

**PROCEEDINGS
OF
CITY COUNCIL
OF THE
CITY OF LOWELL
MONDAY, DECEMBER 4, 2023, 7:00 P.M.**

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

Mayor DeVore called the Meeting to order at 7:00 p.m. and City Clerk Sue Ullery called roll.

Present: Mayor DeVore, Councilmember Leah Groves, Councilmember Cliff Yankovich, Councilmember Jim Salzwedel.

Absent: None.

Present: City Clerk Sue Ullery, City Manager Michael Burns, Chief of Police Chris Hurst, Lowell Light & Power General Manager Charlie West, and DPW Director and Assistant City Manager Rich LaBombard, City Attorney Jessica Wood.

2. **CONSENT AGENDA.**

- Approval of the Agenda as amended.
- Approve and place on file the minutes of the November 20, 2023, Special and Regular City Council meetings.
- Authorize payment of invoices for \$114,414.39.

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

YES: Councilmember Groves, Councilmember Yankovich, Councilmember Salzwedel, and Mayor DeVore, Councilmember Marty Chambers.

NO: None.

ABSENT: None.

MOTION CARRIED.

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

There were no comments.

4. **OLD BUSINESS.**

a. Ware Road Update.

City Manager Michael Burns explained the situation and how the City has been working with BLDI. EGLE requires PFAS survey, which we did and recently indicated they found just over the minimum requirements. Burns stated the next steps we will be taking. EGLE does not believe at this time there is any reason to be restricting water at the site and they would like us to sample individual wells. Estimate from BLDI is \$56K -\$79K. This is not part of the budget as we did not know what was going to be the results. We have requested for EGLE and the PFAS Action Team to set up a public meeting for the residents/public to determine what the next steps are and have questions answered. We will start using our website for a sounding board once we receive more information.

Mayor DeVore then opened it up for public comment.

Rob who lives about 1,000 feet from the Ware site wished the City would have communicated with him. Never has been notified by the City.

Jack Wilson, President of Deer Haven Park Association inquired when the PFAS survey was completed. Which properties are affected? Who all is handling the issue?

City Manager stated BLDI would have the dates of the PFAS survey. As far as he knows, only the site belonging to the City of Lowell is affected. The City Attorney, BLDI and the City Manager are handling the project. Burns stated he did notify the Township where the site is located.

IT WAS MOVED BY CHAMBERS and seconded by GROVES to accept the quote from BLDI for between \$56,692. but not more than \$79,368.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

b. 4/10 Schedule.

City Manager Michael Burns stated the 4/10 hours at City Hall have been working well. No issues. It was a general consensus by the board that we continue with the 4/10's.

c. Observed City Holidays.

IT WAS MOVED BY GROVES and seconded by SALZWEDEL that if a holiday falls on a Monday, City Council will not meet that evening for a meeting. It will be moved to the next day, Tuesday.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

d. Vacation of Horatio St.

City Attorney Jessica Wood explained the status and asked whether the City wishes to retain or withdraw its pleading on the matter.

Councilmember Yankovich said he is in favor of the city attorney not monitoring it as it is already being handled by the courts.

Mayor Devore stated he would like to see it all the way through, he still believes that the way it was handled was unprofessional and he still doesn't think it's the best project for that spot.

Councilmember Chambers stated after receiving the information from our attorney that was valid, he believes we should let the courts figure it out. We don't need to spend money on an attorney when it is already in court.

Councilmember Salzwedel also received the information from the city attorney and believes we should move forward with Jessica.

Councilmember Groves feels disappointed in the process as well. Could support both ways and feels conflicted in making a decision.

Jessica Woods stated that the rezoning & site plan development has already been approved. The street vacation proceeding is separate and on it's own. Each party named as a defendant, including the city, can appear and make their case in court individually.

Councilmember Yankovich thinks there is a very slim chance that this would be stopped at this point.

Mayor DeVore opened it up to Public Comments.

Greg Taylor who is with CopperRock stated this project has already been approved, been reduced in size by 15%, no traffic flow issues, met the parking requirements, it is a good project and will add value. Request that we can support the vacation of Horatio moving forward.

Pam Rowley who resides at 804 E Main stated that they use Horatio street and that she sees a lot of use on it. Asked, what is the responsibility of our government? She believes to protect us and our families. Feels they have been treated unfairly by CopperRock and the City's Planning Commission.

Perry Beachum who resides at 924 Riverside Drive believes a decision shouldn't be made just because you have other things to pay for. Feels that you voted to fight this vacating of Horatio and should stand by and support the citizens.

Attorney Woods corrected the conversation on what was done; we are not fighting the vacation of Horatio. City Attorney's were instructed to file an objection and then asked to provide the legal information regarding it to the Council and the City.

Mayor DeVore wanted to clarify that no one on today and no one in the City would disparage residents in the pursuit of money. Second item, we are paying BLDI to protect residents as we did the same with the biodigester are few years back.

Councilmember Yankovich stated we are voting on Jessica to continue to monitor the vacation for us.

Bob Rowley 804 E Main feels that our case is much stronger and that the Planning Commission has failed us.

Eric Bartkus who resides at 215 W Main stated he was not at the special closed meeting where the attorney provided information about past cases similar to this that usually went in favor of the vacation, but the one take away he heard tonight was that this process will cost the City money in fees and we should look out for the best interest of the citizens.

Matt with CopperRock takes offense when hearing residents saying CopperRock did not go about this in a preferred manner. CopperRock spent a lot of time planning this project and met with the City Planner several times to know what was a good fit for the City and the property. CopperRock is investing in this City.

Mayor DeVore explained that the unprofessional part of the process was the vacation process.

Matt with CopperRock said that was the first time they had to vacate a street. Didn't realize how it was going to be handled and in hindsight, believes they could have handled it better and now they know going forward. CopperRock works very hard to not dislodge any people. The City of Lowell does need more housing.

Bryle Bartkus who resides at 215 W Main stated in her opinion, what we are voting on tonight is do we context the street vacation. The council represents the citizens of Lowell and that is your job.

Councilmember Salzwedel stated there is nothing wrong with making a different choice when you have more information and facts to base your decision on.

Attorney Woods clarified tonight is about whether we are going to leave this objection in place, which she was instructed to do and look into the law further. The development has been approved, the zoning has been approved.

IT WAS MOVED BY YANKOVICH and seconded by CHAMBERS to withdraw the objection to the vacation proceeding, the proceeding will continue to move on in the courts without the objection in place.

YES: Councilmember Chambers, Councilmember Groves, Councilmember Yankovich.

NO: Mayor DeVore and Councilmember Salzwedel. ABSENT: None. MOTION CARRIED.

5. **NEW BUSINESS.**

a. Utility Billing Policy.

City Manager Michael Burns read his memo and explained that we have found some discrepancies in utility billing, most of it goes back past eight years before current staff was in place. Would like direction on how far back to back bill these specific accounts. Also if we can add the LSS (sprinkler system) accounts (about 100-150 total) as a service line on the main address accounts, bill them year round for the same amount of the 6 month time frame they are used. This would be to avoid turning on/off mistakes and to keep consistency.

IT WAS MOVED BY DEVORE and seconded by SALZWEDEL moved to adjust our utility billing policy to mirror Lowell Light & Powers policy and to give the correction customers one and a half times the correction window.

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

NO: None. ABSENT: None. MOTION CARRIED.

b. Lowell Light & Power Update.

Lowell Light & Power General Manager Charlie West gave an update. Starting January 1, 2023, they are going to move their hours Monday through Thursday from 10:00 am to 4:30 and then Fridays will be 9:00 am to noon. They are making the change to modernize and optimize their schedule and use their existing staff and provide opportunities for them to progress through the full spectrum of their

responsibilities a little bit more efficiently. They will still be there and working 40 hours, just not open to residents the full spectrum.

c. Early Voting.

City Clerk Sue Ullery read her memo.

IT WAS MOVED BY SALZWEDEL and seconded by DEVORE that the Lowell City Council approve Resolution 23-23, establishing the early vote polling location at Lowell City Hall.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

d. Skate Park.

City Manager Michael Burns read memo.

Councilmember Salzwedel asked what the maintenance cost will be once it is complete. Who will and how will that get paid.

Bob Rogers with Impact Church stated the maintenance would be done through Impact Church.

IT WAS MOVED BY DEVORE and seconded by CHAMBERS that the Lowell City Council enter into a construction management agreement with Gridline for the enhancement and remodeling of the skate park at Stoney Lakeside Park. The cost of the agreement should not exceed \$120,000, which has been successfully fundraised through Impact Church.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

e. New Construction/Sidewalk Requirement.

City Manager Michael Burns read his memo asking for direction from Council regarding requirement per section 19.26 (New Construction) of the City's Code of Ordinance stating any property within the city upon which a new residential , commercial or industrial building is to be constructed shall, in conjunction with construction, construct sidewalks and any necessary retaining walls and driveway approaches in the public right of way adjacent or abutting such construction.

Perry Beachum who resides at 924 Riverside would hope that the city would acknowledge and put sidewalks in. City needs to step up.

IT WAS MOVED BY CHAMBERS and seconded by SALZWEDEL that the Lowell City Council require sidewalks to be constructed per the ordinance.

YES: Councilmember Yankovich, Councilmember Chambers, Councilmember Groves.

NO: Councilmember Salzwedel.

OBSTAINED: Mayor DeVore.

MOTION CARRIED.

f. Cancellations of December 18, 2023 meeting.

IT WAS MOVED BY DEVORE and seconded by CHAMBERS that the Lowell City Council cancel the December 18, 2023 City Council meeting.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

6. BOARD/COMMISSION REPORTS.

Councilmember Salzwedel stated the LCTV Fund Committee will meet on Wednesday, December 13, 2023 @ 5:30 p.m.

7. CITY MANAGERS REPORT.

City Manager Michael Burns went over the following:

- Assessing for the City of Lowell – still working on it, Kent County cannot take it on, so he is still working on it, will notify when we find someone.
- Washington Street project will be able to be bid out in about 2 weeks.
- Thank you Cliff for all your years of service to the City of Lowell. Burns has enjoyed working with you.

8. APPOINTMENTS.

It was a general consent for Bruce Matthews to be appointed on the Parks and Rec Board.

It was a general consent for Andrew Quada and John Gerard to continue on the Airport Board.

It was a general consent for Dave Wikstrom to be appointed to the Fire Authority Board.

9. COUNCIL COMMENTS.

Councilmember Yankovich stated he appreciates everyone and their patience and what he has learned being on the Council. Everyone does a great job. Good at putting politics aside.

Councilmember Salzwedel stated it was a pleasure working with Yankovich and he appreciates him.

Councilmember Groves read a note to herself from Cliff. Stated she appreciated his support and partnership as a Councilmember.

Councilmember Chambers spoke on helping Cliff move into his house and said he enjoys his friendship over the years and it has been an honor to know him and sit on Council with him as well.

Mayor DeVore said he is grateful for Cliff's friendship and dedication.

The Councilmembers presented Councilmember Yankovich with a plaque of appreciation.

10. **ADJOURNMENT.**

IT WAS MOVED SALZWEDEL and seconded by DEVORE to adjourn @ 8:50 p.m.

DATE:

APPROVED:

Mike DeVore, Mayor

Sue Ullery, Lowell City Clerk