

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

For the Regular Meeting of **MONDAY, DECEMBER 1, 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, Police Chief Jim Valentine, DPW Director Dan DesJarden, Lowell Light and Power Boardmember, Arbor Boardmember and Parks and Recreation Commissioner Jim Hall, Light and Power General Manager Greg Pierce, Light and Power employee Tom Russo, and Police Sergeant James Hinton.

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

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

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

Councilmember Pfaller suggested adding two items. First item would involve discussion regarding the replacement of the Police Chief and the direction of the department. The second item would be to discuss Chapter 12 of Charter, Item 13.5 and 13.10 with regards to off road vehicles, bows, BB guns and other similar articles. Mayor Pro Tem Hodges noted such issues could be added as items #11.1 and #11.2.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to approve the agenda as amended.

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

Item #2. **APPROVAL OF THE REGULAR MINUTES OF THE NOVEMBER 17, 2008 MEETING.**

IT WAS MOVED BY PFALLER and seconded by ALTOFT to approve the minutes of the November 17, 2008 regular meeting as written.

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

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

IT WAS MOVED BY ELLISON and seconded by ALTOFT 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 (12/01/08)</u>	
GENERAL FUND	\$115,496.43
MAJOR STREET FUND	1,806.17
LOCAL STREET FUND	166.59
DDA FUND	6,128.91
AIRPORT FUND	500.00
WASTEWATER FUND	37,361.50
WATER FUND	6,652.40
DATA PROCESSING FUND	83.95
EQUIPMENT FUND	1,298.20
CURRENT TAX FUND	37,861.43
LEE FUND	464.88

Item #4. **CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA.** DPW Director Dan DesJarden sought approval of closing Spring Street. At the last meeting, the Council approved the use of Richards Park on December 6, 2008 for a Post Parade Celebration. Impact Church wishes to utilize the parking lot at the former Congregational Church site for its guests as well as running extension cords from the church to the park for band equipment. DesJarden requested the closure of Spring Street between Lincoln Lake and Hudson Street for safety purposes.

IT WAS MOVED BY ELLISON and seconded by ALTOFT to approve the closure of Spring Street between Lincoln Lake and Hudson Street between 6 p.m. and 10 p.m. on Saturday, December 6, 2008.

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

City Clerk Betty Morlock announced on Tuesday, December 16, 2008 from 4 to 6 there will be coffee and cake for the public to extend their good byes to Police Chief Jim Valentine.

Item #5. **ORDINANCE INCORPORATING THE UPDATED UNIFORM TRAFFIC CODE AND MICHIGAN VEHICLE CODE – PUBLIC HEARING.** As recommended by Police Chief Jim Valentine, the ordinance adopts by reference the most recent copy of the Uniform Traffic Code and Michigan Vehicle Code. This indicates by adoption of the ordinance, the City is adopting all future amendments and revisions. This will eliminate the need to update the City Code each time there are amendments or revisions.

IT WAS MOVED BY PFALLER and seconded by ELLISON to adopt the ordinance incorporating the updated Uniform Traffic Code and Michigan Vehicle Code.

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

Item #6. **TALL GRASS AND NOXIOUS WEEDS ORDINANCE – RECOMMENDATION FROM THE PLANNING COMMISSION – REVIEW AND CONSIDER SETTING A PUBLIC HEARING (12/15)**. At its June 2, 2008 meeting, the City Council accepted the Planning Commission's offer to provide a recommendation on the tall grass and noxious weeds ordinance. After several months of review and discussion, the ordinance proposal has been unanimously approved by the Commission.

Specifically, the ordinance which is based on the Plainfield Township statute would provide mowing, maintenance on:

- On areas of developed lots, parcels and units where a traditional lawn has been established;
- The front twenty-five (25) feet measured from the improved right of way of residentially zoned lots or parcels, whether or not vacant, or lots or parcels with residential uses in which more that eighty-five percent (85%) of the lot or parcel has been developed (for corner lots and parcels, the front twenty-five (25) feet shall be measured from both improved public right-of-way); and
- All cleared and graded areas of lots and parcels where lawns or other landscaped improvements are intended to be planted, but have not yet been established.
- For all business and industrial zoned property and all other properties on which there are commercial, office, business and industrial uses regardless of the zone district, a property owner, tenant or other responsible party shall maintain all landscaped areas of the property free of the nuisances.

It was noted the ordinance will be placed on the City's website.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to set a public hearing for December 15, 2008 regarding the Tall Grass and Noxious Weeds Ordinance.

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

Item #7. **APPROVAL OF JOINT FIRE AND EMERGENCY SERVICES AGREEMENT.** Over the past several months, the Fire Board has been working diligently on a Lowell Area Fire and Emergency Services Authority. The proposed agreement spells out the composition of the Board, providing two representatives each from the City as well as Lowell and Vergennes Townships.

The agreement provides that the Lowell Area Fire Department be governed by the Authority. The Chief is an employee of the Board. Further, the Board shall prepare and approve an annual budget for review by February 1 of each year (an important issue to the townships).

The funding of the Authority is based on contributions of each jurisdiction based on State Equalized Value (40%), Population (20%) and Numbers of Runs (40%). A budget was provided which allocated costs and contributions. All costs for operating the department are included. The City's share is calculated at \$61,570.82. Currently, a budget of \$100,000 for the City is in place.

All equipment is transferred to the authority as well as all insurance responsibilities.

The Lowell Charter Township Board approved the agreement (which was reviewed by their attorney and City Attorney Richard Wendt) at its November 17, 2008 meeting. The Vergennes Township Board will consider the agreement at their December 15, 2008 meeting.

Councilmember Ellison questioned who paid for the equipment which will be signed over to the authority. Pasquale explained this was on a prorated basis and is a shared responsibility. Ellison inquired about the status of the building. Pasquale stated the building is owned by the City.

Councilmember Altoft questioned the upkeep and maintenance on the building. Pasquale stated this is all shared. He explained there is \$6,000 in the building maintenance and supplies budget. The added cost is \$195,300. The SEV is considered as well as the population and number of runs over the last three years.

Altoft commented on the budget for repairs and maintenance. He questioned what would happen if a new roof was needed. Pasquale stated this would be split accordingly but it has to be approved by all. Altoft was concerned about maintaining a building for \$5,000 a year every year. Pfaller noted such expenses are covered under maintenance cost and capital expenses. Maintenance is defined as repairing existing buildings and equipment. The maintenance cost is the responsibility of the authority.

Pfaller questioned Page 5 Item #1.7 which states the City is limited to a 10 year maximum on any agreement which is signed. However, the City authorizes a group to be a part of a 30 year agreement. Pasquale explained the agreement states it shall remain in effect for an initial period of 10 years.

IT WAS MOVED BY PFALLER and seconded by ELLISON to approve the Lowell Area Fire and Emergency Services Authority Agreement, subject to approval of all parties.

DPW Director DesJarden questioned if the maintenance costs and capital expenditures cover the plowing and mowing which is actually being charged to the Fire Department. Pasquale responded this is all maintenance. DesJarden also noted there is no mention under the maintenance agreement that the authority be responsible for all utilities. Pasquale stated this is noted under maintenance costs.

YEA: 3. NAY: 1. (Altoft) ABSENT: 1. MOTION CARRIED.

Item #8. **SAFE ROUTES TO SCHOOL PROGRAM.** Williams and Works Engineer Dave Austin stated approximately one month ago Cherry Creek Elementary announced they were successful in receiving a grant for the Safe Routes to School Program. This will provide funds for a non motorized trail to go along Gee Drive connecting Creekside Park to Alden Nash. In addition, there is a small amount of funds for parking lot improvements at Cherry Creek which will help facilitate in assisting pedestrians to the walk area. There were some minor sign additions which would also help facilitate safe walking in the area.

The grant was approved and Williams and Works has submitted the program application to MDOT. Because the project is administered through MDOT, it has to be done as a local agency project very similar to how the Bowes, Foreman and Gee Drive projects have been completed. MDOT is administering the funds. It is a local project but MDOT will receive the bids as required.

In order to bid the project in May of 2009, the final plans need to be done by mid February. Construction can begin in June.

Pasquale stated the program did not allow for engineering of the path. The path will be 10 feet wide and will begin at Creekside Park entrance, travel along the south side of Gee Drive and cross the road on the north side of Gee Drive due to difficulties with crossing residential properties on the south. The path would then proceed all the way to Alden Nash. The City is in the midst of applying to the Lowell Area Community Fund. In addition, assistance for the retaining walls is being sought. Austin explained the original cost of the project was slightly over \$300,000. There were several applications submitted to the State for the program. In order to reduce the cost of the project, retaining walls were traded for grading easements. This means in order to complete the project in some areas, it would be cheaper to just obtain permission from the adjacent property owners and change the grading in the front of their property in lieu of a retaining wall. This is the current plan and can be done if they can get an additional \$30,000.

Pasquale noted the City and the Lowell Area Schools are jointing applying for those monies through the Lowell Area Community Fund.

Item #9. **AMPHITHEATER RENOVATION PROPOSALS – DESIGN PLUS.** Pete Lazdins of Design Plus stated his firm is happy to be working for the City of Lowell. The company has been working with the City on such projects as the streetscape, riverfront and memorial park. Design Plus has been working with the City since approximately 1993/1994.

Lazdins explained the current walk terminates where the boat launch is. The City and the school system will have a joint venture. The City owns the continuation of the Lafayette right of way which runs through. However, some of it is school property.

Lazdins stated there is an existing substation next to the boat launch. The Lowell Light and Power Board is in the process of upgrading their electrical system.

In terms of the goals for the new amphitheater, it would be appropriate to find a good terminus and safe connection to the neighborhood for both pedestrians and bicycles. The goal is to continue and add more green space and make the riverfront more usable. Opportunities will be reviewed for an amphitheater accommodating performances or passive seating.

A proposed area has also been suggested for Lowell High School's competitive rowing. Perhaps they could even use some of the stage foundation once there is a survey. Landscaping will also be improved and work on the streetscape has already begun. There may also be an opportunity to flood an area and create a skating rink.

Mayor Pro Tem Hodges referred to the Thursday night concerts. He pointed out Chamber of Commerce Director Liz Baker indicated the Thursday night concerts would not be moved to that location.

Mike Houseman of Houseman Construction explained Phase 1 and Phase 2 of the project. These are beautiful opportunities. When completed, it can be used year around.

Houseman also provided a Phase I demolition/restoration plan. This involves taking some of the old amphitheater out and making it safer. It will be regraded and grass planted and one or two sidewalks would be installed. Then when funds are available, further landscaping can be included. City Manager Pasquale explained Phase I would clean the area. Currently, there is old concrete which is in disrepair and not appearing pleasant. This is step one and can be built on and over a period of time.

Pasquale explained the City is applying to the Downtown Development Authority and the Lowell Area Community Fund for funding.

Councilmember Ellison asked if the citizens can review and provide comments. Pasquale responded yes.

Councilmember Pfaller questioned how long the DDA is authorized to be the DDA. Pasquale responded until 2013. Councilmember Altoft questioned when the Council would need to act to keep the DDA enforced. Pasquale responded the prior year. Pasquale also noted there are two outstanding bonds which will be paid in full in March, 2013.

Pfaller asked if anyone has contacted the crew team. He was unsure if a rowing competition would be conducive on the Flat River. It was noted only practice is done along the Flat River.

Item #10. **PURCHASE OF A BACK BLADE FOR DPW PICKUP**. A new back blade with fixed wings for the DPW pickup is needed for snow plowing. The following prices were received:

Ebling and Sons (Kentwood)	\$3,755.
----------------------------	----------

Hoekstra Truck Equipment (Grand Rapids) \$3,750.

In reviewing this piece of equipment with the Kent County Road Commission, the back blade from Ebling would fit the DPW needs better and therefore recommended for purchase.

IT WAS MOVED BY ALTOFT and seconded by ELLISON to accept the bid from Ebling and Sons in the amount of \$3,755.

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

Item #11.1 **POLICE CHIEF.** Councilmember Pfaller recently received a news letter from the Michigan Municipal League. There was an article regarding the disbandment of the Mt. Clemens Police Department and contract with the local county sheriffs department. Pfaller suggested Pasquale at least investigate the options in contracting the City's law enforcement with the County before the Police Chief interview process takes place. Pfaller stated the article indicated there was a one million dollar savings within the first year of a five year contract.

Police Chief Valentine estimated the budget for Mt. Clemens was a much higher percentage than the average 35 to 40%. He was unsure of what the Sheriff's department would quote for providing coverage. If the City were to replicate what it already has, Valentine did not believe there would be a tremendous cost savings. Their labor costs are slightly higher than the City of Lowell's. Valentine was also concerned regarding loss of local control. If there is one car working with a number of townships on the east side of the county, there may not be another available for the City. Pfaller agreed. However, he wanted reassurance that City is where it needs to be.

Valentine explained the City of Coopersville did the same thing 15 years ago. All of the officers were retained with Ottawa County Sheriff's Department. Valentine was confused as to where the cost savings came because all the officers were placed into the sheriff's department making more money.

Mayor Pro Tem Hodges stated this may be worth looking into. However, he is very grateful for the times he has contacted the Lowell Police Department. The service, and response times hold a very high value.

Pfaller requested the Sheriffs Department to be contacted regarding its cost to contract with them. However, he did not want to reduce the coverage the City has at this point.

Pasquale questioned what would happen with dispatching. Valentine responded Kent County would provide all dispatching services. They have their own clerical and dispatching unit.

Item #11.2 **CHAPTER 13. 107 – BB GUNS AIR RIFLES AND SLING SHOTS.** Councilmember Pfaller referred to the problem with white tailed deer in the City. In particular, there are several areas where they are becoming a nuisance. This portion of the ordinance

outlaws the discharge of any BB guns, air rifle, toy pistol, bow and arrow, sling shots or any other toy shooting apparatus gun or implement which might result in damage or destruction of lights or property in the City limits. Pfaller suggested the Council consider repealing the portion that refers to discharging a bow and arrow within the City limits. This would allow hunting on private property. He believed hunting is a right and is a legal activity in which the City does not have the authority to outlaw. Pfaller believed there were many areas within the City where hunting would not be a problem.

Pasquale noted an ordinance amendment is necessary for this change.

Valentine explained the ordinance was not to prohibit hunting but rather provide safety. There are areas within the City which are very visible rural. However, one should come up with very specific wording with the ordinance when property owners are allowed to cull deer on their property, based on acreage. Valentine noted it is against the law to hunt within 450 feet of a house, building or structure by State law. He believed the spirit of the ordinance was not to prevent hunting, but rather provide public safety. Pfaller requested the issue be placed on the agenda for the first meeting in January for discussion.

Pfaller also referred to off road vehicles under Section 130.5 which states no person shall operate an off road vehicle within the City limits except for on the routes approved by the City Council. This limits individuals from operating snowmobiles and quads. This would even prevent the use of the golf cart at Schneider Manor. He did not believe the City should restrict the right of riding a vehicle on one's own property. Pfaller said the noise ordinance should be followed when operating such vehicles.

Councilmember Ellison believed such vehicles should not be allowed and are a nuisance within the City when there are neighbors close by. This is also a safety issue.

Councilmember Altoft believed golf carts were appropriate. With reference to motorcycles, it all depends on how much land one has. Altoft believed it should be reviewed. Ellison questioned if there were many large lots within the City.

Pasquale stated he would place this issue on the agenda for the first meeting in January.

Item #12. **COUNCIL COMMENTS**. Councilmember Pfaller questioned if the meeting with the post office and the surrounding businesses has taken place yet in reference to the alley closure. Pasquale responded no. However, there has been discussion individually with every property owner.

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

1. The following boards and commissions meetings minutes are provided:
 - Grand Valley Metro Council - Transportation Policy Committee meeting of September 17, 2008
 - Planning Commission meeting of October 27, 2008
2. The Christmas Parade is scheduled for Saturday, December 6th at 6 p.m.

Item #14. **APPOINTMENTS.** By general consensus, Chris Fleszar was appointed to the Downtown Historic Commission expiring January 1, 2010.

By general consensus, Andy Johnston was appointed to the Lowell Light and Power Board with a term expiring June 30, 2011.

By general consensus, Barb Barber was appointed to the LCTV Endowment Fund Board with a term expiring December 31, 2009.

By general consensus, Dan Brubaker was appointed to the LCTV Endowment Fund Board with a term expiring December 31, 2010.

By general consensus, Dennis Kent was appointed to the LCTV Endowment Fund Board with a term expiring December 31, 2011.

By general consensus, James Hinton was appointed to Kent County Dispatch Authority.

IT WAS MOVED BY ALTOFT to adjourn at 8:49 p.m.

DATE:

APPROVED:

James W. Hodges, Mayor Pro Tem

Betty R. Morlock, Clerk