

**LAPEER CITY COMMISSION
MINUTES OF A REGULAR MEETING
April 17, 2017**

A regular meeting of the Lapeer City Commission was held April 17, 2017 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, Gates, Marquardt.
Absent: None.

City Manager: Dale Kerbyson, present.
City Attorney: Michael Nolan, present.

Mayor Sprague led the Pledge of Allegiance.

AGENDA APPROVAL

104 2017 04-17

Moved by Bostick-Tullius. Seconded by Bennett.
Approve the Agenda for April 17, 2017 as presented.
Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.
Nays: None.
Absent: None.
MOTION CARRIED.

MINUTES

105 2017 04-17

Moved by Marquardt. Seconded by Gates.
Approve the minutes from the Regular meeting held April 3, 2017 with correction of the spelling of Jeff Fick, incorrectly shown as Jeff Thick.
Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.
Nays: None.
Absent: None.
MOTION CARRIED.

Minutes from various Boards and Commissions were received into record.

PUBLIC COMMENTS

Dave Meoak, S. Saginaw, gave invocation.

CONSENT AGENDA

106 2017 04-17

Moved by Gates. Seconded by Atwood.
Approve the Consent Agenda for April 17, 2017 resulting in the following.

1. Special Event Request from Lapeer Downtown Development Association to hold Lapeer Cruise Night on Nepessing Street between Mason Street and Court Street every Monday night beginning May 8th and run through September 11th from 5:30 p.m. – 9:00 p.m.
2. Special Event Request from Downtown Business Association to hold the Thursday Night Concert Series at the Lapeer Farmer's Market Pavilion Thursday evenings, June 1 - August 10, 2017 from 6:00 p.m. – 9:00 p.m.
3. Special Event Application from Lapeer Area Home School Athletes to hold an Annual 5K Fun Run/Walk on August 19, 2017 from 7:00 a.m. – 12:00 p.m. at Rowden Park.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.
Nays: None.
Absent: None.
MOTION CARRIED.

BILL LISTING FOR APRIL 17, 2017

107 2017 04-17

Moved by Marquardt. Seconded by Gates.
Approve the Bill Listing for April 17, 2017 in the amount of \$373,546.56.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.

Nays: None.

Absent: None.

MOTION CARRIED.

PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

None.

PUBLIC HEARINGS

None.

ADMINISTRATIVE REPORTS

Discussion: Medical Marihuana Facilities Licensing Act
Ballot language consideration.

108 2017 04-17

Moved by Bennett. Seconded by Atwood.

Put the questions on the ballot for the five facilities to allow the people of the City of Lapeer to decide whether they want these facilities or not, yes or no. City Manager Dale Kerbyson asked for clarification if motion was to direct the City Attorney and City Clerk to create draft ballot language. Commissioner Bennett stated yes, the motion was amended to be: Direct the City Attorney and City Clerk to create draft ballot language regarding the five categories of medical marihuana facilities. Discussion followed: the five categories are complicated and procedures to go forward will take some time, not enough time to educate residents on the types of facilities in order to place it on the ballot, residents voted to approve medical marihuana, it is up to the Commission to work with department heads to determine placement of these facilities.

ON A ROLL CALL VOTE:

AYES: Commissioners Bennet, Atwood.

NAYS Commissioners Bostick-Tullius, Gates, Marquardt.

ABSENT: None.

ABSTAIN: None.

MOTION FAILED.

Ordinance Amendment: Chapter 7 (Zoning Ordinance), Article 7.17 Signs.

109 2017 04-17

Moved by Bostick-Tullius. Seconded by Gates.

