

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

For the Regular Meeting of **MONDAY, AUGUST 17, 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, Police Chief James Hinton, Arbor Boardmember and Lowell Light and Power Boardmember Jim Hall, Planning Commissioner Andrew Schrauben and Light and Power Boardmember Andy Johnston.

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

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

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

Item #2. **APPROVAL OF THE MINUTES OF THE AUGUST 3, 2009 REGULAR MEETING.**

IT WAS MOVED BY LAPONSIE and seconded by PFALLER to approve the minutes of the August 3, 2009 regular meeting as written.

YEA: 5. NAY: 0. ABSENT: 0. 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: Councilmembers Altoft, Ellison, LaPonsie, Mayor Pro Tem Pfaller and Mayor Hodges.

NAY: 0. ABSENT: 0. MOTION CARRIED.

| <u>BILLS AND ACCOUNTS PAYABLE (08/17/09)</u> | |
|--|--------------|
| GENERAL FUND | \$179,610.32 |
| MAJOR STREET FUND | 1,112.86 |
| LOCAL STREET FUND | 1,601.01 |
| LOWELL AREA FIRE & EMERG. SVCS | 1,312.56 |
| DDA FUND | 1,472.37 |
| AIRPORT FUND | 1,269.94 |
| WASTEWATER FUND | 28,937.26 |
| WATER FUND | 41,223.36 |
| DATA PROCESSING FUND | 122.50 |
| EQUIPMENT FUND | 1,983.38 |
| CURRENT TAX FUND | 118.65 |
| LOOK FUND | 14,858.00 |

Item #4. **CITIZENS COMMENTS FOR ITEMS NOT ON THE AGENDA.** Mike Larkin, Larkin's Restaurant at 301 W. Main, requested the closure of N. Broadway Street between Main Street and the alley near the post office on Saturday, October 10, 2009 for the 8th annual Chili Cook Off. The event has been well received by the community. Last year, over \$2,000 was raised and donated to Flat River Outreach Ministries. This year the money will be donated to the Trails Association.

Chief Hinton noted no difficulties with the event in past years.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to approve the closing of N. Broadway from 7 a.m. to 7 p.m. on Saturday, October 10, 2009 for the 8th Annual Chili Cook off.

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

Item #5. **SIDEWALK REPAIR UPON HOUSE SALE PROGRAM – DEFERRED FROM THE PREVIOUS MEETING, REPORT AND PRESENTATION FROM LISA LYONS – GRAND RAPIDS ASSOCIATION OF REALTORS.** At a previous meeting, the issue of requiring sidewalk inspection and repair at the time of housing sale was raised. A program such as this has been in place with the City of Grand Rapids for some time.

Lisa Lyons, Director of Government Affairs and Community Outreach for the Grand Rapids Association of Realtors was present to address the Council on the issue. She stated GRAR opposes point of sale mandates. As a general rule, real estate transactions are a complicated process.

The members have found point of sale mandates, especially dealing with sidewalk inspection and repair, falls short of the desired result of safe and attractive infrastructure. It is inconsistent by the inherent nature of point of sale.

The Grand Rapids ordinance has been in place since 1997. There have been issues involving inspections for properties with no sidewalks. Lyons noted the City of Grand Rapids uses a City approved list of approximately six contractors who get backed up very fast. This creates time constraint problems for the sellers as well as inconsistencies of how the repairs are estimated. One realtor member received a sidewalk repair estimation of \$9,000 from a City approved contractor. Prices were also sought from two private contractors who estimated the repair to cost approximately \$1,000. During the winter months, estimates are placed in escrow until the job can be done in the spring. Again, these were just estimates. It has been found the job is less than what was estimated and it can take months for the sellers to recoup the costs.

Lyons urged the Council to carefully consider the issue. Is there truly a problem with sidewalks and disrepair in the City? The Association would be more than happy to work with the Council to find an alternative solution. Everyone knows safety is the most important item the City can provide to its residents. No one wants sidewalks which are crumbling and in disrepair.

Councilmember Ellison stated she would not support making an ordinance for this and saw no reason to pursue it. She believed sidewalks should be inspected, but not attached to the sale of a house.

Mayor Pro Tem Pfaller referred to Section 19 – 2.3 of the ordinance which states “the City Manager is hereby authorized and directed to order any person who owns property adjacent to abutting upon any sidewalk, retaining wall, driveway approach that is not in good repair to build, rebuild or repair such structures”. City Manager Pasquale stated this is already being done. DPW Director Dan DesJarden explained as always, the ordinance is on a complaint basis. When there is a complaint on a bad sidewalk it is followed through and the repair is made.

Councilmember Altoft stated he has changed his mind on the subject. The City already has the tools and he believed the issue could be dropped.

Councilmember LaPonsie would not support point of sale mandates. She would rather see sidewalk inspections done by IMS periodically.

By consensus, the Council decided to drop the issue and use the tools already available for sidewalk repair.

No further action was taken.

Item #6. **BIDS – CABLE TV BUILDING ROOF REPAIR.** At its July 6, 2009 meeting, the City Council accepted \$12,085 from the LCTV Endowment Fund to undertake repairs to the Cable TV Building roof. Requests for bids were solicited to local contractors. Of those received, Architectural Building Restoration (Mark Batchelor, General Manager) was the lowest at \$12,580.

City Manager Pasquale noted Batchelor has done much work in the City. He has much interest in Lowell and is highly recommended. The LCTV Endowment Fund will provide \$12,085 and \$495 will come from the General Fund Unallocated.

Mayor Pro Tem Pfaller asked if DesJarden was familiar with the roof system provided by Dan Vos. DesJarden responded yes. Pfaller pointed out the bid from Architectural Design provides a 10 year warranty while the bid from Dan Vos provides 15 years. Therefore, the Dan Vos bid is actually cheaper per year over the life of the roof. DesJarden agreed with Pfaller, however, the specifications of what Vos provided should have been given to Batchelor.

IT WAS MOVED BY ALTOFT and seconded by ELLISON to approve the bid from Architectural Building Restoration for the repair of the Cable TV roof at a cost of \$12,580 with \$12,085 allocated from the LCTV Endowment Fund and the General Fund Unallocated account of \$495.

YEA: 4. NAY: 1. (Pfaller) ABSENT: 0. MOTION CARRIED.

Item #7. ZONING BOARD OF APPEALS

A. 414 N. Monroe – David Jordan – front yard setback variance for covered porch – set public hearing date (9/8). The Planning Commission will consider a recommendation on this variance at its August 24, 2009 meeting. A public hearing should be established for the September 8, 2009 meeting.

David Jordan of 414 N. Monroe stated he has lived in the City for the last two years. This is a great City and his family is very pleased to be a part of this community.

Jordan explained he wishes to extend the porch and add a full wrap around porch as well as an additional door. The porch will be roofed.

Councilmember LaPonsie explained the issue will come before the Planning Commission for a recommendation. She noted all criteria needs to be met in order for the variance to be granted. She suggested Jordon review Item #A again. It would not meet the necessary criteria as it is currently written. The more information he provides the better.

Jordan provided a letter from his neighbor indicating their approval of the project.

IT WAS MOVED BY HODGES and seconded by LAPONSIE to establish a public hearing for September 8, 2009 to consider a front yard setback variance for a covered porch at 414 N. Monroe.

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

Item #8. **PURCHASE AND RESOLUTION OF FINANCING FOR TWO POLICE PATROL CARS.** As part of the adopted 2009 – 2010 City budget, two police patrol cars were proposed to be acquired through a three year installment purchase program.

The vehicles are proposed to be acquired through the State of Michigan's program. Two 2010 Chevrolet Impalas with Police packages will be purchased through Berger Chevrolet Inc. of Grand Rapids at a cost of \$38,758. With added cost for equipment, equipment installation, striping and lettering provided by Mark's Body Shop and issuance cost for installment purchase, the total amounts to \$44,001.

The low bid for a three year installment purchase from Firstbank-West Michigan at an interest rate of 3.57%. The first year's payment is \$15,845.13 (\$15,000 budgeted).

Councilmember LaPonsie asked if the cars were available through Good-Chevrolet. Chief Hinton explained the State solicits an RFP for police cruisers. Both Shaheen and Burger Chevrolet provided the lowest bid to the State of Michigan for the Chevy Impalas. LaPonsie asked if the same procedure was taken regarding the installation of the equipment within the cars. Hinton responded yes. There are very specific details when installing the camera system, light bars, and graphics.

Mayor Pro Tem Pfaller questioned Exhibit A of the agreement. Section 2 has to do with purchasing a truck. City Clerk Morlock noted this can be changed. Pfaller also questioned Section 11 – F which states "we will provide an audit within 180 days to the financial institution". He did not believe the audit would be done that fast. Pasquale stated it is usually submitted by the end of that particular year.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to approve the purchase and resolution of financing for two Police patrol cars as proposed.

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

NAY: None. ABSENT: None. MOTION CARRIED.

Item #9. **MONTHLY REPORTS.** Mayor Pro Tem questioned the Building Inspector's Report. It states Jody Haybarker received a permit for shingling her house. He did not believe building permits were required for such jobs. She should not have been charged for a building permit.

Item #10. **COUNCIL COMMENTS.** Councilmember LaPonsie asked if the Parks and Recreation Commission is checking into Richards Park. Mayor Pro Tem Pfaller responded yes. LaPonsie requested the Council be kept up to date.

LaPonsie also commented on the letter and picture the Councilmembers received from a resident showing an individual walking their dog unleashed at the cemetery. She suggested posting these pictures online.

Mayor Pro Tem Pfaller questioned if there was an opinion from City Attorney Richard Wendt as far as the storage and what legal action could be taken regarding the railroad ties near the Wellhead Protection area. Pfaller stated the creek flowing through the property also flows through his backyard. If there is any arsenic contamination, it would show up in the surface water. He suggested the water be tested.

Pfaller congratulated the Kent County Youth Fair on a very successful 75th year event. It was a great week and great weather.

He also thanked the Lowell Rotary for playground equipment at Richards Park.

In response to Councilmember LaPonsie's question, Pfaller mentioned the Parks Commission is working on rules for the parks. They are currently reviewing the rules from Ludington Skate Park. This should be in place for next years skateboarding season.

Councilmember Altoft thanked DesJarden regarding the repair of sidewalks.

Councilmember Ellison commented on all the positive events taking place in the City. She is very proud to be part of it.

Mayor Hodges received a thank you note from the Lowell Area Arts Council for its support of the River Revelry. It was a great fundraiser held on July 25, 2009. It was a successful event and their appreciation was noted.

Hodges also noted a worksession will be held on Monday, August 31, 2009 at 7:00 p.m. During the City Manager evaluation, there was some suggested criteria the Council may want to work on in terms of goals. The Council should adopt an agenda at the beginning of the meeting. The meeting is open to the public.

Item #11. **MANAGER'S REPORT**. City Manager Pasquale reported on the following:

1. Chris West of the Flat River Grill asked that the request for the additional seating on the Riverwalk be dropped. Therefore, a public hearing on September 8, 2009 will not be held.
2. The following boards and commissions meetings minutes are enclosed:
 - Lowell Area Recreation Authority meeting of July 8, 2009
 - Airport Board meeting of July 14, 2009
 - Chamber of Commerce meeting of June 9, 2009
3. With the upcoming Michigan Municipal League Convention to be held September 22 – 25 in Kalamazoo, a delegate and alternate to the Annual Business Meeting needs to be appointed.

Councilmember Altoft offered to be the delegate attending the Convention.

IT WAS MOVED BY PFALLER and seconded by ELLISON to appoint Councilmember Altoft as the MML delegate for the September 22 – 25, 2009 convention. City Manager Pasquale was appointed as an alternate.

4. A work session on City Council goal setting is scheduled for Monday, August 31 at 7 p.m.

The next regular City Council meeting will be held on Tuesday, September 8, 2009 because of Labor Day.

Item #12. **APPOINTMENTS**. Mayor Hodges noted the position available to serve on the Planning Commission.

IT WAS MOVED BY PFALLER to adjourn at 8:12 p.m.

DATE:

APPROVED:

James W. Hodges, Mayor

Betty R. Morlock, Clerk