

**LOWELL TOWN COUNCIL MEETING
REGULAR MEETING
DECEMBER 30, 2013**

The regular meeting of the Lowell Town Council was called to order on Monday, December 30, 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 Jack Kramer, Town Administrator Susan Peterson, Public Works Director Greg Shook, Police Chief Erik Matson, Building Official Tom Trulley, two members of the media, and nine citizens.

NOVEMBER TREASURER'S REPORT

Councilman Parker made a motion to approve the November Treasurer's Report, seconded by Councilman Kuiper and carried with five ayes.

APPROVAL OF MINUTES

Councilman Earley made a motion to approve the December 9, 2013 regular meeting minutes, seconded by Councilman Kuiper and carried with five ayes.

APPROVAL OF VOUCHERS

President Corns stated he reviewed White Vouchers #2314 - #2405, White-Police #4275 - #4293, Water #2824 - #2870, Waste Water #3674 - #3716, Stormwater Utility #5073 - #5080, and recommended all of the vouchers for payment. Councilman Earley made a motion to approve the vouchers as listed, seconded by Councilman Philpot and carried with five ayes.

ORDINANCES & RESOLUTIONS

2nd Reading - Ordinance #2013-20 - 2014 Salary Ordinance (as amended) - Councilman Kuiper made a motion to adopt Ordinance #2013-20 by name and title only, seconded by Councilman Parker and carried by roll call vote with five ayes.

Resolution #2013-16 - Transfer of Funds - General - Police and Fire - Councilman Earley made a motion to approve Resolution #2013-16 by name and title only, seconded by Councilman Parker and carried by roll call vote with five ayes.

Resolution #2013-17 - Reducing 2013 Budget Appropriation - President Corns read Resolution #2013-17. Councilman Kuiper made a motion to adopt Resolution #2013-17, seconded by Councilman Parker and carried by roll call vote with five ayes.

UNFINISHED BUSINESS

Public Works Department Update - Public Works Director Greg Shook stated last week the first group was in town to finish up the surveying for the curb and sidewalk project. We also just received the DNR permit for Powell Ditch, but we are still waiting on the IDEM permit. Once we receive the IDEM permit we can start work on that. He stated he also has a meeting with Craig Hendrix from SEH this Friday to discuss the water supply, street paving, and Powell Ditch. Director Shook requested that the Council give him permission to hire someone to fill the open position in the Sewer Department, which is an existing position. Councilman Parker made a motion to give Mr. Shook permission to hire someone for the Sewer Department, seconded by Councilman Kuiper and carried by roll call vote with five ayes. Councilman

LTC REGULAR MEETING - 12/30/13 - Page 2 of 5

Kuiper asked Director Shook if he planned on making some sort of list for the paving project. Director Shook stated he has composed a list over a period of time from people calling in and from the areas that the Street Department has spent most of their time patching. He also stated that the list will be sent out to the Council and they can add anything that they think needs to be added, and then it can be prioritized. Councilman Kuiper asked if there was an idea of how many miles would be paved. Director Shook stated he has not tried to add that up yet. Discussion followed.

WWTP Improvement Project - This item was not discussed.

Recommendation on Dump Truck Bids - Public Works - Director Shook stated the Council has a memo in front of them with a recommendation of where to purchase three one-ton dump trucks from. Back in October, the Council gave us permission to put out to bid for three one-ton dump trucks, but in November, when we were supposed to receive the bids, there were no bids to open. He stated he found out that the manufacturers were in the process of retooling the factories for 2015 cabin chasses. We put back out to bid in November to receive bids in December, and we have received two bids. One was from Smith Chevrolet at \$158,067.21 and the other was from Arnell Commercial Fleet Chevrolet for \$162,006.69. Mr. Shook stated he is recommending that the trucks be purchased from Smith Chevrolet for \$158,067.21. Councilman Kuiper made a motion to accept Mr. Shook's recommendation, seconded by Councilman Parker and carried by roll call vote with five ayes. Councilman Earley asked what would be done with the old trucks. Director Shook stated they will probably be put in auction this spring.

E-911 PSAP Agreement - President Corns stated he had spoken to Steve Forbes from St. John, and he thought that there was a little bit of discussion left. He stated Mr. Forbes had spoken with Brian Hitchcock, and he felt that they would not be ready by January 2015. He also questioned who was going to pay for the dispatchers if our money was taken, but we still needed dispatchers here. President Corns stated that Councilman Earley and himself looked the

inter-local agreement over, and it looks like that is already agreed on in there. Councilman Kuiper made a motion to approve the inter-local agreement, seconded by Councilman Earley. Councilman Kuiper asked Attorney Kramer if he agreed with President Corns that we would be covered if a situation happens like that where they are not ready and we still need dispatchers. He asked if it was Attorney Kramer's legal opinion that the Town is covered under section 6.7 in the agreement. Attorney Kramer stated that is his understanding. He stated Ms. Bennett is the 911 attorney, but he is not an expert on the agreement. Councilman Kuiper stated he spoke with Attorney David Westland about this, and it seemed like he was saying that we are not covered in the agreement. He stated he felt that the municipality was covered, but would be much more comfortable if the legal counsel agreed. Attorney Kramer stated he could not say with certainty whether or not we are covered because he was not sure himself. He stated what he could say is that the agreement that is here is the final agreement. No changes will be made to this agreement. Whether or not the Town is covered by this, he could not answer that. Councilman Kuiper stated after reading this, he did not think that it would hurt to table the agreement until the next meeting. Councilman Earley stated in paragraph B of 6.7, it states that if for some reason our dispatchers leave prior to that date, we will be responsible for hiring someone to replace them until December 31, 2014. The last few words "city and/or towns only until December 31st, 2014" tells me that we are only responsible until that date, and after that point it is the County's responsibility. Attorney Kramer stated that is the way that he reads it, but he cannot vouch for the intent behind that statement. Councilman Kuiper made a motion to withdraw his original motion to approve the agreement, and Councilman Earley also made a motion to withdraw his second.

Councilman Earley stated under the most current agreement, we are receiving our public safety tax back in exchange for a cheaper consolidation, but we have to pay for our own upgraded radio equipment. Under this new agreement it appears that the County Commissioners will be collecting the unincorporated income tax, so Lake County should be responsible for any of the townships responsibilities to our Fire, EMS, or

LTC REGULAR MEETING - 12/30/13 - Page 3 of 5

Ambulance Services. In our case we have a fire department that all three townships, including Lowell, collectively funds, so we will be responsible for a portion of that as well as the County. We do not know what those portions are going to be. We should not hold off too long on approving this, but this is something that we need to clear up. He stated in his opinion the Tri-Creek Ambulance is completely funded by the townships, therefore the County should be responsible for upgrading their radios, and the Town will obviously be responsible for upgrading the Police Department's radios. Depending on how this will be divided up, it could be a difference of \$100,000. Councilman Kuiper agreed with Councilman Earley. They need to reach out to their trustees and let them know where they stand. Attorney Kramer stated he would encourage the Council to invite Attorney Bennett to the next meeting if this is going to be brought up again because she would be able to answer any questions. Councilman Kuiper made a motion to table the agreement until the next meeting, seconded by Councilman Earley and carried by roll call vote with five ayes.

NEW BUSINESS

Approve quarterly Park fees - Councilman Kuiper made a motion to approve the quarterly Park fees, seconded by Councilman Earley. Director Shook stated the fees are the same except for soccer which has gone up \$10 per registrant due to increases in insurance and other costs. The motion carried by roll call vote with five ayes.

Enter into annual agreements with McMahon & Associates - Councilman Parker made a motion to approve the annual agreements, seconded by Councilman Philpot and carried by roll call vote with five ayes.

ANNOUNCEMENTS

President Corns read a proclamation for Town Administrator Susan Peterson's retirement. Councilman Kuiper stated that Mrs. Peterson will be well missed and that it has been an honor and a pleasure to work with her. All of the Councilmen echoed the feeling.

President Corns stated that the next regular meeting would be January 13, 2014 at 7:00 PM.

MEDIA QUESTIONS/PUBLIC COMMENTS

Councilman Earley stated there was recent discussion about the C&D Landfill on the west side of Town. He understands everyone has different opinions, and respects that, but he did not agree with the way that the possible annexation of that landfill was being handled. Councilman Earley stated that he spoke with the President of the Annexation Committee and it has never been formally on their agenda. Landfills around here are a very sensitive subject. He stated there are a lot of people around here that are concerned about it, and some people in unincorporated Lowell in West Creek as well. Councilman Earley stated that he would like to make a motion that no further meetings or negotiations take place between this Council and Republic Service with our attorney and that all or any meetings that happen be held in a public form, such as a work session, where all of the Council can be there. This way if we approve or disapprove of it, the public can be aware of everything going on. Councilman Kuiper seconded the motion. Councilman Parker stated that he is not quite sure how annexation is supposed to work. There were pocket annexations that sat on desks for six or seven years, and it took three attorneys to finally get what we wanted done. He stated he heard last meeting that if someone wanted a friendly annexation, there is a form that they could fill out, but there was a family that was out there with eighty acres that filled out a form five or six years ago that sat in the office and no one did anything with it. We have said that they can fill out a form and we do not have to talk to them, but on the other hand, we sent a letter to the Lake County Parks asking them to consider voluntary annexation. There are no negotiations and there is a procedure for annexation. If someone wants to come in and ask about annexation, or if a Council member wants to talk to someone

about annexation, there is nothing wrong with that. Just because some people say things and some papers write things, it does not make it true. We have the right as Council members to go out and talk to people and find out the facts, and then there is a procedure that is clear in State statute. He stated to get that information, anyone up here can contact anyone at Republic, or Mr. Novak's and talk. When people get tired of sitting there and talking about it, someone will bring it to the table, and if three people vote on it, then we will move forward with annexing it. If we don't, then we don't. Just because people have said that the landfill is off limits, it does not make it right. He stated he will not stop talking to people about annexation, no matter who it is. Nothing that we have done was improper. Councilman Parker stated there are three Councilmen that are willing to listen to people and consider annexing out to US41. It may not be feasible because we have not talked about tipping fees or anything that they are doing. Anything that is done regarding the landfill or any other annexation, will be done in a public form. He stated if he wants to reach out and talk to someone at Republic or people out at I-65, as long as it does not violate the statute, he will not give up that right.

Councilman Earley stated he respects the fact that people are looking in different directions. It is perfectly fine that you met, but our attorney was there, and there was money spent without the knowledge or approval of the rest of the Council. Councilman Parker stated the Town Council President in every community, this one included, has been able to go to the attorney and use their services. Your President reached out as a courtesy to the Councilmen and asked for a consensus. Two people said no, so apparently the other three thought it was okay. Councilmen Earley stated he was asked if he would support Councilman Parker and President Corns negotiating an agreement, which he did not support and did not realize that there was going to be a meeting. Councilman Parker stated there was a meeting, but there was no negotiations. There was no talk about host fees, future development, or anything like that. There were some legal things that they wanted to know, which is why the attorney was there. Councilman Earley stated if you go back to the motion, he is just asking that any future meetings be done publicly so that the community and all Councilmen can be a part of it. Councilman Parker stated you are saying we have to stop talking to them as individuals. Councilman Earley stated he was not asking that, rather Town money not be spent on it. Discussion followed. Councilman Philpot stated he was confused because Councilman Earley is saying that he was not aware of the meeting, yet he was contacted about it. Also, if any Council member is going to meet with anyone and that other person is going to have a lawyer present, it is un-wise for that Council member to not have legal counsel present. Councilman Earley stated he was not advised that the attorney would be there, or that there was going to be a meeting. He stated he was asked if he would approve two Council members negotiating annexation with Republic. Councilman Kuiper stated he agreed with what everyone has said, but the question was if he would support going out and negotiating a friendly annexation, which he would not. Councilman Parker stated he did not make that comment. There were just legal questions that they wanted answered. Discussion followed. President Corns stated he fought the landfill as hard as anyone else, but it is there and we will have to live with it. In the time that landfill has been there, he would guess that the Town of Lowell has lost out in \$2 million in host fees.

Councilman Parker stated to get to US41, you will have to deal with the landfill. The bottom line is, there was discussion, and if they want to come in, you will have a friendly annexation form or we can bring up the annexation of the landfill. Discussion followed. Councilman Earley stated he will go back to his motion which is if there are future meetings or conversations with them about annexing under the condition that we allow an expansion of that landfill, the whole Council should be involved and the public. The motion was defeated by roll call vote with three nays and two ayes. Councilman Philpot, Councilman Parker, and President Corns voting nay. Councilman Earley stated you would rather not allow the public to sit in on any discussion or understand the transparency of annexing the landfill. Councilman Parker stated that is not what was said. You have the right to have an attorney present to have discussions before you get in to annexation. Discussion followed.

LTC REGULAR MEETING - 12/30/13 - Page 5 of 5

ADJOURNMENT

Councilman Parker made a motion to adjourn at 7:40 P.M., seconded by Councilman Kuiper and carried by voice vote.

Attest:

Edgar Corns, President

Judith Walters, Clerk-Treasurer

