

Tippecanoe County Board of Commissioners

Meeting Minutes

Monday, August 15, 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 Samantha Perez.

- I. **PLEDGE OF ALLEGIANCE** – President Byers called the meeting to order and led the Pledge of Allegiance

- II. **APPROVAL OF MINUTES** from Monday, August 1, 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 August 3, 2022, through August 15, 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 August 5, 2022, was recommended for approval without exception.

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

- V. **HIGHWAY** – Stewart Kline presented and recommended:

Morehouse Road Project

Parcel 26 Sarette C. Zawadsky

 1. Warranty Deed- ROW Purchase Parcel 26- \$37,600
 2. Temporary Easement Grant- Parcel 26A & B- \$50
 - Commissioner Murtaugh moved to approve the Warranty Deed, Temporary Easement Grant as stated, second by Commissioner Brown. Motion carried.

Parcel 39 Red Barn Rental LLC

 1. Warranty Deed- ROW Purchase Parcel 39- \$6,700
 - Commissioner Brown moved to approve the Warranty Deed as presented, second by Commissioner Murtaugh. Motion carried.

Old US 231 S/ 500 S Project

Parcel 1 Taylor Rhine

1. Warranty Deed- ROW Purchase Parcel 1- \$8,050
 2. Temporary Easement Grant- Parcel 1A- \$3,700
- Commissioner Murtaugh moved to approve the Warranty Deed and Temporary Easement Grant as stated, second by Commissioner Brown. Motion carried.

Parcel 12 Roger Rhine & Lisa Rhine

1. Warranty Deed- ROW Purchase Parcel 12- \$7,100
 2. Temporary Easement Grant- Parcel 12A- \$1,771
- Commissioner Brown moved to approve Warranty Deed and Temporary Easement Grant as submitted, second by Commissioner Murtaugh. Motion carried.
 - Commissioner Murtaugh asked if this was the last of the Right of Way purchases for this project and Stewart advised there will be one more for next meeting.

VI. GM DEVELOPMENT COMPANIES, LLC –

Two Projects at the Jail & Community Corrections

Commissioner Murtaugh stated this request is for Hagerman in the amount of \$3,627,179.00 and Trane in the amount of \$44,699.00.

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

VII. Professional Service Agreement, Lora Davis, Golden Gate Counseling – Prosecutor's Office – Pat Harrington presented:

Pat Harrington stated this service agreement is covered by The Victims of Crime Grant. This grant is for a two-year period in the amount of \$171,629

- Commissioner Brown moved to accept the professional service agreement, second by Commissioner Murtaugh. Motion carried.

ELECTRICAL POWER FLUCTUATION at 10:05am– caused by construction- not recorded: Grants, Reports on File, and Unfinished/ New Business

VIII. GRANTS – Sharon Hutchison presented and recommended:

Permission to Accept Grant Funds:

A. For Rural Transportation, in the amount of \$109,855, for the Area IV Agency on Aging and Community Action Programs, Inc to continue the support of the Section 5311/ PMTF Rural Transit in Tippecanoe County

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

IX. REPORTS ON FILE-

-Central Mail, Accounts Payable, Duplications July 2022 Report

-Clerk's Office July 2022 Report

-Treasurer's Office July 2022 Report

-Area IV Rural Transportation

X. UNFINISHED/NEW BUSINESS- None

ELECTRICAL POWER FLUCTUATION RESOLVED at - recording resumed

XI. PUBLIC HEARING ON FAIRFIELD TOWNSHIP RESOLUTION 2022-04: REMOVAL OF FAIRFIELD TOWNSHIP TRUSTEE

Doug Masson Tippecanoe County Attorney summarized Resolution 2022-04 Fairfield Township filed with Tippecanoe County. Fairfield resolution alleges that the trustee refused or neglected to perform her duties. Specifically, it states she failed to respond with requests for records or provided incomplete records. Due to these being financial records involved the Resolution states these failures include failure to keep township records open for public inspection, manage township property interest, receive, and pay out township funds, evaluate and settle all accounts. The statute does not provide guidance on what the public hearing entails other than the hearing is required. Attorney Masson would like everyone testifying to be clear on if they support or oppose removal and if they support removal try to focus on duties neglected or of an instance where township funds were used for personal purchases.

President Byers stated to please use the sign in sheet and The Commissioners have received documents and letters including evidence. This is a hearing, and a decision will not be made until the next meeting.

- **Kelli Stump 2500 Foxhall Dr., Lafayette IN 47905-** Kelli stated she was a former employee with Fairfield Township for just under three years. Kelli submitted a records request in person on July 26, 2022, that was never fulfilled. She still does not have access to those public records. Kelli also stated Trustee Coles has obtained an attorney with township funds. She stated the office doors are always locked and the office hours are changed without notice or board approval. Kelli stated that the office doors have been locked since the pandemic and the office still operates on “pandemic hours” even though there is a 14-hour required work week. Attorney Masson asked for a summary of the records requested and Kelli responded that she submitted a request for financial records from January 2019 to present and vehicle mileage logs. Attorney Masson also asked about the office hours and locked doors. Kelli stated Trustee Coles has not reopened the office doors since the state of emergency has been placed and then lifted. Her website also states the office is still closed due to a state of emergency. On July 26th the office hours stated 9am-3pm Tuesday and Wednesday and 9am-11am on Friday. When Kelli arrived during listed office hours to submit her records request the doors were locked. Kelli was contacted by Coles Attorney within 24 hours stating her request was received. Kelli wanted to come on her lunch to pick up the requested documents and Attorney Hawkins said that’s fine. Coles told her attorney the office is closed from 12-1pm for lunch and Kelli stated if the office is closed for 2 hours during listed office hours, then the hours do not meet the required 14-hour work week and is not adequate hours for the 54,000 township residents. Kelli also adds Coles turns in documents without signatures pages and without board approval.
- **Trisha Fogelman 721 North St. Apt. 2 Lafayette IN 47901-** Trisha stated she is a current resident and former employee. She recalls being office manager and attempted to sway Trustee Coles to better support her community. Trisha states Trustee Coles spent a lot of money on shopping sprees and redecorating the office. Trisha states Trustee Coles does what she wants and is not held accountable. Trisha also added that people coming to the Trustee’s office for assistance are being told to stand outside which limits their access to resources. President Byers asked if there is any township assistance being given. Trisha replied that there is very little aid being given to residents and it would be weeks before help is received. Trisha stated she even had to push Trustee Coles to get

cremations paid for in a timely manner. Attorney Masson also question Trisha regarding shopping sprees. Trisha went into detail saying she personally witnessed Trustee Coles purchase yard décor and planting materials for vegetables that would not be used at the cemetery but for her home and used the tax-exempt card for her personal purchases. Trisha also stated a comforter for Trustee Coles' daughter and a fox stole was added to the purchases made for the shelter house. Commissioner Murtaugh asked if Trisha can confirm it was the township credit card and Trisha replied yes. Trisha also stated purchases were made for reelection like paying for a booth at the Mosey that was never used. Commissioner Brown asked Trisha what her employment dates were, and Trisha responded with starting employment in October 2020, promoted to office manager in January 2021, and left July 31, 2021. Commissioner Murtaugh asked if the campaign materials had township information on them. Trish stated they did not it was only Cole's information and pictures to promote her reelection.

- **Alexandra Hawkins- Trustee Coles' Attorney 11650 Lantern Rd. Fishers IN 46038-** Attorney Hawkins began by summarizing the law and how the bill or statute could be applied retroactively and stated the allegations against Trustee Coles must have been before July 1st when the new Indiana law was put in place and goes on to say Coles has not made violations after the July 1st date. Attorney Hawkins states there is no evidence to prove these purchases were made on the township credit card versus Trustee Coles' personal card. Attorney Hawkins also states there are some records her and Trustee Coles do not have in their possession and addressed the office hours by adding an additional hour. President Byers asks if a resident could receive statements and reports that are not redacted. Attorney Hawkins states she does have July's statement available for the public and added residents would have to come in during office hours and by appointment only due to COVID restrictions and mentioned residents with an appointment are not waiting on the street. President Byers asked about a book ledger showing funds used on electricity, assistance, cemetery, etc. Attorney Hawkins states this is a document that could be put together because she has not been told anything to the contrary. Commission Murtaugh asked Attorney Hawkins if she is the Fairfield Township attorney and she responded with she is the Trustee's attorney. Commissioner Murtaugh asked why the credit card is in Coles' name personally and Hawkins responded that the overall account has Fairfield Township listed but the credit card changes from each trustee and Coles followed what the previous trustee did. Commissioner Murtaugh also asked why there are redactions on the credit card statement that was given to him. Attorney Hawkins responded with the redactions were handwritten notes and are not necessarily a part of the statement and they could provide a non-redacted statement if needed. Commissioner Murtaugh followed up with stating a total purchase amount was also redacted and Attorney Hawkins apologized for not seeing it and reiterated she could provide a full non redacted statement. President Byers mentioned a media outlet requested records and that request has not been fulfilled. Attorney Hawkins stated she has provided everything she has in her possession and is working to get the rest of the requests fulfilled. Commissioner Murtaugh asked where the receipts were, and Hawkins stated receipts are with the State Police.
- **Perry Schnarr 1305 Kensington Dr., Lafayette IN 47905- Current Fairfield Township Board President-** Perry stated he requested gas log receipts and mileage logs and he was told the mileage log was destroyed by staff as well as the gas logs. Perry mentions there is no record of an investigation about the destroyed documents. Perry contacted the State Board of Accounts for receipts and can be provided those documents which contradicts Coles' statement of not having records or being able to provide them. Perry states Coles' asks for receipts from her township partners but won't provide her own receipts. Commissioner Brown asked for clarification on there being a police report about the records being destroyed. Perry handed the Commissioners a printed email which Attorney Masson read out loud for the record: "Mileage log was destroyed by staff we

have police reports supporting this, gas usage was shown on receipts that were destroyed we have police reports supporting this, some of the receipts are in the state police possession and requested copies of receipts from the state board of accounts.” Attorney Masson verified this is a document from Trustee Coles to Perry. Perry continues to state Trustee Coles went to Murphy’s in Kentland IN on two separate occasions to purchase flowers when there are several places in Lafayette that the money could have been spent. Perry stated these purchases were around \$1,000. Attorney Masson asked Perry to elaborate on the fire department monies. Perry stated there is \$100,000 for the fire department to use how they see fit and Coles makes it very difficult to obtain the funds and states she wants receipts but won’t provide her own receipts. Attorney Masson asked if there was an annual budget filed. In 2020 the board denied the budget and Coles never filed the budget so there was money lost in tax revenue. In 2021 Coles did not submit a budget due to not liking the board recommendations. Perry also lowered the cemetery fund balance so Trustee Coles could not spend that money. Perry mentioned Coles can maneuver/ spend money under \$50,000 without board approval. Perry also explains a trailer was purchased from Rural King and a pickup truck for \$35,000 was also purchased from the same area. Since the truck was \$35,000 it did not go to the board for approval and stated this purchase was not needed. The truck also had a snowplow attachment that was being used for Coles’ personal use. Commissioner Murtaugh asked during board meetings was there ever financial records provided and Perry stated receipts from 2019 were provided but there was never a balance sheet created or financial reports listed on the agenda.

- **Ronald “Rocky” Hession 924 Holloway St. Lafayette IN 47905- Fairfield Township Board Secretary-** Rocky stated the rules that Trustee Coles violated have always been in place and stated that Attorney Hawkins’ point of the July 1st date for the new law is disputable as the violations against Coles have always been the same the only difference is the new law states a new process to follow for removal. Rocky stated once he became suspicious of Trustee Coles’ actions he went to Rural King and asked why Coles was there to buy a second trailer when one was already purchased. Then Coles returned and asked for a refund on a different credit card. Rural King stated refunds will only be returned to the card used for purchase. Rocky spoke to both managers about the reason Rural King contacted the township regarding the discrepancy of the refund. Attorney Masson asked for the date and Rocky stated December 31, 2019. Commissioner Murtaugh asked Rocky to speak on why Rural King reached out to the board. Rocky stated Rural King wanted to know how to process the refund. Rocky told Rural King he is unsure since he was there to ask questions and does not have authority to decide on Rural King’s behalf and advised Rural King to follow their refund procedure. Attorney Masson asked how the refund was handled and Rocky stated the refund was given back to the township credit card. Commissioner Brown asked what method was used when speaking with Rural King and Rocky responded with it was a combination of emails, phone calls, and in person conversations. Commissioner Murtaugh asked if the credit card could have been a different credit card and Rocky stated there is only one credit card for the township. Attorney Masson asked Rocky when he submitted his records request and Rocky responded with January 3, 2022, and then asked if documents were received from that request. Rocky responded with he has received some documents he requested but he did not receive receipts or who the checks were issued to. Attorney Masson also asked about budget filling. Rocky stated the board made modifications to the 2019 budget for 2020 and Coles put it into Gateway. The budget for 2020 was passed by the board but Trustee Coles never entered the budget into Gateway. Rocky also stated the board did not find this out until May of that year. At the end of 2021 the board made a resolution to put their names on a list of people who receive info from DLGF to show how much money is allocated for each fund. When that info was received the board passed the resolution to zero out the Rainy-Day Fund. Attorney Masson clarified that

these issues were in 2021 for the 2022 budget and stated the budget for 2020 for 2021 never got filed with DLGF. Rocky confirmed that is true and added the 2022 budget was never filed by Coles. President Byers asked if the township board reached out to the state board of accounts for an audit. Rocky stated they are currently under investigation. Rocky stated the last time an audit was done was in 2018 which would have been right before Trustee Coles. President Byers stated there should be a year end report and Rocky stated he did see 2019 and 2020.

- **Monica Casanova 1007 N. 9th St. Lafayette IN 47905- Fairfield Township Board Member** – Monica stated on July 13, 2022, she submitted a Freedom of Information Request and since then she has only received credit card receipts there is nothing itemized, bank statements were not received, and no incoming or outgoing checks were made available. It's been over a month since the initial request. An appointment was scheduled to see the documents in person and when she arrived, she was denied entrance due to having Angel Valentine with her. Monica goes on to clarify she was denied entrance by office staff not Trustee Cole's personally. After the staff member who originally denied access to the building talked to the attorney Monica and Angel were allowed in. Monica stated she was told they could not sit next to each other, and that Angel could not see the documents. Ultimately both of those initial rules were changed and where able to review together. However, they could not remove any documents, so Angel scanned the documents and was able to share them with the board. Monica also stated that if the July 1st rule states anything before July 1st is not pursuable then she would still like to say that after July 1st she still hasn't received any documents either as a member of the public or as a member of the board. Attorney Masson clarified that a FOIA (Freedom of Information Act) request is at the federal level, so the request Monica filed was for access to public records. Monica confirmed this is accurate. Commissioner Murtaugh asked Monica to list the items she had requested. Monica stated she had put in a request for bank statements, credit card statements, itemized receipts, incoming and outgoing checks, and she confirmed the only thing she has received so far was credit card statements. Attorney Masson asked if the other documents where present in the office when she went to examine them. Monica stated no and said she was told by the attorney those would be provided at some point, but this has not happened yet, and it has been over a month now. Commissioner Murtaugh asked Monica where the township banks and she replied with Centier. Commissioner Murtaugh advised some information should be available on the bank's website.
- **Ed Ward 3333 Gushwa Dr. Lafayette IN 47905- Wabash Township Fire Chief and Fairfield Township resident-** Ed introduced himself and stated he is a resident of the unincorporated area of Fairfield Township. 602 days ago, Ed was terminated from his position (due to previous Wabash Township trustee issues) and the Fairfield Township assistance would have been very helpful. Ed is concerned on a taxpayer level that there is so much drama he avoids the office and any trustee interaction at all costs. As a township resident he pays taxes for fire protection. At the end of 2021 there was just short of \$800,000 in the township fund for fire protection not being dispersed to those providing fire protection and Ed made it clear it is concerning on a resident level but also on a professional level due to his position as fire chief. Ed stated that the fire department is at the point where the money becomes so difficult to obtain that they have stopped asking for it and counting on it. Ed adds that Senate Bill 304 was beneficial, but Fairfield Township should have been policing better anyway. Ed continues with agreeing that Trustee Coles will be out of her current position soon but doesn't want to see the damage she could due until then.

President Byers restated this is a hearing and attorneys will be consulted before a decision is made.

Attorney Masson stated the board must wait 10 days before a vote.

XII. PUBLIC COMMENT- None

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

BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE

Absent
David S. Byers, President

Tracy A. Brown
Tracy A. Brown, Vice-President

Thomas Murtaugh
Thomas Murtaugh, Member

ATTEST:

Robert A. Plantenga
Robert A Plantenga, Auditor 09/06/2022

Minutes prepared by Samantha Perez, Recording Secretary