

**LOWELL TOWN COUNCIL  
REGULAR MEETING  
JULY 27, 2009**

The regular meeting of the Lowell Town Council was called to order on Monday, July 27, 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. Present were Council Members Donald Huseman, Shane Tucker, John Alessia, Phillip Kuiper and David Gard. Also present were Town Attorney Ben Ballou, Public Works Director Greg Shook, Town Administrator Susan Peterson, Community Development Director Wilbur Cox, Police Chief John Shelhart, two members of the media and six interested citizens.

**TREASURER'S REPORT**

Councilman Gard made a motion to approve the Treasurer's Report for June, 2009 as presented, seconded by Councilman Huseman. The motion carried by voice vote.

**APPROVAL OF MINUTES**

Councilman Alessia made a motion to approve the minutes from the July 13<sup>th</sup> regular meeting, seconded by Councilman Gard. The motion carried by voice vote.

**APPROVAL OF VOUCHERS**

President Kuiper stated that he had reviewed White Vouchers #1925-1984, Water Vouchers #2421-2444 and Waste Water Vouchers #3364-3385 and recommended them for approval. Councilman Huseman made a motion to approve the vouchers as listed, seconded by Councilman Tucker. The motion carried by voice vote.

**PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS**

Rescind letter of resignation from Plan Commission/BZA - President Kuiper read a letter from Richard Kelley requesting that he be considered to fill the vacancy on the Plan Commission and the BZA that was created when he resigned. Since he submitted the letter of resignation, he retired and is now able to fulfill his commitment to the town. Councilman Huseman made a motion to rescind the letter of resignation and appoint Richard Kelley to the Plan Commission and the BZA, seconded by Councilman Gard. The motion carried by voice vote.

**ORDINANCES & RESOLUTIONS**

2<sup>nd</sup> Reading - Ordinance #2009-10 - establishing an Unclaimed Property Fund - Councilman Gard made a motion to adopt Ordinance #2009-10, an ordinance establishing an Unclaimed Property Fund, by name and title only, seconded by Councilman Alessia. Roll call vote carried with five ayes.

2<sup>nd</sup> Reading - Ordinance #2009-11 - amending Chapter 75 - no parking-Meadowbrook Dr. - Councilman Gard made a motion to adopt Ordinance #2009-11, an ordinance amending Chapter 75 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.

1<sup>st</sup> Reading - Ordinance #2009-13 - amend Section 36.090 Law Enforcement Fund towing firm fees - President Kuiper read Ordinance #2009-13. Councilman Alessia made a motion to hold over Ordinance #2009-13 for second reading, seconded by Councilman Gard. Councilman Huseman asked if there was a contract that instructed the towing firms and if not, how are they directed. Police Chief Shelhart explained that the Police Commission established an agreement with two towing firms and they pay a percentage of the storage fees that they receive to the town. Councilman Huseman asked about an additional \$25 fee. Chief Shelhart said that there is a provision to charge a \$25 dispatch fee if the towing firm does not respond in a timely manner, but they do not have any problems with response time from the two firms that are currently providing services to the town. He said it is all written into the agreement between the town and the towing firms. President Kuiper confirmed that this was approved by the Police Commission. The motion carried by voice vote.

Resolution #2009-14 - temporary loan to General Fund - President Kuiper read Resolution #2009-14 to make a temporary loan from the Sewer Improvement Fund to the General Fund in the amount of \$500,000 to be repaid on or before December 31, 2009 or when the 2009 tax settlement draw is received. Councilman Alessia made a motion to adopt Resolution #2009-14, seconded by Councilman Tucker. Councilman Huseman asked about the repayment date. Clerk-Treasurer Walters stated that it would be repaid by December 31, 2009 if she receives all of the 2009 tax draws. She explained that earlier in the year, she had borrowed from the Gambling Revenue Fund, but that is being repaid so it is in place for the street paving project. 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.

Burr/Rt 2 Project - DLZ - Approve Change Order #1 - reduction to contract of \$3,204.70 - storm sewer revisions - Director Shook reported that in the past, he had informed the Council about some problems and that they were trying to get some changes made to the storm inlets. That has now been resolved and it has resulted in a change order. He requested the Council approve Change Order #1 for a reduction in the amount of \$3,204.70. Councilman Gard made a motion to approve Change Order #1 for storm sewer revisions and a reduction to the contract of \$3,204.70, seconded by Councilman Tucker. The motion carried by voice vote.

Streets/Sidewalks - Councilman Huseman asked if it had been determined if there would be any money available for some of the bad curbs. Clerk-Treasurer Walters said that those were to be included in the paving project that they were borrowing money for. Director Shook invited any Council member that might be interested to stop by his office. He has a set of drawings on the first set of streets that they were going to do and they indicate where curbs are to be done, along with the other work.

