

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

For the Regular Meeting of MONDAY, **NOVEMBER 6, 2006**

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

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

Absent: None.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, Police Chief Jim Valentine, DPW Director Dan DesJarden, Airport Boardmembers Paul Nicholls, Kevin Vezino, Howard VanHorn and Airport Manager Jim Sowle and City Attorney Richard Wendt.

IT WAS MOVED BY PFALLER and seconded by HODGES to approve the minutes of the October 16, 2006 regular meeting as corrected.

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

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

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

NAY: None. ABSENT: None. MOTION CARRIED.

<u>BILLS AND ACCOUNTS PAYABLE (11/06/06)</u>	
GENERAL FUND	\$111,178.90
MAJOR STREET FUND	1,620.61
LOCAL STREET FUND	984.36
HISTORIC DISTRICT FUND	9,894.50
DDA FUND	1,441.44
AIRPORT FUND	88.49
WASTEWATER FUND	67,698.16
WATER FUND	8,541.75
DATA PROCESSING FUND	430.41
EQUIPMENT FUND	6,771.20
CURRENT TAX FUND	86,308.99
LOOK FUND	1,500.00
CARR FUND	300.00

Item #1. **CITY CHARTER REVIEW AND JOINT MEETING WITH THE LIGHT AND POWER BOARD – CONSIDER SETTING WORKSESSION DATES**. At the request of Councilmember Pfaller, there has been discussion examining proposals for amending the City Charter as well as having a worksession with the Light and Power Board.

By general consensus, the Council agreed to meet on Monday, November 13, 2006 at 7:00 p.m. to discuss the Charter. A joint meeting can be held with the Lowell Light and Power Board on any given Tuesday. The Board was requested to provide possible dates.

Item #2. ZONING BOARD OF APPEALS

A. 753 Grindle (Grindle Court) – variance allowing slopes up to 40% to be counted as open space for 16 housing unit cluster development – United Bank of Michigan – set public hearing date (12/4). As part of the reapproval of the site plan, a variance has once again been requested regarding open space for this cluster housing development. The open space provisions of the zoning ordinance states any area which has a greater than 20% slope does not count as open space. It would be impossible to develop these 16 units as such.

IT WAS MOVED BY SHORES and seconded by MATHEWS to set a public hearing for December 4, 2006 regarding 753 Grindle involving a variance allowing slopes up to 40% to be counted as opens space for a proposed 16 housing unit cluster development.

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

Item #3. MERS RETIREMENT BENEFIT INCREASE (BENEFIT PROGRAM E) FOR RETIREES. As adopted for the last seventeen years by Council, a 2% compound benefit increase for cost of living has been provided for retirees. After reviewing the issue with City Treasurer Sue Olin, City Manager Pasquale recommended the City adopt a 2% increase effective January 1, 2007 for retirees through the Municipal Employees Retirement System.

Mayor Myers commented on the document provided under “Benefit Program E” which states there are 12 retirees on the plan. It shows the annual cost for this contribution is \$1900. However, in order to provide \$1901 worth of benefits there needs to be an increase in the City annual accrual of \$35,450. This amount is necessary in order to increase the benefit by 2 percent.

IT WAS MOVED BY HODGES and seconded by SHORES to adopt the 2% increase effective January 1, 2007 for retirees through the Municipal Employees Retirement System.

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

NAY: None. ABSENT: None. MOTION CARRIED.

Item #4. REQUEST TO PURCHASE NEW POLICE CAR RADIOS. Police Chief Jim Valentine explained the current police car radios are old and need to be replaced. After receiving three bids, Valentine recommended the low bid be waived and purchase the radios from Drew

Wireless LLC at a cost of \$3,185. This company has been handling the installation of Walker Police radios (dispatch agreement), provided the original radio project and was the consultant in processing and installing the department's in-car computer system.

IT WAS MOVED BY SHORES and seconded by HODGES to approve the bid from Drew Wireless for six new radios for the police vehicles totaling \$3,185.

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

Myers questioned if Drew Wireless would be involved with the video equipment as well? Valentine responded no. The Police Department received the cameras through the actual vendor custom signals. These technicians will begin installing the equipment. Betty Davidson from Addorio is to be handling the hardware as well as the uploading and downloading of the equipment within the office.

Valentine explained the department has received grants over the last several years through the Office of Highway Safety Planning Program to enforce drunk driving and seat belt issues. Sergeant James Hinton coordinates such grants at our local level. He attended a meeting and was informed there were grant monies available through the Office of Highway Safety Planning to purchase car digital videos for police cruisers. The cost of the project will be \$25,000 for the four marked cars. The State will provide approximately \$23,000 toward this cost.

Item #5. **CITIZEN COMMENTS**. Jo Anne Schreur of 12209 Bailey Drive read the following letter from her and her husband William into record:

Dear Mayor Myers and member of the Lowell City Council,

This letter is being submitted for public record on behalf of myself, JoAnne Schreur, and husband William Schreur in response to statements made at the October 2, 2006, Lowell City Council meeting regarding our property adjacent to the Lowell City Airport.

To provide some background of our personal endeavors and business operations, it is important to know that Bill has planted over 400,000 trees in Vergennes Township since 1947 on most of the approximately 350 acres of land that we have owned. Bill has always had a deep love of land conservation which has driven his ambitious efforts in tree planting. In fact, many acres of our land is registered under the State of Michigan Tree Farm Act. The trees have added significant aesthetic and monetary value to the land. In addition, we have sold trees for nursery landscaping and timbering as a source of income. We are licensed by the State of Michigan Department of Agriculture, and our nursery stock is inspected annually.

The trees along the Lowell City Airport line provide a beautiful privacy screen and noise and safety buffer for the residence living on property adjacent to the airport line.

Scenic View Plat was surveyed and platted by Williams and Works of Grand Rapids and recorded on May 18, 1961, with the Kent County Register of Deeds. Soon thereafter, we began the construction of homes there.

At the October 2, 2006, Lowell City Council meeting, Mr. Jim Sowle, manager of the Lowell City Airport, stated that the City property became an airport in 1951. In fact, the Lowell City Airport was first licensed on December 22, 1977, and there are no records of it existing as an airport prior to that date with the State of Michigan.

Aerial photographs taken in 1968 show absolutely no improvements or buildings and no established or recorded runways on what is now the airport property. In 1968, this land was simply a mowed grass field being used by two or three hobby fliers, and there were no flight paths over our property.

Mr. Sowle stated at the October 2, 2006, meeting that "he would never build under an airstrip". The truth is that the airstrip Mr. Sowle is referring to was originally a north/south airstrip but was relocated to become an east/west airstrip. By doing so, the airport knowingly and negligently created a new flight path over our established residential development. This is where the problem lies - not with our trees as Mr. Sowle implies. For years, the airport has pursued efforts to expand without proper planning and with total disrespect for existing zoning surrounding its land.

Scenic View Plat II was recorded in 1992, and Scenic View Plat III was recorded in 1993. Homes were constructed in these plats on our property bordering the airport long before the airport paved this runway.

It is important to note that to this day the Lowell Airport is operating under a Nonconforming Use Status.

In a letter dated March 5, 1990, Robert Addy, the Administrator of the State of Michigan Department of Transportation, Airport Development Division of the Bureau of Aeronautics, indicated they had no objections to the preliminary platting of Scenic View Platt II. In addition, Mr. Addy acknowledged the protective covenants which were to be imposed on the properties adjacent to the Lowell Airport. Subsequently, MDOT approved the final plats and protective covenants for Scenic View Plats II & III.

All homes constructed have been have been single-story homes and comply with the approximate 70' setback requirements from the rear lot lines adjacent to the airport.

At the October 2, 2006, City Council meeting, Mr. Sowle stated that most Scenic View Plat residents living along airport property lines favor air easements. This also is not true. Other than the four residents who have been solicited by the City for air easements, only one resident of the remaining 28 Scenic View Plat II & III residents have declined to sign petitions and affidavits opposing the acquisition of air easements and supporting the protective covenants.

Mr. Sowle continues to make false and misleading statements regarding certain airplane incidences. He referred to "airplane" that landed in pine trees on our property in about 1980. This incident involved an ultralite (not a single-engine airplane as Mr. Sowle has implied) with an engine about the size of a snowmobile engine. At the time of this incident, the pilot of the ultralite expressed to us how grateful he was that he landed in the trees and not on the hard grounds as the pine trees cushioned his fall. He was unharmed, and he compensated us for the damaged trees. The lawsuit he later filed was settled out of court for a nominal amount by State Farm as they considered it frivolous and not worthy of court expense. No wrongdoing or negligence on our part was cited in the settlement.

Mr. Sowle also referred to an incident in June 1996 when a plane crashed near the airport. He correctly pointed out that pilot error was to blame in this accident. However, Mr. Sowle stated that the accident occurred in the same trees as the one with the ultralite. This too is not true. Contrary to Mr. Sowle's allegations, State of Michigan Aeronautics records show that this accident occurred on the property of Mr. Jeff Clark and one half mile west of the ultralite site and approximately 200 feet from our nearest property line. In addition, our nearest trees were only 4 to 5 feet in height at that time.

According to State of Michigan Aeronautics records, 3 fatal accidents have occurred involving the Lowell City Airport – none of which took place on our property or involved our trees. One accident occurred when a flier hit power lines on Flat River Drive southeast of the airport. Another flier crashed onto the Flat River southeast of the airport. The third crash was on land west of Lincoln Lake Road.

At the October 2, 2006, Lowell City Council meeting, Al Mathews suggested that this airport issue is a case of residents trying to dictate what the airport does even though they moved into the development knowing of its existence. In reality, and as all records prove, the airport has proceeded in expansion efforts even though our residential platting was established years prior to the City property becoming an airport.

The City of Lowell and the Lowell Airport has an obligation to respect the rights of all of the property owners in the Scenic View Plats and their quality of life as they have known it for the past 50+ years.

Removing trees would reduce the value of all of the property in the Scenic View Plats. Although these trees were planted for aesthetic purposes, they now also serve as a safety and privacy buffer from the airport providing overall enhancement of this established residential development.

Sincerely,

William Schreur and JoAnne Schreur

City Attorney Richard Wendt read the next letter into record as follows:

November 6, 2006

Dear Lowell City Council,

I am writing this letter regarding proposed enhancements to the Lowell Airport.

1. From what's been said so far, I find it difficult to discern which enhancements are truly in the interest of safety versus expansion of services beyond what would serve this community while maintaining quality of life and property values. There are several perspectives on this issue, and I would like clarification regarding which enhancements are specifically required by regulatory agencies for safety.
2. Although not specifically part of a discussion when we purchased our house, I have reviewed a copy of Vergennes Township, Kent County, Easements and Restrictive Covenants dated March 4, 1993 (provided to me by Bill Schreur Sr.). Most of these provisions seem reasonable, and appear to support quality of life, environmental concerns, and optimizing property values. They also appear to be consistent with the Vergennes Township Master Plan.
3. I agree that safety would be a primary concern since we've already had one accident in recent past, and some near misses, but there should not be indiscriminant, or forced clear cutting of trees, or development which tips the scales toward making this community more commercial verses rural/residential.
4. Why the proposed enhancements? Do we really need this? Gerald Ford Airport is nearby, and is conveniently located for people coming here to attend meetings, conferences, or other events.
5. I don't mind the current level of air traffic, and it's nice to have the airport near by versus a strip mall or other commercial development. I have no problem with single, or an occasional twin engine aircraft coming in and out. However, if aircraft were coming and going on a more continuous basis, day, and night it would become a nuisance, too noisy, and diminish quality of life.
6. Who is the deciding body here? What is the City's role versus the Township, Federal agencies, or the Airport Board? At the Township meeting I attended, there were several interpretations of federal regulations, and roles were unclear. The negotiations appear to be moving through some uncharted water for each stakeholder and I'd urge all to think it through carefully, and calmly before burning bridges, or setting a precedent we live to regret in the future. Actions and precedents set now will have implications for this community over the next several years. What's the hurry? What's the compelling need driving this proposal?
7. We moved here because of the rural character of the community, wooded areas and wildlife, realizing that city amenities, including an international airport were nearby in Grand Rapids. I appreciate the efforts of the Schreur family as advocates for environment concerns, and quality of life, but I also want optimal safety for the airport,

this is truly an issue. I'm not sure we've heard enough about the specifics, and whether planned enhancements are solely driven by safety concerns. I feel we need more information and safety points need further definition.

Summary:

1. Let's be sure this truly needs to be done first, and that it's in the interest of the entire community that will be impacted, and consistent with the Vergennes Township Master Plan.
2. Let's also take time to be sure we have a single interpretation of federal and/or local regulations which come into play, and a consensus about the best path forward to resolve this issue.
3. The worst way to resolve an issue like this is by acting prematurely, bullying people, or by a series of forced negotiations which set up a win-lose scenario between community interests and neighbors.

Respectfully submitted,

Robert P. Coffey and Tamara Coffey
580 Forstrom Street
Lowell, Michigan 49331

Mayor Myers stated the City Council appreciated the citizen comments and would take these under advisement as the Council proceeds with decisions related to the airport.

Item #6. **COUNCIL COMMENTS**. Councilmember Hodges noted Ron VanOverbeek is the new Deputy Fire Chief.

Mayor Myers reminded everyone to vote on November 7, 2006

Item #7. **MANAGER'S REPORT**. City Manager Pasquale reported on the following:

1. The following boards and commissions meetings minutes were provided:
 - Planning Commission meeting of September 25, 2006 and Special meeting of October 5, 2006
 - Look Memorial Committee meeting of August 16, 2006
 - Grand Valley Metro Council – Transportation Policy Committee meeting of September 18, 2006
 - Lowell Light and Power and Lowell Cable TV Board meetings of October 9, 2006
 - Airport Board meeting of October 10, 2006

After a discussion with Dick Williams of Honeywell, DPW Director Dan DesJarden had proposed to revise the energy saving proposal noting those projects which the City staff can undertake. Then, Honeywell will provide a reduced list of projects. DesJarden explained he spoke with a

Honeywell representative who indicated they can narrow the project down to the larger items. He questioned how the Council wanted to pursue the project. Councilmember Pfaller did not believe the City should use Honeywell. Mayor Pro Tem Mathews and Mayor Myers agreed. Myers stated he would rather see the City go out for bid with local businesses, if possible. By general consensus, the Council agreed to not use the services from Honeywell.

IT WAS MOVED BY PFALLER and seconded by MATHEWS to adjourn to Closed Session at 8:12 p.m. to review an opinion from the City Attorney.

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

NAY: None. ABSENT: None. MOTION CARRIED.

IT WAS MOVED BY PFALLER and seconded by HODGES to return to Open Session at 8:56 p.m.

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

NAY: None. ABSENT: None. MOTION CARRIED.

IT WAS MOVED BY MATHEWS to adjourn at 8:57 p.m.

DATE:

APPROVED:

Charles R. Myers, Mayor

Betty R. Morlock, Clerk