

FEBRUARY 6, 2017

REGULAR SESSION

The LaGrange County Commissioners met in Regular Session on Monday, February 6, 2017, in their meeting room, County Office Building, 114 W. Michigan Street, LaGrange, Indiana, 46761, at 8:30 a.m., with the following present: Commissioners, Mr. Larry N. Miller, Mr. Terry A. Martin, and Mr. Dennis H. Kratz; and LaGrange County Auditor, Kay M. Myers. Mr. Larry Miller called the meeting to order and led those present in saying the Pledge of Allegiance to the Flag. Mr. Terry Martin made a motion to adopt the proposed agenda with flexibility. Mr. Dennis Kratz seconded the motion and it carried unanimously.

DESTRUCTION OF RECORDS

Mr. Kurt Bachman, County Attorney, reported that Mrs. Rita Lehner, GIS Coordinator, would like to dispose of 66 boxes of public records from the Courthouse. Mr. Terry Martin made a motion to have the records disposed of per Indiana Statute 5-15-5.1-14. Mr. Dennis Kratz seconded the motion and it carried unanimously.

BRIDGE NO. 68 - COUNTY ROAD 300 NORTH OVER PIGEON RIVER

Ms. Sarah Farlow, County Engineer, presented Supplemental Agreement No. 1 for Bridge No. 68, carrying County Road 300 North over the Pigeon River. The agreement eliminates the right of entry coordination and parcel presentation, which were not used due to properties adjacent to the site not being impacted. This agreement will reduce the cost by \$4,100.00. Mr. Terry Martin made a motion to approve the amendment. Mr. Dennis Kratz seconded the motion and it carried unanimously.

BRIDGE NO. 47 - COUNTY ROAD 700 SOUTH OVER NORTH BRANCH ELKHART RIVER

Ms. Sarah Farlow, County Engineer, presented Supplemental Agreement No. 1 for Bridge No. 47, on County Road 700 South over the north branch of Elkhart River. The agreement removes the not to exceed fees for right of entry acquisition, and will reduce the cost by \$4,600.00. Mr. Terry Martin made a motion to approve the amendment. Mr. Dennis Kratz seconded the motion and it carried unanimously.

WOODRUFF ROAD MICROSURFACE REPAVING PROJECT

Mr. Kurt Bachman, County Attorney, presented the bid documents for the Woodruff Road micro surface repaving project. Mr. Terry Martin made a motion to approve the bid documents and proceed with bidding. Mr. Dennis Kratz seconded the motion and it carried unanimously.

SOUTH MILFORD MILL STREET PROJECT

Mr. Kurt Bachman, County Attorney, reported that the closing on the two South Milford properties will take place on February 16, 2017. Bids will be opened on March 6, 2017.

Mr. Terry Martin made a motion to approve the bid plans and specifications per the recommendation of the County Engineer, proceed with the advertisement of bids, and to sign the title page. Mr. Dennis Kratz seconded the motion and it carried unanimously.

Mr. Kurt Bachman, County Attorney, presented the following Resolution authorizing the executions of the closing documents for the purchase of the real estate from South Milford Grain Company, Inc.:

COUNTY OF LAGRANGE
RESOLUTION NO. 2017-02-06

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE AUTHORIZING THE EXECUTION OF THE CLOSING DOCUMENTS FOR THE PURCHASE OF REAL ESTATE FROM SOUTH MILFORD GRAIN COMPANY, INC.

WHEREAS, the Board of Commissioners for the County of LaGrange, Indiana ("LaGrange County") has the authority to purchase land and real estate pursuant to Indiana Code 36-1-4-5;

WHEREAS, LaGrange County desires to acquire the parcels of real estate located at 7580 S. State Road 3, South Milford, Indiana 46786 and 7590 S. State Road 3, South Milford, Indiana 46786 ("Real Estate");

WHEREAS, LaGrange County has entered into two (2) purchase agreements ("Purchase Agreements") for the Real Estate with South Milford Grain Company, Inc.;

WHEREAS, LaGrange County desires to have Larry Miller act on behalf of LaGrange County with regard to the Purchase Agreements at and before closing;

WHEREAS, LaGrange County desires to authorize Larry Miller to be present at and execute closing documents at the closing.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of LaGrange, Indiana that:

1. LaGrange County will acquire the Real Estate, subject to and in accordance with the terms of the Purchase Agreements, from South Milford Grain Company, Inc.
2. The following individual is authorized to act on behalf of LaGrange County in regards to the Purchase Agreements and to execute the documents necessary for LaGrange County to acquire the Real Estate on behalf of LaGrange County: Larry N. Miller, President.

Mr. Terry Martin made a motion to approve the Resolution and authorize Mr. Larry Miller to attend the closing on the properties at 7580 S and 7590 S, State Road 3, and to execute any closing documents. Mr. Dennis Kratz seconded the motion and it carried unanimously.

COUNTY JUSTICE BUILDING

Mr. Kurt Bachman, County Attorney, explained the three options for the Justice Center Building:

1. Traditional public works statures where we hire design and architectural services, then bid out for building contractors
2. Design Build that appoints a committee with fiduciary duties to oversee the project, hire a developer who prepares a bid packet, and selects a design builder
3. Construction Manager as Constructor (CMc) law that hires a construction manager as fiduciary who subcontracts for everything under an initial guaranteed price

Mr. Terry Martin made a motion to proceed with the design build concept for the new building. Mr. Dennis Kratz seconded the motion and it carried unanimously.

Mr. Bob Shanahan, Planning Administrator, explained that a Technical Review committee would need to be established. Mr. Dennis Kratz made a motion to create a Technical Review Committee consisting of Sarah Farlow, County Engineer; Rex Pranger, County Surveyor; Larry Miller, County Commissioner; Peter Cook, County Council; Travis Glick, Deputy Prosecuting Attorney; Bob Shanahan, Planning Administrator; and Dan Bontrager as a citizen member. Mr. Terry Martin seconded the motion and it carried unanimously.

COUNCIL ON AGING FACILITIES GRANT - PUBLIC HEARING

At 9:00 a.m. Mr. Terry Martin made a motion to authorize and open the public hearing for the Council on Aging facilities grant and to authorize Mr. Larry Miller to sign the consent letter. Mr. Dennis Kratz seconded the motion and it carried unanimously. Mr. Matt Brinkman, Grant Administrator with Region 3A, was present and explained that the purpose of the public hearing is to receive public comment regarding the County’s submission of a Public Facilities Program application to the Office of Community and Rural Affairs for grant funds through the State Community Development Block Grant (CDBG) program. Several individuals spoke in favor of the grant. Mr. Terry Martin made a motion to close the public hearing. Mr. Dennis Kratz seconded the motion and it carried unanimously.

ANIMAL CONTROL ORDINANCE

Mr. Kurt Bachman, County Attorney, presented the following ordinance for animal control:

COUNTY OF LAGRANGE
ORDINANCE _____

AN ORDINANCE REPEALING ORDINANCES 1975-7-21, 1988-9-19,
1988-10-3, AND 1996-6-3, AND ESTABLISHING COMPREHENSIVE
REGULATIONS RELATING TO ANIMAL CONTROL.

WHEREAS the Board of Commissioners of the County of LaGrange (hereinafter “Commissioners”) has implied powers under Indiana Code 15-20-1-1 to adopt an ordinance regarding the control of animals within LaGrange County, Indiana (hereinafter “County”);

WHEREAS the Commissioners have the power under Indiana Code 36-8-2-4 to regulate conduct or property that might endanger the public health, safety, or welfare of the County;

WHEREAS the Commissioners have the power under Indiana Code 36-8-2-6 to pass rules regarding the capture and destruction of animals and the establishment and operation of animal shelters;

WHEREAS the Commissioners find that in order to establish a current comprehensive set of regulations and rules relating to the control and regulation of animal activities within the County, it would be in the best interest to repeal all previous County animal control ordinances and adopt a new ordinance; *and*

WHEREAS the Commissioners also find and declare that it is in the best interest of the residents of the County to ensure the public health, safety, and welfare by regulating the possession and control of: (1) those types of animals which pose a possibility of the introduction of disease or pest harmful to wildlife; (2) those types of animals which threaten wildlife or other natural resources; and (3) those types of animals which threaten or endanger the physical safety of human beings.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, INDIANA, THAT:

ARTICLE I. GENERAL PROVISIONS

§ 1.000 PRIOR ORDINANCES REPEALED.

The Commissioners hereby repeal Ordinance No. 1975-7-21 and all ordinances making amendments thereto, including Ordinances No. 1988-9-19, 1988-10-3, and 1996-6-3.

§ 1.001 SCOPE AND PURPOSE.

(A) The Commissioners may adopt policies and rules to effect the provisions of this ordinance and other statutes and ordinances pertaining to the control of animals.

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- (B) The Commissioners hereby establish an animal shelter (hereinafter “Animal Shelter”), subject to further designation by the Commissioners.
- (C) The Commissioners hereby create the position of Animal Control Officer (hereinafter “Control Officer”). This person shall have the authority to administer these regulations and shall be responsible for making the determinations required hereunder, subject to appeal procedures set forth herein.
- (D) The Commissioners hereby delegate to the Control Officer the powers necessary or proper to fulfill his or her express or implied duties in this ordinance, including the power to establish rules and policies in accordance with this ordinance, related ordinances and policies adopted by the Commissioners, and applicable law. The Control Officer, in turn, may delegate his or her duties, as appropriate, to an employee or volunteer of the Animal Shelter or to another County law enforcement officer.
- (E) All decisions of the Control Officer in administering this ordinance are reviewable by the Commissioners unless a different procedure is specifically stated. All decisions of the Commissioners are reviewable by either the LaGrange County Superior Court or the LaGrange County Circuit Court unless a different procedure is specifically stated.
- (F) The animal disease control emergency coordinator for the County, under Indiana Code 36-2-16-10, shall be the County Veterinarian. If no one serves in such a capacity, the senior veterinarian at the County Health Department shall serve as the animal disease control emergency coordinator. If the County Health Department has no such employee, the County Health Department Health Officer shall serve as the animal disease control emergency coordinator.

§ 1.002 DEFINITIONS.

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ALTERED ANIMAL. An altered animal is one that has been spayed or neutered.

ANIMAL. An animal is any living vertebrate, domestic or wild, except a human being.

ANIMAL CONTROL OFFICER. The Animal Control Officer (or “Control Officer”) shall be an individual or entity designated by the Commissioners for the purpose of animal control, care, and disposition in the County.

ANIMAL EVENT. Display, activity, or show of wild or domestic animals in a shopping center, retail establishment, adjacent lot, or elsewhere.

ANIMAL FIGHTING PARAPHERNALIA. Equipment or items used to train or condition animals for participation in an animal fighting contest or materials to promote animal fighting, the breeding of animals specifically for the purpose of fighting, training animals for fighting, or to track the results of animal fights.

ANIMAL SHELTER. Any facility that the County owns, administers, or designates for the purpose of animal control, care, and disposition, as set forth in this ordinance.

ATTACK. Refers to aggressive behavior where the animal contacts a person and/or other animal.

DAY. A calendar day, not a workday. If the last day of a given period of days should fall on a Sunday or another day when the Animal Shelter is closed, then the deadline shall be the next day the Shelter is open.

