

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

For the Regular Meeting of TUESDAY, **FEBRUARY 21, 2006**

The Meeting was called to order at 7:30 p.m. by Mayor Myers and Deputy City Clerk Susan Ullery called Roll.

Present: Councilmembers Hodges, Pfaller, and Mayor Pro Tem Mathews and Mayor Myers.

Absent: Councilmember Shores.

Also Present: City Manager David Pasquale, Deputy City Clerk Susan Ullery, Public Works Director Dan DesJarden, Police Chief Jim Valentine, City Attorney Richard Wendt, Planning Commission Chairman Clark Jahnke, Planning Commissioners Mark Mundt and Vance Dimmick, Lowell Light and Power/Cable TV General Manager Tom Richards, Water Treatment Plant Superintendent George Regan, Lowell Light and Power and Cable TV Boardmembers Dave Austin and William Thompson and Downtown Historic District Chairman Steve Doyle

IT WAS MOVED BY HODGES and seconded by MATHEWS to excuse the absence of Councilmember Shores.

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

IT WAS MOVED BY PFALLER and seconded by HODGES to approve the minutes of the February 6, 2006 regular meeting as corrected.

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

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

Roll call vote:

YEA: Councilmember Hodges, Pfaller, Mayor Pro Tem Mathews and Mayor Myers.

NAY: None. ABSENT: 1. MOTION CARRIED.

Councilmember Pfaller questioned the amount of \$4,800 which went to the Lowell Area Historical Museum. HDC Chairman Steve Doyle stated this was for a grant received.

<u>BILLS AND ACCOUNTS PAYABLE (02/21/06)</u>	
GENERAL FUND	\$89,712.39
MAJOR STREET FUND	565.49
LOCAL STREET FUND	37.49
HISTORIC DISTRICT FUND	4,797.00
DDA FUND	78.01
WASTEWATER FUND	26,530.12
WATER FUND	573.27
DATA PROCESSING FUND	131.40
EQUIPMENT FUND	586.31
CURRENT TAX FUND	175,883.88

Item #1. **PRESENTATION BY DON STYPULA, EXECUTIVE DIRECTOR OF THE GRAND VALLEY METRO COUNCIL.** Executive Director of the Grand Valley Metro Council (GVMC) Don Stypula presented the benefits the Metro Council could provide if the City were to join as a full participating member. He also noted City Manager Dave Pasquale was recently elected Chairman of the Transportation Policy Committee. This is the highest ranking committee, in terms of setting policy for the Metropolitan Planning Organization.

Stypula explained the GVMC was founded in 1990 and has grown to be the second largest organization of its type in the State of Michigan. Among the GVMC's responsibilities is a transportation management agency, which allows federal dollars for road and transportation projects in the area.

As members of the Metropolitan Planning Organization, the City will be able to receive services in which a well equipped van will travel the City streets providing state of the art, very accurate, pavement management data. The information will be available to the City allowing for better decisions regarding the management of the public infrastructure. The cost is approximately \$67 per mile.

GVMC is also involved in Natural Resource Management Environmental Protection activities as well as developing a regional collaborative for the lower Grand River Water Shed Council. Federal and State dollars will also be leveraged in order to devise an umbrella organization assisting citizen groups and local individuals who are concerned with water quality and resources.

One important change involved the area in legislative advocacy. Stypula will provide Pasquale with updated reports several times a day.

The GVMC is taking off in new directions involving the Regional Geographic Systems (REGIS). A new director was recently appointed.

Stypula requested a full membership from the City of Lowell. It will not cost any additional funding. Currently, the City pays \$1,726 to the Metropolitan Planning Organization. The one change is the City having a voice at the table, including an invitation to all meetings, not just the transportation meetings. The City will have a voice in the final decisions, which drive policies within the area.

Mayor Myers inquired if Stypula would be a voice for an extra stop light or crosswalk within the City. Stypula responded yes, this would not be an unusual request. Myers inquired if dues were based upon population. Stypula stated yes, \$0.43 per capita.

Item #2. **CONSIDERATION OF RESOLUTION RECOGNIZING THE LOWELL AREA HISTORICAL MUSEUM AS A NONPROFIT ORGANIZATION FOR A CHARITABLE GAMING LICENSE.** The Lowell Area Historical Museum wishes to have a raffle as a fundraiser. Among the items for the raffle will be a mahogany bench.

The Council must adopt the resolution recognizing the Museum as a nonprofit organization in order to acquire a charitable gaming license from the State of Michigan.

Councilmember Pfaller asked if funding has also been requested from Lowell and Vergennes Township. City Manager Pasquale was unsure. The Lowell Area Historical Museum Director Judy Straub will provide a presentation to the City Council on March 20, 2006.

IT WAS MOVED BY HODGES and seconded by MATHEWS to approve the resolution to enable the Lowell Area Historical Museum as a nonprofit organization for a charitable gaming license to the State of Michigan.

Roll call vote:

YEA: Councilmember Hodges, Pfaller, Mayor Pro Tem Mathews and Mayor Myers.

NAY: None. ABSENT: 1. MOTION CARRIED.

Item #3. **ORDINANCE REGULATING CANOPIES AND AWNINGS IN THE BUSINESS AND PUBLIC FACILITIES DISTRICTS – PUBLIC HEARING.** City Manager Pasquale explained the ordinance proposal will define canopies and awnings in the zoning ordinance for the first time as the Planning Commission noticed the omission. In addition, the ordinance also provides regulations for canopies and awnings.

Mayor Myers opened the public hearing.

Downtown Historic District Commission Chairman Steve Doyle presented a suggested change to the text, which provides language referring to the Downtown Historic District Ordinance and will avoid confusion when a canopy or awning is installed. The language refers to Chapter 11.5, and is very similar to the signage language stating one must review the Historic District Ordinance.

Mayor Myers closed the public hearing.

Mayor Myers inquired if the ordinance would apply, with the exception of the Downtown Historic District. City Attorney Richard Wendt stated it would apply to both ordinances.

Councilmember Pfaller believed this was not a change in the ordinance, but more of an awareness for individuals who want to install an awning. One needs to go through the approval process, if located within the Downtown Historic District.

Myers questioned if Jahnke believed the issue needed to be sent back to the Planning Commission to consider the addition. Jahnke was comfortable with the addition being made.

Councilmember Hodges noted the Commission voted 6 to 1, in favor of recommending the ordinance.

IT WAS MOVED BY PFALLER and seconded by HODGES to approve the zoning ordinance amendment regulating canopies and awnings, including the amendment regarding the Downtown Historic District.

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

Item #4. **CONSIDERATION OF PROPERTY PURCHASE - BOARD OF LIGHT AND POWER – PUBLIC HEARING**. Lowell Light and Power/Cable TV General Manager Tom Richards provided an update on property the board wishes to purchase at 625 Chatham Street. The purpose is to replace the North Washington Street indoor/outdoor storage. In 2002, Lowell Light and Power received approval of a bond issue to plan for improvements, which included a transmission line and new substation. Monies were also budgeted for improvements to the warehouse facility on North Washington Street.

Since then, new EPA requirements have been placed. The Spill Prevention Control and Counter (SPCC) measures will require the storage of transformers and create a positive containment of any oil which may spill from a transformer. The oil needs to be caught before it reaches the ground or ground water. The deadline for compliance of this requirement is Summer, 2006.

Growth needs involved with the purchase of the property include expanding the garage facilities, additional material storage and added security.

Richards noted the property lies within Vergennes Township and the City of Lowell. A proposal was made to Vergennes Township regarding an uncontested annexation which would allow the City to include a small portion of property and would eliminate the jurisdictional boundaries and problems. However, the township denied the request and expressed no interest in participating with an annexation. Therefore, the necessary expansion to the facility became doubtful due to the zoning ordinance of Vergennes Township. Richards referred to a petition from neighbors near the North Washington Street site which showed objection to expansion.

Richards reviewed the benefits to the Chatham Street property. He noted the property has 6.8 acres with existing buildings and necessary features for all current needs as well as room for expansion. It lies in a secluded industrial site with capacity for greater indoor storage than what could have built on a green field site. The site will provide for the eventual replacement of the Riverside Drive garage, which is already showing signs of settling within the foundation. The

Chatham Street property would allow all of the vehicles to be protected and parked inside. This provides additional security, due to most of the materials being stored inside. The utility poles will most likely remain stored outdoors. The building will also provide potential uses and needs for the City. The building could also provide a lease opportunity with estimates of \$50,000 to \$100,000 worth of revenue for the unused portion. The revenue could off set other costs and help reduce the pressure of higher electric rates.

The value of the property was appraised by a professional. The asking price was within the market range and 30 percent below what the planned construction cost could have been on another possible site. The Board determined a reasonable offer and reviewed the available funds of the utility and commitments for cash. A purchase offer was accepted by the seller which provided Light and Power with a \$300,000 savings below the estimated amount of building on a new site. The Board determined it was an appropriate site and met the current estimated and future requirements of the utility. It will assist in meeting the EPA requirements, be responsive to neighborhood concerns and preserve green space within the City of Lowell. The only visual impact the facility will have is to St. Mary's School and Church.

The Board believed there would be a very low traffic impact to the property. The current average count on North Washington Street is approximately 30 vehicles per day, which averages under four vehicles per hour during the week. Richards noted most of these vehicles are small. Lowell Light and Power would vacate the North Washington property and provide an attractive green space area to the City for future development.

In conclusion, the Board has requested Council approval for the purchase of property at a cost of \$975,000. This is approximately 37 percent below the construction cost of a new parcel of property. The funds will be provided from electric utility revenues. There will be no tax dollars involved in the purchase and no rate changes are anticipated if the purchase is approved. Mayor Myers questioned if this was a cash purchase. Richards responded yes.

Myers inquired if the property was fenced. Richards responded yes.

Councilmember Pfaller commented on Richards mentioning the project was part of a bond issue. Now, he refers to the project as a cash purchase. Richards explained the bond money was provided for in 2002 when Light and Power originally estimated the necessary improvements amounting to \$150,000 to \$200,000.

Pfaller questioned what needed to be done to the property in order to meet SPCC requirements. Richards explained an outside gravel plot needs to be created for the storage of poles. A full design has not been created for the inside, however there needs to be a full concrete floor and a retaining facility to contain the maximum amount of oil which could come from a transformer. Richards anticipated the amount to cost approximately \$20,000 to \$30,000.

Pfaller inquired when an uncontested annexation request was made to Vergennes Township. Richards responded August, 2004. Pfaller made note that during a recent meeting with Vergennes, it was suggested by a boardmember that it would be a "no brainer" to annex the entire section on N. Washington to the City of Lowell.

Mayor Myers opened the public hearing.

Peggy Covert of 982 N. Washington (Vergennes Township) presented a letter, as well as a petition from surrounding neighbors, supporting the move. There is a great desire to clean up the area. Many individuals use the land for recreational uses.

Downtown Historic District Commission Chairman Steve Doyle, 706 Riverside, questioned if the power rates would increase due to the purchase of the property. Richards responded no.

City Manager Pasquale read an email into record from Planning Commissioner Jim Hall as follows: Zoning Ordinance, Chapter 13 Industrial (I) Section 13.02 - J "uses permitted by right" states "utility and public service buildings are permitted but not including essential services such as poles, wires, and underground utility systems". Subsection J indicates buildings as well as storage yards. Section 13.04 C Item A states "any outside storage must be enclosed by a solid noncombustible fence". Further, he stated his concerns of spills into the creek directly adjacent to the Chatham Street facility. Any uncontrolled spill would have to go into City well sites within a matter of minutes without any apparent way to control or mitigate the spill. Hall also mentioned the contamination of the existing site on North Washington Street. Could it be used as a residential housing site without the addition of City water? Testing should be mandated prior to any sale. Pasquale noted the property lies near a city water main. Richards stated through his review of meeting minutes, he has never come across any claim of spills or contamination on the site. He went on to note Light and Power would comply with requirements of the zoning ordinance. Contamination into the creek is a non issue due to EPA requirements which states no oil can reach the soil or ground water.

Mayor Myers closed the public hearing.

Councilmember Hodges asked what access roads would be used. Richards believed Smith Street would make the most sense.

City Attorney Richard Wendt pointed out the appropriate reference to the Industrial District, Section 13.02 – K. The "use" as described, would fall within the permitted use in an industrial district. More important, there is another provision within the zoning code which supersedes the specific zoning in an industrial district. Section 4.14 of the zoning code entitled "Essential Services" states "the erection construction, alteration or maintenance of essential services shall be permitted, as authorized or regulated by law in other ordinances in any use district, it being the intention to exempt such uses from the application of the ordinance. Wendt noted there is a provision in the zoning ordinance which allows essential services to be located within any zone district. He also stated the email states Section 13.04 A states "uses within an industrial district must be either within a completely enclosed building or with an area fenced on all sides with a solid non combustibile fence at least 6 feet tall". Therefore, a fence does not have to be placed around the building, just the area outside.

Hodges questioned the amount of square footage which would be available for lease. Richards responded approximately 25,000 square feet would be available for other uses. Hodges inquired if discussion has been held with DPW Director DesJarden regarding their needs for the space. DesJarden stated the department does not need additional space at this time. Pasquale added,

the DPW currently has a debt free storage facility in a very good location.

Myers requested a copy of the Light and Power presentation.

Myers was concerned with the site being deleted from the tax rolls and not producing tax revenue for the City. He did not want the City competing against its own revenue sources. Richards explained Light and Power provides a payment to the City in lieu of taxes every month based upon 4.5 percent of the monthly operating revenue. The City would benefit by what ever additional dollars went into the operating revenue, whether it comes from the lease payment or electric rates. Wendt believed Myers was concerned that the lease space may be leased to another party. He explained if this were to happen, that portion of the property would automatically go back on the tax rolls and be subject to property taxes. Myers also noted City Treasurer Suzanne Olin had noted any personal property within the storage area would be subject to being placed on the tax rolls.

Councilmember Mathews was in favor of the move. He believed this would be an excellent opportunity to group together as well as planning for the future. EPA standards are making it difficult. He also believed the City could turn around and sell the property on North Washington Street.

Pasquale suggested the sale of the N. Washington Street property be a topic of discussion in the near future if the sale is approved.

Myers supported the purchase. However, he was concerned with purchasing more property than necessary. He would favor the City using the space rather than leasing. Pasquale believed this was a prudent move from his point of view. There are only so many available sites and this seems to be the best alternative.

IT WAS MOVED BY MATHEWS and seconded by HODGES to approve the purchase of the 6.8 acre industrial parcel on Chatham Street for Lowell Light and Power at a cost of \$975,000.

Roll call vote:

YEA: Councilmember Hodges, Mayor Pro Tem Mathews and Mayor Myers.

NAY: Councilmember Pfaller. ABSENT: 1. MOTION CARRIED.

Mathews suggested the Council consider options for the property on North Washington Street at a later date.

Item #5. **CONSIDERATION OF MUTUAL AID AND INDEMNITY AGREEMENT WITH THE IONIA COUNTY SHERIFF'S DEPARTMENT.** Police Chief Valentine explained the Ionia County Sheriffs Department contacted him regarding an agreement with police agencies within their jurisdiction and those adjacent to their county. This is similar to what the City of Lowell had previously with Kent County. The Kent County agreement expands the police powers for all participating agencies within the County. The agreement with Ionia County Sheriff's Department refines what is currently

being done. The department has had a long working relationship with the Sheriffs department, as there are numerous occasions where they are in town assisting Lowell officers or Lowell officers assisting Ionia County. Valentine referred to the statue which gives officers full police authority when they are working in conjunction verbally or in person with a police officer from another jurisdiction. This outlines the rules of authority if the Sheriff's department is in the City assisting officers. They are acting under the City's authority, but ultimately are still responsible to their supervisor. Further, it outlines the LPD will not hold them nor us liable under these working situations, what ever may occur, holding each unit harmless. If a natural disaster were to occur and assistance was given to Ionia County, reimbursement could be applied for through FEMA on behalf of the City.

Councilmember Mathews questioned if this was a similar agreement with Kent County. Valentine responded yes.

IT WAS MOVED BY PFALLER and seconded by MATHEWS to adopt the resolution for mutual aid and indemnity with the Ionia County Sheriff's Department.

Roll call vote:

YEA: Councilmembers Hodges, Pfaller, Mayor Pro Tem Mathews and Mayor Myers.

NAY: None. ABSENT: 1. MOTION CARRIED.

Item #6. **PROPOSAL FOR CONVERSION OF ASSESSING SOFTWARE.** It is necessary to convert the City's present assessing software system (SAMS) to Equalizer to coordinate with the County. The quote is received from BS&A (the vendor for all Kent County units as well as the City Treasurer). The City of Lowell is the last City who has kept with the SAMS software. The City needs to have Equalizer through BS&A to coordinate with all the other units. The total cost is \$3895 for the conversion as allocated from the Data Processing Fund.

Councilmember Pfaller inquired if the conversion had been budgeted. Pasquale responded this was not immediately brought to his attention. However, there are monies available within the Data Processing Fund.

Mayor Myers questioned if this was the only source for this software. Pasquale responded yes.

IT WAS MOVED BY HODGES and seconded by MATHEWS to allocate \$3895 from the Data Processing Fund for the conversion of the assessing software through BS&A (Equalizer).

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

Item #7. **MAINTENANCE AND WARRANTY INSPECTION OF THE WATER TREATMENT PLANT RESERVOIR AND CLARIFIER.** Water Plant Superintendent George Regan explained the clarifier, which was painted last year, is due for inspection to fix any necessary repairs. During

such time, it will be taken out of service. The inspection is estimated at \$600.

Councilmember Pfaller questioned if there were signs of failure of what was done last year. Regan explained there are many angles and edges within a clarifier. There will always be some corrosion.

Pfaller inquired regarding the length of time the plant reservoir and clarifier would be out of service. Regan estimated one week. A notice would be placed in the Ledger.

IT WAS MOVED BY PFALLER and seconded by HODGES to approve the engineering for the warranty inspection for the Water Treatment Plant Reservoir and Clarifier in the amount of \$600.

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

Item #8. **MONTHLY REPORTS**. No comments were received.

Item #9. **CITIZEN COMMENTS**. No comments were received.

Item #10. **COUNCIL COMMENTS**. Mayor Pro Tem Mathews questioned the semi trucks parked in the Tractor Supply parking lot. Are these allowed? Police Chief Valentine responded such semi trucks are not in violation. Mathews also commented on a front end loader parked in a business parking lot along Bowes Road. Is this allowed? Valentine noted the area is zoned industrial. Therefore, it is not in violation.

Mathews stated there are many potholes near the intersection of S. Jackson and Main Street. DesJarden noted this is a county road. The entire intersection will need to be repaired this spring.

Councilmember Pfaller questioned the status of the proposed water and sewer rates. City Manager Pasquale explained the rate study will be presented during the March 6, 2006 Council meeting.

Pfaller requested the Councilmembers present any proposed charter changes to Councilmember Hodges or himself no later than March 6, 2006, in order to keep the process moving forward.

Mayor Myers noted the process for a new Lowell Area Schools Superintendent has begun. A request has been made for a councilmember to serve on the search committee. If interested, one should contact the school.

Myers noted the State Boundary Commission is holding an update meeting on February 23, 2006. Pasquale stated Joel VanderMeulen, who has experience in urban growth areas and 425 plans, has recommended a meeting be held between both townships and the City. Councilmembers are welcomed to attend the luncheon meeting.

Myers presented a brochure on banners. The DDA may wish to consult with the company.

Item #11. **MANAGER'S REPORT.** City Manager Pasquale reported on the following:

1. The following boards and commissions meetings minutes were provided:

- Parks and Recreation Commission meeting of January 14, 2006
- Lowell Area Recreation Authority meeting of January 11, 2006
- Chamber of Commerce meeting of January 10, 2006
- Grand Valley Metro Council – Transportation Policy Committee meeting of January 18, 2006
- Downtown Development Authority meeting of January 19, 2006

2. The State Boundary Commission will meet on Thursday, February 23 requesting a report on the status of negotiations between the City and Vergennes regarding an intergovernmental agreement.

Item #12. **APPOINTMENTS.** Mayor Myers proposed the following reappointments for the respective boards and commissions:

By general consensus, the Council appointed Judy Straub to the Downtown Historic District Commission to a term expiring January 1, 2009.

IT WAS MOVED BY PFALLER and seconded by MATHEWS to move to closed session at 9:14 p.m. to review an opinion of the City Attorney.

YEA: Councilmember Hodges, Pfaller, Mayor Pro Tem Mathews and Mayor Myers.

NAY: 0. ABSENT: Councilmember Shores. MOTION CARRIED.

IT WAS MOVED BY HODGES and seconded by PFALLER to return to open session at 9:43 p.m.

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

IT WAS MOVED BY MATTHEWS to adjourn at 9:44 p.m.

DATE:

APPROVED:

Charles R. Myers, Mayor

Betty R. Morlock, Clerk