

263

**MINUTES  
FOUNTAIN COUNTY COMMISSIONERS  
JULY 6, 2020  
8:30 A.M.**

**The following Fountain County Commissioners were present at the meeting:  
Craig Stalter, Don Hesler and Tim Shumaker.**

**PUBLIC COMMENT - NONE**

**MINUTES**

A motion was made by Don Hesler and seconded by Tim Shumaker to approve the Minutes of the June 15, 2020 meeting as presented. Vote: 3-0

**CLAIMS #1- 164 / Monthly Claims/ Payroll Claims**

A motion was made by Tim Shumaker and seconded by Don Hesler to approve the Payroll Claims. Vote: 3-0

**APPOINTMENTS - 2020**

A motion was made by Tim Shumaker and seconded by Don Hesler to appoint Rusty Peevler as **Superintendent of the County Highway** for the remainder of 2020. Vote: 2-1

**DEPARTMENT HEAD REPORTS**

**Highway – Rusty Peevler**

Throughout the storm the other day, there were a lot of trees down and high water. It has been taken care of. Chip and seal will be starting on Tuesday, July 7, 2020.

There is scrap at the County Highway Dept that has been there for years and is taking up space. A bid of \$250 has been offered.

**A motion was made by Don Hesler and seconded by Tim Shumaker to approve the bid of \$250 for scrap.** **Vote: 3-0**

He also brought up giving the 4 on-call employees extra pay, per year. The commissioners would like to consult with Addy and the surrounding counties to see what they do.

**Ambulance – Garth Kagels**

Garth's truck is having issues. It has no locks, electric windows or lights. They are thinking the motherboard went out. It has 161,000 miles on it, he is thinking about looking for a new truck.

They had 241 runs last month. One of the busiest months they have had. It has been a challenging couple of weeks. He is short 4 people. 2 on FMLA and more resigned. There has been a problem with their salary. The way it is written in the handbook, the more hours they put in, the less money they make per hour. Addy has come up with Modified half time credit. The change in salary will allow for an incentive to work more and not for less an hour.

**A motion was made by Tim Shumaker and seconded by Don Hesler to amend the existing policy on the EMS pay.** **Vote: 3-0**

**EMA -Joe Whitaker**

The schools were given PPE for the upcoming school year. The distribution of the PPE is yet to be determined.

**Landfill - Greg Robison**

Landfill is coming along. Dirt will be moved in today.

### **COVID-19 Response & Cares Act Reimbursement Program**

The Participant Coronavirus Relief Fund Acceptance Certification was submitted and Indiana Finance Authority Coronavirus Relief Fund Program acknowledged receipt of the form on June 29, 2020.

COVID-19 Response & Cares Act Reimbursement Counsel Agreement will be sent to Barnes & Thornburgh as they are going to be helping in the process of how to reimburse the county's invoices having to do with COVID-19.

A motion was made by Tim Shumaker and seconded by Don Hesler to approve the amount of \$2,500 to be paid to Barnes & Thornburgh for their assistance in this grant.

Vote: 3-0

The question was raised whether they can turn in the invoice from Barnes & Thornburgh to the CARES ACT Grant. Jake will be asked. CARES ACT is good until December 31, 2020.

### **Health Department – Kelly Thornburgh**

They would like to make Breanna Vaughn's position full-time until June 2021.

Her salary would be paid for by the grant. \$20,000 going towards insurance and the other \$30,000 as her salary. She will be signing a contract with the understanding that when the contract is up, she is not guaranteed a position.

A motion was made by Tim Shumaker and seconded by Don Hesler to approve the decision to make her Full Time until June of 2021.

Vote: 3-0

Go Fund Me needs to be tracked separately. The funds have to be handled properly through the County. She will need to work with the County Attorney and the Auditor on this.

### **Health Dept. – Kelly Fair Housing Ordinance 2020-7**

A motion was made by Don Hesler and seconded by Tim Shumaker to approve the Ordinance 2020-7

Vote: 3-0

A motion was made by Tim Shumaker and seconded by Don Hesler to suspend the rule to have to read the ordinance twice before amending.

Vote: 3-0

A motion was made by Don Hesler and seconded by Tim Shumaker to approve the amending of the Ordinance 2020-7.

Vote: 3-0

### **Fountain Co Jail Health Care Service Contract**

A motion was made by Don Hesler and seconded by Tim Shumaker to approve the Contract.

Vote: 3-0

### **Community Corrections – 2021 Grant Application Request**

A motion was made by Don Hesler and seconded by Tim Shumaker to approve the 2021 Grant Application.

Vote: 3-0

### **WABASH RIVER HERITAGE CORRIDOR COMMISSION**

Appointment term January 1, 2020 – December 31, 2021 for Robert Shepherd needs a replacement due to him resigning. Tim Shumaker is the alternate member currently.

A motion was made by Don Hesler and seconded by Craig Stalter to appoint Tim Shumaker to the Wabash River Heritage Corridor Commission.

Vote: 3-0

An alternate member has yet to be determined.

### **Transfer – E-911**

\$24,700 From 1222-0000-10206 Operator  
To 1222-0000-14000 Overtime

A motion was made by Tim Shumaker and seconded by Don Hesler to approve the \$24,700 transfer.

Vote: 3-0

**Additional Appropriation****RESOLUTION 2020-3****E-911: 5-year Motorola Software Upgrade Agreement****TABLED****Don Hesler**

He had a couple questions, first dealing with TMA and how much was overcharged in the error in calculation. The amount is around \$11,000 and the landowners that were affected have all received a credit on their Fall installment or a refund. New Bills were sent out with the corrected billed amounts.

He asked if the Auditor knew how much spendable money was left on the new jail project. Brenda did not know the exact total. Logan told the County that Glesko needed to be paid their monthly invoices since the insurance reimbursed the County for the damaged equipment.

The Auditor asked if it was possible to have a change order for the attorney fees to be reimbursed to the county from Glesko, since there was damage to the kitchen equipment.

**Roger Azar – Deckard Engineering**

He talked to Eric Haley from the Health Department about establishing Rules for Septic Design/how to install them. This may be coming down the line and he wanted to give the commissioners an update.

**LANDFILL** – The landfill project is going well. Ponds are in great shape and the NE cell is compacted.

**TUGGLE DRAIN** - The Commissioners gave the authority for Roger Azar to proceed with the assessment on the Tuggle Drain Tiles.

**NON-Disclosure Agreement for Fire Eye**

This goes along with cybersecurity agreement and was tabled until Kent Minnette has a chance to look over the agreement to see if this non-disclosure agreement is needed.

**THE NEXT MEETING WILL BE MONDAY,  
JULY 20, 2020 6:30 P.M.**



**ATTEST: Brenda Hardy  
Fountain County Auditor**



**Craig Stalter, President**




**Don Hesler**



**Tim Shumaker**

202001551 ORDC \$0.00  
 07/06/2020 11:25:31A 8 PGS  
 Nicole M Allen  
 Fountain County Recorder IN  
 Recorded as Presented



## Fair Housing Ordinance

### ORDINANCE 2020- 7

WHEREAS, in accordance with the Civil Rights Act of 1968, as amended, the Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9.5-1, et. Seq., the following provisions are necessary and appropriate to prevent discrimination in the area of housing because of race, color, religion, sex, handicap, familial status, or national origin:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS  
 OF FOUNTAIN COUNTY, INDIANA AS FOLLOWS:

#### Section 1 Policy Statement

It shall be the policy of the Fountain County Commissioners to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9.5-1 et. seq.

#### Section 2 Definitions

The definitions set forth in this Section shall apply throughout this Ordinance:

- A. Dwelling means any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one (1) or more families (I.C. 22-9.5-2-8).
- B. Family includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in subsection (H) of this Section.
- C. Person (I.C. 22-9.5-2-11), includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.
- D. To Rent (I.C. 22-9.5-2-13), includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises not owned by the occupant.
- E. Discriminatory Housing Practice means an act that is unlawful under Sections 4,5,6,7 or 8 of this Ordinance or I.C. 22-9.5-5.
- F. Handicap means, with respect to a person:
  - 1. a physical or mental impairment which substantially limits one or more of such person's major life activities.
  - 2. a record of having such an impairment, or
  - 3. being regarded as having such an impairment,
  - 4. an impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990.
  - 5. Any other impairment defined in 910 IAC 2-3.

The term 'Handicap' shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code and 910 IAC 2-3-2(14); nor does the term 'Handicap' include an individual solely because that individual is a transvestite 910 IAC 2-3-2(14).

G. An Aggrieved Person includes any person who (I.C. 22-9.5-2-2):

- 1. claims to have been injured by a discriminatory housing practice; or
- 2. believes that such person will be injured by a discriminatory housing practice that is about to occur.

H. Familial Status means one or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years (I.C. 22-9.5-1-2).

I. Commission (I.C. 22-9.5-2-3) means the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4, et. Seq.

J. Complainant (I.C. 22-9.5-2-4) means a person, including the Commission, who files a complaint under I.C. 22-9.5-6.

#### Section 3 Unlawful Practice

Subject to the provisions of subsection (B) of this Section, Section 9 of this Ordinance and Title 22-9.5-3 of Indiana Code, the prohibitions against discrimination in the sale or rental of housing set forth Title 22-9.5-5-1 of Indiana Code and in Section 4 of this Ordinance shall apply to:

- A. All dwellings except as exempted by subsection (B) and Title 22-9.5-3 of Indiana Code.
- B. Other than the provisions of subsection (C) of this Section, nothing in Section 4 shall apply to:
  - 1. Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single-family house by a private individual owner not

residing in the house at the time of sale or exemption shall apply only to one such sale within any twenty-four (24) month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempted from the application of this section only if such house is sold or rented:

- a. without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person and
  - b. without the publication, posting or mailing, after notice of advertisement or written notice in violation of Section 4( C) of this Ordinance, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title, or
  2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner actually maintains and occupies one of such living quarters as his residence.
- C. For the purposes of subsection (B), a person shall be deemed to be in the business of selling or renting dwellings if:
1. They have, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or
  2. They have, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or
  3. They are the owner of any dwelling unit designed or intended for occupancy by or occupied by five (5) or more families.

#### **Section 4 Discrimination in the Sale or Rental of Housing**

As made applicable by Section 3 and except as exempted by Section 3(B) and 9, it shall be unlawful:

- A. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.
- B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or the provision of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.
- C. To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.
- D. To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- E. For-profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin.
- F. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:
  1. that buyer or renter;
  2. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
  3. any person associated with that person.
- G. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:
  1. that person; or
  2. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
  3. any person associated with that person.
- H. For purposes of this subsection, discrimination includes:
  1. a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;
  2. a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

3. in connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1998, a failure to design and construct those dwellings in such a manner that;
  - a. the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
  - b. all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
  - c. all premises within such dwellings contain the following features of adaptive design:
    - i. an accessible route into and through the dwelling;
    - ii. light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
    - iii. reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and satisfy the requirements of paragraph (3) (C)(iii).

Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals whose tenancy would result in substantial physical damage to the property of others.

#### **Section 5    *Discrimination in Residential Real Estate-Related Transactions***

A. It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

B. As used in this section, the term residential real estate-related transaction means any of the following:

1. The making or purchasing of loans or providing other financial assistance:
  - i. for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
  - ii. secured by residential real estate.
2. The selling, brokering or appraising of residential real property.

C. Nothing in this Ordinance prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

#### **Section 6    *Discrimination in the Provision of Brokerage Service***

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin.

#### **Section 7    *Interference, Coercion, or Intimidation***

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 3, 4, 5 or 6 of this Ordinance.

#### **Section 8    *Prevention of Intimidation in Fair Housing Cases***

Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

- A. any person because of his race, color, religion, sex, handicap, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or
- B. any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:
  1. participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (A); or
  2. affording another person or class of persons opportunity or protection so to participate; or
- C. any citizen because he is or has been or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

#### **Section 9    *Equal Access to Housing in HUD Programs***

Pursuant to 24 CFR Part 5.403 and 24 CFR Part 574.3, the definition of "family" is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

#### **Section 10 Exemptions**

- A. Exemptions defined or set forth under Title 22-9.5-3 et. seq. of Indiana Code shall be exempt from the provisions of this Ordinance to include those activities or organizations set forth under subsections (B) and (C) of this Section.
- B. Nothing in this Ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Ordinance prohibit a private club, not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.
- C. Nothing in this Ordinance regarding familial status shall apply with respect to housing for older persons. As used in this Section, 'housing for older persons' means housing:
  - 1. provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist an elderly person (as defined in the state or federal program) or;
  - 2. intended for, and solely occupied by, person 62 years of age or older; or
  - 3. intended and operated for occupancy by at least one person 55 years of age or older per unit.

#### **Section 11 Administrative Enforcement of Ordinance**

- A. The authority and responsibility for properly administering this Ordinance and referral of complaints hereunder to the Commissioner as set forth in subsection (B) hereof shall be vested in the Fountain County, Board of Commissioners of Fountain County, Indiana.
- B. Notwithstanding the provisions of I.C. 22-9.5-4-8, Fountain County Board of Commissioners of Fountain County, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the Ordinance, herein elects to refer all formal complaints of violation of the articles of this Ordinance by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to Title 22-9.5-6 of Indiana Code and the Board of Commissioners of Fountain County, Indiana, shall refer all said complaints to the Commission as provided for under subsection (A) of

this Section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under Title 22-9.5-6 of Indiana Code.

- C. All executive departments and agencies of Fountain County, Indiana, shall administer their departments, programs, and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Ordinance and shall cooperate with the Fountain County Board of Commissioners and the Commission to further such purposes.
- D. The Fountain County Board of Commissioners of Fountain County, Indiana, or the Board of Commissioner's designee shall provide information on remedies available to any aggrieved person or complainant requesting such information.

#### **Section 12 Severability of Provisions**

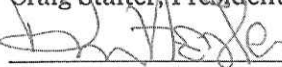
If any provision of this Ordinance or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the Ordinance and the application of its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

#### **Certification of Adoption**

IT IS FURTHER ORDAINED that this ordinance shall be effective upon adoption.  
Adopted this 6<sup>th</sup> day of July 2020.

A MAJORITY OF THE  
FOUNTAIN COUNTY BOARD OF COMMISSIONERS

  
Craig Stalter, President

  
Don Hesler, Vice President

  
Tim Shumaker, Secretary

Attest:   
Brenda Hardy, Auditor

J. Kent Minnette, Indiana Attorney No. 21362-45, Taylor, Chadd, Minnette, Schneider & Clutter, P.C., 214 4th Street, Covington, Indiana 47932, (765) 814-2001, prepared this instrument.

I, J. Kent Minnette, affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

\_\_\_\_\_  
J. Kent Minnette