

**LOWELL TOWN COUNCIL
REGULAR MEETING
APRIL 9, 2012**

The regular meeting of the Lowell Town Council was called to order on Monday April 9, 2012 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 Craig Earley, Donald Parker, Phillip Kuiper, Edgar Corns and Bob Philpot. Also present were Town Attorney Greg Sobkowski, Director of Public Works Greg Shook, Chief John Shelhart, Town Administrator Susan Peterson, Tom Trulley, two members of the media and twenty citizens.

APPROVAL OF MINUTES

Councilman Corns made a motion to approve the March 26th regular meeting, and the March 19th executive session, seconded by Councilman Philpot and carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated he reviewed White Vouchers #1365 - #1432, White-Police #4047 -#4055, Water #2172 - #2216, Waste Water #3172 - #3207 and recommended them for approval. Councilman Earley made a motion to approve the vouchers as listed, seconded by Councilman Corns and carried by voice vote.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

MONTHLY REPORTS – February, 2012

Councilman Corns made a motion to approve the monthly reports for March, 2012, seconded by Councilman Earley and carried by voice vote.

STANDING COMMITTEE – Annexation Committee

Doug Nicksch, Chairman of the Annexation Committee stated there were two issues recommended to the Town Council for annexation. One of the recommendations includes 119 acres west of town, which would include a time limit for the owners to connect to the sewer. Currently the ordinance stipulates that you have ninety days to connect to the sewer if it is within three hundred feet. President Kuiper stated his thoughts were it should read when the septic needs change; you have to hook up to the sewer. Mr. Nicksch stated the other issue was currently the ordinance stipulates that when you are annexed you come in as an R-1 zone and now there is an agricultural zoning and any property coming in should stay agriculture and the ten pockets should come in as a like zone. The ten pockets do not include the VFW and they also do not have sewer and water, but they do receive town services such as Police, Fire, EMS. Councilman Parker asked if the current ordinance has the agricultural zoning. Mr. Nicksch stated it did.

Attorney Sobkowski stated the zoning ordinance needs to be amended to address what annexed property comes in at and make the adjustments. He further stated the sewer hook up would be addressed in the annexation ordinance, by State Law the ordinance can have equitable provisions to hook up to the sewer immediately. There is no requirement to hook up to water immediately. Councilman Parker asked if the motion tonight would be to start the annexation process on the pockets. President Kuiper answered it would annex the pockets and draft an ordinance and have a fiscal plan prepared for the eighty acres. Councilman Parker made a motion to draft an ordinance for the ten pockets, seconded by Councilman Earley and carried by voice vote. Councilman Parker made a motion to send a recommendation to FSG to do a fiscal plan for the eighty acres of two parcels 35 acres and 45 acres on the southeast corner of Rt. 2 and Austin Ave., seconded by Councilman Earley and carried by voice vote.

SPECIAL COMMITTEES

ORDINANCES & RESOLUTIONS

UNFINISHED BUSINESS

Public Works Department Update
WWTP JMOB Requests
Water Infrastructure Improvement Plan

*Enter into Escrow Agreement with Thieneman Construction – WWTP Improvement Project. Councilman Earley made a motion to enter into Escrow Agreement with Thieneman Construction for the WWTP Improvement Project seconded by Councilman Parker and carried by voice vote.

*Approve Pay Request #8 - \$56,505.00 – reimburse Town for County building permits fees, #9 - \$7,684.93 – Commonwealth Engineers – engineering and forward to SRF for payment for WWTP Improvement Project. Councilman Philpot made a motion to approve Pay Request #8 and #9 to forward to SRF for payment for WWTP Improvement Project seconded by Councilman Parker and carried by voice vote.

*Enter into agreement with Standard & Poor’s – Credit rate for Water Refunding Bonds. Councilman Earley made a motion to enter into agreement with Standard & Poor’s, seconded by Councilman Philpot Clerk Treasurer Walters explained to market the bonds the people bidding on the refinancing have asked that we be rated, and carried by voice vote.

Tabled from previous meetings:

NEW BUSINESS

Police protection on school grounds – Tri-Creek School Superintendent Dr. Debra Howe and Director of Operations Dr. Nate Kleefisch. Dr. Debra Howe, Superintendent of Schools thanked the council for their partnership this year with Councilmen Philpot and Councilman Earley sit on a committee to bring an Ivy Tech presence to the community and Councilman Earley has also been very present in talking about keeping kids in school. He went on to say they are trying to make a safe environment for their students, they have engaged in a safe study this year and the strategic plan that was adopted by the School Board. One of the objectives is to foster a safe, engaging and caring environment. She is asking the Council to engage in a Memorandum of Understanding with the School District to enable the Town Police to ticket for traffic violations that may be speeding in the parking lot, the new idling law, parking violations, driving on the grass and donuts in the parking lot, unsafe and hazardous driving situations, jay walking from the school district across the street to the subdivisions and students smoking in the parking lot. She stated they did have a partnership with Attorney Sobkowski's law office and is not sure there is an issue with this and have them check to make sure there are no ethics violations. Police Chief Shelhart explained there is an ordinance in place for an agreement that was reached several years ago between the town and the school. Dr. Kleefisch and Superintendent Dr. Howe has indicated that they would employ a police officer off duty for a period of time in the morning and a period of time in the evening as the kids are coming to school and the kids are getting off from school to be on the school property to enforce any traffic laws and criminal law at very little or no cost to the town because the school will pay the officer's salary while he's there. Dr. Kleefisch stated this whole attempt was to provide a preventative measure, try to discourage kids from misbehaving. The school has transformed quite a bit since Dr. Howe's arrival by providing opportunities that they didn't have in the past to keep them out of trouble. The presence of an off duty police officer is not aggressive but preventive. Attorney Sobkowski stated the new idling law is not in the existing ordinance but they can amend the ordinance to encompass all the violations. Councilman Corns wanted to know how much time would this police officer work for them. Dr. Kleefisch stated they were looking at about 7:30 A.M. to 8:15 A.M. and 2:45 P.M. to 3:30 P.M. Councilman Philpot wanted to know if the Police Dept. would strictly give out the citations or would the school also issue some kind of citation. Dr. Kleefisch answered they currently have a ticket that is issued to violations for parking and reckless driving. Right now it does not seem like a big deal to pay sixteen dollars for a ticket. Councilman Earley stated he thought it was important to create a good working relationship between the town and the school. Attorney Sobkowski explained in 2010 they had three lawyers join his law firm who represented Tri-Creek Schools and they continue to represent Tri-Creek Schools as they represent the Town of Lowell. One other issue under the F Cobra rules involving attorneys if his firm is to prepare this Memorandum of Understanding between the town and the school corporation then they need to obtain the consent of the Town and the

School Corporation in order to do that. The Town Council needs to decide whether it is willing to authorize their firm to represent both parties in this transaction of the Memorandum of Understanding. If they don't get consent from both parties to do that then the town would have to hire an attorney and the school would have to hire an attorney and his firm could not represent either party in this transaction. Councilman Earley asked if the current ordinance regarding the agreement between the town and the school district could be re-affirmed. Attorney Sobkowski stated it would need to be amended to encompass all the violations that the school would want the town and police to enforce and the second part would be to draft the Memorandum of Understanding. Councilman Earley made a motion to proceed with amending the ordinance then entering into an agreement with the School for the enforcement of traffic violations on the school property and authorizing Hodges & Davis to represent both the Town and the School District, seconded by Councilman Philpot and carried by voice vote.

President Kuiper stated he appreciated the partnership with the school and thanked Dr. Kleefisch. Dr. Kleefisch also thanked the Town for their partnership with the school. Dr. Howe stated there would be a Town Hall meeting on Wednesday, April 11th at 6:30 P.M. at the Lowell High School.

ANNOUNCEMENTS

Next regular meeting – Monday, April 23rd – 7:00 P.M. and a 5:30 P.M. Work Session and there is a public on the CDBG funding for 2012 and 2013.

MEDIA QUESTIONS / PUBLIC COMMENTS

Councilman Parker asked about the tornado siren. President Kuiper explained that for several years they have been trying to get another tornado siren on the east side of town, it was going to be around twenty eight twenty nine thousand dollars. Alice Dahl contacted Gerry Scheub to see if he could help out. Gerry Scheub announced the other night that the town would be receiving twenty nine thousand dollars grant at no cost to the town or the township. Councilman Earley stated the siren would be erected by the High School football field.

Councilman Corns asked if Gerry Scheub said that the town now owns the old grade school. President Kuiper stated he did say that and they are waiting for confirmation of that before they announce it.

Melanie Csepiga, The Times asked about the eighty acres west of Lowell that the town decided to move forward with. They mentioned one hundred and nineteen acres, she wanted to know where that was. President Kuiper stated it was on the west side of Austin there was nineteen acres, twenty seven acres and two acres that front Rt. 2 and the ten acres is behind the twenty seven acres.

Martin Kroll, resident of West Creek stated he was not against annexation but these parcels that have been talked about to be annexed have a form for friendly annexation

that was presented to these people at the Annexation Committee meetings in 2003 and 2004. They were filled out and notarized and are on file in the Town Hall for the eighty acres, for Unlauf and Mrs. Kozubal. President Kuiper stated the only parcel they are speaking about was the eighty acres of two parcels and the others are not an issue. Mr. Kroll asked if the owners who filed for friendly annexation would be honored. Attorney Sobkowski stated he would not rely on a petition that was filed eight years ago that no action has been taken on. They can re-petition the town and become friendly. Mr. Kroll wanted to make sure that someone should these owners regarding their petition. President Kuiper explained the owners of the parcels they approved tonight have been notified several times. Councilman Earley stated he was in favor of them coming in under the friendly annexation and had no thoughts about unfriendly annexation.

Carl Ferro, 1310 Harrison addressed Attorney Sobkowski regarding the fifty five thousand dollar bond and how he dropped the ball. He was told to investigate and didn't do it. He feels someone should be liable for this and he thinks it should be the attorney. Attorney Sobkowski stated Mr. Kuiper asked him to prepare a synopsis of what happened and he will have that ready for the next meeting to hopefully put this issue to bed once and for all.

There being no further business or discussion, Councilman Earley motioned to adjourn, seconded by Councilman Corns at 7:37 P.M.

Phillip Kuiper, President

Attest:

Judith Walter, Clerk-Treasurer