

**LOWELL TOWN COUNCIL  
REGULAR MEETING  
NOVEMBER 14, 2011**

The regular meeting of the Lowell Town Council was called to order on Monday, November 14, 2011 at 7:00 PM by President John Alessia. The Pledge of Allegiance was recited. Clerk-Treasurer Judy Walters called the roll. Members present were Robert Philpot, John Alessia, Phillip Kuiper, David Gard and Don Huseman. Also present were Town Attorney Greg Sobkowski, Director of Public Works Greg Shook, Chief John Shelhart, Town Administrator Susan Peterson, Director of Community Development Wilbur Cox, two members of the media and 16 citizens.

**APPROVAL OF MINUTES**

Councilman Huseman made a motion to approve the October 24<sup>th</sup> regular meeting minutes, seconded by Councilman Kuiper, the motion carried by voice vote.

**APPROVAL OF VOUCHERS**

President Alessia stated that he had reviewed White Vouchers #2302 - #2373, White Police #4103 - #4114, Water #2666 - #2708, and Waste Water Vouchers #3532 - #3567. Councilman Kuiper made a motion to approve the vouchers as listed, seconded by Councilman Huseman the motion carried by voice vote.

**PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS**

**MONTHLY REPORTS – October 2011**

Councilman Philpot made a motion to approve the October 2011 Monthly Reports, seconded by Councilman Huseman, the motion carried by voice vote.

**STANDING COMMITTEES - Annexation Committee**

**ORDINANCES & RESOLUTIONS**

Resolution #2011-13 – Transfer of Funds – M.V.H. Fund & General Fund. President Alessia read the Resolution. Councilman Kuiper made a motion to approve the resolution, seconded by Councilman Huseman, motion carried by voice vote.

**UNFINISHED BUSINESS**

WW Project – Amended Preliminary Engineering Report for SRF Funding. Open for Public Hearing / Comment – M. Downey, Commonwealth. Mr. Downey explained that the funding agency has asked that this be re-submitted as an amendment to the preliminary engineering report that was submitted in 2009. This amendment pertains to

the addition of mechanically cleaned bar screen at the headworks at the plant so that the operators do not have to enter into a confined space between the manual screen that is currently there. He stated that this needs to be opened for public comment and he will need a copy of the minutes from this meeting and adopt the amendment to the preliminary report to submit to IDEM. President Alessia opened the meeting to public comment, there were no comments. President Alessia closed the meeting to public comment. President Alessia read Resolution 2011-14 amending the Preliminary Engineering Report. Councilman Kuiper made a motion to approve Resolution 2011-14, seconded by Councilman Gard. Councilman Huseman asked if Cedar Lake should know about this amendment. Mr. Downey stated that have been meetings in July, there was a joint meeting in October and they have been advised regarding the safety issues of employees going into a confined space area. The motion carried by voice vote.

Recommendation to pay off outstanding 2000A & 2000B Wastewater Bonds and authorize Town Council President to proceed with SRF funding for WW Project 1<sup>st</sup> & 2<sup>nd</sup> reading – Ordinance #2011-13 – SRF Bonding – Greg Guerrettaz. Mr. Guerrettaz explained the special report to the Indiana State Revolving Fund for the WW Project. He further explained that the Town was qualified about 60 days ago of the 10<sup>th</sup> of 10 projects to be funded this year for this quarter by the State Revolving Fund. This will allow the Town to borrow up to 8 million dollars from the proposed SRF bonds with an interest rate of 2.54%. This is a bond issue but is also equivalent to a draw bond, what this means that if the project comes in at 7.5 million, the Council is only authorizing in these ordinances up to 8 million dollars. The indebtedness will be for the actual cost of the project. Mr. Guerrettaz went on to the Sewer Utility Income Statement and explained that it was at a level of 5 million dollars – 6 million dollars and with all the engineering numbers in, the project now is not to exceed 8 million dollars. He went on to the Income Statement and said that it had dropped since 2007 and the net operating income has gone down since 2007 and changed in 2009 and 2010. In order to proceed with this project, as they have discussed utilizing the Sewage Works Improvement Fund and buying down that new proposed bond and putting cash into the project. The interest rate that is now in place and it stays in place until 12/31 on the proposed bonds is 2.54% for the 20-year period. The 2000A bonds are outstanding at 1.7 million and the 2000B bonds are \$703,000 at 3.9%. In the interest of the citizens, it is suggested that they pay off the 2000A and 2000B bonds and eliminate the 3.9% interest rate, which is equal to the Council achieving 3.9% on it's Savings Account. They can eliminate the \$398,000 in interest 1.7 million bond and \$155,000 interest on the 2000B bond. This allows the town to float the new bond with the SRF at the low interest rate and not have a rate increase for the citizens. Even with the new debt and the 2005 bond, they will still have 1.52 coverage. If this gets approved, they will have Cedar Lake look at it and it will also be submitted to SRF and they have asked that the document be submitted to Cedar Lake so they can agree with the observations that have been made in this document. This will not eliminate Cedar Lake from paying these two bonds. He has made numerous phone calls and e-mails to the Cedar Lake consultant to discuss this subject with no response from their consultant other than numerous questions. He stated the town needs to move ahead and pay the 3.9% for them and they will be required to pay. The town can tell the citizens that they have lowered the debt load by 2 ½ million off of this Wastewater

Utility. There was not enough money to pay off the 2005 bond, so the town will have the new bonds and the 2005 bond. Ordinance #2011-13 will authorize the new bonds and authorize the pay off of 2000 A & B bonds and in order to get this interest rate, they need to close this bond by the end of the year. They do have a quick time line with acceptance of bids on November 29, 2011 and the closing has to be by the 15<sup>th</sup> or 18<sup>th</sup> of December, the SRF will not be doing any closings after that. President Alessia asked if the timeline could be met. Mr. Guerrettaz stated that they would have to give a 30 day notice for the actual call after this meeting, they will close the new bonds and deposit the cash into an escrow account at a third party trustee bank and at that time it will be deemed effectively defeased and then the actual cash payment will happen 10 days later. He thinks that with the help of Ice Miller, Attorney Sobkowski and Clerk-Treasurer Judy Walters they will be able to meet the timeline. Councilman Kuiper wanted to know when the town would find out if everything went through. Mr. Guerrettaz stated that they were scheduled to close December 14<sup>th</sup> and the pre-closing would be December 3<sup>rd</sup>. Councilman Kuiper made a motion to hold Ordinance 2011-13 over for a second reading, seconded by Councilman Gard, the motion carried by voice vote. Councilman Gard made a motion to set the rules aside, seconded by Councilman Kuiper, the motion carried by voice vote. Councilman Gard made a motion to adopt Ordinance 2011-13 by name and title only, seconded by Councilman Kuiper, motion carried by roll call vote. Councilman Gard made a motion to set the rules back, seconded by Councilman Huseman, he motion carried by voice vote. Attorney Sobkowski stated that a motion needs to be made to authorize the Clerk-Treasurer to publish a notice in the newspaper. Councilman Gard made a motion to authorize the Clerk Treasurer to publish the notice in the newspaper, seconded by Councilman Kuiper, the motion carried by voice vote.

Permission to set Special Meeting for Tuesday, November 29<sup>th</sup> to award bid for WW Project. Mark Downing, Commonwealth Engineers stated that on this date at 10 AM they would be receiving the bids so the pre-closing documents can be given to Mr. Guerrettaz and recommendations will be forwarded to the Town Council. Councilman Kuiper made a motion to move the regular meeting from Monday, November 28, 2011 to Tuesday, November 29, 2011 at 7:00 PM, seconded by Councilman Gard, the motion carried by voice vote.

Permission to switch employee health/life benefits to UHC. Clerk-Treasurer Walters explained that Anthem had an increase of 12 to 15% and she has been working with Bruce Carey of the Began Insurance Group and have gone through the pre-application process with United Healthcare and they have come back with a savings to the town of about \$120,000. She was asking permission to enter into this agreement with United Healthcare; they say that they can do a turn around time by December 1<sup>st</sup>. Councilman Kuiper made the motion to give the Clerk-Treasurer permission to enter into an agreement with United Healthcare, seconded by Councilman Gard. Councilman Philpot asked if the coverage would be comparable with Anthem. Clerk-Treasurer Walters stated that it would be a little different, they had a \$250 deductible with Anthem and they are going to a \$500 deductible with United Healthcare and the co-pay for an office visit was \$10 and it will be \$20 now. She further stated that the employees would not see any

change coming out of their paychecks, so the withholding will stay the same because in July the town paid the difference. The motion carried by voice vote.

Tabled from previous meeting:

9/26 Park Rules – Remains tabled.

10/10 Request transfer of 2002 Crown Vic & 2004 Chevy Impala – LVFD. Police Chief Shelhart stated that the LVFD has changed their mind. Taken off the agenda.

10/24 Act on favorable recommendation from Plan Commission – adopt Lowell Zoning and Subdivision Ordinance. Tabled until November 29<sup>th</sup> meeting.

### **NEW BUSINESS**

Permission to enter into agreement with McMahon & Associates to review monthly Water & Wastewater reports. Clerk-Treasurer Walters explained that it should say compile and not review. She state that because the town is a Class C Utilities, the State Board of Accounts requires that they do a General Ledger and the town has been doing these manually for years. The State Board of Accounts has asked that these ledgers be reviewed by a CPA or someone other than the town before they look at them. President Alessia asked if this would be a monthly cost. Clerk-Treasurer Walters stated that it would be a monthly cost, the Water Department would be a new monthly cost, but the Sewer Department is on a yearly fee for her to review all the fees for the McMahon report that goes to Cedar Lake for the annual calculations and she has anticipated that this fee would go down. She further stated that currently the town is paying for a software program for a maintenance fee for general ledger program that really doesn't work like they want it to and that costs about \$1800 a year. This maintenance fee would be cancelled. Councilman Gard made the motion to approve the agreement with McMahon & Associates, seconded by Councilman Kuiper. Councilman Huseman wanted to know who was reviewing the monthly water and wastewater reports before. Clerk-Treasurer Walters answered that the sewer was always reviewed annually. Councilman Huseman asked if a review was necessary. Clerk-Treasurer Walters stated that it was not a review, but actually compiling the General Ledger into a ledger format. The motion carried by voice vote.

Approve 2012 Operating Budget for Water Utility per USDA Rural Development Loan. Councilman Huseman made a motion to approve the 2012 Operating Budget, seconded by Councilman Gard, the motion carried by voice vote.

Set deadline to advertise for applications for Boards / Commissions. President Alessia asked what the deadline was in the past. Clerk-Treasurer Walters stated that it was December 31<sup>st</sup>. Since December 31<sup>st</sup> falls on a Saturday, it was agreed that December 30<sup>th</sup> would be the deadline.

## **ANNOUNCEMENTS**

Parade of Lights will be on Friday, November 25<sup>th</sup> at 6:00 PM.

The next Town Council Meeting will be on Tuesday, November 29<sup>th</sup> at 7:00 PM.

## **MEDIA QUESTIONS / PUBLIC COMMENTS**

Carrie Napoleon, Post Tribune asked if Cedar Lake doesn't go forward with this and the town pays off the bonds early, could this all blow up in the town's face. Mr. Guerrettaz stated that he addressed this with the Cedar Lake Consultant and said that he would make a recommendation to the council to get rid of the 2000 A & B bonds and the 3.9% that was earned with that money, the next thing would be the consideration of the new project. They could wait until the first of the year to see if the interest rate would change, but he would ask the Council not to do this because it could be two years before they could do this and they have some cost to the engineering and the financing. He further stated that one case scenario from their stand point would be that the project goes back a couple of months and the interest rate goes up. The worst case-scenario would be that they wait 2 or 3 years and there won't be capacity for them. Mark Downey, Commonwealth Engineers explained that the bulk of the project of wet weather treatment which is in a little bit in an excess of 5 million dollars is not in dispute and this dates back to 2009 when the two communities had the original preliminary engineering which was jointly approved by both councils. He further stated that the only issue in dispute was the screening structure and they are bidding this separately, so if they did have to go back and make adjustments where they would have issues with the contractor they could delete that out. The wet weather treatment is a mandate to the long term control plan with IDEM and Cedar Lake would benefit by having additional capacity of 1900 connections. Cedar Lake did state at their meeting that they were in favor of the wet weather treatment process but there is still according to the minutes an issue on the automated screening structure.

Connie Schrombeck, Lowell Tribune wanted a copy of the Resolutions and a list of the Boards and Commission openings.

Councilman Philpot stated that he did not hear the conclusion of the deadline date for board and commission applications. President Alessia stated that typically it was done on December 31<sup>st</sup>, but because this falls on a Saturday, the deadline is Friday, December 30<sup>th</sup>.

Carl Ferro asked who would be responsible if Cedar Lake didn't pay, would Lowell be responsible for that money or can he town sue them for that since it is a joint venture. Mr. Guerrettaz stated that the town was the obligor of the loan and bill Cedar Lake for 50% of the new debt, if there is non-payment then it would go to the Town Attorney, but by agreement they are still responsible. Attorney Sobkowski stated that they are required by the agreement to chip in for improvements. Mr. Ferro asked if Cedar Lake is not on

board with this, does the town still want to go process this and continue on. Mr. Guerrettaz stated that he would clarify this by stating that they are going to go on and continue because Cedar Lake has said nothing in a board meeting. If Cedar Lake says that they are not paying 50% of the debt service, this thing will not go and the town will not enter into an 8 million dollar debt. Mr. Ferro stated then the town would not meet their deadline. Mr. Guerrettaz stated that Cedar Lake has had the information since August and the town is continuing the process. Mr. Ferro stated that it would be more feasible if there was a secure answer from Cedar Lake and go forward with this. President Alessia stated that the town is 10 out of 10 on the SRF loan and when the town did meeting with Cedar Lake in a JMOB meeting, their concerns were a lack of communication and the town's collective opinion is that they differ on that. He was at some of those JMOB meetings, which has representatives from both towns, in the summer and thought that all those issues were rectified. One of Cedar Lake's biggest concerns were the engineering costs which the town explained and in the paper they said more or less that the bar screen was a symbolic "no vote" to it and the town is not pleased with this because it is a safety issue. President Alessia feels that this is something that they need to move forward on and secure the loan because it's good for the treatment plant. Mr. Ferro stated that he thought this was a gamble. Mr. Guerrettaz stated that this is not a gamble because there are safe guards. Mr. Ferro stated that he would hate to see the consumers get hit because they have been promised before. Mr. Guerrettaz stated that the safe guards are that if Cedar Lake does not pay 50% of the bill, the economics will not allow this to go forward. President Alessia stated that by paying the other bond, there is no increase to the taxpayer from the 3.9% loan to the 2.5% loan. Councilman Philpot stated that they were going to proceed as if Cedar Lake said yes and if the time comes that they say no, then the town can determine what other options they should take. Mr. Guerrettaz stated that this is nothing different than what has happened in the last 20 years and they need to continue forward with the same experience and keeping the consumer in mind at all times. Mr. Ferro stated that he understands as long as they have this on record.

Mr. Ferro stated that in May, he and Councilman Gard made a bet and he did lose and owes him a cup of coffee. Councilman Gard stated that they were square. President Alessia stated that they could discuss this after the meeting.

Councilman Huseman stated that in the paper he and Mr. Ferro were called thieves for taking Councilman Gard's signs off a property. They did not steal these signs, but were told by the property owner, Mr. Black, to remove the signs, he gave Mr. Gard 24 hours to remove the signs. Mr. Black told him to take the signs and throw them in the creek, he did not do that and told Mr. Ferro to remove the signs and bring them back to the town. He does not like to be called a thief and Mr. Gard will be hearing from his attorney.

There being no further business or discussion, Councilman Gard motioned to adjourn, seconded by Councilman Philpot at 7:46 PM.

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John Alessia, President

Attest:

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Judith Walters, Clerk-Treasurer