

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

June 21, 2010

A regular meeting of the Lapeer City Commission was held June 21, 2010 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, and Farrington.
City Manager Dale Kerbyson.
City Attorney Representative Tim Turkelson.

Absent: Commissioner Bostick-Tullius (excused).

Others Present: City Clerk Donna Cronce; Police Chief Police Todd Alexander; Fire Chief Terry Kluge; Director of Finance Paul Boucher, City Assessor Tom Hubbell; Director of Public Works John Lyons; Planning Director Linda Jackman; Water and Sewer Superintendent Pam Reid; Rowe Professional Services Company representative Doug Skyllis; Lapeer County Press Phil Foley; County Commissioner Lenny Schneider; Brent Hershberger; DDA Representatives Carolyn McCarter and Pat Cronin; Kelly Shepherd; Georgeann Courser; Adam Boles; Terry Gureoll; and R. McDowell.

Mayor Sprague led the Pledge of Allegiance.

AGENDA APPROVAL

135 2010 06-21

Moved by Robinet. Seconded by Farrington.

To approve the Agenda for June 21, 2010 as presented.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

MINUTES

136 2010 06-21

Moved by Robinet. Seconded by Bennett.

To approve the minutes from the Regular Meeting held on June 7, 2010.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

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

PUBLIC COMMENTS

Kelly Shepherd, Randall Drive, offered invocation.

Philip Pavlov introduced himself to the Commission and that he will be a candidate for State Senate on the Republican ticket.

CONSENT AGENDA

137 2010 06-21

Moved by Bennett. Seconded by Farrington.

To approve the Consent Agenda for June 21, 2010 resulting in the following:

1. Special Event Request – Bearinger Church to hold Footprints in the Park on Tuesday, August 3, 2010 at Rowden Park.
2. Traffic Control Order 262.

**CITY OF LAPEER
PERMANENT TRAFFIC CONTROL
ORDER NO. 262**

Location: Alley north of Park Street, south of Law Street between Pine Street and Court Street.

Order: Install "One Way" signs to have traffic move westbound through the alley.

Reason: In response to a property owners request due to limited alley width and damage being to his property. The request was brought forward by the property owner at 121 Law Street who advised he spoke with the adjoining property owners.

3. Traffic Control Order 263.

**CITY OF LAPEER
PERMANENT TRAFFIC CONTROL
ORDER NO. 263**

Location: City Parking Lot No. 5 behind Lapeer Dental Center.

Order: Install "Two Hour Parking" signs in city parking lot #5 for 6 parking spaces from Saginaw Street westerly (1) aisle.

Reason: To allow parking for customers for the business in the downtown area.

4. Payment Request #10 from Site Development for M-24 Corridor Utility Expansion Project – Sanitary Sewer in the amount of \$2,772.00.
5. Payment Request #1 from Sinatech Construction Company for S. Main Street Sanitary Sewer Extension Project in the amount of \$48,381.00.
6. Local Share Payment #2 to State of Michigan for Saginaw Street Reconstruction Project in the amount of \$236,044.00.
7. Budget adjustment to eliminate the fund deficit in the 2008A Equipment Financing Fund.
8. Purchase of a new Ferris 3100 37 horsepower, 61" mower and accessories for \$11,849.00 from Novak Supply & Equipment and authorize the Director of Public Works to sign required documents.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

BILL LISTING FOR JUNE 7, 2010

138 2010 06-21

Moved by Robinet. Seconded by Bennett.

To approve the Bill Listing for June 21, 2010 in the amount of \$709,435.45.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

None.

PUBLIC HEARINGS

Street Name Change Request from PNC Bank – National City Way to Powers Street

Mayor Sprague opened the public hearing at 6:36 p.m. to hear comments regarding a street name change request from PNC Bank of National City Way to Powers Street. There being no comments, Mayor Sprague closed the public hearing at 6:36 p.m.

139 2010 06-21

Moved by Marquardt. Seconded by Farrington.

To approve the Resolution Street Name Changing National City Way to Powers Street.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

ADMINISTRATIVE REPORTS

2010-11 DDA and Lapeer Center for the Arts Budget

Pat Cronin, DDA Treasurer, provided a presentation on the proposed 2010-11 DDA and Lapeer Center for the Arts Budget. Commissioner Robinet commented that he had no questions regarding the budget presented but expressed unhappiness with special events being moved from the downtown area.

140 2010 06-21

Moved by Farrington. Seconded by Bennett.

To approve the 2010-11 Downtown Development Authority and Lapeer Center for the Arts Budget.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

Secondhand Dealers and Junk Dealers License: This and That Store

141 2010 06-21

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

To approve a Secondhand Dealer and Junk Dealers License for This and That Store located at 128 W. Nepessing Street contingent upon receipt of required fee.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

Notice of Intent Resolution – Sewer Revenue Bonds

Brief discussion was held regarding the notice of intent resolution was the first step in moving forward to system and plant upgrades; why improvements to Wastewater Treatment Plant was needed; sanitary sewer over flows; aging infrastructure; DEQ required compliance; grants received to study system; \$35M initial expansion project and review with DEQ for refurbishing to a cost of approximately \$11M; State Revolving loans; and hope to receive interest forgiven or principle forgiveness loans.

142 2010 06-21

Moved by Robinet. Seconded by Marquardt.

To approve the Notice of Intent Resolution to issue up to \$11,000,000 in Sewer Revenue Bonds.

Ayes: Marquardt, Robinet, Farrington.

Nays: Bennett.

Absent: Bostick-Tullius.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Sewer Rates

City Manager Dale Kerbyson commented on the Wastewater Treatment Plant improvements and ordinance requirements that the system be a user funded system. Finance Director Paul Boucher commented that there was an amendment to the Sewer Rate Study and that the increase had dropped down to approximately 28.5%.

143 2010 06-21

Moved by Farrington. Seconded by Marquardt.

To approve the Resolution To Approve The Sewer Utility Rates Proposed Within The City Of Lapeer Sewer Rate Report as Amended For Fiscal Year 2010-2011 and changes to the City of Lapeer Fee Schedule as outlined in said Sewer Rate Report Fiscal Year 2010-2011 to be effective for all billings on or after August 1, 2010.

Discussion was held regarding ordinance requirements and enterprise funds; needed improvements to system; economic impact to citizens; rate increases should have been made in the past to deal with aging infrastructure; no increases from about 1985 to 2002; possible rate increases to be made this year; and Detroit water rate increases. The question was called to a roll call vote.

ON A ROLL CALL VOTE:

AYES: Commissioners Farrington, Marquardt, Robinet.

NAYS: Commissioner Bennett.

ABSTAIN: None.

ABSENT: Commissioner Bostick-Tullius.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Street Name Change / Correction

Mayor Sprague commented on economic impact to businesses affected and asked if property owners could be polled before consideration of a street name change.

By general consensus, the Commission requested additional information and research on impact to businesses prior to consideration.

Farmers Creek Soil Erosion Project

Brief discussion was held regarding soil erosion along Farmers Creek; Michigan Department of Natural Resources and Environment (MDNRE) requirements for restoration of the bank; and approval of project by Lapeer County Drain Commission office.

144 2010 06-21

Moved by Farrington. Seconded by Robinet.

To approve the quote from McDowell Construction Company for the Farmers Creek Soil Erosion Project in the amount of \$26,820.00 and authorize the Director of Public Works to sign required documents and Budget Adjustment to provide funding for said project.

Ayes: Marquardt, Robinet, Farrington.

Nays: Bennett.

Absent: Bostick-Tullius.

MOTION CARRIED.

Policy: Utility Account Transfer Once in Shut-Off Status for Non-Payment

145 2010 06-21

Moved by Robinet. Seconded by Farrington.

To approve the Policy: Utility Account Transfer Once in Shut-Off Status for Non-Payment. Brief discussion was held regarding switching of names in shut-off status in order to prevent shut-off from occurring and that other utility companies have similar policies in place. The question was called to a vote.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

Request for Gun Auction in Rotary Park in conjunction with Lapeer Days

Police Chief Todd Alexander reviewed the request with the Commission; Chamber issue with gun permits issued onsite and permits will now be issued at the store location; generation of foot traffic for Lapeer Days; and will provide City and Chamber with certificates as additional insureds.

146 2010 06-21

Moved by Robinet. Seconded by Farrington.

To approve the request from Joe Hanaish of Great Lakes Gun Shop for a Gun Auction to be held on Saturday, August 21, 2010, in conjunction with Lapeer Days and waive park rules regarding "no guns in parks" for this event. Brief discussion was held regarding that all transactions will be held in one location under tent; long guns would be cabled together; handguns would be under glass; private security by Mr. Hanaish will be provided and Police Chief is satisfied with security plans; waiving of park rule relating to "no guns allowed in parks"; completed similar auction at Woods-N-Waters in Imlay

City without incident; and that the event would only be held on Saturday. The question was called to a vote.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

CITY MANAGER'S REPORT

Cadillac Insurance Center

City Manager Dale Kerbyson commented on Mr. Bucko from Michigan Par Plan and Commission concerns on why sales pitch was presented at last meeting. Mr. Kerbyson advised that bids were received by Michigan Par Plan and Cadillac Insurance approximately 6 weeks prior to Commission presentation; Par Plan was higher than Cadillac; checked with other municipalities and asked about why left Cadillac Insurance with response being Par Plan had lower bid; Mr. Bucko inappropriately attempted to provide a 2nd bid to the Commission which was still higher than Cadillac.

Mr. Kerbyson commented that Cadillac Insurance would provide a two year flat rate if the City would commit to an additional year for 2011-2012 and requested Commission approval. Brief discussion was held regarding payment of additional year premium would not be due until current fiscal year is over; obligation concerns and ability to review other insurance carriers should any issues arise.

147 2010 06-21

Moved by Bennett. Seconded by Robinet.

To approve the second year flat rate with Cadillac Insurance Center for Fiscal Year July 1, 2011 through June 30, 2012 for City liability insurance.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

CITY ATTORNEY'S REPORT

Medical Marihuana

City Attorney Representative Tim Turkelson commented on adoption of a moratorium regarding medical marihuana to allow the City time to review direction in addressing the issue.

148 2010 06-12

Moved by Robinet. Seconded by Bennett.

To adopt a proposed amendment to Chapter 60 (An Ordinance To Impose A Moratorium On The Issuance Of Permits For The Sale Or Dispensation Of Medical Marihuana Within The City Of Lapeer) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

“CHAPTER 60

AN ORDINANCE TO IMPOSE A MORATORIUM ON THE ISSUANCE OF PERMITS FOR THE SALE OR DISPENSATION OF MEDICAL MARIHUANA WITHIN THE CITY OF LAPEER

60.01 FINDINGS. The City of Lapeer has determined that:

- A. The provisions within Chapter 7 (City of Lapeer Zoning Ordinance) of the General Ordinances of the City of Lapeer were adopted on various dates prior to the passage by Michigan voters of a Constitutional Amendment providing for the use of medical marijuana in November of 2008. As a result, the "Medical Marihuana Act" went into effect on December 4, 2008, with a key element missing, however--how medical marijuana will be dispensed. The City of Lapeer's zoning regulations, like most municipalities within the State, have not kept pace with this recent change in statewide legislation with respect to medical marihuana.

- B. It is within the rights of the City to establish reasonable regulations to control the sale and dispensation of medical marihuana in order to protect the public health, safety, and welfare.
- C. A moratorium should be imposed upon the issuance of any and all permits or licenses for the sale or dispensation of medical marihuana for six (6) months or until an amendment of the Zoning Ordinance, whichever occurs first.

60.02 IMPOSITION

That there be and hereby is imposed for a period of six (6) months from the effective date of this ordinance a moratorium upon the issuance of any and all permits or licenses for the sale or dispensation of medical marihuana within the City of Lapeer.

60.03 EXPIRATION

The moratorium imposed by this ordinance shall expire the earlier of six (6) months from its effective date or the effective date of an amendment to the Zoning Ordinance.”

ON A ROLL CALL VOTE:

AYES: Commissioners Farrington, Robinet, Marquardt, and Bennett.

NAYS: None.

ABSENT: Commissioner Bostick-Tullius.

ABSTAIN: None.

MOTION CARRIED.

UNFINISHED BUSINESS

149 2010 06-21

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

To appoint Les Daum to the Planning Commission for a term ending 08-01-13.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

150 2010 06-21

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

To appoint the following:

David Filipiak Construction Board of Review for a term ending 07-01-2012.

Bruce Johnson Construction Board of Review for a term ending 07-01-2012.

Al Lopez Construction Board of Review for a term ending 07-01-2012.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

151 2010 06-21

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

To appoint Mike Robinet to the Downtown Development Authority for a term ending 01-01-14.

Ayes: Bennett, Marquardt, Farrington.

Nays: None.

Absent: Bostick-Tullius.

Abstain: Robinet.

MOTION CARRIED.

DEPARTMENTAL COMMUNICATIONS

Departmental Monthly Reports and Annual Review of the Industrial Facilities Exemption Certificate were received into the record.

PUBLIC COMMENTS

Kelly Shepherd, Randall Drive, commented on concerns with moratorium on medical marihuana; people voted this in; as a taxpayer support vote of people; and how can the City squash the people's vote by imposing a moratorium on medical marihuana.

MAYOR/COMMISSIONER COMMENTS

Commissioner Bennett commented that as a City we need to look at cutting costs and look at increasing revenue and possibility of reviewing use of space on water tower for antennas and charging for space.

City Manager Dale Kerbyson commented that outstanding items requested by the commission from last meeting have been completed and that rates for active military have been reviewed and results were provided to the Commander at the National Guard post.

Mayor Sprague commented that the next Commission meeting will be held on Tuesday, July 6th; LCA Garden Tour scheduled for July 10th; apologized for not attending workshop due to a scheduled business meeting; and agree with Commissioner Bennett on review of ways to increase revenues and cutting costs.

EXECUTIVE SESSION: PROPERTY PURCHASE AND PROPERTY GIFT

152 2010 06-21

Moved by Bennett. Seconded by Farrington.

To approve an Executive Session for discussion on property purchase and a potential property gift.

ON A ROLL CALL VOTE:

AYES: Commissioners Marquardt, Robinet, Farrington, and Bennett.

NAYS: None.

ABSTAIN: None.

ABSENT: Commissioner Bostick-Tullius.

A ten minute recess was provided at 7:39 p.m.

The Commission adjourned to a closed session at 7:59 p.m. and returned to its regular meeting at 8:25 p.m.

Property Purchase

153 2010 06-21

Moved by Bennett. Seconded by Robinet.

To approve the Real Estate Purchase Agreement with Denis McCarthy and authorize the Mayor and City Manager to sign required documents.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

ADJOURNMENT

154 2010 06-21

Moved by Marquardt.

To adjourn the meeting.

Ayes: Bennett, Marquardt, Robinet, Farrington.

Nays: None.

Absent: Bostick-Tullius.

MOTION CARRIED.

The regular meeting adjourned at 8:27 p.m.

William J. Sprague, Mayor

Donna L. Crounce, MMC, City Clerk