

**PROCEEDINGS
OF
CITY COUNCIL
OF THE
CITY OF LOWELL**

For the Regular Meeting of **MONDAY, DECEMBER 5, 2005**

The Meeting was called to order at 7:30 p.m. by Mayor Shores and City Clerk Betty Morlock called Roll.

Present: Councilmembers Hodges, Mathews, Pfaller, Mayor Pro Tem Myers and Mayor Shores.

Absent: None.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, Chief of Police Jim Valentine, Planning Commission Chairman Clark Jahnke, Planning Commissioner Mark Mundt, Lowell Light and Power/Cable General Manager Tom Richards.

IT WAS MOVED BY HODGES and seconded by MATHEWS to approve the minutes of the November 21, 2005 regular and closed session meetings minutes as corrected.

YEA: Councilmember Hodges, Mathews, Pfaller, Mayor Pro Tem Myers and Mayor Shores.

NAY: None. ABSENT: None. MOTION CARRIED.

IT WAS MOVED BY MYERS and seconded by PFALLER that the bills and accounts payable be allowed and the warrants issued.

YEA: Councilmember Hodges, Mathews, Pfaller, Mayor Pro Tem Myers and Mayor Shores.

NAY: None. ABSENT: None. MOTION CARRIED.

<u>BILLS AND ACCOUNTS PAYABLE (12/05/05)</u>	
GENERAL FUND	\$116,422.95
MAJOR STREET FUND	10,978.37
LOCAL STREET FUND	135.00
DDA FUND	7,611.00
AIRPORT FUND	2,348.65
WASTEWATER FUND	27,951.69
WATER FUND	6,182.97
DATA PROCESSING FUND	1,469.99
EQUIPMENT FUND	101.48
CURRENT TAX FUND	3,945.20

Item #1. **MOWING BIDS**. Bids were received on Tuesday, November 29 for mowing of parks and public areas. Of the eight submitted, Horizons Lawn Maintenance of Freeport provided a low bid of \$14,592 per year for the three years (2006 – 2008).

Parks Supervisor Scott Fosburg and DPW Director Dan DesJarden have recommended the Council approve a three year contract with Horizons Lawn Maintenance. Horizons currently charges the City \$15,960 each year.

IT WAS MOVED BY PFALLER and seconded by MATHEWS to award Horizons Lawn Maintenance of Freeport the parks and public area mowing contract for 2006 – 2008 at \$14,592 each year.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #2. **RESOLUTION ESTABLISHING THE FRANK L. CARR FUND II AND APPROVING A POLICY REGARDING THE ADMINISTRATION AND USE OF MONIES IN SUCH FUND.** In 1996, the City received monies from the Frank L. Carr Trust to establish a perpetual fund in the amount of over \$20,000. At the time, the Council determined these funds would be provided for the library in terms of programs and support which still continues to this day.

Recently, another letter was received from Fifth Third Bank informing the City that \$69,758.45 has been additionally provided from the trust. As with the first bequest, these monies can be utilized in which ever way the City chooses.

City Manager Pasquale recommended the monies be utilized for the assistance of capital improvements as well as operation and maintenance of City parks.

City Attorney Richard Wendt has prepared a resolution, providing this similar to the Lee Fund. The City could deposit 10% of proceeds or up to \$1,000 each year building principal.

Councilmember Pfaller stated he would support the resolution. However, he requested just the 10% of the annual investment income be retained each year to further grow the fund.

IT WAS MOVED BY PFALLER and seconded by HODGES to adopt the resolution to create the Frank L. Carr Trust II including that 10% of the annual investment income be retained each year for operation, maintenance and improvements to City parks.

Pasquale noted the monies originally provided will stay with the Library.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Mayor Shores noted Lowell has been fortunate to receive such monies. The City is wise to place a percentage back into the principal.

Item #3. **RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A CONTINUING DISCLOSURE CERTIFICATE IN CONNECTION WITH BONDS ISSUED BY THE MICHIGAN PUBLIC AGENCY FOR IMPROVEMENTS TO THE CAMPBELL UNIT 3 PLANT.**

Lowell Light and Power and Cable TV General Manager Tom Richards explained through the Michigan Municipal Public Power Association, Lowell Light and Power was one of several to invest in Campbell Unit 3 Plant, a coal-fired generating facility, in 1979. It now supplies approximately about one half to one third of the City's energy on any given day. This is our most economical source of energy.

The entitlement in the plant is actually an ownership share, which means the City is responsible for the cost of the fuel, operations, upkeep and any capital improvements which are made to the plant throughout its cycle. The plant will be going through some significant improvements and upgrades, which have been planned for sometime. However, the cost of these upgrades will come back to the individual cities proportionately by ownership share within the next few years. Through MPPA, a committee of cities have sustained a capital improvement fund, which has grown and shrank depending what is needed. Richards noted there will be substantial improvements over the next few years amounting to approximately 3.5 million dollars. Additionally, approximately three million dollars is anticipated throughout 2008 and 2009 for improvements, which will further reduce the mercury emissions at the plant. In total, the MPPA is expecting approximately ten million dollars of additional capital improvements expenditures beyond what had been planned in the existing capital upgrade funds over the next few years. The Board of Light and Power has approved the investment or the bonding for these additional funds. Richards stated each City must approve a Certificate of Continuing Disclosure which requires one to provide bonding information about the operation of the system, the revenues and the expected sale of the power. This allows each city to feel comfortable in borrowing these monies and having the ability to pay it back.

