

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

For the Regular Meeting of Monday, **AUGUST 20, 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, Police Chief Jim Valentine, DPW Director Dan DesJarden, Lowell Light and Power Boardmember Jim Hall, and Executive Director of the Lowell Area Chamber of Commerce Liz Baker.

IT WAS MOVED BY PFALLER and seconded by SHORES to approve the minutes of the August 6, 2007 regular meeting as corrected.

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

IT WAS MOVED BY SHORES and seconded by HODGES 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: None. MOTION CARRIED.

<u>BILLS AND ACCOUNTS PAYABLE (08/20/07)</u>	
GENERAL FUND	\$141,831.98
MAJOR STREET FUND	814.84
LOCAL STREET FUND	956.00
DDA FUND	251.33
AIRPORT FUND	25.00
WASTEWATER FUND	437.50
WATER FUND	41,739.15
LOWELL CABLE TV FUND	471,426.05
EQUIPMENT FUND	4,276.30
CURRENT TAX FUND	35,350.71

Item #1. **LETTER FROM GARY DIETZEL AND SANDY BARTLETT REGARDING 990 N. WASHINGTON.** A letter was presented to each Councilmember from Gary Dietzel and Sandy Bartlett requesting a year rental agreement and limiting the rent to \$300 per month for a City owned house located at 990 N. Washington Street. Both were present for discussion.

Councilmember Shores stated the home has been rented for \$70 a month for 28 years. A motion was previously made to raise the rent \$50 a month until it reached \$500 a month. Shores noted the average rent with the City of Lowell for an apartment seems to be between \$400 and \$500 a month. Shores did not believe the Council was out of line asking for \$500 a month and would stand by the original decision.

Councilmember Hodges did not feel the City should be in the rental business. The motion was passed in January, 2007 and went into effect March, 2007. Dietzel should have discussed the issue with the Council in the Spring. Hodges stated he would also stand behind the decision to charge \$500 per month in rental fees.

Mayor Myers referred to the letter from Dietzel and Bartlett, which indicates there is no furnace and the home is heated by wood. Because of this, Myers stated he would be in favor of charging a rental fee of \$400 per month.

Mayor Pro Tem Mathews agreed with Myers, but also echoed Hodges' opinion. The N. Washington property needs to be settled. He also did not believe the City should be in the rental business. Mathews stated he would agree with \$400 a month, but also wished the issue had been presented sooner. Dietzel explained he had been told at the January meeting, he would have received word by the end of June regarding the situation. This is why he waited until now to come before the Council. Shores noted the rent was set to be raised \$50 a month until \$500 was reached. Dietzel reminded the Council no one ever talked to them about the condition of the house or what kind of maintenance agreement there would be. He believed he is "being robbed" as he has easily placed \$20,000 into the home. Never once has he come to the City to ask for anything. He understood the City did not want him in "its face". However, he can not rely on the City to have something done either. Shores believed such remarks are unnecessary. She felt Dietzel could rely on the City Council. This is not the first time he has done this. She has letters from him which have been sent to her and have not been very nice. Dietzel stated he sent these letters two years ago and has never received a response. No one seems to want to talk to him.

Myers believed a rental agreement was in order. However, he was not prepared to give the duration of the agreement.

Shores wanted the property placed for bid.

Councilmember Pfaller believed a task force or committee should be formed regarding the entire N. Washington Street property to determine the outcome. A decision needs to be made regarding the future of the entire property with this home being a portion of it.

Dietzel requested a rental agreement through the winter. He heats with wood and needs to plan. He would at least like to have an agreement through June, 2008.

Dietzel did not believe it was appropriate to raise the rent five to six times, when there is no maintenance on the house.

Shores agreed the City should have done something prior to this time. It should have been carried out 20 years ago.

Dietzel commented on the issue of pollution, which has not been corrected. He notified the State and the EPA on the issues he witnessed. The EPA has not been here. The City is morally and economically responsible until this is taken care of. Pasquale noted the DEQ has visited. Dietzel stated the EPA has not. Until this is resolved, he wishes to remain in the home.

Shores suggested a worksession be established in the near future so that the Council can have this resolved for our peace of mind and for Dietzel and Bartlett.

Myers felt some type of agreement is needed. He believed a cap of \$400 a month was appropriate with an extension through June. It would be reasonable to think this will not be resolved before June as Dietzel has requested.

Sandy Bartlett of 990 N. Washington was concerned with the idea of paying \$500 a month, when they have the responsibility of maintaining the upkeep of the home. Other renters are able to call a landlord to fix items around the house. The rent has never been \$70 a month. The house is over 100 years old and has always needed much work. She stated the Council needs to consider and think about this clearly.

Councilmember Hodges believed a June 30, 2008 deadline was a reasonable amount of time for a decision to be made. He stated \$500 is what the Council has agreed to and would be in favor of holding to this amount.

IT WAS MOVED BY HODGES and seconded by SHORES to allow Gary Dietzel and Sandy Bartlett of 990 N. Washington to remain in the home paying a rental amount of \$500 per month until June 30, 2008.

YEA: Councilmembers Hodges and Shores.

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

ABSENT: None. MOTION DENIED.

IT WAS MOVED BY PFALLER and seconded by MATHEWS to allow Gary Dietzel and Sandy Bartlett of 990 N. Washington to remain in the home paying a rental amount of \$350 per month through June 30, 2008 with a rental agreement to be drawn by City Attorney Richard Wendt.

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

NAY: Councilmembers Hodges and Shores.

ABSENT: None. MOTION CARRIED.

Item #2. **RESPONSE FROM WLHS REGARDING PUBLIC ACCESS EQUIPMENT REQUEST.**

At the August 6, 2007 meeting, Al Eckman, as WLHS Station Manager, had requested \$2,000 annually out of Cable franchise fees. The purpose of this funding would be utilized for public access channel purchase/replacement of necessary equipment. Instead, the Council requested WLHS submit a per request rather than continual basis.

Thus, Eckman has provided a request to purchase two VHS players at a cost of \$1,052.

As requested by Council, Eckman stated he resubmitted a request to replace the two VHS players at the high school which were inoperable. These will be replaced with an updated commercial combination VHS/DVD/CD player. This should take care of their present and future needs.

IT WAS MOVED BY HODGES and seconded by SHORES to purchase two VHS players at a cost of \$1,052 for WLHS from the Cable franchise fees.

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

Mayor Myers questioned if any precedents have been set in terms of particular use of these fees. City Manager Pasquale explained the City has received these monies since Cable TV was established. Myers asked if these funds have ever been used for this type of purpose. Pasquale was unsure. The City has paid for the cost of operating the cameras for public access. This would be an allowable cost.

Councilmember Pfaller stated he would prefer the issue be handled this way as opposed to what was originally requested, where it was an ongoing amount every year. He wanted each expenditure taken individually.

Myers wanted this particular issue handled in this manner. However, in the future once something is established for the sale proceeds of the cable, it would be the proper avenue for future request. Pasquale noted there are separate franchise dollars.

Item #3. **CITY ATTORNEY'S OPINION REGARDING A POTENTIAL LEASE OF A PORTION OF THE RIVERWALK BUILDING TO THE LOWELL AREA ARTS COUNCIL.**

At the last Council meeting, the Lowell Area Arts Council (LAAC) requested a 20 year lease for occupying a portion of the Riverwalk building. While a ten year limitation is mentioned in the City Charter, the LAAC needs a longer lease in order to attract donors to finance required improvements.

The Council requested an opinion from City Attorney Richard Wendt who indicated a lease could not exceed 10 years. However, the lease could provide an option for an addition ten years.

