

**RESOLUTION NO. 2014- 3**  
**OF THE**  
**PERRY TOWNSHIP ADVISORY BOARD**  
**AND**  
**THE PERRY TOWNSHIP TRUSTEE**

**(Revised draft with amendments approved on second reading by the Town  
Council and Perry Township)**

**04/30/2014)**

**BE IT RESOLVED BY THE PERRY TOWNSHIP ADVISORY BOARD  
AND THE PERRY TOWNSHIP TRUSTEE, AS FOLLOWS:**

**Reorganization 2.0**

Under the authority granted by state law IC 36-1.5, et al., the following entities shall be merged into one governmental unit: Town of Zionsville and Perry Township (Boone County). The boundaries of the resulting municipality shall be all areas of the Town of Zionsville existing at 11:59 p.m. on December 31, 2014, and all areas of Perry Township not within the municipal limits of Whitestown or Lebanon at 11:59 p.m. on December 31, 2014 or at any time thereafter.

*Whereas*, IC 36-1.5-1-5 states that this article "shall be liberally construed to effect the purposes of this article,"

*Whereas*, IC 36-1.5-1-6 states that "[E]xcept as otherwise specifically provided by law, to the extent the provisions of this article are inconsistent with the provisions of any other general, special, or local law, the provisions of this article are controlling, and compliance with this section shall be treated as compliance with the conflicting law,"

*Whereas*, IC 36-1.5-1-2 states that this "article contains full and complete authority for the following: (1) reorganization of political subdivisions... (3) Transfer of responsibilities between offices and officers under this article,"

*Whereas*, IC 36-1.5-4-18(b) states that “[T]he plan of reorganization must include at least the following: ... (4) A description of the membership of the legislative body, fiscal body, and executive of the reorganized political subdivision, a description of the election districts or appointment districts from which officers will be elected or appointed, and the manner in which the membership of each elected or appointed office will be elected or appointed. (5) ...”

*Whereas*, the Indiana Supreme Court, in *Kole v. Faultless*, 963 N.E.2d 493, stated that “[I]f citizens approve a reorganization plan that describes the membership of new political branches and the manner in which those members will attain office, then the reorganization may proceed along those lines,”

*Whereas*, the Town of Zionsville, Union Township (Boone County), and Eagle Township (Boone County) reorganized into the new Town of Zionsville as of January 1, 2010, the new town stands in the stead of the former townships of Eagle and Union,

*Whereas*, IC 36-1.5-4-40.5(2) states that in the case of a reorganization involving a township and another political subdivision (such as the 2010 Zionsville/Eagle/Union reorganization), “(A) the reorganized political subdivision continues to be responsible after the reorganization for providing township services in all areas of the township... and (B) the reorganized political subdivision retains the powers of a township after reorganization to provide township services...,”

*Whereas*, IC 36-1.5-4-38(a) states that “[I]f authorized by the plan of reorganization approved by the voters in a public question under this chapter, the reorganized political subdivision will exercise a power... that a statute would have permitted any of the reorganizing political subdivisions to have,”

*Whereas*, IC 36-1.5-4-1(a) states that “[A]ny of the following may reorganize under this chapter: ... (2) Two (2) or more townships located entirely within the same county. A township reorganizing under this subdivision must be adjacent to at least one (1) other township participating in the reorganization. ... (11) A municipal corporation, other than a unit or a school corporation, and a county or municipality in which a majority of the municipal corporation resides...”

*Whereas*, IC 36-1-2-13 states that “[P]olitical subdivision means municipal corporation or special taxing district.”

*Whereas*, IC 36-1.5-4-1(b)(2) states that “the reorganization affects only those political subdivisions in which the reorganization is approved as specified in this article...”

*Whereas*, IC 36-1-2-23 states that “[Unit] means county, municipality, or township.”

*Whereas*, IC 36-1.5-4-4 states that reorganized political subdivisions may “...(3)[T]ransfer the functions of an office to another office. (4) [P]rovide for a legislative body, an executive, or a fiscal body of the reorganized political subdivision to exercise the powers of a legislative body, an executive, or a fiscal body of a reorganizing political subdivision...”

