

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

For the Regular Meeting of Monday, **MAY 7, 2007**.

The Meeting was called to order at 7:30 p.m. by Mayor Myers and 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, City Treasurer Suzanne Olin, DPW Director Dan DesJarden, Police Chief Jim Valentine, Fire Chief Frank Martin, Water Treatment Plant Superintendent George Regan, Lowell Light and Power/Cable TV Boardmember Greg Canfield and Planning Commission Chair Maryalene LaPonsie.

IT WAS MOVED BY PFALLER and seconded by HODGES to approve the minutes of the April 16, 2007 regular meeting as written.

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

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

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

NAY: None. ABSENT: 0. MOTION CARRIED.

<u>BILLS AND ACCOUNTS PAYABLE (05/07/07)</u>	
GENERAL FUND	\$124,641.02
MAJOR STREET FUND	5,899.52
LOCAL STREET FUND	458.43
DDA FUND	2,105.09
AIRPORT FUND	139.74
WASTEWATER FUND	48,224.17
WATER FUND	13,782.82
DATA PROCESSING FUND	1,407.13
EQUIPMENT FUND	3,729.64
CURRENT TAX FUND	5,727.87

Item #1. **PROCLAMATIONS HONORING EMERGENCY MEDICAL SERVICES.** Mayor Myers read the proclamations honoring the agencies and personnel of EMS organizations in the area. First, a proclamation recognized May 20 – 27, 2007 as Emergency Medical Services Week. The second proclaimed May 23, 2007 as National Emergency Medical Services for Children Day.

IT WAS MOVED BY HODGES and seconded by SHORES to adopt the resolution proclaiming May 20 – 26, 2007 as Emergency Medical Services Week.

Councilmember Shores thanked the emergency medical firefighters, ambulance and police department for all they do throughout the community.

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

NAY: None. ABSENT: None. MOTION CARRIED.

IT WAS MOVED BY HODGES and seconded by SHORES to adopt the resolution proclaiming May 23, 2007 as National Emergency Medical Services for Children’s Day.

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

NAY: None. ABSENT: None. MOTION CARRIED.

Item #2. **REQUEST FROM LOWELL AREA ARTS COUNCIL FOR ONE DAY LIQUOR PERMIT – AUGUST 18, 2007.** A request has been provided from the Lowell Area Arts Council for a one day permit as part of its 5th Annual Art Attack on Saturday, August 18, 2007 at the Foreman Building. The Arts Council has requested a one-day permit to sell alcohol from 5:30 – 10:30 p.m. as part of the event.

Chief Valentine supports the permit. However, Council approval should be received.

Mayor Myers questioned the amount of money the Council hopes to raise from the event. Executive Director of the Lowell Area Arts Council, Lorrain Smalligan, responded each year the Council has raised approximately \$10,000 and \$12,000 in net proceeds from the event. The Foreman Building provides for a larger crowd.

Shores believed this was a fundraiser and a well run event.

IT WAS MOVED BY SHORES and seconded by PFALLER to grant the request for a liquor license for the 5th Annual Art Attack sponsored by the Lowell Area Arts Council scheduled for Saturday, August 18, 2007 running from 5:30 p.m. to 10:30 p.m.

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

Item #3. **REZONING – 211 – 225 AND 330 S. WASHINGTON – FROM R-3 (MULTIPLE FAMILY RESIDENTIAL) TO LI (LIGHT INDUSTRIAL) – PUBLIC HEARING.** Greg Canfield has proposed to rezone his property on South Washington to Light Industrial so a commercial warehouse/garage can be constructed.

The Planning Commission added the old Attwood lot immediately south owned by Mid Michigan Railroad for Light Industrial consideration.

At its March 26, 2007 meeting, after holding a public hearing, the Planning Commission unanimously recommended the rezoning to Council. Further, the Commission approved the site plan for the warehouse at its April 23, 2007 meeting, subject to the rezoning.

Councilmember Pfaller supported the project. However, he had a problem with Light Industrial zoning and believed it should be zoned General Business with special use. He was concerned regarding Light Industrial staying with the property and allowing for issues which do not belong in a neighborhood.

Shores noted many times the area is under water.

Canfield explained it was zoned Industrial when it was a lumber yard. Mike Hinkley had purchased the property on land contract and requested it be rezoned to R3. Canfield stated the Planning Commission believed Light Industrial would be the most appropriate zoning.

Councilmember Hodges noted the Planning Commission discussed the rezoning at length. He supported the rezoning.

IT WAS MOVED BY HODGES and seconded by SHORES to rezone 211 – 225 and 330 S. Washington from R-3 (Multiple Family Residential) to LI (Light Industrial).

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

Item #4. **ORDINANCE TO REQUIRE COMPLETION OF EXTERIOR FEATURES OF STRUCTURES – PUBLIC HEARING.** The proposed ordinance required completion of exterior features of structures within 12 months of building permit issuance for residential buildings as well as 18 months for commercial and industrial. Extension may be granted by the Building Inspector.

At its March 26, 2007 meeting, the Planning Commission unanimously recommended adoption of this ordinance. After holding a public hearing, the Council may adopt the zoning ordinance amendment.

Tim VanderWilp of 622 N. Monroe expressed concern for those who must live within a budget. He did not believe it was appropriate for the City to hire a contractor to finish the project. Councilmember Shores stated the ordinance reads one can apply for an extension. If anyone came upon a hardship or a valued reason, a permit can be extended.

Councilmember Pfaller questioned what would happen if an individual does not complete a project in the allowed amount of time. Pasquale explained violating an ordinance is subject to a misdemeanor.

Mayor Myers suggested the terms and conditions be set forth when individuals are applying for a building permit.

IT WAS MOVED BY SHORES and seconded by MATHEWS to adopt the ordinance requiring completion of exterior features of structures.

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

NAY: None. ABSENT: 0. MOTION CARRIED.

Item #5. **PROPOSED ORDINANCE AMENDING THE KEEPING OF FOWL, RABBITS AND SIMILAR ANIMALS – RECOMMENDATION FROM THE PLANNING COMMISSION – ADOPT OR SET PUBLIC HEARING DATE (6/4).** The Planning Commission had reviewed changes in the ordinance regulating the keeping of fowl, rabbits and similar animals. After conducting a public hearing at its April 23, 2007 meeting, the Planning Commission recommended the ordinance amendment on a vote of 6 to 3. The Council may adopt the ordinance or hold a public hearing.

IT WAS MOVED BY PFALLER and seconded by HODGES to set a public hearing for June 4, 2007 regarding a proposed ordinance amending the keeping of fowl, rabbits and similar animals.

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

Item #6. **ZONING BOARD OF APPEALS.**

a. 221 Amity (southeast corner of Elm and Amity) – John Sterly – construction of a duplex – variance for lot width – set public hearing date (6/4). City Manager Pasquale explained John Sterly wished to build a duplex on property he owns at the southeast corner of Elm and Amity. Currently, there is an existing duplex on the property. In order for this second building to be constructed, the lot requirement must be met for both existing and proposed structures. However, there is not enough lot width in order to build a second duplex. (200 feet needed, has 132 feet).

At its April 23, 2007 meeting, the Planning Commission reviewed and recommended against the variance on a vote of 5 to 4 based on the established criteria.

IT WAS MOVED BY HODGES and seconded by MYERS to establish a public hearing for June 4, 2007 to consider a lot width variance for the construction of a duplex located at 221 Amity as petitioned by John Sterly.

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

b. 204 S. Washington (southwest corner of Kent and South Washington) – Cherry Wheat – construction of a housing addition in an Industrial District – establish a public hearing date (6/4). Cherry Wheat has proposed to have a 22' x 24' addition built on to her house located

at the southwest corner of Kent and South Washington. The property is zoned Industrial and the house is a nonconforming use. Under Section 4.13 D, "no nonconforming use of any land or structure shall hereafter be moved, enlarged or extended.

Therefore, a variance requested has been petitioned. A recommendation from the Planning Commission will be provided at their May 29, 2007 meeting. A public hearing should be established for the June 4, 2007 meeting.

IT WAS MOVED BY SHORES and seconded by MYERS to set a public hearing for June 4, 2007 to consider a variance to allow the construction of a housing addition in an Industrial District regarding 204 S. Washington submitted by Cherry Wheat.

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

Item #7. **REPEAL OF CABLE TELEVISION ORDINANCE – SET PUBLIC HEARING DATE (5/21)**. City Attorney Richard Wendt had indicated one of the conditions in the Asset Purchase Agreement related to the City's sale of its cable television system to Comcast was the repeal of the Cable Television ordinance. With the sale, the ordinance is no longer necessary.

IT WAS MOVED BY PFALLER and seconded by HODGES to set a public hearing date for May 21, 2007 regarding the repeal of the Cable Television Ordinance.

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

Item #8. **AMENDMENT TO THE FIRE/RESCUE SERVICES AGREEMENT BETWEEN THE CITY, LOWELL CHARTER AND VERGENNES TOWNSHIPS**. City Manager Pasquale explained there have been continuous discussions concerning the current fire agreement between the City of Lowell and Lowell and Vergennes Townships. Vergennes Township Clerk Mary Stone has recently indicated her wish for additional discussion regarding participation and capital expenditures of the expansion of the fire station/ambulance addition.

Pasquale recommended the issue be tabled until the May 21, 2007 meeting.

By general consensus, the Council agreed.

Item #9. **CITY ARBOR BOARD ORDINANCE – SET PUBLIC HEARING DATE (5/21)**. As part of the Tree City USA Program, the City is required to establish a tree (arbor) board. The proposed ordinance sets forth the creation of the board, along with duties and responsibilities, composition, term of office, vacancies, removal from office, compensation, rules of procedure, meetings, quorum, chairperson, and execution of contracts and commitment of funds.

The Arbor committee has been meeting on a regular basis. The committee composed of Light and Power General Manager Tom Richards, DPW Director Dan DesJarden, Dr. Jim Reagan, Lowell Showboat Garden Club representative Dana Chase and City Manager Pasquale have been working on establishing policies regarding trees.

A grant of \$5,000 has been awarded by the Look Memorial Committee to purchase and plant trees for the Bowes Road area. It is estimated that 20 trees (1 3/4" diameter, 6' height) could be planted in locations at the owners' discretion.

A tree planting ceremony is scheduled for Friday, May 11 at 10 a.m. DPW Director Dan DesJarden noted the tree will be planted in front of Pebble Beach Apartments in the right of way.

IT WAS MOVED BY PFALLER and seconded by SHORES to establish a public hearing for May 21, 2007 regarding the City Arbor Board Ordinance.

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

Item #10. **HIGH STREET (EAST OF JAMES) SLOPE IMPROVEMENTS PROJECT – BIDS.** Mayor Myers abstained from discussion due to part of his property being involved in the project.

City Manager Pasquale stated the project would provide support to an existing retaining wall on High Street which was constructed during the development of Highland Hills. The work also includes the repair of a separated storm sewer and correcting and improving drainage to Main Street. Proceeds for the work will come out of the financial guarantee from the Highland Hills development.

Seven bids were received on May 2, 2007. Shaler Excavating provided the low bid of \$19,805.

Williams and Works Engineer Dave Austin explained there was much interest regarding the project. A pre bid meeting was held at the site which allowed bidders to physically see the site in addition to having the plans.

Mayor Pro Tem Mathews was happy to see a local company provided the lowest bid. He recommended Shaler Excavating.

IT WAS MOVED BY SHORES and seconded by HODGES to award Shaler Excavating the High Street Slope Improvement Project in the amount of \$19,805.

YEA: 4. NAY: 0. ABSTAIN: 1. (Myers) ABSENT: 0. MOTION CARRIED.

Item #11. **WATER HEATER REPLACEMENT AT THE WATER TREATMENT PLANT.** Water Treatment Plant Superintendent George Regan is in the process of replacing an electric heater with one that heats on demand. The new system will cost the plant approximately \$50 a year, while the electric heater amounts to \$300 to \$400 a year.