On behalf of the LAAC, Rick Seese explained the committee has been trying to find a new location for the Arts Council. He believed the LAAC is a valuable commodity to the City of Lowell and has provided economic development for over 30 years. Seese noted the committee originally considered the Riverwalk. A feasibility study was completed, where it was determined approximately one million dollars would be available for spending along the Riverwalk. Seese

believed the intentions of the Riverwalk is to provide for entertainment and a cultural center. It has become the focus point of the community.

Seese asked if the Council wished to have the LAAC join forces with the Chamber and provide a gallery and offices along the Riverwalk. The committee would like insight of whether a 20 year occupancy will work.

Seese presented the idea of a 10 year lease with a 10 year option to purchase with an automatic reversion clause into a 10 year lease. Thus, two ten year documents. The donors need more security than just 10 years.

Mayor Myers believed if the donors have confidence in the Arts Council, a ten year lease would prove their value of the facility. It surprised him that a donor would place this kind of a caveat into a donation.

Councilmember Pfaller questioned if the school property north of the library had been considered. This would provide a brand new building for the Arts Council. Pfaller stated he had no problem leasing to the Arts Council, but questioned if this was the best option. He asked if the cost of a new building had been investigated. Seese responded the school property is not available.

Seese explained there is very little renovation which would need to be done if the Riverwalk building is used. He believed this would be a good partnership with the Chamber.

Councilmember Hodges stated he would support the proposal and sharing it with the Chamber of Commerce.

Councilmember Mathews inquired regarding the option of selling the Riverwalk building. It was noted the option is not completely out. However, a few Councilmembers did not like the idea at this time.

Shores believed the location would be an asset to the Arts Council. She would not be in favor of selling the building. Myers agreed.

Myers noted the City Charter is what limits the lease at 10 years. This is not easy to change.

Seese questioned if there could be any discussion of creativity which would somehow allow the LAAC to use the building for 20 years making the donors feel comfortable with the amount of money allocated toward the building.

Councilmember Pfaller stated there were several ten year leases with an option of a ten year renewal as individuals invested their own money to build hangars at the airport. After 20 years, the hangar became the property of the City. He believed the LAAC would verify their worth along the Riverwalk within ten years. The City is limited to 10 year lease agreements with a 10 year renewal option at the end. Pfaller did not believe any more could be done.

Seese stated these are the sentiments of the larger donors who will make or break the project. Shores asked if they would be receptive to a 10 year lease with a 10 year renewal. Seese stated these ideas have already been discussed. They are examining at a long term commitment for the dollars being invested.

Seese questioned if Wendt could provide a suggestion which would satisfy the Charter and their proposal. Pasquale stated the bottom line is a 10 year lease is no problem. However, at the end of the 10th year, the Council has to be in charge. Language could be provided which states consideration can be made to go beyond 10 years.

Pfaller referred to the option to purchase, which states there has to be two published advertisements for bids on City owned real estate. Pfaller was unsure if the City could even enter into an option to purchase agreement.

Myers commented on the \$300,000 Ambulance construction project taking place at the Fire Station. The City is paying for \$16,000 of this cost, as well as the two townships each while Rockford Ambulance is covering the remaining amount after receipt of grants. Another example includes the King Memorial Building at the fairgrounds. There has also been some discussion regarding a new building at the fairgrounds, which would provide a multi purpose building for smaller music venues to farm market venues where trucks could be driven in.

Myers stated he would be willing to have Wendt revisit the issue. He wishes to see the Arts Council at this location. It would be in the City's interest to do everything we can and look at every angle. Seese stated he would also seek some other ideas with the limitations.

Pasquale stated there would be a certain amount of risk in terms of what a future Council would want. However, the track record shows there have been long term agreements. As mentioned, Rockford Ambulance has entered into a 10 year agreement with much of the building funded through them. Seese stated he is not speaking of individual donors, but rather foundations who have such rules which need to be followed.

Pasquale noted an opinion from Wendt would probably not be received until the second meeting in September.

Jim White from the Lowell Area Arts Council also wanted Wendt to investigate the concept of a ten year lease renewal every year for an additional year.

Item #4. **LOWELL CITY AIRPORT – CONTRACT WITH MDOT REGARDING AIR EASEMENT COSTS.** As part of a program to secure a safer facility, a contract with the Michigan Department of Transportation is proposed to provide air easements over the west side of the Lowell City Airport adjacent properties. A total of \$100,000 is provided with the State allocation \$95,000 (95%) of the cost and the Airport (\$5,000).

IT WAS MOVED BY PFALLER and seconded by MATHEWS to approve the contract with MDOT securing air easement costs on the west side of Lowell City Airport authorizing the Mayor to sign such documents.

Myers noted this is another example of \$95,000 being invested into the City by MDOT which supports the Lowell Airport.

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

Item #5. **CABLE TELEVISION POST CLOSING MATTERS.** As part of the closing of Cable Television matters, the resolution acknowledges the following:

- Receipt of \$2,980,080 from Comcast for the purchase of Lowell Cable TV noting 10% holdback of \$331,201 totaling \$3,312,009
- Payment of \$471,526.05 to Light and Power for the interdepartmental loan from Cable TV out of the proceeds
- Approve payment of \$47,894.07 to Consumers energy for relocation of cable television poles attachments that are located on Consumer Energy poles, which are too close to the electrical lines (out of the proceeds) as required by the Comcast agreement.
- Approve payment of \$14,105 to former Cable TV employee Lawrence Dyer in severance payments out of the proceeds.

Mayor Myers questioned the amount of \$471,000. This is a debt which the Cable TV owes to Lowell Light and Power. Myers asked the Light and Power Board investigate what might be done with this money? City Manager Pasquale stated originally Light and Power had loaned Cable TV one million dollars. This was the outstanding balance. Myers thought perhaps the Council could hear from Light and Power regarding what they may do with these funds.

Myers asked if the relocation of the poles have been done. Pasquale stated this was done.

Councilmember Pfaller stated the amount of money given to a displaced employee from Lowell Light and Power. He wanted to confirm this was not for MERS vesting. Pasquale responded no, it was strictly severance pay.

IT WAS MOVED BY PFALLER and seconded by HODGES to approve the Cable Television Post Closing matters as presented.

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

NAY: None. ABSENT: None. MOTION CARRIED.

Item #6. **PROPOSED STREET SWEEPING CONTRACT.** DPW Director Dan DesJarden informed the Council the street sweeper has broken down again. Several thousand dollars were spent last month trying to fix it.

In 2006/2007 sweeping season, it cost the City approximately \$42,000 to have the sweeper on the road.

Of bids received, Sanisweep would cost \$27,160 per year which includes eight sweeps.

Councilmember Hodges questioned the months the sweeping would take place and how many times a month would this be done. DesJarden stated the hours of sweeping is done more in the spring time and ending in the fall. He noted the City of Lowell sweeps the streets twice as much as other cities.

DesJarden stated a new sweeper would cost between \$180,000 and \$200,000.

DesJarden requested direction from the Council.

Mayor Pro Tem Mathews did not believe it would be worth it. The equipment is old. He asked if there would be any value in parts. DesJarden stated the department would contact vendors who buy these machines for the parts.

Mathews said he has worked with Sanisweep and finds them to be a qualified vendor.

Myers asked if the cost was based on the length of the route. DesJarden responded yes. There are 21 miles of road within the City.

Myers inquired if in the contract would it be appropriate to designate a starting time. DesJarden stated this can be done.

Myers also stated in considering the expense and what is being spent now, the City will not reduce our staffing salaries between \$6000 and \$9000 a year by having a company perform this work. DesJarden stated the Department of Public Works has much more to do now than 25 years ago and within this time. The department has never added any extra employees, while all other departments have.

Councilmember Pfaller wanted the City to investigate and be creative regarding the possibility of leasing to own. DesJarden stated he would check into this and bring it back to the next meeting.

Item #7. **MONTHLY REPORTS**. No comments were received.

Item #8. **CITIZEN COMMENTS**. No comments were received.

Item #9. **COUNCIL COMMENTS**. Councilmember Shores commented on the minutes from the last meeting regarding appointments made. She wanted it stated there was one absent and one no regarding the appointment made to the Lowell Light and Power Board.

Mayor Pro Tem Mathews questioned if Linda Moon applied for a sign on wheels permit. City Clerk Morlock stated she would check.

Mathews also noted Tractor Supply had many items placed near the road with signs posted on these during the 4H Fair. This is ridiculous and the store should be fined. Police Chief Valentine was unsure if there were administrative fines which could be assessed. He did not believe the ordinance was established this way.

Mathews wanted to set a date for a worksession meeting regarding the North Washington property. He also believed a date should be set for the funding from Lowell Cable Company. He wanted to have direction by the end of the year.

Mathews also commented he received a phone call after returning from vacation regarding Jim Maatman not being reappointed to the Lowell Light and Power Board. Maatman has served the City for 14 to 16 years in many areas. He was disappointed Maatman was not reappointed and believed it was a big mistake. Mathews indicated he would have agreed with Shores had he been present during the last meeting. He appreciated the statements made by Shores during the last meeting. He wanted it recorded that he was opposed to removing Maatman from the Board. Mathews had nothing against Jim Hall, noting there would probably be two more positions to serve on the board soon.

Councilmember Pfaller commented on the joint session with Lowell Light and Power. It was agreed that they would give an update periodically on the removal of the substation at Stoney Lakeside Park. This was several months ago and there has been no update. He requested City Manager Pasquale have a written update provided regarding this matter.

Mayor Myers commented there was an issue with the high speed internet service. He was unsure of who he should call. After contacting Lowell Cable, he was told they are still managing this portion of the system. He asked Light and Power to report when this part of the system will be turned over to Comcast. He suggested an announcement or flyer be provided with contact numbers.

Myers also commented on the local auto dealers unloading their cars off on M21. He did not believe this was the safest place for this to be done. He requested officers visit the dealerships, especially the two new car dealers located on Main Street. Both dealerships have side streets in which this could be accomplished. Valentine stated he would contact these dealerships.

Myers referred to the neon lighting placed on the outside of the building at Larkin's Restaurant. He did not believe this was allowed within the HDC District. Pasquale responded the issue would be forwarded to the HDC.

Myers stated Pasquale had mentioned in his comments that we will need to elect a delegate for the Michigan Municipal League. Pasquale stated he, Shores and City Clerk Morlock will be attending the conference.

IT WAS MOVED BY PFALLER and seconded by MATHEWS to appoint Councilmember Shores as

the City delegate during the Michigan Municipal League Convention Annual Meeting in Traverse City.

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

Also, as mentioned by Mayor Pro Tem Mathews the following worksessions were set:

- September 10, 2007 at 7:00 p.m. regarding the Lowell Cable proceeds - City Manager Pasquale noted would provide information regarding options etc.
- October 8, 2007 at 7:00 p.m. regarding the North Washington Street property

Item #10. **MANAGER'S REPORT**. City Manager Pasquale reported on the following:

1. The meeting minutes for the following boards and commissions were provided:
 - Chamber of Commerce meeting of July 10, 2007
 - Airport Board meeting of July 10, 2007
2. With the upcoming Michigan Municipal League Convention to be held September 18-20 in Traverse City.
3. With the observance of Labor Day, City offices are closed on Monday, September 3. The Council will next meet on Tuesday, September 4.
4. Pasquale mentioned this past August 10 represented the 20th year anniversary as serving as Lowell City Manager. He expressed his great appreciation in serving this City.

Item #11. **APPOINTMENTS**. No appointments were made.

IT WAS MOVED BY PFALLER to adjourn at 9:07 p.m.

DATE:

APPROVED:

Charles R. Myers, Mayor

Betty R. Morlock, Clerk