

**LOWELL CITY COUNCIL MINUTES
CORRECTED REGULAR COUNCIL MEETING
DECEMBER 17, 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 6:31PM by **Mayor Long** at the Lowell Council Chambers.

INVOCATION: The Invocation was given by **Councilman Thomas Evers**.

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, Janette Lasater, Kendell Stucki, Dean Bitner, Ronnie Breland, Keith Williams, Connor Jones**. No one was absent. There was quorum. **Deputy Attorney Kieklak** was also present. A roster of all others in attendance is on file with these minutes.

Mayor Long asked to amend the agenda by adding **Item #5, Resolution authorizing the Mayor and City Clerk of the City of Lowell, Arkansas to enter into contract with Tomlinson Asphalt Company, Inc. of Fayetteville, AR for the McClure Avenue Improvements Project**. Voice Vote Aye was unanimous. Voice Vote Nay: None.

CONSENT AGENDA:

**Lowell City Council Minutes (Corrected) Regular Meeting – November 19, 2013
Financial Statement – November, 2013**

Motion was made to approve Consent Agenda.

Motion: Dean Bitner

Second: Kendell Stucki

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to accept Consent Agenda was approved.

Open 6:45PM Closed 7:14PM

1) APPEAL HEARING – Summit Game Lounge – Conditional Use Permit - Duane Meadows presented his appeal for a conditional use permit to open a Sweepstakes Café to provide internet time and game time for people who do not have internet access at home. Clients can buy internet time to use the machines to access the internet, view movies and do any type of work they wanted to do online. They can download information and play games on the machines. They have free-standing machines that will have internet access. It is a place to get away. It also provides printing and faxing services. Clients can purchase internet services at \$5/hour or \$1 for 15 minutes. Clients do not get points for internet time, but do get points when playing sweepstakes games. The sweepstakes games go through a POS System which monitors how much time you are on them. The points can be turned in for more play, depending on which machine you use. The sweepstakes machines allow free play and/or gift prizes. Other machines which are not on the internet system are under the Chuckie Cheese Law which states it cannot pay out any more than \$12 regardless as to what is put into it per game.

Councilman Schein asked for an explanation of why this establishment was seeking a conditional use permit or what was the condition he was requesting. Kris Sullivan explained she was looking for a category to define this use and she could not find one. She determined that this was in the amusement category. He is licensed as amusement.

Councilman Bitner asked him what the issue was to make him leave Springdale and Mr. Meadows said there was no issue but that there were too many of them in Springdale right now. There were three other game rooms in the same area he was in.

Mr. Meadows denied ever having any police activity to arrest anyone at his location.

Councilman Breland asked about the problems other states were having with game rooms. Mr. Meadows stated that the other people were not licensing their machines before they put them into operation.

Food and drinks would be provided via vending machines.

Councilman Bitner asked Mr. Meadows if he ever had problems with his licensure. The only problem Mr. Meadows ever had was when he was bumping the Chuckie Cheese Law with the ticket machines. He had to change the ticket machines from dispensing tickets because they were in violation of the Chuckie Cheese Law. He changed the ticket machines to receipts machines which are the equivalent of scratch off lottery tickets.

Everyone who enters his café has to show id and if clients are not 21, they cannot access certain machines. The clients are monitored by his employees.

Parking is limited on this property but the owner of the car lot next door has agreed to move his cars back so Mr. Meadow's establishment can have full access to his own parking spaces.

Cientele, hours of operation, location so close to the Lowell Elementary School were also discussed.

Planning Commissioner Betty Pritchett was asked to give her personal reasons for her vote on this item.

Councilman also voiced concerns that his type of establishment was closely related to gambling and didn't want that opportunity for young people of Lowell.

Deputy Attorney Kieklak gave the guidelines to the councilmembers on how to deliberate on this request for conditional use.

Motion was made to uphold Planning Commission's Decision to deny the Conditional Use Permit.

Motion: Ronnie Breland

Second: Kendell Stucki

Vote Aye: Breland, Williams, Schein, Stucki, Bitner, Jones, Evers

Vote Nay: Lasater

Motion to uphold Planning Commission's Decision to deny the Conditional Use Permit was approved.

Open 7:23PM Closed 9:38PM

2) APPEAL HEARING – Pull-A-Part – Conditional Use Permit – Representative – Tom Smith

Tom Smith asked for the councilmembers' consideration to approve a conditional use permit for Pull-A-Part. He felt his operation would be an asset to the City of Lowell with an estimated sales tax or gross revenue for the business in year one would be close to a million dollars that would be sales tax income to the city. Currently the USA Metal Recycling operation creates a little bit of money for the city as far as sales tax goes generally on equipment purchased. During the Planning Commission meeting conditions were discussed and listed in their minutes. All of the conditions suggested and some he also offered were agreed to. He agreed to 100% of the conditions that were set forth that are listed in the minutes. In addition to Condition No. 10 which would be an annual renewal of the conditional use permit would give time to look at the operation and make sure that it is going the direction the city expects it to go. When you talk about auto salvages, auto parts and just the history of complaints they have had over the years with USA Metal Recycling, he is walking into this with good intentions and what he believes to be a good plan but also asking for the guidance of the city to reconsider it knowing that his reputation has been conducive to problems. He is willing to allow monitoring by the city and the watching of the operation in any complaints they may have along the way.

Councilman Schein asked if there were still vehicles parked in that proposed area and Mr. Smith said, "No." Councilman Schein asked if there were vehicles parked there a few days prior and Mr. Smith said

he had some vehicles parked in the proposed area last time he was here and there are vehicles parked there but they are operatable. Mr. Smith said he parked vehicles in the proposed area until background checks could be done to make sure they weren't stolen.

Councilman Schein was concerned about Mr. Smith quietly created a test by placing vehicles sold to USA Metal offsite of USA Metal property without the city giving him permission to do so. Part of the conditional use of the recycling center was that all recycling was to be done on that property. Now the storage of recyclable material as was deemed to be in the beginning is now being stored offsite.

Mr. Smith said that wasn't exactly what was said. The material that was parked over there wasn't recyclable material, it was autos.

Councilman Schein asked him if the vehicles were purchased by USA Metal and Mr. Smith agreed they were. Councilman Schein continued to point out that what was deemed in the beginning was that vehicles that were purchased as recyclable materials were salvageable were recycled materials. Mr. Smith felt Councilman Schein was trying to show his conditional use permit had been violated and Mr. Smith denied it was so. He did state he did move vehicles to the proposed site.

Councilman Breland had asked someone to drive past USA Trucking and see if there were any vehicles parked outside. It was reported that there were at least 20 vehicles inside the fence.

Mr. Smith explained that the conditional use permit for USA Recycling was for the USA Recycling facility based on the word recycling. The parking area that is proposed at this site is not part of USA Metal Recycling. Part of the property is leased out to PFG Foods and they park trailers. They are a trucking company. Mr. Smith also parks trailers there as a parking area. There are no recyclable operations going on there with the exception of the vehicles that he put out there for use for training for the fire and police departments. Both Rogers and Lowell are allowed to cut up cars. He doesn't consider that recycling but good faith efforts for the community. The vehicles seen out there those councilmen were referring to are special vehicles he sets out to the side because they run and drive. For several reasons, one being if someone drives a car in the state doesn't require him to have a title but he makes sure that they own the vehicle. He puts it in a holding pattern out there. Once he goes through the holding period to make sure that they didn't get mad at their girlfriend and bring the car in to get it shredded and he authenticates the ownership of the vehicle, at that point in time, he either makes the decision is it saved for training for the fire/police departments or is it taken across fence, drain the fluids out of it and run it through the shredder. He is not selling parts off the vehicle which was clear in his conditional use permit. Those are the group of cars plus his employees park over there and some of the guys that drive the cars look like they probably should be shredded but not everyone can afford a nice car. He thought that explanation would address the cars that the councilmen were discussing.

Councilman Bitner suggested that this is the proper location for a salvage yard and it is zoned for this usage. It is the best place to put a salvage yard. It meet a need, does provide a service and it will provide a sales tax base and give the cars an opportunity to give back before they are run through the shredder.

Councilmen questioned why the cars were being sold to USA Metal for shredding and then taken from there to the property next door for parts to be removed and sold.

Mayor Long asked if Mr. Smith would clarify the distinction between business identities. Mr. Smith explained that Pull-A-Part would purchase vehicles that are reusable or salvageable from USA Metal Recycling. USA Metal would purchase a car with a good transmission in it and the buyer from Pull-A-Part would buy that car and it would be sold. Pull-a-Part would bring it across the fence and sell parts off it under the name of Pull-A-Part. The check would be written to Pull-a-Part.

Ms. Lisa VanLanningham – 513 Ruby Ave – I would like to start with saying that usually at these meetings I offend people. So, let me say right off that I am not trying to offend anyone. I am questioning authority and sometimes people get upset about that. So, it's not my intention to offend. The issue that you all were discussing, arguing about, or whatever I think is being lost because this is not about whether recycling is good. I think we can all agree with that. It's not about whether salvage yards are great

because most of us, I am sure, have bought parts from a salvage yard. It's the step before recycling. The problem that I have and I would have been to address Mr. Smith; I didn't know that anyone was applying for a permit. If people know, you get more comments.

Mr. Bitner at the Planning Commission meeting said some things that I took to heart and so this is what I did with that. He said and if I can quote for you, "that he thought that sentiments against this property had more to do with being unhappy than with the merits of the case." So today I am here to tell you that I am happy. I have forgiven and let go. I accept USA Metal as my neighbor. My son and I appreciate the contributions USA Metal makes in terms of the Easter Egg Hunt we go to and the Mudtown Days, so this is not what this is about to me. This is about a small city of 8,000 people and a not pretty industry. So it's more the nature of the business than it has anything to do with anything else. The salvaged cars that you guys were talking about. These are salvaged cars placed on property without a permit and in the county, if we let the county handle this according to county rules, Mr. Smith could have been \$250-500 a day for having salvaged vehicles without a permit; and that's an issue.

Another thing I did with Mr. Bitner, I made notes here so I will try to stay on the topic, the other thing I took to heart about Mr. Bitner is that he made the comment that he appreciates and understands that Southfork is dealing with issues and all of that and I'm not sure that he does understand that there is still noise and smells and the mountains of trash; but, more than that it's not just a Southfork issue. I went to Mr. Bitner's ward and I knocked on about 25 doors. I made contact with 13 people. All 100% didn't even know. Here's how I approached them. Are you aware the city is considering opening a salvage yard inside our city limits? "No" and we had a conversation. 84% of those people were willing to sign a petition that says simply this. "We do not want a salvage yard inside the city limits of Lowell." There are 26 signatures. Only one, mine, is from Southfork. The point for me was not to give you big numbers, but to show you without expending a lot of energy on my part that it's not a Southfork issue. Every single ward has been represented by somebody's signature and so I think that's important for you to know. I think out of courtesy I should give one to Mr. Smith. Is that appropriate or not, how does that work? Ok. One of the guidelines for the signatures, this is not a legal document. I did not not ask for registered voters, I just wanted to get a poll for you all to say people do care. It was one name per household. I didn't let husband and wife sign off. I just one person sign off. I knocked on those 25 or so doors in Mr. Bitner's ward and talked to 13 people and then what I did was I contacted a handful of people I know in town and said, "Hey, you talk to some people about it and see what they say." They gave these signatures. Other people think this is not a good idea for our city.

I want you to consider the fact we do not have a salvage yard right here in our city and I want you to think about the fact that where were salvage yards located always, outside the city limits and there's a reason for that. If your trash quit running tomorrow for a month and you had to put your trash in the back yard of your house, that wouldn't make us happy or comfortable. But if I said, "Well, you need to have five of your neighbors' trash in your backyard" that would make you extremely uncomfortable. And that's what we are talking about here. It's not a pretty business and so we should seriously consider why are we doing this in our city? This business and I'll tell you later now or however you want, how I got my calculations, but by my estimates based on Mr. Smith's concept of the vehicles will be about a ton and some might be heavier like a 3,500 ton Chevy truck, so I went with a ton. I went with 1,000 cars on the lot because I never saw anything that said how many cars. I went with 1,000 because I thought there were about 10 acres there and I went to Pull-A-Part and they have about 12 acres there and they have about 1,200-1,300 cars on the lot. So, that's where I got the number. When you are looking at 1,000 cars at a ton each, you are looking at 2,000,000-4,000,000 pounds of trash.

One of the people at the Planning Commission asked, "Would there be more smells?" I would think so with 2,000,000 pounds of automobile. Another question that came up was the concern for tire storage and mosquitoes. The mosquitoes were somewhat dismissed as if you live in a low lying area, specifically over there by the tracks. I took that to mean Southfork that you would have mosquito issues anyways. But, this comes from the *Environmental Guidebook for Arkansas Dismantlers and Recyclers*. On V of that book here is how the ADEQ addresses that: "Waste tires are stored in a central location and transported to an authorized processor or disposable facility on a frequent basis in order to avoid the harborage of mosquitoes and other vectors. In no event should the number of tires reach 1,000." I'm saying, "Do we want that in our community?"

Another area of concern was screening. I keep mentioning Benton County because Benton County actually has ordinances and rules for screening. We didn't set those standards. We didn't meet the standards of the county even. This is from Benton County Ordinance 2004-33, Article 2, "Salvage yards are to 1,000 feet from the roadway unless it's properly screened so it's not visible from the neighbors' premises or traveled highway or roadway." If you look in your documents that was not the proposal that came up with the Planning Commission, the six foot fence and I think it was to put slats through it or something through the six foot fence which would not shield traffic on Lincoln, nor would it shield traffic on Apple Blossom which sits up on a hill and looks down on that property. So, I'm not sure why we would consider that appropriate.

The issue of additional noise and the railroad came up. The plan for Pull-A-Part was the processing of the vehicles would be done at USA Metal; that would allow for 2,000,000-4,000,000 pounds of additional metal to be shredded and that's a turnover of every 60 days. The shredder will be running more, that constitutes more noise which will directly affect the Southfork neighborhood but not necessarily the whole city. When the shredder runs more often, the train picks up more often, so the train will be there more often even though the exact question was something like will there be another spur or that kind of thing.

The hours of operation were also discussed and I couldn't understand why the hours of operation would not be the same as USA Metal since they were working together to create this business. It didn't address what would happen after closing hours if someone came to USA Metal, I mean to Pull-A-Part at 3:00PM on a Saturday. Are they going to open up USA Metal and drain the fluids? What's going to happen there? It was never addressed.

More importantly someone mentioned we don't have to worry about if oil and stuff spills on the ground because the EPA which in our state is called the Arkansas Department of Environmental Quality has standards and they do; but ignorance is bliss in this area. I say that because I have called to see how safe I was living next to other businesses. As Americans I think we want to believe that someone's taking care of all that, but not necessarily and so I would like to show you a report by the ADEQ, but I would like to give a disclaimer first. My point is this business is not in violation, did absolutely nothing wrong. My point to you is to show that even though there's not a violation, environmental issues are still happening. So even though USA Metal is going to drain the fluids of the salvaged vehicles, the 2,000,000 pounds of salvaged vehicles, there will still be environmental issues. The runoff from that is called Stormwater runoff. Those vehicles, the fluid is drained, but if you've ever driven an older vehicle, you know the fluids are not inside the place where they are supposed to be and that was never addressed, the Stormwater issue.

I have this report from the ADEQ to show you that even though we hoped we are protected, we are not always protected. Can I give that to the city? I am trying to hurry Mayor, I really am. Part of what the ADEQ wants to do is, let me back up. The disclaimer this is not a violation. If you look in the first paragraph this is in compliance with the ADEQ. In paragraph two "No affluent limitations in the general Stormwater permit" meaning there's no limit to what can happen; but I want you to notice that the benchmark set by the state plus what was released into Stormwater runoff sometimes in some cases almost doubled. It's my understanding from what I've read on the ADEQ this runs into the Puppy Creek which then makes its way to the Illinois.

So my point is to tell you it's not a pretty business. I don't think we need it in our City of Lowell. When the business owner, when Mr. Smith mentioned that he had salvaged vehicles there and we saw them on our way in and we saw them on our way out and six Planning Commissioners and four city council reps and the code enforcement officer and the mayor all heard that then I think we have an issue, not with the city, but how will we handle a business like this because is it salvage or is it not salvage? We had a big debate going on. If it's a salvaged vehicle, it's easy to me because I don't have the position and responsibility that you all have. But I would like you to consider all those issues and that's it.

Carol Harmon, 525 Zion Road – I have to give her a hand. She absolutely did her homework and very well. And I have to say ditto to about everything she had to say. Ward 3 went through the same thing about ten years ago, same thing with the fluids, because they were running into Lake Keith where the blind fish were at. She's done her homework. And as far as the salvaged cars, the county does have an

ordinance on that and so does the city. Do you not remember that Keith? An ordinance that we had four or five years ago of parking salvaged cars and cars that didn't work in driveways and people were complaining about it all the time all over town.

Councilman Williams – I don't think we were talking about salvaged cars. I think we were talking about vehicles that didn't operate that were parked in driveways, abandoned cars. It's a little different. I do remember that.

Carol Harmon – Many of those cars didn't run. They were on blocks and sitting in the yard that they were being worked on and that's called a salvaged car. If it doesn't run, it's salvage. That went on for several city council meetings. And the lack of respect for this city council, I am appalled. When somebody is speaking at this podium, when the mayor is speaking, when either one of you are speaking, you are asking for their undivided attention; not to sit over there and laugh at them and tell jokes and swiveling around in your chairs and looking into outer space, that is very disrespectful from either side either here or over there. No one on the west side, if anybody had asked people in Ward 3 how they felt about salvage yard, everyone you talked to over there; Kendell, if you had done that, you would have had a full page of signatures as well.

Mayor Long reminded everyone that it was a split decision among the Planning Commissioners, a 3 to 3 vote.

More deliberations continued among the councilmembers. Councilman Bitner asked the councilmembers if they had a problem with having a salvage yard in Lowell. Councilmen Schein, Williams and Breland voiced opposition to having a salvage yard within the city limits of Lowell. Mr. Tom Smith said salvage yards of today are moving into city limits and he has met all the requirements the city has set for this type of business. Councilman Bitner felt that as much as there were citizens who did not want a salvage yard in city limits of Lowell, he could probably find those who would want it. Concerns were voiced about fluids being drained out of vehicles and how it would affect the environment.

Councilmembers retained the conditions set by the Planning Commission including the annual renewal of the conditional use permit. Deputy Attorney Kieklak read guidelines for voting.

Motion was made to uphold Planning Commission Decision to deny the Conditional Use Permit.

Motion: Ronnie Breland

Second: Thomas Evers

Vote Aye: Breland, Evers, Williams

Vote Nay: Stucki, Jones, Lasater, Schein, Bitner

Motion to uphold Planning Commission Decision to deny the Conditional Use Permit failed.

Voting to deny with reason for doing so:

Councilman Stucki – Open to this going in this location over the previous location which was approved, just for the record, by the Planning Commission with the addition of 8' metal fencing similar to what's to the north of us in Rogers and with a conditional time period selling. I don't like a year, I think six months. We can have the city come back out and say this is why the issues I don't like about this. I am for having this motion go on through.

Councilman Schein - If they vote no, where does this go?

Deputy Attorney Kieklak - Since the motion is made in the negative, it is a little hard to follow. If you vote yes right now, you are voting to deny the permit. If you vote yes, you need to state the reason you are denying.

Councilman Schein - If the motion is overturned?

Deputy Attorney Kieklak - It would still be on the table and then we will expect a motion to approve. If that motion fails, then it's over.

Councilman Breland – Yes means?

Deputy Attorney Kieklak – Yes means that you deny the permit. If you vote yes, you need to give your reasons.

Councilman Schein – If we want them to allow them to redo conditions, we can vote no. If we want to stop this right now, we vote yes and give you the reason why.

Deputy Attorney Kieklak – Yes sir.

Councilman Breland – Yes – It doesn't conform to all the applicable provisions in the code. It is a danger to the health, safety and welfare. It's not compatible in that the size and shape of the structure in keeping with the district because of fencing; Egress and ingress and parking, because of the gravel. If you was to pull a transmission or something, you could leak the fluids down into the pan. The proposed landscaping and screening and would not be in accordance with these regulations or not because of the fencing. Safeguards due to not enough lighting. Does not feel the proposed development is compatible with the surrounding area in the planned use and not in the surrounding areas.

Councilman Lasater – No.

Councilman Schein – No.

Councilman Bitner – No.

Councilman Williams – Yes. I think it's great for Tom Smith but I'm concerned with the neighbors around the development. I think that there would be some odors, screening issues. People would still be able to see back there. I think it would reduce any property values for the businesses around that.

Councilmen continued deliberations before the new motion was made. Mr. Smith said his next step, if denied, was to take his appeal before the Circuit Court. Kris reminded everyone that the Planning Commission had already heard this applicant's request and acted on it; therefore, his request cannot be brought before them for a year. Councilwoman Lasater asked if we could have a motion with additional provisions. According to Deputy Attorney Kieklak additional provisions could be added by the councilmembers. A recess was called to consider what the provisions would be.

Recess began 8:43Pm. Council reconvened at 8:59PM

Councilman Bitner read the provisions proposed for the conditional use permit for Pull-a-Part:

- Hours of operation and business hours will be 8am-5pm Monday-Saturday;
- Shielding will be a 12' solid steel fence in earth tones on north, south and west sides; no stacking of vehicles, height of vehicles is one car only;
- No crushing, bailing or processing for recycling purposes on site; vehicles will be moved from this property to USA Metal Monday-Friday 8am-5pm only;
- No additional lighting on the grounds;
- No fluids will be drained from the vehicles (it will be done prior to coming to Pull-A-Part); when the vehicles come into Pull-a-Part, they will be staged. If they come in on a Saturday, they will be staged on Monday morning when USA Metal starts operations. The vehicle will be taken to USA Metals, go through their recycling pit where it will be drained of all of its fluids and then it will be brought back into the yard for dismantling and sales. The vehicles will go through that gate Monday-Friday, 8am-5pm, no exceptions.
- 60-day turn around on vehicles. All cars will have a receiving date on the back glass.
- Annual renewal permit – December 1st yearly.
- No exterior storage of dismantled tires. Any tires that are to be sold will be dismantled and stored inside until point of sale.
- Catch basins will be provided for any item which contains fluids.

- Mr. Smith agreed that he would consult the ADEQ and EPA and that he will follow their guidelines to be in compliance with state and national standards.
- Approximate clearance of 6' around each vehicle;
- No outside storage of removed parts; no pallet racking or the like;
- Will consider a covered parts removal area for fluid-filled components.
- Amended to include having a containment facility in process as a requirement for CUP renewal on December 1, 2014

Motion was amended by Councilman Bitner and seconded by Councilwoman Lasater for Mr. Smith to have a containment facility in process as a requirement for CUP renewal on December 1, 2014.

Motion was made to approval Pull-A-Part's appeal of the Conditional Use Permit with the conditions listed above.

Motion: Dean Bitner

Second: Janette Lasater

Vote Aye: Lasater, Schein, Stucki, Bitner, Jones

Vote Nay: Evers, Williams, Breland

Motion to approval Pull-A-Part's appeal of the Conditional Use Permit with the conditions listed above was approved.

PUBLIC FORUM: Opened 9:38PM Closed 9:42PM

Carol Harmon, 525 S. Zion Street – I really have to commend each one of you for all of the work you have done for Tom. It's extraordinary. Moving along; issues with the budget. I would like to see each councilperson do as much work for Ward 3 as you've done for Mr. Smith. There are issues that in Ward 3 that need to be addressed, have needed to be addressed for ten years. There have been promises that have never been kept, and the budget could take care of some of those things out there. I never hear from my councilman. I would like to from time to time and whenever they were elected again they said let's keep in touch. I know that's a two-way street. We need sewer, water, streets, street lights down a dark-alley street that are not there. I've addressed this with the Mayor before. No one from the west side is here because everything falls on deaf ears. Nobody wants to do anything. Oh, well, that's the west side; we'll get to that later. I've heard that for ten years. I'm tired of hearing it and everybody else out there is tired of the same thing. We have issues that need to be addressed, serious issues that need to be addressed. If I had had a fire at my house or anywhere down south Zion Street during this last snow storm, the fire department couldn't have gotten there. I'll bet you from 264 down to East Brown Road there wasn't 20 pounds of gravel, kitty litter, put down on the street. And I have ice and snow still out there today. As far as the pay raises go, cut the pay raises and put that money where it needs to be, to take care of people that have been annexed into the city for ten years and that have been promised things for ten years and nothing has ever been done. We have had ten years of pay raises, some extraordinary pay raises when that money could have been put to better use. Or, have a bond issue that would take care of these things all at once. And everybody gets to vote, not just the east side of town. And as far as the new fire truck, I don't want my new fire truck sitting out in the street underneath an elm tree where the pigeons roost overnight. You wouldn't park your Lambergine out there and I sure don't want a fire truck parked outside. The budget needs to be gone over with a fine tooth comb again and some reconsideration done. I appreciate it and thank you.

Councilwoman Lasater challenged compliance with the rules of proper format of the agenda. According to the resolution previously passed, appeal hearings and city projects and updates were not part of the agenda. Mayor Long said we would look at the resolution and prepare it for approval again in 2014.

CITY PROJECTS AND UPDATES: No Update.

OLD BUSINESS:

1. **RESOLUTION ADOPTING THE 2014 BUDGET FOR THE CITY OF LOWELL, ARKANSAS.**

Mayor Long read a statement in favor of the 2014 Budget. City clerk has filed his statement with other meeting documents concerning this meeting.

Councilwoman Lasater asked if the copy of the budget she just received at the meeting, having no time to review it, was it the same as it was discussed at the last meeting. Mayor Long said there was a provision to allow for 230,000 (approximately) for the substation and a 4% raise. Finance Director Hudlow said there were no real changes in the budget other than some spelling errors, things of that nature, just cleaning it up.

The discussion among the councilmembers, both for and against the budget, remained much the same as they were in the last council meeting and objections and supporting comments were recorded in the November 19, 2013 Minutes.

Councilman Schein said the citizens he talked to were in favor of alternate ways of getting the money needed rather than taking money from the street department and that by taking this out of the budget what they are seeing is that we are misusing our funds. We are top heavy, not going in the direction they desired. Mayor Long commented he found that most of those things were untrue.

Councilman Breland said from what he was seeing and hearing from out West, the promises of the city have yet to be fulfilled. He took a survey of a city northwest of Lowell showing the salaries, etc. A copy is on file. He wanted to take the budget back to the workshop to find money to help the west side and money for the new fire station.

Mayor Long said in his administration the following improvements on the west side have been made: overlaid every street; chip and sealed Zion; established storm warning system; sewer improvements although slow and not at the pace we would like to see; numerous AHTD and Green Way projects aer to be kicked off this coming year.

Councilwoman Lasater talked with constituents in all four wards and found the same results that Councilman Schein had. No one she spoke with was in favor of the 4% raise.

Councilman Bitner pointed out that we have had some trouble with the recharge area, slowing us down in making the kind of progress we wanted to make. Concerning salaries, he gave statistics from United States Bureau of Statistics to show reason for giving 4% raise.

Mayor Long said because of his observations of this council's desire for a better budget development plan and involvement in the process, he would be developing and putting into future practice a standard budget development process for the 2015 budget. He suggested:

- establishment of a budget review team consisting of finance director, mayor, finance committee and others;
- establishment of meeting times and deadlines for periodic revenue projections of finance director noting historical trends and key changes in the city's revenues including health insurance and other budget planning information;
- establishment of criteria of prioritizing of capital improvements whether they be on the east or west sides of town, employee evaluations, project selection, etc.;
- establishment of final budget adjustment dates by the team before presentation of the proposed budget at the November council meeting.

Finance Director Hudlow explained that our labor ratio which is the amount of labor cost in comparison of total expenses is 42%. It tells him that we are extremely efficient. Neighboring cities are 73.3% average over three years; another city was 78%. Either you are not paying your folks enough or they are extremely efficient. Numbers don't lie.

Motion was made to approve the Resolution as presented.

Motion: Kendell Stucki

Second: Dean Bitner

Vote Aye: Bitner, Stucki, Jones, Williams, Long (broke the tie)

Vote Nay: Evers, Schein, Lasater, Breland

Motion to approve the Resolution was approved.

Resolution was assigned No. 13-27.

Councilman Schein asked Deputy Attorney Kieklak since the mayor did vote and part of that was a salary increase for him, was conflicted?

Deputy Attorney Kieklak answered it was not a conflict. Every dime spent is in there and you voted on your own continued salary as well. You have to vote on a budget and the mayor is part of the council for the purpose of voting. Who would vote on the councilmembers' salaries? Does that make sense.

Councilman Schein said it would not go into effect until the next election.

Deputy Attorney Kieklak said the budget could be amended every day and twice on Sunday. The budget could be changed literally all the time. It should be revisited from time to time.

Councilman Evers was pleased with the outcome of the vote on the budget, cutting the raise from 5% to 4% and was glad the mayor participated in the vote because he thinks it is good, his finance director thinks it's good.

Recess began 10:05PM. Council reconvened at 10:10PM

NEW BUSINESS:

1. ORDINANCE AUTHORIZING THE ACCEPTANCE OF CERTAIN REAL PROPERTY, WHICH HAS BEEN DONATED BY THE LEONARD JOHNSON REVOCABLE TRUST, FOR THE BENEFIT OF THE RESIDENTS OF THE NORTHWEST ARKANSAS REGION, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

Mayor Long wished Mr. Leonard Johnson could be present at this meeting, but he was absent due to illness. He is the one they have been working with for two years to receive a parcel of land as a gift to the city for non-profit causes, consisting of 100 acres. Tonight it was officially received by this ordinance. At some point, when Mr. Johnson is healthier, we would like to have him here to show our appreciation for his gift. This gift was given in memory of his deceased wife, Kathleen Johnson. This land would probably appraise for between \$50-60,000 an acre easily.

Councilwoman Lasater asked what would happen to the ten acres, if it would revert to the city, and Mayor Long said it was to give Mr. Johnson residence while he was living. She asked for typing errors to be corrected: "that that" delete one of them; section one, third line "which my required" should be which may be required; section four the word "seperable" generally would be severable.

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

Motion: Janette Lasater

Second: Ronnie Breland

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

Vote Nay: None

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

City Clerk read the Ordinance as corrected by title only.

Motion was made to approve Ordinance as corrected.

Motion: Keith Williams

Second: Janette Lasater

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

Vote Nay: None

Motion to approve Ordinance as corrected was approved.

Ordinance was assigned No. 941.

Motion was made to approve the emergency clause.

Motion: Janette Lasater

Second: Ronnie Breland

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

Vote Nay: None

Motion to approve the emergency clause was approved.

2. INTRODUCTION OF ORDINANCE – AMENDING THE S.T.E.P. SEWER SERVICE RATES FOR SEWER SERVICE FOR THE CITIZENS OF THE CITY OF LOWELL WHO ARE USERS OF THE S.T.E.P. SEWER SYSTEMS OWNED AND OPERATED BY THE CITY OF LOWELL AND FOR OTHER PURPOSES.

Law requires this action to be introduced to the council. Deputy Attorney Kieklak advised Mayor Long to take a voice vote. Voice vote was taken in favor of having the Public Hearing on January 21, 2014 at 6:30PM: Aye: 7, Nay 1 (Breland).

3. RESOLUTION ADOPTING AN AMENDED 2013 BUDGET FOR THE CITY OF LOWELL, ARKANSAS.

This is a housekeeping item which is done every December. In May the medical insurance rates increased and most of this adjustment is medical increases, city attorney fees, and revenues which exceeded our estimates.

Motion was made to approve the Resolution as presented.

Motion: Janette Lasater

Second: Kendell Stucki

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

Vote Nay: None

Motion to approve the Resolution as presented was approved.

Resolution was assigned No. 13-28.

Councilmen requested a balance sheet be given to them before January 1, 2014.

4. RESOLUTION AUTHORIZING THE SALE OF REAL PROPERTY TO THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENTS FOR A RIGHT OF WAY IN CONJUNCTION WITH THE HIGHWAY 264 INTERCHANGE IMPROVEMENTS PROJECT.

Mayor Long presented map and paperwork showing 77 square feet of property in front of our city, monument sign required of HTD.

Motion was made to approve the Resolution as presented.

Motion: Kendell Stucki

Second: Janette Lasater

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

Vote Nay: None

Motion to approve the Resolution as presented was approved.

Resolution was assigned No. 13-29.

5. RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK OF THE CITY OF LOWELL, ARKANSAS TO ENTER INTO CONTRACT WITH TOMLINSON ASPHALT COMPANY, INC. OF FAYETTEVILLE, AR FOR THE MCCLURE AVENUE IMPROVEMENTS PROJECT.

Construction will start mid-January.

Motion was made to approve the Resolution as presented.

Motion: Kendell Stucki

Second: Keith Williams

Vote Aye: Lasater, Williams, Schein, Jones, Bitner, Stucki, Evers

Vote Nay: Breland

Motion to approve the Resolution as presented was approved.

Resolution was assigned No. 13-30.

6. **COMMITTEE REPORTS: Ordinance Committee** – Dean Bitner – No report.

7. **ANNOUNCEMENTS**

2014 AML Conference, January 29-31, 2013 at John Q. Hammons Center

2013 City of Lowell Employee of the Year- Jimmy Hendrix

Open House hosted by Lowell Historical Museum – December 20th 5-7PM - City Hall Council Chambers

2013 Surplus reallocated/STEP and Street purchases: reallocate from one line item to another to allow

Jim Hendrix to purchase backhoe. STEP department surplus move line item to purchase dump truck

\$8,000 in equipment and \$3,636.56 in equipment line for purchase for portable building to house 2

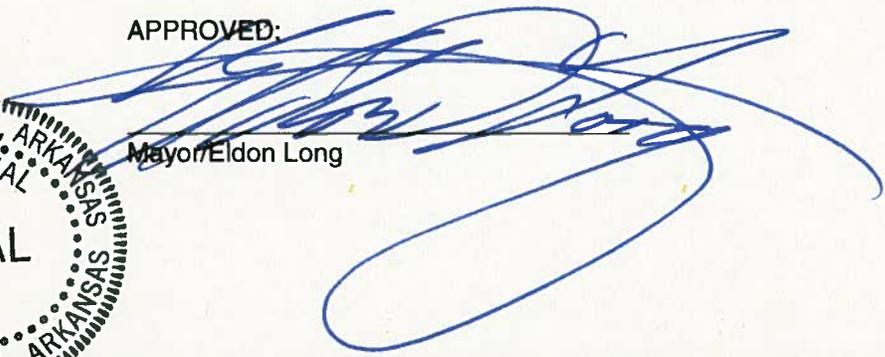
mowers, ATV, 2 generators and small equipment that's being stored in Street Department and put it

closer to west side of town so they don't have to drive back and forth.

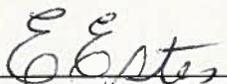
Councilman Breland thanked Tom Smith for helping out with the Employee Christmas party.

ADJOURNMENT: Motion to adjourn was made by Councilman Lasater and second was made by Councilman Bitner. There being no objections, the meeting adjourned at 10:53PM.

APPROVED:


Mayor/Eldon Long

ATTEST:


City Clerk/Elizabeth Ester



City of Lowell

Minutes of the Regular Council Meeting

December 17, 2013