

**LOWELL TOWN COUNCIL
REGULAR MEETING
January 25, 2010**

The regular meeting of the Lowell Town Council was called to order on Monday, January 25, 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, David Gard and John Alessia. Also present were Town Attorney Greg Sobkowski, Director of Public Works Greg Shook, Town Administrator Susan Peterson, Community Development Director Wilbur Cox, Code Official Tom Trulley and Police Chief John Shelhart, three members of the media, and twenty-six interested citizens.

TREASURER'S REPORT

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

APPROVAL OF MINUTES

Councilman Alessia made a motion to approve the minutes from the January 11th regular meeting, seconded by Councilman Huseman. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #1058-1125, Water Vouchers #2023-2056 and Waste Water Vouchers #3018-3038 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.

ORDINANCES & RESOLUTIONS

Resolution #2010-01 – Temporary loan from Sewer Improvement in the amount of \$750,000 to General, Park until December 31, 2010 - Councilman Alessia made a motion to adopt Ordinance 2010-01, seconded by Councilman Huseman. Roll call vote carried with five ayes.

Resolution 2010-02 – Establish petty cash fund for Park Department in the amount of \$50.00 - Councilman Gard made a motion to adopt Resolution 2010-02, seconded by Councilman Alessia. Roll call vote carried with five ayes.

UNFINISHED BUSINESS

Appointment of Director of Community Development Wilbur Cox - Councilman Huseman made a motion, seconded by Councilman Tucker and carried by roll call vote.

Public Works Department Update - Director of Public Works Greg Shook asked for the Council's permission to approve certificate of substantial completion for water line relocation for the Lake County Bridge on Morse St. Councilman Gard made a motion to approve, seconded by Councilman Huseman and carried by voice vote.

Director of Public Works Greg Shook asked for the Council's permission to advertise for bids for the west side sewer project, Councilman Huseman made a motion to approve, seconded by Councilman Alessia and carried by voice vote..

NEW BUSINESS

Approve annual conflict of interest statements for Councilman Huseman, Plan Commission Member Jim Konradi, Redevelopment Commission Members Jim Langen and Brian Sanders - Councilman Gard made a motion to approve the statements, seconded by Councilman Alessia. The motion carried by voice vote.

Approve Official Bonds for Police Commission / Redevelopment Commission members Councilman Alessia made a motion to approve the bonds, seconded by Councilman Huseman. The motion carried by voice vote.

Act on Memorandum of Understanding with Lake County Highway Department for purchase of liquid asphalt - Public Works Director Greg Shook stated it is the same agreement as 2009. We supply the liquid asphalt for not only us but also some of the Highway trucks, they pay us plus .10 per gallon. Councilman Tucker made a motion to approve, seconded by Councilman Gard. Roll call vote carried with five ayes.

Clarification of Ordinance 150 pertaining to required licensed contractors on building projects – Richard Meadows, 319 E. Commercial Avenue, owner of Lowell Carpet, stated that he has nothing personal against Tom or Wilbur he just thinks the Ordinance needs to be interpreted better for building owners, income owners and property owners in Lowell. He stated that he did not even know about the Ordinance until he wanted a permit to put an apartment above his store. He bought the building in 1998, applied for a state and town permit, he did the work himself with help. He also has another building and has remodeled and repaired, the Town has never stopped him, he is proud of his business and his buildings. Sharon Spechert, Skip Beier and the Sickingers have all improved and fixed their own buildings and are proud of their buildings. His argument is that if they are not allowed to work on their own buildings that they will look like the old grade school, because they can't afford to hire contractors when they can do the work themselves. Landlords also can't work on their own buildings making it very tough. They have always worked on their own buildings. Mr. Meadows read part of the Ordinance that states that they "may" retain the service of a contractor not that they have to. Going back to the 1st page it mentions the contractor's registration, the definition of a contractor and the definition of the Building Department, but does not mention the buildings, he said he is just looking for help for all of us.

President Kuiper stated that he was glad that Rich Meadows came tonight. The Town has had a couple incidents downtown that we have had to deal with that had to do with Public Safety.

Director of Community Development Wilbur Cox responded that in 1995 he was hired as a nationally certified building official, and after his hire an Ordinance was passed that all of the building department will be certified. He also works with Ordinances and found an Ordinance that states under the exceptions for contractors, those have to be registered with the exception of owner/occupant of one or two family dwellings otherwise every other building must use registered contractors. That has been on the books since 1992. We have had incidents in the Town where a commercial building had not been remodeled or added on to right. An example of that is Kid-Z World, the owner leased the building, the renter wanted to make improvements to the building, he did not follow codes, he did not think he needed permits, the Town spent a lot of money defending that lawsuit to make sure that the kids that were in that building and the renters upstairs were protected. Mr. Cox state recently a facade fell down off the front of a building, it was put up by the owner and not inspected, wasn't permitted and it fell down, that is another reason that the public buildings need to be inspected. He is not saying that owners don't have the right to maintain their buildings. There is one codebook that covers one and two family dwellings and there are at least 20 codebooks for commercial buildings. It does not make sense to allow all owners to do their own work when all owners don't have that capability, this will not protect the public.

President Kuiper asked if a building owner can do some work on their building? Director of Community Development Wilbur Cox said that they could go take the test at the County and become a licensed contractor. They can get a General contractor to sign the permit and oversee the project and the owner can work under them. If anyone feels that the Ordinance needs clarification Attorney Greg Sobkowski can explain that. Most municipalities are the same in their codebooks.

Attorney Greg Sobkowski explained that the Ordinance says that the owner of a commercial building cannot alter, construct, or repair the building, you must have a licensed contractor. Rich Meadows asked the Attorney to read and explain the Ordinance, he said it just explains the contractors, it does not explain buildings. Rich Meadows stated that it does not say that they have to hire a contractor, it does explain that one or two dwelling owners may retain a contractor. He stated that if the owners do the work up to code and get a permit because of safety he understands that. If the owner who put up the awning without a permit the Town should have done something before it fell. Rich Meadows also said the if the owner of the old school was able and capable to do work herself over the last ten years maybe it would not look so bad today. He said he would like to do the work legal with permits and inspections and the owners who don't let them suffer the consequences.

Curt Davis, 303 E. Commercial Avenue, stated that Government is too big, if they are insured, bonded and are property tax payers and they do their own work, get a permit have the inspection and if they fail they not only have to redo it but pay the fee for the red tag. Councilman Alessia stated that we are not the only town that operates this way.

Councilman Huseman stated that right now he is on the fence, he would like to help people who own buildings but we do have liabilities.

Pat Starcevich stated that he does not own any commercial property in town but he does own rental properties and between the taxes, water bills, they do not have the money to hire a contractor to do the work, and the Town will slowly fall apart.

A resident who owns rental property stated that no one is asking to do work that is unpermitted or uninspected.

Myra Harris lives on Commercial Ave and is asking the Council to reconsider this Ordinance or any other that would be detrimental to the housing industry. They desire to protect the charter and stability of residential neighborhoods, land and buildings in the Town of Lowell. They also oppose this not only in our community but any other in Northwest Indiana because it will impede the growth of the housing market. She stated that they feel strongly that landlords provide safe housing for their tenants that meet current health and safety codes.

Councilman Alessia stated that they are not asking for a change in the Ordinance just asking it to be applied.

Councilman Gard made a motion to that they take this matter under advisement with legal, seconded by Councilman Huseman. Roll call vote carried with five ayes

ANNOUNCEMENTS

President Kuiper announced the next regular meeting will be held on Monday, February 8th at 7:00 P.M.

The Town of Lowell is accepting donations for Help for Haiti.

MEDIA QUESTIONS/PUBLIC COMMENTS

Councilman Huseman asked to clarify the water and sewer bills, so that they don't get three or four months behind before the owner gets notified. Clerk-Treasurer Judith Walters said that if the owners want to be notified when their tenants are past-due they can be, but the bills are in the tenants name.

A member of the media asked is they have any concerns that if Lowell is the first Town to repeal this Ordinance do you fear that would open you up for liability, President Kuiper stated that is what the research shows.

There being no further business or discussion, Councilman Gard made a motion to adjourn, seconded by Councilman Alessia at 7:43 P.M.

Attest:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer