

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

February 19, 2007

A regular meeting of the Lapeer City Commission was held on February 19, 2007 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

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

Absent: None.

Mayor Sprague led the Pledge of Allegiance.

AGENDA APPROVAL

38 2007 02-19

Moved by Robinet. Seconded by Turkelson.
To approve the Agenda for February 19, 2007 as presented.
MOTION CARRIED.

MINUTES

39 2007 02-19

Moved by Turkelson. Seconded by Robinet.
To approve the minutes of the Regular Meeting held on February 5, 2007 with correction as follows:

City Manager Dale Kerbyson commented on the workshop for the building department, 5 year department plan, that the CCA budget review was within \$5,00 of the City's estimated budget, and asked City Commission approval for the budget adjustment to move forward with the Department.

Corrected to:

City Manager Dale Kerbyson commented on the workshop for the building department, 5 year department plan, that the CCA budget review was within **\$5,000** of the City's estimated budget, and asked City Commission approval for the budget adjustment to move forward with the Department.

and the Executive Session minutes held on February 5, 2007.

MOTION CARRIED.

Minutes from Various Boards and Commissions received through February 15, 2007 were received into record.

CONSENT AGENDA

40 2007 02-19

Moved by Turkelson. Seconded by Robinet.
To approve the Consent Agenda for February 5, 2007 resulting in the following:

1. Approval of the Budget Adjustment for the Oregon Street and Horton Street Reconstruction Projects Design Engineering Contracts as presented.
2. Approval of Payment Request #1 for the Oregon Street Lift Station Project to Trojan Development Company, Inc. in the amount of \$16,380.
3. Approval of Change Order #2 for the Flow Meter Construction Project with O'Laughlin Construction Company in the amount of \$465.30.

4. Approval of Payment Request #6 for the Flow Meter Construction Project to O'Laughlin Construction Company in the amount of \$9,830.00.
5. Approval of the Design Engineering Services with Rowe Incorporated for the Court Street Water Main and Biddle Street Sanitary Sewer and to authorize the Director of Public Works to sign the required documents.
6. Approval of the Municipal Resolution Michigan Department of Transportation Contract No.: 06-5646 for the Saginaw Street Right Turn Lane Project.

CITY OF LAPEER
MUNICIPAL RESOLUTION
MICHIGAN DEPARTMENT OF TRANSPORTATION
CONTRACT NO.: 06-5646

BE IT RESOLVED THAT the Michigan Department of Transportation Contract #06-5646 for right-turn lane, left-turn phase, traffic signal upgrading, and pedestrian signal upgrading work at the intersection of South Saginaw Street and Genesee Street between the Michigan Department of Transportation and the City of Lapeer is hereby accepted and authorize City Manager Dale Kerbyson and Director of Public Works John Lyons to sign the required documents.

7. Approval of the Special Event Request from Lapeer Downtown Business Association for Wild Lapeer to be held April 28, 2007.
8. Approval of the Special Event Request from Lapeer Area Chamber of Commerce for Lapeer Days Festival to be held August 15 – 19, 2007 as a City Co-sponsored Event.
9. Approval of the Special Event Request from Sunrise Kiwanis of Lapeer and DDA for Lapeer Celebrates Art to be held June 1 – 3, 2007 as a City Co-sponsored Event.
10. Approval of the Taxicab License #2007-01 for Mid-Valley Cab/Mid-Valley Transportation.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

BILL LISTING FOR FEBRUARY 19, 2007

41 2007 02-19

Moved by Ogden. Seconded by Robinet.

To approve the Bill Listing for February 19, 2007 in the amount of \$1,215,562.40.

MOTION CARRIED.

PUBLIC COMMENTS

None.

PUBLIC PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

None.

PUBLIC HEARINGS

None

ADMINISTRATIVE REPORTS

Air Advantage: Wireless Internet Service

City Manager Dale Kerbyson commented on a Lease Agreement with Air Advantage for wireless internet service, that the lease would allow the use of the water tower at the Water Tower Travel Trailer Park, and introduced Scott Zimmer with Air Advantage.

Scott Zimmer, President of Air Advantage, thanked the Commission for their time and commented on the proposed lease on the water tower for wireless internet service, current and possible locations in Lapeer County, provided a company history packet to

the Commission, working with Michigan Department of Agriculture and Rural Utility Service, that the company offers an option for services, and that the Commission consider the Lease Agreement.

Discussion was held regarding radius capability of 5 to 8 miles, obstruction issues, costs to customers, routing and point-to-point technology use, equipment required for service, speed capabilities, link factors, package offers, that the City would be their biggest customer base, testing of equipment, other areas considered within the City would be Lapeer Development Corporation building and within the Industrial Park, that there will be a 6 to 8 week implementation period, network issues, problem areas with obstacles, node-to-node distance, interference issues, that this is a 3-year contract, and that the City is only leasing the use of the Water Tower.

42 2007 02-19

Moved by Robinet. Seconded by Turkelson.

To approve the Air Advantage Lease for Wireless Internet Service and authorize the Mayor and City Manager to sign the required documents.

MOTION CARRIED.

CITY MANAGER'S REPORT

No report provided.

CITY ATTORNEY'S REPORT

CH 12 (Streets, Sidewalks and Alleys) – Vacation of Streets

City Attorney Shamblin provided a review of law changes affecting vacation of streets and Attorney General's opinion.

Commissioner Farrington introduced a proposed amendment to Chapter 12 (Streets, Sidewalks and Alleys Ordinance) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

CH 12 (STREETS, SIDEWALKS AND ALLEYS)

12.14 VACATION OF STREETS

- a) The term VACATE shall mean one or more of the following: to vacate, discontinue, abolish, or abandon any road, street, or alley, or any part thereof.
- b) The City Commission may be petitioned to VACATE by one or more abutting property owners or by City staff. Petitions to VACATE are on file in the City Clerk's office. The petitioner is required to pay all costs associated with the VACATE request as outlined in CHAPTER 12 (Streets, Sidewalks and Alleys) Fee Schedule.
- c) Whenever the City Commission shall deem it advisable to hold a public hearing, it shall so declare by resolution with a roll call vote. In the same resolution, the City Commission shall appoint a time when it will meet and hear comments regarding the VACATE request. The City Commission, although not required, may request the Planning Commission to review any VACATE request and provide a recommendation.
- d) Notice of such meeting to hear objections shall be published in a newspaper of general circulation for four (4) consecutive weeks before the time appointed for such meeting. Notice shall also be given by first class mail to the owners of all property abutting such highway, street, or alley, as shown upon the assessment rolls of the city.

- e) If after such hearing the City Commission shall determine to VACATE, it shall so declare by resolution with a roll call vote. The Commission may reserve an easement for public or private utility purposes within the right-of-way of the VACATE request, and may, by resolution, extinguish any such easement whenever such easement ceases to be used for such utility purposes.
- f) Following the adoption of any resolution to VACATE, the City Clerk shall cause to be recorded by the Lapeer County Register of Deeds a certified copy of the VACATE resolution. Upon receipt of the recorded VACATE resolution from the Lapeer County Register of Deeds, a copy shall be sent to the state treasurer, office of the secretary of state, and recorded in the book of street records
- g) Notwithstanding the above sections, a road, street, or alley, or any part thereof dedicated for use by the public or a part thereof which is within twenty-five meters of a lake or general course of a stream, shall not be vacated, discontinued, abolished, or abandoned except by order of the Circuit Court for Lapeer County.

12.15 RULES AND REGULATIONS

The City Manager is hereby authorized to make such rules and regulations as from time to time appear to him or her to be necessary to carry out the intent of this chapter, provided that such rules are not in conflict with this or any other law of the City or other appropriate governmental unit, and provided further that such rules are approved by the City Commission. Failure to observe any approved rule or regulation shall be a violation of this chapter. Such rules and regulations shall be published and available for distribution at the City Clerk's Office.

12.16 PERMITS AND BONDS

Applications for permits required by this Ordinance shall be made upon forms prescribed by the City. Such permits may be revoked by the City for failure to comply with this Ordinance, including the rules and regulations adopted pursuant to this Ordinance. Application for a permit under the provisions of this Ordinance shall be deemed as agreement by the applicant to promptly complete any work permitted, observe all pertinent laws and regulations of the City in connection therewith, repair all damage done to the public right-of-way and protect and save harmless the City from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith.

12.17 PERFORMANCE BOND

A performance bond, certified check, or cash deposit shall be provided by the recipient of any permit granted pursuant to this Ordinance in an amount sufficient to provide security for the proper completion of any work to be done under the permit.

Marcelli Case Status Liability Insurance Status

City Attorney Ron Shamblin commented on the Marcelli lawsuit, that the suite was won in the Court of Appeals, that Marcelli sued in Federal Court under RICO Act violations, that the suit was sent to current and past insurance companies for defense with both insurance companies responding that they would not cover the suit, that the case was dismissed, to breakout the attorney fees and send a bill to the insurance companies for payment, and that the insurance companies should have responded to the lawsuit.

UNFINISHED BUSINESS

43 2007 02-19

Mayor Sprague appointed. Moved by Robinet. Seconded by Turkelson.
To appoint the following:

Paul Boucher Lapeer Development Finance Authority for a term ending 08-01-11.
Bob Rowden EDC/TIFA/Brownfield for a term ending 03-01-13.
MOTION CARRIED.

44 2007 02-19

Moved by Marquardt. Seconded by Robinet.
To appoint the following:

Dan Grinnell Cable Advisory Board for a term ending 03-01-10.
Lorraine Grinnell Cable Advisory Board for a term ending 03-01-10.
MOTION CARRIED.

DEPARTMENTAL COMMUNICATIONS

Monthly Departmental Reports were received into record.

MAYOR/COMMISSIONER COMMENTS

No comments provided.

EXECUTIVE SESSION

Lapeer Community School Property Transfer and
AFSCME Union Contract and
Lapeer Industrial Research Park Negotiating Contract

45 2007 02-19

Moved by Turkelson. Seconded by Robinet.

To approve an Executive Session regarding property transfer with the Lapeer Community Schools and AFSCME Union Contract and Lapeer Industrial Research Park Negotiating Contract.

ON A ROLL CALL VOTE:

AYES: Commissioners Farrington, Turkelson, Ogden, Marquardt, and Robinet

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED.

The Lapeer City Commission convened to an Executive Session to discuss property transfer with the Lapeer Community Schools, AFSCME Union Contract, and Lapeer Industrial Research Park Negotiating Contract at 7:05 p.m. and reconvened to a regular session at 7:37 p.m.

Lapeer Community School Property Transfer

46 2007 02-19

Moved by Turkelson. Seconded by Robinet.

To approve the Lapeer Community School Property Transfer and authorize the Mayor and City Manager to sign the required documents.

MOTION CARRIED.

AFSCME Union Contract

47 2007 02-19

Moved by Robinet. Seconded by Marquardt.

To approve the ratified AFSCME Union Contract and authorize the Mayor and City Manager to sign the required documents.

MOTION CARRIED.

Lapeer Industrial Research Park

48 2007 02-19

Moved by Turkelson. Seconded by Robinet.

To approve the sale of property in the Lapeer Industrial and Research Park in the amount of \$280,000 less a reduction in price as per the purchase agreement of \$130,000 for a net price of \$150,000 for parcel L20-83-367-040-00 to ESSC Investments, LLC and authorize the Mayor and City Manager to sign the required documents in substantially the form presented with Exhibit A.

MOTION CARRIED.

ADJOURNMENT

49 2007 02-19

Moved by Turkelson. Seconded by Robinet.

To adjourn the meeting.

MOTION CARRIED.

The meeting adjourned at 7:38 p.m.

William J. Sprague, Mayor

Donna L. Cronce, CMC, City Clerk