

**LOWELL TOWN COUNCIL
REGULAR MEETING
AUGUST 11, 2008**

The regular meeting of the Lowell Town Council was called to order on Monday, August 11, 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 Ben Ballou, Director of Public Works Greg Shook, Town Administrator Sue Peterson, Director of Community Development Wilbur Cox, Police Chief John Shelhart, Park Superintendent Tom Sullivan, and two members of the media and nine interested citizens.

APPROVAL OF MINUTES

Councilman Gard made a motion to approve the minutes from the July 28th regular meeting, seconded by Councilman Tucker. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #1781-1834, White Police Vouchers #4087-4108, Water Vouchers #2455-2481 and Waste Water Vouchers #3371-3394 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

President Kuiper commented that Saturday morning there was a fire in town and both the Koble family and the Slinn family had members involved. He said he wanted to say a word of gratitude from both the Council and the town to the Fire Department and EMS as well as the Police officers that responded and Chet Newsome.

Demonstration of Translator Machine donated by Moose Lodge to Police Department - President Kuiper introduced Mike Bafia from the Moose Lodge. He said Chief Shelhart would be providing a demonstration of the translator machine that was donated by the Moose Lodge to the Police Department. Chief Shelhart said they have been trying to get the piece of equipment for over a year and had been searching for funding for it. It is a \$950 device that can translate seven different languages. They approached the Moose Lodge to request help and the board and the entire organization very graciously agreed to help and wrote a check to purchase the equipment right away in order to get it ordered. He said he would like to thank them very much for doing that. President Kuiper noted the Moose Lodge has helped out a number of times in many different ways over the years. Chief Shelhart explained that the device has several different parts to it, but the law enforcement part gives the officers the ability to translate into nine different languages, with Spanish being the most predominant at this time. He demonstrated the Miranda warning, saying if they stop an individual that doesn't speak or understand English, they can give

them the Miranda warning in the language they are dealing with. It has some excellent parts as a tool for other investigative purposes also, such as for lost children or runaways. It asks all the right questions that they need asked and he can't say how much it helps because it is difficult to find someone that can translate at the time it is needed. The nine languages that can be translated include Arabic, Chinese, Farsi, Japanese, Korean, Polish, Russian, Spanish and Vietnamese. If anyone is traveling through town or moves into town that has any of these language barriers, they are able to communicate with them. In addition to this, the Moose Lodge also purchased the Spanish version of the Rosetta Stone, which is advertised on television and many government agencies use it to teach their employees different languages. They have put it on the computers at the Police Station for use by dispatchers and officers to learn Spanish. He said he does not expect them to become fluent in Spanish, but as a safety feature, he would like them to be able to understand what is being said, even if they are able to pick up a few words. The version that was purchased gives the officers the ability to take it as far as they want. They can become completely fluent in it if they wish to take the time to study it. At least, if they learn a few key words so if they stop a car load of individuals that don't speak English or happen to not be speaking English at the time, they can pick up a few key words of what is being said. This is a huge officer safety issue.

President Kuiper asked Chief Shelhart to comment on another issue. Chief Shelhart explained about a green warning sticker. He said they have received a number of requests throughout the town with reference to out-of-state vehicles and how to deal with them. This is a difficult situation because some people move into town and fail to register their vehicles. Some people are just in town visiting with or staying with people and aren't required to have their vehicles registered. He explained that someone cannot be stopped just because they have an out-of-state plate. When they do run into individuals that are in violation, they take proper enforcement action. They anticipate using the warning sticker during their midnight shifts. As they find out-of-state vehicles parked around town, they will put the sticker on the vehicle. The sticker is a warning, advising people as to what the situation is when they are required to have Indiana registration, Indiana driver's license and the proper insurance. They will be using the sticker as a tool to inform people. Some people think they can drive with their current plates until they expire and by law, they cannot do that. They do need to properly register their vehicles.

President Kuiper read a letter from the LDMA, thanking the town for its assistance during their Hometown Heros Day and for promoting Lowell during the recent soccer tournaments.

President Kuiper read a letter from the Three Creeks Historical Association for the donation of \$500 made by the town for the water bill at the Halsted House.

MONTHLY REPORTS

Councilman Tucker made a motion to approve the monthly reports from July, 2008 as submitted, seconded by Councilman Alessia. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

2nd Reading - Ordinance #2008-16 - Amending Chapter 153 - Unsafe Building Law - Councilman Gard made a motion to adopt Ordinance #2008-16 Amending Chapter 153 of the Unsafe Building Law by name and title only, seconded by Councilman Huseman. Roll call vote carried with five ayes.

1st Reading - Ordinance #2008-17 - Amending Town's Purchasing Policy - Councilman Gard read Ordinance #2008-17. Councilman Gard made a motion to hold over Ordinance #2008-17 for second reading, seconded by Councilman Alessia. Councilman Huseman commented about purchases made in excess of \$50,000 but less than \$150,000, under Section 38.05 and asked if it was required to take the lowest quote or if any and all quotes could be rejected. Discussion followed regarding the need to determine a reason for rejection of a quote or bid and review of the section was done. Councilman Huseman said he would like for it to read "reject any and all quotes" instead of "reject all quotes" if possible. Councilman Gard amended his motion to hold the ordinance over for second reading with the potential change counsel might make, Councilman Huseman seconded the motion. Clerk-Treasurer Walters pointed out that the purchasing policy is not new. It has been in effect for a number of years in resolution form. This is putting it in Ordinance form, updating the state code and changing the limit on a purchase order from \$100 to \$250. The motion carried by voice vote.

1st Reading - Ordinance #2008-18 - Amending Chapter 150 - Revocation of Registration - President Kuiper read Ordinance #2008-18. Councilman Huseman made a motion to hold over Ordinance #2008-18 for second reading, seconded by Councilman Gard. The motion carried by voice vote.

1st Reading - Ordinance #2008-19 - Repealing Chapter 111 - Commercial Window Covering Requirements - President Kuiper read Ordinance #2008-19. Councilman Alessia made a motion to hold over Ordinance #2008-19 for second reading, seconded by Councilman Huseman. President Kuiper said he knows the reason the ordinance was put into effect. He said he feels it looks better when something is covering the windows instead of having it wide open with a lot of empty store fronts. He asked Community Development Director Cox what else could be done. Director Cox said enforcement is difficult because many of the buildings are not owned by local people. From what he understands, the ordinance was originally put into place to keep people from putting newspaper or something else up that is more unsightly than the empty window. Many times, what ends up being placed in the windows, that does actually comply with the code, is less attractive than if it were an empty window. He said it is up for discussion as to what is actually done. Whatever is done should be uniform but he is not sure how to stop the complaints one way or the other. He said he did not know if they can legislate Venetian blinds or whatever it is they are looking for down there but he would rather see the buildings full of businesses. He was not sure what the answer was but he would get together with the town attorney to discuss possible options. The motion carried by voice vote.

1st Reading - Ordinance #2008-20 - Public Hearing - Additional Appropriation - Adult Probation Fund - President Kuiper read Ordinance #2008-20 for an additional appropriation in the amount of \$8,000 in the Adult Probation Fund. Councilman Tucker made a motion to hold over Ordinance #2008-20 for second reading, seconded by Councilman Gard. The motion carried by

voice vote. President Kuiper opened a public hearing regarding Ordinance #2008-20. There being no public comments for or against the additional appropriation, President Kuiper closed the public hearing.

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 - Director Shook gave an update on the Burr Street/Route 2 Project. When they first started, the town had an HES Grant of 100% funding which was \$525,000. They found out that the estimated, projected cost of the project is \$760,000. That leaves a shortage of \$235,000.

After speaking with Butler, Fairman & Seufert, they have applied to NIRPC for an HSIP Grant in the amount of \$235,000, which is a 90/10 grant. If the town were to get the grant, there would still be an expense of \$55,000 for the project. During budget discussions, they had talked about doing some paving in town, but he feels it would be better to hold off doing any paving at this time until they find out what kind of funding and what kind of bid this is actually going to be. President Kuiper commented that this recommendation also came from financial consultant, Greg Guerrettaz. Director Shook said at this time, INDOT is planning on letting this out for bid on September 4th. He has not been able to find out when the award date is scheduled. As soon as he knows a date, he will advise the Council members. President Kuiper asked if this was just the result of rising costs over the length of time it has taken to get everything in order for the project.

Director Shook said he thought it was since it has taken so long. He said there is a possibility of a contractor needing work and coming in low.

Councilman Huseman asked if this was the right time to request approval of the Council to direct staff to proceed with the raising of the manholes to the proper heights on Lincoln Street and the further investigation of the drainage of Powell Ditch. President Kuiper said that this matter was already on Director Shook's list and it could be moved up the list if the Council wished it to be. President Kuiper reported that he met with Councilman Huseman last week and Councilman Huseman showed him what he was talking about. He said he and Director Shook understood what Councilman Huseman was talking about and he could support it but he felt the rest of the Council members should be informed. Councilman Huseman said it is a simple and may be a thorough fix that should cost about \$500 and about six hours of work. This would raise all three manholes to the same height which will create a hydraulic horizontal push to the west.

Councilman Tucker asked Councilman Huseman to explain from the beginning because he felt he was a little in the dark. Councilman Huseman explained that there is a problem with one of the manholes surging. He feels if the three manholes in the area are raised to the same elevation, it will create a hydraulic horizontal push to the west and keep the surging from occurring. He said there is also a casing/concrete pipe transition that is going to need work as well, but that is a separate matter. Director Shook said this is something they can do. He said he asked Councilman Huseman when they met, if the Council wanted this done, if it could be moved back a couple of weeks into September to allow them to finish the projects they currently have going. Raising the manholes should not take a great deal of time to do. He also reported that they know from sending the television camera through the area that there is a transition between a steel pipe

and a concrete pipe that has apparently settled and created a belly that is causing restriction of flow. Normally, this type of transition is done at a manhole but for some reason, that was not done here and is something that is going to need to be looked at. This is not part of the current fix. The work will be done in-house. It was determined that for a cost of \$500, a motion to proceed was not necessary. President Kuiper recommended to all of the Council members to take anything they have on their mind or any ideas that they may have to Director Shook. He said Director Shook has compiled a very comprehensive list that he is working off of and he is very good at moving things up on the list as priorities change when there is a matter of importance. President Kuiper said there is very little that is not on Director Shook's list.

Recyclables - items purchased with funds received from Lake County Solid Waste - President Kuiper said at a meeting or two ago, they had discussed unauthorized people taking recyclables from the curb and asked the police to cite those people when they were seen doing it. He said they must not have been clear enough about the matter and he received a couple of calls from people asking why this was so bad. He explained that the Council was not saying these were bad people, they were saying that these people are literally taking money out of the townspeople's pocket. He said this is not just a Lowell matter, it is county-wide. He explained that the town receives money from the Lake County Solid Waste District based on the tonnage of recyclables that is collected at the curb in Lowell. From 2003 through 2007, that has amounted to approximately \$44,000 per year. During those years, the funds have been used to purchase items including a Skate Park worth \$15,000; fences worth \$15,000; cones and barricades worth almost \$13,000; signs, including the football and Welcome to Lowell signs, worth \$8,000; benches worth \$1,000; playground equipment worth \$21,000; ceiling tiles and floor tile. Clerk-Treasurer Walters pointed out that the biggest thing is the subsidy that is paid for the citizens for their garbage bills. This is seventy cents per household per month. President Kuiper said he firmly believes that as problems with the economy continue, they will see more people trying to collect recyclables from the curb. He said he has stopped several people in his neighborhood and asked them not to take the items. He asked Jeff Langbehn, Director of the Lake County Solid Waste Management District, to address the Council and audience. Mr. Langbehn said that this is a real problem and they see the theft of recyclables increase with the downturn in the economy. Every time the economy goes down, the scavengers and/or theft increases dramatically. This might be hard to understand until you realize the amount of money that is involved. He explained that one large bale of cardboard, depending on the market, is worth somewhere in the neighborhood of \$500 to \$800. When preparing the budget for 2009, the Lake County Solid Waste District did not cut any of the recycling grants to any communities in Lake County in spite of budget challenges presented by S.B.1001 and their having to cut their budget by \$450,000. When those dollars are compromised by scavengers it is a problem. Lake County has the best solid waste district from a program standpoint in the state, and some say in the country. There are convenient drop-off centers and curbside recycling in almost every community. Depending on what happens regarding the garbage to ethanol facilities at the Solid Waste Board meeting on the 21st, that is predicated on the amount of garbage recycling that is going to take place. Both of the vendors that are looking at building the garbage to ethanol facilities are counting on the materials coming in that are still in the waste stream to turn around and sell into the marketplace to offset the cost of producing the ethanol. If it goes through, they are talking about revenue coming back to the district anywhere from about \$3,000 per day to as much as \$40,000 per day and they have

