

Minutes for the Regular City Council Meeting

101 W. First Street, Lowell, North Carolina 28098

March 12, 2024, 6:01 PM - March 12, 2024, 7:21 PM

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

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

1. General

1A. Call To Order- 6:01 PM

Mayor Larry Simonds called the meeting to order at 6:00pm. All Councilmembers were present. City staff present were City Manager Scott Attaway, City Attorney Jonathan Gonzalez (filling in for John Russell), Police Chief Moore, Police Asst. Chief Harrison, Planning Director Joe Gates, Public Works Director Thomas Shrewsbury, Finance Director Lisa Nolen, 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- 6:01 PM

The Invocation was led by Reverend William Calvert from Spencer Mountain Baptist Church. The Pledge of Allegiance was then led by Mayor Simonds.

Mayor Simonds wanted to honor the Irish with St. Patrick's Day coming up on Sunday with bagpipes played. Councilmember Chitwood said that in the Manager's report [weekly updates sent to council], it was noted that the city can be held liable for copyright infringement when playing music on YouTube. He said he talked to the Mayor about this issue before. He asked if there needed to be a motion to stop all music being played during the council meeting and that any honor or memorial to anyone would need to be part of the Invocation. Mayor Simonds says he thinks that is inappropriate right now because of the protocol of the meeting and said that could be brought up in his [Councilmember Chitwood] comments later. Councilmember Chitwood said we are not having the music tonight. Councilmember Smith asked the attorney if there needed to be a motion. Mr. Gonzalez said yes. Councilmember Chitwood made a motion that "from this day on that we have no music and if we need have a memorial that needs to be done in prayer or anything other than that needs to be done in prayer. This is for business only, so the motion is made for no music at any other meetings." It was seconded by Councilmember Smith. Under discussion, Mayor Simonds said "what we are doing tonight is mindboggling. When I was mayor before, we would have

people come in to sing a song and if that's the case, since you are worrying about someone suing the city, I want to see what you are speaking about." Councilmember Chitwood reminded Mayor Simonds that Mayor Pro Tem Bates showed him how to read the emails and that it was in the Manager's report that YouTube sent him notice of possible copyright infringement when playing music. Mayor Simonds said "to tell the city that you can't play Amazing Grace on the bagpipes in honor of St. Patrick's Day, along with all of our soldiers and emergency management people is atrocious." Councilmember Chitwood said that all can be done in prayer. Mayor Simonds said we took longer for this than the song would've taken. Councilmember Chitwood said because he keeps talking about it. Mayor Simonds said it still under discussion. Councilmember Chitwood agreed and said "point of order, please continue."

Mayor Simonds said "in his opinion, you can run God out anywhere you want to, but when something goes wrong, the first person you call on is the good Lord and I want to be ready when I leave here. I want to honor all the citizens and emergency management people." He continued stating "we've just been through some terrible things in the last few days [mentioning the names to two students that recently passed] and we have to look more forward than with something as trivial as this. The song could've already played." Councilmember Chitwood called a point of order again to move on [with the vote]. Mayor Simonds asked for the vote. The vote passed 4-1, with Councilmember Robinson voting nay.

Mayor Simonds asked the attorney what would happen if the song is played anyway? Mr. Gonzalez said he and John Russell talked about this recently and said Mr. Russell is still looking into legal implications. Mayor Simonds said that nothing is concrete and this is all alleged to have been brought before the City Manager as he has not seen anything stating the city is infringing. He said next month, he will just have someone come in to sing as has been done in the past. He said God needs to be honored wherever we are. Councilmember Chitwood said the motion was for no music, no singing. Mayor Simonds said if you don't like music, that's fine. Councilmember Chitwood said he "would prefer the Pastor or Preacher or whoever comes in, to do it in prayer. I would rather pray for them, than honor over music. I pray all day long, but as far as music, I don't see it happening anymore and that is the motion we made unless you are going to get someone to make the motion again." He then called for point of order again and stated that we are here for business. Mayor Simonds said he likes his meetings run like he wants it and he and Councilmember Chitwood had inaudible discussion. Councilmember Smith called a point of order again to move on. Councilmember Bonham said "this is not your meeting, but our meeting." Mayor Simonds said "as long as I'm mayor, I'm going to say the things that need to be said." Councilmember Chitwood said "that's fine and you have every right to say what you want to say, but you are not going to take 50 minutes like you did last month to talk about one subject." Mayor Simonds said he guesses we have to honor what the council wants but he had no words for this. He then thanked all for coming and his goal in life is to leave things in a better place than he found it and the only way to do that is not for him, but for God. He thanked Rev. Calvert for coming. Rev. Calvert then thanked council for allowing him to give the Invocation.

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

The Item was motioned To Approve by Travis Smith and seconded by Phil Bonham with a passing result 5-0-0

1D. Public Comments- 6:09 PM

1. Ed Jackson (has property in Lowell but does not live in the city)- spoke of the changes in Lowell. He said he sat in on part of council's budget session a few weeks ago and commended council for working

together. He said he saw a sense of cooperation and heard good discussions, that they came to conclusions and moved onto the next item. He said they seemed to have learned from each other. He said we have a lot of good things coming to Lowell and have a good [City] Manager. He said things may be moving fast but we can't just stand still and go back to the 70's or 80's because things are not as they were. He said we need to make the things ahead better and encouraged council to keep working together. He pleaded with them not to just throw these things [future projects] away because it would take a while before the State and Federal governments would help us again in the future.

2. Tom Lesperance of 721 Overlook, Lowell, NC - talked about his recent arrests that he believed were wrongful arrests and that he felt the Lowell Police Department is harassing him. He said he just wants answers to his questions and that the Chief, officers and City Manager have not been very helpful.

3. Darryl Tate of 307 Lynn St, Lowell, NC - discussed the water problems he had in November 2023 and not getting any relief from the city. He then said he wanted council to look at the process for cutting off people for nonpayment by calling those with children and elderly people in the home to warn them. He then thinks deposits should be refunded after a year or so or pay a percentage to owners if they plan on keeping it. He then asked if the drainage would be cleared on S. Church St. Mr. Attaway said they will be connecting a new stormwater infrastructure. Mr. Tate asked if the city was going to do anything about the standing water there. Mr. Attaway was not sure of where Mr. Tate was referring to. Mr. Tate tried to explain where he was referring to and said that the city is working on a road that doesn't belong to them, that it was basically a driveway, the way he understood it. He asked Mr. Attaway if that was true. Mr. Attaway said the city is not working on a road. He said there is a contractor building a road that they will likely bring to this council. Mr. Tate said the contractor said they worked for Lowell. Mr. Attaway said that is incorrect, but that we have a construction inspector that works for Lowell through the engineering firm. Mayor Simonds said to Mr. Attaway "what you told me the other day was that NorthPoint left us money to repair stuff?" Mr. Attaway said "no, what I told you the other day was that NorthPoint had to pay plan review fees and construction inspections based off of our fee schedule. On the inspection side of that revenue that we received, it goes out for the inspections on the road that we pave. We're paying LaBella Engineering to be the project construction inspector." Mayor Simonds asked "how much money is that, how much money are they leaving to take care of these inspections?" Mr. Attaway said he does not have those figures in front of him. Mayor Simonds said that he recalled about two months ago, when he [Mr. Tate] appeared before us, the city was supposed to get together to talk about his issues. He asked Mr. Tate if he had been contacted? Mr. Tate said that Thomas [Shrewsbury] called him today and told him the city would not be cleaning his drain. Mayor Simonds suggested Mr. Tate call the City Manager. Mr. Tate was asking that this all be put on the agenda for next month. Councilmember Bonham asked if this all falls under the Stormwater policy and that this is something that would be taken care of by the Stormwater Department? Mr. Attaway said yes Stormwater and Streets departments. He said "we have a Stormwater Ordinance that prioritizes what gets fixed in a certain order and I can send that out to the council and refresh everyone on what that looks like following that adopted ordinance." Mayor Simonds said he "thinks it's wrong when a citizen comes up here and we instruct you to get together with them and it never takes place. That's been a while now." He then suggested Mr. Tate come in to speak with the Clerk to get items added to the agenda and to come talk to the City Manager to rectify his situation.

4. Candy Funderburk of 600 Rogosin Blvd, Lowell, NC - thanked Councilmember Chitwood for his motion earlier [copyright infringement] because they are here to do the business of the city. She said when she was on council before, they never had to use the point of order because they never had any issues with the previous mayor. She then said she is concerned about the three councilmembers that voted not to have the security checkpoint anymore. She said "even though it is not there now, anyone in the room with a license to carry, and I do but I leave it at home, brings one in and then gets mad...I recall a citizen in a meeting in December saying 'as long as you're doing your job, you have nothing to worry about it.' Well that's a threat. So that person, or anyone else in here could feel like you guys are not doing your job, could pull out their gun and that is the first line of defense." She then talked about the budget and the last council agreeing on getting the K-9 dog. She said she doesn't think we need it right this second but in the future and that you have to plan for the future. She said she thinks the contract has been signed and that it will be \$30,000 of taxpayers money that will go down the drain because you guys decided not to have a dog. Councilmember Chitwood suggested Mrs. Funderburk get with him later on where he could provide her with the true numbers of what will be done. He also mentioned that it will be on the agenda later today for discussion. Mrs. Funderburk then mentioned there have been rumors that council will be bringing the Fire department back and she doesn't know how that is going to work according to the statute. She said "our citizens pay a \$.49 cent tax rate now, the fire rate for the county is 8 and a 1/2 cents, so if you bring them back, how are you going to pay them? You can't cut taxes and pay them 8 and 1/2 cents because that would be 57 and 1/2 cents and then if you cut taxes 6 cents, that is still 51 and 1/2 cents but you're telling everybody in your campaign that you are going to cut taxes, but if you bring the Fire Department back, I don't understand and maybe you all can explain that to me if you know." Mayor Simonds was about to talk, Mrs. Funderburk said no that she'll talk to one of the councilmembers.

Councilmember Bonham said although he appreciated Councilmember Chitwood's comments [to Mrs. Funderburk], he doesn't think there needs to be continued reactions back and forth. He said the public can speak the way they want to speak but to remember this is a business meeting not a public forum.

5. Wayne Buchanan of 620 Geer St, Lowell, NC - asked how many cops are in Lowell because they aren't in Lowell. He said he almost got run over by a motorcycle along Spencer Mountain. He said he's seen people run through lights and asked why are they not patrolling. Mayor Simonds said that we have 11 now and need more because with the infrastructure in this city, we should have more policemen and we will in the future and we just have to use our money the right way.

6. Thomas Lesperance (father of Tom Lesperance) - stated he does not live in Lowell but said he spends a lot of money here. He made complaints against the Police Department practices and violating his son's 1st amendment rights by denying him the freedom of speech during his protest. He said his son just wanted some acknowledgement of what was done to him and could have been done different, even if no wrongdoing on the part of the Police were found. He said everyone had the opportunity to fix this and no one seemed to want to do it, so now he will go to a higher power.

7. Darryl Tate was allowed to speak again- Mr. Tate asked about the old chemical plant the city recently purchased where they are cleaning up. He said he would like the council to consider making a permanent sign stating that it's a waste site to notify people. He said he doesn't know if there is a way to know if people are 100% protected and people should know this especially when they find different carcinogens

every day and it would help protect the children. Mayor Simonds agreed and asked if there were no trespassing signs out there now or hazardous waste signs. Mr. Attaway said there are in fact no trespassing signs posted.

Councilmember Bonham said we've done all the testing and there has been no evidence of anything there. He said "if you want to sit there and say this is a great thing that we've done, we've reclaimed this property. It's a brownfield agreement and we can explain what a brownfield is but anything less than that, just puts fear in people's eyes. There is nothing there to suggest that there are any issues. This is asinine, to just create chaos out of nowhere. What evidence do you have that suggests that anything is there on site, after all these tests, that says we have a problem?" Mayor Simonds said "you know we have a problem there. It's going to take a long time to ever clean this mess up." Councilmember Bonham asked where was the evidence? Mayor Simonds continued and said we've already spent \$2 million there and we have to cover this stuff. He asked Councilmember Bonham if we had insurance if citizens go over there and die or get sick or hurt? Councilmember Bonham said "we don't have it open to the public right now". Mayor Simonds said a child could go through the fence and you have to have some kind of warning out there to protect the people. He asked the City Manager "is the city is not liable if someone were to go over there and get sick, step in a hole and drown or die, are we not liable?" Councilmember Bonham said "so all the fencing and keep out signs is not good enough, we need to have armed guards around the fence 24/7, shoot on sight to keep anyone out of there, I mean come on! Let's move on." Mayor Simonds said "I agree we should move on but we need to take care of our citizens and they are building houses right beside there. Mr. Gonzalez what's the rule on..." Councilmember Bonham interrupted and said "point of order". Mr. Gonzalez asked if Councilmember Bonham was making a motion. Councilmember Bonham said yes, point of order, seconded by Councilmember Smith. Mayor Simonds continued to ask Mr. Gonzalez about insurance to protect the citizens. He said he'd follow the point of order but it was a good question. Councilmember Bonham said "the point of order right now was to follow the agenda item and to keep the you from going off-base, that's what we are trying to do. There is a motion and a second." Mayor Simonds said to let's just move on.

2. Approval of Minutes

Motioned to approve by Travis Smith, seconded by Scott Bates with a passing result of 5-0-0-0

2A. Approval of Minutes 02-13-2024- 6:36 PM

3. Special Presentation

4. Consent Agenda

The item was motioned To Approve by Travis Smith and seconded by Phil Bonham with a passing result 5-0-0-0

4A. Planning Report - 6:36 PM

4B. Finance Report- 6:36 PM

4C. Parks & Recreation Report - 6:36 PM

4D. Stormwater Report- 6:36 PM

4E. Geographic Information System (GIS) Report- 6:36 PM

4F. Communications Report- 6:36 PM

4G. Police Report- 6:36 PM

4H. Public Works Report- 6:36 PM

5. Unfinished Business

5A. Consideration of Black Mountain Software- 6:37 PM

Presented by Scott Attaway. He said this was discussed in the budget retreat as an opportunity from the NC League of Municipalities' (NCLM) Municipal Accounting services where they are utilizing some of their American Recovery Plan Act grant funds to be able to help out some of the smaller municipalities, mostly populations of 10,000 and under. He said they are going to pay for all of the software turnover from an existing financial fund, utility billing software and payroll program. In year four, would be when the City of Lowell begins to pay for the software support. The city will not have to pay for any of the implementation and it is approximately \$157,000 that NCLM are paying out of a grant for us to get this new software package. He said, as was mentioned in the budget retreat, this software does a lot more than the city currently have now and is beneficial for the city. Councilmember Chitwood asked if year four means year 2029 and not still not implemented until 2026. Mr. Attaway said correct, it is not implemented until 2026. Councilmember Smith said "I think to Shane's [Councilmember Robinson] point in the budget retreat, regardless of the numbers, they're going to continue to add up with who we have now versus this company and it seems like this company seems to be a lot better for our city staff to get their job done." Councilmember Robinson asked if this will start right away or 2026. Mr. Attaway said 2026. He added that they will have some of the work up, where the League will come with their cyber team and go through security aspects of it to make sure our equipment justifies the new software. The go live is 2026. Mayor Simonds said so we'll suffer until 2026. Mr. Attaway said yes, the city was one of the later municipalities to sign up and would have to wait in line for availability to install. He said we would need to adopt this and get it to the League by the end of March. He said the motion would be to approve the resolution and associated memorandums.

The item was motioned To Approve by DeWayne Chitwood and seconded by Phil Bonham with a passing result 5-0-0-0

To approve Black Mountain Software resolution and associated agreements

5B. Consideration to Set Time of March 19, 2024 and April 16, 2024 City Council Work Sessions- 6:43 PM

Councilmember Chitwood said he sent an email out to everyone stating that it seems like it is easier to do the meetings on Fridays. Councilmember Bonham said Friday's were better for him. Mr. Attaway is not available next Friday and the holiday is the following Friday. He offered this coming Friday but Councilmember Bonham stated he will be out of town. Mayor Simonds asked if the meeting can be cancelled since there is nothing pressing and just go to April. There was some discussion on the times and dates for the retreat. It was decided that April 16, 2024 from 1-5pm would be best for all.

The item was motioned To Amend by DeWayne Chitwood and seconded by Travis Smith with a passing result 5-0-0-0

To skip the March 19th and to keep the April 16th meeting from 1 to 5pm, here at City Hall Council Chambers.

5C. Proposed Code of Ordinances Amendment: Chapter 76- Traffic Schedules and Chapter 72- Traffic Regulations- 6:47 PM

Presented by Tyler Cobb, Planner. He is proposing an amendment to Chapter 76 Traffic Schedules and Chapter 72.060 Traffic Regulations of the Code of Ordinances. This would amend weight restrictions at a portion of Cobb Street between Kenworthy Ave and S. Church St. He said the goal is to restrict heavy traffic using Cobb St and keep commercial through traffic to Exit 22. Councilmember Chitwood asked if this was basically saying no large tractor trailer trucks would be going down Cobb St? Mr. Cobb said yes and directed them to their packets showing the maps. Mayor Simonds asked about the access road when you turn off Church St and cross over Cobb St and the new street they are doing. Mr. Attaway said that is Aberdeen Extension and that the new road would be truck traffic going both ways. Mayor Simonds said that's kind of narrow but said it was good that the city is doing this [proposed amendments] on Cobb St.

The item was motioned To Amend by Phil Bonham and seconded by Scott Bates with a passing result 5-0-0

To amend Chapter 76: Traffic Schedules, Schedule XII: Weight Restrictions & Chapter 72, Section 72.060: Miscellaneous Driving Rules

6. New Business

6A. Resolution #03-2024 - Authorizing the Adoption of the Updated CDBG-I Compliance Plans- 6:50 PM

Presented by Scott Attaway. Mr. Attaway stated this is an update for compliance that the Department of NC Commerce has given us to maintain compliance with CDBG grants to adopt this resolution. He said we will get these from time to time to update policies. He mentioned the specific compliance changes. There were no questions.

The item was motioned To Approve by Travis Smith and seconded by Phil Bonham with a passing result 5-0-0-0

6B. Request to Set Public Hearing - LDO Text Amendment - Article 17 Sign Regulations- 6:52 PM

Presented by Scott Attaway. The Planning Department has asked the Planning Board to review the sign regulations that council recommended because they kept getting Master Sign applications to vary the dimensions, etc. of the sign ordinance. Mr. Cobb discussed the specifics (see packet). He asked council to set a public hearing on Tuesday, April 9, 2024, for this matter.

Mayor Simonds asked if they have to apply for a permit and get a sign, they can't just put up a sign but apply, correct? Mr. Cobb said that was correct. Councilmember Smith said it would just keep less of the things we need to deal with in house. Mr. Cobb said that was correct.

After the motion, at 6:56pm Councilmember Bonham asked Mayor Simonds for a quick break. Council resumed at 6:57pm.

The item was motioned To Set by DeWayne Chitwood and seconded by Scott Bates with a passing result 5-0-0-0

To set the public hearing for Tuesday, April 9, 2024

6C. Update to Interlocal Agreement for Enforcement Services of Gaston County Soil and Erosion and Sediment Control Ordinance- 6:58 PM

Presented by Scott Attaway. Mr. Attaway said we have some unanswered questions regarding this agenda item, 6C and the next agenda item, 6D, to the County and would like to move this to the April council session and to table them until then.

6D. Update to Interlocal Agreement for Enforcement Services of the Gaston County Stormwater Ordinance- 6:58 PM

See agenda item 6C.