Appoint legal firm to represent town as bond counsel - President Kuiper stated that the law firm of Ice, Miller is bonding the street paving project for the town. Clerk-Treasurer Walters explained that the town approved Ice, Miller for the street paving project, but now the SRF loan for the water meter project needs bond counsel. If the Council wanted to appoint Ice, Miller as the town's bond counsel for the year, that would cover all projects. Councilman Huseman made a motion to appoint Ice, Miller to represent the town as bond counsel, seconded by Councilman Gard. The motion carried by voice vote.

Councilman Tucker commented about the intersection of Mill Street and Commercial Avenue where the bank branch is located. People turning north onto Mill Street, that want to enter the bank's property, have to turn across traffic on Mill Street. There is often a line of cars waiting to turn onto Commercial Avenue and traffic often fails to leave a space for those people wanting to turn into the bank's lot. This causes gridlock in the Mill Street/Commercial Avenue intersection and has nearly caused a number of accidents. Councilman Tucker asked if a sign could be placed that asked people to not block the driveway into the bank. Discussion followed about possible solutions. It was determined that a sign might help, but would not necessarily solve the problem. It was noted that the timing of the light only allows a few cars at a time through the intersection from Mill Street onto Commercial Avenue so people don't want to leave a space and then miss the opportunity to get through the intersection, having to wait for the next light. It was suggested to petition the State of Indiana to change the timing of the light to allow more cars at a time to turn left onto Commercial Avenue to try to keep the area more clear of vehicles.

Tabled from previous meetings:

7/13 - Electric service at Freedom Park - Councilman Tucker said that at the last Freedom Park Board meeting, he had received a copy of a letter from Brent Laloup, Field Technician for NIPSCO, that he felt was a little confusing in its wording. He had reviewed the letter with Councilman Huseman and said that the letter stated that in order to run electric to the south side of the park, the cost would be \$10,559 and that it would cost more to run from the existing transformer, the line that has already been run, than it would be to start a new line from the pole. After Councilman Tucker read a brief section of a paragraph from the letter, Councilman Huseman said that the pole feeding the park is the trick. He and Councilman Tucker aren't sure if NIPSCO means the transformer that is already there and that it isn't wired heavy enough or coming all the way back and starting over from the one that feeds the park. Councilman Tucker said that the bottom line is that he was asking for consideration from the Council to foot the bill so they can complete the whole park. He said he asked Park Superintendent Sullivan to get the other figure that would be coming from the existing transformer for comparison sake. Director Shook said that when they began discussions, NIPSCO thought it would be better to come from the pole from the road. Councilman Tucker said it was his understanding that the existing line would do the whole north side of the park and this would cover the whole south side of the park and then the whole park would be completed. Director Shook said that was his understanding also. Council members asked Director Shook to get clarification on why there was a need for two lines. President Kuiper asked about funding. Clerk-Treasurer Walters explained that there were no more funds available through the Gambling Revenue Fund, so their only choice would be to go into one of the capital improvement funds. President Kuiper reminded Council members that the operating budget has been cut considerably since one of the townships has not contributed to the operating budget for several years and the other township cut it to \$6,000 this

year without the town's knowledge. Discussion followed about the imminent needs for the park. Roberta Thomas, 625 Gatewood Drive and Freedom Park Committee member, said that they are wanting to put shelters in the south side of the park, which would produce revenue. They have also had suggestions for holding movies in the park, a band concert this year as well as other things that require power to be available. In order for the park to grow and become what they want it to be, and it really is a diamond in the rough, they really need power out there. She said she really hoped they would approve the project, because it will be more expensive the longer they wait to do it. Councilman Gard said they find themselves in a bit of a difficult situation because the townships have offered to let the town have the park, even though they are contractually obligated to pay the bond. Township government is on the way out and then the town's partner would be the county. He felt it would be very difficult to get any money from that, so they are in a situation where they really need to consider these things. If they ever hope to have the park be able to generate any revenue, it has to be able to be used. While it is a difficult time to spend the money, it might be a good thing to do now, while they have it, as opposed to in a year or two when they may not, when the budget gets cut like it is probably going to get cut next year. He said he thought it would be great to do it now if there is any way to do it, so at least the infrastructure is in place for future, because they don't know when they may be able to have money to do that because they can't rely on their partners any more. President Kuiper said he totally agreed with that. He said there are three entities involved, with the town being one and they have many resources to help the park, and they have many times over because they want the park to thrive. As things get tighter on the town, they will get tighter on the park to the point where they may have to re-think some things about the park. Councilman Tucker said he didn't want it to stagnate and that he got news last week that the skate park has been packed all summer. Councilman Gard made a motion, with the absolution and blessing of the Clerk-Treasurer, that whatever portion of the project that remains unfunded will be funded by the town with capital funds pending review by Director Shook to verify that there is no duplication of service or spending any money twice, seconded by Councilman Tucker. Director Shook will resolve whether or not the current power system is large enough for the ball fields for Little League. Councilman Huseman asked about the Little League. President Kuiper said they have no money available after hiring a firm to do the design for them and that they need to do some fund raising. The motion carried by voice vote.

7/13 - American Legion water bill - Clerk-Treasurer Walters reported that she spoke to the State Board of Accounts and they would not look favorably on the town allowing the American Legion to not pay their bill until they sell the building. They would like to see a payment plan put in place for them to make payments on the bill. Discussion followed and it was determined that a payment of \$50, in addition to their regular payment amount, would be fair if the American Legion is at all able to pay that amount.

## **NEW BUSINESS**

Act on favorable recommendation from Plat Committee:

Extension of Performance Letter of Credit for Spring Run Subdivision; Release of Maintenance Letter of Credit for Providence Townes of Lowell - Councilman Huseman made a motion to accept the extension of the Performance Letter of Credit for Spring Run Subdivision, seconded by Councilman Alessia. The motion carried by voice vote. Councilman Huseman

made a motion to release the Maintenance Letter of Credit for Providence Townes of Lowell, provided that they construct their swale properly and have it inspected by town staff, seconded by Councilman Tucker. Director Cox confirmed that the swale was not in or done. The motion carried by voice vote.

Councilman Gard reported that Wednesday evening, he attended an Ambulance Board meeting. Chief Delor from the Crown Point Fire Department was there at the Lowell Fire Chief's request to present the Mavis program to the board. He explained that there is currently a local mutual aid agreement with surrounding communities. If Lowell has all of its equipment committed to a large fire incident, they have equipment from other communities that comes in and staffs the fire house so there is some protection. Mavis is a mutual aid system that has been in existence since the late 1960's. Pre-September 11, Mavis was heavily routed throughout northern Illinois. Since September 11, 2001, Mavis has rapidly grown through Illinois and Wisconsin, parts of Indiana, Iowa and Missouri. Day to day Mavis extra alarms are systematically designed to provide speed of response of emergency resources to the stricken community during an ongoing emergency. A declaration of disaster is not required for the routine Mavis system activation. Today, Mavis includes approximately 1,100 of the State of Illinois' 1,200 fire departments, organized into 62 divisions. Mavis divisions geographically span an area from Lake Michigan to Iowa's border and south almost into Kentucky. Eight Wisconsin divisions also share Mavis with their Illinois counterparts. The City of Chicago, St. Louis and Milwaukee are also Mavis member agencies. Interest is becoming evident from Iowa, Indiana and Michigan. 37,000 of Illinois' 40,000 firefighters who staff emergency response units are included in this. He explained that this means if Lowell had some very unique situation that needed specialty equipment from the City of Chicago, if Lowell were a Mavis member, we could have that equipment come to us. Conversely speaking, if they needed something from Lowell, we would go to them. The beauty of the program is that it does not cost Lowell anything. It only costs the agreement to hold up our end when a member community requires assistance from us and we are able to provide it, we provide it. If the town would have to pass, it can say we have to pass and they move to the next. In the event of a large scale disaster, the program has a system that automatically kicks in response activations, where it tells what departments to go where to staff what. The system is completely set up, integrated and ready to go. He said they have a contract that they are going to ask the town to sign as well as the townships. He would like to have legal counsel look at the contract and pending their approval, he asked the Council to consider entering into the Mavis agreement. He felt there is no down side to the agreement since there is no expense, nothing other than the town's willingness to be a part of the program and Lowell's fire chief is very excited about it. He said the contract has already been approved by the Indiana State Attorney General but he felt it was good due diligence to have legal staff spend the time to look at it. Pending their approval, he would like to see Lowell become part of this and support our chief's desire to be a part of it. Councilman Gard made a motion that pending legal review, the town become part of the Mavis program, seconded by President Kuiper. The motion carried by voice vote.

President Kuiper announced that a couple of weeks ago, there was a situation in the area of Harrison and Flower Hill with a number of incidents of vandalism of cars that happened late at night. The Police Department reached out to the citizens through Officer Woestman and there are now two juveniles and possibly one more that are alleged to have been involved. Chief Shelhart confirmed that the damages done were near \$20,000. President Kuiper commended

Officer Woestman and the other officers working with him.

President Kuiper announced that he had received a phone call today from Mike Roberts, Vice President of Human Resources for Rieter Automotive to confirm that they are shutting their doors for good. Their production workers will be gone by October, if not sooner and some maintenance workers will be there to break down equipment and should be done by the end of the year. He expressed his concerns since Rieter was the town's largest utility payer. He has already reached out to Powers Energy to let them know what was going on and passed on the contact information in case they were interested since the zoning is there, the property is completely in town and next to the railroad.

2009 Budget - Clerk-Treasurer Walters stated that the town got the 2009 budget approved after receiving the first one that was cut tremendously due to an error that was resolved. The budget was approved as advertised and only one cut was made in the Local Road & Street Fund, based on the revenue being down. The tax levy for 2008 payable 2009 is \$2,714,237 with a tax rate of 0.7850 for the town's portion. She and Greg Guerrettaz of Financial Solutions Group have begun working on the 2010 budget. While 2009 was fully funded, they don't expect that to happen in 2010 because, not only has the tax levy been frozen in Lake County by the State, but the town's miscellaneous revenues over an 18 month period are down about \$ 250,000 - \$300,000. The Council is going to have some important decisions to make in the next month or so because they need to either look at making some changes in the hydrant rental or the Cum Sewer Fund and put that on the users. President Kuiper commented that they need to get creative. Clerk-Treasurer Walters said that they have tentatively set a budget work session for August 10<sup>th</sup> at 5:00, before the next regular Council meeting and Mr. Guerrettaz will be there to go over it with them. Clerk-Treasurer Walters asked President Kuiper if they wanted to address the salary ordinance. She reported that a 3% increase for employees was budgeted for 2009 but they held off waiting to see if the 2009 budget would be approved. Since the 2009 budget has now been approved, she needs direction from the Council if they want to move forward. President Kuiper said he'd like to see that approved since in 2010, it isn't looking good. Councilman Gard made a motion to approve giving the 3% wage increase, seconded by Councilman Alessia. Councilman Alessia commented that he saw Merrillville was having to rescind and he asked if that was something the Council would need to be concerned about. Clerk-Treasurer Walters said that they are good for 2009 and as long as the miscellaneous revenues are made up, that rate should hold for 2010, but there will be no increases in 2010 or 2011, but the Council will need to be willing to make some changes. That is what Mr. Guerrettaz is going to be talking to them about in August. The motion carried by voice vote.

## **ANNOUNCEMENTS**

President Kuiper announced the next regular meeting to be held on Monday, August 10, 2009 at 7:00 P.M.

President Kuiper announced that the Taste of Lowell was very nice but it would be good to see more people become involved. It was commented that evening hours would have been good since a lot of people were at the car show looking for something to eat and the hours of the Taste of Lowell and the car show only overlapped for about an hour.

## **MEDIA QUESTIONS/PUBLIC COMMENTS**

A member of the media asked who the three partners were that are involved in Freedom Park. President Kuiper informed her that they are Cedar Creek Township, West Creek Township and the Town of Lowell. She asked how the expenses were split. President Kuiper explained that there is an annual bond payment of \$60,000 that is split \$20,000 each. By agreement, the annual operating expenses were to be split \$12,000 for each township and \$10,000 for the town. The reporter asked who had not paid and President Kuiper informed her that West Creek Township had not paid their portion of the annual operating expenses for a couple of years. She asked when Cedar Creek Township had dropped to \$6,000 and President Kuiper told her this year.

A member of the media commented that last meeting, Ordinance #2009-12 was held over for second reading. She asked what happened to the ordinance since she noticed it was not read again. Clerk-Treasurer Walters explained that it was not held over since they first and second reading the same night. The ordinance was for the street paving bond. The reporter asked what Ordinance #2009-10 meant for the people of Lowell. It was the Unclaimed Property Fund. Clerk-Treasurer Walters explained that the Police Department had some money that was turned in and the people never came back to claim it, so it was unclaimed money. She was required to establish a fund to put it in.

Roberta Thomas, Freedom Park Committee, commented that in an effort to help the parks, this week on Friday at 6:00 at the Park Department, she will be hosting the first meeting of the Friends of the Park Foundation. They will be going for a 501(c)(3) since they are finding that there are issues with various things they can get money for that require the 501(c)(3). She formed a committee of seven people that is going to be a foundation. They are going to start helping find ways to get grants and monies for the Park Department and for the parks, in general.

Adam Gutjar, 420 Greenbrier, commented that he wanted to compliment the Council, Greg Shook and Wilbur Cox for the cooperation they gave to Meadowbrook. President Kuiper said that the guys that did all of the hard work were Street Superintendent Frank Lovely and his staff. Mr. Gutjar included them in his commendation. He said he spoke with Dick Watham and will provide a synopsis of his conversation to Mr. Cox for the record. Mr. Gutjar said he felt there is a safety hazard at the southeast corner of Meadowbrook and Nichols on the old Prange realty property. There were three large pine trees there and wind has blown the center one down that hangs over the road. He said it makes it difficult to see traffic from the south without pulling out onto the road. President Kuiper said that Director Shook will have staff look at it and make a recommendation.

Councilman Gard made a motion to adjourn, seconded by Councilman Huseman at 7:50 P.M.

ATTEST:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer