

**LOWELL TOWN COUNCIL  
REGULAR MEETING  
June 28, 2010**

The regular meeting of the Lowell Town Council was called to order on Monday, June 28, 2010 at 7:00 P.M. by President Phillip Kuiper. During the moment of silence President Kuiper asked the audience to remember the Szfranski family during their time of loss. 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, David Gard ,and Phillip Kuiper. Also present were Town Attorney Ben Ballou, Director of Public Works Greg Shook, Town Administrator Susan Peterson, Director of Community Development Wilbur Cox, Code Enforcement Officer Tom Trulley, Police Chief John Shelhart, two members of the media, and fifty five interested citizens.

**TREASURERS REPORT**

Councilman Alessia made a motion to approve the Treasurer's Report for May, 2010 as presented, seconded by Councilman Huseman. The motion carried by voice vote.

**APPROVAL OF MINUTES**

Councilman Tucker made a motion to approve the minutes from the June 14<sup>th</sup> regular meeting, seconded by Councilman Gard and carried by voice vote.

**APPROVAL OF VOUCHERS**

President Kuiper stated that he had reviewed White Vouchers #1801-1873, Water Vouchers #2365-2403 and Waste Water Vouchers #3330-33691. Councilman Gard made a motion to approve the vouchers as listed with the exception of Water Voucher # 2399 and Waste Water #3359 to Innovative Homes, seconded by Councilman Alessia. The motion carried by voice vote.

**PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS**

Address Council concerning Ordinance #2010-02 - Chapter 150 - Rich Meadows read from a letter he prepared. He stated that he wanted to make it clear that he is opposed to the proposed ordinance changes to #2010-02 that is being considered by the Town Council. He stated that he believes that property owners should not be required to be licensed contractors to work on their own buildings no matter what size the building is or whether it is commercial or residential. He went on to read that he and his wife have been part of Lowell since 1987 and he has dreamed of buying a building in Lowell since he was 7 years old and in grade school. When the building at the corner of Clark and Commercial Ave became for sale he saw it as a chance to make his dream come true. The building was in disrepair from being vacant for so long, they were able to borrow the money to purchase the building, materials and labor to repair it, and with the generous help from friends and family they now have a building that they are proud of and Lowell has profited from that building. With the Town's Building Department's current thinking their

dream of owning a building in Lowell would have never been possible. Future generations who want to use their sweat equity to improve downtown Lowell should have the opportunity to do so without having to become a licensed contractor. The answers they have gotten from the Building Department when questioning why they must become licensed contractors when working on their own buildings is they mention safety but then they let Town employee's do work on public buildings without licenses, but who will inspect their work? He stated that they are not asking for any changes to get building permits and inspections, they just want to be able to do work on their own buildings just like the Town does with their employees. The Building Department has said that insurance is also an issue, but he stated that the building owners have their own insurance so they won't involve the Town's insurance in any way. Every Town must decide for themselves what is right by listening to the residents and property owners. Councilman Gard has stated that not everyone can do their own work, and that is true but why punish the one's that do, the permits and inspections are there to make sure the work was done correctly. Downtown Lowell is unique and he has received many complements about how nice and friendly it is here. Rich Meadows stated that he counted twenty three businesses that closed in the past few years, he would challenge Councilman Gard's list of forty new businesses and three closures. He stated that they need a Town Council and Building Department that will help Lowell to grow and prosper, the attitude of the Town Council and the Building Department set the tone of our town. The problems that were brought up about past problems show that the system in place now works, for example Kidz World, there was no issue with licensed contractors, it did not meet code, the cost to fight that would have been the same. The other issue was the over hang at Bronco's Pizza falling, a permit was issued but it was never inspected, and that also had nothing to do with building owners being licensed contractors doing work on their own buildings. He went on to say that it is unfair because he pays the mortgage and the property taxes on his building and he should not be forced to become a licensed contractor to work on it. Mr. Meadows went on to thank the people who showed up for support and thanked the Council for their time.

Councilman Gard responded that the statistics that he shared at the meeting came from the Chamber of Commerce, he went on to say that he agrees with Mr. Meadows completely that he should be able to do work on his own property and that is why the Council is modifying an ordinance that would not allow the owners to do any work with one that will allow owners to do some work, with limitations.

President Kuiper stated that this ordinance was authored back in 1992 and signed by the Town Council in February of 1992. The building administrator required licensing in the Town, in March 1992 a meeting was held with contractors to discuss the proposed ordinance. On April 13<sup>th</sup> the first draft was presented to the Town Council and on April 27<sup>th</sup> was the first reading and there was amended wording for owner/occupants. Then May 11<sup>th</sup> was the second reading and the adoption of the ordinance.

