

COMMISSIONER'S MEETING
October 29, 2012

The Bartholomew County Commissioners met in regular session on October 29, 2012 in the Governmental Office Building, 440 Third Street, Columbus, Indiana. Chairman Larry Kleinhenz called the meeting to order at 10:00 a.m. Commissioners Carl Lienhoop and Paul Franke, County Attorney J. Grant Tucker and County Auditor Barbara Hackman were also in attendance. Commissioner Lienhoop gave the invocation and led the Pledge of Allegiance.

Commissioner Lienhoop made a motion to approve the October 22, 2012 minutes. Commissioner Franke seconded the motion that passed unanimously.

The Payroll Claims were presented for approval. Commissioner Franke made a motion to approve the Payroll Claims as presented. Commissioner Lienhoop seconded the motion that passed unanimously.

Commissioner Franke read the New Permits Report from 10/22/2012 to 10/26/2012. Twenty-one (21) building permits were issued with a fee amount of \$1,764.00 and a valuation amount of \$967,350.

County Highway Engineer Danny Hollander presented the final payment and change order for Culvert No. 623 at Harrison Lake. This is with Force Construction and while they were taking the curb off, they found some deck problems, so there is an additional \$2,032.15, which brought the total up to \$19,736.32. Commissioner Lienhoop made a motion to approve the final payment and change order for Culvert No. 623 at Harrison Lake. Commissioner Franke seconded the motion that passed unanimously.

Engineer Hollander presented a letter to the County Surveyor requesting assistance in preparing right-of-way descriptions, platting and marking new right-of-way for the Bridge No.

35 project on County Road 100 S. between 400 E. and 475 E. for the Commissioners' signatures. Commissioner Franke made a motion to sign the letter requesting the County Surveyor to prepare right-of-way descriptions for Bridge No. 35. Commissioner Franke seconded the motion that passed unanimously.

Engineer Hollander presented a letter to the County Surveyor requesting assistance in preparing a 15' easement across the Solid Waste District's property east of Royal View Subdivision and north of 25th Street for a Highway Department drainage pipe. Commissioner Lienhoop made a motion to sign the letter requesting the County Surveyor to assist in preparing an easement across the Solid Waste District's property for the drainage pipe. Commissioner Franke seconded the motion that passed unanimously.

Engineer Hollander gave the weekly crew report. Last week, they mowed in Wayne, Harrison, Rockcreek and Clifty Township, patched roads, cleared out trees in field by Royal View and ditch and wedged over pipes and wedged spots in Harrison Township.

Education Coordinator Heather Siesel presented the Recycling Center Report. She highlighted the Volume Report emphasizing that newspaper and cardboard are the highest and the cardboard numbers continue to be up residentially, commercially and satellite. ABITIBI numbers continue to be high. She then highlighted the education activities so far in 2012 such as the East Senior Project Fair, North Senior Project Fair and Cummins HSE Fair, the outdoor lab with SWCD, etc. America Recycles Day Celebration will be Thursday, November 15, 2012. Amnesty Day will be Saturday, November 17, 2012 from 8:00 a.m. to 3:00 p.m. at the Columbus/Bartholomew Recycling Center and the Déjà vu Art Show will be on Saturday, November 17, 2012 from 10:00 a.m. to 4:00 p.m. at the Commons.

Donna Anderson, from Kenna Consulting, was present for the consideration of a *Fair Housing Ordinance on second reading*. This is in conjunction with the grant that was received on behalf of Driftwood Utilities and with these grants, you have to have a Fair Housing Ordinance, which Bartholomew County has, but the Federal Government has made a change in the wording. The change is to prevent discrimination against individuals because of any of a number of things such as familial status. Chairman Kleinhenz opened the Public Hearing. Hearing not comment, Chairman Kleinhenz closed the Public Hearing. Commissioner Lienhoop made a motion to approve the following ordinance on second reading. Commissioner Franke seconded the motion that passed unanimously.

Fair Housing Ordinance

GENERAL ORDINANCE # 2012-11

WHEREAS, in accordance with the Civil Rights Act of 1968, as amended, the Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9.5-1, et. seq., the following provisions are necessary and appropriate to prevent discrimination in the area of housing because of race, color, religion, sex, handicap, familial status or national origin:

NOW, THEREFORE, BE IT ORDAINED BY THE BARTHOLOMEW COUNTY
COMMISSIONERS, OF THE STATE OF INDIANA, AS FOLLOWS:

Section 1 *Policy Statement*

It shall be the policy of Bartholomew County to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9.5-1 et. seq.

Section 2 *Definitions*

The definitions set forth in this Section shall apply throughout this Ordinance:

- A. Dwelling means any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families; or any vacant land which is offered for sale or lease for the

construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one (1) or more families (I.C. 22-9.5-2-8).

- B. Family includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in subsection (H) of this Section. Also, pursuant to 24 CFR Part 5, the definition of “family” is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.
- C. Person (I.C. 22-9.5-2-11), includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.
- D. To Rent (I.C. 22-9.5-2-13), includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.
- E. Discriminatory Housing Practice means an act that is unlawful under Sections 4,5,6,7 or 8 of this Ordinance or I.C. 22-9.5-5.
- F. Handicap means, with respect to a person:
 - 1. a physical or mental impairment which substantially limits one or more of such person’s major life activities.
 - 2. a record of having such an impairment, or
 - 3. being regarded as having such an impairment,
 - 4. an impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990.
 - 5. Any other impairment defined under I.C. 22-9.5-2-10.

The term ‘Handicap’ shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code (I.C. 22-9.5-2-10(b)); nor does the term ‘Handicap’ include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c)).

- G. An Aggrieved Person includes any person who (I.C. 22-9.5-2-2):
 - 1. claims to have been injured by a discriminatory housing practice; or
 - 2. believes that such person will be injured by a discriminatory housing practice that is about to occur.
- H. Familial Status means one or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

- I. Commission (I.C. 22-9.5-2-3) means the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4, et. Seq.
- J. Complainant (I.C. 22-9.5-2-4) means a person, including the Commission, who files a complaint under I.C. 22-9.5-6.

Section 3 Unlawful Practice

Subject to the provisions of subsection (B) of this Section, Section 9 of this Ordinance and Title 22-9.5-3 of Indiana Code, the prohibitions against discrimination in the sale or rental of housing set forth Title 22-9.5-5-1 of Indiana Code and in Section 4 of this Ordinance shall apply to:

- A. All dwellings except as exempted by subsection (B) and Title 22-9.5-3 of Indiana Code.
- B. Other than the provisions of subsection (C) of this Section, nothing in Section 4 shall apply to:
 - 1. Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to one such sale within any twenty-four (24) month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single family house shall be exempted from application of this section only if such house is sold or rented:
 - a. without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person and
 - b. without the publication, posting or mailing, after notice of advertisement or written notice in violation of Section 4(C) of this Ordinance, but noting in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other

such professional assistance as necessary to perfect or transfer this title, or

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- C. For the purposes of subsection (B), a person shall be deemed to be in the business of selling or renting dwellings if:
1. They have, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or
 2. They have, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or
 3. They are the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.

Section 4 *Discrimination in the Sale or Rental of Housing*

As made applicable by Section 3 and except as exempted by Section 3(B) and 9, it shall be unlawful:

- A. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.
- B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.
- C. To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.
- D. To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection,

sale or rental when such dwelling is in fact so available.

- E. For profit, to induce or attempt to induct any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin.
- F. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:
 - 1. that buyer or renter;
 - 2. a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
 - 3. any person associated with that person.
- G. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:
 - 1. that person; or
 - 2. a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
 - 3. any person associated with that person.
- H. For purposes of this subsection, discrimination includes:
 - 1. a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;
 - 2. a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
 - 3. in connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after

September 13, 1998, a failure to design and construct those dwellings in such a manner that;

- a. the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
- b. all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
- c. all premises within such dwellings contain the following features of adaptive design:
 - i. an accessible route into and through the dwelling;
 - ii. light, switches, electrical outlets , thermostats, and other environmental controls in accessible locations;
 - iii. reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility an usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health of safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.

Section 5 *Discrimination in Residential Real Estate-Related Transactions*

- A. It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.
- B. As used in this section, the term residential real estate-related transaction means any of the following:
 1. The making or purchasing of loans or providing other financial assistance:
 - i. for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - ii. secured by residential real estate.
 2. The selling, brokering, or appraising of residential real property.
- C. Nothing in this Ordinance prohibits a person engaged in the business of

furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

Section 6 *Discrimination in the Provision of Brokerage Service*

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin.

Section 7 *Interference, Coercion, or Intimidation*

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 3, 4, 5 or 6 of this Ordinance.

Section 8 *Prevention of Intimidation in Fair Housing Cases*

Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

- A. any person because of his race, color, religion, sex, handicap, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or
- B. any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:
 - 1. participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (A); or
 - 2. affording another person or class of persons opportunity or protection so to participate; or
- C. any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and

if death results shall be subject to imprisonment for any term of years or for life.

Section 9 Exemptions

- A. Exemptions defined or set forth under Title 22-9.5-3 et. seq. of Indiana Code shall be exempt from the provisions of this Ordinance to include those activities or organizations set forth under subsections (B) and (C) of this Section.

- B. Nothing in this Ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

- C. Nothing in this Ordinance regarding familial status shall apply with respect to housing for older persons. As used in this Section, 'housing for older persons' means housing:
 - 1. provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly person (as defined in the state or federal program) or;

2. intended for, and solely occupied by, person 62 years of age or older; or
3. intended and operated for occupancy by at least one person 55 years of age or older per unit.

Section 10 Administrative Enforcement of Ordinance

- A. The authority and responsibility for properly administering this Ordinance and referral of complaints hereunder to the Commissioner as set forth in subsection (B) hereof shall be vested in the Chief Elected Official of Bartholomew County, Indiana.
- B. Notwithstanding the provisions of I.C. 22-9.5-4-8, Bartholomew County, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the Ordinance, herein elects to refer all formal complaints of violation of the articles of this Ordinance by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to Title 22-9.5-6 of Indiana Code and the Chief Elected Official of Bartholomew County, Indiana, shall refer all said complaints to the Commission as provided for under subsection (A) of this Section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under Title 22-9.5-6 of Indiana Code.
- C. All executive departments and agencies of Bartholomew County, Indiana shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Ordinance and shall cooperate with the Chief Elected Official and the Commission to further such purposes.
- D. The Chief Elected Official of Bartholomew County, Indiana, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

Section 11 Separability of Provisions

If any provision of this Ordinance or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the Ordinance and the application of its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

Certification of Adoption

It is hereby certified that this Ordinance Number was passed by the Bartholomew County Commissioners, of the State of Indiana, at their legally convened meeting on October 29, 2012.

S/s Larry S. Kleinhenz
Signature, Chief Elected Official

Larry Kleinhenz, Commissioner President
Name and Title, Chief Elected Official

October 29, 2012
Date

S/s Barbara J. Hackman
Attest By

The next item on the agenda was the consideration of *Indiana Office of Community and Rural Affairs Standard Sub-Recipient Agreement for CDBG-Funded Projects*. Ms. Anderson explained that this is a standard agreement between Bartholomew County, the State of Indiana and Driftwood Utilities that is for the County's protection since they are responsible for the grant funds. Commissioner Lienhoop made a motion to enter into the *Indiana Office of Community and Rural Affairs Standard Sub-Recipient Agreement for CDBG-Funded Projects*. Commissioner Franke seconded the motion that passed unanimously. Ms. Anderson then added that the bid deadline is March 31, 2013, release of funds by May 31, 2013 and construction should be completed by March 31, 2014.

Commissioner Franke read the Animal Control Monthly Report for the month of September 2012. Forty-three animals were picked up, 8 violations, collected 1 fine, had 1 bite case, 4 animals reclaimed and 3,319 miles logged. Commissioner Franke made a motion to accept the Animal Control Monthly Report for the month of September 2012. Chairman Kleinhenz seconded the motion that passed unanimously.

Taxpayer Mike Lovelace asked if any decisions have been made concerning the County Annex Building and Chairman Kleinhenz stated none at this time.

There being no other business, the meeting was adjourned by Commissioner Kleinhenz at 10:39 a.m. The next Commissioners' meeting will be on Monday, November 5, 2012 at 10:00 a.m. in the Commissioners' Chambers.

BARTHOLOMEW COUNTY
COMMISSIONERS

LARRY S. KLEINHENZ, CHAIRMAN

PAUL FRANKE, MEMBER

CARL H. LIENHOOP, MEMBER

ATTEST:

BARBARA J. HACKMAN, AUDITOR