

**MINUTES OF A REGULAR MEETING  
OF THE  
LAPEER CITY COMMISSION**

**January 17, 2006**

A regular meeting of the Lapeer City Commission was held on January 17, 2006 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

**Present:** Mayor Treece  
Commissioners Turkelson, Marquardt, Sprague, Farrington, and Robinet.  
City Attorney Ron Shamblin  
City Manager Dale Kerbyson

**Absent:** None.

Mayor Treece led the Pledge of Allegiance.

**AGENDA APPROVAL**

**8 2006 01-17**

Moved by Robinet. Seconded by Farrington.

To approve the Agenda for January 17, 2006 as presented. MOTION CARRIED.

**MINUTES**

**9 2006 01-17**

Moved by Marquardt. Seconded by Sprague.

To approve the minutes of the Regular Meeting held on January 3, 2006, as presented. MOTION CARRIED.

Minutes from Various Boards and Commissions received through January 11, 2006 were received into record.

**PUBLIC COMMENTS**

There were no public comments.

**CONSENT AGENDA**

**10 2006 01-03**

Moved by Sprague. Seconded by Robinet.

To approve the Consent Agenda for January 17, 2006 resulting in the following:

1. Approval of the purchase of New Fire Engine and Tanker with KME Fire Apparatus in the amount of \$676,258 from Fund 484-336-976000 contingent upon Equipment Financing (Act 99) and authorize the Mayor and City Manager to sign the required documents.
2. Approval of Budget Adjustment for Water Main Relocation in the amount of \$13,672 from 591-000-699999 to 591-556-974000.
3. Approval of Special Event Request from March of Dimes for Walk America to take place on April 29, 2006 contingent upon receipt of insurance.

MOTION CARRIED.

**PUBLIC PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS**

Commendation to Matthew Elwart.

Police Chief Alexander introduced Matthew Elwart to the Commission and read a commendation for his involvement in a robbery that resulted in apprehension of the suspects and recovery of property.

## **PUBLIC HEARINGS**

No public hearings scheduled.

## **ADMINISTRATIVE REPORTS**

There were no administrative reports presented.

## **CITY MANAGER'S REPORT**

City Manager Kerbyson reviewed information regarding the purchase of Lot 23 in the Lapeer Industrial and Research Park.

### **11 2006 01-17**

Moved by Robinet. Seconded by Sprague.

To approve the Offer to Purchase Real Estate of Lot 23, Lapeer Industrial Research Park to Jack Moseley, LLC in the amount of \$87,500.00 and authorize the Mayor and City Manager to sign the required documents.

## **CITY ATTORNEY'S REPORT**

### **Chapter 48 Cost Recovery Ordinance**

Commissioner Robinet introduced a proposed amendment to Chapter 48 (Cost Recovery Ordinance) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

## **CHAPTER 48 COST RECOVERY ORDINANCE**

### **48.01 PURPOSE**

The purpose of this ordinance is to enable the City to require reimbursement from:

- A. Those responsible for (either intentionally, accidentally, or as a result of actions by others) or owning or controlling property affected by, the leaking, spilling, releasing or allowing certain hazardous substances or materials to escape containment, or for damaged and/or downed power lines, electric service lines, gas mains, gas service conduits, water mains, sanitary sewer mains, storm sewer mains, occupancy leads, telephone lines, cable television lines, traffic signals or signs; thereby requiring the city and/or its agents, to provide emergency containment, cleaning, and/or disposal of hazardous substances or materials, or for the securing and prudent monitoring of the site of an accident or natural disaster, including those involving public or private utilities.
- B. Those responsible for (either intentionally, accidentally, or as a result of actions by others) or owning or controlling property affected by or involved in an emergency incident including bomb threats, vehicle fires, illegal fires, extrication from vehicles involved in accidents, and accident related clean up.

### **48.02 DEFINITIONS**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

#### ***ACCIDENT, INCLUDING NATURAL DISASTER***

An unforeseen or unexpected happening or occurrence which of itself causes great harm or damage, or which creates the potential for great harm or damage to individuals and/or property, and which requires immediate and prudent

securing and monitoring by the city, and/or agents of the city, to reduce the potential for such damage, but not including emergency incidents.

### ***BOMB THREAT***

Bomb threat means the verbal or written threat of a bomb or other explosive device which if discharged as threatened would (1) violate a federal, state or local law, or (2) cause property damage and/or personal injury or death.

### ***DANGEROUS OR HAZARDOUS SUBSTANCES OR MATERIALS***

Any substance (including gases or vapors) which if spilled, leaked, or otherwise released from its container, is dangerous or harmful to the environment or human or animal life, health, or safety, or otherwise constitutes a danger, threat or nuisance to the public health, safety or welfare. Hazardous materials shall include, but not be limited to, such substances as chemicals and gases, explosives, radioactive materials, petroleum or petroleum based products, poisons, biologic agents, flammable, combustibles, hazardous wastes, or corrosives. The Fire Chief or the chief's designee, shall have reasonable discretion to determine whether any particular substance constitutes a hazardous material.

### ***EMERGENCY INCIDENT***

Emergency incident means a bomb threat, vehicle fire, an illegal fire, extrication from vehicles involved in accidents, and accident related clean up.

### ***EMERGENCY RESPONSE***

The providing, sending and/or utilization of public works, police, fire and/or rescue services by the city at an emergency incident or at an incident involving release of a dangerous or hazardous substance or material, or an accident requiring immediate and prudent securing and monitoring by the city and/or agents of the city.

### ***EXPENSE OF AN EMERGENCY RESPONSE***

- A. The expense for an emergency incident shall be according to a fee schedule adopted by the Lapeer City Commission.
- B. For all other emergency responses, the direct costs incurred by the city in making an appropriate emergency response to an to an accident or incident, including the costs of providing police, firefighting and rescue services, public works and/or other city personnel, or the services of other agents of the city, at the scene of an incident or accident. Related administrative costs, which for agents of the City shall be 15% of the actual charge to the City, accruing after the occurrence of such incident or accident are also included. Such costs and expenses shall include the salaries or wages, workers compensation benefits, and fringe benefits of the personnel responding to the incident or accident and the costs of equipment and materials used.

### ***ILLEGAL FIRE***

Illegal fire means a fire set or determined to have been set in violation of a federal, state or local law and shall include an arson fire, a fire set in violation of a "no burning" ban or order and/or a fire set without a required permit.

### ***RESPONSIBLE PARTY***

Responsible party mans any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity responsible for an emergency incident or any ownter,

tenant, occupant or party in control of real and/or personal property from which, onto which or related to which there is a public safety or fire emergency incident and their heirs, estates, successors and assigns.

#### **48.03 DUTY TO REMOVE AND CLEAN UP**

It shall be the duty of any person, firm, corporation, public or private utility, or any other entity directly or indirectly causing, contributing to, or allowing the leakage, spillage or any other release of dangerous or hazardous substances or materials, or owning or controlling property affected thereby or requiring the securing and monitoring of sites or locations of accidents and/or natural disasters, including downed power lines and electric service lines, ruptured gas mains, gas service conduits, water mains, occupancy leads, telephone lines, or cable television lines, to immediately secure, monitor, and clean up the area or location in such manner that the area or location involved is fully restored to the condition existing prior to such occurrence. The City shall have no duty to contain, clean up or dispose of any release of hazardous substances or materials, or other materials, but in emergency situations the Fire Chief or Chief of Police, or their designees, shall have the authority to take whatever action is reasonably necessary to protect the health, safety, and welfare of the general public including securing and monitoring sites of accidents or providing for or arranging for the containment, removal or clean up of any hazardous substances or materials. The city shall inspect the site to insure that cleanup has been fully completed.

#### **48.04 FAILURE TO REMOVE AND CLEAN UP**

Any person or entity failing to comply with Section 48.03, and/or where a non-emergency incident, emergency response is provided by the City, shall be liable to the City and shall reimburse the City for all costs and expenses, including the costs incurred by the City or any agents the City engages, for the complete abatement, cleanup, restoration and/or securing of the affected area.

#### **48.05 SUBMITTAL OF BILL**

The Department of Financial Services shall, within ten days of receiving itemized costs incurred for an emergency response, submit a bill for the same by first class mail or personal delivery to any person or entity liable for these expenses as previously enumerated under this chapter. The bill shall require full payment within 30 days from date of billing.

#### **48.06 ENFORCEMENT**

If any person or entity fails to reimburse the City as above provided, the City shall have the right to bring an action in the appropriate court to collect such costs. If such person or entity is the owner of real property affected or partially affected by the release of hazardous materials, or requiring emergency securement or monitoring, the City shall have the right to add any and all costs of clean up, restoration and/or of any emergency response, to the tax roll of such property and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property.”

City Attorney Shamblin provided an update on 585 L.C. Cramton.

#### **BILL LISTING FOR JANUARY 17, 2006**

##### **12 2006 01-17**

Moved by Sprague. Seconded by Robinet.

To approve the Bill Listing for January 17, 2006 in the amount of \$1,281,768.05.

MOTION CARRIED.

## **UNFINISHED BUSINESS**

### **13 2006 01-17**

Appointed by Mayor Treece. Moved by Robinet. Seconded by Farrington.  
To appoint Jennell RaCasta to the Planning Commission for a term ending August 1,  
2006. MOTION CARRIED.

## **DEPARTMENTAL COMMUNICATIONS**

Departmental Monthly Reports were received into record.

## **ADJOURNMENT**

### **14 2006 01-17**

Moved by Sprague. Seconded by Farrington.  
To adjourn the meeting. MOTION CARRIED.

The meeting adjourned at 6:42 p.m.

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Charles D. Treece, Mayor

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Donna L. Cronic, City Clerk