

Tippecanoe County Board of Commissioners

Meeting Minutes

Monday, May 2, 2022

10:00 am

Tippecanoe Room, Tippecanoe County Office Building
20 N 3rd Street, Lafayette, Indiana

Commissioners present President David S. Byers, Vice President Tracy A. Brown and Member Thomas P. Murtaugh.

Also present: Attorney Doug Masson, Auditor Robert Plantenga, Commissioners' Assistant Paula Bennett, and Recording Secretary Jennifer Wafford.

- I. **PLEDGE OF ALLEGIANCE** – President Byers called the meeting to order and led the Pledge of Allegiance
- II. **APPROVAL OF MINUTES** from Monday, April 18, 2022.
 - Commissioner Murtaugh moved to approve the minutes as presented, second by Commissioner Brown. Motion carried.
- III. **PRESENTATION OF ACCOUNTS PAYABLE** – Paula Bennett presented and recommended:

The claims from April 20, 2022, through May 2, 2022, were recommended for approval without exception.

 - Commissioner Brown moved to approve the Accounts Payable as presented, second by Commissioner Murtaugh. Motion carried.
- IV. **PRESENTATION OF PAYROLL** – Paula Bennett presented and recommended:

The payroll from April 29, 2022 was recommended for approval without exception.

 - Commissioner Brown moved to approve the Payroll as presented, second by Commissioner Murtaugh. Motion carried.
- V. **PROCLAMATION**

Mike Parks, Highway Department, noted that May is National Bike Month and promoted by the League of American Bicyclists. Bike Month has been celebrated in communities from coast to coast, and it was established in 1956. National Bike Month is a chance to showcase the many benefits of bicycling and encourage more folks to give biking a try. Locally, Bike Month is a success because of many local events organized by our bike club teams, community organizations, and businesses. On behalf of our biking community and to promote, encourage, and raise awareness of biking in Greater Lafayette, he asks that the proclamation presented be read.

Mike Parks (Highway), Commissioner Byers, and Margy Deverall (City of Lafayette), all presented and read the proclamation designating May 2022 as Greater Lafayette Bike Month, and the day of May 20, 2022, as Bike to Work Day.
- VI. **AREA PLAN** – David Hittle presented and recommended:
 - A. **ORDINANCE 2022-03-CM**, UZO Amendment #103-a, Self-Storage Warehouse in Urbanized Areas.
 - Commissioner Murtaugh moved to consider ORDINANCE 2022-03-CM, second by Commissioner Brown.

David Hittle, APC Director, advised that this proposed ordinance amendment had been heard by the plan commission. He notes that this amendment was first requested by

the City of Lafayette Staff, and this specific request was to prohibit self-storage facilities from moving into old town Lafayette. The part of Lafayette that was developed prior to World War II would not be appropriate for self-storage facilities. This was brought before the Plan Commission's ordinance committee, and their recommendation was not to prohibit it but to allow it by special exception. He noted that the ordinance committee, at the next month's meeting, added additional language to the ordinance. He stated that the Commissioners have 2 variations of the ordinance, with one of them being from January 2022, and the second being from April 2022.

The ordinance from January 2022 is the original ordinance that incorporated the ordinance committee's initial recommendation. The April 2022 ordinance is the version that was updated by the ordinance committee and includes language that is concerning and problematic. The proposed ordinance went to the plan commission at their last meeting, and they called to vote the ordinance that was provided by the ordinance committee, which is the one that APC staff and the City of Lafayette staff do not want, and APC voted that down 13-2.

Director Hittle advised that there are three options for this proposed ordinance. The Commissioners could either acknowledge the denial of the ordinance committee's specific version (April 2022 Version), they could deny it altogether, or amend it and send it back to the Plan Commission, which is what APC is recommending. If the amendment is sent back to the Plan Commission, there is a written report that would be required to be added to the amendment. The report would state that the Commissioner's desire is to favor the original January 2022 language, which is supported by Lafayette staff and APC staff.

President Byers asked if there was any public comment. Hearing none, he called for a motion.

- Commissioner Murtaugh moved to adopt the ordinance amended to be consistent with the January 2022 version as presented, second by Commissioner Brown. Motion carried.

Ordinance was not voted on as it was sent back to APC for review. No vote needed.

B. ORDINANCE 2022-04-CM, to rezone 25.3 acres of land owned by Benito Munoz from AA to A. The property is located at the northeast corner of CR 1300 South and CR 400 East, in Lauramie 25 (SW) 21-4. Petitioner is seeking rezone in anticipation of filing a special exception in the A zone, in order to make conforming a rodeo / concert venue.

- Commissioner Murtaugh moved to consider ORDINANCE 2022-04-CM, second by Commissioner Byers.

Director Hittle advised that this is a rezone request from Benito Munoz, who is the owner of the property. He notes that the property in question is 25 acres at the corner of CR 1300 South, and CR 400 East. This property consists of two lots, a larger lot and a smaller lot on which his home sits. The request is to rezone from AA which is select agricultural, to A which is basic agricultural. The difference is that select agricultural is a zoning category applied to prime farmland, so there are protections on the different uses that can occur on that property. It is mostly limited to crop production. The A zoning category is a more basic agricultural classification, and it allows for a variety of other agricultural-related uses. Director Hittle noted that this request is strictly for the rezoning of this land. Mr. Munoz operates a rodeo and concert event center at his property, and if this rezoning is approved, that will pave the way for him to be able to apply for a special exception to allow specifically for that particular use on his property. Director Hittle advised that information and testimony which informs your decision

should be based specifically on this rezoning request. This rezone was heard by the Plan Commission at their last 2 meetings, and both resulted in an inconclusive votes. The rezoning meets the comprehensive plan and is probably better suited for A than AA zoning. Historically this property has been used as a horse farm and has not been in crop production for at least half a century.

Commissioner Byers asked if this rezone passes today, does it go to the Board of Zoning Appeal and get a special exception to allow the rodeo or concert to happen? Director Hittle advised that the special exception that Mr. Munoz wants is not available in AA, so he needs to rezone the property so that he can apply for the exception. The application for a special exception would then go to BZA. Commissioner Byers asked if the rezone is voted down today, then the property would stay AA, and the special exception cannot be applied for? Director Hittle advised that was correct.

Public Comment in Favor of Rezone:

1. Gaye Martin, Petitioner's Accountant, stated that Mr. Munoz is a good business man, looks out for his community, and looking to bring revenue into Tippecanoe County.
2. Benito Munoz, Petitioner, stated that he is looking to bring a new business, a variety of cultural events, and many visitors to Lafayette.
3. Miguel Munoz, Petitioner's son, stated he is here in support of his father, and feels these events are important to his heritage.
4. Esperanza Carter, 4103 Chase Lane, stated that she is here in support of the events. She has attended events before at this property. She advised they are safe gatherings, children are not traumatized by event or music, and they are culturally entertaining.
5. Francisco Munoz, Petitioner's son, stated he is present to show support for his father, the events are not dangerous, and everyone is invited to attend.
6. Benito Jesus Munoz, Petitioner's son, stated his dad is a great business owner, he deserves a chance, and he follows the rules.
7. Randy Young, 8494 Tyler Road, stated that if this was his hearing, he would not mention the rodeo, because its not about the rodeo until it goes before the Board of Zoning Appeals.
8. Angela Vasquez, 3744 Tularosa Drive, stated she is not related to the petitioner, but has attended some of his events. She feels that if the events were allowed, they would not harm anyone and it would bring employment opportunities to the area.
9. Marco Plat, 12711 South 400 East, stated he moved here from California to do business, and planning on opening a repair shop here. He feels that the community has more of a country style and that a rodeo would be a good thing for the community to experience.
10. Cody Akers, P.O. Box 156, stated he does construction in Tippecanoe County, and owns some rentals in the area. He noted that there was a park turned into a rodeo in West Lebanon, and that rodeos are becoming a growing attraction.
11. Diana Garcia, 4103 Chase Lane, asked if the letters sent in had been received and what the procedure was? Commissioner Byers advised that letters had been received and that Commissioner Brown had put together a list of those in favor and those opposed. Commissioner Brown stated that the Commissioner's office received four different packages of letters. He has reviewed each of them, and there was a total of 90 letters in support of the rezone. Diana Garcia noted that she asked about a noise ordinance and was told there wasn't one, the traffic was only an issue for the first event, there is a trash issue even when events are not taking place, no firearms are allowed on the property and there are security checkpoints, and that theses events are not traumatizing to the neighborhood.

Public Comment in Opposition of Rezone:

1. Kris Bowers, 4020 Chase Lane, stated her neighbors could not attend the meeting but they share the same concerns about this rezone. She has heard that these events will bring in revenue, but she is concerned about the impact on the residential neighborhood. She is concerned about decreasing property values, increased trash, multiple safety concerns, and loud music. She noted that Mr. Munoz advised he wanted to hold 6 to 7 events this year but held 8 events last year without proper zoning. She stated that this is a rural agricultural community, and desire peace and quiet weekends.
2. Jim Lutterloh, 12444 S. 400 E., stated he has lived in this area for 30 years because he wanted peace and quiet away from traffic. His issue is the events held last year caused traffic backups for a mile and a half, the noise from the concert could be heard 2 miles away, and there was trash on the side of the roads after everyone left. He noted they had tried this same type of function on 3 other properties in Tippecanoe County and were denied. There was also a website up that was selling tickets for an event this summer, prior to them receiving approval for the rezone.
3. John Krull, 4010 Chase Lane, stated that he moved to Indiana to help with family medical issues and have lived at their current home for 25 years. The 2021 events held at the Munoz property have changed the quiet country atmosphere. He noted that there are issues with Noise, traffic, and trash as a result of these events.
4. Matt Bowers, 4020 Chase Lane, stated that he has no ill wishes for the family. He notes that he had loved the horse farm for years, and the quietness of the neighborhood. He noted that there have been no issues with the horse shows held their previously, and that his objection to the rezone has nothing to do with race. His issue is with the location and its venue. He advised that there are other more appropriate areas in Tippecanoe County to hold these types of events. Mr. Bowers noted that Mr. Munoz is planning to host 5,000 people on less than 10 acres of the 25 he's requesting to be rezoned, when Ruoff Mortgage Music Center has a pavilion that holds 6,000 people and its on 200 + acres. He advised that the Tippecanoe County Amphitheater has a capacity of 1,500 people and it is on 160 acres, and therefore he feels Mr. Munoz's property is not appropriate for this event location.
5. Patrick Christopher, 4124 Chase Lane, stated he has no issue with Mr. Munoz being an entrepreneur. He notes that Mr. Munoz has improved the property that he lives on. However, Mr. Christopher is in opposition to the events that are held two or three times a month. The most concerning issue to Mr. Christopher is the gunfire, the racing on 400 East, the window rattling noise, the trespassing on several occasions, and the trash left behind on his property.
6. Greg Morris, 12441 S 450 East, stated he lives straight east of the Munoz property, on 450 E. Mr. Morris noted that these events are held on Sunday night's and he doesn't understand why. Mr. Morris went to the first rodeo held there and was shewed away as he was not wanted there. Mr. Morris stated that the gunfire after the event is a huge concern. Mr. Morris advised that he completed two tours in Iraq, and gunfire going off in the middle of the night really bothers him.
7. Ted Springer, 4686 SR 28 East, thanked Mr. Munoz for cleaning up the property. Mr. Springer noted that he has lived at his current residence for about 20 years, and they have coexisted with Foxtan Farms. They have never heard any music from Foxtan Farms until last year. The community is a small, quiet, peaceful place to live, and that's why he moved there. He welcomes Mr. Munoz as a neighbor, but not as a producer of concerts. He notes that its unfortunate that Mr. Munoz did not research the zoning restrictions before purchasing the property. He advised that it should not be his responsibility to police the neighborhood.

President Byers asked Mr. Munoz if he would like to come up and make any final comment? Mr. Munoz thanked everyone for coming out to talk about this rezone. He advised that his windows don't shake, and he lives the closest to the event area. He would like to see proof of the where he is selling tickets for an event, as was previously mentioned, because he follows the rules. He advised that every time they had a concert last year, they had security present, and they have never had a fight.

Commissioner Murtaugh advised that a printout was provided by an audience member, that stated an event was being held on May 28th, 2022. Commissioner Murtaugh wanted to know if that event was still on the calendar? Mr. Munoz advised that he has no event on May 28th, because they have no concerts. He offered to show the Commissioners his website and Facebook address, so they can see that there is no event listed. Commissioner Murtaugh presented the printout to Mr. Munoz to review. Mr. Munoz advised that the company name listed was his business, but he did not publish the flyer and cannot because he has not received the Commissioner's approval for this rezone yet. Commissioner Murtaugh advised that at the APC meeting, Mr. Munoz had stated he was at risk of losing \$100,000, and asked if that was from canceling this event? Mr. Munoz advised that it was not from the event on the 28th, and that he didn't even know about that event. Mr. Munoz stated that he had 6 events coming and had spent that money on those upcoming events. He is asking to be able to at least do those 6 events, and then next year he would move to Frankfort.

Commissioner Byers asked if in the time Mr. Munoz had lived at his residence, had he reached out to the neighbors about the issues? Mr. Munoz advised that he had talked to a couple of people, because he wanted to work with them. He noted that every time he had an event, he tried to follow all the rules.

Commissioner Murtaugh asked if everyone was invited, and if tickets were sold at the event? Mr. Munoz advised that there were tickets sold to be able to attend the event. Commissioner Murtaugh advised that the videos shown in the media of past events, show more attendees than what was outlined by Mr. Munoz at the APC meeting. Commissioner Murtaugh advised that one event looked like it was held indoors? Mr. Munoz advised that one or two times it was held indoors because of weather. Commissioner Murtaugh asked if the buildings had a sprinkler system installed? Mr. Munoz advised there is not a system installed. Commissioner Murtaugh then asked what Mr. Munoz did for restroom facilities? Mr. Munoz advised that he had portable restrooms available at the event.

Commissioner Brown stated that he respects what Mr. Munoz is trying to do and he sees the benefits of the business, and especially the event type venue. However, he recognizes that it's the neighbors on Chase Lane and surrounding areas that are being impacted. These individuals picked these home locations with the expectation that it would be quiet and peaceful surroundings. He noted that the individuals living there could not have predicted what would change in the coming years, in their neighborhood. Commissioner Brown noted that no matter how good his practices, the noise issue would be very difficult to overcome. He also mentioned that he had heard a lot of testimony from the last three meetings about Mr. Munoz's character, and he believes that he is a good person. However, when the events are over, Mr. Munoz has no control over what happens after that, no matter what practices are in place during the event itself. Commissioner Brown has a hard time getting past the impact of the noise issues.

President Byers asked if there was any public comment, and then called for the vote:

- Auditor Plantenga recorded the vote:

Commissioner Byers	N
Commissioner Brown	N
Commissioner Murtaugh	N
- Ordinance 2022-04-CM failed with a vote of 3-0.

VII. AUDITOR – Robert Plantenga presented and recommended:

Auditor Plantenga noted that at the last Commissioner's meeting, he had passed out an estimate of impact for a pay increase for 2023, for County employees. He advised that the salary statements need to be returned to his office by July 1st, 2022. He is asking for a recommendation from the Commissioner's on the pay increase, so that he can start compiling the statements to send out.

- Commissioner Murtaugh moved to recommend the 3% raise as presented, second by Commissioner Brown. Motion carried.

VIII. HIGHWAY – Stewart Kline presented and recommended:

- A. The awarding of the 2022 Liquid Asphalt Bid, to Asphalt Materials Inc.
- Commissioner Brown moved to approve the bid awarding as presented, second by Commissioner Murtaugh. Motion carried.
- B. The approval of a Warranty Deed and Temporary Easement Grant, for a right-of-way acquisition for the Old 231 and 500 South safety improvement project. The Warranty Deed is for Parcel 5, and the Temporary Easement is for Parcel 5A. The transfer documents are for property owned by Cole Jackson. The Warranty Deed is in the amount of \$9,350, and the Temporary Easement Grant is in the amount of \$2,650.
- Commissioner Murtaugh moved to approve the Warranty Deed and Temporary Easement Grant as presented, second by Commissioner Brown. Motion carried.
- C. The approval of a Warranty Deed and Temporary Easement Grant, for a right-of-way acquisition for the Old 231 and 500 South safety improvement project. The Warranty Deed is for Parcel 17, and the Temporary Easement is for Parcel 17A. The transfer documents are for property owned by Michael & Betty Demko. The Warranty Deed is in the amount of \$9,400, and the Temporary Easement Grant is in the amount of \$1,800.
- Commissioner Murtaugh moved to approve the Warranty Deed and Temporary Easement Grant as presented, second by Commissioner Brown. Motion carried.
- D. The approval of a Warranty Deed and Temporary Easement Grant, for a right-of-way acquisition for the Morehouse Road project. The Warranty Deed is for Parcel 10 & 10A, and the Temporary Easement is for Parcel 10B. The transfer documents are for property owned by Connie Phung. The Warranty Deed is in the amount of \$7,180, and the Temporary Easement Grant is in the amount of \$890.
- Commissioner Brown moved to approve the Warranty Deed and Temporary Easement Grant as presented, second by Commissioner Murtaugh. Motion carried.
- E. The approval of a Warranty Deed and Temporary Easement Grant, for a right-of-way acquisition for the Morehouse Road project. The Warranty Deed is for Parcel 25, and the Temporary Easement is for Parcel 25A & 25B. The transfer documents are for property owned by Noremac Properties. The Warranty Deed is in the amount of \$4,230, and the Temporary Easement Grant is in the amount of \$2,290.
- Commissioner Brown moved to approve the Warranty Deed and Temporary Easement Grant as presented, second by Commissioner Murtaugh. Motion carried.

- F. An Application for a Permit to Block Road, from Vision of Hope Residential Treatment Facility. This is for their 5k/10K Race for Hope on June 4th, 2022. The closure or restriction will apply to 550 E, 50 N, Wildcat Valley Estates, and Brookfield Heights.
- Commissioner Brown moved to approve the road closure as presented, second by Commissioner Murtaugh. Motion carried.
- G. A letter from the Highway Department approving the Highway Maintenance Division Summer Hours of four, ten-hour days a week, from May 23, 2022 through September 8, 2022. This will provide for more efficient use of employee time.
- Commissioner Murtaugh moved to approve the summer hours as presented, second by Commissioner Brown. Motion carried.

IX. GM DEVELOPMENT COMPANIES LLC – Commissioner Murtaugh presented and recommended:

The approval of the April disbursement request, from GM Development Companies, for the projects at the Sheriff's office and at Community Corrections. The total for this disbursement is \$453,376.72.

- Commissioner Murtaugh moved to approve the disbursement request as presented, second by Commissioner Brown. Motion carried.

X. PROFESSIONAL SERVICES AGREEMENT – KENNEL ASSISTANT – Tracy Brown presented and recommended:

The approval of a professional services agreement with Kate Kelly, to be a second contractor on site to help at Crystal Creek. The terms are the same, and the hourly rate changed to \$17 an hour.

- Commissioner Brown moved to approve the professional services agreement as presented, second by Commissioner Murtaugh. Motion carried.

XI. SHELTER PLANNERS OF AMERICA PROPOSAL FOR SERVICES – ITEM WAS PULLED FROM THIS MEETINGS AGENDA.

XII. GRANTS – Sharon Hutchison presented and recommended:

Permission to Apply for Grants:

A. For Community Corrections and Probation departments, from the Department of Corrections (DOC), for the DOC annual 2023 budget to cover alternatives to incarceration utilizing the Community Corrections and Probation Departments.

- Commissioner Murtaugh moved to approve applying for the grant as presented, second by Commissioner Brown. Motion carried.

B. For Various departments, for funding from the Patrick Leahy Bulletproof Vest Partnership grants, requesting funds to cover a portion of needed vest.

- Commissioner Brown moved to approve applying for the grant as presented, second by Commissioner Murtaugh. Motion carried.

Permission to Accept Grant Funds:

A. For Youth Services, from the Department of Corrections, in the amount of \$271,637, for the Juvenile Community Corrections Grant, and \$70,000 for the JDAI program.

- Commissioner Murtaugh moved to accept the grant as presented, second by Commissioner Brown. Motion carried.

B. For the Health Department, from the Indiana Department of Health, in the amount of \$397,379.08, for the reimbursement vaccination program. This is the second payment, and there will be more to come as they have been approved to reimburse for youth vaccinations. Amanda noted that there will be a third installment coming, as the Health Department will be keeping the vaccine clinic open through June.

- Commissioner Murtaugh moved to accept the grant as presented, second by Commissioner Brown. Motion carried.

MOU/Contracts

1. The approval of twelve Professional Services contracts for the 2022-2023 JDAI grant (starting July 1st, 2022 thru June 30th, 2023), for Law Enforcement officers to do Community Engagement. The twelve contracts are for Marc Griffith, Tobias Bushong, Matthew Pate, Daniel Anthrop, Lauryn Liechty, Matthew Santerre, Isidro Medrano, Nathan Stoneking, Luke Brown, Justin Hartman, Randy Sherer, and Heath Provo.
 - Commissioner Murtaugh moved to approve the contracts as presented, second by Commissioner Brown. Motion carried.

XIII. REPORTS ON FILE

-Tippecanoe County Central Mail, Accounts Payable, Duplications

XIV. UNFINISHED/NEW BUSINESS – None

XV. PUBLIC COMMENT

Amanda Balsler introduced Amy Erwin who will be the new Tippecanoe County Health Department Administrator. Today is her first day as the Administrator.

Commissioner Brown moved to adjourn. President Byers adjourned the meeting.

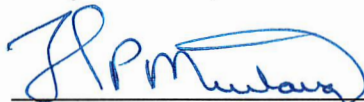
BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE



David S. Byers, President




Tracy A. Brown, Vice-President



Thomas Murtaugh, Member

ATTEST:



Robert A Plantenga, Auditor 05/16/2022

Minutes prepared by Jennifer Wafford, Recording Secretary