

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

**April 7, 2008**

A regular meeting of the Lapeer City Commission was held April 7, 2008 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, Farrington, and Bennett.  
City Manager Dale Kerbyson

**Absent:** City Attorney Ron Shamblin (excused – personal)  
Commissioner Robinet (excused – vacation)

Mayor Sprague led the Pledge of Allegiance.

**AGENDA APPROVAL**

**77 2008 04-07**

Moved by Turkelson. Seconded by Marquardt.  
To approve the Agenda for April 7, 2008 as presented.  
MOTION CARRIED.

**MINUTES**

**78 2008 04-07**

Moved by Farrington. Seconded by Marquardt.  
To approve the minutes from the Regular Meeting held on March 17, 2008 and the Executive Session meeting held on March 17, 2008.  
MOTION CARRIED.

Minutes from the various Boards and Commissions were received into record.

**CONSENT AGENDA**

**79 2008 04-07**

Moved by Bennett. Seconded by Farrington.  
To approve the Consent Agenda for April 7, 2008 resulting in the following:

1. Approve the Engineering Services Agreement with Tetra Tech for the M-24/I-69 Lift Station in the amount of \$23,000 and authorize the Director of Public Works to sign the required document.
2. Approve the 2008 Spring Clean-Up Agreement with Rich Rhein Disposal for the City-Wide Clean-Up in the amount of \$3,762.50 and authorize the City Manager and Director of Public Works to sign the required document.
3. Approve the Farm Land Lease Agreements with Hunt Farms, Inc. (2) and Green Farms, Inc. (1) and authorize the Mayor and City Manager to sign the required documents.
4. Approve the Michigan Liquor Control Commission Resolution for Request ID #434567 that includes an Official Permit for Food.

**REQUEST ID #434567**

**RESOLUTION**

Moved by Commissioner Bennett and supported by Commissioner Farrington that the request to transfer ownership of 2007 Class C licensed business, located at 1811 DeMille, Lapeer, MI 48446, Lapeer County, from Applebee's of Michigan, Inc. to Applebee's Restaurants Mid-Atlantic LLC (A Delaware Limited Liability Company). Be considered for approval.

	<b>APPROVAL</b>		<b>DISAPPROVAL</b>
Ayes:	Commissioners Turkelson,	Ayes:	None.

Marquardt, Farrington, and  
Bennett.

Nays: None.

Nays: None.

Absent: Commissioner Robinet.

Absent: None.

It is the consensus of this legislative body that the application be: Recommended for issuance.

5. Approve the Right-of-Way Licenses for Outdoor Dining for:
  - Abruzzo's Piano Grille located at 315 W. Nepessing Street
  - Isola's located at 348 W. Nepessing Street
  - Blondie's Sweet Boutique/Dagwood's Deli/After Hours located at 193 W. Nepessing Street
6. Approve the Municipal Resolution, Michigan Department of Transportation,, Contract No.: 08-5021 for Linear Path Extension Project.

**MUNICIPAL RESOLUTION  
MICHIGAN DEPARTMENT OF TRANSPORTATION  
CONTRACT NO.: 08-5021**

At a regular meeting of the Lapeer City Commission on Monday, April 7, 2008, at 6:30 p.m., in the Lapeer City Commission Chambers of Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan, Commissioner, Bennett moved for the adoption of the Municipal Resolution to accept MDOT Contract No. 08-5021 for the Linear Path Extension Project, and to authorize the Mayor and City Manager to sign contract documents. The motion was seconded by Commissioner, Farrington.

BE IT RESOLVED THAT the Michigan Department of Transportation Contract No. 08-5021 between the Michigan Department of Transportation and City of Lapeer is hereby accepted and authorizes Mayor William Sprague and City Manager Dale Kerbyson to sign the required documents.

YEAS: Commissioner Turkelson, Marquardt, Farrington, and Bennett.

NAYS: None.

ABSTAIN: None.

ABSENT: Commissioner Robinet.

MOTION CARRIED. RESOLUTIONS DECLARED ADOPTED.

**BILL LISTING FOR APRIL 7, 2008**

**80 2008 04-07**

Moved by Marquardt. Seconded by Turkelson.

To approve the Bill Listing for April 7, 2008 in the amount of \$623,752.32.

MOTION CARRIED.

**PUBLIC COMMENTS**

None.

**PUBLIC PROCLAMATIONS AND RECOGNITIONS**

None.

**PUBLIC HEARINGS**

**P & P Manufacturing Company – Industrial Facilities Tax Exemption Certificate**

Patricia Lucas, Executive Director of Lapeer Development Corporation, introduced John Grey representative of P & P Manufacturing, that the company was proposing a 3,600 square foot building addition, investment totals of \$572,567, estimation of three new

jobs, that the exemption request was for twelve years, and would answer any questions presented by the Commission.

Mayor Sprague opened the public hearing at 6:34 p.m. to hear comments regarding the request for an Industrial Facility Tax Exemption from P & P Manufacturing Company. There being no comments, Mayor Sprague closed the public hearing at 6:34 p.m.

Brief discussion was held regarding the company's operations. John Grey responded that the company manufactured small air tool parts, has approximately 25 employees, and is located at 260 McCormick Drive.

**81     2008   04-07**

Moved by Turkelson. Seconded by Marquardt.

To approve the Resolution Approving The Application Of P & P Manufacturing Company For An Industrial Facilities Tax Exemption Certificate.

RESOLUTION APPROVING THE APPLICATION OF  
P & P MANUFACTURING COMPANY  
FOR AN INDUSTRIAL FACILITIES TAX 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 December 5, 1983, this Commission by resolution established the City of Lapeer Industrial Development District No. A, as requested by the Lapeer City Commission; and

WHEREAS, P & P Manufacturing Company has filed an application for an Industrial Facilities Exemption Certificate with respect to the purchase of new machinery and equipment to be acquired and installed and real property improvements within the Industrial Development District No. A; and

WHEREAS, before acting on said application, the City of Lapeer held a hearing on April 7, 2008, 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 building and the installation of new machinery and equipment had not begun earlier than six (6) months before March 11, 2008, 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 P & P Manufacturing Company for an Industrial Facilities Exemption Certificate with respect to real property improvements and the purchase of new machinery and equipment to be installed on the following described parcel of real property situated within the City of Lapeer Industrial Development District No. A, to wit:

City of Lapeer I, McCormick Industrial Park #1 Lot 7 (L=7 P=49-51 Sec 5 & 8,  
T7N-R9E)

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 P & P Manufacturing Company dated March 11, 2008.

AYES: Commissioners Turkelson, Marquardt, Farrington, and Bennett.  
NAYS: None.  
ABSENT: Commissioner Robinet.  
ABSTAIN: None.  
MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Mayor Sprague recognized P & P Manufacturing Company for their contribution to the community.

H & H Tool, Inc. – Industrial Facilities Tax Exemption Certificate

Patricia Lucas, Executive Director of Lapeer Development Corporation, introduced Andrew Harrington from H & H Tool, Inc., that the exemption request was for six years, investment totals \$816,400, estimation of five new jobs, location is within the Lapeer Industrial Research Park, and that the company manufactured transmission, hydraulic, and air conditioning parts for the automotive and agricultural industries.

Mayor Sprague opened the public hearing at 6:37 p.m. to hear comments regarding the request for an Industrial Facility Tax Exemption from H & H Tool, Inc. There being no comments, Mayor Sprague closed the public hearing at 6:37 p.m.

**82 2008 04-07**

Moved by Farrington. Seconded by Marquardt.

To approve the Resolution Approving The Application Of H & H Tool, Inc. For An Industrial Facilities Tax Exemption Certificate.

RESOLUTION APPROVING THE APPLICATION OF  
H & H TOOL, INC.  
FOR AN INDUSTRIAL FACILITIES TAX 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, H & H Tool, Inc. has filed an application for an Industrial Facilities Exemption Certificate with respect to the purchase of new equipment 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 hearing on April 7, 2008, 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 March 11, 2008, 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 H & H Tool, Inc. for an Industrial Facilities Exemption Certificate with respect to new machinery 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 Southwest 1/4 of Section 12, Township 7 North, Range 9 East, City of Lapeer, Lapeer County, Michigan. Described as beginning at a point on the East-West 1/4 line of said Section 12 which is N86°21'01"E, along said 1/4 line, 1918.63 feet from the West 1/4 corner of said section; thence continuing N86°21'01"E, along said 1/4 line, 700.00 feet to the interior 1/4 corner of said Section 12; thence S01°51'00"E, along the North-South 1/4 line, 165.46 feet; thence 862.51 feet along the arc of a 907.00 foot radius non-tangential curve to the right (with a central angle of 54°29'07", a tangent of 466.99 feet, subtending a chord bearing and distance S56°56'37"W, 830.38 feet); thence N00°47'40"W, 573.81 feet to the point of beginning. Containing 7.25 acres of land and subject to all easements or restrictions 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 6 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 H&H Tool, Inc. dated March 11, 2008.

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

NAYS: None.

ABSENT: Commissioner Robinet.

ABSTAIN: None.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Mayor Sprague recognized H & H Tool, Inc. for their contribution to the community.

#### M-24/I-69 Corridor Project – Special Assessment District #2008-02

City Assessor Tom Hubbell reviewed the Special Assessment Roll and that the roll had been amended to exclude the alternate routes cost. City Manager Dale Kerbyson introduced the City's Bond Attorney Tom Collis with Miller Canfield, Paddock and Stone.

Mayor Sprague opened the public hearing at 6:39 p.m. to hear comments regarding the M-24/I-69 Corridor Project, Special Assessment District #2008-02.

Michael Jablonski, 4410 S. Dort Highway, Flint, MI, Attorney representing JPT Acquisitions and Ray Clemens Property, commented that for JPT Acquisitions the protesting of the special assessment district, have laid out concerns in the past, that the power point presentation provided by Mr. Kenny and concerns dated 03-17-08 be placed in file and be incorporated into this public hearing, provided additional documentation of concerns, and if the Commission had any questions for JPT Acquisitions. Attorney Jablonski also commented for Ray Clemens Property, the protesting of the special assessment district, to incorporate by reference the power point presentation provided by Mr. Kenny and concerns dated 03-17-08, provided additional documentation of concerns, and asked if the Commission had any questions for Ray Clemens Property. Attorney Jablonski thanked the Commission for their time.

EJ Bahri, 3492 S. Lapeer Road, owner of property at 1583 S. Lapeer Road that adjoins Ray Clemens parcel, commented on agreement with the special assessment and inquired into consideration of acreage assessment as was provided to Krane and Robert properties.

Richard Sullivan, 1122 S. Lapeer Road, Attorney representing Lashbrook properties commented that he had not seen the new roll, position of support for the project, and agreement with Citizens For Greater Lapeer that they would pay Lashbrook portion of special assessment and inability to have a representative return his calls.

Fred Barnes, Turrill Properties, commented in support of the project.

City Manager Dale Kerbyson read an email from Kellie Krane who was out of town and asked that it be made part of the record. Mayor Sprague concurred.

Sent: Thursday, April 03, 2008 8:39 AM  
Dale,

I will be out of the town for the City Council meeting on Monday, April 7<sup>th</sup> but I wanted you to know my position on the water/sewer route. I am fine with either way the water line is brought to my property. It is my understanding that the sewer line is definitely going to the back and I believe it would be better and less expensive if the water followed the same route.

Sincerely,

Kellie Krane  
Krane Properties, LLC

There being no further comments, Mayor Sprague closed the public hearing at 6:48 p.m.

City Manager Dale Kerbyson commented on the hours that staff has spent on the project, that the City is acting as funding mechanism on behalf of the development, the City is not obligated to do so, original request for the Phase I development that was asked to be expanded by developers, City capacity in bonding under Capital Improvement Bonds and legislation issues that could tie up other project abilities, and that if 100% of owners commitment could not be obtained by an affidavit acknowledging consent of the special assessment then his recommendation would be to not move forward with the project. Mr. Kerbyson asked if he could poll owners present who would be willing to sign such an affidavit and proceeded to ask Attorney Jablonski if his clients would be willing.

Attorney Jablonski commented that it was unfair to put his clients on the spot, his clients made it clear that the project is necessary, issues with the way the properties were assessed, that he tried to discuss costs and financing several times and was told that it was not the proper time to bring that discussion up, has not received a forward answer regarding costs, inability to receive information from the City Manager, asked who was representing the City as its attorney at this time, that their position has not changed according to letters submitted, and would not agree to a waiver.

Ted Biniek answered yes, that he would sign.

Discussion was held regarding Attorney Jablonski's advocacy for clients, that the owners were advised that they would be financing the project not the city, time spent by staff reviewing this project and unfairness of Jablonski's comments regarding the City Manager, that Mr. Kenney's power point issues were considered and reviewed by the Commission, the City thoroughly reviewed alternate water and sewer routes, that the City cannot afford to do this project, that owners were advised the project could be accomplished if owners were willing to pay for it, that this project began last summer, that owners were told that the City could not afford risk of project costs, that owners requested that the project move forward, that the City was acting as a funding mechanism for the project, reassessment of special assessment based on bid received, delaying of project, letters and personal requests to Senator and State Representative for assistance in project, to not tie up the City's borrowing capacity with one project, City liability regarding repayment of bonds and risks associated, Commissioner Farrington requested a legal interpretation of letters received by Jablonski, that there was no reason to respond to letters received by Jablonski, past Commission meetings where owners were advised that 100% of property owners commitment would be required, risks of suits brought against the City, and possibility of project not being approved.

Richard Figura, Attorney, commented on mediation aspects, to focus on the issues, that both sides agree the project is necessary, that owners are protesting the special assessment distribution, acreage and wetland issues within assessment distribution, to review the assessment spread in a different manner, and current allocation is an unfair burden to property owners.

Discussion was held regarding amount of acres involved, that the special assessment portion would be redistributed to others within roll distribution, items within Jablonski letter distributed and the need to discuss, allocation of City property, benefit of project to township property and inability to assess project cost, that the City would not consider tap-in reimbursement, that any distribution of spread taken from one property owner would be spread to the other property owners, and that if the owners could come up with a better way to assess the distribution to let the Commission know.

Robert Lawrence, Attorney representing RACO, commented that he didn't know the details of the objections, concept and discussion of wetland issues had been reviewed, internal look at how to allocate costs per acreage, and issues with allocating over gross or net acreage.

Discussion was held regarding property owners acceptance of the total cost of the project, reallocation issues, that additional costs would not be borne by the City, that the developers could develop the project on their own according to City specifications, and that eight out of ten property owners were present.

Richard Sullivan commented that they would not be willing to pay for other property owner's wetlands especially if they will not abide by their contract.

Brian Labaza commented that he agreed with Mr. Sullivan and to not absorb cost of other property owner's wetland acreage.

Discussion was held regarding the special assessment process, approval or disapproval of resolution approving roll, and that the Commission did not have to provide action at this meeting.

Tom Colis, Bond Attorney with Miller, Canfield, Paddock and Stone, commented that assessment increases would require an additional public hearing, that a new district would require the beginning of a new special assessment process, and that if no action was taken nothing would happen on this project at this time.

Mayor Sprague requested that Phase I aspects of the project area be presented at the next Commission meeting.

Fred Barnes commented on problems with reallocation based on wetland issues and agrees with the City to see the project go into Phase I.

Richard Sullivan commented that he agrees with the City with Phase I project, contract and issues with Citizens for Greater Lapeer, attendance at meetings held by City staff and developers, and that City staff and Rowe representatives have been gracious, patient, and provided sincere efforts to fulfill the wishes expressed by the developers who are still not happy.

Discussion was held regarding a Phase I assessment, that Phase I would carry a specific assessment roll, and that the cost would be for this portion of the project only.

No action was taken by the City Commission regarding the M-24/I-69 Corridor Project, Special Assessment District #2008-02.

## **ADMINISTRATIVE REPORTS**

### Rezoning Request – 3300 Davison Road

It was noted that the correct numerical sequence of the rezoning request should reflect Number 85 and Number 86.

Commissioner Farrington introduced a proposed amendment to Chapter 7 (Zoning Ordinance), Section 7.03, G., Number 85 and Number 86 of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

### **7.03 ZONING DISTRICTS AND MAP**

#### **G. ZONING DISTRICT AMENDMENTS:**

85. The following property, formerly zoned R-4 One-Family Residential, is hereby rezoned to B-2 General Business:

Part of the SW 1/4 Sec 1, T7N, R9E, City of Lapeer, Beg at a pt N01°03'01"E 1,605.39 ft alg N-S 1/4 ln & S61°29'00"W 765.90 ft alg N ln Genesee Rd & N29°49'E 200.05 ft frm S 1/4 Cor Sec 1; th S61°28'32"W 405.36 ft; th N42°22'43"E 425.65 ft; th S29°49'E 139.35 ft to POB; 0.65 ac.; and

Part of the SW 1/4 Sec 1, T7N, R9E, City of Lapeer, Beg at a pt N01°03'01"E 1,605.39 ft alg N-S 1/4 ln & S61°29'W 1,310.41 ft alg N ln Genesee Rd frm S 1/4 Cor Sec 1; th cont S61°29'W 201.42 ft; th N01°08'52"E 230.16 ft; th N73°47'56"E 89.58 ft; th S2°31'06"E 180.89 ft to POB; 0.64 ac.

86. The following property, formerly zoned B-2 General Business, is hereby rezoned to R-4 One-Family Residential:

Part of the SW 1/4 Sec 1, T7N, R9E, City of Lapeer, Beg at a pt N01°03'01"E 1,605.39 ft alg N-S 1/4 ln & S61°29'W 1,310.41 ft alg N ln Genesee Rd & N0°08'52"E & N73°47'56"E 89.58 ft frm S 1/4 Cor Sec 1; th N28°31'06"W 19.11 ft; th N61°28'29"E 134.58 ft; th S42°22'43"W 90.88 ft; th N73°47'56"W 49.86 ft to POB; 0.05 ac.; and

Part of the SW 1/4 Sec 1, T7N, R9E, City of Lapeer, Beg at a pt N01°03'01"E 1,605.39 ft alg N-S 1/4 ln & S61°29'W 633.90 ft alg N ln Genesee Rd frm S 1/4 Cor Sec 1; th cont S61°29'W 132.00 ft; th N29°49'W 200.05 ft; th N61°29'E 136.55 ft; th S28°31'06"E 200.00 ft to POB; 0.62 ac."

### **CITY MANAGER'S REPORT**

City Manager Dale Kerbyson reported that there would be a controlled burn at the prairies and ponds location, Economic Development Club would host speaker L. Brooks Patterson, and that the Energy Systems Audit was near completion.

### **CITY ATTORNEY'S REPORT**

City Manager Dale Kerbyson reported that the RFP process for City Attorney has begun.

### **UNFINISHED BUSINESS**

There were no board appointments made.

### **DEPARTMENTAL COMMUNICATIONS**

None.

### **MAYOR/COMMISSIONER COMMENTS**

Discussion was held regarding benefit in M-24/I-69 Corridor project area is county-wide and possible county assistance in bond issuance with Commissioner Schneider responding that he would support such. Mr. Colis advised that the City would be taken out of the equation should the County issue bonds. Discussion continued regarding public comment section of agenda, Jablonski submission of letters during meeting, staff cooperation during project review and development meetings, continuation of project, County Center Building fund raiser involving Leo Daze – Elvis impersonator scheduled May 3, billing developers for hours spent on projects by staff and engineers, that the City could not afford to shoulder the risk of the M-24/I-69 Corridor project without agreement by the property owners, the Commission welcomed back Mike Arnholt with the LA View, and Mayor Sprague's participation on WMPC radio station 1230 AM.

## **ADJOURNMENT**

### **83 2008 04-07**

Moved by Bennett. Second by Turkelson.

To adjourn the meeting.

MOTION CARRIED.

The meeting adjourned at 7:52 p.m.

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William J. Sprague, Mayor

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Donna L. Cronce, CMC, City Clerk