

**LOWELL TOWN COUNCIL
REGULAR MEETING
FEBRUARY 9, 2009**

The regular meeting of the Lowell Town Council was called to order on Monday, February 9, 2009 at 7:00 P.M. by President Phillip Kuiper. The Pledge of Allegiance was recited and a moment of silence was observed. Clerk-Treasurer Judith Walters called the roll. Members present were Donald Huseman, Shane Tucker, John Alessia, Phillip Kuiper and David Gard. Also present were Town Attorney Greg Sobkowski, Director of Public Works Greg Shook, Town Administrator Susan Peterson, Community Development Director Wilbur Cox, Police Chief John Shelhart, two members of the media, and nineteen interested citizens.

APPROVAL OF MINUTES

Councilman Gard made a motion to approve the minutes from the January 26th regular meeting, the January 26th and February 2nd executive sessions and the February 2nd special meeting, seconded by Councilman Alessia. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #1138-1207, White Police Vouchers #4011-4022, Water Vouchers #2066-2087 and Waste Water Vouchers #3051-3070 and recommended them for approval with a change to make White Voucher #1195 payable to Tri Creek Medical. Councilman Huseman made a motion to approve the vouchers as amended, seconded by Councilman Gard. The motion carried by voice vote.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

Proclamation - Tri-Kappa Week - President Kuiper read a proclamation naming the week of February 22-28 as Tri-Kappa Week. Councilman Gard made a motion to approve the proclamation, seconded by Councilman Alessia. The motion carried by voice vote. President Kuiper recognized members of Tri-Kappa that were in attendance and called them forward for a photograph.

MONTHLY REPORTS

Councilman Huseman made a motion to accept the monthly reports from January, 2009 as presented, seconded by Councilman Tucker. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

2nd Reading - Ordinance #2009-01 - an Ordinance restructuring the Department of Parks and Recreation - Councilman Alessia made a motion to adopt Ordinance #2009-01 by name and title only, seconded by Councilman Tucker. Councilman Huseman commented that it was all right as long as they kept up on grants and appointed people to committees. President Kuiper stated that

financial consultant Greg Guerrettaz and Attorney Greg Sobkowski had been consulted on these concerns. He said they are going to hold open the Citizens Advisory Board for two more weeks to allow more interested citizens to apply. If they made appointments now, they would not be able to fill five spots with the applications that had been received. Roll call vote carried with five ayes.

1st & 2nd Reading - Ordinance #2009-02 - amend Salary Ordinance - Director of Community Development - President Kuiper read Ordinance #2009-02 to amend the Salary Ordinance for the position of Director of Community Development. Councilman Huseman made a motion to hold over Ordinance #2009-02 for second reading, seconded by Councilman Tucker. The motion carried by voice vote. Councilman Gard made a motion to set the rules aside, seconded by Councilman Tucker. The motion carried by voice vote. Councilman Gard made a motion to adopt Ordinance #2009-02 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 Tucker. The motion carried by voice vote.

Resolution #2009-02 - a Resolution supporting construction of a Bioethanol Conversion Facility - President Kuiper read Resolution #2009-02 that determines it is in the best interest of the Town of Lowell and its residents for Powers Energy of America to construct its Bioethanol Conversion Facility in the Tri-Creek area. Councilman Huseman made a motion to adopt Resolution #2009-02, seconded by Councilman Gard. The motion carried by voice vote.

Resolution #2009-03 - temporary loan from Gambling Revenue to General Fund - President Kuiper read Resolution #2009-03 to make a temporary loan in the amount of \$300,000 from the Gambling Revenue Fund to the General Fund. Councilman Alessia made a motion to adopt Resolution #2009-03, temporary loan from Gambling Revenue to General Fund, seconded by Councilman Gard. The motion carried by voice vote.

UNFINISHED BUSINESS

Lowell Utilities Update -

WWTP JMOB - Director Shook reported that the JMOB will be moving their meeting that was originally scheduled for Tuesday, February 10th at 1:00 P.M. to next Tuesday, February 17th at 1:00 P.M. at the Lowell Town Hall.

Streets/Sidewalks - Director Shook reported that he and Street Superintendent Lovely will be attending a pre-construction meeting at the INDOT office in LaPorte regarding the Rt 2/Burr Street Project. After that, he should have some kind of a construction schedule that will provide an idea of when the project will take place. Councilman Huseman commented that 171st Street was bid out at \$1.1 million and since the funds were not available, Bucko Construction was hired to grind it down and pave over it. He said he has noticed some stretch marks and asked Director Shook if it could be sealed to protect it from getting water in those cracks and breaking it apart. Director Shook stated that should be able to be taken care of with the Total Patcher.

East Side Sewer - President Kuiper read a memo from Joseph A. Schudt & Associates requesting

a reduction of the performance bond regarding the East Side Sanitary Sewer Improvement project. Councilman Gard made a motion to approve reduction of the performance bond to the amount of \$169,400 as requested, seconded by Councilman Tucker. Attorney Sobkowski stated that it was his understanding, while the letter is not clear about it, that the request was to have the reduction be effective retroactive to the substantial completion date of September 17, 2007. Director Shook confirmed that the request was for the reduction to be retroactive. Attorney Sobkowski stated that had they asked for the reduction back in September, 2007 and it was substantially complete, they would have been entitled to that. Councilman Gard amended his motion to be effective as of today. Councilman Tucker amended his second. Councilman Huseman commented that they acted in good faith when they put the sewer in and personally, he does not have a problem with making the reduction retroactive to September, 2007. Councilman Alessia asked for an explanation of the difference. Attorney Sobkowski stated that he didn't know if the difference was significant to the town but to them, he assumed that the difference meant bond premium. If the bond can be released retroactive to 2007, they might be entitled to a refund of premium. If it is effective as of today, then they will need to pay the bond premium on \$1.6 million until the date it is reduced. Councilman Gard wondered why they did not ask for this reduction back in 2007. Director Shook stated that John Criter, representative of Phillippe Builders was present. Mr. Criter explained that this was a bookkeeping error. The work was basically done by September, 2007, the bond was in effect and no one asked for a reduction and the bond just stayed in effect. He said he did not think it matters at all to the Town of Lowell what the effective date is, but it matters a great deal to them. They can recover several thousand dollars if it is made retroactive. Discussion followed among Council members and counsel regarding confirming the work was done and working with the developer and Councilman Gard withdrew his motion and Councilman Tucker withdrew his second. Councilman Gard made a motion to approve the request for reduction of the performance bond effective September 15, 2007, seconded by Councilman Tucker. The motion carried by voice vote.

Enter into agreement with INDOT for Supplement #1 for Rt 2/Burr Street Project - Councilman Huseman made a motion to enter into the agreement with INDOT for Supplement #1 for the Rt 2/Burr Street Project, seconded by Councilman Tucker. Councilman Alessia asked if the numbers were still the same. Director Shook explained that the last page of the document contained a breakdown and if there are no change orders and everything goes well, the town's share will work out to about 5.2% of the overall cost, which is about \$56,000. The motion carried by voice vote.

NEW BUSINESS

Permission to pay for new furnace for Police Station from Capital funds - Chief Shelhart explained that there are two furnaces at the Police Station. The one that supplies heat to the west half of the building has malfunctioned. A new electronic board was put in with the hope that this would bring the furnace back to service. However, the heat exchanger has numerous cracks in it. The cracks cause the furnace to be unable to draw enough vacuum from the gas valve. The furnaces are 1992 models that were installed in 1994 and their useful life cycle is about 17 years. A price quote from Parkway Mechanical in the amount of \$2,390 for a comparable unit to replace the old unit should last approximately 20 years. President Kuiper said he thought the

Chief was asking for assistance from the Council because this would put a big hit on the Police budget. Clerk-Treasurer Walters stated there are available funds in the CCI Fund. Councilman Gard made a motion to grant permission to pay for a new furnace at the Police Station from Capital Funds, seconded by Councilman Tucker. Councilman Huseman asked if bids were given. Chief Shelhart stated that Parkway Mechanical is contracted to provide service on all of the furnaces at the Town Hall and at the Police Station. The only bid he solicited was from Parkway Mechanical because they have the contract to provide maintenance service. They were at the Police Station to try to repair the furnace and provided various replacement options at that time. The motion carried by voice vote.

Approve quarterly fees for Park Programs - Clerk-Treasurer Walters stated that the State Board of Accounts requires that the fees that are charged by the Park Department be approved quarterly. The Town Council will now be approving the quarterly fees. The fees are for classes/ programs and soccer that the Park Department provides during the first quarter of 2009. Councilman Alessia made a motion to approve the quarterly fees for Park Programs, seconded by Councilman Huseman. The motion carried by voice vote.

Enter into Partnership Agreement for 2010 Census - President Kuiper introduced Suzy Barnhart from the U.S. Census Bureau. The census is not until 2010, but Ms. Barnhart stated that the reason she was present was that they want to get some involvement in the community up to a year ahead of time. The census officially takes place April 1, 2010. Her position is Partnership Specialist. She has Lake and Porter County and her job is to get the word out so they can get as many federal dollars funneled into the community as possible. She explained further that the census is done every ten years and how many citizens are counted in the community determines how much federal dollars are funneled in. Her position is to partner with the local municipalities to get as high a return rate as possible. She has already met with Administrator Peterson, Clerk-Treasurer Walters and Director Cox in soliciting some help. In 2000, the Town of Lowell had a very high success rate in getting the forms turned back. One of the vehicles that the Census Bureau used in 2000 was called the Complete Count Committee and the communities that enacted and used the vehicle had much higher success rates in getting forms turned back in. She requested the participation and support of the Council through the Complete Count Committee for the upcoming census and explained that this would mean appointing a liaison who would chair various committees, that might include a media committee, an education committee or a faith-based committee, that would work to get the word out to the community about the census. She had already provided information that included 50 different ways the money is used as a result of the counting of the census and what was done by Cook County, Illinois for successful form returns. She requested an agreement from the Council for participation in the 2010 census. She said she can come to various activities held in town. They have also hired four of the 1984 Chicago Bears team and a member of the Indianapolis Colts team to act as PR people. Mr. Barnhart said that Administrator Peterson and Clerk-Treasurer Walters have already agreed to allow the Town Hall to be a location for a Be Counted Box, which is a box that holds informational brochures to help people in filling out their census forms. The library is also a location for one of these boxes. The library is also going to be a Question Assistance Center, where the Census Bureau will have paid staff members that will be able to answer questions and provide assistance in filling out census forms six weeks in advance of the census. These are

being done to enhance the return rate and get more federal dollars into the community. Councilman Alessia made a motion to enter into the Partnership Agreement for the 2010 Census, seconded by Councilman Gard. The motion carried by voice vote.

ANNOUNCEMENTS

President Kuiper announced the next regular meeting will be held on Monday, February 23rd at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media asked if any of the Council members would be willing to comment about the Ethanol Plant. President Kuiper said that he could not confirm it but he understood that the Powers Company had contacted about some real estate. He also said that the public informational meeting had been held and they felt it went well. He said he has had comments about it every day where ever he goes and they would like to continue their efforts to try to make that happen. There will have to be some annexation and there is some effort for legislation because of the census. When asked to explain further, President Kuiper said that there is some old legislation that prohibits annexations from being finalized in the year preceding a census, so the town is trying to get an amendment to that legislation for at least this particular annexation so that could happen this year. The media member commented that Mr. Powers said that all he was looking for was an invitation and she asked if the resolution adopted earlier in the meeting was that invitation. President Kuiper said it was. A member of the media asked for a copy of Resolution #2009-02 and the Tri-Kappa proclamation.

President Kuiper read the names of employees that had perfect attendance for 2008. They were Debbie Earley, John Goad, Scott Krass, David Lee, Frank Lovely, Sue Peterson, John Shelhart, Tom Sullivan, Marlene Sutphen, Frank Thorpe and Tom Trulley.

Leah Gunderson, 1005 Kankakee Street, commented that she has been a citizen of Lowell for thirty six years and since there is no longer a Park Board, she would like to thank Penny Morrison for serving the Park Board for thirty five years. President Kuiper said that he appreciated Ms. Gunderson's recognition but that had not been forgotten and would be addressed by the Council.

John Krockner, 17565 Kosciusko Place, asked if any new business would be addressed. He said he had an issue he would like to discuss with the Council. He introduced himself as the small business owner of Rich Construction, which provides 24 hour board up services. He said he had provided services in town for the past seventeen years and did not know of one instance where he missed a call or had someone unhappy with his work. When former Fire Chief Jack Eskridge joined the staff of United Services, he has not had work in town and he feels he has been discriminated against since he is not politically connected as Mr. Eskridge is. He said he is visiting different Town Council meetings to ask that he be given a fair chance at rotating jobs for board up services. President Kuiper said he is not familiar with how this work is assigned and will bring it up to the new Fire Chief. It was also suggested that he meet with the Volunteer Fire

Department Board to express his concerns since the town has a contract with the Lowell Volunteer Fire Department and does not make those decisions.

Councilman Huseman asked if they were rotating on wrecker service calls for towing. President Kuiper said he thought that was coming up for discussion at the next Police Commission meeting.

There being no further business or discussion, Councilman Alessia made a motion to adjourn, seconded by Councilman Gard at 7:40 P.M.

Attest:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer