

**LOWELL TOWN COUNCIL
REGULAR MEETING
JULY 13, 2009**

The regular meeting of the Lowell Town Council was called to order on Monday, July 13, 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 ten interested citizens.

APPROVAL OF MINUTES

Councilman Huseman made a motion to approve the minutes from the June 22nd regular meeting and executive session, seconded by Councilman Alessia. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #1845-1905, White Police Vouchers #4064-4078, Water Vouchers #2377-2420 and Waste Water Vouchers #3324-3363 and recommended them for approval. Councilman Gard made a motion to approve the vouchers as listed, seconded by Councilman Tucker. The motion carried by voice vote.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

Presentation to Lowell Police Department - Lowell Moose Lodge - Mike Bafia, representative of the Lowell Moose Lodge, presented a donation to the Lowell Police Department for the purchase of two tazer guns. Police Chief John Shelhart stated that in the last two years, the Lowell Moose Lodge has donated over \$3,000 to the police department for equipment they would not otherwise be able to afford. He said that many businesses and organizations had been generous to the police department, but none more so than the Lowell Moose Lodge.

MONTHLY REPORTS

Councilman Alessia made a motion to accept the monthly reports from June, 2009 as presented, seconded by Councilman Gard. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

1st Reading - Ordinance #2009-10 - establishing an Unclaimed Property Fund - President Kuiper read Ordinance #2009-10. Councilman Gard made a motion to hold over Ordinance #2009-10 for second reading, seconded by Councilman Huseman. The motion carried by voice vote.

1st Reading - Ordinance #2009-11 - amending Chapter 75 - no parking - Meadowbrook Drive - President Kuiper read Ordinance #2009-11. Councilman Alessia made a motion to hold over Ordinance #2009-11 for second reading, seconded by Councilman Gard. The motion carried by voice vote.

1st Reading - Ordinance #2009-12 - Street Improvement Bond Ordinance - Attorney Sobkowski explained that the town engaged the law firm of Ice, Miller from Indianapolis as bond counsel. He read the title of Ordinance #2009-12, an Ordinance of the Town of Lowell authorizing the issuance of general revenue bonds for the purpose of providing funds to pay the cost of road, street and/or sidewalk improvements, funding a debt service reserve for said bonds, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith and repealing ordinances inconsistent herewith, together with the incidental expenses in connection therewith and on account of the issuance of bonds therefor, including the issuance of notes in anticipation of bonds, which was prepared by Ice, Miller. He said that the ordinance basically authorizes the issuance of bonds and/or bond anticipation notes in an amount of \$610,000 to fund the costs of the paving projects described as street paving and sidewalk installation. The bonds would be re-paid from a pledge of \$75,000 annually from the Local Road & Street Fund and any balance would be paid from the Gambling Revenue Fund. The bonds and/or bond anticipation notes would be issued at an interest rate not to exceed 8% for a five year term with interest payments due on February 1st and August 1st of each year. Pursuant to the bond ordinance, the Clerk-Treasurer would select a registrar and paying agent for the bonds. He said he thought it was important for the Council and the public to understand that the bonds and/or bond anticipation notes are not general obligations of the town. That is, they are not pledging the entire taxing authority of the town to repay the bonds. They are payable solely from the revenues pledged from Local Road & Street funds and Gambling Revenue funds. He said that bond counsel has prepared a time-line for the process in order to get funds available so that hopefully, the project could be done this year. The time-line would contemplate setting aside the rules tonight, if the Council is willing to do that, to adopt the ordinance. Councilman Tucker made a motion to set the rules aside, seconded by Councilman Gard. The motion carried by voice vote. Councilman Gard made a motion to hold over Ordinance #2009-12 for second reading, seconded by Councilman Tucker. The motion carried by voice vote. Councilman Gard made a motion to adopt Ordinance #2009-12 by name and title only, seconded by Councilman Tucker. Roll call vote carried with five ayes. Councilman Tucker made a motion to set the rules back in place, seconded by Councilman Gard. The motion carried by voice vote. Councilman Alessia asked Attorney Sobkowski if there was an estimated time when the funds would be available. Attorney Sobkowski stated that the time-line showed a bond closing on August 26th. Clerk-Treasurer Walters said that in order to appropriate the money, she would need permission to advertise for an additional appropriation hearing for the August 10th Town Council meeting. Councilman Alessia made a motion to grant permission to advertise for an additional appropriation hearing at the August 10th Council meeting, seconded by Councilman Gard. The motion carried by voice vote.

UNFINISHED BUSINESS

Public Works Department Update - Updates were reported for the following:

Burr/Rt 2 Project - Approve Pay Request #5 to DLZ in the amount of \$13,194.46 and forward to INDOT for 80% reimbursement - \$10,555.57 - Director Shook reported that he had a claim that needs Council approval for Pay Request #5 to DLZ in the amount of \$13,194.46 and forward it to INDOT for 80% reimbursement in the amount of \$10,555.57. Councilman Huseman made a motion to approve the pay request, seconded by Councilman Tucker. The motion carried by voice vote. Director Shook gave an update on the Burr/Rt 2 Project, nothing apparent has happened in the last week or so. He was told that they would be ordering the structures for the storm water inlets, but while he was gone, Gariup put in for a change order to DLZ. In their original discussions, they were eliminating some structures and changing some, so they thought it was going to be a wash. The change order was requesting \$8,000 difference. Keeping in mind that the town is responsible for any change orders and the town is trying to keep those to a minimum, he discussed the matter with DLZ, who notified Gariup. Gariup sent another proposal that he got late that afternoon that looks like it will be a wash or the town may even save a little money. The proposal has been sent on to INDOT for approval and if INDOT approves the proposal, they will start moving forward and should see something start happening at the intersection. That is the reason for the slight hold up on the project.

Powell Ditch - Director Shook reported that he will be going to the Lake County Surveyor's office later in the week to meet with someone about the topography tiles or disks that Commonwealth will be using for their computer model.

Radio-read Water Meter Project - Director Shook reported that they got some good news about the project. The SRF has approved the preliminary engineering report. The town will now be presenting the specifications to SRF for approval, at which time the project can be put out for bid. In the meantime, Clerk-Treasurer Walters will be working with financial consultant Greg Guerrettaz and bond counsel for the completion of the SRF.

Middle School Sewer - Director Shook reported that Commonwealth was in, the surveyors have completed their work and Director Cox has agreed to sit down with him and some property owners to discuss possible easements since it looks like three will be needed. The project is moving forward even if it seems slow.

Morse Street Bridge - Director Shook reported that at the bridge on Morse Street at 176th, there is a water main that the town has to relocate that has been in engineering and should be finalized some time this week. Once it is finalized, it will need to be put out to bid. He requested that the Council grant approval for he and Clerk-Treasurer Walters to advertise and put the project out to bid once the engineering is completed so they don't have to wait until the next Council meeting. The bids will then come in for Council review. The estimated costs are around \$53,000. Councilman Alessia made a motion to grant permission to advertise for bids for the water main relocation for the Morse Street Bridge project, seconded by Councilman Huseman. Councilman Huseman asked what was going to be needed for the relocation. Director Shook explained that they are going to end up boring it in and using HDPE pipe because of the way the bridge is being designed and the length of it. When you turn on 176th, it drops off on the north side and it would be pretty difficult to get around it, so the actual engineering is a proposal to directional bore it

and it will be HDPE pipe with a valve on each side. The motion carried by voice vote.

WWTP - Director Shook reported that the preliminary engineering reports were submitted to IDEM for the Actiflow System. That is still on the coals and they are hoping to hear something after the second phase of stimulus monies is given out.

Pavement Resurfacing - Director Shook reported that they have the specs ready to go on the first \$300,000 that the Council approved. As was previously discussed, they are building into the specs to bid it out and the second phase will be bid as quantities and not necessarily streets or street names since those will be determined as they go along. That way they won't have to backtrack and bid it a second time. The estimate on the original quantities from the streets they looked at was around \$900,000. He said he spoke with Roger from Commonwealth Engineers today and Roger is trimming it back so they expect it to come in around \$800,000.

Curbs and Sidewalks on Commercial Avenue - Director Shook reported that the town was given a designation number from INDOT, but other than that, he has not heard anything more regarding this project.

Electric service at Freedom Park - Councilman Tucker asked the Council to table this matter to the next Council meeting until he can get a specific figure. The figures from NIPSCO and the Little League are almost there, but he has not gotten a specific number yet. Councilman Gard made a motion to table, seconded by Councilman Huseman. Councilman Huseman asked Councilman Tucker to make sure it is coming up with the transformer since they gave them \$4,500 to get to that point and he doesn't want to have to start over and come down the same road. The motion carried by voice vote.

NEW BUSINESS

Request recycling funds to purchase mulching mower - Street Department - Director Shook reported that the Street Department only has one bush hog and they use it to mow all of the detention ponds and ditches in town. When they were doing all of the mowing in Meadowbrook, they borrowed the mower from the Park Department since they have a smaller bush hog. In one day, it broke down twice. When the Street Department's bush hog breaks down, they can't mow the ditches and detention ponds until they get it fixed. He requested the use of recycling funds to purchase a tractor and bush hog, with the tractor also having a front end loader. He provided a quote from Don Bales in the amount of \$38,473.86. Clerk-Treasurer Walters reported that there is about \$100,000 in recycling funds and they need to keep \$25,000 to pay the difference in the garbage bill that the town pays for the residents. She said they have also been holding some money for recycled pipe. Attorney Sobkowski asked if this was the only quote received since three should be solicited. If three were solicited and only one quote was received, that would be fine. Director Shook said he would check with the Street Superintendent to see if there were any more. Councilman Tucker made a motion to grant permission to use recycling funds to purchase a mulching mower once three proposals are received for the lowest and best proposal, seconded by Councilman Gard. The motion carried by voice vote.

Request from American Legion - Water bill - Mr. Wesselhoft, representative of the American Legion, addressed the Council and said that it has been like dominos at the Legion building with leaks and gave a history of repairs they have made over the past several weeks. The leaks resulted in a \$743 water bill and new leaks that have occurred since the last meter reading will result in a water bill in excess of \$500 next month. The town gave the American Legion an adjustment on their bill last year as a result of leaks. President Kuiper stated that by ordinance, their hands are tied because they just gave them the adjustment last year and an adjustment can only be given once in two years, according to the ordinance. Discussion followed about the possibility of having the American Legion pay their normal monthly amount and defer the large bill payments until later in the year since the building is up for sale. Then the large bills could be paid out of the proceeds of the sale. Attorney Sobkowski cautioned that some kind of sunset on the deferral of payment was needed in case the sale of the building went past the end of the year. Mr. Wesselhoft was directed to pay the normal monthly amount and the Council and Clerk-Treasurer will check with the State Board of Accounts and look into the possibility of payment deferral and will get back with Mr. Wesselhoft when more information is available.

ANNOUNCEMENTS

President Kuiper announced the next regular meeting will be held on Monday, July 27th at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media commented regarding the bond issue and the not to exceed 8% interest rate. She asked if that was what bond counsel was telling the town to expect. Attorney Sobkowski replied that they were not, but they always want to put in an interest rate they know will not be exceeded so they don't have to re-adopt the ordinance. She asked if bond counsel gave the town an idea of what to expect and Attorney Sobkowski said he has not heard anything about what they anticipate for an interest rate. He also said that 8% has been a fairly typical figure to put in bond ordinances for the last several years.

Niki Vesper, Lowell Tribune, asked a procedural question about how many readings an ordinance has before adoption. President Kuiper explained that an ordinance can be adopted after second reading.

Ed Bradbury, 5704 W. 171st, asked if the water meters that were discussed earlier in the meeting were for the whole town or just certain areas. President Kuiper informed him it was for the whole town. Mr. Bradbury asked if the state had been approached about putting a stop light at the intersection of Route 2 and Nicholas Street. He was informed that it had been requested on a number of occasions by the town and the school corporation and the state has determined that there is not enough traffic flow to warrant a traffic light at the intersection. Chief Shelhart said that he had recently seen Senator Landske and she informed him that she is still working on it and it is a possibility.

A member of the audience said he wanted to thank the Council and their staffs, Greg Shook and

Wilbur Cox for the clean up at Meadowbrook and the backfilling of the vacant lots. He also said that the newspaper stated that the Meadowbrook POA is now responsible but they do not own the lots, they are not responsible and they do not want to be trespassing.

There being no further business or discussion, Councilman Tucker made a motion to adjourn, seconded by Councilman Alessia at 7:32 P.M.

Attest:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer