

**LOWELL TOWN COUNCIL
REGULAR MEETING
JANUARY 14, 2008**

The regular meeting of the Lowell Town Council was called to order on Monday, January 14, 2008 at 7:00 P.M. by President Phillip Kuiper. The Pledge of Allegiance was recited and a moment of silence was observed. Council members answering roll call were Donald Huseman, Shane Tucker, John Alessia, Phillip Kuiper, and David Gard. Also present were Town Attorney Greg Sobkowski, Director of Public Works Greg Shook, Director of Community Development Wilbur Cox, Town Administrator Sue Peterson, two members of the media and seventeen interested citizens.

ELECTION OF OFFICERS

Councilman Huseman nominated Phillip Kuiper as President, seconded by Councilman Tucker. The motion carried by voice vote.

Councilman Gard nominated Don Huseman as Vice President, seconded by Councilman Tucker. The motion carried by voice vote.

APPROVAL OF MINUTES

Councilman Gard made a motion to approve the minutes from the December 27th regular meeting and the January 7th executive session, seconded by Councilman Huseman. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #1000-1061, White Police Vouchers #4000-4003, Water Vouchers #2000-2037 and Waste Water Vouchers #3000-3031 and recommended them for approval. Councilman Tucker made a motion to approve the vouchers as listed, seconded by Councilman Huseman. The motion carried by voice vote.

President Kuiper congratulated Councilman Gard, Councilman Huseman and Clerk-Treasurer Walters on their re-election and welcomed Councilman Alessia to the Council. He asked the Council members if they had any comments. Councilman Gard stated that he appreciated the opportunity to serve the community since that is what the job is all about. He said he has never been a big fan of politics, but he enjoys the work. Councilman Huseman commented that he is not a politician. He just wants things to run smoothly and everybody participate. Clerk-Treasurer Walters commented that she is not a politician either and she is just glad to be doing the job that she loves. Next week, she will have been with the town for 33 years. President Kuiper commented that he appreciates and feels it is an honor to serve. There have been some projects this past year that have been personally good, noting the water project that was completed with the help of Congressman Visclosky and the sewer line project, worth an excess of \$2 million, that is completed although not yet in service through the help of the developer.

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He said this spring they hope to get into the Burr Street project with even bigger and better things to come in 2008. Councilman Huseman asked for mention about the pumping station and water line to the northwest. Director Shook reported that they are working on a northwest water project that will be paid for completely by some developers and is located at 173rd and Cline. He has a meeting scheduled for Tuesday with the engineers to meet for the first time to discuss the design of the project. The project involves a twelve inch water main running up Nichols from Main Street to 173rd with a booster pumping station installed somewhere near the intersection to increase pressure from there north. He should have more information available at the next meeting. Councilman Huseman commented that later on, there may be a tower. Director Shook confirmed that is what they are hoping for.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

No parking snow ordinance - President Kuiper read a letter of recommendation from Chief Shelhart regarding the restriction of parking on public streets after a snow fall of two inches or more. Further recommendations were made with regard to citation and removal of vehicles in violation of the ordinance. Director Shook reported that there are two big changes from these recommendations to what is currently in the town code. The list of streets where parking is prohibited during snowfall has not been updated since 1994 and is one of the things that is causing problems. The other thing is, when they are out there at night, they get help from the police department with running down license plates, contacting people and such. They do not want to have to tow any cars. The current ordinance does not allow vehicles to be cited the first time. All it allows is to tow a vehicle. He and Chief Shelhart have discussed this matter and feel they can get the word out there through the newsletter that is circulated with water bills. That way, the first violation would only be \$25, which is much better than the costs involved with towing a vehicle. Those are the two main differences with what Chief Shelhart is proposing and what is currently on the books. President Kuiper asked if that would work better for the Public Works Department. Director Shook said it would, but the only question he had for legal counsel would be if parking during snowfall was restricted on every street in town, would they have to sign every street in town. Attorney Sobkowski said they may need signs in order to enforce it. Director Shook said it would take a lot of signs and take quite a while to get them put up. President Kuiper asked if this was something they needed to act on tonight. Director Shook stated they could wait until the Chief got back in town to discuss the sign issue. He said when they discussed the matter earlier, Chief Shelhart was not sure if signs were needed on every street. President Kuiper asked for a motion to table it to the next meeting. Councilman Gard made a motion to table, seconded by Councilman Huseman. Councilman Alessia commented that it comes down to intent, which is the concern. There are some outlying areas you are going to put in a position where it doesn't affect everybody. President Kuiper said they could look into the matter a little bit more and talk about it again when the Chief gets back. The motion to table carried by voice vote.

New middle school - connect to town utilities - Fanning Howey - President Kuiper asked Nate Kleefisch, Director of Operations for Tri-Creek School Corporation to give a brief explanation of

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the request. Mr. Kleefisch said that Tri-Creek School Corporation is in the process of building a new middle school to replace the over-100 year old building they currently utilize. They have to seek a variance from the county, since the property the new middle school will be built on is located in the unincorporated part of Lake County. As a part of the process, they have to secure the intent of the Town of Lowell that will allow them to tap on to the utilities. He is looking for a letter of good faith from the Town of Lowell that acknowledges the use of their facilities. This is not talking about details, logistics or money. It is just a letter of intent. President Kuiper reported that a letter has been drafted for consideration and he read the letter aloud, stating that the Town of Lowell is willing and able to service the proposed intermediate school with sewer and water. Councilman Huseman made a motion to approve the letter of intent for the new middle school to have sewer and water service from the Town of Lowell, seconded by Councilman Alessia. The motion carried by voice vote. Councilman Tucker took the opportunity to congratulate Mr. Kleefisch on recently completing his doctorate.

MONTHLY REPORTS

Councilman Huseman referenced the Street Department report regarding picking up dead animals and asked what is done with those dead animals. Director Shook reported that they have been burying them at the WWTP. Councilman Gard made a motion to approve the monthly reports from December as submitted, seconded by Councilman Tucker. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

1st Reading - Ordinance #2008-01 - amend Chapter 74 & Chapter 75 Stop Intersections/No Parking - President Kuiper read Ordinance #2008-0, an Ordinance adding a stop intersection at Brookwood/Anne Avenue and prohibiting parking on either side of Southwood Drive. Councilman Huseman made a motion to hold over Ordinance #2008-01 for second reading, seconded by Councilman Gard. The motion carried by voice vote.

1st Reading - Ordinance #2008-02 - zone change from R-1 to R-2 & B-2 Lake County Trust No. 4018 Village Green Phase II - President Kuiper read Ordinance #2008-02. Attorney Sobkowski noted that page two needs to have a correction to read change from R-1 to B-2, not B-1 as read. Director Cox confirmed that it should be B-2. Attorney Sobkowski also pointed out that unlike the previous ordinance, a zoning ordinance is an exception to the rule that you must suspend and have a two thirds majority to adopt on the night of introduction. If the Council wishes to adopt this evening, they can do so by simple majority. Councilman Huseman made a motion to adopt Ordinance #2008-02, an Ordinance granting Rezoning and Changing the Zoning Map from R-1 Residential to R-2 Residential and B-2 Business, seconded by Councilman Tucker. Councilman Alessia asked where the commercial business was going and if Village Green II was north of Village Green I. Director Cox explained that this would be at the intersection of 173rd and the new drive going into Village Green from the north, west of Cline Avenue and south of 173rd.

Roll call vote carried with five ayes.

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UNFINISHED BUSINESS

Lowell Utilities Update - Nothing was reported for any of the following items: WWTP JMOB Requests; WWTP Phase II Project; Water Infrastructure Improvement Plan; Storm Sewers/Lift Station, East Side Sewer Project.

Director Shook reported that there is a large pot hole at the intersection of Route 2 and Burr Street. There was a water main break there about a month ago. Due to problems on the toll road, Walsh & Kelly is going to open up their asphalt plant for two days this week on Tuesday and Thursday. The Street Department is going to get hot patch from there on Tuesday to make repairs at that intersection. Since it is so cold, they can only get enough hot patch material for individual projects but if there is enough time on Tuesday, they will also repair the road cut on Mill Street. If they run out of time, they will do that repair on Thursday.

Director Shook reported that there was some significant rainfall last week. The town measured about three and a half inches of rain in one day along with the snow melt and there was a little bit of flooding here and there, although there was nothing serious. There was one household that got storm water in their basement at 420 E. Hilltop Court. He noted that Mr. & Mrs. Cencion were present at the meeting. He went on to explain that there has always been a problem with flooding on the east side of Joe Martin Road. With all of the water that came down at one time, it flooded enough on the east side of Joe Martin Road that there was too much water going through the swale through Hilltop that it actually ran right up in around the Cencion's home. The amount of water going down their footing tile would not allow the pumps to keep up, thus the basement flooded and they had furniture and other things in the basement. Director Shook said Mr. & Mrs. Cencion told him this has been going on for years. He was requesting permission from the Council to engage Commonwealth Engineers under their current contract, which would be an hourly rate, to take a look at Joe Martin Road and all of Hilltop to try to determine what needs to be done. Once they know what needs to be done, they will take a closer look at it to see if it is something that can be done in-house or if it will need to be contracted out. At that point, he would bring it back to the Council. Councilman Gard made a motion to grant permission as requested, seconded by Councilman Huseman. The motion carried by voice vote. Director Shook reported he would contact Commonwealth tomorrow and get them out as soon as possible.

Councilman Huseman asked if the surging on Lincoln Street was the result of the plant not being able to take the water fast enough. Director Shook reported that there were some problems down at the WWTP during the rainstorm. There are five pumps that pump the sewage into the treatment plant. One of the big pumps went out, it has what is called a soft start in the controls that quit working and would not allow the pump to run. This caused the basement to flood again, which caused the interceptor to back up into town. Once they became aware of this, they took the six inch diesel portable pump and used it to pump with, but it took a little while to catch up.

Up until this most recent rainfall, they have not had any problems with any manholes and they believe most of the problem was

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because the interceptor was backed up. Councilman Huseman commented that it concerns him that Lincoln Street has settled over the years and he is worried about the casing. He asked if there was any way to televise the casing. Director Shook reported that they have televised it and it appears to be in pretty good shape with the exception of one section of approximately 100 foot of pipe that has a belly in it and is on the list to be excavated and replaced.

Affirm vacation pay status for Police Chief - President Kuiper reported that they have a little housekeeping to be done with regard to making Chief Shelhart's vacation pay status correct. The agreement, when he came on with the town, was that he would receive vacation time equal to that of a twenty-year employee. Councilman Huseman asked if it was documented and he was informed that it was. Councilman Gard made a motion to affirm the vacation pay status for the Police Chief equal to that of a twenty-year employee, which is four weeks, seconded by Councilman Alessia. The motion carried by voice vote.

Tabled from previous meetings:

12/10/07 - Paving of street in Meadowbrook Subdivision - Director Cox reported that he has just finished going through a whole stack of papers in reviewing the history. There appears to be approximately seventy-some thousand in bonds, not sixty-some thousand that is left for three units and he is in the process of writing a letter for legal counsel review that says they will renew their bond in February until September with a completion date of June 30, 2008 at current rates. Councilman Huseman asked what he determined about the alleyways. Director Cox replied that he has bonds that are not specific, so he is going to include all of the work that these people were promised and if they want to defend something otherwise, they can do so, but as far as he is concerned right now, the bonds were non-specific so that is all of the improvements that were required and he figures that alleyways are part of the access that they were guaranteed when they bought their houses. He said he can't say yes or no for sure, but he is going to err on the side of the homeowners because the garages are back there and the alleyways are used for access to the garages.

NEW BUSINESS

Appointment of Department Heads - Council appointments (Director of Public Works, Town Administrator, Director of Community Development, Street Superintendent, Water Superintendent, WWTP Superintendent) - Councilman Huseman made a motion to appoint Director of Public Works - Greg Shook, Town Administrator - Sue Peterson, Director of Community Development - Wilbur Cox, Water Superintendent - Dan Myers, WWTP Superintendent - Terry Wright, Street Superintendent - Frank Lovely, seconded by Councilman Gard. The motion carried by voice vote.

Board Representatives (all Presidential appointments) - Councilman Tucker made a motion to appoint Dorothy Gwyn to the Lake County Economic Opportunity Council; Phillip Kuiper and

Judith Walters to the Board of Finance (per state statute); Phillip Kuiper to the Lake County Solid Waste District; David Gard to the N.W. Indiana Cities & Towns; Susan Peterson to the Cable T.V. Consortium;

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Judith Walters to the Northwest Indiana Regional Planning Commission; Shane Tucker to the Freedom Park Committee; and Don Huseman, Al Bachman, Mike Walters, Marcia Carlson, the Plan Commission President and the BZA Chairman to the Annexation Committee, seconded by Councilman Alessia. The motion carried by voice vote.

Appoint Emergency Management Director - Council appointment - Councilman Alessia made a motion to appoint Police Chief John Shelhart as the Emergency Management Director, seconded by Councilman Tucker. The motion carried by voice vote.

Appointment to Boards & Commissions:

Plan Commission - Town Council Members - Town Council appointment (3) 1-year term - Councilman Gard made a motion to appoint Councilman Don Huseman, Public Works Director Greg Shook and Street Superintendent Frank Lovely as Council representatives to the Plan Commission, seconded by Councilman Huseman. The motion carried by voice vote.

Plan Commission - Presidential appointment - (1) 4-year term - Councilman Gard made a motion to appoint Richard Kelley to the Plan Commission, seconded by Councilman Huseman. The motion carried by voice vote.

B.Z.A. - Town Council appointment - (1) 4-year term - Councilman Huseman made a motion to appoint Sean Brady to the B.Z.A., seconded by Councilman Gard. The motion carried by voice vote.

Park Board - Presidential appointment - (1) 4-year term, (1) 2-year term - Councilman Huseman made a motion to appoint Roberta Thomas to a 4-year term on the Park Board and Chad Evenhouse to a 2-year term on the Park Board, seconded by Councilman Alessia. The motion carried by voice vote.

Police Commission - Town Council appointment - (1) 3-year term - Councilman Huseman made a motion to appoint Aron Schuhrke to the Police Commission, seconded by Councilman Tucker. The motion carried by voice vote.

Traffic Commission - Presidential appointment - (5) 1-year term - Councilman Tucker made a motion to appoint John Shelhart, Jim Konradi, Dennis Rosengard, John Ammons and Robert Philpot to the Traffic Commission, seconded by Councilman Alessia. The motion carried by voice vote. Councilman Tucker made a motion to appoint John Shelhart as Chairman of the Traffic Commission, seconded by Councilman Gard. The motion carried by voice vote.

Historic Review Board - Town Council appointment - (2) 3-year term, (1) 2-year term - Councilman Gard made a motion to appoint Elaine Anderson and Dave Mitchell to the 3-year

terms on the Historic Review Board and John Alessia to the 2-year term on the Historic Review Board, seconded by Councilman Huseman. The motion carried by voice vote.

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Ambulance Board - Councilman Huseman made a motion to appoint David Gard to the Ambulance Board, seconded by Councilman Alessia. The motion carried by voice vote.

Economic Development Commission - Town recommendation to Lake County - (1) 4-year term - Clerk-Treasurer Walters explained that this is a recommendation to the Lake County Council, it is not a town appointment. The term was filled by Councilwoman Roberts. Councilman Tucker made a motion to recommend to the Lake County Council that Sue Peterson be appointed to the Economic Development Commission, seconded by Councilman Gard. The motion carried by voice vote.

Permission to hire Terry McMahan & Co. to conduct financial statement for 2007 Sewer financial records & computation of Cedar Lake charges for current year - Clerk-Treasurer Walters stated this is an annual thing that needs to be done. They come in after 60 days and perform the calculations. Councilman Gard made a motion to grant permission to hire Terry McMahan & Co. to conduct the financial statement for 2007 Sewer financial records and computation of Cedar Lake charges for the current year, seconded by Councilman Tucker. The motion carried by voice vote.

Permission to invest excess funds during 2008 - Clerk-Treasurer Walters explained that she needs the permission of the Council to invest any excess funds during the year. Councilman Tucker made a motion to grant permission to the Clerk-Treasurer to invest any excess funds during 2008, seconded by Councilman Alessia. The motion carried by voice vote. Councilman Gard requested that President Kuiper read the memo from Clerk-Treasurer Walters into the record. He read, "Per Indiana Statute I need your permission to invest any excess funds throughout the year. In the past I have invested in Sweep Accounts, and 30-120 day CD's, which I plan to invest in for 2008. In 2007, even though we were not receiving our tax draws, and we had to borrow money with an interlocal loan from the Sewer Utility to the General, MVH and Park Funds, we still made the following interest: General/Town Funds - \$122,135.04, Water Funds - \$55,389.97, Wastewater Funds - \$174,653.69 for a total of \$352,178.70." The Council commended Clerk-Treasurer Walters.

Set Lowell Tribune/Pilcher Publishing - publication requirement - Councilman Tucker made a motion to set the Lowell Tribune/Pilcher Publishing per the publication requirement, seconded by Councilman Huseman. The motion carried by voice vote.

Appoint committee to disburse 2007 hotel/motel tax funds and set deadline for requests - President Kuiper explained that in past years, he and Councilwoman Roberts, along with Clerk-Treasurer Walters and Town Administrator Sue Peterson served on the committee to review requests and disburse hotel/motel tax funds. He said he would be willing to remain on that committee unless two other people were interested in doing it. Councilman Alessia said he

would work with them. Clerk-Treasurer Walters asked if they wanted to set the end of March as a deadline for requests again. It was determined that would be the deadline.

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Act on favorable recommendations from Plat Committee:

Brookwood Phase V - Release Performance Letter of Credit #542-\$661,228.20/accept Maintenance Letter of Credit #590-\$137,756. (expires 12-26-09) - Councilman Huseman made a motion to release the Performance Letter of Credit #542 in the amount of \$661,228.20 and accept Maintenance Letter of Credit #590 in the amount of \$137,756.00 which will expire December 26, 2009 for Brookwood Phase V, seconded by Councilman Gard. The motion carried by voice vote.

Act on petition to vacate public right-of-way - 173rd Ave. - Demotte State Bank Trust 140 - Director Cox explained that Mr. Langen was present on behalf of the Trust. He is going to be petitioning for Phase V of The Preserves and in order to do so, there is an unimproved road dedication that needs to be vacated so he can continue the layout of the subdivision. He is before the Town Council, asking them to vacate that portion of what would be known as 173rd Avenue, which exists in plat only on paper. It does not exist in reality. Director Cox stated there is no recommendation from the Plan Commission, but his recommendation is that it is perfectly okay to do so since the town is not going to be using that road. Attorney Sobkowski stated the next step would be to set a public hearing on the petition and authorize the Clerk-Treasurer to give notice as required by law. In order to satisfy the notice requirement, the public hearing would need to be held on the first meeting in February. Councilman Huseman commented that he didn't know why the street was ever planned for that and he speculated that perhaps Parcel 2 wasn't included at the time but a street doesn't really belong there. Councilman Huseman made a motion to set a public hearing for the first meeting in February and authorize the Clerk-Treasurer to advertise and give notice, seconded by Councilman Gard. The motion carried by voice vote. Councilman Huseman asked how long the process would take. Clerk-Treasurer Walters explained that the public hearing would be held on February 11, 2008. Attorney Sobkowski explained further that the actual vacation has to be done by ordinance. He stated that he was not sure what procedure is normally followed in Lowell, but the procedure he was familiar with is holding the public hearing. Assuming the Council is in favor of granting the vacation after conducting the public hearing, they would direct the preparation of an ordinance which would come to the next meeting, which would be the second meeting in February. With two readings, it would be approved the first meeting in March or the rules could be suspended and the ordinance could be approved the second meeting in February. Director Cox stated, as an adjunct to this vacation, Burr Street was dedicated as a public street going north to 175th along the east side of The Preserves. There is dedicated right-of-way also with that plat that town staff will be petitioning to have vacated also because it is no longer needed. Councilman Huseman asked how that affects the property owner of the octagon house. Director Cox reported that he will be developing his property also. Discussion followed as to where access will go into that property. Director Cox stated the property owner will be coming straight across from Michael Drive into his project, across the Burr Street easement. He said he just wanted to take the opportunity to inform the Council that the recommendation from staff will be coming.

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ANNOUNCEMENTS

President Kuiper announced the next regular meeting will be Monday, January 28th at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media asked for a list of the people appointed to the boards and commissions. She also asked, as a resident of Lowell, when there is two inches or more of snow, where they are supposed to park if they usually park in the street and have no garage. She asked if all of the streets in town are going to be included. She said they have four vehicles and asked what they are to do with them. Council members said that was something that would have to be discussed when the Chief was back in town.

A member of the media asked if the deadline for hotel/motel tax requests would be March 10th. Clerk-Treasurer Walters stated it would be the end of March, probably March 31st.

There being no further business or discussion, Councilman Gard made a motion to adjourn, seconded by Councilman Huseman at 7:52 P.M.

Phillip Kuiper, President
Lowell Town Council

ATTEST:

Judith Walters, Clerk-Treasurer