

MINUTES

Lowell City Council

Regular Meeting

Monday, August 20, 2018, 7:00 P.M.

I. CALL TO ORDER – Mayor Sandy Railey

Mayor Sandy Railey called the meeting to order at 7:00 p.m. Those attending were Councilmember Ken Ervin, Councilmember Candy Funderburk, Councilmember Phil Bonham, Councilmember DeWayne Chitwood, Councilmember Thomas Gillespie, City Attorney Jim Windham, City Manager Kevin Krouse, Finance Officer Kevin Haney, City Clerk Beverly Harris, Police Chief Scott Bates, and various citizens.

II. INVOCATION / PLEDGE OF ALLEGIANCE

Councilmember Gillespie gave the invocation and led the pledge of allegiance.

III. ADOPTION OF AGENDA FOR THIS MEETING

Councilmember Ervin made a motion to adopt the agenda for the meeting, followed by a second from Councilmember Chitwood. The vote was unanimous.

IV. PUBLIC COMMENTS

John Cantrell thanked the Mayor and Council for what they have accomplished for the city and told them they have a lot of support in this town.

V. CONSENT AGENDA

- A. Approval of Minutes from the July 9, 2018 Regular Council Meeting
- B. Appointment of Bob Mulholland of 1140 Catawba Run Drive to the Master Planning Committee
- C. Rescheduling the Regular Meeting Date of the City Council to the Second Tuesday of Every Month
- D. Budget Amendment #1 for Fiscal Year

Councilmember Chitwood voiced his concern over changing the meeting dates to the second Tuesday of every month. He stated he had already scheduled around the first Monday night for the remainder of the year and would probably be late to the future meetings due to his job in Charlotte. He apologized to the citizens ahead of time for his tardiness.

Councilmember Ervin made a motion to adopt the consent agenda, followed by a second from Councilmember Bonham. The vote was four in favor and one opposing.

VI. UNFINISHED BUSINESS

There was no unfinished business.

VII. NEW BUSINESS

A. PUBLIC HEARING: Community Development Block Grant Public Hearing

Freddie Harrill discussed the following talking points for the Community Development Block Grant prior to opening the Public Hearing:

- The State of North Carolina Community Development Block Grant (CDBG) Program funds are distributed between two state agencies, the North Carolina Department of Commerce and the North Carolina Department of Environmental Quality.
- The North Carolina Department of Commerce has two programs in which CDBG funds are currently available; the Neighborhood Program, and the Economic Development Program. The Neighborhood Program provides funding for housing and community development related projects, and the Economic Development Program provides funding to aid in job creation and investment.
- The NC Department of Environmental Quality administers the CDBG-Infrastructure Program, which provides funding for water and sewer infrastructure projects.
- CDBG funds must be used for projects that meet the federally identified National Objectives. Project must meet one of the three National Objectives: (1) benefiting low-and-moderate income (LMI) persons; (2) preventing or eliminating slum or blight; and (3) meeting other community development needs that are deemed to be urgent because of existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet the need.
- The City of Lowell intends to apply for a CDBG Neighborhood Program Grant through the North Carolina Department of Commerce. The City also plans to apply for a CDBG Infrastructure through the North Carolina Department of Environmental Quality.
- The purpose of this public hearing is to make the public aware and receive input regarding the CDBG program opportunities available to the City through the State of North Carolina, and to make the public aware and receive input on the City's possible intent to apply for these programs.

Councilmember Ervin made a motion to go into Public Hearing, followed by a second from Councilmember Gillespie. The vote was unanimous. The Public Hearing started at 8:20 pm.

Kevin Krouse stated the first objective of the grant would benefit low to moderate income individuals in the target area of Birch Street, and the second objective would benefit the city's infrastructure by making repairs to the sewer plant as well as the lift pump stations.

During public comments, Terry Benson questioned why the Birch Street area is the only area in Lowell targeted for this grant. Mr. Krouse stated there are strict requirements that needed to be

met by the CDBG team and this area best met those requirements. Mr. Krouse stated he would share the census results any time with Mr. Benson and also the Councilmembers.

Councilmember Funderburk made a motion to close the Public Hearing, followed by Councilmember Ervin. The vote was unanimous.

There were no Council actions taken during the Public Hearing.

B. Community Development Block Grant Housing Selection Committee Appointments

Kevin Krouse stated the City Council is required to appoint a committee to oversee the disbursement of funds from the Community Development Block Grant through an application process. Mr. Krouse stated the City Council may appoint themselves as the committee or appoint their own committee.

Councilmember Ervin made a motion to appoint the five Council members as the CDBG Housing Selection Committee, followed by a second from Councilmember Gillespie. The vote was unanimous.

C. Variance Request from RFG Development for Parcel ID 212032

- i. Quasi-Judicial Procedure Overview (Jim Windham, City Attorney, gave an overview of the Quasi-Judicial Procedure).
- ii. Swearing in of All Wishing to Speak on The Matter (Beverly Harris, City Clerk, swore in all those wishing to speak on the variance.)

The individuals sworn in were as follows: Scott Stone (American Engineering), Mr. Ron Fair (property owner), Tim Cook (resident), Doug Baldi (resident), and City Manager Kevin Krouse.

iii. Open Public Hearing

Councilmember Ervin made a motion to go open the Public Hearing for the Variance Request from RFG Development for Parcel ID 212032, followed by a second from Councilmember Funderburk. The vote was unanimous.

Comments/Discussion:

- Scott Stone, American Engineering gave an overview on the variance request from RFG Development for Parcel ID 212032. He stated since the last time he presented to the Council, the lot widths had shrunk and there had also been some text amendments added to the PRD ordinance a few months earlier. He stated the lot widths had been changed to something that is more common for the area. Two public meetings were held over the past weeks and were

both well attended. He stated the rezoning portion of project was unanimously approved by the Lowell Planning Board.

Mr. Stone stated there were originally four variance requests, however a decision was made that two of them could be handled administratively without getting a vote from Council. The remaining two variance requests, would be voted on by Council. The first variance request is the City of Lowell's current ordinance states that there are to be no more than 75 lots in a subdivision without a second entrance. And the second variance request derived from the text amendments made over the last few months with the PRD language related to porches.

Mr. Stone explained how many votes would be needed during the variance process. He also explained that the public hearing for the conditional rezoning is required because anytime you have more than 4 acres you have to consider it a conditional district.

Mr. Stone stated the other item to be presented to Council would be the six conditions within the conditional rezoning that was gathered from the public and staff.

Mr. Stone stated as the property sits now the developer could build 75 houses right now without Council approval. But their desire is to build under the PRD ordinance because that would bring in stricter requirements and a higher quality build.

Mr. Stone stated the biggest concern in the project has been the sight distance to the left coming out of Preston Place. He stated American Engineering had reached out to the owner of the property across the street and they have agreed to allow some of the trees to be cut back and also for the bank to be cut back to increase the sight distance. The owner of the property across the street has submitted a letter stating these agreements given to Council.

Mr. Stone stated out of the original four variance requests submitted, a decision was made that two of them could be handled administratively and only two would be presented to Council.

Mr. Stone presented a proposed layout of 107 lots to Council. He stated with the topography of the land and issues with existing creeks they may not be able to fit all 107 lots into the final layout. He explained there were concerns with buffers between the Lowell Woods and Lauren Woods subdivisions. He stated there are 50' tree lined buffers on both sides of the subdivisions giving a 100' buffer in the layout.

Mr. Stone stated the Lowell Woods homeowner's association would be responsible for maintaining the stormwater features on site. Also, he stated the developer is willing to place a traffic calming device at the top of the hill to help with the additional vehicles.

Mr. Stone stated the existing sewer pump station would be increased in capacity to accommodate additional lots. George Poston Park has agreed to put in a trail connection from the Lowell Woods subdivision to the George Poston Park. Also, he stated a condition

regarding the porches would be added in addition to the porch variance in order to encourage use of those porches in the subdivision.

Mr. Stone stated the without the variances the landowner is deprived in the use of the land. He stated there is no area for a second entrance due to the property being landlocked by George Poston Park and the steep Lauren Wood's grade changes and the Lauren Woods development already being completed.

Mr. Stone stated the variances to section 13.23 in the ordinance are necessary to preserve the substantial rights of the property owner. Due to the topography of the property, without those variances it would be cost prohibited to do anything on that property.

Mr. Stone stated the variance to section 8.1.11.B.1.f. is necessary because if every house is required to have a porch then you are taking away the flexibility of the builder and the buyer.

Mr. Stone stated due to the topography of the land it gives this property peculiar circumstances that are not characteristic of other subdivisions.

Mr. Stone stated due to the traffic already being on Main Street, he did not feel this development would add any new public safety issues. Plus, with the installation of a traffic calming device at the beginning of the slope and with the tree/bank removals, this is already improving the public's health and safety conditions. He stated the development will add tax base to the other properties in close proximity to the subdivision site.

- The property owner, Mr. Ron Fair, stated he has owned the property since 2003. He stated he is not a big developer and he is an engineer and contractor. He stated he is excited about the project and the development coming to Lowell. Mr. Fair stated he and his wife feel like they are doing the right thing by building houses under a PRD ordinance process. He felt it would make it a better subdivision. He stated they have tried to do everything possible to get a second entrance but it was just not achievable. Mr. Fair stated there are conditions that cannot be met.
- A resident, Tim Cook, stated he has lived in Lowell for 15 years. Mr. Cook was opposed to the development. Mr. Cook stated increasing the density of housing in Lowell will change the small town feel of Lowell.
- A resident, Doug Baldi, stated his concern was with the safety issue at the entrance, but he feels that it is being addressed after hearing about the trees and bank being removed.

iv. Close Public Hearing

Councilmember Funderburk made a motion to close the Public Hearing, followed by a second from Councilmember Bonham. The vote was unanimous. The Public Hearing closed at 8:09 pm.

v. Findings of Fact to Grant/Deny Variance Request

Variance Request: 8.1.11.A.12.e (Block lengths shall be no less than five-hundred (500) and no greater than eight-hundred (800) feet in length.

It was determined this finding could be addressed administratively and was removed per the City Manager, Kevin Krouse.

Variance Request: 13.23 (Multiple accesses into a subdivision are required to be provided for additional ingress and egress. Any subdivision exceeding seventy-five (75) lots shall be provided with at least two (2) entrances on to a public street or interconnect to an adjoining/adjacent existing public street, road or highway. Requirement for multiple entrances shall be based on the cumulative number of lots for a contiguous development, whether or not it is developed in phases. Subdivision entrances shall be no closer than two hundred (200) feet, as measured from the street centerlines.)

- Finding #1: There are special circumstances or conditions affecting said property such that the strict application of the provisions of this Chapter would deprive the sub-divider of the reasonable use of his land.

Motion to Finding #1: Councilmember Ervin made a motion that there are special circumstances or conditions affecting this property due to the fact that the property is landlocked and there is no opportunity for a second entrance, followed by a second from Councilmember Bonham. The vote was unanimous.

- Finding #2: The modification is necessary for the preservation of a substantial property right of the petitioner.

Motion to Finding #2: Councilmember Ervin made a motion the modification is necessary for the preservation of a substantial property right of the petitioner due to the 38 acres is large enough to allow up to 136 homes however the variance would allow up to 107 at the most which is substantial less at this time, followed by a second from Councilmember Bonham. The vote was unanimous.

- Finding #3: The circumstances giving rise to the need for the modification are peculiar to the subdivision and are not generally characteristic of other subdivisions.

Motion to Finding #3: Councilmember Ervin made a motion the circumstances giving rise to the need for the modification are peculiar to the subdivision and are not generally characteristic of other subdivisions and all options have been explored to allow the second entrance without any success, followed by a second from Councilmember Bonham. The vote was unanimous.

- Finding #4: The granting of the modification will not be detrimental to the public's health, safety, and welfare or injurious to other properties in close proximity to the subdivision site.

Motion to Finding #4: Councilmember Ervin made a motion will not be detrimental to the public's health, safety, and welfare or injurious to other properties in close proximity to the subdivision site based on the fact that the use is compatible with surrounding areas' usage and the conditions that would be required would improve the safety on Spencer Mountain Road and that would be with the conditional uses that Council would place upon them at that entrance, followed by a second from Councilmember Bonham. The vote was unanimous.

Variance Request to Section 13.23: Councilmember Funderburk made a motion to approve the variance request to Section 13.23 contingent upon the conditional zoning request being approved with the conditions specified by Council, followed by a second from Councilmember Bonham. The vote was unanimous.

- 8.1.11.A.12.d. (Cul-de-sacs shall be limited in number within the PRD and shall not be used to avoid street connections. Cul-de-sacs shall be no greater than two-hundred fifty (250) feet in length.)

It was determined this finding could be addressed administratively and was removed per the City Manager, Kevin Krouse.

- 8.1.11.B.1.f. (Front porches, where provided, shall be a minimum of six (6) feet in depth.)
 - Finding #1: There are special circumstances or conditions affecting said property such that the strict application of the provisions of this Chapter would deprive the sub-divider of the reasonable use of his land.

Motion to Finding #1: Councilmember Ervin made a motion as far as the porches are concerned the special circumstances or conditions affecting said property such that the strict application of the provisions would not deprive the sub-divider of the reasonable use of his land, followed by a second from Councilmember Gillespie. The vote was unanimous.

- Finding #2: The modification is necessary for the preservation of a substantial property right of the petitioner.

Motion to Finding #2: Councilmember Ervin made a motion the modification is necessary for the preservation of a substantial property right of the petitioner based on the finding of fact that not all buyers want a front porch, followed by a second from Councilmember Gillespie. The vote passed with four in favor and Councilmember Chitwood opposed.

- Finding #3: The circumstances giving rise to the need for the modification are peculiar to the subdivision and are not generally characteristic of other subdivisions.

Motion to Finding #3: Councilmember Bonham made a motion the circumstances giving rise to the need for the modification are peculiar to the subdivision and are not generally characteristic of other subdivisions based on the fact that the topography is more challenging than typical sites in Lowell, followed by a second from Councilmember Ervin. The vote passed with four in favor and Councilmember Chitwood opposed.

- Finding #4: The granting of the modification will not be detrimental to the public's health, safety, and welfare or injurious to other properties in close proximity to the subdivision site.

Motion to Finding #4: Councilmember Gillespie made the motion the granting of the modification will not be detrimental to the public's health, safety, and welfare or injurious to other properties in close proximity to the subdivision site based on the fact this item will not affect the surrounding neighbors, followed by a second from Councilmember Bonham. The vote passed with four in favor and Councilmember Chitwood opposed.

Variance Request to Section 8.1.11.B.1.f.: Councilmember Ervin made a motion to approve the variance request to Section 8.1.11.B.1.f., followed by a second from Councilmember Bonham. The vote passed with four in favor and Councilmember Chitwood opposed.

Councilmember Funderburk made a motion to close the Public Hearing, followed by a second from Councilmember Ervin. The vote was unanimous. The public hearing closed at 8:43 pm.

D. PUBLIC HEARING: Conditional Zoning Request from RFG Development to Construct a Planned Residential Development on Parcel umber 212032

i. Open Public Hearing

Councilmember Ervin made a motion to open the Public Hearing for the Conditional Zoning Request from RFG Development to Construct a Planned Residential Development on Parcel Number 212032, followed by a second from Councilmember Funderburk. The vote was unanimous.

ii. Presentation from Applicant

Kevin Krouse and Scott Stone gave an overview of the recommended rezoning conditions agreed to by the developer.

Councilmember Ervin made a motion to approve the Conditional Zoning request from RFG Development to Construct a Planned Residential Development on Parcel Number 212032 with the conditions agreed to by the developer listed below, followed by a second from Councilmember Bonham. The vote was unanimous.

Recommended Rezoning Conditions – Agreed to by the Developer:

- The developer will coordinate with City, and make a good faith effort, to gain the support from Property Owner of Gaston County Parcel ID #127477 to allow removal of vegetation and/or modify existing grades along Main Street/Spencer Mountain Road to improve visibility and site distances from existing Preston Drive looking North. The developer cannot be obligated, and cannot obligate the property owner, to make modifications to the property which might be in conflict with standards or approvals of state or local agencies.
- There will be a Home Owners Association (HOA) established for the proposed development, which will be separate from the existing Preston Place Home Owners Association. The proposed covenants of the HOA will be submitted for review as part of the construction drawing submittal process. The HOA will maintain water quality facilities which are to be constructed as part of the approved construction plans.
- As part of construction, the developer will, upon consultation with the City of Lowell and NCDOT, install traffic calming measures at the top of the nearby hill on Main Street/Spencer Mountain Road. These measures could include a radar detection connected speed warning sign or other measures which are reasonable in cost. The traffic calming measure must be approved, including type and placement, must be approved by the City of Lowell and NCDOT. The developer is not obligated to install any traffic calming measures unless NCDOT deems them necessary and acceptable.
- Improvements or upgrades will be made to the existing sewer pump station in Preston Place if deemed necessary by engineering analysis performed during the design of construction drawings. Improvements or upgrades required will be limited only to expanding the capacity of the existing system to accommodate the new houses and the associated additional flows. It should be assumed by the developer that the existing pump station is currently sized for, and is performing adequately, for the existing customers it serves.
- The final design and construction will provide a greenway/trail connection to Poston Park with the intention of connecting to the Poston Park trail system. This connection will be required only if Gaston County Parks & Recreation agrees to allow the connection to its trail system and provides the easements and access to make the connection.
- Porches and covered landings are a desirable design element to enhance the neighborhood feeling. The developer's selected home builder(s) will encourage the construction of porches and/or covered landings for as many units as practical. The builder(s) will encourage this, in part, by provided an illustrated elevation of this available feature as part of its marketing materials in its model home or as part of its general sales effort.

iii. Public Comments

Pam Smith thanked the Council for working together on this development.

iv. Close Public Hearing

Councilmember Ervin made a motion to close the public hearing, followed by a second from Councilmember Bonham. The vote was unanimous.

v. Council Action:

Councilmember Bonham made a motion to approve the Conditional Zoning Request from RFG Development to Construct a Planned Residential Development on Parcel number 212032 with the recommended zoning conditions agreed to by the developer, followed by a second from Councilmember Ervin. The vote was unanimous.

VIII. CITY ATTORNEY REPORT

The City Attorney had nothing new to report.

IX. CITY MANAGER REPORT

The City Manager had nothing new to report.

X. MAYOR AND CITY COUNCIL GENERAL DISCUSSION

Councilmember Ervin stated he will be on vacation and will not be present at the next city council meeting. Councilmember Ervin stated all Council members saw the work load the manager has daily and the Council needs to be able to prioritize the City Manager's schedule. His recommendation to Council was to hire a planning/zoning and code enforcement officer as soon as possible.

Councilmember Chitwood congratulated the Police Department on their new traffic trailer and then he apologized again to the citizens for possibly being late at future meetings due to the date change.

Councilmember Funderburk inquired about a ribbon cutting for Each Park. She gave the citizens updates on the changes being made in the near future to the Police Department windows and the Altitude Trampoline Park moving to Lowell. Councilmember Funderburk stated her concern for any new building happening in Magnolia Place.

Councilmember Gillespie stated he had a conversation with Ed Jackson regarding a plaque to be placed in the Echo Park area stating the area had been an Afro-American community. He asked staff to consider this option.

Mayor Railey stated Jean Roberts had thanked the Council and City Manager for the quick response regarding a tree that had fallen after a storm.

XI. CLOSED SESSION TO DISCUSS PERSONEL MATTER AND ADOPT MINUTES FROM PREVIOUS CLOSED SESSION (G.S. 143-318.11(a)(6))

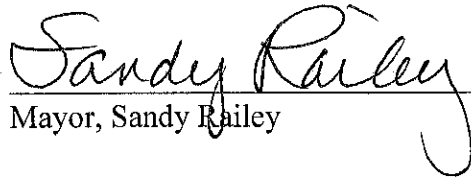
A motion was made at 9:07 pm by Councilmember Funderburk to go into Closed Session in accordance with provisions of NCGS 143-318.11(a)(6), followed by a second from Councilmember Bonham. The vote was unanimous.

The Council reconvened from Closed Session at 9:40 pm.

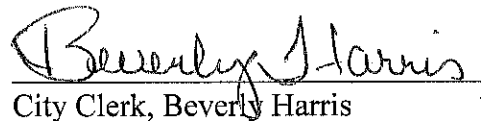
The only action taken in Closed Session was approving minutes from the July 9, 2018 Closed Session. No other new actions were taken.

XII. ADJOURN

Councilmember Bonham made a motion to adjourn the meeting, followed by a second from Councilmember Gillespie. The vote was unanimous. The meeting ended at 9:45 pm.



Mayor, Sandy Railey



City Clerk, Beverly Harris