

*\*\*PERSONAL AUDIO ENHANCERS ARE AVAILABLE FROM THE COUNCIL  
SECRETARY\*\**

**AGENDA FOR REGULAR ELKHART CITY COUNCIL MEETING**

LOCATION: CITY HALL, 2<sup>ND</sup> FLOOR, COUNCIL CHAMBERS

**August 15, 2022**

**7:00 P.M.**

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

**2. Minutes for Approval**

Minutes of March 7, 2022 - Council

**Presentations and Introductions**

**3. Unfinished Business**

**a) Reports of Council Committees**

**b) Ordinances on Second-Third Reading**

**PROPOSED ORDINANCE 22-O-30**, an ordinance appropriating Seven Hundred Fifty Thousand Dollars (\$750,000.00) from the Elkhart Capital Outlay Fund for the Hively Avenue Right-Of-Way acquisition project

**PROPOSED ORDINANCE 22-O-31**, 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 a portion of Lot 45 of the Allendale Addition to the City of Elkhart from M-2, General Manufacturing District to R-4, Multiple Family Dwelling District

**c) Ordinances and Resolutions Referred to Committees**

**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 22-O-29**, an ordinance prohibiting the possession of firearms in any municipal building of the City of Elkhart containing a courtroom of the Elkhart City Court

**d) Tabled Ordinances and Resolutions**

**PROPOSED ORDINANCE 22-O-09**, 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 309 Stainless Dive, Elkhart, Indiana by removing the existing zoning restriction, which prohibits access to the property from County Road 19

**PROPOSED RESOLUTION 22-R-22**, a resolution of the Common Council of the City of Elkhart expressing interest in the purchase of certain real property located in the Southeast corner of CR 106 and Woodland Estate Drive

**4. New Business**

**a) Ordinances on First Reading**

**PROPOSED ORDINANCE 22-O-32**, an ordinance redistricting the Councilmanic districts of the City of Elkhart, Indiana, and repealing Ordinance No. 5325

**PROPOSED ORDINANCE 22-O-33**, 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 1111 West Bristol Street together with the surrounding contiguous vacant parcels from M-2, General Manufacturing District to B-2, Community Business District

**b) Resolutions**

There are no resolutions

**c) Vacation Hearings**

There are no vacation hearings

**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**

**5. Acceptance of Communications**

Minutes of June 10, 2022 – Board of Aviation Commissioners

Minutes of June 29, 2022 – Board of Aviation Commissioners

Minutes of July 12, 2022 – Board of Public Safety

Minutes of July 19, 2022 – Board of Public Works

Minutes of May 12, 2022 – Board of Zoning Appeals

Minutes of June 21, 2022 – Elkhart Parks & Recreation Board

Minutes of July 7, 2022 – Elkhart Parks & Recreation Board

Report of July 2022 Month End – Elkhart Communications Center

Report of July 2022 – Parks Department

**7. Adjournment**

**MINUTES OF THE REGULAR COMMON COUNCIL MEETING**  
**OF MARCH 7, 2022**

Present: Council President Arvis Dawson  
Council Members Kevin Bullard, Brent Curry, Brian Thomas, Aaron Mishler, Tonda Hines, Megan Baughman, Dwight Fish, 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 Dawson called the meeting to order at 7:00 p.m. in the Council Chambers at City Hall, 229 S. Second Street, in Elkhart.

President Dawson led the assembly in the Pledge of Allegiance and asked for a moment of silent reflection.

The clerk called the roll.

**APPROVAL OF MINUTES**

**Minutes** of February 7, 2022 Council Meeting

**Minutes** of February 14, 2022 Council Meeting

President Dawson asked for a motion to approve the minutes. The Council Clerk had presented the council with a new format for the minutes.

**Councilman Henke** stated he is concerned about the new format as he feels that it makes it difficult for people online to get back and have to view audio as opposed to just seeing the synopsis of minutes as we were used too.

Motion to approve the February 7<sup>th</sup> minutes made by **Councilwoman Hines** and seconded by **Councilman Fish**.

**President Dawson** stated that in regards to the why that the minutes are being presented; this was just a suggested format. We do not have to stick to it and you are not the first one to bring it up. The official minutes are those that are recorded, when we archive those if somebody wants a copy of them, we can print them out. Therefore, this was just a proposal.

**Councilman Henke** stated so we are approving what is not written. He finds that to be backwards. It tells you where to find it on the audio but no one is going to do that. Feels that it creates more work especially an open door law for the people that actually want to participate in our community and do look at the records. He did have a call from a realtor that had missed the last meeting and they asked what is with that, I cannot find the last minutes. People should be able to go online as they have in the past and pull the minutes from whatever meeting.

**Councilman Fish** asked if the minutes are actually transcribed once they are recorded.

**Council Clerk Angie McKee** stated no they are just the audio recording.

**Councilman Fish** stated then we have to go through that step.

**Council Clerk Angie McKee** stated that is correct.

**Councilman Mishler** stated that he agrees with Councilman Henke and that in order to review the minutes a council member would have to go back, watch the entire council meeting over again, and go time stamp to time stamp. Feels that it is more difficult if they are searching for something specific. Hesitates to support this new format because he feels that folks should have the ability to go online for whatever date and have the ability to read the minutes especially if they are incapable of hearing.

**Councilwoman Baughman** stated that she totally agrees with what has been said and thinks it is important to have that secondary way of whether we heard it and now we can read it. She stated she has heard something and then goes and refers to the minutes for clarity. She stated that we could provide transparency in the written.

**Council President Dawson** stated that after hearing the discussion, he assumes that this is not something that they want to move forward with going forward. They need to have the February 7<sup>th</sup> and February 14<sup>th</sup> minutes in writing before they can approve them. Stated that they will not be doing a motion and second tonight on the minutes.

### **PRESENTATIONS AND INTRODUCTIONS**

**Mayor Roberson** introduced Nancy Kiernan as the Assistant Director of Economic Development. He also thanked Dayna Bennett for her service in the development services department. Dayna will be transitioning out and the end of May and Nancy will be transitioning into the role of Director of Development Services.

**Nancy Kiernan** stated that she is happy to be here in the City of Elkhart. In addition, that it is an exciting opportunity for someone like herself an Economic Development specialist. She stated that there is a lot going on in Elkhart and she is looking forward to continuing the good work being done and working with all of us.

### **UNFINISHED BUSINESS**

There was no unfinished business

### **REPORTS OF COUNCIL COMMITTEES**

**President Dawson** stated that on February 28, 2022, the Finance Committee Of-The-Whole met to discuss Proposed Ordinance 21-O-57-R, which appropriates One Million Dollars for the Lerner and gave a Do Pass Recommendation to the full council.

**President Dawson** stated the on March 3, 2022, the Finance Committee Of-The-Whole met to discuss Proposed Ordinance 21-O-67, which appropriates Four Million Two Hundred Thousand Dollars for a new public safety facility and gave a No Recommendation to the full council. The Finance Committee also discussed Proposed Ordinance 21-O-68-R, which appropriates One Million Dollars for land acquisition for the new public safety facilities and gave a Do Pass Recommendation to the full council. Both proposed ordinances will stay in committee.

**Councilman Bullard** made a point of order, that they had a motion and second on the floor to approve the minutes. They need either to vote on it or withdraw. We just cannot just move on.

**President Dawson** asked for a motion to table the minutes. **Councilwoman Hines and Councilman Fish** withdrew their motion and second in regards to the minutes. Motion made by Councilwoman Hines and second by Councilman Fish to table. By a unanimous voice vote of 9-0 the motion passed.

**Councilman Henke** stated that minutes could not be tabled only withdrawn.

**President Dawson** stated that they would have an Executive Session one week from tonight at 6:30pm. The question was asked to John Espar of Corporation Council if it is legal for one councilperson to be remote during an Executive Session.

**John Espar, Corporation Council** stated that yes it would be legal for one councilperson to be remote during the Executive Session.

**Councilman Henke** stated that he would just listen to the audio recording.

### **ORDINANCES ON SECOND-THIRD READING**

There are no ordinances on second-third reading

### **ORDINANCES AND RESOLUTIONS REFERRED TO COMMITTEES:**

#### *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 Dawson stated **proposed Ordinance 21-O-46 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 Dawson stated **proposed Ordinance 21-O-49 remains in committee.**

**ORDINANCES AND RESOLUTIONS REFERRED TO COMMITTEES CONT'D:**

*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**

**President Dawson** stated that the administration has presented us with a revised Proposed Ordinance 21-O-67-R. In addition, he stated that he would like to have a public hearing tonight as well as there were people who wanted to speak at the Finance meeting and did not get too. He stated during the Finance meeting that they would be able to speak tonight. Asked for a motion and second to substitute in its entirety. Motion by Councilman Fish and second by Councilwoman Hines.

**President Dawson** opened the floor for the public hearing. Seeing that there were no public comments, President Dawson closed the public hearing.

**By a unanimous voice vote of 9-0 the substitution passed.**

**Councilman Henke** asked when they were given the revised proposed ordinance.

**Council Clerk Angie McKee** stated that it was given to the council at the Finance meeting on March 3<sup>rd</sup>.

**Councilman Henke** stated that he needs a copy.

*Proposed Ordinance 21-O-67-R*

**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**

President Dawson stated **proposed Ordinance 21-O-67-R remains in committee.**

**ORDINANCES AND RESOLUTIONS REFERRED TO COMMITTEES CONT'D:**

*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**

**President Dawson** stated that the administration has presented us with a revised Proposed Ordinance 21-O-68-R2. Asked for a motion and second to substitute in its entirety. Motion by Councilman Fish and second by Councilwoman Hines.

*Proposed Ordinance 21-O-68-R2*

**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**

**By a unanimous voice vote of 9-0 the substitution passed.**

President Dawson stated **proposed Ordinance, 21-O-68-R2 remains in committee.**

**TABLED ORDINANCES AND RESOLUTIONS**

*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**

**President Dawson** asked for a motion to remove 21-O-57-R from the table. Motion by Councilman Mishler and seconded by Councilman Thomas.

**By a unanimous voice vote of 9-0 motion passed.**

President Dawson asked the clerk to read the proposed ordinance by title only.

President Dawson asked for a motion to substitute in its entirety. Motion by Councilwoman Hines and seconded by Councilman Mishler.

**By a unanimous voice vote of 9-0 the substitution passed.**

President Dawson asked for a motion and second to adopt as substituted. Motion by Councilman Mishler and seconded by Councilman Fish.

**By a unanimous voice vote of 9-0 the motion passed.**

*Proposed Ordinance 21-O-57-R2*

**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, and CONDUCTING A CITYWIDE INVENTORY OF ALL HVAC SYSTEMS FOR PURPOSES OF DEVELOPING A COMPREHENSIVE HVAC MAINTENANCE ASSESSMENT AND REQUEST FOR CONTRACTOR PROPOSALS**

**COUNCIL DISCUSSION ON PROPOSED ORDINANCE 21-O-57-R2**

President Dawson opened the council discussion. **Councilman Henke** stated that since they are now on revision 3, could we go in chronological order on what has changed. There is a dollar value change, but what else has changed to get to R2. He stated that it is a Million two and he hopes that someone has a presentation prepared. **Corinne Straight, Director of Communications and Quality of Place**, stated that at the Finance Committee Of-The-Whole meeting last week, it was decided to incorporate \$80,000 for the maintenance research piece to inventory all of the HVAC units. Therefore, what got them to R2 is that we are incorporating the \$80,000 instead of appropriating it in a separate ordinance. **Councilman Henke** stated that this is just not the Lerner anymore; are multiple buildings in this. **Corinne Straight** stated that yes; it will be a citywide inventory of all of our HVAC units. **Councilman Henke** stated so now we are sitting on a little over 1 million dollars and feels that it is in the best interest of transparency and constituents to have each one built out to itself so we know. Stated that he has not seen a real estimation of repair. So whether is it \$300,000 or a Million Two Hundred Thousand he does not know. State he is not approving anything without some form of formal estimation of real cost and scope of service. **President Dawson** stated that Councilman Henke might have missed the Finance Committee Of-The-Whole meeting regarding this proposed ordinance. Stated that Tory Irwin gave that information out at the meeting. **Councilman Henke** stated he remembers a discussion but he has also had sidebar conversations in regards to the Lerner specifically. **President Dawson** stated at the finance meeting, Councilman Fish made an amendment to incorporate the \$80,000 as well. **Corinne Straight** stated that the \$80,000 is within the total of the \$1.5 million we have appropriated for the Lerner HVAC. Estimates on the replacement are in the \$1.2 million dollar range. **Councilman Fish** added that the discussion went further and said that anything left over goes back into the general fund. **Corinne Straight** stated absolutely, as a standard anything left over will go back into the general fund. **Councilman Fish** stated that we left the discussion that way and we passed it from that point on. **President Dawson** stated and there was also discussion on the \$500,000 and they have some restrictions taking it. **Corinne Straight** stated that whatever is decided, the entire \$1.5 million is coming out of the ARP money and then what is left would be returned to the ARP fund and not to the general fund. **Councilman Henke** stated he does recall that discussion and that is why he has a big X on this page.

## **PUBLIC COMMENT ON PROPOSED ORDINANCE 21-O-57-R2**

President Dawson opened public comment. Seeing no comments from the public, he closed the public comments and returned the discussion to the council.

## **COUNCIL DISCUSSION ON PROPOSED ORDINANCE 21-O-57-R2**

**Councilman Henke** stated that this is a large amount of money. ARP has so many benefits that they could utilize as opposed to it looks as though we are just trying to use up that and benefit these things are we are going through. Stated that this does not match what they were given. The people servicing the system did back down quite considerably. Stated that they are running through ARP money fast and this economy is going to shift really fast and he hates to think that they are going to use for example, millions and millions of ARP dollars as they are flowing through it fast and it is not as if it is going to keep up with them. Second, the way they are bonding the public safety, they are consuming all available cash for the next twenty (20) years. Stated that he cannot vote for something like this especially when it is open-ended. **Councilman Mishler** stated that for him, they have to do this in order to keep the Lerner here and continue to function. They can look into the maintenance issues and things like that to see what potentially caused this so that they can prevent it from happening again. In addition, look into our other systems to prevent it from happening to our other sites. The simple matter is they have to do this in order to keep operations at the Lerner going especially as they move into summer heat. He stated that the benefits of the Lerner cannot be overstated especially with the recent opening of the Hotel Elkhart as well as the impact it has on the small businesses in the community. He wishes they were in a situation where they did not have to do this but the simple matter is they do. **Councilman Thomas** stated that this project would have had to be done at some point it just happened to catch at 11 years because these units were exposed to the elements and they are dealing with that problem by erecting a cover/shelter over the new units. Since they will know more about the new units, he is hoping that they can squeeze some more time out of them. He asked Tory Irwin if he was in the design phase since today was March 7<sup>th</sup> and his timeline stated March 1<sup>st</sup>. **Tory Irwin** stated that assuming that the council approves the appropriation tonight; they will sign a contract with the design company at the next Board of Works meeting, which would be March 15<sup>th</sup>. He stated that from there it would be full steam ahead. **Councilman Thomas** asked him if he anticipates that it will take until September to get that bid. **Tory Irwin** stated that he hopes not. They are going to see what they can advance the bidding of the materials only so that the materials can be manufactured while we finish the design and get a contractor on board and that the actual units do not hold them up. Stated that he is not sure what maintenance they have scheduled for this spring before the air conditioning unit season comes into gear, but he is sure that is something that the Lerner and our building and grounds department will perform prior to initiating the system. **Councilman Bullard** stated that he would like to remind the council that this is going to be an 18 to 24 month project. This is going to have a large effect on the Lerner and that they need to remember that come budget time. There is no one in the room that could foresee or anticipate these units going down and how they are going to effect. Stated that he know that Tory and Michelle will do the best they can as far as the communication and making things happen. He hopes that it will not affect the relationships that Michelle has with her promoters if they have to cancel a show or something does not go quite right. Again, just a reminder that they will probably see the effect of this in the next two (2) budgets. **Tory Irwin** stated that they are keeping their fingers crossed for no catastrophic failure this summer. **Councilwoman Baughman** stated that she concurs with what Councilman Bullard said and even more so that marketing has to stay ahead of this. Need to make sure that people that are interested in having a wedding reception or an event do not get scared off by the fact

that the HVAC systems are going to be out and they avoid the opportunity to use the facility. Just feels that it is important to stay ahead of it and have a positive message for the community. Tory Irwin stated that there is always a risk that something will fail at any point. This is a higher risk going into the summer but the risk is always there. **Corinne Straight** there is always a risk for things to fail during the summertime. Just a reminder as we discussed last week, as they look at the replacement, that will not be happening during those peak wedding months during the summer. They are hoping that by this time next year, they will get ahead of the 2023 wedding season and would not run into these issues.

**Councilwoman Baughman** stated that from a consumer/community point, you just want to stay ahead of it and say those exact things but also reassure them that this is still the same great Lerner and that they are going to block out the necessary times and it will not affect any of the weddings. She can imagine a bride being turned off and would in return choose to go somewhere else. **Corinne Straight** stated that she knows that the staff at the Crystal Ballroom and the Lerner will do a great job of communicating that with potential tenants and promoters. **Councilman Henke** stated that the problem that he has is that this has been all over the board. He states that he did call Griffin Plumbing and Heating and he did have the service records and he did talk to their people. As he stated during the meeting, they laughed at the \$1 million dollar cost. They did say that one unit was bad. **Tory Irwin** stated that he hopes that the units come in at \$100,000 but the experts we have in the field price this for the replacement of the units at the cost that we are estimating. He stated to Councilman Henke, to please call up the contractors that he has talked to and encourage them to give us a \$100,000 bid and we will happily return the \$1.2 million dollars. **Councilman Henke** stated that is not what he said and would like to finish what he was saying. One unit was bad/not working, one unit was listed as undersized and we talked to the designer and premiere arts was an add on and they took it from that unit without an upgrade. No one had called that designer because Councilwoman Baughman and I actually sat down with them. There are two to three frozen conversion valves and they suggested replacing the valves and not the units. These are heating and cooling units and they are stuck in heating mode. The hail damage, which was doubted, because it sounds ominous, would just throw the fan out of level sink. It would make them less efficient but still operable and if you wished, the fan blades could be replaced. Just finds that we can make a report say whatever we wish to make the report say but the people who actually designed it, installed it and serviced it, did not concur. Feels that we should first try replacing the values to see what opens up. On behalf of the taxpayers, he would like to see that they would be responsible to follow those other steps and say what could we do because that money is still going to be there. If there are units that need to be replaced and there are supply problems, then order those.

President Dawson asked the clerk to do a Roll Call vote. The vote was as follows:

**AYES:** Bullard, Curry, Thomas, Mishler, Hines, Baughman, Fish, Dawson

**NAYS:** Henke

**By a vote of 8-1 the ordinance passed on second reading.**

**President Dawson asked for a motion and second for third and final reading.** Motion by Councilwoman Hines and seconded by Councilman Mishler. President Dawson asked the clerk to read the ordinance by title only.

**Roll Call Vote was as follows:**

**AYES:** Bullard, Curry, Thomas, Mishler, Hines, Baughman, Fish, Dawson

**NAYS:** Henke

**By a vote of 8-1, the proposed ordinance was adopted on final reading.**

*Proposed Ordinance 22-O-01*

**AN ORDINANCE ANNEXING CERTAIN REAL ESTATE COMMONLY KNOWN AS 25610 COUNTY ROAD 4, ELKHART COUNTY, INDIANA AND 52396 COUNTY ROAD 9, ELKHART COUNTY, INDIANA AND DECLARING THE SAME TO BE A PART OF THE CITY OF ELKHART, INDIANA. (LD Elkhart IN Landlord, LLC, petitioner)**

President Dawson asked the clerk to read the proposed ordinance by title only. **President Dawson asked for a motion and second to remove the proposed ordinance from the table.** Motion made by Councilman Mishler and seconded by Councilman Fish.

**By a unanimous vote of 9-0, the proposed ordinance was removed from the table.**

President Dawson asked for a motion and second to adopt. Motion was made by Councilman Fish and seconded by Councilman Curry.

**COUNCIL DISCUSSION ON PROPSOED ORDINANCE 22-O-01**

President Dawson opened the council discussion. Seeing that there was no council discussion, they went into the presentation.

**PRESENTATION ON PROPOSED ORDINANCE 22-O-21**

**Councilman Curry** wanted to comment while the presenter was setting up. He stated that he has looked at this property and the project and he has a couple of concerns that the presenter might be addressed during the presentation. One, this property is next to the apartments and is there any concerns to the apartments and two, the property runs up near the toll road and there are some billboards there, he was wondering if they have an understanding with those companies on getting into their property. **Deborah Hughes with Surveying and Mapping**, she is the civil engineer working on the project with Lazy Days RV. They are the petitioner for the annexation of approximately 110 acres north of the toll road, south of County Road 4 and East of County Road 9. She stated that this is a new project to expand the sales facility at the dealership. They have a project to build a pre-delivery inspection facility on the farm field north of the toll road. There are currently six (6) billboards on the property and as part of the project; some of those billboards would be removed. She stated that the assistant manager of Lazy Days

is online if there are any operational questions. **President Dawson** asked if there were any questions. **Councilman Fish** stated to complete the thought of the billboards; will there be some left over. **Deborah Hughes** stated yes. **Councilman Fish** stated so Lazy Days will purchase them. **Deborah Hughes** stated that Lazy Days has already purchased the property. They own the entire 110 acres and that is why all the billboards have been changed to their advertising. **Councilman Fish** so there would not have to be an agreement to access them. **Deborah Hughes** stated that some of them would be taken down as they are older and they would keep a few. **Councilman Henke** thanked Deborah for being here. His question to her is not audible. **Deborah Hughes** replied to the inaudible question with she has not meet with any of the neighbors. She stated that Scott Moody is on virtually and she does not know if any of the neighbors have been contacted. The neighbor to the east is the campground and the neighbor to the west is the apartments and neither of those are part of this petition. **Councilman Henke** stated that it goes better when neighbors are involved even though they do not necessarily have a legal standing. He then asked how the coaches, the RV's themselves going to be presented on the roadway? Since this was county, the land is already purchased this would have gone through county already right? **Deborah Hughes** stated yes, this was a county PUD for the purpose of the RV dealer and there were restrictions on that parcel which came with it when it came to the city. **Councilman Henke** asked if the landscaping was included in that as to what is needed for a buffer, because we probably have different standards in the city. **Deborah Hughes** stated that the north part of the site has already gone through city tech review...she corrected herself, stated county tech review, and has been given an updated approval through the county and it does include landscaping along County Road 4 and a setback to provide a buffer to the residents that are on the north side. There is a complete site plan that she is happy to provide if they want to see how it looks. **Councilman Henke** stated that would have been good to have because if they approve it, they are also accepting what the county has approved. Asked if Eric could add to what the restrictions are or what we have as protection. **Eric Trotter, Planning Department** stated that the public hearing would have occurred through the county because it was rezoned in the county, so they took it in on the existing ordinance as it stands. To address the comment in regards to the screening, it will still have to go through the city tech review when the petitioner is ready to pull permits and whichever standard is more restrictive is the one that will rule. **Councilman Henke** stated so what he was hearing is that they are going to have to go back through a city tech review. **Eric Trotter** replied yes.

#### **COUNCIL DISCUSSION ON PROPOSED ORDINANCE 22-O-21**

President Dawson opened council discussion. There were no additional comments from the council.

#### **PUBLIC COMMENT ON PROPOSED ORDINANCE 22-O-21**

President Dawson opened the public comments. There were no comments from the public.

**COUNCIL DISCUSSION ON PROPOSED ORDINANCE 22-O-21**

President Dawson returned the comments to the council. Seeing that there were no additional comments, he asked the clerk to do the roll call vote.

**The Roll Call Vote was as follows:**

**AYES:** Bullard, Curry, Thomas, Mishler, Hines, Baughman, Fish, Henke, Dawson

**NAYS:**

**By a unanimous vote of 9–0, the proposed ordinance passed on second reading.**

**President Dawson asked for a motion and second for third and final reading.** Motion by Councilman Henke and seconded by Councilman Fish. President Dawson asked the clerk to read the ordinance by title only.

**The Roll Call Vote was as follows:**

**AYES:** Bullard, Curry, Thomas, Mishler, Hines, Baughman, Fish, Henke, Dawson

**NAYS:**

**By a unanimous vote of 9–0, the proposed ordinance was adopted on final reading.**

**NEW BUSINESS**

**ORDINANCES ON FIRST READING**

*Proposed Ordinance 22-O-06*

**AN ORDINANCE VACATING WAGNER AVENUE, BETWEEN THE EAST RIGHT-OF-WAY LINE OF BENHAM AVENUE AND THE WEST RIGHT-OF-WAY LINE OF CHESTER STREET, A PUBLIC WAY WITHIN ELKHART, INDIANA**

President Dawson asked the clerk to read the proposed ordinance by title only. Seeing that there were no objections, this proposed ordinance passed from first reading to second reading.

**Councilman Bullard** stated that the petitioner is here to speak on this. Since David (Councilman Henke) is not going to be at the next meeting, can we have a brief explanation of what this is? **President Dawson** stated that it is to close the road right next to Tolson. He asked if everyone knew that. **Councilman Bullard** stated that the petitioner is here to confirm that instead of you. **President Dawson** replied that what is says in the ordinance.

## RESOLUTIONS

### *Proposed Resolution 22-R-06*

#### **A RESOLUTION OF THE CITY OF ELKHART, INDIANA CONFIRMING RESOLUTION NO. R-04-22, 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 MARSON INTERNATIONAL LLC**

President Dawson asked the clerk to read the proposed resolution by title only. **He asked for a motion and second to adopt the resolution.** Motion by Councilman Henke and seconded by Councilwoman Hines.

#### **COUNCIL DISCUSSION ON PROPOSED RESOLUTION 22-R-06**

President Dawson opened the council discussion. There were no comments from the council.

#### **PUBLIC COMMENTS ON PROPOSED RESOLUTION 22-R-06**

President Dawson opened public comments. There were no comments from the public

#### **COUNCIL COMMENTS ON PROPOSED RESOLUTION 22-R-06**

President Dawson returned the comments to the council. **Councilman Thomas** asked if we had signed documents being that this is the second and third phase. He ask this question every time because a couple of years ago they ran into a problem with approving unsigned documents. The project actually changed before they could make the correction. **John Espar, Corporation Legal Counsel** stated that we do not have signed documents nor have they at any time in the last two (2) years. He stated that thus far it has not presented an issue. **Councilman Thomas** asked if he gets an “I told you so” when it happens. He asked if anyone else was aware that they did not have signed documents. **President Dawson** asked if he was talking about before they come to us or sign documents after the project proceeds. **Councilman Thomas** stated preferably signed before they vote on these last two (2) phases and actually start the tax abatement to kick in. **John Espar** stated that the tax abatement would not start and they would not be entitled to it if they did not sign the agreement that the council has approved for them to receive the abatement. **President Dawson** stated so what you are saying is that we can pass this, but if they do not sign the agreement, they do not get the abatement. **John Espar** stated that is exactly right. **Councilman Thomas** stated that he did not look at the Marson paperwork but on the Pontoonstuff paperwork, there is a whole page of signatures that are needed. **John Espar** stated that you ultimately make the decision. You are in the driver’s seat. These are tax abatements that you can grant or not grant within your discretion. When you have prescribed the terms, it is really up to the company to accept them on your terms or not receive the tax abatement. He stated that in the last two (2) years, there has never been an issue nor has he been challenged on any of the terms that has led to a memorandum of agreement not being passed. That does not mean that you have not had the experience that you are describing. He feels that from a negotiation position, the more effective approach is for you to approve those terms that are acceptable to you and really, the companies do not have much to say about it. **Councilman Mishler** asked so we are just approving the language of the memorandum for

**COUNCIL COMMENTS ON PROPOSED RESOLUTION 22-R-06 CONTINUED**

them to sign. In addition, if they do not sign, then they do not get the tax abatement. John Espar stated that it has been uniformed and the only thing that changes is based upon the scoring that the companies would receive and therefore the amount and rate of the tax abatement. **Councilman Henke** stated that he understands what Mr. Espar is saying, but this is before them to approve and stated that this should have been leveraged out, hammered out through planning with some level of understanding that yes, this is what we (the company) are agreeing too. Stated that he recalls what Mr. Thomas is talking about that they went through last year. They had someone that sold off part of an abated property here on Main Street and they did not know what to do because there was no understanding at that time. He is concerned that they do not have signed documents. Therefore, they are going to approve something, and then they (the company) is going to come back and sign something that they have already approved. Stated that it is backwards and he is not going to entertain that at all. Secondly, things have changed with regard to the memorandum of agreements, they are not seeing the usual format that they have been given. He also does not see the score grid that they were promised in the past. These things are changing and the council is supposed to just accept and rationalize and feels that is not fair to the council. These changes were not anticipated. Likes both properties and both programs but does not find the necessary forms to give him what he is after.

President Dawson asked if there was any more discussion. Seeing none, he asked the clerk to do a roll call. **The Roll Call Vote was as follows:**

**AYES:** Bullard, Curry, Mishler, Hines, Baughman, Fish, Dawson

**NAYS:** Thomas, Henke

**By a vote of 7-2, the resolution passed.**

*Proposed Resolution 22-R-07*

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA,  
TO APPROVE TWO MEMORANDA OF AGREEMENTS BETWEEN THE CITY OF  
ELKHART AND MARSON INTERNATIONAL LLC**

President Dawson asked the clerk to read the proposed resolution by title only. **He asked for a motion and second to adopt the resolution.** Motion was made by Councilman Mishler and seconded by Councilman Curry.

**COUNCIL DISCUSSION ON PROPOSED RESOLUTION 22-R-07**

President Dawson opened the council discussion. **Councilman Henke** stated that this is the same story, he would love to support these but he really needs to have them put back into the format that they were used too.

### **PUBLIC DISCUSSION ON PROPOSED RESOLUTION 22-R-07**

President Dawson opened the public discussion. **Kristen Smole, Economic Development** stated that just for clarification, when the council received their packets, the scorecard was in the packet. She asked for clarification regarding the scorecard, was it that the scorecard had not been received or was it the fact that it was not with the memoranda of agreement. She stated that she has the scorecard with her and can answer any questions. **Councilman Henke** stated that with the two (2) resolutions that they have he was hoping that the supporting documents would be with them as they have been in the past. **President Dawson** asked Kristen if going forward she could add that to the packet. **Kristen Smole** replied absolutely. **Councilman Thomas** stated that the tax abatements are in three (3) phases and the scorecard was in the paperwork for the last meeting. In regards to Resolution 22-R-06, which is, phase 2, that declares the area for economic revitalization he can get by with that. Now you have Resolution 22-R-07 and this is a contract between this company and the city. He stated again, what he has is a page that requires six (6) signatures and it has not been signed. If we have got away with it for the last two (2) years then shame on him for not noticing. He would feel more comfortable if there were signatures from the companies attesting to the fact that they agree to everything that has been laid out. He does not want them to call up the next day and say thanks for passing it but we have decided to change our plans. **President Dawson** stated that they could change their plans all they want, but if they do not agree with what was presented then they will not get the tax abatement. **John Espar** stated that he just wanted to address the point that Councilman Thomas was making. He said if you do not approve it, then they cannot agree to it. It is really your terms to prescribe and if you do not prescribe them, adopt them, and say these are the terms by which we grant the tax abatement. The council can always put the company in the driver's seat and let them define the terms of the agreement and then the council would review it. He did state that this would weaken the council's position. **Councilman Thomas** stated that he (John) is taking the opposite tack of him. He stated that they are not the ones doing the tax abatements; they are depending on that department to come up with a contract with the company spelling out what we expect of them. He wants to be in the driver's seat and knowing that the company is accepting our terms and not vice versa. **Councilman Henke** stated that with all due respect, he does not agree with Mr. Espar in this case. If they are actually agreeing to something that has yet to be signed, they are taking for granted that the integrity of the document is still intact. It is not the final document; however, they will have already signed off. If they want to get this stuff through, it should be in a simple format with what they are used to having. He would just like to have everything attached so that when he gives his vote, it is in place, it is done and they are the final passage.

President Dawson asked the clerk to do a roll call vote. **The Roll Call Vote was as follows:**

**AYES:** Bullard, Curry, Mishler, Hines, Baughman, Fish, Dawson

**NAYS:** Thomas, Henke

**By a vote of 7-2, the resolution passed.**

*Proposed Resolution 22-R-08*

**A RESOLUTION OF THE CITY OF ELKHART, INDIANA, CONFIRMING RESOLUTION NO. R-05-22, WHICH DECLARED A CERTAIN AREA IN THE CITY OF ELKHART, INDIANA TO BE AN ECONOMIC REVITALIZATION AREA FOR THE PURPOSE OF GRANTING TAX PHASE-IN BENEFITS TO PONTOONSTUFF, INC.\MMM REALTY LLC\LEGACY PLASTICS**

President Dawson asked the clerk to read the proposed resolution by title only. **He asked for a motion and second to adopt the resolution.** Motion made by Councilman Hines and seconded by Councilman Mishler.

**COUNCIL DISCUSSION ON PROPOSED RESOLUTION 22-R-08**

President Dawson opened the council discussion. **Councilman Bullard** stated that Pontoonstuff has expanded enormously. If he remembers right, they expanded two-thirds of their building at 1165 and then they bought Sports Time and expanded that. The company stated that this abatement is for the next phase for a new purchase on County Road 17. In looking at Exhibit A, it is for 165 Freeman Court, which is their current headquarters. Where is this new construction going to be? **Kristen Smole** stated that just for clarification, the reason that address is one there is because the other address is not available yet. She stated that it is off 17, but it is actually a little bit further back towards their corporate headquarters. So it cannot really be seen from 17. She stated that she is happy to provide a map but in the last packet, when they went over the scorecard, there was an aerial view that was provided. **Councilman Bullard** asked is this going to be back behind the bowling alley or the storage facility. **Kristen Smole** stated that if you were staring at the bowling alley it would be off to the right. **Councilman Henke** asked if this particular piece of land that is being discussed has a separate parcel number from the corporate parcel number. He stated that there is a legality in regards to what can be abated. **Kristen Smole** stated that yes; it has its own parcel number. **Councilman Henke** stated that maybe that could have been used as the identifier until the address is submitted. **Dayna Bennett, Development Services** stated that on all applications even when there is a space with the address, they have to put the full legal description in the application and the MOA. In this particular case, since there is no address for that parcel, they used the full legal description. She went on to say that, applications have been held up before because they will not process the application until the full legal description has been provided. **Councilman Henke** stated that for clarification, he would have thought that the parcel number would be utilized in place of the corporate. He went on to say that, we are wrong when we put the corporate address and we know that is not correct. He stated in his opinion, using the parcel number on the affected side, future development would be more correct, and they will not get confused. He went on to say that, he knows that they are running in a lot of different directions but said that with the number of questions they are having, begs us to relook at our process and simplify to the best of our ability. That way we are all clear, remain accurate, as we are responsible for the outcome. He stated that he cannot chase paper, so when he looks at the packet, he expects it to be there so that he can make an informed decision. If it comes in different time segments, then he has to chase the paperwork backwards. **Kristen Smole** stated that just to recap she is happy to look at the process over again and she is happy to talk to anyone before this goes in front of the council with the first packet that includes all of this information, including the folio description and parcel number(s) moving forward. **Councilman Fish** stated that there is a lot being questioned, but it is up to them to change the process and procedures. Stated that he is comfortable with our team doing their jobs. There are companies that

are busting at the seams who need our assistance and he trust that this department will follow up with any of the details and signatures. Stated that there is a checks and balance system between the county and the state and does not feel like anyone is going to drop the ball.

Council President Dawson asked the clerk to do a Roll Call vote on this resolution.

AYES: Bullard, Curry, Thomas, Mishler, Hines, Baughman, Fish, Henke, Dawson

NAYS:

By a unanimous vote of 9-0, the resolution passed.

### *Proposed Resolution 22-R-09*

## **A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA TO APPROVE TWO MEMORANDA OF AGREEMENTS BETWEEN THE CITY OF ELKHART AND PONTOONSTUFF INC. /MMM REALTY LLC /LEGACY PLASTICS**

President Dawson asked the clerk to read the proposed resolution by title only. **He asked for a motion and second to adopt the resolution.** Motion was made by Councilwoman Hines and seconded by Councilman Mishler

### **COUNCIL DISCUSSION ON PROPOSED RESOLUTION 22-R-09**

President Dawson opened the council discussion. There was no council discussion

### **PUBLIC DISCUSSION ON PROPOSED RESOLUTION 22-R-09**

President Dawson opened the public discussion. There was no public discussion

### **COUNCIL DISCUSSION ON PROPOSED RESOLUTION 22-R-09**

President Dawson returned to the discussion to the council. **Councilman Thomas** stated that he agrees with Councilman Fish and he trust the department to do the job they were hired to do and he stated that he has great confidence in the fact that they will do it. Stated that this is like going to a lending institution and in doing that he would expect to follow their rules and sign whatever papers after having looked them over. Again, with this being the third phase and a memorandum of agreement and having a blank page in front of him, he stated that he would vote no on this resolution. **Councilman Henke** stated that this stuff should have had the dots and t's crossed. This is not their first rodeo and this should have been done. This is the final approval and yes, they are the checks and balance as there is no one after them that is going to audit the tax abatement. When it goes to the county, they are counting on the city to have done the audit because once they pass it that is the end of it. They cannot do anything about an abatement unless it is reported to them that someone has violated the abatement and even then, they would have to go to the site and actually look at it. **Councilwoman Baughman** stated that she would like some further clarity. She asked if this was for an additional expansion. This is not for a current expansion that is evaluating a 50,000 square foot building that was purchased adjacent to their property for about 10 new jobs and \$3 million in capital spent. She stated that this was

addressed with the owner last time, but she just wants further clarity to understand because she has a conflict in the sense that the building they bought belonged to her husband and brother. Just wanting to make sure that they are not giving a tax abatement on something that is already done one year ago. **Kristen Smole** stated that she can guarantee that is was not done a year ago. She asked Councilwoman Baughman to repeat her other question. **Councilwoman Baughman** stated that she just wants to make sure that this is a tax abatement for something coming forward and not for something that they purchased in February of 2021 and have made the improvements. **Kristen Smole** stated that is correct. That you cannot make the purchases or do anything outside of the ERA period. **Councilman Bullard** stated that there is an abatement for the personal property and asked if there was also an abatement for real property as well. **Kristen Smole** stated yes. Councilman Bullard asked if she knew when they purchased that property next to them. He stated that he was looking at the GIS and that whole lot was bought at the same time as the current location. **Kristen Smole** asked him to repeat what he said. **Councilman Bullard** asked on the property that is being abated, when did they purchase that property? **Kristen Smole** stated that they cannot buy anything until the ERA is put through. Nothing is being stored, the ERA has to be in place first and then the personal property that is being abated can be purchased.

#### **COUNCIL DISCUSSION ON PROPOSED RESOLUTION 22-R-09**

President Dawson returned the comments to the council. Seeing that there were no additional comments, he asked the clerk to do a Roll Call vote. The Roll Call vote was as follows:

AYES: Bullard, Curry, Mishler, Hines, Baughman, Fish, Dawson

NAYS: Thomas, Henke

By a 7-2 vote, the proposed resolution passed.

#### ***Proposed Resolution 22-R-10***

#### **A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, APPROVING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF ELKHART, INDIANA AND THE INDIANA FRATERNAL ORDER OF POLICE LABOR COUNCIL, INC.**

President Dawson asked the clerk to read the proposed resolution by title only. He asked for a motion and second. Motion by Councilman Mishler and seconded by Councilman Fish.

### **COUNCIL DISCUSSION ON PROPOSED RESOLUTION 22-R-10**

Council President Dawson opened the council comments. **Councilwoman Baughman** stated that this is her first union contract and that she has a couple of questions. In Article 4, page 5, would like to understand and have come clarity that it says, no more than two (2) union representatives with no more than one (1) union representative from any one (1) department may be granted leave without pay to attend union sponsored conventions, meeting or seminars. The city will provide paid time for two (2) members for a maximum of five (5) days annually for such purposes. **Bradley Tracy, Chief of Staff** stated yes, but he would like to give her a quick brief/history to bring her to that. Just a little history, the communications and public safety officers used to be under this contract and in 2019, the former administration agreed to allow them to break off since they felt as they needed different representation based on the activities and jobs they did. They felt like they were more like first responders versus the labor. It was a very last minute decision and basically what happened was in 2019 for the one (1) year 2020 contract they duplicated the majority of the ask me contract and then went back in and cleaned things up that so that it was directly to the communications and public safety officers. Therefore, this language is standard in at least three (3) contracts that he knows of. This was not bargained or changed during this last time. **Councilwoman Baughman** said another question is in Section 5, is there any way that the union dues can be published so that the council can know what the union dues are for members since they city is going to be deducting them. Section 5 under Article 4 on page 6. Bradley Tracy stated that in all five (5) of our contracts, the city has agreed to collect the dues for union workers. Once a year, the union sends out a notice to their employees, they have to resign up again, then it is given to the controller's office, and then it is passed on to payroll. Every year, they have to reaffirm that they want dues taken out. **Councilwoman Baughman** asked again if there was any way to have the dues published in the contract. **Bradley Tracy** stated that it is not a secret but unfortunately, he cannot amend the contract today. He stated that it could be amended if you wanted as the members are here. He stated that he would be happy to make sure that when this goes on the transparency page of the city website, he can make sure that they union dues are included. **Councilwoman Baughman** stated that she had another question on holiday pay on page 15. She stated as she was going through she did know if this was an oversight but, the holidays it did not include Thanksgiving. She stated that it list the day after Thanksgiving but not Thanksgiving Day. **Bradley Tracy** stated this his copy says Thanksgiving Day. After comparing copies, it was determined that it was left off the copy that was given to the council. **President Dawson** stated that our copy needs to match that of what Bradley has. **Councilwoman Hines** stated that she is curious why Bradley's copy has Thanksgiving listed and the council copy does not. **Bradley Tracy** stated that he was given this copy of the contract. He did not go into the drive and get the packet copy. He stated that he has asked specifically that the final copy be put in the council packets and apparently, someone put the wrong copy in your packet. He hates to delay as these poor people as they have gone over a year without a contract but if you would rather, he would be happy to make sure we provide the correct copy. Councilman Mishler makes a motion to table this until the council has the accurate information. Seconded by Councilman Thomas.

President Dawson asked the Clerk to do a Roll Call vote on the motion to table.

AYES: Thomas, Mishler, Hines, Baughman, Fish, Henke, Dawson

NAYS: Bullard, Curry

By a 7-2 vote, the resolution was tabled.

President Dawson stated that if Bradley can come back before the end of the meeting with nine (9) correct copies of the contract they could still go over the contract and get it approved.

### VACATION HEARINGS

There were no vacation hearings.

