

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

**JULY 6, 2009**

A regular meeting of the Lapeer City Commission was held July 6, 2009 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

**Present:** Mayor Sprague  
Commissioners Bennett, Marquardt, Robinet, Farrington, and Bostick-Tullius.  
City Manager Dale Kerbyson.  
City Attorney Michael Nolan.

**Absent:** None.

Mayor Sprague led the Pledge of Allegiance.

**AGENDA APPROVAL**

**125 2009 07-06**

Moved by Robinet. Seconded by Marquardt.  
To approve the Agenda for July 6, 2009.  
MOTION CARRIED.

**MINUTES**

**126 2009 07-06**

Moved by Robinet. Seconded by Marquardt.  
To approve the minutes from the Special Meeting held on June 11, 2009 and Regular Meeting held on June 15, 2009.  
MOTION CARRIED.

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

**CONSENT AGENDA**

**127 2009 07-06**

Moved by Robinet. Seconded by Bostick-Tullius.  
To remove Item B.8. Blight Mowing Proposal and approve the remaining Consent Agenda for July 6, 2009 resulting in the following:

1. Approval of the Fiscal Year 2009-10 Operating Budgets for the Downtown Development Authority and Lapeer Center for the Arts.
2. Approval of Change Order #1 from A.W. Excavating, Inc. for the Horton Street Reconstruction Project.
3. Approval of Payment Request #5 (Final Payment) from A.W. Excavating, Inc. in the amount of \$10,504.00 for the Horton Street Reconstruction Project.
4. Approval of Payment Request #1 from Zito Construction Co. in the amount of \$24,872.62 for the M-24 Corridor Utility Expansion Project.
5. Approval of Payment Request #2 from Site Development, Inc. in the amount of \$198,951.59 for the M-24 Corridor Utility Expansion – Sanitary Sewer.
6. Approval of Payment Request #1 from Posen Construction, Inc. in the amount of \$85,355.28 for the M-24 Corridor Utility Expansion – Sanitary Sewer Pump Station.
7. Approval of the bid received from Novak Construction in the amount of \$38,380.00 for the Genesee Street – Sidewalk Repair and authorize the Director of Public Works to sign required documents.

MOTION CARRIED.

Blight Mowing Proposal

Brief discussion as held regarding the capabilities of Carey's Lawn and Snow Care to perform the work required and if the business address was in the City.

**128 2009 07-06**

Moved by Marquardt. Seconded by Robinet.

To approve the proposal from Carey's Lawn & Snow Care for Fiscal Year 2009-10 Blight Mowing and authorize Police Chief Alexander to sign required documents.

MOTION CARRIED.

**BILL LISTING FOR JULY 6, 2009**

**129 2009 07-06**

Moved by Robinet. Seconded by Farrington.

To approve the Bill Listing for July 6, 2009 in the amount of \$1,114,954.23.

MOTION CARRIED.

**PUBLIC COMMENTS**

None.

**PUBLIC PROCLAMATIONS AND RECOGNITIONS**

Resolution: In Recognition of Vance L. Holt

**130 2009 07-06**

Moved by Robinet. Seconded by Bennett.

To approve the Resolution In Recognition of Vance L. Holt.

RESOLUTION  
CITY OF LAPEER  
In Recognition of Vance L. Holt

WHEREAS, Vance L. Holt served as a Firefighter with the City of Lapeer Fire & Rescue Department from June 10, 1997 through June 8, 2009; and

WHEREAS, Vance L. Holt is an individual of great personal integrity and has given conscientious service to the citizens of the City of Lapeer and Lapeer County; and

WHEREAS, Vance L. Holt exemplifies dependability, caring and hard work in his service as a Firefighter; and

WHEREAS, through his persistence, hard work, and dedication, Vance L. Holt has set an example for all Firefighters and is honored by his community;

NOW, THEREFORE BE IT RESOLVED, that I, William J. Sprague, Mayor of the City of Lapeer, and the Lapeer City Commission, take this opportunity on behalf of the people of the City of Lapeer to express official gratitude and deep appreciation to Vance L. Holt for his efforts and devotion to public service, and wish him continued success in all his endeavors.

Dated this 6<sup>th</sup> day of July, 2009.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

**PUBLIC HEARINGS**

None.

## **ADMINISTRATIVE REPORTS**

### Proposed Charter Amendment – Chapter 11, Special Assessments

#### **131 2009 07-06**

Moved by Robinet. Seconded by Farrington.

To approve the Proposed Charter Amendment Resolution regarding Chapter 11, Special Assessments.

#### CITY OF LAPEER RESOLUTION #131 2009 07-06

##### Proposed Charter Amendment

WHEREAS, the City Charter currently establishes the propriety, procedure, and mechanics of special assessments and the creation of special assessment districts within the City ; and

WHEREAS, the Commission of the City of Lapeer has determined the necessity to remove the special assessment process from the City Charter for ease of application and amendment to reflect variously adopted statutory and/or constitutional changes and to have same placed into an Ordinance which shall thoroughly and effectively establish the propriety, procedure, and mechanics of special assessments and the creation of special assessment districts within the City; and

WHEREAS, the statutory provisions of MCL 117.21 et seq, require that the City Commission adopt a resolution proposing ballot language for this submission to the electors.

NOW, THEREFORE, BE IT RESOLVED that:

1. The following ballot proposal shall be submitted to the electors of the City of Lapeer and to the Michigan Department of Attorney General:

Shall Chapter 11 of the City of Lapeer Charter be amended to reaffirm the City Commission's authority to determine the propriety and cost of public improvements and to defray the cost of such by and through the adoption and implementation of an ordinance and to provide in said ordinance for the mechanism and procedure required to effect the improvement by special assessment?

2. The following Charter Amendment shall be submitted to the Governor of the State of Michigan for review and approval pursuant to MCL 117.22 et seq.

#### **CHAPTER 11 SPECIAL ASSESSMENTS**

##### **GENERAL POWERS RELATIVE TO SPECIAL ASSESSMENTS:**

The Commission shall have the power to determine that the whole or any part of the cost of a public improvement shall be defrayed by special assessment upon the property especially benefited in proportion to the benefits derived or to be derived. The cost of surveys and plans for a public improvement and all expenses incident to the proceedings for the making of such improvement and a special assessment therefore and for the issuance of bonds in anticipation of such special assessments, shall be deemed to be a part of the cost of the improvements. The cost of any improvement shall also include the cost of acquiring any lands necessary therefore. The Commission shall by ordinance, or any amendment thereto,

provide for mechanism and procedure required to effect the improvement by special assessment through such power as reserved to the City by statute.

3. The proposed Charter amendment shall be submitted to the qualified electors of the City at the general election to be held in the City of Lapeer on the 3<sup>rd</sup> day of November, 2009, and the City Clerk is directed to give notice of the election and notice of registration in a manner prescribed by law and to do all things and to provide all supplies necessary to submit such Charter amendment to a vote of the electors as required by law.
4. The proposed Charter amendment shall be published in full together with the existing Charter provision amended as part of the notice of election or once in a local newspaper not less than ten (10) days before election day.

ON A ROLL CALL VOTE:

AYES: Commissioners Bennett, Farrington, Marquardt, Robinet, and Bostick-Tullius

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

#### Annual Municipal Employees' Retirement System

##### **132 2009 07-06**

Moved by Robinet. Seconded by Bostick-Tullius.

To approve Paul Boucher as the Officer Delegate and Dale Kerbyson as the Officer Alternate for the 2009 MERS Annual Meeting and approve the Officer and Employee Delegate Certification Form and authorize the City Manager to sign required documents.

MOTION CARRIED.

#### Chapter 3 (Food and Health Ordinance) Amendment

Commissioner Bostick-Tullius introduced the proposed amendment to Chapter 3 (Food and Health Ordinance), Section 3.02, Noxious Weeds of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

##### **3.02 NOXIOUS WEEDS.**

- (A) Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like kind, found growing in any lot or tract of land in the city are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds to grow or remain in any such place.
- (B) It shall be unlawful for anyone having control of property in the City of Lapeer, whether as owner, owner's agent, or occupant, to permit poison ivy, poison sumac, poison oak, or other plants injurious to health, to grow where they may cause injury or discomfort to any person or to permit any weeds, grass or plants, other than trees, bushes, flowers, or other ornamental plants to grow to a height exceeding eight (8) inches anywhere in the city; any such plants or weeds exceeding such height are hereby declared to be a nuisance.
- (C) It shall be the duty of any persons having control of property in the City of Lapeer, whether as owner, owner's agent, or occupant,

within two hundred (200) feet of streets, public right-of-ways or improved property, public or private, to cause to be cut or destroyed all noxious weed or other weeds, grass, brush, or uncontrolled tree growth which are the height of eight (8) inches or more in such manner as shall effectually prevent such weeds from bearing seeds or spreading to adjoining property, as often as may be necessary from May 1st through October 31st each year.