*Whereas*, IC 36-1.5-4-42 states that if “the functions of an elected office are transferred to another elected office by a reorganization under this article, any law, rule or other agreement that requires or

permits an action by an elected officer shall be treated after the functions of the elected officer are transferred as referring to the elected officer to which the functions have been transferred by the reorganization.”

Therefore:

The current reorganized Town of Zionsville stands in the stead of former Union and Eagle Townships and qualifies to reorganize with Perry Township under IC 36-1.5-4-1(a)(2) because Perry Township and former Eagle Township (Zionsville) are located within the same county and adjacent to one another.

In accordance with I.C. 36-1.5-3-5, the Department of Local Government Finance should make no changes to budgets, tax levies or tax rates based upon reorganization other than those set out in this plan.

If the plan of reorganization is approved, the resulting unit shall be known as the Town of Zionsville, a municipality.

All existing laws, resolutions, and ordinances currently in effect in the Town of Zionsville continue in validity after the reorganization, unless altered, amended, or deleted by this plan of reorganization, or altered, amended or deleted after the effective date of this reorganization. This includes all aspects of the 2010 reorganization of Zionsville.

#### **General Provisions: ZR2A**

ZR2A1: This reorganization shall be placed on the election ballot in November, 2014 and, if approved, shall be effective on January 1, 2015. The minimum threshold for approval by the Town of Zionsville and Perry Township, under I.C. 36-1.5, shall be any case where the percentage of votes cast in the affirmative in both the Town of Zionsville and Perry Township is greater than 50%.

ZR2A2: The terms of office of the current Zionsville town council are validated and shall continue for the remainder of the term for which they were currently elected.

ZR2A3: The elected office of Clerk Treasurer is renamed Mayor as of January 1, 2015. The duties of Clerk Treasurer shall be delegated by the Mayor to a new Department of Finance and Records. However, neither the Mayor nor any person not a member of the town council shall cast tie breaking town council votes or any other town council votes. The person serving as Clerk Treasurer at 11:59 p.m. on December 31, 2014 shall serve as the Department Head for this department beginning at 12:00 a.m. on January 1, 2015, at the salary in effect at 11:59 p.m. on December 31, 2014 for Clerk Treasurer, and shall serve in that role until December 31, 2015 or until a successor is appointed. On or after January 1, 2016, or prior to that date if the department head position is vacant, the Mayor shall appoint the Department Head of the Department of Finance and Records, and salary for such position shall be set using the same process used to determine the salary of other department heads.

ZR2A3.5: The executive power of the reorganized town is transferred to and vested in the Mayor. All executive functions, rights and responsibilities of the office of Town Council President under Indiana law

are transferred to the Mayor. The town council shall elect one of its members to serve as President, who shall be the presiding officer of the town council, and one of its members as Vice-President. For all purposes related to IC 36-5-2-2, and any other provision of Indiana Code, the town executive is the Mayor.

ZR2A4: In December 2014, the Zionsville Town Council shall select a Mayor from among its membership who shall serve during the interim period from 12:01 a.m. on January 1, 2015 until his or her elected successor takes office on or after January 1, 2016. The Mayor serving during this interim period shall receive pay equal to the 2013 compensation of the Zionsville Town Council President. The Interim Mayor shall lead the transition implementation of the reorganized town and may not be a candidate for election to the office of Mayor in 2015.

ZR2A5: The first election for Mayor shall take place during the election in November, 2015. Political parties shall select their nominees for this office at the primary election held in May, 2015. The provisions of IC 36-4-5-2 apply to the election for the office of Mayor. However, all references to city are interpreted as referring to town. The election district for Mayor shall include all qualified voters within the municipal limits of the town of Zionsville, inclusive of all Urban and Rural areas.

ZR2A6: The position of elected Mayor is a full-time occupation. The initial salary for this position shall be \$120,000 per year. This amount may be changed by the town council in any manner allowed under state law for the adjustment of the salary of a city mayor. For personnel, employment and liability purposes, the Mayor shall be treated in the same manner as the Mayor of a second-class city under Indiana law, and changes to these personnel, employment and liability conditions may be made by the town council in any manner provided for such changes under Indiana law regarding second-class cities.

ZR2A7: The reorganized town shall have a Board of Parks and Recreation, as defined and authorized under the terms of IC 36-1.5-4-44 and IC 36-10-3, comprised of seven (7) members. Six (6) members shall be appointed using the current appointing authorities and terms, without geographic restrictions, and a seventh member shall be appointed by the Mayor to serve a one year term. No individual may serve more than six (6) years as the Mayoral appointment to the Park Board. Notwithstanding Indiana statutes, partisan affiliation may not be considered by any appointing authority and no maximum number of Park Board members of any political party may be established, enforced, or used to disqualify any individual candidate for Park Board Membership or an incumbent Park Board member.

ZR2A8: All rights and responsibilities assigned by Indiana law to the town executive or town council president in his or her executive capacity are transferred to and are rights and responsibilities of the Mayor. This includes the power to appoint members to and remove members from boards, utilities and commissions which were a power of the town council president prior to this reorganization.

ZR2A9: If the Mayor has advance knowledge that he or she will be unavailable for more than two (2) business days, the Mayor shall inform the town council president in writing of the precise period of unavailability, and the Mayor shall designate the town manager or a department head, if the town manager is unavailable, to serve as Acting Mayor during that time period.

ZR2A10: If the office of Mayor becomes vacant due to death, resignation, removal from office, residency ineligibility, conviction of a felony as provided for in IC 5-8-1-38, or incapacitation, a Mayor shall be selected in the manner set forth in Indiana Code for filling a vacant office of Mayor in a second-class city. Until such time as a successor is selected in such manner and sworn into office, the town council shall select a person to serve as Acting Mayor.

ZR2A11: An ordinance of the town council requiring an administrative or executive function to be performed may: (a) designate the department that is to perform the function; or (b) establish a new department or agency to perform that function. If an executive or administrative function is not assigned by a statute, ordinance or resolution, the Mayor shall assign that function to the proper department or officer.

ZR2A12: Uncertainty or disputes arising regarding whether a function is properly held by the Mayor or by the town council may be resolved utilizing the process found in IC 36-4-4-5. However, provisions of the 2010 reorganization control over conflicting state law, and provisions of this reorganization control over both state law and any conflicting item in the 2010 reorganization.

ZR2A13: The Mayor shall:

- (a) Enforce the ordinances of the town and the statutes of the state;
- (b) Provide a statement of the finances and general condition of the town to the town legislative body at least once a year;
- (c) Provide any information regarding town affairs that the legislative body requests;
- (d) Recommend, in writing, to the legislative body actions that the executive considers proper;
- (e) Call special meetings of the legislative body when necessary;
- (f) Supervise subordinate officers;
- (g) Insure efficient government of the town;
- (h) Fill vacancies in town offices when required by IC 3-13-8;
- (i) Sign all bonds, deeds, and contracts of the town and all licenses issued by the town, with the exception of the Board of Park and Recreation responsibilities, as defined under the terms of IC 36-1.5-4-44 and IC 36-10-3; and
- (j) Approve or veto ordinances, orders, and resolutions of the legislative body.

ZR2A14: At least once per month, the Mayor shall meet with the officers in charge of the town departments: for consultation on the affairs of the town; to adopt rules and regulations for the administration of the affairs of the town departments; and to adopt rules and regulations prescribing a merit system for selecting, appointing, or promoting town officers and employees.

ZR2A15: The Mayor may appoint three (3) competent persons to examine, without notice, the town accounts and property in the possession or custody of a town department, officer, or employee, and to report the results of their investigation.

ZR2A16: In order for an ordinance, order or resolution to be considered adopted under IC 36-5-2-10, it must also be approved by the Mayor, or passed by the town council over the Mayor's veto.

ZR2A17: After an ordinance, order or resolution passed by the town council has been signed by the presiding officer, the council shall present it to the Mayor, and record the time of presentation.

ZR2A18: (a) Within ten (10) days after an ordinance, order, or resolution is presented to the Mayor, he or she shall: (1) approve the ordinance, order or resolution, by entering his or her approval on it, signing it, and sending the town council a message announcing his approval; or (2) veto the ordinance, order, or resolution, by returning it to the town council with a message announcing his veto and stating his or her reasons for the veto. The executive may approve or veto separate items of an ordinance appropriating money or levying a tax. (b) If the Mayor fails to perform his or her duty under subsection (a), the ordinance, order, or resolution is considered vetoed. (c) Whenever an ordinance, order or resolution is vetoed by the Mayor, it is considered defeated unless the town council, at its first regular or special meeting after the ten (10) day period prescribed by section (a), passes the ordinance, order or resolution over his or her veto by a majority vote.

ZR2A19: Within a reasonable time after an ordinance of the legislative body is adopted, the Department of Finance and Records shall record it in a book or substantially similar format kept for that purpose. The record must include: the signature of the presiding officer, the attestation of the clerk, the Mayor's approval or veto of the ordinance, if applicable a memorandum of the passage of the ordinance over the veto, and the date of each recorded item. The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.

ZR2A20: The town council may investigate: departments, officers and employees of the town, any charges against a department, officer, or employee of the town, and the affairs of a person with whom the town has entered or is about to enter a contract. When conducting an investigation under this section, the town council is entitled to access all records pertaining to the investigation and may compel the attendance of witnesses under town jurisdiction.

ZR2A21: Subject to approval of the town council, the Mayor shall fix the compensation of each appointive officer, deputy, and other employee of the town. The town council may reduce, but not increase, any compensation fixed by the Mayor. Compensation must be fixed not later than November 1 each year for the ensuing budget year. Compensation so fixed may be increased or decreased by the Mayor for the year in which it was fixed. The town council shall fix the compensation paid to each elected town officer. The compensation of an elected town officer may not be changed in the year for which it is fixed, and may not be reduced to an amount below the amount fixed for the previous year.

ZR2A22: The Mayor shall appoint the head of each department of the town, with the exception of the superintendent of parks and recreation, as provided in IC 36-10-3, which appointment shall be made in consultation with the Mayor. The Mayor shall appoint the Chief of the Fire Department, the Chief of Police; and any other officers required by statute.

ZR2A23: The town council may, upon recommendation from the Mayor, eliminate town departments, combine town departments and create new town departments. The head of each department and its employees are under the jurisdiction of the Mayor, with the exception of the Department of Parks and Recreation, as defined under the terms of IC 36-1.5-4-44 and IC 36-10-3.

ZR2A24: The Mayor must have the approval of a majority of the town council before the executive may discharge a department head, with the exception of the superintendent of parks and recreation which requires approval of the Board of Park and Recreation under IC 36-10-3.

ZR2A25: Pursuant to Indiana Code 36-1.5-4-40 all debt and pension obligations existing at 11:59 p.m on December 31, 2014 shall not be imposed on taxpayers on or after January 1, 2015 that were not responsible for those obligations prior to reorganization and those obligations must be paid by the taxpayers that were responsible for those obligations at 11:59 p.m. on December 31, 2014.

ZR2A26: All appointed positions on Zionsville boards and commissions which designate an appointee must reside within the rural district may be filled with qualified appointees from any area of the rural district and are henceforth not restricted by township-area geographic designations.

ZR2A27: In accordance with IC 36-1.5-3-5, no reductions shall be made to maximum permissible property tax levies, maximum permissible property tax rates, or budgets under IC 6-1.1-17 and IC 6-1.1-18.5 due to this reorganization without authorization from the reorganized Town of Zionsville.

ZR2A28: The Town of Zionsville is currently subject to Municipal Separate Storm Sewer System (MS4) requirements under Indiana and federal law. However, due to Zionsville's unique Urban and Rural classifications, as allowed by IC 36-1.5-4-39.5, certain rural areas of the town of Zionsville are not urbanized, are not taxed at an urban level, are not serviced or populated at an urban level, do not receive urban services, and would not be included in MS4 classification if unincorporated. Therefore, to the extent allowed under federal law, the boundary of the reorganized town of Zionsville's MS4 compliance and reporting area for Zionsville shall consist only of all Urban Service District areas of Zionsville, as well as the 2010 Mapped Urbanized Area, jointly, as determined by the decennial census, each of which may be amended from time to time. Other rural areas of Zionsville may be added to the MS4 compliance and reporting area only by majority vote of the Zionsville Town Council.

#### **Perry Township Provisions: ZR2B**

ZR2B1: Perry Township government ceases to exist after 11:59 p.m. on December 31, 2014. All rights, responsibilities, and assets of Perry Township government are transferred to the reorganized Town of Zionsville.

ZR2B2: The fiscal bodies of the Town of Zionsville and Perry Township shall adopt tax rates, tax levies, and a budget for 2015 for the reorganized Town of Zionsville through the adoption of substantially identical resolutions adopted by each of the fiscal bodies, pursuant to IC 36-1.5-4-7. For budget years 2016 and after, budget and tax rates shall be set for areas of former Perry Township by the town council. Initial election districts for the new reorganized town of Zionsville shall be set by this resolution.

ZR2B3: The area comprising Perry Township, and not within the corporate limits of Lebanon or Whitestown, shall be in the rural designation of the reorganized town, subject at all times to current rural ordinances and with all processes, responsibilities and protections set forth for the rural district in

the 2010 reorganization, and amended after that time, unless specifically stated otherwise in this plan of reorganization.

ZR2B4: The Fire Equipment Replacement Fund established by Zionsville, or any similar successor fund, and the corresponding tax levy may be imposed after this reorganization in the area of Zionsville formerly comprised of Perry Township, if legal under state law when imposed, if requested in writing by the Perry Township Volunteer Fire Department, and upon approval by the town council. If Perry Township Volunteer Fire Department no longer exists, and such fund is legal under state law, implementation of such fund and levy may be authorized upon written request from a council member representing the former Perry Township area and approval by a majority vote of the town council.

ZR2B5: The vacancy on the reorganized town council shall be filled, for the remainder of the current term, by the person serving as the Perry Township Trustee as of 11:59 p.m. on December 31, 2014. If the Perry Township Trustee provides written notice to the Perry Township Board before December 1, 2014 that he or she does not wish to serve on the town council, the Perry Township Board shall select a candidate in a public vote who will fill the vacant town council seat. If the Perry Township Trustee is unwilling to serve and the Perry Township Board does not approve a candidate in a public vote prior to December 31, 2014 at 11:59 p.m., or if this seat should be vacant for any other reason prior to December 31, 2015, the precinct committee persons of all of former Perry Township of the same political party as the final Perry Township Trustee shall select a replacement council member in a caucus, from among the qualified residents of former Perry Township living in territory not within the corporate limits of Lebanon or Whitestown.

ZR2B6: All election precincts of former Perry Township within the Town of Zionsville shall be considered part of town council district 3 until otherwise amended. Precinct Eagle 16 shall be considered part of town council district 4 until otherwise amended.

ZR2B7: All provisions, policies, rules, ordinances, procedures, and provisions of existing Zionsville ordinances, policies, rules and resolutions in effect at 11:59 p.m. on December 31, 2014, and provisions of the 2010 reorganization shall apply to all areas of the reorganized town (preserving the distinctions in policies, rules, ordinances, procedures and provisions which differ between the urban and rural districts), unless conflicting with a provision of this plan of reorganization or altered by the reorganized town after December 31, 2014.

ZR2B8: The areas comprising Perry Township at 11:59 p.m. on December 31, 2014 will be classified as part of Zionsville's rural district and any transition to another classification shall follow the rules for such transition established in the 2010 reorganization. However, any landowner in areas of former Perry Township within the Town of Zionsville may petition at any time for reclassification by the town council as Urban. Such request must be in writing and contain the endorsement of at least one town council member who represents the petitioning landowner(s). Reclassification of former Perry Township areas in this manner to Urban may only be approved by a majority vote of the town council after receiving such written request, and may only include parcels whose owners have made such request. Other areas

in former Perry Township may only transition from rural to urban classification following the rules for such transition set forth in the 2010 reorganization as amended by the town council.

ZR2B9: All zoning classifications and zoning of property in Perry Township at 11:59 p.m. on December 31, 2014 shall be the classifications and zoning of such parcels in the town of Zionsville on January 1, 2015 and remain such until and unless changed, replaced or amended by the town of Zionsville.

ZR2B10: Services in the rural area of former Perry Township shall be provided in the same manner as in the current rural areas of Zionsville: the Boone County Highway Department shall continue to claim the road miles from the state and service the rural district, and the Sheriff of Boone County shall provide primary law enforcement. All planning and zoning matters shall be the responsibility and jurisdiction of the Town of Zionsville. Trash pickup services are not provided by the town in the rural district. Fire services are provided by the Zionsville Fire Department, subject to the provisions of ZR2B11. All other services in the area of Zionsville formerly comprising Perry Township shall be provided in the same manner as provided in the rural district of Zionsville for rural district parcels and in the same manner as urban district services in any future urban district parcels.

ZR2B11: The Zionsville Fire Department (ZFD) shall provide fire, rescue and emergency medical services by coordinating with the Perry Township Volunteer Fire Department (PTVFD) until and unless one of the following events occur: PTVFD requests formal inclusion as part of the ZFD or PTVFD voluntarily dissolves or is found insolvent. The Town of Zionsville shall provide a budget allocation in support of PTVFD until and unless one of the following events occur: PTVFD requests formal inclusion as part of the ZFD or PTVFD voluntarily dissolves or is found insolvent.

#### Fiscal Analysis

Incorporated herein as Exhibit A

ALL OF WHICH IS RESOLVED THIS 20<sup>th</sup> DAY OF ~~APRIL~~ <sup>MAY</sup>, 2014.

**A COPY OF THIS RESOLUTION SHALL BE CERTIFIED BY THE SECRETARY OF THE PERRY TOWNSHIP ADVISORY BOARD, ON BEHALF OF THE BOARD AND THE PERRY TOWNSHIP TRUSTEE, TO THE SECRETARY OF THE TOWN OF ZIONSVILLE, ZIONSVILLE, IN, COUNTY OF BOONE, STATE OF INDIANA, IMMEDIATELY UPON PASSAGE FOR THE PURPOSE OF COMPLIANCE WITH I.C. 36-1.5-4-10 AS A SUBSTANTIALLY SIMILAR RESOLUTION AS ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF ZIONSVILLE, IN IF SO APPROVED.**

**PLACEMENT TO THE TOWN OF ZIONSVILLE WEBSITE ON BEHALF OF PERRY TOWNSHIP IS AUTHORIZED.**

**DULY PASSED AND ADOPTED** this 20<sup>th</sup> day of MAY 2014,  
by the Perry Township Advisory Board, and The Perry Township Trustee of Boone County,  
Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**PERRY TOWNSHIP ADVISORY BOARD:**

*Lee Giles*

Lee Giles, President

For

Opposed

*John Hine*

John Hine, Member

For

Opposed

*Elaine Dickerson*

Elaine Dickerson, Member and Secretary

For

Opposed

**PERRY TOWNSHIP TRUSTEE:**

*Mary Alice Baldwin*

Mary Alice Baldwin, Perry Township Trustee

For

Opposed

**ATTEST:**

*Elaine Dickerson*

Elaine Dickerson,  
Secretary, Perry Township Advisory Board

In my role as Secretary of the Perry Township Advisory Board I do hereby certify that The forgoing Resolution of the Perry Township Advisory Board and the Perry Township Trustee was resolved in a Joint Open Meeting of this body with the Town Council of the Town of Zionsville, IN on the 20th day of ~~April~~<sup>MAY</sup>, 2014 at the Zionsville Town Hall, 1100 West Oak Street, Zionsville, Indiana, at 8:15 p.m. on the 20th day of ~~April~~<sup>MAY</sup>, 2014 as substantially similar to a Resolution adopted by the Town Council of Zionsville Indiana earlier on the same day. The same was per an Open Meeting duly noticed under the provisions of the Indiana Code.

  
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**Elaine Dickerson**

**Secretary to the Perry Township Advisory Board**