

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

For the Regular Meeting of MONDAY, **MAY 17, 2004**

The Meeting was called to order at 7:30 p.m. by Mayor Shores and the City Clerk called Roll.

Present: Councilmembers Hodges, Mathews, Myers (arrived at 7:54 p.m.), Pfaller and Mayor Shores.

Absent: None.

Also Present: City Manager Dave Pasquale, City Clerk Betty Morlock, City Treasurer Suzanne Olin, Lowell Light and Power/Cable TV General Manager Tom Richards, Police Sergeant Steve Junewick and Police Officer James Hinton.

IT WAS MOVED BY HODGES and seconded by MATHEWS to excuse the tardiness of Councilmember Myers.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

IT WAS MOVED BY PFALLER and seconded by HODGES to approve the minutes of the May 3, 2004 regular meeting as corrected.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

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

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

BILLS AND ACCOUNTS PAYABLE (05/17/04)

| | |
|-----------------------------|-------------|
| GENERAL FUND | \$82,030.40 |
| MAJOR STREET FUND | 110.25 |
| LOCAL STREET FUND | 5.78 |
| DDA FUND | 40.00 |
| CITY HALL CONSTRUCTION FUND | 3,470.00 |
| WASTEWATER FUND | 29,016.26 |
| WATER FUND | 8,633.46 |
| EQUIPMENT FUND | 655.90 |
| CURRENT TAX FUND | 2,113.66 |
| LOOK FUND | 5,185.00 |

Item #1. **ZONING BOARD OF APPEALS.**

- A. 885, 875, 855 and 845 N. Jefferson – G&C Land Co., LLC – lot width variance for one of four single family home lots – public hearing. At its April 26, 2004 meeting the Planning Commission unanimously recommended the variance be granted reducing each lot width 1.25 feet to 73.75 feet to provide four residential lots on North Jefferson Street.

Greg Holwerda of G&C Land Co. believed the property has an unusual situation since the property totals 295 feet in width. There is a 66 foot strip of land which at one time was intended to be Hill Street. This created the problems for creating the lots close to the minimum size feet of width.

Zoning Boardmember Shores questioned if it made a difference to Holwerda whether one or all lots are reduced.

Zoning Board Chairman Pfaller commented on topographical challenges. How do you plan on dealing with those challenges? Holwerda believed the style of home needs to be chosen carefully.

Lloyd Ritzema of 829 Shepard Drive stated his property lies next to the property in question and was concerned about the hill. He questioned the front yard setback from Jefferson. Pfaller responded 30 feet. Ritzema asked about the location of the house as well as the size and also inquired about the location of the drive.

Zoning Boardmember Mathews understood Ritzma's concern. He would be in favor of granting one variance rather than four.

Shores explained consideration needs to be given to the lots rather than the homes. Ritzema has raised some good questions which can be addressed when the building inspector is presented with the design of the homes.

Zoning Boardmember Hodges stated the Board would be dealing with four variances as opposed to just one variance. He agreed with Shores. The charge is to approve the variance at this time.

Pfaller believed three of the six conditions which need to be met in order to approve a variance were not addressed. He did not believe the request met the criteria of the following conditions:

- Exceptional or ordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district.
- The condition or situation of a specific piece of property for which the variance is sought is not so general or recurrent in nature as to make reasonably practical the formulation of a general regulation.
- Such variance is necessary for the preservation and enjoyment of a substantial

property right similar to that possessed by other properties in the same district.

In Pfaller's opinion, he was happy with the way the zoning was and would recommend the variance be denied.

IT WAS MOVED BY MATHEWS to deny the variance.

Motion died due to lack of support.

IT WAS MOVED BY HODGES and seconded by SHORES to grant four variances to reduce the lot sizes by 1.25 feet per lot at 885, 875, 855 and 845 N. Jefferson.

YEA: 2. (Boardmembers Hodges and Shores)

NAY: 2. (Boardmembers Mathews and Chairman Pfaller)

ABSENT: 1. (Boardmember Myers) TIE VOTE. MOTION DIED.

Item #2. **PERMISSION FOR THE INDEPENDENCE DAY FIREWORKS DISPLAY.** The Lowell Area Chamber of Commerce had requested permission to have a fireworks display on Saturday, July 10. As with recent years, the fireworks would be launched from Stoney Lakeside Park. City Manager Pasquale recommended the Council approve.

Pfaller noted the insurance certificate has been provided.

Pasquale thanked Laurels of Kent who underwrites the cost for the display.

Mayor Shores stated this is very generous of Laurels of Kent. Stoney Lakeside Park is an ideal park to hold such a display.

IT WAS MOVED BY PFALLER and seconded by MATHEWS to approve the fireworks display at Stoney Lakeside Park on Saturday, July 10, 2004.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Pasquale requested a letter of thanks be directed to Laurels of Kent.

Item #3. **203 EAST MAIN STREET - TRANSFER OF LIQUOR LICENSE.** The Class C Liquor License recently transferred to Fifth Third Bank from escrow is now being proposed for location at 203 East Main Street (Century Post, Inc. Ron Potter, owner). Police Chief Jim Valentine recommended approval, subject to final inspection of the completed building renovations.

Councilmember Pfaller asked if Potter owned the license previously. Potter stated yes. He sold the license to Lois Sherman and Fifth Third has been holding it in escrow. Potter stated snacks

would be provided and the facility would hold a seating capacity of less than 50 people.

Potter hopes to open mid July.

IT WAS MOVED BY PFALLER and seconded HODGES to accept the transfer of the liquor license from Fifth Third Bank to Century Post Incorporated to be located at 203 East Main Street.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #4. **REQUEST TO INCREASE BASIC CABLE TV RATES**. Lowell Cable TV General Manager Tom Richards explained the Cable operation expenses have increased only slightly or in some cases reduced over the past few years. Programming costs represent nearly one half of the charge for basic cable service. Most cable networks are under long term contracts and negotiated through the bargaining power of the National Cable TV Co-Op.

The Basic Cable rate was last adjusted last summer. It was adjusted only by the amount the cable cost had increased. Since this time, the Cable rates have not recovered from the increase in cost. The programming cost per subscriber has increased by approximately \$1.40 per month since last summer. By late summer to fall, it will be close to \$2.00 per subscriber. Lowell Cable TV has been able to increase their revenues in other ways such as rent from facilities on the Cable tower and commissions earned through sales of commercials on the cable system. However, this is not nearly enough to cover the \$50,000 in additional increased expenses.

The Cable ordinance requires set rates in order to cover all costs. Last month, the Board of Cable Television approved a \$2.00 per subscriber increase in the monthly basic cable rate from \$29.60 to \$31.60 per month. This is still an extremely favorable rate compared to Comcast, at \$43.00 a month and both Charter and Millennium at \$47.50 a month.

Lowell Cable will remain a good value. However, an increase needs to be made if Lowell Cable is to cover all of the costs and still be a sound contributor to both the City of Lowell and townships.

Richards asked the Council approve a \$2.00 per subscriber increase effective July 1, 2004.

Councilmember Myers questioned the use of the Dish network system and asked how prices were compared. Richards stated this is a difficult comparison because the basic cable rate includes everything an individual needs to see. A satellite subscription requires an additional fee per month for each additional set and an additional fee for local channels. Most subscribers do not realize the actual cost during their first year of satellite subscription.

Councilmember Mathews believed a satellite subscription for two sets would be well over \$40 a month.

Myers stated he would rather see small incremental raises as needed rather than \$5 or \$10 increases.

IT WAS MOVED BY MYERS and seconded by MATHEWS to approve the basic cable rate

increase of \$2.00 bringing the monthly cable rate to \$31.60 a month effective July 1, 2004.

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

Item #5. **2004 – 2005 BUDGET PRESENTATION AND PUBLIC HEARING.** City Manager Pasquale read the following into record:

2004-2005 BUDGET SUMMARY

TO: Mayor Jeanne Shores and Members of the City Council

The establishment of an operating budget for the fiscal year 2004-2005 provides a schedule of proposed revenues and expenditures. Priorities are confirmed through this process. This document represents many staff hours of work compiling needed equipment and facility requests. These requests were carefully reviewed in terms of limitations of available funds.

The following narrative provides an outline of key elements comprising the City budget for this year:

GENERAL FUND

- **Revenues:** The 2004-2005 General Fund Budget has proposed the rate of \$16.08 (mills) per \$1000 of Taxable Value. This includes 0.25 mills voted on November, 2002 for operating the Lowell Area Historical Museum. The projected revenues are to decrease from 2.384 to 2.335 million dollars or a 2.03% loss. This bears careful watching.

It was noted that the Taxable Value would increase 5.26% (from 91.428 to 96.292 million dollars). Also, State Shared Revenues are projected to remain at \$418,000. But, actions by the State could alter this significantly.

The fund balance is planned to be 1.98% of expected expenditures. The unreserved fund balance has been projected at \$50,274.91.

- **Expenditures:** The General Fund has a total of 2.427 million dollars in expenditures. This represents a 0.5% decrease from the FY 2003-2004 estimated budget.

This reflects a tightening of expenses because of lessened revenues. The primary points in reviewing these accounts are:

1. A 1.0 percent cost-of-living increase has been calculated into the budget for employees' salaries. No merit increases are planned.
2. The Police Department budget provides \$26,000 for the third year lease for two police cruisers as well as the purchase of two new cruisers (\$12,000 through lease), upgrading clerk dispatcher computer equipment (\$1,000), office equipment (\$700) and miscellaneous equipment for unforeseen circumstances (\$3,000).
3. Two fire masks and storage bags have been planned for purchase in the Fire Department

along with medical supplies and two sets of fire fighter turnout gear, coats, helmets and gloves.

A new pumper fire truck is planned for purchase in cooperation with Lowell and Vergennes Townships as well as Kent County.

4. The City will continue its refuse collection program whereby residents pay 90¢ per bag (10¢ increase) and the City contributes 3¢ each. Also, the City provides the cost of residential recycling. Yard waste collection is provided with the residents paying \$1.00 per bag.

BUILDING AUTHORITY FUND

The \$1.3 million, 8800 square foot library was opened in February, 1997. Through a gift of \$380,000 the library is named the Harold and Mildred Englehardt Public Library. Individual, corporate and public contributions have amounted to over \$885,000.

A ten-year Building Authority bond provided the remaining financing. The principal and interest payments for this ninth year of the bond amount to \$43,960. The revenues will be provided from the General Fund.

PARKS

A total of \$10,000 is being allocated from the Lee Fund for park maintenance. Nine thousand dollars (\$9,000) are provided for future parks projects as well as geese removal at Stoney Lakeside Park (\$3,000). The Parks and Recreation Commission has proposed upgrading the electric boxes at Burch Field, graveling the boat launch at Stoney Lakeside Park and moving the birms at the northeast corner of Richards Park.

EQUIPMENT FUND

No purchases of equipment are planned for this fiscal year.

DATA PROCESSING FUND

One computer purchase is planned for City Hall. Assessing and tax information will be added to the City's web page (\$1,000 per year). A Geographic Information System for computer mapping will be started (\$15,000).

AIRPORT FUND

The Airport Fund has a current balance of \$18,622 on the loan from the General Fund, which was utilized to carry out improvements. With assistance from the State, the Airport Board is seeking to upgrade the facility to General Utility status enabling the airport to qualify for State grant funds. A \$70,000 loan from the Michigan Aeronautics Commission will assist in securing air easements enabling tree removals at the ends of the main runway. Through a contract with URS, work has commenced. During this year, easement will be secured and trees cut. In addition, the Board has proposed to grade and gravel the entrance road.

The School of Missionary Aviation Technology had signed a ten-year agreement in 1997 to manage the airport. SMAT furnishes maintenance training of aircraft and flight services at the facility.

DOWNTOWN DEVELOPMENT AUTHORITY

The DDA has set aside \$75,000 for downtown projects.

CITY HALL CONSTRUCTION FUND

With the sale of a \$4,725,000 Building Authority Bond in July 2002, the City Hall Renovation-Police Station Construction Project commenced. The project was completed and dedicated on July 12, 2003. A payment of \$295,205 for the third year of a 30 year bond will be issued.

STREET FUNDS

Through a Federal grant and Major Street Fund, Foreman Road from North Hudson to Gee Drive will be reconstructed. Gee Drive from Foreman to the Creekside Park entrance will also be reconstructed.

Through the Local Street Fund, Center Street south of Bowes will be reconstructed. In addition, with the cooperation of developers, Clarke Street between Center and Stoney Lakeside Park is to be built.

WASTEWATER FUND

The following rates will be as follows:

- User rate \$1.80 per 1,000 gallons per month remains the same
- Readiness to serve charge increases from \$11.50 to \$12.50 per residential unit per month

The sewer main upgrading program will be continued allocating \$20,000, assigned to the Department of Public Works. A total of \$50,000 is allocated for sewer maintenance.

A sanitary sewer replacement near Michigan Wire is planned (\$20,000). In addition, the three roofs on the Wastewater Treatment Plant need replacement (\$40,000).

WATER FUND

The readiness to serve rate will increase from \$18.75 to \$19.75 per month and consumption charge at \$1.68 per thousand gallons will remain the same.

The following capital improvement projects include (1) wellhead protection program (\$12,000), (2) security cameras at plant (\$8,000), (3) clarifier repair at plant (\$80,000), (4) new storage building (\$25,000), (5) well abandonment (\$10,000) and (6) Foreman Road water main (\$81,000).

After two public hearings, the City Council will adopt the budget.

I wish to thank the members of the city staff for their work on the budget. In particular, I also thank City Treasurer Suzanne Olin, who spent numerous hours compiling budget funds data and assisting in evaluation of departmental requests. Betty Morlock provided the typing for this document. The budget is truly a team effort and would not be possible without it.

Respectfully submitted,
David M. Pasquale
City Manager

Myers asked if the budget document was published. City Clerk Morlock stated copies are available for inspection at City Hall and the library.

Myers questioned the Lee Fund as well as the Look and Carr Funds. Pasquale explained the Look Fund Committee meets as applications are submitted. The fund is not budgeted, other than City Treasurer Suzanne Olin knowing the amount available for the committee to consider.

Myers asked if any projects were proposed where the funds were not allocated yet. Olin understood an amount of \$15,000 has been committed to the City Hall project. However, at this point, nothing is projected for the future. Olin stated she could provide a summary of what was spent out of each fund.

The Carr Fund has been set aside for library projects. Friends of the Library usually consider such projects.

Pfaller suggested an increase in trash bags to \$1 each. This would off set the small cost of recycle containers. Pfaller questioned the number of recycling containers being used. Pasquale is still waiting to hear from Waste Management.

Pfaller commented on the Building Authority Fund. There is almost \$44,000 this coming year going toward the bond for the library. The Library Board presented a report at the last Council meeting which indicated 23 percent of the books checked from the library were from City of Lowell residents. Thus, 77 percent of the books checked out were from individuals outside the City limits. It is unfortunate the neighbors in the surrounding townships can not contribute more to the operation of the library. Pfaller suggested leaning toward commerce centers and units of government to form alliances similar to what has been accomplished for fire protection. He wanted to pursue cooperation with the local townships to help fund the operation of the library.

Pfaller suggested forgoing the Michigan Municipal League Conference due to tightness of the budget or at least limit the number of people attending.

Mathews agreed with Pfaller concerning the refuse bags.

By general consensus, the Council agreed to increase the refuse bags to \$1 each.

Mathews was in favor of a few representatives attending conferences.

Mayor Shores did not want to forego the conferences entirely. They are informative and it is important to network with others.

Councilmember Hodges agreed. Conferences are beneficial.

Pasquale noted a second hearing will be held on Monday, June 7, 2004 at which time the budget may be considered.

Item #6. **REQUEST FOR PROPOSAL – CITY ATTORNEY SERVICES – REVIEW AND CONSIDERION.** Councilmember Pfaller reviewed the information concerning City Attorney services. Lowell Light and Power/Cable TV General Manager Tom Richards raised the following concerns:

Scope of Work

- The desire to avoid civil litigation or the desire to keep our legal cost at a minimum.
- Put in compliance our charter as well as Michigan law
- Clarify that services could be requested by the utility boards or manager

Specifications

- Attendance at a utility board meeting may be requested

How to respond

- Suggested we get response to not only identify the current municipal clients but also those they have served in the past ten years.
- Necessary for the responder to identify what experience they have in electric and telecommunication areas
- Important to get each bidder to identify any electric/cable TV or other telecom or internet provider that they represent. We need to know if there are any conflicting loyalties or relationships with any bidder that there may be coming.

City Manager Pasquale stated he would place a high value on City experience. There are many attorneys with township experience. However, there is a significant difference between cities and townships. Pasquale also noted it is important to have an attorney with the capability of providing a Bond Counsel. Currently, the City has an attorney who acts as City Attorney and Bond Counsel. If the particular attorney does not have this capability, who does he or she use? Pasquale suggested a written contract involving a five year agreement.

Myers questioned whether or not the scoring evaluation of the written proposal including the weighed proposals should be included. Myers was happy with the RFP as it was presented.

Pfaller questioned if a disclaimer was needed stating the City is not bound to accept the lowest bid, but rather one which would meet the needs and requirements of the City.

No further information was provided. The issue will be brought back to the next meeting.

Item #7. **MONTHLY REPORTS.** Councilmember Myers commented on the fire report. The month of April showed 30 percent of the calls were within the City and 70 percent of the calls were outside the City limits. City Manager Pasquale stated each township will pay one third of the cost for the truck.

Councilmember Pfaller questioned the SEV for Vergennes and Lowell Townships and how does it compare to the City. Pasquale was unsure but would provide this information at the next meeting.

Item #8. **CITIZEN COMMENTS.** No comments were received.

Item #9. **COUNCIL COMMENTS.** Councilmember Myers stated he enjoyed the Mayor Exchange Day with Wayland. The dinner served in the Council Chambers was very good.

Councilmember Mathews asked if a meeting was held concerning the storm drain on the Phillips/Sundry property. Public Works Director Dan DesJarden stated he has been in contact with the Michigan Department of Environmental Quality - Soil Erosion and Sedimentation. Rob Wade indicated it is not necessary to install a culvert at this time. However, it is mandatory one be installed this fall. Mathews stated there has been much run off with the heavy rains. DesJarden said the DPW has swept debris from the road three times. Mathews suggested billing Sundry for the cleaning the run off.

Mathews commented on the tall grass ordinance. Many lawns need to be cut.

Councilmember Pfaller also commented on the long grass ordinance. There are several lawns which need to be cut on the southwest side of the City.

Pfaller also mentioned the last Parks and Recreation Commission meeting was at Richards Park. Discussion was held concerning the removal of berms near the ice skating rink. The rink got smaller as snow built up. The berms along Spring and Hudson Street would remain. However, the interior berms would be removed. The Commission has also been investigating the installation of light around the rink. Removal of the berms would cost \$500.

Pfaller stated he has received several comments concerning the excavation at the west end of Bowes Road east of the substation. He noticed when the substation as built the City was required to install erosion control. With the amount of dirt being moved, there has been no silk fences placed along the flood plain or river. Pfaller believed Dykema Excavators was mining off this because they are moving the dirt from the south side to the north side of road. They do not have a permit to mine any gravel or soil off this property. Pfaller believed the company was in violation of the zoning ordinance. Pasquale noted Mike Berg from Grand Rapids Gravel (Dykema Excavators) will be at the Planning Commission meeting on May 24, 2004. Any direct questions should be forwarded to him at 616 363 6895. Pasquale stated they are trying to comply with DEQ requirements. He noted the flood plain was disturbed when the access road was created.

Mathews asked if Bowes Road cracking due to the heavy equipment. DesJarden stated no.

Pfaller stated he reviewed the High/James Street intersection concerning the installation of storm water, water and electric services. He understood when Sundry presented their proposal for both developments, their idea was to leave as much property as possible undisturbed. However, it appears most of the property has been disturbed. Pfaller was bothered by the fact Sundry would convey the intent to not disturb the environment and leave it in its natural intent. The property is not in its natural state.

Councilmember Hodges believed Mayor Exchange provided a tremendous opportunity. City staff did an outstanding job in providing a wonderful tour of the community. He was looking forward to visiting Wayland.

Hodges suggested the City web site be promoted and advertised.

Mayor Shores stated the Mayor Exchange Day was terrific. City Clerk Morlock did a great job. Shores also thanked the Chamber of Commerce, as well as the Fire Department in providing lunch. She enjoyed the idea of having the dinner in the City Council Chambers.

Shores appreciated Vennen and Zeigler for providing vehicles for transportation.

Item #10. **MANAGER'S REPORT**. City Manager Dave Pasquale reported on the following:

1. Foreman Road - Hudson to Gee Drive will be closed to through traffic from mid June to August 20, 2004 for street and water main improvements. Traffic will be limited to local access only. Through traffic will be detoured. Prior to the beginning of construction the City of Lowell will meet with local residents and businesses to discuss the projects staging and local access.

Pasquale stated a notice will be published.

2. The following meetings minutes of the following boards and commissions were provided.
 - Airport Board meeting of April 6, 2004
 - Parks and Recreation Commission meeting of April 17, 2004
 - Chamber of Commerce meeting of April 13, 2004
3. The City offices will be closed on Monday, May 31st because of Memorial Day. In observance of this holiday, the annual parade will begin at 9:30 a.m.
4. In response to a Council inquiry, the new ground sign at 815 W. Main (All State) complies with the zoning ordinance. It is 32 square feet, where in the C-3 district 48 square feet is allowed.
5. Mayor Shores was hopeful to have the Councilmembers march in the parade. Coffee will be available at her house at 8:30 a.m.

Item #11. **APPOINTMENTS**. Mayor Shores stated there is an opening on the Planning Commission.

IT WAS MOVED BY MYERS to adjourn at 8:38 p.m.

DATE:

APPROVED:

C. Jeanne Shores, Mayor

Betty R. Morlock, Clerk