

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

For the Regular Meeting of TUESDAY, **SEPTEMBER 5, 2006**

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

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

Absent: Mayor Myers.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, DPW Director Dan DesJarden, Police Chief Jim Valentine, Lowell Light and Power/Cable TV General Manager Tom Richards, Wastewater Treatment Plant Superintendent/Planning Commissioner Mark Mundt, Planning Commissioner Vance Dimmick, City Mechanic Ralph Brecken, Building Inspector Doug Hopkins and Zoning Administrator Brian MacCartny.

IT WAS MOVED BY HODGES and seconded by PFALLER to excuse the absence of Mayor Myers.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

IT WAS MOVED BY SHORES and seconded by PFALLER to approve the minutes of the August 21, 2006 regular meeting as written.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Councilmember Pfaller questioned the Lowe's expenditure which was spread between the Local and Major Street Funds as well as the Water Fund. DPW Director DesJarden stated he would check into this. Pfaller encouraged items to be purchased locally, if available. City Manager Pasquale said a report would be provided at the next meeting.

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

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

NAY: None. ABSENT: Mayor Myers. MOTION CARRIED.

<u>BILLS AND ACCOUNTS PAYABLE (09/05/06)</u>	
GENERAL FUND	\$111,292.78
MAJOR STREET FUND	8,068.91
LOCAL STREET FUND	1,104.85
DDA FUND	1,219.06
AIRPORT FUND	2,348.54
WASTEWATER FUND	5,788.17
WATER FUND	6,937.47
DATA PROCESSING FUND	300.00

EQUIPMENT FUND	3,107.27
CURRENT TAX FUND	171,611.89
LEE FUND	1,500.00

Item #1. **APPROVAL OF THE 12TH ANNUAL MOTORCYCLE TOY RUN AT THE FAIRGROUNDS.** Councilmember Shores explained the motorcycle toy run was started by a local individual and has now been taken over by the Sons of Jesus Motorcycle Ministry. Food and music will be provided this year. Shores encouraged there be additional advertising for the event. The run is held to collect toys for all the local hospitals and homeless shelters.

Shores noted Fairgrounds Manager Ron Wenger supports the event. The grounds are cleaned very well after the event.

IT WAS MOVED BY SHORES and seconded by PFALLER to approve the 12th annual motorcycle toy run at the fairgrounds on Sunday, September 10, 2006.

Mayor Pro Tem Mathews confirmed there have been no problems with the event. Police Chief Valentine confirmed there have been no issues.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #2. **REQUEST FROM LARKIN'S RESTAURANT - CLOSE BROADWAY ON SATURDAY, OCTOBER 14 FOR THE CHILI COOK OFF.** Mike Larkin of Larkin's Restaurant will hold his 5th annual Chili Cook Off. In the past, monies have been donated to Flat River Outreach and the Fire Department. Last year over \$1,400 was raised for the Anna Organek Bone Marrow fund. This year the money raised will be given to the St. Mary's Pregnancy Center. The event is held in conjunction with the Harvest Festival.

City Manager Pasquale noted Broadway would be closed. He questioned what was necessary to obtain a liquor license. Larkin explained an approval needs to be signed by Chief Valentine, if the Council approves the closure of Broadway.

IT WAS MOVED BY PFALLER and seconded by HODGES to grant the request to close Broadway from Main St. to the alley south of the Post Office, 7 a.m. to 7 p.m. on Saturday, October 14 for the Chili Cook Off. Further, this would also act as an approval for a liquor license.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Shores thanked Larkin for donating to the different organizations in Lowell.

Item #3. **REQUEST TO CLOSE RIVERSIDE DRIVE FROM FOREMAN TO HUNT FOR NEIGHBORHOOD BLOCK PARTY ON SATURDAY, OCTOBER 7.** Teresa Beachum has requested to close Riverside Drive from Foreman to Hunt for the purpose of a block party on Saturday, October 7 from 4 p.m. to 11 p.m.

IT WAS MOVED BY SHORES and seconded by PFALLER to approve the request to close Riverside Drive from Foreman to Hunt for a neighborhood block party on Saturday, October 7, 2006 from 4:00 p.m. to 11:00 p.m.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #4. **RECOGNITION OF POW/MIA DAY – SEPTEMBER 15.** The Viet Nam Veterans of America have requested the Council issue a proclamation recognizing September 15, 2006 as Prisoner of War/Missing in Action Day.

IT WAS MOVED BY HODGES and seconded by PFALLER to support the resolution in recognition of POW/MIA Day on September 15, 2006.

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

NAY: None. ABSENT: Mayor Myers. MOTION CARRIED.

Item #5. **ZONING BOARD OF APPEALS**

A. 242 S. Hudson (northwest corner of S. Hudson and Grand) – Donald and Connie Reedy – variance to allow a lot split – public hearing. As noted at the last meeting, a variance application was received from Donald and Connie Reedy to allow a lot split so that an additional home can be built at 242 S. Hudson.

Zoning Boardmember Mathews questioned the lot line. Zoning Chairman Pfaller stated this has been reviewed with City Manager Pasquale. Mathews asked if the lot was split, would it place the existing house on the lot in violation of set back requirements. Zoning Administrator Doug Hopkins stated there are some concerns as far as closeness. Pasquale noted another 30 feet of lot width is necessary in order to comply.

IT WAS MOVED BY MATHEWS and seconded by HODGES to deny the variance request for a lot split at 242 S. Hudson as recommended by the Planning Commission.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

B. 420 Kent – Brian McLane – variance to allow keeping four chicken hens on property – set public hearing (10/2). Brian McLane has petitioned a zoning variance to allow the

keeping of four chicken hens at his residence (420 Kent). The ordinance currently states one must have .5 acres and any facility which contains rabbits, chickens or similar animals must be 50 feet from a residential property line. McLane owns two parcels of property which combine into a "L" shape, placing the structure 50 feet from any residential property line impossible because of the width of the lots. McLane noted he received permission from the property owners adjacent to the lot. Total lot size of the two lots combines to .4 acres instead of .5 acres.

IT WAS MOVED BY HODGES and seconded by SHORES to set a public hearing to discuss a variance request to allow keeping four chicken hens at 420 Kent for October 2, 2006

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

- C. 403 N. Monroe – Jeffrey Werner – side yard variance to construct an attached garage – consider special hearing date (9/21). Jeffrey Werner of 403 N. Monroe stated approximately one month ago he received a building permit to construct a garage on his property. He and Zoning Administrator Brian MacCartny worked out an agreeable situation to construct a detached garage on his property due to the small size of the lot.

Werner received his building permit, forms were placed and approved by MacCartny. A block wall was constructed on the side walls and was only halted due to low running power lines on the property. Lowell Light and Power has since relocated the power. In the meantime, he received a letter from Imperial Municipal Services (IMS) to halt construction because an issue was raised during a Planning Commission meeting regarding whether it was conforming to the Zoning Ordinance.

Werner did not want to change the size of the building or attach it. However, he would be willing to attach the garage on the north side, if a two foot, side yard variance is allowed.

Pasquale explained a substantial amount of work has already been done. He suggested a public hearing be held during a special meeting on September 21, 2006, in order for a decision to be rendered. This is an unfortunate set of circumstances. Zoning Boardmember Hodges suggested the Planning Commission also attend the meeting on September 21, 2006.

IT WAS MOVED BY HODGES and seconded by SHORES to set a special hearing date of September 21, 2006 at 7:00 p.m. to consider a side yard variance for a garage at 403 N. Monroe.

Pfaller confirmed the special hearing fee would be waived. Pasquale responded yes.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

City Clerk Morlock referred to the variance request at 403 N. Monroe. This was already advertised in order to meet the 15 day requirement.

IT WAS HODGES and seconded by SHORES to amend the previous motion to what was advertised in the Lowell Ledger. (7:30 p.m. instead of 7:00 p.m.)

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #6. **REQUEST TO REMOVE STREET LIGHT AT 315 SHERMAN – UPDATE.** Dan McGillicuddy of McGill Builders explained he is withdrawing his request to remove a street light at 315 Sherman. Some of the neighbors in the area wish to keep the light.

Mayor Pro Tem Mathews appreciated him working with the neighborhood.

Item #7. **WAIVER OF SIDEWALKS – 619 HIGH AND 800, 810 GRINDLE.** Two separate requests have been made asking for waivers from sidewalk construction related to the building of new homes. The first involves a residence at 619 High from Kathy Tetzlaff on a lot located at the north side of High between Jackson and Division.

The second from Dan McGillicuddy covers two lots at 800 and 810 Grindle where new homes are being built.

Dave Tichlar, representing 619 High, explained the waiver was requested simply because there are no sidewalks on High Street between Jackson and Division. The property immediately east of 619 High will probably never be developed, due to the steep hill. The property to the west actually fronts on Jackson and has a sidewalk on the front but does not continue around to the side of the house.

Councilmember Pfaller was opposed to granting a sidewalk waiver. This is a safety issue and provides a place for children to ride their bikes and tricycles. Councilmember Hodges agreed. He referred to the homes built on N. Jefferson where sidewalks were required.

Councilmember Shores noted there is a sidewalk ordinance. There are many variance requests regarding this issue, which are usually denied. She was opposed to the variance request.

IT WAS MOVED BY HODGES and seconded by PFALLER to deny the waiver request of sidewalks for 619 High.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Mayor Pro Tem Mathews referred to 800 and 810 Grindle. He questioned the parcels and noted a variance was denied for two homes on Grindle, just around the corner. There are two

sidewalks in there already. These parcels are near an area where several other homes could be built.

IT WAS MOVED BY PFALLER and seconded BY SHORES to deny the waiver request of sidewalks at 800 and 810 Grindle.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #8. **AMENDMENT TO TREE REMOVAL POLICY INVOLVING THE GRINDING OF STUMPS.** City Manager Pasquale explained the initial policy was provided with Council approval on November 14, 2004. The proposed amendment reads “when a City department removes a tree from the City right of way the department will grind the stump six inches below grade, place top soil and seed. The property owners’ responsibility will be to water and maintain affected area.”

Councilmember Pfaller referred to an outside utility removing trees. He believed the information should state whoever removes the tree should be responsible to grind the stump. DPW Director DesJarden explained the Council reviewed this during the worksession meeting and has requested the vegetation ordinance be reviewed regarding such control contractors.

IT WAS MOVED BY PFALLER and seconded by HODGES to approve the amendment to the tree removal policy involving grinding of stumps.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #9. **LIGHT AND POWER /CATV REQUEST TO CHANGE AUDITORS.** As discussed at the August 30, 2006 worksession, the Lowell Light and Power/Cable TV Board has experienced difficulties with the present auditors, Biggs Hausserman. There has been a substantial failure to meet the deadlines. Most critically, the firm has failed to meet qualifications which are required in most agreements. Lowell Light and Power/Cable TV General Manager Tom Richards went on to explain last year bid selections were made after the RFP. The Board’s recommendation was not taken and the Council chose Biggs Hausserman. Based upon these issues, Richards requested Light and Power and Cable TV be released from the remainder of the contract. The board wishes to use the firm Vredeveld-Haefner, whose accountants were previously employed with Rehmann Robson.

City Manager Pasquale stated a letter was received from Steve Thompson of Biggs Hausserman, indicating their resignation as auditors for Lowell Light and Power and Cable TV. The letter was dated September 1, 2006. Mayor Pro Tem Mathews noted the letter from Biggs Hausserman referred directly to Richards. It was not Richards decision, but rather the Board of Lowell Light and Power and the Council.

Councilmember Pfaller questioned if this should go out for bid again. Richards stated the firm of Vredeveld-Haefner consists of the two principals who previously worked with Rehman Robson.

These two individuals would be performing the audit themselves. Pfaller was unsure if this could be awarded to a company who was never in the bid process. Richards noted Rehmann Robson and these individuals were involved in the previous bid process. Pfaller responded the bid was with Rehmann Robson, not this firm. Councilmember Shores agreed with Pfaller. She was not questioning the type of service these individuals would provide. However, as in past, it may be necessary to seek bids. Pasquale was concerned about the timing. Richards explained the audit needs to be submitted by December 31, 2006. Therefore, it needs to be completed in November and presented to the board in early December.

Mathews suggested a one year contract with Vredeveld-Haefner and then go out for bids in January. Councilmember Hodges agreed.

IT WAS MOVED BY HODGES and seconded by SHORES to utilize the firm of Vredeveld-Haefner to perform the Lowell Light and Power/Cable TV 2005 – 2006 audit and open the new RFP for January.

YEA: 3. NAY: 1. (Councilmember Pfaller) ABSENT: 1. MOTION CARRIED.

Item #10. **PURCHASE OF DIAGNOSTIC ENGINE SCANNER.** DPW Director DesJarden has recommended the purchase of a diagnostic scanner that City Mechanic Ralph Brecken purchased two years ago. The requested price of the scanner is \$8,016. The purchase would be allocated among the fire, police, water, sewer, parks, local traffic, major traffic and equipment funds.

In researching the issue, local auto dealerships have quoted between \$100 to \$150 for each scan. Maintenance records show an average of 52 scans per year.

Councilmember Shores questioned the price of the equipment if purchased new. DesJarden responded \$7,500. However, Brecken financed it himself and paid approximately \$8,700 in total.

Shores inquired regarding the age of the machine. DesJarden responded it is two years old. The scanner can be upgraded. Pfaller questioned the price of an upgrade. DesJarden was unsure, possibly \$200 to \$600. Brecken agreed. Currently, it does not need to be upgraded. The upgrades consist of manufacturer add on and some trouble shooting software. The machine is similar to PC laptop computer and is a Windows based program. It is designed to function for the next 20 years. The machine currently being offered is identical, just with newer software.

Shores asked if the machine has only been used for City business. Brecken stated he has used the machine on his own cars. However, the scanner is kept at the City. He estimated 99% of the time the scanner is used on City owned vehicles.

IT WAS MOVED BY HODGES and seconded by PFALLER to purchase the diagnostic engine scanner as requested.

Shores was uncomfortable buying a used piece of equipment. She questioned if research has been done regarding the cost for a comparable unit. DesJarden stated this has already been carried out. He believed the DPW would have to spend approximately \$9,500 for a comparable unit. Shores felt there needed to be a bid process. Pfaller and Mathews agreed.

DesJarden questioned the process of receiving bids. Mathews believed it should be based upon a unit equivalent to what the department already has including all the add ons. The unit sets the standards for what the specifications are. Brecken stated Snap On is currently the only manufacturer producing the unit. Therefore, this would be the only bid. Currently, the cost of their unit is \$8,040, which includes the add ons. Pasquale stated the Council is looking for a written bid from Snap On. DesJarden reminded the Council about the financing.

YEA: 1. (Councilmember Hodges) NAY: 3. (Councilmember Pfaller, Shores and Mayor Pro Tem Mathews).

ABSENT: 1. MOTION DENIED.

By consensus, the Council wished to have the purchase of the diagnostic engine scanner go through the written bid process.

Item #11. **CITIZEN COMMENTS**. Dan McGillicuddy of McGill Builders confirmed the street light can remain down until the well is drilled. Pasquale responded yes.

McGillicuddy referred to City Mechanic Ralph Brecken buying the scanner. The City has received the benefit of this machine for two years. This is an employee who went over and above assisting the City. He did not understand why the Council did not approve the purchase of the scanner.

Item #12. **COUNCIL COMMENTS**. Councilmember Shores commented on what a great event the Toy Run is. Shores also commented on what a great mechanic Ralph Brecken is. However, all businesses must follow a process.

Councilmember Hodges wanted to ensure the Planning Commission is aware of the special Zoning Board meeting being held on September 21, 2006.

Item #13. **MANAGER'S REPORT**. City Manager Pasquale reported on the following:

1. For your information, the following boards and commissions meetings minutes are provided:

- Planning Commission meeting of July 24, 2006
- Merchants Committee meeting of August 9, 2006
- Lowell Light and Power and Cable TV Board meeting of July 27, 2006

The Municipal Employees Retirement System (MERS) will hold its annual meeting in Grand Rapids from September 19-21. An officer delegate from the City must be appointed by Council. Betty Morlock is recommended for approval while Sue Olin would be selected as an alternate. Bryce Updegraff (Light and Power) is the employees delegate with James Hinton (Police Dept.) being the alternate.

IT WAS MOVED BY HODGES and seconded by PFALLER that the above individuals attend the Municipal Employees Retirement System annual meeting.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #14. **APPOINTMENTS**. Mayor Pro Tem Mathews noted the opening on the Planning Commission. Interested parties may submit a letter to City Hall.

IT WAS MOVED BY HODGES to adjourn at 8:42 p.m.

DATE:

APPROVED:

Charles R. Myers, Mayor

Betty R. Morlock, Clerk