

**LOWELL TOWN COUNCIL
REGULAR MEETING
JANUARY 12, 2015**

The regular meeting of the Lowell Town Council was called to order on Monday, January 12, 2015 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, LeAnn Angerman, Donald Parker, Christopher Salatas, and Edgar Corns. Also present were Town Attorney David Westland, Public Works Director Greg Shook, Building Administrator Tom Trulley, SEH Representative Craig Hendrix, two members of the media, and twenty-seven citizens.

ELECTION OF OFFICERS - 2015

Councilman Parker made a motion to nominate Christopher Salatas as President for 2015, seconded by Councilwoman Angerman and carried by roll call vote with five ayes. Councilman Parker made a motion to nominate Councilman Corns as the Vice-President. Councilman Corns declined the nomination. President Salatas made a motion to nominate Councilwoman Angerman as Vice-President, seconded by Councilman Parker and carried by roll call vote with five ayes. Councilman Corns handed the gavel over to President Salatas.

APPROVAL OF MINUTES

Councilman Earley made a motion to approve the December 22, 2014 regular meeting minutes, and the December 29, 2014 and January 5, 2015 executive session minutes, seconded by Councilwoman Angerman and carried with four ayes.

TREASURER'S REPORT - December 2014

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

APPROVAL OF VOUCHERS

Councilman Corns stated he had reviewed White Vouchers #1000 - #1070 and White Vouchers #2272 -2288 from 2014, White-Police #4000 - #4009, Water #2000 - #2043 and Water #2917 - 2920 from 2014, Waste Water #3000 - #3036, and Waste Water #3701 - 3704 from 2014, and Stormwater Utility #5000 - #5006, and #5137 - 5140 from 2014, and recommended all of the vouchers for payment. Councilman Corns made a motion to approve the vouchers as listed, seconded by Councilwoman Angerman and carried with five ayes.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

Labor Day Weekend - Lowell Chamber of Commerce - Clerk-Treasurer Judith Walters read the letter that was received from the Lowell Chamber of Commerce which stated that "the Board of Directors for the Lowell Chamber of Commerce has voted to not participate in the events for the 2015 Labor Day Fest and thereafter." She stated the Town has always put on the parade and fireworks show, while the Chamber put on the festival portion of the weekend, and we would work together for the fundraising. The Town will continue to do the fundraising for the parade and fireworks, and we have had some other suggestions for some items, which we will look into.

Councilman Corns stated he had spoken with the Legion and they are trying to get some groups together to have a something on the Legion grounds this year.

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MONTHLY REPORTS - December 2014

Councilman Earley made a motion to approve the December 2014 Monthly Reports, seconded by Councilman Corns and carried with five ayes. Councilman Parker made a suggestion that a report be included from the Fire Department since the Town employs a firefighter. Public Works Director Greg Shook stated he would get with the Fire Chief to see about getting together a monthly report.

ORDINANCES & RESOLUTIONS

1st Reading - #2015-01 - 2015 Salary Ordinance - Attorney David Westland read Ordinance #2015-01 by title only. Clerk-Treasurer Walters stated the Salary Ordinance is basically the same as 2014, but there is a 5% increase budgeted in the 2015 budget, and what is listed is the maximum allowed. She stated the Town has not received our 2015 budget, so no salary will be changed until we do. She also stated we have eliminated anything in the Salary Ordinance that had to do with radio dispatchers since they are no longer Town employees, and have changed the firefighter position to be listed as a rank like a police officer. She stated the ordinance lists maximum amounts, but does not mean that is what that position is being paid. There are also positions listed that are not currently budgeted. President Salatas stated it was his understanding that this will be retroactive once the budget is approved. Clerk-Treasurer Walters stated the Ordinance states that it is effective January 4th, and will be retroactive once the budget is approved. Councilman Parker made a motion to hold over Ordinance #2015-01 for the second reading, seconded by Councilman Corns and carried by roll call vote with five ayes.

Resolution #2015-01 - adopt fiscal plan - C&D Landfill property - Attorney Westland explained that if this Resolution and the following Ordinance for the annexation of the C&D Landfill were to pass, a public hearing would be set. Councilman Parker made a motion to approve Resolution #2015-01, seconded by Councilman Corns and carried with four ayes and one nay on roll call vote with Councilman Earley voting nay.

1st Reading - Ordinance #2015-02 - annexation of C&D Landfill property - Councilman Parker made a motion to hold Ordinance #2015-02 over for the second reading, seconded by Councilman Corns. Attorney Westland stated the public hearing has to be advertised for sixty days. The motion carried with four ayes and one nay on roll call vote, with Councilman Earley voting nay.

UNFINISHED BUSINESS

Public Works Department Update - WWTP JMOB Requests - Attorney Westland stated JMOB member Al Stong received a response to his request from Cedar Lake to set a meeting for the JMOB. Cedar Lake essentially said that there would be a meeting in the not too distant future with the representatives of the Town Council. Once that meeting is held, they will decide if the JMOB needed to meet after that. Councilman Earley asked if the meetings were two separate items and commented that it just seems like another delaying tactic. Attorney Westland stated he believed they were different topics, but that they were interrelated. The implication seems to be that the meeting of the JMOB would be impacted by how the meeting of the Town Councils went. The email did not specifically state that, but Attorney Westland stated that is how he read it. Discussion followed. President Salatas asked if an executive session should be scheduled. Attorney Westland suggested that President Salatas try to get the meeting scheduled this week if possible, and then he and whatever representatives are appointed to attend can report back to the Council. Discussion followed regarding setting a JMOB meeting at this time and the notice that is required. President Salatas stated he would contact Cedar Lake.

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WWTP Improvement Project - act on release of retainage - \$68,000 to Thieneman Construction - Councilman Corns made a motion to release the retainage, seconded by Councilman Parker. Director Shook explained to the Council that the retainage had been held for punch lists items that have now been completed and recommended that the retainage be released. The motion carried by roll call vote with five ayes.

Water Study - Craig Hendrix, SEH - Councilman Corns stated tonight we are just going to accept the report and then schedule a work session to discuss it in detail. Councilman Parker asked what the next step would be if we decide to accept this and have a study session. Mr. Hendrix stated you would decide which projects you are wanting to complete. He stated, "We have identified stage one projects and some stage two projects that need to be completed quickly to get the tank ready and constructed. You would then get your funding in place and get a design consultant hired to put these projects together and get a bid package ready." Councilman Earley stated it was his understanding that this would need to be turned over to our financial advisor in order to see what this will cost in relationship to our ratepayers. Director Shook stated we will need some guidance in which projects the Council will be interested in. Councilman Corns asked if Greg Guerrettaz had seen the numbers. Director Shook stated he

and Clerk-Treasurer Walters had met with Mr. Guerrettaz to go over the preliminary figures. At that point, Mr. Guerrettaz stated he needed the Council's approval to go forward with a rate study, but we need to know which portions of the project the Council is interested in doing because each portion will come along with a different rate increase. The Council decided they would schedule a work session once they found out when Greg Guerrettaz could attend. Councilman Corns made a motion to accept the water study, seconded by Councilman Parker and carried by roll call vote with five ayes.

NEW BUSINESS

Appointment of Department Heads - Council appointment - The following appointments were approved on motion made by Councilman Corns, seconded by Councilwoman Angerman and carried by roll call vote with five ayes: Public Works Director - Greg Shook, Building Administrator - Tom Trulley, Street Superintendent - Frank Lovely, Water Superintendent - Dan Myers, Distribution Superintendent - Eric Barnhill, WWTP Superintendent - Terry Wright, Park Superintendent - Tom Sullivan, and Special Events Coordinator - Susan Peterson.

Appointment of Legal Counsel - Councilman Earley made a motion to appoint Westland, Kramer, and Bennett as the Town's Legal Counsel, seconded by Councilman Parker and carried by roll call vote with five ayes.

Councilman Parker stated he believed the Town Engineer needed to be reappointed and made a motion to reappoint SEH Engineering, seconded by Councilman Corns and carried by roll call vote with five ayes.

Board Representatives (all Presidential appointments) - The following appointments were approved on motion made by Councilman Parker, seconded by Councilman Earley and carried by roll call vote with five ayes: Lake County Economic Opportunity Council - Dorothy Gwyn-Maas, Board of Finance - Town Council President and Judy Walters, Lake County Solid Waste District - Don Parker, N.W. Indiana Cities & Towns - Edgar Corns, Cable T.V. Consortium - Susan Peterson, Northwest Indiana Regional Planning Commission - Chris Salatas, Freedom Park Committee - LeAnn Angerman and Randy Hall, Annexation Committee - Edgar Corns, Doug Niksch, Carol Crause, Plan Commission President, and BZA President.

Appoint Emergency Management Director - Council appointment - Appointment to Boards & Commissions - President Salatas read the following appointments: Fire Department Liaison - Craig Earley and LeAnn Angerman, Emergency Management Director - Fire Chief Clint Gorbball with Police Chief Erik Matson as the Co-Director, Plan Commission - 3 Town Council members - Chris Salatas, Don Parker, and Craig Earley, Plan Commission - Matt Felder, B.Z.A. - David Foust, Police Commission - John Piper and Ricky Cooper, Storm Drainage Board - Thomas Cartwright, Edgar Corns, and Matt Lake, Traffic Commission - Erik Matson, Jim Konradi, Dennis Rosengard, Eric Barnhill, and Will Farrellbegg, Historic Review Board - Ken Floyd, Redevelopment Commission - Greg Shook, Jim Langen, Craig

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Earley, Doug Niksch, and LeAnn Angerman, Shared Ethics - Chris Salatas and Marcia Carlson, 911 Commission - in 2015 it must be Chief of Police Erik Matson according to their bylaws, and JMOB - Randy Santy. Councilman Earley asked if he disagreed with an appointment, how would he go about separating it to discuss it. Attorney Westland stated you could always list them one by

one. Councilman Earley stated it is just the Police Commission he would like discussed. Councilman Parker made a motion to approve the appointments as read except for the Police Commission appointments, seconded by Councilman Earley and carried by roll call vote with five ayes. President Salatas read the appointments for the Police Commission: John Piper and Ricky Cooper. Councilman Corns made a motion to approve the appointments for the Police Commission, seconded by Councilwoman Angerman. Councilman Earley stated he did not know how to vote since the two names were listed together, but that he was for John Piper and against Ricky Cooper. Attorney Westland stated since the two names are together, you would either need to vote in favor or against the two appointments, or abstain. The motion carried by roll call vote with four ayes and one abstention from Councilman Earley.

Enter into 2015 agreement with James Mandon, Consultant - Councilman Earley made a motion to enter into the 2015 agreement with James Mandon, seconded by Councilman Parker and carried by roll call vote with five ayes.

Permission to invest excess funds during 2015 - Clerk-Treasurer - Councilwoman Angerman made a motion to allow Clerk-Treasurer Walters to invest excess funds during 2015, seconded by Councilman Corns and carried by roll call vote with five ayes.

Set Lowell Tribune/Pilcher Publishing - publication requirement - Councilman Corns made a motion to set the Lowell Tribune as the publication requirement, seconded by Councilman Earley and carried by roll call vote with five ayes.

Appoint committee to disburse 2014 hotel/motel tax funds and set deadline for requests - Councilman Parker made a motion for Councilwoman Angerman and Councilman Corns to be on the committee with Clerk-Treasurer Walters, and also set the deadline for the requests for March 31st, seconded by Councilman Earley and carried by roll call vote with five ayes.

Permission to advertise additional appropriation hearings - General - PO - Cum Sewer Fund - Clerk-Treasurer Walters explained an additional appropriation was needed in the General Fund to make the final pay to the radio dispatchers in 2015, and in the Cum Sewer Fund as the funds had not been spent in 2014. Councilman Corns made a motion to allow Clerk-Treasurer Walters to advertise for additional appropriation hearings, seconded by Councilman Parker and carried by roll call vote with five ayes.

Public Hearing - disannexation of property - Roy & Sandra Mason, 4607 W. 173rd Avenue - Attorney Brent Torrenga, Roy and Sandra Mason's representative, handed out a few maps to the Council of the petitioner's property. He stated that Mr. and Mrs. Mason had purchased their property in 1996 where they constructed a home on the wooded parcel a year later. The entire area surrounding them was annexed in 1973 and since then all of the surrounding land has been disannexed. The end result has left the Mason's 14.6 acre parcel an island within the town limits, but not contiguous. Mr. and Mrs. Mason had hoped to develop the property, but due to the economy and lack of services from the Town, they were unable to. He stated, "We are here this evening to ask that the property be disannexed and for the Council's indulgence in considering that the Mason's have paid taxes to the town and fees including hydrant fees, garbage fees, and storm drainage fees, but have received no benefit, other than the garbage.

We would also ask that we be allowed to coordinate with your Clerk-Treasurer and propose a number for damages of further consideration, likely at your next Council meeting.” Attorney Westland stated he was not aware of any remonstrances on file, but it would be appropriate to open the public hearing at this time to see if there is anyone that would like to speak.

President Salatas opened the public hearing. With no one to speak for or against the petition, President Salatas closed the public hearing. Attorney Westland stated the statute requires that an order be prepared as a result of this hearing and the Council’s

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consideration. He stated that he had spoken to Mr. Torrenza before the meeting and indicated that he would need to supply the Council with a form of order, and if the Council wants to disannex the property, an Ordinance will be needed as well, which Mr. Torrenza said he would prepare.

Councilman Earley asked if he could be reminded of the timeline. Mr. Torrenza stated the parcel was annexed in 1973, the Mason’s purchased the parcel in 1996, and they constructed their home and have lived there since 1997. Councilman Earley asked if he was correct in saying that along with becoming disannexed, the Mason’s are looking to recoup the costs from 1996 until now. Mr. Torrenza stated only the cost for the storm water and fire hydrant fee simply because no benefit was ever extended to the Mason’s. Councilman Earley stated he understood that, but he does not understand why they have waited this long. He stated we are required to provide services within three years, and if the Mason’s really did not want to be a part of the town, why did they not remonstrate after the three years? Mr. Torrenza stated the Mason’s have wanted to be a part of the town, and to develop that property to bring more people to the town, but because of the lack of services, fire hydrants for instance, and the economy, they have not been able to do that. Councilman Corns stated if he does not want to be subject to the Town’s storm water fee, he will still be subject to the County’s storm water fee. Mr. Torrenza stated he cannot comment on what the County’s fees are, but if there is a storm water fee they will be subject to, that will be a bridge they will have to cross with the County’s Stormwater Board. Attorney Westland stated there is still an order and ordinance that has to be created, and in the order he should delineate the reimbursable costs they are asking for. It will then be your discretion as to what portion, if any, of those costs you will want to order. Councilman Parker made a motion to defer any action at this time until the documents that have been discussed are received and reviewed, seconded by Councilman Earley. Mr. Torrenza stated if the Council is not willing to take any action on the disannexation tonight, then we are asking permission to coordinate with the Clerk-Treasurer to get some of those records that are necessary to come up with a figure for the damages. Councilman Parker added to his motion that Mr. Torrenza may work with Clerk-Treasurer Walters to get what they need. The motion carried by roll call vote with five ayes.

Request to place dumpster on side of building - Calla’s & NWI Chaircovers - Catherine Livingood, 401-405 E. Commercial Ave., stated she is requesting to place a dumpster on the side of the building. Currently the dumpster is upstairs, but we would like to bring it outside of the building. Councilman Earley asked if there was any sort of alleyway on their property. Mrs. Livingood stated there is a walkway that is only about 2 ½ feet. Building Administrator Tom Trulley stated the building she is referring to has no back alley. The sidewalk she wants to put it

on is on Clark Street, which only has a sidewalk on the east side. The issue with the dumpster is that it would be in violation of the ADA Federal requirements if it is placed on that sidewalk, and sated we discussed she could request to put that dumpster in the municipal parking lot, which is the closest spot she has to that building. Mrs. Livingood stated there is a sidewalk on both sides of Clark Street, which is a one-way street. Councilman Earley asked how much more difficult the suggestion that Mr. Trulley is making would be. Mr. Livingood stated we are trying to open a food service restaurant, and the issue is that the Lake County Health Department requires that a dumpster be located on the property. Mr. Trulley stated the sidewalk is the Town's property, not the owner's. Attorney Westland stated he would echo what Mr. Trulley is saying. Not only is there an ADA issue, but there is liability issue by having their dumpster on your property. Councilman Earley stated if we approve it, then we are just as liable. Attorney Westland stated potentially even more. Discussion followed regarding trying to find a spot for the dumpster and contacting the Health Department to see if a resolution can be made. Mr. Trulley stated he would call the health inspector and tell her the circumstances to see if they can work with us. Councilman Parker made a motion to table the request until the next meeting on stipulation that an answer is received from the Health Department, seconded by Councilwoman Angerman and carried by roll call vote with five ayes.

Councilman Parker stated a few months ago there was a discussion regarding the trailer at the Street Department and the possible mold. Director Shook stated we had it tested, and there was no mold.

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Some temporary work was done on the roof to hold us over until Spring, and we are also looking at another area for a possible site for a new Street Department Garage. Councilman Parker also asked for an update on the property near Fitness Premier and the appraisals that were supposed to be done. Attorney Westland stated there were two appraisals performed, one that was higher than the other. He stated he spoke with each appraiser who both thought their appraisal was correct. Typically there is not supposed to be more than a 20% difference, but in this case there was. He sated if we would like to proceed, we could make an offer on the average of the two, or get a third appraisal done. The issue is that once you make the offer, the landowner will ask for all of the appraisals and want the higher of the two. Councilman Parker made a motion to include this topic in the work session that will be scheduled for the water study, seconded by Councilwoman Angerman and carried by roll call vote with five ayes.

ANNOUNCEMENTS

President Salatas announced that the next regular meeting will be held Monday, January 26, 2015 at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

Melanie Csepiga asked for a copy of all of the appointments for the Boards and Commissions. Ms. Csepiga also asked for a description of the property that is being annexed for the C&D Landfill. Attorney Westland stated it is 148.1 acres, approximately, owned by Republic.

Carl Ferro, 1310 Harrison, stated to that solution on that person's property, there is a gangway between the old bicycle shop and the cabinet shop that they could probably put a dumpster. He stated you give out permits to put stuff on sidewalks, even though you say this is an ADA issue, or you can just close that street off completely since it is hardly ever used.

ADJOURNMENT

Councilman Earley made a motion to adjourn at 8:02 P.M., seconded by Councilman Parker and carried with four eyes.

Christopher Salatas, President

Attest:

Judith Walters, Clerk-Treasurer