

**Enrolled Minutes of the Fortieth Regular or Special Meeting
For the Twenty-Seventh Highland Town Council
Regular Meeting
Monday, July 08, 2013**

Study Session. The Twenty-Seventh Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, July 08, 2013 at 6:45 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Mark Herak, Dan Vassar, Brian Novak, Konnie Kuiper and Bernie Zemen were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

General Substance of Matters Discussed.

1. The Town Council discussed the agenda of the imminent regular meeting.
2. The Town Council discussed the crowd management and how it could be improved along the recent parade route. It was noted that many of the viewers were too proximate to the vehicles in the route particularly those that were distributing candies.
3. The Town Council discussed the status of the unsafe building proceeding for the site of the former Chela's Restaurant on 45th Avenue, Highland.
4. The Town Council discussed the Aetna Developer petition before the Highland Plan Commission regarding the desire to rezone a location at US 41 and Main Street had been continued at the quest of the petitioner.
5. The Town Council was briefed by the Town Attorney regarding his review of the architectural services agreement with Wilson-Estes for design services associated with the desired construction of a public safety facility.
6. The Town Council discussed the desirability of paving the municipal parking lot at the southwest corner of Highway and Kennedy Avenues. It was noted that any paving should distinguish the bike trail that is part of the lot.

The study session ended at 6:58 O'clock p.m.

Regular meeting. The Twenty-Seventh Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, July 08, 2013 at 7:00 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President, Brian J. Novak, presided and the Town Clerk-Treasurer, Michael W. Griffin, was present to memorialize the proceedings. The meeting was opened with Councilor Konnie Kuiper 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, Mark Herak, Dan Vassar, Brian Novak, and Konnie Kuiper. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Additional Officials Present: Rhett L. Tauber, Town Attorney; John Bach, Public Works Director; Peter Hojnicky, Metropolitan Police Chief; William R. Timmer, Jr., CFOD, Fire Chief; and Kenneth J. Mika, Building Commissioner were present.

Also present were Randy Bowman, Assistant Inspector for Electric and Dennis Adams, Town Board of Metropolitan Police Commissioners.

Minutes of the Previous Meeting:

The minutes of the regular meetings of 24 June 2013 were approved as filed.

Special Orders:

1. Public Hearing: Considering the matter of the proposed establishment of a General Improvement District to be associated with a project to improve the 2800-2900 blocks of 98th Street to be known as the 98th Street Reconstruction Project, financing the cost of these improvements through the Municipal General Improvement Fund. *(Works Board Order No. 2013-33 was passed and adopted at the Town Council meeting of June 24, 2013, giving approval to the project and the General Improvement District, subject to this public hearing).*

(a) Verification of Proofs of Publication. (IC 5-3-1; 36-9-17) The TIMES: June 28 2013. The Town Attorney indicated that the proof of publication was in compliance with IC 5-3-1.

(b) Public Hearing on the Issue: Whether the benefits that will accrue to the property liable to be assessed for the improvement will equal the maximum estimated cost of the improvement. The Town Council President called the public hearing to order.

The Public Works Director was recognized in order to offer a brief survey of the proposed project, assisted by a PowerPoint presentation. He noted that the project was moving forward owing to a petition circulated in the neighborhood of residents in which 13 properties were involved. The street runs east and west and is bounded by Fifth Street and Erie Street. He further noted that bids for the project were received on July 2, 2013. He further reported if the project is approved, work will begin on August 5 and will conclude in October. Following the presentation the following public comment was received:

1. Richard Peach, 2846 98th Street, Highland, expressed his support for the project. He further inquired about the project's effects on the street elevation and its alignment with his driveway, on buried power or utility lines and finally whether he would be given an opportunity to connect his sump pump to the storm sewers after installation.
2. Terry Fuqua, 3042 LaPorte Street, Highland, inquired about how the projects are selected. Mr. Fuqua opined that he believed there were other streets that were in greater need of repair.
3. Karen Kerman, 2840 98th Street, Highland, inquired whether U.S. Postal service would be disrupted during construction.

4. Steve Vernengo, 2929 98th Street, Highland, inquired about the actual cost of the project and when the individual property assessments would be known. Mr. Vernengo inquired whether during the process existing power lines could be buried.
5. John Kerman, 2840 98th Street, Highland inquired seeking clarification about the location of new storm water catch basins which were to be included in the project.

There were no further comments. The Town Council President closed the public hearing.

- (c) Consideration of **Works Board Order No. 2013-38: An Order Confirming Works Board Order No. 2013-33 Entitled "Preliminary Order for the 2800-2900 Blocks of 98th Street Reconstruction Project and Financing thereof through Municipal General Improvement Fund and Special Assessments from Property Owners Benefiting from such Improvements"**.

Councilor Herak moved the passage and adoption of Works Board Order No. 2013-38. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

TOWN OF HIGHLAND
Order of the Works Board No. 2013-38

AN ORDER CONFIRMING WORKS BOARD ORDER NO. 2013-33 ENTITLED "PRELIMINARY ORDER FOR THE 2800-2900 BLOCKS OF 98TH STREET RECONSTRUCTION PROJECT AND FINANCING THEREOF THROUGH MUNICIPAL GENERAL IMPROVEMENT FUND AND SPECIAL ASSESSMENTS FROM PROPERTY OWNERS BENEFITING FROM SUCH IMPROVEMENTS"

Whereas, On June 24, 2013, the Town Council of the Town of Highland, Indiana adopted Works Board Order No. 2013-33 entitled "*Preliminary Order for 2800-2900 Blocks of 98th Street Reconstruction Project and Financing thereof through Municipal General Improvement Fund and Special Assessments from Property Owners Benefiting from such Improvements*", a copy of which is attached hereto and incorporated herein; and

Whereas, The Town Council has held a Public Hearing at 7:00 pm on Monday, July 8, 2013, after publication and mailing of notice as required by law, and has heard all interested persons regarding Works Board Order No. 2013-33; and

Whereas, The Town Council now desires to confirm Works Board Order No. 2013-33,

Now Therefore Be it Ordered by the Town Council, acting as the Works Board of the Town of Highland, Lake County, Indiana as follows:

Section 1. That the Town Council hereby determines that the benefits that will accrue to the property liable to be assessed for the improvements (as defined in Works Board Order No. 2013-33) will be in excess of the maximum estimated cost of the improvement.

Section 2. That the Town Council hereby confirms Works Board Order No. 2013-33.

Section 3. That the Town Council hereby orders that the improvements be completed and hereby determines to levy special assessments against the owner of property to be benefited by the improvements in a total amount not to exceed the estimate of maximum cost for the Improvements, which assessments are to be levied upon completion of the Improvements and determined in accordance with the provisions of I.C. 36-9-36.

Be it so Ordered.

DULY, PASSED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 08th day of July 2013 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

EXHIBIT

TOWN OF HIGHLAND
Order of the Works Board No. 2013 -33

**A PRELIMINARY ORDER FOR THE 2800-2900 BLOCKS OF 98TH STREET RECONSTRUCTION
PROJECT AND FINANCING THEREOF THROUGH MUNICIPAL GENERAL IMPROVEMENT FUND AND
SPECIAL ASSESSMENTS FROM PROPERTY OWNERS BENEFITING FROM SUCH IMPROVEMENTS**

Whereas, Pursuant to IC 36-1-2-24, the Town Council is the works board for the Town of Highland, Indiana (the "Town"); and

Whereas, Pursuant to Ordinance No. 1084, adopted by the Town Council on March 23, 1998, the Town has established a Municipal General Improvement Fund to provide monies to construct, repair, reconstruct or improve certain streets, alleys, sidewalks, curbs, gutters and sewers within the Town; and

Whereas, The residents of the **2800-2900 blocks of 98th Street** have requested consideration of the Town of Highland to install concrete curbs and sidewalks; and

Whereas, The cost for curb and sidewalk shall be paid for by the adjoining property owners based upon front footage of their property through a special assessment pursuant to the Special General Improvement District statute; and,

Whereas, The Town Council desires to proceed with the **98th Street Reconstruction Project** and to finance the portion of the cost of such projects relating to reconstruction of curbs and sidewalks (each such portion of a project, an "Improvement") through the Municipal General Improvement Fund; and

Whereas, The Town has retained Garcia Consulting to prepare plans and specifications for the **98th Street Reconstruction Project**; and

Whereas, The Town desires to finance the costs of the improvements pursuant to assessments to be collected from the property owners benefited by the respective proposed improvements as set forth in IC 36-9-36,

Now Therefore, be it resolved by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Town Council hereby makes a preliminary determination to proceed with the **98th Street Reconstruction Project** and to finance the cost of the improvements through the Municipal General Improvement Fund and the collection of special assessments from property owners benefited by the respective improvements pursuant to IC 36-9-36.

Section 2. That the Town Council hereby adopts the plans and specifications for the projects and directs the Project Engineer to place on file cross-sections, general plans and specifications for each of the improvements.

Section 3. That the Town Council hereby adopts the estimate of the maximum cost of each of the improvements attached hereto as Exhibit A and directs the Clerk Treasurer to place such estimate of maximum costs on file in the office of the Town Council.

Section 4. That the Town Council hereby determines to hold a public hearing regarding each of the improvements and whether the benefits that will accrue to the property liable to be assessed for the respective improvements will equal the maximum estimated cost of each of the improvements, which public hearing will be held at the regular meeting place of the Town Council at **7:00 P.M. on July 8, 2013**, and the Town Council further

directs the Clerk Treasurer to publish notice of such hearing and to mail notice of such hearing to property owners affected by the respective improvements.

Be is So Ordered.

Duly adopted by the Town Council of the Town of Highland, Lake County, Indiana, this 24th day of June 2013 by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL OF THE TOWN OF
 HIGHLAND, INDIANA

/s/Brian J. Novak, President

Attest:

/s/Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
 Clerk-Treasurer

Staff Reports:

• **Fire Department Report for June 2013**

	Month	1st half of yr.
General Alarms	11	50
Still Alarms	15	38
Paid still alarms	22	44
Total:	<u>48</u>	

• **Workplace Safety Report for June 2013**

There were four incidents. The following incident summary was filed:

Department	Injuries this Month	Year to Date 2013	Total in 2012	Restricted Days 2013	Lost Workdays This Year	Restricted Days Last Year (2012)	Lost Workdays Last Year (2012)
Parks	0	2	0	0	0	0	0
Fire	0	0	0	0	0	0	0
Police	3	5	10	0	0	0	0
Street	0	1	7	0	0	0	0
Water & Sewer	1	2	4	22	0	2	0
Maint.	0	0	1	0	0	0	0
Other	0	2	0	0	0	0	0
TOTALS	4	12	22	22	0	2	0

Effective January 1, 2002, OSHA changed the record keeping guidelines. The municipality now counts the number of days lost from the day after the injury until the employee returns to work. Weekend, holidays, vacation days or other days scheduled off are included in the lost days count to a maximum of 180 days.

Unfinished Business and General Orders:

- 1. Works Board Order No. 2013-39:** An Order of the Works Board Accepting the Bid of Walsh & Kelly, Incorporated for the 2800-2900 blocks of 98th Street Reconstruction Project Being the Lowest Responsive and Responsible Bid in the amount of Four Hundred Forty-eight Thousand One Hundred Ninety-one Dollars and 97/100 Cents (\$448,191.97).

Councilor Zemen moved the passage and adoption of Works Board Order No. 2013-39. Councilor Vassar seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

TOWN of HIGHLAND
Board of Works
Order of the Works Board No. 2013-39

AN ORDER OF THE WORKS BOARD ACCEPTING THE BID OF WALSH & KELLY, INCORPORATED FOR THE 2800-2900 BLOCKS OF 98TH STREET RECONSTRUCTION PROJECT BEING THE LOWEST RESPONSIVE AND RESPONSIBLE BID IN THE AMOUNT OF FOUR HUNDRED FORTY-EIGHT THOUSAND ONE HUNDRED NINETY-ONE DOLLARS AND 97/100 CENTS (\$448,191.97)

Whereas, The Town Council for the Town of Highland determined that a need exists to improve the 2800-2900 blocks of 98th Street; and

Whereas, Garcia Consulting Engineers had prepared plans and specifications for the 2800-2900 blocks of 98th Street and the project was bid in accordance with I.C. 36-1-12 *et seq.* and notice was published in accordance with I.C. 5-3-1; and

Whereas, The following bids were received at 10:00 a.m. on July 2, 2013:

	<u>Bidder</u>	<u>Base Bid</u>
1.	Rex Construction Co., Inc.	\$569,080.75
2.	deBoer Egolf Corporation	\$452,754.50
3.	Walsh & Kelly, Inc.	\$448,191.97
4.	Rieth-Riley Construction, Inc..	\$486,278.00
5.	Olthoff, Inc.	\$526,194.99
6.	Gariup Construction	\$664,900.00
7.	Grimmer Construction, Inc.	\$491,662.32
8.	Gough, Inc.	\$533,740.51

Whereas, Garcia Consulting Engineers and the Director of Public Works have reviewed the bids and determined that the bid of Walsh & Kelly, Incorporated in the amount of Four Hundred Forty-eight Thousand One Hundred Ninety-one Dollars and 97/100 Cents (\$448,191.97) to be the lowest responsive and responsible bid.

Whereas, There are 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 Town of Highland, through its Town Council, now desires to accept the recommendation of the Public Works Director and award a construction contract to Walsh & Kelly, Incorporated for the 2800-2900 blocks of 98th Street Project,

Now Therefore Be it Ordered by the Town Council, acting as the Works Board of the Town of Highland, Lake County, Indiana as follows:

Section 1. That the bid of Walsh & Kelly, Incorporated for the 2800-2900 blocks of 98th Street Reconstruction Project in the amount of Four Hundred Forty-eight Thousand One Hundred Ninety-one Dollars and 97/100 Cents (\$448,191.97) is hereby accepted as the lowest responsive and responsible bid;

Section 2. That the Public Works Director and Clerk Treasurer are hereby authorized to execute the agreement and all documents necessary to implement the project.

Be it so Ordered.

DULY, PASSED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 8th day of July 2013 having passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Works Board Order No. 2013-40:** An Order Finding and Determining Certain Personal Property of the Municipality as No longer needed for the Purposes for which originally acquired or as Worthless and further Authorizing and Approving Disposal or Transfer of said property.

Councilor Herak moved the passage and adoption of Works Board Order No. 2013-40. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

THE TOWN of HIGHLAND
BOARD of WORKS ORDER NO. 2013-40

AN ORDER FINDING and DETERMINING CERTAIN PERSONAL PROPERTY of the MUNICIPALITY as NO LONGER NEEDED for the PURPOSES for WHICH ORIGINALLY ACQUIRED OR AS WORTHLESS and FURTHER AUTHORIZING and APPROVING DISPOSAL OR TRANSFER of said PROPERTY

WHEREAS, The Town Council for the Town of Highland is the Works Board of the Municipality pursuant to IC 36-1-2-24(3) and

WHEREAS, The Town Council has been advised by the Public Works Director that several items of personal property particularly, metal scraps, older snow plow blades no longer in service, and other scrap materials, located at the Public Works Facility, 8001 Kennedy Avenue, Highland, all owned by the municipality are no longer needed for the purposes for which it was originally acquired, pursuant to IC 5-22-22; and

WHEREAS, The Public Works Director has recommended that a disposal of the personal property be authorized, all pursuant to the provisions of IC 5-22-22 et seq.; and

WHEREAS The Town Council now desires to favor the recommendation and take those steps necessary to authorize and approve a disposal of personal property of the municipality pursuant to the applicable law,

NOW, THEREFORE, BE IT ORDERED by the Town Council of the Town of Highland, Lake County, Indiana:

Section 1. That the Town Council of the Town of Highland hereby finds and determines the following:

(a) That there are certain articles of personal property owned by the municipality, particularly, metal scraps, older snow plow blades no longer in service, and other scrap materials, located at the Public Works Facility, 8001 Kennedy Avenue, Highland, that are no longer needed, unfit for the purposes for which they were acquired and may be deemed worthless, pursuant to IC 5-22-22-8;

(b) That the value of the property is less than the estimated costs of the sale and transportation of the property, pursuant to IC 5-22-22-8;

(c) That the value of any single item of personal property is less than one thousand dollars (\$1,000), and that all the items of personal property together are worth less than \$5,000, all pursuant to IC 5-22-22;

Section 2. That the Public Works Director is hereby authorized and instructed to cause a lawful disposal or transfer of the personal property identified in this Works Board Order by lawful method, without advertising, pursuant to IC 5-22-22-6, *provided that to the extent that it is practicable, the proper officers make a list of the personal property that is disposed of under the terms of this section and this order, and file it with the clerk-treasurer*, all pursuant to the provisions of IC 5-22-22 et seq.

Section 3. That any and all proceeds yielded from the lawful disposal or transfer authorized by this order shall be deposited with the Office of the Clerk-Treasurer, where such proceeds shall be deposited to the credit of the proper fund.

BE IT SO ORDERED.

DULY ADOPTED and ORDERED BY the Town Council of the Town of Highland, Lake County, Indiana, acting as the Board of Works, this 8th day of July 2013 having passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

3. Works Board Order No. 2013-41: A Preliminary Order Adopting and Approving Municipal General Improvement Fund Special Assessment Rolls for Property Owners Benefiting from the 2800-2900 Blocks of 98th Street Reconstruction Project.

Councilor Vassar moved the passage and adoption of Works Board Order No. 2013-41. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

TOWN OF HIGHLAND
ORDER OF THE WORK BOARD NO. 2013-41

A PRELIMINARY ORDER ADOPTING AND APPROVING MUNICIPAL GENERAL IMPROVEMENT FUND SPECIAL ASSESSMENT ROLLS FOR PROPERTY OWNERS BENEFITING FROM THE 2800-2900 BLOCKS OF 98TH STREET RECONSTRUCTION PROJECT

WHEREAS, Pursuant to Ind. Code 36-1-2-24, the Town Council is the works board for the Town of Highland, Indiana (the "Town"); and

WHEREAS, Pursuant to Ordinance No. 1084, adopted by the Town Council on March 23, 1998, the Town has established a Municipal General Improvement Fund to provide monies to construct, repair, reconstruct or improve certain streets, alleys, sidewalks, curbs, gutters and sewers within the Town; and

WHEREAS, Pursuant to Order of the Works No. 2013-33, the Town Council confirmed Order No. 2013-38 and determined that the benefits to accrue to the property liable to be assessed for reconstruction of curbs and sidewalks in the 2800-2900 blocks of 98th Street (the "Improvements") will be in excess of the maximum estimated cost of the Improvements; and

WHEREAS, An assessment roll for the Improvements, including the name and owner of each parcel of property abutting on and adjacent to such Improvement, a description of each parcel of such property, and the total assessment against each parcel of property, copies of which are attached hereto as Exhibit A (each, an "Assessment Roll"), has been prepared and filed with this Town Council.

Now Therefore Be it Ordered by the Town Council, acting as the Works Board of the Town of Highland, Lake County, Indiana as follows:

Section 1. That the Town Council hereby adopts and approves the Assessment Roll for the Improvements to the 2800-2900 blocks of 98th Street;

Section 2. That the Town Council hereby determines to hold a public hearing regarding the Assessment Roll for the Improvements and to receive and hear remonstrances against the amounts assessed on the Assessment Roll and determine whether the lots or tracts of land have been or will be benefited by the Improvements in (a) the amount set forth on the Assessment Roll, (b) such greater or lesser amount, or (c) any amount at all, which public hearing will be held at the regular meeting place of the Town Council at **7:00 p.m. on July 22, 2013**, and the Town Council further directs the Clerk-Treasurer to publish notice of such hearing and to mail notice of such hearing to property owners affected by the Improvements.

Be it so Ordered.

DULY, PASSED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 8th day of July 2013 having passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

4. **Enactment No. 2013-27:** An Enactment to Approve Overtime Payments for Exempt Salaried Personnel as set forth in Section 3 of the Wage and Salary Ordinance, Waiving Section 2.01 of the Compensation and Benefits Ordinance, and Suspending Section 10 (e) (3) and (4) of Salary Ordinance in order to authorize a Particular Pay rate.

Councilor Herak introduced and moved the consideration at the same meeting of introduction of Enactment No. 2013-27. Councilor Vassar 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 introduction.

Councilor Zemen moved the passage and adoption at the same meeting of introduction of Enactment No. 2013-27. Councilor Vassar seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and one negative. With Councilors Zemen, Vassar, Kuiper and Novak voting in the affirmative, and Councilor Herak voting in the negative, the motion passed. The enactment was passed and adopted at the same meeting of introduction.

Town of Highland
ENACTMENT NO. 2013-27

An Enactment to Approve Overtime Payments for Exempt Salaried Personnel as set forth in Section 3 of the Wage and Salary Ordinance, Waiving Section 2.01 of the Compensation and Benefits Ordinance, and Suspending Section 10 (e) (3) and (4) of Salary Ordinance in order to authorize a Particular Pay rate.

WHEREAS, Title 36, Article 1 Chapter 4 of the Indiana Code confers certain general corporate powers on the several units of government in Indiana;

WHEREAS, Section fifteen of that chapter specifically provides that a unit of government may fix the level of compensation of its officers and employees; and

WHEREAS, I.C. 36-5-3-2 further provides in pertinent part that the town legislative body shall provide reasonable compensation for the other town officers and employees;

WHEREAS, One Exempt Salaried Officer was authorized and directed to work a special detail, providing patrol by police car, unrelated to a special event, but rather undertaken as a particular law enforcement initiative;

WHEREAS, The current wage and salary ordinance provides for no particular rate for overtime worked for this, except as may be experienced under the terms of Section § 4.03.02 of the Compensation and Benefits Ordinance, which reads: *"Patrol Division Police Officers work on a twenty-four day work cycle beginning with the first day of the cycle on a 4 days on and 2 days off schedule with an 8.5 hour work day, 39.88 hour work week. Pursuant to the Fair Labor Standards Act (FLSA), the maximum number of hours to be worked prior to time and one-half compensation for overtime is 147 hours for the twenty-four day work cycle;*

WHEREAS, Absent action by the Town Council, the current language governing such pay for such an assigned detail, when worked by exempt salaried persons, is silent, and there is no guidance about what schedule or work cycle exempt salaried employees are subject to, since overtime pay is not regularly payable to exempt salaried employees;

WHEREAS, The provisions of Enactment No. 2012-18, authorizing an extended waiver of certain provisions of Section 10 of the Wage and Salary Ordinance as well as Sections § 04.03.01 and 2.01 of the Compensation and Benefits Ordinance have expired;

WHEREAS, The Metropolitan Police Chief has recommended that the Town Council authorize for payments to be made to the particular exempt salaried personnel, to be based upon actual hours worked on the detail at a rate of 1.5 times the exempt salaried officer's base pay plus longevity not at the rate of a usual patrol officer but at the hourly equivalent of the salary for Commander, an assignment in the metropolitan police department; and,

WHEREAS, The Town Council now desires to act to permit the pay as recommended,

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

Section 1. That the provisions of Section 10 (e) (3) of the Wage and Salary Ordinance as amended, particularly reading *"Overtime provisions of the Compensation and Benefits Ordinance notwithstanding, the following special assignment will be paid at 1.5 times the composite rate (base rate plus longevity rate) of the assigned officer for hours performing the special assignment, provided such rate is lawful and authorized under the terms of the supporting grant"*, shall be temporarily suspended and modified to permit an exempt salaried worker to ***be paid at an overtime rate at 1.5 times the assigned officer's composite (Commander) rate for work NOT supported by a grant and for which a non-exempt officer would usually be assigned;***

Section 2. That the provisions of Section 10 (e) (4) of the Wage and Salary Ordinance as amended, particularly reading, *"No rate of pay may be fixed for any regular duty or special detail or described employment, regardless of the source of funds, that has not been authorized or provided for in this Wage and Salary Ordinance as amended in effect or the Compensation and Benefits Ordinance as amended and in effect,"* shall **be temporarily suspended** and waived for the purpose of permitting **R. Potesta, CID Commander**, to be paid at the hourly rate of **\$46.89** for the eight (8) hours worked in uniform patrol duty in the **month of June 2013**, which is 1.5 times the calculated hourly rate plus longevity for the bi-weekly salary associated with the position of *Division Commander*, a senior administrative position not usually performing patrol duties, for a total amount of **\$375.12;**

Section 3. That under the terms of Section § 04.03.01 of the Compensation and Benefits Ordinance, which provides that *"exempt salaried employees will not receive overtime pay or compensatory time off, unless specifically authorized by the Town Council..."* and Section § 2.01 which identifies the position of Commander in the Police Department as an Exempt position under the terms of the FLSA, *thereby not eligible for overtime payments*, the adoption of this enactment shall be approval of overtime pay for the exempt salaried employee herein identified;

Section 4. That the forgoing action is limited to the instance herein described and the provisions of Section 10 of the Wage and Salary Ordinance and Sections § 2.01 and § 4 of the Compensation and Benefits Ordinance otherwise remain in full force and effect, nor shall this approval and waiver be seen as predictive of any further authorizations or approval of such pay;

Section 5. That the Clerk-Treasurer shall have authority to implement within a reasonable time these provisions regarding wage changes occurring between the effective dates set forth retroactively in this ordinance, if any, and the date of its passage and adoption.

Introduced and Filed on the 8th day of July 2013. Consideration on same day or at same meeting of introduction sustained a vote of 5 in favor and a vote of 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 8th day of July 2013, 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**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

5. Action to approve overtime payments for Exempt Salaried Personnel, pursuant to Section 3 of Ordinance No. 1511 the Wage and Salary Ordinance, as amended

and Section §4.03.01 of the Compensation and Benefits Ordinance. This waives the provisions of Section § 2.01 of the Compensation and Benefits Ordinance.

5.1 The Metropolitan Police Chief requests favorable action for R. Potesta, who is an exempt salaried employee, and investigations division commander, in the amount of \$100.00 for work associated with Highland Grove Mall Special Security.

5.2 The Metropolitan Police Chief requests favorable action for R. Potesta, who is an exempt salaried employee, and investigations division commander, in the amount of \$412.34 for work associated with Independence Day Festival Special Events.

5.3 The Metropolitan Police Chief requests favorable action for himself, who is an exempt salaried employee, and Chief of the Department, in the amount of \$824.67 for work associated with Independence Day Festival Special Events.

Councilor Kuiper moved, seconded by Councilor Zemen to authorize and approve the payment of overtime as requested for the exempt salaried supervisory personnel. Upon a roll call vote, there were four affirmatives and one negative. With Councilors Zemen, Vassar, Kuiper and Novak voting in the affirmative and Councilor Herak voting in the negative, the motion passed. The overtime pay for the exempt salaried personnel as requested was authorized and approved.

6. **Action of the Town Council noting the Conflict of Interest Disclosure Statement filed by John Mouratides, who is a supervisor in the Public Works Department (Agency).** Mr. Mouratides notes that from time to time AMICI Restaurant sells food to the Town. This is an enterprise in which Mr. Mouratides is a partner with his son, who operates the establishment. This filing is pursuant to IC 35-44.1-1-4(d). (If approved by the appointing (hiring) authority, the statement must "be submitted to the governmental entity and be accepted by the governmental entity in a public meeting of the governmental entity before final action on the contract or purchase".)

Councilor Zemen moved, seconded by Councilor Vassar, to approve the Conflict of Interest Disclosure Statement as filed by John Mouratides. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The statement was approved.

7. Authorization for the proper officer to publish notice of a public hearing on proposed additional appropriations in the Gaming Revenue Sharing Fund in the amount of \$16,030.56 for expenses associated with road resurfacing and reconstruction, and in the Municipal Cumulative Capital Development Fund in the amount of \$253,437 for expenses associated with paving, public works equipment or furniture and financial and related software, governmental share, all expenses in excess of the FY 2013 Budget.

Councilor Herak moved, seconded by Councilor Vassar, to authorize the publication of a the proper legal notice of a public hearing for proposed additional appropriations as indicated above. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The statement was approved.

Comments from the Town Council Members

(For the Good of the Order)

- **Councilor Bernie Zemen:** *Chamber of Commerce Liaison • Liaison to the Board of Waterworks Directors.*

Councilor Zemen thanked all the employees and volunteers who worked to support the independence Festival. He invited all to tune in to his radio show on WJOB Radio 1230 AM airing the next day.

- **Councilor Mark Herak:** *Park and Recreation Board Liaison • Budget and Finance Chair • Liaison to the Board of Sanitary Commissioners • Liaison to the Community Events Commission • Liaison to the Park and Recreation Board.*

Councilor Herak recognized the Public Works Director to brief the Town Council about branch pick-up following the recent incidents of intense weather. It was reported that the first complete round of the town would be completed by July 12.

- **Councilor Dan Vassar:** *•Redevelopment Commission Liaison.*

Councilor Vassar had no comments.

- **Councilor Konnie Kuiper:** *• Fire Department, Liaison • Town Board of Metropolitan Police Commissioners Liaison • Chamber of Commerce Liaison.*

Councilor Kuiper recognized the Fire Chief who commented favorably on the operation of the recent festival. The Fire Chief further reported on several incidents in which the Highland Fire Fighters responded in consequence of interlocal mutual aid agreements.

Councilor Kuiper also expressed thanks to all the departments, employees and volunteers who made the recent festival operate so well.

- **Council President Brian Novak:** *Advisory Board of Zoning Appeals, Liaison • Municipal Executive • Chairman of the Board of Trustees of the Police Pension Fund (1925 Law).*

Council President Novak expressed thanks to all the departments, employees and volunteers who assisted with the recent Independence Day festival. He specifically commented favorably on meeting the parade marshal, Beth Roche, a survivor of the Boston Marathon Bombing who hails from Highland.

Comments from Visitors or Residents:

1. Mr. Terry Fuqua, 3042 LaPorte Street, Highland, inquiring about the recent news accounts of plans by the Town to build a new public safety facility and new Town Hall, asked whether the current Town Hall would be reused. He further inquired whether the current building could be retrofitted at a lower cost than the new construction as proposed. He also inquired about the costs projected for the proposed new Town Hall.

Mr. Fuqua, further inquired about the Redevelopment Department portion of the Town website stating that he found that the minutes section did not seem to be updated as the most recent minutes there were for the April 2011 meeting. He further noted that he did not see an annual report more current than that filed for 2010.

Mr. Fuqua further inquired when the next auction may be scheduled. He indicated that he was particularly interested in vehicles and other out of service personal property.

Mr. Fuqua still further inquired whether there was a lawn-mowing tractor that was air-conditioned.

Mr. Fuqua still further inquired about the practice of paying overtime to salaried supervisory workers. Mr. Fuqua expressed disfavor with the action taken during the meeting, stating that in his work life he was a salaried supervisor and he was not entitled to overtime.

2. Steve Vernengo, 2929 98th Street, Highland expressed his appreciation of the Fireworks Display presented by the Town this year.
3. Mr. Terry Fuqua, 3042 LaPorte Street, Highland, inquired about the status and prospects associated with plans to relocate the Public Works Facility at 8001 Kennedy Avenue to another location in Town. This plan he noted from his review of the Redevelopment Department page on the Town Website.

Payment of Accounts Payable Vouchers and Approval of Payroll Dockets. There being no further comments from the public, Councilor Vassar moved to allow the vendors accounts payable vouchers as filed on the pending accounts payable docket, covering the period June 25, 2013 through July 08, 2013. Councilor Herak seconded. Upon a vote *viva voce*, the motion passed. The accounts payable vouchers for vendors were allowed and the Clerk-Treasurer was authorized to make payment.

Vendors Accounts Payable Docket:

General Fund, \$196,483.26; Motor Vehicle Highway and Street (MVH) Fund, \$26,920.09; Law Enforcement Continuing Education, Training and Supply Fund, \$1,066.44; FSA Agency Fund, \$1,129.38; Gasoline Fund, \$14,986.76; Information and Communications Technology Fund, \$2,951.83; Donation Fund, \$569.99; Special Events Fund, \$20,300.10; Police Pension Fund, \$62,566.23; Municipal Cumulative Capital Development Fund, \$55,217.95; Traffic Violations and Law Enforcement Agency Fund, \$5,78.50; Total: \$387,270.53.

Adjournment. Councilor Kuiper moved that the plenary meeting be adjourned. Councilor Vassar seconded. Upon a vote *viva voce*, the motion passed. The regular plenary meeting of the Town Council of Monday, July 08, 2013 was adjourned at 8:05 O'clock p.m. No study session followed the plenary meeting.

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer