

Newburgh Town Council Meeting

Date: Wednesday, July 22, 2015

The Newburgh Town Council met in Committee and Regular Session on Wednesday, July 22, 2015, at 4:30 p.m. at Newburgh Town Hall, 23 W. Jennings, Newburgh, Indiana. Those present at the meeting were District I William F. Kavanaugh, District II Leanna K. Hughes, District III Alonzo B. Moore, Jr., District IV Anne Rust Aurand, Council-at-Large Tonya R. McGuire, Clerk-Treasurer Jon E. Lybarger, Town Manager Lori Buehlman and Town Attorney Christopher Wischer. The purpose of the meeting was discussion of personnel matters and pending litigation.

**CALL TO ORDER**

Council President William F. Kavanaugh called the Regular Session to order at 5:35 p.m.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by the Newburgh Town Council. A moment of silence was held to remember our troops, police officers and Lou Dennis who is in the final stages of life.

**ROLL CALL**

Those present at the meeting:

District I - William F. Kavanaugh

District II - Leanna K. Hughes

District III - Alonzo B. Moore, Jr.

District IV - Anne Rust Aurand

Council-at-Large - Tonya R. McGuire

Clerk-Treasurer - Jon E. Lybarger

Town Manager - Lori S. Buehlman

Town Attorney - Christopher Wischer

**APPROVAL OF MINUTES**

1. June 24, 2015 ~ Executive & Regular Session...tabled July 8, 2015

MOTION by Mrs. Hughes to remove from table the June 24, 2015 Town Council minutes.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve the June 24, 2015 Town Council minutes.

SECOND by Mrs. McGuire.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

2. July 8, 2015 ~ Executive & Regular Session

MOTION by Mrs. Hughes to approve the July 8, 2015 Town Council minutes.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

### **Presentation of Outstanding Citizen Award and Good Neighbor Award**

The Outstanding Citizen Award is for those who have served the community by helping their neighborhoods, clubs, and the community in specific ways. The Good Neighbor Award is presented to a group that has assisted the town. Matt Timmel and Chad Bennet were presented the Outstanding Citizen Award for their longtime service to the Newburgh Volunteer Fire Department. Mr. Timmel retired from the Newburgh fire department in December with 52 years combined service to the Evansville and Newburgh departments. Mr. Bennett also retired from the department in December and served as the public relations officer.

The Barge Right In Committee received the Good Neighbor Award. Committee members include: Phillip Field, Brenda Bender, Janet Bockelman, Father Joe Ziliak, Jim Renne, Deb Zaro, Jane Schroeder, Brett Sprinkle, Carol Schaefer, Lori Buehlman and Mrs. Hughes. Ms. Buehlman stated nearly 4,000 individuals took advantage of the free barge tours on Saturday, August 30, 2014; the barge was provided by American Energy & Power (AEP). A five minute recess was called.

### **SCHEDULED REQUESTS & APPEARANCES**

None scheduled.

### **PETITIONS & COMMENTS FROM CITIZENS PRESENT**

Gina McCalister, Mulberry Jeans, 600 State Street and on the HNI board, proposed additional signs be placed along the walkway promoting local shopping and dining. Ms. McCalister will meet with the Rivertown Trail committee to discuss these ideas. Signs placed on public property will require a permit.

Janet Bockelman, One Madison Street, voiced a complaint about an excessive number of road signs at the intersection of Madison and Water where six signs are clustered and requested they be moved. Mr. Hynes stated the purpose of the signs and which signs will be removed when the project is completed. This will be discussed at the next trail meeting.

### **UNFINISHED BUSINESS**

1. Town of Newburgh Rivertown Trail / Event Policy, tabled December 10, 2014  
Continue to table.

2. Mystic Development, Country Place Drive, Encroachment Agreement, tabled January 28, 2015  
Continue to table.

3. Museum use of the Monroe Street House, tabled May 13, 2015  
Continue to table.

#### **4. Trolley**

Mrs. Hughes stated a meeting with Mrs. McGuire and Carol Schaefer was held. The purchase of a newer trolley and double decker bus was discussed along with rental and leased arrangements. The trolley is currently stored at Hamrick's Towing awaiting repair estimated at \$7,500.00. Mr. Lybarger will be consulted to assist with financing options if necessary. Chief Sprinkle stated Hamrick's has ample room for storage.

### **NEW BUSINESS**

1. Present Outstanding Citizen Award and Good Neighbor Award-Completed earlier in the meeting.

2. Building and Maintenance Department Committee Formation

MOTION by Mrs. Hughes to table the appointments to serve on the Building and Maintenance Department Committee.

SECOND by Mrs. McGuire.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

3. Zoning Administrator

Mrs. Hughes stated a draft will be presented at the next meeting.

4. Indian Hill Overlook Park (IHOP) Water Line

Ms. Buehlman stated a bid request was sent to Deig Bros., Stemaly and Hydromax and only Deig Bros. responded with a quote of \$33,925.00. Roger Johnson will request additional bids. Ms. Buehlman stated the town currently maintains the IHOP property. The Army Corps of Engineers will transfer IHOP and land into the Town's name after a new water line and meter are installed that will separate the Army Corp of Engineers facilities from the IHOP facilities. Melinda Mitchell expressed concerns with digging since IHOP is an ancient burial site. Ms. Buehlman stated all construction will take place at the base of the hill near the trail. Mr. Johnson stated any plumber familiar with outdoor underground piping work could be contacted; however, directional drilling will be required. Ms. Aurand stated archeological research may have to be conducted before proceeding.

5. Street Resurfacing Project, Metzger Construction Pay Application #6

Mr. Hynes stated the pay application is mainly for the completed work along French Island Trail and an area in front of the Lock and Dam.

MOTION by Mr. Moore to approve Pay Application #6 in the amount of \$ 161,026.34, holding 5% retainage of \$8,051.32, leaving a net amount payable of \$151,975.02 to Metzger Construction for the Street Resurfacing Project.

SECOND by Mrs. McGuire.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

6. Sanitary Sewer Rehab Project, Deig Brothers Pay Application #4

MOTION by Mrs. Hughes to approve Pay Application #4 in the amount of \$93,896.12, holding 5% retainage of \$4,694.81, leaving a net amount payable of \$89,201.31 to Deig Brothers for the Sanitary Sewer Rehab Project.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

7. Encroachment agreement, 3811 and 3827 Taylor Drive

MOTION by Mrs. Hughes to approve the encroachment agreement on a concrete patio at 3811 Taylor Drive.

SECOND by Mr. Moore.

DISCUSSION: This home is in Engelbrecht Place.

MOTION carried: ayes 5, nays 0.

MOTION by Mr. Moore to approve the encroachment agreement on a concrete patio at 3827 Taylor Drive subject to property owner verification.

SECOND by Mrs. McGuire.

DISCUSSION: The agreement will not be released or recorded until the owner signs the agreement.

MOTION carried: ayes 5, nays 0.

#### **COMMISSION REPORTS**

**AIR AUTHORITY - Ms. Aurand**

No report.

**BOARD OF ZONING APPEALS – Ms. Aurand**

Ms. Aurand stated BZA is scheduled to meet on July 27; however, with nothing on the agenda, the plan commission will meet on that date for a new member orientation at 5:30 p.m.

**FIRE - Mr. Moore**

Mr. Moore presented the departments 2015 half year report to include 203 runs made of which 49 were in the town, 136 in the township, 5 mutual aid and 13 public relation events. The township is researching the purchase of a ladder truck for the town.

**HISTORIC PRESERVATION COMMITTEE (HPC) - Mrs. McGuire**

Mrs. McGuire stated HPC met on July 9<sup>th</sup> and approved a sign, metal roof and fence for Larry Rhodes at the Newburgh Country Store. Preliminary plans were reviewed for the former Secret Garden location. Final plans will be presented at a future meeting. HPC will meet August 13, 2015.

**PARK – Mrs. Hughes**

Mrs. Hughes stated the Park Board continues to prepare a pool policy. The day to day operation of the pool is going well but the weather is affecting attendance. Mrs. Hughes stated Lou Dennis served on the Park Board for nearly 30 years and Community Park is named for her. She suggested a tribute be made in her honor during the breaks that take place at the pool for the next few days. Chief Sprinkle will check on the protocol for flying the flag at half-staff. If proper, the council will lower all five town flags following the passing of Lou Dennis for a three day period.

**PLAN – Ms. Aurand**

Ms. Aurand stated the next meeting will be held on August 3, 2015.

**POLICE – Mrs. McGuire**

Chief Sprinkle stated the police commission met on Monday, July 13<sup>th</sup>. Jason Daily and Tim Huber are attending the academy. National Night Out will be Tuesday, August 4<sup>th</sup> at the Lock and Dam from 5:00 to 7:00 p.m. The commission approved the 2016 budget. Two new cars are in line for rotation which should be ordered in August with arrival expected in February. The cost will be near \$96,000.00 for the vehicles and equipment on a two-year lease.

MOTION by Mrs. McGuire to allow Chief Sprinkle to order two new Dodge Chargers in August with a two-year lease purchase.

SECOND by Mrs. Hughes.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

The Chief stated 80 citations were issued in June, 81 warnings and two ordinance violations. An arrest was made for the Aurand Trailhead robberies. During the property search, stolen credit cards, two

stolen firearms and breaking and entering paraphernalia were seized. The Chief commended Lieutenant Healy and Officers McIntosh and Decker for their efforts on the case. The Chief stated officers do carry equipment to break a vehicle window.

**SITE REVIEW COMMITTEE – Mrs. McGuire**

Mrs. McGuire stated the committee met July 14<sup>th</sup> and reviewed the Wal-Mart neighbor market plans. The committee discussed the state plan review and the Country Store's drainage permit.

**STORM WATER – Mr. Kavanaugh and Mr. Moore**

Ms. Buehlman stated Storm Water met Monday night. Larry Rhodes shared his plans for the Country Store and will acquire a formal permit next month. Several areas had minor pooling problems during the recent heavy rains including Windsor Pointe and Maple Lane.

**STREETS – Mr. Moore**

Mr. Moore stated the crew trimmed around informational signs, removed a large hanging limb along French Island Trail, trimmed bamboo along Adams and Section Streets and had to maintain the unkempt property at 110 Gray Street due to an ordinance violation. High water caused the closing of the trail bridge; gravel was cleared from many roadways due to the heavy rains and the base of the Jefferson Park bridge was filled with concrete. An outside contractor removed a tree near the shelter at Lou Dennis Park. Friday, July 31, 2015 will be the last day for Desi Daniel and Paul Dobrzynski.

**UTILITY – Mrs. Hughes**

No report.

**STANDING COMMITTEES**

**FINANCE – Mrs. Hughes**

The committee is working on the budget.

**PERSONNEL – Mrs. Hughes**

Mrs. Hughes stated the committee met with Ms. Buehlman with a follow up meeting planned on Friday.

**SPECIAL BOARDS/COMMITTEE REPORTS**

**SIDEWALK – Mrs. Hughes**

Mrs. Hughes stated she and Mr. Hynes reviewed an area prone to flooding at Jennings and Washington. A recommendation will be presented at the next storm water meeting.

**ARTS COMMISSION – Mrs. Hughes**

No report.

**RIVERTOWN TRAIL – Mrs. McGuire**

Mrs. McGuire stated several individuals met with Mike Felts, the CHA design engineer for Rivertown Trail Phase III to review the trail's design to accommodate the Wal-Mart neighborhood market. Mrs. McGuire requested Mr. Hynes work with Mr. Felts to complete the alignment on the site plan. Mr. Wischer requested Wal-Mart engineers make available the preliminary plat showing the dedicated right-of-way.

**ZONING ADMINISTRATOR – Commissioner Ms. Aurand**

No report.

CLERK-TREASURER – Mr. Lybarger

Mr. Lybarger stated he met with Robert Norris with the Department of Local Government Finance (DLGF). Based on income expectations, budget adjustments are being made.

TOWN ATTORNEY – Mr. Wischer

Mr. Wischer and Mrs. McGuire attended an Indiana Association of Cities and Towns (IACT) seminar regarding revised annexation requirements including existing annexation remonstrance waivers. These waivers are obtained in sewer agreements and should be plat mapped on a Geographic Information Systems (GIS) map.

MOTION by Mrs. McGuire to allow Mr. Wischer and Mr. Hynes to proceed with the sewer agreement legal description of potential annexation areas plat mapping on GIS maps.

SECOND by Mrs. Hughes.

DISCUSSION: Mrs. McGuire stated Kokomo and McCordsville annexation case studies were discussed at the IACT seminar. McCordsville will not install sewers unless the area is annexed. The annexation of state highways was also discussed which is not allowed unless all owners along the highway grant consent.

MOTION carried: ayes 5, nays 0.

Mr. Wischer stated prior to annexation, an outreach program consisting of six meetings must be presented to provide information and allow residents a voice in the decision.

TOWN ENGINEER – Mr. Hynes

Mr. Hynes stated substantial completion has been reached on the Sanitary Sewer Rehab Projects; however, this does not include the State Street project. The date on the certificate is July 1, 2015 with Deig Brothers.

MOTION by Mrs. McGuire to approve the Sanitary Sewer Rehab Project Deig Brothers certificate dated July 1, 2015.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

The Epworth Corridor Sanitary Sewer project design showed the sewer crossing a ditch with an illegal drain. To expedite the process, the bid included boring under the ditch. An alternate was included in the bid to provide an open cut when the permit was obtained. A hold harmless agreement is necessary to cross an illegal drain.

MOTION by Mrs. Hughes to approve the hold harmless agreement with Warrick County.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

The council will receive the Jennings Street drainage pipe study by next week with the issues prioritized. Mr. Hynes suggested the council approve paving project change orders to replace the drainage pipes. The sidewalk contractor is behind due to rain but will be back on project next week with an aggressive schedule through the planned completion date of the second week in September.

Mr. Hynes stated the State Street project is moving slowly because the soil condition in the area is poor and prior utility work had collapsed. The contractor is one of the best in the area for this project. Ms. Auran stated school buses will run August 12, 2015 increasing the amount of traffic in the area.

The structural engineer reviewed the crack at the Epworth Lift Station and a proposal is in process.

TOWN ADMINISTRATIVE MANAGER – Ms. Buehlman

The River Basin Blues Society Old Dam Blues Festival will be held August 8, 2015 at Lock and Dam Park.

#### **MISCELLANEOUS BUSINESS**

Mrs. Hughes would like the Lock and Dam sound system added to the next meeting's agenda. The museum's birthday party is this Sunday and Main Street will be closed from State to the parking lot entrance. The Street Department will provide barricades.

Mr. Wischer stated the town owned flags can be lowered as long as general etiquette is followed.

Mrs. McGuire stated the IACT conference is in French Lick at the end of September. Mrs. Hughes and McGuire would like to attend.

Mrs. McGuire stated she was dismayed with the comments directed at the council by Ms. Aurand at the last council meeting.

MOTION by Mrs. McGuire to remove Ms. Aurand as the Land Use Commissioner.

SECOND by Mrs. Hughes.

DISCUSSION: Ms. Aurand stated she considered resigning. She advised the council to support the people they represent and not to disenfranchise the commissions and boards by middle managing. When asked if Ms. Aurand would consider stepping down as Land Use Commissioner to avoid a vote on the motion, she stated she preferred the council vote her down. Mr. Wischer stated the Land Use Commissioner is different than the appointment to the Plan Commission. According to procedure ordinance, the commissioner will serve for one year unless removed by majority vote. The Plan Commission appointment will not change through the end of the year. The Land Use Commissioner sits with Plan and BZA.

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

MOTION by Mrs. Hughes to appoint Mrs. McGuire as Land Use Commissioner through January 1, 2016.

SECOND by Mrs. McGuire.

DISCUSSION: Ms. Aurand stated the council is making the outcome clear when one is in disagreement and encouraged residents to examine current and future projects. Mrs. Hughes stated there have been many disagreements but never to this point as accusations were made and ethics questioned. Mr. Wischer clarified that Ms. Aurand remains as Plan Commissioner and a voting member. The Land Use Commissioner sits with and participates in discussion in the Plan Commission and BZA but does not vote.

MOTION carried: ayes 5, nays 0.

Ms. Aurand stated the house at State and Gray is not secured. Police did secure the residence on July 4, 2015. The chief stated the residence is unsafe and has advised his officers not to enter the home. Mr. Wischer stated the town began the code enforcement process but the homeowner has not acted on any correspondence. Mr. Wischer will review the building ordinance to determine if a padlock can be placed. If the home is in the historic district, HPC will review the options. If it is not, the town will begin code enforcement procedures including a raze order. If razed, the town is responsible for the initial costs and a lien will be assessed on the property. Mr. Wischer will review the options.

The parking committee will meet in the near future to discuss the west Jennings area, the public parking lot and Community Park.

Ms. Buehlman stated prior to the council meeting, she submitted a letter of resignation as Town Manager effective September 2, 2015. Mr. Kavanaugh stated she did submit a letter of resignation to him but he did not accept it. A personnel committee meeting will be held on Friday at noon.

Mr. Wischer reiterated the position of Land Use Commissioner: the commissioner, now Mrs. McGuire, will sit with and participate in discussion in the Plan Commission and BZA meetings but will not vote. Ms. Aurand remains as Plan and BZA Commissioner and a voting member.

**APPROVAL OF CLAIMS**

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

Civil Town – \$221,231.30

Sewer – \$608,385.17

State Revolving Fund (SRF) – \$292,419.79

SECOND by Mrs. McGuire.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

**ADJOURNMENT**

MOTION by Mrs. Hughes to adjourn.

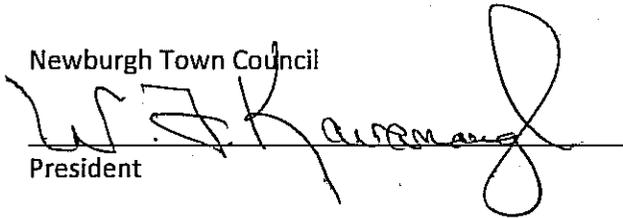
SECOND by Mrs. McGuire.

MOTION carried: ayes 5, nays 0.

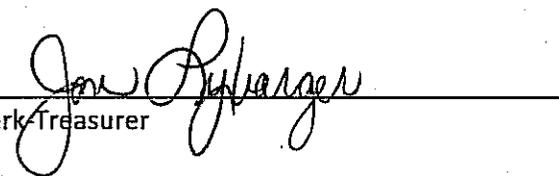
Mr. Kavanaugh adjourned the meeting at 8:12 p.m.

APPROVED this 12 day of August, 2015.

Newburgh Town Council

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Clerk/Treasurer