

Minutes
Long Beach Town Council
Town Hall
Long Beach, Indiana
June 11, 2012

Following the Pledge of Allegiance, the meeting was called to order at 7:00 P.M. by Council member Robert Angelo. Dr. Angelo stated that Mr. Schaefer was unable to attend the meeting tonight and that he would preside over the meeting. The following Council members were present: Robert Angelo, Peter Byvoets, Patrick McDonald and Jane Neulieb.

Also present were Attorney Jeff Thorne and Clerk Treasurer Bill deFuniak, Police Chief Sulkowski, Fire Chief Dave Albers, Street Superintendent Tom Dolph, and Building Commissioner Paul Fithian. There were approximately 90 residents were in attendance.

Dr. Angelo took a minute to thank individuals who have contributed their time in different areas, Jane Moon for gardening; Mary Joy for note taking; Pat Eckenstahler and Carol McMahon for gardening; Jim Neulieb for painting the Water Plant building; and Pat McDonald for working with Civic to repair the brick pillars throughout the town. Also a get well to Barbara deFuniak.

Approval of Minutes – Dr. Angelo noted that three sets of minutes needed to be reviewed and approved. The regular council meeting of May 14, 2012; the minutes of an Executive Session held on May 29, 2012; and the minutes of a Special Meeting held on June 7, 2012.

Discussion followed and the following motions were made:

MOTION to approve the Minutes of the regular council meeting of May 14, 2012 was made and seconded and approved by a unanimous vote of all present;

MOTION to approve the Minutes of the Executive Session held on May 29, 2012 was made and seconded. Jane Neulieb indicated that she had changes to the minutes and would talk to the Clerk regarding the proposed changes and the proposed changes will be presented at the next regular council meeting for approval. Motion to approve the minutes was tabled.

MOTION to approve the Minutes of the Special Meeting of June 7, 2012 was made and seconded and approved by a unanimous vote of all present.

Police Department Report – Chief Sulkowski delivered a report for the month of May, 2012. Chief Sulkowski reported that there were 402 calls 105 walk-ins and a breakdown of the traffic and ordinance violations was presented. Overtime hours - 44. The Chief noted that items have been reported stolen from parked cars and reminded everyone to lock their cars when parked in front of their homes.

Police Commission Report – Dr. Angelo reported that there was no Police Commission meeting in May, 2012.

Fire Department Report - Chief Albers delivered a report for the month of May, 2012. To date there have been 17 Fire Calls, 13 of those in Long Beach, 3 in Duneland Beach and 1 Mutual Aid in Michiana Shores.

26 Medical calls to date this year, 21 of those were in Long Beach, 5 in Duneland Beach. Average response time for Fire calls was 3.15 minutes; average response time for Medical calls was 4.44 minutes. The estimated value of donated hours to the Town is \$27,500.00.

Chief Albers noted that the annual Ice Cream Social will be held on Friday, July 6, 2012 from 6:00 P.M. to 9:00 P.M. All are invited to attend.

Fire Commission Report – There was no meeting in May, 2012.

The next meeting is scheduled for Monday, June 18, 2012 at 7:00 P.M. at the Fire Station.

Street Department Report - Tom Dolph noted that the playground area at the Community Center has been mulched and mulch has been provided to various Bus Stops and the Town Hall. The sand at Stop 21 is scheduled to be removed and the area cleaned up. Pat McDonald commented that both Tom and Greg worked over a weekend to assist NIPSCO by locating water lines so NIPSCO could fix a gas leak. Also at the same time a tree fell across Karwick and had to be removed. Mr. McDonald thanked the Street Dept and the Water Dept. for their good work in these matters.

Mr. McDonald noted that there will be a Street Dept. meeting this week. Mr. McDonald also noted that the front end loader brakes are in need of repair. He noted that it is a 1977 unit and an estimate for repairs would be approximately \$22,000. He further noted that a new unit would cost approximately \$80,000.00. Following discussion it was noted that since safety is an issue with this unit that the brakes should be fixed as soon as possible.

A MOTION was made, seconded and approved by all present to authorize the repair of the front end loader at an estimated cost of \$22,000.00.

Mr. McDonald also noted that a leaf vac may need to be replaced. This will be passed on to the Budget and Finance Committee for review.

Park Board – Jane Neulieb recapped the activities of the Park & Recreation Board at their May meeting. It was noted that the Community Center is now being cleaned on a regular basis. The repair of the overhang at Stop 28 is pending the repair of construction equipment necessary to fix the overhang. It was noted that the Water Board has turned over the maintenance of the Water Works Building at Stop 24 to the Park & Recreation Board. Maintenance issues at the Bus Stops should be directed to the Park & Recreation Board for review and/or action. The Water Works Building was recently painted by resident Jim Neulieb. Garbage cans are now located at all Stops. Melrose Park is in need of mulch and the equipment should be power washed. The Summer Camp program is scheduled to begin June 18, 2012. The Garden Club has been doing work throughout the Town. It was noted that any property in need of attention should be directed to the Town Clerk.

Community Center Report - Mr. McDonald noted that there were minor repairs to the HVAC system at the Community Center. Also, he is researching the installation of a hot water unit for the washrooms in the Community Center. The units would be the on-demand type of unit and would require minimum electrical power source to operate.

Mrs. Neulieb reported on the progress of the Community Center Committee and noted that an assessment of the building will be forthcoming. The Community Center minutes are available for review online.

Water Board Report

Dr. Angelo reported that the 2 water mains will be replaced. The Board authorized payment for the paint for the Water Works building. The next meeting of the Water Board is scheduled for June 25, 2012 at 9:00 A.M.

Budget & Finance Committee Report - Mr. Pete Byvoets reported that the new server has been installed. He further noted that following: a new leaf vacuum may need to be purchased; a \$10,000 bill has been received from Fanning and Howey for past services regarding the Water Works Building; \$377,000 has been received from the State of Indiana; a request for budgets will begin next month.

The next meeting of the Budget & Finance Committee is scheduled for June 13, 2012 at 8:30 A.M.

Building Commission – Mr. Paul Fithian noted that the Building Commission had met recently and the minutes are available on the Town website. In addition, the Commission will be meeting quarterly in the future and questions need to be submitted in writing prior to the meeting.

It was further noted that the need to remedy the right-of-way encroachments as they may affect public safety was discussed. Violations will be sent to the Land Use Attorney of the Advisory Plan Commission for further action.

Building Permit Report - Mr. deFuniak reported the following Building Permits:

14 Building Permits, Cost of \$1,532,956.73; Fees of \$8,510.00
41 Sand Moving Permits Costs of \$24,050.00; Fees of \$2,050.00
Total Costs: \$1,557,006.73 Total Fees: \$10,560.00

4 Electrical Permits totaling \$338.00; Fees: \$33.80

A MOTION to approve the reports as submitted was made, seconded and approved by a unanimous vote.

OLD BUSINESS

Update on 30-day Rental Enforcement - Mr. Thorne reported on the status of the 30-day rental enforcement. He noted that a copy of the Lease will need to be filed with the Town Clerk as well as posting a copy at the rental home to be available upon request by the Police Department.

A MOTION was made by Pete Byvoets and seconded by Jane Neulieb to send these recommendations to the Plan Commission for further action. Motion carried by a unanimous vote of all present.

Resident Parking Sign behind Town Center - It was noted that the sign behind the Town Center states that parking is for Residents and Guests of Residents Only. Further, it was noted that the Ordinance does not match the sign. Mr. Byvoets recommended that the Ordinance regarding parking behind the Town Center be amended to include Residents and their Guests only.

A MOTION was made to send this request to Attorney Thorne to work on the Ordinance amendment. Motion approved unanimously.

Septic Ordinance Update – Mr. Byvoets indicated that he has been working with Haas & Associates regarding the Septic Ordinance. He requested an amount not to exceed \$2,500 to continue working on the Ordinance recommendation. A MOTION was made, seconded and approved by all present to approve the request for \$2,500.00 to work on the Septic Tank Ordinance.

IT Support – No report at this time.

Engineering Firm Update – Mr. Byvoets noted that he is continuing to work on this with the Land Use Attorney. He noted that the Engineering Firm will assist the Building Commission and Commissioner in reviewing large scale projects as well as reviewing all Codes and Ordinances in the Town.

Advisory Plan Commission Update - Mr. Byvoets noted that the Advisory Plan Commission will be meeting within the next two weeks.

Sand Removal Update - A recap of the permits issued for this matter was discussed.

NEW BUSINESS

Abandoned/Poorly Maintained Homes - Mr. Thorne stated that the Town has a Nuisance Ordinance that can address this issue and that any abandoned home, or unkempt area should be forwarded to the Town Council with pictures. Mr. Thorne noted that the Town Council can take action through the Nuisance Ordinance. Mr. Byvoets will collect the information.

Garbage Containers - Mr. Byvoets noted that refuse containers need to be removed from the street in a more timely manner. Mr. Thorne noted that there is an Ordinance in this regard; however, the Ordinance needs to be consistent with the contract with Able Disposal. Some individuals may need door service and the Council will inquire if Able Disposal will initiate that service for individuals who can't bring the containers out to the street. Mr. deFuniak will contact Able Disposal with regard to this matter.

Financial Control Request – Mr. deFuniak requested a financial accounting for the Town. He also noted that funds are available for this accounting. He will present a proposal to the Council at the July meeting.

Other Council Comments – With regard to Sand Moving Permits, Mr. Byvoets noted that there is a need for “After” pictures of the work that was performed. Mr. Paul Fithian noted that Mr. Owens will take the pictures.

PUBLIC COMMENTS

Attorney Michael Knight from the firm of Barnes & Thornburg, was in attendance at the meeting to discuss a proposed resolution for Long Beach that would amend resolution No.10.002. The proposed Resolution addresses the validity of the DNR’s website as it relates to the Ordinary High Water Mark and the Town of Long Beach Resolution No. 10.002.

A full presentation followed wherein Mr. Knight described his client's position as to their property rights along the shoreline and his meeting with the Indiana Department of Natural Resources.

Copies of the State of Michigan and State of Ohio Supreme Court rulings were discussed as both decisions uphold private ownership to the water's edge.

Mr. Knight noted that the Chief Council for the Indiana Department of Natural Resource, Cameron Clark, could not produce any document or finding that the State owns the property below the high water mark. He noted that the proposed Resolution is presented as a remedy for his clients without litigation.

Dr. Angelo opened the meeting to questions from the floor:

Sean Kasmarek asked about title, deed and public use by the community. Mr. Knight responded that deeds define property ownership, and noted the 5th Amendment protection of private property.

Pat Cannon stated that he has met with residents and read a statement that outlined his thoughts and the feelings of a group of residents regarding beach ownership. Mr. Cannon stated that his group believes that the State of Indiana owns the beach from the "high water mark" to the lake.

Peg West inquired what the residents who oppose private ownership want as to beach ownership.

Dean Uminski addressed the Council with regard to the way the Tax Board has addressed the homes along the lake on Lake Shore Drive. He noted that they are assessed at a much higher rate than homes not along the lake.

Ted Reese inquired about the beach rules concerning dogs on the beach. It was noted that this issues is unclear and needs to be defined.

Dr. Angelo asked for closing comments and indicated that no decision will be made tonight on this matter.

Micky Gallas asked for a clarification of riparian rights and littoral rights. Mr. Knight confirmed that although littoral, the term riparian is used interchangeably with regard to Lake Michigan. Ms. Gallas noted that Realtors depend upon a legal description in all real estate transactions.

Discussion followed with regard to the Executive Session that was held on May 29, 2012. It was noted that the no action was taken at that time by the Council.

Dr. Angelo asked Mr. deFuniak to proceed with the claims report.

Claims Approval – Mr. deFuniak noted that the claims for the month of April are as follows:

Check Nos. 10414 through 10482 in the amount of \$173,514.00; Salaries for May, 2012 in the amount of \$50,649.79.

A MOTION was made and seconded to approve the claims as presented. Motion carried unanimous vote of all present.

With no further business to come before the Council, the meeting was adjourned at 9:30 P.M.

Respectfully submitted,

By: _____
William deFuniak, Clerk Treasurer