

**LOWELL TOWN COUNCIL MEETING
REGULAR MEETING
MARCH 25, 2013**

The regular meeting of the Lowell Town Council was called to order on Monday, March 25, 2013 at 7:05 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, Director of Public Works Greg Shook, Building Official Tom Trulley, Town Administrator Susan Peterson, Interim Police Chief Erik Matson, two members of the media, and twenty-two citizens.

FEBRUARY TREASURER'S REPORT

Councilman Kuiper made a motion to approve the February 2013 Treasurer's Report, seconded by Councilman Parker and carried by voice vote.

APPROVAL OF MINUTES

Councilman Kuiper made a motion to approve the March 11th regular meeting, study session, and executive session, and the March 14th executive session and special meeting minutes, seconded by Councilman Parker and carried by voice vote.

APPROVAL OF VOUCHERS

President Corns stated he reviewed White Vouchers #1263 - #1311, White-Police #4055 - #4062, Water #2174 - #2197, and Waste Water #3136 - #3164 and recommended all of the vouchers for payment. Councilman Philpot made a motion to approve the vouchers as listed, seconded by Councilman Kuiper and carried by voice vote.

ORDINANCES & RESOLUTIONS

Resolution #2013-03 - Authorizing an Interlocal Cooperation Agreement for Ethics, Training, and Administrative Services - Councilman Kuiper made a motion to table Resolution #2013-03, seconded by Councilman Earley and carried with four ayes and one nay. Councilman Philpot voting nay. Councilman Parker asked Mr. Westland if he was going to get with Mr. Bellamy to discuss the changes that were brought up during the study session concerning the costs. Mr. Westland stated he will do his best to get it re-written.

Resolution #2013-04 - Temporary Loan of \$900,000 from Sewer Improvement Fund to General, M.V.H., and Park Fund - President Corns read Resolution #2013-04. Councilman Kuiper made a motion to adopt Resolution #2013-04, seconded by Councilman Philpot and carried by voice vote.

1st reading - Ordinance #2013-03 - adopting Code of Shared Ethics and Values of the Shared Ethics Advisory Commission - Councilman Kuiper made a motion to hold over Ordinance #2013-03 for a 2nd reading, seconded by Councilman Parker. Councilman Philpot stated it is important to get the Ordinance passed tonight. The motion carried with four ayes and one nay. Councilman Philpot voting nay.

1st & 2nd reading - Ordinance #2013-04 - 2013 Salary Ordinance - Councilman Earley made a motion to adopt by name and title only the 1st reading of Ordinance #2013-04, seconded by Councilman Parker and carried by voice vote. Councilman Kuiper made a motion to set the rules aside, seconded

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by Councilman Parker and carried by voice vote. Councilman Kuiper made a motion to adopt Ordinance #2013-04 by name and title only, seconded by Councilman Parker and carried by a roll call vote. Councilman Kuiper made a motion to set the rules back in place, seconded by Councilman Earley and carried by voice vote.

UNFINISHED BUSINESS

Councilman Kuiper made a motion to add a discussion on the 911 pilot program with the County to the agenda, seconded by Councilman Earley and carried by voice vote. President Corns stated we were supposed to send two of our dispatchers to Crown Point, and after speaking with Mr. Matson none of the ladies wanted to go to Crown Point. President Corns stated he attended three sessions with the County Council and they were opposed to hiring two full timers and wanted Lowell to pay their salaries and insurance. The discussion with them dragged on for about two days, and Tuesday afternoon Mr. Scheub told Mr. Corns he had until 10:00 AM Wednesday morning to either keep this item on the County Council's agenda, or to remove it. President Corns told Mr. Scheub he did not have two dispatchers to give, so the item had to be removed. Councilman Kuiper asked what would have happened if we told them we could not give them an answer in that short of a time frame. President Corns stated he could have, but to keep the process moving he did not know what to do. Councilman Philpot stated he did not know how Mr. Corns could answer that question because he would be seconded guessing Mr. Scheub and the County Commissioners. Councilman Kuiper stated there would be no second guessing, and stated he was just curious what would have happened if Mr. Corns told them he could not give them an answer that quickly. President Corns stated he did the best he could.

Councilman Earley stated President Corns called him Tuesday about various issues that Mr. Matson had brought up to him. Councilman Earley stated he told Mr. Corns if he had time he would like to meet with Mr. Matson to hear first hand about the issues, some of them being not having the dispatchers to send and the radio communication. He stated Mr. Corns had told him he had until 4:00 P.M. Tuesday to let him know how to proceed. Mr.

Earley stated he believed it was not proper to make a decision over the phone because this is more than just an answer that Mr. Corns himself should have been giving Mr. Scheub. He stated he went to speak with Mr. Matson and when he left he called Mr. Corns and stated this should be an item put on the agenda for the meeting because this issue was something the Council should decide on. Mr. Earley stated Thursday morning he received a phone call from the local newspaper asking for a comment on the decision that Lowell made to pull out of the 911 pilot program. The reporter referred to a couple of other articles when he responded that he was unaware of any decision. He stated he had not heard back from Mr. Corns since the conversation Tuesday, and that if you read those articles, it seems that Lowell has made a decision to pull out according to County Commissioners. Discussion followed.

Councilman Earley stated he would appreciate not being informed by the newspapers what the Council decides.

Councilman Parker asked if an agreement was signed with the County Council. Attorney Westland stated we did pass an agreement, but the issue you have is you have the County Council, the County Commissioners, and the County Sheriff who were all coming at this from different points of view. Attorney Westland stated, "The first agreement that was reviewed and passed was an agreement that Chief Shelhart worked on with myself and the Sheriff's attorney. That agreement stated the Town would pay a set sum of money annually to the County, and the County was responsible for hiring the dispatchers. After that agreement was approved, it went to the County Council's attorney where there was discussion about the County not wanting to be responsible for hiring the extra personnel, so he changed the agreement. The agreement that the County Council approved was going to go in front of **LTC REGULAR MEETING - 3/25/13 - Page 3 of 8**

the County Commissioners. Legally, we passed an agreement, they rejected that and changed the agreement, and for whatever reason Mr. Scheub wanted an answer if that counter-proposal would be acceptable or not." Mr. Westland stated he did read the articles and there was not necessarily a "pulling out" of the agreement, rather the Town knew that agreement would not work because they did not have the two dispatchers to transfer right away. If the County Commissioners would have approved the agreement and sent it to the Town Council for approval tonight and you passed it, we would immediately be in breach of that contract because we do not have the two dispatchers to transfer right away. He stated to Mr. Kuiper's question, you still could have a sit down and resurrect the idea, but you will not get anywhere unless the Town of Lowell, the County Council, the County Commissioners, and the County Sheriff are represented. Councilman Parker stated when this started it was as a pilot program, and this is why we got involved in it to find out what the stumbling blocks were. The Sheriff brought up some good points when he could not get the County Council to approve the agreement we had. In the long run, the way the Council has it set up, you will end up with sixteen agencies. The employees will not be the County's, but each individual agencies. You would think we would have known we did not have the two dispatchers to send up there earlier on. He stated the County Council needs

to sit down and get with their attorneys because the first agreement that we signed was drafted by their people, reviewed by us, and we agreed to that, and then they changed it mid-stream.

Councilman Earley stated the point of the fact is that we, as a Council, have never made a decision. We cannot do anything with our original contract because it is null and void. He asked President Corns if we are going to discuss what to do next, or if he has decided that it is a dead deal and we are walking away. He stated Mr. Scheub probably could have waited until after our meeting so that we could have discussed this properly, but that is a done deal. After what has happened with our police department and the chaos that has developed in our dispatch department, we need to back off and fix what we have going here before anything else. He stated he understood the back and forth with the contract, but he disagrees with the fact that Mr. Corns made a decision himself for the Council. President Corns stated he had to give Commissioner Scheub an answer, and he did not know what to tell him. Councilman Philpot stated the County did not have their ducks in order, plus a 911 director resigned, and then comes all of the different versions of the contract. Someone needed to get things in order before we could proceed. President Corns stated his concern was losing our dispatchers, we are going to possibly be three officers short, and if the Chief has to take two police officers off the street to do dispatching, then we will be really short. Councilman Earley stated he agrees with backing out, but he did not agree with the way it was done. He stated his concern was what would be decided for the Council next without a discussion or a vote.

Public Works Department Update - Public Works Director Shook stated Little League is building a concession stand at the VFW and we have been working with them on getting water and sewer to the concession stand. Water is hooked up, but we are having issues with the sewer. They were going to tie in to the sewer line that the VFW is using, which would have been fine and there would have been no tap fees assessed. When that sewer line was dug up, it was discovered that it is no longer in service. They will have to run a sewer line down the hill and tie in to a manhole at the interceptor sewer. With that being a new tap, the Town would normally charge a sewer connection fee of \$3,655., and Little League would like to see if the Council would consider waiving that fee.

Jim Brooker, 17316 Camelot Dr., stated the concession stand is in its final phase and they are hoping to be open for opening day on April 20th. The water is hooked up and working well, but the issue is now with the sewer line having to be redirected. Councilman Earley asked what type of time frame they were looking at before the opening of the season. Mr. Brooker stated if they get approval the

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sewer can be in in a couple of days, weather permitting. The VFW has been great to work with, but unfortunately it did not work out. Councilman Earley asked what the plan is for

long term because there is a contract with Little League and Freedom Park. Mr. Brooker stated it looks like long-term the idea is to stay at the VFW. Councilman Earley made a motion to approve waiving the tap fees for the Little League, seconded by Councilman Kuiper. Mr. Kuiper asked about looking in to the contract at Freedom Park. Councilman Earley stated he would like to waive this and then talk about what will happen at Freedom Park. Councilman Parker asked Mr. Shook if everything was okay from his perspective. Mr. Shook stated if we waive the fee, he would like to see the Little League terminate the contract with Freedom Park. Just today that contract was given to our attorney to review to see if there was anything we could do on our side to terminate it. He stated he knew the Little League wanted to hold on to the land because they have some money invested in engineering fees. Councilman Philpot asked if that was a twenty-five year contract. Mr. Shook stated that was correct. Councilman Philpot stated Freedom Park is kind of held hostage and he agreed with Mr. Shook that it would be nice to see the contract voided. Councilman Earley stated he would like to ask Mr. Brooker for his help in getting this to the Little League board so we can see how to proceed. Councilman Philpot asked if we could move forward without first discussing the contract with them. Councilman Earley stated his motion has nothing to do with the contract, just waiving the tap fee. The motion carried by voice vote.

President Corns introduced the new Intern Police Chief, Erik Matson, and asked if he would like to say anything. Mr. Matson thanked everyone for the opportunity and stated that he would do the best job that he could for the Town of Lowell. Councilman Philpot stated he has met with Mr. Matson and spoken with a couple of police officers and the Police Department seems to be a happy department. He stated Mr. Matson has received the support of many and the department seems to be working as a team, and congratulated Mr. Matson on his position and what he has accomplished thus far. President Corns stated he does not envy Mr. Matson's position and knows that it is a tough position to be in, and he respected Mr. Matson for saying he will do his best for the Town of Lowell.

Act on proposal to provide engineering design services for Powell Ditch Improvement Project - \$22,500 - SEH - Mr. Shook stated that cost will get us to the point of getting this out to bid for construction. Staff did meet with the County a couple of weeks ago, and Craig Hendricks from SEH is here to answer any questions. The only other cost would be the survey for the easement, which was discussed with President Corns earlier. President Corns stated it did say in the agreement we need to get the easements and asked if we have to have those before we proceed. Councilman Kuiper stated he would like clarification, and asked if the \$22,500 just gets us out to bid and if we had any idea as to what the next costs will be. Mr. Hendricks stated the Town had a few alternative designs, one which included a large culvert, which is probably not the route you would like to take. Spending that kind of money would not buy anything. He stated the ditch currently does not work as is. The Town is proposing to do some widening and put a different type of outlet in that would not cause Cedar Creek to back up in to Powell Ditch. He stated he is thinking of a much smaller

discharge pipe with a flap gate on it. The Town will do the excavation work for the ditch, but the pipe will have some things on it that we would need to hire a contractor for. Councilman Kuiper stated as far as flooding, what would we gain. Mr. Hendricks stated a good portion of Powell Ditch is located in the floodway, and there will be certain times between when Powell Ditch is draining ahead of when Cedar Creek is draining from all of the area up north. We will be able to shove as much water through Powell Ditch and get in to Cedar Creek as we can before Cedar Creek rises up and the flap closes and we store water in Powell Ditch. This will help during smaller rain events, but it will not help for a one hundred year rain. The idea is to get more water in to Cedar Creek faster, which it cannot do now, before Cedar Creek rises and takes out the ditch.

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Councilman Kuiper asked if we had any idea as to how much the construction will cost. Mr. Hendricks stated there is some additional modeling we need to do and also we need to meet the County requirements for discharging into a regulated drain. Councilman Kuiper asked what we paid for the study. Mr. Shook stated he did not know off-hand. Councilman Parker asked whatever happened with the cable that is further south. Mr. Hendricks stated the County is going to look at that trussel and see if they can clear it out. Mr. Shook stated they have not said anything to him, but he will check with them on the status. Mr. Hendricks stated they had an idea that it was an aerator for the fish. According to them, it is at least half way plugged off. He stated he thought they would of cleaned it out. President Corns stated the aeration pools were supported by the conservationists a while ago, but whether they work or are more of a hindrance, he was not sure. Councilman Kuiper stated he was concerned with all of the money we are spending, and asked if there will be a significant change in flooding for those residents. Mr. Hendricks stated this will not change the flood plain. You have a conveyance system that does not work at all right now. At a minimum, under smaller storm events, water would get in and out of there. There is a good 200 acres of Lowell that drain through here. Councilman Philpot stated in waiting to drain, you could have flooding anyway when the ditch stores the water if it continues to rain. Mr. Hendricks stated that was correct. Councilman Philpot stated when we initially discussed this solution, it was made clear that this would not stop flooding, it would just raise the year storm. If we have a ten year storm there could be flooding, or a fifty year storm you can almost count on flooding. Mr. Hendricks stated if you can get water in to Cedar Creek quicker than you can get the water from the Town in to Cedar Creek before Cedar Lake's water comes at you, then yes, you can help in some of the bigger storms. At least this will not take Powell Ditch anymore like it does now. President Corns stated the biggest issue now is when water gets in to Powell Ditch, it cannot get out, other than evaporation. Mr. Hendricks stated there are other improvements such as cleaning the aerators that can help as well. Councilman Philpot made a motion to accept the proposal to provide engineering design services for the Powell Ditch Improvement Project, seconded by Councilman Parker and carried by voice vote.

Discuss garbage and recycling contract - Mrs. Peterson stated the current contract with Republic expires on June 30th, and she had spoken with a representative from Republic and they would like an extension, but they could not get the details of the extension to us until the first meeting in April. Councilman Kuiper stated it has been eight years since we have put that out to bid and regardless of what they come back with, it only makes sense to put this out to bid for our citizens. We should be specific in the bid of what we would like for each resident. Eight years is a long time and a lot of things have changed since then. We may need to do a short term extension with Republic, but it should go out to bid. Councilman Kuiper made a motion to put the garbage and recycling contract out to bid, seconded by Councilman Earley. Mr. Westland stated one thing Mr. Kuiper said was we may need to do a short term extension. June is right around the corner, so if an extension may be needed, you want to include that in your motion to allow for a possible extension while the bid is sent out and contracts are being reviewed. A discussion followed on how long "short term" would be. Councilman Kuiper revised his motion to put the garbage and recycling contract out to bid, but to allow an extension up to six months with Republic while garbage and recycling is being put out to bid and the contracts are being reviewed. The motion was seconded by Councilman Earley and carried by voice vote.

NEW BUSINESS

Offer to become Participating Agency Request in the development of Tier Two EIS for the Illiana Corridor & Section 106 Consulting Parties Request - President Corns read a letter from Jim Mandon, Town Planner, regarding participation in the development of Tier Two EIS for the Illiana Corridor. Mr. Mandon stated by becoming a participating agency and consulting party it will give Lowell a

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place at the table to voice our concerns on the dramatic impact on future development and land uses throughout our community. Councilman Kuiper made a motion to move forward with the opportunity of being a Participating Agency and recommended that Jim Mandon represent the Town of Lowell during deliberations in relation to the Illiana Corridor, seconded by Councilman Parker and carried by voice vote. Councilman Kuiper made a motion to have the Council as a body take a vote to see who is in favor of the Illiana toll road, seconded by Councilman Earley and carried by voice vote. Councilman Kuiper asked for a roll call vote to see who was in favor of the Illiana toll road. He explained if you are for the toll road, vote yes, if you are against it, vote no. Councilman Earley voted no, Councilman Philpot voted no, Councilman Parker voted yes, Councilman Kuiper voted no, and Councilman Corns voted no.

Presentation - South Shore CVA - Kaitie Holderbe, Executive Vice-President at the South Shore Convention Visitors Authority, stated they have gone to several cities and towns to give them a brief overview on tourism. She stated we are a \$1.62 billion industry in Lake

County with 14,000 jobs. We are funded through an innkeepers tax of 5%, which is collected through hotels. Ms. Holderbe explained how the 5% innkeepers tax is divided among different areas. She went on to give examples of some of the large attractions in Indiana including the Indiana Dunes State Park and Fair Oaks Farms, which is continuing to grow. Ms. Holderbe stated they have been working with Valparaiso University which hosts the National Lutheran Basketball Association Tournament and has seventy teams from all over the country come in and stay in Northwest Indiana. We also had the soccer fields in Lowell that brought in, at its peak, two hundred and fifty teams for soccer tournaments. Ms. Holderbe explained that the visitors center was shut down about six years ago, which was at the rest area on I-65 by the Demotte exit, but there is now a brochure rack in that rest area that does have brochures specifically for Lowell, and is maintained by the Lowell Downtown Merchants Association. She stated they also have their visitors center in Hammond where information is handed out about Northwest Indiana and the Chicagoland area. Mr. Corns spoke about some of the additions that Fair Oaks Farms is making within the next couple of years.

Discussion of purchase of new aerial fire truck - Councilman Earley stated the Council received a proposal early March on an aerial fire truck, but that particular unit has been sold. He stated Charlie Scott is here with a new proposal that has been lined up. Charlie Scott, Assistant Fire Chief, stated the Chief presented Mrs. Walters with the facts and figures of this new proposal and we are asking for some serious consideration on this. Our current ladder truck is nineteen years old and getting in to the maintenance cost, and we hope we can do better. Councilman Earley stated he believes we have spent around \$10,000 in the last two years for maintenance on this truck. Mr. Scott stated this unit is a demo that has about 10,000 miles on it, for \$555,000. Councilman Earley stated he understood Chief Gorball had a hold on this truck for two weeks, which was about a week ago. Mr. Scott stated the truck is still available today. Councilman Parker asked Mrs. Walters if we had the funds. Clerk-Treasurer Walters stated we have to first find out if it comes under the public purchasing or if we need to put it out to bid. Mr. Scott stated we were going to ask about the tag-on issue. This truck was bid by specs from another fire department, and in Indiana if someone specs out a truck, everyone can tag under those specs for that price. We were hoping that would resolve the issue of having to put this out to bid. Councilman Philpot asked what exactly that meant. Mr. Scott stated the price is the price. Everyone else can jump on that truck for that price. If we go to the company and say we would like to have a truck exactly like what Goshen got, they cannot come back \$50,000 higher than what Goshen paid. Mr. Westland stated when a State Agency has a specific contract with a supplier for a certain good or service, they have already negotiated the best price possible for that good or service. There is a procedure for tagging on, but it presupposes a contract with a State or Federal agency where, theoretically, the State has already negotiated the best price. He stated as far as the underlying frame work for this particular instance, he is not aware of an underlying contract with Fire

Services Inc. and the State of Indiana. Mr. Kuiper asked if it was something we could look in to and find out if one exists. He stated he is not comfortable telling the Council to move forward with a contract he has never seen.

Councilman Philpot made a motion to table the decision until Mr. Westland can look in to the contract. President. Corns stated we would have to table it to answer the question of putting it out to bid as well. Councilman Parker seconded the motion. Councilman Kuiper asked Mrs. Walters if Mr. Westland finds the contract information, would that satisfy her question. Mrs. Walters stated it would if she knew that the State Board of Accounts was okay with it. Councilman Earley asked if we could call the State Board of Accounts to find the information and if they give an affirmative, would Attorney Westland still need to look in to it. Mr. Westland stated if they okay it, they should be able to supply us with that underlying contract. A discussion followed on how the motion should be worded to move forward. Councilman Philpot withdrew his original motion, and Councilman Parker withdrew his second. Councilman Parker made a motion to approve the lease purchase of the new aerial fire truck as long as all of the State Board of Accounts requirements for purchasing are satisfied, and to also allow Mrs. Walters to move forward with putting the financing out to bid. The motion was seconded by Councilman Earley and carried with five ayes on roll call vote. Mrs. Walters asked if the demo is sold, could we get permission to bid out a truck, or would we need to come back in front of the Council. Councilman Parker made a motion that if the demo falls through, Mrs. Walters and the Fire Chief will work together to put out a bid for a new truck, seconded by Councilman Kuiper and carried by roll call vote.

Act on favorable recommendation from Plan Commission - Zone change from Industrial to Agricultural - Carlson Farms, 101 W. Oakley Avenue - Councilman Parker made a motion to approve the zone change, seconded by Councilman Earley and carried by roll call vote.

Permission for Clerk-Treasurer to enter into agreement for AT&T Complete Link and Centrex Service for phone service - Councilman Parker made a motion to give Mrs. Walters permission to enter into an agreement for phone service, seconded by Councilman Kuiper and carried by roll call vote.

ANNOUNCEMENTS

President Corns announced the next regular meeting will be Monday, April 8th at 7:00 P.M., with a Study Session at 6:30 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

Melanie Csepiga asked what the demo truck would cost. Mrs. Walters stated the truck is \$555,000, with a trade-in of our current truck of \$40,000, so we would end up financing

\$515,000. Ms. Csepiga stated she knew there was an issue with the annual fee on the agreement for the Shared Ethics Committee and asked if that was the reason it was not passed tonight. Mr. Westland stated when Mr. Bellamy was here, he indicated that the annual fee for the first and second year was \$750, but the actual agreement he sent calls for it to be \$1500. President Corns stated we need to straighten out what the actual number is. Ms. Csepiga asked if there was anything that could be stated about the salary ordinance that was passed. Mrs. Walters stated when the budget was approved for 2013, we had budgeted a 3% salary increase. Our budget remains the same as 2012, but we moved line items around so we were able to give employees a 3% raise, which they have not had since 2009. We received our approved budget in the beginning of March, so now the salary ordinance is reflecting

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that. Ms. Csepiga asked if that would be retroactive. Mrs. Walters stated it will be retroactive to January 5th.

ADJOURNMENT

With no further questions or comments, Councilman Parker made a motion to adjourn at 8:25 PM, seconded by Councilman Kuiper, and carried by voice vote.

Edgar Corns, President

Attest:

Judith Walters
Clerk-Treasurer

