

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

For the Regular Meeting of **MONDAY, JANUARY 5, 2009.**

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, Interim Acting Police Chief James Hinton and DPW Director Dan DesJarden.

Item #1 **APPROVAL OF RESOLUTION RECOGNIZING C. JEANNE SHORES AS MAYOR EMERITUS.**

Mayor Pro Tem Hodges indicated Mayor Shores has resigned from her position as Mayor of City of Lowell. The following resolution was read into record by City Manager Pasquale:

Resolution recognizing C. Jeanne Shores as Mayor Emeritus

WHEREAS, C. Jeanne Shores has faithfully served on the Lowell City Council since January, 1994; and

WHEREAS, Councilmember Shores has also held the office of Mayor during the years 2001 to 2005 and 2008 to present; and

WHEREAS, Mayor Shores has faced physical difficulties which inhibited her attendance at City Council meetings.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

C. Jeanne Shores is recognized by Council with the title MAYOR EMERITUS and furthermore retains membership on the City Council, until her term expires in December, 2009; and

The City Council will appoint a new City Councilmember who will serve in Councilmember Shores' absence during this interim period and furthermore;

Mayor C. Jeanne Shores is honored by this title of MAYOR EMERITUS for her faithful diligence in many years of service to the City she so dearly loves.

IT WAS MOVED BY PFALLER and seconded by ELLISON to pass the resolution recognizing C. Jeanne Shores as Mayor Emeritus.

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

NAY: None. ABSENT: Mayor Shores. MOTION CARRIED.

Item #1.B **RECOGNITION OF JAMES W. HODGES AS MAYOR ACCORDING TO CITY CHARTER SECTION 5.2 (C).** Due to the resignation of Mayor Shores, it is now necessary to fill the Mayor's position, according to City Charter Section 5.2C. Mayor Pro Tem Jim Hodges will now serve as Mayor until the end of the year.

Item #1.C **ELECTION OF MAYOR PRO TEM.**

IT WAS MOVED BY ELLISON and seconded by ALTOFT to elect Councilmember Pfaller as Mayor Pro Tem.

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

Item #1.D. **ADVERTISE FOR OPEN COUNCIL SEAT.** Mayor Hodges explained individuals interested in serving on the City Council must submit letters of interest to City Clerk Betty Morlock by 5:00 p.m. January 16, 2009. Hodges indicated the Council wishes to appoint an individual as early as January 20, 2009.

Item #2. **APPROVAL OF AGENDA.**

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

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

Item #3. **APPROVAL OF THE REGULAR MINUTES OF THE DECEMBER 15, 2008 MEETING.**

IT WAS MOVED BY ELLISON and seconded by PFALLER to approve the minutes of the December 15, 2008 regular meeting as written.

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

IT WAS MOVED BY PFALLER and seconded by ALTOFT to approve the closed session meeting minutes of December 15, 2008 as written.

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

Item #4. **APPROVAL OF THE ACCOUNTS PAYABLE.** Councilmember Ellison questioned the expenses of the repair to the fire truck. City Manger Pasquale stated the amount will be split amongst the townships under the new Fire and Emergency Services Authority.

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

YEA: Councilmember Altoft, Ellison, Mayor Pro Tem Pfaller and Mayor Hodges.

NAY: 0. ABSENT: 0. MOTION CARRIED.

<u>BILLS AND ACCOUNTS PAYABLE (01/05/09)</u>	
GENERAL FUND	\$92,044.26
MAJOR STREET FUND	738.04
DDA FUND	1,394.38
CITY HALL CONSTRUCTION FUND	36,750.00
AIRPORT FUND	500.00
WASTEWATER FUND	4,815.42
WATER FUND	10,812.18
DATA PROCESSING FUND	619.50
EQUIPMENT FUND	445.84
CURRENT TAX FUND	64206.64

Item #5. **CITIZENS COMMENTS FOR ITEMS NOT ON THE AGENDA.** DPW Director Dan DesJarden thanked Boy Scout Leader Dirk Ritzema and Troop 102 for volunteering their time to fill 400 sand bags. In December, there was a record snow fall along with a rapid melt. In working the Acting Chief James Hinton, Fire Chief Frank Martin and City Manager Pasquale, it was felt a pro active stand needed to be taken due to flooding in certain areas on the south east side of the City.

Charley Schlosser representing the Lowell Youth Wrestling Club explained the group is trying to raise funds. A requirement from the State involves having a chartable organization ID number. Therefore, Schlosser is requesting a resolution, stating the Lowell Youth Wrestling Club is recognized as a non profit organization within the community.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to recognize the Lowell Wrestling Club as a non profit IRS 501 C3 designation.

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

NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #6. **ANNUAL AUTHORIZATION CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA.** There is a need for the City to annually designated its depository banks and authorize signatures for the coming year.

The following designations are recommended:

a. Authorized signatures:

Mayor James Hodges
Mayor Pro Tem James Pfaller

City Manager David Pasquale
City Treasurer Suzanne Olin
Acting Police Chief James Hinton
Deputy City Treasurer Vicki Fansler

b. Safety Deposit Box:

Betty Morlock
Susan Ullery
Luanne Wisniewski

c. Depository Banks:

Comerica Bank – Grand Rapids	(Grand Rapids)
Huntington Banks	(Lowell)
National City Bank	(Grand Rapids)
Fifth Third Bank	(Lowell, Ada, Grand Rapids)
Bank One – Grand Rapids	(Ada, Grand Rapids)
Standard Federal Bank	(Ada, Grand Rapids)
Firstbank	(Lowell)
Mercantile Bank of West Michigan	(Wyoming)

IT WAS MOVED BY ELLISON and seconded by ALTOFT to approve the above individuals for authorization of signatures for city bank accounts and designation of depository banks.

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

Item #7. **GRAND RAPIDS COMMUNITY COLLEGE – COLLECTION OF SUMMER PROPERTY TAXES FOR 2009.** As recently carried out for the Kent Intermediate School District, Grand Rapids Community College requested that the City collect the summer property taxes for the district. As part of a continuing resolution, the City collects the GRCC's property taxes at no fee, but is able to keep the interest earned during the bank deposit before distributing these monies.

City Manager Pasquale recommended the current policy for collecting GRCC summer property taxes be maintained and a resolution be passed.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to collect the summer property taxes for 2009 for Grand Rapids Community College.

YEA: Councilmember Altoft, Ellison, Mayor Pro Tem Pfaller and Mayor Hodges.

NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #8. **UPDATE ON THE LOWELL AREA HISTORICAL MUSEUM.** Director of the Lowell Area Historical Museum Pat Allchin provided an update of the facility. She presented a booklet of the annual report and highlights of what has happened over the past year. She thanked the City of Lowell for their continued support. The museum had a good year. There was a pie sale during the Harvest Celebration.

Over 19,000 individuals visited the museum, which the community should be proud of. Over 50 volunteers worked almost 5,000 volunteer hours. The new exhibit entails highlights of Lowell and what it used to be as a retailing community.

Another exhibit will be opening at Good Chevrolet the end of January, 2009

Allchin highlighted the government support from Lowell and Vergennes Townships. She did not want to underestimate what the City does for the museum. Allchin was unsure of the exact amount. However, approximately \$21,000 has been budgeted and is received yearly from the City due to the millage.

Mayor Hodges stated the City appreciates the townships' involvement with the museum. They are part of the community as well as its history.

Mayor Pro Tem Pfaller commented on the repair of roof at the museum a few years ago. Pfaller noted a piece of fascia has blown off. Allchin responded this would be taken care of in the Spring.

Item #9. **REQUEST FOR TWO VCR/DVD COMBINATION PLAYER/RECORDERS FROM PUBLIC ACCESS.** Al Eckman, Station Manager for the internet radio station, which originates from the high school, was present to request the purchase of two VCR/DVD combination player/recorders. The station maintains and programs the Comcast public access channel. Approximately one year ago, he presented the purchase of such equipment to the Council.

The cost amounts to \$998 total for the two units. A total of \$5,550.33 remains in unallocated proceeds from the sale of Lowell Cable TV and could be used for this purchase, if desired by Council.

Councilmember Ellison questioned why a VHS would still be necessary. Eckman responded the station uses mostly DVDs. However, this meeting is currently being recorded on a tape. The station has an agreement with the City of Lowell to take the VHS tapes and broadcast these four times each week following the Council meeting. The station will also convert the VHS tapes into DVDs at a small fee of approximately \$50 a year for 24 Council meetings.

IT WAS MOVED BY ELLISON and seconded by ALTOFT to provide \$998 allocated from the remaining Cable Fund proceeds to purchase two VCR/DVD combination player/recorders.

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

City Clerk Morlock noted the Council meetings are now being televised several times a day.

Item #10. **FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2009-2010 ALLOCATIONS OF FUNDS – PUBLIC HEARING.** As mentioned at the last meeting, Kent County has informed the City that \$20,552.40 is available in Federal Community Development Block Grant funds beginning in July, 2009. With \$6,000 allocated to North Kent Transit Service to assist elderly and handicapped riders, only \$14,552.40 would be available.

City Manager Pasquale recommended these remaining funds be banked until next year so a larger project can be considered. This is allowable under CDBG rules.

IT WAS MOVED BY PFALLER and seconded by ELLISON to allocate \$6,000 to the North Kent Transit utilizing the Federal Community Development Block Grant Fund, leaving \$14,552.40 unallocated and be banked for use in the future.

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

Item #11. **ADOPTION OF THE RECREATION PLAN – PUBLIC HEARING.** As noted at the November 17, 2008 meeting, the City Council adopted the Recreation Plan on July 7, 2008. In order to qualify for Michigan Department of National Resources certification, the plan must have a 30 day public review period, which then qualifies projects for grant funding.

The City did not have a full 30 day review. Now, this has been accomplished. No changes are being made to the plan.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to adopt the Recreation Plan.

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

Item #12. **REPORT REGARDING CONTRACTED POLICE SERVICES WITH COUNTY SHERIFF'S DEPARTMENT, INTRODUCTION OF NEW POLICE OFFICER.** Acting Police Chief James Hinton thanked everyone for allowing him the opportunity to serve as interim chief. As directed by City Manager Pasquale, he searched a couple entities which are using the Kent County Sheriff's Department for police services. Hinton obtained their hourly fees to the Sheriffs Department for these services. He noted the Lowell Area Schools is also utilizing the sheriff department. It costs \$50 an hour per officer which also includes a car. Cannon Township contracts with the Sheriff's Department for 16 hours worth of coverage a day and includes one officer and a car. The total hours equal \$48.80 an hour. Multiplying the \$48.80 with 8.5 full time employees, the Sheriff Department's fee schedule would charge the City of Lowell \$862,784 annually for the same type of level coverage the City is currently receiving from

the Lowell Police Department. At present, the Lowell City Police Department budget is \$835,643, which makes up 32.5 percent of the general fund budget. With these numbers, the Kent County Sheriff's Department would actually cost the City of Lowell an extra \$27,141 annually for the same level of coverage. This does not even include the extra clerical staff which the City currently has. Plus, all the other issues, the clerks take care of such services as walk in complaints, fingerprinting and many other aspects on a daily basis.

Mayor Pro Tem Pfaller stated he had a meeting with retired Chief Valentine and Acting Chief Hinton before Christmas to review the issue. There was some misunderstanding of what he was actually requesting. The Council is elected to be stewards of the City's funds. In no way did he ever intend to say he was dissatisfied with any service. However, the Council has to ask if the City is in the best place it needs to be. Pfaller considered this to be a reassurance the City is doing the right thing and headed down the right road.

Hinton noted the Council was also provided with an area police budget percentage of general fund survey. He found this off of the Michigan Association of Chiefs of Police listserv. Of the 15 different departments, on average the police department is using 39.5 percent of the General Fund, with a range of 20 to 56 percent. The Lowell Police Department is coming in at 32.5 percent.

Mayor Hodges thanked the Lowell Police Department for their work and what the Officers do.

Hinton explained with the retirement of Chief Valentine, the department is also preparing for the retirement of Officer Cal Kamphuis. Therefore, he has been given authorization to pursue another full time officer. Interviews were completed and Hinton in turn believed Gordon Lauren would be the best replacement. He has been with the police department as a part time officer since April, 2008. He has also served with the Kent County Sheriff's Department and their parks division since 2007. He is married with three children. Officer Lauren was introduced to the Council.

Item #13. **DISCUSSION AND CONSIDERATION OF ORDINANCE AMENDMENT PROPOSALS – ARCHERY HUNTING WITHIN THE CITY LIMITS AND OPERATING OFF ROAD VEHICLES ON PRIVATE PROPERTY.** Mayor Pro Tem Pfaller proposed ordinance amendments on the following issues:

- Allow archery hunting within the City Limits in accordance with State regulations,
- Operating off road vehicles between the hours of 7 a.m. to 9 p.m. on private property.

Pfaller stated he disagreed with the past and present Police Chiefs on the archery hunting issue. They believed there should be a property lot size requirement for archery hunting. He thought the Michigan Department of Natural Resources hunting regulations are sufficient as it states one can not discharge a weapon within 450 feet of a house, unless there is written permission. Pfaller presented pictures of areas along Bowes Road where trees and leaves had been eaten by deer.

Pfaller proposed this change and seeks input as well as sending it to City Attorney Richard Wendt so it can be redrafted and approved at the next meeting. Councilmember Altoft agreed. He lives on Main Street and has had a car/deer accident in recent years.

Acting Police Chief Hinton stated he also lives in the City and has problems with deer eating his flowers. However, his concern is for public safety. If the Council directs there to be an ordinance written, he requested it be the same ordinance with exceptions. If archery hunting is allowed, it should include minimum acreage for public safety as well as hunting on private property only. Again, public safety is his biggest concern.

Councilmember Ellison commented on all the deer in her yard. She agreed the animals are annoying. However, she does not want archery allowed in the City and the ordinance should not be changed because of such a problem.

Pfaller was concerned with the City having to hire individuals to eliminate the deer problem.

Mayor Hodges stated he tends to agree with Ellison. We live in the City. He may like to see how the ordinance would be written and may like to review the size of acreage. However, there are some things one gives up when living within the City. He wanted to review the ordinance in its entirety before a final decision is made.

Councilmember Altoft stated he was in favor of having this legal in certain areas. One must be licensed and abide by all the State laws.

Ellison believed the lot size was discriminatory.

Pfaller would meet with Hinton and assemble a draft. If there is a consensus of the Council, then the City Attorney can draft a final form.

Jim Reagan of 680 Bowes stated he plants approximately 50 trees a year and replaces about 25 of them every year from deer damage. He has made attempts to contact the DNR regarding property size. However, due to chronic wasting disease, the DNR officer has been unable to talk personally with him. Not a month goes by where one does not see a car/deer accident within the City. Reagan stated he would be more than happy to work with the recommendations of an attorney and the acting police officer and provide a recommendation.

Reagan addressed Ellison's question and stated the deer come into the City because this is where hunting is not allowed. He also wanted the issue of hunting varmints and other smaller animals.

Reagan also noted he would be happy to serve on the Downtown Development Authority again as well.

Pat Allchin noted three deer crossed in front of her vehicle not too long ago as she was driving on Main Street near Crystal Flash.

The Council discussed the issue of "Off Road Vehicles (ORV)". The issue is really not enforced at this time unless there is a complaint. Mayor Pro Tem Pfaller presented his proposed ordinance. Pfaller explained he has a problem that we as a government infringe on what people can do in their own yards. Particularly an ORV that does not make any more noise than a lawnmower. Pfaller proposed operation of off road vehicles which includes but not limited to allterrain vehicles, quads, mini bikes, go carts, motorcycles, snowmobiles, or any motorized vehicle which is designed to be driven off road is restricted to operation between the hours of 7 a.m. and 9 p.m. on private property. This is a further restriction from what is allowed for construction noise. Vehicles covered by this section must be properly maintained and equipped with a properly muffled engine.

Councilmember Ellison stated for the same reasons she was not in favor of this proposal as well. She lives in the City. An ATV should be run in the country.

Hinton stated if Council directed the department to investigate he would like to see it as an exception to the current ordinance. The amendment could address property and stating these ATV's can be ridden on private property and also state a minimal acreage for the parcels. Hinton was concerned regarding the nuisance ordinance which would address this. However, he would rather see an objective versus a subjective ordinance. Hinton would work with the Council if they so wish to pursue this.

Councilmember Altoft believed this needed to be done. There are situations when people must use off road vehicles. He did not have a problem as long as the vehicles are properly muffled.

Mayor Hodges stated he would tend to be more lenient on this and agreed with Mayor Pro Tem Pfaller.

Both the issues were tabled for further discussion.

DPW Director DesJarden stated he has a four wheel drive pickup that has ORV stickers by the State on it. He wanted the Council to keep this in mind during discussion.

Item #14. **CIVIL INFRACTIONS ORDINANCE – SET PUBLIC HEARING (1/20)**. The Planning Commission at its November 24, 2008 meeting recommended adoption of the civil infractions ordinance. Retired Chief Valentine and City Manager Pasquale strongly supported this measure.

The civil infractions ordinance, as mentioned in City Attorney Richard Wendt's memo, decriminalizes certain violations of the City Code of Ordinances, including the zoning ordinance. This expedites the process of handling infractions.

A municipal ordinance violations bureau is established to receive fines for those violations who admit responsibility.

If adopted, the ordinance would take effect on March 1, 2009. A training session for all affected personnel will be held with the City Attorney prior to this time.

City Manager Pasquale recommended the Council establish a public hearing date of January 20, 2009 to consider adopting this ordinance.

Acting Police Chief James Hinton stated it would be much easier for the department to enforce civil infractions. In addition, it will be a cost savings for the City of Lowell as well because the City Attorney will not be initially involved with any violations.

IT WAS MOVED BY PFALLER and seconded by ELLISON to set a public hearing for January 20, 2009 regarding the Civil Infractions Ordinance.

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

Item #15. **COUNCIL COMMENTS**. Councilmember Altoft stated much of the new sidewalk on North Center Street has not been shoveled. The sidewalk along Main Street near the railroad tracks was also mentioned.

Altoft also noted a piece of flashing has also been torn off from the Foreman Building.

The DPW has done a great job plowing snow and keeping the streets clean.

Mayor Pro Tem Pfaller questioned the amount of road salt the City has. DPW Director DesJarden stated there is almost half left. The City has plenty.

Mayor Hodges was very saddened with the departure of his good and dear friend Jeanne Shores from the Council. It was an honor to nominate her a year ago as Mayor. He has appreciated her support in pushing him and encouraging him as Mayor Pro Tem. Hodges also appreciates City staff and fellow Councilmembers. The City will continue to wish Shores the best as she fights her fight with cancer.

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

1. Pasquale echoed Hodges comments regarding Jeanne Shores. She is a good friend of his and of so many in Lowell. It was mentioned in the resolution that she dearly loves this community and this community dearly loves her. She will be missed at this table and has been a delight to work with. Pasquale wishes her well. There are many people who continue to pray for her. There are many people who wish her nothing but the best.
2. The following commission meeting minutes are provided for your information:
 - Parks and Recreation Commission meeting of November 8, 2008.

3. The year 2008 had the following activities:
 - public park use agreement with Lowell Little League
 - replacement of carpet and tile in the Fire Station community room and kitchen
 - extension of agreement for Lowell Boy Scout Troop 102 involving the cabin and adjoining property
 - Water Treatment Plant well and pump #2 overhaul
 - approval of master plan amendment involving park designation
 - approval of administration and deposition of LCTV Endowment Fund
 - approval of agreement with Imperial Municipal Services regarding building inspection services
 - approval of residential lease agreement at 990 N. Washington
 - approval of REGIS computer mapping programs
 - approval of extending legal services agreement with Dickinson Wright
 - purchase of dump truck
 - construction of sidewalk on North Center Street
 - approval of Williams Air Power as Fixed Base Operator at Lowell City Airport
 - approval of tree ordinance
 - reconstruction Riverside Drive from Main Street to Light and Power as well as adjoining parking lot and alley between the Post Office and Larkins
 - approval of joint fire and emergency service agreement
 - approval of tall grass and noxious weeds ordinance amendments
4. The next City Council meeting is scheduled for Tuesday, January 20, 2009 in observance of Martin Luther King Day. City offices will be opened on Monday, January 19, 2009.
5. In talking with Vergennes Township, the board wishes to have Peggy Covert their representative. However Covert is not an elected member. Pasquale questioned the Council thoughts regarding this. Hodges believed the resolution is clear that it be an elected official

Councilmember Pfaller and Altoft agreed.

Item #17. **APPOINTMENTS**. The following boards and commission positions need appointment or reappointment:

By general consensus, the Council reappointed Gerald Hale and Jim Myaard to the Airport Board with terms expiring January 12, 2012.

By general consensus, the Council reappointed Susan Pomper and Don Green to the Parks and Recreation Commission with terms expiring January 1, 2012.

By general consensus, the Council reappointed Jim Reagan and Brian Doyle to the Downtown Development Authority with terms expiring January 1, 2013.

By general consensus, the Council reappointed Dave Pasquale to the Building Authority with a term expiring January 1, 2012.

By general consensus, the Council reappointed Steve Doyle to the Downtown Historic District Commission with a term expiring January 1, 2012.

By general consensus, the Council reappointed Jim Pfaller (City elected official) and Perry Beachum (City non elected member) to the Lowell Area Recreation Authority with a term expiring January 1, 2010.

IT WAS MOVED BY PFALLER to adjourn at 8:42 p.m.

DATE:

APPROVED:

James W. Hodges, Mayor

Betty R. Morlock, Clerk