

**LOWELL TOWN COUNCIL
REGULAR MEETING
DECEMBER 27, 2011**

The regular meeting of the Lowell Town Council was called to order on Tuesday, December 27, 2011 at 7:00 PM by President John Alessia. 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, Robert Philpot, John Alessia, Phillip Kuiper, and David Gard. Also present were Town Attorney Greg Sobkowski, Director of Public Works Greg Shook, Chief John Shelhart, Fire Chief Clint Gorbali, Judge Thomas Vanes, Town Administrator Susan Peterson, two members of the media and twenty- five citizens.

TREASURER’S REPORT – November 2011

Councilman Kuiper made a motion to approve the November 2011 Treasurer’s Report, seconded by Councilman Huseman and carried by voice vote.

APPROVAL OF MINUTES

Councilman Huseman made a motion to approve the December 12th regular meeting minutes, seconded by Councilman Kuiper and carried by voice vote.

APPROVAL OF VOUCHERS

President Alessia stated that he had reviewed White Vouchers #2496 - #2561, Water #2776 - #2811, and Waste Water Vouchers #3630 - #3662. Councilman Philpot made a motion to approve the vouchers as listed, seconded by Councilman Kuiper and carried by voice vote.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

Proclamation – honoring Judge Thomas Vanes. President Alessia read the Proclamation. Councilman Kuiper made a motion to approve the Proclamation, seconded by Councilman Gard and carried by voice vote. The Proclamation was presented to Judge Vanes, who thanked everyone.

SPECIAL COMMITTEES - Annexation Committee

ORDINANCES & RESOLUTIONS

2nd Reading – Ordinance #2011-14 – amending Title IX – General Regulations Park Rules. Attorney Sobkowski explained that this is the ordinance, which updated the Park Rules and also eliminated that provisions which violated the new handgun law that was

approved by the State Legislature. Councilman Huseman made a motion to approve Ordinance #2011-14, seconded by Councilman Kuiper and carried by roll call vote.

1st and 2nd reading – Ordinance #2011-16 amending Chapter 150 & 155 Adoption of Building Codes. Attorney Sobkowski explained that the Town's existing Zoning Ordinance has some Building Code provisions embedded in the middle of it. The replacement Zoning Ordinance that the Plan Commission had recommended for approval to the Council will not have these Building Code provisions in it. They are transferring these Building Code provisions from Chapter 155 to Chapter 150 where there are other Building Regulations. While they did the transfer, they updated all the citations to the various building codes which are incorporated by reference into the Town's Building Code Ordinance and also updated and supplemented some of the procedures which was suggested by Wilbur Cox to make the Ordinance a little more comprehensive. Councilman Gard made a motion to hold this over for a second reading, seconded by Councilman Philpot and carried by voice vote. Councilman Gard made a motion to set the rules aside for this ordinance and the next ordinance, seconded by Councilman Kuiper and carried by voice vote. Councilman Kuiper made a motion to adopt Ordinance #2011-16 by name and title only, seconded by Councilman Gard, and carried by roll call vote.

1st and 2nd reading – Ordinance #2011-17 a replacement of Subdivision Control Code a Replacement Land Use and Development Code. Attorney Sobkowski explained that this ordinance repeals the Town's existing Zoning Ordinance and the Town's existing Subdivision Control Regulations and then adopts the replacement Zoning Ordinance and a replacement Subdivision Control Code. The Town has been working on these ordinances in conjunction with Ball State revising the language for the Town's Zoning Ordinance and the Subdivision Control Code. A final draft was prepared May 6, 2011; in October the Plan Commission recommended the adoption of both the Zoning Ordinance and the replacement Subdivision Control Code to the Town Council. By State Law the Town Council has to adopt both of those by ordinance. Councilman Huseman made a motion to hold Ordinance #2011-17 for a second reading, seconded by Councilman Philpot and carried by voice vote. Councilman Gard made a motion to adopt Ordinance #2011-17 by name and title only, seconded by Councilman Kuiper and carried by roll call vote. Councilman Kuiper made a motion to set the rules back in place, seconded by Councilman Huseman and carried by voice vote.

Resolution #2011-17 – Transfer of funds – General. President Alessia read the resolution. Councilman Gard made a motion to adopt Resolution #2011-17, seconded by Councilman Kuiper and carried by voice vote.

Resolution #2011-18 – reduce 2011 budget. President Alessia read the resolution. Councilman Gard made a motion to adopt Resolution #2011-18, seconded by Councilman Huseman and carried by voice vote.

UNFINISHED BUSINESS

Tabled from previous meetings:

Act on amendment to inter-local agreement for Freedom Park – Resolution #2011-19. President Alessia explained that the main change is that business can be conducted with three members other than the usual four members and a cap of \$1500 expenditure. Attorney Sobkowski explained that the other changes were changing the name of the Park Board to reflect the fact that since the Town no longer has a Park Board that the Town Council is going to make the appointments and the Park Board at the last meeting approved this. Councilman Huseman made a motion to adopt Resolution #2011-19, seconded by Councilman Philpot and carried by voice vote.

NEW BUSINESS

Approve quarterly fees and charges for Park Department. Councilman Kuiper made a motion to approve the quarterly fees and charges for the Park Department, seconded by Councilman Gard and carried by voice vote.

Discuss work plan for Rieter Automotive Tower Structure – WEL/Pitsch Enterprises. Jimmy Harper with WEL was present and explained that his company purchased Rieter Automotive and that they are taking part of the building down and the rest would be used for warehousing. Two weeks ago they attempted to bring the tower down with explosives and it didn't work. He apologized that the demolition didn't work and had brought an outside company in to do the job and had he known that this would not have worked, they would have taken special precautions because he did not want anyone or any other structure hurt with this project. He has submitted a second proposal and if the Town Council approves it, they would use shaped charges on 28 column flanges and "kicker charges" on 13 columns covering the same charges with conveyor belt and sand bags to cut and manually pull the building down. He stated that to be safe they are proposing using the shape charges for cutting, which will be wrapped, and sand bagged and there will be berms built on the west and the north side of the tower and they would manually pull the legs out. Councilman Kuiper stated that the Police, Fire and School were at the site and have all voiced their concerns. Mr. Harper stated that what happened was a failure in the shape charges not working properly. He further stated that everything in Town that was damaged will be paid for by their insurance company and he has met with everyone that had any damage except for the Administration Building for the School. President Alessia asked what the time line was for this project. Mr. Harper stated that he wanted to start set up on Thursday and do the demolition early AM on Friday. He found a company in Oklahoma and another in Chicago that knew how to take buildings down. Councilman Philpot asked if they were going to use dynamite. Mr. Harper stated that they would be using C4, which works like a plasma cutter. Councilman Philpot wanted to know what precautions they were going to take when using the C4. Mr. Harper stated that they would be using rubber rafts to cover it along

with sandbags that will knock down anything that would fly out and they would also be putting up a twelve foot berm on the north and the west side, which would protect the school and the entire town. He stated that the main purpose that his company came to Lowell was to create jobs and build a warehouse, not to create havoc. Fire Chief Clint Gorbball stated that he would like to make more of a safe zone by having Oakley Ave closed from Parkwood Ave to the west in front of Rieter, Harding Drive would be closed at Rt 2 to the south. There would be no public or bystanders allowed along these routes. Because they were going to use C4 instead of dynamite, they were not planning on evacuating Oakley Ave. Chief Shelhart stated that the Town Council could ask that he calls be made to the residents outside the affected area, but thinks that it would be easier to just go to the residents in the affected area and talk to them personally. President Alessia stated that he would like to see this done before the children go back to school. Councilman Huseman made a motion to approve the work plan, seconded by Councilman Philpot and carried by voice vote.

Swearing in Ceremony – Judge Tom Vanes swore in Judith Walters as the Lowell Clerk-Treasurer, for Town Council Ward 1 – Craig Earley and for Town Council Ward 3 – Don Parker. Judge Vanes wished everyone the best of luck.

Presentation of plaques. President Alessia stated that Councilman Kuiper will be presenting the plaques to the outgoing councilmen along with Judge Vanes. He stated that Mr. Huseman has respectfully declined accepting the plaque. Councilman Kuiper presented plaques to John Alessia for his service and being President in 2011, to David Gard for his service for eleven years and being Town Council President for five years, to Judge Tom Vanes for serving as the first judge in Lowell for twelve years and being the court in Lake County to be in the black.

ANNOUNCEMENTS

HAPPY NEW YEAR.

The next Town Council meeting will be held on Monday, January 16th, 2012 at 7:00 PM.

President Alessia stated that it has been a pleasure to serve on the Town Council with Mr. Huseman and Mr. Gard.

MEDIA QUESTIONS / PUBLIC COMMENTS

Melanie Csepiga, The Times wanted copies of the Park Agreement.

Carrie Napoleon, Post Tribune also wanted copies of the Park Agreement along with a list of the budget reductions.

Carl Ferro wanted to thank Mr. Huseman for the wonderful job he has done for the Town and the donations he has given to the town and the knowledge he has regarding sewers in

the town and the town will have a great loss with him leaving. He asked about the alley way that was paved in Willowbrook Subdivision where the town lost \$55,000 and he wanted to know why the town lost this money and who is responsible for it and was there a bond set aside for this pavement job. President Alessia stated that it was not Willowbrook but Meadowbrook Subdivision and this issue was addressed two years ago and legal steps were taken. Attorney Sobkowski explained that there was a demand made upon the bank to pay the bond proceeds to the Town, the bank set the request that was made to comply with the terms of the letter and they refused to make payment. A revised demand was sent and they said that demand was made in an untimely fashion and so they refused to pay. Mr. Ferro asked what was meant by an untimely fashion. Attorney Sobkowski stated that the bond had expired. Mr. Ferro asked how long the bond was good for and who dropped the ball and why was a law suit not filed against the holder of the bond. Attorney Sobkowski explained that the town did not believe that they would be successful in that law suit. Mr. Ferro stated that he understood that this property was recently bought and that there could have been a lien put on that property for \$55,000 to collect once that property was sold and he would like an answer in January regarding this matter.

There being no further business or discussion, Councilman Gard motioned to adjourn, seconded by Councilman Kuiper at 7:40 PM.

John Alessia, President

Attest:

Judith Walters, Clerk-Treasurer