

**LOWELL CITY COUNCIL MINUTES
REGULAR COUNCIL MEETING
AUGUST 20, 2013 - 6:30 p.m.**

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

INVOCATION: The Invocation was given by **Councilman Eric Schein**.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by **Mayor Long**.

ROLL CALL: **Mayor Long** asked for roll call. City Clerk made a verbal roll call. Council Members present were: **Thomas Evers, Eric Schein, Matthew Yeager, Janette Lasater, Keith Williams, Kendall Stucki, Dean Bitner, Ronnie Breland**. There was quorum. **Deputy Attorney Kieklak** was also present. A roster of all others in attendance is on file with these minutes.

Motion was made to amend the Agenda to add Accepting Dedication of Billie Acres Road under New Business, Item 4.

Motion: Janette Lasater

Second: Kendall Stucki

Vote Aye: Evers, Schein, Yeager, Lasater, Williams, Stucki, Bitner, Breland

Vote Nay: None

Motion to amend the Agenda to add Accepting Dedication of Billie Acres Road under New Business, Item 4 was approved.

Motion was made to amend the Agenda to accept resignation of Councilman Matthew Yeager under New Business, Item 5.

Motion: Janette Lasater

Second: Eric Schein

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to amend the Agenda to accept resignation of Councilman Matthew Yeager under New Business, Item 5 was approved.

CONSENT AGENDA:

Lowell City Council Minutes Regular Meeting – July 16, 2013

Financial Statement – July, 2013

Councilwoman Lasater commended the city clerk for doing verbatim transcription of the “long discussion.”

Motion was made to approve Consent Agenda.

Motion: Janette Lasater

Second: Ronnie Breland

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to accept Consent Agenda was approved.

PUBLIC FORUM: Opened at 6:39PM - Closed at 6:52PM

Anneliese Bacon, Rogers, AR - Attorney for Mobil Mini, Inc.: Mobile Mini, Inc. has been trying to get a conditional use permit on 701 S. Bloomington. There is already an existing conditional use permit the Planning Commission approved a few months ago for a salvage yard. If you are familiar with pods, pod storage units, we want to store mobile minis which are a little bit larger than pods, storage units

on that facility. We went through all the conditions to go before the Planning Commission last night. There were two members of the Planning Commission not present and the vote was 3-2 in our favor but we have to actually have four to get the conditional use permit. I am asking to appeal the Planning Commission's decision. I am asking that either the city council take it up tonight or have a special hearing. We can't wait until the next council meeting to decide if we stay here or in Springdale. We've actually been approved for a lot in Springdale on S. Thompson, but we prefer the lot on Bloomington rather than S. Thompson. We would prefer to stay in Lowell.

Discussion among the council brought up the following concerns: stacking of pods two or three high; limiting hours of operation from 7AM to Noon on Saturday; requirements of Overlay District.

Kris Sullivan didn't find anything in our Schedule of Uses that permitted these containers in light industrial zone so she asked them to the Planning Commission to request a conditional use permit.

Tom Kieklak, Deputy Attorney, explained the procedure for allowing this item to be on the agenda for this meeting. Anneliese brought her appeal to the proper forum. City ordinances provide that when a CUP is denied to an applicant at the Planning Commission, the applicant can come to the city council and appeal. Variances can't do that. The problem as a council tonight is that they cannot have a hearing to hear her appeal until certified mail has gone ten days in advance of that appeal hearing. Notice and opportunity to be heard is the fundamental right in land use. He advised the council to adhere to the ten days.

Items requested by councilmen for packets before the special meeting:

Anneliese Bacon: Pictures of existing locations; pictures of pods (shipping containers); pictures of Springdale yard on East Robinson; colors; pictures of stacks of two and stacks of three;

Kris Sullivan: Parcel, shape of parcel; how close it is to the road; Information about the site; exit on Lincoln Street; Minutes of Planning Commission Meeting 8-19-13.

Tom Kieklak cautioned councilmen to hold questions until the special meeting so citizens could hear them and respond if they wished to do so.

Motion was made to call special city council session in approximately two weeks.

Motion: Dean Bitner

Second: Eric Schein

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to call special city council session in approximately two weeks was approved.

Motion to set date of September 3, 2013 as special meeting to only discuss Mobile Mini, Inc.'s application for conditional use permit.

Motion: Dean Bitner

Second: Thomas Evers

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to set date of September 3, 2013 as special meeting to only discuss Mobile Mini, Inc.'s application for conditional use permit was approved.

CITY PROJECTS AND UPDATES

1. Status Report – Trail Property Acquisitions (Tom Kieklak – City Attorney)

Council voted to condemn five separate parcels, four different owners. They are prepared and there is always a hope that there will be a settlement in the interim. However, none of the property owners have changed their minds. The properties are significantly higher in value. Will be obtaining orders of possession this week so the work can start and we will be litigating. The

money will be reimbursed to the city. We will have to put a deposit in the court in the next two days. The city will be involved in the litigation process. It is also probable that attorney fees will be reimbursed.

2. Ward Nail Park – Walking Trail Temporarily Closed – August 28-29, 2013

There have been improvements to walking paths, three bridges and the lake. A trail from the Senior Center to the center of the park has been added. Jimmy Hendrix will be closing the park to get the seal coating and asphalt done like our city streets so they last a few more years.

3. Goad Springs Road Interchange and Improvements – Contract for the Goad Springs Road Interchange and Improvements with Crafton, Tull & Associates, Inc. Update – Mayor Long

We are in contract with AHTD and Crafton & Tull as engineers on the project. The nature of the project will be revisited and will revise the contract so the city will carry the project out to bidding to the point the bidding is let. The state will choose the contractor, oversee the construction or possibly choose to construct it themselves and inspect it. Improvements include the extensions of North and South Goad Springs Road where the signalization light will be, the bottle-neck between interchange 78 and the intersection from 2 to 5 lanes and also coordinating the Razorback Greenway into that design works.

What's holding up the whole process is the Recharge Study that's being done and as soon as that decision has been made whether projects have been made to have accumulating effect on the blind cave fish. We've already been notified that the Indiana Grey Bat is not affected or impacted by any of these projects. We have probably 12-15 months.

4. East Apple Blossom Drainage – Update – Rick Stone

We have had tremendous reoccurring water issues on East Apple Blossom affecting both Lowell and Bethel Heights. On East Apple Blossom towards Old Wire Road, the little pond on the north side, the existing pipe going toward that pond coming from Bethel Heights is too small to carry all the water. They are proposing to put some box culverts in just to the west leaving that pipe in to continue feeding that pond and not disrupt that and carrying the bulk of the water to the west of that pipe to the north carrying it up to Puppy Creek. It will be a cost share project with Bethel Heights. It should remain the same road profile same as it is now. They are 2' high boxes 6' wide.

Both mayors have met for the past year and they are the ones that have been working with Steve Hesse in design of this project. We will put in an application to see if we can get some state funding for it. The bottom figure on this project, jointly, is around \$180,000 and our share will be between \$40-45,000. There is a 20% contingency in it.

OLD BUSINESS: NONE.

NEW BUSINESS:

1. RESOLUTION APPROPRIATING FUNDING FOR EXPENSES CONNECTED WITH THE JOHNSON PROPERTY PARK

Resolution is necessary for our engineering firm to perform an environmental assessment of the property as we start looking at developing the property. In answer of councilman's question, professional services cannot be bid.

Motion was made to approve Resolution as presented.

Motion: Dean Bitner

Second: Ronnie Breland

Vote Aye: Lasater, Williams, Bitner, Yeager, Stucki, Breland, Schein, Evers

Vote Nay: None

Motion to approve Resolution as presented was approved.

Resolution was assigned No. 13-12.

2. RESOLUTION APPROPRIATING FUNDING FOR PAYMENT OF REPAIRS TO THE LOWELL POLICE DEPARTMENT 2011 HARLEY-DAVIDSON ROAD KING MOTORCYCLE.

Funds for repair have been provided by an insurance settlement and no general funds will be used.

Motion was made to approve Resolution as presented.

Motion: Eric Schein

Second: Matt Yeager

Vote Aye: Stucki, Lasater, Yeager, Breland, Schein, Williams, Evers, Bitner

Vote Nay: None

Motion to approve Resolution as presented was approved.

Resolution was assigned No. 13-13.

3. RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK OF THE CITY OF LOWELL, ARKANSAS TO ENTER INTO CONTRACT WITH GARVER, LLC FOR ENGINEERING SERVICES ON THE NORTH DIXIELAND SEWER EXTENSION AND APPROPRIATING ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$125,000) FOR PAYMENT OF ENGINEERING SERVICES.

This is mainly dealing with getting more lots ready to attract new businesses and development. It is part of our development strategy to invest in it now and have reimbursement later through development of property. Chris Buntin gave an overview of the project.

Money for this project will come out of the General Fund Reserve, but the Finance Director assured the council the city was in good shape and he put extra cash back for our reserve this month. The reserve account is up \$200,000.

This project was not bid out because Garver, LLC is so familiar with the infrastructure of our sewers. We have always found their pricing was so competitive that we felt it wasn't necessary to do more shopping. There are a lot of projects they are familiar with, with our sewer particularly, that we use them pretty consistently on utilities.

Motion was made to approve Resolution as presented.

Motion: Ronnie Breland

Second: Eric Schein

Vote Aye: Breland, Williams, Yeager, Schein, Evers, Lasater, Bitner, Stucki

Vote Nay: None

Motion to approve Resolution as presented was approved.

Resolution was assigned No. 13-14.

4. AN ORDINANCE ACCEPTING THE DEDICATION OF BILLIE ACRES ROAD INTO THE CITY OF LOWELL, ARKANSAS.

All signatures have been obtained for including Billie Acres Road into the City of Lowell.

Motion was made to suspend the rule and place Ordinance on third and final reading by title only.

Motion: Dean Bitner

Second: Kendell Stucki

Vote Aye: Evers, Williams, Breland, Yeager, Stucki, Schein, Lasater, Bitner

Vote Nay: None

Motion to suspend the rule and place Ordinance on third and final reading by title only was approved.

City Clerk read the Ordinance by title only.

Motion was made to approve the Ordinance as read.

Motion: Janette Lasater

Second: Keith Williams

Vote Aye: Bitner, Breland, Lasater, Stucki, Williams, Yeager, Schein, Evers

Vote Nay: None

Motion to approve the Ordinance as read was approved.

Ordinance was assigned No. 935.

5. RESIGNATION OF COUNCILMAN MATTHEW YEAGER.

Matthew Yeager tendered his resignation from position of Alderman since he moved outside of his ward and City of Lowell. He asked council to visit some zoning issues, mixed zoning in particular, as something to pursue as it would help some businesses that would otherwise go to other cities.

Deputy Attorney advised council that they could appoint a replacement at the next meeting, or they could use the next meeting to declare a vacancy and appoint a replacement two months from this meeting.

Motion was made to regretfully accept resignation of Councilman Matthew Yeager.

Motion: Janette Lasater

Second: Ronnie Breland

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to regretfully accept resignation of Councilman Matthew Yeager was approved.

6. COMMITTEE REPORTS:

Ordinance Committee – Dean Bitner – Next meeting will be 6:00PM September 4, 2013, Conference Room

7. ANNOUNCEMENTS:

NWA Emergency Preparedness Fair – September 7, 2013 – Chief Morris

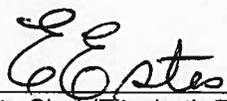
Mt. Hebron Road – Mayor Long

McClure Expansion Project – Jimmy Hendrix, Street Department

Wayfinding Signage – Kris Sullivan, Planning Department

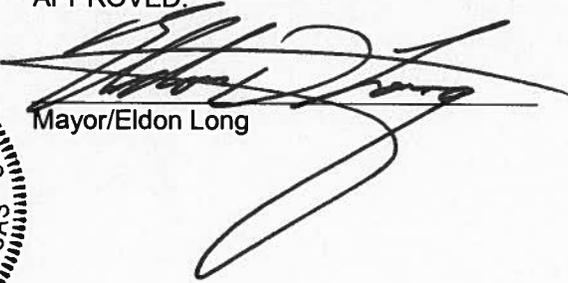
ADJOURNMENT: Motion to adjourn was made by Councilwoman Lasater and seconded by Councilman Breland. There being no objections, the meeting adjourned at 7:38PM.

ATTEST:


City Clerk/Elizabeth Estes



APPROVED:


Mayor/Eldon Long