

**PROCEEDINGS  
OF  
CITY COUNCIL  
OF THE  
CITY OF LOWELL  
ZOOM MEETING  
MONDAY, MAY 18, 2020, 7:36 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 Cliff Yankovich, Greg Canfield, Marty Chambers, Salzwedel and Mayor DeVore.

Absent: None.

Also Present: City Manager Mike Burns, City Clerk Susan Ullery, City Treasurer Suzanne Olin, Police Chief Steve Bukala, DPW Director Dan Czarnecki and LL&P General Manager Steve Donkersloot.

Mayor DeVore requested Item B (Budget Hearing) move to item D and both LL&P agenda items be moved up.

2. **APPROVAL OF THE CONSENT AGENDA.**

- Approval of the Agenda.
- Approve and place on file the minutes of the May 4, 2020 Regular City Council as corrected.
- Authorize payment of invoices in the amount \$153,488.34

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

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

NO: None.

ABSENT: None

MOTION CARRIED.

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

There were no comments.

4. **OLD BUSINESS**

a. Classification and Compensation Study.

City Manager Michael Burns stated the City of Lowell partnered with the Michigan Municipal League to review and revise job descriptions for a number of positions held in the City. In addition, we performed a compensation study to determine whether our positions are in line with our market.

Marsha Cornell and Mandy Reed from the Michigan Municipal League walked through their report and presented their findings.

At the onset of the project, current job descriptions, pay plans, benefits information, and other related materials were collected and reviewed. The City identified the positions to include in the scope of this project which included 12 positions. All 12 positions underwent a thorough review of job analysis, were included in the market study, had point factor job evaluation performed to establish an internally equitable pay system, and had updated job descriptions prepared.

It was noted the system administration needs regular maintenance and it is suggested a full study be done every 5 to 7 years. Burns noted the last job analysis was done in 2001.

No further information was provided.

b. Gift from Staal Estate.

City Manager Michael Burns explained this was tabled from the last City Council meeting as there was discussion of what to do with the proceeds and using it toward something more community based may be more appropriate.

Burns stated a suggestion was brought up regarding funds going toward the Showboat. He also suggested two other expenditures that are community based and would be an impact to the General Fund. This includes the Fire Truck purchase in two years with our share being due of \$125,000 as well as the City agreeing to set aside \$25,000 for the LARA trail for when that is finalized.

Mayor DeVore stated the memorial bench will be coming out of these funds either way.

Councilmember Yankovich saw a nice tie in with a bench on a portion of the LARA trail. Councilmember Canfield liked that idea and possibly put the rest on hold. Councilmember Salzwedel agreed.

By general consensus, the Council agreed to move forward with the memorial bench placing it somewhere along the LARA trail.

c. High Street Vacation.

City Manager Michael Burns stated as part of the settlement with Unity Schools Investors, LLC the City agreed to 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 the ownership transferred to Unity.

Since this time, Unity has filed action regarding the vacated parcel and is making the request for the action.

Resolution 11-20 was presented for the Council to approve which states we approve the partial vacation of High Street in conjunction with our settlement agreement.

IT WAS MOVED BY CHAMBERS and seconded by CANFIELD to approve Resolution 11-20 to approve partial vacation of the High Street plat.

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

At the request of the Council, a drawing of the property will be presented.

d. Water Billing Late Fees.

City Manager Michael Burns stated since the COVID-19 pandemic began in March, the City has not issued late fees for not meeting water billing deadlines. When it was presented earlier, the Council agreed to continue to waive fees in April but asked that this be brought back in May.

Burns was informed we have a number of people utilizing a payment plan to address their bills. That said, if shutoffs were allowed currently, the City would have only shut off 14 accounts for delinquency after the April billing was due. This is not a very high number for the City. We have a number of people who are a month behind however, this is common even when the economy was better.

As Manager, Burns does not see an issue with continuing to waive late fees for a few months as this still plays out. It appears that we are getting pretty decent compliance from our customers. There are a number of cities who have waived late fees until the end of the year. If you were to waive fees, maybe consider until the end of August and come back and reconsider for September.

There is also the option of reinstating the fee. Burns can see arguments for both sides of the debate on the issue. He does not want to create a system to reward people to not follow their obligations. That said, City Administration will stand ready to follow any course of action provided.

Mayor DeVore wanted to see this remain through June. By general consensus, the Council agreed to keep it through June and bring back to the agenda at the June 15<sup>th</sup> meeting.

e. HVAC Maintenance.

City Manager Michael Burns proposed Preventive Maintenance Agreements between the City and Progressive Heating, Cooling & Refrigeration (Lowell) to provide routine service, inspection and cleaning of heating and cooling equipment located Lowell City Hall, DPW Building, the Lowell Historical Museum and the Englehardt Library.

The cost for the service are as follows:

- City Hall - \$1,668
- DPW Building - \$448
- Library \$1,592
- Museum - \$720

This is an annual agreement and the cost does not include repairs to the system. Progressive has been providing routine repair services to the City since 2016. Burns noted these prices have been the same amount for four years. Progressive did mention the possibility of a slight increase next time the agreement is renewed. Funds have been budgeted for these expenses.

IT WAS MOVED BY CANFIELD and seconded by CHAMBERS to approve the Preventative Maintenance Agreements with Progressive Heating, Cooling & Refrigeration, Inc. as presented.

YES: Mayor DeVore, Councilmembers Salzwedel, Yankovich, Chambers and Canfield.

NO: None. ABSENT: None. MOTION CARRIED.

## 5. **NEW BUSINESS**

### a. Water Service Rules and Regulations.

Public Works Director Daniel Czarnecki explained the operations of the City's water and sewer utilities has its own chapter in the Code of Ordinances for Lowell. The information found here helps us to properly interpret and operate these two utility departments. As time moves forward issues come up that need direction that is not found in the ordinance.

Chapter 25 – Water and Sewage Disposal Service spells out the City's rules for connecting to the available utilities. This includes the rules to be followed by the city and the customer, as well as how the utility charges are billed out. While the sewer portion goes into great details, the water portion leaves many of the details to be determined, as necessary, by the creation of rules and regulations (Sec. 25 – 18). The current Water Service Rules and Regulations were developed several years ago. While they are very useful, there are many areas that administration has found to be difficult to explain and enforce. There are other areas that are not discussed. City administration works hard to interpret the direction that is needed and help the customer as much as possible. However, many times this isn't easy, and sometimes not everyone interprets things the same way.

Recently, two items have come up that caused a review of the ordinance. First, we received a request to stop billing at a business as they have vacated their building and are closed due to the Governor's "Stay at Home" orders. As you are aware, the water/sewer utility bills include a commodity charge on the amount of water that is used, plus a Readiness-to-Serve charge based on the size of meter. Not using any water would bring the commodity charge to \$0. However, the Readiness-to-Serve charge is based on connecting to the system and is a straight charge that is generally intended to cover the capital costs of the system. Those capital costs include capital works that is schedule yearly, plus yearly payment on the current bonds. The bond payments are figured based on the number of customers. If not every customer is paying their share, then the income to pay capital costs could become deficient. Keep in mind, in future years the City is looking at making some major system improvements that have been figured into future rate increases.

The second item of concern was the connection to our water system in areas without a watermain in front of the property. There are a few areas of the community that city water is not available directly in front of a property, however, it is available a few hundred feet down the street. We have allowed a customer to make a tap of our system and they have run a long private water service to their property. We place the meter near the water tap and the long service line is the responsibility of the property owner. The private service line is in the street right-of-way and we do not have any agreements with the property owner on who is responsible if anything were to happen to this line and cause damage to the city right-of-way or an adjacent property owner. Also, if a watermain is extended in front of this property the City does not have a mechanism to require the property owner to pay for the new watermain. The property owner would not need the new watermain as they are already connected to our system. We would like to clean this up with some language that helps the City and the customer as we moved into the future.

There are many other areas that need rules and regulations to better define the situation. The idea is not to be cumbersome or overbearing with unnecessary regulations. We want to be consistent, clear and concise with the utility operations and fair to all customers. We want the City staff to be able to operate the system correctly, with a good document for everyone to follow equally.

Some of the areas that are being developed with more defined information are services and connections, charges and fees, accessibility and customer responsibilities, shutoff policies (which have recently changed due to the coronavirus issues), billing and payments, payment agreements, meter installation and testing, watermain extensions, critical care facilities and senior citizens, and cross connection control

By general consensus, the Council stated they were comfortable with Czarnecki continuing on with the project.

b. Fiscal Year 2021 Operating and Capital Budget

LL&P General Manager Steve Donkersloot presented the proposed Fiscal Year 2021 Operating and Capital Budgets. Per the City Charter, LL&P's budgets must be presented to the City Council for consideration and approval every year. As such, the City Manager has asked that he give an overview of LL&P's budget process, our Fiscal Year 2021 Operating and Capital Budgets, and the major projects we expect to work on over the course of the next year.

In March the LL&P Board approved a budget. With the COVID-19 pandemic, there has been a major change to the March budget. The packet includes the final budget that LL&P is asking the Council to adopt. Some of the major things to point out is that in March there was total revenue of 9 million dollars whereas the final budget being presented tonight has a total revenue of just under 8.2 million dollars due to the kilowatt-hours in sales being down 11 to 13 percent and the demand is down 10 plus percent. In March they had planned on hiring a two man tree trimming crew which has been taken out of the budget. There are also a number of other budget cuts that have been made to other departments. They have maintained current staff and plan to hire an additional lineman to replace a lineman lost earlier this year.

The COVID Pandemic has changed LL&P future and has impacted the pilot contribution that they had planned to pay the City. This has been reduced by \$34,000 and will now pay \$351,000.

The Capital budget was reduced by over \$600,000 for next year's expenses.

The Council had no questions or comments.

c. LL&P Board Recommendation to the City Council to Adopt Resolution Authorizing the Publication of a Notice of Intent to Issue Bonds.

LL&P General Manager Steve Donkersloot explained at the recent LL&P Boardmembers meeting they voted to recommend that the Council adopt Resolution 13-20. This would allow for a notice to be published in the Ledger which would advertise LL&P intent to sell revenue bonds up to \$995,000. The resolution, if passed does not obligate LL&P to issue debt. It just starts a 45 day clock where citizens of Lowell can petition to have the decision of whether LL&P moves forward with issuing the bonds or not by a vote of the people rather than the LL&P Board or the Council. This must be done per Act 94 of the Public Acts of Michigan of 1933.

The reason they are considering with going forward with issuing debt is because there are a number of deferred facility related projects that need to be done at the Lowell LL&P Energy Center.

IT WAS MOVED BY YANKOVICH and second by CANFIELD to adopt Resolution 13-20 authorizing the Publication of a Notice of Intent to Issue Bonds.

YEA: Councilmembers Salzwedel, Yankovich, Chambers, Canfield and Mayor DeVore.  
NO: None. ABSENT: None. MOTION CARRIED.

d. Fiscal Year 2020-21 Budget.

On Monday April 20, 2020, City Manager Michael Burns presented the City Council with the proposed Fiscal Year 2020-21 for initial review. On Saturday, April 25, 2020 the City Council budget work session was held where the budget was reviewed. Since this time we have provided clarification to budget items in question and have had discussion since about additional budget reductions.

Burns is still projecting approximately \$160,000 in revenue lost from all municipal funds with the exception of the water and wastewater funds.

Burns presented the budget memo previously submitted to the City Council and a public hearing should be held tonight. It is the Councils option to approve the proposed budget at this meeting.

A couple things to note is the issue with the sales tax. In the budget we projected approximately \$60,000 loss and \$43,000 loss in the General Fund for the LL&P pilot. Last Friday, the State of Michigan provided the City with the new revenue projections for the sales tax which is our revenue sharing. The rest of this fiscal year we are looking at \$25,000 less than what was originally projected when the budget was approved last year and then for next year we are looking at \$40,000 less than what we projected for our budget earlier this year. There is also an additional \$60,000 as part of our revenue sharing that will get cut in addition to the sales tax component.

Mayor DeVore opened the Public Hearing and there were no comments.

Burns pointed out the rate increase for the water and sewer was not submitted in the budget and asked if the Council wanted this to come back in June. By general consensus, Council agreed to look at in June.

IT WAS MOVED BY YANKOVICH and seconded by CHAMBERS to approve Resolution 12-20 as presented.

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

e. Ordinance 20-02.

In April, the City Administration came to the City Council to discuss commercial waste haulers violating our noise ordinances as they were handling their routes very early in the morning. Residents adjacent to some of these businesses were complaining of this practice. We asked at the time to consider modifications to the noise ordinance and were directed by Council to come back with an ordinance to approve.

Since then Chief Bukala and Burns have been working with City Attorney Jessica Wood to modify the ordinance to accommodate this. Wood looked at the ordinance and only amended Section 11-36 of the waste hauler ordinance. In the ordinance it states that all waste haulers can pick up the City between 7:00 a.m. to 9:00 p.m. daily.

We did not amend the noise ordinance because after reading it, it is probably unnecessary. The noise ordinance is a bit more generalized and there may be reasons beyond noise why waste hauling is limited

to the hours above. Noise ordinances are usually a poor tool to enforce this and since waste haulers must be licensed a quicker remedy is for the City to terminate haulers licenses for excessive violations of the waste hauling article of the ordinance.

IT WAS MOVED BY SALZWEDEL and seconded by CHAMBERS to approve Ordinance 20-02 as presented.

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

f. Furloughs.

City Manager Michael Burns explained the City of Lowell is projected to lose over \$160,000 in revenue in all funds throughout the City due to the COVID-19 pandemic. There is a potential for the City to lose much more than projected depending on how this crisis pans out. Since March 23, 2020, the City of Lowell has made staffing modifications to comply with Governor Gretchen Whitmer's Stay at Home Order. At this point, the City has and will do everything to keep our full time staff gainfully employed.

Burns proposed to furlough 15 or our 19 Full Time Employees to 80% of their hourly pay or salary. He will propose the City continue to provide all benefits as we do currently. MERS Service Credit will still be counted in full, however, during the time of furloughs, MERS will only count what the City pays each employee and base that toward each employees final average compensation as it will be reduced some. Burns would also be furloughed as well. The water treatment plant employees and the two employees set to retire on July 31, 2020 would not be furloughed. Every other full time City employee would be.

Brad Wade of 12991 Ryan Ridge, Eric Schelhaas of Red Creek Waste Services and City of Lowell resident Holly Christopher all indicated they were not in favor of the employees being furloughed.

After much Council discussion, Mayor DeVore asked for a motion to approve or to table the City of Lowell furloughs. There was no motion made, therefore the issue died.

g. Memorial Day Events.

City Manager Michael Burns stated due to the COVID-19 pandemic, this is forcing changes to our annual Memorial Day events. This being said, the current Stay at Home Executive Order from Governor Whitmer is giving City Administration difficulty in how to handle the Memorial Day remembrances.

Burns has been in contact with Herm Westrate, who is the Commander of the Veterans of Foreign Wars Post 8303. He has informed Burns that the parade has been canceled. They are requesting to utilize Oakwood Cemetery on Memorial Day and do so without putting the public at risk. They would like to read the names and allow businesses and organizations to present flowers at the Civil War Monument. There would also be an Honor Guard to render a rifle salute before the playing of Taps.

After much discussion, the Councilmembers and Mayor DeVore believed this would be appropriate. Chief Bukala agreed to allow the Honor Guard and Taps player at Oakwood Cemetery.

6. **BOARD/COMMISSION REPORTS.**

Councilmember Canfield stated the LARA Board met. He noted Laura Garrison and Todd Gossiaux (alternate) would be the new members. Council approval is needed.

Dave Austin also answered questions on the DNR grant that was submitted.

Councilmember Chambers stated the Planning Commission met on May 11, 2020 and reviewed the special land use applications for two new marijuana facilities. However, due to some technical difficulties a synopsis of these approvals will be held at the June 8, 2020 Planning Commission meeting.

Mayor DeVore stated the Fire Authority received an email from a consultant recently brought on. He is gathering information and DeVore was hopeful that he could share this with the Council after the Fire Authority meets.

DeVore asked Mayor Pro Tem Salzwedel to Chair the remainder of the meeting, as he had to step away.

7. **MANAGER'S REPORT.**

- Thanked Meds Café for their generous donation for the boat. He noted there was an incorrect story on News 8 stating that the City of Lowell is receiving a lot of money from the sales. The owner has apologized for the error.
- The City received notification that the Waiver for PA 202 will not require the City to file a corrective action plan.
- Applications for the outdoor seating for restaurants is completed. He needs the insurance company to review before distributing.
- Need direction on if the June 1, 2020 meeting should be held through Zoom. By general consensus, the Council agreed to meet via Zoom.

8. **APPOINTMENTS.**

There were no changes at this time.

9. **COUNCIL COMMENS.**

Councilmember Canfield questioned the cement work done by Groundhog Excavating in the downtown area. It looks like it is a long ways away from being the right color. Czarnecki stated the color will have an issue at first but he will take a look at it.

He also encouraged everyone to continue to wear masks.

Councilmember Chambers commented on the process to start helping restaurants. Now we need to do something for the merchants. He attended the Downtown Merchants Zoom meeting and they indicated



they would like to have a 2<sup>nd</sup> sign to do more advertising until end of October. Maybe 6 feet between each sign. Burns stated he would report back at the next meeting.

IT WAS MOVED BY CHAMBERS and seconded by YANKOVICH to go into closed session at 9:34 p.m. pursuant to 15.268 Sec 8 of the Open Meetings Act item (c) for strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement.

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

IT WAS MOVED BY CHAMBERS and seconded by YANKOVICH to return to open session at 10:00 p.m.

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

10. **ADJOURNMENT.**

IT WAS MOVED BY YANKOVICH and seconded by CANFIELD to adjourn at 10:01.  
YES: Councilmember Chambers, Councilmember Canfield, Councilmember Salzwedel and Councilmember Yankovich. NO: None. ABSENT: Mayor DeVore. MOTION CARRIED.

DATE:

APPROVED:

\_\_\_\_\_  
Mike DeVore, Mayor

\_\_\_\_\_  
Sue Ullery, Lowell City Clerk