

**Town of Long Beach  
Town Council Meeting  
Community Center  
July 12, 2021  
7:00 p.m.**

Council members Bob Lemay, John Wall, Mary Lou McFadden, Mike Johnstone, and John Kocher participated in the online Zoom /in person for the public meeting along with Clerk-Treasurer Bill de Funiak, Police Chief Mark Swistek, and Attorney Chris Willoughby of Braje, Nelson & Janes. There were also many 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:

Town Council meeting of June 14, 2021, approved on motion by Mike Johnstone, seconded by John Kocher.

Special Council Meeting of June 16, 2021, approved on motion by Mike Johnstone, seconded by John Wall.

Town Council Executive Session of June 18, 2021, approved on motion by Mike Johnstone, seconded by John Kocher.

**Opening Remarks:** Bob Lemay noted that only Council and Committee members will have access to the meetings on Zoom. All others who want to attend the meetings will have to be in person. Mary Lou McFadden has heard from some residents who cannot attend in person due to limited mobility and wondered if there is some way they can listen in on the meeting. John Kocher mentioned that Pulaski County has a way of broadcasting county meetings where people can watch and possibly respond via text message. He will look into that.

The following items have been added to the agenda: under Old Business—cybersecurity, Town Manager update, deer hunting ordinance, Stockwell Woods land transfer, paid time off policy for employees, State Board of Accounts response, budget process; under New Business—potential Tree Board appointment, Hackberry tree in the park, Stop 15 ADA access, Storm Water grant possibilities, ARP application procedure, staggered elections for the Town Council.

**Police Department:** Chief Swistek reported that in May the Department handled 223 calls for service with a total of 11 incident reports resulting in 6 arrests, 5 misdemeanor traffic-related offenses and 1 felony OWI. They had to dispatch two injured deer. On July 4 weekend, there was one arrest at Stop 35 of an out-of-state person arrested for battery, and three mailboxes were destroyed as the result of fireworks.

In the past couple of weeks, the Department has been working on ordinance violations around town. There have been only 11 properties with boats, campers, or jet skis on the property. There is a town ordinance prohibiting these items being parked or stored on one's property.

They also found three abandoned vehicles in the town. The owners have been given ten days to remove the vehicles, after which the vehicles will be towed.

Chief Swistek reminded everyone to take all of your items home with you after visiting the beach.

**Police Commission:** John Wall deferred to Chief Swistek, who reported that the July meeting was cancelled. The next meeting will be the first Thursday in August at the Town Hall.

**Volunteer Fire Department:** John Wall gave the Volunteer Fire Department report. In June, they received calls for one hazardous condition and five false alarms, for a total year-to-date number of 22 calls. There have been 61 medical calls year to date, which is significantly higher than last year. For June, there were calls for two heart attacks, one respiratory injury, seven sick persons, and three lift assists. The average response time was 4.5 minutes for fire calls and just under 4.5 minutes for medical calls year to date.

**Fire Commission:** There was no Fire Commission meeting in June. They would like to thank everyone who attended the Ice Cream Social. It was a great event and they had a record turnout. There was also participation from Chief Swistek and his police department.

Chief Swistek and John Wall attended a Lakeshore Safety Committee meeting with the Michigan City Fire Department, DNR, Coast Guard, and other agencies. There are now pre-plans in place for waterfront issues. We had two calls for missing persons along the lakefront over the holiday weekend. Both persons were found in a very short time, thanks in part to the Lakeshore Safety Committee and streamlining the coordination between organizations in these situations.

**Street Department:** Tom Dolph reported that a lot of time was taken up preparing for the July 4th holiday weekend. They swept a lot of the area, cleaned drains, cleared a lot of trees and limbs from the streets after the heavy rains, mowed the town parks, and painted some widened stop bars at the busy intersections. More will be painted when the weather is dry again. They are checking on the drain near the Town Hall, which is running slowly.

**Street Commission:** The Street Commission has not met during the summer as it is an extremely busy time for the Street Department. We did get an award of community grant money for paving for 2021 of around \$350,000.00. We are working on finalizing the grant projects from last year.

**Park Board:** Anita Remijas reported for the park board that John Kocher pointed out to the Board that there is some misinformation out on social media. Anita reminded everyone that the four Park Board members are very responsive to questions sent to their e-mail and that they meet the fourth Tuesday of each month at 6 p.m. The 2022 Park Board budget will be discussed at the August meeting.

Town Stop Updates:

At Stop 21, the major work is complete. There will be a fence installed at the top of the wall for safety. There will be a water fountain installed at the dog station at the bottom. There will also be a picnic table placed there.

Stop 23 continues to be a Town Council project until the wall and stairs are completed. The Park Board would like an update from John Kocher or John Wall.

Stop 24 is completed. There was a community outreach held on June 29. Several residents attended. The stairs have been done, there is a railing installed, and the beach seems to be quite busy.

Regarding Stop 28, they met with John Wall, Tom Dolph, and some residents. The wood stairs and landing are not an immediate concern. We hope to replace it in the spring. Nothing can be done until we know who is going to be paying for what. We have quotes for the stairs. Dead trees will be removed and landscaping will be done. The Tree Board is working with the Park Board to see what trees can and cannot be removed.

Overall, the 4<sup>th</sup> of July went very well. There was only one incident at one stop with trash removal.

**Community Center:** John Kocher reported they did not meet because of the holiday. Their next meeting will be the first Monday of August at 4 p.m.

Bill de Funiak mentioned Hal Higdon, a resident who has written books on running. For many years, except last year, they have scheduled their 4<sup>th</sup> of July 5K run. Hal's son, Kevin, who now runs, raised the runners' fee from \$5 to \$10 in order to bring more money to the Town. This year they had 100 runners, and he just donated \$1,000.00 to the Town. Bill asked for a round of applause for this effort, and those in attendance applauded.

**Water Board:** Mary Lou McFadden reported that the Water Board met June 28th. They talked about working with Karl Cender for funding the Water Department's Lake Shore Drive project when the town puts in sewers.

The department has hired a woman who will work 12 hours a week on Thursdays and Fridays. She is a retired CPA who has a good background and has written grants. She has started as a volunteer because she has a contract with a university in Illinois and cannot start before September 1.

We still have a small claims case on a customer who moved and owes about \$500. Chris Willoughby is looking out for us on this case.

They are working on the fire protection program. There are vacant properties, and the dept. is finding out if those properties are billable for the fire protection program. Lynn is working on this.

Greg was looking into a program, like a service warranty or a protection plan, for the water tank. It might be too expensive. That is now on hold.

Lynn has done a lot of work on simplifying the water bills residents will be receiving.

Their next meeting will be July 26.

**Budget and Finance:** Bill de Funiak reported that the town receives its tax receipts at the end of June, receiving about \$715,000.00. We also received about \$50,000.00 from Blue Chip Casino for June. We have some significant expenses coming up for beach remediation and the CCMG project. The next Budget and Finance Committee meeting will be at 8:30 a.m. on Wednesday.

**Human Resources Advisory Committee:** Bill de Funiak reported they met last Thursday, the 8<sup>th</sup>, to discuss a paid time off policy for the Town's employees. It is a work in progress. We will have a meeting at 6 p.m. on Wednesday to discuss it in more detail with the Town Council.

**Building Commission:** Bob Lemay reported that the Building Commission met on June 9. There was a discussion with representatives from Shoreland Hills. Stop 31 is dedicated to Shoreland Hills although it is part of Long Beach. There were complaints about a porta-potty placed there. We don't allow porta-potties at our stops, and they did not get approval to place it there. It was decided the porta-potty should be removed at the end of the month. Also, it was initially approved that they could put a rope fence along that Stop near Lake Shore Drive, but it should be six feet back. They were concerned about people parking there, and it appears the rope fence is less than six feet back. They will need to go to BZA for approval or it will need to be moved back six feet from the road. They have installed a number of signs there that were not approved; that will need to go to the BZA as well.

The Commission discussed the number of stairs that have been built up to sea walls on public trust property. A letter will be sent from our town attorney giving those homeowners two weeks to remove the stairs, which were built without permits.

1802 Lake Shore Drive: A house was built that did not comply with the approved plan. The Commission decided to begin enforcement on that.

2600 Belle Plaine: A wrought iron fence was built close to the pavement, which creates a public hazard for people walking along the road. It was built with a permit to place it there; the permit was to place it further back. The Building Inspector will take a look as it is in the wrong location. If the fence is not removed the Town will have to remove it. Also, a very large play house was built without a permit.

1612 Indianapolis: The attorneys are dealing with that. It is another structure built without a permit.

The Building Commission will meet again on August 13.

**Board of Zoning Appeals:** No report. It will be presented at the next Council meeting.

**Advisory Plan Commission:** Bob Lemay reported that last month the Commission worked on the Solar ordinance. There was a public hearing on the proposed amendments/restatement of the Shoreline Protection ordinance. Thirty people spoke in opposition to it. A motion was made by Seth McCormick and seconded by Anita Remijas to send it to the Town Council. Motion passed on a 5-2 vote.

Building Permit Revenue for June, 2021:

20 permits totaling \$452,572.00 with Revenue of \$5,533.00

1 Electric permit issued totaling \$161.00 with Revenue of \$16.10

1 Street Cut permit with \$100 Revenue

June Legal Expenses paid were \$9,860.50:

\$9,337.50 to Braje, Nelson & Janes, and

\$523.00 to Ogletree, Deakins, Nash, Smoak & Stewart, PC

These reports and claims were approved unanimously on a motion by Mary Lou McFadden and seconded by Mike Johnstone.

### **Unfinished Business**

**Town's Executive Order Update:** Currently the Community Center is completely open. People who are not vaccinated are asked to wear masks, and social distancing is to be maintained. At the Town Hall, we are still asking everyone to wear masks to protect our employees. Bob Lemay moved we continue with these policies. Mary Lou McFadden seconded. The motion passed unanimously.

Bill de Funiak suggested we defer full rent because the business of the current renters in the Community Center is not robust and has not picked up.

**LSD Sewer Update:** John Wall reported that the final engineering is in the design stages. We have received a good response from homeowners on where they would like the lines placed.

**Stop 24 Project Update:** The community outreach program was held June 29. The project is now complete.

**Salary Ordinance:** It was reported that Karl Cender has asked that we defer this until August. Bill de Funiak is satisfied with the numbers in the ordinance.

**Police Retirement Health Benefits:** Mary Lou McFadden reported that the Human Resources Committee has completed their work on this. She has received the numbers from the surrounding communities. This item will be deferred to the next meeting.

**Second Reading of Ordinance 2021-11re: Amending and restating Title III, Chapter 33, Sections 33.045, Et Seq. (Department of Water Works) of the Town Code:** Chris Willoughby stated that the Town should codify to whom the various departments will immediately report. We are in a position to go ahead with the second reading of this ordinance. John Wall moved that we approve this ordinance on second reading. John Kocher seconded. Mary Lou McFadden reported that she has heard from two of the current Water Board members that they would not stay on the new Water Commission. The motion passed on second reading with a vote of 4-1. As of now, the Water Department reports to the Town Council. Bob Lemay will reach out to current Water Board members as the Town Council would like all of the Water Board members to remain as members of the advisory commission.

Chris Willoughby suggested that the Street Commission and other Boards be codified, which they currently are not. Bill de Funiak mentioned that the current Water Board is paid \$600.00 twice a year. He questioned that as this Board is disbanded, will the second payment go away? It was agreed that it does. John Wall suggested there be an administrative meeting with the Town Council, the ongoing Water Commission members to work through the transition.

**Cyber Security:** The Town Council met with two cyber security firms. After meeting with them, we talked with Jim McCay, who currently handles our computers. He is in the process of making an inventory of all our equipment and the different agencies involved. We are waiting for his report. We need to defer a decision on this until we have a better handle on where we are at.

**Town Manager:** We made an offer to a candidate for the position of Manager of the Town of Long Beach. Unfortunately, that candidate took another position. There was another candidate who did not seem to be a good fit for our needs. Bob Lemay will reach out to him and let him know we are going in another direction.

**Deer Hunt Ordinance:** This is an ordinance to allow a deer hunt if we decide to have one. Chris Willoughby advised that this ordinance is unnecessary as the current ordinance prohibiting the discharge of a bow in the Town “unless lawfully permitted.” The exception is there if we decided to use bows for the deer hunt; it has been in place since 1981.

**Stockwell Woods Land Transfer:** At one point, the Town Council passed a resolution to transfer a parcel of land the Town owns in Stockwell Woods to Save the Dunes so it would permanently remain undeveloped. Save the Dunes has now done their due diligence and is ready to receive the property. Bob Lemay moved that he, as President of the Town Council, be

permitted to sign the deed completing this property transfer. Mike Johnstone seconded. The motion passed unanimously.

**Paid Time Off:** We will have a meeting to discuss this at 6 p.m. on Wednesday. The reason for this is to combine sick leave and vacation time into one category of paid time off. Otherwise, people have been scheduling their sick time to be sure they get all two weeks of sick time.

**State Board of Accounts Response:** We will have a response by the deadline, the week of July 26. We are on schedule for that.

**Budget Process:** We are also on schedule for the preparation of the budget by that deadline. Karl Cender and his assistant are working with Bill de Funiak on that.

### **New Business**

**Town Priorities List:** John Wall is waiting for the ranking of the priorities by the Town Council members. Once he gets that, he will have the list and ranking ready for discussion at the next meeting.

**Building Commission:** Mary Lou McFadden expressed a concern that our Building Commission has more power of decision than any other Commissions or than any Building Commission in similarly sized communities. They are the only Board with the power to sue a resident. That power to sue should be within the Town Council. When the Building Commission is aware of a violation of building ordinances, they should recommend that the Town Council sue the resident. This would take an amendment to the building ordinances. John Wall mentioned that any amendments to the building ordinances have to go to the State Fire and Building Commission Board in Indianapolis for review. Someone needs to present the specific language proposed for this change. Mary Lou McFadden and Mike Johnstone will work with Chris Willoughby on this.

**Moore Road Traffic:** Chief Swistek reported that at the May Town Council meeting there was a request via mail for two stop signs along Moore Road from Lake Shore Drive to US-12. From May 28 until June 17, the Police Department placed the radar speed tracker at Moore Road at Westgate. We tracked a total of 9,338 vehicles. This is a 25 mph zone. Of those tracked, 53% of the vehicles were under the posted speed limit, and 46% of the vehicles were slightly over the speed limit. The combined average was approximately 28.85 mph, slightly over the posted speed limit. The excessive speed threshold for that particular survey was 35 mpg, approximately ten miles per hour over the posted speed limit. This data was shared with the correspondent and the Town Council, and a request was sent to the Police Commission. The Police Commission unanimously recommended to the Town Council that we not install stop signs along Moore Road. Chief Swistek made the same recommendation. The Police Department will continue enforcement of speeders in the area. The data showed that only 1.85% of the of the vehicles were in excess of the speed limit in that period of three weeks. Following these recommendations, the Town Council took no action on this matter.

**Shoreline Protection Ordinance:** The Advisory Plan Commission sent the supplied version of the ordinance to the Town Council with a favorable recommendation. There was a concern from a lakefront resident that the ordinance was taking away the ability for a person to replace an existing seawall. That was not the intent of the Advisory Plan Commission. Bob Lemay sent some suggested amendments to the Town Council members. Bob Lemay moved to make these amendments.

John Kocher moved that we eliminate 154.206.1 and replace it with the following:

- A) The construction of new permanent stairs or the repair of legally existing non-wooden permanent stairs are permitted.
- B) Construction or repair of existing stairs over shore protection structures on to the public trust property are allowed subject to DNR and/or Army Corps of Engineers regulations, if any. Structures attached by any means to lakeside seawalls are allowed subject to such structures being 42 inches or less in width and parallel to the shore protection structure, with the exception of Town beach stops, stairs over dunes on property without seawalls or revetments are permissible, as these structures tend to protect the natural dunes that protect lakeshore properties. Stairs over revetments are permitted as long as they are above the natural high-water mark. Retractable stairs are permitted. Wooden stairs are not permitted. Notwithstanding any of these provisions of this section, a permit still must be obtained to construct, repair, or replace stairs regardless of the value of the project.

Mike Johnstone seconded John Kocher's motion. We have 90 days from June 24 to make these amendments. It was suggested we review this amendment and deal with it on Wednesday. Chris Willoughby recommended that Wednesday would be too soon. The Council needs to make sure all provisions are compliant with the law and to remember what the Town's jurisdiction is versus the DNR's jurisdiction, etc. As it is now, if the Council does nothing, the Town's jurisdiction is that stairs legally existing now can be repaired and stairs are allowed if you have a permit from the governing agencies and nothing affects the Town's jurisdiction. The matter will be tabled until next month.

**Tree Board Appointment:** Anyone in the community who wants to be on the Tree Board should let one of the Town Council members know. This item will be deferred to next month.

**Hackberry Tree:** The hackberry tree by the playground was trimmed a great deal on one side by NIPSCo and now leans over the swing set. Also, the ground on the trimmed side of the tree is bumping up where the roots might be loosening from the ground. It is a very old tree. The Tree Board recommends an arborist come and build supports on the tree and meter how much the tree continues to lean. This would cost \$3,600.00. Tom Dolph has a verbal quote from Maple City for \$2,600.00-\$2,800.00 to take the tree down, depending on how close it is to the gas line. Bob Lemay moved that we have the tree taken down. Mike Johnstone seconded. John Wall commented that although the Tree Board recommended trying to save the tree, it is a danger to the children and now a potential problem with the gas line. Dr. Yuhasz spoke in favor of trying to save the tree as it is about the same expense as cutting it down and the arborist would trim some off of the heavy side of the tree. The motion passed unanimously.



**Stop 15 ADA Access:** In the past, we have considered putting in ADA access, but our grant request was denied. Now that Stop 24 is complete, we might have a better chance of getting a grant to make Stop 15 ADA accessible. John Kocher moved that we pursue a grant to make Stop 15 ADA accessible. Bob Lemay seconded. The motion passed unanimously.

Also, there are some grants available for storm water management. Jeff Ohlmann of Global Engineering suggested we might be able to get a grant to help with that project. Karl Cender also thought ARPA funds may be available for that. Bob Lemay moved that we authorize Jeff Ohlmann to pursue that grant. John Wall seconded. The motion passed unanimously.

**ARP Application Procedure:** We previously voted to apply for this grant. Bill de Funiak had the paperwork prepared for Bob Lemay's signature and the Town was ready to apply for the grant. Dr. Lemay signed the forms.

**Staggered Elections for Town Council:** Every four years we elect a new Town Council. It is possible that five new Town Council members could be elected at one time. It was suggested that the elections be staggered. Bob Lemay suggested that after the next election, the five Council members draw straws; the three who draw short straws would have 4-year terms, and the two who draw long straws would serve a 2-year term. John Kocher also mentioned that we might want to have Town elections the same years as state and national elections so we don't have to pay for the elections. Chris Willoughby stated that there is a process to go through to determine the staggering of terms and when elections are held. Once it is changed, it cannot be changed again for another 12 years. Chris will work on that language.

**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**

Nancy McGee requested the speakers have microphones as it is hard to hear in that room.

Jane Neulieb opposed taking the power to sue for compliance away from the Building Commission now that they are enforcing the ordinances. Also, she supports the idea of not building stairs on the public land.

Tony Lissuzzo wanted clarification of stair ordinances and was concerned that there was a lack of responsiveness to public comments. Also, there was a concern that the codes had not been updated since 2019.

Mark Douglas requested that all amendments for the Shoreline Protection ordinance be available on the website.

Anita Remijas took exception to the comments about lack of transparency. These issues, such as the Shoreline Protection ordinance, have been discussed every month for over a year when meetings were available on Zoom. She encouraged people to be involved and attend the meetings.

Mike Haggerty wondered if the storm water grant could work in tandem with the Lake Shore Drive sewer project.

Several residents made comments about the proposed deer hunt. There were 13 comments against the deer hunt or at least having a moratorium on the hunt and 2 comments in favor of the deer hunt.

### **Council Comments**

There were no further Council comments.

**Claims Approval:** Check #18163 through #18223 totaling \$128,670.18. Payroll for June was \$68,147.38. Mary Lou McFadden moved the claims be approved. Mike Johnstone seconded. The motion passed unanimously.

The meeting was adjourned at 9:19 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