

**LOWELL CITY COUNCIL MINUTES  
REGULAR COUNCIL MEETING  
APRIL 15, 2014 - 6:30 p.m.**

**CALL TO ORDER OF REGULAR COUNCIL MEETING:** The Regular Meeting of the Lowell City Council was called to order at 6:33PM by **Mayor Long** at the Lowell Council Chambers.

**INVOCATION:** The Invocation was given by **Commissioner Vannoy**

**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.

**CONSENT AGENDA:**

**Lowell City Council Minutes Regular Meeting – March 18, 2014  
Financial Statement – March, 2014**

**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.**

**PUBLIC FORUM:**                    **OPEN: 6:35PM    CLOSE: 6:35PM** (No one from the public spoke.)

**PROCLAMATIONS:**

- 1) National Drinking Water Week – May 4-10, 2014**
- 2) National Historical Preservation Month – May, 2014**
- 3) National Building Safety Month – May, 2014**

The three proclamations were accepted individually by councilmembers by three separate unanimous voice votes.

**PRESENTATION OF ORDINANCES AND RESOLUTIONS:**

Councilman Stucki asked that the agenda be amended by adding Appropriation of Funds for East Apple Blossom as Item 7 of the agenda.

**Motion was made to amend the agenda and adding Resolution for Appropriation of Funds for East Apple Blossom Drainage Project as Item 7 of the agenda.**

**Motion: Kendell Stucki**

**Second: Dean Bitner**

**Voice Vote Aye: Unanimous**

**Voice Vote Nay: None**

**Motion to amend the Agenda and adding Resolution for Appropriation of Funds for East Apple Blossom Drainage Project as Item 7 of the agenda was approved.**

**Public Hearing – Ordinance adopting the 2012 edition of the International Swimming Pool and Spa Code  
Open: 6:30PM    Close: 6:40PM** (No one from the public spoke.)

Discussion followed concerning whether the Ordinance had been set and advertised for a public hearing, the time it should be held, if before or during the council meeting. It was determined it had been recommended by the Ordinance Committee, Planning Department, and it had been advertised as a public hearing during the council meeting. Deputy Attorney Kieklak advised there were no legal requirements for a public hearing. Notification of the ordinance to the citizens was to let them know it was being considered at this meeting.

**Motion was made to move the tabled item to Old Business and put it on the floor for consideration.**

**Motion: Dean Bitner**

**Second: Jeanette Lasater**

**Voice Vote Aye: Unanimous**

**Voice Vote Nay: None**

**Motion to move the tabled item to Old Business and put it on the floor for consideration was approved.**

**OLD BUSINESS:**

**1. ORDINANCE ADOPTING THE 2012 EDITION OF THE INTERNATIONAL SWIMMING POOL AND SPA CODE, REGULATING AND GOVERNING THE DESIGN, CONSTRUCTION, ALTERATION, MOVEMENT, RENOVATION REPLACEMENT, REPAIR AND MAINTENANCE OF SWIMMING POOLS, SPAS, HOT TUBS, AQUATIC FACILITIES AND RELATED EQUIPMENT IN THE CITY OF LOWELL, AR; PROVIDING FOR ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; REPEALING ALL OTHER ORDINANCES OR PARTS OF LAWS IN CONFLICT HEREWITH.**

Adopting the code above, would allow the City of Lowell to lead the state in proactively reducing the number of children from drowning. The requirements of fencing, as well as grounding and bonding of electrical equipment and metal objects, are included in this code along with the new requirements of non-slip decking material, grates and pump requirements for suction trap avoidance and inclusion of portable spas. A permit will be required before pools and spas can be installed. Education of the public will be through the Lowell newsletter and other media. Enforcement will be done by Building Services as they drive around the city and by complaints to the city by the public when a pool is installed without fencing, etc. A permit will be required to install a new above ground pool and it will serve the life of the pool. There will be no additional requirements for individuals who have already installed an above ground pool.

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

**Motion: Dean Bitner**

**Second: Connor Jones**

**Vote Aye: Stucki, Bitner, Williams, Evers, Jones**

**Vote Nay: Schein, Breland, Evers**

**Motion to suspend the rule and place Ordinance on first reading by title only was not approved.**

Since the ordinance was not approved by 2/3 vote and the council wanted to consider this ordinance for decision, the Deputy Attorney read the entire ordinance. Discussion continued about the cost of the permit, following state guidelines, maintenance/repairs, etc. until the council members decided to make a motion to approve the ordinance. Commissioner Vannoy asked the council to have faith in things worked out in various committees and are brought forward to the council for consideration.

**Motion was made to approve the Ordinance as presented.**

**Motion: Dean Bitner**

**Second: Connor Jones**

**Motion and second was withdrawn by both councilmen.**

Councilman Breland made the motion to continue discussion but the motion was not given a second. Councilmen expressed concern over the public knowing they will have to meet the requirements of this ordinance. They were assured that through education the public would become aware of what has to be done before they install a swimming pool or spa. Chief Morris expressed (1) he was in favor of the

ordinance; (2) it's the council's job to legislate and the city employees were hired to enforce ordinances and how they do it is not the council's question or issue; (3) ICC is no different than OSHA and they don't write a regulation for something that hasn't already happened and hurt somebody. If it hadn't happened in the past, the councilmen wouldn't be looking at the manual today. He recommended the council with all due respect that they take the above things into consideration and approve the ordinance.

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

**Motion: Dean Bitner**

**Second: Jeanette Lasater**

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

**Vote Nay: None**

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

**City Clerk did not need to read the Ordinance as it had already been read by Deputy Attorney.**

**Motion was made to approve the Ordinance as presented.**

**Motion: Kendell Stucki**

**Second: Janette Lasater**

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

**Vote Nay: None**

**Motion to approve the Ordinance as presented was approved.**

**Ordinance was assigned No. 946.**

**NEW BUSINESS:**

**1. ORDINANCE RESCINDING ORDINANCE NO. 204 AND ORDINANCE NO. 858, AND ORDINANCE NO. 869 TO AMEND THE CITY OF LOWELL CODE OF ORDINANCES SECTION 24, ARTICLE II, PARK RULES, SECTION 24-19, AND DECLARING AN EMERGENCY.**

The amendment would take into consideration recent changes during the past voting cycle regarding county alcohol laws. Recent changes in state law provided opportunities that may be of interest on the city's behalf. Other entities have taken advantage such as Rogers' Downtown Venue and other events involving alcohol.

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

**Motion: Dean Bitner**

**Second: Kendell Stucki**

**Vote Aye: Schein, Stucki, Bitner, Williams, Jones**

**Vote Nay: Lasater, Breland, Evers**

**Motion to suspend the rule and place Ordinance as amended on third and final reading by title only was not approved.**

Concern was expressed that council was rushing to approve an ordinance that possibly needed to be considered a step at a time and that wanting to serve alcohol at Mudtown Days was not reason enough to pass the ordinance at this meeting. Some members felt that the public park was a place for children to play and that having citizens drinking and behaving inappropriately was not what they wanted to see. Others felt that the sale of alcohol was appropriate and that the guidelines in this ordinance would keep events orderly.

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

**Motion: Keith Williams**

**Second: Kendell Stucki**

**Vote Aye: Schein, Jones, Bitner, Stucki, Williams**

**Vote Nay: Lasater, Evers, Breland**

**Motion to suspend the rule and place Ordinance on first reading by title only was not approved.**

**Deputy Attorney read the Ordinance in its entirety.**

Councilman Bitner made a motion for a due pass and then withdrew it.

Councilwoman Lasater passed on to Shawn Ingraham that someone is fishing at the lake by the Senior Center and leaving cut up pieces of fish by the lake. Mayor Long said it would be investigated.

**2. A RESOLUTION APPROPRIATING FUNDING TWENTY FIVE THOUSAND DOLLARS (\$25,000) PURSUANT TO THE SETTLEMENT AGREEMENT IN THE NIGHT VS CITY OF LOWELL CASE.**

Money came from General Fund and was matched by the Municipal League.

**Motion was made to approve the Resolution as presented.**

**Motion: Janette Lasater**

**Second: Ronnie Breland**

**Voice Vote Aye: Unanimous**

**Voice Vote Nay: None**

**Motion to approve the Resolution as presented was approved.**

**Resolution was assigned No. 14-12.**

**Recess began at 7:55PM Reconvened at 8:05PM**

**3. RESTRUCTURING OF THE BUILDING SERVICES DEPARTMENT.**

Restructuring of the Building Services is due to Don Harkins' retirement effective 4-30-14. Office management and clerical functions will be handled by Lana Beardon and Kim Arnett. Inspection will be covered by Matt Bailey and CJ Stephens. The code compliance position will have double coverage filled by a new hire and backed up by Kim Arnett who is assuming some code compliance work in the field. The promotions are as follows: 1) Matt Bailey will move from city inspector to building services director; 2) CJ Stephens will move from code compliance officer to city building inspector; 3) Kim Arnett will continue to work in records and bookkeeping, but will also be promoted to part-time code compliance responsibilities; 4) a new code compliance position will be essential to assure the department will operate efficiently and professionally. Don Harkins supported the promotions and asked the council for their support in approving funding for the promotions.

No action was necessary by the council.

**4. RESOLUTION APPROPRIATING FUNDING FOR PROMOTIONS IN BUILDING SERVICES DEPARTMENT.**

Finance Director explained that the Finance Committee wanted to stay within \$75,000 for the new position and promotions. Goals have been set for individuals to meet through 2015 in order for them to gain financial rewards when they are met.

**Motion was made to approve the Resolution as presented.**

**Motion: Kendell Stucki**

**Second: Thomas Evers**

**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. 14-13.**

**5. RESOLUTION APPROPRIATING FUNDING FOR A CODE COMPLIANCE OFFICER IN THE BUILDING SERVICES DEPARTMENT.**

Amount in Resolution is a salary range and depending on the qualifications and experience, this would be the maximum for the new person.

**Motion was made to approve the Resolution as presented.**

**Motion: Eric Schein**

**Second: Keith Williams**

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

**Vote Nay: None**

**Motion to approve the Resolution as presented was approved.**

**Resolution was assigned No. 14-14.**

**6. 2012 AUDIT**

Finance Director explained that the three findings in the 2012 audit were: 1) segregation of duties; 2) Disaster Recovery Plan; 3) adverse opinion is because we do not follow standard GAP but follow the regulatory method through the state of Arkansas laws.

**7. RESOLUTION TO APPROPRIATE FUNDING FOR EAST APPLE BLOSSOM BETHEL HEIGHTS DRAINAGE PROJECT.**

This project is being shared with Bethel Heights and it will cost approximately \$65,000. We are still waiting for a corrected survey document. Apple Blossom is slated to become an arterial road in the future.

**Motion was made to approve the Resolution as presented.**

**Motion: Keith Williams**

**Second: Dean Bitner**

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

**Vote Nay: None**

**Motion to approve the Resolution as presented was approved.**

**Resolution was assigned No. 14-15.**

**Finance Committee** worked on settlement agreement for former police officer; building service reconstruction; Apple Blossom drainage project. Councilman Williams encouraged the council members to begin work on 2015 budget now.

**Ordinance Committee** met March 31 and discussed pods and long term storage containers; swimming pool and spa ordinance; separation of clerk/treasurer title.

**ANNOUNCEMENTS:**

Easter Egg Hunt – April 19, 2014, 2PM at Ward Nail Park – Sponsored by Lowell Historical Museum.

Mudtown Festival – May 30-31, 2014 – Volunteers are needed.

Coffee with Congressman Steve Womack – April 22, 2014 – 2:00PM-3:30PM

Refurbished fire truck is now at the fire station.

We did not qualify for the SAFER Grant; will re-apply next year.

Annual Kiwanis Club pancake breakfast will be served at the fire station.

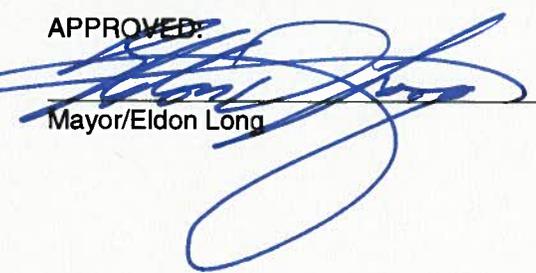
**ADJOURNMENT:** Motion to adjourn was made by Councilwoman Lasater and second was made by Councilman Bitner. There being no objections, the meeting adjourned at 8:57PM.

ATTEST:

  
City Clerk/Elizabeth Estes



APPROVED:

  
Mayor/Eldon Long