

**LOWELL TOWN COUNCIL
REGULAR MEETING
SEPTEMBER 14, 2009**

The regular meeting of the Lowell Town Council was called to order on Monday, September 14, 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, Phillip Kuiper and David Gard. Councilman Alessia was absent. Also present were Town Attorney Greg Sobkowski, Director of Public Works Greg Shook, Town Administrator Susan Peterson, Police Chief John Shelhart, three members of the media, and twenty seven interested citizens.

APPROVAL OF MINUTES

Councilman Gard made a motion to approve the minutes from the August 24th regular meeting, seconded by Councilman Huseman. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #2135-2229, White Police Vouchers #4091-4098, Water Vouchers #2526-2565 and Waste Water Vouchers #3441-3473 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

Proclamation - Constitution Week - September 17 to 23 - President Kuiper read the proclamation naming September 17 through 23 as Constitution Week. Councilman Huseman made a motion to accept the proclamation, seconded by Councilman Gard. The motion carried by voice vote.

MONTHLY REPORTS

Councilman Gard made a motion to accept the monthly reports from August, 2009 as presented, seconded by Councilman Tucker. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

1st Reading - Ordinance #2009-19 - 2010 Tax Rates & Appropriations - Public Hearing - President Kuiper opened the public hearing regarding Ordinance #2009-19 for the 2010 Tax Rates & Appropriations. There being no public comment, President Kuiper closed the public hearing. Clerk-Treasurer Walters explained that the 2010 budget has been advertised and will be adopted at the October 26th regular meeting. There needed to be a longer time between the public hearing and the adoption because the Lake County Council now has to review the budget. The advertised budget is \$5,009,277, of which \$3,604,060, is tax levy funds. The current levy is

\$2,714,000. The budget is advertised high with \$482,000 in operating budgets in order to keep the levy high. As was discussed at the budget hearing back in July, they know there is a shortfall in the miscellaneous revenue of \$300,000 due to building permit fees, interest earned on town accounts, and excise tax distributions are down. Several options to make up the difference were discussed, including the public hydrant rental fee, the Cum Sewer Fund, moving all capital improvement projects into the Cum Capital Improvement Fund and having the utilities pay a payment in lieu of taxes. They know the budget will be cut when it gets approved in 2010, so the Council will have to make some tough decisions at that time. Councilman Gard made a motion to hold over Ordinance #2009-19 for second reading, seconded by Councilman Tucker. The motion carried by voice vote.

1st & 2nd Reading - Ordinance #2009-20 - Establish Public Safety Fund - Clerk-Treasurer Walters explained that this is for money from the state that is excess welfare money and was distributed by the county to each community. According to the DLGF, the town has to appropriate it in what is called a Public Safety Fund and it can be used for police, fire or town court. At this time, they have to establish the fund and then they will have to do an additional appropriation to appropriate the money to spend it. President Kuiper read Ordinance #2009-20. Councilman Huseman made a motion to hold over Ordinance #2009-20 for second reading, seconded by Councilman Tucker. 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 #2009-20, Establish Public Safety Fund, by name and title only, seconded by Councilman Huseman. Roll call vote carried with four ayes. Councilman Tucker made a motion to set the rules back in order, seconded by Councilman Huseman. The motion carried by voice vote.

Resolution #2009-16 - Transfer of funds - General - Fire, Town Court & MVH - President Kuiper read Resolution #2009-16 to transfer \$500 within the General Fund Fire budget, \$5,000 within the General Fund Town Court budget and \$1,300 within the MVH Fund. The transfer does not affect the balance in the General Fund or the MVH Fund. Councilman Gard made a motion to adopt Resolution #2009-16 as read, seconded by Councilman Tucker. The motion carried by voice vote.

Resolution #2009-17 - Regarding the Referendum for the Regional Transportation District of Northern Indiana - President Kuiper read Resolution #2009-17. Councilman Huseman made a motion to adopt Resolution #2009-17 as read which asks the State to either move election to 2010 General Election, or reimburse Lake, Porter, LaPorte, and St. Joseph Counties for cost incurred, seconded by Councilman Gard. The motion carried by voice vote.

Resolution #2009-18 - Temporary Loan - President Kuiper read Resolution #2009-18 for a temporary loan in the amount of \$300,000 from the Sewer Improvement Fund to the General Fund in the amount of \$250,000 and the Park Fund in the amount of \$50,000. Councilman Gard made a motion to adopt Resolution #2009-18 as read, seconded by Councilman Huseman. The motion carried by voice vote.

UNFINISHED BUSINESS

Public Works Department Update - Updates were reported for the following:

Burr/Rt 2 Project - Approve Pay Request #7 to DLZ in the amount of \$14,162.58 and forward to INDOT for 80% reimbursement - \$11,330.06 - Director Shook requested approval of Pay Request #7 to DLZ in the amount of \$14,162.58 and forward it to INDOT for 80% reimbursement in the amount of \$11,330.06. Councilman Gard made a motion to approve the request, seconded by Councilman Tucker. The motion carried by voice vote.

Award bid for Water Line Relocation for Lake County Bridge - Director Shook reported that bids were opened on August 25th for the Water Main Relocation project for the Lake County bridge on Morse Street. There were two bidders with LGS Plumbing Inc. bidding \$137,259 and H&G Underground Utilities bidding \$87,936.01. The engineer's estimate was \$94,000 and they are recommending the bid be awarded to H&G Underground Utilities. Councilman Huseman made a motion to award the bid to H&G Underground Utilities, seconded by Councilman Gard. The motion carried by voice vote.

Award bid for 2009 Automatic Meter Reading Project - Director Shook reported that bids were opened on August 25th for the 2009 Automatic Meter Reading project. Only one bid was received from Underground Pipe & Valve in the amount of \$595,874. The engineer's estimate was \$637,000 and they are recommending the bid be awarded to Underground Pipe & Valve. Councilman Gard made a motion to award the bid to Underground Pipe & Valve, seconded by Councilman Tucker. The motion carried by voice vote.

Water Average for Summer Sprinkling Credit - Clerk-Treasurer Walters stated that the current ordinance reads that as long as a customer can show proof of what they used at a previous utility company, that average will be used for the water average for the summer sprinkling credit. They are getting more and more customers that have either never owned a home before or they lived in rural areas with a well and are unable to provide a previous history. An average customer normally uses 7,000 gallons and that has been used for new development. She requested the ordinance be amended to allow for anyone that cannot show proof to use the 7,000 gallon average for the summer sprinkling credit. Councilman Tucker made a motion to have the ordinance amended, seconded by Councilman Gard. The motion carried by voice vote.

Councilman Huseman asked what the policy was with regard to landlords and tenants for setting up water service. Clerk-Treasurer Walters said it is an individual arrangement between the landlord and the tenant as to who's name is on the account and who pays the bill. He wanted to know if a tenant set up the service in their name was the landlord off the hook if the tenant left with a balance owed on the account. Clerk-Treasurer Walters explained that there is a state code that the property owner is legally responsible for the utility bill. Most landlords keep a close watch on the balances owed by their tenants. The utility office works with them to keep them up to date.

Street Paving 2009 - Clerk-Treasurer Walters explained that the bids for the street paving project will be opened on Tuesday, September 15th. One of the bidders called earlier in the day to inform the town that they would not be submitting a bid. Of the companies that picked up the bid specs,

they will only be receiving bids from two companies. Boyd Construction will not be submitting a bid due to difficulties in obtaining a bond. In order to save time, since there is not another meeting scheduled for two weeks, she requested the Council grant permission to President Kuiper, following engineer review and recommendation after bids are opened, to award the bid so things can begin moving since it is later in the year. Councilman Huseman commented that it would be okay provided the bid is under the engineer's estimate. Councilman Gard made a motion to grant permission for President Kuiper to award the bid for the 2009 street paving project upon engineer's review and recommendation provided the bid is under the engineer's estimate, seconded by Councilman Tucker. The motion carried by voice vote.

ANNOUNCEMENTS

President Kuiper announced that the Labor Day Parade went very well again this year and commended all of the volunteers that helped make that happen. He commended the street department for their help along the parade route and at the Legion grounds for the Chamber of Commerce. He said he thought everything was a great success.

President Kuiper announced the next regular meeting will be held on Monday, September 28th at 7:00 P.M.

President Kuiper commented about the large group of people in the audience. He said he wanted to make a statement and if people came out about the ethanol plant, the matter is not on the agenda and he had nothing to speak about regarding the ethanol plant. Referencing an article in a local paper that stated Lowell was a finalist, he said he did not write the article but that it was written by a representative of the ethanol company. President Kuiper said he did not know what Lowell was a finalist in. He said there has been no negotiations with the town whatsoever on the ethanol plant. He said he saw in the paper that they are negotiating with Crown Point. The only other thing he knows, and he asked to see if it was true, is that there has been an option in Schneider. He said they did take a look at Rieter. If they come back with anything, that will go to the Council first and foremost. If there is some interest from the Council and they deem it is something they want to look into, there will be a public meeting just as soon as one can be held.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media asked how much money was involved with the Public Safety Fund. Clerk-Treasurer Walters informed her it was \$48,408.

