

**LOWELL TOWN COUNCIL
REGULAR MEETING
FEBRUARY 14, 2011**

The regular meeting of the Lowell Town Council was called to order on Monday, February 14, 2011 at 7:00 P.M. by President John Alessia. 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, Robert Philpot, John Alessia, and Phillip Kuiper. Councilman David Gard was absent. . Also present were Town Attorney Gregory Sobkowski, Director of Public Works Greg Shook, Town Administrator Susan Peterson, Police Chief John Shelhart, three members of the media, and approximately fifty five interested citizens.

APPROVAL OF MINUTES

Councilman Kuiper made a motion to approve the minutes from the January 24th regular meeting, the January 24th and February 8th executive session, seconded by Councilman Huseman and carried by voice vote.

APPROVAL OF VOUCHERS

President Alessia stated that he had reviewed White Vouchers #1103-1189, White Police #4008-4023, Water Vouchers #2057-2107 and Waste Water Vouchers #3047-3079. Councilman Huseman made a motion to approve the vouchers as listed, seconded by Councilman Kuiper and the motion carried by voice vote.

MONTHLY REPORTS

Councilman Huseman made a motion to accept the monthly reports from January, 2011 as presented, seconded by Councilman Philpot. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

1st reading - Ordinance #2011-01 - An Ordinance Creating the Tri-Creek Fire Protection Territory was read by President Alessia. Fire Chief Clint Gorboll explained the history behind the Fire Territory. The Township Trustees, the Town Council and the Town Council of Schneider have been talking and working with the territory idea for about the last year. The general idea is to keep local control of the local services. In the event that the State moves forward with the abolishment of Township Government or changes Township Government in any way, and shifts that responsibility to the County, the Territory would then be in charge of fire and EMS services. If the fire territory is enacted by all entities involved then the monies for those services would stay local, that is the main idea behind it. When you create a Territory you only get one piece of the pie and it will include a small tax increase, but that money is going to the local services. They hope to increase their EMS from seven full time people to twelve and that will staff two ambulances twenty-four hours a day, as well as providing day time coverage at each fire station.

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Right now the volunteer stations are short on people during the day because everyone is working. The idea is to have day time coverage of two people at each fire station - Lowell, Lake Dale, Schneider and Shelby for guaranteed response. It would benefit everyone to have this service, especially the outlining areas. If Lowell was responding to a call in Shelby or Schneider and the conditions were good it will still take about ten minutes to respond, but if they have guarantee responders at each station they can respond in a matter of minutes and start patient care while waiting for an ambulance to respond.

President Alessia stated that he read in the paper that Eagle Creek has decided not to be a part of the Fire Territory at least at this time. He asked if that will impact the tax rate that has been proposed. Chief Gorbball explained that it could impact it if they kept the budget that same as when it was initially proposed, but all the Boards and Chief's have met and talked about that. The other Townships and Fire Chief's met with the financial consultant and asked what it would take to keep the tax rate the same, they were told to cut \$250,000.00 from the budget. Unless they contract with Eagle Creek Township and whatever money that would come in with the contract would help offset that expense. Not counting on any money from Eagle Creek Township, they would need to find a way to cut \$250,000.00 from the budget and in their work session Tuesday night, they found a way to do that so no more impact is passed along. President Alessia asked what would Eagle Creek do under that scenario. Chief Gorbball explained that they have contracts right now until the end of the year and then it would be time to renegotiate contracts. They hold a contract with Hebron Fire Department for the eastern portion of Eagle Creek because they are closer. One option would be to go into a contract with Hebron for the entire Township or they could contract with the Territory, but they would have to set a contract rate at that time.

Councilman Kuiper asked if Hebron was going to be contracted through the Territory. Chief Gorbball explained that would be up to Eagle Creek Township to provide that Township money because that is the area in question, it would have nothing to do with the Territory. Chief Gorbball announced a public meeting will be held Thursday, February 17th at 7:00P.M at the Lowell Middle School and they will go into a lot more detail and answer questions the public may have.

Councilman Huseman asked about number 7 F under the proposed agreement, incurrence of debt, because it states it has to be approved by each participating unit and 100% in agreement. Chief Gorbball responded that he is not sure that it states 100% agreement, the joint board would be made up of a representative from each entity involved, for a total of eight. Lake Dale Fire Chief Ryan Kennedy explained that he believes that is referring to if a fire station needs to be replaced or something else that could not come out of normal operating budget. That provision is there so that if such an instance accrued they can all get together and agree to it and there would not be a tax assessed, similar to what schools do. Councilman Huseman asked if someone decided to opt out would they still have an obligation for their debt, he was told that yes they would.

Councilman Philpot stated that the budget has \$15,000.00 for capital improvements and he thinks that is very low, he wanted to know where the money for new equipment would come from. He

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was told that the \$15,000.00 is carried over from cumulative funds. Included in the proposal is .0333% of the tax rate going into a new cumulative fund for the territory in the amount of \$305,000.00 per year over and above the operating money. Councilman Philpot asked about the \$200,000.00 for insurance and what that includes. He was told that it is for comprehensive health care, benefits for the employees, 80 / 20 coverage that does not include a vision plan. The way they came up with that number is if they have twenty full time employees with the employers contribution being about \$10,000.00 per employee per year, that is how they got that \$200,000.00. Councilman Philpot asked about Valparaiso's study on a Fire Territory. Chief Gorbball stated that Financial Solutions Group did the study for them and it is not a study of pro's and con's, it is a financial study. They will have more information and a power point presentation at Thursday's meeting.

Councilman Huseman asked what the effect of annexation would be. Chief Gorbball explained, for example, if Cedar Lake moved south and they start to annex some of the townships that are part of the territory then Cedar Lake would be responsible for fire and EMS coverage in those areas.

President Alessia stated that per Indiana Code they have until April 1, 2011 to adopt this Ordinance. Chief Gorbball stated that they have to have their packet to the Department of Local Government Finance by April 1, 2011 and they have until July 2011 to approve it. President Alessia stated that they will have a public hearing on March 7, 2011 with Financial Solutions and they will hear what the financial impact for the Town will be. Councilman Kuiper made a motion to hold Ordinance #2011-01 over for a second reading and set March 7, 2011 for a public hearing, seconded by Councilman Huseman. The motion carried by voice vote.

UNFINISHED BUSINESS

Old Grade School Building - Town Attorney Greg Sobkowski explained that the Judge entered an order in November staying the demolition order and giving the property owner an opportunity to make repairs, with certain deadlines set for certain repairs. None of the deadlines were met so Attorney Sobkowski filed a motion to lift the stay and affirm the demolition order. There was a hearing on January 21, 2011 and on January 24th the court entered an order lifting the stay and giving the owner 30 days to remove any personal property. On February 1, 2011 the property owner filed a motion asking the court to give her an additional 45 days. Attorney Sobkowski has not and has no intention to file a response to that and the court has not ruled on it yet. He went on to say that he spoke with Director of Community Development Wilbur Cox last week and he is in the process of soliciting bids for demolition. The owner has 30 days from the date of January 24, 2011 to appeal the courts decision. Councilman Huseman asked about the college student he read about in the paper who wants to save the building. Attorney Sobkowski responded that he only knows what was in the paper and what Director of Community Development Wilbur Cox has told him. He believes that she has an architect degree and is working on a masters degree and she has vowed to help try to save this building and the old

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Middle School. Councilman Kuiper made a motion to start the bidding process for demolition, seconded by Councilman Huseman. Councilman Kuiper asked how much preliminary things needs to be done before they can do this. The Attorney is not sure but stated that there might need to be an environmental assessment to determine if there is asbestos in the building that would take special needs to remove. DNR may also have to be contacted because of the funding that is available for demolition. President Alessia asked if they would need a court order to go into the building for the bidding process, he was told that yes, if they want access to the building for contractors to view it for demolition or for an assessment to see if there are hazardous materials in the building. The motion carried by voice vote.

Water Plant Property - Town Attorney Greg Sobkowski explained that there was a hearing about the insulation work damage done to the building, at the conclusion of the hearing the court took the matter under advisement to give us an opportunity to resolve it. The court date is reset for Friday, February 18, 2011, in the event that the parties cannot resolve the issue. He went on to explain that it appears that the issue could be resolved with the Town paying \$2,000.00 plus court costs and he thinks that will also be the resolution of the judge. He recommends that they authorize the payment for the Town to resolve this matter. Councilman Kuiper made a motion to approve the payment, seconded by Councilman Philpot. The motion carried by voice vote.

Pole Barn at 241 N. Liberty - Extend real estate agreement for 30 days - Town Attorney Greg Sobkowski explained that they would have to re-advertise in the paper. Councilman Kuiper made a motion to extend the agreement with Langen Realty , seconded by Councilman Huseman. The motion carried by voice vote.

NEW BUSINESS

Permission to advertise for additional appropriation for Freedom Park Budget - Clerk-Treasurer Walters explained that they did not know they were going to get the \$12,000.00 from Cedar Creek Township so it has not been appropriated to be spent. Councilman Kuiper made a motion for the additional appropriation, seconded by Councilman Huseman. The motion carried by voice vote.

Request donation for Halsted House - Three Creeks Historical Association is asking for a continuation of the agreement reached in 2009 concerning the water usage and billing. The donation is in the amount of \$547.68 and it would come from the Community Relations fund. Councilman Philpot made a motion for the donation, seconded by Councilman Huseman. The motion carried by voice vote.

Approve Police Commission Bond for Aron Schuhrke. Councilman Kuiper made a motion to approve the bond, seconded by Councilman Philpot. The motion carried by voice vote.

Enter into agreement with McMahan & Associates to conduct financial statement for 2010 Sewer financial records & computation of Cedar Lake charges for 2011 - Clerk-Treasurer Walters

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explained that this is an annual agreement so that Cedar Lake gets billed properly. Councilman Huseman made a motion to enter into the agreement, seconded by Councilman Kuiper. The motion carried by voice vote.

2011 Appointment to Northwest Indiana Regional Bus Authority - Margot Sabato is the current appointment and would like to stay on. Councilman Huseman made a motion to appoint Mrs. Sabato, seconded by Councilman Huseman. The motion carried by voice vote.

Act on Formal Grievance - Town Employee - Councilman Huseman made a motion to uphold the decision by Public Works Director Greg Shook, seconded by Councilman Kuiper. The motion carried by voice vote.

ANNOUNCEMENTS

President Alessia stated the next regular meeting will be on Monday, February 28th at 7:00 PM

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the press stated that there is a meeting about the Fire Territory on Thursday at the new Middle School and she wanted to make sure there is also one on Wednesday in Lake Dale. She was told that yes there is a meeting then. She also asked about the water plant claim and was told it was in the amount of \$2850.00 with Innovative Homes, Northwest, Inc.

A member of the press asked if the counter suit was because they damaged the building and if there was any resolve with that, she was told it is a reduction in the bill.

Martha Vasquez-Boezeman,, owner of Country Lanes Bowling Center, stated that she asked that the Clean Air Ordinance be put on the agenda and was denied and wanted to know why. President Alessia stated that the deadline had passed when she put in the request. She told the Council that she sponsors high school bowlers, not only Lowell but also North Newton and Hanover and since the smoking ordinance she feels that she will no longer be able to afford to do that. Her business relies on the bar and profits are down 60%, she had to borrow money to pay her Nipsco bill this month. She does not promote smoking or drinking, she just wants to have it in the bar so that her customers don't go to Crown Point or any other town. The youth bowling program is going down the tubes because she can't afford it anymore, she never allows anyone to smoke around them, they have to smoke in the bar. President Alessia asked her what she is going to do if the State passes a smoking ban, she replied that it would then be a fair playing field because people won't go to another bowling center to smoke.

Mark Burke, Commander of the American Legion, stated that his business has dropped 45% since the Clean Air Ordinance went into effect. His customers are going to the VFW or to Crown Point so they can smoke. He can't get new customers from the outside because it is a private club. He asked the council to reconsider the smoking ordinance. He houses a lot of kids

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like the Cub Scouts and ROTC and he feels like this is killing the business and he doesn't want to have to shut his doors. Councilman Philpot asked what would happen to the grounds at the Legion if they closed. He was told that it would go to the top of the Legion to be dissolved.

Councilman Huseman stated that until the State comes along and does whatever they are going to do with smoking laws, he would like the ordinance lifted 100%.

Diana Laflesh asked if the Council could see that this is hurting the Town. She went on to say that the Council was voted in to be for the people not against the people. She stated that they are talking on deaf ears because only two Councilmen are listening to them.

President Alessia stated that is an unfair statement, just because they don't agree does not mean that they are not listening.

Councilman Kuiper responded the statement that was made about the Council not understanding is not accurate. The Council hears what they are saying but they also hear what the other people are saying as well.

Councilman Huseman stated that he wanted to make a motion to lift the Clean Air Ordinance until the state passes it, Councilman Philpot seconded the motion. Town Attorney Greg Sobkowski explained that you can't repeal an ordinance with a motion, it must be done with another ordinance and there are procedures under State law for doing that. Councilman Huseman asked if they can verbally lift it until they can get the paperwork in order. The attorney explained that you cannot verbally lift it because it is an ordinance on the books and you need to take formal action via an ordinance to change it.

Bob Hill, Rock and Roll Outpost, asked to get an addendum to the existing ordinance that would be beneficial to the people that are being hurt financially. He was told that could not happen right now, it is the same answer, there are state procedures that must be followed. Mr. Hill asked if it could be put on the agenda for the next regular Council meeting, and work together to come up with a solution. He went on to say that they have asked for exemptions and submitted plans and nothing has been acted on by the Council.

Dylan Myers, Youth Bowler, stated that if they lose their bowling program then they can't bowl anymore. Some kids are not talented enough to do other sports and the Council is crushing their program.

Garrett Miller, Youth Bowler, stated that many colleges have a bowling program and if they loose their high school program some of the colleges are not going to take them. They don't want to have to go to a different town to bowl, having the bowling center here will benefit their future. The organization that they bowl for is the USBC and they have many rules and there is no smoking or drinking during youth or high school activities, they have to go into the bar.

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Dylan Myers, Youth Bowler, stated that Martha sponsors everything herself from the money that comes into the bowling center. If there is no income then there is no bowling alley and no high school team. He went on to say that he works at the bowling alley as well and he can see that it is not like it used to be, people used to stay later.

Martha Boezeman stated that the kids can win scholarships for bowling.

Dan Schieve, Youth Bowler, stated that he has been bowling at the bowling center since he was three years old and it is his favorite sport. If the smoking ban is not lifted then the bowling alley will close.

Dylan Myers, Youth Bowler, asked what the reason was for the smoking ban because if it was to help the kids it is doing more hurt than good. President Alessia responded that it is a complex answer that has to do with health issues and other things.

Claude Graves stated he would like to do what the State has proposed and not be so strict.

Bob Hill, Rock and Roll Outpost, asked one of the Council members to make a motion for an addendum on the ordinance for the next Town meeting. That would be the first step to changing the ordinance and then just let the State step in. Right now it is not a level playing field.

President Alessia responded that a Council member would have to draft an amendment to the Ordinance, then there would have to be a first and second reading.

Michelle Miller, Lowell resident, stated that since the ordinance went into effect she has seen something in this town she has never seen before and that is clusters of people outside of businesses smoking and it is not looking too good.

Michael Jordan, 14569 Harrison St., stated that he tried to warn the Council that this would happen. He knows that the intentions are good but he thinks they should wait for the State to do this so it doesn't hurt the businesses. The businesses need to be able to compete, emotions need to be thrown under the table and just go with the economy right now. He also pointed out that he said this before and he is on record for saying these things.

Councilman Huseman asked if he can count on doing something about this in two weeks. He also asked if the other three Councilman oppose this then are we back where we started, he was told yes, it is just like any other motion, you need three ayes.

Town Attorney Gregory Sobkowski explained again that it is the same procedure for every Ordinance. The Council would have to adopt a new ordinance or amend the existing ordinance. There needs to be an ordinance before the Council and that would have to be at the next meeting or at a special meeting if the Council wanted one. There is nothing that can be done right now, you have to start with a document.

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Dale Smith, Lowell resident, stated that this isn't the Council's first rodeo, they have done ordinances and first and second readings in the same night. This is not Mrs. Walters first rodeo either, she can draft an ordinance tonight that is suitable for everyone. Clerk-Treasurer Walters explained that she does not draft the ordinances, the Town Attorney does. Mr. Smith stated that the Attorney could draft the ordinance tonight, have the first and second reading, then it would be done and over with. Town Attorney Greg Sobkowski responded that it was not going to happen tonight, he would be happy to meet with the Council members the next day.

Councilman Philpot stated that we now have something legal to work with. We have a tentative arrangement to meet with the attorney tomorrow, it may not be what you want tonight but it beats going another month or two. He suggested to the people that they settle for this and go with it.

Councilman Huseman stated that he will call President Alessia and request a special meeting. He was told that there has to be 48 hours notice and it has to be advertised in the newspaper.

There being no further business or discussion, Councilman Kuiper made a motion to adjourn, seconded by Councilman Huseman at 8:28 P.M.

John Alessia, President

Attest:

Judith Walters, Clerk-Treasurer