

**PROCEEDINGS
OF
CITY COUNCIL
OF THE
CITY OF LOWELL
ZOOM MEETING
MONDAY, APRIL 6, 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 Jim Salzwedel, Cliff Yankovich, Greg Canfield,
and Mayor DeVore, Marty Chambers.

Absent: None.

Also Present: City Manager Michael Burns, City Clerk Susan Ullery, Chief of Police Steve Bukala and
DPW Director Dan Czarnecki.

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

- Approval of the Agenda.
- Approve and place on file the minutes of the March 16, 2020 Regular City Council meeting.
- Authorize payment of invoices in the amount of \$205,354.24.

IT WAS MOVED BY YANKOVICH and seconded by CHAMBERS 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. Main St. Street Study.

At the request of the City Council, Police Chief Steve Bukala instructed officers to be stopping vehicles 10mph or more in the downtown area. The response received was that patrol did not have vehicles 10mph or more during their shifts. Bukala then changed the criteria to 5-10 mph over the speed limit and they were able to stop a few people.

Officer VanSolkema downloaded the speed signs and provided a 24 page report which Bukala summarized.

In conclusion, it seems there is a traffic problem volume of 10,000 cars or more during the workweek in the downtown area. Do we have an occasional speeder come through the downtown area? Yes, but they are less than 1% of the data we collected.

5. **NEW BUSINESS**

a. Covid – 19 Issues.

City Manager Michael Burns explained in light the COVID 19 pandemic, City Administration would like input from the City Council on two issues as we move forward. The Public Works Director, Mayor and I have gone over an issue pertaining to playgrounds.

Over two weeks ago, signs were placed at all city playgrounds that stated they are not sanitized. Social distancing practices are strongly encouraged. Enjoy open spaces, but remain ten feet away from others at all times. We believe this notice protects the City as we have notified essentially to play at your own risk. We have received a generous donation from Platinum Property Solutions who are power washing the park equipment weekly until the pandemic ends. However, proper protocols require sanitizing of park equipment every four hours.

Some Cities have closed playgrounds to the point they are either putting police tape or snow fencing around the equipment. Other cities have done what we have. My concern is putting police tape or snow fencing around the equipment is we are promoting a militarized environment which could spread more unnecessary fear when hopefully common sense would prevail. However, unfortunately common sense may not be so common in some instances.

One simple solution would be to just change the park signs that says the playground is closed, but I would like your direction on this before I move forward.

The other issue is utility billing. As I looked into the question at last council meeting about waiving the credit card fees and the Michigan Constitution not allowing us to do so. At the end of our last billing we had not received payment from approximately 150 customers. This is double the amount from the month prior, I did not issue late fees and penalties from March. As you know, I ordered we would not shutoff customers on March 13, 2020 and Governor Whitmer issued an Executive Order on Saturday March 28, 2020 regarding the same issue. That being said, we have a requirement to provide water and sewer services to our customers in accordance to guidelines provided by EGLE. We are required to have adequate cash flow into the wastewater and water funds to continue the sustainability of these systems.

I would like the Council to weigh in but I would like to notify all customers who did not pay and inform them that after the April bill deadline, late fees and penalties will be assessed if they do not contact the City to demonstrate a hardship. I will direct staff to develop adequate payment plans with each customer. My concern is while I recognize there are people who are in a situation they cannot pay in full at this time, I am concerned there will be a sector of the populace who will take advantage of this pandemic.

In addition, if you recall we had a rate study for our water and sewer rates in accordance to the SAW Grant. The study recommended a 6% increase to our water ready to serve and commodity charges and 2% on our wastewater ready to serve customers. To the average residential customer who uses a 5/8" meter and consumes 3000 gallons a month this is a \$2.67 monthly increase to their water and sewer bills with rates varying as meter size increases. That said, I recognize the reluctance of the City Council to not raise rates while municipal financial advisors would always recommend a small increase annually to account for inflation.

Unless directed otherwise, I will not prepare the budget with those increases when I submit the budget to you on April 20, 2020. We will need to issue debt to complete the water and sewer utility projects on Monroe St. and Washington St. and rates will need to reflect proper debt coverage. Administration was planning on completing the utility work on Washington St. beginning in Spring 2021 and Monroe St. in Spring 2022 as there are transportation funds earmarked in 2022 for Monroe. The projects are necessary for the reliability of our water and sewer systems so I would propose flipping the Washington St. project from Spring 2021 to Spring 2023. That said we run the risk of a slighter increase when we begin those projects.

Council input is being sought and I am open to approaching this in a manner different than I am recommending.

After much discussion, a suggestion was made to put caution tape around the playground equipment but to leave the parks and trails open. Councilmember Canfield believed the parks were fine as they currently are. It should be noted that during discussion Councilmember Salzwedel lost signal via Zoom.

IT WAS MOVED BY YANKOVICH and seconded by CHAMBERS to place caution tape around the playground equipment but leave the parks open.

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

NO: Councilmember Canfield. ABSENT: Councilmember Salzwedel MOTION CARRIED.

The Council continued discussing utility billing and by general consensus, agreed to place a moratorium on late fees and revisit once the order is lifted.

Utility rates were finally discussed and the Council agreed the City was not in a position to raise rates and agreed to revisit the issue the first meeting of every month.

b. Ordinance 20-02 – Moratorium to Ordinance 13-41.

City Manager Michael Burns explained he received a request from Councilmember Canfield and Mayor DeVore to look at temporary non-enforcement of ordinance 13-41 in light of threats posed by the effects of COVID-19. Ordinance 13-41 stated the following.

Sec. 13-41. – Posting in public places prohibited.

“It shall be unlawful for any person to post, paste, tack or in any manner to attach any circular, notice, picture, sign, card, advertisement or any other document in printing or any writing to any telegraph, telephone or electric light pole, or to any tree in any public place within the city, or on the railing.”

The Council discussed the issue. Councilmember Yankovich was afraid a moratorium would open up many other issues. He believed the “Lowell Strong” signs were very positive and many are participating. Councilmember Chambers agreed.

Mayor DeVore suggested leaving the ordinance as is, noting ribbons are not part of this ordinance. Councilmember Canfield agreed as well.

By general consensus, the Council agreed to leave ordinance 13-41 as is.

c. 1242 E. Main Street.

City Manager Michael Burns stated received a request from Ryan Gould who resides at 1242 E. Main. He is renovating his home and has been working with the Michigan Environment, Great Lakes and Energy Agency on the construction. His home is in the flood plan and is deemed by EGLE as in the flood flow.

He is requesting for the City to not require him to place sidewalk and a hard surface driveway on the property. He claims that EGLE does not want him to place it as they do not want him to place fill in the area as it causes issues with the flood flow. In addition, there is no sidewalk anywhere near his property and he would need to install 350 feet of sidewalk. Furthermore, he will be making a request to the Zoning Board of Appeals (City Council) to request for a pole barn to be placed on the property in front of his home. He will also need to make a separate request to waive the hard surface driveway at this time.

City Ordinance Section 19-26 states the following and is where he needs council direction:

19-26 – New construction.

“The owner of any property within the city upon which a new residential, commercial or industrial building is to be constructed shall, in conjunction with such construction, construct sidewalks and any necessary retaining walls and driveway approaches in the public right-of-way adjacent or abutting such property as shall be required by the city manager at the time a building permit is issued for such construction. All such required structures shall be completed prior to the issuance by the city of a certificate of occupancy.”

His interpretation of the ordinance is this gives me as City Manager no flexibility in these circumstances. My issue in this instance is this property is along M-21 and is in the Suburban Residential District. It isn't in the normal residential areas and it is a sidewalk to nowhere. The homes in this area are for the most part older and most likely won't be reconstructed thus requiring sidewalk to be installed for a long time.

After discussion with the City Attorney's, they believe there is ambiguity to the ordinance where it gives me no flexibility on this issue but it also might. Before he moves forward on this he wanted City Council's guidance in this scenario. These situations come up from time to time and after review, he believes we need to review and possibly revise the sidewalk ordinance to give the council and him the opportunity to review these on a case by case basis.

The Council discussed the issue. Mayor DeVore believed a sidewalk going to nowhere would look worse than no sidewalk. Councilmembers Chambers, Canfield, Yankovich and Salzwedel all agreed.

Burns noted the driveway issued would go before the Zoning Board of Appeals.

IT WAS MOVED BY YANKOVICH and seconded by CHAMBERS to allow the sidewalk waiver at 1242 E. Main.

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

d. Noise Ordinance.

Police Chief Steve Bukala reported the department is running into a reoccurring issue with one of the trash haulers in the City. They are picking up dumpsters in the 2100 block of W. Main between 4:45 and 5 a.m. Our noise ordinance that we have been issuing citations on has been 13-62. After looking at this ordinance closer, the times are specific for construction noise of 6 a.m. to 9 p.m. We were issuing citations under 13-65 (5) with handling merchandise containers during quiet hours. No one has challenged a citation yet, but if they ever did, I'm convinced we would have it dismissed. Section 11-36 is the trash ordinance and there is no specific times listed. Bukala suggested we have the city attorney update one or both of these to have the times posted as a stand-alone or all-encompassing time.

Councilmember Chambers believed 7 a.m. was a good start time. Councilmembers Canfield, Yankovich and Salzwedel all agreed.

IT WAS MOVED BY CANFIELD and seconded by CHAMBERS to maintain the current construction noise ordinance of 6 a.m. to 9 p.m. and to include times of 7 a.m. to 5 p.m. specific to trash haulers.

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

NO: Councilmember Canfield. ABSENT: Councilmember Salzwedel MOTION CARRIED.

6. BOARD/COMMISSION REPORTS.

There was nothing to report.

7. MANAGER'S REPORT.

- Congratulated City Clerk Susan Ullery on earning her Zoning Administrative Certification.
- Due to the COVID-19 pandemic, Burns anticipates there will be a reduction in revenue sharing and will be taking a conservative approach.
- Burns also noted he is being cautious working on the budget.

8. APPOINTMENTS.

There were no changes at this time.

9. COUNCIL COMMENS.

Councilmember Chambers noted these are trying times and we are taking steps to stay safe.

Councilmember Canfield commented on the importance of sanitation and social separation.

Councilmember Yankovich stated it is important for everyone to do their part regarding the virus.

Councilmember Salzwedel apologized for loss of signal during the Zoom meeting. He questioned the status of posting in public places and was told the ordinance stayed as is allowing for the display of ribbons.

Mayor DeVore stated this pandemic is real and people need to buckle down and do what the authorities are asking. He also suggested people learn about the proper use of gloves and being sanitary.

10. **ADJOURNMENT.**

IT WAS MOVED BY SALZWEDEL and seconded by CHAMBERS to adjourn at 7:38.

DATE:

APPROVED:

Mike DeVore, Mayor

Sue Ullery, Lowell City Clerk