

**LOWELL TOWN COUNCIL
REGULAR MEETING
OCTOBER 13, 2014**

The regular meeting of the Lowell Town Council was called to order on Monday, October 13, 2014 at 7:00 P.M. by President Edgar Corns. The Pledge of Allegiance was recited followed by a moment of silence. President Corns announced that Governor Pence had declared Sunday, October 12th, as a half-staff flag day in memory of all of the firefighters that have lost their lives in the line of duty. 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, Public Works Director Greg Shook, Building Administrator Tom Trulley, Police Chief Erik Matson, SEH Representative Craig Hendrix, two members of the media, and seventeen citizens.

TREASURER'S REPORT - September 2014

Councilman Earley made a motion to approve the September 2014 Treasurer's Report, seconded by Councilman Parker and carried with five ayes.

APPROVAL OF MINUTES

Councilman Parker made a motion to approve the September 22, 2014 regular meeting and budget hearing minutes, seconded by Councilman Earley and carried with five ayes.

APPROVAL OF VOUCHERS

President Corns stated he reviewed White Vouchers #1960 - #2027, White-Police #4191 - #4209, Water #2679 - #2739, Waste Water #3535 - #3573, Stormwater Utility #5102 - #5106, and recommended all of the vouchers for payment with the exception of Waste Water voucher #3549, which has been voided. Councilman Parker made a motion to approve the vouchers as listed, seconded by Councilman Earley and carried with five ayes.

MONTHLY REPORTS - September 2014

Councilman Earley made a motion to approve the September 2014 reports, seconded by Councilman Parker and carried with five ayes.

ORDINANCES & RESOLUTIONS

2nd Reading - Ordinance #2014-19 - an Ordinance for appropriation and tax rate for the 2015 Budget in the amount of \$4,956,957, with a budget levy of \$3,464,729 - Councilman Parker made a motion to adopt the 2nd reading of Ordinance #2014-19, seconded by Councilman Earley and carried by roll call vote with five ayes.

1st Reading - Ordinance #2014-20 - additional appropriation in the amount of \$ 4,793.81 for Police Grant Hours - Councilman Earley made a motion to approve the 1st reading of Ordinance #2014-20, seconded by Councilman Parker and carried by roll call vote with five ayes.

Resolution #2014-13 - transfer of funds - LOIT Public Safety- (\$30,000.00) , M.V.H. - (\$6,000.00) - President Corns read Resolution #2014-13. Councilman Earley made a motion to adopt Resolution #2014-13, seconded by Councilman Parker and carried by roll call vote with five ayes.

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UNFINISHED BUSINESS

Public Works Department Update - Public Works Director Greg Shook stated letters have been handed out notifying homeowners of street re-paving and the request to not park on the street beginning this week. Staff will be handing out letters each week to the homeowners that will be affected. He stated that the Council also had a list of streets along with a tentative schedule in their hand-outs. Director Shook stated he had received three bids for the concrete work at the fire department which ranged from \$19,560 - \$28,000. He recommended the lowest bid, which was Big Jim's Concrete at \$19,560. Asphalt bids have been solicited from Walsh and Kelly, Rieth Riley, and Town and Country. He stated he was informed today from Mr. Hendrix that Rieth Riley would not be submitting a bid, so we will award to Town and Country at the lowest bidder at approximately \$48,000.

Update on Town Projects - Craig Hendrix - SEH - Mr. Hendrix stated there should have been a revised schedule of paving projects that went out to the Council and staff members. He stated they are looking at three different mobilizations for the paving. Mr. Hendrix listed the streets that were being milled and re-paved in phase order and stated that the first phase will begin October 15th and 16th, the second phase October 21st and 22nd, and the third phase October 27th and 28th. Once the streets listed are milled, they will be surfaced within seven days in accordance with the contract. If there is available money the portions of 177th, right around the Viant Street area, can be added. The contractor has agreed to hold their price. He stated we are limited, however, to doing a change order of up to 20% for the project. There will also be a fourth mobilization, which is the fire and police station. The concrete work will begin next Monday, so the milling there will begin in about two weeks.

In regard to the Powell Ditch Project, Mr. Hendrix stated the contract was signed, the notice to proceed was issued and the materials have been ordered. There is a long lead time on the outlet fixtures, but they should be able to begin in about three weeks when the duckbills come in. After they begin the work, the contractor has said that it should only take them about a week. Councilman Earley asked if the fire and police station would be kept in the loop as far as scheduling goes because they will have to move around some equipment. Mr. Trulley stated they will be notified several days ahead of time as to when the contractors will be there.

Update on Shared Ethics Commission - President Corns thanked Marcia Carlson for serving on the

Shared Ethics Commission. She reported to the Council on the last meeting where they discussed training for new board and commission members to be held in March, 2015. The main discussion was the need to make sure new employees or board members are given the training in ethical behavior when they are hired or appointed. She also noted in the future all meetings will be held in Merrillville. Councilman Philpot stated that he also sits on the Shared Ethics Commission Board, and the letters for the 2015 renewal will be coming soon, and the renewal cost should be \$300, and when that time comes he will be making a motion to renew their membership.

Act on Findings of Fact Denying Use Variance - Pedro Pedroza - President Corns read the Findings of Fact denying the use variance for Pedro Pedroza that was approved at the September 22nd meeting. Councilman Parker made a motion to approve the Findings of Fact Denying Use Variance, seconded by Councilman Earley and carried by roll call vote with five ayes.

NEW BUSINESS

Act on release of Performance Bond No. L08830150 - \$411,864 and accept Performance Bond in amount of \$24,840, and accept Maintenance Bond in the amount of \$80,630 - Manhard Consulting, Providence - Townes of Lowell, Phase II - Attorney Jack Kramer asked if the work necessary has been completed, and Mr. Trulley stated it had except for the top coat on the road, which is what the \$24,840 is for. Councilman Philpot made a motion to release the Performance Bond for \$411,864, seconded by Councilman Earley and

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carried by roll call vote with five ayes. Councilman Philpot made a motion to accept the Performance Bond for \$24,840, seconded by Councilman Parker and carried by roll call vote with five ayes. Councilman Philpot made a motion to accept the Maintenance Bond for \$80,630, seconded by Councilman Parker and carried by roll call vote with five ayes.

ANNOUNCEMENTS

President Corns announced that the next regular meeting will be held Monday, October 27, 2014 at 7:00 P.M., at which time a public hearing for the annexation of the Water and Wastewater Treatment Plant properties will be held.

Councilman Parker stated he spoke to Mr. Trulley at the Plan Commission meeting, and about a year and a half ago there was some action taken against the developer of the Meadows of Cedar Creek Subdivision. Councilman Parker asked for an update on where that stands. Mr. Trulley stated he had called the DNR and according to Mr. Mason's attorney, they were going to apply for a letter of map revision which would change the floodway map. Mr. Mason made the initial call to investigate it, but never replied back to the DNR. Councilman Parker asked what the initial action was that was taken. Mr. Trulley stated we had taken action to have the subdivision re-subdivided to take the lots that were in the floodway and make them in to one lot, but could not vacate the whole subdivision because there are utilities there. Councilman Parker stated this has been sitting for a year and a half

and the matter is not being handled and felt that is ample time for someone to get something going.

Attorney Kramer stated we were waiting for the LOMAR, and we were considering taking action and vacating those individual lots, but there were some issues on whether the engineer would sign off on the revised plat that we would file. Absent that, the only other way to vacate those plats would be through litigation. Attorney Kramer stated if we cannot get a plat signed to re-record, then we will need an order from the court to do so. Councilman Parker stated a developer can advertise lots that are not buildable and sell those lots, and he did not believe that was the intention of the developer, but that is the situation we have there. Councilman Parker stated the action he would like to see is the staff and engineer get together and come to the next meeting with a recommendation of what needs to be done. Attorney Kramer stated he would recommend that be done in an executive session. He stated the last he had spoken with Mr. Mason's attorney, which was about sixty days ago, he had said the map revision was "in the works". Mr. Kramer stated he had reached out to him again and had an email today that stated Mr. Mason had terminated his representation. Councilman Parker stated that the matter needed to move forward and hopefully the Council could have an executive session before the next regular meeting.

MEDIA QUESTIONS/PUBLIC COMMENTS

Melanie Csepiga asked the full name of the developer of Meadows of Cedar Creek. Attorney Kramer stated his name is Roy Mason, Three M Development. Ms. Csepiga asked how many lots were involved. Attorney Kramer stated it is around ten lots. President Corns stated the subdivision is just east of Saco Industries.

Don Cripe, 17430 McKinley Place, addressed the Council concerning Preserves Unit 5 Subdivision. He had been contacted by the Post Office that they wanted to put in cluster mailboxes and that he as the developer would have to pay for the box. He stated that disturbed him quite a bit because that subdivision has been recorded for about five years and the cost of lots had already been done. Mr. Cripe stated he spoke with Mr. Trulley who spoke with Town Planner Jim Mandon and they met with the post office manager. Discussion followed. Building Administrator Tom Trulley stated, "The post office has to deliver mail, but the method of how it is delivered is up to the individual post office. They have told us that they will put up the mailboxes for this unit at no cost to Mr. Cripe. The post office is going to tell us where they would like to put the boxes, and then we will have to review the placement to make sure they are not near utility lines, etc. This is all at no cost to Mr. Cripe. In the future, we are going to mandate that the developer talks to the post office to find out how they would like to deliver the mail before the subdivision is approved." Mr. Cripe asked if someone backs in to that box or someone loses their keys or takes them with them when they move, who will pay for that? Mr. Trulley stated it would be the post office's problem.

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ADJOURNMENT

Councilman Parker made a motion to adjourn at 7:40 P.M., seconded by Councilman Earley and carried with five ayes.

Attest:

Edgar Corns, President

Judith Walters, Clerk-Treasurer