

Newburgh Town Council Meeting
Date: Wednesday, May 13, 2015

The Newburgh Town Council met in Committee and Regular Session on Wednesday, May 13, 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 5:30 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Newburgh Town Council.

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

PUBLIC HEARING & ORDINANCE 2015-04

Rezoning of West SR 662, Part of Parcel 87-12-33-400-068.000-019 from C-4/A-1 to C-2

Joseph D. Calderon, attorney with Bose McKinney & Evans, 111 Monument Circle, Suite 2700, Indianapolis, IN representing Wal-Mart, requested Ordinance 2015-04 be tabled due to a legal description error with the building placement inside the 10-acre parcel. Mr. Wischer concurred with Mr. Calderon and stated the group must return to Plan Commission to resubmit the amended petition to rezone.

MOTION by Mrs. McGuire to table the Public Hearing and Ordinance 2015-04, Rezoning of West SR 662, Part of Parcel 87-12-33-400-068.000-019 from C-4/A-1 to C-2.

SECOND by Mr. Moore.

MOTION carried: ayes 5, nays 0.

Mr. Wischer stated if the requirements are met and the publications meet the deadlines, the petition could be heard at the June 1st Plan Commission meeting.

Mr. Kavanaugh called for a 5-minute recess; the meeting reconvened following the recess.

APPROVAL OF MINUTES

1. April 22, 2015 ~ Executive & Regular Session

MOTION by Mrs. Hughes to approve the April 22, 2015 Town Council minutes.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 4, nays 0, abstain 1 (McGuire).

SCHEDULED REQUESTS & APPEARANCES

1. River Basin Blues Society, Lock and Dam and Trolley Request, Lynette Miller

Lynette Miller, representing the River Basin Blues Society, requested permission to use the Old Lock and Dam building to host the Old Dam Blues Fest on August 8, 2015 from noon to 11:00 p.m. and use the trolley following HNI's morning use. Proceeds will be donated to Special Olympics.

MOTION by Ms. Aurand to approve the use of the Old Lock and Dam building and trolley for the Old Dam Blues Fest on August 8, 2015 with the Park Board making the decision to waive the fees.

SECOND by Mrs. McGuire

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

2. Peddler Permit Fee Waiver Request, Rebecca Edwards

Rebecca Edwards requested the peddler permit fee be waived for her son's business, Tangerino's, selling water and popsicles along the trail and specifically from the parking lot of 327 S. Jennings during the late afternoon to early evening hours.

MOTION by Ms. Aurand to allow a reduced peddler permit fee of \$100.00 for the time period beginning Memorial Day weekend through Labor Day for Mr. Edwards' business, Tangerino's.

SECOND by Mrs. McGuire.

DISCUSSION: Mrs. Hughes suggested \$150.00 and felt this type business might interfere with established town businesses such as Ben and Penny's.

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

Mr. Wischer will amend the ordinance to accommodate young entrepreneurs with a reduced fee.

3. 5K Event Request, Bailey Jackson

Bailey Jackson, general manager of Spuds and Suds in Newburgh, requested permission to hold a 5K Spud Walk/Run Family Fun Day on Saturday, September 12, 2015 beginning at 9:00 a.m. until 2:00 or 3:00 p.m. to promote cancer awareness. Ms. Bailey has had conversation with Chief Sprinkle. This will be a paid Lock and Dam building rental.

MOTION by Mrs. McGuire to approve a 5K Spud Walk/Run Family Fun Day on Saturday, September 12, 2015 beginning at 9:00 a.m. until 2:00 or 3:00 p.m.

SECOND by Mrs. Hughes.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

4. State Street Public Parking Lot Suggestions, Erin Morrison-Flutter

MOTION by Ms. Aurand to table State Street public parking lot suggestions to May 27, 2015.

SECOND by Mr. Moore

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

F. PETITIONS & COMMENTS FROM CITIZENS PRESENT

Judy Oran, American Eagle Tree Service, requested Jennings Street be closed on June 1, 2015 between Adams and Hillcrest for tree removal at 515 E Jennings, Newburgh.

MOTION by Mr. Moore to allow the closing of Jennings Street on June 1, 2015 between Adams and Hillcrest for tree removal at 515 E Jennings Street by American Eagle Tree Service.

SECOND by Mrs. Hughes.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

Mike Biggerstaff, a Newburgh resident with Chandler water service, is concerned about the possible sewer rate increase. He stated he has conversed with both Chandler and Newburgh representatives and attended a Chandler Town Council meeting where a motion was made to have conversation with the Newburgh Town Council. Mr. Wischer explained the sewer will enact summer averaging until October. Mr. Wischer stated the Newburgh Sewer Utility has obtained water meter readings from Town of Chandler since 1998 via a payment contract and these readings are used for accurate sewer billing. The town received a letter in January 2015 stating the agreement will be terminated at the end of May 2015 and readings will no longer be provided. The Town of Chandler has been ordered to design a proposal with their request but have failed to do so. Mr. Kavanaugh stated the Utility Committee will meet on June 3, 2015 and will discuss this issue; the committee recommendations will be presented to council on June 10, 2015.

Sharon Griese, 7522 St. Joseph Court, stated she does not have an average. Mr. Wischer stated commercial customers will not receive summer averaging. The utility must charge enough to cover expenses.

Melinda Mitchell, Yorkshire Drive, Newburgh, stated the Ohio River is rated the number one worst polluted river in the U.S. with A.K. Steel as the worst pollutant and we should be concerned being so close to the source of major pollution. Ms. Buehlman attended an Indiana Department of Environmental Management (IDEM) conference yesterday and stated IDEM has an office dealing with water quality. Ms. Aurand stated the town sent correspondence in opposition to the Cash Creek power plant with proposed construction directly across from the Town of Newburgh. Ms. Mitchell will contact IDEM.

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. Jennings and State Streets Sidewalks Project - River Town Construction, LLC Contract and Notice to Proceed...tabled April 8, 2015

MOTION by Mrs. McGuire to remove from table Jennings and State Streets Sidewalks Project with River Town Construction, LLC, Contract and Notice to Proceed.

SECOND by Mrs. Hughes.

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve the Jennings and State Streets Sidewalks Project contract with River Town Construction, LLC in the amount of \$494,782.25 with a construction period of 135 days.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve the Jennings and State Streets Sidewalks Project Notice to Proceed to River Town Construction, LLC with an effective date of May 13, 2015.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

4. Museum use of the Monroe Street House

MOTION by Mrs. Hughes to table Museum use of the Monroe Street House to the next meeting.

SECOND by Mr. Moore

MOTION carried: ayes 5, nays 0.

5. Street Light Request

Mrs. Hughes stated requests were received for street light placement in various areas. Vectren was contacted to conduct a lighting study; Vectren no longer provides this service for communities. Julie Diehl, 205 Locust Street, Newburgh, stated a utility pole is in her area and a dusk to dawn light could be placed. Mr. Kavanaugh said these type lights are paid by the property owner. Mrs. Hughes and Ms. Buehlman will continue to review the issue and make a recommendation to the council.

MOTION by Mrs. Hughes to table Street Light Request.

SECOND by Mr. Moore

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

NEW BUSINESS

1. 2015 Manhole Rehabilitation Project, Monoform, Inc.: a. Change Order #1 b. Pay Application #2
c. Certificate of Substantial Completion

Mr. Hynes stated the company had a logistic issue with one of the six rehabbed manholes. The change order is for the additional grout used on the manhole and to remove this manhole from the project list. The contract price was \$34,935.00 for all six manholes. The decreased amount is \$2,560.00 revising the contract amount to \$32,375.00.

MOTION by Mr. Moore to approve Change Order #1 in the decreased amount of \$2,560.00 for the 2015 Manhole Rehabilitation Project to Monoform, Inc. revising the contract amount to \$32,375.00.

SECOND by Mrs. Hughes.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve Pay Application #2 in the amount of \$3,450.00 for the 2015 Manhole Rehabilitation Project to Monoform, Inc.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve the Certificate of Substantial Completion dated April 2, 2015 for the 2015 Manhole Rehabilitation Project to Monoform, Inc.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

2. Sanitary Sewer Rehabilitation Project, Pay Application #2 to Deig Bros

MOTION by Mrs. Hughes to approve the Sanitary Sewer Rehabilitation Project, Pay Application #2 to Deig Bros in the amount of \$122,155.50 with 5% retainage held of \$6,107.78 leaving a net amount due of \$116,047.27.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

3. Epworth Medical Corridor Sanitary Sewer Extension, Blankenberger Brothers, Inc (BBI): a. Change Order #1 b. Pay App #2

MOTION by Mrs. Hughes to table Change Order #1 for the Epworth Medical Corridor Sanitary Sewer Extension to BBI to the May 27, 2015 council meeting.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve Pay Application #2 in the amount of \$151,700.44 with 5% retainage held of \$7,585.02 leaving a net amount due of \$144,115.42 for the Epworth Medical Corridor Sanitary Sewer Extension to BBI.

SECOND by Mr. Moore.

DISCUSSION: Mr. Hynes stated since the town is under contract, it is appropriate to approve the pay application even though the change order was tabled.

MOTION carried: ayes 5, nays 0.

4. Sycamore Street Road Closure

Mr. Hynes stated Deig Bros has submitted a traffic control plan to close Sycamore Street between Gray and Main for a three day period beginning tomorrow.

MOTION by Mr. Moore to approve the Sycamore Street Road Closure from Gray to Main for a three day period.

SECOND by Mrs. McGuire.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

5. Forrest Park MS4 Drainage Improvements Project Contract, Town of Newburgh and CEI

MOTION by Ms. Aurand to approve the Forrest Park MS4 Drainage Improvements Contract with CEI for design services, quoting and negotiating with design services in the amount of \$6,300.00 and quoting and negotiating fees in the amount \$1,500.00 which will be paid from the Storm Water Budget.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

6. French Island Trail and Outer Gray Street Drainage Improvement Contract, Town of Newburgh and CEI

MOTION by Mr. Moore to approve the French Island Trail and Outer Gray Street Drainage Improvement Contract with CEI in the amount of \$4,600.00 for design and \$1,200.00 for bidding and negotiation which will be paid from the street department budget.

SECOND by Mrs. McGuire.

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 May 26, 2015.

FIRE - Mr. Moore

Mr. Moore stated the new fire truck will arrive in Newburgh on May 23, 2015.

HISTORIC PRESERVATION COMMITTEE (HPC) - Mrs. McGuire

Ms. Buehlman stated the annual event to celebrate preservation month will be on May 14, 2015 at Preservation Hall.

PARK – Mrs. Hughes

Mrs. Hughes stated there will be a pool opening celebration on May 30, 2015 at 11:00 a.m. The pool has been cleaned for the season and is currently being filled. Repair work has been completed at the shelter and park. A Girl Scout group will participate in a community day on Saturday plus 75 students from Castle High School will assist as volunteers to work around the town on May 22, 2015. The pool will open on May 23, 2015 with a grand opening celebration on May 30, 2015 for the pool and Cleo's Poolside. The Tri-State Tennis Association will provide lessons at a reasonable cost at the park courts. The Park Board has hired the pool staff with two employees serving as co-managers and co-assistant managers. Two lampposts were vandalized at the Lock and Dam; the juveniles were apprehended. Estimates for lamppost replacements have been requested but it may be July 4 before their arrival. The rentals are going well.

PLAN – Ms. Aurand

Ms. Aurand stated the commission met on May 4, 2015. The petition to rezone 2 Gray Street was postponed to the June meeting due to legal technicalities. The next meeting will be held on June 1, 2015. Ms. Aurand requested Mr. Wischer or Ms. Buehlman correspond with the Plan Commission members detailing the results of tonight's public hearing and that the rezoning request will return to the commission at either the June or July meeting. Ms. Aurand suggested the council not replace Josh Clayborn at this time knowing this zoning issue will return to the commission.

POLICE – Mrs. McGuire

The Police Commission met on May 11, 2015. Chief Sprinkle stated a simulator was made available for county wide officer training. National Incident Management System (NIMS) level 300 and 400 training was held at the fire department. A wellness seminar was held at the Lock & Dam on April 24, 2015. The Rivertown Trail Run and prom events went well. Several officers will be working at the wine festival. Jason Daily and Timothy Huber will be sworn in on June 8, 2015. Newburgh Automotive is interested in submitting a bid for the town's 2016 towing contract. The Emergency Operations Plan must be revised to exclude from the command center those without NIMS training. Computing officer overtime has been revised. In April, 59 citations were issued along with 60 warnings and three ordinance violations. Mr. Kavanaugh stated he attended the wellness seminar and was amazed with officer transformations over a 20-year period. This is Law Enforcement Memorial Week to remember all fallen officers, their families and department.

STORM WATER – Mr. Kavanaugh and Mr. Moore

Ms. Buehlman stated the May meeting has been cancelled. Ms. Buehlman attended MS4 training this week in Indianapolis where Steve Sherwood received an award. Warning signs have been ordered for the Outer Gray and French Island Trail area.

STREETS – Mr. Moore

Mr. Moore stated the crew removed a fallen tree from the driveway to the cottages. 350 Vinca plants were planted along the State Street sidewalk and flowers were planted at the Indian Hill Overlook Park. The Rivertown Trail was spruced up for two races and the trail bridge was pressure washed. The lock and Dam property was prepared for the wine fest. Rock was cleared from the area around the gas pumps and pot holes were patched on River Bend Court. The crew continues to remove limbs, mow and trim all town properties.

UTILITY – Mrs. Hughes

Mrs. Hughes read the motions from the May 6, 2015 utility committee meeting.

MOTION by Mrs. Hughes to allow the property owner at 417 West Jennings Street to connect the sewer lateral to his building via private easement in the alley with the required cleanout installed and proper easements in place.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to send a proposed contract for meter reads to the Town of Chandler for their approval.

SECOND by Mr. Kavanaugh.

DISCUSSION: Chris Wischer proposed to offer thirty cents per read in the contract which was sent last week. Customers will be on a summer average through September.

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to modify the rate ordinance to accommodate an unmetered billing rate for commercial properties.

SECOND by Mr. Kavanaugh.

DISCUSSION: A notice of public hearing for a rate ordinance change must be published.

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to allow Umbaugh and Associates to proceed with a BAN not to exceed \$2,000,000.00.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve the request for repair of the sanitary sewer at 622 West Jennings Street by contractor Stemaly Excavating at a cost not to exceed \$5,531.64 and the required road closure.

SECOND by Mr. Kavanaugh.

DISCUSSION: The work will begin following council approval.

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to formally approve the work performed by CEI to pursue the bidding of the State Street Sanitary Sewer Replacement.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to engage CEI to design and assist the town attorney with easement acquisition, and permitting for the Green Springs Valley, 8277 Sycamore Drive project.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to engage CEI to assist the town attorney with pursuing easements for the Meadowbrook project.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to engage CEI to assist the town attorney in pursuing easement acquisition for the Green Spring Valley project, 8268 & 8288 Oak Drive.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to engage CEI to design Sleepy Hollow Sanitary Sewer Option #2 and assist the town attorney in pursuing easements for the project.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to approve the waiver for Pine Valley Estates allowing the manhole to be in the right-of-way but not under pavement.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. Hughes to waive the late fee for Arvid MagNussen, 2622 Briarcliff Drive, with a letter to the customer stating that this will be a one-time only adjustment.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

STANDING COMMITTEES

FINANCE – Mrs. Hughes

No report.

PERSONNEL – Mrs. Hughes

MOTION by Mrs. Hughes to hire Paul Dobrzynski for the full-time seasonal position at the Newburgh Street Department at an hourly rate of \$10.75 pending a negative drug screen.

SECOND by Mr. Kavanaugh.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

SPECIAL BOARDS/COMMITTEE REPORTS

SIDEWALK – Mrs. Hughes

All property owners have agreed to a right-of-entry. The area of new sidewalks includes Jennings and State. Construction work will accommodate all town events.

ARTS COMMISSION – Mrs. Hughes

No report.

ZONING ADMINISTRATOR – Commissioner Ms. Aurand

In April, 36 permits were sold generating \$1,425.00 representing 18 projects with a valuation of \$199,182.00. Year-to-date, 62 permits were sold generating \$2,665.00 representing 35 projects with a valuation of \$240,777.00.

The God is Good business is in process of connecting to the sewer and converting part of the building into office space.

CLERK-TREASURER – Mr. Lybarger

The salary ordinance will be amended at the May 27, 2015 meeting to revise information regarding pool employees.

TOWN ATTORNEY – Christopher Wischer

Mr. Wischer stated the Newburgh vs Bruce and Diana Lane condemnation case was settled in mediation.

MOTION by Mrs. McGuire to approve the agreed finding in judgment.

SECOND by Mrs. Hughes.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. McGuire to approve the concrete encroachment within the easement.

SECOND by Mr. Moore.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

MOTION by Mrs. McGuire to have the sewer department issue a check payable to the Warrick County Clerk in the amount of \$1,490.00.

SECOND by Mrs. Hughes.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

TOWN ENGINEER – Mr. Hynes

Mr. Hynes stated a sink hole developed on Water Street in front of Edgewater Grille a few days after the paving had been completed. The striping has been delayed until the issue is resolved. Discussion was heard to revise the parking on the northwest corner of Water Street at the intersection with State Street for safety issues. MOTION by Mr. Moore to eliminate the first parking spot on the northwest corner of Water Street at the intersection with State Street.

SECOND by Mrs. Hughes.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

Mr. Hynes will review the curb at the corner of Gray and State Street.

TOWN ADMINISTRATIVE MANAGER – Ms. Buehlman

Ms. Buehlman attended the manager’s conference in Nashville, Indiana during the last week of April, attended the MS4 meeting in Indianapolis this week and will attend the American with Disabilities Act (ADA) seminar in Indianapolis next week. The Rivertown Trail Run was successful with over 200 participants this year. Ms. Buehlman was acting chairperson at the Evansville Metropolitan Planning Organization (EMPO) meeting this month.

MISCELLANEOUS BUSINESS

None presented.

APPROVAL OF CLAIMS

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

Civil Town – \$344,880.00

Sewer – \$717,840.46

State Revolving Fund (SRF) \$15,109.18

SECOND by Mrs. McGuire.

DISCUSSION: None

MOTION carried: ayes 5, nays 0.

ADJOURNMENT

MOTION by Mr. Moore to adjourn.

SECOND by Mrs. Hughes.

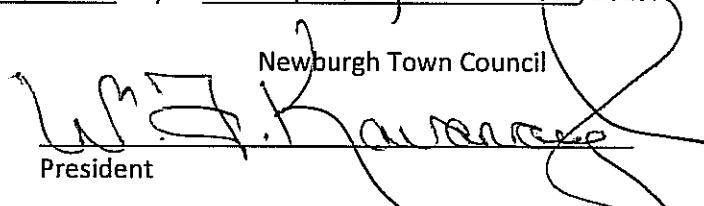
DISCUSSION: None

MOTION carried: ayes 5, nays 0.

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

APPROVED this 27 day of May, 2015.

Newburgh Town Council



President

ATTEST:



Clerk-Treasurer