



**CITY OF LOWELL  
COUNCIL MEETING AGENDA  
TUESDAY, FEBRUARY 8, 2022, 6:00 P.M.**

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- 1. CALL TO ORDER** – Mayor Sandy Railey
- 2. INVOCATION / PLEDGE OF ALLEGIANCE**
- 3. ADOPTION OF AGENDA FOR THIS MEETING**
- 4. PUBLIC COMMENTS**
- 5. APPROVAL OF MINUTES**
  - A. Minutes from Council Meeting Held January 11, 2022 **(p. 1-10)**
- 6. SPECIAL PRESENTATION**
  - A. FY 2020-2021 Audit Presentation by Butler and Stowe **(p. 11-12)**
  - B. Report of the Intergovernmental and Interagency Task Force on Homelessness in Gaston County by David Williams, Community Affairs and Development Administrator for Gaston County **(p. 13-14)**
- 7. NEW BUSINESS**
  - A. Resignation of Councilmember Ken Ervin **(p. 15-17)**
  - B. Consideration of Nominations and Appointment to the Lowell City Council and Administration of Oath of Office **(p. 18)**
  - C. Set Public Hearing for Consideration of Zoning Text Amendment for Article 12, Section 12.10. **(p. 19-20)**
  - D. Consideration of Appointment to the Lowell Community Committee **(p. 21-25)**
  - E. Proposed Text Amendment to the Lowell Code of Ordinances Chapter 51 Regarding the addition of a Cross Connection and Backflow Ordinance **(p. 26-35)**
  - F. Consideration to Waive Reapplication Period of Zoning Map Amendment for Parcel ID#'s 210660, 202166, 202167, and 135144 **(p. 36-37)**
- 8. STAFF REPORTS**
  - A. Public Works Report **(p. 38)**
  - B. Planning Department Report **(p. 39-40)**
  - C. Police Department Report **(p. 41-42)**
  - D. Parks and Rec. Department Report **(p. 43-44)**
  - E. Finance Report **(p. 45)**
  - F. Fire Department Report **(p. 46)**

**9. CITY ATTORNEY REPORT**

**10. CITY MANAGER REPORT**

**11. MAYOR AND CITY COUNCIL GENERAL DISCUSSION**

**12. ADJOURN**



**CITY OF LOWELL  
COUNCIL MEETING AGENDA  
TUESDAY, JANUARY 11, 2022, 6:00 P.M.**

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**1. CALL TO ORDER – Mayor Sandy Railey**

Mayor Sandy Railey called the meeting to order at 6:00 p.m. Those attending in-person were Councilmember Phil Bonham, Councilmember Ken Ervin, Councilmember Candy Funderburk, Councilmember Travis Smith, City Manager Scott Attaway, City Attorney John Russell Jr, Finance Officer Lisa Nolen, Planning Director Alex Blackburn, Interim Police Chief Carl Moore, and Parks and Recreation Director Cristy Cummings. Councilmember Thomas Gillespie arrived at 6:23 pm. A quorum was determined at the beginning of the meeting. The meeting was teleconferenced to the public and the agenda and meeting materials were made available prior on the City's website. Members of the public were also present.

**2. INVOCATION / PLEDGE OF ALLEGIANCE**

Mayor Railey gave the invocation and led everyone in the pledge of allegiance.

**3. ADOPTION OF AGENDA FOR THIS MEETING**

Scott Attaway stated the applicant had decided to remove their zoning app from the agenda on item 7D to give more time to meet with concerned parties and City staff.

Councilmember Candy Funderburk made a motion to accept the amended agenda, followed by a second from Councilmember Ken Ervin. The vote was unanimously in favor.

A motion to remove 7D from agenda was made by Councilmember Ken Ervin, followed by a second from Councilmember Candy Funderburk. The vote was unanimously in favor.

**4. PUBLIC COMMENTS**

Larry Simonds, 1613 Power Drive, stated he was concerned with the City taking ownership of the Crompton & Knowles property. Mr. Simonds also made statements regarding the Fire Department and the Public Works Department.

Amber Paddock, 6717 Goldstone Lane, Charlotte, NC – Ms. Paddock submitted a written comment urging the Conditional Agriculture District Zoning to be applied to Spencer Mountain parcels 202166, 202167, 210660, and 135144.

Ronald Melton – 739 Patton Cove, Swannanoa, NC - Mr. Melton submitted a written comment urging the Conditional Agriculture District Open Land Zoning on parcels 202166, 202167, 210660, and 135144.

Brittany McCallister – 2130 South Ridge Drive, Belmont NC - Ms. McCallister submitted a written comment urging the Agriculture Zoning, or a different type of residential zoning, on parcels 202166, 202167, 210660, and 135144.

Jessica Inglehart– 901 Marty Rd, Durham, NC – stated she is against re-zoning.

Jennifer Pippin– 516- D River Highway, PMB 174, Mooresville, NC - Ms. Pippin submitted a written comment urging the Conditional Agriculture Zoning Distict, open land zoning, on parcels 202166, 202167, 210660, and 135144.

Sara Gleason – 116 Laurel Hill Lane, Gastonia, NC - Ms. Gleason submitted a written comment urging the Conditional Agriculture Zoning Distict, open land zoning, on parcels 202166, 202167, 210660, and 135144.

Jessica Richmond – 123 Laurel Hill Lane, Gastonia, NC - Ms. Richmond submitted a written comment urging the Conditional Agriculture Zoning Distict, open land zoning, on parcels 202166, 202167, 210660, and 135144.

Charlotte Kidd – 101 Laurel Hill Lane, Gastonia, NC – Ms. Kidd submitted a written comment urging the Conditional Agriculture Zoning Distict, on parcels 202166, 202167, 210660, and 135144.

Professor Robert K. Peet – 6713 Pauline Drive, Chapel Hill, NC – Professor Peet spoke virtually and urged holding off on the approval of the development.

Shaun Bloom – 414 E. Chestnut Street, Stanley, NC – Mr. Bloom submitted a written comment urging the Conditional Agriculture Zoning Distict, on parcels 202166, 202167, 210660, and 135144.

Katherine Rankin – 839 Gist Avenue, Silver Spring, MD - Ms. Rankin submitted a written comment urging the Conditional Agriculture Zoning Distict, open land zoning, on parcels 202166, 202167, 210660, and 135144.

## **5. APPROVAL OF MINUTES**

### **A. Minutes from Council Meeting Held December 14, 2021 (p. 1-8)**

Councilmember Ken Ervin made a motion to approve the minutes from the December 14, 2021 Council meeting, followed by a second from Councilmember Phil Bonham. The vote was unanimously in favor.

## **6. SPECIAL PRESENTATION**

### **A. Graduation Ceremony for Lowell Citizen’s Academy Class of 2021-2022**

Scott Attaway stated that there are three of the four citizens in attendance that graduated from the Citizens Academy this year. Scott Attaway stated that one of the missions of the council is show

how government works. The Citizens Academy attendees spent time in every city department and went over all key functions of the City. Mayor Railey thanked all attendees for being a part of the program. Mayor Railey presented plaques to Cathy Johnson, Jack Frye, and Norris Lamb for graduating from the Citizens Academy. Mayor Railey also stated that Joanna Fulbright also graduated but was unable to attend this evening.

**B. Proclamation in Recognition of the Month of February as Black History Month (p. 9)**

Councilmember Ken Ervin made a motion to proclaim the month of February as Black History Month, followed by a second from Councilmember Thomas Gillespie. The vote was unanimously in favor.

Mayor Sandy Railey read the Proclamation recognizing February as Black History Month.

**7. UNFINISHED BUSINESS**

**A. Public Hearing for Consideration of LDO Text Amendments as it Relates to Session Law 2021-138 (p. 10-15)**

Councilmember Phil Bonham made the motion to go into public hearing, followed by a second from Councilmember Candy Funderburk. The vote was unanimously in favor.

Alex Blackburn stated that recently the Governor and the General Assembly set into law Session Law 2021-138 that affected Lowell Development Ordinances articles 5.2, 16.71, 18.3 (H), 18.4 (D)(5), 23.6, 23.7-6. Alex Blackburn stated agenda packets included both current and proposed changes. Alex Blackburn stated the amendment removed the misdemeanor penalty from these articles but the City may still levy fines. He stated that this is a compliance text amendment to stay in compliance with the state text amendment.

Councilmember Ken Ervin made the motion to close public hearing, followed by a second from Councilmember Candy Funderburk. The vote was unanimously in favor.

Councilmember Thomas Gillespie made the motion to accept the text amendment, followed by a second from Councilmember Candy Funderburk. The vote was unanimously in favor.

**B. Public Hearing for Initial Zoning Map Amendment Regarding Parcel ID# 202167 from the Current Gaston County Zoning Designation of R-1 to the City of Lowell Zoning District of SFR-4 (p. 16-27)**

Councilmember Candy Funderburk made a motion to go into public hearing, followed by a second from Councilmember Thomas Gillespie. The vote was unanimously in favor.

Scott Attaway stated this is a continued agenda item -- this property has been annexed by of City of Lowell and by statue, the City has to assign a zoning district. Scott Attaway stated this agenda item is separated from next item because it's non-contiguous even though it's part of the same development.

Councilmember Ken Ervin asked which zoning designation is more dense. Scott Attaway stated SFR-4 is more dense and that it's a smaller lot size.

Michael Gault, 609 White Oak Drive, Lowell NC -- Mr. Gault asked why the City would designate the land as a SFR-4 if all the land around it is SFR-3. Scott Attaway stated the parcels were rezoned to a SFR-3 in the middle of a council meeting. Michael Gault asked if City of Lowell owned the parcel and Scott Attaway stated that Belmont Land Investments owns the parcel.

Teresa Genay, 1221 Dallas Stanley Hwy, Dallas, NC -- Ms. Genay submitted a written comment urging the parcels 202166, 202167, 210660, and 135144 to be initially zoned as Conditional Agriculture District -- open land. Ms. Genay was also in attendance and verbally stated she owns a quarter acre on Southfork. She stated she would be dissatisfied if the parcel is rezoned and is requesting Council to be cautious about development decisions.

Cindy and Brent Clemmer, 281 Dallas-Spencer Mountain Road, Gastonia -- Mr. and Mrs. Clemmer submitted a written comment urging the parcels 202166, 202167, 210660, and 135144 to be initially zoned as Conditional Agriculture District -- open land. Ms. Clemmer was also in attendance and stated that we are causing devastation to the homes of the wildlife and that if we must build, we must build on land already cleared.

Bart Landess, 4530 Park Road #420, Charlotte, NC -- Mr. Landess submitted a written comment stating that there is an opportunity to be a shining light for how to balance economic development with the natural resources that make economic development possible. Mr. Landess was also in attendance and stated he is the executive Director of Land and Water. He stated that this property is known for its natural beauty and asked the Council to consider how to balance out economic development and natural resources.

Dave Cable, 739 Spring Street, Davidson, NC -- Mr. Cable submitted a written comment that stated he was against the up zoning of parcels because of the fragile character adjacent lands. Mr. Cable was also in attendance and stated he is the chair of Red Lair Foundation which was established by property that sold across the river in 2012. Mr. Cable stated that land needs to be preserved and urged the Council to tap the breaks on the density.

Sabine Rankin, 144 Redlair Lane, Gastonia, NC -- Ms. Rankin submitted a written comment urging the land to be protected. Ms. Rankin was also in attendance and requested the Council to think about the current and future generations with this land.

Haywood Rankin, 144 Redlair Lane, Gastonia, NC - Mr. Rankin submitted a written comment urging the land to be protected. Mr. Rankin was also in attendance and spoke about erosion from the development and endangered plants. Mr. Rankin asked the Council to reconsider.

Martha Eppes, 12601 Moores Chapel Road, Charlotte, NC -- Ms. Eppes submitted a written comment urging the property to be preserved. Ms. Eppes was also in attendance and verbally urged the Council to consider an Agricultural Zoning.

John Searby, Riverkeeper Executive Director – Mr. Searby encouraged a zoning that allows flexibility and time to work with the developer to allow partnerships to protect, preserve, and restore.

Erin Hines, 910 Dallas Stanley Hwy, Dallas, NC – Ms. Hines encouraged to consider less density due to inadequate stormwater regulations in place for a high-density development.

Michael Gault, 609 Whiteoak Drive, Lowell, NC – Mr. Gault stated conversations need to happen with McAdenville/Carstarphens about this property. Stated the area cannot withstand the impact with schools and sewer/water.

Amy Mason, 123 Laurel Hill Lane – Ms. Mason stated she's a steward of Laurel Hill Preserve which is on the other side of this parcel. Ms. Mason stated she's not anti-development or against some development in the area. Ms. Mason asked to slow this down and talk to Pulte about this development.

Brenda Daily, 512 S. Lee Street Gastonia, NC – Ms. Daily would like to see the land preserved.

Scott Attaway stated the proposed developer and the property owner held a neighborhood meeting with a site plan. Scott Attaway stated that they have proposed 105 acres of tree save and 58.4 open space for a total 160 acres.

Councilmember Ken Ervin made a motion to leave public hearing, the motion was seconded by Candy Funderburk. The vote was unanimously in favor.

Councilmember Ken Ervin asked for confirmation that Pulte has went above and beyond what is initially required in regards to open space and tree save. Scott Attaway stated that there is nothing holding Pulte to the initially discussed amount of planned open space and tree save, as it was in excess of what the LDO requires of the developer. Scott Attaway stated they're meeting in 2 weeks with the organization.

Councilmember Candy Funderburk asked if the parcel in discuss is the parcel right by the river. Scott Attaway confirmed. Councilmember Candy Funderburk stated the need to be very cautious with the decision tonight. She stated she has been in contact with the Gaston County school board with concerns about the roads and the schools. She stated she is also concerned about the natural areas.

Councilmember Thomas Gillespie stated there does need to be a balance and we do not need to rush the agenda to do anything.

Scott Attaway stated we have to rezone it at tonight's meeting and if the applicant reapplies for Conditional Zoning, then extra conditions can be put into place upon a mutual agreeance. He stated this agenda item is concerning the 7.06 acres of parcel id# 202167.

Councilmember Travis Smith stated he has been in contact with NCDOT and schools about traffic and is also taking the neighborhood meeting into consideration.

Councilmember Candy Funderburk made a motion to zone the parcel #202167 as agriculture and let the City talk to Pulte Group and work it out together since she does not want the area destroyed. No second to the motion was made. The motion failed. Mayor Sandy Railey asked if there are any other motions on the floor.

Attorney John Russell stated that the 7.06 acres does not have any zoning and that if the Council decides to not take any action, there is no restriction on what the property owner can do.

Councilmember Phil Bonham made a motion to zone the parcel #202167 to SFR3, followed by a second from Councilmember Travis Smith. The vote was 4-1 in favor of zoning the parcel #202167 to SFR3, with Councilmember Candy Funderburk opposed.

Councilmember Phil Bonham read the definition of SFR3.

Councilmember Ken Ervin asked about potential burial sites on the property and John Russell stated statues would regulate.

C. Public Hearing for Initial Zoning Map Amendment Regarding Parcel ID#'s 202166, 135144, and 210660 from the Current Gaston County Zoning Designation of R-1 to the City of Lowell Zoning District of SFR-4 (p. 28-39)

Councilmember Phil Bonham made the motion to go into public hearing, followed by a second from Councilmember Travis Smith. The vote was unanimously in favor.

Scott Attaway stated this agenda item is for the contiguous parcels and to apply the initial zoning.

Martha Eppes, 12601 Moores Chapel Road, Charlotte, NC – Ms. Eppes thanked Councilmember Candy Funderburk for making a motion for agricultural zoning and would like to reemphasize the important conservation of this land.

Erin Hines, 910 Dallas Stanley Hwy, Dallas, NC – Ms. Hines stated Piedmont ecosystems are most threatened and that this parcel is contiguous with many other special areas.

Amy Mason, 123 Laurel Hill Lane – Ms. Mason encouraged time to find balance.

John Searby, Catawba Riverkeeper – Mr. Searby urged this parcel to be zoned as agricultural.

Cathy Johnson, 800 N. Main St. -Ms. Johnson stated she was initially excited about the chance to expand and increase tax base but she didn't know about this treasure. Ms. Johnson urged the property to be zoned as agricultural to give time to meet with all parties.



Councilmember Phil Bonham made a motion to close hearing, followed with a second from Councilmember Thomas Gillespie. The vote was unanimously in favor.

Councilmember Candy Funderburk asked who initiated the removal of agenda item 7D and Scott Attaway confirmed Pulte requested for it to be removed.

Councilmember Phil Bonham stated as they are rezoning, it was decided that SFR3 was most consistent and closest to the designation.

Scott Attaway stated there is a SFR2. He stated that the property was annexed because the developer knew they needed municipal utilities. The initial site plan was presented as they wanted a SFR4 because there are certain pockets of land that they are not able to use due to the natural environment and the SFR4 would allow the density to develop in less area because of the terrain difficulties. Scott Attaway spoke about conditions before last week's neighborhood meeting with the reason being SFR4 was to get density but in exchange would bring a conditional district that might include stormwater measures and a road profile on main road.

Councilmember Candy Funderburk made a motion to zone the parcels 202166, 135144, and 210660 to SFR2 and read the definition of SFR2. The motion was followed with a second by Councilmember Phil Bonham. The vote was unanimously in favor.

**D. Public Hearing for Consideration of Zoning Map Amendment RZ21-04 Regarding Parcel ID #'s 136564 and 202774 from the Zoning District of SFR-3 to SFR-4/CD (p. 40-45)**

## **8. NEW BUSINESS**

**A. Consideration of Appointment to the Planning Board, Board of Adjustment and Stormwater Commission (p. 46-51)**

Scott Attaway stated they received an application from Norris Lamb to consider him to the Planning Board, Board of Adjustment and Stormwater Commission.

Councilmember Phil Bonham made a motion to appoint Norris Lamb, with a second from Councilmember Candy Funderburk. The vote was unanimously in favor.

**B. Amendment to the FY 22-23 Budget Calendar (p. 52-53)**

Scott Attaway stated we need a motion to change Council Retreat Day#2 to February 11, 2022 due to facilitator scheduling conflicts.

Councilmember Travis Smith made a motion made amend the budget calendar, followed by a second by Councilmember Thomas Gillespie. The vote was unanimously in favor.

**C. Resolution Approving use of ARPA Funds for Montcross Emerge Initiative and ARPA Update (p. 54-55)**

Scott Attaway stated this resolution is a housekeeping item and the funds help local businesses. He stated that it is not clear if treasury requires this resolution so Staff wants to be on the cautious side. He stated the resolution will further authorize the use of \$10,000 of ARPA funding that was voted on in July 2020.

Councilmember Ken Ervin made a motion to amend the budget calendar, followed by a second by Councilmember Candy Funderburk. The vote was unanimously in favor.

## **9. STAFF REPORTS**

### **A. Public Works Report (p. 56)**

Thomas Shrewsbury presented his report.

### **B. Planning Department Report (p. 57-58)**

Alex Blackburn presented his report.

### **C. Police Department Report (p. 59-60)**

Carl Moore presented his report.

### **D. Parks and Rec. Department Report (p. 61)**

Cristy Cummings presented her report.

### **E. Finance Report**

Lisa Nolen presented her report.

### **F. Fire Department Report (p. 62)**

Report presented on screen and in agenda packets.

## **10. CITY ATTORNEY REPORT**

John Russell stated the receivership has started for the property located at 901 N. Main Street, Lowell, NC. This will enable the property to be sold and perhaps redeveloped.

## **11. CITY MANAGER REPORT**

Scott Attaway reminded Council about the elected officials chamber dinner.

He stated he has been working on Budget Retreat planning with the facilitator and getting speakers lined up.

The Carolina Thread Trail ballot will be going to River Falls HOA to vote to see if they can get the Thread Trail passed. If passed, the strip of land will be accessible by everyone in conjunction with the City.

Scott Attaway stated the ARPA Interim Final Rule has been out since May 2021 and they have received the money but there limited information on what the City could spend the money on. The final rule just released late last week and he will have update on that at February meeting.

The closing has been finalized on the Crompton & Knowles properties. Staff met League of Municipalities insurance earlier in the day. A fence contractor has been selected because River Heights took down the fence that was on their property which has left a gap in the fence around the newly owned City property. Scott Attaway spoke with Interim Police Chief Moore about keeping an eye on the property more.

## **12. MAYOR AND CITY COUNCIL GENERAL DISCUSSION**

Councilmember Thomas Gillespie stated he was blind sighted by the conservation group and has a new vision for the pristine property.

Mayor Sandy Railey thanked everyone for coming and congratulated the graduates of Citizen's Academy. 8:22pm

## **13. CLOSED SESSION**

Councilmember Phil Bonham made a motion to go into closed session to discuss matters regarding personnel pursuant to NCGS 143-318.11(a)(6), followed by a motion from Councilmember Thomas Gillespie. The vote was unanimously in favor.

Councilmember Ken Bryin made a motion to go out of closed session, followed by a second by Councilmember Funderburk. The vote was unanimously in favor.

The Council reconvened from closed session at 8:58pm

## **14. APPOINTMENT OF CITY CLERK**

Councilmember Thomas Gillespie made a motion to appoint Cheryl Ramsey for City Clerk, followed by a second from Councilmember Candy Funderburk. The vote was unanimously in favor.

## **15. ADJOURN**

Councilmember Candy Funderburk made a motion to adjourn the meeting, followed with a second by Councilmember Travis Smith, the vote was unanimously in favor. The meeting ended at 9:00pm.

ATTEST:

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Mayor, Sandy Railey

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Deputy City Clerk

DRAFT

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 6-A

**DESCRIPTION:** FY 2020-2021 AUDIT PRESENTATION BY BUTLER AND  
STOWE

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Please see the attached report from Butler and Stowe CPA regarding the Audit for FY 2020-2021. Representatives from Butler and Stowe will give a presentation on the report at the February 8, 2022 City Council meeting. Council members have been provided with the June 30, 2021 Financial Statements. City staff has also uploaded the FY 2020-2021 Audit to the City's website.

**CITY OF LOWELL**  
**June 30, 2021 Audit Report**  
**Presented by Butler & Stowe**

**Introduction**

**Robert Adams, Partner / Sheila Thornton, Managing Partner**

**Audit Opinion**

The audit for the year ended June 30, 2021 was completed in December, submitted to the Local Government Commission (LGC) for approval in January and accepted by the LGC in January. The opinion of Butler & Stowe was a "clean opinion" which means:

1. The City has met the audit requirements of the North Carolina General Statutes.
2. The financial statements represent fairly the financial status of the City (its assets and liabilities) as of June 30, 2021.

**Financial highlights**

Financial highlights of the City's operations for the year ended June 30, 2021 were:

1. The City ended the year with combined assets exceeding the liabilities by \$5,931,910 (net position).
2. The unassigned fund balance of the City's General Fund at June 30, 2021 totaled \$1,774,444. This represents funds available to the City Council without restriction.
3. The City's enterprise fund, the Water & Sewer fund, ended the year with an operating loss of \$210,500. An increase in costs of 12% over the prior year accounted for the loss.
4. Total combined assets of the City at June 30, 2021 totaled \$8,555,175. This represents an increase over the prior year of \$1,100,995.

**Other matters**

Along with the audited financial statements, we have issued a communication letter to the Council which explains the audit process, and details the responsibilities for the City and for us as auditors. Any problems or issues that would affect the outcome of the audit would be addressed in this communication. There were no problems or issues reportable for this year.

The last item in the financial statement report is our report on the internal control of the City. As the report states, the limited number of personnel handling the accounting and reporting functions of the City creates a lack of segregation of duties that would normally be present. We advise the Council of this situation to reinforce the importance of their review and attention to the financial matters of the City.

**Closing/Questions**

Butler & Stowe appreciates the opportunity to provide our audit services to the City of Lowell and we thank the Council for their support. Thanks to Scott Attaway and Lisa Nolen for their assistance during the audit process. We're happy to respond to any questions from the Council.

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## AGENDA ITEM INFORMATION

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**AGENDA ITEM #: 6-B**

**DESCRIPTION:** REPORT OF THE INTERGOVERNMENTAL AND INTERAGENCY TASK FORCE ON HOMELESSNESS IN GASTON COUNTY BY DAVID WILLIAMS, COMMUNITY AFFAIRS AND DEVELOPMENT ADMINISTRATOR FOR GASTON COUNTY

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On April 13, 2021 the City of Lowell City Council appointed Councilmember Thomas Gillespie to the Taskforce on Homelessness in Gaston County. This task force has conducted much research regarding the persistent issue of homelessness. Mr. David Williams from Gaston County Community Affairs and Development will give a presentation on the report at the February 8, 2022 City Council meeting. Please see the attached infographic that summarizes the report. The entire 61-page report will be sent to councilmembers separately and added to the City's website.

# INTERGOVERNMENTAL & INTERAGENCY TASK FORCE ON HOMELESSNESS

REPORT TO THE GASTON COUNTY BOARD OF COMMISSIONERS

## GASTON COUNTY'S TOP HOMELESSNESS CHALLENGES

**Affordable housing is a growing need.** Gaston County will likely see a continued population growth. The County needs to be prepared to meet the rising demand.

**Prevent and respond.** There is a need for a systemic approach that coordinates the resources of service providers throughout the County.

**Unmet needs.** There are still many unmet needs for the homeless and people in poverty who face housing insecurity in Gaston County.

**Breaking the stigma.** There is an increasing need for more education for the public, so people know where to go for help.

**Prior evictions and felonies** have a long-term impact on people's ability to find housing and employment.

**There is no single story of homelessness.** The causes of homelessness are complex. Too often, harmful stereotypes of homelessness pull attention away from the true issues.

## SIX FOCUS AREAS OF EFFORTS, INITIATIVES, AND SERVICES IN GASTON COUNTY



HOUSING



PERSONAL NEEDS



EDUCATION & JOBS



HEALTHCARE



COORDINATION



DATA & EVALUATION

## NATIONAL BEST PRACTICES TO PREVENT AND RESPOND TO HOMELESSNESS

**The housing first** approach proposes that people need to be placed in permanent housing before they can begin to heal from mental illness or substance abuse disorders.

**Rapid re-housing** is a program model that identifies housing, offers limited financial and move-in assistance, and provides case management and other services over a longer timeframe.

**Discharge protocols** to prevent homelessness are focused on the long-term stability of people exiting hospitals, jails, foster care, or other similar institutions.

**Coordinated, intergovernmental and interagency street outreach** is another best practice that connects people with the services they need.

**Building affordable and workforce housing infrastructure** is essential, and addresses a widespread community need.

## RECOMMENDATIONS FOR IMMEDIATE ACTION



Provide short-term emergency housing assistance for Gaston County residents facing housing insecurity as a result of the COVID-19 pandemic.



Task the County Manager to establish a County-wide Homelessness Prevention Committee.



Pursue long-term public-private partnerships to fund affordable housing development.



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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-A

**DESCRIPTION:** RESIGNATION OF COUNCILMEMBER KEN ERVIN

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Please see that attached notice of resignation from Councilmember Ken Ervin.

January 21, 2022

Dear Mayor Sandy Railey:

Please accept this letter as formal notification that I, Ken Ervin, am resigning from position as Councilman with the City of Lowell due to personal reasons.

My last day is today, January 21, 2022.

Sincerely,

A handwritten signature in black ink that reads "Ken Ervin". The letters are cursive and somewhat stylized, with the 'K' and 'E' being particularly prominent.

Ken Ervin



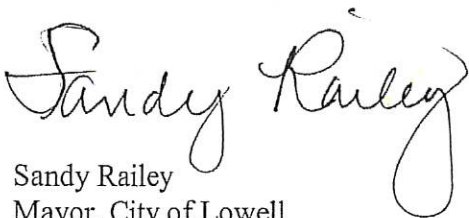
January 24, 2022

Dear Citizens of Lowell,

It is with regret, that I share with everyone that I have received the resignation of Councilman Ken Ervin signed January 21, 2022 citing personal reasons. Councilman Ervin has dedicated much of his life to serving the citizens of Lowell as a Lowell City Council Member and previously as the Mayor of Lowell. I want to thank him for his service to the City of Lowell and wish him luck with any and all future endeavors.

The City Council is now charged with appointing a new City Council member per the City of Lowell Charter, Lowell City Council Rules of Procedure, and the North Carolina General Statute 160A-63.

Regards,



Sandy Railey  
Mayor, City of Lowell

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## AGENDA ITEM INFORMATION

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**AGENDA ITEM #: 7-B**

**DESCRIPTION:** CONSIDERATION OF NOMINATIONS AND APPOINTMENT TO THE LOWELL CITY COUNCIL AND ADMINISTRATION OF OATH OF OFFICE

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Upon receipt and acceptance of Councilman Ken Ervin's resignation, the City of Lowell Rules of Procedure gives instruction on how the Lowell City Council appoints someone to fill the resulting vacancy. Below is Rule # 31 from the Lowell Rules of Procedure:

**Rule 31. Appointments**

**The council may consider and make appointments to other bodies, including its own committees, if any, only in open session. The council may not consider or fill a vacancy among its own membership except in open session.**

**The mayor shall not have a right to vote on appointments that come before the council.**

**Rather than proceeding by motion, the council shall use the following procedure to make appointments to various other boards and offices: The mayor shall open the floor for nominations, whereupon the names of possible appointees may be put forward by the council members. The names submitted by individual council members shall be debated. When the debate ends, the mayor shall call the roll of the members, and each member shall cast his or her vote.**

**The voting shall continue until one nominee receives a majority of the votes cast, whereupon he or she shall be appointed.**

Once the appointment has been made, the new councilmember will be administered the oath of office.

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-C

**DESCRIPTION:** SET PUBLIC HEARING FOR CONSIDERATION OF ZONING  
TEXT AMENDMENT FOR ARTICLE 12, SECTION 12.10.

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Please see the attached memo from the Planning Director, Alex Blackburn.



**To:** Scott Attaway, City Manager

**From:** Alex Blackburn, Planning Director

**Date:** February 2, 2022

**Re:** Public Hearing request Zoning Text Amendment for Article 12, Section 12.10.

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During their February 1, 2022 regular meeting, the City of Lowell Planning Board considered the text amendment concerning a proposed change to the Lowell Development Ordinance. This change would further limit the number of days that an oversized vehicle may be allowed to be in use within a residential zoning district and proper placement on the residential lot.

After reviewing the proposal, the Planning Board voted unanimously to recommend the amendment for approval by the City Council.

At this time, I am requesting the City Council to set a Public Hearing on the matter for their March 8, 2022 at their 6:00 pm meeting.

**Current Wording:**

**12.10 Parking of Over Size Vehicles in Residential Districts**

In order to maintain both safety and the visual appeal of residential areas, over size vehicles such as recreational vehicles (RV's), water craft and accessories, towing trailers, and commercial vehicles, as per Section 12.3-9, shall not be parked or stored on the street in residential districts. RV's shall be licensed motor vehicles in order to be occupied and remain on a lot for up to ninety (90) days, but not more than twice per year.

**Proposed Wording:**

**12.10 Parking of Over Size Vehicles in Residential Districts**

In order to maintain both safety and the visual appeal of residential areas, over size vehicles such as recreational vehicles (RV's), water craft and accessories, towing trailers, and commercial vehicles except per Section 12.3-9, shall neither be parked/stored on the street nor forward of any point twenty-five (25) feet behind the front building line of the conditioned space of any dwelling in residential districts. RV's shall be licensed motor vehicles in order to be occupied and remain on a lot for up to thirty (30) days, but not more than twice per year.

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-D

**DESCRIPTION:** CONSIDERATION OF APPOINTMENT TO THE PLANNING BOARD, BOARD OF ADJUSTMENT AND STORMWATER COMMISSION

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Please see the attached memo from the Planning Director, Alex Blackburn.



**To:** Scott Attaway, City Manager

**From:** Alex Blackburn, Planning Director

**Date:** February 4, 2022

**Re:** City Council Consideration of Appointment to the Lowell Community Committee (LCC)

---

Staff has received an application for the Lowell Community Committee. Please bring before the attached application for Jim Kiser to the Lowell City Council for their consideration.





**APPLICATION FOR APPOINTMENT/RE-APPOINTMENT  
TO A BOARD/COMMITTEE FOR THE  
CITY OF LOWELL, NORTH CAROLINA**

The City of Lowell appreciates your interest in serving on a Board/Committee and requests that you complete the following application. This application requests general information based on your interest in applying for a Board/Committee for the City of Lowell.

Applicant Name: Dian Kiser Date of Application: 1/24/22

Home Address: 711 W. Asheville Ave. Lowell 28098  
Street Address, City, Zip Code

Mailing Address (If different than above): \_\_\_\_\_

Home Phone: 704 534 5585 Business Phone: \_\_\_\_\_

Cell Phone (For City Hall Use Only): 704-695-3320

Email Address: DKKiser711@netzco.net

In order to consider this application and provide balance and diversity to the various Boards, the City of Lowell requests that the following information be voluntarily provided:

Age: 75 Male:  Female:

Occupation: Retired

Do you reside within the City Limits of Lowell: Yes  No

Do you reside within the Lowell Extraterritorial Jurisdiction: Yes  No

Length of residence in Lowell: 40 Years \_\_\_\_ Months

**Please indicate your preference by the number (first choice being "1") and choose.**

**City of Lowell Boards**

Planning and Zoning Board \_\_\_\_ Community Improvement Advisory Committee 1



**QUESTIONNAIRE (PLEASE ATTACH ADDITIONAL SHEETS IF NEEDED)**

1. Why do you want to serve or continue to serve on this board/committee?

I would like to be a small part of how Lowell develops in the future,

2. Why do you think you would be an asset to this board/committee?

Living in Lowell for over 40 yrs.

3. What do you feel are your qualifications for serving on the board/committee requested?

Previous political experience

**Prior Public Service:**

Board/Committee/Civic

From:

To:

Lowell city council 2006-2008

Additional Comments:

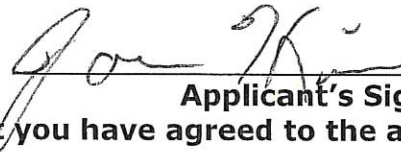


### **Ethics Guidelines for City Committee / Boards**

If appointed or re-appointed, I pledge to comply with the following ethics guidelines for boards as adopted by the City of Lowell.

Members of boards shall not discuss, advocate, or vote on any matters in which they have a conflict of interest or an interest which reasonably might appear to be in conflict with the concept of fairness in dealing with public business. A conflict of interest or a potential conflict occurs if a member has a separate, private, or monetary interest, either direct or indirect, in any issue or transaction under consideration. Any member who violates this provision may be subject to removal from the board.

If the board believes he/she has a conflict of interest, then the member should ask the board to be excused from voting. The board should then vote on the question on whether or not to excuse the member making the request. In cases where the individual member or the board establishes a conflict of interest, then the board member shall remove themselves from the voting area.



**Applicant's Signature (Required)**

**By signing this document you have agreed to the above Ethics Guidelines**

1-24-22

Date

**A criminal background check will be conducted on new committee members and reappointed committee members.**

Please return form to:  
Lowell City Clerk, 101 W. First St., Lowell, NC 28098  
Or e-mail to [bharris@lowellinc.com](mailto:bharris@lowellinc.com)  
Phone (704) 824-3518

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-E

**DESCRIPTION:** PROPOSED TEXT AMENDMENT TO THE LOWELL CODE OF ORDINANCES CHAPTER 51 REGARDING THE ADDITION OF A CROSS CONNECTION AND BACKFLOW ORDINANCE

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Please see the attached memo from the Public Works Director, Thomas Shrewsbury.



**To:** Scott Attaway, City Manager

**From:** Thomas Shrewsbury, Public Works

**Date:** January 4, 2022

**Re:** Cross Connection and Backflow Ordinance

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Staff within the City of Lowell Water Department has developed a Cross Connection and Backflow Ordinance. The City of Lowell Code of Ordinances did not fully address the challenges that municipalities face related to the possible hazards to our drinking water supply.

The new ordinance spells out the hazards, service types, requirements and penalties needed to protect the City of Lowell water system and citizen health.

City staff would ask that the ordinance added to the City of Lowell Code of Ordinances under Chapter 51: Sections 51.23 thru 51.38.

**CITY OF LOWELL**  
**BACKFLOW AND CROSS CONNECTION**  
**Water Quality Protection**

**51.23 - DEFINITIONS.**

As used in this article, the following terms shall have the meanings provided in this section unless the context clearly indicates otherwise.

**Airgap.** A physical separation sufficient to prevent backflow between the free-flowing discharge end of the public water system and any other system. Physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one (1) inch.

**Auxiliary intake.** Any piping connection or other device whereby water may be obtained from a source other than the City's public water supply.

**Auxiliary water supply.** Any water other than the City of Lowell's public water supply as defined herein; including, but not limited to recycled water, gray water, rainwater, well water, cistern water, reuse water and any other water supply from water purveyors other than the City of Lowell.

**Backflow.** The flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of the public water supply from any source other than its intended source.

**Backflow assembly.** A mechanical valve arrangement used to protect the public water supply that meets or exceeds standards set forth by the University of Southern California for Cross Connection control and Hydraulic Research (USCFCCHR) and the American Society of Sanitary Engineering (ASSE) by being on the agency's approval list. A backflow assembly used on fire suppression systems must have the additional approval of the Factory Mutual (FM) and comply with the National Fire Protection Association (NFPA) code.

**Backflow device.** A mechanical backflow assembly without shut-off valves or test cocks and that is not testable after installation.

**Backpressure.** A condition in which an owner's water supply system pressure is greater than the public water supply system pressure.

**Back siphonage.** The flow of water or other liquids, mixtures or substances into the distribution pipes of the public water supply system from any source other than its intended source is caused by the sudden reduction of pressure in the public water supply system.

**Building Story.** A building story is equal to 10' for the purpose of this article.

**Certified tester.** A person who has proven his/her competency to test and make reports on backflow assemblies as evidenced by certification of successful completion of a training program approved by the Lowell Director of Public Utilities or his designee.

**Containment assembly.** A backflow assembly, installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.

**Containment protection.** A containment assembly installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.

**Cross-connection.** Any actual or potential connection between the public water supply and a source of contamination or pollution.

**Cross-connection control coordinator.** The official position established and authorized by the City and designated by the Lowell Director of Public Utilities to administer, interpret this section and who shall be

a certified tester and may serve as Operator in Responsible Charge as recognized by North Carolina Department of Environmental and Natural Resources 15A NCAC 18D .0701.

Double check valve assembly (DCVA). A type of backflow assembly manufactured pursuant to ASSE Standard 1015.

Dual check valve. A type of backflow device manufactured pursuant to ASSE Standard 1024. Fire line. A system of pipes and equipment used to supply water in an emergency for extinguishing fire.

Imminent health hazard. A situation deemed an imminent health hazard by the cross-connection coordinator pursuant to the standards set forth in the Lowell Public Utilities Ordinance.

Interconnection. Any system of piping or other arrangement whereby the public water supply is connected directly to a sewer, drain, conduit, pool, heat exchanger, storage reservoir, or other device which does or may contain sewage or other waste or substance which would be capable of imparting contamination to the public water supply.

Isolation assembly. A backflow assembly required by the North Carolina Plumbing Code that is installed within a private plumbing or distribution system to isolate a localized hazard from the remainder of the private system.

Moderate Hazard. A cross-connection or potential cross-connection involving any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the public water supply.

Owner. Any person who has legal title to, or license to operate or inhabit, a property upon which a cross connection inspection is to be made or upon which a cross-connection is present.

Public water supply. The water and waterworks system of the City of Lowell and its customers outside the corporate limits, for general use as potable water and which is recognized as a public water supply by the North Carolina Department of Environment and Natural Resources as system number 01-36-060.

Reduced pressure zone principle backflow prevention assembly (RPZ) . A type of backflow assembly manufactured pursuant to ASSE Standard 1013.

Severe hazard. A cross-connection or potential cross-connection involving any substance that could, if introduced into the public water supply, cause death or illness, spread disease, or have a high probability of causing such effects.

#### **51.24 - COMPLIANCE WITH FEDERAL AND STATE LAW.**

The City of Lowell will comply with the Federal Safe Drinking Water Act, the North Carolina Drinking Water Act, and North Carolina State Building Code, which pertain to cross-connections, auxiliary intakes and interconnections, and establish an effective ongoing program to control potential sources of contamination of the public water supply.

#### **51.25 - UNLAWFUL CONNECTIONS.**

It shall be unlawful for any person to cause a cross-connection, auxiliary intake, or interconnection to be made within the City's public water supply; or to allow one to exist for any purpose whatsoever.

#### **51.26 – Inspection of Property**

It shall be the duty, upon request of the Lowell Director of Public Utilities or his designee, of the cross-connection coordinator to cause inspections to be made of properties served by the public water supply

where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspection's shall be set by the Lowell Director of Public Utilities or his designee.

**51.27 - RIGHT OF ACCESS.**

The Lowell Director of Public Utilities or his designee shall have the right to enter, at reasonable times, any nonresidential property served by a connection to the Lowell public water supply for the purpose of performing the duties of this article. In those cases, in which the owner chooses not to provide such access, the Lowell Director of Public Utilities or his designee may classify the location as a severe hazard in accordance with §51.29.

**51.28. - EXISTING CONDITIONS.**

Any owner that is subject to the requirements of this article shall be allowed ninety (90) days to correct any cross-connections, auxiliary intakes, interconnections, or other hazard as defined by §51.29 or other connection as defined in §51.30 of this Code in violation of the provisions of this article. The ninety (90) days will be from the date of receipt of the notification in accordance with §51.33. Notwithstanding the requirements of this section, if the Lowell Director of Public Utilities or his designee determines that there is an imminent threat to the public water supply, water service may be discontinued until such violations are corrected.

**51.29 - SEVERE HAZARDS.**

(a) The following shall be classified as severe hazards:

(1) Severe hazards include, but are not limited to: pumps, tanks or any other container for conveying, storing or otherwise handling sewage, radioactive, lethal, or toxic substances, boiler and steam connections, sewer waste lines, low inlets to receptacles containing toxic substances, coils or jackets used as heat exchangers, bacterial and viral materials, private wells or other private water supply, irrigation systems, water systems or hose connections, with booster pumps such as fire department connections (FDC) and private hydrants used in conjunction with FDC's, carbonation equipment, or similar severe hazard potential as determined by the cross connection coordinator.

(2) Any location at which the nature or mode of operation within a structure are such that frequent alterations are made to the plumbing or at which there is a likelihood in the determination of the cross-connection coordinator that protective measures may be subverted, altered, or disconnected.

(3) Any structure which contains, but is not limited to, a bottling plant, cannery, five (5) or more building stories, battery manufacturer, exterminator, lawn care companies, greenhouse, chemical processing plant, dairy, dye works, film laboratory, car wash, hospital, other medical facilities including psychology and psychiatric offices that administer medications, commercial laboratory, laundries, tattoo parlor, metal fabricating operation, mortuary, swimming pool, morgue, x-ray equipment, medical office with laboratory, aspirator, medical washing equipment, packing house, plating plant, poultry house, power plant, nuclear reactor, those fire sprinkler systems equipped with facilities for introduction of freeze preventive chemicals or other substances other than water, dental office, any radioactive material, restaurant, shopping mall with a tenant conducting any activity listed in this section and sewage pump or treatment facilities.

(b) All installations described in §51.29 (a) of this Code shall be classified severe hazards and must have a containment assembly in the form of a reduced pressure zone backflow assembly installed pursuant to §51.31 of this Code.

(c) Any person who fills any tank or tanker from the public water supply shall have an approved reduced pressure backflow assembly properly installed on the tank or tanker and an air gap. Tank or tankers include but are not limited to the following: those containing pesticides, fertilizers, or other toxic chemicals or their residues, flush trucks, street sweepers, and non-potable water tankers.



**51.30 - ALL OTHER USES: RESIDENTIAL AND MODERATE HAZARD.**

(a) Residential uses.

Single service connections that serve no more than two dwelling units, not otherwise required by this Code to have other containment assemblies, shall have a containment device in the form of an approved dual check valve. Maintenance of dual check valve containment devices installed in accordance with this section shall be conducted by the Department of Public Utilities.

(b) Moderate Hazards.

All other connections to the public water supply of the City of Lowell did not deem a severe hazard under §51.29 or addressed in §51.30 (a) shall be classified as moderate hazards and shall have containment assemblies in the form of a double check valve assembly installed pursuant to §51.31 of this Code. This shall include water mains installed to City standards, and with City supervision, but which are not maintained by the City, pursuant to §51.29, including but not limited to manufactured home developments, apartments and townhouses, group living developments, and other private distribution systems, or similar hazard potential as determined by the Lowell Director of Public Utilities or his designee.

(c) Exemption.

The owner of a commercial or institutional property that is supplied by only one service for domestic purposes may apply to the Lowell Director of Public Utilities or his designee for an exemption to install a double check valve assembly as required in §51.30 (b). In the event that such exemption is approved, the owner shall install an approved dual check valve pursuant to the procedures established in the Lowell Public Utilities Ordinance and shall comply with all conditions of the approval of such exemption. Any exemption from the requirement to install a containment assembly that is granted to an applicant shall be in effect only as long as the property is used for the purposes described in the application for exemption. If any conditions or uses of the property for which an exemption is granted change, the owner of the property shall re-apply for an exemption pursuant to this §51.30

**51.31 - INSTALLATION OF CONTAINMENT ASSEMBLIES.**

(a) Containment assemblies shall be installed pursuant to City standards as set forth in this Article, the North Carolina Plumbing and Fire Codes.

(b) In those cases, in which any containment assembly was installed by a prior owner, the City, or any other person, the responsibility for maintenance, testing, and replacement as applicable shall be with the current owner.

(c) The cost of any containment assembly, and any other plumbing modifications necessary and convenient to install a containment assembly, and the testing and maintenance thereof, shall be paid for by the owner.

(d) Any containment assembly that has not been installed in accordance with this §51.31 and whose location does not pose an imminent severe hazard to the public water supply shall be considered pre-existing and compliant with this Article. However, any pre-existing, compliant approved backflow assembly will be allowed to remain only in its original location and must be repaired with approved parts. If the containment assembly is removed or repaired with parts that are not approved, then such containment assembly shall no longer be considered pre-existing and compliant and shall be replaced with a containment assembly pursuant to this §51.31.

(e) Private distribution systems shall have a master meter and a master backflow assembly at each connection to the public water supply.

**51.32 - NEW CONSTRUCTION.**

All buildings proposing to connect to the public water system of the City of Lowell receiving building permits, on or after the effective date of this article, shall be equipped with a containment assembly and tested as properly functioning as prescribed herein, prior to the issuance of a certificate of code compliance for that building. If a building permit was issued for the building prior to the effective date of the article, or a building permit was not required, the building shall be considered to be an existing building prior to the effective date, in accordance with §51.28 of this Code.

**51.33 - NOTIFICATION OF HAZARD.**

Upon identification of any hazard or hazard potential, as defined in §51.29 through §51.30 of this code, the cross-connection coordinator shall notify the owner of the property on which the hazard exists, of the following:

- (a) Location of hazard.
- (b) Nature of hazard observed.
- (c) Date hazard observed.
- (d) Section of Code applicable.
- (e) Requirements of Code.

All notices required by this article shall be delivered by hand-delivery to the owner or by certified mail to the owner's last known address. When service is made by certified mail, a copy of the notice may also be sent by regular U.S. Mail. Service shall be deemed sufficient if the notice sent by regular U.S. Mail is not returned by the U.S. Post office seven (7) days after mailing.

**51.34 - CHANGE IN NATURE OF USE.**

The Lowell Department of Public Utilities shall be notified by the owner when the nature of use of the property changes so as to change the hazard classification of that property, as set forth in §51.32 through §51.30 of this Code.

**51.35 - RESPONSIBILITIES.**

- (a) The owner shall, upon notification pursuant to §51.33 of this article, install a containment assembly as required by this article within ninety (90) days from the date of notification except those owners of properties with a cross-connection, auxiliary intake, interconnection or severe hazard as defined by §51.29 that poses an imminent health hazard shall install any required containment assembly immediately.
- (b) If any required containment assembly has not been installed in conformance with standards set by this article and the North Carolina Plumbing Code and within the timeframe set forth in the notification issued pursuant to §51.33 of this article, the Lowell Director of Public Utilities or his designee may discontinue the public water service at that property, and service shall not be restored until any required containment assembly has been installed. Except at properties where there is an imminent health hazard, an owner may apply to the Lowell Director of Public Utilities or his designee for an extension of the time for compliance pursuant to the procedures set forth in the Lowell Public Utilities Ordinance. In the event the Lowell Director of Public Utilities or his designee grants an extension of the time to comply, the person who is granted the extension shall indemnify and hold harmless the City from any harm or damages that may result from such person's failure to install any required containment assembly as required by this article.
- (c) The City of Lowell shall bear no liability for direct or consequential damages proximately caused by the discontinuance of service pursuant to this section.

**51.36 - TESTING AND MAINTENANCE OF ASSEMBLIES.**

- (a) The owner at a property where any containment assembly has been installed, except those with devices installed in accordance with §51.30 (a) of this Code, shall have each containment assembly tested by a certified tester and ; shall cause any routine maintenance to such containment assembly to be performed as recommended by the manufacturer; and shall cause a report regarding that operational test to be submitted to the City pursuant to §51.36 (b) no later than fifteen (15) days following any testing event.

Testing must be performed with equipment approved by the City of Lowell. The owner shall cause such maintenance or repairs to be made, rendering the containment assembly fully operational. Failure of the owner to perform that testing and maintenance shall be cause for the premises to be deemed an immediate public health hazard. The Lowell Director of Public Utilities may immediately thereafter discontinue public water supply service to that premises and service shall not be restored until all containment assemblies have been tested and the test demonstrates that the assemblies are fully operational. Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate containment assemblies shall be provided by the owner to avoid the necessity of discontinuing water service to test or repair the containment assembly or assemblies.

(b) Any certified tester who performs an operational test on any containment assembly connected to the City's public water supply shall file a report regarding the results of that operational test to the City of Lowell Utilities Director designated on the City of Lowell's website. Certified testers shall supply all testing information required by the designated electronic reporting system to included but not limited to test values for containment assembly, size, make, model, serial number and location of containment assembly, name and address of owner as recorded on notice, premise number for fire services, meter number for domestic and irrigation services, and Gaston County PIN number for containment assemblies on private distribution and fire sprinkler systems. The Testing records of any containment assembly inspection, test and maintenance shall be maintained on the owner's property for a minimum of three (3) years following the date of any inspection, test and maintenance.

#### **51.37 - ENFORCEMENT.**

(a) Whenever the Lowell Director of Public Utilities or his designee finds that any person has violated or is violating this article or any permit, regulation, standard, rule or order adopted in furtherance of this article, the Lowell Director of Public Utilities or his designee may serve upon such a person a written notice stating the nature of the violation. If requested by the Lowell Director of Public Utilities or his designee, a plan for the satisfactory correction thereof shall be submitted to the Lowell Director of Public Utilities or his designee within the time frame specified in the enforcement policy adopted in accordance with subsection (e) below. Submission of this plan does not relieve the person of liability for any violations occurring before or after receipt of the notice of violation. In the event of an emergency that requires the city to take immediate action to correct the violation, the City is not required to provide an opportunity for the violator to correct the violations and may assess penalties and costs pursuant to this section without prior notice.

(b) Any person who is found to have failed to comply with any provision of this article, any permit issued pursuant to this article, or any regulation, standard, rule or order adopted in furtherance of this article, shall be subject to a civil penalty of:

(1) For a first-time violator where the violation was not committed willfully or intentionally and is not an actual or potential risk to public health or safety, one hundred dollars (\$100.00) per day per violation.

(2) For a first-time violator where the violation was not committed willfully or intentionally and is an actual or potential risk to public health or safety, two hundred fifty dollars (\$250.00) per day per violation.

(3) For a repeat violator where the violation was not committed willfully or intentionally and is not an actual or potential risk to public health or safety, five hundred dollars (\$500.00) per day per violation.

(4) For a repeat violator where the violations were not committed willfully or intentionally and is an actual or potential risk to public health or safety, one thousand dollars (\$1,000.00) per day per violation.

(5) For a violator where the violation was committed willfully or intentionally, \$1,500 per violation.

The notice of the civil penalty assessment shall be issued in writing and shall set forth with reasonable care the basis of the civil penalty and any administrative costs and the costs to the City of rectifying the

noncompliance that are assessed. Any person violating any section of this article must pay to the City all expenses incurred by the City in repairing any damage to the utility system caused in whole or in part by such violation and any expense incurred by the City in investigating such violation.

(c) The Lowell Director of Public Utilities shall maintain an enforcement policy to implement this section which shall be submitted to the City Council for approval.

(d) From and after the expiration of the time period specified in the notice of violation issued pursuant to subsection (a) above of this section for correcting a violation of this article, each subsequent day that the violation continues in existence shall constitute a separate and distinct offense subject to additional civil penalties.

(e) Any appeal from a notice of violation or civil penalty assessment shall be made in writing to the Lowell Director of Public Utilities within thirty (30) days of receipt of the notice of violation or civil penalty assessment issued pursuant to subsection (a) above of this Code. The Lowell Director of Public Utilities shall use all reasonable efforts to notify the appellant in writing of his or her decision within sixty (60) days of receipt of the notice of appeal pursuant to the enforcement policy adopted pursuant to subsection (c) above of this section.

(f) All notices required by this subsection may be served by certified mail or hand-delivery to the violator; certified mail or hand-delivery to the owner of the property in violation; or posting the notice at the property in violation. When service is made by certified mail, a copy of the notice may also be sent by First Class U.S. Mail. Service shall be deemed sufficient if the notice sent by First Class U.S. Mail is not returned by the U.S. Post office seven (7) days after mailing.

(g) If payment is not received or equitable settlement reached after thirty (30) days after demand for payment is first made, the matter shall be referred to the City Attorney for institution of a civil action in the name of the City in the appropriate division of the general court of justice of Wake County for recovery of the penalty. If payment is not received or equitable settlement has not been reached within the specified time period, the City may interrupt water and sewer service to the property until such time that payment is received, or equitable settlement has been reached.

(h) Any person who violates any of the provisions of this article, any permit, or any regulation, standard, rule or order duly adopted in furtherance of this article, or who undertakes or continues any alteration, extension or construction of the utility system or part thereof without first obtaining a permit or written permission or who undertakes or continues any alteration, extension, or construction of the utility system or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both shall be guilty of a misdemeanor punishable by imprisonment to the maximum number of days prescribed by law.

(i) Whenever the City Council has reasonable cause to believe that any person is violating or threatening to violate any of the provisions of this article, or any permit, or any regulation, standard, rule or order duly adopted in furtherance of this article, or is undertaking or continuing any alteration, extension and construction of the utility system without first obtaining a permit or written permission, or is undertaking or continuing any alterations, extension, or construction of the utility system or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both, the City may, either before or after the institution of any other action or proceeding authorized by this Code, institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. The institution of an action for injunctive relief under this subsection shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this Code. The terms "undertake" or "undertaking" as used in this section means the initiating of or continuing of or being

financially responsible for any activity or phase of activity which results in the extension, construction, or alteration of any part of the utility system of the City.

(j) The penalties and enforcement provisions established by this article may be applied in addition to or in lieu of the penalties established by other sections of this Code and applicable ordinances. The Remedies provided for in this article are not exclusive. The Raleigh Director of Public Utilities or his designee may take any, all, or any combination of these actions against a violator.

**51.38 - LIMITATION OF LIABILITY.**

The City shall not be held liable, for any cause, for failure to detect any containment assembly failing to operate adequately, or failure to identify any specific hazard, which may result in contamination of its public water supply, nor shall this article diminish the responsibility of any owner from whose property a contamination of the public water supply may originate.

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## AGENDA ITEM INFORMATION

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**AGENDA ITEM #:** 7-F

**DESCRIPTION:** CONSIDERATION TO WAIVE REAPPLICATION PERIOD OF ZONING MAP AMENDMENT FOR PARCEL ID#'S 210660, 202166, 202167, AND 135144

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In accordance with the LDO Article 5.3-4, staff has received a request by the property owner to waive the wait period. Please see the LDO language below for guidance on this matter.

5.3-4 Waiting period for subsequent applications.

(A.) Waiting period - general. When an application for a zoning map amendment has been approved or denied by the Lowell City Council, no application including the same property shall be accepted or considered within four (4) months after the date of the approval or denial. This restriction shall apply regardless of whether or not the new application is for a zoning classification different from the original application.

(B.) Waiting period - waiver. The waiting period required by this section **may be waived by a three-fourths vote of Lowell City Council** if it determines that there have been substantial changes in conditions or circumstances which may relate to the request. A request for a waiver of the waiting period shall be submitted to the Planning, Zoning & Subdivision Administrator, who shall review and prepare a recommendation regarding action on the request. Said recommendation shall be considered by the City Council in their review of the request for a waiver. If the request for the waiver is approved, the application shall go through the full review process as set forth above.

February 7, 2022

City Council of Lowell  
Lowell City Hall  
101 W First Street  
Lowell, NC 28098

RE: Request for a Waiver to Subsequent Application Waiting Period

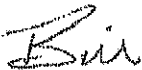
Dear Mayor Railey and City Council Members:

*2/8*  
*202146-202165; 202167 and 135144*  
We are respectfully requesting a waiver to the waiting period for subsequent applications under Section 5.3-4 (A) of the Lowell Development Ordinance ("LDO"). Parcel #'s 210660, 202146-202165, 202167 and 135144 were recently assigned SF-3 and SF-2 upon annexation, which would ordinarily result in a four-month period from the date of approval. However, under the LDO Section 5.3-4 (B), a waiver is allowed if there have been substantial changes in conditions or circumstances related to the request.

In this case, the reason for this request is to seek an SF-4 Conditional zoning that would maintain density consistent with SF-3 but would allow flexibility in lot sizes and other base standards necessary given the natural features on the site.

Thank you for your consideration of this waiver request. If you have any additional questions, I can be reached at [bill.carstarphen@pharrusa.com](mailto:bill.carstarphen@pharrusa.com) or 704-823-2211.

Sincerely,



William P. Carstarphen  
Belmont Land & Investment Company, LLC  
President



**To:** Scott Attaway, City Manager

**From:** Thomas Shrewsbury, Public Works

**Date:** January 1, 2022

**Re:** Monthly report

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January 2022 updates are as follow:

- Staff completed quarterly lift station maintenance. Maintenance included servicing all generators and repairs to alarm system components.
- 2 inch water line break on Wilkinson Ave.
- 2 inch water line break on Birch Street
- 2 inch water line break on N. Pine St.
- 10 inch water main break on Power Drive.
- Street Dept crews removed Christmas decorations.
- All staff worked the recent snow events to try and keep travel safe on Lowell streets.
- Staff worked with developers and contractors on new development taking place in Lowell.
- City crews helped with security and cleaning the roadway at the chemical plant site.
- All Public Works employees worked on maintenance at the WWTP. General cleanup and drying bed maintenance was performed to ensure compliance with State Guidelines. A faulty drive motor was replaced and drying beds were filled to help improve water quality.





**To:** Scott Attaway, City Manager

**From:** Alex Blackburn, Planning Director

**Date:** February 2, 2022

**Re:** Monthly Department Update

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### **Code Enforcement**

For the month of January, 2022, the Code Enforcement Office has received 2 complaints regarding an inspection for livestock on N. Main Street and an inquisition of an empty residential structure on Robinson Street. A Minimum Housing violation has been issued and abatement is currently underway with the owners of the property seeking to demolish the existing building. A demolition permit has been applied for and granted by City Staff.

### **Zoning:**

The Zoning Department has issued several permits for solar panel installations as well as for home remodeling since the beginning of the new year as well as a change of use for the convenience store located at the intersection of N. Main and McAdenville Road.

Public Hearings were held for the initial designation of zoning classification for the newly annexed parcels of the Belmont Land & Development Co. where 1 parcel was designated Single Family Residential-3 and the remaining 3 parcels were given the Single Family Residential-2 zoning classification. Pulte Group members met with several of the Conservation agencies in the area to better understand and formulate a plan that would appease all sides in this matter. They believe they will continue through with their plan to have a Conditional Zoning District for their project.

The City Council met during their regularly scheduled meeting on January 11, 2022 and voted in unanimous decision to approve the Zoning Text Amendments required to maintain compliance with Session Law 138 and its impact on penalties for violations of the Lowell Development Ordinance.

### **Planning:**

The Lowell Planning Board met on January 4, 2022 and discussed the ongoing investigation of Stormwater Credits for our Stormwater Program established in July of 2021.

Mr. David Jennings and Mr. Scott Wilson were sworn in as members of the Planning Board and the Board of Adjustment.

Mr. Norris Lamb was appointed to the Planning Board and Board of Adjustment by unanimous decision of the City Council during their January 11, 2022 meeting.

**Stormwater:**

The Stormwater Committee/Environmental Committee is continuing their discussions and investigation to evaluate possible credits/exemptions criteria for our stormwater fees to better promote Stormwater Control Measures (SCM's). As stated previously, this would allow property owners with appropriate measures in place with regularly scheduled inspections and maintenance by certified personnel to be given partial exemption on their stormwater fee depending upon the measures in place. Again, this is a lengthy process and updates will be provided as they come along.



**To:** Scott Attaway, City Manager

**From:** Carl Moore, Interim Police Chief

**Date:** February 2, 2022

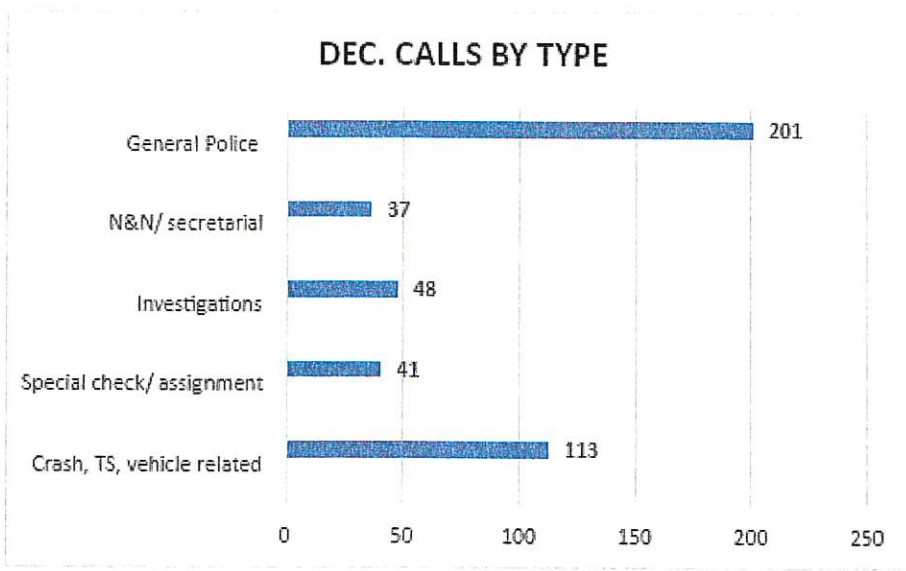
**Re:** Police Department Update

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Police Department monthly report.

January saw a decline in calls responded to by the police department compared to Januarys of 20 and 21. Police responded to 442 calls for service which is down 38% from 911 calls in 2021. The decline in calls is from a sharp decline in officer-initiated calls. We were severely hit by COVID this month as Omicron moved through the PD. 5 Confirmed cases and 2 more that were suspected, took officers off the road for a few days each. Winter weather also dampened volume. All officers operated with due caution, no injuries or city owned property was damaged. Despite being shorthanded, officers attended more than 60 hours of training online and in person. Officer Mulkern attended a Governors Highway Safety Program speed enforcement event in Dallas. He issued multiple citations and gained our police department valuable points for the program while supporting another small municipality with enforcement.

The Governor's Crime Commission Grant from 2021 has been opened and all equipment has been ordered or is in service. This grant is funding 2 computers, 1 mobile 2-way radio, 2 portable 2-way radios, and equipment needed to mount the equipment in the new patrol cars. The City of Lowell will receive over \$21,000 reimbursement funds from this grant. The GCC 2022 application was submitted in January. This application included a request to provide funds to the City of Lowell so the police department can purchase a Kawasaki Mule UTV. The UTV will be utilized when responding to calls for service along planned thread trail and existing trails at Poston Park. It will also serve as a support vehicle for city events that require police presence.



**Monthly Calls January 2020-2022**

2020- 618

2021- 611

2022- 442



**To:** Scott Attaway, City Manager

**From:** Cristy Cummings, Parks and Recreation Director

**Date:** January 31, 2022

**Re:** Monthly Parks and Recreation Update

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Parks and Recreation updates are as follows:

#### Events and Programs

- Opened registration for St. Patrick's Day Parade and Market
- Refined standards and rules for Market vendors
- Booked food vendors for St. Patrick's Day Parade and Market (Mabry's Que House and Will's Doggn' It)
- Created art for Senior Citizens Goodie Bag Giveaway
- Marketing for Senior Citizens Goodie Bag Giveaway (facebook, website, Blackboard Call)
- Reached out to local organizations and businesses for Senior Goodie Bag swag

#### Athletics

- Communications with Belmont, Gastonia, Dallas, church admin, and parents about game cancellations due to snow and COVID
- Supervision of all games at Woodlawn Baptist Church for the Lowell P&R and Woodlawn joint league
- Kept score and keeping the books for games at Woodlawn Baptist Church
- Answered parent & coach questions during games regarding rules
- Renewed online registration for youth sports
- Updated online registration page with spring sports sign-ups information
- Applied for and received Dick's Sporting Goods sponsorship (\$500 store credit)
- Ordering of spring equipment from Dick's Sporting Goods sponsorship

#### General

- General communications answering inquiries via phone, social media, email
- Picked up trash
- Social media postings and website updates
- Coded invoices and updated budget spreadsheet

- Attended monthly staff meeting
- Posted Public Notices on website for meetings
- Recorded minutes and refined minutes from the January 4 Planning Board meeting
- Recorded minutes and refined minutes from the January 11 Council meeting
- Applied for Bike Helmets grant from NCDOT
- Communications with NC State about final details for P&R Master Plan
- Reached out to vendors for quotes on ballfield dirt with install, playground mulch with install, bathroom improvements, and landscaping quotes for both current and next budget year
- Budget preparations for 2022-2023



**To:** Scott Attaway, City Manager

**From:** Lisa Nolen, Finance Director

**Date:** February 4, 2022

**Re:** Finance Update

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Below are the updates for the month of January 2022:

The FY 2020/2021 audit has been accepted.

All materials requested by State OSBM were submitted for the SCIF Grant (\$2 million for Public Works Facility) and we are awaiting next steps.

All new police vehicles have arrived that were approved in the FY 21 Budget. We are waiting on the upfit on the 2021 Charger to be complete and all new vehicles will be in service.

At this time, MeterSys is working within the utility reading to improve operations by analyzing the MiNet database for any meter issues, any meter reporting or non-reporting issues, and reviewing the overall importing and exporting of readings for the billing process. They are also working within the MiNet system to streamline and calibrate flows to ensure more accurate alerts.

Training for new Human Resource Officer, Cheryl Ramsey, has begun for her new duties within the City of Lowell.

# Lowell Volunteer Fire Department

Lowell, NC

This report was generated on 2/2/2022 11:05:07 AM



## Incident Type Count per Station for Date Range

Start Date: 01/01/2022 | End Date: 01/31/2022

INCIDENT TYPE	# INCIDENTS
<b>Station: 17 - STATION 17</b>	
111 - Building fire	1
311 - Medical assist, assist EMS crew	1
321 - EMS call, excluding vehicle accident with injury	1
322 - Motor vehicle accident with injuries	11
324 - Motor vehicle accident with no injuries.	4
400 - Hazardous condition, other	3
412 - Gas leak (natural gas or LPG)	1
444 - Power line down	1
500 - Service Call, other	2
561 - Unauthorized burning	1
600 - Good intent call, other	1
611 - Dispatched & cancelled en route	10
661 - EMS call, party transported by non-fire agency	1
700 - False alarm or false call, other	1
711 - Municipal alarm system, malicious false alarm	4
721 - Bomb scare - no bomb	1
<b># Incidents for 17 - Station 17:</b>	<b>44</b>

Only REVIEWED incidents included.



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