

## MINUTES

### ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

November 20, 2017

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 and Suzie Weirick, were also present. Others present were Dawn Truex, County Auditor's Office; Gordon Lord, County Attorney; Tom Byers, County Administrator and Anita Mock Executive Assistant.

On a motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved the Minutes of the November 6<sup>th</sup> and November 13<sup>th</sup> meetings and placed them on file.

On a motion made by Suzie Weirick, seconded by Frank Lucchese and unanimously carried, the Board approved the Allowance of Claims as presented by the County Auditor's office.

#### **BUSINESS ITEMS:**

Health Officer, Dr. Daniel Nafziger, requested approval of Elkhart County Private Water Well Ordinance, Ordinance No. 2017-24. Dr. Nafziger presented a very detailed process which took place to create the said document and all the different individuals and groups that were involved, along with any fees associated with this process. Mike Yoder moved to open a public hearing. Orrin Martin discussed his questions and concerns with how this ordinance ties into the current State code and regulations. James Kuhlenschmidt discussed his concerns with this ordinance mainly with the irrigation section, and why there are so many defined regulations. In conclusion he asked why such an additional drain is needed on the local economy. Nancy Waite questioned the justification of the new ordinance and if it is necessary. Nancy asked if the benefit would outweigh the cost. Jeff Roberts advised he spoke at the Board of Health meeting on this topic. He advised he is in the water well business and is a licensed water well driller. He sees the ordinance as more of an awareness issue and getting a wealth of information for potential health issues with the water in your home. Dustin Sailor, Director of Public Works for Goshen City, advised that the City of Goshen support in favor of the Well Ordinance. Ken Stroble offered his support for the Well Ordinance and how important it is to test for potential areas of contamination in well water. Jim Weeber advised he was speaking on behalf of Farm Bureau, and that the Farm Bureau is unanimously against the proposed Well Ordinance. He questioned where the exemption is written for the irrigation well and for those that drive their own wells as permitted by the Indiana State Law. Jim stated that this Well Ordinance is in violation of Indiana Code 36-1-3-8 in an attempt to exceed State authority and would like to see the legal opinion of the County Legal Counsel. Dr. Nafziger addressed several questions which

were presented by the audience. He advised that Indiana is a home rule state and the local government has the authority to make health department related rules and that thirty some counties currently have a Well Ordinance. The initial draft was done by health department staff and then received input from the County Attorney. There has been a lot of legal input prior to this document going to the Board of Health. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board closed the public hearing. Dr. Nafziger concluded by saying that as the Health Officer for Elkhart County he is responsible for everything that the health department does. He advised his work has been focused, and his life's work, to care about the citizens of Elkhart County and do what is best for them. The goal is preventive effort going forward and to gather data on contaminated areas. Bill Hartsuff with the Health Department discussed the concerns over the irrigation well regulation and that people have to abide by this regulation. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved this request.

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Planning and Development Representative, Jason Auvill, requested approval for KLT Realty, Inc. for a zone map change from A-1 to M-1, 417.39 feet East of State Road 13, 741.69 feet North of County Road 20, in Middlebury Township Mike Yoder opened a public hearing. No audience members wished to speak on this matter. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board closed the public hearing. On motion made by Suzie Weirick, seconded by Frank Lucchese and unanimously carried, the Board approved this request.

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Planning and Development Representative, Mae Kratzer, requested approval for Makayla, LLC (Land Contract Holder) & Robert Smead (Land Contract Purchaser) for a zone map change from M-2 to B-3, Southwest side of County Road 45, 3,952 feet Northwest of County Road 13, in Concord Township. Mike Yoder opened a public hearing. No audience members wished to speak on this matter. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board closed the public hearing. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved this request.

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Planning and Development Representative, Jason Duvall, requested approval for Yoder Oil Company, Inc. represented by Jones Petrie Rafinski for Secondary approval of a one lot minor subdivision to be known as YODER OIL DPUD, Southwest corner of County Road 10 and County Road 6, in Cleveland Township. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved this request.

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Planning and Development Representative, Jason Duvall, brought a request before the Board for Panchos Land Development, LLC represented by Dave Singell for a zone map change from R-2 to B-2, Southwest side of US Highway 33 and East side of County Road 13 at the corner, and on the Northwest side of Jewel Court, in Concord Township. Jason advised that the Plan Commission recommended a unanimous denial for this petition, while staff had a favorable recommendation based on proximity to other uses describing it as a transitional area. Dave Singell advised that one of the main reasons they were denied was due to light pollution. He also discussed what the plans were for the properties if approved by the Board and that they do not agree with the recommendation from the Plan Commission. Mike Yoder opened a public hearing. Theresa Kline discussed her disapproval of this petition being approved. She advised the lighting issue is a concern, as well as what the property will actually be used for. Susan Davis Carmen discussed her disapproval of this petition being approved. She felt that her property value will be diminished if this petition is approved. Jeff Taylor advised he was not in favor or against of the petition but had questions if requirement to consider drainage since going from grassy lawn to parking lot had been considered. On motion made by Suzie Weirick, seconded by Frank Lucchese and unanimously carried, the Board closed the public hearing. On motion made by Suzie Weirick, seconded by Frank Lucchese and unanimously carried, the Board denied this request.

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Planning and Development Building Commissioner, Kevin Williams, requested approval to accept Bid for Nuisance Clean-Up for 25708 Homewood Avenue, Elkhart, Indiana. Three bids were received. The first bid was from Stanley Golden for \$1,500, the second bid was from C & E Excavating for \$3,500 and the third bid was from Jerry Reed Excavating for \$4,800. The recommendation was to approve the bid from Stanley Golden for \$1,500. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved this request.

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Nappanee Public Library Board Director, Lissa Krull, requested approval of Randy Cripe to be appointed to the Nappanee Public Library Board. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved this request.

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Craig Buche requested the approval of NIPSCO Easement to cross the County Road 36 Diversion Ditch. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved this request.

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Craig Buche requested approval of ENFOCUS Agreement in Collaboration with Elkhart County Solid Waste Management District. On motion made by Frank Lucchese, seconded by Mike Yoder, Suzie Weirick advised she needed to abstain from the vote. The Board approved this request.

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County Highway Manager of Transportation, Jeff Taylor, requested approval of Traffic Control Ordinance for Traffic Signal at County Road 21 and County Road 38. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved this request. Also, with this request is to rescind the four way stop at the County Road 21 and County Road 38 intersection. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved this request.

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County Highway Manager of Transportation, Jeff Taylor, requested approval of Agreement between INDOT and Elkhart County for Improvement of Railroad Crossing at County Road 23, New Paris. On motion made by Suzie Weirick, seconded by Frank Lucchese and unanimously carried, the Board approved this request.

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County Administrator, Tom Byers, requested approval of an Ordinance Establishing the Mobile Command Center Fund. On motion made by Suzie Weirick, seconded by Frank Lucchese and unanimously carried, the Board approved this request.

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County Administrator, Tom Byers, requested approval of JOINT RESOLUTION OF THE COUNTY OF ELKHART, INDIANA AND THE CITY OF GOSHEN, INDIANA FOR THE TRANSFER OF TAX SALE CERTIFICATES. On motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved this request.

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#### **BOARD ITEMS:**

County Highway Manager of Transportation, Jeff Taylor, presented (3) bids. The first bid was from JX PETERBILT for \$126,300 for each unit. The second bid was from SELKING INTERNATIONAL for \$116,797 for each unit. The third bid was from LINCO for \$122,978 for truck up fits for each unit. Upon motion made by Frank Lucchese, seconded by Suzie Weirick and unanimously carried, the Board approved this request with a recommendation to follow at a later date.

#### **AUDIENCE ITEMS:**

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

Respectfully submitted,  
Anita Mock