

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

August 20, 2007

A regular meeting of the Lapeer City Commission was held on August 20, 2007 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:33 p.m.

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

Absent: City Attorney Ron Shamblin (excused – personal)

Mayor Sprague led the Pledge of Allegiance.

AGENDA APPROVAL

210 2007 08-20

Moved by Turkelson. Seconded by Robinet.

To approve the agenda for August 20, 2007 with the addition of Item G.7. SAD Correction: Jackson-State Streets.

MOTION CARRIED.

MINUTES

211 2007 08-20

Moved by Robinet. Seconded by Turkelson.

To approve the minutes of the Regular Meeting held on August 6, 2007 as presented.

MOTION CARRIED.

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

CONSENT AGENDA

212 2007 08-20

Moved by Marquardt. Seconded by Robinet.

To approve the Consent Agenda for August 20, 2007 resulting in the following.

1. Approval of Special Event Request from Lapeer County Courthouse Restoration Committee for Courthouse Gala to be held September 14, 2007 on Nepessing Street between Court Street and Cedar Street as a City Co-sponsored event.
2. Approval of DeMille/Harrison Intersection Improvements, Design Engineering Services Agreement with Rowe Incorporated in the amount of \$24,700 and authorize the Director of Public Works to sign the required document.
3. Approval to accept the bid from Kennedy Excavating for the John Conley Drive Extension Project in the amount of \$180,864.50 and authorize the Director of Public Works to sign the required document.
4. Approval of John Conley Drive Extension Projection, Construction Engineering Services with Rowe Incorporated in the amount of \$18,100 and authorize the Director of Public Works to sign the required document.

MOTION CARRIED.

BILL LISTING FOR AUGUST 6, 2007

213 2007 08-20

Moved by Robinet. Seconded by Ogden.

To approve the Bill Listing for August 20, 2007 in the amount of \$3,178,660.39.

MOTION CARRIED.

PUBLIC COMMENTS

There were no public comments.

PUBLIC PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

None.

PUBLIC HEARINGS

H & H Tool, Inc. – EDC Project Plan

Mayor Sprague opened the public hearing at 6:37 p.m. to hear comments regarding the request of H & H Tool, Inc. to increase the maximum principal amount of bonds proposed to be issued by the Economic Development Corporation of the City of Lapeer for the H & H Tool, Inc. Project. There being no comments, Mayor Sprague closed the public hearing at 6:37 p.m.

214 2007 08-20

Moved by Ogden. Seconded by Robinet.

To approve the Resolution regarding the EDC Project Plan – Increase In Maximum Amount of Bonds (JMA Development, Inc./H & H Tool, Inc. Project).

CITY COMMISSION OF THE CITY OF LAPEER

RESOLUTION # 214 2007 08-20

IN RE: EDC PROJECT PLAN – INCREASE IN MAXIMUM AMOUNT OF BONDS
(JMA DEVELOPMENT, INC./H & H TOOL, INC. PROJECT)

WHEREAS, The Economic Development Corporation of the City of Lapeer (the "EDC") has recommended that the City Commission approve the Project Plan required by the Economic Development Corporations Act (the "Act") for the captioned Project (the "Project Plan") which was approved by this City Commission, with an amendment to increase the principal amount of Bonds to be issued for the Project, on June 18, 2007; and

WHEREAS, at the request of H & H Tool, Inc. (the "Company"), the City Commission has held a public hearing to consider whether to further increase the maximum principal amount of Bonds to be issued for the Project to \$5,000,000, so that additional machinery and equipment may be financed with the Bonds for the Project; and

WHEREAS, the City Commission, following such public hearing, has approved a further amendment to the Project Plan as requested by the Company;

NOW THEREFORE BE IT RESOLVED that, the Project Plan is hereby further amended to increase the maximum principal amount of Bonds proposed to be issued by the EDC for the Project to \$5,000,000 for the purpose of acquiring additional machinery and equipment; and

BE IT FURTHER RESOLVED that, the EDC is hereby authorized to take such steps as are necessary or appropriate to implement this amendment in connection with the issuance of the EDC's limited obligation revenue bonds as contemplated by the Project Plan; and

BE IT FURTHER RESOLVED that, the City Clerk is hereby directed to provide four certified copies of this resolution to the Secretary of the Board of the EDC.

YEAS: Commissioners Ogden, Robinet, Turkelson, Marquardt, and Farrington.

NAYS: None.

ABSENT: None.

ABSTAIN: None.
MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

ADMINISTRATIVE REPORTS

Chapter 32 (Flood Plains Control Ordinance) Amendment

Commissioner Turkelson introduced a proposed amendment to Chapter 32 (Flood Plains Control Ordinance) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

CHAPTER 32 FLOOD PLAINS CONTROL ORDINANCE

32.03 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

The following definitions are added.

FLOOD OR FLOODING:

means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by the waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in 1 and 2 of this definition.

FLOODPLAIN:

means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT:

means the operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS:

means zoning ordinances, subdivision regulations building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.

32.04 GENERAL PROVISIONS

(A) Unchanged.

(B) Designation of Regulated Flood Prone Hazard Areas:

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled Flood Insurance Study Lapeer County, Michigan and dated September 19, 2007 and the Flood Insurance Rate Maps (FIRMS) panel numbers of 26087C: 0254E, 0258E, 0261E, 0262E, 0263E, 0264E, 0266E, & 0268E and dated September 19, 2007 as pertains to the City of Lapeer, are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

(C) Code Appendix Enforced

Pursuant to the provision of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the City of Lapeer. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance.

(D) Unchanged.

(E) Unchanged.

32.05 ADMINISTRATION

(A) Unchanged.

(B) Agency Designated:

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of the City of Lapeer is hereby designated as the enforcing agency to discharge the responsibility of the City of Lapeer under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The City of Lapeer assumes responsibility for the administration and enforcement of said Act through out the corporate limits of the community adopting this ordinance.

(C) Unchanged.

(D) Unchanged."

Chapter 6 (Land Division Ordinance) Amendment

Commissioner Robinet introduced a proposed amendment to Chapter 6 (Land Division Ordinance) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

CHAPTER 6 LAND DIVISION ORDINANCE

6.05 LOT SPLITS

Lots or outlots in a recorded plat shall not be further partitioned, divided or altered unless in conformity with the Zoning Ordinance of the municipality and provided further, that any partitioning dividing or alteration shall not be in conflict with The Land Division Act, and shall be approved by resolution of the City Commission. A request for lot split shall include substantially the same information as required under the "Land Division Application" and shall also clearly state the reasons for the requested action. No zoning or building permit shall be sought nor shall any construction be commenced prior to approval of the lot split by the City Commission."

Chapter 18 (Fire Code Ordinance) Amendment

Commissioner Farrington introduced a proposed amendment to Chapter 18 (Fire Code Ordinance) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

CHAPTER 18 FIRE CODE ORDINANCE

18.05 Changes in Code.

- (H) 302.1 – Definitions. The following words and terms shall, for purposes of this chapter and as used elsewhere in this code, have the meaning shown herein.

Bonfire, hi-boy, powered industrial truck, and recreational fire – all unchanged.

Open burning. The burning of materials wherein products of combustion are emitted directly into the ambient air. Open burning does not include road flares, smudge pots and similar devices associated with safety or occupational uses.

Outdoor Solid Fuel Fired Furnace means a free-standing accessory structure, housing a solid fuel fired furnace, with a smokestack, used to provide heat or hot water to a building, other accessory structure, swimming pool or hot tub, via air, liquid or other means.

- (W) 3301.2.3- A permit is required for the storage, display and sale of Fireworks and shall be obtained from the Fire Code Official prior to any fireworks entering the premises. Permits shall only be issued for celebration of the Independence Day holiday. The sale of fireworks for other holidays and/or celebrations is prohibited.

- (X) 3301.2.4- Fireworks are prohibited from display or sale prior to June 1 and shall be removed from display and sale no later than July 7. Any fireworks being stored on the premises shall be removed no later than July 13.

18.06 Additions to Code.

- (K) 304.4 Outdoor containers. Dumpsters or containers stored outdoors shall be provided with lids and shall be constructed (including the lids) of non combustible materials or approved combustible materials. They shall not be placed within 10 feet of combustible walls, openings or combustible roof eave lines.

Exception: Existing enclosures or container storage areas are exempt from this requirement where:

1. In the opinion of the fire code official there is no other location in which to locate them.
2. They are not currently within 10 feet of an exit or utility meters.

- (R) 307.2.1-The installation and use of Solid Fuel Fired Furnaces is prohibited. No property owner, lessee, or person in possession or control of real property in the City of Lapeer shall use or permit the use of solid fuel fired furnaces.
- (S) Existing Non-Conforming Outdoor Solid Fuel Fired Furnaces. The lawful use of a non-conforming outdoor solid fuel fired furnace existing at the time of the adoption or amendment of this ordinance may be continued although such furnace does not conform to the provisions of this ordinance. However, the use of a non-conforming outdoor solid fuel fired furnace must not create a public nuisance or cause a human health hazard.”

Chapter 4 (Solid Waste Collection & Disposal Ordinance) Amendment

Commissioner Marquardt introduced a proposed amendment to Chapter 4 (Solid Waste Collection & Disposal Ordinance) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

CHAPTER 4 SOLID WASTE COLLECTION & DISPOSAL ORDINANCE

4.01 DEFINITIONS

PLASTIC BAG

A polyethylene or similar bag of not less than one and one-half mils thickness, designed to store refuse and secure in a manner to prevent spillage, leakage or other release of its contents by the use of wire, string or ties appropriate for this purpose. The total weight of a bag and its contents shall not exceed fifty pounds, and not be used for compost materials.

4.08 NUMBER OF CONTAINERS.

Paragraph (a). No change.

Paragraph (b). Delete.

4.12 STORAGE ON RESIDENTIAL PREMISES.

Paragraph (a). No change.

Paragraph (b). No change.

Paragraph (c). Rubbish and yard waste which cannot be secured in a container may be secured in bundles or may be deposited in biodegradable paper bags. No plastic bags are allowed or will be picked up that contain yard waste.

Paragraph (d). No change.

Paragraph (e). No person shall use plastic bags for unprotected outdoor storage of refuse. Plastic bags containing all forms of refuse, with the exception of compost material (grass, leaves, etc.), may be set out for scheduled collection in accordance with Section 4.15. Storage of plastic bags containing refuse shall be considered unprotected when not used as liners for approved containers or not placed in an enclosure affording reasonable protection.

Paragraph (f). No change.

Paragraph (g). No change.”

Rite Aid Development Agreement

215 2007 08-20

Moved by Robinet. Seconded by Marquardt.

To approve the Development Agreement with Triple G Development – Lapeer, LLC and authorize the Mayor and City Manager to sign the required document.

MOTION CARRIED.

Agreement with Rockford Construction for Driveway Work – 936 S. Main Street

216 2007 08-20

Moved by Robinet. Seconded by Turkelson.

To approve the Agreement with Rockford Construction for Driveway Work – 936 S. Main Street and authorize the Mayor and City Manager to execute the required document.

MOTION CARRIED.

SAD Correction: Jackson-State Streets

217 2007 08-20

Moved by Turkelson. Seconded by Ogden.

To approve the correction to the Roll regarding the Jackson-State Streets Reconstruction Project, Special Assessment District #2007-03.

MOTION CARRIED.

CITY MANAGER’S REPORT

Huron Consultants

City Manager Dale Kerbyson provided a review of the Proposal with Huron Consultants regarding the Environmental Assessment – Clover School, Phase II and the need to identify environmental concerns.

Julie Pratt, representative of Huron Consultants, commented on above ground storage tank and leakage concerns, potential contaminants from off-site sources, and DEQ information.

Brief discussion was held regarding identification of contaminants, DEQ involvement, determination of impact to the area, and documentation.

218 2007 08-20

Moved by Turkelson. Seconded by Robinet.

To approve the Proposal for Phase II Environmental Site Assessment – Clover School with Huron Consultants as an addition to the existing contract in an amount not to exceed \$9,980.00 and authorize the City Manager to execute the required document.

Lapeer County Center Building

City Manager Dale Kerbyson commented on the request to contribute to the Lapeer Center Board to fund a building improvement program, lease agreement with the Lapeer County Center, and that the request is an illegal expenditure of City funds. Mr. Kerbyson has advised the Lapeer Center Building Board Members that the City is not able to contribute as requested.

CITY ATTORNEY'S REPORT

No report provided.

UNFINISHED BUSINESS

No board appointments were made.

DEPARTMENTAL COMMUNICATIONS

The Monthly Operational Reports were received into record.

MAYOR/COMMISSIONER COMMENTS

Brief discussion was held regarding the success of Lapeer Days; the work involved for the event; great job by DPW, Police, Fire, and City staff; and Fox 2 news coverage.

Commissioner Turkelson commented on the parking space requirements for Rite Aid and the City's parking standards.

Commissioner Marquardt expressed concerns regarding dogs during Lapeer Days, that dogs defecate on the ground and is not cleaned up, and safety issues. Brief discussion was held regarding sanitation, safety, and proactive involvement of Chamber. Commissioner Marquardt commented on jake breaking along M-21 and M24. Brief discussion was held regarding liability and emergency issues.

Commissioner Farrington commented on the damage to Annrook Park and cleanup.

Mayor Sprague commented that the next City Commission meeting will be Tuesday, September 4th, arrest statistics during Lapeer Days, the turnout to view the Moving Wall, and the participation involved for Lapeer Days.

ADJOURNMENT

219 2007 08-20

Moved by Robinet. Seconded by Turkelson.

To adjourn the meeting.

MOTION CARRIED.

The meeting adjourned at 7:11 p.m.

William J. Sprague, Mayor

Donna L. Cronce, CMC, City Clerk