

**ORDINANCE No. 2023-05**

**AN ORDINANCE RECOGNIZING THE CONSTITUTION OF THE  
WELLS COUNTY PROPERTY TAX ASSESSMENT BOARD OF  
APPEALS AND COUNTY COUNCIL APPOINTMENTS**

WHEREAS, Indiana Code §6-1.1-28-1 requires that each county not participating in a multi-county Property Tax Assessment Board of Appeals establish a county Property Tax Assessment Board of Appeals (“PTABOA”).

WHEREAS, Indiana Code was amended to include PTABOA language in 1975.

WHEREAS, the Wells County Council, (the “Council”) desires to restate and to define the privileges and obligations of the PTABOA and the Council.

WHEREAS, the Council recognizes that Wells County established a three (3) person PTABOA as described in Indiana Code § 6-1.1-28-1 with appointment conditioned on statutory factors listed therein.

WHEREAS, the Council recognizes that one (1) of the three (3) board members are appointed by the Council.

WHEREAS, Indiana Code speaks on the matters of PTABOA appointment, but is silent on matters of removal.

WHEREAS, the Home Rule statute, Indiana Code §36-1-3-3 states, “Any doubt as to the existence of a power of a unit shall be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.”

WHEREAS, Indiana Code § 36-1-3-5 states, “a unit may exercise any power it has to the extent that the power:

- (1) is not expressly denied by the Indiana Constitution or by statute; and
- (2) is not expressly granted to another entity.”

WHEREAS, Indiana Code § 36-1-6-3 requires that Counties exercising powers must enact an ordinance.

WHEREAS, the Council desires to create provisions for the removal of a PTABOA member it has appointed in accordance with Indiana Law and the Home Rule Act.

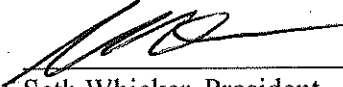
NOW, THEREFORE, be it ordained by the Wells County Council that:


1. Council’s appointments to the PTABOA shall be in accordance with Indiana Code.


2. As an appointing authority over the PTABOA, council may remove a member it appointed to the PTABOA without cause. A PTABOA board member against whom removal is sought shall have notice of said removal action at least seven (7) days prior to the meeting where the matter would be heard and have the opportunity to be heard by the Council prior to removal at a public meeting. Said public meetings shall be coordinated with the Council and the Council shall not be obligated to call special meetings. Removal action shall be considered passed if said removal motion receives a majority vote.

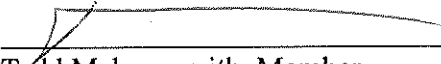
All as Passed and Ordained this 3rd day of May, 2023.

THE WELLS COUNTY COUNCIL:

  
Seth Whicker, President

  
Steve Huggins, Member

  
Scott Elzey, Member

  
Todd Mahnensmith, Member

  
Vicki Andrews, Member

  
Brandon Harnish, Member

  
Brian Lambert, Member

ATTEST:

  
Lisa McCormick, Auditor


This instrument was prepared by Wells County Attorney, Theodore T. Storer, Beers Mallers LLP 110 West Berry St. Ste. 1100, Fort Wayne, IN 46802. 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. /s/ Theodore T. Storer

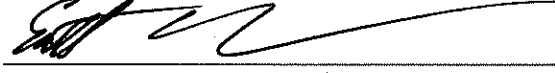
**WAIVER OF SECOND READING**

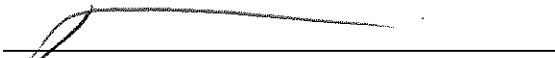
Upon motion duly made and seconded, the second reading of the foregoing ordinance was unanimously waived and the ordinance was deemed effective upon final adoption hereof.

THE WELLS COUNTY COUNCIL:

  
Seth Whicker, President

  
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Brandon Harnish, Member

  
Brian Lambert, Member

ATTEST:

  
Lisa McCormick, Auditor