

COMMON COUNCIL MINUTES

May 6, 2019

The City of Nappanee Common Council met on Monday May 6, 2019 at 7:00 PM in the Council Chambers of the City Building. Mayor Jenkins called the meeting to order.

ROLL CALL: Members were present or absent as follows:

Present: Todd Nunemaker, Anna Huff, Amy Rosa and Jake Dermott

Absent: Council Seat 4 is vacant.

Others Present: Mayor Phil Jenkins, Clerk-Treasurer Kathy Brown, City Attorney Brian Hoffer, Fire Chief Don Lehman, Police Sergeant Tony Schmucker, Park Superintendent Chris Davis, Street Superintendent Brent Warren and Superintendent Gale Gerber, 52 visitors and 2 media.

APPROVAL OF THE MINUTES: Anna Huff made a motion to approve the April 15, 2019 meeting minutes. Amy Rosa seconded the motion and it carried, *viva voce*.

PETITIONS AND COMMENTS BY CITIZENS: Mayor Jenkins read a proclamation proclaiming May being Mental Health Month. Lyndsay London from Wa-Nee Schools discussed how the referendum will give the school students more access to mental health counseling as needed. Barney Brown, 548 Mohawk Dr. wanted to know about sewers that had backed up. His did not start until around 8:30 and this same thing happened last year. Why hasn't the problem been fixed? Gale Gerber stated that they were going to do smoke testing but couldn't due to all the rain. When the power went out Bob and I went to the NW section of town right away with standby power and were out most of the night. The Mayor stated the first step is your insurance. Then if the City is determined to be negligent we resolve. Barney Brown stated that as soon as Gale started the generator the sewage started going down right away. He also stated he doesn't meet his insurance deductible. This ruined my wife's office and all of our carpet. This is the 2nd time in less than a year that we have had to rip everything up, however it wasn't as bad as last year. Chris Truex, 511 Buffalo Court stated that this happened last year and you did nothing and this is unacceptable. We had less rain last year and more sewage this year. No one came to his house or called him back when he called the City and left messages. He even came to the City and filled out a form. Superintendent Gerber stated he had never seen a form. Barney Brown said you knew this was a problem last year why wait so long to do anything? Superintendent Gerber stated that they had to wait on engineers. When we do the smoke test it will show if downspouts and sump pumps are tied into the sewer and then residents will have to fix. Brian Hoffer stated that the Board of Works and Safety oversees this problem and it should come before them at their next meeting on the 13th at 3:30 pm. John Hutsell, 252 W Walnut St, stated that he works for another City and that the sewer can only hold so much when there are rainfall bursts that is what creates the problems. Diane Ivin, 1339 Maple Lane stated that this had never been an issue until the last two years. What is the new plant for? Gale stated they were on a separate system. Mrs. Ivin wanted to know why she was paying for a system that she doesn't even use. Mayor Jenkins stated that it was a Court ordered utility fix. Diane Ivin then asked why lift stations don't have generators. Gale Gerber stated that two do. Mrs. Ivin then asked how they could repair this so it doesn't happen again. Mayor Jenkins recommended backflow preventers as a possible fix. Jim Weaver, 1305 McCormick Drive stated he had 6 days of clean up last year and he has lived there for 22 years and never had a problem until last year. Mayor Jenkins stated this was an event of rain and a power outage so we are trying to figure out and update. Mr. Weaver said they dropped the sewage part of his policy. Mr. Weaver stated he had his insurance call the City hall and they stated there would be no more issues and it was reinstated back in his policy last year and now it has happened again. He continued that the City ought to assist all homeowners with their deductibles. Travis Luke was there representing Tri-State Crush and what the Company has done in the last two weeks. The trees are planted, the dryer enclosure is done, and Tri-State is still working on the surface water with the engineers. Mr. Luke stated

the baffling equipment is tree line and enclosed. Two cyclones will be added and which will make it quieter; they have the vacuum system on the top for the dust and noise further noise reduction; there will always be some smell, Mr. Luke feels the sound and dust are better. He stated the whole parcel and buildings were offered to the City of Nappanee but they did not want and Tri-State Crush is really trying to be a good neighbor. If the Council does not follow through with the abatement they will not have the funds to tear down the old structure. He then went on to state that the tear down of the old mill will cost approximately \$158,000.00 over the next 7 years and they are working with IDEM every step of the way especially with the asbestos. Ashley Lent, West Randolph Street stated that she is still taking readings with her cell phone app of 76 decibels which is higher than the City code states is allowed. She was then woken up Monday morning at 1:00 am as the plant started up and then the sound was constant the rest of the day. Ruth Trinkley, Madison Street stated that she was also awakened. Travis Luke stated that all equipment runs the same and doesn't change during the running of the plant. Mr. Luke also stated he had talked with Sam Beachy and he is happy with the new changes. Robert Ivin, 353 S Nappanee St, asked if the bins are screw augers, if they are it is probably what Ms. Lent heard. Travis Luke stated that they are screw augers. He also went on to state that a client had an emergency and that is why they started up so early. Tri-State will be keeping normal business hours. Todd Nunemaker stated that the City could only regulate noise as per ordinance, business hours are not in the ordinance. Sharon asked since soybeans are natural how can we still be sure there are no health concerns for citizens. Travis Luke said the mill had been there for a long time and how Nappanee farmers had always depended on it for their living. Ruth Trinkley agreed with that statement but stated that the zoning commission should not have changed the residential area to industrial and let them build the new plant on the land before it was rezoned. Ms. Trinkley then went on to ask what else they could do to decrease the sound volume. Travis Luke explained that they are changing some equipment to lower sound but it takes 16 weeks to fabricate and for them to receive. Someone then asked why all of this was not done prior to opening last October. Ashley Lent then stated that the furnace on the South Side is louder than ever. Todd Nunemaker stated Jeff Kitson has already stated that they are in compliance but he asked a few questions to make sure he understood all the paperwork that was submitted. Travis Luke stated that they are waiting on the topography map from the engineers to see how to bring down the old building, the surface will be paved and everything will again be done with IDEM approval. Ashley Lent told Anna Huff that the dust is still an issue, but the noise is a little better. Brian Hoffer then stated that if the Company does not meet the criteria set up with the City they receive a letter of denial and then they can request a hearing. Mayor Jenkins stated that a lot of Tri-State Crush's plans had been in the works since last fall but weather did not cooperate. Amy Rosa stated she wants to see good faith from the business but reminded Citizens this is a good investment in Nappanee. Mayor Jenkins stated that the tax abatement numbers show the Company is complying and doing the right things. Amy Rosa asked if we could table. Clerk-Treasurer Brown stated that we could not because we would not be giving the Company enough time to get an extension. Jeff Kitson stated again that he is only stating the facts in evidence and is independent regarding the abatement. Todd Nunemaker asked Travis Luke to please continue to step up and be a good neighbor. Travis Luke stated that after the topography from the engineers it will take some to level and run the water along the track to retention area and away from neighbors. Travis also stated they will be getting their permit. Amy Rosa asked whose authority this falls on to resolve; what are the options of the people. Mayor Jenkins stated if they comply with IDEM and the State of Indiana there is no City recourse. Brian Hoffer stated the Company is fiscally responsible and the City acted in good faith. Attorney Hoffer asked for citizens to be patient as there have been a variety of issues within a short time to resolve. Jake Dermott asked Superintendent Gerber who was dealing with the manhole issue on John Street. Superintendent Gerber stated the contractors will be handling it on Monday or Tuesday. Councilman Dermott then asked about the manhole at Walnut and Hartman Street. Mayor Jenkins stated it would be looked at.

REPORTS OF COMMITTEES, BOARDS AND COMMISSIONS: Jake Dermott made a motion to approve the April 23rd amended Clerk-Treasurer Report. Todd Nunemaker seconded the motion and it carried, *viva voce*.

UNFINISHED BUSINESS:

NEW BUSINESS: Janice Langston from ECCCB discussed the quilt gardens of Elkhart County and thanked all the volunteers that were present and those who were not able to be there, but help from start to the finish. There are over 200 volunteers this year and countless hours. It is a year round project to decide pattern and then to plant and take care of. Without volunteers this would not be possible at all. Todd Nunemaker made a motion to approve Ordinance 1555 regarding the vacation of Public Right-of-Way on first reading. The Planning Commission has approved the right of way from Wabash to the railroad tracks. It is 66' of right of way. Anna Huff seconded the motion and it carried, *viva voce*. Jeff Kitson discussed Newmar's compliance with the CF-1's for property and real estate abatement. The only issue Newmar has had is in getting workers. Anna Huff made a motion to approve Newmar's abatement for personal and real property tax. Amy Rosa seconded the motion and it carried, *viva voce*. Jeff Kitson then went on to state that per Redevelopment Tri-State Crush was in compliance with the abatement as agreed with the City and this is just the actual facts regarding abatement. He reminded the Council that it is a 7 year abatement. Todd Nunemaker made a motion to approve Tri-State Crush's personal and real property abatement. Todd Nunemaker – yeah, Anna Huff – yeah, Amy Rosa – yeah and Jake Dermott – yeah. Vote is 4 for and 0 against. Motion passed.

APPROVAL OF ACCOUNTS PAYABLE VOUCHERS: Todd Nunemaker made a motion to approve 2019 APVs totaling \$319,730.41 and 2019 Payroll Holding APV's totaling \$202,753.09. Anna Huff seconded the motion and it carried, *viva voce*.

REPORTS OF CITY OFFICERS: Fire Chief Lehman noted that Winona Lake had lost their fire Chief. Superintendent Warren asked again that Citizens not put grass in street as the City does not pick it up and it also runs into and plugs the drains during rainy days. Amy Rosa asked Superintendent Gerber about the smoke study. Superintendent Gerber stated it will be done as soon as it is dry enough; lift station spiked in Northwood and we will be looking at purchasing a generator at the next Board of Works and Safety meeting.

ADJOURNMENT: The meeting adjourned at 8:51 PM.

Phil Jenkins, Mayor

ATTEST: _____
Kathy L Brown, Clerk of the Council