

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF THE)
CITY OF VALPARAISO, INDIANA, AND)
VALPARAISO CITY UTILITIES FOR APPROVAL)
OF A REGULATORY ORDINANCE) CAUSE NO. 45306
ESTABLISHING A SERVICE TERRITORY FOR)
THE CITY'S MUNICIPAL SEWER SYSTEM)
PURSUANT TO IND. CODE CH. 8-1.5-6.)

PREFILED TESTIMONY

CARL N. SEALS – PUBLIC'S EXHIBIT NO. 1

ON BEHALF OF THE

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

February 11, 2020

Respectfully Submitted,



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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing *Office of Utility Consumer Counselor's* ***Prefiled Testimony of Carl N. Seals*** has been served upon the following counsel of record in the captioned proceeding by electronic service on February 11, 2020.

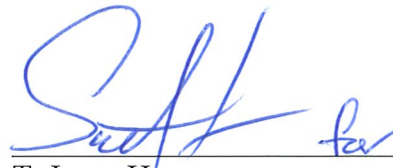
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OUCC WITNESS TESTIMONY OF CARL N. SEALS
CAUSE NO. 45306
CITY OF VALPARAISO, INDIANA AND
VALPARAISO CITY UTILITIES

1 **Q: Please state your name and business address.**

2 A: My name is Carl N. Seals, and my business address is 115 West Washington Street, Suite
3 1500 South, Indianapolis, Indiana 46204.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC") as a Utility
6 Analyst in the Water/Wastewater Division. My qualifications and experience are set forth
7 in Appendix A.

8 **Q: What Attachments are you including with your testimony?**

9 A: Included with my testimony are the following:

10 Attachment CNS-1: Map of Damon Run.¹

11 Attachment CNS-2: Billing comparison for Damon Run customers, from Petitioner's
12 Exhibit 15, page 13.

13 Attachment CNS-3: Article from the *Chesterton Tribune*, "Utility board votes to make the
14 two Liberty schools customers," (January 21, 2020).

15 **Q: What is the City of Valparaiso seeking in its filing?**

16 A: According to the Petition initiating this proceeding, the City of Valparaiso, Indiana and
17 Valparaiso City Utilities (collectively "Valparaiso" or "Petitioner") seeks "approval of a
18 regulatory ordinance establishing a service territory for the city's municipal sewer system
19 pursuant to Ind. Code Ch. 8-1.5-6."

¹ See Damon Run website: <https://damonrunconservancy.com/wp-content/uploads/2019/09/Updated-DRCD-Map.pdf>

1 **Q: What is the purpose of your testimony?**

2 A: I discuss the information included in Petitioner's filing and data requests, and I explain
3 that, based on that information, Petitioner appears to have met the criteria identified in Ind.
4 Code Ch. 8-1.5-6.

5 **Q: What have you done to prepare your testimony?**

6 A: I reviewed Valparaiso's Petition and Testimony, certain reports pertaining to the Indiana
7 Department of Environmental Management, researched online news articles regarding
8 Valparaiso and reviewed responses to data request questions to better understand
9 Petitioner's current operations and pending request.

10 **Q: Why is Valparaiso seeking to establish a service territory?**

11 A: Valparaiso seeks to become the exclusive provider to specific areas identified in City of
12 Valparaiso Ordinance 27-2019, as later modified in Petitioner's Exhibit 3 following
13 discussions with Aqua Indiana over certain parcels. It does so in part to establish territory
14 whereby it may eventually provide sewage treatment service to Damon Run Conservancy
15 District² ("Damon Run") and to areas along and adjacent to that route. Valparaiso further
16 wishes to establish exclusive areas generally north of town, consistent with its Master Plan,
17 where it may begin to offer sewer service to potential new customers.

18 **Q: What is required of a Petitioner seeking approval of a regulatory ordinance pursuant**
19 **to Indiana Code § 8-1.5-6?**

20 A: According to Indiana Code § 8-1.5-6-9(b), the petition for this type of request must include
21 the following:

- 22 (1) A description of the service territory established in the regulatory ordinance.
23 (2) Proposed rates and charges for the services to be provided in the service territory.

² Damon Run is a collection-only system; sewage treatment is currently provided by the City of Portage. Valparaiso completed its acquisition of Damon Run on December 10, 2019 and has initiated the provision of service to Damon Run. See Attachment CNS-1 for a map of Damon Run.

1 (3) A list of any administrative or judicial proceedings involving the regulatory
2 ordinance.

3 (4) A list of any utilities actually or potentially affected by the regulatory ordinance.

4 **Q: How has Valparaiso satisfied the aforementioned requirements?**

5 A: Petitioner filed Exhibit 1 - Ordinance 27-2019 with its Verified Petition, which included a
6 graphical depiction of the service territory established in the regulatory ordinance as
7 Exhibit A. This map was subsequently modified in Petitioner's Exhibit 3, to remove three
8 parcels sought by Aqua Indiana.³ Petitioner's witness, Steve Poulos, notes in his testimony
9 that "neither Valparaiso nor Aqua is precluded from serving these parcels at some future
10 date."⁴

11 The proposed rates and charges for services to be provided in the service territory,
12 excluding Damon Run, are the rates currently being paid by current Valparaiso customers.
13 These rates, established in Ordinance 28-2013, are set out in Petitioner's Exhibit 5 and
14 equate to approximately \$47.79 per month for a customer using 5,000 gallons per month.⁵
15 The new rates for customers formerly served by Damon Run will include a \$60.78 monthly
16 fixed rate per Equivalent Dwelling Unit ("EDU") and volumetric charge of \$7.77 per
17 thousand gallons. Thus a customer using 5,000 gallons would pay \$99.63, *excluding debt*
18 *service charges*. This is a higher monthly sewer service bill than Damon Run customers
19 currently pay, of \$53.90, but excludes a significant reduction to debt service payments
20 Damon Run customers currently pay through the annual residential tax bill. Damon Run

³ These three parcels involved a Certificate of Territorial Authority granted to former South Haven Sewer Works, now part of Aqua Indiana.

⁴ Petitioner's Exhibit 1, Direct Testimony of Steve Poulos, page 5.

⁵ Valparaiso does not charge additional fees for out-of-city customers.

1 customers currently pay \$187.76 per month in debt service charges, which is expected to
2 be reduced to \$52.98 per month under VCU. This is explained in Attachment CNS-2, which
3 includes a Billing Comparison presented on page 13 of Petitioner's Exhibit 15. Including
4 changes to debt service payments, the total cost of monthly sewer service will reduce from
5 \$241.66 to \$152.61 per month.

6 With regard to listing any administrative or judicial proceedings involving the
7 Regulatory Ordinance, Petitioner states in Paragraph 14 of its Verified Petition that the
8 Regulatory Ordinance is "not currently the subject of any other administrative or judicial
9 proceedings."

10 Finally, in Paragraph 15 of its Verified Petition, Valparaiso lists the following
11 sewer utilities that might be impacted by the Regulatory Ordinance:

12 Aqua-Indiana, South Haven
13 City of Portage
14 Damon Run Conservancy District
15 Town of Chesterton
16 Valparaiso Lakes Area Conservancy District

17 The authorized service areas of these identified utilities has been excluded from the service
18 area being sought by Petitioner.

19 **Q: What should the Commission consider when evaluating the public interest of the**
20 **proposed regulatory ordinance pursuant to Indiana Code §8-1.5-6?**

21 A: According to Indiana Code §8-1.5-6-8(g), the Commission shall consider the following
22 factors when making a determination whether the regulatory ordinance is in the public
23 interest:

- 24 (1) The ability of another utility to provide service in the regulated territory.
25 (2) The effect of a commission order on customer rates and charges for service provided in
26 the regulated territory.
27 (3) The effect of the commission's order on present and future economic development in
28 the regulated territory.

1 (4) The history of utility service in the regulated territory, including any contracts for utility
2 service entered into by the municipality that adopted the regulatory ordinance and any other
3 municipalities, municipal utilities, or utilities.

4 (5) Any other factors the commission considers necessary.

5 **Q: How has Valparaiso supported these considerations?**

6 A: With regard to the ability of another utility to provide service in the regulated territory, Mr.
7 Poulos explains in Exhibit 1 that Valparaiso and Damon Run are currently the only
8 wastewater providers within the proposed Valparaiso Service Area. The Town of
9 Chesterton, which began serving two developments north of State Road 6, may have
10 limited capacity in the area to serve additional customers.⁶

11 Regarding the potential impact on customer rates and charges for service provided
12 in the regulated territory, and as discussed earlier, Petitioner stated that the rates charged
13 within the regulated territory, excluding Damon Run, will be the same rates charged to its
14 other customers. Damon Run customers will see a decrease in total cost, when debt service
15 collected through residential tax bills is taken into consideration.

16 Petitioner indicates that economic development will be served by providing greater
17 certainty to potential developers in the Service Area and that Valparaiso will have a clearly
18 defined area in which to anticipate and plan for future growth. Reducing rates to Damon
19 Run customers now may encourage growth in that community, and may be further
20 enhanced when Valparaiso is able to extend sewer mains to Damon Run, thereby reducing
21 costs (and rates) further.

⁶ Mr. Poulos states that Valparaiso has been “unable to establish a dialogue” with Chesterton, but believes that only 60 additional EDU’s of capacity are available from the new development north of State Road 6.

1 The history of the proposed Service Area is essentially the combined history of
2 Valparaiso and Damon Run. Valparaiso already serves approximately 2,000 customers
3 outside of its corporate limits.⁷ Valparaiso has been in discussions with Damon Run since
4 2015 to find a way to assist Damon Run in providing sewer service to Damon Run's
5 customers. This culminated in the current approach to acquire and operate Damon Run's
6 wastewater utility system once Damon Run's bonds became callable.

7 **Q: Has Petitioner met the filing requirements specified in Indiana Code §8-1.5-6-9(b)?**

8 A: Yes, it appears that Petitioner has fulfilled all of the requirements provided in Indiana Code
9 §8-1.5-6-9(b).

10 **Q: What other matters should the Commission be aware of regarding this filing?**

11 A: As noted in the Supplemental Testimony of Steve Poulos, Valparaiso has already
12 completed the acquisition of Damon Run. On December 10, 2019, Valparaiso acquired all
13 of Damon Run's sanitary sewer utility assets and began providing sewer utility service to
14 Damon Run's former customers. One of those customers, Liberty Intermediate and
15 Elementary schools, appear to be seeking sewer service from Chesterton.⁸ Given Mr.
16 Julien's testimony in Exhibit 14 regarding the economics of the Damon Run area,⁹ losing
17 the schools as a customer may affect the economic decision to extend mains to Damon Run
18 and move rates to Valparaiso's existing rates.

19 **Q: Did the OUCC receive any customer comments?**

20 A: Yes. These comments support Valparaiso's request to provide service to Damon Run
21 customers. These comments are included in Public's Exhibit 2.

⁷ Poulos Direct, page 9, lines 11-12.

⁸ See Attachment CNS-3, Chesterton Tribune online article.

⁹ See Petitioner's Exhibit 14, Direct Testimony of John D. Julien, page 8, lines 16-22 and page 9 lines 1-10.

1 **Q: Does this conclude your testimony?**

2 **A: Yes.**

I. APPENDIX A: QUALIFICATIONS

1 **Q: Please describe your educational background and experience.**

2 A: In 1981 I graduated from Purdue University, where I received a Bachelor of Science degree
3 in Industrial Management with a minor in Engineering. I was recruited by the Union Pacific
4 Railroad, where I served as Mechanical Supervisor, Maintenance Supervisor and Industrial
5 Engineer in both local and corporate settings in St. Louis, Chicago, Little Rock and
6 Beaumont, Texas. I then served as Industrial Engineer for a molded-rubber parts
7 manufacturer in Shelbyville, Indiana before joining the Indiana Utility Regulatory
8 Commission ("IURC") as Engineer, Supervisor and Analyst for more than ten years. It was
9 during my tenure at the IURC that I earned my Master of Health Administration degree
10 from Indiana University. After the IURC, I worked at Indiana-American Water Company,
11 initially in their rates department, then managing their Shelbyville operations for eight
12 years, and later served as Director of Regulatory Compliance and Contract Management
13 for Veolia Water Indianapolis. I joined Citizens Energy Group as Rate & Regulatory
14 Analyst following the October 2011 transfer of the Indianapolis water utility and joined
15 the Office of Utility Consumer Counselor in April of 2016.

16 **Q: Have you previously testified before the Indiana Utility Regulatory Commission?**

17 A: Yes, I have testified in both telecommunications and water utility cases before the
18 Commission.

DAMON RUN CONSERVANCY DISTRICT

PROBABLE CUSTOMERS

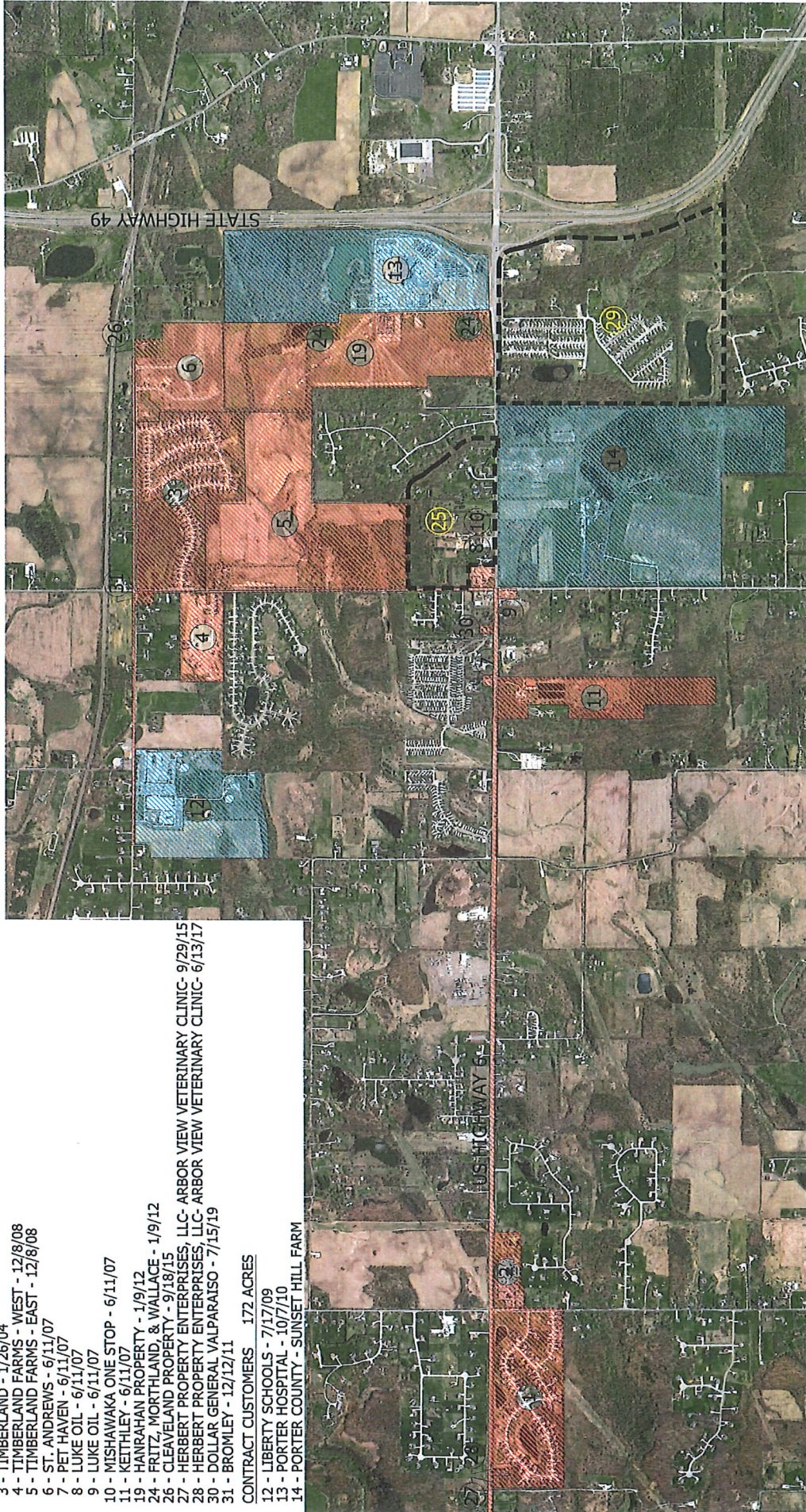
25 - XXXXXXXXXXXXXXX
29 - XXXXXXXXXXXXXXX

ANNEXED CUSTOMERS 523 ACRES

- 1 - EAGLE RIDGE - 1/26/06
- 2 - MALLARDS POINTE - 1/25/08
- 3 - TIMBERLAND - 1/26/04
- 4 - TIMBERLAND FARMS - WEST - 12/8/08
- 5 - TIMBERLAND FARMS - EAST - 12/8/08
- 6 - ST. ANDREWS - 6/11/07
- 7 - PET HAVEN - 6/11/07
- 8 - LUKE OIL - 6/11/07
- 9 - LUKE OIL - 6/11/07
- 10 - MISHAWAKA ONE STOP - 6/11/07
- 11 - KEITHLEY - 6/11/07
- 19 - HANRAHAN PROPERTY - 1/9/12
- 24 - FRITZ, MORTLAND, & WALLACE - 1/9/12
- 26 - CLEVELAND PROPERTY - 9/18/15
- 27 - HERBERT PROPERTY ENTERPRISES, LLC - ARBOR VIEW VETERINARY CLINIC - 9/29/15
- 28 - HERBERT PROPERTY ENTERPRISES, LLC - ARBOR VIEW VETERINARY CLINIC - 6/13/17
- 30 - DOLLAR GENERAL VALPARAISO - 7/15/19
- 31 - BROMLEY - 12/12/11

CONTRACT CUSTOMERS 172 ACRES

- 12 - LIBERTY SCHOOLS - 7/17/09
- 13 - PORTER HOSPITAL - 10/7/10
- 14 - PORTER COUNTY - SUNSET HILL FARM



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VALPARAISO (INDIANA) WATER RECLAMATION DEPARTMENT

(cont'd)

BILLING COMPARISON

Monthly residential billing - current DRCD rates:

Monthly fee per EDU for sewer		\$12.00
Monthly fee per EDU for water		12.00
Sewage treatment charge per 1,000 gallons	\$5.98	
Times: 5,000 gallons	<u>5</u>	
Monthly flow charge		29.90
Average residential tax bill (pay 2019)	\$2,253.11	
Divided by: 12 months	<u>12</u>	
Monthly debt service charge		<u>187.76</u>
		*
Total monthly residential billing - current DRCD rates		<u><u>\$241.66</u></u>

Monthly residential billing - VCU rates:

Monthly fee per EDU		\$60.78
Flow rate per 1,000 gallons	\$7.77	
Times: 5,000 gallons	<u>5</u>	
Residential flow charge		38.85
Assumed debt service - Damon Run (page 10)		<u>52.98</u>
Proposed monthly residential bill		<u><u>\$152.61</u></u>

(Subject to the attached letter dated September 18, 2019)
(Preliminary - Subject to Change)
(Internal Use Only)

Chesterton Tribune**Utility board votes to make the two Liberty schools customers**

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By KEVIN NEVERS

The Liberty Intermediate and Elementary schools are now just one more vote away from becoming customers of the Chesterton Utility.

At its meeting Monday night, the Utility Service Board voted unanimously to approve a sanitary sewer user agreement under which the Utility would provide service to the two schools, located on C.R. 900N in unincorporated Liberty Township.

The agreement now goes to the Duneland School Board for its approval.

Under the terms of the agreement, DSC will install and maintain at its own cost a force main connecting to the Fox Chase subdivision, located west of Meridian Road and serviced by a lift station constructed a couple of years ago by the Utility off C.R. 900N just west of Ind. 49.

The Utility will waive all tap-on, inspection, and administrative fees associated with DSC's tie-in to the Chesterton sanitary sewer system and will be billed the following: treatment rate per 1,000 gallons of \$4.27; user charge per three-inch meter per month of \$308; and a debt service charge per EDU of \$42.61, to be reduced to \$35.51 after 2021.

DSC, which had been a customer of the Damon Run Conservancy District, approached the Service Board late last year to request a tie-in, after the Duneland School Board formally terminated its relationship with Damon Run. That break followed Valparaiso City Utilities' acquisition of the Damon Run infrastructure and its declaration of a 10-mile service territory outside of the city's corporate limits.

The Chesterton Utility is challenging that territory declaration before the Indiana Utility Regulatory Commission, on the ground that Valpo's 10-mile service territory encroaches on Chesterton's four-mile territory, declared by the Town Council by ordinance five years ago.

"Welcome, Duneland Schools," Member Scott McCord said.

President Larry Brandt, for his part, thanked Superintendent Dave Ryan and Associate Town Attorney Chuck Parkinson for their "outstanding" work on the agreement.

Meanwhile, Ryan told the Service Board that staff is working on the dispute. "Time continues to be spent with lawyers and engineers on moving forward with the Valpo/DRCDD territorial issue," he said. "Our attorneys sent a settlement proposal offer to Valpo on Dec. 20. We have not yet heard a response back."

December/2019

In Review

In other business, Ryan told members that financials presented to the Service Board for December and 2019 are preliminary and may yet change somewhat.

As they stand, however, the Utility ran a deficit in December of \$341,394.02 and in full-year 2019 a surplus of \$965,934.42: that latter figure exceeds

projection by \$555,956.42 or more than 100 percent. By the same token, the Utility’s total operating expenses last year were \$145,327.63 less than the \$2,677,893 than originally projected.

“If I read this correctly, pending any major changes, we ended the year well in the positive,” Brandt noted.

“Absolutely,” Ryan replied. “We had a great year.”

In 2019 Chesterton used 58.61 percent of its 3,668,000 gallon per day (gpd) allotment of the wastewater treatment plant; Porter, 56.72 percent of its 851,000 gpd allotment; the Indian Boundary Conservancy District, 73.78 percent of its 81,000 gpd allotment; and the plant as a whole, 58.56 percent of its capacity.

The plant treated 980,567,000 gallons in 2019, for an average daily flow of 2,694,083 gallons: 13 percent more than in 2018. There was one bypass, in September, which saw 8.19 inches of rain, the most of any month. A total of 45.90 inches of rain fell in 2019, compared to 41.71 inches in 2018 and 41.33 inches in 2017.

Even with all the rain, even with the 13 percent increase in daily average usage, the wastewater plant is still only operating at 59 percent of its capacity, Brandt observed. “That’s amazing,” he said. “That’s absolutely amazing.”

2020 Budget

Members also voted unanimously to approve the 2020 budget as submitted by Ryan.

That budget projects total revenues of \$4,655,504; debt service of \$1,361,191; total operating revenue of \$3,294,313; expenses of \$2,741,997; and surplus of \$552,316.

Both Brandt and Member Andy Michael praised Ryan for the clarity, detail, comprehensiveness, and rigor of the budget documents.

“In all the budgets we’ve gotten over the last 20-plus years, this is probably the more comprehensive and understandable one we’ve ever had,” Michael said.

Last Thought

McCord took a moment at the end of the meeting to express his gratitude to the Town Council for re-appointing both himself and Brandt to the Service Board.

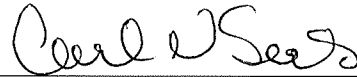
“Thank you for the confidence,” McCord said. “Hopefully we can continue to do the job you expect of us.”

Posted 1/21/2020

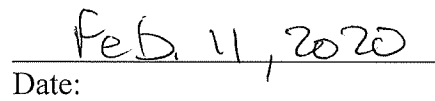
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AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.



By: Carl N. Seals
Cause No. 45306
Indiana Office of
Utility Consumer Counselor



Date: