

RESOLUTION NO. 2012-17

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SPEEDWAY,
INDIANA ADOPTING NEPOTISM POLICIES CONCERNING EMPLOYMENT
MATTERS AND MATTERS RELATED TO CONTRACTING WITH THE TOWN**

WHEREAS, pursuant to Indiana Code 36-1-20.2-9(a) (as added by Section 7 of P.L. 135-2012, which section is effective July 1, 2012), the legislative body of a unit is required to adopt a policy for the unit regarding the employment of relatives by the unit, which policy includes certain minimum requirements set forth in Indiana Code 36-1-20.2; and

WHEREAS, pursuant to Indiana Code 36-1-21-4(a) (as added by Section 8 of P.L. 135-2012, which section is effective July 1, 2012), the legislative body of a unit is required to adopt a policy for the unit regarding contracts between the unit and relatives (or business entities wholly or partially owned by relatives) of elected officials of the unit, which policy includes certain minimum requirements set forth in Indiana Code 36-1-21; and

WHEREAS, the Town Council of the Town of Speedway, Indiana (the "Council"), as the legislative body of the Town of Speedway, Indiana (the "Town"), now desires to adopt policies applicable to any department, office or elected official of the Town in order to ensure compliance by the Town with Indiana Code 36-1-20.2-9(a) and Indiana Code 36-1-21-4(a) upon the effective date of such provisions.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Speedway, Indiana, as the legislative body of the Town of Speedway, Indiana, that:

1. The Council hereby adopts the policy attached as Exhibit A hereto and made a part hereof as if fully set forth herein, as the official policy of the Town regarding the employment of relatives by the Town.

2. The Town hereby adopts the policy attached as Exhibit B hereto and made a part hereof as if fully set forth herein, as the official policy of the Town regarding contracts between (i) any department, office or elected official of the Town, and (ii) relatives (or businesses wholly or partially owned by relatives) of elected officials of the Town.

3. The members of the Council, the Clerk-Treasurer of the Town, the Town Manager of the Town, the legal counsel of the Town, and other appropriate officers of the Town are hereby authorized to take all such actions and execute all such instruments as are necessary or desirable to effectuate this Resolution and the implementation of such policies.

4. This resolution shall be in full force and effect from and after its adoption.

PASSED AND ADOPTED on the 25th day of June, 2012.

TOWN COUNCIL OF THE TOWN OF
SPEEDWAY, INDIANA

William Suffel, President

Eileen Fisher, Vice-President

Jeff Hartman, Member

David Lindsey, Member

Gary L. Raikes, Member

ATTEST:

Sharon L. Zishka, Clerk-Treasurer

TOWN OF SPEEDWAY, INDIANA

Nepotism Policy – Employees

A. Key Definitions

For purposes of this policy, “*direct line of supervision*” means an elected officer or employee of the Town who is in a position to affect the terms and conditions of another individual’s employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does **not** include the responsibilities of the executive, legislative body or fiscal body of the Town, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the Town.

For purposes of this policy, “*employed*” means an individual who is employed by the Town on a full-time, part-time, temporary, intermittent, or hourly basis. The term does **not** include an individual who holds only an elected office of the Town. The term includes an individual who is a party to an employment contract with the Town.

For purposes of this policy, “*member of the police department*” means the town marshal or a police officer appointed to the department

For the purposes of this policy, “*relative*” means any of the following:

1. A spouse;
2. A parent or stepparent;
3. A child or stepchild, including adopted children;
4. A brother, sister, stepbrother, or stepsister, including brothers or sisters by the half-blood;
5. A niece or nephew;
6. An aunt or uncle; and/or
7. A daughter-in-law or son-in-law.

B. Anti-Nepotism Policy Regarding Employment Matters

In order to comply with Indiana law and in order to avoid potential conflicts of interests, misunderstandings and appearances of favoritism, impropriety or bias, the Town Council of the Town of Speedway, Indiana (the “Town Council”) has adopted the following policy to establish certain minimum requirements regarding the employment of

“relatives” by any department, office or elected official of the Town of Speedway, Indiana (the “Town”). Except as otherwise provided herein, individuals who are relatives may not be employed by the Town in a position that results in one relative being in the “direct line of supervision” of the other relative. Accordingly, this policy generally prohibits employment of more than one family member when that employment causes either: (1) two members of the same family being employed in the same department; or (2) any form of reporting or supervisory relationship between family members.

C. Change in Relationship; Procedure to Comply

If, as a result of marriage, birth, adoption, the creation of other family relationships, election results, or hiring decisions, two or more relatives (who are current employees of any office or department in the Town) are placed into one of the two categories described in the paragraph above, then such relatives shall, upon the Town’s request and within thirty (30) days, determine which of such relatives will seek to transfer to another job or otherwise take action to comply with this policy. The Town shall have no obligation to either: (1) create a new position or job opening for any current employee; or (2) transfer any current employee to a new or existing position or job opening if the individual does not meet all selection standards or fulfill all qualifications deemed to be required for the position by the Town. If the relatives are unable to determine within the thirty (30) day period which individual(s) will seek to transfer into another position or otherwise take action to comply with this policy, then the Town Council will make a determination to ensure the Town’s compliance with this policy. A determination of the Town Council may include a decision to transfer, reassign, terminate or otherwise take action regarding one of the employees to ensure compliance with this policy. A decision of the Town Council may be based upon a variety of factors and criteria, including, but not limited to: (i) staffing and other needs; (ii) the jobs being performed by the employees and the necessity of each such job relative to the continued operation of the Town government, and (iii) each employee’s skills, job knowledge, prior work history, job performance and abilities.

D. Town Employees Related to Elected Officers; Promotions

Notwithstanding the provisions of this policy and Indiana Code 36-1-20.2-10 to the contrary, in the event that an individual is an existing employee of the Town to whom the provisions of this policy apply on the date such individual’s relative begins serving a term of an elected office of the Town, the individual may remain employed by the Town and maintain the individual’s position or rank even if such circumstances result in the elected officer being in the direct line of supervision of such existing employee. In addition, an existing employee described in the preceding sentence may be: (1) promoted to a position even if such promotion would result in a position that results in one relative being in the direct line of supervision of the other relative; or (2) promoted to a position that is not within the merit ranks, in the case of an individual who is a member of a merit

police department or a merit fire department (if applicable), even if such promotion would result in one relative being in the direct line of supervision of the other relative.

This policy does not abrogate or affect an employment contract with the Town that (i) an individual is a party to, and (ii) is in effect on the date the individual's relative begins serving a term of an elected office of the Town.

E. Employees Covered by the Policy

This policy does not apply to an employee who is employed by the Town on or prior to July 1, 2012, unless the individual has a break in employment with the Town. The following are not considered a break in employment with the Town: (1) the individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation, or (2) the individual's employment with the Town is terminated followed by immediate reemployment by the Town, without loss of payroll time.

F. Annual Certification by Elected Officers

Each elected officer of the Town shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this policy or Indiana Code 36-1-20.2. Each officer shall submit the certification to the Town Council not later than December 31 of each year.

G. Interpretation of Policy

This policy is intended to implement the minimum requirements necessary to comply with Indiana Code 36-1-20.2, as the same may be amended from time to time. If and to the extent this policy is not in compliance with Indiana Code 36-1-20.2, this policy shall be deemed to include such terms not otherwise included herein, and to exclude such terms not otherwise excluded herefrom, as are necessary to cause this policy to implement the minimum requirements set forth in Indiana Code 36-1-20.2. To the extent this policy is inconsistent with any provision of Indiana law, including, without limitation, Indiana Code 36-1-20.2., such other provisions of Indiana law shall control. If any portion of this policy is held or deemed to be, or is, invalid, illegal, inoperable or unenforceable, the validity, legality, operability and enforceability of the remaining portions of this policy shall not be affected, and this policy shall be construed as if it did not contain such invalid, illegal, inoperable or unenforceable portion.

H. Right to Review Application of Policy and Make Amendments

The Town reserves the right to review the specific facts of any case where this policy is implicated and make exceptions on a case-by-case basis consistent with the provisions of Indiana law, including, without limitation, the provisions of Indiana Code 36-1-20.2. Furthermore, the Town reserves the right to modify or amend the provisions of this policy from time to time consistent with the provisions of the provisions of Indiana law, including, without limitation, the provisions of Indiana Code 36-1-20.2.

MINUTES OF THE TOWN COUNCIL MEETING OF JUNE 25, 2012

Members present were William Suffel, Jeff Hartman, and David Lindsey, plus Town Attorney Kimberly Blanchet. Councilor Raikes, Councilor Fisher, and Town Manager Barbara Lawrence were absent. The meeting was called to order by Council President Suffel at 7:00PM.

Michelle Lidy led the Pledge of Allegiance.

Minutes of the June 11, 2012 Council Meeting were approved.

Memorandum of the June 18, 2012 Council Executive Session was approved.

RESOLUTION NO. 2012-17 – A Resolution of the Town Council of the Town of Speedway, Indiana Adopting Nepotism Policies Concerning Employment Matters and Matters Related to Contracting with the Town was presented. Councilor Lindsey moved to adopt Resolution No. 2012-17 as presented, second by Councilor Hartman. There was no public comment. Motion adopted 3-0.

Clerk-Treasurer Sharon Zishka presented the following claim vouchers for Council Approval for the period of April 23, 2012 through May 14, 2012:

General Fund Vouchers 14303 through 14928, 14935 through 14964, 14966, 15027, 15030, 15033, 15041, 15042, 15084 through 15107, 15121, 15154 through 15167, 15171 through 15179, 15197, and 15198

Motor Vehicle Highway and Local Road and Street Funds Vouchers 14909, 14965, 14967 through 14971, 15031, 15043, 15108 through 15110, 15112 through 15117, 15119, and 15168 through 15170

Parks and Recreation Fund Vouchers 14910, 14972 through 14984, 15032, 15044, 15062 through 15077, 15118, and 15120

2011 General Obligation Bond Fund Vouchers 15123 and 15124

Cumulative Capital Development Fund Vouchers 14911, 14985 through 14990, 15045, 15082, 15111, 15122, and 15125 through 15129

Utility Escrow Fund Vouchers 15148 and 15149

Water Works Fund Voucher 14912, 14991 through 15008, 15028, 15034, 15046, 15079, 15130 through 15137, and 15193 through 15196

Waste Water/Storm Water Fund Vouchers 14913, 14915, 14916, 15009 through 15026, 15029, 15035, 15047, 15078, 15138 through 15147, and 15180 through 15192

Councilor Lindsey moved to approve claims signed for the period of June 12, 2012 through June 25, 2012, second by Councilor Hartman. There were no public comments. Motion approved 3-0.

MINUTES OF THE TOWN COUNCIL MEETING OF JUNE 25, 2012

Councilor Hartman moved to approve the Utility Adjustments as identified in the History Transaction for the period of May 14, 2012 through June 19, 2012, second by Councilor Lindsey. There were no public comments. Motion approved 3-0.

Members of the Council then provided brief reports and advised that anyone wishing to comment on the Cunningham Road Project must have their comments submitted for review by July 4th.

The meeting adjourned at 7:08PM.

William Suffel, Council President

Sharon L. Zishka, Clerk-Treasurer