DEPOSIT. The deposit is an amount of money, paid by a responsible person to the Animal Shelter, that is intended to cover, but not be limited to, the costs of housing, feeding, immunizations, and routine or emergency medical care of that person’s animal while the adjudication of an alleged violation of this ordinance is pending.

GUIDE DOGS. Dogs trained to assist the disabled or handicapped.

MICROCHIP IMPLANT. A passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for purposes of identification and/or the recovery of animals by their owners.

OWNER. A person having the right or property or custody of a pet who keeps or harbors a pet or knowingly permits a pet to remain on or about any premises occupied by that person.

PARTICIPATE. To participate in an event includes the act, or the attempt, of conducting, permitting to be conducted, being in attendance, or wagering.

PERSON. An individual, group, firm, corporation, or commercial establishment.

PET. Any animal, owned or harbored by any person, group of persons, partnership or corporation, excluding guide dogs, police or canine governmental dogs, and farm livestock owned by a person actively engaged in farming.

PUBLIC NUISANCE. Any animal which:

- (A) interferes with passersby or passing vehicles;
- (B) attacks other animals or persons;
- (C) trespasses on school grounds;
- (D) is repeatedly at large or unrestrained; *or*
- (E) damages private or public property.

RABIES VACCINATION. The injection, by a licensed veterinarian, of a dog, cat or other animal with a rabies vaccine licensed by the U.S.D.A. and approved by the Indiana State Board of Animal Health.

RESPONSIBLE. Refers to a person who:

- (A) owns, in full or in part;
- (B) has custody of;
- (C) has authority over;
- (D) knowingly harbors; *or*
- (E) permits to remain on or about his or her real property; a pet, guide dog, police or canine governmental dog, or livestock.

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RESTRAINED. Refers to an animal secured by a leash or lead, or under the physical control of the animal's responsible person, or within the real property limits of its owner.

§ 1.003 PROVISIONS SUPPLEMENTAL TO STATE AND FEDERAL LAWS.
The provisions of this ordinance supplement all state and federal laws covering the same subject matter.

ARTICLE II. ANIMAL CARE RULES AND REGULATIONS

- § 2.001 ADEQUATE SHELTER, FOOD, AND WATER TO BE PROVIDED.
Each responsible person shall ensure that all of his or her animals shall have access to adequate shelter from the elements; fresh, potable drinking water; and food in adequate amounts to maintain good health. Adequate shelter shall be defined as that shelter which is normal and customary for the specific animal.
- § 2.002 NECESSARY MEDICAL CARE.
Each responsible person shall ensure that all of his or her animals are provided with necessary medical care. Any determination of what is necessary may take into consideration the overall health of the animal, the chances of success, and the cost of the medical care.
- § 2.003 RESTRAINT OF ANIMALS.
Each responsible person shall ensure that all of his or her animals are properly restrained at all times as defined in this ordinance.
- § 2.004 FASTENING ANIMALS WITH ROPE OR CHAIN; CHOKER COLLAR.
- (A) No animal shall be hitched, tied, or fastened by any rope, chain, or cord that is directly attached to the animal's neck. Animals that must be tied, hitched or fastened to restrain them must wear a properly fitted collar or harness made of leather or nylon, not of the choker type. This is not to prohibit the proper use of choker collars in the training of animals.
 - (B) An animal that is tethered, excluding animals used for transportation purposes, must have access to adequate shelter at all times.
 - (C) A person shall not chain or tether a dog with a chain or tether that weighs more than one-eighth of the dog's body weight. Dogs deemed to be dangerous shall not be chained or tethered, but instead shall be contained by appropriate fencing or structuring as approved by the Control Officer.
 - (D) A responsible person shall not tether an animal in a manner that permits the animal to leave the person's property.
- § 2.005 CRUELTY TO ANIMALS.
No person shall beat, cruelly treat, neglect, torment, overload, overwork, or otherwise abuse any animal, except that reasonable force may be employed to drive off vicious or trespassing animals. Deadly force may be used against a vicious animal to protect a person or property.
- § 2.006 ANIMAL FIGHTS PROHIBITED.
- (A) No person shall participate in any dogfight, cockfight, or other combat between animals or between animals and humans.
 - (B) No person shall possess animal fighting paraphernalia *and* a pet or livestock bearing a scar, wound or injury consistent with animal fighting.
 - (C) No person shall attend an animal fighting contest.
 - (D) No person shall sell, purchase, own, harbor, give away, barter, breed, or possess any animal for animal fighting.
 - (E) No person shall permit anyone to use any building, shed, room, yard, ground, premises, vehicle or property, whether enclosed or not for the purpose of animal fighting.
 - (F) No person shall aid, abet, assist, act as judge or referee, bet or wager money or other valuable consideration on the outcome of, be at, attend, or in any way engage in the furtherance of, an exhibition of animal fighting.
 - (G) Each animal affected by a responsible person's conduct may constitute a separate count for the purpose of prosecution, convictions, sentencing and penalties under this ordinance.
- § 2.007 PROHIBITED ANIMAL EVENTS.
No person shall participate in any event involving contests between animals or persons using animals in any form or manner that subjects an animal to unreasonable stress or undue injury.
- § 2.008 POISONOUS BAIT.
No person, except a licensed exterminator or as permitted by the County Board of Health, shall set any type of poisonous substance or bait that is accessible and harmful to any domestic animal.
- § 2.009 ABANDONMENT.
No responsible person shall abandon or cause to be abandoned any animal anywhere within the county limits in any public or private place, way or building.
- § 2.010 TRAPPING.
The Control Officer shall seize any unlawful traps.
- § 2.011 PUBLIC NUISANCE ANIMALS.
No person shall own or harbor a public nuisance as defined in this ordinance.
- § 2.012 SALE OF UNDERAGE ANIMALS PROHIBITED.
No puppy or kitten that is under the age of eight weeks may be offered for sale, trade or for other compensation or for free giveaway except a puppy or kitten or litter or litters may be taken to the Animal Shelter.
- § 2.013 ANIMALS IN VEHICLES.
No responsible person shall leave any pet unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal.
- § 2.014 LOST OR STRAY ANIMALS.
- (A) A person finding a stray animal is to notify the Control Officer within forty-eight (48) hours. At the discretion of the Control Officer, the animal may be kept by the finder and a found report shall be left with the Animal Shelter, to enable the finder an opportunity to return the animal to its rightful owner.

