

TOWN OF LONG BEACH
TOWN COUNCIL SPECIAL MEETING
at Town Hall
via In Person / Zoom
February 28, 2023
7:00 p.m.

Present at Town Hall were Council members Mary Lou McFadden, Bob Lemay, Mike Johnstone, Police Chief Mark Swistek, and Attorney Chris Willoughby of Braje, Nelson & Janes. Zoom attendees were councilmembers John Wall and John Kocher; Marilyn Jones and Becky Lempa of Marilyn Jones & Associates, and Karl Cender of Cender & Co. Approximately 23 people, total attended through Zoom this evening and 7 in house audience. This meeting is being recorded for the record.

Meeting was called to order with roll call at 7:00 PM by Pres. Lemay followed by the Pledge of Allegiance. All votes will be by roll call this evening.

Lemay adds one item to the agenda: After "Consideration of Resolution... "will be "Annual Financial Report"

New Business –

The **Public Hearing was opened on the proposed lease between Long Beach Public Building Corp (Lessor) & Town of Long Beach (Lessee)**. Notice for this hearing was published in the local La Porte County Herald Dispatch. A petition with signatures of 50 taxpayers "in favor of" this lease is filed with the Clerk-Treasurer's office. There were no others present or on Zoom offering their support of, so that portion was closed and those "opposed" were asked to speak. Although Ernie Summers of 2711 Elbridge Way states he "is not against it by itself" but is concerned that council already passed a proposal in December that "there would be up to \$2,500,000.00 for the town to construct and now it looks like we're moving in the direction of conveyance of the property and becoming a lessee of the property that we now own". Would like the town to choose one or the other. Bob Boyce, 2926 Lake Shore Drive, stated that "30% of the volunteer firemen are over the age of 60. Three of them are over the age of 70. By the time the whole thing is paid off most of them are going to be in assisted living, or the marble orchard". He'd like to know what the benefit all this will bring about if "we aren't going to change the structure of the Fire Dept. itself". No other comments were given by the public. Closed the public hearing portion.

Lemay makes a motion to enter into the lease and authorize an execution of said lease; second by John Wall. Willoughby reiterates- The town is setting up this Building Corp. which is a statutory mechanism by which the town can finance. The property will be owned by the corporation pursuant to the terms on file in the Clerk's office previously submitted for review to the public, to the council. By determining that this lease is necessary, the approving and execution of the lease allows you to take the next step. Nothing is final until the final approving, even the contract that will be discussed thoroughly, there still has to be a determination on the mechanism that you're going to finance this. Last meeting you approved the form of lease, now the lease before you, then posting the notice in the newspaper and then move on to the resolution to consider. Approved 5 -0.

Consideration of Resolution Approving the Building Corporation, Determining Need, Authorizing Execution of Lease, Authoring the Sale of Certain Real Estate, and Approving the Issuance of Bonds and Related Matters was discussed by council. Willoughby explains the resolution overall and what is entailed in it. Approval of this resolution will allow council to take the next steps necessary to put the Building Corporation into a position where you can move forward and the council, at a later date, can make the decision with regard to the financing. Lemay makes a motion to approve the resolution; second by Johnstone. Passed with 5 – 0 vote.

Council gave Attorney Willoughby authorization to publish notices necessary before the next public hearing that will be held within the next March 13th council meeting. That notice will be “Notice to Taxpayers of Additional Appropriation”. Lemay makes the motion to authorize Willoughby to send notices for publication to the local paper; second by Johnstone. Approved with 5 – 0 vote.

Lemay announced: There is an Annual Financial Report that the Clerk-Treasurer’s office was to have sent down State with a deadline of February 28, 2023, tonight. That deadline will come and go and the report will not be at the State level. There is a 2 -day extension that the Town can get; however, when Lemay spoke to the previous Clerk-Treasurer, de Funiak, this report took him a couple of weeks to put together. Lemay believes Perry knew about important reports, deadlines, and requirements when he came to be appointed to the position. He’s had reminders from office staff of reporting requirements for the last month. Lemay says he doesn’t believe this Clerk-Treasurer is interested in the job, not qualified for the job, and not interested in the well being of the Town of Long Beach. Ramifications of missing the deadline down state are: the Town can make no additional appropriations, if not completed, it could put the Public Safety Building project in jeopardy because the town would have to come up with money at some point, the park department money was not appropriated or put in the budget for them and that Park Board cannot complete projects they had on their list this year. Willoughby will make contact with the clerk before the next meeting about options on that. It could affect the funds appropriated for the IWORQ software for the building department. If the report isn’t completed by June, it could affect the June taxes coming to the town. The Clerk-Treasurer isn’t attending the meeting this evening for input or communication from his office. This situation could trigger an automatic audit which Lemay believes could be a good thing. Lemay feels the council should request an audit from the State Board of Accounts. Lemay has no confidence of what goes on in the office and suggests the council have a “vote of no confidence” for the Clerk-Treasurer and requests his resignation and makes that in the form of a motion.

Lemay asked Helen Sheridan’s (Deputy Clerk-Treasurer) opinion about requesting the audit. She says: The town has been working with them extensively; they’ll look at internal controls. She calls them all the time for advice to get things done. She has no authorization for entering reports online. She says she’s informed Tim for a month she needs his authorization for certain things and she gets held up with no response from him. It’s all about getting things organized, functioning; we need some leadership.

Willoughby reminds the council of the possible ramifications of requesting an audit. It can’t be performed before the next council meeting.

Swistek spoke: On January 31st, he informed the council of another required report that is to be filed with the State of Indiana, the 100R report sent to Gateway every year. The Town must report the employee compensation by January 31st. He noted he was told 2 employees were asked to file the report in his absence, but eventually done by Tim on the due date. Swistek went on the site the next day to review it, the report was wrong with omissions and 7 employees left off the report. After taking

the mistakes to the C-T's office, the report was corrected. All these mishaps put the Town in a bad light, financially. Crossroads Bank, in recent weeks, attempts to contact Perry by email and voicemail, with no avail. They then reach out to Swistek, as Town Administrator, asking that he send a letter on the town's behalf, seeking a reimbursement of escrow funds owed to the town, just shy of \$1400.00, for the previous purchase of 2 vehicles. He submitted that letter and the funds were received. Something that the C-T's office should have taken care of. Barry Grossman, of Crossroads Bank, stated he was unsuccessful in reaching the C-T and asked for Swistek's assistance in the matter. In recent week, checks were sent out that should not have been paid. One check was recalled, in the amount of \$2,200.00, another for \$289.00 that will not be refunded to us. Swistek has talked with the C-T about his absence from the office and his overall leadership. Says Perry assures him of the improvements he'll make in the C-T's. There are serious oversights that could affect the town financially if not adhered to. Helen adds she "has correct backups on all these reports, and saved, along with soft copies. She says the issue occurred with the input at the State level. She contacted the State and there was a problem at the State level". Things were corrected.

Karl Cender offered his office's assistance in getting the annual report filed and reviewed and that actually the due date is March 1st. If it is not filed in a timely fashion the town won't get its additional appropriations approved, and if not submitted by June, the town may not get its property tax distributions either.

John Wall believes the focus should be concentrated on getting the report filed. Karl Cender states you can request from SBOA an audit for internal controls but in the State of Indiana we cannot go to another outside audit firm without permission from the SBOA.

Lemay makes a motion for discussion with the SBOA by Wall, Johnstone, Helen Sheridan, Laurel Kuczynski, and Karl Cender; second by Johnstone. Approved 5 – 0.

Lemay makes a motion that the council go on record of having no confidence in Clerk-Treasurer Perry and that we request his resignation.; second by McFadden. Kocher doesn't feel it's necessary or what it accomplishes. He's underperforming and it's obvious he's not here. Lemay wants it stated for the record Perry's poor job performance. 5 – 0 vote approved.

Consideration and approval of Public Safety Building Contract with Holladay Construction –

Lemay motions to approve this contract subject to execution and final decisions being made with the form of financing. Willoughby states that approving it will allow the council to continue moving forward and showing Holladay good faith in us doing just that and Johnstone wants it noted he doesn't want it executed without having a method of financing formalized whether it be bank financing or bonds, as mentioned by Willoughby. Second by Johnstone, approved by 5 – 0 vote. Authorization was given to Lemay to sign the contract subject to the methodology of financing. Willoughby notes It will not be executed by all parties until financing decisions are made, it doesn't stop the process, but the contract is subject to having the form of financing approved.

There was lengthy discussion about moving a substantial amount of the town's money into one high interest-bearing account at Horizon Bank. According to Helen, this has not been done yet. She says she needs the authorization from the Clerk-Treasurer to work with Civic Systems. Helen talked about "the cloud". Tim Perry has to give authorization to move money at the bank where Helen believes the town could make anywhere between \$40,000 and \$80,000 a year depending on the interest rates.

McFadden asks Helen about a contract from Civic Systems; she says it's in Tim's office. Helen says the problem is getting Tim to do the work.

The yearly update on **the Town's financial stability** will be tabled as C-T Perry is not present this evening.

Chris Watterson, from **IWORQ**, is present by Zoom this evening to speak and give a short presentation of the **Software** for the building department. Willoughby comments that Lemay and Kocher are members of the building commission and along with Lou Mellen, Building Inspector, Larry Wall, the Building Commissioner, and Honor Adam, Building Department Secretary, the software had already been presented at the building commission level and it comes to the council with a unanimous vote to support entering into the contract addressed this evening. Lou Mellen addressed the council; he has been working with Watterson for months on this software program. After presentation of the IWORQ company and how the software works Willoughby mentions a couple of questions he has on the contract. Willoughby has reviewed the contract and notes the "Venue" on it is "Utah" and the "attorney fee provision". If the contract was approved and signed, he recommends it would be subject to the town's finances and subject to changes as noted. Lou states this subject of an operative software system is long overdue. Larry Wall says it's a failsafe system. Lou says the commission looked at 4 suppliers before selecting IWORQ which also happens to be the least expensive. Larry gave his input on the consolidation of the work load in the office and to streamline the registration and permitting processing for the town. He mentioned that K-Plus is working on email lists for contractors that can be incorporated into the way this software works for the town's needs. Lemay motions to approve the contract subject to the few changes noted by Attorney Willoughby. Lemay makes a motion to approve with the 3 caveats council discussed, being the attorney of Indiana, the attorney's fees, and the town's ability to make appropriations; second by Kocher, and approved by 5 – 0 vote.

There was council discussion about the **responsibilities and work station of the building department secretary**. The understanding was a request for Honor to go to full time and to work at the Community Center. Larry Wall confirmed; in order to implement the software, her hours will increase. He states she would become the head administrator, and the main point of contact of the building department, more than 20 hours a week for her. It was noted that she already put in 72 hours in a 2-week period in town hall. Lemay is concerned working at the community center doesn't work for contractors moving from one building to the next when conducting business. Larry was under the assumption there is no room at the Town center for her; Lemay says arrangements can be made for a work station at Town Hall. The position she holds is designated as part-time, 20 hrs./week. Although she currently reports to Perry it was decided that she report to Swistek, working Monday through Friday 8 – noon. If the job requires more time, it could be addressed in the future. Lemay recaps: Honor reports to Swistek, working 5 days a week, 8 AM to noon, only increased if necessary, working in Town Hall.

John Wall is concerned the council is dictating hours to department heads. He says Swistek has no knowledge of the building department duties. But McFadden states Larry Wall isn't an employee of the town or an elected official.

Lemay makes a motion that the organizational chart be changed; that Honor reports to Mark Swistek, and suggest she work 5 days a week, 8 – 12 noon; now having supervision. Johnstone seconds the motion. John Wall is only in favor of changing the organizational chart. Lemay splits the motion – Organizational chart change; all in favor and passes with 5 – 0 vote. The second motion by Lemay is that we "suggest" she work Monday through Friday, 8 AM – noon, with changes made, if necessary, made between Larry Wall and Mark Swistek; Johnstone seconds. Motion passes 3 – 2.

Public Comments –

Anita Remijas, 2300 Florimond Ave, commends Swistek for being up front and honest with his comments about Clerk-Treasurer Tim Perry, being in the office and the building on a daily basis, witnessing what goes on in the office with the employees and the moral. Commented about Perry with his history in town as a resident and now as an unqualified official for the Town. Thank you to McFadden for distancing herself and trying to help keep control of the situation at hand. Mentioned the incompetency of Tim Perry brought to the council's attention over the last several months where Johnstone and Kocher chose to ignore it and even voted to increase Perry's salary from \$36,400 to \$50,000 but was defeated 3 – 2; then again proposing it be increased to \$48,000. The council should take more responsibility in saying he is incompetent. The Town needs some stability.

Motion and second to adjourn by Lemay and second by Johnstone, approved 5-0.
Meeting adjourned at 8:46 PM.

Respectfully submitted,

Deanna Carlson,

Deputy Clerk