

**LOWELL TOWN COUNCIL  
REGULAR MEETING  
FEBRUARY 9, 2015**

The regular meeting of the Lowell Town Council was called to order on Monday, February 9, 2015 at 7:00 P.M. by President Christopher Salatas. 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, and Christopher Salatas. Edgar Corns was not in attendance. Also present were Town Attorney David Westland, Public Works Director Greg Shook, Building Administrator Tom Trulley, Police Chief Erik Matson, one member of the media, and twenty-seven citizens.

**APPROVAL OF MINUTES**

Councilman Parker made a motion to approve the January 26, 2015 regular meeting minutes, seconded by Councilman Earley and carried with four ayes.

**TREASURER'S REPORT** - January 2015

Councilman Earley made a motion to approve the January 2015 Treasurer's Report, seconded by Councilwoman Angerman and carried with four ayes. Clerk-Treasurer Judith Walters presented the 2015 Certified Budget to the Council, which had been received by the DLGF. She stated that the budget will be fully funded as advertised with a change that was requested to reduce our levy in the Cumulative Fire Fund to allow a higher operating balance in the General Fund. The Town had advertised a budget of \$4,956,957 and the tax levy approved is \$3,013,760. The levy was reduced by \$193,232 in 2015 due to the 911 dispatching going to the County. The Town did receive an increase levy of \$6,805, due to some pocket annexations. The tax rate went down to 0.8390. Councilman Parker asked if the 5% employee raise was included. Clerk-Treasurer Walters stated it was.

**APPROVAL OF VOUCHERS**

President Salatas stated he had reviewed White Vouchers #1123 - #1181, White-Police #4020 - #4025, Water #2073 - #2109, Waste Water #3062 - #3096, and Stormwater Utility #5016 - #5021, Councilman Earley made a motion to approve the vouchers as listed, seconded by Councilman Parker and carried with four ayes.

**MONTHLY REPORTS - January 2015**

Councilman Earley made a motion to approve the January 2015 Monthly Reports, seconded by Councilwoman Angerman and carried with four ayes.

**ORDINANCES & RESOLUTIONS**

2<sup>nd</sup> reading - Ordinance #2015-03 - an Ordinance to amend Chapter 155 - Temporary Signs - Councilman Earley made a motion to adopt Ordinance #2015-03 by name and title only, seconded by Councilwoman Angerman. Councilman Earley noted that this Ordinance had the same number as the next Ordinance for Additional Appropriation. Clerk-Treasurer Walters stated the next Ordinance should be Ordinance #2015-04. The motion carried by roll call vote with four ayes.

#### PUBLIC HEARING

1<sup>st</sup> reading - Ordinance #2015-04 - Additional Appropriation - General Fund, Cum Sewer, Park Capital - Clerk-Treasurer Walters explained what each appropriation was for to give permission to spend in 2015.

#### **LTC REGULAR MEETING - 2/9/15 - Page 2 of 5**

President Salatas opened the public hearing for Ordinance #2015-04. With no one to speak for or against the Ordinance, President Salatas closed the public hearing. Councilman Earley made a motion to approve the first reading of Ordinance #2015-04, seconded by Councilman Parker and carried by roll call vote with four ayes.

Resolution #2015-03 - temporary loan to Debt Service Fund - \$2500 - Councilman Parker made a motion to approve Resolution #2015-03, seconded by Councilman Earley and carried by roll call vote with four ayes.

#### **UNFINISHED BUSINESS**

##### Public Works Department Update

WWTP JMOB Requests - Act on 4/15/14 amendment to Sewage Treatment Agreement from Town of Cedar Lake - Attorney David Westland stated in your packet is the agreement from December of 2003 which modified an older agreement. He stated, "Quite some time ago, there was a meeting between Cedar Lake and Lowell where Lowell proposed three points of contention. If you look at the two documents behind the original agreement, you will see Lowell's amendment pursuant to the three points that were mentioned. That was drafted and then approved in August of 2013. In response to that, Cedar Lake drafted an amendment that agreed to one of the three points and approved that in April of 2014 and sent it here for approval. At that time, no action was taken. Cedar Lake is still requesting that action be taken on the amendment they approved on April 15, 2014." Attorney Westland stated that some in substance of the amendment is to modify the configuration and who sits on the JMOB. President Salatas stated the amendment will allow us to put two people of our choosing on to the JMOB, which would allow us to remove the engineer, saving us a few hundred dollars. Councilman Earley stated this amendment still does not address the other two issues we asked for, and asked what will happen to the other two items on our request. Councilman Parker stated there was a joint meeting with Cedar Lake the other day regarding the JMOB, annexation issues, and some other items. He stated in the past we have had some discussion, drafted an

amendment and sent it to Cedar Lake, and then they in turn do something similar. He felt we have not communicated very well, and need to review the entire JMOB agreement and update it.

