

OCTOBER 18, 2021

REGULAR SESSION

The LaGrange County Commissioners met in Regular Session on Monday, October 18, 2021, in their meeting room, County Office Building, 114 W. Michigan Street, LaGrange, Indiana, 46761, at 8:30 a.m., with the following present: Commissioners, Mr. Terry Martin, Mr. Kevin R. Myers and Mr. Peter A. Cook; and LaGrange County Auditor, Kathryn Hopper. Mr. Terry Martin, President, called the meeting to order and led in saying the Pledge of Allegiance to the Flag. Mr. Kevin Myers made a motion to adopt the proposed agenda with flexibility. Mr. Peter Cook seconded the motion and it carried unanimously.

ORDINANCE AUTHORIZING ADVANCE PAYMENT PURSUANT TO CONTRACT WITH MARC TODD CONCRETE LLC

Mr. Kurt Bachman, County Attorney presented the following Ordinance:

COUNTY OF LAGRANGE
ORDINANCE NO. 2021-10-18 A

ORDINANCE AUTHORIZING ADVANCE PAYMENT PURSUANT TO CONTRACT WITH
MARC TODD CONCRETE LLC.

WHEREAS, the Board of Commissioners of the County of LaGrange ("Commissioners") is the purchasing agent on behalf of the LaGrange County, Indiana ("County");

WHEREAS, the Commissioners desire to enter into a contract with Marc Todd Concrete LLC ("MTC"), on behalf of the County Redevelopment Commission and of Lima Township of LaGrange County, for the paving of the Howe Volunteer Fire Department driveway;

WHEREAS, the terms of the MTC contract require partial payment in advance of MTC performing some of its obligations under the contract;

WHEREAS, pursuant to IC §§ 36-2-6-4 and -4.5, the Commissioners have adopted County Ordinance 2020-08-03-C to allow advance payments such that a claim against the County for the payment of goods and services stated in a separate ordinance may be allowed;

WHEREAS, a purchase made pursuant to IC § 36-2-6-4.5 is exempt from the requirements of IC 5-11-10 for the issuance of a warrant by the County's Auditor; *and*

WHEREAS, pursuant to IC § 36-2-6-4.5, the Commissioners shall review a claim at its next regular or special meeting following the preapproved payment of the expense.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE THAT:

SECTION I – ADVANCE PAYMENT

- A. Contract Approval. The Commissioners hereby approve the contents and form of the Independent Contractor Agreement with Marc Todd Concrete LLC ("MTC"), which is incorporated hereto by reference, for the paving of the Howe Volunteer Fire Department driveway on behalf of the County Redevelopment Commission and of Lima Township of LaGrange County (as stipulated, "Contract").
- B. Payment Approval. The Commissioners hereby approve, upon receipt of a proper invoice and in compliance with the terms of the Contract, then-immediate payment for performance of the first half of the Contract and advance payment on the second half of the Contract.
- C. Payment Authorization. The Commissioners authorize and direct the Auditor to implement an advance payment to MTC when proper pursuant to this ordinance. The Commissioners authorize its President and the Auditor to sign all papers and to otherwise take all action necessary or helpful to implement the advance payment.

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- D. Claim Allowance. The Auditor shall memorialize any actual advance payment of a claim made pursuant to this ordinance for Commissioner review and allowance at their then-next regular or special meeting following the actual advance payment.
- E. Records. The Commissioners direct the Auditor to keep records of the purchase on file for five (5) years from the date of the final advance payment made pursuant to the Contract.

SECTION II – MISCELLANEOUS

A. References.

- 1. Except where a specific version or edition is given, reference to another section of this ordinance or to a law, document, fund, program, department, employee, or public office, shall extend and apply to the same, as may be subsequently amended, elected, appointed, revised, recodified, renamed, renumbered, or relocated from time to time.
- 2. Reference in this ordinance to a public servant, department, commission, committee, board, or fund, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) LaGrange County (Indiana).”
- 3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy as well may do as the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.

B. Conflicts. No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize same.

C. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole, or any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.

D. Incorporated Materials. Two (2) copies of all materials incorporated by reference herein shall be on file in the office of the Auditor for public inspection.

E. Effective Date. This ordinance shall be effective immediately upon adoption.

Mr. Kevin Myers made a motion to approve the Ordinance. Mr. Peter Cook seconded the motion and it carried unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

EXECUTIVE SESSION

Mr. Peter Cook made a motion to set a Joint Executive Session for November 15, 2021, at 9:00 a.m. for the purpose of acquisition of property. Mr. Kevin Myers seconded the motion and it carried unanimously.

DEADWOOD HARVESTING LICENSE AGREEMENT

Mr. Kurt Bachman, County Attorney, presented an agreement between Dennis E. Yoder and the Board of Commissioners for the purpose of harvesting deadwood on the property located at 0825 E 550 S, Wolcottville, Indiana, also known as the Lambright property. Mr. Peter Cook made a motion that the dead timber is personal property. Mr. Kevin Myers seconded the motion and it carried unanimously. Mr. Kevin Myers made a motion that the dead and down timber is worthless property to LaGrange County. Mr. Peter Cook seconded the motion and it carried unanimously. Mr. Kevin Myers made a motion to approve the Deadwood Harvesting License Agreement; to be signed by the President. Mr. Peter Cook seconded the motion and it carried unanimously.

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RESOLUTION TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE INDIANAPOLIS HOUSING AGENCY TO PARTICIPATE IN THE HOOSIER HOMES

Mr. Kurt Bachman, County Attorney presented the following Resolution:

**COUNTY OF LAGRANGE
RESOLUTION 2021-10-18 B**

**RESOLUTION TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE
INDIANAPOLIS HOUSING AGENCY TO PARTICIPATE IN THE HOOSIER HOMES
PROGRAM**

WHEREAS, LaGrange County is a political subdivision organized and existing under the Constitution and State Law of Indiana, and

WHEREAS, LaGrange County seeks out independent agencies to establish a housing program which includes but is not limited to expanding single family home purchase options within its eligible jurisdiction, in an effort to support homeownership and the commitment to cultivating a thriving community; and

WHEREAS, the Indianapolis Housing Agency ("IHA") sponsors and administers the Indiana Housing Initiative ("Hoosier Homes Program") to provide a homeownership program with competitive HUD, Fannie Mae and Freddie Mac eligible mortgage loans and down payment and closing cost assistance towards the purchase of existing and newly constructed homes within Marion County, Indiana, for the benefit of qualified homebuyers, and

WHEREAS, IHA has invited LaGrange County to participate in its Hoosier Homes Program as a government sponsor to implement the program in LaGrange County; and

WHEREAS, pursuant to Indiana Code Section 36-1-7-2(b), Indiana governmental entities that only want to exchange services, supplies, or equipment between or among themselves may enter into contracts to do this;

WHEREAS, LaGrange County has the full legal authority to enter into an intergovernmental cooperative agreement with IHA, and that LaGrange County desires to delegate to IHA the authority to take such actions as may be necessary or convenient to make the Hoosier Homes Program available on its behalf within its jurisdiction; and

WHEREAS, LaGrange County desires to enter into a Cooperative Agreement with IHA with the High Performance Government Network d/b/a the Housing Resource Hub and Stifel Nicolaus & Company, as Administrators, with the condition that the Hoosier Homes Program does not create an administrative or fiscal obligation to LaGrange County, and that a revenue source will be due and payable to LaGrange County as mortgage loans are originated; and

WHEREAS, it is the recommendation of the Board of Commissioners of the County of LaGrange, Indiana ("Commissioners") to approve LaGrange County's participation in the Hoosier Home Program.

**NOW THEREFORE, BE IT RESOLVED THAT THE BOARD OF COMMISSIONERS OF THE
COUNTY OF LAGRANGE, INDIANA THAT:**

The Commissioners hereby authorize and direct LaGrange County employees and officials to execute and deliver the Cooperative Agreement attached hereto as Appendix A and to take such other actions as may be necessary or convenient to carry out and give effect to LaGrange County's participation in the Hoosier Homes Program.

Mr. Peter Cook made a motion to approve the Resolution. Mr. Kevin Myers seconded the motion and it carried unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

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REGULAR SESSION

ORDINANCE REPEALING PRIOR LAW AND ESTABLISHING NEW ADMINISTRATIVE PROCEDURES IN CONNECTION WITH THE VACATION OF A PUBLIC WAY OR PLACE

Mr. Kurt Bachman, County Attorney presented the following Ordinance:

**COUNTY OF LAGRANGE
ORDINANCE NO. 2021-10-18-C**

AN ORDINANCE REPEALING PRIOR LAW AND ESTABLISHING NEW ADMINISTRATIVE PROCEDURES IN CONNECTION WITH THE VACATION OF A PUBLIC WAY OR PLACE.

WHEREAS, pursuant to Indiana Code Section (“IC §”) 36-7-3-12, the legislative body of LaGrange County, Indiana (“County”) may vacate, upon petition and by ordinance and in accord with statutory procedures, a public way or place located in the County but outside the corporate boundaries of a municipality;

WHEREAS, pursuant to IC § 36-1-2-9, the Board of Commissioners of the County of LaGrange (“Commissioners”) is the legislative body of the County;

WHEREAS, pursuant to IC § 36-1-3-4, the Commissioners have all other powers granted it by statute and all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute;

WHEREAS, the costs incurred by the County including, but not limited to, time expended by County employees and the County Attorney in administering and reviewing a petition for vacation of a public way or place are a significant financial burden to the County; *and*

WHEREAS, the Commissioners desire to regulate the contents and procedures of a vacation proceeding and notice thereof in order to improve efficiency and to better serve the needs of all interested parties.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, INDIANA THAT:

SECTION I – NAME

The name of this ordinance shall be the “Vacation Petition Ordinance.”

SECTION II – DEFINITIONS

Whenever the following terms are used in this ordinance, they shall have such meanings herein ascribed to them unless the context clearly indicates or requires a different meaning.

- “Abut” means to border a property on any side, including diagonally, and with disregard to any intervening public right-of-way or utility easement or to any separation across a plat, section, or subdivision; provided, however, that no property shall be deemed to Abut another where the only abutment is via a lake.
- “Administrative Fee” means a fee charged pursuant to this ordinance to cover associated administration costs to review a Petition.
- “Petition” means the collective formal documents, the contents of which are as further provided in this ordinance, that are submitted to the Auditor in order to initiate the process to vacate a Public Way.
- “Petitioner” means any and all persons making a respective Petition; the term includes any attorney who provides representation on the matter on the Petitioner’s behalf.
- “Proposed Ordinance” means a proposed draft of a vacation ordinance that the Petitioner desires the Commissioners to adopt.
- “Public Way” means any public way or place that is the subject of a respective Petition.

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SECTION III – ADMINISTRATIVE FEE

- A. Findings. The Commissioners hereby find that:
1. the costs attributable to the administration and review of a Petition to vacate should be the responsibility of the Petitioner; *and*
 2. the amount of the Administrative Fee, as provided in this ordinance, is reasonable.
- B. Fee Amount. The Auditor shall assess an Administrative Fee in the amount of One Thousand Dollars (\$1,000.00) for each Petition received.
- C. Exclusivity. The Administrative Fee shall be in addition to any other fee or cost required (e.g., publication or mailing costs).
- D. Non-Refundable. The Administrative Fee shall be nonrefundable regardless of whether the Petition is subsequently approved, disapproved, withdrawn, or otherwise disposed.
- E. Deposits. The Administrative Fee shall be deposited into the General Fund.

SECTION IV – PETITION

- A. Contents. Each Petition shall contain:
1. the formal Petition to Vacate, which identifies the Petitioner, the Petitioner's common address, and the legal description of the Public Way;
 2. the plat, if any, in which the Public Way is located;
 3. the names and addresses of all landowners that Abut the Public Way;
 4. the names and addresses of all landowners in the plat, if any;
 5. instructions to the Auditor as to who should provide public notice;
 6. the Proposed Ordinance; *and*
 7. the Administrative Fee and any other required fee.
- B. Applicable Law. Each Petition shall be submitted in accord with Chapter 36-7-3 of the Indiana Code; this ordinance; any applicable provisions in any contract, deed, easement, plat, license, or permit; any other constitutions, statutes, codes, ordinances, regulations, rules, orders, awards, authorizations, judgments, injunctions, writs, decrees, and applicable ethical standards; and any respective amendments respectively thereto, of any government or quasi-government entity having jurisdiction over the Public Way or the County.

SECTION V – ABUTMENT REQUIREMENT

- A. Multiple Vacations. No Petition may involve multiple Public Ways unless each such Public Way Abuts a common property owned by a Petitioner.
- B. Petition Amendment. The Auditor shall notify the Petitioner with respect to any Petition that fails to meet the requirement of this section in order to allow for subsequent amendment thereof. If one or more additional Petitions are filed as a result, each such additional Petition shall be charged a separate Administrative Fee.

SECTION VI – PROPOSED ORDINANCE

- A. Ordinance Template. The Petitioner is hereby advised to model its Proposed Ordinance after the ordinance template provided in Exhibit A of this ordinance, which is attached hereto and incorporated herein. Upon request, the Auditor shall provide a printed or email copy of the template within a reasonable time.

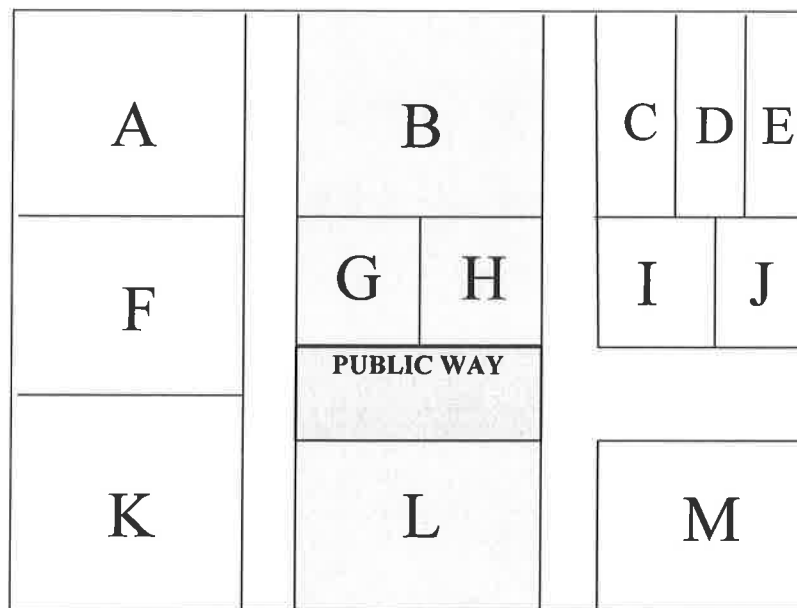
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- B. Title Provisions. No Proposed Ordinance shall contain any provision with respect to proposed ownership of the Public Way after a vacation.
- C. Technical Amendments. The County Attorney may make non-substantive technical amendments to any Proposed Ordinance before its adoption, but if it does so, the County Attorney shall make reasonable attempts to provide notice thereof at or before the hearing.

SECTION VII – NOTICE

- A. Abutting Landowners. The Petitioner shall send, or cause the Auditor to send, notice of the Petition and hearing to all owners of property that Abuts the Public Way; provided, however, that no notice is required to be given to any Petitioner.
- B. Platted Landowners. If the Public Way is located in a plat, the Petitioner shall send, or cause the Auditor to send, notice of the Petition and hearing to all landowners in the plat.
- C. Proof. The Petitioner shall provide proof of all notice required to be published and/or sent at the hearing; provided, however, that the Auditor shall instead provide such proof if in the Petition the Petitioner directed the Auditor to provide the notice.
- D. Diagram. The following diagram illustrates the notice requirements of this section. For a proposed vacation of the Public Way depicted, Parcels F, G, H, I, K, L, and M must be noticed by virtue of their abutment with the Public Way; and Parcel B must be noticed by virtue of belonging to the same plat. Parcels A, C, D, E, and J do not need to be noticed.



Indicates parcels in the same plat as the Public Way.

SECTION VIII – REPEAL OF PRIOR LAW

Ordinance 2021-06-07-A is hereby repealed in its entirety.

SECTION IX – MISCELLANEOUS

- A. References.
 - 1. Except where a specific version or edition is given, reference to another section of this ordinance or another law, document, fund, program, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, replaced, or renumbered from time to time.

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2. Reference in this ordinance to a public servant, department, commission, committee, board, street, or fund, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) LaGrange County (Indiana).”
 3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy as well may do as the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.
- B. Conflicts. No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize same.
- C. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole, or any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.
- D. Incorporated Materials. Two (2) copies of all materials incorporated by reference herein shall be on file in the office of the Auditor for public inspection.
- E. Continuance.
1. The express or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or procedures begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed ordinance as if this ordinance had not been adopted.
 2. To the extent the provisions contained in this ordinance substantially restate the provisions of a prior ordinance, such provisions shall not be deemed to be a new enactment of the old ordinances, but rather shall be deemed to be the continuation of the original provisions.
- F. Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance shall not be construed to revive any former ordinance, section, clause, or provision.
- G. Effective Date. This ordinance shall be effective immediately upon adoption.
- Mr. Peter Cook made a motion to approve the Ordinance. Mr. Kevin Myers seconded the motion and it carried unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

ACCOUNTS PAYABLE VOUCHERS

Mrs. Kathryn Hopper, County Auditor, presented the Accounts Payable Vouchers. Mr. Kevin Myers made a motion to approve the vouchers. Mr. Peter Cook seconded the motion and it carried unanimously.

MINUTES

Mr. Peter Cook made a motion to approve the minutes of the October 4, 2021 regular session meeting. Mr. Kevin Myers seconded the motion and it carried unanimously.

MEMORANDUM

Mr. Kevin Myers made a motion to approve the memorandum for the October 13, 2021 staff meeting and the October 13, 2021 executive session. Mr. Peter Cook seconded the motion and it carried unanimously.

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CORRESPONDENCE

LaGrange County Clerk of the Circuit Court – September 2021 report


Code Enforcement Officer- Quarterly Report

Northeast Indiana Regional Partnership – Quarterly Report

ADJOURNMENT

There being nothing further to come before the Board at this time, Mr. Kevin Myers made a motion to adjourn and meet on any subsequent day necessary to carry on the business of the Board. Mr. Peter Cook seconded the motion and it carried unanimously.




Terry A. Martin

Kevin R. Myers

Peter A. Cook

ATTEST:



Kathryn Hopper
LaGrange County Auditor