

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

For the Regular Meeting of **MONDAY, AUGUST 4, 2008.**

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

Present: Councilmembers Ellison, Pfaller, Mayor Pro Tem Hodges.

Absent: Councilmember Altoft and Mayor Shores.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, DPW Director Dan DesJarden, Police Chief Jim Valentine, Arbor Board and Light & Power Boardmember Jim Hall, and Light & Power Boardmember Greg Canfield.

IT WAS MOVED BY PFALLER and seconded by ELLISON to excuse the absences of Councilmember Altoft and Mayor Shores.

YEA: 3. NAY: 0. ABSENT: 2. MOTION CARRIED.

IT WAS MOVED BY PFALLER and seconded by ELLISON to approve the minutes of the July 21, 2008 regular meeting as written.

YEA: 3. NAY: 0. ABSENT: 2. MOTION CARRIED.

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

YEA: 3. NAY: 0. ABSENT: 2. MOTION CARRIED.

<u>BILLS AND ACCOUNTS PAYABLE (08/04/08)</u>	
GENERAL FUND	\$95,724.92
MAJOR STREET FUND	392.61
LOCAL STREET FUND	1,211.29
DDA FUND	3,738.43
AIRPORT FUND	43.99
WASTEWATER FUND	159.55
WATER FUND	7,075.65
DATA PROCESSING FUND	5,925.74
EQUIPMENT FUND	400.17
CURRENT TAX FUND	79,541.20

Item #1. **REQUEST FROM LOWELL AREA ARTS COUNCIL FOR ONE DAY LIQUOR PERMIT – SATURDAY, AUGUST 23, 2008.** Lowell Area Arts Council representative Dave Thompson of 14100 Thompson Drive was present to request a one day liquor license for the 6th Annual Art Attack on Saturday, August 23, 2008 at the Foreman Building. City Manager Pasquale and Police Chief Jim Valentine recommend approval.

IT WAS MOVED BY PFALLER and seconded by ELLISON to approve the one day liquor permit for the Lowell Area Arts Council on August 23, 2008 at the Foreman Building for the 6th Annual Art Attack.

YEA: 3. NAY: 0. ABSENT: 2. MOTION CARRIED.

Item #2. **ZONING BOARD OF APPEALS**

A. 292 Donna – Donna Tyler – rear yard variance to construct an enclosure – set public hearing (9/2). Donna Tyler plans to have a 16' x 16' enclosure to the back of her house located at the southwest corner of Donna and Laurie Gail.

The enclosure would be 10'2" from the rear lot line where 25 feet is required within the R-2 district. Thus, a variance has been requested. Without it, no roof or sides could be provided.

At its July 28, 2008 meeting, the Planning Commission voted 4-2 to recommend the variance after reviewing the criteria. Zoning Board Chair Pfaller stated the applicant has requested a public hearing be established for September 15, 2008 rather than September 2, 2008.

IT WAS MOVED BY HODGES and seconded by ELLISON to establish a public hearing for September 15, 2008 regarding a rear yard variance for Donna Tyler at 292 Donna.

YEA: 3. NAY: 0. ABSENT: 2. MOTION CARRIED.

Item #3. **ORDINANCE AMENDMENT TO LIMIT ON STREET PARKING PROHIBITION BETWEEN 2 A.M. TO 6 A.M. FROM NOVEMBER 15 TO APRIL 15 – PUBLIC HEARING.**

Police Chief Valentine explained very often the department is placed in a position of trying to explain why such a no parking ordinance is in effect during the non winter months. Under the current ordinance, the Chief has the authority to establish parking permits for those with hardships. During the summer months on a regular basis such permits are issued. However, in the winter months, the ordinance is extremely restrictive.

Steve Doyle of 706 Riverside Drive believed changing the ordinance was simple on the surface. However, the current ordinance is not simply in place to allow snow to be plowed in the winter. There are many justifications for this ordinance, which has been in effect for many years. Cars should not be allowed to be parked on the street all night for twelve months of the year. Ninety five percent of those in Lowell make a concerted effort to park in their driveways and garages. If this ordinance changes, cars will be allowed to be parked in the streets 24 hours a day, seven days a week for seven months of the year. If this is amended, more and more cars and trucks will be left in the streets unnecessarily. When this happens, several negative things occur. Currently, the police can look down a street for several blocks to see if there is any unusual activity at 2 a.m. The police will not think twice about checking out the parked car, if the

ordinance is amended. Is the car yours? A neighbors? Or is it the car of the person who breaks into a house while on vacation. Lowell has a very real advantage with this ordinance because a car parked in the street in the middle of the night is an oddity. The current ordinance helps stop crime. It will be very undesirable when a neighbor leaves a parked car inadvertently in the street at the end of a driveway and then goes on vacation. Doyle also mentioned problems occurring when the street sweeper has to avoid the same car.

If this ordinance changes, it increases the risk of kids and adults of getting hit by cars. For example, people make a very good effort to park on their property when they come home from work because there is an overnight parking ordinance in place. If the ordinance is amended, there will be more cars and trucks left in the street. All this results in raising the risk of kids getting hurt while playing due to poor sight lines. Doyle also believed it would be more difficult to fight fires when vehicles are parked in the street in the middle of the night.

Dennis Kent of 1700 Faith Drive supports the proposed ordinance. There are many times when he has had someone from out of town or children home from college and needs to park a vehicle in the road. However, he commended Doyle for some good points. He believed having the restrictions during the winter months was a good idea, but such restrictions should be lightened during the remainder of the year.

Councilmember Ellison understood both view points. However, she believed cars parked on either side created a hazardous issue and it is not a good idea to narrow the streets to one lane when allowing parked cars on either side. The current ordinance has been in place for a very long time. She did not believe there was enough need to change it at this time.

Councilmember Pfaller commented Bowes Road has been quite hazardous during fair week due to all the cars parking on the side of the road. He raised concerns regarding the control of parked inoperable cars. For this sole reason, he opposed the ordinance.

Mayor Pro Tem Hodges stated he is sympathetic to the proposed change and to individuals who have multiple kids and vehicles. He commented on the recent party held until 5 a.m. near his home. The current ordinance helps control such issues as keeping the noise down as well as inappropriate activities.

IT WAS MOVED BY PFALLER and seconded by ELLISON to deny the proposed ordinance amendment change regarding on street parking.

YEA: Councilmember Ellison, Pfaller and Mayor Pro Tem Hodges. NAY: None

ABSENT: Councilmember Altoft and Mayor Shores. MOTION CARRIED.

Item #4. **LCTV ENDOWMENT FUND – CONSIDERATION OF WORK SESSION ON PROCEDURES.** Over the past several meetings, the issue of administering the LCTV Endowment Fund was raised. The Council has the opportunity to review this at a work session. It would be established on Monday, August 11 at 7 p.m.

City Manager Pasquale provided a copy of the current resolution approving the administration and deposition of the LCTV Endowment Fund. The following was read into record:

Whereas, the LCTV Endowment Fund was established by the City Council at its September 17, 2007 meeting; and

Whereas, the fund has been initiated by moneys received by the sales of assets from the City's cable television system, and

Whereas, the Grand Rapids Community Foundation provides the nonprofit endowment fund on behalf of the City; and

Whereas, the City Council has reviewed various options for the administration and deposition of this Fund.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the Lowell City Council shall act as the sole board to determine use of the endowment funds available for spending.
2. Only City projects will be considered.
3. Monies earned from the previous fiscal year can be utilized for current year projects.
4. Only capital improvement projects will be considered, with no City operating expenses are to be authorized.
5. The City Council will hold a special meeting on September 8, 2008 and every second Monday of September thereafter to consider projects for the 2008 – 2009 fiscal year and every fiscal year thereafter.
6. Public comments will be received as part of the process. Proposals from citizens and City non profit groups will be considered for capital projects.

This was passed at the April 21, 2008 meeting. Pasquale reminded everyone the sale of the Cable TV system netted slightly over 2.7 million dollars. After the loan was paid to Lowell Light and Power, this money has been placed in a fund which is administered by the Grand Rapids Community Foundation.

Pasquale read the following into record:

New Resolution for the Administration and Deposition of the LCTV Endowment Fund

Resolved that the City Mayor is hereby authorized and directed on behalf of the City of Lowell to amend the agreement with the Community Foundation to conform it with these Resolutions.

The first part of the resolution remains the same with the following changes:

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the administrative board be made up of seven (7) members: 2 City Councilmen, the City Manager, the Supervisor of Lowell Township, the Supervisor of Vergennes Township, the Superintendent of Lowell Area Schools, and a Bank Manager from the Lowell Community.
2. Projects will be considered from the three communities, the City of Lowell, Lowell Township, and Vergennes Township.
3. Monies earned from the previous fiscal year can be utilized for current year projects.
4. Citizens from all three communities may apply for money for projects in their communities that would enhance the community in the four categories that LACTV gave to the Lowell Communities over the past 25 years: Communication, Education, Entertainment, and the Arts.
5. The Administrative Board will hold a special meeting on September 15, 2008 and every third Monday of September thereafter to consider projects for the 2008 – 2009 fiscal year and every fiscal year thereafter. The administrative board has the authority to recommend to the Community Foundation it fund any project that meet the criteria set fourth in this resolution that has been approved by the Administrative Board.
6. Proposals from non-profit groups and individuals will be considered for funding.
7. The Chair of the Administrative Board shall communicate its recommendations for the distribution of funds to the Community Foundation.
8. That all resolutions or parts of resolutions in conflict wherewith are rescinded.

IT WAS MOVED BY PFALLER and seconded by ELLISON to establish a worksession for Monday, August 11, 2008 at 7 p.m. regarding review of the administering of the LCTV Endowment Fund.

YEA: 3. NAY: 0. ABSENT: 2. MOTION CARRIED.

Item #5. **CITIZEN COMMENTS**. Bob Reagan, resident of Schneider Manor, was disappointed it took this long to establish a worksession regarding the Cable TV Fund. There are many other funds in which more groups than just the City Council has control over. The money was actually generated by the City of Lowell as well Lowell and Vergennes Townships. He hoped this issue would be brought up during the worksession in front of the Grand Rapids Community Foundation.

Reagan questioned who would attend the worksession. Mayor Pro Tem Hodges stated the meeting is open for public comment. Hodges also clarified a worksession was held in February concerning this very topic.

Reagan asked if the Grand Rapids Community Foundation was aware of how these funds were generated. Hodges responded they are aware of the way it has been established.

Perry Beachum of 924 Riverside Drive stated he served as boardmember for Lowell Cable TV and is currently a boardmember of Lowell Light and Power. He became a boardmember at the end of the sale of Cable TV. With the information he received at that time, he voted for the sale. However, after reviewing the budget process for Light and Power, he might have voted differently now. Lowell Cable TV helped in the budget process with the sharing of facilities and personnel. Currently, 25% of revenues for Lowell Light and Power come from outside the City boundaries. Cable TV was also on this same order. Beachum felt there should be representation from outside the City to serve on the Committee to dispense the revenue created from the interest generated from the sale of Cable TV. He believed only the interest should be used and not the principal. Beachum also felt the funds from the interest generated from the sale of Cable TV should not be used for the general fund of the City, but for projects of non profit groups, much like the Lowell Area Community Fund.

Beachum spoke on behalf of the Parks and Recreation Commission. It has been inferred that the City of Lowell has paid for the off leash dog park facility at Stoney Lakeside Park in the Lowell Ledger, letter to the editor and soundoff. The Parks and Recreation Commission designated an area to use in Stoney Lakeside Park. However, all funds were raised privately by a group of dog enthusiasts. No taxpayer money was used in creating the dog facility. Also, this group provided money into a fund for ongoing maintenance and repairs as not to burden the City and its taxpayers. Likewise, the Parks and Recreation Commission has designated an area for a full skateboard park at Stoney Lakeside Park and funding to be provided by private donations.

Beachum reminded the citizens of Lowell the Parks and Recreation Commission meets the third Saturday of each month at 8:30 a.m. at City Hall and with the summer months at parks. One may contact Betty Morlock for summer locations.

Lynnette Solweedel 505 N Jefferson read a statement into record as follows:

Please look before you at the number of people in attendance. They may not all be able to attend subsequent meetings. Many here are from the City. Most if not all have individually had the opportunity to learn the history behind the establishment of Lowell Area Cable and TV through discussion with one of the founding members. I know of your favorable comments to that individual after your discussions. I will not reiterate the facts at this time. You are all well familiar with them. I feel you know in your hearts the right and ethical solution to our concerns with regard to the proceeds from the endowment fund. I feel in your hearts you know the intent behind the original ordinance in 1981 regarding the establishment of Lowell Area Cable and TV and that it was for it to be established, operated and maintained separate from the City of

Lowell, which it indeed was. In fact, the City of Lowell, at that time did not want to be responsible financially or otherwise for Lowell Area Cable and TV.

You know that it was the subscribers from the three communities who are responsible for Lowell Area Cable and TV. It is only proper and ethical that those subscribers be allowed to benefit from the endowment fund. For you to approve our proposed resolution regarding the administration and deposition of the endowment fund you still have controlling interest of the board as the board would consist of two City Councilmembers, the City Manager and a bank representative from the Lowell community. Monies could still be used for City and capital improvement projects when approved by the board. However, you would be given proper further representation to the surrounding communities, that being Vergennes and Lowell Townships by having the board also consist of the Superintendent of Lowell Area Schools, the Supervisors of Lowell and Vergennes Township. Citizens from all three communities could apply for grants, scholarships, money for projects in their respective communities to enhance the Lowell Area as a whole in the categories of communication, education, entertainment and the arts. The same categories which helped enhance the three communities to begin with through the establishment of Lowell Area Cable and TV. This could be the first of many times where the three communities work together toward a common goal for the good of the entire Lowell area.

In closing, when making your decision as to whether you should or should not adopt our proposed resolution, I respectfully ask that you please don't just follow your minds but rather listen to your hearts and turn to prayer for wisdom and guidance.

Dennis Kent of 1700 Faith commented on the proposed resolution. He was concerned over item #4 where there is a limit of expenditures to communication, education, entertainment and the arts. Entertainment and the arts are fine during periods where there is more revenue. But presently, the street fund for the county and the City is way down because gas use is way down. The price of materials are way up. This Lowell Cable System was an important piece of City infrastructure. Some of this revenue should go back into capital improvement.

Greg Canfield of 403 N. Washington and current member of the Lowell Light and Power Board, stated it is important that it was the community, not a city organization, which the cable tv sale came from investments by the community rather than just the City. It would be excellent to see better representation of some community members rather than just City residents on the board.

Ivan Blough of 623 N. Jefferson confirmed how the worksession would be run and anyone could attend. Hodges responded he was correct. Hodges envisioned seeing Kate Lockert Schmid from the Grand Rapids Community Foundation at the worksession as well as City Attorney Richard Wendt. Blough stated the group is not trying to eliminate anything, but only trying to expand on the options of where the funds could be asked for. Blough also believed the board was composed of a very fair amount of individuals from the City.

Blough also questioned what would happen if a resolution is adopted in the workshop. Councilmember Pfaller responded no official business can take place, it can only be discussed. Hodges stated any outcome from a worksession has to come before Council. Blough asked if

this would then be placed on the next Council meeting. Blough asked if there would be a hearing. Hodges stated often a public hearing is done but one does not have to hold a public hearing.

Item #6. **COUNCIL COMMENTS**. Councilmember Ellison stated it was great to see a full crowd. She wished this many attended the first worksession meeting. She looked forward to hearing everyone's opinion on it and hoped there could be a consensus on the issue. She noted on September 8, 2008, consideration of projects will be made. However, this does not mean money will be spent at that time.

Councilmember Pfaller thanked everyone for attending.

Pfaller also referred to a proposal that was shared last Thursday. Pfaller shared his opinion and stated 28 years ago the City made an investment in a commercial enterprise in forming Cable Television. No different than investing in a gas station or grocery store. It was a commercial enterprise where the City provided a product and then sold that product. Rates were kept artificially low to stay competitive in the commercial market place. The City offered the Cable service which was sold to customers. The customers received what they paid for. When one purchases a product one does not purchase ownership in the company, one purchases the product. If the system had failed and the cable industry had not flourished the way it did, would the subscribers been willing to pay the difference in what the loan was? It would have fallen back on the City. The City guaranteed the million dollar loan, not the rate payers. If there had been a failure in the system, the taxpayers of Lowell would have had to pay the loan back to Lowell Light and Power where it was borrowed. They would not have taken a million dollar hit. The City took the risk, sold the product, the investment grew and it was sold. The City as a community, has that growth in the fund. Because the City residents, through the Council, 28 years ago, took a risk, they are the ones who should reap the benefit of this risk.

Pfaller commented on the off leash facility at Stoney Lakeside Park. There is a voluntary parking issue for senior citizens on Bowes Road which is being abused. This will be raised at the next Parks meeting and parking should be banned on Bowes Road. Possibly the Police Department can make a recommendation to the Parks Commission.

Mayor Pro Tem Hodges thanked everyone for attending.

Item #7. **MANAGER'S REPORT**. City Manager Pasquale reported on the following:

1. The following boards and commissions meetings minutes are provided:
 - Arbor Board meeting of June 16, 2008
 - Parks and Recreation meeting of June 21, 2008
 - Grand Valley Metro Council – Transportation Policy meeting of May 21, 2008
 - Downtown Development Authority meeting of June 26, 2008
 - Planning Commission meeting of June 23, 2008

- Light and Power Board meetings of June 5 and June 12, 2008
2. The Planning Commission has proposed to reschedule the joint work session regarding the tall grass and noxious weeds ordinance for Tuesday, August 12 at 7 p.m. with Council concurrence.
 3. The Kent County Youth Fair runs from August 4 to 9.

Item #8. **APPOINTMENTS**. None.

IT WAS MOVED BY PFALLER to adjourn at 8:20 p.m.

DATE:

APPROVED:

C. Jeanne Shores, Mayor

Betty R. Morlock, Clerk