

**PROCEEDINGS  
OF  
CITY COUNCIL  
OF THE  
CITY OF LOWELL  
MONDAY, DECEMBER 16, 2019, 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, Cliff Yankovich, Councilmember Salzwedel, Councilmember Greg Canfield and Mayor DeVore.

Absent: None.

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

Mayor DeVore then turned it over to Police Chief Steve Bukala who stated that our Junior Police Officer, Peyton Dennis, that we swore in back in March has passed away from cancer. Peyton's funeral will be this held Thursday, December 19, 2019. There is a Go Fund Me Page on the "Our Cowboy Peyton Fighting DIPG" Facebook page. If you are able to make a donation, the funeral will be quite expensive and there are many bills still coming in from his experimental treatments. Chief Bukala then asked for a moment of silence for Junior Officer Peyton Dennis.

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

- Approval of the Agenda.
- Approve and place on file the Regular minutes of the December 2, 2019 City Council meeting.
- Authorize payment of invoices in the amount of \$324,013.29.

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

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

NO: None.

ABSENT: None.

MOTION CARRIED.

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

There were no comments.

4. **OLD BUSINESS**

a. Showboat Construction Specifications.

City Manager Michael Burns stated Council had requested construction documents on the showboat be presented before they went out for bid, so that is the point we are at. Then Burns introduced Ken Reigler with Comprehensive Engineering who gave a brief presentation of the drawings. Council

asked several questions regarding the snow melt, and also whether it was a possibility to have the boiler

and chiller on shore by the restrooms instead of on the boat. There was also concern with the gas line being designed from boat to shore.

City Manager Michael Burns then brought up the problem with the ceiling heights on the boat, which they discussed at length. It was a consensus that communication between the showboat committee and C-Fly broke down on the “finished” ceilings being 8-foot-high even though according to Liz Baker, the original plans states right on them 10’ floor to ceiling.

b. SAW – Grant Program Documentation

DPW Director Dan Czarnecki stated as part of the SAW Grant the City received, we are required to establish and adopt a Wastewater Asset Management Plan and a Storm Water Asset Management Plan. Czarnecki then explained the purpose and intent of the plans that were created by Prein and Newhof.

IT WAS MOVED BY CANFIELD and seconded by SALZWEDEL to approve the Wastewater Asset Management Plan and the Storm Water Asset Management Plan as presented.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

5. NEW BUSINESS

a. Vredeveld Haefner LLC – City of Lowell Financial Statements.

Peter Haefner with Vredeveld Haefner gave a brief narrative of what is in the City of Lowell Financial Statements for the year ending June 20, 2019. In his opinion, the financial statements present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of the City of Lowell, Michigan, as of June 30, 2019, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America. Haefner then asked if there were any questions regarding the statements and there were none.

b. Ordinance 19-09 – Consumers Energy Franchise Agreement.

City Manager Michael Burns stated our Franchise Agreement with Consumers Energy to provide natural gas to our community is about to expire and needs to be renewed. The agreement with the City is a thirty-year agreement for Consumers to lay, maintain and commercially operate gas lines and facilities across public places within the City of Lowell. The City Attorney reviewed the agreement and the only concern was the last sentence in section 2 pertaining to Consumers right to trim and remove trees if necessary. During our review, the City requested to have a minimum of a two inch caliper tree replacing whatever might be removed if this occurred. Our government representative from Consumers informed us that if this did happen, most likely they would replace the tree but could not put the language in their agreements with municipalities. This issue occurred last year in the gas project they worked on with Lowell Light & Power and in that instance replaced a tree where needed.

IT WAS MOVED BY CHAMBERS and seconded by YANKOVICH to approve Ordinance 19-09 as presented.

YES: Councilmember Salzwedel, Councilmember Yankovich, Councilmember Chambers, Councilmember

Canfield and Mayor DeVore.

NO: None.

ABSENT: None.

MOTION CARRIED.

c. Resolution 36-19 – Poverty Exemption Guidelines.

City Manager Michael Burns stated in the 2019 Assessment year, the Michigan Tax Commission requires local governing bodies to adopt guidelines that set poverty exemption guidelines to have in effect when these request are made by property owners. Burns provided a resolution and a proposed copy of the guidelines. We are utilizing the income levels set by the United States Department of Health and Human Services. Our guidelines also set the procedure for an appearance with the Board of Review and how the board is to evaluate the applicant. These guidelines must be set annually and approved by the local governing body.

