

Burns Harbor Sanitary Board
Minutes of Wednesday, August 24, 2016

The Burns Harbor Sanitary Board met in its regular session Wednesday, August 24, 2016 in the Town Hall. The meeting was called to order by President Toni Biancardi at 7:00 p.m.

The Pledge of Allegiance was recited.

Roll Call:

Toni Biancardi..... Present
Jim Constantine Present
Rick Balunda..... Absent
Wilbur Oudman..... Present
Nathan Tumblin Present

Also present were Attorney Clay Patton, Sanitation Superintendent William Arney and Secretary Corinne Peffers. Martin Bobceck, EIT was present on behalf of Global Engineering.

Approval of Minutes

Constantine made a motion to approve the Minutes of July 20, 2016. Oudman seconded the motion. Motion carried by all in favor vote.

Correspondence

The board briefly reviewed the following correspondence. It was noted that the overflows occurred due to recent heavy rainfalls.

- Shared Ethics Advisory Commission Board and Commission Ethics Training, September 29, 2016.
- IDEM – Notification of sanitary sewer permit application for Corlin’s Landing from Thomas Lightfoot/R&B Development
- IDEM – Approval No. 21970 – Corlin’s Landing sanitary sewer system
- Bypass/Overflow Incident Report 8/18/16 copy from ArcelorMittal
- Bypass/Overflow Incident Report 8/15/16 copy from ArcelorMittal
- Noncompliance 24-Hour Notification Report 8/10/16 copy from ArcelorMittal
- Bypass/Overflow Incident Report 7/24/16 copy from ArcelorMittal

Sanitary Report

The board reviewed the report and there were no questions or further discussion.

Engineer Report

None.

Old Business

Oudman asked if the Jarosaks of 1234 Stanley Street had followed up with Superintendent Arney about payment arrangements for their sewer tap on fee. Biancardi stated Mr. Jarosak is currently hospitalized and hasn’t made any arrangements yet. The ball was left in the Jarosaks’ court to work out arrangements. Superintendent Arney stated Mr. Jarosak had one meeting with him and Arney clarified the board’s decision with him and he has not been back since. Superintendent Arney will keep the board informed.

New Business

John Hicks with Traditions Apartments, Multifamily sewer rate analysis presentation

John Hicks introduced himself to the board stating he was present with the co-owner of Traditions Apartments, Michael Sakich. He said they have been studying their sewer costs and looking at comparisons to other communities and Jeff Bann, a civil engineer with Development Visions Group, Inc., has done a comparative study.

Bann handed out a summary of his presentation to the board:



**In Good Company
Traditions at The Village in Burns Harbor**

Sanitary Sewer Rate Analysis Request

1. 327 IAC 3-6-11 – Design Flow Rate Requirements for Collection Systems and Water Pollution Treatment / Control Facilities
 - a. Average Daily Flow for Single Family Homes = 310 gallons per day (9,429.2 gallons/mo)
2. Factual Water Use Data at IGC Properties
 - a. Arbor Glen: Michigan City, Indiana – 90.86 gallons per day (2,763.7 gallons/mo)
 - b. The Enclave: Chesterton, Indiana – 82.73 gallons/day (2,516.4 gallons/mo)
 - c. Preserve at Grande Oaks: Valparaiso, Indiana – 66.32 gallons/day (2,017.2 gallons/mo)
 - d. Traditions: Burns Harbor, Indiana – 67.60 gallons per day (2,056.2 gallons/mo)
3. Current Town of Burns Harbor Sanitary Sewer Rates – Class 1 Users
 - a. \$40.75 for Single Family Residence = 1.0 Equivalent Residential Unit (ERU)
 - b. \$40.75 for Apartment, Condominium & Townhouse per Unit = 1 ERU
 - c. \$40.75 for Mobile Home Court per Space = 1 ERU
 - d. \$40.75 for Duplexes per Unit = 1 ERU
 - e. 1 ERU = 7,000 gallons of Monthly Water Use
 - f. Class II Users are billed based on Metered Water Consumption
4. Sewer to Water Billing Methodology
 - a. Arbor Glen: Michigan City, Indiana – Based on Water Use
 - b. The Enclave: Chesterton, Indiana – Based on Water Use
 - c. Preserve at Grande Oaks: Valparaiso, Indiana – Based on Water Use
 - d. Traditions: Burns Harbor, Indiana – Flat Rate
5. Request to Evaluate Sewer Utility Rate Charges for Apartment Type Structures
 - a. Based on:
 - i. Water Use
 - ii. Cost Basis for Service
 - iii. Equitable Rates across all User Classes

2014-2016 data

DEVELOPMENT VISIONS GROUP INC.

Project Management ■ Site Civil Engineering Design ■ Real Estate Development Consulting

He then continued with the following speech:

“First, is kind of a basis of how sewer systems operate in the state of Indiana, and how engineers calculate, and how rate consultants calculate rates. It is based on, usually an equivalent residential unit, an “ERU”, and that is how it is determined in your ordinance. That is based on 310 gallons per day per resident of sewage flushed into the system and if you were to extrapolate that on a per month basis, that equated to about 9,429 gallons per month. As John indicated, what we have done is we have gone in and looked at the water use for four properties that IGC (In Good Company) owns and operates. And the four facilities kind of close by Burns Harbor we thought so you can have some point of relativity was the neighborhood called Arbor Glen in Michigan City, The Enclave in Chesterton, Preserve Grande Oaks in Valparaiso and Traditions here in Burns Harbor. The average daily use per unit at Arbor Glen is at 90.86 gallons per day, which equates to 2,700 gallons per month as you can see. The Enclave pretty much is at 82.73 gallons per day, which equates to 2,500 per month. The Preserve at Grande Oaks in Valparaiso uses 66.32 gallons per day, just over 2,000 gallons per month and here in Burns Harbor at the Traditions project their usage is 67.6 gallons per day, which is a little over 2,000 gallons per month. These are all based on 2014-2016 water bills. These came straight from the water bills and we looked at the 2.5 years’ worth of consumption data. So, as we looked at for that and we looked at it compared to what we are experiencing in sewer bills here in Burns Harbor, your ordinance does not distinguish any difference between a single family house that might be 4 bedrooms and 3,000 square feet to a 1-bedroom apartment unit that might be at Traditions. The assumption in your rates are that they use the same amount of water, and what we are

trying to demonstrate to you is that that is not a good assumption from the perspective of the business of running the Traditions project. IDEM identifying a single family house with, 2, 3 4 bedrooms at 310 gallons per day and the Traditions on average — and there are 1 bedrooms, 2 bedrooms and 3 bedroom units within the Traditions project — but on average the consumption of water is only a little over 67 gallons per day. In your ordinance, single family is treated at \$40.75 as a flat rate for a single family, which is equal to 1 ERU, and apartments, condos and townhomes are the same. Mobile home spaces are the same and duplex units are also the same. And, in your ordinance it also classifies 1 ERU equivalent to 7,000 gallons of monthly water use. And, in your ordinance you have 2 classes of users, one is Class I and one is Class II. And attached to this one page spreadsheet are two pages from your ordinance that defines the different classes. Class I are residential uses, Class II are commercial, industrial and things that are not residential uses. And, your Class I users are all based on flat rates, as you see published at \$40.75 per unit. Businesses, industrial users, etc. their rates are based on water consumption, and that is one of things we are asking you tonight, and we don't expect any decisions here, and we hope that you would take under advisement and consider evaluating how apartment neighborhoods like Traditions are treated here in town. But, there are some things that you go through ... other kinds of ways of assessing an apartment neighborhood. I think TIF, for instance, looks at apartment neighborhoods not as residential. You cannot capture TIF for a single family house, but apartment neighborhoods you can capture TIF. So, there is some consideration that this is a business and that is one of the things we wanted to have you think about as maybe a simple modification to the ordinance that allows you to classify apartments that are scaled in size like Traditions, where they're all unified and singularly owned and operated as business for providing residential opportunities for your community, and classify them as a business so that you could charge them your sewer rates based on water consumption as opposed to flat rates that your \$40.75 as a single family residence has. That's kind of consistent with just kind of the overall rates and charges that the other communities that these IGC properties are. Michigan City bills their customers on sewer based on water consumption, Town of Chesterton and the Enclave project bills based on water consumption, The Preserve Grande Oaks, Valparaiso, bills based on water consumption and in Traditions here, it is based on a flat rate. So, my career, I have been involved with rate cases, on a number of occasions have gone into utilities and small utilities like yours and evaluated rates and the law says that you have to be really cost based for service and need to be equitable across all vested users. And, our presentation isn't presuming and we aren't saying you don't do that, but what we are asking you to do, we are trying to point out to you that our apartment neighborhood needs to be looked at a little different, we think, to be a little bit more equitable. You should look at water consumption, especially in some of these newer neighborhoods like the Traditions, where you have very water conserving appliances —toilets and dishwashers, washing machines, etc.— they are using less and less water as compared to maybe an older home, etc. So, that is our presentation tonight, we just wanted to kind of put it out there to you to see if there is any consideration for that. Kind of in summary, this community, the Traditions, pays about a sewer bill to water bill ratio of 3:1. And, the other three communities if you looked at the sewer to water bill, it is anywhere from 1.5 to 1.75:1. So, it is pretty significantly different, again, Burns Harbor's a smaller community, and so you know, to be able to broadcast costs across the smaller population means your pricing is probably a little bit higher, and we understand that. But, we are just asking you to take a look at how we affect your cost, which I don't know that there's a tremendous amount of effect, certainly in our opinion, nowhere near the same effect as a single family home. So, with that being said, I think myself, Mike and John, if you have any questions for us, we would be happy to answer it. But, what we would like you to do is consider evaluating your rates and seeing whether or not maybe there is a little more equity that can be applied to the sewer bills of the Traditions project.”

Biancardi thanked Mr. Bann for his presentation.

Constantine commented that we are waiting for our rate study to be completed and until then it was based on not having a way of monitoring the water we use and the vast range of different size homes we have. It was based basically close to what we use in water, pretty close to what our water bills are and always has been since our sewer sanitation became ours. Because our rates are really close to what we are using in water. Until we get our rate study in, I don't think we can do anything.

Secretary Peffers recently reached out to Umbaugh and Associates for a status on our rate study and they informed her that the rate study is being finalized this week. Umbaugh may have a couple more questions but it is almost complete.

Bann asked if the rate study considered a request to treat a single family uses vs. Traditions style apartments uses a little bit differently too and if another User Class would be created.

Superintendent Arney asked Bann, "When you're referring to unit, are you talking about the whole seven or eight-unit apartment, or are you talking per unit dwelling?" Bann responded, "Per unit, per one family's unit."

Superintendent Arney stated he wants to make sure the board knows not to confuse one apartment building as a unit. It is the actual units within the building. "So, we're not talking about that flat rate for seven units as we charge for right now."

Attorney Patton stated the board needs to keep in mind that it would make a recommendation to the Town Council to change the rate ordinance. Biancardi stated the board would hold a public hearing and then forward the recommendation to the Town Council, and ultimately the Town Council would make a decision.

Oudman asked if the Traditions' irrigation water was metered and Bann stated yes, it is metered and included in the figures provided to the board.

Biancardi asked what the gallons' cost is per month for Arbor Glen, Enclave and Preserve Apartments. Bann responded he doesn't know the information off the top of his head, however, he will provide it to the board. Sakich, said in Chesterton for example, the sewer is a little bit more than the water. "So, if my water bill for a building was \$400 and my sewer bill was probably \$475, in Chesterton, In Valpo, I think the ratio is a little bit higher than Chesterton."

Biancardi asked if all the other places meter and Sakich responded yes. She stated we are flat rate and we don't meter.

Bann said he will get the board monthly figures for what is paid monthly for the other communities.

From the floor, Ray Poparad asked if IGC owned the apartments that are up now, or the ones that are coming. Sakich responded by saying all of them. He also asked if there was one meter or eight meters per building for per unit. Bann responded, "That is kind of a loaded question. The water company made us put together on the north side ... on the north side of Boo Road, we have one big meter vault with one big 6-inch meter that feeds everything on the north side of Boo Road. Everything on the south side of Boo Road, each building has separate inch and a half size water meters."

Poparad asked Bann to clarify if it is one meter per building and Bann said for everything on the south side. He then asked, "So you can never get a true cost or true gallon usage per unit, because it doesn't have a meter?" Bann said that is correct.

Biancardi said so then it would just be an average and asked if the sewer and water are both built in to the rent. Sakich said yes, both are included in the rent.

Sakich, said what triggered the problem is he didn't do his due diligence. The bills started coming and he cross referenced them. He never thought he bills would be significantly different than the other communities he owns apartments in.

Biancardi stated we have a much newer system.

Sakich said, "We are trying to have some degree of equitableness in the region for the sewer compared to what we are doing with the other communities. So, that is all part of the request."

The board consensus is to take this under advisement and wait for the rate study to come back.

Attorney Patton asked if the rate study will include a break out of multifamily and asked if the board would like to ask Umbaugh to include it. Biancardi believes we have never requested that to be broken out before. Attorney Patton stated changing the ordinance can be a long process and it could be up to a year before it is all said and done.

Bann pointed out IDEM's Design Flow Rate Requirements for Collection Systems saying when "it comes to single family homes IDEM —and your engineer can testify this — you shall, when you submit permits use 310 gallons a day per single family resident. And then there are classifications and qualifications if it's an apartment building, and the apartment units are a lesser value of sewer flow in permitting. So, there is a recognition by a state agency that says apartments use less water than single family residences. Here your ordinance is charging at a flat rate the same."

Biancardi stated the board will look into it. We have retired residents that are living alone in a house and they are paying \$40.75 for less as well. We are in a situation that we are using a flat rate and we don't meter the water so there are a lot of things that need to be considered.

Bann again stated that this is a business operating 128 apartment units and the ordinance currently allows businesses to be charged based on water use and all you have to do is modify your ordinance and put apartments under a business class.

Attorney Patton stated this ordinance was in place when the apartments were built. Bann confirmed Patton's statement.

NSF Check Policy

Biancardi stated several months ago the board had made a policy about returned checks. Secretary Peffers stated we had talked briefly about what other communities had done and the Sanitary Board approved a motion that after two NSF checks, there would be a 1 year waiting period before we accept a check from that user again. Biancardi said this conflicts with the town's ordinance, so if the board wanted to do that we would have to change the ordinance. She proposed a user could appeal not being able to write a check and stated the appeal calls for extenuating circumstances and a hardship and the appellant must show that. The board could then follow with a decision on the appeal.

Attorney Patton said that the ordinance applies to checks written from the time the ordinance was adopted (Ordinance 267-2016 adopted March 9, 2016), as you can't make a law that says something that happened in the past is somehow legal, or illegal. So, the people on the NSF check list have a clean slate, and only the checks written after March 9, 2016 can be considered.

Appeal from Amy Arney

An appeal was received relating to the NSF check ordinance/policy which referenced checks from 2009. Since the checks were from 2009 and prior to the ordinance being adopted, the appeal does not need to be addressed.

Credit Card Payments

From the floor, Amy Arney asked if there will ever be the possibility of going on the town's website to pay online. Biancardi stated Clerk-Treasurer Jane Jordan and Secretary Peffers have been working on that and we are considering PayGov.us. She also said we are hoping the option will be available by this fall. This would offer credit card payments online and in person at the sanitation office. She also said we have to figure out how the funds go to PayGov.us, how the funds come back to us, the timing of such, etc. Secretary Peffers noted that the Town banks with LaPorte Savings Bank, which has been acquired by Horizon Bank, so Jane is waiting to see how the acquisition and change will affect her.

Appeal from Asmir and Sheyla Harbas

Asmir and Sheyla Harbas submitted an appeal for their sewer billing at 302 Melton Road. Neither Asmir or Sheyla were in attendance. Their appeal asks for their sanitary sewer billing to be put on hold until they are ready to open their planned pizza business in April 2017. The appeal states there is no water connection and there are several more renovations that need to occur before the building can be used. They ask for the billing to be put on hold until the business is ready to open as to not strain them financially.

The business has been assessed at 3 ERU's per Global Engineering and their billing was set to start 9/1/16 because they have very recently tapped on to the sewer system.

Biancardi asked if the appeal needed to be heard since the appellants weren't in attendance. Attorney Patton said no and suggested the board adopts a policy on setting a deadline for appeals to be received prior to the meeting at which the appeal will be heard. This particular appeal was received around 11 a.m. the day before the scheduled meeting. Biancardi said in the future as a standard practice, we should not add an appeal after the meeting agenda has been sent out. People are still welcome to come and address the board under Good of the Order.

Constantine asked whether or not 302 Melton Road has an occupancy permit and Superintendent Arney said no and Constantine asked why are we billing them. Superintendent Arney says that doesn't matter because our ordinance says once the tap is made billing begins.

Biancardi stated the appeal says there is no water there yet, and Arney said they do have water, so it is a usable facility and that's where you get caught, however, they are not open for business, not occupied and are several months away from that point. He also said the engineers calculated the ERU's by the potential use of the building. He also stated the appellants have not applied for

occupancy of the building because they have a lot of construction to do. In the past practice it has always been, once you have a tap that is established, other than new construction, you start getting billed right away because the town doesn't know if it is being used or not. You could have contractors inside flushing toilets, using water, etc. Under new construction, it doesn't start until we issue the certificate of occupancy.

Biancardi asked if the sewer bill has been suspended if water has been turned off and Superintendent Arney said it has been up to the board.

Attorney Patton referenced page 6, Chapter 18, subsection (b) of the Burns Harbor Town Code and read, "Provided, however, that no rates or charges shall accrue on any lot, parcel of real estate or building during the period between the issuance of the building permit and the issuance of a certificate of occupancy by the Building Commissioner. In all such cases, the full rates and charges shall become effective beginning the first month after the certificate of occupancy is issued." He stated he isn't sure what past practices may have been but the ordinance says there is not charges until there is a certificate of occupancy.

Superintendent Arney feels this is where the ordinance fails. "You have a building that at one time was occupied, it has lost its occupancy because it has been closed more than six months per our building code. So it's not like we are building a new construction, and that's really what our ordinance should specify."

Tumblin said it is still a working facility ... they are in there cleaning, they are using the water, they are using the sewers, the construction people are using it. It is not a new site.

Arney said a business could come and go, but if someone comes in and meets zoning they can go in and start doing things and using toilets/sewer without an occupancy permit. He has no code enforcement at that point.

Biancardi said technically by ordinance there is not an appeal necessary because she shouldn't start billing until certificate of occupancy is issued. Attorney Patton agreed.

Attorney Patton suggested the board also see it from an economic standpoint, as the town won't attract new businesses by having them incur debt while they are trying to get started with an income stream.

Oudman asked how many older commercial buildings in town are still on septic. Superintendent said there is A-1, the bank, the pizza shop we are talking about and those commercial lots next to Curley's.

The board directed Secretary Peffers to put Chapter 18, Section 3, Letter c (page 6) on the agenda for the next meeting to discuss changing the language to "tighten it up".

Lance Waugaman of Curly's Custom Cycles

From the floor, Lance Waugaman "Curly" of Curly's Custom Cycles introduced himself. He stated he bought the property at 328 Melton Road and he thought the sewage was run up to the edge of his property, but it is not, and stopped somewhere on Mortar Net's property, which is just east of his. He asked to board to extend the sewer to his property so he can tap on.

Superintendent Arney said Curly came in and kind of gave a quick overview on what he wants and he did things backwards. He ended up at the BZA to get approval for a Special Use for the property before he invested all his money in to the project. At the time, Arney looked at the As-Builts and they showed that the tap went all the way to his property. Since then, the system has been cameraed and it was discovered the system dead ends right where Mortar Net tapped in at. He said there are also depth issues there and the As-Builts show the lines are shallower than they actually are.

Tumblin asked for a rough estimate on how far the sewer would need to be extended.

Bobceck said looking at the regular drawings, it looked like there was 5 feet to the invert. So to maintain 3 foot of cover the whole way we could go 265 feet, and that is what the estimates are based on. Since it is deeper, he suggested not to go at the bare minimum. He mentioned the adjacent parcel that might be developed in the future and the sewer being extended to that parcel. Bobceck said they need to do more field work, but right now the estimate to extend to Curly's is at \$30,000 and that is from the current clean out all the way over.

Field work needs to be done to determine if the vacant lot west of Curly's can be connected coming from the east in the future.

Superintendent Arney stated there are recording issues that stem from the old engineer. Waugaman said he will be ready to tap on around November. His goal is to have the building and concrete done before the weather gets bad.

Bobceck will get quotes for the next meeting.

It was noted that the As-Builts say "proposed" for the sewer line extending down Old Porter Road near these properties and the depths are incorrect on the other As-Builts.

Constantine feels it is the town's responsibility to extend the sewers so this tap on can be made.

Approval of Claims with three (3) or more signatures

Constantine made a motion to approve the claims with three or more signatures. Tumblin seconded the motion. Motion carried by all in favor vote.

Spending Review

The board reviewed the report and there were no questions or further discussion. Biancardi stated a budget for next year has been created and asked that it be sent out to all the board members.

Delinquencies

The board reviewed the report and there were no questions or further discussion.

Flow Report

The board reviewed the report and noted the flow was average. Superintendent Arney stated the report is pretty normal. There was infiltration during the recent large rain events and said there were a couple of high flow alarms at Lift Stations #2 and #3, but they were able to maintain control.

Purchase Orders

The board briefly discussed Purchase Order No. 2434 for \$3,800.00 and Purchase Order No. 2433 for \$2,750.00. PO #2434 is for a concrete drive/apron at the new sanitation storage building from Cabe's Concrete & Construction, LLC, and PO #2433 is for industrial door openers from Higgins Overhead Door, LLC, for the sanitation storage building.

Constantine made a motion to approve PO #2433 and PO # 2434. Oudman seconded the motion. Motion carried by all in favor vote.

Superintendent Arney stated this will complete the new storage building and once the concrete cures they will be moving in.

Attorney Patton stated he sent a letter to MidWest Developing on July 26, 2016 about the building prints invoice that was discussed at the last meeting and asked for a signed copy of the agreement and he hasn't gotten a response.

Good of the Order of the Community & Any Other Business

None.

Announcements

The next meeting will be held Wednesday, September 21, 2016 at 7:00 p.m.

Adjourn

Constantine made a motion to adjourn at 8:06 p.m. Tumblin seconded the motion. Motion carried by all in favor vote.

Submitted by: Corinne Peffers, Secretary

APPROVED September 21, 2016

Toni Biancardi, President

Corinne Peffers, Secretary