

**LOWELL TOWN COUNCIL
REGULAR MEETING
OCTOBER 27, 2008**

The regular meeting of the Lowell Town Council was called to order on Monday, October 27, 2008 at 7:00 P.M. by President Phillip Kuiper. The Pledge of Allegiance was recited and a moment of silence was observed. Clerk-Treasurer Judith Walters called the roll. Present were Council Members Donald Huseman, Shane Tucker, John Alessia, Phillip Kuiper and David Gard. Also present were Town Attorney Greg Sobkowski, Public Works Director Greg Shook, Town Administrator Susan Peterson, Police Chief John Shelhart, Community Development Director Wilbur Cox, Greg Guerrettaz of Financial Solutions Group, Mark Downey of Commonwealth Engineers, two members of the media and twenty one interested citizens.

TREASURER ' S REPORT

Councilman Tucker made a motion to approve the Treasurer ' s Report for September, 2008 as presented, seconded by Councilman Alessia. The motion carried by voice vote.

APPROVAL OF MINUTES

Councilman Huseman made a motion to approve the minutes from the October 13th regular meeting, seconded by Councilman Alessia. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #2100-2138, Water Vouchers #2624-2652 and Waste Water Vouchers #3505-3523 and recommended them for approval. Councilman Gard made a motion to approve the vouchers as listed, seconded by Councilman Huseman. The motion carried by voice vote.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

Public Assistance - Lake County Homeland Security/Emergency Management Agency - President Kuiper read a letter from Lake County Homeland Security/Emergency Management Agency regarding the approval of Lake County for Public Assistance on October 16, 2008.

Labor Day Trophies - President Kuiper read the names of the winners from the Labor Day parade and presented those in attendance with their awards with assistance from Administrator Peterson.

Administrator Peterson explained that the winners had their choice of a check or trophy. Best Color Guard Unit - Crete American Legion Post #1291; Best Motorized Entry - Lowell Eloee Family; Best Adult Marching or Walking Unit - Red Hat Grannies and the World War II Historical Re-Enactment Society; Best Business Entry - Corky ' s Dogg House; Best Union Float - Operating Engineers

Local 150; Best Musical Organization Float - Lowell Church of Christ; Best Non-Musical Organization Float - Lake County 4-H Auction & Council; Best Youth Organizational Group - Boy Scout Troop

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#105. The entry that best depicted the theme of the parade, which was "A Time to Remember" was presented to the Fitness Edge. The Best Entry Overall of the parade was presented to Mi Ranchito.

ORDINANCES & RESOLUTIONS

1st & 2nd Reading - Ordinance #2008-23 - 2008 Salary Ordinance - President Kuiper read the title of Ordinance #2008-23, an Ordinance Establishing Salaries and Wages for Calendar Year 2008. Clerk-Treasurer Walters explained that the salary ordinance is in the same format that has been used for years. When budgets were prepared last year, a 5% increase was budgeted. The reason a salary ordinance was not done earlier in the year was because the town has been waiting to receive an approved 2008 budget from the state. That was received two weeks ago. The budget was fully funded, there were no cuts in the major funds, so the salary ordinance reflects a 5% increase across the board, with Police personnel from the Sergeants, Corporals and Patrolmen receiving an additional \$2,000 per year. They were given the first phase of the increase last year and this is the second phase. Councilman Gard made a motion to hold over Ordinance #2008-23 for second reading, seconded by Councilman Huseman. The motion carried by voice vote. Councilman Gard made a motion to suspend the rules, seconded by Councilman Huseman. The motion carried by voice vote. Councilman Gard made a motion to adopt Ordinance #2008-23 by name and title only, seconded by Councilman Huseman. Roll call vote carried with four ayes, Councilman Tucker abstaining from the vote. Councilman Gard made a motion to set the rules back in order, seconded by Councilman Huseman. The motion carried by voice vote.

At this time, the Red Hat Grannies arrived at the meeting to accept their Labor Day parade award. President Kuiper presented the award to them.

1st Reading - Ordinance #2008-24 - 2009 Appropriations & Tax Rates - PUBLIC HEARING - President Kuiper read the title of Ordinance #2008-24 Ordinance for Appropriations and Tax Rates. Greg Guerrettaz of Financial Solutions Group explained the 2009 budget and gave highlights of recent events that have affected municipal budgets and their preparation. Tax caps will become a reality in Lake County in 2009 and there will probably be a reduction in property tax rates seen. Property tax dollars are frozen for 2009. A 3% increase has been built in to this budget but it is highly unlikely that will be achieved because the town will not get new tax dollars. During budget preparation, he and Clerk-Treasurer Walters tried to be very frugal and department heads were very helpful during the process. In the General Fund - Town Council, it appears that services and dollars were cut, but when the numbers were reduced from the 2008 to the 2009 budget, that was an additional amount that was built into the 2008 budget as a buffer that has not been included in 2009. The total levy funds go from 4.3 to 4.5 and part of that is due to some changes that have been made in the Police Department. He emphasized that in 2009, the town will really have to watch miscellaneous revenues.

Miscellaneous revenues appear to be going down and this is projected in about 91 other counties in the state. These include things like building permit fees and interest income. He encouraged the preservation of fees that are already in place and said they will be looking at the creation of some new user fees in the future. He said the town has done a really good job of spending its money very frugally. He made note of the Gambling Revenue Fund which looks like it is going up. That is because the money budgeted in 2008

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was not spent and is being re-budgeted in 2009. The same thing was done in the Local Road & Street Fund. He said they believe this is a realistic budget for 2009, but there will probably be some cuts required, due to circuit breaker and other things like that. They anticipate receiving a budget order again this time next year. In the mean time, if they stay on path with spending at the reasonable rates they have done, he said he thought the town will be ok for 2009 at this point. They have recommended that any capital improvements not be spent until the town receives at least the 2008 property taxes. The town will only receive part of that this year and will get the remaining part of it next year. He thought it would probably take about three months to settle. The town will be in an important borrowing mode in 2009, because of cash flow and not receiving those property tax dollars. It is anybody's guess at this point when the town will receive 2009 property tax revenues. President Kuiper asked about Freedom Park and noted a big difference in that budget. Mr. Guerrettaz explained that was just because of revenue being down. Clerk-Treasurer Walters stated the neither West Creek nor Cedar Creek were able to promise that they would be able to give toward the operating budget next year. Councilman Tucker commented that the townships also got cut. Mr. Guerrettaz stated that he is currently doing about a half a dozen fire territory studies. Everybody is seriously looking at consolidation efforts for the future and this includes fire and EMS services. These efforts are looked at very positively down state because it is a form of consolidation and is probably the only hope for fire and EMS on a continual basis. There is a time window early next year and encouraged the Council to look at it at that time if they are interested. He said they also recommended to Clerk-Treasurer Walters that the Cum Funds be re-established at the maximum rate come the first of next year. President Kuiper opened the public hearing. There being no comment in favor of or in opposition to Ordinance #2008-24, President Kuiper closed the public hearing. Councilman Huseman made a motion to hold over Ordinance #2008-24 for second reading, seconded by Councilman Gard. The motion carried by voice vote.

Resolution #2008-18 - Transfer of funds - Fire, Park, MVH budgets - President Kuiper read Resolution #2008-18 to transfer \$3,000 within the General Fund-Fire budget, \$2,000 within the Park Fund budget and \$15,000 within the MVH Fund budget. The transfers do not affect the balance in any of the funds. Councilman Alessia made a motion to adopt Resolution #2008-18, seconded by Councilman Huseman. The motion carried by voice vote.

UNFINISHED BUSINESS

Lowell Utilities Update - Nothing was reported for any of the following items: WWTP JMOB Requests, Water Infrastructure Improvement Plan, East Side Sewer Easements, Street/Sidewalks.

President Kuiper that they met today and have a response from the new Lowell Middle School. Attorney Sobkowski reported that in conjunction with the construction of the new middle school, the Tri-Creek School Corporation will be constructing a sanitary sewer line. They have been in discussions with the school corporation about the mechanism for having that line constructed and about a recapture proposal. The school corporation has come back with a proposal to recapture a portion of the construction costs. That recapture proposal has been reviewed with President Kuiper, Greg Shook, Greg Guerrettaz, Mark Downey and all staff and consultants support the school's recapture proposal.

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There are a couple of options that the school can use to construct the line and it is not clear yet which of the two they are going to select. Depending on which option they select, the recapture fee will be somewhere in the neighborhood of \$1,275 to \$1,675. He said he would be happy to answer any additional questions about the proposal, otherwise, he felt they were looking for consensus that they can at least move forward with a recapture agreement that they can bring back to the Council for consideration.

Water/Wastewater Rate Report - Financial Solutions Group-G. Guerrettaz - Customer Impact Assessment - President Kuiper asked Mr. Guerrettaz to present his Water/Wastewater Rate Report. Mr. Guerrettaz said that these reports were the result of what was discussed at a Council meeting about six months ago where they were looking at what might be done for the Water Utility. They sat down and evaluated the Water Utility and the Wastewater Utility from not only a current cash flow basis, but also on the five-year capital improvement plan that was prepared by Commonwealth Engineers for both the Water Utility and the Wastewater Utility. That was all put together in the two reports. When they looked at the Water Utility, they knew it needed a rate increase. He noted the most current Treasurer's Report that showed a balance in the Operating and Maintenance Fund of a little over \$58,000, which does not include an investment of \$25,000 which is below the requirements. The goal was to find out if there was a way to go in and adjust the wastewater rates down and adjust the water rates up. They went through the data and think they have a way to propose a rate scenario, whereby if you look at the minimum on the water utility in the amount of \$14.69, they are proposing that go to \$19.10. This is an increase of \$4.41 on the minimum charge. Then, they are looking at a corresponding decrease in the wastewater utility from the current rate of \$24.80 on the minimum down to \$20.40. This is a \$4.40 decrease in the wastewater. Mr. Guerrettaz then compared how that would affect a 5,000 gallon user. Currently for water, they would pay \$29.40 which would be proposed to go up to \$38.20 for an \$8.80 increase. On the wastewater, they would have a corresponding \$49.60 going down to \$40.80 for a corresponding decrease of \$8.80. The reason this is able to be done is the Wastewater Utility has, over a period of years with its growth and development, been able to build up some reserves. They are also recommending, in the Wastewater Utility, that one of its debts be eliminated. This is the same one that he mentioned eliminating three or four years ago, which is to pay off early the 1993 Bonds that actually matures on 01/01/2010. In order for the utility to meet all of the financial requirements and eliminate 6.15 debt, they want to take the reserves and pay the debt off early. That will allow the Wastewater Utility to maintain its financial picture. This

is a clear case where growth and development, along with additional users have benefitted the Wastewater Utility and allow the town to make up what is a deficit in the Water Utility. The Water Utility needs an approximate 30% increase to not only meet the ongoing operations but also the many capital improvements that are built into the Water Utility capital improvement program. He noted that this is spelled out on page 14 of the water report. There is a significant need for additional water in the water utility and once the source is found, they proposed a bond issue on page 15 in order to build the necessary lines or whatever is needed to get the water quantity to the treatment facility. He said he feels they have a very good plan for increasing the Water Utility, decreasing the Wastewater Utility, being able to allow the town to maintain the reserve in the Wastewater Utility for major capital improvements and also building up the Water Utility to where it will be able to have some money to do it's major capital improvements within the limits. He would also like to see the ordinance include a review in six months. He explained

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that this is an opportunity that does not exist very often. There is some give and take and some assumptions in the numbers. They feel fairly certain with the numbers, but there are no guarantees that users won't change their usage patterns and that could result in substantially different numbers in the future. On an actual basis, they would want to review the numbers after six months to make sure they are still meeting the financial requirements. Mr. Guerrettaz said Clerk-Treasurer Walters asked him about doing something about the minimum usage numbers. He said he wanted to do that during the six month review period. He felt it would be detrimental to the health of the utilities to have five simultaneous equations going on at the same time. He said the most telling document is where they put together the assessment of current and proposed rates. They structured the rates to where even the larger users will break even with the proposed rates and are spelled out on page 3, Exhibit B of the report. He said he would like to get approval from the Council for Attorney Sobkowski to work with him to put together the first draft of the rate ordinance, propose that to the Council for consideration and set the changes for public hearing. Councilman Tucker asked if this would need additional review after the first six months. Mr. Guerrettaz explained that unless there was a significant user change, he felt things should be within the financial requirements. If they were not, there might need to be a slight variation implemented. He said he always believes an annual or at least bi-annual review needs to be done. He said it is very easy to annually update the report and stay up on where it is. With the rapidly rising costs of operation, the last thing they can afford to do is let the utility get in the hole. He said he does not feel an annual review needs to be mandated by ordinance, but some Councils choose to do so. Consumers cannot afford 20 to 30% increases. They need to be moderate. The only other thing that will significantly affect rates are large government mandates. Councilman Huseman made a motion to proceed with the ordinance, seconded by Councilman Alessia. The motion carried by voice vote.

Replacement of Police Vehicles - Chief Shelhart reported that annually, they try to replace at least two vehicles to keep the fleet in good condition. They would like to purchase two new cars. For the last two years, Mike Anderson Chevrolet has donated a car to the town to use for free. They are no longer able to do that because of the state of the economy. The car that they donated for the past two years has a resale value of about \$11,500 and they have offered to sell it to the town for \$7,000. This

actually means they have given a brand new car to the town for \$7,000 because the town has had the use of the car since it was brand new. He requested the Council to consider purchasing two new cars from Mike Anderson Chevrolet in the amount of \$21,211.92 per car since they are the lowest responsive quote for the 2009 Chevrolet Impala. There is an approximately \$5,500 change over cost that would be in addition to the cost of the cars. There is money in the 2008 budget to cover most of the cost. If they order the cars now, they most likely will not be in before the end of the year. Funds would be encumbered from the 2008 budget and any balance could be paid out of the 2009 budget. President Kuiper asked about trade-in vehicles. Chief Shelhart reported that Mike Anderson Chevrolet agreed to accept three vehicles for trade-in. They offered \$1,200 for the 1999 Ford Crown Victoria with 105,000 miles, \$2,500 for the 2001 Jeep with 77,000 miles and \$1,200 for the 2002 Dodge Intrepid with 106,000 miles. Recently, the 2002 Dodge Intrepid was involved in a traffic accident and the insurance company has provided a check in the amount of \$1,734.35 for the car. This is about \$500 more than was offered by Mike Anderson Chevrolet for a trade-in. He proposed accepting the check from the insurance company and trying to sell that car outright for whatever they can get for it with the crunched up fender. Review of the Kelly Blue Book values for the '99 Ford

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varied from \$845 to \$1,100 and the '01 Jeep was \$2,610. It would be up to the Council whether to trade the vehicles in or try to sell them outright, but selling vehicles outright has been less than successful in the past. It was proposed at a recent Police Commission meeting to try to sell the vehicles outright. He felt the town would be better off to trade the two vehicles in and try to sell the Dodge Intrepid outright for whatever amount the town can get out of it. President Kuiper asked about the donated vehicle. Chief Shelhart said that would be included in the purchase package. It would be the purchase of two brand new vehicles and the purchase of the donated car for \$7,000. The donated car has approximately 43,000 miles on it. Clerk-Treasurer Walters reported that there is money available in the 2008 budget and they would probably have to use money out of the 2009 budget as well. If there was not enough money to equip them, since the cost to equip each car is \$5,500, those expenses could be paid out of the Law Enforcement Training Fund, which allows the purchase of equipment. Councilman Huseman asked about the need to purchase vehicles in 2009. Chief Shelhart said he hopes that there will not be a need to purchase any additional cars in 2009. President Kuiper asked if the town owned all of the Police vehicles or if any were on a lease program. Clerk-Treasurer Walters informed him that the town owns all of the Police vehicles. Councilman Alessia asked if two vehicles were budgeted for 2008 and two more for 2009. Clerk-Treasurer Walters explained that two vehicles were budgeted for 2008 and two more had been budgeted for 2009, but \$24,000 has already been transferred out of that line item in the 2008 budget to the gasoline line item because it was short due to high gas prices. They would not have been able to purchase two vehicles in 2008 anyway. Chief Shelhart stated he felt there would be some money at the end of the year in other line items that they will be able to transfer around to assist in the purchase of the vehicles. Councilman Gard made a motion to purchase the three police cars and trade in two vehicles, seconded by Councilman Alessia. The motion carried by voice vote.

Act on agreement with South Lake County Community Services for bus transportation from October 1, 2008 through September 30, 2009 - President Kuiper asked if this was done annually. Clerk-

Treasurer Walters explained that it was the money that was approved as part of the CDBG funds but the amount of \$15,000 was filled in on the agreement. Councilman Tucker made a motion to act on the agreement with South Lake County Community Services for bus transportation from October 1, 2008 through September 30, 2009 in the amount of \$15,000, seconded by Councilman Gard. The motion carried by voice vote.

Tabled from previous meetings:

7/14 - Release Letter of Credit for engineering for water main extension - KM&N - The item remained tabled.

8/25 - 2nd Reading - Ordinance #2008-19 - Repealing Chapter 111 - Commercial Window Covering Requirements - The item remained tabled.

NEW BUSINESS

Approve 2009 Water Utility Budget per USDA Rural Development Loan - Clerk-Treasurer Walters explained that a requirement of the Rural Development Loan is to provide a budget for the operating.

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She stated that the form includes the actual figures from 2007 and the anticipated figures for 2009. Total operating income in 2007 was \$1,691,523 and \$2,094,745 is being budgeted for 2009. This is based on Financial Solutions Group calculations for a 30% increase. She requested approval in order to be able to forward the budget to USDA Rural Development. Councilman Huseman made a motion to approve the 2009 Water Utility Budget, seconded by Councilman Alessia. The motion carried by voice vote.

Proposal of Economic and Community Development Projects - SEH, M. Reardon - President Kuiper stated that they have been in discussion with Matt Reardon of SEH, who works in Economic and Community Development. Their discussions have been the result of new development in town as well as requests from merchants and businesses in town through the Building Department that the town is not sure what it can do. President Kuiper asked Mr. Reardon to address the Council about his proposal. Mr. Reardon introduced himself and said that SEH Engineering & Consulting prides themselves in delivering vertical outcome driven solutions for communities. That has to do with helping coordinate the professionals along with engineering and financial transactions that occur as the result of investment in communities. He said that, as Mr. Guerrettaz pointed out earlier in the meeting, with the budgets coming up and the limitations from the lowering of tax rates, the only way the town will achieve the budget is through increasing the community's assessed valuation. No one wants to see any individual homeowner's assessments going up. They are talking about new investment and diversification of the tax base and he feels that is what SEH can help bring to the table. When existing companies are looking to make investments, their services, at the request of the town, will help coordinate how they can foster making the largest investment possible. With new development opportunities, their services will include how to help coordinate with the existing utility network and what might be necessary in the way of other infrastructure to help them invest more

money in the community. He gave a brief explanation of who the SEH company is and stated that they have several local communities who are their clients in various areas including community development, economic development, engineering services and environmental services. President Kuiper asked Community Development Director Wilbur Cox for additional comments. Director Cox said that he felt where his knowledge is lacking, Mr. Reardon's knowledge picks up to help put a program together for the town. He said they keep getting calls about possible development as well as calls about the downtown area and both of them need to be addressed. He said he felt they need to be in a better position to say this is what the town wants done. Mr. Reardon brings the possibility of tapping into sources that the town currently does not have. Councilman Alessia commented for the benefit of the public that they are discussing primarily commercial development. Mr. Reardon said that was what he meant when he talked about diversifying the tax base. Councilman Huseman asked if the funds to pay for Mr. Reardon's consultation services would come out of each project and what happened if a project fell through. Director Cox said the fees would be added onto the project and if a project fell through, the town would have to pick up the cost. He said the hope is that the package that is put together will have a successful outcome. He also said that they get calls about rumors of Stracks and many other things coming in. If there is something the town can offer that would induce these investors to bring their projects into town and they are good projects, that is a position he would like to be in. He said he does not like to be in the position where he has to tell these prospective investors that he does not know and he will have to get back to them about their proposals. President Kuiper explained that Mr. Reardon agreed to come on for a six month

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period at a substantially reduced rate since this is all new to the town. They will then assess the arrangement after six months. Councilman Huseman made a motion to accept the proposal from SEH Engineering & Consulting for economic and community development projects, seconded by Councilman Gard. Mr. Guerrettaz commented that he was asked to look at the contract and noted that it does not include any not to exceed amounts. He said his recommendation was to take that under advisement. Attorney Sobkowski said that globally, they could set some kind of limit in the contract. He suggested another way to do that was on a project by project basis where the duties are outlined with a not to exceed budget per assignment. Council members indicated that they would be comfortable handling it on a project by project basis. The motion carried by voice vote.

Enter into Memorandum of Understanding with Lake County Highway Department for purchase of liquid asphalt from Town of Lowell - Director Shook explained that the town recently purchased a Total Patcher machine for road repair and a storage tank for oil emulsion. The storage tank has been installed and filled with the oil emulsion. Lake County Highway Department has the same type of machine and they don't want to have to put a storage tank in each one of their facilities so they are looking at getting the oil emulsion from the town. Lake County is willing to purchase the oil from the town at cost plus an additional ten cents (\$0.10) per gallon to help cover billing costs. They will come to the storage tank location, Lowell personnel will measure what is pumped into their machine and a bill will be sent to the county. Councilman Gard made a motion to enter into the Memorandum of Understanding with the Lake County Highway Department for the purchase of liquid asphalt from the Town of Lowell, seconded by Councilman Huseman. The motion carried by voice vote.

Ratify agreement with Comcast for Internet Service for town properties - Clerk-Treasurer Walters explained that the town has always paid for internet service at the Street Garage and Park Department. The internet service for the Town Hall and Police Station was donated by RTL through xvi.net. Now that they are going out of business, the town has had to get new internet service. She needs the Council to ratify the agreement with Comcast at \$59.95 per month per location. She reported that it is going to take about six weeks to get internet service at the Street Garage through Comcast and they are still looking for internet service for the Water Plant and Wastewater Plant since Comcast does not provide service in those areas. Councilman Tucker made a motion to ratify the agreement with Comcast for internet service for town properties, seconded by Councilman Alessia. The motion carried by voice vote.

ANNOUNCEMENTS

President Kuiper announced the next regular meeting on Monday, November 10, 2008 at 7:00 P.M.

President Kuiper announced that Trick or Treat Hours will be Friday, October 31st from 5 to 7 P.M. He commented that it will be a very busy Friday evening in town since Lowell is also hosting a Sectionals football game that night.

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MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media asked if the 2008 Salary Ordinance is retroactive. Clerk-Treasurer Walters explained that it is retroactive to January 1st. She also asked about the contract with SEH. President Kuiper informed her it was at \$135 per hour per project. This is not a retainer, it is per project.

Kathy White, 349 Gwens Cove Court, asked about the Community Development Project agreement with SEH. She asked what they do, how much time they will be putting into each project, how much it will cost and what about if a project does not happen. She commented that it all seemed a little vague to her and asked for more information. Director Cox explained that when larger projects come in to the town they need infrastructure. There is such a thing as a TIF district that helps out putting in the infrastructure in the area where it is needed and provides TIF bonds to finance the project that are paid back by the increase in the tax value of the project. He said he is familiar with TIF projects and in order to set it up, there must be a Redevelopment Commission established and the cost of the infrastructure must be known in order to know how much is needed to get the project done. Mr. Reardon will provide, on an as-needed basis, those costs needed or the type of financing that would be best for the town. He said Mr. Reardon is also an expert on knowing where different types of grants are for projects. Director Cox said he sees other communities getting different grants that the Town of Lowell has not gotten and feels the town should get their fair share for good development. He said

he is hoping that the projects will come to fruition and all of Mr. Reardon's money will be paid by the developer and/or applicant. There may be a time, though, where they go through the process and it doesn't work, but hopefully, the other projects will bring in enough money that they will be able to pay for those bills. Along with residential growth, the town needs good commercial growth, good paying job growth.

Councilman Huseman said he wanted to reiterate the necessity of meeting with the drainage board about the Powell Ditch. Director Shook said he has had conversations with Dan Gossman's office and he hopes to have something set up pretty soon.

Councilman Gard made a motion to adjourn, seconded by Councilman Alessia at 8:08 P.M.

ATTEST:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer