

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

For the Regular Meeting of **MONDAY, NOVEMBER 3, 2008.**

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

Present: Councilmembers Altoft, Ellison, Pfaller and Mayor Pro Tem Hodges.

Absent: Mayor Shores.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, DPW Director Dan DesJarden, Police Chief Jim Valentine, Lowell Light and Power Boardmembers Perry Beachum, Greg Canfield, Lowell Light and Power Boardmember, Arbor Boardmember and Parks and Recreation Commissioner Jim Hall, Light and Power Manager Greg Pierce, and Lowell Light and Power Generation Power Plant/Safety Director Tom Russo.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to excuse the absence of Mayor Shores.

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

Item #1. **APPROVAL OF AGENDA.**

IT WAS MOVED BY ELLISON and seconded by PFALLER to approve the agenda as written.

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

Item #2. **APPROVAL OF THE REGULAR MINUTES OF THE OCTOBER 20, 2008 MEETING.**

IT WAS MOVED BY PFALLER and seconded by ELLISON to approve the minutes of the October 20, 2008 regular meeting as corrected.

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

Item #3. **APPROVAL OF THE ACCOUNTS PAYABLE.**

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

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

<u>BILLS AND ACCOUNTS PAYABLE (11/03/08)</u>	
GENERAL FUND	\$101,597.28
MAJOR STREET FUND	2,472.14
LOCAL STREET FUND	505.32

DDA FUND	1,248.99
AIRPORT FUND	1,052.32
WASTEWATER FUND	4,773.09
WATER FUND	7,343.52
DATA PROCESSING FUND	319.57
EQUIPMENT FUND	2,189.38
CURRENT TAX FUND	37,051.22

Item #4. **CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA.** No comments were received from the public.

DPW Director DesJarden stated the DPW has installed two LED street lights to be observed by the public asking for feedback. LED lights have great benefits which include reduction of energy usage and light trespassing. The lights have been placed on N. Jefferson at the corners of High and North Street. Further information is available on the City's website.

Item #5. **TREE ORDINANCE – PUBLIC HEARING AND CONSIDERATION.** As noted at the last meeting, the Arbor Board has recommended an updated tree ordinance after a number of months of review. The ordinance more details tree planting, care and removal of trees particularly in the city rights of way.

IT WAS MOVED BY PFALLER and seconded by ELLISON to adopt the tree ordinance as presented.

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

Item #6. **REVIEW OF RESOLUTION ESTABLISHING LCTV ENDOWMENT BOARD AND PRESCRIBING ITS DUTIES AND RESPONSIBILITIES AND OTHER MATTERS RELATED THERE TO – PUBLIC HEARING AND CONSIDERATION; REPORT REGARDING THE LCTV TOWER.** The City Council provided the following changes in the proposed LCTV Endowment Board resolution:

- Seven member board composed of four members from City (one elected), two from Lowell Township (one elected) and one elected representative from Vergennes Township.  
The subsequent terms of office were changed.
- The City Council has the final determination on funding decisions, not the Grand Rapids Community Foundation.
- Open Meetings Act is Act 267 of 1976 (not 1926)
- No equal dollars for dollar match on projects.
- Include the wording routine operating costs.

Also, two minor grammatical changes have been included in the final text.

After receiving public comments, the Council may approve the resolution.

A report on the LCTV Tower was provided by Police Chief Jim Valentine. There are no required inspections, but these can be carried out if desired.

Dennis Kent, 1700 Faith Drive believed the resolution and voting structure as developed, is fair to the subscribers. The townships are no longer excluded and this is a fair compromise. He believed the language in the proposed ordinance is flexible enough to include long term street improvements. He encouraged the Council to consider this as a serious use of the fund at this time. Other uses could be considered when times are better.

Charles Myers of 1019 East Main read the following into record:

I speak this evening not only as a City of Lowell Resident, but also as a former member of the Lowell Cable Television Board of Directors and as a former councilperson and mayor.

I strongly believe the benefit of this city investment should be the sole decision of the City of Lowell and should not include any influence from either Lowell or Vergennes Township.

To begin with, I'd like to have you ask yourselves this question.....

"Who are the shareholders of this investment that will now and forever, positively impact our community?"

They are the investors that provided the capitol to make this venture a success.

And here's another question.....

"Do you believe that shareholders take on risk, in return for their investment?"

Well, have you looked at your retirement account balance lately? Therein lies your answer.

When I speak of investment risk, I speak as an experienced banker.

As a banker, I know, every loan given is an assessment of risk....

The City owned Board of Light & Power lent the money to start the company.

It was an assessment of risk on the part of the Light and Power Board to lend \$1 million.

It was an assessment of risk on the part of the Cable TV Company to borrow the money. These were all city funds.

The argument of extending cable services into the townships and making them a shareholder does not hold water.

As a user of Consumers Energy gas in my home, does that make me a Consumers shareholder?

No it does not, it only makes me a Consumers Energy customer.

Now, let me provide you with this scenario.....

What if this business venture was so wonderfully successful that Lowell Cable extended services into the Ada area, would Lowell expect Ada's city officials to be at our doorstep requesting a say in how the interest earnings would be spent?

If you will please, simply reverse this scenario.....

Would the city of Lowell be knocking on the door of Lowell Township or Vergennes Township if they accumulated a return on investment of several million dollars, thinking city residents deserved some say in spending of the investment's interest income? I think not!!

I have another question that needs to be asked.....

Keep in mind, I have a number of dear friends living in both townships, but I still have to ask.....

What does the City of Lowell owe the townships?

When Meijer located in Lowell Township, and the City lost the tax base of Family Fare. Lowell Township expressed no concern about the city's economic loss.

Furthermore, did the township ever conceive of paying a little additional funding to support the area Historical Museum, based on their Meijer good fortune? No....the museum is funded by a Lowell City Tax Assessment, paid for the by city residents, but used by all area residents.

When Grand River Veterinary relocated in Vergennes Township, our city lost another taxpayer. Did Vergennes Township offer to contribute to our city funded parks system, based on their increased tax revenue? No....City parks are funded only with city tax revenue, but again, used by all area residents.

Or would Vergennes Township ever consider helping the city maintain the library building that is used by all and paid for only by city residents?

Yet another question is.....

“What has the Vergennes Township ever shared with the city of Lowell?”

I do have only one example.....

They shared with the city, a huge legal expense over a boarder issue that went all the way up to the State Boundary Commission level.

Here's one last wild scenario.....

What if the fund committee developed a new concept that cost the city taxpayers even more to construct, than the interest could annually produce? You would have township members approving a capital investment for the city!

Now, I have heard of threats of legal action on this board membership issue?

Our Lowell City Attorney reviewed the cable sale documents and all the LCTV company documents. There is no basis for any legal action to require township participation in this issue.

Don't be bullied into a decision, bypassing the interest of city residents.

And finally.....

This is not the Englehardt fund. That's a wonderful endowment fund established under the wishes of an individual benefactor (a wonderful man I might add) who personally requested both township and school involvement.

The "Lowell Cable Television Endowment Fund" is a city owned fund, resulting from the risk taken by the citizens of the City of Lowell.

The citizens of Lowell are the shareholders of this investment, the real stakeholders.

They alone should have a say in how the return from this investment should be spent.

Thank you.

Marsha Bieber of 320 Roberta Jayne, agreed with Kent and Myers. The funds should stay within the City and be used to repair the streets. She did not believe the State would provide such funds.

Tyler Kent of 1700 Faith, was against an advisory board at first. However, after attending the meetings, he believed it was a fair board. It represents the townships and the City. Kent supported using the money for roads and reconstruction.

Ivan Blough, 623 N. Jefferson, commented on the final draft. He did not believe the document was perfect. However, work shops were held and the community worked well together. The Council has been very diligent in listening to all sides. Blough indicated he did not agree with the 100% but that does not mean it is not right. He congratulated the individuals who have worked on it and encouraged the Council to vote favorably for it.

Robert Becker, 249 Roberta Jayne, agreed with Chuck Myers and others. He believed the people before him contributed to LCTV and the funds should be used for roads and parks within the City.

Councilmember Ellison stated everyone worked very hard on this. This is the makeup of an advisory board and the final say will legally come from the City Council. Even though the City does not owe the townships anything, this is an opportunity to work together.

IT WAS MOVED BY PFALLER and seconded by ELLISON to approve the resolution establishing the LCTV Endowment Board and prescribing its duties and responsibilities and other matters related thereto as presented.

Councilmember Altoft agreed with most of the individuals who spoke tonight and has from the beginning. A compromise was made. The Council still has control of the money and should be remembered next time the residents vote.

City Clerk Betty Morlock read the following into record from city resident Daniel Brubaker:

Hello Councilmembers, I may not be able to make the meeting this evening, but would like to state my opinion.

I just wanted to say one last time that I think it would be a mistake to give a majority of seats on the new advisory board to township residents. I don't mean to sound anti-township, and I recognize that intergovernmental cooperation is generally a great thing that benefits the citizens of all the units of government that participate (although I would note that there is only 1 unit of government in this instance). I just don't like the idea that the disposition of this particular could be directed by a group of people who don't live in the city and don't pay the kind of taxes that allowed the CATV venture to get off the ground in the first place. The city has already acted very generously in agreeing to put the proceeds of the sale aside and limiting the use of the fund to "special" projects. I suspect that the citizens of Lowell, who you represent, probably wanted that to happen. But putting the direction of those funds under the control of a board comprised primarily of township representatives would be a different thing indeed. I have no doubt that if one of the adjoining townships sold an asset that an advisory board made up primarily of city residents. Who could blame it? It's not good government, and not good representation of the interests of the residents the council is elected to serve. Lowell Cable was always a venture operated by the City of Lowell, primarily for city residents. The townships treated it just as they would any other cable franchise, and the township residents who purchased the cable service received exactly what they bargained for: cable programming in exchange for cash. They did not purchase an interest in the assets of the utility. The disposition of city funds should be directed in the manner recommended by city residents.

I therefore strongly urge you to stick with the plan to have the oversight board comprised primarily of city residents.

YEA:           3.       (Councilmembers Ellison, Pfaller and Mayor Pro Tem Hodges).

NAY: 1. (Councilmember Altoft). ABSENT: 1. (Mayor Shores) MOTION CARRIED.

Police Chief Jim Valentine stated a concern was raised at the last meeting regarding the status of the tower and if there are regulations or requirements to have annual inspections. He contacted Crouch Communications owner Dennis Mutschler (who maintains the police radio tower on Shepard Drive) was not aware of any federal or state regulations which require annual inspections. However, Mutschler did recommend preventative maintenance for the lights on top. This particular tower has a white strobe and a red beacon. Mutschler recommended regular replacements of these to prevent unexpected burnouts which would result in FCC and FAA violations. Estimates between \$200 and \$700 were provided to replace the beacon lights. Mutschler also estimated a structural inspection would cost approximately \$2,000. Valentine recommended the City replace the beacon lights and if desired seek bids regarding a structural inspection.

Altoft noted eventually Comcast will not need to use the antennas on the tower. If such antennas are out of service, these should be removed. Many festivals are held in the area and safety hazards should be addressed. Altoft noted he would be interested in having an inspection.

Pfaller questioned if Mutschler had recommended how often the lights should be changed. Valentine was unsure when the lights were last changed and recommended these be replaced at this time as well as seeking a recommendation regarding what intervals the lights should be changed. Pfaller suggested the lights be replaced now and the inspection be placed in next year's budget as a planned project. Pfaller believed part of the agreement between the individuals who have the antennas on the towers should include payment for removal if the company no longer uses the antennas.

Item #7. **WATER STREET STORM SEWER REPLACEMENT**. DPW Director DesJarden stated two bids were received for the replacement of a 30" storm sewer main on Water Street, near Michigan Wire. Earlier this year, there was an emergency repair at the site. The City has acquired both the DEQ and Soil Erosion permits for this project.

The bids were:

O.E. Bieri and Sons	\$7,500.
Lee's Trenching Service	\$11,500.

DesJarden recommended the project be awarded to O.E. Bieri and Sons as low bid as allocated from the Wastewater Fund – maintenance account.

IT WAS MOVED BY ELLISON and seconded by ALTOFT to recommend O.E. Bieri and Sons replace the Water Street Storm Sewer in the amount of \$7,500.

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

Item #8. **CONSIDERATION OF THE AMENDED 2008 – 2009 LIGHT AND POWER ANNUAL BUDGET AND CAPITAL PLAN; REVIEW OF SUBSTATION CONVERSION UPDATE.** Lowell Light and Power Boardmember Greg Canfield of 403 N. Washington, stated the Board advertised for a permanent replacement for the Light and Power General Manager. The best four candidates were interviewed. After much discussion, Greg Pierce has been selected as the permanent General Manager at Lowell Light and Power. Pierce's skills and talents will help and operations will be much improved.

Pierce explained the budget has been reviewed of the last several months to determine if there are areas which may have changed or may not be relevant anymore. Based on the revisions made, it appears there will be an overall decrease in the expected revenue for next year. Conscious efforts are also being made to cut costs. The overall impact is less revenue.

City Manager Pasquale noted the first estimate received for payment in lieu of taxes was \$245,000 and was included in the approved budget. However, it was not known that when the Light and Power budget was approved it was showing \$280,000.

Councilmember Pfaller inquired if the decrease from the sales revenues was because usage is down. Pierce responded this is the primary reason. It has been a mild year in terms of air conditioning usage as is true throughout the entire State.

Councilmember Ellison questioned the upgrade of the computer system and the possibility of a combined water and Light and Power bill. It was noted the upgrade will take on November 17, 2008. There is still discussion regarding a joint billing and how that may work.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to approve the amended Light and Power budget as presented.

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

Pierce went on to explain an ongoing issue has been a transition of the system ever since the new substation was built on Bowes Road. Light and Power has made steps to move forward on this. The main issue has been the removal and dismantling of the south substation at Stoney Lakeside Park. The first step is to eliminate the load from the substation by incorporating three step down transformers in other areas which can take the load off of this specific substation. Light and Power has sought bids on the new transformers and hope to be ordering these soon and finish the project by next summer.

Pasquale stated the main concern involved the appearance of the transformer cabinets. Councilmember Pfaller attended the last Parks and Recreation Commission meeting where concerns were raised regarding the appearance of these cabinets and how it would be best to camouflage them. Pierce noted these are temporary. There may possibly be one or two cabinets in the park.

Item #9. **BLOCKING OF EAST-WEST ALLEY BETWEEN THE POST OFFICE AND LOWELL LEDGER TO THE LOWELL AREA HISTORICAL MUSEUM – TABLED FROM THE OCTOBER 6 MEETING.** Recently, the alley between the Post Office and the Ledger fronting Broadway to the Museum adjacent to N. Hudson was paved. As part of the improvements, the Museum parking lot would be expanded into the alley to create necessary parking spaces and providing a wider parking aisle width. The alley would be blocked to accomplish this. The four affected property owners were all notified. A letter was received from Postmaster Gill Brown at the October 6, 2008 meeting as well as one from Steve Doyle, representing the Museum.

The Downtown Development Authority meeting was held on October 30, 2008. The DDA recommended the blocking of this alley.

Mayor Pro Tem Hodges stated it was DDA funds which provided the repaving and the work to the parking lot and or alley behind the museum. All this work was done with DDA funds. The recommendation was to create a larger parking area for the museum as well as the greater downtown area.

City Clerk Morlock stated she also received a call from a Boardmember from the Lowell Area Historical Museum requesting the parking to be expanded.

Jim Doyle, President of the Museum wanted to emphasis the future. The City of Lowell is growing. It would be nice to use the museum for activities and rentals. Parking is very much needed and will only become more needed as time goes on.

Sue Dombrowski resident of Grand Rapids and supervisor of the Lowell Post Office at 120 N. Broadway stated they wish to be good neighbors to the Museum. However, she was concerned with the safety of the mail carriers. There are eight carriers using the alley going to and from Hudson four times a day. Most of the time, there is no one parked at the Museum. If there is a way of giving the Museum more parking without blocking the alley that would be wonderful. Going out the alley the other direction causes the carriers to pull out between parked cars. The post office was told there could be consideration given to widen the alley which would eliminate a parking spot in front of the Ledger and the post office. This is a one way street and the carriers have one way to go. This would be a huge inconvenience. Initially, when contacted regarding the alley being repaved and closed, the post office understand this was just to repave the alley not to close it. Another problem includes the trash dumpsters. Garbage trucks will no longer be able to enter because the driver would need to back out of the alley onto N. Broadway. The Ledger's trash bin is also there.

Dombrowski questioned the number of parking spaces which will be created. City Manager Pasquale stated there will be 17 parking spaces, while there are currently 11.

Dombrowski stated the post office opposes the closure but not because they do not want the Museum to have space. Parking is a problem. She noted the library building was located there prior to the museum and had the same number of parking spaces. The carriers are questioning the feasibility of this because they use this area and drive past it every day to see possibly two

cars in the parking lot. She would love to see the Museum grow and have activities. However, Dombrowski did not believe this was a good idea for the mail carriers or businesses.

Pat Alchin of 2880 Bewell, Director of the Lowell Area Historical Museum stated her concerns for the post office as well as concerns for the Museum. On a daily basis, there may only be five or six people at the parking lot at one time. However, on other days, there may be as many as 15 cars wanting to park in other spots.

Police Chief Jim Valentine stated any net parking increases which can be done west of the river is ideal. He realized this is six spaces. Parking is an absolute premium and this is good for the downtown. Valentine foresees other cars parking in the lot while the Museum is closed. This is an increase of only six spaces. However, there is very little hope of gaining additional parking spaces west of the river. Valentine stated he would support any net increases in parking.

Councilmember Pfaller stated he was given a sketch of the parking lot and the way it is proposed to be lined. He proposed a compromise that on the north side of the lot on the new drawing looking at the east end where the 18 and 9 foot given the dimensions, take the first three spots out and let the alley continue through and divert it into the center aisle of the parking lot. Pfaller stated this would provide a net gain of three to four spaces. He was not in favor of closing the alley. DPW Director DesJarden stated within the zoning the alley is not designated for public traffic. Pfaller stated it does not have to be. Pfaller noted at one point the site plans were approved for those businesses. He believed it was tough to go in one direction, if one can't go all the way through.

Councilmember Altoft believed if the post office would relocate the building in the driveway, the carriers could exit out to Chatham. There would then be no issue. The post office placed this building in the middle of the driveway. Dombrowski stated this was never a driveway. The structure which jets out is the dock in which semis back up to several times a day. If the building is moved to make it a driveway, two parking spaces would be lost.

Altoft was in favor of blocking the alley. It was never designed for through traffic. However, if the alley is left open, he would rather see the traffic go from west to east in one direction.

Councilmember Ellison stated the alley is narrow. She has seen carriers cut through the alley and did not believe it was safe. It is an inconvenience to the post office, but the Museum has nothing else. She believed it should be closed. It is dangerous and the Museum needs the space. Ellison believed the post office has other alternatives.

Mayor Pro Tem Hodges believed the alley should be closed with additional parking given to the museum. This was DDA money and it was their intention to expand the parking and improve the area.

IT WAS MOVED BY ALTOFT and seconded by ELLISON to close the alley between the Post Office and Lowell Ledger.

YEA: 3. (Councilmember Altoft, Ellison, and Mayor Pro Tem Hodges)

NAY: 1. (Councilmember Pfaller) ABSENT: 1. (Mayor Shores) MOTION CARRIED.

Item #10. **COUNCIL COMMENTS.** Mayor Pro Tem Hodges urged everyone to vote on Election Day.

Item #11. **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 September 20, 2008
  - Planning Commission meeting of September 22, 2008
  - Downtown Development Authority meeting of September 25, 2008
2. City Treasurer Sue Olin provided a memo explaining the small disbursements for property taxes as noted in the Accounts Payables. Pasquale noted the current accounts payment also has small amounts. These are not checks but rather allocations by fund.

Item #12. **APPOINTMENTS.** Some interest from individuals has been received with regard to serving on the Lowell Light and Power Board as well as the Historic District Commission. Any individuals with an interest should submit a letter to City Clerk Betty Morlock.

IT WAS MOVED BY PFALLER to adjourn at 8:38 p.m.

DATE:

APPROVED:

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James W. Hodges, Mayor Pro Tem

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Betty R. Morlock, Clerk