

**LAPEER CITY COMMISSION  
MINUTES OF A REGULAR MEETING  
FEBRUARY 6, 2023**

A regular meeting of the Lapeer City Commission was held February 6, 2023, at the Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

**ROLL CALL**

Present: Commissioners: Atwood, Cattane, Pattison, Stroh, Swindell.

Absent: Mayor Marquart and City Manager Dale Kerbyson.

Acting City Manager: Kelly Hanna, present.

City Attorney: Denis McCarthy, present.

Mayor Pro-Tem Pattison led the Pledge of Allegiance.

**24 2023 02-06 EXCUSE MAYOR AND CITY MANAGER**

Moved by Cattane. Seconded by Swindell.

To approve the absences of Mayor Marquardt and City Manager, Dale Kerbyson.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED.

**25 2023 02-06 AGENDA APPROVAL**

Moved by Cattane. Seconded by Stroh.

Approve the Agenda for February 6, 2023, with the addition of Item G-6 Lot Split Request – Lapeer Villas-Rustic Drive-Selective Real Estate as presented.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED.

**26 2023 02-06 MINUTES**

Moved by Cattane. Seconded by Stroh.

Approve the minutes of the regular meeting held January 17, 2023 and the minutes of a special meeting held January 24, 2023 as presented.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED.

**PUBLIC COMMENTS**

Melissa Petrie gave an invocation.

**27 2023 02-06 CONSENT AGENDA**

Moved by Stroh. Seconded by Atwood.

Approve the consent agenda for February 6, 2023, as presented:

1. 2023 Farmland Lease Agreement – Terry Jostock.

2. Traffic Control Order # 308.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.  
Absent: None.  
MOTION CARRIED.

**28 2023 02-06 BILL LISTING**

Moved by Cattane. Seconded by Stroh.

Approve the bill listing for February 6, 2023, in the amount of \$578,934.74.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED.

**PROCLAMATION, RECOGNITIONS AND RESOLUTIONS**

None.

**PUBLIC HEARINGS**

None.

**ADMINISTRATIVE REPORTS**

**29 2023 02-06 ORDINANCE AMENDMENT – CHAPTER 14 VEHICLES AND TRAFFIC**

Moved by Cattane. Seconded by Pattison.

Adopt the amendments to Chapter 14 (Vehicles and Traffic) of the General Ordinances of the City of Lapeer.

Commissioner Atwood asked how our ordinance differs from Michigan Vehicle Code 257.602b. Police Chief Howe stated this ordinance is in line with the State of Michigan and addresses the safety issue for those using their hands for devices and not the hands-free options. He also said this will be a civil infraction with the 1<sup>st</sup> offense being a fine of \$100 and 2<sup>nd</sup> offense being a fine of \$200, which coincides with state law.

**Ordinance No. 2023-01**

**§14-5 Distracted Driving- Violation Constitutes a Civil Infraction**

A. "Distracted Driving" means the following:

1. The physical manipulation of any 2-way wireless electronic communication device used for dialing numbers; or scrolling; or typing or entering multiple letters, numbers, symbols, or other text; or the sending, receiving, and reading of any non-voice data in the device while the motor vehicle is in motion on any highway or street or place open to the general public within the City of Lapeer. As used in this subsection, a wireless 2-way communication device does not include a global positioning or navigation system that is affixed to the motor vehicle.
2. The physical manipulation or handling of any wireless entertainment or electronic communication device for the purpose of speaking into, or listening to voice data, while the motor vehicle is in motion on any highway or street or place open to the general public within the City of Lapeer; or
3. Any action by the driver of a motor vehicle that diverts his or her attention resulting in the failure to use due care and caution in the safe operation of a motor vehicle while the vehicle is in motion on any highway or street or place open to the general public within

the City of Lapeer. Such action can include but is not limited to: eating, reading, writing, performing personal hygiene/ grooming, physical interaction with pets, passengers, or unsecured cargo, any of which is done in a manner that prohibits the driver from maintaining direct physical control of the motor vehicle steering mechanism with at least one hand that is free of all other objects and used entirely to form a controlled grip on the steering mechanism.

- B. A person shall not engage in distracted driving within the City of Lapeer. A person who violates this section is responsible for a civil infraction.
- C. This section does not apply to a person who is using an electronic communication device to do one or more of the following:
  - 1. Report a traffic accident, medical emergency or serious road hazard.
  - 2. Report a situation in which the person believes his or her personal safety is in jeopardy.
  - 3. Report or avert the perpetration or potential perpetration of a criminal act against the individual or another person.
  - 4. Carry out official duties as a police officer, law enforcement official, member of a paid or volunteer fire department, or operator of an emergency vehicle.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED.

**30 2023 02-06 RESOLUTION – MICHIGAN DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (MSHDA) – MI HOPE GRANT APPLICATION**

Moved by Stroh. Seconded by Swindell.

Adopt the resolution to allow to allow the Housing Department to apply to the Michigan State Housing Development Authority (MSHDA) for the Michigan’s Housing Opportunities Promoting Energy-Efficiency (MI-HOPE), in the amount of \$220,000.

Resolution #2023-01  
RESOLUTION TO APPROVE  
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY (MSHDA)  
MICHIGAN HOUSING OPPORTUNITIES  
PROMOTING ENERGY EFFICIENCY PROGRAM (MI-HOPE)  
CITY OF LAPEER HOUSING IMPROVEMENT GRANT APPLICATION

WHEREAS, the City of Lapeer is interested in the continuing effort to improve the housing stock and provide affordable housing opportunities for its moderate, low, and very low-income residents; and

WHEREAS, the Lapeer City Commission accepts the recommendation of the City of Lapeer Housing Improvement Department to apply for \$220,000 through the Michigan State Housing Development Authority (MSHDA) for City of Lapeer Housing Improvement Grant; and

WHEREAS, the Michigan State Housing Development Authority requires a resolution authorizing the submission of the aforementioned grant application; and

WHEREAS, said City Commission authorizes the Mayor to sign the grant application forms, grant agreement and related documents as required by MSHDA and allow the Director of Housing and Neighborhood Development and Grant Administrator to sign related grant

documents, financial status reports for payment, and other required reports when allowed by MSHDA as required; and

THEREFORE, BE IT RESOLVED that the Lapeer City Commission authorizes the City of Lapeer Housing Improvement Department to submit the application for funding through the Michigan State Housing Development Authority for a City of Lapeer Housing Improvement Grant, authorizes the Mayor to sign grant application forms, grant agreement and related documents, and allow the Director of Housing and Neighborhood Development and Grant Administrator to sign related grant documents, financial status reports for payment, and other required reports when allowed by MSHDA as required on behalf of the City of Lapeer.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

**31 2023 02-06 SECONDHAND DEALER AND PAWNBROKERS LICENSE – CASH FOR ALL PAWN**

Moved by Cattane. Seconded by Stroh.

Mayor Pro-Tem to approve a Secondhand Dealer License and Pawnbrokers License for Cash for All Pawn located at 773 East Street, Lapeer.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED.

**32 2023 02-06 MERS HEALTH CARE SAVINGS PARTICPANT AGREEMENT**

Moved by Stroh. Seconded by Swindell.

Approve the amended Health Care Savings Participant Agreement, as presented.

Commissioner Cattane asked for clarification, is this an automatic enrollment or and does the employee have the option to opt out of the HCSP. Director of Financial Services, Kelly Hanna explained that employees do not have the option to opt out of the program. This request is allowing the City to move the employer funds, into the retirement fund for those employees that leave the City's employment prior to meeting the 10-year vesting requirement and do not qualify for the 3% match.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED.

**33 2023 02-06 MASTER PLAN - AMENDMENT**

Caitlyn Habben, Planning Consultant from Rowe gave an overview the Master Plan amendment that was in front of the Commission tonight for consideration.

Moved by Cattane. Seconded by Stroh.

To table the Master Plan Amendment indefinitely.

ON A ROLL CALL VOTE:

Ayes: Stroh, Swindell, Cattane.

Nays: Pattison, Atwood.

Absent: None.

MOTION CARRIED 3-2.

**34 2023 02-06 LOT SPLIT REQUEST – LAPEER VILLAS-RUSTIC DRIVE-  
SELECTIVE REAL ESTATE**

Moved by Pattison. Seconded by Stroh.

Approve Split Lot ID Parcel # L20-94-902-040-00 into two parcels, with Lot ID North Parcel # L20-94-902-040-10 and Lot ID South Parcel # L20-94-902-040-20 per the legal descriptions below:

Resolution # 2023-03  
RESOLUTION TO APPROVE  
BOUNDARY TRANSFER REQUEST FOR  
SELECTIVE REAL ESTATE LLC – RUSTIC DR

WHEREAS, Selective Real Estate LLC, owner of the property located at Rustic Drive, has filed a Boundary Transfer Request for a Split of parcel L20-94-902-040-00 and

WHEREAS, Chapter 6 (Land Division Ordinance), Section 6.05 Lot Splits, of the General Ordinances of the City of Lapeer, provides that approval shall be by resolution of the City Commission.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Boundary Transfer Request is in conformity with Chapter 7 (Zoning Ordinance) of the General Ordinances of the City of Lapeer.
2. That the Boundary Transfer Request is in conformity with The Land Division Act of P.A. 288 of 1967, as amended.
3. That the Boundary Transfer Request is approved resulting in the following two (2) legal descriptions:

**L20-94-902-040-10** City of Lapeer T7N R10E part of the SE ¼ of the NE ¼ of Sec 7 & the SW ¼ of the NW ¼ of Sec 8; Beginning at a point N88°50'00"W 520.96 ft along the E-W 1/4 line of Sec 7; N28°56'40"E 281.156 ft along the westerly line of Baldwin Road; Th N88°52'51"W 267.00 ft and N00°06'38"W 73.52 ft from the E ¼ of Sec 7: Th 104.83 ft along a C to the R, Radius 228.97 ft, chord bearing N69°58'56" W 103.92 ft; Th N55°53'19"W 69.16 ft; Th 123.40 ft along a C to the R, Radius 225.99 ft, chord bearing N35°47'25" W 121.87 ft; Th 222.26 ft along a C to the L, Radius 230.43 ft, chord bearing N52°33'40"W 213.74 ft; Th 295.26 ft along a C to the R Radius 948.07 feet, chord bearing N71°24'17"W 294.07 ft; Th N00°06'38"W 283.03 ft along the W line of the SE ¼ or the NE ¼ of Sec 7; Th S88°55'50"E 673.98 feet; Th S00°06'38"E 667.37 ft to the Point of Beginning. Subject to ROW and Easements of record. 6.93 +/- acres  
And

**L20-94-902-040-20** City of Lapeer T7N R10E part of the SE ¼ of the NE ¼ of Sec 7 & the SW ¼ of the NW ¼ of Sec 8; Beg at a point N88°50'00"W 520.96 ft along the E-W 1/4 line of Sec 7; N28°56'40"E 281.16 ft along the westerly line of Baldwin Road; Th N88°52'51"W 267.00 ft from the E¼ of Section 7; Th cont N88°52'51"W 673.99 ft; Th N00°06'38"W 457.28 ft; Th 295.26 ft along a C to the L, Radius 948.07 ft, chord bearing S71°24'17"E 294.07 ft; Th 222.26 ft along a C to the R, Radius 230.43 ft, chord bearing S52°33'40"E 213.74 ft; Th 123.40 ft along a curve to the L, Radius 225.99 ft, chord bearing S35°47'25" E 121.87; Th S55°53'19"E 69.16 ft; Th

104.83 ft along a C to the L, Radius 228.97 ft, chord bearing S69°58'56"E 103.92 ft; Th S00°06'38"E 73.52 ft to the Point of Beginning. Subject to easements and Right of Ways of Record. 4.52 +/- Acres

4. That the Boundary Transfer Request preserve all easement and master utility plans.
5. That any future site development complies with all setbacks and other applicable requirements established by the City of Lapeer Zoning Ordinance.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be filed with the Lapeer County Register of Deeds.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to the City Assessor and to Selective Real Estate LLC.

This Resolution adopted and effective this 6<sup>th</sup> day of February 2022.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED.

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

None.

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

None.

#### **35 2023 02-06 UNFINISHED BUSINESS**

Moved by Pattison. Seconded by Cattane.

Accept the resignation of Dan Gerlach from the Downtown Development Authority, effective immediately and declare the seat vacant.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED.

#### **DEPARTMENTAL REPORTS**

The Downtown Development Authority monthly report, the Quarterly Financial Report – December 31, 2022, the Quarterly Investment Report – December 31, 2022, and the Planning Commission 2022 Annual Report was received into the record.

#### **PUBLIC COMMENTS**

Clara Longoria, property owner, spoke negatively against the Planning Commission and their suggested Master Plan Amendment, as well as speaking negatively about the Planning Consultant.

#### **MAYOR/COMMISSIONER COMMENTS**

Commissioner Stroh: Surprised it is February already, time is flying. Art programs are still going on in the community. Cultural arts and public art helps with the commerce of our community; they help improve the scholastic scores of our students; statistically have proven

that those students who participate in some form of cultural art score 30% higher than those who do not participate. There is a benefit from it, and we have amazing cultural arts in our community, which he is happy to be a part of. Get out and enjoy some art this February.

Commissioner Cattane: Thanked Mr. Gerlach for his many years of service to the community and his continued community support. Visited Gallery 194 last week. Would like to see the park board recommendation regarding the marihuana money on the next meeting. Would like to have a discussion of an interim City Manager at the next meeting. South M-24 can be contentious; however, we cannot stop progress; it's going to be developed and we are going to grow.

Commissioner Atwood: Does not feel there is a need for an interim City Manager; hired a good search firm; in the case of not having someone before Mr. Kerbyson departs, there is a succession plan in place; Kelly Hanna would be interim for a short period of time. Also, he finds it odd that members of this Commission were willing to terminate the City Manager with no plan in place and now they feel there needs to be a plan. Would like this on the record.

Commissioner Pattison: Has watched many City meetings on YouTube now that we are streaming them live; feels there are good and informative. Would like the camera above the mayor's seat to reflect and show what is on the presentation screen for those that are watching the meetings on our YouTube channel. We've come a long way, but we can do better.

**36 2023 02-06 ADJOURNMENT**

Moved by Cattane.

Adjourn the regular meeting at 7:17 p.m.

Ayes: Atwood, Cattane, Pattison, Stroh, Swindell.

Nays: None.

Absent: None.

MOTION CARRIED.

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

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Jeff Pattison, Mayor Pro Tem

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Tracey Russell, Deputy City Clerk