

REGULAR MEETING
CLARK COUNTY BOARD OF COMMISSIONERS

September 29th 2022

The Board of County Commissioners of Clark County, Indiana met in Regular Session on September 29th, 2022, at 5 p.m. in Meeting Chambers, Room 103, Clark County Government Center, in Jeffersonville, Indiana.

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

Pledge of Allegiance was led by Brian Dixon and the prayer was led by Jack Coffman.

Approval of the Minutes

Commissioner Glover said first on the agenda was approval of the minutes for September 15th, 2022. Commissioner Coffman made a motion to approve the September 15th, 2022, Regular Meeting Minutes, as presented. Commissioner Sellers seconded. Motion approved 3-0.

Auditor Danny Yost presented the claims and payroll. Commissioner Sellers motioned to approve the claims and payroll, as presented by the Auditor. Commissioner Coffman seconded. Motion approved 3-0.

Commissioner Glover asked if there were any amendments to the agenda. There were none. Commissioner Sellers made a motion to approve the agenda, as presented. Commissioner Coffman seconded. Motion approved 3-0.

Commissioner Glover said those who have signed up for Public Comment, to speak for or against the Rezoning issue will be allowed to speak under public comment.

I. Public Comment:

Commissioner Glover proceeded with the sign-up sheet by topic and sign-in order. Each person, after providing name and address, is limited to three

minutes. Also, to be mindful of those speaking before and after you and the time limit.

The first topic of discussion was election machines/electronic voting. The speakers and their comments were as follows:

- 1) Teresa Ballew, 472 Kensington Drive, Clarksville. Ms. Ballew submitted a written comment (Exhibit 1). Ms. Ballew wants her public comment to be verbatim, and she is leaving a copy for the Board. She then read her statement aloud, which included, in part: return to paper ballots, paper poll books and a public hand-counting of the ballots. Also, public announcement at the Courthouse of election results, prior to releasing them to other entities, such as the media.
- 2) Teresa Ballew said she would be speaking on behalf of Victoria Garcia, 2601 Meadowview Court, Jeffersonville. Ms. Garcia submitted a written comment (Exhibit 2). Ms. Ballew read Ms. Garcia's statement aloud in its entirety. The statement, said in part: "I am not convinced that I can count on the integrity of our elections particularly because of problems with voter rolls, election machines and electronic poll books to name a few."
- 3) Bobbie Bridgewater, Charlestown, Indiana. No written comment was submitted. Ms. Bridgewater said she wanted to provide a little scenario from Miracle on 34th Street. In the scene a mailbag was presented to prove that St. Nicholas is truly alive. How would that scene be if it was virtual? It would not have the same impact. The physical proof is what the citizens are looking for. She wants this physical proof to be in the form of: paper ballots; paper poll books; and hand counting. She also feels that our data is being sold, and has been proven to be. Speed (electronic speed) does not trump accuracy.
- 4) Commissioner Glover said Kelly Khuri was up next. Ms. Khuri said that before announcing her name, she had timed her comment/presentation and it exceeds the three-minute limit. She intends to stay close to the time limit, but she is requesting an exception, such as was given last summer to a county department.

Commissioner Glover said the Board intended to maintain the time limit. Ms. Khuri said she is not requesting her comments verbatim, as she does not have a written copy to submit to the Board. Ms. Khuri said to get her timer going, she announced her name and address, Kelly Khuri, 4819 Salem Noble Road, Jeffersonville. Commissioner Sellers advised the timer was going. Ms. Kelly said she was here today to address two issues from the September 15th, 2022 meeting of this body. At that time, she asked you (the Board), under Public Comment, to not vote for the New Business, Item A, which involved a Bid Opening for voting scanners. Ms. Kelly said after the Public Comment period closed, Commissioner Glover asked questions of, and received answers from County Clerk Susan Popp. She then read this portion of the Minutes aloud. She said, why do I recap history of the last meeting, because it is important to me. She said Number 1) there is no mechanism or process in place legislatively to allow any complete comparison of ballots to the machine tabulation; and Number 2) we do not use "paper" ballots. She cited Indiana Code IC35234.7A which does provide clarification. The timer went off. Commissioner Glover said her time was up. However, she continued to talk. Commissioner Glover asked her to be respectful of others. Attorney Lewis asked Ms. Khuri if she would make a copy of her statement so it could be part of the meeting record. Ms. Khuri declined and said she would take her statement elsewhere. Commissioner Glover said James Tyler was next.

- 5) James Tyler, Henryville, Indiana. Mr. Tyler submitted a written comment (Exhibit 3). Mr. Tyler stated "Please enter this in the minutes, verbatim". Mr. Tyler read his comment aloud. He referenced "Whistle Blower", Clinton Curtis, who created a computer program in 2000, when installed, no one can detect it. He concluded with "So, I don't consent to casting my ballot where a computer is involved!"
- 6) Kaitlin Blessitt, 320 Mary Street, Jeffersonville. No written comment was submitted. Ms. Blessitt said she would continue with what Kelly (Khuri) was saying. Ms. Blessitt addressed the issue of paper ballots and cited various Indiana Codes. She provided the definition of "Paper" ballots, and ballot "Card", which refers to an

optical scan ballot. There is more in the Indiana Code if you want to do your due diligence. Ms. Blessitt said she wanted to share her own thoughts and express her desires for paper ballots, paper poll books, and hand counting. Also, she does not consent to these new machines as the prior machines failed, these are just an upgrade, and from the same company.

- 7) Commissioner Glover said Jennifer Gatti was next on the sign-up sheet. He was advised she was not present.

Commissioner Glover asked if there was anyone else on the Sign-Up for Public Comment sheet to speak regarding the election machines, everyone else is signed up to speak on the Rezoning issue. A gentleman said he would like to speak regarding the election machines. He was slightly late to the meeting due to his work schedule. Commissioner Glover said he appreciated that. However, the sign-up sheet was available prior to the start of the meeting at 5:00 PM. The gentleman requested an indulgence and be allowed to speak. Commissioner Glover said the Board would move on with the agenda.

II. New Business

- A. Rezoning – Plan Commission Resolution 8-2022 (Plan Commission Docket 2022-13-PC). Clark County Commissioner Ordinance No. 17-2022 (An Ordinance Approving An Amendment to the Clark County Zoning Map Without a Recommendation By The Clark County Plan Commission). Commissioner Glover opened a public hearing, and assumed the Petitioner wanted to speak first. Mr. Kraft said that was correct, and asked if the presentation was under a time limit. Commissioner Glover said it was not, as they are on the agenda. For the record, he announced he was John Kraft, with the law firm of Young, Lind, Endres and Kraft, 126 W. Spring Street, New Albany, Indiana. Mr. Kraft said with him was Clayton Pace of Denton Floyd Real Estate, and they are here regarding the Rezoning Request which came before this Board without a recommendation by the Plan Commission. Subsequent to the Plan Commission meeting there were meetings and/or conversations among Plan Commission members, that specifically addressed issues they desired to come back before the Commissioners, with certain conditions and commitments. Mr. Kraft said there are currently two zones in place on this property, one being R2, and the other B1, and the intent is to

rezone the entire property to R-4, multi-family. The proposed development meets the County's Comprehensive Plan, is determined to be a growth area, and is a responsible development and growth under the terms of the Comprehensive Plan. The development will include 13 buildings, 312 units; a pool and clubhouse. Mr. Kraft said multiple discussions had been held regarding entrances, buffers, and surrounding properties. There also was the possibility of the area being annexed by the Town of Clarksville, which could provide sanitary sewers. Mr. Kraft provided additional details of the proposed development and zoning compliance. Mr. Kraft said he has been asked on numerous occasions if there will be Section 8 units, the answer is no. This would be an upscale apartment complex. Mr. Kraft turned the floor over to Clayton Pace.

Clayton Pace of Denton and Floyd, 509 Spring Street, Jeffersonville. Mr. Pace asked if the Commissioners had the updated plan (Exhibit 4), which was prepared by Heritage Engineering, and included in the meeting folder. Mr. Pace said that based upon public comments and concerns issued with the Plan Commission, revisions were made to the original plan. One contention had been an entrance on to Cedardale Drive. This was removed from the plan. Mr. Pace highlighted other revisions from the original plans, such as buffer zones (35-foot setbacks), and continuous fencing when adjacent to a neighboring house. There will be a joint entrance with a neighboring developer, who has reviewed and also agrees to it. He also spoke with the Tri-County Fire Department and they are in agreement with the joint entrance. Additionally, he spoke with the Town of Clarksville regarding storm drainage. The Town said this property does not impact Deer Creek. This is a rezoning request. However, the Town of Clarksville will need to conduct the annexation, as they will be providing the sanitary sewers. Mr. Pace said the apartments are spaciouly laid out, and density is lower than what is allowed. Parking requirements will have to have a variance waiver. All plan details will still have to go through the governing body's review and approval. Mr. Pace invited questions. Commissioner Sellers said the opposition should speak before any decisions are made. Attorney Lewis said normal procedure is to allow the developers presentation, followed by public comments or questions. Commissioner Glover asked if there were any formal actions by the Town of Clarksville with such items as drainage, annexation, and sanitary sewers. Mr. Pace said that no formal action has been taken, only a commitment by Mr. Baity.

Commissioners Sellers provided an overview of what happened at the Plan Commission meeting. She stated it was by no means unanimous. The vote was 4 against, due to traffic concerns and the proposed entrance via Cedardale Drive, which has since been deleted; 3 abstained; and 2 voted in favor, after Plan Commission Attorney, David Nachand, said the “Commitments” could be placed upon the property. Commissioner Sellers, also on the Plan Commission, asked the Plan Commission about these “Big” commitments, without a response. Secondly, the Town of Clarksville, per Indiana Code, can choose not to accept these “Commitments” after the annexation is complete. Thus, there really is no promise that these “Commitments” will be implemented.

County Attorney Lewis said for the record, he wanted to verify what Commissioner Sellers was stating, which was contrary to an assertion earlier. Attorney Lewis cited Indiana Code 36-7-4-1015 subsection B 10, talked about these situations. The code notes the commitments can be terminated or modified upon annexation completion. Attorney Kraft presented his interpretation and exceptions to Attorney Lewis’s statement. Attorney Kraft said the code cited only applies to counties/communities that have commitment zoning in their zoning ordinance. Discussions ensued, which included why Clarksville had not started the annexation process already. Commissioner Glover asked if the Petitioner had any other comments. They did not. Commissioner Sellers said she too wondered why Clarksville had not been proactive regarding this property. Commissioner Glover confirmed the Petitioner had completed their presentation.

Commissioner Glover said the public hearing remained open, and asked if anyone was in attendance to speak in support of the rezoning request. There were none. Commissioner Glover said he would proceed with the sign-in sheet for those opposing the proposed zoning. First up was Jana Luallen.

- 8) Jana Luallen, 6718 Cedardale Drive, Sellersburg. No written comment was submitted. Ms. Luallen said personally, her main concern was to not use Cedardale as an entrance to the development. This has been resolved. However, there is a much larger issue, as Mr. Kraft mentioned, that being growth and development. First, living in the area, we need to develop, before we grow, and not vice-versa. Traffic is a big concern for her area. For example, a month ago she attended a meeting at RMC, which according to Google Maps is 1.8 miles and 5 minutes from her

home. It took over 20 minutes and this was on a Thursday evening. Traffic is always backed up on 311, and at times, all the way to County Line Road. The infrastructure is not there to support an additional 312 apartments with 1-2 cars each. A gentleman added there is no development/plans to widen Highway 311 to 4 lanes. Ms. Luallen agreed, and stated those residing in Plum Creek and Meyers Grove have a terrible time to make a left turn into their neighborhood. Also, she wishes the School Board would give input, as schools are being built, and no accommodations are being made for transportation. She requested the Commissioners say no, until infrastructure improvements are made.

9) Bob Stotts, 126 Meadow Drive, Sellersburg. Mr. Stotts is the HOA President for Deer Run. Mr. Stotts presented a Petition (Exhibit 5) with over 700 petitioners, and comments in opposition to the proposed development. The biggest thing, apartments are already being built all the way down Charlestown Road (Hwy. 311) toward Silver Creek. Once these are fully populated, the traffic will be ten times worse. His biggest concerns are with safety and infrastructure. Denton Floyd made a petition to the Clark County Commissioners because the County allows for 3-story structures, and Clarksville does not. The proposed apartments will be high and obtrusive. Although they say there will be no Section 8, three years down the road that may change. Although, he is okay with the new patio home development nearby, the apartments are just too much. The area needs infrastructure and safety improvements. Please vote no.

10) Carrie Hilton, 207 Deer Creek Drive, Sellersburg. No written comment was submitted. Ms. Hilton thanked the Commissioners for their service. While she respects the Petitioner's rights, she is requesting the current R-2 zoning be kept, because it is consistent with the surrounding zoning, which is lower density, residential single-family homes. As others have mentioned, the water run-off, traffic, and schools are already inadequate for the current population. Also, other large apartment complexes are nearing completion. If the Board agrees to re-zone to R-4, which she finds extraordinarily inadvisable, she would humbly ask the setbacks for the land abutting the single-family residential be increased by another 35 feet. Also, limit the

height to two stories. After noting other concerns, she said her preference is to continue with the R-2 zoning. Please say no.

11) Nathan Wolf, 6706 Cedardale Drive, Sellersburg. Mr. Wolf presented a copy of his concerns (Exhibit 6), which he previously submitted. He emphatically agrees with the three previous speakers (Luallen, Stotts, and Hilton), and does not want to spend a lot of time repeating. The traffic is unbearable. You cannot make a left-hand turn unless you wish to give up your life. Right hand turns are not very easy as well. There is a traffic light at the CVS and Hwy. 311, where you can easily set through two signals. He provided additional examples of traffic delays, and heavy congestion. Highway 311 is a limited two-lane road, which cannot handle current, much less additional traffic. He urged the Commissioners to vote no.

Commissioner Glover said there were three more speakers. Next was Lisa Brown.

12) Lisa Brown, 7525 County Line Road, Sellersburg. No written comment was submitted. Ms. Brown said she has been there about 20 years, and before that she kept horses out in that area, which was typically farm area. This has been a safe, low key, single residence area. The key is to maintain the area as such. Not only for home values, but health and safety. The traffic is unbearable. There are no sidewalks on Charlestown or County Line Road. She took pictures last night, and said you could not see the end of traffic from Hwy. 60 towards County Line Road. She agrees with everyone behind her, and hopes the Board votes no.

13) Dylan, Dawn, Danielle and Devan Starkey Family, 6711 Cedardale Drive, Sellersburg. Mrs. Starkey provided a copy of the email she had sent to the Board (Exhibit 7). Mr. and Mrs. Starkey were in attendance. Mrs. Starkey told of an incident recently at the Walgreens. A young lady went into the store, the interior of her car caught fire, and was parked near propane tanks. Fortunately, the fire department arrived and put out the fire, before the entire car blew up. This incident could have been devastating to the people inside Walgreens, anyone nearby, or in congested traffic. Mr. Starkey added, given the last couple of years, the future will always be sort of

up in the air. He has noticed that developers have several projects ongoing in Clark County, Floyd County and surrounding areas. This particular project is directly behind his property, and he would hate to see it started, and never completed.

Commissioner Glover said the last speaker signed up is Tonna Prince.

14) Ms. Prince (7522 Eagle Ridge Drive, Sellersburg) thanked the Board for letting everyone come in and voice their opinions. She had not done this before, but there is a first time for everything. What she was going to talk about, others have already covered. She concurred the infrastructure in the area is horrible. The junction of Highway 60 and Highway 311 comes to a complete standstill. So much so, that after work she'll stop in Jeff or go to New Albany for groceries. She is spending her money elsewhere to avoid the Sellersburg traffic. However, she would like to talk about the Eagle Ridge and Deer Run subdivisions. A creek behind those follows the nature reserve. She has lived in her home for 21 years, and in that time the water has come a foot over her property line one time. That was when Meyer Manor apartments were being built. That is a higher elevation, so where will the water go, if the apartment development is built. She gave other examples of flooding issues. She asked the Board to vote no, and take into consideration how this will affect a lot of people.

Commissioner Glover said he appreciates everyone for being cordial, respectful of everyone's time, and keeping the fever pitch down to a minimum. He asked if there was any more public comment, for or against, the proposed development. There was none. Commissioner Glover closed the public hearing.

Commissioner Glover asked Auditor Yost what the Ordinance No. was. Auditor Yost responded 17-2022. Commissioner Glover said Ordinance No. 17-2022, An Ordinance Approving An Amendment to the Clark County Zoning Map Without a Recommendation by the Clark County Plan Commission, is the matter at hand. Commissioner Glover said this was a re-zoning issue from B1/R2 to R4 multi-family, and he would entertain a motion to approve Ordinance 17-2022.

Commissioner Coffman made a motion to approve Ordinance No. 17-2022, as presented. Commissioner Glover asked if there was a second. There was not. Commissioner Glover said the motion failed due to no second.

Commissioner Glover said he would entertain a motion to deny Ordinance 17-2022, An Ordinance Approving An Amendment to the Clark County Zoning Map Without a Recommendation by the Clark County Plan Commission. Commissioner Sellers made a motion to deny Ordinance 17-2022, An Ordinance Approving An Amendment to the Clark County Zoning Map Without a Recommendation by the Clark County Plan Commission. She based this upon the public safety and traffic, no sanitary sewers, and the County has no guarantee this will pass in Clarksville, and if not, the property would still be zoned incorrectly. Commission Glover seconded, and backed that up with he does not oppose any type of apartment building, but number one, it does affect the public health and safety in this area.

Commissioner Glover said there is a motion with a second on the floor to deny Ordinance No. 17-2022. Motion carried 2-1 to deny the zoning change. Commissioner Coffman opposed.

B. Humana New Case Document was presented by Karen Goodwell. She said this is a Standard Renewal, which has been reviewed by herself, Carolyn Steward of Assured Partners, and County Attorney Lewis. The policy is for those retirees 65 years and older. The employee cost will remain at \$55 per month. The County's share is \$235.27 for a monthly total of \$290.27. Commissioner Sellers made a motion to approve the Humana New Case Document as presented. Commissioner Coffman seconded. Motion approved 3-0.

C. EMA – Two Grant Fund Ordinances. Gavan Hebner of EMA, said the County had received two new grants through the State Homeland Security Grant: \$190,000 truck, trailer and mobile unit purchase, and \$91,000 for Drone Detection during special events. Commission Glover said there were two ordinances to be considered, those being: Ordinance No 18-2022, An Ordinance Establishing the Soft Target Protection Barrier Grant Fund (Fund 8242); and Ordinance No. 19-2022, An ordinance Establishing the Drone Detection Improvement Equipment Grant Fund (Fund 8244). Commissioner Sellers made a motion to approve Ordinance No. 18-2022, Fund 8242 the amount of \$150,000, as presented. Commissioner Coffman seconded. Motion approved 3-0.

Commissioner Sellers made a motion to approve Ordinance No. 19-2022, Fund 8244 the amount of \$91,000, as presented. Commissioner Coffman seconded. Motion approved 3-0.

D. Town of Clarksville – Petition to Cancel Property Taxes was next on the agenda. County Attorney Lewis, presented the Town of Clarksville – Petition to Cancel Property Taxes. Governmental entities are tax exempt The Attorney provided an overview of the process of transferring the property from taxable to tax exempt. As per the Petition, Exhibit A, three properties are now in the Town of Clarksville’s name. A motion was made by Commissioner Coffman to approve the Petition to Cancel Property Taxes, as indicated in the Petition, Exhibit A. Commissioner Sellers seconded. Motion approved 3-0.

III. Old Business: None

IV. Reports - Officeholder/Department Heads Present at Meeting

A. Auditor: None

B. Attorney: None

C. Highway Department:

Brian Dixon, County Engineer, presented the following:

Mr. Dixon said he received some drawings from the Town of Clarksville requesting the installation of a traffic signal at County road 311 (Charlestown Road) and Westmont. He was requesting guidance on how to proceed. Attorney Lewis, said that by law, an interlocal agreement is required between the Clark County Commissioners and the Town of Clarksville. The request must be placed before the Commissioners for approval, and reviewed by the County Engineer. Mr. Dixon said Clarksville was covering 100% of the costs.

D. Sheriff: The current jail population is 574. Commissioner Sellers asked how many federal inmates were being housed. The response was 99.

E. Elected Officials: None

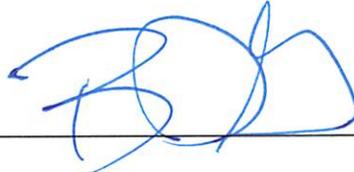
V. Other Business: None.

VI. Adjournment

Commissioner Sellers motioned to adjourn. Commissioner Coffman 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).

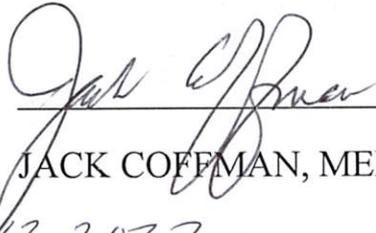
BOARD OF COMMISSIONERS OF
CLARK COUNTY, INDIANA



BRYAN GLOVER, PRESIDENT

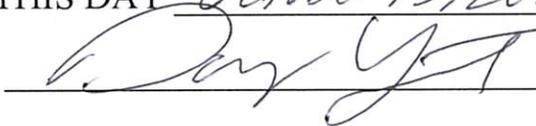


CONNIE SELLERS, VICE PRESIDENT



JACK COFFMAN, MEMBER

SIGNED THIS DAY October 13, 2022

ATTEST: 

DANNY YOST, CLARK COUNTY AUDITOR