

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

April 14, 2014

President Terry Rodino called the meeting to order at 9:00 a.m. in the meeting room in the Commissioners' office 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 Pauline Graff, County Auditor; Gordon Lord, County Attorney; Tom Byers, County Administrator and Kathy Erschen, Executive Assistant.

On a motion made Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Allowance of Claims for today and ratified the Allowance of Claims for 4/7/2014 due to only one commissioner and the county administrator signing them.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved a Joint Resolution Between the County of Elkhart and the City of Elkhart for the Sale and Purchase of Two Street Sweepers, as requested by Jeff Taylor, Manager of Transportation.

The Resolution is as follows:

County Resolution Number 2014-164
City Resolution Number Board of Works 14-06

**JOINT RESOLUTION BETWEEN THE COUNTY OF ELKHART, INDIANA
AND THE CITY OF ELKHART, INDIANA FOR THE SALE AND
PURCHASE OF TWO STREET SWEEPERS**

WHEREAS Indiana Code §5-22-22-10 permits the transfer or exchange of property between governmental entities upon terms and conditions agreed upon by the entities as evidenced by the adoption of a substantially identical resolution by each entity;

WHEREAS the County of Elkhart, Indiana and the City of Elkhart, Indiana are jointly adopting this resolution to satisfy the requirements of Indiana Code §5-22-22-10;

WHEREAS the County of Elkhart, Indiana desires to sell and transfer a 2010 Allianz street sweeper (Model No. 4000 and Serial No. 2A9AM4HH1AB181155) and a 2009 Allianz street sweeper (Model No. 4000 and Serial No. 1J9VM4FH29C172122) to the City of Elkhart, Indiana for the use and benefit of the Elkhart City Street Department;

WHEREAS the City of Elkhart, Indiana desires to purchase and receive both of the Allianz street sweepers for and on behalf of the Elkhart City Street Department for a total purchase price of One Hundred Forty Thousand Dollars (\$140,000.00);

NOW, THEREFORE, BE IT RESOLVED that the County of Elkhart, Indiana hereby transfers and sells to the City of Elkhart, Indiana its 2010 Allianz street sweeper (Model No. 4000 and Serial No. 2A9AM4HH1AB181155) and its 2009 Allianz street sweeper (Model No. 4000 and Serial No. 1J9VM4FH29C172122) in "AS IS" condition for the use and benefit of the Elkhart City Street Department in accordance with this Resolution with such transfer to be made on or about the 1st day of May, 2014;

BE IT FURTHER RESOLVED by the County of Elkhart, Indiana that any of the Elkhart County Commissioners, the Manager of the Highway Department, and the Elkhart County Auditor are hereby authorized to execute any necessary certificate of title or other transfer papers to effectuate and carry out the intent of this Resolution;

BE IT FURTHER RESOLVED by the City of Elkhart, Indiana that any of the members of the City of Elkhart Board of Public Works, the Mayor, and Clerk Treasurer are hereby authorized to execute any necessary certificate of title or other transfer papers to effectuate and carry out the intent of this Resolution;

NOW, THEREFORE, BE IT RESOLVED that the City of Elkhart, Indiana hereby accepts and purchases the 2010 Allianz street sweeper (Model No. 4000 and Serial No. 2A9AM4HH1AB181155) and the 2009 Allianz street sweeper (Model No. 4000 and Serial No. 1J9VM4FH29C172122) in "AS IS" condition from the County of Elkhart, Indiana for the use and benefit of the Elkhart City Street Department effective on the date such transfer is made;

BE IT FURTHER RESOLVED by the City of Elkhart, Indiana that, in consideration of the transfer and sale of the 2010 Allianz street sweeper and the 2009 Allianz street sweeper, the City of Elkhart, Indiana hereby forever releases and discharges the County of Elkhart, Indiana and its representatives, successors, insurers, agents, employees, officers, and/or directors, from any and all dues,

debts, claims, demands, actions, or causes of action, at law or in equity, and howsoever arising, and pertaining in any fashion to or associated with the City of Elkhart's ownership, use, operation, maintenance, and possession of said street sweepers;

BE IT FURTHER RESOLVED that the City of Elkhart, Indiana agrees to indemnify and hold harmless the County of Elkhart, Indiana and its representatives, successors, insurers, agents, employees, officers, and directors from any and all dues, debts, claims, demands, actions, or causes of action, at law or in equity, including court costs and attorney fees, caused by or arising from the City of Elkhart's ownership, use, operation, maintenance, and possession of the above-referenced 2009 and 2010 Allianz street sweepers; and likewise the County of Elkhart, Indiana agrees to indemnify and hold harmless the City of Elkhart, Indiana and its representatives, successors, insurers, agents, employees, officers, and directors from any and all dues, debts, claims, demands, actions, or causes of action, at law or in equity, including court costs and attorney fees, caused by or arising from the County of Elkhart's ownership, use, operation, maintenance, and possession of the above-referenced 2009 and 2010 Allianz street sweepers.

RESOLVED this 14 day of April, 2014.

County of Elkhart, Indiana

BOARD OF COMMISSIONERS OF THE COUNTY OF ELKHART, INDIANA

By: [Signature]
Terry J. Rodino, President

By: [Signature]
Mike Yoder, Vice President

By: [Signature]
Frank R. Lucchese, Member

ATTEST:

[Signature]
Pauline E. Graff, Elkhart County Auditor

RESOLVED this 15th day of April, 2014.

City of Elkhart, Indiana

CITY OF ELKHART BOARD OF PUBLIC WORKS

By: [Signature]

Title: BOW President

ATTEST:

By: [Signature]
Title: Clerk, Board of Works

Approved as to form and legality

[Signature]

Utility Attorney

4/15/14

Date

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the purchase of a 2014 Toyota Tacoma truck from Heart City Toyota for the county landfill at a cost of \$20,957.24 with trade-in, as requested by Kim Davis, Landfill Manager. They submitted the lowest quote for the type of vehicle requested.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board adopted a Resolution Approving the Issuance of the Elkhart County, Indiana Corrections Complex Refunding Bonds, Series 2014, as requested by Gordon Lord, County Attorney. The county will refinance the 2004 Bonds for the corrections complex to save the county money.

The Resolution is as follows:

RESOLUTION NO. 2014-167

**RESOLUTION OF THE BOARD OF COMMISSIONERS
OF ELKHART COUNTY, INDIANA APPROVING THE ISSUANCE OF
THE ELKHART COUNTY, INDIANA CORRECTIONS COMPLEX
REFUNDING BONDS, SERIES 2014**

WHEREAS, the County Council of Elkhart County, Indiana (the "County") on April 12, 2014, adopted an ordinance (the "Ordinance") authorizing the issuance of Corrections Complex Refunding Bonds, Series 2014, in an aggregate principal amount not to exceed \$14,000,000 (the "2014 Bonds"), for the purpose of refunding all of the outstanding Elkhart County, Indiana Corrections Complex Bonds, Series 2004 (the "2004 Bonds") and paying the costs of selling and issuing the 2014 Bonds; and

WHEREAS, the Board of Commissioners of the Elkhart County, Indiana now desires to approve the issuance of the 2014 Bonds and the refinancing of the 2004 Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF ELKHART COUNTY, INDIANA that:

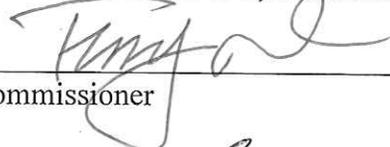
1. The Board of Commissioners hereby approves the issuance of the 2014 Bonds and the completion of the refinancing of the 2004 Bonds pursuant to the terms of the Ordinance.

2. Any officer of the County is hereby authorized and directed to execute and deliver such documents and take such other actions as such officer deems necessary or desirable to effect the provisions of this Resolution and the issuance of the 2014 Bonds, and any such documents heretofore executed and delivered and any such other actions heretofore taken are hereby ratified and approved.

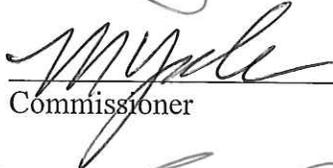
3. This Resolution shall be in full force and effect from and after its adoption.

Adopted this 14th day of April, 2014.

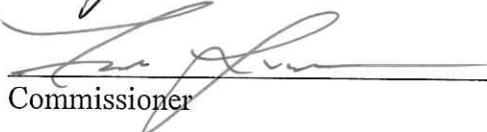
BOARD OF COMMISSIONERS OF
ELKHART COUNTY, INDIANA



Commissioner

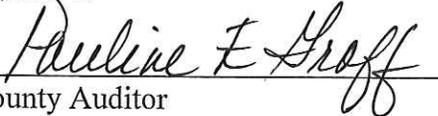


Commissioner



Commissioner

ATTEST:



County Auditor

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved and signed a letter with Barnes & Thornburg LLP to serve as bond counsel to the Commissioners in connection with the issuance of Elkhart County, Indiana Corrections Complex Refunding Bonds Series 2014 at an hourly cost, as requested by Gordon Lord, County Attorney. A copy of the letter is on file in the Commissioners' office.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved an Accounting Services Agreement with H. J. Umbaugh & Associates for the proposed Corrections Complex Refunding Bonds of 2014, as requested by Gordon Lord, County Attorney. A copy of the agreement is on file in the Commissioners' office.

Chris Godlewski, Director of Planning, addressed the Board regarding numerous complaints on zoning violations with Lippert Components near Bristol. They are trying to get them to comply but wanted the Board to know they continue to have issues.

Mike Yoder stated that the trash along the US 20 Bypass is very bad & asked Jeff Taylor, Manager of Transportation, to get a work release crew to work on cleaning it up. Mr. Taylor said they will arrange to get that done.

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

Respectfully submitted,
Kathy L. Erschen

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS

April 21, 2014

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, Mike Yoder and Frank Lucchese, 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 March 17th, 24th, 31st & April 14th, 2014 meetings.

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.

Dr. Nafziger, Health Officer, asked for approval and adoption of the renewal of the Elkhart County Ground Water Protection Ordinance. He said the renewal has some very minor changes. Historically, the sunset clause was for five (5) years but the renewal is proposed for ten (10) years. Gordon Lord, county attorney, commented that the ordinance can be amended at any time if changes are needed. There were no comments from anyone in the audience regarding this proposed ordinance.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved and adopted the ground water ordinance as presented.

The updated Elkhart County Ground Water Protection Ordinance is as follows:

ORDINANCE NO. 2014-171

ELKHART COUNTY
GROUND WATER PROTECTION ORDINANCE

May 1, 2014

WHEREAS Indiana Code Sections 36-1-3-1 et seq. permit 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 preempted 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 and the Elkhart County Board of Health find that it is in the public interest of Elkhart County to re-establish, reconfirm, and continue a ground water protection program;

WHEREAS it is desired that the ground water of Elkhart County be reasonably protected from the improper storage and discharge of toxic or hazardous substances;

WHEREAS the Elkhart County Board of Health is directed to enforce and observe all state laws and legally promulgated regulations pertaining to the preservation of health and is authorized to adopt such rules and regulations as may be deemed necessary or desirable to protect, promote, or improve public health by Indiana Code Sections 16-20-1, et seq.;

WHEREAS the Board of Commissioners of the County of Elkhart, Indiana and the Elkhart County Board of Health desire to mutually administer and enforce the ground water protection program; and

WHEREAS pursuant to the authority vested by the Indiana Code Sections 36-1-3-1 et seq., the Board of Commissioners of the County of Elkhart, Indiana desire to re-establish, reconfirm, and continue the Elkhart County Ground Water Protection Program subject to the provisions hereinafter stated;

NOW, THEREFORE, be it ordained by the Board of Commissioners of the County of Elkhart, Indiana as follows:

Section 1. Title.

This Elkhart County Ordinance may be referred to as the "Elkhart County Ground Water Protection Ordinance."

Section 2. Purpose.

It is the purpose of this Ordinance to enhance and preserve the public health, safety, and welfare of persons and property in Elkhart County by protecting the ground water of Elkhart County from degradation resulting from the spills of toxic or hazardous substances.

Section 3. Definitions.

A. The term "above ground storage tank" means any non-portable container, excluding all pipes connected thereto, which is used to store an accumulation of toxic or hazardous substances and in which more than ninety percent (90%) of the volume of the storage container is at or above the final ground elevation.

B. The term "agricultural" means of or pertaining to real property used principally for the production of food chain crops and livestock on a farm. The term "agricultural" does not include the sale or distribution of toxic or hazardous substances.

C. The term "animal" means all mammals, birds, reptiles, amphibians, fish, crustaceans and mollusks.

D. The term "aquatic life" means those plants and macroinvertebrates that are dependent upon an aquatic environment.

E. The term "Board of Health" means the Elkhart County Board of Health.

F. The term "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

G. The term "commercial or industrial" means of or pertaining to real property used principally for purposes of retail or wholesale business, commerce, trade, manufacture, or production or to serve and facilitate the operation of retail or wholesale business, commerce, trade, manufacture, or production.

H. The term "Commissioners" means the Board of Commissioners of the County of Elkhart, Indiana.

I. The term "community water system" or "CWS" means a public water system that serves at least fifteen (15) service connections used by year round residents or regularly serves at least twenty-five (25) year round residents.

J. The term "contain" means to take such immediate action as necessary to dam, block, restrain, or otherwise act to most effectively prevent a spill from entering waters of the state or soils or minimize damage to the waters of the state or soils from a spill.

K. The term "Class V injection well" means a type of injection well, as defined in 40 CFR 146.3, which typically has a depth greater than its largest surface dimension, emplaces fluids into the subsurface, and does not meet the definitions of Class I through IV wells as defined under 40 CFR 146.5. While the term includes the specific examples described in 40 CFR 144.81, septic systems that serve more than one (1) single family dwelling or provide service for non-domestic waste, dug wells, bored wells, improved sinkholes, french drains, infiltration sumps, and infiltration galleries, it does not include surface impoundments, trenches, or ditches that are wider than they are deep.

L. The term "County" shall mean the County of Elkhart in the State of Indiana.

M The term "damage" means the actual or imminent alteration of the waters of the state or soils so as to render the waters or soils harmful, detrimental, or injurious to:

1. public health, safety, or welfare;
2. domestic, commercial, industrial, agricultural, or recreational uses; or
3. animals or aquatic life.

N. The term "facility" means all contiguous land and related structures, appurtenances, and improvements on land with the same operator. A facility may consist of multiple operations including retail or wholesale business, commerce, trade, manufacturing, production, treatment, storage, or disposal units, landfills, surface impoundments, or combinations of them. For these purposes, contiguous land shall include land separated by a public right-of-way so long as such land would otherwise be contiguous.

O. The term "Health Department" shall mean the Environmental Health Division of the Elkhart County Health Department.

P. The term "inside" means within a structure totally enclosed on all sides and with a ceiling or roof and a floor of an impervious surface.

Q. The term "objectionable substance" means substances that are of a quantity and a type, and present for a duration and at a location so as to potentially render waters of the state within Elkhart County harmful, detrimental or injurious to public health, safety and welfare.

R. The term "operator" shall mean the person responsible for the overall operation of a facility.

S. The term "Ordinance" means this Elkhart County Ground Water Protection Ordinance.

T. The term "outside" means any location that is not inside.

U. The term "owner" shall mean the person who owns a facility or part of a facility.

V. The term "person" shall include individuals, firms, corporations, associations, partnerships, consortiums, joint ventures, limited liability companies, and any other legal entity. A corporation and its subsidiaries shall be considered one person.

W. The term "process tank" means a vessel or other container used for the mixing or batching of chemicals, feeds, wastewater, or other components, or for the preparation of one (1) or more components, leading to the production of a desired product. The term includes all attached piping and other fixtures necessary for the intended operation of the vessel or container.

X. The term "process waste water" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Y. The term "public wellhead protection area" means the surface and subsurface area delineated by fixed radius, hydrogeological mapping, analytical, semianalytical, or numerical flow/solute transport methods which contributes water to a community water supply system production well or wellfield and through which contaminants are likely to move and reach the well in a specified period or as further defined in Rule 327 IAC 8-4.1 et seq., as amended.

Z. The term "RCRA" means the Resource Conservation and Recovery Act of 1976, as amended.

AA. The term "reportable quantity" means the amount of a hazardous substance or extremely hazardous substance that is required to be reported under federal law under 42 USC 960 (a) and (b) and 42 USC 9603 (a) et. seq. (40 CFR 302.4 or 40 CFR 355 Appendix A.).

BB. The term "residential" means of or pertaining to real property used principally for a residence.

CC. The term "secondary containment" means a containment system that is designed and operated in accordance with the rules and regulations for such adopted under this Ordinance.

DD. The term "spill" means any unintentional or intentional discharging, leaking, pumping, pouring, emitting, emptying, releasing, injecting, escaping, leaching, dumping, or disposing of a toxic or hazardous substance, or objectionable substances into or upon the soil, surface water, or ground water of Elkhart County.

The term "spill," as used and applied in this Ordinance, does not include the following:

1. proper disposal, in accordance with all legal requirements and in accordance with the requirements of RCRA and the regulations thereunder, of hazardous wastes in a facility that has received and maintained all necessary legal approvals for that purpose;
2. proper disposal, in accordance with all legal requirements, of any substance, as provided by 329 IAC et seq. of the Indiana Administrative Code, as amended, in a solid waste disposal facility that has received and maintained all necessary legal approvals for that purpose;
3. proper disposal of any substance in compliance with the terms and provisions of a valid municipal, state, or federal permit;
4. proper disposal, in accordance with all legal requirements, of any substance to a sanitary sewer system that has received and maintained all necessary legal approvals for that purpose;
5. proper application of fertilizers and pesticides in accordance with label requirements and in accordance with the guidelines of the Indiana State Chemist's Office;

6. proper application of road salts, deicing, or dust control materials for the purposes of snow, ice, or dust control;

7. proper disposal, in accordance with all legal requirements, of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by Rule 410 IAC 6-8.1 et seq. and by Rule 410 IAC 6-10 et seq. of the Indiana Administrative Code, as amended;

8. proper application of animal manure, compost, animal bedding or animal byproducts using accepted agricultural practices;

9. releases to impermeable surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil or waters of the state; or

10. releases of less than one pound or one pint.

EE. The term "spill response" for purposes of this rule means the following;

1. The spill is contained;

2. Free material is removed or neutralized; and

3. Actions have been taken to minimize further contamination to soils and waters of the state within Elkhart County.

FF. The term "spill report" means a written report that includes the following information about a spill to the extent that the information is known at the time of the report:

1. The name, address, and telephone number of the person submitting the spill report.

2. The names, address, and telephone number of a contact person, if different from clause (1).

3. The location of the spill.

4. The time of the spill.

5. The identification of the substance spilled.

6. The approximate quantity of the substance that has been or may further be spilled.

7. The duration of the spill.

8. The source of the spill.

9. Name and location of any waters damaged.

10. The identity of any response organization that is or has responded to the spill.
11. What measures have been or will be undertaken to perform a spill response.
12. The amount of spilled materials recovered.
13. Any other information that may be significant.

GG. The term "store" or "storage" means holding a substance prior to or after its use. The terms shall not include any associated and connected piping.

HH. The term "toxic or hazardous substance" means:

1. any substance designated pursuant to section 311 of the Clean Water Act; any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA; any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress); any toxic pollutant listed under section 307 of the Clean Water Act; any hazardous air pollutant listed under section 112 of the Clean Air Act; and any imminently hazardous chemical substance or mixture with respect to which the EPA Administrator has taken action pursuant to the Toxic Substances Control Act;

2. petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); or

3. radioactive and infectious substances as defined by any applicable local, state, or federal law or regulation.

II. The term "underground storage tank" means any one or a combination of containers, excluding all pipes connected thereto, which is used to store an accumulation of toxic or hazardous substances, and the volume of which is ten percent (10%) or more beneath the surface of the ground.

JJ. The term "waters" means the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, that are wholly or partially within, flow through or border upon this county. The term does not include any private pond or any off stream pond, reservoir, or facility built for reduction or control of pollution or cooling water prior to discharge unless the discharge from the pond, reservoir or facility causes or threatens to cause water pollution.

Section 4. Prohibitions.

The negligent, reckless, knowing, or intentional spill of toxic or hazardous substances is prohibited. Placing toxic or hazardous substances in a location at a facility that would allow a spill of such substances in the event of an accidental release is prohibited. The discharge of process wastewater into or upon the soil, surface water or ground water of Elkhart County is prohibited without a permit from the

appropriate local, state, or federal agency except as stated in the Rules and Regulations adopted under and pursuant to this Ordinance.

Section 5. Registration Requirements.

A. Commercial/Industrial On-Site Wastewater Disposal Systems.

1. Commercial or industrial facilities which possess an on-site waste water disposal system emptying, releasing, injecting, dumping, or disposing upon or into the ground including septic systems, drywells, unlined lagoons, oil water separators, Class V injection wells, or other field absorption systems shall register with the Health Department in accordance with the Rules and Regulations adopted under and pursuant to this Ordinance.

2. Registration required under this Section, if not previously submitted under the original Elkhart County Ground Water Protection Ordinance effective May 1, 1989, shall be submitted within sixty (60) days after the effective date of the adoption of this Ordinance.

B. Commercial/Industrial Toxic or Hazardous Substance Storage Areas.

1. Facilities that store toxic or hazardous substances shall register with the Health Department in accordance with the Rules and Regulations adopted under and pursuant to this Ordinance.

2. Registration required under this Section, if not previously submitted under the original Elkhart County Ground Water Protection Ordinance effective May 1, 1989, shall be submitted within sixty (60) days after the effective date of the adoption of this Ordinance.

Section 6. Waste Water Testing.

Commercial or industrial facilities which possess an on-site waste water disposal system emptying, releasing, injecting, dumping, or disposing upon or into the ground including septic systems, drywells, unlined lagoons, oil water separators, Class V injection wells or other field absorption systems shall furnish a waste water characterization for each system to the Health Department in accordance with the Rules and Regulations adopted under and pursuant to this Ordinance. The Health Department may at any time require additional samples be taken with a Health Department representative present and the sample then analyzed and furnished to the Health Department at the facility's expense.

Section 7. Wellhead Protection.

The Elkhart County Plan Commission shall study, establish, and submit recommended rules, regulations, policies, procedures, amendments to the comprehensive plan, and amendments to the zoning ordinance to the Commissioners for consideration that shall have the purpose and effect of protecting the public wellhead protection area. The plan commissions of all municipalities in the County and all political subdivisions in the County with public wellhead protection areas should, and it is recommended that they also, study, establish, and submit recommended rules, regulations, policies, procedures, amendments to comprehensive plans, and amendments to zoning ordinances to the appropriate elected officials for consideration which would have the purpose and effect of protecting the public wellhead protection area.

Section 8. Above Ground Storage of Toxic or Hazardous Substances.

A. The storage of toxic or hazardous substances in containers, whether portable or non-portable, in which more than ninety percent (90%) of the volume of the container, excluding all pipes connected thereto, is at or above the final ground elevation, shall be restricted and regulated in accordance with the Rules and Regulations adopted under and pursuant to this Ordinance.

B. In addition to the Rules and Regulations adopted under and pursuant to this Section, all applicable state and federal requirements for storage, leak detection, record keeping, spill prevention, emergency response, transportation, and disposal shall be met.

Section 9. Education and Review Program.

A. Following the adoption of this ordinance, the County may adopt and implement an on-going program designed to educate and inform the public, as well as respond to questions from the public, concerning ground water pollution, ground water protection, and this ground water Ordinance.

B. Following the adoption of this Ordinance, there shall be established a Ground Water Ordinance Advisory Board, which shall be composed of six (6) members. The members of this Advisory Board shall be composed of one (1) member of the Commissioners or the Commissioners' designee, one (1) member of the Elkhart County Council or the Council's designee, one (1) member of the Elkhart County Board of Health or the Board of Health's designee, one (1) member as an Elkhart County citizen representative who has an environmental interest which member shall be designated by the Board of Health, one (1) member of a municipal water department involved in wellhead protection which member shall be designated by the Elkhart County Plan Commission, and one (1) member as an Elkhart County business or commerce representative with any Chamber of Commerce located in Elkhart County eligible to make recommendations for the representative and which member shall be designated by the Commissioners. Designees shall serve at the pleasure of the appointing authority. The Advisory Board may meet on a quarterly basis or as necessary. Designees shall serve at the pleasure of the appointing authority. The Advisory Board shall be responsible for studying, analyzing, evaluating, and reviewing the implementation, operation, maintenance, effectiveness, compliance, and enforcement of this Ordinance and the Rules and Regulations adopted under and pursuant to this Ordinance. The Advisory Board shall review this Ordinance prior to sunset for purposes of determining whether all or any portion of this Ordinance has been superseded by any state or federal law or regulation, and if so, whether all or any portion of this Ordinance should be repealed. The Advisory Board shall report to the Board of Health at least thirty' (30) days after completing its review with respect to the results of its review. Proposed changes to the Ordinance or the Rules and Regulations shall require a majority vote of the members present. The Advisory Board shall also be responsible for making any other recommendations to the Commissioners and the Board of Health for revisions, additions, and amendments to this Ordinance and the Rules and Regulations adopted under and pursuant to this Ordinance.

Section 10. Reportable Spills.

A. The following spills from a facility must be reported:

1. Spills of toxic or hazardous materials, excluding petroleum and motor vehicle operating fluids, when the amount exceeds one hundred (100) pounds or the reportable quantity which ever is less;

2. Spills of petroleum or motor vehicle operating fluids when the total amount exceeds fifty-five (55) gallons;

3. Spills of toxic or hazardous materials that damage waters of the state within the borders of Elkhart County;

4. Spills of toxic or hazardous materials within a community water system's designated wellhead protection area; and

5. Any spill which does not have a spill response.

B. The operator of a facility shall notify the Environmental Health Services Division of the Elkhart County Health Department or the 911 systems as soon as possible within twenty-four (24) hours of the discovery of any reportable spill in the county that is owned by and/or subject to the control of the facility. The operator shall provide the best available information of what was spilled, how much was spilled, when the spill occurred, where the spilled occurred, and what spill response was taken.

C. Any operator, owner or person of a facility from which a spill occurs shall, upon discovery of a spill, do the following:

1. Contain the spill, if possible;

2. Undertake or cause others to undertake activities needed to accomplish a spill response; and

3. If the spill is considered a reportable spill as defined within Section 10 (A) or Section 10 (B), submit a spill report to the Environmental Health Services Division of the Elkhart County Health Department within ten (10) days after completion of spill response but in no event later than one hundred eighty (180) days after discovery of the spill.

Section 11. Records.

In accordance with the Rules and Regulations adopted under and pursuant to this Ordinance, a copy of the records pertaining to registration under this Ordinance shall be retained by the facility for not less than three (3) years and shall be made available for review by the County upon request.

Section 12. Penalties.

A. Any person who violates any provision contained in this Ordinance, in the Rules and Regulations adopted under and pursuant to this Ordinance, or in any variance granted pursuant to Section 15 may be fined up to Two Thousand Five Hundred Dollars (\$2,500.00) for each violation. Each day that a violation continues shall be deemed to constitute a separate violation. In assessing any fine under this

Ordinance, the nature of the violation, the seriousness of the violation, the culpability of the violator, the harm or potential harm involved by the violation, and any other relevant factors shall be considered.

B. Whenever any violation of this Ordinance, the Rules and Regulations adopted under and pursuant to this Ordinance, or any variance granted pursuant to this Ordinance is occurring, the Health Department may order the violation stopped by written notice served on any person in violation, and such person upon receiving said notice shall immediately cease the violation.

C. The County may institute suit for injunction or fines in the County's Circuit or Superior Courts to restrain any person from or fine any person violating the provisions of this Ordinance, any Rules and Regulations established under and pursuant to Section 16 below, or any variance granted pursuant to Section 15 below.

Section 13. Enforcement.

A. The provisions of this Ordinance and the Rules and Regulations adopted under and pursuant to this Ordinance shall be mutually administered and enforced by the Commissioners and the Board of Health as agreed upon by the Commissioners and the Board of Health.

B. Inspections to assure compliance and to investigate alleged violations of this Ordinance might be conducted at any time in accordance with the requirements of law. Whenever necessary to make an inspection or to enforce this Ordinance, any facility or premises may be entered at all reasonable times upon presentation of proper credentials and demand for entry. If entry is refused, recourse shall be had to every remedy provided by law to secure entry.

C. Upon request, the owner or operator of any facility at which toxic or hazardous substances are used, stored, or generated shall furnish the Health Department all information then currently available to the facility deemed necessary by the Health Department to monitor compliance with this Ordinance.

Section 14. Appeals.

Any decision regarding a variance request may be appealed to the Commissioners by any person adversely affected by that decision and the appeal shall be processed under all laws, rules, and regulations applicable to the Commissioners. Any appeal to the Commissioners must be taken no later than thirty (30) days following written notice of the decision. In addition, any person adversely affected by a decision of the Commissioners as a result of an appeal to the Commissioners shall have the right of appeal as in other civil actions if such person gives fifteen (15) days written notice of intent to do so to the Commissioners by certified U. S. mail. The notice shall concisely state the alleged grievance. It is specifically provided that failure to appeal to the Commissioners and exhaust other remedies shall work as a bar to the right to appeal to the Courts.

Section 15. Variances.

A. Although the provisions of this Ordinance are to be followed with strict compliance, certain individual cases may justify the issuance of a variance while still allowing for consistent protection of ground water resources.

B. All requests for variances shall be processed under the Rules and Regulations adopted under and pursuant to this Ordinance. In no case, however, shall a variance be granted which will violate existing federal, state, or local law or regulation.

Section 16. Adoption of Rules and Regulations.

Rules, regulations, and forms necessary to implement, effectuate, interpret, and assure compliance with the requirements of this Ordinance shall be adopted by the Commissioners in accordance with the requirements of law following consideration, review, and recommendations from the Board of Health.

Section 17. Compliance with Other Laws.

Compliance with this Ordinance does not obviate or eliminate the necessity of complying with any and all other applicable federal, state, or local laws and regulations with respect to toxic or hazardous substances.

Section 18. Construction.

A. To the extent that any provision of this Ordinance is ultimately determined by a court of competent jurisdiction to be preempted by any state or federal law, this Ordinance shall automatically be deemed amended by eliminating the preempted provision and incorporating in its place the applicable provision of the preempting state or federal law.

B. Each provision of this Ordinance shall be construed so as to be valid and enforceable. In addition, each provision of this Ordinance shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

Section 19. Sunset Provision.

This Ordinance and the Rules and Regulations adopted under and pursuant to this Ordinance shall expire and shall be rendered null and void ten (10) years after the effective date of this Ordinance unless the Ordinance and its Rules and Regulations are approved and re-adopted by the Commissioners and the Board of Health.

Section 20. Effective Date.

This Ordinance shall take effect on the 1st day of May 2014 and shall serve to prospectively supersede the Elkhart County Ground Water Protection Ordinance dated May 1, 2009 and the Rules and Regulations adopted thereunder. All actions, omissions, events, or circumstances existing or occurring prior to May 1, 2014 shall be governed by the Elkhart County Ground Water Protection Ordinance dated May 1, 2009 and the Rules and Regulations adopted thereunder.

APPROVED this 27th day of March, 2014.

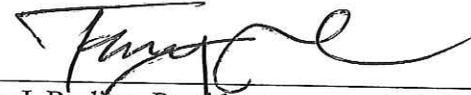
ELKHART COUNTY BOARD OF HEALTH

By  MD
D. Mellen, MD

Title _____

ORDAINED AND ADOPTED this 21 day of April, 2014.

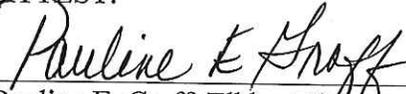
BOARD OF COMMISSIONERS OF THE COUNTY
OF ELKHART, INDIANA

By 
Terry J. Rodino, President

By 
Mike Yoder, Vice President

By 
Frank Lucchese, Member

ATTEST:


Pauline E. Graff, Elkhart County Auditor

RULES AND REGULATIONS
ELKHART COUNTY
GROUND WATER PROTECTION ORDINANCE
May 1, 2014

Section 1 GENERAL PROVISIONS.

- (A) These rules and regulations shall be administered by the Health Department through its Health Officer and his or her authorized representative.
- (B) These rules and regulations contain requirements for the implementation of the Elkhart County Ground Water Protection Ordinance.
- (C) These rules and regulations apply to facilities that use, store, or generate toxic or hazardous substances.
- (D) The definitions contained in the Elkhart County Ground Water Protection Ordinance shall be applicable to the terms as used in these rules and regulations.

Section 2 REGISTRATION.

(A) GENERAL REQUIREMENTS

Registration required under Sections 2(C) and 2(D) of these rules and regulations shall be submitted by the operator of the facility on forms approved by the Health Department and shall include, at a minimum, the following information:

- (1) name of the facility;
- (2) street and mailing address of the facility; and
- (3) designated individual for contact purposes.

The registration shall be a one-time registration with the operator of the facility responsible for maintaining a current registration. Registration is non-transferable.

- (B) Any facility receiving any toxic or hazardous substance in pre-packaged containers only and offering such containers unopened for direct resale shall be exempt from registration under Section 2D.

(C) COMMERCIAL/INDUSTRIAL ON-SITE WASTEWATER DISPOSAL SYSTEM REGISTRATION

- (1) In addition to the registration requirements set forth in Section 2(A) above, the following information is required for compliance with Section 5(A) of the Ordinances:

- a. number, type, and location of on-site disposal systems present; and
 - b. estimated flow rate to each on-site disposal system.
- (2) The operator of a facility shall notify the Health Department within sixty (60) days of any change at the facility, except estimated flow rate changes, after the initial registration which renders the information contained in the then existing registration inaccurate.
 - (3) Any facility subject to registration which is placed in service after the effective date of the Ordinance shall register with the Health Department within sixty (60) days after being placed in service and shall meet all other applicable requirements of these rules and regulations.
 - (4) Closed system heat pumps, irrigation systems, and non-contact cooling water systems are exempt from registration under this Section 2(C).
- (D) TOXIC OR HAZARDOUS SUBSTANCE STORAGE AREA REGISTRATION
- (1) Facilities which store toxic or hazardous substances in aggregate quantities greater than 100 kilograms per month (approximately equal to 25 gallons or 220 pounds) shall register with the Health Department.
 - (2) Agricultural and residential underground storage tanks of less than eleven hundred (1,100) gallon capacity and which are used for storing motor fuels for non-commercial purposes and any underground storage tanks used for storing heating oil for consumptive use on the premises shall register with the Health Department.
 - (3) In addition to the registration requirements set forth in Section 2(A) above, the following information is required for compliance with Section 5(B) of the Ordinance:
 - a. general classification of substance stored (ignitable, corrosive, reactive, toxic);
 - b. maximum amount stored in any month;
 - c. type of storage container; and
 - d. location of storage (indoor/outdoor).
 - (4) The operator of a facility shall notify the Health Department within sixty (60) days of any change at the facility after the initial registration which

renders the information contained in the then existing registration inaccurate.

- (5) Any facility subject to registration which is placed in service after the effective date of the Ordinance shall register with the Health Department within sixty (60) days after being placed in service and shall meet all other applicable requirements of these rules and regulations.
- (6) Any laboratory that is a facility and any laboratory contained in a facility shall be exempt under this Section 2(D) but only with respect to its laboratory activities.

Section 3 COMMERCIAL/ INDUSTRIAL WASTEWATER TESTING.

A wastewater characterization shall be provided by any facility required to register under both Section 2(C) and Section 2(D) of these rules and regulations and each such facility shall be subject to the following:

- (A) A wastewater characterization for each on-site disposal system shall be provided by an independent, qualified laboratory using standard EPA methods appropriate for the testing and analysis being performed. In the absence of a liquid wastewater sample, soils from the wastewater system may be used to determine wastewater characterization upon prior written approval from the Health Department.
- (B) Minimum testing required shall be directly related to the hazardous and/or toxic substances identified at the facility. Tests may include, but are not limited to, the following analyses:
 - (1) Total Toxic Organics (volatile organic chemicals, semi-volatile organic chemicals, pesticides);
 - (2) Heavy Metals (as listed in federal and/or state Primary Drinking Water Standards).
- (C) Sampling Method Requirements.

All sampling and analysis conducted to comply with Section 3 of this regulation shall be performed in accordance with 40 CFR Part 136, as amended or methodology approved in writing by the Health Department. Samples shall be representative of facility effluent discharges. Practices such as dilution or treatment that change the representative facility effluent discharge are a violation of these rules and regulations. The individual who obtains the wastewater sample shall certify compliance with these sampling method requirements.

- (D) Chain of Custody.

Chain of custody procedures shall be followed on all wastewater sampling, handling, and testing procedures.

- (E) For facilities subject to this section, an initial wastewater characterization may be required after a system is placed into service. No further wastewater characterization shall be submitted unless deemed necessary by the Health Department. The Health Department may require testing for a facility if the Health Department has a rational basis for doing so based upon inspection, complaint, an operational change at the facility or contamination of the wastewater system or groundwater in the area.

Section 4 ABOVE GROUND STORAGE OF TOXIC OR HAZARDOUS SUBSTANCES.

The following requirement shall apply under Section 8 of the Ordinance:

- (A) A secondary containment system for above ground storage of toxic or hazardous substances outside shall be maintained and must be designed and operated as follows:
 - (1) A base must underlay the storage container(s) that is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;
 - (2) The base must be sloped or the secondary containment system must be otherwise designed and operated so as to allow the drainage and removal of liquids resulting from leaks, spills, or precipitation;
 - (3) The secondary containment system must have sufficient capacity to contain 10% of the total volume of the containers or 110% of the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in the determination;
 - (4) Precipitation run-off into the secondary containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in subsection (A)(3) above to contain any run-offs which might enter the system;
 - (5) A secondary containment system must be properly maintained to protect the integrity and capacity of the containment system;
 - (6) Spilled or leaked materials and accumulated precipitation must be legally removed and disposed of from the sump or collection area in a timely manner as necessary to prevent overflow of the secondary containment system; and

- (7) A facility that is in compliance with 327 IAC 2-10-6 shall be considered to be in compliance with the secondary containment construction requirements of Section 4(A) of the rules and regulations this ordinance.
- (B) Toxic or hazardous substances may not be located in a manner that would allow a discharge spill onto the ground or into a drain that is connected to an on-site wastewater disposal system that drains or empties into the ground.
- (C) Outside storage of toxic or hazardous substances is prohibited except in product-tight containers.
- (D) Drainage of precipitation from within any area designed to contain a discharge spill of a toxic or hazardous substance shall be controlled in a manner that will prevent any toxic or hazardous substance from entering into or upon the soil, surface water, or ground water of Elkhart County.
- (E) Exemptions:
- (1) Agricultural and residential facilities shall be exempt under this section.
 - (2) Above ground storage tanks, which contain solids or gases at ambient temperature and pressure, shall be exempt under this section.
 - (3) Integral operating fluids contained within machinery or equipment provided that these fluids are necessary for the proper operation of the equipment shall be exempt under this section.
 - (4) Process tanks shall be exempt under this section.
- (F) Designated temporary storage areas such as may exist in loading areas shall be exempt from sections 4(A) and 4(D) of the Rules and Regulations providing they meet the following conditions:
- (1) Containers are to be temporarily stored on an impervious surface to the materials within the container;
 - (2) Storage of containers shall not exceed two (2) business days prior to container placement in another non-temporary storage area;
 - (3) Documentation must be immediately available to ascertain the exact date of delivery of the containers in order to determine compliance; and
 - (4) The facility has developed a spill response plan as required by 327 IAC 2-10-8.

(G) A petroleum storage area at a construction site shall be exempt from Sections 4 (A) and 4(D) of the Rules and Regulations providing it meets all the following conditions:

- (1) only one such storage area may exist at a facility;
- (2) only petroleum products may be exempted;
- (3) no single container shall exceed three hundred (300) gallons;
- (4) the total amount of petroleum products does not exceed six hundred and sixty (660) gallons;
- (5) the facility has established a regular (weekly) inspection program with documentation of inspection date and inspector to insure the storage area is being maintained and spills have not occurred;
- (6) the containers are clearly labeled; and
- (7) the facility has developed and maintained a spill response plan as outlined by 327 IAC 2-10-8.

Section 5 RECORDS.

All records required by these rules and regulations or copies thereof shall be transferred to any new owner or operator of a facility that is sold, leased, transferred to, or received by a new owner or operator. The transfer of such records shall in no way operate to eliminate or obviate the necessity of the new owner or operator to register with the Health Department as required by these rules and regulations. All records required by these rules and regulations shall be made available for review by the Health Department upon request.

Section 6 VARIANCES.

- (A) All requests for variances must be in writing to the Health Department and must contain all specifications, studies, or evidence showing why such a variance should be granted. The Health Department shall review the variance request and submit its recommendations to the Board of Health.
- (B) Variances from the Ordinance or the rules and regulations may be granted by the Board of Health after a hearing in compliance with general public notice at least ten (10) days prior to the hearing at which the applicant establishes that the requested variance will not jeopardize or degrade the ground water or create other hazards to human health and that requiring strict compliance with the requirements of the Ordinance and the rules and regulations would create an undue burden upon the applicant. In granting variances, the Board of Health shall take into consideration the amount and type of toxic or hazardous substances involved the rate and

direction of ground water flow soil conditions depth to ground water size and slope of site existing and known future water supplies and any other relevant factors. All variances shall be site specific, in writing, and include any and all conditions deemed necessary by the Board of Health to protect the ground water and to prevent other hazards to human health. Prior to considering a variance request with respect to the wastewater characterization requirements, the Board of Health will require the applicant to conduct and submit not less than one (1) such wastewater characterization.

APPROVED this 27th day of March, 2014 by the Board of Health.

ELKHART COUNTY BOARD OF HEALTH

By DT Mellon, MD
DT Mellon, MD

Title _____

APPROVED AND ADOPTED this 21 day of April, 2014 to be effective May 1, 2014.

BOARD OF COMMISSIONERS OF THE COUNTY OF ELKHART, INDIANA

By Terry J. Rodino
Terry J. Rodino, President

By Mike Yoder
Mike Yoder, Vice President

By Frank Lucchese
Frank Lucchese, Member

ATTEST:

Pauline E. Graff
Pauline E. Graff, Elkhart County Auditor

Brian Mabry from planning and development presented a request for the Elkhart County Advisory Plan Commission for multiple corrective amendments to the text of the Elkhart County Subdivision Control Ordinance. These errors were found when the county attorney's office was updating the county code books.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board adopted an ordinance amending Ordinance PC 12-05.

The Ordinance is as follows:

Ordinance No. PC2014-03
(Correcting Ordinance No. PC12-05)

AN ORDINANCE TO AMEND THE TEXT OF THE ELKHART COUNTY SUBDIVISION CONTROL ORDINANCE #2009-67 BY AMENDING THE PROCESS OF GRANTING SECONDARY APPROVAL OF MINOR SUBDIVISIONS AS DETAILED IN THIS ORDINANCE.

Whereas, the Elkhart County Advisory Plan Commission did publish notice of Public Hearing in The (Elkhart) Truth on the 1st day of April 2012 and in The Goshen News on 31st day of March 2012;

Whereas, the Elkhart County Advisory Plan Commission did hold a public hearing on 12th day of April 2012 and at that public hearing did take and consider public input and review and consider a form of Ordinance written by the Staff of the Plan Commission; The contents of the form of Ordinance which was the result of the public debate by the Members of the Elkhart County Advisory Plan Commission on the 12th day of April 2102;

Whereas, the Elkhart County Advisory Plan Commission did on the 12th day of April 2012 review, modify and confirm that this proposed form of Ordinance reflects the discussion and intent established by the Elkhart County Advisory Plan Commission at the Public Hearing on the 12th day of April 2012;

Whereas, the Elkhart County Advisory Plan Commission did give reasonable regard as required by Indiana Code 36-7-4-603 to the proposal for a text amendment to the Elkhart County Subdivision Control Ordinance; And did forward the proposal with a favorable recommendation for adoption by the Board of Commissioners of Elkhart County;

Whereas, this Ordinance was previously adopted as Ordinance No. PC12-05 on May 21, 2012 by the Board of Commissioners of the County of Elkhart, Indiana with said Ordinance No. PC12-05 containing several scrivener's errors which are corrected by this corrective and restated Ordinance;

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

Section 1. Delete the following text from CHAPTER 3 – MAJOR AND MINOR SUBDIVISION PROCEDURES:

3.11 APPLICATION FOR SECONDARY APPROVAL - After approval of the primary development plans, the Plan Commission or Plat Committee, as allowed in the Plan Commission Rules of Procedure, may consider the secondary plat and confirmation of improvement plans and confirmation of Storm Water Pollution Prevention Plans. The secondary plat shall conform to the approved primary plat and shall incorporate all required changes as verified by the Technical Review Committee members prior to forwarding to the Plan Commission or Plat Committee. If the secondary plat includes only a portion of the entire development approved on the primary plat, the Plan Commission or Plat Committee shall consider the effect of secondary platting a portion of the entire development and may require additional areas to be included in the secondary plat. The application shall include:

Section 2. Add the following text to CHAPTER 3 – MAJOR AND MINOR SUBDIVISION PROCEDURES:

3.11 APPLICATION FOR SECONDARY APPROVAL – After approval of the primary development plans, the Plan Commission or Plat Committee or Director, as allowed in these regulations or the Plan Commission Rules of Procedure, may consider the secondary plat and confirmation of improvement plans and confirmation of Storm Water Pollution Prevention Plans. The secondary plat shall conform to the approved primary plat and shall incorporate all

required changes as verified by the Technical Review Committee members prior to forwarding to the Plan Commission or Plat Committee or Director. If the secondary plat includes only a portion of the entire development approved on the primary plat, the Plan Commission or Plat Committee shall consider the effect of secondary platting a portion of the entire development and may require additional areas to be included in the secondary plat. The application should include:

Section 3. Add the following text to CHAPTER 3 – MAJOR AND MINOR SUBDIVISION PROCEDURES: 3.15 SECONDARY APPROVAL:

B. **Action without Meeting for Minor Subdivisions** – After the proper submittal of a complete application and review of all pertinent information, the Director, pursuant to I.C. 36-7-4-710, may grant or deny secondary approval of a minor subdivision. In granting secondary approval, the Director shall sign the plat on behalf of the Plan Commission. No notice or hearing is required, and the provisions of these regulations or of the Plan Commission’s Rules of Procedure concerning notice and hearing do not apply to secondary approvals of minor subdivisions by the Director. The Director may transfer an application for secondary approval of a minor subdivision to the Plat Committee, without first making a decision, when the Director determines that it would be in the best interest of all parties or upon written request of the applicant.

Section 4. Delete the following text from CHAPTER 3 – MAJOR AND MINOR SUBDIVISION PROCEDURES: 3.15 SECONDARY APPROVAL:

B. **Appeal** – Secondary approval may not be granted to a plat until expiration of the ten (10) day primary approval appeal period in accordance with Indiana Code 36-7-4-708;

C. **Compliance with Conditions** – Secondary approval may not be granted to a plat unless there is full compliance with the conditions and requirements set forth by the Plan Commission for primary approval;

D. **Other Government and Utility Approvals** – Secondary approval may not be granted to a plat until all necessary approvals from other agencies are obtained as needed or required. These approvals shall include any federal, state, or other local approval on their official forms and signed by the proper authority. These approvals may include, but are not limited to the following when appropriate:

1. **Federal Agencies:**

- a. Federal Communications Commission;
- b. Federal Aviation Administration;
- c. Federal Emergency Management Agency; and
- d. U.S. Army Corp of Engineers.

2. **State Agencies:**

- a. Indiana Department of Environmental Management;
- b. Indiana Department of Natural Resources;
- c. Indiana Department of Transportation; and
- d. Indiana State Department of Health.

3. **Local Agencies:**

- a. Elkhart County Drainage Board;

- b. Elkhart County Health Department, Environmental Division;
- c. Elkhart County Highway Division;
- d. All other Elkhart County Department, such as the Sheriff or Storm Water Management Department, having an interest in the particular petition.

4. **Utility Companies:**

- a. Public or private utilities for sanitary sewer; and
- b. Public or private utilities for water services.

Section 5. Add the following to CHAPTER 3 – MAJOR AND MINOR SUBDIVISION PROCEDURES: 3.15 SECONDARY APPROVAL:

C. **Appeal** – Secondary approval may not be granted to a plat until expiration of the five (5) working day primary approval appeal period in accordance with Indiana Code 36-7-4-708;

D. **Compliance with Conditions** – Secondary approval may not be granted to a plat unless there is full compliance with the conditions and requirements set forth by the Plan Commission or Plat Committee for primary approval;

E. **Other Government and Utility Approvals** – Secondary approval may not be granted to a plat until all necessary approvals from other agencies are obtained as needed or required. These approvals shall include any federal, state, or other local approval on their official forms and signed by the proper authority. These approvals may include, but are not limited to the following when appropriate:

1. **Federal Agencies:**

- a. Federal Communications Commission;
- b. Federal Aviation Administration;
- c. Federal Emergency Management Agency; and
- d. U.S. Army Corp of Engineers.

2. **State Agencies:**

- a. Indiana Department of Environmental Management;
- b. Indiana Department of Natural Resources;
- c. Indiana Department of Transportation; and
- d. Indiana State Department of Health.

3. **Local Agencies:**

- a. Elkhart County Drainage Board;
- b. Elkhart County Health Department, Environmental Division;
- c. Elkhart County Highway Division;
- d. All other Elkhart County Department, such as the Sheriff or Storm Water Management Department, having an interest in the particular petition.

4. **Utility Companies:**

- a. Public or private utilities for sanitary sewer; and
- b. Public or private utilities for water services.

Section 6. Delete the following text from CHAPTER 3 – MAJOR AND MINOR SUBDIVISION PROCEDURES:

3.16 NOTICE OF DECISION

- A. **Decision in Writing** – If secondary approval is granted or denied at the meeting, then the Plan Commission, or Plat Committee, shall state its findings and decision in writing and it shall be signed by the Secretary of the Plan Commission.
- B. **Correct Deficiencies** – If secondary approval is denied, the applicant shall correct the deficiency noted by the Plan Commission, or Plat Committee, in the findings prior to resubmitting for secondary approval.
- C. **Findings to Applicant** – The findings shall be presented to the applicant within ten (10) working days after the hearing.

3.17 PROVISIONS FOR COMPLETION OF IMPROVEMENTS

- A. **Completion of Improvements** – Before a secondary plat is approved by the Plan Commission or the Board of County Commissioners, the owner shall be required to complete, in accordance with the secondary approval for major subdivision or for minor plats, and to the satisfactory of the Street Standards all improvements as required by these regulations. If the improvements and installments have not been completed as required by these regulations, the owner shall provide a bond, or other proof of financial responsibility, as prescribed in the Street Standards before a secondary plat is approved by the Plan Commission or the Board of County Commissioners.

3.23 RECORDING OF SECONDARY PLAT

- A. **Signatures Required** – The secondary plat shall bear the signatures of the land surveyor, and either the President or Secretary of the Plan Commission, as appropriate, and seals of the land surveyor, and such other signatures and seals as set forth in Appendix B – SECONDARY PLAT CHECKLIST. The final plat shall also indicate the number of pages, i.e. 1 of 2, 2 of 2, etc.

Section 7. Add the following text to CHAPTER 3 – MAJOR AND MINOR SUBDIVISION PROCEDURES:

3.16 NOTICE OF DECISION

- A. **Decision in Writing** – If secondary approval is granted or denied then the Plan Commission, or Plat Committee, or Director, shall state its findings and decision in writing and it shall be signed by the Secretary of the Plan Commission or the Director, as appropriate.
- B. **Correct Deficiencies** - If secondary approval is denied, the applicant shall correct the deficiency noted by the Plan Commission, or Plat Committee, or Director, in the findings prior to resubmitting for secondary approval.

- C. **Findings to Applicant** – The findings shall be presented to the applicant within ten (10) working days after the Plan Commission or Plat Committee hearing or action of the Director.

3.17 PROVISIONS FOR COMPLETION OF IMPROVEMENTS

- A. **Completion of Improvements** – Before a secondary plat is approved by the Plan Commission or Plat Committee, the owner shall be required to complete, in accordance with the secondary approval for major subdivision or for minor plats, and to the satisfaction of the Street Standards all improvements as required by these regulations. If the improvements and installments have not been completed as required by these regulations, the owner shall provide a bond, or other proof of financial responsibility, as prescribed in the Street Standards before a secondary plat is approved by the Plan Commission or Plat Committee.

Section 8. To add the following text to CHAPTER 3 – MAJOR AND MINOR SUBDIVISION PROCEDURES:

3.23 RECORDING OF SECONDARY PLAT

- A. **Signatures Required** – The secondary plat shall bear the signatures of the land surveyor, and either the President or the Secretary of the Plan Commission, or the Director, as appropriate, and seals of the land surveyor, and such other signatures and seals as set forth in Appendix B – SECONDARY PLAT CHECKLIST. The final plat shall also indicate the number of pages, i.e. 1 of 2, 2 of 2, etc.

Section 9. To delete the following text from APPENDIX B SECONDARY CHECKLIST MAJOR AND MINOR SUBDIVISIONS:

- U. Acceptance by the Elkhart County Board of County Commissioners of all dedicated areas and improvements.
- V. Approval of the Elkhart County Plan Commission of the plat.

Section 10. Add the following text to APPENDIX B SECONDARY CHECKLIST MAJOR AND MINOR SUBDIVISIONS:

- U. Acceptance by the Elkhart County Board of County Commissioners of all dedicated areas and improvements (major subdivisions); or acceptance by the Elkhart County Plan Commission, the Plat Committee, or the Director, as appropriate, of all dedicated areas and improvements (minor subdivisions).
- V. Approval of the Elkhart County Plan Commission, the Plat Committee, or the Director, as appropriate, of the plat.

Section 11. In SUBCHAPTER 6.02 – DEFINITIONS, delete:

DIRECTOR: For the purpose of this Ordinance, the term Director shall mean the Director of the Elkhart County Planning and Development Department, or his or her duly authorized representatives.

And replace with:

DIRECTOR: For the purpose of this Ordinance, the term Director shall mean the Plan Director of the Elkhart County Planning and Development Department, or his or her duly authorized representatives.

Section 12: This Ordinance shall be effective retroactively to July 1, 2012.

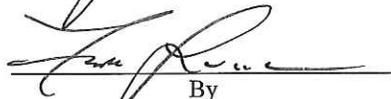
ORDAINED AND ADOPTED THIS 21 DAY OF April, 2014 BY THE BOARD OF COMMISSIONERS OF ELKHART COUNTY, INDIANA.



By
Terry Rodino

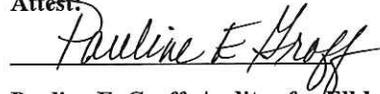


By
Mike Yoder



By
Frank Lucchese

Attest:



Pauline E. Graff, Auditor for Elkhart County

APRIL 21, 2014

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Brian Mabry from planning and development presented a request for David J. & Elizabeth A. Myers (owners) and Marjorie Kirkdorffer (owner), for a zone map change from R-4 to B-3 located on the east side of US 33, 785 feet north of CR 20 in Concord Township. This is to add the legal descriptions of two of the parcels that were approved for rezoning in December 2013. The original rezoning was for three (3) properties and there was a legal description for just one of the parcels. It is still R-4 to B-3 for all of them and this ordinance will incorporate the additional legal descriptions for the other two (2) parcels.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the amended ordinance as presented.

The Ordinance is as follows:

**A CORRECTIVE ORDINANCE TO AMEND THE COUNTY CODE 36-7-4-600
KNOWN AS THE ZONING ORDINANCE FOR ELKHART COUNTY INDIANA BY
REZONING THE AREA OF REAL ESTATE HEREIN AFTER DESCRIBED FROM
R-4 TO B-3**

WHEREAS, David J. Myers, on behalf of himself and Marjorie Kirkdorffer, submitted an application to rezone real estate hereinafter described from R-4 to B-3 and after proper legal notice a public hearing was held as provided by Law, and the Plan Commission did find that all elements of the Law have been met and did on the 14th day of November, 2013, recommend a zone change from R-4 to B-3 and filed their recommendation for adoption of this Ordinance with the Board of County Commissioners of Elkhart County Indiana.

WHEREAS, Elkhart County Plan Commission staff discovered, after approval of the original Ordinance granting the rezoning for the subject property, that two additional legal descriptions needed to be part of the rezoning ordinance and have therefore added legal descriptions for parcels 06-23-352-006 and -018.

