

**LOWELL TOWN COUNCIL  
REGULAR MEETING  
JANUARY 16, 2012**

The regular meeting of the Lowell Town Council was called to order on Monday January 16, 2012 at 7:00 PM by Vice 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 Craig Earley, Donald Parker, Phillip Kuiper, Edgar Corns and Robert Philpot. Also present were Town Attorney Greg Sobkowski, Director of Public Works Greg Shook, Chief John Shelhart, Director of Community Development Wilbur Cox, Town Administrator Susan Peterson, four members of the media and thirty citizens.

**ELECTION OF OFFICERS - 2012**

Councilman Philpot nominated Edgar Corns for President, seconded by Councilman Corns, Councilman Parker nominated Philip Kuiper for President, seconded by Councilman Earley. Vice President Kuiper asked for a roll call vote, Councilman Earley – Phillip Kuiper, Councilman Philpot – Edgar Corns, Councilman Parker – Phillip Kuiper, Councilman Kuiper – Phillip Kuiper and Councilman Corns – Edgar Corns, Councilman Kuiper elected by a three to two vote.

Councilman Earley nominated Bob Philpot for Vice President, seconded by Councilman Parker, Councilman Philpot nominated Edgar Corns for Vice President, seconded by Councilman Corns. President Kuiper asked for a roll call vote, Councilman Earley – Bob Philpot, Councilman Philpot – Edgar Corns, Councilman Parker – Bob Philpot, Councilman Kuiper – Bob Philpot, and Councilman Corns – Edgar Corns, Councilman Philpot elected by a three to two vote.

**APPROVAL OF MINUTES**

Councilman Corns made a motion to approve the December 27<sup>th</sup> regular meeting minutes and the January 5<sup>th</sup> and 12<sup>th</sup> executive sessions, seconded by Councilman Earley and carried by voice vote.

**APPROVAL OF VOUCHERS**

President Alessia stated that he had reviewed White Vouchers #1017 - #1094, 2011 - #1000 - #1016, White Police - #4000 - #4010, Water #2000 - #2020, 2011 - #2812 – 2814, and Waste Water Vouchers #3000 - #3020, 2011 - #3723 - #3725. Councilman Philpot made a motion to approve the vouchers as listed, seconded by Councilman Parker and carried by voice vote.

## **PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS**

Swearing In of New Police Officer – Joseph Knight. Clerk Treasurer Judith Walters swore in Officer Joseph Knight. Councilman Parker asked Police Chief Shelhart to tell everyone about Officer Knight. Chief Shelhart explained that Officer Knight has already completed the Law Enforcement Academy; he is a Town resident, he was a Reserve Marshall in the Town of Schneider; he has been working in the Lowell's Reserve program and is partially through the Field Training Officer Program.

Accept letter of resignation – Police Commission – Aron Schuhrke. President Kuiper read the letter of resignation. Councilman Philpot made a motion to accept the letter of resignation from Aron Schuhrke, seconded by Councilman Corns. Councilman Philpot stated that there might be a possibility that the commission was operating illegally because they had four Democrats on the commission. Attorney Sobkowski stated that he would look into this and have a report at the next meeting. The motion carried by voice vote.

## **MONTHLY REPORTS – December 2011**

Councilman Philpot made a motion to approve the December 2011 Monthly Reports, seconded by Councilman Earley. Councilman Corns suggested that he would like to know how many people are in each department when he gets the reports, so he can judge how much work is being accomplished by their work schedule. The motion carried by voice vote.

## **SPECIAL COMMITTEES - Annexation Committee**

## **ORDINANCES & RESOLUTIONS**

1<sup>st</sup> & 2<sup>nd</sup> reading

Ordinance #2012-01 – amending Chapter 151 – Flood Hazard Areas. Attorney Sobkowski stated that IDEM is asking communities to adopt a new model flood plain ordinance, this ordinance is based on the model ordinance that IDEM has supplied, it does incorporate a few provisions, that were not in the model ordinance from the Town's existing ordinance. He stated that it does need to be acted on tonight because IDEM has to approve it before the end of the month. Councilman Earley made a motion to adopt the ordinance, seconded by Councilman Philpot. Councilman Corns stated that he did not know who wrote this ordinance, but whoever did used abbreviations, which they cannot use. Attorney Sobkowski asked what abbreviations was he looking at because any abbreviations shown came directly from IDEM and is exactly how they presented and recommended it be approved in that form. The motion carried by voice vote. Councilman Philpot made a motion to set the rules aside, seconded by Councilman Corns and carried by voice vote. Councilman Corns made a motion to adopt the ordinance in name and title only, seconded by Councilman Earley and the motion carried by roll call vote – 5 ayes. Councilman Corns wanted to know if the town had the new FEMA maps.

Mr. Shook stated that those maps would go to the Building Department and that he would check on it. Councilman Earley made a motion to set the rules back in motion, seconded by Councilman Philpot and carried by voice vote.

### **UNFINISHED BUSINESS**

Approve Pay Request #5 and forward to SRF Funding for payment - \$5,213.13 – reimburse Town of Lowell for engineering costs paid during 2011. Councilman Earley made a motion to approve the pay request, seconded by Councilman Corns and carried by voice vote.

Tabled from previous meetings:

### **NEW BUSINESS**

Change second meeting in January to January 30<sup>th</sup>. Councilman Philpot made a motion to change the second meeting to January 30<sup>th</sup>, seconded by Councilman Earley and carried by voice vote.

Appointment of Department Heads – Council appointment (Director of Public Works, town Administrator, Director of Community Development, Street Superintendent, Water Superintendent, Distribution Superintendent, WWTP Superintendent, Park Superintendent). Councilman Parker made a motion to approve the Department Heads with the exception of the Director of Community Development, seconded by Councilman Earley and carried with 3 ayes and 2 nays.

Board Representatives (all Presidential appointments),

Lake County Economic Opportunity Council. President Kuiper asked for a motion to appoint Dorothy Gwyn Maas to continue on this council. Councilman Earley made a motion to appoint Dorothy Gwyn Maas to the Lake County Economic Opportunity Council, seconded by Councilman Parker and carried by voice vote.

Board of Finance. President Kuiper asked for a motion to appoint himself and Clerk Treasurer Judith Walters on this board. Councilman Corns made a motion to appoint President Kuiper and Clerk Treasurer Judith Walters to the Board of Finance, seconded by Councilman Philpot and carried by voice vote.

Lake County Solid Waste District. President Kuiper asked for a motion to appoint himself to the Lake County Solid Waste District. Councilman Parker made a motion to appoint Philip Kuiper to the Lake County Solid Waste District, seconded by Councilman Earley and carried by voice vote.

N. W. Indiana Cities & Towns. President Kuiper asked for a motion to appoint Edgar Corns to the N.W. Indiana Cities and Towns. Councilman Parker made a motion to appoint Edgar Corns to the N.W. Indiana Cities and Towns, seconded by Councilman Earley and carried by voice vote.

Cable T.V. Consortium. President Kuiper asked for a motion to appoint Susan Peterson to the Cable T.V. Consortium. Councilman Earley made a motion to appoint Susan Peterson to the Cable T.V. Consortium, seconded by Councilman Parker and carried by voice vote.

Northwest Indiana Regional Planning Commission. President Kuiper asked for a motion to appoint Don Parker to the Northwest Indiana Regional Planning Commission. Councilman Philpot made a motion to appoint Don Parker to the Northwest Indiana Regional Planning Commission, seconded by Councilman Earley and carried by voice vote.

Freedom Park Committee. President Kuiper asked for a motion to appoint one councilman and one town representative to the Freedom Park Committee. Councilman Earley motioned to appoint Councilman Philpot as the Town Council member and Randy Hall as the town representative to the Freedom Park Committee seconded by Councilman Philpot and carried by voice vote.

Annexation Committee. President Kuiper asked for a motion to re-appoint the current members of the Annexation Committee. Councilman Earley made a motion to re-appoint all the sitting members of the Annexation Committee, seconded by Councilman Parker and carried by voice vote.

Tri-Creek Ambulance Board / Fire District. President Kuiper asked for a motion to appoint Craig Earley to the Tri-Creek Ambulance Board / Fire District. Councilman Parker made a motion to appoint Craig Earley to the Tri-Creek Ambulance Board / Fire District, seconded by Councilman Corns and carried by voice vote.

Appoint Emergency Management Director – Council appointment. President Kuiper explained that in the past they have swapped the Fire Chief and the Police Chief for this appointment. Councilman Corns made a motion to appoint Fire Chief Clint Gorbail to be the Director of Emergency Management and Police Chief John Shelhart as the Co-Director, seconded by Councilman Philpot and carried by voice vote.

#### Appointment to Boards & Commissions:

Plan Commission. President Kuiper stated that they are looking to re-appoint one resident – Richard Kelley. Councilman Earley made a motion to re-appoint Richard Kelley to the Plan Commission, seconded by Councilman Parker and carried by voice vote. President Kuiper asked for a motion to appoint three council members, Bob Philpot, Edgar Corns and Don Parker. Councilman Philpot made a motion to appoint

Bob Philpot, Edgar Corns and Don Parker as the three council members for the Plan Commission, seconded by Councilman Corns and carried by voice vote.

BZA. President Kuiper asked for a motion to re-appoint Sean Brady to the BZA. Councilman Earley made a motion to re-appoint Sean Brady to the BZA, seconded by Councilman Philpot and carried by voice vote.

Police Commission. President Kuiper asked for a motion to re-appoint John Ammons and John Piper to the Police Commission. Councilman Parker made the motion to re-appoint John Ammons and John Piper to the Police Commission. President Kuiper asked for a nomination for the replacement of Aron Schuhrke for a two-year term. Councilman Corns made a motion to nominate Ray Talarek to the Police Commission, seconded by Councilman Philpot. Councilman Earley made a motion to nominate Alan Fox to the Police Commission, seconded by Councilman Parker. President Kuiper asked for a roll call vote. Craig Earley – Alan Fox, Robert Philpot – Ray Talarek, Donald Parker – Alan Fox, Phil Kuiper – Alan Fox, Edgar Corns – Ray Talarek. Alan Fox was nominated by a three to two vote.

Traffic Commission. President Kuiper asked for a motion to appoint Will Farrellbegg to replace John Ammons on the Traffic Commission. Councilman Earley made a motion to appoint Will Farrellbegg to a one-year term on the Traffic Commission, seconded by Councilman Corns and carried by voice vote.

Historic Review Board. President Kuiper asked for a motion to re-appoint Martha Burger Farrellbegg and Ken Floyd and appoint Randy Hall to the Historic Review Board. Councilman Earley made a motion to re-appoint Martha Burger – Farrellbegg and Ken Floyd and appoint Randy Hall to the Historic Review Board, seconded by Councilman Corns and carried by voice vote.

Redevelopment Commission. President Kuiper asked for a motion to replace Brian Sanders with Craig Earley on the Redevelopment Commission. Councilman Parker made a motion to replace Brian Sanders with Craig Early on the Redevelopment Commission, seconded by Councilman Corns and carried by voice vote.

EDC. President Kuiper asked for a motion to re-appoint Susan Peterson and appoint two new members, Michael Mears and Chris Justivich to the Economic Development Commission. Councilman Earley made a motion to re-appoint Susan Peterson and appoint Michael Mears and Chris Justivich to the Economic Development Commission, seconded by Councilman Corns and carried by voice vote.

Permission to invest excess funds during 2012 – Clerk-Treasurer. Councilman Philpot made the motion to give permission to invest excess funds during 2012, seconded by Councilman Corns and carried by voice vote.

Approve Public Official Bond for Clerk-Treasurer and Town Judge. Councilman Philpot made the motion to approve public official bond, seconded by Councilman Corns and carried by voice vote.

Set Lowell Tribune / Pilcher Publishing – publication requirement. Councilman Philpot made the motion to set Lowell Tribune / Pilcher Publishing – publication requirement, seconded by Councilman Corns and carried by voice vote.

Appoint committee to disburse 2011 hotel/motel tax funds and set deadline for requests. Councilman Parker made a motion to appoint Susan Peterson, Judith Walters, Edgar Corns and Phillip Kuiper to the committee, seconded by Councilman Philpot and carried by voice vote. Councilman Parker made a motion to set the deadline date to March 30<sup>th</sup>, seconded by Councilman Corns and carried by voice vote.

Act on agreement with McMahon & Associates to conduct financial statements for 2011 Sewer financial records & computation of Cedar Lake charges for 2012. Councilman Earley made the motion to act on the agreement with McMahon & Associates seconded by Councilman Corns and carried by voice vote.

Act on agreement with Financial Solutions Group for debt management for DLGF. Councilman Corns made the motion to act on the agreement with Financial Solutions Group seconded by Councilman Philpot and carried by voice vote.

Act on permission for Public Works Director to enter into electric service rate agreements for Water, WW Plant and Lift Stations with NIPSCO. Councilman Philpot made a motion to act on permission for the Public Works Director to enter into an agreement with NIPSCO seconded by Councilman Earley and carried by voice vote.

Act on agreement with Lowell Volunteer Fire Department for 2012 - \$116,750. Councilman Corns made a motion to act on the agreement with the Lowell Volunteer Fire Department seconded by Councilman Earley and carried by voice vote.

Economic Tax breaks for downtown district – Matt Reardon. Matt Reardon, SEH Indiana stated that under the current framework of the Property Tax Abatement there is an ability to assist existing businesses and property owners. There was a change in the Indiana Code IC6-1-1-12.1 which covers personal property, they have amended that statute July 2011 to allow for or a jurisdiction chose to pay particular attention to the downtown district and what that means is when an investment is made to their property either by them or another, it's up to the purview of the Council as the authorizing body to grant them a tax relief for up to three years on their property. He recommended that this district would be the same boundaries or co-terminus with the Redevelopment area that would afford the Town all the tools that everyone else is using and anything new to help attract business help retain business and help out the new existing business owners. President Kuiper asked if he was talking about an existing business property and a new business coming in. Mr. Reardon stated that these were all existing structures and would not have anything to do with a new investment; it would have to do with an existing

structure that is vacant in the downtown area. Councilman Philpot asked if this negotiation was with the property owners only. Mr. Reardon stated that it would. Councilman Philpot asked if this structure would be uniformed for all the buildings in the downtown area or will it be done building by building. Mr. Reardon stated that the council would have the option to do either. Councilman Earley referred to Item 2 of the statute, which talks about a ten million dollar figure and could Mr. Reardon explain this. Mr. Reardon explained that there were several options included in that statute like designating a downtown district to have a little flexibility. President Kuiper suggested that a work session be called so that everyone would understand how this statute works. Councilman Parker asked Attorney Sobkowski if he had the ordinances all written up for the council to look over. Attorney Sobkowski stated that he was not quite there yet. Councilman Parker stated that his understanding would be that they would designate a downtown district. Attorney Sobkowski stated that in order to provide that special deduction a downtown district has to be established. Councilman Parker wanted to know if this could apply to the existing businesses as well as new incoming businesses. Attorney Sobkowski stated that it would apply to anyone doing a rehabilitation project, eight an existing owner or someone new who is making improvements to the building would be entitled to the enhanced deduction on those improvements up to three years. Councilman Corns wanted to know if the numbers in the statute i.e., 50,000 square feet and ten million dollars would that be where the council could put their own figures in. Mr. Reardon stated that the way that this is drafted is that that is one of the qualifiers and if they had someone that was investing in something or doing a re-hab of fifty million or somebody doing something in a downtown district, the council can choose how to designate the funds. President Kuiper suggested a study session on the same night of the Redevelopment meeting, possibly before the meeting. Councilman Parker stated that they need to get to the businesses in town. Councilman Philpot asked if a letter could be sent to each business from the Town Council. A discussion regarding the next Redevelopment meeting date followed. Jim Langen explained that the downtown district was larger that from the railroad track to the monument.

## **ANNOUNCEMENTS**

Work Session – Monday, January 30<sup>th</sup> – 6:00 PM – MS4 requirements

Next regular meeting – Monday, January 30<sup>th</sup> – 7:00 PM

## **MEDIA QUESTIONS / PUBLIC COMMENTS**

Melanie Csepiga, The Times asked if the LVFD contract of \$116,750 was the same as last year. Clerk- Treasurer Walters stated that it has been the same three years in a row. Ms. Csepiga wanted to know that when they were doing appointments of Department Heads, why Mr. Cox's position was not included. President Kuiper stated that due to budgetary situations they decided to not go with that position, at the moment it is going to be left vacant. Ms. Csepiga asked how much were they anticipating saving by not going with that position. President Kuiper stated it would be \$70,000.

Connie Schrombeck, Lowell Tribune wanted a list of all the new appointments and wanted to know when they would get the new model for the flood ordinance. Councilman Parker said that he has been talking to the DNR regarding something that affects his property and supposedly there is a new flood map coming up on the 18<sup>th</sup>. President Kuiper stated that Greg Shook was looking in this also. Connie wanted to know if she could be notified when this map comes in.

Carrie Napoleon, Post Tribune asked Councilman Corns and Councilman Philpot when they voted no to the appointments, were there other appointments or positions that they would like to have seen eliminated. Councilman Corns stated that they did have a meeting to discuss the positions but felt he did not have enough time to investigate anything including the bond issue in Meadowbrook. He stated that there was enough blame to go around to everyone in the room and to hit one person with that blame was not a fair tactic. Councilman Earley stated that they cannot discuss this. Councilman Philpot stated that Mr. Cox is well qualified and the town would be more beneficial by Mr. Cox's certifications, which carry top-notch expertise, and knowledge in his opinion is going to be well missed and it would be detrimental to the town when he goes.

Councilman Corns stated that even though he is not a smoker, he feels that the smoking ban and the jay walking ban aside. His reason for the smoking ban was because one of the owners came to the Town Council and told them that the ban cost him twenty thousand dollars in the first two months and he had to lay off two employees. While campaigning this fall he found that one of the businesses would lose two, two - thousand dollar parties because of the ban. He stated that he has gotten calls from residents that told him they go to Cedar Lake or Winfield so that they can smoke and feels that local businesses will be hurt. He spoke to the owner of Mi Ranchito and was told that his business went down 40%. He went on to talk about the jay walking ban which hurts the senior citizens and the retired people, this ban was basically done for the High School. He stated that the former Police Chief who works in the High School can take time out and police the students crossing Route 2. As for senior citizens, they would have to walk to the crosswalk at the light from their parked cars to cross Route 2. He would like to make a motion to set the smoking ban aside, if the State comes in and bans smoking get ready to have taxes go up because there is hundreds of millions of dollars paid to cigarette tax that is used for soil and water conservation and lake and river enhancement to maintain lakes and rivers. President Kuiper explained that the jay walking ordinance was not a new ordinance but was moved it from the State to local court. Councilman Philpot seconded the motion to set aside the smoking ban and jay walking ordinance. Attorney Sobkowski stated that they cannot repeal these ordinances by motion, the need an ordinance to repeal those ordinances either individually or together.

Councilman Parker asked Mr. Reardon if the St. Anthony development is still on tract. Mr. Reardon stated that they would hopefully continue with negotiation at the next redevelopment level.

There being no further business or discussion, Councilman Parker motioned to adjourn, seconded by Councilman Earley at 7:55 PM.

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Phillip Kuiper, President

Attest:

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Judith Walters, Clerk-Treasurer