

**PROCEEDINGS
OF
CITY COUNCIL
OF THE
CITY OF LOWELL
TUESDAY, FEBRUARY 17, 2015, 7:00 P.M.**

1. **CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL.**

The Meeting was called to order at 7:00 p.m. by Mayor Hodges and roll was called by Deputy City Clerk Susan Ullery.

Present: Councilmembers Jeff Altoft, Sharon Ellison, Jim Hall and Mayor Jim Hodges.

Absent: Councilmember Mayer.

Also Present: City Manager Mark Howe, Deputy City Clerk Susan Ullery, Treasurer Suzanne Olin, Police Chief Steve Bukala and Lowell Light and Power General Manager Greg Pierce.

IT WAS MOVED BY ALTOFT and seconded by HALL to excuse the absence of Councilmember Mayer.

YES: Councilmembers Altoft, Ellison, Hall and Mayor Hodges.

NO: None. ABSENT: Mayer. MOTION CARRIED.

2. **APPROVAL OF THE AGENDA.**

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

YES: Councilmembers Altoft, Ellison, Hall and Mayor Hodges.

NO: None.

ABSENT: Councilmember Mayer. MOTION CARRIED.

3. **APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING(S).**

IT WAS MOVED BY ELLISON and seconded by HALL to approve the regular minutes of the January 20, 2015 meeting as written.

YES: Councilmembers Ellison, Hall and Mayor Hodges.

NO: Councilmember Altoft.

ABSENT: Councilmember Mayer. MOTION CARRIED.

IT WAS MOVED BY ELLISON and seconded by HALL to approve the minutes of the January 20, 2015 closes session meeting as written.

YES: Councilmembers Ellison, Hall and Mayor Hodges.

NO: Councilmember Altoft.

ABSENT: Councilmember Mayer. MOTION CARRIED.

IT WAS MOVED BY ELLISON and seconded by ALTOFT to approve the minutes of the January 26, 2015 worksession meeting as written.

YES: Councilmembers Altoft, Ellison, Hall and Mayor Hodges.

NO: None.

ABSENT: Councilmember Mayer. MOTION CARRIED.

IT WAS MOVED BY ELLISON and seconded by HALL to approve the minutes of the February 2, 2015 proceedings as written.

YES: Councilmembers Ellison, Hall and Mayor Hodges.

NO: Councilmember Altoft.

ABSENT: Councilmember Mayer. MOTION CARRIED.

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

Councilmember Altoft questioned the amount paid to Medco Tree Service. City Manager Howe believed there were some issues with trees that were within the City right of way that needed to be taken down. Howe would confirm and respond back to Altoft.

IT WAS MOVED BY ELLISON and seconded by HALL to approve the accounts payable as presented.

YES: Councilmember Altoft, Ellison, Hall and Mayor Hodges.

NO: None.

ABSENT: Councilmember Mayer. MOTION CARRIED.

BILLS AND ACCOUNTS PAYABLE (02/17/2015)

General Fund	\$40,025.54
Major Street Fund	1,868.28
Local Street Fund	1,838.28
Downtown Development	10,107.21
Designated Contributions	14,081.01
Airport Fund	5,117.99
Wastewater Fund	20,542.36
Water Fund	199,213.88
Data Processing Fund	4,185.28
Equipment Fund	99,767.09
Current Tax Roll	175,880.21
Look Fund	272,000.00

Carr Fund

328.00

5. **CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA.**

Tony Ellison of 407 N. Division brought up many concerns from the last several council meetings. Ellison believed City Manager Mark Howe is doing a great job and has accomplished a great deal. Ellison hoped at the next election, the citizens of Lowell would remember who is trying to move the city forward.

Department of Public Works employee Ralph Brecken spoke on behalf of the Voice. He addressed the Council about personal contracts in regards to the MERC decision. He asked the Council to instruct City Manager Howe to abide by the law and to pay the increases.

Vergennes Township resident and wife of city employee Todd Phillips was present to quote the Honorable Administrative Law Judge Doyle O'Conner from the August 13, 2013 Fact Finding Hearing, which was concurred by the Michigan Employee Relations Commission on January 28, 2015. Phillips asked the City Council to consider these comments made by Judge O'Conner regarding Mark Howe.

Peggy Covert of 982 N. Washington noted there is a light out in the public parking lot near City Hall.

6. **OLD BUSINESS.**

A. Strategic Plan Update. No updates were provided.

B. Pending Council Projects Report. No updates were provided.

7. **NEW BUSINESS**

a. Striking of Delinquent Taxes.

Each year City Treasurer Suzanne Olin reviews delinquent personal property taxes that cannot be collected and recommends that the council approve striking them from the rolls.

Olin provided information on the request to strike \$617.36 from the personal property tax rolls.

IT WAS MOVED BY ELLISON and seconded by HALL to approve striking \$617.36 from the personal property tax rolls due from Modern Photographics, Regal Insurance and Riverbend Salon.

YES: Councilmembers Altoft, Ellison, Hall and Mayor Hodges.

NO: None. ABSENT: Councilmember Mayer. MOTION CARRIED.

b. Adoption of Mixed Use Ordinances 15-01 and 15-02.

The planning commission has spent several months developing language for a mixed used district. Mixed use allows for a combination of residential and commercial uses in areas where there is already a transition between commercial uses, such as downtown, and residential uses, such as neighborhoods. In addition to developing the language, the planning commission has identified an area to be rezoned to the newly designated Mixed Use district. These areas have been identified in the city Master Plan to be converted to this type of use.

In keeping with the deliberate approach the planning commission has taken to developing this section of the zoning ordinance, the proposed changes were distributed to the Council at their last meeting for information and discussion.

The final ordinances making these changes were presented for review and are recommended for adoption. The first adopts the actual language for the Mixed Use District. The second re-zones certain properties to the newly created Mixed Use District.

Recommended Motions (separately):

- That the Lowell City Council adopt Ordinance 15-01.
- That the Lowell City Council adopt Ordinance 15-02.

IT WAS MOVED BY ALTOFT and seconded by HALL to adopt resolution 15-01.

YES: Councilmembers Altoft, Ellison, Hall and Mayer Hodges.

NO: None. ABSENT: Councilmember Mayer. MOTION CARRIED.

IT WAS MOVED BY HALL and seconded by ALTOFT to adopt resolution 15-02.

YES: Councilmembers Altoft, Ellison, Hall and Mayer Hodges.

NO: None. ABSENT: Councilmember Mayer. MOTION CARRIED.

- c. 2015 Street Project Discussion. Dave Austin of Williams and Works presented a proposed street project for 2015 as well as the merits of edge milling and overlay as opposed to a full pavement remove and resurface. The streets being considered include Monroe, east to west on Avery, and then the perpendicular streets, Washington, Jefferson and Jackson. Austin estimated the price of edge mill and resurface with 2 inch overlay to be approximately \$232,700, based on a 5 year useful life. Alternatively, the city can consider a full pavement removal and resurface with a 3 inch overlay. This is the process that has been used on Sibley as well as West and Pleasant. This alternative would cost approximately \$328,000, based on a 15 year useful life.

City Manager Howe believed the full pavement removal would be more appropriate because of truck traffic. Howe wanted to start proceeding with the street project this year. Currently, there is approximately \$200,000. These funds come from the LCTV Endowment Fund as well as one mill set aside for streets. Because the project is within the DDA, Howe would request the remaining amount from them. He also wanted to coordinate the project with MDOT's mill and resurface of M21 from Valley Vista to the county line.

Councilmember Altoft questioned water and sewer work that is scheduled for Monroe. He also mentioned the residents on Donna Street have come forward with concerns regarding their street. Howe indicated a request is going to be made at the next Council meeting to reallocate the CDBG funds. The City has been working with Kent County and with HUD to see if we can do an overlay and use CDBG funds. He estimated the total cost to be around \$35,000 to \$40,000. CDBG funds would provide \$25,000 to \$30,000 of this amount.

Altoft questioned the street plans recently presented to the DDA along M21. Howe stated the City will ask MDOT if the bump outs can be painted on the pavement to provide an idea of what these bump outs would look like. Howe explained the DDA is working on prioritizing projects for the next 3 to

10 years. The City is also hoping to establish a midblock crosswalk with MDOT at the riverwalk with bump outs.

Mayor Hodges believed going with full pavement removal and resurface would be the best investment.

Howe also noted he is working with MDOT and the Metro Council regarding Monroe and Jefferson. He is attempting to get these streets on the federal aid eligible list, noting the truck route to Atwood.

Councilmember Ellison agreed a 15 year plan was appropriate and if support can be provided from the DDA, this would be the best way to spend the dollars. Hall agreed. However, assistance from the DDA should be kept at a minimum. Altoft agreed but noted providing a better road is supporting the downtown businesses.

By general consensus, the Council agreed to move forward with the full pavement removal and resurface of 3 inches based on a 15 year useful life.

d. Resolution 03-15 to Ratify a Collective Bargaining Agreement.

The City is pleased to announce that an agreement has been reached with the IBEW Local 876 for employees at the Department of Public Works. The agreement has been ratified and signed by the union and a similar agreement has also been approved by the Light & Power Board.

This resolution was ready for action at the previous council meeting. The City had been awaiting a final signed copy of the agreement before moving forward and it was received by city hall on February 2, the day of the meeting. The previous resolution also asked the council to decide not to appeal the recent MERC decision. Since the deadline to appeal the decision is February 17 there is no need for that provision in the resolution at this time.

IT WAS MOVED BY ELLISON and seconded by HALL to approve the Resolution 03-15 to ratify the Collective Bargaining Agreement between the International Brotherhood of Electrical Workers Local 876.

YES: Councilmembers Ellison, Hall and Mayor Hodges.

NO: Councilmember Altoft. ABSENT: Councilmember Mayer

MOTION CARRIED.

e. Discussion on removal of unsafe structures.

There needs to be a discussion regarding issues relating to the removal of unsafe structures. Specifically, there is a house located within the city that was damaged by fire and is no longer habitable. The Code of Ordinances allows such structures to be removed with the cost of removal added as a lien to the property.

Police Chief Bukala explained this house has been sitting burned out for approximately one year. Under City Ordinance, the home has been receiving citations at the rate of one per week. Bukala asked the Council for direction.

Councilmember Altoft questioned if the house has been barricaded so it cannot be accessed. Bukala stated it was not secured to his satisfaction. A temporary fence was installed but has deteriorated over time.

City Attorney Richard Wendt explained the Council is required to follow a process. The initial issue is to determine if the cost of repairs exceeds the assessed value of the property. Then notice to repair or demolish within 90 days can be sent. The owner can appeal this to the Construction Board of Appeals. If there is still no action, the City can demolish the building and place a lien on the property and apply the cost of this to their property taxes.

Altoft suggested the owner be contacted if the building isn't safe and secure like it is supposed to be. If the owner does not seal the building up then the City will and bill them for the work done. Ellison was in favor of this idea. Bukala believed the easiest way to secure it would be to repair the sections that were burned in the fire.

Howe indicated the Building Code Official stated the City of Lowell has adopted the International Property Maintenance Code which addresses unsafe conditions. It states the Code Official can deem a structure unsafe based on a list of issues. This provides guidance and will be followed.

Howe noted the City may also want to increase the fines as they are currently very low.

8. **MONTHLY REPORTS.**

No comments were received.

9. **COUNCIL COMMENTS.**

Councilmember Altoft commented on what he believes is his duty, as a Councilmember, representing the citizens of the City of Lowell. This includes making decisions on City matters brought before them after hearing all sides and facts. Discussion and debate are nothing to be afraid of. Altoft went on to reference the City has been guided by City Manager Howe, who has installed unhealthy actions into every occurrence within the City. Under his guidance, the City has raised a war against seven of its own workers costing over \$136,000. Howe has provided the Council with inaccurate information on many subjects. Altoft stated in the name of the City, Howe has incorrectly and untruthfully testified in court of law and violated the United States Constitution when he refused citizens to talk to public officials. Altoft stated he would like to make a motion to remove Mark Howe from the position of City Manager and is there any other Councilmember who would second this motion?

Councilmember Hall stated the Planning Commission meeting was canceled. The Michigan Planning Act states it is only mandatory to have four Planning Commission meetings per year. Hall noted the law previously stated 12 meetings per year. Hall also noted final recommendations were submitted to the Lowell Area Recreation Authority. These have been approved and forwarded to the State of Michigan. He was hopeful this would come to the Council sometime in 2017.

Councilmember Ellison stated the Arbor Board met and is working on a Comprehensive Tree Plan. The board is hoping to receive some grants for projects. LCTV Endowment Board and Historic District Commission have not met yet.

Ellison commented on the recent work sessions. We need to move forward and work together as a group.

Also, at the last "Coffee with Council" Ellison had a citizen ask why City Manager Mark Howe was still here because he broke laws. She asked if it would be appropriate to have City Attorney Richard Wendt explain how the Michigan Employment Relation Commission works. Wendt stated the Michigan Employment Relation Commission resolves labor disputes involving public and private sector employees by appointing mediators, arbitrators and fact finders conducting union representation elections, determining appropriate bargaining units and adjudicating unfair labor practices. It is not a court of law but is an administrative body. It exists in the executive branch of government as opposed to the judicial branch of government. It is not a criminal or civil offense to be found in violation of an unfair labor practice or a determination of an unfair labor practice.

Ellison also noted she was happy to have reached an agreement. Let's keep moving forward in a civil matter.

Mayor Hodges stated Lowell Light and Power Board met. The bio-digester is starting to work and creating some electricity. There is very little if any odor. The pipeline has been completed between the bio-digester and Litehouse, Inc. The Chamber of Commerce met and established their goals with their Board of Directors for the 2015/16 calendar year. Their next event is the Expo on March 28, 2015. Look Memorial Commission is due to meet in May.

10. **MANAGER'S REPORT**

1. The City will have a new Director of Public Works beginning in mid-March. The position has been offered to and accepted by Mr. Charles Sundblad of Caro. Mr. Sundblad comes to us with 25 years of experience in public works with most of that time serving as the director in Caro. The City plans to have him on board in mid-March so that he can spend a couple of months working with retiring Director Dan Desjarden.
2. The Downtown Placemaking Plan was presented to the Downtown Development Authority at its February 12 meeting. In addition, the DDA has started the process of updating its development plan by identifying long-term priorities.
3. With the new year, the City is starting to receive a number of zoning inquiries relating to development projects in the community. This is a good sign that the economy is recovering and good news for the quality of life for our residents.
4. Howe has spent some time a few weeks ago reviewing the sidewalk replacement program, prior action taken by the council regarding sidewalks, current ordinances and policies in place, and our criteria used to require sidewalk replacement. Howe hoped to have this organized in a way that he can facilitate a discussion with the Council in the future to review the current ordinance and policies and also the criteria for replacement.
5. Per Council request, Howe will be giving an overview of city finances during the workshop on Monday, February 23, at 6 p.m. If there are any specific questions or parts of the budget please let him know by the end of the week so he can be prepared.

11. **APPOINTMENTS.**

Board of Review
Alternate Vacancy -

Construction Board of Appeals
Vacancy –

IT WAS MOVED BY ELLISON and seconded by HALL to adjourn at 8:33

DATE:

APPROVED:

James W. Hodges, Mayor

Susan S. Ullery, Deputy City Clerk