PERSONAL AUDIO ENHANCERS ARE AVAILABLE FROM THE COUNCIL SECRETARY

AGENDA FOR REGULAR ELKHART CITY COUNCIL MEETING

LOCATION: CITY HALL, 2ND FLOOR, COUNCIL CHAMBERS

January 3, 2022

7:00 P.M.

1. Call to Order, Pledge, Moment of Silent Meditation, Roll Call

2. Minutes for Approval

Minutes of October 4, 2021 Council Meeting
Minutes of October 11, 2021 Finance Committee of-the-Whole Meeting
Minutes of October 18, 2021 Finance Committee of-the-Whole Meeting
Minutes of October 18, 2021 Council Meeting
Memorandum of October 21, 2021 Special Meeting of the Common Council in Executive Session
Minutes of October 21, 2021 Public Health & Safety Committee of-the-Whole Meeting

3. Presentations and Introductions

4. Unfinished Business

a) Reports of Council Committees

b) Ordinances on Second-Third Reading

PROPOSED ORDINANCE 21-O-66, an ordinance vacating David Street, bounded on the west by the east right-of-way line of Plaza Court and bounded on the east by the west right-of-way line of State Road 19 (Cassopolis Street), within the City of Elkhart, Indiana

c) Ordinances and Resolutions Referred to Committees

PROPOSED ORDINANCE 21-O-29, an ordinance establishing the rules by which members of the Common Council may participate by electronic means of communication

PROPOSED ORDINANCE 21-O-46, an ordinance appropriating Five Hundred Thousand and 00\100 Dollars ($500,000) from the ARP Coronavirus Local Fiscal Recovery Fund to the Negative Economic Impact Account the Homeowner-Occupied Property Rehabilitation Program

PROPOSED ORDINANCE 21-O-49, an ordinance appropriating Three Hundred Twenty-Two Thousand Three Hundred and Fifty Dollars ($322,350.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Negative Economic Impact Account for the Elkhart Thrive Neighborhood Opportunity Hub Initiative

PROPOSED ORDINANCE 21-O-67, an ordinance appropriating Four Million Two Hundred Thousand Dollars ($4,200,000.00) for the design other professional services for the new public safety facilities of the Elkhart Police Department and Elkhart Fire Department

PROPOSED ORDINANCE 21-O-68-R, an ordinance appropriating One Million Dollars ($1,000,000.00) for land acquisition in connection with the new public safety facilities for the Elkhart Police Department and Elkhart Fire Department

PROPOSED ORDINANCE 21-O-69, an ordinance appropriating Four Hundred Thousand and 00\100 Dollars ($400,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Negative Economic Impact Account for the Small Business Continuity Program

d) Tabled Ordinances and Resolutions

PROPOSED ORDINANCE 21-O-57-R, an ordinance appropriating One Million Dollars ($1,000,000) from the ARP Coronavirus Local Fiscal Recovery Fund to the Provision of Government Services Account for upgrades to the Lerner Theatre heating, ventilation and air conditioning system

5. New Business

a) Ordinances on First Reading **None**

b) Resolutions **None**

c) Vacation Hearings **None**

d) Other New Business

e) Reports of Mayor, Board of Works, Board of Safety or City Departments

f) Neighborhood Association Reports

g) Privilege of the Floor

h) Scheduling of Committee Meetings

6. Acceptance of Communications

Memorandum of November 23, 2021 Special Meeting of Board of Safety
Minutes of November 23, 2021 Board of Safety Meeting
Minutes of November 29, 2021 Board of Safety Meeting
Minutes of November 16, 2021 Board of Works Meeting
Minutes of December 7, 2021 Board of Works Meeting
Minutes of December 21, 2021 Board of Works Meeting
Minutes of November 10, 2021 Board of Zoning Meeting
Minutes of September 16, 2021 Historic Commission Meeting
Minutes of November 10, 2021 Lerner Board Meeting
Minutes of November 16, 2021 Park Board Meeting
Minutes of October 4, 2021 Plan Commission Meeting
Minutes of November 1, 2021 Plan Commission Meeting
Report of Parks Department for December 2021

7. Adjournment

MINUTES OF THE REGULAR COMMON COUNCIL MEETING OF OCTOBER 4, 2021

Present: Council President Brent Curry
Council Members Kevin Bullard, Brian Thomas, Aaron Mishler, Arvis Dawson, Dwight Fish, Tonda Hines Megan Baughman and David Henke *(arrived late)*

Absent: None.

This meeting was made available to the public electronically through WebEx and live-streamed on Facebook. Council Members Kevin Bullard, Brian Thomas, Aaron Mishler, Arvis Dawson, Brent Curry, Tonda Hines, Megan Baughman and David Henke were present in Council Chambers. Council Member Dwight Fish was present remotely via WebEx. All votes taken during this meeting were taken by roll call.

President Curry called the meeting to order at 7:00 p.m. in the Council Chambers at City Hall, 229 S. Second Street, in Elkhart.

Elkhart Police Chief, Kris Seymore, led the assembly in the Pledge of Allegiance, and President Curry asked for a moment of silent reflection.

The clerk called the roll.

President Curry stated the administration is requesting the Proposed Resolution 21-R-67 be pulled from the agenda. Councilman Mishler, seconded by Councilman Dawson, **moved to remove Proposed Resolution 21-R-67, a resolution of the Common Council of the City of Elkhart, Indiana, as a petition to appeal for an increase above the maximum levy, from the agenda**. The vote was as follows: Ayes: Bullard, Thomas, Mishler, Dawson, Fish, Hines, Baughman and Curry. Nays: None. **The motion carried**, 8-0, and **Proposed Resolution 21-R-67 was pulled from the agenda.**

Minutes for Approval

There were no minutes for approval.

Presentations and Introductions

There were no presentations or introductions.

President Curry stated the council also needs to appoint a new member to the Plan Commission and Councilman Bullard is my suggestion and we need to take a vote on that. Councilman Dawson asked if the President can appoint that person or does it have to be voted on. The clerk clarified that the council does need to vote on it. Councilman Dawson, seconded by Councilwoman Hines, **moved to nominate Councilman Kevin Bullard as the council's appointment to the Plan Commission**. The vote was as follows: Ayes: Thomas, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. Abstain: Bullard. The **motion carried**, 8-0, with one abstention and **Councilman Kevin Bullard as appointed to the Plan Commission.**

UNFINISHED BUSINESS

Reports of Council Committees

Councilman Dawson stated the Finance Committee met on Monday September 27th and gave do pass recommendations for Proposed Ordinances 21-O-44, 21-O-45, and 21-O-48. Councilman Dawson stated the Finance Committee of-the-Whole met right before the tonight's council meeting to discuss Proposed Ordinances 21-O-51 and 21-O-52 and gave a do pass recommendation for both and the 2022 Proposed City Budget.

Ordinances on Second-Third Reading

President Curry stated the administration has presented the council with a new revised proposed ordinance 21-O-55-R. Councilman Dawson seconded by Councilman Mishler, **moved to substitute in its entirety Proposed Ordinance 21-O-55 with Proposed Ordinance 21-O-55-R.** The vote was as follows: Ayes: Bullard, Thomas, Mishler, Dawson, Fish, Hines, Baughman, Henke, and Curry. Nays: None. **The motion carried unanimously** and **the proposed ordinance was substituted.**

Ordinance #5866

AN ORDINANCE APPROPRIATING FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) FROM THE GENERAL FUND FOR THE REPLACEMENT OF THE LERNER THEATRE HEATING, VENTILATION AND AIR CONDITIONING SYSTEM

The clerk read the proposed ordinance, 21-O-55-R, by title only. Councilman Dawson, seconded by Councilman Mishler, **moved to pass the proposed ordinance on second reading.** President Curry opened the floor for discussion and Councilman Henke stated I appreciate the gesture of $500,000.00 coming from ARP and the other $500,000.00 coming from the General Fund. Would there be enough money left in ARP for the full $1,000,000.00? Jamie Arce, City Controller, stated as of now, I believe we would have the full One Million available but not necessarily uncommitted. Councilman Henke stated so you are saying available but all of the rest, the remaining is encumbered? Mr. Arce stated not necessarily encumbered but we have a fair amount already on the City Council docket for approval and there are other options that the Administration is looking at to be able to utilize some of those funds. Councilman Henke stated I realize the mood for spending money and I'm looking for ways and I talked to the Mayor earlier today about improving our stance on a $92 Million Dollar budget and putting such a miniscule amount in rainy day and investment. I was hopeful that the other $500,000.00, the total One Million would come from ARP and we could actually set $500,000.00 more left in the General Fund to go to Rainy Day and then as a transfer to investment. There is quite a number of things that qualify for ARP funds and it keeps pulling from the General and for us to continue the investment amount, I think all council members are aware that inflation is kind of taken over the market and we do expect some level of slow down and that's what our investment account and rainy day fund has to keep the economy going. I would like us to be cautious about the level of spending we are in right now and what funds they are coming from. Is there a possibility of the full One Million and can that be reviewed?

Rod Roberson, Mayor, stated at this point we would like to commit the $500,000.00. We do have some other commitments that have yet to come before you, but we feel as though we will invest the ARP funds in a very significant manner as to produce what we feel to be positive outcomes down the road. You have some ARP ordinances in front of you and then what we have already spent in infrastructure and then we have some others that will come to you for ventilation as well. We felt the $500,000.00 was something that we could commit to the Lerner.

Councilman Thomas stated at what stage of the plan are we at? We've got two separate appropriations in front of us for half of the job. Has the job gone out for bid? Will it go from us to Public Works? Bradley Tracy, Chief of Staff, stated we are waiting for this first appropriation to start in order for us to have finances so we can begin the project. We cannot start and ask for RFP's until we know we have the money. It's written and ready to go but nothing has happened at this point. Councilman Thomas stated it would get both parts of the financing? Mr. Tracy stated correct, but if we get this first round in today, we can start because we know we have $500,000.00. Councilman Thomas stated so the other half is under first reading for tonight, 21-O-57? Mr. Tracy stated that is correct. Councilman Thomas stated would it be appropriate to table 21-O-55-R until such point either 55-R and 57 mesh? Mr. Tracy stated you control the process but I will say that delays the whole project two more weeks. Councilman Thomas stated it won't delay if you mesh in 55-R and 57 to get your full financing. Mr. Tracy stated but we can start the project once we have the first $500,000.00 appropriated, we can begin the process of getting the RFP's and the engineers and architects who design the RFP, but we can't do that until we have money appropriated, it's against the rules. Councilman Thomas stated but to Mr. Henke's question on 55-R, that money comes from the General Fund leaving us no investigation of taking the full One Million out of perhaps available ARP monies. We are all assuming that all of these ordinances and resolutions regarding ARP are going to pass through us.

Councilman Dawson stated yes if we don't do something tonight, that is going to delay the project but at the same time to Mr. Thomas's point, that gives us two weeks to go back to the administration and bring it back in a form that maybe is being asked for. I think we need to move on tonight and then with the other $500,000.00, we can't assume anything and we shouldn't. The other $500,000.00 is still in our purview as to how we want to do that or not or whether we want to do it that way.

Councilman Henke stated I appreciate the statements there because in my belief, I hope some of the other ARP money is not spent and it can be forwarded to this amount, therefore preserving more of the General Fund for its intended purposes. I think what we are saying is that not all of us will agree to spend other ARP monies. I sure find a couple of them out of order and maybe there is money left over that could be appropriated to this particular need.

Councilman Fish stated I hope that the council will see to it that we move forward on this. We don't have to make it complicated, we need to move forward on it, we essentially are in agreement across the council to do this and there's no reason why we shouldn't pass some of this and let the engineering begin.

Councilman Thomas stated we have been hammered on this that it's an air conditioning problem and we are going into a season where air conditioning isn't as much of a concern. Is the

replacement of this crucial to the heating element at the Lerner, coming into winter season? Tory Irwin, City Engineer, stated we are not concerned that the heating is going to work over the winter, however I am concerned that the lag time on orders for things like HVAC systems is extremely long now because of COVID and any delay that we incur risks the next summer that we get into not having air conditioning.

Corrine Straight, Director of Communications, stated that is correct, we are looking at anywhere from 18 to 26 weeks when we are able to begin the process of investigation and then place an order.

Councilman Henke stated I think the council concurs that this has to be done, I don't think we have a concern there. The issue is where does the money come from and since ARP money does qualify and it does further protect the General Fund for other expenditures, it just seems that some of us are hedging that we will have more ARP money available for this project. Second, I would like some notation that it is said to be up to One Million Dollars and any monies left over should go back to the General Fund and the full amount that should be expended from ARP should be so.

There being no other council discussion, President Curry opened the floor for public discussion.

Rex Martin, Friends of the Lerner, stated I think this is very important to make sure that the council and the city take care of our assets. This asset we invested $18 Million Dollars in it a few years ago and we need to continue to maintain it and I think this is a very important thing and I'm happy to hear that the council feels that this is very important.

Dina Harris, member of the Lerner Board, stated I really appreciate your consideration for this. We understand this is so very important that we've got to move forward with it. It's going to take a long time to order the materials.

Bob Barnes, 205 Whitmer Ave, stated I have a couple of concerns and would ask that you guys take a serious look at your HVAC proposals for fear that it might be a good idea at this time to put in all this extra filtration, but you might want to consider when you take a look at the equipment you are buying, if you are going to be able to afford, in the future, to maintain it. I've worked in school systems in the past and they get these fancy HVAC systems put in and then they have no talent or money in the budget to maintain them throughout the year.

There being no further comments from the public, President Curry returned the discussion back to the council. Councilman Henke stated I agree with Mr. Barnes, in the very recent years we have failed either at monitoring the engineering specs or monitoring warranty, it is said that the system that was put on the Lerner is undersized for its use. I can't imagine that the people in charge would have done that. We spared no expenses at that time. At the same time, the Environmental Center, they said it was the wrong system again, it's seven years old and we are replacing it already. We have had a similar incident at Tolson and a few other buildings and you have to ask who is in charge and who is approving it because we were not cutting corners at any time but we are replacing systems that are hugely expensive. I have an issue with monitoring the asset, maybe it is a maintenance agreement that we fail to look at. I really get concerned

when we are talking about that we put the wrong system in place, we have an undersized system not intended for the volume of people, that just simply does not make sense to me.

President Curry stated I think we need to move this forward so we can get those requests for our proposals out so we can do exactly that and have somebody that understands these HVAC systems. I don't think anyone on the council has that ability and I don't know that anyone in the administration has that ability, so we may need to find an outside person to understand these heating and air conditioning systems that can look at our RFP's and make sure we compare apples with apples and make sure we get exactly what we need.

Following discussion, President Curry called for the vote on the passage of the proposed ordinance on second reading. The vote was as follows: Ayes: Bullard, Thomas, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried unanimously**, and **the ordinance was passed on second reading.**

Councilman Dawson, seconded by Councilwoman Hines, **moved to adopt the proposed ordinance on third reading.** The clerk read the proposed ordinance, 21-O-55-R, by title only. The vote was as follows: Ayes: Bullard, Thomas, Mishler, Dawson, Fish, Hines, Baughman, Henke, and Curry. Nays: None. **The motion carried unanimously**, 9-0, and **the ordinance was adopted.**

Ordinance # 5867

AN ORDINANCE VACATING E/W ALLEY BETWEEN 14TH AND 15TH STREETS AND A PORTION OF 15TH STREET, A PUBLIC WAY WITHIN ELKHART, INDIANA

The clerk read the proposed ordinance, 21-O-56, by title only. Councilman Dawson, seconded by Councilman Mishler, **moved to pass the proposed ordinance on second reading.** President Curry opened the floor for council discussion and Councilman Henke stated do we have a staff report and whose district is this? Councilman Dawson stated I believe it is the sixth district and the petitioner is here and Eric is here.

Eric Trotter, Assistant Director of Planning, stated this is actually the second petition for 15th Street, we had a petition earlier at the end of Spring, where they were asking to vacate half of the right of way. At the public hearing, the council was not receptive to that and they would prefer to have the entire right of way vacated so the adjacent property owner agreed to file to vacate the entire right of way and she also had an alley that she thought was vacated and they had been operating as it was vacated and during title searches and search of our records, that was not the case. As a part of this request they are filing to vacate the entire 15th right of way in addition to the East West Alley, which is directly north of her.

Councilman Henke stated was there opposition and staff report? Mr. Trotter stated this petition comes directly to the council and there were no objections from the various departments.

There being no other council discussion, President Curry opened the floor for public hearing. There being no comments from the public, President Curry returned the discussion to the council and there being no further discussion from the council, President Curry called for the

vote on the passage of the ordinance on second reading. The vote was as follows: Ayes: Bullard, Thomas, Mishler, Dawson, Fish, Hines, Baughman, Henke, and Curry. Nays: None. **The motion carried unanimously** and **the ordinance was passed on second reading.**

Councilwoman Hines, seconded by Councilman Mishler, **moved to adopt the proposed ordinance on third reading.** The clerk read the proposed ordinance, 21-O-56, by title only. The vote was as follows: Ayes: Bullard, Thomas, Mishler, Dawson, Fish, Hines, Baughman, Henke, and Curry. Nays: None. **The motion carried unanimously** and **the ordinance was adopted.**

Ordinances and Resolutions Referred to Committees:

Proposed Ordinance 21-O-29

AN ORDINANCE ESTABLISHING THE RULES BY WHICH MEMBERS OF THE COMMON COUNCIL MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION

President Curry stated **proposed ordinance 21-O-29 remains in committee.**

Proposed Ordinance 21-O-37

AN ORDINANCE AMENDING § 153.75 OF THE CODE OF ORDINANCES OF THE CITY OF ELKHART, INDIANA TO ADD CIGAR BARS AS AN EXEMPTION TO THE PROHIBITION OF SMOKING IN PUBLIC PLACES AS PERMITTED UNDER INDIANA STATE LAW

President Curry stated **proposed ordinance 21-O-37 remains in committee.**

Proposed Ordinance 21-O-44

AN ORDINANCE APPROPRIATING FOUR HUNDRED FORTY THOUSAND AND 00\100 DOLLARS ($440,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE BUSINESS RECOVERY RESILIENCY AND GROWTH PROGRAM

The clerk read the proposed ordinance 21-O-44, by title only. Councilman Dawson, seconded by Councilwoman Hines, **moved to pass the proposed ordinance on second reading.** President Curry opened the floor for council discussion and Councilman Henke stated this particular ordinance and one or two others, it says permitted use of ARP funds to reverse negative economic impacts to over 5,000 businesses representing several industrial sectors located in Elkhart were affected, these businesses range from ten employees to several hundred, many are small, less than 20 employees, a median of 100. The key metrics in seeing who was most impacted, who was most negatively impacted, and then the question becomes was it because of poor

preparation, bad financial planning, because they are industry in particular, and could not be salvaged. I find this money very subjectively applied and it could be seen as discriminatory. How do we go back and find out who this does apply to and how do we make it fair?

Dayna Bennett, Director of Development Services, stated this is the business recovery, resiliency and growth program and as a part of the impact of the pandemic, what it really highlighted was the vulnerability of the businesses in our current economy, particularly the smaller businesses, but not limited to smaller businesses. Even as was demonstrated through our CF-1 process, in some cases, just a supply chain disruption devastated a business and what this program is about is helping to identify sector specific strategies to help make businesses more resilient and it is intended to ensure or to help ensure that businesses within our economy are able to survive through and even thrive through challenges. This is not funding directly, it is a technical assistance program, so bringing in some experts to help businesses create plans that will allow them to be more resilient. Councilman Henke stated then what do we pay $75,000.00 for the Chamber for, isn't that really the thrust of their job and then the EDC as well? So we are going to spend $440,000.00 to help our business owners, maybe small business owners, is there not another avenue? $440,000.00 without knowing the level of participants, engagement and strategies that would actually be put to practice and benefit these companies. Ms. Bennett stated we don't have the exact number of participants yet, we tried to benchmark other cities that offered similar programming and looked at their level of participation and based it off of a comparable percentage of the amount of businesses we have in Elkhart. So it is an estimate for sure, to determine what would be the right amount to help fund some programming like this.

Councilman Dawson stated this funding allows for up to how much per business? Ms. Bennett stated this is not funding for the business, this provides technical assistance for the business, so there would not be a check for instance going to any business, it would be technical assistance that people could participate in, in getting this amount of support and training. Councilman Dawson stated what is that amount per businesses, what is that based on? Ms. Bennett stated it will be, sector strategies will be developed, so it will be different from one sector to another. Some of them will be more heavily in accounting support, some of them may be more heavily in supply chain development support, so it will be different per sector, per business.

Councilman Mishler stated it is $440,000.00, do you expect to spend all $440,000.00 or if there is not that much of a need, do you expect to have some leftover funds for this? Is the money already going to be contracted out at the start? Ms. Bennett stated no. Councilman Mishler stated so it is just going to be there as needed? Ms. Bennett stated yes. We are anticipating that if we are able to secure these funds, that we can support at least 250 businesses but it's not matter of all of those dollars are spent at the forefront and cannot be returned back if it is underutilized. There are some upfront costs as we do some curriculum development, but it is not a matter of all of its committed at the forefront.

Councilwoman Hines stated when we talked about this before, you talked about

three agencies that you were looking at to help you. What were the other two, you mentioned one? Ms. Bennett stated I mentioned Next Up was the first one we talked to. I don't remember the other two and I did not realize I was presenting tonight so I didn't bring my notes with.

Councilman Mishler stated how long would you expect the program to last? Ms. Bennett stated if it is well received, we are hoping that this will last in perpetuity, that this is one of the programs that will provide support for our local businesses.

Councilman Bullard stated so this is going to be partnering with someone to tell us what we are doing either wrong or right, as far as the businesses and getting 250 businesses to participate, I think is going to be key, but to be across the spectrum of Elkhart in the City, is going to be swayed a little bit. You say there is 250 businesses that will receive ongoing technical assistance, how is that going to be funded? Ms. Bennett stated we have applied for other funding for many of the programs before you. So we are seeking other funding, we don't have a commitment for other funding at this point. Councilman Bullard stated so you don't know if it will go into the future or not, it depends on whether we get funding or not? Ms. Bennett stated it does, whether it's well received, if we get people engaged, if people find it valuable, that is a part of what we are considering. This is technical assistance for the businesses, it's not for the City, it is the businesses that have vulnerabilities as a part of their business operation and helping businesses identify them and overcome them.

Councilman Mishler stated how are you going to measure success? Ms. Bennett stated what we have seen in other programs and what we want to adopt, there is a case management approach, you look at the financial situation of the business at the start of this program and as they matriculate through it, are they improving, are they more stable, has that financial picture improved? So based on the sector recommendation, on the end of the programming, if they were able to make the changes at the recommendations they have received, then we would see that as a measure of success.

Councilman Henke stated it has little to do with supply chain and more to do with the supply chain of workers. If we are going to spend $440,000.00, I would contend that the best thing we could do is lobby the federal government to stop giving free money out so we can put people back to work. I would suggest also, we are the ones that are going to learn, our industry leaders, they know about supply chain. When they came forward with abatements, some of them even said we had to do this to get around a barrier, so for someone to come in and make blanket statements of how could you do this, one, I don't find that we are going to have that level of participation, that level of ongoing business for growth. Some businesses are small, they are mom and pop, and they are not going to be using major platforms and major ideas, that's not who they are. Other ones, it is a normal business cycle of the ebb and flow of business. I'm told we don't spend that level of money on our chamber, but I would say that our chamber is about educating employers, the chamber is about providing this level of support to help people expand, that is in their mission statement and I am wondering why the city feels like it must step up in all of these areas, when realistically, we have enough new businesses trying to start if they just had employees. Employees are the barrier and all of these other things, should

have and could have, find their way around whatever barrier for their business to maintain themselves.

Ms. Bennett stated earlier this year there was study done in Elkhart and South Bend with small businesses trying to understand their impediments to growth and sustainability. Labor was clearly one of them, but the other ones were around this type of technical assistance, trying to understand how can I build capacity, how can I diversify my offering. So we are working to build a program to offer that kind of support and what we know is, in Elkhart, that these small to mid-sized businesses are a major thrust of our economy and while labor is certainly an issue, it's not the only issue and there will be a time where labor won't be the driving issue and are we going to be preparing businesses for sustainability well into the future, when the future may look a little different than what it does right now. We just want to ensure, not just today, that businesses are in a good place.

Councilman Dawson stated it is a great idea, but we need to prioritize, the administration with the council, on what we believe is important. We have $400,000.00 for the business initiative and we're going to help 16 businesses, I would much rather have seen that be One Million Dollars to help the businesses with, as opposed to $400,000.00 and to Mr. Henke's point, when we prioritize things, if I can spend One Million Dollars of ARP money to fix an air conditioner and not take it out of the General Fund, I think that is a good thing. I believe businesses do need technical assistance, but the ones that are failing need financial resources right now, more than anything else. So we could have doubled this fund, I think we could have done a better job of actually putting money where it needs to be put.

Councilman Mishler stated I have to agree with Councilman Henke and Councilman Dawson, I would much prefer if I was a small business owner not to have someone from out of state or from across the country, come and tell me what is wrong with my business when I may know what is wrong with it and I just need financial support for it. I would much rather see these funds go directly to businesses that need assistance compared to an out of state lobbying firm who will send someone who has a general idea of what to do, instead of what specifically would work for that business and that the business owner could potentially know.

Ms. Bennett stated I think it's a balance, I do think some of it is funding, I do think some of it is how to expand the capacity and I certainly understand priorities I just think that if we are successful in this, you are talking about businesses that will be growing in our economy and can contribute back to the City. Sometimes it is financial, there is a need to resource some aspect of the business, but there is also a need to expand the ability to not need that resource at a later date.

Councilwoman Hines stated do you have a pulse on how many businesses are in need of this type of service? Ms. Bennett stated I can't say exactly, the study I referred to earlier… Councilman Hines stated and I am referring to just your personal contact and relationship or the City's personal relationship with a lot of the area of businesses that we do business with. Ms. Bennett stated I can't give you an exact number. Do we get calls

about this type of support and information? We do, our office does. We get calls for how can the City support my business financially, how can the City help us with these types of challenges, that this type of assistance will inform? We do, but I can't give you an exact number.

President Curry stated but for ARP dollars and we allocate them for a program like this and that program didn't take off and we decided to do something different, with those monies, do we put them back in the ARP Fund? Ms. Bennett stated yes, it cannot go back into the General Fund directly, you would have to appropriate it out of ARP.

Councilman Fish stated one thing to consider, if we have an opportunity to help our existing businesses and help bolster local business, I think we should consider that through technology and other means. We have a lot of people who are changing their business model because of the lack of employees but yet can still go online and do some technological changes. Dayna, how would you track this? How do we account for it and collect the data and share that data once we see that the money is starting to be used? Ms. Bennett stated the approach that we would like to take is a case management approach, so there will be a baseline determined at the time the business enters the program understanding their financial situation, position around technology and as they get through the program, taking another look to see if they are more financially stable, or able to adopt the technology that we have recommended. It depends on what their issue is.

Councilwoman Baughman stated what role has the Chamber had in this proposal? I know they have the SCORE program, would that be an organization that could be helpful to businesses? Ms. Bennett stated the Chamber has, not exactly what we are talking here as it's not sector specific. I think the Chamber is focused on micro businesses, so maybe less than 10 employees. This is not necessarily limited to that size. A business that has 100 employees could use a service like this and it goes into more detail than the programming that is offered through the Chamber.

Councilman Mishler stated have you reached out to any businesses to see if they would benefit from this program? Ms. Bennett stated I haven't done an official survey. Councilman Mishler stated so you have not contacted any of our business owners to see if this program is even needed by them at this time? Ms. Bennett stated we have information from the survey which included businesses and this is where they said their needs were and so we used that to help determine what would be imbedded in this program. Councilman Mishler stated when was that survey conducted? Ms. Bennett stated I want to say April of this year.

Councilman Henke stated I do think we have businesses that would step up, I am thinking outside the box, but if we are talking about technological needs and to entertain the thought that these small businesses and even large businesses that could use upgrades in their I.T. areas, that we could call, free of charge, a place like Maple Net, to come over because they have something to gain if you like their product. There is a relationship and that is the way it is supposed to be, not a city doing your homework for you and then you decided whether you wanted to make this work or not. I agree with Arvis in saying that we have priorities in front of us now.

Following discussion, President Curry closed the council floor and opened the floor for public hearing. Bob Barnes, 205 Whitmer Ave, stated I don't think this is a smart move for the City. I don't believe the City needs to be getting into the business of creating businesses for other people, we have other businesses around. I use them all the time. I don't appreciate tax payer money going towards helping somebody's business get better, cut their taxes, that is what I suggest.

There being no other comments from the public, President Curry returned the discussion back to the council. Councilman Dawson stated from what I am hearing, we need to prioritize and I would definitely put the Lerner HVAC in front of this. If we get down the road and there is ARP money left, then yes, but when it comes to that and actually putting the finances into the pockets of the businesses because this program doesn't help create business, it helps existing businesses that are currently in the City and that is what I think is important right now.

There being no further council discussion, President Curry called for the vote on the passage of this ordinance on second reading. The vote was as follows: Ayes: None. Nays: Bullard, Thomas, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. **The motion failed unanimously**, 9-0, and **proposed ordinance 21-O-44 was not passed on second reading**.

Ordinance # 5868

AN ORDINANCE APPROPRIATING ONE HUNDRED SEVENTEEN THOUSAND AND 00\100 DOLLARS ($117,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE DOWNTOWN PROPERTY ACTIVATION AND DEVELOPMENT PROGRAM

The clerk read the proposed ordinance, 21-O-45, by title only. Councilman Dawson, seconded by Councilwoman Hines, **moved to pass the proposed ordinance on second reading**. President Curry opened the floor for council discussion and there being none, President Curry allowed Ms. Bennett to give a presentation. Ms. Bennett stated this is about engaging a firm to do a downtown master plan, it is to help create the roadmap for downtown development. We did a similar one in the River District.

Councilman Dawson stated as we discussed in the Finance Committee meeting, some of us, we have seen a lot of downtown plans and we just want to ensure that we are able to implement it. I think there has been some good plans to come out of downtown but we just want to ensure that we are able to implement what we are trying to do because if we can come close to replicating what has been done in the River District and we can take it all the way to Prairie and Main Street, I think that is a great thing. During our finance committee to, we asked you for the last downtown plan, so if you can get that to us, as soon as possible, we would appreciate it. Ms. Bennett stated to address that concern of being able to implement it, I think I shared what we hope to do is to get a downtown CDC and that would be their soul focus, is facilitating development in downtown so that we have some resources dedicated to that work.

Councilman Henke stated I don't find the argument too dissimilar than the first, in that businesses ebb and flow and have cycles, that's what we should expect. I think we have our own barriers and under Mayor Dave Miller, there were three downtown studies, under the next Mayors, there were several, significant dollars and there was always a reason not to create and action plan to move forward and the one that had the Civic Plaza, it was going to build and then out of some political play, nothing happened, a $70,000.00 plan that went nowhere. The River District, the private sector took over, not the City, but sometimes government has to get out of the way and let the private sector do what it is supposed to be doing. That is quite honestly why the success of the River District, the City wasn't very involved. We had to step clear and let the private sector do what it does best. We can talk about downtown which is one block that way and one block the other way, but until we get our act together on the whole of downtown and people feel comfortable coming down to the downtown, it means investors won't come here. We've got the River District but until we clean up what you have to drive through to get to the River District, and then it will multiply itself based on public perception and investors will come as they see the turn around the corner.

Ms. Bennett stated a lot of what you discussed in the overlay district, a lot of that came out of the River District Master Plan, so the master plan occurred and then we created partners around that master plan that implemented what occurred and what came out of that master plan. As it relates to private industry, there is a lot of concern about the approach to development in downtown. One potential developer said I have a project I want to do in this spot but I don't want to be an island. I want to see that there is a broader plan, so if I spend money on this development, that I'm not out here by myself. That is what is going to create that roadmap and that is the layout a master plan gives us. As far as it relates to private industry, that is what the CDC is about, that is not a city department, the community development corporation. It's a mixture, similar to how the River District Implementation team is a public private partnership that facilitates development in a targeted area, so that is exactly what we are trying to do, so that the master plan doesn't sit on a shelf and that there are people in place working to implement what the master plan is recommending.

Councilman Henke stated could the master plan include cleanup of Washington Street and some of there, where is their master plan? Where's that housing that said people are still living in boarded up properties, that cars line the grass, where are we one block from here?

Councilwoman Baughman stated with the River District, my recollection is that it started with an aquatic center with the investment from private people, without that we would not be talking about the River District. That became the anchor of that entire development there, so I'm curious to how we could get engaged, the people you are talking to who want to be in a downtown district now in the same way. Somebody had to go out as a private people and create that anchor in the River District, so if we can work with the people who are interested in, but don't want to be on an island by themselves, it was a huge risk for the River District, but they used that and they brought parties all together and they created that relationship and that connection, whether it was public, private, schools, it didn't matter. I think that's the key.

Ms. Bennett stated we have put together a potential list of board members and have already started reaching out to those board members to gain their commitment to be on the CDC

board, same concept. We have put together the list of potential board members in both the private and philanthropic community to begin this process of facilitating some of the work we want to get done downtown. Councilwoman Baughman stated you are asking for $117,000.00 of the $506,000.00, I think you mentioned in the Finance Committee that if you do not receive funding from other sources, like the READI grant or something, you would come back and ask the council? Ms. Bennett stated there is a potential, we are trying to reach as many sources as possible outside of the General Fund or ARP to help fund this, including private support, philanthropic support, so we are reaching out to several sources to avoid just that.

Councilman Mishler stated we also have to consider what is going on with the courthouse right across the street from us, have we received any guidance from the county as to the eventuality of that property? We are talking about making a downtown plan when we don't necessarily even know what going to happen to that giant property across the street from us, if the county would keep it or even give it back to the City. Ms. Bennett stated we are in continued conversation to try to settle that very issue. Councilman Mishler stated but nothing as of yet? Ms. Bennett stated they have not committed as of yet.

Councilman Dawson stated to Mr. Henke's point about what do we do to the downtown study, we have to include Washington Street, we have to include all of that because that is very important. Downtown can be as beautiful as it wants to be and you go two blocks west and it's a different world. When we do this study, please ensure that the neighborhoods surrounding downtown are included in this study. Ms. Bennett stated with ULI, that is the approach we took, we talked about what the core downtown is and what the feeder neighborhoods to downtown are and included that as a part of the study area. So it's not always development in that area but it talks about some of the needs of those surrounding feeder neighborhoods and how it's going to impact what we do downtown.

Councilman Bullard stated I just find the timing of this study to be a little premature, the issues at hand, we've got the court buildings to consider, I mean there is going to be things that we know are problems, we don't have to do a study to know there are issues at hand. You've got the courts, you've got the impact of the new Tolson Center, Chase Bank, I'm sure that's going to be mentioned in this study. What are we going to do with that? Parking's a problem, I think the timing of this study has got so many if's and but's that it will probably gather dust like the other studies have done. Ms. Bennett stated this is information we are sharing upfront, and any consultant that we engage with will know that that's part of what we have to figure out, is some key strategic properties in downtown, we have to have a solution for. We are working already on the parking solution for downtown, which is also forward looking. If in fact we are able to complete some of the development we are working through right now, it has taken that into consideration for whatever the parking solution will be downtown. This is just a piece of what we are trying to do, the master plan is just a piece of it, demolition is part of it, rehabbing underutilized property is a part of it, it's not all in the same ask, but it's part of the work that we are doing. This ask is just for the master plan portion of that.

Councilwoman Hines stated if this goes through and as you move forward, could you keep us engaged with who you're getting to help with the study? I think of implementation and I think of how from the tracks to Prairie and all of our plans over the years have slighted that area, I think of the neighborhoods behind that area, midtown, Redding Street, Park Street, Second

Street, so if you could keep us engaged in that process, I would appreciate it. Ms. Bennett stated with the RFP process, we want to share boundaries so that anybody who is interested in engaging, understands what those boundaries are and are pricing it accordingly. As a part of any master plan, similar with the ULI discussion, there is a community and stakeholder engagement process so there will be any opportunity for council members to provide their opportunity and thoughts as a part of that engagement process.

Councilman Fish stated in the previous administration we had a lot of plans, specific to the River District, and without the government help, the government initiating $30 Million Dollars of investment in the downtown, we would not have what we have so the partnerships are there. When you look at what is happening across the county and specifically in Elkhart, we have to have these relationships and I think we need guidance from a master plan and it would directly impact the fourth district, but we need to engage with the people and the businesses that are down there because I have gotten calls about what we are specifically doing down there. That is a very large, physical area, but we do need to go to the East and West also, to bring in those other homes and businesses that are going to be affected by a downtown development.

Councilman Henke stated let me just point out that the overlay was early beyond any buildings going up, other than the aquatic center. That was first and then it was thought what else could happen, Martin's was a close second and that was to be really the bookends of what was going to be the River District. The city had initially Six Million Dollars invested which was a part of a parking lot in front of the Aquatic Center that was deeded over, because they spent the $63 Million Dollars. The City spent money after a private sector came in with $200 Million of investment, otherwise why would the City put out $30 Million if you weren't going to get a return on those dollars, so when the first $200 Million of investment came, the City felt comfortable investing the total amount thereafter in two different stages. That's the way it should be, the City sets a minimum standard of build. You also mentioned in this study looking at houses that may need to come down and land that may need to be cleared and I would contend that those opportunities have been on the books since the late 1800's and have been improved upon so many years thereafter yet we still have them. We don't have to wait for a study to show us what the problem is, but they are still there and we have not touched them and I don't believe we need a study to say where do we start because until you take care of those minimal issues of minimal houses, would investors come to say you are serious about this. If it looks as though we are only paying attention to a certain part of town, the new part of town, but the rest of it just lays dormant, shame on us. I would also remind all of us that Ball State University Study came out and said quite specifically you have to get rid of some your aged housing, you've got to take it down and here we are wanting a study of what they already told us to do and what is already on the books, giving us the opportunity to do so.

At this time, President Curry opened the floor for public hearing. Pastor Cyneatha Millsaps stated I am here on behalf of my church and my neighborhood concerned about this very issue. There's been a lot of talk going on about what may be happening in that area and I too am concerned about the people who live in that area and does anybody have any consideration for them as they make these plans? My question is who is making the plans and who's doing the work? I wasn't sure if it was the City, the Council themselves, and then I hear her saying they may be hiring people to come in and add yet another plan and my request to this council is that no matter what happens, especially south of Main Street to Prairie Street and that

neighborhood that sits in there, that you talk to the people in that neighborhood before you make any direct decisions and remember south of the tracks, much has come down and nothing has been put back up, and we don't want to see that happen again.

There being no other comments from the public, President Curry returned the discussion back to the council. Councilman Mishler stated I take everything that happens in the first district pretty seriously with the Lerner and this downtown potential plan and I do think it's important that we consider many of the things that have been brought up, not just focusing on one or two of the main thoroughfares in downtown, but also connect with the community, the houses, and the business owners during that master plan. I would hate to have a master plan and follow through with it, only to find out the business owners did not like the direction that the City was headed with that and decided to leave because of that direction. I hope that we can have a little better communication when it comes to this master plan. I take downtown seriously and I hope that you keep me in the loop with this.

President Curry stated I think it's time to put together the final plan that we are going to make happen for the next 30 or 40 years. I always thought when we built the civic plans that we took down a lot of stuff years ago under the Perron Administration, and we were going to rebuild downtown and move out and I mean encompassing all these bad houses around Washington Street and we all know, a majority of these houses, we are talking about rental places and then we get the landlords that come down here and everyone backs off. That is one of the big problems in Elkhart and it's a problem in my neighborhood. I would love to see things move out and go through Dwight's 4th district and make that better and past Tolson and make that better and make it better all the way down to the 5th district where the Pierre Moran Pool is, make that all the way over to Pierre Moran Mall and Woodlawn Crossing and go all the way to the City limits which is Bent Oak. It's all very nice, but we need to bring it all together and fill in and I just think we need a realistic plan this time that really addresses these problems.

President Curry allowed for a comment from Mayor Roberson. Mayor Roberson stated we have some great things going on downtown, it's not gloom and doom, we got a hotel that just opened up, we have people that are interested in the Truth building, there have been multiple different inquiries, but they do want some way to engage in a plan that they feel as though there is some consensus around. The scope of it we can talk about, but as it relates to how we move a model from the River District to downtown, and be able to take advantage of it, while there are investors on the street. They are looking to invest dollars and we know that and we are getting some of that investment as we speak and so this isn't government stepping into a space where we shouldn't be, this is our intentional effort in trying our best to make sure we create an assessment that says everyone can be a part of downtown. To the point of how we invest, I think we need to not underestimate what the CDC can do for downtown and there's also the opportunity to build the CDC relationship on the Southside as well to engage with what Ms. Millsaps was talking about in relative to the Southside area.

Following discussion, Councilman Dawson **called for the question**. The motion was seconded by Councilman Fish. President Curry called for the vote on the motion and the vote was as follows: Ayes: Mishler, Dawson, Fish, Hines, and Curry. Nays: Bullard, Thomas, Baughman and Henke. The **motion carried**, 5-4, and **discussion was ended**.

President Curry called for the vote on the passage of the ordinance on second reading. The vote was as follows: Ayes: Mishler, Dawson, Fish, Hines and Curry. Nays: Bullard, Thomas, Baughman and Henke. The **motion carried**, 5-4, and **the ordinance was passed on second reading.**

Councilman Mishler, seconded by Councilman Dawson, **moved to adopt the proposed ordinance on third reading.** The clerk read the proposed ordinance, 21-O-45, by title only. The vote was as follows: Ayes: Mishler, Dawson, Fish, Hines and Curry. Nays: Bullard, Thomas, Baughman and Henke. **The motion carried**, 5-4, and **the ordinance was adopted**.

Proposed Ordinance 21-O-46

AN ORDINANCE APPROPRIATING FIVE HUNDRED THOUSAND AND 00\100 DOLLARS ($500,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE HOMEOWNER-OCCUPIED PROPERTY REHABILITATION PROGRAM

The clerk read the proposed ordinance, 21-O-46, by title only. President Curry stated this ordinance will remain in committee, however a public hearing was advertised for tonight. President Curry opened the floor for public hearing. Bob Barnes, 205 Whitmer Ave, stated I don't understand this, a half million dollars, is this to fix people's homes? You are asking taxpayers to fix other people's homes? I don't agree with this. I work hard for my money and I imagine everybody else works hard for their money and there are church organizations, benevolence organizations, I've volunteered for LaCasa to help people with their houses. I didn't understand if there was any taxpayer funding this either, it was all donations or corporations stepping up to help shingle people's houses. Why this has to be taxpayer funded issues, I don't understand that.

There being no further public discussion, President Curry closed the public hearing. **Proposed Ordinance 21-O-46 remains in committee.**

Proposed Ordinance 21-O-47

AN ORDINANCE APPROPRIATING TWO MILLION SEVEN HUNDRED NINETY THOUSAND AND 00\100 DOLLARS ($2,790,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE WORKFORCE HOUSING INITIATIVES PROGRAM

The clerk read the proposed ordinance, 21-O-47, by title only. President Curry stated this will remain in committee, however a public hearing was advertised for tonight. President Curry opened the floor for public hearing. There being no comments from the public, President Curry closed the public hearing. **Proposed Ordinance 21-O-47 remains in committee.**

Proposed Ordinance 21-O-48

AN ORDINANCE APPROPRIATING NINE HUNDRED THOUSAND AND 00\100 DOLLARS ($900,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE ELKHART WEST BUSINESS PARK EXPANSION

The clerk read the proposed ordinance, 21-O-48, by title only. Councilman Dawson, seconded by Councilman Mishler, **moved to adopt the proposed ordinance on second reading**. President curry opened the floor for council discussion and Ms. Bennett stated what this is about is a revitalization of an industrial park. One of the things we have learned from the work of the 2040 is that there needs to be some diversification of industry in the Elkhart economy and we want to reactivate space within the Elkhart borders to help facilitate some opportunities for additional growth here. What we have seen is often as we see new companies expand or enter into Elkhart, is we have to do it through annexation and that is no something that is sustainable. One of the tools we can use to avoid that lack of land availability from stunting our growth is to redevelop some underutilized space currently within our borders. There will be some land reconfiguration work that will need to happen, some phase one environmental information determined, some demolition probably will need to happen and so this $900,000.00 would go towards that work getting done.

Councilman Dawson stated the breakdown this has been speaking of in regards to how the $900,000.00 is going to be spent, that's what we asked for in the Finance Committee meeting.

There being no other council discussion, President Curry opened the floor for public discussion. There being no comments from the public, President Curry returned the discussion back to the council.

Councilman Bullard stated this is $900,000.00 to do a negative impact contribution up to $35 Million. So we are going to get into the acquisition, and demolition and the real estate business, as the City of Elkhart? Ms. Bennett stated it is our anticipation that the $35 Million would not need to be completely funded by the City of Elkhart as we build some private partnerships that we believe through both of those that we could fund this project. That's exactly what we did before in some of our redevelopment efforts, notably in the River District, we spent quite a bit of the money appropriated on land acquisition so that it could be repurposed and made more attractive for development. In this case we are not looking to fund the entire $35 Million through City dollars. Councilman Bullard stated if I remember right, there were many pieces of property in the River District and many other properties in the City where we ended up overpaying for a piece of property and then demolishing it and getting pennies on the dollar in return. I really have some reservations of us, we are not very good at being in the real estate business. Ms. Bennett stated it is certainly not our desire to enter into the real estate business and in fact one of our primary goals, is to not over leverage real estate and make the city substantial property owners. The Redevelopment Commission right now owns quite a bit of property but we don't want to over leverage ourselves as property owners, which is why we are working with

private partners to help with the acquisition.

Following discussion regarding Robert's Rules of Order and Council Rules, President Curry moved on with council discussion.

Councilman Fish stated can we give the public an idea of what is the west end industrial park that we are working toward and how much infrastructure will we be correcting or do we need to do any infrastructure corrections? Ms. Bennett stated that is some of the work that we need to do, is to understand the current state of the underutilized land. We need figure out, out of that inventory, we are estimating that we have a substantial amount of land that could relatively easily be converted and put back on the market, but until we do some of the Phase 1 assessments, until we do some of the site configuration work, we really don't know what exactly it will take for the full investment. Councilman Fish stated give me a cross road? President Curry stated it is Southwest off of Lusher, Borneman, Leininger. Councilman Fish stated that's what I'm looking for, thank you.

Councilman Mishler stated I am not really comfortable with spending $900,000.00 dollars without seeing the details in front of us that we are supposed to spend this on. I don't know if it would be better to table this until the next council session when you have that information in front of you, so we can discuss this because $900,000.00 is a lot of ARP money to vote for without knowing the exact details. Councilman Mishler, seconded by Councilman Henke, **moved to table the proposed ordinance to the next regular council meeting**. The vote was as follows: Ayes: Bullard, Thomas, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried unanimously**, 9-0, and **the proposed ordinance was tabled.**

At this time, 8:55 p.m., President Curry called for a brief recess. Councilman Thomas left council chambers at this time and did not return to the meeting.

At 9:03 p.m., President Curry reconvened the meeting.

Proposed Ordinance 21-O-49

AN ORDINANCE APPROPRIATING THREE HUNDRED TWENTY-TWO THOUSAND THREE HUNDRED AND FIFTY DOLLARS ($322,350.00) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE ELKHART THRIVE NEIGHBORHOOD OPPORTUNITY HUB INITIATIVE

The clerk read the proposed ordinance 21-O-49, by title only. President Curry stated this proposed ordinance remains in committee, however a public hearing was advertised for tonight. President Curry opened the floor for public hearing. There being no comments from the public, President Curry closed the public hearing. **Proposed Ordinance 21-O-49 remains in committee.**

Proposed Ordinance 21-O-50

AN ORDINANCE APPROPRIATING SEVENTY-FIVE HUNDRED THOUSAND AND 00\100 DOLLARS ($75,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE CREATION OF A SOUTH-CENTRAL NEIGHBORHOOD MASTER PLAN

The clerk read the proposed ordinance, 21-O-50, by title only. President Curry stated this proposed ordinance remains in committee, however a public hearing was advertised for tonight. President Curry opened the floor for public hearing. Jay Little, 1300 Eden Street, stated I am wondering what are the areas that this particular ordinance will cover because it is not addressed. You are not being definitive in what you are saying as far as what physical locations are being covered by some of your ordinances this evening and I find that a bit concerning because then me, as well as other members of the public, may not understand and may not act accordingly or voice our opinions accordingly when those ordinances are going to be voted on in the future, and I would just like to know when you are saying South Central, what you mean, because in my head, I know what South Central is, but what is South Central to you, President Curry, might not be what it is to Mr. Bullard and or Mr. Henke.

There being no other comments from the public, President Curry closed the public hearing. **Proposed Ordinance 21-O-50 remains in committee.**

Proposed Ordinance 21-O-51

AN ORDINANCE ADOPTING THE CITY OF ELKHART, INDIANA'S 2022 BUDGET AND MAKING APPROPRIATIONS FOR DEPARTMENT BUDGETS AND FOR OTHER CITY PURPOSES DURING THE CALENDAR YEAR 2022

The clerk read the proposed ordinance, 21-O-51, by title only. Councilman Dawson, seconded by Councilwoman Hines, **moved to table the proposed ordinance until the October 25, 2021 Special Call Meeting, when the budget will be adopted.** The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried**, 8-0, and **the proposed ordinance was tabled.**

Proposed Ordinance 21-O-52

ORDINANCE OR RESOLUTION FOR APPROPRIATIONS AND TAX RATES

The clerk read the proposed ordinance, 21-O-52, by title only. Councilman Dawson, seconded by Councilwoman Hines, **moved to table the proposed ordinance until the October 25, 2021 Special Call Meeting, when the budget will be adopted.** The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried**, 8-0, and **the proposed ordinance was tabled.**

Tabled Ordinances and Resolutions

Ordinance # 5869

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE CONTIGUOUS TO THE CITY OF ELKHART, INDIANA AND LOCATED IN THE SOUTHEAST CORNER OF THE INTERSECTION OF COUNTY ROAD 24 AND STATE ROUTE 19, AND DECLARING THE SAME TO BE A PART OF THE CITY OF ELKHART, INDIANA

The clerk read the proposed ordinance, 21-O-38, by title only. Councilman Dawson, seconded by Councilman Mishler, **moved to remove the proposed ordinance from the table.** The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried**, 8-0, and **the proposed ordinance was removed from the table.**

President Curry **asked for a motion to amend the proposed ordinance to correct the road name, State Route 19 should be corrected to State Road 19 in the title and on page 2 of the ordinance. Councilman Henke, seconded by Councilman Dawson, moved to amend the proposed ordinance as stated.** The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried**, 8-0, and the **proposed ordinance was amended.**

Councilman Henke, seconded by Councilman Dawson, **moved to pass the proposed ordinance on second reading as amended.** President Curry opened the floor for council discussion and Councilman Mishler stated is this going to put any undue burden on our police or fire? This annexation is a little further out there and I don't want it to put any strain on our EMS services, fire or police. Mr. Trotter stated to answer it in short, no, the property is roughly adjacent to property that is existing in the City of Elkhart. The rest of Mr. Trotter's statement was inaudible to the recording.

There being no other council discussion, President Curry opened the floor for public hearing. Crystal Welsh, Abonmarche Consultants, stated I am here representing the petitioner and to answer any questions. We are excited about getting started, Casey's is excited to get started, so we look for your support and hope we can move forward tonight.

President Curry stated is there a timeline? Ms. Welsh stated Casey's is chomping at the bit to get going.

There being no other public discussion, President Curry returned the discussion back to the council. There being no further council discussion, President Curry called for the vote on the passage of the ordinance on second reading. The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke, and Curry. Nays: None. **The motion carried**, 8-0, and **the ordinance was passed on second reading.**

Councilman Dawson, seconded by Councilman Mishler, **moved to adopt the proposed ordinance on third reading.** The clerk read the proposed ordinance, 21-O-38, by title only. The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried**, 8-0, and **the ordinance was adopted.**

Ordinance # 5870

AN ORDINANCE APPROPRIATING ONE MILLION FIVE HUNDRED THOUSAND AND 00\100 DOLLARS (1,500,000.00) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE PUBLIC HEALTH RESPONSE ACCOUNT TO UPGRADE THE HEATING, VENTILATION, AND AIR CONDITIONG (HVAC) SYSEMS OF CITY HALL AND THE CITY ANNEX TO REDUCE THE RISK OF INDOOR TRANSMISSION OF CORONAVIRUS-19 AND OTHER AIRBORNE PATHOGENS, TO MAKE THE FACILITIES SAFER

The clerk read the proposed ordinance, 21-O-43-R, by title only. Councilman Dawson, seconded by Councilman Mishler, **moved to remove the proposed ordinance from the table.** The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried,** 8-0, and **the proposed ordinance was removed from the table.**

Councilman Dawson, seconded by Councilman Mishler, **moved to pass the proposed ordinance on second reading.** President Curry opened the floor for council discussion and Councilman Henke stated I don't know if we know someone in the air conditioning business because in front of us right now we have about $2.65 Million Dollars of HVAC systems and when we talk about businesses and growing businesses, we are growing their taxes and if we want to help businesses, like Mr. Barnes said, just reduce to tax, manage the money that we spend. Our HVAC system isn't that old in this building, we went through a pretty expensive repair plan and this is just within the last ten years and now we are looking at $1.5 Million Dollars. I'm not sure of any other business going through the same thing, other than municipal governments, so I would like to know how old our system is now, is it failing, and why is it failing? Now we are at $1.5 Million.

Mr. Tracy stated portions of this system are still original, which is why you often see in City Hall, the brown spots on all the different places around City Hall that they are constantly changing because of the leaks. So, yes it did go under an overhaul ten years ago, but I also want to make sure you understand that this building is $1.2 and the other portion of that is $300,000.00 for the annex, just so that is clarified. Councilman Henke stated so they are failing at the same time or just upgrading? Mr. Tracy stated they are both having problems, are both failing but we decided to do this all at once having the opportunity to because of the ARP money and in addition to that I would like to point out, that this administration has only been here two years and I can't blame them for all that has gone wrong, however, the Mayor has asked Tory, our engineer, he is in the process of preparing an RFP for a mechanical maintenance contract and all facilities within City government, so we will have one company professional overseeing them all going forward and especially as we begin to talk about the possibility of the new safety buildings as well, we could have as many as ten new systems in the next four years. Councilman Henke stated we have five buildings right now, on our docket that need HVAC systems, it would be interesting to see how many of the rest of the buildings have had HVAC issues and why it's just now coming up. We are at $2.6 immediately and if it wasn't for ARP money, what we would be doing? Mr. Tracy stated we would probably be continuing to patch them, put band aids on them, year by year and spending money after money. The repair costs on these facilities is

astronomical. Councilman Henke stated what portion of the money is for filtration? Mr. Tracy stated I can't answer that question, I know there is a proposed estimate put in place in order to go forward with this dollar amount, however there will still have to be an engineering and mechanical engineering design to determine the exact specifications for the filtration and that is why this ordinance is up to $1.5 Million Dollars, because the numbers aren't that hard yet. Again, we can't spend money having an analysis done and having design work done until we have money appropriated for that cause. Councilman Henke stated I was just going to mention if I was going to filtrate some, I think it would be the PD since they have meth and when I go in the evidence room there is more dope smells than you could imagine, but the meth particles boxed in there are larger than they can handle any more so if we want to talk about filtration, I think that would be a great place to start. Mr. Tracy stated you will notice lower down the list, there is a first reading for a resolution to help fund the correction of some of the police department's HVAC problems and a decision was made not to go over and put in a new system in a building that we hope will only be used for three more years.

Councilman Bullard stated just in the wording on our agenda, it said the funds will be used to upgrade the heating ventilation air conditioning system of City Hall and the Annex to reduce the risk of indoor transmission of Coronavirus 19 and other airborne pathogens to make the facilities safer, so nowhere in the agenda did it say anything about the systems failing and it needs to be improved. I'm just hoping that we are not getting caught using these funds for... Mr. Tracy stated I understand and I can assure you why it's not in this motion directly. We have had the system analyzed several times and the people, Griffin, who does a lot of work on this facility have been involved and so that is where we got our numbers from, since they work on the system, but it's more than just the filtration, I can assure you of that. Councilman Bullard stated will this system then eliminate the need to shut down our building and lessen sick leave of employees, since it is such a good filtered system? Mr. Tracy stated I guess it might, if they get rid of the germs, maybe so.

There being no other council discussion, President Curry opened the floor for public hearing. Bob Barnes, 205 Whitmer Ave, stated I question this $1.5 Million Dollars. I implore that somebody investigate what the maintenance cost is going to be on a system this large. You're not talking $30.00 or $40.00 an hour guys, you are talking a minimum of $100.00 to $145.00 of manpower to maintain these systems. So if we go ahead and put in this air filter system that is going to have cleaner breathing air inside than outside, are we going to have the money and the funds in the future to maintain this, because there is a lot of moving parts with a system like this. You've got air makeup systems, variable frequency drives to handle all your blower motors and then the filers are going to be astronomical and they are not going to get any cheaper. This is a money making venture now for their HVAC companies and their technicians.

There being no other public comment, President Curry returned the discussion to the council. Councilman Henke stated I believe we use a chiller, we have some small air handler systems that blow recirculated air, but the chillers, you ran a blower over cold pipes, those cold pipes, they make products you can put inside but I sure would like to see that on an RFP, other avenues that we could have, as opposed to trying to reinvent the same system we have always had. Why wasn't this looked at before, it's a huge amount of money to put on the taxpayer when realistically their homes, their businesses, offices, can't afford the same. We buy buildings in the health care system and usually it's what between the walls and encapsulated there and what is on

the people coming in as the bigger danger, with regard to COVID and transmissions of anything. It's not the HVAC systems, it's not the chiller. I would think that just because the money is available, I hope that we would do a greater study to qualify this level of expenditure because it still represents tax dollars.

Councilman Bullard stated I'm not extremely familiar with the building and its contents, but this is more than just a city hall and a place where employees work, this also is storage for records and documents for the entire city since its beginning. Could you elaborate about that? Mr. Tracy stated I know, for example, the clerk's office is in the process of starting to scan and make everything electronic. I will say there are documents, not only in City Hall, but other places that are being stored. There is a bigger issue of just City Hall holding documents, we have documents and other facilities that probably are not as even as good as this one to be honest.

There being no other council discussion, President Curry called for the vote on the passage of the proposed ordinance on second reading. The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman and Curry. Nays: Henke. **The motion carried**, 7-1, and **the ordinance was passed on second reading**.

Councilman Mishler, seconded by Councilman Dawson, **moved to adopt the proposed ordinance on third reading**. The clerk read the proposed ordinance. 21-O-43-R, by title only and the vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, and Curry. Nays: None. **The motion carried**, 7-1, and **the ordinance was adopted**.

Proposed Ordinance 21-O-53

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE COMMONLY KNOWN AS 28227 COUNTY ROAD 26 ELKHART, IN 46517, AND DECLARING THE SAME TO BE A PART OF THE CITY OF ELKHART, INDIANA

President Curry stated **Proposed Ordinance 21-O-53, will remain tabled** until the October 18, meeting of the Common Council.

Proposed Ordinance 21-O-54

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE COMMONLY KNOWN AS SOUTHWEST CORNER OF SR 19 AND CHARLOTTE AVENUE, EAST OF CR 24, CONTIGUOUS TO CITY OF ELKHART, IN, AND DECLARING THE SAME TO BE A PART OF THE CITY OF ELKHART, INDIANA

President Curry stated **Proposed Ordinance 21-O-54, will remain tabled** until the October 18, meeting of the Common Council.

Proposed Resolution 21-R-61

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, TO RECOGNIZE A HOMELESS BILL OF RIGHTS

President Curry stated **proposed resolution 21-R-61 remains tabled.**

NEW BUSINESS

Ordinances on First Reading

Proposed Ordinance 21-O-57

AN ORDINANCE APPROPRIATING FIVE HUNDRED THOUSAND DOLLARS ($500,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE PROVISION OF GOVERNMENT SERVICES ACCOUNT FOR UPGRADES TO THE LERNER THEATRE HEATING, VENTILATION AND AIR CONDITIONING SYSTEM

The clerk read the proposed ordinance, 21-O-57, by title only. President Curry **passed the proposed ordinance on second reading.**

Proposed Ordinance 21-O-59

AN ORDINANCE FIXING THE ANNUAL SALARIES OF ELECTED OFFICIALS OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2022

The clerk read the proposed ordinance, 21-O-59, by title only. President Curry **placed the proposed ordinance into the Finance Committee of-the-Whole.**

Proposed Ordinance 21-O-60

AN ORDINANCE ADOPTING A SCHEDULE OF SALARIES AND OTHER COMPENSATION FOR THE POLICE OFFICERS OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2022

The clerk read the proposed ordinance, 21-O-60, by title only. President Curry **placed the proposed ordinance in the Finance Committee of-the-Whole.**

Proposed Ordinance 21-O-61

AN ORDINANCE ADOPTING A SCHEDULE OF SALARIES AND OTHER COMPENSATION FOR THE FIRE DEPARTMENT OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2022

The clerk read the proposed ordinance, 21-O-61, by title only. President Curry **placed the proposed ordinance in the Finance Committee of-the-Whole.**

Proposed Ordinance 21-O-62

AN ORDINANCE FIXING THE SALARIES AND WAGES FOR APPOINTED OFFICERS AND OTHER SALARIED EMPLOYEES OF THE CITY OF ELKHART, INDIANA, FOR THE YEAR 2022

The clerk read the proposed ordinance, 21-O-61, by title only. President Curry **placed the proposed ordinance in the Finance Committee of-the-Whole.**

Resolutions

Resolution # R-63-21

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, DECLARING A CERTAIN AREA TO BE AN ECONOMIC REVITALIZATION AREA FOR THE PURPOSE OF GRANTING TAX PHASE-IN BENEFITS TO TRIM-LOK, INC. \ 5400 BECK DRIVE-ELKHART, LLC

The clerk read the proposed resolution, 21-R-65, by title only. Councilman Dawson, seconded by Councilman Mishler, moved to adopt the proposed resolution. President Curry opened the floor for council discussion. Kristen Smole, Economic Development Specialist, stated there is a tax phase-in in front of you for a three-year phase in for Trim-Lok. The project and total budget is going to be $4,295,000.00 in personal property which will be in manufacturing and shipping equipment to take place at their facility. It will create 74 new positions bringing their total employee count to 96. The median wage will be $41,600.00. Over the three years we expect the tax revenue to be generated at about $334,000.00 with a total tax savings of $117,000.00.

Councilman Mishler stated I called the company and asked for a copy of the employee handbook because I have not seen an abatement before that has had all of the points for employee compensation before so I just wanted to do my due diligence and check that and I did notice that in that plan, there was no reference to tuition reimbursement, I'm just wondering if that is a written policy at the company or is that something that they have been verbally doing. Marc Maloney, Trim-Lok, stated as we spoke earlier today, the handbook that I presented to you was from 2018, we are currently in the process of finalizing our new handbook, which will be published by the end of this year. It is my understanding that that will be represented inside that

handbook, however, it is an unwritten rule, if you will, that we do reimburse our employees for secondary education. Councilman Mishler stated thank you, I do just have a concern with that, because in health care if you don't write it down, it didn't happen, and while verbal understandings and agreements are great and I applaud you for doing that for your workers, I think it's wonderful, but I don't necessarily know if we should be in the practice of giving points for things that companies don't have a written policy for as far as employee benefits.

Councilman Henke stated how many existing employees? Ms. Smole stated there is 22, which will be retained, there will be 74 new and 96 overall. Councilman Henke stated I would like to go to benefit C, it does say the median and we are more, there's an ordinance also that states the minimum, so the minimum of employees, but the minimum is what? To make the mean, what is the minimum? Ms. Smole stated their starting salary is $17.50, that is there minimum starting pay. Councilman Henke stated I appreciate the fact that if all these numbers are good in your compensation package, you have a very diverse compensation package, so very capable of meeting demands and recruiting as it were. Then it talks about a national and regional headquarters, is there another building that you own? Mr. Maloney stated we are currently headquartered out of Buena Park, California, which is in the greater LA area. Councilman Henke stated is that a parent company or what is that? Mr. Maloney stated it is Trim-Lok Incorporated, and it has two facilities. We are the same company, we are not a holding, we are an arm of the corporate facility out of Buena Park. Councilman Henke stated the corporate facility out of California? Mr. Maloney stated correct. Councilman Henke stated the project will be used for national or regional headquarters, how did you qualify that? Ms. Smole stated it does not show that they were given ten points for that, that was how many they could get. Councilman Henke stated then they come to 48 points and where's the breaking point for their level of abatement? Ms. Smole stated 30-50 is a three-year phase-in and they qualified at 48.

Councilman Bullard stated this abatement is for personal property and I drove out there and that's a pretty nice looking footprint you've got out there. So you're not doing an abatement on the real property or the building and I'm just wondering, what type of investment will we be getting property taxes on? Mr. Maloney stated the best way I can answer that, we are in negotiations, final stage, of capital investment of $4.6 Million Dollars as it stands right now to move into this building, that will only grow more. Part of the plan is that we all know and understand what doing business in California is like and we also understand how it is typically a better business environment here in Indiana. The long-term goal is to invest even more to diversify our footprint geographically to better support our customers east of the Rockies. Councilman Bullard stated outside of this abatement, you are putting in a heck of an investment in real property? Mr. Maloney stated very much so.

Councilman Mishler stated you mentioned the other branch in California, the wages that are represented here as far as average hourly and things like that, that is solely for, what's currently in Elkhart correct? That's not representing wages in California. Ms. Smole stated yes, if you look at the full-time jobs created on the actual application, we believe that is probably what was in California because that reflects the current starting wage of them which is about $14.75, so it does have the range for the entire company and not just the branch in Elkhart. So that was an oversight when the application was done but it does not change the point system overall.

Councilman Henke stated you said the minimum was what? I wish that would have come out a little bit more clearly. We just asked the question and the answer was $17.00. Ms. Smole stated yes, in Indiana, the starting salary is $17.50. $14.75 is the starting salary in California.

Councilman Mishler stated that is what's on the application. Ms. Smole stated only in that one area, but the rest of the information is correct and the number you asked about, broken down is $17.50.

There being no other council discussion, President Curry opened the floor for public discussion. There being no comments from the public, President Curry returned the discussion to the council and Councilman Mishler stated I have said in the past about tax abatements, and it was pretty simple for me to call the company, they were very agreeable to provide the employee handbook so I could verify and double check all the employee benefits where I noticed the tuition thing was lacking there and I hope in the future for the taxpayer sake that we are able to do that for future abatement requests. I believe that we should trust but verify.

There being no further council discussion, President Curry called for the vote on the adoption of the resolution. The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried**, 8-0, and **the resolution was adopted.**

Resolution # R-64-21

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, AUTHORIZING THE TRANSFER OF THIRTY-FOUR THOUSAND DOLLARS ($34,000.00) FROM THE MOTOR EQUIPMENT ACCOUNT TO THE REPAIRS AND MAINTENANCE ACCOUNT OF THE ELKHART POLICE DEPARTMENT

The clerk read the proposed resolution, 21-R-66, by title only. Councilman Dawson, seconded by Councilman Mishler, **moved to adopt the proposed resolution.** President Curry opened the floor for council discussion and Councilman Henke stated I think in the budget hearings, it was said that this is really a band aid, this is the least expense we could go through just to make this salvageable until we get to the other side of some form of the safety building. Chief Seymore stated that is correct.

There being no other discussion from the council, President Curry opened the floor for public discussion. There being no comments from the public, President Curry returned the discussion back to the council. There being no further council discussion, President Curry called for the vote on the adoption of the proposed resolution. The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried**, 8-0, and **the proposed resolution was adopted.**

Vacation Hearings

There were no vacation hearings.

Other New Business

There was no new business to be discussed.

Reports of the Mayor, Board of Works, Board of Safety or City Department Heads

Mr. Tracy stated on behalf of the Mayor and all the City department heads, we would like to thank the council for their due diligence and hard work on Saturday, asking the questions they felt they needed to know to determine how they are going to vote in this budget and please know that we will have every answer asked at that meeting on Saturday, in writing to each person who asked those questions by Friday of this week.

Neighborhood Association Reports

President Curry stated the Pierre Moran Neighborhood Association, we met yesterday at the Pierre Moran Park Pavilion, it was our first meeting back inside. It was a good meeting and we had a guest speaker, Mr. Rick Newbill, who is with the South Side, Inc. and South Side Builders Neighborhood Association, and we are right there adjacent to each other and he came to inform us of a neighborhood cleanup and invited us to join them on October 16th.

Councilman Henke asked if we heard any other new business and President Curry agreed to go back and hear other new business.

Councilman Henke stated I hear rentals and landlords getting a lot of flak right now, and I happen to be a landlord and the bottom line is the minimum housing standards, applies to all houses, not just owner-occupied. So it's a problem when we can differentiate which ones are rental and which ones are not. Shame on us for not managing forward as it should be. That's the first issue. The second issue that was brought up and it was in regards to CDBG money and we now have properties that we have replaced two roofs on and are now looking at a third, bathrooms and all those other things, but if we don't have a higher expectation, we are just basically band-aiding the same and wondering why it doesn't change. The Ball State Study gave us a study, but I have yet to hear an action step after it. So we listen to it, agree to it but there is no action. If we don't apply action to it, it's just another waste of our time and it gives false hope. They recommended that part of the reason why we have some deplorable conditions is because we are band-aiding some houses forward, as opposed to saying let's take them down and incentivize builders to come in and provide new rental stock and people don't want to talk about that part. We look at those same houses and say well it looks deplorable and how many years later now and I can take you right over here and I'm sure some of you know exactly what I'm talking about, mattresses out front, yards full of cars. What are we doing, what are we expecting people to live in? If we can look at them, the police have been there multiple times, what are we doing? Are we really helping people in their living standard and we are not, we are holding them hostage in a deplorable spot, so I would hope that we would take it seriously and really look at the Ball State Study and actually put some action steps to it.

Councilman Mishler stated last week I was contacted by a concerned daughter at Riverside High Rise because of the elevator situation that they continue to have there, there was a doctor's appointment that was missed because both elevators were not working. The larger elevator has been in the process of being repaired for quite some time and with the other one down, it's unfortunate that some of these folks are placed in a position that they can't get the help they need and I hope that we can continue to urge the folks that need to get this done and get this situation addressed and fixed.

Privilege of the Floor

There were no comments during privilege of the floor.

Scheduling of Committee Meetings

President Curry stated there will be a Finance Committee meeting on October 18th which will start at 5:30 p.m. A Finance Committee of-the-Whole will be scheduled to discuss the proposed salary ordinances.

Acceptance of Communications

Minutes of August 24, 2021 Board of Public Safety
Minutes of September 7, 2021 Board of Public Works
Minutes of August 12, 2021 Board of Zoning Appeals
Minutes of May 20, 2021 Historic Commission
Minutes of June 17, 2021 Historic Commission
Minutes of August 17, 2021 Park Board
Minutes of August 31, 2021 Park Board
Report of Parks Department for September 2021

Councilman Dawson, seconded by Councilman Mishler, **moved to accept communications.** The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried**, 8-0, and **the communications were accepted.**

Adjournment

Councilwoman Hines, seconded by Councilman Dawson, **moved for adjournment**. The vote was as follows: Ayes: Bullard, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried**, 8-0, and **the meeting was adjourned**.

Debra D. Barrett, City Clerk

H. Brent Curry,
President of the Elkhart City Council

DRAFT

MINUTES OF THE FINANCE COMMITTEE OF-THE-WHOLE MEETING OF OCTOBER 11, 2021

Present: Finance Committee Chairman Arvis Dawson
Finance Committee Members Tonda Hines
Other Council Members present: Kevin Bullard, Aaron Mishler, Brent Curry, Dwight Fish, Megan Baughman and David Henke

Absent: Brian Thomas

Councilman Dawson, Chairman of the Finance Committee, called the meeting to order at 6:30 p.m. in the Council Chambers at City Hall, 229 S. Second Street, Elkhart. This meeting was made available to the public via WebEx and was live-streamed on Facebook. All council members present, were present in Council Chambers.

The clerk called the roll.

Councilman Dawson said this evening the Finance Committee will discuss:

Proposed Ordinance 21-O-59

AN ORDINANCE FIXING THE ANNUAL SALARIES OF ELECTED OFFICIALS OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2022

The clerk read the proposed ordinance, 21-O-59, by title only. Councilman Dawson opened the floor for council discussion and Rod Roberson, Mayor, made a statement, however it was not audible on the recording due to issues with the microphone on the podium. Mayor Roberson stated our staff has worked with AIM, WIS, and Baker and Tilly to craft the salary ordinance that you see before you asking you to allow us to pose a maximum salary of plus 15% of the midpoint of each range, which is adjusted by 4%, only if it is warranted. It's time to give our folks the rate they have earned, we have worked through COVID, within our residence and outbreaks in our departments. We believe our 2022 salary ordinance will allow us to attract solid talent to new openings and retain hard working staff members we have now. If we are going to achieve unparalleled service, our ability to evaluate performance, compensate appropriately, and replace when necessary, will determine it. We ask you to pass this to the council with a do pass.

Councilman Dawson stated right now we are on the elected official's ordinance and opened council discussion for that ordinance. There being no discussion, Councilman Dawson asked for a recommendation. Councilman Curry, seconded by Councilwoman Hines, **moved to give a do pass recommendation to the full council.**

There being no further discussion, Councilman Dawson called for the vote. The vote was as follows: Ayes: Mishler, Curry, Fish, Hines, Dawson. Nays: Bullard, Baughman, Henke. **The**

motion carried, 5-3, and **proposed ordinance 21-O-59 was passed to the full council with a do pass recommendation.**

Proposed Ordinance 21-O-60

AN ORDINANCE ADOPTING A SCHEDULE OF SALARIES AND OTHER COMPENSATION FOR THE POLICE OFFICERS OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2022

The clerk read the proposed ordinance, 21-O-60, by title only. Councilman Dawson opened the floor for council discussion. There being no council discussion, Councilman Dawson opened the floor for public discussion and stated I missed this on the first one as well, is there anyone that would like to speak on this one or Proposed Ordinance 21-O-59? There being no public discussion, Councilman Dawson returned the discussion to the council.

Councilman Bullard stated I think last year, the fire department, it was over the 4th of July weekend when there was a pay blip of about two or three days, and we had to go back and renegotiate their contract because they didn't get paid in the timely manner they were supposed to. Since this is contractual, and it cost the City to do that, has this been corrected, not only in the police and fire, but in these other contracts? Bradley Tracy, Chief of Staff, stated to the best of my knowledge, yes they have been. In fact, we reviewed the contracts just this past week and had to make an adjustment based on the fact that it was something we missed, so I feel comfortable they are done.

Councilman Henke stated we have had a pretty rough history over the last 20 years with the Police Department and that would be measured by the number of complaints measured by the dollar amount paid out in penalties and suits and we expect employees to have a performance review but I would think in future negotiations we would incorporate this to the police department raises and try to find the legal capability to do so, where if the officer is disciplined to a certain level, the raise goes away for that year or it has to affect the whole, regardless of the performance, unlike the other employees, the raise comes through so I'm looking for something that would give us a measurable point of performance overall, performance individually, what would you suggest? Kris Seymore, Chief of Elkhart Police, stated right now we do a yearly evaluation of all employees, unfortunately that doesn't factor into what the FOP union negotiates with the City. That's not something that's factored in and I would argue that it's very subjective, that's why. That varies across years because if you have a new mayor, you have a new chief, assistant chief, captains, so on and so forth. So there's the trickle-down effect where it constantly changes, there is no continuity with those. So five years ago, your evaluation might have been this because this is who the Chief or the Captain was, and then five years later you get a different one, so it's very subjective. I don't know that you could single out five or six, ten people, and punish the whole for a behavior of the few and vice versa. I would love it if you could base it on the individual because I tend to agree with you and for administrative staff, it isn't that way. Councilman Henke stated depending on who the senior officers are, that rating may change, so it lends itself to subjectivity when realistically the performance reviews should be such that it does not allow a whole lot of subjective nature. It either is measurable by performance, by standards, all of those things, that are on everyone else's, it's disappointing to know that it is allowed to be subjective as it is. Chief Seymore stated I don't disagree with you because an officer that doesn't

do anything, that just does the bare minimum gets paid the same as somebody that goes out and does a great job, so if I had control over that I would change it, but I don't.

There being no further council discussion, Councilman Dawson asked for a recommendation. Councilman Mishler, seconded by Councilwoman Hines, **moved to give a do pass recommendation to the full council**. The vote was as follows: Ayes: Bullard, Mishler, Curry, Fish, Hines, Baughman, and Dawson. Nays: Henke. **The motion carried**, 7-1, and **a do pass recommendation was given to full council for proposed ordinance 21-O-60**.

Proposed Ordinance 21-O-61

AN ORDINANCE ADOPTING A SCHEDULE OF SALARIES AND OTHER COMPENSATION FOR THE FIRE DEPARTMENT OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2022

The clerk read the proposed ordinance, 21-O-61, by title only. Councilman Dawson opened the floor for council discussion. There being no council discussion, Councilman Dawson opened the floor for public discussion. There being no comments from the public, Councilman Dawson, returned the discussion back to the council.

Councilman Henke stated on this particular one, I think we have all been made aware of some things that were included, missed from the City's perspective, but included in the bargaining portion that we're above and beyond. I know we have a good chief, I trust that service, but I do think it is getting to the point that we went through longevity pay and they were the first to say we are willing to give it up as a sign of indication of honest and forward communication, we took that face value, but there are some things that slipped in this last go around that are actually quite expensive, even some from the department are surprised it went through and I thought we were going to get to the point of looking out for the public's best interest and I would ask both sides to do that very thing in the future.

Councilman Dawson stated this pertains to the non-union employees. As the Mayor mentioned, a lot of these people worked, they are the people at City Hall. Now I voted for the salary ordinance for elected officials, so if I'm going to get 4% and I'm evaluated every four years, I believe everyone should get 4%. If you put the time in through 2020 as a city employee and remained here, that is evaluation enough for me. I'm not a proponent of merit based pay, I've said that before, especially in municipal government because it can change like that. So you can go from merit based pay and union pay, so we need to be consistent and for the 40 plus years that I have been involved in this, whatever the unions got, that's what the people in City Hall got. I believe that is important. I'm not going to support this based on that and what I would really like to see in the salary ordinance is what everyone is currently making right now plus the 4% and I would be in favor of that, because it's a tough year and now there are some exceptions, people who are already bumped, during the year, I don't believe they should fall in that category because they already received compensation for what they were doing and moving forward.

Councilman Henke stated and we can differ but I fully intend to say that we were pressed and pressed hard for performance evaluation and the risk. I am all about that, but if we are just

going to give across the board 4% we have failed. Not everybody is a 4% person, that goes against the universal bell shaped curve. We would have spent several hundred thousand dollars quite honestly on wage comparison, WIS Study, performance reviews. If the performance review doesn't mean anything, we have just wasted that much more money in trying to grow the municipal workers into the best that there is to offer and the mediocre performance review standard, which is another reason I won't be supporting these, we haven't had reports of performance reviews, how many are complete, how many fit to what category and those are the things that we were promised when we first went forward with this, that the council would be involved. So without performance, how do you give somebody a raise because it has been a tough year, it's been a tough year for every taxpayer in our city. So while the City tries to unbury itself and get back into motion, we are in four year terms and our public is not on their jobs so I think performance has everything to do with it and I would like us to get back to that notion.

Councilman Curry stated I look at what we are doing today and the next day and the next year after that. I'm looking at making sure we retain our employees, I don't want ever to become a city where they train people and they leave and we can look at the news sometime and see good people that once worked here in Elkhart and now they work in other cities close by. I think we have to take into account when we look at what we are offering as compensation, working conditions and to keep good people. I hope we consider that while we look at finances.

Councilman Mishler stated I have to agree with Councilman Henke in this and I think that we need to consider the merit in this as well. We are also competing with other municipalities; we are competing with the private sector that has seen a dramatic rise in pay, however at the same time, I think we need to make sure that we have metrics for measuring success and productivity in our workers and I feel that the merit system is the way to do that and I support it for that reason.

Councilman Fish asked that the council get back on topic and discuss the fire ordinance in front us.

Councilman Curry stated we had a good fire chief and he left because of more money and we don't want that. I am in favor of making sure we do what it takes to retain our highly skilled people here in the City of Elkhart, so we are not always out there looking and spending money to try to get somebody to fund somebody for us. It all costs money. I would rather retain the people we have with good wages and good benefits and keep all this expertise under our roof.

Councilman Henke stated there is a huge difference between public and private sectors. If you are saying we are going to pay so we don't lose more people, it's very opposite of what we should be doing. We should groom people up so they have choices, but part of this is public service, part of it is you see the bigger picture in the longer range. If we are going to buy out and that means that our municipal workers are the highest paid people in our city, we have failed the actual people that vote us here and that we are working for. That's the taxpayer, those are the people that really are saying enough. I agree, we have a well-functioning fire department, we have all the equipment and above and beyond, we have a huge expense going forward with two departments that have to be built and moved, we are looking at a public safety building or three of them on top of all of that. There's a huge expense, so while we are talking about raises and everything in the back of all of this, I ask, that we talk about the taxpayer and their ability to fund

this, as much as we talk about everyone deserving, people deserve good service at a fair cost called tax dollars and that is what we are to be doing. This mayor spoke highly of the performance review process and I totally agree with him on that and I would like to see that we just don't treat everyone the same because then we dumb down our own municipal workers, when if you don't achieve, you don't get rewarded and you don't get recognized.

Following discussion, Councilman Dawson asked for a recommendation. Councilwoman Hines, seconded by Councilman Mishler, **moved to give a do pass recommendation to the full council.** The vote was as follows: Ayes: Mishler Curry, Fish, Hines, Dawson. Nays: Bullard, Baughman, Henke. **The motion carried**, 5-3, and **a do pass recommendation was given to the full council for proposed ordinance 21-O-61.**

Proposed Ordinance 21-O-62

AN ORDINANCE FIXING THE SALARIES AND WAGES FOR APPOINTED OFFICERS AND OTHER SALARIED EMPLOYEES OF THE CITY OF ELKHART, INDIANA, FOR THE YEAR 2022

The clerk read the proposed ordinance, 21-O-62, by title only. Councilman Dawson opened the floor for council discussion.

Councilman Fish stated this is where we get down to the final moment where we pass all these ordinances and it sounds like it is kind of split and I am really sad about that because Elkhart and the employees that make this city go are moving with the times and are moving with a Mayor that understands that we are in different times, we have to be competitive with wages and benefits and if there is one thing that I learned at our AIM conference is that if you do not move with the times you will lose employees and not just leaving physically of going to another job but you will lose the motivation they have from a good situation in the City, in their jobs and we have to be competitive and we have to be proactive in how we pay everybody in this room. I'm concerned about the folks here and the representation that you folks give us that the taxpayers have said, we trust you. I'm going to be voting for this and for all of these because I want to move this city forward.

Councilman Henke stated we have talks on a regular basis, we have complaints on a regular basis, I think the Mayor and I have talked about certain departments, department heads, departments in general that are not at the performance level and yet, we talk about pushing this through at a 4% all the way across the board, very contrary. I think we are so wrong in the methodology that we are looking at, I do think the Mayor is correct in saying you have to grow, train, and build the best workforce that you can have and it has to gel together with expectation. If we take that away and longevity becomes the role again of government, which is the worst part of government, just staying in your job and doing nothing can get you the same resolve as someone that performs every day and that's unfortunate. We are past those things otherwise none of us would be up here if it wasn't for the willingness to serve your community. Nonetheless it is about performance, it is about personal growth of every municipal worker to achieve, to be encouraged, pressed and pushed towards the goal of self-realization, to be the best they can be and if they become that that they are so marketable outside of the City, then the City has done a

good job and trained them well, brought them up well and gave them the experience to be more than just what we want them to be, stay in your place and stay put. That's not correct.

Councilman Curry stated the 4% is not a guarantee for everybody, I think that is what the Mayor said in his opening statements. The 4% is a part of a range and if you are performing well, you will receive a maximum of 4%, but if you are not performing as well as you think you are performing, you won't get 4%, so it's not an automatic across the board for everybody. I just think we need to make sure we don't spend money looking for people that can give us good people and retain them and not spend more for new people and constantly spending money training people. You can get caught up in that vicious cycle and I have seen companies do it all the time and we don't want to be like that, we want to keep our good people.

Councilman Mishler stated just to go back, I think it is important to retain folks for the taxpayers as well because we are not only competing with the private sector, we are competing with other municipalities for where people want to go and where people want to live. I share a lot of the City things on social media and I am very proud of the things our employees do, from police and fire, to the parks department, cemetery, they put it in a lot of hard work and I think that it's important for the public to see that and for those workers who do a good job to be encouraged to continue to do that good work as well and with a merit based system, you have that. Now I don't think that if a worker is performing poorly that their only option should be eventual removal service, however the other incentive to doing better is the potential for a merit based increase and that's where I think that this kind of meshes into it and that is why I support the proposal.

Councilman Bullard stated I think it was early this spring, I sat in a meeting with the Mayor, Corrine, Dayna, Kasey, and you gave pretty good presentation to me at the time and this merit based system, on where the direction was going to go and the thoughts and at the time it sounded real good, but then losing our HR Director, I have my reservations on how it is going to be carried out fair and consistent and I'm looking at the Schedule A of the 2022 maximum annual salary which is a 4%, how are we going to quantify and just say well they are doing alright, how is the department head going to survey and evaluate someone in their department without picking and choosing, being biased, and being fair and consistent. I have my reservations that just doing a straight 4% across the board without any type of real merit based evaluation.

Mayor Roberson stated regarding the current amounts that we are asking for, what we are asking for is for us to be able to do exactly what you are suggesting, a performance based system that we have not left and we can't leave that. We discontinued longevity, purposefully, and we wanted to make sure that we built a performance based relationship. We did get caught in snag when we lost our HR person, we were able to evaluate qualitatively and we are still building the model for quantitative relationships, meaning relationships for the performance evaluation. In order for us to be able to continue to move in this direction, we have to think about two things, we have to think about the people we have and we have to reward them appropriately and that's what I mean when I say appropriately, performance based, meaning five of you may get four's, two of you may get three's, one of you may get one's, whatever that performance is. The other piece is replacing the talent that we currently have and I have talked to Mayor's all

over the state, Goshen has lost 20, we have lost 16 Civil, 40 union and to replace them costs more than what it was for them to work in that position. That is typically, and especially in this post pandemic reality what we are dealing with. We want to make sure that we are looking at talent and skills because just because it's dull market for labor doesn't mean that we can't get good people that may want to work for the City, but we have to be able to pay them appropriately, so we need a range in order to be able to do so and we have used that to some dismay, based on some of the comments that were made at the hearing at the Lerner. We were able to, with our I.T. Director, if you remember, you gave me six months with a range and we were able to grab an I.T. Director, a little bit above the midpoint but with private experience, that didn't know the mess he was getting into. My point is, there are people that have come in for lower than the mid, above the mid, and people that have come in for the mid and in places where we could, with my discretion because any future movements that are not in the mid, would have to come with my discretion, and in this particular market, we have to be able to do them both, but in order for us to be able to continue down the road of performance based merit increases, we have to be able to motivate people to do it and we believe within this system we can. We have to make sure that we pass that understanding onto the council and you guys give us the approval to be able to manage at that level and so it's kind of a nuance that is a little bit different because all of these cities are moving towards this. So what we are asking is, again we went 85% below the midpoint and .15 on the top range. We moved the entire range by 4% because our partners or our consultants said that the whole market moved 4% on a COLA from last year. We went 4% on the range, the range is established through surveys from all of the other communities, like ours for positions, like the ones that we are requiring as a part of the salary ordinance. This isn't arbitrary, this is happening as a part of an overall look at the marketplace, look at each position, and then summarize an average midpoint and go 1.5 above and .85 below and that is the range. We want to advertise at the max but we are going to fund below the max because nobody will be at the max, it's not the way it works. What you are looking at is not what everybody would receive because nobody is at the max. We are asking for us to be able to have the discretion to measure performance and some will be at the mid plus four, some will be at the mid plus three, some will be at the mid plus two, and some of them will make it to the mid, so it will be based on performance.

Councilwoman Hines stated my struggle, as I am hesitant, and I was hesitant when you wanted to put this in, is the training for the supervisors so that we do get that equity piece, so that it is fair and also, while it is not reflected in this ordinance, the people even lower, that are not salary and what that looks like for them. Not having an HR Director for the last, what three or four months, just continues to keep that struggle for me with this change in the system and with this particular one, some of the positions, they have moved and then based on responsibilities, some are getting $5,000.00 or $6,000.00 or $15,000.00 more to a new position and so it doesn't feel equal. Mayor Roberson stated that is because we are so far behind so we have to move salaries based on the WIS to make sure they were equitable based on surveys, so we moved salaries to positions, it wasn't about the people that were in them and we were so far out of line that we had, we moved to 2019, so we are still three years behind. For HR, HR is a critical role that we need in this administration and the last HR Director was still underpaid based on what she was doing and what we did is talked to Baker and Tilly about the roles that

she performed and they went out and did a survey and this is why it is taking so long. They have a detailed process in how they look at recruiting this HR Director and they went through the job description, the roles and surveyed other market places our size, municipalities and that came back at a cost below the mid for the range that we have in the salary ordinance. I think the mid is about $94 or $95,000.00 for an HR Director. We advertised at $92,000.00 and we have nine people that are willing to take a look at it. It took a while for us to put together a model to get the HR Director and we are asking for the amount that it will take to compensate them fairly.

Councilman Dawson stated here is my thing, I'm not a merit pay guy and all these increases were a choice that this administration made. We had an I.T. Director, we had an HR Director, we had a Development Services Director, we had people in these positions currently. David spoke to public service, and when you are a public servant, you are not going to make what they make in the private industry, you're just not, that's just the way it is. So there were people in these positions and you made an administrative choice to look for different people and pay them more money. That was a choice and we didn't have any part in it so we can agree or disagree with it, but that's a management problem. If somebody is not doing well, that's a management problem and if we are going to pay this kind of money for individuals, then that needs to be handled. We talk about paying people well, 4% is not a big increase since they got a WIS increase, a 2% increase, a COLA increase, so it's not a big increase and with government, there is so much subjectivity that I have not seen it work anywhere. We have heard about it but I have seen no examples of it working, so if I'm going to get 4% for a meeting twice a month, for City Council meetings and somebody is out there doing what needs to be done, they need to get 4% as well. We don't have a HR Director, I have seen nothing with regards to training, I don't even know what it looks like, I've heard some things that people have said about it, which have not been very good, so I'm not a proponent of it and if it's not broke, why fix it? The firefighters and the FOP, they have people negotiating for them, they have people fighting for them, everybody else is counting on us to do that and so when government changes every four years, all that changes, if it hasn't been broke, what are we trying to fix?

Councilman Henke stated the HR Director has been absent for several months, it's actually longer than that, but we have had no major fall out. I think it adds a new burden but most importantly I think it has limited validity to some of the processes because that person was also a part of the buy in so I am concerned that we have lost communication, we have lost some transparency and we have lost some validation, so I think there is reason for hesitation. Jobs, it's no different, those of us in the private sector, we look at a level of historical turnover for a position, we look at special degrees or certificates required for the job, we look at experience be it two years, three years, five years, whatever that is to whatever level but it always comes down to performance. So I don't want to lose sight of performance whatsoever and there were some significant changes that came through your discretionary portions that you are allowed, and those were pretty significant, they were in the upwards of $20,000.00. Mayor Roberson stated and you saw that in the explanation that we sent out and the number of positions that we actually had that moved, each of them were different in different ways and so some them were not necessarily my discretion, because the I.T. Director was within the purview of the council

so that one was during the time period where we could have the range and that was a great example of us being able to use it effectively. The Communications Director going to Quality of Place, feeling as though we need to manage four or five departments around quality of place was a move that I made because I thought it was necessary for us to ensure that we were giving some focus in the area of quality of place and to take the load off of our Chief of Staff and we thought that not going and getting an $80,000.00 a year pay and allowing someone that had the talent to do it inside was a pretty prudent way of doing it, so it was a $6,000.00 increase as opposed to an $80,000.00 increase, so we did do some things that you would think were effective and efficient event though it did cost us a tad bit more but we stayed within the budget of what we had promised the citizens. We didn't go above the budget; we didn't do anything without the authority of our controller. I'm not sure how many positions we had above the midpoint outside of the salary ordinance, I think it is five in total. Councilman Henke stated but I think it is those five that need special consideration of transparency, that way when they do occur there should be an explanation, the council does not have a vote but we need an understanding because one was huge and that would be Dayna's. It carried across from the Chief of Staff and that level pay and I would suggest to that is, here is someone that is capable and worth that level, but you would say the one just before her, 50% of that pay was probably just too much. So this has to be performance based, otherwise we set this high target, we add 4% and then we, regardless if Dayna leaves next week, we've got this huge thing that we roll money at somebody but then we are paying the person, not the position. Mayor Roberson stated I agree with you which is why the salary ranges for Development Services are at this level, the partners that we had doing the surveys had a range of $95,000.00 to $125,000.00 and the midpoint somewhere around $105,000.00 which means that our current Development Services Manager is paid below midpoint.

At this time, the audio and video went down and the rest of Mayor Roberson's statement was inaudible.

Councilwoman Baughman stated there is a rubric that we are operating off of and that's a work in progress. You are asking us to make a decision on something that we don't know. I would love to give someone a raise and it would mean a lot more to them if they knew what they were getting a raise for, so right now that is the challenge. Shouldn't we have the rubric first to see how it's being measured, what outcomes they are searching for, and therefore that is full transparency for the public. Mayor Roberson stated there were a couple of things that happened previously that will bring you up to speed when we get ready, and we were on our way to developing that and then we went back to actual instead of bearing the increase. So we worked underneath to develop that rubric and then we lost our HR Director.

The recording experienced technical difficulties and the rest of Mayor Roberson's statement cut in and out on the recording and was not able to be transcribed.

Mayor Roberson stated what we need to do now is make sure that this rubric is put together in a manner that allows each of our staff members to earn the bonuses of the kind of work performance merit increases that they deserve and we will have that to you and anything that goes above a midpoint will have to come through my office and we will

make sure we have an opportunity to make sure that it's done in a way that's transparent to everyone, but that transparency, when you say transparency, it wasn't without it occurring with the thought that we needed to get people in positions that could perform at a high level and that's what we have done for the most part and then there are some cases in which situations have occurred where people have left and it is unfortunate but I get your concern. I think if we get a chance to talk, we'll be able to let you know the history so that you get an idea of how we got to the spot.

Councilman Mishler stated you mentioned there are other municipalities that adopted this, I haven't spoken with them, you have, how has it gone for them? Are they considering rolling it back, do they like it, what are some of the challenges that they have ran into that we would run into if we did something similar? Mayor Roberson stated the challenges they haven't discussed, but the primary focus that they had was replacement costs, they know they are losing people at high rates and so they focused in on how do I attract people and be able to move them in a range and get them on board. They didn't talk to me a lot about the performance relationship, they talked to me more about knowing that they needed a range in order to make sure that they got people employed because they were losing people too. Councilman Mishler stated if we were to adopt this and it didn't work, there is nothing that would keep us doing this for years, for whatever reason, we could just go back next year to not doing merit base or is this something we will be locked into? Mayor Roberson stated it will be locked into for a year. We'll come back and we will set up the necessary structure for evaluations so that you guys can, so everyone can see what the bell curve looks like and then make sure that we answer all the questions relative to how we came out and how we actually put them together. Councilman Mishler stated we are still dealing with the tail end of a global pandemic that has severely disrupted our workforce and we are competing with other municipalities and even if temporary, maybe we should look at it for this year and see how it goes and if it doesn't do well, then there is nothing saying that next year, we can't scrap it and go back to the way it was, but with the labor market the way it is, I think it's something that we should strongly consider to remain competitive to retain our workers and to incentivize to continue wonderful service from our workers and various departments.

At this time, Councilman Dawson opened the floor for public hearing. There being no comments from the public, Councilman Dawson returned the discussion to the council.

Mayor Roberson stated almost every department we have had a COVID outbreak and when Kasey left, Kasey Spitzley, our HR Director, there was an outbreak that was going on in HR and we had three people out for 15 days. In each department that we have, we have had somewhat of an outbreak and we have recovered, but don't think that it didn't impact outcome or output, it does. To that point, COVID is impacting us with people but it is also impacting our production internally, we have been able to work diligently to do some things that I believe have shown the resiliency of our staff because our staff has really leaned forward to get some things done and I think there has been some challenges and Mr. Henke and I talk about them on a regular basis, but we also talk about the things that our people are doing and I wouldn't take any of them over anyone

else but we do need to pay appropriately and we need to figure out this performance measurement piece.

Councilman Henke stated when we first started this drive, we also said that there would be an initial and a second performance review, that there would be specific training, for department heads to get into the correct measure, because if someone just lays out 4% across the board it is an indication of something else, not everybody performs at that level without needing the ability to be promoted or we are not expecting enough and it is more emotionally driven and that is what we were trying to get away from, so that performance is truly based on performance of the individual and personal growth all the way across. I think that is the biggest ticket. I have yet to get where people placed on the bell shaped curve from the original performance reviews and the level of training that department heads have had to stay away from subjectivity to the greatest degree possible. I think there is some significant work and the fact that COVID came along and the HR Director happened to vacate the position shouldn't simply say in the absence of information we are giving out higher levels than normal. Really it comes down to all these department heads that are still here to provide each individual employee a personal message about what they do well and where they need to make improvements, that goes above and beyond the 4% or any percent they may get.

Councilman Bullard stated you were talking about the COVID outbreak that we all suffered and went through, we paid a lot of the employees that had to quarantine the emergency leave, we got a lot of federal dollars on the emergency leave and so everyone got paid there. I think we passed a resolution or an ordinance to where they were required to do a two-thirds of their pay and the City went ahead and picked up the remaining one-third so everyone got their full pay during this pandemic. I'm still going to beat this drum about the WIS study, I have always asked for it and you know the transparency and you say we have a history of how we got to this spot, why is transparency just beginning to start now? I would have liked to have transparency on the hiring's and some of these salary bumps that we have had at your discretion. I'm looking at all of us on the bench and all of the employees that are out in the audience, including yourself Mayor, we are making decisions about people's salary and during this whole pandemic, we never missed a paycheck, so that bothers me a little bit and a lot of our citizens missed paychecks and we are making decisions as people that never missed one.

Councilman Curry stated I would just like to mention that Bradley stated we lost a total of 56 employees and when you look at replacement costs, I hope we, as a council, never will spend more money to do what we think is right and feels good as opposed to doing what saves the taxpayer money. If we give these increases and it is cheaper than hiring Baker and Tilly to look for replacements, Mr. Henke threw out some big numbers, I didn't realize they were that expensive, but my point is if we gave these increases and it is cheaper to hire Baker and Tilly, if those costs are more in the end, we actually spent more money than giving the raises and I don't think the taxpayers would think any of us were very wise.

Councilwoman Baughman stated I completely agree with Councilman Curry concerning the turnover, it would be nice going forward if we had a trend line to track

that information and therefore we have year to year what is our turnover so we know the trend and how we are trending. I don't think anybody likes to see turnover, ever, but those are points that if we could start tracking that would make decisions like this easier to share with the public.

At this time Councilman Dawson asked for a recommendation. Councilman Curry, seconded by Councilman Mishler, **moved to give a do pass recommendation to the full council on proposed ordinance 21-O-62**. The vote was as follows: Mishler, Curry, Fish and Hines. Nays: Bullard, Baughman, Henke and Dawson. **The motion failed** 4-4.

Councilman Dawson asked for a different recommendation. Councilman Henke, seconded by Councilman Bullard, **moved to give a no recommendation to the full council.** The vote was as follows: Ayes: Bullard, Hines, Baughman, Dawson. Nays: Mishler, Curry, Fish and Henke. **The motion failed** 4-4.

Councilman Dawson asked for another recommendation. Councilman Bullard, seconded by Councilwoman Hines, **moved to reconsider the last vote on the no recommendation.** The vote was as follows: Ayes: Bullard, Baughman, Henke, and Dawson. Nays: Mishler, Curry, Fish and Hines. **The motion failed** 4-4.

Due to no motion prevailing, **Proposed Ordinance 21-O-62 will remain in committee.**

At 7:37 p.m. Councilman Dawson **adjourned the meeting.**

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Arvis Dawson
Finance Committee Chairman

DRAFT

MINUTES OF THE FINANCE COMMITTEE OF-THE-WHOLE MEETING OF OCTOBER 18, 2021

Present: Finance Committee Chairman Arvis Dawson
Finance Committee Members Tonda Hines and Brian Thomas
Other Council Members present: Kevin Bullard, Aaron Mishler *(arrived late),* Brent Curry, Dwight Fish, Megan Baughman and David Henke

Absent: Brian Thomas

Councilman Dawson, Chairman of the Finance Committee, called the meeting to order at 6:30 p.m. in the Council Chambers at City Hall, 229 S. Second Street, Elkhart. This meeting was made available to the public via WebEx and was live-streamed on Facebook. All council members present, were present in Council Chambers.

The clerk called the roll.

Councilman Dawson said this evening the Finance Committee will discuss:

Proposed Ordinance 21-O-62

AN ORDINANCE FIXING THE SALARIES AND WAGES FOR APPOINTED OFFICERS AND OTHER SALARIED EMPLOYEES OF THE CITY OF ELKHART, INDIANA, FOR THE YEAR 2022

The clerk read the proposed ordinance, 21-O-62, by title only. Councilman Dawson opened the floor for council discussion.

Councilwoman Hines, seconded by Councilman Curry, **moved to give a do pass recommendation to the full council.** Councilman Dawson asked if there was any discussion on the motion and Councilman Henke stated this is elected officials, police, fire, appointed officers and other salaried and hourly employees? Councilman Dawson stated no it is just for the salaries for appointed officials and salaried employees, not police or fire.

Councilman Henke stated this actual passage would cover what departments? Councilman Dawson stated this would cover all the departments that are not under the collective bargaining union. Councilman Henke stated I would like a discussion, I wanted to talk in general but one in particular that I cannot support. There are a couple of new positions that I cannot support and I believe ultimately the neighborhood associate person was already taken out but additionally working through another project, it was noted and I feel that we were misled in an area that I want some clarification on and I don't feel comfortable going for a position of Quality of Place with this type of stuff left in the air. Unfortunately, it just came today in review of the HVAC replacement system for the Lerner. Councilman Dawson stated the HVAC has nothing to

do with this one. Councilman Henke stated I'm telling you about, so if we are talking about Quality of Place and I'm trying to understand and have a level of confidence and trust, I wanted to bring to light that I think there was a misrepresentation and I cannot and will not support the Quality of Place Initiative and so I will make a recommendation to omit and that is based on the non-factual information and the misleading of that position to the council in regards to the cost. If I can't trust the position, I'm not going to promote the position and give it a pay raise. Councilman Dawson stated would you like to do that now, or when we deal with the entire budget on October 25th? Councilman Henke stated I think we deal with the conversation now and just to say that this is just now being uncovered and it's highly disappointing and opposite of the transparency we were promised and something that runs into One Million Dollars, when it went to $2.7 Million Dollars, if it is misrepresented to us, I wonder what else is misrepresented. I am very concerned with this to say the least, so that would be one area I am totally opposed to.

There being no other discussion, Councilman Dawson opened the floor for public hearing. Rod Roberson, Mayor, stated would you speak specifically to your question Mr. Henke? Councilman Henke stated the DLZ report verbally was given to the Lerner Tech and the Director of the Lerner to be an estimate of $30,000.00 for repair of one unit... Councilman Dawson stated I don't mean to cut you off but you are talking about the air conditioner? Councilman Henke stated I am talking about the misrepresentation of the air conditioners. Councilman Dawson stated do you have a motion you would like to make? Councilman Henke stated I do but I think it should come when the rest of the council gets the full packet so you can understand what we have been given and what I have been given, I'm letting you know that I have it and it will be coming to you.

Councilman Dawson stated having said that, could we wait until the 25th until we all have what you have? Councilman Henke stated I think that will be good.

Councilman Dawson returned the discussion back to the council and Councilman Bullard stated as far as this ordinance for the salary, the proposal of the merit base is pretty arbitrary and even leans to be political and I think some of the cities throughout the state have tried this and have gone back to a flat rate raise so there has really been no previous thing to look at to see how we are doing it. To the City Council, I think we need to see what the review looks like and what the final review is, so at this time it is hard for me to support the merit base system without actually knowing what we are looking at. I have to approve it with knowing the numbers in front of us.

Councilman Fish stated I am hearing some confusing points on this end and I have talked to the Mayor and I am very convinced that this is the message that the Mayor is asking us to pass and I was at a meeting with you and he was explaining that last year and we all were shaking our heads saying yeah, I got it and I did get it. I'm not sure what the confusion is here. We are talking about a system that the Mayor would like to implement and if he falls flat on his face, it's the Mayor, we are just going to try to help him move along and implement a system that I think is going to work for him.

Councilman Bullard stated you are absolutely right, in the fact that we had a meeting last year and we didn't pass the plus 2% in the last year budget and we were told that were going to have it come back to us in June or July and that did not happen so it is just being spread out and

delayed. We don't have an HR, the HR Director was in favor of this, and that's who was leading our little committee discussion at the time. So yeah that conversation happened last year and here it is, we are now talking about it. So I would like to slow down a bit and get some facts in front of us and review because we have the responsibility to see what that looks like, before we vote on something like that.

At 6:39 p.m., Councilman Mishler joined the meeting.

There being no further council discussion, Councilman Dawson called for the vote on the recommendation. The clerk clarified for the council that the motion was for a do pass recommendation. The vote was as follows: Ayes: Mishler, Curry, Fish, and Hines. Nays: Bullard, Thomas, Baughman, Henke, and Dawson. **The motion failed** 4-5.

Councilman Dawson asked for another motion. Councilwoman Hines, seconded by Councilman Mishler, **moved to give a no recommendation to the full council.** The vote was as follows: Ayes: Bullard, Thomas, Mishler, Hines, Baughman, Henke and Dawson. Nays: Curry, and Fish. **The motion carried,** 7-2, and **a no recommendation was given to the full council for Proposed Ordinance 21-O-62.**

At 6:42 p.m. Councilman Dawson **adjourned the meeting.**

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Arvis Dawson
Finance Committee Chairman

MINUTES OF THE REGULAR COMMON COUNCIL MEETING OF OCTOBER 18, 2021

Present: Council President Brent Curry
Council Members Kevin Bullard, Brian Thomas, Aaron Mishler, Arvis Dawson, Dwight Fish, Tonda Hines Megan Baughman and David Henke

Absent: None.

This meeting was made available to the public electronically through WebEx and live-streamed on Facebook. All Council Members were present in Council Chambers.

President Curry called the meeting to order at 7:00 p.m. in the Council Chambers at City Hall, 229 S. Second Street, in Elkhart.

Sammy from the Boy Scout Troop #747, led the assembly in the Pledge of Allegiance and President Curry asked for a moment of silent reflection.

The clerk called the roll.

Minutes for Approval

Minutes of August 24, 2021 Ad-Hoc Committee Meeting

Councilman Henke, seconded by Councilman Mishler, **moved to approve the minutes of the August 24, 2021 Ad-Hoc Committee meeting**, which **motion carried unanimously** by voice vote and **the minutes were approved**.

Presentations and Introductions

There were no presentations or introductions.

UNFINISHED BUSINESS

Reports of Council Committees

Councilman Dawson stated the Finance Committee of-the-Whole met on Monday, October 11th, **to discuss the proposed salary ordinances for elected officials, the Fire Department and the Police Department** and **gave do pass recommendations for all of them.**

Councilman Dawson stated the Finance Committee of-the-Whole met on right before the council meeting tonight **to discuss Proposed Ordinance 21-O-62 for the salaries of appointed officials and other city employees** and **gave a no recommendation to the full council**.

Ordinances on Second-Third Reading

President Curry stated the administration has provided a revised proposed ordinance 21-O-57-R, which is in front of you and asked for a motion to substitute. Councilman Fish, seconded by Councilman Mishler, **moved to substitute in its entirety, Proposed Ordinance 21-O-57 with proposed ordinance 21-O-57-R**, which **motion carried unanimously** by voice vote and **the ordinance was substituted.**

Proposed Ordinance 21-O-57-R

AN ORDINANCE APPROPRIATING ONE MILLION DOLLARS ($1,000,000.00) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE PROVISION OF GOVERNMENT SERVICES ACCOUNT FOR UPGRADES TO THE LERNER THEATRE HEATING, VENTILATION AND AIR CONDITIONING SYSTEM

The clerk read the revised proposed ordinance, 21-O-57-R, by title only. President Curry stated this needs to be tabled to November 1, 2021 to allow for a new legal publication to be published. Councilman Dawson, seconded by Councilman Fish, **moved to table the proposed ordinance until November 1st** and **the motion carried unanimously** by voice vote and **Proposed Ordinance 21-O-57-R was tabled.**

Ordinances and Resolutions Referred to Committees:

Proposed Ordinance 21-O-29

AN ORDINANCE ESTABLISHING THE RULES BY WHICH MEMBERS OF THE COMMON COUNCIL MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION

President Curry stated **proposed ordinance 21-O-29 remains in committee.**

Proposed Ordinance 21-O-37

AN ORDINANCE AMENDING § 153.75 OF THE CODE OF ORDINANCES OF THE CITY OF ELKHART, INDIANA TO ADD CIGAR BARS AS AN EXEMPTION TO THE PROHIBITION OF SMOKING IN PUBLIC PLACES AS PERMITTED UNDER INDIANA STATE LAW

President Curry stated **proposed ordinance 21-O-37 remains in committee.**

Proposed Ordinance 21-O-46

AN ORDINANCE APPROPRIATING FIVE HUNDRED THOUSAND AND 00\100 DOLLARS ($500,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE HOMEOWNER-OCCUPIED PROPERTY REHABILITATION PROGRAM

President Curry stated **proposed ordinance 21-O-46 remains in committee.**

Proposed Ordinance 21-O-47

AN ORDINANCE APPROPRIATING TWO MILLION SEVEN HUNDRED NINETY THOUSAND AND 00\100 DOLLARS ($2,790,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE WORKFORCE HOUSING INITIATIVES PROGRAM

President Curry stated **proposed ordinance 21-O-47 remains in committee.**

Proposed Ordinance 21-O-49

AN ORDINANCE APPROPRIATING THREE HUNDRED TWENTY-TWO THOUSAND THREE HUNDRED AND FIFTY DOLLARS ($322,350.00) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE ELKHART THRIVE NEIGHBORHOOD OPPORTUNITY HUB INITIATIVE

President Curry stated **proposed ordinance 21-O-49 remains in committee.**

Proposed Ordinance 21-O-50

AN ORDINANCE APPROPRIATING SEVENTY-FIVE HUNDRED THOUSAND AND 00\100 DOLLARS ($75,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE CREATION OF A SOUTH-CENTRAL NEIGHBORHOOD MASTER PLAN

President Curry stated **proposed ordinance 21-O-50 remains in committee.**

Proposed Ordinance 21-O-59

AN ORDINANCE FIXING THE ANNUAL SALARIES OF ELECTED OFFICIALS OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2022

The clerk read the proposed ordinance, 21-O-59, by title only. Councilman Dawson, seconded by Councilman Fish, **moved to table the proposed ordinance to the October 25, 2021 Special Call meeting**, which **motion carried unanimously** by voice vote and **the proposed ordinance was tabled.**

President Curry stated the administration submitted a revised proposed ordinance 21-O-60-R to you at the last committee meeting for substitution. Councilman Fish, seconded by Councilman Dawson, **moved to substitute Proposed Ordinance 21-O-60 with Proposed Ordinance 21-O-60-R**, which **motion carried unanimously**, by voice vote, and **the proposed ordinance was substituted.**

Proposed Ordinance 21-O-60-R

AN ORDINANCE ADOPTING A SCHEDULE OF SALARIES AND OTHER COMPENSATION FOR THE POLICE OFFICERS OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2022

The clerk read the proposed ordinance, 21-O-60-R, by title only. Councilman Dawson, seconded by Councilman Mishler, **moved to table the proposed ordinance to the October 25, 2021 Special Call meeting**, which **motion carried unanimously** by voice vote and **the proposed ordinance was tabled.**

Proposed Ordinance 21-O-61

AN ORDINANCE ADOPTING A SCHEDULE OF SALARIES AND OTHER COMPENSATION FOR THE FIRE DEPARTMENT OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2022

The clerk read the proposed ordinance, 21-O-61, by title only. Councilman Dawson, seconded by Councilman Fish, **moved to table the proposed ordinance to the October 25, 2021 Special Call meeting**, which **motion carried unanimously** by voice vote and **the proposed ordinance was tabled.**

Proposed Ordinance 21-O-62

AN ORDINANCE FIXING THE SALARIES AND WAGES FOR APPOINTED OFFICERS AND OTHER SALARIED EMPLOYEES OF THE CITY OF ELKHART, INDIANA, FOR THE YEAR 2022

The clerk read the proposed ordinance, 21-O-62, by title only. Councilman Dawson, seconded by Councilman Fish, **moved to table the proposed ordinance to the October 25,**

2021 Special Call meeting, which **motion carried unanimously** by voice vote and **the proposed ordinance was tabled.**

Tabled Ordinances and Resolutions

Proposed Ordinance 21-O-53

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE COMMONLY KNOWN AS 28227 COUNTY ROAD 26 ELKHART, IN 46517, AND DECLARING THE SAME TO BE A PART OF THE CITY OF ELKHART, INDIANA

The clerk read the proposed ordinance, 21-O-53, by title only. Councilman Dawson seconded by Councilman Mishler **moved to remove the proposed ordinance from the table. The motion carried unanimously** by voice vote and **the ordinance was removed from the table.**

President Curry opened the floor for public hearing. Crystal Welsh, Abonmarche Consultants, stated we are here if you have any questions. There being no other comments from the public, President Curry closed the public hearing.

Councilman Dawson, seconded by Councilwoman Hines, **moved to table the proposed ordinance to November 1st. The motion carried unanimously** and **the proposed ordinance was tabled.**

Proposed Ordinance 21-O-54

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE COMMONLY KNOWN AS SOUTHWEST CORNER OF SR 19 AND CHARLOTTE AVENUE, EAST OF CR 24, CONTIGUOUS TO CITY OF ELKHART, IN, AND DECLARING THE SAME TO BE A PART OF THE CITY OF ELKHART, INDIANA

The clerk read the proposed ordinance, 21-O-54, by title only. Councilman Mishler, seconded by Councilman Dawson, **moved to remove the proposed ordinance from the table. The motion carried unanimously** and **the proposed ordinance was removed from the table.**

President Curry opened the floor for public hearing. Ms. Welsh stated I am here as well on behalf of Hubbard Hill and Mr. Pingel is here as well if you have any questions. Councilman Fish stated things are going to take off right away I understand, they are going to start putting a shovel in the ground and building right away? Ms. Welsh stated the intention is actually to pull the foundation permit while it is still in the County so that by the time the annexation moves forward, during that 30-day period, they'll have the foundation in the ground but ready to pull the rest of the permits in the City limits. For the actual build up, we have had conversations with both the County and the City, it's going through technical review right now as well. I spoke with Henry Terrazas, the Building Commissioner about the fact just to keep everybody on the same

page we would provide a foundation plan at the same time it is being submitted to the county so they have the opportunity to review and make sure there's no differences in the way they review the code so that we don't have any concerns as it moves forward and it comes in the City fully compliant with all the City ordinances. Are the indications that they are going to approve most likely, things are going to move ahead, they don't have any problems at the county level? Ms. Welsh stated no, the County Commissioners have approved the DPUD, that was what established it, so it could move forward in the county during this annexation phase. We are in the process of preparing and submitting the secondary plat, which then gets recorded and will be the new legal description.

Councilman Henke stated this will be enveloped into the 501(c)(3) of the estate of Hubbard Hill? Ms. Welsh stated Hubbard Hill Estates owns the property. Councilman Henke stated the rest of my questioning would be for Mr. Pingel. Councilman Henke stated I congratulate you as tough as healthcare is right now and Hubbard Hill continues to move forward and go to places most of us don't go and I appreciate that greatly, so thank you for taking the leap Can you talk about capacity and the intergenerational mixing, who will this new building serve, how will they be selected, geographically, age category? Then the licensing, staffing, can you give an overview? Patrick Pingel, CEO of Hubbard Hill Estates, stated this is a unique opportunity in that it is an established program, that's a four star and they see an accredited program already, so we are inheriting, we don't have to go out and hire all new teachers, right now we have a commitment from this program that's existing in granger, Indiana, to transplant it. We are taking a high quality program, that's very mission and vision, align with Hubbard Hill and transplanting it to Elkhart. Since we are not in the business of education, we are in the business of intergenerational programming and so what that does for the community, it's a win win for the Elkhart Community, for Hubbard, the residents and families of Hubbard, the staff of Hubbard and employees and staff who would be able to use the program here. We are targeting about 150 kids and the intergenerational piece, that is what makes it unique and there's 270 of these programs nationwide out of about 16,000 health facilities and so it is not something that has really taking off at this point but it's one of the fastest growing segments and that's because of the recognition of the value of having intergenerational connection. If the pandemic didn't point that out to us, I don't know. The danger of isolation and what it does, especially in the aging process, when people are already isolated, so one of the best medicines for all human beings is human contact and it turns out that we already have a robust intergenerational program but to have the kids on campus and be able to interact in a routine daily way and to have them be a part of the kid's educational program. We have infant care, toddler care, all the way up through kindergarten and that is, as anyone who is in education understands, it's leading up to kindergarten is hugely important and to have created an accredited program is something that's unique to this area. As far as who are the targeted kids, anyone, we are wide open, we are not a school system or it's a private school. It will be under our 501(c)(3) nonprofit. Of course, our faith based lens, that will be an aspect of the curriculum and it's a wide scope curriculum that's established and used widely in education. We have a lot of consultants who have worked with us to make sure that it's a program that will be appealing to everyone.

Councilman Henke stated we have Mr. Mishler is also a healthcare professional and we have people that were from the educational system here and you are comingling and I just think it's phenomenal and I'm glad you are leading the way with this. So it is coming from Granger over to your campus, it will be run independent of you right? Mr. Pingel stated it will be an LLC

underneath our 501(c)(3). Councilman Henke stated this is very unique in the country in and of itself, so I was wondering would there be places, for example, teachers putting in their practical time and for teacher assistants to be right on that campus as well? Mr. Pingel stated we are designing it to be a teaching school and one of our consultants who currently runs Cass County School System early learning program has helped us with the design. So we studied best designs and one of them was a Grand Rapids School, that's a teaching school, so we actually have designed in locker areas and stuff like that. There are some schools where you have blind observational areas, we aren't going to do that or go to that extent, but we expect that it will be utilized by area educational teacher trainer programs and colleges. Councilman Henke stated but yet another generation that gets to interact amongst the others represented. Finally, because this is so unique, because this is on a professional campus, is someone going to keep statistics and audits to measure success? You know this is publishable and I was wondering if that would be yet another avenue to go. Mr. Pingel stated I appreciate that and you know, I haven't been down this road before and so we are in relationships with other programs to see how we want to approach that, but one of the consultants that I mentioned earlier is of that and is actually working on a doctorate in that area and wants to use this and they will continue to be on the advisory committee for the curriculum and to study those statistics. Right now they do maintain those type of statistics and it's a very successful school, they are equally excited to see the impact of the intergenerational piece. It is going to be a game changer for education and hopefully something that will benefit all of education and not just Elkhart and Hubbard Hill.

Councilman Mishler stated I used to work for Hubbard Hill back when I was going through RN school and I just want to compliment you guys on a wonderfully ran facility. Second, I just want to point out from a nursing perspective, having advancing an age, a lot of folks can lose their meaning when they retire and what they want to do and things like that, so offering an opportunity for residents such as living or other H related housing to participate in society and be active members of a community, the importance of that cannot be understated. I'm looking forward to seeing this play out.

Councilman Bullard stated seeing the scouts right here in the front row, it reminds me of when I was scout myself and we took a trip to Hubbard Hill to the front room to see the museum and boy what a long and successful transformation Hubbard Hill has done. So welcome and thank you.

There being no further comments from the public, Councilman Thomas, seconded by Councilman Dawson, **moved to table the proposed ordinance to November 1st. The motion carried** by voice vote and **the proposed ordinance was tabled**.

Proposed Ordinance 21-O-48

AN ORDINANCE APPROPRIATING NINE HUNDRED THOUSAND AND 00\100 DOLLARS ($900,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE ELKHART WEST BUSINESS PARK EXPANSION

President Curry stated **Proposed Ordinance 21-O-48 remains tabled.**

Proposed Ordinance 21-O-51

AN ORDINANCE ADOPTING THE CITY OF ELKHART, INDIANA'S 2022 BUDGET AND MAKING APPROPRIATIONS FOR DEPARTMENT BUDGETS AND FOR OTHER CITY PURPOSES DURING THE CALENDAR YEAR 2022

President Curry stated **Proposed Ordinance 21-O-51 remains tabled until the October 25th meeting.**

Proposed Ordinance 21-O-52

ORDINANCE OR RESOLUTION FOR APPROPRIATIONS AND TAX RATES

President Curry stated **Proposed Ordinance 21-O-52 remains tabled until the October 25th meeting.**

Proposed Resolution 21-R-61

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, TO RECOGNIZE A HOMELESS BILL OF RIGHTS

President Curry stated **proposed resolution 21-R-61 remains tabled.**

NEW BUSINESS

Ordinances on First Reading

Proposed Ordinance 21-O-63

AN ORDINANCE AMENDING THE ZONING MAP CREATED PURSUANT TO ORDINANCE NO. 4370, THE "ZONING ORDINANCE OF THE CITY OF ELKHART, INDIANA" AS AMENDED, TO REZONE THE VACANT LOT ADJACENT TO AND EAST OF 1440 SOUTH NAPPANEE STREET, ELKHART FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT

The clerk read the proposed ordinance, 21-O-63, by title only. President Curry **passed the proposed ordinance onto second reading.**

Proposed Ordinance 21-O-64

AN ORDINANCE APPROPRIATING TWO HUNDRED THOUSAND DOLLARS ($200,000.00) FROM THE GENERAL FUND TO MOTOR EQUIPMENT FUND FOR THE PURCHASE OF A YEAR-ROUND MULTI-FUNCTION UTILITY VEHICLE

The clerk read the proposed ordinance 21-O-64, by title only. President Curry **passed the proposed ordinance onto second reading.**

Resolutions

Resolution # R-65-21

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, CONFIRMING RESOLUTION NO. R-63-21, WHICH DECLARED A CERTAIN AREA IN THE CITY OF ELKHART TO BE AN ECONOMIC REVITALIZATION AREA FOR THE PURPOSE OF GRANTING TAX PHASE-IN BENEFITS TO TRIM-LOK, INC. \ 5400 BECK DRIVE-ELKHART, LLC

The clerk read the proposed resolution, 21-R-67, by title only. Councilman Dawson, seconded by Councilman Mishler, **moved to adopt the proposed resolution**. President Curry opened the floor for council discussion and there being none, President Curry opened the floor for public comment.

There being no comments from the public, President Curry returned the discussion back to the council and Councilman Bullard stated I understand that there is a traffic study that has been done in this vicinity with Beck Drive. Is there a way that the council could get a copy of that traffic study? Tory Irwin, City Engineer, stated we will certainly provide that to you. It is in draft form at the moment and the county asked us to go back and relook at some other options and that's what we are currently waiting on.

There being no further discussion from the council, President Curry called for the vote on the adoption of the resolution. The vote was as follows: Ayes: Bullard, Thomas, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried unanimously** and **the resolution was adopted**.

Resolution # R-66-21

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, TO APPROVE A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF ELKHART AND TRIM-LOK, INC. \ 5400 BECK DRIVE-ELKHART, LLC

The clerk read the proposed resolution, 21-R-68, by title only. Councilman Dawson, seconded by Councilman Fish, **moved to adopt the proposed resolution**. President Curry opened the floor for council discussion and there being no council discussion, President Curry

opened the floor for public discussion. There being no comments from the public, President Curry returned the discussion to the council. There being no discussion from the council, President Curry called for the vote on the adoption of the proposed resolution. The vote was as follows: Ayes: Bullard, Thomas, Mishler, Dawson, Fish, Hines, Baughman, Henke and Curry. Nays: None. **The motion carried unanimously** and **the resolution was adopted.**

Vacation Hearings

Alley Vacation Petition # 21-V-05

VACATING DAVID STREET IN THE CITY OF ELKHART, INDIANA

The clerk read the proposed alley vacation by title only. President Curry stated the clerk did receive a few objections and comments regarding utility easements for this vacation which are in front of you. At this time President Curry opened the floor for public hearing.

Terry Lang, Lang, Feeney & Associates, stated I am here representing the petitioner to vacate this portion of David Street. As I think the Council is aware, over the last year Jaylan Drive has been installed as the new roadway going into the hotel project up on the north side up there and David Street is the old street located about 200 feet south of the new drive and what we are looking to do is to vacate that portion. We own property on both sides of that and we understand that there are utilities in that right of way there and will continue to be allowed to be in that area, we have no objection to the utilities asking for easement in that area for what's currently there.

Councilman Henke stated part of the objections through the utilities, one is asking for a 30-foot easement, another a 20-foot easement, what are you comfortable with? Mr. Lang stated right now there is a sewer and water line that originally was for a 20-foot easement, these additional ones that have been asked for, your utility lines are usually not as, in the case of telephone or cable, normally don't require much space for maintenance as would a sewer line, or a water line and a lot of those are located within the same easement area, so we are more than happy to work with them on giving them the easement that they need for that. Councilman Henke stated the purpose of requesting this vacation? Mr. Lang stated the street is no longer there, it's been removed with the construction of the new road and owning the property on both sides of that makes it viable for development of those two pieces, they have been vacant for quite some time and this will allow for nothing more than a parking lot to go in on the parcels on either side of it.

There being no other discussion from the council or the public, President Curry closed the public hearing.

Other New Business

Councilman Dawson stated I don't know if they are still having the City County meetings or not, is that still happening? Mayor Roberson stated it's not happening in a formal way, but I've heard from commissioners that they are looking to reconstitute it. It was primarily done and really motivated by John Leatherman and since he retired there hasn't really been anyone else

that has stepped up to the plate to take the manual yet, but let's hope that that changes. Councilman Dawson stated and if necessary maybe we need to step up and do that because I'm getting a lot of questions about what the County government is doing and how they are doing it and how it's affecting us as a City since we are in the County. So we need to if, no one else, we need to initiate that so that we have a better understanding of why these decisions have been made and how they are being made, so we can explain to our constituency what's happening because the last few decisions that have been made by the County Commissioners, the County Council, have not favorited the City of Goshen, the City of Elkhart, Middlebury, they have not been favorable to us. So we need to have that type of dialogue to know what's going on, so Mayor, I would encourage you, if nothing else, to step up and say let's have this conversation. Mayor Roberson stated we have actually made a request of a couple of, not from the commissioners or the council, but we have spoken to a few of our contractors and relationships and said that we want to start to initiate this metropolitan conversation about who we are and what we do. It may not ride in some of the areas that you are mentioning but it sure is a good start. Councilman Dawson stated and we probably need to drive the agenda so it does address the areas that directly affect us.

President Curry stated that was on my agenda as well but I think it is something we all need to address because with my district being to the southern end of the city, it's right there by the county and there is a lot going on and a lot of stuff being done and there's a lot of questions about the City, what we can do, but when it's really not up to us to make those decisions so it would be good to have a discussion about what the taxpayers in the City are concerned about. So we look forward to setting that meeting up.

Councilman Thomas stated I have a question for Tory when he does come back, unless somebody can give me an update on the North Main project by Wellfield. Mayor Roberson stated we did talk about it at our last meeting and Tory indicated that we finally have received the part and we will renew or restart our construction and make sure that we are finished with our part, but directly following that the County is going to start work on that bridge and so there will still be some concern because the bridge will be replaced but our piece will be done prior to the end of this construction period. Councilman Thomas stated so there really is no end in sight if the County is going to replace the bridge? Mayor Roberson stated the County was going to replace the bridge anyways, that was part of the both phases, one the valve that we were putting in that took so long for us to get the part, but the county will then replace the bridge as they had intended to so yes, it is unfortunately going to be a further delay.

Councilman Fish stated I got a call just before this meeting about an abuse of a noise permit that was taken out and I'm going to need clarification on how they are issued and also I will be talking to the Police Chief about their procedure on following up. This fellow said it was a violation of that noise ordinance and I think, Bradley, you and I can chat about it and I will include the Police Chief but this was a hair raising story and if we are giving noise permits to have parties and they abuse it, and the people snub their nose at the neighbors who are really offended by the outward gestures, then we've got a failing system, so we have to make sure that everybody is on board.

Councilman Henke stated I also wanted an update on Riverside Drive that has been partially resurfaced, not finished, didn't know if there was hang up there yet or not? I hit one of

the manhole covers. I would also like information to follow the trends on the 311 system to find out if we are utilizing it as much as when it was new. The concern would be no change, no progress, the follow through, we assign it to people but department heads or whomever but does that mean we are done with and we just expect the change, how does it tell us that the issue was resolved to best of our abilities? Finally, I think personal audit, self-audit is a big deal, communication is even a bigger deal, so when we, and myself in this particular case, find that you have made an error, I would like to acknowledge what to do better to not do it again and the one thing that came after some discussion tonight with people is that when we were asked for a pretty significant dollar value on a particular item, that was said to need to be replaced, it was said that none of us, council members, asked for the bid. I called about 30 minutes before the meeting and was told there was no RFP at this time, but there was another DLZ paper to acknowledge to gain access to and I'm just reminding myself and hopefully all of us that when these big items come up, we need to ask for the proof, we need to ask for the papers to solidify what it is being requested. We should not, as the public's representatives, take for granted the conversations here, regardless of the relationships. We talk about our disconnect of county government and I felt on this particular item, a disconnect with our constituents, those that were heavily involved in the project felt slighted because none were called as professionals that put this project together, the Lerner. None of us called them, and I am at fault because I did not call either and they should have been included. So I am just asking us, especially when we are going into a $92 Million Dollar budget, we should have been more purposeful in our efforts to see the information and to validate before voting.

Councilman Mishler stated first I want to commend our Parks Department for the retreat as well as the continued musical performances at McNaughton and throughout the City, I think our Parks Department has done an exemplary job and I commend them and hope that we can see some more of that. Second, I just want to commend our police department for apprehending the fellow who is taking catalytic converters. I know that was a big issue in the news and while I commend them for that I do have to question the high speed pursuit policy that led to that. High speed pursuits can be dangerous; they can damage private property as well as put people at risk so I just want to make sure that if there is a pursuit that it's well warranted. Also, I just want to commend the journalists we have here with us, Mr. Rasmus, this is his last night with us, so I just want to commend him for his hard work and diligence at the Elkhart Truth.

Mr. Tracy stated Councilman Thomas, Tory is on the phone if you still have a question for him. Councilman Thomas asked for an update on North Main Street bridge. Mr. Irwin stated the North Main Street water main replacement was restarted at the beginning of this month, the valve came in. They are going to be done before the end of construction season and I think right now, we are probably on target for the middle of November if the weather cooperates and the road will be reopened. Now, next year, the County is planning on replacing the bridge over Christiana Creek there, which was the motivating factor for us to get this water main relocation so there will be more construction to come out that but for the winter, it will be reopened at least.

Mayor Roberson stated there was an additional question about Riverside Drive. The question is the repaving of Riverside Drive, is there an update there? Mr. Irwin stated that is a Mike Szucs question, I know it is on the pavement schedule and will be done before the asphalt plants close. I believe he is going to be done, if not this week, because fall leaf pick up begins, so it should be done very soon if it's not already. Mayor Roberson stated we will also get you an

answer regarding the concern with 311.

Councilman Henke stated that Riverside Drive, when it first came up under Mike Machlan, the prints that came out were to close off, or change that lateral coming off of Liberty Street and so they were going to clean up that intersection. I don't see that in the works, unless that is yet to happen. Mr. Irwin stated the Street Department strictly did a resurfacing, we are looking at options to address the strange geometry there at Riverside and to see if we can come up with another solution to that geometry. Councilman Henke stated did we not have a traffic revision 18 to 24 months ago? I still have it, that shows that change, I just thought this was part of that before the resurfacing otherwise it looks as though we are resurfacing and then are going to open it again. I just wondered if this is part of the whole or if this is temporary repaving? Mr. Irwin stated no this is just a resurfacing; it was not a reconstruction or realignment. I will be honest, I do not know what you are referring to as far as what Mike would have drawn up, but I can certainly find that information. Councilman Henke stated I own several properties in that area and I received several letters asking if I disapproved of the layout, which of course I did not. Mr. Irwin stated we planned out a water main project in that area that has not taken place yet. I don't know if you referring to that or it is something else that I will need to do more research on, but we will find that and get an answer for you.

Councilman Bullard stated longer ago, this year, we appropriated $1.1 Million to resurface the major North South thoroughfare and I'm talking about County Road 17, they started last Sunday evening with putting the barrels out and grinding. Niblock has been doing a great job, they have been working evenings, and it's moving on. All they have to do now is the two outside berms and then it is just a matter of striping and all of that I would guess that they would be opened by the weekend. They can't start early in the mornings because it's below 50 degrees but Niblock has done a good job to get that major thoroughfare up and running and it's good.

Reports of the Mayor, Board of Works, Board of Safety or City Department Heads

Mayor Roberson stated I want to make sure we speak to the situation at the Lerner and I know it's coming up November 1st, when we go for second reading, but I want to make sure that we are clear up the process so you can understand where we were before we go to it being nefarious for what occurred or the lack of asking for information, whether it's the council or from us to make sure we let you know how exactly the process unfolded.

Corrine Straight, Director of Communications and Quality of Place, stated I can speak to the process at the Lerner. When we started having problems with the air conditioning, not being an HVAC expert, and not HVAC experts for a building that size on staff, we reached out to outside companies, DLZ being one of the them, to do that analysis for us. I can assure you Councilman Henke that the Lerner staff was heavily involved from the very first day, both the General Manager and the Technical Director were along with us, every step of the way. DLZ came in, gave us an estimate, that estimate, through the City Engineer, Tory Irwin, who's also on the phone and can speak a little bit more to the nitty gritty pieces of that process, is what informed our appropriation to the council. I think what we spoke about it earlier, what Tori was speaking about earlier about what Councilman Thomas was talking about, with the huge delay that we experienced in that part for North Main, is applicable to this situation as well because

this appropriation was up to One Million Dollars, not One Million Dollars but up to, and that estimation was to give us the flexibility necessary to pay for parts, shipping, labor and account for inflation. All of the estimates that we are getting in on projects are coming in quite high because the market is very vulnerable right now. We don't know how long shipping is going to take, we don't know how much the parts are going to cost and then once they get here, which could be six to seven months from now, we don't know what the labor is going to look like either. So that is why the appropriation, based on the estimate from DLZ is up to One Million, was put in front of you, to give us that flexibility to do that work. I can toss it over to Tory, if you want to talk a little bit about that process.

Mr. Irwin stated the breaking of the Lerner's HVAC system was up on the emergency lists, so we had to move fast to get an estimate from experts that do these types of projects and not anyone who we have on staff. So DLZ quickly gave us a ballpark estimate on what it would cost to replace this system and that's what we brought to the council. Corrine did not come up with this number, I did not come up with this number. It was straight from DLZ. We have asked them for a more detailed breakdown based on the conversation tonight and we will provide that to you as soon as we have that, which I am anticipating by Wednesday. No one on staff has the expertise to design or estimate the cost to replace this type of system. Councilman Henke stated the unfortunate part is that the people that were part of the original planning, and they were professionals in their own right, number one disagreed with the premise that these were put in undersized, there was a comment that maybe they tried to save dollars and we know that's not a fact and I spoke to that that night. There was no expense held back on that particular project. Ms. Straight stated that was not something that we said either, that was something, and I think that's another really important piece of clarification, is when the Lerner was built, 10 or 11 years ago, for a certain capacity of people, it's actually good news that we have surpassed that capacity, we are seeing higher attendance, not in 2020, but in each subsequent year, after the restoration of the theatre, more rentals of the crystal ballroom, more attendants, and that is the strain on the system that DLZ spoke to. They spoke to the traffic, it didn't mean at that time, corners were cut or money was saved, it meant for the current needs and current capacity of the theatre, these units that were put in are no longer serving that need. That's where that information came from, from DLZ. That was not something that came from us and that was one piece of the puzzle of how these units could have failed in the manner that they did and in the timeline that they did, they may have been strained, the temperature may have been changed, because of overcapacity, or increased capacity in the lobby, increased attendance, none of that spoke to mistakes that were made in the beginning.

At 7:54 pm, Councilman Dawson left the meeting and council chambers.

Mayor Roberson made a statement from his seat which was not audible on the recording.

Ms. Straight stated that's some of what Tory spoke to as well of the emergency nature of this. It was an emergency need that we needed to get the air conditioning replaced and because we are looking at a 26-week timeframe from when we are able to order it to maybe when we will get the equipment to then several weeks after that for equipment to be installed, we are already looking at next summer. So that was the urgency that drove this appropriation request. Councilman Henke stated the other side to that story is we had an original amount of $30,000.00 that was spoken to by DLZ. President Curry stated that was for repairs. Ms. Straight stated that

was just for a fairly minor repair on one unit. Councilman Henke stated $30,000.00 for one unit was also given to Dan Cripe verbally as well. President Curry stated we have been over this before and attempted to pass the floor to Councilman Bullard.

Councilman Henke stated we can get over it tonight for a million dollars and just pass it off or we can learn to understand what's going on here and have a better communication going forward. Ms. Straight stated we are happy to provide that information like Tory said to get a more detailed breakdown of that estimate they gave us. Mr. Irwin stated the report that we generated for our request to try to assess the current use of that system and current condition of the system, and try to plan for a spread out replacement over the number of years and then we had two more units failed which kind of made this situation even more of an emergency. When we asked DLZ to look at the system, we had known that some of the AC units were not working correctly and we had intended to try and spread out that capital cost over a number of years and not have it hit at once and so that was the intent of the original study that DLZ did.

Councilman Mishler made a point of order on tabled items and following discussion President Curry asked if there were any other departments to report.

Mayor Roberson stated in addition to the previous conversation, we will also be detailed about the Quality of Place Director, her roles and pertinence to the budget as well as to the salary ordinance and as you can see Corrine has a very strong handle on what goes on in these Quality of Place departments and will ensure that that is a part of your explanation headed into next Monday, whether you support it or not, you need to have a good understanding of what you are actually voting on and that's a part of what we will deliver. As it relates to 311 you should be receiving update regarding each of your districts, for you at large members, you should receive them as it relates to the entire City, and that is something that is and should be geo fenced and the capabilities of that system is pretty broad and we should be able to receive those.

Jamison Czarnecki, Superintendent of the Parks Department, stated I really want to commend the staff over the past couple of weekends, we have done a lot events now that summer is over. I wanted to give a commending thank you to the students at the Academy for Elkhart Community Schools, they came out and helped us clean up High Dive Park and we cleaned up a lot of honeysuckle, they worked on their forestry skills with the Buildings and Ground Department and it was a very successful day and I was excited for that. Upcoming this weekend is the Pinewood Haunted Walk, it is 5:00 p.m. to 8:00 p.m. and it will be a not so spooky walk and a lot of blowups supported by the Elkhart Fire Department and police and I just want to make that known to those who are listening and I hope that you will help spread the word for us.

Dayna Bennett, Director of Development Services, stated there was an article recently in the Elkhart Truth related to Concord Mall and I know that's raised a lot of concern among citizens and I'm sure you also. We are working to come up with solutions in partnership with our contacts there. I can't share the details but we are working to try to come up with solutions for the best and highest use of that space.

Mr. Irwin stated I have a report from Mike Szucs, Riverside will be open tomorrow.

Neighborhood Association Reports

President Curry stated I would like to report for the Pierre Moran Neighborhood Association, just to say that we were all invited to go to a neighborhood cleanup outside of our neighborhood district, we joined the Southside Neighborhood Association on Saturday to do a neighborhood cleanup and it was good. A lot people were there, Councilman Fish was there, Jamison was there, Henry with Code Enforcement was there, the Mayor was there. We all met there and met some good people and we met a guy named Les who has been in Elkhart 11 years, he was a retired construction guy, and he said how much he loves Elkhart. It was just a good event and to join Rick Newbill and their neighborhood association, Southside, and we met at the church and people prepared food and we did some cleanup and will do some more in the future. It was just a good time and I appreciate everybody that did show up.

Councilman Fish stated I am just happy to be a part of it and there are a lot of good people out there who love their community and they sure showed it on Saturday.

Mayor Roberson stated that was a part of an initiative called Taking it to the Streets and we worked with South Side Builders on that. That was the second one this year and we will come back in the Spring using a more concentrated effort to diagnose and see problems and concerns, bring neighbors together, make sure that we have a way in which we monitor and maintain a neighborhood a little differently than just block by block or issue by issue. So coordinated through our 311 effort, we are able to do that as well.

Privilege of the Floor

There were no comments during privilege of the floor.

Scheduling of Committee Meetings

President Curry stated the council will meet next Monday, October 25th we will have a special call meeting to adopt the proposed budget for the City of Elkhart for 2022. President Curry stated that meeting will start at 6:30 p.m.

Councilman Mishler stated this Thursday at 6:30p.m. will be the Public Health and Safety Committee of-the-Whole meeting to go over the proposed cigar bar ordinance.

The clerk stated that the administration would like to schedule a Special Call meeting for this Thursday at 6:00 p.m. and it will be held in executive session. You will get a notice tomorrow.

Acceptance of Communications

Minutes of August 25, 2021 Board of Aviation Commissioners Meeting
Minutes of September 3, 2021 Board of Public Safety Special Call Meeting
Minutes of September 14, 2021 Board of Public Safety Meeting
Minutes of September 28, 2021 Board of Public Safety Meeting
Minutes of October 4, 2021 Board of Public Safety Meeting
Minutes of September 21, 2021 Board of Public Works Meeting
Minutes of September 7, 2021 Plan Commission Meeting

Councilman Fish, seconded by Councilman Mishler, **moved to accept communications**, which **motion carried unanimously**, by voice vote, and **the communications were accepted.**

Adjournment

Councilman Fish, seconded by Councilman Mishler, **moved for adjournment**, which **motion carried unanimously**, by voice vote, and **the meeting was adjourned.**

Debra D. Barrett, City Clerk

H. Brent Curry,
President of the Elkhart City Council

DRAFT

MEMORANDUM OF OCTOBER 21, 2021 SPECIAL MEETING OF THE COMMON COUNCIL IN EXECUTIVE SESSION

Present: Council President Brent Curry
Council Members Kevin Bullard, Brian Thomas, Arvis Dawson *(arrived late)*, Dwight Fish, Megan Baughman, and David Henke

Absent: Council Members Aaron Mishler and Tonda Hines

Also Present: Rod Roberson, Mayor
John Espar, Corporation Counsel
Tory Irwin, City Engineer
Kris Seymore, Chief, Elkhart Police Department
Dan McCloskey, Structure Point
Mike Hoopingarner, Structure Point
Jim Hines, I.T. Technician
Traci Adams, Deputy Clerk of the Council

The Common Council of the City of Elkhart, Indiana met in a special call executive session on October 21, 2021, in the Council Chambers in the Municipal Building, 229 S. Second Street, Elkhart, Indiana, to discuss matters pursuant to Indiana Code Sections 5-14-1.5-6.1(b)(2)(D). This meeting was made available for remote participation for council members only, and was not live-steamed on WebEx or Facebook for public viewing nor recorded. Councilman David Henke was present remotely via telephone.

The meeting was called to order by Council President Brent Curry at 6:00 p.m.

The clerk read the Special Call in its entirety:

CITY OF ELKHART, INDIANA

October 19, 2021

TO: The City Clerk and Members of the Common Council of the City of Elkhart, Indiana

Ladies and Gentlemen:

You are hereby notified that in accordance with the powers vested in me by the Statutes of the State of Indiana, and the Ordinances of the City of Elkhart, Indiana, I hereby call a Special Meeting of the Common Council in Executive Session to be held in the Municipal Building, in

the Council Chambers on the 2nd floor, 229 S. Second Street, Elkhart, Indiana, on **Thursday, the 21st day of October, 2021, at 6:00 p.m.**

The purpose of said meeting will be to discuss a real property transaction. **Pursuant to Indiana Code Section 5-14-1.5-6.1(b)(2)(D), this meeting will be held in Executive Session (closed to the public).**

The City Clerk is hereby ordered to prepare and cause to be served on each council member a certified copy of the SPECIAL CALL in accordance with the law.

/s/ Rod Roberson
Mayor of the City of Elkhart, Indiana

ATTEST:

/s/ Debra D. Barrett
City Clerk

No other subject matters were discussed, and no votes were taken.

Councilman Dawson joined the meeting at 6:26 p.m.

At 6:28 p.m., upon the motion of Councilman Dawson, seconded by Councilman Fish and **carried unanimously** by voice vote, the **meeting was adjourned**.

Debra D. Barrett
City Clerk

H. Brent Curry
City Council President

DRAFT

MINUTES OF THE PUBLIC HEALTH & SAFETY COMMITTEE OF-THE-WHOLE MEETING OF OCTOBER 21, 2021

Present: Public Health & Safety Committee Chairman Aaron Mishler *(arrived late)*
Public Health & Safety Committee Members Kevin Bullard and Brent Curry
Other Council Members present: Brian Thomas, Arvis Dawson, Dwight Fish, Megan Baughman and David Henke

Absent: Council Member Tonda Hines

Councilman Bullard, who chaired this meeting of the Public Health & Safety of-the-Whole Committee called the meeting to order at 6:30 p.m. in the Council Chambers at City Hall, 229 S. Second Street, Elkhart, Indiana. This meeting was made available to the public via WebEx and was live-streamed on Facebook. Council Members Kevin Bullard, Brian Thomas, Brent Curry, Arvis Dawson, Dwight Fish, Megan Baughman, and David Henke were present in Council Chambers. Councilman Aaron Mishler was presently remotely.

The clerk called the roll.

Councilman Bullard said this evening the Public Health & Safety Committee of-the-Whole will discuss:

Proposed Ordinance 21-O-37

AN ORDINANCE AMENDING § 153.75 OF THE CODE OF ORDINANCES OF THE CITY OF ELKHART, INDIANA TO ADD CIGAR BARS AS AN EXEMPTION TO THE PROHIBITION OF SMOKING IN PUBLIC PLACES AS PERMITTED UNDER INDIANA STATE LAW

The clerk read the proposed ordinance 21-O-37, by title only. Councilman Bullard opened the floor for council discussion and there being no council discussion, Councilman Bullard opened the floor for public hearing. Councilman Bullard asked that first, anyone that is in favor of the ordinance, please come forward.

Jack Flock, community member, stated speaking in favor of the ordinance because this is a very important issue and interesting. This week in the Wall Street Journal, Elkhart made national news, very positive article talking about the housing index and Elkhart rising to the top and I think it's important to recognize that it talked about housing markets and lifestyle amenities. The index rates different cities in their metro areas with buyers seeking appreciating house market values and appealing lifestyle amenities, more shopping interest from shoppers outside their metro areas. I think this change in the ordinance, in addition to synching up with the State, so you don't have businesses as confused going municipality to municipality on what the rules are. This gives Elkhart an opportunity to bring to the market something that would attract people from outside of the Elkhart area, downtown area and bring people downtown, give people

something to do before and after dinner and after shows at the Lerner, etc. I find it interesting too that some folks associated with the City and the Mayor, took a little field trip to Greenville, South Carolina recently to try and understand what they are doing to revitalize their downtown and a quick google search for Greenville, South Carolina, cigar bars you will find the Cigar Experience Lounge and the Outman Cigar and Martini Bar and the Boda Cigar Lounge and the Cigar Box, and on and on. I think it is also important to recognize what a cigar bar or what that opportunity brings and what it does not bring. Again, by state law it is 21 and over only, there will not be anyone 18, 19, or 20 years old allowed in the establishment should it exist. You cannot consume cigarettes in a cigar bar that is illegal. There will not be any more opportunity for minors or those under the age of 21 to smoke or buy a cigarette as there is today. There is no vaping, there is no menthol cigarettes, I saw on the news this week, Elkhart was in the news because of the concern around children and tobacco and cigarettes specifically, that's not an option. I think it boils down to a choice to give people the opportunity and the freedom to try to choose what they want to do as adults. Last time, one of the councilmen mentioned the slippery slope and I think that goes both ways into what do we tell the individual, what freedom do we take away from them to exercise their free right to take something that they can purchase anywhere in the City. It's not like you can't buy cigars anywhere in town, in the county. This is just an opportunity to smoke those in environment that's going to be relaxing, inviting, and again give something in downtown Elkhart that doesn't exist, that does exist just next door in Mishawaka and it would be a very good opportunity to keep folks engaged in spending their dollars in the Elkhart Community.

There being no one else to speak in favor of the ordinance, Councilman Bullard opened the floor to those who are opposed to the ordinance.

Adrienne Thomas, 523 Laurel Street, stated I want to clarify a couple of things, the current ordinance stated and defined smoking as the inhaling, burning, or carrying or any lighted cigar, cigarette, pipe, or other combustible tobacco product in any manner or in any form. At the last council meeting I know there was a little bit of confusion and it seems some associate that we were talking about the dangers of cigarettes specifically but we were talking about smoking in general in regards to our current ordinance and the definition of our ordinance. The Center for Disease Control defines cigars as a roll of tobacco wrapped in a leaf tobacco, or in a substance that contains tobacco. Cigars differ from cigarettes in that cigars are a roll of tobacco wrapped in paper or a substance that does not contain tobacco. When I go out into the community specifically educating our young people, I emphasize that no matter the device of delivery, tobacco nicotine is unsafe and puts the user and anyone around it at risk. Cigars are not safe; they are not a safe alternative to cigarettes. So smoke filled environments have been proven to have a negative economic impact, we know there are other ways to improve our economy without exposing our residents, workers, visitors, to a substance that causes known negative health outcomes. We are living in a time where businesses and communities are working harder and together to protect their workers and residents by strengthening laws, not weakening them. As mentioned at the previous meeting, I am a city resident and I do live three doors down from the crazy intersection that you, Mr. Henke, were talking about, at Laurel Street and Riverside there. I do appreciate the finished road there, I love living in the City of Elkhart, I am proud of living here. I have said this before, I'm excited about attracting new businesses, professionals, and families, to our community but this is not the way to do it.

At this time, we experienced some technical difficulties in Council Chambers and nothing could be heard on the recording.

Danielle Patterson, team lead for American Heart Association, out of Indianapolis, Indiana, stated I'm here tonight to testify on behalf of the American Heart Association and our advocates in Elkhart, Indiana. I remember when the initial smoke free ordinance was passed, we worked on it really hard with local coalition and partners. We celebrated the fact that it was one of the strongest ordinances at that time in the state and we always talked about how Elkhart really blazed the trail for smoke free air across Indiana and now we have other smoke free communities like Indianapolis, South Bend, Hancock County, just to name a few. Once the smoke free ordinance is passed, citizens, businesses, elected officials, they really love it and it's something that you build upon, especially when you talk about Elkhart rising to the top in terms of housing, when you want to build your community, people want to move into smoke free communities. They don't come in and say well do you allow smoking? No, they want to know that the community is healthy, that you are doing everything you can to do to reduce healthcare costs and you are protecting your workers and so I would encourage you not to weaken a smoke free ordinance. What we have seen is, when there is an attempt, even just to address the cigar bars exemption or attempt to address outdoor spaces, you're going to open it up to other attempts to weaken your ordinance and you don't to do that. Again, Elkhart was one of the cities that blazed the trail for the State of Indiana and on behalf of the American Heart Association, and our supporters, we encourage you not to weaken your smoke free ordinance.

Tara Morris, 923 Dearborn Street, stated as I move forward in my comments and not to just reiterate what we actually shared before, but just to remind you that, that we, as Danielle said, we have a comprehensive smoke free air law that was passed in 2008 by the City Common Council, which is working very well, so opening this law to exempt cigar bars spits in the face of the work that has been done to pass that law. On top of that, this issue came from a small group of individuals pushing this proposed amendment, 21-O-37, exempting a cigar bar which creates a place for opening Pandora's box, while other bars are still required to comply with the law. This is not what the citizens of Elkhart want, this is not what the City Council does. This did not come from your residents whom you all represent at this present time. One of the things that I like about the local ordinance being in place is that it treats everyone the same across the board. We can't back down when someone wants an exemption. So the Elkhart Common Council should take the opportunity to stand by your local law and keep it fair for all businesses. As Dick Moore stated when he was in reign, it's all about health and wellness for all our workplaces and our workers. I say please view this as not opening that Pandora's box.

Taylor Williams, American Lung Association, presented on WebEx and stated I worked closely with Elkhart County Public Health Department and Elkhart Minority Health Coalition since this ordinance was proposed to help defend Elkhart's effective smoke free air law. Protecting workers from second hand smoke is a big part of our work here in Indiana, we get calls from average community members all the time of people who are affected by secondhand smoke asking if there's anything we can do to help. I see these issues around the state and you must understand that Indiana has among the highest smoking rates in the country. The ways we can lower those rates and make a healthier state for all Hoosiers is by having public health officials, local advocates, and elected officials work together to do what is in the best interest of their community's health. Strong smoke free air laws like the one currently in effect in Elkhart

are evidence based best practice when it comes to public health policy, they are proven to lower smoking rates, improve smoking cessation success rates, and for those who choose to smoke, they actually smoke less. That's why we joined with our partners at the American Heart Association and American Cancer Society, Cancer Action Network, to oppose this ordinance. Some people might have a misperception of the harms posed by cigars for the companies have marked these products as luxury items distinct from other tobacco products like cigarettes, however cigar smoke has higher levels of cancer causing substances and toxins and more tar than cigarettes. When lit, cigars release fine particles that can cause heart and lung disease just as well. They also take longer to smoke resulting in higher exposure to toxins. The current law is written for the whole community, the vast majority, over 80% of Elkhart residents, do not smoke, and even for the people who choose to smoke, the law says they have to in a way that reduces the harm to other people by going outdoors. Creating new special exemptions and loopholes for certain businesses in this law would eliminate the fair level playing field that was designed in the existing law. A fair and level playing field is key to an effective smoke free air law. The American Lung Association and our partners are all untied in the goal of reducing smoking rates in Elkhart County and across the entire state. We have made a lot of progress reducing smoking rates in the recent past. The danger of ordinances, like the one before you today, is that we risk losing the progress we have made. Cigars are a significant risk factor for youth tobacco use and according to data from the Indiana Department of Health, 20% of high school students have used cigars. This ordinance is not in the interest of public health and it sends the wrong message for youth. We urged the council to defeat the ordinance.

Dr. Bethany Wait, Elkhart County Health Officer, gave a presentation to the council. Dr. Wait stated the one thing I think is important to address and I have heard multiple others address tonight, is that cigarettes and cigars are the same thing and so giving an exemption to cigars really means that you should give exemptions to cigarettes as well. We know that cigars carry more tar than regular cigarettes do and we know that the importance of smoke free laws help smokers quit and they help to reduce tobacco use, we know that that youth in areas where there are smoke free laws will be less likely to start smoking and we also know that if we increase the adoption of voluntary smoke free laws, we see that homes in our community have less smoke in them as well so our children are not exposed to that high level of cigarette smoke. There is an economic cost to new businesses, I do understand that, but there is an economic cost to health of our Hoosiers. In 2011, the American Cancer Society did a study on 27 states within the United States that do not have smoke free tobacco laws and ones that do. They compared each to look at what the actual cost of smoke was to our society and this cost to not only smokers but as nonsmokers. Adults who would quit smoking would be around 63 or 65,000 individuals if we had smoke free laws. We know that youth, 27,000, would not start smoking. We know that we would reduce deaths by 40,000 and we would reduce overall tobacco related deaths by 4,500 and then when we look at the actual cost of what tobacco will do, we know that we will save, for lung cancer treatment, over $19 Million Dollars, for heart attacks, $54 Million, for state Medicaid programs, we would reduce our Medicaid by $1.29 Million, and for what I find most important for the health department and the disparities that we see in particular in 46516 which is a 10% infant mortality rate that we would dramatically improve our smoking related pregnancy treatment savings and that's about Ten Million Dollars throughout the State of Indiana. Just the cost to employers, and this is the City as well, each employee that smokes within your business does cost you productivity for different reasons, one, work days missed, effective work days, because you are ill from a cold or coughing, smoking breaks and excessive care that healthcare

costs. An employee that smokes will cost any employer about $5,800.00 more than a nonsmoker. So this goes for the City of Elkhart as well. I want everybody to consider the progress that Elkhart County has actually made since 2007. Brandy Paul is our epidemiologist, at the state level and we asked her to pull data for mortality rate or deaths related to lung disease, cardiovascular disease and heart attacks in 2007 and compare them to our most recent statistics in 2019 and since Elkhart has passed a variety of smoke free laws we have seen a clear reduction in lung cancer deaths, cardiovascular disease and heart attacks, and the nuance of lung cancer as well. Finally, the biggest thing that when we add cigar bar exemptions, we undermine our smoke free laws and we know that they are proven and effective public health strategies so I will ask you to turn down the exemption.

Mark Potuck, Tobacco Treatment Specialist at Goshen Hospital, stated the statistics that Dr. Wait just referred to, I see them every day and I have been doing that for the last eight years. I'm 77 and the reason I am still working full time at the hospital is that I lost my mother and my father very prematurely as a result of tobacco use and one thing I really wanted to point out and I pointed this out back in 2008, a lot of the bar owners were saying that it did not matter that there was smoke in their environment because everybody smoked and that is absolutely not true. If someone is a smoker and they are also exposed for eight to ten hours a day to secondhand smoke, I have always said, that's like a double triple whammy and I truly believe that my father is great example of this. Not only was my father a smoker, but he spent many hours in bars, both as a bar tender and as a customer. I truly believe that his exposure to second hand smoke while being in bars, coupled with the fact that he was a smoker, accelerated in the deterioration of his body and he ended up dying of throat cancer. I think it is very erroneous to think that people that work in an environment where there is smoking allowed, that they, in some sense are not going to harm additional people, because they will. So I obviously am in very much favor of maintaining the ordinance the way it is.

Lydia Spencer, 1412 Avalon Street, stated I want to speak in opposition to the cigar bar. I feel this would make us regress and the idea of health and wellness in our current generations and our future generations.

Katie Campbell, 523 Laurel Street, stated I don't think the cigar bar would be a good idea because by allowing the cigar bars, we are creating more opportunities for people to use tobacco products and we know that the cigar bars have negative impacts on workers and customers by allowing them to use the tobacco products. One large cigar can contain as much tobacco as one pack of cigarettes. Smoking and tobacco is actually our current topic in health class right now and we are learning about the health risks and dangers of smoking and tobacco. Some of these risks include getting cancer for your mouth and lungs. Cigar smokers have a higher risk of getting these cancers and it is dangerous. At school, I see kids every day that think smoking is cool and I shake my head in disbelief knowing that it's dangerous and they are putting toxic stuff in their lungs. This is why I think that the cigar bar is not a good idea to have in our community.

There being no other comments from the public, Councilman Bullard returned the discussion back to the council.

At 6:26 p.m. Councilman Thomas left the meeting and council chambers.

Councilman Dawson stated the only comment I have is basically people want this, that I have talked to, I've been approached about it and why don't we have one and it's something that we can bring to the City that's an amenity that we don't have. Something that we are looking forward to enhance the population we have and enhance the quality of life that we have and this is unsolicited, I think one of the best statements I heard was from a guy who didn't smoke cigars. He came up to me because he had been over to a cigar bar and said you know there is a place for people who don't smoke cigars, but the ambiance and the conversation is good. I can have a libation and not have to smoke a cigar so that was kind of resonating with me in the fact that I just wanted a place different to go for a different type of conversation.

Councilman Curry stated I really appreciate all the statistics that were brought before us today and staying healthy is the main thing for me in our city and like Mark, as I mentioned before, I have some personal experience with lung cancer in my family at a young age but I don't vote for my personal situation, however in the Fifth District, no one has approached me about the cigar bar, not one, I had zero conversations so I don't think it's something that people are just jumping to bring to Elkhart and my concern is that we do have an ordinance and when we start diving into these ordinances and changing them from what their original intent was, I think that's setting a very dangerous precedent and I won't be doing that.

Councilman Fish stated is there a location for the proposed cigar bar? Councilman Bullard stated I don't think there is any type of location picked out, I know there is interest of bringing something like this to Elkhart but there's no location. Councilman Fish stated but there is no one in particular that is actually buying a place or leasing a place at this time that is developing the proponents of this? You don't have any information to that? We don't have a designated place? Councilman Bullard stated not that I am aware of and there are certain areas that are not allowed to sell tobacco products, like within 1,000 feet of a school or that type of stuff, so there will be a lot of due diligence to find a location that suits, if anyone would happen to come into this area. Councilman Fish stated the second question I have, is I get a discount on my insurance because I am a nonsmoker, I don't participate in any tobacco products at all, so I get a little bit of a discount and I appreciate that, but don't we as a city, as a quality of life, I mean we have a lot of elements of quality of life and I would say that if we are reducing our tobacco use as a City, if the fire responds to fires promptly and reduces property damage, and if the police do their job and we can make a better quality of life across the board, as far as I know, we get insurance credit for that and we are looked upon favorably as a City for the better job that we do and so the better job that we do here is probably not one to consider changing our current award winning, recognized, health initiative in the City of Elkhart, so I just wanted to say that insurance is a part of this too. I don't want to do something that is going to directly affect someone's health and cause them personally more health expense because life is terminal folks. I don't want to get there any quicker than we need to and I don't want to be a part of any mechanism that will allow us to get there, so the insurance was a concern for me.

Councilman Henke stated I find this discussion very interesting and I think it's more about choice and rights and I would to like delve into that for a moment. I was not at the first meeting but I find it interesting that we have a bill of rights for homeless, but I question, at that point, where's the bill of rights for businesses, for consumers. I have something that trumps my choice as a nonsmoker and that is the right to choose. This is not something saying you go down to the River District and smoke cigars on the walkway, this is saying there is a designated spot,

wherever that is going to be, that you can go, if that is your choice. Regarding workers, there's an open job on every corner, we have 20,000 jobs unfilled so if you don't want to work in a cigar bar, don't work in a cigar bar, you've got a lot of choices, so I'm looking at that. The enforceability, the conflict with city, county, state, we are the oddball. So you have to say that means that these nine members back in the day were more aware, alert, than the rest of the state, because the state didn't follow our lead. We were, in my opinion, overreaching and this is something that is not going to affect children, it's not going to affect any under 21, in fact it won't even affect those 21 and older if they don't choose to go there, it's a choice. So when we look at choices, I find, also, a lot of other choices because you cannot legislate our morality on otherwise legal options and substances. That's not our job. If we were talking about marijuana for example, Indiana has a law against that, and we would have to abide, but you can buy cigars most anywhere and you can buy cigarettes most anywhere, and in fact, I think we are fooling ourselves because under the current law, private clubs, nonprofits and private business still allow smoking legally. So like it or not, I know of some in the area, and you can go and have a glass of wine and a cigar if you choose, it's a private club. There's nothing we can do about it. If we really wanted to affect the masses regarding any form of smoke and the toxins within the smoke, I would suggest we start with the county leaf burning and ban leaf burning because that affects everyone whether you want to participate or not, whether your child's asthmatic or not, you're stuck with it. So if we want to start, let's start there. I think if we start to legislate health concerns we can start with obesity, we can start banning diabetics from donut shops, we can say that people with ADHD cannot have sugar and we can go a large gamut, but the last I knew, none of us were health physicians. I happen to be a registered respiratory therapist that would provide smoking cessation through Upjohn Pharmaceutical, through Elkhart General Hospital and Bayer, for those who chose to quit, it was their choice. We can talk to them, we can encourage, we can reward, but if we are going to do it that way, we also have to look at many of the other options, steak houses, cosmetics, foods, all those things are not always best for your health and we don't address them because they are choices. That's the right you have as an adult, it would be different if you as an adult took a child into a restaurant that allowed smoking, that's a whole different ball game that was banned statewide, purposefully, and we supported it. As adults you have choices, you can live to be whatever age you wish to be, but I prefer by choice to enjoy my life, whatever age I am going to be. I see this moreover as a rights issue, this is not a uniformity with the county, so right outside the city, you can have a cigar bar in the county, we would have the taxes from it, but we also have just about ten clubs that allow smoking inside of any kind because they are private clubs. When we get down to the medical profession, many of my friends think similarly to myself, one is a cardiologist, one's a pulmonologist, and a couple of other ones are nurses in fact, and sometimes we like to sit on the deck and have red wine and a cigar. It's a choice, it's different, it's not for everybody, it's in open air, but it's a choice, so quality of life, as opposed to length of life, I think it is an equal argument and I'm about that. Do I plan to go to a cigar bar, I don't, have I smoked as a cigar in the last ten years, I have not, but I'm not going to stop someone else from their choice to participate in a legal substance and in other places. I'm thinking if there was a purposeful place to go, it may actually alleviate some of that. We can talk about death rates and all of those things, kind of skewed right now, since we lost a mass of aging population most recently. I'm not against anti-smoking, I have preached it most of my life, but I would also note that our groundwater contamination, our burning of leaves, the amount of EPA cleanup sites in the area, the amount of things that are being burned uncontrolled are much more a direct and immediate harm then anything that we are talking about in a cigar bar. I think this is more about business rights, I think it's about consumer choice and consumer rights and I am

going to support this. It will mirror the county, it will mirror the state and the enforce ability is the other option. I appreciate both sides of the argument and I will be supporting it.

Councilman Bullard stated I do want to mention that we all received an email from Joe Grable who has the Jackson Cigars and Spirits in Mishawka and they are in favor of the ordinance so I want to put this in the record. They note there will be no persons under the age of 21 allowed to enter, the owner holds a wine beer and liquor permits and patrons are to only smoke cigars. They say 10% of the sales from cigars on the retail side of humidors, so you have to have at least 10% and no cigarettes allowed. So there was an email, I encourage you to read it. It's a very passionate subject, and when this ordinance was passed it went through three public health committee meetings and it was passed on a special call meeting. I want to get away from our thoughts of the smoking ordinance, it is just an exemption. It doesn't weaken the ordinance; it doesn't touch the ordinance; it's just letting a business have an exemption to the smoking ordinance.

Following discussion, Councilman Bullard asked for a recommendation. Councilman Curry, seconded by Councilman Henke, **moved to give a no recommendation to the full council**. The vote was as follows: Ayes: Curry, Baughman, Henke and Bullard. Nays: Mishler, Dawson, Fish. **The motion failed**, 4-3, **for lack of five votes**.

Councilman Henke, seconded by Councilman Dawson, **moved to give a do pass recommendation to the full council**. The vote was as follows: Ayes: Mishler, Dawson, Baughman, Henke and Bullard. Nays: Curry and Fish. **The motion carried**, 5-2, and **a do pass recommendation was given to the full council for proposed ordinance 21-O-37.**

At 7:28 p.m. Councilman Dawson, seconded by Councilman Henke, **moved for adjournment**, which **motion carried** by voice vote and the **meeting was adjourned.**

_____

Aaron Mishler
Public Health & Safety Committee Chairman

Proposed Ordinance No. 21-O-66

ORDINANCE NO. _____

AN ORDINANCE VACATING DAVID STREET, BOUNDED ON THE WEST BY THE EAST RIGHT-OF-WAY LINE OF PLAZA COURT AND BOUNDED ON THE EAST BY THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 19 (CASSOPOLIS STREET), WITHIN THE CITY OF ELKHART, INDIANA

WHEREAS, a municipality has the exclusive right to vacate any street, alley or other public way within its corporate boundaries; and

WHEREAS, Indiana Code 36-7-3-12, permits a person who owns or has an interest in any lot or partial lot, and who wants to vacate all or part of a public way or public place contiguous to the lot, to file a petition for vacation with the legislative body of a municipality within whose corporate boundaries all or any part of the public place or way is located; and

WHEREAS, UN Properties Corporation, (the "Petitioner") is the owner of that certain real property known by Parcel Identification No. 02-20-206-001-027 and 02-20-204-001-027, which is contiguous to all or part of the public way known as "David Street", bounded on the west by the east right-of-way line of Plaza Court and bounded on the east by the west right-of-way line of State Road 19 (Cassopolis Street); and

WHEREAS, Petitioner filed Vacation Petition No. 21-V-05 with the Common Council of the City of Elkhart (the "Common Council") requesting that the Council vacate the public way known as David Street in the City of Elkhart, Indiana, and

WHEREAS, Indiana Code 36-1-11-4.3 provides that a sale or transfer of a land containing a public easement or right-of-way does not deprive a public utility of the use of all or part of the public easement or right-of-way that is sold or transferred if, at the time of the sale or transfer, the public utility is occupying and using all or part of that public easement or right-of-way for the location and operation of its facilities; and

WHEREAS, pursuant to Indiana Code 36-7-3-12, the Common Council held a public hearing on October 18, 2021, at which time information was presented by the Petitioner supporting the petition to vacate said public way and by any interested parties, including any aggrieved persons objecting to it.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. After considering the information presented at the public hearing, together with the information submitted to the Council in connection with the petition and any other information presented at the public hearing and any subsequent public meeting of the Council, the Common Council hereby finds and determines:

A. That the vacation will not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous; and

B. That the vacation will not make access to the lands of any aggrieved person by means of public way difficult or inconvenient; and

C. That the vacation will not hinder the public's access to a church, school, or other public building or place; and

D. That the vacation will not hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous; and

E. That one or more public utilities are currently occupying and using all or part of area; and

F. That this proposed vacation shall neither diminish nor deprive such public utilities' right to use all or part of the vacated area and an easement for the same shall continue, the vacation notwithstanding.

Section 2. The public property described below and depicted in Exhibit A, attached hereto, is hereby vacated, subject to such existing public utility easments, whether depicted thereon or not depicted thereon, but existing at the time of this ordinance:

Vacation Description
David Street, bounded on the west by the east right-of-way line of Plaza Court and bounded on the east by the west right-of-way line of State Road 19 (Cassopolis Street) for a running distance of approximately 184.02 feet.

Section 3. Pursuant to Indiana Code 36-7-3-14 (a), the vacated area being part of platted land, the descriptions of the lots and parcels of that land shall be preserved as set forth in the plat, with the proportionate parts of the area added as provided by law, unless all the owners of land in the vacated area consent in writing to the description of the area by:

(1) the method used before the plat was made;

(2) metes and bounds; or

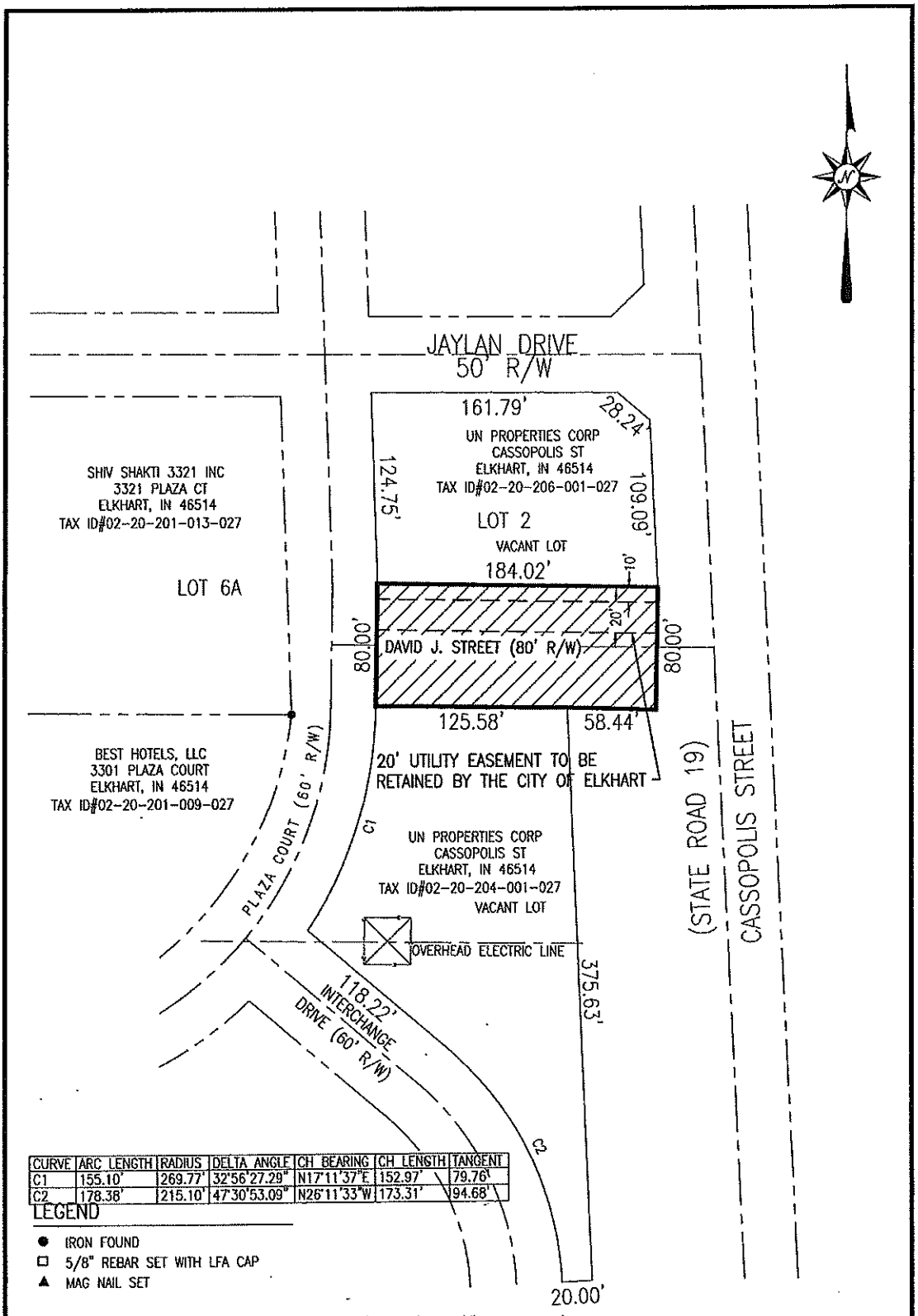
(3) other appropriate description.

Section 4. The Clerk shall furnish a copy of this Ordinance to the Elkhart County Recorder for recording and to the Elkhart County Auditor.

Section 5. This Ordinance shall be in effect from and after its passage by the Common Council and approval by the Mayor according to law.

[Signature pages follow]

EXHIBIT A



CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CH BEARING	CH LENGTH	TANGENT
C1	155.10'	269.77'	32°56'27.29"	N17°11'37"E	152.97'	79.76'
C2	178.38'	215.10'	47°30'53.09"	N26°11'33"W	173.31'	94.68'

LEGEND

- ● IRON FOUND
- □ 5/8" REBAR SET WITH LFA CAP
- ▲ MAG NAIL SET

This information contained herein has been assimilated from various public sources and has been compiled to assist in the placement of a building or other structure on the tract or parcel shown. This information is not intended to represent a boundary survey. Builder is responsible for verifying compliance with local building setback requirements.

DAVID STREET VACATION

PART OF THE NORTH HALF OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 5 EAST, CITY OF ELKHART, OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA
FOR
UN PROPERTIES CORP.

Lang, Feeney & Associates, Inc.
Land Surveyors, Construction Engineers & Soil Scientists
715 South Michigan Street
South Bend, Indiana 46601
Phone 574-233-1841 Fax 574-674-0374

File Name	Drawn By	Scale
JSK-DavidStVacation	VW/TDL	1" = 80'
Date	**Rev. Date**	**Drawing No.**
8-26-21	10-8-21	141-53

ORDAINED this _____ day of _____, _____.

_____
H. Brent Curry
President of the Common Council

ATTEST:

By: _____
Debra D. Barrett, City Clerk

STATE OF INDIANA)
) §
COUNTY OF ELKHART)

Before me, Traci L. Adams, Notary Public in and for said County and State, on this _____ day of _____, _____, personally appeared H. Brent Curry in his capacity as President of the Elkhart Common Council and Debra D. Barrett in her capacity as Elkhart City Clerk and acknowledged the execution of the foregoing Ordinance No. _____ as the duly authorized act of the Common Council of the City of Elkhart, Indiana for the purposes stated therein.

Witness my hand and Notarial Seal this _____ day of _____, _____.

_____
Traci L. Adams, Notary Public
Resident of Elkhart County
My Commission Number: NP0720315
My Commission Expires: May 16, 2027

SEAL

PRESENTED to the Mayor by me this _____ day of _____, _____, at _____ _____a.m./p.m.

_____
Debra D. Barrett, City Clerk

APPROVED by me this ____ day of _____, _____.

_____
Rod Roberson, Mayor

ATTEST:

_____
Debra D. Barrett, City Clerk

STATE OF INDIANA)
) §
COUNTY OF ELKHART)

Before me, Traci L. Adams, Notary Public in and for said County and State, on this _____ day of _____, _____, personally appeared Rod Roberson in his capacity as Elkhart City Mayor and Debra D. Barrett in her capacity as Elkhart City Clerk and acknowledged the execution of the foregoing Ordinance No. _____ as the duly authorized act of the Mayor of the City of Elkhart, Indiana for the purposes stated therein.

Witness my hand and Notarial Seal this _____ day of _____, _____.

_____
Traci L. Adams, Notary Public
Resident of Elkhart County
My Commission Number: NP0720315
My Commission Expires: May 16, 2027

SEAL

EXECUTED AND DELIVERED in my presence:

_____
Debra D. Barrett, City Clerk

STATE OF INDIANA)
) §
COUNTY OF ELKHART)

Before me, Traci L. Adams, Notary Public in and for said County and State, personally appeared Debra D. Barrett in her capacity as Elkhart City Clerk, who being personally known to me as the Elkhart City Clerk, and whose name is subscribed as a witness to the foregoing instrument, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by H. Brent Curry, as President of the Elkhart Common Council and Rod Roberson, as Mayor of the City of Elkhart, in the above-named subscribing witness's presence, and that the above-named subscribing witness is a disinterested person as defined by law.

Witness my hand and Notarial Seal this _____ day of _____, _____.

_____
Traci L. Adams, Notary Public
Resident of Elkhart County
My Commission Number: NP0720315
My Commission Expires: May 27, 2027

SEAL

This document was prepared by John M. Espar, Attorney No. 20758-46, as Corporation Counsel for the City of Elkhart, 229 S. Second Street, Elkhart, Indiana 46516. I 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. John M. Espar

City of Elkhart, Indiana
the city with a heart

MEMORANDUM

DATE: 12/2/2021

TO: Common Council

FROM: Corporation Counsel John Espar

RE: Proposed Ordinance No. 21-O-66

Vacation Petition No. 21-V-05

UN Properties, Corporation

AN ORDINANCE VACATING DAVID STREET, BOUNDED ON THE WEST BY THE EAST RIGHT-OF-WAY LINE OF PLAZA COURT AND BOUNDED ON THE EAST BY THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 19 (CASSOPOLIS STREET), WITHIN THE CITY OF ELKHART, INDIANA

Petitioner, UN Properties, Corporation, filed a petition to vacate David Street, a public way.

This Council conducted a public hearing on 10/18/2021.

The attached materials were submitted to the Council, together with the various responses which were received from interested parties in connection with the petition.

Proposed Ordinance No. 21-O-66 presents to the Council for its consideration, an ordinance to grant the petition, vacate the public way, while preserving easements for any public utilities situated within the vacated property.

ALLEY/STREET VACATION PETITION

Vacation # 21 -V- 05

Elkhart, Indiana 9-7, 2021

TO: THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA:

The undersigned, owners of real estate commonly known as:

Tax Parcel ID No. 02-20-206-001-027 and Tax Parcel ID No. 02-20-204-001-027

and abutting upon the alley or street proposed for vacation, respectfully petition(s) for the passage of an ordinance providing for the vacation of:

David Street, bounded on the west by the east right of way line of Plaza Court and bounded on the east by the west right of way line of State Road 19 (Cassopolis Street) for a running distance of approximately 184.02 feet.

Reason for request: The pavement for David Street has recently been removed and essentially reconstructed and aligned with the new Jaylan Drive, located approximately 124.75' feet to the north. The petitioner owns all adjacent property to this portion of David Street.

Property Owner's Name	**Addresses**	**Lot Numbers**
UN Properties Corporation	247 Dixieway North, South Bend, IN 46637	No. 02-20-206-001-027 & No. 02-20-204-001-027

SEND NOTICE TO:

See Attached List

Name)	(Address)	(Phone No.)
Name)	(Address)	(Phone No.)
Name)	(Address)	(Phone No.)

Petitioner's Signature:

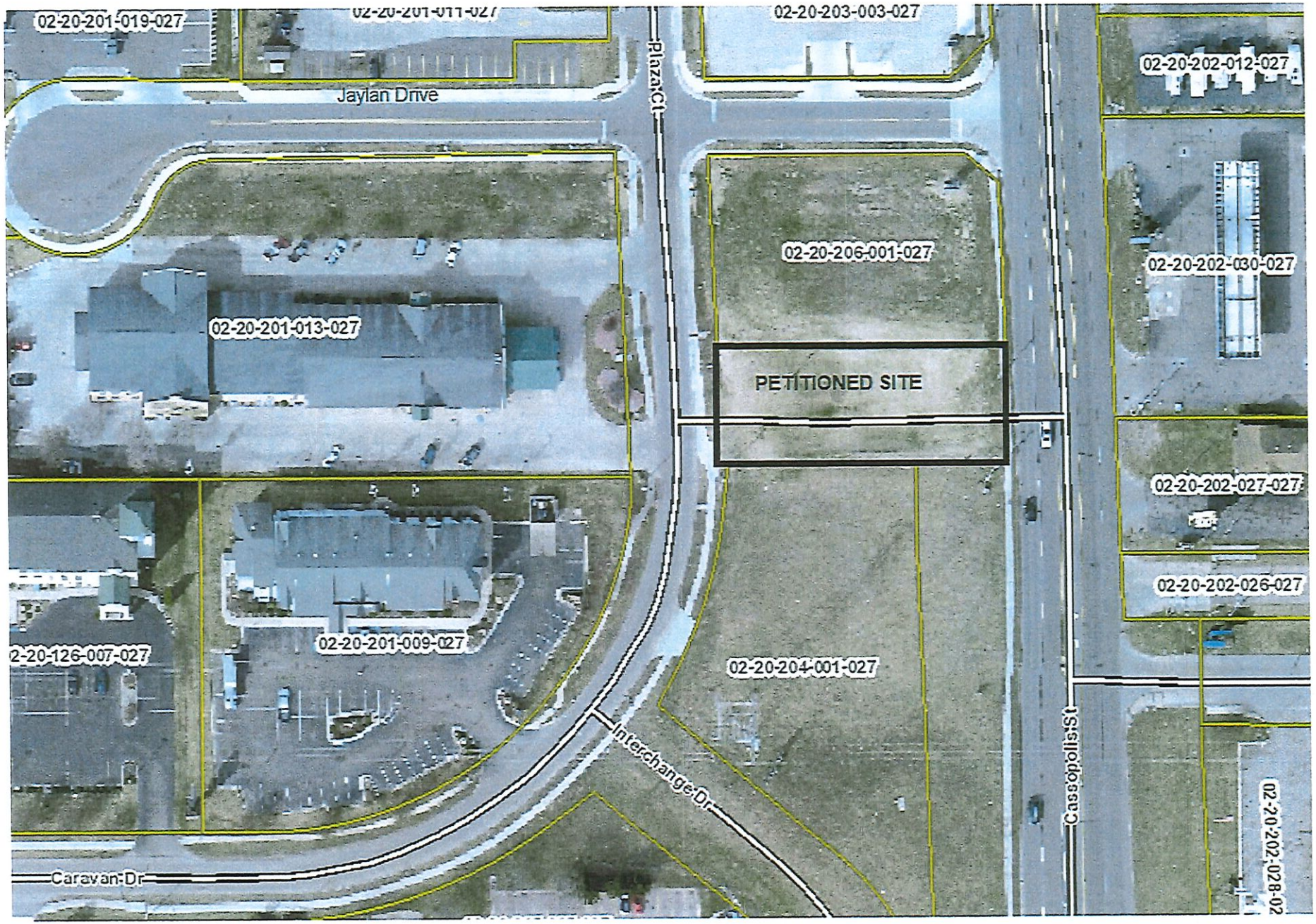
Un Properties Corporation

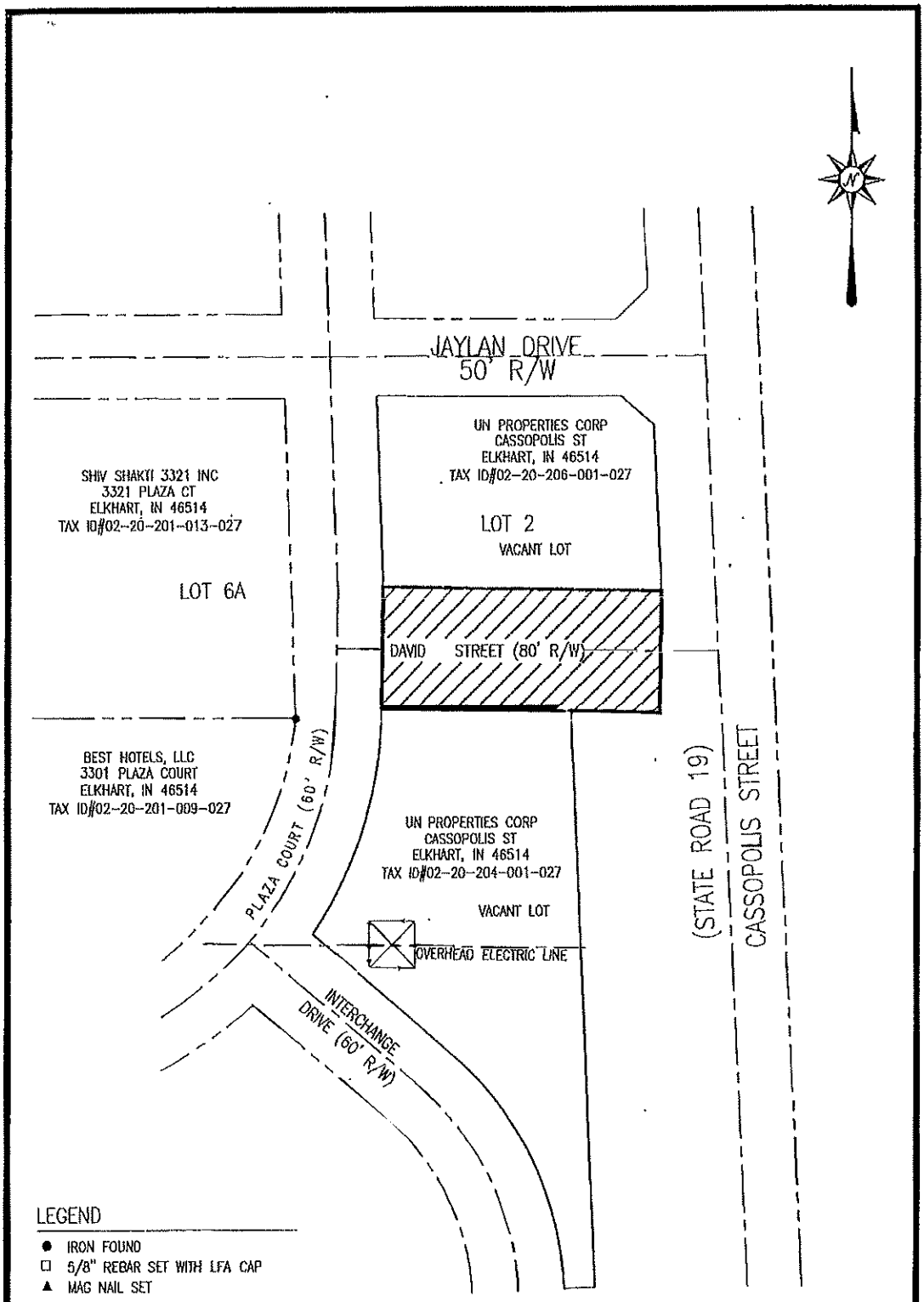
By: Hamida N Patel

Legal Description:

David Street, bounded on the west by the east right of way line of Plaza Court and bounded on the east by the west right of way line of State Road 19 (Cassopolis Street) for a running distance of approximately 184.02 feet.

PIN_18	PropertyAddress	OwnerName	OwnerAddr	OwnerCity	OwnerState	OwnerZip
20-02-20-201-009.000-027	3301 PLAZA COURT	BEST HOTELS LLC	3301 PLAZA COURT	ELKHART	IN	46514
20-02-20-202-027.000-027	3300 CASSOPOLIS ST	DAN ENTERPRISES LLC	3300 CASSOPOLIS ST	ELKHART	IN	46514
20-02-20-202-030.000-027	3320 CASSOPOLIS ST	FSC EPP ELKHART IN LLC C/O FOUR SPRINGS CAPITAL TRUST ATTN: C DALY	1901 MAIN STREET	LAKE COMO	NJ	07719
20-02-20-201-013.000-027	3321 PLAZA COURT	SHIV SHAKTI 3321 INC	3321 PLAZA COURT	ELKHART	IN	46514
20-02-20-202-026.000-027	3260 CASSOPOLIS ST	TIARA PROPERTY LLC	3260 CASSOPOLIS ST	ELKHART	IN	46514
20-02-20-204-001.000-027	CASSOPOLIS ST	UN PROPERTIES CORP	247 DIXIEWAY NORTH	SOUTH BEND	IN	46637
20-02-20-206-001.000-027	CASSOPOLIS ST	UN PROPERTIES CORP	247 DIXIEWAY NORTH	SOUTH BEND	IN	46637


02-20-201-019-027
02-20-201-011-027
02-20-203-003-027
Jaylan Drive
Plaza Ct
02-20-202-012-027
02-20-206-001-027
02-20-202-030-027
02-20-201-013-027
PETITIONED SITE
02-20-202-027-027
02-20-202-026-027
02-20-201-009-027
2-20-126-007-027
02-20-204-001-027
Interchange Dr
Cassopolis St
Caravan Dr
02-20-202-028-02



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DAVID STREET VACATION

PART OF THE NORTH HALF OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 5 EAST, CITY OF ELKHART, OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA
FOR
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Phone 574-233-1841 Fax 574-674-0374

File Name	Drawn By	Scale
JSK-DavidStVacation	VW/TDL	1" = 80'
Date	**Rev. Date**	**Drawing No.**
8-26-21		141-53

STREET VACATION PETITION RESPONSES

Vacation Petition No: 21-V-05
Petitioner's Name: **UN Properties Corporation**
Property Address: **Vacation of David Street**

Persons or Agencies Notified	Date Notice Returned	Recommendations
Building Department		
Electrical Department		
City Council		
Fire Department		
Legal Department		
Parks & Recreation Department		
Planning Department	10.6.21	No Objection
Police Department		
Street Commissioner		
Water Department		
City Utility Engineer		
Public Works & Utilities	9.29.21	See Attached Sheet
Comcast Cable		
Frontier	10.18.21	See Attached Sheet
Indiana & Michigan Power	10.13.21	See Attached Sheet
NIPSCO		
Borden Waste Away Services		
County Auditor		

Property Owner Responses:

Todd Cornell, Tiara Properties-NO Objection

Please complete below and return this page only to the City Clerk's Office, 229 S. Second Street, Elkhart, IN 46516, or email the council clerk, Traci Adams, at traci.adams@coei.org, prior to the hearing date of October 18, 2021.

Alley Vacation No. 21-V-05
UN Properties, Corporation Petitioner

Date: Oct 6, 2021

FROM:

Building Department
Building Dept/Electrical
Council Members
Fire Chief
Legal Department
Parks & Recreation
Planning Department
Police Chief
Street Commissioner
Edgar Moreno, Utility Engineer
Tory Irwin, Public Works and Utilities
Laura Kolo, Utility Services Manager
Tim Reecer, Public Works Office Mgr.
Eric Trotter, Asst. Director for Planning
Elkhart County Auditor
Indiana & Michigan Electric
Borden Waste Away Services
Comcast Cable
NIPSCO
Frontier

NO OBJECTION ✓ OBJECTION _____ (Explain below)

Please complete below and return this page only to the City Clerk's Office, 229 S. Second Street, Elkhart, IN 46516, or email the council clerk, Traci Adams, at traci.adams@coei.org, prior to the hearing date of October 18, 2021.

Alley Vacation No. 21-V-05
UN Properties, Corporation Petitioner

Date: September 29, 2021

FROM:

- Building Department
- Building Dept/Electrical
- Council Members
- Fire Chief
- Legal Department
- Parks & Recreation
- Planning Department
- Police Chief
- Street Commissioner
- Edgar Moreno, Utility Engineer
- Tory Irwin, Public Works and Utilities
- Laura Kolo, Utility Services Manager
- Tim Reecer, Public Works Office Mgr.
- Eric Trotter, Asst. Director for Planning
- Elkhart County Auditor
- Indiana & Michigan Electric
- Borden Waste Away Services
- Comcast Cable
- NIPSCO
- Frontier

NO OBJECTION _____ OBJECTION _____ (Explain below)

The City will retain a permanent 20' utility easement across the vacated right-of-way. It would be preferable to have that shown on the plat.

Please complete below and return <u>this page only</u> to the City Clerk's Office, 229 S. Second Street, Elkhart, IN 46516, or email the council clerk, Traci Adams, at <u>traci.adams@coei.org, prior to the hearing date of October 18, 2021.</u>

Alley Vacation No. <u>21-V-05</u>
UN Properties, Corporation Petitioner

Date: <u>October 13, 2021</u>

FROM:

Building Department
Building Dept/Electrical
Council Members
Fire Chief
Legal Department
Parks & Recreation
Planning Department
Police Chief
Street Commissioner
Edgar Moreno, Utility Engineer

Tory Irwin, Public Works and Utilities
Laura Kolo, Utility Services Manager
Tim Reecer, Public Works Office Mgr.
Eric Trotter, Asst. Director for Planning
Elkhart County Auditor
Indiana Michigan Power Company
Borden Waste Away Services
Comcast Cable
NIPSCO
Frontier

NO OBJECTION _____ OBJECTION <u>X</u> (Explain below)

Indiana Michigan Power Company objects to the vacation of David Dr. unless any Ordinance effecting said vacation expressly acknowledges that Indiana Michigan Power Company retains a 30-foot-wide easement, 15 feet on both sides of its as-installed poles, lines, anchors, wires, and appurtenant facilities.

Indiana Michigan Power Company requests and proposes that any Ordinance vacating David Dr. include the following provision:

The vacation of David Dr. is subject to a 30-foot-wide easement retained by Indiana Michigan Power Company, which easement is located 15 feet on both sides of Indiana Michigan Power Company's as-installed poles, lines, anchors, wires, and appurtenant facilities.

Please complete below and return <u>this page only</u> to the City Clerk's Office, 229 S. Second Street, Elkhart, IN 46516, or email the council clerk, Traci Adams, at <u>traci.adams@coei.org, prior to the hearing date of October 18, 2021.</u>

Alley Vacation No. <u>21-V-05</u>
UN Properties, Corporation Petitioner

Date: Oct. 18, 2021

FROM:

- Building Department
- Building Dept/Electrical
- Council Members
- Fire Chief
- Legal Department
- Parks & Recreation
- Planning Department
- Police Chief
- Street Commissioner
- Edgar Moreno, Utility Engineer
- Tory Irwin, Public Works and Utilities
- Laura Kolo, Utility Services Manager
- Tim Reecer, Public Works Office Mgr.
- Eric Trotter, Asst. Director for Planning
- Elkhart County Auditor
- Indiana & Michigan Electric
- Borden Waste Away Services
- Comcast Cable
- NIPSCO
- ~~Frontier~~

NO OBJECTION _____ OBJECTION X (Explain below)

Frontier requires an easement to maintain its existing facilities. So long as the City retains a utility easement, Frontier has no objection.

Alley Vacation Petition No. 21-V-05
UN Properties Corporation Petitioner

Please complete below and return <u>this page only, prior to the hearing date of October 18, 2021, to:</u>

Elkhart City Clerk's Office
Attn: Traci Adams
229 S. Second Street
Elkhart, IN 46516

YOUR NAME: Todd Cornell, member Town Prop.

YOUR ADDRESS: 3260 Lassopolis St

(Circle One:)

<u>I AM</u> **<u>I AM NOT</u>** **opposed** to the vacation petition described above.

Reasons for opposing or approving this petition:

City of Elkhart, Indiana
the city with a heart

MEMORANDUM

DATE: May 13, 2021

TO: Common Council

FROM: Corporation Counsel John M. Espar

RE: Proposed Ordinance No. 21-O-29

AN ORDINANCE ESTABLISHING THE RULES BY WHICH MEMBERS OF THE COMMON COUNCIL MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION

Proposed ordinance 21-O-29 has been prepared for the Council's consideration based upon comments of members of the Council during the adoption of the Resolution R-25-21, ADOPTING A POLICY BY WHICH MEMBERS OF THE COMMON COUNCIL MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION

Proposed Ordinance No. 21-O-29

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE RULES BY WHICH MEMBERS OF THE COMMON COUNCIL MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION

WHEREAS, P.L. 88-2021 (HEA 1437), SEC. 5, amended Indiana Code 5-14-1.5-1 *et seq.* (Act), by amending IC 5-14-1.5-3.5 to prescribe new requirements by which members of a governing body of a public agency of a political subdivision may participate in a meeting by electronic means of communication;

WHEREAS, a member of a governing body may participate by any means of communication that:

(a) Allows all participating members of the governing body to simultaneously communicate with each other; and

(b) Except for a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting;

WHEREAS, the Act requires the governing body to adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication and may adopt procedures that are more restrictive than the procedures established by IC 5-14-1.5-3.5(d); and

WHEREAS, the Common Council (Council) is the governing body of the City of Elkhart, Indiana; and

WHEREAS, the Council heretofore has adopted rules and regulations under the §§ 30.01 through 30.17 of Title III of the Code of Ordinances of the city of Elkhart for the governance of

the Council of the city and of its Council members.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA:

Section 1. Incorporation of State Law. The provisions of Indiana Code 5-14-1.5-1 *et seq.* (Act), including definitions, apply to this ordinance.

Section 2. Electronic Meetings Ordinance. This ordinance shall be known as the "Electronic Meetings Ordinance" of the Council and applies to the Council and any committee appointed directly by the Council or its presiding officer.

Section 3. Participation by Mean of Electronic Communication. Subject to Sections 6 and 8, any member may participate in a meeting by any electronic means of communication that:

(a) allows all participating members of the governing body to simultaneously communicate with each other; and

(b) other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.

Section 4. Quorum and Voting. A member who participates by an electronic means of communication:

(a) shall be considered present for purposes of establishing a quorum; and

(b) may participate in final action only if the member can be seen and heard.

Section 5. Application of Policy. All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

Section 6. Limitations on Participation by Electronic Means of Communication.

(a) At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication;

(b) Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.

(c) A member may not attend more than a fifty percent (50%) of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to:

(1) military service;

(2) illness or other medical condition;

(3) death of a relative; or

(4) an emergency involving actual or threatened injury to persons or property.

(d) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication.

(e) A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:

(1) military service;

(2) illness or other medical condition;

(3) death of a relative; or

(4) an emergency involving actual or threatened injury to persons or property.

Section 7. Minutes of Meeting. The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:

(a) identify each member who:

(1) was physically present at the meeting;

(2) participated in the meeting by electronic means of communication; and

(3) was absent; and

(b) identify the electronic means of communication by which:

(1) members participated in the meeting; and

(2) members of the public attended and observed the meeting, if the meeting was not an executive session.

Section 8. Prohibited Actions. No member of the Council may participate by means of electronic communication in a meeting at which the Council may take final action to:

(a) adopt a budget;

(b) make a reduction in personnel;

(c) initiate a referendum;

(d) impose or increase a fee;

(e) impose or increase a penalty;

(f) exercise the Council's power of eminent domain; or

(g) establish, impose, raise or renew a tax.

Section 9. Emergency Declarations. If an emergency is declared by (1) the governor under IC 10-14-3-12 or (2) the mayor under IC 10-14-3-29:

(a) members are not required to be physically present for a meeting until the emergency is terminated; and

(b) Members may participate in a meeting by any means of communication provided that:

(1) At least a quorum of the members participate in the meeting by means of electronic communication or in person;

(2) The public may simultaneously attend and observe the meeting unless the

meeting is an executive session;

(3) The minutes or memoranda of the meeting must comply with Section 7 of this ordinance; and

(4) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

Section 10. Amendment of Council Rules. This ordinance shall be added as § 30.18 of Title III of the Code of Ordinances of the City of Elkhart.

Section 11. Effective Date. This ordinance shall be effective from and after adoption by this Council and compliance with IC 36-4-6-14.

RESOLVED this ____ day of _____, _____.

_____
H. Brent Curry
President of the Common Council

ATTEST:

_____
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____ day of _____, _____, at _____ _____a.m./p.m.

_____
Debra D. Barrett, City Clerk

APPROVED by me this _____ day of _____, _____.

_____
Rod Roberson, Mayor

ATTEST:

_____
Debra D. Barrett, City Clerk

Proposed Ordinance No. 21-O-46

ORDINANCE NO. _____

AN ORDINANCE APPROPRIATING FIVE HUNDRED THOUSAND AND 00\100 DOLLARS ($500,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT THE HOMEOWNER-OCCUPIED PROPERTY REHABILITATION PROGRAM

WHEREAS, the United States Congress passed the American Rescue Plan Act (ARPA) and awarded to the City of Elkhart ("City") funds which may be used for certain authorized uses specified under Section 603(c)(1) dthe Social Security Act, as added by Section 9901 of the ARPA;

WHEREAS, Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, designates the following authorized uses:

> *(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households,small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;*
>
> *(B) to respond to workers performing essential work during the COVID–19 public healthemergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;*
>
> *(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or*
>
> *(D) to make necessary investments in water, sewer, or broadband infrastructure.*

WHEREAS, 603(c)(1)(A) permits use Fiscal Recovery Funds to respond to the negative economic impacts of the public health emergency, including efforts to address an economic harm resulting from or exacerbated by the public health emergency; and

WHEREAS, in assessing whether a household or population experienced economic harm as a result of the pandemic, it is appropriate to presume that a household or population has experienced negative economic impacts resulting from the pandemic if the population or household has experienced unemployment or increased food or housing insecurity or is within the low or moderate-income levels; and

WHEREAS, the Homeowner-Occupied Property Rehabilitation Program would provide assistance for the homeowners of owner-occupied properties to address housing rehabilitation and repair for individuals who have experienced hardships from COVID-19 that have created or exacerbated structural, safety, and access concerns to their home; and

WHEREAS, the Homeowner-Occupied Property Rehabilitation Program would be limited to families with moderate income (up to 120% of AMI); and

WHEREAS, the Homeowner-Occupied Property Rehabilitation Program compliments the CDBG program which provides funding for families at or below 80% of AMI, pending availability of CDBG funding; and

WHEREAS, the City Administration requests that the Common Council of the City of Elkhart appropriate the sum of Five Hundred Thousand Dollars ($500,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Negative Economic Impact Account to fund the Homeowner-Occupied Property Rehabilitation Program; and

WHEREAS, the ARP Coronavirus Local Fiscal Recovery Fund contains funds sufficient and appropriate for the project.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The amount of Five Hundred Thousand Dollars ($500,000.00) be, and hereby is, appropriated from the ARP Coronavirus Local Fiscal Recovery Fund and assigned to the following account line:

Account No. 176-5-000-439.0501 Negative Economic Impact $500,000.00

Section 2. The Common Council has fixed the ____ day of _____, _____, at 7:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation, and all taxpayers and interested persons will have the opportunity to appear and express their views.

Section 3. This Ordinance shall be in effect from and after its passage by the Common Council and approval by the Mayor according to law.

SO ORDAINED this _____ day of _____, _____.

_____
H. Brent Curry
President of the Common Council

ATTEST:

_____
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this ____day of _____, _____ at_____ a.m./p.m.

_____
Debra D. Barrett, City Clerk

Approved by me this _____ day of _____, _____.

_____
Rod Roberson, Mayor

ATTEST:

_____
Debra D. Barrett, City Clerk

Proposed Ordinance No. 21-O-46

Development Services

Memo

To: City Council

From: Dayna Bennett, Director of Development Services

Date: September 9, 2021

Re: Appropriation of $500,000 of ARPA Funds for Homeowner Occupied Property Rehabilitation

---

The Department of Development Services is requesting an appropriation of $500,000 from City of Elkhart's entitlement of American Rescue Plan Act funds for an extension of the departments current Homeowner Occupied Property Rehabilitation Program.

Sections 602(c)(1)(A) and 603(c)(1)(A) permit use of payments from the Fiscal Recovery Funds to respond to the negative economic impacts of the COVID-19 public health emergency. Eligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. This includes direct assistance to households

In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low-or moderate-income experienced negative economic impacts resulting from the pandemic.

Traditionally, the Department has restricted the use of federal dollars to recipients under or at the low income limit of 80% of area median income, which can be a household of four in 2021 making just $54,000 annually. The department requests to use these funds for moderate income families up to 120% of AMI, for a family of four making no more than $81,000 annually. For reference, the median family income for the area is $64,519.

This fund would address housing rehab and repair for individuals who have experienced hardships from COVID-19 that have created or exacerbated structural, safety, and access concerns to their home. Individuals at or below the threshold of moderate income will be eligible for $35,000 of a forgivable loan depreciating by 20% annually for 5 years. These funds can be partnered with CDBG dollars for families at or below 80% pending availability of CDBG funding.

This allocation will be administered through the Department of Development services, with the Primary Administrator (Director of Development Services), Secondary (Assistant Director of community and Redevelopment), and Staff Intake and Qualifier as (Community Development Specialist – CDBG). The anticipated date of total expenditure of these funds is December 31, 2024.

City of Elkhart

American Rescue Plan

Owner-Occupied Housing Rehabilitation Program Guidelines

City of Elkhart
Development Services Department
229 South Second Street
Phone 574-294-5471
TDD Line 574-389-0189
CD Specialist – CDBG
Assistant Director Community & Redevelopment
Director of Development Services

DRAFT

I. ASSISTANCE TYPES

The City of Elkhart's Owner-Occupied Housing Rehabilitation program is made up of two assistance types, ***Grants*** and ***Forgivable Loans***. The type of assistance that is made to an applicant is determined by the type and dollar value of the home repairs as well as the applicant's income level. The following types of assistance are available for households that have a combined total income of up to 120 percent of the Area Median Income normalized for household size.

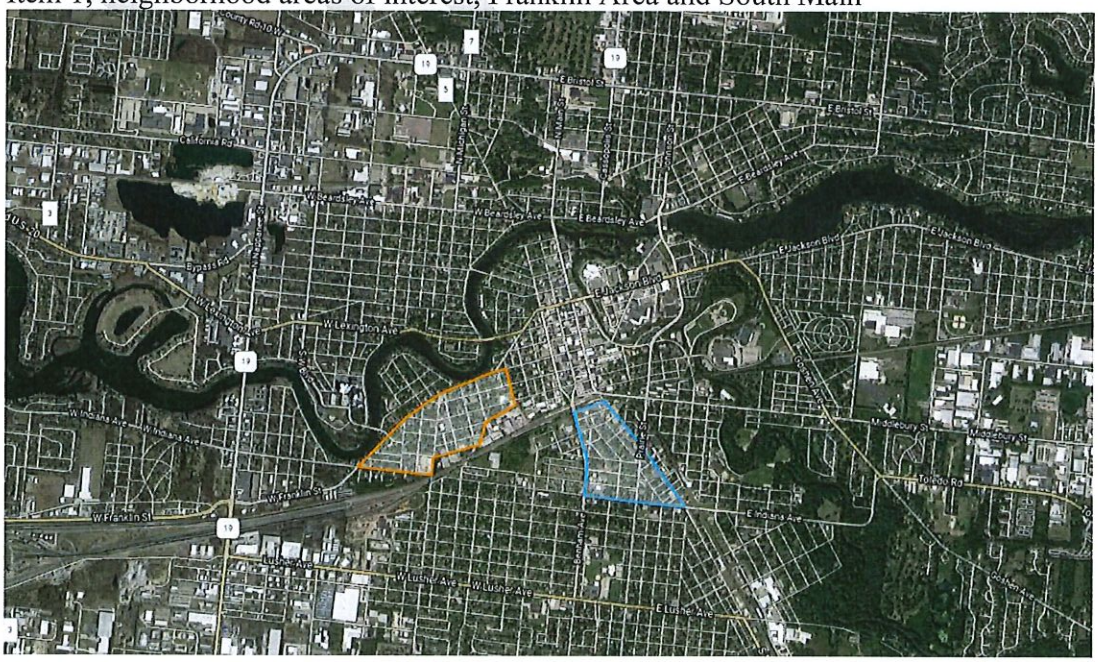
Emergency Home Repair Grant– provides funds for eligible emergency home repairs of up to $5,000 for homeowners that earn less than 120% of AMI. This is a grant and no repayment of funds expended is required. Recipients of these loans must live within the municipal boundaries of the City of Elkhart.

Forgivable General Loan - a loan made to persons with income levels at or below 120% of AMI. This program is intended to provide financial assistance to repair items within a home that is in disrepair or obsolete as a result of the COVID-19 Pandemic. Recipients of these loans must live within the City of Elkhart boundaries. No payment of this loan is required if the applicant resides in the home for the term of the affordability period (see chart below).

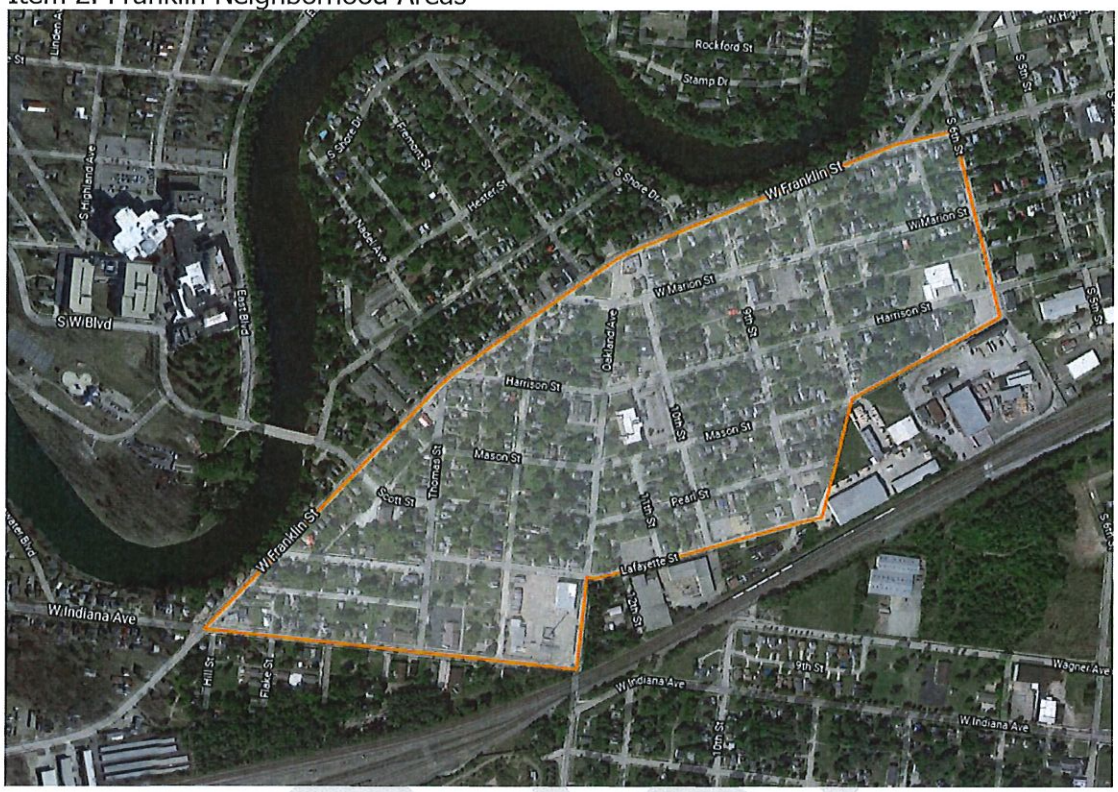
Extra Consideration for Seniors or individuals with Disabilities– a loan made to residents of the City of Elkhart who are 62 or older or who are individuals with disabilities (as defined by SSA). This program is by nature a general rehabilitation loan but increases the consideration for these designated individuals as the rehabilitation or repair may need to occur more expeditiously.

Extra Consideration for the residents of the following downtown neighborhoods- Should the eligible property reside in either of the designated neighborhood areas (see item 1,2,3), it may be deemed priority.

Item 1, neighborhood areas of interest, Franklin Area and South Main

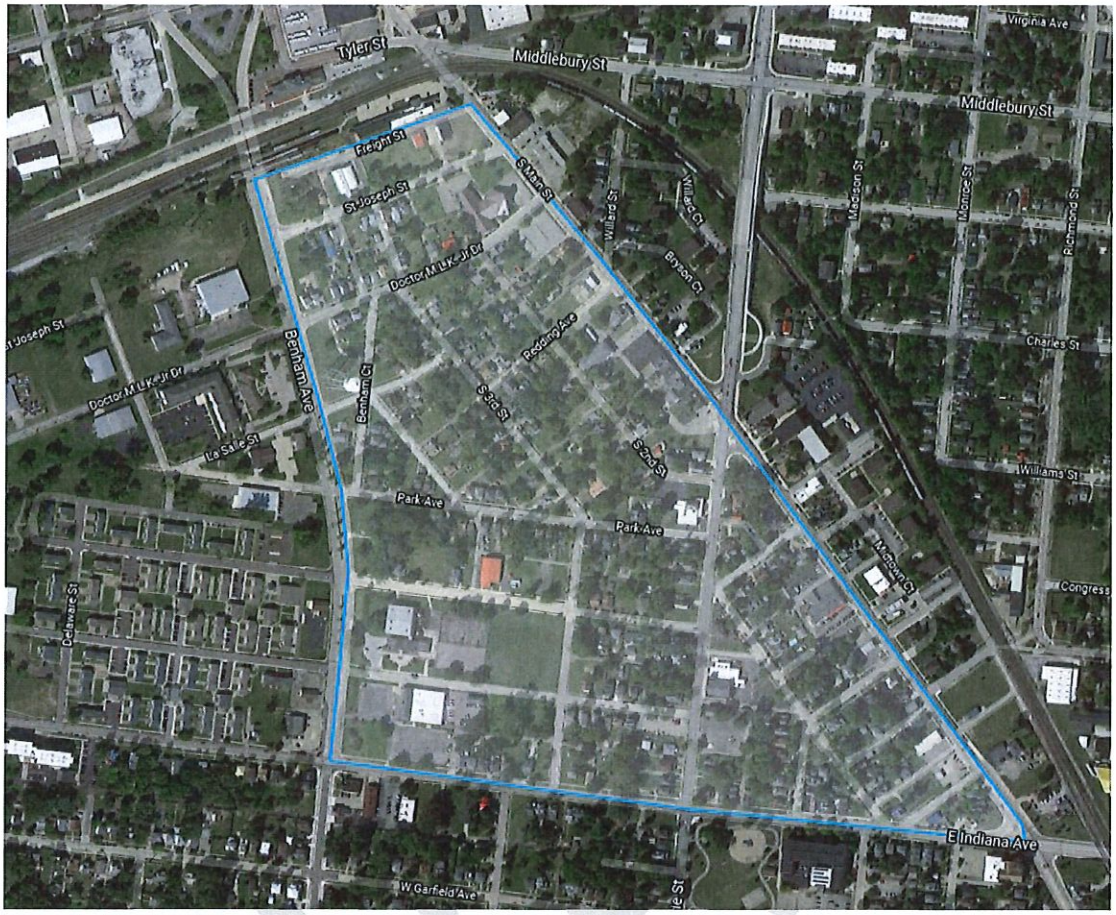


Item 2. Franklin Neighborhood Areas



Item 3. South Main Neighborhood Areas

DRAFT



Item 3. South Main Neighborhood Areas

II. ELIGIBILITY

For the purpose of clarification, the terms "owner-occupant", "homeowner," "applicant" or "borrower" refer to the same person in this program.

A. PROPERTY ELIGIBILITY

- Assistance may be made to owner-occupied residential properties located within the City of Elkhart or as specified within the NRSA. (see exhibit A last page)
- The property should need rehabilitation to meet local building code requirements, as defined in this document.
- The property must maintain insurance coverage adequate to cover the value of all current mortgages on the property including the City Rehabilitation Loan for the term of the loan.
    - The homeowner's insurance must be current.
    - Deductible must not be more than $1,000
- All property taxes must be paid in full, or proof of an active payment plan must be in place before any loan is to be issued.
- There must not be any judgments or liens on the title.
- The property must not have current Code, Health, or Zoning issues, unless independent City or property owner funds intend to address such issues during or prior to completion of the project.
- If upon inspection the home is found to be in an unsanitary condition or there is an evident issue with hoarding, the home will automatically be postponed assistance from

this program until such time as the issue(s) is (are) resolved.

- All properties must have a termite evaluation before rehabilitation can begin. If evidence of termite activity is found, a full termite inspection will be required.
- No property shall receive less than $100 or in excess of $35,000 in ARPA rehabilitation assistance during any 3-year period. The date to determine eligibility is from the date of loan closing. In special circumstances the Redevelopment Commission may approve a waiver of this requirement.
- All health and safety issues identified in the scoped of work developed during this program MUST be completed either directly through this program, alternative funding sources, volunteer labor, sweat equity, etc. for any of the project to move forward. **The City cannot participate in a project that results in on-going health and safely issues after the project is complete. This includes any identified lead-based paint hazards.**
- The Elkhart County Assessor's records must show adequate value to support the amount of the loan and all other existing debt on the property. Loan-to-value ratio shall not exceed ninety percent (120%) of the value of the property nor exceed the "property subsidy limits" for the City of Elkhart. An independent property appraisal may be required if there is significant doubt about the loan-to-value ratio after rehabilitation.
- The property cannot be located in the federally designated floodway or floodway fringe (or floodplain).
- There should not be any evidence of illegal activities taking place on the premises.
- Mobile homes shall only be permitted if on a permanent foundation.
- Homeowner occupied duplexes are eligible as well as the attached unit. The attached unit is subject to the income limit designated by the program. The leasee, current or future must be income qualified upon renewal of tenancy biannually.

B. APPLICANT ELIGIBILITY

- Applicant must be the owner-occupant of an eligible property to be rehabilitated (see above).
- Owner must be selling an eligible property to be rehabilitated to an individual at or below designated income limits.
- Applicant, lease, or purchaser must meet income eligibility for the program (see below)
- The owner-occupant must have an ownership interest in the property in their name when a title search is run on the property.
- The borrower must have owned and occupied the property for a period of at least three months to be eligible for assistance.
- No applicant shall receive less than $100 or in excess of $35,000 in APRA rehabilitation assistance during any 3-year period. In special circumstances the Redevelopment Commission may approve a waiver of this requirement.
- The City staff shall review the applicant's total financial status and reserves the right to deny participation in the program if it is determined that the applicant's status makes participation financially unfeasible.

C. INCOME ELIGIBILITY

All applicants are required to provide proof that they meet income eligibility requirements of this program. Income is computed using the Section 8 definition of income in which the gross income of all adult household members that is anticipated to be received during the coming 12 months is considered. The applicant will be required to update their financial information if income or household makeup changes during the project development phase. Loan closing must be completed within six months of the project approval date. Included in the

determination of the homeowner's income are:

- All earnings by all adult household members 18 years of age and older;
- All other income regularly received by the applicant or their family from any source;
- Net income from real estate other than the property to be rehabilitated;
- Net business income.
  - Income locked in at time of contract signing.

Applicants with incomes at or below 120% area median income will be provided a forgivable loan for projects up to $35,000.

- **at or under 120% AMI** = Forgivable Loan depreciating by 20% annually for 5 years.
  - No additional income qualification necessary through loan depreciation (affordability period). Homeowner must agree to live on property through the end of the affordability period. Should homeowner sell property prior to the conclusion of the affordability period, the homeowner agrees to return remaining funds to the City, or that the purchasers be at or below 120% of AMI.
  - For example, if you use only $10,000 of APRA funds for your property, and decide to sell 3 years after the completion of the project, your loan has depreciated by 60% and you will ow the remaining 40% back to the City in the amount of $4,000 at sale.
- **Over 120% AMI** = Over income; not eligible for assistance through this program

Client Intake Process

II. FINANCING

A. GRANT and FORGIVEABLE LOAN AMOUNTS

The Grant amount shall include the following costs:

- The actual and approved cost of construction work;
- A contingency fund of 10% of the rehabilitation bid;
- The rehabilitation project cost maximum limit will be $5,000 including contingency funds.

The Loan amount shall include the following costs:

- The actual and approved cost of construction work;
- A contingency fund of 10% of the rehabilitation bid;
- The rehabilitation project cost maximum limit will be $35,000 including contingency funds.*

If the applicant is receiving, or has received another loan from this program within the last 3 years, the amount of assistance shall be deducted from the maximum allowed under this program.

B. TERMS OF ASSISTANCE

Terms that Apply to ALL Assistance Types and Amounts

The borrower may repay the outstanding balance of the loan at any time without penalty.
In the case of property transfer by death of mortgagee a reminder notice will be sent to the contact person on record at three months after notice of death. A second notice will be sent at 6 months, and the case will be referred to the legal department after one year without resolution. If an income-qualified family member or heir can take possession of the home and use it as their place of residence, the note can be assumed by that person. The title must be recorded in the new person(s) name and they must meet all program requirements for the applicant and property for the term of the loan.

Terms for Grants of $100-$5,000

Applicants with incomes at 120% or below of AMI that need assistance of up to $5,000 will be given a grant. These grants will not have a note recorded or a afordability period.

Terms for All Forgivable Loans

Applicants with incomes at 120% or below of AMI will be provided a forgivable loan if project expenses exceed $5,000. To be eligible for the annual forgivable portion of the loan, the borrower must:

- ✓maintain their home in good condition free of code violations
- ✓maintain homeowner's insurance
- ✓complete necessary maintenance and repair activities to keep the home in good condition
- ✓not be in default of any loan condition
- ✓maintain the home is a safe and sanitary condition
- ✓remain current residents of the home
- ✓sell property to an individual at or below 120% income

Affordability Period

Affordability periods for the Forgivable Loan Program (whether emergency or general) are based on the total amount of funds invested into the project. This includes all direct construction costs, construction management fees, and administrative costs.

The forgivability of this loan is determined by the anniversary date of the project. The date the mortgage is signed for the project becomes the anniversary date. On that date for each year the applicant resides in the home for the entire year and completes all program requirements, a percentage of the total debt is forgiven. The percentage of annual forgivability is determined by the amount of funds invested in the project (see chart below).
It is important to note that if the applicant leaves the home during the affordability period, the unforgiven portion of the loan becomes due and payable immediately.

Project Investment	$100- $5,000	$5,001 or more
Number of Years	0 years	5 years
Annual Forgivable Percentage	n/a	20%

C. LOAN SECURITY

- The borrower must provide security for all Loans in the form of a mortgage. A subordinate second lien is acceptable if it provides adequate loan-to-value ratio.
- The borrower must agree to maintain the property according to local building code and property maintenance standards and, upon request, permit the City staff to inspect the property during the term of the loan. Remedial actions will be required if it is determined

that the borrower is not adequately maintaining the property.

- The borrower must maintain adequate insurance coverage in at least the amount of all mortgages, including the City's Rehabilitation Loan, during the term of the loan.
- The borrower will sign a loan agreement incorporating the rules and regulations for participation in the Loan Program.
- **Failure to comply with this provision will result in a default of the loan agreement requiring an immediate repayment of the Loan.**

IV. REHABILITATION REQUIREMENTS

A. DEFINITION OF CODE

Building Codes as required and enforced within the corporate limits of the City of Elkhart and specifically according to the Building Officials and Code Administrators (BOCA) National Property Maintenance Code as enforced by the Elkhart Building Department.

Housing Rehabilitation Standards as administered by the City of Elkhart; these standards include some general property improvements (beyond minimum housing standards) that may be necessary to complete the thorough and proper rehabilitation of the property. Cost effective energy conservation standards as adopted by HUD will also be included in the property improvements. A copy of these standards is provided to each approved contractor prior to working on a home and is available to the homeowner upon request.

Even though this program does not require that the entire property be brought up to local building code, any area of the property that is being repaired must be inspected by local building code inspectors as required by local codes, and permits must be obtained when necessary. The City of Elkhart or its designated construction manager will determine the scope of work that is required to make the property safe and sanitary.

Unsanitary conditions are those that create a living environment that is not consistent with social norms such as:

- Waste or garbage not properly stored in a waste container for removal
- Accumulation of waste or garbage either inside or outside of the home
- Feces of any kind inside the home or accumulated feces outside the home
- Accumulation of soiled clothing, personal effects, furniture, appliances, etc.
- Infestation of rats, insects or other vermin

B. INSPECTIONS AND REHABILITATION WORK LIST/ PROPOSAL

After approval of the initial application, a City authorized inspector will inspect the property and list all property deficiencies. This inspector will then prepare a rehabilitation work list, including corrections of all property deficiencies. This will be used to determine a cost estimate for the rehabilitation work to be financed by the Program. Staff will prepare bid packages and provide them to program qualified contractors.

If at any time during the project selection or construction phase of a project the home is determined to be unsanitary, all work will cease until such time as the issues are resolved. In this instance, a letter clearly identifying the issue(s) will be sent to the homeowner with a deadline for them to respond to staff and resolve all unsanitary condition(s).

Alternatively, the applicant may submit a bid or bids by contractors of their selection utilizing the rehabilitation work list prepared by City staff. The contractor selected by the homeowner

must meet minimum requirements for contractors established by the City of Elkhart Building Department and be a qualified contractor under the Community and Redevelopment Department guidelines. The contractor must be authorized by this department via contractors' application approval, signing contractors' agreement, SAM and LDP will be checked.

Assistance will be made to cover the cost of rehabilitation as defined by the program and what is necessary to make the property conform to public standards for safe, decent, and sanitary housing. As a result of the rehabilitation work, the property must, at a minimum, conform to current minimum housing standards and HUD's program requirements. It is the responsibility of the property owner (or agent, such as the general contractor) to obtain initial and final inspections and to meet all code requirements. An inspection report from one of the local building inspectors is needed for all mechanical, electrical, and plumbing repairs that require a building permit. An inspection report from a City-authorized inspector that the entire scope of work has been completed is also required.

Because the City of Elkhart Housing Rehabilitation Program utilizes federal funds to pay for construction activities at the applicant's home, federal Lead-Based Paint requirements must be followed. If lead-based paint hazards are identified in the home the process outlined in part F of this section will be followed.

C. ELIGIBLE REHABILITATION COSTS

When necessary to meet specific requirements of code or rehabilitation standards, assistance may be used for:

- The rehabilitation or removal of elements of the dwelling structure or site, including basic equipment, trees, shrubs etc., and of other improvements such as foundation repair or replacement, steps, walkways, and driveways.
- The provision of sanitary facilities, including the provision, expansion, and finishing of space necessary to accommodate those facilities.
- Reasonable grading, filling, or landscaping of the property as it applies to the rehabilitation of the property.
- The repair, purchase, and/or installation of heating systems.
- Energy efficient items which lower the homeowner's utility costs, provided they are reasonable and within the scope of the program and/or budget.
- Elimination of structural defects and health and safety hazards, including Lead-Based Paint hazards.
- Accessibility improvements for applicants who are over 62 or a household member with a disability.
- Elimination of incipient code violations are eligible costs under the Loan program. Incipient code violations exist if, at the time of the inspection, it is determined that the physical condition of an element in the structure will deteriorate into an actual violation in the near future (1-2 years).
- Property surveys and reasonable housing inspections, if approved by the City in advance.
- Detached garages, only when addressing accessibility for individuals with disability who may or may not have zoning violations. Not to exceed $15,000.

This list is not all-inclusive. Any items not referenced in these guidelines will be reviewed on a case-by-case basis for eligibility.

D. INELIGIBLE REHABILITATION COSTS

Except as otherwise provided for in this section, assistance shall not be used to pay for:

- New construction, substantial reconstruction or expansion of the structure.
- Items classified as luxury or portable items by the City of Elkhart, such as: hot tub, pool, dishwasher, spas, and sky-lights (unless necessary under the rehabilitation application), microwave, trash compactor, window air conditioning units, television antenna or dish, privacy fencing, etc.
- Materials, fixtures, equipment, or landscaping of a type or quality which exceeds that customarily used for properties of the same general type as the property to be rehabilitated.
- Appliances/devices that are not required by code or housing rehabilitation standards.
- Acquisition of land.

This list is not all-inclusive. Any items not referenced in these guidelines will be reviewed on a case-by-case basis for eligibility.

E. REHABILITATION PRIORITIES

The following list of priorities has been established to ensure limited funds are used first on the most critical components of a home rehabilitation project. After the home inspection is complete, these priorities will direct the development of a scope of work. If additional eligible items are needed or wanted by the homebuyer in excess of funds available, alternative funding sources, volunteer labor, sweat equity, and other options will be needed to complete the project. **All health and safety concerns must be resolved during the project or the City cannot participate in the project at all.**

First Priorities – Fire, Health, and Safety issues
- ➢Electrical System / Smoke alarms
- ➢Heating System, Water Heater, and/or Gas Lines
- ➢Lead based paint interim controls
- ➢Other urgent items as determined by the Community Development Specialist

Second Priorities – Items that affect the structural integrity of the house
- ➢Plumbing Leaks
- ➢Roof leaks
- ➢Foundation
- ➢Roof (if near end of useful life)

The Owner Occupied Rehabilitation program is designed to help homeowners maintain their homes in a safe and sanitary manner. The program scope covers only the cost of the rehabilitation defined by the program and what is necessary to make the property conform to public standards for safe, decent, and sanitary housing. This program does not address cosmetic issues or luxury items and in general, items will only be replaced if they are not serving their intended purpose and cannot be easily repaired. APRA funds for Housing Rehabilitation can be partnered with City of Elkhart CDBG funds that may address the following(in addition to pairing with first and second priorities) Currently the City of Elkharts CDBG Homeowner Occupied rehab Program is excluded to individuals at or below 80% of AMI:

Third Priorities – Protection from the weather and Beautification
- ➢Roof (if near end of useful life)
- ➢Exterior painting
- ➢Gutters & downspouts
- ➢Replace missing siding
- ➢Wall and attic insulation

- Windows and exterior doors
- façade upgrades

F. LEAD-BASED PAINT HAZARDS

Because the City of Elkhart Housing Rehabilitation Program utilizes federal funds to pay for construction activities at the applicant's home, federal Lead-Based Paint requirements for homes built before 1978 must be followed. A copy of the pamphlet "Protect Your Family from Lead in Your Home" as well as the pamphlet "Renovate Right" will be given to the homeowner prior to beginning any rehabilitation work, regardless of the type of work performed or age of home. To demonstrate compliance with this notification requirement, the homeowner will be asked to sign a receipt of document form.

At the time of the initial home inspection, a visual assessment of paint conditions will be conducted. This inspector will look for signs of deteriorated paint, paint chips, and visible dust (which may contain lead). The results of this inspection will be incorporated into the home inspection and included in the scope of work if necessary.

Depending on the amount of Federal assistance and/or the scope of work, a lead-based paint risk assessment may be required.

For projects up to $5,000, painted surfaces that will be disturbed or replaced must be tested for the presence of lead-based paint. Lead-safe work practices must be used, any paint that is disturbed must be repaired, and the work area must pass a clearance exam.

For projects between $5,001 and $35,000, a lead-based paint risk assessment will be conducted. The risk assessment will include dust wipes and soil samples to determine if there is lead in the dust or soil as well. A copy of the report will be given to the homeowner within 15 days after it is received from the testing agency.

If, during the home inspection and scope of work development process, lead-based paint hazards are identified, these hazards must be included in the scope of work. Only contractors who are certified by the EPA under the Renovation, Repair and Paint rule (RRP) will be eligible to bid or work on those items.

A clearance examination in areas that were disturbed during the renovation process will be performed. The exam will look for signs of visible dust, paint chips and deteriorated paint. Dust samples will be taken from the home, and must meet federal guidelines for lead safety before occupants are allowed to re-enter the area. The current guidelines will be detailed in the report, as well as a Pass or Fail grading.

A copy of the Clearance Exam and a Notice of Lead Hazard Reduction Activities will be given to the homeowner within 15 days after dust wipe results are received from the lab. The Notice will explain what actions were taken to reduce the hazards of lead-based paint, and any steps required to maintain the home to keep it free of hazards in the future.

For projects above $15,001, or in the case of a child with an elevated blood-lead level (EBLL), or for projects using the Elkhart County Lead Hazard Control Grant, A risk assessment will be performed to identify all lead-based paint hazards as described above. All hazards will be abated according to HUD guidelines. This normally involves replacing the items or permanently covering them. Only licensed lead-based paint contractors will be allowed to bid or perform the

lead abatement scope of work. In addition to the Clearance Report and Notice of Lead Hazard Reduction, an abatement report (from the abatement contractor) will be given to the homeowner within 60 days from the completion of the project.

V. LOAN APPROVAL

Each project application shall be reviewed by The City of Elkharts Community Development Specialist. The Specialist will make a recommendation to the Assistant Director of Community and Redevelopment and the project can be approved for a specific dollar amount. This final amount shall include the direct renovation costs including materials and labor and a project contingency. The contract must be awarded during a public Redevelopment Commission Meeting.

If the applicant's project is rejected by the City staff, the applicant may appeal the decision to the Redevelopment Commission for review. Appeals must be submitted in writing within 30 days of rejection notification.

For purposes of this program, the value of the applicant's home will be determined in one of two ways:

1. For all grants and loans of up to $15,000, the County Assessor's valuation of the property will be used.
2. For any loan of over $15,001 the City may require an appraisal of property as requested by the Redevelopment Commission.

VI. LOAN CONDITIONS

A. CONSTRUCTION

The City shall solicit bids on behalf of the homeowner from a minimum of two City approved home rehabilitation contractors. Staff will provide a recommendation to the homeowner for contractor selection. The final contractor selection will be made by the homeowner from the bids received during the solicitation process.

The City will not be involved in projects that solicit bids from fewer than two contractors. If the homeowner wishes to use a specific contractor, that contractor must participate in the City's qualification process and submit bids for the project when requested.

The standard contract form provided by the City staff shall be used for all rehabilitation work financed in whole or in part with this assistance.

The borrower and contractor shall ensure that the rehabilitation work is carried out promptly and efficiently through a written contract that is awarded only after prior approval by City staff. Property owners cannot act as their own general contractor. Completion of the project within 90 days of grant agreement or loan closing with a penalty clause for non-completion will be specified in the written contract.

To qualify, contractors must provide proof of insurance coverage in amounts required by the City for this program. Also, financial information, references, and a listing of past projects must be submitted to the City for review and evaluation. Applicants have the following options in the selection of a contractor to perform the work:

A homeowner may suggest a contractor for their project. This contractor will then need to complete the qualification process designed by the Community and Redevelopment Department

for all contractors participating in this program. If the homeowner does not have a preference, the City will select the contractor whose bid is the lowest, responsive, and responsible. The City reserves the right to reject contractors whom the City believes to be unqualified. The borrower and contractor will be responsible for insuring against loss by fire, windstorm, theft, and other casualty, as well as damage to persons and property on the premises.

The homeowner is responsible for maintaining a safe environment for my contractor to perform the required services, and that includes insuring that no illegal activities are conducted or occurring on my property during the term of the rehabilitation project. I further understand that if I fail to meet this requirement, the Contractor has the right to terminate its services without penalty and has the obligation to report such default to the City, in which event the City shall terminate its funding of the rehabilitation project. In such event, I shall be required to reimburse and pay for all services the contractor performed on my project up to and including the date of termination.

B. INSPECTIONS

An entire home inspection will be conducted by City of Elkhart staff or representative to determine a scope of work for the project. If at any time during the project selection or construction phase of a project the home is determined to be unsanitary, all work will cease until such time as the issues are resolved.

A termite and other wood-destroying insect inspections and remediation, if necessary, must be performed, before commencement of any rehabilitation work.

The borrower shall permit inspections of the property by the City of Elkhart, its acting agent or designee for compliance with the Housing Rehabilitation Standards and all other applicable local housing codes and ordinances. The borrower shall also permit all other inspections deemed necessary by the City staff concerning the property, the rehabilitation work, and all contracts, materials, equipment, payrolls, and conditions of employment pertaining to the work. It is the responsibility of the contractor to obtain all required inspections and meet all code requirements.

Before payment is issued, a rehabilitation specialist from the City or its contractor shall inspect the work to ensure that materials have been installed properly. *ALL* inspections must be successfully completed before final payment will be issued. Should any problem arise regarding the inspection process, the Head of the Community and Redevelopment Department will provide the final decision regarding release of funds.

C. DISBURSEMENT OF FUNDS

These funds are only to be used to pay for the costs of services and materials necessary to carry out the rehabilitation work for which the financing was approved. The borrower shall agree to permit the City, its agents or designees, to hold the funds and to disburse such funds in the manner set forth in the contract between the borrower, the contractor and the City. (Note that Community Development Block Grant funds cannot be escrowed; rather, they are committed for use but not drawn down to the local public agency until a claim is processed.) The final 10% of all funds held shall not be released until the entire project has been completed and inspected. There are no exceptions to this provision; all contracts are subject to the 10% retainage requirements.

The final rehabilitation contract payment shall not be released until the borrower obtains a certificate of final inspection including the Lead-Based Paint clearance

report when applicable.

D. TESTING

All children under 12 years of age who reside at the premises are at risk of health-related issues from lead-based paint. Testing for lead in the bloodstream can be done at the Elkhart County Health Department and is free of charge. This test provides the homeowner with information regarding the presence of lead-based paint hazards in their home. **Testing is not a requirement to be eligible for this program and results will not be shared with the City; it is for the homeowner's personal information.**

E. NON-COLLUSION

Interest of Public Body
No member of the governing body, official, or employee of the City of Elkhart who exercises any functions or responsibilities in connection with the administration of the City's housing rehabilitation programs shall have any interest, direct or indirect, in the proceeds of the grant or loan or in any contract entered into by the borrower for the performance of work financed in whole or in part with this assistance.

Bonus, Commission, or Fee
The applicant shall not pay any bonus, commission, or fee for the purpose of obtaining approval of application or any other approval or concurrence required by the Community and Redevelopment Department or Redevelopment Commission to complete the rehabilitation work financed in whole or in part with the Program.

F. NON-DISCRIMINATION

Civil Rights
The City of Elkhart shall not discriminate upon the basis of age, sex, race, creed, color, class, national origin, or ancestry in the sale, lease, rental, use or occupancy of the property to be rehabilitated with the assistance of a Loan. Further, the applicant agrees to comply with the provisions of the program as directed by the Community and Redevelopment Department and them Redevelopment Commission on behalf of the City of Elkhart, and the U.S. Department of Housing and Urban Development or its designee.

Equal Employment Opportunity
The applicant shall comply with all applicable provisions of Executive Order #11246 concerning equal employment opportunity in respect to this assistance and shall assist and actively cooperate with the City of Elkhart in obtaining the compliance of contractors and subcontractors with such provisions and with the rules and regulations and relevant orders of the Secretary of Labor.

The City of Elkhart is committed to affirmatively furthering fair housing. The Federal Fair Housing Act of 1968 prohibits discrimination in housing because of race/color, national origin, ancestry, religion, disability, sex or familial status. Call the City of Elkhart Human Relations Commission if you feel you have been a

victim of discrimination at 294-5471 or TDD (574)389-0189

This document was produced with the City of Elkhart Community Development Program through funds made available by the US Department of Housing and Urban Development of Housing and Community Development Act of 1977.

DRAFT

Proposed Ordinance No. 21-O-49

ORDINANCE NO. _____

AN ORDINANCE APPROPRIATING THREE HUNDRED TWENTY-TWO THOUSAND THREE HUNDREND AND FIFTY DOLLARS ($322,350.00) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE ELKHART THRIVE NEIGHBORHOOD OPPORTUNITY HUB INITIATIVE

WHEREAS, the United States Congress passed the American Rescue Plan Act (ARPA) and awarded to the City of Elkhart ("City") funds which may be used for certain authorized uses specified under Section 603(c)(1) dthe Social Security Act, as added by Section 9901 of the ARPA;

WHEREAS, Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, designates the following authorized uses:

> *(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households,small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;*
>
> *(B) to respond to workers performing essential work during the COVID–19 public healthemergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;*
>
> *(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or*
>
> *(D) to make necessary investments in water, sewer, or broadband infrastructure.*

WHEREAS, among the permitted use of the ARP funds is a use which provides services to communities disproportionately impacted by COVID-19; and

WHEREAS, the Neighborhood Opportunity Hub Initiative is a program to provide, within communities disproportionately impacted by COVID-19, a gathering place where key services and amenities can be accessed by neighborhood residents; and

WHEREAS, some of the programming envisioned under the Department of Development Services' Neighborhood Opportunity Hub Initiative are the following:

- A Career Crosswalk Program to allow residents to embark on a training program that will provide the employer-defined necessary skills to obtain better paying, in-demand jobs in an existing industry or a better paying, in-demand job in an aspirational industry;
- Life Skill Training Program to provide a variety of training opportunities intended to enhance life skills, including:
    - Job readiness training
    - Personal Finance and Wealth Management training
    - Conflict Resolution Training
- Entrepreneur Development to program help burgeoning entrepreneurs move their ideas from concept to launch, including support to refine ideas, identify funding resources, shape business models and company launch;
- Job Placement Service to lower the barrier to access to jobs by not only exposing neighbors to available jobs but connecting them to neighborhood assets that can remove impediments to work, such as daycare and transportation, etc.

WHEREAS, some of the key metrics that the Department anticipates monitoring through this program will be indicators of wealth attainment, key certifications obtained, career pathways accomplished, and small businesses launched or expanded; and

WHEREAS, the total estimated investment in the the Neighborhood Opportunity Hub Initiative is approximately Ten Million Dollars ($10,000,000.00) drawn from public, private, and philanthropic investors, and grants

WHEREAS, the City Administration requests that the Common Council of the City of Elkhart appropriate the sum of Three Hundred Twenty-Two Thousand Three hundred and fifty Dollars ($322,350.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Negative Economic Impact Account for the Neighborhood Opportunity Hub Initiative; and

WHEREAS, the ARP Coronavirus Local Fiscal Recovery Fund contains funds sufficient and appropriate for the project.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The amount of Three Hundred Twenty-Two Thousand Three Hundred Fifty Dollars ($322,350.00) be, and hereby is, appropriated from the ARP Coronavirus Local Fiscal Recovery Fund and assigned to the following account line:

Account No. 176-5-000-439.0501 Negative Economic Impact $ 322,350.00

Section 2. The Common Council has fixed the ____ day of _____, _____, at 7:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation, and all taxpayers and interested persons will have the opportunity to appear and express their views.

Section 3. This Ordinance shall be in effect from and after its passage by the Common Council and approval by the Mayor according to law.

SO ORDAINED this _____ day of _____, _____.

_____
H. Brent Curry
President of the Common Council

ATTEST:

_____
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____day of _____, _____ at_____ a.m./p.m.

_____
Debra D. Barrett, City Clerk

Approved by me this _____ day of _____, _____.

_____
Rod Roberson, Mayor

ATTEST:

_____
Debra D. Barrett, City Clerk

Proposed Ordinance No. 21-O-49

Rod Roberson
Mayor

City of Elkhart

Dept of Development Services
Planning & Development
Community Development
Economic Development
Planning Services
229 S. Second St.
Elkhart, IN 46516
574.294.5471
Fax: 574.295.7501

To: City Council

From: Dayna Bennett

Date: August 12, 2021

Re: ARP Appropriation for Neighborhood Opportunity Hub

The Department of Development Services is requesting an appropriation from the City of Elkhart's entitlement of American Rescue Plan Act funds for the Elkhart THRIVE Neighborhood Opportunity Hub initiative.

A permitted use of ARP funds is to provide services to communities disproportionately impacted by COVID-19. The Neighborhood Opportunity Hub is a gathering place where key services and amenities can be accessed by neighborhood residents. Some of the programming envisioned is

- Career Crosswalk Program – residents can embark on a training program that will provide the employer-defined necessary skills to obtain a better paying, in-demand job in their existing industry or a better paying, in-demand job in their aspirational industry
- Life Skill Training Program – This program will provide a variety of training intended to enhance life skills. It is envisioned to include
    - Job readiness training
    - Personal Finance and Wealth Management training
    - Conflict Resolution Training
- Entrepreneur Development – This program will help burgeoning entrepreneurs move their ideas from concept to launch. It will include support in refining ideas, identifying funding resources, shaping their business model, launching their company
- Job Placement Service – This service is envisioned to lower the barrier to access to jobs by not only exposing neighbors to available jobs but connecting them to neighborhood assets that can remove impediments to work like daycare and transportation
- Other services and amenities – While much of the programming mentioned above will be core to all Neighborhood Opportunity Hubs, each neighborhood is unique. For each Hub launched, their will be a community engagement effort to allow each neighborhood to determine what additional services and amenities make sense for their community. This for example could include workforce housing, restaurants, cultural, recreational or health and wellness facilities.

The first Neighborhood Opportunity Hub will be located in the Pierre Moran/Tolson community. This neighborhood was chosen because of its diversity in both age and race, higher unemployment and poverty rates than the City of Elkhart as a whole, and its proximity to job opportunities. Some of the key metrics that will be monitored through this program will be around indicators of wealth attainment, key certifications obtained/career pathways accomplished, and small businesses launched/expanded.

We will engage a host of service providers, employers, and community assets to program and possibly locate in the Neighborhood Opportunity Hub. The project is estimated to require an investment of $10,149,200. We are pursuing a blend of public/private/philanthropic investors, and grants to resource the Hub. We are requesting $322,350 of ARP funds for programming, site prep, and other related expenses.

Proposed Ordinance No. 21-O-67

ORDINANCE NO. _____

AN ORDINANCE APPROPRIATING FOUR MILLION TWO HUNDRED THOUSAND DOLLARS ($4,200,000.00) FOR THE DESIGN OTHER PROFESSIONAL SERVICES FOR THE NEW PUBLIC SAFETY FACILITIES OF THE ELKHART POLICE DEPARTMENT AND ELKHART FIRE DEPARTMENT

WHEREAS, the City of Elkhart has been engaged in a multi-year process to locate, design and build new public safety facilities for the city; and

WHEREAS, in 2019, the Common Council appropriated Two Million Two Hundred Thousand Dollars ($2,200,000.00) in connection with the development the public safety project; and

WHEREAS, approximately Two Million One Hundred Thousand Dollars ($2,100,000.00) of the 2019 public safety project remains and will be released to original fund from which the monies were originally appropriated; and

WHEREAS, the Administration is requesting a new appropriation in the amount of Four Million Two Hundred Thousand Dollars ($4,200,000.00) for the estimated and foreseeable costs to complete the design and provide the professional inspection and construction management services for the new public safety facilities for the Elkhart Police Department and the Elkhart Fire Department; and

WHEREAS, there exist among the unappropriated funds of the Economic Development Local Income Tax Fund ("EDIT Fund") of the City of Elkhart, sufficient and appropriate sums for the purposes stated herein.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Elkhart, Indiana, that:

Section 1. The total sum of Four Million Two Hundred Thousand Dollars ($4,200,000.00) is appropriated from the Economic Development Local Income Tax Fund No. 444 ("EDIT Fund") and allocated to the following account category in the amount:

Account	**Description**	**Amount**
444-5-016-431.0400	Professional Services	$4,200,000.00

Section 2. The Common Council has fixed the ____ day of _____, 2020, at 7:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation, and the taxpayers of the City of Elkhart, Indiana, shall have then and there the right to be heard.

Section 3. This Ordinance shall be in effect from and after its passage and approval, according to law.

ORDAINED this ___ day of _____, _____ .

_____
H. Brent Curry
President of the Common Council

ATTEST:

_____
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this ____ day of _____, _____ , at _____ a.m./p.m.

_____
Debra D. Barrett, City Clerk

APPROVED by me this ____ day of _____, _____ .

_____
Rod Roberson, Mayor

ATTEST:

_____
Debra D. Barrett, City Clerk

Proposed Ordinance No. 21-O-67

City of Elkhart
Public Works and Utilities

M E M O R A N D U M

Date: November 17, 2021

To: Brent Curry, Elkhart City Council President

From: Tory Irwin, City Engineer

RE: Appropriation Request – Public Safety / Fire Stations Design

This appropriation request is for the detailed design and construction management of the proposed Public Safety Facilities and Fire Stations. Surveying and general layout work is currently underway, but an appropriation to finish the design and provide professional inspection/management services during construction is necessary.

The original appropriation from 2019 was for $2.2 million. Of this amount, approximately $2.1 million remains. That remaining appropriation will be released. Since the location of the Public Safety / Fire Stations Facilities have been re-evaluated and realigned, we are bringing a new request to the Council. This request will account for all current preliminary design efforts underway ($700,000) that were under the previous 2019 appropriation, as well as costs to finish design of all sites ($3,500,000).

This request can eventually be rolled into a bond for the construction of the facilities.

It is requested that the Council appropriate $4,200,000.00 for design of the new Public Safety and Fire Department facilities.

Proposed Ordinance No. 21-O-68-R

ORDINANCE NO. _____

AN ORDINANCE APPROPRIATING ONE MILLION DOLLARS ($1,000,000.00) FOR LAND ACQUISITION IN CONNECTION WITH THE NEW PUBLIC SAFETY FACILITIES FOR THE ELKHART POLICE DEPARTMENT AND ELKHART FIRE DEPARTMENT

WHEREAS, the City of Elkhart has been engaged in a multi-year process to locate, design and build new public safety facilities for the city; and

WHEREAS, in 2019, the Common Council appropriated One Million Two Hundred Thousand Dollars ($1,200,000.00) in connection with the land acquisition costs for the public safety building project for the city; and

WHEREAS, the 2019 appropriation of One Million Two Hundred Thousand Dollars ($1,200,000.00) will be released to original fund from which the monies were originally appropriated as a new lesser appropriation is requested; and

WHEREAS, the Administration is requesting a new appropriation in the amount of One Million Dollars ($1,000,000.00) for the estimated land acquisition costs for the new public safety facilities for the Elkhart Police Department and the Elkhart Fire Department; and

WHEREAS, there exist among the unappropriated funds of the Economic Development Local Income Tax Fund ("EDIT Fund") of the City of Elkhart, sufficient and appropriate sums for the purposes stated herein.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Elkhart, Indiana, that:

Section 1. The total sum of One Million Dollars ($1,000,000.00) is appropriated from the Economic Development Local Income Tax Fund No. 444 ("EDIT Fund") and allocated to the following account category in the amount:

Account	**Description**	**Amount**
444-5-016-441.0000	Land & Land Improvements	$1,000,000.00

Section 2. The Common Council has fixed the ____ day of _____, _____ , at 7:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation, and the taxpayers of the City of Elkhart, Indiana, shall have then and there the right to be heard.

Section 3. This Ordinance shall be in effect from and after its passage and approval, according to law.

ORDAINED this ___ day of _____, _____ .

_____
H. Brent Curry
President of the Common Council

ATTEST:

_____
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this ____ day of _____, _____ , at _____ a.m./p.m.

_____
Debra D. Barrett, City Clerk

APPROVED by me this ____ day of _____, _____ .

_____
Rod Roberson, Mayor

ATTEST:

_____
Debra D. Barrett, City Clerk

ORDINANCE NO. _____

AN ORDINANCE APPROPRIATING FOUR HUNDRED THOUSAND AND 00\100 DOLLARS ($400,000.00) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT FOR THE SMALL BUSINESS CONTINUITY PROGRAM

WHEREAS, the United States Congress passed the American Rescue Plan Act (ARPA) and awarded to the City of Elkhart ("City") funds which may be used for certain authorized uses specified under Section 603(c)(1) dthe Social Security Act, as added by Section 9901 of the ARPA;

WHEREAS, Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, designates the following authorized uses:

> *(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households,small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;*
>
> *(B) to respond to workers performing essential work during the COVID–19 public healthemergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;*
>
> *(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or*
>
> *(D) to make necessary investments in water, sewer, or broadband infrastructure.*

WHEREAS, there are over 5,000 businesses representing several industrial sectors located in Elkhart with many of these businesses providing critical components of the local and state supply chain, responsible for much of the region's economic growth; and

WHEREAS, as a result of the Coronavirus-19 Pandemic, many Elkhart small businesses – defined for program purposes as business with less than twenty-five (25) employees and annual revenue of less than five hundred thousand dollars ($500,000.00) – have experienced negative economic impact due to the effects of the COVID-19 pandemic; and

WHEREAS, Department of Development Services has devised the Small Business Continuity Program to assist small business in the midst of the pandemic and in its aftermath, help create a more resilient small business community by providing the funding for tools that build capacity and better position businesses to overcome the unexpected challenges brought on by the COVID-19 pandemic. Allowable uses would include technology upgrades, expenses related to signage, structure façade, marketing, promotion, retooling business models, and training; and

WHEREAS, as qualified small businesses work to return their business to vitality and viability, or enter new markets, the Small Business Continuity Program will provide direct payment grants or loans up to twenty-five thousand dollars ($25,000.00) and resource referrals to help stabilize their efforts; and

WHEREAS, the Common Council previously appropriated funds for the Small Business Continuity Program in the amount of Four Hundred Thousand Dollars ($400,000.00) for the previously stated purposes; and

WHEREAS, during and since the previous appropriation the Council provided feedback additional for the implementation and utilization of the appropriated funds under the for the Small Business Continuity Program which the Administration wished to incorporate into the program through the legislative process; and

WHEREAS, the previous appropriation of Four Hundred Thousand Dollars ($400,000.00) will be released to ARP Coronavirus Local Fiscal Recovery Fund; and

WHEREAS, the City Administration requests that the Common Council re-appropriate Four Hundred Thousand Dollars ($400,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Negative Economic Impact Account for a program intended to reverse negative economic impacts that have affected small businesses; and

WHEREAS, the ARP Coronavirus Local Fiscal Recovery Fund contains funds sufficient and appropriate for the project.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The amount of Four Hundred Thousand Dollars ($400,000.00) be, and hereby is, appropriated from the ARP Coronavirus Local Fiscal Recovery Fund and assigned to the following account line:

Account No. 176-5-000-439.0501 Negative Economic Impact

Section 2. The Common Council has fixed the ____ day of _____, _____, at 7:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation, and all taxpayers and interested persons will have the opportunity to appear and express their views.

Section 3. This Ordinance shall be in effect from and after its passage by the Common Council and approval by the Mayor according to law.

SO ORDAINED this _____ day of _____, _____.

_____
H. Brent Curry
President of the Common Council

ATTEST:

_____
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____day of _____, _____ at_____ a.m./p.m.

_____
Debra D. Barrett, City Clerk

Approved by me this _____ day of _____, _____.

_____
Rod Roberson, Mayor

ATTEST:

_____
Debra D. Barrett, City Clerk

Rod Roberson
Mayor

City of Elkhart

Dept of Development Services
Planning & Development
Community Development
Economic Development
Planning Services
229 S. Second St.
Elkhart, IN 46516
574.294.5471
Fax: 574.295.7501

Proposed Ordinance 21-O-69

To: City Council

From: Dayna Bennett Dayna Bennett

Date: December 6, 2021

Re: ARP Appropriation for Small Business Continuity Program

The Department of Development Services is requesting an appropriation from the City of Elkhart's entitlement of American Rescue Plan Act funds for the implementation of the Small Business Continuity Program.

A permitted use of ARP funds is to reverse the negative economic impact of COVID-19. Many small businesses (defined as business with less than 25 employees and $500,000 in revenue) in Elkhart experienced detrimental losses due to extended shutdowns, disruption of supply chains, obsolescence in business model, and a tight labor market. As these businesses work to return their business to viability or enter new markets, this program will provide grants up to $25,000* to help stabilize their efforts. Some of the eligible uses are technology upgrades, training and technical assistance, signage or façade upgrades, and marketing and production. **

An example of a key metric measuring the success of the program would be the number of participating small businesses still in existence 1 year, 3 years, and 5 years after funding.

The projected total investment for the implementation of the Small Business Continuity Program is $400,000. We are requesting $400,000 of ARP funds.

*Subject to additional restrictions

**Additional uses available

Small Business Continuity Program Application

Elkhart is home to several thousand businesses, representing several industrial sectors, ranging in size from less than 10 employees to several hundred. Over a thousand of these businesses are small (less than 25 employees) and are critical components of the local and state supply chain. The recent pandemic negatively impacted many viable and thriving businesses, making their success more vulnerable.

The City of Elkhart values our small business community as a key component to a healthy local economy. Many of our small businesses have been challenged throughout the COVID-19 pandemic with closings, supply-chain disruptions, labor shortages and more. This has increased the vulnerability of small businesses who often do not have the cash reserves or technical assistance to weather these unexpected disruptions, sometimes leading to permanent closings. The Small Business Continuity Program is designed to create a more resilient small business community by providing the funding for tools that build capacity and better position businesses to overcome the unexpected challenges brought on by the COVID-19 pandemic.

The City of Elkhart has appropriated $400,000 of American Rescue Plan Act dollars to fund the Small Business Continuity Program. These funds will be awarded in 2 rounds of $200,000 each. The deadline to apply for funding from the first round is January 31, 2022. Notification of award from the first round will be February 28, 2022. The deadline for the second round is March 31,2022. Notification of award from the second round will be April 30, 2022. The maximum award amount for any business is 10% of your total revenue from 2019 up to $25,000. If the business did not exist for the full year of 2019, the maximum a business may receive is 10% of your total revenue from 2020 up to $25,000. While businesses may submit an application for both rounds, a business will not be awarded more than one grant.

We expect the amount of requests will exceed the amount of funding available. Therefore, submission of a qualifying application does not guarantee that a business will be awarded funds. Eligibility and selection criteria are outlined below.

Please note as a part of the application process, you will be asked to upload proof of negative business impact as a consequence of the COVID-19 pandemic. Please carefully review the list of required documentation and Frequently Asked Questions before completing your application. Failure to provide all of the required documentation could lead to the elimination of your application. Applications won't be considered complete until all documentation is provided. Please contact Kristen.Smole@coei.org if you have questions about the application or the required documentation.

Eligibility and Selection Criteria

Small businesses within the City of Elkhart that have been negatively impacted by the COVID-19 pandemic are encouraged to apply. Applicants may request funds up to 10% of total revenue from 2019. If the business was not open a full year in 2019, you may use 2020. Requested funds may not exceed $25,000. In order to be eligible for the Small Business Continuity Program a businesses must:

- Have a physical location within the City of Elkhart
- Currently have on-going business activity
- Have $500,000 or less in annual revenue

- Employ 25 or fewer employees
- Be able to demonstrate financial harm **due to the COVID-19 pandemic**. Examples include:
    - The business being forced to close for a week or more due to a consequence of the pandemic like public health requirements, supply chain disruption, or labor shortages
    - Decrease in profit/increase in losses in 2020 and/or 2021 due to the pandemic
- Submit all required reports
    - Required reporting include but may not be limited to
        - 2019 and 2020 tax returns (only 2020 if you were not open in 2019)
        - Payroll documents to demonstrate payroll levels (ex W-3 or 941)
        - Estimates from vendors
        - Other documents that may demonstrate economic harm as requested

Please note that negative economic impact must be due to the COVID-19 pandemic to be eligible for consideration for the Small Business Continuity Program.

Preference will be given to applicants who:

- Use Elkhart vendors
- Best demonstrate how awarded funds will make their business more resilient to the impact of the COVID-19 pandemic
- Provide a unique and highly sought after product or service to the surrounding community

We expect the amount of requests will exceed the amount of funds available. Therefore submitting an application does not guarantee a business will be awarded funding. All applicants will be screened to ensure they meet the eligibility requirements, including the submission of all required reports. All applicants who meet the eligibility requirements will then be ranked using the preferences stated above. Based on the ranking, funds will be awarded until they are exhausted.

If you have any questions about the selection process, please contact Kristen.Smole@coei.org

ALLOWABLE USES

The primary goal of the program is to add capacity to existing businesses impacted by the pandemic through funding new strategies targeted toward making the business more resilient. **The replacement of lost profits, rent/lease payments, and overdue utility payments are not permissible uses of grant funds.**

Examples of permissible uses include:

- Technology upgrades that increase resiliency
    - Website and/or App Development
    - Inventory Tracking System
- Training and Technical Assistance
- Signage or Façade Upgrades

- Expand or Diversify Product Offering
    - Additional Supplies and Materials
    - Expand or Reconfigure Space
- Marketing and Promotion

AWARD AMOUNTS

Funds are limited. When determining the amount of your request, please consider the actual cost needed to make your business more resilient based on allowable uses stated above. In order to provide aid to as many impacted small businesses as possible, the City of Elkhart encourages businesses to make informed requests that are suitable for the needs of the individual business.

Applicants may request:

- Up to 10% of total revenue from 2019 or 2020 if you were not open the entire year of 2019
- Total requested amount may not exceed $25,000

Funds will be distributed as loans, with the loan to be forgiven if reporting and survey requirements are met within a timely matter. Payment of funds will be made directly to the vendor of the product or the service provider chosen by the business owner. Please note payments are subject to the City of Elkhart's payment schedule, sometimes exceeding 30 days. Businesses are only allowed one grant award from the Small Business Continuity Program.

SUBMISSION AND CONTACT

While online applications are preferred, paper applications are available in the Development Services Department located within City Hall. For all questions and inquiries, please contact:

Development Services- Economic Development
c/o Kristen Smole
229 S Second Street
Elkhart, IN 46516
(574) 294-5471 ext. 1021
Kristen.Smole@coei.org

The deadline for submitting an application online is 11:59 pm on Friday, December 31, 2021.

Applications are time stamped and are reviewed in the order they are received.

Application Questions

Business Information

Legal name of business
- Fill in the blank

Physical address of business location within the City of Elkhart
- Fill in the blank

Business phone
- Fill in the blank

Business email
- Fill in the blank

Organization type
- LLC
- Sole proprietorship
- C-Corp
- S-Corp
- General Partnership
- Limited Liability Partnership
- Limited Partnership
- Cooperative
- Trust
- Independent Contractor
- Other

Federal Employer Identification Number (EIN) or Social Security number if Sole Proprietorship
- Fill in the blank

Is the business a franchise?
- Yes
- No

Year the business was established
- Calendar

Number of Employees
- Fill in the blank

Short description of business and industry (150 words or less):
- Short answer

Can the business demonstrate a negative economic impact as a result of COVID-19?

Yes
No

Was the business profitable in 2019?

Yes
No

Is the business in good standing with all federal, state and local regulating agencies? (ie: IRS, Indiana DOR, Indiana SOS, County Health Department, etc.)

Yes
No

Applicant Information

Applicant Name

Fill in the blank

Applicant Title/Position

Owner
Manager
Accountant
CEO
COO
CFO
Other

Applicant Phone

Fill in the blank

Applicant Email

Fill in the blank

Within the last 5 years, for any felony involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance, has the Applicant (if an individual) or any owner of the Applicant 1) been convicted; 2) pleaded guilty; 3) pleaded nolo contendere; or 4) commenced any form of parole or probation (including probation before judgment)?

Yes
No

Is the business or any owner of the business presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?

Yes
No

General Questions

How was your business impacted by the COVID-19 pandemic? (250 words or less)
Short answer

If awarded, how does your business plan to use the funds? (250 words or less)
Short answer

How would these funds assist in the growth of your business and/or improve resiliency strategies? (250 words or less)
Short answer

Has your business received funds from any other granting organization in response to the COVID-19 pandemic?
Yes
No

If so, what was the total amount awarded to your business?
Fill in the blank

How did you hear about this program?
Website
Social Media
Newspaper
Other

Please Upload All Supporting Documentation

Required information
Form W-9
2019 and 2020 Federal Tax Returns (or Federal Form 1040 with all Schedules if sole proprietorship)
Profit and Loss Statement for 2021 certified by a CPA
Proof of payroll showing less than 25 employees (Form W-3 for 2019 and 2020, 941's for 2021 if applicable)
Proof of loan/grant agreements if you have received funding from other assistance programs
Vendor estimates for the product or service funds would cover if awarded

I, hereby, certify that all the information provided in this application are true and complete
Check box

Frequently Asked Questions

Program Overview

Q: How is the Small Business Continuity Program funded?
A: The program is funded by federal dollars made available through the American Rescue Plan Act (ARPA). A total of $400,000 has been made available for grant funds to benefit small businesses who have experienced a negative economic impact due to the COVID-19 pandemic.

Q: If I receive a grant, are the funds taxable?
A: Please contact your tax professional.

Q: If I've already received funding through the first round of the Small Business Continuity Program, can I apply again?
A: No, businesses may only be awarded one grant, but can apply for several of the allowable uses within one grant.

Q: Does the Small Business Continuity Program only fund initiatives related to business growth and resiliency strategies? Can I use the funds to cover general business expenses?
A: The Small Business Continuity Program **only** funds initiatives related to making the business more resilient. Other expenses, such as rent/lease and utility payments and lost revenue, are not permissible.

Eligibility

Q: Are nonprofit organizations eligible for the Small Business Continuity Program?
A: No, nonprofit organizations are not eligible.

Application Next Steps

Q: I applied. What happens next?

- The application deadline for the first round of awards is January 31, 2022
    - Applications will be evaluated on eligibility requirements and preferences stated above in the application information
    - Applicants will be notified of award no later than February 28, 2022.
- The second round of applications will be accepted beginning March 1, 2022
    - Applications will be evaluated on eligibility requirements and preferences stated above in the application information
    - The application deadline for the second round is March 31, 2022
    - Applicants from the second round will be notified of award no later than April 30, 2022
- You will receive a confirmation email by the next business day, confirming receipt of the application.
- If you have submitted an application and do not receive a confirmation email by the next business day, please reach out to Kristen.Smole@coei.org to confirm receipt. If you have questions about your application or need additional information, email Kristen.smole@coei.org.
- If additional information is needed, you will receive an email requesting the information

- Grant awards will be announced during the Board of Works meeting immediately before the notification date. Awardees will also be notified via email on the notification date.
- Those who are not awarded will be notified via email on the notification date.

Please check your email frequently and be sure to check your spam folder to ensure you receive the proper communications.

Proposed Ordinance No. 21-O-57-R

ORDINANCE NO. _____

AN ORDINANCE APPROPRIATING ONE MILLION DOLLARS ($1,000,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE PROVISION OF GOVERNMENT SERVICES ACCOUNT FOR UPGRADES TO THE LERNER THEATRE HEATING, VENTILATION AND AIR CONDITIONING SYSTEM

WHEREAS, the United States Congress passed the American Rescue Plan Act (ARPA) and awarded to the City of Elkhart ("City") funds which may be used for certain authorized uses specified under Section 603(c)(1) dthe Social Security Act, as added by Section 9901 of the ARPA;

WHEREAS, Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, designates the following authorized uses:

> *(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households,small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;*
>
> *(B) to respond to workers performing essential work during the COVID–19 public healthemergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;*
>
> *(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or*
>
> *(D) to make necessary investments in water, sewer, or broadband infrastructure.*

WHEREAS, the growing necessity of repairs to The Lerner Theatre's heating, ventilation and air conditioning (HVAC) system has demonstrated that the value of retaining the system has been surpassed the cost of repair to retain it; and

WHEREAS, in May 2021, after conducting a system assessment in which it was determined that the cost of repair for seven (7) out of the ten (10) rooftop units was within a few thousand dollars of the total cost to replacement the units; and

WHEREAS, the Lerner's HVAC system has been well maintained over the ten (10) years since it was installed; however the recent assessment determined that the system was undersized for the HVAC requirements of the building; and

WHEREAS, weather related conditions such as, hail damage and power outages added to further stress to the system, now threatening future disruptions to the existing equipment; and

WHEREAS, to allow adequate time for ordering and installing the system, the project must begin immediately if it is to be installed and operating for the summer 2022 season; and

WHEREAS, the passage of the American Rescue Plan Act presents a unique opportunity to replace these systems which are in need of replacement, while upgrading them to reduce the risk of indoor transmission of Coronavirus-19 and other airborne disease-causing pathogens;

WHERAS, an upgrade of the HVAC systems of the Lerner Theatre would make the facility safer for the city employees working in those facilities and the members of the public who visit; and

WHEREAS, the estimated cost of the entire project is One Million Dollars ($1,000,000.00); and

WHEREAS, the City Administration requests that the Common Council of the City of Elkhart appropriate a portion of the cost, to wit: One Million Dollars ($1,000,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Provision of Government Services Account; and

WHEREAS, the ARP Coronavirus Local Fiscal Recovery Fund contains funds sufficient and appropriate for the project.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The amount of One Million Dollars ($1,000,000.00) be, and hereby is, appropriated from the ARP Coronavirus Local Fiscal Recovery Fund and assigned to the following account line:

Account No. 176-5-600-439.0061 Provision of Government Services Account

Section 2. The Common Council has fixed the ____ day of _____, _____, at 7:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation, and all taxpayers and interested persons will have the opportunity to appear and express their views.

Section 3. This Ordinance shall be in effect from and after its passage by the Common Council and approval by the Mayor according to law.

SO ORDAINED this _____ day of _____, _____.

_____
H. Brent Curry
President of the Common Council

ATTEST:

_____
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____day of _____, _____ at_____ a.m./p.m.

_____
Debra D. Barrett, City Clerk

Approved by me this _____ day of _____, _____.

_____
Rod Roberson, Mayor

ATTEST:

_____
Debra D. Barrett, City Clerk

Proposed Resolution No. 21-R-57-R

City of Elkhart, Indiana
the city with a heart

MEMORANDUM

DATE: 10/28/2021

TO: Elkhart City Common Council

FROM: Rod Roberson, Mayor

RE: Proposed Ordinance 21-O-57-R

ENTITLED: AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF ELKHART APPROPRIATING ONE MILLION DOLLARS ($1,000,000) OF AMERICAN RESCUE PLAN DOLLARS (ARP) FROM THE ARP FUND TO IMPROVE THE AIR QUALITY IN THE LERNER THEATRE

For your consideration is Proposed Ordinance 21-O-57-R (revised) which would appropriate no more than $1,000,000 from the American Rescue Plan (ARP) dollars for the replacement of the heating, ventilation, and air condition system (HVAC) system in The Lerner Theatre.

Presently, the HVAC in The Lerner is no longer and not functioning at 100%. Some units are working below their capacity and some units have failed completely. The passage of ARP presents an opportunity to replace this HVAC system which will allow ensure proper air circulation that reduces the risk of transmission of airborne pathogens like the COVID-19 virus.

The monies previously appropriated ($500,000) from the General Fund for this project will be returned to the General Fund.

MEMORANDUM OF
THE NOVEMBER 23, 2021 SPECIAL MEETING OF
THE CITY OF ELKHART BOARD OF PUBLIC SAFETY
IN EXECUTIVE SESSION

Present: Robert Woods
Carol Loshbough
Corinne Straight
Charlie Cross

Also Present: Rose Rivera, City Attorney
David Hopkins, IT

Pursuant to IC 5-14-1.5-6.1(b)(7), for discussion of records classified as confidential by state or federal statute, the City of Elkhart Board of Public Safety met in executive session on November 23, 2021 at 8:05 a.m., to consider the request for paid Medical Leave for Nathan Lanzen.

No other subject matters were discussed, and no votes were taken.

Following discussion, the meeting was adjourned at 8:28 a.m.

Robert Woods
Chairman

Carol Loshbough - Webex
Vice-Chair

Member

Charlie Cross
Member

12-14-21 Nancy Wilson
Attest:

BOARD OF PUBLIC SAFETY
Tuesday, November 23, 2021

Chairman Robert Woods called a regular meeting of the Board of Public Safety to order at 9:00 a.m., Tuesday, November 23, 2021. Robert Woods, Corinne Straight, and Charlie Cross, were present. Carol Loshbough and Anthony Coleman were absent at roll call. Elkhart Council liaison Arvis Dawson was absent.

1. APPROVE AGENDA

On motion by Corinne Straight, seconded by Charlie Cross and carried 3-0 the agenda was adopted as presented.

2. OPEN BIDS

Demolition of 131 N. 6th Street

Two bids were received for the demolition of 131 N. 6th Street. Pelley Excavating bid $16,997.00. Cross Excavating & Demolition bid $12,500.00. On motion by Corinne Straight, seconded by Charlie Cross and carried 3-0, the bid was assigned to staff to review and report back later in the meeting.

Demolition of 1616 Toledo Rd.

Three bids were received for the demolition of 1616 Toledo Rd. Cross Excavating bid $14,383.60. C&E Excavating bid $41,770.00. Pelley Excavating bid $12,911.00. On motion by Corinne Straight, seconded by Charlie Cross and carried 3-0, the bid was assigned to staff to review and report back later in the meeting.

3. MINUTES of Regular Meeting November 9, 2021

On motion by Charlie Cross, seconded by Corinne Straight and carried 3-0, the minutes from November 9, 2021 were approved as presented.

4. POLICE

Assistant Chief Dan Milanese presented a Medical Leave of Absence for Cpl. Breann Holmes. She began her leave on November 12, 2021. On motion by Corinne Straight, seconded by Charlie Cross and carried 3-0, the Board approved a Medical Leave of Absence for Cpl. Breann Holmes.

5. FIRE

Chief Shaun Edgerton presented the October Month End Report.

Chief Edgerton asked for an extension of Medical Leave for Firefighter Aaron Lechlitner as requested by his Doctor. On motion by Corinne Straight, seconded by Charlie Cross and carried 3-0, the Board approved an extension of Medical Leave for Firefighter Aaron Lechlitner.

Chief Edgerton asked for an extension of Medical Leave for Engineer David Brevard as requested by his Doctor. On motion by Charlie Cross, seconded by Corinne Straight and carried 3-0, the Board approved an extension of Medical Leave for Engineer David Brevard.

6. BUILDING & CODE ENFORCEMENT

Award Demolition Bid 131 N. Sixth St.

On motion by Corinne Straight, seconded by Charlie Cross and carried 3-0, the Board awarded the demolition of 131 N. Sixth St. to Cross Excavating and Demolition for $12,500.00 as the lowest, responsive and responsible bidder.

Award Demolition of 1616 Toledo Rd.

On motion by Charlie Cross, seconded by Corinne Straight and carried 3-0, the Board awarded the demolition of 1616 Toledo Rd. to Pelley Excavating for

$12,911.00 as the lowest, responsive and responsible bidder.

7. OTHER PUBLIC SAFETY ITEMS

FOP Lodge 52 MOU

Asst. Chief Milanese explained the Memorandum of Understanding between the FOP Lodge 52 and the City of Elkhart for the proposed payout of employees that had carried over vacation from the previous year (2020) due to staffing issues and the COVID 19 pandemic. On motion by Charlie Cross, seconded by Corinne Straight and carried 3-0, the Board approved the MOU between the City of Elkhart and the Fraternal Order of Police Lodge 52.

Police Merit Commission Minutes

On motion by Corinne Straight, seconded by Charlie Cross and carried 3-0, the PMC minutes were accepted and placed on file.

Board of Safety Resolution 21-R-07

On motion by Corinne Straight, seconded by Charlie Cross and carried 3-0, the Board postponed Resolution 21-R-07.

Resolution 21-R-08

On motion by Corinne Straight, seconded by Charlie Cross and carried 3-0, the Board approved Resolution 21-R-08, a Resolution of the Board of Safety of the City of Elkhart, Indiana, denying Nathan Lanzen's request for paid Medical Leave under the Collective Bargaining Agreement.

8 ADJOURNMENT

On motion by Corinne Straight, seconded by Charlie Cross and carried 3-0, the Board of Public Safety meeting was adjourned at 9:28 a.m.

Robert Woods, Chairman

Attest: Nancy Wilson, Clerk of the Board

BOARD OF PUBLIC SAFETY
Monday, November 29, 2021

Chairman Robert Woods called a special meeting of the Board of Public Safety to order at 8:50 a.m., Monday, November 29, 2021. Robert Woods, Corinne Straight, Anthony Coleman, and Carol Loshbough were present. Rev. Charlie Cross was absent.

1. APPROVE AGENDA

On motion by Carol Loshbough, seconded by Anthony Coleman and carried 4-0 the agenda was adopted as presented.

2. BOARD OF SAFETY RESOLUTION 21-R-07 (Tabled)

On motion by Corinne Straight, seconded by Anthony Coleman and carried 3-1, Resolution 21-R-07 was taken off the table for consideration.

On motion by Corinne Straight, seconded by Anthony Coleman and carried 3-1, the Board approved Board of safety Resolution 21-R-07, a Resolution of the Board of Public Safety of the City of Elkhart, Indiana, authorizing the Department of Law to object to the application of Taryn Ashley Lanzen for Disability Benefits at the hearing of the Local Pension Board.

3. ADJOURNMENT

On motion by Carol Loshbough, seconded by Corinne Straight and carried 4-0, the Board of Public Safety meeting was adjourned at 8:54 a.m.

Robert Woods Robert Woods, Chairman

Attest: Nancy Wilson Nancy Wilson, Clerk of the Board

BOARD OF PUBLIC WORKS
Tuesday, November 16, 2021

President Mike Machlan called a regular meeting of the Board of Public Works to order at 9:00 a.m., Tuesday, November 16, 2021. The Clerk of the Board Nancy Wilson called the roll. Mike Machlan, Jamie Arce, Rose Rivera, Chad Crabtree and Ron Davis attended in person.

1. Approve Agenda

On motion by Chad Crabtree seconded by Ron Davis and carried 5-0 the agenda was approved as presented.

2. Claims

On motion by Jamie Arce, seconded by Chad Crabtree and carried 5-0, the Board approved the Claim and Allowance Docket in the amount of $3,656,948.48 consisting of 112 pages as prepared on November 12, 2021 at 12:03 p.m.

3. Minutes Regular Meeting November 2, 2021

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the minutes from November 2, 2021 were adopted.

4. Tabled Items:

Notice of Violation Grease Control Device Not in Operational Order Happy North Garden 2900 Cassopolis St. (F2019-033)

No action was taken.

Notice of Violation 25% Rule Happy North Garden 2900 Cassopolis St. (F2019-033)

No action was taken.

5. Engineering

(A.) Administration

Change Order #2: River District Zone 1 Earthwork and Utilities Bid #20-38

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board approved Change Order #2 for the River District Zone 1 Earthwork and Utilities project, Bid #20-38, for an increase of $29,220.80, bringing the current Contract price to $1,429,318.58.

(B.) Utility

Change Order #2 & Final: S. Sixth St. Sewer Extension Project Bid #21-23

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the release of retainage and Change Order #2 & Final for the S. Sixth Street Sewer Extension project, Bid #21-23, for an increase of $111.25, bringing the final Contract price to $174,829.35.

Change Order #2 & Final: North Main Plant Generator Upgrade Project Bid #20-20

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board approved the release of all retainage and Change Order #2 & Final for the North Main Plant Generator Upgrade project, Bid #20-20, for a decrease of $78,324.93, bringing the final Contract price to $450,848.07.

(C.) Right of Way

Change Order #2: Benham Ave. Reconstruction Project: Bid #20-23

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board approved the release of retainage and Change Order #2 and Final for the Benham Avenue Reconstruction project, Bid #20-23, for an increase of $124,823.93,

bringing the current contract price to $3,096,340.03.

Change Order #1 and Final Elkhart County Visitor Center Driveway Project-Quote #21-03

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the release of all retainage and Change Order #1 and final for the Elkhart County Visitor Center Driveway project, Quote #21-03, for an increase of $7,121.30, bringing the final Contract price to $32,011.30.

(D.) Summary

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board ratified the following permits:

Revocable Permit: #6500, Property Owner: Jeff Whisler
Property: 126 S. Main St.
Permit Holder: Jeff Whisler
Blocking off part of the sidewalk and parking

Sewer Assessment Application:

Jon Brown
24137 Roadster Ct
Elkhart, IN 46516
Property: 701 Fieldhouse Ave
Paid in full, $3,600.00

Water Assessment Applications:

Jon Brown
24137 Roadster Ct
Elkhart, IN 46516
Property: 701 Fieldhouse Ave
Paid in full, $1,095.50

Gregorio Rodreguez
1227 Fieldhouse Ave
Elkhart, IN 46517
Property: 1227 Fieldhouse Ave
Paid in full, $1,227.00

6. Utilities

(A.) Administration

Water Utility MRO for October 2021

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board accepted and placed on file the Water Utility MRO for October 2021.

Wastewater Treatment Plant Monthly Report for September 2021

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board accepted and placed on file the Wastewater Treatment Plant MRO for September 2021.

Chlorine Price Change

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board accepted the communication from Jeff Zehner, Operation Supervisor advising the Chlorine supplier Jones Chemical Inc. increased the price as noted on the memo dated October 27, 2021.

BOARD OF PUBLIC WORKS
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(B.) Finance

3rd Quarter Utility Financial Reports

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board accepted and placed on file the 3rd Quarter Utility Financial Reports.

2022 Utility Budget Request

On motion by Chad Crabtree, second by Ron Davis and carried 5-0, the Board accepted the draft of the 2022 Utility Budgets as presented for review and consideration at the December 7, 2021 Board of Works meeting.

(B.) Environmental Compliance

Notice of Violation: 25% Rule Subway 2010 Cassopolis St. (F2016-006)

A motion was made by Chad Crabtree and seconded by Ron Davis to approve a Notice of Violation 25% Rule for Subway 2010 Cassopolis St and assess a penalty of $100.00. Megan Kolaczyk explained the violation to the Board. The FSE was not present. Mike asked if anyone was on line and there were no comments. He called for the vote and the motion carried 5-0.

7. New Business

Economic Development Grant

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board approved the Economic Development Grant between the City of Elkhart and the Economic Development Corporation for $105,240.00.

8. Use & Event Permits

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the following permits:

- Hunger and Homelessness Awareness Resource Fair 11/19- Central Park, Public Assembly, Plaza Sign, Electric
- Winterfest Parade 12/4- Parade & Public Assembly, Park's Stage, ESS, EMS, Golf Cars, Tables/Chairs, EPD, Temporary Street Closures, Electric, Plaza Sign, Special Exception from Noise
- St. Vincent de Paul Church Our Lady of Guadalupe Procession 12/11- ESS, Special Exception from Noise, Public Assembly
- INOVA Federal Credit Union New Year's Eve Fireworks 12/31- ESS, EMS, Temporary Street Closures, Special Exception from Noise

9. Electronic Policy

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the agenda was amended to discuss the electronic meeting attendance policy. Mike asked Nancy to email the policy to the Board and asked Rose to review it. No action was taken.

10. Adjournment

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board of Works adjourned at 10:00 a.m.

Mike Machlan, President

Attest: Nancy Wilson, Clerk of the Board.

BOARD OF PUBLIC WORKS
Tuesday, December 7, 2021

President Mike Machlan called a regular meeting of the Board of Public Works to order at 9:03 a.m., Tuesday, December 7, 2021. The Clerk of the Board Nancy Wilson called the roll. Mike Machlan, Chad Crabtree and Ron Davis attended in person. Rose Rivera and Jamie Arce were absent.

1. Approve Agenda

A motion was made by Chad Crabtree and seconded by Ron Davis to approve the agenda. On motion by Chad Crabtree seconded by Ron Davis and carried 3-0 the agenda was amended by adding IHCDA Water Assistance Program MOU & Waiver of Direct Deposit. On motion by Chad Crabtree seconded by Ron Davis and carried 3-0 the agenda was amended by adding Change Order #3 for the North Main St. project. The amended agenda carried 3-0.

2. Claims

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved the Claim and Allowance Docket in the amount of $5,389,852.08 consisting of 148 pages as prepared on December 2, 2021 at 1:55 p.m.

3. Minutes Regular Meeting November 16, 2021

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the minutes from November 16, 2021 were adopted.

4. 2022 Water, Wastewater, Aquatics, & Storm Water Utility Operating and Capital Budgets

A motion was made by Chad Crabtree and seconded by Ron Davis to approve the 2022 Water Utility Operating Budget of $7,170,723 and 2022 Water Utility Capital Budget of $1,239,500 for a total of $8,410,223.00. Lynn Brabec, Laura Kolo, Jon Brown, Tim Reecer, Edgar Moreno, Tory Irwin & Nicolette Kershner discussed the Water Utility Budget details with the Board. Mike closed discussion and called for the vote. The motion carried unanimously.

A motion was made by Chad Crabtree and seconded by Ron Davis to approve the 2022 Wastewater Utility Operating Budget of $7,954,634, 2022 Wastewater Bond & Interest Expense of $3,330,000, and 2022 Wastewater Utility Capital Budget of $4,665,243 for a total of $15,949,877.00. Nicolette Kershner, Tory Irwin, Laura Kolo, and Joseph Feathers discussed the Wastewater Utility Budget details with the Board. Mike closed discussion and called for the vote. The motion carried unanimously.

A motion was made by Chad Crabtree and seconded by Ron Davis to approve the 2022 Aquatics Operating & Capital Budget of $186,637.00. Daragh Deegan and Nicolette Kershner discussed the Aquatics Budget details with the Board. Mike closed discussion and called for the vote. The motion carried unanimously.

A motion was made by Chad Crabtree and seconded by Ron Davis to approve the 2022 Storm Water Utility Operating Budget of $742,809 and 2022 Storm Water Utility Capital Budget of $926,673 for a total of $1,669,482.00. Joe Foy discussed the Storm Water Budget details with the Board. Mike closed discussion and called for the vote. The motion carried unanimously.

5. Tabled Items:

Notice of Violation Grease Control Device Not in Operational Order Happy North Garden 2900 Cassopolis St. (F2019-033), and Notice of Violation 25% Rule Happy North Garden 2900 Cassopolis St. (F2019-033)

BOARD OF PUBLIC WORKS
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On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board took the Happy North Garden 2900 Cassopolis Violations off the table. Mike did research on the Ordinance and said all of their grease control devices need to be in operational order. On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved a Notice of Violation Grease Control Device Not in Operational Order and assessed a penalty of $500.00 for failing to respond to the violation. The FSE was not present. On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved a Notice of Violation for 25% Rule at Happy North Garden and assessed a penalty of $500.00 for failing to respond to the violation.

6. Engineering

(A.) Administration

PSA Abonmarche Asset Management EAM and GIS Support

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved an agreement with Abonmarche for support for CentralSquare's Enterprise Asset Management (EAM) and ESRI's Geographic Information System (GIS) tasks outlined in the contract for an amount not to exceed $67,200.00. Joseph Feathers and Matt Heineman discussed the details with the Board. On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board amended the motion to include Legal review of the PSA.

(B.) Utility

Change Order #1 & Final: 2010 Superior Sewer Repairs Quote #21-15

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board released all retainage and approved Change Order #1 & Final for the 2010 Superior Street Sewer Repair, Quote #21-15, for a decrease of $1,620.00, bringing the final Contract price to $24,630.00.

Payment #35, #36, #37, & #38 to Donohue & Associates: Elkhart WWTP Capacity Upgrades Phase 2

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved partial payment #35 in the amount of $16,248.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades Phase 2 Project.

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved partial payment #36 in the amount of $11,468.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades Phase 2 Project.

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved partial payment #37 in the amount of $18,918.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades Phase 2 Project.

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved partial payment #38 in the amount of $12,348.00 to Donohue & Associates, Inc. from the allocated SRF loan for professional services on the Elkhart WWTP Capacity Upgrades Phase 2 Project.

Change Order #3 N Main Street Water Replacement Project

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the

BOARD OF PUBLIC WORKS
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Board approved Change Order #3 for the N. Main Street Water Replacement Project, Bid #21-03, for an increase of $10,245.00, bringing the Contract price to $1,557,953.00.

(C.) Right of Way

Change Order #2: South Main St. Street Scape Lusher to Hively Project Bid #21-14

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved Change Order #2 for the South Main Street Streetscape Reconstruction Project, Bid #21-14.

Change Order #1 and Final County Road 17 Resurfacing Project Bid #21-26

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved the release of all retainage and Change Order #1 and final for the County Road 17 Resurfacing Project, Bid #21-26, for an increase of $177,761.45, bringing the final Contract price to $1,066,496.65.

Lexington Business Center Plat- Accept ROW Dedication

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board accepted the right-of-way dedication on the Lexington Business Center Plat.

Request Quote #22-01 Burr Oak Avenue Clearing

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board granted permission to quote the Burr Oak Ave. Clearing project, Quote #22-01.

Change Order #1 & Final: Ace Cab Parking Lot Bid #20-37

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved the release of all retainage and Change Order #1 and final for the Ace cab Parking Lot Project, Bid #20-37, for a decrease of $3,346.51, bringing the final contract price to $231,915.24.

Change Order #4 & Final: Jackson Blvd. Landscape Improvements: Bid #18-27

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved the release of all retainage and Change Order #4 and final for the Jackson Blvd. Landscape Improvement Project Bid #18-27, for a decrease of $10,274.95 bringing the final contract price to $453,100.65.

7. Utilities

(A.) Administration

Wastewater Treatment plant MRO for October 2021

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board accepted and placed on file the Wastewater MRO for October 2021.

Estoppel Certificate for AMZ (Elkhart) Propco LLC

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved the execution of the Estoppel Certificate for AMZ (Elkhart) Propco LLC as presented.

IHCDA Water Assistance Program Memorandum of Agreement & Waiver of Direct Deposit

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved the execution of an MOA with the State of Indiana through its IHCDA as presented, and the Waiver of Direct Deposit in order to receive payments to the Utility through the program.

BOARD OF PUBLIC WORKS
Tuesday, December 7, 2021

(B.) Stormwater

PSA with DLZ Indiana LLC for the Lawndale Area Groundwater Intrusion Study

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved the PSA with DLZ Indiana LLC for the Lawndale Groundwater Intrusion Study for a total not-to-exceed amount of $197,700.00.

(C.) Environmental Compliance

Notice of Violation: Failure to Submit FOG Application Cracker Barrel #113 110 Northpointe Blvd. (F2015-100)

A motion was made by Chad Crabtree and seconded by Ron Davis to approve a Notice of Violation Failure to Submit Renewal FOG Application as Required for Cracker Barrel #113 110 Northpointe Blvd. and assess a penalty of $450.00. Mike pointed out that we reach out to the FSE extensively. Megan Kolaczyk explained the way we notify the FSE that they are renewing. In early July they sent out the renewal application. They are notified 180 days before the certificate expires. They are given the application. Three-four weeks before it's due we call them. In this case, we called them three days after it was due and told them if we received it by the 15th of the month they would not get a violation. Megan talked to the Manager and sent them an application via email. We have not received the application back or the written response to the notice of violation. The renewal application is a shortened version. The FSE was not present. As of today they are 50 days late. On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board tripled the violation to $1,350.00. They need to communicate with us and work with us. The amended motion carried 3-0. On motion by Chad Crabtree, seconded by Ron Davis and carried, the amendment was withdrawn and restated to assess a penalty of $1,350.00 and authorizing staff to continue to apply the penalty until they become compliant by checking the box on the Notice of Violation. The motion carried 3-0.

Notice of Violation 25% Rule Dairy Queen 1839 Cassopolis St.(F2015-356)

A motion was made by Chad Crabtree and seconded by Ron Davis to approve a Notice of Violation for Dairy Queen 1839 Cassopolis St. and assess a penalty of $200.00. Megan Kolaczyk explained the violation to the Board. The FSE was not present. Mike closed discussion and called for the vote. The motion carried 3-0.

Notice of Violation Failure to Submit Renewal FOG Application as Required Neveria Tres Mangos De Michoacan 2510 C Benham Ave. (F2016-007)

A motion was made by Chad Crabtree and seconded by Ron Davis to approve a Notice of Violation for Neveria Tres Mangos De Michoacan 2510 C Benham Ave. for failure to submit their renewal FOG application as required, assess a penalty of $450.00, and check the box authorizing staff to continue to apply the penalty until they become compliant. Megan Kolaczyk explained the violation to the Board recommending a reduction of the penalty to $425.00 because they submitted the application after the violation was turned in to the Board. On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board lowered the penalty to $425.00 and did not check the box. The FSE was not present. Mike closed discussion and called for the vote. The motion carried 3-0.

BOARD OF PUBLIC WORKS
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Notice of Violation 25% Rule Vanilla Bean Creamery 538 S. Main St. (F2019-011)

A motion was made by Chad Crabtree and seconded by Ron Davis to approve a Notice of Violation 25% Rule for Vanilla Bean Creamery 538 S. Main St. and assess a penalty of $100.00. Megan Kolaczyk explained the violation to the Board. They did an inspection because they had a grease blockage in the sewer main on Division Street. Three establishments connect to the same lateral. They inspected all three. This FSE had a violation. She has a pumping company coming in now on a regular schedule. Clara Miller of Vanilla Bean Creamery was present to speak to the Board. She noted that she cleans the trap but a side panel had floated to the top that wasn't supposed to be there. She called the pumping company to come clean it and he said there was one inch on the bottom. She said they don't have food, the only thing they have is maybe nuts or brownies. They don't manufacture in Elkhart; they do all of that in their Granger location. She admitted she is bad at keeping records but she cleans it every month. Megan explained the baffle was the piece that detached and was floating. On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board amended the motion to waive the penalty. They thanked the owner for coming in and taking part in the process to correct her problem. Mike called for the vote and the amended motion carried 3-0.

Notice of Violation 25% Rule Yummy Chinese 30913 US 20W (F2018-005)

A motion was made by Chad Crabtree and seconded by Ron Davis to approve a Notice of Violation 25% Rule Yummy Chinese and assessed a penalty of $200.00. Megan Kolaczyk explained the violation to the Board. The FSE was not present. This was the second offense in one year. Mike closed discussion and called for the vote. The motion carried 3-0.

Notice of Violation Failure to Submit Renewal FOG Application as Required Concord Event Center 3719 S. Main St. (F2019-007)

A motion was made by Chad Crabtree and seconded by Ron Davis to approve a Notice of Violation for failure to submit application as required for Concord Event Center and assess a penalty of $190.00. Megan Kolaczyk explained the violation to the Board. The application has been received and they responded to the violation. The FSE was not present. Mike called for the vote and the motion carried 3-0.

8. New Business

PSA Rundell Ernstberger Associates: Zoning Ordinance Update

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved a PSA with Rundell Ernstberger Associates for the Zoning Ordinance update for an amount not to exceed of $149,500.00. Eric Trotter presented the contract to the Board and explained they are converting our current Zoning Ordinance to a Unified Development Ordinance which would incorporate the Zoning Ordinance, the Subdivision Ordinance, and our Preservation Ordinance into one document to allow people to have all of the Ordinances the Planning Department oversees streamlined for a better permitting and approval process, making it easier for developers and site selectors to do business with us.

Transfer or Disposal of Fixed Assets

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved sending a 1984 Lathe at Public Works to the auction.

BOARD OF PUBLIC WORKS
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Elkhart Truth Contract

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved an Agreement with the Elkhart Truth to provide Covid-19 related information for ten weeks for an amount not to exceed $5,995.00.

Ratify Agreement with First Person: Pay for Performance Project

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board ratified and approved an agreement with First Person for the Pay Performance Project in an amount not to exceed $17,500.00.

Agreement with Baker Tilly for Estimated Loss of Revenue from Business Personal Property Taxes

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved an Agreement with Baker Tilly in an amount not to exceed $7,500.00 to provide the City with an estimated loss of revenue from the Business Personal Property Taxes.

2022 EAP Contract with New Avenues

On motion Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved the 2022 Employee Assistance Program Contract renewal with New Avenues.

2022 Contract with Everside Health

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved a Contract for 2022 Benefits with Everside Health. Tory Irwin explained the new benefit to the Board. Everside Health will provide discounted health services, including prescriptions for all of our insured.

2022 Contract with Anthem

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board approved a renewal contract with Anthem noting there has been a 7.2% increase in cost which the City has chosen to absorb.

9. Adjournment

On motion by Chad Crabtree, seconded by Ron Davis and carried 3-0, the Board of Works adjourned at 11:39 a.m.

Mike Machlan, President

Attest: Nancy Wilson, Clerk of the Board.

BOARD OF PUBLIC WORKS
Tuesday, December 21, 2021

President Mike Machlan called a regular meeting of the Board of Public Works to order at 9:00 a.m., Tuesday, December 21, 2021. The Clerk of the Board Nancy Wilson called the roll. Mike Machlan, Chad Crabtree, Ron Davis, Rose Rivera and Jamie Arce attended in person.

1. Approve Agenda

A motion was made by Chad Crabtree and seconded by Ron Davis to approve the agenda. On motion by Chad Crabtree seconded by Jamie Arce and carried 5-0 the agenda was amended by adding Tolson Center Community Memo under New Business. The amended agenda carried 5-0.

2. Claims

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the Claim and Allowance Docket in the amount of $5,983,403.05 consisting of 131 pages as prepared on December 17, 2021 at 4:36 p.m.

3. Minutes Regular Meeting December 7, 2021

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the minutes from December 7, 2021 were adopted.

4. Engineering

(A.) Administration

PSA DLZ Indiana LLC for On-Call Services

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved a Professional Services agreement with DLZ Indiana, LLC for support for On-Call Services in an amount not to exceed $20,000.00.

(B.) Utility

Change Order #1 Edgewater Lift Station Bid #21-11

On motion by Jamie Arce, seconded by Chad Crabtree and carried 5-0, the Board approved Change Order #1 for the Edgewater Lift Station project, Bid #21-11, for an extension to the Contract Date through April 29, 2022 with a substantially complete and functioning lift station by January 21, 2022.

Request Bid #22-01 2022 Utility Materials

On motion by Jamie Arce, seconded by Chad Crabtree and carried 5-0, the Board approved plans and specifications and granted permission to advertise the first of three 2022 Utility Materials Bids.

Change Order #1 River District Drive and Riverwalk SE Bid #21-10

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved Change Order #1 for Bid #21-10 River District Drive and Riverwalk SE for an increase of $68,267.40, bringing the contract price to $1,503,441.40.

Change Order #1 & Final Decamp Ave. Sewer Extension Bid #21-18

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the release of retainage and Change Order #1 & Final for the Decamp Ave. Sewer Extension project, Bid #21-18 for an increase of $23.75, bringing the final Contract price to $157,224.75.

(C.) Right of Way

Request Bid #22-02 2022 Street Materials

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved plans and specifications and granted permission to advertise Bid

BOARD OF PUBLIC WORKS
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#22-02, 2022 Street Materials.

(D.) Summary

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board ratified the following permits:

Revocable Permits:
#6501, Property Owner: Sam Safi
Property: 410 Jefferson St.
Permit Holder: Katie Nickerson
Placing dumpster in the street in front of house

#6502, Property Owner: Dustin Walker
Property: 1815 CR 6
Permit Holder: Nipsco
Temporarily closing one lane of traffic

#6503, Property Owner: RETA, Inc
Property: 116 W. Jackson Blvd.
Permit Holder: DJ Construction
Temporarily closing one lane of traffic

Driveway Permits:
#5011, Owner: Blair Carlstrom
1331 Concord Ave.
Contractor: Square 1 Builders
$600.00 bond by contractor

#5018, Owner: Lavanture Products
3806 Gallatin Way
Contractor: JA Wagner
$1,500.00 bond by contractor

Release of Bond:
#5011, Contractor: Square 1 Builders
Property: 1331 Concord Ave.

#5018, Contractor: JA Wagner
Property: 3806 Gallatin Way

Sewer Assessment Application: Martin Cisneros
2219 S. Sixth St.
Elkhart, IN 46517
Property: 2219 S. Sixth St.
Paid 20% down, $731.00

Water Assessment Application: MB Construction
2809 A Ferndale Rd.
Elkhart, IN 46517
Property: 30693 Cynthia Dr.
Paid in full, $690.00

MB Construction
2809 A Ferndale Rd.
Elkhart, IN 46517
Property: 30675 Cynthia Dr.
Paid in full, $690.00

BOARD OF PUBLIC WORKS
Tuesday, December 21, 2021

5. Utilities

(A.) Administration

Water MRO for November 2021

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board accepted and placed on file the Water MRO for November 2021.

Contract with Donohue & Associates for SCADA Services

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the contract with Donohue & Associates, Inc. for SCADA Consulting Services for a cost not to exceed $8,000.00.

Public Works Cleaning Contract

Laura Kolo explained the quote they received was too high and asked for this item to be removed from the agenda. The item died for lack of motion.

(B.) Finance

2022 Wage Resolution BOW Resolution 21-15

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved Board of Works Resolution #21-15, a Resolution of the Board of Public Works of the City of Elkhart, Indiana establishing pay schedules for hourly-rated and certain salaried positions for the calendar year 2022.

BOW Resolution #21-16 Establishing the Interest Rate to be Charged Utility Customers in 2022

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved Board of Works Resolution #21-16, a Resolution of the Board of Public Works of the City of Elkhart, Indiana establishing the interest rate to be charged to Utility customers in 2022.

6. New Business

Malcom-Thor Minor Right of way Dedication

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board approved the Malcom-Thor Minor Right of Way Dedication.

2022 Medical Cost Containment Services, Inc. DBA Medcom Business Associate Agreement, and 125 Cafeteria Plan Administration Service Agreement

On motion Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board cancelled services with Consociate for Flex and iSolved for COBRA, and engaged with Medcom as the 2022 Flex vendor and COBRA vendor.

Tolson Center for Community Excellence Payment Authorizations

On motion by Chad Crabtree, seconded by Jamie Arce and carried 5-0, the Board authorized City Controller Jamie Arce to execute two payments by wire transaction in advance of the next regularly scheduled meeting of the Board of Works for a total of $5,117,000.00, one to Tolson Center for Community excellence for $4,930,000.00, and one to Barnes & Thornburg LLP for $117,000.00.

7. Adjournment

On motion by Chad Crabtree, seconded by Ron Davis and carried 5-0, the Board of Works adjourned at 9:53 a.m.

Mike Machlan, President

Attest: Nancy Wilson, Clerk of the Board.

BOARD OF ZONING APPEALS
-MINUTES-
Wednesday, November 10, 2021 - Commenced at 6:00 P.M. & adjourned at 7:53 P.M.
City Council Chambers – Municipal Building

Elkhart City Plan Commission was called to order by Doug Mulvaney at 6:00 P.M.

COPY

MEMBERS PRESENT
Doug Mulvaney
Ron Davis
Dave Osborne

MEMBERS ABSENT
Andrew Strycker

REPRESENTING THE PLANNING DEPARTMENT
Ryan Smith, Planner
Nathan Hooley, Planner

LEGAL DEPARTMENT
None

TECHNOLOGY STAFF
Jim Hines

RECORDING SECRETARY
Jennifer Drlich

APPROVAL OF AGENDA
Osborne makes motion to approve; Second by Davis. Voice vote carries.

APPROVAL OF MINUTES FOR OCTOBER 14, 2021
Davis makes motion to approve; Second by Osborne. Voice vote carries.

APPROVAL OF PROOFS OF PUBLICATION
Davis makes motion to approve; Second by Osborne. Voice vote carries.

OPENING STATEMENT
Welcome to the November 10, 2021 meeting of the Elkhart City Board of Zoning Appeals. The purpose of this meeting is to review and consider all requests for relief from any standard in the Zoning Ordinance including variances, use variances, special exceptions, conditional use requests, and administrative appeals. All of the cases heard tonight will have a positive, negative, or no decision made by the board. If no decision is made, the petition will be set for another hearing.

If a decision is made that you disagree with, either as the petitioner or an interested party, you must file for an appeal of the Board's decision in an appropriate court no later than 30 days after the decision is made. If you think you may potentially want to appeal a decision of this Board, you must give this Board a written appearance before the hearing. Alternatives: A sign-in sheet is provided which will act as an appearance. You should sign the sheet if you want to speak, but also if you do not wish to speak but might want to appeal our decision. Forms are provided for this purpose and are available tonight. A written petition that is set for hearing tonight satisfies that requirement for the petitioner. If you file your appeal later than 30 days after the decision of this Board or give no written appearance tonight you may not appeal the Board's decision. Because the rules on appeal are statutory and specific on what you can do, the Board highly suggests you seek legal advice. If you are the petitioner, in addition to filing an appeal, you may first file a motion for rehearing within 14 days of the Board's decision.

Mulvaney notes that there is a minimum quorum of 3 members which means all votes must be unanimous to pass. Anything less than a unanimous vote is considered a non-action and the case will be reset to the next month. He adds that public comments will only be taken on the current petition before the Board.

OLD BUSINESS

20-BZA-42 PETITIONER IS INDIANA MICHIGAN POWER, AN AEP COMPANY
PROPERTY IS LOCATED AT VACANT LOT, SOUTH MAIN STREET
To vary from Section 26.10.F.4.h, which states "Off-premises signs shall be illuminated only by means of continuous reflected light. Internally-illuminated or back-lit billboards are prohibited," to allow for the conversion of an existing billboard to an LED billboard.

To also vary from Section 26.10.F.4.c, which states in part, "Off premises signs shall not exceed three hundred (300) square feet in area, to allow for an existing off premises sign of 672 square feet, a variance of 372 square feet.

To also vary from Section 26.10.F.4.d, which states in part "Off-premises signs shall not exceed thirty (30) feet in height," to allow for an existing off-premises sign thirty-five (35) feet in height, a variance of five (5) feet.

To vary from Section 26.10.F.4.f, which states in part, "Off premises signs shall be located behind the required building setback line of the lots on which they are located" to allow the sign to be located five (5) feet from the property line, a variance of 25 feet.

Smith states the petitioner requests a postponement until the Board is fully staffed.

Mulvaney calls for a motion.

Osborne makes motion to postpone for one month; Second by Davis.

Voice vote carries.

21-UV-17 PETITIONER IS MARIA PEREIDA
PROPERTY IS LOCATED AT 702 W HIVELY AVE
To vary from Section 5.2, Permitted Uses in the R-2 District, to allow retail plant sales. Retail sales are not permitted in the R-2 District.

STAFF ANALYSIS
The petitioner owns a 1,656 square foot house on a .27-acre lot on the 700 block of West Hively Avenue. Staff recently received a complaint about ongoing plant sales at the property, and noted many plants in the yard along with a "For Sale" sign. Informal sales such as these are often covered under the provisions in the Zoning Ordinance for rummage sales.

However, there are limits placed upon rummage sales in the City, some of which are a limit on the number of days (maximum of three consecutive and fifteen total in any calendar year) and a requirement to remove all articles not sold from front and side yards by 8:00 p.m. The petitioner has clearly indicated that she would like to sell the plants for months at a time and has physical limitations which preclude removing plants from the yard daily.

Staff has witnessed the driveway with little room for potential customers, and there is no on-street parking on that section of Hively, making parking and safety a concern. Retail sales have generally been discouraged in residential areas for traffic and noise reasons, except for limited rummage sales, and the applicant has not demonstrated any uniqueness to the property or hardship that would necessitate a variance from the Zoning Ordinance.

STAFF RECOMMENDATION
The Staff recommends denial of the developmental variance based on the following findings of fact:

1. The approval may be injurious to the public health, safety, morals or general welfare of the community because of limited available parking;
2. The use and value of the area adjacent to the property may be affected in a substantially adverse manner because the house is in a residential neighborhood and retail sales can cause a disturbance in the form of noise and traffic;
3. Granting the variance would not be consistent with the intent and purpose of this Ordinance;
4. The strict application of the terms of this Ordinance will not result in practical difficulties in the use of the property because it may be used for the purpose it was built, as a single family residence;
5. The special conditions and circumstances do result from an action or inaction by the applicant because she started the business.

CONDITIONS

If the Board chooses to approve the requested use variance, staff recommends that the following conditions be placed upon the approval:

1. Signage will be limited to a single inverted V or inverted T sign no larger than eight (8) square feet, or up to two yard signs, up to three (3) feet in height and four (4) square feet in area, in accordance with all other provisions of the City of Elkhart's sign ordinance.

Smith notes that this is the third time the petition has come before the board.

Mulvaney calls petitioner forward.

Maria Pereida appears in person. She states that her mother is requesting permission to be able to sell plants every year during certain seasons. She presents letters as Exhibit A from people on the block stating that there is no issue with the sales.

Mulvaney asks for questions from the Board.

Osborne states that if the precedent is set that people can sell items in their front yard, other neighbors will also want to sell things. He notes that staff has recommended to deny the request and is not in favor of approving the item.

Mulvaney notes that the petitioner has submitted a number of letters in support and they will be entered into the records. He then opens for public comments to speak in favor. Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

Mulvaney asks if there are questions from the Board for staff.

Osborne asks if they could add a time frame to operate until the end of the year were the petition denied.

Smith states that has been discussed and the petitioner would be allowed to sell through the end of the year only.

Davis asks if the petitioner was aware that the property was not zoned for business.

Smith states that he did not ask that specific question, but he does not think they were knowingly intending to violate any rules.

Mulvaney calls for a motion.

Osborne makes motion to approve; Second by Davis.

Davis – No
Osborne – No
Mulvaney – No

Motion fails.

Osborne makes motion to deny; Second by Davis.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

NEW BUSINESS

21-UV-22 PETITIONER IS GBD REAL ESTATE LLC
PROPERTY IS LOCATED AT 3504 HENKE ST

To vary from Section 18.2, Permitted Uses in the M-1 District, to allow for retail sales of vehicles and vehicle parts, which are not a permitted use in the M-1 District.

Mulvaney calls petitioner forward.

Ken Jones with JPR appears in person to represent the petitioner. He states that the business is growing in a unique way and provides high-quality products and service to associated RV businesses and individuals. The primary purpose of the variance is to allow them to continue to produce and sell special purpose truck body products and conduct the installation of them on site. The business needs have evolved because of market forces. A customer may come in and see an item they want, but with custom order. He states the business is an adaptive reuse of a manufacturing site within the industrial park and is an associated business with Lux RV. He states there are about 30 employees and he does not know what their gross sales are but it is probably pretty significant. Business is conducted 100% inside. There is no exterior parking of product and very little inventory kept on site.

Mulvaney asks for questions from the Board.

Osborne asks if the property in the back is paved.

Jones states that it is. The property is kept in really good condition. There is no raw product, only finished product waiting for a customer pickup.

Mulvaney states that staff has recommended three conditions and asks if there is no issue with them.

Jones states there is no issue at all.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

The petitioner owns an industrial property comprising two parcels, approximately 4.5 acres with a 35,000 sf building and approximately 40,000 sf of pavement. They have been using the facility to sell truck parts and are seeking to expand their business to producing and selling custom light- and heavy-duty tow trucks. Customers would be private parties and businesses; the company would acquire chassis, and finish and sell the trucks on-premises.

Under the City of Elkhart's Zoning Ordinance, retail sales are only allowed in B Districts, and sales of vehicles are restricted to B-3 and B-4 Districts. Since this is in an industrial zone, neither of these uses are allowed by right. Vehicle sales in the City have been concentrated along major commercial corridors both to afford visibility and take advantage of signage permissible in commercial districts, as well to ensure they have access to roads with the capacity to handle the amount of traffic

As a result, two of the major concerns with locating a public sales business in a manufacturing district are traffic and signage. This company's business model is different from the type of dealership contemplated in the Zoning Ordinance. Assembling the vehicles on site is appropriate for an industrial property, and having members of the public order the vehicles ahead of time to be picked up differs from a typical dealership which can attract a significant amount of traffic. Staff recommends approval with some conditions in order to restrict the property from functioning as a typical dealership, which would not be appropriate for the Henke Street environment, especially considering the residential uses across the street.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community because sales will be limited and conducted inside the building;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because visual and other impacts will be similar to its permitted industrial uses;
3. The need for the variance does arise from some condition peculiar to the property because the use would not be permitted without board action;
4. The strict application of the terms of this Ordinance may constitute an unnecessary hardship if applied to the property for which the variance is being sought because it does not allow for the use without Board action;
5. The approval will be in compliance with the Comprehensive Plan which is anticipated to call for industrial land uses

CONDITIONS

If the Board chooses to approve the requested variance, staff recommends that the following condition be placed upon the approval:

1. All sales shall be indoors. Outside sales or display will not be allowed.
2. Vehicle sales will be limited to commercial trucks; sales of passenger vehicles or recreational vehicles are prohibited.
3. There shall be no signage in excess of what's allowed in the district by ordinance.

Smith states there were 20 letters mailed. One returned not in favor with no comment.

Mulvaney asks if there are questions from the Board for staff. Hearing and seeing none, he calls for a motion.

Osborne makes motion to approve with conditions; Second by Davis.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

21-UV-23 PETITIONER IS KRISTOPHER MARTIN
PROPERTY IS LOCATED AT 1208 PIERINA DR
To vary from Section 19.2, Permitted Uses in the M-2 District, to allow for Recreational Vehicle Sales, which are not allowed by right in the M-2 District.

Mulvaney calls petitioner forward.

Matt Greiser appears in person and states he is one of the owners of Four Horsemen RV Sales. He states they a deal with a dealer to wholesale RV trailers from a manufacturer. The RVs only stay on their lot for a day or so because they are pre-sold. They are not putting trailers out front. There is a transportation company in their building. They have gone through the state to gain a retail license in order to have this business, but for them to be able to get that license with internet sales, the zoning has to be approved for retail.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS
The petitioner owns a 2.5-acre site comprised of two parcels, and a commercial warehousing building and associated pavement constructed in 1987. The tenant currently has an agreement with a local RV manufacturing agency to temporarily hold used RV's in their storage yard until they can be shipped to a specific dealer in Georgia.

The Indiana Secretary of State's Auto Dealer Services Division requires licensure for dealers of new and used RVs, among other things. Until recently, the state had a warehousing license, separate from a public sales license, that worked with the Elkhart City Zoning Ordinance's distinction between wholesale sales (allowed in M districts) and retail sales (allowed in certain B districts).

As a result, the petitioner was required to apply for a variance to allow public sales in order to be afforded a license. Staff recommends restricting any public sales to internet only, and not allowing in-person sales, in order to prevent the secondary effects of locating a dealership in an industrial zone (signs, traffic, etc.).

STAFF RECOMMENDATION
The Staff recommends approval of the developmental variance based on the following findings of fact:
1. The approval will not be injurious to the public health, safety, morals or general welfare of the community because of the potential for turning movements of delivery trucks in the right-of-way;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the impacts of the use will be similar to its current use, warehousing;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. The strict application of the terms of this Ordinance will not result in practical difficulties in the use of the property because it would restrict wholesale sales, a permitted use, at the state level;
5. The special conditions and circumstances do not result from an action or inaction by the applicant

CONDITIONS
If the Board chooses to approve the requested variance, staff recommends that the following condition be placed upon the approval:
1. Public sales will be limited to internet sales only; no on-site public sales are allowed.

Smith states there were 5 letters mailed. None returned.

Mulvaney asks if there are questions from the Board for staff.

Osborne asks if the City allows travel trailers to park on the grass.

Smith states that in this specific situation they would be, because this property was annexed from the county in 2015 and existed as a storage lot prior to annexation. It is legal non-conforming. If it were new, it would have to be paved.

Mulvaney calls for a motion.

Davis makes motion to approve with conditions; Second by Osborne.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

21-UV-24 PETITIONER IS D&C MANAGEMENT LLC
PROPERTY IS LOCATED AT 3526 S MAIN ST
To vary from Section 12.2, Permitted Uses in the B-2 District, to allow Auto Sales, which is not a permitted use in the B-2 District.

Mulvaney calls petitioner forward.

Steve Stidham appears online. He states that he occupies the property with an automotive repair shop and is requesting the use variance to add a used car dealership to his business. He anticipates selling about 100 cars a year, bringing significant tax income and helping to support more of the Concord school area with advertising for the cars. He states that it will only be for passenger cars, not recreational vehicles or trailers. They will only stock about 15 cars on the lot, with 3 on display inside the building. He states they will still be doing service work on the north side of the building, but nothing heavy; no engines, transmissions, or bodywork.

Mulvaney asks how many cars they plan to stock on the lot.

Stidham states that they will have about 15 and there are 24 parking spaces.

Mulvaney states that one of staff's concerns is interaction of pedestrians and vehicles driving around the lot. He asks how many vehicles are moving around the lot at one time.

Stidham states there would only be movement for the initial test drive or from a purchase to the garage. Employees would be moving it for safety.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS
The petitioner owns a .39-acre site with a 4,780 square foot building that was built in 1993. The property shares a driveway with the parcel to the northwest, which is under different ownership. It's currently zoned B-2 and the proprietor wishes to establish its use as an auto sales lot, which is not a permitted use in the district. The property has previously been used as an auto repair facility, and has three service bays.

While being on a major commercial corridor, the property does not have an excess amount of paved space which is typical for a car lot, and is constrained in part because of the creek that runs to the east.

Staff requested a scaled layout of how the property would function from the applicant, which they provided. While the site plan demonstrates adequate parking and circulation for vehicles, the display area fronting on the street is at a sharp angle, and does not allow for extra space for pedestrians. Typically, with car lots, customers will park and then circulate around the cars for sale on foot; staff does not believe the layout here will function adequately for its intended use, and may cause conflicts between vehicles and pedestrians.

STAFF RECOMMENDATION

The Staff recommends denial of the developmental variance based on the following findings of fact:

1. The approval may be injurious to the public health, safety, morals or general welfare of the community because it does not allow adequate space for pedestrians;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the physical layout would not change;
3. Granting the variance would not be consistent with the intent and purpose of this Ordinance;
4. The strict application of the terms of this Ordinance will not result in practical difficulties in the use of the property because other uses are viable;
5. The special conditions and circumstances do result from an action or inaction by the applicant.

Smith states there were 13 letters mailed. None returned.

Mulvaney asks if there are questions from the Board for staff.

Davis asks if this property is across from Concord Mall next to Cairo Queen.

Smith states that it is close. There is another carwash next door.

Osborne asks if there is a mechanic shop that does repairs there now.

Smith states that it has been used for that. He does not believe it is operating now.

Osborne asks if they are restricted to how many cars they can have parked for the repair shop.

Smith says they theoretically are not.

Osborne asks if they could have the repair shop there and have 20 cars parked there.

Smith states yes, as long as it's still functioning. He says the lot isn't really striped and that might be one condition to consider.

Osborne states that if they deny the petition it seems they are restricting the number of cars that can be parked on the lot, but if it's a mechanic shop and he is doing repair work, he could park as many as he wants on the lot.

Smith states it's now about the parking per se. It's about the function of a car lot versus a mechanic shop.

Osborne states that mechanic shops usually have tons of cars sitting all over the place.

Davis asks if the biggest issue for denial is a parking issue.

Smith states that it is a very tight space for a car lot where pedestrians are circulating, looking at cars. He states that if it were a new development and he were asked to review the parking lot for that usage, he would not approve it.

Mulvaney calls for a motion.

Osborne makes motion to approve with the added condition that the lot be striped for parking spaces; Second by Davis.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

21-BZA-39 PETITIONER IS JOSEPH PAUL BOLEN
PROPERTY IS LOCATED AT 196 HOME AVE

To vary from Section 26.1.E, Vehicular Storage, which allows "A vehicle or recreational vehicle…" to "be stored in the side yard or in the rear yard," to allow for a boat to be stored in the corner side yard.

Mulvaney calls petitioner forward.

Joseph Bolen appears in person. He states that he purchased a yacht over the summer and intends to fix it up and make it look nice. He talked to the city a year ago about purchasing the boat and putting in that spot, and was told he could do it with a variance.

Mulvaney asks for questions from the Board.

Osborne asks if the spot is paved.

Bolen states that it is not and that's why they are getting the variance. It will be paved.

Osborne asks if the boat will have a tarp on it when it is not being worked on, especially in winter.

Bolen states that he will. Right now he is not working on it because if he could not keep the boat it would not be worth his effort. He states that it will be difficult with winter coming to put paver stones or concrete down.

Mulvaney asks where he intends to store the boat once the work is done.

Bolen states that it will go to the marina for 6 months and be parked in his yard for 6 months.

Mulvaney asks if he will not store it at the marina.

Bolen states not for the winter, but possibly.

Mulvaney asks if there is anywhere else on the property he could put the boat.

Bolen states there is a side yard with a fence which would be ideal with a building, but it would be a substantial amount of money and they would have to raise the wires to do so. He says there is a flag pole where the boat is now that shines directly at traffic and the boat blocks the light from oncoming traffic. He believes the boat's current location is good to keep from blinding traffic as it's coming through.

Davis asks if it would be an option in the event the proposal is denied.

Bolen states it would be a substantial amount of money. The wires would have to be raised, a building would need to be built, the fence would have to have a gated entry with a full concrete driveway.

Davis asks if the boat will only be stored at the house during the winter.

Bolen says yes and it will go to the marina and on the water in the spring.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

Bolen adds that he has one public notice to present from a neighbor in favor.

STAFF ANALYSIS

The petitioner owns a 2,200 square foot house located on a quarter acre lot at the northwest corner of Home Avenue and Wood Street, built in 1959 and purchased in 2017. In July a code officer noted a large boat parked in the corner side yard of the house on an unpaved surface, which is a violation. The Zoning Ordinance requires boats to be parked on a paved surface in a side or rear yard, and not any closer to a street than the house. This is primarily for aesthetic reasons, to keep large equipment such as boats and RVs in inconspicuous locations and to maintain standards for property maintenance.

The boat is located on a conspicuous corner, and is highly visible to residents in the neighborhood and passersby. The petitioner has not demonstrated any uniqueness to the property that would not apply to other corner lots, or hardship that would warrant locating the boat at that location. A second driveway leading to the side yard is a possibility, as is finding a storage unit for the boat.

STAFF RECOMMENDATION

The Staff recommends denial of the developmental variance based on the following findings of fact:

1. The approval will be injurious to the public health, safety, morals or general welfare of the community because it is in a conspicuous location at the intersection of two neighborhood streets;

2. The use and value of the area adjacent to the property may be affected in a substantially adverse manner because it will detract from the orderly aesthetic of the neighborhood;
3. Granting the variance would not be consistent with the intent and purpose of this Ordinance;
4. Special conditions and circumstances do not exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district;
5. The strict application of the terms of this Ordinance will not result in practical difficulties in the use of the property because it can still be used as a residence and there are options for boat storage;
6. The special conditions and circumstances do result from an action or inaction by the applicant;
7. This property does not lie within a designated flood area.

Smith states there were 39 letters mailed. Five returned in favor with no comment, including the one presented by Bolen. Four returned not in favor with one comment: There are other place that they can park the boat legally (Example: Clear H2O Tackle in Edwardsburg, MI, or the marina on Cassopolis Street across from Simonton Lake). Sure it will cost them extra money to do so, but that is how it is when you want to be a boat owner that does not live on a lake or river.

Mulvaney asks if there are questions from the Board for staff.

Davis asks if staff was aware that he was only going to store it on the yard for the winter.

Smith states that their conversation involved him putting it there on a more permanent basis. In practice, it would go in the water occasionally, but it seemed more long term.

Mulvaney calls for a motion.

Davis makes motion to approve; Second by Osborne with the added conditions that the area be paved and the boat be covered with a tarp when not actively worked being on. Davis agrees to the vacation.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

21-BZA-40 PETITIONER IS LACASA OF GOSHEN INC
PROPERTY IS LOCATED AT 117 PARK AVE
A Developmental Variance of Section 5.4 of the R-2 One Family Dwelling District standards that requires primary building to have a thirty (30) feet rear yard setback to allow a reduction of this standard to a twenty-one (21) foot six (6) inch rear yard setback. A reduction of eight (8) feet six (6) inches.

Mulvaney calls petitioner forward.

Brad Hunsberger appears in person for petitioner. He states that they would like to build a single family house on this lot, which is actually two lots that were combined into one, and building new houses in an old town inevitably leads to needing a setback variance.

Mulvaney asks for questions from the Board.

Osborne asks if the house is going to straddle both of the lots.

Hunsberger states that it will, but the lots will be one parcel.

Osborne states that looking at the diagram indicates that the house will theoretically have a big backyard.

Hunsberger states that it is an L-shaped combination of two parcels.

Mulvaney opens for public comments to speak in favor.

Crystal Welsh appears in person. She states that she has spent a lot of time doing housing in Elkhart and Hunsberger is correct. It is difficult to fit new houses on old lots, and this is an interesting lot that is not rectangular. The encroachment on the rear yard

setback makes a lot of sense. The house will have a back yard. It won't feel weird or unusual for the rest of the neighborhood. The encroachment is only on part of it. She states that as the City tries to meet the housing demand, making accommodations for in-fill housing is a really good strategy for the BZA.

Mulvaney opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

The petitioner owns two parcels on Park Avenue that they would like to combine to build a single family modular home. The proposed plan has the front of the home meeting the established front yard setback. Because of the shallowness of the one lot being combined and the established front setback the home will not meet the required rear yard setback. The depth of the proposed home places the structure at twenty-one (21) feet six (6) inches where a thirty (30) foot setback is required.

Because of the style of the modular home, it is not possible to flip the houses layout to accommodate a parking area on the opposite side of the home to place the structure in a way that it would meet the rear setbacks. Also along the west property line there is an existing drive that is the primary access for the neighboring property. Because of these site restrictions the location of the proposed home is necessary.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals or general welfare of the community as the proposal is in a residential neighborhood;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the property will be used residentially;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because it allows for a measure of relief when warranted;
4. Special conditions and circumstances do exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district as a portion of the property would be unbuildable as it is legally defined;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because it places constraints on utilizing vacant residential land;
6. The special conditions and circumstances do not result from an action or inaction by the applicant as the parcels are preexisting;
7. This property does not lie within a designated flood area.

Hooley states there were 45 letters mailed. One returned in favor with no comment.

Mulvaney asks if there are questions from the Board for staff.

Mulvaney calls for a motion.

Davis makes motion to approve; Second by Osborne.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

21-BZA-41 PETITIONER IS JACK SNYDER
PROPERTY IS LOCATED AT 800 COUNTY ROAD 15

To vary from Section 26.10.D.4.d which requires freestanding signs to be centered on the property line to allow for the replacement of an existing freestanding sign that is at the corner of the property.

Mulvaney calls petitioner forward.

Corie Fischer appears in person for the petitioner and Sharpline Converting, Incorporated. She presents Exhibit A, a pictorial packet of the property. She directs the Board to page 2, an aerial overview of the lot. She states that the existing signage is located on the corner of the lot within the drive west of the building. It is currently grandfathered into the property and has been there for many years. The appellant is requesting to replace the cabinet of their monument signs and would like to keep it in the same place. She states that they believe that abiding by the code would be detrimental to the business and community. As the sign has existed

for a substantial amount of time, drivers are already used to seeing the sign there. The signage is already 50-60 feet back from the road. It is on a sectioned off piece of land, it's actually not nearest to the road, but sectioned off with a drive; Oncoming vehicles can be seen, the sight triangle is clear, there is nothing being blocked by the sign. She states that the monument sign is also the only identifier. There are no wall signs for Sharpline and centering the sign would probably hinder drivers from locating the business, especially when heading north on County Road 15. If the sign were moved, it would be completely hidden by the building itself and any drivers would need an indication where to turn into, both for shipments and visitors. Also from Middlebury, the sign is parallel to the building but would be way too far to read. She states that is also one main entrance for the trucks, centering the sign would hinder drivers who expected another entrance on the other side of the building when there is only one main entrance. If they missed it, they would have to figure out a way to turn around. As Middlebury Street is a very busy road, it could cause accidents, which they want to avoid at all costs. She states that Sharpline also has electric for the current signage, but they want to make a point that they are converting to a standard sign without EMB.

Mulvaney asks about the LED on the sign, although it appears to be just for temperature.

Fischer states that is the current signage, but later in the packet is the proposed signage. Sharpline is getting rid of the electronic message board to make it easier and less distracting.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

The property has an existing industrial business, Sharpline Converting, which has an existing freestanding sign at the intersection of County Road 15 and Middlebury Street. The current location is approximately forty (40) feet back from the intersection located within their parking area. The existing sign is approximately twelve (12) feet wide and seven (7) feet in height. The request is to replace the existing sign with one of similar size and height in the current location.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals or general welfare of the community as its location does not provide any visual barrier along two primary streets;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because there will be no change to the operations of the business;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because it allows for a measure of relief when warranted as the sign location was original to when the building was constructed;
4. Special conditions and circumstances do exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district as this site utilizes one freestanding sign to identify the business along two streets;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because it places constraints on identifying the business;
6. The special conditions and circumstances do not result from an action or inaction by the applicant as the sign is preexisting;
7. This property does not lie within a designated flood area.

Hooley states there were 8 letters mailed. Two returned in favor with no comment.

Mulvaney asks if there are questions from the Board for staff. Hearing none, he calls for a motion.

Davis makes motion to approve; Second by Osborne.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

21-BZA-42 PETITIONER IS WE IMPACT PROPERTIES LLC
PROPERTY IS LOCATED AT 2104 AEROPLEX DR

To vary from Section 26.7.C.7 (a, b, c) which states in part that parking lots and driveways must be paved with concrete, asphalt, or decorative concrete, brick, or asphalt pavers, and where storage yards for partially or fully finished product may be surfaced with gravel or slag may be located only in a rear yard to allow a driveway to be surfaced with asphalt millings in the rear and side yard of the building that is currently under construction.

Mulvaney calls petitioner forward.

Crystal Welsh with Abonmarche appears in person for petitioner. She notes that Dave Weaver with We Impact is online for questions as well. She states that there is a new industrial building under construction and the intent is to have a drive that will come out on the north side of the building and around to a storage area on the south side of the building. There is a small section on both side yards that requires the variance to allow for compact millings to be used as opposed to concrete or pavers. She states that at Abonmarche they have had good experiences with asphalt millings. They do create a compact surface that is dust free and a good alternative for drive material and storage areas. It is used quite frequently in the manufacturing areas. She notes that the site plan shows the drive and storage are a significant distance away and will not be seen from the road as they are at the rear of the property.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

This property is currently under construction for a one hundred and twenty thousand (120,000) square foot industrial spec building. The proposed plans include an access drive around the back and side of the building with a storage area for finished product on the south east side of the property. The proposal is to use asphalt millings as a substitute material for the drive and storage area.

Since the proposed storage area is not located in the rear of the building and there is a proposed drive, the M-1 Limited Manufacturing District requires these areas to be paved with an impervious surface. Gravel and slag are only permitted materials for storage yards when located in the rear of the property. The proposed drive will be used to transport finished product to the storage area where it will be loaded and transported off-site.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals or general welfare of the community as the installation of asphalt millings will be a more dust proof material than gravel;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the drive and storage area will not be visible from the right of way or adjacent properties;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because it allows for a measure of relief when warranted;
4. Special conditions and circumstances do exist which are particular to the land involved and which are not applicable to other lands or structures in the same district as the drive and storage area are a substantial distant back from the public right-of-way.;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because it places constraints on alternative paving materials for areas used for transporting finished product;
6. The special conditions and circumstances do not result from an action or inaction by the applicant;
7. This property does not lie within a designated flood area.

Hooley states there were 17 letters mailed. One returned in favor with comment: Keep noise at a minimum. Dust and dirt in air at a minimum. A barrier of trees to outline the west side of the property is needed. This will give us a separation from our neighborhood to Aeroplex development.

Mulvaney asks if there are questions from the Board for staff.

Mulvaney calls for a motion.

Davis makes motion to approve; Second by Osborne.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

Mulvaney notes that the next two cases will be heard concurrently, but voted upon separately, as they concern the same property.

21-BZA-43 PETITIONER IS ELKHART COUNTY YOUTH FOR CHRIST INC
PROPERTY IS LOCATED AT VACANT LOT PRAIRIE ST, 20-06-17-427-009.000-011
A Developmental Variance of Section 8.5 of the R-5, Urban Residential District standards that limits the maximum height of the principal structure to the average height of existing structures on the block. The average height in the area is twenty (20) feet tall and the request is to allow a thirty-five (35) foot tall community center a variance of fifteen (15) feet in height.

Mulvaney calls petitioner forward.

Crystal Welsh with Abonmarche appears in person for the petitioner. She states that the variance is related to the nature of the proposed building. It is a community center which will have a gymnasium and other kinds of things, and a 20 ft. height is not compatible with that type of structure. Based on the existing structures around it, the variance was needed to allow a 35 ft. height. She says that the second request is related to a special exception to utilize the property for a community center, which is allowed under the special use section of the ordinance in urban and residential areas. They believe this will be a great asset to a community center within close proximity to residential development. She notes that this exception was approved, but due to issues in 2019 and 2020 the project was delayed past the time limit and they needed to reapply. She states they have already been approved through the Plan Commission. She notes that Darrell Peterson is available for questions about operations or anything related to the project, and Jeff Schaffer is online for Abonmarche who has been helping with the site plan and development process.

Mulvaney asks for questions from the Board. Hearing none, he opens for public comments to speak in favor. Seeing none, he opens for opposition.

Micki Olson appears in person. She states that she and her husband own 3 of the 5 residential properties across the street on Prairie. She was in person for Plan Commission and wants to have her comments made for the record. She would like to have the youth center, but her concerns are having the entrance to it off of Prairie Street. Prairie is narrow. The traffic is heavy as it's a main thoroughfare. There is Elkhart Christian Academy, and further south is Mishawaka Road. She understands there will be buses bringing kids in after school, which is great, but she is concerned about the lack of sidewalks on a narrow street with kids on bicycles, skateboards, and walking on the street. She states that there is a road that the City owns across from Desmond and she would like to see the petitioner use that as their entrance to go back to the building and parking lots. She believes that would help with the congestion across from the houses she owns. She says that when the light is red on Hively cars are backed up and she is trying to imagine adding buses and people coming in to pick up and drop off kids.

Mulvaney asks the petitioner to address the concerns.

Welsh states that the site plan does show an entrance off of Prairie as well as off of the well field access. They are attempting to negotiate an easement to allow for that. The City owns the street, it's not public, so an easement is required. She states they will enter on Prairie and exit through the City access to divert traffic.

Mulvaney asks if that would be a one way.

Welsh states that they have not gotten to that level of detail, but the intent is to come in from Prairie and out on the access, and the drive looks wide enough for traffic to use for both in and out.

Schaffer states that they have talked to the contractor, developer, and site user to come up with a site plan that leaves a lot of stacking room for buses, and cars, for pickups, to not introduce any standing traffic onto Prairie. Prairie has about 5,000 cars a day and has been consistent for about 20 years. He states that is half the traffic on Hively to give a sense of it. He says they do understand the concerns and are looking for a way to make sure that there is plenty of room to turn off of Prairie, stack on the property, and ideally to exit the access roadway to the well field which they have to work out with Public Works.

Osborne asks about the sidewalk situation and if the City is going to put any in.

Welsh says that she has not had any conversations with the City regarding their intentions for Prairie. She says it seems as if the intention would be to provide sidewalks as it is a pedestrian corridor now and this use is not changing the nature of the area. She is not sure why they don't have sidewalks already, but they can work with the city because she thinks the entire quarter would benefit from sidewalks along Prairie.

Osborne asks how many feet is the frontage along Prairie.

Welsh states it is 130 feet.

Osborne asks how wide the curb cut or any sort of entry will be.

Welsh states that she believes the tapers are 60.

Schaffer states the conceptual driveway approach is 30 feet wide. They have gone wider to allow for some stacking. He believes that is some opportunity to work with the Street Department and other City departments through the sidewalk program to look for opportunities to get sidewalk at least on the petitioner's side of the street. It is not something they could definitely promise, but there are opportunities to pursue as they try to develop the project over the next year.

Osborne asks if the petitioner would have a problem with putting a sidewalk in along the rest of the frontage on either side of the drive entrance, assuming the drive will be in the center of the frontage.

Peterson appears in person. He states that the petitioner also owns the property next to the gas station. He says that people can go from there to the house, (inaudible) something there. He has no problem with that.

Osborne states that the part not paved for the entrance, if they could provide some parking there, it might motivate the City to put sidewalks in.

Peterson states that he sees no problem with that.

Mulvaney closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

The petitioner is a nonprofit that wishes to build a community center on approximately 2.85 acres of undeveloped land on Prairie Street south of Hively Ave. to hold educational and recreational programs for all ages. Planning for the facility is still in its conceptual phase; the petitioner proposes a potential 36,650 sf building with approximately 28,600 sf for parking.

Prairie Street south of Hively is a two-lane arterial street, and the petitioner appears to intend to have access on Prairie Street and from the driveway of the public utility directly to the south. It's will be the responsibility of the petitioner to demonstrate that an agreement can be made with the utility for an access easement and maintenance agreement, and that Prairie Street has the capacity to handle the traffic volume for the community center. Alternatively, if an agreement is not reached, access shall only be from Prairie Street.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals or general welfare of the community as it provides educational programs to the area;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the property will be screened from adjacent residential uses;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because it allows for a measure of relief when warranted;
4. Special conditions and circumstances do exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district as this property is adjacent to commercial properties;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because it would limit a potential neighborhood amenity;
6. The special conditions and circumstances do not result from an action or inaction by the applicant;
7. This property does not lie within a designated flood area.

CONDITIONS

If the Board chooses to approve the requested variance, staff recommends that the following condition be placed upon the approval:

1. If access is to be obtained from the driveway on the parcel to the immediate south, the petitioner must enter into an access and maintenance agreement to share the driveway with the Utility and to establish an access easement on that property.

Hooley states there were 20 letters mailed. None returned. One letter was received at the meeting not in favor with comments: If the entrance is going to be directly across from my house.

Mulvaney asks if there are questions from the Board for staff. Hearing none, he calls for a motion.

Osborne makes motion to approve with conditions and the added condition that sidewalks be placed to the property line on either side of the driveway on Prairie street; Second by Davis.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

21-X-11 PETITIONER IS ELKHART COUNTY YOUTH FOR CHRIST INC
PROPERTY IS LOCATED AT VACANT LOT PRAIRIE ST, 20-06-17-427-009.000-011
A Special Exception per Section 8.3 Special Exception Uses in the R-5, Urban Residential District to allow for the establishment of a community center.

STAFF ANALYSIS
The petitioner is a nonprofit that wishes to build a community center on approximately 2.85 acres of undeveloped land on Prairie Street south of Hively Ave. to hold educational and recreational programs for all ages. Planning for the facility is still in its conceptual phase; the petitioner proposes a potential 36,650 sf building with approximately 28,600 sf for parking.

Prairie Street south of Hively is a two-lane arterial street, and the petitioner appears to intend to have access on Prairie Street and from the driveway of the public utility directly to the south. It's will be the responsibility of the petitioner to demonstrate that an agreement can be made with the utility for an access easement and maintenance agreement, and that Prairie Street has the capacity to handle the traffic volume for the community center. Alternatively, if an agreement is not reached, access shall only be from Prairie Street.

STAFF RECOMMENDATION
Staff recommends approval of the request based on the following findings of fact:
1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because its impacts will be similar to commercial properties nearby and screening will be required for adjacent residential areas;
3. The Special Exception shall conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

CONDITIONS
If the Board chooses to approve the requested variance, staff recommends that the following condition be placed upon the approval:
1. If access is to be obtained from the driveway on the parcel to the immediate south, the petitioner must enter into an access and maintenance agreement to share the driveway with the Utility and to establish an access easement on that property.

Davis makes motion to approve with conditions and added condition that sidewalks be placed to the property line on either side of the driveway on Prairie street; Second by Osborne.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

21-BZA-44 PETITIONER IS HIGHWATER MARINE LLC DBA GODFREY MARINE
PROPERTY IS LOCATED AT 4500 MIDDLEBURY ST
A Developmental Variance of Section 26.4.A.6 which requires any fence in a front yard or corner side yard be no taller than four (4) feet in height and be ornamental in style to allow a six (6) foot tall chain link fence. A request of both height and material for the fence's proposed location.

Mulvaney calls petitioner forward.

Chris Loftus appears in person to represent the petitioner. He states that they own a large building, which is Plant 1, on Middlebury Street and have acquired many other buildings in the area. The area in question specifically is on the corner of Middlebury and Bullard. They would like to close off all their plants in one area, but Bullard separates a lot of their plants. (Inaudible) close this area off to allow for no entry onto their property. He states that all the other fences around the area are chain link and presents pictures as Exhibit A. He states that they have moved some of the areas back after talking with staff, so that it is not in conflict, but without it being closed off, people still have access. He states there is a lot of theft with catalytic converters stolen. (Inaudible) pedestrians because they have a lot of forklift traffic and vendors coming in (inaudible) stop all that from happening.

Mulvaney asks for questions from the Board.

Loftus refers to Exhibit A. He states that there is another area, Plant 4, which is the building to the north with all the truck parking. They will be adding onto that area with a dock area towards Bullard which will take the variance out of play. He approaches Mulvaney and speaks out of microphone for some time.

Osborne asks if there will be gates.

Loftus states they will be gating off 12 openings. They will be open during the day, but will have barrier arms come down to keep truck traffic out. They will close at night to keep pedestrians out.

Osborne asks if the gates will be chain link.

Loftus confirms.

Osborne asks if they will be on rollers or swing.

Loftus states they are all roll gates and be operated as well as the barrier arms.

Osborne asks if the top of the chain will be barbed.

Loftus states that it will not. He states that in a lot of the areas there is already chain link fence; they just want to add the gates. He states they have worked with staff for over 6 months and ordered everything before they realized that the one area would not be included. They looked at ornamental fencing but supply chains are severely backed up to even get it.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

The property is owned and operated by Godfrey Marine. Their operation is the manufacturing and distribution of marine vehicles and equipment. Their operation also occurs on the properties across Bullard Road to the west. Bullard Road is a local road that accesses County Road 15 and Middlebury Street. It is the primary access that Godfrey Marine uses for their operations.

As their operation occurs on both sides of Bullard Road some of their product is transported across this street. The request is for the installation of a six (6) foot tall chain-link fence to extend into the corner side yard setback along Bullard Road. Their overall project is the installation of security fencing surrounding their entire operation. The fencing is intended to provide security to the site with security gates at the primary entry points to the site.

The location of the fence along Bullard Road would only allow a four (4) foot ornamental fencing within the corner side yard setback. Along Bullard Road there is a swale with existing vegetation and their operation's storage and parking area that makes it difficult to meet the corner side yard setback. The proposed fencing along Middlebury Street is meeting the setbacks which has a Primary Street designation.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals or general welfare of the community as it provides security to the site and safer conditions for their product to be transported across Bullard Road;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the property will continue to function as it is currently being operated;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because it allows for a measure of relief when warranted as there is existing site swale on the property;

4. Special conditions and circumstances do exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district existing site conditions create a difficult situation to meet ordinance requirements.;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because it places constraints on completing the properties security enclosure;
6. The special conditions and circumstances do not result from an action or inaction by the applicant as the site conditions are preexisting;
7. This property does not lie within a designated flood area.

Hooley states there were 9 letters mailed. One returned in favor with no comment.

Mulvaney asks if there are questions from the Board for staff.

Mulvaney calls for a motion.

Davis makes motion to approve; Second by Osborne.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

STAFF ITEMS

19-X-14U for 947 E INDIANA AV
Staff and BZA review of Special Exception 19-X-14, which allowed for a Day Care Home at 947 East Indiana Avenue.

STAFF ANALYSIS
On November 14, 2019, a special exception was granted to New Heights Day Care daycare home at 947 E. Indiana Ave.

The approval came with ten conditions:

1. All children shall be restricted to the building and fenced-in play area except when arriving and leaving or on supervised walks or outings.
2. The facility and grounds shall be kept clean at all times.
3. The facility shall be subject to inspection upon reasonable notice, by the zoning administrator during hours of operation.
4. There shall be no exterior display, signs, or other forms of advertising on the premises beyond what is allowed for in its district unless allowed by variance.
5. A copy of the child care license shall be submitted to the Department of Planning and Zoning upon receipt from the Indiana Family and Social Services Administration.
6. If the day care ceases to operate for more than one (1) year, or the license is revoked, the Special Exception becomes null and void.
7. Any violation of the terms of this Special Exception as determined by the City Zoning Administrator shall render the Special Exception invalid.
8. There shall be a maximum of twelve (12) children.
9. The Special Exception is for two (2) years and shall be reviewed as a staff item by the Board of Zoning Appeals by November 11, 2021.
10. A plan for preventing health and safety violations in three areas: record keeping, staff training, and housekeeping shall be submitted to staff within 30 days of the Special Exception being granted.

The daycare center has a licensed capacity of 12 children. The operation is in a converted garage with a fenced-in play area in the rear of the lot. The business provides transportation services with the use of a minibus, which was approved via variance 21-BZA-31.

Staff visited the site on November 2. The site was found to be compliant with the conditions imposed on the Special Exception in 2019.

The site has been the subject of at least three inspections since the approval of the Special Exception. There was one critical health and safety violation, on 9/2/2020, where paint, insect killer, bathroom cleaner, and hand soap accessible. The incident was resolved

the following day. While ideally there would be no health and safety violations, experience has shown that providers typically have a few. Ms. McCarey, who runs the daycare, has resolved the incidents and submitted to the state a corrective action plan

STAFF RECOMMENDATION
Staff recommends that the special exception for this property remain in effect for an additional two (2) years, and that it shall be reviewed as a staff item by the Board of Zoning Appeals by November 9, 2023.

Mulvaney asks for questions from Board.

Mulvaney calls for a motion.

Davis makes motion to approve; Second by Osborne.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

2022 Elkhart City Board of Zoning Appeals Calendar

Mulvaney asks for questions from Board.

Davis makes motion to approve; Second by Osborne.

Davis – Yes
Osborne – Yes
Mulvaney – Yes

Motion carries.

ADJOURNMENT
Mulvaney asks for a motion to adjourn meeting. Osborne makes motion to adjourn and is seconded by Davis. Meeting is adjourned and all are in favor.

Doug Mulvaney, President

Ron Davis, Vice-President

Elkhart Historic & Cultural Preservation Commission

Regular Meeting Thursday, September 16, 2021

Call to Order:

Ann Linley called to order the Elkhart Historic & Cultural Preservation Commission Regular Meeting for Thursday, September 16, 2021 at 7:01 pm.

Roll Call:

Present: Bobby Glassburn, Ann Linley, Bill Zimmerman, Luke Lefever, Aaron Mishler (remote). Eric Trotter, Nathan Hooley and Aimee Lattimer with the City of Elkhart.

Absent: JA Whitmer.

Approval of Agenda:

Ann Linley asked for a motion to approve the agenda as presented. Motion made by Bill Zimmerman, seconded by Bobby Glassburn; motion carried.

Approval of Minutes:

Ann Linley gave everyone a minute to look over the two set of minutes from May 20, 2021 and June 17, 2021 meetings.

Ann Linley said she would accept a motion to approve the May 20, 2021 minutes. Motion made by Bill Zimmerman, seconded by Bobby Glassburn; motion carried.

Ann Linley pointed out that there were some inaudible sections that were not picked up by the microphone. She then said she would accept a motion to approve the June 17, 2021 minutes. Motion made by Luke Lefever, seconded by Bobby Glassburn; motion carried.

Financial Report:

Eric Trotter gave a verbal report: The Commission paid for the second half of Deb Parcell's contract and Mr. Trotter attended a Historic Preservation Conference for $40. Mr. Trotter said there will be a full financial report next month.

Hearing of Visitors:

N/A

Old Business:

A: Neighborhood Update/Progress Review/Nominations

N/A

New Business:

A: 21-COA-10, Vac.-lot Division St., Expanding parking lot of existing dental office located at 415 Waterfall Dr.

Applicant's name: Roger Daron Sheline

Project property address: Adjacent to parking at 415 Waterfall Drive; directly opposite 425 and 429 Division Street.

Local landmark or district: State and Division Local Districts.

Rating: Non-contributing

Architectural style: Vacant ground

Property description: The subject property is vacant property adjacent to the parking lot of 415 Waterfall Drive and directly opposite 425 and 429 Division Street.

Proposed project: Owner intends to expand the parking lot for the existing dental office located at 415 Waterfall Drive.

Application Ordinance Authority: Section 12.6 of Ordinance 4041 of the City of Elkhart requires a Certificate of Appropriateness to be issued for a conspicuous change in the exterior appearance of the existing building by additions, reconstruction, alteration, or maintenance involving color change of existing buildings, including windows, doors and all exterior features, wall or fences, or for new construction moving, or demolition. As such, a Certificate of Appropriateness must be issued for the work proposed at 415 Waterfall Drive.

Applicable Guidelines and Section: State-Division Street Historic District guidelines; Sites-Parking: Introducing new streets, parking lots, or paving front yards detracts from the historic character of the district. Parking lots and other paved areas should be as small as possible and screened with landscaping and/or fencing to help blend in with the District. Major landscaping should be compatible with the character of the neighborhood in size, scale, design, material and color. Parking should be developed to the extent available in the rear or sides of the site. Where a parking lot shares a site with a building, place the parking at the rear of the site or beside the building. Lighting for parking lots should balance brightness and need for security with its overall impact to the District. Use of warm-colored bulbs is recommended with lamps shielded to direct light downward.

Evaluation: The project location is adjoining the existing parking lot at the rear of the property, which is an appropriate location for expanding parking. The proposed new parking area will occupy undeveloped property on the north side of Division Street, directly across from residences at 425 – 429 Division. A new shrub hedge, street trees and canopy trees will provide screening from the residential portion of the historic district. Consideration should be given to choosing lighting that will provide security for the parking area with minimal impact to nearby residences.

Staff recommendation: Approval as submitted, with condition that any lighting will be approved by staff when chosen.

Eric Trotter mentioned that the project had been submitted for technical review.

Ann Linley asked if there was anyone there to represent 21-COA-10, Dylan Tarr and Jenny Vanaselja appeared remotely to represent the property owner and stated they would be happy to answer questions. Bill Zimmerman had two questions. 1. Is there a height requirement for the shrubs being installed? Mr. Tarr said that he thought the requirement was that the shrubs had to be a certain height at maturity. 2. Are there proper drains being put in for disbursement of water? Mr. Tarr said that would be addressed during technical review. Mr. Zimmerman stated that City of Elkhart Code requires drains and that shrubs have to be a certain height for the headlights and he wants to make sure that is in order. Aaron Mishler asked if there had been any outreach to the neighbors for their input? Mr. Tarr said he was unaware if they had reached out to any of the neighbors. Ms. Vanaselja stated that they hadn't reached out yet but the plan is

to reach out to the neighbors to the east to make sure they are okay with them tying into their drive file that goes to the south connecting to the southern road making sure they have an agreement in place that they share that. Mr. Zimmerman asked how many parking spaces would be added? Ms. Vanaselja said they may shrink the number of spaces to 29 but right now the project calls for 40 on top of what's already there. Mr. Zimmerman asked if they would include the appropriate amount of handicapped spaces and Mr. Tarr said yes. Mr. Mishler asked, for clarification sake, if they were still waiting for technical review when it comes to drainage as well as communication with the adjacent neighbors to be sure the drive can be shared on the southern side. Mr. Trotter stated as they go through the process the first step is to go through the COA process and the next step, technical review, staff will ensure that they have met the landscaping and storm water retention requirements. Ms. Linley asked if after technical review would it come back to the Historical Commission for lighting. Mr. Trotter said staff would see that the lighting matches what's existing as far as height so there is an overall continuity, if that would work for the Commission, they would include that as part of technical review.

Luke Lefever made a motion to accept staff recommendation of approval with the condition that the lighting stipulation be met during technical review, seconded by Bobby Glassburn; motion carried, 21-COA-10 was approved.

B: 21-COA-11, 425 State St., Install 6' wood fence

Ann Linley noted that the owners were not able to attend the meeting but because they had communicated that with staff their application could be heard without them.

Applicant's name: Ellery & Lena Gayhart

Project property address: 425 State St.

Local landmark or district: State and Division Local Districts.

Rating: Contributing

Architectural style: California Bungalow

Date constructed: c. 1920

Property description: The subject property is a 1-story bungalow set upon a concrete block foundation with an asphalt shingle gable roof. A porch with iron railing and hip roof spans the front façade. Windows are 1/1 double hung with aluminum storms.

Alterations: Walls have been covered with aluminum siding.

Proposed project: Install 6' wood fence on side lot.

Application Ordinance Authority: Section 12.6 of Ordinance 4041 of the City of Elkhart requires a Certificate of Appropriateness to be issued for a conspicuous change in the exterior appearance of the existing building by additions, reconstruction, alteration, or maintenance involving color change of existing buildings, including windows, doors and all exterior features, wall or fences, or for new construction moving, or demolition. As such, a Certificate of Appropriateness must be issued for the work proposed at 425 State Street.

Applicable Guidelines and Section: State-Division Street Historic District guidelines; Site; Fences: Major landscaping items, fencing, walkways, streetlights, signs and benches should be compatible with the character of the neighborhood in size scale, design, material and color.

Evaluation: Yard behind the house is already enclosed with wood privacy fence. Owner proposes to enclose the side lot with 6' wood privacy fence, starting at the northwest corner of the house, running west to the property line, south to alley, then east to connect with existing fence. After installation of the new fence, the existing west side fence will be removed. Size, type, and location of proposed fence meet historic district guidelines.

Staff recommendation: Approval as submitted.

Eric Trotter stated that Mrs. Gayhart had surgery and was unable to attend and her husband (inaudible).

Luke Lefever made a motion to approve 21-COA-11 as recommended by staff, seconded by Bobby Glassburn; motion carried. 21-COA-11 was approved.

C: 21-COA-12, 231 Division St., New roof

Applicant's name: Katiria Cruz and Juan Cabral

Project property address: 231 Division Street

Local landmark or district: State and Division Local and National Register District

Rating: Contributing

Architectural style: Free Classic/Gabled Ell

Date constructed: c. 1910

Property description: The subject property is a 2-story frame house set upon a stone foundation with an asphalt shingle gable roof. A porch with wood railing and hip roof spans the front façade. Windows are 1/1 double hung with aluminum storms. Gable ends contain decorative fish scale siding; slightly flared roof line on gable ends.

Alterations: Windows have aluminum storms.

Proposed project: remove 3 layers of old shingles on the second story only. Re-deck (overlay) complete roof. Install 7/16" sheathing. Install ice and water on eaves and/or valleys per code. Install felt paper underlayment. Install aluminum drip edge. Install 12 square of Owens Corning True Definition architectural shingles in Sierra Gray. Install ridge vent system. Install linear ridge cap shingles.

Application Ordinance Authority: Section 12.6 of Ordinance 4041 of the City of Elkhart requires a Certificate of Appropriateness to be issued for a conspicuous change in the exterior appearance of the existing building by additions, reconstruction, alteration, or maintenance involving color change of existing buildings, including windows, doors and all exterior features, wall or fences, or for new construction moving, or demolition. As such, a Certificate of Appropriateness must be issued for the work proposed at 231 Division Street.

Applicable Guidelines and Section: State and Division Street guidelines; Roofs: Retain the existing shape and materials of the roof. If roof covering is deteriorated beyond repair, replace with new material that matches the original as closely as possible in composition, size, shape, color and texture.

Evaluation: The proposed roofing material matches existing in composition, size and texture. The change from 3-tab to architectural style will provide a look more in keeping with the historic district. Staff approval of in-kind replacement of roofing material is permitted.

Staff recommendation: Proposed work is approved by staff as submitted.

The property owners, Katiria Cruz and Juan Crabal submitted a sample of the new roofing material to the Commission.

Bill Zimmerman asked the property owners if they were having the work done or if he would be doing the work themselves. Juan Crabal said they have a company to do the work. Bobby Glassburn, who lives across the street, said the owners have done a lot of good work to a house that really needed it.

Bill Zimmerman made a motion to approve 21-COA-12 as recommended by staff, seconded by Bobby Glassburn; motion carried. 21-COA-12 was approved.

D: 21-COA-13, 429 Division St., Install handrails on porch

Applicants did not appear and Luke Lefever asked if the Commission is allowed to table the COA and allow the applicant to appear or deny it and allow them to re-apply. Ann Linley said it could be tabled for up to 30 days. Ms. Linley said the COA could be staff approved and Mr. Lefever said that due to the request being a safety issue he would like to move forward.

Applicant's name: Jose Gamez

Project property address: 429 Division Street

Local landmark or district: State and Division Local and National Register District

Rating: Contributing

Architectural style: I-House

Date constructed: c. 1910

Property description: The subject property is a 2-story frame house set upon a cast stone foundation with an asphalt shingle gable roof. A porch with wood posts and a hip roof spans the front façade. Windows are mostly 1/1 double hung. Walls are covered with asphalt shingle siding.

Proposed project: install hand rails on porch. Fix peeling, missing, and broken sections of exterior siding.

> Note: A site visit by staff found existing siding to be extremely deteriorated, and exposed areas of wood siding below have areas that are also badly deteriorated. After a conversation with the owner, it was determined the request to repair siding should be removed from this COA Application. An application for new siding for the entire house will be submitted in the future.

Application Ordinance Authority: Section 12.6 of Ordinance 4041 of the City of Elkhart requires a Certificate of Appropriateness to be issued for a conspicuous change in the exterior appearance of the existing building by additions, reconstruction, alteration, or maintenance involving color change of existing buildings, including windows, doors and all exterior features, wall or fences, or for new construction moving, or demolition. As such, a Certificate of Appropriateness must be issued for the work proposed at 429 Division Street.

Applicable Guidelines and Section: State and Division Street guidelines; Porches: Retain the existing porch materials. Do not replace porch details with materials representing an earlier or later period or style. Do not replace balusters with contemporary deck railing panels. If porch details no longer exist, create simplified design compatible with the building, using stock lumber and moldings.

Evaluation: The existing porch has no railing, and front steps have metal hand rail only on one side, which is not well secured. The owner's insurance company has advised installation of railing on porch and both sides of front steps, as well as new siding. New porch railing using square wood balusters between wood top and bottom rails has been proposed for both porch and stairs, and would be a simple design compatible with the house and district. It is important that prebuilt deck railing panels are not used.

Staff recommendation: Proposed work is approved by staff as submitted, with condition the balustrade (balusters, top and bottom rail) are similar to the attached photo.

Ann Linley asked, since there are no balustrades on the front porch, the new ones do not have to be 36 inches high, they can go with the historic character as shown in the picture, they don't have to go to the new building standard? Eric Trotter said he didn't know. Luke Lefever said when you're not trying to match an existing style, you need to conform to the current code.

Bobby Glassburn made a motion to approve 21-COA-13 as recommended by staff, seconded by Luke Lefever; motion carried. 21-COA-13 was approved with the mention that although applicants were not present, it was done for safety reasons.

E: Approval of The Rules of Procedures

Luke Lefever asked about the procedure to make changes to The Rules should it become necessary. Eric Trotter said it would come back to the Commission.

Luke Lefever made a motion to adopt The Rules of Procedures as presented, seconded by Bill Zimmerman; motion carried.

Announcements:

Eric Trotter mentioned that he attended the online virtual class with the National Association of Preservation Commissioners. He highly encouraged anyone from the Commission to take the opportunity to attend should it become available.

Also Eric Trotter would like to re-start the "This Place Matters" campaign in some form. Luke Lefever suggested yard signs. Bill Zimmerman thought the idea of the campaign is an excellent idea. Ann Linley suggested photos.

Adjournment:

Ann Linley said she would except a motion to adjourn the meeting at 7:45 pm. Motion made by Bill Zimmerman seconded by Luke Lefever; motion carried.

Ann Linley, Chair

LERNER THEATRE BOARD
Wednesday, November 10, 2021

President Gary Boyn called the Regular Meeting of the Lerner Theatre Board to order at 10:00 a.m. on Wednesday, November 10, 2021. The Clerk of the Board, Nancy Wilson called the roll. Gary Boyn, Jamie Arce, and Diana Lawson attended in-person. Dina Harris attended on WebEx. Dallas Bergl and Ashley Martin were absent.

1. AGENDA

On motion by Jamie Arce, seconded by Dina Harris and carried 4-0, the agenda was approved.

2. MINUTES: Regular Meeting October 13, 2021

On motion by Jamie Arce, seconded by Dina Harris and carried 4-0, the Board approved the minutes from October 13, 2021.

3. TREASURER'S REPORT

Financials-September 30, 2021

Michelle Adams attended the meeting on WebEx. The September 30, 2021 financial report was submitted to the Board for review. Total operational expenses of $668,976 were covered by a City contribution of $493,650 (74%) and a Lerner contribution of $175,325 (26%). This compared with 2020 City's contribution of 87% and the Lerner's contribution of 14%. The YTD net income from Theatre operations only (shown as gross profit) at the end of the period was $155,980 which was an increase of $36,760 from 2020. The YTD net income for all Lerner operations (including City expenses) at the end of the period was $219,170 which was an increase of $349,608 from the net loss on last year's statement of $130,439. On budgeted City Operational Expenses alone we were under-budget by $478,719 year to date.

Claims

On motion by Jamie Arce, seconded by Dina Harris and carried 4-0, the Board approved the claims and allowance docket totaling $28,255.32 as listed on the register consisting of 22 pages as prepared on November 5, 2021 at 2:39 p.m.

4. CRYSTAL BALLROOM CATERING

Kurt Janowsky said October was a great month, the best month in over two years. November is starting out strong. They are heading back down the right path. The fundraisers are back. Weddings are booking. Gary said that is good news for all of us and we are glad to hear it!

5. PREMIER ARTS

Tanner Smale said they announced the 2022 season and they have expanded. They have two packages, gold and purple. The gold package is five shows at the Lerner and two shows at the Goshen Theatre, and the purple package is five shows at the Lerner. The Addams Family shows went very well and 2,200 people attended over the weekend. They are working on Madeline's Christmas and a Christmas Carol for the December shows, and the decorating the windows around the Lerner with a children's books theme. Diana said The Adam's Family was wonderful, and noted the Lerner Box Office will be utilized for the Premier Arts Goshen Theatre Shows which is a nice partnership.

6. GENERAL MANAGER'S REPORT

The General Managers report has been inserted in the minutes as presented.

PREPARED BY: MICHELLE FRANK

Activity (Nov-Jan)	As % of 90 days	
41 Events	46%	**Activity in theatre**
21 Ticketed Events	23%	**Ticketed events**
6 Non-Ticketed Events	7%	Non-Ticketed events
14 Rehearsal Dates	16%	**Rehearsal Space**

Compare to 2020 Board Report Ticketed Events: 8
Compare to 2020 Board Report Non-Ticketed Events +Rehearsals: 14

- At the end of October, the Elkhart City Council approved the ordinance for the 2022 Elkhart City Budgets, which included The Lerner's requested budget for 2022. The budget was approved as requested with no proposed cuts.
- We are actively preparing for the final push through the end of the year, which includes a number of large marquee shows in the month of December. We are also preparing for the Christmas season, which includes our Christmas window display again for the 2021 holiday season.

OPERATIONS MANAGER REPORT PREPARED BY: SARAH TAYLOR

Accomplished in October:

- Prepared and send off Show Closing Information sheets for upcoming shows in the building
- Am almost at a full staff for Ushers. Now working on hiring more Box Office staff
- Closed the shows from this month with our accounting group and Michelle Frank.
- Updated and sent off the Facility Occupancy numbers of the building so we know who is in the building in case an emergency happens
- Worked on updating schedules for Floor Managers and Usher staff
- Updated calendars and contracts for shows in the building
- Updating Lerner Show files and sent out front of house advances to the team
- Trained new Volunteers and our new Ushers

Goals for November:

Peer Committee meeting:
Meeting with the Peer Committee to organize for the month. We'll work on getting tours scheduled and make sure our Volunteers have their complaints and concerns addressed.

LERNER THEATRE BOARD
Wednesday, November 10, 2021

Hiring Box Office and Usher staff:
Until the numbers are there, we'll continue to call and set up interviews.

Shows:
Premier Arts 'The Addams Family' weekend was amazing and officially kicked off the start of our busy time. I'll work on closing that show and prepare to work on getting our upcoming shows set up. We'll have a lot of front of house advances and floor maps to get in place and I will continue to keep updating the Google, Show Manager and Lerner Show files so everyone on our team is on the same page.

MEDIA SPECIALIST REPORT PREPARED BY: SONNY LISI
E-Blast Reporting – October 2021

Email Statistics	
Campaigns Sent	5
Total Emails Sent	58,783
Emails Opened	15,435
Emails Clicked Through	1,254
Starting Subscribers	17,192
Ending Subscribers	17,273
Average Emails Per Campaign	11,757

Tickets Purchased by City

City	**Tickets**
Elkhart	910
Granger	301
GOSHEN	263
Mishawaka	246
SOUTH BEND	236
Osceola	109
Bristol	84
Middlebury	82
Nappanee	71
Edwardsburg	54
Niles	50

LERNER THEATRE BOARD
Wednesday, November 10, 2021

October Accomplishments

- Rebuilt our core seating maps in PatronManager to accommodate for the influx of new events with more price points than we've had in the past. Created new templates to include up to 8 price points from the previous 5, allowing for more flexibility and less time taken to build each event.
- Completed show builds for all Premier Arts 2022 events and Season Ticket packages, including two new event additions taking place at Goshen Theater, which included creating a new event venue in PatronManager.

November Goals

- Prepare the Friends of The Lerner annual giving pledge drive start for distribution at the end of November.
- Program a solution to automate the turning off of lights throughout the theatre at a specified time every night. This way, if any lights are missed when the building is closed, they will automatically turn off to save energy and utility cost.
- Begin inventory of The Lerner's full collection of artwork, create new labels for each, and design a brochure for patrons that highlights some of our pieces.
- Continue virtual coursework to become a Certified Administrator in the PatronManager ticketing software.

BOX OFFICE MANAGER PREPARED BY: TRISTIN PAUFF

Date	Time	Event Name	On Sale Date	Sold	Net Revenue	Hist. Fee	Total Revenue
9/12/2021	4:00 PM	Elkhart County Symphony 4-Show Package 2021-2022	9/20/2021	0	$16.00	$0.00	$16.00
10/8/2021	7:30 PM	Jarrod Niemann & Love and Theft	6/18/2021	176	$2,137.00	$704.00	$2,841.00
10/9/2021	7:30 PM	The MAGIC of BILL BLAGG LIVE!	8/25/2021	132	$5,354.00	$528.00	$5,882.00
10/23/2021	5:00 PM	Elkhart Public Library Presents A Night with the Blooze Brothers	8/5/2021	100	$2,238.25	$400.00	$2,638.25
10/29/2021	7:30 PM	Premier Arts: The Addams Family Musical (10/29/2021 - 10/31/2021 - 3 performances)	5/25/2021	984	$21,659.50	$2,460.00	$24,119.50
11/4/2021	7:00 PM	Kari Jobe - The Blessing USA Tour 2021	8/17/2021	318	$15,993.95	$795.00	$16,788.95
11/12/2021	7:30 PM	Stars of the Sixties	3/5/2020	48	$3,406.50	$120.00	$3,526.50
11/13/2021	4:00 PM	95.3 MNC's Noise with Special Guest Brian Kilmeade	9/17/2021	118	$6,803.00	$295.00	$7,098.00
11/21/2021	4:00 PM	Elkhart County Symphony - New Journeys	8/24/2021	2	$69.00	$5.00	$74.00
11/27/2021	10:00 AM	Tutu School Winter Bravo Bash	10/19/2021	0	$0.00	$0.00	$0.00
11/27/2021	7:00 PM	The Nutcracker (11/27/2021 @ 7:00 PM - 11/28/2021 @ 3:00 PM)	10/19/2021	160	$3,089.25	$400.00	$3,489.25
12/2/2021	7:00 PM	Kimball Organ Concert and Silent Movie: Grandma's Boy	10/21/2021	28	$286.50	$70.00	$356.50
12/3/2021	8:00 PM	Kansas	9/24/2019	165	$13,115.00	$412.50	$13,527.50
12/10/2021	7:30 PM	Premier Arts: A Christmas Carol (12/10/2021 - 12/12/2021 - 3 preformances)	5/25/2021	94	$2,122.75	$235.00	$2,357.75
12/11/2021	3:00 PM	Premier Arts: Madeline's Christmas	10/8/2021	143	$3,287.50	$357.50	$3,645.00
12/13/2021	7:30 PM	REO Speedwagon	9/9/2021	99	$10,504.25	$247.50	$10,751.75
12/14/2021	7:00 PM	Steven Curtis Chapman Acoustic Christmas	9/9/2021	107	$6,170.00	$267.50	$6,437.50
12/16/2021	7:30 PM	A Motown Christmas	7/16/2021	12	$627.00	$30.00	$657.00
12/17/2021	8:00 PM	Martina McBride - The Joy of Christmas 2021	9/14/2021	187	$19,013.75	$467.50	$19,481.25
12/31/2021	8:00 PM	MJ Live	9/23/2021	28	$1,384.35	$70.00	$1,454.35
2/25/2022	7:00 PM	Rodney Carrington: Let Me In!	10/6/2021	571	$45,784.25	$1,427.50	$47,211.75
5/21/2022	8:00 PM	Gordon Lightfoot	12/12/2019	20	$1,653.00	$50.00	$1,703.00

Total Ticket Revenue	$174,056.80

LERNER THEATRE BOARD
Wednesday, November 10, 2021

Accomplishments for October 2021

- Successfully trained 1 new part-time Box Office Team Member
- Completed 1 SMART Goal for a total of 2/3 SMART Goals for the year
- Currently implementing strategies for better training purposes

Goals for November 2021

- Successfully train 1 to 2 new part-time Box Office Team Members
- Complete last SMART Goal of the year
- Implement strategy for better understanding and better Customer Service

TECHNICAL THEATRE MANAGER PREPARED BY: ANDREW KREIDER

Overview:

During October, the Tech Department finished preparations for the busy show season ahead. Sound and lighting are ready for the big tours, and the ballroom equipment is dialed in for big events upstairs as well.

Accomplished in October

- Six main stage performances, plus a week of rehearsals for Premier Arts.
- Installation of new network switches, ready for fiber connection.
- Completed quote process for HVAC repairs.
- Discussion with I&M about downtown power issues.
- Continued background work on the future possibility of a backup generator.

Upcoming tasks:

- Repair of amplifiers for theater sound system.
- Shows ramping up in November and December

ASSISTANT TECHNICAL COORDINATOR PREPARED BY: DEEN TUGGLE

Overview:

October started to pick up on shows and events for us. I helped facilitate two separate ballroom events which utilized lighting, video, and sound - The Cancer Resources fashion show and the Humane Society's Best In Show event. For theatre events, I was able to help facilitate the Jerrod Niemann concert by offering my lighting abilities. The following day we hosted Bill Blagg in which I assisted in setting up and integrating their systems into our house systems. The following week we had our Late Night Live showing of Hocus Pocus in which I was the lead tech. Later in the month, Andrew and I worked on addressing some issues which were slowing down load-ins for shows with integrating guests into our lighting network. We rounded out the month with assisting in Premier Arts' production of The Addams Family. October was a very successful month for the Tech Team and The Lerner.

Accomplished in August:

- Fixed lighting network issues for touring shows.
- Aided in facilitating multiple large ballroom events.
- Provided lighting for stage shows.

Upcoming tasks:

- Ballroom projector inspection
- Help facilitate many theatre upcoming events.

- Help facilitate ballroom events.

FACILITIES MANAGER PREPARED BY: DAN GOULD

With only a few shows in October, we tried to concentrate on preparing for colder weather and for the upcoming shows in November. November and December are always our busiest months of the year. With the help of Lerner Services, we pushed hard to get our building ready for our busy schedule. We inspected the exterior for defects - damage caused by weather and people using the sidewalk. We also inspected the interior for wall and floor damage. The ceiling was another area we took a good look at. The new section of the building is starting to show its age, with some of the light fixtures and mechanical parts for the HVAC system nearing the end of their engineered lifetime. If you have watched the news lately, you have heard all about our HVAC problems. With our busy season upon us, we want to be ready for whatever is coming our way.

The warm weather in October gave us extra time to take care of problems with the exterior. We repaired the caulk around the windows and doors, did repairs to the caulk at the base of the exterior walls, and between the sidewalk and building foundation. The Main St. and Franklin St. side of the building needed minimal repairs. The rear of the building, at the truck pit, and the alley where we park the tour buses, was totally exposed due to the extra exposure from the elements that area receives. The caulk in that area needed to be totally removed and replaced. Thankfully the weather was on our side, and we were able to get that area totally resealed. And, just in time! When applying caulk and sealants, you need a twenty-four-hour period above forty degrees so the caulk can cure correctly. We have had very few nights above forty degrees since that work was finished. I know for sure, and am very glad, someone up there likes me. Another thing we like to accomplish before it gets too cold is the maintenance of the exterior lights. We managed to get all of the bad bulbs changed, even the ones that burned out in the last week of October. What did I see on Monday? A burned-out bulb outside the Premier Arts entrance. I will get that changed this week. For the interior, we finished cleaning the carpet in the rooms we didn't get cleaned in September and continued switching emergency light fixtures to LED. We have already changed the emergency fixtures in the lobby, hallways, stairways, and in the Auditorium. Now we are changing the fixtures in the restrooms and entrances. The main floor restrooms have been completed, as well as the Cittadine Room restrooms. The Grand Hall restrooms each have one fixture to be changed, as well as the fixtures outside the freight elevator in the Grand Hall. After that we will change the fixtures in the entrances on Franklin St. We will be pushing hard to finish this project so we can prepare for a very busy December

November will see us finishing the projects we have started, and keeping up with any damage to the walls, ceilings, and carpets. In the six years I have worked here at the Lerner Theatre, I don't remember finishing any year as strong as we are finishing this year. Even though this is our busy season, I don't remember our schedule ever being as full as it is this year. It is a testament to how hard our office personnel work all year long because the shows you will be watching this November and December, our office started communicating with back in the spring. When we see a schedule as full as our upcoming schedule is, we know the people in the office

have been working their butts off. And now it is our turn. I cannot tell you how good it feels to have people walking our halls once again and sitting in our auditorium. Watching you walk out with a smile on your face is more compensation than any paycheck could ever provide. As always, thank you for the opportunity to take care of this beautiful and historic theater that has provided so many fond memories for me and so many others.

LERNER SERVICES COORDINATOR PREPARED BY: DANIEL REECER

The weather is getting cold again as we cozy into the upcoming busy months. In October we set to preparing ourselves for the winter coming and the shows built into the end of year. Checks have been done to oversee freeze protection on critical systems and routines are being reviewed to manage the various unique challenges of the season. There's no snow yet though, so we've gotten to treat the building to some carpet cleaning and fresh coats of paint. We have several small spots to touch up, patch, or polish to fill in the hours between shows and through an organizationally focused collaboration with the Tech Team here we've been able to accurately list and track all of our concerns. All shows considered, we have our work cut out for us in November and we can't wait.

Accomplished:

- Shampooed Carpets
- Polished Rails
- Repainted PA RRs

Upcoming:

- Winter Inspections
- Door Repairs

7. NEW BUSINESS

Johnson Controls Proposal

On motion by Jamie Arce, seconded by Diana Lawson and carried 4-0, the Board approved and ratified a contract with Johnson Controls, Inc. for Lerner repairs for $29,342.00.

2022 Meeting Dates

On motion by Dina Harris, seconded by Jamie Arce and carried 4-0, the Board adopted the 2022 Lerner meeting dates as presented.

HVAC Update

Corinne Straight updated the Board. The City Council approved half of the funding, and they are in the process of developing the scope of work.

8. ADJOURNMENT

On motion by Dina Harris, seconded by Diana Lawson and carried 4-0, the Lerner Theatre Governing Board was adjourned at 10:28 a.m.

Gary Boyn, President

Attest: Nancy Wilson, Clerk of the Board

City of Elkhart Parks & Recreation
Park Board Minutes

DATE: November 16, 2021

TIME: 3:30 PM

LOCATION: City of Elkhart Parks & Recreation
Council Chambers,
229 S. 2nd Street. Elkhart. IN 46516

Call to Order at 3:30 PM.

1. **Roll Call- Quorum Present**
BOARD MEMBERS PRESENT

Sarah Santerre President	Nekeisha Alayna Alexis Vice President	Kim Henke Secretary	Mark Datema Treasurer

2. **Approval of Agenda**

Motion to Approve Agenda
Motion: NAA
Second: MD
Motion Passes with unanimous voice vote

3. **Approval of Minutes**

October 19, 2021
Motion: NAA
Second: MD
Motion Passes with unanimous voice vote

November 2, 2021
Motion: NAA
Second: MD
Motion Passes with unanimous voice vote

4. **Approval of Financials**
Claims: $14,165.47
Donations: $4,500
Grants: None

Motion to discuss, approve and place on file
Motion: MD
Second: NAA
Motion passes with unanimous voice vote

5. **New Business**
   a. **Free Little Library Donation – Walker Park**
   Mr. Tracy Bail with Bail Home Services has asked to place a Free Little Library in Walker Park near the playground. Bail Home Services will furnish and install the library. Mr. Bail walks in the park five times a week and will keep an eye on it. Mary Krue Esteves whose parents donated the land for Walker Park has books to donate and will also keep an eye on it.

Mrs. Henke inquires if it would be possible to expand the Free Little Libraries to other parks in the City.
Mr. Bail states that the Walker Park library is a pilot program and they will see how it goes. They would like to expand the program.
Ms. Alexis inquires about the upkeep in the future.
Mr. Bail states that there is an organization that sells the libraries and they are registered with them. He plans to continue the upkeep on it himself, but it would be possible for someone else to take over in the future.
Motion to approve
Motion: MD
Second: KH
Motion passes with unanimous voice vote

b. **TapSnap Contract**
Mr. Czarnecki states that the contract is for a photo booth for Winterfest.
Ms. Alexis inquires about how companies are selected.
Mr. Czarnecki states that this company was selected because they have been previously used at Winterfest.
Mrs. Henke inquires why this is being presented to the Park Board if it is part of Winterfest.
Mr. Czarnecki states that because the Department is entering into the contract with the company, it must be approved by the Board. The payment will come from sponsorship donations.
Motion to approve
Motion: MD
Second: KH
Motion passes with unanimous voice vote

c. **Appointment of Mark Datema to Plan Commission**
Mrs. Santerre swears Mr. Datema into the Plan Commission.

d. **Approval of 2022 Elkhart Park Board Meeting Schedule**
Motion to approve
Motion: NAA
Second: MD
Motion passes with unanimous voice vote

e. **Approval of 2022 Park Department Fee Schedule**
Mrs. Kobie informs the Board that anything in red on the schedule is a change from what the Board approved in the previous year. She states that many changes are additions to programs or events being offered or things that are no longer offered by the Department.
Mrs. Henke inquires if the fees are compared with other cities and are they similar.
Mr. Czarnecki states that the fees are not similar, but they are reviewed. Mr. Czarnecki goes through the various changes that have been made and explains the reasoning to the Board.
Mrs. Henke inquires what the industry standard is for cost recovery.
Mr. Czarnecki states that there is no industry standard because each community has different needs. Many of the kids served by the Department are low-income families and require assistance. The Department is aiming for cost recovery of about 25%.
Motion to approve
Motion: KH
Second: NAA
Motion passes with unanimous voice vote

f. **Approval of 2022 Park Department Wage Resolution**
Mr. Czarnecki explains that some jobs were removed due to restructuring.
Mrs. Henke inquires if the salary schedule is competitive to other park departments of similar sizes.

Mr. Czarnecki states they are not for the season jobs, but it is reviewed and the Department is looking into options. However, the Department does retain a high amount of staff from previous years.
Motion to approve
Motion: MD
Second: KH
Motion passes with unanimous voice vote

g. Discussion of Amending Ordinance 96.35 Regarding Curfew
Mr. Datema states that one evening his family was visiting the River District in the downtown area and were turned away by a police officer when trying to walk through Island Park after hours. Mr. Datema says that we live in a pedestrian dense city and the ordinance should be specific to what is not wanted in the parks. We don't want people doing drugs in the shelters and sleeping on the benches. There should be some protection from being harassed by police or rangers if you are traveling through the park and not violating other ordinances.
Mrs. Henke suggests that Mr. Datema come up with new language for the ordinance and have the Legal Department vet it and then the Board can critique it.
Ms. Alexis expresses an interest in talking with Mr. Datema about the language.

6. **Old Business - NONE**

7. **Use and Event Permit Requests - NONE**

8. **Approval of Department Report**
Mr. Czarnecki informs the Board that the Department is still mindful of Covid protocols. NIBCO Water and Ice Park will be opening in sessions to allow for cleaning. The downtown holiday lights are being installed and anyone is welcome to volunteer to help with that.

Mrs. Henke left the meeting at 4:50 pm.

The Department is working on a new health and wellness program and developing that with enFocus. Winterfest is coming up and should be a great event. Pickleball Ladder Leagues are being planned for January and the Department is working on a new soccer league.

Mrs. Henke returned to the meeting at 4:54 pm.

9. **Approval for Correspondence - None**

10. **Public Input/Privilege of the Floor**
Mrs. Santerre opens privilege of the floor

Mrs. Santerre closes privilege of the floor.

11. **Approval for Adjournment**
Motion to adjourn
Motion: NAA
Second: MD
Motion passes with unanimous voice vote
Adjourn 4:55pm

City of Elkhart Parks & Recreation
Park Board Minutes

PARKS & RECREATION STAFF MEMBERS IN ATTENDANCE

Jamison Czarnecki, Superintendent Clayton Brown, Program Coordinator, via Webex Sherry Krask, Event Coordinator, via Webex	Leslie Wingard, Accounting Specialist Jennifer Kobie, Recording Secretary

ADDITIONAL CITY EMPLOYEES AND GUESTS IN ATTENDANCE

Mr. Tony Elkins, IT Department	Ms. Rose Rivera, Legal Department, via Webex	Mr. Tracy Bail, Bail Home Services

Minutes Certification:

Respectfully Submitted,

Recording Secretary Jennifer Kobie — Date 12/21/21

Park Board President Sarah Santerre — Date 12-21-21

Park Board Secretary Kim Henke — Date

Park Board Treasurer Mark Datema — Date 12-21-21

COPY

PLAN COMMISSION
-MINUTES-
Monday, October 4, 2021 - Commenced at 1:45 P.M. & adjourned at 3:12 P.M.
City Council Chambers – Municipal Building

Elkhart City Plan Commission was called to order by Dave Osborne at 1:45 P.M.

MEMBERS PRESENT
Tory Irwin- Webex
Dave Osborne- In person
Ron Davis- In person
Tom Shoff- Webex
Johnny Thomas- In person

MEMBERS ABSENT
Brad Billings
Don Walter

REPRESENTING THE PLANNING DEPARTMENT
Ryan Smith, Planner- Webex
Nathan Hooley- Webex

LEGAL DEPARTMENT
John Espar, Corporation Counsel- In person

TECHNOLOGY STAFF
Anthony Elkins

RECORDING SECRETARY
Kayla Jewell

APPROVAL OF AGENDA
Motion to approve by Thomas; Second by Shoff. Voice vote carries.

APPROVAL OF MINUTES
Motion to approve by Davis; Second by Thomas. Voice vote carries.

APPROVAL OF PROOFS OF PUBLICATION
Motion to approve by Davis; Second by Thomas. Voice vote carries.

ONLINE VOTING
Motion to approve by Irwin; Second by Thomas. Voice vote carries.

OLD BUSINESS

20-Z-04 PETITIONER IS R&R PROPERTY LEASING
PROPERTY IS LOCAATED AT 309 STAINLESS DRIVE
Per Section 29.11.B, Map Amendments, a request for an amendment to Zoning Commitment Document #2016-15221 established with the Elkhart County Advisory Plan Commission, which states that "Any future development must utilize Stainless Drive for access to the site. Access onto County Road 19 is not permitted." The petitioner wishes to remove this stipulation to allow access to the property from County Road 19.

20-Z-04 was moved from the agenda. Motion to approve by Davis; Second by Irwin.
20-Z-04 was tabled for 60 days (until December 6, 2021 meeting). Motion to approve by Davis; Second by Thomas.

NEW BUSINESS

21-X-08 PETITIONER IS PRAYSAYERS MINISTRIES - LEONARD D COOK AND JANET K COOK
PROPERTY IS LOCATED AT 2626 PRAIRIE STREET
A Special Exception as per Section 4.3, Special Exception Uses in the R-1 District, to allow for the establishment of a private secondary educational institution at an existing religious institution.

STAFF ANALYSIS
Goodwill Industries has contracted with the Praysayers Ministries, which operates the River of Life Community Church at 2626 Prairie Street, to open an Excel Center at the existing facility. The Excel Center will provide high school education along with some college courses and professional certifications, along with free child care for their participants. Based on a conversation with Goodwill staff, the child care activity does not rise to the level of being classified as a daycare center under the Zoning Ordinance, nor are they required to acquire a child care license from the Indiana Family and Social Services Administration.

According to the Elkhart County Assessor's records, the church comprises approximately 53,000 square feet on a 5-acre lot, and was built in 1956. The school will operate using the existing church; no physical modifications are planned other than signage.

The church previously hosted another educational program, the Cornerstone Christian Montessori Academy, and the interior of the church is set up for a classroom format. It's common for churches, even in residential areas, to house similar institutional activities such as specialized schools or daycares, since the facilities are adequate and often left unused for the majority of the week. The church is located in a residential district with single family dwellings to the east. However, it's also bordered by a busy commercial area on the west, and traffic will primarily be coming to and from the church from Prairie Street and the entrance at the end of Carlton Avenue. Given its location, facilities, and established history as a church and school, its renewed use as a school is appropriate.

STAFF RECOMMENDATION
The Staff recommends approval of the special exception based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because there will be no physical changes to the property and the activity level will be similar to past uses;
3. The Special Exception shall conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

The petitioner is not present.

Osborne calls for a motion.

Davis makes motion to approve with a Do-Pass Recommendation to the Board of Zoning Appeals; Second by Shoff. Motion carries.

Tory Irwin- Yes
Dave Osborne- Yes
Ron Davis- Yes
Tom Shoff- Yes
Johnny Thomas- Yes

21-X-09 PETITIONER IS LEXINGTON BUSINESS CENTRE, INC
PROPERTY IS LOCATED AT VACANT LOT JR ACHIEVEMENT DR, PARCEL 20-06-05-432-006.000-012
A Special Exception as per Section 15.3, Special Exception Uses in the CBD District, to allow for the establishment of a private park and recreation facility.

STAFF ANALYSIS
The petitioner owns the .37-acre landscaped vacant lot at the southwest corner of East Lexington Avenue and Junior Achievement Drive, as well as the multi-use building across Lexington Avenue to the north. Two of the tenants at the multi-use building have requested the use of the vacant lot for entertainment and social gathering purposes. The petitioner proposes to build a small band shell

and use the property for "weddings, music events, movie nights and other social activities." The site would be an amenity to both local businesses and local residents as several high-density residential complexes exist within walking distance. Visitors from farther away would be able to access nearby private and public parking, and the owner/operator would need to adhere to all applicable noise, food, and beverage laws. The use is appropriate for its urban context and is likely to enhance rather than detract from its surroundings.

STAFF RECOMMENDATION

The Staff recommends approval of the special exception based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because it is a small urban amenity;
3. The Special Exception shall conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

Carl Tiedermann (530 Lexington Ave) introduces himself and states he owns the Lexington Business Center and a few years back, Lex 530 Event Center was created and built. Tiedermann states they have been working with Excise for the new event center and following up on all the necessary precautions needed to open. (inaudible) He goes onto say they recently had an event which was successful and received a large attendance. Tiedermann says he hopes to be able to hold additional events such as weddings in the venue. (inaudible). He states there should not be a problem with parking and they received no noise complaints.

Davis asks if this is located across from the car wash.

Tiedermann replies, yes on the opposite end.

Osborne asks if the area will be fenced.

Tiedermann replies yes temporary fences, only when there are events.

Thomas asks if they plan to close down the streets when events occur.

Tiedermann replies, yes.

Irwin states he believes it is a good use of the area and commends him on working with everyone.

Osborne calls for a motion.

Shoff makes motion to approve with a Do-Pass Recommendation to the Board of Zoning Appeals; Second by Thomas. Motion carries.

Tory Irwin- Yes
Dave Osborne- Yes
Ron Davis- Yes
Tom Shoff- Yes
Johnny Thomas- Yes

21-X-10 PETITIONER IS HANCOCK REGIONAL HOSPITAL DBA VALLEY VIEW HEALTHCARE CENTER PROPERTY IS LOCATED AT 333 WEST MISHAWAKA ROAD

A Special Exception as per Section 4.3, Special Exception Uses in the R-1 District, to allow for the establishment of a dialysis unit in an existing nursing home.

STAFF ANALYSIS

The petitioner owns and operates a nursing home on a 10-acre zoning lot located at 333 W. Mishawaka Rd. The facility comprises approximately 51,000 square feet and was built in 1984. The owner wishes to renovate approximately 1,000 square feet to install an

in-house dialysis facility. The dialysis facility will serve existing residents in need of dialysis, it will not be open to the general public or to external patients. The proposal follows a trend in nursing homes to provide such a service to their residents, giving them a convenient and secure option for a needed treatment which is common for a percentage of the senior population. No exterior changes are proposed, and no increase in traffic or noise is anticipated as a result of the renovation. Staff anticipates effects on adjacent properties to be minimal.

STAFF RECOMMENDATION
The Staff recommends approval of the special exception based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because the renovation will be interior and the service will be provided for existing residents
3. The Special Exception shall conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

Adam Panfil introduces himself and states he is the Chief Operating Officer of the dialysis company. He states he believes it is a great use for underutilized space and will provide a better living condition for those who are receiving dialysis.

Osborne asks if there are any additional questions.

Hearing none, Irwin calls for a motion.

Davis makes motion to approve with a Do-Pass Recommendation to the Board of Zoning Appeals; Second by Shoff. Motion carries.

Tory Irwin- Yes
Dave Osborne- Yes
Ron Davis- Yes
Tom Shoff- Yes
Johnny Thomas- Yes

21-Z-10 PETITIONER IS EPSILON V DEVELOPMENT
PROPERTY IS LOCATED AT VACANT LOT S NAPPANEE ST (IMMEDIATELY EAST OF 1440 S. NAPPANEE ST.)
Per Section 29.11.B, Map Amendments, a request to rezone the property located at Vacant Lot, Nappanee Street (immediately east of 1440 S. Nappanee Street) from B-1, Neighborhood Business District to B-2, Community Business District.

STAFF ANALYSIS
The petitioner owns a +/- .28-acre parcel on a two-parcel/.97-acre zoning lot that has been developed as a fast-food restaurant with drive-thru, originally built in 1985. The parcel to the west is zoned B-2, which allows restaurants with drive-thrus, and the parcel to the east is zoned B-1, which does not, making the parking lot on that parcel legal nonconforming until recently.
The restaurant recently suffered a fire casualty and is seeking to rebuild the restaurant. However, the casualty was greater than fifty (50) percent of the total cost of construction, meaning that the site has to rebuilt in a way that conforms to the current zoning district. While seeking to obtain permits to rebuild the restaurant, the owners consulted with staff to determine what their best option was to be compliant with the zoning ordinance; staff recommended a rezoning instead of a variance. It would consolidate the zoning lot into a single zoning district. The property to the east is zoned residential, however, it is across a street and is currently occupied with a religious institution which would be compatible with the commercial development.

STAFF RECOMMENDATION
The Staff recommends approval of the rezoning request based on the following findings of fact:

1. The request is in keeping with the comprehensive plan, which calls for this property to be developed with commercial uses.
2. Current conditions and the character of current structures and uses in each district will not be impacted because it will re-establish an existing use for the lot.

3. The B-2 District does allow for the most desirable uses for which the land can be adapted since the site is located on a commercial corridor and will consolidate the zoning with the rest of the zoning lot.

4. The proposed rezoning will preserve the conservation of property values throughout the City because the property has already been developed commercially and has a street separating it from the nearest residential zone.

5. The rezoning of the property to B-2, Community Business District is compatible with the surrounding properties and does reflect responsible growth and development.

Smith states there were 18 letters mailed, 0 returned.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

Matt Schuster (JPR) introduces himself and states he is available for any questions.

Davis asks if it is the Burger King.

Schuster replies yes.

Osborne opens for public comments in favor or opposition of the petition.

Hearing none, Osborne closes the public portion of the meeting.

Osborne calls for a motion.

Davis makes motion to approve with a Do-Pass Recommendation to the Common Council; Second by Thomas. Motion carries.

Tory Irwin- Yes
Dave Osborne- Yes
Ron Davis- Yes
Tom Shoff- Yes
Johnny Thomas- Yes

21-SUB-08 PETITIONER IS 1127 MILES AVE LLC., STEVEN K HAINES
PROPERTY IS LOCATED AT 1147 N MICHIGAN STREET

Per Article 4 of the Subdivision Ordinance, approval of a Preliminary Plat for a subdivision to be known as 'Auto Driveaway Subdivision - Replat Lot 2,' a one (1) lot subdivision; a part of the Southeast Quarter of Section 31, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana. The purpose of the plat is to vacate existing access and utility easements, and to create new utility easements.

STAFF ANALYSIS

The petitioner owns a vacant 25-acre parcel bordered by Randolph and Michigan Streets and Edwardsburg Avenue zoned for industrial uses. The parcel is planned to be developed with a 123,000 square foot industrial building, which has mostly passed the City's Technical Review. There is an existing access easement and a utility easements which will no longer be fully necessary once the site is redeveloped; those easements are proposed to be partially or fully vacated here. See the support drawing for more detail. The subdivision ordinance requires an application for a major subdivision when an easement of access is created, altered, or vacated.

The plat would also create two new utility easements for the proposed redevelopment. The City's engineering staff has approved the project and the location of the easements. The project will also connect a storm sewer to the adjacent Auto Driveaway, on which property a drainage easement shall be recorded.

STAFF RECOMMENDATION

The Staff recommends approval of the one (1) lot subdivision, to be known as 'Auto Driveaway Subdivision - Replat Lot 2',a part of the the Southeast Quarter of Section 31, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana, based on the following findings of fact:

1) The lot meets the minimum lot area requirements for the M-1, Limited Manufacturing District and M-2, General Manufacturing District;

2) The proposed request results in the partial or full vacation of existing Utility and Access easements and establish two new Utility easements as depicted on the preliminary plat;

3) The proposed subdivision will not compromise any existing development.

CONDITIONS

1) The approval is preliminary only. The applicant must submit the required application materials for Final Plat Approval to the Plat Committee as per Article 5 of the Subdivision Ordinance prior to the issuance of any permits for construction or sale of property.

2) Subsequent approvals may be required from the appropriate City Departments. Those approvals may include plans for water supply, storm water retention, sewage disposal, grading, roadway construction and other infrastructure prior to final plat approval.

3) Approval is tentative and shall be valid for a maximum period of twelve (12) months. The City Plan Commission may grant an extension upon written request. If the final plat has not been recorded within the time limit, the primary approval is null and void and the preliminary subdivision plan must be resubmitted for approval.

Smith states there were 35 letters mailed, 0 returned.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

Crystal Welsh (Abonmarche) introduces herself and states the reason they are here today is for the utility in the access easement for the project. Welsh says they have recently gone to the Board of Works and have approved the release of the old and accepted the new, but they wanted to come to the Plan Commission first before it becomes official. Also, Welsh states the storm water discharge agreement is in place and has been submitted to Public Works and Utilities for their review and approval. Welsh states it is exciting to see this industrial area being reused for a job center for the community.

Davis asks Welsh if she agrees with the conditions that have been added.

Welsh replies, yes.

Osborne calls for a motion.

Davis makes motion to approve with a Do-Pass Recommendation with listed conditions; Second by Shoff. Motion carries.

Tory Irwin- Yes
Dave Osborne- Yes
Ron Davis- Yes
Tom Shoff- Yes
Johnny Thomas- Yes

21-SUB-09 PETITIONER IS EMERALD CHASE LAND DEVELOPMENT LLC, CONWAY HERSHBERGER, MEMBER PROPERTY IS LOCATED AT Henke Street (CR 106) and Hickory Lane

Per Article 4 of the Subdivision Ordinance, approval of a Preliminary Plat for a subdivision to be known as 'Boulder Run,' an 85-lot subdivision; a part of the West 1/2 of the Southwest 1/4 of Section 26, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana.

STAFF ANALYSIS

The petitioners is requesting approval of an 85-lot subdivision of land that is a portion of the West 1/2 of the Southwest 1/4 of Section 26, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana. The proposed subdivision is located adjacent to the Manor Estates subdivision, south of Henke Street/County Road 106 and east of Jeanwood Drive.

The zoning for this plot of land is R-1, which requires a minimum area of 9,500 square feet, which is met by each of the proposed lots. The zoning limits the development possibilities to single family residential. The developer is proposing three points of ingress and egress which will connect to existing rights-of-way at County Road 106/Henke Street, Manor Lane, and Barley Street.

Based on the review of the block layout, the proposal meets the requirements of the Subdivision Ordinance in terms of street width, layout, block length, and cul de sac diameter. Staff has relayed some concerns about a few of the lot layouts, specifically Lots 1, 2, and 13, to the petitioner. Their consultant has agreed to either revise the layout of these lots or provide a plot plan demonstrating how they may be developed according to code, which will be required prior to final submission to the Plat Committee.

The project has not yet been submitted for Technical Review, which will be required to review matters such as road design, landscaping, utilities, and drainage. Review and approval will also be required prior to submission of the final plat to the Plat Committee.

STAFF RECOMMENDATION

The Staff recommends approval of the 85- lot subdivision, to be known as 'Boulder Run,' a part of the West 1/2 of the Southwest 1/4 of Section 26, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana, based on the following findings of fact:

1) The lot meets the minimum lot area requirements for the R-1, One-Family Dwelling District;

2) The proposed request results in the creation of 85 lots as defined by the Zoning and Subdivision Ordinance.

3) The proposed subdivision will not compromise any existing development.

CONDITIONS

1) The approval is preliminary only. The applicant must submit the required application materials for Final Plat Approval to the Plat Committee as per Article 5 of the Subdivision Ordinance prior to the issuance of any permits for construction or sale of property.

2) Subsequent approvals may be required from the appropriate City Departments. Those approvals may include plans for water supply, storm water retention, sewage disposal, grading, roadway construction and other infrastructure prior to final plat approval.

3) Approval is tentative and shall be valid for a maximum period of twelve (12) months. The City Plan Commission may grant an extension upon written request. If the final plat has not been recorded within the time limit, the primary approval is null and void and the preliminary subdivision plan must be resubmitted for approval.

4) The project must be reviewed and approved through the City's Technical Review process prior to the submission of the final plat to the Plat Committee.

Trotter states there were 126 letters mailed, 3 returned in favor, with comments. Comments were: "As long as Bedford Ct. remains a cul-de-sac", "please don't raise our taxes" (inaudible). There were 9 returned not in favor with comments. Comments were:

"I am not in favor of the petition at this public hearing: A.) you mailed your survey to owners in a 300' radius. B.) If you would have sent your survey to the 26 home owners, you would have received a resounding "not in favor". C.) Let me tell you why, you bring traffic from another subdivision to a one entrance-exit subdivision. D.) Our children use the closed subdivision to ride bikes and play. One of these children are deaf. E.) You would expose these children and home owners to traffic from a 85 lot subdivision and we all know it will bring more than traffic to Manor Estates. F.) If approved by the Planning Commission you are creating an unsafe situation for the children and handicap which I am one of."

"I oppose a street being continued South of Hickory Lane as there are many animals in that area"

"We have a baby and privacy was a huge reason we bought this property."

Osborne asks how many access points there will be.

Trotter replies, 3.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

Crystal Welsh (Abonmarche) introduces herself and thanks the staff for all of their help on this project. Welsh states this is the first, large scale, residential single family development in the past 15-20 years. It will bring in 85 new single family homes. Welsh states there will be three entrance points and goes onto explain the details of those points. Originally, there were 95 units that were proposed however, the neighborhood preferred larger lots and larger homes so the developer went back and removed lots. Welsh states this petition does meet all the required subdivision requirements by the city's ordinances.

Davis asks what is the price range of the new homes.

Welsh replies they have not made the commitment, as there are many aspects that still need to be considered, but they are estimating the starting point to begin at $250,000.

Davis asks if it would be compatible with the surrounding areas.

Welsh replies, yes the developer did a good job with the subdivision being built in the middle of two existing subdivisions.

Irwin asks if the roads that are being tied into, are they cul-de-sacs or (inaudible).

Welsh replies no, they are existing sub-streets.

Osborne asks if there will be new curbing.

Welsh replies, it will have all of the city's development standards.

Osborne asks if there are underground utilities.

Welsh replies, she believes that is the intention.

Osborne asks if the water retention areas would be fenced.

Welsh replies, the fence design is still underway.

Osborne asks if there are additional questions for the petitioner.

Hearing none, Irwin opens for public comments in favor or opposition of the petition.

Vicky Creasy (Cornerstone Christian Montessori) introduces herself and states the property being developed is close to the school. Creasy states there have been multiple trucks and maintenance crews who have been using the school's property during school hours. She says they have had to ask them to leave as it is not safe for the children. Creasy says there is also a large drainage issue, in which there has been a flooding incident already and she is worried this will create an even larger problem for the school. She also states they have issues with children from the neighborhood destroying their playgrounds and fences. Creasy says her biggest concern is the parking lines for pick-up/drop-off along with the traffic which causes accidents. She also says she is concerned with the noise level.

Osborne states to Creasy, that on one hand they would like to welcome more students, but it sounds like the school does not want to deal with the things more students would be bringing with them.

Creasy replies, no we would always want to welcome more students and are working to expand their building.

Osborne asks if all children are being brought by car.

Creasy replies, yes there is no transportation offered.

Judy Johnson (1817 Woodland Dr.) introduces herself and asks if there is a 15' utility easement and what kind of impact this is going to have with drainage and utility assessment area.

Dennis Murphy (53634 Hickory Ln) introduces himself and states he is not in favor of this subdivision. Murphy states the Commission sent out a 300' radius survey of where the proposed exit to the subdivision will be and he says his subdivision has a single in and out exit already. He states the children play in the streets and exposing them to more roads, it would not be a good idea.

He also says he surveyed the 26 home neighborhood and no one is in favor. Murphy states he does not approve or understand the placement of the easements.

Lori Snyder (Berkshire Manor) introduces herself and states she understands everyone's opinions, but there is little land left that is good for single family homes and the developer who is creating this subdivision will do things the right way.

Dale Shrock (23913 Woodmont Dr) introduces himself and states he is not in favor. He states he moved into the subdivision over 20 years ago because of the smallness and minimal traffic. Shrock states, as mentioned previously the number of small children and animals who are playing outside, it does not make sense to open the neighborhood up to more traffic. Shrock believes this will allow for an increase of vandalism as well.
Osborne asks Welsh to answer additional questions.

Osborne asks if the access through an existing subdivision is necessary.

Welsh states from a planning perspective, it's a great idea. She goes onto say when the subdivision was originally platted, this was not a cul-de-sac because it was intended to connect to the section of the subdivision so therefore it was always intended to connect. Welsh goes onto explain how the access will work and it won't be cutting through the neighborhood. The traffic will have to head south and head back up towards the adjacent neighborhood.

Jeff Shaffer (Abonmarche) introduces himself and states he was able to meet and work with the original developer, the idea was always that development was intended to be 100 lots or so. He says the difference being if it were to be developed in the county or the city. Shaffer states, "Henke street has a traffic count of only 1900 cars a day, so there is a lot of capacity on Henke Street." Shaffer states he believes it is important for neighborhoods to be connected and will want to interact with each other.

Osborne asks Shaffer about the point that was brought about the utility easement.

Shaffer says they will be able to work with her, but the utilities are going to be in front of the houses. As far as drainage goes, it would not be located on the home owner's property.

Osborne asks if the electricity would be located underground.

Shaffer states from speculation, yes.

Welsh states this is still in need to go through Tech Review and all of the easements will have to be approved.

Creasy states there was a difference in timing for who received the survey and asks where the car count comes from.

Irwin and Welsh state the traffic count comes from AADT, Macog.

Osborne closes the public portion of the meeting.

Osborne asks if there is anything Irwin would like to add.

Irwin states he is favor of the petition and does understand the concerns, but to connect and form a neighborhood is the best use for the land.

Shoff states he is torn on how to vote.

Osborne calls for a motion.

Davis makes motion to approve with a Do-Pass Recommendation with the listed conditions to the Common Council; Second by Thomas. Motion carries.

Tory Irwin- Yes
Dave Osborne- Yes
Ron Davis- Yes
Tom Shoff- Yes
Johnny Thomas- Yes

STAFF ITEMS

21-SI-09
Endorsement of staff's decision to consider the installation of a rotational molding machine ancillary to the primary operation at the facility located at 1162 Fremont Court. The proposed use is by ordinance more intense than what is permitted in the base district.

STAFF ANALYSIS

Petitioner desires to install a rotational molding machine at the 1162 Fremont Court to allow them to produce on-site parts that are currently outsourced. The need arises because the vendors are back ordered and causing a delay in the supply chain. The equipment is more intense than what the base district allows however, considering the size of the building versus the size of the equipment proposed for the site – it is staff's opinion that the use does not rise to the level of a new use. It is 2% of the overall area of the building thus in staff's opinion – therefore an ancillary use of the building.

Staff is requesting the Plan Commission endorse the staff's opinion that the installation of the rotational molding machine is ancillary to the primary use and does not rise to the level of a Major Amendment to the existing Planned Unit Development.

Section 20.10.B – Major - Modifications to Approved Final Site Plans as a part of a Planned Unit Development list four (4) changes that constitute a major modification. Those four (4) changes are:

1. Change in the land area of the PUD;
2. Change in the density of use of the PUD;
3. Allow a use previously not permitted in the PUD; or
4. Constitute a change which, in the sole discretion of the Plan Commission, should be considered by the City Council as a new proposed development; shall be deemed a new application for the approval of a Planned Unit Development and shall follow the procedure previously set forth in this Section.

In looking at the standards above, the staff feels the intent of this language speaks to larger uses that would occupy land as a primary use. The request meets none of those thresholds and does not rise to the level of a new primary use, change the area of land or change the density of use.

Section 20.10.A – Minor – Modifications to Approved Final Site Plan as a part of a Planned Unit Development list two (2) changes that constitute a minor modification. Those two (2) changes are:

1. Modifications, such as minor relocation of a building, parking lot, or other site element, due to unforeseen site conditions, can be reviewed and approved by the Planning staff. An adverse decision by the Planning staff may be appealed to the Plan Commission as per 20.10.A.2 below.
2. All other modifications, except those deemed major as defined in 20.10.B below, shall be presented in writing to the Plan Commission. The Commission shall review and reject or approve the proposed changes without a public hearing.

The above standards relate to changes in site plans during the construction phase necessitating an amendment. Neither of which relate to the request today.

STAFF RECOMMENDATION
Staff requests the Plan Commission the support the idea the installation of the equipment does not rise to the level of a major change of the PUD and allow the project to move forward.

CONDITIONS
Should the Plan Commission choose to approve the above request, staff suggests they do so with one condition.

1. The machinery referenced in the above request be limited to the 2% of gross internal floor area. Any additions of machinery above 2% would necessitate another hearing and approval by the Plan Commission and may be considered a Major Amendment with appropriate conditions as required by the board.

Davis makes motion to approve with conditions; Second by Thomas. Motion carries.

Tory Irwin- Yes
Dave Osborne- Yes
Ron Davis- Yes
Tom Shoff- Yes

Johnny Thomas- Yes

Trotter asks if any members would be available for a special meeting. The members agree.

Irwin asks Trotter if BZA is set for the month, Osborne volunteers.

ADJOURNMENT
Irwin calls for a motion to adjourn meeting. Davis approves motion to adjourn and is seconded by Thomas. Meeting is adjourned and all are in favor.

Tory Irwin- Yes
Dave Osborne- Yes
Ron Davis- Yes
Tom Shoff- Yes
Johnny Thomas- Yes

Tory Irwin, President

Dave Osborne, Vice-President

COPY

PLAN COMMISSION
-MINUTES-
Monday, November 1, 2021 - Commenced at 1:49 P.M. & adjourned at 2:44 P.M.
City Council Chambers – Municipal Building

Elkhart City Plan Commission was called to order by Dave Osborne at 1:49 P.M.

MEMBERS PRESENT
Dave Osborne- In person
Ron Davis- In person
Tom Shoff- Webex
Johnny Thomas- In person
Jamie Arce- Proxy- In person
Mark Datema- In person

MEMBERS ABSENT
Tory Irwin
Brad Billings
Don Walter
Kevin Bullard

REPRESENTING THE PLANNING DEPARTMENT
Eric Trotter, Assistant Director for Planning- In person
Ryan Smith, Planner- In person

LEGAL DEPARTMENT

TECHNOLOGY STAFF
David Hopkins

RECORDING SECRETARY
Kayla Jewell

APPROVAL OF AGENDA
Motion to approve by Davis; Second by Thomas. Voice vote carries.
Motion to amend by Arce; Second by Davis. Voice vote carries.
Motion to approve amended agenda by Davis; Second by Datema. Voice vote carries.

APPROVAL OF MINUTES
Motion to approve by Davis; Second by Datema. Voice vote carries.

APPROVAL OF PROOFS OF PUBLICATION
Motion to approve by Datema; Second by Davis. Voice vote carries.

OLD BUSINESS
None

NEW BUSINESS

21-SUB-10 PETITIONER IS Meijer Stores Limited Partnership
PROPERTY IS LOCATED AT 2426 Cassopolis St., 515 Arlington Road (parcel 02-29-276-016), Vacant Land CR 9 (parcels 02-29-276-041, 042, 043), 2508 and Vacant Land Cassopolis Street (parcels 02-29-276-005, 050, 032, 033, 034, 035), 53301 CR 9 (parcel 02-29-276-036)
Per Article 4 of the Subdivision Ordinance, approval of a Preliminary Plat for a subdivision to be known as 'Meijer Subdivision,' a three (3) lot subdivision; a part of the Northeast Quarter of Section 29, Township 38 North, Range 5 East of the Second Principal Meridian, Osolo Township, Elkhart County, Indiana. The purpose of the plat is to create three parcels and establish an access easement on Lot 1 serving Lots 2 and 3. This request represents approximately 24.1 acres. The plat will also dedicate Green Acres Lot 5 as right-of-way and establish a sign easement therein, and dedicate approximately .177 acres of right-of-way along Johnson St.

STAFF ANALYSIS

The petitioners owns a number of parcels equaling approximately 28.5 acres, and is intending to develop it as a 150,000 square foot retail business with two outlots, one of which will be a gas station and convenience store and the other to be developed at a later date. The project has been approved through Technical Review and designers are working on building plans. Construction is anticipated to begin in the spring of 2022.

The proposed subdivision would establish three lots for the three uses, and an access easement on Lot 1 that would ensure access to Lots 2 and 3, since the proposed driveway accessing both Cassopolis Street and Arlington Road runs through Lot 1. It will also dedicate right-of-way along Johnson Street and would dedicate an entire parcel (Green Acres Lot 5) to right-of-way for a public way connecting Arlington Road to Emerson Drive across Cassopolis St. A sign easement would also be established within the latter right-of-way.

The proposal meets the requirements of the R-4 District, and ensures adequate vehicular access for all three parcels.

STAFF RECOMMENDATION

The Staff recommends approval of the three (3)-lot subdivision, to be known as 'Meijer Subdivision,' a part of the Northeast Quarter of Section 29, Township 38 North, Range 5 East of the Second Principal Meridian, Osolo Township, Elkhart County, Indiana, based on the following findings of fact:

1) The lot meets the minimum lot area requirements for the B-4, Regional Business District;

2) The proposed request results in the creation of 3 lots as defined by the Zoning and Subdivision Ordinance.

3) The proposed subdivision will not compromise any existing development.

CONDITIONS

1) The approval is preliminary only. The applicant must submit the required application materials for Final Plat Approval to the Plat Committee as per Article 5 of the Subdivision Ordinance prior to the issuance of any permits for construction or sale of property.

2) Subsequent approvals may be required from the appropriate City Departments. Those approvals may include plans for water supply, storm water retention, sewage disposal, grading, roadway construction and other infrastructure prior to final plat approval.

3) Approval is tentative and shall be valid for a maximum period of twelve (12) months. The City Plan Commission may grant an extension upon written request. If the final plat has not been recorded within the time limit, the primary approval is null and void and the preliminary subdivision plan must be resubmitted for approval.

4) The project must be reviewed and approved through the City's Technical Review process prior to the submission of the final plat to the Plat Committee.

Smith states there were 7 letters mailed, 0 returned.

Osborne asks if there are questions from the Commission.

Osborne asks staff to explain the connection for Arlington to Emerson.

Smith and Trotter states originally when Hardee's was developed, there was an access easement developed through their parking lot and so it was changed slightly and that the concept is the same, but the roads were moved a little bit. They go onto explaining how it will be laid out and how it is displayed on the map.

Osborne asks how large the easement will be.

Trotter states 68 feet.

Osborne asks if Hardee's will have to take down their sign.

Trotter replies, no it will not need to move. He states the request that is being presented today is the dedication and its way out to Arlington.

Osborne calls petitioner forward.

Brian Smallwood introduces himself and states he is available to any additional questions.

Osborne asks if there are additional questions from the Members.

Osborne asks Smallwood if he is comfortable with the setup of getting customers in and out of the easement.

Smallwood replies yes.

Osborne calls for a motion.

Datema makes motion to approve with a Do-Pass Recommendation with the listed conditions; Second by Davis. Motion carries.

Osborne- Yes
Davis- Yes
Shoff- Yes
Thomas- Yes
Arce- Yes
Datema- Yes

21-Z-11 PETITIONER IS Heartland Recreational Vehicles LLC
PROPERTY IS LOCATED AT Vacant Land on Wade Drive
Per Section 29.11.B, Map Amendments, a request to rezone the property located at Vacant Lot County Wade Drive from B-3, Service Business District to M-1, Limited Manufacturing District.

STAFF ANALYSIS
The petitioner owns a +/- 1.7-acre undeveloped parcel along Wade Drive. It is in a block of B-3 zoning with the same ownership with industrial zoning to the north, east, and west, and single family residences to the south. The office building at the southwest corner of Wade Dr. and Dexter Dr. is in that block. They wish to develop this parcel as an RV storage lot, which is not allowed in the B-3 zone. The existing zoning is legacy from when it was under Elkhart County's jurisdiction. Their allowed uses have some differences from the city's designations. While a B use makes some sense as a transition between the M-2 to the north and the R uses to the south, the city's B-3 allows an array of intensive uses, such as car sales, that may not be the best fit for the area.
While a storage lot is the immediate proposal for the property, any rezoning merits consideration as to the array of uses which the property could be used. The M-1 is an industrial class that is less intensive than the M-2 and may result in less intense uses than the B-3. It also functions as a transition between the M-2 to the north and the R-2 to the south. If it is developed, there are screening and buffering standards that would have to be established along the southern edge of the property next to the R-2. These requirements would be subject to staff approval during Technical Review, before any permits could be issued for development.

STAFF RECOMMENDATION
1. The request is in keeping with the comprehensive plan, which calls for this property to be developed with industrial uses.
2. Current conditions and the character of current structures and uses in each district will not be impacted because it is in a general industrial area and will be required to buffer against the residential to the south.
3. The M-1 District does allow for the most desirable uses for which the land can be adapted since the site is is in a transition between the more intensive M-2 and a row of residential houses.
4. The proposed rezoning will preserve the conservation of property values throughout the City because the existing B-3 zoning already allows a variety of intense uses; M-1 will make it compatible with adjacent industrial uses.
5. The rezoning of the property to M-1 Limited Manufacturing District is compatible with the surrounding properties and does reflect responsible growth and development.

CONDITIONS
1. When developed, screening as per 18.7.F and a pavement setback as per 18.7.H shall be established adjacent to any residentially used or zoned property prior to occupancy

Case was tabled until December 6, 2021 meeting. Datema makes motion to approve; Second by Davis. Motion carries.

Osborne- Yes
Davis- Yes
Thomas- Yes
Arce- Yes
Datema- Yes

A public hearing was still allowed:

Brian Thomas introduces himself and states there is a strip of 6 houses and states there are a few representatives here who would like to speak on behalf of this petition.

John Marks (1402 CR 6 W) introduces himself and states his concerns which currently include the problems with the water table, noise from traffic/airport and the welfare of the area and what will be left for future generations. Marks says they have been let down by the city so far; they were promised city water, city sewer, curbing and storm sewers and street lights. Marks states he is frustrated with the communication between the tax payers and the government and would like to see statements or facts if this were to be passed and to move forward.

Daraleigh Stephenson (1400 CR 6 W) introduces herself and states she understands this petition is more than a RV storage lot, which could change in the future and used for something else. Stephenson says her first concern is the water safety, while they are in the city limits they do not have city water. She then states every house, but hers has city sewer. Stephenson states they need a study to show the impact that the storage lot or any M-1 uses could potentially have on the water table. Her next concern is the potential increase for traffic noise, light exposure and the effect on quality of life. Stephenson states her and the rest of the homes are against the rezoning petition and if it does move forward, the neighbors would like to request additional studies be completed with adequate time to discuss the future possibilities of the area.

Osborne asks Trotter if they would be able to apply for a variance.

Trotter replies yes.

21-X-11 PETITIONER IS ELKHART COUNTY YOUTH FOR CHRIST
PROPERTY IS LOCATED AT VACANT LAND IN THE 2700 BLOCK OF PRAIRIE STREET
A Special Exception per Section 8.3 Special Exception Uses in the R-5, Urban Residential District to allow for the establishment of a community center.

STAFF ANALYSIS
The petitioner is a nonprofit that wishes to build a community center on approximately 2.85 acres of undeveloped land on Prairie Street south of Hively Ave. to hold educational and recreational programs for all ages. Planning for the facility is still in its conceptual phase; the petitioner proposes a potential 36,650 sf building with approximately 28,600 sf for parking.

Prairie Street south of Hively is a two-lane arterial street, and the petitioner appears to intend to have access on Prairie Street and from the driveway of the public utility directly to the south. It's will be the responsibility of the petitioner to demonstrate that an agreement can be made with the utility for an access easement and maintenance agreement, and that Prairie Street has the capacity to handle the traffic volume for the community center. Alternatively, if an agreement is not reached, access shall only be from Prairie Street.

STAFF RECOMMENDATION
1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected;

2. The Special Exception will not reduce the values of other properties in its immediate vicinity because its impacts will be similar to commercial properties nearby and screening will be required for adjacent residential areas;

3. The Special Exception shall conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

CONDITIONS
If the Board chooses to approve the requested variance, staff recommends that the following condition be placed upon the approval:
1. If access is to be obtained from the driveway on the parcel to the immediate south, the petitioner must enter into an access and maintenance agreement to share the driveway with the Utility and to establish an access easement on that property.

Osborne asks if there are questions from the Commission.

Smith states this would be a recommendation to the BZA.

Hearing none, Osborne calls petitioner forward.

Crystal Welsh (303 River Race Dr. Goshen) introduces herself and states this petition is to construct a community center in a residential neighborhood. Welsh states the intention was to begin this process a few years ago, which was approved in the past however, there is a time limit on special exceptions so therefore that's why it is being brought back today. Welsh states Darrell Peterson is available for additional questions.

Arce asks Welsh if it was originally going to take place between Prairie and Roys, on the vacant land or has it always had planned to be on the west side of Prairie.

Peterson comes up to the microphone (inaudible).

Osborne calls for a motion.

Davis makes motion to approve with a Do-Pass Recommendation to the Board of Zoning Appeals; Second by Shoff. Motion carries.

Osborne- Yes
Davis- Yes
Shoff- Yes
Thomas- Yes
Arce- Yes
Datema-Yes

STAFF ITEMS

21-SI-10
Addressing

STAFF ANALYSIS
The Planning and Zoning Department is requesting approval of the addresses that have been reserved for structures in the City of Elkhart.

Commercial	
113 State St Suite 100 & Apartment 200	Commercial Multi-Tenant
115 State St Suite 100 & Apartment 200	Commercial Multi-Tenant
3237 Northview	New Tenant Space

STAFF RECOMMENDATION
Staff recommends that the Plan Commission assign the proposed addresses based on staff recommendation.

Davis makes motion to approve; Second by Thomas. Motion carries.

Osborne-
Davis-
Shoff-
Thomas-
Arce-
Datema-

STAFF ITEMS
UDO presentation by Eric Trotter

ADJOURNMENT
Irwin calls for a motion to adjourn meeting. Davis approves motion to adjourn and is seconded by Datema. Meeting is adjourned and all are in favor.

Tory Irwin, President

Dave Osborne, Vice-President

The Honorable
Rod Roberson
Mayor

Jamison Czarnecki
Parks Superintendent

City of Elkhart

Parks & Recreation
1320 Benham Ave.
Elkhart, IN 46516

574.295.7275
Fax: 574.522-7808

MEMO

To: Board of Elkhart Parks and Recreation

From: Jamison Czarnecki, Superintendent

Date: December 21, 2021

Re: Parks Department Report

Superintendent's Update

- COVID-19 numbers continue to rise with variant strains proving difficult for the parks department to go back to normal operations. We continue to work with city administration to provide expanded programming and continue to be mindful to protect public health.
- Master Plan is planned for Ideal Beach with engagement and stakeholder meetings planned for winter/spring.
- Parks Foundation is being planned to reactivate and they are looking for great candidates to join the board.
- Parks Passport to Play Program is being designed for 2022 to get people out in the parks being active and enjoying the outdoors to increase their physical and mental wellness.
- Staff is working on the annual report and heavy in the planning stages for a great 2022.

Events Report

- The November 13th shopping trip to Schaumburg, IL was a success with 34 of the 38 available bus seats sold. The 13-hour excursion took shoppers to IKEA and to Woodfield Mall.
- The Winterfest Kickoff and Lighted Parade took place on Saturday, December 4th. The day began with Breakfast with Santa at Central Fire Station from 8am-12pm. Following from noon to 5 pm were free professional photos with Santa at The Lerner Theater. Downtown merchants hosted open houses throughout the day. The parade moved up Main Street from 6-6:30 pm followed by the Civic Plaza Christmas tree lighting. Next was the opening of NIBCO Water and Ice Park at 7:30 with special events and closing out the night was the Lerner's free showing of Elf at 8:00 pm. The sponsors making these events possible were Barletta Boats, The Rex and Alice Martin Foundation and Centier Bank.

Programming and Recreation Report

- Stories Around the Fire is taking place every Wednesday December 1-22 at Studebaker Pavilion from 6-645P. Local librarians read to youth while participants enjoy hot coco and cookies.
- City Lights Volleyball continues with over 25 players this session.
- Beginner and Intermediate Pickleball is welcoming registrants for January Ladder League. Players must register by December 22. Many spaces still available.
- Youth Hoops Camp begins December 20 and welcomes ages 6-12 for a introductory/skills camp. The camp is every Monday December 20-January 10. It is $10 per participant (preregistration required) at the Tolson Center.
- Intro to Tennis hosts 10 players every Wednesday evening at the Tolson Center. Players are taught the basics of tennis and the skills needed to advance in the sport!

The Honorable
Rod Roberson
Mayor

Jamison Czarnecki
Parks Superintendent

City of Elkhart

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- Mommy and Me Gymnastics 2-Day Camp is on December 28 and 29. The cost is $12 per youth and will run from 545-630 at High Dive Pavilion for 2-3 year olds.
- Intro to Gymnastics 2-day camp is on December 28-29. The cost is $12 per youth and will run from 6:45-7:30pm at High Dive pavilion and is for 4-7 year olds.
- NIBCO Ice Rink is off and running with many programs and themed skates planned this year. Sessions continue in line with public health needs.

Ranger Report

November 1-30, 2021 – Ranger Stan McCray

Citations

- None written.

Various Park Activities and number of people participating.

- Basketball (6), Biking (22), Fishing (24, Football (12), Parking/Sitting (288), Playground (90), Skateboarding (12), Walking/jogging (334), Walking Dog (26), Soccer (6), Softball (2), Tennis (2) and boxing (2). **Grand Total park patrons – 826.**

Events

- Nov. 13, 2021 – Bird Hike, Island Park, no participants (snow and rain).
- Nov. 19, 2021 - Elkhart High School 'Special Needs' students did building cleanup at Tolson Center.

Damage

- Nov. 1, 2020 – While on patrol, Ranger Keen reported a broken light pole at McNaughton Park.

Other

- Nov. 5, 2021 – While on park patrol, Ranger McCray reported finding a Trash container at the east end of Beardsley Park. The item was reported to MyElkhart311
- Nov. 12, 2021 – While on park patrol, Ranger Miller reported finding 2 homeless Encampments at High Dive Park. The encampments were reported to MyElkhart311
- Nov. 12, 2021 – While on park patrol, Ranger McCray and Geib reported finding a Homeless Encampments east of High Dive Park Pavilion neat Christiana Creek north of the railroad tracks. The encampment was reported to MyElkhart311.
- Nov. 13, 2021 – Rangers McCray and Geib found 2 Homeless Encampments at American Park along the east-west fence line adjacent to the Elkhart High School Soccer/Softball Complex. The Encampments were reported to Myelkhart311.

End of Report