

**LOWELL TOWN COUNCIL
REGULAR MEETING
APRIL 28, 2008**

The regular meeting of the Lowell Town Council was called to order on Monday, April 28, 2008 at 7:00 P.M. by President Phillip Kuiper. The Pledge of Allegiance was recited and a moment of silence was observed. President Kuiper requested the audience to remember the Niemeyer family for the loss of former State Senator and County Commissioner Ernie Niemeyer. 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, Town Administrator Susan Peterson, Director of Community Development Wilbur Cox, Street Superintendent Frank Lovely, two members of the media and twenty eight interested citizens.

TREASURER'S REPORT

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

APPROVAL OF MINUTES

Councilman Tucker made a motion to approve the minutes from the April 14^h regular meeting, seconded by Councilman Alessia. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #1410-1453, Water Vouchers #2225-2252 and Waste Water Vouchers #3187-3213 and recommended them for approval. Councilman Huseman made a motion to approve the vouchers as listed, seconded by Councilman Gard. The motion carried by voice vote.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

Proclamation - Special Olympics - State Championship - President Kuiper stated they have some very important people in attendance at the meeting. He read a proclamation recognizing and congratulating the Lowell High School Special Olympic Varsity Basketball Team on their state championship win. He read off the names of the five team members, Dana Kersey, Jason Dahlin, Scott Smith, Ryan Milburn and Nick Parker and asked them to stand at the front of the room and recognized the two team coaches, Jay Dahlin and Theresa Parker. He told them the Town Council was privileged to have them at the meeting and that the Town Council and the whole town was very proud of the team. He asked someone on the team to tell something about the day of the tournament. Dana Kersey said she loved the tournament and her parents. Jason Dahlin said he loved his dad teaching him basketball.

President Kuiper told the team members that they are very special and said that the coaches are also very special.

Request for donation - Lake County Bagpipes and Drums Unit - President Kuiper read a letter of

request from Lake County Police Captain Ray Borchert, President of the Lake County Bagpipes and Drums Unit for a donation to assist their annual operation and travel to Washington D.C. for the National Memorial Service along with Pipe Bands from across the country. Councilman Huseman made a motion to donate \$200 to the Lake County Bagpipes and Drums Unit, seconded by Councilman Gard. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

Ordinance #2008-09 - Amending Section 35.25 Fixed Capital Asset Capitalization Policy - President Kuiper read Ordinance #2008-09, Amending Section 35.25 Fixed Capital Asset Capitalization Policy. Clerk-Treasurer Walters stated this was a recommendation from the State Board of Accounts during their annual audit. The policy used to say \$1,000 and State Board of Accounts recommended that it be raised. Councilman Gard made a motion to hold over Ordinance #2008-09 for second reading, seconded by Councilman Huseman. The motion carried by voice vote.

Ordinance #2008-10 - Amending Section 37.085 Travel Expense - President Kuiper stated the ordinance was very large and asked Clerk-Treasurer Walters to explain what was being changed. She stated that currently, the code reads that personal vehicle use is reimbursed at .31 per mile and has been at that rate since 1999. It is being changed to read whatever the Federal rate is. Also, employee travel meal expenses are currently allowed at \$24 per day; \$5 for breakfast, \$7 for lunch and \$12 for dinner. It is being changed to allow \$10 for breakfast, \$15 for lunch and \$15 for dinner for a total of \$40 per day. Councilman Gard made a motion to hold over Ordinance #2008-10 for second reading, seconded by Councilman Alessia. The motion carried by voice vote.

Resolution #2008-08 - Reducing 2008 Budget - President Kuiper read Resolution #2008-08 Reducing the 2008 Budget. Councilman Huseman made a motion to adopt Resolution #2008-08, seconded by Councilman Tucker. Clerk-Treasurer Walters stated that the town is currently working under the 2007 budget. These line items were in the 2007 budget but there is not sufficient cash to support them so she would like them off the books. The motion carried by voice vote.

Resolution #2008-09 - Authorizing Appeal to Department of Local Government Finance for 2007 shortfall - President Kuiper read Resolution #2008-09 Authorizing Appeal to Department of Local Government Finance for 2007 shortfall. Councilman Gard made a motion to adopt Resolution #2008-09, seconded by Councilman Huseman. Clerk-Treasurer Walters reported that the town only received 95% tax collection this year. Normally, between 98% and 100% is received. This amounts to \$157,000 shortfall. It is on the advice of the financial consultant that the town appeal the levy. The motion carried by voice vote.

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.

Permission to advertise for bids to purchase Road Repair Machine - Clerk-Treasurer Walters reported that after talking to the State Board of Accounts and legal counsel, it has been determined that the purchase does not have to be bid out because it is being lease/purchased over a five year period. Three quotes can be solicited. At this point, the patcher and tank together are \$96,800. Over a five year period, the annual payment would be approximately \$22,000. Because the water and waste water departments make road cuts for water lines, storm drains and sanitary sewers, payment will be made out of all three departments. She requested permission for Director Shook to solicit three quotes and permission for her to solicit quotes for the financial part of the purchase. Councilman Huseman made a motion to grant permission to solicit quotes for the purchase of a road repair machine and quotes for financing, seconded by Councilman Gard. Street Superintendent Lovely stated they would be having a demonstration of the road patcher on Monday, May 5th at 1:00 P.M. The motion carried by voice vote.

Act on recommendations for CDBG Funds for 2008/09 & accept bids for 2007 - Town Administrator Sue Peterson reported that a public hearing was held on Monday, March 24th for the 2008/09 use of CDBG funds. The town will be receiving \$46,450 for those two years. The town received a request from South County Community Services of \$15,000 for bus fuel. She recommended granting the request of \$15,000 to South County Community Services and use the rest of the funds for some kind of sidewalk repair or ADA sidewalk use. She reported that she is still receiving requests from residents for sidewalk replacement. She also stated that they are getting ready to do the FY2007 sidewalk project. Letters of request for proposal were sent to contractors and the lowest one that was returned was from C&S Concrete. She recommended hiring C&S Concrete to perform the job. There are ten or eleven houses in low to moderate income areas of town that will be receiving replacement sidewalks this year. She will be attending a pre-construction meeting at the Lake County Government Center in the morning. Councilman Tucker made a motion to approve C&S Concrete, seconded by Councilman Gard. The motion carried by voice vote.

Erosion of property new empty lot in Meadowbrook - Jim & Carol Federoff - President Kuiper reported that he had a conversation with Mrs. Federoff on the telephone the other evening. He asked her if she could please limit her time speaking and she graciously agreed. Mrs. Federoff presented some photographs. She and Mr. Federoff live at 438 Dogwood Lane. There is an empty lot next door to them that the builder began to prepare for construction a year and a half ago. Footings for a foundation were poured and construction stopped there. It is now becoming an erosion problem. It is a little over three feet deep with water standing in it. She asked for any help they can get. They have called Joe Rehling and Mr. Federoff went in to the office to speak with him to ask that something be done. Nothing has been done since that time. President Kuiper said he appreciates their problem, which is very similar to what was brought to the attention of the Council at the last meeting by Mr.

Gutjahr. He said that the town's position was that it got involved for the blacktopping, which still needs to be done. He said a great deal of work has been done by Director Cox toward getting that work done. He asked Mr. and Mrs. Federoff to direct their information to Director Cox and once he has looked into the matter, he will bring any necessary recommendations to the Council for their

consideration. This will speed things along but since this involves private property, President Kuiper told Mrs. Federoff he did not know what could actually be done by the town.

Tabled from previous meetings:

12/10/07 - Paving of street in Meadowbrook Subdivision - President Kuiper commented that he felt it was safe to take this item off the agenda as a tabled item since Director Cox was completely in control of the paving situation in Meadowbrook Subdivision. Director Cox stated he would bring a progress report to the Council in June. President Kuiper asked for a motion to remove the item from the agenda, not abandoning Meadowbrook in any way, but because the matter is under control. Councilman Gard made a motion to remove the item from the agenda, seconded by Councilman Tucker. The motion carried by voice vote.

Clerk-Treasurer Walters asked the Council to consider removing some items from the Lowell Utilities Update list. She said the WWTP Phase II Project was now complete and the Storm Sewers/Lift Stations could probably be removed. She asked about the East Side Sewer Project. Councilman Huseman said he would like to see that item remain on the list since there is some restoration there that still needs to be completed. Councilman Gard made a motion to remove WWTP Phase II Project and Storm Sewers/Lift Stations from the Lowell Utilities Update list, seconded by Councilman Alessia. The motion carried by voice vote.

NEW BUSINESS

Confirm appointment of RBA Member Margot Sabato representing Cedar Lake, Crown Point, Schneider, Winfield & Lowell - Administrator Peterson reported that she attended a meeting of these members on behalf of President Kuiper. The members elected Margot Sabato as their representative on the RBA. They requested a letter from the Town Council or some other official action to confirm that appointment. Councilman Gard made a motion to confirm the appointment of RBA Member Margot Sabato to represent Lowell, seconded by Councilman Tucker. The motion carried by voice vote.

Enter into contract for 2008 with Keithly Farms for weed control at WWTP property - President Kuiper stated this is an annual contract with Keithly Farms for weed control at the WWTP property. Councilman Huseman made a motion to enter into a contract for 2008 with Keithly Farms for weed control at the WWTP property, seconded by Councilman Alessia. The motion carried by voice vote.

Sale of town property - 171st Avenue - Director Cox reported that the piece of property Mr. Langen would like to purchase is actually a much smaller piece of ground than what the town owns there. He suggested that they purchase the entire piece since most of it is floodway. Mr. Langen will only benefit by a small amount. From what he has been able to discover, Director Cox said the town does not use the property for anything. He felt it would be in the best interest of the town to at least put it up for sale.

He said he was not sure how to go about doing that, but Mr. Langen did show an interest in it and would like to get the ball rolling. Attorney Sobkowski explained that it was his understanding, from discussion with Director Cox, that the assessed value of the property that the town owns is less than \$6,000. There is a special provision in the Indiana Code which provides for sale to an

abutting property owner. The action for the Council to take to start the process moving would be to adopt a motion finding that the highest and best use of the property would be sale to an abutting owner, finding that the cost of maintaining the property is equal to or exceeding its fair market value and that it is economically unjustifiable to sell the tract under the normal provisions which would require two appraisals, a public notice and that very formal procedure, and finally authorizing the Clerk-Treasurer to publish a notice of sale soliciting bids for the purchase of the property. Councilman Huseman thought that with regard to the value of the land, there is only one abutting property owner and the rest of it is wetland. He thought there was a proposal to put in an oversized sewer line. Director Cox stated that the proposal does say that an oversized sewer line will be put in if he is able to get the property, but the property needs to be put up for sale so he can get there. Councilman Huseman made a motion to accept the recommendation made by Attorney Sobkowski, seconded by Councilman Gard. The motion carried by voice vote.

Act on Petition to vacate Public Right-of-Way - James Grabinski, 175th Avenue - Director Cox reported that this is actually the town's property and Mr. Grabinski is going to be developing the property to the east of it. Mr. Grabinski had a survey prepared so the town could go forward with the vacation. The vacation is the old dedication of Burr Street extending north of 175th. Since the advent of The Preserves and the continuation of The Preserves, the town no longer needs Burr Street. He suggested getting rid of the right-of-way so it is not on the books. It will go to the adjacent property owners, including those in The Preserves. Mr. Grabinski has bought two lots in The Preserves to gain access to part of his property where the octagon home is. Director Cox said he felt this was the right way to go with this project. Attorney Sobkowski stated if the Council wishes to proceed, the first step would be to authorize a public hearing on the vacation of the right-of-way, which would need to happen, due to publication requirements, at the second meeting in May. Councilman Gard made a motion to authorize a public hearing on the vacation of the right-of-way, seconded by Councilman Huseman. Councilman Huseman commented that this would start at Burr Street and go north and asked if this would have any effect on the development of this parcel and the drainage of the north side of 175th. Director Cox explained that it is the extension of Burr Street and starts at 175th and goes north. The south boundary of this vacation is 175th. The actual improvement to 175th will take place when Mr. Grabinski comes in and starts to develop the property. Mr. Grabinski has been made aware that this is part of it and Director Cox said he thought Mr. Grabinski is already working with Doug Homeier, S&H Engineering, on the design of the subdivision. Councilman Alessia asked if this was part of the development of a subdivision. Director Cox said that this was at one time a proposed extension of Burr Street going north. It is really no longer needed because The Preserves are now on the west

side and it puts Michael right there on the west side. The five acres that sits inside, right at the north east corner, if there was a corner there, across from Malibu Woods, is the area that is being proposed for subdivision. Councilman Huseman asked if Burr Street is vacated, will the radius and the start of Burr Street north be taken out. At the current time, there is a radius and a big hump there at that corner with some paving. He asked if that could be taken out and straightened. Director Cox said that was in the town's right-of-way, is proposed to be vacated and would come out. Councilman Alessia asked if access to the new subdivision would be granted through The Preserves. Director Cox said one access is proposed to be through The Preserves. Whether it gets approved that way is not known at this time. There may be another access off of 175th. He said he has not seen the layout of the subdivision yet but he knows Mr. Grabinski has purchased two lots in The Preserves. Discussion followed and Director Cox stated

that in either case, whether there are one or two entrances to the proposed subdivision, Burr Street serves no purpose whatsoever. The motion to act on the petition to vacate public right-of-way at 175th Avenue carried by voice vote.

Permission to use recycling funds for ceiling tiles & floor tile at Town Hall - Clerk-Treasurer Walters stated that with the Park Department moving out to Freedom Park, the Town Court will be moving into the old park office. They would like to tile the floors in the hallway and back room. The ceiling tile needs to be replaced because the trunk lines need to be insulated. The insulation is not fire proof so it needs to be taken out and replaced. The current ceiling tile will be taken down and used as replacement for other areas in the town hall since it cannot be purchased any more. The new ceiling tile they are looking at is made out of recycled materials. The total for ceiling tile and floor tile is \$10,184.66. There is currently a balance in recycling funds of \$57,000 since they have been holding some of it for recycled pipe. They have not received the distribution from the end of 2007 yet, which is about \$22,000 more. Councilman Huseman made a motion to grant permission to use recycling funds for ceiling tiles and floor tile at the Town Hall, seconded by Councilman Alessia. The motion carried by voice vote.

ANNOUNCEMENTS

President Kuiper announced the next regular meeting on Monday, May 12, 2008 at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media requested additional information regarding the tax shortfall appeal. Clerk-Treasurer Walters explained that this was the 2006 payable 2007 tax collection and the town normally receives between 98% and 100%. The media member asked if the town felt any effect from the certified av vs. the original av. Clerk-Treasurer Walters said no but there could be a problem with the county because people are appealing their taxes which could be why the town is short. They will not know until the appeal is filed.

Another member of the media asked for the total of the CDBG funds. Administrator Peterson said that the 2008/2009 CDBG funds total allotment is \$46,450. John Masepohl, 323 Spruce Court, commented on the discussion at the last regular meeting regarding ponding and that Director Cox stated he was going to require Harris Bank to put the six lots back to a graded lot condition. He said that on December 27th, when the ponding and abandoned lots were discussed at a meeting, it was suggested that they could be cited as a nuisance under the town code in the spring. He said this might be a little more timely alternative to waiting for Harris Bank and described problem areas of abandoned foundations on Dogwood and Ash Court, ponding on Greenbrier and Briarwood and piled debris on Sweetbrier. He was asked to provide a list of the information to Director Cox for follow up.

Royal Cencion, 420 E. Hilltop Court, commented that there had been some work done to improve drainage around his house and described some of the problems he has been experiencing. He also commented about several lots around him that had been empty for a long time, that he considered natural waterways, and had recently been built on and he felt that should not have been allowed. Councilman Huseman said that back in the late 1960's and early 70's,

Mrs. Miles developed the area and there was no storm drainage in the subdivision. It was made with sheet drainage, which is why each of the lots are high with swales in between them. The engineered project that the town put in will help the water get past Cencion's house. He said he saw a problem on the east side of the road with no ditches. Ditches are needed there to control the water and direct it to the big pipe that was just put in. He said he has discussed the project with Street Superintendent Lovely and they will have dirt available, once things settle in, to build up over the pipe and create a small swale on each side. Some attention should be given to a swale on the other side of the road because there are three or four neighbors whose water runs across the road, not under it. Regarding Mr. Cencion's comments about the recently constructed house in the so-called natural waterway, Councilman Huseman said he checked and there was a plot plan that was a sold lot that was built on. He said he thought the easement on the north side should be checked and perhaps the dirt is out too far and can be corrected back into a swale with some rip rap put in to turn the corner. As far as storm drainage, there is no money and the town cannot undertake that kind of a project. He felt the correction of water running across the road and checking a few swales should improve things greatly. Otherwise, the subdivision was developed and accepted that way and there isn't much more that can be done but the town will do whatever it can. Beth Bradford, 430 E. Hilltop Court, said she lives next door to Mr. & Mrs. Cencion. With respect to what Councilman Huseman said about the water coming from across the road, those people had swales or drainage ditches there and she watched her neighbors fill them in three or four years ago. As a result of that, the water comes across the street and their front yard and driveway have sunk. Her main concern is that is where the sewer line comes into her house and may cause problems in the future. Council members stated that would be re-visited with staff and they will look into restoration of the drainage ditches.

Councilman Gard made a motion to adjourn, seconded by Councilman Alessia at 7:58 P.M.

ATTEST:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer