

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

December 20, 2010

A regular meeting of the Lapeer City Commission was held December 20, 2010 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

ROLL CALL

Present: Mayor Sprague.
Commissioners Bennett, Robinet, Farrington and Bostick-Tullius.
City Manager Dale Kerbyson.
City Attorney Representative Tim Turkelson.
Absent: Commissioner Marquardt (excused).

Mayor Sprague led the Pledge of Allegiance.

AGENDA APPROVAL

277 2010 12-20

Moved by Robinet. Seconded by Farrington.

To approve the Agenda for December 20, 2010 as presented.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

MINUTES

278 2010 12-20

Moved by Farrington. Seconded by Bostick-Tullius.

To approve the minutes from the Special and Regular Meetings held December 6, 2010 as presented.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

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

PUBLIC COMMENTS

Clyde Allen, Faith Christian Fellowship Church located at 655 Saginaw Street, gave an invocation.

CONSENT AGENDA

279 2010 12-20

Moved by Bostick-Tullius. Seconded by Robinet.

To approve the Consent Agenda for December 20, 2010 as follows:

1. Budget Adjustment Project Balances as of 6/30/2010 into the new fiscal year for Project 19090 Saginaw Street Reconstruction and Project 19390 S. Main Street Sanitary Sewer as presented.
2. Housing Choice Voucher Michigan State Housing Development Authority (MSHDA) Housing Quality Standards (HQS) Rental Inspections – Accept contract with Sarah Taylor and authorize the Mayor and City Manager to sign required documents.
3. Change Order #2 with Body Construction Company, Inc. for a net increase of \$1,841.36 for the Mill Street Interceptor Replacement Project.
4. Payment Request #4 to Boddy Construction Company, Inc. in the amount of \$26,478.63 for Mill Street Sewer Interceptor Replacement Project.

5. Budget adjustment for Park Fund Project Balances in the amount of \$174,092 for the Access to Recreation Grant Project 18960 as presented.
6. Payment Request #3 – Final from James P. Contracting, Inc. in the amount of \$21,370.52 for the Access to Recreation/Access Drive and Parking Lot.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

BILL LISTING FOR DECEMBER 20, 2010

280 2010 12-20

Moved by Robinet. Seconded by Bennett.

To approve the Bill Listing for December 20, 2010 in the amount of \$878,023.00.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

Proclamation – Randall (Randy) Bennett

281 2010 12-20

Moved by Farrington. Seconded by Bostick-Tullius.

To approve the Proclamation in Recognition of Randall Bennett.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

PUBLIC HEARINGS

CDBG Farm to Food Grant: Public Hearing

Planning Director Linda Jackman introduced the project, indicating it will be an expansion to the pavilion downtown adding canvass panels, gutters, radiant heat and new lighting.

Mayor Sprague opened the Public Hearing at 6:36 p.m. There being no comments, Mayor Sprague closed the Public Hearing at 6:36 p.m.

282 2010 12-20

Moved by Robinet. Seconded by Bennett.

To approve the Resolution CDBG Farm to Food Grant.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

ADMINISTRATIVE REPORTS

Resolution Establishing Depository Account with First Michigan Bank.

283 2010 12-20

Moved by Robinet. Seconded by Bostick-Tullius.

To approve the Corporate Authorizing Resolution with First Michigan Bank to establish a depository account.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

Change Order #2: Ron Bretz Excavating for 2010 SRF – Collection System Improvements Project.

284 2010 12-20

Moved by Farrington. Seconded by Bostick-Tullius.

To approve Change Order #2 with Ron Bretz Excavating for a decrease of \$1,348.59 revising the contract to \$706,375.77 for the 2010 SRF – Collection System Improvements Project.

Ayes: Robinet, Farrington, and Bostick-Tullius.

Nays: Bennett.

Absent: Marquardt.

MOTION CARRIED.

Payment Request #2: Ron Bretz Excavating for 2010 SRF – Collection System Improvements Project.

285 2010 12-20

Moved by Bostick-Tullius. Seconded by Farrington.

To approve Payment Request #2 to Ron Bretz Excavating, Inc. in the amount of \$93,958.84 for the 2010 SRF – Collection System Improvements Project. Due to the inability to clarify whether a voice vote passed the motion or was denied, Mayor Sprague called for a roll call vote.

ON A ROLL CALL VOTE:

AYES: Bostick-Tullius, Farrington, Robinet.

NAYS: Bennett.

ABSTAIN: None.

ABSENT: Marquardt.

MOTION CARRIED.

Change Order #1: Trojan Development Company, Inc. for 2010 SRF – Wastewater Treatment Plant Improvement Project.

286 2010 12-20

Moved by Farrington. Seconded by Bostick-Tullius.

To approve Change Order #1 with Trojan Development Company, Inc. for a decrease of \$83,968.11 revising the contract to \$5,466,031.89 for the 2010 SRF – Wastewater Treatment Plant Improvement Project.

Ayes: Robinet, Farrington, and Bostick-Tullius.

Nays: Bennett.

Absent: Marquardt.

MOTION CARRIED.

Payment Request #2: Trojan Development Company, Inc. for 2010 SRF – Wastewater Treatment Plant Improvement Project.

287 2010 12-20

Moved by Bostick-Tullius. Seconded by Farrington.

To approve Payment Request #2 to Trojan Development Company, Inc. in the amount of \$284,760.00 for the 2010 SRF – Wastewater Treatment Plant Improvement Project.

Ayes: Robinet, Farrington, and Bostick-Tullius.

Nays: Bennett.

Absent: Marquardt.

MOTION CARRIED.

Pawnbrokers License: Lapeer Trade Center, Inc. 773 East Street.

288 2010 12-20

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

To approve a Pawnbrokers License for Lapeer Trade Center, Inc. 773 East Street contingent upon payment of required fee.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

Secondhand Dealers License: Lapeer Trade Center, Inc., 773 East Street.

289 2010 12-20

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

To approve a Secondhand Dealer License for Lapeer Trade Center, Inc. 773 East Street contingent upon payment of required fee.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

CITY MANAGER'S REPORT

Construction Engineering Contract DeMille Corridor Signal Upgrades: ROWE.

City Manager Dale Kerbyson provided a review of the Contract. Commissioner Robinet asked for further clarification. Doug Skylis, Rowe representative, commented on signal improvements at the intersections of DeMille/Genesee/Millville, Kohls area, Harrison/Demille, and M-24/DeMille; MDOT interfacing issues; grant funding; and will provide better timing to keep traffic moving. Commissioner Bostick-Tullius expressed concerns with costs and something in writing with MDOT with City Manager Dale Kerbyson responding that the grant is in place. Mayor Sprague questioned if improvements will go as far as M-24 and Kmart area with Mr. Skylis responding no.

290 2010 12-20

Moved by Robinet. Seconded by Farrington.

To approve the Construction Engineering Contract DeMille Corridor Signal Upgrades with ROWE Professional Services Company and authorize the City Manager to sign required documents.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

MAPA Award – Saginaw Street.

City Manager Dale Kerbyson informed the Commission that the City of Lapeer received an Award of Excellence from the Asphalt Pavement Association of Michigan (MAPA) for the Saginaw Street Project. Doug Skylis, Rowe representative indicated he attended the awards ceremony wherein the project was the 2nd highest ranking project in the 37 year history of this particular award and presented a plaque to the Commission. Mayor Sprague thanked all involved with the project for their hard work.

City Manager Dale Kerbyson commented on closing the Trilogy property sale; Site Development meeting and reaching of agreement, installation of remaining sanitary sewer lines, start-up to begin in first week of January and conclusion in spring. Attorney Representative Tim Turkelson commented that the meeting went well, G-2 and Rowe involvement, and project conclusion in spring. Mr. Kerbyson commented that budget reviews were almost complete with a report provided to the Commission at the next meeting.

Commissioner Robinet requested a final report on project costs regarding the M-24/I-69 area. Commissioner Bennett added that he would like to see project costs prior to payment of final bill. City Manager Dale Kerbyson responded that report could be completed and retention of funds.

CITY ATTORNEY'S REPORT

Medical Marihuana Moratorium.

City Attorney Representative Tim Turkelson requested an extension of three months to the ordinance for the Medical Marihuana Moratorium; ACLU lawsuits and impact; time

to provide a solid ordinance; meeting with staff. Mr. Turkelson also informed the Commission on working with the City Manager on property closing, group with pipeline from Huron, and wished everyone a Happy Holiday.

Commissioner Robinet introduced the 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 previous six (6) month moratorium was imposed under the authority vested in the City of Lapeer upon the issuance of any and all permits or licenses for the sale or dispensation of medical marihuana.

History: (Amended: intro 12-20-10;)

D. That the City Commission is in need of additional time to investigate its options under the "Medical Marihuana Act," and recognizes that various suits and challenges have been levied by the American Civil Liberties Union and others challenging some or all of the provisions of the ordinances of other municipalities that have attempted to address the implementation of the "Medical Marihuana Act.

History: (Amended: intro 12-20-10;)

E. As a result, a further moratorium should be imposed upon the issuance of any and all permits or licenses for the sale or dispensation of medical marihuana for three (3) months or until an amendment of the Zoning Ordinance, whichever occurs first.

History: (Amended: intro 12-20-10;)

60.02 IMPOSITION

That there be and hereby is imposed for a period of three (3) 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.

History: (Amended: intro 12-20-10;)

60.03 EXPIRATION

The moratorium imposed by this ordinance shall expire the earlier of three (3) months from its effective date or the effective date of an amendment to the Zoning Ordinance.”

History: (Amended: intro 12-20-10;)

UNFINISHED BUSINESS

291 2010 12-20

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

To appoint Bruce Cady to the Downtown Development Authority for a term ending January 1, 2015.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

292 2010 12-20

Appointed by Robinet. Seconded by Farrington.

To appoint the following:

John Michelson Board of Review for a term ending January 1, 2014.

Linda Ambrose Board of Review Alternate for a term ending January 1, 2014.

Todd Alexander Civil Defense Coordinator for a term ending January 1, 2012.

Donna Cronce Election Commission for a term ending January 1, 2012.

Tom Hubbell Election Commission for a term ending January 1, 2012.

Mike Nolan Election Commission for a term ending January 1, 2012.

Ayes: Bennett, Robinet, Farrington, and Bostick-Tullius.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

DEPARTMENTAL COMMUNICATIONS

The Monthly Departmental Reports, Precious Metal and Gem Dealer Licenses, Monthly Financial Report for August 2010, Monthly Financial Report for September 2010, Investment Report for the Quarter Ending September 2010, and Annual Financial Reports TIFA 1, 2, 3, LDFA, and Brownfield Redevelopment Authority were received into record.

PUBLIC COMMENTS

None.

MAYOR/COMMISSIONER COMMENT

Commissioner Bennett wished all a Merry Christmas.

Commissioner Bostick-Tullius congratulated staff on the Farm to Food Grant and wished all Happy Holidays.

Commissioner Farrington wished all a Merry Christmas and a safe and happy New Year.

Commissioner Robinet commented on the Detroit lawsuit relating to water issues and if the City will get involved. City Manager Dale Kerbyson commented our Authority will reach out to L. Brooks Patterson who is leading the charge. City Attorney Representative Tim Turkelson indicated that he would look into this as well. Commissioner Robinet wished everyone a Merry Christmas and a Happy New Year.

City Manager Dale Kerbyson indicated the City Planner worked on a grant for CDBG infrastructure improvements for new water lines for the downtown area, reconstruction of parking lot, roads, redesigning of area, commitment from GLTA, the project would be multi-jurisdictional, and thanked Planning Director Linda Jackman for her hard work and getting this grant submitted. Mr. Kerbyson commented on Chief Alexander's involvement with a fire at Tim Horton's, wished everyone a Happy Holiday and safe New Year.

Mayor Sprague indicated that this was the last meeting of 2010; feels the Commission and staff has done a good job in their decision making to help the citizens of Lapeer, especially due to the poor economy; City ability to take advantage of grants; City's financial position remains strong; steps taken to prepare the City for an economical turnaround; very pleased and honored to serve as Mayor; Commission, City Manager, Staff, and employees have done an outstanding job; and wished all a Merry Christmas.

ADJOURNMENT

293 2010 12-20

Moved by Bennett.

To adjourn the regular meeting.

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

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

The regular meeting adjourned at 7:08 p.m.

William J. Sprague, Mayor

Donna L. Cronce, MMC, City Clerk

Tracey S. Russell, Deputy City Clerk