

Minutes for the Regular City Council Meeting meeting

101 W. First Street, Lowell, North Carolina, 28098.

August 15, 2023, 6:00 PM - August 15, 2023, 7:20 PM

Roll Call: (The following members were in attendance)

Phil Bonham, Councilmember
Candy Funderburk, Councilmember
Thomas Gillespie, Councilmember
Sandy Railey, Mayor
Travis Smith, Mayor Pro-Tem
Podium, Support
Scott Attaway, City Manager
JoAnna Fulbright, Councilmember
John Russell, Jr, City Attorney
Cheryl Ramsey, City Clerk

1. General

1A. Call To Order - 6:00 PM

Mayor Sandy Railey called the meeting to order at 6:00pm. City staff present were City Manager Scott Attaway, City Attorney John Russell, Police Chief Carl Moore, Police Assistant Chief Jeff Harrison, GIS Analyst Todd Stroupe, Finance Director Lisa Nolen, Parks and Recreation/Communications Director Cristy Cummings, City Planner Joe Gates, and City Clerk Cheryl Ramsey. A quorum was determined at the beginning of the meeting. The meeting was teleconferenced on YouTube for the public and the agenda and meeting materials were made public on the city's website as well as in person. Members of the public were also present.

1B. Invocation / Pledge of Allegiance - 6:00 PM

Councilmember Gillespie gave the Invocation and led everyone in the Pledge of Allegiance.

1C. Adoption of Agenda for this Meeting - 6:03 PM

Mayor Railey asked for a motion to adopt this meeting. Mr. Attaway asked to add section 3A in order to introduce the Lead for NC Fellow and the new Stormwater Administrator to the City of Lowell. Councilmember Funderburk made a motion to adopt the agenda for this meeting and add 3A, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor.

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

1D. Public Comments - 6:04 PM

1. Charles Crowe of 305 Groves St. Lowell spoke of the traffic and speeders going 60-70 mph daily. He said it is hard to get out in the morning and more and more traffic in the evening is causing more problems including the Sun Drop truckers. He suggested two speed bumps to be put on the road to avoid anyone, particularly at the childcare center, getting hurt. He said this is a City problem not a State problem.
2. Larry Simonds of 1603 Power Dr. Lowell stated that we need to be responsible to the people (in reference to the traffic issue Mr. Crowe spoke of). He then complained of the transfer trucks some members of council want to stop down near Kenworthy and Church. He said Kenworthy is a city street not a State road. He thinks council should be able to tell the truckers no to coming down Kenworthy. He stated there was no vote on record allowing this. He said they knew the only way out was Aberdeen. He accused the City Manager of going door to door to buy property with the people from NorthPoint to create their own street. He then complained of the city taxes, water/sewer rates, and to have a public debate among the candidates where people can ask questions.
3. Cynthia Armstrong of 831 Cobb St, Lowell complained of traffic on Cobb St. She said she understands change needs to come, including expansion, but you all are talking about trucks going onto Cobb St. coming from Kenworthy and that directly effected her. She said trucks have been going into her yard and destroying it since 2017 where she has had to go to directly to the company to fix her yard. She thanked Mr. Attaway for sending her

the plans but all these businesses coming in and buying up everything is going to get worse. She wants to know how to make sure homeowners aren't pushed out of their properties.

4. Mr. Crowe (from his seat; he did not come to podium) asked when was the last time Lowell paved streets? He believes his is the worst in Lowell and needs to be repaved. Mayor Railey asked him to contact the office tomorrow and speak with Mr. Attaway. Mr. Crowe said he's already talked to DOT and County Commissioners and was told the street belongs to Lowell. Mr. Attaway said he will have Joe Gates get his number to follow up.

5. Steve D'Avria with the Gaston Business Association (GBA) of 1024 Heatherlock Dr., Gastonia. Thanked the City of Lowell for their continued support of the GBA and for Lowell to consider, which multiple NC cities and towns are now doing, having a Social District in downtown Lowell. He mentioned the success rate of Greensboro, Kannapolis, Hickory, Newton, Gastonia, and Cramerton. He then mentioned the advantages for Lowell to participate, including bringing business into the area. Councilmember Funderburk asked what a Social District is and what it involves? He said the Social District was approved by the State of North Carolina about two years ago, ultimately allowing people to take an alcoholic beverage from a restaurant in an approved cup to another location approved by the city within an allotted walking distance from the two areas. She asked about the liability? Mr. D'Avria said the liability would be no different than any other for business centers. Currently people would have a drink in a restaurant and quickly drink their drink then cross the street to hear a band. With the Social District in play, now they can take their drink across the street with them. Councilmember Funderburk does not feel Lowell is ready for that right now.

2. Approval of Minutes

The item was motioned To Approve by JoAnna Fulbright and seconded by Thomas Gillespie with a passing result 5 - 0

2A. Approval of Minutes 7-11-2023 - 6:19 PM

Councilmember Fulbright added that on page nine, the name of the Councilmember who made a motion is not listed. Mr. Crowe (from public comments earlier and from his seat) interrupted and asked Mayor Railey about Duke Power correcting lines and a transformer going off on his property. Mayor Railey apologized. Mr. Crowe then asked why no police came when he and his wife called. Asst. Chief Harrison said they wouldn't have ignored a call in to the police and would have checked on whatever call is dispatched to them. Councilmember Fulbright then made a motion to approve the minutes with the correction in section 8a, seconded by Councilmember Gillespie. The vote was unanimously in favor.

3. Special Presentation

3A. Introduce the Lead for NC Fellow and the new Stormwater Administrator to the City of Lowell - 6:22 PM

Scott Attaway recognized our new fellow and new employee. Emiyah Watkins is our Lead for NC Fellow sponsored by the UNC Government program and AmeriCorp. She will be with us for 11 months to help in all departments. Ms. Watkins went to the podium to formerly introduce herself. Mr. Attaway then introduced, Jamie Watkins (no relation to Emiyah), our new Stormwater Administrator. Mrs. Watkins also went to the podium to formerly introduce herself.

4. Consent Agenda

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

4A. Parks and Recreation Report - 6:27 PM

4B. Police Report - 6:27 PM

4C. Public Works Report - 6:27 PM

4D. Utility Customer Service-Billing Report - 6:27 PM

4E. GIS Report - 6:27 PM

4F. Planning Report - 6:27 PM

4G. Finance Report - 6:27 PM

5. Unfinished Business

6. New Business

6A. Proposed amendment to Policy for Managing Utility Allocation and Extensions - 6:35 PM

Text amendment to more clearly define the fees that are due once a Full Capacity Assurance Review (FCAR) has been granted by City Council.

Presented by Joe Gates. Planning staff is proposing an amendment to the Policy for Managing Utility Allocation and Extensions Text Amendment. Currently the policy states that the tap fees are due after the final Full Capacity Assurance Review (FCAR) has been reviewed and granted by City Council. In practice we have always charged applicable tap fees but in reviewing the policy, staff thought it would be best to list out all the possible fees that are required at the time of allocation, for clarity. In addition to tap fees, the city will add that the developer would pay 'system develop fees, meter set fees, and any other fees deemed applicable by the Public Works Director within 45 days'.

Councilmember Funderburk asked if this is mainly for development. Mr. Gates said yes, the idea is that any development requiring more than 5,000 gallons of water a day has to go through the preliminary capacity assurance then there is another fee to financially tie that developer to the allocation they have requested and staff has reviewed. This amendment is listing out every fee they will potentially be charged.

Mr. Attaway stated that these are not new fees and are part of the current fee schedule. This amendment is just clearly showing how they are due. That's how it had been handled in the past but it only said tap fees before and was not specifically spelled out as it is now. Mr. Gates also made changes throughout the document where anytime it said 'tap fees', it would be changed to 'applicable fees'. Councilmember Bonham made a motion to approve the amendment to the reservation process for the City of Lowell Policy for Managing Utility Allocations & Extensions, Subsection II, E and F, seconded by Councilmember Fulbright. The vote was unanimously in favor.

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

6B. Amendment to FY2023-2024 Adopted Rates, Fees, and Charges - 6:35 PM

Staff clarification edit to the Construction Administration & Inspection section of the FY 2023-2023 Adopted Rates, Fees, and Charges and to the Final Plat Review section.

Presented by Scott Attaway. He stated, with the new fee schedule, there are some subdivisions being inspected and reviewed by the old fee schedule and we are adding language back in to allow developments already in the inspection phase to remain under that billing process for the remaining time of the project. Initially our city engineer would handle all the inspections for all grounds, water and sewer and stormwater lines, and general construction of new subdivisions. The new fee schedule is different, where the developer would pay all fees upfront for a new development and then we pay our engineers out of those fees. Because we have River Heights currently being built, we need to have this clause in place continuing with the ongoing subdivisions to finish correctly. With no questions, Councilmember Fulbright made a motion to approve, seconded by Councilmember Bonham. The vote was unanimously in favor.

6C. Consideration of Finance Proposals for FY 2024 Capital Expenditures - 6:38 PM

Presented by Scott Attaway. He stated the City of Lowell received two financial proposals from United Financial and First Horizon for capital expenditures which was listed in the approved budget. United Financial had a lower annual percentage rate, so staff is recommending moving forward with them. Councilmember Funderburk asked Mr. Attaway to clarify if there was a difference in the budget. Mr. Attaway said no, it was a difference in the bid amount. With no further questions, Councilmember Mayor Pro Temp made a motion to go with United Financial, seconded by Councilmember Bonham. The vote was unanimously in favor.

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

6D. Discussion of Room Occupancy and Tourism Development Tax and Establishing The Lowell Tourism Development Authority - 6:41 PM

Presented by Scott Attaway. He stated in 2009, Session Law 2009-429, Senate Bill 80 was approved granting the City of Lowell the authority to establish a Travel and Tourism Development Board in association with the occupancy tax often referred to the Hotel Occupancy Tax. The city has not established a board for travel and tourism because we have no hotel. However, we are now seeing an increase or a presence of short-term rentals. He is personally aware of two locations and pulled some data on them where it looks like they are up 45% in their occupancy rate

throughout the year. The County is currently receiving some of this maximum tax or 3% and Lowell's is allowed this maximum percentage as well. It was brought to his attention about a year ago from the Travel and Tourism Department in Gaston County that we had a few short term rentals and may want to take a look at it. Included in the agenda packet is some example by-laws to adopt a membership for a board and determine how to establish the Lowell Tourism Development Authority. As the city grows and there are more amenities offered, he thinks there will be more of these short term rentals and thinks it's time for council to consider developing this board. Councilmember Funderburk asked if this an Airbnb? Mr. Attaway says yes as well as Vrbo but the locations he was looking at are primarily Airbnb. She then asked if they will be paying us the 3% tax plus the property taxes. Mr. Attaway said property taxes are already included in a separate line item. This (the 3% occupancy tax) is every time their is a rental. Councilmember Fulbright said just to be clear, they are already paying property tax to the county, so this is just going to switch hands to Lowell. Mr. Attaway said no, Gaston County will still receive their percentage because they already have their own authority, Lowell would get 3% and Gaston County would get 3%, totaling 6%. Councilmember Gillespie said we can't get the 3% without the board in place correct? Mr. Attaway said correct, similar to if we were to get a hotel here, if we do not form a board, we could potentially lose a lot of revenue due to the occupancy tax not being collected because we didn't have a board. Councilmember Fulbright asked if there is any way to differentiate people who are running an Airbnb versus the hotel. Mr. Attaway said he is not aware but he'll check into that. Councilmember Bonham stated this is more of a tax for the renter, not the rentee. Mr. Attaway said correct, the traveler pays the tax. It is not for renting a house for a year long lease but just like a hotel occupancy when one is traveling. Councilmember Bonham said he would consider pursuing this if all agreed. All agreed for Mr. Attaway to look further into this topic.

6E. Selection of Environmental Consultant(s) for City of Lowell Brownfield Project - 6:51 PM

Presented by Scott Attaway. He provided council with a scoring matrix (see attached). Staff advertised an RFQ to clean up and procure environmental consultants for the City's Brownfield Project (1602 N. Main St). The city had four submissions: LaBella, Mid-Atlantic, GEI Consultants, and SSC. Staff performed a scoring matrix and determined LaBella and Mid-Atlantic scored slightly higher. He stated the brackets of scoring were advertised in the RFQ related to: project experience, project staff experience, demonstrated brownfield experience, grant writing and administration, understanding of the work, quality performance on similar projects, and participation of small, minority, women and veteran owned employees. We have used Mid-Atlantic on this project before as they have the specific experience necessary from those categories; therefore staff is recommending LaBella and Mid-Atlantic. They would be used for different components of the project. For example, Mid-Atlantic may be more into supervising the demolition contractor for environmental abatement to make sure State and Federal laws are being followed. Whereas, LaBella, would be more on the ground inspecting the trucks hauling off material, and general demolition activities.

Councilmember Gillespie said the difference between LaBella and Mid-Atlantic was 4 and 5 [see attached] correct, and with the participation of small, minority, women, and veteran owned businesses, can you explain the one point difference? Mr. Attaway said Mid-Atlantic is the only one of the four that is considered a small business or 500 employees and below. The others were mid-sized or large companies but they may have used minority, women, or veteran owned subcontractors and this was also included in their packets. Councilmember Funderburk said we should be using them pretty soon correct? Mr. Attaway said he will explain this further in his City Manager remarks. With no other questions, Councilmember Funderburk made a motion to approve LaBella and Mid-Atlantic to be Environmental Consultants for the City of Lowell Brownfield Project, seconded by Councilmember Gillespie. The vote was unanimously in favor.

The item was motioned To Approve by Candy Funderburk and seconded by Thomas Gillespie with a passing result 5 - 0

7. Reports / Discussions

7A. City Attorney Report - 6:56 PM

No report.

7B. City Manager Report - 7:00 PM

1. Demolition and the erosion control contracts have been signed [for the old chemical plant at 1602 N. Main St.]. The demolition company received a start work order and are on the property now removing items from the

buildings and clean the buildings so they can begin asbestos and lead abatement. The new consultants will begin administering these environmental tests to decipher how the demolition contractor can dispose of some of these materials. He said this is a great thing and current and past councils have been working on this at least since 2019 and these things take a while. He is very proud to say things are finally moving with the groundbreaking event on Tuesday, August 29, 2023 at 10am. He sent out invitations, posted on the bulletin board and will advertise on social media. He has been in talks with some of the people who worked at the plant over the years to get some interesting stories to share. There will be graphics of the future plans for visitors to view as well.

2. Carolina Thread Trail grant received in the amount of \$130,000 to construct the first 50% of Lowell's portion along the South Fork River. Gaston County also received a grant because they are picking up at the chemical plant and Poston Park, going up towards Spencer Mountain and Lowell is going the other way. We think it is valuable to join those funds in order to do an RFP for the same contractors to build the trail. This allows for uniformity and mobilization. Both ours and the county's legal department have been consulted and we have been given the go ahead to draft an Interlocal Agreement for council to review and possibly a Memo of Understanding (MOU) for the September or October council meeting.

3. Community Center kitchen is almost complete. The plumber has to do some final installation of faucets and hooking up sewer and water for the new appliances. Countertops, cabinets, new floor are done and we are trying to hustle to get it open for the public by mid-September. He reminded council that next year is the 100 year Anniversary of the Community Center and it would be good to have it open.

4. There have been inquiries about S. Church St. and our ability to assign no trucks or heavy traffic on it. He did some digging through our Code of Ordinances and couldn't find anything in it or the minutes in 1983 where it was said that we outlawed trucks on S. Church. This is a DOT road, which means we can't regulate anything that happens on a DOT road. We can regulate what happens on a city road but the state has control of this road. There are no county roads in Lowell. He said he also contacted the Attorney General's Office of NC for information. It will not be upheld by NCDOT even if there is a resolution to add S. Church as a no-truck list by the City Code of Ordinances as we are never legally allowed to do that. He just wanted to clarify as there have been a couple incidents related to speeding mentioned.

5. He said Asst. Chief Harrison is on his third location of the radar detector to get data. This detector is logging the speed of every vehicle that goes by at specific times of the day. The police then pull the data sheet out and can determine peak times for those problems. The reason why we have to do that is because we do have a speed bump or traffic calming devices policy in the city and it tells us that we have to get the data first. We then follow the policy and if the speed levels exceed the allowed amount, we meet with the neighborhood around that complaint area to see what they think and want. That is all put into a report that is provided to council to say what is recommended, speed bump or not. The Chief recently met with a concerned homeowner and will be moving the radar over there next, then Groves Street is after that. He emphasized that Groves St is also a State street and we can't say what vehicles can drive on it nor can we put speed bumps on it, as that is illegal.

7C. Mayor and City Council General Discussion - 7:04 PM

1. Councilmember Gillespie appreciated his neighbor for speaking tonight about the trucks and traffic. He said a long time ago when the warehouse for NorthPoint was approved, we did not know that there would be a road coming through to Church St. He wanted people to know that they had no idea that that road would be there, it was never mentioned. They thought it would be coming off of Aberdeen, from 85 to Aberdeen or Gastonia down Aberdeen. He just wanted people to know that they had no idea that NorthPoint would buy that property, move those homes, and put a road through there.

2. Mayor Pro Temp Smith apologized for missing the last meeting. He then thanked our workers for working over 24 hours over the weekend in over 100 degree weather on a sewer break in early June. He said the new city signs look great. Lastly, he appreciates the calls and texts and prayers regarding his accident last month. He is recovering and has a few scars left but appreciates everyone who reached out.

3. Councilmember Funderburk asked Mr. Attaway if Thomas [Shrewsbury] and the electrician have looked at the Duke power poles on McAdenville. Mr. Attaway said Thomas has not received word from Duke yet but he'll follow up again. She said it would be great to do it for the Christmas holiday coming up. She then said up highway 7, the signs do look good but there is one that is a lot shorter than the rest of them and originally when they were put up,

people have said it was too short compared to the others. Mr. Attaway said they can look into it for possible replacement. Lastly, she has received a couple phone calls and Facebook messages of a rumor that a tattoo salon is coming to Lowell and thought council could discuss it. She said she talked to Joe Gates and he said that we are zoned and ordinances are properly and legally in place for that but didn't know if we would want something like that in our downtown area and the people it could attract. She was concerned about it. There is a great restaurant that will be opening next week, with its final inspection happening today. Other people are looking for a possible ice cream parlor close by. She said she was bringing it up to get peoples thoughts.

Mayor Pro Temp said he is tired of seeing empty buildings in Lowell and if it's legal and the zoning is set in place, he didn't see a problem. Councilmember Funderburk said that's true but there have been other zoning put in place before that we didn't want in our downtown area, like car lots, churches, beauty shops. We've gone back and changed all that but don't discuss it. She doesn't like the empty buildings either but wants the right thing for downtown. She didn't know what that was but just kind of concerned and when citizens reach out to her, it is her job to bring it to council to discuss.

Councilmember Fulbright said when you look at businesses that want to come to town and judge them based on the possibility of what type of clientele you may have, I think you will run into some issues. Any business can come here and all of a sudden have any type of clientele following. She thinks we have to be careful on the lines of being discriminatory. She said she has tattoos and has no problem with tattoo parlors. It's like when you see a gang of motorcycle riders going down the road and all of a sudden they are bad people when some of them are really good people that give a lot to charities and everything else. She doesn't think we should judge a business. Those guys are artists, they work hard for their money and spend a lot of time training to learn their trade. She doesn't think we should turn our nose up because we do not personally like tattoos or we are afraid of what clientele it's going to bring. Councilmember Funderburk thanked her for saying that but said when citizens contact her with their concerns, she feels she needs to bring them to council, to have an open discussion about it. She agrees we don't need to discriminate. Councilmember Fulbright said she agrees we should bring citizens concerns to the table but we have to know that this city is made up of different kinds of people and we can't cater to one group of people who say they don't like tattoos, which is fine, but we are making decisions for an entire city, not one group of people.

Councilmember Bonham said that we need to look at not being reactionary and thinks we have done a good job at that but to be proactive in zoning to make sure we are in the best position for Lowell. He thinks if you want to put your finger on what will hinder businesses to come to Lowell...if you turn on social media right now and listen to the hateful stuff about Lowell about how we can't afford this and this is terrible, etc., that will be our hindrance. A business owner looking to relocate, reading all of that will think "I can't afford anything here and I don't like this place", then they will find somewhere else to go. You can't sit here out of one side of your mouth and say "I want this type of business to come to Lowell" and then the other side of your mouth spew the venom that you are spewing. Everyone is entitled to their opinion but there is a way in which you communicate that opinion. We need to all realize that. We have a great community here and great opportunities. Growth is coming and we are doing our best to position ourselves for that growth. We are not going to always please everyone.

4. Councilmember Bonham asked about Duke Power utility line work throughout the county and if there is a timeline for the Datacom people to move their stuff off the old poles and just left there to the new poles. Mr. Attaway said he can get more information but his contact at Duke said some of the poles aren't Dukes but other company poles. One of the construction workers said they take a long time to move their assets off but he can contact them for more information. Mayor Railey said we experienced that when there was a wire, on First Street, that was there for years, trying to get it moved.

5. Mayor Railey made a comment about what was previously discussed. She said the tattoo parlor or any business at all, we need be careful that we don't alienate our city by being dictators on the businesses that come in. She said an ice cream parlor may get dissent by people with diabetes who feel that is too much temptation. She doesn't have any tattoos but that's her preference and doesn't make her any better than one with a body full of them.

6. Councilmember Fulbright gave a pat on the back to the Lowell Police Department for the tremendous job in combating crime. She said they do take calls regardless of what is said and she sees them out patrolling all the time. She thanked them for the upcoming lunch they will provide. She said sometimes they don't get the credit they deserve.

7. Councilmember Gillespie added that he wanted to thank the Mayor for taking time out to come to his mother's 93rd birthday party having come to Lowell when she was 18 years old.

8. Mayor Railey talked about the chemical plant demolition and invited everyone to come to the groundbreaking event on Tuesday, August 29, 2023. She is so thankful to this council and previous ones and Scott in helping with the process of getting that eyesore removed. She then thanked everyone for coming out this evening.

8. Closed Session

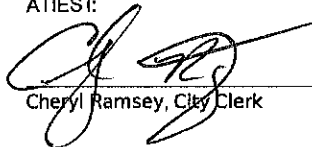
No Items


9. Adjournment

9A. Meeting Adjournment - 7:17 PM

The item was motioned to approve by Candy Funderburk and seconded by Phil Bonham with a passing result 5 - 0

ATTEST:


Cheryl Ramsey, City Clerk


Sandy Railey, Mayor

Brownfield Consultant RFQ Scoring

Firm	Related Project Experience	Project Staff Experience	Demonstrated BF Exp and Grant Writing and Admin	Proven Track Record of community engagement	Approach and Understanding of the Work	Quality of performance on similar projects	Participation of small, minority, woman, and veteran owned	Total (Max=35)
LaBella	5	5	5	5	5	5	4	34
Mid Atlantic	5	5	5	5	5	5	5	35
GEI Consultants	5	4	5	5	5	5	4	33
SCS	5	4	5	5	4	5	4	32

Staff recommends selecting LaBella and MidAtlantic