6E. Discussion of Lowell Police K-9 Program- 6:59 PM

Presented by Councilmember Chitwood. Mr. Chitwood said the reason why he is going "to vote to suspend this program until further notice is that with this Police Department having only 11 officers and two to three of them stay in the office with eight on patrol with some at night, working by themselves. If that K-9 position happens to go out and they can go to mutual aid, Ranlo, or a place that does not have a K-9, then that leaves this city unprotected... When this department grows to a certain amount, at least 15 or 16 [employees], where you can make that position instead of a patrol officer just moving to K-9, you have a position for just strictly K-9 that does K-9 duties and maybe even have two K-9, one for each shift. As of right now, as Mrs. Funderburk stated earlier, up to \$30,000, well that's not true. I spoke with the K-9 handler in Tennessee and according to her it's only \$1000 deposit that was supposed to have been sent and never got sent. That was supposed to have been sent upon receipt of the invoice. We all got a copy of it, dated July 13, 2023. As far as up fitting the vehicle, there is no reason to spend \$35-37,000 for brand new vehicles. There's money there but since the K-9 is not going to be here, and as I said, as of right now, this department is not big enough." He then made a motion to suspend the K-9 program until further notice, seconded by Mayor Pro Tem Bates.

Councilmember Bonham asked, to get a better understanding of what Councilmember Chitwood stated, "if someone were to call for a K-9 and we were here and available and we had one on duty at that time, we are forced to go out of territory vs. staying in territory and protect our own people?" Councilmember Chitwood said "what's to say that they are not going to go and help out? I get it, I've been there." Councilmember Bonham said "I understand, you work here and you can't go but when you have an opportunity to lend a hand, that's what you do, and if you don't have it, you don't do it. I'm certainly not questioning your background or yours Mr. Bates. I'm trying to better understand if you think 15,16 is the number to have one, then maybe two [K-9 units], we're right around the corner from that." Councilmember Chitwood said "that's why I put suspended until further notice. I could have said suspended period." Councilmember Bonham said "as one who has had to use the K-9 in the past, I was very grateful when K-9 showed up and did his/her job. I'm not sure I agree with you on this, I am sure that you and Mr. Bates have more knowledge in this than I do and for that I respect that and we'll do what we have to do." Mayor Simonds said the Sheriff's department and County has K-9 and so do other municipalities. Councilmember Chitwood said the Sheriff's office, the County, City of Gastonia, Belmont, Ranlo have one and they are all close to us. Mayor Simonds asked if we have spent the money on up fitting the cruiser/SUV?. Councilmember Chitwood and Scott Attaway said yes. Mayor Simonds asked Councilmember Chitwood what do you do in that situation? Councilmember Chitwood said you can sale the cage or hold it down in

the basement somewhere or turn that patrol car back into something that is used to take people to jail. There was further discussion of selling the vehicle, availability of the current vehicle. Councilmember Smith asked if that vehicle can still be used for patrolling even if it is not used for a prisoner. Mr. Attaway said it would need to be re-out fitted. Councilmember Chitwood and Councilmember Smith said re-out fitting makes more sense. Mayor Pro Tem Bates said re-out fitting may be way cheaper than trying to sell it and purchase a new vehicle. There was a brief discussion on this scenario.

Councilmember Smith said he might not agree with this motion but that Councilmember Chitwood and Mayor Pro Tem Bates have more experience in this than he does and respects their opinion and what you think is best. Councilmember Bonham said "here is one thing I want to caution us on, we are doing this, we can rely on Ranlo and Cramerton, we can rely on Gaston County for this, then it comes to something else and we need to have it here, well where do you draw the line? I don't want to get off subject but you go on down the road saying I don't want to pull from this resource here on this, but I want it here in my town on that, how do you make that distinction. That has nothing to do with the K-9 that we are speaking on, but just my theology." Mayor Pro Tem Bates said "I kind of want to touch on what you're saying, I think in the future, I don't think Mr. Chitwood is wanting to just do away with it but once this department grows and gets bigger. I think, me personally with my experience, I think it would be more feasible for the department to grow and to start out with two K-9's where you'd have one on each rotation that's available. Starting out with just one, that's what you're going to run into. We're depending on that one on this shift but when the K-9 is at home on their days off, you don't have it on this other shift. So we're still depending on other cities." Councilmember Bonham said that makes perfect sense. There was a discussion of the K-9 program that was had before in 2009 but that was paid for by the officer, not the city and when he left, he took the dog as well. Mayor Simonds discussed about the problems we have, infrastructure, and have the money to take care of what we need to do. We don't have sidewalks and no markings on certain streets. He said lets build Lowell up the right way and stop the spending. There was no further discussion.

The vote passed with Mayor Pro Tem Bates, and Councilmembers Robinson and Chitwood voting yay to suspend the program, and Councilmembers Smith and Bonham voting nay.

To suspend the K-9 Program

6F. Discussion of Vacant Positions- 7:10 PM

Presented by Scott Attaway. Mr. Attaway said there is a conditional offer for a new Parks and Recreation/Events Director position. He also wanted to talk to council about the Public Works Director position that has been advertised. He said the personnel policy does not allow him the latitude to over hire, where you have a new candidate come on board while the current Director is still a city employee for a couple weeks so they [new hire] have that institutional knowledge before the current person leaves the organization. He thinks it would be very beneficial for whoever comes on to that role as Public Works Director, assuming that happens before our current employee leaves, that he would have the ability to do that. He said it would be paid for with the salary lag from the department that is already there. He said it wouldn't be a budget amendment required to do it and he is thinking two weeks of an over hire would help out tremendously for that position.

Mayor Simonds said his "recommendation to you as City Manager and to the board, is that we have people out here that's been working for years in these positions and things like that and they need to be encompassed in to look at them as well as seeking outside. We have to honor the folks that have been

working here and at least look at them. I think as a council, we should look at applications as well because when you hire a Public Works Director or Recreation Director, that's an enormous amount of money and we need to look at it the way you would want to be treated yourself. Just like when you came on board, they didn't advertise the position, they just voted to bring you in. Anytime you advertise a public position, it should be advertised and for all existing employees in that field to have an opportunity as well. It's called Equal Opportunity Employer, which we should be." Councilmember Bonham said "I think, quite frankly, that is way out of the scope of City Council. The City Manager is in charge of hiring and recruiting and doing those things. Any departmental person can apply for any open position. If they meet the qualifications, then they can be considered for the position. I think we absolutely should have somebody in here for the two week overlap to understand, get to know the people, the processes, etc. It just makes for a smoother transition and we're just talking about two weeks. The judgement of not doing that is worse than two weeks of overlap, monetarily. But to sit there and hold out like you did many years ago when you hired Green as the City Manager raising hell because he was from Clover and not from Lowell. If you don't have anyone qualified applying for the job, within the job, then you still have to move forward. That is not to discount anybody and it's not saying it's not open for interview for anybody, but we're going to hire the most qualified person for the job in the best interest of the city and it has nothing to do with this council. That's what we hired this guy to do [pointing at Mr. Attaway]."

Mr. Attaway requested a formality of a motion if the board considers the over hiring of the Public Works Director because essentially what it's doing is there is one Public Works Director position and you are temporarily allowing two Public Works Directors for the two week period. Councilmember Smith said he totally agreed as it is just training for the new Director. Councilmember Bonham made a motion to over hire for a Public Works Director for two weeks, 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 5-0-0-0

To over hire for a Public Works Director for two weeks

7. Reports / Discussions

7A. City Manager Report- 7:14 PM

1. Council and the Mayor were copied on an email to NC House Rep John Torbett and Senator Overcash numerous direct funding requests that have been discussed in the budget retreats and various projects for the City of Lowell. He received a call from NC US House Representative Jeff Jackson letting us know that the direct funding that we requested for the Lynn St pump station replacement has been secured in the amount of \$800,000 in federal funding. He said we are also going to be working with the current CDBG-I grant balance to see if Lowell can add this to the expenses of that grant and hopefully use that together with the federal funding we anticipate receiving.
2. Widening Betterment Agreement meeting is April 12
3. Mayor/Manager meeting in Cramerton on March 19 at 12:15 at Cramerton Town Hall. He said he has attended a few of these and thinks it is incredibly useful to see how municipalities can work together and learn from each other.
4. Two Rivers Board meeting is on March 27th. They will be discussing the 7 1/2 percent water/sewer increase that Two Rivers is going to levy out to all the wholesale customers and their citizens and the City

of Gastonia as well. He will get more information out to council after that meeting.

5. Rogosin Blvd speed bump/traffic control - Addresses have been compiled for a mail list and they are making a call list for a meeting. Will coordinate a date for the meeting and will put up signs in that neighborhood on both sides of the street to notify residents. This is to see what traffic calming measures the residents feel are necessary in that area.

6. Security Access to City Hall and the Police department has been finalized as of today. This was through a League of Municipalities Safety Grant.

7. Citizens Academy is going well. The last one was GIS, Stormwater, and Communications in one night. Next up is the Planning Department session.

8. Claim on a sewer back up at a local church and we are working with the League of Municipalities with that .

9. CDBG-NR - thanks to Cheryl Ramsey and the representative with WithersRavenel, the city had a clean audit when the NC Department of Commerce came recently for their audit review. He will pass along any documentation received regarding the audit results.

10. CDBG-NR updates - on the last stretch of the 4 homes and the Community Center is finished. We are just making sure all the small things are done but the contractor is done with it.

7B. City Attorney Report-

None at this time. Mayor Simonds thanked Mr. Gonzalez for filling in for Mr. Russell.

7C. Mayor and City Council General Discussion- 7:19 PM

Mayor Simonds stated that a child was lost at Holbrook recently, Kamarion, and their funeral was this past Saturday. He said the school principal, Mr. Ross, has applied for some bracelets for the school. Once they come in Councilmember Smith will give them a plaque and he will provide the money for the kids to have pizza. This won't be announced until they get the bracelets in and he will let council know. He said we also lost another child, Saturday, who was 18 years old. He said we have to be there for the citizens. He thanked Councilmember Smith for going with him to the funeral Saturday representing Lowell.

No one else spoke this evening.

8. Adjournment

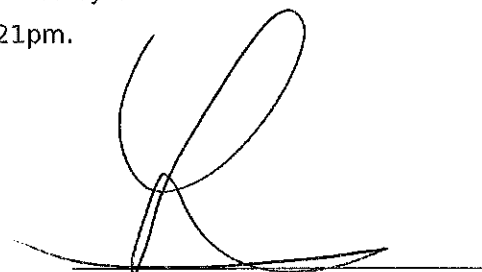
8A. Meeting Adjournment- 7:21 PM

Mayor Pro Tem Bates made a motion to adjourn, seconded by Councilmember Chitwood. The vote was unanimously approved. The meeting adjourned at 7:21pm.

ATTEST:



Cheryl Ramsey, City Clerk



Larry Simonds, Mayor



**CITY OF LOWELL
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
2018 PROGRAM FUNDING YEAR
COMPLIANCE PLANS**

RESOLUTION #03-2024

A Resolution Authorizing the Adoption of the updated compliance plans for the CITY OF LOWELL during the implementation of the North Carolina Small Cities Community Development Block Grant for the Infrastructure (CDBG-I) Program.

WHEREAS, the CITY currently participates in the FY2018 Small Cities CDBG Program under the Housing and Community Development Act of 1974, as amended, and administered by the North Carolina Department of Environmental Quality (DEQ), Division of Water Infrastructure (DWI); and

WHEREAS, the CDBG program has many federal performance and procurement requirements;

WHEREAS, the CITY adopted initial CDBG policies and plans in October 2019;

WHEREAS, the CITY adopted the following CDBG policies and plans on March 9, 2021;

- Updated Citizen Participation Plan

WHEREAS, the CITY adopted the following CDBG policies and plans on September 12, 2023;

- Equal Opportunity Policy and Plan
- Procurement Policy and Plan
- Language Access Plan
- Section 504 Self-Evaluation Survey and Grievance Procedure
- Fair Housing Plan and Activities

WHEREAS, the DWI is requiring the following updated policy under this program;

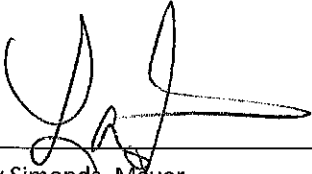
- Procurement Policy and Plan

THEREFORE, BE IT RESOLVED by the CITY COUNCIL of the CITY OF LOWELL, North Carolina:

That this updated compliance plan is hereby submitted and adopted and to be used throughout the implementation of the CITY OF LOWELL FY 2018 CDBG PROGRAM.

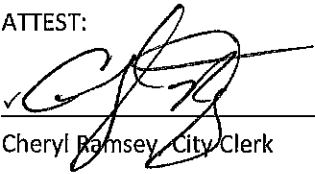


Adopted this 12th day of March, 2024.

✓ 

Larry Simonds, Mayor

ATTEST:

✓ 

Cheryl Ramsey, City Clerk

Procurement Policy and Plan for CDBG-I Grantees

WHEREAS, the **City of Lowell** will comply with the terms and conditions of federal funding that is awarded and accepted, including, but not limited to, the terms and conditions of the Grant Contract, and the **most recent version** of the *Procurement Policy of the North Carolina Department of Environmental Quality's Water Infrastructure Division, Community Development Block Grant-Infrastructure Program (CDBG-I Program Procurement Policy)*, attached;

WHEREAS, the States were advised by Housing and Urban Development (HUD) to develop their own procurement policies, and the CDBG-Infrastructure Program has developed and adopted the attached policy (*CDBG-I Program Procurement Policy*) as reference for its grantee communities, using portions of 2 CFR Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements of Federal Awards," supplemented with NC General Statutes 143-64.31, 143-129, and 143-131; and 24 C.F.R. § 570.489(g), which explicitly prohibit cost plus a percentage of cost and percentage of construction cost methods of contracting. In addition, all purchase orders and contracts shall include any clauses required by Federal Statutes, executive orders, and implementing regulations including the Section 3 clause, per **2 C.F.R. 200.327 (Appendix II of Part 200)**, 24 C.F.R. 570.489 (g), and **24 C.F.R. 570.607**;

WHEREAS, the **City of Lowell**, as the recipient of Federal CDBG funds, acknowledges its responsibility to and will adhere to the aforesaid *CDBG-I Program Procurement Policy* of the North Carolina Department of Environmental Quality's Division of Water Infrastructure;

WHEREAS, the **City of Lowell** will, to the extent applicable, follow methods of procurement, procure by contracting with small, minority firms, women's business enterprises, and labor surplus area firms, when those entities offer the best level of knowledge, skills and abilities for professional services, and when those entities offer the knowledge, skills and abilities and are the lowest cost responsive, responsible bidders in building trade and related services; and

WHEREAS, the **City of Lowell** will demonstrate contract cost and price awareness and adhere to awarding agency contract provisions (2 CFR Part 200, Appendix II, except for items F and J, which were not adopted by the CDBG-Infrastructure Program, as allowed under 2 CFR Part 200.101(e)(1));

NOW THEREFORE, BE IT RESOLVED;

SECTION 1: All procurement of goods and services by the **City of Lowell** with CDBG grant funds shall be accomplished in accordance with the requirements of the *CDBG-I Program Procurement Policy*, and HUD implementing regulations at 24 CFR Part 570.489 (g) and (h), which prohibits cost plus a percentage of construction cost method of contracting for services.

SECTION 2: In addition, all purchase orders and contracts shall include any clauses required by Federal Statutes, Executive Orders, and implementing regulations including the Section 3 clause, per **2 C.F.R. 200.327 (Appendix II of Part 200)**, 24 CFR 570.489(g), **24 C.F.R. 570.607**, or the North Carolina General Statutes Chapter 143 applying to procurement in general by North Carolina municipalities and counties.

SECTION 3: When Federal and State regulations are different, the more restrictive regulation shall apply to the procurement in question, as outlined in the *CDBG-I Program Procurement Policy*

SECTION 4: The **City of Lowell** will adhere to the following guidelines during procurement of goods and services using Federal funds:

- A. In all cases where goods or services are procured based on one bid or proposal received, the **City of Lowell** will follow established principles to verify the reasonable cost of the procurement and shall contact the State Agency supervising the grant program before making any contract award based on non-competitive negotiation. The **City of Lowell** shall follow all noticing and advertising requirements prior to accepting the single source respondent. Written permission from the CDBG-I Program shall be obtained prior to entering into a single source contract.
- B. Section 3 certified businesses, and historically underutilized businesses, including women-owned and minority-owned enterprises shall be included on bidders' or professional services' lists maintained by the **City of Lowell**. Firms shall be solicited for all competitive negotiations, small purchases, and informal and formal bids when such firms are potential competitive sources for goods and services.
- C. *As applicable, appropriate and to the extent consistent with law, the **City of Lowell** shall, to the greatest extent practicable under a federal award, provide preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States, Buy American preferences set forth in 2 C.F.R. part 184, for their infrastructure project.*

SECTION 5: The **City of Lowell** will adhere to the following guidelines during procurement of professional service contracts:

- A. Professional services shall be procured through the use of Request for Proposals (administrative services) or Request for Qualifications (engineering services). Respondents offering administrative services shall be selected on the basis of the best qualified respondent for the price. Respondents offering engineering services shall be selected on the basis of the best qualified respondent, without regard for price. A written selection procedure shall be used to evaluate respondents, and those records maintained in the procurement files.
- B. The **City of Lowell** shall develop a written scope of work for each service to be awarded on the basis of competitive negotiation, which shall include descriptions of tasks to be completed, project timetables, and an outline of fee proposal requirements. The selected engineering services respondent and the **City of Lowell** shall then enter into competitive negotiations to arrive at a mutually agreeable price for engineering services. All contracts awarded through competitive negotiations shall be awarded strictly on the basis of the written selection procedure.

SECTION 6: The **City of Lowell** will adhere to the following guidelines during procurement of construction contacts:

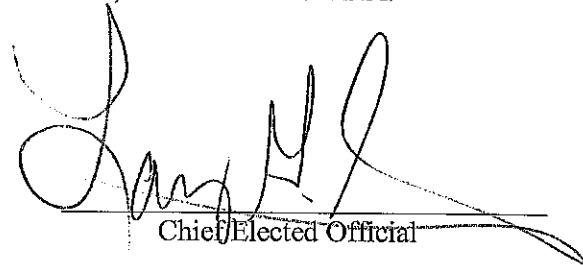
- A. Construction service contracts shall be competitively bid using sealed bids, with the award going to the lowest responsive, responsible bidder. A minimum of three bids shall be received prior to opening the sealed bids.

SECTION 7: Additionally, the **City of Lowell** will adhere to the following guidelines during all procurement:

- A. Prior to any contract award, the **City of Lowell** shall verify the consultant and/or contractor's eligibility to participate in a federally assisted program.
- B. No consultant or bidder shall assist in the development of the Request for Proposals, in the Request for Qualifications, nor the construction bid posting in which the consultant or bidder has a direct or indirect interest.
- C. No consultant or bidder shall assist in the evaluation of proposals or bid packages for contracts in which that consultant or bidder has a direct or indirect interest. The **City of Lowell** shall adhere to all applicable Federal and State conflict of interest regulations in making contract awards.
- D. The **City of Lowell** shall request references or check references of contractors or firms who are awarded contracts with Federal grant funds and will request a written warranty for all goods and services provided through the small purchase's procedure.
- E. The **City of Lowell** shall not award any contract for federally-assisted projects on a contingency or cost-plus-percentage of construction basis.
- F. The **City of Lowell** shall hold a pre-bid meeting and a pre-construction meeting for each construction project bid competitively using CDBG-Infrastructure funds. Evaluation criteria for the bids may add points for attending the pre-bid meeting of contractors, but it is not a prerequisite.


PASSED BY THE CITY COUNCIL, CITY OF LOWELL, NORTH CAROLINA.

Adopted this 12th day of March, 2024.



Chief/Elected Official

ATTEST:



Clerk