

**LOWELL TOWN COUNCIL
REGULAR MEETING
AUGUST 24, 2009**

The regular meeting of the Lowell Town Council was called to order on Monday, August 24, 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 Greg Sobkowski, Public Works Director Greg Shook, Town Administrator Susan Peterson, Community Development Director Wilbur Cox, Police Chief John Shelhart, two members of the media and ten interested citizens.

TREASURER'S REPORT

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

APPROVAL OF MINUTES

Councilman Huseman made a motion to approve the minutes from the August 10th regular meeting, work session and executive session, seconded by Councilman Tucker. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #2055-2134, Water Vouchers #2479-2525 and Waste Water Vouchers #3415-3440 and recommended them for approval. Councilman Alessia made a motion to approve the vouchers as listed, seconded by Councilman Huseman. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

2nd Reading - Ordinance #2009-15 - Gambling Revenue - Additional Appropriation Street Paving, Burr/Rt 2 Project - Councilman Gard made a motion to adopt Ordinance #2009-15 by name and title only, seconded by Councilman Huseman. Roll call vote carried with five ayes.

1st & 2nd Reading - Ordinance #2009-17 - Revenue Bond Ordinance - Water Meter Project - Attorney Sobkowski explained that the ordinance approves the project that will be done with a combination of funds the utility has on-hand plus a State Revolving Fund (SRF) loan in the amount of \$280,000. The ordinance authorizes the issuance of Bond Anticipation Notes (BAN) in that amount at 0% interest for a five year term. As long as the town complies with all of the terms of the financing agreement with the Indiana Finance Authority, from whom the town is receiving the loan, the loan will be forgiven and that will be the end of the project. If there is a default, there is a provision in the ordinance for the issuance of bonds with a maximum twenty year term at an interest rate not to exceed 5% in order to repay the loan. It is anticipated that the project will be done, the loan will be forgiven and that will be the end of it. Councilman Gard

made a motion to hold Ordinance #2009-17 over for second reading, seconded by Councilman Huseman. The motion carried by voice vote. Councilman Gard made a motion to set the rules aside, seconded by Councilman Tucker. The motion carried by voice vote. Councilman Gard made a motion to adopt Ordinance #2009-17 by name and title only, seconded by Councilman Huseman. Roll call vote carried with five ayes.

1st & 2nd Reading - Ordinance #2009-18 - replace Revenue Bond Ordinance #2009-12 - Street Paving - Attorney Sobkowski explained that this is a revision and will replace Ordinance #2009-12. The Town Council adopted Ordinance #2009-12 which authorized the issuance of bonds to pay for a portion of the street paving project in an amount not to exceed \$610,000. Those bonds were to be paid solely from the Local Road & Street and Gambling Revenue Funds. Last week, there was a bond sale and there were no bidders because the local banks were nervous about the fact that the bonds were only payable from those funds and with the economy the way that it is, they were concerned that the revenues would not be sufficient. The only difference between Ordinance #2009-12 and Ordinance #2009-18 is that Ordinance #2009-18 provides for a property tax backup to pay for the principal and interest on the bonds if the Local Road & Street and the Gambling revenues are insufficient to pay the principal and interest payments. He said that Greg Guerrettaz of Financial Solutions Group believes that the bonds will be marketable with the addition of that provision. Councilman Alessia made a motion to hold Ordinance #2009-18 over for second reading, seconded by Councilman Huseman. The motion carried by voice vote. Councilman Tucker made a motion to adopt Ordinance #2009-18 by name and title only, seconded by Councilman Alessia. Roll call vote carried with five ayes. Councilman Alessia made a motion to set the rules back in order, 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, Burr/Rt 2 Project, Freedom Park.

Award street paving bid for 2009 opened 8/18 - President Kuiper reported that the bids were opened on August 18th. The bids received were as follows: Austgen Equipment, Inc. of Griffith, IN in the amount of \$858,993.34; Walsh & Kelly, Inc. of Griffith, IN in the amount of \$904,479.90; Rieth-Riley Construction Co., Inc. of Gary, IN in the amount of \$971,244.62. He stated the bids received were considerably higher than was expected. Councilman Alessia asked if it would be prudent to ask for bids to be re-submitted when considering the issue with the bond and the higher bids. Councilman Alessia made a motion to reject all bids, seconded by Councilman Gard. Councilman Alessia asked what the time frame would be for bids to be re-submitted. Clerk-Treasurer Walters explained that the project would have to be re-advertised and it has to be done twice. It will appear in the Lowell Tribune on September 1st and September 8th and the bids could be opened on September 15th. A special meeting could be called to award, after allowing Commonwealth Engineers enough time to review the bids, since the next regular meeting would not be until September 28th. Councilman Alessia asked if paving is done that late in the year and Councilman Huseman said it is. The motion carried by voice vote.

