

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

The regular meeting of the Lowell Town Council was called to order on Monday, October 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. Members present were Craig Earley, Robert Philpot, Donald Parker, Phillip Kuiper and Edgar Corns. Also present were Town Attorney David Westland, Town Administrator Susan Peterson, Public Works Director Greg Shook, Police Chief Erik Matson, Building Official Tom Trulley, SEH Representative Craig Hendrix, two members of the media, and ten citizens.

APPROVAL OF MINUTES

Councilman Philpot made a motion to approve the September 23, 2013 regular meeting minutes and the October 7, 2013 executive session minutes, seconded by Councilman Earley and carried with five ayes.

APPROVAL OF VOUCHERS

President Corns stated he reviewed White Vouchers #2037 - #2127, White-Police #4203 - #4222, Water #2636 - #2688, Waste Water #3522 - #3560, Stormwater Utility #5040 - #5046, and recommended all of the vouchers for payment. Councilman Philpot made a motion to approve the vouchers as listed, seconded by Councilman Earley and carried with five ayes.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

President Corns read a letter of resignation from Marty Freeman, Lowell Police Commission. Councilman Kuiper made a motion to accept the resignation of Marty Freeman, seconded by Councilman Earley and carried with five ayes.

MONTHLY REPORTS - September 2013

Councilman Earley made a motion to approve the September 2013 monthly reports, seconded by Councilman Philpot and carried with five ayes.

ORDINANCES & RESOLUTIONS

2ND Reading - Ordinance #2013-13 - 2014 Budget - Councilman Earley made a motion to approve Ordinance #2013-13, 2014 Budget in the amount of \$4,773,841, with a levy of \$3,183,275. seconded by Councilman Parker and carried with five ayes on roll call vote.

PUBLIC HEARING

1st & 2nd Reading - Ordinance #2013-14 - Additional Appropriation - Public Safety Fund - President Corns read Ordinance #2013-14, which appropriated an additional \$4,853.13 from the Public Safety Fund. Councilman Kuiper made a motion to approve the first reading of Ordinance #2013-14, seconded by Councilman Parker and carried with five ayes. President Corns opened the public hearing. Clerk-Treasurer Judith Walters stated this is an old Public Safety Fund and the money is being appropriated so that we will be able to spend it and close out the old account. The money will be used to equipt one of the new police cars being purchased. With no further questions or comments, President Corns closed the public hearing.

Councilman Earley made a motion to suspend the rules, seconded by Councilman Kuiper and carried by roll call vote with five ayes. Councilman Philpot made a motion to adopt Ordinance #2013-14 by name and title only, seconded by Councilman Parker and carried by roll call vote with five

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eyes on roll call vote. Councilman Kuiper made a motion to set the rules back in to place, seconded by Councilman Earley and carried with five ayes on roll call vote.

1st Reading - Ordinance #2013-15 - Amend Lowell Zoning Ordinance - Building Permit Fees - Building Official Tom Trulley explained that since the building fees have not been adjusted since 1997, the financial consultant felt that this year would be a good time to raise the building fees since we are going to be able to lower the sewer tap-in fees. The pay-out for the contractors will be the same for new buildings, but it is just a different way of balancing it. The building fees will be closer to what they should be, but we are still at about 75% of anyone else. Councilman Earley stated this is actually a recommendation coming from the Plan Commission because they did the comparison with several other communities, and we will now be a little more inline with surrounding areas. Councilman Kuiper made a motion to hold Ordinance #2013-15 over for a second reading, seconded by Councilman Philpot and carried by with fives ayes on roll call vote.

Resolution #2013-13 - Temporary Loan - President Corns read Resolution #2013-13 that transferred \$250,000 from Sewer Improvement Fund to General Fund.. Councilman Earley asked for an explanation. Clerk-Treasurer Walters stated it is a temporary loan because we will not be receiving a tax draw until December 31st., we have asked for a tax advance, but have not received one, and we have bills that need to be paid. Councilman Earley made a motion to approve Resolution #2013-13, seconded by Councilman Kuiper and carried by with five ayes on roll call vote.

UNFINISHED BUSINESS

Public Works Department Update - Public Works Director Greg Shook stated we are still waiting on the IDEM and DNR permits for the Powell Ditch Project. We are also waiting for INDOT's approval of the supplemental agreement that the Council has passed for the curb and sidewalk project. At the Wastewater Treatment Plant, Austgen Electric should be finished up with the

new electrical service for the stormwater pumps next week. At that point everything will be complete except for the start-up of the system, which we will need to wait for a pretty good size rain to get enough flow.

