

**LOWELL TOWN COUNCIL MEETING  
REGULAR MEETING  
JANUARY 14, 2013**

The regular meeting of the Lowell Town Council was called to order on Monday, January 14, 2013 at 7:00 P.M. by President Edgar Corns. The Pledge of Allegiance was recited followed

by a moment of silence. Clerk-Treasurer Judith Walters called the roll. Council Members present were Craig Earley, Robert Philpot, Donald Parker, Phillip Kuiper, and Edgar Corns. Also present were Town Attorney David Westland, Director of Public Works Greg Shook, Police Chief John Shelhart, Building Official Tom Trulley, Town Administrator Susan Peterson, Planning Consultant Jim Mandon, Mark Downey from Commonwealth Engineering, two members of the media, and seventeen citizens.

**TREASURER'S REPORT** - December 2012

Councilman Kuiper made a motion to approve the December 2012 Treasurer's Report, seconded by Councilman Earley and carried by voice vote.

**APPROVAL OF MINUTES**

Councilman Earley made a motion to approve the minutes of the December 27<sup>th</sup> regular meeting, January 3<sup>rd</sup> special meeting, January 10<sup>th</sup> work session, and January 10<sup>th</sup> executive session, seconded by Councilman Parker and carried by voice vote.

**APPROVAL OF VOUCHERS**

President Corns stated he reviewed White Vouchers #1000 - #1060 and from 2012 - #2506 - #2519, White-Police #4000 - #4011, Water #2000 - #2047 and from 2012 - #2791 - #2793, and Waste Water #3000 - #3033 and from 2012 - #3673 - #3675 and recommended them for payment. Councilman Earley made a motion to approve the vouchers as listed, seconded by Councilman Philpot and carried by voice vote.

**PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS**

Letter of Resignation - Historic Board - Randy Hall - President Corns read the resignation letter from Randy Hall. Councilman Earley made a motion to approve Randy Hall's resignation, seconded by Councilman Kuiper and carried by voice vote.

## **MONTHLY REPORTS** - December 2012

Councilman Kuiper made a motion to approve the December 2012 Monthly Reports, seconded by Councilman Parker and carried by voice vote.

## **UNFINISHED BUSINESS**

Public Works Department Update - Mr. Shook stated that late last week he received the final report for the delineation on Powell Ditch which will be forwarded on to the Army Corp and

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IDEM. He stated there will be a progress meeting on Monday, January 21st for the Waste Water Treatment Plat project at 10:00 AM at the Town Hall. Also, we have been waiting for NIPSCO to send us a new contract for electrical service for the wet weather treatment at the Waste Water Treatment Plant, which should be here Thursday or Friday, and asked for Council to approve the contract so that the President can sign it before the next regular meeting. Councilman Kuiper made a motion to approve the NIPSCO contract, seconded by Councilman Parker and carried by voice vote.

WWTP Improvement Project - Approve Pay Request #26 and forward to SRF Funding for payment - \$23,032.13 - Commonwealth Engineers - engineering services - Councilman Earley made a motion to approve Pay Request #26, seconded by Councilman Philpot and carried by voice vote.

Schedule of current activities - Jim Mandon - Mr. Corns stated that Councilman Parker and himself had spent some time talking with Mr. Mandon and they have come up with what his planning schedule might be for this year. Mr. Corns stated in talking with Mr. Mandon, he would like to know if we would like to create a transportation thoroughfare plan for both Holtz Road and State Road 2 and possibly town-wide. He also would like to get an update on the Town's Comprehensive Plan. Mr. Parker asked if this should go through the Planning Commission or the Town Council. Mr. Westland stated it did not matter, but sending the Planning Commission in a certain direction may not be a bad idea.

Mr. Parker asked Mr. Mandon to explain what a thoroughfare plan was. Mr. Mandon stated in terms of a localized area, it is more of a traffic control plan. We would look at intersection locations, anticipate development that may occur, lay out a road system in advance of development, and if you are looking at a particular area like the Holtz Road

area, you would look at locations for easements where one party can cross another person's property in order to gain access to their's so they do not have to have individual curb cuts and access. It is an attempt to try and get ahead of the final development so that when it is time to develop, there is an overall plan for the developer to follow. This plan is always negotiable and never set in stone. He stated when you talk about a Town wide plan, we are going to look at where the congestion is, whether that is at intersections or at a throughout that is having difficulty from a capacity standpoint. If you are looking at those issues, you would normally start with a traffic count and then look at alternative routes, both local and regional. He stated for years there has been talk about trying to find an alternate route for trucks other than Route 2. Mr. Mandon stated that he believed there are two options to reduce the high traffic count at peak periods on Route 2 other than moving the trucks. If there are parallel routes available for local traffic not everyone would have to get on to Route 2 to get from one side of the Town to the other. You would be looking at ways for the Town to do some investment in the future and also developers who will be redeveloping or developing in certain portions of the Town will be contributing to the cost of the Town installing those routes. Along with that, there needs to be intersection improvements to be able to route that traffic back to the highway at locations that are convenient. If you are looking at just the Holtz Road area, we are trying to anticipate development and lay out a plan that the developer can follow. An overall transportation plan will involve the Town in general and it will be much more involved and much more long standing in terms of implementation. Both of these can come from either the Plan Commission or the Town Council.

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Mr. Philpot asked if any traffic counts have been done. Mr. Mandon stated the State has done some, but they are not sufficient. We would need to do some more detailed intersection or turn movement counts rather than just thru traffic. Mr. Philpot asked if we have warrants to match up with these traffic counts or if we would have to use the State or County. Mr. Mandon stated that there are warrants. Mr. Philpot asked where those warrants have come from. Mr. Mandon stated there is a document called the Uniform Traffic Control Device Manual, which is a Federal document that each State approves or modifies. In our case, Indiana has modified it slightly so we actually have an Indiana Manual for Uniform Traffic Control Devices. There is a listing that would indicate when stop signs are necessary at intersections or when turn lanes are indicated based on the number of turn movements, etc. Mr. Philpot asked if the Traffic Commission would be involved in this as well. Mr. Mandon stated that was correct along with the Police Commission. Mr. Earley asked who actually does the analysis. Mr. Mandon stated he could interpret the warrants and identify what counts need to be

taken and then we can determine the most cost effective way to make those counts happen. Mr. Earley asked if the State of Indiana would recognize the results of our studies if we say that we want to make changes. Mr. Mandon stated they would if we follow the guidelines that they would follow. If intersection congestion is to the point where a change is necessary to a type of signal or to add a signal we can justify that to them. Mr. Parker asked if we were going to take steps to get them involved from the start. Mr. Mandon stated that was correct. They have to participate from the stand point of approving the basic concepts so that when the conclusions are drawn, they will approve those as well. Mr. Philpot asked if we have to have State approval to modify any of Route 2. Mr. Mandon stated that was correct. Mr. Philpot asked if they could get the warrants or a summary of the warrants so it is easier to understand. Mr. Mandon stated he could outline some of the sections of the manual that would be useful. Mr. Philpot asked if it would be possible for the County or State to go in partnership with us for some of the cost. Mr. Mandon stated that could be possible. Mr. Philpot stated a lot of people would like to see a signal at Route 2 and Nichols Street especially with all of the buses and school traffic that goes down that road, but the State has said that the warrants still do not justify a signal at that intersection. Mr. Mandon stated we could take a look at that and see if that is the case. Mr. Philpot stated that he believed this should come up as a high priority under this new plan.

