

**LOWELL TOWN COUNCIL
REGULAR MEETING
SEPTEMBER 27, 2010**

The regular meeting of the Lowell Town Council was called to order on Monday, September 27, 2010 at 7:00 P.M. by President Phillip Kuiper. The Pledge of Allegiance was recited and a moment of silence was observed. Town Administrator Susan Peterson called the roll. Members present were Donald Huseman, Shane Tucker, John Alessia, David Gard ,and Phillip Kuiper. Also present were Town Attorney Gregory Sobkowski, Director of Public Works Greg Shook, Town Administrator Susan Peterson, Director of Community Development Wilbur Cox, three member of the media, and thirty five interested citizens.

TREASURERS REPORT

Councilman Gard made a motion to approve the Treasurer's Report for August, 2010 as presented, seconded by Councilman Alessia. The motion carried by voice vote.

APPROVAL OF MINUTES

Councilman Huseman made a motion to approve the minutes from the September 13th regular meeting and the September 16th special meeting. The motion was seconded by Councilman Tucker and carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #2251-2305, Water Vouchers #2569-2598 and Waste Water Vouchers #3522-3545 and recommended them for approval. Councilman Alessia made a motion to approve the vouchers as listed, seconded by Councilman Tucker. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

2nd Reading - Ordinance #2010-03 - An Ordinance to Establish Clean Air Standards for Workplaces and Public Places within the Town of Lowell Indiana - President Kuiper asked Town Attorney Gregory Sobkowski to explain any changes in the ordinance. Town Attorney Gregory Sobkowski explained that there are very few changes in the ordinance, just what he referred to as housekeeping changes such as spelling errors and a couple of cross references that were wrong and corrected. There was one change that in the previous ordinance private clubs were not mentioned, in this draft there is a specific definition of a private club in the definition section 99.01 of the ordinance. Private club is also listed in public places where smoking is prohibited, that is in section 99.03 of the ordinance. There was no effective date in that last draft, there is now an effective date of January 2, 2011.

Councilman Huseman stated that he submitted a letter asking for five concessions to be considered and he asked that the Council not do the second reading until they have a chance to discuss these things. President Kuiper stated that each of them have been discussed more than

once in a public forum. Councilman Huseman asked if they were going to discuss his concessions. Councilman Alessia stated that he does not agree with them. Councilman Huseman asked why can't they talk over these concessions. President Kuiper answered that they have, before he wrote them down they were discussed. Councilman Huseman stated that he did not talk about the concessions and he does not understand why the Council is trying to shove this down people's throats. Councilman Alessia stated that he is comfortable that they have discussed these issues repeatedly and he made a motion to approve Ordinance # 2010-03 as it is written, seconded by Councilman Gard. On roll call vote, the motion carried with four ayes and one nay. Councilman Huseman voting nay..

Resolution #2010-13 - Transfer of Funds - Park Fund - Transfer \$1,200.00 from line 351 Repair and Maintenance to line 221 Gas and Oil. Councilman Gard made a motion to approve the transfer of funds, seconded by Councilman Alessia. The motion carried by voice vote.

UNFINISHED BUSINESS

Public Works Update - West Side Sewer Project to New Middle School - Change Order #3 - \$25,462.50 - Extra crew time due to narrowed working area and wet conditions. Director of Public Works Greg Shook explained that B&D Sewer has requested additional funds because in the original drawings it showed a 40 foot right of way and it was drawn from the center south when in reality it should have been on the other side of the right of way, it ended up showing an 80 foot right of way instead of 40 foot. The easement stayed the same, about 30 feet but when the drawing was corrected that shifted the easement closer to the road and the ditch. B&D is claiming that made it more difficult to work and took extra time. Mr. Shook gave each Council member a copy of a letter that he received from Commonwealth Engineers advising that they deny the claim because no written notice was given and there is no way to evaluate the time that they are claiming. Legally under the contract it should be denied. Councilman Alessia asked that the issue be tabled so they could have a meeting with B&D Sewer. Councilman Gard made a motion to table the Change Order, seconded by Councilman Alessia. The motion carried by voice vote.

NEW BUSINESS

Act on favorable recommendations from the Plat Committee
Spring Run Subdivision - Accept Maintenance Letter of Credit #101-320 - \$91,700.00 and release Performance Letter of Credit #101-249 - \$366,766.40. & Freedom Springs - Release Maintenance Letter of Credit #517671 - \$283,548.00 with understanding that sidewalks along Cline Avenue are still required by Developer per Subdivision Ordinance - Director of Community Development Wilbur Cox stated that he wanted to make it clear that the developer is still responsible for putting in the sidewalks. Councilman Tucker made a motion to approve the recommendations from the Plat Committee, seconded by Councilman Gard. The motion carried by voice vote.

ANNOUNCEMENTS

President Kuiper announced a joint meeting with Annexation Committee & Redevelopment Commission on Wednesday, September 29th at 7:00 P.M. and a joint meeting with Cedar Lake at Cedar Lake on Thursday September 30th at 7:00 P.M.

President Kuiper congratulated the Bethesda Home on their 30 year anniversary, they celebrated with a very nice open house, and one of the original members, Howard turned 85 years old.

President Kuiper announced the next regular meeting will be on Monday, October 11th at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media asked for a copy of the smoking ordinance. She also asked what the topic was for the joint meeting with Cedar Lake and was told it was for a proposal for the expansion of the Waste Water Treatment Plant for wet weather.

Sara Pierce, 111 E. Main St., read a prepared letter. She stated wanted to go on public record expressing her concern on the proposed sidewalk work to be located on her property. She stated that the dirt was not compacted and will create cracks and shifting of the sidewalk and that the Town ordinance reads that she as the owner will be responsible for the maintenance of the sidewalk. She has brought her concerns to Director of Public Works Greg Shook and was told that he would contact the county and get back to her and she has not heard from him yet. She also wanted the Council to know that there were no catch basins were installed at the bridge site. She gave each Council member a copy of the letter. Councilman Huseman responded that SBC should take it out and compact the dirt and slope the sidewalk toward the road. Director of Public Works Greg Shook stated that he would get together with Councilman Huseman and look at it but the only thing they can do is bring it to the attention to the county because it is a county bridge. Director of Public Works Greg Shook stated that he agrees with Ms. Pierce that she should not be held responsible if anything happens because we are aware of it.

There being no further business or discussion, Councilman Alessia made a motion to adjourn, seconded by Councilman Gard at 7:25 P.M.

Phillip Kuiper, President

Attest:

Susan Peterson
Town Administrator