Adopt the proposed amendment to Chapter 7 (Zoning Ordinance), Article 7.17 Signs to the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

Article 7.17 Signs

7.17.05 Schedule of Sign Regulations – property Used for Non-residential Purposes

Table 7.17.3: Schedule of Regulations

| Type of Sign | Maximum Area | Height | Illumination | # Permitted/Other Provisions |
|---|---|----------------------------------|---|--|
| Interstate Corridor Signs (g) | 200 square feet per side (total signage = 400 S.F.) with a maximum of 2 sides permitted. | 20 feet for single tenant | Permitted – Internal and concealed only | i) 1 per every 1,000 L.F., up to 2 sign structures per lot/parcel within 200 feet of I-69. ii) Must be on property which is adjacent to the I-69 R.O.W. |
| | 250 square feet for two businesses and an additional 50 square feet for each business (tenant) thereafter and not to exceed 400 square feet each side | 30 feet for multiple tenant | Spot lighting is not permitted | |
| Electronic or Manual Changeable Message Signs | 24 square feet | Per type of sign as listed above | Permitted | 1 per parcel |

| | | | | |
|-----|--|--|--|--|
| (h) | | | | |
|-----|--|--|--|--|

7.17.06 Additional Provisions for Signs in Table 7.17.3

(a) thru (f) No Change.

(g) **Interstate Corridor Signs (ICS)**

- (1) Placement. All Interstate Corridor Signage (ICS) must be located along Interstate-69 (I-69) and shall be no closer than a distance that is equal to or greater than the height of the sign (20 feet to 30 feet) and setback from the Interstate Right-of-Way (R.O.W). An ICS 20 feet tall or less must maintain a minimum distance of 20 feet from the I-69 R.O.W. The Interstate R.O.W. includes all entrance and exit ramps on to I-69. Setbacks from the I-69 R.O.W may be more restrictive as deemed necessary by the Michigan Department of Transportation (MDOT). An ICS must be within 200 feet of the property line that borders the interstate R.O.W. unless deemed otherwise by MDOT.
- (2) Additional permitting. MDOT may require permitting for any sign structures that are within 3,000 feet of an interstate, freeway, or highway; as regulated by the Michigan Highway Advertising Act (ACT 106). It is recommended that such permitting be applied for through MDOT before applying for a sign permit through the City of Lapeer. If MDOT does not require a permit for the proposed sign, documentation stating such shall be provided and submitted with the sign application to the City of Lapeer.
- (3) Location. An ICS can only be applied for on properties that are zoned B-2. The property must border the I-69 R.O.W. An ICS is an additional sign structure for properties that meet the standards of this section and are not considered to be part of a cumulative total for overall signage allowed on an applicable piece of property.
- (4) Setbacks. An ICS must be more than 300 feet from all residentially zoned properties, including properties adjacent to the subject parcel and/or across a public R.O.W.
- (5) Proximity. An ICS shall be a minimum of 1,000 feet apart from each sign with no more than two (2) per lot. ICS placement must maintain a minimum of 500 feet apart from all other ICS structures on adjacent properties or across a public R.O.W.
- (6) Accessory: All ICS and sign structures are accessory to a building or use on the same property. At least one building or structure that houses a principle business or use must be located on the same property as the interstate corridor sign.
- (7) Multi-tenant. A ICS that advertises two (2) or more businesses. Square footage and height may be increased on an ICS (per Table 7.17.3) by allowing multiple tenants to advertise. The following requirements apply to signs hosting third-party tenants:
 - a. Participating tenants of an existing or proposed ICS structure must apply for a sign permit through the Building Department with a valid lease for signage space and/or written permission from the CIS structure owner.
 - b. The tenant of an ICS must be advertising a business or use of a location for a legal licensed business on property within the City of Lapeer and adjacent to the I-69 R.O.W. property line; except as prohibited in this section. Tenants on adjacent properties that do not share a property line along the I-69 R.O.W. must be all of the following:
 - i. a legally licensed business or use in the City of Lapeer, no more than 3,000 feet from the I-69 R.O.W.,

- ii. A business or use that shares a property line with the property the sign is located on. The following areas have been designated to allow for tenant signage and not to advertise or promote a business that is separated by a public R.O.W. from the ICS structure. Signage of a business on an ICS must be located in these quadrants on a structure within the same quadrant as listed below:
 1. South of Turrill Road, North of I-69, and East of M-24 up to 3,000 feet from the ICS within the City limits.
 2. North of I-69 up to 3,000 feet from the ICS within the City limits, West of Baldwin Road and east of the country drain, Farmers Creek.
 3. South of I-69 up to 3,000 feet from the ICS, East of M-24 up to 3,000 feet of the ICS within the City limits.
 - c. Tenant signage of an ICS must be designated for a separate business. A business or product sold within a building sharing a common entrance without any separation from the primary business does not constitute a permitted tenant for additional signage. For example: a store that sells a brand may not advertise that brand separately outside of the 200 square foot requirement.
 - d. The closest ICS structure must be used whenever possible or, if no space is available, an ICS structure within 3,000 of the tenant's business can be used for the tenant's sign as it complies with the quadrants depicted in 7.17.06(g)(7)(b). It is required that businesses sharing a common vehicular entry should share an ICS structure whenever possible to limit confusion of the particular location of the business.
- (8) Design. ICS shall only be 1 or 2-sided. "V" shaped signs, similar to typical billboard designs are permitted given both sides are visible and legible from the Interstate R.O.W. and not exceeding a 90 degree angle. The void/back of a "V" shaped sign and the back of a 1-sided sign must be of acceptable materials that match the base or exterior/visible materials of the main sign structure. Supporting structure (poles, beams, cross-bracing, etc.) for the ICS shall be enclosed within the sign structure and material cladding.
- (9) Proportions. An ICS shall not be less than 5 feet in height and cannot exceed more than 30 feet in width, as measured across the face of the sign.
- (10) Base. Any ICS structure that has signage more than 18" above grade must provide a designated base between the bottom(s) of the display signage that extends to grade. The base shall be clad with permitted materials that match or compliment the main building(s) that the sign structure is designed to be used for. The base must, at a minimum, meet the width of the display signage.
- (11) Materials. Noncombustible, durable materials are required on all ICS structures. Materials similar to finished metal, stone, brick or a combination of such are examples of materials that meet this requirement. Materials that rust, stain, fade, oxidize, peeling and/or crack as a result of the natural environment shall provide information and apply such prevention measures as necessary or be discouraged.
- (12) Protrusions. Lettering and other materials to be secured to an ICS shall be designed to deter the build-up of debris, snow, bird nests, and other foreseen maintenance issues that could cause obstructions or safety issues and compromise the stability and functionality of the sign and sign structure over time. Curved surfaces of protruding elements are required. Any vertical or horizontal surface attached to the face of an ICS shall

protrude no more than 2 inches beyond the face of the sign structure or surface.

- (13) Safety. A business advertising on any ICS is prohibited to use images, colors, lighting and/or materials that would be considered to be a distraction to motorists and other types of transportation. Materials that are susceptible to variations of fatigue (as noted above in items 11 and 12, *Materials* and *Protrusions*) pose a safety hazard and it is required that documentation of preventive measures be listed as part of the submission of the ICS permit as it pertains to wind speeds, snow load, corrosion and/or other engineering and stability factors.

(h) **Changeable Message Signs**

Numeration change from (g) to (h). No change to remaining items (1) thru (6) in section.

Summary to be used for publication purposes.

ON A ROLL CALL VOTE:

AYES: Commissioners Marquardt, Gates, Bostick-Tullius, Atwood, Bennett.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED. AMENDMENTS TO CHAPTER 7 ADOPTED.

Ordinance Amendment: Chapter 66 (To Regulate DAS/Small Cell/Wireless Facilities In The Public Rights of Way Ordinance).

110 2017 04-17

Moved by Gates. Seconded by Marquardt.

Adopt the proposed amendment to Chapter 66 (To Regulate DAS/Small Cell/Wireless Facilities In The Public Rights of Way Ordinance) to the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

Section 66.01 thru 66.03. No Change.

66.04 Design parameters

1. thru 2. No Change.

3. Unless otherwise permitted in Section 66.04, 6., DAS/Small Cell/Wireless Facilities shall be located no closer than 18 inches from an existing sidewalk/face of curb or 18 inches from a proposed future sidewalk/face of curb location.

4. Unless otherwise permitted in Section 66.04, 6., DAS/Small Cell/Wireless Facilities shall be located no closer than 10 feet from any driveway.

5. thru 8. No Change.

ON A ROLL CALL VOTE:

AYES: Commissioners Atwood, Bostick-Tullius, Marquardt, Gates, Bennett.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED. AMENDMENTS TO CHAPTER 66 ADOPTED.

DeMille Road Rehabilitation Project.

Astec Asphalt, Inc. Construction Contract Award.

111 2017 04-17

Moved by Bostick-Tullius. Seconded by Gates.

Approve the award of the construction contract for the DeMille Road Rehabilitation Project to Astec Asphalt, Inc. in the amount of \$334,876.40. Project is in the 2016-17 CIP, project # 20390.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.

Nays: None.

Absent: None.

MOTION CARRIED.

Fixed Asset Disposal.

112 2017 04-17

Moved by Marquardt. Seconded by Gates.

Approve the disposal of the fixed assets as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.

Nays: None.

Absent: None.

MOTION CARRIED.

CITY MANAGER'S REPORT

City Commission Policy: Public Comment Follow Up – DRAFT – Initial Discussion.

City Manager Dale Kerbyson commented that he had missed the last meeting, not aware of what occurred, City Clerk took notes and policy presented, would like to understand the concept of the policy. Discussion followed: if a person voices a concern they should be provided a formalized response, exception of those who are in litigation with the City and try to come and circumvent the court process; Mr. Kerbyson indicated that he has followed up on concerns as directed by Commission, concerns are taken into consideration, only a few instances a response was not provided and could elaborate on them, possible legality issues; City Attorney Michael Nolan commented on policy language, issues that could arise from a written response, ask for a report on what communication is completed and addressing of concern.

Discussion followed: way for Commission to receive feedback, in no way saying that City Manager does not follow up, to know concerns are being addressed, redraft of policy presented with changes, key is to know what follow up occurred, consideration of job expectation and not a policy, policy and disciplinary action if not followed, not a need for policy/rule but way to know issues are addressed, want citizens to feel welcome to come to meetings and voice concerns and to have follow through, have City Manager place follow through in a bi-weekly report format; City Manager indicated current process and does follow through, if not a follow up there is a reason; Commission would like a written response on what the follow up has been.

113 2017 04-17

Moved by Marquardt. Seconded by Bostick-Tullius.

City Manager will provide the Mayor and City Commission a written response when a City resident comes in to address the City Commission and on the follow up. Discussion followed: report verses consideration of policy, to have motion on record.

Moved by Bostick-Tullius. Seconded by Gates.

Move that the City Manager is going to provide a follow up to any specific concern addressed by the public on a bi-monthly basis.

Discussion followed: bi-monthly report, follow up on citizen concerns. Two motions on the floor and action needs to be completed on the first motion brought forth. Commissioner Marquardt withdrew her motion from the floor with acknowledgment by Commissioner Bostick-Tullius. Commissioner Bennett asked the City Attorney if agree with motion currently stated, Mr. Nolan responded that it was a broad context but could agree.

ON A ROLL CALL VOTE:

AYES: Commissioners Bennett, Atwood, Gates, Bostick-Tullius, Marquardt.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED.

Workshop for Building Codes/City Ordinances.

City Manager Dale Kerbyson indicated a workshop was requested regarding code ordinances, CIP and Budget process in place, earliest time would be after budget process, the need to prepare.

Discussion followed: send out dates for availability as far out as June, provide time to gather info, would like on a Saturday, have someone from State Code for their interpretation of law verses City interpretation, blight and staff retirement, City Manager's office staff and work flow.

CITY ATTORNEY'S REPORT

City Attorney Michael Nolan commented on Lapeer Industrial Railroad litigation.

UNFINISHED BUSINESS

None.

DEPARTMENTAL COMMUNICATIONS

The Departmental Monthly Reports was received into record.

PUBLIC COMMENTS

None.

MAYOR/COMMISSIONER COMMENTS

114 2017 04-17

Moved by Gates. Seconded by Bostick-Tullius.

That the City of Lapeer opt in by establishing an ordinance under the MMFLA (Medical Marihuana Facilities Licensing Act), specifically allowing no more than: 3-5 provisioning centers; 3 grows with any combination of A, B, & C; 3 processing facilities; 2 "safety compliance/lab testing facilities; 2 secured transporter license, with the understanding that zoning regulations will be drafted by the Planning Commission ensuring the safety and protection for all our constituents which we will have the opportunity to review before final approval.

Discussion followed: people attending meetings not city residents on medical marihuana, motion made is denying people right to vote on this topic, residents spoke and voted for medical marihuana, duty to provide citizens their rights over all, Commission elected to do their job, statute signed into law allowing each municipality to establish ordinance or not in order to provide facilities, citizen concerns, zoning regulations, not in neighborhoods nor downtown and not by schools, Commission to have final approval of ordinance, state application process, voting no on ballot motion and request from last meeting to have time to think about ballot proposals and now to come back with this motion does not seem right, think of the future of the City and if Federal law allows and corporations that will come in, voting on something that is federally illegal, people have to leave area to receive their medication; Mayor Sprague gaveled meeting to order and commented on showing respect and decorum to one another; licenses not available with State until after first of year and ability to continue process and allow people the right to decide by ballot proposal, length of time for Planning Commission to prepare ordinance/regulations, the number and placement of facilities to be governed by Commission within ordinance, dispensaries in Burton near Lapeer, to not place specific numbers in motion at this time and the need to review each category and placement of facilities, requirements of growers to be placed in agricultural/industrial area, attorney time on legal review, Lansing ordinance and attorney's working full time on their process over the last two years, challenges of ordinance by those both for or against facilities, goal of motion is to opt in to facilities allowed under MMFLA. Commissioner Gates withdrew her motion from the floor with acknowledgement by Commissioner Bostick-Tullius.

Moved by Gates. Seconded by Marquardt.

To opt in and begin the process of establishing an ordinance in regards to the MMFLA (Medical Marihuana Facilities Licensing Act).

ON A ROLL CALL VOTE:

AYES: Commissioners Marquardt, Bostick-Tullius, Gates.

NAYS: Commissioners Atwood, Bennett.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED.

Commissioner Gates: Apologized for talking out of turn, reaction and behavior during MMFLA discussion.

Commissioner Atwood: Apologized, was not trying to be offensive, maybe didn't ask questions appropriately, trying to understand all that is going on.

City Manager Dale Kerbyson: Meeting with new Hospital CEO tomorrow; DTE created an assembly process on solar energy that will be presented to middle schools Schickler, Lynch, Turrill and Chatfield; Ecotourism Symposium with Commissioners Atwood, Gates, Marquardt on May 4th; attended Best Practices Certification Program for Redevelopment Ready Communities program and was certified.

Mayor Sprague: Attended Jay Springsteen 60th birthday party and read proclamation on behalf of State Representative Gary Howell; update on local events; Ecotourism Symposium should be named Star Wars Day; thanked Commissioners for discussion on MMFLA as it is a sensitive subject and respect of differences of opinion, confident this will work out.

ADJOURNMENT

115 2017 04-17

Moved by Bennett.

Adjourn the regular meeting.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.

Nays: None.

Absent: None.

MOTION CARRIED.

The regular meeting adjourned at 8:03 p.m.

William J. Sprague, Mayor

Donna L. Cronce, MMC, City Clerk

Tracey S. Russell, Deputy City Clerk