

REGULAR SESSION MINUTES

LOGANSPORT BOARD OF PUBLIC WORKS AND SAFETY

Wednesday, July 14, 2021

9:30 AM – City Council Chambers

CALL TO ORDER: Mayor Chris Martin called the meeting to order at 9:30 a.m.

PLEDGE OF ALLEGIANCE: The pledge was recited in unison.

ROLL CALL: Duane Ullom, Clerk-Treasurer

PRESENT: Mayor Martin, Jacob Pomasl, Lisa Terry.

ATTORNEY PRESENT: Kelly Leeman.

MEDIA: Karen Stearns.

OTHERS PRESENT: Danielle Terhune, Rick Bair, Travis Yike, John “Tony” Shanks, Jeff Stanton, Ed Schroder, Jan Fawley, Madyson Clem, Richard Gundrum, Bill Bauman, Bob Bernhardt, Scott Peattie, Dahrol Perry, Randy Ulery, Rob Rennewanz, Dave Kitchell, Shae Tocco, Jennifer Burton, Jeff Burton.

APPROVAL OF MINUTES: Minutes of the July 7, 2021 Meeting

Motion: to approve the Minutes from July 7, 2021, as presented **Action:** Approve, **Moved** by Jacob Pomasl, **Seconded** by Lisa Terry. Motion passed unanimously.

APPROVAL OF CLAIMS:	\$490,452.44	Including:	Claims	\$35,872.37
			Payroll	\$243,851.07
			Trash Claim	\$100,729.00
			Ordinance 2021-15	\$110,000.00

Motion: to approve the claims as presented, **Action:** Approve, **Moved** by Chris Martin, **Seconded** by Jacob Pomasl. Motion passed unanimously.

PUBLIC COMMENT:

OLD BUSINESS:

NEW BUSINESS:

- Contracts/Agreements

- McGrew's Well Drilling, Inc

Jan Fawley

Duane stated he believes this is for the drilling out at the old pavilion at Dykeman because of the water lines being cut. Mayor Martin asked if this was coming out of her budget. Duane confirmed.

Motion: to approve the Contract/Agreement for McGrew's Well Drilling Inc. as presented, **Action:** Approve, **Moved by** Chris Martin, **Seconded by** Jacob Pomasl. Motion passed unanimously.

- July 4th Letter of Appreciation

Danielle Terhune

Danielle came forward to present her letter of appreciation. She stated she began writing the letter to her fellow employees but realized she needed to thank everyone that was part of that day. She stated it takes a lot of people to put on 4th of July. She wished to thank all of the board for answering questions, taking her calls, and helping her through her first non-pandemic July 4th. She stated she is hopeful next year will be easier, unless she comes up with other hair-brained activity to have. Danielle expressed her biggest thank you is to her right-hand gal, Shae Tocco. She is Danielle's summer assistant. Without her hard work, dedication, and good memory, Danielle would not have been able to pull the day together. Danielle wished to thank everybody for all their help. The board also thanked Danielle and stated it went well.

- Electrical License
 - Michael P Baker d/b/a/ M.P. Baker Electric

Mayor Martin

Motion: to approve the Electrical License for Michael P Baker, d/b/a M.P. Baker Electric as presented, **Action:** Approve, **Moved by** Chris Martin, **Seconded by** Lisa Terry. Motion passed unanimously.

- Noise Permit Request

Jennifer Burton

Jennifer and Jeff Burton came forward. Mayor Martin read through the request for a band outside Burton's Bungalow, in the parking lot, for a benefit ride for Kelly Franklin and Lisa Palmer on July 17, 2021 from 6-10 p.m. Jennifer confirmed. Mayor Martin asked her how the last benefit went. Jeff stated it went really well and inquired if there were any complaints. The mayor answered they received no complaints. Jennifer and Jeff both stated they had not received any complaints either.

Motion: to approve the Noise Permit Request for July 17, 2021 from 6-10 p.m. at Burton's Bungalow as presented, **Action:** Approve, **Moved by** Chris Martin, **Seconded by** Jacob Pomasl. Motion passed unanimously.

- Fire Department
 - Monthly Report – June 2021

Rick Bair

Chief Bair came forward. Highlights from the Fire Department June 2021 monthly report include 117 alarms, 0 structure fires, 10 false alarms, 1 vehicle fire, 5 trash fires, 73 First Responder calls, 1 vehicle extrication, 2 water rescues, 2 Haz Mat calls which was oil dry from a vehicle accident, 7 service calls, 6 smoke or odor calls, and 10 motor vehicle accidents. He stated there were also 7 medical transports utilizing the ambulance

Motion: to approve the Monthly Report for June 2021, for the Fire Department, **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Lisa Terry. Motion passed unanimously.