Tabled from previous meetings:

8/10 - Mavis Program - President Kuiper stated the item had been tabled at the previous meeting since Councilman Gard had to leave. Attorney Sobkowski reviewed a few of the issues that were raised at the previous meeting. He said the agreement is to be entered into by the town, but the town contracts for its fire protection services, so either the Lowell Volunteer Fire Department would have to become a party to the agreement, the town would need their consent to enter into the agreement, or the agreement between the town and the LVFD would have to be amended to provide that they would abide by the terms of the mutual aid agreement. He said he thought the insurance requirements needed to be reviewed by the town's insurance company to make sure that they were okay. The final issue is that the agreement sets up a board to govern the terms of the agreement. The agreement says that the participating parties will be divided up into districts and that some municipalities may be combined into a district, based on their geography and other factors, but it does not say how the communities will be combined. The agreement says that each district will have a representative for the board, but it does not say who selects those representatives, what the procedure is and it seems like those details would need to get resolved before the town would want to sign on to the agreement. He asked if the Council wanted him to contact whoever drafted the agreement to raise these issues. Councilman Gard commented that he wondered if other communities had those same issues since there were a number of communities that have already signed onto the agreement. He said he received the document from the Crown Point Fire Chief, Greg Delor, who is spearheading the expansion of the program into Northwest Indiana. The item will remain tabled.

NEW BUSINESS

Request from Three Creeks Historical Association - donation for water bill - President Kuiper read a letter from the Three Creeks Historical Association to request a continuation of a donation for the water bill at the Halsted House Museum. Councilman Alessia made a motion to continue with the donation for the water bill at the Halsted House for Three Creeks Historical Association, seconded by Councilman Gard. Clerk-Treasurer Walters explained that this is a motion to donate money out of the promotional fund. The donation is made and they use it to pay the water bill since the water bill cannot be waived. This is an annual request of \$486.24 for twelve months of water service. The motion carried by voice vote.

Request to waive transient merchant license fee for annual fall fair at Bark Park & Labor Day Festival - President Kuiper stated the Bark Park Festival is Saturday, October 17 from 10 to 3 at Freedom Park and Labor Day Festival September 3rd-7th. Discussion followed about how many fees were being waived and the need to cover the costs of processing the paperwork. Clerk-Treasurer Walters explained that the park is charging the vendors to have a booth, but they are requesting the waiver of the transient merchant license fees. The vendors still fill out the paperwork and background checks are still done, it just isn't paid for. This was done last year also. A suggestion was made to review the policy at the beginning of the year and make a determination at that time as to how these special requests would be handled for the year and to at least cover the expenses. Councilman Alessia made a motion to waive the transient merchant license fees for this year, seconded by Councilman Huseman. The motion carried by voice vote.

Approve quarterly fees for Park Department - Tennis - \$30/\$35; Wado-Ki Karate - \$45/\$50; Cardio & Sculpt - \$40/\$45; Bumper Bowling - \$35/\$40; Mommy and Me - \$40/\$45; Adult Yoga - \$40/\$45. Councilman Tucker made a motion to approve the 3rd quarter Park User fees,

seconded by Councilman Alessia. The motion carried by voice vote.

Resident water bill - President Kuiper stated he received a phone call from a resident on Blackwood concerning a total utility bill in the amount of \$535. He said Director Shook has spoken to the resident several times. The resident thought he had a meter problem but the meter has been tested and functions correctly. The resident is new to town and does not qualify for the summer sprinkling rate because he came from a rural area where he was on a well. The resident has done a lot of work to the house and recently filled a pool. The meter shows he used 35,000 gallons of water. President Kuiper said he told the resident that he would propose to the Council to estimate the usage, waiving the history requirement, and give him the summer rate. Clerk-Treasurer Walters said that the resident has been in town for three months. Minus the big bill, they averaged his monthly usage at about 7,200 gallons. This will only take off from the sewer portion, the water that was used will be paid for. Director Shook explained that when they tested the meter, they made sure the outside register matched the inside meter. The resident called Director Shook and said that the readings no longer matched. When the readings were checked again, the inside meter is 300 gallons more than the outside register, which is to the advantage of the homeowner. This much of a difference is not uncommon. Councilman Gard made a motion to allow the average to be applied for the summer rate as proposed by President Kuiper, seconded by Councilman Huseman. The motion carried by voice vote.

Clerk-Treasurer Walters stated that she had just received a check from the County in the amount of \$48,408 which is an excess welfare distribution and can only be used for public safety. She requested permission to have the money appropriated so it can be spent. She said they aren't sure what it will be spent for yet, but an additional appropriation hearing needs to be held. She requested permission to advertise the hearing. Councilman Gard made a motion to grant permission to advertise a public hearing for additional appropriation, seconded by Councilman Alessia. The motion carried by voice vote.

ANNOUNCEMENTS

President Kuiper announced the 90th Annual Labor Day Parade & Festival will be held from September 3rd through September 7th and the theme is "Everybody Counts, because of the census. He said staff has been working very hard and he expects the parade to be very nice again.

President Kuiper announced the next regular meeting to be held on Monday, September 14, 2009 at 7:00 P.M. A public hearing on the 2010 Budget will be held at that meeting.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media asked for the amount of the excess welfare distribution. Clerk-Treasurer Walters informed her it was \$48,408.

A member of the media asked what the low bid was for the street paving project that was being rejected. President Kuiper informed her it was \$858,993.34. She also asked about the water meter project and if not completing the project would constitute the default. Attorney Sobkowski said that was basically how it worked. She asked how much funds the town was putting forward for the water meter project. Clerk-Treasurer Walters stated the total project is \$700,000 with

\$280,000 being forgiven.

Councilman Alessia made a motion to adjourn, seconded by Councilman Gard at 7:28 P.M.

ATTEST:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer