

Minutes for the Regular City Council Meeting

101 W. First Street, Lowell, North Carolina 28098

April 9, 2024, 5:59 PM - April 9, 2024, 7:12 PM

Roll Call: *(The following members were in attendance)*

- **Larry Simonds**, Mayor
- **Scott Bates**, Mayor Pro Temp
- **Phil Bonham**, Councilmember
- **DeWayne Chitwood**, Councilmember
- **Travis Smith**, Councilmember

1. General

1A. Call To Order- 5:59 PM

Mayor Larry Simonds called the meeting to order at 6:00pm. Councilmember Robinson was absent. City staff present were the City Manager Scott Attaway, City Attorney John Russell, Police Chief Moore, Asst. Police Chief Harrison, Planner Tyler Cobb, Public Works Director Thomas Shrewsbury, Finance Director Lisa Nolen, Stormwater Administrator Jamie Watkins, and City Clerk Cheryl Ramsey. A quorum was determined at the beginning of the meeting. The meeting was teleconferenced on YouTube for the public and the agenda and meeting materials were made public on the city's website as well as in person. Members of the public were also in attendance.

1B. Invocation / Pledge of Allegiance- 5:59 PM

The Invocation was led by Thomas Gillespie. The Pledge of Allegiance was then led by Mayor Simonds.

1C. Public Comments- 6:01 PM

1. Thomas Lesperance of 721 Overlook Rd, Lowell, NC - complained about his recent arrest by a Lowell Police Officer. He also stated his right to peacefully protest and his freedom of speech were infringed upon. He said one of those times was right before he came in the building for a council meeting.

2. Diana Lesperance of 3028 Fallswood Dr, Gastonia, NC - complained about her brother Thomas' false arrest by Lowell Police. She wanted to know why the officer still has a job and not being charged.

Mayor Simonds asked Mr. Attaway what was going on with this case. Mr. Attaway said it was a personnel matter. Mayor Simonds said a personal letter needs to be supplied to address what has been done. Mr. Attaway said that correspondence was forwarded to the Mayor and Council and that they received it as well. Mayor Simonds asked Mr. Lesperance and Ms. Lesperance if they received it. They said yes and stated they will read it at the next council meeting.

Mayor Simonds said "freedom of speech is a right and nothing is wrong with freedom of speech but how we conduct ourselves sometimes things go awry but I don't know the situation because I wasn't there. We're not a court of law, only mayor-council and City Manager. People with the powers that be, they need to take care of things like this because you, as a citizen, need to hear an answer whether it is good or bad or indifferent. Just answer the question. It might not be the answer you want but at least give you an answer." He then thanked everyone for coming and reiterated any and everyone can speak during public comments.

1D. Adoption of Agenda for this Meeting- 6:09 PM

Mayor Simonds asked if there were any changes to the agenda. Mr. Attaway said 6G would be added to consider amending the Planner position to a salary grade 17 from a grade 20.

The item was motioned To Adopt by Phil Bonham and seconded by DeWayne Chitwood with a passing result 4-0-1-0 Abstained by Larry Simonds

To Adopt the agenda with changes to add 6G.

2. Approval of Minutes

Councilmember Chitwood asked about comments on page 9 stating that it says Presbyterian church and should read Methodist. Mr. Attaway stated that the Clerk types up what was actually said. It was agreed that although this was said, it is a Methodist Church.

2A. Approval of February 28, 2024 City Council Special Meeting Minutes- 6:10 PM

2B. Approval of Minutes 03-12-2024- 6:10 PM

3. Special Presentation

4. Consent Agenda

Councilmember Chitwood asked about the Police Report. He said he knows it is probably a personnel matter but read that the Administration wanted to discuss a recent dip in staff moral that had been brought to their attention. He was wondering what the moral issue was but if it was personal, it can be discussed at a later date. John Russell told Chief Moore that he can speak generally to answer Councilmember Chitwood's question without going into anything specific. Chief Moore stated they had some complaints that officers were not performing their duties or not patrolling different areas and we had a meeting to discuss that.

Councilmember Chitwood then asked about the jump in special checks and asked what that was. Chief Moore said that is patrolling certain neighborhoods, certain streets. He said in a community watch meeting, it was discussed that the police would start to specify zones so when we get the complaints that a police officer is not patrolling a street or neighborhood, they would have proof to say that they are. He said now, with the new system, they would be able to specify a special check like someone going on vacation. Councilmember Chitwood said that's what special checks mean to him. He asked if that is part of the officers job to patrol anyway and not considered a special check. He said it should be a different way to do that. Chief Moore said that is what they are trying to do with the new RMS System. Councilmember Chitwood said where he lives is not considered a neighborhood but it should be part of the patrol as well. He just wanted to ask since he saw the numbers go up.

Councilmember Smith asked Chief Moore how many people showed up at the last zone meeting? Chief Moore said two police officers and two councilmembers. Councilmember Smith asked how many people showed up at the Rogosin meeting? Chief Moore said three police officers and nine citizens.

The item was motioned To Approve by DeWayne Chitwood and seconded by Travis Smith with a passing result 4-0-1-0 Abstained by Larry Simonds

4A. Finance Report- 6:12 PM

4B. Communications Report- 6:12 PM

4C. Planning Report- 6:12 PM

4D. Public Works Report- 6:12 PM

4E. Geographic Information System (GIS) Report- 6:12 PM

4F. Police Report- 6:12 PM

4G. Stormwater Department Report- 6:12 PM

5. Unfinished Business

5A. Public Hearing - Text Amendment ZTA24-01 - Article 17, Sign Regulations- 6:16 PM

Mayor Simonds said he thought this was taken care of last month. Mr. Attaway said that was to set the public hearing for this month. Mayor Simonds asked for a motion to go into public hearing. Councilmember Chitwood made a motion to go into public hearing, seconded by Mayor Pro Tem Bates. The vote was unanimously in favor.

Presented by Planning Director Cobb. He gave Council an update on the changes that had been made. He said staff has (please see Agenda packet) for Council approval of Ordinance 01-2024:

- Removed the section of only allowing one sign per building per street or parking frontage
- Added at the bottom "buildings located in the mixed use section"
- Removed the section "not to exceed 100 square feet."
- Changed the acreage in the Commercial, Institutional, Industrial, Mixed Use from three acres to two or more acres in an area
- Added "signs that may be placed or modified as long as it does not increase the existing to the non-conformity"

Mayor Simonds asked about the 100 square feet and what was the total acreage for a business to have a 100 square foot sign? Mr. Cobb said we are doing 10% of the overall building wall area, not to exceed 100 square feet. with no other questions from Council, it was then opened to the public for comments.

Tom Lesperance (did not go to the microphone but hollered out) "what about holding up a sign?" Mr. Cobb said he does not know the answer to that. Mayor Simonds told Mr. Lesperance that is not what this public hearing is about but for business signs. With no other public comments, Councilmember Smith made a motion to come out of public hearing, seconded by Councilmember Bonham. The vote was unanimously in favor.

Mr. Attaway noted that if the ordinance is approved that the motion would have a statement of consistency and reasonableness in it and that it is consistent with the City's Comprehensive Land Use Plan. There was some discourse on how to word the motion to amend the LDO between the Mayor and John Russell. Mayor Simonds then read the statement of consistency and

reasonableness (pg. 39 of agenda packet). There was more discourse on how to word the motion between the Mayor, Councilmember Bonham, and John Russell. Mr. Russell said what the Mayor read is just the legal requirement but the motion has to say something that is consistent and reasonable. Mayor said 160D [General Statute]. Mr. Russell said no, 160D is what tells you that you have to have consistency. There was more back and forth about how to make a motion correctly from the Mayor.

After Councilmember Bonham made the motion (see below), Mayor Simonds said "that the motion shouldn't say that it is reasonable but that it has to be the law. The law is not reasonable but is the law." Councilmember Bonham said "that is my motion and we don't need any other discussion. Do we have a 2nd" Councilmember Smith seconded. Mayor Simonds demanded the Clerk to read the motion for the public. John Russell asked the Clerk to read the motion if she could. Ms. Ramsey said she recorded it and can try to read it by memory. She could not recall what was said. Mr. Attaway said that the Clerk records the meetings. Mayor Simonds said the motion should not be in the lawyers words but your words to adopt this motion. Councilmember Smith said there is a motion and a 2nd on the floor. Mayor Simonds said he didn't understand the motion, then asked for a vote. The vote was unanimously in favor. There was some more inaudible disagreements briefly before moving onto the next agenda item.

The item was motioned To Approve by Phil Bonham and seconded by Travis Smith with a passing result 4-0-1-0 Abstained by Larry Simonds

To approve because it is consistent with the Comprehensive Land Use Plan and is reasonable with the City of Lowell.

6. New Business

6A. Request for Public Hearing: Spencer Ridge Subdivision Development Agreement- 6:29 PM

Presented by Tyler Cobb. This is to set a public hearing for May 14, 2024 at 6pm.

The item was motioned To Set by DeWayne Chitwood and seconded by Phil Bonham with a passing result 4-0-1-0 Abstained by Larry Simonds

To set a public hearing for May 14 at 6pm for the Spencer Ridge Subdivision Development Agreement.

6B. Request to Set Public Hearing - Map Amendment (General, Rezoning) - 603 Groves Street - JPFJ LLC- 6:30 PM

Presented by Tyler Cobb. Mr. Cobb explained the area on the map that is being requested to be rezoned, which is about 5 acres. Councilmember Chitwood asked if this was the area that has already been cleared off. Mr. Cobb said yes. Mayor Pro Tem Bates asked how close this area would

be to the other property owners. Mr. Cobb said he didn't have the exact numbers with him but stated the developer will have to conform to the required buffer between the two areas.

Councilmember Bonham said currently this backs up into their [own] property. Mr. Cobb said it's not developed currently. Mr. Attaway said this is slated to be the 177 townhomes that Tru Homes is working on with the Planning Department. Mr. Cobb is asking to set a public hearing for May 14, 2024 at 6pm.

The item was motioned To Set by DeWayne Chitwood and seconded by Scott Bates with a passing result 4-0-1-0 Abstained by Larry Simonds

To set a public hearing for the rezoning of 603 Groves St. on May 14 at 6pm.

6C. Consideration of Interlocal Agreement with Gaston County for Lowell Elementary Waterline Extension Project- 6:32 PM

Mayor Simonds asked if this was still going to be inside the city limits of Lowell? Mr. Attaway gave some background on the situation. He showed a map (see agenda packet) of the school and stated that the school is in Town of McAdenville city limits. He said in the front of the River View subdivision is where Lowell's main line terminates at the moment. He stated that the county is using their American Recovery Plan Act (ARPA) funds to do some of the projects across the county. "The school is currently fed by McAdenville and the water quality and water pressure flow is inferior to the school so they are trying to take the path of least resistance and extend our city main line down to serve the school. There was a change to the Interlocal Agreement under Section 8, Operation, Maintenance, and Extensions. Language was in there that specified that if this wasn't a school, perhaps in the future, that we would still serve it or anyone from the connection point in McAdenville town limits we would be able to serve. That has been struck out of the agreement because the intent of the County and the City of Lowell is just to provide good, clean, reliable water to the school. We will have another subsequent interlocal agreement with McAdenville scheduled for May council meeting, where we will have Lowell and McAdenville as a party to the agreement basically because the Town of McAdenville has to authorize the City of Lowell to supply water in it's town limits when they have their own water enterprise fund." He said Ray Maxwell was here tonight to speak more about scheduling with the county commissioners for their approval if council decides to move forward with the agreement.

Mayor Simonds asked if we are billing them [McAdenville] water now. Mr. Attaway said they are currently fed water by McAdenville. Mayor Simonds said "they pay us because we furnish the water, they wouldn't be paying us a bill if they didn't. You and I have had this discussion before where you showed me all our lines and also when the lady came in from the water department and made the statement that 'yes we are billing them for water.'" Mr. Attaway said he would "have

to have Lisa [Nolen, Finance Director] look up their account to see what is billed to McAdenville if that's what you're saying, but what we have now is a school fed by McAdenville and being replaced with a Lowell water line." Ray Maxwell, County Commissioner, came to the podium to answer questions. He stated that "McAdenville approached us because they are currently serving the school and the line that serves this school is old and dilapidated and unreliable so they approached us first and requested that they look for a way to fund the school and that is when we approached Lowell. The connection from your existing system is very short, only four or five hundred feet and it's only across the school property. Because it is in McAdenville's city limits, we have an agreement that is with Gaston County and Lowell that allows us to connect the school to your system but as your Manager was mentioning, there will be a separate agreement between McAdenville and Lowell to allow you to serve the school, which is in McAdenville's jurisdiction. Councilmember Smith said "so what we're doing is, the County is paying to put in these new water lines for Lowell to give the kids good water, obviously it's not good right now, then, to your point, the school will then pay the City of Lowell for their water?" Mr. Maxwell said "that is correct, we're just extending your system to the school, to serve the school and then Lowell will bill the school for monthly water service." Councilmember Smith said "so if there was never a school there, we would go back and not feed that property." Mr. Attaway said "it would be terminated and a blow off put in just like any other termination line or hydrant." Councilmember Bonham asked if this is only water, not sewer? Mr. Maxwell said "correct water only, and no cost to Lowell."

Mayor Simonds asked Mr. Attaway "what are the sewer (inaudible) to the school?" Mr. Maxwell answered and said he believes it goes to McAdenville. Mayor Simonds said "it's our system that goes down there and belongs to Lowell but anyway we don't want to lose the rights to that. With the County coming in and paying for water lines, that's all well and good but we don't want to give up any territorial rights to our sewer system because that's a big asset." Councilmember Bonham said "I don't think we have any rights to that to begin with, but as this is in front of us right now, it is a request to access to our city water within McAdenville city limits of which we will bill for and provide Lowell Elementary School proper water. I don't think it's much of a discussion." Councilmember Chitwood said "after the two years" and asked if Councilmember Bonham had read the agreement? Councilmember Bonham said yes. Councilmember Chitwood continued "you know it's after two years." Mayor Simonds said "read the agreement, you read it Scott [Attaway]." Councilmember Chitwood said "hold on a second, so you didn't read it either?" Mayor Simonds said no he didn't. Councilmember Chitwood said "you might want to read it because we are not going to ask Mr. Attaway to read it tonight because we should have all read it. During this period time of 24-26 [2024-2026] any monies made off of this, goes to the Treasury Department, the way

I'm understanding. Am I correct? I was bringing it up because you [Mr. Maxwell] hadn't said 'during that two year period.' Apparently some of council has not read that or seen that and I wanted to make sure they understood that." Mr. Maxwell said "because we are using federal funds to extend this water line, there are some stipulations from the US Treasury that we have to abide by. One has to do with program income and that requirement from Treasury says that you can't earn income from infrastructure that was put in place with Treasury dollars. What the County is doing, through this agreement, is that we are contributing some local funds, local county dollars towards this project too that will offset that program income. I can get into as much detail as you want about this but basically what happens is when you bill the school and say that bill is \$100 a month, and the school pays Lowell that \$100 a month, you have to account for that money separately and be able to show where that money went in case US Treasury comes in and audits our project. Lowell will then submit records to the County on a quarterly basis that shows how much money came in to Lowell from the school and we have to go to our County Commissioners and get them to approve the release of those funds. So, you still get the money, it still goes into the Lowell accounts, but until we go to the Commissioners and get approval for release of the funds, you can't spend that. Now we will do that on a quarterly basis and when the Commissioners approve that, we'll notify the Manager that the funds have been released and you can do whatever. It just has to be an accounting trail so that if we are audited, we can show that the money was set aside and it didn't just disappear into a black box but it was set aside and we used funds that we are paying as kind of a local match, so to speak, to offset that income. It's just a process you have to go through to show where the funds went. At the end of December 2026, which is the end of the ARPA period of performance, at that point, moving forward, there is no need for you to reconcile with us because the federal grant period is over."

Mayor Simonds asked "what's the need for us to replace this water line? What's wrong with the present water line. I mean we are billing to the school now." Councilmember Chitwood said "again it is in the agenda that it is corroded." Mayor Simonds said "you don't have to approve this, I don't care if I read it or not, that's up to you, but I think we need to know." Councilmember Chitwood said "because it is corroded and causing poor water quality and water pressure to the school system." Councilmember Smith added "to the kids of this community." Mayor Simonds said "I hadn't heard any complaints but it's ok, you can approve this, yes it's up to you." Councilmember Smith and said "so we will just get that quarterly versus monthly and I appreciate you bringing that up DeWayne [Councilmember Chitwood], I read it but I (inaudible)." Mr. Attaway said "we will bill monthly, get paid monthly but will hold those funds in a separate funding account until the Commissioners release the funds, say four months, \$100 a month, they release

\$400. Same situation that you are dealing with the other school projects, I presume, in the City of Gastonia that's already approved an Interlocal for that project." Mr. Maxwell said yes.

Councilmember Bonham asked "just to be clear right now, Lowell Elementary is being fed from where?" Mr. Maxwell said "McAdenville." Councilmember Bonham asked "and proposed is from where?" Mr. Maxwell said "Lowell." Mayor Simonds said "explain to me how it is being fed by McAdenville if it comes right down in front of your [pointing to Councilmember Bonham] house, where you rent, down to the school, that's where our water line is, not McAdenville's water line. This smoke in mirrors is a joke and we wouldn't be collecting the water if it wasn't our water line. That's just common sense. The whole deal is this, we don't want to give up no territorial rights to no one as far as our possessions, which is our water line and our sewer line." Councilmember Chitwood said this is not giving it up. Mayor Simonds said "I want to make sure that we are not giving it up because it does not belong to you or me, it belongs to the whole town."

Councilmember Chitwood said "again, this is not giving it up. The only other question I had is that it says the County has agreed to provide GAP funds, which yall are doing...you can cancel, alter the project if sufficient funds are not available. If that happens, not saying it will, who is responsible for the rest of that?" Mr. Maxwell said "the County will provide the GAP funds but I have to have a disclaimer in there for legal reasons to say if, for some reason, the County went bankrupt, or something like that, and we didn't have the money to cover it, then we could say, we're not continuing with the project and we won't move forward. There is no impact to Lowell."

Councilmember Chitwood asked "so, you're not going to come to the City of Lowell and say let's find money to fix this?" Mr. Maxwell said correct.

The item was motioned To Approve by Travis Smith and seconded by Phil Bonham with a passing result 4-0-1-0 Abstained by Larry Simonds

6D. Resolution to Designate Chief Moore as the Official to Make Recommendations to the NC ABC Control Commission- 6:45 PM

Presented by Scott Attaway. He stated this had been implemented before here but somehow the ABC Commission does not have it on file. He said we are asking, to follow suit with the rest of the municipalities and appointing the Chief as that designated official. He said it still goes through the zoning, to ensure that restaurant, for example, is allowed in the area they are wanting to be located in, but the Chief has the final signature.

The item was motioned To Approve by Scott Bates and seconded by DeWayne Chitwood with a passing result 4-0-1-0 Abstained by Larry Simonds

6E. City of Lowell Façade Grant Application Review and Approval- 6:48 PM

Presented by Tyler Cobb. He said staff received 10 applications and after reviewing and considering all the applicants, they identified the following projects for funding, three of which are in our downtown location and one is on highway 74, total of four projects:

1. EM Investments: update and paint to match the neighboring businesses for \$2500
2. Vera Floyd Salon: new front door purchased and installed for \$1,170
3. Back of the Moon: improving paint, trim and molding to match connecting buildings for \$2406.03
4. York Properties: cleaning of the exterior of the building for \$585

This is a grant total of \$6661.03, leaving a balance of \$3,338.97 for FY24 and there will be no remaining cycles [in this fiscal year]. Councilmember Chitwood asked if that means that there will be no grants accepted? Mr. Cobb said correct, the review and application process is over and the approval is just for the four businesses. Mr. Attaway said there were two cycles, one was opened in the fall receiving zero applicants and then the spring cycle. He said there will be a surplus. Councilmember Chitwood asked if there are always two cycles every year. Mr. Attaway said yes and this is the first time the facade grant was revamped and the first time doing the two cycles. Councilmember Bonham asked "is it really two cycles? There's a bucket of money that when you go through the first cycle I think if it's consumed in that cycle, there's not a second one?" Mr. Attaway said "you could."

Councilmember Bonham said "this was extended because no one applied in the first go round, so this one came and people took advantage of it, which is great." He asked if the guidelines are very clear, specifically referring to the procurement process of getting at least three bids, and having enough time to do so. Mr. Attaway said "we can bring that back to the Lowell Community Committee (LCC) for them to study that with that in mind. After this agenda item, we plan on updating them on where this went anyway. I think it is very clear. It's an intense application of multiple pages but if you all would like to change the parameters a little bit about the number of bids, trying to find more local in the city perhaps, we can look at that and take it to the LCC." Councilmember Bonham said "I am not opposed to three bids. I'm also not against a percentage allowable for local vendors."

Councilmember Chitwood asked "how do we determine how much one person gets, because I see, obviously all this grant, all this money for it does not cover what they are asking for?" Tyler Cobb said the max is \$2500. Mr. Attaway said the grant is dollar to dollar or that the owner has to

match what the city contributes. Councilmember Bonham asked about the Back of the Moon property. He said "as the building ties into another building that is not leased or it seems that nobody wants to do anything with it. I wonder if, as much as I would like to, does the city match funds for that, if it's not going to match the adjoining space that's right there." Mr. Attaway said "they just painted. The adjoining space had a code violation and the former Planning Director and Tyler [Mr. Cobb] worked on that with them to replace some window panes and paint the window trim and they painted all the molding around the top." Councilmember Chitwood asked if this was the old bank. Mr. Attaway said yes. Mr. Cobb added that Back of the Moon is wanting to do the trim and the molding to match the whole building.

The item was motioned To Approve by DeWayne Chitwood and seconded by Scott Bates with a passing result 4-0-1-0 Abstained by Larry Simonds

6F. Resolutions for Approval of (1) the Inter Local Agreement with Gaston County for Enforcement Services of the Gaston County Soil Erosion & Sedimentation Control Ordinance; and (2) for the Inter Local Agreement with Gaston County for Enforcement Services of the Gaston County Stormwater Ordinance- 6:53 PM

Presented by Jamie Watkins. She stated that the two resolutions are to approve updates to the Interlocal Agreement that has been in place with Gaston County since 2007. She said nothing substantial has changed but a clarification of both the roles of the city and Gaston County as it pertains to permitting, plan review, stormwater control measures on active construction sites, and sediment and control measures on active construction sites. She said this is basically giving the county permission, in our place, to perform plan reviews, permitting, and site inspections in regard to new development. In exchange for that, they are allowed to collect any fees associated with plan reviews, permits, and fines if they find that a developer has violated best management practices. She said these do not cost the City of Lowell anything or deprive the city from performing it's own inspections nor does it require the city to collect monies and hold onto them to pass onto Gaston County. The county would handle all of that.