Police Department

Travis Yike

- Monthly Report – June 2021

Chief Yike came forward. Highlights from the Police Department June 2021 monthly report include 29,421 miles driven, 911 calls for service, 96 arrests, 43 citations, 31 warnings, and 256 traffic stops

Motion: to approve the Monthly Report for June 2021, for the Police Department, **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Jacob Pomasl. Motion passed unanimously.

- Street Department

Tony Shanks

- Monthly Report – June 2021

Tony came forward to present highlights from the Street Department June 2021 monthly report. Highlights include 199 brush loads picked up, 35 brush loads to the compost site by a contractor, 6 emergency call outs with 5 being trees down, 87.96 tons of sweepings removed, 2 property clean ups, 90 hours spent cleaning out catch basins, 94.5 hours spent filling potholes, 136.29 tons of gravel used in alleys, 15 properties mowed due to violations, 192 hours spent painting, and 5 loads of mulch and 6 loads of compost were brought to the Street Department for community use.

Motion: to approve the Monthly Report for June 2021, for the Street Department, **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Jacob Pomasl. Motion passed unanimously.

- Dumpster Request
 - 1007 High Street, on street, in front of house

Tony commented the only place to put the dumpster is in front of the house.

Motion: to approve the dumpster request for 1007 High Street, **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Lisa Terry. Motion passed unanimously.

Motion: to add the Application for Curb/Street Cut for Geotech work at 418 4th Street
Action: Approve, **Moved by:** Chris Martin, **Seconded by:** Lisa Terry. Motion passed unanimously.

Tony stated he believes this is boring where they are doing the construction at. Mayor Martin asked if this was for the signal bridge. Tony confirmed. He stated the work will be performed past the barricades where there is no traffic or a bother to anybody. Mayor Martin communicated he is glad this is getting going.

Motion: to approve the Application for Curb/Street Cut for 418 4th Street, **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Jacob Pomasl. Motion passed unanimously.

- Application for Curb/Street Cut
 - Street Cut on 4th Street, North of High Street, Requested by Cass County

Tony acknowledged Jeff Stanton was present. Mr. Stanton, Sherriff Ed Schroder, and Richard Gundrum, the Superintendent of the County building came forward to join Tony. Mr. Stanton acknowledged the submitted material, included the original application for curb/street cut as well as a supplement he shared with Kelly Leeman on Monday. Yesterday he sent to Mr. Shanks and others a couple of renderings they received yesterday afternoon from their engineer for a specific drawing on the request for street cut. Mr. Stanton explained as they are substantially expanding the Cass County jail. He stated they were in a position, basically forced, legally to expand the jail due to the requirements of having substantial overpopulation. As a result of that, they have lost the parking space on the north side of the jail and Sherriff's Department. He stated the county constructed a parking lot along the north side of High Street which basically parallels High Street. They are here today relative to access to 4th Street. Many people recognize the access point where the County is applying for the street cut as what is identified as a park north of 4th Street. It is not dedicated as a park. On the plat book at the Cass County Courthouse with the Recorder and Auditor it is identified as a street and he attached that information with the material provided. In addition to that, they provided one ariel photo. Mr. Stanton stated he has been in Logansport for 30 years and that area was used for parking in both directions as depicted in the picture from 1968. Since that time, at some time it was converted from that and put as a green space but never been modified in any way on the records with the recorder or the auditor. They are requesting the street cut there. They submitted a couple of renderings for consideration by the Board of Public Works. One of them goes straight onto the 4th Street extension north of High Street. The other one curves around and maintains the green space to the north of the drive. If they are able to have that access point and utilize that rendering as a street cut that would preserve approximately 70-75% of the green space or what is referred to as the park north of the access point. He said he did provide Mr. Leeman with some legal authority that supports the proposition that if you have property adjacent to a street, then you have the right to utilize that street for purposes of egress or ingress onto your property. He said this is kindly referred to as the Pizza Hut case and attached Pizza Hut versus Muncie and Muncie versus Pizza Hut on appeal. In this particular case they are not trying to, in any way, keep the park from being in existence. They are wanting to utilize a small portion of it for egress and ingress and they would also, with authority to

comment from the commissioners, that the city could utilize the parking adjacent to the egress and ingress point for purposes of access to the park. Right now, there is no parking there for the trailhead and no parking available for the utilization of that spot. In fact, when the jail is completed, the improvements are completed, they will lose several parking spaces along 4th Street. That is basically the reason they came today. They do not want to take most of the integrity of the park. They just want to have access to 4th Street. He is of the opinion that the Indiana Court of Appeals suggest they can do this. He acknowledged the most recent rendering. Duane commented if it is the one that was sent yesterday, they do not have that to show. Mr. Stanton said it is the more specific and most least restrictive of the access points because they curve it around. Jacob asked if the picture displayed on the mondo pad was or was not the most recent. Tony asked Jacob if he had seen the picture and then brought it to him to view. Mayor Martin communicated he would say regardless of whether it is a park or not, it is still a city street. Ultimately this is their decision. He stated he feels like there is a failure of leadership, none with the present bodies at the meeting, but a failure of leadership somewhere. Especially because of leaping with legal language and pursuit of a curb cut. He communicated they have talked with the commissioners' multiple times, a commissioner, and he acknowledged this is something they are very adamant about, keeping what it is. They are not going to approve it and that is what he means by a failure of leadership. It is a simple conversation or phone call or email. That is all it takes from the leadership that is supposedly there in the county. This is absolutely ridiculous to send the Sherriff, the attorney, and a county councilmember, whom the mayor respects all three of, to come to this meeting when in reality it was a commissioner who has led this charge. Again, failure of leadership, absolutely, and in fact an insult to this administration. He voiced his feeling of being sick of it. He apologized to all of them up there today because this is not geared toward them but there is a failure of leadership and the mayor will not take it any longer. Mayor Martin stated he is furious that this has happened and cannot believe the letter was sent from the attorney for something like this. He communicated the city attorney is now present and guided Mr. Stanton to converse with Kelly if this is something the county wants to pursue. Mayor Martin communicated this being brought to the Board of Works and the Council being unaware. Mr. Leeman explained, Richard is the Superintendent of the building, not a councilman. Mayor Martin apologized in thinking he was a council member. Mayor Martin stated this was discussed last year and recognized then that they were not going to do this, and here we are. Jacob asked Lisa if she had seen the updated picture sent yesterday. Lisa confirmed she had. Mr. Stanton wished to say, he takes his orders from the commissioners and he has the Sherriff who is the county officer, as it relates to the jail and the Sherriff's Department, and Mr. Gundrum who is the person responsible for all buildings and grounds on the County. Mr. Stanton stated, from a legal standpoint there is a procedure that has to be pursued from the commissioner's perspective to bring it to this Board, this body, on the cut; because from an administrative standpoint, this is the true procedure that had to be followed for requesting the street cut. He acknowledged his respect of the boards authority to deny it. He is not suggesting they do not, he is suggesting the way to get to the point, if the county makes the determination that they want to take legal action, in his professional opinion, they have to follow administrative remedies first. If the administrative remedy is denied, in which he anticipates it will be, there is an administrative process that has to be followed before any other action can be taken. The question he has for the board is if the board makes the decision to deny the request for the street cut, from an administrative

process, is the appeal process then to the City Council at that point. He said he read the ordinance and the ordinance allocates the authority to this decision to the Board of Public Works. As far as an administrative remedy, who would that go to. He stated he can communicate this with Kelly. He stated he wants to make sure he has done the right thing if the commissioners decide to go further with this. Mayor Martin advised any discussion after today should be taken up with Kelly. Then Kelly can guide us on the direction we need to go. He said he thinks this is a bigger deal than just a curb cut. This should involve the Parks Department, the City Council, Parks Board, the Street Department, and other people than just the three board members to make this decision. Jacob communicated he feels they knew this might be more controversial, having everybody show up this time. This is the procedure to go through. He stated, as much as he likes hearing from Mr. Stanton, if it leads off with a letter from the attorney, it doesn't make you feel the best about it. He acknowledged they were not here for a lot of the history on it. They know it previously had tried to be vacated and it failed. They know there was some opposition on this from City Council and obviously some compromise in this one. This is a heck of a street cut to opening it up to a street. It is a bit different. He stated he wished it would have been handled in a slightly different way. Mr. Stanton stated he was just doing his job. Jacob concurred, stating Kelly would do the same thing. Jacob expressed this is more of a hot button issue than a normal street cut would be. There are bunch of stakeholders involved, although they say it is not officially a park, which it may not be. He communicated the Parks Administrator is there and is not sure how she feels, but this is something they should take consultation of the Parks board. Ultimately, there are several members of the City Council when it came up the time before that are still on there. We do not want to backdoor them and say they gave up the park for a street cut, which is a driveway. Jacob asked if this request was approved, when would the work begin. Mr. Gundrum stated the plan is for the asphalt to begin in the next month. He explained the County would like to get all this included, so they would not have to pay extra next spring. They have been pushing this to occur so they can get the streets open due to it being a safety issue. They are going to be doing High Street and 4th Street and doing sidewalks and such. He would like to get this all tied in together. Mr. Stanton asked Mr. Gundrum to speak to the safety issue here. Mr. Gundrum stated he was involved in going to meetings when they first started talking about the jail. There are 92 counties and 91 jails in the state. Over half of them are being renovated currently. It was not the Commissioners, it was not anybody's decision. We were mandated. One of the first things I noticed in the primary drawings when I looked at the plans in the area where Burns Tavern used to be. Parking in the area is at a premium now. When it was first drawn, it was going out the east and west. The west intersection scares him. He has been there with the sheriff. It is a blind spot off of 3rd Street where people are turning in there. They are going to be funneling all this traffic through there. He would like to see it opened up. They are going to be having people going in and out. There could be an additional 300 patrons in the jail. They need the parking and with the safety aspect, he feels it needs to be opened up to the east. Mayor Martin agreed with him. Tony spoke up to ask if they plan to grind and repave and fix all of 4th Street or only what they tore up. Mr. Gundrum stated he did not know the answer to that. Tony said he did not want it just patched since it was just repaved two or three years ago. High Street was open about six-weeks and then it got shut down. He would like to see both streets completely repaved, because they were in really good shape. Jacob spoke up to say that when they decide to take a vote on it, it probably will not go through today. Whether it gets denied or not, he believes there are areas

where the City and County can collaborate on this project. He understands Mr. Stanton has to go through the administrative processes. But he would urge him to deliver the message to his bosses that there are a lot of things that can be discussed about that area. Then hopefully we can come up with some solutions through real conversations instead of letters and administrative procedures. Like Tony said, there needs to be communication on that and on what the City would like to see done there. I respect what you say about safety concerns, I think it makes sense. But getting buy-in on it before you come for a street cut might be nice. There is still time in your plans to work through some of this. We can work on what Tony has asked for. Maybe we just have some conversations. Jacob stated he is free on Friday to have a conversation with any of the commissioners that want to talk. Mr. Stanton stated he would try to get the commissioner to communicate with Jacob to discuss these issues. Jacob said he would be the person for them to communicate with. He feels they have time to coordinate together on this project and it makes sense to do so. He feels this was not the correct approach for working through this issue. He understands there are procedures, but he thinks there are opportunities for closing out this project and getting what everyone wants. Sheriff Schroder stated he understands his position. He wanted the BOW to know he and Mr. Gundrum were brought along in case there were any questions regarding the construction and development and the position they were in. He wanted to say they were not here to strong arm anyone, they were here as a resource in case there were questions they could answer. Lisa stated she thinks it would have been nice to have had these discussions earlier. She feels this is the frightening part, that this is what we have come to. She would like to see the City and County work together. She would like there to be communication before it comes to what this looks like. She would like to have open and honest communication going forward. Jacob asked Kelly what they should do. Kelly advised they table it for two weeks.

Motion: to table the Application for Curb/Street Cut for 4th Street north of High Street until July 28, **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Lisa Terry. Motion passed unanimously.

- City/Street Closure Requests

- Cass County Carousel – Carousel Fun Day, 8/28/21, 8 a.m.-8 p.m.

Tony stated this is a request by the Carousel for their Carousel Fun Day, which they have had for three or four years now. He has no issues with it. He takes it they have Travis working on the police officers needed. Travis confirmed he had spoken with them and they are using Carousel money to pay the officers. Lisa asked for confirmation of no elephants this year. Tony confirmed no elephants.

Motion: to approve the City Street Closure Request for the County Carousel – Carousel Fun Day, 8/28/21, 8 a.m.-8 p.m., **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Jacob Pomasl. Motion passed unanimously.

- Dutch Mill – Dutch Mill Bike Ride, 8/14/21, 2 p.m.-1 a.m.

Tony asked if there was a noise ordinance request attached to the application. Mayor Martin confirmed there was one present. Tony stated he was fine with the street closure since it was only for a block. It would only cause people to go a block out of their way.

Motion: to approve the City Street Closure Request for Dutch Mill – Dutch Mill Bike Ride, 8/14/21, 2 p.m.-1 a.m., **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Jacob Pomasl. Motion passed unanimously.

Mayor Martin made a request to add the noise ordinance request to the agenda.

Motion: to add the noise ordinance request for to the City Street Closure Request for Dutch Mill – Dutch Mill Bike Ride, 8/14/21, 2 p.m.-1 a.m., **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Lisa Terry. Motion passed unanimously.

Lisa Terry stated they have Grace Scott and Brant Carmicheal playing at the event. Mayor Martin asked Lisa and Jacob what they thought about the request. Both agreed it was fine.

Motion: to approve the noise ordinance request for to the City Street Closure Request for Dutch Mill – Dutch Mill Bike Ride, 8/14/21, 2 p.m.-1 a.m., **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Lisa Terry. Motion passed unanimously.

- Code Enforcement
 - Weekly Report

Randy Ulery

Randy came forward. He stated in the weekly report there were 24 violations issued, with 22 cleared, with none being cleared by the City. He tagged 2 vehicles, with 7 being cleared by the owners, none being towed by the City. There were 18 first notices on mowing sent out, 13 were cleaned by the owner, with 2 mowed by the City. There was one second notice sent out with one cleared by the property owner. Four second notices were mowed by the City. There were 10 notices to appear issued this week. Mayor Martin commended Randy on the great job he was doing.

Motion: to approve the Code Enforcement weekly report, **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Lisa Terry. Motion passed unanimously.

BOARD MEMBER COMMENTS:

Mayor Martin concurred with Lisa's earlier comments on working with the County. He feels we can get along; we just need to communicate. Lisa stated this could have all happened weeks ago because the County has known about it. Mayor Martin stated we can all agree to disagree. He feels communication is important.

Kelly stated he had an issue to discuss. The legal counsel that is representing the City in the opioid litigation stated there is a proposed settlement in the bankruptcy proceedings for one of the companies, Perdue. The counsel needs the City's approval to say they are in favor of the approval of the plan. It is Kelly's recommendation the Board of Works agree to the approval of the plan. He explained the plan is 20 to 30 pages long. He needs the Board of Works' approval for the counsel to approve the proposed plan. The case is Perdue Pharmaceutical 19-23.649,

filing for Chapter 11 Bankruptcy. Lisa stated she would like to see what she is voting on, but if it is Kelly's recommendation she realizes she is voting blindly. Jacob asked when they needed the notification for the approval. Kelly stated it was needed today.

Motion: to add the approval for the opioid litigation settlement to the agenda, **Action:** Approve, **Moved by:** Jacob Pomasl, **Seconded by:** Chris Martin. Motion passed unanimously.

Kelly handed to the Mayor the confirmation statement that needed to be signed and returned today. Mayor Martin indicated the initial lawsuit had been started by Mayor Kitchell and other mayors throughout the state. He invited Mayor Kitchell to come forward to explain the lawsuit. Mayor Kitchell came forward to come explain this suit is an effort of Ice, Miller, Donato, and Rhine of Indianapolis to consolidate all the counties and cities and municipalities on the opioid settlement with Perdue Pharma. He added Perdue Pharma has filed for bankruptcy. This suit is not the attorney general's suit. This is a piece of the entire suit that has been ongoing for the last couple of years and will probably continue for a number of more years. Kitchell explained that in doing this, the City is out nothing, they can only gain from it. It would help fund the police, the jail and the sheriff's department eventually.

Motion: to approve the opioid litigation settlement approval, **Action:** Approve, **Moved by:** Chris Martin, **Seconded by:** Jacob Pomasl. Motion passed unanimously.

MISCELLANEOUS BUSINESS AND ANY MATTERS NOT ALREADY CONSIDERED INCLUDING ADA SECTION 504 COMPLIANCE OR CONCERNS:

ADJOURNMENT:

Motion: to adjourn the meeting at 10:15 a.m., **Action:** Adjourn, **Moved by:** Chris Martin, **Seconded by:** Jacob Pomasl. Motion passed unanimously.



Chris Martin, Mayor



Duane Ullom, Clerk-Treasurer

Audio and video recorded on 7/14/2021