

**TOWN OF MUNSTER  
MINUTES OF A REGULAR MEETING OF THE TOWN COUNCIL  
MAY 4, 2020**

A regular meeting of the Munster Town Council convened at 7:00 p.m. on Monday, May 4, 2020. At the time of this meeting, the country was facing a pandemic outbreak of the Coronavirus. In response, Indiana Governor Holcomb issued a series of Executive Orders which, among other things, declared a public health emergency and suspended various statutes. Executive Order 20-04 specifically addressed public meetings and the Open-Door Law. This Executive Order along with the opinion of the Indiana Public Access counselor, allows for meetings to be held in a virtual environment.

The announced meeting location was Munster Town Hall. Due to the restrictions on the number of people allowed to gather in one location and the requirement to maintain a distance of at least six feet from another person, Councilors Chuck Gardiner, Andy Koultourides, Lee Ann Mellon, Kenneth J. Schoon, and Steven Tulowitzki, and Town Attorney David W. Westland, were each present in a virtual setting, aided by Zoom meeting technology. It is believed each person was in a different physical location. The public was given the information needed to access the meeting virtually and some took advantage of it. Clerk-Treasurer Wendy Mis, Controller Patricia L. Abbott, and Town Manager Dustin Anderson were the only people physically present at Munster Town Hall. The news media were not represented.

The Town Council has sought legal counsel and has performed its due diligence to the best of its ability in a situation that is rapidly changing. The Town Council believes it is acting in accordance with Indiana State law, the Governor's Executive Orders, and the interpretations and directives of other state agencies.

President Mellon opened the meeting with a moment of silence followed by the Pledge of Allegiance.

**45<sup>th</sup> STREET CONSTRUCTION UPDATE**

DLZ representative Lee Randell was present in the virtual setting. He reported that restoration work on Camellia Drive will resume later this month. Work on Retaining Wall #3 continues. The underpass is excavated, and the underground drainage is done. Backfill has started. There was little progress last week due to the rain which required de-watering and compaction. A temporary barrier wall has been installed on Calumet Avenue with supplemental signals added. The project is in the fourth week of acceleration work and about three days have been gained against the 49-day delay.

Councilor Tulowitzki confirmed the days gained by the acceleration work and that there is not an impact on progress due to the pandemic.

**PUBLIC COMMENT**

Because of the unique nature of this meeting, the Town of Munster only accepted public comment submitted electronically. The public was informed, via the agenda posted at munster.org, that questions or comments about an item on the agenda were to be emailed to [danderson@munster.org](mailto:danderson@munster.org). Mr. Anderson provided the following.

Mr. Mike Dujmovic, 1833 Tulip Lane, emailed Mr. Anderson asking why the soil issue with the Grade Separation Project was not determined when the core samples were taken. Mr. Anderson responded that this will be discussed later in the meeting when the proposed change order is considered.

**CONSENT AGENDA**

**APPROVAL OF MINUTES**

Approval of the minutes of the special meeting held on April 20, 2020

## ACCOUNTS PAYABLE VOUCHER REGISTERS

Confirmation of Voucher Register #20-3V dated 03/03/2020 totaling \$269.86  
Confirmation of Voucher Register #20-4K dated 04/20/2020 totaling \$7,750.00  
Confirmation of Voucher Register #20-4L dated 04/16/2020 totaling \$14,292.17  
Confirmation of Voucher Register #20-4M dated 04/21/2020 totaling \$9.10  
Confirmation of Voucher Register #20-4N dated 04/23/2020 totaling \$210,850.25  
Confirmation of Voucher Register #20-4O dated 04/24/2020 totaling \$381,126.98  
Confirmation of Voucher Register #20-4P dated 04/24/2020 totaling \$349,318.42  
Confirmation of Voucher Register #20-4Q dated 04/23/2020 totaling \$11,900.40  
Confirmation of Voucher Register #20-4R dated 04/07/2020 totaling \$37.01  
Confirmation of Voucher Register #20-4S dated 04/20/2020 totaling \$15,111.44  
Confirmation of Voucher Register #20-4T dated 04/28/2020 totaling \$29.57  
Confirmation of Voucher Register #20-4U dated 04/30/2020 totaling \$583,245.45  
Confirmation of Voucher Register #20-4V dated 04/29/2020 totaling \$3,586.43  
Confirmation of Voucher Register #20-4W dated 04/30/2020 totaling \$67,853.42  
Approval of Voucher Register #20-5A dated 05/04/2020 totaling \$51,838.39

## TREASURER'S REPORT

The March 2020 Treasurer's Report was presented for acceptance.

Councilor Schoon moved, with a second by Councilor Koultourides, to suspend the rules, waive the readings, and adopt the Consent Agenda on first reading as presented. Councilors Gardiner, Koultourides, Schoon, Tulowitzki, and Mellon voted in favor; none voted against. Motion carried and the Consent Agenda was adopted.

## NEW BUSINESS

### CHANGE ORDER #6: GRADE SEPARATION PROJECT – UNDERCUT BACKFILL

During the construction of the Grade Separation Project, unsuitable soil was found under the existing roadways of 45<sup>th</sup> Street and Calumet Avenue, the proposed roadway at 45<sup>th</sup> Street and the underpass, and the temporary shoo-fly. This matter was discussed during the project report *supra*. A detailed narrative of the situation was provided in the meeting packet. The total change order is projected to cost \$684,451.50 which includes both new and existing items. This will be paid from the TIF Allocation Fund 471.

Mr. Anderson and Mr. Randell explained that soil samples were taken last year, found it to be poor, and removed it. These samples were not reported nor was a change order sought because INDOT and the construction engineer believed more unsuitable soil would be discovered once construction of the roadway began. It was decided that one change order would be sought for this issue. Enough of the poor soil was removed and replaced to stabilize both the shoo-fly and the roadway. The same problem is expected at Calumet Avenue. The change order includes the projected cost for this work as well.

Councilor Tulowitzki asked why the poor soil was not discovered when the original samples were taken. Mr. Randell could not provide an answer as those samples were taken prior to construction and he and DLZ were not part of the project at that time.

Councilor Gardiner asked if it is an issue of soil type or soil depth. Mr. Randell responded that it is mostly soil type and high moisture content making the soil very pliable and putty-like.

Councilor Tulowitzki asked who pays for the change order and what sources are available to distribute the costs among. Mr. Anderson explained that the entire project came in significantly under the estimated costs. As a result, the Town did not have to pay any of the contract but is completely responsible for all change orders.

Councilor Gardiner moved, with a second by Councilor Tulowitzki, to accept the change order as presented for the additional undercut and materials for the roadway. Councilors Gardiner, Koultourides, Schoon, Tulowitzki, and Mellon voted in favor; none voted against. Motion carried.

#### **SUPPLEMENTAL AGREEMENT #4: ROBINSON ENGINEERING**

Supplemental Agreement #4 for engineering services related to the Grade Separation Project was presented by Staff on behalf of Robinson Engineering. The original agreement was approved by Council at their meeting of March 9, 2009. The additional cost is projected to cover two construction seasons and to be paid on an hourly per diem per Exhibit 1 of the agreement. The total compensation under this supplemental agreement shall not exceed \$60,000.00. Staff explained that this amount is higher than the anticipated need in an effort to avoid a subsequent supplemental agreement.

Councilor Tulowitzki asked about staff with Robinson Engineering that are still there from the original agreement and confirmed that the \$60,000.00 is a cap and the actual cost may be less.

Councilor Gardiner moved, with a second by Councilor Tulowitzki, to approve Supplemental Agreement #4 with Robinson Engineering at a cost not to exceed \$60,000.00. Councilors Gardiner, Koultourides, Schoon, Tulowitzki, and Mellon voted in favor; none voted against. Motion carried.

#### **PROPOSAL FOR PAVEMENT CORING SERVICES: BEVERLY PLACE IMPROVEMENT PROJECT**

Staff is planning improvement on Beverly Place between Hohman Avenue and State Line Avenue. Advanced Engineering Services (AES) Inc. presented a proposal for pavement coring. A total of four pavement cores will be collected from Beverly Place to determine the composition of the existing pavement. All holes created in the process will be patched. Results from the visual analysis will be provided in a summary report. The report will be ready within three weeks of receiving notice to proceed. The cost is not to exceed \$1,500.00.

Councilor Koultourides confirmed this is a lump sum payment and Councilor Schoon confirmed that residents with access to their homes only from Beverly Place will not have access issues while the work is performed.

Councilor Gardiner asked the timeframe and about bid documents. Mr. Anderson explained the project will be included in the next application for Community Crossings Matching Grant in July with construction to begin in 2021. He further stated that bid specifications will not be prepared until a grant is awarded.

Councilor Schoon asked the total project cost. Mr. Anderson stated he does not know and explained it will be a complete reconstruction, not a mill and overlay.

Councilor Tulowitzki asked about the financial impact on the Community Crossings Matching Grant Program. Mr. Anderson stated there will probably be a significant decrease because the grant is supported by fuel tax.

Councilor Gardiner moved, with a second by Councilor Koultourides, to accept the Advance Engineering Services proposal for an amount not to exceed \$1,500.00 for the pavement core services for the Beverly Place Improvement Project. Councilors Gardiner, Koultourides, Schoon, Tulowitzki, and Mellon voted in favor; none voted against. Motion carried.

#### **PROPOSAL FOR ALLEY GRADING**

Staff asked SEH to investigate the grading at two alleys in the northeast section of Munster because of backyard flooding problems. It was determined that regrading the alleys will eliminate high spots and provide consistently sloped surfaces from south to north. In addition, rebuilding the alleys with a slightly inverted crown will help channel storm water away from backyards.

When the work began, it was thought that Town personnel could perform the necessary work, but the Town does not have the needed equipment. It was decided to solicit bids. The work by SEH was performed under the General Engineering Services contract. Since the project will need to be bid, SEH has presented a proposal to prepare engineering plans, develop specifications, and supervise the bidding process to regrade the alleys as described below.

Alley	From	To	Proposed Scope of Work
Oakwood-Northcote	Alta Vista	Fairway	Tasks 1.2, 1.3, 1.4. and 2
Northcote-Baring	Alta Vista	Fairway	Tasks 1.2, 1.3, 1.4. and 2
Baring-Parkview	Alta Vista	Crestwood	Tasks 1.1, 1.2, 1.3, 1.4. and 2
Oakwood-Northcote	33rd Avenue	Alta Vista	Tasks 1.1, 1.2, 1.3, 1.4. and 2
Northcote-Baring	Alley north of Ridge	Alley south of Alta Vista	Tasks 1.1, 1.2, 1.3, 1.4. and 2
South of Alta Vista	Northcote	Baring	Tasks 1.1, 1.2, 1.3, 1.4. and 2

- Task 1.1: Topographical Survey
- Task 1.2: Prepare Project Plan Sheets
- Task 1.3: Prepare Project Contract Documents
- Task 1.4: Bid Phase Services
- Task 2: Resident Project Representative Services (RPR)

Tasks 1.1 through 1.4 will be performed for a lump sum fee of \$18,000.00. Task 2 will be performed on an hourly rate basis, not to exceed \$10,000.00 without prior authorization.

Councilor Tulowitzki has heard from residents about this matter and has seen significant amounts of standing water in the area days after the rain. In response to his question, Mr. Anderson explained that engineering is not yet done, and that grading will route the water to proper drainage channels.

Councilor Gardiner asked for the time frame, funding source, and if it will be treated as one large project. Mr. Anderson stated he would provide the time frame in a future email to Council and that bonds either Municipal Bond Proceeds, Wheel Tax, or Surtax would be used to pay for the project. Mr. Anderson confirmed that all of those dollars are currently on-hand.

Councilor Tulowitzki moved, with a second by Councilor Koultourides, to approve the proposal for SEH for the lump sum fee of \$1,800.00 for Tasks 1.1 through 1.4 and on Task 2 on an hourly basis not exceeding \$10,000.00. Mr. Anderson clarified that the amount for Tasks 1.1 through 1.4 is \$18,000.00. Councilor Tulowitzki, with a second by Councilor Koultourides amended his motion to the higher amount. Councilors Gardiner, Koultourides, Schoon, Tulowitzki, and Mellon voted in favor; none voted against. Motion carried.

**ENGAGEMENT LETTER: LANDFILL FINANCIAL ASSURANCE TEST**

The Indiana Department of Environmental Management (“IDEM”) requires documentation from the Town regarding financial assurance of the landfill. This requirement has traditionally been in place to assure IDEM that a private business owner operating a landfill site has placed financial assurance on record in case the owner closes the business without any warning, leaving behind a brownfield. The provisions in 329 IAC 10-39-2(a)(6) apply to municipalities as well, even though the same risks are not involved.

To comply with the standards of the Indiana Administrative Code, the Town has previously engaged the accounting firm of H.J. Umbaugh & Associates (“Umbaugh”). On March 1, 2019, Umbaugh combined with Baker Tilly Virchow Krause, LLP of Chicago, Illinois. The firm is now known as Baker Tilly.

The same team that has completed numerous reports on the financial status of the landfill for the Town is in place at Baker Tilly. A letter of engagement to perform the work that must be completed to provide IDEM with the proper financial assurance has been presented.

Baker Tilly has the appropriate financial information to provide IDEM with information about the Town's general financial well-being. IDEM does not stipulate that the Town pass any further bonds or pay any sums of money at this time to comply with the financial assurance provisions.

The expense of these financial analyses is set at \$6,300.00 and is to be funded from the Solid Waste Management Fund.

Councilor Gardiner moved with a second by Councilor Tulowitzki, to approve a contract with Baker Tilly for services pertaining to preparation and submittal to IDEM of a financial assurance test for the former Munster Landfill, as presented. Councilors Gardiner, Koultourides, Schoon, Tulowitzki, and Mellon voted in favor; none voted against. Motion carried.

### **REQUEST FOR HAMMOND SANITARY DISTRICT FEE WAIVER**

The Town has a policy to adjust the water bill in the event of a leak. The policy requires repairing the problem, signing an affidavit, and requesting an adjustment to the bill. The only charges waived are the water used in excess of a year's average usage and the associated sales tax. All other charges remain.

At the March 2, 2020 meeting, Council approved a leak adjustment for a resident in the amount of \$336.29. The resident has asked to have the flow charge from the Hammond Sanitary District waived as well. The resident has spoken with Munster Representative to the Hammond Sanitary District Mike Hawkins about this matter and he has brought it to the attention of that board.

On April 22, 2020, HSD District Manager Marty Wielgos phoned the Clerk-Treasurer's Office about the matter. Mr. Wielgos stated that he appreciated our informing him, but that it was not his or the District's decision to make. He referred the matter back to the Town.

The position of the Town (for at least thirty years) has been the we serve as a billing agent to the Hammond Sanitary District and have no authority to waive fees. This position has long been reinforced by the District; refunds are not made. The water went through the meter, through the sanitary sewer system and was treated.

The decision made by the Council this evening will set the precedent. Based on this decision, an official policy document will be presented at a future meeting for adoption.

Mr. Hawkins responded to Councilor Gardiner's questions explaining that one fee has been waived in the past year by the HSD for a Hammond resident and that he has no knowledge of amounts being waived by the Hammond Water Department. Mr. Hawkins explained that the Administrative Fee is referred to as a "base fee" by the HSD and is used to cover fixed costs. He further explained that Munster is a member of the HSD while other communities are not. This puts Munster in a different situation from its neighbors in terms of working with the HSD. This matter was not discussed with the HSD Board and Mr. Hawkins suggested getting something in writing from them acknowledging the change in position.

Councilor Schoon confirmed that the motion is to waive the fees for this one resident only and does not apply to future appeals.

Discussion ensued among the Council and Mr. Westland resulting in a general consensus that the Town seek something in writing from the HSD to be used as the basis for a future policy of the Town of Munster.

Councilor Tulowitzki moved with a second by Councilor Koultourides, to waive flow fees assessed on behalf of the Hammond Sanitary District. Councilors Gardiner, Koultourides, Schoon, Tulowitzki, and Mellon voted in favor; none voted against. Motion carried.

### **ANNOUNCEMENTS**

(Unless stated otherwise, all meetings of the Town Council begin at 7:00 p.m. at the Munster Town Hall.)

The Town Council will hold regular meetings on Monday, May 18, June 1, and 15, 2020. The Redevelopment Commission will hold regular meetings immediately following Town Council meetings.

**ADJOURNMENT**

There being no further business to come before the Council, Councilor Koulourides moved with a second by Councilor Tulowitzki. The meeting adjourned at 8:11 p.m. with a voice vote.

**ATTEST:**

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**Lee Ann Mellon, President**

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**Wendy Mis, Clerk-Treasurer**

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