

**LAPEER CITY COMMISSION
MINUTES OF A REGULAR MEETING
JULY 18, 2022**

A regular meeting of the Lapeer City Commission was held July 18, 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.

160 2022 07-18 AGENDA APPROVAL

Moved by Cattane. Seconded by Stroh.

Approve the Agenda for July 18, 2022, with the addition of G-4, Retiree Appreciation Bonus.

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

Nays: None.

MOTION CARRIED.

161 2022 07-18 MINUTES

Moved by Stroh. Seconded by Cattane.

Approve the minutes of the regular meeting held July 5, 2022, as presented.

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

Nays: None.

MOTION CARRIED.

PUBLIC COMMENTS

Phil Green, Michigan State House of Representative, from the former 84th District, the new 67th District which now includes a portion of Lapeer County, introduced himself and stated he looks forward to working with everyone.

Bill Rykhus, President of the Lapeer Center Building, stated he has concerns with the long-standing agreement between the Center Building and the City of Lapeer regarding the parking lot. Essentially the agreement states that as long as the building was operating, the City would take care of the parking lot. His concern is that for several years there has been nothing done to improve or maintain the parking lot. He would like to be able to sit down with City official and members of the Center Building board to discuss what needs to be done. He is appealing to the Commission for the betterment of the community.

Mark Munson, Oregon Township, also here as a representative of the Lapeer Center Building, and spoke in favor of getting the parking lot repaired at the Center Building.

Clare Langoria, spoke negatively about the happenings at the last Planning Commission meeting because the drive-through restriction was not removed from the ordinance immediately. She read from a section of "Planners must treat similar businesses the same way",

an article she handed out to the Commission. She asked that her hand-out be included as a part of the minutes (*see Attachment A*).

Jenny Burkhart, 865 N. Wilder, read from a scripture and spoke about finding religion; asked that we be wise about what we invite into this community.

162 2022 07-18 BILL LISTING

Moved by Cattane. Seconded by Swindell.

Approve the bill listing for July 18, 2022, in the amount of \$162,114.52.

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

Nays: None.

MOTION CARRIED.

PROCLAMATION, RECOGNITIONS AND RESOLUTIONS:

163 2022 07-18 RESOLUTION LAPPER OPTIMIST CLUB – LAPEER DAYS BEER TENT

Moved by Cattane. Seconded by Stroh.

Adopt the resolution authorizing the Lapeer Optimist Club to use the City sidewalk and Cedar Street north of Nepessing Street for their beer tent on Friday, August 19, 2022, through Sunday, August 21, 2022.

RESOLVED: It is the consensus of this legislative body that the request be approved by the State of Michigan, Department of Consumer & Industry Services, Liquor Control Commission.

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

Nays: None.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

ADMINISTRATIVE REPORTS

164 2022 07-18 DOWNTOWN RIGHT-OF-WAY LICENSE – POPOVICH PROPERTIES

Moved by Stroh. Seconded by Cattane.

To approve the Right-of-Way License for Popovich Properties to install and maintain overhead string lights within a portion of the City's right-of-way in the Fox Street mall area adjacent to 393 W. Nepessing Street.

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

Nays: None.

MOTION CARRIED.

165 2022 07-18 RESOLUTION MDOT CONTRACT #22-5201 – GENESEE ST. TRAIL EXPANSION

Moved by Stroh. Seconded by Swindell.

Approve the municipal resolution for the MDOT Contract #22-5201 – Genesee St. Trail Extension Project. This resolution approves the contract presented by MDOT and names the city officials who are authorized to sign the contract.

CITY OF LAPEER
MUNICIPAL RESOLUTION #2022-18
Michigan Department of Transportation (MDOT)
Contract #22-5201

WHEREAS, the Michigan Department of Transportation (MDOT) Contract #22-5201 includes the following project:

PART A – FEDERAL PARTICIPATION

The City of Lapeer was awarded Congestion Mitigation and Air Quality (CMAQ) funds to construct a hot mix asphalt shared use path construction along south side of Genesee Street from approximately 400 feet east of Lake Drive to approximately 0.17 miles easterly, including clearing, grading, aggregate base, timber boardwalk, fencing, concrete curb ramps and permanent signing; and all together with necessary related work.

PART B – NO FEDERAL PARTICIPATION

Audio video route survey work along the limits as described in PART A; and all together with necessary related work.

BE IT RESOLVED THAT:

1. The MDOT Contract #22-5201 for the project described above between MDOT and the City of Lapeer is hereby accepted.
2. The City Manager Dale Kerbyson and Director of Parks, Recreation & Cemetery Rodney Church are authorized representatives to sign required documents.

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

Nays: None.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

166 2022 07-18 BUDGET AMENDMENTS - FY2022-23

Moved by Pattison. Seconded by Cattane.

Approve the FY2022-23 Budget Amendments, as presented.

1. Department of Public Works:
 - a. CIP#22470 Oregon Street (202-463-974.000) \$255,000. The project is expected to be completed this fall.
 - b. CIP#22230 Salt Barn Storage (101-441-974.000) \$28,865. The project is partially complete; however, garage doors are needed to complete the storage unit.
 - c. CIP#22200 DPW Parking lot (661-580-974.000) (101-441-974.000) (591-556-974.000) (590-557-974.000) Total \$125,000 /\$31,250 Each line item.
2. Fire Department:
 - a. Uniforms (101-336-741.000) - \$18,000 of budget funds is requested. The department ordered protective clothing last fall that has not been received as of June 30, 2022.
 - b. Materials and Supplies (101-336-782.000) - \$5,300 of budget funds is requested. The department has ordered three AED units and have not received them as of June 30, 2022.
 - c. Radio Expense (101-336-851.000) - \$1,240 of budget funds is requested. The department has batteries ordered and not received as of June 30, 2022.
3. Parks, Recreation and Cemetery:

- a. CIP#91790 Genesee St. Trail Extension (208-751-974.000) - \$283,000 is requested. The project will be completed this fall.
- b. CIP#91890 Chatfield Mott Trailhead Improvements (208-751-974.000) - \$45,000. The project is expected to be completed this fall.

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

Nays: None.

MOTION CARRIED.

167 2022 07-18 APPRECIATION BONUS - RETIREES

Moved by Cattane. Seconded by Stroh.

Approve an Appreciation Bonus for the nine (9) qualified full-time retirees that worked during the COVID-19 pandemic from April, 2020 through February, 2022.

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

Nays: None.

MOTION CARRIED.

CITY MANAGER'S REPORT

City Manager Kerbyson commented that the Historic Courthouse Pavilion Agreement with Lapeer County would not be moving forward as the County was not interested in modifying the agreement that was presented to the Commission. He continued stating that the interviews for the Police Chief position have been scheduled and will take place two-weeks from now. We are planning to interview four (4) applicants. Next, the final branding project, the entrance signs into the City should be done within a few weeks. Also, we are getting close to having the Harris Property appraisal completed and will be moving that forward with the condemnation process. Lastly, there has been information sent about the developers' lunch for the 201 E. Jefferson, which will be held September 7, 2022, which will be put on by the MEDC.

CITY ATTORNEY'S REPORT

City Attorney Nolan stated we will move forward with the condemnation project once the appraisal is completed.

168 2022 07-18 APPOINTMENT - PLANNING COMMISSION

Appointment by Mayor Marquardt. Moved by Cattane. Seconded by Atwood.

To re-appoint Catherine Bostick-Tullius to the Planning Commission for a term to expire August 1, 2025.

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

Nays: None.

MOTION CARRIED.

DEPARTMENTAL REPORTS

The Departmental Monthly Reports were received into the record.

PUBLIC COMMENTS

Melissa Petrie, Lincoln St. stated she wanted to thank who ever was responsible for the retirees receiving the COVID bonus, they deserved it. Asked the status on the cameras to be used for filming the commission meetings.

MAYOR/COMMISSIONER COMMENTS

Commissioner Atwood: Heard that Porch Fest went well this past weekend; got to hike a trail on his lunch hour the other day; found it unique to live in a community where you can go for a hike on your lunch break.

Commissioner Stroh: Happy Summer; the Car Cruise has 130+ cars tonight; Porch Fest had an estimated 600 attendees; congrats to those who put this idea together. Summer Camps have wrapped up recently; big thanks to the restaurants for providing lunch; Stone's Throw Theater has a show coming. Exciting to see all the events happening in and around the community this summer; get out there and enjoy something.

Commissioner Swindell: Liked the video of the Police Officers on bikes; her spouse mentioned the large amount of traffic on the bike trails this weekend.

Commissioner Cattane: Mentioned Bay City has had a couple marihuana businesses close recently; the market has been over saturated. Residents should know we will be reaching out to the public to find out what our residents would like to do with the marihuana funds the City received. He is saddened by the lost opportunity with Lapeer County and the Historic Courthouse Pavilion contract. Remember the primary election is coming up August 2, 2022, thanks to the City Clerk and all those who work and are involved. Thanks to everyone who reached out to his family with the condolences and sympathy for the loss of his father-in-law.

Commissioner Pattison: Weather is beautiful; please get out and enjoy our City; be safe out there.

City Manager Kerbyson: There has been a large number of people on bicycles in the downtown recently, very nice to see.

Mayor Marquardt: Read the list of local events. Attended Porch Fest and it was fabulous, the bands were very good; some attendees have suggested it should happen monthly.

169 2022 07-18 ADJOURNMENT

Moved by Cattane.

Adjourn the regular meeting at 7:10 p.m.

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

Nays: None.

MOTION CARRIED.

The regular meeting adjourned at 7:10 p.m.

Debbie Marquardt, Mayor

Romona Sanchez, City Clerk

Planners must treat similar businesses the same way

Mary Reilly, [Michigan State University Extension](#) - February 25, 2020

If planners are required to treat similar businesses in the same way, how can they respond to criticism for approving “too many of the same kind of business”?



Planners are sometimes faced with public criticism around approving too many of the same kind of business or approving some businesses at the expense of other businesses. A comment might be something like, “They allowed a new furniture store downtown?”

Can't they see we already have two furniture stores and we really need a shoe store?"

There is no easy response to this type of frustrated sentiment. The answer is layered and a little dry, which may be why it is hard for the public to understand and difficult for planners to explain. A simple breakdown of an answer includes:

- 1) How zoning works
- 2) The legal framework for zoning
- 3) The vital economic importance of placemaking.

How Zoning Works in a Nutshell

Conventional Euclidian zoning groups compatible land uses together while keeping other "incompatible" land uses in a different place. These groupings of uses are called "zoning districts" and are typically referred to as Residential, Commercial, Industrial, Agricultural (and many others) depending on the community.

Within those districts, there are lists of land uses or groups of land uses that are allowed. A residential zoning district may limit or prohibit commercial land uses and conversely, a commercial district may limit or prohibit certain residential or industrial land uses.

These groupings of uses or land uses, such as "single family dwelling", "manufacturing", or "retail" are defined to be specific enough to keep things separate where needed—but not so specific that each and every kind of new business imaginable has to be defined in the ordinance before it can be allowed.

For example, a zoning ordinance rarely, if ever, would further separate "retail" into specific types of retail sales listed in a zoning district like furniture, antiques, health food, kitchen wares, clothing, shoes, etc. It is important to understand that "retail" in zoning, *is all of these things* and a single use that might appear simply as "retail" in a zoning district.

In the example provided earlier where there are two furniture stores downtown and the planning commission approves the third, it is important to understand that a planning commission has no legal authority to approve the first two land uses and prohibit the third. In zoning, the third furniture store (or the fourth big box hardware store or the sixth auto parts store), is just another “retail” use that must be *treated the same* as the other stores.

Legal Framework

While the Planning Commissioners may be scratching their heads privately or publicly on why a sixth auto parts store is locating in their town, they are obligated to treat all of these stores the same if they meet the definition of “retail”, for example. This most often means disregarding the number of similar stores that already exist and treating the first store the same as the sixth.

If Planning Commissioners denied a toy retailer and approved a jewelry retailer in the same location, for example, and the reason they provided on record was “because we already have a toy store in town”, they could potentially be at risk for litigation. The U.S. and Michigan Constitutions require *equal treatment* for similar uses in similar situations, such as the same land use in the same zoning district.

These processes (called *due process*) are based on the 5th and 14th amendments of the U.S. Constitution and the Michigan Constitution and guarantee equal treatment under the law. These constitutional rights form a basis for all zoning decisions. Together, these laws create a more level playing field for all applicants, procedures, hearings, and notices.

Placemaking

What planners *can do* to make great places that attract and retain business and talented workers is to engage in placemaking and Michigan Economic Development Corporations' Redevelopment Ready Communities program. Placemaking is a series of strategic actions to create quality places where people want to live, work, play and learn. Placemaking invites a wide variety of local businesses and supports an entrepreneurial, place-based economy.

Other forms of zoning, such as form-based codes, support multiple uses on a parcel, walkable communities, and live-work buildings. While this would not prohibit a “third furniture store” it offers a stronger alternative to single-use zoning and auto-dominated land use patterns.

For more information on placemaking and community development check out the resources provided by the [Michigan Economic Development Corporation](#). If these kinds of ideas and topics are of interest to the reader, [consider joining a local Planning Commission](#).

Those in [Michigan State University Extension](#) that focus on [land use](#) provide various training programs on planning and zoning, which are available to be presented in your county. Contact your [local land use educator](#) for more information.

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