**BE IT THEREFORE ORDAINED BY THE COUNTY COMMISSIONERS FOR
ELKHART COUNTY, INDIANA THAT:**

Legal Description for parcel 06-23-352-005

A part of the Southwest Quarter of the Southwest Quarter of Section 23, Township 37 North, Range 5 East, and a part of the Southeast Quarter of the Southeast Quarter of Section 22, Township 37 North, Range 5 East, all in Concord Township, Elkhart County, Indiana, more particularly described as follows:

Assuming the South line of said Section 23 to have a bearing due East and West; commencing at a cross on the concrete pavement where the centerline of the Lincoln Highway (U.S. Highway No. 33) is intersected by the South line of said Section 23; thence North 33 degrees 11 minutes West along the centerline of said highway, 819.95 feet for the beginning point of this description; thence North 56 degrees 49 minutes East at right angles to the centerline of said highway, 274.47 feet to an iron stake on the West line of the New York Central Railroad right-of-way; thence Northwestwardly along said right-of-way line, 122.47 feet; thence South 56 degrees 49 minutes West 215 feet to the centerline of said highway; thence South 33 degrees 11 minutes East, 120 feet to the place of beginning of this description.

EXCEPTING THEREFROM: A part of the Southwest Quarter of the Southwest Quarter of Section 23, Township 37 North, Range 5 East, Elkhart County, Indiana, and being part of Deed Rec. 212, page 559, Office of the Recorder of Elkhart County, lying within the right of way lines depicted on the Right of Way Parcel Plat marked Exhibit "B", described as follows:

Commencing at the Southeast corner of said Quarter-Quarter Section, designated as point "1303" on said plat; thence South 89 degrees 28 minutes 54 seconds West (bearings based on the Location Control Route Survey Plat, Project NH-219-5 (), recorded in Instrument Number 2002-09261 in the Office of the Recorder of Elkhart County, 671.90 feet along the South line of said Section to the centerline of U.S. R. 33 per Project F-420-(9), 1969; thence along the centerline of said U.S. R. 33 Northwestly 97.99 feet along an arc to the right and having a radius of 1,909.86 feet and subtended by a long chord having a bearing of North 35 degrees 4 minutes 11 seconds West and a length of 97.98 feet; thence North 33 degrees 36 minutes 0 seconds West 721.96 feet along said centerline to the South corner of the grantors' land, being the point of beginning of this description; thence continuing North 33 degrees 36 minutes 0 seconds West 120 feet along said centerline to the West corner of the grantors' land; thence North 56 degrees 24 minutes 0 seconds East 50 feet along the Northwestern line of the grantors' land; thence South 33 degrees 36 minutes 0 seconds East 120 feet to the Southeastern line of the grantors' land; thence South 56 degrees 24 minutes 0 seconds West 50 feet along said Southeastern line to the point of beginning.

Legal Description for parcel 06-23-352-006:

A tract of land in the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Twenty-three (23), Township Thirty-seven (37) North, Range Five (5) East, more particularly described as follows:

Commencing at a cross on the concrete pavement where the Lincoln Highway (Elkhart-Goshen Road) is intersected by the south line of said Section Twenty-three (23); thence northwestwardly along the center line of said Lincoln Highway Seven Hundred nineteen and ninety-five hundredths (719.95) feet for the beginning point of this description; thence northwestwardly along the center line of said highway One hundred (100) feet; thence northwardly at right angles to the center line of said highway Two Hundred seventy-four and forty-seven hundredths (274.47) feet to the westerly line of the Chicago, South Bend and Northern Indiana Railway Company's right-of-way; thence southeasterly along said Railway Company's west line One hundred two and twenty-eight hundredths (102.28) feet; thence southwestwardly at right angles to the center line of said Lincoln Highway two hundred ninety-six and two hundredths (296.02) feet to the place of beginning.

Subject to public highways and easements and restrictions of record.

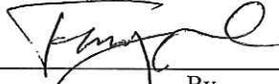
Legal Description for parcel 06-23-352-018:

A part of the Southwest Quarter of the Southwest Quarter of Section Twenty-three (23), Township Thirty-seven (37) North, Range Five (5) East, and a part of the Southeast Quarter of the Southeast Quarter of Section Twenty-two (22) Township Thirty-seven (37) North, Range Five (5) East, all in Concord Township, Elkhart County, Indiana, more particularly described as follows:

Assuming the South line of said Section Twenty-three (23) to have a bearing due East and West; commencing at a cross on the concrete pavement where the center line of the Lincoln Highway (U.S. Highway 33) is intersected by the South line of said Section Twenty-three (23) thence North thirty-three (33) degrees eleven (11) minutes West along the center line of said highway, nine hundred thirty-nine and ninety-five hundredths (939.95) feet for the beginning point of this description; thence North fifty-six (56) degrees forty-nine (49) minutes East a right angles to the center line of said highway, two hundred fifteen (215) feet to an iron stake on the West line of the New York Central Railroad right-of-way line, one hundred twenty-two and seventy-four hundredths (122.74) feet; thence South fifty-six (56) degrees forty-nine (49) minutes West, two hundred ten and one hundredth (210.01) feet to the center line of said highway; thence South thirty-three (33) degrees eleven (11) minutes East, one hundred twenty (120) feet to the place of beginning of this description.

BE rezoned from R-4 to B-3 effective immediately, and the zone maps dated October 30, 1959 and made a part of Article II, Section 2 of the Master Plan of Zoning for Elkhart County Indiana as amended are hereby ordered amended and changed to reflect the said rezoning of said real estate.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART
COUNTY, INDIANA THIS 21st DAY OF APRIL, 2014



By
Terry Rodino



By
Mike Yoder



By
Frank Lucchese

Attest: 
Pauline Graff, Elkhart County Auditor

Duane Burrow from planning and development presented a request for Agnes B. Blakesley Trust and Michael & Alice Blakesley (owners) and J. A. Wagner Construction, Inc., (developer), represented by Marbach, Brady & Weaver, Inc., for zone map change from a GPUD-M-1 & A-1 to a DPUD-M-1 to be known as Bristol Park for Industry, Phase 2E, DPUD-M-1 located on the west side of CR 29, 2,000 feet north of SR 120 in Washington Township. The Plan Commission has sent this to the Board with a favorable recommendation. Mr. Burrow said this property is in the process of being annexed into the Town of Bristol. Chris Marbach from Marbach, Brady & Weaver, Inc. said this is for an industry that will be manufacturing packing material and 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 Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the rezoning and adopted an ordinance establishing this rezoning. The Ordinance is as follows:

ORDINANCE NO. PC 2014-04

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 GPUD-M-1 AND A-1 TO DPUD-M-1, TO BE KNOWN AS BRISTOL PARK FOR INDUSTRY, PHASE 2E DPUD M-1; AND BY CHANGING THE ZONE MAPS INCORPORATED BY REFERENCE IN ARTICLE 2. DISTRICTS AND ZONE MAPS OF THE ELKHART COUNTY ZONING ORDINANCE

WHEREAS, Wagner Land Development Company, Inc. submitted a petition to change the zone maps for the real estate described in **SECTION 1** of this ordinance from **GPUD-M-1 and A-1 to DPUD-M-1** on February 3rd 2014;

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 1st day of March 2014 and in **The Goshen News** on the 1st day of March 2014 and did mail as prescribed by Rule and Law the Notice of Public Hearing to all persons of record with in 300 feet;

WHEREAS, The Elkhart County Advisory Plan Commission did hold a public hearing as provided by law on the 13th day of March 2014 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**

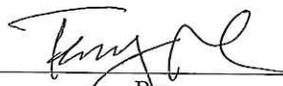
WHEREAS, The petition was presented to the Board of County Commissioner Elkhart county, Indiana with a Favorable Recommendation.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONER 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 **GPUD-M-1 and A-1 to DPUD-M-1** 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 ordered 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 M-1 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 M-1 zoning district.

- SECTION 4.** That all future 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.** Reserved.
- SECTION 8.** Reserved.
- SECTION 9.** Reserved.
- 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 21ST DAY OF APRIL 2014 BY THE BOARD OF COUNTY COMMISSIONER ELKHART COUNTY, INDIANA.



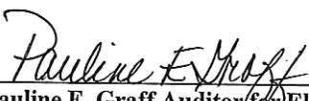
 By
Terry Rodino



 By
Mike Yoder



 By
Frank Lucchese

Attest: 

Pauline E. Graff Auditor for Elkhart County

Page 2 of 2 Ordinance NO. PC 2014-04

EXHIBIT A Legal Description

BRISTOL PARK FOR INDUSTRY PHASE 2E

Part of the Southwest Quarter (SW 1/4) of Section 24, Township 38 North, Range 6 East, situate in Washington Township, Elkhart County, State of Indiana being more particularly described as follows:

Commencing a railroad spike marking the Northeast corner of the Southwest Quarter of said Section 24; thence South 01°04'52" East along the East line of the Southwest Quarter of said Section 24 a distance of 266.96 feet to the place of beginning of this description; thence continuing South 01°04'52" East along the East line of the Southwest Quarter of said Section 24 a distance of 744.62 feet to the northern right-of-way line of the Norfolk Southern Railroad (formerly New York Central Railroad); thence South 63°54'11" West along the said northern right-of-way line a distance of 1357.14 feet; thence North 26°05'49" West a distance of 100.00 feet; thence North 63°54'11" East a distance of 476.66 feet; thence North 01°04'52" West a distance of 869.60 feet; thence North 52°06'42" East a distance of 303.65 feet; thence along a tangent curve to the right having a radius of 636.34 feet, an arc length of 416.37 feet and a long chord of North 70°51'23" East - 408.98 feet; thence North 89°36'04" East a distance of 143.23 feet; thence South 45°44'24" East a distance of 35.57 feet; thence South 01°04'52" East a distance of 125.00 feet; thence North 88°55'08" East a distance of 40.00 feet to the point of beginning of this description.

Containing 20.396 acres of land.

I Duane Burrow Senior Planner with the Elkhart County Division of Planning did prepare this document and do affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved Secondary approval of a DPUD-M-1 known as Bristol Park for Industry, Phase 2E, DPUD-M-1 located on the west side of CR 29, 2,000 feet north of SR 120 in Washington Township for Agnes B. Blakesley Trust & Michael & Alice Blakesley (owners) & J. A. Wagner Construction, Inc. (developer), as requested by Duane Burrow from planning and development.

Brian Mabry from planning and development presented a request for Seahawk Corporation, represented by Jones Petrie Rafinsky, for a zone map change from a GPUD-E-3 to a DPUD-E-3 to be known as Elkhart East Area 'B' Phase I DPUD located on the west side of CR 17 and east side of CR 15, 1,700 feet south of CR 4 in Osolo Township. The Plan Commission has recommended approval of the request. There are some stipulations on the proposed ordinance. Ken Jones, Jr. from Jones Petrie Rafinsky, representing the petitioner, said they are in agreement with all of the stipulations and will answer any questions. Rob Letherman, developer of this area, explained they are making this request so it will speed up the process when they get a party interested in their development. 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 Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the request and adopted an ordinance establishing this rezoning. The Site Plan/Support Drawing & Development Plan is a part of this ordinance and shall be maintained in the files of the Elkhart County Advisory Plan Commission.

The Ordinance is as follows:

ORDINANCE NO. PC 2014-05

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 GENERAL PLANNED UNIT DEVELOPMENT (GPUD) E-3 TO DETAILED PLANNED UNIT DEVELOPMENT (DPUD) E-3, TO BE KNOWN AS ELKHART EAST AREA B, PHASE I DPUD; AND BY CHANGING THE ZONING MAPS INCORPORATED BY REFERENCE IN ARTICLE 2, DISTRICTS AND ZONE MAPS, OF THE ELKHART COUNTY ZONING ORDINANCE.

WHEREAS, Seahawk Corporation, submitted a petition to change the zone maps for the real estate described in SECTION 1 of this Ordinance from GPUD-E-3 to DPUD-E-3 on February 4, 2014;

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** and **The Goshen News** on March 1, 2014, 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 March 13, 2014 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 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 **GPUD-E-3** to **DPUD-E-3** effective immediately and the zone maps adopted by reference in Article 2 of the Elkhart County Zoning Ordinance be amended and ordered 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 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 E-3 zoning district.

Page 1 of 3 Ordinance NO. PC 2014-05

SECTION 4. That the Site Plan / Support Drawing and Development Plan are incorporated into this Ordinance by reference.

SECTION 5. This Detailed Planned Unit Development limits the use of this real estate to what has been shown on the Site Plan / Support Drawing.

SECTION 6. The submitted and attached Outline of Development Standards are adopted by reference, except as modified by Section 7 below.

SECTION 7. That the following provisions apply to development on this real estate:

1. E-3 uses are permitted.
2. Outside storage is not permitted on the proposed lots 1 and 14.
3. Outside storage shall not be visible from CR 17 and CR 15.
4. Screening of outdoor storage is required as set out by the developer in his application.
5. The spacing of street trees is a maximum of 50 feet apart on center.
6. Prior to issuance of an Improvement Location Permit for a lot in the development, the Site Plan / Support Drawing must be reviewed and approved by the staff. If at their judgment they feel more review is necessary for any site, they may bring it as a staff item to the Plan Commission.
7. The parking lot screening must be as follows:
 - a. 50% for normal, day-to-day office parking.
 - b. 75% for heavy truck parking.
8. At the time of annexation, any new lots in this site would be required to comply with the Landscaping Standard of the City of Elkhart.

SECTION 8. This Ordinance shall be in full force and effect from and after its passage and approval in accordance with the law.

Page 2 of 3 Ordinance NO. PC 2014-05

ORDAINED AND ADOPTED THIS THE 21st DAY OF APRIL, 2014 BY THE BOARD OF COUNTY COMMISSIONERS, ELKHART COUNTY, INDIANA.



By
Terry Rodino



By
Mike Yoder



By
Frank Lucchese

Attest: 
Pauline E. Graff Auditor for Elkhart County

Page 3 of 3 Ordinance NO. PC 2014-05

Exhibit A

Elkhart East Area B, Phase 1 Legal Description

Legal Description

A part of the Northeast Quarter of Section 24, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana, more particularly described as follows:

Beginning at the southwest corner of the said Northeast Quarter of Section 24; thence North 0°07'20" West along the west line of said Northeast Quarter 1,136.08 feet to a PK nail located at the southwest corner of that tract described by instrument recorded in Deed Record #96-027359 in the office of the Recorder of Elkhart County; thence North 89°30'34" East along the south line of said tract and said line extended 1,552.49 feet to a bar and cap; thence South 0°09'57" East 157.96 feet; thence North 89°47'28" East 100.00 feet to a bar and cap; thence North 0°09'57" West 242.73 feet to a bar and cap; thence North 89°56'44" East 1,000.57 feet to the east line of said Northeast Quarter of Section 14; thence along said east line South 0°09'52" East 1,234.53 feet to the south line of said Northeast Quarter; thence along said south line South 89°58'48" West 960.54 feet to a bar and cap; thence northwesterly 70.00 feet along a non-tangent arc to the left having a radius of 90.00 feet and subtended by a long chord bearing North 22°18'02" West 68.25 feet to a bar and cap at a point of reverse curve; thence northwesterly 38.76 feet along an arc to the right having a radius of 50.00 feet and subtended by a long chord bearing North 22°22'24" West 37.80 feet to a bar and cap; thence North 0°09'57" West 376.49 feet; thence South 89°50'03" West 100.00 feet to a bar and cap; thence South 0°09'57" East 376.49 feet to a bar and cap; thence southwesterly 38.76 feet along an arc to the right having a radius of 50.00 feet and subtended by a long chord bearing South 22°02'31" West 37.80 feet to a bar and cap at a point of reverse curve; thence southwesterly 69.54 feet along an arc to the left having a radius of 90.00 feet and subtended by a long chord bearing South 22°06'53" West 67.82 feet to a bar and cap on the said south line of the Northeast Quarter; thence along said south line South 89°58'48" West 1,513.30 feet to the place of beginning, and containing 70.163 acres.

OUTLINE OF DEVELOPMENT STANDARDS ELKHART EAST PLANNED DEVELOPMENT

The following development standards and guidelines shall be used to establish a framework for ensuring that development within the Elkhart East Planned Development reflects appropriate standards of quality and design. These standards and guidelines are intended to be used in conjunction with the Elkhart County Zoning Ordinance, as well as any other applicable governmental ordinances. Many of the provisions of these Development Standards address matters of design and development quality not addressed by the Elkhart County Zoning Ordinance. Where standards are common to both documents and the requirements of these Development Standards exceed those of the Elkhart County Zoning Ordinance, the former shall apply. Exceptions to the Development Standards may be granted by the Elkhart East Architectural Control Committee but must comply with the Elkhart County Zoning Ordinance.

INDUSTRIAL PARK DEVELOPMENT - AREA B

The development standards and guidelines for the Industrial Park development area referred to as "Area B" are intended to create an attractive and controlled environment suitable for a wide range of business types including commercial, warehouse, manufacturing, and distribution uses. Creating and maintaining a quality business environment requires standards that emphasize attractive landscaping, appropriately located parking and loading, and a reasonable level of architectural control.

I. LAND USE RESTRICTIONS

The use of land and buildings permitted shall be those permitted in the Elkhart County Zoning Ordinance.

II. REQUIRED SETBACKS

A. All yards and setbacks shall conform to those required in the Elkhart County Zoning Ordinance.

III. ARCHITECTURAL STANDARDS

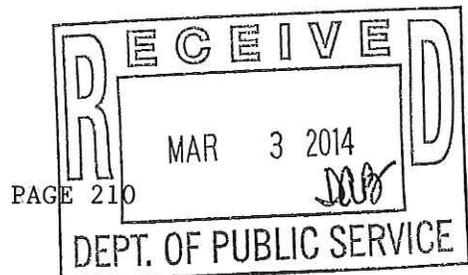
The following architectural standards are intended to promote architectural quality in design and construction. These standards are also intended to promote a degree of harmony through limitations on the types of building materials used.

A. Exterior Building Material Standards

1. Appropriate Building Materials Include:

- Steel/aluminum curtain wall

APRIL 21, 2014



- Finished concrete
- Finished precast concrete/finished concrete masonry units
- Stucco
- EFIS or dryvit, or other similar wall panels
- Natural stone
- Brick (clay)
- Tile (ceramic/porcelain)
- Glass (tinted or clear)
- Corrugated or pre-engineered metals (decorative)
- Composite building panels/gypsum wall panels

2. Inappropriate/Prohibited Building Materials:

- Plywood/wood siding
- Wood
- Unfinished concrete/unfinished concrete masonry units
- Plastics

3. Building Trim Materials

Greater flexibility is allowed in the use of trim materials for windows and doors, decorative columns, and other accents on the exterior of buildings. Permitted trim materials include:

- Wood
- Stone
- Brick (clay)
- Tile (ceramic/porcelain)
- Formed polymers (Fypon or equal)
- Painted Aluminum

4. Prohibited Materials:

- Plastic
- Unfinished concrete/unfinished concrete masonry units

5. The Main Façade: Design of the main façade should take into account materials that will enhance the exterior character of the façade. These materials may include but are not limited to: glass, masonry, EFIS, brick, stone, finished concrete and decorative metal panels. The design should incorporate the use of outside offices, overhangs, awnings, and/or glass to enhance the main façade. The Elkhart East Architectural Control Committee shall review, revise, and approve the final design and use of materials for the main facade.

B. Roofs and Rooftop Screening

Roof design, and rooftop equipment, shall be integrated into the overall design of the building. Rooftop mechanical equipment shall be located to minimize its visibility. Rooftop screens shall be used where needed to screen excessive equipment and venting that creates visual clutter. The color of equipment, venting and screening shall be compatible with the color scheme of the building.

VI. LANDSCAPE STANDARDS

The development concept for the Industrial Park is to create a unified, professional setting. An emphasis on landscape design is central to achieving this concept. The following standards reflect the importance of landscape design within the Industrial Park.

A. Landscaping standards shall comply with the current landscape standards found in the City of Elkhart Zoning Ordinance and/or the Elkhart County Zoning Ordinance. A landscape plan and irrigation plan shall be submitted to, revised, and approved by the Elkhart East Architectural Control Committee.

B. Parking Lot Landscaping

To ensure that parking lots are designed in harmony with the overall landscape, the following standards shall apply:

1. Perimeter Parking Lot Landscaping

Parking lots adjacent to a public street shall achieve a 50% screen of the parking lot perimeter. Screening shall be accomplished using dense deciduous shrubs, evergreen shrubs, evergreen trees or berming.

C. Berms

The design of berms intended to screen parking areas or outside storage shall maintain a maximum slope of 5:1.

D. Street Tree Planting

Trees shall be planted within the adjacent right-of-way at the rate of one tree per fifty linear feet of right-of-way. Trees shall complement tree masses located within the front yard area. Hardwood trees are strongly encouraged.

V. SIGN STANDARDS

The following sign standards shall supplement the sign regulations of the Elkhart County Zoning Ordinance.

A. Permitted Sign Types

Advertising and business/user identification signs shall be limited to monument signs and facade (wall) signs. Public safety signs, directional/traffic signs and other incidental signs are also permitted.

B. Maximum Sign Area

- a. Monument Signs: not to exceed one square foot of sign area per two linear feet of lot frontage.
- b. Facade Signs: not to exceed 5% of the applicable building facade, not to exceed 150 square feet.

C. Maximum Number of Signs Permitted

- a. Monument Signs: no more than one sign per lot unless the building is situated on a corner lot.
- b. Facade Signs: one sign on the façade of the building.

D. Colors and Illumination

- a. Color Restrictions: a maximum of two colors, plus white or black, may be used on any sign. Colors shall be complementary. Garish color combinations are to be avoided.
- b. Illumination: Signs may be externally or internally illuminated. External illumination shall not employ the use of "flood-light" type lighting.

VI. SITE DESIGN AMENITIES

A. Topography

Site grading should meet local stormwater management standards while maintaining the character of the natural topography in northern Indiana.

B. Mailboxes

Mailboxes of masonry construction are encouraged with the masonry material matching in color that masonry material used on the building.

VII. OUTSIDE STORAGE

Outside storage may be permitted. Site plans must receive final approval from the Elkhart County Planning Staff and the Elkhart East Architectural Control Committee. No materials, inventory, goods in process, semi-manufactured items, finished products, plant equipment, parts, rubbish, waste materials, or other personal property shall be kept, stored, maintained or accumulated on any part of said real estate outside of buildings erected thereon, except where prior written approval of the Elkhart County Planning Staff and the Elkhart East Architectural Control Committee. All approved outside storage shall be kept in a neat and orderly manner and shall be screened by a combination of landscaping, berming, and a solid wall or fence not less than 6 feet or more than 8 feet in height. The solid wall or fence may be composed of brick, stone, concrete, or may be chain-link with durable slatting. No bright colors are permissible. No fences shall be permitted within 50 feet of a public street. Outside storage shall be located on the site to the back of the property and not be visible from the public street when possible. No outside storage shall be visible along County Road 17. The use of landscaping/berming to screen outside storage and fencing is highly encouraged.

Brian Mabry from planning and development presented a request for Parkwel Investment Co., LLC, represented by Jones Petrie Rafinsky, for a zone map change from a GPUD-B-3 to a DPUD-B-3 to be known as Parkway at 17 – Phase IV DPUD located on the northeast corner of CR 17 and Verdant Drive in Jefferson Township. The Plan Commission has recommended approval of this request. Ken Jones, Jr. from Jones Petrie Rafinsky, representing the petitioner, said this is the last frontage phase of this development along CR 17. 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 zoning change and adopted an ordinance establishing the zoning change. The Site Plan/Support Drawing is incorporated into this Ordinance and shall be maintained in the files of the Elkhart County Advisory Plan Commission.

The Ordinance is as follows:

ORDINANCE NO. PC 2014-06

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 GENERAL PLANNED UNIT DEVELOPMENT (GPUD) B-3 TO DETAILED PLANNED UNIT DEVELOPMENT (DPUD) B-3, TO BE KNOWN AS PARKWAY AT 17 PHASE IV DPUD; AND BY CHANGING THE ZONING MAPS INCORPORATED BY REFERENCE IN ARTICLE 2, DISTRICTS AND ZONE MAPS, OF THE ELKHART COUNTY ZONING ORDINANCE.

WHEREAS, Parkwell Investment Co., LLC, submitted a petition to change the zone maps for the real estate described in SECTION 1 of this Ordinance from GPUD-B-3 to DPUD-B-3 on February 4, 2014;

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** and **The Goshen News** on March 1, 2014, 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 March 13, 2014 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 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 **GPUD-B-3** to **DPUD-B-3** effective immediately and the zone maps adopted by reference in Article 2 of the Elkhart County Zoning Ordinance be amended and ordered amended and changed to reflect the said rezoning of said real estate.

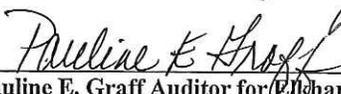
- SECTION 3.** That the Detailed Planned Unit Development be granted for the real estate described in **SECTION 1** of this Ordinance. Unless this Ordinance specifies to the contrary, all Development Standards for the A-1 Zoning District detailed in the Elkhart County Zoning Ordinance will be enforced 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 B-3 zoning district.
- SECTION 4.** That the Site Plan / Support Drawing is incorporated into this Ordinance by reference.
- SECTION 5.** This Detailed Planned Unit Development limits the use of this real estate to what has been shown on the Site Plan / Support Drawing.
- SECTION 6.** That the following provisions apply to development on this real estate:
1. Prior to issuance of an Improvement Location Permit for a lot in the development, the Site Plan / Support Drawing must be reviewed and approved by the Staff. If at their judgment they feel more review is necessary for any site, they may bring it as a staff item to the Plan Commission.
- SECTION 7.** This Ordinance shall be in full force and effect from and after its passage and approval in accordance with the law.

ORDAINED AND ADOPTED THIS THE 21st DAY OF APRIL, 2014 BY THE BOARD OF COUNTY COMMISSIONERS, ELKHART COUNTY, INDIANA.


 By
 Terry Rodino


 By
 Mike Yoder


 By
 Frank Lucchese

Attest: 
 Pauline E. Graff Auditor for Elkhart County

Page 2 of 2 Ordinance NO. PC 2014-06

Exhibit A

Parkway at 17, Phase IV Legal Description

Legal Description

A part of the Northwest Quarter of Section Seven, Township 37 North, Range 6 East, Jefferson Township, Elkhart County, Indiana, consisting of two parcels, more particularly described as follows:

Parcel One: Commencing at the southwest corner of said Section Seven, thence North 0°32'05" West 2,651.88 feet to the southwest corner of the said Northwest Quarter; thence North 89°23'35" East 100.00 feet along the north line of said Southwest Quarter to the east boundary of County Road 17; thence North 0°26'47" West 24.01 feet along the said east boundary to a bar and cap at the northwest corner of Parkway at 17 DPUD - Phase II, recorded in Plat Book 32, page 83, Elkhart County Recorder, and the place of beginning of this description of Parcel One; thence continuing along said east boundary North 0°26'47" West 475.24 feet; thence continuing along said east boundary North 2°21'20" West 600.33 feet; thence continuing along said east boundary North 0°26'47" West 228.39 feet to the south line of Parkway at 17 DPUD - Phase I, recorded in Plat Book 29, page 81, Elkhart County Recorder; thence along said south line North 89°18'27" East 468.67 feet to a bar and cap at Point A on the west boundary of Parkway Avenue as dedicated to Elkhart County by Instrument No. 2009-4004; thence along said west boundary southerly 52.85 feet along a non-tangent arc to the right having a radius of 270.00 feet and subtended by a long chord bearing South 5°36'26" East 52.76 feet to a bar and cap; thence continuing along said west boundary South 0°00'00" East 683.39 feet to a bar and cap; thence continuing along said west boundary southerly 73.03 feet along an arc to the left having a radius of 330.00 feet and subtended by a long chord bearing South 6°20'25" East 72.88 feet to a bar and cap; thence continuing along said west boundary South 12°40'49" East 92.78 feet to a bar and cap; thence continuing along said west boundary southerly 59.60 feet along an arc to the right having a radius of 270.00 feet and subtended by a long chord bearing South 6°21'23" East 59.48 feet to a bar and cap; thence continuing along said west boundary South 5°29'46" West 198.37 feet to a bar and cap; thence South 0°00'00" West 112.66 feet to a bar and cap at a point of curvature on the north boundary of said Parkway at 17 DPUD - Phase II; thence southwesterly 64.40 feet along an arc to the right having a radius of 41.00 feet and subtended by a long chord bearing South 45°00'00" West 57.98 feet to a bar and cap on the north boundary of Verdant Drive; thence along said north boundary South 90°00'00" West 418.64 feet to the place of beginning, and containing 13.949 acres in Parcel One.

Parcel Two: Commencing at the aforementioned Point A; thence continuing along the said south line of Parkway at 17 DPUD - Phase I, recorded in Plat Book 29, page 81, Elkhart County Recorder North 89°18'27" East 60.84 feet to a bar and cap on the east boundary of said Parkway Avenue as dedicated to Elkhart County by Instrument No. 2009-4004, and the place of beginning of Parcel Two; thence continuing North 89°18'27" East 316.32 feet to a bar and cap at the southeast corner of said Parkway at 17 DPUD - Phase I; thence along the west boundary of Tract A of said Parkway at 17 DPUD - Phase II, recorded in Plat Book 32, page 83, Elkhart County Recorder, South 0°16'11" East 732.09 feet to a bar and cap; thence along a south line of said Tract A North 89°43'50" East 412.50 feet to a bar and cap; thence along a west line of said Tract A South 0°00'00" West 595.50 feet to a bar and cap on the north line of Tract B in said Parkway at 17 DPUD - Phase II; thence along said north line North 90°00'00" West 409.70 feet to a bar and cap; thence North 0°16'11" West 98.77 feet to a bar and cap; thence South 89°36'38" West 99.89 feet to a bar and cap; thence South 0°13'39" East 98.09 feet to a bar and cap on the north line of Verdant Drive; thence along said north line North 90°00'00" West 112.83 feet to a bar and cap; thence northwesterly 75.30 feet along an arc to the right having a radius of 50.00 feet and subtended by a long chord bearing North 46°51'22" West 68.38 feet to a bar and cap on the east boundary of said Parkway Avenue; thence along said east boundary North 3°42'45" West 316.87 feet to a bar and cap; thence continuing along said east boundary northerly 73.03 feet along a non-tangent arc to the left having a radius of 330.00 feet and subtended by a long chord bearing North 6°20'25" West 72.88 feet to a bar and cap; thence continuing along said east boundary North 12°40'49" West 92.78 feet; thence continuing along said east boundary northerly 59.75 feet along an arc to the right having a radius of 270.00 feet and subtended by a long chord bearing North 6°20'25" West 59.63 feet to a bar and cap; thence continuing along said east boundary North 0°00'00" West 683.39 feet to a bar and cap; thence continuing along said east boundary northerly 53.48 feet along an arc to the left having a radius of 330.00 feet and subtended by a long chord bearing North 4°38'33" West 53.42 feet to the place of beginning, and containing 14.470 acres in Parcel Two.

John Bowers from the county highway department presented a map of the 2014 road berming plan. They will be starting the berming for this year on May 5th and hope to have it completed in six (6) weeks. Due to the amount of complaints about the berming last year, they are suggesting the newspapers inform the public about the process.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved an Independent Contractor Agreement with Miles Truck Services, Inc. for the highway department, as requested by Jeff Taylor, Manager of Transportation. This will be to do preventive maintenance on the vehicles on a regular basis. This agreement can be cancelled at any time by either party. It has been reviewed by the county attorney's office. A copy of the agreement is on file in the Commissioners' office.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board awarded the quote for resurfacing CR 50 from CR 13 to the Elkhart County Line to Phend & Brown, Inc. at a cost of \$123,025.00, as requested by Jeff Taylor, Manager of Transportation. There were four (4) quotes submitted and Phend & Brown submitted the lowest quote.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved an agreement with Ivy Tech Community College and the Elkhart County Redevelopment Commission for the Lean Advanced Manufacturing Training Center, as requested by Tom Byers, County Administrator. The county will be providing \$500,000 towards this project. A copy of the agreement is on file in the Commissioners' office.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved an Interlocal Agreement between the Town Council of Middlebury, Middlebury Redevelopment Commission and the Elkhart County Redevelopment Commission to provide water utilities for Elroy Drive Industrial Park, as requested by Tom Byers, County Administrator. A copy of the agreement is on file in the Commissioners' office.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board accepted the Solid Waste-Landfill report for March 2014 and placed it on file.

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

Respectfully submitted,
Kathy L. Erschen

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

April 28, 2014

Vice President Mike Yoder 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 was present and Terry Rodino was absent. Others present were Pauline Graff, County Auditor; Tom Byers, County Administrator; and Kathy Erschen, Executive Assistant.

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

Jenn Tobey, Director of Emergency Management, asked for approval and signatures of the Mutual Aid Agreements between the county's emergency management department and the towns/cities of Elkhart, Goshen, Middlebury, Millersburg, Nappanee, Wakarusa and Bristol for the Comprehensive Emergency Management Plan. The agreement is for a three (3) year term.

On a motion made by Frank Lucchese, seconded by Mike Yoder after duly vacating the chair and carried, the Board approved and signed the agreements as presented.

On a motion made by Frank Lucchese, seconded by Mike Yoder after duly vacating the chair and carried, the Board approved out-of-state travel to Nashville, TN for Kris Krueger and Carrie Brunson in May for HUD lead grant training.

Kris Krueger, Grants Procurement Specialist, asked for approval to apply for a "Hardest Hit" grant from the state for demolition of houses that are considered uninhabitable in the county. The grant would be for \$3-\$5M.

On a motion made by Frank Lucchese, seconded by Mike Yoder after duly vacating the chair and carried, the Board gave approval to apply for the grant as requested.

On a motion made by Frank Lucchese, seconded by Mike Yoder after duly vacating the chair and carried, the Board approved a LPA Agreement with Lawson-Fisher Associates P.C. for construction inspection for the CR 3 and CR 32 intersection improvements, as requested by Jeff Taylor, Manager of Transportation. A copy of the agreement is on file in the Commissioners' office.

On a motion made by Frank Lucchese, seconded by Mike Yoder after duly vacating the chair and carried, the Board approved a Conflict of Interest Disclosure statement for Angela Stillson who is on the Nappanee Public Library board.

On a motion made by Frank Lucchese, seconded by Mike Yoder after duly vacating the chair and carried, the Board adjourned their meeting.

Respectfully submitted,
Kathy Erschen