

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

For the Regular Meeting of **TUESDAY, SEPTEMBER 8, 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, Water Distribution Supervisor Bob Robinson, Arbor Boardmember and Lowell Light and Power Boardmember Jim Hall and Planning Commissioner Andrew Schrauben.

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 17, 2009 REGULAR MEETING.**

IT WAS MOVED BY PFALLER and seconded by LAPONSIE to approve the minutes of the August 17, 2009 regular meeting as written.

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

Item #3. **APPROVAL OF THE ACCOUNTS PAYABLE.**

IT WAS MOVED BY LAPONSIE 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 (09/08/09)</u>	
GENERAL FUND	\$114,252.03
MAJOR STREET FUND	18,645.58
LOCAL STREET FUND	9,173.70
DDA FUND	7,433.03
AIRPORT FUND	1,461.17
WASTEWATER FUND	7,819.72
WATER FUND	23,662.12
LOWELL CABLE TV FUND	20,750.00
DATA PROCESSING FUND	257.95
EQUIPMENT FUND	10,638.44
CURRENT TAX FUND	397,298.23

Councilmember Ellison questioned the amount paid to Sam's Club for memberships. City Clerk Morlock explained City employees reimburse the City for such memberships.

Ellison also inquired regarding the expenditure to the Michigan Municipal League in the amount of \$10,729.00. City Manager Pasquale explained a portion is allocated to workers compensation while the remaining is League membership fees.

Item #4. **CITIZENS COMMENTS FOR ITEMS NOT ON THE AGENDA.** Gary Dietzel and Sandy Bartlett of 990 N. Washington read the following letter into record:

Respectful Councilmembers and Citizens,

The City Manager recently called and informed us of his intent to have his inspector enter our premises. We do not understand your reasoning. We do understand owner rights. The City Attorney went to great lengths two years ago, to formally absolve the City from any liability. It was at some expense to us to have some fairness written in. The City Attorney prevailed at a bigger expense to the taxpayers.

It states the tenant shall, at tenant's expense, keep the foundation, roof, electrical and plumbing in good repair. We have maintained the house for 30 years. The issues have been routine for an aging home. But the larger ones become more difficult with only a year or two year contract.

Meanwhile, we have given the City thousands of dollars at no cost. Our presence to the North Washington Park assures that it is being watched and cared for. We are appreciated and appreciate it.

Considering the failed intent of development for the property by the previous Council, with two supporting members, we find the action intimidating, unnecessary, costly and without public support. With this contract, like many in your files, without a logical argument, we are suspicious that the intent with this action is either personal or secret. We hope not, but can't

be sure. Our turmoil the last four years has been stressful and careless. We ask the Council to please reconsider. We also ask that the rent be applied to the parks budget rather than to the water budget which is able to maintain itself.

Thank You.

Item #5. **RESOLUTION PROCLAIMING FRIDAY, SEPTEMBER 11, 2009 AS PINK ARROW PROJECT DAY**. Once again, the Lowell High School football team and coaching staff have initiated cancer awareness and fund raising event called Pink Arrow Project Day to be held on Friday, September 11, 2009. The players will wear pink jerseys in a game against Union High School of Grand Rapids. Funds are being raised from the sale of t-shirts and auction of the jerseys. Proceeds will go for two scholarships, bringing Gilda's Club Grand Rapids – Lowell Program to Lowell and aiding those Lowell families dealing with cancer through Lowell Wellness.

The resolution recognizes Friday, September 11 as "Pink Arrow Project Day" and encourages community participation in this event.

Mayor Hodges read the following proclamation into record:

Whereas, many have been afflicted and battling cancer and breast cancer in particular and

Whereas, the Lowell High School football team will once again compete against this disease with each player wearing a pink jersey for its game on Friday, September 11, 2009 and

Whereas, the Lowell community is encouraged to buy and wear Pink Arrow Force II t-shirts to support two scholarships honoring Kathy Talus, a well respected teacher and coach who passed away from breast cancer and Dr. Don Gerard, a team physician for over 35 years and to Lowell Community Wellness which will be using funds to help Lowell families who are dealing with cancer and bringing Gilda's Club Grand Rapids – Lowell Program to Lowell and

NOW, THEREFORE, BE IT RESOLVED, that the Lowell City Council recognizes Friday, September 11, 2009 as "Pink Arrow Project Day" and further to encourage all Lowell Community residents to participate in this event by purchasing pink T-shirts and attending the game.

IT WAS MOVED BY PFALLER and seconded by ELLISON to approve the resolution proclaiming Friday, September 11, 2009 as Pink Arrow Project Day.

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

NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #6. **RESOLUTION – RECOVERY PALOOZA 2009 – A CELEBRATION OF RECOVERY – SATURDAY SEPTEMBER 19, 2009**. The resolution proclaims Recovery Palooza, which celebrates National Alcohol and Drug Addition Recovery Month. This event will be held on Saturday, September 19, 2009 from 11 a.m. to 3 p.m.

Mayor Hodges read the following into record:

WHEREAS, substance use disorders effect 22.6 million people aged 12 and over or 9.6 percent of the population, which is more than the number of people living with coronary heart disease, cancer or Alzheimer’s combined, and

WHEREAS, effective evidenced based treatment has led to long term recovery from substance use disorders and bought a renewed outlook on life for those in recovery and their families and friends; and

WHEREAS, studies have consistently found that individualized treatment is essential for people to be successful in their path of recovery; and

WHEREAS, real stories of long-term recovery can inspire others to ask for help and improve their own lives, the lives of their families, and benefit the entire community; and

WHEREAS, it is critical that we educate our community members that substance use disorders are treatable, yet serious health care problems, and by treating them like other chronic health conditions, we can improve the quality of life for the entire community; and

WHEREAS, to help achieve this goal, the U.S. Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, the White House Office of National Drug Control Policy, the Kent County coalition of treatment providers and area recovery community invite all residents of the City of Grand Rapids, Kent County, and its municipalities to attend, celebrate, and participate in Recovery Palooza 2009: A Celebration of Recovery; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lowell, Michigan do hereby proclaim this event as Recovery Palooza 2009: A Celebration of Recovery.

IT WAS MOVED BY LAPONSIE and seconded by PFALLER to adopt the resolution - Recovery Palooza 2009 – A Celebration of Recovery – Saturday, September 19, 2009.

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

NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #7. **REQUEST FROM VOICE TO WAIVE THE RENTAL FEE FOR USING CITY HALL CONFERENCE ROOM.** A letter was provided from the civic group VOICE (Voters Organized in Civic Excellence) wishing to have the \$20 fee to use the City Hall conference room for their meetings waived. The reason centers on the limited fund the group has.

Councilmember Ellison asked if the group has contacted the library regarding the use of their conference room. Barbara Barber responded yes. However, it is not always available on the dates chosen to meet. Ellison questioned the size of the group and are these mostly City residents. Barber stated there are approximately 15 members. Most are City residents, however a few are from Lowell and Vergennes Townships.

Councilmember Altoft suggested the Council delay a decision until another workshop is scheduled. He believed the entire rental procedure needed to be reviewed again. City Clerk Morlock explained as soon as the policy of charging was adopted, there has been very little activity. Barber wanted the Council to keep in mind the group is working toward civic excellent within the Community.

Item #8. **AMENDING ZONING ORDINANCE TEXT TO INCLUDE GROUP AND COMMERCIAL DAY CARE HOMES AND FACILITIES AS A SPECIAL USE IN THE R-2 AND R-3 DISTRICTS – ADOPT OR SET PUBLIC HEARING (10/05).** In the midst of reviewing a special use permit application for commercial day care (up to 12 children) for 529 Avery, the Planning Commission discovered that it's zoning was incorrectly stated as R-1 instead of R-2. In reviewing the ordinance text, only R-1 allows such uses.

As a proposal, the Commission provided a draft zoning ordinance amendment to include group and commercial day care homes and facilities as a special use in the R-2 and R-3 districts. After holding a public hearing on August 24, the Commission unanimously recommended the ordinance amendment be adopted by the City Council. The Planning Commission will consider another ordinance amendment to include SR Suburban Residential for group and commercial day care as special uses.

Councilmember LaPonsie explained this was brought before the Planning Commission because of an existing daycare facility in the R2 district. There are new State requirements which include City approval in order to run a daycare. It became known when daycare first opened, there were no provisions regarding special uses and therefore the business began operating. However, a special use permit is now required in R1 while R2 and R3 exclude the use. This does not make much sense because R2 and R3 are made for higher density.

The Planning Commission will consider another ordinance amendment to include SR Suburban Residential for group and commercial day care as special uses.

IT WAS MOVED BY PFALLER and seconded by ELLISON to set a public hearing for October 5, 2009 amending the zoning ordinance text to include Group and Commercial Day Care Homes and Facilities as a Special Use in the R-2 and R-3 districts.

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

Item #9. **ZONING BOARD OF APPEALS**

A. 414 N. Monroe – David Jordan – front yard setback variance for covered porch. David Jordan of 414 N. Monroe requested a setback variance to allow a wrap around porch onto the front of his house. Currently, the setback is 24 feet while the average setback in the area is 22 feet on the west side of North Monroe. He is hoping for a setback of 18 feet. He noted his porch would sit no closer than his neighbor Frank Martin, who lives directly south.

City Manager Pasquale stated the Planning Commission reviewed the six criteria needed and unanimously recommended the ordinance amendment be adopted by the City Council.

As a Planning Commissioner as well, Councilmember LaPonsie voted in favor of the variance request. She noted the home is located in the Historic District. Given the dimensions of the property and the fact there was a pre existing porch, led her to support the request. She did not believe it would be detrimental to the neighborhood.

Zoning Boardmember Hodges stated he attended the meeting as well. He supports the efforts of Jordan. It will add to the value of the house as well as the neighborhood.

Zoning Boardmember Altoft also supported the variance request. He noted the possibility of changing some of the rules.

Zoning Boardmember Ellison supported the request as well.

Chair Pfaller noted a request was made within the past year to enclose a porch located on Valley Vista. The request was denied because it encroached the front yard area. To maintain consistency from the east to west, he would not favor this request. If it is allowed for one and not the other, then maybe the ordinance should be changed.

IT WAS MOVED BY ELLISON and seconded by HODGES to approve the front yard setback variance request for a covered porch at 414 N. Monroe as submitted.

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

Item #10. **UPDATED CROSS CONNECTION PLAN AND ORDINANCE.** Water Distribution Supervisor Bob Robinson explained as required by the Michigan Department of Environmental Quality (MDEQ), the Cross Connection Control Plan provides a program to protect the City's public water supply system from contamination through undesirable reversal of water flow of questionable quality. The plan lays out in detail how such backflows are to be prevented. The MDEQ has approved the plan and the Council is recommended to do likewise.

City Manager Pasquale stated an ordinance prepared by the City Attorney and approved by the MDEQ provides the legal standing for the Cross Connection Program. A public hearing should be established for the October 5, 2009 meeting.

Mayor Pro Tem Pfaller referred to Sections 25-33 of the ordinance. He questioned how the inspections were funded. Robinson stated at the present time MDEQ is asking the City to inspect all Industrial and Commercial properties first. Residential inspections will be completed when a water meter is changed. Pfaller noted the ordinance refers to annual testing. Robinson explained new residential meters are considered non testable devices. Only the testable/hazard meters need to be tested on an annual basis. Pfaller inquired regarding high hazard meters. Robinson noted meters such as Michigan Wire and gas stations. However, most turn out to be low hazard and should be inspected every three years. Robinson said outdoor lawn sprinkling systems are considered testable devices and should be inspected every year.

Pfaller questioned the plan for monitoring this. The policy under #5 states "upon notice from the City of Lowell, it shall be the responsibility of the water customer to arrange for the assembly to be tested and submit the completed test form". Pfaller was in favor of keeping the water system safe. However, he did not want to pass an ordinance which the City does not have the means to enforce. Robinson noted this is already an ordinance and is only being revised. He explained each meter is placed into a database and are picked out for inspection as to what would be the highest hazard. The inspection is completed and a letter is sent indicating what needs to be done to be in compliance, at which time 90 days is given to complete.

Councilmember Altoft questioned the amount to have a basic lawn meter inspected every year. Robinson responded between \$45 and up. He has seen the amount as high as \$150 depending on the plumber.

Councilmember LaPonsie asked if the MDEQ requires the City to have a cross connection program. Robinson responded yes.

IT WAS MOVED BY LAPONSIE and seconded by PFALLER to set a public hearing for October 5, 2009 regarding the updated Cross Connection Plan and Ordinance.

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

Pasquale confirmed the Council would consider the plan to the program at the same time. By general consensus, the Council agreed.

Pfaller requested the document be available at City Hall, Library and also online for residents to review.

Item #11. **PURCHASE OF A VALVE TURNING MACHINE.** Water Distribution Supervisor Bob Robinson explained the State is requiring all water valves be turned or exercised on a regular basis. If done by hand, this work would be difficult and time consuming.

The valve turning machine would greatly reduce the time needed as well as safer. Also, this machine can be used by the Streets department.

After receiving bids, DPW Director Dan DesJarden, Mechanic Ralph Breckon and Robinson recommended the purchase of the machine from Vermeer Midwest, Inc. at a cost of \$45,990 for the Demo model. This would be allocated from the Water Fund.

Robinson noted the purchase of the machine has already been placed in the budget.

Robinson requested an additional \$3,000 be allowed to purchase a new unit if the demo unit is no longer available. Council agreed.

IT WAS MOVED BY PFALLER and seconded by ALTOFT to approve the purchase of the demo unit valve turning machine at a cost of \$45,990 from Vermeer Midwest, Inc.

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

Item #12. **COUNCIL COMMENTS.** Councilmember Altoft wanted to discuss the lease agreements for City Hall during the next worksession meeting.

A worksession was scheduled for October 1st at 7 p.m. held in the Conference Room.

City Manager Pasquale asked if Altoft also wanted to discuss the lease agreement with the property located on North Washington Street. Altoft responded no, stating the lease agreement has already been signed. However, the City may want to insure there are smoke detectors and these are in good shape. He did not believe the City needed to have the building, plumbing and electric inspected. It is a waste of City funds and a bit of harassment. He suggested DPW Director DesJarden inspect the smoke detectors.

Altoft also referred to the purchase of the small sweeper a few years ago and asked if it is still in working order. DesJarden stated it is used by the Fair every year. Altoft asked if it could also be used to clean the streets in areas that the street sweeper is not getting. He noted the area along Riverside Drive in front of his restaurant has not been swept all year.

Councilmember Ellison referred to the North Washington Street rental unit. The City has a lease agreement through the next year. Any major inspections, other than simple landlord inspections, should be done at the end of the lease since it has already been signed.

Councilmember LaPonsie was unsure of all the previous discussions. However, she believed a landlord has the responsibility to insure a property is up to code.

LaPonsie also cheered the Lowell Red Arrows.

Mayor Pro Tem Pfaller referred to the landlord discussion held during the last worksession meeting. He requested inspections be done, not to check up on the tenants, but rather to insure the City is providing a livable situation. He has no idea what shape the electrical is in. He questioned if it is deficient or has it been replaced in the last 10 years. If so, was it inspected by an electrical inspector?

Mayor Hodges had conversation with Mayor Snow of Greenville, Michigan. Mayor Exchange will be held with the City of Greenville in May. Currently, the dates of May 13, and 20th, 2010 are being considered.

Hodges noted he supports the comments made by Pfaller regarding the City being a landlord. Inspections would be made using Vergennes Townships codes. Hodges believed Dietzel and Bartlett have not been very good tenants as well as the City not being a very good landlord.

Item #13. **MANAGER'S REPORT.** City Manager Pasquale reported on the following:

1. The following boards and commissions meetings minutes are enclosed:
 - Downtown Development Authority meeting of July 16, 2009
 - Planning Commission meeting of July 27, 2009 and Special meeting of August 10, 2009
 - Chamber of Commerce meeting of August 11, 2009
 - Grand Valley Metro Council meeting of August 6, 2009
 - Grand Valley Metro Council – Transportation Policy Committee meeting of June 17, 2009
2. The Kent County Road Commission approved the City's request to rename the portion of South Division between Grand River Drive and South Jackson to South Jackson Street as noted in the letter provided.
3. The Council needs to establish another work session to complete the establishment of goals initially provided at the August 31st session.

Item #14. **APPOINTMENTS.**

By general consensus, the City Council appointed Jim Hall to the Planning Commission with a term expiring June 30, 2012.

IT WAS MOVED BY PFALLER to adjourn at 8:24 p.m.

DATE:

APPROVED:

James W. Hodges, Mayor

Betty R. Morlock, Clerk