

**LOWELL TOWN COUNCIL
REGULAR MEETING
SEPTEMBER 22, 2008**

The regular meeting of the Lowell Town Council was called to order on Monday, September 22, 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, Phillip Kuiper and David Gard. Council Member John Alessia arrived at 7:08 P.M. 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, Code Official Tom Trulley, Street Superintendent Frank Lovely, two members of the media and twenty three interested citizens.

TREASURER'S REPORT

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

APPROVAL OF MINUTES

Councilman Huseman made a motion to approve the minutes from the September 8th regular meeting and September 8th executive session, seconded by Councilman Gard. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #1961-2021, Water Vouchers #2553-2580 and Waste Water Vouchers #3441-3461 and recommended them for approval. Councilman Gard made a motion to approve the vouchers as listed, seconded by Councilman Tucker. The motion carried by voice vote.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

Safety Award - IPEP - President Kuiper read a letter from Downey Insurance congratulating the town on receiving a safety award for calendar year 2007.

ORDINANCES & RESOLUTIONS

1st & 2nd Reading - Ordinance #2008-21 - amend Chapter 51.085 - Summer Sprinkling Rate - Councilman Huseman made a motion to hold over Ordinance #2008-21 amend Chapter 51.085, Summer Sprinkling Rate, for second reading, seconded by Councilman Gard. President Kuiper read Ordinance #2008-21, which allows for an adjustment for builders/developers of unsold residential single family dwellings during the summer months while watering sod. Councilman Alessia arrived at the meeting during the reading of the ordinance. 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-

21 to amend Chapter 51.085 - Summer Sprinkling Rate, by name and title only, seconded by Councilman Huseman. Roll call vote carried with five ayes. Clerk-Treasurer Walters explained that this affects ten new homes in the Heritage Falls Subdivision. Some of the developers have paid their utility bills and some have not. The developers that have paid their bills have requested a refund rather than a credit. Their bills were large enough that they hope to have the houses sold before they would use up the credit. She requested the Council to consider granting permission to refund the difference to the developers. Councilman Gard made a motion to refund the difference to developers, seconded by Councilman Huseman. The motion carried by voice vote.

1st Reading - Ordinance #2008-22 - amend Chapters 154 and 155 Lowell Town Standards - President Kuiper read Ordinance #2008-22 to amend Chapters 154 and 155 Lowell Town Standards. Councilman Gard made a motion to hold over Ordinance #2008-22 to amend Chapters 154 and 155 - Lowell Town Standards for second reading, seconded by Councilman Huseman. The motion carried by voice vote. Clerk-Treasurer Walters stated that staff would like for the Council to consider holding second reading on the ordinance since the Town Standards have already been approved and this action just puts them in ordinance form. Councilman Gard made a motion to adopt Ordinance #2008-22 to amend Chapters 154 and 155 Lowell Town Standards, by name and title only, seconded by Councilman Huseman. Roll call vote carried with five ayes. Councilman Gard made a motion to set the rules back in order, seconded by Councilman Huseman. The motion carried by voice vote.

Resolution #2008-17 - Transfer of Funds - General-Fire & Town Court, Cumulative Sewer - President Kuiper read Resolution #2008-17 to transfer funds within the General-Fire budget in the amount of \$3,000, the General-Town Court budget in the amount of \$5,000 and the Cumulative Sewer budget in the amount of \$5,000. The transfers do not affect the balance in the General Fund or Cumulative Sewer Fund. Councilman Gard made a motion to adopt Resolution #2008-17, seconded by Councilman Tucker. The motion carried by voice vote.

UNFINISHED BUSINESS

Public Works Department Update - Nothing was reported for any of the following items: WWTP JMOB Requests; Water Infrastructure Improvement Plan; East Side Sewer Project; Streets/Sidewalks. Director Shook reported that they are still in clean-up mode following the flooding and they are still picking up sandbags. He stated if anyone has sandbags at their house that need to be picked up, they should call the Town Hall and put their address on the list that Administrator Peterson has. He informed the Council that the Street Department garage was flooded and they are in the process of cleaning up and getting things back in order. President Kuiper said that there are a lot of sandbags and if someone can use them, they are welcome to them. Councilman Huseman thanked Director Shook for moving the Lincoln Street manhole project up on the list. He felt they worked well with the heavy rainfall.

Appointment to Historic Preservation Board - Councilman Tucker made a motion to appoint Sue Riley of 263 W. Commercial Avenue to the Historic Preservation Board, seconded by Councilman Alessia. 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

Powell Ditch - Al Bachman - President Kuiper stated he received a call early last Sunday morning and had a conversation with Mr. Bachman. He said he asked Mr. Bachman if he would come to the meeting and address the whole Council on the matter. Al Bachman, 357 S. Union Street, said he owns twenty acres and thanked the Council for the opportunity to speak about two issues related to drainage. There are basically four drainage systems or structures that carry water away from town to the south. They are the Bruce Ditch at the west edge of town, the Buckley Ditch at the southeasterly edge of town, the Powell Ditch which is somewhat in the center of town and Cedar Creek. Originally, they were natural features that have been improved, dredged and maintained over the years. The first issue Mr. Bachman spoke about was Cedar Creek. He said he felt one of the contributing factors that caused Cedar Creek to overflow during the recent heavy rains was two semi trailers that have been placed over the ditch by a neighbor to the south. The trailers collected a lot of debris and held back the water flow which caused the overflow back upstream and caused a delay in the receding action. He said he felt the trailer structure had a gross impact on the functions of Cedar Creek during the rain. He provided photographs for Council review. Mr. Bachman explained that four years ago, the Town of Lowell entered into a joint cost agreement with the Lake County Drainage Board to clean out Cedar Creek from Oakley Street south to Belshaw Road. The county carried 90% of the approximately \$90,000 project and the town carried 10% of the cost. The cleaning of the ditch made a big improvement on it's function with the removal of logs, stumps, live and dead trees and other debris. When he spoke with Dan Gossman of the Lake County Drainage Board today, he was informed that the placement of the structure of the semi trailers over Cedar Creek was not approved by the Drainage Board. During the recent rain event, water was running over the tops of the trailers. The water has now receded, but there is still a great deal of debris collected around and under the trailers, which is still holding back water. He said he would like to see the town make an effort to try to prevent this from happening if it was not done properly by getting approval from the Lake County Drainage Board. The second issue Mr. Bachman spoke about was Powell Ditch. He said he felt this was an ongoing problem and had been for at least twenty five or thirty years. He explained that the property he owns, that now floods, was previously owned by Howard Holtz. The property was successfully farmed every year without flooding problems. He noted that one of the changes to the area draining into Powell Ditch, which includes the general area around the library, is an increase in hard surfaces such as roofs and parking lots. Hard surfaces cause the water to run off at a higher rate of speed without allowing the water to percolate into the soil. Approximately twenty five to thirty years ago, the Powell Ditch ran in it's entirety from it's open area at the south end of Route 2 to a half a mile south. It was in an area where there was an inverted siphon, but he thought that the inverted siphon had since been removed and there are just two manholes left. The manholes indicate where the ditch was and that it ran south between the two manholes. He said an inverted siphon is made to run under ditches and streams so it proves that the ditch did exist. The neighbor to the south filled the ditch in and built a storm sewer from where they filled it in southwesterly to empty into Cedar Creek.

The storm sewer is a thirty inch line that does not function since it is plugged. Since that time, the town dug an open ditch from the south end of his property, which is also the beginning of the storm sewer that the neighbor to the south installed. Mr. Bachman said he was against this action at the time and voiced his opinion that he did not think it would work. He said the result is standing water and a high water table at Lincoln Street. Since he and his wife have owned their property eight years ago, they have had yearly flooding. He said he and his neighbors and the town are all harmed by this action and he would like to see the town get aggressive about forcing the ditch to be restored to the way it was or something that will work as well. His opinion is that would be an adequate sized sewer line from where they covered the ditch, in the same direction and elevation as it was originally. Where the storm sewer was built and where the town built their ditch that discharges into Cedar Creek, it is about a foot and a half higher than what the ditch was in the beginning.

President Kuiper referenced correspondence that was found in town archives from 1996 regarding the town's Powell Ditch project that was put in by Ronnie Madison. He asked how aggressive things got with the neighbors to the south at that time and what came of it. He also asked if the structure that was put in by the neighbor to the south can be unblocked for the immediate time being. He said some of the correspondence from 1997 indicated that the town almost did not put in the open ditch because the storm sewer line became unblocked and was open and flowing and they didn't think they could do any more than what the storm sewer was doing. Councilman Huseman said there are two forty eight inch lines going under Lincoln Street that make a ninety degree angle that go under two spots that are a hundred and maybe one forty of two twenty fours. It is throttled down too much heading into the downhill stream of Cedar Creek and it gets cut off. As soon as Cedar Creek raises about three feet, it cuts the Powell Ditch off. President Kuiper said that some of the correspondence from Town Engineer Holderly asked if the project should go forward since the line that the Carlson's put in became open. He said it appeared enough people said the town should proceed because they needed to control the flow. He said he was not saying that something more permanent did not need to be looked into, but asked if there was a possibility of getting the storm sewer line opened to address the immediate need since the earlier correspondence indicated that when the line was open it had good flow. Mr. Bachman said he disagreed because it just was not working. He said if the ditch was restored to it's original depth, it would solve the problem. Councilman Huseman said this brings up the question of legal drains. He asked Director Cox to look into the matter and it was determined that the county does not consider Powell Ditch to be a legal ditch. Councilman Huseman asked how much more legal could it be when it was built to drain the basin as a storm sewer. President Kuiper read a letter from Larry Holderly, Town Engineer addressed to Bill Dunn and Al Bachman dated June 1996 referencing an attached letter from the Army Corp of Engineers regarding continuing with the project and the low water level in the ditch since the storm drain pipe opened up. Mr. Bachman commented that he worked with Mr. Holderly for three years and he did not feel Mr. Holderly knew enough about the functions of the ditch and what went on. President Kuiper said that he could not speak to that since he did not know Mr. Holderly. He said he asked if it would be worth looking into trying to get the pipe open to address the immediate need and then talk to some people about what Mr. Bachman was proposing be done to restore the ditch. He said some of the writings they had to read from the 90's indicated that since the pipe was not on town property, at the time, the town did not want to put any money off town property.

Roger Baker, 1040 Woodland Court, said he lives at the end of Powell Ditch. He said the drainage pipe has not been open for at least fifteen years. If you go there during the summer when there has been no rain, there is a little water swirling around there and then it heads off toward the town garage. He said the ditch was filled in so they could farm over it. That would be okay except that there is inadequate tiling for the amount of water the ditch should handle. He recognized that there was a very heavy rainfall that caused the recent flooding, but he said there are heavy rain falls a couple of times a year and asked if he should have to put up with a flooded yard a couple of times a year. He said he didn't think he should have to. Bob Campbell, 1120 Hilltop Drive, said he has five pipes coming into his back yard and he has spoken to Mr. Shook about several of them. One of them is straight from the storm drains in the street. It goes through two twelve inch pipes through the easement pointed at his back yard. The other pipe he found comes out of Powell Ditch into the yard. When Powell Ditch comes up to a certain level, it back flows into his yard until it runs over the bank. Once it goes below the bank, his yard won't drain until it goes below the pipe. It will be wet for a minimum of a month. He has no idea what the other three pipes are for, but they run water every time it rains. He said the manhole in his yard overflowed for five hours during the recent rainfall.

Mr. Bachman said he was not blaming any of the Council members or staff because none of them were involved at the time. He said he does hold the town responsible because six town managers were informed about the problems with Powell Ditch while he was employed by the town and it was just ignored. He asked if the Council would look into the matter. Council members stated that they will definitely look into it. Councilman Gard asked about the trailers that have been placed across Cedar Creek and said if they were put there without approval, it needs to be requested that the Lake County Drainage Board immediately come down and survey the situation and have them removed and cleaned up. Carl Carlson, Crete Illinois, President of Carlson Farms that owns the land south of Al Bachman, said he won't question the problem that is there but wanted to give some historical facts. Mr. Carlson said he played softball on that land in the 50's and 60's and his nephew played softball there also. There was a swale there, not a ditch. A few years ago, Mr. Bachman contacted his brother and nephew and said they should put in a new ditch. They told him that they didn't agree and that was the extent of it. He thought that might be the correspondence President Kuiper was referring to. At that time, Mr. Carlson said that Mr. Bachman told him that they wanted to put the sanitary line in from the new subdivision at the south end, through Carlson Farms to the waste water treatment plant, which was the waste water treatment plant at that time. Mr. Carlson said that his father told Mr. Bachman they could do that, but he wanted to put a drain in instead of the swale, which the town okayed. He did not know if it was plugged up or not. He said that the drain tile would be lower than the swale and would take more water. Councilman Huseman asked why an inverted siphon was put in if there was not a ditch there. Mr. Carlson said they would have to talk to the people that put it in. He said that when they were holding their family picnics there when he was younger, they drove their car over the swale into the woods. He also said that Mr. Bachman referred to it as a swale. If it was deeper, they would have needed a bridge to cross it. President Kuiper asked Mr. Carlson if he would be willing to sit down and talk over the situation and have staff look at what is out there. Mr. Carlson said he was willing to sit down with anyone, but asked if he could make a few comments first. He said that the land that is south from there had water coming from the east onto it and water coming from Powell Ditch onto it. They had two feet of flooding south of the so-called bridge that was being talked about. The corner that they were talking about, the ditch that goes south of their property and the swamp on the other side, that ditch overflowed and came

onto their property. They had water from all four directions. If the ditch is run down to the corner as was discussed earlier, the water was two feet high and he wondered how much water they could get down there. He said the earlier discussion claimed that their bridge backed all the water up. He asked why their farm has flooded from Oakley all the way to the end of their property and has flooded two times this year. There is a sanitary sewer line that runs from the south to the north and runs against the flow of water. He said the manhole cover stays down since it was welded shut but it still leaked onto the property. He said there used to be a bridge in the location they have placed the flat bed trailers. They needed a way to get their farm equipment across the creek. When the bridge was in that location, they cleaned up a lot of debris that came down stream. He commented that there are three gas lines along the creek that are lower than their trailer bridge that catch a great deal of debris and should be raised up. He also said that he did not feel they will ever be able to solve the problems with Powell Ditch until the problems with Cedar Creek are solved. President Kuiper and Councilman Huseman asked Mr. Carlson to come in and sit down to discuss potential solutions.

President Kuiper took a few moments to thank the people who came out and helped with the flooding in town on Sunday, September 14th. When he received the first call early Sunday morning, it was for one house on Halsted Street. It very quickly became a need for help in numerous locations in town. The Police Department used the new CANS system to broadcast a request for help via telephones. Just after the request went out, four to five hundred people showed up with shovels to help with sandbagging. He noted some of the groups of people that helped, including police and fire, the street and water departments, the town hall staff, Alice Dahl, Cedar Creek Township Trustee and the High School football team. Local restaurants and businesses that donated food and beverages included McDonald's, Pizza Hut, the Sidetrack Saloon, Costas Foods, and the Women's Fire Auxiliary. Once George Van Til's office was notified and Kevin Madison came down and took care of Halsted Street, it allowed other areas of town to be taken care of. He felt that if all of the volunteers had not come when called, the sandbag wall on Halsted Street would not have been built and there would have been a much larger area flooded downtown. The second phase of the flooding was the clean-up on Tuesday. Since there was no school on Monday or Tuesday, fifty to seventy five high school students and about a dozen adults came to remove sandbags. President Kuiper said it was his opinion that the clean-up was harder than Sunday's project since the sandbags were all saturated and very heavy. They began by emptying sandbags into a dumpster that one man was taking when the call came that all the sandbags that were available were needed down south in the Schneider, Shelby and Sumava Resorts areas. John Russel and Touch of Grass both donated trucks to move the sandbags south. He also said it was very personally rewarding to see the response to the request for help and he was very proud of the Lowell community. When he called the Police Department on Sunday, Chief Shelhart informed him that they had just been discussing how they could to test the new CANS system, but it worked very well. They used it again on Saturday, September 20th when the Wildwood area was flooded from a dike break. He said it just showed that a lot of people are willing to help if they just know the need. From himself and the town, he thanked everyone for their efforts.

ANNOUNCEMENTS

President Kuiper announced the next regular meeting on Monday, October 13, 2008 at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media asked for a copy of the IPEP letter along with some details regarding the summer sprinkling rate.

Connie Schrombeck, 115 Halsted Street, said she could not say enough about what happened Sunday with all of the people that came and helped them out. She said Alice Dahl came and made arrangements for a moving van and storage units so they were able to get just about all of their stuff out of the house. She said thank you to everyone for everything they did.

Sara Pierce, 111 E. Main Street, said that she went down to Halsted Street because she knew there was sandbagging going on and her immediate neighbor to the west had flooding. She requested help from Councilman Tucker and he was able to arrange that. She thanked him for his help.

Ray Raszewski, 17701 Downing Drive, said he wanted to stop by and personally say thank you. He said it was wonderful the way help was offered. He said to see hundreds of people walking down the street to help reminded him of Extreme Home Makeover. He said he could not thank the town and everyone else enough. They managed to keep the water down to two inches inside the house when it was three feet up against the house. If it weren't for the sandbags, they would have lost everything. President Kuiper said that when it looked like they had everything in order on Halsted Street, they went out to Windsor Woods to see what help was needed there. He said there were so many people to help that they had three lines going to stack sandbags. Mr. Raszewski thanked everyone for their help.

John Masepohl, 323 Spruce Court, said the paving project in Meadowbrook is completed and went very well, beyond their expectations. He thanked the Council for their assistance.

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

ATTEST:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer