

**LOWELL CITY COUNCIL MINUTES
REGULAR COUNCIL MEETING
NOVEMBER 13, 2018 - 6:35PM**

CALL TO ORDER OF REGULAR COUNCIL MEETING: The Regular Meeting of the Lowell City Council was called to order at 6:35PM by **Mayor Long** at the Lowell Council Chambers.

INVOCATION: The Invocation was given by Liz Estes, City Clerk

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

ROLL CALL: Mayor Long asked for roll call. City Clerk made a verbal roll call. Council Members present were **Todd Fenix, Eric Schein, Kendell Stucki, Linda Vannoy, David Adams, Lonnie Jones, Dean Bitner and Thomas Evers arrived after Roll Call. 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 – October 16, 2018
Financial Statement – October 2018**

Motion made to accept the Consent Agenda.

Motion: Dean Bitner

Second: David Adams

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to accept Consent Agenda approved

Motion to approve amending the agenda and add discussion on moving next council meeting forward as Item 5.

Motion: David Adams

Second: Kendell Stucki

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to approve amending the agenda and add discussion on moving next council meeting forward as Item 5 approved.

PUBLIC FORUM: Open: 6:34PM Close: 6:37PM

Casey Kuth, 603 Concord Street. Public Service is a public trust. An elected official is held to a higher standard. According to the Arkansas Municipal League Code of Conduct for Councilmembers, a councilmember should be polite and professional and should not engage in personal attacks under any circumstances. There is no seat for hate, discord, disrespect on this council. Dean Bitner has spent the last several months violating that trust. "Chris Moore, your trolls, minions and attack dogs don't scare me. Buckle up. I'm going to let information flow freely for the next few days, including where you live. You are a despicable human being, Chris Moore. The coo at the PD is a very real scenario. I'm not pulling this out of thin air. I don't trust Chris Moore, Paul Pallerio, Eric Schein any further than I can throw them. There's a special place in Hell for people like you fellows. You've earned it. After what you have said and done to this man, enjoy your seats, boys, your table is reserved in the smoking section. Aaron Pile, Tim Kuth, Paul Pallerio, Chris Spangler and the rest of you back biting minions, I don't know how you sleep at night." I urge the City Council to hold your members accountable and I would ask you to ask Dean to step down from his position.

Glenn Jones, 623 Springcreek. We have the best police department in NWA. I travel a lot. I travel over six or seven different states and I've never seen a better police department. I want to especially tell you about the police chief. He knows that I have suffered from injury and he knows I've suffered from the loss of my wife. He came by my house to check on me. How many police chiefs do you know who will come a

citizen's house and check on him. He has the best policemen that there can be. Another issue: Springcreek Street became a dump-truck racetrack. I clocked several of them at 51 miles per hour. They told me they could do 55 because the mayor told them they could which was a lie. We were hitting 180 trucks per day. I contacted the police chief and guess what. It stopped. No more. His people came out there to insure the fact that the traffic is doing okay. I just want everybody how pleased I am with the Lowell Police Department.

Joe Rheingans, 405 S. Bloomington. I've been looking over the Overlay District Regulations. I think it's time to review them and make them more business friendly. There's a few things that are antiquated that when they were adopted in 2009. I would like to ask the council and Ordinance Committee to start looking at ways to revise them with people from the community, planning commission and city council.

Thomas Evers arrived at the meeting at 6:37pm.

PRESENTATION OF ORDINANCES AND RESOLUTIONS

PROCEDURAL MOTION TO SUSPEND THE RULE AND READ ALL ORDINANCES ONE TIME BY TITLE ONLY.

Eric Schein: I would like to ask to remove the first rezoning from one reading to three readings.

Mayor Long: I think that's the only ordinance we have tonight, so we are going to do that tonight. The best thing to do is to drop the procedural motion to waive all ordinances by one time only.

Liz: Okay.

Mayor: Would that be agreeable by everyone?

Dean Bitner: How are we voting, Mayor?

Mayor: We typically to save time vote on a procedural motion to dispense with the rule and read all ordinances one time by title only. Eric would like it to go the full course. On this ordinance, it's the only ordinance on the agenda tonight; so if it's agreeable with everyone, I need a motion from Eric.

Liz: I need a second.

Mayor: Who was the second?

Liz: I don't have a second, he made the motion.

Linda: I'll second it.

City Attorney: Eric, what would you like to, I know you want to do it in three different meetings is why, I assume,

Eric: Correct.

City Attorney: But you probably don't want to read the entire ordinance.

Eric: No, by title only.

City Attorney: Ok. So, what you'll do make a motion.

Eric: The motion was to read by title only, but proceed with regular rulings with three readings.

City Attorney: Three separate readings, sure.

City Attorney: It will take three meetings instead of one unless next meeting you guys could suspend the rule and do it in that meeting.

Eric: Correct.

City Attorney: I was making sure you didn't want to read the whole thing because you don't want to hear the whole thing.

Kendell: You're going to do, but you have to get an unanimous vote on this, correct? We are going to vote per person.

Dean: It will be January.

City Attorney: It takes two thirds to suspend the rule, right, and so you always vote to suspend the rule or not. What Eric is, his motion would also take two thirds because it's a suspension of part of the rule, but not the whole rule.

Kendell: That's what I'm saying. So we would have to vote, not by yea or nay, it's by person vote.

City Attorney: If the mayor asks for an unanimous vote, meant to reflect that, but you could do a roll call to make sure we get two thirds. Yes.

Mayor: Let's just go ahead and do a roll call.

Dean: Hold on. Just so everyone understands what we're talking about here, we'll read it once tonight, once in December and then it will come to decisional in January. Am I understanding that correctly?

City Attorney: Yes sir.

Dean: Because I think your objective is to get it to January when you have more favorable council to kill it. So just so everyone understands what you're

Eric: No. My objective is being fair to the citizens. I know there are some citizens here tonight and some citizens that have expressed to me they couldn't be here and wanted to express their voice and they have been expressing their voice; but, they could not be here tonight.

Dean: Okay.

Kendell: But all we're doing here is upholding what the Planning Commission already gave the do pass on it. Correct?

Todd: It's been going on for months.

Mayor: Roll call, please.

Motion made to read ordinances by title only at three separate meetings.

Motion: Eric Schein

Second: Linda Vannoy

Vote Aye: Jones, Vannoy, Evers, Schein

Vote Nay: Fenix, Adams, Bitner, Stucki

Motion to suspend the rule and to read ordinances one time by title only failed.

Liz: So, now it's 4 and 4.

City Attorney: So let's do this. Mayor, let's go ahead and forget about that motion for now, it failed. Let's go to new business. Go to the ordinance and we will figure out how we're going to do the ordinance tonight.

Mayor: Okay.

City Attorney: Again, if we don't suspend the rule, we'll be reading it entirely tonight and reading it three times on three separate days. So you'll decide how you are going to address the ordinance itself. Okay.

OLD BUSINESS: None.

NEW BUSINESS:

Mayor: Under new business we have the (Mayor reads the ordinance title below). Karen Davis, would you like to come and explain the property that is involved here?

1. ORDINANCE AMENDING THE CITY OF LOWELL CODE OF ORDINANCES, SECTION 16-59, BY REZONING CERTAIN LANDS FROM RESIDENTIAL-A (R-A) TO MEDIUM DENSITY RESIDENTIAL (MDR).

Karen: Good afternoon. We have 26-acre on the east side of McClure, part of Old Wire Road, and it's just north of McClure. This acreage was annexed into the city and is currently in an RA Zone, rezoned over to Medium Density Residential as a request. It was unanimously voted for a rezone by the Planning Commission. If you have any questions on the actual development, I do have Jason Appel with ESI who represents the development.

Mayor: Thank you Karen.

Mayor: What's your pleasure? Do you have any questions for Mr. Appel?

Eric: No.

Mayor: It's well designed.

City Attorney: It would be appropriate to hear a motion.

Mayor: Yeah. Do we have a motion to move this forward?

Eric: I believe we do have citizens who are here to talk about this.

Mayor: There has to be a motion made with the council to do that because this is an agenda item.

Kendell: So moved. I would like to hear the citizens.

Motion to hear from the citizens.

Motion: Kendell Stucki

Second: Todd Fenix

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion to hear from citizens approved.

Mayor: Okay. We'll handle this just like we do Public Forum. Anyone who would like to speak on this issue would need to come and speak to the council. Take two minutes if you need to and try not to be redundant on the issue with and bring up new information as you all come forward. OK. So, who would like to be first tonight? Bethany, how are you?

Bethany Rosenbaum, Good evening.

Liz: Your address, please.

Bethany: 414 North Old Wire Road.

Liz: Thank you.

Bethany: Thank you for the opportunity to speak. Glad to be here. As you are aware I have submitted two extensive letters with quite a bit of research on my position or opposition to this rezone. So rather than going into the details, I'll just go over the major bullet points of my arguments why we oppose this rezone. First, it disrupts the character and civic design that's of the existing space, with the majority of the area zoned as Residential-A which is, you know, one acre or larger plots. Second, there is a lack of justification for the rezone in the existing neighborhood. One of the concerns I have is that we have zoning laws in place for a reason, to prevent haphazard growth. If you look at our zoning and the structure of the city, I think that you all have quite a task ahead of you looking at the direction and the growth of our city. I believe that rezoning this particular area does not; it's not a buffer zone; it's not an appropriate place as you look at the entire map of the City of Lowell. Third, it is inconsistent with surrounding areas and the open space. Fourth, there is insufficient infrastructure and added pressure on resources and I believe there will be more constituents' who will come in identify more. But we've talked with the Planning Commission twice about issues with flooding. As you know, the road has been expanded but there's been issues with flooding even on our property. Even if you talk with Crossland Construction who did the widening of Old Wire Road, they will tell you there's going to be major issues with the proposed buildings on this property. Finally, it would discourage permanent residents which is a major concern we have. The growth is not just planning, but also the type of amenities and places we are creating to encourage permanent residents to Lowell. Now I just wanted to briefly go through that. What I really wanted to do is share my heart with you about some real concerns my husband and I have about our voice being heard. We are new to the area, just three years, but we have been very active in coming to planning meetings, city council meetings. We love Lowell. We really do. We plan to stay here for a long time. Some concerns we had is when our leadership tells us that no matter what efforts we make, no matter what we do that in particular this plan is going to go forward. That's very concerning to us is when leadership in its place represent and listen to the people and the patrons the constituents and us that no matter what we do, it's still going to pass. And what I want to say is that the community, us the people, we are not blind or ignorant or disengaged as so many have claimed. We are engaged and civic minded. We care about our town and yet we feel our voice has fallen on deaf ears. We come to all the planning meetings about this and the truth is that our voice, we have made it clear what our position is that we oppose this rezone and the proposed project that will come after it. So, I want to thank you for your time and make it very clear for those reasons why we are opposed to the rezone. Thank you.

Mayor: Thank you. Next.

D J Kootman, 708 Hankins Avenue. I would like to piggyback on the statements as well as far as having the voice of the people not heard. Also, I attended the planning council's vote and the neighbors here in the Summer Meadows Subdivision; unfortunately, most of them didn't want to come here tonight because they felt their voice wasn't going to be heard and it's very unfortunate. The planning council had stated that the vote was going to be unanimous because Lowell needed diversity. So I would like to ask all you quickly here after I'm done visiting how this subdivision will bring diversity versus if it was rezoned different ways; that was the only takeaway that we had gotten from that planning commission. Second, again, and just wanted to maybe voice some personal concerns that I had. Mr. Bitner, my name is D J Kootman, we have not met sir. I wanted to ask really quickly you are a business owner. You do own Lowell Storage, correct?

Dean: Yes

D J Kootman: That is adjacent to the property that we are visiting with in this city council tonight. You had bought this property from the developer, Tuscan Vines. Correct?

Dean: Yes

D J Kootman: And when you had bought the property for the storage facility, at the time it was not a part of Lowell, correct? It was still part of the county and once you had built these storage units from the developer then it became part of city council.

Dean: No.

D J Kootman: No. Okay. It just appeared to a lot of citizens here that here we have a city councilman that owns some storage units next to the proposed rezone and that you had bought the property from them. And I know when I lived in apartments, I never really had enough room to store stuff and I'm sure as a business owner this would be a very lucrative neighbor to have for your business as well. So, and again not trying to personally attack. I just wanted to bring that out make sure that we don't have personal business needs being put above the needs of the Lowell citizens. Thank you for your time. Again, strongly opposed. Wanted to leave you with a couple of other concerns that the planning commission did not address. One was the increased traffic flow on McClure. Having been a resident here, I have already noticed at least three different traffic trailers coming down McClure. Again, this is a street with a public elementary, and two city parks. The planning commission could not tell us how the increased population we would deal with, the infrastructure; again the needs of the fire and police. The local elementary school, where are these children going to be going to school. How are we going to be paying for that and so on and so forth. Again, strongly opposed. I know I'm speaking on behalf of a lot of neighbors and citizens in Summer Meadows as well that unfortunately also could not make it here tonight. So again, please city council, I strongly urge you to please vote against this rezoning for these stated reasons as well as. Mr. Bitner, I appreciate it. Thank you for your time. Thank you.

Rita Graham, 503 North Old Wire Road. Thank you each one for serving our community. I thank you very much for that. I live approximately 200' north of this proposed development. On July 11, 2013 I came to this room. The Arkansas Highway Department was here presenting the projected new road. At that time, they told us five lanes. As you can see, Old Wire Road has had a beautification. It has not helped us with our traffic. We still have one lane north, one lane south. We have a turning lane north of McClure I guess to turn into fields. My big issue is the infrastructure, the added traffic. According to the proposed Arkansas, the papers they passed out will have 16,500 cars traveling that road and here's why. On Pleasant Crossing Road, it will be opened up from Rogers. We will be taking additional traffic on North Old Wire Road. I have pictures. Just a couple of weeks ago I was sitting on McClure. Cars were backed up past Oak Street. It's consistent every day. You just don't go down McClure. When we add this development, where is that traffic going to go? I do not believe Lowell is prepared for this development. All of the area out that way, I do not know of one home in my neighborhood that would not appraise for at least \$200,000 or more. I spoke personally in Tim Grahams' office the owner of this project that sold Dean his land. And Dean is right, he is not in city limits. He's still in the county. His land has not been brought into the city. And that's what the difference was that was spoken a moment ago. Various intentions I believe that Dean brought in. But for Tim to state that the houses projected in the perimeter of this would be selling between \$155,000 and \$175,000. I was pretty much made fun at the planning meeting when I said that was low income housing. Perhaps I should have said lower income housing. I can buy one of those houses and the mortgage payment would be less than rent in an apartment. Yes, it is lower income. Lowell should be looking at your budget. Your budget comes from property owners that pay property taxes. You allow lower income houses to be built, you have lower property taxes brought into your budget. So consider that. Perhaps we do need a different type housing. I noticed on his plat its labeled as townhomes on North Old Wire Road. That's disturbing to me. I do invite development. I've said since for twenty years that that land is ideal and ripe for development. But it's not ripe for development for 120 front doors projected for a small tract of land. So I want you to consider all I've said. I respectfully ask you to vote no on this. I also respectfully appreciate that Dean will likely recuse himself from the vote simply because of his potential of profit to be made from this development. I thank you for all of you who serve on this committee.

Mayor: Thank you. Someone else.

Sarah Deety, 309 Eclipse Street. I'm also a resident of Summer Meadows. I'm going to say basically what I said in the planning meeting. We already have a traffic issue on McClure. Coming out of our subdivision in the morning crossing over McClure onto Oak, even turning right onto McClure to take my

young daughter to Lowell Elementary, traffic is an issue. If we are adding 120 front doors just east of us, that is going to be substantial. There's no way that the roads can handle that. Also, as far as the schools are concerned, there's no way that even half of the houses had children in them that they would be able to, the school can't accommodate that and then you are going to be busing children to Tucker and then to the next school and the next school. I mean when we moved here two years ago, our daughter was going to be bused to Tucker and we live right down the street from Lowell Elementary. There's no room there for this increase in housing, this increase in doors. I would respectfully ask that you guys vote against this because this is not the right for the location it is going to be based on the area it's going in. Thank you.

Mayor: Thank you. Is there someone else that has a perspective that council has not heard?

John Deatly, 309 Eclipse. One question, one observation, as council members you each represent a district, right? I would like to know from each and every one of you all for and against this proposal. If you have actually gone out and talked to people within your ward and if they are for it. That way we know that you're actually representing the citizens and not self-interest. Two, I think it is obvious tonight that there has been way more opposition to this than people supporting it. I have not seen the first person get up here and support it. Thank you.

Mayor: Thank you.

Danny Wilhite, 421 North Old Wire Road. I urge you to vote down on this. The traffic, we haven't seen traffic yet until they open up that bridge and what's going to be coming down from Rogers, what's going to be coming through Springdale. It'll be like 71 out here, but on a two-lane road back to back. Plus, the school can't handle it like the lady just said. I don't have kids, but I can see it, the growth. They are already talking about building other schools in Springdale and stuff because the growth is so much. The schools can't handle it. What are we going to do for our children? Police officers are overwhelmed and when all this traffic starts flying down Old Wire Road, are they going to put a traffic light on McClure to slow it down or is it still going to be a three-way stop where we will have traffic going from Springdale to Rogers down to 71 stacked up because they can't move quick enough? I live here. I live right down and I am seeing people running these stop signs left and right now. It's just going to get worse. I urge you to vote no on this. I ask that Dean excuse himself from the vote. He has nothing but profit to gain from this because if it's passed put in, he gets water rights, he gets water and sewer which he made clear at the county when he proposed to build the storage units they paid the Grahams for. I strictly urge you vote this down. Least for now. Give it time and let's see what happens with Old Wire Road, the traffic, what the police can do. I don't think you are going to have enough police officers to handle it and we've got a good police department.

Mayor: Thank you, Danny.

Michelle Graham Jones, 418 North Old Wire Road. I'm opposed to this new housing addition for numerous reasons and everyone's brought those up. But, including with the traffic, I know you have a proposal coming up on December 5th about a quarry in Cross Hollows and if you had 30-50 trucks a day on top of the traffic once the road does open, it's just an accident waiting to happen. With two driveways going into their section, turnoffs, I just don't see that. I just don't know what else to say because everyone else said everything. Thank you.

Mayor: Thank you, Michelle. Does anyone on the council have questions of anyone who has spoken?

Todd: Well, if I might because there's a little bit here that has been said and I understand everyone is upset. We're developing the county which this was along a state highway which we don't control what they're going to do. They've chosen to get a north/south corridor. It's adjacent to large park areas. It's buffered by itself along Old Wire Road. It actually joins a commercial property. We went through, and I don't know, that the resistance is about the houses. The resistance seems to be more about what they are putting in the center that they've spent a lot of time developing this to buffer itself. As for schools and traffic, we're growing. The school systems are planning new schools as we speak and how to go and deal with it. My wife's a teacher, my children go and I have a three-year old soon to go to kindergarten. I don't know if she will be at Tucker or she'll be at Lowell or at a new school by then. But as we look at

NWA is growing. We've got a developer that's came in here and said, "I've got a plan." He's gone through all the city staff. He's went through all the city planning. He's went out and made notifications. They've made adjustments to these plans to give what they think is the best yield to that proposed property and every time a proposed project comes up in this city, I get the same few who come around and say, "Oh, no." I understand the adjacent property owners because I am one of them. We are in a bigger house on a bigger lot on a state highway. As this starts to creep in more and more into our community, we're going to have to adapt to some changes. My biggest concern about this is if we do change some zoning, and this is not a planned unit development that they're locked into, that they can change something inside of this that would not be what was intended and what was shown. And that's my two cents.

Mayor: Thank you, Todd.

Eric: Mr. Mayor,

Mayor: Yes sir.

Eric: To piggyback off what Todd said, yes right now there's a planned development that's in place. We discovered this when we had a little bit of an issue with our real estate on the west side of town where a planned development started but then it changed. And then it changed again. You guys understand that where I'm talking about is the Weatherton Subdivision on the west side of town. What we're talking about here tonight is not the development itself. We're talking about changing the zoning. Once the zoning is changed, if you would look at what a Medium Density Residential is, we go through A, B, C, D, E and MH before we get to MDR, and at that point that is the only time that duplexes and multi-family are available. So once this is rezoned to multi-family, you know, things can change. This plan is not set in stone. This is not breaking ground tomorrow and 100% locked in. The duplexes is what is really being addressed here. Some of it is making the lots smaller, but there's not that much smaller in the lots when you get into it for some of these. We could go to D or to E, E most preferably, but what has happened to Bethel Heights south of my subdivision is that they put in an apartment complex and I'll tell you that is a major strain on the Bethel Heights police department. That is one of the biggest concerns that a lot of the citizens I've talked to is what the strain is going to be and what the culture of that area is going to be when it's done. This is a residential area that has been brought into the city and right now it's cow land, you know, and now we're getting ready to have it go from there to medium density. That's what I don't understand where we're superseding going from what the planning commission has had it for years and superseding all the way up to MDR. I believe this group has already plans to do another one north of there.

(Unknown): North of Honeysuckle.

Eric: Has that one even started yet?

(Unknown): North of where, I'm sorry

Eric: Honeysuckle

(Unknown): He wasn't going to do that exactly, he was going to have fourplexes.

Eric: But they've already got that going, right? That's already been approved?

(Unknown): No.

Eric: No? Why was that?

(Unknown): We went forward with the plan but that project is being pursued. My understanding.

Eric: I know there's a lot of animosity towards that one. I'm just looking at this and just because we rezone this that if they decide not to go forward with this, we have property that is rezoned that can be used for multi-family. There's nothing says they have to do this.

Mayor: Thank you, Eric. Another councilmember's comments?

Dean: Mayor, out of curiosity, and I'm sorry I don't remember your name, if these lots were the same size of those on Hankins or Oak or Michael or Brandon or Topaz, would that be acceptable?

Voice from audience: My concern rezoning of medium density, I believe we went from high capacity now to medium capacity. We've already voted down once from high capacity recently, now down from medium capacity rezone. Again it is like Councilman Schein stated things could change. Lowell will grow. I don't think anyone on city council or any of us at this meeting would not say that Lowell has made perfect position to grow. I think we are all here to say how fast to manage that growth. I also have young children living just down the street from Lowell Elementary. Nothing would please me more that this beautiful city of ours is growing. If we are not growing, we're stagnant. Again, it is the concern that (A) things can change and (B) it's not that we want to keep so many of the duplexes and townhomes out of here, again that type and amount of people in that space. McClure is the only avenue that runs east and west. The size of the lot is also a concern to answer your question.

Dean: Ok, so if these lots, if you will short version, were about the same size as those in your neighborhood or Southfield or Southfork or Brandon and Michael or any of those others, if those lots were about that same size, that would be acceptable to you.

Voice from audience: What would be on that lot?

Dean: A home, single family home.

Voice from audience: a single home. So a single home on same size lot throughout the entire

Lonnie: Mayor, point of order.

Mayor: Ok

Voice from audience: Yes that would be acceptable. We would like to continue like the Summer Meadow Subdivision type of growth going forward.

Mayor: Let the records show that the public comment was over his time.

Dean: My point is these residential building lots are very much the same size as those lots in those neighborhoods and in many cases they are larger.

Voice from audience: (inaudible)

Mayor: No comment, please.

Voice from audience: Sorry, Mr. Mayor.

Mayor: No comment.

Dean. I understand people's point. I get it. But, these lots are very much the same size as the lots you are going to find on Hankins or the lots you are going to find on Topaz or anywhere else. They are very much the same size. Believe me I have spent many hours on the Benton County Parcel Map looking at lot sizes in all of those neighborhoods and you're going to find that those are very consistent with those neighborhoods. So, with that said I can't help but wonder how much passion there would have been against those neighborhoods when they were built. Secondly, I can tell you that Mrs. Graham and Mr. and Mrs. Graham have been wonderful neighbors over there. I think very much of them. I understand

why you all would want me to abstain from voting. I get that. That was my original intent was to abstain from voting. But it strikes me that some of you are here trying to protect your investment, and I don't blame you, I would be too. But you are asking me not to protect my investment. Does that make sense? You see the conflict there. So we've got that. As far as the schools go, Rogers Public Schools will determine what schools are built where and when and what size and what grades. We don't get to influence that. As far as the traffic, it's a state highway. That's been planned to be a five-lane, major corridor, for many years. So, that's no new surprise to anyone. As far as police officers and fire personnel and those kinds of things, if we need them, we will hire them. I see thirty or forty of you out here that are unhappy that this development is potentially happening here, there were a great number of folks that were equally unhappy that a similar development might happen over on Concord which, interestingly enough, I helped broker that resolution to keep that from blowing up. So, I hear it all the time. Yeah, Lowell needs this, but don't put it in my back yard. There are thirty or forty of you here who are adamantly opposed, but what we have to realize there is roughly ten thousand people in this city that really don't care. They are not here. It's fine with them. They don't care. While I appreciate your passion, I want to reiterate those quick points. The lots are very similar in size to where you live. I get it that you want me to abstain; that was my original intent even though I've listened to a lot of that.

Mayor: Any other comment and I think we'll move forward with this. I think what we need is probably a procedural motion to dispense with the rule with this particular ordinance to be brought forth.

Eric: Mr. Mayor, I would like to make a procedural motion to dispense with the rule, read by title only on the first time.

Mayor: On the first reading?

Eric: On the first reading, yes sir.

City Attorney: Of three.

Vannoy: So, what would happen if this dies? Do we go forward, does it not move, or what happens?

City Attorney: Someone could make another procedural motion or you could make a motion to pass and we could read the ordinance in its entirety and we would read it again at the next meeting and the next meeting as well. Or you can make a motion to table.

Mayor: We already have a motion on the floor.

City Attorney: This is our second that the motion dies for lack of a second.

Mayor: Exactly.

Vannoy: Well, I don't mind bringing it to a vote. I mean, we never have, so I'll second it.

Mayor: Second by Linda Vannoy.

Vannoy: And if it doesn't pass, it doesn't pass.

Stucki: Clarify what we are voting on.

Mayor: It's going to be read once by title only for the first reading. It will have three readings by title only. Simple roll call vote.

Evers: I guess I'm confused. We're voting to have it read one time is all we're voting on right now?

City Attorney: Yes, by title only. It takes 2/3s vote.

Motion to dispense with the rule, read by title only on first reading of three.

Motion: Eric Schein

Second: Linda Vannoy

Vote Aye: Vannoy, Evers, Jones, Schein

Vote Nay: Stucki, Adams, Bitner, Fenix

Motion to dispense with the rule, read by title only on first reading failed.

City Attorney: That one dies; consideration for procedural motion or some other motion.

Todd: Normally this would be read and it wouldn't be voted on, right, it's just going to be read for three.

Eric: Right, and that's what we just voted on.

City Attorney: No, typically what all cities do is just vote on the ordinance. You do that by suspending the rule, reading it by title only.

Todd: But we don't have that going right now.

Dean: There's no motion to do that yet.

City Attorney: There's no procedural motion on this ordinance right now.

Stucki: It would take 2/3s if we got to that point?

City Attorney: Yes sir. You would need 2/3s vote if you want to pass it tonight.

Stucki: Why don't we move forward and get the vote out of the way? I would like to make a motion that we suspend the rules, read it one time and vote. Does that make sense what I'm saying? By title only.

Evers: Are we voting to read it one time only? I'm getting confused up here.

Adams: The Planning Commission kicked this one around and voted to pass it, so I'm going to say yes.

Motion to dispense with the rule, read ordinance by title only.

Motion: Kendell Stucki

Second: Todd Fenix

Vote Aye: Stucki, Jones, Fenix, Bitner, Vannoy, Evers, Adams

Vote Nay: Schein

Motion to dispense with the rule, read ordinance by title only approved.

City Attorney: Six is 2/3s of this council so that passed. Now Mayor you might hear a do pass motion or not on the ordinance.

Stucki: I move that we pass this ordinance as it is presented.

Liz: So we are back to the original ordinance as written.

Mayor: Yes we have a do pass by Kendell Stucki.

City Attorney: It will take a simple majority to pass the ordinance. By 2/3s you suspended the rule, not you vote for consideration of simple majority. Mr. Evers, this is to pass the ordinance tonight the way it is written.

Mayor: What you have before you in your packets.

Evers: As a councilman in that ward, I have received, nobody has sent me a letter or email in favor of it. I hear from thirty people tonight that are not in favor of it. I don't know if this thing can be reworked or not, but I'm going to vote what my constituents want and I'm going to say no.

Motion made to approve Ordinance as presented.

Motion: Kendell Stucki

Second: Dean Bitner

Vote Aye: Fenix, Stucki, Bitner, Adams, Mayor Long

Vote Nay: Evers, Vannoy, Jones, Schein

Motion to approve Ordinance was approved.

Ordinance assigned No. 1024.

City Attorney: If the mayor chooses, he can vote.

Liz: Mayor, do you choose to vote?

Mayor: I'm going to take a five-minute recess on this.

Recess began: 7:25pm Recess ended: 7:31pm. All members of the council returned to their seats.

Eric: Mr. Kieklak, I was wanting to talk with you about that, but I've already made the phone call and they said that it would be a question.

City Attorney: Thank you. It doesn't violate the specific law.

Eric: Ethic Commission said it would be a question.

Mayor: Before the Mayor votes on this issue, we're reconvening at 7:31pm. We heard a lot of people in opposition. Was there anyone here supportive of this project?

Tim Graham: 5047 Val Hallow, Springdale.

Mayor: I have a few questions before I vote. OK? One, you feel like with your neighbors with the project with such opposition, is this something you would still carry through the way it has been presented?

Tim: Oh, I feel like we can carry this through. We've done it two other time in two different cities, similar plan and actually one that we did in Tontitown was larger homes right next to the multi-family. They were 3,000 square foot houses next to the exact same 1,200 square foot multi-family units. No, I don't think there would be a problem.

Mayor: And this would still have to go back to LSD. Correct, Karen.

Karen: It will go on Large Scale at the next meeting.

Mayor: The project you just referenced is that the one that is just down the road from _____.
On the east side of the road?

Tim: Yes, Highway 112 south of Tuscany Subdivision.

Mayor: Well, I went and visited that two or three different times and I was very impressed with the project. If I go ahead and move, or go ahead and cast a vote on this, this same group of people need to turn out to the planning meeting.

Eric: Once again, we are not voting on the project. We're voting on the zoning.

Mayor: Zoning, I gotcha. But I think in everyone's minds they want to know what's going to be there. I've been displaced by eminent domain myself. I know what it is for projects of development to take your home, take your business. My family lived through that. It's the price of progress, that's what I ran on, and I believe this is the right thing to do to vote yes on this. Here's the thing. I do think it's time for the Planning Commission to visit and revisit the zoning on all of Lowell because there are a lot of areas that we do need stronger buffers. I now by watching this project come forward, they have done everything they can do to buffer in that area. So, my vote is yes.

2. RESOLUTION APPROPRIATING FUNDING FOR AN AMENDMENT TO THE CONTRACT WITH GARVER, INC. FOR THE NORTH GOAD SPRINGS ROAD PROJECT FROM THE STREET FUNDS RESERVES DURING THE FISCAL YEAR OF 2018.

Stucki: Mayor, may I ask a question on this?

Mayor: Yes.

Stucki: Jerry, what's the amendments on the contract? I read the back but I really didn't understand so there's like a construction, contracting phase services, so that wasn't part of the original piece?

Jerry: No, that was not a part of the original contract.

Jeff: Title 2 contract in phases services. It is what we call construction phase or services. The city staff's currently working on acquiring property to widen the piece in red to five lanes and we are just about done with that process.

Stucki: With the design part?

Jeff: With the acquisition part. Once that is complete then we can move forward bidding the project. This amendment provides where we're relocating a 6" water line in addition with this project in addition to widening the road. This provides a part time construction observation to meet Springdale water's requirements and to provide some assistance on call to Jimmy Hendrix in the Street Department for observation for construction.

Stucki: To see it out.

Jeff: Correct.

Mayor: Do we have a motion?

Motion made to approve Resolution as presented.

Motion: Kendell Stucki

Second: David Adams

Vote Aye: Evers, Adams, Vannoy, Jones, Fenix, Stucki, Bitner

Vote Nay: Schein

Motion to approve Resolution was approved.

Resolution assigned No. 18-49.

3. RESOLUTION TRANSFERRING FUNDING FOR ON-GOING SEWER PROJECTS DURING THE FISCAL YEAR OF 2018.

Mayor: \$144,660.00 – Jerry, this is just a simple transfer, right, housekeeping?

Jerry: Last month we passed the expenditure side of this and I told you at that time due to the timing of the next two items, it would have been very difficult for us to have written these resolutions last month. This takes care of the revenue side of those items that you passed last month.

Kendell: Mayor, I move we approve this resolution as presented.

Dean: Second.

Motion made to approve Resolution as presented.

Motion: Kendell Stucki

Second: Dean Bitner

Vote Aye: Bitner, Evers, Vannoy, Jones, Fenix, Adams, Schein, Stucki

Vote Nay: None

Motion to approve Resolution was approved.

Resolution assigned No. 18-50.

Mayor: Now we get to talk about the fire truck.

4. RESOLUTION TRANSFERRING FUNDING FOR THE PURCHASE OF A FIRE TRUCK FOR THE LOWELL FIRE DEPARTMENT PROJECTS DURING THE FISCAL YEAR OF 2018.

Mayor: Jerry, how much money are we pulling from all these funds to pay for this?

Jerry: Well, we are transferring \$390,459.00 from these three funds. Again, this is the revenue side of the purchase of that fire truck that you approved last month. We approved the expenditures now you are approving transferring money from specialized funds into the general fund in order to pay for that fire truck.

Vannoy: So I have a question. To seek clarification, we fell short in reserved funds \$16,374.00 and that has to come out of general revenue or what?

Jerry: No, you fell short by \$57,084.00. That will come out of the general fund. There was a proposal made by the fire chief that future Act 833 money pay the general fund back that money. One council member said no I don't want them to do that and one councilman said yes. I think the fire chief when he wants to do that, that's what we need to do. We have one that says yes and one that says no. I have six that have not told me anything. It would be really nice if I knew what we were going to do on that.

Mayor: The resolution has been presented to you without the point the Jerry just made. Please drop by and visit with him in the office about that. Any other discussion?

Eric: I make the motion to process as presented.

Evers: Not my night tonight. My questions is this, Jerry, since I said I wanted to have the chief to pay it because it was what he wanted to do anyway. If I vote for this tonight, then that's null and void for the future?

Jerry: No, you can still decide to do that.

Evers: At another time.

Jerry: Right. All you are doing tonight is just transferring these funds.

Motion to approve Resolution as presented.

Motion: Eric Schein

Second: David Adams

Vote Aye: Fenix, Adams, Vannoy, Jones, Evers, Bitner, Schein, Stucki

Vote Nay:

Motion to approve Resolution as presented approved.

Resolution assigned No. 18-51.

Mayor: Item 5, we moved this meeting up to avoid the holidays. There's a lot of traveling I've been made aware of week before Christmas. I thought we might want to entertain moving it up. We don't necessarily have to move it a week up; but think moving it up might be the best interest of conflicts of that particular Tuesday. I heard a week early Tuesday, Tom Kieklak has a conflict.

Conversation continued in order to determine which date to move the city council meeting.

5. DISCUSSION TO MOVE THE CITY COUNCIL REGULAR SESSION FROM DECEMBER 18, 2018 TO DECEMBER 10, 2018.

Motion to approve Discussion as presented.

Motion: Mayor Long

Second: Thomas Evers

Voice Vote Aye: Unanimous.

Voice Vote Nay: None

Motion to approve Discussion as presented approved.

Mayor: We need to make sure this is posted to the web site. Alert the media, Melanie. We need to post public notices on that change. Ok, Committee Reports?

Eric: Mr. Mayor, Before you go on, I would like a minute. I just need to make you aware. First of all there's a state statute 1448.14. It is the statute for the state of removing an elected official. I do know that after tonight there will be petitions going out to do so. The gentleman of Ward 4, Seat 1 has acted in a manner unbecoming and also the same thing the question of ethics has come up. I've contacted the Board of Ethics on him voting or against the rezoning and the fact he had a direct financial interest into this. They do call the question for this. What I'm asking is for the councilman of Ward 4, Seat 1, to step down before a very ugly incident of having the petitions filtered through and calling for a special election to remove him from office. I do know that I've been proposed by several volunteers to come forward and take the petitions up and they will at that time have a meeting to present them to the city clerk. The city clerk would have ten days to make sure that the petitions are fine and then they would go to the county election board and they would have 90 days to put together a ruling on it which would basically be a special election.

Kendell: Who would pay for that election? The taxpayers pay for that election?

Eric: They will pay for that election and there are enough people to sign petitions that this would be proper.

Kendell: Tom, can you speak on this stuff?

City Attorney: There is a removal process that requires petition of an election.

Eric: The only thing to stop it is if

City Attorney: There is a certain timing, have to do uncertain amount of years

Todd: And a certain amount of signatures of the electors.

Eric: And since the councilman of Ward 4, Seat 1, has been in place for more than six months, he is not exempt.

Kendell: Eric, what action are you asking the council this evening?

Eric: I am not asking the council anything. I'm just putting it in the record that I feel if this was against me, I would hate to embarrass the council and embarrass the city with such proceedings that if it was brought to me I would probably step down.

Dean: I think the greater embarrassment would be giving in to your bully tactics. I will never step down. Believe me, Mr. Schein and Mrs. Kuth and the rest of you, for all of you who have criticized me I've received many, many times that in support. Listen, it's my turn.

Eric: Actually I have the floor. I am going to tell you that anybody that goes after and attacks the police officers by name on social media, they are the person who needs to be questioned. Thank you.

Dean: Continuing, I get it. You are unhappy. But, the bottom line is you feel one way. There are many folks feel the other. So, will they come out and expose themselves to your anger and ire, no. But, I will not step down. The things I said while may have been harsh are accurate. There were distortions and outright lies throughout the entire process. Those folks who I mentioned in that particular thread you are speaking of this mayor and this council went a long ways to help including giving one of them a place to live, including one of them get water to his neighborhood in a cost sharing effort; so, you know I get it. You are mad and I don't blame you, I would be mad too. But the bottom line is I will not step down and bully tactics will never, never work on this kid, never.

Glenn Jones: Bullshit! Step down!

Mayor: Police Department, remove Glenn from City Hall. Any outburst like that you will be removed.

Glenn Jones: Only if you will put handcuffs on me.

Mayor: He can put handcuffs on you, Glenn. No more outbursts.

City Attorney: Do we have a budget meeting coming up?

Mayor: We do have a budget meeting coming up.

Kendell: I want to personally extend an invitation to every councilmen and new councilmen elects and mayor. Please be involved. This is your budget. Not our budget up here. It's everyone's budget.

Eric: I have been talking with some of the proposed council members. They do not have a copy of the budgets.

Jerry: I have copies for them in my offices. I've been waiting.

Kendell: Mayor Elect and another councilmember was there and I appreciate your being there. That was said that Jerry would have that for you.

Dean: They are here tonight.

Jerry: Absolutely.

Linda: Jerry, you sent out the revised electronic copy. Would you just email it to me so I don't have to go through it again. Could you email it out?

Jerry: You have it.

Linda: I think we've made some changes from the first one that included the first night. I know I have the overall pages, but have you emailed the entire thing out? I don't think I saw it.

Jerry: You want the entire budget emailed out?

Linda: Yeah.

Jerry: Yes.

Linda: I don't want you to print it. I don't want you to kill another tree.

Jerry: You really don't want me to do it, but I'm going to do it.

David: You have a copy of the budget for Chris?

Jerry: Absolutely.

David: Chris, please see Jerry right after this meeting and get it from him.

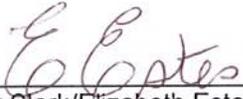
COMMITTEE REPORTS: Budget Meeting scheduled for November 15, 2018, 6:00pm, City Hall Conference Room.

ANNOUNCEMENTS:

1. Happy Thanksgiving. Reminder that city offices will be closed Thursday/Friday November 22/23, 2018.
2. Liz Estes: Lowell Historical Museum – Had a great Veterans Salute and it was well attended. There were many compliments and I thank all veterans who attended. I would like to announce to the council and public that we will hold a Christmas Open House December 20, 2018 from 4-7pm. We encourage parents to bring your children to take pictures with Butterfield Stagecoach and Santa. There will be free tours of the museum and refreshments. We would ask you to help stuff the stagecoach with unwrapped toys and children's' clothing of any age must be new. Please don't wrap it. It will be distributed by Sheep Dog Impact Assistance to help veterans and first responder families this holiday season. We will be collecting these items all month long. You may bring them to the museum Monday-Thursday 9am-2pm or Saturday 10am-4pm.

ADJOURNMENT: Motion to adjourn; motion by Kendell Stucki and second by David Adams. There being no objections, the meeting adjourned at 7:57pm.

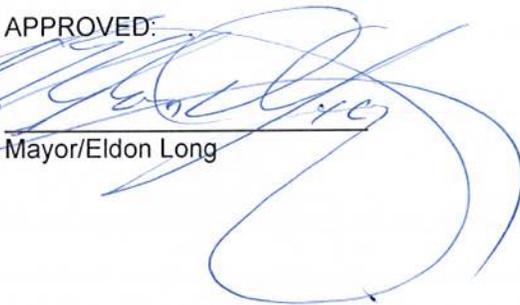
ATTEST:



City Clerk/Elizabeth Estes



APPROVED:



Mayor/Eldon Long