

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

**August 2, 2010**

A regular meeting of the Lapeer City Commission was held August 2, 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, Farrington, and Bostick-Tullius.  
City Manager Dale Kerbyson.  
City Attorney Representative Tim Turkelson.

**Absent:** Commissioner Robinet (excused).

**Others Present:** City Clerk Donna Cronce; Executive Assistant Tracey Russell; Police Chief Todd Alexander; Fire Chief Terry Kluge; Planning Director Linda Jackman; DPW Director John Lyons; Water Superintendent Pam Reid; Finance Director Paul Boucher; Parks, Recreation & Cemetery Director Ray Turczyn; City Assessor Tom Hubbell; WWTP Supervisor Mike Wurts; Rowe PSC Doug Skylis; Lapeer County Press Jeff Hogan; County Commissioner Lenny Schneider; Dan Grinnell; Georgeann Courser, Robert Dick; Adam Dick; Brian Gillies; Wayne Alexander; Claude Roach; Kyle Fraser; Cathy Fraser; Ray Clemens; Warren Wright; Erin Wright; Connie Provost; Velma Kalbfleisch; William Alexander; Cheryl Miller; and Tom Baxter.

Mayor Sprague led the Pledge of Allegiance.

**AGENDA APPROVAL**

**177 2010 08-02**

Moved by Bennett. Seconded by Farrington.

To approve the Agenda for August 2, 2010 as presented.

Ayes: Bennett, Marquardt, Farrington, Bostick-Tullius.

Nays: None.

Absent: Robinet.

**MOTION CARRIED.**

**MINUTES**

**178 2010 08-02**

Moved by Marquardt. Seconded by Farrington.

To approve the minutes from the Regular Meeting held July 19, 2010 as presented.

Ayes: Bennett, Marquardt, Farrington, Bostick-Tullius.

Nays: None.

Absent: Robinet.

**MOTION CARRIED.**

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

**PUBLIC COMMENTS**

Georgeann Courser, Fish Lake Road, Mayfield Township, provided invocation.

**CONSENT AGENDA**

**179 2010 08-02**

Moved by Bostick-Tullius. Seconded by Marquardt.

To approve the Consent Agenda for August 2, 2010.

Commissioner Bennett questioned Item C.5. Payment Request #11 for Site Development, did not see anything done in several weeks so why payment, change order requests to project, still about 3000 feet of sewer to be constructed, and would like

this item removed for further consideration as he will vote no for this item and if included in consent items he will vote no for all of the items. City Manager Kerbyson responded that the pay request was related to work completed regarding site cleanup and restoration, gating at project site, and packet detailed work completed.

**Commissioner Bostick-Tullius amended the motion to remove Item C.5. for further consideration and Commissioner Marquardt supported the amendment. There being no objection to the amendment, by general consensus, Item C.5. was removed for further consideration. Consent Agenda Items 1-2-3-4-6-7 were approved resulting in the following:**

1. Local Share Payment #3 to the State of Michigan in the amount of \$133,264.14 for the Saginaw Street Reconstruction Project.
2. Special Event Request from Lupus Alliance of America for Lupus Pet Parade to be held October 16, 2010 for use of sidewalks around the Courthouse lawn.
3. Rescind Traffic Control Order 262.
4. Approve and Accept the Permanent Sewer Easement and Temporary Construction Easement For Construction and Maintenance with Carolyn Jill for 211 E. Oregon Street (#L22-09-000-040-000).
  
6. Downtown Outdoor Dining Area Right-of-Way License for Fat Boy's Bar & Grill located at 10 E. Nepessing Street.
7. State of Michigan, Liquor Control Commission, Resolution for a new outdoor service permit for Fat Boys, Inc., 10 E. Nepessing Street.

Ayes: Bennett, Marquardt, Farrington, Bostick-Tullius.

Nays: None.

Absent: Robinet.

**MOTION CARRIED. RESOLUTION DECLARED ADOPTED.**

Payment Request #11: Site Development, Inc. – M-24 Corridor Utility Expansion Project – Sanitary Sewer

**180 2010 08-02**

Moved by Bostick-Tullius. Seconded by Farrington.

To approve Payment Request #11 for Site Development, Inc. in the amount of \$9,965.00 for the M-24 Corridor Utility Expansion Project – Sanitary Sewer.

Ayes: Marquardt, Farrington, Bostick-Tullius.

Nays: Bennett.

Absent: Robinet.

**MOTION CARRIED.**

**BILL LISTING FOR AUGUST 2, 2010**

**181 2010 08-02**

Moved by Marquardt. Seconded by Farrington.

To approve the Bill Listing for August 2, 2010 in the amount of \$838,168.03.

Ayes: Bennett, Marquardt, Farrington, Bostick-Tullius.

Nays: None.

Absent: Robinet.

**MOTION CARRIED.**

**PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS**

Police Chief Alexander presented a "Life Saving Award" to Robert Dick, Kyle Fraser, and Bryan Gillies. On June 14<sup>th</sup> at the Polar Palace, these gentlemen applied CPR and an AED was used on Mr. Donald Alexander who suffered a heart attack. Their quick appraisal of the situation and response saved Mr. Alexander's life.

**PUBLIC HEARINGS**

Mill Street Interceptor Project, Special Assessment #2010-01: Necessity Public Hearing

Mayor Sprague opened the public hearing at 6:39 p.m. to hear objections to the proposed public improvements and to the proposed special assessment district regarding the Mill Street Interceptor Project, Special Assessment #2010-01.

Velma Kalbfleisch, 92 Mill Street, asked if the sewer will be worked on; issues with sewer backups; cleaning of sewer in area; cleaning of vacant lot next to her property; and provided a tape on sewer issues for commission, staff review.

Claude Roach, 37 Mill Street, commented that he understood the public hearing was on necessity of project; talked with contractors; trees have been cut; how can the project be started if it has not been approved; and would like to see the sewer plans for project. City Manager Dale Kerbyson responded that prep work for the larger sewer project may have begun and that the projects will tie together.

William Alexander, 49 Mill Street, commented that do not need new streets, curbs, or gutters and cannot afford to pay for water and sewer lines.

Cheryl Miller, 30 and 20 Mill Street, commented that she asked many times and was told that there would not be a special assessment for area; worried about costs; feels not responsible to pay for new street; difficulty in paying current taxes; impression that this project was a done deal and was going to happen; parking issues on street; signage issues for no through entrance; and concern with traffic flow.

Erin Wright, 61 Mill Street, commented on concerns regarding kids and safety in the area with dirt piles, draining into open gutters, and huge holes left open; feels sidewalks are fine; signage taken down and resulting vehicle traffic and speed.

Connie Provost, 74 Mill Street, commented on sewer drainage in front of home; her 2 driveways are messed up due to current construction and if they will be repaired; and issues with gaping holes that only have cones around them.

There being no further comments, Mayor Sprague closed the public hearing at 6:49 p.m. Discussion was held regarding work being completed as part of the bigger project; Mill Street project placed within bigger project; review of signage issues in area and report to Commission and citizens; repair of property damage due to construction; water and sewer replacement as part of the interceptor project; assessment to property owners for road, curb and gutter, and sidewalk; sidewalk improvements in project where needed or require adding; public hearing is regarding necessity of project; special assessment process and ability to spread over 10 year period; and if homes were on all property in assessment area with Assessor Tom Hubbell responding that not all property have homes on them.

### **182 2010 08-02**

Moved by Bostick-Tullius. Seconded by Marquardt.

To approve Resolution #3 that determines the project necessary and order the preliminary roll prepared regarding Mill Street Interceptor Project, Special Assessment #2010-01.

Ayes: Bennett, Marquardt, Farrington, Bostick-Tullius.

Nays: None.

Absent: Robinet.

**MOTION CARRIED. RESOLUTION DECLARED ADOPTED.**

## **ADMINISTRATIVE REPORTS**

### **Mill Street Interceptor Project, Special Assessment #2010-01**

### **183 2010 08-02**

Moved by Bennett. Seconded by Farrington.

To approve Resolution #4 accepting the preliminary roll and setting the public hearing for August 16, 2010 at 6:30 p.m. or as soon thereafter as may be heard to review the

preliminary roll regarding the Mill Street Interceptor Project, Special Assessment #2010-01.

Ayes: Bennett, Marquardt, Farrington, Bostick-Tullius.

Nays: None.

Absent: Robinet.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

#### 2010 SRF Project (Grant #5356-01) – WWTP Improvement Project

##### **184 2010 08-02**

Moved by Bostick-Tullius. Seconded by Farrington.

To approve the bid from Trojan Development Company, Inc. in the amount of \$5,550,000.00 for the 2010 SRF Project (Grant #5356-01) – WWTP Improvement Project; authorize the City Manager and/or Director of Public Works to sign required documents; and approve A Resolution To Tentatively Award A Construction Contract For Wastewater Treatment Plant Improvements. Discussion was held regarding Agenda Items 2, 3, and 4 relating to the 2010 SRF Project (Grant #5356-01) bid procedures and requirements and scope of project. The question was called to a vote.

Ayes: Marquardt, Farrington, Bostick-Tullius.

Nays: Bennett.

Absent: Robinet.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

#### 2010 SRF Project (Grant #5356-01) – Collection System Improvements

Rowe PSC Representative provided an overview of the project.

##### **185 2010 08-02**

Moved by Farrington. Seconded by Marquardt.

To approve the bid from Ron Bretz Excavating, Inc. in the amount of \$705,178.35 for the 2010 SRF Project (Grant #5356-01) – Collection System Improvements; authorize the City Manager and/or Director of Public Works to sign required documents; and approve A Resolution To Tentatively Award A Construction Contract For Proposed Collection System Improvements. Discussion was held regarding receipt of grant funding and monitoring by DEQ. The question was called to a vote.

Ayes: Marquardt, Farrington, Bostick-Tullius.

Nays: Bennett.

Absent: Robinet.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

#### Contract for Engineering Services with Rowe PSC: 2010 SRF Project (Grant #5356-01) – Collection System Improvements and WWTP Improvements Project

##### **186 2010 08-02**

Moved by Marquardt. Seconded by Farrington.

To approve the Contract for Engineering Services with Rowe PSC in the amount of \$597,502 for the 2010 SRF Project (Grant #5356-01) – Collection System Improvements and WWTP Improvements Project and authorize the City Manager and/or Director of Public Works to sign required documents. Discussion was held regarding complexity of project and review of bid process. City Manager Dale Kerbyson commented that the agreement was based by the hour and that rates were compared and are competitive.

Ayes: Marquardt, Farrington, Bostick-Tullius.

Nays: Bennett.

Absent: Robinet.

MOTION CARRIED.

#### Secondhand Dealers License: Video Game Connection

##### **187 2010 08-02**

Mayor Sprague appointed. Moved by Bostick-Tullius. Seconded by Farrington.

To approve a Secondhand Dealer License for Video Game Connection located at 300 W. Genesee Street contingent upon receipt of required fee.

Ayes: Bennett, Marquardt, Farrington, Bostick-Tullius.

Nays: None.

Absent: Robinet.

MOTION CARRIED.

### Transportation Investment Generating Economic Recovery "TIGER" II Discretionary Grant

City Manager Dale Kerbyson reported that the project would encompass the Pine Street area, connection of pedestrian pathway, and approval would reflect City Commission encouragement to pursue grant. Mayor Sprague questioned if our portion was \$25,000 in order to spend \$1M. Parks, Recreation and Cemetery Director Ray Turczyn responded that there was no match required, but show of a commitment would look great, and sidewalk projects currently planned in area.

#### **188 2010 08-02**

Moved by Farrington. Seconded by Bostick-Tullius.

To approve the Resolution To Approve Department of Transportation, Transportation Investment Generating Economic Recovery "TIGER" II Discretionary Grant Application.

Ayes: Bennett, Marquardt, Farrington, Bostick-Tullius.

Nays: None.

Absent: Robinet.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

### **CITY MANAGER'S REPORT**

#### Detroit Edison Overhead Easement (Right of Way): Cramton Park Parking Lot

City Manager Dale Kerbyson reported that the easement would provide the installation of a new pole in the Cramton Park Parking Lot.

#### **189 2010 08-02**

Moved by Marquardt. Seconded by Bennett.

To approve the Detroit Edison Overhead Easement (Right of Way) for Cramton Park Parking Lot and authorize the Mayor and City Manager to sign required documents.

Ayes: Bennett, Marquardt, Farrington, Bostick-Tullius.

Nays: None.

Absent: Robinet.

MOTION CARRIED.

City Manager Dale Kerbyson commented on gearing up for the Primary Election Tuesday and to get out and vote.

### **CITY ATTORNEY'S REPORT**

City Attorney Representative Tim Turkelson updated the commission on 1) the progress of M-24 and I-69 area; delay due to water conditions; talk between City and contractor; dewatering of project area; final agreement that would benefit all and costs associated to both. 2) Input from City Commission, City Manager and Department Heads regarding Medical Marijuana; moratorium imposed; direction from City Commission towards development of ordinance; and requested a workshop meeting to discuss direction.

It was the general consensus of the Commission to hold a workshop meeting regarding direction towards development of an ordinance regarding Medical Marijuana. Commissioner Bennett added that a Medical Marijuana seminar would be held on September 20<sup>th</sup> in Dearborn.

Commissioner Bennett questioned the agreement with Site Development and if the City Commission should be approving any changes to the contract. Attorney representative Tim Turkelson responded that the agreement did not change the bid amount, resolving of issues in project area, cumbersome to attempt to hold several meetings with input from all Commission members, and it was not necessary to require City Commission approval and only require approval by the City Manager on behalf of the City Commission. Commissioner Bennett asked for an executive session in order to discuss the agreement. City Attorney representative Tim Turkelson responded that negotiations during agreement settlement would become cumbersome if have to have a meeting of the City Commission in order to approve negotiations that can go through the City Manager and this topic is not a purpose under the Open Meetings Act for an executive session. Commissioner Bennett stated that he feels this is way over what amount of project is and would like to be a part of this and know what is going on. City Attorney representative Tim Turkelson responded that he would be glad to review this with him after the meeting. Commissioner Farrington commented that he believes it is City Commission right to approve or not approve additional expenditures of City money; however, in this case it does not serve a purpose and is not in support of delaying this action. Mayor Sprague commented if the project was way over budget then yes the Commission should review. Commissioner Bennett commented that just because it hasn't gone over budget doesn't mean it won't.

### **UNFINISHED BUSINESS**

None.

### **DEPARTMENTAL COMMUNICATIONS**

None.

### **PUBLIC COMMENTS**

None.

### **MAYOR/COMMISSIONER COMMENTS**

Commissioner Bennett congratulated Parks, Recreation & Cemetery Director Ray Turczyn for help provided during use of parks; review of repossessed homes by banks that are leasing them out and should be paying inspections; and people mowing grass and throwing into streets and City ordinance to enforce and give tickets. City Manager Kerbyson responded that we do have an ordinance regarding this but difficult to enforce unless there to see who is doing it.

Commissioner Farrington commented that when workshop is scheduled for medical marihuana he would like examples of what is happening around the state; comments received about not impressed with Saginaw project, felt other projects were executed better, inadequate attention to safety, area looked unusually messy.

Commissioner Marquardt commented that Saginaw Street end results looked nice, comments received were appreciative of project, and need to look at safety concerns.

Commissioner Bostick-Tullius commented that Saginaw Street looked great and construction was completed earlier than anticipated for Lapeer Days and heard good feedback.

City Manager Dale Kerbyson stated that he received 2 complaints about the final project on Saginaw and that most of the complaints revolved around work completed by Consumers Energy. Consumers Energy was working in the area and they left the area an unsightly mess with open holes. Mr. Kerbyson also reported that a 72" water line from Detroit was leaking and that Detroit workers did not show up over several days

leaving a shaft open all weekend. Mr. Kerbyson asked Commissioner Bennett about the turnout during his special event with Commissioner Bennett responding that they had over 400 people show up.

Mayor Sprague commented if everything was set for Lapeer Days and that the City Manager is up for reappraisal. Mr. Kerbyson responded that everything is ready for Lapeer Days. Commissioner Bennett commented that they needed more people for the parade.

## **ADJOURNMENT**

### **190 2010 08-02**

Moved by Bennett. Seconded by Farrington.

To adjourn the meeting.

Ayes: Bennett, Marquardt, Farrington, Bostick-Tullius.

Nays: None.

Absent: Robinet.

**MOTION CARRIED.**

The regular meeting adjourned at 7:36 p.m.

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William J. Sprague, Mayor

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Donna L. Cronce, MMC, City Clerk