City Attorney Richard Wendt provided a resolution approving the Certificate of Continuing Disclosure. The Board of Light and Power has requested approval from the City Council.

Councilmember Pfaller questioned what portion of the \$8.7 million would be the City's over the next two years. He also inquired what would happen to the electric rates. Wendt explained funds are currently being provided for every month in a capital upgrade within the investment portion of the plant. The portion, which is approximately \$30,000 a month, should increase by 10% over the next few years. Lowell's share will be approximately \$3,000 a month. The rates will not be affected by this bond.

IT WAS MOVED BY MYERS and seconded by PFALLER to adopt the resolution with the MPPA.

YEA: 5. NAY: 0. NAY: 0. MOTION CARRIED.

Item #4. **APPROVAL OF CONTRACT WITH THE MICHIGAN DEPARTMENT OF TRANSPORTATION REGARDING AIR EASEMENTS ACQUISITION AT THE LOWELL CITY AIRPORT.** At the last meeting, Airport Manager Jim Sowle updated the Council on the Airport

Board securing air easements from the adjoining properties. This is to provide safer glide path for incoming and outgoing planes. All property owners have been contacted. The cost is estimated to be \$110,000. According to an approved grant, the State will pick up 90 percent of the cost, \$99,000. The remaining \$11,000 would be secured from the Airport Fund itself. A resolution is needed from the Council approving the contract and then designating the Mayor to sign the agreement. This is near completion and is required by State contract.

Councilmember Pfaller noted the airport has already provided its local share to receive State funding. City Manager Pasquale stated this is in recognition of the local share.

IT WAS MOVED BY PFALLER and seconded by HODGES to accept the contract and designate Mayor Shores as the signature provider with the Michigan Department of Transportation to secure air easement at the Lowell City Airport.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #5. **RESPONSE TO THE STATE BOUNDARY COMMISSION REGARDING THE ANNEXATION ISSUE.** David Hollister, Director of the Michigan Department of Labor and Economic Growth, postponed consideration of an order regarding the annexation of 177 acres in Vergennes Township. While the Boundary Commission voted to deny annexation, Hollister has recommended continuance of negotiations between the City and Vergennes Township with a meeting before the Boundary Commission scheduled for December 15 to mutually establish a deadline.

A letter was received from Vergennes Township expressing an interest to continue discussions to negotiate an agreement. In particular, the Township is interested in the Urban Cooperation Act, zoning issues and utilities services. Vergennes further recommends the involvement of the attorneys including Lowell Township and engaging a professional planner or a neutral facilitator.

City Manager Pasquale recommended the following points to be included in the response to the Boundary Commission.

- Interest in continuing negotiations
- The need to include property tax revenue....Vergennes expressed the desire to pursue an agreement under the Urban Cooperation Act...this involves sharing of revenues for services....no land transfer....it remains to be seen how advantageous this would be for the City....At this point, Pasquale would prefer Act 425 if an agreement is to be negotiated.
- Vergennes mentions utilities, what about other services?
- In addition to Lowell Township, DuRay Development needs to be included in the process
- A mediator, with previous experience in these matters, could be helpful

Councilmember Pfaller believed the issue is greater than 177 acres which lie in Vergennes Township. There is much intergovernmental sharing which needs to take place. He believed negotiations and process should take place first. Pfaller mentioned the review of a possible trails

agreement, which would include all future parks. There is a higher percentage of Vergennes Township residents using the parks for softball, football and soccer than City residents. Yet, when discussion is held of sharing the expense, the townships are not in favor because the park already exists. He wanted discussion held on a much larger scope, which should include all surrounding townships reviewing future development and whether it is intergovernmental zoning. Pfaller believed it would be irresponsible for the City to move forward without the study being completed on water and sewer rates.

Shores believed the City should respond to the Boundary Commission regarding the letter to show we are acting in good faith.

No further comments were received.

Item #6. **RECONSIDERATION OF EXTENDING TIME FOR REMOVAL OF EQUIPMENT OF AIRWAVE COMPUTER FROM THE SHEPARD DRIVE TOWER.** Councilmember Pfaller requested a reconsideration of extending time for removal of Airwave Computer from the Shepard Drive tower. He believed it would be irresponsible for the Council to pull what has become an intricate part of today's business from our retailers.

Councilmember Mathews suggested giving Yamtoob until the end of the month.

Mayor Shores stated she spoke with a customer who was concerned with the service. The customer indicated Yamtoob said there would be no charges for the month of December. She agreed it would be wise to allow the service to remain until the end of December.

Councilmember Myers questioned why the City should provide more opportunity for additional revenue for Yamtoob, only to not be able to collect this.

A question arose whether Lowell Cable could provide this service.

Lowell Light and Power Cable TV Manager Tom Richards believed the service being provided is wireless from the tower. He has a lease or arrangement with businesses who do not have cable TV. Shores believed there are approximately 27 businesses using his service.

It was suggested that City Attorney Richard Wendt be contacted regarding the legality of seizing the equipment and collection proceedings.

IT WAS MOVED BY HODGES and seconded by PFALLER to extend the time for removal of the Airwave Computer equipment from the Shepard Drive tower until midnight, December 31, 2005.

YEA: 5. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #7. **CITIZEN COMMENTS**. Mark Mundt, 800 Bowes Road commented on the public meeting for the Bowes Road residents concerning the electrical transmission line being installed along Bowes Road. Mundt understood this is a public utility with power lines being placed overhead. He noted the informational meeting was held after final plans were made. A meeting should have been held with residents along Bowes Road prior to final plans. Mundt believed this project would diminish property value. He encouraged the Council to adopt a policy where future wiring can be placed underground.

Mundt believed the dynamics of Bowes Road have changed over the years. The traffic has increased dramatically. He questioned if the Council could review stabilizing the property values by decreasing the traffic on Bowes Road.

Mayor Shores noted the underground lines were discussed. Such lines are expensive.

Item #8. **COUNCIL COMMENTS**. Councilmember Pfaller questioned if Vergennes and Lowell Township paid a portion of the recent repair done on a fire truck. City Manager Pasquale stated he would report back.

Pfaller stated he sent a letter in regards to a property on S. Pleasant Street which had multiple out buildings. This process has started to correct itself. However, there is still an unlicensed vehicle in the front yard. He questioned the status. Police Chief Valentine stated he would review the issue.

Pfaller commented on the underground fence and sprinkling, which went beyond the property line at Stoney Lakeside Park off the new condo on Clarke Street. It appeared the underground fence has been moved and the sprinkling system has not.

Pfaller requested the removal of snow ordinance be posted. He noted the sidewalk next to the Speedway Gas Station has not been plowed. He suggested the idea of snow plow drivers being licensed through the City.

Pfaller requested comments from the Council in regard to what it would take to do Charter changes. City Attorney Richard Wendt stated it should be at least 6 months before an election date. He wanted to start the process in January and suggested a subcommittee be established to review the Charter and changes which need to be made to the charter for the future.

Mayor Pro Tem Myers referred to comments regarding the town clock. He was disappointed to see the three clocks in Lowell were the subject to much ridicule. He requested a report as to what is happening. Pasquale stated the clock at City Hall is repaired. DesJarden explained the circuit board behind each clock needed repair. The clock repair along the street is also being repaired, once a new motor arrives.

Councilmember Mathews commented on snow plowing throughout the City. He did not believe it would be appropriate to have snowplow vendors acquiring licenses. However, he agreed snow should not be pushed onto sidewalks or rights of way.

Mathews commented the homes being built to the south of his. Mud from the development is being tracked into the street. He questioned when building permits are issued, is there a list provided concerning rules and regulations which must be followed. Pasquale stated run off of mud into the street involves the Department of Public Works. DesJarden stated communication has been made with the property owner. A curb cut requires a street opening permit. Considering this is a newly rebuilt street, the curb needs to be pulled and repoured. Permits are required. He also noted if mud is running into the street, the contractor needs to clean this.

Mathews also commented on the Santa Claus Parade. He is proud to be part of the City.

Mayor Shores also commented on the parade as well as Mayor Pro Tem Myers being in the parade. She is always impressed when the fire department has their trucks in the parade.

Item #9. **MANAGER'S REPORT.** City Manager Pasquale reported on the following:

1. The following boards and commissions meetings minutes were enclosed:
 - Planning Commission meeting of October 24, 2005
 - Downtown Development Authority meeting of October 27, 2005
2. Clocks! The Main Street clock has a burned out motor which is scheduled to be replaced this next week. The Downtown Development Authority will pay \$1,040 for the cost of replacement.

The City Hall clock appears to have a faulty computer panel. The manufacturer is sending a new one at no cost.

3. At its December 1, 2005 meeting, the Downtown Development Authority reviewed a Council suggestion to provide a clock tower arch for the riverwalk entrance. The cost was \$20,930 with no electrical work included. The Board did not wish to pursue this because:
 - no need for an additional clock
 - liability, no crosswalk across Main Street for the entrance
 - a good design for the riverwalk is already in place

The DDA thanked the Council for the suggestion and invites other proposals. The Board is considering the following project options:

- extend street lighting west on Main Street (different type considered)
- sidewalks
- amphitheater improvements
- safety projects

IT WAS MOVED BY MYERS to adjourn at 8:30 p.m.

DATE:

APPROVED:

C. Jeanne Shores, Mayor

Betty R. Morlock, Clerk