Mr. Earley stated that he would like to remind the Council that they have put a lot of work on Mr. Mandon and while he agrees and supports what has been explained, this needs to be prioritized with the other work that has been given to Mr. Mandon regarding where to move next in the annexation process. Mr. Mandon stated he is consumed with the Zoning Ordinance and Annexation Plan at this point, but there is a schedule laid out that is realistic and can be shortened or lengthened based on the prioritization and the budget of the Town. He stated that the Zoning Ordinance draft has to be the first priority so that we can start using that. We are hoping to send that ordinance to the Council sometime in February to have the first and second reading so that we can start using the new ordinance sometime in March. As far as the Annexation Plan, there is some overlap that is occurring. The time on the Zoning Ordinance is at a minimum and is just down to meetings since the document is in the draft form. He stated that he has been working on a land use map, which is the first element of the Annexation Plan. This way we can determine what kind of land uses we are deficient in or have an over abundance of. This also determines the amount of vacant property that can be developed. If there is vacant property that has issues with being developed, those will also be identified. Once this is finished

we will have some idea of the sequence and the speed of which annexation needs to occur. These are the various steps that are necessary to get through the Annexation Plan, which should have a conclusion sometime in June or so. Mr. Mandon stated the public will need to have a lot of input in to the plan, and there needs to be coordination between the Town Council and the various Commissions and Committees. The Agricultural Committee is also interested in what will come out of the Annexation Plan as well, and they have had some input in the new Zoning Ordinance. The Annexation Plan will lay out the steps to be taken when expanding your municipality and it will also place a number on each parcel which will tell you the importance of annexing that parcel. Mr. Parker stated the Comprehensive Plan is a long term plan that we could look at this year and address, and the Plan Commission could start to look at the thoroughfare plan. Mr. Mandon stated where these sit on your priority list is up to the Council. Councilman Parker made a motion to let the Plan Commission know that the Council would like to start working on the thoroughfare plan first since it is important to our Annexation Plan. Mr. Mandon stated the thoroughfare plan should take about ninety to one hundred and twenty days. President Corns asked for a second on the motion. The motion died for a lack of second.

Annexation - 18007 Holtz Road - Novak - Mr. Parker stated this address was one of the pocket annexations and there were questions on the zoning of the property, but there was no action taken by the Council. Mr. Trulley stated Mr. Novak claimed he was zoned business through the County, but he is actually zoned residential. Mr. Parker stated he would like to make a motion for the Council to have the attorney send a letter stating that we are going to start the annexation process again and give him thirty days to respond if he would like to come in voluntarily or not. He stated that he spoke with Mr. Novak and he said that he will consider coming in voluntarily, but he has concerns of the Town working with him so that he can get his business straightened out if we move forward with the annexation. Councilman Parker made a motion for the attorney to send a letter to Mr. Novak stating they will begin the annexation process and will give him thirty days to decide if he would like to come in voluntarily or not. Mr. Earley stated he would second the motion, but stated that the fiscal study was incorrect when it was given to Mr. Novak because it was based on zoning information that Mr. Guerrettaz had received from the County. Mr. Trulley stated some of the tax figures were incorrect. Mr. Earley stated it was because the fiscal study would have been in accordance with the incorrect zoning, which Mr. Guerrettaz would not have known. The fiscal study would have to be reviewed to make sure that it was done under the proper zoning. Mr. Kuiper stated if he comes in residential, he would have to come in front of the BZA to switch that to business. The motion to send a letter to Mr. Novak regarding the annexation process on his property carried by voice

vote.

Amend motion - engineering - Mr. Westland stated the motion that passed was that SEH take care of everything but the Waste Water Treatment Plant, the wet weather project, and any future project at the Waste Water Treatment Plant, which will stay with Commonwealth. Mr. Earley asked Mr. Corns if he would recognize Mark Downey who is a representative from Commonwealth and give him a moment to speak and let him inform the Council what it is his company does, has done for us, and anything he would like to add. Mr. Corns stated he believes they have heard from Mr. Downey several times, but he may speak. Mr. Downey stated he would like to know if there were any questions in regards to the work that Commonwealth has done for the Town. He stated that Mr. Shook knows our working relationship with the Town better than anyone since we always report to him rather than the Council. We have been

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employed on behalf of the Town of Lowell to do engineering work for seventeen years. Currently we are doing the Waste Water Treatment Plant which we are contracted out to finish, and that is our intent. We also have worked closely with Mr. Shook on the water supply, water treatment, and we have a hydraulic model that we use whenever you are doing expansions on the utility. A few years back Commonwealth was asked to take over some of the general reviews associated with the permitting when people would come to do some drainage plans, and they were selected to do the State Road 2 sidewalk project, which is a LPA agreement, between the Town and INDOT, which we are in the middle of. He stated they have also been asked for help numerous times on the issues with Powell Ditch. The Powell Ditch is an awkward position because it does require some permitting and we just got the report last week with the delineation associated with the wetlands. Now we know what type of mitigation, if any, will be required. He stated he wanted to remind the Council where they are with some of the other projects to determine if there would be continuation for Commonwealth to finish the projects that they are in the middle of, or if the Council is looking for them to stop work on all projects other than at the Waste Water Treatment Plant. He stated he believed they have performed well and have set Lowell as a priority for Commonwealth.

Mr. Earley stated the point he wanted to make was that discussions like this and the discussions we had with SEH explaining what they do and what they can do for us needs to happen before we make the decision of choosing an engineer or anything else for this community. Councilman Earley made a motion to retain Commonwealth Engineering for the completion of the following projects; the State Road 2 curbs and

sidewalks project, the water supply evaluation project, and the Waste Water Treatment Plant project. These are to the completion of, not a transition in between at any point, all the way through design, development, and construction. As well as retaining them for any future Water or Waste Water projects that we take on. The motion was seconded by Councilman Kuiper. The motion failed with two ayes and three nays.

Mr. Parker stated after reading the report from Mr. Shook there are some projects that are still contracted with Commonwealth to finish. Councilman Parker stated he would like to amend the motion so that Commonwealth will be retained to finish those projects which they are contracted for, seconded by Councilman Philpot. Mr. Earley asked if that is the motion, or is it inclusive of the motion that was already made. Mr. Parker stated it is inclusive. Mr. Earley asked if Commonwealth will retain all service to the Waste Water Treatment Plant. Mr. Parker stated that was correct. Mr. Earley stated the only issue he has is when you deal with certain projects in our community, you deal with water, and you deal with waste water. They usually go hand in hand. What we are now doing is separating our engineering firms in to two firms and you now have two companies that have to work together. He stated in his mind, there is no way that this could be more cost effective. Mr. Kuiper stated when we did have two engineers, one engineer took care of the utilities outside of Town, and the other took care of the utilities inside the Town. Mr. Shook stated when Butler Fairman was here Commonwealth was doing the Water Plant and Waste Water Plant, while Butler Fairman was doing the subdivision reviews and projects in Town. The motion carried with three ayes and two nays, Councilman Earley and Councilman Kuiper voting nay.

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### **NEW BUSINESS**

The following appointments were approved on motion made by Councilman Kuiper, seconded by Councilman Philpot and carried by voice vote:

Department Heads - Public Works Director - Greg Shook; Town Administrator - Susan Peterson; Building Administrator - Tom Trulley; Street Superintendent - Frank Lovely; Water Superintendent - Dan Myers; Distribution Superintendent - Eric Barnhill; Waste Water Treatment Plant Superintendent - Terry Wright; and Park Superintendent - Tom Sullivan.

Board Representatives - Lake County Economic Opportunity Council - Dorothy

Gwyn-Maas; Board of Finance - Town Council President and Judy Walters; Lake County Solid Waste District - Phillip Kuiper; N.W. Indiana Cities & Towns - Edgar Corns; Cable T.V. Consortium - Susan Peterson; Northwest Indiana Planning Commission - Don Parker; Freedom Park Committee - Bob Philpot and Randy Hall; Annexation Committee - Edgar Corns, Doug Niksch, Michael Mears, Randy Hall, Plan Commission President, and BZA President; Tri-Creek Ambulance Board - Craig Earley; Fire Department Liaison - Craig Earley and Bob Philpot; Emergency Management Director for 2013 Police Chief John Shelhart with Fire Chief Clint Gorbball as the Co-Director.

#### Boards & Commissions:

Plan Commission - Town Council Members - Bob Philpot, Don Parker, and Craig Earley

Plan Commission - James Konrad

B.Z.A. - James Konradi

Police Commission - Martin Freeman and Sharon Patterson

Traffic Commission - John Shelhart, Jim Konradi, Dennis Rosengard, Eric Barnhill,  
and Will Farrellbegg

Historic Review Board - Connie Schrombeck, Clifford Tetrault

Storm Drainage Board - Tom Cartwright, Edgar Corns, and Matt Lake

Redevelopment Commission - Phillip Kuiper, Anthony Muscari, Jim Langen, Douglas  
Niksch, and Craig  
Earley

Enter into agreement with James Mandon for consulting services in 2013 - Mr. Corns stated that Mr. Mandon's salary requests are the same as last year at \$55/hour.

Councilman Kuiper made a motion for Mr. Mandon to be the Planning Consultant for 2013, seconded by Councilman Earley and carried by voice vote.

Permission to invest excess funds during 2013 - Councilman Parker made a motion to give Clerk-Treasurer Walters permission to invest excess funds during 2013, seconded by Councilman Philpot and carried by voice vote.

Permission to advertise for additional appropriation - Clerk Treasurer Walters asked for permission to advertise for an additional appropriation hearing for the Town Court Funds. She stated that last year they went from two to three nights per month for town court so they will have more costs. Mrs. Walters also asked for permission to appropriate money in the Gambling Revenue Fund for our 80% portion of the engineering cost for the INDOT project and

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appropriate funds not used last year in the Cumulative Sewer Fund. Councilman Earley made a motion to approve advertising for a public hearing, seconded by Councilman Kuiper and carried by voice vote.

Sick Leave Policy - Mrs. Walters stated all Town employees can be a part of our sick leave policy. All employees have their own sick leave bank and if they need additional days if they have a major illness they can borrow from the sick leave bank. Each employee donates one day of their own sick leave to this bank and we currently have an over abundance in the bank at 579 days. She stated last year she had asked permission that during 2012 the employees do not donate one day since there are so many, and she is asking again in 2013 that the employees do not need to donate a day to the bank. No one has borrowed from it for a few years now. Mr. Kuiper asked if it has ever been that high. Mrs. Walters stated it has not. Mr. Philpot asked if the donation was mandatory. Mrs. Walters stated joining is not mandatory, but once you join, it is mandatory that one day goes to the bank. Councilman Kuiper made a motion to approve Mrs. Walter's request, seconded by Councilman Parker and carried by voice vote.

Set Lowell Tribune/Pilcher Publishing - publication requirement - Councilman Earley made a motion to set the Lowell Tribune/Pilcher Publishing as the Town's publication requirement for 2013, seconded by Councilman Kuiper and carried by voice vote.

Appoint committee to disburse 2012 hotel/motel tax funds and set deadline for requests - Mr. Corns asked what the normal deadline was. Mrs. Walters stated March 31<sup>st</sup>. Councilman Parker made a motion for Councilman Kuiper and Councilman Corns to serve on the committee as they did last year with Clerk-Treasurer Walters and Town Administrator Peterson, seconded by Councilman Kuiper and carried by voice vote.

Act on agreement with Lowell Volunteer Fire Department for 2013 - \$120,252 - Councilman Kuiper made a motion to approve the agreement with the Lowell Volunteer Fire Department, seconded by Councilman Earley and carried by voice vote.

Consideration of adding Study Session to regular calendar of Town Council Meeting - Mr. Kuiper asked who would be involved in the Study Sessions. Mr. Westland stated that would be up to the Council. It would be the Council and Mrs. Walters, but depending on the issue, you could invite a department head or consultant. Mr. Kuiper asked if Mr. Westland would attend. Mr. Westland stated it was up to the Council. Mr. Earley asked if they are looking at setting up a regular Study Session before every

Council meeting of thirty minutes. Mr. Corns stated that was correct. Mr. Earley stated he did not understand the need for this every time if there is no actual need for it. He stated it will have to be advertised since it is a public meeting. Mr. Westland stated it will be advertised just like you advertise for a regular meeting. Mr. Parker stated if you do not need the meeting, you can cancel it. Mr. Earley stated it is very similar to what we are doing now which is if we need one we schedule it. He stated he did not see the reason to do this at this time and thirty minutes is not enough to get anything truly discussed. Mr. Corns stated it is just to get everything straight for the regular meeting that will follow. A lot of other towns do this already. Mr. Kuiper stated maybe those towns actually need it. Mr. Earley stated that he spoke with Mrs. Walters and she said that it would not be a problem to send the agenda out to the entire Council on the Wednesday before the meeting instead of just sending it to the President

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and attorney on that day. This way we would have a couple of extra days to look over the agenda and ask any questions that need to be asked. He stated that he is not a fan of adding legal cost on a regular basis if there is no need for it. Mr. Corns stated we can do the sessions without the attorney being there. Mr. Earley stated unless it is necessary. Mr. Corns asked Mr. Parker if he had a motion on the floor. Mr. Parker stated he did not. Mr. Corns asked Mr. Parker if he would like to make one. Mr. Parker stated he is still listening to what has to be said. Mr. Parker stated that he believes it is beneficial. He stated this way you will not have five different people walking in to a department head asking the same question at different times. If we have this meeting, the entire Council will be able to get their questions answered by the department heads and all of the Council will hear the same answer. This way we will be able to cut down on some confusion. Mr. Earley stated that he was not disagreeing with that fact, but that he disagrees with having one on a regular basis. Mr. Parker stated that his point is that you can set it up on a regular basis and cancel it if need be. Councilman Parker made a motion to have a study session thirty minutes prior to every regular meeting and if it is not needed, it can be canceled, seconded by Councilman Philpot and carried with three ayes and two nays. Councilman Kuiper and Councilman Earley voting nay.

### **ANNOUNCEMENTS**

President Corns announced an Executive Session will be held on Wednesday, January 16<sup>th</sup> at 5:30 PM, and the next regular meeting will be held on Monday, January 28<sup>th</sup> at 7:00 PM

with a study session held at 6:30 P.M.

### **MEDIA QUESTIONS/PUBLIC COMMENTS**

Melanie Csepiga asked if she could get the names of the appointments after the meeting. Ms. Csepiga asked if the Volunteer Fire Department's contract amount was the same as last year. Mrs. Walters stated it is a 3% increase., last year's contractual amount was \$116,750 and it is all based on an approved budget before they get that amount.

Neil Fitzmaurice, 434 Dogwood, stated that he had previously asked about the process that was used to decide on the legal firm and engineering firm that would represent the Town. He stated that he has no issue with who was chosen, but the process that he saw this year was unlike anything else he had seen in the past and it is not clear what that process was. Mr. Corns stated three of the Council members decided we wanted to see some change, so we got together and decided what changes we would make, and those changes we have made. Mr. Parker stated over the past year he has had some issues and concerns and felt that we need to go in different directions in some areas. He stated that we interviewed both engineering firms earlier in the year so we kind of had an idea there. The attorney was a matter of personal choice, and some other Councilman had made mention that they wanted to go in a different direction. He stated that he contacted those Councilman and other Town Council people, other attorneys and various other people and came up with someone who has a background in areas that we believe will be significant. He stated that the previous attorney was hired through an interview process, but he was not aware of how the attorneys before that were hired. Mr. Parker stated that he knew of three Councilman that wanted to go in a different direction so we looked around and had the

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recommendation of Mr. Westland. He stated that he met with Mr. Westland and the other Councilman did as well. This was made available to all of the Councilman. He stated that it has happened in three or four other communities just this December where the attorneys are sitting in the audience and it is more or less, by the way, your services are no longer needed. We thought we would at least provide some sort of professional notification and let them know. He stated that he believed there are just some areas where they need to go another direction. Mr. Fitzmaurice asked if the three Council members got together as a group, and if so, is that illegal without a notice

of a public meeting. Mr. Corns stated three Council members never got together as a group, that is illegal. Mr. Parker stated that he spoke to all four Council members.

**ADJOURNMENT**

With no further questions or comments, Councilman Kuiper made a motion to adjourn at 7:58 PM, seconded by Councilman Earley, and carried by voice vote.

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Edgar Corns, President

Attest:

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Judith Walters  
Clerk-Treasurer