

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

The regular meeting of the Lowell Town Council was called to order on Monday, July 14, 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. Members present 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, Town Administrator Sue Peterson, Director of Community Development Wilbur Cox, Police Chief John Shelhart, Park Superintendent Tom Sullivan, Mark Downey of Commonwealth Engineers and two members of the media and thirteen interested citizens.

APPROVAL OF MINUTES

Councilman Gard made a motion to approve the minutes from the June 23rd regular meeting, seconded by Councilman Huseman. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #1661-1733, White Police Vouchers #4072-4086, Water Vouchers #2384-2429 and Waste Water Vouchers #3313-3350 and recommended them for approval. Councilman Huseman made a motion to approve the vouchers as listed, seconded by Councilman Alessia. The motion carried by voice vote.

MONTHLY REPORTS

Councilman Tucker made a motion to approve the monthly reports from June, 2008 as submitted, seconded by Councilman Alessia. President Kuiper stated that an article appeared in the Times on Tuesday, July 8th regarding people taking recyclable items from the curb after residents set the items out for collection before the garbage company can take them. The more recyclables that are taken from the curb before the garbage company can collect them, the less the town will receive in revenues. The town receives approximately \$45,000 every year from the Lake County Solid Waste District based on the numbers that are provided by the garbage company for the amount collected that is recycled. If the numbers go down, the revenue will also go down. The town has used the revenue from the Lake County Solid Waste District in the past to purchase items including playground equipment, recycled tiling, carpet, barricades and water pipe. The town's ordinance on garbage and recycling states that once the recyclables are placed at the curb, they become the property of the town and the authorized contract hauler and no other person is authorized to pick up the items or they could be fined. Chief Shelhart was asked to make sure the officers enforce this ordinance. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

2nd Reading - Ordinance #2008-15 - Amending Chapter 77 - Police fees - Councilman Huseman made a motion to adopt Ordinance #2008-15 Ordinance to Amend Chapter 77 of the Town of Lowell, Indiana Code of Ordinances by name and title only, seconded by Councilman Alessia. Roll call vote carried with five ayes.

Resolution #2008-13 - Temporary Loan - President Kuiper read Resolution #2008-13 to make a temporary loan from the Sewer Improvement Fund in the amount of \$1,000,000 to the General Fund, \$750,000, the MVH Fund, \$150,000 and the Park Fund, \$100,000, to be repaid on or before December 31, 2008 or until the 2008 tax settlement draw is received. Councilman Tucker made a motion to adopt Resolution #2008-13, seconded by Councilman Alessia. The motion carried by voice vote.

Resolution #2008-14 - Transfer of Funds - General, MVH - President Kuiper read Resolution #2008-14 to transfer funds within the General Fund, Planning & Building budget in the amount of \$1,000 and Police budget in the amount of \$24,000 and within the MVH Fund in the amount of \$5,000. The transfers do not affect the balance in either fund. Councilman Gard made a motion to adopt Resolution #2008-14, seconded by Councilman Huseman. The motion carried by voice vote.

Resolution #2008-15 - Authorize staff to apply for IDEM Waste Tire Grant for Police Department Firing Range - President Kuiper read Resolution #2008-15, a resolution as required by the Indiana Department of Environmental Management Waste Tire Management Fund Grant Program. Councilman Gard made a motion to adopt Resolution #2008-15, seconded by Councilman Tucker. Councilman Alessia asked if the cost to the Police Department is \$25,000. Chief Shelhart explained that this is in the grant, however, they are not asking the town to contribute anything toward this project. They are seeking revenue from other sources and if they are unable to obtain the revenue from other sources, they will have to deny the grant. They are not going to spend any of the town's money on this. 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.

Long-Term Control Plan Wet Weather needs - Mark Downey of Commonwealth Engineers addressed the Council. He and Randy Santy serve as the town's representatives to the Lowell/Cedar Lake Joint Management Oversight Board (JMOB) and at their June meeting, they had a discussion with regard to the fact that every time there is a rain event, they are getting significant flows at the WWTP.

Between the excessive I&I from Cedar Lake and the partially combined sewers and inflow from Lowell, they are seeing flows that are in excess of the handling capabilities of the plant. Within the last two months, they had a rain that had as high as 28 million gallons a day of flow hit the plant as a peak. This is going to need to be handled. There is a long-term control plan that says that these need to ultimately be reduced to a controllable amount based on a ten year one hour storm event. Also during the June meeting, they presented a letter to the JMOB to answer some of the questions they had and some of the past information that has been documented for the town and the JMOB. He provided a copy of a hand-out that he briefly reviewed. Commonwealth was asked by Cedar Lake to determine logical increments for expanding the capacity at the plant and using 2006 data, they provided a memorandum to the town and the JMOB in October, 2006. They also had discussions for using some new techniques for wet weather treatment flows and put together three options for providing the Lowell WWTP with the approximated 10 MGD of total treatment capacity required to treat flows without overflow. The options are approximations based on data extrapolation performed in 2006. It was recommended that data be re-examined during preliminary design to finalize flow rate necessary. Option 1 is to expand the existing 4 MGD WWTP to 5.2 MGD and add an additional 5 MGD of wet weather treatment (actiflow) at estimated costs of \$7,080,400. Option 2 is to expand the existing 4 MGD WWTP to 6.0 MGD and add an additional 4 MGD of wet weather treatment (actiflow) at estimated costs of \$8,830,510. Option 3 is to remain with the existing 4 MGD WWTP and add an additional 6 MGD of wet weather treatment (actiflow) at estimated costs of \$5,399,900, which is what is in the town's capital improvement plan. Mark Downey explained that the actiflow system is a patented system for handling wet weather treatment. After reviewing the cost comparisons, he said it is their recommendation to stay with the more cost effective option. He said that the representatives on the JMOB from Cedar Lake had indicated that they were more interested in expanding the capacity at the plant in addition to addressing the wet weather treatment. Mark Downey reviewed several additional graphs that detailed flow capacity analysis for average wet and dry weather from 2003 through May 2008 at the WWTP and estimated wet weather treatment analysis for the three proposed options. Since the improvement project at the WWTP has been completed and the EQ basin was built in Cedar Lake, overflows are being eliminated and more clear water is being treated at the WWTP, which is increasing the average flows at the plant. He stated that it was his opinion that if the weather followed previous years' trends, 2008 should average out to be similar to previous years by the end of the year. He explained that the dry weather numbers are what are used by IDEM when determining capacity at the plant for growth and development. When considering the average number of new home starts in the past five years, Lowell should be able to expect to have about ten to twelve years worth of growth at the current plant capacity before needing to consider an expansion project. Mark Downey commented that he felt it would be prudent for the town to not spend an extra two to three million dollars for additional capacity at the base plant when it probably will not be needed for approximately ten years. It was noted that Cedar Lake has been experiencing more growth and could use up their half of the capacity sooner than that and their concerns might be a little more timely than Lowell's. Mark Downey said the matter is under active discussion by the JMOB, trying to determine what is the best approach to serve both Lowell and Cedar Lake. He wanted to come before the Council to show what has been disclosed to the JMOB and to stay in line

with what has been discussed in the past two years and what was put into the capital improvement plan. President Kuiper asked if this had been presented to Cedar Lake. Mr. Downey stated it had been presented to the representatives from Cedar Lake at the JMOB meetings and he did not know if they had presented it to their Council. Since the agreement is 50/50 for capital improvements, he thought there may be a need to have some dialog, Council to Council. Plans have been made for Public Works Director Greg Shook to walk the interceptor line with Ed Robinson from Cedar Lake as well as do some smoke testing to try to find areas that need repair. They will be looking for major points of inflow that can be repaired at minimal cost. Mark Downey said he felt it was important that he let the Council know what kind of discussions are taking place with the JMOB.

Release Letter of Credit for engineering for water main extension - KM&N - Clerk-Treasurer Walters stated this matter needed to be tabled. Councilman Gard made a motion to table, seconded by Councilman Alessia. The motion carried by voice vote.

Authorization to allow staff and Town Council President to award lowest and best bid and sign contract for Meadowbrook paving after bid opening on 7/16 - Councilman Huseman made a motion to authorize staff and the Town Council President to award the lowest and best bid and sign the contract for the Meadowbrook paving after the bid opening on July 16th, seconded by Councilman Gard. The motion carried by voice vote.

NEW BUSINESS

Request donation to help with utility bill at Halsted House - Three Creeks Historical Association - President Kuiper read a letter of request from the Three Creeks Historical Association for a donation from the Town Council to help with the utility bill at the Halsted House as has been done in the past. Clerk-Treasurer Walters explained that last year, the Town Council donated money from the Community Relations Fund to cover a year's worth of water bills. They had requested the Council to waive the water bill, but per State Board of Accounts guidelines that cannot be done so the Council donated \$500 that went towards the water bill. Councilman Tucker made a motion to donate \$500 again to be applied to the water bill for the Halsted House, seconded by Councilman Alessia. The motion carried by voice vote.

Request to waive sidewalk permit fee for Taste of Lowell on July 26th - Lowell Mainstreet - President Kuiper stated the request is to waive the sidewalk permit fee. All of the restaurants participating are from Lowell and 90% of the crafters are from Lowell. The hours are from 11 to 5 on July 26th. Councilman Huseman made a motion to grant the request to waive the sidewalk permit fee, seconded by Councilman Tucker. The motion carried by voice vote.

Request closing of Clark Street, parking spaces on north side of Commercial Avenue and use of barricades for July 19th - Lowell Downtown Merchants - Mona Kuechenberg, Lowell Downtown Merchants, stated they are doing their annual Hometown Hero's Day on July 19th which is a free

community event. This year, their featured guest is the Lake County Sheriff's Department and Specialty Units. They will be bringing out their tactical truck, motorcycles, canine unit and more for the event on Saturday. She said they will be on the north side of the street and Lump's have been generous enough to allow them to use their corner, which is where the canine unit and some hands-on demonstrations will be taking place. A small section of Clark Street, from Route 2 to the parking lot, will be blocked off to allow the participants to park there. Councilman Gard made a motion to grant the request to close off Clark Street, the north side of Commercial Avenue and the use of town barricades for Hometown Hero's Day on July 19th, seconded by Councilman Huseman. The motion carried by voice vote.

Discussion of water rates for builders to water sod - Divi Development, Richard Zunica - Mr. Zunica addressed the Council and said that with the current situation with new construction and home sales, every little bit helps. After speaking with Clerk-Treasurer Walters, he learned that the town has certain parameters that it uses to determine a base rate during winter months. He requested that the Council discuss doing something for new construction. Most new homes going up today are either spec homes or pre-sold. The pre-sold homes are not a problem because when they are completed, they get their occupancy permit and they close. The spec homes are starting to become a problem. Costs of construction are going through the roof and he asked if there was anything the town could do to help builders who are doing spec homes. He explained that there is no one living in a spec home and they use little or no water until they put sod in. Since the only use of water is for watering the grass, he asked if there was anything that could be done to allow a break on the sewage portion of the utility bill on empty spec houses. Councilman Huseman asked how the billing worked for spec houses and it was explained that when water is on at an address, a minimum bill is charged. Discussion followed about the wording of the current ordinance that states a summer sprinkling rate is available to residential customers of occupied homes. If the Council wanted to consider making the summer sprinkling rate available to contractors for unoccupied spec houses, the ordinance would have to be amended. Councilman Gard made a motion to direct staff to review the matter, seconded by Councilman Huseman. Councilman Alessia commented that it was important to make sure whatever is done will be tight and protect the interest of the utility. The motion carried by voice vote.

Act on favorable recommendation for Plan Commission:

Accept Letter of Credit #00929-\$150,000 & Cash Escrow-\$137,962.80 - Performance Surety for Preserves Phase V Subdivision - President Kuiper read a letter of favorable recommendation from the Lowell Plan Commission to accept Letter of Credit No.00929 in the amount of \$750,000 and check No.14107 in the amount of \$137,962.80 for the Performance Surety for Preserves Phase V Subdivision. Councilman Tucker made a motion to accept Letter of Credit No. 00929 in the amount of \$750,000 and check No. 14107 in the amount of \$137,962.80 for the Performance Surety for Preserves Phase V Subdivision, seconded by Councilman Huseman. The motion carried by voice vote.

Act on favorable recommendation from Plat Committee:

Accept Letter of Credit No.610-\$424,846.80 - Performance Bond - Expires 12-14-2008 Phase V, Meadows of Cedar Creek Accept Letter of Credit No.611-\$46,698.00 - Maintenance Bond - Expires 6-20-2010 Phase IV, Meadows of Cedar Creek

Extend Letter of Credit No.101-249-\$366,766.40 - Performance Bond - Expires 6-9-2009, Spring Run - Councilman Huseman made a motion to act on the favorable recommendations from the Plat Committee, seconded by Councilman Gard. The motion carried by voice vote.

Permission to advertise for additional appropriation - Adult Probation Fund - Clerk-Treasurer Walters stated she needed the Council's permission to advertise for a public hearing for the Adult Probation Fund which is through the Town Court. This is not a tax entity fund. They have more cash than what was appropriated and they are requesting the difference be appropriated. Councilman Gard made a motion to grant permission to advertise for an additional appropriation in the Adult Probation Fund, seconded by Councilman Tucker. The motion carried by voice vote.

ANNOUNCEMENTS

President Kuiper announced the next regular meeting will be held on Monday, July 28, 2008 at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

Bob Philpot, 111 E. Main St. commented that at the last meeting Councilman Huseman had mentioned that there were some problems in Ward 2 and asked if he had a chance to look into them and what he found out. Councilman Huseman said he did a little engineering and talked to staff. There are some surge problems on a sanitary sewer that can be corrected and they are going to equalize the tops of some manholes to create more of a horizontal force to get to the next phase which would be a 24 inch concrete pipe. They found some bellies in it but everything will be all right. They are going to televise it this week or next to verify everything. He said he has all of the elevations starting from the east to the west and they are going to raise the first manhole twelve inches, the second one twenty inches and the third one nine inches to bring them all to the same level. If that doesn't correct the problem, they will go to plan 2, which he did not have in front of him yet. He said this is the Lincoln Street sanitary pipe interceptor. He said for the public's information, he has also talked to staff about the bad erosion over the sanitary sewer on Gatewood Terrace in Woodland Hills. He recommended filling that in and compacting it, extending the storm and putting in a rip rap spillway at the end of it. He said they are also looking for monies to do some curbs in Indian Heights between Apache and Cheyenne on the east side of Navajo. He said the last thing he would like to announce is that they are working on the Powell Ditch. He would like to do something about it because the drainage is not there like it should be. He said it is making a human feces retention pond out of about thirty acres and they need to get it to drain and they are working on it. Councilman Alessia asked where this was and Councilman Huseman said it was south of Lincoln Street. Mr. Philpot asked if Councilman Huseman was saying this is a health hazard. Councilman Huseman said

it could be but he wouldn't comment on that right now but he said the matter is being looked into.

President Kuiper commented that his question was about all of the projects that Councilman Huseman talked about and asked if 'we' was he and staff since President Kuiper did not know anything about it. Councilman Huseman commented that in the last two or three weeks, he had probably had over a hundred calls and he tries to act on every call he gets. He said by saying 'we' he meant the Council and staff. He said he was not trying to act on it alone, but this is a thirty year old project and he thought it was time that something was done about it.

Sara Pierce, 111 E. Main St., said she had two questions. She asked when minutes get posted on the website. Clerk-Treasurer Walters stated they get posted after the Town Council approves them. She said tomorrow, she will send the last Council meeting's minutes to be posted. Ms. Pierce said that the minutes from the May 12th meeting were not on the website. Clerk-Treasurer Walters said that they are in the process of changing and updating the website. It was taken down for a couple of days and then brought back up so it may have gotten accidentally dropped off. She said they get e-mailed to the company for posting and she would check on it. Ms. Pierce said that the June 9th minutes are also not on the website. Clerk-Treasurer Walters explained that if they are not posted, she can always call the office and they can be sent in the mail. Ms. Pierce said her other question was regarding Creston. A friend of hers asked her if she could find out what was going on as she heard Creston was being sold to Cedar Lake. President Kuiper commented that it was possible that Cedar Lake was annexing the Creston area but that question needed to be asked of the Cedar Lake Town Council since the Town of Lowell was not involved and had no information about it.

There being no further questions or comments from the media or public and no further business or discussion, Councilman Huseman made a motion to adjourn, seconded by Councilman Alessia at 8:00 P.M.

Attest:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer