

**CITY OF LEEDS, ALABAMA
PUBLIC HEARING AND
REGULAR SCHEDULED COUNCIL MEETING
FEBRUARY 3, 2014**

The City Council of the City of Leeds, Alabama met for a Regular Scheduled Council Meeting on Monday, February 3, 2014 at 6:00 p.m. at the Leeds Civic Center Meeting Room, 1000 Park Drive, Leeds, Alabama 35094.

1. **CALL TO ORDER:** The Mayor called the meeting to order at 6:00 PM with Councilmembers Johnny Dutton, Devoris Roscha Ragland, Eric Turner, Craig Wadsworth and Kenneth Washington present.
2. **INVOCATION AND PLEDGE:** The Invocation was given at the 5:00 PM Public Hearing.

PUBLIC HEARING:

Granting Public Funds To Provide Public Benefit To A Private Entity.

The Mayor described this matter to the Council and audience attending the meeting. The Mayor requested comments regarding this matter and with no one offering a comment, the Mayor closed the Public Hearing at 6:02PM.

3. **REVIEW AND APPROVE COUNCIL MINUTES:** January 17, 2014 Public Hearings and Special Called Council Meeting. Motion to approve the minutes by Councilmember Turner with a second by Councilmember Dutton; the motion passed with all present voting yes.

4. **OLD BUSINESS:**

There was no Old Business to come before the Council.

5. **DEPARTMENT HEAD REPORTS:**

a) Administration, Mayor Miller: No Report.

b) Fire Department, Chief Pierce: Report was included in Council's packet. Councilmember Washington thanked the Fire Department for help in getting a doctor on Tuesday morning for one of Leeds' citizens.

c) Police Department, Chief Jackson: No Report.

d) Leeds Public Library, Director Williams: Ms. Williams announced that the Tot Time is scheduled for Tuesday, February 4th at 10:00AM. The Program for Adults will be Tuesday, February 11th at 10:00 AM

e) Inspection Department, Superintendent Watson: Mr. Watson reported introduced Toshi Arbitelle as the Zoning Inspector for the City of Leeds.

f) Parks and Recreation Department, Supervisor Keating: Mr. Keating announced that Baseball Registration is still in progress.

g) Streets and Sanitation Department, Supervisor Keating: No Report.

h) Municipal Court, Magistrate Roberts: the Court docket scheduled for last week was cancelled and rescheduled for February 22, 2014.

6. **COUNCIL COMMITTEE REPORTS:**

a) Finance Chairperson, Eric Turner: No Report.

b) Public Safety Committee, Devoris Roscha Ragland: Councilmember Ragland expressed her appreciation to the Street Department for their work during the storm.

c) Parks & Recreation Committee, Craig Wadsworth: No Report, but Councilmember Wadsworth expressed thanks to the Public Works department for the distribution of sand on roads.

d) Primary School Construction Review Committee: The Mayor introduced Mr. Ben Watson of Insite Engineering, who apprised the council of the current status of the project. A preliminary building and site plan were presented to the Council, and Mr. Watson indicated that they are pursuing avenues to bring the project within the 12 million dollar budget. A current schedule of open invoices which were submitted to the Board of Education and due for payment were presented to the Council for approval and payment. There was discussion about the abnormally high sitework costs for a project of this size due to the terrain of the site. Mayor Miller reaffirmed that it is the goal to build a facility within the 12 million dollar budget. Motion to ratify and approve the list of invoices for payment by Councilmember Dutton with a second by Councilmember Wadsworth. The motion passed with all present voting yes.

7. NEW BUSINESS:

a) Resolution 2014-02-01 Authorizing Grant Of Public Funds. Motion to approve Resolution 2014-02-01 by Councilmember Ragland with a second by Councilmember Wadsworth; the motion passed with all present voting yes.

b) Resolution 2014-02-02 Unsafe Structure Determination 1800 Oliver Street, Leeds. Motion to approve 2014-02-02 by Councilmember Turner with a second by Councilmember Washington. Ms. Amanda Courson addressed the council along with Mrs. Joyce Courson, who once lived at 1800 Oliver Street. Joyce Courson asked the council to reconsider its determination that the structure was a total loss, because while sifting through the debris they found items which could not be replaced. Ms. Courson indicated that they have hired help but those people are not coming on a regular basis to assist with the search of items in the debris. Ms. Courson indicated that they do plan to tear down the structure. Mayor indicated that there will be about six more months allowed with the passage of Resolution 2014-02-02. Ms. Courson indicated that should be adequate time to take care of the problem. The motion passed with all present voting yes.

c) Resolution 2014-02-03 Unsafe Structure Determination 7583 Alabama Avenue, Leeds. Motion to approve Resolution 2014-02-03 by Councilmember Washington with a second by Councilmember Ragland. In discussion, Councilmember Washington requested that the property owner be made aware that the structure could be demolished less than 180 days. The motion passed with all present voting yes.

d) Resolution 2014-02-04 Leeds Redevelopment Authority. The Mayor appraised the council and audience about this Authority and what it could do for the City of Leeds and the downtown district. The Mayor indicated that there are members ready to be appointed and along with the three citizens which petitioned to charter the Authority. The persons presented to Council by the Mayor are Dr. Carl Marbury, Sam Pezzillo, Pat Hall, Brad Pool, Elizabeth Campbell, Tim Jennings, and Laura Barnes. Mayor Miller listed the terms for the members of the Authority. They are: Two Year Terms for Dr. Carl Marbury and Mr. Sam Pezillo; Four Year Terms for Brad Pool and Elizabeth Campbell; Six Year Terms for Pat Hall, Tim Jennings and Laura Barnes. Motion to approve Resolution 2014-02-04 by Councilmember Dutton with a second by Councilmember Ragland. Councilmember Washington questioned if the people could be reappointed when their term expires. The Mayor replied in the positive and reminded the Council it was this administration which changed the Ordinance which limited this ability; the motion passed with all present voting yes.

In conjunction with the establishment of the Leeds Redevelopment Authority, Mayor Miller proposed revitalization of the Historical Preservation Commission. The same people on the Redevelopment Authority will serve as members of the Historical Preservation Commission, with staggered terms of three years.

e) Resolution 2014-02-05 Ratify Emergency Actions Taken By The Mayor.

Motion to approve 2014-02-05 by Councilmember Ragland with a second by Councilmember Wadsworth. Councilmember Washington stated this ratification is needed and suggested that the City should look into the cost of towing. The Mayor indicated that the charges are in line with the others in the Towing Association and lower than other companies charge in the area. The motion passed with all present voting yes.

f) Ordinance 2014-02-01 Annexation of 689 Southern Trace Parkway. David Averyt, representing the developer, Mr. Kessler, presented information about the properties in question.

Motion by Councilmember Dutton to suspend the rules for items F &G with a second by Councilmember Wadsworth. Councilmember Washington asked about the Fire Dues and Attorney Barnett indicated that the Ordinance requires this matter to be resolved before annexation can be perfected. The motion to suspend the rules passed with all present voting yes.

Motion to adopt Ordinance 2014-02-01 and Ordinance 2014-02-02 by Councilmember Eric Turner with a second by Councilmember Wadsworth; the motion passed with all present voting yes.

g) Ordinance 2014-02-02 Annexation of 830 Southern Trace Parkway. Adopted with Ordinance 2014-02-01 above.

h) Ordinance 2014-02-03 Truck Route. The Mayor gave a brief explanation of this matter and the condition of 7th street. Mayor Miller indicated that Lehigh Hanson has offered the concrete to rebuild 7th street.

Motion to suspend the rules by Councilmember Dutton with second by Councilmember Wadsworth; the motion to suspend the rules passed with all present voting yes.

Motion to adopt Ordinance 2014-02-03 by Councilmember Dutton with second by Councilmember Ragland; the motion passed with all present voting yes.

i) Ordinance 2014-02-04 Flood Damage Prevention. Superintendent Watson gave an explanation about this matter to the Council and the audience.

Motion to suspend the rules by Councilmember Dutton with second by Councilmember Wadsworth; the motion to suspend the rules passed with all present voting yes.

Motion to adopt Ordinance 2014-02-03 by Councilmember Dutton with second by Councilmember Ragland; the motion passed with all present voting yes.

Council Comments:

Mayor David Miller made the following statement:

First, I want to thank all our Police Force, Fire Department personnel, Street Department and Civic Center personnel and all other city employees who went above and beyond in helping to make this awful situation a lot less painful to those hundreds we were able to get to shelters.

Also our great appreciation to First United Methodist Church staff and volunteers and the Cedar Grove Baptist Church staff and volunteers who helped greatly by opening their facilities and taking in the many persons we couldn't accommodate at the Civic Center.

I'm also deeply appreciative of the efforts of our legislative delegation, Sen. Slade Blackwell and Rep. Dickie Drake, for meeting with me and attempting, early on, to find a way we could pick up the towing charges.

State EMA Director Art Faulkner, was faced with an almost insurmountable problem on the interstates and he helped Leeds by getting military personnel from Ft. McClellan to clear the interstate in the Leeds area.

In addition, a number of private individuals, including Rep. Dickie Drake and his family, and Keith Hall, and Cary Kennedy are some of whom I have personal knowledge came out with their personal equipment and voluntarily assisted in transporting people to and from shelters and in some cases all the way to their homes. There were a number of other citizen volunteers whose names I do not know, but who gave of their time and equipment to help. The City thanks you all.

1. WHY DID THE CITY MAKE THE DECISION TO IMPOUND THE CARS THAT WERE TOWED? There was no decision on my part or by the city to "impound cars".. The cars were towed, as are all cars picked up by towing companies where the owner is not present or can't be contacted and taken to their secure lot. This is standard towing practice anywhere. They do this for at least three reasons: one is to protect the vehicle from being vandalized or hit by another vehicle, which did happen to a number of cars that were not towed; one is to keep someone other than the owner from stealing the car if it is left unsecured and the third is to make sure that the car is ultimately released to the rightful owner and that the towing company gets paid for the towing service. I'm told also, that the towing company's insurance policies require that they secure vehicles they have towed.

2. WHY DIDN'T THE CITY JUST HAVE THE WRECKERS PUT THE CARS ON THE SIDE OF THE ROAD RATHER THAN TOW THEM TO THEIR LOTS? To start with, there was no "side of the Road". The tight and slippery quarters made it impractical to put the cars on the side even if there had been one to use. The wreckers themselves were have a difficult time, much less being able to precisely position cars in tight quarters.

3. THE GOVERNOR STATED THAT PEOPLE SHOULDN'T WORRY ABOUT THEIR CARS AS NONE WOULD BE TOWED AND YET YOU TOWED ANYWAY. First of all, he was referring to cars on the interstate and other state controlled main routes. I'm sure he knew he couldn't guaranteed that position within towns even if it had been the right thing to do. Certainly leaving the cars in place on Scott City Hill would have endangered the 300 stranded people we rescued, and he would not have wanted us to do that if he had known the circumstances. It was a command decision to inconvenience the 30 or so people whose vehicles were towed versus rescuing the 300+ by clearing the road.

4. WHY DIDN'T YOU TAKE CARE OF THE CARS ON THE INTERSTATE RUNNING THROUGH LEEDS? The state EMA office with the help of military personnel from Ft McClellan were taking care of the interstate. They couldn't reach us and we couldn't reach them. We did have one heroic action by one of our policemen, Sgt. Jeff Loebler, who took one of our Hummers in response to a medical emergency and make his way up the embankment to reach a child who had had a recent bone marrow transplant and needed to be evacuated to his home to get to his anti-rejection medicines. It was risky and he almost lost the vehicle, but he got the job done.

5. YOU STATED THAT NEIGHBORING COMMUNITIES WOULD BE USING THE SAME PROCEDURES AND THOSE MAYORS SEEMED TO SAY DIFFERENTLY. I had indeed talked with both Tommy Joe Alexander

of Irondale and Joe Lee of Moody as to whether they knew of any way to pay for towing charges out of city funds. Both of them said that they did not. These are both honorable people and if you carefully look at what they said rather than what was repeated on face book, you will see that neither of them in the end had any other solution. I called them because there were some saying that the city should pay for any charges and to my knowledge at the time this wasn't allowed. They both said that would use the same procedures as us if they had to tow. Fortunately, they didn't have the type emergency situation we had and didn't have to face that decision. If you listen to Mayor Lee's statement he did at the very end of the interview when pressed as to what he would do if he did actually have to tow, stated that "yes there would have to be a charge."

6. WHY DID YOU MAKE THE STATEMENT THAT IT IS ILLEGAL TO USE PUBLIC FUNDS FOR BENEFIT OF PRIVATE CITIZENS? I did make that statement and it was/is true. We only found out about a way around that law after I got our legislative delegation to call on our behalf and get a legal opinion that the state would consider it legal if the city council would ratify the towing actions as necessary due to a public safety emergency. We have done that tonight.

7. WHY DID YOU CALL OUT RYAN'S WRECKERS. YOU ARE RELATED TO HIM AREN'T YOU? ARE YOU GETTING A KICKBACK ON THE FEES? WHAT ABOUT THE FEE - ISN'T IT HIGH? I didn't call out Ryan's wreckers. The city's wrecker service agreement predates this administration by several years. By that agreement, both of the two qualified wrecker services, Ryan Auto. and Murray's Garage alternate on wrecker calls from the city. In this case there were enough cars stranded in the roadway that there was work for both companies. The city gets zero revenue from wrecker calls, and I certainly don't get any money from any wrecker calls. Yes, I am distantly related to Hunter Ryan by marriage. My father, late in life did marry Hunter's great grandmother. Had Hunter been my son, however, it would have made no difference, the services of both wrecker services were required. Ryan's is one of only two qualified wrecker services in Leeds. The fees charged by both companies were their standard fees plus a surcharge due to the icing conditions where they had hundreds of thousands of dollars of equipment at risk. Even with the surcharge, the fees charged by Murray's and Ryan's were lower than many fees charged by other wrecker companies and certainly within the normal and accepted range for towing under these conditions. By the way, both companies and the City did sustain damage to their trucks. The City had two vehicles damaged to the tune of about \$5000, and Ryan's had some criminal pour a corrosive liquid into the tank of his wrecker resulting in over \$10,000 damage due to the destruction of the diesel engine. I wish there were some way to offer a reward for the arrest of the person who did this.

8. YOU STATED THAT YOU HAD SPOKEN WITH THE GOVERNOR'S OFFICE AND WAS TOLD THAT THE STATE WOULD PICK UP THE TOWING CHARGES. THE GOVERNOR'S OFFICE STATED THAT THIS WAS NOT TRUE, SO YOU THEN CHANGED YOUR STORY. I made the statement as you say, except it was Senator Blackwell who made that contact. When I put out the information my wording was interpreted by the state EMA director as meaning his agency would write us a check. He correctly stated that this was illegal and the Governor's office then said so also. What Sen. Blackwell had found out was that they were working on a way to make it possible for the bill to be paid and he had assured me that they would find a way. It was my fault for making it sound like the State would directly write folks a check as I thought that was what was going to happen. In the heat of the situation, I didn't question how they were going to do it legally, but I was just glad it was going to be done.

After the state denied that they were going to pay, I had a meeting with Sen. Blackwell and Dickie Drake to see where we could go from there. They had the idea of calling the state to see if there was a way to get a legal opinion rendered to allow an exception to state law since this was an emergency situation. After a little research, they were told that there was a precedent in similar circumstances, I believe during the tornadoes, where the state had allowed municipalities to disregard the law prohibiting use of city funds for private individuals when they went on private property and cleared debris around power lines, etc. that was considered a safety hazard. He was told that if the City would do as outlined above and ratify the actions as being done as a result of a public safety emergency they would not come down on the city. When we found this out we were delighted, of course, that we could legally pay for the towing charges and I put out that word. Changed my story again if you prefer, but I was just trying to be as open as possible as to what we were doing as the event unfolded.

I certainly don't consider it a bad decision to have the cars towed. The alternative was to leave hundreds of people stranded in subfreezing weather rather than clear the road and take them to the shelters. Interestingly, ALDOT didn't consider it a bad decision either. I received a call from the District ALDOT office who was calling on behalf of the State Director of ALDOT, Mr. John Cooper. They said that they were very pleased that Leeds cleared the roadway and that we actually did their work for them since they couldn't reach the scene. Hwy 78/Parkway is a federal highway, and therefore the state's responsibility. As a result of our timely and efficient actions ALDOT stated that they would pay the charges. We still had to do the ratification we did tonight so that we can legally go ahead and repay the towing costs right away from City funds, and the City will wait for reimbursement from ALDOT.

Was the operation perfect, certainly not. Are we open to suggestions as to how to do it better next time? Absolutely. We will have an after action review and look at what was done on a timeline and see where we might make it better. We will be happy to receive constructive input and I emphasize CONSTRUCTIVE, from anyone whether inside or outside the City government.

In summary, the City reacted quickly and correctly with the resources at its disposal and made the decision to act in favor of endangered people rather than stranded cars to get folks to safety and warmth. It worked, and more than 300 people are very happy that we got them out of subfreezing weather.

The mayor then opened the floor for discussion in an orderly, respectful manner and asked that comments be limited to 2 minutes.

9. PUBLIC COMMENT:

Jimmy W. Cleckler, 2606 County Road 28, Clanton AL 35046 – 205-351-1374.
Mr. Clecker asked who gave the order to tow the vehicles. In response, it was stated that the Police Chief gave the order remotely and not the Mayor via Lt. Scogin. Chief Jackson gave an order to relieve Scott City Hill by opening it up for emergency vehicles after contacting the State and the State indicated they would not be out. A call to the City's Public Works Department indicated that they could not throw sand due to cars in the road. Mr. Cleckler asked if the officers placed three orange cones but this could not be confirmed as the officers were not present to confirm. Cleckler states that his truck was on the white line and questioned why his truck singled out to be towed. Cleckler referred to the statement that he submitted before the council meeting. Cleckler stated that the fault is with who gave the order to have the vehicles towed.

Deanna Frankhouse, Montevallo Road. Ms. Frankhouse expressed her appreciation for what the city did for the safety of its citizens. The only way to get to Leeds was through Sicard Hollow Road, since Zeigler Road and Grants Mill Roads were closed. Ms. Frankhouse indicated all this started with an article from Mr. Archibald and poor journalism.

Bill Edgil, Ashville Road, Leeds. Mr. Edgil commented that Leeds is the best little town in the state. Edgil indicated that he got on Facebook to see what was being said about the Mayor and the City's administration. Mr. Edgil indicated that folks writing on Facebook did not know what was going on in the City, and they should calm down and not speak until they could get the facts. Edgil indicated that he went to Scott City Hill to pick up a relative on Tuesday night and thinks the city did what was right to prevent people sitting in the cold. Mr. Edgil indicated the the City owes a thanks to the Police and Fire departments along with the officers for doing what they thought was best at the time. There was discussion between Mr. Edgil and Mr. Cleckler.

Lee Barnes, Sr. 6942 Rowan Road. Mr. Barnes commented that he thinks the mayor and council did what was appropriate for the time. Barnes thanked the chiefs for what they did and also Supt. Moore and school staff for taking students and personnel home that were stranded at the schools. Barnes thanks the real people of Leeds who did something for other people stranded in the City. Barnes indicated that it is time to move on to other constructive issues. Barnes indicated that this was a disaster that occurs once in every 25 years and possibly appoint a committee of 5 to review what occurred and formulate a plan which could be referenced in the future if an event such as this were to occur. The Mayor indicated that formulating a plan is on his mind and he has the timeline from Chief Jackson so they can discern areas for improvement. Barnes indicated that he has seen more good than bad in this hard time than the last 40 years of his living in the City.

Mr. John Moore, stated 15 teachers and 11 students spent the night at the schools and Rusty's BBQ provided them food and would not accept payment for the food. Mr. Moore thanked all those that helped.

Mr. Moore also commented about the BOE'S (Board of Education) receipt of \$265,000 from funds that were left over from the initial funds dating back to 2004. The BOE lacked \$263,000 to pay off the fee for separating from the county. Superintendent Moore also clarified that the purpose of the site bid of the new school being separate from the construction was due to unknowns of the site and to determine what funds would remain to build the structure.

Councilmember Washington stated that Leeds is the best place to live with the greatest people and mistakes are made from time to time but the City has attempted to correct the mistake which was resolved tonight. Washington thanked the mayor and council for the resolution to the actions that were taken. Washington apologized for the actions taken but has also attempted to resolve the mistake.

Carolyn Ryan thanked the City Council and the Public Safety Department and all involved for what they have done. She stated that Leeds is a good place to live and responds to emergencies.

There were no further comments.

ADJOURNMENT: The meeting was adjourned at 7:42 PM following a motion by Councilmember Turner and second by Councilmember Dutton.



David Miller, Mayor

ATTEST:



Kevin Fouts, City Clerk