discussed the possibility of being able to increase the amount of recycling grant monies to the communities. He said that scavengers are good people. In fact, they are very smart, but when they collect recyclable items for themselves, it takes dollars away from the program in place that distributes revenue back to the local communities. He shared a story of a man that was shoveling aluminum cans out of one of the drop-off centers in Merrillville. When he was informed that what he was doing was illegal and that the money that comes from what people put into the recycling containers helps offset the cost of providing the containers, he stopped and the tonnage from that recycling site increased dramatically. The man was unaware that he could not just help himself to the cans people had dropped off there. Mr. Langbehn explained that they help the town with containers to collect recyclables during the Labor Day parade and the money that comes from the sale of those recyclables is a direct revenue source for the town. He said that the legitimate waste haulers bid their contracts, based in part on the recyclables they expect to collect, and if the amount does not meet their anticipated estimates, the cost of garbage collection increases. It is in the best interest of the town and the district to enforce the recyclable collection and encourage people to recycle as much as they can. There is a system in place and we need to use it.

Tabled from previous meetings:

7/14 Release Letter of Credit for engineering for water main extensions - KM&N - Clerk-Treasurer Walters reported that it should remain tabled. She will be meeting with the engineer and should have more information available at the next meeting.

NEW BUSINESS

Accept favorable recommendation from Plan Commission:

Accept Performance Letter of Credit - Beverly Estates - \$1,698,056.77 - President Kuiper read a letter of favorable recommendation from the Plan Commission to accept the Performance Letter of Credit from Beverly Estates in the amount of \$1,698,056.77. Councilman Gard made a motion to accept the Performance Letter of Credit from Beverly Estates in the amount of \$1,698,056.77, seconded by Councilman Huseman. The motion carried by voice vote.

Sewer & Water Availability - Tri-Creek School Corporation - President Kuiper read a letter from the Town of Lowell to the Lake County Board of Zoning Appeals that indicated that the town was willing and able to service the proposed intermediate school with sewer and water that was dated January 15, 2008. Director Cox explained that the school corporation was requesting additional official confirmation that sewer and water service would be provided. He explained that the January 15th letter was written when the school corporation applied to the county as part of the zoning approval process. The county needed to know how the facility was going to be served. The school corporation is now applying for the building permit. In a normal scenario, when a building permit application is submitted, a water and sewer permit is also submitted. In this case, the sewer and water service is coming from the Town of Lowell. In order for the county to issue the building permit, they want to know, in fact, that the town is going to service the new school facility with water and sewer. They are looking for a matter of fact letter from the Town of Lowell confirming service will be provided as an attachment to the school corporation building permit application. He recommended that the letter include that the town will indeed be

servicing the school facility and based on the engineering information, it will be tapped on at a certain date. Councilman Tucker said he knew the school facility is currently out of the town limits and asked if there were future plans for bringing it into town. Councilman Alessia said it was his understanding that IDEM told the school district that it did not have a choice. They would not allow a private treatment facility on site when municipal service is available so close. The school district had no choice but to tap in to the municipal water and sewer services. Director Cox explained that the town does not have the ability yet to annex them because the school property is not contiguous to the current town boundaries. When they are, they will be annexed. Councilman Tucker made a motion that the Town of Lowell will be supplying water and sewer service to the new school facility, seconded by Councilman Alessia. The motion carried by voice vote.

ANNOUNCEMENTS

President Kuiper announced the next regular meeting will be held on Monday, August 25, 2008 at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media asked several questions. The first question was regarding the discussion on recyclables. She asked if they were just talking about the drop-off centers, not people taking items from the curb in front of residences. President Kuiper informed her that people were taking items from the curb in front of people's homes. The town was not aware of anyone taking items from the drop-off centers. Her second question was regarding the commercial window covering requirements. She asked President Kuiper about the history of the current ordinance. He said it was his understanding that Marge Beier had a hand in getting the ordinance passed to address the appearance of empty store front windows. The current ordinance requires that some kind of curtain be placed in empty store front windows. The media member asked if people were complaining about having to put something in the windows. Director Cox said that many times, what is being placed in the windows is something that looks like it came out of a dumpster and looks pretty tacky, but it does comply with the ordinance. They are trying to come up with something that will be better. Her next question was about the changes made regarding purchase orders and asked if that was done as a tightening up measure. Clerk-Treasurer Walters said there was no change made other than raising the limit. Right now, a purchase order has to be taken out for anything over \$100 and it will now be \$250. There were some state codes that had changed with regard to amounts that require public bids that were not in the old resolution and those were updated and put in the ordinance. It was primarily to put the policy in ordinance form instead of resolution form.

Sara Pierce, 111 E. Main St., commented about the July 16th Police Commission meeting. She said elections were held for new officers and the question was asked why elections were being held when there is a vacant seat on the commission. They were informed that the Town Council had decided not to fill the vacancy. She asked when, who and why that decision was made and commented that she felt the Council had set it up to create a scenario where it could ham-string the commission in not being able to get anything done. President Kuiper responded that the

decision originally came from him although it was not a firm, hard-core decision. The position could be filled tomorrow if an eligible candidate came up. He felt there was no hurry to fill the position since it's term was up in December and would go out for application anyway at the end of the year. He said he spoke to the other Council members and had not gotten any objections from anyone. He said they are not required to fill the vacancy. Councilman Huseman said he must have forgotten because he didn't know anything about it until it was said at the Police Commission meeting. President Kuiper said he told him as he told everyone else. He said anyone that didn't know was more than welcome to ask. President Kuiper said there was no vote taken, it was only a suggestion made by him. He repeated that the position could be filled right away if they chose. He said he felt if the position had been filled as soon as it was vacant, the Council would have been accused of having someone in mind.

John Masepohl, 323 Spruce Ct., commented about the paving project in Meadowbrook. The last information he has, which may be old, was that according to the paving schedule, the work should be done by the end of July. The information was provided by Walsh & Kelly to the resident of Meadowbrook who is coordinating the extra work that is going to be done at the same time the paving project is done. He asked if any more current information was available. Director Cox reported that they have 45 days from the date of the Notice to Proceed which gives them to the end of September. Mr. Masepohl asked if the town had been given any paving schedule. Director Cox stated the town had not received a paving schedule. Mr. Masepohl read from a report he had been provided by the Meadowbrook resident regarding a meeting the resident had with the estimator from Walsh & Kelly. The estimator referenced several projects they had going and told the Meadowbrook resident that they would not be able to get to the Meadowbrook project before the end of August. Director Cox confirmed that there were several projects that Walsh & Kelly had to finish before coming to Lowell but they felt they would have no problem getting the project done within the 45 days. Mr. Masepohl asked if the town could find out a tentative date so they could begin coordination of the extra work that the individual residents would be having done when the paving project was being done. Director Cox said he would give them a call and see what he could find out.

Councilman Alessia asked permission from President Kuiper to read a statement:

The past several months have brought about many rumors and accusations regarding the operations of the Lowell Police Department.

Sadly, things have evolved to the point of being petty and vindictive, in my opinion.

Personally, the final straw was when a letter to the editor was printed in the Lowell Tribune making negative comments in regard to Police Commission President, Keith Kilmer. Upon examining property tax and voter rolls, the name signed to the bottom of the editorial could not be found. Therefore, I would have to assume that the person who wrote the letter believed it would be ethical to make disparaging remarks about an individual while at the same time not have the courage to affix their real name to the letter.

It's my opinion that what we currently have is a very small vocal minority whose agenda is

focused on personal issues and decisions of the past. Further, I believe the overwhelming majority of Lowell residents believe that the Lowell Police Department is operating in a satisfactory fashion. I offer as evidence the fact that not a single resident has contacted me calling for the resignation of Mr. Kilmer as suggested by the individual who penned the editorial. I respectfully ask the councilmen at this time if they themselves have fielded a single phone call asking for Mr. Kilmer's resignation?

All Council members responded that they have not. Councilman Alessia continued:

I have recommended to Mr. Kilmer that subsequent Police Commission meetings only allow public input on agenda items or issues that are currently relevant. I recognize that my recommendation to Mr. Kilmer is strictly advisory, and as such, he is not legally bound to adhere to said advice.

Lastly, in an effort to put all issues regarding Police Chief John Shelhart to rest and move forward for the benefit of Lowell residents, I am requesting at this time of my fellow town council members for a motion of public support of Chief Shelhart and his leadership by voice vote.

President Kuiper made a motion of support for Chief John Shelhart, seconded by Councilman Gard. Roll call vote carried with four ayes, Councilman Huseman voting nay.

There being no further questions or comments from the media or public and no further business or discussion, Councilman Alessia made a motion to adjourn, seconded by Councilman Tucker at 8:10 P.M.

Attest:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer