



Common Council Meeting – Minutes for November 16, 2020

Council Members in Attendance: Todd Nunemaker (OL), Anna Huff (OL), Amy Rosa (OL), David Kauffman (OL), Denny Miller (IP).

Also Present: Mayor: Phil Jenkins (IP), **City Attorney:** Brian L. Hoffer (OL), **Clerk Treasurer:** Jeff Knight (IP) plus 20 guests (8 IP, 12 OL) and 2 member of the press (OL)

- Call to Order: Mayor Jenkins called the meeting to order at 7:00 pm.
- Roll Call: All members listed above were in attendance either in person or online via ZOOM videoconference.
- Approval of Minutes from November 2, 2020: Councilwoman Huff motioned to approve the minutes. Councilman Miller seconded. There were no other questions or comments. The minutes were approved unanimously via roll call vote.
- Petitions or comments from citizens:

- Public Hearing for Ordinance 1579 – Water Rate Ordinance: Mayor Jenkins opened the public hearing to comments at 7:03 pm. Mayor Jenkins commented that this is a time for the residents of the City of Nappanee to comment on legislation the City is considering. Also noted was proof of publication in the Goshen News and Warsaw Times Union on 11/6/20.

The first resident requesting to speak was Mr. Shawn Johnson (3268 Blackstone Way). Mr. Johnson voiced his objection to the water rate increase due to his feeling that there was a lack of planning or budgeting for infrastructure projects. He thought that a life expectancy of 30-40 years should have been long enough time to set aside money to cover these costs. Mr. Johnson also did not agree with the City building a water tower for industrial purposes. He said this was impacting beautification within the City as households no longer wished to water their lawns in order to save money. Mr. Johnson asked the City to find another source of funds to pay for the water tower facility instead of having a rate increase on the residents.

The second person to speak was Mr. Jeremy Whetstone (402 E. John Street). Mr. Whetstone thanked the City for providing clean and reliable tap water. Mr. Whetstone concurred with Mr. Johnson's comments. He felt that the City has had plenty of time to save money to replace the pipes several times over. He did not feel that debt was the correct approach. Mr. Whetstone also noted that lead levels were not mentioned as an issue in the water reports he



receives but went on to reference lead line replacements in various other major cities coupled with rate increases that he deemed disastrous.

The third speaker was Dr. Brian Topping (business at 102 W. Market Street). Dr. Topping told the Council that he sees a lot of residents from the City of Nappanee and the water bill is a burden on a number of the families he has spoken with. He asked the Council to find another source of funds to pay for the infrastructure replacement instead of a water rate hike. He thought that there should be better planning for such projects. Dr. Topping then pivoted to a letter relating to COVID-19, signed by the Mayor, regarding a \$300 fine that would be incurred for masks not being worn. He had questions as to how that would be enforced and noted that he would fight against having to incur a fine for this type of order. Dr. Topping noted the difference between the masks being worn in the room and stated that science did not support the ability of the masks to stop the spread. Dr. Topping concluded by asking that before a finalized ordinance be put in place regarding the wearing of masks and potential fines associated with it, that the Mayor meet with the medical specialists in the City to determine the best way to protect the community.

The final speaker was Mr. Jacob Dermott (1 Arbor Ct.). Mr. Dermott said he had a question, but instead made a comment, stating that 2/3 of the residents of the City cover the cost of the water. There is approximately 25% to 30% of unclaimed water (3 million to 4 million gallons) per month. He commented that the pipes have leaked for years, but that if the unclaimed water were reduced and sold, rates would not need to be increased. He also commented on what he perceived as the lack of the Utility to function within a budget. Mayor Jenkins was uncertain if Mr. Dermott was asking a question or not so he felt compelled to answer Mr. Dermott. Mayor Jenkins responded that finding unaccounted for water has been, and will continue to be, a priority for the City as well as other cities and towns throughout the state. Mayor Jenkins reiterated that with pipes over 100 years old it is difficult to find the source of the water losses. Furthermore the state has mandated that after the first of the year, cities and towns will be required to do a better job of tracking unaccounted for water. Mr. Dermott blamed the administrations over the course of the last 20 to 25 years for not budgeting for the replacements required at this time. Mr. Dermott was a Councilman during a portion of the time under discussion.

With no further questions or comments, the public hearing was closed at 7:15 pm.



- Public Hearing for Ordinance 1581 – Additional Appropriations: Mayor Jenkins presented the ordinance and opened the hearing to the public at 7:15 pm. There were no questions or comments. The public hearing was closed at 7:16 pm.
- Reports of Committees, Boards, and Commissions:
 - Clerk-Treasurer Report for Month End October 31st, 2020: CT Knight briefly commented on the report indicating that there was little change from month to month. In December the General Fund will increase due to the receipt of property taxes. The report was balanced and in order. There were no questions or comments. Councilman Miller motioned to approve the Clerk-Treasurer’s report. Councilman Kauffman seconded. The report was approved unanimously by roll-call vote.
- Unfinished Business:
 - 2nd Reading of Ordinance 1576 – 2021 Elected Officials Salary Ordinance: Councilwoman Rosa motioned to approve Ordinance 1576 on second reading. Councilwoman Huff seconded. Councilman Miller said he did not feel comfortable giving himself (as part of the Council) a raise. Mayor Jenkins noted that if it were the case that the Council did not wish to include itself in the Ordinance for a raise, then the Ordinance would need to be amended prior to voting on 2nd reading. Councilman Miller motioned to amend the Ordinance so that the Council did not receive an increase for 2021. Councilman Kauffman seconded. The amendment was approved unanimously by roll call vote. There were no further questions or comments. The 2nd Reading of Ordinance 1576 – 2021 Elected Officials Salary Ordinance, as Amended, was approved unanimously by roll call vote.
 - 2nd Reading of Ordinance 1577 – 2021 Employee Salary Ordinance: Mayor Jenkins presented the Ordinance. An unintentional omission from the 1st Reading was added to the 2nd Reading. Under Section 6, dealing with EMS, under the heading of Volunteer EMS, the job of Daytime Duty (5), maximum each (full time employees not eligible) \$1,100 was added via red-line insertion. The was included in the 2020 budget but inadvertently left out of this. Mayor Jenkins asked that Ordinance 1577 be approved with this amendment. Councilman Miller motioned to approve Ordinance 1577 on 2nd Reading as amended. Councilman Nunemaker seconded. There were no further questions or comments. Ordinance 1577 – 2021 Employee Salary Ordinance was approved unanimously on 2nd Reading, as amended, by roll call vote.



- 2nd Reading of Ordinance 1578 – Amending Zoning Ordinance: Superintendent Lehman presented the Ordinance. He told the Council that during a scheduled public hearing at November 12, 2020 Plan Commission meeting the Nappanee Plan Commission voted 5-0 in favor of recommending the Nappanee Common Council amend Ordinance 1258 to reflect the following language. Section VII, 8.1.D. 11.g – “The acquisition of land by the City to be utilized by the City for public purpose, including, but not limited to, the use of such land in the connection with the operating of the City’s Wastewater and/or Water utilities”. This exempts the City from having to go through the subdivision process when purchasing land for use in cases such as this. Councilman Kauffman motioned to approve the Ordinance on second reading. Councilman Miller seconded. There were no further questions or comments. Ordinance 1578 – Amending Zoning Ordinance was approved on 2nd Reading unanimously by roll call vote.
- 2nd Reading of Ordinance 1579 – Water Rate Ordinance: Mayor Jenkins began the discussion of the Ordinance by following up on a request from Councilwoman Huff to give an example of how the rates would impact user’s bills. Mayor Jenkins used his bill as an example and showed the impact of the rates. His current bill, using a total of 684 cubic feet of water, was \$31.20. After applying the rates that would go into effect on July 1st, 2021, the Mayor’s bill would increase to \$34.03, a total of \$2.83 monthly increase. The rates going into effect on January 1st, 2022 would impact his bill in the amount of \$5.92 monthly. The final phase of the increase would take effect on January 1st, 2023 and have an impact in the amount of \$9.37 monthly. This example was used as a relatively normal bill for a household fluctuating between 3 and 4. The Mayor continued by showing examples of someone using considerably less than the norm and then someone using considerably more than the norm. For someone using 333 cubic feet, the current bill is \$19.11. Over the course of the three phased increase, the bill would be \$20.85 (\$1.74 monthly increase), \$22.74 (\$3.63 monthly increase), and \$24.87 (\$5.76 monthly increase). On the high side, there are customers using 1,560 cubic feet of water (roughly 12,000 gallons per month). Their bill is currently \$57.61. The increases would impact them by \$5.25 monthly, \$10.98 monthly, and \$17.29 monthly as the phase in takes place. Councilwoman Huff asked if the increases were based upon what was being paid right now. Mayor Jenkins said it was.

Mayor Jenkins shift the discussion to Ordinance 1579 itself noting that what was provided to the Council was a red lined version of the amended document. The amended document did



not alter rates at all, it simply cleaned up procedural language throughout. Councilwoman Huff motioned to approve Ordinance 1579 – Water Rate Ordinance on 2nd Reading. Councilman Nunemaker seconded.

Mayor Jenkins opened the floor for questions from the Council members. Councilwoman Rosa asked about the revenue requirement for the project. Mr. Ross Hagan (with Baker Tilly) answered Councilwoman Rosa's question. The SRF requires that the City maintains a minimum annual debt service coverage of 1.25x in order to be able to offer bonds on the Open Market or through SRF. Councilwoman Rosa followed up by asking if there were other funding options available or if the project could be postponed until further funding options could be found and if other priorities such as road improvement could be focused on. Councilwoman Rosa also asked if part of this project could be done but not all. Mayor Jenkins explained that the Water and Sewer Utilities are not tax based funded, but revenue funded on a stand-alone basis. Repayment of the bond debt comes directly from the revenues generated by the Utility. If the project was put on hold, then the project would have to be repriced at a later date and rate increases would be higher. Mr. Hagan added that if the rate increase is not adopted, the City would not be able to meet the 1.25x debt service coverage ratio required in order to issue the bonds and pay for the project.

Mayor Jenkins also addressed the concerns voiced by the citizens as to why the City has not budgeted the \$6 million or \$7 million required for projects like this. If the City were to try and accumulate that amount of funds, the citizens would not look favorably upon it. Thus the focus has been on trying to match internal funding with projects as they come up and utilizing the bond market to help pay for the projects using cheap money (2% on 20% of the project and 0% on 80% of the project). The City has spent the last two years developing an Asset Management Plan on the Water side and is doing the same thing on the WasteWater side. This will provide a trajectory of where the City needs to go. On average, the pipes in the ground are 80 years old. The City is trying to get that down to 40 to 50 years old. Mayor Jenkins showed the Council a pipe that was pulled out of the ground. It was broken and deteriorated. Mayor Jenkins noted that no one likes a rate increase and this increase is not asking for more than what is necessary. Five years ago when the Sewer rates were increased, the Combined Sewer Overflow project was not done by the choosing of the City but was driven by Federal EPA requirements as well as those of the State Department of Environmental Management. The City fought against having to do the project for nearly 20



years. Immediately following the Sewer rate increase, the consultant told the City that they needed to raise Water rates as well. Mayor Jenkins did not feel that was the appropriate time to add that increase and pushed the increase as far down the road as possible.

Councilman Miller read a statement to the Council expressing his feelings that the timing was wrong and that residents of the City were contacting him indicating how tight their budgets are. At the same time, Councilman Miller understood that repairs are required and that the rate increase would not be implemented until July 1, 2021. He also pointed to an article in the New York Times that referenced NIPSCO asking Indiana for more money which would cause rates to increase. Not everybody is as economically fortunate as those on the Council. Councilman Miller inquired if the vote had to be majority vote or unanimous. Mayor Jenkins deferred to City Attorney Hoffer for the answer. Mr. Hoffer responded that it would be a simple majority vote.

CT Knight interjected some comments at this point. He discussed the economics of the situation. When a rate increase goes into effect, initially revenues exceed expenses. However, over time, the costs of replacement catch up to the revenues and then exceed them. Managing costs is one way of trying to control/manage the finances, but at some point, a rate increase is required to handle increasing costs. He also talked about the sequencing of projects, noting that it would not be viable to try and fix the streets now just to turn around and tear them up in the future in order to get to the pipes that have to be replaced. CT Knight went on to mention that the water and lead portions of the project were not severable. The work being done on the water project was what is allowing the work to be completed on the lead lines. There are roughly 240 homes that will have their lead lines replaced from the water main to within a foot of their homes. Normally these costs would be the homeowner's responsibility, but this project incorporates that cost into it. Thus the homeowner would not incur the cost. CT Knight also voiced his strong displeasure with former Council member Dermott for creating a fictitious rate increase amount of \$40 to \$50 per month and disseminating that to the press at an earlier Council meeting. Mr. Dermott was on the Council during the last rate increase and voted in favor of it. CT Knight commented that Mr. Dermott's comments were disingenuous and intellectually dishonest and that he was wrong in the way he approached the issue and the comments he made regarding the Superintendent of the Water Utility. CT Knight concluded his comments by stating that if the project is not completed now, then the future costs will increase



substantially as would the rates required to pay for the project. The citizens of the city may suffer buyer's remorse if this project is not moved forward at this time. The intent is to make the City better and stronger.

Water and WasteWater Superintendent Gerber commented that an extensive study has been completed on every piece of equipment for the Water and Wastewater Utility. A life expectancy has been established for all of it so a forward-looking replacement schedule could be developed. This is an attempt to be more proactive than reactive.

Councilman Kauffman asked about how to possibly reduce or negate future rate increases. Mayor Jenkins reiterated that the City has worked hard to make sure the rate increases matched up with projects on behalf of the City. While more frequent incremental increases are an option, it seems the better option is to match them up with projects. He said he would be willing to sit down with anyone and discuss the 20-year Asset Management Plan that Baker Tilly has assisted the City in creating. Mr. Hagan commented that the rates for the bonds are really low (affirming the 2% rate on 20 % of the project and 0% rate on 80% of the project) and that if rates had been increased 2.5% to 3% annually over the last ten years, they would be higher than what are being requested in this Ordinance.

Councilwoman Rosa said that she realized the City has "kicked the can down the road" as far as it can and the importance of the project. Her question was if it would be appropriate to commit to looking for ways, over the next six months, to offset the increase? Were there other areas that we could save? Was there a fund that could be established to help those in difficult financial situations pay for the increase? Could a committee be established to try and figure out how to mitigate the increase? Mayor Jenkins said that he thought the City could do some of the things Councilwoman Rosa suggested and reaffirmed that the City was always looking for ways to alleviate the impact on the citizens. A committee could be established, and the City will continue to utilize the services of Baker Tilly. Councilwoman Rosa suggested that this Ordinance be looked at as a possible rate increase and that other ways will be looked at over the next six months to try an offset the cost. Mayor Jenkins said that was a fair statement.

Mayor Jenkins switched the topic in order to address concerns about the new water tower. The comment had been made that this was for industrial growth only. That comment was not accurate. The City is required by law to have a 24-hour average daily water supply in



storage. With the growth expected, the City is currently at the minimum. This project will increase the capacity the City needs as growth comes.

Mayor Jenkins also reminded the Council of the assistance that residents can obtain via FCDC and the City's trustees as well. The City is also working with the National League of Cities on an insurance program that should be rolled out to the citizens shortly. This will help the homeowner for costs incurred for water lines from the main to their house. Mayor Jenkins also addressed the need for a bond. He noted how the school district utilizes debt (Mr. Johnson is on the school board and knows how bonds positively impact the school's ability to function).

City Attorney Hoffer told the Mayor that the approval of this reading would be a two-step process. First there would need to be a motion and approval of the amendments and then a second motion and approval of the Ordinance. He also reminded the Council members that the rates in this Ordinance are being relied upon by the State in their decision to approve the bond funding. Pattie Zelmer (with Ice Miller) concurred with City Attorney Hoffer.

Councilwoman Huff motioned to amend the Ordinance to account for the red line changes. Councilman Kauffman seconded. There was no further questions or comments. The motion to amend the Ordinance was approved unanimously by roll call vote.

The motion to approve Ordinance 1579 – Water Rate Ordinance, as amended, on 2nd Reading was approved 4-1 on roll call vote. Councilman Miller voted nay.

- 2nd Reading of Ordinance 1580 – Water Infrastructure Bond Ordinance: Mayor Jenkins introduced Ms. Zelmer with Ice Miller who presented the Ordinance at the first reading. Councilman Nunemaker motioned to approve the Ordinance on 2nd Reading. Councilwoman Huff seconded. There were no further questions or comments. Ordinance 1580 – Water Infrastructure Bond Ordinance was approved unanimously on 2nd Reading by roll call vote.
- 2nd Reading of Ordinance 1581 – Additional Appropriations from TIF for Water Infrastructure Project: Mayor Jenkins reminded the Council that this Ordinance was to approve the use of \$1 million from TIF as part of the funds from the City towards the Water project. Initially, the intent was to use \$500 thousand from TIF. In order to alleviate some of the rate increase, and additional \$500 thousand was requested. Councilman Kauffman motioned to approve the Ordinance on 2nd Reading. Councilman Nunemaker seconded. There were no questions



or comments. Ordinance 1581 – Additional Appropriations from TIF for Water Infrastructure was approved unanimously on 2nd Reading by roll call vote.

- 2nd Reading of Ordinance 1582 – Employee Handbook: Councilwoman Huff motioned to approve the Ordinance on 2nd Reading. Councilwoman Rosa seconded. Councilman Miller commented that the Handbook was well put together. Mayor Jenkins noted his appreciation for the efforts of Ms. Adrielle Lewinski and the others that had a hand in putting the Handbook together. There were no further questions or comments. Ordinance 1582 – Employee Handbook was approved unanimously on 2nd Reading by roll call vote.

- New Business:

- Resolution 736-20 – Utilize IC 5-23 Build, Operate, Transfer: Mayor Jenkins thanked Mr. Greg Martz and Mr. Dan Lawson for being in attendance and then turned the presentation over to Mr. Martz. Mr. Martz gave an overview of how the statute worked and how the process worked. In order to use this method, the City must adopt the resolution first prior to use. Documentation of the process was disseminated to the Council members. Mr. Lawson gave an example of how the process works and how the Speedway project initially was publicly bid at \$800 thousand over budget. Via build, operate, transfer, the project bid was reduced to \$700 thousand under budget. City Attorney Hoffer commented that this is a means for the City to utilize a state statute allowing the City to use this development tool moving forward. Councilman Miller motioned to approve the Resolution. Councilman Kauffman seconded. Resolution 736-20 – Utilize IC 5-23 Build, Operate, Transfer was approved unanimously by roll call vote.
- Set Special Common Council Meeting for November 30th, 2020 at 7:00 PM for 3rd Reading of Ordinances 1576, 1577, 1578, 1579, 1580, 1581, and 1582: Councilwoman Rosa motioned to approve setting the Special Common Council Meeting for November 30th, 2020 at 7:00 PM for 3rd Reading of Ordinances 1576, 1577, 1578, 1579, 1580, 1581, and 1582. Councilwoman Huff seconded. The Setting of the Special Common Council Meeting was approved unanimously by roll call vote.

- Approval of Accounts Payable Vouchers:

- 2020 APV's totaling \$631,091.03: Councilman Nunemaker motioned to approve the APV's. Councilman Miller seconded. Councilman Nunemaker inquired about the APV's listed as COVID that were negative. CT Knight responded that in order to get reimbursed for CARES



Act funding the First Responders payroll had to be shifted from their normal accounts to the one established as CARES Act. Once that took place then the City could ask for a reimbursement of those funds. There were no further questions or comments. The APV's were approved unanimously by roll call vote.

- Reports of City Officers:

- Department heads made themselves available to answer any questions the Council may have. There were no specific questions or concerns for the department heads. Street Superintendent Warren wished to publicly thank Superintendent Gerber for the assistance his staff has provided the Street Department during these difficult times. He commented on how well the departments have worked together. Mayor Jenkins told the Council that he continues to monitor the COVID situation. The options to continue meeting for various meetings virtually or in person continue to be available to all who wish to attend. Councilman Miller wished to note that the reason he signed the letter, referenced earlier by Dr. Topping, was to try and get people to take the current COVID situation seriously. Mayor Jenkins reiterated that we are all trying to maneuver the best we can through difficult times that we have not faced before. There were no other questions or concerns for the department heads.

Adjournment: With no further business to be discussed, Councilman Miller motioned to adjourn the meeting and Councilwoman Rosa seconded. The meeting was adjourned at 8:27 pm by unanimous voice vote.

Phil Jenkins, Mayor

Attest: _____
Jeff Knight, Clerk of the Council