

**LOWELL TOWN COUNCIL MEETING
REGULAR MEETING
MARCH 11, 2013**

The regular meeting of the Lowell Town Council was called to order on Monday, March 11, 2013 at 7:00 P.M. by President Edgar Corns. The Pledge of Allegiance was recited followed by a moment of silence. Clerk-Treasurer Judith Walters called the roll. Members present were Craig Earley, Robert Philpot, Donald Parker, and Edgar Corns. Phillip Kuiper was absent. Also present were Director of Public Works Greg Shook, Police Chief John Shelhart, Building Official Tom Trulley, Town Administrator Susan Peterson, Town Attorney David Westland, two members of the media, and fifteen citizens.

APPROVAL OF MINUTES

Councilman Philpot stated he reviewed the study session minutes, and there are some missing items, some that are significant. These are not all of them, only some. He stated, "It was stated that we have three steps in the present policy; corrective measures, reprimand, or fire them. Next, Edgar stated that the training we would get from the Shared Ethics Commission would teach what is right and wrong so that we do not have to go with corrective measures. Mr. Earley asked on two different occasions of Mr. Shook about how many times incidents have occurred. Both times Mr. Shook answered either we haven't as far as ethics are concerned or none. I disagreed with that at the time and referred to an incident a couple of years ago. Mr. Shook and I talked later, and Mr. Shook informed me he did not consider harassment an ethical issue and I disagreed with him. Are we still of the same opinion Mr. Shook?" Mr. Shook stated, "Yes, as I said, to me, that whole thing was actually against policy and actually against the law." Mr. Philpot asked, "So, you consider it a legal issue, correct?" Mr. Shook stated, "Yes." Mr. Philpot stated, "Okay, I agree with that part." Mr. Philpot continued, "Mr. Westland stated that training does enable you to identify the behavior and how to handle it. Then I said, I am sure that you get a lot of different answers about what is ethical and this program is designed to put you on the same base. Mr. Westland stated every municipality adopts the same code and it is viewed like a living document. Then, Mr. Parker stated that we ought to consider it."

Councilman Philpot stated he would like to make a motion that the minutes be held over until these changes are added to them. Mr. Parker asked if these are things that were omitted and need to be added. Mr. Philpot stated that was correct. Councilman Parker seconded the motion. Mr. Corns asked if there was any discussion. Councilman Earley stated we have had these issues before, but he was not disagreeing

with anything Mr. Philpot said. He does, however, disagree with trying to keep minutes verbatim for the fact that our Clerk-Treasurer or her assistants have to. He stated the point was brought out and the people in the audience were well aware of exactly what happened at the meeting. As far as amending conversations, the conversation that took place between Mr. Philpot and Mr. Shook after the meeting is not to be included in the minutes anyway. Clerk Treasurer Walter stated, just as Mr. Earley has said, these are minutes. They are not verbatim or word for word, just that a discussion was held. She stated there is more put in the minutes than what the State Board of Accounts say there needs to be anyway. The bottom line was that Mr. Philpot wanted to go with the Ethical Agreement and for the two department heads to go to the meeting, and all of that was in there. The important parts of the meeting are in there. Mr. Philpot stated he did not say that point was not in there, just that these items should have been. Mr. Westland stated that the minutes of the study session are more

LTC REGULAR MEETING - 3/11/13 - Page 2 of 6

inclusive than he has ever seen. Typically, you are not required to, nor do you see that type of detail in the study session minutes. The minutes of your public meeting is different, and the Clerk-Treasurer does over and above the call of duty with what she has included in the study session minutes. He stated the Council needs to decide how you want her to do these notes. There is not, in most cases, the need for her to take that type of scrupulous notes for the study sessions. The public meetings, yes, but the study sessions are supposed to be informational gatherings and if she gets the just of that, then that is what she is supposed to get. With that being said, you can always add something in if one of the Councilmen feel that it is necessary. Mr. Philpot asked if the study session minutes are posted online. Mrs. Walters replied they are not. There is nothing voted on at those meetings so they are just basically for the Council. Mr. Earley stated he believed they did not vote on the study session minutes. Mr. Philpot stated it is under the approval of minutes. Mr. Earley stated he was under the impression it was just the regular meeting, but that he may be wrong. Mr. Philpot stated it is listed the study session and regular meeting minutes. Mrs. Walters stated with the five of you being together, some sort of memo has to be written to document that and it has to be approved. Mr. Parker asked if he could withdraw his second for the motion on the table. Mr. Westland stated that he could. Councilman Parker withdrew his second for the motion on the table. Mr. Corns asked if there was another second. With no one seconding Councilman Philpot's motion, the motion died.

Councilman Parker made a motion to approve the February 25th study session and

regular meeting minutes as they are and that Mr. Philpot's recommendations reflect on our next Town Council meeting minutes, seconded by Councilman Earley and carried by voice vote with three ayes and one nay. Mr. Philpot stated he was opposed to approving the study session minutes, but that he did approve of the regular meeting minutes. Mr. Westland explained that the motion was for both the study session and regular meeting minutes. Since Mr. Philpot voted no, that reflects on both the study session and regular meeting minutes. Mr. Philpot asked if we could separate them. Mr. Westland stated you could have, but that is not how the motion was made, so the motion carries with three ayes and one nay for both meetings.

APPROVAL OF VOUCHERS

President Corns stated he reviewed White Vouchers #1210 - #1262, White-Police #4044 - #4054, Water #2140 - #2173, and Waste Water #3115 - #3135 and recommended for payment. Councilman Earley made a motion to approve the vouchers as listed, seconded by Councilman Parker and carried by voice vote.

MONTHLY REPORTS

Councilman Parker made a motion to approve the February monthly reports, seconded by Councilman Philpot and carried by voice vote.

ORDINANCES & RESOLUTIONS

1st & 2nd reading - Ordinance #2013-02 - amend Chapter 155 - Land Use & Development & Subdivision Control Code - Councilman Earley made a motion to approve the first reading of

LTC REGULAR MEETING - 3/11/13 - Page 3 of 6

Ordinance #2013-02, seconded by Councilman Parker and carried with four ayes on roll call vote. Councilman Earley made a motion to set the rules aside, seconded by Councilman Philpot and carried by voice vote. Councilman Earley made a motion to approve the second reading of Ordinance #2013-02, seconded by Councilman Parker and carried with four ayes on roll call vote. Councilman Earley made a motion to set the rules back in to place, seconded by Councilman Parker and carried by voice vote.

Resolution #2013-02 - annual transfer from Sewer Operation to Sewer Improvement - Councilman Parker made a motion to approve Resolution #2013-02, seconded by Councilman Earley. Mrs. Walters explained this was an annual transfer from operating

to improvement fund from 2012 in the amount of \$100,000. The motion carried with four ayes on roll call vote.

UNFINISHED BUSINESS

Public Works Department Update - Mr. Shook stated that Councilman Corns, Councilman Earley, Greg White - MS4 Director, Craig Hendricks - SEH Engineering, and himself will be meeting with the Lake County Surveyor's office to discuss the Powell Ditch, Cedar Creek and the rock dam on Wednesday.

WWTP Improvement Project - Pay Request #30 - Partial Payment #11 to Thieneman Construction - \$889,945.00 (\$85,47.75 to Contractor, \$4,497.25 to retainage) - Pay Request #31 - Commonwealth Engineers - \$29,504.82 and forward to SRF for payment - Councilman Parker made a motion to approve Pay Request #30 as listed, seconded by Councilman Earley and carried with four ayes on roll call vote. Councilman Parker made a motion to approve Pay Request #31 as listed, seconded by Councilman Earley and carried with four ayes on roll call vote.

Pay Request #2 - Chem Check - for Old Grade School - forward approval to County - \$36,100 - Councilman Parker made a motion to approve Pay Request #2 as listed, seconded by Councilman Philpot and carried with four ayes on roll call vote.

1782 Notice - Certified 2013 Budget - Mrs. Walters had submitted the approved 2013 budget to the council with a tax levy of \$2,844,838. She stated the only cuts were in the Parks Department of \$2,058 and the Debt Service, which had been advertised high. She stated she needed permission from the Council to move forward with the 3% salary increase that was discussed at the Budget Hearings last year when the 2013 budget was received. Councilman Parker made a motion to approve the 3% salary increase, seconded by Councilman Earley and carried with four ayes on roll call vote.

NEW BUSINESS

Approve Conflict of Interest Statement - Chad Evenhouse - Board of Zoning Appeals member - Councilman Parker made a motion to approve the Conflict of Interest Statement, seconded by Councilman Philpot and carried with four ayes on roll call vote.

LTC REGULAR MEETING - 3/11/13 - PAGE 4 OF 6

Discuss garbage and recycling contract - Susan Peterson, Town Administrator, stated our contract with Allied Waste Service will expire on June 30th of this year. We can either go out for bid, or talk to Allied about an extension. When we went out for bid in 2010, they were the low bidder at that time. In the paper last week, Highland had entered a new contract with Allied and all of the residents got new recycle bins and toters, which will probably be in our next contract with them. Mr. Parker asked if Mrs. Peterson normally deals with them. Mrs. Peterson stated that she did. Mr. Parker asked if she could reach out to Allied to see what they would be able to offer and what their rates are. Mr. Earley asked if she could also find out if new bins and toters would be included in the contract and if there would be an increase to include that. Mrs. Peterson stated in the paper, Highland was lower than ours, but she stated she was not aware of how many homes they pick up in Highland. Mr. Parker asked if she could have information by the next meeting. Mr. Corns stated he believed we should look around and find different prices. Mrs. Peterson stated there are not a lot of garbage companies out there because Allied has bought out most of them, but there are a few that we can talk to and see what they say.

Quote for use of Sewer Camera - Town of Schneider - Mr. Corns read a letter from Mr. Richard Ludlow, President of the Schneider Town Council. Mr. Corns asked if this was a normal practice to rent out the sewer camera. Mr. Shook stated it is something we have done in the past for other municipalities, but we do not get in to competition with plumbers when it comes to private citizens wanting their sewers televised. We do not rent out the equipment, but we have our own operators do it and then bill them for the equipment and the labor. Mr. Parker asked if we had some sort of mutual aid agreement with Schneider. Mr. Shook stated we did not. Mr. Shook stated when we send our equipment out, we send it with our operator with an hourly labor rate. Mr. Shook stated we have done the same thing with Cedar Lake in helping them out and them helping us out. It is kind of like a mutual aid, but there is no agreement in place.

Mr. Earley approved the rental of our sewer camera and labor to Schneider, seconded by Councilman Parker and carried with four ayes on roll call vote.

Audit of Police Department - Councilman Philpot made a motion to approve the audit of the Police Department and to allow the attorney to hire the firm to perform the audit, seconded by Councilman Parker and carried with four ayes on roll call vote.

ANNOUNCEMENTS

President Corns announced the next regular meeting will be held Monday, March 25th at 7:00 P.M. with a Study Session at 6:30 P.M., and announced the following meetings :

Thursday, March 14, 2013 - 5:00 P.M. Joint Executive Session with the Town Council and the Police Commission, 6:00 P.M. Police Commission meeting and Plan Commission meeting, 6:30 P.M. Board of Zoning Appeals, and 7:00 P.M. Special Town Council meeting.

MEDIA QUESTIONS/PUBLIC COMMENTS

Mr. Earley stated with the recent resignation of Chief Shelhart, he would like to thank him for his time and what he brought to the community. Mr. Earley wished him the best in whatever he decides to do after this and noted that there were some critical changes made while he held this position.

LTC REGULAR MEETING - 3/11/13 - Page 5 of 6

Carl Ferro, 1310 Harrison St, stated on the 911 consolidation, he would like to know what the total cost would be and how many towns are involved and how many have opted out. Mr. Parker stated no one can opt out. They are mandated that by January 1st, 2015 the County is only allowed two dispatch points at that time. We are trying to get ahead of the game right now, but there is a lot of confusion on how it is going to work. Mr. Ferro stated there has been discussion of cost, but no one has ever sat down and told us what it will cost. Mr. Parker stated it is going to cost whatever the County 911 people decide it will cost, which the Chief and the attorney have been going through. Right now the issue is whether the County wants to increase their payroll or if they want us to send dispatchers out there and pay them. Like the attorney said, the agreement that we saw two weeks ago has completely changed. Mr. Ferro stated the County will be dispatching the officers to different locations and asked if they will know where these calls are coming from and get a location on GPS to get there faster. Mr. Parker stated the way calls are handled will not change. Lowell officers will respond to Lowell calls. The only thing that is changing is where the calls are dispatched from. Mr. Parker explained how the State of Illinois has been running their dispatch centers since they have had to do the same thing.

Mr. Ferro stated rumors have been floating around that the property next door where the old grade school was will be a new Town Hall. He stated he hopes the rumor is false and that we can donate it to HUD and put some houses on there to get some revenue coming in. Mr. Corns stated there has been nothing determined on that property. We will be taking some land to extend our parking lot because on court night there is nowhere to park.

Mr. Corns stated on behalf of the Council he would like to extend his thanks to Chief

Shelhart and stated that he was on the Police Commission when Mr. Shelhart was hired in seven years ago.

Mr. Parker stated a lot of people realize the roots that John Shelhart has to South County. He is not someone who is from up north. He is familiar with the people here and the way things are done. Some of us have determined that in the law enforcement business, we don't have the right to call ourselves professional, rather the public or the people you work with will determine if you are professional or not. Mr. Parker stated he will say emphatically that Mr. Shelhart is a professional. The ethics, character, and values that he carries is a trademark that every young police officer should be looking up to. That is a breed that is not around anymore. We are going to miss him, and the law enforcement community will miss him. Mr. Parker stated he would like to commend him not only for the years that he has been in town, but for his entire career. He thanked him for his friendship and leadership and wished him only the best.

Chief Shelhart stated this past week we had a pretty severe snow storm and there were a number of parking tickets issued to the residents. The officer was within the letter of the law that wrote all of those, but in good conscious, the citizens should have been afforded a little more time to get their vehicles removed rather than ticketing them in the middle of the night. Certainly, if the Council directs that they want these tickets collected on, we will move forward with that. We have been holding off collecting on these, even though people have been coming in wanting to pay them, because those at the most should have been warnings. We did not receive any complaints from the street department or anyone else. In this community, the right thing to do would have been to give warnings, but it is an Ordinance so it is up to the Council if they are

LTC REGULAR MEETING - 3/11/13 - Page 6 of 6

converted to warnings. Mr. Parker stated he had an issue with that. He stated to the Chief, "If you feel those should be warnings, I will stand behind you in that decision." Mr. Earley stated to the Chief, "Whatever decision you make, you have my support." He stated he commended the Chief for asking for approval and because of the way it has been explained, Mr. Earley believed it was the right thing to do. He stated he understands the Ordinances, but it was an unusual situation and the snow came down late at night, and there are no issues from the street department that we are aware of.

Chief Shelhart stated if that is something we are legally allowed to do, he would like to do so. Mr. Westland stated it is within your discretion. Mr. Corns stated in his opinion, it is not a bad Ordinance at all. He stated he only heard of five or six

complaints out of seventy-some tickets. The people have to learn that it is an Ordinance. Mr. Corns referred to a situation when there was a snow fall and the plows went around two cars on Commercial and when the cars moved, there was a ridge of snow that was a danger to other people. Mr. Shelhart stated it is not a bad Ordinance.

The question was with the time that the tickets were written and giving people the chance to have arrangements made. This was a snow that came down quickly and started late in the afternoon. He stated he does not want to do anything that is not in the best interest of the Town, or that is not supported by the majority of the Council. Mr. Corns stated if the people were watching the weather, they were warned for four days that the storm was coming. The people of Lowell have to respect their street department, and if there were only five or six objections, it was not that bad. Mr. Parker stated if there is a problem and tickets need to be written, then the Ordinance needs to be followed. When discretion is not taken, and there have been two or three stories, and someone makes a bet on how many tickets they can write, go write warning tickets. He stated he has sat and listened to business people in this Town talk about how this town is not a friendly town towards businesses. Sometimes the police officers need to learn how to wave and say hi to people. People in this community have paid enough and they deserve a little break and a little discretion every once in a while. Mr. Parker stated that he is not saying what the officers did was wrong because he does not know all of the circumstances. He stated to Mr. Shelhart, "You are the Chief of Police, you know how to handle it. If you feel it is valid, take care of it, if you feel it is not valid, take care of that." Mr. Corns stated for Mr. Shelhart to go ahead and take care of it. He stated everyone heard the opinions and it is an Ordinance that he believes should be upheld.

ADJOURNMENT

With no further questions or comments, Councilman Earley made a motion to adjourn at 7:40 PM, seconded by Councilman Parker, and carried by voice vote.

Edgar Corns, President

Attest:

Judith Walters, Clerk-Treasurer

