

**PROCEEDINGS
OF
CITY COUNCIL
OF THE
CITY OF LOWELL
MONDAY, JUNE 1, 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, Matt Mayer and Mayor Jim Hodges.

Absent: None.

Also Present: City Manager Mark Howe, Deputy City Clerk Susan Ullery, Police Chief Steve Bukala, and City Attorney Richard Wendt.

3. **APPROVAL OF THE AGENDA.**

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

YES: 5. NO: 0. ABSENT: 0. MOTION CARRIED.

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

IT WAS MOVED BY ELLISON and seconded by MAYER to approve the regular minutes of the May 18, 2015 meeting as written.

YES: 5. NO: 0. ABSENT: 0. MOTION CARRIED.

IT WAS MOVED BY HALL and seconded by ALTOFT to approve the closed session minutes of the May 18, 2015 meeting as written.

YES: 5. NO: 0. ABSENT: 0. MOTION CARRIED.

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

YES: 5. NO: 0. ABSENT: 0. MOTION CARRIED.

5. **APPROVAL OF THE ACCOUNTS PAYABLE.**

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

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

NO: None. ABSENT: None. MOTION CARRIED.

BILLS AND ACCOUNTS PAYABLE (06/01/2015)

General Fund	\$15,808.04
Major Street Fund	\$12.65
Local Street Fund	\$12.65
Historical District Fund	\$9,200.00
Downtown Development Fund	\$224.82
Airport Fund	\$72.60
Wastewater Fund	\$42,695.09
Water Fund	\$1,568.92
Data Processing Fund	\$2,393.50
Equipment Fund	\$75.81

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

Tony Ellison of 407 N. Division questioned why Councilmember Altoft voted “no” on the budget at the last meeting. Mayor Hodges explained this is a time for comments not questions. Councilmember Altoft does not need to respond.

Vergennes Township resident Jim Sowle, stated he supports the City Council, who has served with integrity and faithfully represents the majority of the City citizens. The Council has been noble servants. Sowle also went on to state he supports the City Manager. He believes the City hired the best applicant for the job of the City Manager. Since taking the job, Howe has eliminated the projected \$500,000 deficit. He has saved the City more than \$800,000 by refinancing the previous debt. During his tenure as City Manager he has nearly doubled the general fund balance. These are significant achievements. Unfortunately, Howe was caught in the position of employees organizing a union and negotiating its first contract. With all the great work, Howe found himself immersed in the contentious atmosphere with most union negotiations. He believed Howe should be offered a contract extension with a substantial raise as a thank you for his excellent work.

Water Treatment Plant Superintendent Brian VanVeelen presented the “Taste Off” award from the AWWA. The Water Treatment Plant has won this award three times. He also thanked employees Ralph Brecken, Todd Phillips and Jeff VanSetters who also work in the water department.

7. **OLD BUSINESS.**

- A. Strategic Goals Report. City Manager Howe explained this report will turn into Tier 1, Tier 2 and Tier 3 goals for the new fiscal year.
- B. Pending Council Projects Report. Howe reported one bid for the downtown tower was received. A recommendation will be made at the June 15, 2015 meeting.
- C. Library HVAC System. Howe provided information that was gathered by Interim DPW Director Ron Woods regarding the HVAC System at the Library. Woods is not convinced that an entire redesign of the system is warranted at this time. The main compressing unit and cooling coil has failed after 15 years. The upgrades include replacement of the entire system of the unit with more efficient indoor and outdoor components. However it should also be noted there are some future changes to the system that will need to be looked at additionally. The other two items mentioned for replacement are the thermostats and circulation pump and valving changes to the passive baseboard heating system.

Three bids were received. It is recommended to accept the low bid of \$18,000 from Seaman’s Mechanical.

IT WAS MOVED BY ELLISON and seconded by MAYER to accept the bid from Seaman's Mechanical for \$18,000.

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

NO: None. ABSENT: None. MOTION CARRIED.

8. **NEW BUSINESS**

- A. Zoning Board of Appeals – Variance Application – O'Reilly Auto Parts – 1427 W. Main Street. The meeting was turned over to the Zoning Board of Appeals.

Williams and Works Planner Andy Moore explained O'Reilly Auto Parts is seeking a variance to increase the wall sign that is on their building at 1427 W. Main Street. Currently, the zoning ordinance prescribes a maximum area of 50 square feet. The applicant is requesting an area of approximately 100 square feet. In order for the variance to be approved, all of the standards must be met.

Hodges opened the public hearing.

O'Reilly Auto Parts General Manager Ron Conner believed the business had a unique setback from the road. The building is also shaded by large trees in the front. The sign out by the road is low to the ground and the sign on the front of the building is small. They wish to increase the visibility so there are no sudden stops when trying to enter their drive.

Deputy City Clerk Susan Ullery read a letter into record from Showboat Automotive Supply indicating they were against this variance request.

Conner believed the beauty of their business was to create competition and to be an option for the consumers.

Zoning Boardmember Altoft noted the sign ordinance was rewritten in 2013. He asked if this part of the ordinance was changed. Moore explained in August 2013 the amendment to the zoning ordinance was approved. It was a fairly comprehensive revision to the entire chapter pertaining to signs. With regard to this specific request, there was a change to this standard that refers to the maximum area of a wall sign in the C3 district. Under the terms of the old ordinance, the standard was the maximum area could be 20 percent of the wall area. Under the new standard, it is 20 percent or 50 square feet whichever is less.

Zoning Boardmember Mayer stated Ace Hardware has wanted to change their sign for years but did not want to request a variance. He did not believe it would make much of a difference. Mayer indicated he would not be in favor of granting this request.

Zoning Boardmember Ellison stated there is an ordinance in place. This does not meet the criteria.

IT WAS MOVED BY ELLISON to deny the variance.

City Attorney Richard Wendt advised the board to receive the full report from Moore prior to a motion being made. Ellison withdrew her motion.

Moore stated he provided a memo to the Zoning Board of Appeals dated May 22, 2015 that summarizes the request and the standards that need to be met. Moore stated O'Reilly's first came to the City in 2011. However, the building was never constructed. Therefore, the site plan was no longer valid. Then in 2013 the sign ordinance was changed. In 2014, O'Reilly's submitted a new site plan which was approved. Throughout the summer and fall of 2014, several different applications were reviewed. Ultimately, a 48 square foot ground sign was approved and a wall sign just under 50 square feet. In 2015 O'Reilly's asked to move the location of a couple of trees which they believed were blocking the ground sign. They were permitted to do this administratively and replaced these with landscaping elsewhere.

The Zoning Ordinance requires that in order to approve a variance, the Zoning Board of Appeals must find that all of the standards presented in Section 21.04, B, 1-6 are met. The following presents each of those standards and remarks from Moore.

- That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Moore stated a brief review was done of other commercial properties in the area. There are several other parcels of similar dimensions. Moore did not believe this standard was met.
- That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance. Moore stated if the board feels the sign should be larger, then the ZBA should ask the Planning Commission to review these standards. Moore did not believe this standard was met.
- That such a variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance. Moore stated everyone in the C-3 district has the same standards. Moore did not believe this standard was met.
- The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood. Moore believed this standard was met.
- The variance will not impair the intent and purpose of this ordinance. Moore believed if this variance was granted, anyone else who wanted a bigger sign should also be awarded a variance. In this case the ordinance should then be amended. Moore did not believe this standard was met.
- That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant. Moore stated O'Reilly's indicated in the application that because their building was required to be 90 feet off the road, that a larger sign was needed. Moore found nothing from the City that required them to place their building 90 feet from the road. It could have been constructed 30 feet from the road. Moore did not believe this standard was met.

Moore summarized that in order for a variance to be granted, all of these standards need to be met. Therefore, he recommended the Zoning Board of Appeals deny the request.

IT WAS MOVED BY ELLISON and seconded by MAYER to deny the O'Reilly's variance request at 1427 West Main Street.

YES: 5. NO: 0. ABSENT: 0. MOTION CARRIED.

Zoning Boardmember Altoft thanked the Planning Commission for the time spent working on the updated sign ordinance.

The Zoning Board of Appeals closed the hearing and the meeting was turned back over to the City Council.

- B. Updated FOIA Procedures and Buidelines – Draft Review. City Manager Howe provided a draft procedures and guidelines document for review that will keep the City in compliance with recent amendments to the Michigan Freedom of Information Act. This needs to be adopted before July 1, 2015. The Police Chief has been designated as the FOIA coordinator.

The procedures and guidelines have been prepared by City Attorney Richard Wendt. This is a great document and creates more transparency by letting the public know exactly what the process is for Freedom of Information Act requests.

Howe noted the document will be in its final form for approval at the June 15, 2015 meeting.

- C. Cascade Inspection Services Agreement. The City has prepared a new agreement with Cascade Township to provide building inspection services for an additional three-year period. The transition to Cascade Township three years ago has been met with positive comments from contractors and homeowners.

IT WAS MOVED BY ALTOFT and seconded by MAYER to approve a three-year agreement with Cascade Township for building inspection services and authorize the signatures of the Mayor and City Clerk.

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

NO: None. ABSENT: None. MOTION CARRIED.

10. COUNCIL COMMENTS

Councilmember Altoft stated the detour route is moving better.

Councilmember Hall noted the Summer Concert Series is getting ready to begin.

Mayor Hodges stated Lowell Light and Power will meet on Thursday, June 11, 2015. The Chamber of Commerce Board of Directors will also be meeting. Look Memorial Fund met for the distribution of funds. There was a limited amount available but chose to give \$3,600 to the library toward the repair of the HVAC system and \$3,600 to FROM for improving their security system.

At the June 15, 2015 meeting during “Closed Session” the annual City Manager review will be completed. Hodges asked the Councilmembers to return their review forms to city hall or his home prior to the meeting.

11. CITY MANAGER REPORT.

1. A Truth-in-Taxation hearing notice will appear in this week’s ledger announcing a hearing that you will need to hold during your next council meeting. The state law that outlines the notice to hold a Truth-

in-Taxation hearing requires that we use language such as “notice of public hearing on increasing property taxes” and “proposed additional millage.”

We are not proposing a property tax increase or a millage rate increase.

These hearings may be required each year based on calculations performed by the Kent County Equalization Department relating to the “Headlee” provisions of the state’s constitution. The city’s charter authorizes the council to allocate up to 20 mills, however, Headlee rollbacks have reduced that amount to 17.4597 mills. The council has allocated a millage rate of 15.70 mills, more than 10 percent below the amount authorized. Headlee rollbacks are typically triggered by increases in taxable value that exceed the rate of inflation, although that is a simplistic way of describing a much more complicated formula.

During the past several years, the formula has not triggered a Truth-in-Taxation hearing although when the hearings are required they can be held in conjunction with the budget hearing with a note in the budget hearing notice that the proposed millage rate will be a subject of the hearing. We did not include that language in our budget hearing notice and only found out after the notice had been published that a Truth-in-Taxation hearing is required.

2. The Hudson Street bridge over the Grand River was closed on May 21 by the Kent County Road Commission in order to begin the resurfacing project. It is expected to take until July 2. Traffic was backed up more than a mile up to 7 p.m. the first evening the bridge was closed. We were in contact with the Kent County Road Commission to ask them to reconsider their detour plan and they responded by installing a four-way stop at the intersection of Main and Jackson Streets. We continue to work with the road commission to monitor traffic and encourage all drivers to remain patient during this temporary situation.
3. Photos of Donna Drive were presented prior to and after the repaving was completed. Donna was the worst rated street in the city. Water had been settling in certain areas. It is a very flat street and difficult to get enough drainage to pull the water off the street. Another issue involved the various widths of the street. In fixing this, it created a situation where the mailboxes were too far away from the curb. The City will take on the expense of having the contractor move these mailboxes.
4. Each of the Councilmembers received a letter from City Clerk Betty Morlock announcing her retirement from the City of Lowell. Her last working day will be July 31, 2015. Howe will take the opportunity at future meetings to talk about all the wonderful things that Betty has done over her 25 plus years of service to the City of Lowell. She will be greatly missed. She has been a wonderful asset to the City staff. She has a great knowledge of the history and has been a fantastic City Clerk.
5. There will be many items on the agenda for the next meeting. A draft agenda will be emailed to the Councilmembers on Monday, one week before.

12. APPOINTMENTS.

Mayor Hodges stated appointments will be made at the June 15, 2015 meeting for various boards and commissions.

13. CLOSED SESSION.

- A. Pending Litigation – MCL 15.268(e)

IT WAS MOVED BY ELLISON and seconded by HALL to move to closed session at 7:54 p.m. as allowed under the Open Meetings Act MCL 15.268(e) to discuss pending litigation.

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

NO: None. ABSENT: None. MOTION CARRIED.

Council returned to open session at 8:00 p.m.

IT WAS MOVED BY ELLISON and seconded by MAYER to adjourn at 8:01 p.m.

DATE:

APPROVED:

James W. Hodges, Mayor

Susan S. Ullery, Deputy City Clerk