

PROCEEDINGS OF THE
CITY COUNCIL SPECIAL MEETING
OF THE CITY OF LOWELL
THURSDAY, SEPTEMBER 22, 2016

1. **CALL TO ORDER; ROLL CALL**

The Meeting was called to order at 6:00 p.m. and City Clerk Susan Ullery called roll.

Present: Councilmembers Mike DeVore, Jim Hodges, Jeff Phillips, Alan Teelander, and Mayor Jeff Altoft. Lowell Light and Power Boardmembers Perry Beachum, Jim Salzwedel, Tina Cadwallader, Andrew Schrauben and Chair Greg Canfield.

Absent: None.

Also Present: City Manager Mike Burns, Lowell Light and Power General Manager Steve Donkersloot, City Clerk Susan Ullery and City Attorney Richard Wendt.

2. **APPROVAL OF THE AGENDA.**

IT WAS MOVED BY TEELANDER and seconded by SALZWEDEL to approve the agenda as written.

YES: 10. NO: 0. ABSENT: 0. MOTION CARRIED.

3. **CITIZEN DISCUSSION. IF YOU WISH TO ADDRESS THE AGENDA ITEM, PLEASE IDENTIFY YOURSELF AND YOU WILL BE CALLED ON IN THE ORDER RECEIVED.**

Chuck Horan, Diane Smith and Ralph Brecken all spoke regarding concerns of the biodigester.

4. **DISCUSSION REGARDING THE LOWELL ENERGY AD, LLC (“LEAD”) BIOSOLIDS DIGESTER FACILITY ODOR ISSUE.**

Lowell Energy AD LLC Manager Member Greg Northrup presented the proposed plan for mitigating the odors emitting from Lowell Energy AD, LLC’s biogas facility. On September 15, 2016 a letter was submitted indicating the recommended actions would be completed within 45 calendar days.

Bruce Koetter, P.E. from Webster Environmental Associates spoke via conference call regarding the proposed plan. He indicated this is a temporary fix but it is also the fastest route. Northrup stated the temporary fix would probably last five to eight years providing time to plan for a permanent solution on the issue.

The Councilmembers and Boardmembers had a lengthy discussion regarding the proposed plan. An emergency plan should be put in place in case something else happens. Boardmember

Salzwedel asked if there was a preventative maintenance program in place. Northrup noted there are daily, weekly and monthly tests being done.

Boardmember Beachum questioned what happens if the 45 day deadline arrives and the plan does not work. City Attorney Richard Wendt explained the lease is with the City and read the following into record. "The Tenant shall be in reach of any other obligation under this Lease, and such breach shall continue for thirty (30) business days after written notice from the City, provided, that if Tenant has exercised reasonable diligence to cure such failure and such failure cannot be cured within such thirty (30) day period despite reasonable diligence, Tenant shall not be in default under this subsection unless Tenant fails thereafter diligently and continuously to prosecute and cure to completion in a reasonable period."

Wendt then went on to state the PPA is with the Board of Light and Power and read the following into record. "The parties agree that a defaulting Party shall have thirty (30) days after receipt of written notice of default to cure such default or to propose a plan, subject to the approval of the other Party, for curing the default. In the event the default is not cured, or a plan for curing the default has not been agreed to, then the non-defaulting party may pursue all its remedies at law or in equity, including specific performance."

Wendt stated Webster Environmental will complete a dispersion model that will validate the odor mitigation impact at locations offsite. This information should be available for review and use as of 9/26/2016 and can be used to agree on threshold acceptable level of compliance.

Wendt explained the three options available to the board. First, approve the plan as proposed, reject the plan as proposed or modify the plan.

Chair Canfield summarized the comments from the Council and Boardmembers as follows; 1) drop dead date of November 1, 2016; 2) risk assessment (operational plan); 3) permanent structure in place by May 1, 2016. This should be in a format that is acceptable by Went, Burns and Donkersloot. It was also noted the permanent structure should meet or exceed the standards of the temporary structure.

Mayor Altoft asked if the plant could be shut down if it begins to smell again after the proposed repair. Wendt responded yes, it could be deemed as non-operational if all parties agree to a plan.

Lowell Light and Power General Manager Steve Donkersloot noted they have money invested in the plant. However, they owe this to the citizens of Lowell and this should be the final step.

City Manager Mike Burns believed the problem needed to be addressed immediately. However, there is a process that must be followed. He liked the idea of the temporary fix being in place by November 1, 2016 and a permanent solution following.

Wendt asked if Northrup thought this was something that could be accomplished. Lowell Energy Ad, LLC (LEAD) Attorney James Rosloniec believed this would be agreeable.

IT WAS MOVED BY BEACHUM and seconded by SCHRAUBEN to allow City Attorney Richard Wendt, Lowell Light and Power General Manager Steve Donkersloot and City Manager Mike Burns to work with Lowell Energy AD, LLC (LEAD) regarding the details of the

proposed plan provided that there is a drop dead date of November 1, 2016, risk assessment (operational plan) and a permanent structure in place by May 1, 2016. LEAD will provide a plan to the Council/Light and Power no later than noon on October 3, 2016. A special meeting with the City Council and Board of Light and Power will be scheduled for October 6, 2016 at 6 p.m.

YES: 10. NO: 0. ABSENT: 0. MOTION CARRIED.

Burns noted the plan would be placed on the City's website once there is a written document in place.

IT WAS MOVED BY BEACHUM and seconded by SALZWEDEL to adjourn at 8:35 p.m.

IT WAS MOVED BY DEVORE and seconded by TEELANDER to adjourn at 8:35 p.m.

DATE:

APPROVED:

Jeff Altoft, Mayor

Susan Ullery, City Clerk

Greg Canfield, Chair