

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

For the Regular Meeting of **MONDAY, MARCH 2, 2009.**

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

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

Absent: None.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, DPW Director Dan DesJarden, Acting Police Chief James Hinton, Lowell Light and Power Boardmember and Arbor Boardmember Jim Hall, Planning Commission Chair Doug Folsom and Planning Commissioner Andrew Schrauben.

Item #1. **APPROVAL OF AGENDA.** Councilmember Pfaller suggested the LARA grant application be added to the agenda as Item #11.5.

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

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

Item #2. **APPROVAL OF THE CLOSED SESSION MINUTES OF THE FEBRUARY 2, 2009 MEETING.**

IT WAS MOVED BY ELLISON and seconded by PFALLER to approve the closed session minutes of the February 2, 2009 meeting as written.

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

Item #3. **APPROVAL OF THE MINUTES OF THE FEBRUARY 17, 2009 REGULAR MEETING.**

IT WAS MOVED BY PFALLER and seconded by LAPONSIE to approve the minutes of the February 17, 2009 regular meeting as written.

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

Item #4. **APPROVAL OF THE ACCOUNTS PAYABLE.**

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

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

NAY: 0. ABSENT: 0. MOTION CARRIED.

<u>BILLS AND ACCOUNTS PAYABLE (03/02/09)</u>	
GENERAL FUND	\$99,688.95
MAJOR STREET FUND	4,253.49
DDA FUND	2,567.70
AIRPORT FUND	500.00
WASTEWATER FUND	8,118.02
WATER FUND	15,667.91
EQUIPMENT FUND	3,548.66
CURRENT TAX FUND	2,740.31

Item #5. **CITIZENS COMMENTS FOR ITEMS NOT ON THE AGENDA.** Peggy Covert of 982 N. Washington was present as a representative of the Lowell Area Conservation Association. In the past, the group has worked to control the invasive garlic mustard plant. The Girl Scouts have offered to take over this project. Covert was hopeful the Boy Scouts would provide care to the Scout cabin area on North Washington.

Covert indicated concerns have now been raised regarding purple loosestrife which is choking out cat tails and many other water plants. Michigan State University has been working on a beetle which can be used to eat these plants only. The Reeds Lake area, as well as many other areas throughout the State of Michigan, has used such beetles and the problem seems to be under control. The program has been approved by MSU, MDNR and the West Michigan Land Conservancy.

Covert requested Council permission to be able to collect the beetles and distribute them in the river some time in May.

Acting Police Chief Hinton had no concerns. He suggested he and DPW Director DesJarden work together to coordinate this. City Manager Pasquale requested documentation be provided.

Councilmember Altoft had no objection as long as DesJarden confirmed everything was being done correctly.

Mayor Pro Tem Pfaller wanted it noted the island properties are owned by King Milling. Therefore, permission to remove the beetles from the islands should be approved by them

rather than the City of Lowell. The City has no authority over the property. Acting Police Chief Hinton and DPW Director DesJarden stated this is being worked on and documentation will be provided to City Manager Pasquale.

Item #6. **ORDINANCE AMENDMENT DEFINING AUTHORIZED CITY OFFICIALS TO ISSUE CIVIL INFRACTIONS VIOLATION NOTICES AND CITATIONS - ADOPT.** The Council adopted the civil infractions ordinance at the February 17, 2009 meeting. In order to implement this, officials must be identified who could issue violation notices and citations. The proposed amendment identifies the following:

Police officer, director of public works, building inspector, zoning administrator, plumbing inspector, electrical inspector, city manager, city clerk, fire chief, assistant fire chief and fire captain.

In consultation with City Attorney Richard Wendt, this ordinance should be adopted. City Manager Pasquale recommended approval.

Acting Police Chief James Hinton stated a joint training session was held with Wendt where department heads met and a City wide policy was discussed. He believed this is good for the City.

IT WAS MOVED BY PFALLER and seconded by LAPONSIE to adopt the amended ordinance defining authorized city officials to issue civil infractions violation notices and citations as proposed.

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

Item #7. **PERMISSION FOR FIREWORKS DISPLAY.** Executive Director of the Chamber of Commerce Liz Baker stated this is the 15th year for the Riverwalk Festival. The festival has grown immensely over the years and there have been many changes. The event was held over Labor Day its first year and then moved to the second weekend in July. The Chamber also took on the responsibility of displaying fireworks again, noting the Downtown Development Authority actually paid for these initially. However, Laurels of Kent has since offered to sponsor the fireworks and has been for the last six years. Baker noted there has been a significant increase in cost of the fireworks.

Permission has been requested to shoot the fireworks on Saturday, July 11, 2009 at 10:15 p.m from Stoney Lakeside Park. It is a secure area. The Lowell Area Fire Department will be assisting Melrose Pyrotechnics, Inc.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to approve the fireworks display at Stoney Lakeside Park on Saturday, July 11, 2009 at 10:15 p.m.

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

Item #8. **APPROVAL OF TEMPORARY LIQUOR LICENSE – PAULY’S BEER BQ AT FAIRGROUNDS – SUNDAY JULY 12.** Betty Davidson, Co-Chair person for the Riverwalk Festival, stated the event will be held July 9, 10, 11 and 12th. She explained Thursday night has been added as part of the festival which includes the summer concert series. There will be no changes in events for Friday and will include arts and crafts, used book sale, pontoon tours and an evening concert. Pontoon tours will be held on Saturday, July 11 from 8 a.m. to 12 noon and will be streamlined with the parade, which is being changed from 11a.m. to 12 noon. The food booths will also run later. The duck race will be moved to Sunday, at 1:00 p.m.

Paul Saba from Pauly’s suggested the idea of a BQ cookoff. The Kansas City BQ Society who indicated their interest in participating in the event which would network Lowell with many from around the United States. Another idea would be to solicit Michigan Brewers to organize a beer garden as a fund raiser for the event and showcase their beers. He has received tremendous support for this. Therefore, a request for a beer and wine license has been requested. The event will be run from noon to 5 on Sunday.

Mayor Pro Tem Pfaller stated he was involved in one of the Kansas City Society events at Calder Plaza. He was amazed at some of the equipment which was brought to the event. Individuals are judged on presentation and flavor. There are very strict cooking policy’s which also must be followed.

Saba explained there would be one point of entry where tokens would be bought and wristbands given to those over 21 years of age. No children unattended by an adult would be allowed.

Baker noted there would be added security from the Fire Department.

Acting Police Chief Hinton believed this was a great opportunity for the City of Lowell. As with many of the events, Hinton is looking forward to partnering with the Chamber of Commerce to ensure this is a success. There may be one officer located at the event.

Baker noted the event was sanctioned by the Kansas City Barbeque Society. They are also seeking a proclamation from the governor of Michigan to make it a State Barbeque Championship, which will allow these people to move forward to the Jack Daniels national event.

Baker added individuals will not be allowed to test the food. However, there will be vendors selling barbeque food. They are hoping to donate much food to Flat River Outreach Ministries. It was also noted proceeds would benefit the Chamber of Commerce.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to grant the Chamber of Commerce a temporary liquor license for the Barbeque Cook Off event held at the fairgrounds on Sunday, July 12, 2009.

YEA: 4. Councilmember Altoft, Ellison, LaPonise and Mayor Pro Tem Pfaller.

NAY: 1. Mayor Hodges. ABSENT: 0. MOTION CARRIED.

item #9. **RESOLUTION TO APPROVE THE POLICE DISPATCH SERVICES AGREEMENT WITH THE CITY OF WALKER.** The police dispatch services agreement with the City of Walker has been proposed for renewal to cover off hours (5 p.m. to 6 a.m., weekends) since 1992. There has been an increase in the fees from \$21,000 to \$23,000 for the services provided. Acting Police Chief Hinton was pleased with their services and recommended approval. City Manager Pasquale noted the cost is less than what would be charged by the Kent County Sheriff's Department. Hinton added dispatching through the Sheriff's Department is typically over \$30,000.

IT WAS MOVED BY LAPONSIE and seconded by ELLISON to approve the Police Dispatch Services Agreement with the City of Walker from July 1, 2009 to June 30, 2010.

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

NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #10. **BOW AND ARROW HUNTING ORDINANCE – PUBLIC HEARING.** Over the last several meetings, the Council has had the opportunity to review the issue of providing bow and arrow hunting within the City of Lowell on 10 acres or more. This was initially raised with the Council and Acting Chief Hinton brought in a DNR conservation officer to discuss this. It was noticed there are a few communities who do allow such hunting. This would be held at the same time as the regular hunting provisions in the fall.

An ordinance was drawn and reviewed by the City Attorney Richard Wendt. It allows for bow and arrow game hunting within the City for private properties of 10 acres or more. Hunting is restricted to licensed hunters under all State regulations. Also, hunting shall not take place within 300 feet of a public street, road, sidewalks, pathway or other public thoroughfare or within 450 feet of an occupied building. Violation of the ordinance is a misdemeanor.

Hinton stated he was contacted by Steve Doyle (706 Riverside) who raised concerns in reference to the ordinance. Doyle was concerned about hunting taking place within 300 feet of a public street, road or sidewalk. He believed if one does not allow hunting near an occupied dwelling closer than 450 feet, why would a sidewalk where people could be walking or a road in which many could be driving by be any different. Also, Doyle raised concerns regarding the definition of an occupied building. How would the hunter know when it is occupied or not occupied. The State has a statue which provides the City of Lowell can enforce these DNR laws. Hinton suggested making adjustments to state hunting may not take place with 450 feet of a public street, road, sidewalk, pathway or public property line. Since many of these parcels are adjacent to public parks, it would be a good idea to keep the hunters 450 feet away from these public parks.

Hinton stated the DNR law states a hunter shall not hunt or discharge a weapon within 450 feet of an occupied building, a dwelling, a house, a residents, a cabin, a barn or other building used in connection with a farm operation.

Councilmember LaPonsie questioned the average distance in which a bow and arrow usually travels. Hinton believed an arrow could travel 300 feet.

Councilmember Ellison inquired how one would know if permission is received from Attwood if there is hunting on their property. Hinton explained, per State law, a hunter has to obtain written permission from the property owner and be able to present this to law enforcement when hunting.

Beth Pfaller of 810 Bowes explained she has two large gardens on her property where the deer have been eating. The neighbors have had the same problem. She would support the ordinance and some type of deer population control for the City as it is becoming a big problem.

Ron Wenger of the Kent County Youth Fair believed the biggest problem involves safety. He has almost hit deer on Bowes Road as there is too many for the population. Wenger questioned if on 10 acres one would have to stand in the middle of the property to have 450 feet all the way around. Hinton stated one acre is 660 feet in length by 66 feet wide. Therefore 10 acres would be 660 x 660 feet. Wenger questioned if there would even be enough distance to hunt. Hodges believed the property would vary in every instance.

Andrew Schrauben of 755 Grindle read the following into record:

There is certainly a problem with deer – they stand right against the bay window on my own house munching on the yew hedges. However, this isn't the way to confront the problem.

Despite its good intentions, I see this ordinance proposal as nothing more than an ad-hoc attempt at population control that in reality give a select few landowners the privilege of sport hunting within city limits.

Why? Three reasons:

Does not directly address the problem.

No matter what the acreage limit is, for safety reasons it has to be large compared to a typical city lot. This means that some areas of Lowell could not possibly benefit. For example, where I live in NE Lowell there's a resident herd of deer but no 10-acre properties nearby, so that corner of the city is not helped by this plan.

The fact is that there are too many deer statewide. Killing a dozen or so in the city isn't going to dent the surrounding population, and those deer will continue to be pressured by competition for food to attempt moving into town.

Another issue is simply that we provide food for the deer. Not necessarily deliberately, but by allowing them easy access to our gardens and bird feeders we encourage their "immigration" to our yards. The proposed ordinance does not address this factor, despite that it could possibly impact the deer population more than hunting could.

Any positive impact will be offset by negative effects.

Wounded deer running into traffic may cause accidents, potentially offsetting any reductions in accidents due to fewer deer. Non-hunting residents may have wounded deer crossing their property, or be forced to deal with deer dying in their yard.

Further there's the risk of a "give an inch, take a mile" effect. Will someone owning a 5-acre parcel feel safe enough to hunt undetected? Will owners of small lots adjacent to large properties decide that they're close enough?

Perhaps even more serious is the harm to Lowell's image. Lowell is a city, not a rural crossroads. When the idea was first discussed a month ago, a local TV station carried the story on their nightly news program. In typical TV fashion the story was sensationalized with footage from Lowell Township, but nevertheless we don't want to foster the perception that kids might have to wear orange in order to safely walk to school.

No means to measure effectiveness.

This to me is the most significant criticism – we have absolutely no way to determine if this ordinance is effective at its goal of controlling the deer population. We will never know if it works.

The severity of winter has a far bigger impact on deer population than hunting, so any impact to deer activity within the city cannot conclusively be attributed to hunting. In addition we're just a small area amidst a statewide deer problem, so without direct partnership with a larger agency or population control program we cannot know how deer or other factors outside the city are affecting the population within the city.

Trying out a one-year variance as an avenue to reach compromise similarly provides no value because any perceived impact will be purely coincidental. It would not be wise to use such unfounded "data" as a basis for future ordinances.

Summary

In terms of deer population control, this proposed ordinance is effectively useless. It's just a stab in the dark.

Instead what we have is a sport hunting proposal that privileges five city residents who might enjoy archery hunting. For the remainder of us – literally 99.9% of Lowell's citizens – this ordinance proposal does nothing. (the end of Schrauben's remarks).

City Manager Pasquale clarified one acre is 43,560 square feet. In general terms, a lot that is 200 x 200 is 40,000 square feet. Therefore, a 206 x 206 lot is basically an acre.

Dave Austin of 908 Lincoln Lake, said ten acres is 435,600 square feet with the square root of that being 660 square feet.

Mayor Pro Tem Pfaller presented pictures from Schneider Manor and the damage to the landscaping around their buildings.

Also, Pfaller stated DPW Director DesJarden received information from the DNR regarding goals for the deer population in the area and the goals for Kent County. The goal for 2006 to 2010 was 17,500 to 21,000 deer for Kent County, which is approximately 20 to 24 per square mile. The estimated 2005 population was 30,000 deer. The proposed management strategy from the DNR is antler less deer hunting permits, especially on private land, are expected to be and remain the primary management tool. Efforts to reduce deer population in suburban fringe areas by encouraging use of harvest permits, archery hunting, and other feasible methods need to be emphasized. Special deer management permits within currently restricted areas such as incorporated towns or city limits would be potential harvest tools. The strategy requires the support of local citizens and governmental units. However, above target goal deer populations will result in negative ecological impact such as reduced forest regeneration, sustained ability of ground nesting, bird populations and potential for wildlife disease issues and reduction and overall health of the deer population. This is more than just an opportunity for five property owners to hunt. Examine other areas in western Michigan, specifically Blanford Nature Center. The City of Grand Haven and Holland have had to hire those who control the deer herd. This is an opportunity for the City to do it. If the issue was safety, knowing we couldn't get away from being 450 feet from a dwelling. We could stipulate it has to be from an elevated tree stand and the arrow would be going toward the ground.

LaPonsie questioned the deer population in Lowell. Hinton referred to the information provided by DesJarden. The DNR calculates population by county only. The biologist that Hinton talked to stated the deer population in Kent County is at 30 deer per square mile. The DNR wishes to have the deer herds around 25 deer per square mile. However, there would be a trend analysis on this as well.

Ellison believed this is an annoying problem, but it is not a panic one. There has been a decrease in car/deer accidents. The original ordinance was written to protect citizens. For the welfare of the community, Ellison was opposed to the ordinance.

Councilmember Altoft was 100% in favor of the ordinance.

Mayor Hodges stated he was all for deer hunting, perhaps not in the City limits. He was not comfortable with the current state of the proposed ordinance. However, the proposal of hunting in tree stands would help lighten his negativity. Hodges believed there is still time to continue to review the ordinance and suggested it be tabled.

LaPonsie also wanted more information and supported the idea of tabling the issue.

It was noted Hinton and Pfaller would meet to review the wordage.

DesJarden stated the ordinance is currently written to allow archery hunting. There are some laws in which some game can not be hunted from a tree stand. This is one of the safest ways for hunting with a bow because the angle is down. He noted turkeys can not be hunted from a tree stand.

The issue was tabled until the ordinance is rewritten and submitted. An additional public hearing will be held before action is taken.

Item #11. **CHANGING STREET NAME – SOUTH DIVISION TO SOUTH JACKSON (SOUTH OF FRONT STREET TO BRIDGE) – RECOMMENDATION FROM THE PLANNING COMMISSION.** Councilmember LaPonsie explained the issue of the street name change was originally brought to the Planning Commission regarding a possible RV park at 504 Front Street. For ease of directions to the park, conversations centered on South Division, just south of Front Street to the bridge. It appeared to make more sense to rename this South Jackson Street. Since this is a county road, the Kent County Road Commission asks that all affected property owners agree. There is one property owner who is not in favor of the change. However, it will not affect her street address because her building is south of Keiser's and will remain a Division Street address. LaPonsie noted there is no cost to the City.

Mayor Hodges explained this would be a resolution to Kent County. They make the final determination.

Councilmember Ellison believed the change made sense.

By general consensus, the Council agreed to prepare a resolution in favor of the change.

Item #11.5. **GRANT APPLICATION FOR LARA.** Dave Austin of Williams and Works explained the Lowell Area Recreation Authority is proceeding with a grant application to the Michigan Department of Natural Resources to obtain a portion of the funding for Phase 1 of their proposed trail. It will traverse from the Cherry Creek area to the high school and the Wege Wittenbach Nature Center. LARA is allowed to make an application independent from the City and townships because the State recognizes them as a recreation authority. The group is also considering a large segment of the funding from private donations.

The other source of the application for funds is through the Michigan Department of Transportation, Transportation Enhancement Grant program. The safe routes to school grant which Cherry Creek received will construct a trail along Gee Drive this summer. This is an off shoot of this program. These are funds through the federal program which are administered by the State of Michigan. One of the projects funded include bike/walking trails. In order to apply for funding, one must be an Act 51 Agency or a road agency which is eligible to receive those funds such as a county or a city. Townships are not eligible as well as the authority. Therefore, a sponsor is sought for the application.

The request was to ask the City of Lowell to be a sponsor for the LARA. As the applicant, one can enter into an agreement with the authority and would accept responsibility for the trail and the operation and maintenance. If the authority would dissolve or does not live up to their responsibility, the applicant would still be responsible. This is a common activity.

He referred to the trail being proposed from Lowell to Greenville on the abandoned rail. The sponsor for this was the City of Belding. Another example is the "safe walk to school" program to the Cherry Creek Elementary School.

Councilmember Ellison questioned how long LARA has been around. Austin responded since 2004.

Austin stated a public meeting will be held on March 11, 2009 at 6:00 p.m. at Lowell Township Hall.

IT WAS MOVED BY LAPONSIE and seconded by PFALLER to support the Michigan Department of Natural Resources grant application for LARA and be an Act 51 sponsor for the project.

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

Item #12. **COUNCIL COMMENTS.** Councilmember LaPonsie stated she will not be able to attend "Coffee with Council" on March 7, 2009 as her son is competing in the Pine Wood Derby.

Mayor Pro Tem Pfaller questioned when assessment notices were being sent. City Clerk Morlock believed these were sent on recently.

Councilmember Ellison stated she visited the Water Treatment Plant. It seems the plant will be up and running again soon. She was very impressed with the facility.

Councilmember Altoft asked if any recourse could be taken with regard to Riverside Drive. City Manager Pasquale stated he is waiting to hear back from City Attorney Richard Wendt. Altoft questioned if an inspector had been hired to over see the project and would this inspector be liable.

Mayor Hodges stated he recently attended the Light and Power Board meeting for the task of reviewing their budget. He was most impressed with their efforts this year in providing their budget to the Council in a timely manner. He was also impressed with Greg Pierce and his leadership at Light and Power.

A question arose from the Light and Power Board concerning the payment in lieu of taxes. It appeared this issue is overdue with having a joint meeting with Light and Power. Pasquale responded meeting dates of March 25 or 26 have been discussed. By general consensus, the

Council agreed to meet on Thursday, March 26, 2009 at 7:00 p.m. in the City conference room. The meeting is open to the public.

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

1. The following boards and commissions meetings minutes are enclosed:
 - Parks and Recreation Commission meeting of January 17, 2009
 - Grand Valley Metro Council – Transportation Policy Committee meeting of January 21, 2009
 - Planning Commission meeting of January 26, 2009
2. The Lowell Area Fire and Emergency Services Authority met Monday, February 23 to organize. Tim Wittenbach, Vergennes Supervisor as Chairperson, Carlton Blough, Lowell Township Trustee as Vice Chairperson and Maryalene LaPonsie as Secretary-Treasurer. Frank Martin was officially appointed as Fire Chief for the Authority.
3. The LCTV Endowment Fund Board held an organizational meeting on Tuesday, February 24. Dan Brubaker was chosen as Chairperson, Dennis Kent as Vice Chairperson and Barb Barber as Recording Secretary. The Board discussed timelines of grants reviews.

Item #14. **APPOINTMENTS.** By general consensus, the City Council appointed Jake Callier to the Lowell Area Fire and Emergency Services Authority Board with a term expiring January 1, 2013.

Acting Police Chief James Hinton noted Officer Cal Kamphuis will be retiring at the end of March. A retirement party has been scheduled on March 31, 2009 in the Council Chambers from 4 to 6 p.m. Hinton also acknowledged Bernadette Johnson who has served with the RSVP program of 11 years. She is separating from the group as she will be moving to Ada, Michigan.

IT WAS MOVED BY PFALLER to adjourn at 8:55 p.m.

DATE:

APPROVED:

James W. Hodges, Mayor

Betty R. Morlock, Clerk