

**DELAWARE COUNTY COMMISSIONER'S MEETING  
TUESDAY, JANUARY 19, 2021 @ 9:00 A.M.**

**ZOOM MEETING**

QUESTIONS MAY BE DIRECTED TO COMMISSIONERS @CO.DELAWARE.IN.US

Mr. Shannon Henry  
Mr. James King  
Ms. Sherry Riggin  
Mr. John Brooke, County Attorney  
Mr. Steven G Craycraft, Auditor

*ORIGINAL*

**PUBLIC HEARING**

NOTICE OF PUBLIC HEARING WITH REGARD TO PETITION TO VACATE PUBLIC WAY IN DELAWARE COUNTY, IN  
Mr. Joe Rhett, presented a petition to vacate property. A map was provided.

No public comments.

MOTION: Commissioner Henry made a motion to close the Public Hearing.

SECOND: Commissioner Riggin

YEAS: Commissioner Henry, Commissioner Riggin, President King

CONFIDENTIAL

NOTICE OF PUBLIC HEARING WITH REGARD TO  
PETITION TO VACATE PUBLIC WAY IN DELAWARE COUNTY, INDIANA

A petition has been filed with the Board of Commissioners of Delaware County, Indiana seeking to have vacated a certain public way within Delaware County, Indiana, which public way includes the following property:

A part of the Northwest Quarter of Section 12, Township 19 North, Range 9 East in Salem Township, Delaware County, Indiana, described as follows:

Commencing at a pipe marking the Southwest corner of the Northwest Quarter of Section 12, Township 19 North, Range 9 East; thence North 00 degrees 20 minutes 45 seconds West 381.90 feet (assumed bearing) along the West line of said Quarter section; thence South 89 degrees 27 minutes 18 seconds East 125.96 feet parallel with the South line of said Quarter section to a point on the Southeasterly right-of-way line of Former State Highway #67 being the point of beginning, said point being on a curve and being South 34 degrees 31 minutes 53 seconds East 2341.83 feet from the radius point of said curve; thence Northeasterly 174.94 feet along said curve to a 5/8 inch rebar that is South 38 degrees 48 minutes 42 seconds East 2341.83 feet from said radius point; thence South 38 degrees 48 minutes 42 seconds East 18.52 feet to a 5/8 inch rebar on the Westerly line of the Honey Creek Road; thence South 35 degrees 34 minutes 50 seconds West 111.71 feet along said Westerly line; thence North 89 degrees 27 minutes 18 seconds West 86.90 feet to the point of beginning, containing 0.12 acres, more or less, and subject to all easements of record.

A public hearing with regard to the Petition will be held on the 19th day of January, 2021 at 9:00 A.M. before the Board of Commissioners of Delaware County, Indiana. Pursuant to Executive Order 20-09, *et seq.*, said public hearing will be held electronically via Zoom and can also be viewed on the Delaware County Facebook page. All parties interested in, or affected by, the proposed vacation of said public way may attend the public hearing and may speak in favor of said petition, or remonstrate against the same, as provided by law. Written comments, suggestions, or objections may also be submitted to the Commissioners in person or by mail prior to the public hearing. Any person desiring to present their views on the petition, whether for or against, during the public hearing should contact the Commission's office prior to the scheduled hearing to receive instructions on how to access the electronic public hearing platform.

Please note that, in order to maximize transparency and public access, the County is making every effort to follow the spirit and intent of Indiana's Open Door Law and other applicable laws regulating the conduct of public meetings and public hearings in light of the ongoing public health emergency.

Board of Commissioners of  
Delaware County, Indiana

Dated: January 9, 2021

QUESTIONS MAY BE DIRECTED TO COMMISSIONERS@CO.DELAWARE.IN.US

**TABLED BUSINESS**

RESOLUTION OF THE DELAWARE COUNTY BOARD OF COMMISSIONERS ESTABLISHING POLICIES AND PROCEDURES TO PROTECT DECORUM AND FOSTER THE EFFECTIVE ADMINISTRATION OF PUBLIC MEETINGS  
RESOLUTION NO. 2021-001

Mr. John Brooke, County Attorney said Resolution 2021-001 was tabled January 4, 2021. Provisions have been added.

MOTION: Commissioner Henry made a motion to remove Resolution 2021-001, Establishing Policies and Procedures to Protect Decorum and Foster the Effective Administration of Public Meeting from the table.

SECOND: Commissioner Riggin

YEAS: Commissioner Henry, Commissioner Riggin, President King

MOTION: Commissioner Henry made a motion to approve Resolution 2021-001, Establishing Policies and Procedures to Protect Decorum and Foster the Effective Administration of Public Meeting.

SECOND: Commissioner Riggin

YEAS: Commissioner Henry, Commissioner Riggin, President King

ORIGINAL

**RESOLUTION NO. 2021-001**

**RESOLUTION OF THE DELAWARE COUNTY BOARD OF COMMISSIONERS  
ESTABLISHING POLICIES AND PROCEDURES TO PROTECT DECORUM AND FOSTER  
THE EFFECTIVE ADMINISTRATION OF PUBLIC MEETINGS**

*WHEREAS*, the Delaware County Board of Commissioners (the "Commissioners") serves as the legislative body of Delaware County, Indiana (the "County"); and

*WHEREAS*, the Commissioners conduct County business during its regularly scheduled and, if necessary, special meetings, all of which are open to the public; and

*WHEREAS*, the Commissioners previously adopted, and continue to follow, the general rules of parliamentary procedure as set forth in Robert's Rules of Order regarding the conduct and administration of its public meetings; and

*WHEREAS*, the Commissioners have the authority to establish rules for the transaction of business in their meetings pursuant to I. C. 36-2-4-10 and believe it is in the best interest of the County, as well as those individuals who choose to attend public meetings of the Commissioners, to adopt standard policies and procedures for the administration of public meetings to supplement or, as the case may be, in lieu of the parliamentary procedure set forth in Robert's Rules of Order; and

*WHEREAS*, the policies and procedures adopted herein are intended to provide the general public with a clear and concise set of standards for public meetings held by the Commissioners and, when applicable, rules regulating the conduct and decorum of members of the general public who wish to attend said public meetings; and

*WHEREAS*, in order to protect general meeting decorum and foster more effective administration of public meetings, the Commissioners now desire to adopt standard policies and procedures applicable to public meetings held by the Commissioners according to the general parameters stated herein.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY, INDIANA:**

1. The Delaware County Board of Commissioners hereby adopt the following rules which shall apply to all individuals attending public meetings of the Delaware County Board of Commissioners:
  - a. Members of the general public in attendance at a public meeting of the Board of Commissioners have no rights with reference to the meeting except as otherwise provided by law.
  - b. Although members of the general public have no right to speak during a public meeting, the Commissioners, at their sole discretion, may provide for a public comment period, during which time individuals may be given an opportunity to address the Commissioners.
  - c. Members of the public may speak during a public hearing as required by the statutes, but their comments shall be governed by these rules.
  - d. During any public comment period, individuals wishing to speak will be required to sign a speaker registration sheet and provide the speaker's name, address, and issue or topic they



wish to address. Individuals will be called to speak in the order of which they have signed the speaker registration sheet.

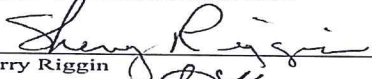
- e. Individuals who wish to speak and have signed the speaker registration sheet may waive their opportunity to speak once called upon; however, an individual who waives their opportunity to speak will not be permitted to speak at a later time.
- f. Once called upon, all speakers shall first state their name, their county of residence, and the issue upon which they wish to speak. Speakers may only speak from a podium and must speak loudly and clearly into the microphone provided.
- g. Any speaker that wishes to address the Commissioners during a public hearing shall provide information that is germane and relevant to the purpose of the public hearing only. Any comments that are derogatory, inflammatory, hateful or non-germane as determined by the presiding officer of the public hearing shall be considered out of order and the speaker will forfeit their remaining time, if any.
- h. Any speaker wishing to provide documents to the Commissioners at the meeting shall provide one copy for each of the three (3) Commissioners; however, speakers are encouraged to bring additional copies of any documents they intend to distribute during the meeting.
- i. Each speaker may only speak once and will be given a maximum of three (3) minutes to speak unless a shorter period of time is set forth by the Commissioners at the start of the public comment period. Time may not be reserved or yielded to other speakers and once an individual is finished speaking, that individual's remaining time, if any, is waived.
- j. Each speaker will be notified when their allotted time to speak is exhausted and any speaker that does not immediately conclude their remarks at the expiration of their allotted time will be deemed out of order and the speaker will be asked to stop.
- k. Comments which are duplicative or repetitive will be deemed out of order and the speaker will be asked to stop.
- l. Any speaker who is discourteous, argumentative, accusatory, or insulting will be deemed out of order and asked to stop.
- m. Once a speaker is deemed out of order for any reason, that speaker's remaining time, if any, will be forfeited and the speaker will not be granted an opportunity to make any further comment or presentation.
- n. All members of the general public attending a public meeting will be expected to adhere to these rules and, any person failing to do so will be deemed out of order.
- o. The Commissioners are authorized, and have sole discretion, to request any person deemed out of order leave the meeting and, once requested to leave, a person must immediately leave the meeting room.
- p. In extreme cases, if a person refuses to leave the meeting after being asked to do so and that person continues to disrupt the proceedings in a way that is obviously hostile to the


purpose of the meeting, the Commissioners may order that the person be removed by members of the Delaware County Sheriff's Department.

- q. During its public meetings, the Commissioners will take all measures necessary under the circumstances to maintain order. In exercising this discretion, the Commissioners will be guided by a judicious appraisal of the circumstances, including the conduct and decorum of members of the general public in attendance.
  - r. In the event that Commissioner meetings are electronic, members of the public may view and observe the meeting via the live Face Book® link. Questions may be posed to the Commissioners at [commissioners@co.delaware.in.us](mailto:commissioners@co.delaware.in.us). Responses to questions emailed to the Commissioners will be reviewed and if appropriate, a response may be made. Comments that are posted along with the live feed on Face Book® may or may not be responded to during the meeting.
2. Upon the adoption of this Resolution, a copy of the rules stated herein shall be posted outside the Commissioners' Court Room and made available to the general public through the internet website for Delaware County, Indiana (<https://www.co.delaware.in.us/>).
  3. This Resolution shall be effective upon adoption.

*DULY ADOPTED* by the Board of Commissioners of Delaware County at a regularly scheduled public meeting held on this, the 19 day of January, 2021.

DELAWARE COUNTY  
BOARD OF COMMISSIONERS

  
Sherry Riggan

  
James King

  
Shannon Henry

ATTEST:

  
Steven Craycraft, Auditor  
Delaware County, Indiana

**APPROVAL OF MINUTES**

MOTION: Commissioner Riggan made a motion to approve December 21, 2020 and January 4, 2021 minutes.

SECOND: Commissioner Henry

YEAS: Commissioner Henry, Commissioner Riggan, President King

**CONTRACTS OR AGREEMENTS FOR APPROVAL  
PERPETUAL SIDEWALK AND TRAIL EASEMENT**

Mr. Phil Tevis, Flatland Resources, presented the permanent sidewalk easement. The right of way is under the North Walnut Bridge for the City's new sidewalk on the south side of the river.

MOTION: Commissioner Riggan made a motion to approve the Grant of Recreational Trail Easement.

SECOND: Commissioner Henry

Mr. Brooke said he had reviewed the easement and there could be a question regarding recording the easement. Mr. Brooke said this is not a usual easement.

YEAS: Commissioner Henry, Commissioner Riggan, President King

GRANT OF RECREATIONAL TRAIL EASEMENT

ORIGINAL

The Delaware County Commissioners, hereafter called "GRANTOR", for valuable consideration, the receipt whereof is hereby acknowledged, and after further consideration of the performance of the covenants and agreements by the Grantee, as set out and expressed below, DOES GRANT, REMISE AND RELINQUISH to the Muncie Sanitary District, a municipal corporation and its assigns (herein after called "GRANTEE"), a recreational easement for pedestrian non-motorized, passive recreational trail purposes such as walking, hiking, jogging, running, biking, snowshoeing, and cross-country skiing. Property rights will be used for recreational trail purposes for a period of twenty-five years. Should any question arise regarding the propriety of any use of the Trail Easement Area, this easement shall be construed liberally in favor of such use; provided, however, that the GRANTEE or its designee, in its sole discretion, shall have the right to regulate or restrict uses (including but not limited to those specific uses listed below) which Grantee determines to be unsafe or otherwise detrimental to the continued use and vitality or condition of the Trail Easement Area.

The easement shall measure twenty-five feet in total width, measured from the center line of the trail and being twelve and one half feet in perpendicular direction from the trail center line and running parallel to the centerline of the trail.

A map of the trail alignment is marked exhibit "A", showing said easement location outlined in black, is attached hereto, made a part hereof.

GRANTOR shall have the right to use the easement and right of way for purposes not inconsistent with GRANTEE'S full enjoyment of the rights hereby granted, provided that GRANTOR shall not hereinafter erect or construct any building or other structure within said easement, it being understood and agreed that trails are not considered structures.

GRANTEE shall also have the right from time to time to trim and to cut down and clear away any and all trees, roots, and brush nor or hereafter on said trail easement width and shall have the further right from time to time to trim and cut down and clear away any trees on either side of said easement that now or hereafter in the opinion of GRANTEE may be a hazard to its facilities.

GRANTEE shall also have the right to mark the location of said easement and right of way by suitable markers in the ground, but said markers when set in the ground shall be placed in locations that will not interfere with any reasonable use GRANTOR shall make of said easement in accordance with the terms of this easement.

GRANTEE shall have the irrevocable right to transfer, grant or convey the easement and right-of-way in whole or in part, or any interest therein to any other municipal, public or private utility for the same purpose as described herein.

GRANTOR covenants that Delaware County Commissioners are the owner of the premises and has the right, title and capacity to grant the easements and right-of-way herein granted.

GRANTEE, or its assigns, shall repair any damage it shall do to GRANTOR'S property on said lands and shall indemnify GRANTOR against any loss and damage that shall be caused by the exercise of said

HUMAN RESOURCES CONSULTING SERVICES / WAGGONER, IRWIN, SCHEELE & ASSOCIATES

Mr. Brooke asked that a current "letter of engagement" be on file with Waggoner, Irwin, Scheele & Associates Inc. and Delaware County. Mr. Brooke said that rates, per hour, have not changed.

MOTION: Commissioner Henry made a motion to approve consulting services with Waggoner, Irwin, Scheele & Associates.

SECOND: Commissioner Riggin

YEAS: Commissioner Henry, Commissioner Riggin, President King



**LETTER OF ENGAGEMENT  
COUNTY OF DELAWARE, INDIANA**

*ORIGINAL*

The County of Delaware, Indiana (County) engages Waggoner, Irwin, Scheele & Associates Inc. (WIS) to provide the following:

**HUMAN RESOURCES CONSULTING SERVICES**

**1. Human Resources Administration Assistance**

Consultants will assist County officials in the administration of human resources administration. Consulting services will include, but not be limited to, County department operations review and reorganizational restructuring, recruitment, hiring, personnel policy administration, wage and hour compliance, and consultation of salary administration and leave policies including the Family and Medical Leave Act (FMLA), and COVID-19 related matters.

**2. Other Requested Human Resources Consulting Services**

Upon request, consultants will provide on-going human resources consulting services as requested by the County. Consulting services will include, but not be limited to, reviewing and updating County personnel policies, policy forms and procedures; and providing training to elected officials and supervisors in the administration of policies, making policy revision recommendations as needed, and providing consultation.

**FEES**

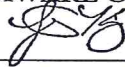
Fees will be billed on an hourly basis, plus expense reimbursement.

Principal:	\$125.00
Sr. Consultant:	\$ 95.00
Consultant:	\$ 45.00

**DEFENSE AND INDEMNIFICATION**

In the event that WIS, its officers, employees, or associates become a defendant in any litigation or complaint arising from the consulting services provided pursuant to this Letter of Engagement, the County will defend and indemnify WIS, its officers, employees, or associates unless such claim arises out of a breach of this Letter of Engagement, or the gross negligence, willful misconduct, fraud or bad faith of WIS.

**FOR THE DELAWARE COUNTY COMMISSIONERS:**



DATE: 01.19.2021

**Waggoner • Irwin • Scheele**  
& Associates INC

*Management Consulting Services Since 1979*

**MEMO**

**TO:** Delaware County Commissioners  
**FROM:** Kent Irwin  
**DATE:** January 7, 2021  
**RE:** Human Resources Administration Assistance

ORIGINAL

As background, in 2007 our firm was engaged to prepare new personnel policies, forms, and procedures for Delaware County. Since that time we have worked with County officials to update policies, prepare job descriptions, and assist with the recruitment of new employees. In addition we have provided consultation on various human resources matters.

As requested attached you will find an updated letter of engagement to provide human resources consulting services to assist the County with reviewing department operations and organizational restructuring, recruitment, hiring, personnel policy administration, and compliance with various employment regulations including wage and hour rules, the FMLA, and COVID-19 related matters.

Consulting services will be provided on an as-needed basis as requested by the County Commissioners and/or County Attorney. Fees will be billed on an hourly basis.

If this Letter of Engagement meets with your approval please return a signed copy to me.

Cc:

John Brooke, County Attorney

118 S. Franklin St. Muncie, Indiana 765-286-5195 FAX 765-286-2824

DECISION OF THE DELAWARE COUNTY COMMISSIONERS / GRIEVANCE

Mr. Brooke presented the decision of the grievance, if approved by the Commissioners, it would then move into step 4 arbitration.

MOTION: Commissioner Henry made a motion to approve the letter/decision, as presented.

SECOND: Commissioner Riggin

YEAS: Commissioner Henry, Commissioner Riggin, President King

STATE OF INDIANA )  
 )SS: DELAWARE COUNTY COMMISSIONERS COURT  
COUNTY OF DELAWARE )

IN RE THE GRIEVANCE:

Grievance Numbers: 2020-01-E911; 2020-02-E911; 2020-03-E911  
2020-01-Jail; 2020-02-Jail; 2020-03-Jail  
2020-01-Merit; 2020-02-Merit; 2020-03-Merit

CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS/SHERIFF WITH THE UAW LOCAL 231, DATED APRIL 9, 2018

DECISION OF THE DELAWARE COUNTY COMMISSIONERS

COME now the Delaware County Commissioners and pursuant to Article 11, step 3 of the Collective Bargaining Agreement with the UAW, Local 321 dated April 9, 2018 and the grievance filed by each of the bargaining sections, Correctional Officers/Security Bailiffs, Emergency Communications Employees and Sheriff Merit Deputies hereby makes the following findings:

1. The President of the United States, on March 13, 2020, has declared a nationwide emergency concerning the spread of COVID-19 viral infections.
2. The Governor of the State of Indiana, on March 16, 2020, has made an emergency declaration in response to the Coronavirus (COVID-19) disease epidemic wherein he declared a public health emergency.
3. Pursuant to I. C. 10-14-3-29(a) the Board of Commissioners of Delaware County, IN declared that an emergency existed in Delaware County, IN as well.
4. The Board of Commissioners closed the County building and operations for a 3-day period in March 2020.
5. The Board of Commissioners then opened the County Building and County operations to employees to work either remotely or in the offices, but the public was prevented from only in person attendance in the County Building.
6. The public was still allowed to conduct business with the various county offices either on the phone or electronically and work was being conducted during the time period of the grievances.
7. On April 15, 22 and May 5 each of the 3 units collective bargaining group filed identical grievances demanding additional pay for the time that was actually worked pursuant to Article 23, part B, section 5(c) of the collective bargaining agreement.
8. The additional pay is in the nature of extra pay and is not in the nature of actual overtime that was worked and not compensated nor was this additional pay for any employees that worked during the actual shutdown from March 23

through March 25. Amount of additional compensation being sought by the Union is \$440,000.

9. During the time frame of March 26 through May 6 the County Building was open, county employees were working (some remotely and some in the office), but the public was not allowed to physically come to the county offices.
10. Work was still being performed by county employees that were outside the union during this time period.
11. There were a total of 9 grievances filed by the Union, one for each two week pay period from March 26 to May 6 for a total of 9 grievances.
12. The grievance was submitted to the appropriate department supervisor each time a grievance was filed and said supervisor denied the grievance. The grievance was then presented to the County Commissioners for a grievance being pursuant to step 3 of the grievance procedure.
13. Because of the ongoing emergency, the response of the Commissioners was delayed pursuant to Article 42.
14. Although the emergency continues to this date, the Commissioners determined that a hearing and decision of step 3 was appropriate now as the pandemic does not seem to be abating any time in the near or even moderate future.

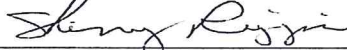
It is therefore the determination of the Board of County Commissioners in response to Article 11, step 3 of the grievance process that the response as to all 9 grievances:

1. The grievances shall be denied;

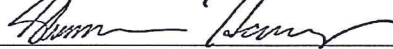
Dated this 19<sup>th</sup> day of January, 2021.



James King, Commissioner



Sherry Riggan, Commissioner



Shannon Henry, Commissioner



PERPETUAL SIDEWALK AND TRAIL EASEMENT / STAR BANK

Mr. Joe Rhett, County Attorney, presented both easements related to Morrison sidewalk projects that Redevelopment Commissioner is doing.

MOTION: Commissioner Riggins made a motion to approve perpetual sidewalk and trail easement/Star Bank and Temporary Construction easement with Ball State University.

SECOND: Commissioner Henry

YEAS: Commissioner Henry, Commissioner Riggins, President King

ORIGINAL

PERPETUAL SIDEWALK AND TRAIL EASEMENT

Form PHE-1 MODIFIED  
Revised 1/2016  
Parcel # 18-07-31-475-009.000-003

Project: Morrison TIF Sidewalk Project  
Code: N/A  
Parcel: 12  
Page: 1 of 4

THIS INDENTURE WITNESSETH, That the ~~Star Financial Bank, New Castle~~, the Grantor(s) of Delaware County, State of INDIANA Convey(s) and Warrant(s) to DELAWARE COUNTY, INDIANA, the Grantee, and for and in consideration of the sum of ~~Nineteen Thousand Seven Hundred and 00/100~~ Dollars (~~\$19,700.00~~) (of which said sum ~~\$19,700.00~~ represents land encumbered and improvements acquired and ~~50.00~~ represents damages) and other valuable consideration, the receipt of which is hereby acknowledged, a perpetual right of way easement in, under and upon certain Real Estate situated in the County of Delaware, State of Indiana, and being more particularly described in the legal description(s) attached hereto as Exhibit "A" and depicted upon the Easement Parcel Plat attached hereto as Exhibit "B", both of which exhibits are incorporated herein by reference, for the purpose of the construction, reconstruction, maintenance, operation and repair thereupon of a sidewalk and trail facility and appurtenances thereto, which may include but are not limited to, sidewalk and trail amenities including signs, bollards, benches, landscaping, retaining walls and related fences, and like features necessary for the said sidewalk and trail facility.

This conveyance is subject to any and all easements, conditions and restrictions of record.

Interests in land acquired by  
Delaware County, Indiana  
Grantee mailing address:  
100 W Main Street, Room 206  
Muncie, Indiana 47305

01/19/21

## TEMPORARY CONSTRUCTION EASEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT ("Easement") is entered into as of this 19 day of January, 2021 by and between THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY INDIANA, (the "Grantee") and Ball State University (AKA BALL STATE UNIVERSITY BOARD OF TRUSTEES), a state-assisted institution of higher education located at 2000 W. University Avenue, Muncie, Indiana 47306 ("Grantor").

A. The Grantee is proposing the construction of sidewalks and related improvements on real estate owned by Grantor (the "Project"), said real estate being situated in the County of Delaware, State of Indiana, and being more particularly described in the legal description(s) attached hereto as Exhibit "A" and depicted upon the Easement Parcel Plat attached hereto as Exhibit "B," both of which exhibits are incorporated herein by reference, which said temporary easement shall be extinguished, become void and revert to the Grantor upon the earlier of: (a) completion of the Project; or (b) December 31, 2021.

B. Grantor has agreed to grant to the Grantee a temporary easement for access and construction work during the development and construction of the Project.

NOW, THEREFORE, the Grantee and Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, agree as follows:

1. Grant of Temporary Construction Easement. Grantor hereby grants to the Grantee a temporary, non-exclusive, appurtenant easement for grading, access, ingress and egress and for vehicular and pedestrian traffic (the "Temporary Construction Easement") on, over and across that portion of the Property as depicted on Exhibit A attached hereto and made a part hereof (the "Construction Easement Area") and for the purpose of constructing and installing the Project.

2. Construction and Other Activities. All of the Grantee's construction, maintenance and repair activities shall be performed in a good and workmanlike manner, in compliance with all applicable laws, rules, regulations, orders and ordinances. Further, the Grantee shall construct and maintain the Project at the Grantee's sole cost and expense. Construction of the Project may involve the temporary removal of timber, shrubbery and fences to remove gates, fences, shrubs, and other obstacles to the construction of the Project. The Grantee, at its sole cost, will relocate, repair, and/or reconstruct any items removed from the Property, clean up all construction debris and restore the Property to a condition at least equal to the condition as the same existed as of the date hereof, save for grading activities performed as part of the Project.

3. Termination of Temporary Construction Easement. The Temporary Construction Easement shall terminate upon the earlier of: (a) the completion of the Project; or (b) December 31, 2021.

4. No Partnership. This Easement shall not create an association, partnership, joint venture or a principal and agency relationship between any of the parties hereunder or any of their successors and assigns.

5. Indemnification. Grantee shall defend, indemnify and save harmless Grantor against liability or claim thereof whether for injury to persons, including death, or damage to the Property (i) arising out of Grantee, its agents, employees, licensees or invitees being on or about the Property pursuant to this Agreement or arising out of any default hereunder.

### EMERGENCY DECLARATION

Mr. Brooke presented the continuation of Emergency Declaration 2021-002. Delaware County currently is at 14% and is in the orange zone.

Mr. Jammie Bane, Health Administrator, provided an update of vaccinations. State of Indiana have allotted 300 doses, per week, to the Health Department. An additional 200 was offered and accepted last week. Mr. Bane said currently it is unknown how much the state will receive in vaccinations. The amount is based off of population. The flow of Health Departments vaccinations are going smooth, with many good compliments from the public. Open Door, IU Ball Memorial Hospital and Meridian are also receiving vaccinations.  
[www.ourshot.in.gov](http://www.ourshot.in.gov) to register for the vaccine.

Mr. John Coutinho, EMA Director, said Ms. Hanna Carpenter, Deputy Logistics Chief, contacted him regarding a site to be setup within Delaware County. Mr. Coutinho talked with Commissioner Henry about using the Delaware County Fairgrounds, however another site was selected by the State. Currently the State is not communicating well within the county level.

Mr. Kyle Johnson, Chief Information Officer, said weekly calls have been made to keep everyone on the same track. The State is not giving each facility the same information, so there is some confusion.

MOTION: Commissioner Henry made a motion to approve Emergency Declaration 2021-002.

SECOND: Commissioner Riggin

YEAS: Commissioner Henry, Commissioner Riggin, President King

**Disaster Emergency Declaration  
2021-02**

**Delaware County, Indiana**

*ORIGINAL*

- WHEREAS, the President of the United States, on March 13, 2020, has declared a nationwide emergency concerning the spread of COVID-19 viral infections, and
- WHEREAS, the Governor of the State of Indiana, on March 16, 2020, has made an emergency declaration in response to the Coronavirus (COVID-19) disease epidemic wherein he has extended the public health emergency for a tenth time up to and including January 30, 2021; and
- WHEREAS, the County Health Officer has determined that certain measures should be put into place to lessen the potential spread of the COVID-19 virus including the closing of some local businesses; and
- WHEREAS, pursuant to I. C. 10-14-3-29(a) the Board of Commissioners of Delaware County, IN hereby makes a local disaster emergency declaration; and
- WHEREAS, the trend in Delaware County for the past month has shown a significant increase in COVID-19 cases and the positivity rate for the last 7 days is 14.09% ending on January 12, 2021 for the County; and
- WHEREAS, there have been a total of 8,559 cases in Delaware County to date with an increase of 1,089 cases and 129 deaths since the start of the pandemic and more than an average of 99 cases per day; a positivity rate of 10.7% currently and IU Ball Memorial Hospital has a total of 65 inpatient COVID-19 patients; and
- WHEREAS, younger members of the populace have been testing positive in greater numbers as well as greater illness rates among younger and younger people; and
- WHEREAS, the Board of Commissioners of Delaware County, Indiana have determined that in response to the emergency believes that an Emergency Declaration is appropriate for the citizens of Delaware County and that the Emergency Declaration should be extended.