## **ORDINANCES & RESOLUTIONS**

2<sup>nd</sup> Reading - Ordinance #2010-02 Amended Chapter 150 - Contractor Registration (as amended)

It was questioned whether a first reading should be held since the ordinance had been amended since the first reading on May 10, 2010. Councilman Huseman stated that there are too many questions with the amended ordinance and he would like to not take a first and second reading on this ordinance, he would like to table it and have a work session to discuss this. President Kuiper stated Councilman Huseman has never to this point asked for a work session. Councilman Huseman questioned why the ordinance states an executive must sign. It was noted that the ordinance format is consistent with other ordinances that have been passed. Councilman Alessia seconded the motion with the condition that it is to discuss procedural concerns only and not about the ordinance itself. He asked Councilman Huseman if he wanted to discuss the ordinance and Councilman Huseman responded that yes he did and that there were too many problems with it to talk about it now. Councilman Alessia retracted his second of the motion and without a second the motion died.

Councilman Alessia made a motion to hold first and second reading of Ordinance #2010-02, amending Chapter 150, seconded by Councilman Tucker. The motion carried with four ayes and one nay.

Councilman Alessia made a motion to adopt ordinance #2010-02 amending Chapter 150, seconded by Councilman Tucker. The motion carried with four eyes and one nay.

Councilman Gard made a motion to set the rules aside to hold the second reading, seconded by Councilman Alessia. The motion carried by voice vote.

Councilman Alessia made a motion to adopt Ordinance #2010-02 by name and title only, seconded by Councilman Tucker. President Kuiper asked for roll call vote. Councilman Alessia asked for some discussion on the issue, and stated that he understands that there has been some passion about this ordinance, but he also thinks that it is important to look at what surrounding communities are doing and they have similar ordinances. The Council was also advised by the insurance company not to change the current ordinance because it is a liability issue. Councilman Alessia also pointed out that the amendment to this ordinance is more friendly. President Kuiper asked the Council for any other discussion, there being no further discussion, the motion carried with four eyes and one nay on roll call vote. Councilman Huseman voting nay.

Councilman Alessia made a motion to put the rules back in order, seconded by Councilman Gard. The motion carried by voice vote.

Resolution #2010-08 - Transfer of Funds - Freedom Park - transfer \$1,000.00 from Professional Services to Dog Park Supplies. Councilman Tucker made a motion to adopt Resolution #2010-08, seconded by Councilman Gard. The motion carried by voice vote.

## **UNFINISHED BUSINESS**

Public Works Update - Burr/Rt 2 Project - Sign Report of Contract Final Inspection &

Recommendation of Acceptance - Director of Public Works Greg Shook stated that there is a Change Order that will be forthcoming in the amount of about \$15,000.00 for some bad sub grade, it was under ground and they were not aware of this problem. He also stated that himself and DLZ have questioned the change order because there was not enough documentation. Councilman Huseman made a motion to approve the final inspection and acceptance, seconded by Councilman Alessia. Councilman Tucker asked if INDOT would have the final say about the acceptance of this project and he was told that yes they will.

West Side Sewer Project to New Middle School - Approve Pay Request #2 to B&D Sewer in the amount of \$108,701.20 and Approve Wastewater Voucher #3370 - Public Works Director Greg Shook stated that the sewer is complete as far as all the materials being in the ground, but it is not operational yet because they are still in the testing process. He asked the Council to approve Pay Request #2 to B&D Sewer and to approve Change Order #1 to B&D Sewer in the amount of \$1,975.00 for time and material for relocation of 3- inch PVC water service that went up to the waste water treatment plant. The cost is to move the water line deeper into the ground. Councilman Alessia made a motion to approve Pay Request #2, Waste Water Voucher #3370 and Change Order #1 as recommended, seconded by Councilman Huseman. The motion carried by voice vote.

Energy Grant Award - Act on recommendation for lighting proposals & permission to expend CCD funds until payments received from State - Clerk-Treasurer Judith Walters explained that the energy grant that was awarded to the Town is required to be paid it up front and will then get reimbursed from the State. She asked Council's permission to pay from the CCD Fund. President Kuiper asked if the school was going to pay their portion and was told that yes they will pay their share as the bills come in. Councilman Gard made a motion to approve the expenditure of CCD Funds, seconded by Councilman Alessia. The motion carried by voice vote.

Code Official Tom Trulley explained that energy grant was awarded for the lighting in the high school gym, the high school field house, town hall, water treatment plant, wastewater treatment plant, street garage, police station and the 5-K school. The total grant is in the amount of \$98,463.00. Code Official Tom Trulley recommended that the Council accept the lowest bids for the following projects, high school gym - EMCOR \$15,750.00, - high school field house - EMCOR \$39,987.00, town hall - Carlson's Electric \$6,905.00; water treatment plant - Duanes Electric \$46,790.00; waste water treatment plant - Duanes Electric \$6,790.00; street garage - Carlson's Electric \$5,592.00; police station - Austgen Electric \$5,349.00; 5-K school - Austgen Electric \$11,300.00. Councilman Huseman made a motion to approve the proposals, seconded by Councilman Tucker. The motion carried by voice vote.

President Kuiper stated that he would like the Council's input on a no smoking ordinance that he has presented to them and would like it to be on the next agenda.

**Tabled from previous meetings:**

4/12 Enter into agreement with INDOT for curb and sidewalk grant on Route 2 - This item remained tabled.

## **NEW BUSINESS**

Request waiving of Transient License fees for Taste of Lowell - Lowell Main Street - Dianne Boylan, 1510 Harrison Street, requested waiving transient license fees for the Taste of Lowell on July 24<sup>th</sup> from 11:00 a.m to 5:00 p.m. Councilman Tucker made a motion to waive the fees, seconded by Councilman Huseman. The motion carried by voice vote. She was reminded the fees would be waived but the vendors were still required to fill out applications with the Town.

Dianne Boylan explained that she is going to ask that Mill Street be closed for next year, because of problems with canopy's. Food vendors have to be under canopy's but the people on the sidewalk have a problem because the canopy's are bigger than the sidewalk. President Kuiper told her to call Town Administrator Susan Peterson to discuss plans for next year.

Offer to donate vacate lot (92 X 150) adjacent to south municipal lot by Donald Cripe. Councilman Gard made a motion to accept the offer, seconded by Councilman Huseman. The motion carried by voice vote.

Act on recommendation for annual price quotes for bulk chemicals - Water & WW - Director of Public Works Greg Shook explained they received quotes from seven different companies, the town will buy about \$94,000.00 of chemicals and of that about \$2,500.00 is an increase from last years prices. The following companies were recommended - Alexander Chemical - chlorine - \$65.00 cylinder - sodium hypochlorite - \$7.50/pail; Hawkins - sodium silicate - \$199.85/drum; Carmeuse Lime - hydrated lime - \$167.84/ton; Grant Hagberg Company - carbon dioxide - .09/lb Councilman Gard made a motion to approve the price quotes, seconded by Councilman Huseman. The motion carried by voice vote.

Permission to enter into fundraiser to benefit Lowell Park Department with B&K eSales - B&K eSales is a local business that sells items for other people on e-bay for a commission, they came to the Parks Department with the idea to have a fundraiser. Anyone can donate items, B&K eSales will put them up for sale on e-bay, the Parks Department will get 60% of the profit and B&K will get 40% . Councilman Gard made a motion to approve the fundraiser, seconded by Councilman Alessia. The motion carried by voice vote.

## **ANNOUNCEMENTS**

President Kuiper announced the next regular meeting will be on Monday, July 12<sup>th</sup> at 7:00 P.M.

## **MEDIA QUESTIONS/PUBLIC COMMENTS**

A member of the press asked for a copy of Ordinance #150.

Mr. Beier asked if he was correct in understanding that there was no work to be done in the downtown area except by a licensed contractor. Councilman Gard responded that the original

ordinance read that way when it was adopted in 1992, the change allows some work to be done by the owners, window and door replacement, non structural and non mechanical work. Mr. Beier responded that he found it hard to accept because most of the work on the downtown buildings was done by the owners, not licensed contractors.

Tom Spencer of Lowell stated that he does not agree with the ordinance because he feels that the State is in charge of commercial buildings. He asked that Glenda Fiatak read a statement written by him. In part the statement reads that Mr. Spencer questions how the licenses will be acquired. He goes on to say that he is not a businessman in this community but he is a avid supporter of the independent business and the vitality that independent brings to a community. It is in the nature of the independent business people to maintain and structure their facilities to be conductive to merchandising their selected occupation or community service. Most businesses have liability insurance that covers most foreseeable accidents and disasters, however every businessman knows that a claim on their insurance means a raise in rates. The cost of a licensed contractor to do work that the business owner can do on their own is unnecessary burden that this ordinance would create.

There being no further business or discussion, Councilman Alessia made a motion to adjourn, seconded by Councilman Gard at 7:20 P.M.

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Phillip Kuiper, President

Attest:

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Judith Walters  
Clerk-Treasurer