

TOWN OF LONG BEACH
TOWN COUNCIL MEETING at Town Hall
via In Person / Zoom
March 13, 2023
7:00 p.m.

Present at Town Hall were Council members Mary Lou McFadden, John Wall, Mike Johnstone, and John Kocher, Police Chief Mark Swistek, Attorney Chris Willoughby of Braje, Nelson & Janes, and Clerk-Treasurer Tim Perry. Council Pres. Bob Lemay, Becky Lempa and Marilyn of Marilyn Jones & Associates, Karl Cender of Cender & Co. and approximately 15 other people attended through Zoom this evening. ALCO TV was present to record this meeting for television access. This meeting is being recorded for the record.

Kocher chaired the meeting; it was called to order with roll call at 7:00 PM followed by the Pledge of Allegiance. All votes will be by roll call this evening.

Council meeting minutes of February 13, 2023 were approved with a correction on page 6, paragraph 2. "Council will require a special meeting on March 20th to award bids". Approved 4-0 with a motion to approve the amended minutes by Wall and second by McFadden. February 15th executive meeting minutes and February 28th special council meeting minutes were also approved 4 – 0 with motion and second by Johnstone and McFadden.

Department/ committee reports were read. These council meetings are recorded and are on the town's website for viewing. In brief:

Police Department- Chief Swistek gave the report for the month of February 2023; 230 calls for service; 18 incident reports. Highlighting 2 cases: Officer Sightes responded to an incident in Town of Michiana Shores on February 15th where he administered Narcan on an unresponsive male due to an overdose from Fentanyl. On patrol February 26th, Officer Sightes observes a truck, very early in the morning hours, stopped in the road on Moore Rd, where gun shots were fired from the truck. Sightes calls 911 and activates his emergency lights and siren. The truck is followed across US 12 where the truck is eventually located rolled over in a crash at US 12 and Hwy 212. Sightes is working with witnesses to attempt to identify the driver who had fled the scene on foot. The full police report is on file. **Police Commission** will be meeting in April.

Town Administrator report by Chief Swistek – Golf cart registration is now open; \$100 for a 2-year permit with sticker. "Welcome to Long Beach" signs have arrived and will be installed soon at entrances to Long Beach public works. Pot holes are being filled; and the public works gentlemen are getting all equipment ready for spring cleanup.

Change to agenda: Bids will now be open for the CCMG-2022 –

Clerk-Treasurer Perry announced to bids had been received. Milestone North Inc. - \$278,905.95; Rieth-Riley - \$313,167.05. The bids will be handed over to Haas & Associates for their review.

Fire Department report for February by Yemc: There were 21 calls Y-T-D. 3 Fire calls and 7 medical calls in February. (Full Report on File) Fire Dept. training sessions have been taking place at a home in Long

Beach where the resident is preparing to demolish the house. The 1996 Chevy Suburban is being prepared for public auction. The Dept. will assist in sponsoring the Notre Dame's 5K run on the 25th.

Fire Commission- Monthly meetings have been changed to the first Thursday of each month at 5 PM. Councilman Wall noted progress being made with the Public Safety building design work. The was mention that our LBVFD will be receiving \$10,000 through LIT but hasn't been received yet nor any decisions made on how it will be used. Anita Remijas of 2300 Florimond Ave addressed the council about comments made from the public regarding the ages of fire department volunteers. Yemc provided background of the department and its members, i.e., there are 27 members of all ages; with required mandatory training; every Monday night training; a healthy mix on the roster. Nolah Gertner, Fairway Drive, asked about the geographic radius of members or residency requirements. There is recruitment outside of Long Beach for volunteers. Bob Boyce, 2926 LSD, asked if the town has members' qualifications and certificates on file in Town Hall. Wall states the town has never asked for them.

The **Public Works** committee met February 27th; topics of discussion were the Stop 17 drainage project; alleys, repairs and paving that wouldn't be covered by the CCMG, so those will be done as the town has the money for them. One alley mentioned is at Stop 23 by Hazeltine. March 27th is the next meeting.

Park Board met February 28th. Schmitt gave report. The park board will take the lead on the ADA stop project at Stop 15. They meet with Jeff of Global engineering to resurrect the 2019 plan for ADA access at Stop 15 and adding emergency vehicle access to the project. Surveys for Stop 19 and 29 are needed from the clerk's office to scope out work at those stops and notice encroachments at both stops. Zach Neff is coordinating dates with the Michigan City Parks for a beach cleanup. Mulch will be replaced at the playground. July 29th is the scheduled date for the 2023 Art in the Park, 10 AM to 3 PM. Schmitt mentioned possible EVP volleyball camps by Ross Balling. Summer camp tentative dates are June 19th through August 4th. The Park Board requests from council a public hearing to seek approval to access funds from reserves to supplement their 2023 budget. Additional Appropriations of approximately \$77,000.00. Kocher motions the council upon Swistek's request to announce or express their support of the EVP volleyball program in order for Balling to move forward with the plans for the program and with all that entails; second by McFadden, approved with a 4 – 0 roll call vote. Full Park Board report is on file.

There wasn't any report to give from the **Community Center Committee**.

Budget and Finance committee met on March 8th; Perry gave the report-2023 budget was reviewed; fund balances are on target; town voucher system will be implemented for the Clerk's office. Cender and Co. did the quarterly financial reviews. Discussed cash management with our bank. Perry says he's still looking for an invoice from Woodruff & Sons on the Stop 29 project. Discussed the fire truck financing but that was tabled. Wants to streamline the 2024 budget system. The Civic contract was signed today by Perry but not sent to Civic Systems yet.

The **Human Resources** committee did not meet in March. McFadden did state that interviewing is ongoing with a prospective hire for the water dept. clerk position; offering \$19.95/hr. McFadden motions to hire Diane Heitmann, already interviewed twice by HR committee members, and subject to Perry's interview with her; second by Johnstone; approved with aa 40 vote.

Ellen Lynch, 2225 Lake Shore Drive, stated the **Tree Board** has been working on amending the current Tree Ordinance. It was presented to the council today by email for council review. The tree board would love to work in partnership with the Street Superintendent, Tom Dolph.

Lemay was not available to give a report for the **Building Commission** but Swistek stated they will be meeting on March 24th at 1 PM.

Attorney Willoughby noted there was only one petition before the **Board of Zoning Appeals** meeting on February 14th; at 7:00 PM for a standard variance on a shed for the Duffy residence at 2211 Oakenwald Dr. which was approved. The **Advisory Plan Commission** did not meet in February.

Building Permit Revenue Report for February 2023: There were 17 permits issued totaling \$1,298,017.00 w/ Town revenue of \$13,983.00; and 6 electric permits totaling \$776.00.

Legal expenses paid in February totaling \$5,437.50 to Braje, Nelson & Janes
Lobbyist fees paid to Corydon Group totaling \$6,250.00

A motion made and seconded by Johnstone and McFadden to approve all committee and revenue reports + legal expenses; approved 4-0.

Unfinished Business:

Attorney Willoughby addresses the council to consider amending tonight's agenda to add to "New business" the line item to consider, a resolution for the additional appropriations, after the public hearing portion of the meeting for the additional appropriations not to exceed \$2,900,000.00 for the public safety building. Deanna added it had been added to the file copy agenda but because that resolution had been received over the weekend, after the packets had been prepared for council, the printed agendas for public viewing do not include the addition.

Term Limits and a schedule for review was distributed to council with the 13 standing committees and boards with all current members and their term limits. Johnstone mentions the term limits ordinance had been approved in 2022. He explained details of the terms; all went into effective in January 2023. (Schedule is on file) Swistek mentioned that in January of each year, the council president normally announces the appointments to each board and committee and that hasn't been done yet this year. Johnstone makes the motion to reaffirm the current appointments for the calendar year of 2023; McFadden seconds the motion; approved 4 – 0.

The draft of an ordinance pertaining to the vacant lots has been tabled.

SBOA suggested audit – Clerk Perry says the annual report was submitted. He says the SBOA will not come in to conduct random audits; we cannot hire an outside firm to conduct an audit. Perry says he spoke with Mitch Wilson, Government Technical Assistance & Compliance Director for the State Board of Accounts, who discussed with Tim concerns that Tim has. Tim stated the SBOA is "not too concerned about what's going on in our world and they seem relatively happy" and says "we are ok".

C-T Perry talked about the town going "to the cloud" and the minor increase in expenses

it would cost the town to go with this system. \$2,500 up front and \$480.00/mo. for hosting fees for 36 months which allows up to 4 people on Civic at a time, where currently it's only 3. He says this would fall under the \$10,000 expense for computer upgrades the council already previously approved. Willoughby says he has already reviewed the contract. Wall believes this is a very good investment. Wall motions 1) that the council approve Kocher to sign the agreement in Lemay's absent and 2) that council approves the expenditure at the rates Perry mentioned; \$2,500 up front, and \$480.00/mo. for 36 months. Second by Johnstone for both. Approved 4 – 0 for Kocher to sign; approved 4 – 0 to go ahead with contract.

Stop 17 & 18 project - Wall stated the drainage project has been a subject for about a decade now. There will be final design numbers for council once the design is complete and more information later. There was discussion by council. This project will be funded through Stormwater Funds.

Correction was made, and noted for the agenda, that the Stop 29 project (not stop 19) invoice is still required from Woodruff & Sons. Swistek stated a call to Bruce from Woodruff & Sons was made and Bruce guarantees the town will have a final invoice for Stop 29 by the April 10th council meeting.

New Business:

Notre Dame 5K run will kick off on Saturday, March 25th from the school at 8 AM at Moore Rd. Final logistics on the race will be shared with Swistek through an upcoming meeting with the school this week. Swistek recommends a motion from council to approve the race with minimal street closures. McFadden makes the motion to approve race; second by Johnstone; passed 4 – 0.

Two Penguins Projection Co. (Kate of the company presented to council a brief introduction) would like to lease space at the community center in May for minimum of 3 to 5 days to utilize room #12 and the atrium room. The board is in favor of it and Sarah Plooster confirms this will not interfere or overlap with the summer park board activities. To film a short Indy film, a spooky, 20-minute movie, in exchange for the donation of \$2,000 that can be used at the community center. They will provide proof of licensing, bond and insurance to the clerk's office. Motion to approve by Johnstone; second by McFadden and passed with a 4 – 0 vote.

Chief Swistek read a letter, for the record, from Save the Dunes: An Update from Save the Dunes-Stockwell Woods Nature Preserve, signed by Katie Hobgood, Program Director for Save the Dunes Conservation Fund (letter on file)

The current cyber insurance policy expires March 12, 2023. The premium for renewal is \$2,624.00, less than \$980.00 than last year. The renewal had been referred to K-Plus and they recommend the town renew cyber insurance for the town. A motion was made by Johnstone to approve the contract and to have the contract signed by Dr. Lemay upon his return. Johnstone restated and made a second motion to allow Kocher to sign the contract; second by McFadden and passed with a 4 – 0 vote. The motion made to approve the contract was seconded by McFadden and passed 4 – 0.

Swistek requests from council the approval to publish, starting March 14th, for auction, the two vehicles- a 2013 Black Ford Taurus Interceptor, "as is", from the police department, and a 1996 Red Chevy Suburban "as is", from the fire department. The bids will be closed at 7 PM April 10th at the clerk's office at which time the council meeting starts at 7 PM and the bids will be opened during the

meeting. Motion to approve by McFadden; second by Johnstone. Kudo to Brian Wright, a volunteer firefighter, who helped to decommission the '96 rescue vehicle, and Police Deputy Farthing who volunteered to decommission the police vehicle. Passed with 4 – 0 vote.

Perry spoke about SAM.gov where he applied for an I.D. in order to apply for grant money.

Discussion was had about the bank accounts and interest revenue the town could make. Perry said he and Johnstone reached out to Horizon bank. Johnstone made a motion to reach out and take advantage of Horizon Bank's offer to invest all the town's surplus money in their investment CD product, In compliance with the SBOA. Wall seconds the motion and it passed with a 4 – 0 vote. Perry said he'll make it happen this week.

The Public Safety Financing decision – Wall mentioned that Kocher had suggested a second method of financing, meaning a bank loan. Horizon Bank provided a proposal. Kocher's concern is that with dealing with so much money, he'd like a 3rd party take a look at the proposals we have. He suggests we employ Baker Tilly for their second opinion, for proper, legal steps, since it's a different procedure other than with straight bonding where there is substantial expense in securing bond counsel. Why \$60,000 to \$100,000 for bond counsel if going through a bank on a commercial loan? Kocher makes the motion to get council approval for him to call Eric Walsh of Baker Tilly for their opinion and costs. Johnstone agrees and seconds it. It passes 4 – 0. Johnstone says the council received interest from another bank that would like an opportunity to bid on this proposal. It should be considered since we're talking about approximately \$2,900,000.00. Karl Cender suggests soliciting to other banks for financing. Karl also suggests calling Jimmy Shanahan again and along with Attorney Willoughby, go through the questions. Kocher wants a 3rd party, not involved with Long Beach, for an unbiased opinion. Motion by Johnstone to allow Karl Cender to solicit other banks for proposals for financing for the public safety building; second by Wall; 4 – 0 approval.

Public Hearing to consider Additional Appropriations not to exceed \$2,900,000.00 for the Public Safety Building. This notice has been published in the local paper and posted 10 days prior to this council meeting. It reads:

An appropriation in the amount of not to exceed \$2,900,000.00 on account of the acquisition of real estate acquired in connection with the construction of a public safety facility (the "Project"), including the incidental expenses necessary to be incurred in connection with the Project. The funds to meet such additional appropriation are to be provided by the sale of real estate to the Long Beach Public Building Corporation. The Town will use the sale proceeds to pay for all or a portion of the Project.

This foregoing appropriation is in addition to all appropriations provided for in the existing budget and tax levy, and an extraordinary emergency for such appropriation exists by reason of the inadequacy of the present buildings to provide necessary services for the Town.

Kocher opened the public hearing to those in support of the resolution –

- Anita Remijas, 2300 Florimond Ave, announced her support of the resolution
- Ellen Lynch, 2225 Lake Shore Drive, supports the resolution
- Chris Collins, 2400 Florimond, (zoom) supports the resolution

- Zach Neff, 2312 Foxdale Trail, (zoom) supports the resolution
- Joy Schmitt, 1607 Oaks Court, (zoom) supports the resolution

Those opposing the resolution –

- Jim Dehner, 2300 Fairway Dr, opposes the resolution. Gave comments as to why with statistics from a 2021 census. Mentioned a lawsuit pending with Michigan City Sanitary District. Says the town paid out more last year than revenue in. We already bought a new fire truck for \$830,000.00+.
- Bob McFadden, 2714 Duffy Lane, opposes. Believes “the town is increasing our debt”. Does not think we should enter into the leases to sell off real estate to a separate corporation and then lease that to build.
- Nolah Gertner, 2302 Fairway Drive, She asked the council if the they have “Articles of Incorporation” for the Building Corporation; have they been filled out? Have copies of them? Do we know the business background of the three gentlemen who make up the LB Building Corporation? If the property is sold, will property taxes be paid on the property? Are they “not for profit”? What statute are they filed under? What happens if the corporation wants to sell this property?
- Ernie Summers, 2711 Elbridge Way, is confused about the additional appropriation. Is it \$400,000.00 more than the \$2,500,000.00, or another \$2,900,000.00 not exceed? Has this been run through the board of accounts to see if it exceeds credit limits? Is there an opinion from an accounting firm or Cender as to whether this will be a debt problem?
- Bob Boyce, 2926 Lake Shore Drive, believes “this is about not being able to afford what you want”. “We wouldn’t be discussing it if the money was available already. This is not short term. It will be 23 – 24 years and not knowing what will exist down the road, whether it be the building corporation that would be formed, or the fire department. It’s a case of spending money you don’t have”. There should be regrouping and trying to spend within the town’s budget. We just bought a fire truck, bought a rescue vehicle, now a fire station?

Public hearing portion of the meeting was then closed by Kocher.

John Wall moves to approve the Resolution #2023-____: Additional Appropriation Resolution. There wasn’t a second to this motion. Willoughby gave counsel to the council at this point in time. Kocher states the motion dies for lack of second. It will be tabled/continued at the next available meeting date, to be announced.

Wall states the first payment for the Public Safety Building is due at the end of March, which is \$50,780.00. Another is due at the end of April. Notice to proceed had already been given to the contractor. Perry has the check written but is holding it pending approval from council to mail. Wall moves to pay it as part of expenditures this month. Wall gives the council “a warning” regarding the contract commitment with Holladay we have. “If you all a reneging on this, I need to know about it tonight”. Willoughby reiterates that “the approval of the written contract was subject and pending final decision of financing”. Johnstone make it clear that council is “stepping back until there is a second opinion on it. We will expand it to other banks on the financing side. We have not finalized that aspect of it nor have we validated the contract because of this. Wall disagrees with the validity of the contract. There was further lengthy discussion by council. Wall tells the council “a second invoice will be due by the end of April for about \$25,000.00”. Willoughby states that the delivery of the contract , the contract

will be in effect upon decision regarding financing. But there was a notice to proceed and there is some work being done to date that was previously authorized. Kocher seconds the motion to pay the invoice. McFadden suggests holding off until after talking with Baker Tilly. Wall says “the Building Corporation has already been formed and the process will continue”. The vote was 2 to 2, tied. Tiebreaker goes to Clerk Perry. Perry doesn’t understand the financing yet and until there is more discussion on that; Perry votes nay on sending the payment out which is due March 31st. He would like 2 weeks.

Public Comments:

Anita Remijas, 2300 Florimond Ave., comments that “these meetings are not fun and games! Decisions need to be made. People should come to the meetings”. Questioned Clerk Perry’s time at the office and his responsibility to the town.

Bob McFadden, 2714 Duffy Lane, comments again on the leasing deal for the building. The “cap” keeps changing since the town doesn’t really know how much it’s going to cost.

Jim Dehner, 2300 Fairway Drive, comments on the details of the contract with Holladay Design.

Perry read the claims for approval: Town Checks #19584 – 19665 totaling \$184,598.83; Water Dept. checks #54666 – 54678 totaling \$97,572.45; February 2023 payroll - \$74,497.42 A motion to approve by McFadden; second by Johnstone; approved 4-0.

Motion and second to adjourn by McFadden and second by Johnstone, approved 5-0.

Meeting adjourned at 9:10 PM.

Respectfully submitted,

Deanna Carlson,

Deputy Clerk