

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

July 2, 2007

A regular meeting of the Lapeer City Commission was held on July 2, 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

160 2007 07-02

Moved by Turkelson. Seconded by Robinet.

To approve the agenda for July 2 with the deletion of Item G.2. Charter Amendments.
MOTION CARRIED.

MINUTES

161 2007 07-02

Moved by Robinet. Seconded by Ogden.

To approve the minutes of the Regular Meeting held on June 18, 2007.
MOTION CARRIED.

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

CONSENT AGENDA

162 2007 07-02

Moved by Turkelson. Seconded by Robinet.

After discussion, the consent Agenda for July 2, 2007 was approved resulting in the following.

1. Approval of the Special Event Request from United Way of Lapeer County for Chili Cook-Off 2007 to be held September 6, 2007.
2. Approval of the Budget Adjustment for WWTP Emergency Repairs as presented.
3. Approval of Change Order #1 to Trojan Development Company for the Oregon Street Lift Station Project.
4. Approval of Payment Request #6 to Trojan Development Company in the amount of \$104,501.83 for the Oregon Street Lift Station Project.
5. Approval of Change Order #3 to A.W. Excavating, Inc. for the 2005 Capital Improvement Program.
6. Approval of Pay Request #5 to A.W. Excavating, Inc. in the amount of \$138,262.14 for the 2005 Capital Improvement Program.
7. Approval of the 2007 Seal Coating Project to Pavement Maintenance Systems, Inc. in the amount of \$63,802.50 and authorize the Director of Public Works to sign the required documents.
8. Approval of the Environmental Assessment – Phase I Clover School to Huron Consultants in the amount of \$1,800 and authorize the City Manager to sign the required documents.

MOTION CARRIED.

BILL LISTING FOR JULY 2, 2007

163 2007 07-02

Moved by Robinet. Seconded by Marquardt.

To approve the Bill Listing for July 2, 2007 in the amount of \$381,190.78.

MOTION CARRIED.

PUBLIC COMMENTS

Ray Dunsmore, 3864 Reamer Road, owner of Great Lakes Car Wash, commented on the railroad construction on Saginaw Street, issues with blocking the car wash entrance, and provided pictures of the area. After discussion, the City Manager will check into the matter.

PUBLIC PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

None.

PUBLIC HEARINGS

No public hearings scheduled.

ADMINISTRATIVE REPORTS

Chapter 39 (Beautification Commission Ordinance)

Commissioner Turkelson introduced a proposed amendment to Chapter 39 (Beautification Commission Ordinance) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

Chapter 39 (Beautification Commission Ordinance)

Delete ordinance in its entirety.

Financial Consultant for M-24/-69 Interchange Project

Brief discussion was held regarding accountability of consulting services by providing a checklist of services, to have Rowe Incorporated provide a report for work completed on the area to date, and to provide a monthly progress report to the Commission.

164 2007 07-02

Moved by Robinet. Seconded by Turkelson.

To approve Oppenheimer & Co., Inc. in the amount of \$13,500 for Financial Consulting Services regarding the M-24/I-69 Interchange Project and authorize the City Manager and Director of Financial Services to sign the required documents.

MOTION CARRIED.

Notice of Intent Resolution – Special Assessment Bonds and General Obligation Bonds

165 2007 07-02

Moved by Robinet. Seconded by Farrington.

To approve the Special Assessment/General Obligation, Notice of Intent Resolution.

Special Assessment/General Obligation

NOTICE OF INTENT RESOLUTION

City of Lapeer
County of Lapeer, Michigan

WHEREAS, the City Commission of the City intends to authorize the issuance of special assessment bonds for the purpose of defraying part of special assessment district's share of the cost in connection with certain public improvements in the City and general obligation bonds to pay the City's cost in connection with said improvements; AND WHEREAS, notice of intent to issue bonds must be published at least forty-five (45) days before the issuance of the same in order to comply with the requirements of Section 5(g) of Act 279, Public Acts of Michigan, 1909, as amended;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a notice of intent to issue bonds in the (L)apeer (A)rea View, a newspaper of general circulation in the City, as a display advertisement at least one-quarter page in size.
2. Said notice of intent so published shall be in substantially the following form:

OFFICIAL NOTICE TO ELECTORS AND TAXPAYERS
OF THE CITY OF LAPEER
OF INTENT TO ISSUE BONDS SECURED BY THE TAXING
POWER OF THE CITY AND RIGHT OF REFERENDUM THEREON

PLEASE TAKE NOTICE that the City Commission of the City of Lapeer, County of Lapeer, Michigan, intends to issue special assessment bonds of the City, in total principal amount of not to exceed \$500,000, for the purpose of defraying part of special assessment districts' share of the cost of local public improvements in the City and general obligation bonds in the principal amount of not to exceed \$500,000 to pay the City's share of the cost of said improvements. Said bonds shall mature serially in not to exceed twenty (20) annual installments with interest payable on the unpaid balance at a rate of not to exceed 6% per annum or such higher rate as may be permitted by law.

SOURCE OF PAYMENT OF BONDS

THE PRINCIPAL AND INTEREST OF THE SPECIAL ASSESSMENT BONDS shall be payable primarily from collections of an equal amount of special assessments and the bonds shall also pledge the limited tax full faith and credit of the City of Lapeer.

IN CASE OF THE INSUFFICIENCY OF THE SPECIAL ASSESSMENTS, THE PRINCIPAL AND INTEREST ON SAID BONDS SHALL BE PAYABLE FROM THE GENERAL FUNDS OF THE CITY LAWFULLY AVAILABLE FOR SUCH PURPOSE.

THE PRINCIPAL AND INTEREST OF THE GENERAL OBLIGATION BONDS shall be payable from the general funds of the City lawfully available for such purposes including property taxes levied within applicable statutory, charter and constitutional limitations.

RIGHT OF REFERENDUM

THE BONDS will be issued without vote of the electors unless a PETITION requesting an election on the question of issuing either or both series of bonds, signed by not less than 10% OF THE REGISTERED ELECTORS in the City, or 15,000, whichever is the lesser, is filed with the City Clerk by depositing with the City Clerk WITHIN FORTY-FIVE (45) DAYS after publication of this notice. If such a petition is filed, the bonds affected cannot be issued without an approving vote by a majority of electors voting on the question.

THIS NOTICE is given pursuant to the requirements of Section 5(g) of Act 279, Public Acts of Michigan, 1909, as amended. Further information concerning the matters set out in this notice may be secured from the City Clerk's office.

Donna L. Cronce, CMC
City Clerk, City of Lapeer

3. The City Commission does hereby determine that the foregoing form of notice of intent to issue bonds and the manner of publication directed is adequate notice to the electors and taxpayers of the City and is well calculated to inform them of the intention of the City to issue the bonds, the purpose of the bond issues, the security for the bonds and the right of referendum of the electors with respect thereto under all of the circumstances, and that the provision of forty-five (45) days within which to file a referendum petition is necessary and adequate to insure that the City's electors may exercise their right of referendum with respect to the bonds.

4. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Resolution Authorizing Declaring Intent to Reimburse for Expenditures

166 2007 07-02

Moved by Marquardt. Seconded by Robinet.

To approve the Reimbursement Resolution Declaring Intent To Reimburse For Expenditures.

REIMBURSEMENT RESOLUTION
City of Lapeer
County of Lapeer, State of Michigan

WHEREAS, the City of Lapeer, County of Lapeer, State of Michigan (the "City") intends to cause to be issued and sold bonds, in one or more series, in amounts not to exceed One Million Dollars (\$1,000,000) for the purpose of paying the cost of acquiring and constructing certain public improvements (the "Project"); and

WHEREAS, the City intends, at this time to state its intentions to be reimbursed from proceeds of the bonds for any expenditures undertaken by the City for the Project prior to issuance of the bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

(a) As of the date hereof, the City reasonably expects to reimburse itself for the expenditures described in (b) below with proceeds of debt to be incurred by the City or on behalf of the City.

(b) The expenditures described in this paragraph (b) are for the costs of acquiring and constructing the Project together with appurtenances and attachments thereto to serve the City which were or will be paid subsequent to six months prior to the date hereof.

(c) The maximum principal amount of debt expected to be issued for the Projects, including issuance costs, is \$1,000,000.

(d) A reimbursement allocation of the expenditures described in (b) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Projects are placed in service, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the debt to be issued for the Projects to reimburse the City for a capital expenditure made pursuant to this Resolution.

(e) The expenditures described in (b) above are “capital expenditures” as defined in Treas. Reg. § 1.150-1(b), which are any costs of a type which are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Treas. Reg. § 1.150-2(c)) under general Federal income tax principles (as determined at the time the expenditure is paid).

(f) No proceeds of the borrowing paid to the City in reimbursement pursuant to this Resolution will be used in a manner described in Treas. Reg. § 1.150-2(b) with respect to abusive uses of such proceeds, including, but not limited to, using funds corresponding to the proceeds of the borrowing in a manner that results in the creation of replacement proceeds (within Treas. Reg. § 1.148-1) within one year of the reimbursement allocation described in (d) above.

(g) Expenditures for the Project to be reimbursed for the proceeds of the borrowing for purposes of this Resolution do not include costs for the issuance of the debt or an amount not in excess of the lesser of \$100,000 or 5 percent of the proceeds of the borrowing, or preliminary expenditure not exceeding twenty (20) percent of the issue price of the borrowing, within the meaning of Treas. Reg. § 1.150-2(f) (such preliminary expenditures include architectural, engineering, surveying, soil testing and similar costs incurred prior to construction of the Projects, but do not include land acquisition, site preparation, and similar costs incident to commencement of construction).

2. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.
MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Chapter 7 – Retail Parking Ordinance Amendment Article 7.02.B and Article 7.17.E.

Chapter 7, Article 7.02.B

Commissioner Robinet introduced a proposed amendment to Chapter 7 (Zoning Ordinance), Section 7.02.B., of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

Article 7.02.B DEFINITIONS

Floor Area, for the purpose of computing parking:

Usable Floor Area (UFA) - Area used for or intended to be used for the sale of merchandise or services, or to serve patrons, clients & customers, measured from the interior face of exterior walls (for each floor); excluding areas used or intended to be used principally for storage or processing of merchandise, hallways, utilities and sanitary facilities. Where these areas are not yet defined, usable floor area shall be considered to be 70% of the gross floor area.

Gross Floor Area (GFA) - 100% of the gross floor area as measured from the interior of all exterior walls.”

Chapter 7, Article 7.17.E

Commissioner Robinet introduced a proposed amendment to Chapter 7 (Zoning Ordinance), Section 7.17.E, of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

Article 7.17.E. OFF STREET PARKING REQUIRMENTS

16. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

c. BUSINESS AND COMMERCIAL

- (1) Retail stores with 100,000 sq. ft. GFA or less, unless otherwise specified: One (1) for each two hundred (200) square feet GFA, including outdoor sales space.

Retail stores, Planned Commercial Center or Regional Retailer with over 100,000 sq. ft. GFA: One (1) for each two hundred twenty five (225) square feet GFA, including outdoor sales space.

(2) thru (9) - *unchanged*

- (10) Household equipment, repair shops, showroom of a plumber or decorator, electrician or similar trade, shoe repair, and other similar uses: One (1) for each 800 square feet UFA.

(11) thru (18) - *unchanged*

- (19) Furniture and appliance, carpeting and flooring, hardware and home improvement stores:

100,000 sq. ft. GFA or less- One (1) for each two hundred twenty five (225) square feet GFA, including outdoor sales space.

Over 100,000 sq. ft. GFA - One (1) for each two hundred fifty (250) square feet GFA, including outdoor sales space.

(20) thru (24) – *unchanged*

- (25) Wholesale Establishments and Warehouse Clubs: One (1) for each five hundred (500) square feet GFA, including outdoor sales space.”

CITY MANAGER’S REPORT

City Manager Dale Kerbyson commented on the Executive Session to discuss the Interlocal Agreement between the City of Lapeer and Township of Oregon and an incident at the Community Center involving a near drowning and response of lifeguards in attendance.

CITY ATTORNEY’S REPORT

City Attorney Ronald Shamblin provided an update on 1594 W. Genesee Street.

UNFINISHED BUSINESS

167 2007 07-02

Mayor Sprague appointed. Moved by Robinet. Seconded by Marquardt.

To appoint Andrew Harrington to the Local Development Finance Authority for a term ending August 1, 2009.

MOTION CARRIED.

DEPARTMENTAL COMMUNICATIONS

No reports provided.

MAYOR/COMMISSIONER COMMENTS

Brief discussion was held regarding the railroad repairs on Saginaw Street, that the DeMille crossing is scheduled for August, moving of entrance signs on M-24 to actual location, big box stores and ordinance requirements, railroad construction on Saginaw Street and blocking of car wash entrance, timeline for Saginaw Street construction, signage for biodegradable bags at the Department of Public Works, ordinance change to reflect biodegradable bag usage, County Erosion Control Officer complaints and request to County Commissioner Schneider to check into, that the City Manager would be out of the office Thursday and Friday and that Director of Financial Services Paul Boucher would be Acting City Manager, letter received from Ralph Puckett of New Hampshire and recognition of area businesses that provided help to them in July when their recreational vehicle broke down, and that everyone have a safe and happy Fourth of July.

EXECUTIVE SESSION: Interlocal Agreement – City of Lapeer and Township of Oregon.

168 2007 07-02

Moved by Robinet. Seconded by Turkelson.

To approve an Executive Session regarding the Interlocal Agreement – City of Lapeer and Township of Oregon.

ON A ROLL CALL VOTE:

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

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED.

The Commission convened to an Executive Session at 7:17 p.m. and returned to a regular meeting at 7:50 p.m.

ADJOURNMENT

169 2007 07-02

Moved by Turkelson. Seconded by Robinet.

To adjourn the meeting.

MOTION CARRIED.

The meeting adjourned at 7:51 p.m.

William J. Sprague, Mayor

Donna L. Cronce, CMC, City Clerk