The following quotes were received:

- Canfield Plumbing and Heating \$2,795.
- Van Strien Heating and Plumbing \$2,525.

Mayor Myers questioned the warranty from each business. Greg Canfield of Canfield Plumbing stated his company provides a lifetime workmanship warranty, while the product has a one year warranty through the manufacturer.

Councilmember Pfaller noted there is a small difference between the two quotes. He would prefer the services from a business within the City such as Canfield Plumbing and Heating. Mayor Pro Tem Mathews agreed.

IT WAS MOVED BY SHORES and seconded by HODGES to approve the low bid from Van Strien Heating and Plumbing in the amount of \$2,525 for the Water Treatment Plant water heating system.

YEA: 2. (Councilmember Hodges and Shores)

NAY: 3. (Councilmember Pfaller, Mayor Pro Tem Mathews and Mayor Myers)

ABSENT: 0. MOTION DENIED.

IT WAS MOVED BY PFALLER and seconded by MATHEWS to approve the bid from Canfield Plumbing and Heating in the amount of \$2,795 for the Water Treatment Plant water heating system.

YEA: 4. (Councilmembers Hodges, Pfaller, Mayor Pro Tem Mathews and Mayor Myers)

NAY: 1. (Councilmember Shores) ABSENT: 0. MOTION CARRIED.

Item #12. **2007 – 2008 BUDGET – SET PUBLIC HEARING DATES (5/21 AND 6/4), FURTHER PRELIMINARY REVIEW.** City Manager Pasquale noted the following updates on the budget process:

- General Fund – As requested, the differences in expenditures between the 2006 – 2007 and 2007 – 2008 budgets are shown in dollars and percentages.

The projected fund balance is now \$65,365.37. The increase was due to larger payments in lieu of taxes from Light and Power than originally projected and lower employee health insurance costs.

- Utilities – A draft of the water and sewer rates is provided from Tetra Tech. This will be further reviewed by staff and a final recommendation given. Also, the cash statements from the Water and Wastewater Funds were provided.
- Downtown Development Authority Fund Budget was provided.

IT WAS MOVED BY MATHEWS and seconded by PFALLER to set public hearings for May 21, 2007 and June 4, 2007 regarding the 2007 – 2008 budget.

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

Item #13. **REVIEW OF PROPOSED LOWELL IMPROVEMENT FUND**. City Manager Pasquale stated with the sale of Lowell Cable Television, the City should receive approximately three million dollars net. These funds would be invested in such vehicles of certificates of deposits and also in consultation with our auditor Steve Thompson. This could provide approximately a five percent yearly return. This was also discussed with City Attorney Richard Wendt.

City Manager Pasquale noted 10 percent of the investment would be returned back to the principal to assist in the growth of the fund. On a yearly basis, approximately \$150,000 could be realized. In terms of yearly expenditures, Pasquale proposed three areas which could be considered priorities for the City. The first involves budget stabilization. In looking at the uncertainty of State Revenue Sharing and the difficulties with the budget of the past few years, Pasquale proposed a "Rainy Day Fund" be established. The second area involves equipment. The Equipment Fund does not generate enough revenue to purchase larger equipment needs within the Public Works Department. This would provide sufficient revenue to purchase such a critical need. Additionally, another area includes streets, sidewalks and trails. A portion of these funds can be used for street and sidewalk construction as well as trails. It could also assist with the Local Street Fund.

Such monies can be accumulated over several years, purchases can be considered on a cash basis or used as a revenue source for bond issues. Also, allocations of these activities would be reviewed and approved by the City Council on a yearly basis.

Councilmember Shores suggested a new office building at the cemetery.

Mayor Myers stated three million dollars is the result of the sale of the Lowell Cable. It has taken a great amount of time to build this kind of equity in a system. This was sold with good reason and much thought as it related to where the industry was going and what it would cost to continue to provide those services to the community. This is a fund which has been earned by the citizens of Lowell. Myers believed the fund should be professionally managed. In terms of the uses for this, he was against using the fund to resolve short term problems. This was a long term investment that the citizens made. Myers noted he was against using the funds for budget stabilization. The proceeds of the sale should to be a long term asset to the community and provide some benefit over time.

Mayor Pro Tem Mathews agreed. The monies should be used for a long term project. He noted the amphitheater needs improvements. Pasquale mentioned this will be a DDA project.

Shores believed a budget stabilization supports every citizen of Lowell. It may be the difference between raising and not raising taxes. It has to be managed very carefully.

Councilmember Pfaller suggested a worksession be held once final dollar amounts were established. Councilmember Hodges was also in favor of holding a public hearing and establishing a worksession.

Item #14. **CITIZEN COMMENTS**. Ivan Blough of 623 N. Jefferson referred to the letter he provided to each of the Councilmembers. The letter addresses his concerns regarding the sale of Lowell Cable Television.

Blough explained he served on the Light and Power Board several years ago. The board was asked at that time to consider the feasibility of having a cable television company within the City owned by the City. The Lowell Cable TV was completely built on subscribers rates and did not come from the citizens.

Blough believed if Lowell Cable TV is sold, every penny, except the franchise fee, would leave the community. He urged the Council to reconsider.

Tim VanderWilp of 622 N. Monroe, referred to the monies from the sale of Lowell Cable TV. He believed a committee should be formed, as well as a governing board to govern the money.

Executive Director of the Lowell Area Historical Museum, Judy Straub, stated the exhibit on the Showboat will be repaired with a product which is UV and moisture resistant. A grant has been received as well as a community sponsor to help fund the improvements.

Rebecca Green of 226 N. Center, presented a petition to have a street light installed at the corner of Donna and Heffron. City Manager Pasquale stated DPW Director DesJarden will review the request and possibly brought before the City Council.

Ken Gregorson of 938 N. Washington wished to purchase the property to the north of his house. City Manager Pasquale stated he suggested the area be surveyed and an access easement for a garage considered. Gregorson stated he does not want an easement. He wanted to own the property. Pasquale stated there needs to be a survey which would indicate the exact portion of property he wishes to own. It can then be brought to the City Council for consideration. If there are any conditions Gregorson would want, such as improvements, it can be noted and brought before the Council. Pasquale noted an easement is recorded with the County. Pasquale also indicated the property would have to go out for bid if Gregorson wishes to purchase it. Gregorson stated he was not satisfied with an easement.

Councilmember Pfaller stated the City has received a proposal from the Boy Scouts as well as a group of individuals who wish to preserve the entire piece of property. Pfaller believed the Council

has been somewhat misrepresented in the press regarding this property. The Council has not made a decision of what to do yet.

Item #15. **COUNCIL COMMENTS**. Mayor Pro Tem Mathews commented on the signs being placed in the right of way on M21 and South Valley Vista. There were also several signs on the corner of Main Street and Ridgeview over the weekend.

Mathews stated he was looking forward to the upcoming Mayor Exchange with the City of Portland.

Mayor Myers referred to the recent tornado in Greensburg, Kansas. He also mentioned the May 8, 2007 election.

The City of Portland will be visiting Lowell on May 10, 2007 and the City of Lowell will be visiting the City of Portland on May 15, 2007.

Item #16. **MANAGER'S REPORT**. City Manager Pasquale reported on the following:

1. The following boards and commissions meetings minutes are provided:
 - Parks and Recreation Commission meeting of March 17, 2007
 - Grand Valley Metro Council – Transportation Policy Committee meeting of March 21, 2007
 - Planning Commission meeting of March 26, 2007
 - Look Memorial Committee meeting of January 24, 2007
 - Airport Board meeting of April 3, 2007
2. A letter was received from Peggy Covert and Melanie Good reporting on the progress with the annual garlic mustard pulls.
3. The tentative Mayor Exchange Day (May 10) agenda with the City of Portland was provided.

Mayor Myers acknowledged the presents of the Boy Scouts present at the meeting.

Item #17. **APPOINTMENTS**. None.

IT WAS MOVED BY MATHEWS to adjourn at 8:56 p.m.

DATE:

APPROVED:

Charles R. Myers, Mayor

Betty R. Morlock, Clerk