

**MINUTES**  
**BOARD OF LIGHT & POWER**  
**REGULAR MEETING – DECEMBER 6, 2007**

**Call to Order:** Board Chairman Greg Canfield called the meeting to order at 5:30 pm with Board members Perry Beachum, Jim Hall and General Manager Tom Richards present. Also in attendance were Administrative Manager Mary Sawka; Operations Manager Jeff Mullins; and Councilman Al Matthews as well as Engineer Peter Malaney from GRP Engineering and Consultant Mark Beauchamp from Utility Financial Solutions.

**Approval of Agenda:** Richards asked the Board to add to the agenda as Action Item H, the bankruptcy notification of The Movie Gallery video store and their request for an exception to the security deposit requirement. With the Action Item H added, it was moved by Beachum and supported by Hall that the agenda be approved. The motion passed with the unanimous vote of the Board.

**Approval of the Minutes:** There was a motion by Beachum and support by Hall that the minutes of the regular meeting of November 1<sup>st</sup> and the special meeting of November 8<sup>th</sup> be approved as written. The motion passed with the unanimous vote of the Board.

**ACTION ITEMS:**

**Accounts Payable:** There was a motion by Beachum and support by Hall that the Accounts Payable of November 2007 be approved as presented. Canfield had one question regarding the \$8,000.00 expense for uniforms. Richards explained that the utility provides fire retardant uniforms annually. The uniforms have a limited life because the fire retardant is lost after so many washings. After no other discussion the motion passed with the unanimous vote of the Board.

**Richard's Park – Aerial Line Relocation Engineering Estimates:** Richards provided to the Board the letter and estimate from GRP engineering for a study done for (1) rebuilding the existing aerial lines to the maximum height for the utility to maintain and (2) to rebuild the distribution lines underground. Canfield asked how much trimming or pruning of the trees would still be needed after lines were raised to the maximum height. Mullins explained that there are still a couple of trees that would need pruning again as the tree grows and gets to within 10 feet of the lines.

Matthews stated the Parks and Recreation Commission originally asked the utility to explore these other options in Richard's Park. He asked what fund the Commission used to offset some of the parks expenses. Beachum responded that grant money had been provided by the Lee Fund. Matthews wondered if the Lee Fund could help to offset some of the cost for the changes to the utility lines in the Park. He stated that it would get the park cleaned up and be a nice benefit to the area.

Canfield noted that the underground estimate was twice as much expense as raising the overhead lines. He asked what the maintenance was for underground as opposed to overhead maintenance. Mullins stated that underground maintenance is more than

overhead, although underground is less vulnerable to damage. But when it is damaged the repair to underground is more invasive and more time consuming. Canfield asked if the underground lines would be constructed in conduit. Mullins said they would. Richards interjected that GRP estimated only that the distribution lines would be underground and not individual residential service drops. He stated that the utility could underground the high voltage distribution lines, but without additional funds and support (by other utilities, the city and affected residents) street lights, telephone lines, cable lines and residential electrical service wires would probably remain on the existing poles.

After further discussion there was a motion by Beachum and a second by Hall to table this subject until Beachum could take the information to the next Parks and Recreation meeting. The motion passed with unanimous vote of the Board.

**Consideration – Financial Projection – Rate Adjustments:** Mark Beauchamp from Utility Financial Solutions was present to inform the Board of his current rate study. He did his first cost of service study for Lowell Light & Power in 1998 and again an update in 2003-2004. It was noted that Beauchamp's firm now conducts rate studies for dozens of U.S. municipal utilities. Beauchamp noted there have been many changes at LL&P since the last study in 2004. He cited the sale of the cable system and noted that the cable operation had shared in many of the utility's costs. He also noted that some capital project costs were greater than anticipated. He also noted the change in the power costs. He went over the long term financial projection and the rationale for a recommended rate adjustment. He provided a proposed rate design for the Board to consider.

Beauchamp gave a five-year projection of the utilities income statement. He estimated that without a rate adjustment, the utility would have an operating loss of \$437,000.00 in 2008. He recommended that Light & Power should have a targeted operating income of \$473,000.00. He also pointed out that these losses are projected to increase each year of the five year projection. He explained the current cash reserve balance is about 1.2 million dollars. In 2008 without a rate adjustment he projected that the cash reserve is would decline to about \$843,000.00. He recommended a minimum cash reserve for the utility of \$2.4 million.

Beauchamp estimated that the utility would experience increased costs of about \$150,000.00 per year as a result of the sale of the cable system. Richards explained that the utility was absorbing expenses that were previously shared and reimbursed by the cable including office rent, operational expenses, and some labor and benefits all expenses that were shared proportionately by the cable operation.

Beauchamp said he has concern for the debt coverage ratio. Currently the revenue bond covenants specify a minimum coverage ratio of 110%. He said the utility was not generating enough revenue with the current rate to satisfy the debt ratio requirement. Beauchamp again stressed the importance of increasing the minimum cash reserve.

Beauchamp encouraged the Board to make a 6% rate increase in each of the next three years and starting as soon as January 1, 2008. Canfield asked what Light & Power's rates were compared to Consumers Energy. Richards pointed out the bill from a Consumers Energy residential customer. He noted that under LL&P's current rates, that customer

would pay approximately 20% less. With the projected Lowell rate increase, he estimated the savings would decline to just 15% below Consumers' rate.

Canfield expressed his support of a 6% rate increase. Beachum thought that he would rather wait until the two new Board members were in place on the Board before voting on an increased rate. Beauchamp said that overall the average residential customer will see about a \$3.90 monthly increase.

Canfield asked if the utility used cash to pay for the purchase of Chatham Street facility. Richards answered that the money did indeed come from the cash reserves. Canfield asked if Beauchamp's recommendation was a 6% increase in each of the next three years. Beauchamp responded that he would recommend adopting just the 6% increase for this year. Richards recommended that the Board review the results each year and consider possible adjustments before implementing the proposed 6% increase in the second and third year. Richards said that a notice to the City Clerk was required, and that the new rate would take effect 30 days later. He said an appropriate notice of the new rate would be sent to customers.

It was moved by Hall, and supported by Canfield that the utility support a 6% rate increase. Yeas: Hall, Canfield. Nays: None. Abstained: Beachum. The motion passed.

**Storage Request – Red Arrow Tour Bus:** Richards stated that there have been two requests for storage in the vacant part of the Chatham Street facility, one from the Wrestling Boosters Red Arrow Bus driver to store the bus in the facility when it was not being used and one from Liz Baker from the Chamber of Commerce to store a parade float. He asked the Board to consider the criteria for allowing the use of free storage in the unused portion of the Chatham Street building. He recommended that the utility should consider non-profit organizations only. The Board agreed that qualified only 501 C-3 non-profit organizations within the community of Lowell be considered. It was moved by Beachum and supported by Hall that only non-profit organizations in the community of Lowell should be considered and that each request should be evaluated individually by the Board. The motion passed with the unanimous vote of the Board.

**Approval of 2008 Meeting Dates:** It was moved by Beachum and supported by Hall that the 2008 meeting dates be approved as listed. The motion passed with unanimous vote of the Board.

**Review – Policies re: Late Payment and Termination for Non-Payment:** Richards provided the Board with the current procedure for late payment. Richards noted that in November there were 487 customers that fell in the late payment penalty and showed the average late charges. He also showed a calculation of the financial impact of the various options discussed at the November meeting. After more discussion it was moved by Beachum and supported by Hall that the late charge will adjusted to a \$10.00 fee plus 2% of the unpaid balance and with no minimum balance exemption. The Board also established that the new late charge was to be reevaluated in six months. The motion passed with the unanimous vote of the Board.

**Consideration of Payment Schedule to Establish/Increase Security Deposit:**

Richards reviewed the current security deposit policy. The Board discussed the bad debt write off average per year. After further discussion it was moved by Beachum and supported by Hall to table this topic and review it in July 2008. The motion passed with unanimous vote of the Board.

**Movie Gallery – Security Deposit Exception:** Richards informed the Board that the utility had received notification of Bankruptcy from The Movie Gallery. The court documents of about 40 pages appear to forbid electric utilities from shutting off the electric at The Movie Gallery for non payment or late payments. These documents are from the bankruptcy court. The attorneys for the Movie Gallery offered a security deposit equal to two weeks usage as what they call “adequate assurance” that the utility will be protected from a loss. Richards stated that under current policy, the utility’s current security deposit is a minimum of two times the highest monthly usage. Canfield felt that there should be no exception to the current security deposit for The Movie Gallery and that the utility should notify the customer that they are required to establish the deposit required by policy. Canfield also supported Richards in establishing weekly bills for the Movie Gallery until they have met the deposit requirement.

**INFORMATIONAL ITEMS**

**Performance Data:** The Board reviewed the performance data presented.

**Income Statement:** The Board reviewed the income statement and summary provided by Richards.

**Other Items:** Beachum stated that the decorated utility truck looked good in the Christmas parade but he was a little disappointed in the tree that the utility decorated. Richards advised the Board that the lack of pruning and shaping of the tree made it difficult to attach the needed amount of lights. He added that an additional three hundred feet of lights were purchased but couldn’t be attached.

Richards stated that the website is coming along nicely.

Richards state that the preliminary audit has been completed. After all adjustment were made to clear out the cable, there is a negative amount of approximately \$29 thousand that’s payable from the City and due to Light & Power for funds the utility expended to pay the remaining cable expenses.

The Board reviewed an article from the Detroit News provided by Richards regarding the questions surrounding building new coal-fired generation plants in the State of Michigan.

Richards informed the Board of the Christmas tree article in the Lowell Ledger.

Richards reviewed the MPPA minutes with the Board.

**Schedule of Meetings:** The Board reviewed the schedule of meetings for the 2008 year.

**Complaint register:** There were no complaints registered for the month of November.

**Date for Next Meeting:** The date for the next regular Board meeting is January 3, 2008.

## PUBLIC COMMENT

Andrew Johnston of 911 North Hudson Street addressed the Board regarding tree trimming. He objected to the power-line trimming that the utility was requiring for a tree on his property. He questioned why the City was unaware of the trimming when he contacted City Hall. Johnston said he understood that there was a 10 foot minimum distance but questioned whether that was necessary for safety, efficiency and reliability. He believed that the extent of trimming proposed would likely result in the removal of the tree and an estimated \$1,500 reduction in the 'curb appeal' value of his house. He objected that his summertime cooling costs would increase with the lack of shade the tree provides. He objected to a "one size fits all" cookie-cutter approach to administering the policy. He advised that he is seeking a 10 day moratorium to have an arborist come out and look at the tree as the policy outlines. He suggested the Board delay any more cutting of trees until the two new Board members were seated. He also asked for an updated policy and to make the policy more clear to the public especially the 10 foot clearance issue.

Beachum made statements and expressed his concerns and opinions to the Board and Staff:

- He stated that he is opposed to the Lowell Light & Power tree cutting policy
- He felt that the 10 foot clearance is a standard guideline and not a law.
- He felt there are more pressing safety issues than the tree trimming and cutting.
- He mentioned a guy wire that he said was one foot from a high voltage line
- He felt that the utility was trimming outside of the area shown in a map at the January public information meeting. He questioned why another meeting wasn't held for customers outside of the map.
- He felt that some customers on Riverside weren't contacted before trees were trimmed across the street from them.
- He protested that trees with no high voltage lines had been trimmed or removed.
- He questioned why right-of-way trees were trimmed and then the crew returned later to trim adjacent trees in private property
- He asked about a letter he had received from LL&P asking for driver's license or social security numbers.
- He asked about an IRS form he had been sent to him

Staff responded to his questions and explained about the letters he had received and the practices being used to implement the Board's Power Line Clearance policy.

Hall asked how much more trimming needed to be done. Mullins said that the utility had cut back on the monthly trimming but that the pressing work would be completed in a few weeks. It was moved by Hall and seconded by Beachum that there be a moratorium on all tree trimming and removal in the service area until there are two more Board members seated. The motion passed with the unanimous vote of the Board.

Richards read a statement regarding the Board's evaluation of his job performance and its decision to freeze his compensation indefinitely. He expressed discouragement that the new Board apparently made the decision based upon incorrect assumptions and without

consideration of the agreements with and direction given by the Board during previous evaluations. He expressed the following objections:

- The Board's claim with the sale of the cable system, "35% of the utility's revenue was lost". He pointed out that cable only contributed about 20% of total revenue.
- The Board's focus on "revenue" was at odds with the Charter which required revenues to be kept to the minimum amount to cover the utility's costs. It also conflicts with the Board's stated 'mission' for the utility.
- Reducing the manger's compensation with the sale of the Cable operation falsely assumes that the compensation had been increased at the start of Lowell Cable. He expressed that only the manager's work load had increased with the second utility.
- He had been directed by the Board to help insure the successful sale of the cable system, but when the sale was accomplished he instead of being rewarded he is now being penalized for the successful sale.
- He had actually eliminated a management position and the associated salary from the cable system expenses, and took on most of that work himself, with no associated adjustment in compensation.
- He had already 'given back' employment benefits that he and his predecessors had received, including an assigned vehicle, only for the new Board to offer further reductions in employment benefits.
- The wage freeze wasn't supported by the Board's own market compensation data for area municipal utilities, or the Board's performance/compensation practices applied to all members of staff.
- The Board's evaluation of his performance was complementary, indicating that he is meeting the Board's objectives, yet the Board offers no outlook for the financial growth or incentive for the G.M.

Richards expressed his profound discouragement with the Board's decision and asked for them to reconsider.

### **ADJOURNMENT**

Hall made a motion to adjourn the meeting. It was supported by Beachum. The motion passed by unanimous vote of the Board. The meeting was adjourned at 8:30 pm.

Approved:

Greg Canfield – Chairman

3 January 2008