### OTHER NEW BUSINESS

**Councilman Mishler** stated that with the snow melting and spring coming, that has unfortunately led to a lot of trash being revealed throughout the city. A lot of them are getting concerns from folks regarding vehicles parking in their yards and on the tree lawn. A code enforcement officer was added under this administration, he believes however, that this is only makes four (4) for a city with a population of 54,000. He encourages everyone to use the 311 application and reach out with concerns. Also, reach out to your neighbors and talk to them, it is the law. He encouraged everyone to follow the ordinance because vehicles parked in yards and on tree lawns does reduce property values and the desirability of our neighborhoods. Second, he wanted to commend the Economic Development team. He has spoken with many of our small businesses who are in the process of going through the small business grant program. From everything he has heard, it has been a very positive experience working with the staff. He stated that we really have an opportunity to continue to expand and strengthen our small business community on the north side, south side and throughout Elkhart.

**Councilman Thomas** stated that he attended a function at the Lerner on Sunday and was approached by several longtime patrons and several staff members asking me why the handicap ramp in front of the Lerner, not on Franklin Street, but on Main Street was no longer there. He stated to them that he did not have answer but would check into it for them. He stated he was contacted and given further information was made out of plywood or whatnot had been removed quite a while ago. It was removed mainly because school buses had hit it and people were not pulling up to it correctly. It also presented a problem during the winter with snow plowing. There is a handicapped accessible portion of the sidewalk closer to the Franklin Street entrance but that presents some problems to people of handicap. They are used to being allowed in the Main Street doors as opposed to having to go all the way around to Franklin Street and then all the way through the lobby to get to the theater. Therefore, what he is asking is the next time the ADA committee meets they actively look at this. Secondly, when Central Park was redone, a commemorative water fountain was removed. He was contacted by the organization that put the water fountain in. He said that he has tracked it down and supposedly, it is out at the airport. This brings up a question to Mr. Jones. Not necessarily about the water fountain, but how much inventory of oddball stuff do we have out there? What is the condition of it and is it all in one hangar? **President Dawson** asked if maybe he could go out to the airport and take a tour of what is there. **Andy Jones, airport manager**, stated that they went before the Board of Works a number of weeks ago and had some items that were declared surplus and got rid of them. He stated that one of the items they got rid of was the old Elco Theater chairs. The Elk that was in front of city hall now lives at the airport. There are a few other odds and ends, like a mobility scooter and two (2) household type organs these are now all gone. They were housed in what used to be the Coachman hangar. He stated that there are no more vacant hangars as all of them are leased. Therefore, if there is a water fountain at the airport, he does not know where it would be unless it would happen to be in the barn. He stated that he would ask the maintenance crew as they have gone through everything out there.

**Councilman Thomas** asked where the bear mosaic is at. **Andy Jones** replied by saying that is a very valuable piece of art. To his knowledge, that was never at the airport. He stated that it would have to be in a climate-controlled space. It was one of three pieces. Two of the pieces are at the Lerner and he is not sure where the third piece is. **Councilman Thomas**, third thing is this was in the Elkhart Truth on Tuesday and it is an entire listing of yearlong accounts held by the city. Found it to be interesting but would have found it to be more interesting if it would be in their packets every month. How long has it been since we have seen this? Another question that he is really embarrassed to bring this up, but in light of the due diligence that Councilwoman Baughman with all of the questions, he stated that he did not get a chance to read through the police contract. He stated that he got it late Thursday and had other things to do through the weekend. If we are going to get something that is 51 pages long, we have to have time to read through. He stated that he is very comfortable in tabling that so they have more time to look it over. **Tory Irwin, Director of Public Works** stated to Councilman Thomas that they would look into the ADA issue that he talked about at the Lerner. He knows that was a topic of discussion when the Lerner opened early on and that it was one of the first things the committee focused on. He then apologized to Councilman Thomas as it was one (1) or two (2) years ago, that he had talked with Tory about the fountain. He stated that they had found it and they were going to put it back up and he apologized that did not happen. He stated that they would track it down and make sure that it is installed. He said he believes Mike Lightner knows where it is.

**Councilman Henke** stated that he is not sure that they really need the contract completed tonight because it will be retroactive to whatever date we put on it. He did receive an instant message in regards to aviation. There was an employee that took a video of how to go up the tower and it ended up on TikTok. The person that contacted him was concerned about security risk because it showed how to get through and navigate through. The cars and trash on social media, he stated that he is part of that. It sounds easy to use 311 but he finds that useless. There is a burned out house on Hudson Street that has been that way for over four (4) years now. They had no record of it until he started calling a year and a half ago. Now, it is another year and a half and it is still boarded up with nothing happening. So that begs to question, how do you not see a burned out dwelling on one of our city streets? On another note, he would like to see if the airport authority would look at an extension of the runway. He feels it is something that needs to be looked at before we go too far down the path of planning and development of that area, it may be a point of no return. Part of the limitation of our airport is we need a longer runway if we are going to go up to commercial carriers like UPS, FedEx or any of those types of folks. The city elevator is down again and I would like to see if we are going to use ARP money that may not be a bad use. To Councilman Thomas' point, they get a huge amount of paper and if they are doing their own homework, they are getting that much more. They cannot have last minute stuff, flip through 51 pages, and know which ones are priority and which ones are standard. He for one is glad that Councilwoman Baughman found some inaccuracies and actually called him about those and he told her she needed to bring it up because he said he was not going to look at it. It does beg to question, the completeness to the council.

**Tory Irwin** stated that he did not have any answers for Councilman Henke, but they did track down the third art piece and they believe it is as Ethos.

**President Dawson** stated that they had always gotten their packets on Thursday for the 40 years that he has been here. Yes, you got a 51 page document, but to say that the administration or somebody is not giving to you in a timely manner is unfair and he does not feel that we should be doing that. It always comes on the Thursday before our council meeting on Monday. If you need more time, then just say we need more time. Do not insinuate that it is not well done by the administration.

**Councilman Bullard** stated that he knows he has been a critic of some of these feel good

resolutions that have come up but he would like to see the council do a resolution supporting Ukraine. There is indiscriminate bombings going on targeting houses and apartments. If they could draft something, he would be in support of that. We are talking about annexations, tax abatements, the Lerner Theatre and the city plaza and all of these nice things.

**President Dawson** stated that he would like to remind all of us that we are legislators and that is what we do. If you desire that, you just need to get with Legal. You can work out how you want it presented since you have the authority to create that kind of thing. He went on to say that, this is a great idea.

### **REPORTS OF THE MAYOR, BOARD OF WORKS, BOARD OF SAFETY OR CITY DEPARTMENT HEADS**

**Corinne Straight, Director of Communications** stated that you have a newsletter in front of you and she stated that she emailed Councilman Henke's. She said that they are putting together a spring clean-up schedule. Jeff Zavasky from the Environmental Center is also here and he sent an email to the council earlier this evening that they need to check out. Celebrating Earth Day the entire month of April and putting together some neighborhood cleanups in your districts. So please, check your emails and get back to Jeff if you would like to set one up in your district or neighborhood. As they move into spring and summer, they are ramping up seasonal hiring for all of our departments that use seasonal workers. They are encouraging people to check out the careers page and social media for the spring/summer openings. Speaking of spring and summer, one more thing that I want to bring to your attention. The geese every year they get many calls about geese. Over the last 30 to 40 years, there are varieties of reasons as to why our geese population has really grown in our area. They have put together a co-existence task force to figure out ways that we can do goose management to keep it safe for people including keeping our sidewalks cleaner, keeping them out of the roadway and trying to control the population through non-invasive, invasive and non-harmful management techniques. They are planning to do this through a series of education and outreach with the community and our first opportunity for this will be on March 26<sup>th</sup> in the evening at the environmental center. They will have education material about geese, how to handle them if you see them in public spaces or in your yard and the best way to report those.

**President Dawson** stated that he failed to mention that the Local Firefighter 338 is having a fallen hero ceremony on March 11<sup>th</sup> from 2pm to 3pm at the Nickel Parkway.

**Mayor Roberson** stated that they have another swimming and diving championship that is going to be held at the aquatic center Thursday, Friday and Saturday. He stated that if you did not get to come to the last one, you missed a wonderful event and you should try to get out and see this one. It should be well attended and a lot of activity going on in the River District.

**Dayna Bennett, Director of Development Services** talked about a series of community engagement that was held in the South Central area. This was to focus on their vision of the complete neighborhood and to talk about what thrive was doing or could be doing in their area. The potential CDC in the South Central neighborhood created a report that they would like to share with the council and they are also going to be posting on their website. She stated that because of the hour of the night, if they preferred to wait until the next council meeting she is fine with that. **President Dawson** asked if it was in their packets. **Kristen Smole, Economic Development** stated that she has copies tonight for the council to look over before the next meeting. **Councilman Curry** stated that yesterday when he had his neighborhood meeting people just want to know what is going on. He feels if they would come to a meeting that would be good. He said it is just like the project that he mentioned to you over at Benham

and Hively; people just want to know what is going on. Same thing at Bristol and Cassopolis, people just want to know. Therefore, if you could just enlighten us as to what projects you have going on. For example if a building is torn down, or if there is a ground breaking, they just want to be informed.

**Dayna Bennett** stated that what they could do, as projects get to the point where they are public, they can begin to publish on what is coming next. **President Dawson** stated he feels that one of the most beneficial pieces of material came from the public utilities when they used to publish all of the projects that were being done underground as well as above ground. It was a great piece of information to have that was in our Board of Works packets.

### **NEIGHBORHOOD ASSOCIATION REPORTS**

**Councilwoman Hines** reported on that she and Councilman Thomas attended the Strong neighborhood association on Tuesday. It was well attended and she thanked the city departments that were there sharing information. To go back to Councilman Curry's comments, people just want to know what is going on. **Councilman Thomas** stated that there was a vibrant community survey, they are planning a garage sale, they are doing an Easter egg hunt, and they are going to be participating with Mary Daly during their daily dash.

**Councilman Curry** reported on Pierre Moran neighborhood association. One of the main issues they talked about was the vibrant communities. They took the Elkhart Truth article there about what is going on and his neighborhood wants to get involved in that. They are happy to see that some of the cars that have been sitting around have been cleaned up. This happened after Officer Bias came through and gave out a few tickets. He gave out orange tickets and he said he is not sure if they are a warning or the real thing but it worked and there are, still a few more than need to be moved. They also talked about new neighbors and how they do not know the ordinances and he would like to have some more of the city books in Spanish and English. He would like to also have the city guides that gives the ordinances and who to call, when to put your trash out and when to have it back in.

### **PRIVILEGE OF THE FLOOR**

**Jay Little** thanked Councilman Curry and others that helped and are helping with the vibrant communities hand out money for the neighborhood associations. He went on to say that, he received a \$500 check from vibrant communities to start the Benham East neighborhood association. This association has not met for 15, 20 or even 25 years. The other thing he wanted to suggest is that the council pay very close attention to what is being talked about in the vibrant communities to have more neighborhoods that are vibrant.

**Ralph Spelbring** stated that this spring you might see signs that say mowing required within 48 hours. Suppose that code enforcement puts that out on a Friday. Saturday is a religious holiday for some religions and Sunday is a religious holiday for other religions. That means you have one (1) day to mow your property. He feels that infringes on religious freedom to have such a short period. He feels that five (5) to ten (10) days is more reasonable. It also does not allow for bad weather conditions. He stated that he went for a walk in Southeast Elkhart in 2018 and noticed some properties with abandoned tires. He went and purchased a camera and took pictures. When it was all said and done, there were about 20 properties. These tires can collect water and can be a source for mosquitoes. When he was in court a few months earlier, the judge took the evidence of the employee who neglected his job and allowed those tires to be there but he excluded all of my information. Therefore, he has prepared a statement. He stated that city court does not exist to cover up misconduct/mistakes and neglect by city employees. Therefore, deleting, eliminating or excluding evidence from court records is an obvious ethical violation. Additional, this can be unconstitutional, dishonest and abusive. Assaulter, mugger,

cheater or crook is not supposed to exist in city court. Judge Grodnik is qualified for a Richard Nixon ethics award. The court should be transparent.

**Thomas Kulesia** stated that if the city does not follow all of its ordinances internally, how can we expect the citizens to do so willingly or unwillingly. Said he had a planning commission meeting today over a situation in his neighborhood, which is the State Division Street historic neighborhood area. He stated that they really do not have much of a neighborhood but he has been trying to hold down his end of the neighborhood for 17 years. He has generally tried to stay out of city politics because he has been busy. Generally speaking, he has not had any problems in his neighborhood. He did not bother his neighbors because they did not have the funds to fix up their houses. He did what he had to do to maintain his house and add beauty to it. As he was sitting in his studio on January 24<sup>th</sup>, he looked out and saw that there were guys in the street with clipboards. So he decided to go and check it out to see what was going on. That is when he found out that LaCasa was getting ready to build apartments. This is great but he was shocked by the events. He was able to put together an outline. This shows several errors in the cities documents. The staff report failed to even acknowledge his building and he felt invisible. He found it very concerning that he was not involved in the potential development of a property next to him. As has been said several times tonight, the council is the final deal. He was told that this has to go to council and his reply was it is not even a legitimate report. There are three (3) errors on the report and there are no talks about proper setbacks. He stated that when you fix those errors he is not sure that the zoning request is still applicable. He wanted to bring this to the council's attention and finds it so relevant that everything should be cleaned up by the time it gets to you. He stated that he has packets that he put together and will give them to the council members. His goal tonight was to make the council aware of the project. He wants to be an active member of his neighborhood that can bring a good development to it that is also solid. Stated that he informed the school board of this project and they had no idea that it was going on. He wonders why this project is being pushed through. He said he does not feel properly represented as a taxpayer of this neighborhood for 17 years.

### **SCHEDULING OF COMMITTEE MEETINGS**

There will be an Executive Session on Monday, March 13<sup>th</sup> at 6:30 p.m.

### **OTHER COUNCIL ITEMS**

President Dawson stated that it is the consensus of the council that they want to take more time to read the contract before they vote on it. Therefore, this will remain tabled. Tax abatements, he is not sure how soon those will come to the council for review. He would like David and Aaron as they did last year to review these. He would like them to come to the council with the understanding of what they need to look at and what they do not need to look at. He would also like Kevin and Dwight to get together and give the council a report regarding the Tolson. We have talked about the vibrant communities and he is the co-chair with County Commissioner Suzie Weirick. It is so important that we become involved with that. There are surveys online right now and we need everybody to fill that survey out. We do not want this to be inclusive we want it to be diverse so please tell others to fill the survey out.

**ACCEPTANCE OF COMMUNICATIONS**

Minutes of January 25, 2022 – Board of Public Safety  
Minutes of February 8, 2022 – Board of Public Safety  
Minutes of February 1, 2022 – Board of Public Works  
Minutes of January 13, 2022 – Board of Zoning Appeals  
Minutes of January 12, 2022 – Lerner Theatre Board  
Minutes of January 16, 2022 – Park Board Meeting  
January 2022 Month End Report – Elkhart Communications Center  
February 15, 2022 – Parks Department Report

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

**ADJOURNMENT**

Motion by 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

---

Arvis Dawson  
President of the Elkhart City Council




---

**MEMORANDUM**

---

**DATE:** August 11, 2022

**TO:** Common Council

**FROM:** Corporation Counsel John M. Espar

**RE:** AN ORDINANCE TO ESTABLISH COMMON COUNCIL DISTRICTS IN THE CITY OF ELKHART, INDIANA AND THE REPEAL OF ORDINANCE NO. 5325

---

As this Council is eminently aware, the City of Elkhart, as a second class city, is required to update the councilmanic district boundaries in the second year following a decennial federal census. The most-recent decennial census occurred in 2020. Accordingly, a timely redistricting ordinance is required in this year.

Proposed Ordinance 22-O-32, incorporates the recommendations of the Council’s consultant and is presented to you for your consideration and for purposes of compliance with Indiana Code § 36-4-6-3 and Indiana Code § 3-5-10-7.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE REDISTRICTING THE COUNCILMANIC DISTRICTS OF THE CITY OF ELKHART, INDIANA, AND REPEALING ORDINANCE NO. 5325**

---

WHEREAS, Indiana Code § 36-4-6-3, requires the Common Council to divide the City of Elkhart into six (6) councilmanic districts which:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines, except as authorized by law; and
- (4) contain, as nearly as is possible, equal population; and

WHEREAS, Indiana Code § 3-5-10-7 requires the Common Council to redistrict the six (6) councilman districts to comply with the requirements of Indiana Code § 36-4-6-3, during the second year after the federal decennial census, unless, the Council certifies that the existing districts continue to satisfy all the requirements of Indiana Code § 36-4-6-3, and other applicable law; and

WHEREAS, pursuant to Indiana Code § 36-4-6-3 and Indiana Code § 3-5-10-7, the redistricting of the six (6) council districts of the City of Elkhart is now required; and

WHEREAS, the six (6) council districts are depicted upon the map of the City of Elkhart, Indiana, attached to this ordinance as Exhibit A;

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

Section 1. The territory within the corporate limits of the City of Elkhart under existing ordinance is hereby divided into six (6) Council Districts numbered One, Two, Three, Four, Five

and Six. The boundaries of each Council District, as defined by reference to the most-current voting precincts, are as follows:

District No. One: Concord 02, Concord 03, Concord 06, Concord 07, Osolo 03, Osolo 05, Osolo 08, and part of Concord 10, east of 8<sup>th</sup> Street, north of Harrison Street.

District No. Two: Cleveland 01, Cleveland 04, Cleveland 06, Cleveland 07, Concord 01, Concord 05, Osolo 01, Osolo 04, Osolo 06, and Osolo 07.

District No. Three: Osolo 5, Osolo 09, Osolo 10, Osolo 11, Osolo 12, Osolo 13, Osolo 14, and, Osolo 16.

District No. Four: Concord 11, Concord 12, Concord 13 north of East Lusher Avenue, Concord 08, Concord 17, Concord 18, Concord 19 and Jefferson 01.

District No. Five: Concord 25, Concord 16, Concord 23, Concord 21 south of West Hively Avenue and east of 8<sup>th</sup> Street, and Concord 13 south of East Lusher Avenue.

District No. Six: Baugo 06, Concord 04, Concord 09, Concord 10 west of 8<sup>th</sup> Street, south of Harrison Street, Concord 14, Concord 15, Concord 21 west of South 6<sup>th</sup> Street, and Concord 22.

Section 2. Each Council District shall be represented in the Common Council of the City of Elkhart by one (1) councilperson who shall be elected by the voters of the respective Council District.

Section 3. The three (3) Council-at-large councilpersons shall be elected by the voters of the entire City of Elkhart.

Section 4. Ordinance No. 5325 is hereby repealed in its entirety.

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

*[Balance of page is intentionally blank.]*

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
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 \_\_\_\_\_.

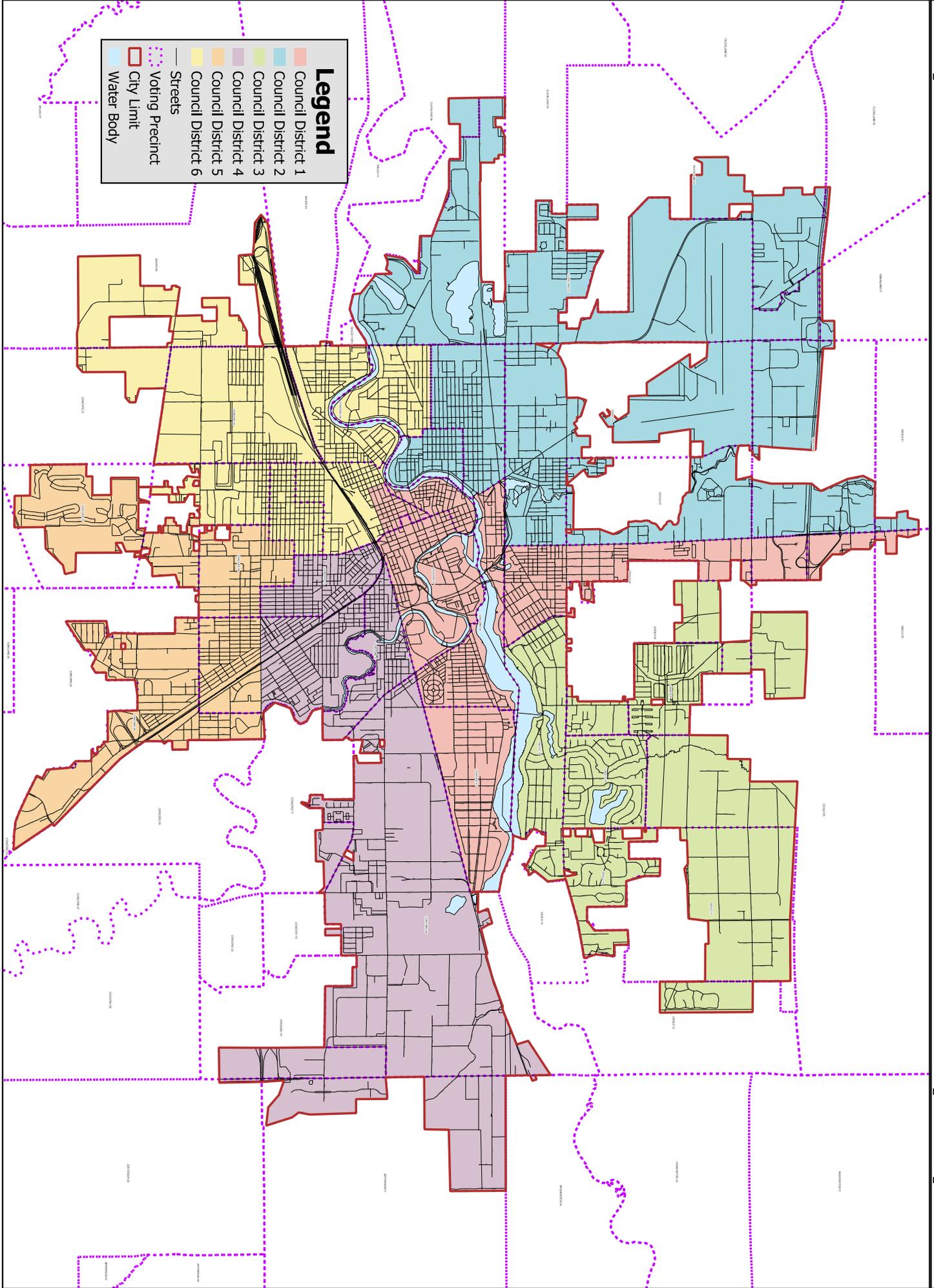
\_\_\_\_\_  
Rod Roberson, Mayor

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

# EXHIBIT A

# City of Elkhart Common Council 2022-2032 District Boundary Proposal



Rod Roberson  
Mayor



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

August 1, 2022

The Common Council  
City of Elkhart  
Elkhart, IN 46516

**RE: Petition 22-Z-10  
1111 and VACANT LAND W BRISTOL ST**

Dear Council Members:

This letter certifies that the Elkhart City Plan Commission at its regular meeting on **Monday, August 1, 2022**, heard the above petition as prescribed by Section 29.11.B, Map Amendments, a request to rezone the property containing approximately fifteen (15) acres located at the southwest corner of Edwardsburg Avenue and Bristol Street from M-2, General Manufacturing District to B-2, Community Business District.

The Plan Commission **voted 5 to 0 in favor** of this Rezoning petition and thus it is sent to the Common Council with a "Do Pass" recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Drlich". The signature is written in a cursive style.

Jennifer Drlich  
Plan Commission Recording Secretary

**ORDINANCE NO. \_\_\_\_\_**

**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 1111 WEST BRISTOL STREET TOGETHER WITH THE SURROUNDING CONTIGUOUS VACANT PARCELS FROM M-2, GENERAL MANUFACTURING DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT**

WHEREAS, on July 20, 1998, the Common Council of the City of Elkhart, Indiana (the “Common Council”) adopted Ordinance No. 4370 (the “Zoning Ordinance of the City of Elkhart, Indiana”), creating the zoning map that established the zoning districts for all real estate located within the corporate boundaries of the City of Elkhart (commonly referred to as the “Zoning Map”); and

WHEREAS, the real estate generally described as 1111 West Bristol Street, together with the surrounding contiguous vacant parcels (the “Real Estate”), is zoned M-2, General Manufacturing District; and

WHEREAS, the owner of the Real Estate petitioned the Elkhart City Plan Commission, requesting to amend the Zoning Map to allow for redevelopment as a medical office facility; and

WHEREAS, the intended use of the Real Estate is not a permitted use, thus requiring the rezoning of the subject Real Estate from M-2, General Manufacturing District to B-2, Community Business District, if the owner’s intended use is to be allowed; and

WHEREAS, the rezoning, as petitioned, remains compatible with the adjacent properties and reflects responsible growth and development; and

WHEREAS, on August 1, 2022, the Elkhart City Plan Commission conducted a public hearing on the petition to amend the Zoning Map for the purpose stated herein and voted to forward to this Council the Commission’s “DO PASS” recommendation.

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

Section 1. The zoning map created pursuant to and incorporated into Ordinance No. 4370, as amended, the Zoning Ordinance of the City of Elkhart, Indiana, is hereby further amended to rezone from M-2, General Manufacturing District to B-2, Community Business District, the following real estate, located in the City of Elkhart, County of Elkhart, State of Indiana, and more-fully described as follows:

**Legal Description:**

**Parcel A**

Part of the Southeast Quarter of Section 31, Township 38 North, Range 5 East, situate in Osolo Township, Elkhart County, Indiana, being more particularly described as follows: Commencing at the Northeast corner of the intersection of Randolph Street and Oak Street; thence North 0 degrees 14 minutes 19 seconds West along the East boundary of said Oak Street, 666.40 feet to the South boundary of the vacated McNaughton Avenue; thence continuing North 0 degrees 14 minutes 24 seconds West along said East boundary 342.48 feet to the southwest corner of the original 16.73 acre parcel described in the Jeffrey Barnes ALTA/NSPS Land Title Survey dated 06/09/2021; thence North 00 degrees 13 minutes 26 seconds West along said East boundary 534.59 feet to a point on the Southerly line of the former CCC and St Louis Railroad; thence South 89 degrees 59 minutes 35 seconds East 412.57 feet to the POINT OF BEGINNING of this description; thence North 00 degrees 10 minutes 19 seconds West 220.49 feet; thence North 89 degrees 59 minutes 18 seconds East 467.89 feet; thence South 00 degrees 00 minutes 39 seconds East 169.82 feet; thence South 89 degrees 59 minutes 35 seconds East 687.16 feet to a point on the Southwest boundary of Edwardsburg Avenue; thence South 33 degrees 51 minutes 07 seconds East along said Southwest boundary 61.20 feet; thence North 89 degrees 59 minutes 35 seconds West 1,189.84 feet to the Point Of Beginning of this description. Containing 3.19 Acres more or less.

**Parcel B**

Part of the Southeast Quarter of Section 31, Township 38 North, Range 5 East, situate in Osolo Township, Elkhart County, Indiana, being more particularly described as follows: Commencing at the Northeast corner of the intersection of Randolph Street and Oak Street; thence North 00 degrees 14 minutes 19 seconds West along the East boundary of said Oak Street, 666.40 feet to the South boundary of the vacated McNaughton Avenue; thence continuing North 00 degrees 14 minutes 24 seconds West along said East boundary 342.48 feet to the southwest corner of the original 16.73 acre parcel described in the Jeffrey Barnes

ALTA/NSPS Land Title Survey dated 06/09/2021 and the POINT OF BEGINNING of this description; thence North 00 degrees 13 minutes 26 seconds West along said East boundary 534.59 feet to a point on the Southerly line of the former CCC and St Louis Railroad, thence South 89 degrees 59 minutes 35 seconds East 412.57 feet; thence South 00 degrees 10 minutes 19 seconds West 532.85 feet; thence South 89 degrees 45 minutes 40 seconds West 408.88 feet to the Point Of Beginning of this description. Containing 5.03 Acres more or less.

#### Parcel C

Part of the Southeast Quarter of Section 31, Township 38 North, Range 5 East, situate in Osolo Township, Elkhart County, Indiana, being more particularly described as follows: Commencing at the Northeast corner of the intersection of Randolph Street and Oak Street; thence north 0 degrees 14 minutes 19 seconds West along the East boundary of said Oak Street, 666.40 feet to the South boundary of the vacated McNaughton Avenue; thence continuing North 0 degrees 14 minutes 24 seconds West along said East boundary 342.48 feet to the Southwest corner of the original 16.73 acre parcel described in the Jeffrey Barnes ALTA/NSPS Land Title Survey dated 06/09/2021; thence North 00 degrees 13 minutes 26 seconds West along said East boundary 534.59 feet to a point on the Southerly line of the former CCC and St Louis Railroad to the POINT OF BEGINNING of this description; thence North 67 degrees 10 minutes 21 seconds West along said Southerly line 65.13 feet to a point on the west boundary of said Oak Street; thence North 20 degrees 43 minutes 46 seconds West along said West boundary 92.64 feet to a point on the Northerly line of said railroad; thence South 62 degrees 00 minutes 17 seconds East along said Northerly line 70.73 feet to said East boundary of Oak Street; thence North 00 degrees 27 minutes 34 seconds West along said East boundary 334.78 feet to a corner of State of Indiana Land; thence North 41 degrees 08 minutes 30 seconds East along the Southeasterly line of said land 33.30 feet to a point of the South boundary of Bristol Street (SR 119) said point being 50 feet South of the centerline of said Street; thence South 89 degrees 52 minutes 39 seconds East along said South boundary, 1,280.42 feet; thence South 71 degrees 04 minutes 59 seconds East along the South boundary of said Bristol Street, 36.24 feet; thence South 33 degrees 48 minute 48 seconds East along the Southwest boundary of Edwardsburg Avenue 221.36 feet; thence South 39 degrees 31 minutes 59 seconds East along said Southwest boundary 121.27 feet; thence South 33 degrees 51 minute 07 seconds East along said Southwest boundary 115.58 feet; thence North 89 degrees 59 minutes 35 seconds West 687.16 feet; thence North 00 degrees 00 minutes 39 seconds West 169.82 feet; thence South 89 degrees 59 minutes 18 seconds West 467.89 feet; thence South 00 degrees 10 minutes 19 seconds West 220.49 feet; thence North 89 degrees 59 minutes 35 seconds West 412.57 feet to the Point Of Beginning of this description. Containing 11.71 Acres more or less.

**Address(s):**

1111 West Bristol Street, Elkhart, Indiana, together with the surrounding contiguous vacant parcels

**Parcel Identification Number(s):**

- 20-02-31-476-011.000-027
- 20-02-31-426-004.000-027
- 20-02-31-426-002.000-027
- 20-02-31-426-001.000-027

Section 2. Effective Date. This ordinance shall be in full force and effect from and after its passage by the Common Council.

So ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
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



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: Eric Trotter

Date: August 1, 2022

Re: 22-Z-10, 1111 and Vacant Land, West Bristol Street

This is a request to rezone approximately 15 acres at the southwest corner of Edwardsburg Avenue and West Bristol Street from M-2, General Manufacturing District to B-2, Community Business District for redevelopment as a medical office facility. The rezoning is advantageous because the legacy industrial zone is outdated; rezoning to a commercial zone brings the property in line with current development trends as well as the Comprehensive Plan which calls for commercial and mixed uses.

The request comes to the Council with a "Do-Pass" recommendation by the Plan Commission, which they passed on a 5-0 vote at the public hearing on August 1, 2022.



# Staff Report

Planning & Zoning

**Petition:** 22-Z-10

**Petition Type:** Rezoning

**Date:** August 1, 2022

**Petitioner:** SGR I LLC and Life Center of Elkhart County, Inc.

**Site Location:** 1111 and Vacant Land, West Bristol Street

**Request:** Per Section 29.11.B, Map Amendments, a request to rezone the property containing approximately fifteen (15) acres located at the southwest corner of Edwardsburg Avenue and Bristol Street from M-2, General Manufacturing District to B-2, Community Business District.

**Existing Zoning:** M-2 – General Manufacturing District

**Size:** +/- 15 Acres

**Thoroughfares:** Main Street

**School District:** Elkhart Community Schools

**Utilities:** Available to site



City of Elkhart | Maxar | Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

**Surrounding Land Use & Zoning:**

Property to the south and east are vacant, institutional, and industrial zoned M-2. Land to the north is commercial zoned B-1 and M-2. Land to the east is commercial zoned PUD.

**Applicable Sections of the Zoning Ordinance:**

See enumerated in request.

**Comprehensive Plan:**

The Comprehensive Plan calls for this area to be developed with commercial and mixed uses.

## Staff Analysis

---

This proposed rezoning includes four parcels, one owned by Life Center of Elkhart County, Inc. (0-02-31-476-011.000-027), and three owned by SGR II (20-02-31-426-004.000-027, 20-02-31-426-002.000-027, and 20-02-31-426-001.000-027). The proposed rezoning area comprises approximately 15 acres total. It does not include the entirety of all parcels; if the rezoning is successful, the petitioners plan to reconfigure the lots and transfer all relevant properties to SGR II for the development of a medical facility.

The properties are currently zoned M-2, and the proposed zoning is B-2. The B-2 zoning would accommodate the proposed use. Additionally, the M zoning along the Bristol Street corridor is a legacy zoning that is outdated. As the corridor develops towards commercial with contemporary development trends, and the Comprehensive Plan calls for the area to be developed with commercial and mixed uses, the B-2 represents a responsible zoning district for the property.

## Recommendation

---

The Staff recommends **approval** of the rezoning request based on the following findings of fact:

- 1) The proposed rezoning is compatible with the Future Land Use map, which calls for the area to be developed with commercial and mixed uses;
- 2) Current conditions and the character of current structures and uses in each district will not be impacted because it will have a positive benefit on the corridor;
- 3) The B-2 District does allow for the most desirable uses for which the land can be adapted;
- 4) The proposed rezoning will preserve the conservation of property values throughout the City because it shifts the development possibilities from industrial to commercial
- 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.

# Photos

---



# Attachments

---

Petition, appeal letter, affidavit, and site plan.

PETITION #: 22-2-10

FILING FEE: \$ \_\_\_\_\_

### PETITION to the PLAN COMMISSION

#### PETITION TYPE: REZONING

This action requires final approval from the Common Council  
SGR I

Property Owner(s): David Roos authorized to act on behalf of SGR I, LLC

Mailing Address: 70932 Cambridge Ct. Niles MI 49120

Phone #: 574-210-0098 Email: droos@roosenterprises.com

Contact Person: David Roos, Manager, SGRI

Mailing Address: 70932 Cambridge Ct. Niles MI 49120

Phone #: 574-210-0098 Email: droos@roosenterprises.com

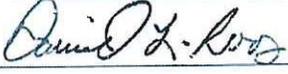
**Subject Property Address:** Southwest Corner of Bristol St. and Edwardsburg Ave

Zoning: Current: M-2 General MFG

Present Use: Under develop property and parking lots Proposed Use: New medical office building development.

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) (PRINT): David Roos

SIGNATURE(S):  DATE: 6/30/2022

#### STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Plan Commission docket:

- One copy of the Appeal Letter signed in ink by the owner of the property.
- A completed Petition form signed by the legal owner of record.
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 25 copies must be submitted.
- Any other information listed in the Instructions and Filing Procedure for this type of Petition.

Ordinance Requirement: Section(s): \_\_\_\_\_

Map #: \_\_\_\_\_ Area: \_\_\_\_\_

RECEIVED BY:  DATE: 7/8/22

**AFFIDAVIT IN SUPPORT OF REZONING PETITION**

I, David Roos, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my rezoning petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at Southwest Corner of Elkhart, Indiana. Bristol St. and Edwardsburg Ave
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 30 day of June, 2022.

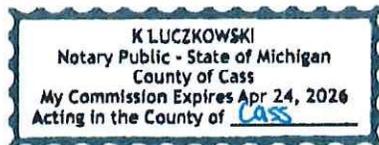
David L. Roos  
Printed: David Roos

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

David L. Roos  
Printed: David Roos

Michigan va  
STATE OF INDIANA )  
Cass va ) SS:  
COUNTY OF ELKHART )

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared David L. Roos, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 30 day of June, 2022.



K. Luczkowski  
Printed: K. LUCZKOWSKI

My Commission Expires:  
4/24/2026

Notary Public in and for the State of Michigan Indiana va  
Resident of Cass County, Indiana Michigan

PETITION #: 22-7-10

FILING FEE: \$ \_\_\_\_\_

### PETITION to the PLAN COMMISSION

#### PETITION TYPE: REZONING

This action requires final approval from the Common Council

Life Center of Elkhart County Inc.

Property Owner(s): Scott Tuttle authorized to act on behalf of Life Center Of Elkhart County Inc

Mailing Address: 1025 E. Waterford, Wakarusa, IN 46573

Phone #: 574-370-1728 Email: scott.t@stjameshlds.com

Contact Person: David Roos, Manager, SGRI

Mailing Address: 70932 Cambrige Ct. Niles MI 49120

Phone #: 574-210-0098 Email: droos@roosenterprises.com

Subject Property Address: Southwest Corner of Bristol St. and Edwardsburg Ave

Zoning: Current: M-2 General MFG

Present Use: Manufacturing/parking lots Proposed Use: New medical office building development.

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) (PRINT): Scott Tuttle

SIGNATURE(S):  DATE: 6/30/22

#### STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Plan Commission docket:

- One copy of the Appeal Letter signed in ink by the owner of the property.
- A completed Petition form signed by the legal owner of record.
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 25 copies must be submitted.
- Any other information listed in the Instructions and Filing Procedure for this type of Petition.

Ordinance Requirement: Section(s): \_\_\_\_\_

Map #: \_\_\_\_\_ Area: \_\_\_\_\_

RECEIVED BY:  DATE: 7/8/22

**AFFIDAVIT IN SUPPORT OF REZONING PETITION**

I, Scott Tuttle, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my rezoning petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at Southwest Corner of Elkhart, Indiana.  
Bristol St. and Edwardsburg Ave
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 30 day of June, 2022.

→ Scott Tuttle  
Printed: Scott Tuttle

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

→ Scott Tuttle  
Printed: Scott Tuttle

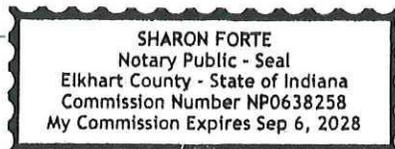
STATE OF INDIANA )  
 ) SS:  
COUNTY OF ELKHART )

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Scott Tuttle, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 30<sup>th</sup> day of June, 2022.

Notary → Sharon Forte  
Printed: Sharon Forte

My Commission Expires:

9/6/28



Notary Public in and for the State of Indiana  
Resident of Elkhart County, Indiana

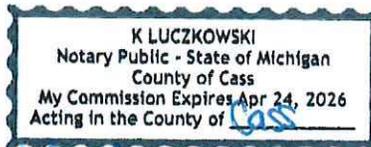
# SGR I, LLC

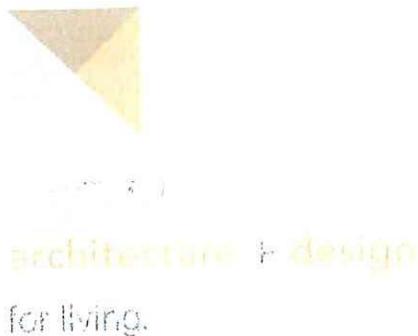
70932 Cambridge Court, Niles, Michigan 49112

I, David Roos, Manager of SGR I, LLC authorize MKM architecture + design, Inc to file Plan Commission for Rezoning and BZA applications for the Elkhart MOB project located at the southwest corner of Bristol St and Edwardsburg Ave.



David L Roos  
Manager  
SGR I, LLC





Dodd M. Kattman  
Jerome T. Nix  
Zachary R. Benedict  
Matthew D. Sparling  
Andrew J. Mitchell

June 27, 2022

To: Honorable Members of the City Council  
And Plan Commission.  
City of Elkhart, Indiana

### Rezoning Petition

The Undersigned petitioners respectfully shows the Council and Plan Commission:

1. I, David Roos authorized to act on behalf of SGR I, LLC and I, Scott Tuttle authorized to act on behalf of Life Center OF Elkhart County Inc, are the owners/representatives of the following described real estate located within the City of Elkhart, Osolo Township, Elkhart County, State of Indiana, To-wit:
  - a. Please refer to the attached legal descriptions for the properties identified to be rezoned.
2. The above-described real estate has a zoning classification of M-2 General Manufacturing District under the Zoning Ordinance of the City of Elkhart.
3. The petitioners presently occupy the above-described property in the following Manner.
  - a. The property currently owned by SGR I consists of approximately sixteen (11.71) acres of land with approximately 1,335 feet of frontage along Bristol Street, 575 feet of frontage along Edwardsburg Avenue, and 975 feet of frontage along Oak Street. The Property is currently unoccupied. Portions of the Property are fenced in, and a gate is present at the north access drive. The Property is bisected by and includes Ward Street /7th Street, which runs in the north-south direction from Bristol Street to McNaughton Avenue. The portion of the Property east of Ward Street is developed with an asphalt paved parking lot that is overgrown with vegetation consisting of large trees and grass. The central and northwest portion of the Property is undeveloped and consists of mowed grass and several trees. Paved surfaces are present on the Property along the southern Property boundary line. The western portion of the Property is undeveloped and consists of vegetation including large trees, grasses, shrubs, and vines.
  - b. The second 3.19 acres consists of an existing detail shop building, a wood frame residential apartment building, asphalt paving and garden areas. The property is partially developed and consists of mowed grass and trees.
  - c. Scott Tuttle currently owns property to the south of the SGR I land. As part of the re-zoning, the north 3.19 acres of land on Mr. Tuttle's partial will be purchased by SGR I at the completion of the rezoning and BZA process.

4. The Petitioner desires to rezone said real estate to **B-2 Community Business District** for that purpose
5. Standards that must be considered for a Rezoning: Section 29.11 of the City of Elkhart Zoning ordinance mandates the plan Commission, and the City Council shall pay reasonable regard to the following:
  - a. The Comprehensive Plan
    - i. The Current City of Elkhart Comprehensive plan identifies the property along Edwardsburg and Bristol to be used for Institutional use. The proposed development is also a portion of the Miles-Bayer property which has been identified in your Comprehensive plan as a Redevelopment Area.
    - ii. The proposed Medical Office Building use and development of this partial of land fits perfectly into your comprehensive plan and vision for future Redevelopment within this area.
  - b. Current Conditions and the character of the current structures and use in each district.
    - i. The 11.71-acre property is currently overgrown. The parking lots serving the old Miles-Bayer property are deteriorating. In its current condition, the property is not suitable for use.
    - ii. The 3.19 acre property to the south has two buildings and associated parking lots and drives. One building is a detail shop and the second building is a small single story apartment building. The buildings are currently in use; however, they will not contribute or promote future development. With the proposed medical office building project, these two buildings will be torn down.
  - c. The most desirable use for which the land in each district is adapted
    - i. As the Bristol Street corridor has evolved over time, the current M-2 zoning of the property is not the highest and best use. The B-2 Community Business District best serves this site. This site is best suited for Commercial and Institutional use as identified in the Comprehensive Plan. The development of this parcel of land into a healthcare campus can act as a catalyst and help the Redevelopment Commission/Planning Department market and develop adjacent partials of land.
  - d. The conservation of property values throughout the jurisdiction
    - i. The proposed 122,000 sf two story medical office building will conserve if not increase current property values along the Bristol and Edwardsburg corridor.
    - ii. The medical campus development will be a tremendous community amenity for the neighbors to the south and east of the site.
  - e. Responsible growth and development.
    - i. This project meets the requirements for responsible growth and development.

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing the Plan Commission make a do Pass recommendation and the Council, after hearing, pass on appropriate ordinance rezoning the above-described parcel of land located in the City of Elkhart.

Signature of Property Owner: David D. Roos

Printed Name: David Roos authorized to act on behalf of SGR I, LLC

→ Signature Second Property Owner: Scott Tuttle

Printed Name: Scott Tuttle authorized to act on behalf of Life Center Of Elkhart County Inc.

Contact Person: Jerry Nix (MKM architecture + design)  
Address: 119 West Wayne Street, Fort Wayne, Indiana 46802  
Phone Number: Office 260-422-0783. Cell 260-341-3587  
Fax Number: NA  
E-mail: [jnix@mkmdesign.com](mailto:jnix@mkmdesign.com)

PETITION #: 22-2-10

FILING FEE: \$ 400

### PETITION to the PLAN COMMISSION

#### PETITION TYPE: REZONING

This action requires final approval from the Common Council

SGR I

Property Owner(s): David Roos authorized to act on behalf of SGR I, LLC

Mailing Address: 70932 Cambridge Ct. Niles MI 49120

Phone #: 574-210-0098 Email: droos@roosenterprises.com

Contact Person: David Roos, Manager, SGRI

Mailing Address: 70932 Cambridge Ct. Niles MI 49120

Phone #: 574-210-0098 Email: droos@roosenterprises.com

**Subject Property Address:** Southwest Corner of Bristol St. and Edwardsburg Ave

Zoning: Current: M-2 General MFG

Present Use: Under develop property and parking lots Proposed Use: New medical office building development.

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) (PRINT): David Roos

SIGNATURE(S):  DATE: 6/30/2022

#### STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Plan Commission docket:

- One copy of the Appeal Letter signed in ink by the owner of the property.
- A completed Petition form signed by the legal owner of record.
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 25 copies must be submitted.
- Any other information listed in the Instructions and Filing Procedure for this type of Petition.

Ordinance Requirement: Section(s): \_\_\_\_\_

Map #: \_\_\_\_\_ Area: \_\_\_\_\_

RECEIVED BY:  DATE: 7/8/2022

**AFFIDAVIT IN SUPPORT OF REZONING PETITION**

I, David Roos being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

- 1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
- 2. I make this affidavit in support of my rezoning petition filed contemporaneously herewith.
- 3. I am now and at all times relevant herein have been, the owner of record of the property located at Southwest Corner of Elkhart, Indiana.  
Bristol St. and Edwardsburg Ave
- 4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 30 day of June, 2022.

David Roos

Printed: David Roos

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

David Roos

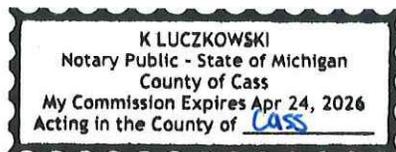
Printed: David Roos

STATE OF Michigan MI )  
INDIANA )  
COUNTY OF CASS ) ) SS:  
ELKHART )

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared David L. Roos, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 30 day of June, 2022.

K. Luczkowski

Printed: K. LUCZKOWSKI



My Commission Expires:  
4/24/2026

Notary Public in and for the State of Michigan MI Indiana )  
Resident of CASS County, Michigan MI Indiana )



**MKM**

**architecture + design**

for living.

June 27, 2022

Dodd M. Kattman AIA, LEED AP, *Principal*  
Jerome T. Nix AIA, *Principal*  
Zachary R. Benedict AIA, LEED AP, *Principal*  
Matthew D. Sparling AIA, LEED AP, *Principal*  
Andrew J. Mitchell AIA, ACHA, *Principal*

To: Honorable Members of the City Council  
And Plan Commission.  
City of Elkhart, Indiana

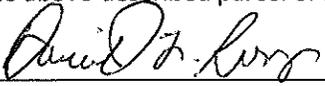
### **Rezoning Petition**

The Undersigned petitioners respectfully shows the Council and Plan Commission:

1. I, David Roos authorized to act on behalf of SGR I, LLC and I, Scott Tuttle authorized to act on behalf of Life Center OF Elkhart County Inc, are the owners/representatives of the following described real estate located within the City of Elkhart, Osolo Township, Elkhart County, State of Indiana, To-wit:
  - a. Please refer to the attached legal descriptions for the properties identified to be rezoned.
2. The above-described real estate has a zoning classification of M-2 General Manufacturing District under the Zoning Ordinance of the City of Elkhart.
3. The petitioners presently occupy the above-described property in the following Manner.
  - a. The property currently owned by SGR I consists of approximately sixteen (11.71) acres of land with approximately 1,335 feet of frontage along Bristol Street, 575 feet of frontage along Edwardsburg Avenue, and 975 feet of frontage along Oak Street. The Property is currently unoccupied. Portions of the Property are fenced in, and a gate is present at the north access drive. The Property is bisected by and includes Ward Street /7th Street, which runs in the north-south direction from Bristol Street to McNaughton Avenue. The portion of the Property east of Ward Street is developed with an asphalt paved parking lot that is overgrown with vegetation consisting of large trees and grass. The central and northwest portion of the Property is undeveloped and consists of mowed grass and several trees. Paved surfaces are present on the Property along the southern Property boundary line. The western portion of the Property is undeveloped and consists of vegetation including large trees, grasses, shrubs, and vines.
  - b. The second 3.19 acres consists of an existing detail shop building, a wood frame residential apartment building, asphalt paving and garden areas. The property is partially developed and consists of mowed grass and trees.
  - c. Scott Tuttle currently owns property to the south of the SGR I land. As part of the re-zoning, the north 3.19 acres of land on Mr. Tuttle's partial will be purchased by SGR I at the completion of the rezoning and BZA process.

4. The Petitioner desires to rezone said real estate to **B-2 Community Business District** for that purpose
5. Standards that must be considered for a Rezoning: Section 29.11 of the City of Elkhart Zoning ordinance mandates the plan Commission, and the City Council shall pay reasonable regard to the following:
  - a. The Comprehensive Plan
    - i. The Current City of Elkhart Comprehensive plan identifies the property along Edwardsburg and Bristol to be used for Institutional use. The proposed development is also a portion of the Miles-Bayer property which has been identified in your Comprehensive plan as a Redevelopment Area.
    - ii. The proposed Medical Office Building use and development of this partial of land fits perfectly into your comprehensive plan and vision for future Redevelopment within this area.
  - b. Current Conditions and the character of the current structures and use in each district.
    - i. The 11.71-acre property is currently overgrown. The parking lots serving the old Miles-Bayer property are deteriorating. In its current condition, the property is not suitable for use.
    - ii. The 3.19 acre property to the south has two buildings and associated parking lots and drives. One building is a detail shop and the second building is a small single story apartment building. The buildings are currently in use; however, they will not contribute or promote future development. With the proposed medical office building project, these two buildings will be torn down.
  - c. The most desirable use for which the land in each district is adapted
    - i. As the Bristol Street corridor has evolved over time, the current M-2 zoning of the property is not the highest and best use. The B-2 Community Business District best serves this site. This site is best suited for Commercial and Institutional use as identified in the Comprehensive Plan. The development of this parcel of land into a healthcare campus can act as a catalyst and help the Redevelopment Commission/Planning Department market and develop adjacent partials of land.
  - d. The conservation of property values throughout the jurisdiction
    - i. The proposed 122,000 sf two story medical office building will conserve if not increase current property values along the Bristol and Edwardsburg corridor.
    - ii. The medical campus development will be a tremendous community amenity for the neighbors to the south and east of the site.
  - e. Responsible growth and development.
    - i. This project meets the requirements for responsible growth and development.

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing the Plan Commission make a do Pass recommendation and the Council, after hearing, pass on appropriate ordinance rezoning the above-described parcel of land located in the City of Elkhart.

Signature of Property Owner: 

Printed Name: David Roos authorized to act on behalf of SGR I, LLC

Signature Second Property Owner: \_\_\_\_\_

Printed Name: Scott Tuttle authorized to act on behalf of Life Center Of Elkhart County Inc.

Contact Person: Jerry Nix (MKM architecture + design)  
Address: 119 West Wayne Street, Fort Wayne, Indiana 46802  
Phone Number: Office 260-422-0783. Cell 260-341-3587  
Fax Number: NA  
E-mail: [jnix@mkmdesign.com](mailto:jnix@mkmdesign.com)

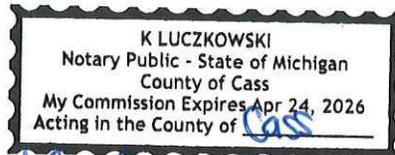
# SGR I, LLC

70932 Cambridge Court, Niles, Michigan 49112

I, David Roos, Manager of SGR I, LLC authorize MKM architecture + design, Inc to file Plan Commission for Rezoning and BZA applications for the Elkhart MOB project located at the southwest corner of Bristol St and Edwardsburg Ave.



David L Roos  
Manager  
SGR I, LLC



City of Elkhart  
Board of Aviation Commissioners Meeting  
June 10, 2022

The Board of Aviation Commissioners Special Call meeting was called to order by Commissioner Doug Thorne at 12:00 pm on Friday, June 10, 2022 at the Elkhart Municipal Airport Administration Building, 1211 CR 6 W, Elkhart, Indiana 46514. Commissioners Bruce Shreiner & Shari Mellin were present. Also, present were Andy Jones, Kevin Davis from the City of Elkhart Legal Department & Tony Elkins from the City of Elkhart IT Department. Tom Shoff and Karen Shaw were absent.

Approval of Claims:

Shari Mellin made a MOTION to approve a claim as submitted for \$58,911.00 to Anywhere Products for the remote-controlled lawn mowers. Bruce Shreiner SECONDED the motion. There being no further discussion the motion to approve the claims PASSED unanimously.

Discussion of Waterlogic payment:

Andy advised that Waterlogic is a company that specializes in the provision of water purification systems. Because of poor ground water taste, color, and smell, in 2015 a Waterlogic system was installed in the old maintenance building. Andy advised that when he returned to the airport as Director in 2020 he noticed that the system had been disconnected. It apparently stopped working about two years prior. One could clearly see rust, lime, and green mold through the unit. Airport maintenance employees refused to drink water dispensed through the unit and began bringing in their own drinking water from home. Andy emailed Waterlogic asking them to come pick up the unit and to stop invoicing the airport for use of a water purification system that had not functioned in years. After receiving no response to his emails, Andy called Waterlogic several times and left messages. Finally, Andy sent them a letter by USPS again telling them to come pick up the unit and to stop invoicing the airport for a nonexistent service. Without authorization from Andy, the airport maintenance chief, apparently unaware that the unit was a rental, placed the unit in the dumpster. Waterlogic called nearly a year later in 2022, claiming to be unaware that we had contacted them and demanded the rental payments. Andy advised Kevin Davis from the City of Elkhart Legal Department of the situation and asked him to review the agreement and provide guidance. Based on Kevin's council Andy asked the BOAC to authorize Mr. Davis to negotiate a settlement with Waterlogic.

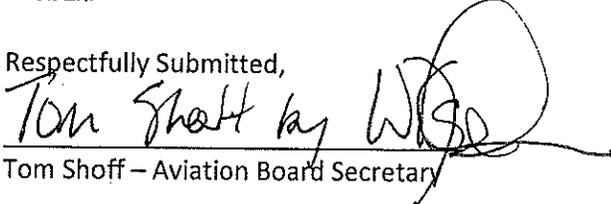
Andy further advised that one of our goals is to find and implement software that can assist in keeping track of all agreements as well as airport lease agreements, scheduled rent increases, contracts, and more. The idea is to consolidate how these details will be tracked in order to lessen the chance of missing any deadlines. Speaking from experience, Andy stated that a system such as this would be very helpful following a change in administrations and the Airport's management structure. Mr. Thorne and Mr. Shreiner advised they do not recall a Waterlogic rental agreement coming before the board in 2015. Mr. Davis advised he checked with the Controller's Office, and informed that at that time agreements such as this did not require Board approval. Mr. Shreiner made a MOTION to approve authorizing Kevin Davis to negotiate a settlement with Waterlogic on behalf of the Board. Ms. Mellin SECONDED the motion. There being no further discussion the motion PASSED unanimously.

Adjournment:

Mr. Shreiner made a MOTION to adjourn. Ms. Mellin SECONDED the motion. There being no further business, the motion PASSED and the meeting was adjourned.

Next regular BOAC meeting is scheduled for Wednesday, June 29, 2022 at 4pm. Location will be the Elkhart Municipal Airport Administration Building, 1211 County Road 6 W., Elkhart, IN 46514 & via WebEx.

Respectfully Submitted,

  
Tom Shoff – Aviation Board Secretary

7/27/2022  
Date

City of Elkhart  
Board of Aviation Commissioners Meeting  
June 29, 2022

The Board of Aviation Commissioners meeting was called to order by Commissioner Doug Thorne at 4:00pm on Wednesday, June 29, 2022 at the Elkhart Municipal Airport Administration Building, 1211 CR 6 W, Elkhart, Indiana 46514. Commissioner Shari Mellin was present. Commissioner Tom Shoff was present via WebEx. Also present were Andy Jones, Karen Shaw, Ryan Sherwood, Paul Shaffer & Kevin Davis. Councilman Dwight Fish was present via WebEx.

Removal from Agenda:

Mr. Thorne advised the first item is to amend the agenda to remove items H and I. Ms. Mellin made a MOTION to remove items H and I from the agenda. Mr. Shoff SECONDED the motion. There being no further discussion, the motion passed unanimously.

Approval of Minutes:

Ms. Mellin made a MOTION to approve the minutes of the May 25, 2022 meeting. Mr. Shoff SECONDED the motion. There being no further discussion, the motion PASSED unanimously.

Approval of Claims:

Mr. Shoff made a MOTION to approve claims as submitted for \$433,729.56. Ms. Mellin SECONDED the motion. There being no further discussion the motion to approve the claims PASSED unanimously.

Manager's Report:

Andy advised all departments have switched from Incode 9 to Incode 10. Karen has been in several training sessions the last few months to learn the new systems for accounts payables, accounts receivables, purchase orders, budgeting, and payroll. Andy further advised we are still waiting to activate the NADIN (National Airspace Data Interchange Network System) for the AWOS (Automated Weather Observation System). The NADIN is a way for weather information to be transmitted to third parties such as websites and apps from our AWOS. There have been a few kinks in the system and we are hoping the parts will arrive in a couple weeks so our AWOS tech can complete the installation. After attending the Snow Symposium in New York and consultation with Central Garage, Andy advised we have decided to give the Controller's Office the go-ahead to order the Snow & Ice Broom. It will take between 12-14 months before we receive it, so we will have another winter with the old broom. Andy further advised we are continuing to work on the Aviation budget for fiscal year 2023. There will be some costs that have gone up; especially fuel and items related to construction. We will be looking at only our needs and not our wants. The budget draft submission deadline is July 11.

Mr. Thorne advised the first item under New Business is the Hangar 13 Stipulated Agreement. Kevin Davis of the City of Elkhart Legal Department advised this is for the tenant to surrender possession of Hangar 13, which he has agreed to. The Stipulated Agreement lays out the terms of the \$3,500 outstanding balance without having to go through litigation. The tenant will be making monthly payments until it is paid off. Mr. Fish asked if photos would be taken of the inventory? Andy advised affirmative. Ms. Mellin made a MOTION to approve the Hangar 13 Stipulated Agreement. Mr. Shoff SECONDED the motion. There being no further discussion, the motion PASSED unanimously.

Mr. Thorne advised the next item under New Business is the Hangar 13 Storage Agreement. Mr. Davis advised the tenant asked for a storage agreement so his property can be transferred to the barn. Mr. Davis further advised there is a hold harmless in both agreements in case any property is destroyed in the move. The storage agreement will be on a month-to-month basis at \$70 per month, and if the

City of Elkhart  
Board of Aviation Commissioners Meeting  
June 29, 2022

airport would like him out, we need to give a 30-day notice. Ms. Mellin asked what happens if the tenant breaks these agreements? Mr. Davis advised the eviction process would start. Andy further advised it is advantageous to move the tenant's property to the barn so someone with an airworthy plane can rent hangar 13. Ms. Mellin made a MOTION to approve the Hangar 13 Storage Agreement. Mr. Shoff SECONDED the motion. There being no further discussion, the motion PASSED unanimously.

Mr. Thorne advised the next item under New Business is Progress Estimate #2 to Michiana Contracting for Runway 9-27 Lighting Rehabilitation for \$53,285.74. Paul Shaffer from BF&S advised there will be one more pay request after this, and we are still holding a little bit of the retainage fee. We had a final walk-through today, as well as an inspection from INDOT. There were some minor issues, two of which were corrected today and we may look into adding a bit of drainage around 1 of the foundations. Outside of that, the project went really well and everything is functioning as it should and is looking good. Mr. Shoff made a MOTION to approve Progress Estimate #2. Ms. Mellin SECONDED. There being no further discussion, the motion PASSED unanimously.

Mr. Thorne advised the next item under New Business is Pay Request #3 to reimburse Progress Estimate #2 and BF&S invoice 96759 for \$17,154.08 for Runway 9-27 Lighting, total amount: \$70,439.82. Mr. Shaffer advised this is to get FAA reimbursement for Progress Estimate 2 and for the BF&S invoice for inspection and bidding for the lighting project. Mr. Shoff made a MOTION to approve Pay Request #3. Ms. Mellin SECONDED. There being no further discussion, the motion PASSED unanimously.

Mr. Thorne advised the next item under New Business is the Disadvantaged Business Enterprise (DBE) policy statement to ensure DBEs have an equal opportunity to receive and participate in DOT-assisted contracts at the Elkhart Municipal Airport. Mr. Shaffer stated that every 3 years we need to go through the process of adopting a policy & goal for Disadvantaged Business Enterprises. The packet sent to the BOAC has the policy statement and goal methodology, which only applies to federally funded projects. It does not necessarily mean we have to meet the goal, but a good faith effort needs to be documented, and the BOAC must approve a policy statement. Ms. Mellin made a MOTION to approve the policy statement for DBEs. Mr. Shoff SECONDED. There being no further discussion, the motion PASSED unanimously.

Mr. Thorne advised the next item under New Business is the overall draft goal of 5.1% for DBEs for contracts using federal financial assistance from 10.01.22 through 09.30.25. Mr. Shaffer advised that now that the BOAC has approved the DBE policy statement, it needs to approve the draft goal that states of all the dollars spent; at least 5.1% needs to be with a DBE. After the BOAC accepts this goal, it needs to be advertised on the airport's website for a certain number of days. This advertisement states that the public has an opportunity at the next board meeting to share their thoughts on the 5.1% goal. Mr. Thorne asked if there is a need for a public hearing on the policy? Mr. Shaffer advised no, that the policy already states there will be a public hearing and the 5.1% goal is a draft until the public hearing concludes. We may need to revisit the goal depending on public comments. Ms. Mellin asked if we have met this goal in the past? Mr. Shaffer advised that yes, historically the Elkhart Airport has consistently met these goals (albeit with different percentages) and it has been a very successful program. Andy asked if this current goal is comparative to other general aviation (GA) airports? Mr. Shaffer advised it is a little higher than some other GA airports in the area. Andy advised that Karen will put this advertisement on the airport's website. Mr. Shoff made a MOTION to approve the draft goal of 5.1%, pending review of public hearing. Ms. Mellin SECONDED. There being no further discussion, the motion PASSED unanimously.

City of Elkhart  
Board of Aviation Commissioners Meeting  
June 29, 2022

Mr. Thorne advised the last item under New Business is Accept Grant Award for Runway 18-36 Pavement Rehabilitation Design when offered via electronic signature from the FAA. Mr. Shaffer advised this is a preemptive motion to try to get ahead of the grant offer. Mr. Shaffer further advised there was a group of grants submitted to the office of the Secretary of Transportation, of which one is EKM's grant. In the event this grant comes earlier than usual, there would be just a 7-day turnaround for BOAC & legal department signatures, and it may fall before the next board meeting, so we wanted to work ahead a little bit. Mr. Shoff made a MOTION to approve the acceptance of the Runway 18-36 Pavement Rehabilitation Design grant. Ms. Mellin SECONDED. There being no further discussion, the motion PASSED unanimously.

Privilege of the Floor:

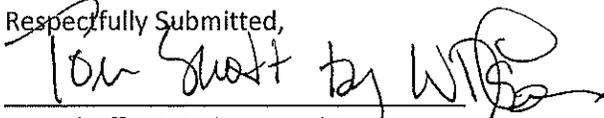
Mr. Thorne opened comments. There was none.

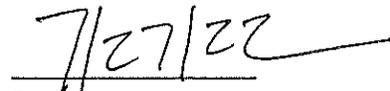
Adjournment:

Mr. Shoff made a MOTION to adjourn. Ms. Mellin SECONDED the motion. There being no further business, the motion PASSED and the meeting was adjourned.

Next regular BOAC meeting is scheduled for Wednesday, July 27, 2022 at 4pm. Location will be the Elkhart Municipal Airport Administration Building, 1211 County Road 6 W., Elkhart, IN 46514 & via WebEx.

Respectfully Submitted,

  
Tom Shoff – Aviation Board Secretary

  
Date

BOARD OF PUBLIC SAFETY  
Tuesday, July 12, 2022

Vice-Chair Carol Loshbough called a regular meeting of the Board of Public Safety to order at 9:00 a.m., Tuesday, July 12, 2022. Carol Loshbough, Charlie Cross, Anthony Coleman and Kara Boyles attended in person. Robert Woods was absent.

1. APPROVE AGENDA

On motion by Charlie Cross, seconded by Anthony Coleman and carried 4-0, the agenda was adopted.

2. MINUTES- Regular Meeting June 28, 2022

On motion by Anthony Coleman, seconded by Charlie Cross and carried 4-0, the minutes from June 28, 2022 were approved as presented.

3. POLICE

Chief Seymore was present and available for questions or comments.

4. FIRE

Assistant Chief Kristi Sommer presented a contract with Crossroads Ambulance Sales and Service, LLC for the purchase of a new ambulance to replace Medic 24. On motion by Anthony Coleman, seconded by Charlie Cross and carried 4-0, the Board approved a contract with Crossroads Ambulance Sales and Service, LLC for the purchase of an Ambulance for \$418,866.00.

On motion by Charlie Cross, seconded by Anthony Coleman and carried, the Board accepted and placed on file the June Month End report for the Fire Department.

5. COMMUNICATIONS

Dustin McLain submitted a month end report for June. On motion by Kara Boyles, seconded by Charlie Cross and carried 4-0, the Board accepted and placed on file the June Month End Report for the Communications Department.

6. BUILDING & CODE ENFORCEMENT

Jamie Arce announced Tim Vistine is the interim Building Commissioner.

7. OTHER PUBLIC SAFETY MATTERS

Police & Fire Merit Commission Minutes

On motion by Anthony Coleman, seconded by Charlie Cross and carried 4-0, the Board accepted the Police Merit Commission minutes.

8. ADJOURNMENT

On motion by Charlie Cross, seconded by Anthony Coleman and carried 4-0, the Board of Public Safety meeting was adjourned at 9:13 a.m.

Carol W. McDowell Carol Loshbough, Vice-Chairman

Attest: Nancy Wilson Nancy Wilson, Clerk of the Board

BOARD OF PUBLIC WORKS  
Tuesday, July 19, 2022

President Mike Machlan called a regular meeting of the Board of Public Works to order at 9:00 a.m., Tuesday, July 19, 2022. Clerk of the Board Nancy Wilson called the roll. Mike Machlan, Chad Crabtree, and Jamie Arce attended in person. Ron Davis was absent. Rose Rivera joined the meeting after roll call.

1. Approve Agenda

A motion was made by Chad Crabtree and seconded by Jamie Arce to approve the agenda. On motion by Chad Crabtree, seconded by Jamie Arce and carried 3-0, the agenda was amended by adding the Economic Development Partnership Grant award to the United Auto Club to New Business and the Elkhart Public Library Curbside Concerts to Use and Event Permits. The amended agenda carried 3-0.

2. Claims & Allowance Docket

On motion by Chad Crabtree, seconded by Jamie Arce and carried 3-0, the claims & allowance docket was approved in the amount of \$4,988,546.54 consisting of 26 pages as prepared on July 13, 2022 at 1:30 p.m.

3. Minutes Regular Meeting July 5, 2022 and Special Meeting July 8, 2022

On motion by Chad Crabtree, seconded by Jamie Arce and carried 3-0, the minutes from July 5 and July 8, 2022 were adopted.

4. Utilities

(A.) Administration

Water Utility MRO for June 2022

On motion by Chad Crabtree, seconded by Jamie Arce and carried 3-0, the Board accepted and placed on file the Water Utility MRO for June 2022.

(B.) Regulatory Affairs

Approval of Updates to Guide to Water Utility Policies

On motion by Chad Crabtree, seconded by Jamie Arce and carried 3-0, the Board approved the changes to the Water Utility Policies as outlined in a memo from Bryan Cress, Regulatory Compliance Manager.

\*\*\*Mike noted for the record member Rose Rivera joined the meeting.

(C.) Environmental Compliance

Consent Order with Compliance Schedule: Rico's at the Bulldog

For purposes of discussion, a motion was made by Chad Crabtree and seconded by Jamie Arce to approve the Consent Order with Compliance Schedule for Rico's at the Bulldog. Lynn Brabec explained the process to the Board. On May 4, 2022, the Board extended a FOG Variance for Rico's for six months. The Utility needed to put them under a Consent Order with Compliance schedule so there are milestones to meet. They met in person with Rico lavagnilio on June 30, 2022 and came up with the milestones. He and his business partner are both comfortable with the agreement. Rico signed it and the utility is requesting Board approval. Lynn explained they made it very clear if they had any issue meeting the milestones they needed to contact us in advance, if not, the penalties for not meeting the milestone would apply. Most of the challenge is getting a contractor and the materials. Jamie asked what the definition of contacting in advance was, and Lynn said a phone call followed up with an email at least a week in advance. Mike called for the vote and the motion carried 4-0.

BOARD OF PUBLIC WORKS  
Tuesday, July 19, 2022

Notice of Violation Discharging Without a Valid FOF Certificate- Cracker Barrel #113 110 Northpointe Blvd. (F2015-100)

For purposes of discussion, a motion was made by Chad Crabtree and seconded by Jamie Arce to approve the NOV: discharging without a valid FOG Certificate for Cracker Barrel and assess a penalty of \$1,090.00. Megan Kolaczyk explained the violation to the Board. The FSE was not present. Megan said they have not submitted their renewal FOG application and have not responded to many attempts to contact them via email and in person. On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the motion was amended to triple the penalty to \$3,270.00. The amended motion carried 4-0.

Notice of Violation Discharging Without a Valid FOF Certificate- Papa John's Pizza #570 1532-C Cassopolis St. (F2015-248)

For purposes of discussion, a motion was made by Chad Crabtree and seconded by Jamie Arce to approve the NOV: discharging without a valid FOG Certificate for Papa John's Pizza and assess a penalty of \$790.00. Megan Kolaczyk explained the violation to the Board. The FSE was not present. Megan said they have not submitted their renewal FOG application and have not responded to many attempts to contact them via email and in person. On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the motion was amended to triple the penalty to \$2,370.00. The amended motion carried 4-0.

Failure to Submit FOG Renewal Application Hardy's Bar 610 S. Main St. (F2015-157)

A motion was made by Chad Crabtree and seconded by Jamie Arce to approve a violation for failure to submit a FOG renewal application for Hardy's Bar and assess a total penalty of \$395.00. Megan Kolaczyk explained the violation. The FSE was not present. They have submitted the application. Mike called for the vote and the motion carried 4-0.

Failure to Submit FOG Renewal Application El Rosal 2693 S. Main St. (F2015-121)

A motion was made by Chad Crabtree and seconded by Jamie Arce to approve a violation for failure to submit a FOG renewal application for El Rosal and assess a total penalty of \$805.00. Megan Kolaczyk explained the violation. The FSE was not present. They have not submitted the application or responded. On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the motion was amended to triple the penalty to \$2,415.00. The amended motion carried 4-0.

Failure to Submit FOG Renewal Application Brothers Express Mart 3901 S. Main St. (F2015-062)

A motion was made by Chad Crabtree and seconded by Jamie Arce to approve a violation for failure to submit a FOG renewal application for Brothers Express Mart and assess a total penalty of \$500.00. Megan Kolaczyk explained the violation. The FSE was not present. They have not submitted the application or responded. On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the motion was amended to triple the penalty to \$1500.00. The amended motion carried 4-0.

BOARD OF PUBLIC WORKS  
Tuesday, July 19, 2022

Failure to Submit FOG Renewal Application New Star Enterprise 1226 S. Main St (F2016-021)

A motion was made by Chad Crabtree and seconded by Jamie Arce to approve a violation for failure to submit a FOG renewal application for New Star Enterprise and assess a total penalty of \$475.00. Megan Kolaczyk explained the violation. The FSE was present. They did submit the application in June, however, they did not respond to the notice. The owner Ajmar Sinkh came forward to speak. Mike encouraged him to call the staff if he receives a letter and has trouble understanding. On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the motion was amended to cut the penalty in half to \$237.00. The amended motion carried 4-0.

Failure to Submit FOG Renewal Application Hardee's 2620 Cassopolis St. (F2019-026)

A motion was made by Chad Crabtree and seconded by Jamie Arce to approve a violation for failure to submit a FOG renewal application for Hardee's and assess a total penalty of \$375.00. Megan Kolaczyk explained the violation. The FSE was not present. They have submitted the application. Mike called for the vote and the motion carried 4-0.

Failure to Submit New FOG Application Which Wich 5230 Beck Drive Suite 2-C (F2022-003)

A motion was made by Chad Crabtree and seconded by Jamie Arce to approve a violation for failure to submit a FOG application for Which Wich 5230 Beck Drive and assess a penalty of \$120.00. Megan Kolaczyk explained the violation to the Board. The FSE was present. The owner Jason Patel came forward to speak. He said Megan was very helpful and they just didn't know about the FOG application. On motion by Chad Crabtree, seconded by Rose Rivera and carried 4-0, the Board cut the penalty in half to \$60.00. The amended motion carried 4-0.

Failure to Submit New FOG Application Hay Huey 27751 CR 26 (F2022-008)

A motion was made by Chad Crabtree and seconded by Jamie Arce to approve a violation for failure to submit a FOG application for Hey Huey and assess a penalty of \$100.00. Megan Kolaczyk explained the violation to the Board. The FSE was not present. Mike called for the vote and the motion carried 4-0.

Failure to Submit New FOG Application Rocket Science 27751 CR 26 (F2022-004)

A motion was made by Chad Crabtree and seconded by Jamie Arce to approve a violation for failure to submit a FOG application for Rocket Science and assess a penalty of \$155.00. Megan Kolaczyk explained the violation to the Board. The FSE was not present. Mike called for the vote and the motion carried 4-0.

5. Engineering

(A.) Utility

Agreement with Barnes & Thornburg: Oakland Ave. Force Main Phase A Sewage Works Revenue Bonds

On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the Board approved an Agreement with Barnes & Thornburg for the Oakland Ave. Force Main Phase A Sewage Works Revenue Bonds. Tory Irwin, City Engineer, noted for the Board our Preliminary Engineering Reports were ranked 11 on the sewer side,

BOARD OF PUBLIC WORKS  
Tuesday, July 19, 2022

and the fundable number is up to 6. They are funding projects 1-6, our ranking was 11. Jamie added by funding we are referring to using SRF vs. usage and issuance of sewage revenue bonds. Tory said we are going to work with our financial advisors and IFA to see if there are other avenues of funding. Jamie said the benefit of using SRF funding is the lower rate so the cost of the debt is a lot more affordable. On the Water Utility side, there were only 6 projects and all six were fundable.

(B.) Stormwater

Indemnification Agreement with Community Missionary Baptist Church

On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the Board approved an License, General Release and Indemnification Agreement with Community Baptist Church of Elkhart, Indiana, LLC to discharge stormwater runoff into the City's storm sewer.

(C.) Right of way

Award Quote #22-10 Washington Street Sidewalk Project

On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the Board awarded Quote #22-10 Washington Street Sidewalk to Selge Construction Company, Inc. who was the lowest, responsive and responsible bidder with a contract price of \$41,515.00.

Award Bid #22-17 East Industrial Area Resurfacing Project

On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the Board awarded the East Industrial Area Resurfacing Project to Niblock Excavating who was the lowest, responsive, and responsible bidder with a contract price of \$797,981.40.

Change Order #1 & Final Doral Lane Stormwater Pipe Replacement Quote #22-07

On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the Board approved Change Order #1 for a decrease of \$14,015.50, bringing the contract price to \$25,546.50. Ryan Clussman, Right of Way Engineer asked the Board to not release retainage. At the time he wrote the change order, it was the final, but since then, they discovered a homeowner that connected their sump directly to the old style motor pipe, which we do not allow. When the work was done to change the sump pump pipe, the pipe disconnected by the house and when it settled, it backed into their house. We went back and reconnected that pipe. Everything is flowing now. There will be one more change order to reflect that work.

(D.) Summary

On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the Board ratified the following permits:

Water Assessment Application: MB Construction

2809 A Ferndale Dr

Elkhart, IN 46517

Property: 56865 Virginia Dr

Paid in full, \$731.40

Property: 30715 Cynthia Dr

Paid in full, \$690.00

Property: 1827 CR 6

Paid in full, \$2,958.00

BOARD OF PUBLIC WORKS  
Tuesday, July 19, 2022

Sewer Assessment Application: MS Investment Corp  
57157 Raider Dr  
Elkhart, IN 46516  
Property: 1827 CR 6  
Paid in full, \$11,095.00

Driveway Permit: #5044, Owner: Andrew Myers  
Property: 2009 Woodland Estates Dr  
Contractor: MB Construction  
\$600.00 bond by contractor

#5045, Owner: Francisco Sesmes  
Property: 210 W Wolf  
Contractor: Owner  
\$2,000.00 bond by owner

Release of Bond: #5040, Homeowner: Jorge De La Rosa  
Property: 2600 S 6<sup>th</sup> St

#5044, Owner: Andrew Myers  
Property: 2009 Woodland Estates Dr

#5045, Owner: Francisco Sesmes  
Property: 210 W Wolf Ave

Revocable Permits: #6521, Property Owner: Michael Markley  
Property: 1516 E Jackson Blvd  
Permit Holder: Four Wind Heating & Air  
Blocking one lane of traffic to install HVAC unit

#6522, Property Owner, EOZ Business  
Property: 240 E Jackson Blvd  
Permit Holder: EOZ Business  
Closing street for half hour for a ribbon cutting

#6523, Property Owner: City of Elkhart  
Property: East Jackson from 2<sup>nd</sup> St to Goshen Ave  
Permit Holder: Mastec  
Temporarily blocking turning lanes to install fiber

#6524, Property Owner: City of Elkhart ROW  
Property: W Indiana Ave, ROW  
Permit Holder: Frontier Communications  
Temporary closure of lanes

BOARD OF PUBLIC WORKS  
Tuesday, July 19, 2022

#6525, Property Owner: Katherine Scukanec  
Property: 165 Simpson Ave  
Permit Holder: Katherine Scukanec  
Temporarily place container on street in front of house

7. New Business

Small Business Continuity Program Awards

On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the Board awarded American Rescue Plan Act dollars to the following small businesses: Hair Nation Salon and Spa \$5,390.00, Ana's Beauty Salon \$1,500.00, S&S Hair Salon \$1,300.00, and Eleven21 \$1,200.00.

Economic Development Partnership Grant Award: United States Auto Club

On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the Board awarded the United States Auto Club an Economic Development Partnership Grant in the amount of \$50,000.00.

8. Use & Event Permits

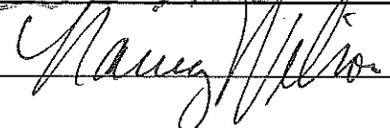
On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the Board approved the following Use & Event Permits:

- Leroy Robinson Southern Soul & Jazz on the Green 8/27- Central Green Park & Civic Plaza, Special Exception from Noise, Public Assembly, Electric, Water, Plaza Sign
- DAV #19 Annual Corn & Sausage Roast 8/6- Special Exception from Noise
- DAV #19 Annual Picnic 8/20 - Special Exception from Noise
- DAV #19 Building Fundraiser 7/30- Special Exception from Noise
- McKnight Graduation 7/30- Special Exception from Noise, Temporary Street Closure
- Wellfield Taste of the Gardens 8/28- ESS
- Martin Wedding 10/1- Special Exception from Noise
- Rally for Women's/ Human Rights 8/3- Civic Plaza, Public Assembly, Special Exception from Noise, Electric
- Hispanic Heritage Festival Celebrating Elkhart's Sister City 10/1- Central Green Park & Civic Plaza, Special Exception from Noise, Public Assembly, Electric, Water, Plaza Sign
- 8/2- Night Out Against Crime- Central Green Park & Civic Plaza, Special Exception from Noise, Public Assembly, Electric, ESS, EPD, EFD, Parks, Street Closure
- Elkhart Public Library Curbside Concerts 9/9, 9/16/ 9/23, 9/30, 10/7, 10/14- Special Exception from Noise, Plaza Sign

9. Adjournment

On motion by Chad Crabtree, seconded by Jamie Arce and carried 4-0, the Board of Works adjourned at 10:01 a.m.

 Mike Machlan, President

Attest:  Nancy Wilson, Clerk of the Board

# City of Elkhart Parks & Recreation Park Board Minutes



**DATE:** June 21, 2022

**TIME:** 3:30 PM

**LOCATION:** City of Elkhart Parks & Recreation  
Council Chambers,  
229 S. 2<sup>nd</sup> Street, Elkhart, IN 46516

**Call to Order at 3:34 PM.**

**1. Roll Call- Quorum Present  
BOARD MEMBERS PRESENT**

Sarah Santerre President	Nekeisha Alayna Alexis Vice President	Kim Henke Secretary	Mark Datema Treasurer
		<b>Absent</b>	

**2. Approval of Agenda**

Motion to Approve Agenda  
Motion: MD  
Second: NAA  
Motion passes with a unanimous voice vote

**3. Approval of Minutes**

May 17, 2022  
Motion: MD  
Second: NAA  
Motion passes with a unanimous voice vote

May 31, 2022  
Motion: MD  
Second: NAA  
Motion passes with a unanimous voice vote

**4. Approval of Financials**

**Claims: \$136,590.17**                      **Donations: \$0**  
**Grants: \$0**

Motion to discuss, approve and place on file  
Motion: MD  
Second: NAA  
Motion passes with a unanimous voice vote

Mr. Datema inquires about the purchase of a refrigerator and grill for \$5,000. Ms. Wingard states that a purchase order was required and quotes were received for the items.  
Ms. Alexis inquires about the purchase of bleachers for \$52,000. Ms. Wingard states that the purchase was approved as part of the budget hearing for the current year's budget. The bleachers at Riverview Softball Complex were replaced.

# City of Elkhart Parks & Recreation

## Park Board Minutes



### 5. New Business

#### a. **Permission to Launch Rockets in Parks**

Mr. Czarnecki informs the Board that a City Employee, Dan Bayes, builds model rockets and would like to launch rockets in the parks.

Ms. Santerre asked if this would be a one-time thing or ongoing. Mr. Czarnecki states that it would be a one-time thing and he would be provided with written permission.

Ms. Alexis states that she'd like to see a permit for this. Mr. Datema asks if the current permit could have an addendum. Mr. Czarnecki states that he will look into it and see what other park agencies do.

Motion to table the matter until the July 19, 2022 meeting.

Motion: MD

Second: NAA

Motion passes with a unanimous voice vote

#### b. **Transfer of Properties to Redevelopment Commission**

Ms. Rivera informs the Board that she was asked to prepare deeds for properties currently owned by the Parks Department to transfer to the Redevelopment Commission for development. Once the Board signs off, the properties will be accepted by the Redevelopment Commission.

Mr. Czarnecki states that the lots are not in parks. They could be used to build housing.

Mr. Datema states that there doesn't appear to be a financial benefit for the Department for doing this. He has concerns about this.

Ms. Alexis states that she feels caught off guard being handed deeds for properties she doesn't know anything about.

Motion to table the matter until the July 19, 2022 meeting

Motion: NAA

Second: MD

Motion passes with unanimous voice vote

#### c. **Summer Chill Entertainment Contract**

Mrs. Kobie explains that the Board previously approved all contracts for the Summer Chill entertainment. However, one of the acts had to cancel and this contract is for the replacement band. The contract is the same as the previously approved contracts.

Motion to approve

Motion: MD

Second: NAA

Motion passes with a unanimous voice vote

### 6. Old Business - NONE

### 7. Use and Event Permit Requests

#### a. **Indiana State Police K-9 Demonstration – June 25, 2022 – Dr. Frank Booth Bark Park**

Mr. Barney Ash, the spokesperson for The Woof Group, presents the permit. An Indiana State Trooper and his K-9 will put on a demonstration for the park members. No assistance is required from the department.

Motion to Approve

Motion: MD

Second: NAA

Motion passes with a unanimous voice vote

#### b. **Summer Reading End Party – July 21, 2022 – NIBCO Water & Ice Park & Kardzhali Park**

No one is present to present the permit. Mrs. Kobie informs the Board that the Library held this event last year in the same location.

Motion to Approve

# City of Elkhart Parks & Recreation

## Park Board Minutes



Motion: NAA

Second: MD

Motion passes with a unanimous voice vote

c. **The Elkhart Thor River Walk Grand Prix – August 5 & 6, 2022 – NIBCO Water & Ice Park & Kardzhali Park**

No one is present to present the permit. Mrs. Kobie informs the Board that the organizers want to use Kardzhali Park for the cornhole tournament and NIBCO Water and Ice Park for the Kids Zone. This is the same as in previous years.

Motion to Approve

Motion: MD

Second: NAA

Motion passes with a unanimous voice vote

d. **Ullery Park Picnic – July 13, 2022 – Ullery Park**

Ms. Gendi presents the permit. River Oak Church wants to do neighborhood picnics with free food and games.

Motion to Approve

Motion: NAA

Second: MD

Motion passes with a unanimous voice vote

e. **Weston Park Neighborhood Picnic – July 14, 2022 – Weston Park**

Ms. Gendi presents the permit. River Oak Church will also do a picnic at Weston Park

Motion to Approve

Motion: NAA

Second: MD

Motion passes with a unanimous voice vote

### 8. Department Report

Mr. Czarnecki informs the Board that the Department is very busy with programs in full swing. Day Camp is happening now. The Department is seeing huge numbers at events and programs are growing. Rhapsody Arts & Music Festival had 27,000 people attend. Pickleball courts should be done at the end of the month. Town Green Social starts June 22. The first Summer Chill was held last Friday. Fireworks for the 4<sup>th</sup> of July are coming up. Haiam has been developing the volunteering program.

### 9. Approval for Correspondence - None

### 10. Public Input/Privilege of the Floor

Ms. Santerre opens privilege of the floor.

Ms. Mary Hunt informs the Board that she had a great time volunteering at Rhapsody. She wants to keep volunteering for the City.

Ms. Santerre closes the privilege of the floor.

### 11. Approval for Adjournment

Motion to adjourn

Motion: MD

Second: NAA

Motion passes with a unanimous voice vote

Adjourn 4:37 pm

# City of Elkhart Parks & Recreation Park Board Minutes



**PARKS & RECREATION STAFF MEMBERS IN ATTENDANCE**

Jamison Czarnecki, Superintendent Brandon Aguilar, Recreation & Program Coordinator Cara Montana, Office Manager	Leslie Wingard, Accounting Specialist Jennifer Kobie, Recording Secretary Haiam Gendi, Event Assistant
--	--

**ADDITIONAL CITY EMPLOYEES AND GUESTS IN ATTENDANCE**

Mr. David Hopkins, IT Department Ms. Corinne Straight, Director of Communications, via Webex	Ms. Rose Rivera, Legal Department Mr. Barney Ash	Ms. Mary Hunt
---	---	---------------

**Minutes Certification:**

Respectfully Submitted,

Recording Secretary	Jennifer Kobie
Park Board President	Sarah Santerre
Park Board Secretary	Kim Henke

7/19/22	Date
7/19/22	Date
7/19/22	Date

# City of Elkhart Parks & Recreation Park Board Minutes



**DATE:** Thursday, July 7, 2022

**TIME:** 3:30 PM

**LOCATION:** City of Elkhart Parks & Recreation  
229 S. Second St.  
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 <b>Absent</b>	Kim Henke Secretary	Mark Datema Treasurer

**2. Approval of Agenda**  
**Motion to discuss and place on file:** KH  
**Second:** MD  
**Motion Passes with unanimous voice vote**

**3. Approval of Claims**  
**Motion to discuss, approve, and place on file:** MD  
**Second:** KH  
**Claims:** \$46,696.75  
 Mr. Datema inquires about the \$6,000 charge for Rhapsody. Ms. Wingard states that it is to provide electricity for the vendors. It's a fee the Department pays every year.  
 Mrs. Henke inquires if the budget is on track. Ms. Wingard states that the Budget is on track for the year.  
**Motion Passes with unanimous voice vote**

**4. Public Input/Privilege of the Floor**  
 Ms. Santerre opens the privilege of the floor.  
  
 Ms. Santerre closes the privilege of the floor.

**5. Approval for Adjournment**  
**Motion:** MD  
**Second:** KH  
**Motion Passes with unanimous voice vote**  
**Adjourned:** 3:50 pm

**PARKS & RECREATION STAFF MEMBERS IN ATTENDANCE**

Jamison Czarnecki, Superintendent Cara Montana, Office Manager	Leslie Wingard, Accounting Specialist
---	---------------------------------------

**ADDITIONAL CITY EMPLOYEES AND GUESTS IN ATTENDANCE**

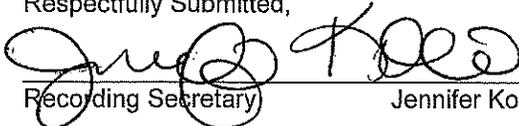
--	--

# City of Elkhart Parks & Recreation Park Board Minutes

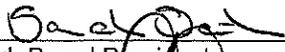


## Minutes Certification:

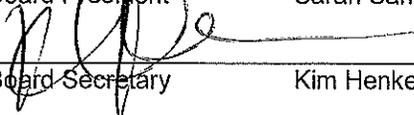
Respectfully Submitted,

  
Recording Secretary      Jennifer Kobie

7/19/22  
Date

  
Park Board President      Sarah Santerre

7/19/22  
Date

  
Park Board Secretary      Kim Henke

7/19/22  
Date

**BOARD OF ZONING APPEALS**

**-MINUTES-**

**Thursday, May 12, 2022 - Commenced at 6:00 P.M. & adjourned at 7:20 P.M.  
City Council Chambers – Municipal Building**

**MEMBERS PRESENT**

Doug Mulvaney  
Ron Davis  
Johnny Thomas  
Andy Jones

**MEMBERS ABSENT**

None

**REPRESENTING THE PLANNING DEPARTMENT**

Ryan Smith, Planner

**LEGAL DEPARTMENT**

None

**TECHNOLOGY STAFF**

David Hopkins

**RECORDING SECRETARY**

Jennifer Drlich

**APPROVAL OF AMENDED AGENDA**

Jones makes motion to add item 22-SI-01 and approve; Second by Davis. Voice vote carries.

**APPROVAL OF MINUTES FOR AUGUST 12**

Davis makes motion to approve; Second by Jones. Voice vote carries.

**APPROVAL OF PROOFS OF PUBLICATION**

Jones makes motion to approve; Second by Davis. Voice vote carries.

**OPENING STATEMENT**

Welcome to the May 12, 2022 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.

## OLD BUSINESS

### 22-X-05 PETITIONER IS MARIA TORRES & FRANCISCO SESMAS PROPERTY IS LOCATED AT 210 W WOLF AVENUE

A Special Exception per Section 5.3, Special Exception Uses in the R-2, One-Family Dwelling District, to allow for a daycare center.

Mulvaney calls petitioner forward.

Gary Frank appears in person for the petitioners. He states the petition is for a daycare center licensed up to 16 children ages 2-12. Hours of operation begins with drop-off around 6:00 or 7:00 AM to pick-up between 3:30-4:00 PM. There should be 6-7 parents with 2-3 kids each. Healthy meals will be provided with the sponsoring of the childcare food program. The CDC and local health department guidelines will be followed. The Fire Department has reviewed and approved the property. The rear yard is fenced in for the kids to play. Parking and drop-off will be in the back of the property, using a rarely used alley. The area will be paved and the owners would like to do that within 6-8 weeks. He states that, as the architect, he also approved the building for 16 children and the property will meet daycare guidelines. The property will be well maintained and remain residential in appearance, but no one will be living there. Roosevelt Elementary School is across the street, which parents with younger children will appreciate in close proximity. There is potential for increase in land value of the neighborhood and the school district. The owners request, as one of the conditions from the Zoning Department, that they would be allowed a small sign to be placed after being passed through the department for approval. Residential neighbors to the east and north will act as a buffer between the residential, school, and church.

Mulvaney asks if the building has been certified for enough square footage of the property.

Frank states that he has certified it, as well as the daycare group.

Mulvaney states that one condition prohibits exterior display signs and other forms of advertising on the premises. He asks what type of sign is proposed.

Frank states a small, non-permanent sign which will be presented to staff for approval.

Jones asks if there are any other signs nearby, including the church.

Frank states the church is directly west.

Jones asks if it is contiguous with the property.

Frank says it is adjacent but not attached, and has a sign.

Jones asks if there are any other signs for businesses in the area that may have been given zoning.

Frank states that he is not aware of any signs.

Jones asks for more specifics on the type of signage; type, location, lighting.

Frank states they are not looking for a lighted sign, just a daycare center identifier. He believes that the sign is supposed to be in the middle of the property.

Smith states that if a sign is under 4 square feet or posted on a door it is not considered a regulated sign. He asks the petitioner if they are considering a temporary sign for when first established.

Frank states they would like something permanent but not with a footing or foundation.

Smith states that signs for daycares in residential areas are generally prohibited. There might be a small wall sign they could work with petitioner on, but staff's recommendation would be to not allow a permanent free-standing sign.

Jones asks if the petitioner is familiar with the other 13 conditions, including no sign, and if they are only asking for that change.

Maria Torres appears in person. She states that she is familiar with the conditions. She wants the sign to identify themselves, not for promotion. She wants people around them to know who they are and why they are there. She wants their logo of two small crayons and a small square on a sturdy sign to identify them to the community.

Jones asks if they have more than 16 children who are on a waiting list.

Torres states that they have a lot of children on a waiting list, so it is not about advertising.

Francisco Sesmas appears in person. He presents a graphic of the intended design of the sign. He feels that 4 square feet would be enough for a sign, but they would like it to be permanent.

Jones asks if he would like something similar to a political yard sign.

Sesmas states yes, but permanent.

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 petitioners recently closed on a property at 210 W. Wolf Ave. that they intend to use as a Class II Daycare; the Indiana State Family and Social Services Administration (FSSA) allows for up to 16 children under a Class II license. The house was built in 1950 and comprises 672 square feet on a .16-acre parcel with an ample backyard. The property is adjacent to Agape Church and across the street from Roosevelt Elementary School.

Initially, staff had some concerns regarding the size of the building, and how staff parking, pickup and drop-off would work. The state requires 560 square feet of usable area for a Class II home. Staff inspected the house on 2/17/22. The house has a very small kitchen, bathroom, and utility area. The petitioners claim they measured the house and will meet the requirement; this will need to be certified by a professional, which the state also requires. Staff believes they may meet the requirement, but that should be confirmed by an architect or engineer.

Past owners have had an informal agreement with the church allowing them to use the edge of its parking lot as a driveway/parking area. The petitioners state they have verbal approval from the church to do so for both employee parking and drop off/pick-up. Additionally, there is considerable congestion on Wolf Avenue for drop off and pickup at Roosevelt, and parents of children at the school often use the church parking lot. Staff is concerned about conflict between the two uses and the utilization of the lot for parking.

The drop-off/pick-up arrangement is acceptable if they receive written approval from the church to use it for that purpose; the Board may contemplate requiring a formal agreement as well. Staff believes employee parking should be handled on-site and kept outside of the church parking lot. The daycare standards for parking are 1 space per employee plus 1 space per 6 students. The lot is 45 feet wide; a parking pad for up to four vehicles could be provided given the width of the lot. Additionally, the petitioners should structure their hours so that drop off and pick up do not conflict with peak times for Roosevelt Elementary.

### **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 if the conditions are followed;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because it will be a small operation and no significant changes to the property are planned;
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 special exception, staff recommends that the following conditions be placed upon the approval:

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.
5. A copy of the child care home 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 sixteen (16) children, including those of the petitioner.
9. Written approval shall be obtained from the adjacent church to allow them to use the church's parking lot for drop-off and pick-up.
10. The Special Exception is for two (2) years and shall be reviewed as a staff item by the Board of Zoning Appeals by March 14, 2024.
11. Drop-off and pick-up times for the daycare shall be outside of peak times for Roosevelt Elementary traffic.
12. Petitioners shall provide four (4) paved parking spaces adjacent to the rear alley.
13. The usable child care space must meet the state minimum based on the class of license obtained, to be verified by a qualified professional.

Smith states there were 24 letters mailed. None returned.

Mulvaney asks if there are questions from the Board for staff.

Smith states that the church has given verbal approval but not written confirmation.

Jones states that, based on the fact there was no objection from the church, it's probably ok, but he is concerned about the sign. He understands that this case is to be reviewed in two years and asks if a temporary sign for 6 months could be regulated.

Smith states yes.

Jones confers with the Board regarding a time limit on a sign.

Mulvaney asks Smith if he would be comfortable conferring with the petitioner about the sign and duration or if he would prefer that the Board set up the requirements.

Smith states that staff's recommendation is to allow an up to 4 foot square building or window sign; If the Board wants to allow a six-month sign with a limited square footage, it is something that could be administered.

Davis clarifies that the sign is wanted permanently.

Smith states that is his understanding. He says the sign is not allowed in any other daycare in a residential home, in a residential neighborhood. They are more restrictive in residential neighborhoods than commercial ones. He states that is an allowance in commercial districts for extra signage when businesses first establish. He does not believe it has been applied in this particular circumstance.

Jones notes that the windows aren't very large for putting a sign in them.

Smith states that many daycare homes will have a letter-sized sheet posted on the door.

Mulvaney calls for a motion.

Jones makes motion to approve with conditions and added condition that a free-standing sign shall be allowed for only the first six (6) months of operation; Second by Davis.

Davis – Yes

Thomas – Yes

Jones – Yes

Mulvaney – Yes

Motion carries.

## NEW BUSINESS

### 22-X-07 PETITIONER IS FELLOWSHIP OF HOPE MENNONITE CHURCH PROPERTY IS LOCATED AT VACANT LOT W GARFIELD AVENUE

A Special Exception as per Section 5.3, Special Exception Uses in the R-2 District, to allow for a Memorial Garden.

Mulvaney calls petitioner forward.

Andrew Hudson appears in person for the petitioner. He states he is a member of the church. They want a memorial garden in the lot adjacent to the church with access to the public and outside of the area. The lot has no house, requiring the variance. The fence will be only along the eastern and western sides (inaudible) open on the northeast.

Mulvaney asks for questions from the Board. Hearing and seeing none, he 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, a religious institution, own a vacant lot on the 500 block of West Garfield Ave., which is adjacent to their church building, across an alley, at 1618 S. Sixth Street. The property has been vacant for years, and the church wishes to develop it as a Memorial Garden.

The proposed design includes plantings and landscaping elements, including a north-south walkway that bisects the site, a trellis, and sections for garden plots. No off-street parking will be on the site itself, but the church has a parking lot and there is also public parking on the street. The church would be responsible for maintaining the Memorial Garden.

Staff does not anticipate that the use would cause a significant increase in traffic or entail other impacts that might be a nuisance to neighboring dwellings. The proposed use will be low-intensity and is appropriate for its residential context.

### 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;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because it will put the site into active use and be maintained by the church;
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.

Smith states there were 38 letters mailed. None returned. He notes that the petition comes from Plan Commission with a "Do-Pass" recommendation.

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 Thomas.

Davis – Yes  
Thomas – Yes  
Jones – Yes  
Mulvaney – Yes

Motion carries.

### 22-UV-06 PETITIONER IS ERIKA N LOPEZ LOPEZ PROPERTY IS LOCATED AT 900 W BEARDSLEY AVENUE

To vary from Section 19.2 permitted uses in the M-2, General Manufacturing District to allow an existing structure to be used as an ice cream shop. Ice cream shops are not a permitted use in the M-2 District.

Mulvaney calls petitioner forward.

Jim McCaslin appears in person for petitioner. He states that the building was formerly a Key bank. Zoning is M-2, General Manufacturing. The location is 100 feet on the street by 175 in depth. It is not practical as a manufacturing site. They are

requesting to use it as a retail site. The petitioner plans to manufacture the ice cream on site. They believe there would be adequate parking. People would eat-in with 4 tables inside and potentially 4 outside.

Mulvaney asks how soon they will plan on opening.

McCasin states they hope for this summer.

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 commercial property constructed in 1951 and comprising 3,500 square feet on a .41-acre parcel. The property was formerly used as a bank, and includes a drive-thru area and substantial parking lot. It has been vacant for a number of years; the petitioner wishes to reuse the property as an ice cream shop. It's located on a primary street on a mixed corridor that includes residential, industrial, and commercial uses.

The property has adequate parking for the proposed use. Even though it is zoned industrial, an ice cream shop would be a low-impact and appropriate use for the corridor that would make use of the commercial structure. The petitioner will have to obtain relevant approvals from the Elkhart County Health Department.

#### **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 the structure was built as a commercial auto-oriented business;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because it has previously been used as a commercial business open to the public;
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. The strict application of the terms of this Ordinance **will result** in practical difficulties in the use of the building as a commercial venture;
5. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the structure was built before their ownership.

Smith states there were 24 letters mailed. Two returned in favor with no comment; One not in favor with no comment.

Mulvaney asks if there are questions from the Board for staff.

Jones asks if the drive-thru window will be open.

McCasin states it will not.

Mulvaney calls for a motion.

Davis makes motion to approve; Second by Jones.

Davis – Yes

Thomas – Yes

Jones – Yes

Mulvaney – Yes

Motion carries.

#### **22-BZA-13 PETITIONER IS GREAT LAKES CAPITAL DEVELOPMENT LLC PROPERTY IS LOCATED AT VACANT LOT PRAIRIE STREET**

To vary from Section 12.5.B, which requires Drive-Thru facilities to have adequate driveway space on the premise for ten (10) waiting vehicles for a single lane, to allow for an Automated Teller Machine (ATM) with driveway space for eight (8) vehicles, a variance of space for two (2) vehicles.

Mulvaney calls petitioner forward.

Jeff Ballard appears in person for the petitioner. He states that they worked with engineering and planning to come up with the site plan. The site is maxed out with the number of staging cars in the lane. There are 9 cars shown, but they are asking for 8 to relieve a little bit of stress at the approaches. There is enough room for cars to enter the drive-thru lane to pass safely out, if needed. He states that rarely do ATMs have that many cars backed up as they generally move quickly.

Mulvaney asks for questions from the Board. He 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 narrow lot bordered on the east with Prairie Street and to the west with a railroad right-of-way, and wish to develop it as a drive-up ATM. The use is permitted in the Central Business District. The proposed configuration shows a U-shaped drive with room for eight cars in a queue, and wide enough for a vehicle to pass the queue on the right side. The Zoning Ordinance requires room for ten cars.

**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 there will be adequate room for stacking and passing;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner as the proposed use is permitted within the Central Business District;
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 because the lot is relatively small and narrow;
5. The strict application of the terms of this Ordinance **will result** in practical difficulties in the use of the property because there are limited viable uses for a property of its location and configuration;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the property configuration has not changed since the petitioners purchased it;
7. This property does not lie within a designated flood hazard area.

Smith states there were 9 letters mailed. None returned.

Mulvaney asks if there are questions from the Board for staff. Hearing none, he calls for a motion.

Jones makes motion to approve; Second by Davis.

Davis – Yes  
Thomas – Yes  
Jones – Yes  
Mulvaney – Yes

Motion carries.

**22-UV-07 PETITIONER IS SJR POWERSPORTS LLC  
PROPERTY IS LOCATED AT 721 GRAYWOOD AVENUE**

To vary from Section 18.2, Permitted Uses in the M-1, Limited Manufacturing District, to allow for retail sales of powersports machines, which is not a permitted use in the M-1 District.

Mulvaney calls petitioner forward.

Jason Lewis appears in person for the petitioner. He states the site is used for repair and maintenance of power sports vehicles such as motorcycles and ATVs. Current zoning is limited manufacturing, and they would like to do a number of retail sales. Ninety percent of the process would happen online, sales would be by appointment only. There will be no outward change to the business as far as signage, showroom, or display, and a negligible difference in traffic to and from the property. He states that maintenance facilities often accrue items that are abandoned or that work cannot be paid for by the customer. They want to be able to offer a professional sale including titling and a temporary tag. He states that they have begun the process for state licensing and it has

required them to get the zoning affidavit. If not approved, they would have to find a different course with the product and may have to put product outside or find a place to store it as it accumulates. They have stated should be one to two sales a month, but it will most likely be far fewer. If the situation grows to require more than that, they would not want stay on the dead end road and would seek to move.

Mulvaney asks for questions from the Board. Hearing and seeing none, he 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 .85 acres with about 6,000 sf of buildings. They have been using the facility for repair and maintenance of Powersports machines such as motorcycles, ATVs, and snowmobiles, which is a permitted use in the district. They would like to sell a small volume of units and have stated that they will not be acquiring any specifically for sale; rather they will be reselling products that are either abandoned or turned over for lack of payment. They anticipate the volume to be approximately one or two per month. Sales would typically begin online, with the buyer picking up the product at the Graywood facility.

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. Selling a small volume of product left by customers 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 Graywood environment.

#### **STAFF RECOMMENDATION**

The Staff recommends approval of the use 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 vehicle repair 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. There shall be no signage in excess of what's allowed in the district by ordinance.

Smith states there were 12 letters mailed. Three returned in favor with no comment. One returned not in favor with comments: Too much excessive loudness from revving of motors and test-driving up and down street.

Mulvaney asks if the wall sign shown in the picture is appropriate for the district at this point.

Smith states that it does.

Mulvaney calls for a motion.

Davis makes motion to approve with conditions; Second by Jones.

Davis – Yes

Thomas – Yes  
Jones – Yes  
Mulvaney – Yes

Motion carries.

**22-UV-08 PETITIONER IS BRENDA G GONZALEZ GUTIERREZ  
PROPERTY IS LOCATED AT 1800 W FRANKLIN STREET**

To vary from Section 18.2, Permitted Uses in the M-1, Limited Manufacturing District, to allow for a single-family dwelling. Single-family dwellings are not a permitted use in the M-1 District.

Mulvaney calls petitioner forward.

Brenda Gonzalez appears in person. She states her original intent was to run a small tax preparation business. She has been doing taxes from her home for about 6 years and when she purchased the property she thought it would work; after putting her savings into the repair and enhancement of the property, the cost of a mortgage and maintaining her primary home does not work. The property does not have a basement, is one level, under 900 square feet, and has two bedrooms, 1 bath, kitchen, and living area. There is no garage. She purchased in September and started remodeling. It had been vacant for years and the properties surrounding it are mainly single-family residential homes. Across the street is a retail resale shop and a vacant lot with a sign.

Mulvaney asks for questions from the Board.

Jones states that the renovations are beautiful.

Mulvaney notes the staff's parking, paving, and permitting requirements, and asks if there are any issues with those conditions.

Jones asks what the timetable is for paving.

Smith states that the priority is getting code violations in the house corrected and he can be flexible on the paving. Staff understands that budgeting can be an issue and would like flexibility to work with the petitioner.

Jones asks if the parking is gravel now and what the other residences have.

Smith states there is probably a mix as is common for older areas of the city, but as the properties improve and change over, they are brought up to current code.

Jones asks if one year is enough.

Gonzalez states that it is.

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 formerly-commercial building built in 1920 and comprising 840 square feet on a .13-acre site at the northwest corner of Franklin and Avalon Streets. The property was recently converted to a single family residence, mostly without the benefit of permits. Work had been done on the roof, electrical system, HVAC and plumbing. Staff inspected the property on April 19. A number of deficiencies were found; the owner was provided a list of issues and the steps needed to be taken to remediate them.

While the property is located in a primarily residential side of Franklin Street, it is zoned industrial and the overall character of the corridor is mixed, with residential along with commercial and industrial land uses. Staff does not have an issue with the use of the property as a residence. However, steps should be taken to bring the property up to code, including the aforementioned building deficiencies. Additionally, paved parking should be provided, a sidewalk should be constructed on Avalon Street, and the gravel parking should be phased out in order to bring the property up to current residential standards.

**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 the structure is in a neighborhood with single family residences as a primary land use;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the exterior appearance of the structure will not change;
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. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the building because it has already been converted to a residence;
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. Unpaved parking shall be removed.
2. Paved parking according to city standards shall be provided. Petitioner shall work with staff on permitting and configuration.
3. The conversion to single family residential shall be permitted and approved by the City's Building Department.

Smith states there were 24 letters mailed. None returned in favor; two returned not in favor with one comment: We feel that if we start allowing people to live in the area of these businesses that it opens a Pandora's Box for complaints from home owners about business operations. We have a lot of trucks that pick-up and drop off material. How long until we get noise complaints or traffic complaints. I'm in favor of residential growth to help the town, but it isn't where established businesses are.

Mulvaney asks if there are questions from the Board for staff.

Jones asks if there is on-street parking.

Smith states there is not.

Jones asks if the garage was converted into living space and where the driveway would be.

Smith states the driveway would lead up to the former garage space.

Jones comments that that is not a huge space, but he knows there is also concrete work to do, in addition to the house work. With the current expense of concrete he would like to give her 24 months instead of 12. He confers with the Board.

Davis asks if Gonzalez is prepared to do all the concrete work now.

Gonzalez states that she is not prepared to do it in the next few months or the end of the year, but can before next fall. An extension would be great just in case, but she is hopeful that before fall of next year it will be done.

Smith requests to keep the condition to a year with the understanding that, if the petitioner runs in to difficulties, it can be discussed at that time to allow flexibility.

Jones inquires to the board about how to make a motion for that instance.

Mulvaney states they can modify the condition for up to 12 months and if there is an issue staff can bring it in as a staff item.

Jones makes motion to approve with conditions adding up to 12 months for paving with the option for an extension if requested from the Board; Second by Thomas.

Davis – Yes

Thomas – Yes

Jones – Yes

Mulvaney – Yes

Motion carries.

**22-UV-09 PETITIONER IS JERRY A LANE  
PROPERTY IS LOCATED AT 1317 JOHNSON STREET**

To vary from Section 11.2, Permitted Uses in the B-1, Neighborhood Business District, to allow for a single-family dwelling. Single-family dwellings are not a permitted use in the B-1 District.

Mulvaney calls petitioner forward.

Jerry Lane appears in person. He states a car hit his house and cause considerable damage. He has lived in the house since 1963 and is now living in a hotel until it is repaired. He would like to move back in when it is finished.

Mulvaney asks for questions from the Board.

Thomas asks if he will have any financial problems repairing the home.

Lane states it is totally covered by insurance. They have all the permits and are ready to build. There was a structural engineer to ensure the foundation was set correctly and approved.

Mulvaney opens for public comments to speak in favor.

Cindy Darling appears via Webex. She states that she lives about a block away from the petitioner and is in favor.

Mulvaney notes that there are a number of thumbs up on the Facebook feed and William Steele has also commented in favor. He opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

**STAFF ANALYSIS**

The petitioner owns a single family residence built in 1910 and comprising 1,000 square feet on a .19-acre lot. The house was recently struck by a car and is in need of repairs, which are greater than 50% of the total construction cost of the building, exclusive of foundation. Due to the extent of damage, the legal nonconforming status is lost, and the owner needs a variance in order to repair the residence.

While the property is located in a commercial district, the land uses surrounding it are primarily residential.

**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 the structure was built as a single family home;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the exterior appearance of the structure will not change;
3. Granting the variance **would** be consistent with the intent and purpose of this Ordinance because it allows for a measure of relief in allowing the original use of the building;
4. The strict application of the terms of this Ordinance **will result** in practical difficulties in the use of the building as it was constructed to be a residential home and there is a City need for housing;
5. The special conditions and circumstances **do not result** from an action or inaction by the applicant as the structure was built before the petitioner's ownership;

Smith states there were 32 letters mailed. One returned in favor with no comment. One phone call was in favor. One phone call was not in favor with concerns regarding lowered home value.

Drlich clarifies that she does not believe the person not in favor understood that the land was already B-1 and was not being changed to B-1, which was why they were opposed.

Mulvaney asks if there are questions from the Board for staff. Hearing and seeing none, he calls for a motion.

Davis makes motion to approve; Second by Thomas.

Davis – Yes  
Thomas – Yes  
Jones – Yes

Mulvaney – Yes

Motion carries.

**22-BZA-14 PETITIONER IS R B REALTY LLC  
PROPERTY IS LOCATED AT 3112 LEXINGTON PARK DRIVE**

To vary from Section 26.7.C.7.f Parking Lot Design, which requires a continuous curb at least six (6) inches in height in commercial properties, to allow a parking lot expansion without a curb, at an existing commercial facility.

Smith states for the record that the petitioner has withdrawn the petition.

**STAFF ITEM**

**22-SI-01 - REVIEW OF 21-UV-14, 21-BZA-29**

Staff requests guidance from the BZA on progress at the vacant lots at Folsom and Belmont.

**STAFF ANALYSIS**

In July of last year, 21-UV-14 and 21-BZA-29 were approved by the BZA to allow a tree cutting service at Vacant Lots near Folsom and Belmont. The following conditions were placed upon the approvals:

- Instead of gravel, the lot must be paved enough for the current vehicles to be properly parked.
- The petitioner will have the four parcels surveyed with the corners marked within 3 months of approval, and provide a copy of the survey to city staff
- No more vehicles than what are currently stored on the property may be stored on the property.

Little progress has been made since last July. Last fall the petitioners informed us that a survey had been done – however, it was not a full survey, they had simply asked a surveyor to mark the corners on their property, and by the time staff made it out to the property one of them had been removed. It did appear that they had been encroaching on the city lots to the northwest.

Staff, including the Planning and Engineering Departments and the Environmental Center met with the petitioners on the site in Fall of 2021. We went over exactly what was expected of them, including mapping the edge of the wetland, having a complete grading plan to ensure no runoff is being directed off-site, and a paving plan to be approved through the city’s Technical Review process. The idea was that the petitioners would work with a consultant over the winter to prepare a plan, which could then be implemented in the spring.

Staff contacted the petitioners this spring to check on the progress of their plan; they had contacted an architect regarding a potential building on the site but had not discussed with anyone their plans for the site. Staff reiterated exactly what was expected of them and asked them to contact their surveyor. Recently they stated they had received a quote and wouldn’t be able to afford the survey work immediately, and asked for more time. Staff asked what a realistic time frame was and did not receive a response. The Environmental Center was asked for to list their concerns for the site, since the adjacent wetland is on their property. Director Jeff Zavatsky responded with the following:

“Here are our concerns:

1. This property borders a wetland. One of the most threatened and sensitive ecosystems in Indiana.
2. When we visited last fall, they were instructed to remove the illegal dumping in the back area (wetland). This has not happened.
3. When we inspected the 2 city lots in between Mr. Martin. There was a lot of trash and “junk” and landscape refuse present. Although some of the trash could have been blown in, the larger trash and especially the cut tree logs and leaf piles were not. (Those piles can still be seen in elevate.)
4. We are concerned with the continued illegal dumping of landscape material (leaves, branches logs) from a commercial landscaper. Especially, bringing in any dead or diseased trees from outside this area. They have the possibly to introduce any new diseases or insects from infected trees. Their 3 lots have been fenced in on 3 sides and not the back that adjoins the wetland, suggesting continued illegal dumping of landscape material.
5. The machinery that is used requires oil to run and lubricate. What guarantee do we have that this will not find it way to the ground and wetlands without a solid surface. A 5-gallon bucket of oil or ?? was observed next to a boom truck in the fenced in lot.
6. They were instructed to have water runoff sloped away from wetland. Not convinced this has happened.

7. Cars are still being parked on grass on lot next to Folsom St.”

This property has been a concern for approximately two and a half years. Part of the delays in progress have to do with COVID. However, staff has been very patient and generous in trying to give a small local business the opportunity to establish themselves, but the lack of progress and environmental concerns are troubling.

Staff requests some guidance from the BZA on how to approach the situation. Some possible approaches may include giving the petitioners additional time (a specific time frame would be appropriate), enacting enforcement measures such as fines, or seeking to revoke the variances and compel them to move the operation.

#### **STAFF RECOMMENDATION**

Staff requests guidance on how to approach the conditions listed in the variance for the vacant lots on Folsom and Belmont.

Smith notes that the photos received tonight were taken on Tuesday. Zavatsky went out from their property, looking up to the Guerra's property for the first time and estimated there are 1 ½ to 2 dump trucks worth of material and will probably require an excavator to clear everything out. Zavatsky has said most of it predates when they were spoken to in the fall, but some is fresh, indicating there is still some dumping. The property is open on the backside, suggesting they are intending to still use that for dumping.

Davis asks if the Board did specify that they were to blacktop or concrete.

Smith states yes, the understanding was they could have gravel leading to the parking spaces, but they were to pave underneath. Staff has required them to hire a surveyor or engineer to work the full site so that there is a full understanding of how the drainage is working and how it relates to the wetlands, which seems to be the sticking point now.

Mulvaney recalls that there was quite a bit of opposition to the neighborhood. He is concerned that if they cannot afford to do the full survey, they cannot afford to pave or remove the junk off the property. He believe hard, fast deadlines with 2 – 3 month requirements need to be met or the Board will revoke the variance.

Jones agrees. He would revoke it right away, but that would offer a chance to make changes. He agrees this is really bad and understands why the neighbors aren't happy.

Mulvaney says step one is to get the survey, but if they can't then the rest is pointless. He suggests 2 months to get the full survey, remove the illegal dumping, and remove the cars. If that is done, then there are 3 months to pave the lot.

Jones asks if the area floods.

Smith states he does not believe the floodwaters have gotten that high. The back of the property has a significant slope and down below that is the flood zone.

Jones asks if the tires and debris would not be something that floated down and collected.

Smith states it is doubtful, but not provable.

Mulvaney states from the picture that it looks to be tires, but it may be hollowed out logs.

Smith states he believes there are also some household appliances.

Mulvaney notes manmade items in the pictures.

Davis agrees that it looks like a mini landfill.

Smith clarifies for the staff that 2 months from today they must have the design work with a survey and clear out the dumping that's occurred on the property. If they fail to meet that deadline, the Board will move forward with a revocation. He asks if that's at each stage.

Mulvaney states that is the minimum; get the survey, remove the illegal dumping, and the cars.

Smith states that in July there will be an update or a request for revocation. He is meeting with the Legal Department on Monday to have something to the petitioner as soon as possible.

Mulvaney states that they wanted to give a new business a break but he does not know if they can financially make it.

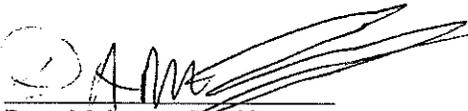
Smith suggests they should do as everyone else who rents a space until enough money can be saved or financed to build something of their own.

Mulvaney states tree businesses are very busy, so they should be doing well. He calls for a motion.

Jones makes a motion to approve the time limits and requirements set forth in the discussion; Second by Davis. All are in favor. Voice vote carries.

**ADJOURNMENT**

Mulvaney asks for a motion to adjourn meeting. Davis makes motion to adjourn; second by Jones. Voice vote carries.

  
\_\_\_\_\_  
Doug Mulvaney, President

  
\_\_\_\_\_  
Ron Davis, Vice-President

**Rod Roberson**  
Mayor

**Dustin McLain**  
Department Head



574.293.2175  
Fax: 574.970.0561

**Elkhart City Communications**  
135 East Franklin Street  
Elkhart, Indiana 46516

Date: August 4, 2022  
To: Mayor Rod Roberson  
Elkhart City Board of Public Safety  
Common Council  
From: Dustin McLain, Department Head  
Elkhart Communications Center  
Re: **July 2022 Month End Report**

We processed 11,004 incoming & outgoing emergency and non-emergency phone calls. This was an increase of 112 calls from July 2021. Below is a summary of the calls we handled in Communications.

CALL SOURCES	911 *This includes Landlines, Wireless, VoIP, TextTTY, and abandoned.* (as reported by ECats State reporting online)	Administrative (non-emergency)	TOTAL
	2,475	8,529	11,004
2021 TOTALS	2,412	8,480	10,892
2020 TOTALS	2,367	8,491	10,858

By shift, we entered 7,347 calls into the CAD, a decrease of 22 calls from July 2021. Below is a breakdown of the call volume by shift.

	POLICE CALLS	FIRE CALLS	OTHER	TOTALS
Day Shift	2002	340	312	2654
Afternoon Shift	2317	351	422	3090
Midnight Shift	1218	203	182	1603
<b>All Shifts</b>	<b>5537</b>	<b>894</b>	<b>916</b>	<b>7,347</b>
2021 TOTALS	5888	855	626	7,369
2020 TOTALS	5891	832	643	7,366

\*Other Calls refers to calls made to communications that either required a response by other departments, such as Parks Dept., Street Dept., etc. This also includes calls that are dispatched out as attempts to locate, repossessions and/or private impounds.

**OTHER BUSINESS**

- For the month of July 2022 we handled 58 AUDIO REQUESTS for the Prosecutor's Office and Police Dept. We provided 14 (FOIA) Public Records Requests to individuals.
-

*The Honorable*  
**Rod Roberson**  
*Mayor*

**Jamison Czarnecki**  
*Parks Superintendent*



**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: July 19, 2022

Re: Parks Department Report

---

### Superintendent's Update

- It is the height of Summer and our parks department staff are making a huge impact for the community! Record attendance at our Rhapsody event with strong numbers at many others. New programs have been implemented like the Kayak Club as well as our Parks Passport providing an opportunity for equitable participation in parks.
- Studebaker Pickleball Courts will be finished the week of July 18<sup>th</sup> (barring inclement weather) and a ribbon cutting date will be sent out for August.
- Cara Montana has moved on to another position and we are grateful for her more than 3 years of service at the department.
- Our facilities have seen strong numbers this summer with many guests providing positive feedback on their experiences.
  - Grateful to our summer workers for giving their time and energy to make a positive impact on the community.
- If you haven't been out to our parks, please check them out! Many new pieces of equipment, great programs and events, and wonderful opportunities with the family to recreate and relax.

### Events Report

- On Friday, June 17<sup>th</sup> we kicked off The Summer Chill Concert Series with Big Daddy Dupree's Broke And Hungry Blues Band. 300+ people enjoyed the event at NIBCO from 6-9 pm.
- The City of Elkhart's Independence Day Celebration took place at Central Green on Saturday, July 2<sup>nd</sup>. An estimated 10,000 people attended this fun event and The 1985 performed from 8-10 pm with the fireworks immediately following. We received lots of positive feedback on the event again.
- June 22<sup>nd</sup> and July 6<sup>th</sup> were the first Town Green Social events. On June 22<sup>nd</sup> the theme was "Roofsit" in partnership with Martin's Supermarkets. The July 6<sup>th</sup> theme was "Painting with the Art Depot". Both events brought approximately 150 participants. Town Green Social events are at the plaza next to Martins on Jackson.
  - Next Town Green Social events will be July 20<sup>th</sup>, August 3<sup>rd</sup>, August 17<sup>th</sup>, August 31<sup>st</sup> and September 14<sup>th</sup> from 5pm to 7pm with entertainment, beer, food, and activities! Check out themes online.
- The Elkhart Farmers Market is consistently growing with great quality vendors. Current participation numbers have also grown to be 400 per week. Check it out Saturdays 8am to 12pm through September at Kardzhali Park next to NIBCO Water and Ice Park.
- Summer in the Park Concert Series at McNaughton hosted more than 100 people in June. Next concert is Sunday, July 24<sup>th</sup> from 3pm to 6pm at McNaughton Band Shell featuring Mr. Motown and the Motown Machine Band!

*The Honorable*  
**Rod Roberson**  
*Mayor*

**Jamison Czarnecki**  
*Parks Superintendent*



**Parks & Recreation**  
1320 Benham Ave.  
Elkhart, IN 46516

574.295.7275  
Fax: 574.522-7808

### Volunteering Report

- We are seeking volunteers to assist with programs, outreach, events, and park clean ups! Please call the parks if interested.

### Programming and Recreation Report

- Camp Connection is wrapping up week 6 of 8. 260 kids enrolled out of the 290 slots available. There has been great success with our partners Elkhart Community Schools, ETHOS, and 5 Star Life!
- Adventure Camp with ULEAD looks to start up Aug. 1-4, 8:30 AM - 12:30 PM. Kids from grades 7<sup>th</sup> - 10<sup>th</sup> can join for \$65 while spots are limited to 20. Registration is still open.
- Intro to Jiu Jitsu with Kroyler Gracie Jiu Jitsu has begun for the session. They are in week 4 of 8, with 10 participants enrolled.
- Parks Passport Program with EnFocus is still going on. EnFocus will be visiting Camp Connection sites this week to get kids engaged in healthy living.
- L.I.F.T. with Donya on Monday & Tuesday nights at High Dive is still going strong with a consistent 15+ participants every class.
- Kayak Club began July 2<sup>nd</sup>. Group meets up every other Saturday morning 9 - 11 AM in an Elkhart waterway. 1<sup>st</sup> session was held on the Upper St. Joe and had a few join with more hoped to come in the future.
- Purdue Extension Nutrition Education Program is offering a "Lunch & Learn" series from 1pm to 2pm at High Dive pavilion this summer. Classes are free to attend for adults and families and the next ones will be July 21<sup>st</sup> and 28<sup>th</sup> as well as August 11<sup>th</sup>.
- Tennis programs have seen strong interest with attendance at 140 participants with pickleball lessons full for the upcoming sessions.
- Fall planning has begun and we anticipate an increase in participation from last year.

### Ranger Report

**June 1-30, 2022 – Lead Ranger Stan McCray**

#### **Citations**

- None written.

#### **Various Park Activities and number of people participating.**

- Basketball (64), Baseball/Softball (462), Biking (157), Birding (8), Dance/Music (18), Fishing (231), Football (8), Frisbee(6), Kayaking (25), Parking/Sitting (1,347), Picnic/Grilling (57), Playground (536), Skateboarding (65), Walking/jogging (1,057), Walking Dog (107), Scooter (21), Soccer (378), Swimming/Splash Pad (430), and Tennis (33). Grand Total of patrons 5,010.

#### **Ranger Lead Programs**

- June 4, 2021 - Bird Hike – American Park
- June 7, 2022 – Wilderness Survival Class Part 2 – Elkhart Environmental Center
- June 16, 2022 - Bird Hike – Beardsley Park

#### **Damage/Vandalism**

- June 16, 2022 – Willowdale Park, a Porta Potty was destroyed by fire and 'Joy's Johns' was contacted and replaced the unit with a new one.

*The Honorable*  
**Rod Roberson**  
*Mayor*

**Jamison Czarnecki**  
*Parks Superintendent*



**Parks & Recreation**  
1320 Benham Ave.  
Elkhart, IN 46516

574.295.7275  
Fax: 574.522-7808

- June 19, 2022 – While on patrol, Ranger Keen discovered a tree down across the pathway at River Greenway Park. Ranger Keen reported tree damage on MyElkhart311.
- June 21, 2022 – While on patrol, Ranger Keen was at Bi-Centennial Park and discovered at least 4 to 5 trashcans were thrown into the St. Joseph River. The incident was reported to MyElkhart311 and the issue was resolved.
- June 25, 2022 – Ranger Miller was contacted in regards to restroom toilets that were over-flowing at the Studebaker Park Pavilion. The Bldgs. & Grounds Dept. was able to resolve the issue.

#### **Other**

- June 14 & 15, 2022 – Rangers McCray, Coleman, Miller and Hines supported the Pierre Moran Park Pavilion 'cooling station' between the hours of 12:00pm to 7:00pm. No community members needed it, but it was available in case they did.
- June 17, 2022 – Ranger McCray assisted students and chaperones from Bashor Alternative School with park cleanup at High Park for two hours.
- June 24, 2022 – Ranger McCray responded to a complaint regarding a man with a large umbrella on the Sycamore St. Bridge to Island Park. The man was fishing and had a lawn chair, his bicycle as well as the 7' ft. diameter umbrella partially blocking passage across the bridge. The man was asked to move, and did so without incident.

## End of Report ##