

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. Larry 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 3rd 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 21st 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 4th 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.

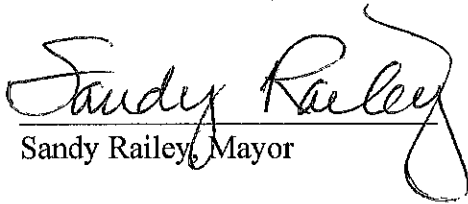
A. To Discuss Matters Regarding Personnel Pursuant to NCGS 143-318.11(a)(6)


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:


Sandy Railey, Mayor


Cheryl Ramsey, City Clerk