unity Schools Investors LLC.

YES: Mayor DeVore, Councilmember Salzwedel, Councilmember Chambers, and Councilmember Canfield.

NO: None.

ABSENT: Councilmember Yankovich.

MOTION CARRIED.

c. Resolution 02-20.

Resolution 02-20 is being presented to accommodate the Charter provision and no action can be taken on this resolution until the 20-day period expires. This will also require four votes in the affirmative in order for action to be taken.

d. Traffic Control Maintenance Agreement.

Public Works Director Dan Czarnecki stated traffic signals in Lowell are owned by either MDOT or the Kent County Road Commission. They are all maintained by the City of Grand Rapids Traffic Department. Because the signals control traffic from the City of Lowell streets we have some responsibility for the maintenance costs of the signals. I was contacted by the Grand Rapids Traffic

Signal Supervisor about entering into a maintenance agreement for the signal maintenance work. They are trying to complete their agreements for all the communities they maintain signals within. The agreements set the parameters for the maintenance and billing for such work. According to the supervisor, the maintenance work on the traffic control device at Valley Vista and M/21 is billed at 50% to the City of Lowell. We have funds budgeted under Major Streets to cover the signal maintenance costs. The agreement needs to be approved and signed by the City and the document has been reviewed by the City Attorney.

IT WAS MOVED BY SALZWEDEL and seconded by CHAMBERS to approve the Electronic Traffic Control Devices Maintenance Agreement with the City of Grand Rapids and authorize the Mayor to sign the agreement.

YES: Councilmember Chambers, Councilmember Canfield, Mayor DeVore and Councilmember Canfield.

NO: None.

ABSENT: Councilmember Yankovich.

MOTION CARRIED.

6. **BOARD/COMMISSION REPORTS.**

Councilmember Salzwedel stated the LCTV Fund deadline, Friday February 7, 2020, is fast approaching, so get your applications in.

Councilmember Chambers stated Thursday, January 9, 2020 we have the Lowell Light & Power Meeting and Monday, January 13 is the Planning Commission Meeting.

Mayor DeVore stated Fire Authority is meeting Monday, January 13, 2020. Lew Bender is coming Thursday, January 23, 2020.

7. **MANAGER'S REPORT.**

City Manager Michael Burns reported on the following:

- Was informed City Attorney Dick Wendt will no longer be serving the City of Lowell on a daily basis. Dick has offered for Jessica Wood to take over if the City so desires. Dick Wendt will still be around for institutional matters and agreements, he drafted, but he is not going to be full time anymore.
- We will be reviewing our first special land use application for the adult use marijuana facility located at the former Family Video site at the Planning Commission meeting on Monday, January 13, 2020..
- Lew Bender will be here Thursday, January 23, 2019 from 5:30 p.m. to 9:00 p.m. Tentatively set at the Fire Hall.
- Last week, our third 1997 sewer assessment has been paid. We have one more. The largest outstanding assessment was the Lowell Baptist Church and they did provide us a payment of \$54,000. it \$142,000 towards the total cost of the project if this project moves forward.
- Alerted last week about the Jackson Street Bridge from Kent County and the Kent County Road Commission. They informed us that sometimes either later this year or the beginning of 2021, they are going to be shutting down the bridge and doing replacement work on the bridge. They have no other information at this time but will share once they have more information.

8. **APPOINTMENTS.**

None.

9. **COUNCIL COMMENTS.**

Councilmember Canfield will be out of town for the next meeting on the 21st of January.

Councilmember Salzwedel stated he would like to see some resolutions this year on the sidewalks in the City and would like to see them resolved by June. Also he would like to see at least one mile of road completed this year in the city.

10. **ADJOURNMENT.**

IT WAS MOVED SALZWEDEL and seconded by CHAMBERS to adjourn at 7:58 p.m.

DATE:

APPROVED:

Mike DeVore, Mayor

Sue Ullery, Lowell City Clerk