



**CITY OF LOWELL  
COUNCIL MEETING AGENDA  
TUESDAY, JUNE 14, 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 April 12, 2022 (p. 1-7)
  - B. Minutes from Special Council Meeting Held May 6, 2022 (p. 8-10)
  - C. Minutes from Council Meeting Held May 10, 2022 (p. 11-18)
- 6. SPECIAL AWARDS AND PROCLAMATIONS**
  - A. Presentation of the 2022 City of Lowell Employee of the Year to Sue Lowe
  - B. Proclamation Recognizing the Historical Significance of Juneteenth and Proclaiming June 19, 2022 as Juneteenth (p. 19)
- 7. CONSENT AGENDA**
  - A. Record Retention Policy (p. 20-22)
  - B. Conflict of Interest Policy (p. 23-35)
  - C. Non-Discrimination Policy (p. 36-40)
  - D. Resolution RS3-2022 for Approving Local Water Supply Plan (p. 41-42)
  - E. To Temporarily Amend the City of Lowell Rules of Procedure for the City Council Meeting dates of July 2022 and August 2022 to the Second Monday (p. 43)
  - F. Resolution to Approve the North Carolina Department of Transportation's "Municipal Agreement for Inspections of Bridges on the Municipal Street System" (p. 44-49)
  - G. Resolution to Support Street Closure for Lineberger Road (p. 50-57)
  - H. Public Works Report (p. 58)
  - I. Finance Department Report (p. 59-61)
  - J. Police Department Report (p. 62-63)
  - K. Parks and Recreation Report (p. 64)
  - L. Planning Department Report (p. 65-66)
  - M. Consideration of Budget Amendment #6 (p. 67-68)
  - N. Consideration of ARPA Amended Grant Project Ordinance (p. 69-71)

**8. UNFINISHED BUSINESS**

- A. Public Hearing for Consideration of LDO Map Amendment (Rezoning) for Parcel ID#'s: 225354, 128306, 128316, 128315, 128304, 128305, 128307, 128928, 128999, 128318, 225350, 128321, 128322, 128333, 128334, 225352. From the Main Street (MS) Zoning District to the Mixed Use-2 (MU-2) Zoning District. Case# RZ22-02 (p. 72-85)
- B. Public Hearing for Text Amendment related to LDO Article 7-7.1 Development Agreement (p. 86-92)
- C. Public Hearing for Adoption of the City of Lowell Fiscal Year 2022-2023 Budget Ordinance (p. 93-132)
- D. Clarification on Public Hearing for System Development Fee (SDF) Update per SDF study completed by Willdan Financial Services (p. 133)

**9. NEW BUSINESS**

- A. Set Public Hearing for Consideration of Economic Development Agreement for Project Hearth pursuant to 160D-1001 (p. 134-147)
- B. Consideration of Appointments to the Lowell Planning Board, Board of Adjustment, and Stormwater Commission (p. 148-151)

**10. CITY ATTORNEY REPORT**

**11. CITY MANAGER REPORT**

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

**13. ADJOURN**

# MINUTES

Lowell City Council

Regular Meeting

Tuesday, April 12 2022, 6:00 P.M.

## I. CALL TO ORDER – Mayor Sandy Railey

Mayor Railey called the meeting to order at 6:00p.m. Those attending in-person were Mayor Pro-Temp Travis Smith, Councilmembers Phil Bonham, Candy Funderburk, Thomas Gillespie, and Joanna Fulbright. City staff included City Manager Scott Attaway, City Attorney John Russell Jr, Interim Police Chief and Captain Carl Moore, Finance Director, Lisa Nolen, Public Works Director, Thomas Shrewsbury, Parks and Recreation Director Cristy Cummings and City Clerk Cheryl Ramsey. 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 on the city's website. Members of the public were also present.

## II. INVOCATION / PLEDGE OF ALLEGIANCE

Councilmember Gillespie gave the invocation and led everyone in the pledge of allegiance.

## III. ADOPTION OF AGENDA FOR THIS MEETING

Councilmember Candy Funderburk made a motion to accept the agenda, seconded by Councilmember Thomas Gillespie. The vote was unanimously in favor.

## IV. PUBLIC COMMENTS

- A. Fire Chief Robbte Cunningham spoke about Gaston County Fire Protection serving the city instead of the City of Lowell and why he is for the potential change.
- B. Larry Simonds of 1603 Power Drive, Lowell, NC spoke about his agreement with the Fire Department to be under Gaston County. He also mentioned his issues with the Public Works Department.
- C. Ed Jackson spoke about the NorthPointe connector and the impact it will create for the citizens. He stated it needed to be planned better so trucks will operate efficiently. He stated that Lowell and Gaston County should be happy that the development is coming in that it will create jobs and a tax base for the city but a proper connection is critical where it aligns with Kenworthy. He believes NorthPointe should complete the end of Kenworthy to prevent bottleneaking.
- D. John Kato of 109 Walnut St, Lowell, NC stated he is against the NorthPointe development and the city is building up too much and tearing the community up.

## V. APPROVAL OF MINUTES

- A. Minutes from Council Meeting held March 8, 2022 (p. 1-10)

Councilmember Funderburk wanted to make a correction on page 7 regarding a discussion she had with Randi Gates and stating Ms. Gates was not aware of the road that is projected to come in the Aberdeen Extension and S. Main Street. She said she spoke with Ms. Gates and wanted to correct the statement acknowledging that Ms. Gates did in fact know about the road from NorthPointe to exit 22 and that the City Manager had been in the meetings with the developer, and she (Ms. Gates) had not. She apologized for misspeaking. Mayor Railey also made a correction regarding who seconded a motion at the April 6 City Council work session. Councilmember Funderburk was listed for both motion and second. Mayor Pro Temp Smith made a motion to approve the minutes with corrections, seconded by Councilmember Gillespie. The vote was unanimously in favor.

## **VI. SPECIAL PRESENTATION**

- A. Presentation of the Final Draft Conceptual Master Plan for 1602 N. Main Street (Crompton Knowles Chemical Plant) (p.11). Presented by Scott Attaway. The Landscapers and Architectures have determined a 5<sup>th</sup> of the site will be for the new Public Works facility and the rest for recreation and amenities. Areas have been demolished and environmental analysis has been done. The City intends to keep one building, the Rose Building on the site. Loading dock will be kept as a potential stage. Considering all ages when planning for people to utilize, including play areas, educational programs, obstacle courses, volleyball area, an amphitheater, skate park, dining scattered around food truck parking areas, accessible overlooks to the river and walkways, and a possible zip-line. The idea is to not repeat anything that is currently at Poston Park.

Estimated cost is 10.5 million for all. The City is still looking for more up-to-date estimates from larger general contractors. The City has received \$2 million from NIC and will go for many other grants to help with the costs. Other funding opportunities are being pursued as well including private donations.

Councilmember Funderburk asked if this same as the proposal for the Lowell River Front Master Plan? Mr. Attaway said it is not. She asked about bathrooms. Mr. Attaway showed her the maps where they will be located. He stated Council will vote on this once estimated plans are finalized.

## **VII. UNFINISHED BUSINESS**

- A. Public Hearing for consideration of Zoning Text Amendment for Article 12, Section 12.10 (p. 12-13). Mayor Railey asked for a motion to go into public hearing. Councilmember Funderburk made the motion, seconded by Councilmember Bonham. The vote was unanimously in favor. Scott Attaway presented the amendment to the LDO regarding RV's and commercial vehicles parked in front yard/driveways. Current wording of the LDO states, in part, RV's "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." Under the proposed wording recommended by the Lowell Planning Board, it states, in part, RV's "shall neither be parked/stored on the street nor forward of any point twenty-five (25)

feet behind the front building line of the condition 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. He said medical issues would be interpreted as the person is not occupying the dwelling and therefore according to the LDO, it would not be relevant. Occupying would be considered if you are living in the dwelling during the listed time periods. Councilmember Funderburk said there is no way the citizen can get his RV in the back of his home. Mr. Attaway also stated the LDO can go back to the original wording if council chooses where it wouldn't matter where the RV is parked or a text amendment would need to be done to change the current wording. Other city ordinances were reviewed and the Planning Board recommended the current wording to council. Councilmember Funderburk recommended keeping the original wording because she doesn't believe it's fair for citizens to not have adequate access to their backyards if forced to park their RV's back there.

Mayor Railey then allowed the public to speak regarding the matter. Larry Simonds had a complaint about the Master Plan and building a \$10 million dollar project but that the City does not have adequate sidewalks and citywide issues. Mayor Railey told him he was out of order. Mr. Simonds continued speaking about changes in a small town that will upset a lot of people.

Councilmember Funderburk made a motion to go out of public hearing, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor. Councilmember Funderburk then made a motion that we stay with the current wording, seconded by Councilmember Fulbright. John Kato asked to also speak again. Attorney Russell said that the Mayor could suspend the current motion to allow him to speak. Mayor Railey allowed him to speak. Mr. Kato said he knows Council is talking about Spencer Mountain but he wanted to use this as an example and proceeds to make a complaint about the Parks and Recreation activities including the lack of participation and staff specifically. Mayor Railey stopped him and told Interim Chief Moore that if he makes any other outburst then to escort him out. The unanimous vote was allowed to stand.

## VIII. NEW BUSINESS

- A. Budget Amendment #4 & #5 (p.16). Mr. Attaway reviewed printouts handed to Council relating to ARPA funds to be moved over to general funds. Mayor Railey asked for two separate votes. Councilmember Bonham made a motion to approve budget amendment #5 for funds to be moved over for usage, seconded by Councilmember Gillespie. The vote was unanimously in favor. Councilmember Bonham made a motion approving budget amendment #5, seconded by Councilmember Funderburk. The vote was unanimously in favor.
- B. Set Public Hearing for consideration of LDO Text Amendment to add "Blood Plasma Facility" to Article 8, Table 8.1 Table of Uses, Section 1 with supplemental regulations (p.17-18). Mr. Attaway elaborated on the application received. He said the applicants appealed the City's denial that the request is more extensive than a regular office and should be allowed as they state it is in fact a medical office. The appeal would go before the Board of Adjustments. Last year, the General Assembly approved the 160.B statute stating that if something like this is denied by staff and then brought to the Board of Adjustments where they uphold the staff decision, the applicant can appeal it to the courts. If the courts find that the City is wrong and they rule in favor of the applicant, then the City would have to pay all the applicant's legal fees. He

recommends the land use be amended to add to the LDO because it is a legal land use and not an illegal business you have to provide a zoning district within your limits. The C-74 district is what was utilized for potential adults only areas and is the district the applicant is requesting a permit for. Two supplemental conditions were proposed to the applicant, which is comparative to other municipalities 1. Shall be located at least 500 linear feet from residential homes, elementary, middle, or high school, church or other house of worship and 2. Hours of operation shall be between 6am and 8pm only. Councilmember Funderburk asked if the trampoline park is 500 feet away since kids go there. Mr. Attaway said that can be added to the conditions when it goes to the public hearing at the next council meeting.

Councilmember Funderburk made a motion to set a public hearing on May 10 at 6pm for consideration of the LDO Text Amendment to add "Blood Plasma Facility", seconded by Councilmember Fulbright. The vote was unanimously in favor.

- C. Review and Consideration of Master Sign Application for 4290 E. Franklin Blvd. Parcel ID #128628 (p.19-27). Mr. Attaway presented where the LDO allows a deviation of the sign ordinance. The Lowell Planning Board recommended approval at their April 5, 2022 meeting. Councilmember Bonham moved to approve the application of the sign, seconded by Councilmember Gillespie. The vote was unanimously in favor.
- D. Approval of Planning Director Salary Range Adjustment (p. 28-29) – Based on the salary study performed Mr. Attaway explained his position for a salary increase. Mayor Pro Temp made a motion to approve the Planning Director's salary rate adjustment, seconded by Councilmember Bonham. The vote was four yays and one nay by Councilmember Funderburk.
- E. Discussion of FY23 Budget Highlights – Mr. Attaway presented highlighting new employees, including Accounting Technician, Athletics Maintenance Supervisor, Stormwater GIS position, projects for bike PED plan, McCord Family Park renovations stormwater projects, demolition of the old chemical plant, downtown master planning, City Hall expansion, zoning/code enforcement vehicle, and K-9 program. The budget is due to the council by May 11, 2022. Councilmember Funderburk did not understand why an Athletics Maintenance Supervisor was needed. Cristy Cummings, Director of Parks and Recreation explained what the need is and other staffing needs. Councilmember Fulbright asked if we would keep the two part time and get a full time person? Mr. Attaway said this can be discussed and we would try to work through that. Councilmember Funderburk also wants to look further at the K-9 program more in depth. Mayor Pro Temp Smith asked if another work session could be scheduled. It was agreed to have another budget session on May 6, 2022 at 3pm. Councilmember Funderburk made a motion to approve the Budget Amendment #3, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor.
- F. Consideration of Resolution to include the City of Lowell within the Gaston County Fire Protection Service Tax District (p.31-32). Mr. Attaway presented giving options for considering or not considering. He mentioned this is a county contract where they would provide Fire Protection for the City of Lowell. He stated there would be a standardized tax by the county to the citizens of Lowell to fund the Volunteer Fire Department. Attorney John Russell suggested the city prepare a termination agreement for the City Manager to work on. Councilmember Funderburk thought the topic should be tabled to a later date as she was concerned about an increase of taxes to the Lowell citizens. Mr. Attaway said yes that it could be tabled but Gaston County has to have time to incorporate it into their budget in a timely manner. He said the tax

increase would be between \$.10-11 cents in addition to what the council applies for tax rates. Councilmember Bonham understood their position but also asked what direction we want to go in as a city and how can we operate in the future. Councilmember Fulbright stated she thinks the tax rate should be a better place before we add taxes. After further discussion, Mr. Attaway stated he would provide more information during the May 6<sup>th</sup> meeting. Councilmember Fulbright asked for a more in-depth breakdown of the budget by each department for clarification.

Mayor Pro Temp made a motion to go ahead with the Fire department going to the county and the City of Lowell to hash out the tax rate, seconded by Councilmember Bonam. Councilmember Funderburk asked if the county would ever increase their rate. Mr. Attaway said it is capped at 15%. Councilmember Gillespie asked the Fire Department Chief if he had issues with it going to the county and would be in the best interest of the City of Lowell. He stated he had no issues with it going to the county but was also concerned about the tax rate increasing. Mr. Attaway said the county will vote on whether to take on Lowell in their April 26<sup>th</sup> meeting. With no other questions, the motion was unanimously in favor.

Councilmember Bonham then made a motion to give the City Manager, the authority to terminate the current contract for the City of Lowell Fire Department upon acceptance of this agreement by the County effective June 30th, seconded by Councilmember Funderburk. The vote was unanimously in favor.

- G. Consideration of LCC By-Laws Revision (p.33)- presented by Cristy Cummings to remove the term limits for LCC members because of the low interest. They currently have in their by-laws to serve for two terms only and would like this to be eliminated because they have a hard time filling this volunteer roles. Mr. Attaway said they will still have to reapply and be approved by City Council. Mayor Pro Temp made a motion to make the revision to the LCC By-laws, seconded by Councilmember Funderburk. The vote was unanimously in favor.
- H. Discussion of Harold Rankin Park and Bob Bolick Park Master Plans (p.34-35) – presented by Cristy Cummings. She is asking for the City to help with the master plan for the parks in order to pursue grant opportunities. This request does not require Council action as it was just to bring council up-to-date.

## **IX. STAFF REPORTS**

- A. Public Works Department Report (p.36) –Thomas Shrewsbury reported:  
He spoke of the water leaks around the city and that some of them have been fixed. They are also working on Spring cleaning. The department is still using two part-time inmates and one full-time inmate to help; however, they are still down one full-time employee and a recycling attendant
- B. Finance (p.37) – Lisa Nolen presented. She stated Sue Nolen is still working with MeterSys and updating the meter database with our system. Sue is continuing with her reports and getting the remaining meter readings together for Mr. Shrewsbury. Sue is also working on a manual of her job duties. Bank recs are completed through the month of March. 2021-year end entries are done. An Accounting Tech has been interviewed and the offer letter has been sent. Mr. Attaway stated Lisa has done some training with Southern Software and hopes she will be bringing some new ideas she learned.

- C. Police Department Report (p. 38-39)– Interim Chief/Captain Carl Moore reported
  - 1. Neighborhood meeting from March– primary concern with residents is speeding.
  - 2. Retention goals are in place with officers. Councilmember Bonham asked if they are still down an officer. Captain Moore said yes.
  - 3. Officer Anderson had a drug bust charging juveniles with 17.5 oz of marijuana, seized \$1400 in cash and a gun was confiscated off Stowe St. Councilmember Funderburk asked about the homeless camp and if that had been straightened out. Captain Moore said they are still working on it. Two people were charged last week around Rankin Park. They are working with Mr. Dixon at Woodlawn Church and Mr. Culbertson to try to fix it the problem.
- D. Fire Department Report (p. 40) - Incident Reports were attached to the packet.
- E. Parks & Recreation (p.41-42) – presented by Cristy Gummings discussed the recent kids Easter Egg Hunt, even though it was windy. They had over 250-300 kids show up in spite of the weather. There will be a Senior Easter Egg Hunt coming up. They also will have a Mother and Me event before Mother’s Day of which you do not have to be a mother to attend; May 27<sup>th</sup> there will be a Memorial Day event at Edgewood Cemetery at 10am; and the first t-ball game was held tonight. Councilmember Funderburk asked if Movies in the park is scheduled. Mrs. Cummings said not currently but she will look into it.

**X. CITY ATTORNEY REPORT – No updates**

**XI. CITY MANAGER REPORT –**

- 1. Gaston County Library completed. NCDOT has submitted for a crosswalk to be painted across from McAdenville. No City of Lowell monies were submitted for it.
- 2. Additional NCDOT updates
- 3. CDBG-NR and CDBG-I updates- Grant bid for \$250k was submitted last month to update the Community Center, but no quotes were received. He and Thomas Shrewsbury are working on re-writing the scope. Bathrooms and kitchen are priority. Manhole replacements will be done with any extra money by changing the scope.
- 4. 2023 Property Value re-appraisal by Gaston County. Asked the City of Lowell to schedule community events to allow citizens to interact and ask questions.
- 5. River Falls HOA-Carolina Thread Trail measure failed and other routes are being pursued. They will look at it again in a couple years.
- 6. Regionalization Grant for the Wastewater Treatment Plant was recommended to be pursued instead of the NCDEQ Pre Construction Planning Grant.

**XII. MAYOR AND CITY COUNCIL GENERAL DISCUSSION –** Mayor asked council if they had any further comments. Councilmember Funderburk said she still has issues with the NorthPointe project and has called the Senator. With no further discussion Mayor thanked everyone for coming.

*A five-minute recess was requested by the Mayor before the closed session at 8:13pm and returned at 8:17.*

**XIII. CLOSED SESSION –** Councilmember Bonham made a motion to go into closed session, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor.



- A. To discuss the Acquisition of Real Property Pursuant to NCGS 143-318.11(a)(5), NCGS 158-7.1(d)
- B. To Discuss Matters Regarding Personnel Pursuant to NCGS 143-318.11(a)(6)

Councilmember Bonham made a motion to come out of Closed Session, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor.

**XIV. TAKE ACTION ON ITEMS DISCUSSED DURING CLOSED SESSION**

**A. Discussion of Salary for Council Appointed Position**

Councilmember Bonham made a motion to set the City Manager's salary for the City of Lowell at \$116,000 annually and to amend his contract to remove the cap at section 12 for health insurance coverage. It was seconded by Mayor Pro Temp Smith. The vote was Councilmembers Bonham, Fulbright, and Mayor Pro Temp Smith for and Councilmembers Funderburk and Gillespie against.

**B. Determination of Setting Public Hearing for Economic Development Agreement**

Councilmember Funderburk made a motion to set the Public Hearing for May 10<sup>th</sup> for the Economic Development Agreement, seconded by Councilmember Funderburk. The vote was unanimously in favor.

Councilmember Funderburk made a motion to adjourn, seconded by Councilmember Bonham. The vote was unanimously in favor. Adjourned at 10:13 p.m.

ATTEST:

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Sandy Railey, Mayor

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Cheryl Ramsey, City Clerk

# MINUTES

Lowell City Council  
Special Meeting-Budget  
Friday, May 6, 2022, 3:00 P.M.

## I. CALL TO ORDER – Mayor Sandy Railey

Mayor Railey called the meeting to order at 3:00p.m. Those attending in-person were Mayor Pro-Temp Travis Smith, Councilmembers Phil Bonham, Thomas Gillespie, and Joanna Fulbright. City staff included City Manager Scott Attaway, Interim Chief Carl Moore, Sergeant Jeff Harrison, Finance Director, Lisa Nolen, Public Works Director Thomas Shrewsbury, and City Clerk Cheryl Ramsey. Parks and Recreation Director participated online. Councilmember Funderburk came in at 3:02pm.

## II. ADOPTION OF AGENDA FOR THIS MEETING

Councilmember Bonham made a motion to accept the agenda and seconded by Mayor Pro-Temp Smith. The vote was unanimously in favor.

## III. PUBLIC COMMENTS

There were no public comments.

## IV. APPROVAL OF MINUTES

- A. Minutes from Council Meeting held January 25, 2022
- B. Minutes from Council Meeting held February 11, 2022
- C. Minutes from Council Meeting held March 2, 2022
- D. Minutes from Council Meeting held April 8, 2022

Mayor Railey noted a correction in the February 11 minutes to change “Pickle bar” to Pickle Ball on page 6. Mayor Pro Temp Smith made a motion to approve the minutes from January 25<sup>th</sup>, February 11<sup>th</sup>, March 2<sup>nd</sup>, and April 8<sup>th</sup> with corrections, seconded by Councilmember Bonham.

## V. UNFINISHED BUSINESS

### A. Discussion of FY 2022-2023 Budget

1. Steven Miller with WithersRavenel did a presentation regarding the Water/Sewer program and updated revenue and expenditures data and how inflation reflects and those costs for the next ten years. He discussed how they used the changing Operational costs, the capital improvement needs, and what revenues were necessary for the Capital Improvement Plan (CIP), Debt Service Summary, and Financial Analysis to keep the Fund Balance at a healthy level. Mr. Attaway mentioned the North Point connection would fall under the CIP as well as the connection to highway 7 potentially adding \$1million to work on this connection. He will work with the City Engineers and Two Rivers Engineers to have more of an analysis on the situation and will get more estimates.

Mr. Attaway also discussed the systemwide manhole rehabilitation project where the city is in desperate need to replace 96 manholes. He said the CDBG grant can help cover the costs for some of them. Mr. Shrewsbury said the primary areas are near the rivers. He stated the costs range from \$3-3500 minimum. The City is working on about 10 of them now.

Mr. Miller then finished his presentation and provided an alternative CIP with the bare minimum needed and where some projects were somewhat delayed. He then discussed the Debt Service summary noting the City's existing debt will not change for a few years even with the alternative. Lastly, he discussed the Financial Analysis based on the most recent audit.

He mentioned three factors the City of Lowell programs need over the next 10 years that need to be addressed:

- a. Operational costs – growing more revenues
- b. Capital needs
- c. Increase fund balance

He proposed an increase to revenue for the growing operational costs, CIP, Debt services and increase of fund balance of 15% for FY23, 15% in FY24 and 6% each year thereafter. Councilmember Gillespie said that it sounds like a water rate fee increases is coming since a grant is not guaranteed, correct? Mr. Miller said yes. Mr. Attaway stated this would cause an 18% increase of the water/sewer/stormwater rates.

- B. Mr. Attaway discussed, in detail, the working draft budget proposed.

*Councilmember Bonham made a motion for a brief recess at 4:36. It was seconded by Mayor Pro Temp Smith. The vote was unanimously in favor. The meeting continued at 4:39pm.*

- C. Stormwater Salaries and a new GIS Stormwater employee were discussed
- D. New Capital expenses
- E. General Fund – each line item for every department was reviewed.

*Councilmember Bonham made a motion for a brief recess at 6:00pm. It was seconded by Mayor Pro Temp Smith. The vote was unanimously in favor. The meeting continued at 6:05pm.*

- E. General Fund line items continued and how costs from having the Fire Department going under Gaston County would help the remaining budget.
- F. COLA increases
- G. Community Center costs the City of Lowell will focus on-interior items. Exterior will use CDBG funds available
- H. Community Events proposed

Discussion was held about the potential rate increases, inflation, salary increases for all departments, and considering the Fire Department as not being part of the budget.

**VI. ADJOURN** – Councilmember Bonham made a motion to adjourn, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor. Adjourned at 6:47 p.m.

ATTEST:

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Sandy Railey, Mayor

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Cheryl Ramsey, City Clerk

DRAFT

# MINUTES

Lowell City Council

Regular Meeting

Tuesday, May 10, 2022, 6:00 P.M.

## I. CALL TO ORDER – Mayor Sandy Railey

Mayor Railey called the meeting to order at 6:00p.m. Those attending in-person were Mayor Pro-Temp Travis Smith, Councilmembers Phil Bonham, Candy Funderburk, Thomas Gillespie, and Joanna Fulbright. City staff included City Manager Scott Attaway, City Attorney John Russell Jr, Interim Police Chief and Captain Carl Moore, Sgt Harrison, Finance Director, Lisa Nolen, Public Works Director, Thomas Shrewsbury, Parks and Recreation Director Cristy Cummings and City Clerk Cheryl Ramsey. 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 on the city's website as well as in person. Members of the public were also present.

## II. INVOCATION / PLEDGE OF ALLEGIANCE

Councilmember Gillespie gave the invocation and led everyone in the pledge of allegiance.

## III. ADOPTION OF AGENDA FOR THIS MEETING

Mayor Railey made mention of the added portion, 6C – Consideration to adopt SCIF Grant Project, under Unfinished Business. Councilmember Candy Funderburk made a motion to accept the agenda, including the addition of 6C, seconded by Councilmember Thomas Gillespie. The vote was unanimously in favor.

## IV. PUBLIC COMMENTS

A. Larty Simonds of 1603 Power Drive, Lowell, NC stated he spoke with the District Attorney recently and stated under the Freedom of Information Act, he would like to receive all transactions, every penny, of Public Works since Mr. Shrewsbury has been employed due to conflicts of interest. He wants it as soon as possible because he states there is a lawsuit coming.

## V. APPROVAL OF MINUTES

A. Minutes from Council Meeting held April 12, 2022 (p. 1-7)

Councilmember Funderburk stated the park listed is McCord not McCarthy on page 4. Mr. Attaway asked that the minutes be submitted during the next council meeting in June in order to have section XIV showing the post Closed Session items before the minutes are adopted. City Attorney Russell explained the proper procedures to council for submitting minutes. Councilmember Gillespie made a substitute motion to defer the approval of the minutes as the City

Attorney explained to approve in June after the corrections. It was seconded by Councilmember Funderburk. The vote was unanimously in favor.

## VI. UNFINISHED BUSINESS

- A. Public Hearing for consideration of LDO Text Amendment to add "Blood Plasma Facility to Article 8, Table 8.1 Table of Uses, Section 1 with supplemental regulation to the Lowell Zoning District of C-74 (p.8-10). Councilmember Funderburk made a motion to go into public hearing, seconded by Councilmember Gillespie. The vote was unanimously in favor. Mr. Attaway presented with a brief background. He stated the previous Planning Director denied the permit for the facility on the grounds that it did not meet the existing ordinance's medical offices definition. That decision was appealed and now we are in between an appeal process and a staff-initiated text amendment to add the land use to the ordinance. The facility would ultimately fit in the C-74 zoning district. He said they looked at other municipalities to see what their supplemental regulations were. He said the current LDO is in line with the municipalities that have these types of facilities and have had some sort of history with this particular kind of land use. The supplemental regulations included to be 500 linear away from single family residential use, elementary, middle, or high school facility, church or other house of worship. Also, hours of operation should be between 6am and 8pm normally.

Councilmember Funderburk asked if council has to approve this? Mr. Attaway said we have to provide zoning for legal land uses. He added the courts could deem it a medical office or the City could consider changing the zoning district all together but that measure could take all medical offices away from downtown for example. Councilmember Funderburk then asked if we could change the hours of operation and suggested 9am to 5pm, Monday-Friday. Mr. Attaway said those hours were taken from another municipality but can ask the applicant their specific hours. Councilmember Funderburk then mentioned the trampoline park with the kids there and if it was 500 feet away.

Mr. Attaway mentioned that if the applicant wins there case the City would have to go back and pay all the applicants legal fees.

Mayor Pro Temp asked the applicant to speak. Attorney, Daniel Oshea spoke representing the developer, explained what is being requested. He stated that the proposal for the center would be based on appointments only, 7 days a week from 8am to 6pm which could be listed in this zoning district based on the LDO as a medical facility. He is not aware of additional presence of EMT or police calls to these types of facilities any more than any other area. Councilmember Gillespie asked what a blood plasma center does. Mr. Oshea explained. Councilmember Gillespie asked if people are coming to sell their blood rather than donate it? Mr. Oshea said yes. Mayor asked if it is similar to the Red Cross donating plasma. Mr. Oshea was not familiar with their process.

Larry Simonds was given permission to speak by Mayor Railey after no further questions by Council. "He asked how in the (expletive) can you [Council] give someone a permit to sell and provide blood but not have rules in place before authorizing anyone to set up shop. Do they have

medical licenses? Can any idiot just come in and ask for a permit?" Councilmember Funderburk said she believed the gentleman answered all their questions. Mayor Railey apologized to Mr. Oshea and asked if anyone else had a comment. With no one coming forward, Councilmember Funderburk made a motion to go out of public hearing, seconded by Councilmember Gillespie. The vote was unanimously in favor.

Councilmember Funderburk then made a motion that we accept the Blood Plasma Facility with the proposed supplemental regulations that it should be at least 500 feet away from any single-family residential use, elementary, middle, or high school facility; church or other house of worship facility and recommend that the hours of operation be 9am-5pm Monday-Friday. She stated the reason she is doing that is because the area is family friendly and that she thought it [Plasma Facility] would be more utilized on the weekends. Mr. Attaway reminded council that this [motion] would have to be applied to any property within the C-74 District. It is not a site-specific zone. City Attorney Russell stated that when the government regulates commercial activity, Council gets to decide that, but you must have a reason for changing the text amendment and adding an additional regulation. Mr. Attaway said that because of this type of amendment presented any future blood plasma facilities would have to follow the motion as presented concerning the hours of operation.

Councilmember Funderburk upheld her initial motion as is. Mr. Attaway noted that the supplemental regulation has the hours of 6am – 8pm and this applicant is requesting 8am-6pm. Councilmember Funderburk changed her motion to reflect the hours of 8am-6pm but only Monday-Friday. Councilmember Fulbright asked if it needed to be in writing? City Attorney Russel said it did not, you just had to summarize why you are making the additional regulation. Councilmember Bonham asked if this would be the same requirement for a blood mobile? Mr. Attaway said that is a little different because that is a special permit under temporary rules. City Attorney Russell said he believes this is the concern of this particular option, and that council should direct staff to define what a Blood Plasma Facility clearly noting it is not from Red Cross, etc.

Mayor Railey repeated the motion that we accept the Blood Plasma Facility with the proposed supplemental regulations that it should be at least 500 feet away from any single-family residential use, elementary, middle, or high school facility; church or other house of worship facility and recommend that the hours of operation be Monday through Friday from 8am-6pm. City Russell said regarding choosing the days of the week, it does not need to be in writing, but council is reviewing the C-74 district as family oriented so as a result council is revising the regulation. Councilmember Funderburk feels it is a safety issue as she would not want some of the people around her grandchildren. Councilmember Fulbright agreed stating it is a well-known fact that Police, EMT, and Fire calls frequent this location. Councilmember Fulbright then seconded the motion on the floor. The vote was unanimously in favor.

- B. Public Hearing for approving the Sale of Real Property at 615 Phillips Street (Parcel #127737) and consideration of Economic Development Agreement pursuant to 158-7.1 (p.11-45). Councilmember Funderburk made a motion to go into public hearing, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor. Mr. Attaway presented stating this is regarding the old water tower. A developer is developing to the northwest of the property as well as the

property across the street (pg. 19). City Attorney Russell then explained further reminding council that in the fall of 2020, the City of Lowell held a public hearing and voted to hold this particular parcel, about .12 acres, for purposes of economic development. Once that was done, the City, under the NC General Statute, could then sell it to a developer or to any other 3<sup>rd</sup> party by private sale if council finds through the economic development was in the best interest of the city and the development of the property will create a probable number of jobs for the citizens of Lowell. The property could also not be sold for less than fair market value. The City had an appraisal done which was of minimal value and the developer had one done. The latter appraised the property at \$7431 which was not less than fair market value. There will be a development plan which has been shown in the past to be flex business spaces. It is projected, by the developer, to produce 20 jobs at \$18 an hour.

Councilmember Funderburk asked if this was the property where the old jailhouse is? Mr. Attaway said the area is the slab where the water tower was. He explained that the developer came up with the \$7431 value based on the appraisal done for the three parcels and taking a percentage of the portion owned by the City. The City also had an appraisal done and the market value for the parcel was \$0 because the demolition needed to remove all the concrete, etc. from the site. Mayor Railey then opened it up to the public.

Larry Simonds asked what the total land space was that council is selling? Mayor Railey said it was .12 acres. He asked what the size was? Mr. Attaway stated it is .12 acres. He asked about the length and the width. Mr. Attaway stated there were 6 sides to it. Mr. Simonds asked why wouldn't the City put it up for bids since it's public property. He would've like it to go out for bid and stated he would like to bid \$8000 for it tonight. Mr. Attaway said it was already held for Economic Development and to produce jobs, a value to the tax base and a value to the citizens. Mr. Simonds said there should have been a bid process. Councilmember Gillespie stated that there were only three people on this [current] council when that economic incentive was looked at, he, Councilmember Funderburk, and Councilmember Bonham. He stated that the developer said that he could do 4 buildings without it and still create jobs. His concern was they looked at the water tower and looking back he really regrets selling the water tower because it was a historical landmark. He said the jailhouse is a historical landmark. He said there is a lot of history that goes into that jailhouse. Mr. Attaway said the jailhouse is already owned by the developer and not on city property. Mayor Railey said we are not talking about the jailhouse. She then addressed Mr. Simonds about the water tower. She stated that she is also a lover of history but when you have a decision to make between making the water tower pretty because it would have never been functional again for a quarter of a million dollars or have it removed for \$17,600...and asked Mr. Simonds what he would have chosen? (Mr. Simonds was inaudible). Councilmember Gillespie stated the Water Tower is gone but there were companies, like Verizon, who wanted to put a cell tower there but it didn't work that way so we moved on. Mayor Railey said she didn't think that the developer wanted the jailhouse building so if it is torn down and if people want the bricks, they are welcomed to it. Councilmember Bonham said that comparing the two options, why would anyone want to build anything on .12 acres. Mr. Simonds said it was an option. Mayor Railey asked if anyone else wanted to speak. With none, Councilmember Funderburk made a motion to come out of the public hearing, seconded by Councilmember Gillespie. Paul Williams of 707 McAdenville Rd spoke up and asked about the C-74 district to confirm. He stated he tried to speak



- up before, but the comments portion was closed. Mr. Attaway showed him where the location is on the map. Mayor Pro Temp then made a motion to approve the sale of real property at 615 Phillips Street (parcel ID #127730) and consideration of Economic Development Agreement pursuant to 158-7.1, seconded by Councilmember Bonham. The vote was unanimously in favor.
- C. Consideration to adopt SCIF Grant Project Ordinance. Mr. Attaway presented the \$2 million grant the City received by the direct appropriation from the State of North Carolina's budget. Councilmember Bonham made a motion to adopt the SCIF Grant Project Ordinance seconded by Councilmember Funderburk. The vote was unanimously in favor.

## VII. NEW BUSINESS

- A. Presentation by WithersRavenel of the Lowell Water and Sewer CIP and consideration of Resolution RS2-2022 to adopt the City of Lowell Water and Sewer Capital Improvement Plan (CIP) (p. 46-47). Mr. Attaway stated that the resolution is not necessary and therefore should be stricken from this section. Steven Miller presented providing the CIP update with a brief overview. He recommends an increase to revenue 15% for FY23, 15% in FY24 and 6% each year thereafter to address the growing operational costs, capital needs and increasing the fund balance. Mr. Attaway asked him to elaborate on the 15% revenue increase needed and the relation to the rate increase is recommended to achieve it. Mr. Miller stated the UNC Environmental Finance Center did a survey for water/sewer/stormwater programs to assist municipalities and have found in order to have revenue increases, the rates must be higher. He stated the rate increase must be at 18-20% for a 15% revenue increase.

Councilmember Funderburk asked if the Stormwater fees are separate fund? Mr. Miller said the Water/Sewer rates are separate from the Stormwater or General fund. Mayor Railey stated that we knew this was coming having not done any upgrades to our system for so many years. Mr. Attaway said staff initially got an 18% revenue increase CIP and looked for areas to cut or things that could wait a year or two and made some deletions and have cut it where staff is comfortable. Thomas Shrewsbury agreed saying we have delayed certain areas for too long. He said one thing that hurts us when we try to fund something is that Lowell takes Gastonia's increases usually in the neighborhood of 5%. Lowell increases 6% and by the time you get to reductions due to citizen preserving water more, Lowell ends up going backwards. We have done that year after year. He doesn't remember a time that Lowell has ever increased rates by more than 10% but remembers counties around us increasing their rates in the teens on numerous occasions and appear to be doing better than Lowell. Mr. Attaway added that a 4000 gallon a month consumer's Water and Sewer bill will increase by about \$11.46 with the proposal. Mr. Shrewsbury said that is about a household of 5-6 people.

Councilmember Funderburk asked how much longer do we have on the Wastewater Treatment plant before we have to do something? Mr. Attaway said we've done several studies but specific to the plant, we'll apply for a pre-construction planning grant in the fall to study and get some engineering drawings of that regionalization work. Once that is done, we'll have a road map of how to go forward with the regionalization project. In the 2018 study done on that plant, we were supposed to be applying for a feasibility grant this Spring. He, Thomas [Shrewsbury] and the engineer called the DEQ and were told not to apply for that but to apply for the preconstruction

and planning grant. He said the regionalization of the plant with Two Rivers is just a plan. It is not collection or distribution. It's not distribution of water to our houses. It's not collection of sewer from the houses. Those lines are still expected to be Lowell's. The plant will turn into a main lift and sent to the station in McAdenville where Two Rivers did their regionalization study with McAdenville. When they built that infrastructure, they left a spare slot for Lowell to take on so a lot of it's been done including the county legwork, part of the right-of-way along the river for the easement is set, so we'll get a head start this fall when we go through that. More analysis is needed before passing on further costs to residents and amounts have increased significantly since the 2017/18 study. They (Mr. Attaway, Mr. Shrewsbury, and the engineer) are looking at more opportunities to divert flows to Two Rivers and take future stress off the plant.

- B. Presentation of the Draft Fiscal Year 2022-2023 Budget (p.48) –A slideshow summarized the proposed budget was also passed out and was presented to council by Mr. Attaway. This included Council's Strategic Goals FY22-24, expenditure increases, proposed expenses, general fund revenue, Stormwater and Water and Sewer Revenue and Expenditures, competitive salary increases, and proposed fee schedules. The proposal will be uploaded and sent to the media immediately after tonight's meeting.
- C. Set Public Hearing for Adoption of the City of Lowell Fiscal Year 2022-2023 Budget Ordinance (p.49). Councilmember Bonham made a motion to set the public hearing for the adoption of the City of Lowell Fiscal Year 2022-2023 Budget for June 14, 2022, at 6pm, seconded by Councilmember Funderburk. The vote was unanimously in favor.
- D. Set Public Hearing for Consideration of LDO Map Amendment (Rezoning) for Parcel ID#'s 225354, 128306, 128316, 128315, 128304, 128305, 128307, 128928, 128999, 128318, 225350, 128321, 128322, 128333, 128334, 225352. From the Main Street (MS) Zoning District to the Mixed Use-2 (MU-2) Zoning District. Case# RZ22-02 (p.50-58). Mr. Attaway presented stating the applicant wishes to rezone near exit 22. Councilmember Bonham made a motion to set the public hearing for the parcels identified on page 50 for June 14, 2022, at 6pm, seconded by Councilmember Gillespie. The vote was unanimously in favor.
- E. Discussion and Consideration of Possible Text Amendment for LDO Article 7.7.1 Development Agreement (p.59-65). Mr. Attaway presented. This is for staff to have guidance from Council on whether a text amendment to allow the Planning and Zoning Director to administer smaller development agreements/reviews and the thresholds that will be upheld. Attorney Russell added that the concern he had from the City standpoint is we were creating the equivalent of conditional zoning in by-right developments, thus creating a conflict that doesn't need to be there and prolonging the process. Councilmember Bonham made a motion to set public hearing for the discussion and consideration of possible text amendment for LDO Article 7.7.1 Development Agreement on June 14, 2022, at 6pm, seconded by Mayor Pro Temp. The vote was unanimously in favor.
- F. Set Public Hearing for System Development Fee (SDF) Update per SDF study completed by Willdan Financial Services (p.66-67) - Presented by Mr. Attaway – Willdan conducted a System Development Fee Study resulting in increases in fees. Per Article 1 of Chapter 162A of the General Statute for not less than 45 days prior to considering the adoption of a system development fee analysis. The City of Lowell will be eligible to schedule the public hearing after June 21<sup>st</sup> as it was set up on the city website for comments on Saturday, May 7, 2022. Mayor Pro Temp Smith made a motion to set the public hearing for System Development Fee on Wednesday, June 22, 2022, at 6pm, seconded by Councilmember Fulbright. The vote was unanimously in favor.

- G. Consideration of Renewal of the Gastonia/Gaston County Consortium for Participating in the HUD "HOME" Program Interlocal Agreement (p. 68-73). Presented by Mr. Attaway. He said this is a renewal that is required every three years required by HUD. Councilmember Funderburk made a motion to renew the Gastonia/Gaston County Consortium for Participating in the HUD "HOME" Program Interlocal Agreement, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor.

## VIII. STAFF REPORTS

- A. Public Works Department Report (p.74) –Thomas Shrewsbury summarized the water and sewer issues for the month. He also noted they have picked up more inmate help because of the lack of staff.
- B. Finance (p.75-77) – Lisa Nolen presented. She stated Sue Nolen is still working with MeterSys and updating the meter database with our system. Sue is continuing with her reports and getting the remaining meter readings together for Mr. Shrewsbury. They are working on keying transactions from April 2022. She stated the revenue/expenses are on target.
- C. Police Department Report (p. 78-79)– Interim Chief/Captain Carl Moore reported. He said April was a busy month and discussed the major arrests made recently.
- D. Parks & Recreation (p.80-81) – Cristy Cummings presented. Finally received dirt for the ball fields. Received \$500 sponsorship from Dick's to buy a batting cage net and make some minor repairs. She also announced that June 4<sup>th</sup> they will hold a yoga class.

## IX. CITY ATTORNEY REPORT – No updates

## X. CITY MANAGER REPORT

1. City Vision Conference was great with the Mayor and Councilmember Fulbright attending. Sessions focused on development. Councilmember Funderburk asked about sidewalks at Poston Park. Mr. Attaway talked to the County two weeks ago but will follow up with them.

## XI. MAYOR AND CITY COUNCIL GENERAL DISCUSSION.

- A. Councilmember Bonham thanked the Manager and staff for putting together a difficult budget. Mr. Attaway also thanked staff for their hard work.
- B. Councilmember Funderburk has had several people call her about designated [stop] lights at this intersection (First and Main) and by Pete's (The Corner Grocery at Main and McAdenville Rd) especially in the mornings coming from Poston Park. Mr. Attaway said he gave the requests to DOT and will follow up with them. She also mentioned that Caleb Moore from NorthPoint contacted her about a neighborhood meeting that will be held May 17 at 5:30pm in the community center about the road that will go across South Street.
- C. Councilmember Gillespie thanked Rob Presley about the Flats neighborhood and thanked Mr. Attaway and Councilmember Funderburk for attending the Gaston Business Association with him.
- D. Mayor Railey thanked all for coming.

*At 9:00pm, Councilmember Funderburk made a motion to take a five-minute break before going into closed session, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor. The meeting resumed at 9:05pm*

**XII. CLOSED SESSION**

Councilmember Bonham made a motion to go into closed session, seconded by Councilmember Funderburk. The vote was unanimously in favor.

A. To Discuss Matters Regarding Personnel Pursuant to NCGS 143-318.11(a)(6)

Councilmember Bonham made a motion to come out of Closed Session, seconded by Councilmember Gillespie. The vote was unanimously in favor.

**XIII. ADJOURN**

Councilmember Bonham made a motion to adjourn, seconded by Councilmember Fulbright. The vote was unanimously in favor. Adjourned at 9:19 p.m.

ATTEST

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Sandy Railey, Mayor

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Cheryl Ramsey, City Clerk

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# **PROCLAMATION**

**WHEREAS**, President Abraham Lincoln signed the Emancipation Proclamation on January 1, 1863, declaring the slaves in Confederate territory free, paving the way for the passing of the 13<sup>th</sup> Amendment which formally abolished slavery in the United States of America; and

**WHEREAS**, the celebration of the end of slavery, which became known as “**Juneteenth**”, is the oldest known celebration commemorating the ending of slavery in the United States, when Union soldiers led by Major General Gordon Granger arrived in Galveston, Texas on June 19, 1865 bringing news that the Civil War had ended, and that the Emancipation Proclamation had declared all enslaved people free nearly two and a half years earlier; and

**WHEREAS**, the first **Juneteenth** celebration was a time for reassurance, prayer, and the gathering of family members and neighbors and today is a time of remembrance and celebration within communities throughout the country that promotes and cultivates knowledge and appreciation of African American history and culture, while encouraging continuous self-development and respect for all people and cultures; and

**WHEREAS**, this year’s **Juneteenth** celebrations taking place in Gaston County during the weekend of Saturday, June 18 and Sunday June 19 begin with a Juneteenth Celebration at Stowe Park in Belmont on Saturday. In Gastonia, the EbonyFest Juneteenth Festival will be held on Saturday at the Erwin Center and at the Rotary Pavilion on Sunday.

**NOW THEREFORE**, I, Sandy Railey, Mayor, and the City Council of the City of Lowell, do hereby declare **June 19, 2022** as

## **JUNETEENTH**

in the City of Lowell, North Carolina and urge all citizens to join in celebrating a day so significant in the history and heritage of our nation and city.

**IN WITNESS THEREOF**, I have hereunto set my hand and caused the seal of the City of Lowell to be affixed, this the 14<sup>th</sup> day of June in the year of our Lord two thousand and twenty-two.

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Sandy Railey, Mayor

*ATTEST:*

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Cheryl Ramsey, City Clerk

#PR2-2022

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-A

**DESCRIPTION:** RECORD RETENTION POLICY

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To maintain compliance with the American Rescue Plan Act (ARPA), the following policy of record retention must be adopted. This policy was drafted by UNC SOG and vetted through our ARPA Consortium Group at Centralina Council of Governments. It has also been reviewed by staff and the City Attorney.

**Record Retention Policy: Documents Created or Maintained Pursuant to the  
ARP/CSLFRF Award**

**Retention of Records:** The Coronavirus Local Fiscal Recovery Funds (“CSLFRF”) [Award Terms and Conditions](#) and the [Compliance and Reporting Guidance](#) set forth the U.S. Department of Treasury’s (“Treasury”) record retention requirements for the ARP/CSLFRF award.

It is the policy of the City of Lowell to follow Treasury’s record retention requirements as it expends CSLFRF pursuant to the APR/CSLFRF award. Accordingly, the City of Lowell agrees to the following:

- Retain all financial and programmatic records related to the use and expenditure of CSLFRF pursuant to the ARP/CSLFRF award for a period of five (5) years after all CLFRF funds have been expended or returned to Treasury, whichever is later.
- Retain records for real property and equipment acquired with CSLFRF for five years after final disposition.
- Ensure that the financial and programmatic records retained sufficiently evidence compliance with section 603(c) of the Social Security Act “ARPA,” Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- Allow the Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, the right of timely and unrestricted access to any records for the purpose of audits or other investigations.
- If any litigation, claim, or audit is started before the expiration of the 5-year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.

**Covered Records:** For purposes of this policy, records are information, regardless of physical form or characteristics, that are created, received, or retained that evidence the City of Lowell’s expenditure of CSLFRF funds on eligible projects, programs, or activities pursuant to the ARP/CSLFRF award.

Records that shall be retained pursuant to this policy include, but are not limited to, the following:

- Financial statements and accounting records evidencing expenditures of CSLFRF for eligible projects, programs, or activities.
- Documentation of rationale to support a particular expenditure of CSLFRF (e.g., expenditure constitutes a general government service);
- Documentation of administrative costs charged to the ARP/CSLFRF award;
- Procurement documents evidencing the significant history of a procurement, including, at a minimum, the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for contract cost or price;
- Subaward agreements and documentation of subrecipient monitoring;
- Documentation evidencing compliance with the Uniform Guidance property management standards set forth in 2 C.F.R. §§ 200.310-316 and 200.329;
- Personnel and payroll records for full-time and part-time employees compensated with CSLFRF, including time and effort reports; and
- Indirect cost rate proposals

**Storage:** City of Lowell's records must be stored in a safe, secure, and accessible manner. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

**Departmental Responsibilities:** Any department or unit of the City of Lowell, and its employees, who are responsible for creating or maintaining the covered documents in this policy shall comply with the terms of this policy. Failure to do so may subject the City of Lowell to civil and/or criminal liability. Any employee who fails to comply with the record retention requirements set forth herein may be subject to disciplinary sanctions, including suspension or termination.

The Finance Director is responsible for identifying the documents that City of Lowell must or should retain and arrange for the proper storage and retrieval of records. Finance Director shall also ensure that all personnel subject to the terms of this policy are aware of the record retention requirements set forth herein.

**Reporting Policy Violations:** The City of Lowell is committed to enforcing this policy as it applies to all forms of records. Any employee that suspects the terms of this policy have been violated shall report the incident immediately to that employee's supervisor. If an employee is not comfortable bringing the matter up with the supervisor, the employee may bring the matter to the attention of the City Manager. The City of Lowell prohibits, any form of discipline, reprisal, intimidation, or retaliation for reporting incidents of inappropriate conduct of any kind, pursuing any record destruction claim, or cooperating in related investigations.

**Questions About the Policy:** Any questions about this policy should be referred to Lisa Nolen, (704) 824-3518; lnolen@lowellinc.com, who is in charge of administering, enforcing, and updating this policy.



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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-B

**DESCRIPTION:** CONFLICT OF INTEREST POLICY

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To maintain compliance with the American Rescue Plan Act (ARPA), the following conflict of interest policy must be adopted. This policy was drafted by UNC SOG and vetted through our ARPA Consortium Group at Centralina Council of Governments. It has also been reviewed by staff and the City Attorney.

## CONFLICT OF INTEREST POLICY

### APPLICABLE TO CONTRACTS AND SUBAWARDS OF CITY OF LOWELL<sup>1</sup> SUPPORTED BY FEDERAL FINANCIAL ASSISTANCE

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#### I. Scope of Policy

- a. Purpose of Policy. This Conflict of Interest Policy (“*Policy*”) establishes conflict of interest standards that (1) apply when [Lowell] (“*Unit*”)<sup>2</sup> enters into a Contract (as defined in Section II hereof) or makes a Subaward (as defined in Section II hereof), and (2) meet or exceed the requirements of North Carolina law and 2 C.F.R. § 200.318(c).<sup>3</sup>

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The Uniform Guidance requires recipients and subrecipients of Federal financial assistance to “maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of *contracts*.” 2 C.F.R. § 200.318(c)(1) (emphasis added). It further prohibits any “employee, officer, or agent” of a recipient or subrecipient from participating in the “selection, award, or administration of a *contract* supported by a Federal award if he or she has a real or apparent conflict of interest.” *Id.* (emphasis added) (As used in 2 C.F.R. § 200.318(c)(1), the term “contract” has a technical definition. *See* 2 C.F.R. § 200.1 (“Contract means, for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient purchases property or services need to carry out the project or program under a Federal award. . . . See also the definition of *subaward* in this section.”)). While the restriction applies to “contracts” into which recipients and subrecipients enter, it does not expressly apply to the selection, award, or administration of *subawards*—and no other provision in the Uniform Guidance directly addresses prohibited conflicts of interest in making or administering a subaward. For example, the Uniform Guidance does not directly address whether a recipient unit of local government could make a subaward to a nonprofit organization when a member of the unit’s governing board serves as a director, officer, or employee of a proposed subrecipient.

2 C.F.R. § 200.112 separately requires each Federal awarding agency to “establish conflict of interest policies for Federal awards”—and in such policies, some federal agencies have extended the conflict of interest standards in 2 C.F.R. § 200.318(c)(1) to the selection, award, and administration of subawards. *See, e.g., Environmental Protection Agency, Financial Assistance Conflict of Interest Policy, Amended Grants Policy Issuance (GPI) 15-02, § 4.0(d) (hereinafter “EPA COI Policy”);* (requiring recipients to disclose “[conflicts of interest] *similar* to those described at 2 CFR 200.318(c)(1) including consulting fees or other compensation paid to employees, officers, agents of a pass-through entity or members of their Immediate Family by subrecipients or their procurement contractors receiving EPA funding under a subaward”) (emphasis added). In responding to “frequently asked questions” on the Uniform Guidance, the Chief Financial Officers’ Council (“CFO Council”) has indicated its view that the “policies” to which 2 C.F.R. § 200.112 refers might cover “how a non-Federal entity expends funds under a Federal award” and that “[t]hese types of decisions include . . . *selection of a subrecipient* or procurements as described in section 200.318.” (emphasis added). *See* 2014, 2017, and 2021. While the CFO Council’s interpretations are not binding upon any federal agency, federal agencies and others often cite them when addressing ambiguities in the Uniform Guidance. In 2016, the Council on Governmental Relations (“COGR”), an association of research universities, expressed its concern to OMB that the “open-ended structure of § 200.112[] gives [federal] agencies the opportunity to develop conflict of interest policies outside of the procurement requirement [of 2 C.F.R. § 200.318(c)(1)]”, and noted that pursuant to § 200.112, federal agencies had adopted a wide range of conflict-of-interest policies with conflicting definitions and requirements. *See Letter from Council on Governmental Relations to Office of Management and Budget (July 8, 2016)*. COGR also requested that the CFO Council clarify its Uniform Guidance FAQs to eliminate a reference to selection of “subrecipients” in addressing the intended scope of a conflict-of-interest policy that a federal agency adopts pursuant to 2 C.F.R. § 200.112. *See id.* OMB has not addressed any of COGR’s concerns.

- b. Application of Policy. This Policy shall apply when the Unit (1) enters into a Contract to be funded, in part or in whole, by Federal Financial Assistance to which 2 C.F.R. § 200.318(c) applies, or (2) makes any Subaward to be funded by Federal Financial Assistance to which 2 C.F.R. § 200.318(c) applies. If a federal statute, regulation, or the terms of a financial assistance agreement applicable to a particular form of Federal Financial Assistance conflicts with any provision of this Policy, such federal statute, regulation, or terms of the financial assistance agreement shall govern.<sup>4</sup>

## II. Definitions

Capitalized terms used in this Policy shall have the meanings ascribed thereto in this Section II. Any capitalized term used in this Policy but not defined in this Section II shall have the meaning set forth in 2 C.F.R. § 200.1.

- a. “*COI Point of Contact*” means the individual identified in Section III(a) of this Policy.
- b. “*Contract*” means, for the purpose of Federal Financial Assistance, a legal instrument by which the Unit purchases property or services needed to carry out a program or project under a Federal award.
- c. “*Contractor*” means an entity or individual that receives a Contract.
- d. “*Covered Individual*” means a Public Officer, employee, or agent of the Unit.<sup>5</sup>

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The U.S. Department of the Treasury has not comprehensively addressed how a recipient unit of local government should address potential conflicts of interest when making subawards of Fiscal Recovery Funds. The Final Rule provides that “[r]ecipients may avoid conflicts of interest in . . . making subrecipient awards by, *inter alia*, . . . utilizing a competitive grant process, . . . [and that a] recipient may not use control over [Fiscal Recovery Funds] for their own private gain.” Final Rule at 159. This may signal an openness to accept subawards to nonprofit organizations for which a governing board member of a recipient unit of local government serves as a director or officer, so long as (1) the unit conducts a competitive solicitation process to select the subrecipient; and (2) for governing board officials, the unit follows the process contained in G.S. § 14-234.3(a). It also may indicate that Treasury *has* extended the prohibitions in 2 C.F.R. § 200.318(c)(1) to subawards—otherwise, the competitive selection process set forth for subawards in the Final Rule would not be necessary.

In the absence of specific regulatory guidance from the Treasury, a unit of local government should exercise caution when making subawards of Fiscal Recovery Funds to third parties when the impartiality of an employee, official, or agent of the Unit could be questioned in connection with a proposed subaward. To that end, this Policy implements rules that may be more restrictive than what Treasury ultimately requires of a recipient of Fiscal Recovery Funds.

<sup>4</sup> Applications of 2 C.F.R. § 200.318(c)(1) and (c)(2), or corresponding provisions in separate federal regulations, may differ across federal grantmaking agencies. Section I(b) provides flexibility for a unit to apply a more restrictive rule than those set forth in this Policy in the event that a particular federal statute, regulation, or the term or condition of an assistance agreement so requires.

<sup>5</sup> As noted above, 2 C.F.R. § 200.318(c)(1) prohibits any “employee, officer, or agent” of a recipient or subrecipient from participating in the “selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.” 2 C.F.R. Part 200 does not define the term “agent”. The plain meaning of the term suggests that it likely would encompass individuals that are directly under contract with a unit and that act on behalf of or provide advice to a unit—but the term also might encompass individuals who have an ownership interest in a legal entity under contract with a unit. In practice, a unit may wish to extend this prohibition to the beneficial owners of a legal entity under contract with a unit. For example, if a unit contracts with a closely held engineering firm owned by three individuals, the unit may wish to exclude a general contracting firm from consideration for a construction contract supported by Federal financial assistance where the contracting firm is owned

- e. “*Covered Nonprofit Organization*” means a nonprofit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State of North Carolina primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes, excluding any board, entity, or other organization created by the State of North Carolina or any political subdivision of the State (including the Unit).
- f. “*Direct Benefit*” means, with respect to a Public Officer or employee of the Unit, or the spouse of any such Public Officer or employee, (i) having a ten percent (10%) ownership interest or other interest in a Contract or Subaward; (ii) deriving any income or commission directly from a Contract or Subaward; or (iii) acquiring property under a Contract or Subaward.
- g. “*Federal Financial Assistance*” means Federal financial assistance that the Unit receives or administers in the form of grants, cooperative agreements, non-cash contributions or donations of property (including donated surplus property), direct appropriations, food commodities, and other Federal financial assistance (except that the term does not include loans, loan guarantees, interest subsidies, or insurance).
- h. “*Governing Board*” means the [City Council]<sup>6</sup> of the Unit.
- i. “*Immediate Family Member*” means, with respect to any Covered Individual, (i) a spouse, and parents thereof, (ii) a child, and parent thereof, (iii) a parent, and spouse thereof, (iv) a sibling, and spouse thereof, (v) a grandparent and grandchild, and spouses thereof, (vi) domestic partners and parents thereof, including domestic partners of any individual in (ii) through (v) of this definition; and (vii) any individual related by blood or affinity whose close association with the Covered Individual is the equivalent of a family relationship.<sup>7</sup>
- j. “*Involved in Making or Administering*” means (i) with respect to a Public Official or employee, (a) overseeing the performance of a Contract or Subaward or having authority to make decisions regarding a Contract or Subaward or to interpret a Contract or Subaward, or (b) participating in the development of specifications or terms or in the preparation or award of a Contract or Subaward, (ii) only with respect to a Public Official, being a member of a board, commission, or other body of which the Public Official is a member, taking action on the Contract or Subaward, whether or not the Public Official actually participates in that action.
- k. “*Pass-Through Entity*” means a non-Federal entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.

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in part by one of those three individuals or such individual’s partners, immediate family members, or the engineering firm.

<sup>6</sup> Insert name of governing board of Unit (e.g., “City Council” or “Board of County Commissioners”).

<sup>7</sup> 2 C.F.R. § 200.318(c)(1) states that a prohibited conflict of interest “would arise when the employee, officer, or agent, *any member of his or her immediate family*, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.” (emphasis added). s

- l. “*Public Officer*” means an individual who is elected or appointed to serve or represent the Unit (including, without limitation, any member of the Governing Board), other than an employee or independent contractor of the Unit.
- m. “*Recipient*” means an entity, usually but not limited to a non-Federal entity, that receives a Federal award directly from a Federal awarding agency. The term does not include Subrecipients or individuals that are beneficiaries of the award.
- n. “*Related Party*” means (i) an Immediate Family Member of a Covered Individual, (ii) a partner of a Covered Individual, or (iii) a current or potential employer (other than the Unit) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.
- o. “*Subaward*” means an award provided by a Pass-Through Entity to carry out part of a Federal award received by the Pass-Through Entity. It does not include payments to a contractor or payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- p. “*Subcontract*” means mean any agreement entered into by a Subcontractor to furnish supplies or services for the performance of a Contract or a Subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.
- q. “*Subcontractor*” means an entity that receives a Subcontract.
- r. “*Subrecipient*” means an entity, usually but not limited to a non-Federal entity, that receives a subaward from a Pass-Through Entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
- s. “*Unit*” has the meaning specified in Section I hereof.

### **III. COI Point of Contact.<sup>8</sup>**

- a. Appointment of COI Point of Contact. [Lisa Nolen], an [employee] of the Unit, shall have primary responsibility for managing the disclosure and resolution of potential or actual conflicts of interest arising under this Policy. In the event that [Lisa Nolen] is unable to serve in such capacity, [Cheryl Ramsey] shall assume responsibility for managing the disclosure and resolution of conflicts of interest arising under this Policy. The individual with responsibility for managing the disclosure and resolution of potential or actual conflicts of interest under this Section III(a) shall be known as the “*COI Point of Contact*”.

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<sup>8</sup> Neither 2 C.F.R. § 200.318(c)(1) nor any guidance released by the U.S. Treasury applicable to Fiscal Recovery Funds requires a unit to name a COI Point of Contact. Model conflict of interest policies released by a number of federal agencies suggest that naming a specific individual to manage and disclose potential or actual conflicts of interest may be a helpful practice. *See, e.g.,* [EPA COI Policy](#); [Health Resources & Services Administration, Conflict of Interest \(COI\) Policy \(September 2020\)](#). A unit may wish to forgo this approach in favor of identification of a COI Point of Contact on a grant-by-grant basis or omit this approach entirely.

- b. Distribution of Policy. The COI Point of Contact shall ensure that each Covered Individual receives a copy of this Policy.

#### IV. Conflict of Interest Standards in Contracts and Subawards

- a. North Carolina Law. North Carolina law restricts the behavior of Public Officials and employees of the Unit involved in contracting on behalf of the Unit. The Unit shall conduct the selection, award, and administration of Contracts and Subawards in accordance with the prohibitions imposed by the North Carolina General Statutes and restated in this Section III.
- i. G.S. § 14-234(a)(1). A Public Officer or employee of the Unit Involved in Making or Administering a Contract or Subaward on behalf of the Unit shall not derive a Direct Benefit from such a Contract or Subaward.<sup>9</sup>

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<sup>9</sup> North Carolina law exempts certain contracts from this prohibition, including: (1) “any contract between a public agency and a bank, banking institution, savings and loan association, or public utility” (G.S. § 14-234(b)(1)); (2) “any interest in property conveyed by an officer or employee of a public agency under a judgment . . . in a condemnation proceeding initiated by a public agency” (G.S. § 14-234(b)(2)); (3) an “employment relationship between a public agency and the spouse of a public officer of the agency) (G.S. § 14-234(b)(3)); (4) an “employment relationship between local board of education and spouse of superintendent of local school administrative unit” (G.S. § 14-234(b)(3a)); (5) remuneration for certain direct public assistance rendered to needy persons administered in whole or part by a public agency (G.S. § 14-234(b)(4)); (6) contracts between public agencies and elected officials in certain “small” jurisdictions if (a) the jurisdiction is a (i) county-level governmental entity without any municipality whose population exceeds 20,000, or (ii) a city-level governmental entity whose population does not exceed 20,000, (b) in a 12 month period, the contract does not exceed \$40,000 for medically related services or \$60,000 for other goods or services, (c) the contract is not subject to the competitive bidding requirements of Article 8 of Chapter 143 of the General Statutes, and (d) the unit follows certain procedural requirements aimed at disclosing the transaction to the public (G.S. § 14-234(d1)); (7) miscellaneous contracts relating to the Agriculture Cost Share Program for Nonprofit Source Pollution Control, the Community Conservation Assistance Program, or the Agricultural Water Resources Assistance Program (G.S. § 14-234(d3)); (8) certain applications or receipt of grants or financial assistance from the Tobacco Trust Fund by a member of the Tobacco Trust Fund Commission (G.S. § 14-234(d4)); and (9) contracts entered into by a public hospital subject to G.S. § 131E-14.2 or a public hospital authority subject to G.S. § 131E-21.

If a public official or employee involved in making or administering a contract has an ownership interest of less than 10% in an entity, but does not otherwise “derive[] income or commission directly from the contract”, that arrangement does not violate state law. *See* G.S. § 14-234(a)(1); G.S. § 14-234(b)(4) (defining “direct benefit”). But with the exception of certain contracts falling under the “small jurisdiction” exception to G.S. § 14-234(a)(1) identified in (6) in the first paragraph of this Footnote (and found in G.S. § 14-234(d1)), North Carolina law does not exempt any contracts from the prohibition in G.S. § 14-234(a)(1) solely because a public official or employee involved in making or administering a contract has an insubstantial or *de minimis* financial interest in an entity under contract with the unit.

2 C.F.R. § 200.318(c)(1) permits recipients and subrecipients to set standards for situations in which an individual covered by the regulation has a financial interest in a firm considered for a contract that is “not substantial” and, presumably, therefore not prohibited even if the Covered Individual participates in the selection, award, or administration of a contract. But the Uniform Guidance does not define when a financial interest is “not substantial”—and no other guidance from the Office of Management and Budget (“OMB”) or the Department of the Treasury has directly addressed this question. Unlike Treasury, other federal agencies have robust conflict-of-interest regulations that distinguish between “significant” and “insignificant” financial interests. *See, e.g., 42 C.F.R. Part 50, Subpart F – Promoting Objectivity in Research* (setting forth conflict-of-interest standards for research funded by U.S. Public Health Service grants or cooperative agreements); *42 C.F.R. § 50.603* (defining “significant financial interest” to include, among other things, any remuneration in the preceding twelve months or holding equity interest valued at

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\$5,000 or more), *id.* (defining “financial conflict of interest” to mean “a significant financial interest that could directly and significantly affect the design, conduct, or reporting of PHS-funded research); [42 C.F.R. § 50.605](#) (setting forth mechanisms to manage and report identified financial conflicts of interest). Other federal agencies have interpreted the term “financial interest” broadly. See [Federal Emergency Management Agency, Procurement Disaster Assistance Team \(PDAT\) Field Manual: Procurement Information for FEMA Award Recipients and Subrecipients § 1.4.2 \(Oct. 2021\)](#) (“[A] financial interest can be considered to be the potential for gain or loss [by an individual covered by 2 C.F.R. § 200.318(c)(1)]. . . as a result of the particular procurement.”). Further, FEMA seems to interpret the reference to a financial interest that is “not substantial” as limited to the receipt or solicitation of gratuities. See *id.* § 1.3.1 (“A non-state entity may set standards for accepting gratuities in situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value.”). Adopting any threshold for insubstantial financial interest from another federal agency without guidance from Treasury carries a risk that Treasury will not accept such an interpretation for Fiscal Recovery Funds.

If, within its conflict-of-interest policy, a unit chooses to deem a financial interest as “not substantial”, it may consider consulting the regulatory framework that applies to a federal employee’s participation in matters in which the employee may have a financial conflict of interest. **If a unit chooses to make any exceptions, it should consult legal counsel for assistance in drafting these provisions.**

18 U.S.C. § 208(a) prohibits a federal officer or employee from participat[ing] personally and substantially as a[n] . . . officer or employee . . . [in any matter] in which, to his knowledge, he, his spouse, minor child, general partner, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment has a financial interest.” But this prohibition does not apply if, among other things, the Office of Government Ethics (“OGE”) by regulation exempts a financial interest as “too remote or too inconsequential” to affect the integrity of services that a covered federal officer or employee provides. See [18 U.S.C. § 208\(b\)\(2\)](#)

OGE has promulgated detailed regulations that consider certain financial interests held by individuals and entities falling within the scope of 18 U.S.C. § 208(a) as “too remote or inconsequential” to affect the services of a covered federal officer or employee. See [2 C.F.R. Part 2640, Subpart B – Exemptions Pursuant to 18 U.S.C. 208\(b\)\(2\)](#). For example, the regulations make clear that a federal employee could participate in a matter affecting the holdings of a diversified employee benefit plan (e.g., a 401(k) or 403(b) plan) as long as (1) the employee does not designate specific investments (e.g., a particular stock) within the plan, and (2) the plan is not a profit-sharing or stock bonus plan. [2 C.F.R. § 2640.201\(c\)\(1\)\(iii\)](#). The regulations also permit a federal employee to participate in a particular matter that affects the holdings of a publicly traded firm held by the employee or another covered individual under 18 U.S.C. § 208(a), as long as (1) the securities are publicly traded, and (2) the aggregate market value of the holdings does not exceed \$15,000. See [2 C.F.R. § 2640.202\(a\)](#). As an example, a federal employee whose duties include monitoring the performance of XYZ Corporation of a contract to provide computer maintenance services for the federal government can hold up to \$15,000 in publicly traded securities issued by XYZ without violating 18 U.S.C. § 208(a)—however, if the value of the stock exceeds \$15,000 at any time, the employee must either disqualify himself from matters involving XYZ Corporation or divest himself from the excess holdings. See *id.*

Treasury has not indicated in its regulations or guidance applicable to expenditures of Fiscal Recovery Funds that a recipient could *not* make exceptions for a financial interest that is “not substantial”, but in the absence of guidance, this approach engenders risk.

As a separate matter, neither OMB nor Treasury has addressed whether a governing board member’s recusal from action on or administration of a contract with an entity in which the member has a financial interest (even if the interest is “not substantial”) cures a prohibited “apparent” conflict of interest under 2 C.F.R. § 200.318(c)(1). Some federal agencies allow recipients to disclose potential conflicts of interest to the agency, propose mitigation measures, and receive an agency determination on the effectiveness of those measures. See, e.g., EPA COI Policy, § 9.0(b) (“[T]he agency will review COI disclosures and measures . . . recipients propose to resolve the COI and advise applicants/recipients of EPA’s determination on the effectiveness of the measures within 30 calendar days of disclosure unless a longer period of time is necessary due to the complexity of the situation.”). Treasury has not provided any similar disclosure and approval mechanism for Fiscal Recovery Funds.

- ii. G.S. § 14-234(a)(3). No Public Officer or employee of the Unit may solicit or receive any gift, favor, reward, service, or promise of reward, including but not limited to a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a Contract or Subaward by the Unit.
- iii. G.S. § 14-234.3. If a member of the Governing Board of the Unit serves as a director, officer, or governing board member of a Covered Nonprofit Organization, such member shall not (1) deliberate or vote on a Contract or Subaward between the Unit and the Covered Nonprofit Corporation, (2) attempt to influence any other person who deliberates or votes on a Contract or Subaward between the Unit and the Covered Nonprofit Corporation, or (3) solicit or receive any gift, favor, reward, service, or promise of future employment, in exchange for recommending or attempting to influence the award of a Contract or Subaward to the Covered Nonprofit Organization.<sup>10</sup>

**When entering into contracts funded by Fiscal Recovery Funds, a unit of local government should avoid relying upon the “small jurisdiction” exception to G.S. § 14-234(a)(1) or entering into contracts or subawards with entities in which a public official has any financial interest (even an ownership interest of less than 10%). A unit taking either action assumes risks arising from the lack of Treasury or OMB guidance explaining when a financial interest is “not substantial” and whether an “apparent” conflict of interest arises even if a board member has an insubstantial financial interest and recuses himself from involvement in the award or administration of the contract.**

<sup>10</sup> As of January 1, 2022, G.S. § 14-234.3 imposes this prohibition. See S.L. 2021-191, § 4.(a); see also Kristina Wilson, S.B. 473: Frequently Asked Questions (Dec. 21, 2021). The new law does not prohibit a unit of local government from entering into a contract with a nonprofit organization for which an elected official serves as a director, officer, or governing board member. Instead, the statute allows a unit to enter into such a contract as long as the elected official (1) abides by the restrictions contained in this paragraph (which are taken from G.S. § 14-234.3(a) and G.S. § 14-234.3(d)(2)), and (2) records a recusal with the clerk to the unit’s board. It is likely that the term “contract”, as used in G.S. § 14-234.3, would encompass “contracts” and “subawards” (as each such term is defined in 2 C.F.R. § 200.1) into which a unit enters.

As noted in Footnote [3] above, 2 C.F.R. § 200.318(c)(1) does not expressly extend to the selection, award, or administration of subawards. At least one federal agency (EPA) has extended these requirements to any conflict of interest in the award, administration, or monitoring of subawards that are “similar to those described in [§ 200.318(c)(1)] including consulting fees or compensation paid to employees, officers, agents of a pass-through entity or members of their [immediate families] by subrecipients or their procurement contractors receiving EPA funding under a subaward.” EPA COI Policy, § 4.0(d). This provision might permit a recipient of EPA financial assistance to enter into a subaward with a nonprofit organization for which the recipient board member served as a director—as long as the director did not receive any compensation from the subrecipient nonprofit organization or its contractors. It is not clear whether Treasury would endorse this opinion. As noted in Footnote [10] above, the Final Rule suggests that recipients could “avoid conflicts of interest in . . . making subrecipient awards by, *inter alia*, . . . utilizing a competitive grant process[.]” This statement may signal an openness to accept a recipient’s subaward to a nonprofit organization for which a unit’s officer or employee serves as a director or officer, so long as (1) the unit conducts a competitive solicitation process to select the subrecipient; and (2) for governing board officials, the unit follows the process contained in G.S. § 14-234.3(a). It also may indicate that Treasury *has* extended the prohibitions in 2 C.F.R. § 200.318(c)(1) to subawards—otherwise, the competitive selection process set forth for subawards in the Final Rule would not be necessary. Given that Treasury has not issued any interpretation of 2 C.F.R. § 200.318(c)(1) that provides a clear process for reviewing potential conflicts of interest and approving mitigation measures, units might wish to avoid entering into subawards with subrecipient organizations for which a governing board member serves as a director or officer.



iv. G.S. § 14-234.1. A Public Officer or employee of the Unit shall not, in contemplation of official action by the Public Officer or employee, or in reliance on information which was made known to the public official or employee and which has not been made public, (1) acquire a pecuniary interest in any property, transaction, or enterprise or gain any pecuniary benefit which may be affected by such information or other information, or (2) intentionally aid another in violating the provisions of this section.

b. Federal Standards.

i. Prohibited Conflicts of Interest in Contracting. Without limiting any specific prohibition set forth in Section IV(a), a Covered Individual may not participate in the selection, award, or administration of a Contract or Subaward if such Covered Individual has a real or apparent conflict of interest.

1. Real Conflict of Interest. A real conflict of interest shall exist when the Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract or Subaward. Exhibit A attached hereto provides a non-exhaustive list of examples of (i) financial or other interests in a firm considered for a Contract or Subaward, and (ii) tangible personal benefits from a firm considered for a Contract or Subaward.

2. Apparent Conflict of Interest. An apparent conflict of interest shall exist where a real conflict of interest may not exist under Section IV(b)(i)(1), but where a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the appearance that a Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract or Subaward.<sup>11</sup>

ii. Identification and Management of Conflicts of Interest.<sup>12</sup>

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<sup>11</sup> This Policy borrows this definition from the Federal Emergency Management Agency's Procurement Disaster Assistance Team Field Manual. See [Federal Emergency Management Agency, Procurement Disaster Assistance Team \(PDAT\) Field Manual: Procurement Information for FEMA Award Recipients and Subrecipients § 1.4.3 \(Oct. 2021\)](#) (explaining that 2 C.F.R. § 200.318(c)(1) would prohibit a municipality from purchasing from a company owned by the college roommate of the municipality's purchasing officer even where the company offered the best rates and most competitive delivery schedule). In another context, Treasury has not released any guidance for Fiscal Recovery Funds that indicates what might constitute an "apparent" conflict of interest. Therefore, a unit may wish to interpret this prohibition broadly as FEMA has.

<sup>12</sup> Neither 2 C.F.R. § 200.318(c)(1) nor any guidance released by the U.S. Treasury applicable to Fiscal Recovery Funds requires a unit to undertake the identification and mitigation procedures set forth in this Section. This Section creates a conflict of interest disclosure and management system that ensures governing board review in some circumstances. The purpose of review by the governing board and a management official is to serve as an internal control mechanism.

1. Duty to Disclose and Disclosure Forms

- a. Each Covered Individual expected to be or actually involved in the selection, award, or administration of a Contract or Subaward has an ongoing duty to disclose to the COI Point of Contact potential real or apparent conflicts of interest arising under this Policy.
- b. Prior to the Unit's award of a Contract or Subaward, the COI Point of Contact shall advise Covered Individuals expected to be involved in the selection, award, or administration of the Contract or Subaward of such duty.
- c. If the value of a proposed Contract or Subaward exceeds \$[250,000], the COI Point of Contact shall collect a Conflict of Interest Disclosure Form contained in Exhibit C (for Contracts) and Exhibit E (for Subawards) from each Covered Individual and file such Conflict of Interest Disclosure Form in records of the Unit.<sup>13</sup>

2. Identification Prior to Award of Contract or Subaward.

- a. Prior to the Unit's award of a Contract or Subaward, the COI Point of Contact shall complete the appropriate Compliance Checklist contained in Exhibit B (for Contracts) and Exhibit D (for Subawards) attached hereto and file such Compliance Checklist in the records of the Unit.

3. Management Prior to Award of Contract or Subaward

- a. If, after completing the Compliance Checklist, the COI Point of Contact identifies a potential real or apparent conflict of interest relating to a proposed Contract or Subaward, the COI Point of Contact shall disclose such finding in writing to [City Manager]<sup>14</sup> and to each member of the Governing Board. If the Governing Board desires to enter into the proposed Contract or Subaward despite the identification by the COI Point of Contact of a potential real or apparent conflict of interest, it may either:

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<sup>13</sup> Neither 2 C.F.R. § 200.318(c)(1) nor any guidance released by the U.S. Treasury applicable to Fiscal Recovery Funds requires a unit to obtain conflict of interest disclosures from Covered Individuals. This is intended to serve as an internal control mechanism to prevent a unit from inadvertently entering into prohibited transactions and a unit might chose not to adopt it.

<sup>14</sup> A unit may wish to disclose a potential conflict of interest to the highest administrative official or employee of the unit (e.g., a county manager). Again, neither 2 C.F.R. § 200.318(c)(1) nor any guidance released by the U.S. Treasury applicable to Fiscal Recovery Funds specifically requires this disclosure. The purpose of the disclosure and management system is to serve as an internal control mechanism.

- i. accept the finding of the COI Point of Contact and direct the COI Point of Contact to obtain authorization to enter into the Contract or Subaward from (a) if Unit is a Recipient of Federal Financial Assistance, the Federal awarding agency with appropriate mitigation measures, or (b) if Unit is a Subrecipient of Federal Financial Assistance, from the Pass-Through Entity that provided a Subaward to Unit; or
  - ii. reject the finding of the COI Point of Contact and enter into the Contract or Subaward. In rejecting any finding of the COI Point of Contact, the Governing Board shall in writing document a justification supporting such rejection.<sup>15</sup>
- b. If the COI Point of Contact does not identify a potential real or apparent conflict of interest relating to a proposed Contract or Subaward, the Unit may enter into the Contract or Subaward in accordance with the Unit's purchasing or subaward policy.

4. Identification After Award of Contract or Subaward.

- a. If the COI Point of Contact discovers that a real or apparent conflict of interest has arisen after the Unit has entered into a Contract or Subaward, the COI Point of Contact shall, as soon as possible, disclose such finding to the [City Manager]<sup>16</sup> and to each member of the Governing Board. Upon discovery of such a real or apparent conflict of interest, the Unit shall cease all payments under the relevant Contract or Subaward until the conflict of interest has been resolved.

5. Management After Award of Contract or Subaward.

- a. Following the receipt of such disclosure of a potential real or apparent conflict of interest pursuant to Section IV(b)(ii)(4), the Governing Board may reject the finding of the COI Point of Contact by documenting in writing a justification supporting such rejection. If the Governing Board fails to reject the finding of the

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<sup>15</sup> This section contemplates a scenario in which the governing board of a unit may disagree with the findings of the COI Point of Contact. It leaves open the possibility that a governing board, as the entity with ultimate responsibility for the contracts or subawards into which a unit enters, could document the reasons that it disagrees with the findings of the COI Point of Contact and enter into the contract or subaward.

<sup>16</sup> A unit may wish to disclose a potential conflict of interest to the highest administrative official or employee of the unit (e.g., a county manager). Again, neither 2 C.F.R. § 200.318(c)(1) nor any guidance released by the U.S. Treasury applicable to Fiscal Recovery Funds specifically requires this disclosure. The purpose of the disclosure and management system is to serve as an internal control mechanism to avoid prohibited transactions.

COI Point of Contact within 15 days of receipt, the COI Point of Contact shall:

- i. if Unit is a Recipient of Federal Financial Assistance funding the Contract or Subaward, disclose the conflict to the Federal awarding agency providing such Federal Financial Assistance in accordance with 2 C.F.R. § 200.112 and/or applicable regulations of the agency, or
- ii. if Unit is a Subrecipient of Federal Financial Assistance, disclose the conflict to the Pass-Through Entity providing a Subaward to Unit in accordance with 2 C.F.R. § 200.112 and applicable regulations of the Federal awarding agency and the Pass-Through Entity.

V. **Oversight of Subrecipient's Conflict of Interest Standards**

- a. Subrecipients of Unit Must Adopt Conflict of Interest Policy. Prior to the Unit's execution of any Subaward for which the Unit serves as a Pass-Through Entity, the COI Point of Contact shall ensure that the proposed Subrecipient of Federal Financial Assistance has adopted a conflict of interest policy that satisfies the requirements of 2 C.F.R. § 200.318(c)(1), 2 C.F.R. § 200.318(c)(2), and all other applicable federal regulations.
- b. Obligation to Disclose Subrecipient Conflicts of Interest. The COI Point of Contact shall ensure that the legal agreement under which the Unit makes a Subaward to a Subrecipient shall require such Subrecipient to disclose to the COI Point of Contact any potential real or apparent conflicts of interest that the Subrecipient identifies. Upon receipt of such disclosure, the COI Point of Contact shall disclose such information to the Federal awarding agency that funded the Subaward in accordance with that agency's disclosure policy.

VI. **Gift Standards**

- a. Federal Standard. Subject to the exceptions set forth in Section VI(b), a Covered Individual may not solicit or accept gratuities, favors, or anything of monetary value from a Contractor or a Subcontractor.
- b. Exception. Notwithstanding Section VI(a), a Covered Individual may accept an unsolicited gift from a Contractor or Subcontractor of one or more types specified below if the gift has an aggregate market value of \$20 or less per source per occasion, provided that the aggregate market value of all gifts received by the Covered Individual pursuant to this Section VI(b) does not exceed \$50 in a calendar year:<sup>17</sup>
  - i. honorariums for participating in meetings;

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<sup>17</sup> 2 C.F.R. § 2635.204 contains exceptions on prohibition for acceptance of certain gifts for federal executive branch employees. The exceptions listed here are consistent with those applicable to federal executive branch employees and G.S. § 133-32(d).

- ii. advertising items or souvenirs of nominal value; or
  - iii. meals furnished at banquets.
- c. Internal Reporting. A Covered Individual shall report any gift accepted under Section VI(b) to the COI Point of Contact. If required by regulation of a Federal awarding agency, the COI Point of Contact shall report such gifts to the Federal awarding agency or a Pass-Through Entity for which the Unit is a Subrecipient.

**VII. Violations of Policy**

- a. Disciplinary Actions for Covered Individuals. Any Covered Individual that fails to disclose a real, apparent, or potential real or apparent conflict of interest arising with respect to the Covered Individual or Related Party may be subject to disciplinary action, including, but not limited to, an employee's termination or suspension of employment with or without pay, the consideration or adoption of a resolution of censure of a Public Official by the Governing Board, or termination of an agent's contract with the Unit.
- b. Disciplinary Actions for Contractors and Subcontractors. The Unit shall terminate any Contract with a Contractor or Subcontractor that violates any provision of this Policy.
- c. Protections for Whistleblowers. In accordance with 41 U.S.C. § 4712, the Unit shall not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant: (i) a member of Congress or a representative of a committee of Congress; (ii) an Inspector General; (iii) the Government Accountability Office; (iv) a Treasury or other federal agency employee responsible for grant oversight or management; (v) an authorized official of the Department of Justice or other law enforcement agency; (vi) a court or grand jury; or (vii) a management official or other employee of the Unit, a Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

\*\*\*\*\*

Adopted this the [ 14 ] day of [ June ], [ 2022 ].<sup>18</sup>

<sup>18</sup> A Unit may wish to attach to the Policy a copy of a resolution reflecting its adoption, along with other relevant information (e.g., resolution control number and vote tally).

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## AGENDA ITEM INFORMATION

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**AGENDA ITEM #:** 7-C

**DESCRIPTION:** NON-DISCRIMINATION POLICY

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To maintain compliance with the American Rescue Plan Act (ARPA), the following non-discrimination policy must be adopted. This policy was drafted by UNC SOG and vetted through our ARPA Consortium Group at Centralina Council of Governments. It has also been reviewed by staff and the City Attorney.

**WHEREAS**, the CITY OF LOWELL has received an allocation of funds from the “Coronavirus State Fiscal Recovery Fund” or “Coronavirus Local Fiscal Recovery Fund” (together “CSLFRF funds”), established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (the “ARP/CSLFRF award”).

**WHEREAS**, CSLFRF funds are subject to the U.S. Department of Treasury (“Treasury”) regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations at 31 C.F.R. Part 22.

**WHEREAS**, pursuant to the ARP/CSLFRF Award Terms and Conditions, and as a condition of receiving CSLFRF funds, the CITY OF LOWELL agrees to follow all federal statutes and regulations prohibiting discrimination in its administration of CSLFRF under the terms and conditions of the ARP/CSLFRF award, including, without limitation, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin within programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

**RESOLVED**, That the governing board of the CITY OF LOWELL hereby adopts and enacts the following nondiscrimination policy, which shall apply to the operations of any program, activity, or facility that is supported in whole, or in part, by expenditures CSLFRF pursuant to the ARP/CSLFRF award.

**Nondiscrimination Policy Statement**

It is the policy of the CITY OF LOWELL to ensure that no person shall, on the ground of race, color, national origin (including limited English Proficiency), familial status, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity administered by the CITY OF LOWELL, including programs or activities that are funded in whole or part, with Coronavirus State and Local Fiscal Recovery Funds ("CSLFRF"), which the CITY OF LOWELL received from the U.S. Department of Treasury ("Treasury") pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (herein the "ARP/CSLFRF award").

### **I. Governing Statutory & Regulatory Authorities**

As required by the CSLFRF [Award Terms and Conditions](#), the CITY OF LOWELL shall ensure that each "activity," "facility," or "program"<sup>1</sup> that is funded in whole, or in part, with CSLFRF and administered under the ARP/CSLFRF award, will be facilitated, operated, or conducted in compliance with the following federal statutes and federal regulations prohibiting discrimination. These include, but are not limited to, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age within programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

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<sup>1</sup> 22 C.F.R. § 22.3 defines "program" and "activity" as all operations of an entity, including local governments, that receive Federal financial assistance, and the departments, agencies, or special purpose districts of the local governments to which Federal financial assistance is distributed. "Federal financial assistance" includes, among other things, grants and loans of federal funds. "Facility" includes all or any part of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.



## **II. Discriminatory Practices Prohibited in the Administration of the ARP/CSLFRF Award**

To ensure compliance with Title VII of the Civil Rights Act of 1964, and Title 31 Code of Federal Regulations, Part 22, the Civil Rights Restoration Act of 1987, and other pertinent nondiscrimination authorities, the CITY OF LOWELL shall prohibit, at a minimum, the following practices in its administration of CSLFRF pursuant to the ARP/CSLFRF award:

1. Denying to a person any service, financial aid, or other program benefit without good cause and as a result of any "discrimination" as defined in Section I of this Policy;
2. Providing to a person any service, financial aid, or another benefit which is different in quantity or quality, or is provided in a different manner, from that provided to others under the program and which provision of services results from any "discrimination" as defined in Section I of this Policy .
3. Subjecting a person to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefit under the program;
4. Restricting a person in the enjoyment of any advantages, privileges, or other benefits enjoyed by others receiving any service, financial aid, or other benefit under the program and which restriction of services results from any "discrimination" as defined in Section I of this Policy;
5. Treating a person differently from others in determining whether that person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet to be provided any service, financial aid, or other benefit provided under the program;
6. Implementing, as a result of any "discrimination" as defined in Section I of this Policy, any different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual, or other integral activities to the program;
7. Adopting methods of administration which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
8. Selecting a site or location of facilities with the purpose or effect of excluding persons from, denying them the benefits of, subjecting them to discrimination, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or related acts and regulations;
9. Discriminating against any person, either directly or through a contractual agreement, in any employment resulting from the program, a primary objective of which is to provide employment;
10. Committing acts of intimidation or retaliation, including threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because an individual made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing.

## **III. Reporting & Enforcement**

1. The CITY OF LOWELL shall cooperate in any enforcement or compliance review activities by the Department of the Treasury. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The CITY OF LOWELL shall comply with information requests, on-site compliance reviews, and reporting requirements.
2. The CITY OF LOWELL shall maintain a complaint log and inform the Treasury of any complaints of discrimination on the grounds of race, color, or national origin (including limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, whether pending or completed, including the outcome. The CITY OF LOWELL shall inform the Treasury if it has received no complaints under Title VI.
3. Any person who believes they have been aggrieved by a discriminatory practice under Title VI has a right to file a formal complaint with the Treasury. Any such complaint must be in writing and filed with the Treasury's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.
4. Any person who believes that because of that person's race, color, national origin, limited English proficiency, familial status, sex, age, religion, or disability that he/she/they have been discriminated against or unfairly treated by the CITY OF LOWELL in violation of this policy should contact the following office within 180 days from the date of the alleged discriminatory occurrence:

Cheryl Ramsey, City Clerk/HR Director  
Phone: (704) 824-3518  
Email: [cramsey@lowellnc.com](mailto:cramsey@lowellnc.com)

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-D

**DESCRIPTION:** RESOLUTION RS3-2022 FOR APPROVING LOCAL WATER  
SUPPLY PLAN

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As required by NCGS 143-355(1), a Local Water Supply Plan must be submitted to NC DWR. Attached is a resolution affirming the submittal.



**RESOLUTION FOR APPROVING LOCAL WATER SUPPLY PLAN**  
**RESOLUTION: RS3-2022**

**WHEREAS**, North Carolina General Statute 143-355 (1) requires that each unit of local government that provides public water service or that plans to provide public water service and each large community water system shall, either individually or together with other units of local government and large community water systems, prepare and submit a Local Water Supply Plan; and

**WHEREAS**, as required by the statute and in the interests of sound local planning, a Local Water Supply Plan for the City of Lowell, has been developed and submitted to the City of Lowell City Council for approval; and

**WHEREAS**, the Lowell City Council finds that the Local Water Supply Plan is in accordance with the provisions of North Carolina General Statute 143-355 (1) and that it will provide appropriate guidance for the future management of water supplies for the City of Lowell, as well as useful information to the Department of Environmental Quality for the development of a state water supply plan as required by statute.

**NOW, THEREFORE, BE IT RESOLVED** by the Lowell City Council of the City of Lowell that the Local Water Supply Plan entitled, City of Lowell 2021 LWSP, dated March 1, 2022, is hereby approved and shall be submitted to the Department of Environmental Quality, Division of Water Resources; and

**BE IT FURTHER RESOLVED** that the City of Lowell intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

THIS RESOLUTION adopted the 14th day of June 2022.

\_\_\_\_\_  
Sandy Railey, Mayor

**Attest:**

\_\_\_\_\_  
Cheryl Ramsey, City Clerk

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-E

**DESCRIPTION:** TO TEMPORARILY AMEND THE CITY OF LOWELL RULES OF PROCEDURE FOR THE CITY COUNCIL MEETING DATES OF JULY 2022 AND AUGUST 2022 TO THE SECOND MONDAY

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The existing regular Lowell City Council meeting is currently scheduled for the second Tuesday of the month. In order for the City Manager to attend professional development courses, this requests the City Council to move the meetings in July and August to the second Monday of each month.

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## AGENDA ITEM INFORMATION

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**AGENDA ITEM #:** 7-F

**DESCRIPTION:** RESOLUTION TO APPROVE THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION'S "MUNICIPAL AGREEMENT FOR INSPECTIONS OF BRIDGES ON THE MUNICIPAL STREET SYSTEM"

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The National Bridge Inspection Standards (NBIS) requires that all structures defined as bridges located on public roads must be inspected on a cycle, not to exceed twenty-four (24) months. Staff is requesting approval of the North Carolina Department of Transportation's (NCDOT) municipal agreement for the inspection and analysis of the City of Lowell's existing one (1) bridge located on the municipal street system. The City participates in this cost-sharing program (80% NCDOT/20% City) on a biennial basis. The City's 20% cost for the upcoming bridge inspections is approximately \$650 and has been budgeted for in the proposed FY 23 budget.



**RESOLUTION APPROVING THE NORTH CAROLINA DEPARTMENT  
OF TRANSPORTATION’S “MUNICIPAL AGREEMENT FOR  
INSPECTIONS OF BRIDGES ON THE MUNICIPAL STREET SYSTEM”**

**RESOLUTION NUMBER: RS5-2022**

**WHEREAS**, the City of Lowell and the North Carolina Department of Transportation (NCDOT) are entering a new agreement for the NCDOT to perform routine inspection and analysis on the City’s one (1) bridge located on City maintained streets;

**WHEREAS**, the bridge to be inspected per this agreement are: Birch Street;

**WHEREAS**, the City will pay up to, but not exceed 20% of the cost of the inspections to NCDOT in the amount of approximately \$650 for this routine inspection and analysis;

**WHEREAS**, the agreement has an effective term of ten (10) years;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Lowell that the Municipal Agreement with the NCDOT for the NCDOT to perform routine inspections and analysis on the City’s one (1) existing bridge located on the municipal street system is hereby approved.

THIS RESOLUTION, adopted on the 14th day of June, 2022.

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**Sandy Railey, Mayor**

**ATTEST:**

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**Cheryl Ramsey, City Clerk**

North Carolina

Gaston

County

**North Carolina Department of Transportation**  
**and the City/Town of Lowell**  
**Municipal Agreement**  
**Inspection of Bridges on the Municipal Street System**  
**F.A. Project BRZ-NBIS (22)**

THIS AGREEMENT is made and entered into on the last date executed below, by and between the Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the Department, and the City/Town of Lowell, a municipal corporation, hereinafter referred to as the Municipality.

WITNESSETH

WHEREAS, the National Bridge Inspection Standards (NBIS) requires that all structures defined as bridges located on public roads must be inspected on a cycle, not to exceed twenty-four (24) months.

WHEREAS, the Municipality has requested the Department or a Consultant retained by the Department to inspect and analyze all public bridges located on its Municipal Street System in compliance with the National Bridge Inspection Standards; and

WHEREAS, the Department and the Municipality are authorized to enter into an agreement for such work under the provisions of G.S. 136-18(12), G.S. 136-41.3, and G.S. 136-66.1; and,

WHEREAS, the Municipality has approved the herein above referenced inspections and analysis and the Municipality has agreed to participate in certain costs thereof in the manner and to the extent as hereinafter set out.

NOW, THEREFORE, the Department and the Municipality agree as follows:

GENERAL PROVISIONS

**FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

**COMPLIANCE WITH STATE/FEDERAL POLICY**

The Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, as stated in this Agreement and in the Department's published guidelines and procedures.

1. The Department or a Consulting Engineering firm retained by the Department shall inspect, load rate, and prepare the necessary inspection reports.
2. All work shall be done in compliance with the following documents.
  - (A) National Bridge Inspection Standards (23 CFR, Chapter 1 Part 650)
  - (B) AASHTO Manual for Bridge Evaluation (current edition) including all interim revisions.



(C) Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges – December 1995.

3. The Municipality shall furnish all data in the possession of the Municipality that can be released that will help the Department or its Consultant in the accomplishment of the work including but not limited to appropriate municipal maps showing the location of the bridges and plans for the bridges when available.
4. During the inspection process, some repairs may be discovered that require immediate attention or repair, or a regulatory sign may be missing, damaged, or incorrect. A Critical Finding Notice, Priority Maintenance Notice or Regulatory Sign Notice will be issued in these cases. It is required that the Municipality resolve or notify the Department of their plans to resolve Priority Maintenance Notices and Regulatory Sign Notices within thirty (30) days of issuance. Critical Findings require a response within ten (10) days of notice.
5. The Municipality shall designate a responsible Municipal official with whom the Department or its Consultant will coordinate the work.
6. It is understood by the parties hereto that the Federal Highway Administration, through the Department, is to participate in the costs of the work to the extent of eighty percent (80%) of actual costs, subject to compliance with all applicable federal policy and procedural rules and regulations. All costs not participated in by the Federal Highway Administration shall be borne by the Municipality.
7. Upon completion of the bridge inspection, and load rating work, the Department shall invoice the Municipality for accumulated project costs not participated in by the Federal Highway Administration. Upon FHWA final audit, the Department shall invoice/refund the Municipality any differences in the amount previously invoiced and the actual costs not participated in by the Federal Highway Administration. Reimbursement shall be made by the Municipality within sixty (60) days of the invoice date. After the due date, a late payment penalty and interest shall be charged on any unpaid balance due in accordance with G.S. 147-86.23 and G.S. 105-241.21 (I). It is anticipated that the cost to the municipality will be approximately \$650 per structure. The actual cost is based on the work being performed, therefore the final invoice amount will not be known until the work is complete.
8. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment hereinabove provided, the Municipality hereby authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by the General Statutes of North Carolina, Section 136-41.1, until such a time as the Department has received payment in full.
9. It is the policy of the Department not to enter into any Agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this Agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by a Federal or State Department or Agency.
10. This Agreement shall have an effective term of ten (10) years beginning upon execution by all parties and ending on the same date ten (10) years later, subject to the following termination conditions:
  - (A) At any time either party may cancel the Agreement with a thirty (30) day written notice to the opposite party. On behalf of the Municipality, this Agreement may be canceled by the City Manager and/or his designee.

- (B) Upon the effective date of the cancellation, neither party shall owe any obligations under this Agreement, except that all obligations performed under this Agreement, including but not limited to invoicing, record retention, and payment for work performed prior to the effective date of cancellation, shall remain in effect.
11. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).
12. AMENDMENT:
- If any Party desires to amend the Agreement, then the proposed amendment and the reasons for the proposed amendment shall be communicated in writing to the other Party. If the Parties agree to the proposed amendment, then the amendment shall be effected by entering a written amendment to the Agreement. An amendment that does not change the substantive or financial commitments of the Agreement may be executed by the Chief Engineer and the Municipality. Any other amendment to the terms of this Agreement to be effective must be in the form of a written instrument properly authorized and executed by the governing boards of each Party to this Agreement. Any amendment to this Agreement to be effective must be in writing and signed by both Parties.
13. All Parties hereby respectively confirm that the individuals executing the Agreement are authorized to execute this Agreement and to bind the respective entities to the terms contained herein. All Parties confirm they have read this Agreement, conferred with counsel, and fully understand its contents.
14. All matters relating to this Agreement shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action relating to this Contract shall be Wake County Civil Superior Court or the United States District Court for the Eastern District of North Carolina, Western Division.

IT IS UNDERSTOOD AND AGREED that the approval of the work by the Department is subject to the conditions of this agreement, and that no expenditure of funds on the part of the Department will be made until the terms of this agreement have complied with on the part of the Municipality.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:	TOWN/CITY OF <u>Lowell</u>
BY: _____	BY: _____
TITLE: _____	TITLE: _____
DATE: _____	DATE: _____

(SEAL)

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number

\_\_\_\_\_  
Remittance/Billing Address:

Town/City of \_\_\_\_\_

"N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization."

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_

(CHIEF ENGINEER)

DATE: \_\_\_\_\_

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## AGENDA ITEM INFORMATION

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**AGENDA ITEM #:** 7-G

**DESCRIPTION:** RESOLUTION TO SUPPORT STREET CLOSURE FOR  
LINEBERGER ROAD

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Lineberger Road is located just off NC7 as shown on Exhibit A. This road has no right of way, but is NCDOT maintained. Lineberger road used to serve individual parcels, but now extends into the Gateway 85 development as shown on Exhibit B. Northpoint Development, the developer of Gateway 85, has requested that the road be closed due to a conflict with proposed building 7 as shown on Exhibit B. While the street closure process does not include any right of way closure, the NCDOT has requested a resolution from the City that endorses the transfer of maintenance responsibilities from NCDOT to Northpoint. Staff supports the developer's request and asks that this request to close Lineberger Rd be approved by City Council.

Staff supports the recommendation that the City support the transfer of maintenance responsibilities from NCDOT to NorthPoint Development so that Lineberger Road can be closed.

**North Carolina Department of Transportation  
Division of Highways  
Abandonment Petition**

North Carolina

County of Gaston

Petition request for the abandonment of Secondary Road Lineberger Road from the State.

Maintained System

We the under signed, being all of the property owners on Secondary Road Lineberger Road in Gaston County do hereby request the Division of Highways of the Department of Transportation to abandon the road from the State Maintained System.

**PROPERTY OWNERS**

<u>Name</u>	<u>Address</u>
Freddie Crawford (as agent for Dorothy Crawford Heirs)	513 Lineberger Road Pin #: 3565487280
Mary Howard (as agent for Ida Crawford Heirs)	Unassigned Lineberger Road Pin #: 3565487280
Tony Henderson	529 Lineberger Road Pin #: 3575078604
<i>Gail R. Hall</i> Gail Hall	519 East Drive Pin #: 3575078604
NP Gastonia Industrial, LLC	611,523,513 & Unassigned Lineberger Road Pin #: 3575078604,3565487280,3575078604,3565487280,3565487280,3575078604

**North Carolina Department of Transportation  
Division of Highways  
Abandonment Petition**

North Carolina

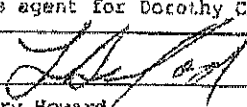
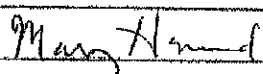
County of Gaston

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 Tony Henderson	519 Lineberger Road Pin #: 3575078604
Gail Hall	519 East Drive Pin #: 3575078604
NP Gastonia Industrial, LLC	611, 523, 513 & Unassigned Lineberger Road Pin #: 3575078604, 3565487280, 3575078604, 3565487280, 3565487280, 3575078604

**North Carolina Department of Transportation  
Division of Highways  
Abandonment Petition**

North Carolina

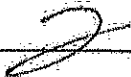
County of Gaston

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Mary Howard (as agent for Ida Crawford Heirs)	Unassigned Lineberger Road Pin #: 3565487280
Tony Henderson	529 Lineberger Road Pin #: 3575078604
Gail Hall	519 East Drive Pin #: 3575078604
 Nathaniel Hagedorn (As Authorized Person on behalf of NP Gastonia Industrial, LLC)	611, 523, 513 & Unassigned Lineberger Road Pin #: 3575078604, 3565487280, 3575078604, 3565487280, 3565487280, 3575078604

**North Carolina Department of Transportation  
Division of Highways  
Abandonment Petition**

North Carolina


County of Gaston

Petition request for the abandonment of Secondary Road Lineberger Road from the State.

Maintained System

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NP Gastonia Industrial, LLC	611, 523, 513 & Unassigned Lineberger Road Pin #: 3575078604, 3565487280, 3575078604, 3565487280, 3565487280, 3575078604





## **RESOLUTION SUPPORTING CLOSURE OF LINEBERGER ROAD**

### **RESOLUTION NUMBER: RS4-2022**

**WHEREAS**, Lineberger Road is a North Carolina Department of Transportation (“NCDOT”) maintained road without a right of way where portions of the road lie inside Lowell city limits; and

**WHEREAS**, Northpoint Development is developing the Gateway 85 development, and has requested closure of Lineberger Road to facilitate the next phase of construction, and

**WHEREAS**, NCDOT has requested Lowell’s support of the NCDOT’s abandonment of maintenance responsibilities for the portion of road that is inside Lowell’s city limits; and

**WHEREAS**, City Staff recommends supporting the NCDOT transferring maintenance responsibilities to the owners/developers of Gateway 85 so that the road can be closed;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOWELL THAT THE CITY DECLARES ITS SUPPORT OF THE TRANSFER OF MAINTENANCE RESPONSIBILITIES FROM NCDOT TO NORTHPOINT DEVELOPMENT TO ALLOW LINEBERGER ROAD TO BE CLOSED.**

THIS RESOLUTION, adopted on the 14th day of June, 2022.

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**Sandy Railey, Mayor**

**ATTEST:**

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**Cheryl Ramsey, City Clerk**



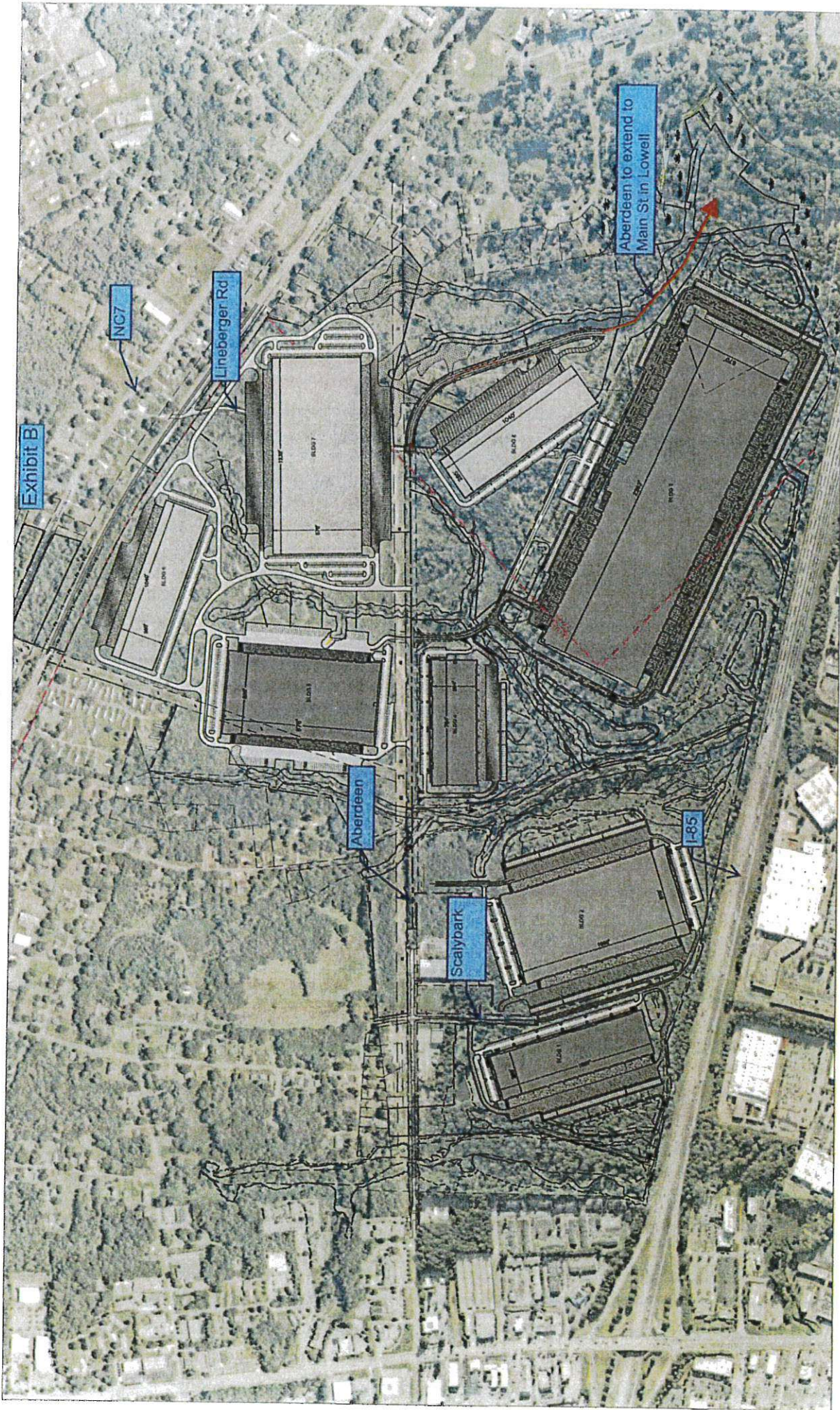


Exhibit B

NC7

Lineberger Rd

Aberdeen to extend to  
Main St in Lowell

Aberdeen

Scalybark

I-85



**To:** Scott Attaway, City Manager

**From:** Thomas Shrewsbury, Public Works

**Date:** May 31, 2022

**Re:** Monthly report

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Sewer Department crews continued clearing right of ways and outfall lines. Crews bush hogged and sprayed access areas in wooded areas. Several trees were removed from past storms and limbs cut back to make clearing safer for crews.

Staff has worked to complete the 2022 Consumer Confidence Report which will post July 1<sup>st</sup>, 2022. In this year's CCR we will be notifying citizens of two violations that occurred in September 2021. We have received a monitoring violation for Disinfectant Residuals and a reporting violation for total coliform testing. Both violations were due to a laboratory fire that occurred at Pace Analytical after samples were delivered by the City of Lowell.

Water Department employees worked to identify and eliminate issues that can keep some water meters from being read remotely. Some issues are remaining from the initial install, and some were homeowner damages. Meters, lids, or hangers may have been replaced and extra steps taken to avoid additional issues

2-inch water line break – East Drive

1 inch line break – Lowell Ave.

Street department Crews helped to get new mulch spread on playground at Bob Bolick Park and Harold Rankin Park.

Street Dept worked to make cemetery and American flags look good for the Memorial Day holiday.



**To:** Scott Attaway, City Manager

**From:** Lisa Nolen, Finance Director

**Date:** June 8, 2022

**Re:** Finance Update

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**Utility Billing:**

Continuing to troubleshoot issues to improve operations in MiNet digital system and equipment in the field. Coordinating with PW to get meters installed and processing changeouts in the system to get those meters to report. Working with the Planning Director on updating addresses and ownership information for processing stormwater management billing each month. Completing daily tasks, ordering office supplies for all departments, and assisting all City departments with other duties as requested.

**Finance:**

Currently working on May 2022 transactions and bank reconciliation. Completed FY 2020 and FY 2021 annual sales tax report and mailed to the State. Compiled returned checks for utility deposits and submitted to the State as unclaimed property. Completing instructions for new Accounting Technician job duties. Working on reconciliation of all bank accounts in Southern Software.

City of Lowell, North Carolina  
 FY 2022 Dashboard  
 4/30/2022

Department	Budget	YTD thru 4/30/2022	Budget Remaining	Percent Remaining	Percent of FY22 Remaining
<b>General Fund</b>					
Administration	737,970.00	596,276.74	141,693.26	19%	17%
Public Safety	1,358,837.52	1,001,190.75	357,646.77	26%	17%
Public Works	276,078.00	194,262.54	81,815.46	30%	17%
Sanitation	264,547.00	237,027.67	27,519.33	10%	17%
Parks	203,225.00	106,294.17	96,930.83	48%	17%
Powell Bill	231,275.00	155,505.63	75,769.37	33%	17%
<b>Total</b>	<b>3,071,932.52</b>	<b>2,290,557.50</b>	<b>781,375.02</b>	<b>25%</b>	<b>17%</b>
<b>Water/Sewer Fund</b>					
Water/Sewer	1,093,520.00	935,876.32	157,643.68	14%	17%
Wastewater Treatment	291,081.00	181,581.19	109,499.81	38%	17%
<b>Total</b>	<b>1,384,601.00</b>	<b>1,117,457.51</b>	<b>267,143.49</b>	<b>19%</b>	<b>17%</b>
<b>Stormwater Fund</b>					
Stormwater	337,919.00	128,943.83	208,975.17	62%	17%
<b>Total</b>	<b>337,919.00</b>	<b>128,943.83</b>	<b>208,975.17</b>	<b>62%</b>	<b>17%</b>

Notes:  
 None

City of Lowell, North Carolina  
 FY 2022 Revenue Dashboard  
 4/30/2022

Type	Budget	YTD thru 4/30/2022	Budget Remaining	Percent Remaining	Percent of FY22 Remaining
<b>General Fund</b>					
General Fund	3,071,932.52	2,808,801.01	263,131.51	9%	17%
Water/Sewer Fund	1,384,601.00	1,120,501.99	264,099.01	19%	17%
Stormwater Fund	337,919.00	255,482.62	82,436.38	24%	17%
<b>Total</b>	<b>4,794,452.52</b>	<b>4,184,785.62</b>	<b>609,666.90</b>	<b>13%</b>	<b>17%</b>

Notes:  
None



**To:** Scott Attaway, City Manager

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

**Date:** June 6, 2022

**Re:** Police Department Update

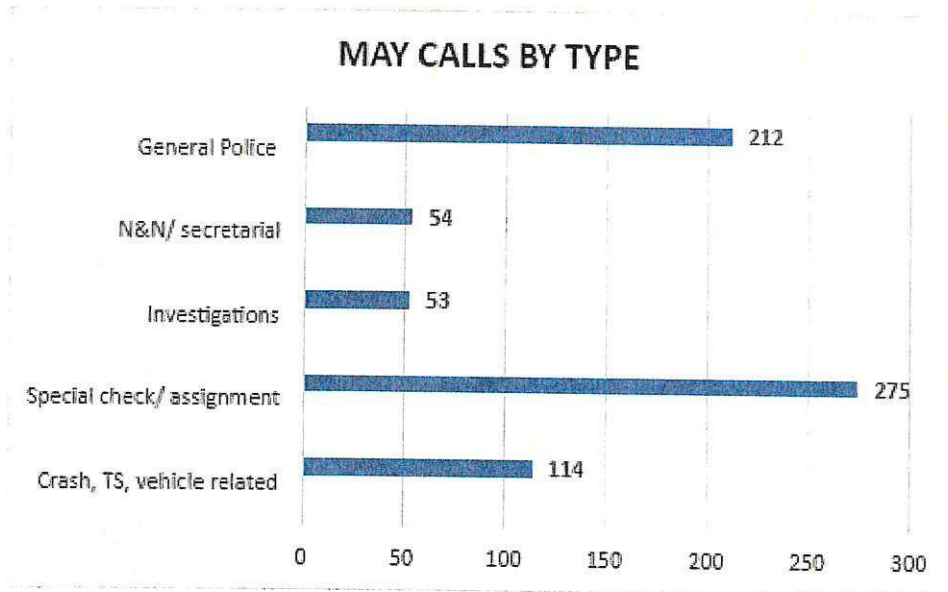
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May was an extremely busy month for the Lowell Police Department. Calls for service were up to 713 vs 590 in 2021, a 17% increase. Included in these calls are 3 shootings, all of which arrests have been made and the investigations are ongoing. We have also seen a large increase in the trespassing at the Future N. Main St Park. The Police Department also retired 2 ranking members this month. Chief Scott Bates served the citizens of Lowell for 23 years and Sergeant Tony Henderson retires after 20 years of loyal service to this City. They will both be formally recognized at a future regular City Council meeting.

An uncommon call received in our city is shootings, May had 3. The Lowell Mini Mart was the scene of a dispute between customers of the business. The shooting was a result of an argument and the quick response of police units resulted in the arrest of the suspect minutes after the shooting. The victim survived the shooting. The second was a shooting call from a vehicle and officers quick response took the suspect into custody without incident. The third was ICONZ bar. This one had over 50 bullets fired and is suspected to be gang related violence between patrons at the bar. Gaston County Police and the NC ALE are assisting Lowell PD with the investigation. One arrest was made on the scene and investigative diligence will result in the others involved being prosecuted.

Officer Amy Bowen received her Intermediate Law Enforcement Certification and Sergeant Jeff Harrison received his Advanced Law Enforcement Certification from the North Carolina Criminal Justice Training and Standards Commission. These professional Certifications require hours of training and on the job experience and officers had to apply and be approved by the commission prior to receiving the certifications.





### MAY HISTORY BY YEAR

2020-354

2021-590

2022-713



**To:** Scott Attaway, City Manager

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

**Date:** June 7, 2022

**Re:** May Monthly Report

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**Events:**

- Coordinated and advertising for Mommy & Me Yoga
- Meeting with event judge for Kansas City Barbecue Society
- Scheduled volunteers for city tent at Red Bull event, preparation of literature and merchandise to bring to event. Staff worked Saturday and Sunday at the City tent.
- Coordinated Memorial Day Service event, advertising, creation of program.
- Planning of June and July Music in the Park events, booking food trucks, accepting vendor registrations, answering questions from vendors.

**Athletics:**

- T-Ball games held twice weekly at Harold Rankin Park, coordinated with City of Gastonia league.
- Ordering of medals, scheduling of photos
- Communications with coach, answering parent questions

**Projects:**

- Initial meeting and site visit meeting with WithersRavenel regarding site specific master plans for Harold Rankin Park and Bob Bolick Park
- Coordinated and advertising for riverfront amenities public workshop
- Gathered quotes and ordered new mulch for the playgrounds, 18 wheeler of mulch delivered to Harold Rankin Park, Parks and Rec staff and Public Works spread half of the mulch at Harold Rankin and half at Bob Bolick Park.

**General:**

- Attended Staff Budget Meeting
- Attended Council Meeting
- Attended River Health Committee meetings for both Recreation sub-group and Marketing sub-group
- Worked City Hall front desk during interviews for Accounting Technician
- Attended department head meeting
- Picked up trash
- Locking and unlocking bathrooms



**To:** Scott Attaway, City Manager  
**From:** Joe Gates, Planning Director  
**Date:** June 8, 2022  
**Re:** Monthly Department Update

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### **Code Enforcement**

For the month of May, 2022, the Code Enforcement Office has received 4 complaints regarding high grass and trash. One new request has been received regarding minimum housing.

### **Zoning:**

The Zoning Department has issued a change of use permit for a retail store located on Main Street to convert to a hair salon. Staff has also been reviewing a few minor subdivision plats and hosted two pre-development meetings for some potential development.

Staff met virtually with a software vendor for a second virtual demo to review software solutions that could assist staff in code enforcement, permitting and planning activities and allow the customer to apply, pay and receive approval of permits online. This would greatly assist staff in tracking and reporting in all of these areas. Staff has contacted two (2) other vendors to schedule demonstrations.

### **Planning:**

Staff met with Demetri Baches – Metrocology, to discuss next steps for the Master Planning efforts downtown. Stakeholder meetings will be scheduled in the coming weeks.

Staff participated in training via Zoom titled “A Community’s Guide to Business Retention and Expansion” hosted by the North Carolina League of Municipalities (NCLM).

Staff participated in the South Fork Coordination Meeting hosted by the Carolina Thread Trail & Catawba Lands Conservancy.

The Lowell Planning Board met on June 7, 2022. Mr. Scott Wilson was sworn in as Chairman of the Planning Board and the Board of Adjustment. There were two items on the agenda for recommendation. The first item for the Planning Board to discuss was general rezoning. Case # RZ22-02 is a request to rezone several parcels from the Main Street District (MS) to the Mixed-Use District (MU-2). The board voted to unanimously approve this request. The second item for discussion was a text amendment to the LDO. The is item was also approved unanimously.

Planning Board also participated in a 2-hr training session with David Williams – Ability Development Group during their June 7<sup>th</sup>, 2022 meeting. Training centered on the basics of town planning the role that planning boards play in the review process for rezonings and other land use recommendations. Training was well received by the board.

### **Stormwater:**

Staff participated in zoom call for the Regional Stormwater Partnership of the Carolinas. Discussed "Stormwater System Inventory and Dry Weather Flow Evaluation".

Staff participated in zoom call for the Division of Water Infrastructure (DWI) Webinar on American Rescue Plan Act (ARPA) Stormwater funding. Staff will attend a follow up meeting later this summer for the 2<sup>nd</sup> half of this discussion.

Staff attended the Gaston County Natural Resources Annual Stormwater Training in Dallas, NC.

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-M

**DESCRIPTION:** CONSIDERATION OF BUDGET AMENDMENT #6

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Please see the attached Budget Amendment #6.

**City Of Lowell  
Budget Amendment #6  
Budget Ordinance FY 21-22**

**BE IT ORDAINED** by the City Council of the City of Lowell, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2022:

**Section 1:** To amend the ARPA Fund and General Fund, the estimated revenues are to be changed as follows:

**ARPA Fund:**

**Revenues:**

	<u>Decrease</u>	<u>Increase</u>
60-3320-0000 ARPA Revenues	\$10,000.00	

**ARPA Fund:**

**Expenses:**

	<u>Decrease</u>	<u>Increase</u>
60-8100-9500 ARPA Appropriated	\$10,000.00	

This will result in a decrease of \$10,000.00 in ARPA Revenues and a decrease of \$10,000.00 in ARPA appropriations, bringing the revenues budgeted for FY 21-22 from \$457,139.85 to \$447,139.85.

**Section 2:** To amend the General Fund, the appropriations are to be changed as follows:

**General Fund:**

**Revenues:**

	<u>Decrease</u>	<u>Increase</u>
10-3995-9500 Special Revenue Transfer In-ARPA		\$10,000.00

**General Fund**

**Administration:**

	<u>Decrease</u>	<u>Increase</u>
10-4100-0200 Administrative Salaries		\$10,000.00

This amendment will result in an increase of \$10,000.00 in the ARPA Appropriated Revenues and an increase in Administrative Salaries appropriations, bringing the appropriations for Administrative Salaries in FY 21-22 from \$315,116.00 to \$325,116.00.

This amendment is for grant money received from ARPA for Administrative Salaries.

**Section 3:** Copies of this budget amendment shall be furnished to the Clerk of the City Council, and to the Budget Officer and the Finance Officer for their direction.

Adopted this \_\_\_\_\_ day of June, 2022.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-N

**DESCRIPTION:** CONSIDERATION OF ARPA AMENDED GRANT PROJECT  
ORDINANCE

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In compliance with the ARPA guidelines, please find the attached grant project ordinance for your review and approval. These changes have been vetted by City staff and the ARPA Consortium at Centralina Council of Governments to ensure compliance with the U.S. Treasury.

**Amended Grant Project Ordinance for the City of Lowell American Rescue Plan Act of 2021: Coronavirus State and Local Fiscal Recovery Funds**

**BE IT ORDAINED** by the town council of the City of Lowell, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

**Section 1:** This ordinance is to establish a budget for a project to be funded by the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). The City of Lowell (Town) has received the first tranche in the amount of \$592,139.85 of CSLFRF funds. The total allocation is \$1,184,279.70, with the remainder to be distributed to the Town within 12 months. These funds may be used for the following categories of expenditures, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

**Section 2:** The Town has elected to take the standard allowance, as authorized by 31 CFR Part 35.6(d)(1) and expend all its ARP/CSLFRF funds for the provision of government services.

**Section 3:** The following amounts are appropriate for the project and authorized for expenditure:

Internal Project Code	Project Description	Expenditure Category (EC)	Cost Object	Appropriation of ARP/CSLFRF Funds
001	Public Safety services for period of July 1, 2021 through December 31, 2026	6.1	Salaries	\$609,279.70
			Benefits	\$200,000
002	Parks and recreation services for period of July 1, 2021 through December 31, 2026	6.1	Salaries	\$20,000



003	General administration services for period of July 1, 2021 through December 31, 2026	6.1	Salaries	\$315,000
004	Streets services for period of July 1, 2021 through December 31, 2026	6.1	Salaries	\$40,000
	<b>TOTAL</b>			<b>\$1,184,279.70</b>

**Section 4:** The following revenues are anticipated to be available to complete the project:

**ARP/CSLFRF Funds:** \$1,184,279.70

**General Fund Transfer:** \$0

**Total:** \$1,184,279.70

**Section 5:** The Finance Officer is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements, including payroll documentation and effort certifications, in accordance with 2 CFR 200.430 & 2 CFR 200.431 and the Town's Uniform Guidance Allowable Costs and Cost Principles Policy.

**Section 6:** The Finance Officer is hereby directed to report the financial status of the project to the governing board on a quarterly basis.

**Section 7:** Copies of this grant project ordinance shall be furnished to the Budget Officer, the Finance Officer and to the Clerk to Town Council.

**Section 8:** This grant project ordinance expires on December 31, 2026, or when all the ARP/CSLFRF funds have been obligated and expended by the Town, whichever occurs sooner.

Adopted this 14<sup>th</sup> day of June, 2022.

\_\_\_\_\_  
Sandy Railey, Mayor

Attest:

Attest As To Form:

\_\_\_\_\_  
Cheryl Ramsey, City Clerk

\_\_\_\_\_  
John Russell, City Attorney

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 8-A

**DESCRIPTION:** PUBLIC HEARING FOR CONSIDERATION OF LDO MAP AMENDMENT (REZONING) FOR PARCEL ID#'S: 225354, 128306, 128316, 128315, 128304, 128305, 128307, 128928, 128999, 128318, 225350, 128321, 128322, 128333, 128334, 225352. FROM THE MAIN STREET (MS) ZONING DISTRICT TO THE MIXED USE-2 (MU-2) ZONING DISTRICT. CASE# RZ22-02

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Please see the attached memo from the Planning Director.



**To:** Scott Attaway, City Manager

**From:** Joe Gates, Planning Director

**Date:** June 8, 2022

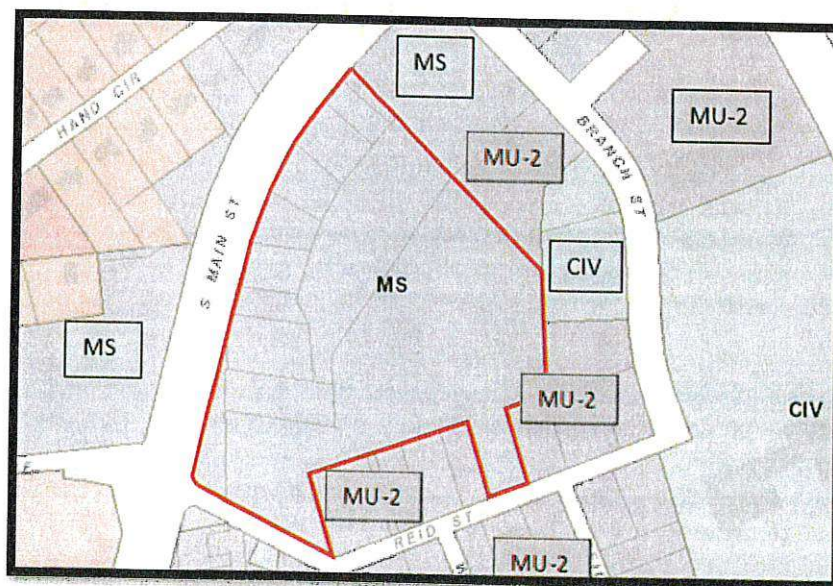
**Re:** Case # RZ22-02 – General Rezoning of several parcels from the Main Street District (MS) to the Mixed Use – 2 District (MU-2). Parcel ID#'s: 225354, 128306, 128316, 128315, 128304, 128305, 128307, 128928, 128999, 128318, 225350, 128321, 128322, 128333, 128334, 225352

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During their June 7, 2022 regular meeting, the City of Lowell Planning Board considered a general rezoning requesting to change the current zoning district from the Main Street (MS) Zoning District to the Mixed Use-2 (MU-2) Zoning District, Case# RZ22-02.

After reviewing the proposal, the Planning Board voted unanimously to recommend APPROVAL for the rezoning application as submitted by the applicant.

In preparation for the Public Hearing, City Staff mailed Public Notices to the property owners adjacent to the subject properties. In addition, two ads were prepared and published as public notice to be ran once a week for two consecutive weeks in the Gaston Gazette newspaper. Three notification signs were placed around the subject properties on S Main Street, the corner of S. Main Street at Reid and Reid Street near the intersection of Wilson Street.



**Existing Zoning Description:**

The Main Street District (MS) provides for new development, revitalization, reuse, and infill development in Lowell’s core downtown. A broad array of uses is listed to enable the needs of residents and visitors to be met. Allowed building/lot types in this district are Urban Workplace, Shop-front, Detached House, Attached House, Multi-family Building, and Civic Building. The development pattern seeks to integrate shops, restaurants, services, workplaces, civic, educational, and higher density housing in a compact, pedestrian-oriented environment. The Main Street District serves as the hub of the surrounding neighborhoods and of the broader community. The Main Street District may be expanded over time to meet the needs of the growing community for downtown facilities and services. Expansion of the Main Street District shall be contiguous and not separated from the primary district area.

**Proposed Zoning Description:**

The Mixed-Use Districts (MU-1 and **MU-2**) are established to provide opportunities for both compatible and sustainable re-development where underutilized commercial properties already exist as well as infill sites where site specific land planning of new development creates opportunities for businesses and various housing designs sharing community amenities and enhancements. Existing auto-oriented street, lot, and building designs can create uncomfortable pedestrian environments; however, with careful site planning these areas will allow a greater number of residents to walk or bike to businesses and services with an interconnected network of streets and sidewalks. Allowed building/lot types are Highway Commercial, Urban Workplace, Shop-front, Detached House, Attached House, and Multi-family. Dominant uses in this district are residential, retail and office. The Mixed-Use Districts are expected to serve Lowell residents as well as persons who travel from surrounding communities. The development pattern in this district acknowledges the role of the automobile, with parking and access provided to promote safety for the motoring public. Development standards in the Mixed-Use Districts promote the creation of a pleasant pedestrian-friendly auto-oriented environment while enabling a compatible transition to uses in adjacent neighborhood districts.

**All uses listed in Article 8, Table 8.1, Sections 1-4 would be permissible. Those tables may be found here: <http://lowellnc.com/301/Lowell-Development-Ordinance>**

**Staff comments:**

Staff recommends approval of this rezoning as submitted and has determined it to be consistent with the Future Land Use Plan and the I-85 Exit 22 Gateway Master Plan.



**COLDWELL  
BANKER  
COMMERCIAL**

MECA

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**COLDWELL BANKER COMMERCIAL**

**MECA**

2320 W. Morehead Street  
Second Floor  
Charlotte, NC 28208  
(Phone) 704-971-2000

May 2, 2022

Scott Attaway  
City Manager  
City of Lowell, NC  
101 W. First Street  
Lowell, NC 28098

Re: Rezoning Application- Jackson Property

Dear Scott,

Please find the enclosed formal rezoning application for the +/-8 acres known as the Jackson Property located on S. Main Street between Reid Street and Branch Street in Lowell, NC.

If after review you believe I have made an error or you need additional information, please let me know.

As for submittal, is this email followed by hand delivery Wednesday sufficient?

Sincerely,

Robert A. Pressley, CCIM

Enclosure  
CC: Ralph Falls

APPLICATION FOR REZONING

TO: THE CITY OF LOWELL

APPLICATION #: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

FEE PAID: \_\_\_\_\_

The undersigned does (do) hereby respectfully make application and request to the City of Lowell to amend the Zoning Ordinance and/or change the Zoning Map of the City of Lowell as hereinafter requested and in support of this application the following facts are shown:

- 1) It is requested that the real property hereinafter described be rezoned from:

MS to MU-2

- 2) The real property sought to be rezoned is owned in fee simple by:

H. EDWARD JACKSON

as evidenced in Deed Book — Page SEE EXHIBIT of the Gaston County Register of Deeds Office. There are no restrictions or covenants of record appearing in the chain of title which would prohibit the property from being put to the use specified in Paragraph 1 of this application.

- 3) The address of the real property sought to be rezoned is: SEE EXHIBIT and / or a further legal description by metes and bounds of said realty is attached to this application.

- 4) The real property sought to be rezoned is located on the EAST side of S. MAIN STREET between REID STREET and BRANCH STREET (street) (street)

BRANCH STREET and further identified in Gaston County Tax Book \_\_\_\_\_, Map \_\_\_\_\_, Parcel(s) SEE EXHIBIT Said Lot(s) has (have) a frontage of — feet and a depth of — feet, or +/- 8.1 acres.

- 5) The following are all the adjoining property owners who own land adjacent to all sides, front and rear, which shall include properties across the street from the property sought to be rezoned. The names and addresses listed below shall be determined

by the most recent tax listing as recorded in the Gaston County Tax Office. (Use additional pages if necessary.)

NAME	ADDRESS
<u>A&amp;A Foods, LLC</u>	<u>110 BOYER Ct., CRAMERTON, NC 28032</u>
<u>MT. CALVARY Baptist Church</u>	<u>P.O. Box 23, LOWELL, NC 28098</u>
<u>TERRY &amp; CHERITHA BENSON</u>	<u>201 N. OAK St., LOWELL, NC 28098</u>
<u>JACQUELYN M. CURRENCE</u>	<u>502 W. 5<sup>th</sup> St., GASTONIA, NC 28052</u>
<u>JESSIE KEATON HEIRS</u>	<u>307 REID St., LOWELL, NC 28098</u>
<u>DEBORAH WILLIAMS LEEPER</u>	<u>538 SHADOW VIEW DR., GASTONIA, NC 28054</u>

- 6) The applicant understands that a letter stating the date, time and place for the Public Hearing for the rezoning of said property shall be mailed to each of the parties listed in Paragraph 5 at least ten (10) days prior to the said Public Hearing.
- 7) If the applicant is not the legal owner of the property sought to be rezoned, the legal owners names and addresses shall be listed below. Owners shall be determined by the most recent tax listing as recorded in the Gaston County Tax Office. (Use additional pages if necessary.)

NAME	ADDRESS
<u>H. EDWARD JACKSON</u>	<u>P.O. BOX 24, GASTONIA, NC 28053</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

- 8) A map or drawing identifying the real property requested to be rezoned and all attached properties with their designated zoning districts shown shall be attached to this application.

Applicant(s) Name: JUNE LAKE, LLC (C/O ROB PRESSLEY)  
Address: 2320 W. MOREHEAD St, 2<sup>ND</sup> FLOOR, CHARLOTTE, NC 28208  
Telephone: (704) 904-4053

Applicant's Signature: 

City of Lowell  
101 West First Street  
Lowell, NC 28098

Telephone: 704 - 824 - 3518

## Notice of Public Hearing

The City of Lowell's City Council will hold a Public Hearing at their regularly scheduled meeting on Tuesday, June 14, 2022, at 6:00 pm, at City Hall, 101 West First Street, Lowell, North Carolina, 28098.

The purpose of this Public Hearing will be to consider a proposed zoning map amendment for the properties located along South Main Street with unassigned addresses further described as Property Parcel ID #'s 225354, 128306, 128316, 128315, 128304, 128305, 128307, 128928, 128999, 128318, 225350, 128321, 128322, 128333, 128334, 225352. From the Main Street (MS) Zoning District to the Mixed Use-2 (MU-2) Zoning District. Case# RZ22-02

If you would like to dial in to listen to the meeting please use the following information:

Lowell City Council Meeting

Tue, Jun 14, 2022 6:00 PM(EDT)

**Please join my meeting from your computer, tablet or smartphone.**

<https://meet.goto.com/952396133>

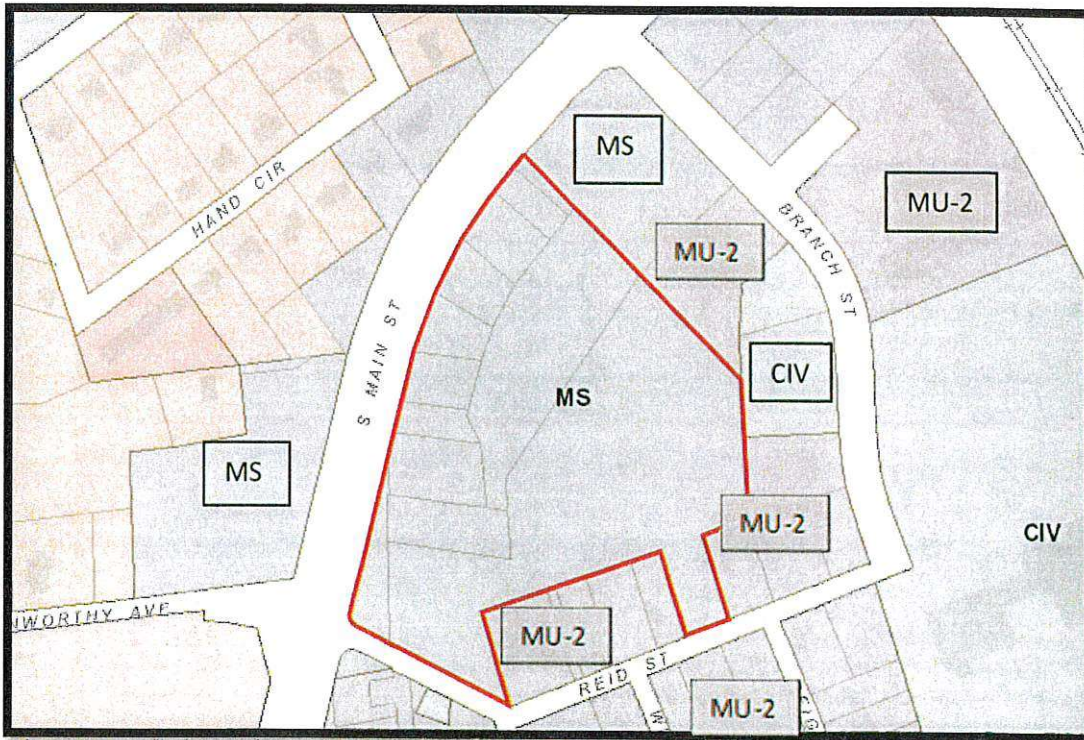
**You can also dial in using your phone.**

United States: [+1 \(408\) 650-3123](tel:+14086503123)

**Access Code:** 952-396-133

Get the app now and be ready when your first meeting starts: <https://meet.goto.com/install>

For further information please call Joe Gates, Planning Director, at 704-824-3518.





**EXHIBIT**

OWNER	ADDRESS	TAX PARCEL	DEED BOOK	PAGE
H. EDWARD JACKSON	N/A	225354	2461	878
"	317 S. MAIN STREET	128306	2461	878
"	319 S. MAIN STREET	128316	2461	878
"	323 S. MAIN STREET	128315	2461	878
"	327 S. MAIN STREET	128304	2854	834
"	329 S. MAIN STREET	128305	2854	834
"	403 S. MAIN SREET	128307	2461	878
"	407 S. MAIN STREET	128298	2461	878
"	409 S. MAIN STREET	128299	3132	358
"	N/A	128318	2854	834
"	305 REID STREET	225350	3804	552
"	201 REID STREET	128321	4275	2154
"	N/A	128322	4275	2152
"	203 REID STREET	128333	4275	2152
"	301 REID STREET	128334	4275	2154
"	N/A	225352	2962	371

number	owner name 1	PHYSICAL ADDRESS	address line 1	address line 2
1	A & A FOODS LLC	305 S MAIN ST	110 BOYTER CT	GRAMERTON, NC 28032
2	MT CALVARY BAPTIST CH LOWELL	116 BRANCH ST	P O BOX 23	LOWELL, NC 28098
3	MT CALVARY BAPTIST CH LOWELL	120 BRANCH ST	P O BOX 23	LOWELL, NC 28098
4	BENSON TERRY S & BENSON CHERITTA	122 BRANCH ST	201 N OAK ST	LOWELL, NC 28098
5	CURRENCE JACQUELYN M	403 REID ST	502 W 5TH AVE	GASTONIA, NC 28052
6	CURRENCE JACQUELYN M	401 REID ST	502 W 5TH AVE	GASTONIA, NC 28052
7	KEATON JESSE HEIRS	307 REID ST	307 REID ST	LOWELL, NC 28098
8	WILLIAMS DEBORAH & LEEPER DEBRA WILLIAMS	303 REID ST	538 SHADOW VIEW DR	GASTONIA, NC 28054
9	CURRENCE JORELIA	306 REID ST	P O BOX 184	LOWELL, NC 28098
10	WILSON DELORIS E 2/7 & OTHERS	304 REID ST	304 REID ST	LOWELL, NC 28098
11	JOHNSON KARL LEE 1/7 UNID INT	300 REID ST	300 REID ST	LOWELL, NC 28098
12	SLADE CORA W	202 REID ST	PO BOX 1062	GASTONIA, NC 28053-1062
13	JACKSON H EDWARD	200 REID ST	PO BOX 1062	GASTONIA, NC 28053-1062
14	FLEEMAN ANGELA P FLEEMAN SAMUEL J JR	NO ADDRESS	PO BOX 1062	GASTONIA, NC 28053-1062
15	LOWELL TOWN OF	NO ADDRESS	101 W 1ST ST	LOWELL, NC 28098
16	JACKSON H EDWARD FLEEMAN ANGELA	104 REID ST	PO BOX 1062	GASTONIA, NC 28053-1062
17	JACKSON H EDWARD & OTHERS	NO ADDRESS	PO BOX 1062	GASTONIA, NC 28053-1062
18	JACKSON H EDWARD	NO ADDRESS	PO BOX 1062	GASTONIA, NC 28053-1062
19	EP REALTY NC LLC C/O SONIC AUTOMOTIVE INC	109 KENWORTHY AVE	4401 COLLWICK RD	CHARLOTTE, NC 28211-2311
20	WTH TIMES LLC	106 KENWORTHY AVE	PO BOX 795	LINCOLNTON, NC 28093
21	JACKSON H EDWARD	NO ADDRESS	PO BOX 1062	GASTONIA, NC 28053-1062
22	JACKSON H EDWARD	503 HAND CIR	PO BOX 1062	GASTONIA, NC 28053-1062
23	JACKSON HAROLD EDWARD	501 HAND CIR	PO BOX 1062	GASTONIA, NC 28053-1062
24	HALLMAN JAMES RICHARD	304 S MAIN ST	304 S MAIN ST	LOWELL, NC 28098

## Notice of Public Hearing

The City of Lowell's City Council will hold a Public Hearing at their regularly scheduled meeting on Tuesday, June 14, 2022, at 6:00 pm, at City Hall, 101 West First Street, Lowell, North Carolina, 28098.

The purpose of this Public Hearing will be to consider a proposed zoning map amendment for the properties located along S. Main Street, Reid Street and Branch Street with Gaston County Parcel ID #'s 225354, 128306, 128316, 128315, 128304, 128305, 128307, 128928, 128999, 128318, 225350, 128321, 128322, 128333, 128334, 225352. From the Main Street (MS) Zoning District to the Mixed Use-2 (MU-2) Zoning District. Case# RZ22-02

You can also listen to the meeting by dialing in using your phone with the following:

Lowell City Council Meeting

Tue, Jun 14, 2022 6:00 PM(EDT)

**Please join my meeting from your computer, tablet or smartphone.**

<https://meet.goto.com/952396133>

**You can also dial in using your phone.**

United States: [+1 \(408\) 650-3123](tel:+14086503123)

**Access Code:** 952-396-133

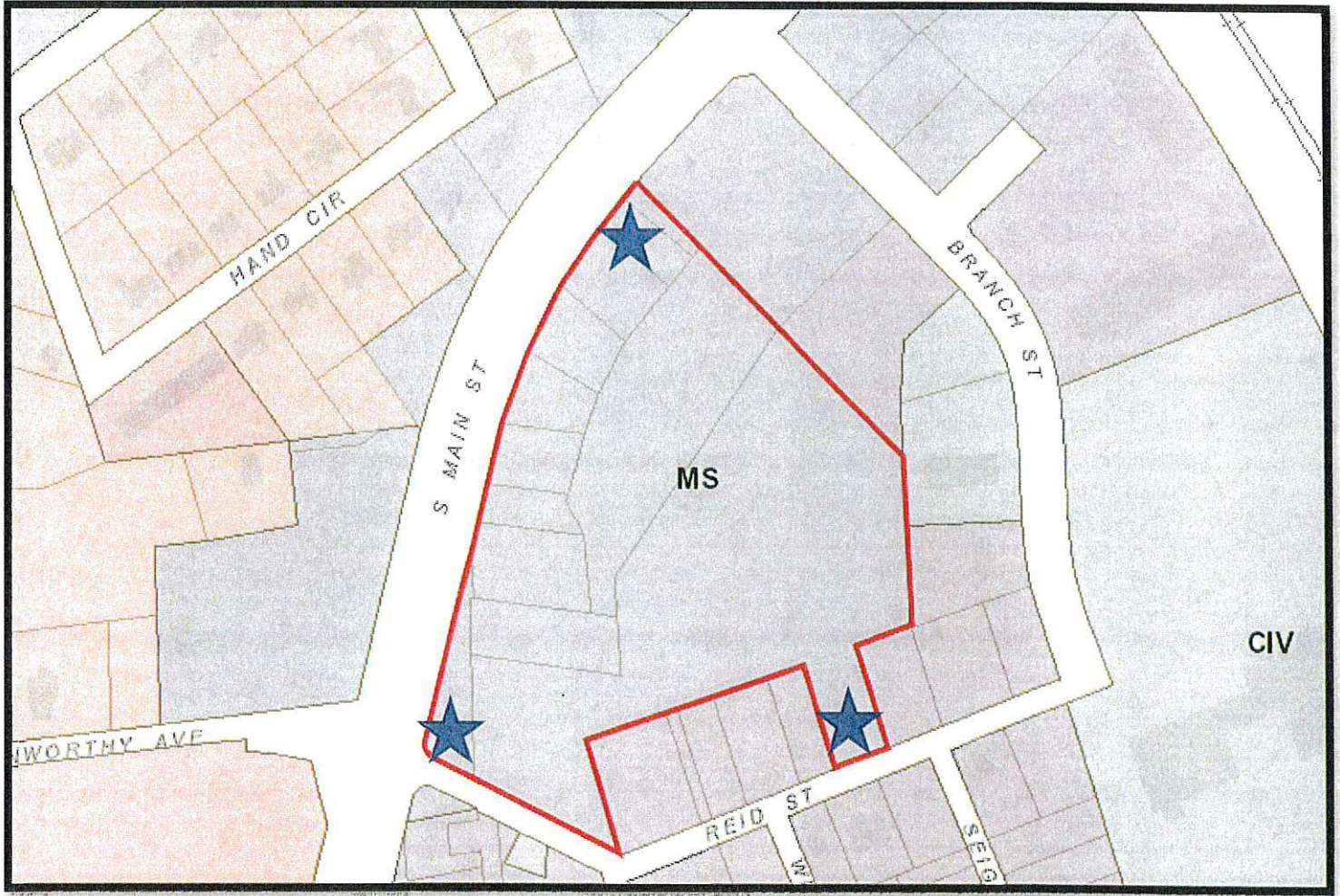
Get the app now and be ready when your first meeting starts: <https://meet.goto.com/install>

For further information please call Joe Gates, Planning Director at 704-824-3518.

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May 27, June 3, 2022 7346050

LOCATION OF POSTED SIGNS FOR HEARING

May 31<sup>st</sup>, 2022



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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 8-B

**DESCRIPTION:** PUBLIC HEARING FOR TEXT AMENDMENT RELATED TO  
LDO ARTICLE 7-7.1 DEVELOPMENT AGREEMENT

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Please see the attached memo from the Planning Director.





**To:** Scott Attaway, City Manager

**From:** Joe Gates, Planning Director

**Date:** June 8, 2022

**Re:** Case # ZTA22-02 – LDO Text Amendment for Article 7, Section 7.15 Development Agreements

---

During their June 7, 2022 regular meeting, the City of Lowell Planning Board considered a text amendment concerning a proposed change to the Lowell Development Ordinance. This change would clarify language in the Development Agreement section of the ordinance and exempt small developments of one (1) acre or less from being required to go through the development agreement process.

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

**Current Wording:**

**7.15 Development Agreements**

7.15-1 Authorization and Applicability

(A.) The North Carolina General Statutes authorize the use of Development Agreements for the development of land in accordance with the criteria and procedures established in sections G.S. 160D-1001 through G.S. 160D-1012.

(B.) In addition to any Development Agreement proposed for an eligible project, a Development Agreement, established pursuant to Sub-section 7.15-3 of this Ordinance, shall be required as part of all applications for the following:

(1.) Traditional Neighborhood Development Overlay (TNDO) District, Main Street (MS) District, and Mixed Use (MU-1 and MU-2) District and apply to all new development projects within the TNDO, MS, MU-1, and MU-2 Districts.

(2.) Major Subdivisions in any district where new street infrastructure will be developed.

**Proposed Wording:**

**7.15 Development Agreements**

7.15-1 Authorization and Applicability

(A.) The North Carolina General Statutes authorize the use of Development Agreements for the development of land in accordance with the criteria and procedures established in sections G.S. 160D-1001 through G.S. 160D-1012.

(B.) In addition to any Development Agreement proposed for an eligible project, a Development Agreement, established pursuant to Sub-section 7.15-3 of this Ordinance, shall be required as part of all applications for the following:

- (1.) Traditional Neighborhood Development Overlay (TNDO) District, Main Street (MS) District, and Mixed Use (MU-1 and MU-2) District and apply to all new development projects within the TNDO, MS, MU-1, and MU-2 Districts. **This requirement shall not apply to any developments that are one (1) acre or less in size.**
- (2.) Major Subdivisions in any district where new street infrastructure will be developed.

## Notice of Public Hearing

The City of Lowell's City Council will hold a Public Hearing at their regularly scheduled meeting on Tuesday, June 14, 2022, at 6:00 pm, at City Hall, 101 West First Street, Lowell, North Carolina, 28098.

The purpose of this Public Hearing will be for a proposed zoning text amendment for consideration of Article 7, Development Agreements, Section 7.15, of the Lowell Unified Development Ordinance. Case# ZTA22-02

You can also listen to the meeting by dialing in using your phone with the following:

Lowell City Council Meeting

Tue, Jun 14, 2022 6:00 PM(EDT)

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May 27, June 3, 2022

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 8-C

**DESCRIPTION:** PUBLIC HEARING FOR ADOPTION OF THE CITY OF  
LOWELL FISCAL YEAR 2022-2023 BUDGET ORDINANCE

---

The public hearing for the budget ordinance has been advertised.

Once the public hearing has been completed the Council may vote on the FY 2022-2023 Budget ordinance. Attached is the proposed ordinance regarding the FY 2022-2023 Budget.

**Budget Ordinance-Fiscal Year 2022-2023  
City of Lowell**

**BE IT ORDAINED** by the City Council of the City of Lowell, North Carolina:

**Section 1:** The following amounts are hereby appropriated in the General Fund for the operation of the city government and its activities for the fiscal year beginning July 1, 2022 and ending June 30, 2023, in accordance with the chart of accounts heretofore established for this City:

<b>Purpose</b>	<b>Amount</b>
Administration	\$996,649
Public Safety	\$1,165,063
Public Works	\$355,212
Sanitation	\$334,201
Parks and Recreation	\$315,260
Powell Bill	\$88,000
<b>Total Appropriation</b>	<b>\$3,254,386</b>

**Section 2:** It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2022 and ending June 30, 2023:

<b>Revenue Source</b>	<b>Amount</b>
Current year Property Tax & Vehicle Motor Tax	\$1,559,845
Local Sales Tax	\$650,000
Fees for Services	\$244,941
Powell Bill for Streets	\$88,000
Special Revenue	\$215,000
All other revenues	\$496,600
<b>Total Revenues</b>	<b>\$3,254,386</b>

**Section 3:** The following amounts are hereby appropriated in the Water and Sewer Fund for the operation of the water and sewer utilities for the fiscal year beginning July 1, 2022 and ending June 30, 2023, in accordance with the chart of accounts heretofore approved for the City:

<b>Purpose</b>	<b>Amount</b>
Water & Sewer Collection & Distribution	\$1,313,222
Wastewater Treatment	\$382,860
<b>Total Appropriations</b>	<b>\$1,696,082</b>

**Section 4:** It is estimated that the following revenues will be available in the Water and Sewer Fund for the fiscal year beginning July 1, 2022 and ending June 30, 2023:

<b>Revenue Source</b>	<b>Amount</b>
Water User Charges	\$852,026



Wastewater User Charges	\$662,676
All Other	\$181,380
Total Revenues	\$1,696,082

**Section 5:** The following amounts are hereby appropriated in the Stormwater Utility Fund for the operation of the stormwater department for the fiscal year beginning July 1, 2022 and ending June 30, 2023, in accordance with the chart of accounts heretofore approved for the City:

Purpose	Amount
Stormwater Personnel	\$252,861
Operation and Maintenance	\$99,196
Debt Service	\$40,862
Total Appropriations	\$392,919

**Section 6:** It is estimated that the following revenues will be available in the Stormwater Utility Fund for the fiscal year beginning July 1, 2022 and ending June 30, 2023:

Revenue Source	Amount
Stormwater User Fees	\$392,919
Total Revenues	\$392,919

**Section 7:** There is hereby levied a tax at the rate of forty-nine cents (\$0.49) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2022, for the purpose of raising the revenue listed “Current Year’s Property Taxes” in the General Fund in Section 2 of this ordinance.

This rate is based on estimated total valuation of taxable real property within the city limits totaling \$289,054,855 based on a 99% rate of collection, and the estimated taxable value of Public Service Companies of \$15,506,915 with a 100% collection rate, and the estimated total taxable value of personal property listed in the corporate limits of \$16,989,375 at an estimated collection rate of 99.0%

**Section 8:** A registration tag fee of \$10.00 per vehicle will be collected.

**Section 9:** The City Manager or a designee is hereby authorized to transfer appropriations as contained herein under the following conditions:

- a. Transfers between line item expenditures within a department without limitation and without a report being required. These changes must not result in increases in recurring obligations such as salaries.
- b. Transfers between departments within the same fund, including contingency appropriations, not to exceed 10% of the appropriated monies for the department whose allocation is reduced. Notice of all such transfers shall be made to the Council at the next regular meeting of the Council.

- c. The budget officer is hereby authorized to carry over appropriations in the fiscal year any previously approved purchase orders and accompanying budget
- d. Grant funding not depleted during the prior fiscal year may be carried over with the City Manager's approval. Special Revenue funding not depleted during the prior fiscal year may be carried over with the City Manager's approval.

**Section 10:** The City Manager or a designee may make cash advances between funds for periods not to exceed 60 days without reporting to the Governing Board. Any advances that extend beyond 60 days must be approved by the Board. All advances that will be outstanding at the end of the fiscal year must be approved by the Board.

**Section 11:** Copies of this Budget Ordinance shall be furnished to the Clerk to the Board and to the Budget Officer and Finance Officer to be kept on file by them for their direction in the disbursement of funds.

**Section 12:** The attached document entitled, "Rates, Fees and Charges FY 2022-2023" is hereby incorporated and adopted as part of this ordinance.

Adopted this 14<sup>th</sup> day of June, 2022.

---

Sandy Railey, Mayor

---

Councilmember Travis Smith

---

Councilmember Thomas S. Gillespie

Attest:

---

Cheryl Ramsey, City Clerk

---

Councilmember Candace Funderburk

---

Councilmember Joanna Fulbright

---

Councilmember Phil Bonham

General Fund Revenue	FY 2017-18		FY 2018-19		FY 2020		FY 2019-20		FY 21		FY 2021-22		FY 2022-23		Explanations/Comments
	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	
Ad Valorem Taxes-Prior Years	7,264	8,000	44,128	8,000	35,674	36,392	27,000.00	27,000.00	27,000.00	27,000.00	27,000.00	27,000.00	27,000.00	Prior year delinquent tax payments	
Gross Receipts Rev Tax	41,456	97,000	114,547	132,334	132,334	152,933	100,000	100,000	152,933	100,000	150,000.00	150,000.00	150,000.00	Rental Car Tax - added Enterprise in FY 18-20	
Ad Valorem Taxes	1,190,327	1,317,764	1,165,687	1,357,620	1,357,620	1,349,435	1,522,825	1,522,825	1,349,435	1,522,825	1,559,845.00	1,559,845.00	1,559,845.00	Real & Personnel	
Tax Penalties & Interest	5,101	5,000	5,984	5,000	948	59	2,000	2,000.00	59	2,000	2,000.00	2,000.00	2,000.00	Assessed from Delinquent Taxes	
Interest Income	8,971	7,500	17,164	10,228	10,228	2,176	16,000	16,000	2,176	16,000	12,000.00	12,000.00	12,000.00	Interest Earnings From Cash and Investments	
Beer & Wine Tax	16,169	16,200	16,311	16,200	16,340	16,080	17,500	17,500	16,080	17,500	17,500.00	17,500.00	17,500.00	From State on Per Capita Basis	
DMV Tag Tax							31,000	31,000		31,000	31,000.00	31,000.00	31,000.00	3153 Registered Tags (\$10.00)	
Asset Forfeiture							500.00	500.00		500.00	500.00	500.00	500.00		
Miscellaneous Revenue	29,867	2,000	16,651	2,000	3,684	425,612	2,000	2,000	425,612	2,000	2,000.00	2,000.00	2,000.00	Unclassified Revenue i.e. Insurance Claims	
Insurance Proceeds	19,469	12,950	15,608	15,608	15,608	2,757	2,000	2,000	2,757	2,000	2,000.00	2,000.00	2,000.00		
Donations Received	2,742	2,727	2,742	2,727	2,590	6,050	10,000.00	10,000.00	6,050	10,000.00	10,000.00	10,000.00	10,000.00	Northpoint for McCord Park	
Utilities Franchise Tax	200,668	200,670	201,695	200,670	257,827	197,719	195,000	195,000	197,719	195,000	195,000.00	195,000.00	195,000.00	% of the revenues derived from sales of utilities	
Solid Waste Disposal	2,480	2,480	2,637	2,480	2,887	2,854	2,900	2,900	2,854	2,900	2,900.00	2,900.00	2,900.00	From State on Per Capita Basis	
Powell Bill Receipts	94,291	94,291	93,757	94,291	93,306	89,913	85,450	85,450	89,913	85,450	88,000.00	88,000.00	88,000.00	Per Gen Assembly calculation	
Local Sales Tax	438,428	430,000	457,851	430,000	483,110	564,906	535,000	535,000	564,906	535,000	650,000.00	650,000.00	650,000.00	Local portion of Sales Tax	
Zoning Permits	3,575	3,500	8,240	3,500	15,712	8,620	15,000	15,000	8,620	15,000	20,000.00	20,000.00	20,000.00	Zoning Permit Fees	
Sanitation Fees	108,530	137,560	141,524	137,560	148,061	151,207	152,000	152,000	151,207	152,000	239,000.00	239,000.00	239,000.00	Sanitation Service Revenue (Residential increase of \$4.30 to \$12/cont.; second cont. increase of \$30 to \$8; Commercial increase of \$7 to \$22/cont.)	
Other Landfill Fees	1,882	1,650	1,537	1,650	1,411	2089	2,000	2,000	2089	2,000	2,000.00	2,000.00	2,000.00	Rental truck landfill fee reimbursement	
Recreation Revenue	12,977	13,000	7,023	13,000	8,102	2,185	9,675	9,675	2,185	9,675	3,941.00	3,941.00	3,941.00	Athletic Registration & Other Misc Recreation Revenue	
Community Center	7,580	7,000	8,700	7,000	5,510	2,358	1,000	1,000	2,358	1,000	2,500.00	2,500.00	2,500.00	Decrease rent time during renovations and Covid	
Festivals & Events	7,567	25,000	26,150	25,000	2,275	568	4,500	4,500	568	4,500	7,200.00	7,200.00	7,200.00	Offer Smaller Events (BBQ Cookoff, Senior Lunches, etc)	
Grants					70,733	43,156	48,156	48,156	43,156	48,156	5,000.00	5,000.00	5,000.00	Caramont for P&R \$5,000	
Lease Proceeds	3,850	-		-		38,500			38,500		8,000.00	8,000.00	8,000.00	F-150 and Charger	
Sales of Fixed Assets	6,905	-	14,344	-											
Fund Balance Appropriated		23,726		23,726											
Special Revenue Transfer In							145,000	145,000		145,000	215,000.00	215,000.00	215,000.00	Salary Reimbursements GF	
Merchandise							2,000	2,000		2,000	2,000.00	2,000.00	2,000.00	New merchandise line item (City shirts, hats, etc)	
FB Powell Bill		120,000		120,000											
	\$2,187,888	\$2,528,018	\$2,366,141	\$2,528,018	\$2,663,958	3,095,569	\$2,918,007	\$2,918,007	3,095,569	\$2,918,007	3,254,386.00	3,254,386.00	3,254,386.00		

Administration	FY 2017-18		FY 2018-19		FY 2019-20		FY 2021		FY 2021		FY 2022		FY 2022-2023		
	Actual	Budget	Actual	Budget	Actual*	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Explanations/Comments
Council	16,000		15,660	16,055	16,000	16,000	15,600	16,000	16,000	16,000	16,000	16,000	\$29,300	Salaries for Six Elected Officials / Travel and Training for Council	
Administrative Salaries	140,821		162,243	217,526	211,601	211,601	230,485	325,116	325,116	325,116	325,116	325,116	\$323,000	Admin Salaries-Manager, Planning/Zoning Dir (70%) new grade, Finance Dir (55%) moving to avg. Clerk, CSR (10%), new acct tech 30%, GIS 30%	
FICA Expenses	11,660		13,112	17,071	17,411	17,411	18,460	15,309	15,309	15,309	15,309	15,309	\$24,710	7.65% of salaries is FICA expense	
Health Insurance	27,587		32,474	42,906	0	33,307	43,023	43,023	43,023	43,023	43,023	43,023	\$49,000	Health and dental insurance	
Retirement Expenses	10,618		12,529	19,401	21,478	21,478	22,512	22,713	22,713	22,713	22,713	22,713	\$39,083	12.10% of salaries is retirement. Increased from 11.35%	
401(K) Retirement	6,961		8,067	10,839	10,580	10,580	11,090	10,006	10,006	10,006	10,006	10,006	\$16,150	5.0% 401K match	
Unemployment Benefits	58		0	750	750	750	0	750	750	750	750	750	\$750	No change from FY22	
Professional Services	42,055		40,077	62,530	73,000	73,000	46,045	94,663	94,663	94,663	94,663	94,663	\$120,000	Legal (\$35,000), Audit (\$42,700), NCLM (\$4,900), Southern Software Support (\$3,600), Misc. Engineering, Cavanaugh MacDonald (\$4,000)(OPEB)	
Telephone & Postage	9,189		8,505	10,991	10,500	10,500	9,591	13,900	13,900	13,900	13,900	13,900	\$17,500	VOIP Phones, Cell Phones, Postage, tablet service	
Electric Utilities	5,212		4,890	4,758	5,600	5,600	6,567	5,750	5,750	5,750	5,750	5,750	\$13,500	Utilities for City Hall	
Travel & Training	2,038		6,578	7,466	7,000	7,000	2,193	7,500	7,500	7,500	7,500	7,500	\$29,000	Professional Development:CZO; City Vision ; Clerk; NCLM; NCCMA ; ICMA Annual ; Planning ; GIS; Southern Software ; Finance ; Tuition Reimbursement Program ;	
Main. & Repairs - Bldg	486		4,872	1,403	8,620	8,620	7,057	9,000	9,000	9,000	9,000	9,000	\$16,000	Facility Use, Downstairs Additional, Council Chambers	
Main. & Repairs - Equip	1,979		1,692	900	4,000	4,000	761	4,000	4,000	4,000	4,000	4,000	\$4,000	General maintenance (HVAC, etc.)	
Election Expenses	4,062		0	4,963	0	4,963	0	4,175	4,175	4,175	4,175	4,175	\$4,500	Per Gaston County Board of Elections	
Checking Acct	5,362		5,008	4,678	5,000	5,000	5,552	5,000	5,000	5,000	5,000	5,000	\$5,250	BB&T Fees	
Advertising	1,254		3,007	4,399	4,000	4,000	9,659	4,000	4,000	4,000	4,000	4,000	\$6,000	Gaston Gazette Legal Fees	
Supplies	11,048		11,776	13,580	14,500	14,500	22,031	15,000	15,000	15,000	15,000	15,000	\$31,231	Office supplies, new copier lease (\$2,484), 2 computers, 2 monitors (\$7,500), 2nd copier lease (\$2,500), etc	
Lowell Boys and Girls Club													\$75,000	Roof Repairs at Boys and Girls Club (estimated 75k)	
Beautification	7,263		6,171	24,740	5,000	5,000	3,073	5,000	5,000	5,000	5,000	5,000	\$7,500	currently 56), Christmas Decor and other Projects , New lights (\$2,000), X-Mas Trees (\$2,000), Cemetery Sign (\$2,000)	
Zoning Board	375		150	427	200	200	2,039	9,000	9,000	9,000	9,000	9,000	\$5,100	Payment to Board Members for Attendance; Training Planning Board \$3,000	
Code Enforcement			427		1,000	1,000							\$9,000	Inspection Fees / Title Searches / Minimum Housing	
Grants	5,581		4,000	3,250	3,000	3,000	3,000	9,000	9,000	9,000	9,000	9,000	\$9,000	To Richard Trado for Lease on Parking Area Downtown and McCord	
Rental Expense	2,400		2,500	67,637	74,000	74,000	36,187	80,000	80,000	80,000	80,000	80,000	\$115,000	Master Planning, Architecture, Civil/Plans/Environmental, IT, Blackboard, Cleaning, New Website, MyGov, Griddics, Archive Social, Sturgis	
Contracted Services	68,123		91,136	8,994	8,000	8,000	9,936	9,900	9,900	9,900	9,900	9,900	\$15,000	Cost for Gaston County to Collect Taxes *Increase per Gaston County COG (\$900), ASCAP (\$375), MPO (\$1,137), Int'l Institute of Municipal Clerks (\$180), Montross Chamber annual membership (\$600), GBA (\$400), UNC SOG (\$550), Misc memberships (\$300), ICMA (\$1000), etc	
Tax Collection Fees	8,028		9,046	10,997	10,500	10,500	20,114	10,500	10,500	10,500	10,500	10,500	\$13,500	Estimated workers comp & prop/liability	
Dues & Subscriptions	6,925		7,690	6,999	7,325	7,325	8,087	6,500	6,500	6,500	6,500	6,500	\$9,000	Volunteer dinner, Employee Appreciation, Other Misc	
Insurance & Bonds	6,719		5,435	4,729	9,000	9,000	8,684						\$4,000	Vehicle for Code Enforcement, stormwater, planning (70%)	
Miscellaneous Expenses	2,459		6,640												
Capital Outlay - Equip															
Capital Outlay-Building															
Principal Maturities	3,721														
Interest on Debt	81				4,633	4,633		13,040	13,040	13,040	13,040	13,040	\$1,576	Contingency	
Totals	\$617,765		\$684,130	\$566,811	\$538,698	\$530,084	\$530,084	\$747,970	\$747,970	\$747,970	\$747,970	\$747,970	\$996,649		

Public Safety	FY 2017-18		FY 2018-19		FY 2020		FY 2021		FY 2022		FY 2022-2023	
	Actual	Budget	Actual	Budget	Actual*	Budget	Actual	Budget	Budget	Budget	Budget	Explanations/Comments
Police Salaries	385,766		386,052		421,811		433,806		560,856		625,473	Salaries
FICA Expenses	29,058		29,110		31,474		32,025		42,905		47,849	7.65% of salaries is FICA expense
Health Insurance	70,509		75,916		85,058		87,914		131,164		135,000	Health and dental insurance
Retirement Expenses	30,449		30,656		38,263		44,315		67,527		81,562	13.04% of salaries is retirement for LEO; increase from 12.04%
401(K) Retirement Expense	18,029		18,019		19,671		20,323		28,043		31,274	5.0% 401K match
Telephone & Postage	9,321		10,369		10,684		7,768		8,500		11,000	3 phones, aircards
Electric Utilities Expense	5,947		5,340		5,378		5,097		6,000		6,000	Utilities for Office
Travel & Training	50		-		850		1,444		2,500		5,500	Training and meal reimbursement / Most training is local
Main & Repairs - Bldg	1,671		21,894				447		1,000		1,000	Maintenance for Building
Main & Repairs - Equip	17,386		16,577		521		300		1,000		2,279	Copier Contract, Hand Held & In Car Radios, Radars
Automotive Supplies / Fuel	26,929		25,228		22,029		25,093		30,000		37,000	Vehicle Maintenance
Departmental Supplies	9,735		9,034		9,995		29,069		23,000		26,839	Wex contract for 11 officers Office Supplies / Ammunition
Police Uniforms	9,776		3,649		6,366		4,354		7,051		9,085	Purchase new Outer Carriers for new officers, Uniforms, Boots, Duty Gear
Contracted Services	6,981		8,450		6,031		8,049		6,200		11,200	Cleaning Contract, Southern Software RMS Annual Support, Verizon Connect (GPS for vehicles), \$5000 DNA Testing GC
Dues & Subscriptions	300		300		150		375		332		850	DCI Fee, Gaston County Law Enforcement Assoc
Insurance & Bonds	16,311		17,505		19,577		25,203		20,865		26,000	Estimated workers comp & prop/liability
Miscellaneous Expenses	100		1,237		44		7,076		2,100		4,500	National Night Out and Miscellaneous expenses, Recruitment Program
Asset Forfeiture									500			
Capital Outlay			19,680		51,232				34,209		5,374	3 Chargers (with upfit and radio/computer) Cost \$120,000 -- (\$23,643) ; \$5373.92 for body cams
Principal Maturities	15,522		13,856		52,291		68,508		54,276		77,964	Generator (\$2,431), Police Radios (\$12,826), Police Vehicles (\$12,066), Police Computers (\$6,646.96) Enterprise (\$20,351) 3 police vehicles for 2 new positions (\$23,643)
Interest on Debt	1,509		1,067		2,060		2,475		2,299		3,515	Generator (\$165), Police Radios (\$512), Police Vehicles (\$623), Police Computers (\$426.51), 3 police vehicles for 2 new positions (\$1,788)
Fire Protection					209,700		242,718		292,059			* County Fire District to begin FY 23
Totals	\$655,349		\$694,708		\$1,008,422		\$1,053,328		\$1,337,185		1,165,063	

Sanitation Line Item Description	FY 2017-18		FY 2018-19		FY 2020		FY 2021		FY 2022		FY 2022-2023		Explanations/Comments
	Actual		Actual		Actual*	Budget	Actual	Budget	Budget		Budget		
Sanitation Salaries	71,738	104,043	108,387	-	84,167	-	95,745	-	\$115,630			Salaries & Wages	
FICA Expenses	5,402	7,722	8,116	-	6,356	-	7,324	-	\$8,846			Employer FICA (7.65% of wages)	
Health Insurance	18,456	22,661	22,425	-	17,497	-	19,642	-	\$18,000			Health and dental insurance	
Retirement	4,926	7,672	8,590	(2,111)	7,390		10,867		\$13,991			12.10% of salaries retirement. Increased from 11.35%	
401K	3,248	4,951	4,799	(1,040)	3,640		4,787		\$5,782			5.0% 401K match (recycling not included here - PT)	
Main. & Repairs	21,572	5,832	13,192	12,000	26,991		12,000		\$16,500			Maintenance to Trash Truck, Tires twice per year	
Automotive/Fuel	8,550	9,315	8,955	9,100	12,049		9,500		\$10,500			Fuel for Trash Truck	
Departmental Supplies	6,075	6,193	8,728	6,500	5,757		6,500		\$10,770			General Supplies / purchases to restock supply (cans to add 70 cans)	
Recycling/Contract Svcs	1,176	13,286	15,119	14,500	26,777		14,500		\$45,000			Recycling expense, took out of here salaries for recycling staff and put above; Concrete pad at Recycling; Recycling Costs are 28-30k (approx. \$1.50/month/residence)	
Landfill Tipping Fees	39,986	43,795	40,846	44,253	52,589		45,000		\$50,000			Cost of Landfill Disposal	
Insurance & Bonds	6,143	5,367	5,738	5,000	7,476		5,000		\$5,000			Estimated workers comp & prop/liability	
Miscellaneous	312	3,112	458	500	536				\$500			Small Miscellaneous Uncatagorized Expenses	
Capital Outlay		2,283		35,850	125,287								
Principal Maturities	41,527	21,071			7,656		30,929		\$31,424			New Trash Truck Payment (\$30,929)	
Interest on Debt	1,030	208			765		2,753		\$2,259			Interest paid on trash truck	
Totals	\$230,140	\$257,511	\$245,352	\$124,552	\$384,933		\$264,548		\$334,201				

Streets	FY 2017-18		FY 2018-19		FY 2019-20		FY 2020-21		FY 2021-22		FY 2022-2023		Explanation/Comments
	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	
Salaries and wages	84,535		52,563		66,187	71,652	73,816		71,017		81,050		Salaries & Wages
FICA Expenses	5,919		3,497		4,514	5,481	5,323		5,433		6,200		Employer FICA (7.65% of wages)
Health Insurance	20,467		13,256		20,481	17,529	16,394		17,473		21,000		Health and dental insurance
Retirement Expenses	6,343		4,008		5,834	7,273	7,418		8,060		9,807		11.35% of salaries is retirement. Increase from 11.35%
401(K) Retirement	4,157		2,578		3,259	3,583	3,641		3,551		4,053		5% of salaries is 401(K) expense
Professional Services					3,200								
Utilities	58,340		50,177		48,502	61,000	35,524		61,000		57,258		Utilities, Streetlights
Travel & Training						500	95		500		500		Training
Maint & Repairs-Building			495		4,550	7,500			1,500		8,500		Roof Paint and Repair; Bay Door; Misc.
Maint & Repairs-Equipment	4,200		7,983		18,899	11,000	6,284		11,000		11,000		Mower maintenance, misc. equipment maintenance
Maint & Repairs-Trucks	12,352		7,405		5,951	7,000	514		7,000		15,000		2 light upfit packages (\$8,000), Reg repairs
Automotive Supplies/Fuel	7,731		9,369		7,906	9,900	8,371		10,000		15,000		Fuel increase and auto supplies
Departmental Supplies	12,325		18,204		17,043	19,000	8,244		15,000		18,000		Greenway Signage 3k
Uniforms	2,612		3,213		2,895	3,300	2,266		3,600		3,600		Uniform contract
Contracted Services	23,404		33,714		74,851	35,400	20,338		37,000		77,000		Includes Verizon Connect tablets, tablet service, Directional Signage 15k; 25k RRFPP Beacons and Crosswalks
Insurance & Bonds	10,566		11,645		12,351	10,000	18,676		10,000		10,000		includes Verizon Connect tablets, tablet service
Miscellaneous	978		950		320	1,000	4,761		1,000		1,000		
Capital Outlay-Improvement					10,000								
Capital Outlay-Equipment			15,963		10,362	17,934	2,000				3,300		new mower 15k; debt service
Principal Maturities					5,295		4,958		11,990		12,193		2019 Chevy 1500 truck 100% (\$5,653) F-750 Dump Truck 60% (\$6,540)
Interest					782	473	921		954		752		Dump Truck 60% (\$526), 2019 Chevy 1500 Truck 100% (\$226)
	\$253,929		\$235,020		\$323,182	\$289,524	\$219,544		\$276,078		\$355,212		



Parks & Recreation Line Item Description	FY 2017-18	FY 2018-19	FY 2020	FY 2021	FY 2022	FY 2022-2023	Explanations/Comments
	Actual	Actual	Actual*	Actual	Budget	Budget	
Salaries	\$ 28,078	\$ 47,723	47,887	50,195	75,716	\$60,000	2 part-time positions and COLA 5%
FICA	\$ 2,148	\$ 3,651	3,663	3,840	4,262	\$4,590	7.65% of salaries is FICA expense
Health Insurance							
Retirement							
401(K)		\$ 1,805	2,812	3,522	3,991	\$7,260	12.10% of salaries is retirement
Telephone & Postage	\$ 1,393	\$ 2,241	2,077	3,271	2,800	\$2,800	Cell Phone / VOIP Line and postage
Utilities Rec Facilities	\$ 5,885	\$ 5,747	4,870	3,555	5,000	\$5,000	Utilities at Recreation Facilities
Utilities Community Center	\$ 3,423	\$ 3,902	3,801	2,788	4,500	\$5,000	Utilities at Community Center
Travel & Training		\$ 243	1,068	97	1,500	\$1,500	CPR, First Aid, Athletic Maintenance Course
Main. & Repairs	\$ 2,805	\$ 6,635	5,601	14,191	51,906	\$11,000	\$43,156 is for Township Grant to make repairs to community center. Fields surface(2), mulch, Harold Rankin sign repair
Main. & Repairs CC							
Automotive Fuel		\$ 369	332	-	750	\$100,000	Interior/Kitchen Remodel
Supplies	\$ 895	\$ 5,374	4,372	2,070	4,500	\$750	Reimbursement money to Staff
Athletics	\$ 20,134	\$ 6,334	2,842	1,337	7,000	\$4,500	Field Chalk, staff shirts, Basic Office Supplies and Cleaners
Special Events	\$ 3,806	\$ 36,804	19,877	4,632	16,400	\$7,000	Stack Sports Fees, Uniforms for 3 seasons, League Fees, Umpire Fees, Softball Equipment
Contracted Services	\$ 14,659	\$ 8,402	785	1,922	22,000	\$30,350	Community Events
Insurance & Bonds	\$ 1,475	\$ 2,890	3,031	3,471	2,900	\$67,060	Terminix (\$260), Cleaning (\$5,200), (18k) McCord Park, Bathrooms at HR (\$8,000), Pickleball (\$22,000), (\$3,500) Additional Cameras
Capital Outlay		\$ 35,030				\$2,900	Estimated workers comp & prop/liability
Totals	\$84,701	\$167,150	\$103,015	\$94,891	\$203,225	\$5,550	Parks and Recreation Vehicle debt service
						\$315,260	

<b>Powell Bill</b>							
<b>Line Item Description</b>	<b>FY 2017-18 Actual</b>	<b>FY 2018-19 Actual</b>	<b>FY 2020 Actual*</b>	<b>FY 2021 Actual</b>	<b>FY 2022 Budget</b>	<b>FY 2022-2023 Budget</b>	<b>Explanations/Comments</b>
Professional Services	1,000		-		2,000	\$2,000.00	Engineering and Surveying
Departmental Supplies	1,400	3,072	-	928		\$3,000.00	Signs, cones, lights, caution tape
Sidewalks			-	18,200	20,000	\$46,000.00	Sidewalk Repair
Contracted Maintenance	78,375	12,672	215,512	41,728	65,000	\$35,000.00	Street Repairs not water and sewer related
Miscellaneous			-				
Cap. Outlay - Other Imp.			6,765				Downtown Improvements
City Signs				1,619	2,000	\$2,000.00	Signs
<b>Totals</b>	<b>\$80,775</b>	<b>\$15,744</b>	<b>\$222,277</b>	<b>\$62,475</b>	<b>\$89,000</b>	<b>\$88,000.00</b>	

Water/Sewer Utility Fund Revenues	FY 2017-18		FY 2018-19		FY 2020		FY 2020-21		FY 2021-22		FY 2022-2023		Explanations/Comments
	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	
Interest-Investments	16												
Loan Proceeds													
Miscellaneous Income	2,076		4,205	1,120	2,215		1,702	2,500	18,000				Debt Setoff; Meter Set Fee (\$350*50=\$17,500)
Water Revenue	590,428		662,088	692,756	698,664		669,047	728,228	852,026				18% increase with half percent growth rate of 2.9% per Withers Ravenel; Needed for 15% Revenue Increase
Sewer Revenue	497,888		539,190	562,520	562,770		522,499	550,868	662,676				18% increase with half percent growth rate of 2.9% per Withers Ravenel; Needed for 15% Revenue Increase
Water Tap Fees	300		1,600	4,000	3,000		3,200	4,000	5,000				Based on 5 taps (\$1000 per tap)
Sewer Tap Fees			3,000	5,300	4,000		4,200	5,000	6,875				Based on 5 taps (\$1375 per tap)
System Development Fee-Water	15,000		18,500	6,650	5,000		2,500	10,000	27,000				Based on 50 new homes (\$540 per home)
System Development Fee-Sewer	54,460		72,645	29,338	12,000		4,800	24,000	95,500				Based on 50 new homes (\$1910 per home)
Reconnects & Late Fee	14,864		1,847	234	10,000			15,000	15,000				Reconnects and Late Fees
Activation Fee	12,157		14,900	9,800	10,000		10,028	10,000	10,000				New Customer Activation Fee
Fund Balance Appropriated													
Sale of Fixed Assets													
Proceeds from reimbursed Engineering													Surplus vehicle
Totals	\$1,187,189		\$1,317,980	\$1,311,723	\$1,307,654		\$1,217,981	\$1,384,601	1,696,082				

Water and Sewer		FY 2017-18 Actual	FY 2018-19 Actual	FY 2020 Actual	FY 21 Actual	FY 2022 Budget	FY 2022-2023 Budget	Explanation/Comments
Line Item Description								
Salaries	206,807	220,959	236,427	215,225	224,906		\$301,900	3 Employees @85% (+1 new*), 45% of PW Director, 55% Finance Director (was 75%), 90% Admin Asst, New Acct Tech 55%, Partial GIS
FICA	14,934	16,011	17,066	16,894	17,205		\$23,095	7.65% of salaries is FICA expense
Health Insurance	39,519	50,326	46,223	38,920	50,163		\$66,000	Health and dental insurance
Retirement	15,480	16,975	20,954	31,955	25,527		\$36,530	12.10% of salaries is retirement. Increase from 11.35%
401(K)	10,206	10,902	11,706	9,110	11,245		\$15,095	5.0% 401K match
Professional Services	6,940	2,750	6,282	35,055	35,000		\$40,000	Inspections Engineering
Telephone & Postage	13,265	11,332	11,092	10,382	12,450		\$7,000	Postage Water Bills & Cell Phones and Desk Phones (50% of postage due to SW, add tablets and service)
Electric Utilities	15,296	17,820	16,365	13,548	18,500		\$20,000	For all facilities i.e. lift stations
Travel & Training					1,000		\$2,000	Water and Sewer Certification classes and testing
Main. & Repairs	12,112	5,511	25,100	25,430	24,000		\$30,000	In-House and outsource repairs / Lift Stations
Checking Acct Expense	402	921	2,023	1,817	1,500		\$1,500	BB&T Fees
Automotive Suplies (Fuel)	16,216	12,532	8,289	3,957	10,000		\$18,500	Wex fuel Contract
Supplies	37,315	26,517	24,288	54,902	34,058		\$40,000	Repair parts, supplies and tools; Water meters parts increase offset by SW materials being expensed to that fund
Uniforms	3,012	2,457	2,496	990	3,000		\$3,000	Uniform Contract
Contracted Services	40,974	50,888	30,411	41,339	34,000		\$82,224	Outsourced repairs, Lift Station Pump and Haul; Mueller \$17,124; Manhole Rehab/I&I \$31k;
Water Purchase	373,894	380,806	384,130	440,947	434,000		\$460,000	up 5% per TRU
Sewer Treatment	45,494	73,429	66,869	80,801	80,010		\$85,000	Fair Street Lift Station
Dues & Subscriptions	2,800	2,805	3,180	3,600	2,500		\$2,800	
Insurance & Bonds	10,597	11,173	13,066	6,748	12,895		\$12,895	Estimated workers comp & prop/liability
Capital Outlay	94,724	1,947	20,185	13,764	39,644		\$8,400	Hydraulic Quick Connect (\$9,000), Hydraulic Pipe Cutter and Trash Pump (\$20,000), Bore Machine (\$6,200), Demolition Air Hammer (50%=\$3,000)
Prin. Maturities	6,513			3,148			\$39,494	Payment for Water Meters (\$19,736) / 2019 3500 Service Truck 50% (\$5029) / Backhoe 50% (\$7,224)/ Camera System for Lines 50% (\$1,233), Jet Vac 60% (\$6272)
Interest on Debt Contingency	143				21,916		\$17,789	Meters (\$16,519), 2019 Chevy 3500 50% (\$201), Backhoe 50% (\$550), JetVac 60% (\$451), Camera 50% (\$68)
Totals	\$966,643	\$916,061	\$946,152	\$1,048,532	1,093,520		\$1,313,222	

Wastewater													
Treatment Plant													
Line Item Description	FY 2018-19 Actual	FY 2018-19 Actual	FY 2020 Actual	FY 2021 Actual	FY 2021-2022 Budget	FY 2022-2023 Budget							Explanation/Comments
Professional Services	3,133	-	3,415	\$7,625.00	4,000	\$ 10,000							Engineering
Telephone and Internet	1,754	808	764	\$759.00	780	\$ 800							Land Line, Fax, Internet
Electric Utilities	25,690	31,417	28,825	\$27,657.00	37,000	\$ 40,000							Looked at Current Year Duke Billing
Maint-Buildings & Grounds		-	1,938		13,000	\$ 69,967							Sandblast and Paint Building/CIP Related 52,092
Maint & Repair-Equipment		6,683	6,433	\$4,424.00	10,000	\$ 10,000							WWTP Repairs
Chemical Supplies	31,957	31,672	28,979	\$32,587.00	35,000	\$ 40,000							Atco, Jones Chemical, Univar, Maryland Biochemical, Bio Chem Resources
Departmental Supplies	2,898	4,451	9,502	\$6,089.00	4,500	\$ 9,000							Bluebook Purchases
Contract Services	47,676	44,250	44,090	\$44,390.00	48,000	\$ 55,180							Plant Operator Increase
Sampling and Analysis	30,579	32,321	34,956	\$56,462.00	45,000	\$ 48,000							K&W Labs Increased sampling
Sludge Disposal	41,126	12,978	39,474	\$48,896.00	45,000	\$ 45,000							EMA Pump and Haul plus Republic Services Dumpsters
Contract Maintenance	29,338	42,326	31,839	\$23,998.00	35,000	\$ 40,000							Kemp Inc, Snyder Tech, Piedmont Chlorinator, Fortech, LB Electric, Kemp Inc (dry-bed maintenance)
Dues and Subscriptions	1,020	2,139	1,470	\$1,010.00	1,470	\$ 1,500							Required Dues to State
Miscellaneous		370	377		500	\$ 1,000							Misc
Insurance & Bonds	1,995	2,204	2,129	\$9,171.00	2,415	\$ 3,000							Estimated workers comp & prop/liability
Capital Outlay		2,346	8,850										
Principal on Debt	57,024	55,179	53,222	\$9,024.00	8,658	\$ 8,851							(\$8,851) WWTP Pump
Interest on Debt	3,340	2,173	941	\$451.00	758	\$ 562							WWTP Pump (\$562)
<b>Totals</b>	<b>\$277,531</b>	<b>\$271,317</b>	<b>\$297,205</b>	<b>\$272,543.00</b>	<b>291,081</b>	<b>\$ 382,860</b>							



Stormwater	FY 2020-2021			FY 2021-2022			FY 2022-2023			Explanations/Comments
	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget		
Salaries	\$ 54,917	\$ 88,173	\$ 170,630	Salaries & Wages						
FICA	\$ 4,201	\$ 6,745	13,053	Employer FICA (7.65% of wages)						
Health Insurance	\$ 16,076	\$ 21,060	40,000	Health and dental insurance						
Retirement	\$ 5,574	\$ 10,008	20,646	12.10% of salaries is retirement. Increase from 11.35%						
401(K)	\$ 2,746	\$ 4,409	8,532	5% of salaries is 401(K) expense						
Professional Services		\$ 50,000	32,302	Engineering, Mapping of infrastructure/outfalls, SWMP/CIP						
Postage	\$ 150	\$ 500	5,000	BMP #'s 5 Utility Mailers, No. 6 Target Audiences, No. 8, etc, Utility bills						
Travel & Training		\$ 1,750	2,950	SCM Inspection Certification Training (\$300x3=900), Other training and travel						
Main. & Repairs	\$ 5,000	\$ 15,000	15,774	Grates, Pipes, Boxes, Repairs						
Checking Acct Expense		\$ 1,500	1,500	BB&T Fees for Utility Fund						
Automotive Supplies (Fuel)		\$ 3,500	4,000	Auto fuel						
Supplies	\$ 1,900	\$ 8,500	10,501	Spill Kits, Educational Materials, Promo materials for events						
Contracted Services			25,000	Repairs to Infrastructure, **Interns for mapping \$15/hour*320 hours = \$4,800 * 2 = \$10,000 (rounded from \$9,600)						
Dues & Subscriptions	\$ 1,350	\$ 1,350	2,169	Permit Fee and Regional SW Partnership Dues						
Insurance & Bonds										
Capital Outlay	\$ 16,133		2,300	30% of vehicle for stormwater admin \$2400; 50% of Air Hammer (\$3,000)						
Prin. Maturities		\$ 31,547	36,081	Leaf Vac 100% (\$14,054), Backhoe 50% (\$7224), F-750 Dump Truck 40% (\$4,360), Jet Vac 40% (\$4,181), Push Cam 50% (\$1,233), Chevy 3500 50% (\$5029)						
Interest on Debt		\$ 2,730	2,481	Leaf Vac (\$1,010), Backhoe 50% (\$550), F-750 Dump Truck 40% (\$351), Jet Vac 40% (\$301), Push Cam 50% (\$68), Chevy 3500 50% (201)						
Anticipated Fund Balance Transfer		\$ 91,148								
Totals	\$108,047	\$337,919	392,919							

New Capital Expenses

GENERAL FUND	Cost	Priority	Useful Life	Explanation	Annual Payment	Terms
Planning/Zoning/Code Enf	\$17,312.62	High	5 years	Vehicle (Split w/SW 70%)	3,779.23	5 years
Public Works Streets	\$15,000.00	High	5 years	Mower	3,274.40	5 Years
Parks and Recreation	\$25,200.00	High	5 Years	Vehicle	5,501.00	5 years
<b>TOTAL</b>	<b>\$57,512.62</b>				<b>12,554.63</b>	

STORMWATER FUND	Cost	Priority	Useful Life	Explanation	Annual Payment	Terms
Stormwater	\$7,419.69	High	5 years	Vehicle (split w/GF 30%)	1,619.67	5 years
Stormwater Repair Equipment	\$3,000.00	Medium	5 years	Air Hammer (Split w/WWS 50%)	654.88	5 years
<b>TOTAL</b>	<b>\$10,419.69</b>				<b>2,274.55</b>	

WATER SEWER FUND	Cost	Priority	Useful Life	Explanation	Annual Payment	Terms
Water Sewer	\$20,000.00	High	5 years	Hydraulic Pipe Cutter and Trash Pump	4,365.87	5 years
Water Sewer	\$3,000.00	Medium	5 years	Air Hammer (split with SW 50%)	654.88	5 years
Water Sewer	\$9,000.00	Medium	5 years	Hydraulic Quick Connect	1,964.64	5 years
Water Sewer	\$6,200.00	Medium	5 years	Bore Machine	1,353.42	5 years
<b>TOTAL</b>	<b>\$38,200.00</b>				<b>8,338.81</b>	



**Grant Project Ordinance for the City of Lowell SCIF Grant**

**BE IT ORDAINED** by the City Council of the City of Lowell, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

**Section 1:** This ordinance is to establish a budget for a project to be funded by the SCIF Grant. The City of Lowell (City) has received the funds in the amount of \$2,000,000.00.

**Section 2:** The following amounts are appropriated for the expenses of the project:

Administration expenses for demo bid preparation and solicitation:	\$ 20,000.00
Contracted demolition expenses:	\$1,980,000.00
<b>TOTAL</b>	<b>\$2,000,000.00</b>

**Section 3:** The following revenues are anticipated to be available to complete the project:

SCIF Funds:	\$2,000,000.00
General Fund Transfer:	\$ 0.00
<b>TOTAL</b>	<b>\$2,000,000.00</b>

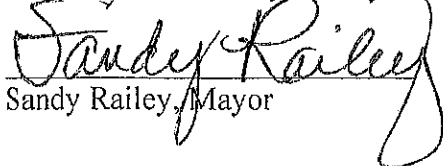
**Section 4:** The Finance Officer is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements, including payroll documentation and effort certifications, in accordance with 2 CFR 200.430 & 2 CFR 200.431 and the City's Uniform Guidance Allowable Costs and Cost Principles Policy.

**Section 5:** The Finance Officer is hereby directed to report the financial status of the project to the governing board on a quarterly basis.

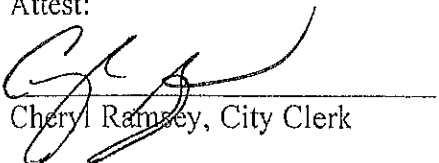
**Section 6:** Copies of this grant project ordinance shall be furnished to the Budget Officer, the Finance Officer and to the Clerk to City Council.

**Section 7:** This grant project ordinance expires on August 1, 2023, or when all the SCIF funds have been obligated and expended by the Town, whichever occurs sooner.

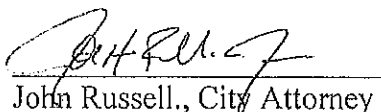
Adopted this 10th day of May, 2022.

  
Sandy Railey, Mayor

Attest:

  
Cheryl Ramsey, City Clerk

Attest As To Form:

  
John Russell, City Attorney

**Amended Grant Project Ordinance for the City of Lowell American Rescue Plan Act of 2021: Coronavirus State and Local Fiscal Recovery Funds**

**BE IT ORDAINED** by the town council of the City of Lowell, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

**Section 1:** This ordinance is to establish a budget for a project to be funded by the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). The City of Lowell (Town) has received the first tranche in the amount of \$592,139.85 of CSLFRF funds. The total allocation is \$1,184,279.70, with the remainder to be distributed to the Town within 12 months. These funds may be used for the following categories of expenditures, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

**Section 2:** The Town has elected to take the standard allowance, as authorized by 31 CFR Part 35.6(d)(1) and expend all its ARP/CSLFRF funds for the provision of government services.

**Section 3:** The following amounts are appropriate for the project and authorized for expenditure:

Internal Project Code	Project Description	Expenditure Category (EC)	Cost Object	Appropriation of ARP/CSLFRF Funds
001	Public Safety services for period of July 1, 2021 through December 31, 2026	6.1	Salaries	\$609,279.70
			Benefits	\$200,000
002	Parks and recreation services for period of July 1, 2021 through December 31, 2026	6.1	Salaries	\$20,000

003	General administration services for period of July 1, 2021 through December 31, 2026	6.1	Salaries	\$315,000
004	Streets services for period of July 1, 2021 through December 31, 2026	6.1	Salaries	\$40,000
	<b>TOTAL</b>			<b>\$1,184,279.70</b>

**Section 4:** The following revenues are anticipated to be available to complete the project:

**ARP/CSLFRF Funds:** \$1,184,279.70

**General Fund Transfer:** \$0

**Total:** \$1,184,279.70

**Section 5:** The Finance Officer is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements, including payroll documentation and effort certifications, in accordance with 2 CFR 200.430 & 2 CFR 200.431 and the Town's Uniform Guidance Allowable Costs and Cost Principles Policy.

**Section 6:** The Finance Officer is hereby directed to report the financial status of the project to the governing board on a quarterly basis.

**Section 7:** Copies of this grant project ordinance shall be furnished to the Budget Officer, the Finance Officer and to the Clerk to Town Council.

**Section 8:** This grant project ordinance expires on December 31, 2026, or when all the ARP/CSLFRF funds have been obligated and expended by the Town, whichever occurs sooner.

Adopted this 14<sup>th</sup> day of June, 2022.

\_\_\_\_\_  
Sandy Railey, Mayor

Attest:

Attest As To Form:

\_\_\_\_\_  
Cheryl Ramsey, City Clerk

\_\_\_\_\_  
John Russell, City Attorney

# CITY OF LOWELL, NORTH CAROLINA

Rates, Fees, and Charges FY 2022-2023 Proposed (Proposed shown in red) W/SDF FEE INCREASE)

WATER RATES			
<b>RESIDENTIAL</b>			
Minimum 1500 Gallons		Inside	Outside
Per 1000 Gallons after Minimum		\$9.89 <b>\$11.67</b>	\$19.78 <b>\$23.34</b>
		\$7.59 <b>\$8.96</b>	\$15.19 <b>\$17.92</b>
<b>COMMERCIAL</b>			
Minimum 1500 Gallons		\$13.83 <b>\$16.32</b>	\$27.65 <b>\$32.63</b>
Per 1000 Gallons after Minimum		\$10.05 <b>\$11.86</b>	\$20.11 <b>\$23.73</b>
<b>IRRIGATION - Per 1000 Gallons - \$7.37</b>			

SEWER RATES			
<b>RESIDENTIAL</b>			
Minimum 1500 Gallons		Inside	Outside
Per 1000 Gallons after Minimum		\$11.04 <b>\$13.03</b>	\$22.07 <b>\$26.04</b>
		\$6.51 <b>\$7.68</b>	\$13.03 <b>\$15.38</b>
<b>COMMERCIAL</b>			
Minimum 1500 Gallons		\$15.44 <b>\$18.22</b>	\$24.02 <b>\$28.34</b>
Per 1000 Gallons after Minimum		\$8.30 <b>\$9.80</b>	\$13.60 <b>\$15.99</b>
<b>SEWER ONLY CUSTOMER - Per 1000 Gallons - \$13.29</b>			
<b>SEPTIC SEWER - Minimum \$4.84 / Per 1000 Gallons \$2.86</b>			

SYSTEM DEVELOPMENT FEE (SDF) / TAP FEE / METER FEES			
<b>SYSTEM DEV. FEES:</b>		<u>Water</u>	<u>Sewer</u>
¾ in - \$500	<b>\$540</b>	\$1,200	<b>\$1,910</b>
1 in - \$830	<b>\$1,350</b>	\$2,000	<b>\$4,775</b>
1.5in - \$1,660	<b>\$2,700</b>	\$4,000	<b>\$9,550</b>
2 in - \$2,660	<b>\$4,320</b>	\$6,400	<b>\$15,280</b>
3 in - \$5,320	<b>\$8,640</b>	\$12,800	<b>\$30,560</b>
4 in - \$8,310	<b>\$13,500</b>	\$20,000	<b>\$47,750</b>
6 in - \$16,620	<b>\$27,000</b>	\$40,000	<b>\$95,500</b>
8 in - \$26,590	<b>\$43,200</b>	\$64,000	<b>\$152,800</b>
10 in - \$38,220	<b>\$62,100</b>	\$92,000	<b>\$219,650</b>
12 in - \$51,510	<b>\$121,500</b>	\$124,000	<b>\$429,750</b>
		<b>WATER TAP FEES:</b>	
		<u>Inside</u>	<u>Outside</u>
		¾ in - \$800	<b>\$1,000</b> \$1,100 <b>\$1,375</b>
		1 in - \$1,400	<b>\$1,750</b> \$1,800 <b>\$2,250</b>
		1-1/2" - \$2,000	<b>\$2,500</b> \$2,400 <b>\$3,000</b>
		2" - \$2,600	<b>\$3,250</b> \$3,000 <b>\$3,750</b>
		<b>SEWER TAP FEES:</b>	
		4" - \$1,000	<b>\$1,250</b> \$1,400 <b>\$1,680</b>
		6" - \$1,500	<b>\$1,800</b> \$1,900 <b>\$2,280</b>
		8" - \$3,000	<b>\$3,600</b> \$3,500 <b>\$4,200</b>

Backflow Testing Admin Fee **\$75.00**  
**IRRIGATION METER:** \$500.00      **METER SET FEE:** \$225.00 **\$350.00**      \*\*\*No System Development Fees for Fire Protection Meters

GARBAGE COLLECTION CHARGES	
<b>RESIDENTIAL</b>	
Roll Cart (1) .....	\$7.70 <b>\$12.00</b>
Ea. Add'l Roll Cart .....	\$7.70 <b>\$8.00</b>
<b>COMMERCIAL</b>	
Roll Cart (1) .....	\$15.00 <b>\$22.00</b>
Ea. Add'l Roll Cart .....	\$15.00 <b>\$22.00</b>

Stormwater Charges	
Residential Stormwater Charge.....	\$6.75
Non-Residential Stormwater Charge .....	\$6.75/2,827 square feet of impervious surface

MISCELLANEOUS UTILITY SERVICE CHARGES	
New Account Activation Fee .....	\$50.00
Deposit (Waived for Homeowners – but must show proof of ownership) .....	\$150.00
Penalty / Late Fee – If not paid by due date on bill. ....	\$5.00
Returned Check Fee .....	\$30.00
Delinquent Service Charge (Scheduled for Cut-Off).....	\$50.00
Water Meter Calibration Request (Defective meter replaced free of charge) .....	\$10.00
Replacement Meter (Found to be damaged by customer) .....	\$225.00
Tampering Fee (Turning on water service that has been shut off by Public Works for non-pymt or hydrant tampering) .....	\$250.00
Copies (per sheet).....	.25 cents

## PLANNING AND ZONING FEES

### Residential Zoning Permits

New Home Construction .....	\$100	\$125
Multi-Family .....	\$100 + \$30	\$50 per unit
Home Additions/Expansions .....	\$50.00	
Internal Up-Fit/Remodel (No Expansion) .....	\$25.00	
Accessory Structures (350 sq ft or less) .....	\$25.00	
Accessory Structures (Greater than 350 sq ft) ... <i>(May also require a conditional use permit)</i> .....	\$50.00	

### Non-Residential Zoning Permits

Change of Use.....	\$100.00	
Up to 5,000 sq ft .....	\$250.00*	
5,001 sq ft – 10,000 sq ft .....	\$350.00*	
Over 10,000 .....	\$350.00*	\$450.00*

*\*(Plus \$100.00 for each additional 10,000 sq. ft + City Engineering Cost Billed Monthly During Project)*

Sign Permits .....	\$50.00	\$100.00
Zoning Verification Letter .....	\$50.00	
Home Occupation Permit .....	\$25.00	
Temporary Use Permit .....	\$50.00	
Telecommunications Tower Permit (New) .....	\$5,500.00	
Telecommunications Tower Permit (Co-Location) .....	\$300.00	
Zoning Map Amendment .....	\$350.00	\$400.00
Text Change Application .....	\$350.00	
Special Use Permit/Conditional Use .....	\$350.00	\$600.00
Variance Application .....	\$450.00	
Appeals .....	\$350.00	

### Subdivision Review

Preliminary Plat Submission	(0-50 lots) .....	\$300.00 + \$5.00	\$10.00 per lot*
	(51+ lots) .....	\$500 + ...	\$10.00 \$12.50 per lot*
Preliminary Plat Resubmission	(0-50 lots) .....	\$2.50	per lot*
	(51+ lots) .....	\$5.00	per lot*
Construction Plan Submission .....		\$500.00*	\$750.00*

*\*(Plus City Engineering and Construction Inspection Cost Billed Monthly During Project)*

(To be applied to all Site Plans and Subdivision Plans that involve infrastructure installations. Construction Inspection/Engineering services to cover: Potable water, sanitary sewer, storm drainage, curb and gutter, streets, and sidewalk facilities.)

Final Plat Submission .....	\$250.00	\$350.00*
	<i>*(Plus Final City Engineering Fees) (Balance of Above Fees Due Prior to Approval)</i>	
Commercial / Industrial Site Plan Review .....	\$500.00*	
	<i>*(Plus Applicable City Engineering Fees)</i>	
Recombination/Exempt/Easement Plats .....	\$75.00	\$100.00
Driveway Cut Permit .....	Residential \$25.00 / All Other \$50.00	

### New Development Street Signage

The City of Lowell will provide street signage for new developments at cost plus twenty-five percent (25%).

## RENTAL FEES

Community Center .....	<i>(Residents) \$30/hour (minimum 4 hours) User Fee + \$100 Deposit (Cash)</i> <i>(Non-Res) \$45/hour (min 4 hours) + \$100 Deposit (Cash)</i>
Harold Rankin Park Picnic Shelter .....	<i>(Residents) \$20.00 (4 hour increments)</i>
Harold Rankin Park Picnic Shelter .....	<i>(Non-Res) \$30.00 (4 hour increments)</i>
Harold Rankin Park Field Rental .....	<i>\$10 (Resident) \$15 (Non-Res)</i>
Harold Rankin Park Lights .....	<i>\$15.00</i>
Truck Rental (Must have active water account) ... <i>(Charge subject to weight and specifications)</i> .....	<i>\$67.47 Minimum Charge</i>

## PARKS & RECREATION FEES

Basketball Registration .....	<i>(Residents) \$50.00 / (Non-Residents) \$70.00</i>
Soccer (Fall & Spring) Registration .....	<i>(Residents) \$50.00 / (Non-Residents) \$70.00</i>
Baseball Registration .....	<i>(Residents) \$50.00 / (Non-Residents) \$70.00</i>
T-Ball Registration .....	<i>(Residents) \$50.00 / (Non-Residents) \$70.00</i>



## Salary Adjustments for the FY 22-23 Budget

### Public Works

Sanitation Technician: Move from Grade 5 to Grade 8

Sanitation Equipment Operator: Move from Grade 8 to Grade 11

PW Technician (Streets): Move from Grade 7 to Grade 9

Utility Technician: Move from Grade 9 to Grade 12

Public Works Director: Move from Grade 23 to Grade 24

Recycling Attendant: Move to \$15/hour

\*Additional Utility Technician position added in FY 23

### Police Dept

Police Officer: Move from Grade 14 to Grade 15

Sergeant: Move from Grade 16 to Grade 17

Administrative Sergeant: Move from Grade 16 to Grade 17

Captain: Move from Grade 19 to Grade 20

Chief: Move from Grade 24 to Grade 25

### Administration

Account Technician: New position approved in FY 22; Grade 10

Finance Director: Move from Grade 19 to 22

Planning Director: Moved to Grade 21 in April 2022

City Manager: Market Adjustment by Council per Annual Review

\*All other positions to receive 5% COLA and .5%/YOS per below.

### Stormwater

Stormwater and Planning GIS Analyst: New Position in FY 23; Grade 20

**\*Additionally, All positions (both FT and PT) will receive a 5% COLA Adjustment and .5% per Year of Service (consecutive) to the City of Lowell\***



## City Manager's Budget Message FY 2022-2023

May 10, 2022

Lowell Mayor Sandy Railey

Members of Lowell City Council

City of Lowell

North Carolina

Dear Mayor and Council,

### **INTRODUCTION**

In accordance with Chapter 159, Article 3 of the NC General Statutes, the Local Government Budget and Fiscal Control Act, I am pleased to submit the proposed City of Lowell annual budget for Fiscal Year 2022-2023 for your review and consideration. The annual budget is our financial plan that will guide Lowell through the upcoming fiscal year. Under the direction of the Mayor and City Council, staff will implement and manage the new budget in a way that takes advantages of opportunities and prepares the City for future challenges, while maintaining the character of the Lowell that we all appreciate. I would like to thank all of our employees for their hard work in preparing this budget.

Throughout the budget message, I will focus on the major characteristics of this proposed budget as they relate to the Council's FY 22-24 Strategic Vision and Goals. Also, highlighting significant changes between this and the prior year's budget. You all have emphasized the importance of recognizing the value of our human resources (our staff) in this budget by adjusting all compensation levels to that of area averages.

Additionally, by supporting quality economic development that creates jobs and private sector capital investment, you have intentionally prepared the City of Lowell to diversify our tax base to sustain government operations into the future through our provision of local streets, police, water, sewer, stormwater, sanitation, and general administration. Additional support has been devoted to customer service and communications, greenways/trails, parks, recreation programming, and bicycle/pedestrian amenities.

#### **Mission Statement**

*The City of Lowell delivers excellent public services through transparent leadership and community engagement.*



#### **Core Values**

*Integrity, Inclusiveness, Transparency, Fairness, Accountability, & Compassion*

This budget was prepared with input from city staff, citizen advisory boards, and the City Council. Two budget retreats were completed in January and February, as well as three budget workshop Council meetings.

**COUNCIL GOALS**

The City Council performed an update to their FY 22-24 Goals during your budget retreats in early 2022. Annual updates are important for staff and Council to understand if any changes are necessary. Below are the updated goals from the 2022 budget retreats.

Current Goals – FY22-FY24	Proposed Refined Goals – FY22-FY24
Continuously Improve and Expand Water and Sewer Infrastructure	Continuously Improve and Expand Water, Sewer, and Stormwater Infrastructure
Continuously Improve and Expand City Streets and Sidewalks	No changes
Develop and Update Public Facilities	No changes
Enhance Multi-Generational Parks and Recreational Activities	No changes
Develop Land Use Master Plans for Undeveloped Areas	Develop Land Use Master Plans for Targeted Areas

This proposed budget for Fiscal Year 2022-2023 funds initiatives that implement the City Council’s goals and objectives. Funding is included to develop a land use master plan for downtown Lowell; to develop a master plan that can steer the City’s redevelopment investments and open the door to recreation matching grants for existing city park facilities at Harold Rankin and Bob Bolick parks, to design the first Lowell Greenway connection from the existing Carolina Thread Trailhead to Poston Park hiking/biking trails, provide community events for all ages, continue efforts to develop the river front park at the former dye plant for a new public works facility and additional recreation amenities; to complete needed repairs and improvements at the wastewater treatment plant, to invest in sewer collection infrastructure repairs, conduct engineering feasibility studies to expand water/sewer infrastructure, addition of a staff member to the water/sewer department to assist in the repairs to the collection and distribution infrastructure, addition of a utility billing employee to provide excellent customer service for utilities; to comply with our State of NC MS4 Stormwater permit by adding a staff member to begin the required mapping of our stormwater infrastructure so we can methodically prioritize repairs while meeting our MS4 permit requirements; and provide additional funding for sidewalk repairs. This proposed budget does this, in part, by utilizing a portion of ARPA funds for salaries in relevant departments and maintains the property tax rate the same as the current fiscal year.

**AMERICAN RESCUE PLAN ACT (ARPA)**

The American Recovery Plan Act (ARPA) has provided a once in a generation opportunity for the City of Lowell to make improvements that would otherwise only be attainable with a tax

**Mission Statement**  
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**Core Values**  
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increase or other substantial fee increases. This \$1.9 trillion economic stimulus bill was passed by the U.S. Congress in March of 2021. Lowell will receive \$1,184,279.70 in total, with the first payment of \$592,139.85 received in June of 2021 and the second payment of \$592,139.85 to be received no more than one year later. The City Council has opted to select the revenue replacement option and the standard allowance provision of the legislation, which allows a little more flexibility in federal reporting and spending. The Council has adopted a preliminary ARPA Grant Project Ordinance that allocated approximately half of the funds to the salaries for the following departments: Police (\$609,279.70), General Administration (\$315,000), Parks and Recreation (\$20,000), and Public Works-Streets (\$40,000). Projects that are being made possible by this funding being used for department salaries, which include, the Harold Rankin Park and Bob Bolick Park master plan, city wayfinding signage, Downtown master plan, city hall renovations for additional staff positions, water and sewer engineering, and pedestrian safety measures for the first Lowell Greenway project.

### **STATE BUDGET GRANT (SCIF GRANT)**

During the adoption of the State of North Carolina’s annual budget in November 2021, the City of Lowell received a \$2 million direct appropriation for the Riverfront Park and Public Works Facility at the former Crompton and Knowles Dye Plant located at 1602 N. Main Street. These funds will assist the City to demolish the buildings on the site and allow for preliminary construction services to be administered. This project will clean up an eyesore to the community and address environmental issues while simultaneously providing recreation amenities and a new location for the Lowell Public Works facility.

### **FISCAL SUMMARY**

#### **General Fund**

The City of Lowell’s fiscal position is positive due to conservative fiscal management and strict adherence to the Fiscal Policy. With the approved residential and commercial developments that have occurred during FY21 and FY22, there is much promise of resiliency in future revenues. Over the last three years the City has accomplished a number of strategic goals, all while increasing the City’s General Fund Unobligated Fund balance to a healthy level. The current unobligated fund balance increased from \$1,275,706 to \$1,774,444 which equates to 72.3% (up 21.2% since 2020) of the annual operating expenses for the City. In accordance with the Council’s Strategic Vision to update and develop public facilities, you agreed to establish a Capital Reserve Fund for additional funds beyond 50% of the General Fund Unobligated Balance. This will allow the City to build necessary reserves for a future city hall and police department building, as well as other capital infrastructure needs. Overall, maintaining a strong fund balance allows for fiscal resiliency that is needed to withstand uncertainty. This is an indicator that the City is in much better position to deal with unexpected needs that may arise such as the aftermath of the Covid-19 pandemic, inflation, and infrastructure needs.

The City continues to be aggressive in seeking grant funding and will continue to do so. In this upcoming fiscal year, the City will continue to administer two Community Development Block Grants (CDBG) awarded to the City in the first quarter of 2019. One grant for \$750,000 will

**Mission Statement**  
*The City of Lowell delivers excellent public services through transparent leadership and community engagement.*



**Core Values**  
*Integrity, Inclusiveness, Transparency, Fairness, Accountability, & Compassion*

fund home repairs for low/moderate income qualified applicants while \$155,000 will fund repairs to our Community Center with a city match from the Gaston County Township Grant. Part-F grant funding will be pursued after the Parks and Recreation Master Plan is completed this upcoming year.

### **Water/Sewer Fund**

The sustainability of the Water and Sewer Enterprise Fund has been a major focus of the City Council. This self-sufficient fund may not be supported by tax dollars but by user fees. The current unobligated fund balance is \$400,621 (or 27%) of the annual operating expenses. This fund balance will need to continue to grow to handle emergency repairs. It was imperative to develop a plan to address the maintenance and capital improvements necessary to ensure the City can continue to provide water and sewer service to its customers well into the future. In 2022, the City Manager commissioned an update to the 2017 Capital Improvement Plan (CIP). This 10-year plan provides the blueprint to meet our current and future needs while the rate recommendations provide the recommended means to fund the CIP. A System Development Fee (SDF) study was also performed to update our fees as it relates to new development. This is an equitable way to distribute expenses to the water and sewer infrastructure and ensure that new development pays their fair share of system improvements and maintenance.

The other CDBG grant for \$2,000,000 will fund much needed sewer line replacement projects in the City. The sewer line replacements will also reduce Inflow/Infiltration (I&I) that will reduce the burden on the Wastewater Treatment Plant. The City has been awarded a \$150,000 Asset Inventory Assessment (AIA) Water Line Mapping Grant this current fiscal year.

### **Stormwater Fund**

In January 2020, the State of North Carolina Department of Environmental Quality issued the City of Lowell a Notice of Violation regarding our MS4 Stormwater Permit. To avoid costly fines from NCDEQ and the EPA, Lowell was required to submit a Stormwater Management Plan (SWMP) that NCDEQ had a guiding hand in developing, in order to sufficiently address stormwater quality within our city limits. This unfunded mandate from the EPA has led the City to implement a stormwater fee in the FY 21-22 budget. The fee is proposed to remain at \$6.75 per equivalent residential unit (ERU).

### **LONG-TERM DEBT**

The City's total long-term debt across both major funds increased from \$713,167 last fiscal year to \$1,061,549. This remains an extremely low debt service number and equates to about \$289 per person in the City. The City will utilize some of this debt capacity this fiscal year for needed capital items with long useful lives. The city's great fiscal standing and bond rating permit low interest rates. The use of debt financing for capital or infrastructure projects is justified by the benefits received principle meaning that capital expenditures that will provide benefit over many years will benefit future users as well as current tax payers, so the cost of the public investment should be borne by both. Using a portion of a tax payers dollars to pay off the debt for the capital expense is one way to ensure that future tax payers bear their fair share of the cost. A list of capital projects is included in the budget document.

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#### **Core Values**

*Integrity, Inclusiveness, Transparency, Fairness, Accountability, & Compassion*

## REVENUE-GENERAL FUND

The General Fund consists of most of the traditional governmental functions of the City of Lowell, such as police, administration, sanitation, public works, and parks and recreation. The proposed General Fund Revenue for FY22-23 totals \$3,254,386, which is approximately a 11.719% increase from the current fiscal year.

The largest revenue source within the General Fund is Ad Valorem Taxes. The assessed value of all personal property values totals \$ 321,551,145 (a 1.01% increase from current FY) equating the total Ad Valorem Tax levy to \$ 1,559,845 based on our current tax rate of .49 cents per \$100 of evaluation. This assumes a collection rate of 99%. This is the revenue source that you (the Council) have complete control over. Other revenues are controlled by the NC General Assembly or the Gaston County Board of Commissioners. Ad Valorem revenues account for 47.93% of total revenue.

Local sales tax has grown at rates not seen before in the FY 21-22 budget. This revenue accounts for \$650,000 (or 19.97%) of general fund revenues and is expected to increase by 21.49% from the current fiscal year.

Staff is recommending a \$4.30 increase in the sanitation fee for residential customers and a \$7 increase for commercial customers. This will increase the current fee of \$7.70 to \$12.00 for residential. Secondary containers are recommended to increase .30 to \$8.00 for residential customers. The recommended increase for commercial customers will increase from \$15.00 to \$22.00 for both primary and secondary containers. This recommended fee increase will provide \$239,000 in revenue, or 71.5%, of the expenses for the sanitation department, which includes the staffed recycling center. In the current FY, this revenue accounted for 57.45% of sanitation expenses. This increase accounts for increased costs in personnel, materials, and fuel.

The vehicle license tax of \$10 per vehicle also remains the same in this budget. This revenue is dedicated to repairing and resurfacing our city streets and general government use. \$5.00 will be used for General purpose. \$5.00 of the tax levied will be used for maintaining, repairing, constructing, reconstructing, widening, or improving public streets in the city that do not form a part of the State highway system. This revenue supplements the \$88,000 that the City receives in Powell Bill funding from the State of North Carolina. Powell Bill funding is the City's portion of the state gasoline tax, and it is dedicated to transportation improvements such as street resurfacing and sidewalk repair.

### Mission Statement

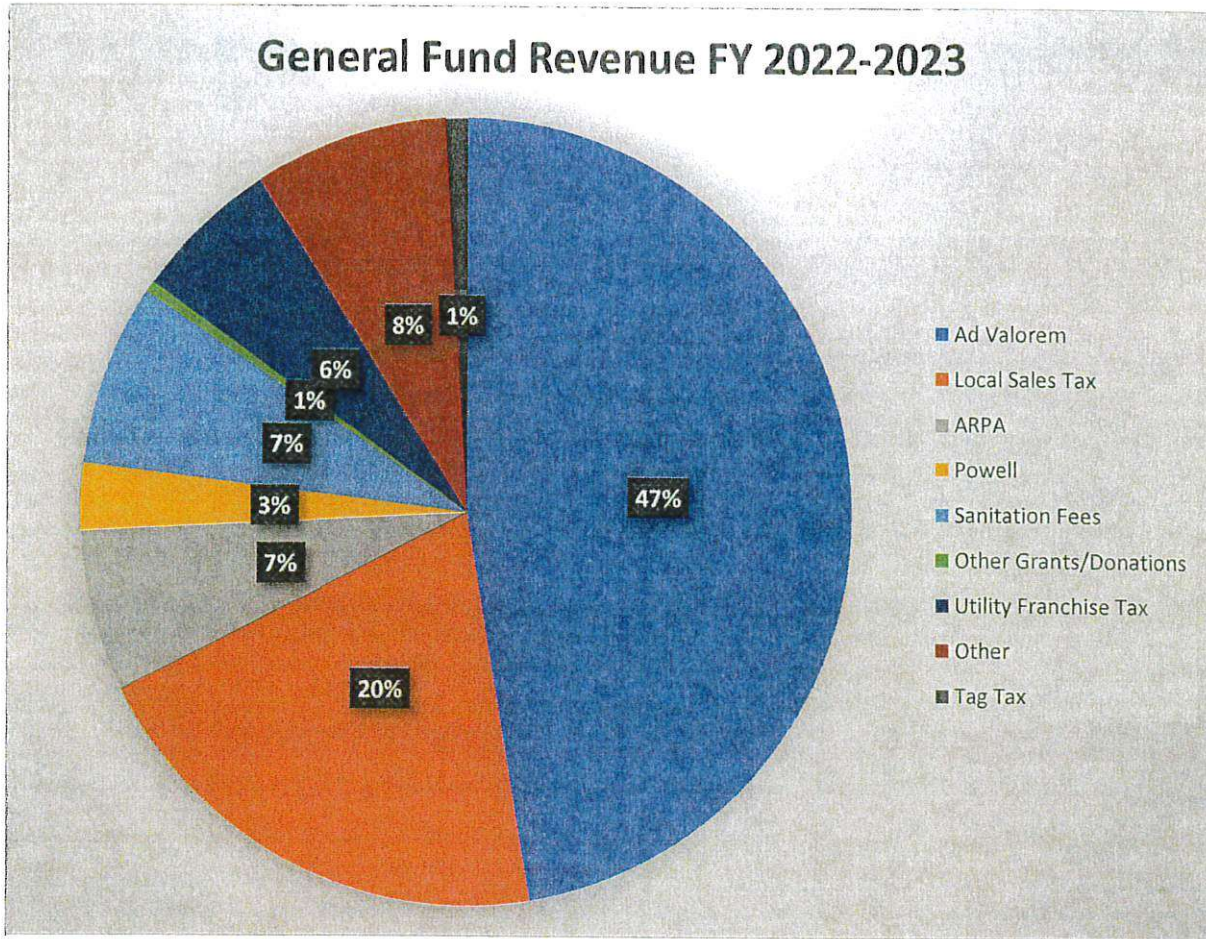
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Please see the graph below for sources of revenue within the General Fund:



### EXPENDITURES–DEPARTMENT HIGHLIGHTS

*The City of Lowell delivers excellent public services through transparent leadership and community engagement.* In order to retain great employees, the City of Lowell has surveyed neighboring municipalities to compare employee salaries. Formerly, a salary study was conducted in May of 2021 and implemented in the FY 21-22 budget, but afterwards many other neighboring municipalities conducted studies which raised the rates of pay much above Lowell. The current analysis found that Lowell was deficient in compensating their employees across all departments. This has resulted in expensive turnover from staff leaving for increased pay elsewhere and department heads have been faced with vacancies or costly training for new hires. The Council has emphasized the need to study nearby salaries to ensure we are paying competitively. It is important for the City of Lowell to invest in their staff who work tirelessly to deliver excellent public services to Lowell residents. The proposed budget contains a 17.767% increase in the overall (not each) expenditure of existing employee salaries. The cost to implement this recommended increase is \$230,354.25. The three new positions have not been

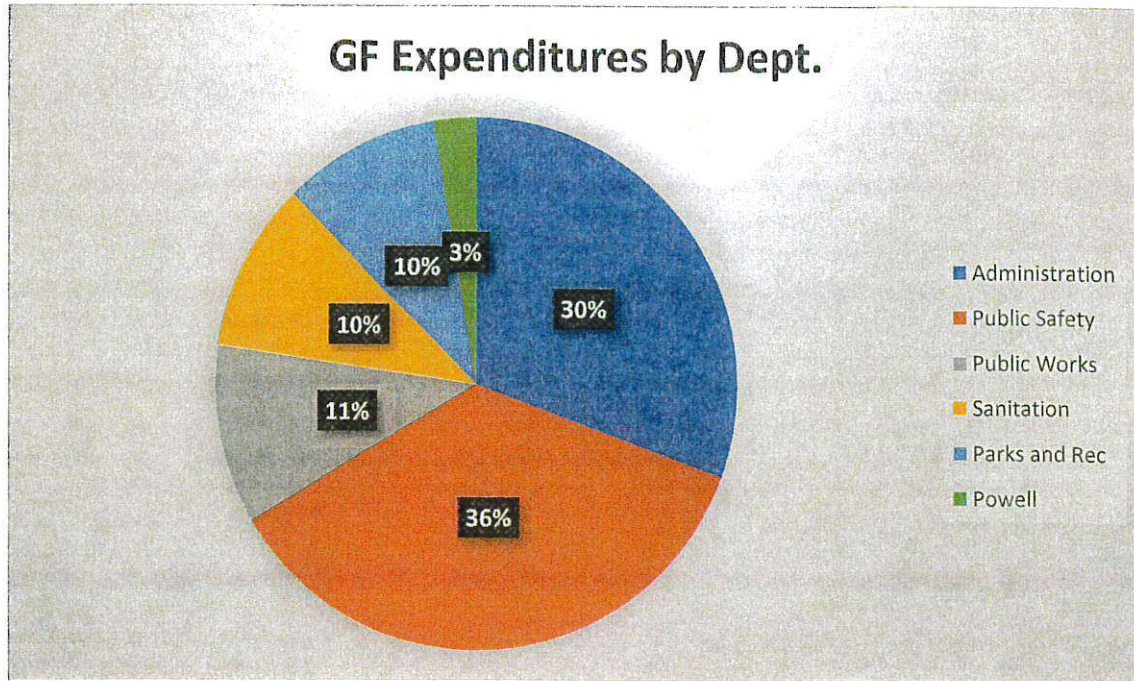
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included in this calculation. The specific adjustments to salary levels are included as an attachment.

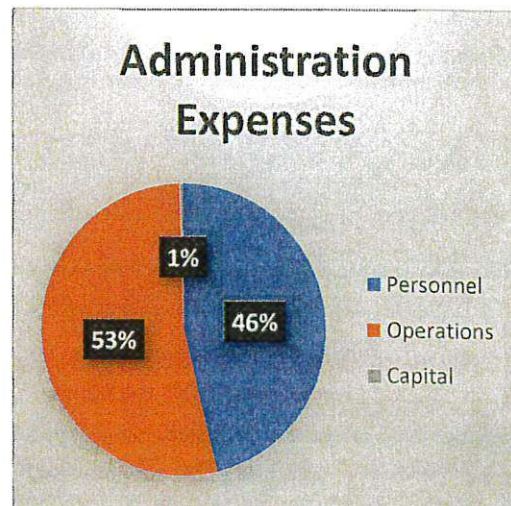
The NC State Retirement System increased the City’s contribution percentage. The City will see an increase of .75% in retirement expenses for the non-police salaries and 1.00% for police salaries. This increase will cost the city an additional \$14,177 this fiscal year.



**Administration**

Administration encompasses a wide range of activities including Council expenses, Manager, Finance, Human Resources, Planning, Beautification and other general expenses.

Personnel	\$447,943
Operations	\$515,407
Capital	\$4,000
<b>Total</b>	<b>\$967,349</b>



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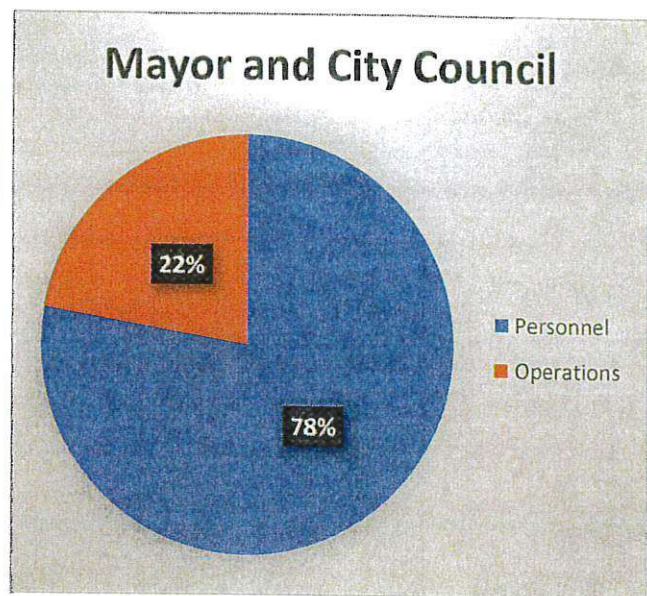
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Administration accounts for approximately 31% of General Fund expenditures in the proposed budget. Administration expenses are projected to increase by 47.94% from the current fiscal year due to several factors. The above percentage of increase controls for the expected use of ARPA funds within this department. The addition of the Stormwater GIS position (30% Admin.) and the addition of the Account Tech position (30% Admin.), increased professional services for legal services, increased employee training, new city website, permitting software and land use software, and additional computer equipment/utilities/supplies for additional employees are responsible for the increase. The Planning Board consists of all new members that will need extensive training to assume their new roles and that training is budgeted for in the proposed FY 22-23 budget. A vehicle for code enforcement and zoning inspections has been budgeted for in this budget. This capital expense is also split with the stormwater department.

The graph below has separated Council salaries and Council training expenses from the above expenditures.

**Administration – Elected Officials**

Personnel	\$22,800
Operations	\$6,500
Total	\$29,300



Staff performed a study of nearby elected official salaries which resulted in an average monthly salary of \$391/month for Councilmember positions and \$534.16/month for Mayor positions. The proposed budget includes \$300/month for Councilmember positions and \$400/month for the Mayor position. Important to note that this remains well under the average monthly salary amount.

**Public Safety**

Public safety makes up over one-third of the Lowell fiscal year budget at 36%. There is a notable decrease of 12.872% in the recommended department’s expenditures which has resulted from the City of Lowell’s Resolution to enable Gaston County to levy a universal fire tax within the municipal limits of Lowell for fire protection. This results in Gaston County directly

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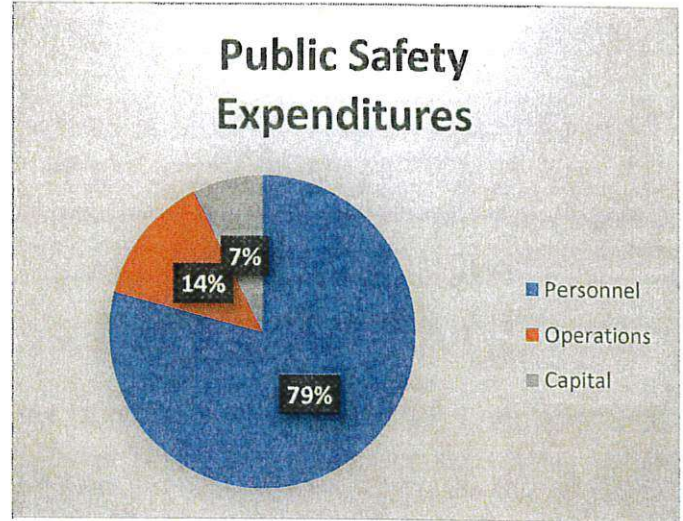


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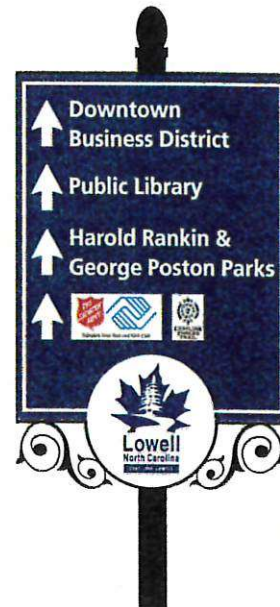
contracting with the Lowell Volunteer Fire Department, which is not a City department. This new Gaston County Fire Tax will fund the Lowell Volunteer Fire Department at an approximate amount of \$340,000 annually, with additional revenues reserved for capital needs across Gaston County.

Personnel	\$921,157
Operations	\$157,053
Fire Dept.	*Removed per new GC Fire Tax District
Capital	\$86,853
Total	\$1,165,063



**Public Works-Streets**

Personnel	\$122,110
Operations	\$216,858
Capital	\$16,245
Total	\$355,212



Public Works-Streets Department indicates a recommended 28.66% increase from the current fiscal year. This department accounts for 11% of General Fund expenditures. Public Works provides a variety of services that meet the needs of our citizens every day from streets to grass maintenance. Certain incidental stormwater compliance/maintenance activities were previously conducted in this department. With the addition of the Stormwater Utility Enterprise Fund, allocations of certain supplies/materials, some percentages of capital outlay, and a percentage of salaries have been appropriately attributed to the SW Enterprise Fund. This has reduced the

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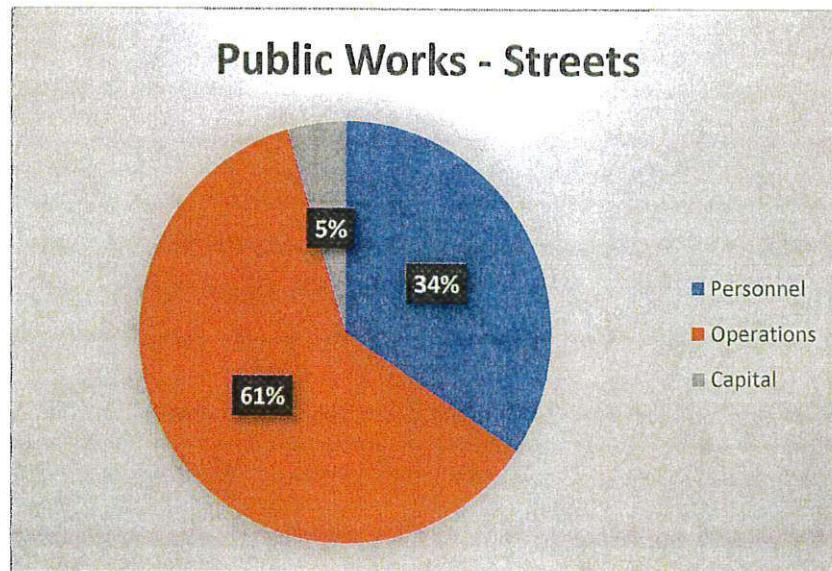
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impact to GF revenues from stormwater matters. A new mower is needed to continue to maintain city properties and right-of-way mowing. Wayfinding signage and greenway pedestrian safety infrastructure is included in this department and made possible by ARPA funding being allocated to salaries. Other increases to this department resulted from salary increases from the salary analysis.



### Sanitation

Personnel	\$162,248
Operations	\$138,270
Capital	\$33,683
<b>Total</b>	<b>\$ 334,201</b>

The Sanitation Department accounts for 10% of General Fund expenditures. The proposed FY 22-23 budget for Sanitation is partially supported by fees (71.5%) with the remainder supported by tax dollars. As stated above, an increase of \$4.30 for residential primary containers is recommended with a .30 increase for secondary containers. A \$7 increase in all commercial containers is recommended. Increased operations costs and personnel increases have resulted in the need for additional revenues. A 26.33% increase in expenditures is represented in the proposed FY 22-23 sanitation budget. The staffed recycling center continues to be a huge success and has become a model to neighboring municipalities as curbside recycling programs have become too costly due to excessive contamination. Funding is included that will enable to the City to pour a concrete pad for better access to the recycling center. Lowell continues to be a zero-contamination recycling site and a great service to our residents.

#### Mission Statement

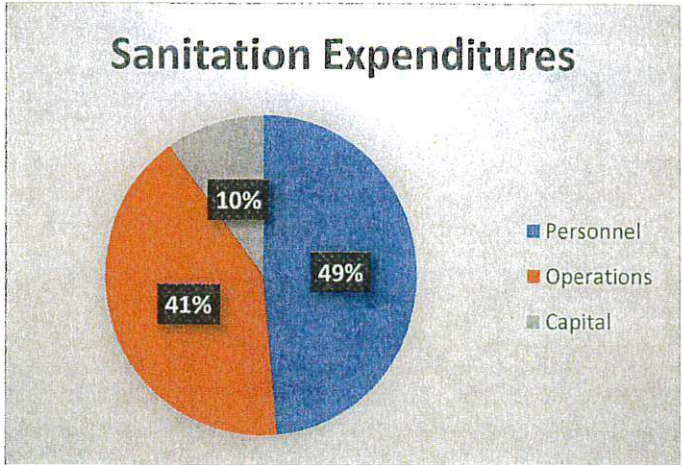
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**Parks and Recreation**

Personnel	\$71,850
Operations	\$237,860
Capital	\$5,550
<b>Total</b>	<b>\$315,260</b>

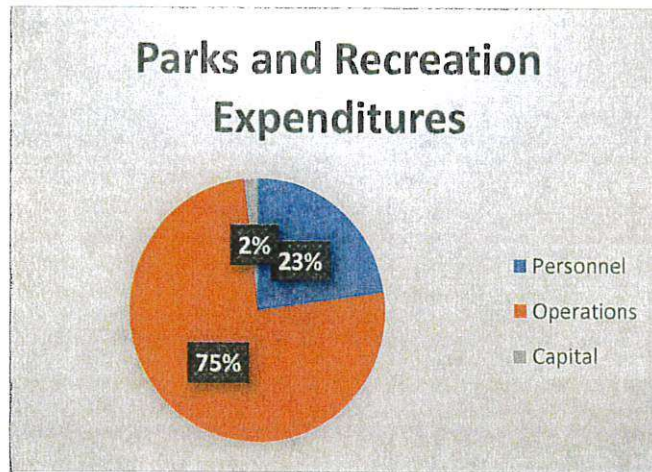


Parks and Recreation is much more than athletics and the department has grown to provide a broad range of offerings to increase the quality of life for our residents. Parks and recreation is essential to create a sense of place and community people so commonly desire. The proposed FY 22-23 budget includes 11% of all General Fund expenditures for the Parks and Recreation Department. Formerly, the largest expense in operations has been special events, with one annual event. Covid-19 has caused Lowell to pivot from one large event, to offering numerous events throughout the year for our residents to enjoy. The City Council agrees with continuing this approach of program provision. Funds have been allocated to this department for remodeling work at the Lowell Community Center. This funding will be in addition to the CDBG-NR funding as stated above. Additional funds have also been allocated for the downtown McCord Family Park project, Harold Rankin Bathroom repairs and converting the basketball court at Harold Rankin into a pickleball court. These opportunities will focus on two (2) important goals of the City Council; *(1) Develop and Update Public Facilities (2) Enhance Multi-Generational Parks and Recreational Activities*

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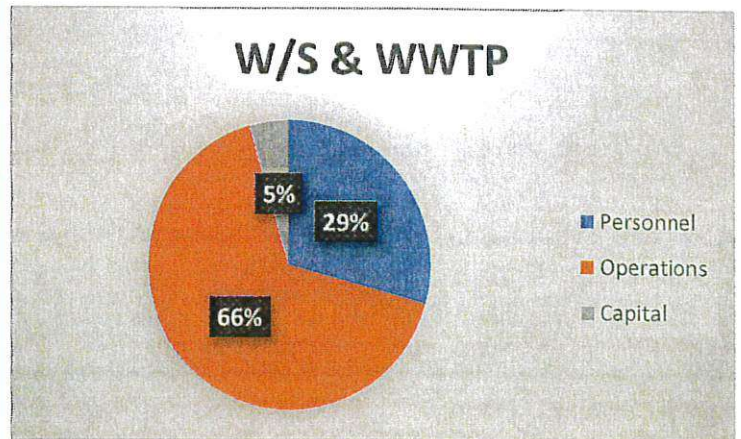
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### Water and Sewer Fund

**Continuously Improve and Expand Water, Sewer and Stormwater Infrastructure** The proposed FY 22-23 budget contains a 22.496% increase from the last fiscal year. An additional utility technician has been budgeted for, a second accounting technician/utility billing employee (55% to W/S), and a portion (20% to W/S) of the GIS position that will assist with water and sewer mapping and inventory. An update to the 2017 CIP was completed in 2022 which lays out 10 years of maintenance and projects needed to keep the Water and Sewer Fund functioning appropriately. To cover rising costs, Two Rivers increase of 5% for water supply, and to meet the demands of the Capital Improvement Plan a 18% increase in water and 18% increase in sewer rates is recommended per the updated CIP.

<b>Water and Sewer</b>	
Personnel	\$442,620
Operations	\$804,919
Capital	\$65,683
<b>Sub-Total</b>	<b>\$1,313,222</b>
<b>Waste Water Treatment</b>	
Personnel	\$55,180
Operations	\$318,267
Capital	\$9,413
<b>Sub-Total</b>	<b>\$382,860</b>
<b>Total</b>	<b>\$1,696,082.25</b>



The City of Lowell's current rates, even after recent rates increases in all of the last four fiscal years, and the recommended 18% increase, are below the median rate in the State of North Carolina. On the following page is a diagram that compares Lowell's average water and sewer bill against all other cities within North Carolina. This comparison takes into account the recommended 18% increases.

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**Stormwater Fund**

Personnel	\$252,861
Operations	\$96,995
Capital	\$40,862
Total	\$ 392,919

**Continuously Improve and Expand Water, Sewer, and Stormwater Infrastructure**

A Stormwater Utility was adopted in the FY 21-22 budget in order to create a sustainable revenue stream for the requirements of Lowell’s MS4 Stormwater Permit. The National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Program is mandated under the federal Clean Water Act. An NPDES MS4 permit is required for every MS4 owner or operator that has jurisdiction in a U.S. Census Bureau

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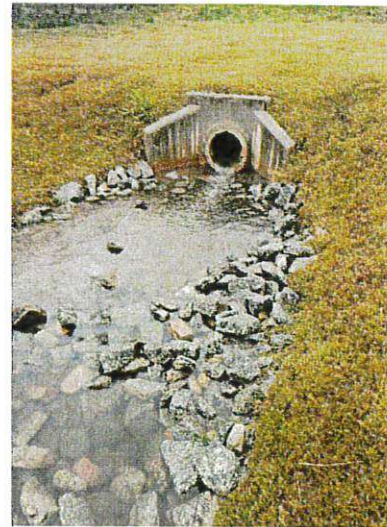
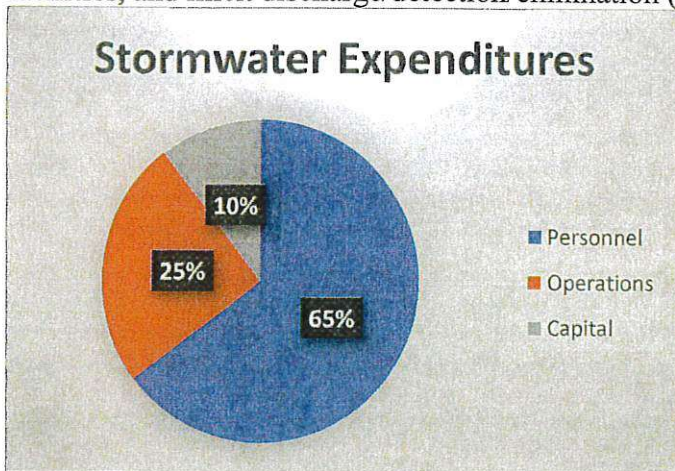


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designated Urbanized Area. The City of Lowell is one of those areas. The Stormwater Department was formerly housed in the General Fund where it was minimally funded. It was not until the FY 20/21 Budget that stormwater expenses were shown in the budget as a separate department. This was prefaced by an audit of the City of Lowell's stormwater program in October of 2019 that resulted in a Notice of Violation from NCDEQ. Staff worked tirelessly on a way to resolve the violation and NCDEQ has accepted the City of Lowell's Stormwater Management Plan as of April 7, 2021. This is a 5-year plan that coincides with the 5-year MS4 permit. It provides a roadmap of how the City intends to address stormwater as it relates to public education, public involvement, illicit discharge and detection, construction site runoff control program, post construction site runoff controls, and good housekeeping and pollution prevention. The City hired Withers Ravenel to conduct a fee study and financial analysis of the required revenues for Lowell's stormwater program. The adopted fee is \$6.75/month for all residential customers and \$6.75/month per 2,827 square feet of impervious surface for all non-residential customers. This methodology is the most widely used fee structure in the state of North Carolina.

To provide the necessary mapping of all City stormwater infrastructure, a new GIS position has been budgeted for in the proposed FY 22-23 budget. This position will predominantly be a stormwater role (50% SW, 20% W/S, 30% Admin). Interns have also been budgeted for to assist this position with canvassing the City for this mapping requirement. Additional MS4 requirements will be administered by this employee as well.

The Stormwater Fund is expected to grow 16.276% from the current year budget due to growth and requirements of the 5 year Stormwater Management Plan (SWMP) that the State has charged the City of Lowell to enforce. These requirements include mapping, public education and outreach, pre and post construction inspections and controls, proper housekeeping at city facilities, and illicit discharge/detection/elimination (IDDE).



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## CAPITAL EXPENDITURES

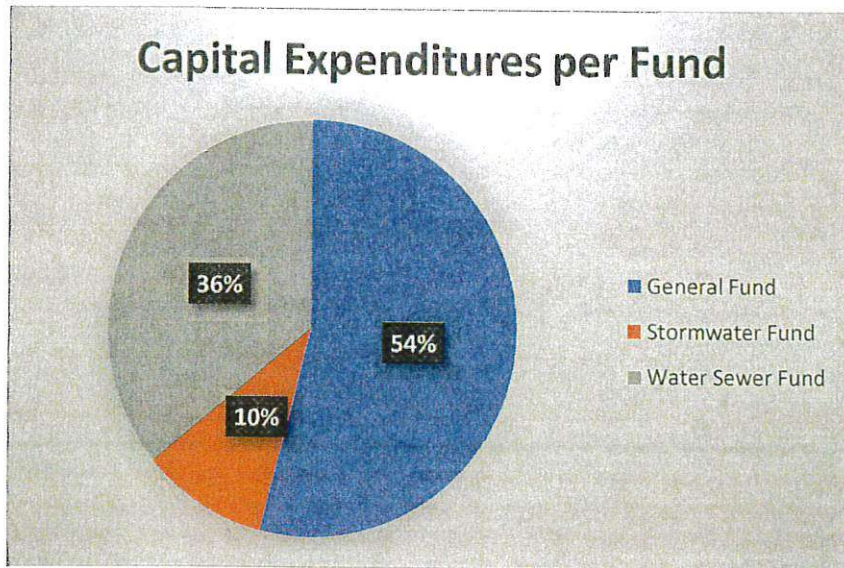
New or expanded expenditures are carefully evaluated and need to be viewed as an investment to the City of Lowell. We must ask ourselves, is this the best use of scarce resources? Can we do it another way? Are we willing to decrease service delivery to offset the lack of equipment? Staff will continue to provide an excellent level of service with the addition of needed capital investments.

The total of all capital needs is \$106,132.31 in the proposed FY 2022-2023 Budget. The General Fund Accounts for \$57,512.62 (54%), the Stormwater Fund accounts for \$10,419.69 (10%), and the Water/Sewer Fund accounts for \$38,200 (36%) of the proposed capital expenditures.

Within the General Fund, there are needs of a vehicle for parks and recreation and a vehicle for planning, zoning, and code enforcement totaling \$42,512.62. This will account for 70% of the debt service of the vehicle, while the other 30% will be funded by the Stormwater Department. The Parks and Recreation vehicle will be funded 100% from the General Fund. There is also \$15,000 recommended for a new mower in the Public Works-Streets Department.

The Water and Sewer Fund contains capital recommendations for various tools and equipment that are partly attributed to efficiency, but more importantly, employee safety measures. These tools and equipment total \$38,200 and are listed in detail in the attached FY 22-23 Budget.

The Stormwater Fund contains the 30% allocation of the above references vehicle and 50% of an air hammer tool that is shared with the Water and Sewer Fund.



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## CONCLUSION

In closing, the recommendations contained in the Fiscal Year 2022-2023 Proposed Budget reflects the FY 22-24 Strategic Vision and Goals of the Lowell City Council by continuing to invest in our human capital, meet the needs of a growing municipality, and improve the quality of life of the citizens of Lowell.

Staff's efforts will continue to meet the challenges that lie ahead and do so in a way that supports the Mayor and City Council's approved Strategic Vision and Goals. I want to personally thank you for your dedication to bettering the lives of the citizens of Lowell.

Respectfully submitted,



Scott Attaway

City Manager

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## AGENDA ITEM INFORMATION

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**AGENDA ITEM #:** 8-D

**DESCRIPTION:** CLARIFICATION ON PUBLIC HEARING FOR SYSTEM DEVELOPMENT FEE (SDF) UPDATE PER SDF STUDY COMPLETED BY WILLDAN FINANCIAL SERVICES

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There may have been confusion during the May 10, 2022 Council meeting and minutes show the incorrect date set for the Public Hearing on the System Development Fee update. The minutes reflect June 22, 2022 instead of June 21, 2022. This is for clarification that the public hearing is scheduled for June 21, 2022 at 6:00 p.m. as legally advertised.

Action Needed: Revise and Clarify Set Public Hearing for June 21, 2022 at 6:00 p.m.

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## AGENDA ITEM INFORMATION

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**AGENDA ITEM #:** 9-A

**DESCRIPTION:** SET PUBLIC HEARING FOR CONSIDERATION OF  
ECONOMIC DEVELOPMENT AGREEMENT FOR PROJECT  
HEARTH PURSUANT TO 160D-1001

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Project "Hearth", Building #3 within the NorthPoint Development has applied for a Level 4 Economic Development Investment Grant from the City of Lowell, The City of Gastonia, and Gaston County.

Background: For the past twenty years, a joint effort has been made to study and plan for development of the property owned by the Lineberger family north of I-85 that is within the Cities of Lowell and Gastonia. The property's location adjacent to I-85 makes it ideal for commercial development. Project HEARTH plans to invest a minimum total of \$135 million in Building #3. Project HEARTH will result in the creation of new jobs within Lowell, promote business, increase the tax base, and stimulate and stabilize the local economy. Project HEARTH is eligible for a Level Four Investment Grant. This grant will mirror the grant schedule provided by Gaston County and City of Gastonia. The development agreement will be negotiated by the Manager and the City Attorney based on the approved program.

Staff recommends approval of the Economic Development Investment Grant Agreement.



**NORTH CAROLINA  
GASTON COUNTY**

**ECONOMIC DEVELOPMENT  
AGREEMENT**

This ECONOMIC DEVELOPMENT AGREEMENT dated as of the \_\_\_\_ day of June 2022, is entered into by and between GASTON COUNTY, a political subdivision of the State of North Carolina (the "County"), the CITY OF LOWELL, a municipal corporation of the State of North Carolina (the "City") and Project Hearth, a Delaware limited liability company authorized to do business in the State of North Carolina (the "Company").

**WITNESSETH:**

WHEREAS, the Company proposes to lease, construct, equip and occupy a facility in the Gateway 85 Park located in Gaston County, North Carolina, ("Property"), so that the Company can establish a logistics facility (the "Facility") at a cost of approximately \$135 million dollars of investment in land, building and equipment by the Company in consideration of certain incentives to be provided to the Company by the County and the City, and other inducements, all as more fully described herein; and

WHEREAS, pursuant to the Local development Act of 1925, North Carolina General Statutes §158-7.1, and the County's and City's policies on economic development incentive grants, the County and City have determined, after each having conducted a public hearing thereon, to provide certain incentives to the Company as more particularly described herein, in order to to induce the Company to complete construction of the Facility and certain other improvements upon the Property, to locate certain equipment upon the Property, and to provide certain high quality jobs at the Facility; and

WHEREAS, N.C. Gen. Stat. §160D-1001 (2021) authorizes the City to enter into Development Agreements, subject to the procedures and limitations as provided by Article 10 of Chapter 160D for various purposes which include but are not limited to creating community opportunities; promoting long term-commitment of private and public resources and capital; and carefully coordinating the planning, financing and construction of developments; and, further, as set forth in the provisions of N.C. Gen. Stat. §160D-1001 through §160D-1012, such above-referenced procedures and limitations include approval of the development agreement by the governing body of the local government by Ordinance after a duly noticed public hearing; and

WHEREAS, the parties desire hereby to document their respective commitments, and, to the fullest extent permitted by North Carolina law, contractually bind them thereto; and

WHEREAS, it is anticipated that the Company's capital investment in and at the Property and its operations thereat will generate (i) significant ad valorem tax, sales tax and other revenues to the County; (ii) ad valorem tax, sales franchise/excise/and/or fees; (iii) an increase in commercial activity through new construction; (iv) new jobs for City residents at a minimum wage rate as described herein; and (v) a process or plan for maximizing private investment in the Property and surrounding parcels; all of which revenue sources and benefits constitute a material part of the financial basis for the County and City entering into this Agreement; and

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the parties agree, and contract as follows:

1. **The Facility.** The Company proposes to lease the Property (as more specifically defined and describe on Exhibit 2 attached hereto) and complete construction of the Facility and other improvements and locate and maintain upon the Property equipment and other personal property, representing a combined investment of not less than **\$135,000,000**. The Company currently expects to complete upfitting of the Facility not later than five (5) years after the occupancy of the Property. The County's lawfully-appointed tax assessor, finance officer or finance director and other duly authorized and designated County officials charged with carrying out this Agreement on behalf of the County and City and having a need to know shall have the right to examine Company's records at the location where such records are customarily kept from time to time on reasonable notice and at reasonable times as may be necessary to verify Company's investments in the Facility to include machinery & equipment. Subject to the provisions of Subsection 10(a) below, the Company's failure to make any specified investment or operate the Facility for a specified period shall not (i) constitute a default hereunder nor result in any obligation to repay or reimburse any annual grant payment made hereunder or (ii) constitute a covenant or condition broken whereupon the County and City shall be relieved of their obligations to convey the Property to the Company or make any grant payment identified in Section 3 or Section 4 below or provide any other inducement described herein.

2. **Grants.**

**Gaston County/City of Gastonia Incentive Grant**

Based upon the Company establishing a logistics facility and subject to performance by the Company of the terms and conditions of this Agreement, the County and City will pay to Company a standard Level IV grant from any lawfully available funds not otherwise restricted, for a period of ten (10) consecutive years starting with the County's fiscal year ending **June 30, 2023 or 2024**, annual economic development

incentive grants (each a “Grant”). For purposes of convenience only in quantifying the benefit to the County and City, the amount of each annual Grant shall be measured by and equal to the applicable percentage set out below of the ad valorem taxes actually paid by the Company to the County and the City, as the case may be, on the assessed tax value of the Facility according to the Company’s “Business Personal Property” and “Real Property and Personal Property” listings as filed for the Facility and the Property for the corresponding period.<sup>1</sup> As pursuant to County’s and City’s published guidelines describing their respective Investment Grant Programs (see **Exhibit 1** herein), Company will be expected to complete a grant application no later than **April 15, 2024**, being the year following the Company’s selected calendar base-year initiating its incentive grant term with County and City. **County and City confirm that Company has at its sole discretion made the decision to file its grant application initiating its grant base-year term either by April 15, 2023 (for calendar year 2022) or by April 15, 2024 (for calendar year 2023).**

**TABLE A**

<b>Applicable Percentage</b>	<b>Based on Facility and Property Assessed Value as of 202__</b>
85%	2023
85%	2024
85%	2025
85%	2026
85%	2027
70%	2028
70%	2029
70%	2030
70%	2031
70%	2032

**3. Additional grants and inducements.** The City and County additionally agree to provide the following grants and inducements to Company from lawfully available funds not otherwise restricted for the applicable project costs as set forth in this section 3 and expressly incorporated herein by reference.

<sup>1</sup> The Real Property Investment Grant shall be paid only to the entity responsible for paying the real property taxes, as determined by the County’s lawfully appointed tax assessor or other designated officials, Company, and any Landlord or property owner, it being the expressed intention of the Parties that the total Investment Grant applicable to the real property shall not exceed the applicable percentage of Real Property Assessed Value as set forth in Table 2-A.

(i) Business Retention and Expansion Program

The County EDC agrees to provide a central point-of-contact for any future expansions contemplated by Company involving existing industry issues which might need to be addressed on Company's behalf. This would include but not be limited to training, incumbent worker programs, utility upgrades and vendor support. The County EDC's Existing Industry Coordinator shall be designated as the initial point of contact. Once the Company's Facility is established, the County's Existing Industry Coordinator agrees to conduct periodic visits to the plant to ensure that the Company's expectations of local and State support have been met.

(ii) Project Coordination

The County also agrees to provide the following assistance to Company:

(a) **Permitting:** Upon project announcement, a designee from the County EDC and the City will assemble a project team to meet with the Company's design and construction administration team at a location and time of Company's choice.

(b) **Recruitment and Training:** The County shall cause a designee from the County EDC to facilitate meetings between Company, the North Carolina Employment Services Division, Gaston County Workforce Development Board, and the North Carolina Community College System to initiate the activities of recruitment and training of employees on behalf of the Company. These activities are standard State of North Carolina programs administered and delivered by local agencies.

4. **Conditions.** During each of the years that the Company is eligible for incentive Grants, the Grants for each year will be paid to Company in accordance with the schedule set forth in Section 2 Table A. The County and City will only be obligated to make incentive Grants for a given year if the Company is then current in its payments of all taxes, and only after the Company has made its ad valorem tax payments to the County and City for the year for which incentive Grants are payable under this Agreement, and the Company has paid and complied with its other obligations and duties to the County and City set forth herein. The payment of all taxes due the County and City as a condition to eligibility for Grants in any year during the Grant term is a material condition of this Agreement and shall not be construed as implying or suggesting that the County or City is reimbursing to the Company any or all of any annual ad valorem taxes collected from the Company. Additionally, Company shall not be entitled to receive Grants for any year after completion of the Facility during which the Company fails to operate the Facility. For the purposes of determining whether the Facility has been operated during any given year, temporary interruptions in operations necessitated by inclement weather,

utility disruptions, repairs, replacements, and ordinary and necessary service shall be disregarded in accordance with the force majeure provisions of Section 9.

5. **No Pledge of Faith and Credit.** No provision of this Agreement shall be construed or interpreted as creating a pledge of the faith and credit of the County or City within the meaning of any constitutional debt limitation. The parties acknowledge that the scope, term and duration hereof are in all events reasonable. No provision of this Agreement shall be construed or interpreted as delegating governmental powers or as a donation or a lending of the credit of the County or City within the meaning of the North Carolina Constitution. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of the County's or City's moneys. To the extent of any conflict between this Section and any other provision of this Agreement, this Section shall take priority.

6. **Assignment.**

(a) Except as provided in the following provisions of this Section 6 or otherwise set forth in this Agreement, no party shall assign its rights hereunder.

(b) Notwithstanding the foregoing, the Company may assign its rights hereunder to any entity that it controls, that controls the Company or that is under the common control of another with the Company.

(c) Nothing in the foregoing shall be interpreted or construed to prohibit the Company (or any permitted assignee under Subsection 6(b)) from engaging in a sale-leaseback transaction or using, or permitting the use of, the Property or any portions thereof by or for the benefit of third parties under leases, subleases, licenses, contracts, or other arrangements satisfactory to the Company (or its permitted assignee under Subsection 6(b)) in its sole and absolute discretion. The Company will give the County and City at least 30 days' prior written notice of any assignment hereunder.

7. **Default and Termination.** Except as otherwise provided in this Agreement, in the event of any breach of any terms or conditions of this Agreement, by either Party to this Agreement, or any assignee or successor, such Party shall, upon written notice, proceed immediately to cure or remedy the breach. In the event action is not taken or not diligently pursued, or the breach not cured or remedied within a reasonable time, the aggrieved Party may by written Notice terminate this Agreement and all further liability hereunder, or in the alternative may institute proceedings necessary or desirable in its opinion to cure and remedy the breach, including, but not limited to, proceedings to compel specific performance by the Party in default or breach of its obligations.

8. **Disclaimers.** The Company acknowledges that neither the County nor City has designed the Facility, neither the County nor City has supplied any plans or specifications with respect thereto, and neither the City nor the County: (a) is a manufacturer of, or dealer in, any of the component parts of the Facility or similar

facilities: (b) made any recommendation, given any advice or taken any other action with respect to (1) the choice of any supplier, vendor or designer of, or any other contractor with respect to, the Facility or any component part thereof or any property or rights relating thereto, or (2) any action taken or to be taken with respect to the Facility or any component part thereof or any property or rights relating thereto at any stage of the construction thereof: nor (c) made any warranty or other representation, express or implied, that the Facility or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the results which the Company intends therefor, or (iii) is safe in any manner or respect.

The County and City make no express or implied warranty or representation of any kind whatsoever with respect to the Facility or any component part thereof, including but not limited to any warranty or representation with respect to the merchantability or the fitness or suitability thereof for any purpose, and further including the design or condition thereof; the safety, workmanship, quality or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the Facility's ability to perform any function; or any other characteristic of the Facility; it being agreed that the Company is to bear all risks relating to the Facility, the completion thereof and the transactions contemplated hereby and the Company hereby waives the benefits of any and all implied warranties and representations of the County and City as they may relate to the foregoing. Nothing herein is intended to contradict or make void any warranty or representation made in the land Contract.

The provisions of this Section shall survive the Agreement's termination.

9. **Controlling Law.** This Agreement is entered into pursuant to the laws of the State of North Carolina and shall be construed and enforced thereunder.

10. **Force Majeure.** If by reason of acts of God, floods, storms, insurrection, riots, acts of the public enemy, national catastrophe, inability to obtain materials, or similar unexpected events including, without limitation, supply chain disruption, the Company is unable to complete the construction and related undertakings called for herein, or if same is delayed as a result of such event or events, then the parties hereto agree to extend the time period that the County and City will be obligated to make the payments and provide the incentives described herein to a date to be mutually agreed upon by the parties hereto based upon the gravity and duration of such unexpected event.

11. **Defaults; Remedies; Dispute Resolution and Cooperation.**

(a) In the event of litigation for any alleged breach of this Agreement, exclusive jurisdiction and venue for such litigation shall be in the Superior Court of Gaston

County, North Carolina or the United States District Court for the Western District of North Carolina. The County and City further agree to reasonably assist the Company in its present as well as future applications for any incentives, grants and programs that may be or, alternatively, become available from the County, the City and/or the State, and that the County and City will cooperate with the Company in its defense (should any defense ever be necessary) of this Agreement and/or the incentives granted hereunder, so as to support and in no way undercut same. The Company also agrees to reasonably cooperate with the County, the City and other North Carolina, federal and municipal authorities in any such efforts. In the event that any of the incentives or other agreements of the County or the City are determined to be invalid, the County and City agree that they will, to the extent permitted by law, reasonably provide the Company with any permitted incentives of substantial equal value pursuant to one or more replacement incentive grant programs.

12. **Notices.**

(a) Whenever this Agreement requires or permits any consent, approval, notice, request, proposal, or demand (collectively, "Notice") from one party to another, the Notice must be in writing and shall be effective upon the first to occur of (i) actual receipt by the intended recipient, or (ii) the third (3rd) business day after it is properly deposited in the United States mail via certified mail, return receipt requested.

(b) Each party's address to which such Notices shall be delivered is listed below:

(1) If to Company, to

[REDACTED]

with copies to:

[REDACTED]

[REDACTED]

(2) If to County, to

Gaston County Government Offices  
Attn: County Manager  
P.O. Box 1578  
Gastonia, NC 28053

- (3) If to the City, to  
City of Lowell  
Attn: City Manager  
101 West First Street  
Lowell, NC 28098

(c) Any party entitled to receive a Notice hereunder may change the address which it previously had specified for receiving the same, at any time and from time to time, by delivering a written change notice in accordance with the above provisions to the other parties five (5) business days prior to the effective date of such change.

13. **Non-Business Days.** If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made or act performed or right exercised on or before the next Business Day.

14. **Severability.** If any provision of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction, then (a) such determination shall not invalidate or render unenforceable any other provision of this Agreement; (b) such provision shall be construed as closely as possible to the parties' original intent in order to render such provision valid or enforceable, as applicable; and (c) the remaining terms hereof, together with such reconstructed provision, shall constitute the parties' entire agreement hereof.

15. **Amendments.** This Agreement shall not be changed except in writing and signed by all the parties.

16. **Binding Effect and Effectiveness.** Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns, notwithstanding changes in corporate or other governance. The County represents and warrants that it has approved this Agreement and the terms and incentives hereunder, and that the same are in compliance with any economic development or other policies or applicable legal authorities, and that the terms and incentives hereunder have been, and this Agreement shall further be conditioned upon it being stamp-certified as having been, pre-audited in order to comply with the budgetary accounting requirements (if any) that apply, under the Local Government Budget and Fiscal Control Act or otherwise. Such certification is set forth at the end of this Agreement and must be signed by the Finance Officers for the County and the City.



17. **Liability of Officers and Agents.** No official, officer, agent or employee of the County, the City or Company shall be subject to any personal liability or accountability by reason of the execution or performance of this Agreement or any other documents related to the transactions contemplated hereby. Such officials, officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such official, officer, agent or employee from the performance of any official duty provided by law. Nevertheless, the parties, and each person executing this Agreement on behalf thereof, represent and warrant that they have the full right and authority to enter into this Agreement, which is binding upon the party represented by them, and to sign on behalf of the party indicated, and are acting on behalf of themselves, their constituent members, and the successors and assigns of each of them.

18. **Publicity.** Neither the County nor City shall make any public announcement of the entering into of this Agreement or the terms and conditions hereof without the prior written consent of the Company.

19. **Recordation.** Pursuant to N.C. Gen. Stat. § 160D-1011, the Company shall record this Agreement with the register of deeds in Gaston County within fourteen (14) days after execution.

20. **Entire Agreement.** This Agreement, together with any exhibits attached or referenced herein, reflects and contains the entire and only agreement between the Parties relating to the subject matter herein. This Agreement supersedes and replaces all prior agreements, discussions and representations on all subjects relating to the Property, its development, any available Investment Grants or other issues provided for herein. Neither Party is entering into this Agreement in reliance on any oral or written promises, inducements, representations, understandings, interpretations or agreements other than those contained in this Agreement and the exhibits hereto.

21. **Counterparts.** This Agreement may be executed in any number of separate counterparts. Each executed counterpart shall constitute an original, but all of them taken together shall constitute a single instrument.

[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY]

Project Hearth  
a Delaware limited liability company

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

GASTON COUNTY

By: \_\_\_\_\_  
Chad Brown, Chairman  
Gaston County Board of Commissioners

ATTEST:

\_\_\_\_\_  
Donna S. Buff,  
Clerk to the Board of Commissioners

This instrument has been pre-audited to the extent, and in the manner, required by the "Local Government Budget and Fiscal Control Act."

\_\_\_\_\_  
Gaston County Finance Officer, on behalf of the County

Approval as to form:

\_\_\_\_\_  
Assistant County Attorney

This Agreement was approved by the Gaston County Board of Commissioners at its meeting held the 22<sup>nd</sup> day of June, 2021.

**CITY OF LOWELL**

By: \_\_\_\_\_  
Sandy Railey, Mayor

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

This instrument has been pre-audited to the extent, and in the manner, required by the "Local Government Budget and Fiscal Control Act".

\_\_\_\_\_  
City of Lowell Finance Officer

Approval as to form:

\_\_\_\_\_  
City Attorney

**LIST OF EXHIBITS TO BE ATTACHED**

- Exhibit 1 Investment Grant Programs
- Exhibit 2 Site Plan and/or description of the Property

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 9-B

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

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Staff has received three (1) complete application of interest for the Lowell Planning Board. There are currently 2 vacancies on the Lowell Planning Board. Please consider this application.

**Scott Attaway**

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**From:** noreply@civicplus.com  
**Sent:** Tuesday, May 31, 2022 9:33 AM  
**To:** Joe Gates; Cristy Cummings; Cheryl Ramsey; Scott Attaway  
**Subject:** Online Form Submittal: Board Committee Appointment Application

## Board Committee Appointment Application

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. The application requests general information based on your interest in applying for a Board/Committee for the City of Lowell.

Applicant Name	Heather Seay
Date of Application	5/31/2022
Home Address	1110 Catawba Run
City	Lowell
State	NC
Zip Code	28098
Mailing Address (if different from above)	<i>Field not completed.</i>
City	<i>Field not completed.</i>
State	<i>Field not completed.</i>
Zip Code	<i>Field not completed.</i>
Cell Phone (For City Hall Use Only)	17042141593
Home Phone	<i>Field not completed.</i>
Business Phone	<i>Field not completed.</i>
Email Address	hseay551@gmail.com

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:

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

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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.

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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.

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By typing your full name       Heather Seay  
below, you have agreed to  
the above Ethics Guidelines.

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Date                               5/31/2022

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

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For a printed application, please email the City Clerk or call (704) 824-3518.

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Email not displaying correctly? [View it in your browser.](#)