

**LAPEER CITY COMMISSION
MINUTES OF A REGULAR MEETING
APRIL 4, 2022**

A regular meeting of the Lapeer City Commission was held April 4, 2022, at the Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

ROLL CALL

Present: Mayor Marquardt.

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

Absent: None.

City Manager: Dale Kerbyson, present.

City Attorney: Mike Nolan, present.

Mayor Marquardt led the Pledge of Allegiance.

69 2022 04-04 AGENDA APPROVAL

Moved by Cattane. Seconded by Stroh.

Approve the Agenda for April 4, 2022, as presented.

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

Nays: None.

Absent: None.

MOTION CARRIED.

70 2022 04-04 MINUTES

Moved by Stroh. Seconded by Pattison.

Approve the minutes of the Regular and Closed Session meeting held March 21, 2022, as presented.

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

Nays: None.

Absent: None.

MOTION CARRIED.

PUBLIC COMMENTS

Kolby Miller, CEO of Medstar, stated Sergeant Jeff Jones submitted a grant application for an AED machine and he is here to present the AED machine to Police Chief Frisch.

Melissa Petrie, 728 Lincoln, gave an invocation.

Diane Jones, 1009 N. Saginaw, Refuge Homeless Shelter, stated they finished a partnership with 16 local churches and Michigan Youth Camp to keep people off the streets at night. Feels the City should be proud of the churches and businesses in the area for their assistance with housing the homeless in the area throughout the winter months.

Bill Marquardt, 3191 W. Oregon Rd, gave an update on the parking lot project at the American Legion Hall on W. Genesee. It is estimated that the project will be completed in approximately five weeks. Thanked the City for its help with the project.

Trevor Brown, 844 N. Calhoun, spoke against 5G and the negative effects it has on people.

71 2022 04-04 CONSENT AGENDA

Moved by Cattane. Seconded by Stroh.

Approve the consent agenda for April 4, 2022, as presented:

1. Special Event: Kiwanis Club of Lapeer, Fantasy Forest, October 8, 2022.
2. Special Event: Michigan Lupus Foundation, Timberly Ranshaw Lupus Memorial Walk, May 22, 2022.
3. Special Event: Downtown Development Authority, Monday Night Summer Car Cruise, May 2 through September 12, 2022.
4. Special Event: Downtown Development Authority, Friday Night Bikes, June 3 through September 30, 2022.
5. Special Event: Great Lakes Music Studio, Music Recital, May 22, 2022.
6. Special Event: Lapeer Downtown Development Authority, Summer Concert Series, June 2 through August 11, 2022, on Thursday evenings.
7. Special Event: Downtown Development Authority, Ladies Night Out - Spring, May 6, 2022.
8. Special Event: Annual Spring Clean-Up Agreement for May 2, 2022.

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

Nays: None.

Absent: None.

MOTION CARRIED.

72 2022 04-04 BILL LISTING

Moved by Pattison. Seconded by Swindell.

Approve the bill listing for April 4, 2022, in the amount of \$226,092.21.

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

Nays: None.

Absent: None.

MOTION CARRIED.

PROCLAMATION, RECOGNITIONS AND RESOLUTIONS:

None.

73 2022 04-04 ORDINANCE AMENDMENT – CHAPTER 14 VEHICLES & TRAFFIC

Motion by Stroh. Seconded by Swindell.

Adopt the Ordinance Amendment to Chapter 14 Vehicles & Traffic of the General Ordinance of the City of Lapeer.

Ordinance #2022-02

§ 14-11 Operation of Golf Cart Upon City Street and Roadways

A.

Purpose. The purpose of this section is to protect, preserve and promote the health, safety and welfare of the citizens and guests of the City of Lapeer while operating or being a passenger of a golf cart upon the streets and roadways of the City of Lapeer, as provided for in the Michigan Motor Vehicle Code; section, MCL 257.657a.

B.

Application. Section 14-11 shall apply to all Golf Carts as defined in MCL 257.657a(21) while operating on the Streets or Roadways within the City of Lapeer.

C.

Definitions. As used in this section the following terms shall have the meanings indicated:

GOLF CART

A vehicle designed for transportation while playing the game of golf.

VALID OPERATORS LICENSE

A current valid motor vehicle operator or chauffeurs license with the Michigan Secretary of State, another state or as defined within MCL 257.301 to 257.302a.

OPERATOR

A person in actual physical control of the golf cart while in motion.

SUNRISE AND SUNSET

The time during any given day when the sun rises and/or sun sets as determined by the National Weather service.

REAR FACING SEATING

Manufacture original or aftermarket supplemental equipment designed and installed to allow for the seating of persons facing in the opposite direction of the operator.

TRAILER

A device designed or adopted as such to be towed by a primary golf cart.

D.

Operational and Equipment Requirements

A person may operate a golf cart on City of Lapeer Streets and Roadways in accordance with MCL 257.657a, with the following restrictions:

(1)

A person shall not operate a golf cart upon any street or roadway unless he or she is at least 16 years old and has a current valid operator’s license to operate a motor vehicle.

(2)

A person operating a golf cart upon a street or roadway shall ride as near to the right side of the roadway as practicable and exercise due care when passing a standing vehicle or a vehicle proceeding in the same direction.

(3)

The operator shall adhere to all sections of the Michigan Motor Vehicle Code that pertain to the operation of a motorized vehicle as outline within the Michigan Motor Vehicle Code and the Uniform Traffic Code as adopted by the City of Lapeer within this chapter. Including all signaling requirements as outlined in MCL 257.648.

4)

All golf carts operating upon the streets or roadways within the City of Lapeer shall have as a minimum the following safety equipment permanently installed upon the golf cart:

- (1). Two Headlamps.
- (2). One Stop lamp.
- (3). One Taillamp.
- (4). One exterior mirror driver’s side or one interior rearview mirror.
- (5). Parking Brake.
- (6). At least one red reflector on each side of the golf cart as far to rear of the golf cart as practical.

A historic golf cart that would meet the requirements as outlined under MCL257.20a for a historic vehicle; being over 25 years old and is owned as a collector’s item and for

participation in club activities, exhibitions, tours, parades and similar uses, may be exempted from the headlamp, taillamp and mirror requirements of this section; as outlined in MCL 257.685, 257.686 and 257.708. A golf cart obtaining the designation of "Historic Golf Cart" and as such being exempted from the headlamp, taillamp, mirror requirements shall only be operated upon the streets and roadways within the DDA district of downtown City of Lapeer.

(5)

Headlamps and taillamps shall be actively on while the golf cart is operating upon the streets or roadways within the City.

(6)

A person shall not operate a Golf Cart on a State Trunk Line (M24), however an operator may cross over a State Trunk by utilizing the most direct line of crossing.

(7)

A Golf Cart shall not be operated above 15 miles per hour on any City street or roadway.

(8)

A Golf Cart shall not be operated upon any sidewalk constructed for the use of pedestrians or any specific area designated as a city park. Where a usable and designated path for golf carts is provided adjacent to the street or roadway, a person operating a golf cart may, be required to use that path.

(9)

A Golf Cart shall not be operated on any street or roadway with a speed limit of more than 30 miles per hour, except to cross a state trunk line or a street with a greater than 30 miles per hour speed limit.

(10)

A golf cart shall not be operated on a street or roadway during the time period from ½ hour before sunset to ½ hour after sunrise.

(11)

A golf cart shall not be used to carry more persons at one time than the number for which the cart was designed for.

(12)

Golf Carts shall comply with all state laws and city ordinances in respect to parking.

(13)

All Off-Road vehicles such as; quads, three wheelers, All Terrain Vehicles (ATV), Utility Vehicles (UTV), multitrack or multi-wheel drive vehicles, or similar vehicles that are not properly registered for roadway operations by the Michigan Secretary of State are prohibited.

(14)

To reduce the possibility of being thrown from the golf cart during an evasive maneuver, passenger(s) under the age of 16 riding in a rear facing seat shall be required to utilize a restraint device.

(15)

Towing a trailer manufactured or modified for the transportation of additional passengers is prohibited.

(16)

A golf cart shall not be operated during inclement weather events, such as snow or ice on the roadway.

(17)

This section does not apply to a police officer in performance of his or her official duties.

E. Penalty

A person who violates section 14.11 is responsible for a civil infraction and shall be subject to a civil fine or not more than Five Hundred (\$500.00) Dollars.

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

Nays: None.

Absent: None.

MOTION CARRIED.

74 2022 04-04 PROPERTY & LIABILITY INSURANCE 2022-2023 & 2023-2024

Moved by Cattane. Seconded by Pattison.

Approve a multi-year renewal & rate stabilization agreement with Peterson McGregor for the City of Lapeer Property and Liability Insurance for the Fiscal Year July 1, 2022 to June 30, 2023 and Fiscal Year July 1, 2023 to June 30, 2024. Authorize the City Manager to sign required documents.

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

Nays: None.

Absent: None.

MOTION CARRIED.

75 2022 04-04 MICHIGAN MAIN STREET PROGRAM – MASTER LEVEL

SUPPORT

Moved by Stroh. Seconded by Swindell.

Approve an agreement of continued support and cooperation in the Main Street Program at the Master Level with the MEDC and allow for the City Manager to sign the Master Level program agreement.

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

Nays: None.

Absent: None.

MOTION CARRIED.

76 2022 04-04 CENTER FOR THE ARTS (CFA) LOAN

Moved by Pattison. Seconded by Atwood.

Approve a loan to the Center for the Arts (CFA) in the amount of \$25,000 for a new lighting system at the PIX Theater and a contribution in the amount of \$10,737.49 to cover the remaining balance owing.

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

Nays: None.

Absent: None.

MOTION CARRIED.

77 2022 04-04 DOWNTOWN AREA RIGHT-OF-WAY LICENSES

Moved by Cattane. Seconded by Stroh.

Approve the Right-of-Way Licenses for the applicants listed below:

1. Blondie’s Sweet Boutique/Dagwood’s Deli – 193 W. Nepessing Street.
2. Popovich Properties, LLC – 393 W. Nepessing Street (Vinyl Bar & Grill).

3. Tilted Axis Brewery – 303 W. Nepessing Street (Permanent Enclosure).
4. Tilted Axis Brewery – 303 W. Nepessing Street (Expanded Seasonal Enclosure).
5. Woodchips, LLC – 315 W. Nepessing Street (Permanent Enclosure).
6. Woodchips, LLC – 323 W. Nepessing Street (Seasonal Enclosure).
7. Flanagan’s Pub – 10 E. Nepessing Street (Permanent Enclosure).
8. Blend Frozen Yogurt Bar – 392 W. Nepessing (Overhead Lighting at Fox Street Mall).

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

Nays: None.

Absent: None.

MOTION CARRIED.

78 2022 04-04 GENESEE WATER MAIN REPLACEMENT

Moved by Pattison. Seconded by Stroh.

Approve the agreement with Spicer Group to prepare grant documents and apply for the 2022 Community Development Block Grant funding for the replacement of the Genesee Street Water Main and to provide professional services to design the project and submit plans to MEDC and MDOT and prepare a soil erosion plan, construction administration and inspection. Authorize the City Manager to sign required documents.

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

Nays: None.

Absent: None.

MOTION CARRIED.

79 2022 04-04 LEAD AND GALVANIZED WATER LINE REPLACEMENT

Moved by Stroh. Seconded by Pattison.

Approve the agreement with Miller Canfield Paddock and Stone PLC to act as the bond counsel to prepare and submit documents for the Drinking Water State Revolving Fund funding for the replacement of the lead and galvanized water lines and provide professional services as listed in the attached agreement. Authorize the City Manager to sign required documents.

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

Nays: None.

Absent: None.

MOTION CARRIED.

CITY MANAGER’S REPORT

City Manager Kerbyson commented, Thursday, April 21, 2022, there will be a community meeting for feedback on the design concept for the property located at 201 Jefferson. Currently, there is a survey which has been posted on our website and our social media outlets and is open until Friday, April 10, 2022. At the meeting there will be review of the results of the surveys submitted and a short presentation. Also, in the very near future, he will be bringing a letter to the Commission, asking for their support for the county road millage request, which if passed, could bring approximately \$500,000 per year to the City for road work and is a good avenue for local street funding.

City Manager Kerbyson requested a closed session for his personnel evaluation only if he could be provided a copy of the verbatim minutes.

80 2022 04-04 CLOSED SESSION

Moved by Stroh. Seconded by Swindell.

To enter a closed session after the completion of the regular meeting for the purpose of Personnel Evaluation which is exempt from disclosure as provided under Section 8 of the Open Meetings Act and provide City Manager Kerbyson with a verbatim copy of the minutes.

ON A ROLL CALL VOTE:

Ayes: Atwood, Stroh, Swindell, Pattison.

Nays: Cattane.

Absent: None.

MOTION CARRIED 4-1.

CITY ATTORNEY'S REPORT

City Attorney Nolan gave credit to Police Chief Frisch for the work that went into the amendment regarding the golf carts. Mr. Nolan also requested a closed session to discuss pending litigation:

FB Lapeer PRV LLV and 1333 Imlay City Road LLC v City of Lapeer,
Lapeer Circuit Court Case No. 21-054764-CZ; and FB Lapeer PRV LLC v City of Lapeer,
Lapeer Circuit Court Case No. 18-051919-CA(H).

81 2022 04-04 CLOSED SESSION

Moved by Cattane. Seconded by Stroh.

To enter a closed session after the completion of the regular meeting for the purpose of discussing pending litigation.

ON A ROLL CALL VOTE:

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

Nays: None.

Absent: None.

MOTION CARRIED.

82 2022 04-04 APPOINTMENT TO CEMETERY BOARD

Appointed by Mayor Marquardt. Moved by Stroh. Seconded by Cattane.

To re-appoint Deborah Marquardt to the Cemetery Board for a term to expire April 1, 2027.

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

Nays: None.

Absent: None.

MOTION CARRIED.

83 2022 04-04 APPOINTMENT TO PARK BOARD

Appointed by Mayor Marquardt. Moved by Cattane. Seconded by Pattison.

To re-appoint Dianne Nordberg to the Park Board for a term to expire April 1, 2025.

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

Nays: None.

Absent: None.

MOTION CARRIED.

84 2022 04-04 APPOINTMENT TO PRISON LIAISON COMMITTEE

Moved by Cattane. Seconded by Stroh.

To re-appoint David Frisch and Michael Vogt to the Prison Liaison Committee and for each term to expire April 1, 2025.

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

Nays: None.
Absent: None.
MOTION CARRIED.

85 2022 04-04 APPOINTMENT TO ZONING BOARD OF APPEALS

Moved by Cattane. Seconded by Stroh.

To re-appoint Catherine Bostick-Tullius and Paul Parsch to the Zoning Board of Appeals and for each term to expire April 1, 2025.

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

Nays: None.

Absent: None.

MOTION CARRIED.

DEPARTMENTAL REPORTS

None.

PUBLIC COMMENTS

Bryan Cloutier, resident, asked if there has ever been a discussion in the City about phasing out the income tax. Also, would like a copy of the budget to see what amount of revenue is generated from City Income Tax.

MAYOR/COMMISSIONER COMMENTS

Commissioner Cattane: We have a lot of fun stuff coming to the City of Lapeer; looking forward to the summer months; last summer with all the events was wonderful. Daughter wants to tour both U of M Ann Arbor and Michigan State University.

Commissioner Atwood: Hopes the DDA has reached out to the downtown businesses regarding Friday Night Bikes as there has been some confusion; hopes everyone can work together to make the event a success, as it was last year. There will also be a similar event in North Branch on the same night. Hopes all downtown businesses do well this summer. Lots of opportunities to get out and check out the City and our walkable downtown.

Commissioner Stroh: Great to see so many people in the audience this evening; passion is the cultural arts in the community and there is plenty of it going on. The programs will expand during the summer months; go check out the cultural arts happening in the area. Many events will be taking place at the same time as some of the special events. DDA has been in touch with the businesses regarding Friday Night Bikes. Thank you all for being here.

Commissioner Swindell: Thank you to everyone who came this evening, especially the business owners; the weather is getting warmer, and the patios will be open soon. For those that have Friday Bike Night concerns, the event will look different; there are a lot of changes from last year's application. Excited for warm weather; school will be out soon; seniors only have a few weeks left; prom will be held soon. Let's talk to the kids and let them know what our expectations are.

Commissioner Pattison: Reviewed the latest COVID report, there were no deaths which was a wonderful thing to see. Let's hope we can continue that way.

Mayor Marquardt: Budget meeting will be held next Monday, April 11, 2022, at 5:30 p.m.; City will be closed on Friday, April 15, 2022, in observance of Good Friday. The Refuge Homeless Shelter will be holding a benefit banquet, April 29, 2022, at the Lapeer Country Club from 6:30 p.m. to 9:30 p.m., tickets are \$40 per person. Requested a discussion regarding the ice rink be placed on the next agenda; moving it, storing it and best ways to market it as it was purchased to enhance our park systems.

CLOSED SESSION

The Lapeer City Commission convened to a Closed Session for the purpose of personnel evaluation and discussing pending litigation, which is exempt from disclosure as provided under Section 8 of the Open Meetings Act at 7:29 p.m. and returned to its regular meeting at 8:56 p.m.

86 2022 04-04 SETTLEMENT AGREEMENT & CONSENT JUDGMENT

Moved by Cattane. Seconded by Pattison.

To approve the settlement agreement, and a consent judgment with FB Lapeer PRV LLV and 1333 Imlay City Road LLC v City of Lapeer, Lapeer Circuit Court Case No. 21-054764-CZ; and FB Lapeer PRV LLC v City of Lapeer, Lapeer Circuit Court Case No. 18-051919-CA(H) and authorize the Mayor and City Manager to sign all necessary documents.

Ayes: Cattane, Pattison, Stroh, Swindell.

Nays: Atwood.

Absent: None.

MOTION CARRIED 4-1.

87 2022 04-04 TERMINATION OF CITY MANAGER CONTRACT

Moved by Swindell. Seconded by Cattane.

To terminate the contract between the City of Lapeer and the City Manager Dale Kerbyson, effective immediately.

ON A ROLL CALL VOTE:

Ayes: Cattane, Swindell.

Nays: Atwood, Pattison, Stroh.

Absent: None.

MOTION FAILED 2-3.

88 2022 04-04 RETAIN CITY MANAGER CONTRACT

Moved by Pattison. Seconded by Atwood.

To retain the contract of the City Manager Dale Kerbyson, at current salary and benefits, with continuing education regarding communication and a follow up review in six (6) months, which will be on October 3, 2022.

ON A ROLL CALL VOTE:

Ayes: Stroh, Pattison, Atwood.

Nays: Swindell, Cattane.

Absent: None.

MOTION CARRIED 3-2.

89 2022 04-04 ADJOURNMENT

Moved by Cattane.

Adjourn the regular meeting at 9:02 p.m.

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

Nays: None.
Absent: None.
MOTION CARRIED.

The regular meeting adjourned at 9:02 p.m.

Debbie Marquardt, Mayor

Romona Sanchez, City Clerk