

**MINUTES OF THE PROCEEDINGS
OF THE
COMMON COUNCIL**

CITY OF TERRE HAUTE, INDIANA

REGULAR SESSION, THURSDAY, SEPTEMBER 7, 2023

The City Council met in Regular Session Thursday, September 7, 2023 at 6:00 P.M. in the City Hall Courtroom with Mr. DeBaun presiding and Michelle L. Edwards in the City Clerk's desk.

**Moment of Silence and Pledge of Allegiance to the Flag
Calling Of the Roll**

PRESENT: Amy Auler, George Azar, Tammy Boland, Martha Crossen, Curtis DeBaun IV, O. Earl Elliott, Neil Garrison, Cheryl Loudermilk, Todd Nation

No Public Comment on Items Not on the Agenda

- a. William Carper concerning chickens in the City, grandfathering existing homes but not allowing additional chickens.
- b. Councilperson Neil Garrison concerning chickens in the City.
- c. Donald Hyde concerning fear and respect, driving a car and owning a gun.
- d. Herb Roots concerning rezoning property and condemned properties in the City

**No Corrections to the Journal of the Preceding Meeting
No Communication from the Mayor
No Reports from City Officials
No Reports from Board of Public Works and Safety
No Reports from Standing Committees
No Reports from Non-Standing Committees
No Items Previously Tabled
No Tax Abatements for Confirmation
No Items on Second Reading**

**ITEMS ON FIRST READING
Appropriations**

APPROPRIATION 9, 2023 - \$120,147.00 from EMS Fund #0270-0027 to Training Academy (THFD) #0511-0000-00-391220 <Elliott>

APPROPRIATION 9, 2023 was read by digest. Motion was made by Councilperson Azar and seconded by Councilperson Loudermilk to take action on APPROPRIATION 9, 2023. Motion carried unanimously. Motion was made by Councilperson Azar and seconded by Councilperson Loudermilk to pass APPROPRIATION 9, 2023. Motion carried.

APPROPRIATION NO. 9, 2023

AN ORDINANCE TO APPROPRIATE AN ADDITIONAL SUM OF MONEY FOR EXPENSES INCURRED DURING THE YEAR 2023.

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget; now, therefore:

BE IT ORDAINED by the Common Council of the City of Terre Haute, Vigo County, Indiana, that for the expenses of said municipal corporation the following additional sum of money is hereby appropriated and ordered set apart out of the fund herein named and for the purposes herein specified, subject to the laws governing the same:

		<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
FROM:	EMS Fund #0270-0027	\$120,147.00	\$120,147.00
TO:	Training Academy (THFD) #0511-0000-00-391220	\$120,147.00	\$120,147.00
	TOTAL	\$120,147.00	\$120,147.00

Introduced by: O. Earl Elliott, Councilperson
 Passed in open Council this 7th day of September, 2023.
 Curtis DeBaun, President
 ATTEST: Michelle L. Edwards, City Clerk
 Presented by me to the Mayor this 8th day of September, 2023.
 Michelle L. Edwards, City Clerk
 Approved by me, the Mayor, this 8th day of September, 2023.
 Duke A. Bennett, Mayor
 ATTEST: Michelle L. Edwards, City Clerk

APPROPRIATION 10, 2023 - \$86,242.07 from PSLIT-Fire Dept #0751-0016 to PSLIT-FD Bldg Repair & Maint, #0751-0016-437060 <Elliott>

APPROPRIATION 10, 2023 was read by digest. Motion was made by Councilperson Nation and seconded by Councilperson Boland to take action on APPROPRIATION 10, 2023. Motion carried unanimously. Motion was made by Councilperson Nation and seconded by Council Boland to pass APPROPRIATION 10, 2023. Motion carried.

APPROPRIATION NO. 10, 2023

AN ORDINANCE TO APPROPRIATE AN ADDITIONAL SUM OF MONEY FOR EXPENSES INCURRED DURING THE YEAR 2023.

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget; now, therefore:

BE IT ORDAINED by the Common Council of the City of Terre Haute, Vigo County, Indiana, that for the expenses of said municipal corporation the following additional sum of money is hereby appropriated and ordered set apart out of the fund herein named and for the purposes herein specified, subject to the laws governing the same:

		<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
FROM:	PSLIT-Fire Dept #0751-0016	\$86,242.07	\$86,242.07
TO:	PSLIT-FD #0751-0016-03-437060	\$86,242.07	\$86,242.07
	TOTAL	\$86,242.07	\$86,242.07

Introduced by: O. Earl Elliott, Councilperson
 Passed in open Council this 7th day of September, 2023.
 Curtis DeBaun, President
 ATTEST: Michelle L. Edwards, City Clerk
 Presented by me to the Mayor this 8th day of September, 2023.
 Michelle L. Edwards, City Clerk
 Approved by me, the Mayor, this 8th day of September, 2023.
 Duke A. Bennett, Mayor
 ATTEST: Michelle L. Edwards, City Clerk

APPROPRIATION 11, 2023 - \$6,715.00 from EDIT #0404-0096 to Demo of Unsafe Buildings, #0404-0096-03-432018 <Elliott> - PASSED

APPROPRIATION 11, 2023 was read by digest. Motion was made by Councilperson Crossen and seconded by Councilperson Loudermilk to take action on APPROPRIATION 11, 2023. Motion carried unanimously. Motion was made by Councilperson Crossen and seconded by Councilperson Loudermilk to pass APPROPRIATION 11, 2023. Motion carried.

APPROPRIATION NO. 11, 2023

AN ORDINANCE TO APPROPRIATE AN ADDITIONAL SUM OF MONEY FOR EXPENSES INCURRED DURING THE YEAR 2023.

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget; now, therefore:

BE IT ORDAINED by the Common Council of the City of Terre Haute, Vigo County, Indiana, that for the expenses of said municipal corporation the following additional sum of money is hereby appropriated and ordered set apart out of the fund herein named and for the purposes herein specified, subject to the laws governing the same:

		<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
FROM:	EDIT #0404-0096	\$6,715.00	\$6,715.00
TO:	Demo of Unsafe Buildings #0404-0096-03-432018	\$6,715.00	\$6,715.00
	TOTAL	\$6,715.00	\$6,715.00

Introduced by: O. Earl Elliott, Councilperson
 Passed in open Council this 7th day of September, 2023.
 Curtis DeBaun, President
 ATTEST: Michelle L. Edwards, City Clerk
 Presented by me to the Mayor this 8th day of September, 2023.
 Michelle L. Edwards, City Clerk
 Approved by me, the Mayor, this 8th day of September, 2023.
 Duke A. Bennett, Mayor
 ATTEST: Michelle L. Edwards, City Clerk

General Ordinances

GENERAL ORDINANCE 8, 2023 - Amending City Code, Chapter 6, Section 6-104(e), Definitions, Smoke or Smoking <Nation> - PASSED

GENERAL ORDINANCE 8, 2023 was read by digest. Motion was made by Councilperson Crossen and seconded by Councilperson Boland to take action on GENERAL ORDINANCE 8, 2023. Motion carried unanimously. Motion was made by Councilperson Crossen and seconded by Councilperson Boland to pass GENERAL ORDINANCE 8, 2023. Motion carried.

GENERAL ORDINANCE NO. 8, 2023

AN ORDINANCE AMENDING THE *TERRE HAUTE CITY CODE*, CHAPTER 6, ARTICLE 5, DIVISION III, TO AMEND CERTAIN DEFINITIONS RELATED TO SMOKING IN PUBLIC PLACES.

IT IS HEREBY ORDAINED by the Common Council of the City of Terre Haute that the *Terre Haute City Code* shall be modified as follows:

SECTION 1. *Terre Haute City Code*, Chapter 6, Sec. 6-104(e) is hereby amended by inserting the underlined text as follows:

Sec. 6-104 Definitions.

e. Smoke or Smoking. The act of lighting, carrying, inhaling from, or leaving a lighted or smoldering cigar, cigarette, or pipe of any kind. This is to include, but not be limited to, the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

SECTION 2. The illegality or invalidity, for any reason, of any of the sections of this ordinance, or parts thereof, shall invalidate only such section or sections as are so determined to be illegal or invalid, any such invalidity shall have no effect on the remaining sections of this ordinance.

SECTION 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after the date of its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and upon publication as required by law.

Introduced by: Todd Nation, Councilperson

Passed in open Council this 7th day of September, 2023.

Curtis DeBaun, President

ATTEST: Michelle L. Edwards, City Clerk

Presented by me to the Mayor this 8th day of September, 2023.

Michelle L. Edwards, City Clerk

Approved by me, the Mayor, this 8th day of September, 2023.

Duke A. Bennett, Mayor

ATTEST: Michelle L. Edwards, City Clerk

Special Ordinances

SPECIAL ORDINANCE 34, 2023 - Rezoning of property located at 2901 South 1st Street, 2929 South 1st Street, 2900 Arleth Street, 2914 Arleth Street, and 2 East Margaret Avenue <Auler> - PASSED

SPECIAL ORDINANCE 34, 2023 was read by digest. Area Plan Commission certified this ordinance to the City Council on September 6, 2023 with a Favorable with Conditions Recommendation. Motion was made by Councilperson Azar and seconded by Councilperson Garrison to take action on SPECIAL ORDINANCE 34, 2023. Motion carried unanimously. Motion was made by Councilperson Azar and seconded by Councilperson Garrison to pass SPECIAL ORDINANCE 34, 2023. Motion carried.

SPECIAL ORDINANCE NO. 34, 2023

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as “Comprehensive Zoning Ordinance for Terre Haute Indiana.”

SECTION 1. BE IT ORDANED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the “Comprehensive Zoning Ordinance for Terre Haute” and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

Lot Numbers 5, 6, 7, 8, 9, 14, 15, 16, 17, and 18 in Axtell Park, being a subdivision of part of the Southwest Quarter (SW ¼) of Section Thirty-three (33), Township Twelve (12) North, Range Nine (9) West, in accordance with the recorded plat thereof, dated April 30, 1923 and recorded June 27, 1923 at Plat Record 13, Page 47, in records of the Recorder’s Office of Vigo County, Indiana.

Commonly known as:

Lot 5: 2901 S. 1st St., Terre Haute, Indiana
Parcel # 84-06-33-382-006.000-002

Lot 14: 2900 Arleth St., Terre Haute, Indiana
Parcel # 84-06-33-382-001.000-002

Lots 06, 07, 08, 09, 15, and 17: 2929 S. 1st St., Terre Haute, Indiana
(06, 07, 08 and 09) Parcel # 84-06-33-382-007.000-002
(15) Parcel # 84-06-33-382-002.000-002
(17) Parcel # 84-06-33-382-004.000-002

Lot 16: 2914 Arleth St., Terre Haute, Indiana
Parcel # 84-06-33-382-003.000-002

Lot 18: 2 E. Margaret, Terre Haute, Indiana
Parcel # 84-06-33-382-005.000-002

be the same is hereby established as a C-3 Regional Commerce District, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.”

SECTION II, WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member, Amy Auler, Councilperson

Passed in open Council this 7th day of September, 2023.

Curtis DeBaun IV, President

ATTEST: Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 8th day of September, 2023.

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 8th day of September, 2023.

Duke A. Bennett, Mayor

ATTEST: Michelle Edwards, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Richard J. Shagley II

This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

SPECIAL ORDINANCE 35, 2023 - Rezoning of property located at 4530 North 25th Street <Loudermilk> - PASSED

SPECIAL ORDINANCE 35, 2023 was read by digest. Area Plan Commission certified this ordinance to the City Council on September 6, 2023 with a Favorable with Conditions Recommendation. Motion was made by Councilperson Nation and seconded by Councilperson Loudermilk to take action on SPECIAL ORDINANCE 35, 2023. Motion carried unanimously. Motion was made by Councilperson Nation and seconded by Councilperson Loudermilk to pass SPECIAL ORDINANCE 35, 2023. Motion carried.

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 35, 2023**

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as “Comprehensive Zoning Ordinance for Terre Haute Indiana.”

SECTION I. BE IT ORDINATED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the “Comprehensive Zoning Ordinance for Terre Haute” and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

Phase 2 – Tract 1

A portion of the land in the name of Southard Homes LLC (Instrument No. 2022006936 of the records of the Vigo County Recorder’s Office), being a part of the Northwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, City of Terre Haute, Vigo County, Indiana described as follows:

Beginning at the Southwest Corner of Southard Acres East Phase 1 (Instrument No. 2023007751); thence South 89 degrees 46 minutes 30 seconds West along the North right of way of Winslow Avenue (basis of bearings is the Indiana State Plane Coordinate System West Zone, Grid North) a distance of 300.00 feet; thence North 00 degrees 31 minutes 56 seconds West a distance of 247.04 feet to the South right of way of Haythorne Avenue; thence North 89 degrees 46 minutes 30 seconds East along the South right of way of Haythorne Avenue a distance of 300.00 feet to the Northwest corner of Southard Acres East Phase 1; thence South 00 degrees 31 minutes 56 seconds East along the West line of said subdivision a distance of 247.04 feet to the Point of Beginning containing 1.70 acres, more or less.

Phase 2 – Tract 2

A portion of the land in the name of Southard Homes LLC (Instrument No. 2022006936 of the records of the Vigo County Recorder’s Office), being a part of the Northwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, City of Terre Haute, Vigo County, Indiana described as follows:

Commencing at the Southwest Corner of Southard Acres East Phase 1 (Instrument No. 2023007751); thence South 89 degrees 46 minutes 30 seconds West along the North right of way

of Winslow Avenue (basis of bearings is the Indiana State Plane Coordinate System West Zone, Grid North) a distance of 300.00 feet to the Point of Beginning of this description; thence continuing said course a distance of 1489.33 feet to the East right of way of 19th Street; thence North 00 degrees 16 minutes 15 seconds West along said right of way a distance of 253.54 feet to the South right of way of Haythorne Avenue; thence along said right of way the next 3 courses: 1) North 89 degrees 46 minutes 30 seconds East a distance of 1301.35 feet; 2) thence South 00 degrees 25 minutes 09 seconds East a distance of 6.50 feet; 3) thence North 89 degrees 46 minutes 30 seconds East a distance of 186.83 feet; thence leaving said right of way South 00 degrees 31 minutes 56 seconds East a distance of 247.04 feet to the Point of Beginning containing 8.64 acres, more or less.

Parcel No. 84-06-02-101-001.000-002

Commonly known as 4530 N. 25th Street, Terre Haute, IN 47805

Be and the same is hereby established as an R-1 Single Family Residence District and R-2 Two Family Residence District, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.”

SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member, Cheryl Loudermilk, Councilperson

Passed in open Council this 7th day of September, 2023.

Curtis DeBaun IV, President

ATTEST: Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 8th day of September, 2023.

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 8th day of September, 2023.

Duke A. Bennett, Mayor

ATTEST: Michelle Edwards, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Richard J. Shagley II

This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

SPECIAL ORDINANCE 36, 2023 – Rezoning of property located at 1547 Lafayette Avenue <Garrison> - PASSED

SPECIAL ORDINANCE 36, 2023 was read by digest. Area Plan Commission certified this ordinance to the City Council on September 6, 2023 with a Favorable with Conditions Recommendation. Motion was made by Councilperson Crossen and seconded by Councilperson Garrison to take action on SPECIAL ORDINANCE 36, 2023. Motion carried unanimously. Motion was made by Councilperson Garrison and seconded by Councilperson Crossen to pass SPECIAL ORDINANCE 36, 2023. Motion carried.

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 36, 2023

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as “Comprehensive Zoning Ordinance for Terre Haute Indiana.”

SECTION I. BE IT ORDIANED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the “Comprehensive Zoning Ordinance for Terre Haute” and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

Lot Number Two Hundred Thirty-five (235) in Highland Place, a Subdivision (among other lands) of the South East Quarter (1/4) of the North East Quarter (1/4) of Section Ten (10), Township Twelve (12) North, Range Nine (9) West as per recorded plat thereof recorded in Plat Record 5-A, Page 85 in the Vigo County Recorder’s Office.

Parcel No. 84-06-10-280-001.000-002

Commonly known as: 1547 Lafayette Avenue, Terre Haute, Indiana 47804.

Be and the same is hereby established as a C-3 Regional Commerce District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.”

SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member, Cheryl Loudermilk, Councilperson
Passed in open Council this 7th day of September, 2023.

Curtis DeBaun IV, President

ATTEST: Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 8th day of September, 2023.

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 8th day of September, 2023.

Duke A. Bennett, Mayor

ATTEST: Michelle Edwards, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Richard J. Shagley II

This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

Motion was made by Councilperson Azar and seconded by Councilperson Crossen that the meeting be adjourned. Motion carried.

Kelley Duggins
Chief Deputy City Clerk

Curtis DeBaun IV, President

Michelle L. Edwards, City Clerk