**NOW THEREFORE WE, THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY, INDIANA HEREBY DECLARE THAT:**

1. A local public health disaster continues to exist in the County and that we hereby invoke and declare those portions of the Indiana Code which are applicable to the conditions and have caused the issuance of this



proclamation, to be in full force and effect in the entire County, including incorporated areas for the exercise of all necessary emergency authority for protection of the lives and property of the people of this County and the restoration of local government with a minimum of interruption. **This Emergency Order is effective immediately and shall be in place until the end of business February 1, 2021.**

2. Governor Eric Holcomb's Executive Orders 20-48; 20-49, 20-50, 20-52 and 20-53 are incorporated in their entirety in this Emergency Declaration.
3. All employees in any county facility shall wear a face covering their nose and mouth at all times except while working in their own workspace, provided that the workspace is spaced more than 6' from other work spaces. Additionally, employees shall not be required to wear facial coverings when working outside (if they are working in an environment that allows for social distancing), in a vehicle by themselves or working remotely. Employees of the County shall also wear facial coverings when moving about the hallways, common areas, restrooms or other areas of the County facilities when not at their work space.
4. Department heads and Elected officials shall reduce the number of employees and personnel permitted to congregate in break rooms or common areas and to ensure social distancing occurs at all times.
5. All members of the public that conduct business in any county building or facility shall maintain a social distance of at least 6 feet between individuals at all times and shall wear a face covering over the nose and mouth when inside any public building or other indoor space open to the public. This does NOT apply to private offices, private workplaces or meetings where social distancing can be achieved and maintained between people not in the

same household. Member of the public are required to wear a face covering which may consist of a face mask or shield or other covering which covers the person's mouth and nose during their business in the County Building unless the member of public prohibits a face covering because of an underlying health condition prohibits wearing a face covering.

6. In instances where an individual must visit a retail business, the business shall follow the proper social distancing requirements in Executive Order 20-48 and the guidelines from the Center for Disease Control (CDC).
7. Those residents that meet the below stated criteria are not required to wear a facial covering:
  - a. Under 2 years of age;
  - b. Over age 2 years and under age 8 years;
  - c. Any person with a medical condition, mental health condition or disability which prevents face coverings.
  - d. Any other exemption set forth in Executive Order 20-48, section 3(f)(i-xv).
8. Those members of the public that are at least 65 and older and those with known high-risk health conditions should adhere to social distancing requirements and be cautious at work and in their communities and should wear facial coverings.
9. Citizens that have symptoms, may have been exposed, been in close contact (as defined by the CDC), have high-risk health conditions as well as others that desire peace of mind are encouraged to be tested for COVID-19 at the local facilities.
10. Pursuant to Executive Order 20-48; Delaware County currently is placed in the "Orange" zone because community spread is approaching high levels

and the County has a point score of 2.5 according to the Indiana Department of Health.


11. Delaware County has the ability to increase the threat level to a "Red" zone where the community spread is high and the County could achieve a point score of 3.0 or higher by the Indiana Department of Health.
12. As a result of the County achieving the "Orange Zone" level from the State Health Department social gatherings and events of greater than 50 people are prohibited from occurring.
13. In the event that the County achieves a "Red Zone" level from the State Health Department, then social gatherings and events of greater than 25 people are prohibited from occurring.
14. All businesses are required to place clearly visible signage at their public and employee entrances notifying that face coverages are required for all individuals entering the business.
15. Businesses should only admit those customers, clients, vendors and visitors that wear a face covering.
16. Religious services shall be governed by Executive Order 2020-48, section 7(a).
17. This Emergency Declaration shall supersede and replace all prior Emergency Declarations made the by Board of Commissioners prior to this Emergency Order.
18. The Commissioners determine that all government operations are essential and the government operations from March 23, 2020 to the present and all essential governmental functions are operating and available to the public through remote or electronic access, as needed.


19. Violations of this order will be turned over to ISDH, Indiana Department of Homeland Security, Indiana Alcohol & Tobacco Commission or the local board of health as the facts may impose the sanctions set forth in Executive Order 20-48(10) (b).

20. This Emergency Order shall remain valid until the end of business on February 1, 2021 unless superseded.

In witness, whereof, we have hereunto set our hand this 19<sup>th</sup> day of January, 2021.

**Delaware County Board of Commissioners**

  
\_\_\_\_\_  
James King

  
\_\_\_\_\_  
Sherry Riggins

  
\_\_\_\_\_  
Shannon Henry

Attest:

  
\_\_\_\_\_  
Steven G. Craycraft, County Auditor



### **ORDINANCES FOR FIRST READING**

#### **AN ORDINANCE AMENDING TITLE 4 OF THE DELAWARE COUNTY CODE REGARDING CHAPTER 2 PERMIT FEES ORDINANCE 2021-001**

Ms. Marta Moody, Plan Commission Director, presented Ordinance 2021-001, permit fees to be raised. The last time fees had been raised was 2013. The Building Commissioner researched 2019/2020 and the fees were low compared to other counties.

**MOTION:** Commissioner Henry made a motion to introduce Ordinance 2021-001, An Ordinance Amending Title 4 of the Delaware County Code regarding Chapter 2 Permit Fees.

**SECOND:** Commissioner Riggan

**YEAS:** Commissioner Henry, Commissioner Riggan, President King

#### **ORDINANCE VACATING PUBLIC RIGHT-OF-WAY LOCATED IN DELAWARE COUNTY, IN ORDINANCE 2021-002**

Mr. Rhett said Ordinance 2021-002 pertains to the Public Hearing, presented earlier.

**MOTION:** Commissioner Henry made a motion to introduce Ordinance 2021-002, Ordinance Vacating Public Right-of-Way Located in Delaware County.

**SECOND:** Commissioner Riggan

**YEAS:** Commissioner Henry, Commissioner Riggan, President King

### **DEPARTMENT HEADS AND ELECTED OFFICIALS**

Commissioner Henry asked about sending a letter to Ways and Means committee regarding Circuit Court 6.

President King said he would like the letter to go out, due to not having funding. When it was first discussed, city court fees was going to be used to build out/help with staffing. King understands that this did not go through. President King said this could always be revisited at a later date. A \$300,000 to \$400,000 build out plus staffing of \$150,000 to \$250,000 and then decreasing budgets would be a problem.

Commissioner Henry said the Commissioners and Council had not been included in a lot of conversations regarding the matter. Council would have to fund the operation.

**MOTION:** Commissioner Henry made a motion to approve signatures of letter to Ways and Means committee.

Commissioner Riggan thought Mr. Brooke had been working with them. Commissioner Riggan said she is a firm believer that if a Judge/Prosecutor say they need something, as Commissioners we should listen.

**SECOND:** President King

**YEAS:** Commissioner Henry, Commissioner King

**NAYES:** Commissioner Riggan



**DELAWARE  
COUNTY  
COMMISSIONERS**

**James King**  
District # 1

**Sherry K. Riggin**  
District # 2

**Shannon Henry**  
District # 3

**Jeni Honeycutt**  
Executive Administrator

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Muncie, Indiana 47305  
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[www.co.delaware.in.us](http://www.co.delaware.in.us)

*An Equal Opportunity Employer*

January 19, 2021

Hon. Dr. Timothy Brown  
Chairman, Ways and Means Committee  
Indiana House of Representatives  
200 W. Washington St.  
Indianapolis, IN 46204

Re: Delaware County Circuit Court 6

Dear Chairman Brown:

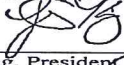
The purpose of this letter is to state the opposition of the creation of a 6<sup>th</sup> Delaware County Circuit court to start on January 1, 2023. The majority of the Board of County Commissioners believe that the addition of a sixth circuit court would create an undue financial burden on the County and its general fund budget, a budget that has been hit hard not only by the pandemic, but also other economic factors in the Muncie/Delaware County area. The County budget presently is strained provided the current services to the citizens and adding an additional \$150,000+ cost could possibly jeopardize the current level of services. This does not include the cost for the construction necessary to create the court space in the Justice Center.

The majority of the Board of Commissioners have considered the cost/benefits of another court and believe that currently the County must consider all parts of the budget and not incurred future significant costs. The County has been under a hiring freeze for the past 2 years and the employees have not had a pay raise during that time.

The revenue that the County has received has been declining for a few years and the Commissioners and County Council have been committed to stretching the dwindling resources as best can be managed.

The majority of the Board of Commissioners believe that a sixth circuit court at this time is not fiscally prudent or necessary for the citizens of Delaware County. The majority of the Board of Commissioners would request that the State and the Ways and Means Committee, in particular, rescind the creation of this court, but allow for future creation.

Very Truly Yours,  
Delaware County Board of Commissioners

  
James King, President

  
Shannon Henry, Member

Mr. Brooke will revise the letter to reflect Commissioner Riggins vote.

#### PAYMENTS OF CLAIMS

MOTION: Commissioner Riggin made a motion to approve claims in the amount of \$1,538,749.38.

SECOND: Commissioner Henry

YEAS: Commissioner Henry, Commissioner Riggin, President King

Commissioner Riggin did not have a chance to review claims, however, she had a question about one of the claims that going to California for a roller. Riggin would like this money placed into an escrow. Commissioner Riggin said she just does not trust everyone.

Commissioner Henry said the intent was to mail the check. This is a used roller with minimal hours.

Ms. Carrie Dye, Highway Office Manager, said an invoice is ready to be submitted. The company is required to have the roller to Muncie, Indiana within 30 days. The roller is like the one that is being purchased from North Carolina with less hours.

Mr. Brooke said there are always options that can be negotiated regarding payment.

#### PUBLIC COMMENTS, QUESTIONS, OTHER BUSINESS & DISCUSSION

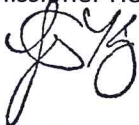
No public comments.

#### RECESS

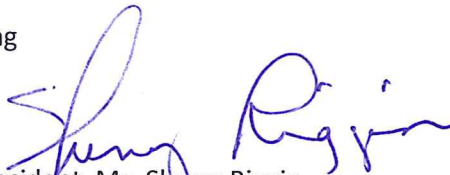
MOTION: Commissioner Henry made a motion to recess until February 1, 2021.

SECOND: Commissioner Riggin

YEAS: Commissioner Henry, Commissioner Riggin, President King



President, Mr. James King



Vice President, Ms. Sherry Riggin



Member, Mr. Shannon Henry



Auditor, Mr. Steven G Craycraft