

**LOWELL TOWN COUNCIL  
REGULAR MEETING  
APRIL 13, 2009**

The regular meeting of the Lowell Town Council was called to order on Monday, April 13, 2009 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 and Phillip Kuiper. Councilman David Gard was absent. Also present were Town Attorney Greg Sobkowski, Director of Public Works Greg Shook, Town Administrator Susan Peterson, Police Chief John Shelhart, Street Superintendent Frank Lovely, Mark Downey of Commonwealth Engineers, three members of the media, and twenty one interested citizens.

**APPROVAL OF MINUTES**

Councilman Huseman made a motion to approve the minutes from the March 23<sup>rd</sup> regular meeting, seconded by Councilman Alessia. The motion carried by voice vote.

**APPROVAL OF VOUCHERS**

President Kuiper stated that he had reviewed White Vouchers #1399-1482, White Police Vouchers #4034-4055, Water Vouchers #2182-2222 and Waste Water Vouchers #3148-3180 and recommended them for approval. Councilman Alessia made a motion to approve the vouchers as listed, seconded by Councilman Tucker. The motion carried by voice vote.

**PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS**

Recognizing Former Park Board Member Penny Morrison - President Kuiper recognized former Park Board Member Penny Morrison for her years of service to the town from 1970 to the present and presented a plaque to her. Penny was involved in the planning and development of all of the parks in the park system.

**MONTHLY REPORTS**

Councilman Huseman made a motion to accept the monthly reports from March, 2009 as presented, seconded by Councilman Alessia. The motion carried by voice vote.

**ORDINANCES & RESOLUTIONS**

1<sup>st</sup> Reading - Ordinance #2009-05 - Amending Chapter 71 & 72 - Traffic & Parking - President Kuiper read Ordinance #2009-05 to amend Chapter 71 & 72. Councilman Huseman made a motion to hold over Ordinance #2009-05 for second reading, seconded by Councilman Tucker. Councilman Alessia referenced the proposed Section 72.01(D) that addresses waiving the permit fee for persons who reside in the Downtown Zoning District, D-1, on property they own. He asked who specifically would be paying for a \$100 permit. Chief Shelhart informed him it would

be paid by tenants or anyone who did not own the property. Councilman Alessia asked what the current permit cost was. Chief Shelhart stated it was currently \$10 per year. The motion carried by voice vote.

1<sup>st</sup> Reading - Ordinance #2009-06 - Amending Chapter 75 - Parking Schedule - President Kuiper read Ordinance #2009-06 to amend Chapter 75 to add a list of streets where parking is prohibited during the hours of 3:00 a.m. to 7:00 a.m. Councilman Huseman made a motion to hold over Ordinance #2009-06 for second reading, seconded by Councilman Tucker. The motion carried by voice vote.

Resolution #2009-05 - Temporary loan from Sewer Improvement to General, MVH & Park Funds - President Kuiper read Resolution #2009-05 for a temporary loan from the Sewer Improvement Fund in the amount of \$1,000,000 to the General Fund in the amount of \$750,000, to the MVH Fund in the amount of \$150,000 and to the Park Fund in the amount of \$100,000. Councilman Alessia made a motion to adopt Resolution #2009-05, seconded by Councilman Tucker. Clerk-Treasurer Walters reviewed a report of the 2008 tax distributions. On March 27, 2009, the town received the final tax distribution from 2008 which was 99% collection. She reported that she paid back the temporary loan from the Sewer Improvement Fund from 2008. This is a new temporary loan from the Sewer Improvement Fund for 2009 because it is now the middle of April and the town still does not have a 2009 budget. The motion carried by voice vote.

Resolution #2009-06 - Spending of Federal Economic Renewal Grant to buy materials and goods produced within the United States - President Kuiper read Resolution #2009-06. Gary Bender, 16008 Morse Street, commented that this resolution is very straight forward and is in support of working families in the State of Indiana, the County of Lake and the Town of Lowell. He said communities throughout the country are adopting the same resolution. He commended the town for having the best Labor Day Parade in the state and possibly in the country and encouraged the Council to adopt the resolution. Councilman Tucker made a motion to adopt Resolution #2009-06, seconded by Councilman Alessia. The motion carried by voice vote.

## **PUBLIC HEARING**

President Kuiper opened the public hearing approving and adopting State Revolving Fund Preliminary Engineering Report for Wastewater Treatment Plant Improvements. Mark Downey of Commonwealth Engineers stated that the project is for Waste Water Treatment Plant improvements needs - rain induced infiltration and inflow have resulted in both operational difficulties and dramatically diminished treatment capacity for the Lowell WWTP. At times, peak flows experienced at the WWTP exceed the existing headworks pumping capacity - which results in both sewer system backups and flooding of the headworks structure itself. Additionally, over the last year, monthly reports of operation (MRO) data illustrate that average influent flows have increased dramatically. Of the 4MGD WWTP rated capacity, the WWTP has averaged 3.782 MGD over the last year (September 2007 thru October 2008 MRO data). The existing headworks pumping capacity must be increased and a means of managing/treating the rain induced infiltration and inflow is required.

The proposed project includes upgrading the existing pumping capacity of the headworks and providing a means of peak flow treatment via the incorporation of a high rate clarification (HRC) treatment system. By reinstating the old, abandoned storm pumps the existing headworks ability to transmit flows can be increased 2-fold (from some 25-30 MGD to some 50-55 MGD). Further, by incorporating a 10 MGD HRC treatment process, rain induced infiltration and inflow will be treated through this process effectively reducing the capacity demands on the biological plant from  $Q_{avg}=3.782$  MGD to  $Q_{avg}=2.4$ MGD - freeing up additional biological treatment capacity. Additionally, for the data set analyzed (Nov 2003 thru Sept 2008) the number of overflows would be reduced from thirty-eight (38) to two (2); with a corresponding reduction in overflow volume of raw sewage from 415 Mgal to 8.82 Mgal.

The total not-to-exceed cost that has been requested through the State Revolving Fund (SRF) program, which is using American Recovery Reinvestment Act stimulus money, is \$6 million. It has been identified by the rate consultant as having no increase in user rates. The procedure would be to take any public comments. Once public comments are taken, the procedure would be to advise everyone that the public hearing comments may be submitted in writing for an additional five days. Following receipt of all comments, at the next meeting the Council will adopt a resolution to approve the preliminary engineering reports that have been submitted to IDEM and hopefully get funding for this through the stimulus monies, and adopt a SRF signatory authorizing the Town Council President to sign the paperwork.

Linda Gunning, 1249 Driftwood Drive, asked how there could be no user rate increases with the cost of the project. Mr. Downey explained that half of the money would be paid for through an agreement the town has with Cedar Lake. When financial consultant Greg Guerrettaz looked at the numbers and at the low interest rates, it looks like there will be no need for an increase. Ms. Gunning asked what would happen if the town does not get the ARRA money. President Kuiper said they probably would not do the project at this time. Mr. Downey said they would have to look to what the economic impact would be and come back and look again. He said this analysis assumes a 3% interest rate through the SRF loan program. She asked what the result of the water would be if the project was not done. Mr. Downey said from a stand point of overflows, the overflows would continue.

Kathleen White, 349 Gwens Cove Court, commented about Cedar Lake and asked if they weren't building their own treatment plant soon. President Kuiper said that regardless whether they do or don't, they are still contracted to own 50% of the capacity because they are on the bonds.

There being no further comments from the public, President Kuiper closed the public hearing and stated that written comments would be allowed for five days.

## **PUBLIC HEARING**

President Kuiper opened the public hearing approving and adopting a State Revolving Fund Preliminary Engineering Report for Automatic Meter Reading System Project. Mark Downey of Commonwealth Engineers stated that they also prepared this Preliminary Engineering Report on

behalf of the town. Water meters are on average over 20-years old. The water system is experiencing around 25% unaccounted for water. The proposed project is to replace old water meters with new, modern meters with automatic meter reading (AMR) system to more accurately measure water usage, improve billing accuracy and revenue stream, lower unaccounted for water percentage. The total estimated cost is \$700,000 and Greg Guerrettaz of Financial Solutions Group has looked at the numbers and identified that there should be no increase in user rates. Again, at the next meeting the Council will adopt a Resolution to approve the preliminary engineering report and a Resolution approving a SRF signatory authorization for the Town Council President to sign all paperwork.

Mr. Downey stated that there is a separate sign-in sheet and requested that everyone sign-in, including their address because at the conclusion of this, with the resolution, they are required to send notices of the decisions of the Council to the people that sign the registry. There being no comments made by the public, President Kuiper closed the public hearing and stated that written comments would be allowed for five days.

### **UNFINISHED BUSINESS**

Public Works Department Update - Nothing was reported for the following: WWTP JMOB Requests, Water Infrastructure Improvement Plan, East Side Sewer, Streets/Sidewalks.

Road Salt - Director Shook reported that they have decided to go with the state bid. Last year, the state averaged \$59 per ton while the town paid \$101 per ton through the co-op. There was a meeting of the co-op today and they decided unanimously to go through the state, hoping for a better price. As soon as he has more information about it, he will bring it to the Council.

Water Booster Station - Director Shook reported that everything is complete except for a gas line and a phone line. The phone line is necessary for the alarm system and he expects to see start up in the next two or three weeks.

Powell Ditch - Director Shook reported that Commonwealth Engineers is still working on this project and he will present it to the Council as soon as he has more information.

Utility Relocations - Director Shook reported that utility relocations have started at the Rt 2/Burr Street intersection. He expects to start to see things moving along there soon.

Meadowbrook Property Owners Association Request - Director Shook stated that late last fall, the Meadowbrook Property Owners Association had submitted a letter requesting some items. He had a visit from a gentleman that they are still requesting that the Council make the outside perimeter of Meadowbrook Drive no parking at any time. President Kuiper asked who was actually making the request. Director Shook reported that there are several property owners associations and he was not sure which one was making the request. He said that there is a north entrance and a south entrance and on the outside perimeter, there are no houses that face the street. He said he thought some of the houses that sit on the private streets are using that for parking spots. Director Shook said that he thought Director Cox was familiar with who was involved with the different property owners associations and he thought there were two or three

in that subdivision. He said he would take the matter back and discuss it further with Director Cox to determine who was making the request and if they were all in agreement. John Baccino, 515 Meadowbrook Drive, said he was the one that had come in to talk to Director Shook. He said he recently got on the board and wasn't familiar with everything but he does understand that this matter had been brought up before. He thought the town had said that there should be no parking on the one side. He said the houses that are on the side where they would like to see no parking don't face Meadowbrook Drive. Those houses have their own separate streets as well as garages and driveways to park in. He asked if they could check on it and let them know.

Burr/Rt2 Project - Forward Pay Request #2 to DLZ Engineering (\$667.98) to INDOT for payment - Director Shook requested permission to forward Pay Request #2 for DLZ Engineering in the amount of \$667.98 to INDOT for payment. He said this is going to be one of those routine payments on the State Rd 2/Burr Street project. Councilman Alessia made a motion to approve the request, seconded by Councilman Tucker. The motion carried by voice vote.

### **NEW BUSINESS**

Permission to advertise for additional appropriation - MVH & Major Moves Fund - Clerk-Treasurer Walters requested permission to advertise for an additional appropriation. In the MVH Fund, since they purchased the Total Patcher, they have to buy emulsion that is used in the process. The town entered into an agreement with Lake County where the county buys emulsion from the town so they don't have to store it. Clerk-Treasurer Walters needs to increase the line item by the amount that the county is purchasing so when emulsion is purchased, the town is using the county's money to pay their portion of the bill. They didn't have that information when the budget was prepared last year. For the Major Moves Fund, the fund is done but last year, there was approximately \$9,000 left that was not spent. That money needs to be appropriated so it can be spent this year. She said she does not have an amount for the MVH Fund yet. They are waiting to hear back from the county on how much they think their use will be for the year. She will appropriate according to that estimate. Councilman Alessia made a motion to grant permission to advertise for additional appropriation in the MVH Fund and Major Moves Fund, seconded by Councilman Tucker. The motion carried by voice vote.

Direct Town Attorney to amend Ordinance for Evaporation Credit - President Kuiper said this was to address a request from Rieter Automotive. Director Shook reported that the current credit is a sewer credit for those that use cooling towers, where how much is going in and how much is going down the sewer can be measured and the difference is credited. Rieter has a boiler and boilers are not included in the current credit so they are requesting that the Council add boilers. They would still have to come up with a system, that satisfies the town, to meter how much water is being evaporated and is not going to the sewers. The amount that is being evaporated would then be credited. Councilman Alessia made a motion to direct the Town Attorney to amend the ordinance for an evaporation credit, seconded by Councilman Tucker. The motion carried by voice vote.

### **PUBLIC HEARING**

Intent to sell old water plant property located at 241 N. Liberty Street - President Kuiper opened

the public hearing regarding the intent to sell the old water plant property located at 241 N. Liberty Street. There being no comments from the public, President Kuiper closed the public hearing. Attorney Sobkowski explained that it would work like a silent auction. If it is to proceed, the Council would adopt a motion determining to sell the real estate. They would authorize the Clerk-Treasurer to publish a notice of sale in the newspaper. The Council would need to determine how long the sale would remain open. By statute, it can remain open up to 60 days. During the period of the sale, people can come in and make offers and the offers are open to the public for review. At the end of the period, the town would determine whether it is satisfied with the highest offer and would sell the property to the highest and best offer. The Council also needs to determine if they want to set a minimum offering price and what date they will begin receiving offers in order to allow for publication. He recommended a starting date of May 1<sup>st</sup>. President Kuiper stated that they have two appraisals and the average of the two appraisals is \$82,500. Councilman Huseman asked if there was any stipulation on the furniture and fixtures. Attorney Sobkowski stated this was a sale of the real estate. He said offerers could make proposals to purchase the contents if they wanted to. The statute allows you to leave other terms of the sale up to the offerers to make proposals. Councilman Alessia made a motion to proceed with the sale of the property, to authorize the Clerk-Treasurer to publish a notice of sale with bids to be received beginning on May 1<sup>st</sup>, the sale to be open for 60 days and to set a minimum offering price of \$82,500, seconded by Councilman Huseman. The motion carried by voice vote.

### **ANNOUNCEMENTS**

President Kuiper announced the next regular meeting will be held on Monday, April 27<sup>th</sup> at 7:00 P.M.

### **MEDIA QUESTIONS/PUBLIC COMMENTS**

A member of the media asked why the property is being sold that way. Attorney Sobkowski explained that is the way the statute says you must sell real estate that is in excess of \$50,000. She asked why the property is being sold. President Kuiper explained that they are building a newer facility and the old facility is no longer needed. They discussed selling it several years ago and just never followed through with it. Director Shook reported that the new garage is scheduled to begin construction next week. He also stated that the old water plant was replaced back in the mid-90's when the new water plant was built out on Colfax. The old water plant has not been used for anything but storage since that time.

A member of the media asked for a copy of the two ordinances that were read earlier in the meeting regarding parking and traffic. She also asked if she could ask a question of Councilman Tucker. She asked if he had any reaction to the letters about the Hatch Act. Councilman Tucker stated that he has been in contact with Erica Hambrecht at the Office of Special Counsel for more than a year. She is giving him instruction on options for him to seek re-election in the position working as a police officer. He is continuing to work with her and has talked to her a couple of times over the past few weeks. He knows she and Chief Shelhart have had conversations in the last couple of months. Chief Shelhart said that he has had conversations and at the present time,

there are no violations of the Hatch Act to the Town, the Police Department or Councilman Tucker under the current situation. Councilman Tucker said he applauds her since she has worked very well with him. He said he wants to make sure, if he does seek re-election, that he is in compliance and that the department is in compliance. When those options come around, at filing time, then he will be ready to go.

A member of the audience asked if there were any stipulations about how the property that is being sold could be used. President Kuiper said the only stipulations would be according to how it is zoned. The gentleman was told to contact the Town Hall to find out what the zoning was.

Sara Pierce, 111 E. Main Street, asked if there had been any updated information on what is going to be done with the culvert on Main Street over Cedar Creek. Director Shook reported that the county has closed that due to a problem with the foundation. They are going to wait until the spring rains are through and the water goes down. They will inspect it again and if they feel that the foundation is safe enough, they will open the south lane again. The long range plans are that it has to be replaced and the county said that would take about six months by the time they do engineering, find funding and bid the project. There is a chance that they may inspect it and determine that it is not safe to even open one lane, in which case it could be closed and left that way for a while.

Ed Bradbury, 5704 W. 171<sup>st</sup>, commented about the proposed parking restriction changes that were read earlier in the meeting.

Councilman Huseman commented about the filling of a vacant Street Department position and asked if the position had been advertised, how many applications were received and how many were interviewed. Director Shook reported that they received about a dozen applications. They interviewed one person who fulfilled the requirements of the advertisement that was placed in the Lowell Tribune and that is the person they hired. He said he would be happy to sit down with anyone that wanted to discuss it. Councilman Huseman asked if they could have interviewed more of the applicants. Director Shook said that in looking at the applications, it was pretty obvious that the one person was very qualified. They were not sure he would even accept the job because of the starting pay but they got that worked out and he was hired. President Kuiper commented that he knew they were looking for some pretty specific qualifications this time because they can't hire several people at this time.

Linda Gunning, 1249 Driftwood Drive, commented that she was wondering about the reasoning behind the amendments to the traffic and parking schedule. She wanted to know what they were trying to fix by making the amendments. President Kuiper said that enforcement was one of the problems and asked Chief Shelhart to explain further. Chief Shelhart said that the way the old ordinance was written was nearly impossible to enforce. The proposed changes will make enforcement practical and in a way that can be done.

Sara Pierce, 111 E. Main Street, asked if she understood that it is \$100 a month parking permit? President Kuiper informed her it was \$10 per month. Ms. Pierce said, so it is \$120 a year then. President Kuiper said if you get an annual permit, it is \$100 or you can do a monthly for \$10 a

month. Ms. Pierce said so those unfortunates that live in the apartments in town have to pay an additional \$10 a month to park in a back, the north or south parking lots behind town. President Kuiper said that was correct. Another member of the audience said that to clarify, that is an increase of for the yearly fee it was \$10 a year and now you've raised it to \$100 a year. President Kuiper said that was correct. She asked if there was a reason for such a substantial increase. President Kuiper said it goes back to that same subject. Chief Shelhart said it is just an enforcement issue and they checked around with some of the other communities to see what they were charging for their parking areas and we are in line with what other communities are charging. President Kuiper said not only that with the enforcement, if he recalled, the penalty was \$10. Councilman Tucker said they would rather pay the penalty than abide by it and that is why it is something that had to be changed. He said they were having a lot of people doing that.

President Kuiper stated that two squad cars had been broken into last Wednesday night. In both cases, someone has been apprehended and charged. Chief Shelhart reported that nearly everything has been recovered although there was damage done to both cars.

There being no further business or discussion, Councilman Alessia made a motion to adjourn, seconded by Councilman Tucker at 7:55 P.M.

Attest:

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Phillip Kuiper, President

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Judith Walters, Clerk-Treasurer