

**LAPEER CITY COMMISSION
MINUTES OF A REGULAR MEETING
March 5, 2018**

A regular meeting of the Lapeer City Commission was held March 5, 2018 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 Atwood, Bennett, Bostick-Tullius, Osentoski.

Absent: Commissioner Marquardt (excused).

City Manager: Dale Kerbyson, present.

City Attorney: Michael Nolan, present.

Mayor Sprague led the Pledge of Allegiance.

AGENDA APPROVAL

31 2018 03-05

Moved by Bennett. Seconded by Osentoski.

Approve the Agenda for March 5, 2018 as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

MINUTES

32 2018 03-05

Moved by Bostick-Tullius. Seconded by Atwood.

Approve the minutes from the Regular meeting held February 19, 2018 as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

Minutes from various Boards and Commissions were received into record.

PUBLIC COMMENTS

Library Presentation – Melissa Malcom.

Melissa Malcolm, Lapeer District Library Director, reviewed a PowerPoint presentation regarding the Marguerite deAngeli Library and inadequacy of building for library use, would like the City to support a new facility.

33 2018 03-05

Moved by Osentoski. Seconded by Bostick-Tullius.

To fully support the Lapeer District Library's efforts to build a new library within the City limits.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

34 2018 03-05

Moved by Bostick-Tullius. Seconded by Bennett.

To consider use of the deAngeli Branch Library by the City.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

Janet Adams, Baldwin Road, gave invocation.

Ginny Bruman, W. Nepessing, asked permission for downtown businesses to conduct an Easter Egg Hunt; directed to fill out a Special Event Request form.

CONSENT AGENDA

35 2018 03-05

Moved by Bostick-Tullius. Seconded by Osentoski.

Approve the Consent Agenda for March 5, 2018 resulting in the following.

1. Special Event Request from Lapeer County Intermediate School District, Great Start Family Fun Day, June 27, 2018 from 10:00 AM to 2:00 PM, North Court Street.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

BILL LISTING FOR MARCH 5, 2018

36 2018 03-05

Moved by Bostick-Tullius. Seconded by Atwood.

Approve the Bill Listing for March 5, 2018 in the amount of \$2,399,691.40.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

None.

PUBLIC HEARINGS

None.

ADMINISTRATIVE REPORTS

Agreement for Harvesting Woods at Oakdale Property

37 2018 03-05

Moved by Bostick-Tullius. Seconded by Osentoski.

Approve the Agreement for Forestry Services with Jeff Tuller Forestry Services and authorize the City Manager to sign said Agreement.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

Ordinance Amendment

Amendment – Chapter 24 (Parks Ordinance)

Commissioner Bostick-Tullius introduced the proposed amendments to Chapter 24 (Parks Ordinance) of the General Ordinances of the City of Lapeer.

CHAPTER 24 PARKS ORDINANCE

24.01 GENERAL RULES AND REGULATIONS.

(A) Definitions.

(1) **A PARK** is defined to be any land owned or leased by the City and used for municipal park purposes.

(B) Conduct In Parks.

No person shall in any park:

(1) Reserve any tables other than pavilions, for picnics or family reunions or city approved events. **HISTORY: (Amnd 03-27-85; -)**

(2) Intentionally damage, deface, destroy, tamper with, or displace any Park, Park facilities, or Park features, including but not limited to:

buildings, bridges, docks, tables, benches, fences, pavement, utilities or utility lines, or any parts or appurtenances thereto; signs, notices, or placards; monuments, stakes, posts or other boundary markers; historic, prehistoric or cultural resources or artifacts; tables, stoves, outdoor grills, drinking fountains, recreational equipment, bridges, or other or other structures or equipment of the City.

(3) Pick or mutilate any flower - wild or domestic - or intentionally disturb any tree shrub, or another plant material.

(4) Possess, transport or consume any alcoholic beverage.

(5) Advertise or sell/merchandise by any means or method without the consent of the City Park Board.

(6) Knowingly permit a dog, cat or any small domestic animal to enter or remain in the park unless said animal is properly restrained by a maximum of a 6ft leash. Pet owners must clean up their pets waste.

(7) Discharge any firearm, air-rifle, B-B gun, spring gun, bow and arrow, spear, sling, any instrument that can fire blank cartridges, or any other form of weapon potentially harmful to human safety or to wildlife. Shooting into Park property from beyond Park boundaries is prohibited. These restrictions shall not apply to any duly appointed law enforcement officer while carrying out the duties and responsibilities of his or her position.

(8) Throw, discard or leave any papers, litter, garbage or rubbish unless the same is deposited in containers furnished by the City for this purpose.

(9) Dispose of any household or commercial trash including but not limited to: yard waste, furniture, automotive parts, etc.

(10) Plant trees, flowers, weeds or vegetables without the consent of the City Park Board.

(11) Operate any motor vehicle, as defined in Chapter 14 (Vehicles and Traffic) of the General Ordinances of the City of Lapeer, in a manner which is prohibited by the provisions of said Chapter 14.

HISTORY: (Amnd 03-27-85; -)

(12) Operate or ride as a passenger on any motorcycle, motorbike, minibike, go-cart, snowmobile, or any other motorized vehicle, except in those areas expressly designated for these vehicles by the City Park Board.

(13) Remain in, use or occupy any portion of any park between the hours of 10:30 p.m. and 6:00 a.m., unless he is part of an identifiable group of persons which has received prior written approval of the City Park Board to so remain in, use or occupy a portion of a park for a specified period of time between the hours set forth above.

(14) Start a fire except in such places provided for that purpose by the City; and all fires shall be put out by the person starting the same before leaving the immediate vicinity of the fire.

(15) Use or attempt to use any portion of the City Park System for which a special permit is required or has been obtained by another party, without a special permit, or refuse to surrender said portion of the park system to any person or group having a special permit for that portion of the park system, or refuse to surrender any portion of the park system to an authorized representative of the City Park Board. **HISTORY:** (Amnd 03-27-85; -)

(16) Unnecessarily congregate or loiter.

(17) Hunt, disturb, pursue, harm, kill, trap or throw objects at any species of animal, reptile or bird nor shall any individual remove or have in their possession the young of any wild animal or the eggs; or nest, or young of any reptile or bird.

(18) Give or offer, or attempt to give to any animal or bird any food, tobacco, alcohol, or illegal substances.

(19) Bring or use glass containers on park property.

(20) Setup tents or shacks, or any other temporary shelter for the purpose of overnight camping; unless permission granted by the director.

(21) Climb any building or wall, stand or sit upon monuments, railings, fences, tables, or open property not designed or customarily used for such purpose.

(22) Deposit or cause to be deposited in any drain, pond or other body of water within or adjoining a Park any foreign material or chemicals that would pollute the water or potentially cause harm to marine life or public health.

(23) Misuse, damage, cut, carve, transplant or remove any trees, shrubs, flowers, or other plant; or attach any rope, wire, chain, or other object to any tree or shrub.

(24) Possess, consume, serve or cause to be served, or sell alcoholic beverages, narcotics, or illegal drugs of any kind in any Park, except for alcoholic beverages specifically authorized by the Park Board through issuance of a Special Park Use Permit.

(25) Use any restroom in an inappropriate manner or unauthorized purpose. Male persons shall not resort to any restroom set apart for women, and female persons shall not resort to any restroom set apart for men, except this shall not apply to children accompanied by an adult. No person shall loiter in or about such facilities nor shall any person use such facilities for purposes other than those intended.

(26) Enter upon any of the public land belonging to the City of Lapeer and dig up the earth or deposit any earth, rock or other substances, nor shall any person erect or attempt to erect any structures of any kind, or in any other manner attempt to appropriate or encumber any portion of the real estate belonging to the City of Lapeer, unless such person shall have first obtained proper authority to do so.

(27) Operate or park motor vehicles of any kind, including motorcycles, on other than designated roads and within parking areas designated for motor vehicle use, leave, or cause to be left, any motor vehicle upon Park property when the Park is closed, repair or wash a motor vehicle in a Park, except for emergency repairs, or operate a motor vehicle in an unreasonable manner without reasonable regard to the safety of others. This provision shall not prevent maintenance and security vehicles from entering off-road areas to perform maintenance or security work.

(28) Peddle or solicit business of any nature whatsoever; distribute handbills or other advertising matter; post any unauthorized sign on any Park land, water, structure or property; or use such land, water, structure or property for peddling or soliciting, except as specifically authorized by the Park Board through issuance of a Special Park Use Permit.

24.02 PERMITS FOR SPECIALIZED USE OF PARK.

(A) Park facilities are intended for the use of the general public for recreational purposes, such as picnicking, exercise, nature study, and similar activities on an informal basis. A Special Park Use Permit shall be required for organized group activities and for uses that otherwise would not be allowed by this Ordinance. The City of Lapeer Park Board is hereby authorized to issue special permits for the exclusive use of any section of the City of Lapeer park system. The issuance of such special permits shall be governed by rules and/or procedure adopted by the Park Board.

Any rules and/or procedure adopted by the Park Board for the issuance of special permits shall be consistent with this Chapter and the full use of the park system by the public. The rules and/or procedure adopted by the Park Board for the issuance of special permits shall be available at the Park and Recreation Department.

HISTORY: (Amnd 03-27-85; -)

- (B) Applications for special permits under this Section shall be made on such forms as the Park Board may approve and shall be presented at the Lapeer City Park and Recreation Department. Any applications which the Park Board has determined, by its adopted rules, require approval at a regular meeting of the Park Board shall be filed at least seven (7) days prior to the regular Park Board meeting at which such application is to be considered. During such meeting, the applicant may appear in person, by attorney, or by an agent.

HISTORY: (Amnd 03-27-85; -)

- (C) No special permit shall be granted if it appears that any of the purposes or activities of the applicant will unreasonably interfere with the use of the remainder of the park by the general public; will be likely to damage the park or its facilities or any part thereof, will create a hazard to pedestrian or vehicular traffic; or will endanger or be likely to endanger the health, welfare, or safety of the public.

HISTORY: (Amnd 03-27-85; -)

- (D) Any applicant for a special permit which purposes the use of any portion of any park for a circus or carnival or other use which may generate substantial litter or refuse, shall be required to deposit as listed on the City of Lapeer Fee Schedule to cover the cost of any park clean-up and/or repairs by the City. Any portion of the deposit remaining after the clean-up and/or repairs shall be returned to the applicant and the applicant shall pay the difference, if any, between said deposit and the actual cost to the City for the clean-up and/or repairs.

HISTORY: (Amnd 09-22-11; -)

- (E) Deleted

HISTORY: (Amnd 03-27-85; -)

- (F) Material evidence in support of this application before a majority of the Park Board; and any departments of the City and any interested citizens may also present any relevant and material evidence with reference to the granting or denial of the application. Written minutes of the hearing shall be made, but a transcript of exact testimony shall not be necessary. A majority of the Park Board present at the hearing shall render its decision within three (3) days of the conclusion of the hearing. If the application is denied, the applicant shall have twenty (20) days in which to appeal the decision of the Park Board to the Lapeer County Circuit Court, or to such other court as may be permitted by law or court rule to hear such an appeal.

Such appeal shall be on the record of the hearing.

HISTORY: (Amnd 11-5-75; -)

24.03 ADMINISTRATION AND ENFORCEMENT.

- (A) Nothing in this Chapter shall be construed as prohibiting Park employees or agents from performing work or activities in any Park at a time and in a manner directed by the City of Lapeer.
- (B) The City of Lapeer may establish emergency rules necessary to protect the health, welfare and safety of Park visitors and to protect Park property, including, but not limited to, ordering all persons off Park property and closing all or any portion of a Park.
- (C) Any person who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute and in accordance with the City's Municipal Civil

Infraction Ordinance which shall be punishable by a civil fine of not more than \$500 along with costs which may include all expenses, direct and indirect, which the City of Lapeer has incurred in connection with the municipal civil infraction. Nothing herein shall prevent the City of Lapeer from seeking appropriate restitution for damage to parks or park facilities. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law.

- (D) This Ordinance and each of the various parts, sections, subsections, provisions, sentences, and clauses are severable. If any part, section, sub-section, provision, sentence or clause is found to be invalid or unenforceable for any reason by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of this Ordinance, which shall remain in full force and effect.

A summary will be used for publication purposes.

Mt. Hope Cemetery Grounds Maintenance Contract

38 2018 03-05

Moved by Bennett. Seconded by Atwood.

Approve the Mt. Hope Cemetery Grounds Maintenance Agreement contract with B & B Lawn and Landscape for seasons 2018, 2019 and 2020 in the amount of \$29,560 per year for each year of the contract and authorize the Mayor and City Manager to sign said Agreement.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

Demille Bouelvard/Oakdale Grounds Maintenance Contract

39 2018 03-05

Moved by Bostick-Tullius. Seconded by Osentoski.

Approve the Demille Boulevard/Oakdale Grounds Maintenance Agreement with B & B Lawn and Landscape for seasons 2018, 2019 and 2020 in the amount of \$10,580 per year for each year of the contract and authorize the Mayor and City Manager to sign said Agreement.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

CITY MANAGER'S REPORT

City Manager Kerbyson requested a Closed Session at the end of the regular meeting to discuss real estate transactions.

40 2018 03-05

Moved by Bennett. Seconded by Atwood.

Approve a Closed Session at the end of the regular meeting to discuss real estate transactions.

ON A ROLL CALL VOTE:

YEAS: Commissioners Atwood, Bostick-Tullius, Osentoski, Bennett.

NAYS: None.

ABSTAIN: None.

ABSENT: Commissioner Marquardt.

MOTION CARRIED.

CITY ATTORNEY'S REPORT

City Attorney Nolan gave an update on Chapter 68 application policy, in process of and will prepare based on first come/first served, lottery and merit based, suggested special meeting to review.

41 2018 03-05

Moved by Bennett. Seconded by Osentoski.

To schedule a Special City Commission meeting for Thursday, March 8, 2018 at 7:00 PM to review/discuss the Chapter 68 Application Policy.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED

UNFINISHED BUSINESS

DEPARTMENTAL COMMUNICATIONS

The Investment Report for the Quarter ended December 31, 2017, DDA Status Report dated February 23, 2018 and Monthly Financial Report for January 2018 were received into record.

PUBLIC COMMENTS

None.

MAYOR/COMMISSIONER COMMENTS

Commissioner Atwood: Thanked Janet Adams for prayer.

Commissioner Osentoski: Thanked Melissa Malcolm for library presentation; provided statistics.

Commissioner Bostick-Tullius: Center for the Arts event this Friday; what recourse does a downtown business have if people other than the businesses are using dumpsters located in the City parking lots; attending NLC Conference in Washington D.C. next week.

City Manager Dale Kerbyson: State Fire Conference will be held in Lapeer the week of May 17th, City last hosted in 2012.

Mayor Sprague: Past issues with Commissioners contacting legal counsel individually, utilizing time and budget, should go through City Manager; medical marihuana ordinance change that was not shared with all members, direction to Attorney regarding policies, need to all be on same page, no basis for limiting and no discussion prior, get policy out on table and make it public, Commissioner texts, emails and such are open to FOIA, violation of Open Meetings Act, Commission should be above all that, honest and transparent, decide to act openly at meetings, then give Attorney direction. Commissioner Bostick-Tullius indicated Attorney requested comments beforehand and asked a clarifying question, does not know what Mayor Sprague is talking about. Mayor Sprague commented that all should have received info, with all discussion taking place at open meeting, not act as individuals behind closed doors. Commissioner Bennett indicated he received info at last moment and then asked to vote on it, should be able to look at it before being asked to vote.

Closed Session:

The City Commission convened to a Closed Session for the purpose of discussing real estate transactions at 7:10 p.m. and returned to its regular meeting at 7:23 p.m.

Property Purchase

42 2018 03-05

Moved by Bennett. Seconded by Bostick-Tullius.

Approve the property purchase from the Archdiocese for property located on Clark Road (parcel #44-012-009-008-10) in the amount of \$350,000 and authorize the Mayor and City Manager to sign the required documents; and further, contingent upon utilizing an adequate title company search and general detail review by the City Attorney.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED

ADJOURNMENT

43 2018 03-05

Moved by Bennett.

Adjourn the regular meeting.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

The regular meeting adjourned at 7:26 p.m.

Mayor William J. Sprague

Donna L. Cronce, MMC, City Clerk

Renee Wilson, Chief Deputy City Clerk