

**TOWN OF MUNSTER**  
**MINUTES OF A REGULAR MEETING OF THE TOWN COUNCIL**  
**JUNE 15, 2020**

A regular meeting of the Munster Town Council convened at 7:06 p.m. on Monday, June 15, 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. Also present in the virtual setting was Munster Representative to the Hammond Sanitary District Mike Hawkins. President Mellon presided. 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, Town Manager Dustin Anderson, and Planning Director Thomas VanderWoude 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 continually 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 utility work on Camellia Drive between Southwood Drive and Columbia Avenue is complete with topsoil and seeding being done. Curbing and patching will be complete this week. Work on Calumet Avenue continues and is still on track to switch the travel pattern around July 4, 2020.

The bottom slab will along East 45<sup>th</sup> Street is scheduled to be poured the night of June 24, 2020. The mock-up panels have been stained and are awaiting approval. Overtime continues for the acceleration work. There are ten weeks of acceleration with about \$70,000.00 spent.

A brief discussion among the Councilors led to a general consensus approval of the mock-up panel.

**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 received the following by email.

Mr. David Nellans, 1535 Ridge Road, commented on the recent social unrest and the services performed by the Munster Police Department. He sought comment from Council on the current calls to defund police departments. Mr. Nellans asked about the manner in which candidates are selected for boards and commissions. Finally, he asked about streamlining the process to provide outside dining.

Mr. Nellans was present in the virtual environment and allowed Mr. Anderson to share the text of the email with those in attendance.

President Mellon responded that an Executive Session is scheduled for June 16, 2020 on the matter of security implementation across Town. She then stated that the Council encourages all residents who express interest to apply for board and commission positions.

Discussion ensued around the idea of streamlining the process to allow outdoor dining. Mr. Westland stated he needs to investigate whether it is possible to have a temporary suspension of the special use laws. He stressed the importance of consistently applying the regulations.

## **CONSENT AGENDA**

### **APPROVAL OF MINUTES**

Approval of the minutes of the regular meeting held on June 1, 2020

### **ACCOUNTS PAYABLE VOUCHER REGISTERS**

Confirmation of Voucher Register #20-5Q dated 05/31/2020 totaling \$20,260.30  
Confirmation of Voucher Register #20-5R dated 05/26/2020 totaling \$110.26  
Confirmation of Voucher Register #20-6B dated 06/04/2020 totaling \$397,620.13  
Confirmation of Voucher Register #20-6C dated 06/05/2020 totaling \$386,597.69  
Confirmation of Voucher Register #20-6D dated 06/05/2020 totaling \$356,831.53  
Confirmation of Voucher Register #20-6E dated 06/05/2020 totaling \$126.83  
Confirmation of Voucher Register #20-6F dated 06/10/2020 totaling \$114,317.11  
Confirmation of Voucher Register #20-6G dated 06/10/2020 totaling \$92,245.16  
Confirmation of Voucher Register #20-6H dated 06/09/2020 totaling \$94.59  
Approval of Voucher Register #20-6I dated 06/15/2020 totaling \$51,130.71  
Confirmation of Voucher Register #20-6J dated 06/11/2020 totaling \$233,262.89  
Confirmation of Voucher Register #20-6K dated 06/10/2020 totaling \$5,031.35

### **TREASURER'S REPORT**

The May 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 Schoon, Gardiner, Tulowitzki, Koultourides, and Mellon voted in favor; none voted against. Motion carried and the Consent Agenda was adopted.

## **OLD BUSINESS**

### **ORDINANCE 1794: DEFINING THE NOMINATING COMMITTEE**

Introduced ORDINANCE 1794 is AN DEFINING THE TOWN OF MUNSTER, INDIANA NOMINATING COMMITTEE. Ordinance 1794 had first reading at the March 2, 2020 meeting. If adopted, the ordinance will formalize the Nominating Committee. The Nominating Committee has been in existence and operating under a set of guidelines created in the 1980s. The ordinance will formalize the creation and operation of the Nominating Committee.

Discussion at first reading included a suggestion to create greater diversity on the Nominating Committee. Technical corrections were also suggested. No recommendations or corrections had been submitted prior to the publication of the agenda, and the Introduced Ordinance 1794 is presented this evening as it was originally heard and voted on at first reading.

A lengthy discussion ensued regarding the composition of the Nominating Committee. Suggested language was provided to ensure diversity on the Committee. Mr. Westland stated that he was not prepared to offer a legal

opinion on the suggested changes at this time. He expressed concerns about the legality of the proposed language and suggested making an aspirational statement within the ordinance which would speak to the desire for diversity. Mr. Westland then outlined the options available to the Council for taking action on the ordinance. Discussion ensued.

Councilor Schoon moved, with a second by Councilor Tulowitzki, to table the discussion and decision to the first meeting in July.

Councilor Gardiner expressed the need to get the process moving as there is a vacancy on the Board of Safety and the position needs to be filled.

Councilor Koultourides moved for a vote on the motion to table the matter and President Mellon called for the vote. Councilors Schoon and Tulowitzki voted in favor; Councilors Gardiner, Koultourides, and Mellon voted against. The motion to table the discussion and decision to the first meeting in July failed.

Councilor Koultourides moved, with a second by Councilor Gardiner, to adopt Ordinance 1794 on second reading as presented.

Councilor Tulowitzki immediately moved, with a second by Councilor Schoon, to amend the original ordinance as indicated by Mr. Westland by moving item 4D from the proposed language to the end of the ordinance as an aspirational statement and then incorporating the other changes to items 4A, 4B, and 4C as Clerk-Treasurer Mis read at the beginning of this discussion. Robust discussion ensued among the Councilors regarding the proposed amendment. President Mellon called for the vote on the proposed amendment. Councilors Schoon and Tulowitzki voted in favor; Councilors Gardiner, Koultourides, and Mellon voted against. The motion to amend Ordinance 1794 failed.

President Mellon called for the vote on the motion to adopt Ordinance 1794 as presented. Mr. Westland requested Clerk-Treasurer Mis read the syntax corrections to be corrected and have them be an amendment to the ordinance. The corrections are as follows.

Section	Original	Amended
D2	know	known
E1	there	they
E1	applicable	Applicable
E3	statement	statements
B4	may	shall
B5	While a member of the committee, no member shall hold any other elective or appointive office including, but not exclusively, that is in any way related to the Town of Munster or its component parts or divisions.	While a member of the committee, no person shall hold any elective or other appointive office with the Town of Munster nor have any relationship including, but not exclusively, a financial stake, or contract that is in any way related to the Town of Munster or its component parts or divisions.
B7	an ex-officio	a non-voting ex-officio
C2	...unless otherwise directed by the Town Council.	...unless otherwise directed by the member him or herself or the Town Council.

Councilor Koultourides confirmed that the changes listed *supra* do not substantively change the ordinance. Councilor Gardiner moved, with a second by Councilor Koultourides, to accept the amendments as read by Clerk-

Treasurer Mis to Ordinance 1794. Councilors Schoon, Gardiner, Tulowitzki, Koultourides, and Mellon voted in favor; none voted against. The motion carried and the amendment was accepted.

President Mellon called for the vote on the motion by Councilor Koultourides seconded by Councilor Gardiner, to adopt Ordinance 1794 on second reading as amended. Councilors Gardiner, Koultourides, and Mellon voted in favor; Councilors Schoon and Tulowitzki voted against. The motion carried and Ordinance 1794 was adopted as amended.

The terms of all the members of the Nominating Committee expired December 31, 2019. All nine members were contacted and asked if they wished to continue serving. With the exception of Dan Cohen, all members expressed a desire to continue serving. Councilor Gardiner moved, with a second by Councilor Koultourides, to re-appoint David M. Alonzo, Marsha Horak, James Kaspar, Jill Miller, Andy Qunell, Leonard Walavich, Terry A. Wilson, and Christopher Ylo to the Nominating Committee. Councilors Gardiner, Koultourides, and Mellon voted in favor; Councilors Schoon and Tulowitzki voted against. Motion carried.

Clerk-Treasurer Mis was asked to convene the Nominating Committee to review applicants for the Board of Safety in order to have a recommendation for the first meeting in July. President Mellon asked that all applicants for Board of Safety and Nominating Committee be forwarded to Council as well.

### **NEW BUSINESS**

#### **REVISED WATER RULES AND REGULATIONS**

At the March 29, 2010 meeting, Council adopted the policy of holding landlords responsible for the water utility bills of their tenants. In their recent session, the Indiana General Assembly passed House Enrolled Act 1165 which effectively prohibits this practice.

Staff is changing its procedure for new renters starting service. Existing renters will be notified of the change and subsequent requirement for them to sign a new service agreement and make a deposit. Landlords are being contacted as well with a final bill. Landlord deposits will be returned after the final bill has been paid. There are over 300 rental accounts and the process of changing them will occur systematically over the next few months.

In 2007 the Town Council formally adopted the *Utility Billing Policies, Rules & Regulations*. The regulations were formally revised in 2010 and 2013. Since that time, there have been minor, clerical updates. Since the passage of HEA 1165, there are several changes needed to various practices, policies, and regulations.

Council was asked to adopt changes to the master listing of all policies, rules and regulations. This document is given to new customers and is referenced in the service agreement all customers sign. It is anticipated that more requests will be made of Council to bring other ordinance, policies and regulations into compliance with the new law.

Previous updates of the rates, clerical changes, and scrivener's errors are also included. Staff has taken this opportunity to make other, minor changes to the document to include the following.

1. Inclusion of tenants as a defined customer
  2. Removal of all references to Section 6: Rental Properties
  3. Changing the title of the "Hydrant Rental Fee" to "Hydrant Maintenance Fee" to reduce confusion
- Councilors Koultourides and Schoon asked about the deposits associated with the water accounts.

Councilor Gardiner moved, with a second by Councilor Tulowitzki, to adopt the June 15, 2020 revision of the *Utility Billing Policies, Rules & Regulations*. Councilors Schoon, Gardiner, Tulowitzki Koultourides, and Mellon voted in favor; none voted against. Motion carried.

#### **ORDINANCE 1798: SURPLUS BOND PROCEEDS**

Proposed ORDINANCE 1798 is AN ORDINANCE OF THE MUNSTER TOWN COUNCIL DECLARING CERTAIN BOND PROCEEDS AS SURPLUS AND ALLOWING THE TRANSFER OF SURPLUS

BOND PROCEEDS TO THE TOWN OF MUNSTER MUNICIPAL BOND AND INTEREST FUND 306. The Town issues general obligation and park bonds each year. At the time of issuance, an amortization schedule is prepared detailing the repayment terms. This schedule is then used by the Department of Local Government Finance to determine the tax levy and appropriations needed to make the debt service payments.

The amortization schedules for the General Obligation and Park Bonds of 2019 were properly submitted and budgets were certified. It has been discovered that both amortization schedules were incorrect causing the certified levy and appropriations for both bond issues to be too low to cover the debt service payments in 2020.

The Town of Munster will meet all of its debt service obligations. This will be accomplished through two separate processes as follows.

The municipal and park bonds are used to finance large, capital expenditures such as street resurfacing, equipment purchases, and major park and building improvements. There are times when a project does not proceed. This can happen when a higher priority situation presents itself unexpectedly. There are times when a project or piece of equipment comes in at a lower price than expected at the time of bond issuance. In these instances, the amounts not spent are considered surplus bond proceeds.

I.C. 5-1-13-2 et seq. has the effect of allowing the Town Council, as the local issuing body, to transfer these surplus proceeds to a debt service fund in order to make debt service payments. Under advice of bond counsel, surplus bond proceeds from 2015 can be transferred in this way. These bonds are fully amortized and total \$214,272.62. Under this ordinance, surplus proceeds in the amount of \$11,500.00 would be transferred to the Municipal Bond and Interest Fund 306 and used to meet the debt service obligation of the 2019 General Obligation Bond.

The Park Board is being asked to adopt a resolution determining \$12,000.00 in surplus bond proceeds be transferred to the Park Bond & Interest Fund 312. The Council will then be asked to adopt an ordinance approving the transfer.

The second process is to secure an additional appropriation to have authority to spend the transferred surplus proceeds. This process will be discussed under Ordinance 1799 *infra*.

Councilor Tulowitzki sought clarification on the cause of the error and confirmed that steps have been taken to prevent its recurrence.

Councilor Gardiner moved, with a second by Councilor Koultourides, to hear Ordinance 1798 on first reading and schedule second reading for the next regular meeting in July. Councilors Schoon, Gardiner, Tulowitzki Koultourides, and Mellon voted in favor; none voted against. Motion carried.

#### **ORDINANCE 1799: ADDITIONAL APPROPRIATIONS (1)**

Proposed ORDINANCE 1799 is AN ORDINANCE FOR THE ADDITIONAL APPROPRIATION OF FUNDS FOR THE YEAR 2020 (1). Council considered Ordinance 1798 to allow the transfer of surplus bond proceeds from the Municipal Bond Proceeds Fund 414 to the Municipal Bond and Interest Fund 306 *supra*. The Park Board is going through a similar process to allow the transfer of surplus proceeds from the Park Bond Proceeds Fund 419 to the Park Bond and Interest Fund 312. This fund will also need an additional appropriation. These are considered "controlled funds" by the Department of Local Government Finance (DLGF).

In light of the current economic situation and with the knowledge that additional appropriations would be needed for the debt service funds, Staff has reviewed all funds and two have been identified as in need and able to secure additional appropriations.

The Electric Fund 270 is used to pay NIPSCO bills for the Park Department and streetlights. The generator went through an overhaul last year and revenues are coming in higher than anticipated when the budget was created. Current expenditure projections for the Sewer Maintenance Fund 280 exceed the total budget adopted by the Council. These funds are both considered "reporting only" by the DLGF.

The procedure for securing additional appropriations requires a public hearing, scheduled for July 6, 2020, and the adoption of an ordinance by the Town Council. The additional appropriations documents that pertain to the “controlled funds” will be forwarded to the DLGF for approval. The DLGF is required to issue a determination within fifteen days of receiving the request for additional appropriations for funds subject to their approval.

The DLGF does not approve or deny the additional appropriations for the “reporting only” funds. Upon passage of the ordinance, the additional appropriations will be in effect for the Electric Fund 270 and the Sewer Maintenance Fund 280. The information will be forwarded to the DLGF for reporting purposes, but no determination will be made.

Ordinance 1799 has been drafted to start the process. The amount of appropriations being sought can be found in the attachment to the ordinance.

Councilor Tulowitzki asked the source of funds allowing the additional appropriation for the Sewer Maintenance Fund 280.

Councilor Tulowitzki moved, with a second by Councilor Koulourides, to hear proposed Ordinance 1799 for additional appropriations on first reading, and schedule second reading and a public hearing for July 6, 2020. Councilors Schoon, Gardiner, Tulowitzki Koulourides, and Mellon voted in favor; none voted against. Motion carried.

### **BID AWARD: ROADWAY AND WATER MAIN IMPROVEMENTS**

On Wednesday, June 3, 2020, Public Works Staff and SEH opened bids for the Roadway and Water Main Improvements Project. Included in the project is the installation of a new water main and complete pavement reconstruction on Harrison Avenue and complete pavement reconstruction on portions of Margo Lane. In addition, Hohman Avenue between Evergreen Lane and Terrace Drive will be resurfaced.

Two bids were received as follows.

Walsh & Kelly, Inc.	\$1,158,131.40
Rieth-Riley Construction Co., Inc.	\$1,161,644.90

The bid included Addendum No. 1 with an additional bid item. Failure to acknowledge an addendum results in a bidder being deemed non-responsive. Walsh & Kelly failed to acknowledge receipt of Addendum No. 1 and Rieth-Riley did acknowledge receipt. Walsh & Kelly was deemed non-responsive making Rieth-Riley the lowest responsible, responsive bidder.

The project also included an alternate item for using a PVC water main in place of ductile iron pipe. The vast majority of the Town’s water system is ductile iron. Public Works was interested in determining the cost savings of using PVC. Based on the bids, the savings would be \$17,760.00. Staff does not feel this to be a great enough savings to warrant switching.

The Engineer’s estimate for the project was \$1,389,111.00. The project will use Community Crossings Matching Grant (CCMG) funds with a local match from the 2019 General Obligation Bond. The water main portion of the project is \$253,830.00 and is not eligible for CCMG funding; the Water Utility will pay this portion.

Councilor Koulourides moved, with a second by Councilor Tulowitzki, to authorize the Town of Munster to engage with Rieth-Riley for the 2020 Roadway and Water Main Improvements. Councilors Schoon, Gardiner, Tulowitzki, Koulourides, and Mellon voted in favor; none voted against.

In response to a Staff request, President Mellon changed the order of the agenda to allow discussion of the Local Roads and Bridges Matching Grant agreement as it relates to the bid award granted to Rieth-Riley *supra*.

## **LOCAL ROADS AND BRIDGES MATCHING GRANT AGREEMENT**

The Town of Munster was awarded a Community Crossings Matching Grant (CCMG) in the amount of \$554,107.00. INDOT has presented the agreement under which the Town can receive and use the funds. These grant dollars will be used for the Roadway and Watermain Improvements Project approved *supra*.

A portion of the project will be paid from Water Utility funds which are not reimbursable under the grant. As a result, the grant award exceeds the cost of the project. In response to Council questions, Mr. Anderson stated that if there are eligible change orders, the Town can seek reimbursement up to the \$554,107.00 awarded.

Councilor Tulowitzki moved, with a second by Councilor Gardiner, to accept the agreement between the Town of Munster and INDOT for Contract #A249-20-LG200186. Councilors Schoon, Gardiner, Tulowitzki, Koultourides, and Mellon voted in favor; none voted against.

### **USE VARIANCE: 8319 JACKSON STREET**

The owner of 8319 Jackson Street has requested a use variance to permit a single-family residence in a CD-4.A General Urban – A Character District. The property has two residential units attached with a breezeway and a garage all of which was formerly used as a convent. The property was purchased from the Roman Catholic Diocese in 2019.

The Board of Zoning Appeals held a public hearing on June 9, 2020 and no one spoke in favor or against the action. The BZA then voted unanimously to give a favorable recommendation with one condition. The property will be treated as a legal nonconforming use and the variance will expire when one of the events listed in Section 26-6.122.C of the zoning ordinance comes to pass.

Councilor asked what the unnecessary hardship was claimed. Mr. VanderWoude explained that the property does not sit on Ridge Road which makes the property not economically viable as a commercial enterprise.

Councilor Gardiner moved, with a second by Councilor Koultourides, to approve a use variance to permit a single-family residence use in a CD-4.A General Urban – A Character District at 8319 Jackson Street upon the condition that the property will be treated as a legal nonconforming use within the CD-4.A District and the use variance will expire upon the occurrence of one of the events listed in Munster Zoning Ordinance Section 26-6.122.C. Councilors Schoon, Gardiner, Tulowitzki, Koultourides, and Mellon voted in favor; none voted against.

## **REPORTS**

### **FISHER STREET ACCIDENT SETTLEMENT**

On February 5, 2020, a fire hydrant was hit at 1417 Fisher Street. The total cost to replace the hydrant was \$5,257.27 and was invoiced to Allstate Insurance. A check in the amount of \$4,494.98 has been received. The insurance company reduced the amount paid because of the age of the hydrant. It is believed the Town Manager's Office oversaw negotiations between Allstate Insurance and the Town's insurance carrier leading to this settlement.

Resolution 1666 outlines the process for waiving delinquent charges and the write-off of uncollectible accounts for receivables other than utility bills. In accordance with Resolution 1666, Clerk-Treasurer Mis recommended accepting the payment from Allstate to settle the matter. When this happens, the Town Manager is to report this action to the Council promptly thereafter. No formal action is required by Council.

### **PORTFOLIO REPORTS**

This portion of the meeting has been added to give elected officials an opportunity to share news about the various boards and commission on which they serve as liaison.

Councilor Tulowitzki stated the School Board has been conducting general business with nothing of note to report.

Councilor Schoon reported that the Hammond Sanitary District has conducted meetings by Zoom but the link to join the meetings has not been shared with non-board members. As a liaison, Councilor Schoon is not considered a board member. He further reported that the Park Board and Staff has been having tough conversations about what programs can be safely held and what must be cancelled. Councilor Schoon then gave information regarding the pool opening later this week. He further reported that the Little Calumet River Basin Development District has not held a meeting since he was named liaison.

Councilor Gardiner is the liaison for the Board of Safety and while they have not met, he made comments in praise of both the Police and Fire Departments and the work they have been doing over the past few weeks in light of the current social unrest.

Councilors Tulowitzki and Schoon commented that there have been few meetings of the Lake County Solid Waste Management District with nothing new to report.

Councilor Koultourides spoke on behalf of the Munster Civic Foundation stating the Independence Day festivities had to be cancelled and the organization is looking for people to become involved. In addition, he stated the Plan Commission and BZA had nothing new to report that was not already brought to Council for action.

Clerk-Treasurer Mis gave an update on NIRPC and the two meetings held this year. She also informed Council that the Office of the Clerk-Treasurer is working to implement paperless water bills and credit card autopay for water bills. This will be brought before Council action at the next meeting.

Clerk-Treasurer Mis then provided an update on the Census. Munster remains 7<sup>th</sup> in the State of Indiana with a participation rate of 81.1%. She observed that the total participation rate for Munster in the 2010 Census was 83.4% and hoped the Town would exceed that for 2020. She is hopeful that, as previously discussed, signs encouraging participation will be placed in the parks.

President Mellon then reminded those present that the Council adopted Ordinance 1674 in 2016. The ordinance prohibits discriminatory conduct within the Town of Munster.

### **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, July 6, and 20, 2020. The Redevelopment Commission will hold regular meetings immediately following Town Council meetings.

A brief discussion was held regarding the logistics of the next Council meeting which, as of today, can be held in-person. Staff was directed to figure out how this will work.

### **ADJOURNMENT**

There being no further business to come before the Council, Councilor Schoon moved with a second by Councilor Koultourides. The meeting adjourned at 8:52 p.m. by voice vote.

**ATTEST:**

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**Lee Ann Mellon, President**

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**Wendy Mis, Clerk-Treasurer**