

Newburgh Town Council Meeting

Date: Wednesday, April 9, 2014

The Newburgh Town Council met in Executive Session on Wednesday, April 9, 2014, at 4:30 p.m. Those present at the meeting were Council President/Council-at-Large Leanna K. Hughes, District I William F. Kavanaugh, District II Tonya R. McGuire, District III Alonzo B. Moore, Jr., District IV Anne Rust Aurand, Clerk-Treasurer Jon E. Lybarger, Town Manager Lori Buehlman and Town Attorney Christopher C. Wischer. The purpose of the meeting was discussion of personnel matters and pending litigation.

5:30 p.m. Committee and Regular Session, Newburgh Town Hall, 23 W. Jennings, Newburgh, Indiana.

CALL TO ORDER

Council President Leanna K. Hughes called the Regular Session to order at 5:38 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Newburgh Town Council and Troop 330 Boy Scouts.

ROLL CALL

Those present at the meeting:

District I - William F. Kavanaugh

District II - Tonya R. McGuire

District III - Alonzo B. Moore, Jr.

District IV - Anne Rust Aurand

Council-at-Large - Leanna K. Hughes

Clerk-Treasurer - Jon E. Lybarger

Town Manager - Lori S. Buehlman

Town Attorney - Christopher C. Wischer

APPROVAL OF MINUTES

MOTION by Mrs. McGuire to approve the March 26, 2014 Town Council meeting minutes.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

SCHEDULED REQUESTS & APPEARANCES

1. Nick Johnson – Eagle Scout project

Nick Johnson, 8411 Roberts Ridge Road, Newburgh, Troop 330, and freshman at Memorial High School introduced an idea to enhance the trail with a kiosk and chimney swift bird habitat as his Eagle Scout project. A preview of the project, cost analysis and timeline were presented.

MOTION by Mr. Kavanaugh to approve Nick Johnson's Eagle Scout project, option one (1) as presented, 16 inches wide by 12 foot tower, concrete base & T1-11 plywood construction, four-sided kiosk constructed around the tower, 4x4x12 ft. dimensions for the kiosk, 4X4 ft. panels fitted on all sides with hinged acrylic doors, kiosk and lower half of tower sheltered by a roof, at the Aurand Trail Head at no cost to the Town.

SECOND by Mr. Moore.

DISCUSSION: A concern on keeping the kiosk clean was voiced. Mr. Johnson stated there would be only one pair of swifts nesting in the tower.

MOTION carried: ayes 5, nays 0.

## 2. Steve Shoemaker – Donation of grass seed

Steve Shoemaker, 518 W Water St., Newburgh, stated his company, D2 Land & Water Resource, is interested in providing grass seed and materials for the lot next to the Edgewater. Mr. Shoemaker will utilize enhanced seeding principals and nutrient level bio-stimulants to produce grass that is drought and flood tolerant. Mr. Wischer stated the plats for the area have been recorded and the deed to the Town will be forthcoming. Mr. Shoemaker will be contacted when the council is ready to move forward on this project. Council members expressed their thanks.

## PETITIONS AND COMMENTS FROM CITIZENS PRESENT

None requested.

## UNFINISHED BUSINESS

### 1. Ordinance 2014-01 – Amending Title 13 to Allow a Special Use Permit for Electronic Message Signs, Tabled March 12, 2014

MOTION by Mr. Kavanaugh to remove from table Ordinance 2014-01, Amending Title 13 to Allow a Special Use Permit for Electronic Message Signs.

SECOND by Mr. Moore.

MOTION carried: ayes 5, nays 0.

MOTION by Mr. Kavanaugh for the first reading of Ordinance 2014-01, Amending Title 13 to Allow a Special Use Permit for Electronic Message Signs.

SECOND by Mr. Moore.

Discussion: An amendment in the ordinance will be heard following the second reading.

MOTION carried: ayes 4, nays 1 (Ms. Aurand).

Mr. Wischer read Ordinance 2014-01, an ordinance amending Title 13 of the Newburgh Code of Ordinances to allow a special use permit for electronic message signs.

MOTION by Mrs. Hughes to amend to 400 feet Subsection E, Subsection 7, which states ‘no electronic message signs shall be permitted within 200 feet of an existing electronic message sign’.

SECOND by Mrs. McGuire.

Discussion: Mr. Wischer stated a positive vote would send the ordinance back to the Plan Commission for further consideration. These signs can be placed only in areas designated as commercial. Ms. Aurand stated the Plan Commission voted 4 to 1 on the proposal but did not have the opportunity to view the map showing the number of businesses within 200 feet of each other. The ordinance also states an electronic message sign cannot be placed within 200 feet of a residential area.

MOTION carried: ayes 4, nays 1 (Ms. Aurand).

Mr. Wischer will revise the ordinance and send it to Ms. Buehlman who will present it at the next Plan Commission meeting. The Plan Commission can amend it in any way it feels necessary.

## NEW BUSINESS

### 1. Action Pest Control 2014 Mosquito Program

Ms. Buehlman stated the contract is in the amount of \$10,359.69 and represents an increase of \$300.00 from 2013. Action was the only company responding to the proposal request.

MOTION by Mr. Kavanaugh to approve the Action Pest Control 2014 Mosquito Program in the amount of \$10,359.69.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 4, nays 1 (Mrs. Hughes).

A 5-minute recess was called at 6:16 p.m. The meeting was reconvened at 6:24 p.m.

Motion by Mr. Kavanaugh to open the Public Hearing to consider adoption of Ordinance 2014-02 regarding rates and charges for the sewage works.

SECOND by Mr. Moore.

MOTION carried: ayes 5, nays 0.

Mr. Wischer stated the ordinance will establish new sewer rates for the Town of Newburgh to allow upcoming sewer projects at an estimated cost of \$7.5 million. The rate will increase 4% each year for three (3) years effective May 1, 2014, January 1, 2015 and January 1, 2016 for both in-town and out-of-town residents. All customers were notified via U. S. postal service of the proposed increase and the information was published in The Standard. Doug Baldessari of Umbaugh and Associates and council members responded to the questions and comments from the following: Richard Sorenson, Patricia Stocks, Dominic Martin, Marvin Dame, Tracy McConnell and Angel Woolsey.

Motion by Mr. Kavanaugh to close the Public Hearing to consider adoption of Ordinance 2014-02 regarding rates and charges for the sewage works.

SECOND by Mr. Moore.

MOTION carried: ayes 5, nays 0.

## 2. Ordinance 2014-02 – New Schedule of Sewer Rates

MOTION by Mr. Kavanaugh for the first reading of Ordinance 2014-02, New Schedule of Sewer Rates.

SECOND by Mrs. McGuire.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

Mr. Wischer read Ordinance 2014-02, an ordinance establishing a new schedule of rates and charges to be collected by the Town of Newburgh from the owners of property served by the sewage works of the Town and other matters connected therewith, amending Ordinances No 1987-1, 1989-8, 1990-30, 1998-1 and 2001-3, 2002-7, 2005-1, 2008-14 and 2009-4.

MOTION by Mr. Kavanaugh to accept the first reading of Ordinance 2014-02, New Schedule of Sewer Rates.

SECOND by Mrs. Hughes.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mr. Kavanaugh for the second reading of Ordinance 2014-02, New Schedule of Sewer Rates.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

Mr. Wischer read Ordinance 2014-02, an ordinance establishing a new schedule of rates and charges to be collected by the Town of Newburgh from the owners of property served by the sewage works of the Town and other matters connected therewith, amending Ordinances No 1987-1, 1989-8, 1990-30, 1998-1 and 2001-3, 2002-7, 2005-1, 2008-14 and 2009-4.

MOTION by Mr. Kavanaugh to adopt Ordinance 2014-02, New Schedule of Sewer Rates.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

3. Ordinance 2014-03 – Issuance and Sale of Sewage Revenue Bonds

MOTION by Mr. Kavanaugh for the first reading of Ordinance 2014-03, Issuance and Sale of Sewage Revenue Bonds.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

Mr. Wischer read Ordinance 2014-03, an ordinance authorizing the acquisition, construction, installation and equipping by the Town of Newburgh, Indiana of certain improvements and extensions to the Town's sewage works, the issuance and sale of revenue bonds to provide funds for the payment of the costs thereof, and for the refunding prior to maturity of certain previously issued and currently outstanding sewage works revenue bonds, the issuance and sale of bond anticipation notes and anticipation of the issuance and sale of such bonds and the collection, segregation and distribution of the revenues of such sewer works and other related matters.

MOTION by Mr. Kavanaugh to accept the first reading of Ordinance 2014-03, Issuance and Sale of Sewage Revenue Bonds.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mr. Kavanaugh for the second reading of Ordinance 2014-03, Issuance and Sale of Sewage Revenue Bonds.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

Mr. Wischer read Ordinance 2014-03, an ordinance authorizing the acquisition, construction, installation and equipping by the Town of Newburgh, Indiana of certain improvements and extensions to the Town's sewage works, the issuance and sale of revenue bonds to provide funds for the payment of the costs thereof, and for the refunding prior to maturity of certain previously issued and currently outstanding sewage works revenue bonds, the issuance and sale of bond anticipation notes and anticipation of the issuance and sale of such bonds and the collection, segregation and distribution of the revenues of such sewer works and other related matters.

MOTION by Mr. Kavanaugh to adopt Ordinance 2014-03, Issuance and Sale of Sewage Revenue Bonds.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

4. Heritage Federal Credit Union – Sanitary Sewer Agreement and Permit

MOTION by Mr. Kavanaugh to table the Heritage Federal Credit Union Sanitary Sewer Agreement and Permit.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

COMMISSION REPORTS

AIR AUTHORITY - Ms. Aurand

No report.

BOARD OF ZONING APPEALS – Ms. Aurand

Ms. Aurand stated the next meeting will be held on April 28, 2014.

FIRE - Mr. Moore

Mr. Moore stated the Chief is working on the specifications for a new fire truck.

HISTORIC PRESERVATION - Mrs. McGuire

Mrs. McGuire stated a meeting is scheduled for tomorrow evening but a quorum will not be present. Sherri Green has resigned from the HPC due to scheduling conflicts.

PARK – Mrs. Hughes

Park Board met on April 3, 2014. Kyle Underhill, the 2014 Pool Manager, was introduced. Mr. Underhill has worked for the Town in other areas for three (3) summers. The American Legion Auxiliary requested the use of the Lock and Dam Park for their annual Easter Egg Hunt on Sunday, April 13, 2014 with a rain date of April 19, 2014.

13 lifeguards, all returning from last year, were hired. The remaining staff will be hired at the May meeting. The Street Department continues to work on the old batting cage area.

The board approved hiring Tri-State Painting to sand blast the pool deck edge to remove years of built up paint at a cost of \$3,284.00. Gerald will re-caulk and apply new paint in the next few weeks.

The Lock and Dam has been used 12 times in the first three (3) months of the year and is booked almost solid from April through September. The cottages have been used nine (9) times this year and are booked 25 nights in May; 14 nights in June; 16 nights in July; and 24 nights in August. The Shelter is reserved 16 days for the 2014 season.

The Park Board voted to allow rental of the gazebo at \$30.00 a day. This would allow a guaranteed reservation. If someone wants to use the gazebo and not pay the fee, it is available on a first-come, first-served basis. A paid reservation would allow Town staff to post a sign showing the gazebo has been rented and will be in use that day.

The Rivertown Trail 5K Run will be held on May 3, 2014 and an 8K run has been added.

A member is needed for the Park Board. According to the Town ordinance, this member should be appointed by the Library Board.

Mrs. Hughes requested a brochure be made for all Town rentals.

MOTION by Mr. Kavanaugh to allow Joe Smith use of the West Cottage on April 24, 2014 at no cost.

SECOND by Mrs. McGuire.

DISCUSSION: Mr. Smith has been assisting the Town with legislation in Indianapolis. He will be in Newburgh for a scheduled meeting.

MOTION carried: ayes 5, nays 0.

PLAN – Ms. Aurand

Ms. Aurand stated the BZA met on March 24, 2014. The Plan Commission met on April 7, 2014. The Hendrickson Harold Minor Subdivision was created which includes the Betty Lou Hendrickson and Laura Sanders property on East Jennings. The property line was redrawn to include the gazebo with the house facing Jennings Street. A total of 18 permits were issued in March 2014 for 14 projects amounting to \$970.00 in permit fees and a total valuation of \$53,750.00. The number of permits has nearly doubled compared to the 2013 first quarter and resulted in an increase of approximately \$1,000.00 in permit fees.

POLICE – Mr. Kavanaugh

Police Chief Sprinkle stated the Castle High School prom was held last weekend. Police directed traffic as needed. Approximately 500 people were on the riverfront. The Police Commission will meet April 14, 2014 with Executive Session at 4:00 p.m. and Regular Session at 4:30 p.m.

MOTION by Mr. Kavanaugh to allow the use of the Trolley to transport prom attendees from the elementary school to the riverfront.

SECOND by Mrs. McGuire.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

STORM WATER – Mr. Kavanaugh and Mr. Moore.

Mr. Kavanaugh stated the next meeting will be held on April 21, 2014. Flooding caused by the recent 6 inch rain will be discussed.

STREETS – Mr. Moore

Mr. Moore stated the Street Crew repaired the washout and sinkhole on River Bend Court. All debris caused by flash flooding was removed throughout the Town. The roadsides on Sharon, Frame and W. Main were cleaned along with a ditch in front of the Old Stone House. The holly bushes along French Island Trail were trimmed and the flower beds downtown were cleared of weeds. A street sign was replaced at Clark Street and Prince Drive. Draining issues were discussed with the Knob Hill manager. The batting cage removal project and the pothole blitz continue.

UTILITY – Mrs. Hughes

MOTION by Mrs. Hughes to engage Commonwealth Engineers, Inc. (CEI) for engineering assistance concerning sanitary sewer repairs needed in the sanitary sewer main between Manhole (MH) 10-216 and MH 10-213.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve replacement of single phase pumps and control panel at Darby Hill lift station with a new control panel, Variable Frequency Drives and 3 phase pumps not to exceed the amount of \$28,811.15 from K & M Specialty Pumps, Inc.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve replacement of a defective Wastewater Treatment Plant (WWTP) recycle stream flow meter not to exceed the amount of \$7,393.00 plus freight from Chesley Associates, Inc.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to accept the low quote for the Lincoln Avenue sanitary sewer repair not to exceed the amount of \$6,000.00 from Hydromax, Inc.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to accept an offer of settlement in the Boston Pizza case Fats Oil and Grease (FOG) violation case. Boston Pizza will pay legal fees incurred for Bamberger, Foreman and Hahn and fines waived due to grease interceptor non-compliance.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to engage CEI for engineering assistance in the evaluation of the Monoform manhole rehabilitation.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve the change order for CEI for air permitting contract not to exceed \$3,000.00 from original contact amount due to IDEM changes.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to engage CEI to submit contracts for projects on the 2014 Project list.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

#### STANDING COMMITTEES

FINANCE – Mrs. Hughes

No report.

PERSONNEL – Mr. Kavanaugh

MOTION by Mr. Kavanaugh to hire Paul Dobrzynski for his 11th summer with the Street Department at the rate of \$10.50 per hour. This is a seasonal, temporary position with no benefits and hiring is conditional on a negative drug screen.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mr. Kavanaugh to hire Dakota Pullum for his 2nd summer with the WWTF at the rate of \$8.75 per hour. This is a seasonal, temporary position with no benefits and hiring is conditional on a negative drug screen. This is a seasonal, temporary position with no benefits and hiring is conditional on a negative drug screen.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mr. Kavanaugh on the recommendation of Leon Key, WWTF Superintendent, to approve the tuition reimbursement for James Musser in the amount of \$125.00 upon successful completion of the HACH Simplified Methods for Nutrient Testing. The class will be held November 19, 2014.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

SPECIAL BOARDS/COMMITTEE REPORTS

RIVERTOWN TRAIL – Mr. Kavanaugh

The committee will meet on April 21, 2014 at Town Hall at 10:00 am.

SIDEWALK – Mrs. Hughes

No report.

ARTS PAVILION – Mrs. Hughes

Mrs. Hughes stated three members of the committee met on April 7, 2014. The next meeting will be held on May 5, 2014 at 5:30 p.m. at Town Hall.

ZONING ADMINISTRATOR – Commissioner Ms. Aurand

Mrs. Hughes requested the council discuss the hiring of a part-time Zoning Administrator at the next meeting.

CLERK-TREASURER – Mr. Lybarger

Mr. Lybarger stated he met with a representative from Edward County Bank regarding leasing and will meet with Mr. Moore to discuss the conversation.

TOWN ATTORNEY – Mr. Wischer

Mr. Wischer stated he thanked State Representatives Holly Sullivan and Vanetta Becker for their work with House Bill (HB) 1187.

A demand letter was mailed to the Attorney General's office regarding the State's backing out of the Highway 261 Project contract obligations.

The Town of Chandler has published a new annexation ordinance. Mr. Wischer believes the Town of Newburgh does have grounds to challenge the annexation.

MOTION by Mr. Kavanaugh to authorize Bamberger to pursue the challenge of the annexation published by the Town of Chandler.

SECOND by Mrs. McGuire.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

Mr. Wischer stated the annexation would infringe upon the four-mile regulated area established by the Town of Newburgh.

TOWN ENGINEER – Mr. Hynes

Mr. Hynes stated the storm drains disbursed the water from the 6" rainstorm well; however, the Windsor Pointe area did have standing water. The plans for the sanitary sewer along the Epworth Road corridor are proceeding. State Revolving Fund (SRF) financing will save over a half million dollars; however, an archeological reconnaissance is required.

MOTION by Mr. Kavanaugh to hire Archaeological Consultants of Ossian to provide the archeological reconnaissance required by the SRF at a cost of \$10,000.00.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mr. Kavanaugh to approve the 2014 Sanitary Sewer Rehab project with CEI.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

TOWN ADMINISTRATIVE MANAGER – Ms. Buehlman

Ms. Buehlman stated the Rotary Walk for Literacy is this Saturday. Town Hall will be closed April 18, 2014 in observance of Good Friday. Arbor Day is April 25, 2014; the State Garden Club chairman will be in attendance for the tree planting ceremony at approximately 10:00 a.m. by the gazebo. All council members are invited to attend.

Two seasonal employees will be hired for the Street Department this summer as there are now only three (3) full-time employees due to a recent injury.

MISCELLANEOUS BUSINESS

MOTION by Mrs. Hughes to instruct Mr. Wischer to send the appropriate letters to the Army Corps of Engineers confirming the Town is interested in the Indian Hill Overlook Park property.

SECOND by Mrs. McGuire.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

Mrs. Hughes stated the Museum will host a speaker from the Indiana Historic Society on Thursday, April 10, 2014, at 10:30 a.m. at Preservation Hall and all are welcome.

Ms. Aurand thanked Lori Buehlman and the Street Department crew for their prompt attention to the alley cave-in in her neighborhood.

Mr. Hynes will review a damaged area of the roadway at Water and Jefferson Street.

APPROVAL OF CLAIMS

MOTION by Mr. Moore moved that claims be paid in the following amounts including any sewer adjustments:

Civil Town – \$201,926.24

Sewer - \$623,197.57

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

ADJOURNMENT

MOTION by Mr. Moore to adjourn.

SECOND by Mrs. McGuire.

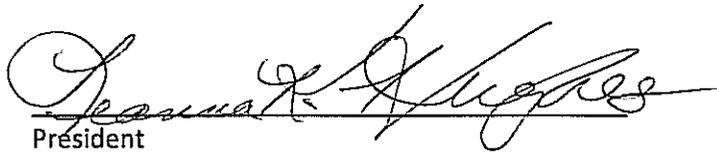
DISCUSSION: None

MOTION carried: ayes 5, nays 0.

Mrs. Hughes adjourned the meeting at 7:57 p.m.

APPROVED this 23 day of April, 2014

Newburgh Town Council

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Clerk-Treasurer