**History: (Amnd 04-10-96;-)**

- (D) No person, after having been notified by the code enforcement officer, shall permit or cause to be maintained upon his or her premises a public nuisance as defined in subsection A of this section.
- (E) It shall be the duty of the owner, owner's agent or occupant in charge of any land in the City of Lapeer to remove from that land any plant material specifically listed in paragraph (B) above or weeds of eight (8) or more inches in height within seven days, Sundays and legal holidays excepted, after notice to do so.
- (F) Whenever there are upon any defined lands within the municipality, the plant material specifically listed in paragraph (B) above or weeds of eight (8) or more inches in height, and no person can be found in the City of Lapeer who either is or claims to represent the owner, the City Manager shall give notice by publication once in one newspaper of general circulation in the City, requiring the removal of the weeds. The notice shall specify the land from which weeds are to be removed, the character of the work to be done and the time allowed for doing the same.
- (G) If the plant material specifically listed in paragraph (B) above or weeds are not removed as provided and within the time so specified by the notice required by subsection (F) of this section, it shall be the duty of the City Manager to cause their removal and the owner of the property shall be held liable to the municipality for the cost incurred for the removal of the plant material or weeds, including the cost of advertising.
- (H) If any such person, firm, or corporation shall fail to comply with the provisions of this Section, the City may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be presented to the City Treasurer with a minimum of one hour per lot or parcel, plus the actual cost of inspection, scheduling, and any other associated cost.
- (I) The City Treasurer shall add to all said accounts, twenty (20) percent of the amount of all such expenditures to cover the administrative costs of the Treasurer and said total charges shall immediately constitute a lien and tax upon the land upon which work was performed. The City Treasurer shall forward a statement of the total charges assessed on each parcel of property to the owner as shown by the last current assessment or tax roll and said assessment shall be payable within thirty (30) days without additional cost. If said assessments are not paid within thirty (30) days a penalty of ten (10) percent shall be added, and the total amount of the assessments and penalty will be transferred or reassessed upon the next City tax roll. The City Treasurer shall, on or before the thirty-first (31st) day of May of said year, prepare a report of all parcels of property upon which said assessments have been placed upon the City tax roll and which shall be collected and paid in all respects as provided for the collection of County taxes. When these assessments are collected they shall be paid into the

City Treasury to reimburse the outlay therefrom as hereinbefore provided.

- (J) The City Clerk shall on or before the thirtieth (30th) day of April of each year give notice of the requirements and provisions of this Ordinance by causing notice thereof published once a week for two (2) successive weeks in a newspaper of general circulation in the City of Lapeer. The foregoing notice shall be in substantially the following form:

**CITY OF LAPEER  
NOTICE OF PROVISIONS OF  
NOXIOUS WEED ORDINANCE**

**TO ALL OWNERS, OWNER'S AGENTS, OR OCCUPANTS OF  
PROPERTY:**

Notice is hereby given that in accordance with Ordinance 3.02 of the City of Lapeer, all noxious weeds, or other weeds, grass, brush or uncontrolled tree growth which are a height of eight (8) inches or more growing upon any property in the City, shall be cut down, destroyed, or removed as the case may be, as often as may be necessary from May 1st through October 31st each year.

In case any owner, owner's agent, or occupant shall fail or refuse to comply with the above mentioned Ordinance the City may cause said weeds, grass, brush, or uncontrolled tree growth, to be cut down, destroyed or removed. All expenses incurred by the City will be charged against the property and will be collected in the manner provided in said ordinance.

CITY CLERK

- (K) Any person, firm or corporation violating any provision of this Ordinance shall be responsible for a civil infraction and/or a civil action for abatement of nuisance.

EFFECTIVE DATE OF AMENDMENT: April 10, 1996

**CITY MANAGER'S REPORT**

CGI Communications, Inc.: Community Video Tour Book Agreement

**133 2009 07-06**

Moved by Bostick-Tullius. Seconded by Robinet.

To approve the Community Video Tour Book Agreement with CGI Communications, Inc. and authorize the City Manager to sign required documents.

MOTION CARRIED.

**CITY ATTORNEY'S REPORT**

None.

**UNFINISHED BUSINESS**

No Board appointments were made.

## **DEPARTMENTAL COMMUNICATIONS**

HUD Foreclosed Homes Update, Monthly Financial Report for April 2009, and Monthly Financial Report for May 2009 were received into record.

## **MAYOR/COMMISSIONER COMMENTS**

Commissioner Bostick-Tullius and Commissioner Marquardt commented that the fireworks were nice this year.

Commissioner Robinet inquired on the new water line. City Manager Dale Kerbyson responded that there was a public meeting to discuss the proposed project, that the project was sitting at DEQ and was open for public comment, and after public comment was closed out it was anticipated that a permit would be issued in July. Mr. Robinet commented that a newspaper in Bad Axe was bought out by Rick Burrough and inquired about LA View purchase of the Lapeer County Press. Mike Arnholt, LA View Editor, commented that JAMS Communications would currently continue to run the County Press as a separate newspaper than LA View with different content.

City Manager Dale Kerbyson introduced Doug Skylis, Rowe Professional Services Company, to provide an update of M-24/I-69 Utility Project. Doug Skylis provided a map handout of the area and updated the commission on the construction of water and sanitary sewer lines in the area. Mr. Kerbyson commented on the Saginaw Street project and stimulus money will not be received until next spring; that a retirement luncheon will be held for Charlie Mann, WWTP Superintendent, on July 17<sup>th</sup>; and that he would be out of the office the rest of the week and that Paul Boucher would be Acting City Manager.

Mayor Sprague inquired about the progress on Sonic. Planning Director Linda Jackman responded that there was a hold up with a property line issue that has been resolved and are waiting for a revised site plan at this time. Mayor Sprague commented that the Chamber was in need of sponsors for Lapeer Days.

## **ADJOURNMENT**

**134 2009 07-06**

Moved by Bennett.

To adjourn the meeting.

MOTION CARRIED.

The regular meeting adjourned at 7:17 p.m.

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William J. Sprague, Mayor

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Donna L. Cronce, City Clerk