**CITY OF LOWELL  
POVERTY EXEMPTION GUIDELINES**

Purpose. The principal residence of persons who, in the judgment of the Board of Review, by reason of poverty, are unable to contribute toward the public charges is eligible for exemption in whole or in part from taxation. Principal residence is defined as the “principal residence or qualified agricultural property” as those items are defined in MCL 211.7dd(c) and (d).

Eligibility. To be eligible for the poverty exemption:

The applicant must be an owner of, and occupy as principal residence, the property for which the exemption is requested.

Household income may not exceed poverty levels as annually defined by the United States Department of Health and Human Services.

POVERTY INCOME STANDARDS FOR 2019 ASSESSMENTS

1 Person	\$12,490
2 Persons	\$16,910
3 Persons	\$21,330
4 Persons	\$25,750
5 Persons	\$30,170
6 Persons	\$34,590
7 Persons	\$39,010
8 Persons	\$43,430

Each additional person, add \$4,320.

Total assets, except the principal residence being claimed, essential household goods, and market value of motor vehicles, should not exceed \$10,000 for the applicant or \$15,000 for the household.

Assets include, but are not limited to: real estate (other than the principal residence); motor vehicles, recreational vehicles and equipment, certificates of deposit, savings accounts, checking accounts, stocks, bonds, life insurance, and retirement funds. Assets do not include essential household goods (such as furniture, appliances, dishes, and clothing) or term life insurance.

The Board of Review will not reduce the value of the assets by the amount of any indebtedness owed on such assets, or any indebtedness otherwise owned by the applicant.

If the applicant meets these eligibility requirements, the applicant will be entitled to a poverty exemption as long as the applicant complies with the remaining requirements and procedures set forth in these guidelines.

Application. To apply for the poverty exemption, a person shall do all of the following on an annual basis:

- (a) File a Poverty Exemption Application with the Assessor or Board of Review. Applicants must obtain the Application from the Assessor's Office. Physically challenged or infirmed applicants may call the Assessor's Office to make necessary arrangements for assistance.
- (b) Submit copies of federal and state income tax returns for all persons residing in the principal residence, including any property tax credit returns filed in the immediately preceding year or in the current year.
- (c) Produce a valid driver's license or other forms of identification, if requested.
- (d) Produce a deed, land contract, or other evidence of ownership of the property for which an exemption is requested, if such proof of ownership is requested by the Board of Review.
- (e) Provide evidence of other assets including investments, real property, and retirement accounts, which include but are not limited to W-2 forms, interest income statements, dividend income statements, social security benefit statement, pension benefit statements, SSE benefit statements, workman's compensation benefit statement, public assistance benefit statement, general assistance benefit statements, ADC benefit statements, child support documentation, and alimony documentation.
- (f) Information and documents submitted in support of this application will be kept confidential, to the maximum extent permitted by law.

Appearance before the Board of Review. The applicant, or a representative of the applicant, will be required to appear before the Board of Review to respond to any questions that the Board or Assessor may have concerning the exemption application, unless a written medical excuse provided by his/her doctor at the time the application is submitted.

- (a) An applicant may be called to appear before the Board of Review on short notice.
- (b) An applicant may have to answer questions regarding the applicant's financial affairs, health, or the status of people living in the applicant's home before the Board of Review at a meeting that is open to and will be attended by the public.
- (c) An applicant appearing before the Board of Review may be administered an oath as follows:

"Do you \_\_\_\_\_ swear and affirm that the evidence and testimony you will give in your own behalf before the Board of Review is the truth, the whole truth, and nothing but the truth, so help you?"
- (d) The Secretary of the Board of Review may tape record and will keep minutes of all proceedings before the Board of Review.
- (e) If called to appear before the Board of Review, physically challenged or infirmed applicants may call the Assessor's Office to make necessary arrangements for assistance.
- (f) The Board of Review may, in its discretion, review poverty exemption applications without the applicant or the applicant's representative being physically present.

Evaluation of Application. Applications for poverty exemptions will be evaluated based on information submitted to the Board of Review by the applicant, testimony taken from the applicant, and information gathered by the Board of Review from any source.

- (a) The Board of Review is not required to grant poverty exemption for property owned by multiple owners as long as at least one owner is not eligible for the poverty exemption.
- (b) The Board of Review may conduct an investigation to verify the information submitted or statements made to the Assessor or Board of Review in regard to the applicant's poverty exemption claim.
- (c) The Board of Review may not deny a poverty exemption based upon mere speculation regarding the level of an applicant's income or assets.
- (d) A poverty exemption, if granted, shall remain in effect for one year and an applicant's eligibility for the poverty exemption shall be determined each year.

Special Circumstances Warranting Application of the Poverty Exemption. The Board of Review may, in its discretion, grant a poverty exemption to a taxpayer who does not meet the income and asset tests contained in these guidelines where one or more of the following has resulted in hardship to the taxpayer:

- (a) unforeseen prolonged cessation of income due to circumstances beyond the applicant's control;
- (b) trauma or critical illness of the applicant or the applicant's immediate family member which resulted in excessive financial liabilities for which the taxpayer does not receive reimbursement;
- (c) catastrophic loss; or
- (d) other extenuating circumstances which the Assessor and Board of Review agree are legitimate hardships over which the applicant has no control.

Deviation from the Guidelines. The Board of Review shall follow the guidelines as approved by the Lowell City Council in granting or denying an exemption unless the Board of Review determines there are substantial and compelling reasons why there should be a deviation from these guidelines and the substantial and compelling reasons are communicated in writing to the applicant.

IT WAS MOVED BY SALZWEDEL and seconded by CHAMBERS that the Lowell City Council approve Resolution 36-19 setting the City of Lowell Poverty Exemption Guidelines.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

d. Little League Agreement Renewal.

City Manager Michael Burns stated the City has an agreement with Lowell Little League to use Creekside and Recreation Parks for their youth baseball games. The agreement is set to expire on May 30, 2020. Lowell Little League would like to begin registration at the beginning of the New Year and was hoping to renew the contract. After discussing the current agreement, Lowell Little League and I had no issue with extending the current agreement for the next year. The requirements regarding user fees and participation fees will remain the same and the city will continue to maintain the facilities in the same manner we do now.

Perry Beachum who resides at 924 Riverside stated the league needs this approved to move forward.

IT WAS MOVED BY CHAMBERS and seconded by YANKOVICH that the Lowell City Council extend our current agreement with Lowell Little League beginning on June 1, 2020 to May 30, 2021. YES: Councilmember Chambers, Councilmember Canfield, Mayor DeVore, Councilmember Salzwedel, and Councilmember Yankovich.

NO: None.

ABSENT: None.

MOTION CARRIED.

e. #55 Mower Replacement.

DPW Director Dan Czarnecki stated in accordance with the approved 2019-2020 fiscal year budget, #55 mower is scheduled for replacement. The City staff has determined it is financially responsible to replace this mower at this time due to its age and condition. The proposed new mower is an Ex-Mark 60" rear discharge mower and is listed for \$9,119.00 on the Mi-Deal State of Michigan competitive bidding process.

IT WAS MOVED BY YANKOVICH and seconded by CHAMBERS that Lowell City Council approve the purchase of a new mower at a cost not to exceed \$9,119.00.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

f. Foreman St. Sanitary Sewer Replacement.

DPW Director Dan Czarnecki stated the SAW Grant Program has indicated areas of our sanitary sewer system that are receiving a significant amount of Inflow/Infiltration (I/I) of clean groundwater. This groundwater is taking up space in the treatment process at our facility. Removal of groundwater from our sanitary sewer system, and from the treatment process is critical for maintaining future capacity within our treatment facility. I/I was found on Foreman St between Hudson and Beech St. Review of flows and videos of the sewer pipe in shows a considerable amount of water entering the pipe at joints and cracks in the pipe. It has been estimated the replacement of this section of Foreman Dr. has the potential of reducing 288,000 gallons of water per day from entering our wastewater treatment facility. We are looking to replace this section of sewer main in the Summer of 2020. Engineering design work needs to be started immediately to meet our small window of construction (June 1 through August 15) due to the public schools on Foreman Dr.

Czarnecki continued, a request for proposals for professional design services and construction engineering services were sent out to our two local engineering firms. They have returned their proposals along with scope of services. The low proposal was received from Prein & Newhof, Grand Rapids. Their project costs for design services is \$9,050 and for construction engineering services is \$11,800, for a total amount of \$20,850.

Councilmember Canfield explained that he had previously requested that all bids that come in need to be shown so they can compare accurately.

IT WAS MOVED BY CHAMBERS and seconded by YANKOVICH to accept the proposal from Prein & Newhof, Grand Rapids, for Professional Design Services and Construction Engineering Services for the Foreman St. Sanitary Sewer Replacement Project at a cost "not-to-exceed" \$20,850.00.

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

NO: Councilmember Canfield

ABSENT: None.

MOTION CARRIED.

6. **BOARD/COMMISSION REPORTS.**

Councilmember Chambers stated at the last Planning Commission meeting, Brent Slagell was approved for adding 12 apartment units on the second floor at 312 E. Main, he is working on getting a grant as well. Chambers also stated at the last Lowell Light & Power meeting, Mike Powell was there and they went over a lot of good things.

Councilmember Yankovich stated Brent Slagell is working on getting a grant from the MDEC and he is asking the Community Fund for \$100,000 to do some big projects on the old Superior Furniture store. The Beer Store owners would like to restore the front of their building as well as the Variety Store.

Councilmember Salzwedel stated the LCTV met and had approximately a little over \$109,000 to grant out this year. The cutoff date on that is February 7, 2020 at 5:00 p.m. at City Hall.

Mayor DeVore stated Fire Authority was cancelled again for December.

7. **MANAGER'S REPORT.**

City Manager Michael Burns reported on the following:

- Was informed last week from MDOT that the small urban program still has funds available for the 2020 year. So we could apply for the Foreman sewer project to be funded up to 80 percent of the improvement road cost through the small urban program.
- Received our first application today for the adult use marijuana facility which is located at the former Family Video site. They have submitted their site plan application and their special land use application and we will begin reviewing them. It is our intent to have it for the January Planning Commission meeting for them to review.
- Lew Bender will be here Thursday, January 23, 2019 from 5:30 p.m. to 9:00 p.m.
- The Downtown Development District did meet Thursday, December 6, 2019 and we had an opportunity to apply for a Community Development Block Grant for Amity Street. The DDA agreed to commit \$142,000 towards the total cost of the project if this project moves forward.
- Hopes everyone has a Merry Christmas and a Happy New Year!

8. **APPOINTMENTS.**

It was a general consensus, from the City Councilmembers that Mayor DeVore serve on the Construction Board of Appeals. Also, Mark Mundt will continue to serve on the LCTV Board.

9. **COUNCIL COMMENTS.**

Councilmember Chambers stated at the Lowell Light & Power meeting, Steve Donkersloot presented the "ice calculator" and it was fascinating. It shows a comparison of what it costs LL&P when

power go out verses what the cost is for consumer's energy and it's a huge difference.

Lowell Light & Power Steve Donkersloot elaborated on that stating from a customer's perspective, it really puts some value on having higher reliability and also gives us cost justification to go forward with certain projects.

Mayor DeVore thanked Liz and all those at the Chamber who have been going six hundred and fifty miles for the last few months for the many events that had great attendance, weather and were all amazing. Also appreciates and thanked Dan Czarnecki for taking on the SAW Grant project that was started before he came to the City. Also that he is making sure it is staffed correctly and things are on track.

10. **MOTION TO GO INTO CLOSED SESSION.**

IT WAS MOVED BY SALZWEDEL and seconded by CHAMBERS to go into closed session to discuss pending litigation at 8:41 p.m.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

11. **MOTION TO GO BACK INTO OPEN SESSION.**

IT WAS MOVED BY SALZWEDEL and seconded by CHAMBERS to go back into open session at 8:59 p.m.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

12. **ADJOURNMENT.**

IT WAS MOVED SALZWEDEL and seconded by CHAMBERS to adjourn at 8:59 p.m.

DATE:

APPROVED:

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Mike DeVore, Mayor

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Sue Ullery, Lowell City Clerk