

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

SEPTEMBER 8, 2009

A regular meeting of the Lapeer City Commission was held September 8, 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, Bostick-Tullius and Farrington.
City Manager Dale Kerbyson.
City Attorney Representative Tim Turkelson.

Absent: None.

Others Present: Melanie DiCenso 1061 S. Lapeer Road; Kevin Robertson 2800 S. Lapeer Road; Nick Abdelnour 770 West Street, Dave Heckman 725 DeMille Road; Angie Heckman 725 DeMille Road; Joe Gallant 400 McCormick Drive; Kevin Cook 5910 Territorial Road Grand Blanc; Kimberly Huber 219 W. Fair Street; Sonny and Clara Longoria 421 N. Lake Pleasant Road; Jim Harrington 3200 John Conley Drive; Mike Coulter representative of Rolling Hills Apartments, Arbors of Lapeer, Old Post Office, and Carriage Hills Developers; and Lenny Schneider Lapeer County Board of Commissioners.

Mayor Sprague led the Pledge of Allegiance.

AGENDA APPROVAL

170 2009 09-08

Moved by Marquardt. Seconded by Bostick-Tullius.
To approve the Agenda for September 8, 2009.
MOTION CARRIED.

MINUTES

171 2009 09-08

Moved by Robinet. Seconded by Marquardt.
To approve the minutes from the Regular Meeting held on August 17, 2009.
MOTION CARRIED.

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

CONSENT AGENDA

172 2009 09-08

Moved by Bostick-Tullius. Seconded by Bennett.
To approve the Consent Agenda for September 8, 2009. Commissioner Bennett questioned Item B-2 on the increase in the project, increases seen on the project area within the last two meetings, and who pays for amounts over the special assessments billed. Mayor Sprague commented that the City would pay for amounts over the special assessments billed. City Manager Dale Kerbyson responded that even with the change orders the amounts were still consistent with the special assessments billed. There being no further discussion, the question was called to a vote resulting in the following.

1. Approval of Payment Request #3 from Posen Construction, Inc. in the amount of \$149,342.72 for the M-24 Corridor Utility Expansion – Sanitary Sewer Pump Stations.
2. Approval of Change Order #1 from Posen Construction, Inc. in the amount of \$41,314.00 for the M-24 Corridor Utility Expansion – Sanitary Sewer Pump Stations.

3. Approval of Payment Request #3 from Zito Construction Co. in the amount of \$808,750.87 for the M-24 Corridor Utility Expansion – Water Main.
4. Approval of Payment Request #4 from Site Development, Inc. in the amount of \$233,547.75 for the M-24 Corridor Utility Expansion – Sanitary Sewer.
5. Approval of the Budget Adjustment for HAVA Grant as presented.
6. Approval of Special Event Request from Lapeer East High School for a Homecoming Parade to be held September 18, 2009 at 5:00 p.m.
7. Approval of Special Event Request from Kiwanis of Lapeer for a Cider Sale to be held October 8th thru October 10th, 2009 contingent upon receipt of current insurance.
8. Approval of the addition of a 5k run to Pregnancy Resource Center Special Event for Walk For Life Walk-A-Thon to be held September 12, 2009.
9. Approval of Peerless-Midwest, Inc. in the amount of \$249,647.00 for the M-24 Corridor Utility Expansion – Back-up Well and authorize the Director of Public Works to sign required documents.

MOTION CARRIED.

BILL LISTING FOR SEPTEMBER 8, 2009

173 2009 09-08

Moved by Robinet. Seconded by Marquardt.

To approve the Bill Listing for September 8, 2009 in the amount of \$1,971,369.49.

MOTION CARRIED.

PUBLIC COMMENTS

Melanie DiCenso – Sewer/Special District Project for Annexation by Choice Area.

Melanie DiCenso commented that she was here tonight from the special annexation district, that they are still working on the project request, thanked City staff for time and efforts in answering questions, issues with staff that have been resolved, questions regarding special assessment district, to make sure that district included both sewer and water, and letters received regarding meeting scheduled with property owners for September 14th to go over the project. Ms. DiCenso presented the Commission with five questions summarized as follows:

- 1) Who are letters sent to? Letters regarding the area should be sent to twelve owners within the district, not just seven who are interested.
- 2) Project costs? Want to proceed with project in a timely fashion so that costs do not increase and ability to pay for costs over a 10 year installment plan.
- 3) Does the district include both water and sewer? Not just sewer only or water only.
- 4) Paying for costs? Concerns about paying for project up front and anyone else coming in at a later date should not pay less.
- 5) Reimbursement? Those coming in at a later date and the City providing a way for reimbursement to original people instead of funds going to City for future projects.

Mayor Sprague thanked Ms. DiCenso, that answers would be provided on questions, complexity of project area and to ensure project is done correctly, and clarified issue of everyone in area being responsible for project costs. Attorney Representative Tim Turkelson commented on research being completed for district, this is not a simple issue, that a district can be established and include associated costs, implementation of procedures that would include handing of property splits, and will continue to put this all together with a sound legal opinion. Commissioner Bennett stated that he would like to be included in meetings with the property owners.

Hydrant and Sprinkler Fees

Nicholas Abdelnour, 770 West Street, asked about meeting procedures and if he could speak on the hydrant and sprinkler fees as placed on the agenda or during public comments. Mayor Sprague responded that comments would be preferred during the public comments portion.

Jim Harrington, H&H Tool 3200 John Conley Drive, commented on purchase of building due to capacity availability, fees paid to City prior to moving in, cannot justify fees charged, and to explain the legal opinion in charging fees for additional services rendered.

Mike Coulter, representative for Rolling Hills Apartments, Arbors of Lapeer, Old Post Office, and Carriage Hills Development, commented on paying twice for fees involved, residents paying fees with monthly charges for water, paying hydrant fees on top of monthly charges for water, and would like to see the affect of the billings of those that are not paying fees.

Dave Heckman, 725 DeMille, commented that he echos previous concerns stated and they have 402 residents that pay monthly charges for water.

PUBLIC PROCLAMATIONS AND RECOGNITIONS

Lapeer West Music Boosters: Charitable Gaming License

174 2009 09-08

Moved by Robinet. Seconded by Bennett.

To approve the Local Governing Body Resolution For Charitable Gaming License for Lapeer West Music Boosters.

LOCAL GOVERNING BODY RESOLUTION FOR CHAIRTABLE GAMING LICENSE

At a regular meeting of the Lapeer City Commission called to order by Mayor Sprague on September 8, 2009 at 6:30 p.m. the following resolution was offered:

Moved by Commissioner Robinet and supported by Commissioner Bennett that the request from Lapeer West Music Boosters of Lapeer, county of Lapeer, asking that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining charitable gaming licenses, be considered for approval.

	APPROVAL		DISAPPROVAL
Ayes:	Commissioners Robinet, Bennett, Farrington, and Tullius.	Ayes:	
Nays:	None	Nays:	
Absent:	None	Absent:	

MOTION CARRIED. RESOLUTION DECLARED ADOPTED

PUBLIC HEARINGS

Community Development Block Grant – Infrastructure Capacity Enhancement: Mill Street Sewer Interceptor Project.

City Manager Dale Kerbyson reviewed the ICE Grant process; infrastructure enhancement from Mill to Saginaw that would include new pipe leading into the Wastewater Treatment Plant; that the grant is an 80-20% match with the City's

portion being approximately \$144,000 and grant funding of approximately \$504,000; and that the public hearing was a portion of the grant process.

Mayor Sprague opened the public hearing at 6:49 p.m. to hear comments regarding the Community Development Block Grant – Infrastructure Capacity Enhancement Program for the Mill Street Sewer Interceptor Project. There being no comments, the public hearing was closed at 6:50 p.m.

Discussion was held regarding match of funds by the City; starting of the project would be in conjunction with the Saginaw Street project; and the match of approximately \$144,000 now would be less than paying for the project later without grant funding.

175 2009 09-08

Moved by Marquardt. Seconded by Robinet.

To approve the Resolution Authorizing Submission Of A Michigan Community Development Block Grant Program Infrastructure Capacity Enhancement Grant Application For The Mill Street Sewer Interceptor Project In The City Of Lapeer.

RESOLUTION AUTHORIZING SUBMISSION OF A
MICHIGAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
INFRASTRUCTURE CAPACITY ENHANCEMENT GRANT APPLICATION
FOR THE MILL STREET SEWER INTERCEPTOR PROJECT IN THE
CITY OF LAPEER

WHEREAS, the Michigan Economic Development Corporation has established grant funding to encourage innovative infrastructure capacity enhancement 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 an Infrastructure Capacity Enhancement for the Mill Street Sewer Interceptor Replacement project in 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 \$504,302; and
2. This Infrastructure Project is consistent with the City of Lapeer Community Development Plan as described in the application; and
3. 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
4. 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; and
5. 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 of the Michigan CDBG program.

The foregoing resolution was offered by Commissioner Marquardt and supported by Commissioner Robinet.