- (B) Upon demand, the Control Officer may demand that any found animal shall be surrendered to the Control Officer and held for five (5) days, before a disposition is made.
- (C) A person finding an animal is obligated to comply with all rules and regulations of this ordinance pertaining to humane care and treatment of animals, while said animal is in his or her custody awaiting return to its actual owner.
- (D) The finder may be considered the found animal's owner for the purposes of this ordinance only after the animal is in the finder's custody for fourteen (14) days and has been presented for registration.

§ 2.015 DANGEROUS ANIMALS PROHIBITED.

- (A) This section does not apply to dogs. Please see § 2.023 for Dangerous Dogs.
- (B) *Ownership/possession prohibited.* No person shall own, keep, or harbor a dangerous animal, excluding farm livestock, within the County; provided, this section shall not apply to animals under the control of a law enforcement or military agency.
- (C) *Determination of a dangerous animal.* For the purpose of this section the Control Officer may declare an animal dangerous if the animal:
 - (1) has exhibited vicious behavior, including, but not limited to:
 - (a) biting or attacking a person or animal one time, without provocation;
 - (b) biting or attacking a person or an animal one time, causing wounds or injuries that create a potential danger to the health or life of the victim; *or*
 - (c) biting or attacking a person or animal without being amenable to control or restraint; *or*
 - (2) has demonstrated a tendency or disposition to attack unprovoked or otherwise threaten the safety of people or animals; *or*
 - (3) has been purchased, bred, sold, trained, or harbored for the purpose of dog fighting; *and*
 - (4) has been identified as an animal that has made a prior bite or attack.
- (D) *Euthanization of a dangerous animal.* In order to preserve the public health, safety and welfare of the community the Control Officer may euthanize a dangerous animal.
- (E) *Determination and appeals procedure.* Whenever an animal has been determined to be dangerous, the Control Officer shall notify the animal's owner or custodian regarding the determination and the Control Officer's intent to euthanize the animal unless the determination is timely appealed as described hereunder. Notice of the declaration shall be served either in person or by certified or registered mail. The animal, if not already held in quarantine, shall be surrendered to the Animal Shelter.
 - (1) Any decision of the Control Officer under the provisions of these subsections (B)-(E) may be appealed to the Court. The appeal of the owner to the Court shall be in writing and be filed with the Court within ten (10) days after receipt of notification from the Control Officer that said animal has been determined to be dangerous. The disposition of any animal shall be stayed during the pendency of such appeal. The animal shall remain at the Animal Shelter during the appeals process.
 - (2) Upon receipt of a written appeal to the Court, the Court shall provide notice, conduct a hearing and thereafter, the Court shall render a decision that said animal is dangerous and must be euthanized, or is not dangerous and should be returned to the owner. The decision of the Court shall be final and binding upon the County and upon the owner. This decision may be appealed as all other final judgments of a trial court.
- (F) *Costs.* The owner of any animal which is impounded and/or euthanized under this section shall be held responsible for payment of any expenses so incurred by the Animal Shelter, and failure to pay such fee to the County within thirty (30) days after destruction of such animal shall constitute a violation of this ordinance.

§ 2.016 BITING ANIMALS; REPORT; PROCEDURE.

- (A) The responsible person for any animal which has bitten a person or another animal must report the incident to the Control Officer. Upon receiving the report of a bite, the Control Officer will quarantine the animal for ten (10) days with the place of confinement to be in the discretion of the Control Officer. During the quarantine period, the animal is to be securely confined and kept from contact with any other animal or person. Dogs shall be confined appropriately as directed by the Control Officer.
- (B) *Quarantine; Procedure.*
 - (1) After the quarantine, the owner must provide a current rabies vaccination certificate for his or her pet that is being quarantined. If proof of rabies vaccination cannot be supplied, the animal shall be vaccinated by a veterinarian at the owner's expense on the day of release.
 - (2) If it is determined the animal has bitten, then a microchip may be implanted in it, at the owner's expense, prior to its release from quarantine. The animal shall be registered for its life with the Animal Shelter. The cost of the implant and registry shall be at the owner's expense to be paid before release.
 - (3) If the animal is quarantined in a place other than the Animal Shelter, as determined by the Control Officer, a microchip shall be implanted in it, at the owner's expense, on or before the eleventh (11th) day following the animal's release from quarantine. The animal shall be registered for its life with the Animal Shelter. The cost of the implant and registry shall be at the owner's expense.
 - (4) Each microchip used for quarantine shall have a unique identifier. This identifier shall be input into a database to allow the Control Officer to investigate the animal's bite history. The microchip shall be contained in a sterilized implanting device and shall be individually packaged.

- (5) The microchip and its corresponding registration history shall be considered prima facie evidence for any future dangerous animal or dangerous dog determination in accordance with § 2.017 “Dangerous Animals” or § 2.023 “Dangerous Dogs.”
- (C) In the case of an animal impounded for quarantine, the animal shall become the property of the Animal Shelter if not claimed by closing time of the Animal Shelter on the fifth (5th) day after the end of the quarantine. An owner requesting quarantine, but failing to claim his or her animal at the end of the quarantine period as indicated, shall still be responsible for all medical, quarantine, and euthanasia fees. Further, a dangerous dog may be kept longer pending any final decision by the Control Officer, Commissioners or Court, if necessary.
- (D) No person shall kill or cause to be killed any animal suspected of being rabid except in defense of life. If such occurs, the person shall retain the body and immediately notify the Control Officer. This subsection shall not apply to a Control Officer, law enforcement officer, or veterinarian.

DOGS AND CATS; SPECIFIC REQUIREMENTS

§ 2.017 VACCINATION REQUIRED; TAGS.

Cats and dogs over the age of three months must be vaccinated by a licensed veterinarian for rabies. One-year and three-year rabies vaccines may be used as per the Indiana Administrative Code. Owners must have readily available tags demonstrating compliance with the required rabies vaccinations.

§ 2.018 ENCLOSURES FOR DOGS AND CATS.

No responsible person shall contain a dog or cat within a primary enclosure that does not allow the dog or cat access to an exercise area of a sufficient size for the breed of dog or cat on a regular basis. A dog’s primary enclosure shall not have a suspended or elevated floor and shall not allow the dog’s feet to pass through any openings in the floor.

§ 2.019 NOISY DOGS.

No responsible person shall allow the persistent or continuous barking, yelping, whining, growling or howling of one or more dogs, either individually or collectively.

§ 2.020 AT-RISK DOGS.

(A) An at-risk dog is one that:

- (1) when off of the property of the owner and unprovoked, menaces, chases, displays threatening or aggressive behavior, or otherwise threatens or endangers the safety of any person;
- (2) while at large, menaces, attacks, or injures a domestic animal;
- (3) while at large, jumps on, chases, or bites a person causing a less than severe injury; *or*
- (4) unprovoked and absent extenuating circumstances, attacks a person, causing less than severe injury.

This subsection shall not apply to an injury caused to an individual who enters upon the property of another with the intent of partaking in criminal activity, or if the owner has posted the property with proper warnings.

(B) Procedure for classifying a dog as at risk:

Upon filing of a complaint, the Control Officer shall investigate the circumstances and notify the dog owner of the charge if the dog is to be designated as at risk. If an owner desires to dispute the designation of “at risk,” he or she may do so by filing an appeal within ten (10) days with the Commissioners. A dog shall not be considered at risk where, in the final disposition of the case, the owner’s appeal of the at-risk designation is successful.

(C) Each owner of an at-risk dog must ensure that:

- (1) secure fencing has been provided to keep the dog confined on the owner’s property;
- (2) the dog, when off of the owner’s property, is kept on a secure leash of no more than four (4) feet in length and under the control of a legally responsible individual;
- (3) photos of the dog have been placed on file with the Control Officer;
- (4) the dog is microchipped for identification;
- (5) a sign, posted both in a prominent place on the property and on the pen or kennel of the dog, clearly announces the presence of the dog; *and*
- (6) a policy of liability insurance of at least One Hundred Thousand Dollars (\$100,000.00) that insures the owner for any personal injuries inflicted by the dog has been acquired and that proof of such policy can be readily presented upon request.

§ 2.021 DANGEROUS DOGS.

(A) A dangerous dog is one that in the discretion of the Control Officer:

- (1) has been classified as at risk and exhibits escalating aggressive behavior that results in further complaints;
- (2) unprovoked and absent extenuating circumstances, has attacked and severely injured a person;
- (3) has killed a domestic animal while off of its owner’s property; *or*
- (4) is used to threaten people or domestic pets or is used as a weapon in the commission of a crime.

This subsection shall not apply to cases where the dog causes injury or damage in the defense of persons or property against an individual who reasonably appears to have the intent to partake in criminal activity or to cases involving a trespasser on an owner’s property where the owner has posted proper warnings.

(B) Procedure for classifying a dog as dangerous:

Upon filing of a complaint, the Control Officer shall investigate the circumstances and notify the dog owner of the charge if the dog is to be designated as dangerous. If an owner desires to dispute the designation of “dangerous,” he or she may do so by filing an appeal within ten (10) days with the Commissioners. Depending on the circumstances, the dog may be impounded pending disposition of the case. A dog shall not be considered dangerous where, in the final disposition of the case, the owner’s appeal of the “dangerous” designation is successful. A dog need not first be classified as at risk prior to being classified as dangerous.

(C) Special rules for owning a dangerous dog:

If impounded, a dangerous dog may be returned to the owner or may be destroyed depending on the outcome of the investigation. Each owner of a dog determined to be dangerous that is not destroyed must ensure that:

- (1) the dog is altered (either spayed or neutered);
- (2) the dog is microchipped;
- (3) the dog is confined in a locked pen when not in a home or other building, and restricted by a sturdy leash no longer than four (4) feet when in public;
- (4) the dog is in a pen built so that the dog cannot escape when penned;
- (5) photos of the dog have been filed with the Control Officer; *and*
- (6) a policy of liability insurance of at least One Hundred Thousand Dollars (\$100,000.00) that insures the owner for any personal injuries inflicted by the dog has been acquired and that proof of such policy can be readily presented upon request.

(D) Penalties for a dangerous dog running at large:

LaGrange County has a no-tolerance policy towards dangerous dogs running at large. Therefore, the punishment will be severe, absent mitigating circumstances.

- (1) A dangerous dog that runs at large and exhibits threatening behavior may be impounded and/or euthanized at the owner's discretion of the Control Officer after reviewing the case and inspecting the confinement facility.
- (2) A dangerous dog that runs at large that does not exhibit threatening behavior may be returned to its owner at the discretion of the Control Officer after reviewing the case and inspecting the confinement facility.

(E) In the event that any dog should attempt to attack an Officer attempting to enforce any portion of this ordinance, the Officer shall be authorized to destroy the dog at the site of attack and the owner shall have no redress for the destruction of the dog against the County or the Officer or any political subdivision thereof.

ARTICLE III. ENFORCEMENT

§ 3.001 IMPOUNDMENT; DEPOSITS; REDEMPTION.

- (A) If the Control Officer has probable cause to believe there has been a violation of this ordinance the Control Officer may take custody of the animal involved and leave written notice.
- (B) The owner of an animal that has been impounded under this ordinance may prevent disposition of the animal by the Animal Shelter by posting, not later than ten (10) days after the animal has been impounded, a deposit with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a deposit by posting a new deposit, in an amount sufficient to provide for the animal's care and keeping, for at least an additional thirty (30) days, not later than ten (10) days after the expiration of the period for which a previous deposit was posted. If a deposit expires and is not renewed, the Animal Shelter may determine disposition of the animal, subject to court order. Even if the owner has paid a deposit under this ordinance, the Animal Shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.
- (C) The owner of an animal impounded under this ordinance shall be responsible for any and all fees for the animal's care and keeping.
- (D) If an owner of an animal impounded under this ordinance requests, the Court shall hold a hearing to determine whether probable cause exists to believe that a violation has occurred. If the Court determines that probable cause did not exist, the Court shall order the animal returned to its owner, and the return of any deposit posted by its owner.
- (E) An animal impounded for reasons of tragedy beyond the control of the owner, such as, but not limited to, house fire or death of the owner, shall be held for ten (10) days during which time a reasonable effort will be made to contact the owner and/or his or her representative for reclaim or alternative housing arrangements. After the tenth (10th) day of impoundment, the animal shall become the property of the Animal Shelter.
- (F) An animal awaiting disposition shall remain in the custody of the Animal Shelter.
- (G) Deposit procedures:
 - (1) Pursuant to impoundment of an animal under this ordinance, the Control Officer may file a petition with the Court requesting that the owner or custodian of the animal pay a deposit to cover the costs of thirty (30) days of care of the animal while it is in the custody of the Animal Shelter. This petition shall be accompanied by an affidavit or statement that sets forth an estimate of the reasonable expenses that the Animal Shelter expects to incur providing for that care. Reasonable expenses include, but are not limited to, the estimated cost of veterinary care, food and board for the animal. The owner(s) of the animal, if known, shall be provided written notice of the petition by personal service or certified mail. Any such mail shall be sent to the last known residence, or, if this address is not known, such notice shall be sent to the address from which the animal was seized. An owner's failure to receive such mail that is not the fault of the County, or its agents, such as refusal to accept certified mail, shall not negate this section.
 - (a) The Court shall hold a hearing on the petition. At the hearing, the Animal Shelter has the burden of proving that there is probable cause to find that the animal was the subject of a violation. If the Court finds that probable cause exists, the Court shall order the owner of the animal to pay a deposit to cover the cost of the care of the animal for the greater period of either thirty (30) days, or until the next scheduled hearing on the matter.
 - (b) The deposit must be paid within seven (7) days following the Court's order. If the deposit has not been posted within the allotted time period, the Court may order that the animal be permanently surrendered to the Animal Shelter and that the Animal Shelter may dispose of the animal as it deems appropriate.
 - (c) The deposit must be posted at the LaGrange County Auditor's Office in cash or certified funds only. The deposit shall be deposited into the County general fund and held until further order of the Court.
 - (d) If the Court finds that a violation of this ordinance has occurred, it may order the deposit money and/or the animal(s) surrendered to the Animal Shelter, along with, or separate from, additional fees it may also order.

- (e) If the Court finds that a violation of this ordinance has not occurred, the Court shall direct the return of the animal and any deposit paid to the owner. The Court may order reasonable medical, housing, and administrative costs to the Animal Shelter.
- (2) An animal impounded at the Animal Shelter, or under the direction of the Control Officer at a remote facility, that displays signs of illness or injury at the time of impound shall be treated immediately at the expense of the owner. Animals that have not been inoculated for or are not current on inoculations for ailments common to its species may be inoculated at the expense of the owner. Any animal displaying symptoms of illness or injury that, in the opinion of a licensed veterinarian, would cause undue suffering to that animal or pose a substantial health risk to other animals in the Animal Shelter may be humanely euthanized immediately.
- (3) Any animal impounded may be transported to a licensed veterinarian for examination and/or treatment. If, in the opinion of said veterinarian, the animal must be destroyed, euthanasia may be performed immediately. Costs of treatment, euthanasia, and/or care shall be the responsibility of the owner.
- (H) A person may reclaim an animal in the custody of the Animal Shelter upon providing the following:
 - (1) proof of ownership; *and*
 - (2) payment of the redemption fee and any other service or medical fees.
- (I) Stray or at-large animals shall be held at least five (5) days at the Animal Shelter, unless the animal is tagged, in which case the animal shall be held at least ten (10) days prior to becoming property of the Animal Shelter. Attempts shall be made to find and notify the animal's owner during the holding period.
- (J) An animal remaining at the Animal Shelter longer than the time period proscribed by this ordinance shall become the property of the Animal Shelter. This animal may be placed for adoption or humanely euthanized.
- (K) Before redemption of an animal that has been impounded because it was stray or at large, the Animal Shelter or Control Officer may require the animal to be spayed or neutered by a licensed veterinarian at the owner's expense.

§ 3.002 INTERFERING WITH ENFORCEMENT.

No person shall interfere with the Control Officer, the Animal Shelter or its employees or volunteers in the pursuit of his or her duties.

§ 3.003 DISPOSITION OF MONEY.

- (A) All money generated, received, or collected by means of the provisions of this ordinance shall be set aside and placed in the County general fund to defray costs of operation, except as herein provided otherwise.
- (B) Upon request, the Control Officer shall provide the Commissioners and/or LaGrange County Council a report detailing all expenditures of money generated, received or collected by means of the provisions of this ordinance.

§ 3.004 VIOLATIONS.

- (A) The Control Officer may determine that suspected violations of this ordinance will result in immediate impoundment of an animal.
- (B) The LaGrange County Prosecutor, or an attorney or agency so appointed by the Commissioners, may prosecute violations of this ordinance.
- (C) A person who violates this ordinance is liable for all costs and fees incurred, and fines assessed, as a result of each violation. The Court may find a separate violation for each day in which a violation has occurred as well as each individual violation of a different section of this ordinance within a given day.
- (D) A person who violates this ordinance, either in separate sections or in subsequent violations of the same section, shall be fined as follows:
 - Fifty Dollars (\$50.00) for the first offense.
 - One Hundred Dollars (\$100.00) for the second offense.
 - One Hundred Fifty Dollars (\$150.00) for the third offense.
 - Five Hundred Dollars (\$500.00) for the fourth and each and every offense thereafter.
- (E) Each violation of this ordinance shall be cause for a separate and subsequently higher fine as described above. In order to determine whether a violation is a subsequent and therefore higher offense, the violation will be considered on a two-(2)-year rolling basis from the date of citation.
- (F) If the Court finds that a violation has occurred, the Court may order permanent surrender of any animal deemed to be a public safety risk and/or a repetitive public nuisance that has not been abated or an animal that is a victim of cruelty, neglect, or abandonment, to the Control Officer for disposition.
- (G) In the event that an animal is retained at the Animal Shelter because an owner has violated this ordinance, the person redeeming the animal by paying the prescribed fees shall also be subject to paying for the medical bills incurred for routine shots.

§ 3.005 SCHEDULE OF FEES.

- (A) The Control Officer may establish and implement policies regarding the waiver of any fee listed below.
- (B) Copies of said fees are available for inspection at the Animal Shelter.
- (C) The fee schedule for the Animal Shelter and the Control Officer is hereby approved and ratified as follows:

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Service	Fee
Processing redemption of owned animal: 1 st or 2 nd redemption	\$40.00
Processing redemption of owned animal: 3 rd redemption	\$50.00
Processing redemption of owned animal: 4 th redemption ¹	N/A
Daily boarding fee ^{2,3}	\$15.00
Trap deposit ⁴	\$50.00
Microchip fee	\$20.00
Removal and/or disposal of a deceased animal weighing fifty (50) pounds or less	\$25.00
Removal and/or disposal of a deceased animal weighing over fifty (50) pounds	\$30.00
Adoption of dog less than one year old	\$125.00
Adoption of dog from one to six years old	\$40.00
Adoption of dog over six years old	\$40.00
Adoption of kitten ⁵	\$50.00
Adoption of cat (not a kitten) ⁶	FREE

¹ The animal will not be returned to the owner if picked up a 4th time.

² There is no charge for the first five (5) days when the animal is seized without fault (Act of God, death of owner, fire, etc.).

³ An owner's request that an animal be held at the Animal Shelter, no matter the original cause, longer than the period designated or required by this ordinance must be arranged with the management.

⁴ A refund of \$45.00 will be given upon return of the trap in its same condition as before.

⁵ A refund of \$40.00 will be given with proof of altering within sixty (60) days.

⁶ Donations gratefully accepted.

§ 3.006 MISCELLANEOUS.

- (A) The express or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or procedures begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
- (B) No part of this ordinance shall be interpreted to conflict with federal, state, or local laws, and all reasonable efforts should be made to harmonize the same. Should any court of competent jurisdiction adjudge any part of this ordinance invalid, such decision shall not affect the validity of the ordinance as a whole, or any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.
- (C) This ordinance shall be effective upon promulgation according to law.

Mr. Ralph Miller, 0955 S 200 E, LaGrange, Indiana and Mr. Phil Troyer, 0770 S 200 E, LaGrange, Indiana spoke in favor of the Ordinance. Mr. Terry Martin made a motion to approve the Ordinance and to repeal the prior Ordinances that are in place. Mr. Larry Miller seconded the motion and it carried with Mr. Dennis Kratz opposing. Mr. Terry Martin made a motion to waive the requirement for second reading. Mr. Larry Miller seconded the motion. Motion failed with Mr. Terry Martin and Mr. Larry Miller voting yes and Mr. Dennis Kratz voting no. Mr. Terry Martin made a motion to place the Ordinance on the agenda for March 6, 2017 for second reading. Mr. Larry Miller seconded the motion and it carried unanimously.

HIGHWAY PURCHASE REQUEST

Mr. Randy VanWagner, Highway Superintendent, presented quotes for two (2) back axle trucks as follows:

<u>Company</u>	<u>Amount per truck</u>	<u>Warranty</u>
Stoops Freightliner	\$102,972.00	\$5,735.00
Norris Truck Services, Inc.	104,480.00	4,200.00
Vomac Truck Sales & Service, Inc.	106,085.00	4,300.00

Mr. VanWagner received one quote from W.A. Jones for the equipment for the trucks, in the amount of \$81,783.00 per truck. The Commissioners will act on the request at their March 6, 2017 meeting.

AMERICANS WITH DISABILITIES (ADA) PROJECT

Mr. Mike Metz, Parks Director, explained that the parking lot at Delt Church Park is in need of resurfacing and markings for handicapped accessibility. Mr. Terry Martin made a motion to approve the project as the County's ADA project for this year. Mr. Dennis Kratz seconded the motion and it carried unanimously.

PARKS – OUT OF STATE TRAVEL REQUEST

Mr. Mike Metz, Parks Director, requested permission for Scott Beam, Naturalist, to attend a regional workshop in April in St. Catharine's, Ontario Canada. Mr. Terry Martin made a motion to approve the request. Mr. Dennis Kratz seconded the motion and it carried unanimously.

SHERIFF - PURCHASE REQUEST

Mr. Tracy Harker, Chief Deputy Sheriff, reported that he has received three quotes for three 2017 Dodge Chargers, with the lowest quote from Fletcher Chrysler, in Franklin, Indiana, for \$23,787.00 each. Mr. Terry Martin made a motion to approve the purchase of three vehicles from Fletcher Chrysler. Mr. Dennis Kratz seconded the motion and it carried unanimously.

SHERIFF - OUT OF STATE TRAVEL REQUEST

Mr. Jeff Campos, County Sheriff, requested permission for the IDAC's Coordinator to attend a social media conference in Fort Worth, Texas, in April 2017 for four days. Mr. Terry Martin made a motion to approve the request. Mr. Dennis Kratz seconded the motion and it carried unanimously.

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INFORMATION TECHNOLOGY PURCHASE REQUEST

Mr. Bob Murphy, Information Technology Director, requested permission to purchase 15 monitors and 2 printers for the Clerk's office and the courts as they prepare for e-filing. He presented three quotes with CDW Governments being the lowest at \$2,945.00.

SUBDIVISION PLATS

The following subdivision plats were presented for approval:

Norman Bontrager Subdivision

There is one lot in this subdivision, in Clay Township, located at 3500 N 500 W, Shippshewana. Section 06, Township 37N, Range 9E. The owners are Orla and Ruth Bontrager. Mr. Terry Martin made a motion to approve the plat. Mr. Dennis Kratz seconded the motion and it carried unanimously.

B-Honey Acres

There is one lot in this subdivision, in Newbury Township, located at 2260 N 1000 W, Shippshewana. Section 08, Township 37N, Range 8E. The owners are Perry and Rosetta Bontrager. Mr. Terry Martin made a motion to approve the plat. Mr. Dennis Kratz seconded the motion and it carried unanimously.

Rise N' Shine Property

There is one lot in this subdivision, in Newbury Township, located at 2580 N 1150 W, Middlebury. Section 07, Township 37N, Range 8E. The owners are Orvin and Viola Bontrager. Mr. Terry Martin made a motion to approve the plat. Mr. Dennis Kratz seconded the motion and it carried unanimously.

Eash's Addition to Rolling Meadows

There is one lot in this subdivision, in Clearspring Township, located at 2220 N 550 S, Wolcottville. Section 22, Township 36N, Range 9E. The owner is Arlene Yoder. Mr. Terry Martin made a motion to approve the plat. Mr. Dennis Kratz seconded the motion and it carried unanimously.

Lepley Acres

There is one lot in this subdivision, in Springfield Township, located at the southwest corner of County Road 1100 E and 150 N. Section 14, Township 37N, Range 11E. The owners are Bruce and Connie Burns. Mr. Terry Martin made a motion to approve the plat. Mr. Dennis Kratz seconded the motion and it carried unanimously.

COMMITTEE REPORTS

Mr. Dennis Kratz reported on the Council on Aging meeting.

Mr. Terry Martin reported on the LaGrange County Regional Utility District meeting.

Mr. Larry Miller reported on the Plan Commission and Plat Committee meeting.

JANUARY 2017 FINANCIAL REPORT

Mrs. Kay Myers, County Auditor, presented the financial statement for the month ending January 31, 2017, in the amount of \$17,638,533.46 and investments of \$24,728,000.00. Mr. Terry Martin made a motion to approve the report. Mr. Dennis Kratz seconded the motion and it carried unanimously.

ACCOUNTS PAYABLE VOUCHERS

Mrs. Kay Myers, County Auditor, presented the Accounts Payable Vouchers. Mr. Terry Martin made a motion to approve the vouchers. Mr. Dennis Kratz seconded the motion and it carried unanimously.

MINUTES

Mr. Terry Martin made a motion to approve the January 17, 2017 regular meeting minutes. Mr. Dennis Kratz seconded the motion and it carried unanimously.

MEMORANDUM

Mr. Terry Martin made a motion to approve the memorandum for the February 1, 2017 meeting. Mr. Dennis Kratz seconded the motion and it carried unanimously.

CORRESPONDENCE

LaGrange County Clerk of the Circuit Court – January 2017 report

LaGrange County Treasurer – January 2017 report

LaGrange County Weights and Measures – November 16 – December 15, 2016 report

LaGrange County Weights and Measures – December 16 – January 15, 2017 report

Indiana Department of Transportation – Letter regarding signage for braking in the Town of Howe

Indiana Department of Environmental Management – Notice of Revocation of existing permit, Champion Home Builders, Inc.

Joint Public Notice- US Army Corps of Engineers – Admirals Anchor Marina – to perform periodic maintenance dredging for a period of 10 years – Clarksville, Indiana

Joint Public Notice- US Army Corps of Engineers – Evansville Marine Services, Inc. – Barge Fleeting Facility – Evansville, Indiana

Joint Public Notice- US Army Corps of Engineers – Klenck Company – To provide a disposal site for depositing clean earthen fill from off-site construction and excavation activities, Evansville, Indiana

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ADJOURNMENT

There being nothing further to come before the Board at this time, Mr. Dennis Kratz made a motion to adjourn and meet on any subsequent day necessary to carry on the business of the Board. Mr. Terry Martin seconded the motion and it carried unanimously.

Larry N. Miller

Terry A. Martin

Dennis H. Kratz

ATTEST:

Kay M. Myers
LaGrange County Auditor