

**City of Lowell, Oregon
City Council
Regular Meeting Minutes
November 21, 2023**

The Lowell City Council held a regular meeting on November 21, 2023. The meeting location was Lowell Rural Fire Protection District Fire Station 1 at 389 N. Pioneer Street, Lowell, OR 97452. Mayor Bennett called the meeting to order at 7:01 pm.

City Councilors present:

Mayor Don Bennett, Gail Harris, Maureen Weathers, Jimmy Murray, Tim Stratis

City Councilors absent:

None

Staff/others present:

City Administrator Jeremy Caudle; Public Works Director Max Baker; Stefan Jacobson, Associate Attorney, Thorp, Purdy, Jewett, Urness and Wilkinson, PC

Approval of the agenda: No changes.

Approval of the consent agenda:

1. October 17, 2023 regular meeting minutes
2. November 7, 2023 regular meeting minutes
3. October 2023 check register
4. August 2023 financial report
5. September 2023 financial report
6. October 2023 financial report

Councilor Stratis moved to approve the consent agenda, which Councilor Weathers seconded. APPROVED: 5 yeses, 0 noes.

Public comments: None.

Council comments: None.

Staff reports:

City Administrator

- Sent project information form for SCADA/PLC grant to Business Oregon.
- Participated in a regional manager meeting with Lane Council of Governments.
- Calculated and sent out land use and development monitoring bills.
- Attended an LOC Small Cities meeting.

- Attended an LRAPA Board of Directors meeting to discuss the city's open burning ordinance changes.
- Conducted a parks risk assessment with WHA Insurance.
- Submitted a grant inquiry form for cybersecurity funding through the State of Oregon.
- Attended a quarterly Team Lowell lunch meeting.
- Started working on water rate study quotes.
- The auditors have completed field work.
- Emailed committee/commission members about expiring terms.
- Submitted an approved e-permitting contract to Oregon Building Codes Division.
- Completed various development, code enforcement, and infrastructure related tasks.

Public Works

- The covered bridge remains closed until further notice due to issues with the gate.
- Update on water treatment in relation to the dam drawdown. Staff implemented new chemical treatment processes.
- Civil West performed smoke testing of the collection system to identify sources of inflow.

Library

- Included in the packet.

Oakridge police report – September and October

- Included in the packet.

Public hearing:

The City Council is holding this public hearing in accordance with Sections 13 and 14 of Ordinance 296, "An ordinance granting Falcon Community Cable, L.P., locally known as Charter Communications, a non-exclusive franchise for the construction, operation, and maintenance of a cable system and repealing Ordinance No. 230."

The purpose of the public hearing is for the City Council to receive testimony and evidence on if Charter Communication has committed a violation of the Ordinance 296 when its subcontractor damaged the city's street and water main at or near 436 E. 1st Street on or about November 17, 2022.

Mayor Bennett opened the public hearing at 7:19 pm.

City Administrator Jeremy Caudle provided a staff report summarized as follows. Section 13 of the City's franchise agreement with Charter Communications requires a public hearing if the city believe that Charter Communications has not complied with the terms of the franchise agreement. On 6/13/2023, the City provided a written "Violation Notice" to Charter Communications regarding the damage that occurred on East 1st Street. Since the damage was not remedied within the time period stated in the "Violation Notice," the next step to continue investigation into this matter is a public hearing.

City Administrator Jeremy Caudle then used a text to speech application to read the draft "Findings of Fact" that was included in the meeting packet.

Mayor Bennett then swore in Public Works Director Max Baker.

Attorney Stefan Jacobson asked Public Works Director Max Baker various questions about the November 17, 2022 water main rupture on E. 1st Street.

Once Stefan Jacobson completed his questioning of Max Baker, Mayor Bennett swore in City Administrator Jeremy Caudle.

Attorney Stefan Jacobson asked City Administrator Jeremy Caudle various questions about the types of notices that the city sent Charter Communications, as well as the responses received back from Charter Communications.

Mayor Bennett then recognized Charles Deister, Charter Communications Government Affairs Director, who attended via Zoom. Deister read a prepared statement that was included in the council packet.

Councilor Stratis then asked Max Baker several questions about the depths of the water line and the timeline and process for receiving locate requests.

Mayor Bennett closed the public hearing at 7:50 pm.

New business:

1. Determination from City Council on if Charter Communications has committed a violation of its franchise agreement, as set forth in Ordinance 296, with the City of Lowell.

City Administrator Caudle stated that following the public hearing, City Council may conclude its investigation in this matter by voting to determine that Charter Communications has committed a violation of the franchise agreement. That determination must be supported by findings of fact. Staff have also prepared draft findings of fact to assist City Council, which was included in the meeting packet. Staff also prepared a draft motion to adopt the findings of fact, which was also included in the packet on the agenda sheet.

Councilor Murray made the following motion:

“(1) That the City Council adopts the written findings of fact presented during the public hearing; (2) that the City Council holds that Charter Communications is in violation of the franchise agreement and remains in default of its obligations under the franchise; and (3) that the City of Lowell reserves the right to pursue the remedies articulated in Section 13.4 of the franchise, and the City Administrator and city legal counsel are authorized to take appropriate actions to enforce the terms of the franchise agreement, since Charter Communications is in default.”

Councilor Harris seconded the motion. APPROVED: 5 yeses, 0 noes.

Mayor comments: None.

Councilor comments: None.

Community comments: None.

Adjourned at 7:54 pm.

APPROVED:



Don Bennett, Mayor

ATTEST:



Jeremy Caudie, City Recorder