AYES: Commissioners Marquardt, Robinet, Bennett, Farrington, and Bostick-Tullius.
NAYS: None.
ABSTAIN: None.
ABSENT: None.
MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Lapeer Commons – Revised Planned Unit Development (PUD) Rezoning – 1048 S. Lapeer Road.

City Planner Linda Jackman reviewed the Revised Planned Unit Development(PUD) Rezoning request from Lapeer Commons located at 1048 S. Lapeer Road; the need for another public hearing due to difference in uses; the elimination of the assisted living facility; the relocation of the two medical office buildings; and a new commercial building intended for retail and restaurant use.

Dr. Kevin Robertson commented that the changes were not by choice but due to economic necessity, feels frontage of area would be best utilized by retail and restaurant, and that the usage differences are allowable.

Mayor Sprague opened the public hearing at 6:54 p.m. to hear comments regarding the Lapeer Commons Revised Planned Unit Development (PUD) Rezoning located at 1048 S. Lapeer Road. There being no comments, the public hearing was closed at 6:54 p.m.

ADMINISTRATIVE REPORTS

Chapter 7 (Zoning Ordinance) Amendment: Lapeer Commons Revised PUD Rezoning – 1048 S. Lapeer Road.

Discussion was held regarding square footage of commercial area for restaurant use and parking ability, review of parking requirements for scenarios involving possible use of building by separate businesses, blending of shared parking for area, and that the restaurant use intended provides a more stringent parking requirement.

Commissioner Bennett introduced the proposed amendment to Chapter 7 (Zoning Ordinance), Section 7.03, H., #93, of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

7.03 ZONING DISTRICTS AND MAP

H. ZONING DISTRICT AMENDMENTS:

93. The following property, formerly zoned One-Family Residential (R-5), is hereby rezoned to Planned Unit Development (PUD):

Section 7 T.7N, R.10E, Supervisor’s Plat #4 Recorded in Plat Liber 1, Page 91: That part of Lot 22 lying Easterly of West line of N-S portion of Lina Drive if extended; also Lots 20 & 21; also Lot 19 & vacated Lina Drive lying South of same; also Lot 25; also Lot 24 & all of vacated Lina Drive lying West of West line of Lot 19 if extended; and Lot 23 & that part of Lot 22 lying West of West line of N-S portion of Lina Drive if extended.”

Contingent upon the following:

- Allow for flexibility during the site plan review to reduce the number of off-street parking spaces required;

- Require a revised Condominium Plan be submitted and approved by the Planning Commission; and
- Require a legal agreement be obtained to ensure provision of a future access to the property located to the north.

This rezoning is based on substantial compliance with the revised conceptual plan by CHMP Architects titled “The Lapeer Commons” with a revision date of 7-1-09, and supercedes the previous rezoning of the property to PUD based on the conceptual plan dated 10-01-08. This rezoning is further based on completion of the site plan process for the various phases of the development within three (3) years from the date of final rezoning approval by the City Commission as per Article 7.14.5.

History: (Amnd 01-29-09;-)”

Purchasing Policy

Discussion was held regarding the need for a workshop to review the details of the Purchasing Policy.

176 2009 09-08

Moved by: Bennett. Seconded by Bostick-Tullius.

To hold a workshop meeting on the Purchasing Policy immediately after the September 21, 2009 City Commission meeting.

MOTION CARRIED.

Millville Road and Davison Road – Jurisdictional Transfer

177 2009 09-08

Moved by Robinet. Seconded by Farrington.

To approve the Resolution For Jurisdictional Transfer For A Part Of Millville Road and Davison Road.

CITY OF LAPEER
RESOLUTION FOR JURISDICTIONAL TRANSFER
For a part of Millville Road and Davison Road

WHEREAS, the City of Lapeer is willing to accept jurisdictional control of a certain portion of Millville Road and Davison Road from the Lapeer County Road Commission.

NOW, THEREFORE, BE IT RESOLVED:

1. That the description of said street of Millville Road is as follows:

Millville Road – Section 6 in Lapeer Township and Section 1 in Elba Township from centerline of Millville Road and West Oregon Road southward to the centerline of Davison Road/W. Genesee Road (.50 Miles).
2. That the description of said street of Davison Road is as follows:

Davison Road – Section 1 in Elba Township from the centerline of Davison Road/W. Genesee Road the Millville Road intersection westward to the centerline of Davison Road and Lake Nepessing Road (1.11 Miles).
3. That said street is under the control of the City of Lapeer.
4. That said street is a public street and is for public street purposes.
5. That said street/plat is accepted into the City Street System as a part of a Major Street System.

AYES: Commissioners Robinet, Farrington, Bennett, Marquardt, and Bostick-Tullius.
NAYS: None.
ABSTAIN: None.
ASENT: None.
MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

CITY MANAGER'S REPORT

Hydrant and Sprinkler Fees

City Manager Dale Kerbyson commented that a list of options and staff recommendations were within the agenda packet. Discussion was held regarding the following of staff recommendation, ability to provide businesses with payment arrangements without penalty and interest, reduction of fees, expected increase next year, the need to understand the use of water and sewer funds, ability to freeze the planned increase for next year, and the ability to reevaluate fees during budget process.

178 2009 09-08

Moved by Marquardt. Seconded by Farrington.

To change the due date of billings to May 31, 2010 without penalty and interest for hydrant and sprinkler fees. Discussion was held regarding businesses not knowing whether there will be an increase next year or not and the ability to discuss next year's rates at any time. The question was called to a vote.

Ayes: Commissioners Marquardt, Farrington, and Bostick-Tullius.

Nays: Commissioners Robinet and Bennett.

MOTION CARRIED.

Discussion was held regarding the option of having a group of ten business owners/managers and city staff to brainstorm possible solutions, adding residents to such a group, process for selection of group members, Tetra Tech study and recommendations provided, and if changing a long standing policy it should be thoroughly reviewed as well as reviewed by attorney.

179 2009 09-08

Moved by Robinet. Seconded by Bennett.

To have a committee of five businesses that have private hydrants and/or suppression systems and five businesses that do not have any suppression system and rely on public hydrants and five residents to meet with City staff and recommend a billing structure solution regarding hydrant and sprinkler fees.

MOTION CARRIED.

City Manager Dale Kerbyson commented that the TIFA/EDC monthly meeting scheduled for September 14th had been cancelled and thanked the Fire Chief and staff for recommendations regarding the hydrant and sprinkler fees.

CITY ATTORNEY'S REPORT

No report.

UNFINISHED BUSINESS

180 2009 09-08

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

To appoint the following to the Lapeer Center for the Arts Council:

Jacque Piechowski for a term ending 10-01-12.

Dave Ernst for a term ending 10-01-12.

Betty McCauley for a term ending 10-01-12.

David Polzin for a term ending 10-01-12.

MOTION CARRIED.

181 2009 09-08

Mayor Sprague appointed. Moved by Robinet. Seconded by Farrington.
To appoint to the Local Officers Compensation Commission Richard Fassezke
for a term ending 10-01-2014.
MOTION CARRIED.

182 2009 09-08

Moved by Robinet. Seconded by Marquardt.
To appoint to the Pix Arts Council Carol Lyons for a term ending 10-01-12.
MOTION CARRIED.

DEPARTMENTAL COMMUNICATIONS

Consolidation of Precincts regarding City General Election November 3, 2009
was received into record.

MAYOR/COMMISSIONER COMMENTS

Commissioner Bennett commented that Section 594 of the National Defense
Authorization Act of 2009 authorizes a change in law to allow for veterans not in
uniform to salute the flag; Constitution Day scheduled for September 19th and
reading of the Constitution at the Court House and invited all to attend; that a
business plan was submitted to run Channel 19 to the Cable Advisory Board for
free and would like to have it made available to all Commissioners. Brief
discussion was held that the Cable Advisory Board had questions and concerns
regarding the submitted plan and the Cable Board had not approved anything at
this point.

Commissioner Bostick-Tullius commented on the great job in fixing up the
sinkhole on M-24.

Commissioner Farrington commented on empty car dealerships.

Commissioner Robinet thanked staff involved in hydrant and sprinkler report;
great job cleaning up during Lapeer Days; thanked Doug with Rowe for the map
updates on 24-69 project; and apologized to the Mayor for forgetting to speak on
his behalf during the Lapeer Days welcome opening.

City Manager Dale Kerbyson commented on a "thank you" received by the
Lapeer Area Chamber of Commerce and The Lapeer Days Committee; CGI
Communications will be filming around town for the webcam series to be placed
on our website; and that site selection people have shown some interest in
property within the City.

Mayor Sprague commented on Constitution Day scheduled for September 19th
between 11 and 2; World Trade Day scheduled for Friday, September 11th; and
attendance to the 2009 Response to Hate Conference.

ADJOURNMENT

183 2009 09-08

Moved by Bennett. Seconded by Marquardt.
To adjourn the meeting.
MOTION CARRIED.

The regular meeting adjourned at 7:49 p.m.

William J. Sprague, Mayor

Donna L. Cronce, City Clerk