

**MINUTES OF THE REGULAR PUBLIC MEETING
BOARD OF SANITARY COMMISSIONERS
TUESDAY August 15, 2023**

The Board of Sanitary Commissioners of the Sanitary District of Highland convened in a study session immediately before the Regular Public Meeting at 6:30 p.m. on Tuesday, August 15, 2023 with Commissioner Garcia presiding, in the first floor meeting room of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana, in order to discuss the final agenda of the regular meeting.

Silent Roll Call: Commissioners Kathy DeGuilio-Fox, Rex Burton, Greg Cieslak, Dave Jones and Richard Garcia. Also present were Mark Knesek, Public Works Director, Derek Snyder of NIES Engineering, Inc., Robert Tweedle, Attorney, Toya Smith, Councilwoman and Mark Herak, Clerk Treasurer.

Mr. Burton questioned Mr. Herak regarding to which ledger account will the future storm water revenue be deposited. He would like to know what the balance in that account at this time. A discussion took place.

IDEM has issued construction permit approval for the SSO Remedial Project Phase 1- Division A. Mr. Tweedle informed the commission of a preferred funding source and whether all or a portion of the ARPA funds may be applied towards Phase 1-Division A of the SSO Remedial Project. A discussion took place.

Study Session ended at 6:40

At 6:40 the Regular Meeting of the Board of Sanitary Commissioners of the Sanitary District of Highland convened with Commissioner Garcia presiding, in the meeting room of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana. The Regular Public meeting was opened with the Pledge of Allegiance to the United States of America.

Roll Call: Commissioners Kathy DeGuilio-Fox, Rex Burton, Greg Cieslak, Dave Jones and Richard Garcia. Also present were Mark Knesek, Public Works Director, Derek Snyder of NIES Engineering, Inc., Robert Tweedle, Attorney

The minutes from the July 18, 2023 and August 1, 2023 public meeting are approved.

Special Order: None

Communications: None

General Order and Unfinished Business:

1. **Commissioner Cieslak motioned to approve Resolution 2023-21 DeGuilio-Fox seconded. Upon a roll-call, there were five(5) affirmatives and no (0) negatives. The motion passes.**

**Sanitary District of Highland
Board of Sanitary Commissioners
Resolution No. 2023-21**

**SANITARY DISTRICT OF HIGHLAND
Board of Sanitary Commissioners
Resolution No. 2023-21**

A RESOLUTION AUTHORIZING AND APPROVING AN AGREEMENT BETWEEN COMMONWEALTH ENGINEERS, INCORPORATED AND THE SANITARY DISTRICT OF HIGHLAND TO PERFORM PROFESSIONAL ENGINEERING SERVICES FOR SANITARY SEWER OVERFLOW REMEDIAL PROJECT COLLECTION SYSTEM IMPROVEMENTS (PHASE 1 – DIVISIONS B&C)

Whereas, The Sanitary District of Highland, through its Board of Sanitary Commissioners, has heretofore determined a need to engage the professional engineering services in order carry out the mission of the District; and

Whereas, Commonwealth Engineers, Incorporated, (Consultant) has offered and presented an Agreement to provide and furnish Professional Engineering Services in consideration for fees to be charged and billed per the agreement; and

Whereas, The Sanitary District of Highland, through its Board of Sanitary Commissioners anticipates that there will be sufficient and available appropriations balances on hand to support the payments under the agreement, pursuant to IC 5-22-17-3(e); and

Whereas, The Sanitary District of Highland, through its Board of Sanitary Commissioners, now desires to accept and approve the agreement for services as herein described.

Now, Therefore Be it Resolved by the Board of Sanitary Commissioners for the Sanitary District of Highland, Lake County, Indiana, as follows:

Section 1. That the Professional Engineering Agreement (incorporated by reference and made a part of this resolution) between Commonwealth Engineers, Incorporated, and the Sanitary District of Highland for Professional Engineering Services for Sanitary Sewer Overflow Remedial Project Collection System Improvements, be adopted and approved in each and every respect;

Section 2. That the terms and charges under the agreement for professional engineering services are found to be reasonable and fair;

Section 3. That the Sanitary District of Highland, through its Board of Sanitary Commissioners, believes that Commonwealth Engineers, Incorporated has demonstrated professional competence and qualifications to perform the particular professional engineering services called for in the Agreement and associated project, pursuant to I.C. 5-16-11.1-5;

Section 4. That the President of the Sanitary District of Highland be authorized to execute the Agreement with his signature as attested thereto by Secretary of the Sanitary District of Highland.

Duly Adopted, Resolved and Ordered by the Board of Sanitary Commissioners of Highland, Lake County, Indiana, this 15 day of August 2023. Having been passed by a vote of five (5) for and none (0) opposed.

**THE SANITARY DISTRICT OF HIGHLAND
BY ITS BOARD OF COMMISSIONERS:**

Richard Garcia, President

Attest:

David Jones, Secretary

EXHIBIT: Commonwealth Engineers, Inc. Task Order No. 2023-01: Proposal for engineering services for Remedial Measures Project – Phase 1 – Divisions B&C

1. **Public Hearing on Resolution 2023-17 A RESOLUTION MODIFYING AND ESTABLISHING USER FEES FOR THE MANAGEMENT OF STORMWATER, PURSUANT TO I.C. 36-9-25 ET SEQ. by the Sanitary District Board of Commissioners of the Town of Highland Indiana.**

The Public Hearing was opened at 7:00 pm. Robert Tweedle, Board Attorney, confirmed proof of publication. Commissioner Garacia called three (3) times for any statements in favor of or opposition to the Resolution from the public. There were none. Public Hearing was closed at 7:03

Commissioner Burton motioned to approve Resolution 2023-17 Cieslak seconded. Upon a roll-call, there were 5 (five) affirmatives and 0 (none) negatives. The motion passes.

RESOLUTION NO. 2023-17

A PROPOSED RESOLUTION of the SANITARY DISTRICT of HIGHLAND, LAKE COUNTY, INDIANA

A RESOLUTION MODIFYING AND ESTABLISHING USER FEES FOR THE MANAGEMENT OF STORMWATER, PURSUANT TO I.C. 36-9-25 ET SEQ.

WHEREAS, The Sanitary District of Highland is governed by its Board of Sanitary Commissioners, pursuant to the provisions of IC 36-9-25 et seq; and

WHEREAS, IC 36-9-25-9 specifically provides that the Board of Sanitary Commissioners shall manage and control all works of the district and may purchase, acquire, construct, reconstruct, operate, repair and maintain all sewage works; and

WHEREAS, The Board of Sanitary Commissioners in performing its duties, may adopt resolutions, rules and by-laws that are necessary to carry out the provisions of IC 36-9-25 including repealing and amending them consistent with the Sanitary District Law; and

WHEREAS, IC 36-9-25-11 and Section 12.10.050 of the Highland Municipal Code, specifically provides that the Board of Sanitary Commissioners may fix fees for disposal of sewage and other waste discharged into the sewerage system, which includes structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, solid waste, sewage, storm drainage, and other drainage of a municipality, and may change fees from time to time in order to produce revenues sufficient to pay operation, maintenance and Administrative expenses; and

WHEREAS, Pursuant to HMC Section 12.20.360 *Annual Review*, the Board of Sanitary Commissioners has studied the current rates and charges of the district and has determined that the revenues are insufficient to provide reasonable funds for operation, maintenance, and replacements to the sewerage systems or that the rates need to better consistently recover fixed costs associated with the operation, maintenance and replacements to systems; and

WHEREAS, The Board has determined that changing rates and charges over all classes of users, for storm water charges, beginning on a date stated herein, is necessary to provide sufficient revenues for operation, maintenance, and replacements to the sewerage systems; and

WHEREAS, The Board has determined it to be in the interest of administrative efficiency to amend its billing procedure to transfer charging and collecting storm water fees to the Lake County Treasurer's office to be charged and collected by means of the Lake County Treasurer's property tax bill and distributed to the Sanitary District as such.

WHEREAS, The Board now desires to change the currently established storm sewer use rates for all classes of users,

WHEREAS, The Board now desires to amend its billing procedure to charge and collect storm sewer use rates

NOW, THEREFORE, BE IT RESOLVED by the Board of Sanitary Commissioners of the Sanitary District of the Town of Highland, Indiana, and the Department of Public Sanitation that the following provisions and associated rates and charges for the disposal of sewage and other waste discharged into the sewerage system, including storm water, subject to IC 36-9-25-11(c) shall be amended as follows:

Section 1. That **Chapter 12.25** of the Highland Municipal Code be hereby repealed in its entirety and amended to add a Chapter to be numbered **Chapter 12.25**, which shall read as follows:

Chapter 12.25

STORM WATER MANAGEMENT

Sections:

- 12.25.010 Definitions.**
- 12.25.020 Stormwater Utility Billing.**
- 12.25.030 Stormwater Utility User Fee.**
- 12.25.040 User Fee Structure.**
- 12.25.050 Billings and Terms of Payment.**
- 12.25.060 Exempt Properties.**
- 12.25.070 Appeals of Fee Determinations.**
- 12.25.080 Compatibility of provisions**

12.25.010 Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. They shall be complementary to and not contradictory of the definitions set forth in this section.

BOARD: The board of sanitary commissioners of the Sanitary District of Highland, Indiana, or any duly authorized officials acting on its behalf.

CODE: Town of Highland Municipal Code.

COUNTY REGULATED DRAIN: Part of the stormwater conveyance system under the jurisdiction of the Lake County Drainage Board, including certain ditches, tiles, and sewers.

DISTRICT: The Sanitary District of Highland, acting by and through its Board of Sanitary Commissioners.

DRAIN: Any separated storm sewer, tile, ditch, stream, swale or other stormwater conveyance, channel or conduit.

EXEMPT DRAIN: Drains that are regulated by the Lake County Drainage Board.

IMPERVIOUS AREA: Real property that has been paved and/or covered with buildings and impervious materials which include, but are not limited to, concrete, asphalt, rooftop, blacktop and compacted gravel, such that the natural infiltration of water into the soil is prevented.

INFILTRATION: A process by which stormwater percolates into the ground.

LOT/PARCEL: A part or portion of land having a distinct legal description that is formally set forth in a conveyance instrument.

PROPERTY CLASS CODE: A three-digit land use code number generated from the Lake County Assessors office's used to differentiate properties' use and primary purpose. For purposes of the Town's Stormwater Utility User Fee, this property class code will be used to determine each parcel's monthly user fee.

PUBLIC STORMWATER FACILITIES: The various stormwater and drainage works under the control and/or ownership of the Town and/or the District, Lake County, state of Indiana or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, swales or other structural components and equipment designed to transport, move, hold, treat or regulate stormwater.

RETENTION: The holding of stormwater runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration or emergency bypass.

SEWAGE WORKS: Shall have the same meaning as defined in IC 36-9-1-8.

STORM SEWER: A sewer designed or intended to convey only stormwater, surface runoff and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry stormwater only, which begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a stream, lake, watercourse, ditch or combined sewer.

STORMWATER AND STORMWATER RUNOFF: The water resulting from rains falling or snow or ice melting within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

STORMWATER SYSTEM: All constructed facilities, structures and watercourses under the ownership and/or control of the Town and/or the District, used for collecting, storing and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, swales, retention and detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the Lake County Drainage Board or under ownership other than the Town and/or the District.

STORMWATER UTILITY USER FEE: A charge imposed on users of the Town's and/or the District's Public Stormwater Facilities and Stormwater System.

STORMWATER UTILITY CUSTOMER/USER: The owner of a lot or parcel of land located within the Town of Highland and or the District.

SUPERINTENDENT: The public works director or a designee acting as the administrative leader of the utility.

TOWN: Town of Highland, Indiana, acting by and through its Town Council.

12.25.020 Stormwater Utility Billing

A Stormwater Utility User Fee shall be imposed on real estate parcels and lots in the Town and/or the District based on the Lake County Property Class Code for real property within the Town and/or the District, according to the service address for each parcel or lot's taxpayer ID number, which charge shall be assessed against the owner thereof who shall be considered the Stormwater Utility Customer/User.

12.25.030 Stormwater Utility User Fee.

The Stormwater Utility User Fee set forth in this chapter, together with the taxes levied under IC [36-9-25](#) et seq., must at all times be sufficient to produce revenues sufficient to pay operation, maintenance, and administrative expenses of the sanitary district and sewage works, to pay the principal and interest on bonds of the sanitary district and sewage (storm water/wastewater) works as they become due and payable, and to provide money for the revolving fund authorized.

12.25.040 User Fee Structure

For the period beginning **January 1, 2024** and continuing thereafter, the following fees and charges are in effect:

For the purposes stated herein, there is hereby assessed a Stormwater Utility User Fee to each Stormwater Utility Customer/User within the corporate limits of the Town and/or the District in an amount as determined pursuant to the table below. Properties within the Town and/or the District will be assigned the following monthly user fees:

USER FEE TABLE

Property Class	Description	Monthly Fee

The Board will re-evaluate the fee schedule if there is a new property class code added to the Assessments in the Town and/or the District. As new property class codes are added, an appropriate user fee will be set and charged.

12.25.50 Billings and Terms of Payment.

(A) **Billings.** All Stormwater Utility User Fees shall be charged and collected by means of the Lake County Treasurer's Property Tax Bill and distributed to the Stormwater Utility as such.

(B) **Terms of Payment.** The Stormwater Utility User Fee shall be due on the same payment date as the due date stated on the Lake County Treasurer's Tax Bill. It shall be a violation of this Ordinance to fail to pay a Stormwater Utility User Fee when due. All bills for stormwater user fees not paid on or before the due date, shall be subject to a collection or delinquent payment charge as imposed by the Lake County Treasurer and shall be reflected on the Lake County Treasurer's Tax Bill.

(C) **Collection.** Failure to pay a Stormwater Utility User Fee included in the Lake County Treasurer's Tax Bill may result in property and or land being made eligible for the Lake County Treasurer's Tax Sale. Delinquent Stormwater Utility User Fees may be collected in a civil action by the Town and/or the District or Lake

County Treasurer, and the Town and/or the District or Lake County Treasurer shall be permitted to also collect its reasonable attorney's fees and Court costs incurred in connection with such collection efforts.

12.25.060 Exempt Properties.

Federal State, Town and County Roadways. Streets, roads and highways and bike paths owned by Federal, State, Town and/or County authorities shall be exempt from the Stormwater Utility User Fee. They form an integral part of the Stormwater System. These Primary elements of the drainage system yield community-wide benefits and are installed to service the general public's interests.

12.25.070 Appeals of Fee Determinations.

If a Stormwater Utility Customer/User determines that the user fee assigned to said user's real property is incorrect due to an error in the property's classification code, said Stormwater Utility Customer/User shall have the right to appeal.

(A) The Stormwater Utility Customer/User shall obtain and complete a petition to appeal stormwater assessment form ("Petition") which, after being fully completed, shall be returned to the Town of Highland clerk-treasurer together with any documentation supporting the appeal.

(B) The Superintendent shall investigate the appeal and, upon review thereof, shall render a written determination to the Board and the Stormwater Utility Customer/User that either the original user fee determination should be affirmed, or the Stormwater Utility User Fee should be adjusted in accordance with the Petition.

(C) If a petition to appeal is denied, said determination shall be forwarded to the Stormwater Utility Customer/User by certified mail, return receipt requested. The Stormwater Utility Customer/User shall then have thirty (30) days from the date of mailing of said determination to request reconsideration of the Superintendent's decision by the Board. Any additional facts concerning the appeal shall be submitted in writing to the Board, along with a copy of the original Petition and supporting documents. The Superintendent shall submit a written report to the Board regarding the reasons for the Superintendent's determination in the case, along with any documents used in denying the appeal.

(D) Thereafter, the Board shall review all documentation and, if requested in writing by the Stormwater Utility Customer/User, conduct a hearing to determine and resolve the appeal. Such hearing will be scheduled by the Board and the Stormwater Utility Customer/User will be notified by certified mail of the date of such hearing, which notice shall be received by the Stormwater Utility Customer/User at least seven (7) days prior to the date of such hearing. Whether or not a hearing is held, a written opinion shall be rendered by the Board within forty five (45) days after the hearing or submission of documentation if no hearing is conducted. The written opinion of the Board shall constitute the final determination of the District. The hearing before the Board shall be electronically recorded and, if requested by the Stormwater Utility Customer/User, a transcript of the hearing shall be provided to the Stormwater Utility Customer/User. The Stormwater Utility Customer/User will be charged a cost per page as from time to time determined by the Board in accordance with applicable law as amended from time to time.

(E) A Stormwater Utility Customer/User aggrieved by the final Board determination shall have the right to judicial review of such determination in accordance with applicable Indiana law. Any judicial review must be filed with a court of competent jurisdiction within thirty (30) days of the date of the Board's determination.

(F) If a reduction is ordered by the Board or any Court of competent jurisdiction, the Stormwater Utility Customer/User shall be credited accordingly for any overpayment made from the date of the Petition.

(G) Dispute or appeal of a user fee shall not be a valid reason for nonpayment of the originally assessed Stormwater utility User Fee by the Stormwater Utility Customer/User.

12.25.080 Compatibility of provisions.

The provisions of this chapter shall be considered a companion to the rates and charges as well as the associated rules and regulations in effect for the waste water management function of the district.

Section 2. That pursuant to IC 36-9-25-11(c), the fees and charges imposed by the passage and adoption of this resolution shall become and be effective upon all users whose property is within the district, upon approval by ordinance passed and approved by the municipal legislative body, which is the Highland Town Council;

Section 3. That the Secretary of the Board of Sanitary Commissioners is hereby directed to forward a copy of this resolution to the Office of the Clerk-Treasurer as clerk of the legislative body, with a request that the Town Council of the Town of Highland, take up the matter for consideration and action at its earliest opportunity.

Introduced on July 18, 2023. Ordered for a public hearing on August 1, 2023, all, pursuant to IC 36-9-25-11.

Duly Adopted and approved this 15 Day of August 2023, by the Board of Sanitary Commissioners of the Town of Highland Sanitary District, Lake County, Indiana by a vote of 5(five) in favor and 0 (none)opposed.

**SANITARY DISTRICT of HIGHLAND
By Its BOARD of COMMISSIONERS:**

Richard Garcia, President

Attest:

David Jones, Secretary

New Business: None.

Reports: None

Comments from the Commissioners: None

Business from the floor: None

Claims:

3308	SAN DIST BD & INT	249,887.20
6201	SEWAGE OPERATING	196,828.80
6204	SEWAGE IMPOV	52,090.21
6601	SANITARY OPERATION	182,729.26
	Total	681,535.47

Commissioner Jones motioned to approve the docket. Commissioner Burton seconded. Upon a roll call, there were five (5) affirmatives and no (0) negatives. The motion passes.

Next Meeting: The next meeting will be a study session to be held at 6:30 p.m. on Tuesday September 5, 2023 . The next regularly scheduled Public Meeting will be held Tuesday, September 19, 2023 immediately following a study session at 6:30 p.m.

Commissioner Garcia announced that tonight will be Commissioner Burtons last meeting. He is stepping down for the Sanitary Board Commission. Ms. DeGuilio-Fox stated it was a great pleasure working and learning with Commissioner Burton. Councilwoman Smith stated it was a pleasure serving Commissioner Burton and she has learned a lot from him. A discussion took place on the many year Commissioner Burton has served this community and the knowledge he has shared.

Adjournment: There being no other business to come before the Board of Sanitation Commissioners, Commissioner DeGuilio-Fox moved to adjourn. Upon a voice vote, the meeting was adjourned at 7:15 pm.

Respectfully Submitted, Denise Beck, Recording Secretary