

Town of Long Beach
Town Council Meeting via Zoom
June 14, 2021
7:00 p.m.

Council members Bob LeMay, John Wall, Mary Lou McFadden, Mike Johnstone, and John Kocher participated in the online Zoom meeting along with Clerk-Treasurer Bill de Funiak, Police Chief Mark Swistek, and Attorney Chris Willoughby of Braje, Nelson & Janes. There were approximately 58 public participants.

Bob LeMay called the meeting to order at 7:00 p.m. The Pledge of Allegiance followed.

The minutes of the following meetings were approved unanimously on a motion by Mike Johnstone and seconded by Mary Lou McFadden:

April 12, 2021, Town Council meeting

May 10, 2021, Town Council meeting

May 13, 2021, Town Council Executive Session

May 21, 2021, Town Council Special Meeting

May 27, 2021, Town Council Executive Session

May 28, 2021, Town Council/Water Department/Human Resources Advisory Committee Executive Session

Opening Remarks: Bob LeMay noted that due to a long agenda and the number of people attending, public comments will be limited to two minutes per person.

The following items have been added to the agenda: Town Manager, Stop 29 Agreements, and Haas Proposals for CCMG Grant.

Police Department: Chief Swistek reported that in May the Department handled 255 calls for service with a total of 21 incident reports resulting in 10 misdemeanor arrests and 1 felony arrest. They are currently investigating two cases on home improvement fraud. Chief Swistek encourages anyone entering a home improvement contract to get everything in writing and to not pay in advance more than necessary. The Department has sent out reminders about fireworks (information is on the Town web site) and about keeping vehicles locked at all times. The Department made 96 traffic stops resulting in 36 moving citations and 44 warning tickets.

Bob LeMay saw an e-mail regarding a neighbor concerned about trash sitting out front (refuse, not a trash receptacle). It states in Ordinance 93.04 that the Town Council can appoint an enforcement officer. Bob LeMay moved that the Town Council appoint Chief Swistek as the enforcement officer for such issues. Mary Lou McFadden seconded the motion. Chief Swistek expressed that he was willing to take on that responsibility. The motion passed with four ayes and one abstention.

Police Commission: John Wall deferred to Chief Swistek who reported the recommendation on stop signs for Moore Road was tabled until data could be collected this week. Then the Police Commission will make a recommendation to the Town Council. They updated everyone on the upcoming summer schedule and indicated there will be additional patrols out over the July 4 holiday weekend.

Volunteer Fire Department: John Wall reported for the Volunteer Fire Department. In May, they received calls for one hazardous condition, one false alarm, and two fires. There have been 47 medical year-to-date, with calls in May for 2 heart attacks, 1 injury, 5 sick persons, 1 unconscious victim, and 3 lift assists. The average response time was 4.3 minutes for fire calls and 4.2 minutes for medical calls year to date.

Fire Commission: John Wall reported that the Fire Commission is working on a plan for the fire station and fire truck in conjunction with the Budget and Finance team. They will have an ice cream social on July 3; the Police Department will also have a squad car and an ATV there to expand town interaction. They are getting hazardous materials training and had a small hazardous material call last month. There is a truck maintenance issue on one of the department's newer trucks but the fire service guys are coming out to look at it. The FDIC show in Indianapolis is in August.

Street Department: John Wall reported for Tom Dolph. They mounted the pressure washer for the Police Department. They cleared drains and worked on catch basins in new drains installed with the paving project as well as existing drains. Ten new catch basin inserts, at a cost of \$1,600.00, were purchased and will be paid for by the MS4 Board. They have been mowing grass and installing pylons at Stop 24, some asphalt patching and yard work at Stop 22; removed some steps at Stop 28; also patched some potholes and trimmed along the roadways.

Street Commission: The Street Commission will not meet during the summer as it is an extremely busy time for the Street Department. The new CCMG paving project is in the works. They hope to have the engineering work authorized this evening.

Community Center: John Kocher reported that the Community Center is ready to open as soon as the Town Council gives its approval. The cooling system is on. Hopefully, things will be back to normal soon.

Park Board President Zach Neff was present tonight and reported that the garden clubs have been getting the grounds around the Community Center looking good.

The summer camp has 75 campers registered. The 15 spots for tennis were filled within 12 hours. They are looking into ways of expanding that program in the future.

The Park Board needs some guidance for the movie in the park event. They are also working under the assumption that masks will be optional or following CDC guidelines for campers in the Community Center.

The Carry In/Carry Out policy has been working very well. Residents can get trash bags from the Park Board if they wish to do some beach clean up; e-mail the Park Board to request the trash bags.

The Stop 16 residents wanted to do some work installing matting to make access to the beach easier. The Park Board acquired the building permit, and the residents took on the project and completed it. They did a nice job.

At Stop 20, the metal stairs have been installed. The steps have not been buried into the sand to prevent possible future damage.

At Stop 21, steps have been completed and were opened to public use on Memorial Day weekend. There is still more work to be done at that stop. A board walk will be added from the base of the stairs to the base of the wall.

At Stop 24, there is currently a steep slope. They have applied and been granted a building permit to install some stone steps into that slope.

At Stop 28, erosion has made it difficult to get down to the beach. A contractor looked at it this morning and will present a quote to improve the area.

At Stop 29, they will not be doing any work in the near future. There is very little beach there, and the water level is too high.

Stop 23 will look like Stop 21 does today when we can get the needed approvals.

Water Board: Mary Lou McFadden reported that the Water Board is working on the job description for Assistant Water Superintendent; Austin is taking his exam to be the Assistant Water Superintendent. They have an opening for a part-time position to do Accounts Payable and the general ledger. They have made a job offer and should be hearing in the next day or so on whether the offer is accepted and a start date.

Also discussed were the new accounts for vacant lots for the storm water, a small claims suit Chris Willoughby is helping them follow up, and a water tank prevention protection program for which Greg is getting some numbers. They approved an adjustment for over \$5.

Their next meeting will be June 28.

Budget and Finance: Bill de Funiak reported they are still waiting on the tax receipts, hopefully arriving this week. We have a \$1,000,000.00 commitment and work that has been performed for beach remediation and the rest of the paving expenses from last year. We still have \$2,000,000.00 in the bank. Mike Johnstone and John Wall are working on a capital expenditure. Bill will send out the Gateway with last year's budget as a working document.

Human Resources Advisory Committee: Bill de Funiak reported they are waiting for the acceptance from the new Water Department employee. Camp Director Sarah Plooster has some summer camp counselors that will need to be added to the payroll system and I-9 forms to be completed.

Bob LeMay questioned why the Employee Handbook was not on the web site. Bill stated that it can be and will soon be.

Building Commission: There have been two meetings. On May 14, the following applications were reviewed. 1701 Ardmore applied for a garage but there are several issues; that will have to go to the BZA. A garage request at 2910 Belle Plaine was denied and sent to the BZA. There are issues at 1802 Lake Shore Drive with that construction. There were not three parking spaces on that property. It needs to be brought back to pre-construction grade and the buttresses need to be removed as much as possible. At next month's meeting, the Building Commission will decide what to do about the non-compliance. That same property put in a request for some landscaping; that was denied because our ordinances state that when a property is not in compliance a new request cannot be considered. 2320 Lake Shore Drive has stairs leading down to Stop 24. They wanted to do some work and those stairs will have to be removed at the same time.

At the June 11 meeting, there was a request for exterior work at 2003 Lawndale that will have to go to the BZA as they have a nonconforming lot. Also, a request for 1524 needs to go to the BZA as the lot is too small. At 2943 Lake Shore Drive, on the south side of Lake Shore Drive, they want to put in a "pump and haul" septic system, anticipating the new sewer system in the next year. However, the Health Department told them they have to put in a whole new septic system. Unfortunately, we have no control over the Health Department.

Board of Zoning Appeals: 2616 Lake Shore Drive was scheduled for public hearing on July 13. With the proposed work at 1409 Lake Shore Drive, there was concern about their plans in terms of fire risk, decreasing property values for neighboring properties, and drainage issues that construction might create. That request was denied.

Advisory Plan Commission: The Commission has set the combined lakeshore protection ordinance for public hearing at their next meeting. The solar ordinance and the right-of-way ordinance continue to be works in progress. The request to change the address of 2403 Lake Shore Drive to 2402 St. Lawrence was approved.

Building Permit Revenue for May, 2021:

28 permits totaling \$955,448.00 with Revenue of \$12,324.00

7 Electric permits issued totaling \$1,331.00 with Revenue of \$133.10

May Legal Expenses paid were \$8,495.00 to Braje, Nelson & Janes

These reports and claims were approved unanimously on a motion by Bob LeMay and seconded by Mike Johnstone.

Old Business

Town's Executive Order Update: It was decided the Community Center could be opened for the summer camp with no masks but maintaining social distancing. The building will be open as it was before. There were no objections. Movie in the Park, Tai Chi, and Art in the Park were all approved with no objections. A roll call vote of the Council indicated all approved of these actions. Mary Lou McFadden moved that Town Hall be opened while continuing to require masks for the sake of our employees. Bob LeMay seconded. Motion passed unanimously.

July 4th Festivities: While this is not a "Town-sponsored" event, the Civic Association will have food trucks and a beer tent, parade, fireworks, and ice cream on Sunday as well as other items commemorating the Town's 150th anniversary. Bill de Funiak mentioned that in the past the Town paid half for the porta-potties with the Civic Association paying the other half; it will be the same this year. All members of the Council were in favor of these plans going forward.

LSD Sewer Update: John Wall reported that about eighty e-mails have come in. He is trying to group the questions together to answer similar questions at once. Several people have already submitted their locations for the laterals. Some contractors as well as Dave Ashcraft, formerly with Michigan City Water, have been helping with this. The engineering is proceeding. We are on target with the dates we proposed for the project. Bill de Funiak reported that three or four residents have dropped off drawings of where their laterals should go. John Wall will pick up that paperwork. They would prefer these items be submitted electronically.

Stop 24 Project Update: A community outreach program has been set for June 29 at 6 p.m. at Stop 24 where they will talk about what has been done on that project.

Ordinance #2021-09: An Ordinance Establishing the Town of Long Beach Tree Ordinance Under Title IX, Chapter 99 of the Long Beach, Indiana Town Code is ready to present. Bob LeMay moved to suspend the rules. John Wall seconded. Motion passed unanimously. Bob LeMay moved to pass the ordinance. Mike Johnstone seconded. Motion passed unanimously. Bob LeMay moved to suspend the rules to consider the ordinance on second reading. John Wall seconded. Motion passed unanimously. Bob LeMay moved to approve the ordinance on second reading. John Wall seconded. Motion passed unanimously. The ordinance is passed.

Salary Ordinance: John Wall noted that the salary ranges match up, but there are some places where salaries don't match with the spreadsheet that was approved. Some of the officers and other staff are not correct. This will be dealt with at the special council meeting on June 16.

Police Retirement Health Benefits: The Town has been paying 100% of the health insurance premium for retired officers until they reach 64. Mary Lou McFadden, with Chief Swistek's

assistance, has checked on this with surrounding communities' practices. The Human Resources Committee has discussed this, but because Mary Lou didn't have the details with her, this item is tabled until next month.

Silvertip Lane Easement: This item has been put on the back burner and can remain tabled.

CHAP Agreement - Liability: Chris Willoughby reported that we do not have all the answers we need from our insurers at this time. Paul Fithian reported that, time wise, we can wait until next month for that. The next steps on this will be to get the town ordinances passed to allow the use of compound bows and crossbows in Long Beach for deer hunting and for practice. He has a list of almost thirty archers who will go through a proficiency test and safety training. Several homeowners have offered locations for deer stands; we still need more homeowners to contact Paul to offer their property as a deer stand site. Chris Willoughby reminded everyone that the signing of the CHAP letter is to go ahead with funding. There is still a lot of process to go through before the plans are finalized.

Water Board: We have been considering restructuring the Water Department to bring it under the auspices of the Town Council. This will not change how the Water Department functions nor will it affect the employees. It will streamline decision making and will make the chain of command more obvious. We have a proposed ordinance before the council: An Ordinance of the Long Beach Town Council Amending and Restating Title III, Chapter 33, Sections 33.045, Et Seq. (Department of Waterworks) of the Code of the Town of Long Beach, Indiana. Bob LeMay moved to consider this ordinance. John Wall seconded. Motion carried with four ayes and one abstention. Bob LeMay moved to pass this ordinance on first reading. John Wall seconded. Motion passed with four ayes and one nay. The Council will consider the second reading at its next meeting.

New Business

Electronic Meeting Resolution: Attorney Willoughby explained that this policy resolution meets the requirements of the state legislature and the Association of Indiana Municipalities. After the Governor's current Executive Order expires on June 30, this resolution allows the continuation of electronic meetings and public participation. This resolution closely mirrors the current version of the statutes that will take effect July 1. In addition, every governing body (commissions and committees) will need to formally adopt the same resolution for themselves, if they are so inclined, to take advantage of the same opportunities to meet electronically. Returning to electronic audience participation or in person participation at Council meetings in the Town Council room has not yet been addressed. Bob LeMay moved to pass this resolution, **#2021-002: A Resolution of the Town Council of Long Beach Indiana Establishing the Policy by Which Members of the Town Council May Participate by Electronic Means of Communication.** Mary Lou McFadden seconded the motion. The motion passed unanimously. Willoughby noted that the County has the ability to have Council meetings with public participants on Zoom. They could be a resource on how to do this; However, at least 50% of the meetings have to be in person.

Marquette Greenway Letter: The Northern Indiana Regional Planning Commission (NIRPC) is seeking a grant to help pay for the Marquette Greenway, which is a bike trail from New Buffalo, Michigan to Chicago, Illinois. They would like a letter of support from Long Beach. Bob LeMay moved to sign this letter of support. Mary Lou McFadden seconded. The motion passed unanimously.

Silver Sky Cyber Security Proposal: We have received a proposal from Silver Sky, which helps service the town's website. It will cost us at least \$6 per computer, with six computers free. We have also talked with a local company. John Wall heard from them today and will distribute the proposal from them to the other Council members. Bob LeMay moved to table this matter until the meeting on Wednesday, June 16th. Mary Lou McFadden seconded. The motion passed unanimously.

Sign Ordinance: When we passed the sign ordinance, Chapter 152 was not deleted from the ordinance. Chapter 152 deals with outdoor advertising, including placing real estate signs on properties for sale. Therefore, we have ordinances which contradict each other. If we delete Chapter 152, it will streamline the ordinance and place the ordinance within the Zoning provision. Bob LeMay moved to consider **Ordinance #2021-10: An Ordinance of the Long Beach Town Council Deleting Title XV, Chapter 152 (Outdoor Advertising) of the Long Beach, Indiana Town Code;** John Wall seconded. The motion passed unanimously. Bob LeMay moved to delete Chapter 152. Mike Johnstone seconded. The motion passed unanimously. Bob LeMay moved to suspend the rules. Mary Lou McFadden seconded. The motion passed unanimously. Bob LeMay moved to delete Chapter 152 on second reading. John Kocher seconded. The motion passed unanimously. Chapter 152 has been deleted.

Toter Ordinance: This is a mistake from American publishing, who publishes our ordinances. In 154.108, they took out the portions about noise, light, air, liquid, and solid pollution. We did not formally delete those portions. It looks like they printed the Toter ordinance as 108 and 109. Chris Willoughby and Bill de Funiak will contact American Publishing to get this straightened out. Bob LeMay moved to authorize Chris Willoughby and Bill de Funiak to contact American Publishing and take care of it. Mary Lou McFadden seconded. The motion passed unanimously.

Stairs at Stop 28: This was discussed earlier in the meeting.

Fairway Drive area "dedicated" roads: This issue has to do with a road we do not have on the Town's list of roads. Therefore, we cannot get CCMG money to repair that road. We have a homeowner who would like to have that road repaired. This pertains to other roads in that area as well. John Wall has talked to Haas Engineering, and they are working on getting this done.

Town Manager: The question is whether or not we want to hire a Town Manager and who. We have two candidates. John Kocher moved to offer the post of Town Manager to Craig

Phillips subject to submission of a mutually agreeable salary and benefits package and also subject to an updated job description policy. Mike Johnstone seconded. The motion passed on four ayes and one nay. Bob LeMay will schedule a special executive session to discuss salary and benefits, starting date, and job description.

Stop 29 Agreements: We have negotiated with the homeowners by Stop 29 to stop beach erosion. The Building Commission has approved the plan. There are four projects and one that has been completed. Chris Willoughby stated there is a Memorandum of Agreement with some of the residents regarding the project and the Town's involvement as well as allowing some improvements to be done for the benefit of the Town. There are also some unrelated project agreements with the residents. The projects approved by the Building Commission require access to their properties as well as Town property. The town property to the left of the Osborn property has been identified as the ideal spot for this access. There is a licensing agreement that allows those residents access through their contractors with the agreement that they will indemnify the Town in regard to claims in connection with the construction and that they will return the property to as good as or better condition than prior to the construction. John Wall stated we have been working on getting another portion of the shoreline protected. These agreements will keep the Town protected during the construction process. In addition, we have negotiated the settlement of long-standing legal issues and will remove some old existing permits which will settle all of these old issues. John Wall moved that the Town sign the Memorandum of Agreement and the Licensing Agreements. Bob LeMay seconded. Discussion noted there is a tentative verbal agreement regarding cost sharing with the residents, but there is nothing in these agreements that obligate the Town in this regard. The motion was passed unanimously.

Haas Proposal for CCMG Grant: Bob LeMay moved to approve the proposal. Mike Johnstone seconded. This commitment is contingent that once the bids are in, we have the ability to reduce the scope of the project, which also reduces the scope of engineering. The motion passed unanimously.

Public Comments

Anita Remijas had several comments. 1) Why aren't agendas on the website? 2) She was concerned about the Town employees being safe from people walking in without masks. Perhaps disposable masks could be provided for those who walk in without them. 3) Congratulations on moving forward to revamp the Water Department. 4) Regarding the deer hunt, she and several of her neighbors are adamantly opposed to the deer hunt in its present form and proposal.

Jeff Brenner commented as a Board Member of the Stop 21 Club. They would like to come to closure with the project there; there are a few outstanding issues. He would like to know the best way to get the project completed. They have the signed easement agreement and there is a lot of construction debris on their property at the dune. They feel it has not been put back completely. That should probably be done before they begin renovation. Also, fencing that

was taken down needs to be replaced along with track marks over the property and displacement of landscaping. Bob LeMay suggested he talk with Larry Wall and Zach Neff. Attorney Willoughby also offered to help with some of these issues. John Wall commented that they are in limbo in getting materials to complete the stairs and the fencing.

Mary Kowalski questioned if the hang tag system is still in place for the large parking lot by the Town complex. Chief Swistek responded that they have new placards available at the Town Hall. Each resident is eligible for up to four placards. If you bring in your previous placard you can replace it with an updated one. The Police Department has been monitoring the lot.

Donna Kavanaugh had various comments. 1) Thank you to Attorney Chris Willoughby for straightening out that the deer hunt project is not being “pushed” through. 2) She lives at Stop 21 and would like to know, in writing, what is being planned for the public part of that Stop, which she has been decorating for 25 years without asking for help. 3) Why are we being pushed into the deer slaughter? There are a lot of people against it. She would like to get a walking list for all residents of Long Beach with permission to talk with each resident about their opinion. She proposes using birth control darts on the deer instead. Bob LeMay responded that birth control does not work, and he knows of someone whose dog was killed by a deer just two days ago. He will not be responding in writing as he is addressing her concern now. The Town Council has not made a decision yet, but is moving in that direction.

Abby Neary could not unmute her phone and asked Anita Remijas to express her opposition to the deer hunt.

Bill Cusack wondered if there is a time line for the repair on Stop 28. It is a dangerous situation. Bob LeMay responded that the Park Board is trying to get the problem resolved as quickly as they can.

Dr. Juhasz thanked the Town Council for passing the tree ordinance. She went on to say that the EPA has approved immune-contraceptives for deer. We need to talk about ticks and preventing lyme disease. We need a master gardener to talk about how to optimize plantings. She asked that there be an opportunity to talk about the deer issue in a calm and thorough fashion.

C-T Bill de Funiak announced his impending retirement. Since he was elected as a Republican candidate, he will be working with the Republican party to find a suitable replacement. He will stay as needed to work with the person who replaces him. Any Republican interested in this position is asked to contact him. Bob LeMay commented that Bill will be missed.

Council Comments

There were no further Council comments.

Claims Approval: Checks #18067 through #18162 totaling \$218,726.87. Payroll for May was \$69,091.67. Bob LeMay moved that claims and payroll be approved. Mary Lou McFadden seconded; motion passed unanimously.

The meeting was adjourned at 8:48 p.m. with a motion by Bob LeMay and seconded by Mary Lou McFadden. The motion passed unanimously.

Respectfully submitted,

Bill de Funiak,
Clerk-Treasurer