

**PROCEEDINGS
OF
CITY COUNCIL
OF THE
CITY OF LOWELL
MONDAY, JANUARY 19, 2016, 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 City Clerk Susan Ullery.

Present: Councilmembers Mike Devore, Jim Hodges, Jeff Phillips, Alan Teelander and Mayor Altoft.

Absent: None.

Also Present: City Manager Mark Howe, City Clerk Susan Ullery, Police Chief Steve Bukala and DPW Director Ron Woods.

2. **APPROVAL OF THE AGENDA.**

Councilmember DeVore asked that the agenda be modified under "Old Business". "A" would be changed to state "Council would like to retain special legal counsel to handle a matter in which the city has an interest, pursuant to Section 7.7 of the Lowell City Charter". He also asked that "E" be moved to follow "A". All other items would follow as written.

IT WAS MOVED BY TEELANDER and seconded by PHILLIPS to approve agenda as modified.

YES: Councilmembers DeVore, Phillips, Teelander and Mayor Altoft. NO: Hodges.

MOTION CARRIED.

3. **APPROVAL OF THE MINUTES FROM THE PRECEDING REGULAR AND/OR SPECIAL MEETINGS.**

IT WAS MOVED BY DEVORE and seconded by TEELANDER to approve the regular minutes of the January 4, 2016 meeting as written.

YES: Councilmembers DeVore, Hodges, Phillips, Teelander and Mayor Altoft. NO: None.

ABSENT: None. MOTION CARRIED.

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

IT WAS MOVED BY DEVORE and seconded by HODGES to approve the accounts payable as presented.

YES: Councilmembers DeVore, Hodges, Phillips, Teelander and Mayor Altoft. NO: None.

ABSENT: None. MOTION CARRIED.

BILLS AND ACCOUNTS PAYABLE (1/19/2016)

General Fund	\$18,760.64
Local Street Fund	\$4,513.55
Historical District Fund	\$13,101.00
Downtown Development Fund	\$2,517.02
Designated Contributions	\$54.00
Airport Fund	\$2,595.66
Wastewater Fund	\$10,507.53
Water Fund	\$37,067.89
Data Processing Fund	\$7,840.05
Equipment Fund	\$4,550.06
Current Tax Collected	\$315,806.96

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

Citizens Perry Beachum, Dennis Kent and Roger LaWarre got up to speak on behalf of City Manager Mark Howe and asked that the Council work together and follow due process and stated that Mr. Howe has done a good job for the City of Lowell. City Clerk Susan Ullery read aloud an email from former City Clerk, Betty Morlock. She also spoke in favor of Mark Howe and what a pleasure it was to work with him.

6. **OLD BUSINESS.**

- a. Strategic Goals Report – Retain Special Legal Counsel To Handle A Matter In Which The City Has An Interest, Pursuant to Section 7.7 of the Lowell City Charter.

Councilmember DeVore spoke about hiring Kathryn Henry to deal with continuing personnel issues.

Discussion followed with Councilmember Hodges, stating the City attorney Dick Wendt was not present because the councilmembers had asked him not to come. The City employs him and Hodges believed it would be a mistake to go forward with any legal work without Wendt's advisement.

Perry Beachum went to the podium and asked what the total fee was expected to be for Attorney Katherine Henry and then asked if this was something that should go out for bid.

Henry explained she was asked to attend in order to make sure procedures and policies are followed and everything is done in a fair and orderly fashion. She also responded to Beachum's question stating that if fees were going to be an issue, she would go down to \$100/hour.

Hodges questioned Henry's legal background. She responded she has a law degree from William Mitchell College of Law and hundreds of hours of continuing legal education. Her office in Midland is a general practice firm. She has dealt with issues that were municipal in nature, criminal, divorce, landlord/tenant, collections and bankruptcy. She has also dealt with OMA, FOIA, issues pertaining to city charters and ordinances and has served on local city boards. Councilmember Hodges asked Henry if she could state whether or not she worked for any municipalities and she stated that she was not able to share that information.

Diane LaWarre of 681 Birchwood Court stated that she recognized Henry from the Belding situation and that she would not want Lowell to get into the same situation they had, as it was a big problem in Belding.

Lowell Light and Power employee John Francis stated the Council was voted in by the people to make their own decisions and their own direction as to what the citizens of Lowell want. He thinks the Council is doing a great job.

Chief of Police Steve Bukala stated he needs to look out for the best interests of the municipality when it comes to labor law. The Council needs to be considerate of the employee's interest, which would be Mr. Howe, the employer's interest, which would be the City and that of its citizens, and preventing mistakes. Some of the Council ran on the issue of transparency. Therefore, he believed it would be to the interest of the Council to know that Henry and her husband are friends with the labor representative of the Department of Public Works. Bukala believed it would be a conflict of interest to hire her. If the Council would like to hire an attorney other than Wendt, there were several others available in the area who specialize in labor law.

IT WAS MOVED BY TEELANDER and seconded by DEVORE to approve the hiring of Kathryn Henry.

YES: Councilmembers DeVore, Phillips, Teelander and Mayor Altoft.

NO: Hodges.

MOTION CARRIED.

b. Discussion of Continuing Personnel Issues.

Councilmember DeVore stated that the City has had a lot of contention over City Manager Howe and his actions over the last few years. These issues have been discussed in both public meetings and among the public generally. Given recent events, he has reviewed the City Charter which states "the City and its officers shall have the power to do any act to enhance the interest, good government and prosperity to the City and its inhabitants to protect public peace and general welfare. The City Manager shall be responsible to serve at the pleasure of the Council. The Mayor shall preside at the Council meetings and shall be a conservator of the peace. The Council itself shall provide for public peace and health and safety of persons and property, investigating municipal affairs and when deemed necessary an office or department of the City. The Council shall see that the provision is made for the public peace. The City Manager shall serve at the pleasure of and is subject to removal by the Council. The City Manager shall perform the duties of his office under the authority of and be accountable to the Council and it shall be the duty of the City Manager to see that all laws and ordinances are enforced." Black's Law dictionary defines "serving at the pleasure of" as the assignment of someone to an appointment that can be taken away at any time with no requirement for a notice or a hearing. So considering our duties to provide for public peace, and considering the continuing actions taken in the last few years, Councilmember DeVore moved that Mark Howe be immediately removed from office as City Manager and that this termination be considered because of an illegal or criminal act or breach of the terms and conditions of the employment contract. He then stated that Ms. Henry is now available for questions.

Councilmember Hodges stated that he believes the Council is making a big mistake.

Roger LaWarre asked that they think about what they're doing. He said he finds it hard to believe that this decision is being based on so little when several of the councilmembers are new and haven't yet

had the opportunity to really work with Mr. Howe. He also asked that they present the case rather than make this decision based on hearsay.

IT WAS MOVED BY TEELANDER and seconded by PHILLIPS to approve the termination of Mark Howe as City Manager.

YES: Councilmembers DeVore, Phillips, Teelander and Mayor Altoft. NO: Hodges.

ABSENT: None. MOTION CARRIED.

c. Strategic Goals Report.

IT WAS MOVED BY DEVORE and seconded by TEELANDER to table this matter to the next council meeting.

YES: 4. NO: 1.(Hodges) ABSENT: None. MOTION CARRIED.

d. Pending Council Projects Report.

Underground Electrical Lines – Mayor Altoft requested an update from Lowell Light & Power General Manager Greg Pierce at the next meeting.

Right-of-Way Ordinance – Councilmember DeVore stated that Attorney Wendt was not present and was therefore unable to advise them on this matter.

e. Council Training and Information Schedule.

Councilmember DeVore confirmed a Lowell Light & Power presentation would be presented at the next meeting. Pierce responded yes.

f. Equipment Purchase.

After much discussion, there was a consensus to table the issue.

IT WAS MOVED BY DEVORE and seconded by TEELANDER to table this matter to the next council meeting.

YES: Councilmembers DeVore, Hodges, Phillips, Teelander and Mayor Altoft.

NO: None. ABSENT: None. MOTION CARRIED.

7. **NEW BUSINESS.**

a. Mowing Bids.

The City has secured bids for mowing parks and other public areas within the city for the next three years. There were three responses to our request for bids.

- Manszewski Landscaping, Lowell \$28,800 per year

- Green Thumb Lawn and Landscape, Saranac \$39,312 per year
- Zach's Lawn Care, Lowell \$39,600 per year

The current contract has been with Zach's Lawn Care for a total of \$26,520 per year. Staff went through a process of reviewing areas to be mowed and added some areas to the current bid. The City has had previous experience with Manszewski which has been positive and are recommending approval of the low-bid.

IT WAS MOVED BY DEVORE and seconded by TEELANDER that the Lowell City Council approve the bid from Manszewski Landscaping for \$28,800 per year for three years and authorize the execution of the appropriate agreements.

YES: Councilmembers DeVore, Hodges, Phillips, Teelander and Mayor Altoft. NO: None.

ABSENT: None. MOTION CARRIED.

b. Plow Truck Replacement.

Staff has been researching and preparing for the replacement of a plow truck as that is the next priority on the Equipment Replacement Plan. Attached is a memo from Interim DPW Director Ron Woods providing background information on the issue.

IT WAS MOVED BY DEVORE and seconded by PHILLIPS that the Lowell City Council approve the purchase of a plow truck and related equipment at a cost of \$168,935.

YES: Councilmembers DeVore, Hodges, Phillips, Teelander and Mayor Altoft. NO: None.

ABSENT: None. MOTION CARRIED.

c. Brewery Ordinance.

The Planning Commission has held a public hearing and is recommending an amendment to the Zoning Ordinance that would define a Brewery/Winery, allow a Restaurant to include a Brewery/Winery as an accessory use, and allow a Brewery/Winery as a Special Land Use in the C-3 General Business District and as a Use Permitted by Right in the I – Industrial District.

IT WAS MOVED BY DEVORE and seconded by TEELANDER that the Lowell City Council adopt Ordinance 16-01.

YES: Councilmembers DeVore, Hodges, Phillips, Teelander and Mayor Altoft. NO: None.

ABSENT: None. MOTION CARRIED.

d. Big Boiler Brewing Company Job Creation Grant.

The Michigan Economic Development Corporation (MEDC) has issued a letter of interest to the City of Lowell for a Job Creation Grant in the amount of \$210,000 for the Big Boiler Brewing Company project, to be located in the former Superior Furniture building. The total project is currently estimated at \$1.026 million.

The Job Creation Grant is required to flow through the City of Lowell and will require that we take a number of steps throughout the process. It will also require a local commitment of 5 to 10 percent of the project. That local commitment can be in the form of local grants (such as a historic commission façade grant), commercial tax abatements, or payment by the Downtown Development Authority (DDA) of eligible expenses through Tax Increment Finance (TIF) capture. We are planning to discuss these options with the Historic District Commission and the Downtown Development Authority at their next meetings.

Mr. Howe has been working with the MEDC on the initial paperwork and grant application packet that will be required in order to receive the grant. If the application is approved, a grant agreement will be drafted and presented to you for consideration and adoption. At this point, we would like to have formal approval to proceed with the grant application authorizing appropriate signatures on the application and other required paperwork.

IT WAS MOVED BY DEVORE and seconded by PHILLIPS that the Lowell City Council prepare a Job Creation Grant application for the Big Boiler Brewing Company project and authorizes appropriate signatures on the application and other related paperwork.

YES: Councilmembers DeVore, Hodges, Phillips, Teelander and Mayor Altoft. NO: None.

ABSENT: None. MOTION CARRIED.

e. Strategic Plan Overview.

Perry Beachum raised concerns with the Council tabling items.

IT WAS MOVED BY DEVORE and seconded by TEELANDER to table this matter to the next council meeting.

YES: Councilmembers DeVore, Hodges, Phillips, Teelander and Mayor Altoft. NO: None.

ABSENT: None. MOTION CARRIED.

8. **MONTHLY REPORTS.**

Councilmember DeVore questioned the medical portion of the report from the police department.

9. **BOARD/COMMISSIONS REPORTS.**

Arbor Board – vacancy on the board

Downtown Development Authority – Meeting was cancelled

Downtown Historic Commission – no comments

Light and Power Board – Mayor Altoft asked Councilmember Hodges if there were any comments from the meeting and he responded saying that he is not assigned to that Board.

The Mayor then stated that he would like to table this agenda item.

10. **APPOINTMENTS TO COMMISSIONS AND BOARDS.**

a. Councilmember Appointments.

Arbor Board – Councilmember Hodges volunteered to be on the Board.
Downtown Development Authority – Councilmember Teelander volunteered to be on the Board.
Downtown Historic Commission – Councilmember Phillips volunteered to be on the Board.
LCTV Endowment Board – Councilmember Hodges volunteered to be on the Board.
Light and Power Board – Mayor Altoft volunteered to be on the Board.
Lowell Area Recreation Authority – Councilmember DeVore volunteered to be on the Board.

IT WAS MOVED BY DEVORE and seconded by TEELANDER to approve these council appointments.

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

b. Citizen Appointments.

LCTV Endowment Board – This position is posted on the City’s website and also goes out in our monthly newsletter.
Look Memorial Fund Committee – Councilmember DeVore volunteered to be on the Board.
Parks and Recreation Commission – Councilmember DeVore volunteered to be on the Board.
Planning Commission – This position is posted on the City’s website and also goes out in our monthly newsletter.

Councilmember DeVore volunteered to organize “Coffee with Council”.

IT WAS MOVED BY TEELANDER and seconded by DEVORE to approve these citizen appointments.

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

11. **MANAGER’S REPORT.**

City Clerk Susan Ullery read the following into record:

1. We are working with the engineer to finalize the bid packet for the South Monroe Parking Project. The project will include moving utilities, as well as creating a water loop that is part of the Water System Reliability Study and General Plan. In short, the water loop will create more flow for fire suppression for the buildings on the 200 block of Main Street (south side). One section of the parking lot may need to be phased if we cannot acquire that parcel of property prior to commencing construction.
2. We are also preparing the final bid package for the Monroe Street Project which includes utility work and mill/resurface of Monroe from Main to Avery. This will be combined with the South Monroe Parking Project above to take advantage of economies of scale and perhaps save some money.
3. We are conducting an internal staff review of the Cemetery Rules. Once we have completed our internal review, we will bring any recommended changes to the Council for consideration. We want to get the word out that we are reviewing the rules and looking for public input and feedback prior to our recommendation to you. Please help us spread the word that we are going through this process and that we welcome any comments or suggestions. People can contact us at City Hall at 897-8457.

12. **COUNCIL COMMENTS.**

Councilmember Hodges spoke about a discussion he had the prior night with citizen Chris Flezar who is interested in being involved with some of the council's street discussions. He thanked Flezar for being willing to volunteer, should the council choose to go that route.

Councilmember Phillips had no comments.

Councilmember Teelander thanked everyone for coming to the council meeting. He also stated that if you take 5 incandescent bulbs to Lowell Light and Power, they will give you 5 LED bulbs in return.

Councilmember DeVore had no further comments.

Mayor Altoft thanked everyone for coming and said it was a hard thing to do and wished everyone a good evening.

13. **ADJOURNMENT.**

IT WAS MOVED BY DEVORE and seconded by TEELANDER to adjourn at 8:14 p.m.

DATE:

APPROVED:

Jeff Altoft, Mayor

Susan Ullery, City Clerk