

**LOWELL TOWN COUNCIL  
REGULAR MEETING  
SEPTEMBER 13, 2010**

The regular meeting of the Lowell Town Council was called to order on Monday, September 13, 2010 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, John Alessia, David Gard, and Phillip Kuiper. Also present were Town Attorney Gregory Sobkowski, Director of Public Works Greg Shook, Town Administrator Susan Peterson, Director of Community Development Wilbur Cox, Police Chief John Shelhart, two member of the media, and seventeen interested citizens.

**APPROVAL OF MINUTES**

Councilman Alessia made a motion to approve the minutes from the August 23<sup>rd</sup> regular meeting and the August 26<sup>th</sup> special meeting. The motion was seconded by Councilman Gard. and carried by voice vote.

**APPROVAL OF VOUCHERS**

President Kuiper stated that he had reviewed White Vouchers #2147-2250, White Police #4082-4092, Water Vouchers #2519-2568 and Waste Water Vouchers #3478-3521 and recommended them for approval. Councilman Huseman made a motion to approve the vouchers as listed, seconded by Councilman Tucker and carried by voice vote.

President Kuiper thanked the Labor Day Committee for how much work they put into the parade and stated it was a wonderful parade. He also thanked the Chamber for the work they put into the activities at the grounds.

**PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS**

A Proclamation declaring the week of September 17<sup>th</sup> through September 23<sup>rd</sup> as Constitution Week was read by Vice-President John Alessia. It was accepted on motion by Councilman Alessia and seconded by Councilman Gard and carried.

**MONTHLY REPORTS**

Councilman Gard made a motion to accept the monthly reports from August, 2010 as presented, seconded by Councilman Alessia and carried by voice vote.

**ORDINANCES & RESOLUTIONS**

Resolution #2010-12 - Adopting the Lake County Multi-Hazard Mitigation Plan - Councilman Tucker made a motion to approve Resolution #2010-12, seconded by Councilman Huseman. The motion carried by voice vote.

**UNFINISHED BUSINESS**

Public Works Update - Director of Public Works Greg Shook stated the State Road 2 Curb project did go out for request for proposals for engineering and are due in this Friday at 3:00 P.M.

Mr. Shook stated an agreement with Commonwealth that was approved with for the Wellhead Protection Plan will not need the delineation of the wellfield in the amount of \$10,000.00 per IDEM since we have not changed our wellfield.

Burr Street/Rt 2 Project - Approve Final Pay Request #15 to DLZ Engineering - \$836.30 and forward to INDOT for 80% reimbursement - \$660.04 - Councilman Huseman made a motion to approve the final payment, seconded by Councilman Gard. The motion carried by voice vote. Approve C.O #4 - Repair of S.R 2 pumping problem - \$15,615.43 and forward to INDOT for possible reimbursement - Director Shook stated this is for the pot hole by Speedway and will conclude the project. Councilman Tucker made a motion to approve payment, seconded by Councilman Gard. The motion carried by voice vote.

Approve C.O #5 - Revise contract completion date to 5/1/10 - Councilman Alessia made a motion to approve the change order which was needed due to the delay in the asphalt plant opening in the Spring, seconded by Councilman Huseman. The motion carried by voice vote.

West Side Sewer Project to New Middle School - Approve Final Pay Request #4 in the amount of \$7,771.95 - Councilman Huseman made a motion to approve the payment, seconded by Councilman Tucker. The motion carried by voice vote.

Approve C.O #2 in the amount of \$25,351.20 - Director Shook stated this change order balances out materials used. This is a positive because of the boring done under the two entrances. Councilman Huseman made a motion to approve Change Order #2, seconded by Councilman Tucker. The motion carried by voice vote.

Approve release of retainage in the amount of \$17,320.91 - Councilman Gard made a motion to approve the payment, seconded by Councilman Huseman. The motion carried by voice vote. Clerk-Treasurer Judith Walters asked the Council for permission to pay the voucher after it is listed for five days otherwise they will have to wait until the next meeting for payment. Councilman Alessia made a motion to allow the payment, seconded by Councilman Tucker. The motion carried by voice vote.

Director Shook reported that B&D Sewer also put in for a Change Order for what they call the narrowing of the easement, they are asking for \$20,982.50 and \$4,480.00 due to wet conditions, for a total of \$25,462.50. Commonwealth Engineers recommended that we deny it because it should have been submitted sooner and they should have come to us so something could have been worked out at that time. The easement was in the specs and on the drawings correct but when it was staked it was back off the road so B & D thought they would have more room when they bid it out. Councilman Huseman stated that he thinks the Council should pay B & D because when Commonwealth staked it they thought it was a 40 feet right of way instead of 20

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feet and that made it 20 feet too far in the field, and B&D was told not to do anything else until it was re-staked. Councilman Huseman said that he could explain it with a blackboard just how this all came about. Director of Public Works Greg Shook suggested that a change order be prepared for the next meeting. Councilman Alessia made a motion to table, seconded by Councilman Gard and carried by voice vote.

Innovative Homes - Councilman Gard explained that the Town got notification we are being sued by Innovative Homes in small claims court for \$2,850.00. This has to do with the new Town water garage building by the post-office which the Town and employees are very proud of. The Town is refusing to pay them because during a spray foam insulation job they damaged our building. They opted for spray foam insulation because it gives a better R factor and it can be applied to the metal siding. Most of the Council was not aware that Innovative Homes had never done anything like this before. In the process of applying the material they applied it too thick that prevented us from being able to mount things that needed to be mounted because the walls were thicker. Innovative Homes offered to fur the wall out, take 2x4's and screw them on the inside of the building so we have the space for the things we needed to do. We thought that was a pretty good solution to the problem. In the process of doing this they did not do the math for how long the screws should be and when they screwed the 2x4's in they penetrated the brand new siding in 42 spots on the south wall of the building. Their crew then went out and tried to hammer out the screws denting the siding. When it was discovered the work was stopped and there was a meeting between one of the principals of the company, Director of Public Works Greg Shook and Councilman Huseman. The principal of the company's solution was to get screws that match the color of the siding and put them in the extra holes they put in the siding, that is unacceptable. Councilman Gard called him and tried to reason with him over the matter and the nicest way to describe him over the phone is belligerent. Councilman Gard offered him two solutions to the problem, one was to forget the bill and the Town will fix the building ourselves as we have estimates to fix the siding for about \$5,500.00, or turn it into his insurance company and let them pay the claim. His response was to sue the Town, in turn the Town is counter suing for the damage done to the building.

Award bid and contract for Doors, Windows & Frames - Town Attorney Gregory Sobkowski explained that two bids were received one from Meyer Glass in the amount of \$39,213.00 and the other from Lazarro in the amount of \$54,000.00. Neither of the bids fully complied with the specs, as neither contractors supplied all the documents that were required. Meyer failed to supply a financial statement. The recommendation from staff is to award the bid to Meyer Glass and waive the financial statement. Councilman Gard made a motion to award the bid and waive the financial statement, seconded by Councilman Alessia. The motion carried by voice vote.

## **NEW BUSINESS**

Request to use CCD Funds to purchase two new police cars - Police Chief John Shelhart explained that every year they try to replace two vehicles to keep their fleet up to date, the amount is approximately \$45,000.00 for two cars. Since the 400-capital funds were cut from the

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General Fund he is asking permission to purchase from the Cumulative Fund. Councilman Huseman asked Clerk-Treasurer Judith Walters to explain these funds and where they come from. She explained the Cumulative Capital Development Fund is a capital improvement fund that we put money aside for and can be used for buildings, equipment, a new truck for the street garage, etc. Councilman Huseman stated during these tough economic times he didn't think it was necessary to purchase new vehicles especially since the Tahoe only gets ten to twelve miles per gallon. Councilman Huseman stated it was bought for a specific use and to his knowledge it is not used for that and went on to say that it just gets used for private transportation and never sees it patrolling. Councilman Tucker disagreed and asked if he was awake during the midnight shift. Councilman Alessia made a motion to approve two new police vehicles from the CCD Fund, seconded by Councilman Tucker. Councilman Gard stated prior to this replacement program the police cars were in bad shape and the police officers not only worried about protecting us, but they were worried about their own lives because they were driving substandard equipment. He stated this is the reason the policy of replacing two cars per year was set many years ago and it has worked well and we have a police department we can be proud of and they can be safe to do their job which is to protect you. President Kuiper stated for the last eighteen months he has had to get up at 4:00 in the morning and he has passed Officer Tucker many times patrolling the streets. The motion carried with four ayes and one nay. Councilman Huseman voting nay.

## **ANNOUNCEMENTS**

A Special Meeting on the first reading of the 2011 Budget will be held on Thursday, September 16<sup>th</sup> at 6:00 P.M.

President Kuiper announced the next regular meeting will be on Monday, September 26<sup>th</sup> at 7:00 P.M.

## **MEDIA QUESTIONS/PUBLIC COMMENTS**

A member of the media asked for the name of the company that did the spray insulation, and was told it was Innovative Homes from Cedar Lake. She asked how much it will cost to pursue litigation and was told less in small claims court.

A member of the media asked for a copy of the Proclamation and the Resolution.

Bob Philpot, 111 E. Main St., said that he talked to Jeff Edmond, the supervisor on the Main Street Bridge project and it should be done in about two weeks. He asked Councilman Tucker if could justify the milage in his police car between personal and professional, and Councilman Tucker replied no. Mr. Philpot stated that he heard from several different people that three police officers descended on the high school and wrote jay walking tickets and he would like to see sidewalks put in around the high school and he thinks the whole situation could have been handled in a different way. President Kuiper responded that they have been working on this for a

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long time to try to get the kids to use the cross walks and sidewalks where there are sidewalks. Police Chief Shelhart responded that the school made an announcement and the officers were out there for a week before any tickets were written warning the kids to use the cross walks.

Ed Bradbury, 5704 W. 157<sup>th</sup> Ave, made a comment that it seems like they are picking on jaywalkers but what about the kids riding their bikes on the wrong side of the road and going in and out of traffic, he thinks they should start issuing them tickets so they will have more money to help buy new cars.

Scott Pickering, 1608 Dewey Dr., wanted to inform the Council that the past few weeks he noticed scavengers going around Town on Thursday night and Friday morning picking up trash through the neighborhood. President Kuiper responded that only items in the recycling bin will be put in the recycling truck.

Ed Bradbury asked when the meeting will be about the smoking ordinance. President Kuiper responded that he was not sure yet but the public will be notified. Councilman Huseman asked how will they know what exceptions will be made. President Kuiper said that he would like to find a happy medium. Councilman Huseman stated that he is against a smoking ban but he would like to see some exemption like bars be excluded.

There being no further business or discussion, Councilman Gard made a motion to adjourn, seconded by Councilman Alessia at 7:42 P.M.

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Phillip Kuiper, President

Attest:

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Judith Walters  
Clerk-Treasurer