WWTP Improvement Project - Approve Pay Request #43 to Commonwealth Engineers - \$1,000 and Pay Request #44 to Thieneman Construction - Partial Payment No. 17 - \$164,328 and forward to SRF for final drawdown payment and pay \$47,891 balance from Sewer Improvement Fund - and approve Partial Payment No. 17 to Thieneman for release of retainage - \$239,931.73 - Councilman Earley made a motion to approve Pay Request #43 to Commonwealth Engineers for \$1,000 and forward to SRF, seconded by Councilman Parker and carried by roll call vote with five ayes. Councilman Kuiper made a motion to approve Pay Request #44 to Thieneman Construction, Partial Payment No.17 for \$164,328 and forward to SRF for final drawdown payment and pay \$47,891 balance from the Sewer Improvement Fund, seconded by Councilman Earley and carried with five ayes on roll call vote. Councilman Earley made a motion to approve Partial Payment No. 17 to Thieneman for the release of retainage of \$239,931.73, seconded by Councilman Kuiper and carried with five ayes on roll call vote.

Water Distribution System Master Planning - SEH - Craig Hendrix, SEH Engineers, stated they had been asked to create a proposal to analyze Lowell's existing water distribution system and look at any improvements that may be necessary in order to take on annexation and to plan for the future of your system. He stated they will create a hydraulic model of our existing system, look at the growth within the existing system, such as storage and improvements that are necessary to supply existing customers within the service area, and look at the impact of annexation areas on your system. Currently they are only looking at areas A, B, and C since that is what the Plan Commission put together in their annexation schedule. He stated the model is good because you can then add different sections to it without

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recreating the base model. The model will be given to the Town to be able to add future annexation areas to it. Mr. Hendrix stated they will also be looking at fire flow, storage, unaccounted for water such as system leaks or customers who's meters are not working properly.

It will take about four months for the project and after that the Town will have a report that will be presented to the Council showing what we have found. The total fee estimate is \$50,860 and in comparison, a project was just completed for Whiting and their cost was \$42,000. They have the same amount of flow, but a much smaller system and they were not looking at any potential annexations.

Councilman Earley stated the Council has before us a study that Commonwealth prepared on the plant and the possibility of acquiring more water out at the water plant. Mr. Hendrix stated we are not looking at your plant or supply, we are looking at the distribution system. Director Shook stated we are treating the plant and distribution separately. As far as the additional water supply, there has been conversations with Dean Button from SEH and he is the one who will be looking in to that and talking to IDEM about the sand pit next door. Mr. Shook stated

this project is strictly the distribution system, and the biggest expense is creating the initial model of the existing system. When he says, we will get the digital files, if in the future the Council changes engineering firms, we will still have the model. As you go in to different areas looking at annexation, there will be a charge to add on to that model. Mr. Hendrix gave an example of the base model being done and in the future having to add an annexation area. Councilman Earley asked if Mr. Hendrix was referring to the annexation plan when he was talking about areas A, B, and C. Mr. Hendrix stated that was correct. We will evaluate the effects of those areas and their proposed land use on the existing system. Councilman Earley asked if areas A, B, and C were the only areas that would be included in this report. Mr. Hendrix stated that was correct, but we will be looking at some other areas as well outside of A, B, and C to try and see how we will be able to feed the surrounding areas as well. We do not want to make an improvement to serve only A, B, and C, and not the surrounding areas. Discussion followed.

President Corns asked if money was available for the project. Clerk-Treasurer Walters stated we could take it out of the Improvement Fund. Councilman Earley asked if we had done a study like this in the past. Director Shook stated we have not. Commonwealth had done somewhat of a model, but it was not as detailed and had not been used in a while. Councilman Parker asked if we would have the model. Director Shook stated if we purchase Water Cad, it is a possibility that we could run the model ourselves. Councilman Parker stated you are also doing something with upgrading our standards, and we should have that but we do not, even though we paid for it. Discussion followed regarding the digital files that will be received and that were not received in the past. Councilman Philpot asked what would happen in five years if the disk that is given to us is not compatible with the new system or new technology. Mr. Hendrix stated typically newer models with Water Cad can go back and bring certain files up to date. When you upgrade your Water Cad, you give them the current copy and they give you a new one back so you should be able to convert this file much like a Word file. If you have a newer version of Water Cad than what we use, you will be able to use it and up convert it. If you have an older version, we would have to downgrade it for you.

Councilman Earley stated this seems like a large sum of money for a study of this nature. He asked Mr. Shook if he could give the Council an idea if this is a normal cost. Director Shook stated he has not had one done recently, but there is a lot of work that goes in to developing this. Councilman Earley asked under the item 'fee estimate', is it an estimate or what we will pay. Mr. Hendrix stated it is a lump sum. If the cost goes over that amount, it does not matter, the Town will pay the flat rate. Councilman Parker stated this is something that is needed, and we have talked about doing a sewer plan as well. Director Shook stated we wanted to get the water going first because it is more complicated and will take the most time. With sewer, you do not have to create a model like you do with water. Mr. Shook gave an example of how the model will be used when trying to plan different land uses. Discussion followed.

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Councilman Parker made a motion to approve the Water Distribution System Master Plan with

SEH Engineering in the amount of \$50,860., seconded by Councilman Philpot and carried with five ayes on roll call vote.

Code Enforcement - Building Official Tom Trulley stated last week President Corns and himself interviewed a couple of candidates for the Code Enforcement position and he would like to have him start next week. Councilman Parker asked if a conditional offer was already made. Mr. Trulley stated yes. Councilman Kuiper made a motion to approve Mr. Trulley's recommendation, as long as the candidate passes pre-employment testing, seconded by Councilman Parker and carried with five ayes on roll call vote.

911 PSAP Interlocal Agreement - Public Meeting 10/29 - President Corns stated there is a public meeting October 29th at the Lake County Government Center regarding the 911 Consolidation packet that the Council has copies of. He encouraged everyone to attend the meeting and ask any necessary questions regarding the consolidation. Councilman Earley stated Nicole Bennett from Westland, Kramer, and Bennett is one of the attorneys for the 911 Consolidation. She has offered to come down and talk to us before this public meeting so that we could ask some questions. Mr. Earley asked if the Council would be okay with scheduling a meeting between the Council and Ms. Bennett to discuss some questions before October 29th. President Corns stated that if Councilman Earley would like to see what Ms. Bennett's schedule looks like, he could arrange a meeting.

Memo of Understanding for Joint 911 PSAP2 Entities - Mike Forbes, St. John Town Council Member, stated with him at the meeting is St. John Town Manager Steve Kil, and the Technical Assistant in the PSAP proposal, Cliff Wroe. Mr. Forbes stated, "The most asked question that we are receiving is why now. The plans have been going on for four years in the County, so why jump in to this with a new proposal. When we saw the numbers in the paper of what was going to be spent on this consolidation, we saw that it was upside down and did not agree with it. We did not just start thinking about this consolidation. I have been involved in one way or another with the consolidation for the past four years. The fundamental reason for consolidation is to save money and improve efficiency at the same time. We were startled when we were informed that the purpose of this consolidation was not to save money. That was stated in the 911 meeting at the County. If you are going to consolidate there is supposed to be a cost savings and improvement in efficiency. With all of the information that you have received, our proposal does that. The biggest outstanding question and the basis of the County's proposal is the surrender of your levy. It has been repeated that you have to surrender your levy, but that is not true. Allen County has consolidated and they are one dispatch center short of complete consolidation, but they are doing it based on call volume."

Councilman Earley stated there were some pretty strong statements made at the last 911 consolidation meeting, and obviously sooner or later they are going to need to be answered before we can make a good decision for the Town. He states one of the biggest ones was that it has been said that it is impossible for a system to use current technology and still communicate with the eight hundred megahertz system that the County is proposing. He

asked if they could elaborate on that. Technical Assistant Cliff Wroe stated, "It can work, there are Counties that do it now that are interconnecting the systems. If they do an eight hundred system, which is a multi-million dollar expense for Lake County, to interconnect would not be an issue. There are several different companies that do interconnect, but if they do an eight hundred system, Motorola would be the best company to choose." Councilman Earley asked if this is nothing unusual. Mr. Wroe stated no it is not. This all hinges on if Lake County will approve to spend that kind of money on an eight hundred system. Councilman Parker asked if that is all part of the Hoosier Safety Network. Mr. Wroe stated it is not. The system that Lake County wants is separate from the Hoosier Safety Network. Councilman Parker asked what the status of that network was. Mr. Wroe

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stated for being cutting edge technology, it is adequate. Other Counties have been able to take advantage of that, but unfortunately Lake County cannot just because of our size. Mr. Wroe went in to detail of why Lake County cannot take advantage of that system. Councilman Parker stated the cost to go that way would be astronomical. Mr. Wroe stated the State would have to actually upgrade there system, which they are talking about doing it. Discussion followed.

Councilman Earley stated to Mr. Forbes, that he has been told for months that this is impossible and the proposal is technically illegal because there would have to be some sort of legislation change. Since speaking with you and the last meeting, we have talked about other communities doing basically or exactly the same thing that St. John is trying to do and there are facilities up and running. Mr. Forbes stated this proposal is completely within the existing law. He stated he has spoken to many State Legislators and there is no need for any changes in the law for this proposal to go forward. We still have the same deadline, but we are still unclear as to what the consequences are or if they will be implemented. The law does not state that you will lose your 911 money.

President Corns asked what the idea was behind going to East Chicago and building a dark site.

He said it is idiotic to spend that kind of money and then have a site that is not manned and you do not know if it will work in the case of an emergency. Mr. Forbes stated that is the downside to the County's proposal. He stated, "You are building a complete PSAP system, and there will probably be individuals there, but it does not make sense to have all of that equipment sitting there until you need it. Our proposal calls for PSAP1 and PSAP2 to be each other's back up. All of the units in each PSAP will be live and rotated through so you know that that station is live and operating when you need it. In the event that PSAP1 goes down, PSAP2 will be able to be fully functional for PSAP1 and visa versa." Discussion followed. Mr. Wroe stated there is a fatal flaw in their plan. If PSAP1 goes down and PSAP2 has to go live, it will take maybe fifteen minutes to get to PSAP2 and turn the equipment on. In this time, officers have no radio contact, no 911 calls are being answered, and no administrative calls are being answered. This is their acceptable plan.

Councilman Earley stated he would like to bring the focus back on to St. John's proposal. Councilman Parker asked how would you get the County to acknowledge your recommendation.

Right now, it is like you are recommending a third PSAP, which is why they are saying the legislation needs to change because they have in mind that they have their two. Councilman Kuiper stated, "That is not my perception through those meetings at all. They are hearing you loud and clear. This is the first time that it has been challenged. There have been a lot of things told to us in those meetings, which we think is gospel, but we are finding out that it is not.

There is no doubt in my mind that they are hearing you. As far as PSAP's, they are talking about two in the County, but we know that there will be about three or four in the County. The largest municipality can have their own PSAP, which would be Hammond, also an airport can as well, which Gary has an airport. This proposal is real and it should be up to them to challenge your numbers now." Mr. Kuiper asked Mr. Forbes to comment on the cost of the proposal and if it will put us behind. Councilman Kuiper stated in his opinion, it will save us money and you are further along than the County is. Mr. Forbes stated he would agree with that comment.

We have taken a couple of other steps such as the memorandum of understanding, which was released prior to the drafting of an interlocal agreement. We have not received anything like that from Lake County. Mr. Forbes explained the reasoning for the memorandum of understanding. He stated,, " If ten communities sign on to the memorandum of understanding, the County will listen at the end of the day." Councilman Parker asked what their time frame is on this. Mr. Forbes stated we are both under a time constraint, so sooner is better.

Councilman Earley stated from what he could see, what St. John has done in the past few months has brought them up to where the County is after several years. Councilman Kuiper stated he believed, from the meetings he has been to, that it is not the 911 Commission that is challenging the proposal, it is the County Officials. Mr. Forbes stated this thought has been around, but it has not

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grabbed any attention until the numbers were released. That is when the group started to form and really start looking in to this consolidation. He stated he did not want to say that he is challenging the County, but he is taking them to task.

Councilman Earley stated it has been difficult sitting in those meetings and hearing the implications that if this process is messed with, then that will delay us even further. As a community that has been watching this happen for the past four or five years and has not delayed anything, my back is feeling like it is up against the wall to make a decision. He stated he would like the Council to consider this and see it through until they can be proven wrong. Councilman Earley made a motion to approve the Memorandum of Understanding, seconded by Councilman Kuiper. Councilman Kuiper stated he agreed with Councilman Earley and added that we have to make the best decision for our community and make sure that we get the best bang for our buck. President Corns stated he has always said that Lowell is putting up \$190,00 and Merrillville is putting up \$360,000. Merrillville is about four times larger than Lowell, so they should be putting up almost \$1million. He stated that information and the dark site are his contentions. Councilman Earley asked if they had ever seen a County with a dark site. Mr.

Forbes stated that will be unique to Lake County. Mr. Wroe stated Marion County does have a dark site, but they have an agreement with other communities to alleviate that time between transitions. There are communities that have found out the necessity of having two sites, such as Allen County. A dark site is not common. Councilman Parker stated a dark site is not required in the statute either and there are other Counties that have two PSAP's. The motion carried by roll call vote with four ayes and Councilman Parker abstaining.

Tabled from previous meetings:

South County Community Services - This item was not discussed.

NEW BUSINESS

INDOT Application for Local Funding for new Projects for 2018 - Director Shook stated we have received a grant from federal highway and we are currently in the process of replacing sidewalks and curbs. We just received notice that they are going to start taking calls in the spring for more road projects for the fiscal year of 2018. There have been some concerns in the past about State Road 2 between Burr and Holtz Road, and is proposing the Town look in to this grant and have SEH prepare a conceptual that will be discussed with Planning Consultant Jim Mandon and presented to the Council so that we can make application for another 80/20 grant.

Mr. Shook stated we would be looking to put it out to bid July 1st of 2017 to May of 2018. With the project we have, INDOT has pushed it out further due to funding. There is a possibility that we get to 2018 and it may go in to 2019. These kind of projects take a long time. Mr. Shook stated this is the only kind of 80/20 deal that we know of. This is a very expensive project with the government paying 80%. Councilman Kuiper made a motion for Director Shook to continue with getting a proposal together, seconded by Councilman Parker and carried by with five ayes on roll call vote.

Councilman Parker asked Mr. Shook if he had any discussions with the High School regarding the improvements they were going to do. Mr. Trulley stated they are still going to be moving the bus garage. Councilman Parker asked if we have coordinated anything with them for future road improvements. Mr. Trulley stated we have talked to them about the potential of Burr Street being extended down to Belshaw Road. Councilman Parker asked if there has been any discussion about Holtz Road. Mr. Shook stated we have not had any conversations regarding that.

Affordable Care Act - Clerk-Treasurer Walters stated there are a lot of different things in the Affordable Care Act, but one of them is that as a Town with more than fifty employees, if an employee works more

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than thirty hours in a week, we have to provide them health insurance. Right now we have some part-time employees that work an average of thirty-two hours, so at the first of the year,

we are going to make sure they work no more than twenty-four hours in a week. There is a penalty and a fine that can be imposed on a Town if the employee goes over thirty hours and is not provided health insurance. She stated as the Town Fiscal Officer, she would be legally responsible if there was a fine. She stated the State Board of Accounts has taken the opinion that if the Council would approve that it is our decision, if we are not going to provide health insurance to those employees, to take the fine rather than pay for their health insurance. Mrs. Walters also asked if the Council would allow her to work with the Town Attorney to get someone who could explain the law a little better to herself and the employees. Councilman Earley asked if the penalties were outlined. Mrs. Walters stated she was not sure where to find that information. Town Attorney David Westland stated you need a motion that the Town will pay the penalties, fines, and taxes if they do have an employee that goes over the thirty hours, and that you will hold the Clerk-Treasurer harmless and that she will not be personally held responsible. Councilman Kuiper moved to make that motion, seconded by Councilman Earley. Mr. Westland stated according to the sheet that the State Board of Accounts put out, as long as that is in your minutes and you vote on it, then you are protecting your Clerk-Treasurer. Councilman Philpot asked if the thirty hours was for one violation. Clerk-Treasurer Walters stated we will try to make sure that the employees do not go over that thirty, but if one does, that would be a fine. The motion carried by with fives ayes on roll call vote.

ANNOUNCEMENTS

President Corns announced Trick-Or-Treat hours are October 31st from 5:00 P.M. - 7:00 P.M.

President Corns announced that the next regular meeting would be held Monday, October 28, 2013 at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

Melanie Cspegia stated that she had missed the conversation with Mr. Shook regarding the upcoming INDOT projects. Mr. Shook explained that he was going to look in to applying for another grant in the spring to widen State Road 2 for 2018.

ADJOURNMENT

With no further questions or comments, Councilman Parker made a motion to adjourn at 8:10 PM, seconded by Councilman Kuiper and carried by voice vote with five ayes.

Edgar Corns, President

Attest:

Judith Walters, Clerk-Treasurer