A member of the media asked for a copy of the proclamation that was read during the meeting. She also asked for clarification on the bids that were awarded during the meeting for the water main relocation project and the automatic meter reading project.

Marilyn Diller, 129 Parkview, asked if she understood it correctly that if Powers Company was interested in doing the garbage to ethanol plant, they would come to the Town Council and open it up for negotiations with the town and then it would be time for public meetings. President Kuiper said that was correct and if anyone else has a business and they are interested in coming

to Lowell, the Council will listen to them. He said there are even rumors out there about a small steel manufacturer and even though he didn't know if that was true, they would be willing to sit down with anyone and talk.

Karen Fisher, 350 Commanche, commented that since the bioethanol plant had been defeated in West Creek and everyone's wishes were that it not be located here, she asked if the company realized that Cedar Creek is part of the town and people feel the same way about it. President Kuiper said that they were aware of that but that Cedar Creek, West Creek and Eagle Creek are also separate entities. Ms. Fisher said that since part of the town made their wishes known, would the company want to approach Lowell again. President Kuiper said he did not know the answer to that. She asked him if they could hold him to his word that if it is not wanted here they won't come here. President Kuiper said absolutely.

Adam Gutjar, 420 Greenbrier Lane, commented that he was at the West Creek meeting also and at the beginning of the meeting he felt President Kuiper gave the impression that he was in favor of the ethanol plant. President Kuiper said that while he did not have a lot of information about the location of the ethanol plant, he is in favor of the project. They had a unanimous vote that they could come into Lake County. There has been no vote taken that they can come into Lowell. He said he did not know if he was in favor of them coming into Lowell any more than he was in favor of anything else coming into Lowell because he would need to hear what was proposed first. He said if he knew of any other community where there was an option for Powers Energy to look at, he would tell them about their community as well. Mr. Gutjar asked President Kuiper if they could count on him to stand on their side when they raised their hands against the ethanol plant at the West Creek Township meeting. President Kuiper said he was on the side of Lowell, Indiana, not West Creek Township. He said Mr. Gutjar should know what side he was on since the Council has bent over backwards for the residents of Meadowbrook and have gone out of their way to help them. He said he felt it was somewhat of an insult for Mr. Gutjar to ask what side he was on. He would do nothing to hurt this town, but he will talk and listen to people.

Karen Fisher asked how President Kuiper could consider this ethanol plant in this town with the population in town. President Kuiper said they will listen to anyone who wants to come to town. Ms. Fisher said she was all for the technology, she thought it would be wonderful, but not in her backyard. She said she felt they are preying on local people since so many people in the area are out of work and there are no guarantees that those jobs would go to people from Lowell. President Kuiper said that it is written into the contract with the Lake County Solid Waste District that it will.

Laura Davis, 120 Parkview, commented that she felt that the fact that the company was shown the Rieter plant is a step that the residents didn't know about. She thought it was a done deal before and here they are again in a different spot. She also commented about the Labor Day festival and asked where the rides and art and craft vendors were. President Kuiper told her to contact the Chamber of Commerce about the festival since they are in charge of that part of the weekend celebration.

Sharon Patterson, 1689 Driftwood Dr., commented that we need jobs here and she wanted to

show the Council that there is some support for the ethanol plant, in her backyard.

John Masepohl, 323 Spruce Court and member of the Board of Directors of Courtyards Property Owners Association, asked about stop signs. President Kuiper informed him it would be better for him to get on the next meeting agenda so they would be able to look the matter over. Mr. Masepohl said that he just wanted to give a brief presentation of what he was asking about. He said that since the private streets are narrow, there is no overnight parking allowed, according to their covenants. He asked if it would be possible for the POA to place no parking signs on the town's stop sign posts. Director Shook said he would have to look into the matter since there are traffic control guidelines that have to be followed. He said the only other sign he has seen on a stop sign post are things like All Way, Three Way or something similar to that. Mr. Masepohl thanked the Council for the no parking signs along Meadowbrook Drive.

There being no further business or discussion, Councilman Gard made a motion to adjourn, seconded by Councilman Tucker at 7:40 P.M.

Attest:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer