

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

July 15, 2013

President Terry Rodino called the meeting to order at 9:00 a.m. in room 104 in the County Administration Building, 117 North Second Street, Goshen, Indiana. The other two (2) Board members, Frank Lucchese and Mike Yoder, were also present. Others present were Sheriff Brad Rogers; Pauline Graff, County Auditor; Gordon Lord, County Attorney; Tom Byers, County Administrator; and Kathy Erschen, Executive Assistant.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Minutes from the July 1st & 8th, 2013 meetings and placed them on file.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the Allowance of Claims, as presented by the county auditor's office.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved a Memorandum of Understanding (MOU) with Adult Education Services for adult education instructional staff and GED testing for Community Corrections at a cost of \$60,342, as requested by Tara Booher-Whaley, Director of Community Corrections. A copy of the MOU is on file in the Commissioners' office.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved paying for the cost of catering food for a re-entry initiative meeting on July 18, 2013 from Project Income (210-615), as also requested by Tara Booher-Whaley. She said the cost wouldn't be more than \$500.

Mark Kanney from planning and development presented three (3) subdivisions for Secondary approval. They are:

- A. Nickell's Replat of Lots 22 & 23 in Sylvan Meadows Subdivision, a 1 lot minor subdivision, for Nate & Erin Nickell, represented by B. Doriot & Associates, located on the east side of Sylvan Meadows Lane, 600 ft. north of CR 16 in Jefferson Twp.
- B. Syracuse North Business Park DPUD (Final Development Plan) for the Town of Syracuse, represented by Jones Petrie Rafinski, located on west side of SR 13, 1,000 feet south of US 6 & on the south side of US 6, 800 ft. west of SR 13 in Benton Twp.
- C. Sapphire Estates (formerly known as Sherck Estates), a 6 lot major subdivision, for R & B Sherck Land, Inc., represented by Brads-Ko Engineering & Surveying, Inc., located on the east side of CR 31, 1,758 ft. south of CR 10 in Washington Twp.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved Secondary approval for the three (3) subdivisions listed above as presented.

Mark Kanney from planning and development presented a request for Don & Beth Huss, represented by Jones Petrie Rafinski, for a zone map change from A-1 to a Detailed Planned Unit Development-A-1 to be known as Huss Residential DPUD located on the south end of Wilray Drive, 1,000 feet south of Melwood Drive, 400 feet west of SR 19 in Baugo Township. The Plan Commission has sent this to the Commissioners with a recommendation for approval. The petitioner is asking for a third lot on this piece of property. Mr. Kanney said this is on a private road. Ken Jones from Jones Petrie Rafinski, representing the petitioner, said he will answer any questions. There were no other comments from anyone in the audience. On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board closed the public hearing.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the zone map change and adopted an ordinance establishing this zoning change.

The Ordinance is as follows:

ORDINANCE NO. PC2013-08

AN ORDINANCE TO AMEND THE ELKHART COUNTY CODE 36-7-4-600 MORE SPECIFICALLY ARTICLE 2. DISTRICTS AND ZONE MAPS FOR REAL ESTATE DESCRIBED IN THIS ORDINANCE FROM A-1 TO A-1 DPUD TO BE KNOWN AS HUSS RESIDENTIAL DPUD AND BY CHANGING THE ZONE MAPS INCORPORATED BY REFERENCE EIN ARTICLE 2. DISTRICTS AND ZONE MAPS OF THE ELKHART COUNTY ZONING ORDINANCE.

WHEREAS, Don and Beth Huss submitted a petition to change the zone maps for the real estate described in SECTION 1 of this ordinance from A-1 to A-1 DPUD on May 6th, 2013;

WHEREAS, The Site Plan Review Committee did Critique the petition as submitted and made those comments part of the file for consideration by the Elkhart County Plan Commission;

WHEREAS, The Staff for the Elkhart County Advisory Plan Commission did cause the publishing of the legal advertisements for the Public Hearing in **The Elkhart Truth** on the 3rd day of June 2013 and in **The Goshen News** on the 1st day of June 2013 and did mail as prescribed by Rule and Law the Notice of Public Hearing to all persons of record within 300 feet;

WHEREAS, The Elkhart County Advisory Plan Commission did hold a public hearing as provided by law on the 6th day of June 2013 and did take public input at that meeting;

WHEREAS, The Elkhart County Advisory Plan Commission did give reasonable regard to the criteria established by IC 36-7-4-603 and Specifications I – Planned Unit Development of the Elkhart County Zoning Ordinance; **And**

WHEREAS, The petition was sent to the Board of County Commissioners for Elkhart County with a Favorable Recommendation and reasonable Conditions as outlined in this Ordinance.

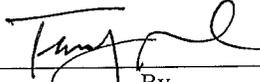
THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY INDIANA, AS FOLLOWS:

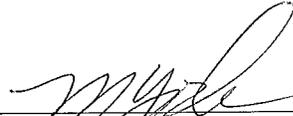
SECTION 1. That the legal description of the real estate attached hereto as **Exhibit A** is made a part of this ordinance and incorporated herein by this reference.

SECTION 2. That the real estate described in **Section 1** of this ordinance be rezoned from A-1 to A-1 DPUD effective immediately and the zone maps adopted by reference in Article 2 of the Elkhart County Zoning Ordinance for Elkhart County, Indiana be amended and changed to reflect the said rezoning of said real estate.

- SECTION 3.** That the Detailed Planned Unit Development be granted for the real estate described in **SECTION 1** of this Ordinance. Unless this Ordinance specifies to the contrary, all Development Standards for the A-1 DPUD Zoning District detailed in the Elkhart County Zoning Ordinance will be enforced and govern the use of the real estate, though the Development Plan and Site Plan/Support Drawing will supersede all otherwise applicable **Permitted Uses, Special Uses, and Development Standards** under the A-1 DPUD zoning district.
- SECTION 4.** That all Development Plan(s) must be submitted to the Plat Committee of the Elkhart County Advisory Plan Commission for approval as a Secondary Plat; Secondary approval shall be granted only if the Development Plan(s) comply with the provisions of this Ordinance, the Site Plan/Support Drawing, and the Subdivision Control Ordinance. The Development Plan(s) shall be incorporated into this Ordinance by this reference. All Secondary Plats will reference this Ordinance and if the intent of this Ordinance or the Site Plan/Support Drawing is not clear the Secondary Plan may be considered by the County Advisory Plan Commission at a Public meeting.
- SECTION 5.** That the Site Plan/Support Drawing is made part of this Ordinance by this reference and shall be maintained in the files of the Elkhart County Advisory Plan Commission.
- SECTION 6.** This Detailed Planned Unit Development Ordinance will limit the use of this real estate to what has been shown on the Site Plan/Support Drawing.
- SECTION 7.** That the additional documentation and supporting information listed in Section 9 of this Ordinance must be supplied and the conditions specified in Section 9 of this Ordinance must be satisfied prior to any permits for construction being issued.
- SECTION 8.** That the following specified limitations to this Planned Unit Development have been adopted and imposed:
- a. Primary approval of a three lot residential subdivision is granted.
 - b. Access to these lots by "private street" easement for building purposes is hereby granted.
- SECTION 9.** List of additional documentation, supporting information, and conditions:
- a. That any new need for sewage disposal be served by municipal sanitary sewer.
 - b. That the access agreement and development covenants be recorded and included in this Ordinance by reference.
 - c. That any further development of this site or changes to this plan are considered major and require reconsideration by the Plan Commission and County Commissioners.
- SECTION 10.** In the event any covenant, restriction, provision, or section of this Ordinance or any portion thereof is declared invalid or void, such declaration shall in no way affect any other covenant, restriction or section.
- SECTION 11.** This Ordinance shall be in full force and effect from and after its passage and approval in according with the law.

ORDAINED AND ADOPTED THIS THE 15TH DAY OF JULY 2013 BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY INDIANA.


By
Terry Rodino


By
Mike Yoder


By
Frank Lucchese

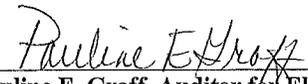
Attest: 
Pauline E. Graff, Auditor for Elkhart County

EXHIBIT A

Huss Residential DPUD
Boundary

Sheet 1 of 1

A part of the Southeast Quarter of the Northeast Quarter of Section 25, Township 37 North, Range 4 East, Baugo Township, Elkhart County, Indiana, and being more particularly described as follows:

Commencing at the southeast corner of said Northeast Quarter of Section 25; thence along the east line of said Northeast Quarter North 00°00'00" East, said bearing being the basis of bearing of this description, with all other bearings herein relative thereto, 1,325.11 feet to the north line of said Southeast Quarter of the Northeast Quarter; thence along said north line North 89°48'59" West 127.24 feet to the northwest boundary of the US 20 Bypass, as acquired by the State of Indiana by instrument recorded in Deed Record 90-1784, Elkhart County Recorder, and the Point of Beginning of this description; thence along the said northwesterly boundary of the US 20 Bypass South 5°03'17" West 195.72 feet to a bar and cap; thence along said northwesterly boundary South 16°31'26" West 104.33 feet to a half inch rebar; thence along said northwesterly boundary South 41°55'39" West 134.90 feet to a Cramer bar and cap; thence along said northwesterly boundary South 56°52'55" West 127.54 feet to a Cramer bar and cap; thence along said northwesterly boundary South 69°59'05" West 315.88 feet to a Cramer bar and cap; thence along said northwesterly boundary South 69°05'51" West 132.80 feet to a bar and cap; thence along said northwesterly boundary South 47°47'33" West 174.65 feet to a half inch rebar; thence along said northwesterly boundary South 36°54'40" West 103.23 feet to a bar and cap; thence along said northwesterly boundary South 27°07'33" West 243.59 feet to a bar and cap; thence along said northwesterly boundary South 44°37'01" West 190.13 feet to a bar and cap; thence along said northwesterly boundary South 55°46'44" West 112.64 feet to a half inch rebar located on the west line of the said Southeast Quarter of the Northeast Quarter of Section 25; thence along the west line of said Southeast Quarter North 0°11'59" East 1,239.71 feet to a stone on the north line of said Southeast Quarter; thence South 89°48'59" East 1,189.53 feet to the place of beginning and containing 18.66 acres.

Prepared for: Don Huss
Prepared by: Peter H. Schnaars, PLS



Job No: 2013-0010
Date: July 12, 2013

G:\2013_Projects\2013-0010\Sur\Legals\Huss boundary.lgl.doc

Mark Kanney from planning and development presented a request for Wilbur L. & Nora Sue Miller & A & R Machine Shop, represented by NuWay Construction, for an Amendment to a Site Plan/Support Drawing for Lot 3 of A & R Machine Shop DPUD located on the north side of CR 20, 3,684 feet west of CR 35 in Middlebury Township. The Plan Commission sent this to the Commissioners with a recommendation for approval. This will allow them to construct an additional building that will be 80 ft. x 100 ft. They will add five (5) new employees. There were no comments from anyone in the audience. On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board closed the public hearing.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the Amendment as presented and adopted an Ordinance establishing this change.

The Ordinance is as follows:

ORDINANCE NO PC01-10a

TO AMEND ORDINANCE NUMBER PC01-10 A DETAILED PLANNED UNIT DEVELOPMENT ADOPTED THE 16TH DAY OF APRIL 2001, MORE SPECIFICALLY BY AMENDING SITE PLAN SUPPORT DRAWING FOR A & R MACHINE SHOP.

WHEREAS, Wilbur and Nora Sue Miller and A & R Machine Shop submitted a petition to amend Ordinance Number PC01-10 on the 6th day of May 2013.

WHEREAS, After the Staff for the Elkhart County Advisory Plan Commission did cause the publishing of the legal advertisements for the Public Hearing in **The Elkhart Truth** on the 3rd day of June 2013 and in **The Goshen News** on the 1st day of June 2013 and did mail as prescribed by Rule and Law the Notice of Public Hearing to all persons of record within 300 feet;

WHEREAS, The Elkhart County Advisory Plan Commission did hold a public hearing as provided by law on the 13th day of June 2013 and did take public input at that meeting;

WHEREAS, The Elkhart County Advisory Plan Commission did give reasonable regard to the criteria established by IC 36-7-4-603 and Specifications I – Planned Unit Development of the Elkhart County Zoning Ordinance;

WHEREAS, The petition was sent to the Board of County Commissioners for Elkhart, Indiana with a Favorable Recommendation.

THEREFORE , BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY, IINDIANA, AS FOLLOWS:

SECTION 1. To amend ordinance PC01-10 and site plan support drawing to expand existing facilities to include an 80 ft x 100 ft building (located on the site plan support drawing for Lot 3) to be used as a “power coat” facility and to add a potential 5 more employees.

The site plan/support drawing is made a part of this ordinance by this reference and shall be maintained in the files of the Elkhart County Plan Commission.

SECTION 2. That all Sections of PC01-10 remain in effect and are not intended to be amended by this ordinance unless specifically stated in Section 1 of this ordinance.

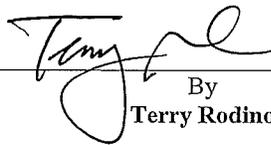
SECTION 3.

This ordinance shall be in full force and effect from and after its passage and approval in according with the law.

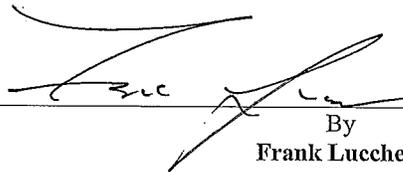
ORDAINED AND ADOPTED THIS 15TH OF JULY 2013 BY THE BOARD OF COUNTY COMMISSIONER ELKHART COUNTY, INDIANA.



By
Mike Yoder



By
Terry Rodino



By
Frank Lucchese

Attest: 
Pauline Graff Auditor for Elkhart County

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board gave permission to advertise for bids for a storage barn at CR 38 and CR 17 for the highway department, as requested by Jeff Taylor, Manager of Transportation. Bids will be taken at the August 5, 2013 meeting. The building will be framed and the highway department employees will complete the work.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board awarded the bids and approved the contracts with Niblock Excavating for Groups 2 & 5 at a cost of \$1,134,153.03 and Rieth-Riley Construction for Groups 1, 3 & 4 at a cost of \$1,327,026.96 for the 2013 paving program for the highway department, as requested by Jeff Taylor, Manager of Transportation. They were the low bidders. Copies of the contracts are on file in the Commissioners' office.

Tom Byers, County Administrator, addressed the Board regarding the establishment of an Elkhart County School Safety Commission. Legislation was created several years ago that allowed this commission. The county doesn't have any part of this commission, only to adopt an ordinance establishing it. The commission members are identified in the audience. Having a commission in place allows the schools to apply for grants if a school safety procedure is in place.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board adopted the ordinance establishing the Elkhart County School Safety Commission as presented.

The Ordinance is as follows:

AN ORDINANCE ESTABLISHING THE ELKHART COUNTY
SCHOOL SAFETY COMMISSION

WHEREAS Indiana Code 36-1-3 permits any county in the State of Indiana to exercise any power or perform any function necessary to the public interest in the context of its county or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS the Board of Commissioners of the County of Elkhart, Indiana, is the County executive and legislative body and is by law authorized to adopt ordinances and resolutions for the administration of its governmental affairs;

WHEREAS Indiana Code Section 5-2-10.1-10 provides that a county may establish a county school safety commission;

WHEREAS the majority of the school corporations in Elkhart County have requested that Elkhart County establish a county school safety commission;

NOW, THEREFORE, BE IT ESTABLISHED, RESOLVED, AND ORDAINED by the Board of Commissioners of the County of Elkhart, Indiana as follows:

1. County School Safety Commission. Pursuant to Indiana Code Section 5-2-10.1-10, the Elkhart County School Safety Commission ("Commission") is hereby established. The Commission will be governed by the applicable statutes and regulations governing a county school safety commission.

2. Commission Members. The members of the Commission will be as follows:

- a. The School Safety Specialist for each school corporation located in whole or in part in Elkhart County.
- b. The Judge of the Elkhart County Circuit Court or the Judge's designee.
- c. The Elkhart County Sheriff or the Sheriff's designee.
- d. The chief officer of every other law enforcement agency in Elkhart County, or the chief officer's designee.

- e. A representative of the Elkhart County juvenile probation system, appointed by the Elkhart Circuit Court Judge.
- f. Representatives of such community agencies that work with children within Elkhart County as selected and appointed by the Board of Commissioners of the County of Elkhart, Indiana.
- g. A representative of the Indiana State Police District that serves Elkhart County as appointed by the Indiana State Police Superintendent.
- h. A representative of the Prosecuting Attorney's Council of Indiana specializing in the prosecution of juveniles as appointed by the Prosecuting Attorney's Council of Indiana.
- i. Such other appropriate individuals selected and appointed by the Commission.

Members of the Commission serving as an appointee or designee for another shall serve at the pleasure of the appointing authority. Members of the Commission who serve by virtue of their position will serve on the Commission as long as they retain their position.

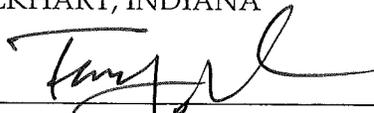
3. Organization of Commission. The School Safety Specialist for the school corporation in Elkhart County having the largest Average Daily Membership (as defined in Indiana Code Section 20-18-2-2) shall convene the initial meeting of the Commission. The members of the Commission shall annually elect a chairperson and a secretary. Each member of the Commission will be entitled to vote on matters under consideration by the Commission. The affirmative votes of a majority of the voting members of the Commission are required for the Commission to take action on a measure.

4. Administration. The Commission shall carry out such duties as are required by state law. The administrative functions of the Commission shall be performed and fulfilled by the School Safety Specialists for the school corporations serving on the Commission. Elkhart County makes no commitment of funding to the Commission, and the Commission shall have no authority to obligate Elkhart County to any funding. Any funding required by the Commission shall be provided by the school corporations served by the Commission or by grants and other sources.

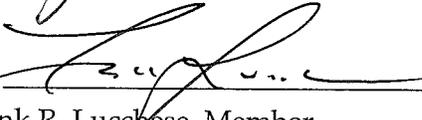
5. Effective Date. This Ordinance shall take effect upon its date of adoption. This Ordinance may be rescinded and the Commission terminated at any time by Ordinance of the Board of Commissioners of the County of Elkhart, Indiana.

ORDAINED AND ADOPTED this 15th day of July, 2013.

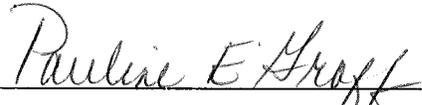
BOARD OF COMMISSIONERS OF THE COUNTY
OF ELKHART, INDIANA

By: 
Terry J. Rodino, President

By: 
Mike Yoder, Vice President

By: 
Frank R. Lucchese, Member

ATTEST:


Pauline E. Graff, Elkhart County Auditor

The interlocal agreement for road funding with the Town of Bristol was tabled until a later meeting so some language in the agreement can be amended.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board appointed Bill Wuthrich to the Common Wage Committee for the Town of Bristol's road construction project.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved a Certification for the Commissioners' Executive Session held on July 1, 2013.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board accepted the Solid Waste – Landfill report for June 2013 and placed it on file.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved out-of-state travel for six (6) county employees to go to Santa Cruz, CA in September for a Juvenile Detention Alternatives Initiative model site visit. Costs will be paid out of the Title V grant.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board appointed Jennifer Mulvaney to the Elkhart Public Library Board for a four year term ending June 30, 2017.

Steve Thalmeimer, Superintendent of Fairfield Schools, thanked the Commissioners for adopting the ordinance for a school safety commission.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the agreement with Northern Indiana Construction Co., Inc. for the Simonton Street Bridge Rehabilitation Project at a cost of \$339,984.02, as requested by Jeff Taylor, Manager of Transportation. They were the low bidder for the project.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board adjourned their meeting.

Respectfully submitted,
Kathy L. Erschen