

**LAPEER CITY COMMISSION
MINUTES OF A REGULAR MEETING
March 6, 2017**

A regular meeting of the Lapeer City Commission was held March 6, 2017 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

ROLL CALL

Present: Mayor Sprague.
Commissioners Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.
Absent: None.

City Manager: Dale Kerbyson, present.
City Attorney: Michael Nolan, present.

Mayor Sprague led the Pledge of Allegiance.

AGENDA APPROVAL

59 2017 03-06

Moved by Bennett. Seconded by Gates.
Approve the Agenda for March 6, 2017 as presented.
Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.
Nays: None.
Absent: None.

MOTION CARRIED.

MINUTES

60 2017 03-06

Moved by Marquardt. Seconded by Gates.
Approve the minutes from the Regular Meeting and Closed Session held February 20, 2017 as presented.
Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.
Nays: None.
Absent: None.

MOTION CARRIED.

Minutes from various Boards and Commissions were received into record.

PUBLIC COMMENTS

Janet Adams, Baldwin, gave invocation.

CONSENT AGENDA

61 2017 03-06

Moved by Gates. Seconded by Marquardt.
Approve the Consent Agenda for March 6, 2017 resulting in the following.
1. Special Event Request from Lapeer County Intermediate School District, Annual Great Start Family Fun Day, June 21, 2017, closure of Court Street from Nepessing south to Alley, use of City sidewalk downtown.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.
Nays: None.
Absent: None.

MOTION CARRIED.

BILL LISTING FOR MARCH 6, 2017

62 2017 03-06

Moved by Marquardt. Seconded by Gates.
Approve the Bill Listing for March 6, 2017 in the amount of \$2,000,169.88.
Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.
Nays: None.
Absent: None.

MOTION CARRIED.

PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

None.

PUBLIC HEARINGS

Tax Increment Finance Authority (TIFA 3).

Second Restated Tax Increment Financing Plan No. 3 and Development Plan No. 3.

Mayor Sprague introduced David Churchill as the attorney for the TIFA #3 Plan. Mr. Churchill explained what a TIFA is and that TIFA Plan #3 includes DeMille west of M-24 and Oakdale properties, as well as surrounding areas. Past projects which TIFA Plan #3 has contributed to includes development of Summit and Harrison Streets, acquisition of Oakdale property with removal of buildings and cleanup of site, Charter School, Mott College to name a few. The current plan expires in 2018 and the board is requesting a 15 year amendment.

Mayor Sprague gave an opportunity for any taxing jurisdiction to comment on the proposed Resolution to amend the TIFA Plan #3. County Commissioner Lenny Schneider provided handouts and gave a history of the County's financial status indicating the County cannot afford to continue losing money, the County is currently spending more than what it is bringing in and is against a 15 year amendment to the TIPA Plan #3. However, as the County Commissioner keeping the best interest of the residents in mind, he recognizes the responsibilities of the City to take care of large revenue and that the TIFA Plan #3 shows how it is supposed to be used.

Mayor Sprague opened the public hearing at 6:45 p.m. Hearing no comments from the public, Mayor Sprague closed the public hearing at 6:45 p.m.

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Moved by Bostick-Tullius. Seconded by Gates.

Approve Resolution Determining That The Second Restated Tax Increment Financing Plan No. 3 And Development Plan No. 3 Constitute A Public Purpose And Approving The Plans.

CITY OF LAPEER

RESOLUTION DETERMINING THAT THE SECOND RESTATED TAX INCREMENT FINANCING PLAN NO. 3 AND DEVELOPMENT PLAN NO. 3 CONSTITUTE A PUBLIC PURPOSE AND APPROVING THE PLANS

RECITALS

- A. On May 21, 1984 the City Commission adopted a resolution establishing Tax Increment Financing Plan No. 3 and Development Plan No. 3.
- B. The Tax Increment Financing Plan No. 3 and Development Plan. No. 3 was restated in 2005 following amendments and was amended again in 2008 and 2010.
- C. Section 18(2) of the Tax Increment Finance Authority Act, being Act No. 450 of 1980 (the Act), provides that amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval, rejection, or modification following the same procedure as the approval or rejection of the original plan.
- D. On January 11, 2017, The Tax Increment Finance Authority of the City of Lapeer adopted a Second Restated Tax Increment Financing Plan No. 3 and Development Plan No. 3.
- E. The Second Restated Tax Increment Financing Plan complies with Section 13 and Section 14 of the Act.
- F. The Development Plan complies with Section 16 of the Act.

- G. Notice of public hearing on the Second Restated Tax Increment Financing Plan and Development Plan has been provided pursuant to Section 17 of the Act.
- H. Pursuant to Section 13(4) of the Act, the Lapeer City Commission on March 6, 2017 provided a reasonable opportunity to the taxing jurisdictions in which the development is located to express their views and recommendations regarding the Restated Development Plan. No. 3 and Tax Increment Financing Plan No. 3.
- I. The Lapeer City Commission has conducted a public hearing providing an opportunity for interested persons to be heard and to submit communications in writing with reference to the Restated Development Plan. No. 3 and Tax Increment Financing Plan No. 3. The hearing has provided the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the Plan.
- J. Section 18(1) of the Act provides that the governing body of the municipality, after a public hearing, shall determine whether the Tax Increment Financing Plan and Development Plan as amended constitutes a public purpose.
- K. Section 18(1) of the Act provides that if, after a public hearing, the governing body determines that the Development Plan and Tax Increment financing Plan as amended constitutes a public purpose, then it shall approve or reject the plan or approve it with modification by resolution based on certain special conditions.

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1. The Lapeer City Commission hereby determines that the Restated Tax Increment Financing Plan No. 3 and Development Plan. No. 3 constitute a public purpose.
- 2. In accordance with Section 18 of the Act, the Lapeer City Commission hereby approves Second Restated Tax Increment Financing Plan No. 3 and Development Plan. No. 3.
- 3. The approval of the Plans is based upon the following considerations:
 - a. That the Restated Development Plan meets the requirements set forth in Section 16(2) and that the Restated Tax Increment Financing Plan meets with the requirements set forth in Section 13 (2) of Act 459, as amended.
 - b. That the proposed method of financing the development is feasible and the Authority has the ability to arrange the financing.
 - c. That the development is reasonable and necessary to carry out the purposes of the Act.
 - d. That the land to be acquired within the development area is reasonably necessary to carry out the purpose of the plan and the purposes of the Act.
 - e. That the Restated Development Plan is in reasonable accord with the approved Master Plan of the City of Lapeer.
 - f. That public services, such a fire and police protection and utilities, are or will be adequate to service the Development Area.
 - g. That changes in streets, street levels, intersections and utilities are reasonably necessary to accomplish the proposed development program.
 - h. That no change in zoning and no taking of property by eminent domain is necessary to accomplish the proposed development program.

- i. That the amount of captured assessed value estimated to result from adoption of the plan as amended is reasonable.
- j. That a citizen's council was not formed because a change in zoning or taking of property by eminent domain was not necessary to accomplish the proposed development program.

ON A ROLL CALL VOTE:

AYES: Commissioners Atwood, Marquardt, Bennett, Gates, Bostick-Tullius.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED. RESOLUTION DECLARED APPROVED.

City Attorney Michael Nolan arrived at 6:39 p.m.

ADMINISTRATIVE REPORTS

Rezoning – R2 Single Family Residential to B-2 General Business.
1061 & 1073 S. Main, 1073 Cliff Drive.

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Moved by Bostick-Tullius. Seconded by Bennett.

Approve adopting the proposed amendment to Chapter 7 (Zoning Ordinance), Section 7.02.02(a)(10) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

ARTICLE 7.02 MAPPED DISTRICTS

7.02.02 District Boundaries

(a) Zoning District Amendments

- (10) The following properties formerly zoned R-2 Single Family Residential are hereby rezoned to B-2 General Business:

1061 S. Main Street; Tax I.D. #21-16-550-005-00; Sec 8 T7N R10E Churchill Farms Subdivision Lot 5;

1073 S. Main Street; Tax I.D. #L21-16-550-006-00; Sec 8 T7N R10E Churchill Farms Subdivision Lot 6; and

1073 Cliff Drive; Tax I.D. #L21-16-550-027-00; Sec 8 T7N R10E Churchill Farms Subdivision Lot 27.

ON A ROLL CALL VOTE:

AYES: Commissioners Atwood, Marquardt, Bennett, Gates, Bostick-Tullius.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED. AMENDMENTS TO CHAPTER 7 ADOPTED.

Public Hearing Request: Focus on Lapeer Home Improvement Program 2017 Application.

65 2017 03-06

Moved by Bennett. Seconded by Marquardt.

Approve setting a public hearing for March 20, 2017 for the Focus on Lapeer Home Improvement Program 2017 application, update on City of Lapeer Homeowner Rehabilitation Grant, HUD \$1 Home and Fair Housing Policy Review at 6:30 p.m. or as soon thereafter as may be heard.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.

Nays: None.

Absent: None.

MOTION CARRIED.

M-24 Reconstruction Project – Pedestrian Tunnel & Water Main Improvements.
Local Share Payment #19.

66 2017 03-06

Moved by Marquardt. Seconded by Gates.

Approve Local Share Payment #19 to the State of Michigan in the amount of \$11,884.14 for the M-24 Reconstruction Project – Pedestrian Tunnel & Water Main Improvements.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.

Nays: None.

Absent: None.

MOTION CARRIED.

Chapter 66 (To Regulate DAS/Small Cell/Wireless Facilities In The Public Rights Of Way Ordinance).

Commissioner Marquardt Introduced Chapter 66 (To Regulate DAS/Small Cell/Wireless Facilities In The Public Rights Of Way Ordinance) of the General Ordinances of the City of Lapeer.

CHAPTER 66

**TO REGULATE DAS/SMALL CELL/WIRELESS FACILITIES
IN THE PUBLIC RIGHTS OF WAY**

THE CITY OF LAPEER ORDAINS:

66.01 DEFINITION.

For purposes of this section, the following terms and phrases shall be defined as follows:

DAS/Small Cell/Wireless Network shall mean any distributed antennae system or small cell telecommunication or data wireless network.

DAS/Small Cell/Wireless Facilities or DAS/Small Cell/Wireless Network Facilities means structures of any nature installed and/or operated for the provision of telecommunication or wireless services, including without limitation, antennas, supporting structures for antennas, poles, equipment shelters or houses, and any ancillary equipment.

66.02 LICENSE AGREEMENT

No person shall install or operate, in whole or in part, DAS/Small Cell/Wireless Facilities or DAS/Small Cell/Wireless Network Facilities in a City public right-of-way or other public place without first applying for and receiving a DAS/Small Cell/Wireless license from the City in a form and subject to such terms and conditions as is acceptable to the City. Nothing herein shall be interpreted to require the City to issue such a license and the City reserves to itself discretion to grant, deny or modify a request for such a license as it determines to be in the best interest of the City and its citizens.

66.03 METRO ACT PERMIT.

No person shall install or operate “telecommunications facilities,” as defined in the Metropolitan Extension Telecommunications Rights-Of-Way Oversight Act, Act No. 48 of the Public Acts of 2002, as amended (the “Act”) without first obtaining a permit under the Act from the City, including any part of a DAS/Small Cell/Wireless system constituting telecommunication facilities.

66.04 DESIGN PARAMETERS

Where permitted by the City, the following minimal design parameters shall apply to DAS/Small Cells/Wireless Network Facilities in City public rights-of-way:

1. The required map(s) for proposed DAS/Small Cell/Wireless Facilities shall be legible, to scale, labeled with streets, and contain sufficient detail to clearly identify the proposed DAS/Small Cell/Wireless Network Facilities’ locations and surroundings. Where applicable, the required map or list shall include and identify any requested pole height(s).

2. The maximum height of a pole or other supporting structure installed to accommodate a DAS/Small Cell/Wireless Network shall be 40 feet.
3. Unless otherwise permitted in Section (d) 6., DAS/Small Cell/Wireless Facilities shall be located no closer than 18 inches from an existing sidewalk/face of curb or 18 inches from a proposed future sidewalk/face of curb location.
4. Unless otherwise permitted in Section (d) 6., DAS/Small Cell/Wireless Facilities shall be located no closer than 10 feet from any driveway.
5. In residential areas, DAS/Small Cell/Wireless Facilities shall be located in line with a side lot line whenever possible and not in front of a house.
6. The licensee shall field-stake all proposed locations for DAS/Small Cell/Wireless Facilities which shall be subject to the approval of the City, Lapeer County Road Commission and/or the Michigan Department of Transportation as applicable. All approved DAS/Small Cell/Wireless Facilities' locations shall be on a per pole/equipment/other basis. Such approvals shall be memorialized by the City and licensee.
7. Once precise locations have been approved in accordance with Section 66.04, 6., the licensee shall provide latitude and longitude coordinates for the DAS/Small Cell/Wireless Facilities' locations to the City's Department of Public Works.
8. The licensee shall be responsible to obtain such other permits and approvals as required by law.

66.05 COMPLIANCE WITH APPLICABLE LAW.

The City, in reviewing and authorizing a permit under the Act and/or a license referred to in this section, and the licensee, in the establishment and operation of any DAS/Small Cell/Wireless Network Facilities, shall comply with all applicable federal and state laws.

66.06 FEES.

Fees for the agreement and permits required shall be as provided for in the Act or those documents and as periodically authorized by resolution of the City Commission.

66.07 EFFECTIVE DATE.

This Ordinance will become effective as of its publication of adoption in a newspaper in general circulation within the City as provided by law.

Summary to be used for publication purposes.

CITY MANAGER'S REPORT

Michigan National Resource Trust Fund Grant.

City Manager Dale Kerbyson has applied for a grant with the Michigan National Resource Trust Fund which will provide 75% of the cost to complete the M-24 pedestrian tunnel and requested a public hearing to be set on March 20, 2017.

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Moved by Gates. Seconded by Bennett.

Approve setting a public hearing for March 20, 2017 for the Michigan National Resource Trust Fund Grant Review at 6:30 p.m. or as soon thereafter as may be heard.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.

Nays: None.

Absent: None.

MOTION CARRIED.

City Manager Dale Kerbyson requested a Closed Session to discuss the purchase of real property. The sale of the library is moving forward and is in the final steps of completion. There will be a Marihuana Workshop held on March 27, 2017, starting at 5:30 p.m., location to be determined.

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Moved by Bennett. Seconded by Bostick-Tullius.

To go into Closed Session at the end of the regular meeting for the purpose of discussing the sale of real property.

ON A ROLL CALL VOTE:

YEAS: Commissioners Bostick-Tullius, Atwood, Bennett, Gates, Marquardt.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED.

CITY ATTORNEY'S REPORT

City Attorney Michael Nolan informed the Commission that they continue to work on income tax collection which has been very successful with the recovery of approximately \$130,000 in 2016.

UNFINISHED BUSINESS

None.

DEPARTMENTAL COMMUNICATIONS

The Monthly Financial Report for January 2017 and the DDA Status Report dated February 16, 2017 were received into the record.

PUBLIC COMMENTS

None.

MAYOR/COMMISSIONER COMMENTS

Commissioner Atwood: The City staff is doing a great job and he is very pleased, is aware of issues but the staff is very proactive; is excited for summer as there are good ideas to come.

Commissioner Bennett: Thanked the lady for prayer.

Commissioner Bostick-Tullius: Will be going to Washington, DC for the National League of Cities and will meet with our Congressman and Senator. Would like to see Commissioner Atwood's idea of having a Youth Council move forward and feels it should be a group project. Would like to see the Commission meetings be held at different locations every couple of months to make sure we are reaching all residents.

Commissioner Gates: Agrees with Commissioners Bostick-Tullius and Atwood; there is a lot of positive going on in the City; would like to implement the Youth Council; lives on Pine Street and would like someone to look into the high speeding cars that go up and down on Pine Street.

Commissioner Marquardt: Would like to have a meeting set up with Gary Howell during the Capital Conference, possibly tour the capital; would like to look into attending the Gala Dinner at the Capital Conference as well. City Manager Dale Kerbyson commented that a dinner has been arranged with Mr. Howell and Mr. Green and the consensus of the Commission was to not attend the Gala Dinner. Ms. Marquardt also commented that she attended a Women's Affair, shopped and went to the PIX theater, all over the weekend.

City Manager Dale Kerbyson: Housing received a \$50,000 grant which needs to be spent quickly for community improvements, possibly develop the round-about making a West entrance statement on Genesee; restore the copulas throughout town, and is open to ideas if any funds remain. These funds have to be spent before the end of this coming summer.

Mayor Sprague: Happy to see how many residents turned out for tonight's meeting. The TIFA Plans are all taken seriously, if the plans are under budget, funds are returned. The TIFA plans allow funds to be captured to purchase a large item the ladder fire truck, which if the City did not have, the fire a few years ago would have

spread and more businesses would have been affected. The TIFA board does a good job allocating the funds.

Closed Session: Sale of Property.

The Commission convened to a Closed Session for the purpose of discussing information subject the sale of real property at 7:09 p.m. and returned to its regular meeting at 7:36 p.m.

ADJOURNMENT

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Moved by Bennett.

Adjourn the regular meeting.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.

Nays: None.

Absent: None.

MOTION CARRIED.

The regular meeting adjourned at 7:37 p.m.

William J. Sprague, Mayor

Tracey S. Russell, Deputy City Clerk