



Board of Works Meeting – Minutes from April 24, 2023

Board of Works Members in Attendance: Mayor Phil Jenkins, Wayne Scheumann, Rod Stump Jr.

Also Present: **City Attorney** Brian Hoffer, **Clerk-Treasurer** Jeff Knight, 14 guests (13 IP, 1 OL) and one member of the press (IP).

- Call to order: Mayor Jenkins called the meeting to order at 3:30 pm.
- Roll call: Members listed above were in attendance. Mayor Jenkins was unable to attend.
- Approval of the Minutes from April 10, 2023: Mr. Stump motioned to approve the minutes. Mr. Scheumann seconded. The minutes were approved unanimously by voice vote.
- Petitions and Comments by Citizens:
 - Sewer bill adjustment requests were received for various Kountry Wood Products and Sammlung Platz accounts. Utility Superintendent Gerber recommended approval of the requested adjustments. Mr. Scheumann motioned to approve the adjustments. Mayor Jenkins seconded. The adjustments were approved unanimously by voice vote.
 - NIPSCO Representative Randy Edmaiston NIPSCO Goshen Gas Street Supervisor requested clarification on the permit process from the City. He discussed how gas leaks are evaluated and graded and then how long they have to repair the leak based upon the severity of the grade. They have up to 6 months to repair the leak. He said they often do not have permits until they know if they are going to do the work. They will often fix the leak and ask for permits afterwards. He asked if they needed to get all of their permits ahead of time even if they do not know if they will need to dig. Mayor Jenkins repeated Mr. Edmaiston's description back to him to make sure he understood. Mayor Jenkins proceeded to direct NIPSCO that when they know they have a leak they need to contact Street Superintendent Warren or some other person at City Hall in order to get the permitting process going. NIPSCO has a habit of showing up, unannounced, and working in an area but the City has no idea they are there or what the problem may be. Mr. Edmaiston asked how long a permit was good for. Mayor Jenkins responded that if they needed it to be for six months, then the City could make the permit good for six months. Mr. Edmaiston proceeded to ask what needs to be done with the permits they get ahead of time but end up not needing. Mayor Jenkins asked him to let the City know which ones are not necessary. Mayor Jenkins emphasized the need for communication from NIPSCO.



Superintendent Warren shifted the discussion to a call received earlier in the day from a homeowner at 402 John Street who had been out and returned home to find a hole in their front yard and called the City to find out what was going on. The City knew nothing about it other than there was a locate ticket. The contact person listed (Tammy Martin) was someone in the Integrated Payroll department. That is bad information to provide to a homeowner. Mayor Jenkins reiterated that to the citizens of Nappanee, NIPSCO is NIPSCO, not a company fragmented by specialized departments. It is such a big company, no one can discern between the various departments when it comes to trying to find out information or contact the correct department. The City needs to have help in communicating the correct information to the citizens of the City. Utility Superintendent Gerber asked NIPSCO to give them some time when it comes to locates as the City has small departments. There were 69 locates called in, and only one person to go out and do the work. Mr. Scheumann asked if Mr. Edmaiston was in charge of restoration. His response was “no”, that restorations are contracted out. Mr. Scheumann asked what the length of time is for those restorations. Mr. Edmaiston responded that it depends upon the material (blacktop or concrete). If it is yards, those should be taken care of within a two-week period. Mr. Scheumann asked who to call if the restoration has not taken place. Mr. Edmaiston said 800-464-7726 (1-800-4 NIPSCO). Mr. Scheumann pressed Mr. Edmaiston for a name to contact. His response was there is no name or specific department. It goes through the customer service call center and is then passed along to the Restoration Department who sends out an email. Mr. Scheumann commented that there needs to be improvement on NIPSCO’s part for yard restoration for both quality of work and timeliness. Mr. Scheumann told Mr. Edmaiston that NIPSCO does a pretty poor job of restoration. Mr. Edmaiston asked for some addresses so he could turn them in to the contractor. Mr. Thomas Mast was in the audience and provided some addresses (155 E. Lincoln and 500 Millers Court). Mayor Jenkins said a list of addresses will be put together and sent over. Superintendent Warren commented that NIPSCO is not meeting the restoration standards set forth by the City and that they are expected to do so. Mr. Edmaiston blamed a back order of flowable fill as being part of the problem and said that was beyond their control.

- There were no Reports of Committees, Boards, and Commissions and no Unfinished Business.
- New Business
 - Oakland Trail Pay App #7: Mr. Mike Reese (Troyer Group) presented the pay application in the amount of \$75,369.06 for work completed through March. Mr. Reese reviewed the application and recommended approval. Mayor Jenkins confirmed the retainage is still being withheld. Mr. Reese said yes. R. Yoder is finishing up landscaping and restoration work now. In the next two to three weeks, everything should be completed. Mayor Jenkins



noted that the company is way beyond their completion date. Mr. Reese said they will have a conversation with R. Yoder regarding liquidated damages. Mr. Scheumann motioned to approve partial pay application #7. Mr. Stump seconded. Partial Pay App #7 was approved unanimously by voice vote.

- Oakland Trail Change Order #5 – Additional Lights for Tunnel of Love: Mr. Reese presented the CO request. The drawings and quantities were based on three rows of string lights, but the arches were fabricated with four. The additional cost is \$625. Mayor Jenkins asked if the lights were an allowance item or a fixed cost as part of the bid. Mr. Reese said the string lights were to be provided by the City and that Anglin had included them in the bid. The bid was for the labor for the lights but not the lights themselves. Mayor Jenkins motioned to approve change order #5. Mr. Stump seconded. Change Order #5 was approved unanimously by voice vote.

- Partial Pay App #14 – Indiana Earth – Water Main Replacement – Division C: Mr. Ryan LaReau (Commonwealth Engineers) presented the pay application request. This is the last pay application for the project including retainage of \$300,359.29. The pay application is fine but there remain several unresolved items on the project. Because of those unresolved items, it is the recommendation from Commonwealth to approve the application with a \$0 payment until those issues have been resolved. Partial Pay App #13 was submitted a year ago and treated identically. Both pay apps will be held until resolution. Mayor Jenkins asked City Attorney Hoffer that in light of these matters being unresolved for a year, where does the City stand with regard to the contract with Indiana Earth for getting the matters resolved. Attorney Hoffer commented that this is a unique situation and that he has never seen a project quite like this before. At the time this was discussed last fall, the punch list was on the order of 12 pages. A majority of the issues were related to grass and the grass they planted last fall did come up, so that significantly reduced the number of punch list items. Remaining issues are liquidated damages and potentially unpaid subcontractors. There are also two lawsuits (one of which has been resolved by the City taking action). The other was filed recently as a result of action that took place at the project site which Indiana Earth is named as a party as is the City. That is being fought in court. Attorney Hoffer talked about the contract provisions which include notice of contractor removal. Mr. Scheumann motioned to approve Attorney Hoffer to issue the letter to Indiana Earth. He then asked when the City would pull the bond on Indiana Earth. Attorney Hoffer said that if they finish the list of outstanding items, the City will not need to do that. Mayor Jenkins seconded the issuance of a letter to Indiana Earth. The drawing up and issuance of a letter to Indiana Earth by Attorney Hoffer was approved unanimously by voice vote.



Mayor Jenkins then motioned to approve partial pay application 14 with \$0 payment. Mr. Stump seconded. Partial Pay Application #14 with a \$0 payment was approved unanimously by voice vote.

- The following is a listing of Street Closures, Sewer Connections, Driveway Requests, and Excavation in the ROW requests that were submitted and approved:
 - Street Closure – Intersection of Cheyenne and CR 3 – Tractor Drive: Mr. Stump motioned to approve the request. Mr. Scheumann seconded. The request was approved unanimously by voice vote.
 - Sewer Connection – 500 Millers Court (Thomas Mast): Mr. Scheumann motioned to approve the request. Mr. Stump seconded. The request was approved unanimously by voice vote.
 - Sewer Connection – 515 Millers Court (Thomas Mast): Mr. Stump motioned to approve the request. Mr. Scheumann seconded. The request was approved unanimously by voice vote.
 - Driveway Request – 353 N. Williams (Tylor Wilson): Mayor Jenkins motioned to approve the request. Mr. Stump seconded. The request was approved unanimously by voice vote.
 - Driveway Request – 500 Millers Court (Thomas Mast): Mr. Stump motioned to approve the request. Mayor Jenkins seconded. The request was approved unanimously by voice vote.
 - Driveway Request – 515 Miller Court (Thomas Mast): Mr. Scheumann motioned to approve the request. Mr. Stump seconded. The request was approved unanimously by voice vote.
 - Driveway Request – 651 Bungalow Drive (Lehman Development): Mayor Jenkins motioned to approve the request. Mr. Scheumann seconded. The request was approved unanimously by voice vote.
 - Driveway Request – 652 Bungalow Drive (Lehman Development): Mr. Scheumann motioned to approve the request. Mr. Stump seconded. The request was approved unanimously by voice vote.
 - Driveway Request – 72036 CR 7 (Church of God): Removing driveway access and putting in curb. Mr. Stump motioned to approve the request. Mr. Scheumann seconded. The request was approved unanimously by voice vote.
 - Excavating in ROW – 500 Millers Court (Thomas Mast): Mayor Jenkins motioned to approve the request. Mr. Stump seconded. The request was approved unanimously by voice vote.



- Excavating in ROW – 515 Millers Court (Thomas Mast): Mr. Scheumann motioned to approve the request. Mr. Stump seconded. The request was approved unanimously by voice vote.
- Excavating in ROW – 72036 CR 7 (Church of God): Mayor Jenkins motioned to approve the request. Mr. Scheumann seconded. The request was approved unanimously by voice vote.
- Excavating in ROW – Tomahawk Trail (Community Fiber): Mr. Scheumann motioned to approve the request. Mayor Jenkins seconded. The request was approved unanimously by voice vote.

- Resolution 2023-01 – Dedication of Infrastructure Improvement for Miller’s Orchard Phase 2 & Phase 3: Mayor Jenkins read the resolution. Planning Superintendent Nunemaker noted that the City is releasing the performance bond and obtaining a three-year maintenance bond for 10% as part of this process. Revised Irrevocable Letter’s of Credit have been received. Mr. Scheumann motioned to approve resolution 2023-01. Mayor Jenkins seconded. Resolution 2023-01 the Dedication of Infrastructure Improvement for Miller’s Orchard Phase 2 & Phase 3 was approved unanimously by voice vote.

- Direct Care Clinic Agreement: Mayor Jenkins presented the new contract with Beacon Health for the Direct Care Clinic. This will be a new provider. The three-year contract with the existing provider will end on June 30, 2023. This is for any of the City employees or insured dependents to have access to primary care. This is a per month/per member cost. As part of this, it is requested that the Mayor, City Attorney Hoffer, Mrs. Adrielle Robertson, and CT Knight have authority to work out the final language in the contract. Attorney Hoffer has reviewed the agreement and has recommended some changes. This will be a two-year agreement and subject to annual appropriation of funds. Mr. Scheumann motioned to approve the agreement pending finalization of language by the City Attorney or Mayor. Mr. Stump seconded. The agreement, pending finalization, was approved unanimously by voice vote.

- Approval of Accounts Payable Vouchers:
 - Mr. Stump motioned to approve the 2023 Water APV’s Totaling \$119,474.75 and 2023 WWTP APV’s Totaling \$89,567.38. Mr. Scheumann seconded. The APV’s were approved unanimously by voice vote.

- Reports of City Officers:
 - Fire Department: Fire Chief Lehman requested approval to hire Mr. Alec Chapman as a Firefighter/EMT effective April 24th, 2023. His beginning wage will be \$18.98/hour. Mayor



Jenkins motioned to approve the hiring. Mr. Stump seconded. Approval was granted to hire Mr. Alec Chapman unanimously by voice vote.

Chief Lehman also informed the BOW that the Fire Department has retained an ISO rating of 4. Mayor Jenkins said this was a good rating and that the City goal is to get it to a 3. The lower the score the better.

- Elder Haus: Elder Haus Director Kim Howenstine submitted a request to hire Mr. Dan Hahn as a part-time Elder Haus driver. His start date will be April 25th, 2023, at a wage of \$16.50/hour. Mr. Scheumann motioned to approve the hiring. Mr. Stump seconded. Approval was granted to hire Mr. Hahn unanimously by voice vote.
- Street Department: Street Superintendent Warren informed the BOW the City has received a Certificate of Insurance from Don Carlos naming the City as additionally insured.

Also submitted was a Subconsultant Agreement with First Group for the Woodview Drive project for K&S Engineers to be a consultant to First Group on the project. Mayor Jenkins motioned to approve the subconsultant agreement. Mr. Scheumann seconded. The subconsultant agreement was approved unanimously by voice vote.

Superintendent Warren gave an update on NIPSCO work on Woodview Drive.

Adjournment: With no further business to discuss, Mr. Stump motioned that the meeting be adjourned. Mr. Scheumann seconded. Adjournment was agreed to by voice vote and the meeting was adjourned at 4:30 pm.

Phil Jenkins, Mayor

Attest: _____
Jeff Knight, Clerk of Board of Works