

**LOWELL TOWN COUNCIL
REGULAR MEETING
FEBRUARY 11, 2008**

The regular meeting of the Lowell Town Council was called to order on Monday, February 11, 2008 at 7:00 P.M. by President Phillip Kuiper. The Pledge of Allegiance was recited and a moment of silence was observed. Council members answering roll call were Donald Huseman, Shane Tucker, John Alessia, Phillip Kuiper, and David Gard. Also present were Town Attorney Ben Ballou, Director of Public Works Greg Shook, Director of Community Development Wilbur Cox, Police Chief John Shelhart, Park Superintendent Tom Sullivan, one member of the media and fifteen interested citizens.

APPROVAL OF MINUTES

Councilman Huseman made a motion to approve the minutes from the January 28th regular meeting, seconded by Councilman Gard. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #1109-1166, White Police Vouchers #4004-4015, Water Vouchers #2070-2101 and Waste Water Vouchers #3053-3079 and recommended them for approval. Councilman Tucker made a motion to approve the vouchers as listed, seconded by Councilman Huseman. The motion carried by voice vote.

MONTHLY REPORTS

Councilman Gard made a motion to approve the monthly reports from January, 2008 as submitted, seconded by Councilman Tucker. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

1st Reading - Ordinance #2008-03 - vacating of public right-of-way - 173rd Avenue - Public Hearing - President Kuiper read Ordinance #2008-03 an Ordinance Vacating Public Right-of-Way. He then opened a public hearing regarding Ordinance #2008-03. Doug Nicksch, 5524 W. 173rd Place, said his property abuts the area under consideration. He asked if there was any kind of drawing or map of the area because as it reads in the legal description, he couldn't picture the layout. Councilman Huseman explained if you go to the end of Marion Drive where it stubs into the field and the last house is built on the east, just north of that, which is the back yard of that east house and from Michael Drive around to Camelot, that's the back of all of those houses. There was a street planned there, back in 1992. It runs from Michael Drive to Marion. Mark Langen had a map that showed the location. Mr. Nicksch and Mr. Langen had a brief discussion regarding the map and Councilman Huseman said it would only serve four or five lots and it would be looking at the back yards of those other houses so it doesn't even make sense. Mr. Nicksch commented that there are a number of other people going east that also have easements for 173rd Street on their property. It is now only half of a street so there is no purpose in it.

It is on paper to continue east to Mount Street which would go straight through some people's houses. Half of the easement is on his property and half of the easement is on his son's property and on down the rest of the way. If the people affected by this wanted to get that vacated, they would just have to petition for it. Carrie Gallagher, 17301 Michael Drive, commented that she is Lot 107 and asked what happens to the land once it is vacated. Mr. Langen checked the map he had and said that he and Director Cox had determined that there would still be a utility easement on it, but she would get half of the land. Ms. Gallagher asked if there were any restrictions on what could be done with the land, could they plant trees or would they only be able to mow it and keep it up but not use it otherwise. Director Cox explained that when right-of-ways are vacated, it gets split in half. Half goes to the petitioner and half goes to the adjoining property owners. If there are utilities within that property, they remain utility easements. It can be used for whatever purpose the property owner desires with the exception that it cannot be built over, like a shed. Director Cox said planting trees would be okay if it didn't interfere with the utilities. Ms. Gallagher said she knows where the utility easement runs through her property. She then asked if she has to pay taxes on that additional property. Director Cox said she would have to pay taxes on the property. She asked if they would get some kind of paperwork indicating the change. Director Cox explained that once the vacation takes place and the recording process starts at the county, she would get some paperwork. She asked if it would be re-staked. Director Cox said they would not re-stake it but they will give her the paperwork. Mr. Langen said he would have to have it re-staked. There being no further public comment, President Kuiper closed the public hearing. Councilman Gard made a motion to hold over Ordinance #2008-03 for second reading, seconded by Councilman Alessia. The motion carried by voice vote. Councilman Huseman made a motion to set the rules aside, seconded by Councilman Gard. The motion carried by voice vote. Councilman Gard made a motion to adopt Ordinance #2008-03, an Ordinance Vacating Public Right-of-Way, by name and title only, seconded by Councilman Tucker. Roll call vote carried with five ayes. Councilman Gard made a motion to set the rules back in order, seconded by Councilman Huseman. The motion carried by voice vote.

UNFINISHED BUSINESS

Lowell Utilities Update - Nothing was reported for any of the following items: WWTP JMOB Requests; WWTP Phase II Project; Water Infrastructure Improvement Plan; Storm Sewers/Lift Station, East Side Sewer Project.

Northwest Water Project - Director Shook stated he wanted to bring the Council up to date on what they are calling the Northwest Water Project. A twelve inch water main will be put in along Nichols Street from Comanche to 173rd Avenue. There will be a booster water pumping station installed somewhere in the vicinity of 173rd and Cline Avenue. This is to supply water not only to the northwest part of town for the new subdivisions but will also be looped in the systems that go north, like Indian Heights and Timbersprings. He wanted to make sure everyone understood that this is being paid for 100% by the developers. There is no cost to the town.

Commonwealth Engineers - Hilltop Drainage - Director Shook reported that he just received an e-mail that evening from Commonwealth regarding the Hilltop drainage situation. There are probably going to be at least a couple of different things that will have to be done that are being looked into. One of them is to capture some of the water along Joe Martin Road and send it

north into Evergreen pond. Some of it might actually have to go through Hilltop, so there might have to be an increase in the pipe size along the Cencion's home to get the water through there so it doesn't actually come across the top of the ground. There is a possibility they might have to look at some type of detention in the vicinity of Joe Martin and Hilltop. Director Shook said he has not gotten to speak with Commonwealth about this and he is not really sure what they mean by that yet, They should have something for them within the next week and a half so Director Shook said they should have something a little more solid for the Council by the next meeting as far as some type of sketch, drawing or some kind of proposal as to how they are going to handle the water. President Kuiper asked Director Shook if he would keep the Cencion's updated on what is going on if he gets anything before the next meeting. Councilman Huseman commented that he was not crazy about the temporary detention pond suggestion. He feels there are too many detention ponds already and where would it be placed. He also questioned going north to Evergreen pond. Director Shook reported that from the conversation he had with Commonwealth it looks like they are probably going to split the flow. More than likely, they are going to try to capture as much water on Joe Martin as they can, pipe it north into Evergreen pond and then whatever else is on the west side of Joe Martin, which naturally flows west, will probably go down through Hilltop. Right now, if you drive up Joe Martin when it is raining real hard, there is a lot of water from the east side of Joe Martin flooding the yards and coming overland across the road and heading west. If they can capture some of that and send it north, they are hoping it will help the situation. He said they should know more within the next week and he will update the Council as information becomes available.

Snow Removal - Route 2 - Director Shook stated that there was one more item he wanted to mention since it was snowing again. The town has had some conversations with the state highway department. The town gets quite a few phone calls regarding State Road 2 since it runs through town about the pot holes, the ice and so forth. That is a state highway and is supposed to be maintained, snow plowed and salted by the state highway department. The town has done quite a bit of that itself. The town was getting low on salt and it's intention was to salt just the intersections with State Road 2 at the traffic lights and it's own streets where they come out on Commercial Avenue and letting the highway department finish salting the rest of it. That is the plan right now and they are going to wait and see what happens. The conversations with the state highway department are that they get out here as soon as they can but the town has cars out on Route 2 all of the time. It is a busy highway. The first winter he was working with the town, there were quite a few accidents on Route 2 because the town was waiting on the state highway department. The town is paying for the salt, the labor, and for fixing the pot holes because the town gets the calls about the pot holes and when the state highway department is called, they don't respond very quickly. President Kuiper asked if there is a shortage of salt. Director Shook reported that they just got salt in today. They ordered it more than two weeks ago because they like keeping the salt barn full and they don't let it get too far down before they replenish it. The town was lucky enough to get more salt in that day. He said if the Council has no objections, their plan for that night was to do what they told the state highway department, which was to salt the traffic signal intersections to try to prevent any accidents and leave the rest of it up to them. Director Shook said he was throwing it out there for discussion since the Council members would probably be getting calls if the state doesn't do their part. Council members expressed their doubts that the town would get the same service from the state as it gets from it's own street

department. President Kuiper stated that they just got a response from the state regarding the request for a traffic light at Route 2 and Nichols Street, which was denied again. Councilman Gard commented that the town needs to do what it has to in order to maintain public safety. President Kuiper commented that as long as salt is available, he would like for the town to continue doing what it has been doing. He also said that he has heard from many people that as soon as you get to the town limits, you can tell that someone else is doing the roads in town and out of town. Director Shook said that as long as the town has salt, they will continue doing what they have been doing. If they get low on salt, they will back off and just do the traffic light intersections.

Tabled from previous meetings:

12/10/07 - Paving of street in Meadowbrook Subdivision

NEW BUSINESS

Act on petition to vacate public right-of-way - Demotte State Bank Trust 140 - Mark Langen commented that it is with a little bit of embarrassment that he did not have this included previously. This is the remaining 90 feet that goes to the east and is also in the back yards of some existing lots. They originally thought that it would be possible to utilize that part of the street to run to the west hooking with Brookwood Drive, but because of where that street is at and the angle of Brookwood Drive and the existing utilities there, it makes it pretty much impossible to utilize that street. Therefore, he was appearing before the Council to ask that they accept the petition to vacate that portion of 173rd Avenue as well. Councilman Huseman commented that you can see in the drawing that it is a useless road going west because it won't tie into Brookwood. Mr. Langen provided copies of his map to the Council and showed them where he intended to hook up instead. Councilman Gard made a motion to accept the petition to vacate the public right-of-way and grant permission to advertise for public hearing, seconded by Councilman Huseman. The motion carried by voice vote.

Permission to close Mill Street for car show - Rich Meadows, Lowell Chamber of Commerce, addressed the Council to request permission to close Mill Street from Commercial Avenue to Jefferson Street for a monthly car show, as was done last year. He reported that they felt it was pretty successful last year and hoped it wasn't too much of an inconvenience to anyone. He said they did not want to ask for any more than they asked for last year, but hoped no one would get too upset if they went a little further than Jefferson Street if they had a really good turnout. Mr. Meadows said he spoke with the owner of the gas station at the corner of Jefferson and Mill who is not real responsive to it, but said he would go along with it again this year. He said they always made sure there was a lane going to the station, but he was the only one that was negatively affected by the car show since it got a little crowded at a couple of the car shows. Bill Carlson, President of the Lowell Chamber of Commerce, said that Mr. Meadows has done his homework. He stopped and spoke to the businesses along Mill Street and confirmed with the bank that they can use the drive up lanes for car overflow again. Councilman Gard made a motion to grant permission to close Mill Street on the last Saturday of the month from May through September for car shows, seconded by Councilman Tucker. The motion carried by voice vote.

ANNOUNCEMENTS

President Kuiper commented on newspaper articles that appeared in the previous week about budget woes in communities in northern Lake County if the 2% circuit breaker law goes into affect as proposed by Governor Daniels.. He said that those budget woes are going to affect every community in Lake County. He felt it would be best to let their public know what they are looking at as of that day. If something does not change, it is what the town will be facing and he is not real sure how to face it. In 2008, the advertised budget was \$5,006,460 with a tax levy of \$3,257,240. The 2007 budget was \$4,848,394 with a tax levy of \$2,763,903. For the 2008 budget, the town is going to have to cut \$176. For 2009, it has been reduced to where the town is going to have to cut \$415,000 and for 2010, the town will have to cut another \$391,000 out of the budget. He said if he understands it correctly, by 2010, it will drop the town back to its 2003 budget. He said he has spoken with the County officials and they say they are working on the state on all different sorts of things. If that happens, he isn't real sure what will happen because there will have to be a whole lot of cutting going on.

President Kuiper announced that one of the town employees, Barry Davis, had a daughter who appeared on national television last week and has made it onto the show, American Idol. Tuesday night is the Hollywood episode. Amy Davis is a native of Lowell and a graduate of Lowell High School. She has also performed at the Lowell Labor Day Festival in the last couple of years. President Kuiper said that although Barry was in Hollywood, he says he has no idea how she did. Everyone will just have to watch on Tuesday night to find out. President Kuiper said he understands Wednesday night is another night but Barry says he doesn't know anything about Wednesday, but he has a big grin on his face. He said he hasn't watched the show very much but he understands if she makes it to the top 24, that is when voting begins, and there have been rumors around town from the internet that she made it to the top 24. When the voting begins, that is when Lowell needs to kick in. If she continues on, the town will be on national television since they come visit the hometowns of the contestants.

There being no questions or comments from the media or the public and no further business or discussion, Councilman Gard made a motion to adjourn, seconded by Councilman Tucker at 7:40 P.M.

Phillip Kuiper, President
Lowell Town Council

ATTEST:

Judith Walters, Clerk-Treasurer