

**LOWELL TOWN COUNCIL
REGULAR MEETING
FEBRUARY 28, 2011**

The regular meeting of the Lowell Town Council was called to order on Monday, February 28, 2011 at 7:00 P.M. by President John Alessia. 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, Robert Philpot, Phillip Kuiper, David Gard and John Alessia. Clerk-Treasurer Judith Walters was absent. Also present were Town Attorney Ben Ballou, Director of Public Works Greg Shook, Town Administrator Susan Peterson, Community Development Director Wilbur Cox, Police Chief John Shelhart, three members of the media, and approximately thirty interested citizens.

TREASURER'S REPORT

Councilman Huseman made a motion to approve the Treasurer's Report for January 2011 as presented, seconded by Councilman Kuiper. The motion carried by voice vote.

APPROVAL OF MINUTES

Councilman Gard made a motion to approve the minutes from the February 14th regular meeting, seconded by Councilman Kuiper. The motion carried by voice vote.

Councilman Philpot stated the Carl Ferro asked to see the smoking survey's at the last meeting, that is not included in the minutes and he would like to see it added. President Alessia asked Town Administrator Susan Peterson to make note of that.

APPROVAL OF VOUCHERS

President Alessia stated that he had reviewed White Vouchers #1190-1243, Water Vouchers #2108-2135 and Waste Water Vouchers #3080-3103 and recommended them for approval. Councilman Huseman made a motion to approve the vouchers as listed, seconded by Councilman Gard . The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

Ordinance #2011-02 - An Ordinance to Amend Chapter 99 - Clean Air Standards - President Alessia read that amended ordinance as presented. The Ordinance as amended would allow smoking in a bar provided that no person under the age of 21 is allowed to enter at any time and if it is located in a building which contains a restaurant, private club, the bar is mechanically separated from the dining/food preparation areas and the bar's ventilation system meets the standard air-exchange requirement. It also reads places of employments provided that the enclosed areas they occupy are not open to the public. Councilman Huseman made a motion to hold Ordinance #2011-02 over for a second reading, seconded by Councilman Gard. Councilman Kuiper stated that he has concerns about how this will affect the Moose Lodge. His other concern is how this affect the kids because they don't have a choice. From past meetings he got the message that this is a smoking Town, he does not agree with that. He is also struggling with the message that if the Council won't allow smoking then some places will lose their youth organizations. The motion to hold over for a second reading carried by voice vote.

Councilman Huseman made a motion to set the rules aside for a second reading, seconded by Councilman Philpot. Councilman Kuiper stated it is going to be hard for him to vote for this when they don't know how it will effect the Moose Lodge and he would like to reach out to them. The Council discussed holding it over and how it would effect not only the Moose but other establishments. President Alessia asked if the amendment is changed to another amendment can it pass tonight on a second reading or does it have to be held over in lieu of law. Town Attorney Ben Ballou stated that it would have to be held over if they make any changes. Councilman Huseman asked the Council what kind of changes were they thinking about. President Alessia responded that in his opinion they could make the private establishments separate or they can under that ordinance they can have smoking when children are present or not present. Councilman Huseman asked if this was passed, we would be moving forward, could we make another amendment. Town Attorney Ben Ballou stated that they could amend it as many times as they want to. President Alessia asked if this amendment passes as it stands, the Moose Lodge cannot have smoking in their establishment. He was told that is correct they would remain smoke free under the current amendment. There being no further discussion, the motion to set the rules aside for a second reading carried by voice vote.

Councilman Gard made a motion to adopt Ordinance 2011-02 by name and title only, seconded by Councilman Huseman. Roll call vote carried with four ayes and one nay from President Alessia.

UNFINISHED BUSINESS

Community Development Director Wilbur Cox explained that the owner of the old school house on Main St., Mrs. Bodar has hired a new attorney. They are going to file in a court of appeals asking for a waiver of the bond requirements and asking for an additional sixty days to remove her things. She stated that she would be glad to reveal what is in the building under seal because she believes that if it is known to the public she feels it would be burglarized. President Alessia asked if they were precluded from continuing with demolition bids. Community Development Director Wilbur Cox responded that we are going through with the 106 review. We are still proceeding.

NEW BUSINESS

Request closing Main Street for Taste of Lowell July 23, 2011 - Lowell Mainstreet Association - Diane Boylan 1510 Harrison St., President of Lowell Mainstreet Association, requested closing Main Street on July 23, 2011. Councilman Kuiper made a motion to close Main Street, seconded by Councilman Gard. The motion carried by voice vote.

Diane Boylan asked if she needs to ask for a waiver of the sidewalk fee this year since the vendors will be in the street and not on the sidewalk. She was told that she would need to do that, the Council told her they would put it on the next agenda and she could do it over the phone.

Enter into agreement with Financial Services for Continuing Disclosure Filings - Town Administrator Susan Peterson explained according to Clerk-Treasurer Walters this is something new. It is an annual report that needs to be filed to be in compliance for the bonds and Financial Services will be filing that for us. Councilman Kuiper made a motion to enter into the agreement, seconded by Councilman Gard. The motion carried by voice vote.

Act on recommendation from Plat Committee:

Not release and extend for six months - Maintenance Bond for Heritage Falls - \$80,974.90 -

Community Development Director Wilbur Cox explained that the maintenance agreement goes for

two years after the performance is released and in this case there is still an item that needs to be corrected. The entrance of 173rd going into Herritage Falls there is a drainage issue and they choose not to release maintenance bond, he is asking that the Council to accept the extension. Councilman Gard made a motion to extend the bond, seconded by Councilman Huseman. The motion carried by voice vote.

ANNOUNCEMENTS

Public Hearing - Monday, March 7, 2011 at 7:00 P.M. - Fire Territory

President Alessia announced the next regular meeting will be held on Monday, March 14th at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media asked for a copy of the Ordinance #2011-02 and was given one.

A member of the media asked Community Development Director Wilbur Cox the address of where the drainage problem was.

Eli Carrias stated that the Council never put the rules back in place after the amendment was made. Councilman Kuiper made a motion to put the rules back in, seconded by Councilman Gard. The motion carried by voice vote.

Community Development Director Wilbur Cox explained that Costas is being cleaned at no cost to the Town. He hopes that it will be completely done in a couple of weeks. It will still remain on the tax sale.

There being no further business or discussion, Councilman Gard made a motion to adjourn, seconded by Councilman Kuiper at 7:26 P.M.

John Alessia, President

Attest:

Susan Peterson, Town Administrator