

**REGULAR MEETING**  
**CLARK COUNTY BOARD OF COMMISSIONERS**

September 17, 2020

The Board of County Commissioners of Clark County, Indiana met in Regular Session on September 17, 2020, at 5 p.m. in Room 418, Clark County Government Building, Jeffersonville, Indiana.

Present at the meeting were Commissioners – Jack Coffman, Bryan Glover and Connie Sellers, County Attorney Scott Lewis, County Engineer Brian Dixon, Commissioners’ Assistant Allison Ruddell, Auditor Danny Yost.

Pledge of Allegiance was led by Connie Sellers and the prayer was led by Jack Coffman.

**Approval of the Minutes**

**Commissioner Sellers** made a motion to approve the September 3, 2020 and September 3, 2020, Regular Meeting Minutes. **Commissioner Glover** seconded. Motion approved 3-0.

**Commissioner Glover** motioned to approve the agenda as presented. **Commissioner Sellers** seconded. Motion approved 3-0.

**Auditor Danny Yost** presented the claims and payroll for September 23, 2020. **Commissioner Sellers** motioned to approve the claims and payroll. **Commissioner Glover** seconded. Motion approved 3-0.

**I. Administrative Agenda**

**A. Commissioner Coffman** opened a public hearing concerning proposed Ordinance 18-2020, an ordinance approving a change to the Clark County Zoning map on an unfavorable recommendation by the Clark County Plan Commission.

Attorney Dan Moore spoke on behalf of the petitioner. The petitioner, Clark Nickles Inc., would like to rezone the property located at 12437 Dean Street, Charleston from R-2 to B-3 to construct a building at the site for storage of

materials and vehicles. Dan Moore drew attention to the historical use of the land, the ownership of the land, and the zoning. The land has been owned by McCullough and used for farming; the United States and used for military purposes; and Birdwell, Dean and Nickles who have used the land for industrial and commercial business. Before 1954 there was no zoning. In 1954 it was zoned R-2 residential, even though the land had never been used for this purpose. Mr. Nickles applied for a building permit in 2015 to build a Pole Barn Storage Building. The permit expired before the building could be constructed due to issues during the building process because the land was extremely rocky. Mr. Nickles then approached the Planning and Zoning office for another building permit. He went before the Board of Zoning Appeals for a Use Variance in 2018. The BZA issued a grant with conditions. Mr. Nickles invested money to comply with the conditions. The Plan Commission did not believe he was in compliance with the conditions. Attorney Moore provided multiple letters supporting the zoning change and Clark Nickles.

Attorney Scott Lewis questioned the BZA Ordinance that granted a variance. The ordinance has not been rescinded; therefore, as long as the conditions are being followed, any rezoning would be moot. Attorney Moore explained that the reason the rezoning was requested, was to avoid future arguments about whether the conditions of the variance are being met. Commissioner Sellers stated that the issue was not that they did not want to rezone the property, but if the conditions were met, which they had not been, there would be no reason to rezone the property. Mrs. Nickles explained that the BZA would not meet with them to show them where they wanted trees planted to meet one of the conditions, therefore it took two years to be compliant.

Attorney John Kraft presented on behalf of Southern Indiana Development Partners, LLC. He stated for the record, that this matter was before the Plan Commission in February and decided on by the Commissioners in May. Both parties were notified of the hearing at the Commissioners meeting. Under Indiana law, a petition that receives an unfavorable recommendation by the Plan Commission, must be voted on by the legislative body within 90 days or it is automatically denied. It did go before the Commissioners after the 90-day timeframe, even after giving leeway for COVID-19 closures. Therefore, the

petition has been denied in two different ways. Furthermore, a development plan was not presented, which is required in order for a property to be rezoned to B-3. The property also is not accessed by a public roadway, instead it is accessed through an easement. This is not permitted for a business. He stated that tires keep appearing on his client's property and that they are in compliance with the Indiana Department of Environmental Management. Mr. Kraft stated that Mr. Nachand, attorney for the BZA is waiting for a decision from the Commissioners before taking further enforcement action on the noncompliance of the conditions of the variance. Attorney Scott Lewis stated that the BZA letter from February states that the property owner must comply with the conditions of the variance or enforcement actions will be taken. Therefore, it is not linked to the Commissioners decision.

Attorney Dan Moore, questioned the reason for wanting to keep the zoning residential when everyone knows the property is used in an industrial manner. He stated that there are several surrounding property owners who are in support of the zoning change. Commissioner Sellers stated that at the Planning and Zoning meeting there were several people who spoke against the zoning change.

Ron Meredith who lives at 7208 Decker Lane in Charlestown, spoke in favor of the zoning change. He stated that he works for Clark Nickles and the company is responsible for developing the surrounding properties. The land has been used in the same way long before the surrounding properties were developed.

Alexander Latuch, who owns an adjoining property, spoke in favor of the zoning change. He stated he has had issues with other property owners having tires on their property but no issues from Mr. Nickles.

Chris Jones, who lives at 11106 Dean Street in Charlestown, spoke in favor of the zoning change. He owns the feed store and nursery in Charlestown and has known Clark for 22 years. Clark has done a lot for the City of Charlestown and the county. He stated that Clark is courteous and keeps his property neat.

Robert Woodruff, who lives at 11110 Dean Street in Charlestown, spoke in favor of the zoning change. He has known Clark since March of 1980 and has had zero issues with him.

There were no members of the public present at the meeting to speak in opposition.

Attorney Dan Moore spoke again on behalf of Clark Nickles. He stated that he did not believe the fact that the property is accessed through an easement is relevant. He stated that in the nature of what Mr. Nickles was asking for, he presented a plan, drawn by an engineer to build a building to Stacia in Planning and Zoning.

Brenda Nickles, the property owner, asked that they be treated fairly. Commissioner Glover stated that he believes they have been treated very fairly. They have been granted a variance which allows them to use their property in the way that they would like, as long as they comply with the conditions. Attorney Dan Moore stated that they would like to avoid future visits from the County staff about violations of the conditions. Attorney Scott Lewis stated that he could reach out to David Nachand and be the intermediary for future issues.

Commissioner Coffman closed the public hearing.

Commissioner Glover motioned to deny Ordinance 18-2020, with the understanding that it came with an unfavorable recommendation from the Plan Commission and that they land owners can utilize the existing variance that is in place by the BZA. Commissioner Sellers seconded. Motion denied 3-0.

**B. Attorney Scott Lewis** presented Ordinance 19-2020, an ordinance establishing the Informal Adjustment Program Fee Fund 2520 for probation. Commissioner Glover motioned to approve Ordinance 19-2020. Commissioner Sellers seconded. Motion approved 3-0.

**C. William Draper** presented the New Washington Street Closures. He would like to close Center Street on October 17, 2020 from 6am to 5pm for the Autumn on the River festival, October 31, 2020 from 3pm to 9pm for Halloween activities, and November 28, 2020 from 4pm to 9pm for Light Up New Washington. Commissioner Sellers motioned to approve the New Washington Street Closures. Commissioner Glover seconded. Motion approved 3-0.

**D. Attorney Scott Lewis** presented the Mail Machine Maintenance Contract Renewal with Central Business Systems. The dollar amount for this annual renewal is \$3,787 which is the same as it has been in previous years. Commissioner Sellers motioned to approve the annual Mail Machine Maintenance Contract Renewal with Central Business Systems in the amount of \$3,787 and to allow Commissioner Coffman to sign. Commissioner Glover seconded. Motion approved 3-0.

**E. Matters tabled from prior meeting:** None.

**F. Sheriff Business:** The current jail population is 354.

**G. Auditor Reports/Comments:** None.

**H. Attorney Reports/Comments:** None.

**I. Officeholder/Department Heads Present at Meeting:** None.

**J. Ratifications and Approvals:** None.

**K. Appointments:** None.

## **II. Technical Agenda:**

- A. Brian Dixon** presented the Old Salem Road Contract Extension between INDOT and Clark County, Indiana concerning the recent reconstruction, extension, and transfer jurisdiction of Clark County Old Salem Road from Utica to State Road 265. This must be extended because the project is 100% reimbursable from INDOT, so the contract must be in place for the reimbursements to continue. Commissioner Sellers motioned to approve the Old Salem Road Contract Extension. Commissioner Glover seconded. Motion approved 3-0.
- B. Brian Dixon** presented the Bridge 413 LPA Agreement between Clark County and INDOT for their portion of the Bridge 413 Deck Replacement Project. This allows INDOT to pay 80% of the cost. The maximum amount that INDOT will pay is \$296,000. Commissioner Sellers motioned to approve the Bridge 413 LPA Agreement. Commissioner Glover seconded. Motion approved 3-0.

**C. Brian Dixon** presented the bids for the Salt Storage Building. He reviewed each of the bids and each had all required documents. He recommended that the commissioners accept the bid from Etheridge Construction LLC, which was the lowest bid at \$151,000. Commissioner Glover motioned to accept the bid from Etheridge Construction LLC and to allow Commissioner Coffman to sign the contract once it has been prepared and reviewed by Attorney Scott Lewis. Commissioner Sellers seconded. Motion approved 3-0.

**III. Public Comments:** None.

Commissioner Sellers motioned to adjourn. Commissioner Glover seconded. Motion approved 3-0.

To the extent, the Board held an executive session of any type under (IC-5-14-1.5-6) or otherwise, the Board hereby certified that no subject matter was discussed therein, except that posted in the notice for sessions or meeting (IC-5-14-1.5-6).

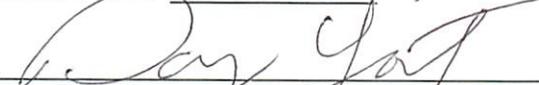
BOARD OF COMMISSIONERS OF  
CLARK COUNTY, INDIANA

  
\_\_\_\_\_  
JACK COFFMAN, PRESIDENT

  
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CONNIE SELLERS, VICE PRESIDENT

  
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BRYAN GLOVER, MEMBER

SIGNED THIS DAY October 1, 2020.

ATTEST:   
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DANNY YOST, CLARK COUNTY AUDITOR