Mrs. Watkins said the reason we need these is because there are certain requirements that the city needs to meet to be able to perform soil erosion and sedimentation control inspections. She said the "city has to be delegated by the North Carolina Department of Environmental Quality. Additionally some proportions of this plan review activities require you to be a licensed professional engineer and we do not have the staff to meet those qualifications. Therefore staff is requesting the approval of both of these Interlocal Agreements." Mr. Attaway said we have Mr. Joseph Alm here from the Gaston County Natural Resources to answer more in depth questions. There were no additional questions.

The item was motioned To Approve by Travis Smith and seconded by Phil Bonham with a passing result 4-0-1-0 Abstained by Larry Simonds

6G. Consideration to Amend the Planner Position to a Salary Grade 17 from Grade 20 - 6:57 PM

Presented by Scott Attaway. He stated that after reviewing the ongoing salary study with the MAPS Group who is our consultant working on this, which will be presented next week and the budget work session, the information found on the Planner I position fits more of a grade 17 than the grade 20 as it currently stands. This is the vacant Planner position since Tyler Cobb was promoted to the new Planning Director. Before we advertised for this position, staff wanted to go ahead and make the change if the adoption of the new pay study is voted on. The results of the salary study will be presented next Tuesday, April 16, 2024.

Mayor Simonds said "we're getting closer to the budget, you've not hired anyone besides Tyler [Cobb] right? No one is in the zoning other than Tyler, correct?" Mr. Attaway said "correct." Mayor Simonds said "I'm just waiting to look at the whole budget process as far as how much money we are going to be able to spend and what we really need." Mr. Attaway said "council can discuss that if that's what you all would like to do but that department is very busy with the development, code enforcement and zoning things that are going on. Trying to do this going forward and reduce it, so it's less of a fiscal impact on the city." Councilmember Bonham said "I understand what the mayor is saying and I appreciate that, but understanding where we are trying to facilitate this position, whether we move forward with filling it or not doesn't matter, the pay grade still needs to be set. I agree moving it to a pay grade 17 versus a 20 in keeping the conversation in line with that position." Mayor Simonds said "I agree with that as well, as long as we don't hire anyone after we, until we get our budget done." Councilmember Bonham said "we are just changing the position, the salary grade, is all we're doing here." Mayor Simonds said "I just don't want him to slip it in and hire someone before we have a budget meeting, but that's ok. You're making a motion to do what?" Councilmember Bonham said "I did not make a motion, but a comment. If you are looking for a motion, I make a motion to amend the Planner position to a salary grade 17 from grade 20." The motion was seconded by Councilmember Smith. The vote was unanimously in favor.

The item was motioned To Approve by Phil Bonham and seconded by Travis Smith with a passing result 4-0-1-0 Abstained by Larry Simonds

7. Reports / Discussions

7A. City Manager Report- 7:00 PM

1. Received a draft Brownfield agreement for the old dye plant at 1602 N. Main St that is being reviewed and underway now with our legal, environmental consultant and environmental attorney

so we can make comments on it and bring to council in the future.

2. Budget work is underway. It will include easy to read and brief documents to supplement the overall budget available for the public to get a better understanding. Preparation for the budget work session next week are also underway.

3. An email was sent to council last week to set up a time to meet with them before the meeting with the engineering consultant at noon at Harold Rankin Park on Tuesday, April 16th. He said he has heard from four members and asking the other two members to respond on if they will be there. He said this meeting is to go over the whole process of the Part F grant and LWCF grant the city received for the Harold Rankin park phased project.

4. Pavement inventory analysis map is almost complete thanks to our GIS Analyst, Todd Stroupe and Public Works Director Thomas Shrewsbury. They have been doing this in-house to save the city money and he will bring this report to council in the future so they can prioritize the Powell Bill fund balance on some paving projects.

5. Public Works Director interviews are underway. Related to that, the CDBG-I (Infrastructure) which was for sewer line repair and rehab in a certain geography of Lowell. We had tried to add the Lynn St Pump Station into that but the State denied it. There was a meeting this morning on how to utilize the remaining grant funds of approximately \$800,000. He said we are looking to slip lining more pipe out there and some man hole rehabilitation. We've done an AIA sewer map project through a grant received a few years ago and the GIS Analyst is taking those layers and finding all the man holes. He said it's probably at least 50-60 man holes in this geography and they are ranked by some level of importance for I&I or Inflow and Infiltration issues where rainwater is getting into the sewer system. We are thinking of developing a scope of a project to line all those or spray line those man holes which will help with our ongoing I&I battles.

6. Police Department is putting together a hiring panel and some written exams this week for the Sergeant position.

7. The CIP and water rates study is ongoing and the consultant will come to the work session next Tuesday to speak more on it.

7B. City Attorney Report-

Nothing to report.

7C. Mayor and City Council General Discussion- 7:03 PM

1. Councilmember Smith reported that he had a meeting with the YMCA about coming to the Boys and Girls Club. He said it went ok and they will be coming to the work session on Tuesday (April 16th) to explain their costs and the route the city wants to go.

2. Mayor Simonds said council "has not adopted the audit this year from the previous council has never been approved and needs to be done. Also, this council, when we got elected, we expressed that we wanted an overall forensic audit for the City of Lowell and nothing has taken place. I'd like to have it put on the agenda for the next meeting agenda to vote on it but I strongly recommend that we do have a forensic audit. Like today, when I got this stuff from Mr. Attaway... We got this deal where we signed with Trifecta on August 14, 2023 for \$949,000 and by November we already spent right at \$900,000 so yall knew then that you were going over budget and as it went into the next year they spent all this money, \$1,987,000 as of to date. Let me explain something to you Scott, I'm not stupid. You got two statements on here for September 15th for \$34,000 exact amount and I want it to be on record, \$34,748 and another for \$196,000 and on the very same day you have two more, you got to have check numbers. \$34,748 and another \$196,000. This don't add up and we need to have invoices to show this." Mr. Attaway said "I'd be happy to sit down with you and we can go through." Mayor Simonds said "it ain't about just sitting down, this is mind boggling to see that someone had to authorize these checks and pay the same amount twice on the same day, maybe we got some money coming back." Mr. Attaway said "we didn't pay double for anything. Again, I'll be happy to sit with you and go through these by the invoice." Mayor Simonds said "this is yours, this is what you gave me but I'll be glad to sit down with you. In the interim, we need to have an audit and I want it put on the agenda if that's ok with the council since that's the only time you can do it, unless you want to vote on it tonight but I'd rather Shane [Robinson] be here so we can have a full council. But we do need a forensic audit to know where every penny has been spent. If you want to vote that's fine but I'm asking it to be put on the agenda."

Councilmember Bonham said "giving that we have a third party audit anyway, so you are disputing the third party audit that we already paid for and you're saying you want another audit." Mayor Simonds asked him what is the third party. Councilmember Bonham said "we paid a third party company..." Mayor Simonds said Butler and Stowe. Councilmember Bonham said "who is not an employee of the City of Lowell, we paid them, the third party company, to conduct an audit. This is what they do for a living to municipalities, forever, and they don't find anything wrong but you think something's wrong, so you want to pay another audit to come back and tell you there's nothing wrong? If there were red flags somewhere, I'd be 'yeah, ok sure, let's go for it, pay some

tax dollars'. There aren't any, outside of what you believe to be true or what you want to believe to be true. The audit before that didn't say anything, the audit before that didn't say anything, the audit before that didn't say anything and back, back, back, back. We don't have any red flags anywhere and all of a sudden you want to use terms like forensic audit and write checks for something. If there is something real and something out there that we need to know that the lawyer is covering up, the manager is, all this conspiracy and \$2 million dollars underneath City Hall, unless there is something there, why are we spending money going through this?" Mayor Simonds said "my question, like I explained earlier is when you pay the same amount twice.."

Councilmember Bonham said "the City Manager said he'd be happy to meet with you." Mayor Simonds said "that has nothing to do with it." Councilmember Bonham said "you'd rather pay somebody to come in to say there's nothing wrong than to listen to the City Manager when he's offering you an explanation. To me it's ridiculous. You're wasting the City Council's time on this, you're wasting staff time on this in tax payer money on this. If there is an issue, there's an issue, if it's not, it's not. Obviously, there's not." Mayor Simonds said "that's your opinion and you have a right to vote yes or no but I'm just asking the council to put it on the agenda. Do we need a vote to put it on the agenda or can you just put it on there Scott?" Mr. Attaway said "the rules and procedures state that the Mayor and council can ask to add an item to the agenda. You do not need a motion to add. I think what you may be trying to do is straw poll the council to see if they would like to even consider this." Mayor Simonds said "I'm not straw polling nothing, I just want to know if I need a motion to call for an audit but if you put it on the agenda, that's good, and let them vote on it and I'd rather have the full council here to do that. I want to have it done and that's just my opinion and you can have your opinion [talking directly to Councilmember Bonham]. I respect your opinion, but you're damn well going to respect mine." Councilmember Chitwood said "Mayor, I'd appreciate without cussing." Mayor Simonds said "it ain't cussing sir, it's the truth." Councilmember Chitwood said "well control it." Mayor Simonds said "ok (inaudible), what we're going to do next is get that on the agenda for May correct?" Mr. Attaway asked what he would like on the agenda. Mayor Simonds said to call for a forensic audit for the City of Lowell, dating back to 2010 to present day.

Councilmember Smith said he had a question. He said "no offense, you want to audit an audit?" Mayor Simonds said it's not auditing an audit. Councilmember Smith said "that's exactly what it is." Mayor Simonds said "it's auditing all the transactions, all the contracts, that's what a forensic audit is." Councilmember Smith asked him how much he thinks that's going to cost the citizens of Lowell. Mayor Simonds said "I don't know. Ranlo did it for like \$30,000." Councilmember Smith said "you're willing to spend \$30,000 to audit an audit?" Mayor Simonds said "whatever it takes."


Councilmember Bonham said "with no red flags, let's throw in another caveat I want every hour of every employee that spends any minute documenting on time spent on putting the information together for, in addition to, whatever the auditors comes into, how much time we are wasting, etc. There are no red flags, nothing in here to suggest that anything was spent the wrong way. You want it because you want it and that's fine." Mayor Simonds said "I want it because we are paying too much for taxes. I want to know where the money is." Councilmember Bonham said "you know where it is. It's right there in our audit as it is every year. You're auditing an audit." Mayor Simonds said "why are you arguing with me? I'm asking for a forensic audit that's going to take council vote, not Larry vote. It's not up to me." Councilmember Bonham said "it's the why? Why are you stirring a pot and there is nothing to stir." Mayor Simonds said "you can't ask why in the real world about nothing. Someone passes away, you can't say why, you say Lord thank you for taking them and know it's going to be ok." Councilmember Bonham said "fine, count it up and let's see how much this is going to cost." Mr. Attaway will put it on the agenda for next month.


Mayor Simonds said he appreciates everyone's interest and they should ask questions and that there was nothing wrong with that. He then thanked everyone for being here tonight.

8. Adjournment

8A. Meeting Adjournment- 7:12 PM

The item was motioned To Approve by Scott Bates and seconded by Travis Smith with a passing result 4-0-1-0 Abstained by Larry Simonds


Larry Simonds, Mayor


Cheryl Ramsey, City Clerk



Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Consideration to Amend the Planner Position to a Salary Grade 17 from Grade 20

Meeting	Agenda Group	
Tuesday, April 9, 2024, 6:00 PM	New Business	Item: 6G
Reference File	Presented By	

To: Lowell Mayor and City Council

From: Scott Attaway, City Manager

Date: 4-5-2024

Re: Consideration to Amend the Planner Position to a Salary Grade 17 from Grade 20

After review of the ongoing salary study and the recent promotion of Tyler Cobb to Planning Director, staff requests the following changes to be made to the Planner position salary prior to advertising the vacant position.

Current:

Planner Grade 20

Hiring: \$60,651 Minimum: \$63,684 Maximum: \$94,009

Proposed:

Planner Grade 17

Hiring: \$52,392 Minimum: \$55,012 Maximum: \$81,208



ORDINANCE NO. 1-2024

AN ORDINANCE TO AMEND THE LOWELL DEVELOPMENT ORDINANCE OF THE CITY OF LOWELL

WHEREAS, on May 11, 2021, the Lowell City Council adopted the Lowell Development Ordinance, also known as the LDO, to promote the health, safety, and general welfare off the residents of the City of Lowell by regulating the use of buildings and land development, planned developments, manufactured housing, development of subdivisions, signs, off-street parking and loading, planting yards, watershed protection, flood damage protection, and/or undertaking other consistent action as provided in the Ordinance; and,

WHEREAS, Article 5 of the LDO allows the Lowell City Council to amend, supplement, modify, or repeal any provision of the Ordinance or to amend the Zoning Map pursuant to the procedures established by N.C. Gen Stat, §160D-601 through §160D-605 and upon finding of compliance with the City of Lowell Comprehensive Land Use Plan; and,

WHEREAS, on March 5, 2024, the Lowell Planning and Zoning Board voted in unanimous consent to recommend a text amendment to the Lowell Development Ordinance Section 17.7-1 Requirements For Permanent Signs Requiring Approval Of A Zoning Permit, Table 17.1 - Permanent Signs, Section 17.10-12 Master Sign Plan-Application And Section 17.13 Nonconforming Signs

WHEREAS, the Lowell City Council, after conducting a public hearing which was duly advertised as provided by the foregoing status, has found these amendments to be in the public interest, in furtherance of the general purpose and objectives of the LDO, and in compliance with the City of Lowell Comprehensive Land Use Plan; and

NOW, THEREFORE, BE IT ORDAINED by the City Council Lowell, North Carolina that:




Section 1. *Amend Section 17.7-1: Requirements for Permanent Signs Requiring Approval of a Zoning Permit:*

17.7 Requirements for Permanent Signs Requiring an Approval of a Zoning Permit (A) Permanent sign requirements.

(A.) Only one general attached sign (blade, V-type, or flat) is allowed per street or parking frontage. *RESERVED*



Amend Table 17.1: Permanent Signs

Sign Type	Sign Copy Area Allowance (sq. ft.)	Sign Illumination	Minimum Letter Size	Maximum Number	Other Requirements
Permanent Attached Signs – General					
Blade* (or Projecting)		32**	Ambient External Internal		One per street or parking frontage per occupancy
V-type*					Only one sign (blade, V-type or flat sign) allowed per occupancy per street or parking frontage
Flat* (or Wall)				6"	



*May encroach into adjoining street right-of-way in the Main Street (MS) and Mixed Use (MU) Districts pursuant to an encroachment agreement subject to the provisions of Sections 17.5(G) and 17.7-1(I) of this Article.

For buildings located in the **Mixed-Use District (MU-2), Interstate Highway 85 Commercial District (C-85), US Highway 74 Commercial District (C-74) or the Industrial District (IND), allowed sign area shall be calculated at 10% of the eligible wall area, ~~not to exceed 100~~ square feet.

Amend Section 17.10-12: Master Sign Plan, Application

17.10 Master Sign Plan

17.10-2 *Application.* Master sign plans may be submitted for the following types of developments:

- (A.) Commercial, institutional, industrial, or mixed-use developments containing ~~three~~ **two (2)** or more acres in area.

Amend Section 17.13: Nonconforming Signs

(A.) A permanent sign which does not comply with one or more of the requirements of this Article shall be grandfathered (deemed a vested right) ~~until such sign is removed, physically altered beyond maintenance (as defined), relocated, damaged or destroyed, after which it shall be brought into compliance with all requirements of this Article.~~ **Such signs may replaced or modified if such installation or modification does not increase the existing nonconformity, as determined by the Planning, Zoning & Subdivision Administrator.** Nonconforming temporary signs shall not be grandfathered and shall be brought into compliance with all requirements of this Article within ten (10) days from the date of notification by the *Planning, Zoning & Subdivision Administrator* or duly authorized code enforcement agent of the City.




Section 2. All ordinances of portions of ordinances in conflict herewith are hereby repealed.

Section 3. Should any provision of this ordinance be declared invalid or constitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

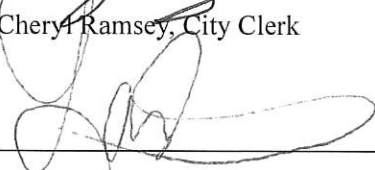
Section 4. This ordinance shall take effect and be in force from the date of this adoption.

PASSED AND APPROVED this 9th day of April, 2024.

ATTEST:



Cheryl Ramsey, City Clerk



Larry Simonds, Mayor



**NORTH CAROLINA
ALCOHOLIC BEVERAGE CONTROL COMMISSION
(919) 779-0700**

Location: 400 E. Tryon Road
Raleigh, NC 27610

Mail: 4307 Mail Service Center
Raleigh, NC 27699-4307

RESOLUTION #04-2024

RESOLUTION OF THE CITY OF LOWELL, COUNTY OF GASTON,
REGARDING THE DESIGNATION OF AN OFFICIAL TO MAKE RECOMMENDATIONS
TO THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL COMMISSION ON
ABC PERMIT APPLICATIONS.

WHEREAS G.S.18B-904(f) authorizes a governing body to designate an official, by name or by position, to make recommendations concerning the suitability of persons or locations for ABC permits;
and

WHEREAS the City of LOWELL, County of GASTON, wishes to notify the NC ABC Commission of its designation as required by G.S.18B-904(f);

BE IT THEREFORE RESOLVED that CARL MOORE, CHIEF OF POLICE,
(Name of Official) (Title or Position)

is hereby designated to notify the North Carolina Alcoholic Beverage Control Commission of the recommendations of the City of LOWELL, County of GASTON, regarding the suitability of persons and locations for ABC permits within its jurisdiction.

BE IT FURTHER RESOLVED THAT notices to the City of LOWELL, County of GASTON, should be mailed or delivered to the official designated above at the following address:

Mailing address: 102 E FIRST ST

Office location: _____

City: LOWELL, NC

Zip Code: 28098 Phone #: 704-824-8540

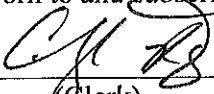
This the 9th day of April, 2024.



(Mayor/Chairman)

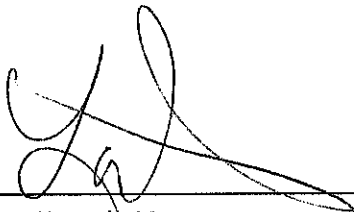


Sworn to and subscribed before me this the 9th day of April, 2024.




(Clerk)

Adopted this 9th day of April, 2024.



Larry Simonds, Mayor

ATTEST:



Cheryl Ramsey, City Clerk



RESOLUTION APPROVING THE INTERLOCAL AGREEMENT WITH GASTON COUNTY FOR ENFORCEMENT SERVICES OF THE GASTON COUNTY SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE

RESOLUTION 05-2024

WHEREAS, Article 20 of Chapter 160A of the North Carolina General Statutes authorizes the contractual exercise by one unit of local government for one or more other units of any administrative or governmental power, function, public enterprise, right, privilege, or immunity of local government; and,

WHEREAS, Article 6 of Chapter 153A of the North Carolina General Statutes authorizes the governing board of any City to permit any ordinance adopted by a County to be applicable within the City; and,

WHEREAS, the City of Lowell has requested that Gaston County provide enforcement services within the corporate boundaries of the City of Lowell for the Gaston County Soil Erosion and Sedimentation Control Ordinance; and,

WHEREAS, pursuant to N.C. Gen Stat. Chapter 160A, Article 20 upon official request of the governing body of any municipality within the County, the Gaston County Board of Commissioners may by agreement exercise enforcement powers within said municipality and upon such direction may do so until such time as the Municipal governing body officially withdraws its request; and,

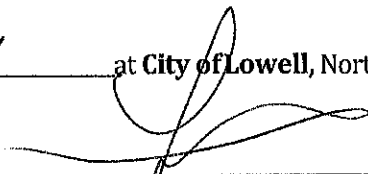
WHEREAS, the Gaston County Board of Commissioners, upon approval of a resolution, and with written notice, may withdraw the offering of the service to City of Lowell

WHEREAS, the City of Lowell, City Council upon approval of a resolution, and with written notice, may withdraw the offering of the service from Gaston County

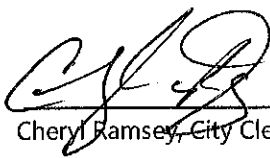
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOWELL:

That it is agreed by the parties hereto that the County, through the Gaston County Department of Natural Resources, will provide enforcement services of the Gaston County Soil Erosion and Sedimentation Control Ordinance, within the corporate limits of the City of Lowell, on the terms and conditions set forth below:

Adopted this the 9th, day of April at **City of Lowell**, North Carolina.



Larry Simonds, Mayor



Cheryl Ramsey, City Clerk



**RESOLUTION APPROVING THE INTERLOCAL AGREEMENT WITH GASTON COUNTY FOR
ENFORCEMENT SERVICES OF THE GASTON COUNTY STORMWATER ORDINANCE**

RESOLUTION 06-2024

WHEREAS, Article 20 of Chapter 160A of the North Carolina General Statutes authorizes the contractual exercise by one unit of local government for one or more other units of any administrative or governmental power, function, public enterprise, right, privilege, or immunity of local government; and,

WHEREAS, Article 6 of Chapter 153A of the North Carolina General Statutes authorizes the governing board of any City to permit any ordinance adopted by a County to be applicable within the City; and,

WHEREAS, the City of Lowell has requested that Gaston County provide plan review and permitting within the corporate boundaries of the Municipality for the post-construction portion of the Gaston County Stormwater Ordinance; and

WHEREAS, pursuant to N.C. Gen Stat. Chapter 160A, Article 20 upon official request of the governing body of any municipality within the County, the Gaston County Board of Commissioners may by agreement exercise enforcement powers within said municipality and upon such direction may do so until such time as the Municipal governing body officially withdraws its request; and,

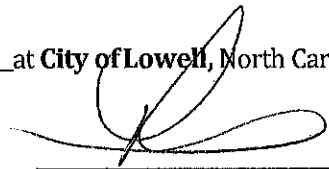
WHEREAS, the Gaston County Board of Commissioners, upon approval of a resolution, and with written notice, may withdraw the offering of the service to City of Lowell

WHEREAS, the City of Lowell, City Council upon approval of a resolution, and with written notice, may withdraw the offering of the service from Gaston County


NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOWELL:

That it is agreed by the parties hereto that the County, through the Gaston County Department of Natural Resources, will provide plan review and permitting for the post-construction stormwater portion of the Gaston County Stormwater Ordinance, within the corporate limits of the City of Lowell, on the terms and conditions set forth below:

Adopted this the, 9th day of April at **City of Lowell**, North Carolina.



Larry Simonds, Mayor



Cheryl Ramsey, City Clerk