

**LOWELL CITY COUNCIL MINUTES
REGULAR COUNCIL MEETING
SEPTEMBER 17, 2013 - 6:30 p.m.**

CALL TO ORDER OF REGULAR COUNCIL MEETING: The Regular Meeting of the Lowell City Council was called to order at 6:32 p.m. by **Mayor Long** at the Lowell Council Chambers.

INVOCATION: The Invocation was given by **Councilman Kendell Stucki**.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by **Mayor Long**.

ROLL CALL: **Mayor Long** asked for roll call. City Clerk made a verbal roll call. Council Members present were: **Thomas Evers, Eric Schein, Janette Lasater, Keith Williams, Kendell Stucki, Dean Bitner, Ronnie Breland**. There was quorum. **Deputy Attorney Kieklak** was also present. A roster of all others in attendance is on file with these minutes.

Mayor Long informed the council that in the councilmen packets Item No. 8 on the Agenda had been moved forward and it was left on their Agenda by mistake.

CONSENT AGENDA:

**Lowell City Council Minutes Regular Meeting – August 20, 2013
Lowell City Council Minutes Special Meeting – September 3, 2013
Financial Statement – August, 2013**

Motion was made to approve Consent Agenda.

Motion: Dean Bitner

Second: Ronnie Breland

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to accept Consent Agenda was approved.

PUBLIC FORUM: Opened at 6:36PM - Closed at 6:37PM

CITY PROJECTS AND UPDATES:

- 1. Apple Blossom East Drainage Plan, Shared Project With Bethel Heights – Jimmy Hendrix, Public Works Director.**

Mayor Long asked Jimmy Hendrix to address this item. While the City of Lowell has not yet entered into an agreement with Bethel Heights, he wanted councilmen to be aware of it because it is an item that should it move forward, will require an appropriation this year; but if not, it will need to be a line item on the 2014 Budget.

Jimmy described the project as involving the area of the little pond on East Apple Blossom where the flooding is on Bethel Height's side of the road. Since we share Apple Blossom, when Bethel Heights puts the pipes in on their side, we are going to put the pipes in on our side for future widening of the road.

OLD BUSINESS: NONE.

NEW BUSINESS:

- 1. RESOLUTION ACCEPTING AN AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON PROJECT NO. 10047160 (THE MCCLURE AVENUE IMPROVEMENT PROJECT), AND APPROPRIATING FIFTEEN THOUSAND SIX HUNDRED FIFTY DOLLARS (\$15,650) FOR THE MCCLURE AVENUE IMPROVEMENT PROJECT.**

Ron Petrie, Garver Engineering, explained Resolution is necessary because three specific things are being added to the contract: 1) Bidding – was not in the original contract and we are ready to bid Phase I (widening of McClure Avenue between Bloomington Street (Hwy 71B) and Old wire Road); 2) Construction Phase Services - Most of the work will be handled by Jimmy but since we are doing a significant amount of water and sewer for Springdale Water, engineers need to be present for some of the testing during the project and if Jimmy needs technical assistance, it will be available; 3) Plans were completed about a year and a half ago, and through the acquisition of property things needed to be changed in the plans which needs to be done before this project is bid. We are also bidding Phase II for the water and sewer along with Phase I. Plans need to be changed so it can be sent out for bid in one bid package.

Motion was made to approve Resolution as presented.

Motion: Kendell Stucki

Second: Keith Williams

Vote Aye: Lasater, Williams, Bitner, Stucki, Schein, Evers

Vote Nay: Breland

Motion to approve Resolution as presented was approved.

Resolution was assigned No. 13-15.

2. SPRINGDALE SEWER SYSTEM:

a) RESOLUTION APPROPRIATING FUNDING TO PROVIDE FOR PAYMENT OF THE 2006 BOND FUND ON THE NORTH SIDE SEWER PROJECT.

Jerry Hudlow, Finance Director, explained that twice a year we have payments on the bond issue at Springdale for the sewer system that we put in. As we got to this year's payment, Springdale told us we needed \$42,000 in order to make that payment. If our bond account in Springdale is short, we have to make it up. We have an account in Lowell that we utilize to make it up. That account only has \$21,367 and we need to take \$21,000 from the General Fund in order to make that payment. We have no choice but to make the bond payment. The reason we are short is because we haven't been collecting enough in rates.

Motion was made to approve Resolution as presented.

Motion: Ronnie Breland

Second: Dean Bitner

Vote Aye: Stucki, Lasater, Breland, Schein, Williams, Evers, Bitner

Vote Nay: None

Motion to approve Resolution as presented was approved.