Councilman Parker stated he believed that this is a good starting point to change the makeup of the board, and that he recommends accepting the change of the makeup of the board. Councilman Earley stated his concern is that Cedar Lake seems to have dragged their feet on these issues, and asked if they were not certain or accepting of the items, then why did they not call a meeting to discuss the issues. He stated he agreed with changing the makeup of the board, but expressed concern of when the other two issues would be discussed. President Salatas stated he had personally been in contact with the Cedar Lake Town Council President, Randy Niemeyer, and they have discussed having a joint Council meeting to discuss the remaining issues. Councilman Parker made a motion to accept the agreement that Cedar Lake has proposed dated April 15, 2014, seconded by Councilwoman Angerman.

Councilman Earley asked why it was considered their agreement when it is our sewer plant and our contract with them. Discussion followed. The motion carried by roll call vote with four ayes. President Salatas suggested planning an Executive Session to figure out who the Council would want to appoint to the JMOB, and possibly advertise it. Councilman Parker asked if there could be an Executive Session before the next regular meeting to discuss the possibility of appointing two Council members since that is an option. Discussion followed. Councilman Earley stated he believed the Council could decide now as long as it is not an issue. Councilman Parker made a motion to appoint President Salatas and Public Works Director Greg Shook. Director Shook stated he already attends the meetings as administration. Discussion followed regarding the makeup of the board. Councilman Parker made a motion for Director Shook to be the non-voting member, and President Salatas and Councilman Earley be the two voting

#### **LTC REGULAR MEETING - 2/9/15 - Page 3 of 5**

members, seconded by Councilwoman Angerman. Clerk-Treasurer Walters asked when this would be effective since the agenda for the next JMOB meeting has been sent to the current members. Councilman Parker stated the change should be effective immediately, Attorney Westland agreed. The motion carried by roll call vote with four ayes.

SR2 Curb and Sidewalk Project - Approve Pay Request to Commonwealth Engineers - Right-of-way engineering - \$22,590.00 - and forward to INDOT for 80% reimbursement - Councilman Parker made a motion to approve the listed pay request, seconded by Councilman Earley and carried by roll call vote with four ayes.

Powell Ditch Project - Approve Pay Request #1 - \$114,065.41 (\$120,068.86 - retainage held \$6,003.44) - to Austgen Equipment and approve Voucher #1182 - Councilman Parker made a motion to approve Pay Request #1 to Austgen Equipment and Voucher #1182, seconded by Councilman Earley. Director Shook stated Powell Ditch is complete, but we are holding the \$6,000 back because they will not be able to seed until the spring, and we need to do a full inspection inside the structure. The motion carried by roll call vote with four ayes.

Tabled from previous meetings:

1/12 - Mason disannexation - Attorney Westland stated we have not received anything. Clerk-Treasurer Walters stated she sent them a copy of the billing totals of what was paid in hydrant fees and stormwater fees. She stated she then contacted the attorney to ask if there was anything else he needed, but she did not hear back from him. President Salatas suggested that Attorney Westland reach out to Mr. Mason's attorney, and if nothing is heard by the next meeting, the Council will need to decide how to proceed.

## **NEW BUSINESS**

Lowell Lion's Club - permission to close Mill Street & Jefferson for 2015 Car Cruise - Councilman Earley made a motion to approve the request, seconded by Councilwoman Angerman. Councilman Earley asked if that is all the room they will need since it keeps growing. John Piper, Lowell Lion's Club, stated last year was a record breaking year, and if the Council would consider it, we would also like to have Clark Street south of Jefferson, which there are no active businesses or residences on, just in case we need to use the space. Discussion followed. Mr. Piper announced that the events will be on the first Saturday of May, June, and August, and the second Saturday of July and September. Councilman Earley asked Police Chief Matson if there was an issue with using Clark Street. Chief Matson asked if it was State Road 2 to Main St. Mr. Piper stated it would be State Road 2 to Jefferson. Councilman Earley stated the only issue is the public parking lot off of Clark Street that will need to be open. Mr. Piper stated they would only place cars on one side of the street allowing passage through to the parking lot. Councilman Earley amended his previous motion to allow the Lion's Club to close Mill Street and Jefferson with using Clark Street from Jefferson to Route 2 at their discretion, seconded by Councilman Parker. The amendment to the motion carried by roll call vote with four ayes. The motion as amended carried by roll call vote with four ayes.

Requirements of Meadowbrook POA Covenants - Courtyard of Meadowbrook POA - Sharon Rosengard, 314 Ridge Court, introduced herself as the President of the Meadowbrook POA and stated briefly that there is a concern with a current home being built in the subdivision. John Masepohl, 323 Spruce Court, stated he was representing the Architectural Review Committee for the Meadowbrook POA. By covenant the ARC is supposed to approve any new construction before any work begins. He stated, " In 2006 we requested that building permits not be issued until they have been reviewed by the ARC, but in 2011 a new home was built at 648 Beech Court that was not reviewed and approved by the ARC, and there is now a new home being built on 442 Dogwood Lane that has not been reviewed. " Mr. Masepohl asked if the Town would agree that building permits not be granted before the ARC's approval, and if there was anything the Association could do to make sure this works. Mr. Masepohl described in detail the remaining lots that have not been built on. Councilman Parker asked if the covenants were recorded. Building Administrator Tom Trulley stated they are, but he did not have a copy of them before. Mr. Trulley stated he had spoken with Mrs. Rosengard regarding the matter and had told her that from now on, no permits will be issued until there is a signed copy of the plans from the POA.

## **LTC REGULAR MEETING - 2/9/15 - Page 4 of 5**

Councilman Earley asked if that was sufficient because there is a letter to Wilbur Cox from 2006 that it does not look like there was a response from the Town. Mr. Masepohl stated he never

remembered seeing a letter back, but he remembered discussing the agreement at board meetings. Discussion followed regarding the recording of the covenants. Attorney Westland stated it is a nice accommodation that Mr. Trulley is willing to make the POA aware when a permit is applied for, but the Town should not be in the position to enforce the covenants. He stated by creating the ARC, per the covenants, the Association is in the best position to enforce those covenants, but it sounds like the request is for the Town to be the gatekeeper of the covenants even though these are not the Town's covenants. Councilman Parker stated if the covenants are not properly recorded, then no one has standing. Mr. Masepohl stated the covenants are all recorded including amendments. Councilman Parker stated we can take steps to make people aware of the Committee, but any enforcement of those covenants are out of the realm of the Town Council. Discussion followed. President Salatas stated he would not like to get in to a legal agreement enforcing covenants, but if Mr. Trulley could alert any homeowners that would be acceptable.

Enter into agreements with FSG - annual disclosure filings, annual Redevelopment filing - Clerk-Treasurer Walters explained one agreement was for continuing disclosure filings with the Securities and Exchange Commission on our Water, WW, and Park Bonds, and the other agreement was for assistance with our annual TIF reporting. Councilman Parker made a motion to approve the agreements with FSG, seconded by Councilwoman Angerman and carried by roll call vote with four ayes.

Acting as Board of Finance - void outstanding checks over 2 years old - Clerk-Treasurer Walters listed the two checks that would be voided and stated that if they come forward within the next seven years, the checks will be reissued. Councilman Parker made a motion to allow Clerk-Treasurer Walters to void the two outstanding checks, seconded by Councilman Earley and carried by roll call vote with four ayes.

Permission to advertise additional appropriation hearing - Freedom Park - Gambling Revenue - Curb Project - Clerk-Treasurer Walters explained Freedom Park has funds they did not spend over the last two years and will be submitting a request for permission to spend and the Gambling Revenue is to pay the engineering costs for the Route 2 Project up front and then get reimbursed by the State. Councilman Parker made a motion to allow Clerk-Treasurer Walters to advertise for the hearings, seconded by Councilwoman Angerman and carried by roll call vote with four ayes.

Permission to move forward with bonding for purchase of property - Clerk-Treasurer Walters stated we have been looking at property to build a new Street Garage and Mr. Guerrettaz has done a preliminary analysis of the project, but we would like to start working with a bonding company to get it started. Mr. Guerrettaz will be present before our next regular meeting and would like to discuss the water study that will be given to you by Friday, and the analysis of the Street Garage project. The bonding company we would like to enter in to an agreement with would be Shanahan and Shanahan. Councilman Parker made a motion to allow Clerk-Treasurer Walters to contact the bonding company, seconded by Councilwoman Angerman and carried by roll call vote with four ayes. President Salatas stated that a work session will be scheduled for Monday, February 23, 2015 at 5:30 P.M. to discuss the water study and the Street Garage project.

**ANNOUNCEMENTS**

President Salatas announced that the next regular meeting will be held Monday, February 23, 2015 at 7:00 P.M.

**LTC REGULAR MEETING - 2/9/15 - Page 5 of 5**

**MEDIA QUESTIONS/PUBLIC COMMENTS**

**ADJOURNMENT**

Councilman Earley made a motion to adjourn at 7:53 P.M., seconded by Councilwoman Angerman and carried with four ayes.

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Christopher Salatas, President

Attest:

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Judith Walters, Clerk-Treasurer

