

**Enrolled Minutes of the Sixty-Ninth Regular Meeting or Special Meeting
For the Twenty-Ninth Highland Town Council
Regular Plenary Business Meeting (Electronic/In person Hybrid)
Monday, June 27, 2022**

The Twenty-Ninth Town Council of the Town of Highland, Lake County, Indiana met in its regular plenary session on Monday, June 27, 2022 at 6:30 O'clock P.M. in the regular place, the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

*This meeting was convened as both an in person and an electronic meeting. Some persons were participating remotely on a Zoom platform that allowed for real time interaction, and supported the public's ability to observe and record the proceedings. People were able to participate in person and remotely. When the agenda item provided for public comment, this was supported as well. Councilor Zemen, Councilor Toya Smith, Councilor Tom Black, Councilor Roger Sheeman all participated in person and Councilor Schocke participated remotely.

Pursuant to HMC Section 2.05.130(A)(2), the Town Council considered and reviewed the agenda in an informal proceeding in the plenary meeting room before the president called the meeting to order.

The Town Council President Bernie Zemen presided. The Town Clerk-Treasurer, Mark Herak, was present to memorialize the proceedings. The meeting was opened with Councilor Roger Sheeman reciting the Pledge of Allegiance to the Flag of the United States of America and offering a prayer.

Roll Call: Present on roll call were Councilors Bernie Zemen, Toya Smith, Mark J. Schocke, Thomas Black, Roger Sheeman and Clerk-Treasurer, Mark Herak were present. A quorum was attained.

Additional Officials Present: John Reed, Attorney with Abrahamson, Reed & Bilse; Pete Hojnicki, Metropolitan Police Chief; William R. Timmer, Jr., CFOD, Fire Chief; Edward Dabrowski, Director of Information Technology; Kenneth J. Mika, Building Commissioner and Kathy DeGuilio-Fox, Redevelopment Director; Terry Krooswyk, Town Board of Metropolitan Police Commissioner were present. Alex Brown, CPRP, Superintendent of Parks and Recreation, Mark Knesek, Public Works Director were remote.

Guests: Theresa Badovich (remotely) and Robin Carlascio (remotely) of the Idea Factory were also present.

Minutes of the Previous Meetings: The minutes of the June 13, 2022 Plenary meeting were approved by general consent.

Special Orders:

1. **Administration of Oath of Office** for Police Officer Candidates **Kevin M. Guernsey** and **Devin J. Watkins** were appointed by the Town Board of Metropolitan Police

Commissioners at its meeting of June 26 2022, with the appointment to be effective June 13, 2022, but not earlier than approval by Indiana Public Retirement System (INPRS).

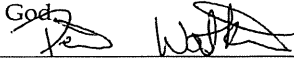
- (a) *Instruction and Administration of Oath.* The Town Clerk-Treasurer offered the outline, rationale and instruction related to the oath of office for the police officer candidates. The clerk-treasurer then administered the oath of office to the each of the officers.
- (b) *Presentation of Badges by Metropolitan Police Commission Chair and/or Town Council President or the Metropolitan Police Chief.* Metropolitan Police Chief Pete Honjnicky and the Town Board of Metropolitan Police Commissioner Dan Stombaugh presented police badges to Police Officer Guernsey and Police Officer Watkins.

The Town Council President and members of the Town Council welcomed the new officers, who then introduced members of his friends and family who were in attendance.

Councilor Sheeman moved that the Town Council of Highland hereby determines that the herein named candidate meets the qualifications for such position, as determined by the Town Board of Metropolitan Police Commissioners and as now approved by the Highland Town Council which is the Town Legislative Body on this 27th day of June, 2022. Councilor Black seconded the motion. Upon a roll call vote of the elected officials, there five (5) affirmatives and no negatives. The motion passed.

OATH OF OFFICE

I, Devin J. Watkins, do solemnly (swear or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Indiana, and that I will faithfully and impartially discharge my duties as Police Officer of the Town of Highland, Indiana, according to law, and to the best of my ability, so help me God



Devin J. Watkins

IN WITNESS WHEREOF as subscribed and sworn/affirmed before me, I hereunto set my hand and Corporate seal of the Town of Highland, Indiana this 27th day of June, 2022 I certify that I am the duly elected, qualified, acting and serving Clerk-Treasurer for the Town of Highland, and as such empowered pursuant to IC. 33-16-4-1; IC 36-5-6-5 to make acknowledgments.

Authority Expiration: The Director of the Lake County Combined Board Certified the Election of March 2, 2022 officially on March 3rd. I was qualified to office upon my oath administered December 27, 2019, to serve for a term of twenty-two months commencing at Noon March 3, 2022, concluding before Noon January 1, 2024, and until a successor is elected and qualified, pursuant to IC 36-5-6-2(b).



Mark Herak
Town of Highland Clerk-Treasurer

I.C. 36-8-9-4(a)(c) Highland Municipal Code Chapter 9.10; I.C. 5-4-1-1

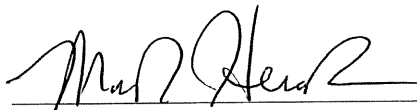
OATH OF OFFICE

I, Kevin M. Guernsey, do solemnly (swear or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Indiana, and that I will faithfully and impartially discharge my duties as Police Officer of the Town of Highland, Indiana, according to law, and to the best of my ability, so help me God.


Kevin M. Guernsey

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Mark Herak
Town of Highland Clerk-Treasurer

I.C. 36-8-9-4(a)(c)Highland Municipal Code Chapter 9.10; I.C. 5-4-1-1

2. **Consideration of Proposed Additional Appropriations: (noncontrolled funds) Proposed Additional Appropriations in Excess of the 2022 Budget in the Corporation Municipal Cumulative Street Fund in the amount of \$40,000.**
 - (a) Attorney verification of Proofs of Publication: The TIMES 15 June 2022. The Town Attorney stated that the proof of publication complied with the requirements of the law.
 - (b) **Public Hearing.** The Town Council President called the public hearing to order.
1. Larry Kondrat, Highland, asked how the process worked. He said historically if I want my sidewalk replaced I would probably pay by half the cost. The Clerk-Treasurer explained that the Town of Highland removes your sidewalk free of charge and homeowner pays to have it replaced. The homeowner can either hire their own contractor to replace the sidewalk or the Town will come out and measure the area being replaced and provide a cost via the contractor who was the successful bidder and handles the Town's concrete work. Either

way, the homeowner experiences a nice savings. Mr. Kondrat said it was a worthy that should be continued. There being no additional comments, the Town Council President then closed the public hearing.

- (c) Action on **Proposed Appropriation Enactment No. 2022-12: An Enactment Appropriating Additional Moneys in Excess of the Annual Budget for the Municipal Cumulative Street Fund**, all pursuant to I.C. 6-1.1-18, I.C. 36-5-3-5, et seq.

Councilor Black introduced and moved for the consideration of Appropriation Enactment No. 2022-12 at the same meeting of its introduction. Councilor Smith seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment could be considered at the same meeting of its introduction.

Councilor Black moved for the passage adoption of Enactment No. 2022-12 at the same meeting of its introduction. Councilor Sheeman seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment was passed and adopted upon the signature of the municipal executive at the same meeting of its introduction.

*** Proof of Publication ***

State of Indiana)
) ss:
Lake County)

Personally appeared before me, a notary public in and for said - county and state, the undersigned Nicole Muscari who, being duly sworn, says that She/he is Legal Clerk of the Northwest Indiana Times newspaper of general circulation printed and published in the English language in the Town of Munster in state and county afore-said, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 1 time(s), the date(s) of publication being as follows:
June 15, 2022

TOWN OF HIGHLAND, CLERK TREASURER - LEGALS
CHAD, ACCTS PAYABLE
3333 RIDGE ROAD
HIGHLAND IN 46322

ORDER NUMBER 97233

The undersigned further states that the Northwest Indiana Times newspaper maintains an Internet website, which is located at www.nwi.com website and that a copy of the above referenced printed matter was posted on such website on the date(s) of publication set forth above.

Nicole Muscari, Legal Clerk

By: Ann Stada Hoopp

Subscribed and sworn to before me this 15 day of June 2022

Dawn Renee Heili
Notary Public

My commission expires: 1/31/25



Section: Legals
Category: 198 Legal - Lake County
PUBLISHED ON: 06/15/2022

TOTAL AD COST: 26.01
FILED ON: 6/15/2022

TOWN OF HIGHLAND
NOTICE TO TAXPAYERS OF
PROPOSED ADDITIONAL
APPROPRIATIONS
Notice is hereby given the taxpayers of the Town of Highland, Lake County, Indiana, that the Town Council of said Municipality in said Municipal Building, 3333 Ridge Road, at 6:30 p.m. on the 27th day of June 2022, will consider the following additional appropriations in excess of the budget for the current year in the following funds:
Municipal Cumulative Street Fund Acct. 068-0000-44010 Sidewalk Replacement \$ 40,000.00
Total 400 Series: \$ 40,000.00
TOTAL for the FUND: \$ 40,000.00
Funds to support these additional appropriations in the Municipal Cumulative Street Fund shall be supported by miscellaneous revenue, unreserved unobligated fund balance on deposit to the credit of the fund.
Taxpayers appearing at such meeting shall have a right to be heard thereon. Taxpayers are asked to contact the Office of the Clerk-Treasurer at (219) 838-1090 to provide an email address to allow the Zoom platform information to be provided as the meeting is still being conducted as an Electronic/In Person Hybrid. You may also write to the Office of the Clerk-Treasurer if you have concerns. The additional appropriations, as finally made, will be filed with the Department of Local Government Finance, for its review. The Department of Local Government Finance shall make a written determination of the sufficiency of funds within fifteen days of receipt of a certified copy of the action taken.
TOWN COUNCIL OF HIGHLAND
Bernie Zeman, President
By: Mark Herak Clerk-Treasurer
6/15 - 97233 HSPAXLP

Town of Highland
Appropriation Enactment
Enactment No. 2022-12

AN ENACTMENT APPROPRIATING ADDITIONAL MONEYS IN EXCESS OF THE ANNUAL BUDGET for the MUNICIPAL CUMULATIVE STREET FUND, ALL PURSUANT TO I.C. 6-1.1-18, and I.C. 36-5-3-5.

WHEREAS, Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Municipal Cumulative Street Fund**;

WHEREAS, It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levies set under I.C. 6-1.1-17, all pursuant to I.C. 36-5-3-5;

NOW, THEREFORE BE IT ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Municipal Cumulative Street Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

MUNICIPAL CUMULATIVE STREET FUND	
Acct. No. 088-0000-44010 Sidewalk Replacement:	\$ 40,000.00
<i>Total Series:</i>	\$ 40,000.00
Fund Total:	\$ 40,000.00

Section 2. That the Clerk-Treasurer is hereby authorized and instructed to inform the Department of Local Government Finance of this action and that these monies be made available for expenditure pursuant to I.C. 6-1.1-18.

Section 3. That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 27th Day of June 2022. Consideration on the same day or at same meeting of introduction sustained a vote of 5 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 27th Day of June 2022, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Bernie Zemen, President (IC 36-5-2-10)

ATTEST:

Mark Herak
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

Comments from the Public or Visitors:

Larry Kondrat, Highland, began by talking about the Cardinal Campus. Are we gonna do something to allow these people to complete Phase II. We're talking about tax increment financing. The week before last, the planning Commission just for no reason whatsoever, without questioning it, extended the tax increment financing for the assisted living facility. Now these fine people here have already invested gobs and gobs and gobs of money into the project and now we're at a quandary. You know, do we let them continue since they are two years behind schedule. Mr. Schocke asked for proof that the delay was covid related and they tried to work through it. Mr. Kondrat asked Mr. Schocke if he had received what you requested.

Councilor Schocke responded that he had received paperwork, not from the developer but from bond counsel. I received 142 pages and I reviewed each and every page.

Larry Kondrat said he also read the information provided. Most of the information comes two weeks prior to the shutdown. Most of the correspondences are from February of 2020 and our illustrious leaders didn't shut down the world until the middle of March. Do you have some sort of proof that the delays were covid related. Do you know what the current bond payment is? It appears that the Cardinal Campus allocation area is going forward. Mr. Herak and I have had lengthy discussions over this for the year 2023, it appears from the SEH report, the project will have a \$75,000 negative balance. In 2024, it appears to have a projected \$25,000 negative balance. So, if this is losing money, as it currently is, then you guys need to make a decision on whether it's going to continue losing money by continuing with another Phase. The developer is asking for \$10M in TIF. Do you know how much tax dollars the property is generating to meet the bond payment? The year before last it was minus \$57,000 already and that's waiting for the project to come on line. And I'm kind of curious if there is a report that projects that negative balance

going forward. It appears that the TIF distribution is about \$216,000 a year for the debt service plus another \$1250 for trustee fees. This project will not spur economic activity outside of the property itself. To the west of the TIF is a fully developed housing complex. To the south is all commercial and fully developed housing. The same for the east and north. The very notion of a tax increment financing district is to spur economic development, not only in the TIF district or the allocation area but around the edges, so that the Town could collect revenue. All the revenues in tax dollars generated in this project stay in this project for the next well 22 years or so, which brings me to another point. The original TIF is was for 25 year and the tax increment financing district doesn't expire until 2043. This request is for two years. I will be long dead by then. It's unfair for the citizens of this Town to delay this project beyond the original 25 years which they should have never done in the first place. It's your decision. Last week at the Plan Commissioner, the petitioner didn't even ask or provide a reasonable explanation for the delay. He came up with a weird story which was quite different than one Mr. Mika told at the study session. There was sickness and death and covid and all kinds of stuff that made no sense whatsoever but you have to pay attention also that these fine people. They have \$15M already wrapped up in this project. There you go, but the Town citizens need to get income taxes for property taxes from these developments.

Attorney Harp asked to respond to Mr. Kondrat's comments. As you know there is a lot of misunderstanding often about how TIF works and it's only the incremental tax that is applied. It has to go up or no money is generated. In this particular case, it's the developer, who carries all of the risk. In this in this particular case, the developer, Dr. Gendreau, is the one who is funding the bonds, to acquire the bonds, it's not the Town of Highland. So, if it doesn't generate sufficient funds to pay off the bonds, it's the Dr. Gendreau who will lose the money, not Highland. It's not like funds are being diverted to some other place to go, because it is the incremental increase, only the incremental increase that is used to pay off the bonds and if the project does not go forward, taxes don't increase then Dr. Gendreau who is the one who loses out not the Town of Highland. Using tax increment financing is the public policy of the State of Indiana. It was designed to help facilitate development and has previously been discussed this particular project began in 2013. The area was blighted and even though the project is not complete, it is a fairly nice project. I understand it was significantly less desirable prior to the time that this project began, so I would I would hope that the Town of Highland will support it. I hope the Town will support this this particular development which, though delayed by covid and you know people can doubt that that's true or not, but it has had a significant impact on this project. If you don't allow the project to move forward, if it's not extended, and there is no certainty on this but the next increment of the bonds is necessary to offset the cost, I mean costs have gone up they haven't gone down so it's appropriate to use the tax increment financing mechanism, and I would encourage the Town of Highland to support it.

Councilor Schocke asked the question, so last week, you said that covid was the reason for the delay. And, you went through several iterations, like availability of resources such as building supplies and labor. You referenced law firms losing partners, you referenced inability to locate architects. I reviewed all 142 pages that were designated and I noticed zero reference to any of those reasons in any of the hundred and 42 pages. I just want to

know if I'm missing something in that regard. The only reference that was made in all hundred and 42 pages of emails was that the architect acknowledging that he has received a second covid shot. But no one said there were delays, because of covid, no one said that they were unwilling to work because of covid, no one said that there was unavailability of materials or labor or anything like that. So, if it's truly the reason for the delay, then I have to ask where's the evidence, because frankly what I received didn't show anything.

Attorney Harp responded, if this were a judicial proceeding as opposed to a legislative proceeding, I would ask that you take judicial notice to what's going on in this country in the last two years and three months. It has been a significant impact and, as you can see it as you read through all the materials that in February of 2020, we fully intended to ahead with the office buildings and then suddenly everything came to a screeching stop when the covid pandemic was declared and had a major impact on all aspects of the economy and particularly this development. The professional services that I was speaking about last week, was to a very large extent special services and our professional services related to the construction industry and it's true that there had been laborers who have been able to work on projects that were already shovel ready and in the ground because it's an outdoor activity, they were able to socially distance and that sort of thing. But professional services were severely impacted. In January of this year, a determination was made to change from additional office space and go for development of the hotel instead. There is a significant office absorption problem now. The existing office buildings have a vacancy rate of roughly 19% and if we were to add two more office buildings, you're just gonna have more square footage but people don't move in because you built a building. We are less dense than Chicago but it's a major problem not only here but a major problem that exists throughout the country. Even though the emails did not expressly refer to covid it was the reason that's the everything suddenly it came to a screeching halt and it's been difficult to get things restart.

Councilor Schocke said he was under the impression that you're going to provide to me the information requested instead I got a bunch of emails to different architects, to different landscape architects saying you know we'd like to set up a meeting something to that effect, but in terms of actually any discussion of delay, there was none. I'm a little disappointed in that. The only question I have is so you're asking for an additional two years and three months, I think, just to extend this project. So, I'm curious, if you look at the development agreement, specifically page 20, it runs onto page 24. It is in Section 1.1 subsection B. It actually allows the developer, the developer shall be entitled to extend the completion deadline for 12 months by written notice to the Town, if the developer is actively pursuing construction of the project. I think you can make a credible argument that you're actively pursuing construction of the product or project. So why not just seek that one year extension and then come back to us, as you get closer to that year, I mean I don't see any reason why we would not give it to you.

Attorney Harp responded because that's what the term in the agreement provided for, in the event of a force majeure you get the extension day for day.

Councilor Schocke says I get that but what I'm saying is why didn't you just seek the year now, then give us notice that you need an additional year and then come

back and say we're actively working on it we're in the midst of the project and then please give us some grace. I frankly disagree with you on the force majeure section. I don't see anything in this force majeure clause, in section 6.2, that would entitle you to a day per day credit, especially not based on the evidence that I got from you. It doesn't show me that, so you know I mean there could be two reasonable people disagreeing here. I'm telling you, I think that the appropriate way to go about it is just seek the year that you're entitled to per the terms of the agreement and then come back at that point.

Attorney Harp responded that I think it's very clear that covid was an unexpected event that occurred that wasn't the fault of the Town of Highland nor was not the fault of the developer. Covid impacted the impacted the global economy, not just the economy of the Town of Highland. It had a significant effect on this particular project, as well as projects throughout the country and throughout the world, for that matter, but I'll stick with the country in the end, specifically Indiana and Illinois. As I said, if this were a judicial proceeding, I would ask the body to take judicial notice of what has transpired. I know the Indiana courts haven't performed as normal during covid, neither has the Illinois courts or courts elsewhere throughout the country. All we are doing is seeking clarity to the terms as written in the agreement because we have to make financial commitments to move the project forward. If we don't have a clear picture that or if we are not going to get this support then maybe we have to consider some other plans, because it's you know the way TIF works. This agreement was adopted and it provides for economic development incentives. Without the incentives, the project cannot move forward. So I think it's a decision that the Town of Highland has to make. We're asking the Town to apply the terms of the development agreement.

Councilor Sheeman asked the developer, the original agreement expires sometime this month or next month and so you want this extension. Do we have an actual date when it's going to be completed? Is there a date, a new date when this project is going to be finally completed as I don't see that. I understand you want an extension almost two and a half years, which seems a little long. If, we give you the money now and then you might come up and say Oh well, we couldn't get this done so I'd like to see a definite completion date.

Attorney Harp responded that he would be happy to talk to my client and deal with that, but that's not how this works at all.

Councilor Sheeman said, I know that this is really separate from that and I understand it is our obligation to give you this money to do the project, but again but I still would like to see a completion date.

Terry Segal asked the Council when considering this project that before this project began there was five blighted homes. We had this gentleman come in for the Cardinal development here and he cleaned the whole area up and brought construction to the area. The other thing we need to look at here and to the best of my knowledge, I think they are the only certified leed project in Lake county is Cardinal campus. So, he's taken the design factors in for the future, as far as the environment and how the project is built, and all that, which adds cost to a project. We need to compliment him for his forward

looking to the future, to build something that's good for Highland and its citizens. And I don't think five blighted homes are good for Highland, so we need to get on board with what this gentleman as he is investing millions of dollars. I agree that he should provide a timeline as it doesn't seem unreasonable. He asked for the extension because of covid. Covid did have an impact on people, no matter what you want to say, even the building trades went through a period of time where they had to shut down projects, but so many people were getting covid. You need to be realistic and reasonable and treat this gentleman like he is, a gentleman, and that the Town of Highland wants to do business with him. We need to further and look at this thing and realize that the TIF is the responsibility of the developer and has nothing to do the Town or the citizens it's all on him. So, we need to make sure that we don't misrepresent what the TIF is and it's not a liability to the Town or to citizens. And I think between Mr. Schocke and Mr. Kondrat, they need to make sure they make that clear and don't mislead people in a direction. The developer is willing to assume all the risk and he's willing to complete this project but you need a reasonable amount of time to complete the project. I think everyone needs to get on board and we have five yeses moving forward and we need to make sure that we realize that the Redevelopment Director did a good job, putting all this together because I think she's tired of getting badgered over issues on redevelop and she's trying to do a good job. She got badgered over the electric charging stations at the new parking lot and that was uncalled for unnecessary.

Dr. Gendreau responded that he appreciated all of the comments. You know, as I pointed out before we're partners and the Town made the commitment to support it. I made the commitment to support it. And, we want to carry it forward to see a successful ending with the benefits. Certainly, there has been some benefits to the Town by what kind of attention Cardinal Campus has brought to Highland. We attracted other businesses to Highland that were in other in other towns, not to mention the people who came to Highland because of those businesses who have never been in Highland before. Businesses who have either purchased the property or are leasing the property who have never been in Highland before. Think of the good PR or press the campus has brought to Highland. The exposure of people who have never been to Highland before. Having this project in their town, the benefits are intangible and they're not all financial. People have come to my practice, you know from five different states and many stayed overnight. They eat in the area, they buy gasoline and they spend money in the local businesses when they go shopping. When you bring a patient in the morning at nine o'clock and don't take their pet home till 7:00 in the evening. They spend time shopping around the Town. We tell them where to go shopping and what activities are in Town so there's plenty of benefits that are not obvious and we want to continue to grow the campus so that it has it achieves the status that we had envisioned. I know this partnership is going to be beneficial for the Town and for myself as well. So far we have spent close to \$90 million and we've received from the Town \$4 million. The other \$15M is needed to keep the project moving forward. Highland is investing less than I am investing in this project. I want everyone to know that the project is only 1/3 complete.

Communications: President Zemen reminded everyone that the Town Hall will be closed on Monday, July 4th, in honor of Independence Day. The July 4th Town Council study

session is cancelled. Garbage pick-up will be on Wednesday, July 6th and the 4th of July Celebration begins on Thursday, June 30th and runs through the 4th of July.

Staff Reports: None

Appointments:

General Orders and Unfinished Business:

New Business:

- 1. Resolution No. 2022-10:** A resolution authorizing and ratifying Phase II of the Cardinal Campus Project and approving the issuance of the balance of the Bonds in the amount of \$10,690,000 and the delivery thereof to the Developer, and approves a First Supplemental Trust Indenture in the usual and customary form relating to such Bonds.

Councilor Schocke began by saying he opposed the extension. I frankly think that we're hearing two things out of both sides of the developer's mouth. We're blaming all of this on covid but when I asked for some simple proof, I got 142 pages of nothing, no discussion of delays or anything like that. I get that the economics may have changed and the world may have changed, economically speaking, but you know that's part of the risk that you take when you when you develop and I don't think that we should have to take that on as Town to give you that extension. In addition, I really do like your development. I love the fact that they're leed certified buildings, I love that they are. The pavers are porous and that when it rains it goes and drains that way, I think it's a class a development, I really do. It's just a matter of the TIF that's being asked here, just so we're all clear \$16.5 million Okay, and just to give people context of that, the town budget last year was 16 million, now we've issued 5.81 million in bonds so far and now another 10.69 million in TIF money. The developer says that they're taking all the risk because he's buying all the bonds and I get that, but if we actually functionally look at how this actually works. What happens is the developer puts money into the infrastructure, we as a town, then issue a bond for that infrastructure. Then, as the tax money comes in for this particular project, we collect money from the property taxes and then we issue those monies functionally back in the form of payments, so what this really ends up being is it's kind of a shell game, but it's a way for the developer to essentially avoid paying property taxes for a very long period of time. They call it a TIF. They say it's first development, but if we look at this TIF district, the capture is on the very south way, the very east, the very south section of town and close to the western terminus of the town limits, if the goal is truly to spur economic development then I don't see how that's functionally happening here now. I agree that they took 10 acres and they turned it into something that's nice and I appreciate that but frankly I think a \$16.5 million TIF is a bad deal and I don't think that they're falling into the terms of their agreement. Frankly, I don't think the force majeure clause discusses anything about any reasons for their claim delays and their evidence doesn't line on to it

so For these reasons I can't support it. I don't think it's a good idea in terms of the debt financing and I'm not going to be voting yes on this I'm going to be voting no.

Councilor Sheeman added, you know this agreement was done before, basically, except Councilor Zemen, any of us were on this Council, and you know we're bound by these agreements and unfortunately, we may not be exactly happy about the timeline when things are going to be built, but I certainly don't want to have an empty piece of property. And to be honest with you, sometimes people tell me it's hard to do business in Highland. This is another one of those things where a developer comes in and you know, maybe we're not exactly crazy about what's happened but if we start doing this to developers, then who else wants to come into our Town. I think we're obligated to go forward on this I'd like to see the project finished. It will add more tax revenue. I'm not crazy about how long it's taking but at this point, Phase I has already been built and I don't see the reason to stop it now. I just think we got to go forward.

Councilor Black moved the passage and adoption of Resolution No. 2022-10). Councilor Smith seconded. Upon a roll call vote of the elected officials, there were four (4) affirmatives and one (1) negative, with Councilors Smith, Black, Sheeman and Zemen voting in the affirmative and Councilor Schocke voting in the negative. The motion passed. Resolution No. 2022-10 was adopted.

TOWN OF HIGHLAND
Town COUNCIL RESOLUTION NO. 2022-10

A RESOLUTION AUTHORIZING AND RATIFYING PHASE II OF THE CARDINAL CAMPUS PROJECT AND MATTERS RELATED THERETO all pursuant to I.C. 36-7-11.9 and I.C. 36-7-12 and I.C. 36-7-14:

WHEREAS, the Town of Highland, Lake County, Indiana (the "Town") is party to a Development Agreement (the "Development Agreement") between and among the Economic Development Commission, the Town, the Redevelopment Commission and CG Holdings, LLC, an Indiana Limited Liability Company or its designee (the "Developer") dated as of April 9, 2018, relating to the economic development by the Developer consisting of (i) the construction of a boutique hotel, a veterinary surgical center, and six (6) class A professional buildings, and (ii) the payment of costs of issuance and other related financing costs as are determined permissible under INDIANA CODE 36-7-11.9, INDIANA CODE 36-7-12 and INDIANA CODE 36-7-14 located in or connected to the Highland Acres Economic Development Area (collectively, the "Project");

WHEREAS, the Town has previously adopted Ordinance No. 2018-1672 which authorized a form of Financing and Covenant Agreement and Trust Indenture, the issuance and sale of the Town's Economic Development Revenue Bonds (Cardinal Campus Project) in an amount not to exceed \$16,500,000 (the "Bonds"), the use of the proceeds of the Bonds to apply to the financing of the Project, and the payment of the Bonds by the TIF Revenues generated within the site of the Project within the Cardinal Campus Allocation Area, and the Town has previously issued the first series of such authorized Bonds in the amount of \$5,810,000;

WHEREAS, The Developer has presented a form of Memorandum of Extension of Completion Deadline by Reason of Force Majeure Event relating to the Development Agreement (the "Extension");

WHEREAS, the Developer has completed the first Phase of the Project and is now ready to proceed with the remaining scope of the Project pursuant to the Development Agreement as modified by the Extension, and has requested that the Town issue the balance of the authorized Bonds for such purpose;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana as follows:

Section 1. The Council hereby ratifies and approves the Extension and authorizes the execution thereof.

Section 2. The Council hereby ratifies and approves the issuance of the balance of the Bonds in the amount of \$10,690,000 and the delivery thereof to the Developer, and approves a First Supplemental Trust Indenture in the usual and customary form relating to such Bonds. The Bonds shall be sold to the Developer at the purchase price of par.

Section 3. The President of the Council and the Clerk-Treasurer are authorized and directed to execute, attest, affix or imprint by any means the Town seal any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The President of the Council and the Clerk-Treasurer are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this Resolution, if such changes do not affect terms set forth in Indiana Code 36-7-12-27(a)(1) through (a)(10) with the review and advice of counsel to the Town; it being the express understanding of this Council that the Financing Agreement is in substantially final form as of the date of this Resolution. The approval of these modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of or term of the Bonds as approved by the Council by this Resolution without further consideration by the Council. The signatures of the President of the Council and the Clerk-Treasurer on the Bonds may be either manual or facsimile signatures. The Clerk is authorized to arrange for delivery of such Bonds to the Trustee, and the initial payment for the Bonds will be made to the Trustee and after such initial payment, the Bonds will be delivered by the Trustee to the User as purchaser thereof. The Bonds shall be originally dated the date of issuance and delivery thereof. Terms used herein with their initial letters capitalized which are defined in the Financing Agreement are used herein as so defined.

DULY RESOLVED and ADOPTED this 27th Day of June 2022 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 1 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Mark Herak
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

- 2. Proclamation of the Town Executive:** A proclamation recognizing the week of September 19th to September 25th, 2022 as **Rail Safety Week** in the Town of Highland.

Comments from the Town Council:

(Good of the order)

Councilor Toya Smith: • *Sanitary Board Liaison* • *and Public Works.*

Councilor Smith acknowledged the Building Commissioner, Ken Mika who commented that BZA had a meeting last week. The first item dealt with use variance for the placement of fence. The petitioner was granted conditionally on satisfying certain requirements. The second dealt with the Ultra site and it involved a use variance involving a proposed indoor storage facility occupying 40% of the building, 3 retail spaces and workout facility. Four of the five members were present and the vote was 2 in favor and 2 opposed. Per the Municipal Code, in case of a tie, it is considered no recommendation for the project. It will come as a neutral recommendation from the BZA to the Council. Attorney Reed said he talked with Attorney Westland who will be representing the petitioner before the Council and both attorneys agreed that the recommendation to the Council would be a neutral or no recommendation on the project.

Councilor Zemen asked if it was the same project as originally presented. Mr..Mika responded that the developer has reverted back to their original plan of 40% indoor storage versus the 70% as they had presented several weeks ago. The developer realized that indoor storage at 70 to 75% wasn't going to pass the BZA

Councilor Sheeman asked the progress of the Strickland project. Ken replied that the new septic tank has been installed but they are still having their tank pumped out every few days (\$500 every time the tank is pumped) and the leach field in the back has not been covered over as it is still too wet. Attorney Reed said there is still an injunction against the property owner and as long as they continue to make a good faith effort to remedy the Town will not pursue legal action.

She then acknowledged Public Works Director Mark Knesek. He wanted to remind Highland residents that this Saturday, July 2nd the public works garage will be closed and no dumping allowed. Also, on July 23rd, at the Public Works Garage, from 9:00 to 2:00 p.m. is Hazardous Waste Day for Highland Residents. He reminded the residents that they cannot take the hazardous waste earlier than the 23rd, so please don't bring it to the garage earlier. He said they will putting one of the Public Works portable signs along the parade route to let the parade entrants when they can start blowing their horns.

Councilor Mark Schocke: • *Park and Recreation Liaison* • *and Community Events Commission Liaison.*

Councilor Schocke said he will acknowledge Alex Brown in just a second but he wanted to remind everyone that the twilight parade is on July 3rd, beginning at 6:30pm and starting at St. James. Last year's parade was a shorten route but this year we're back to the original size, starting basically down near St James and heading north on Kennedy Avenue. And then, turning right at Highway Avenue. They are moving the placement of the judges stand this year. The judges stand, rather than being located at Main Square will be located in the parking lot of Farm Bureau Insurance, which is the old South Side Bantam building. There will be a quiet zone throughout with the noise zone clearly marked. Bernie will be bringing his grandkids and I'm bringing my kids to help pass out candy. The festival starts on Thursday and ends on Monday. He then acknowledged Alex Brown, Park Superintendent. He said the noise zone mark will actually be just past the Ridge road overpass and that's when the music can start playing and sirens can start blaring. In addition, we also do the race before the parade. As of noon today, we had 174 runners pre-registered and we still have almost a whole week left for pre-registration. I think the numbers will become quite large. Our summer camp programs are going really well and I'm grateful that we have a full staff. In talking with other area departments with summer camps, they can't find staffing for their summer camps. We are fully staffed so I'm thankful, we got Highland kids willing to work. Last Friday night we had a gaming tournament at the Lincoln Center. We held it in the banquet Hall, with the new audio visual equipment, so they were able to do a gaming tournament on the big screens in the in the banquet Hall, so that was really cool. Last Saturday, a week ago on June 18, we had our 75th anniversary celebration as Main Square Park. It went very, very well. I think everyone there had a great time but I just wanted to thank Mr Zemen for the time he spent emceeing there for the day until till you hit a wall. I want to thank Mr. Herak for all the time he spent in the in the ticket booth selling tickets for the beer garden. That

was pretty non-stop in there, so thank you guys, for your assistance to make that day as successful as it was.

- **Councilor Tom Black:** *Liaison to the Board of Waterworks Directors • Redevelopment Commission Liaison.*

Councilor Black began by wishing everyone a happy Independence Day and reiterate what the Chief expressed and please be careful with your fireworks and be considerate of your neighbors. Be cognizant of the noise, particularly the animals and those individuals with PTSD. He then acknowledged Kathy DeGuilio-Fox, Redevelopment Director who said the Redevelopment Commission and the Economic development Commission will meet tomorrow to address the extension to the Cardinal Campus Agreement. She said the Restaurant Crawl is tomorrow night. She read the menu of the list of offerings by each participating restaurant. She reminded people it is posted on the Town's website and on Facebook as well.

Councilor Sheeman asked Kathy about the presentation by Dan Botich made to the Council several weeks ago. He said I asked for hard copies of that and I have not received any of that presentation. Kathy said she will get hard copies because all Dan had for his presentation was screen shots and he apologized. Kathy said they will be in your upstairs mailbox.

- **Councilor Roger Sheeman:** *Town Board of Metropolitan Police Commissioners Liaison • Fire Department, Liaison • Chamber of Commerce Liaison • Information Communications and Technology Department Liaison.*

Councilor Sheeman asked Town Attorney Reed if he could give an update on the Choice lawsuit. He advised that the hearing to dismiss was scheduled for June and that date has come and gone. Part of the reason is the plaintiff's attorney was going to be out of town so it was rescheduled for July. He said it will be in Federal Court and he felt the Courts are taking the motion seriously as they have questions of the plaintiff's attorney as all the paperwork has been turned in. He also asked Ken Mika the status of the gas station on the corner of 41 and Hart Road. Ken said construction was supposed to start today but as Ken drove by the location he saw no activity. Councilor Sheeman said the location is getting kind of weedy. Ken said he will follow up and cannot explain the 3 month delay from the time the permit was issued to now. Council Sheeman acknowledged Pete Hojnicky, Metropolitan Police Chief who commented he really didn't have much other than thanking the Council and the Clerk-Treasurer for allowing us to pursue two more police officers for the town. It is really a good idea to forward thinking. Councilor Sheeman then acknowledged Bill Timmer, Fire Chief, commented on the evacuation planning meeting. The purpose of the meeting was to make sure everyone is on the same page in case of an emergency. The Chief said the meeting went very well and they covered a wide variety of topics from storms, to fireworks etc. They are predicting bad weather for Friday so were putting plan in place just in case. I would also warn everyone, please, please, please leave the firework shows the professionals. Every year we hear of exploding mortars causing people to lose fingers and limbs. I was told today that there was a fire in

Hammond, at a commercial building that was directly related to someone in the neighborhood shooting off fireworks. I would hope that our citizens are smart enough to leave the fireworks to professionals. We have a great firework show on the fourth down at the Sharp Athletic Complex. I would encourage everyone to come watch. The fireworks are bigger than the stuff you can buy. We've been busy with a number of car accidents, fire alarms, fire calls. Councilor Sheeman said he was very impressed with all the detailed plans for all the three phases, the festival, the fireworks and the parade. All the stakeholders were there. Jacqui Herrera, has done an outstanding job planning this with very few people. I think we're going to have a very successful festival, even though it looks a little iffy Friday, but hopefully they'll pass. Maybe God will here, so my prayer and let us pass on some of the rain for our festival, so I want to thank all the stakeholders were there today and had input on it and the planning for it, and thank you for all your hard work for that. He then acknowledged Ed Dabrowski, IT Director asking him if he had a report. Ed said he had no report but did anyone have any questions of him.

- **Council President Bernie Zemen:** *Town Executive • Chair of the Board of Police Pension Trustees • Liaison to the Tree Board.*

Councilor Zemen acknowledged Ken Mika, Building & Inspection Commissioner and inquired as to items upcoming on the Plan Commission's docket. He said the PUD which has been on the agenda is scheduled for the next, as is the car wash. The engineering is complete and they want to be placed back on the agenda. They are requesting a one lot subdivision. He reminded everyone that the festival starts on Thursday and runs through Monday. He thanked the Clerk-Treasurer for a wonderful job in getting some great bands. He asked the Police Chief regarding staffing for the 4th of July festival. We've got a lot of staffing. We want to ensure it's a nice safe fun environment. We have plenty of staffing inside the park and around the park, not to include our regular officers for calls for service, so we feel we got a pretty good staffing. Everybody stepped up to the plate and every slot was filled. They were filled with our own people, which we like. I pretty much want to thank everybody for coming together and putting together the festival, and the parade, especially the Council Community Events but also Mr. Herak and his office for all they've done for the entertainment.

That concluded comments from the Council and President Zemen then turned it over to comments from visitor's or residents, reminding them to limit it to 2 minutes.

Comments from Visitors or Residents:

LARRY KONDRAT, HIGHLAND, Town Hall: How are you doing, Mr Zemen. I disagree with giving away \$16 million in debt financing but at least those people had the common decency to show up here and defend themselves, as opposed to your other TIF district, who came here and told a wildly bizarre story which differ significantly from the things

that we learned in the study session prior to the meeting. Am I to understand that there was a meeting on the festival this afternoon and the guy who's in charge of the beer garden, and all the bands was uninvited. This is incredible to me now y'all been messing around and mess around and messing around about whether advertisement is going to be allowed behind the stage. Did you ever make a decision, because I'm ready to go. What are you charging? I talked to my daughter who's in the business as she does things for acts like Toby Keith, Donald trump, President Biden and before him, President Obama. She says that those numbers are for charity events and you're probably realistically in a \$300 range for a small time festival. I'm willing to still advertise and I believe that Councilor Schocke's firm has offered to advertise, if you guys want to ever make a final decision, you only got a couple hours till the festival. It's free revenue. It ain't never gonna approach \$500 or anything remotely similar to this because as a businessman, I have to be able to recoup my investment in sales. So, if you guys want to come up with a number I'm thinking \$300 is fair. We're ready to go. We have banners we took the advice and went to a local print shop. It costs you nothing. I know Gladish is ready to go and I'm certainly ready to go. Tell me what the dollar figure is I'll pay.

The Clerk-Treasurer said he totally agrees of banners but his concern is that the criticism that Councilor Schocke will receive if his firm is one of only 2 banners on display. I feel other businesses will say, why wasn't our firm given the opportunity to advertise.

Councilor Schocke agreed about the criticism. I mean so here's the deal, I brought it up several weeks ago, thinking that maybe get a handful of people but now if it's just me and Larry you know what I'm saying, then it looks like we're like we were give special treatment and I don't want to necessarily have this era of favoritism right like I want it to be open.

Councilor Black said I think that maybe since we're all on the same page with this, we can get something drawn up and ready for the next year and have the Council Community Events implement it.

Larry Kondrat said he's willing to do it now, because your next festival will be in the fall and historically the fall festivals are cursed. It either snows or rains or it's a blizzard or one time, your thing was so cursed that the Chicago Cubs actually not only went to the World Series but they won the World Series during your festival screwing the whole thing up so. I think you got to make a decision tonight. Y'all give me the price and I do it because you've already agreed to do it in principle.

Councilor Schocke said given the fact that Larry he's wearing a Mark Shocke T shirt, I don't want to be making that motion either.

Dominic Vasil, Highland had a question for Mr. Mika. He said a neighbor told him that Jewel Foods was looking at the Ultra site. Mr. Mika responded that I am not aware of that, I mean we had a meeting with the actual management and none of that was being presented. Dominic swore up and down he knew people and they said Jewell was in the running for the ultra building. Mr. Mika explained that the present owner was proposing

three small retail spaces and a workout facility or a gym in addition to establishing personal climate controlled storage units. It would also include facade modifications actually site modifications. Dominic said no grocery store at this time and Mr. Mika I don't want to say at all, but at this point nothing's being proposed, or the town hasn't been made aware of anything.

Terry Segal, Highland commented on the census. I know you guys have the responsibility, according to the law, to equalize the Wards. I think that way it's drawn right now is probably the best way to have the Wards, north and south, because what it does, is it makes each Council person to be responsible for the whole town. Do the tweaking to bring the Wards into compliance but leave them basically the way they are. The other thing that it does is, in a roundabout way, it's almost like at large, because everybody in town votes for all five Council members, so you do have a semblance of running at large. You have responsibilities jurisdictional wise so if somebody outside of your Ward calls you with something even if it is in someone else's Ward, you address it. So I think if you just tweak it a little bit would probably be the responsible way. As the Clerk-Treasurer said, if you start moving lines east or west or diagonally there is a lot more work involved. I want to remind everyone that July 1 in the state of Indiana, the open carry law goes into affect. We need to be prepared for those changes, especially with a festival coming up and need to think of public safety. You need to have so you know proper signage and talk with the police chief to make sure everything is covered. I think the Council needs to look over the last two and a half years and realize that as far as a Redevelopment Commission, the Council has a history of a hostile work environment toward the Redevelopment Director and the Commission. . And there's that old saying I love my job, I just hate the people at work. With the exit of current Redevelopment Director, the Council is going to probably change some protocols on how we deal with with each other and the public. The businesses have felt a little hostility from the Council also you know exactly what I'm talking about, it's been ugly so we want to make it better.

Council Sheeman added regarding the sponsorship banner program, I think it's a great idea. I just don't know who does it, you know what I'm saying, who runs with that ball, I think the Council President should create the letter with the Council of Community Events and appeal to all the businesses, I think that's the proper way to do it as the head of the Town legislative body, and so I think a letter from the Council President and the head of the Council Community events, I think that would be impactful but I just don't want to do what kind of piecemeal. With only two banners up and somebody said why nobody asked me and so.

Councilor Zemen asked if there were any other comments. Hearing none, he closed comments from the public and brought it back to the Council. He then entered a motion to pay claims.

Payment of Accounts Payable Vouchers. There being no further comments from visitors or residents, Councilor Schocke moved to allow the vendors accounts payable vouchers

as filed on the pending accounts payable docket, covering the period **June 15, 2022 through June 28, 2022**. Councilor Black seconded. Upon a roll call vote, there were five (5) affirmatives and no negatives. The motion passed. The accounts payable vouchers for the vendor docket were allowed, payments allowed in advance were ratified, the payroll dockets listed were ratified and for all remaining invoices, the Clerk-Treasurer was authorized to make payment.

Vendors Accounts Payable Docket:

**General Fund, \$197,557.50; Special Events, \$19,174.00; Law Enforcement Continuing Education, Training and Supply Fund, \$191.76; Police Pension Fund, \$68,864.76; Information and Communications Technology Fund, \$7,626.09; Special Events, \$376.00; Traffic Violations, \$500.00; Solid Waste, \$800.00; MVH, \$32,567.25; Donation, \$74.80; LR&S, \$13,885.39; Public Safety Income Tax Fund; \$15,366.00
Total: \$356,607.55.**

PAYROLL DOCKET FOR PAYDAY OF JUNE 17, 2022:

**COUNCIL, BOARDS AND COMMISSIONS, \$10,169.88; OFFICE OF CLERK-TREASURER, \$15,868.28 BUILDING AND INSPECTION DEPARTMENT, \$9115.89; METROPOLITAN POLICE DEPARTMENT, \$110,868.75; PUBLIC WORKS DEPARTMENT (AGENCY), \$71,799.63; FIRE DEPARTMENT, \$5,113.57: INFORMATION AND TECHNOLOGY DEPARTMENT, \$3,690.41;
TOTAL PAYROLL: \$234,033.06.**

PAYROLL DOCKET FOR PAYDAY OF JUNE 30, 2022:

COUNCIL, BOARDS AND COMMISSIONS, \$9,905.38; 1925 POLICE PENSION PLAN PENSION FUND, \$68,757.11; TOTAL PAYROLL: \$78,662.49.

Adjournment of Plenary Meeting. THERE BEING NO FURTHER BUSINESS ON THE AGENDA, THE TOWN COUNCIL PRESIDENT DECLARED THE REGULAR PLENARY MEETING OF THE TOWN COUNCIL OF MONDAY, JUNE 27, 2022, ADJOURNED AT 8:14 O' CLOCK P.M.

Mark Herak
Clerk-Treasurer

Approved by the Town Council at its meeting of July 11, 2022.