Resolution was assigned No. 13-16.

b) INTRODUCTION TO ORDINANCE – ESTABLISHING NEW RATES FOR SEWER SERVICE FOR THE CITIZENS OF LOWELL WHO ARE CUSTOMERS OF SPRINGDALE SEWER SYSTEM AND FOR OTHER PURPOSES AND DECLARING AN EMERGENCY.

Deputy Attorney Tom Kieklak explained that in order to set rates by state law the current rule is that we have to introduce an ordinance setting the rates and then publish the rate that we propose, have a public hearing after we publish that rate, and then pass an ordinance containing the new rate. You can reconvene in October or if you want to do that more quickly, you can reconvene in ten days. You can publish tomorrow or the next day and then set a special meeting and set your public hearing on that date. A decision must be made tonight.

Councilwoman Lasater pointed out that there was no emergency clause on the title of the ordinance but there is an emergency clause on the document. It needs to be rectified one way or the other.

Deputy Attorney Tom Kieklak further reiterated that the councilmen might want to set another meeting between now and October to have a public hearing and go ahead and adopt the new rate. **Mayor Long**

felt that since special sessions are expensive and since we have had two this year, he felt it could be handled at the next council meeting. It was up to the councilmen to make that decision.

Councilman Bitner asked Shawn if our customer base increased from 2200, we could see a surplus in revenue to help build that fund up. **Shawn Ingram** said that was our intent and the thought is that we are continuing to grow and the increased funds will pay for future improvements. It will help us improve our infrastructure. Customers on step, septic or Rogers will not be affected. Most of Lowell's growth is coming from them, but in the future we are hoping to shut off the plants and put them on sewer. The \$9.50 shown on the spreadsheet includes the \$4.75 increase.

Motion was made to introduce Ordinance establishing new rates for sewer service for the citizens of Lowell who are customers of Springdale sewer system and for other purposes and declaring an emergency.

Motion: Kendell Stucki

Second: Dean Bitner

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to introduce Ordinance establishing new rates for sewer service for the citizens of Lowell who are customers of Springdale sewer system and for other purposes and declaring an emergency was approved.

Motion was made to call for a Public Hearing establishing new rates for sewer service for the citizens of Lowell who are customers of Springdale Sewer System on October 15 at 6:30PM at City Hall, Lowell, AR.

Motion: Ronnie Breland

Second: Eric Schein

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to call for a Public Hearing establishing new rates for sewer service for the citizens of Lowell who are customers of Springdale Sewer System on October 15 at 6:30PM at City Hall, Lowell, AR was approved.

c) ORDINANCE APPROVING AN AMENDMENT TO THE INTER-MUNICIPAL SEWER AGREEMENT TO BE SIGNED BY THE MAYOR AND CITY CLERK; AND FOR OTHER PURPOSES.

Shawn Ingraham explained that this agreement was done in 2005 and Paragraph 27 limited us to our area not allowing us to develop out west. Thus you see the problems with the step system and the problems with growth and the pains we have run into out there. We have used up what grey area boundary in the Puppy Creek area and approved it but we were not able to go any further. With them agreeing to remove Paragraph 27, it opens up all of our western area now. They are making verbal agreements to help improve that area along with their infrastructure. Taking those step systems off line in the future allows servicing a whole new area.

Motion was made and withdrawn by **Councilman Breland**.

Motion was made to suspend the rule and place the Ordinance on third and final reading by title only.

Motion: Janette Lasater

Second: Eric Schein

Vote Aye: Lasater, Bitner, Williams, Evers, Stucki, Breland, Schein

Vote Nay: None

Motion to suspend the rule and place Ordinance on third and final reading by title only was approved.

City Clerk read the Ordinance by title only.

Motion was made for do pass to approve the Ordinance as presented.

Motion: Keith Williams

Second: Janette Lasater

Vote Aye: Breland, Lasater, Williams, Evers, Stucki, Bitner, Schein

Motion for due pass to approve the Ordinance as presented was approved.

Ordinance was assigned No. 936*.

***City Clerk first assigned No. 935; but corrected it to No. 936.**

3. ORDINANCE REPEALING SECTION 4 OF ORDINANCE 825 AND SETTING OPERATING RESERVES FOR THE GENERAL FUND OF THE CITY OF LOWELL AT A MINIMUM OF ONE MILLION DOLLARS (\$1,000,000.00).

Jerry Hudlow: Ordinance 825 was passed in 2008 and the intent of the ordinance was to cover the financial crisis at that time. The ordinance states that we should have an operating reserve maintaining a balance of an equivalent of an average of two months of expenses that was paid out the previous year. The immediate question that came to my mind when I read that was is this two months of general fund expenditures; is this two months of street funds and general fund expenditures; is this two months of street funds, general funds and utility funds expenditures or all of the funds? The ordinance is ambiguous in Section 4. By placing the \$1,000,000 here; in fact if we just took general fund, we would need \$1.2 million right now to be in compliance with Ordinance 825. We are not in compliance with the ordinance as it is currently written. If you take all three funds, you are talking about \$1.5 million. You are tying up a lot of funds that cannot be used for anything else if we continue with Section 4. In my opinion, the \$1,000,000, in fact we are \$2,200 away from having that \$1,000,000 right now. So we will be in compliance if we pass this ordinance this year and we should be able to stay in compliance. Frankly, I think the \$1,000,000 is good until our budget hits the \$10,000,000 mark in just the general funds alone.

Mayor Long: I also set in on the Ordinance Committee as this was discussed and it was agreed that we would revisit this every odd year.

Jerry Hudlow: This ordinance came out of the Ordinance Committee with a do pass recommendation.

Councilman Breland made a motion to accept this; but it wasn't a proper motion. He changed his motion to read as written below.

Motion was made to suspend the rule and place Ordinance on third and final reading by title only.

Motion: Breland

Second: Stucki

Vote Aye: Schein, Lasater, Breland, Williams, Bitner, Stucki

Vote Nay: Evers

Motion to suspend the rule and place Ordinance on third and final reading by title only was approved.

City Clerk read the Ordinance by title only.

Motion was made for due pass to approve the Ordinance as presented.

Motion: Keith Williams

Second: Kendell Stucki

Vote Aye: Stucki, Breland, Schein, Lasater, Bitner, Williams

Vote Nay: Evers

Motion for due pass to approve the Ordinance as presented was approved.

Ordinance was assigned No. 937.

4. RESOLUTION AUTHORIZING THE RATE OF PROPERTY TAX FOR THE CITY OF LOWELL, ARKANSAS, FOR THE YEAR 2013, TO BE COLLECTED IN 2014.

Jerry Hudlow: This is a housekeeping issue; no change and it is not a tax increase. It is required of us to do this every year.

Motion was made to approve the Resolution as presented.

Motion: Janette Lasater

Second: Eric Schein

Vote Aye: Schein, Bitner, Evers, Williams, Stucki, Lasater, Breland

Vote Nay: None

Motion to approve the Resolution as presented was approved.

Resolution was assigned No. 13-17.

5. RESOLUTION AMENDING THE 2013 GENERAL FUND REVENUE BUDGET IN THE AMOUNT OF ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) FOR TRAILS EXPENSE.

Jerry Hudlow: A couple of months ago, we approved a resolution appropriating \$372,000 to take care of the trails. I actually put in a fudge factor of \$20,000 into that figure. Some overruns have happened. Some individuals feel their property is worth more than it was originally appraised for. Property 402, for example, the original appraisal was \$7,738; we ended up spending \$43,300 on it. The \$372,000 is not going to be adequate to take care of this. We have five properties that are in eminent domain. There are some attorney fees that are attached to that; all these monies are to be repaid to us by the Trails. Currently I have a bill out to them for \$393,000. The reason I'm going for the \$150,000 is I would like to not have to come before you again. We'll only spend what we have to spend and what we spend will be reimbursed to us.

Motion was made to approve the Resolution as presented.

Motion: Dean Bitner

Second: Thomas Evers

Vote Aye: Evers, Stucki, Lasater, Schein, Breland, Bitner, Williams

Vote Nay: None

Motion to approve the Resolution as presented was approved.

Resolution was assigned No. 13-18.

6. RESOLUTION APPROPRIATING FUNDING FOR PAYMENT OF REPAIRS TO THE LOWELL ADMINISTRATION DEPARTMENT CHEVROLET IMPALA.

Funds to repair vehicle have been collected from insurance company.

Motion was made to approve the Resolution as presented.

Motion: Dean Bitner

Second: Janette Lasater

Vote Aye: Bitner, Evers, Schein, Stucki, Breland, Lasater, Williams

Vote Nay: None

Motion to approve the Resolution as presented was approved.

Resolution was assigned No. 13-19.

7. ORDINANCE TO PROHIBIT THE USE OF CELLULAR PHONES IN DESIGNATED SCHOOL ZONES AND ON SCHOOL PROPERTY.

Ordinance came from Ordinance Committee with a do pass recommendation.

Captain Tim Kuth: Ordinance would give police better protection for our children for the simple fact that state law has a shortcoming when it comes to the property portion of the state law. In other words, a police officer could not approach someone if they were in a school zone. Basically this ordinance will allow us to approach someone on school property which is mostly where our children are dropped off and picked up. It allows us more reach on the school property where the state law does not. This basically came about where parents were not paying attention and being on their cell phones and faculty and staff had to go up and knock on the window for them to pay attention. I can see unfortunately potentially where there could be an accident involving a child. This is basically what this ordinance does for the police department. It gives us a little more reach.

Councilman Bitner: If I could expound on that a little bit, when Chief Harvey came and spoke to us at the Ordinance Committee Meeting, part of the problem stems from those folks waiting in line on school property to pick up their kids. Unfortunately they get involved in a conversation on their cell phones and not moving forward expeditiously enough. It slows down the line, causes a backup of traffic out onto the street and posing an additional risk to children on school grounds. What this ordinance will do is hopefully allow the officers an opportunity to encourage these folks to get off their cell phones while they are waiting in line to pick up their children. It's good for the faculty and it's less stressful and they can get the children in and out more effectively, expeditiously, and beyond that it's going to be safer for the children. Hopefully the parents will be paying attention to their surroundings rather than their conversations.

Councilmen recommended that signage be provided to alert parents that they should not be on their cell phones on school property in the loading zone.

Deputy Attorney Kieklak stated further that between the captain and chief the officers will be well prepared to enforce this so it will protect the children.

Motion was made to suspend the rule and place Ordinance on third and final reading by title only.

Motion: Eric Schein

Second: Ronnie Breland

Vote Aye: Schein, Lasater, Breland, Williams, Evers, Bitner, Stucki

Vote Nay: None

Motion to suspend the rule and place Ordinance on third and final reading by title only was approved.

City Clerk read the Ordinance by title only.

Motion was made to approve the Ordinance as presented.

Motion: Janette Lasater

Second: Eric Schein

Vote Aye: Stucki, Breland, Schein, Lasater, Evers, Bitner, Williams

Vote Nay: None

Motion to approve the Ordinance was approved.

Ordinance was assigned No. 938.

Deputy Attorney Kieklak read the emergency clause added to this ordinance: The City Council, City of Lowell in order to protect the safety of children in and around the schools of Lowell, declares an emergency exists and this Ordinance shall go into effect immediately upon its passing.

Motion was made to create and adopt an emergency clause.

Motion: Ronnie Breland

Second: Eric Schein

Vote Aye: Evers, Lasater, Schein, Williams, Stucki, Bitner, Breland

Vote Nay: None

Motion to create and adopt an emergency clause was approved.

Again, councilmen urged signage be placed at school properties immediately to alert parents of this new ordinance.

Captain Kuth said just like any other traffic law, stop sign, traffic light, we give ample warnings before we start issuing citations.

Due to City Clerk assigning Ordinance No. 935 in error, Councilmen agreed by unanimous voice vote to change Ordinance No. 935 to Ordinance No. 936.

8. COMMITTEE REPORTS: Ordinance Committee – Dean Bitner – Next meeting will be 5:15PM September 30, 2013, Council Chambers.

9. **ANNOUNCEMENTS:** Lowell City Council Alderman position in Ward 2, Position 2 was declared vacant by unanimous voice vote. We have two candidates to consider and their resumes will be included in your next meetings' packet (October 15, 2013). Deadline for applications for candidates will be October 9, 2013.

Benefit Yard Sale – September 28, 2013

MudFest – October 26, 2013 – See Melanie to volunteer

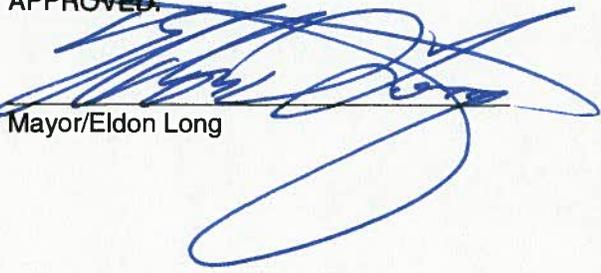
Lowell Kiwanis – Raffle for 2 tickets to Razorback Game

Chick N PeelN Politicking Event Hosted by Springdale – See Melanie for reservations for September 27th

HWOA – Hispanic Women's Organization of Arkansas – "Today's Land of Opportunity - Our Home" Jones Center, Springdale on October 4th

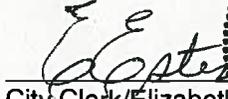
ADJOURNMENT: Motion to adjourn was made by Councilman Bitner and seconded by Councilwoman Lasater. There being no objections, the meeting adjourned at 8:12PM.

APPROVED:



Mayor/Eldon Long

ATTEST:



City Clerk/Elizabeth Estes



City of Lowell

Minutes of the Regular Council Meeting

September 17, 2013