

**LOWELL CITY COUNCIL MINUTES
REGULAR COUNCIL MEETING
JANUARY 15, 2019 - 6:32PM**

INVOCATION: The Invocation was given by Aaron Pile.

CALL TO ORDER OF REGULAR COUNCIL MEETING: The Regular Meeting of the Lowell City Council was called to order at 6:32PM by **Mayor Chris Moore** at the Lowell Council Chambers.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mayor Chris Moore.

ROLL CALL: Mayor Moore asked for roll call. City Clerk made a verbal roll call. Council Members present were **Todd Fenix, Eric Schein, Lisa DeGifford, Linda Vannoy, David Adams, Chasity Taylor, Dean Bitner and Thomas Evers. Deputy Attorney Kieklak was present, also.** There was quorum. A roster of all others in attendance is on file with these minutes.

CONSENT AGENDA:

Lowell City Council Minutes Regular Meeting – December 10, 2018
Lowell City Council Minutes Special Meeting – December 21, 2018
Financial Statement – December 2018

Motion made to approve the Consent Agenda.

Motion: Thomas Evers

Second: David Adams

Vote Aye: Adams, Evers, Fenix, Schein, DeGifford, Bitner, Taylor, Vannoy

Vote Nay: None

Motion to approve Consent Agenda approved

PUBLIC FORUM: Open: 6:34PM Close: 6:34PM

PROCLAMATION: COMMEMORATING THE CITY OF LOWELL SCHOOL CHOICE WEEK

Motion to accept Proclamation.

Motion: Dean Bitner

Second: Eric Schein

Vote Aye: Fenix, DeGifford, Vannoy, Evers, Adams, Bitner, Taylor, Schein

Vote Nay: None.

Motion to accept Proclamation approved.

PRESENTATION OF ORDINANCES AND RESOLUTIONS

City Attorney explained we have a Referendum that was presented to the City Clerk with sufficient signatures. The City Clerk ruled there are sufficient signatures. Benton County Clerk asked that we pass an ordinance to call for an election. The Agenda is being amended to add the ordinance calling for a special election April 9, 2019.

Motion to amend the Agenda and to add AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF LOWELL, ARKANSAS, FOR THE REFERENDUM ON ORDINANCE NO. 1024 FOR THE REZONING OF CERTAIN LANDS FROM RESIDENTIAL-A (R-A) TO MEDIUM DENSITY RESIDENTIAL (MDR) ON OLD WIRE ROAD AND REQUESTING THE BENTON COUNTY BOARD OF ELECTION COMMISSIONERS TO PLACE THIS REFERENDUM ON THE BALLOT AND TO APPROVE A BUDGET ADJUSTMENT TO PAY FOR THE SPECIAL ELECTION.

Motion: Eric Schein

Second: Lisa DeGifford

Vote Aye: Vannoy, Schein, Evers, DeGifford, Adams, Bitner, Taylor, Fenix

Vote Nay: None.

Motion to amend the Agenda and add Ordinance as stated above was approved.

PROCEDURAL MOTION TO DISPENSE WITH THE RULE AND READ ALL ORDINANCES ONE TIME BY TITLE ONLY

Motion: Linda Vannoy

Second: Eric Schein

Vote Aye: DeGifford, Taylor, Fenix, Bitner, Schein, Vannoy, Evers, Adams

Vote Nay: None.

Procedural Motion to dispense with the rule and read all ordinances one time by title only approved.

OLD BUSINESS: None.

NEW BUSINESS:

1. ORDINANCE ESTABLISHING A LINE COST RECOVERY FEE FOR THE SANITARY SEWER LINE EXTENSION ON ZION CHURCH ROAD AND GOAD SPRINGS ROAD AND FOR OTHER PRUPOSES.

Ordinance is for the purpose of recovering fees for sewer and water improvements. Question was asked if the fees would be enacted or waived on a case by case basis. It was determined that fees can be enacted and/or waived on a case by case basis when you find a public purpose for it.

Motion made to approve Ordinance as presented.

Motion: Dean Bitner

Second: Linda Vannoy

Vote Aye: Fenix, Adams, Vannoy, Taylor, Bitner, Schein, DeGifford

Vote Nay: Evers

Motion to approve Ordinance was approved.

City Clerk read Ordinance by title only.

Ordinance assigned No. 1025.

2. ORDINANCE AMENDING THE CITY OF LOWELL CODE OF ORDINANCES, SECTION 16-59, BY REZONING CERTAIN LANDS FROM RETAIL-OFFICE (R-O) TO COMMERCIAL (C).

Councilman Schein expressed concern that this property was on McClure; but if it was on Old Wire Road, it wouldn't be a problem. This property is adjacent to Ward Nail Park and in the middle of a residential area on one side. Councilman Bitner said it was currently zoned R-O and the parcel to the east was previously zoned R-O when it was rezoned in August to Commercial. One of the citizens expressed concern that a convenience/gas station could be put on the corner. He asked if a convenience store could be put on this R-O zoning. Mayor Moore confirmed this situation could happen.

Karen Davis, Planning Coordinator, explained the reason for the rezone of 903 McClure was because the owner of both properties (903 & 909 McClure) believed 909 McClure commercial lot was too small to sell alone

Councilman Evers said other than the church and school there wasn't a commercial entity facing McClure.

Mayor Moore asked if the council would like to open this subject to public comment and the following motion was introduced.

Motion to open up to the public for comment on McClure Rezone, discussion only.

Motion: Eric Schein

Second: Lisa DeGifford

Vote Aye: Vannoy, Taylor, Fenix, Schein, DeGifford, Bitner, Adams

Vote Nay: Evers

Motion to open up to the public for comment on McClure Rezone, discussion only.

Petitioner was not present to speak. Karen Davis, Planning Coordinator, explained the reason for the rezone of 903 McClure was because the owner of both properties (903 & 909 McClure) believed 909 McClure commercial lot was too small to sell alone. The reason of rezoning 909 McClure was because the property was used as commercial property before entering into the City of Lowell zoning. Ms. Plant bought the property in 1995 as commercial and had used it for her business location since. The property was annexed into Lowell City limits during the 2003 annexation. The Lowell Future Land Use Plan shows 909 and 903 McClure Avenue as Retail/Office with properties adjacent both North and South as Commercial. 903 McClure Avenue is 1.91 acres, proposed rezone from Retail Office to Commercial. 909 McClure Avenue is .76 acres, rezoned from Retail Office to Commercial in August of 2018.

There were two letters of opposition from citizens in the area of this property to rezone included in the agenda packet.

Motion made to approve Ordinance as presented.

Motion: David Adams

Second: Todd Fenix

Vote Aye: None.

Vote Nay: Evers, Adams, Vannoy, Taylor, Fenix, DeGifford, Schein, Bitner

Motion to approve Ordinance failed.

3. ORDINANCE TO REPEAL ORDINANCE NO. 789 THAT PROVIDED FOR AMENDED FEES FOR RE-INSPECTION AND TO REQUIRE TRACER WIRE IN SEWER LINES FOR THE CITY OF LOWELL, ARKANSAS.

One Call will not respond for a tracer wire on this utility and that is why this ordinance is being repealed. Tracer wire is put in on gas lines and One Call will do that. Tracer wires are needed in PVC pipes because without them the pipes could not be located. We have this ordinance but other municipalities in the area do not and we are trying to make our city more competitive. It is one more overreach that we are trying to make right.

After further discussion, councilmembers recommended amending the ordinance and waiving reinspection fees but retaining tracer wire with the sewer lines.

Motion to amend the ordinance as presented and waive reinspection fees but retain placing the tracer wire with the sewer lines.

Motion: Dean Bitner

Second: Todd Fenix

Vote Aye: Vannoy, DeGifford, Adams, Fenix, Bitner, Evers, Taylor, Schein

Vote Nay: None

Motion to amend the ordinance as presented and waive reinspection fees but retain placing the tracer wire with the sewer lines approved.

Motion made to adopt Ordinance as amended.

Motion: Linda Vannoy

Second: David Adams

Vote Aye: Fenix, Adams, Vannoy, Taylor, Bitner, Schein, DeGifford

Vote Nay: Evers

Motion to adopt Ordinance as amended was approved.

City Clerk read Ordinance by title only.

Ordinance assigned No. 1026.

4. RESOLUTION SETTING FORTH THE MEETING RULES OF THE CITY COUNCIL FOR THE CITY OF LOWELL, ARKANSAS.

Councilwoman asked if meeting times could be changed to 6:00 as having other city meetings at a different time is confusing to the public. Other councilmen said meeting at 6:00 would be a handicap to getting off work and arriving at the City Council meeting by 6:00pm. No changes were made.

Motion made to approve Resolution as presented.

Motion: David Adams

Second: Eric Schein

Vote Aye: Evers, Adams, Vannoy, DeGifford, Bitner, Schein, Taylor, Fenix

Vote Nay: None

Motion approve Resolution was approved.

Resolution assigned No. 19-01.

5. RESOLUTION APPROPRIATING FUNDING UNDER THE GENERAL FUND DURING THE FISCAL YEAR OF 2019.

Housekeeping item and former employee is taking COBRA as by Federal Law. Revenue coming in and revenue going out.

Motion made to approve Resolution as presented.

Motion: David Adams

Second: Dean Bitner

Vote Aye: Fenix, Evers, Adams, Schein, Vannoy, Bitner, Taylor, DeGifford

Vote Nay: None

Motion approve Resolution was approved.

Resolution assigned No. 19-02.

6. RESOLUTION TO ADOPT AND APPROVE AMENDMENTS TO THE 2019 BUDGET FOR THE CITY OF LOWELL, ARKANSAS.

Housekeeping item as revenue has come in and funds must be re-appropriated to continue on-going projects.

Motion made to approve Resolution as presented.

Motion: Linda Vannoy

Second: David Adams

Vote Aye: Bitner, Fenix, Vannoy, Taylor, Evers, Adams, Schein, DeGifford

Vote Nay: None

Motion approve Resolution was approved.

Resolution assigned No. 19-03.

7. RESOLUTION TO AMEND 2019 BUDGET TO ADOPT AND APPROVE ADJUSTMENTS TO EQUALIZE RAISES OF ADMINISTRATIVE STAFF EMPLOYED BY THE CITY OF LOWELL, ARKANSAS.

This resolution will be tabled to next City Council meeting because more research must be done between the mayor and finance director in order to answer Councilman Bitner's questions.

Motion to table Resolution until a future City Council meeting.

Motion: Dean Bitner

Second: Todd Fenix

Vote Aye: Schein, Bitner, Evers, Fenix, Adams, Taylor, DeGifford, Vannoy

Vote Nay: None.

Motion to table Resolution until a future City Council meeting approved.

8. RESOLUTION AMENDING APPENDIX B FEE SCHEDULE OF THE CITY OF LOWELL MUNICIPAL CODE AND SETTING FORTH THE VARIOUS FEES FOR THE CITY OF LOWELL, ARKANSAS.

This Resolution will allow the Lowell Police Department to charge for fingerprint cards. Other municipalities charge between \$10-\$15 per fingerprint card.

Motion to amend Resolution No. 19-04 and charge \$15.00 per fingerprint card.

Motion: David Adams

Second: Thomas Evers

Vote Aye: Evers, Taylor, Vannoy, Fenix, Schein, DeGifford, Bitner, Adams

Vote Nay: None

Motion to amend Resolution No. 19-04 and charge \$15 per fingerprinting card approved.

Motion to approve Resolution as presented.

Motion: David Adams

Second: Lisa DeGifford

Vote Aye: Fenix, Adams, Vannoy, Taylor, Evers, Bitner, Schein, DeGifford

Vote Nay: None.

Motion to approve Resolution as presented approved.

Resolution assigned No. 19-04.

9. RE-APPOINTMENT OF MELANIE HOUSTON AS DEPUTY CITY CLERK UNTIL JANUARY 2021.

Melanie Houston was recommended to be reappointed as Deputy City Clerk.

Motion to re-appoint Melanie Houston as Deputy City Clerk until January 2021.

Motion: Linda Vannoy

Second: Chasity Taylor

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to re-appoint Melanie Houston as Deputy City Clerk until January 2021 approved.

10. DISCUSSION OF FUTURE ANNEXATION.

Councilman Schein proposed that we take up our Future Land Use to the east up to Primrose, from the City of Springdale border to City of Rogers border which would include new Hwy 265 (Old Wire Road). Police officers are having issues that are just outside our city border. We have a lot of rural area and we need an agricultural zone. This area has been in our Future Land Use and it will get us back closer to where we had our land use before the State made us go back to Primrose. More commercial application can be provided on this beautiful road. This will protect our north/south corridor on the east side and allow our future growth to continue to go the direction it needs to be.

Councilman Fenix said this would benefit our Planning Department because currently our planning boundary only goes so far. If we extend, it will extend into the county on our planning boundaries as well.

Councilman Evers asked if the Chief of Police and Fire Chief address this issue. If we bring in all this land at one time, will we be required to add additional staff.

Chief Morris said they currently cover this area on the fire side but not the EMS Service. It would not put a strain on us and the volume of calls in that area are very small in comparison to our overall call volume.

Chief Harvey responded that the PD has addressed this issue before and it will not put a strain on them.

Mayor Moore explained that we are actively in discussion with some people who are wanting to come in. There are some zoning issues that we have to be addressed. City Council does have the authority to allow land use that they currently have, but it is by council and council vote. It is a multiple step process to get them in. It has to go before the county judge, the county planning commission and then it comes to the city council for a vote. I do not want to take in land owners who do not want to be in Lowell. I would like to make this where people feel welcome and they want to come to us.

Councilman Adams asked that we be very clear that if we annexed land into City of Lowell, there is no intent to provide water service, fire lines, etc. at a certain time.

Councilman Bitner asked if we were talking about an annexation or extending our planning area. Mayor Moore replied that it is an annexation because people are asking about the possibility to coming inside the city limits. Our planning would also expand out further.

Councilman Bitner asked if it would require a special election assuming it would be done now instead of 2020. Are you going to make it contiguous properties or would we participate in island annexations?

City Attorney Kieklak explained the mayor is talking about people coming in and his understanding was it would be annexation by petition. They willingly want to come in. If people willingly want to come into your city, if they touch, they can get a petition of the majority of the land owners in that parcel or area that want to come in, then as the Mayor said, you go before the county judge, have a public hearing approving it or disapproving it, then it comes back to the city to be accepted. It's been done before in Lowell. What Councilman Schein is talking about is when you go to Primrose, north and south of the borders, that's not by petition. It would be by force, by election. The property would be identified, and an election would be called; pass an ordinance for the election. If you were getting that big chunk all at once, that would be by election. If you were taking little pieces of people who want to come in, those are by petition. Typically, you would handle them one at a time as they come in.

Councilman Bitner asked if those parcels would need to be contiguous to the city limits or would we participate in island annexation? Mayor Moore answered that it would be continuous to the city limits. City Attorney Kieklak agreed.

Councilman Schein explained the water situation in Billie Acres was not a city issue, but we were involved in a private issue. It wasn't the city's responsibility to provide them water to keep them from being illegal. This area has already been in our planning district so if anybody builds anything or does anything out there, they have to abide by our codes. There is a majority of people in this area who are really interested and have a consensus that they would rather be a part of the City of Lowell. We have a state law which states if you are surrounded by city, then the city can take it as a whole.

Councilman Evers said that one thing if we are going to do this we need to address that if we bring something into the city and they want to change it to a commercial, housing community, etc. falling down structures which are a fire hazard need to be removed before they come into the city.

Councilman Schein requested an agricultural zone be added as the first step towards annexation. He asked for a meeting of all interested to discuss this proposal.

City Attorney Kieklak explained he had a phone call from Bill Watkins, a lawyer who does a lot of planning and building work for City of Rogers, who asked him if the City of Lowell had voted to annex territory out in that area. He was told not to his knowledge, but the city attorney will contact Bill Watkins and tell him that it was brought up for discussion but that no decision was made. City Attorney wanted the council to know what he would be communicating and why.

Councilman Evers said he felt this may be an item of some urgency and would we want to add this to a special election. Does it have to have one thing on it or can we have more than one thing on a special election?

City Attorney clarified that it wasn't up to us but up to the County Election Commission. We would follow their rules and policies.

11. AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF LOWELL, ARKANSAS, FOR THE REFERENDUM ON ORDINANCE NO. 1024 FOR THE REZONING OF CERTAIN LANDS FROM RESIDENTIAL-A (R-A) TO MEDIUM DENSITY RESIDENTIAL (MDR) ON OLD WIRE ROAD AND REQUESTING THE BENTON COUNTY BOARD OF ELECTION COMMISSIONERS TO PLACE THIS REFERENDUM ON THE BALLOT AND TO APPROVE A BUDGET ADJUSTMENT TO PAY FOR THE SPECIAL ELECTION.

City Attorney Kieklak explained that the petition was circulated to submit that ordinance to the vote of the people. We've done that once in Lowell when Mayor Biggers was in office. It was over a bond issue to fund a palatial city hall. It was successful and there was a vote of the people and the ordinance was overturned by that vote. This is one also and a certain number of signatures must be collected in a certain amount of time, submit it to the city clerk. It was done. The city clerk certified those signatures as valid by working with the county election commission people. Now we have the responsibility to call an election. We tried to get on the county ballot for the upcoming county wide special election \$.08 sales tax for the new county courthouse in March. We needed a passed ordinance before this meeting, but we couldn't get that done in time. It's about \$7,100 estimate for the cost of the election. The ordinance is in the form and format they prefer so we can pass it tonight if you choose to; but if you don't, it has to be passed eventually. It will be for an election for the City of Lowell only.

Councilman Fenix said that there is current planning and construction going on as we speak because nothing has stopped or stalled that. What happens if they have started construction of homes and the zoning is nonconforming?

City Attorney replied they couldn't do construction of homes because they haven't gone through LSD. This ordinance when passed will stay the existing ordinance. The rezone is basically frozen, undone, until this election takes place. Anything in the planning pipeline would stop.

Councilman Schein's question was that no matter what, we do have to pass this at some point because the petitions have been put together.

City Attorney replied that the law requires that we call for an election. Actually, the state constitution requires we call an election.

Councilman Fenix commented that the longer it takes the longer it's going to take to be resolved and the landowners to move forward or to change their plans.

Councilman Evers felt that the people had already spoken by putting this petition together. He wanted to call for the motion and vote.

Councilman Bitner asked the City Attorney if this special election would cost \$7,100?

City Attorney said it was approximately \$7,100. It's a pretty good estimate that we can rely on. We will pay that bill probably prior to the election or right after.

Councilwoman Vannoy asked if we pass this ordinance tonight. We'll send it to them. They will set the date? If we are going to have one, it's like value for your dollar; what else can you include in it I guess. I'm wanting to know they are not going to say you can have it in 90 days or how long did they say it will take for them to get an election together?

City Attorney replied they have given him a date (Section 1 of the Ordinance) of April 9, 2019.

Councilman Adams asked if it didn't pass, would it come up at the next council meeting? What is our time frame?

City Attorney wasn't given a deadline for the April election. He told them he would get it to them for the next election. They probably would like as much time as they could get.

Motion to approve Ordinance as presented.

Motion: Eric Schein

Second: Linda Vannoy

Vote Aye: Evers, Fenix, Vannoy, Schein, DeGifford, Taylor

Vote Nay: Adams

Vote Abstain: Bitner

Motion to approve Ordinance as presented approved.

City Clerk read the Ordinance by title only.

Ordinance assigned No. 1027.

Motion to enact Emergency Clause.

Motion: Todd Fenix

Second: Eric Schein

Vote Aye: Evers, Fenix, Schein, DeGifford, Taylor, Vannoy

Vote Nay: Adams

Vote Abstain: Bitner

Motion to enact Emergency Clause approved.

COMMITTEE REPORTS:

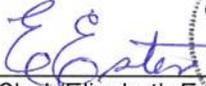
Ordinance Committee Meeting – January 7, 2019 – Minutes Attached

KJMP Steering Committee - January 10, 2019 – Minutes Attached

ANNOUNCEMENTS: Statement of Financial Interest forms are required again and must be filed in City Clerk' office by January 31, 2019. If anyone ran for office in 2018, they have already filled out this form.

ADJOURNMENT: Motion to adjourn by Dean Bitner and second by Linda Vannoy. There being no objections, the meeting adjourned at 8:00pm.

ATTEST:


City Clerk/Elizabeth Estes



APPROVED:


Mayor/Chris Moore