

**LOWELL CITY COUNCIL MINUTES  
REGULAR COUNCIL MEETING  
NOVEMBER 18, 2014 - 6:30PM**

**CALL TO ORDER OF REGULAR COUNCIL MEETING:** The Regular Meeting of the Lowell City Council was called to order at 6:32PM 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, Kendell Stucki, Ronnie Breland, Keith Williams, Dean Bitner, and Connor Jones. Deputy Attorney Kieklak** was present. There was quorum. A roster of all others in attendance is on file with these minutes.

**CONSENT AGENDA:**

**Lowell City Council Minutes Regular Meeting – October 21, 2014  
Financial Statement – October, 2014**

**Motion was made to approve Consent Agenda.**

**Motion: Ronnie Breland**

**Second: Dean Bitner**

**Voice Vote Aye: Unanimous**

**Voice Vote Nay: None**

**Motion to accept Consent Agenda was approved.**

**PRESENTATION:** Ozark Regional Transit – Joel Gardner, Executive Director, 2423 East Robinson, Springdale, Arkansas. Services offered by Ozark Regional Transit are available for all residents of NWA. A transit system provides for growth and health of a community and meets the needs of the residents. (Operating Statistics are filed with the minutes of this meeting.)

**PUBLIC FORUM:** Open: 6:53PM Close: 6:53PM

**EXECUTIVE SESSION:** Appeal of Termination – Lisa Smith Open: 6:54PM Close: 8:05PM  
No action taken.

**PRESENTATION OF ORDINANCES AND RESOLUTIONS:**

**OLD BUSINESS:** None.

**NEW BUSINESS:**

- 1. ORDINANCE TO PROVIDE FOR THE LOWELL BOARD OF ZONING ADJUSTMENT TO BE COMPOSED OF THE PLANNING COMMISSION AS A WHOLE AND TO RESCIND ORDINANCE NO. 874, WHICH FORMED A SEPARATE BOARD OF ZONING ADJUSTMENT, AND DECLARING AN EMERGENCY.**

Kris Sullivan attached a memo to the packets to explain why this ordinance was needed at this time. (Copy of memo is filed with the minutes of this meeting.) The Board of Zoning Adjustments or Planning Commission never go to each other for the same issues. If Board of Zoning Adjustments has an appeal, it goes to the Circuit Clerk; if the Planning Commission has an appeal, it goes to the City Council. The Board of Zoning Adjustments has two jobs: 1) hear appeals of staff members' decisions and 2) hears variances. The Planning Commission hears requests for Conditional Use Permits. By combining these two groups, it would save the city time and money. Planning Commissioners voted unanimously to send this ordinance to the City Council for their approval. Councilman Evers has enjoyed serving on the Board

of Zoning Adjustment and since it will save money and time to join these two groups, he was in favor of the ordinance; however, he will recuse himself from the vote on the ordinance.

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

**Motion: Kendell Stucki**

**Second: Keith Williams**

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

**Vote Nay: None**

**Recused: Evers (On BOZA)**

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

**Motion was made to approve the Ordinance as presented.**

**Motion: Keith Williams**

**Second: Eric Schein**

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

**Vote Nay: None**

**Recused: Evers (On BOZA)**

**Motion to approve the Ordinance as presented was approved.**

**Ordinance was assigned No. 951**

Councilmembers questioned necessity of emergency clause; Ronnie Breland withdrew his second; Lasater withdrew her motion. After discussion, Ronnie Breland and Janette Laster let their motions stand.

**Motion was made to adopt the Emergency Clause as presented.**

**Motion: Janette Lasater**

**Second: Ronnie Breland**

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

**Vote Nay:**

**Recused: Evers (On BOZA)**

**Motion to adopt the Emergency Clause as presented was approved.**

**2. RESOLUTION ADOPTING THE CITY OF LOWELL LAND USE PLAN.**

Kris explained that at the last Planning Commission commissioners changed 16 acres of land from residential to commercial. Opposition to the Land Use Plan have been included with the minutes of this meeting.

Mr. Perry, 8699 S. Tilley's Hill Road, Decatur, Arkansas explained he felt changing it to commercial represented the highest and best use of the property. When the 412/49 interchange goes in, it will benefit his property. He thought Lowell would think it was the best use because it was included in the TIF district. When a city puts something in the TIF district it is blighted land and his 16 acres conforms to that category; it's 16 acres of vacant land. When a city wants to upgrade the properties, they collect taxes off that TIF area and a lot of the taxes paid on that property goes to the TIF of Lowell. In his mind the city was thinking that's going to be future commercial property. He couldn't understand why Sycamore Trace was in that TIF area because he wouldn't call their properties blighted areas.

Councilwoman Lasater gave a copy of Mr. Matthews' letter was given to Mr. Perry for him to read and respond to.

Rob Brothers, 916 Sycamore Trace, has lived in Sycamore Trace for 14 years. The immediate Sycamore Trace area consists of seven homes, all original owners. Owners have improved their homes and added to the tax revenue of the city. They have created and maintained a small park available to all of the public alongside Puppy Creek near the one-lane bridge on Goad Springs Road. They have opposed past efforts to rezone this parcel to commercial and are opposed to this revision to the Future Land Use Plan. It is seen as a precursor to a zoning change. Several parcels in this property in the immediate vicinity

along both the east and west side of I49, south of Goad Springs Road, have moved away from commercial use as two business have closed or relocated due to impending highway changes. Access to this area is restricted on the west end of Goad Springs Road by the one-lane wooden bridge and the geographical impediment of the bluff line along the western side of Puppy Creek. There is no planned access for entry/exit to I49 at Goad Springs Road.

Mike Hook, 913 Sycamore Trace, opposed rezoning changes to Master Land Use Plan. When he was on the Planning Commission and looked at this land for its best use, it was determined that that side of Goad Springs, even Goad Springs Road, would be more conducive for residential versus commercial property. There really is no way to get into and out of that property other than a one-lane bridge or if you come the other way, and with the bypass going in, there is not going to be accessibility to this land. To get to that land you would have to go back up to 264 and exit and come back down to it because there will be no on/off ramps as I49/412 meet. Making this land commercial doesn't feel like it is going to be used because there is no way to access the land for anybody. Why anybody would want to make that land commercial or develop commercially doesn't seem to make sense. The other thing that really concerns me is that if that would happen the cost to the city if we had to make street improvements to do that and to bring a street there and I think if you would look at the Master Street Plan, it may actually call for a road that borders I49 as a frontage road. To build that would cost millions, if not hundreds of millions of dollars to the city and he didn't believe the city could afford to do that. It's very concerning not just for where he lives but for the city itself. Just to get people to that area for commercial development, the return on the investment wouldn't be there for the city.

Marybeth Matthews, Sycamore Trace, acknowledged her husband's letter which had been given to all councilmen and that they have lived on the property 14 years. She recognized how hard it was for the Planning Commission and City Council to adopt a plan and balance all competing interests for the various things that needed to go into it. When you were making those decision you were trying to figure out what the land was best suited for. For commercial purposes, her understanding was that we would be looking for a place where there was road access, and there were utilities, place for parking. You wouldn't choose a place where you would destroy natural beauty that was available in the city. You would put it in clusters with other commercial areas so they could develop together as a group. For residential property you were looking at places that were quiet, attractive to families, you could have dogs and children running around. The area you are talking about rezoning is the later kind of area as evidenced by the fact of the new trail, picked as one of the pretty places to put the trail, stream and bluff and the roads are not good access for commercial property. If you were to pass this, you are obviously not rezoning it; but it is the first step along that path and we are afraid we are going to lose that buffer from any commercial development. Once it's zoned commercial, then who knows what's going in there. You could have lights, noise and traffic. The speed bumps were put in there to slow the traffic down and after-hours activities. We do not think it is appropriate for that use. Her understanding was that Mr. Perry has inherited the property and he' doing what he should be doing. It's his property and he's doing it in such a way the heirs are going to get the most money out of the land. But, they are not the ones who will be living there. Please don't do this at the cost of the people who have long-termed residence as well as the people not only who live next door but who are going to use that bike trail which will benefit not only Lowell residents but all of NWA who will be flowing through that beautiful place.

John Ward, 910 Sycamore Trace. His neighbors eloquently expressed his objections that he and Kathy have toward rezoning this property. His biggest concern was that if you include it in your plan that it is a precursor; and regretfully we have been here many times when Mr. Perry has asked that the zoning be changed and we are trying to prevent an avenue for the zoning to be changed on this.

Kris Sullivan explained that it is the first step to allowing the purchaser of property to request rezoning to commercial. When prospects call or looks at the Future Land Use Map, it says this is what the city anticipates the plan to be. Prospects call and want to see how we hard it is going to be for them to rezone their property. The Planning Commission 5-2 granted that 16 acres be changed to commercial at the last meeting.

Councilmen asked if they could make changes to the Future Land Use Map at this meeting. City Attorney Kieklak explained that they could make changes and it had to be adopted by the council. To change it

the map would have to be changed because it was part of the resolution. It is dangerous to make changes too quickly and the Planning Director could be requested to make the change to the map and then bring it back to the next meeting for a decision. Or we could say that because we have already talked about this 16 acre property, the resolution can be adopted and the map could be changed back to the color light green. Next month we would like the Planning Director to bring the map back to the council with the change to light green so we can see that's what we did at this meeting tonight. Either one would be appropriate.

Although there are some businesses in this area, Burrell Machine Shop for one, no one has requested a new commercial business in this area in recent months.

Council agreed unanimously to allow Mr. Perry to re-address the council. After he read through the letter, he felt there were some incorrect statements. Where it said Sycamore Subdivision boundary is approximately 150' is not correct, it's 350' along Goad Springs Road. From the northern border of his property to Sycamore Trace's southern border is 350' along Goad Springs Road where the trail runs. He questioned the comments about the narrow bridge. He questioned why the city wasn't more concerned about getting a fire engine to Sycamore Trace if there was a fire. They cannot get across the narrow bridge. To him it was a safety concern; either replace the bridge or go through with the Master Street Plan to upgrade Apple Blossom. When you run the street replacing Burrell Place Road, run it from South Goad Springs Road to East Brown Road giving access to the area. The only thing they talked about closing on that whole intersection was Silent Grove Road. There was a lot of opposition and it won't be closed. Apple Blossom and Silent Grove Road will still be there. If the city does what is called for, Apple Blossom will be extended all the way through to East Brown Road. Concerns were voiced about the natural beauty of the area. It isn't a concern for Carroll Electric or Beaver Water District who are about to clear cut a 200' wide swath from the north side to the center of his property. It will be clear cut and remain pasture land whenever the power company puts their high tension lines cross there and cut a right-of-way from the east side of the property to the west side. It will come out over by Burrell's. North of the Carroll Electric right-of-way is going to be another 100' right-of-way by Beaver Water District. So, that's 200' right-of-way from the east side of his property to the west side of his property that is going to be clear cut. To him, that was not natural beauty.

With the issues that the city has had in the past with not having a good buffer zone between residential and commercial and light industrial areas, it was suggested the map be revised with buffer zones and brought back to the council at the next meeting for a decision. It was suggested the area be changed to RO for that area which would allow how the property could be used, give the city opportunity to see things coming into that area and Mr. Perry would have the highest retention of the use of his property. It didn't seem to be an option of putting commercial property against residential property without creating problems in the future.

It was clarified that the proposed change to commercial for the 16-acre property was not included in the public hearing notification, but the change was brought up and applied during the last Planning Commission meeting.

Councilman Schein pointed out that he had made a motion to have the Planning Department come back to the council with a map showing the 16-acres in question changed to RO. Councilwoman Lasater seconded that motion.

Mayor Long felt it would propose a problem changing it to RO as it would require another public hearing before it could be changed.

It was again clarified by City Attorney Kieklak that this council could make changes to the 16-acre property and ask staff to bring the map back with the changes. If they wanted to open it back up and begin the process again, they could; however, Kris would have to notify everyone for another public hearing if she was going to have the public look at the plan again.

Councilman Evers made the motion to have the plan go back to residential only and Councilman Breland gave the second.

Councilman Schein withdrew his first motion and Councilwoman Lasater withdrew her second. Councilman Schein rephrased his motion to have the Land Use Map brought back to the council with residential as it was previously. Councilwoman gave the second.

The motion on the table was to bring the motion that the 16-acre property on the Land Use Map be changed back to residential.

City Attorney Kieklak said it was a motion to table it for a month with instructions to bring it back to the December meeting with these alterations.

Councilman Jones clarified that it could be changed now with the caveat that it be brought back in a month with the changes on it for our review, not so it is adopted a month from now. City Attorney Kieklak agreed this was the way it could be done.

Councilman Evers withdrew his motion to go back to residential. City Clerk gave the motion as she understood it to be: Make the 16-acres residential and come back next month with the revised map showing that change.

Councilman Schein and Councilwoman Lasater withdrew their previous motions. Councilman Schein again restated his motion to be: Motion to pass the Land Use Map as discussed in this meeting, removing the 16-acres from commercial, reverting it back to residential. Councilman Breland gave the second.

City Attorney Kieklak asked the City Clerk to clarify the 16-acres as "Mr. Perry's 16-acres".

**Motion was made to pass the Land Use Map as discussed in this meeting, removing Mr. Perry's 16-acres from commercial, reverting it back to residential, and the Resolution be adopted.**

**Motion: Eric Schein**

**Second: Ronnie Breland**

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

**Vote Nay: None**

**Motion to pass the Land Use Map as discussed in this meeting, removing Mr. Perry's 16-acres from commercial, reverting it back to residential, and the Resolution be adopted was approved.**

**Resolution was assigned No. 14-25.**

Ms. Sullivan will bring a revised map to next council meeting.

**3. RESOLUTION CERTIFYING LOCAL GOVERNMENT ENDORSEMENT OF BUSINESS TO PARTICIPATE IN THE TAX BACK PROGRAM.**

Kris Sullivan explained it is a tax back incentive with the Arkansas Economic Development Commission. Businesses have to meet qualifications to receive the incentives. It is a two million dollar expansion, adding 20 new jobs at an average of \$17/hour wage. The tax back program grants them a refund of state and local sales and use taxes paid on the purchases of material used in the construction of the building and the modernization and improvements to new or expanding businesses. This is for Wachter on Hwy 264.

**Motion was made to approve the Resolution as presented.**

**Motion: Kendell Stucki**

**Second: Keith Williams**

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

**Vote Nay: None**

**Motion to approve the Resolution as presented was approved.**

**Resolution was assigned No. 14-26**

**4. RESOLUTION EXPRESSING OPPOSITION TO U.S. EPA'S PROPOSED GREENHOUSE GAS EMISSION GUIDELINES FOR EXISTING FOSSIL-FUELED POWER PLANTS.**

It was explained the EPA Guidelines do not give utility companies adequate time to meet them and the utility companies are the ones requesting we support them in opposing them. Other cities in NWA have already done similar resolutions.

**Motion was made to approve the Resolution as presented.**

**Motion: Dean Bitner**

**Second: Keith Williams**

**Vote Aye: Schein, Stucki, Evers, Jones, Bitner, Williams**

**Vote Nay: Lasater, Breland**

**Motion to approve the Resolution as presented was approved.**

**Resolution was assigned No. 14-27**

Councilwoman Lasater pointed out that you don't call the question while active discussion is happening. It doesn't supersede active discussion.

**5. PROCLAMATION – NOVEMBER AMERICAN DIABETES MONTH**

No action was necessary; however, councilmen were unanimous in favor of the proclamation.

**COMMITTEE REPORTS**

**FINANCE COMMITTEE** – Councilman Williams reported the committee has gone through the budget except for the fire department. A budget meeting will be set to continue that discussion. Next meeting will be December 3, 2014, 6:30PM, in council chambers.

**ORDINANCE COMMITTEE** – Councilman Bitner will schedule an ordinance meeting to discuss Councilman Breland's concerns about marking stop signs and markings of roads approaching stop signs.

**ANNOUNCEMENTS:**

Christmas "Bless Others" Open House, Lowell historical Museum, December 12, 2014. Everyone is asked to bring a canned or boxed food item which will be donated to the Lowell Senior Center.

Janette Lasater is selling poinsettia plants for the Kiwanis who are raising funds for Christmas items for needy children in Lowell.

Run-off election will be November 25<sup>th</sup>.

City of Lowell Employee Christmas Party, December 11, at A Q Chicken, 6-9:00PM.

Councilman Jones announced the birth of his son, Miles Edward Jones, on November 12, 2014.

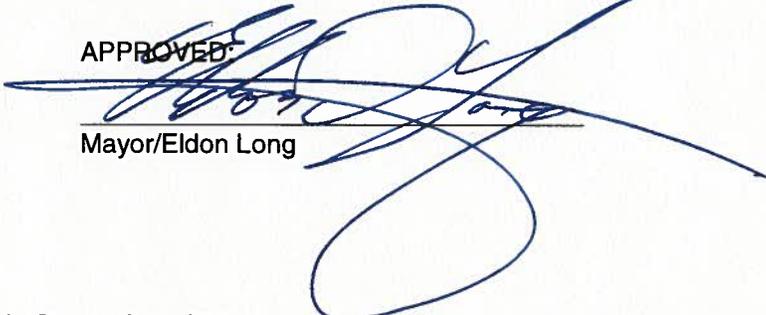
**ADJOURNMENT:** Motion to adjourn was made by Councilman Bitner and second was made by Councilman Jones. There being no objections, the meeting adjourned at 9:16PM.

ATTEST:

  
City Clerk/Elizabeth Estes



APPROVED:

  
Mayor/Eldon Long