

**Enrolled Memorandum of the Meeting
Study Session/Meeting (Convened Electronically/Hybrid)
Twenty-Ninth Town Council of Highland
Monday, June 20, 2022**

The Twenty-Ninth Town Council of the Town of Highland, Lake County, Indiana met in a study session on **Monday, June 20, 2022**, at 6:30 O'clock P.M., in the regular place, the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

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

The meeting was streamed live on the Town of Highland, Indiana Facebook page and participation was supported by the Zoom on-line communication platform.

Silent Roll Call: Councilors Bernie Zemen, Toya Smith, Mark Schocke, Tom Black, Roger Sheeman, were present in person as indicated. The Clerk-Treasurer, Mark Herak was present to memorialize the proceedings. *A quorum was attained.*

Officials Present: Pete Hojnicky, Metropolitan Police Chief, Bill Timmer, Fire Chief and Ed Dabrowski, IT Director were in person.

General Substance of Matters Discussed.

Discussion: Presentation from Kymn Harp, Shareholder with Robbin DiMonte regarding the Cardinal Campus Project requesting that the Town of Highland memorialize the extension of the Completion Deadline by reason of force majeure as provided by the existing terms of the Development Agreement. He was not asking the Town of Highland to amend the Development Agreement but to provide a degree of certainty to continue development. Also present were Dr. Gendreau and Jodi Kennedy representing the Cardinal Campus Project.

Good evening, I am Kymm Harp, an attorney from Chicago representing the developer CG Indiana Holdings, known as the Cardinal Campus Project. As you know, this project started with phase one and phase one went off as planned and got completed on time. Everything went well until Covid hit in March of 2020 and everything's pretty much been on a hiatus since that time. So, under the Development Agreement, which I'm sure you guys are familiar with it or most of you are. In the packet there's a site plan, with buildings one, two and three have been built. The next building intended to be built

is the hotel, which is why we are asking for implementation of the terms of the Development Agreement. We are not asking for the Agreement to be amended. The completion deadline of the Development Agreement is July 19th of 2022 and includes a clause, that with your permission, in the event of a force majeure, which includes events like the covid pandemic, there would be an automatic extension of the completion deadline. The extension is actually a day for day basis. In our view, covid is still going on as we are still experiencing supply chain disruptions.

Councilor Schocke said he doesn't mean to interrupt but can you show me on what page and section it references the force majeure clause.

Attorney Harp said Councilor Schocke should have gotten a copy of the old agreement.

Councilor Schocke said he has the agreement that was emailed to him and it is 24 pages long.

Attorney Harp said there was a memorandum prepared that summarized the Agreement but the force majeure is found in Section 6.2 of the 24 page document.

Councilor Schocke found the force majeure clause of page 12, and the automatic extension is found in section 1.1B.

Attorney Harp continued that the completed cost for phase one was \$19.7 million. The projected cost which is a combined phase two and three is roughly \$30 million, so the total cost is going to be around \$49 million to \$50M for the total project. We are in the process of ramping back up again and are asking that the completion deadline be extended to October 31, 2025, which takes into account the two years and three months delay caused by covid. And as you may recall in the Development Agreement, which means the Town is not on the hook for any of the financing. You are taking the incremental increase in taxes generated from the project and apply to the bond payment. The \$5.8M already issued were purchased by Dr. Gendreau. With the starting up of the next phases, Dr. Gendreau is looking for the second tranche of just over \$10 million. Dr. Gendreau will also be acquiring these bonds. The next phase will be like the first phase, which is an environmentally friendly, leed certified project. It got an award for the landscaping that's being done there. We are not asking anything new from the Town of Highland just recognizing a covid event occurred and that through the automatic extension clause, extend the deadline. In order to continue with the project, we need a certainty about the deadline.

Councilor Schocke said he's reading the force majeure clause and it doesn't talk about a pandemic.

Attorney Harp said I don't know that there's any case law in Indiana on this matter and I know in Illinois, we have case law on it, and I know it doesn't expressly refers to the pandemic as no one really thought about a pandemic. But what it does say, though, there are things that are outside the control of the parties and it lists several different types and

then other similar events which are not really within the control of the developer. And I would maintain that the covid pandemic is that sort of an event that was outside our control and that we didn't cause it and it's nonetheless delayed the project going forward. I know it may not be expressly in there but I believe it is implicitly within the definition.

Councilor Schocke said whether or not, I agree with that I'm curious as to whether you have any evidence that you've taken steps to move this process forward during the course of the covid pandemic and have been inhibited by supply chain. All these that you're claiming I mean well it's one thing to say that it's another thing to actually have some paper trail and evidence that this in fact did cause the delay.

Dr. Gendreau said we did initiate research and getting plans and proposals in place to get started but the pricing was so high, with lumber costs and everything else going on, we felt like we just thought were better off waiting a little bit till things stabilized.

Councilor Schocke wanted to know when those activities took place.

Dr. Gendreau said over the last six to nine months, we have gone back and forth and did some research as my correspondence is actually more than a year and a half. I went to the hotel, because the office space just wasn't moving and it was too cost prohibitive to build buildings we weren't being able to lease or sell for what we're putting into it, so we figured that the hotel was going to really add more value to the property in order to do the building subsequently and the hotel.

Jodi Kennedy said the preliminary research, I saw that the innkeeper tax is 5% in Lake county I couldn't find if you guys had an additional tax, but we know that we can generate \$75,000 to \$200,000 a year in the hotel tax for lake county.

Councilor Schocke asked Jodi is it a six to nine months window, or is it the year and a half window. Jodi replied, I'd go year to a year and a half. Okay, and what specifically was done back then. Can you give me like a specific date range, other than to say year and a half. Would that be December of 2020, I mean what exactly activities were done because here's the thing, you're asking for a day for day credit in the force majeure clause but I would have to know when the efforts started in order to actually consider a day for day credit.

Attorney Harp said the effects of the covid pandemic are ongoing and still effecting the supply chain. He commented that his office building downtown is at 26% occupancy.

Councilor Schocke said I'm not trying to be overly difficult here, I'm just asking the question because you're asking for a substantial extension, it amounts to be like three years or two years something like that and there's no discussion of supply chain problems in force majeure.

Council Sheeman said that covid has been over 6 months so what really is the cause here

and then what efforts have been made, and when, where they made that's really important information for me to know.

Dr. Gendreau said you don't build something that is cost prohibitive that you can't do anything with.

Attorney Harp said that these are causes and the effects of what's happening are things that are beyond the control of the developer. The developer didn't cause covid. No one really saw it and covid 19 disrupted the project.

Jodi Kennedy said we were discussing the project with the architects. And there was our main architect who decided to disband his office during covid. Our main architect decided he was not going to go back to work after covid and that kind of derailed things a little bit. Then we saw the dominoes falling and we started looking at cost and the labor shortages so we kind of agreed that we should just put things on ice for a while.

Dr. Gendreau said they started making plans and we had some cost estimates and then decided we're going to change course and build a hotel instead. And so, then there were some delays because people not being available when we needed them.

Councilor Schocke said he would appreciate documentation just to see the dates and the timelines because again if you're going to ask for two and a half year extension. If I am to give you a day for day credit, I'd like to know when the effort started, and you know various things like that, so if you could provide some type of I guess put a little meat on the bone I'd appreciate it.

Councilor Sheeman asked, you own the property, you know you're going to build a hotel there, what made you not go forward with design and be ready. So now you want 10 months for design or 12 months for design seems like that could have been done in the last year and a half or two years while we didn't do anything.

Dr. Gendreau said we were designing the other buildings. We were working on designing the other buildings and then we realized that the economics did not support buildings, because of lack of demand and because of the high cost of materials and unavailability of labor. We changed our focus to building a hotel. We thought we could create more value building a hotel than building something that couldn't be leased. So that's why we made the change. These discussions took time and we've been working on the hotel for three, four months, maybe four or five months and we have been accumulating data. We had a conversation today about going to the architectural phase.

Councilor Sheeman said I can appreciate the covid thing and probably some of the supply chain but what I heard here is all your costs are going up, so you don't want to build it that's what I heard from two people. I don't think that's part of our agreement, I mean nobody knows how much costs are going to increase but you did have an agreement on when this project was supposed to be completed. I'll give you some time for the pandemic or whatever but now you want another two years and three or four

months to complete. This agreement is dated April 9, 2018 and so you're talking about seven years plus to finish. You need to say look, we made an agreement and costs are going up. None of our paychecks have gone up and we go to the grocery store, we got to pay more, we can't wait, we got to feed ourselves well. Maybe this thing economically doesn't look as good as it did eight in 2018 and probably isn't as profitable, but we made an agreement with you, Dr. Gendreau and you are obligated to complete the project.

Dr. Gendreau responded that we know it's going to cost more but we are still moving forward. We've changed the emphasis, we were building a slightly different product now based on the economics, but we still moving forward with the project, and when we were getting ready for the second phase. Everything came to a standstill, we were dealt many issues. Nobody was getting out of their homes and no one knew what the costs would be. It was the perfect storm, with so many so many things happening at one time, it made it almost impossible to move forward, so that's why we put things on ice for a while and until things stabilized.

Councilor Sheeman asked, you only have a 19% empty, so you got an 81% occupancy. Did you ever consider building something else there, besides the hotel. Did you ever consider maybe another office building?

Dr. Gendreau said the second phase was based upon demand and the demand is not there for office space so we changed our emphasis to building a hotel. We create more value and under the circumstances, to build a hotel instead of building some more of the what we had already have built.

Councilor Sheeman, you have to look at our point of view. Your talking another two and a half years before the project is completed, another year before it is assessed and we start to see additional tax dollars. I'm really disappointed in this delay.

Dr. Gendreau responded that nobody foresaw that life as we know it would come to a complete stand still. We did not feel we could continue but now as things are getting back to normal, were back working on it. We want to create value for the people already committed to the campus and we felt building a hotel is a better option for us than building some of the same buildings. The hotel will be the anchor to the campus because it's going to have a new look to the campus.

Councilor Zemen interjected, so you wanted this guy to build more office buildings that have zero occupancy because of the pandemic.

Councilor Sheeman said I didn't say that.

Councilor Zemen, then what the hell were you saying? You want him to build something that nobody would come to.

Councilor Sheeman said we've been relatively out of the pandemic for I would say good six months. I'm concerned is that he didn't plan for this during the pandemic but waited.

Now, they want 10 to 12 months for design. You think they would have all the design engineering ready when things returned to normal they would be ready but now they want another 2 years. And how many months to complete this so that that's my concern, my concern is that we are not getting the additional tax dollars if the building were already built. If we want to give them an extension, whatever time that is, we need to create another agreement for this extension with additional contingencies. I would say create a different kind of agreement with some other restrictions in it.

Councilor Schocke said I'm not trying to say they shouldn't build it and I don't want them to leave it empty and I don't want to see it go elsewhere. They own property. They bought it. They own it. I just want a different timeline. And I just want a little bit of proof, not that I don't believe you at face value, but if you just show me that you've been diligently working then I'm open to the extension.

Jodi Kennedy said she does have an agreement but I didn't bring it with me to answer your question. I apologize as I don't have to answer right now. We started in September of 2021 on building six. Even though the agreement is stated September of 2021, obviously there's been many conversations prior to that date. I have a document I can show you.

Councilor Schocke said I'll take whatever you got. You can email me so I have an opportunity to look at it. My goal here is not to rapid fire questions and put you guys on the hot seat, I would just to have my questions answered.

Attorney Harp said the principal economic risk for the project rests with the developer not with the Town. The developer bought the bonds. As the development gets built, the tax base goes up and increment pays the bond holder. With current conditions, building a building that remains vacant doesn't make sense. Even with 19% vacancy, that's nearly 1/5 of the buildings. I don't think it's to the advantage of the Town of Highland to have a bunch of empty office buildings in Cardinal Campus. Which was one of the reasons we changed our focus to the hotel. Dr. Gendreau has a similar hotel in Homewood, and is doing quite well, especially for weddings. It is hoped that some who are using the veterinary services will stay at the hotel. It will be small, maybe 30 room but very luxurious. A high end hotel.

Councilor Sheeman said I don't think anyone is opposed to a hotel or what you are saying, we are looking for a timeline and a new agreement. I really disappointed about this timeline. This is a private/public partnership.

Dr. Gendreau said we want to hold our end of the deal but we felt it prudent to change the timeline in order to be successful. If we didn't change the direction, we would go bankrupt. That's what we are requesting the extension to make it a successful project. Let me add one other thing regarding the timing. We just didn't pull it out of our hat, it was Governor Holcomb who first declared the health care emergency of March 6, 2020, which is roughly two years and three months ago and that's what were asking to extend the deadline.

Attorney Harp said he and his wife both came down with covid and both were vaccinated. His daughter works for Boeing and they are still having problems getting material.

Councilor Schocke said I appreciate where you are coming from. I just need some type of paper trail. If you have an email from a supplier or contractor that saying they don't have the manpower or supplies, that would definitely weigh heavily in your favor. It would help me a lot to understand.

Dr. Gendreau said their head architect, who was instrumental with Phase I, decided after covid to just hang it up and that put us back. We want to complete it for everybody's benefit, especially those tenants who signed 10 year leases. We have spent a lot of money already and have not recovered much of our investments.

Jodi Kennedy said we have we've already done, the market analysis on it. You can see that attached in your packet and we've hired the team that's moving forward with that, but in the meantime, we can do the site work.

Dr. Gendreau commented that the soil where the proposed hotel is going, is not ideal. They are in the process of doing soil borings. We made that commitment, just today to get started working on the site work because it's kind of challenging that part where we have the hotel is proposed. That coupled with conversations I had with architects who were concerned that supply issues and cost overruns would make this project cost prohibitive. These were verbal conversations and not via e-mails. They were concerned if we excavate the ground and then the supplies didn't arrive in time, it would result in another stand still.

Jodi Kennedy said they hired a company who specializes in data management. We have a team lined up headed by John Pack who is an expert in this area and he's already working on hiring interior designers.

Dr. Gendreau said if it was only about financial considerations, he would not proceed. I want to see the project through, a project to be proud of. If it was only about profits, we wouldn't be designing the buildings to the quality that we have designed or putting in solar panels and cobblestone streets. When completed, this project will be the pride of the area. We have a vision of the future and it's not just based on the immediate economics.

Councilor Zemen said, I hope you guys remember what that area looked like before he bought that property over five years ago. The area had abandoned, rat infested homes there. It looked like the biggest eyesore in Lake county. This guy, just having completed one third of the project has it looking like the most professional building ever built in the Town of Highland, the most professional development. All this is going to do is get better. This is going to do is get better this guy's been a godsend to me as far as the human society. Many times, I'll get a call from the CEO at the humane society saying, we

have a dog or a cat we found with a broken leg and we're going to have to put it down, can you have Dr Claude maybe take a look at it and maybe decide to run it over to him. And he'll fix it, free of charge. He doesn't even charge them. For what he does I've had so many emails and texts from people that live in the Town of Highland that said, thank God, for this guy cured my dog or my cat was sick, it was dying, it was had cancer, it had broken this broken and Claude fixed it. Just one compliment after another about this guy. We should be kissing this guy's xxx, not trying to run him out of town.

Councilor Schocke said I'm not suggesting that he's a bad guy.

Councilor Zemen responded, I know you are against this project. You've been against it since day 1. No matter what he does, you are going to vote against this project. So, it doesn't matter what he does, so don't even bother trying to talk to him. I think this guy is thinking properly (referring to Councilor Black) about the extension and I think she's thinking properly (referring to Councilor Smith) about the extension. talk okay just try and get some sense into him, I think this guy is thinking, proper and I think she's thinking properly okay. I mean we were convinced it's gonna be a project. It's gonna be good for Highland and good for the area.

Dr. Gendreau said we have gotten cases referred to us last year from 252 different hospitals, five different states. People have come to Highland who never knew Highland existed. I've hired another surgeon, which will allow us to offer even more services. His employees have been asking him what is going to happen to them when you quit working. We are filling a need that existed. An area that's never been served, you know for a long time and that's just a little part of Cardinal Campus. Purdue University and Michigan State University have referred cases to us. I thrive on this. I don't need to do this anymore but I like making a difference. I want to make a difference to the Highland and I feel that Cardinal Campus already has made a difference for Highland and we want to continue to build on it. I'm not dissing anybody. I want to make sure that we get the message to anyone. If you want to talk to me personally. I'd be glad to share my vision, but I don't want anybody to said no and I don't want to have three to two vote. We want everybody to agree that we're going in the right direction.

Councilor Zemen said, Doc you are going to have to have thick skin as you've got some assholes in town they're going to come after.

Dr. Gendreau said he experienced that with Phase I. We had one woman in particular, that was screaming here and opposed to every step of the project. And it got to the point where she moved. She was so disappointed that she sold her house. But now we have the neighbors coming to us and shaking our hands and thanking us for being there. They take their walks around the campus. There's nobody that's going to complain about Cardinal Campus Project and I can assure you that. We've been good neighbors and we want to continue to build on that. And we were disappointed as was a lot of other people in this room when the projected stalled but now we're trying to get it started again and trying to take it to the to the end.

Discussion: IC 36-5-2-4.1 (g)(1), provides that the Town Council of the Town of Highland, Indiana is required in 2022 to perform a reapportionment of its legislative districts, based upon the 2020 Census, but provides that the division of the legislative districts may be made in any other year;

The Clerk-Treasurer said the next item is just a placeholder to remind the Council that they are required by law to redistrict no later than November of the year after the census has been certified. He sent to the Council the certified census blocks from the latest 2020 census. He reminded them that the districts must be within 1% of each other.

Councilor Schocke asked if there is some kind of software that would make this easier.

The Clerk-Treasurer responded that he was not aware of any but things have probably changed since he did it 10 year ago.

Councilor Schocke said he asked Attorney Reed about this and whether they did this in Munster and what did they use but he has not heard back from him.

Councilor Sheeman said that no program exists but it actually takes you to sit down, going over each census blocked by census block and figure it out.

The Clerk-Treasurer said he did it the last two times and, yes, you have to go by census block by census block. What I did was I loaded the census blocks onto my computer and when I travelled for GE, I would use an excel spreadsheet was simply play around with the Wards to get it within 1% of each other. Bernie can attest to that. We had evening meetings and the public was invited to attend. We'd put the data on the screen and move census blocks around to attain the 1% criteria.

Councilor Sheeman volunteered to head the project. He said it's probably going to take more than one meeting but it can't be too hard as Highland's population on increased by 254 people. It's not going to be that big of a deal. You want to move this block here and that block there.

The Clerk-Treasurer described that the last two redistricting went north and south. All the Councilman districts run north and south, with the exception of Ward 5 which is mainly south of 45th street.

Councilor Schocke asked why north or south and neither the Clerk-Treasurer or Councilor Zemen could give an answer. My thought was to make life, a little bit easier because frankly I answer emails and phone calls from all over I really don't care where you live, if you call me I'm going to help you. Instead of wasting a bunch of time like this, I'd like to see what I had originally suggested, instead of wasting a bunch of time and carving out the town into five separate districts, why don't we just take a page out of school board book and just leave all five districts at large. It just seemed kind of silly to me that I have this weirdly drawn district that goes from the River all the way to Griffith. And depending on what block you're in, you're in my district or you're not in my district

and it's really, I think a little bit silly because I answer calls from all districts, so I just don't see the point. We'll have time over during the next several meetings.

Councilor Sheeman reminded Councilor Schocke that we are all still in office until next year, so we still have to be in different wards. I'll start out tomorrow and see where it goes. It will probably take a half a dozen meetings before we get it perfect. It would be nice to have an algorithm but unfortunately none exists.

Councilor Zemen said he would like to see the town have 3 wards and 2 at large seats. The 3 wards would go north and south.

X. Discussion: Police Department Staffing

Chief Hojnicky began by saying the Police Department is requesting, on behalf of the Highland Metropolitan Police Commission additional manpower (under the allotted manpower strength per the Wage & Salary Ordinance) amount. The request is based upon realization of anticipated staffing shortages. As you're well aware, we recently went through the hiring process and we found some really good applicants and we want to grab them before some other department does and we realize they have applied elsewhere. Several present officers have their feelers out and we anticipate losing another officer this year with a federal agency and another officer, possibly retiring and one going into a private industry. We're just trying to keep what we have and be very proactive when it comes to staffing. And we want to be able to hire above what we budgeted for this year, not including the retirees that we know will be retiring next year (those that have entered the drop program). So, we're basically just trying to hire to be able to keep our staffing level at 39 as we continue through the year and be able to stall our having to go through an emergency hiring process. It's not just our department, I believe Munster only had nine applicants and Griffith had I think 17 applicants. There's not a lot of interest in the job anymore. One of the applicants we're looking at now is currently a police officer and wouldn't have to go through the Academy. He would begin by starting his field training Program. The other individual is a reserve officer with police training, but he would have to attend the August academy that making him eligible for solo duty not until April of next year. It takes quite a while to get somebody through the process and, as I stated in in a correspondence when other positions in the town are filled, they generally start that day. It's kind of on the job training. Police work requires about a year from start to finish, getting somebody hired trained. We're going to need approximately \$75,000 worst case scenario. I have been in contact with the Clerk-Treasurer who indicated, he believes there would be sufficient funds to allow this to occur should the Council wish to proceed in that direction. If so, I'd like to get them both hired at your next public meeting because we could use the staffing for the Fourth of July festivities and events coming up. That is my request that I humbly present to the Council.

The Clerk-Treasurer said he did talk with the Chief and we do have the money, to support and sustain the additional hires. The concern is not this year, because we can cover. The problem we will run into is the fact is if in his scenario, the officers don't retire or if the officer doesn't go to a federal agency, the Council will have to make some

budget cuts during the budget cycle. Our projections is that our budget will increase by 5% but will circuit breakers plan on 4.5% or roughly \$450,000 additional money. If those things don't happen, the \$450,000 will have to be used for additional personnel, in addition to paying towards the rising fuel cost and in the case of the Police, rising ammunition costs. So, yes, we can fund it. There's not a problem if the scenario by the Chief happens but if it doesn't happen and you're gonna have to make some tough budget cuts. I just want to be upfront with you. I was talking with President Zemen and he asked me to place on the July 18th study session, to meet with representatives of the FOP as part of the State Law of Meet and Confer. I've talked with Officers all the time who asks about raises. As I stated earlier, we have the money to give them raises. Our problem is that we cannot sustain it next year without making tough budget cuts to support. On whether to hire the 2 additional officers, I would encourage the Council to proceed.

Chief Hojnicky added that if the situation presented itself where there's a funding issue in regards to this particular matter, I do have some funds available from both federal and local asset forfeiture and we also have an officer on loan to the DEA that we're hoping to be able to bring back some significant asset forfeiture in the future to help offset some of the additional costs that we may incur.

Councilor Sheeman you know there's nothing as a Council that we have more important than to keep our citizens, safe and I would never ever want our staffing to go below the level. That creates more overtime that is going to keep building up when you don't have enough staff. If you look at the history over the last few years, we were losing one or two a year, sometimes three officers. We need to make sure we're always staffed at the level if we have to go one over because we know in another couple of months somebody is going to leave here there. I don't ever want to hear somebody say our police department is short staffed. With those going to the police academy we don't even have them till next year April before we can even let them loose. All that time is basically not benefitting us, he's not in the car, he's not answering calls or giving out citations. He's not doing anything, and we have to anticipate that and I think that's our job as a Council to anticipate.

Chief Hojnicky added that regardless of the Council's decision, he will make it happen. He said the police department applied for two grants which he hopes they get which will help with staffing issue and he wanted to thank former Highland Town Manager Rich Underkofler for writing one of the grants.

Councilor Zemen said he would like to see an additional resource officer for the schools. While one is in the middle or high school, the other officer is checking the other schools. He asked the Clerk-Treasurer about a public safety tax that other communities are using to increase staffing requirements. The Clerk-Treasurer said he would gather the information and provide to the Council. He also complimented the police presence at the Park's 75th Anniversary celebration.

X. Discussion: Rail Safety Week Proclamation

The CN Railroad asked that the Council proclaim the of September 19 thru the 25th National Railway Safety Week. The proclamation will be on the agenda for the 27th.

X. Discussion: Indiana 1st Amendment Auditors (Minnesota vs Mansky)

The Clerk-Treasurer began by saying I don't know if you've heard about it but as I talked with other communities and there's a group going around that's just trying to disrupt municipal government. Their sole purpose is to be disruptive enough to have the police called to the area and then video tape the confrontation with law enforcement and download it to YouTube. Unless your town has signs posted – Authorized personnel only, they feel they can walk anywhere in the building they desire as it is a public building and they are the public. Some towns, who they visited and signs were not present, had them walk right into the safe or offices, video taping as they go trying to force a police confrontation. And there's horror stories throughout the State (washing their feet in the public restrooms toilet or sleeping in the council chambers. About three weeks ago, they visited Schererville. The fortunate thing for Schererville is that the doors to the town hall are locked and requires someone to be let in. They then went to the police station. Schererville has since ordered the Authorized Personnel Only signs. All they are trying to do is get a negative response from the person they are video taping so they can post on You Tube. They asked a clerk treasurer their name and she responded, what is your name and the person video taping said, so your refusing to give me your name. That video clip made it on You Tube. To stop the intrusion, you need to post signs on doors and entrances that says no unauthorized personnel past this point or authorized personnel only. They cannot prohibit you from doing your work but with a camera in your face, it can be intimidating. The Clerk's office is dealing with confidential or personal information as to a person's utility bill which is accompanied with a check but the same applies to the Fire Department, Lincoln Center or Public Works. In addition to signage, you must designate where they can stand and video tape as not to disrupt office operations or allow confidential information to be video taped. I'm making you aware of it, because it's going around big time in Indiana and we need to be prepared in case they show up.

Councilor Sheeman asked the Clerk-Treasurer had he started ordering the signs. The Clerk-Treasurer said he hadn't but wanted to make the Council aware first.

X. Discussion: Provide active volunteer firemen with free gym membership at Lincoln Center

Alex Brown began to explain that of the 110 employees of the Town, 70 are part of the wellness program and eligible for free membership. That was established by the Town to encourage employees to sign up for the wellness program. Of the 70 employees currently in the wellness program, very few actually take advantage of the benefit. The misnomer is that the police department gets free membership at the Fitness Center. That simply is not true. The Park Department eats the cost of those police officers who use the Fitness Center. Like the Fire Department, the Police Department has their own workout facility. However, only 2 or 3 officers work out at Lincoln Center. Several others work out at local health clubs.

Councilor Schocke works out with several officers at Anytime Fitness, asked them why do they work out at the police facility. Why pay for when they can work out free at the police station. They're response was that after working 8 hours at the police station, they want a change of pace, they want to get their workout done and go home. They don't want to be recognized as a police officer because then they are asked a million questions.

Alex Brown continued, that it's not free as the Park Department is absorbing that cost. A lot of employees have signed up for the Fitness Center but have never gone. When we opened the fitness Center a long time ago, the Town Council had already established a wellness program for the Town that employees had to meet certain requirements to get a certain percentage off their premium costs for the health insurance Program. We just added it as an extra incentive to those employees that met those wellness requirements. There was a reason because it is tied into wellness. Employees are not taxed on that membership. If you just gave out free memberships and didn't tie it into wellness that's a taxable benefit for all those employees. As long as it was tied into a wellness program it wasn't considered a taxable benefit. We've had requests from all kinds of groups over the years since the Fitness Center opened. Full time employees have constantly asked why their spouses and families can't be added. The school town employees have approached us over the years, asking why they couldn't have free memberships. We've got part time employees within the Park Department, as well as, other town departments who ask why don't we qualify. The Park Board has been approached by those active military, reserves and veterans ask why they can't get free membership. We have parents of kids or young adults with special needs asking for free membership saying the child isn't going to be using too much equipment. As Mark said it's just not a free membership for the town employees, they do have to meet the wellness requirements and then they qualify. As I stated above, I did asked Dawn and last we had 110 full time employees in the town and 72 employees completed the wellness requirements, 10 of those came and signed up for free memberships five have never used them this year, three of them are full time employees at the Fitness Center. An employee of Redevelopment used it twice has not used it since February and then there's a police officer that's used it close to 70 times. When asked why he uses ours and not the one at the police station, he said he likes to work out with his wife and she's not allowed to work there. So, it doesn't seem like employees have taken advantage of this benefit that's been offered to them. If you're asking me why the fire department haven't done it, as I said, this was tied into the health insurance program and they're not participants in the health insurance program so I guess that would be my answer Bernie as to why.

Councilor Zemen said if it was up to him, I would let every fireman use it for free. You have the police working 40 hours a week or roughly 160 per month and you have some firemen who make maybe 1 call a month. People are comparing the police who work 160 hours a week to the fireman who work maybe 2 hours per week. And your saying to allow them use the gyn as much as people working 60 hours a week. The question I have for the Chief is you have some firemen that make 70 to 80% of the calls and another who makes maybe 2 calls. How would you decide who could use it or whose eligible to use it.

Chief Timmer said if you are going to offer the benefit obviously we would like to get something from our end. We would like our fire fighters to make at least 30% of the calls. That would make some sense but after hearing about the police department and there's only one guy using it, that might be the same for the fire department. I get it that one Town Councilman uses it all the time and I'm for anything that motivates our firefighters to attend more events. I'll certainly work with whomever to figure it. I think we've got two guys who are members but both are seniors and they use the silver sneakers which is paid for by the insurance. It is a discussion that comes up at the fire station all the time. If the COPs can use, why can't we. I am finding more and more that there isn't such a great participation and in fact, nothing is free as Lincoln Center is picking up the cost. I would like to see the 30% attendance. I heard someone say that they haven't been there since February or whatever. I work out 3 days a week and record it as it gives us points. There is a lot of benefits to having a fitness membership and certainly one of them is to say to our firefighters you get a membership if you do this.

Councilor Schocke said I get it's not for free but I look at it differently. I look at it as a healthy workforce is a good work force for us. It's a workforce that shows up for work every and has fewer sick day and better mental health. All that good stuff. There are other benefit as a fire fighters job is very physical and you truly want your fire fighters in good shape. I mean the whole idea is we want these people to be able to bust down doors to save us from fire so we want them to be in good shape. I understand that some people will use it more than others just as there are police officers who work more overtime than others. Maybe single police officers that don't have a family are more available to do more overtime, so they get paid more. Because they're doing the overtime work and they're doing the side jobs and stuff, whereas the guy that just shows up for his regular shift nonetheless they're still able to use it. What I'm hearing from the data is that the people who have this as a benefit aren't using it, so my thought is what's the negative to just letting people have the option. I'm not necessarily convinced that you'll get a whole lot of more users based upon the data that Alex provided by opening this up to firefighters or heck any employee of the town, whether you're part time or full time. It seems full time people aren't even using it so it's like we're really not losing anything other than saying hey, by the way, here's an extra benefit if you choose to use it great if you don't want to use it that's fine too.

Alex corrected an earlier statement that the fitness membership of those in the wellness program was being paid by the insurance company. The fitness membership cost was being eaten by the Park Board. The Park Department has never received anything from United Healthcare for anyone using the Fitness Center.

Councilor Schocke said my thought is you need fit police and fire fighters. If we can help these first responders these first responders if they want to work out, then I think we should help them, and so, whatever that takes I don't really think it should be tied to any criteria of showing up to fire calls.. I think if you're a firefighter, you're entitled to it. The same with any employee of the Town, even the part time employee should be given an opportunity.

Park Board Member Carlos Aburto said I'm certainly going to be in favor of anything helps my fellow brother firefighters can receive. I've never made a distinction between career or volunteer because we do the same work. Now the difference is that when I was Chief of East Chicago, my budget was almost \$7 million dollars. I think you need to figure out what the cost is going to be to the town. If you open it up, and I get what you're saying Councilor Schocke and it's a good idea but if you were a small town with not so big budget, and if you open up the Fitness Center and say it's free for everyone and your data is wrong and everybody is using it, the wear and tear on the fitness equipment, the wear and tear on the building and everything, is going to be an issue for the Parks Department. So, we have to be careful on how you meet certain criteria. Currently the criteria is you have to be a full time employee. You wait to change it, as a Council your certainly can but it stands right now, and I don't want to speak for Alex but I don't know that the Park Board would be in favor of just giving it away free memberships. The Fitness Center is an amenity for the Town, to help the quality of life for the residents of Highland. We have a really good arrangement with Munster, where our residents use some of their facilities and their residents use some of our facilities. But we have to be mindful that we have to discipline ourselves when it comes to giving things away. There is a fitness center at the police station and also at the fire department. Maybe the two Chiefs can get together and possibly allow the firefighters to use the facilities in the police station during certain hours. But certainly there is a benefit, of course, and firefighters, need to be fit, as well as police officers, first responders in general, and we should take care of first responders absolutely.

Councilor Schocke said he understands what Carlos is saying. I think that anything we can do to motivate our firefighters, to be better firefighters, to be more healthy firefighters and safer firefighter.

Chief Timmer commented that the firefighters need to follow the chain of command. The Fire Department is a military driven structure. I think part of the issue was the thought that all the policeman go and use the Fitness Center for free and that's not true. And I absolutely agree with Councilor Schocke. It a great idea and I can see a justification for it, as the fire fighters are going to be healthier.

Councilor Sheeman said we had this conversation at one of our weekly calls a couple of weeks ago. I said before we hire a fireman or a policeman they have to go through a physical agility test. But after two years, three years, five years 10 years there's never another physical test. There's no minimum physical requirements for any of those positions after you get hired. There's nothing and so you could be a nice healthy 25 year old and pass it but by the time you're 35, you're a big pouch or beer belly. And if you want to give them free stuff, I think there's some kind of standards that we should expect of them. They should have some level of minimum physical requirement. It could be done by age. But 15 or 20 years or 10 nobody cares about their physical condition. I'm a little worried about attrition.

Chief Timmer said I don't mean to be jumping all over you here, Councilor Sheeman but I'm just saying we have a hard enough time getting people to show up the fires, let alone putting requirements for attendance at the Fitness Center.

Councilor Sheeman responded that we have requirements to get hired but after that we place no requirement that you remain physically fit.

Councilor Schocke wanted clarification on a taxable benefit versus a non-taxable benefit. Just so I'm clear and I'm not a tax professional by any means, but are we saying that the benefit is provided to the employer and the employee is taxed, or are we saying we, as the employer are taxed.

Alex Brown said the employee is not being taxed on the on the benefit if they are in the wellness program. On a \$240 membership fee, the employee is not being taxed on the value on the membership, they're not being taxed on that. The Clerk-Treasurer should probably check with IRS or state Board of accounts, but I believe it would have to be a taxable benefit them.

Councilor Schocke asked then the question becomes is that tax assessed on the employee or the employer, because really if you think about it, if you want to exercise this benefit, so you get taxed at whatever percentage on \$240, which is still going to be a very little amount of money right, I mean that would be like probably 10 or 20 bucks which seems like incredibly good deal. I'm saying if someone offered me a free gym membership I would jump on it. I think the fire fighter numbers will be similar to the police. It's not like they just sit around all day and wait for a fire call they all have full time jobs. They're tired when they come home. The wellness program was developed by the Council and the Council can change or tweak it to so that all the firefighter have free membership to the Fitness Center.

Councilor Sheeman said the Council can change it however it wants but make sure you can sustain your decision moving forward and make sure it doesn't backfire. The worse thing that could happen is if you implemented the program to include firefighters and then determine you can't sustain it and take it away.

The Clerk-Treasurer reminded the Council as to the reason why the Fitness Center was built in the first place, to generate revenue. The same thing when we talked about doing the turf field, to generate revenue. Yes, the different organizations wanted free time but you also have to charge, because we have overhead costs and personnel cost and the wear and tear on the equipment and building.

Councilor Sheeman asked draw the line when the teachers come and say, well, we want the free membership or whatever other organization. I'm concerned that there will be a ripple effect in that everybody's going to come out of the woodwork saying hey I want a free membership.

Councilor Schocke said hypothetically, if we just said, all right open the floodgates, every employee in the town whether part time or full time has the opportunity to use this but in like six months we'll take stock and recess it.

Alex Brown said the computer systems are fairly sophisticated that's how I knew, how many times these 10 employees punched in all year long, so I mean it's easy to do so we can tell how many firefighters are using the Fitness Center. My one issue of all part time employees, I do want the Council to know we've got part time employees that work as few as two hours a week, that would be like a piano instructor or yoga instructors whereas preschool teachers and the people that work in the Lincoln Center that are as much as 38 to 40 hours a week. I know Ken Mika has part time people too. So my point is other than the fire department, there are over 100 part time employees in the Town of Highland that that work a wide range of hours, so I feel you need parameter in place. I don't feel that somebody works two hours a week and doesn't work even year round deserves a free gym membership.

Carlos was concerned that if we open it up to everyone and everyone takes advantage of it, the Fitness Center will become congested and some of the 1,100 current member may decide to go elsewhere.

Councilor Schocke wanted to know the next step, I mean we can't take a vote on this, or can we put it on the agenda. The question is, do we want to just amend the wellness program to just add firefighters or do we can change the benefit program and not the wellness program.

Chief Timmer said he did not want to jeopardize that program if we decided that we're adding part time people into that mix and he said he would look into it. But he asked the Council to wait till after the 4th of July is over and closer to August.

Councilor Schocke said he hasn't asked the firefighters but if you said hey, look if you spent \$3 a month or whatever on tax that you'd have to pay, would this be a benefit that you would use, and I think probably most people would say yeah for three bucks okay.

Alex Brown said the Fitness Center would be considered income as the fire fighters are not part of the Town's insurance and it would be included on their W-2.

Councilor Schocke said they could decline the membership after a month if they don't want to pay the \$3.

The Clerk-Treasurer said it would be an accounting nightmare if you allow the firefighter to enter the program, leave the program, then re-enter. It should be treated like health insurance with open enrollment. You can sign up 1 time during the year. The fire fighters must realize that they're membership is going to be taxed as income.

Carlos said again, I'm all in favor of giving the firefighters free membership but I want to make sure we have money for improvements like new equipment and giving stuff away free doesn't do that.

X. Discussion: Beautification of the Ridge Road Embankment around the Downtown Parking lot.

The Clerk-Treasurer explained that Richard Underkofler, of the Tree Board had asked that this item be placed on the agenda. In the study session packet was the cost from Dave's Tree Service to remove the trees on the Ridge Road embankment (south of the new parking lot). The one question that I have and I don't know the answer to it is, who owns the embankment. I don't know the answer so I'm saving you had better find before proceeding.

Carlos Aburto who has spearheaded this project wanted a way improve the appearance of the embankment. He reached out to the State Highway who said unless there is an overhanging tree or obstruction on a state route or state right of way, which the Ridge Road embankment isn't, they won't come out or maintain. The area has become overgrown with honey suckle trees. It is really an unsightly area.

Councilor Sheeman thought the Town owns because the American Legion wanted the Town to vacate the easement to them so they could pave the parking lot.

Carlos said he can't imagine that we don't own but that's possible. The Redevelopment Director must know who owns the embankment. Alex Brown was nice enough to allow the park crews to go there and cut back everything behind the new depot and then on the other side. There was a lot of bikers and walkers that couldn't see onto Ridge either south or north because there was so much overgrowth so we cut all that back so makes it safer. But it relates to aesthetic and I think we could do better, I know it's just a lot of money, just a bunch of brushing trees and yes we had an arborist go out there, take a look at it. They all agree that there is nothing worth saving except maybe a couple of trees. I talked with the Neighbors for Sustainability and they would volunteer their time to plant non-invasive native tree and plants. Richard Underkofler feels he can get 100 trees donated but right now we just gotta get it cleaned up by removing honey suckle trees. I talked to Alex about this at some point and he was saying that you'd have to replace the trees with something that would basically prevent erosion. You don't have to remove the stump but cut it low enough and then apply a product that prevents it from growing back. But the stump will remain and it will keep erosion from happening.

Alex commented that the roots still die and you still have to replace them with something.

Carlos said that's where the new trees, quality trees and native plants will transition when the roots die, the new stuff will adhere to the to the side of the embankment.

Councilor Sheeman was critical of the cost as the proposal was simply to remove the existing trees and not to replace. He remembers the opposition he had by simply wanting to plant mums downtown.

Carlos said Rich Underkofler had reached out to Redevelopment to cover 2/3 of the cost. The Redevelopment Commission transferred \$7,000 to Public Works to remove and trim the tree in the downtown area so they have no money to contribute. More discussion to follow.