

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

May 7, 2007

A regular meeting of the Lapeer City Commission was held on May 7, 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

99 2007 05-07

Moved by Robinet. Seconded by Turkelson.
To approve the Agenda for May 7, 2007 as presented.
MOTION CARRIED.

MINUTES

100 2007 05-07

Moved by Robinet. Seconded by Marquardt.
To approve the minutes of the Regular Meeting held on April 16, 2007 as presented.
MOTION CARRIED.

Minutes from Various Boards and Commissions received through May 3, 2007 were received into record.

CONSENT AGENDA

101 2007 05-07

Moved by Robinet. Seconded by Marquardt.
To approve the Consent Agenda for May 7, 2007 resulting in the following:

1. Approval of the Special Event Request from the County of Lapeer for Family Preparedness Day to be held September 8, 2007.
2. Approval of the Special Event Request from Open Door Community of Christ for World Trade Day to be held September 11, 2007.
3. Approval of the Special Event Request from Lapeer County Bank & Trust for LCBT Yard Sale to be held May 19, 2007.
4. Approval of the Special Event Request from Lapeer Downtown Business Association for Red Hattitude Day to be held July 28, 2007.
5. Approval of the Special Event Request from Pregnancy Resource Center for Walk for Life to be held September 15, 2007.
6. Approval of Change Order #3 from O'Laughlin Construction Company in the amount of \$525.57 for the Flow Meter Construction Project.
7. Approval of Payment Request #4 for Trojan Development Company, Inc. in the amount of \$22,882.50 for the Oregon Street Lift Station Project.
8. Approval of Local Share Payment #1 to the State of Michigan in the amount of \$1,825.82 for the Saginaw Street – Right Turn Lane Project.
9. Approval of the Resolution To Approve The Grant For The Linear Path Extension MDOT Grant Resolution.

**RESOLUTION TO APPROVE THE GRANT
FOR THE LINEAR PATH EXTENSION**

MDOT GRANT RESOLUTION

WHEREAS, the City of Lapeer has received a \$150,000 Conditional Funding Commitment from MDOT to fund the Linear Path Extension, and

WHEREAS, Wal-Mart has committed \$75,000 toward the Linear Path Extension project, and

WHEREAS, MDOT requires the following resolution as a grant requirement.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City certifies that local funding for participating and non-participating expenses is secure and available.
2. The City commits to owning, operating, funding/implementing a maintenance plan over the design life of the facility constructed with Transportation Enhancement funds.
3. The City authorizes the Director of Parks, Recreation, and Cemetery to serve as the local official to act as the City's agent during the project development and sign a project agreement upon receipt of a funding award.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

BILL LISTING FOR APRIL 16, 2007

102 2007 05-07

Moved by Robinet. Seconded by Ogden.

To approve the Bill Listing for May 7, 2007 in the amount of \$426,486.44.

MOTION CARRIED.

PUBLIC COMMENTS

John Stahl, State Representative commented on legislative updates, State budget shortfall, and overview of tax proposals. Brief discussion was held on the differences of taxes between fair, consumption, and service, House and Senate bills, the need to look at the whole state with the economy, and industry needs.

PUBLIC PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

Arson Awareness Week - Proclamation

103 2007 05-07

Moved by Turkelson. Seconded by Robinet.

To approve the Arson Awareness Week Proclamation as presented.

CITY OF LAPEER
PROCLAMATION
ARSON AWARENESS WEEK
2007

WHEREAS, Arson is a serious crime that affects all of us and can only be stopped when we realize the severe damage arson causes to our state and individual communities; and

WHEREAS, Arson kills innocent people and causes countless injuries; and

WHEREAS, These blazes erode the tax base and cause a severe loss to our cities, villages and neighborhoods, and can destroy property and the security of employment; and

WHEREAS, Arson can disrupt our educational system, destroy irreplaceable historical buildings and artifacts and render natural resources useless for long periods of time; and

WHEREAS, Direct cost of arson is estimated by the Michigan Arson Prevention Committee to be nearly \$120 million each year in Michigan alone and arson has a significant impact on insurance premiums and tax dollars that must be used to pay for extinguishing and investigating these maliciously set fires;

THEREFORE, I, Mayor William J. Sprague, do hereby declare May 6-12, 2007 as Arson Awareness Week in the City of Lapeer and urge all citizens to help support the efforts of the local police and fire departments in preventing arson.

MOTION CARRIED. PROCLAMATION DECLARED ADOPTED.

PUBLIC HEARINGS

Energy Steel – Industrial Facility Tax

Mayor Sprague opened the public hearing at 6:44 p.m. to hear comments regarding the request for an Industrial Facility Tax Exemption from Energy Steel.

Patricia Lucas, Executive Director of Lapeer Development Corporation introduced Lisa Rice and Mike Mitchell from Energy Steel, that the company was requesting an IFT for the project, construction and machinery investment total approximately \$5.7 million, the principle type of business was nuclear quality parts or apparatus, the estimation of 18 new jobs, and the exemption request was for 12 years.

Mayor Sprague closed the public hearing at 6:46 p.m.

104 2007 05-07

Moved by Robinet. Seconded by Marquardt.

To approve the Resolution Approving The Application Of Energy Steel & Supply Company For An Industrial Facilities Exemption Certificate.

RESOLUTION APPROVING THE APPLICATION OF ENERGY STEEL & SUPPLY COMPANY FOR AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE

WHEREAS, pursuant to P.A. 198 of 1974, M.C.L. 207.551 et seq., after a duly noticed public hearing held on October 5, 1987, this Commission by resolution established the City of Lapeer Industrial Development District No. E, as requested by the Lapeer City Commission; and

WHEREAS, Energy Steel & Supply Company has filed an application for an Industrial Facilities Exemption Certificate with respect to the construction of a new building and purchase of new equipment and machinery to be acquired and installed within the Industrial Development District No. E; and

WHEREAS, before acting on said application, the City of Lapeer held a public hearing on May 7, 2007, at the Lapeer City Hall, 576 Liberty Park, at 6:30 p.m. or as soon thereafter as may be heard, prior to which hearing the applicant, the Assessor and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, commencement of the installation of new machinery and equipment had not begun earlier than six (6) months before April 2, 2007, the date of the acceptance of the application for the Industrial Facilities Exemption Certificate; and

NOW THEREFORE, BE IT RESOLVED by the Lapeer City Commission that:

1. The Board finds and determines that the granting of the Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Acts of 1974 and Act No. 255 of the Public Acts of 1978, shall not have the effect of substantially impeding the operation of the City of Lapeer, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Lapeer.

2. The application of Energy Steel & Supply Company for an Industrial Facilities Exemption Certificate with respect to the construction of a new building and the purchase of new machinery and equipment to be acquired and installed on the following described parcel of real property situated within the City of Lapeer Industrial Development District No. E, to wit:

Part of the Northeast $\frac{1}{4}$ of Section 12, T7N-R9E, City of Lapeer, Lapeer County, Michigan, being more particularly described as beginning at a point on the Southerly right-of-way line of John Conley Drive extended which is S01°45'08"E (recorded as S01°45'11"E) 267.01 feet along the East line of said Section 12 to said Southerly right-of-way line, and along said Southerly right-of-way line by the following four (4) courses: 1) S88°21'31"W 200.02 feet, 2) along a curve to the left 233.87 feet (radius of 531.60 feet, delta angle 25°12'24", chord bearing and distance of S75°45'19"W 231.99 feet), 3) S63°09'07"W 256.21 feet, 4) along a curve to the right 23.54 feet (radius of 2363.30 feet, delta angle 00°34'14", chord bearing and distance of S63°26'14"W 23.54 feet) from the Northeast corner of said Section 12; thence continuing along said Southerly right-of-way by the following two (2) courses: 1) along a curve to the right 490.73 feet (radius of 2363.30 feet, delta angle 11°53'50", chord bearing and distance of S69°40'16"W 489.85 feet), 2) along a curve to the left 43.11 feet (radius of 232.00 feet, delta angle 10°38'48", chord bearing and distance of S70°17'47"W 43.05 feet); thence S25°00'04"E 710.10 feet to a point on the right-of-way line of John Conley Drive South Cul-De-Sac; thence along said Cul-De-Sac right-of-way, 30.00 feet along the arc of a non-tangent curve to the right (radius of 80.00 feet, delta angle 21°29'22", chord bearing and distance of N89°18'53"E 29.83 feet); thence N56°22'50"E 509.66 feet; thence N25°00'04"W 602.13 feet to the point of beginning. Containing 8.00 acres, more or less, and being subject to any easements, restrictions, and right of ways of record.

be and the same is hereby approved.

3. The Industrial Facilities Exemption Certificate when issued shall be and remain in force and effect for a period of 12 years after completion, provided, however, that said certificate shall be subject to the terms and conditions of the Tax Abatement Agreement between the City of Lapeer and Energy Steel & Supply Company dated April 2, 2007. MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Energy Steel – Community Development Block Grant Application

Mayor Sprague opened the public hearing at 6:47 p.m. to hear comments regarding the submission of a Michigan Community Development Block Grant Program, Economic Development Infrastructure Grant and closed the public hearing at 6:47 p.m.

105 2007 05-07

Moved by Robinet. Seconded by Marquardt.

To approve the Resolution Authorizing Submission Of A Michigan Community Development Block Grant Program Economic Development Infrastructure Grant For The City Of Lapeer.

RESOLUTION AUTHORIZING SUBMISSION OF A
MICHIGAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
ECONOMIC DEVELOPMENT INFRASTRUCTURE GRANT
FOR THE
CITY OF LAPEER

WHEREAS, the Michigan Economic Development Corporation has established grant funding to encourage innovative economic development projects; and

WHEREAS, the Michigan Economic Development Corporation has promulgated guidelines for administration and implementation of this grant program; and

WHEREAS, the City of Lapeer wishes to submit an application for a Economic Development Infrastructure Project for the City of Lapeer in accordance with program guidelines;

NOW, THEREFORE BE IT RESOLVED:

1. The Lapeer City Commission authorizes the submission of a Michigan Community Development Block Grant Program for the City of Lapeer in the amount of \$180,000; and
2. This Infrastructure Project is consistent with the City of Lapeer Community Development Plan as described in the application; and
3. To the maximum extent feasible, at least 51% of the beneficiaries of the proposed project will be low and moderate income persons; and
4. Local funds to be invested in the project have not been expended prior to completion of the environmental review procedures and a formal, written authorization to incur costs from the Michigan Economic Development Corporation; and
5. Any other funds to be invested in the project have not yet been expended and will not be expended prior to a formal grant award, completion of the environmental review procedures and a formal, written authorization to incur costs from the Michigan Economic Development Corporation Fund; and
6. The Lapeer City Commission authorizes Dale Kerbyson, City Manager, to act as the City's authorized representative for signing the application forms and all other requirements of the Michigan CDBG program.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

ADMINISTRATIVE REPORTS

MSHDA Grant Public Hearing Request and Resolution Approving Grant Application

106 2007 05-07

Moved by Ogden. Seconded by Turkelson.

To approve a public hearing to be held May 21, 2007 at 6:30 p.m. or as soon thereafter as may be heard for the Cramton Neighborhood Grant Application and the Rental Renovation and updates on the Rental Registration Program and City-Wide Rental Rehabilitation Grant.

MOTION CARRIED.

107 2007 05-07

Moved by Turkelson. Seconded by Ogden.

To approve the Resolution To Approve Michigan State Housing Development Authority (MSHDA) Housing Resource Fund Cramton Neighborhood Housing Grant Application.

**RESOLUTION TO APPROVE
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY (MSHDA)
HOUSING RESOURCE FUND
CRAMTON NEIGHBORHOOD HOUSING
GRANT APPLICATION**

WHEREAS, the City of Lapeer is interested in the continuing effort to improve the housing stock and provide affordable housing opportunities for its moderate, low and very low income residents; and

WHEREAS, said City Commissioners accept the recommendation of the City of Lapeer Housing Improvement Division to apply for \$362,500 through the Michigan State Housing Development Authority Housing Resource Fund for a Cramton Neighborhood Housing Grant; and

WHEREAS, the Michigan State Housing Development Authority requires a resolution authorizing the submission of the aforementioned grant application; and

WHEREAS, said City Commissioners authorize the Director of Housing and Neighborhood Development to sign the application form as required;

WHEREAS, the City Commissioners will hold a public hearing on May 21st, 2007 regarding the Cramton Neighborhood Housing Grant

THEREFORE, BE IT RESOLVED that the City of Lapeer authorizes the City of Lapeer Housing Improvement Division to submit the application for funding through the Michigan State Housing Development Authority's Housing Resource Fund for a Cramton Neighborhood Housing Grant.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Chapter 12 (Street, Sidewalks and Alleys Ordinance) and Chapter 7 (Zoning Ordinance)

108 2007 05-07

Moved by Robinet. Seconded by Marquardt.

To adopt the proposed amendment to Chapter 12 (Street, Sidewalks and Alleys) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

12.10 CURB CUTS AND DRIVEWAY APPROACHES deleted from said ordinance.

ON A ROLL CALL VOTE:

AYES: Commissioner Ogden, Turkelson, Farrington, Robinet, and Marquardt.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED. AMENDMENTS TO CHAPTER 12 ADOPTED.

109 2007 05-07

Moved by Farrington. Seconded by Marquardt.

To adopt the proposed amendment to Chapter 7 (Zoning Ordinance), Article 7.17.V. of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

Article 7.17.V. CURB CUTS AND DRIVEWAY APPROACHES

1. Nonconforming Curb Cuts

Curb cuts lawfully made prior to the effective date of this Ordinance which do not meet the standards of this Ordinance shall be considered nonconforming and may be maintained unless Article 7.17.V.2.d. or e. is applicable.

2. Curb Cuts and Driveway Approaches

No curb cut or driveway approach shall be made to a public street or right-of-way without first obtaining a permit from the City. Issuance of such permits shall be made only in accordance with the following regulations:

- a. Definitions. As used in this section, the following definitions apply:
 - (1) The term "approach" shall mean an area improved for vehicular traffic on a public street right-of-way which connects the traveled portion of the street with a driveway.
 - (2) The term "curb cut" shall mean that section of curb removed to permit ingress from the pavement to the adjacent property and shall be measured between the points of tangency of the opening radii with the normal street curbing.
 - (3) The term "opening" shall mean the point of connection of the driveway and approach at the street right-of-way line. Its width and location shall be determined by extending the driveway line to the street right-of-way line.
 - (4) The term "site" shall mean all contiguous land under the same ownership or one whole lot in the case of land for which a recorded plat exists.
 - (5) "Street frontage" shall mean the length of the property abutting one or more streets.

- b. Number of Openings. The number of openings listed in the chart below shall be maximum for any site, lot or parcel.

| Total Street Frontage | Up to 100' | 101' to 200' | 201' or Over |
|-----------------------|------------|--------------|--|
| Number of Openings | (1) | (2) | (2) for the first 200' plus (1) for each additional 600' of total street frontage thereafter |

- c. Design Criteria

Curb cuts and driveway approaches shall comply with City of Lapeer Design Standards and City Construction Specifications.

- d. Traffic Hazards

Any openings which pose or constitute a pedestrian or traffic hazard may be ordered closed, modified, or relocated by the City. The City shall give the property owner affected by this provision a reasonable time to comply with any order of the City to close, modify, or relocate said opening.

- e. Useless Curb Cuts

If at any time a curb cut ceases to be functional, the curb shall be replaced and the approach removed by the adjoining property owner. If a useless curb cut is not replaced by curbing in accordance with the City specifications, and if the approach is not removed, said work may be done by the City and the cost thereof shall be charged to the property owner and may be collected by the City in any manner allowed by law."

ON A ROLL CALL VOTE:

AYES: Commissioner Marquardt, Ogden, Farrington, Turkelson, and Robinet.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED. AMENDMENTS TO CHAPTER 7 ADOPTED.

Chapter 7 (Zoning Ordinance)

Commissioner Robinet introduced a proposed amendment to Chapter 7 (Zoning Ordinance), Article 7.19, of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

ARTICLE 7.19 – BOARD OF APPEALS

A. CREATION AND MEMBERSHIP:

There is hereby established a Board of Zoning Appeals which shall perform its duties and exercise its powers as provided in Article VI of Act 110 of 2006, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done. The Board shall consist of six (6) members appointed by the City Commission. Appointments shall be as follows: Two (2) members appointed for a period of one (1) year; two (2) members appointed for a period of two (2) years; and two (2) members appointed for a period of three (3) years, respectively; thereafter each member to hold office for a full three (3) year term. In addition, the City Commission may appoint two (2) alternate members who may be called upon to serve in the absence of a regular member, or for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. Any vacancies in the Board shall be filled by appointment by the City Commission for the remainder of the unexpired term. The Zoning Board of Appeals shall annually elect its own Chairman, Vice Chairman and Secretary. The compensation of the appointed members of the Board of Zoning Appeals may be fixed by the City Commission.

B. unchanged

C. unchanged

D. unchanged

E. unchanged

F. unchanged

G. unchanged

H. MISCELLANEOUS:

1. No order of the Board of Appeals permitting the erection of a building shall be valid for a period longer than twelve (12) months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
2. No order of the Board of Appeals permitting the use of a building or premises shall be valid for a period longer than twelve (12) months unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is

started and proceeds to completion in accordance with the terms of such permit.

3. If a variance which is granted is not utilized within twelve (12) months of its granting, the variance shall be considered null and void and an application must be refilled if it is desired at a future date. A variance which is legally utilized and maintained runs with the property and any subsequent owners who legally continue the variance under its original or amended terms.
4. If a variance is denied, the Board of Appeals shall not reconsider the same request, or a similar request that could have been granted during the original consideration, within a period of thirty-six (36) months.
5. The reasons(s) utilized as a basis for making any decision shall be stated in the minutes of the Board of Appeals.
6. The Board of Appeals may require such conditions and the posting of necessary bonds or other financial guarantees acceptable to the City Commission to control compliance with specified conditions.
7. Copies of the decisions of the Board of Appeals shall be furnished to the City Commission and Planning Commission."

Lot Split Request – 1123 W. Oregon Street

110 2007 05-07

Moved by Robinet. Seconded by Farrington.

To approve the Resolution To Approve Lot Split Request for Howard and Kathleen Dosch, 1123 W. Oregon Street.

RESOLUTION TO APPROVE
LOT SPLIT REQUEST
FOR
Howard and Kathleen Dosch
1123 W. Oregon Street

WHEREAS, Howard and Kathleen Dosch, owner of the property located at 1123 W. Oregon Street, has file a Lot Split Request; and

WHEREAS, Chapter 6 (Land Division Ordinance), Section 6.05, Lot Splits of the General Ordinances of the City of Lapeer, provides that approval shall be by resolution of the City Commission.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Lot Split Request is in conformity with Chapter 7 (Zoning Ordinance) of the General Ordinances of the City of Lapeer.
2. That the Lot Split Requests is in conformity with The Land Division Act of P.A. 288 of 1967, as amended.
3. That the Lot Split Request is approved resulting in the following two (2) legal descriptions:

L20-39-800-040-00 1123 Oregon Street
City of Lapeer, Original Plat Northwest ¼
Lots 2; 3; 4 and the westerly 48 feet of lots 9; 10 and 11, Block 5.

L20-39-801-040-00 vacant Oregon Street
City of Lapeer, Original Plat Northwest ¼
The easterly 52 feet of lots 2; 3; and 4, Block 5.

4. That the Lot Split Request preserve all easement and master utility plans.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be filed with the Lapeer County Register of Deeds.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to the City Assessor and to Howard and Kathleen Dosch.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

MERS Retiree Health Funding Vehicle Uniform

Brief discussion was held regarding funding, length of obligation, and commended Finance Director Paul Boucher for his innovation.

111 2007 05-07

UNIFORM RESOLUTION ADOPTING THE MERS RETIREE HEALTH FUNDING VEHICLE (Excluding Plans Governed by Internal Revenue Code Section 401(h))

WHEREAS, the Municipal Employees' Retirement System ("MERS") Plan Document of 1996, effective October 1, 1996, authorized the Municipal Employees' Retirement Board ("Board") to establish additional programs including but not limited to defined benefit and defined contribution program (MERS Plan Document Section 36(2)(a)); and the Municipal Employees Retirement Act of 1984, Section 36(2)(a) as amended by 1996 PA 220, MCL 38.1536(2)(a));

WHEREAS, the Board has previously authorized MERS' establishment of a retiree health funding vehicle ("RHFV" or "Program"), which a participating municipality or court, or another eligible public employer that is a political subdivision of the State which constitutes a "municipality" under MERS Plan Document Section 2B(4); MCL 38.1502b(2) ("Eligible Employer"), may adopt for its Eligible Employees;

WHEREAS, MERS has been determined by the Internal Revenue Service to be a tax-qualified "governmental plan" and trust under section 401(a) of the Internal Revenue Code of 1986, and all trust assets within MERS reserves are therefore exempt from taxation under Code section 501(a) (IRS Letter of Favorable Determination dated June 15, 2005);

WHEREAS, the Board has established a governmental trust under Section 115 of the Internal Revenue Code (the "Trust Fund") to hold the assets of the RHFV, which Trust Fund shall be administered under the discretion of the Board as fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed Program Administrator;

WHEREAS, 1999 PA 149 the Public Employee Health Care Fund Investment Act, MCL 38.1211 *et seq.* ("PA 149") provides for the creation by a public corporation of a public employee health care fund, and its administration, investment, and management, in order to accumulate funds to provide for the funding of health benefits for retirees and beneficiaries;

WHEREAS, a MERS health care trust fund constitutes a governmental trust established by a public corporation ("municipality") as an Eligible Employer, provided that all such employers shall be the State of Michigan, its political subdivisions, and any public entity the income of which is excluded from gross income under Section 115 of the Internal Revenue Code; provided further, that the health care trust shall not accept assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code;

WHEREAS, the Board acts as investment fiduciary for the pooled assets of each MERS participating municipality and court enrolled in MERS defined benefit programs, Health Care Savings Program, the Retiree Health Funding Vehicle, and the Investment

Services Pool Program, on whose behalf MERS performs all plan administration and investment functions, and such participating municipalities and courts have full membership, representation and voting rights at the Annual Meeting as provided under Plan Section 45; MCL 38.1545.

WHEREAS, the Board also acts as investment fiduciary for those participating employers who are non-MERS participating municipalities and courts that have adopted the MERS Health Care Savings Program, Retiree Health Funding Vehicle, or Investment Service Pool Program, and such entities are not accorded membership, representation or voting rights provided to MERS participating municipalities and courts at the Annual Meeting under Plan Section 45; MCL 38.1545.

WHEREAS, adoption of this Uniform Resolution (the "Uniform Resolution") by the Eligible Employer is necessary and required in order that the benefits available under the MERS Retiree Health Funding Vehicle may be extended;

WHEREAS, this Uniform Resolution has been approved by the Board under the authority of 1996 PA 220, MERS Plan Document Section 36(2)(a), MCL 38.1536(2)(a), declaring that the Board "shall determine . . . and establish" all provisions of the retirement system. The MERS RHFV shall not be implemented with respect to any Eligible Employer unless in strict compliance with the terms and conditions of this Resolution, the Trust Document, and Trust Agreement.

- It is expressly agreed and understood as an integral and nonseverable part of extension or continuation of coverage under this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle that Section 43B of the MERS Plan Document shall not apply to this Uniform Resolution, its administration or interpretation.
- In the event any alteration of the language, terms or conditions stated in this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle is made or occurs, under MERS Plan Document Section 43B or other plan provision or other law, it is expressly recognize that MERS and the Board, as fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the MERS RHFV or its Trust Fund; or to continue administration.

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts the MERS PA 149 Health Care Trust Fund as provided below.

SECTION 1. MERS RHFV PROGRAM

EFFECTIVE May 7, 2007, the MERS Retiree Health Funding Vehicle is hereby adopted by the City of Lapeer, Michigan.

CONTRIBUTIONS shall be made only by the Eligible Employer, remitted to MERS by the Eligible Employer, and credited to the Eligible Employer's separate fund within the trust sub-fund for MERS RHFV. As this Plan is funded solely by employer, on a cash or actuarial basis as determined by the employer, there is no requirement for a Participation Agreement establishing the schedule of contributions.

INVESTMENT of funds accumulated and held in the Fund shall be held in a separate reserve and invested on a pooled basis by MERS subject to the Public Employee Retirement System Act ("PERSIA"), 1965 PA 314, as provided by MERS Plan Document Section 39; MCL 38.1539, and PA 149.

THE ELIGIBLE EMPLOYER shall abide by the terms of MERS RHFV, including all investment, administration, and service agreements, and all applicable provisions of the Code and other law. It is affirmed that no assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code shall be transferred to, or accepted by, MERS.

SECTION 2. IMPLEMENTATION DIRECTIONS FOR MERS AS RHFV INVESTMENT FIDUCIARY AND TRUSTEE

- (A) The governing body of this Eligible Employer desires that all assets placed in its MERS RHFV (as a sub-fund within all pooled Trust Funds with MERS) be administered by MERS, which shall act as investment fiduciary with all powers provided under Public Employee Retirement System Investment Act, PA 149, all applicable provisions of the Internal Revenue Code and other relevant law.
- (B) The governing body desires, and MERS upon its approval of this Resolution agrees, that all funds accumulated and held in the MERS RHFV Trust Fund shall be invested and managed by MERS within the collective and commingled investment of all funds held in trust for all Eligible Employees.
- (C) All monies in the MERS RHFV Trust Fund (and any earnings thereon, positive or negative) shall be held and invested for the sole purpose of paying health care benefits for the exclusive benefit of "Eligible Employees" who shall constitute "qualified persons" who have retired or separated from employment with the Eligible Employer, and for any expenses of administration, and shall not be used for any other purpose, and shall not be distributed to the State.
- (D) The Eligible Employer will fund its MERS RHFV Trust sub-fund to provide funds for health care benefits for "Eligible Employees" who shall constitute "qualified persons." Participation in and any coverage under RHFV shall not constitute nor be construed to constitute an "accrued financial benefit" under Article 9 Section 24 of the Michigan Constitution of 1963, nor shall any contribution method for Eligible Employer fund other than "pay as you go" cash funding be required or imposed, and all benefits, rights, and obligations conferred by or arising under RHFV shall be provided under the RHFV documents.
- (E) The Eligible Employer generically designates the following groups of persons as "Eligible Employees" who shall constitute "qualified persons," to receive retiree health care benefits subsidized under the MERS RHFV trust sub-fund. Groups may include any dependent(s) as specified in your bargaining agreement and/or personnel policy (provide copies of any governing agreement or other policy):

For example "non-union employees"

All full-time employee's who receive a MERS pension benefit upon termination of employment and in accordance with union contracts and city personnel policy.

- (F) Director of Financial Services shall be the Eligible Employer's RHFV Coordinator; shall direct payment of fund monies for the benefit of the Eligible Employees identified in (E) under any MERS (or non-MERS) retiree health care benefit program, including, but not limited to, MERS HCSP, or MERS Premier Health; make investment allocations of the Employer's sub-trust fund within MERS-approved portfolios, receive necessary reports, notices, etc; shall act on behalf of the Eligible Employer; and may delegate any administrative duties relating to the Fund to appropriate departments.
- (G) Fees and Expenses for the MERS RHFV are contained in Addendum A to this Resolution.

SECTION 3. EFFECTIVENESS OF THIS RESOLUTION

This Resolution shall have no legal effect until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under MERS Plan Document Section 36(2)(a), 1999 PA 149 and other relevant laws, and this Resolution have been met. Upon MERS' determination that all necessary documents have been submitted, MERS shall record its formal approval

upon this Resolution, and return a copy to the Eligible Employer's RHFV Coordinator as identified above.

In the event an amendatory resolution or other action by the Eligible Employer is required by MERS, such Resolution or action shall be deemed effective as of this date of the initial Resolution or action where concurred in by this governing body and MERS (and the Program Administrator if necessary). Section 54 of the MERS Plan Document shall apply to this Resolution and all acts performed under its authority. The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

ADDENDUM A

Fees and Expenses for the MERS RHFV are as follows:

(a) The administrative fee is 45 basis points (45 hundredths of 1 percent). The fee will be applied by MERS to the fair market value of assets determined as of the first business day of each month. The fee will be deducted from the municipality's account. A quarterly statement will be provided following each quarter.

(b) The administrative fee is separate from and does not include underlying investment management expenses netted from all MERS trust funds under investment on a daily valuation basis.

AYES: Commissioner Farrington, Ogden, Turkelson, and Marquardt.

NAYS: None.

ABSESNT: None.

ABSTAIN: Commissioner Robinet.

Mayor Sprague noted that Commissioner Robinet abstained due to being a retired employee of the City.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

CITY MANAGER'S REPORT

Proposed 2007-2008 Budget Public Hearing

112 2007 05-07

Moved by Robinet. Seconded by Turkelson.

To approve and set a public hearing on May 21, 2007 at 6:30 p.m. or as soon thereafter as may be heard on the proposed 2007-2008 City of Lapeer Budget.

MOTION CARRIED.

POLC Union Contract

113 2007 05-07

Moved by Robinet. Seconded by Marquardt.

To approve the contract with the POLC Union.

MOTION CARRIED.

1650 Pleasant Street

114 2007 05-07

Moved by Robinet. Seconded by Farrington.

To approve the bill for demolition of the fence at 1650 Pleasant Street.

MOTION CARRIED.

CITY ATTORNEY'S REPORT

No report provided.

UNFINISHED BUSINESS

There were no board appointments made.

DEPARTMENTAL COMMUNICATIONS

Monthly Financial Report for March 2007, Investment Report for the Quarter Ending March 31, 2007, Property Tax Revenues – Annual Informational Report, Annual Review of the Industrial Facilities Exemption Certificate, and Business Registration Information were received into record.

MAYOR/COMMISSIONER COMMENTS

Brief comments were made regarding brush pickup and required weight of bags, blend of trees within the City and the process of inspecting trees, Housing Assessment and need for homeless and transition homes, car length of trains, the need to support our schools in the bond proposal election Tuesday, the closing of Saginaw Street for train railway repair, and fair tax information to be sent.

ADJOURNMENT

115 2007 05-07

Moved by Robinet. Seconded by Turkelson.

To adjourn the meeting.

MOTION CARRIED.

The meeting adjourned at 7:23 p.m.

William J. Sprague, Mayor

Donna L. Cronce, CMC, City Clerk